

APRIL 2021
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT BOARD OF ADJUSTMENT
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT

MONDAY – APRIL 19, 2021 – 7:30 p.m.

CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE

Applicant/Owner: Brett Person

Property Description: Lot 25, Sunset Estates Addition, Section 32-T117N-R53W, Codington County, South Dakota. (Lake Township)

Latitude/Longitude: 44.893972° / - 97.211038°

Action Items –

- **Conditional Use – Extended Home Occupation (Auto Detailing) (3.13.03.09)**

Zoning Designation: Rural Residential;

Request: The applicant seeks Extended Home Occupation permit to operate an auto detailing business.

History/Issue(s):

History of site/Specifics of Request:

1. Mr. Person lives at the above property and intends to operate an auto detailing business.
 - a. No retail sales occur on site.
 - b. He intends to average four (4) vehicles to be detailed per week.
 - c. Detailing occurs inside a shop on site.
 - d. Not more than one (1) vehicle will be parked outside associated with the business. (Only finished vehicles)
 - e. Up to 2 extra vehicles entering and leaving the property per day than would be expected if the use were not allowed
2. The property has one access for the house and a shared access (west side of lot) for the back of the lot.
 - a. He can travel exclusively on his lot to get back to his shop.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Extended Home Occupations are a listed use in the rural residential district.
2. The Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) lists numerous considerations for Extended Home Occupations on pages 51-52, most of which are addressed in the zoning ordinance, others relating to policies of the Board in granting similar permits.

3. According to the Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area), Conditional Uses may only be denied if specific criteria for denying the permit can be identified.
4. Mr. Person does not anticipate on having non-family employees with this business.
5. No on or off-premise signs are planned at this time and no additional structures.
6. No retail sales are expected with this use.
7. Only the occasional vehicle will be parked outdoors overnight, otherwise no outdoor storage will be associated with this use.
8. The vehicles to be detailed will be primarily personal vehicles operated by farms, businesses, and other individuals.
9. Parking will be similar to any other residential uses in the neighborhood.
10. As described above, it is anticipated that this use will result in 2 extra vehicles entering and leaving the property per day (4 additional vehicle trips/day.)
11. It is not anticipated that any processes associated with the business will be noticeable by noise heat, glare, vibration, etc. on neighboring properties.
12. Compatibility of Adjacent Uses:
 - a. Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) explains General Compatibility with adjacent properties not as a justification for denial of a conditional use permit, but as justification for attaching conditions regulating the operation of a proposed use. Further ALL uses if listed as a conditional use are deemed compatible.

Staff Recommendation

Conditional Use Permit – **Extended Home Occupation (Auto Detailing)** may postpone the request, deny the request based upon the inability of; or approve the request subject to special conditions. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 1) Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- 2) Off-premise signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as “Blue Signs”.
- 3) There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign. On-premise signage may be permitted by the Zoning Officer subject to the following:
 - a) A maximum of 16 square feet of sign area will be allowed.
 - b) Sign will be non-illuminated.
- 4) No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- 5) No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 6) The Conditional Use permit for the extended home occupation is not-transferable. Subsequent owners/operators will be required obtain a separate conditional use permit in order to continue the use for which this permit is granted.

- 7) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Codington County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 (2) VARIANCES

Owner/Applicant: Dwayne A Hlavacek Irrevocable Trust by Shawn Hlavacek (la va' check)

Property Description: Lot 3 & 4, Section 18-T119N-R52 West of the 5th P.M., Codington County, South Dakota, former Sisseton-Wahpeton Indian Reservation; to be known upon platting as Hlavacek Addition located in Government Lots 3 and 4 in the SW1/4 of Section 18-T119N-R52W, in the Sisseton and Wahpeton Indian Reservation, Codington County, SD (Dexter Township)

Action Items – Variances – Existing farmstead exemption/minimum lot area (3.04.03.7.b), Minimum lot width (3.04.03.2).

Zoning Designation: Agricultural

Request: The applicant seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption), to transfer existing farmstead building rights to a specified site.

History/Issue(s):

1. The Hlavacek's will be splitting the home from the farmland and seek to retain building rights at the farm.
2. The property was granted an existing farmstead exemption to allow a second residence on the lot (manufactured home occupied by farm family member) in 2014.
 - a. That manufactured home has been removed.
3. The property was used as a base for farming operations prior to 1976 and has remained lived in.
4. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
5. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
6. Staff recommendation **(Variance) –Existing Farmstead Exemption and variance to Minimum Lot Width-** Approve request because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of anecdotal information, records and site-visit has determined that this parcel is under contiguous ownership of an existing farmstead/residential site prior to October 26, 1976. If approved it should be done so on the following conditions:
 - a. that the applicant shall plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance.
 - b. That the applicant agree that no other house may be constructed on Gov't Lot 4 unless owned in common with a total of 35 contiguous acres..

ITEM #2 CONDITIONAL USE

Applicant: Matt Jungers / Owner: Teresa Jungers

Property Description: SW1/4 of Section 25-T116N-R52W, Codington County, South Dakota.
(Sheridan Township)

Action Items – Amendment to Conditions of Conditional Use Permit – Extended Home Occupation (Butcher Shop) (3.04.02.16) Granted on June 15, 2020.

Zoning Designation: Agricultural

Request: Amend Conditional Use Permit granted on June 15, 2020 to allow the applicant to butcher animals raised off-site.

History/Issue(s):

Specifics of Request:

1. Mr. Jungers was granted a Conditional Use Permit on September 27, 2017 to operate an 880 animal unit CAFO (swine)
2. Mr. Jungers was granted a Conditional Use Permit on June 15, 2020 to operate a butcher shop at the same property as the CAFO and his residence.
 - a. The CAFO is on a separate but adjoining legal description as the residence but the property is under common ownership.
3. The Board added the following Condition to the Conditional Use Permit:
 - a. Only animals owned or raised by the operator may be slaughtered/butchered at this site.
4. Mr. Jungers seeks to eliminate the above condition which would allow him to slaughter animals for other individuals/growers.
 - a. He would have a maximum of three (3) additional (live) cattle on-site at any time.
 - b. He would need to add a small (tall) addition onto his building used for butchering.
 - c. If he chooses to sell meat (grown off site and butchered) retail to consumers, he would be required to do so at an alternative site.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Board attached the specific condition in accordance with its ability to add conditions to a conditional use permit.
 - a. It is the recollection of staff that the intent was to become aware of and be able to consider whether this site is appropriate for hauling in off-site livestock to slaughter IF the applicant decided he would like to apply for an applicable license with the Animal Industry Board.
2. For the operation to bring in off-site raised animals, he would need a state inspector on-site on "kill day," and otherwise comply with a different state license than was originally issued.
3. It is not expected that adding the ability to slaughter animals raised from off-site would significantly increase traffic to the site.
4. Conditions added to the permit relating to permitting and licensure with the State of South Dakota still apply, and are not required to be amended by the County despite different licensing requirements by the state.
5. Neither the merits of the previously issued permit, nor any conditions other than the expiration date are germane to this request.

Staff Summary

Regardless of the decision to extend the permit today, Jungers still has a valid conditional use permit to operate his CAFO and to slaughter his own animals subject to the conditions agreed upon by the Board and applicant. The only question before the Board is to remove the condition limiting the slaughter of animals to animals raised on site. If that is the case, the Board may want to place a cap on the number of animals raised off-site which may be confined in conjunction with this permit.

Staff Recommendation

Amendment of Condition of Approval of Conditional Use Permit – **Extended Home Occupation – Butcher Shop (June 15, 2020)**: The Board may postpone the request, deny the request or approve the request. Staff recommends that if approved, the Board establish a maximum number of off-site raised animals (ten (10)) which may be confined.

CODINGTON COUNTY PLANNING COMMISSION

ITEM #1 PLAT

Applicant/Owner: Dwayne A Hlavacek Irrevocable Trust by Shawn Hlavacek

Property Description: Hlavacek Addition located in Government Lots 3 and 4 in the SW1/4 of Section 18-T119N-R52W, in the Sisseton and Wahpeton Indian Reservation, Codington County, SD (Dexter Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 9 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to this property. The irregular shape and boundary is due to the reservation line bordering the west edge of the property.

ISSUE #2 Discussion Commercial Storage in Commercial Districts

Staff has received requests for commercial storage in commercial districts (in the joint jurisdiction area:

- It is not a listed use in the Commercial District so the Board is not empowered to issue a permit.
- The Board has issued permits for “Wholesale Warehouse...” to individuals storing their own personal equipment and business equipment in Commercial Districts (Huss and Alama.)

Past permitting:

- The Board has allowed Commercial Storage:
- Town Districts (conditional use – “other uses...”)
- Commercial and Industrial Districts (the original permit was granted prior to 2006 ordinance (conditional or permitted use – “other uses...”)
- Extended Home Occupations
- It is allowed but no permits have been issued in the Lake Park District

Does the Board wish to initiate an amendment to allow Commercial Storage Businesses in the Commercial District of the Joint Jurisdiction Area?

- Pro:
 - Provides opportunity for use of existing commercially zoned properties and commercial growth potential.
 - With site limitations/criteria it could be limited to certain geographic areas.
- Con:
 - The use is allowed within City Limits.
 - The land use plan discourages commercial uses outside city limits unless directly supportive of agricultural uses.
 - May result in additional requests to rezone property to commercial around the City of Watertown and other lakes.
 - Development of individual sites will create commercial exclaves which may need to be avoided in future community development.
 - Not all storage buildings are operated without outdoor storage or nuisances.

ISSUE #4 OPEN/ADMINISTRATIVE REPORT