

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes
September 20, 2021

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met on September 20, 2021 via teleconference and at the Codington County Extension Complex. Members of the Joint Planning Commission/Board of Adjustment participating were: Mark O'Neill, Bob Fox, Brenda Hanten, Blake Dahle, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Myron Johnson, Alex Kahnke, Mel Ries, Rodney Klatt, Mark Kienast, Rick borkhuis, Shawn Mohr, Dan Raderschadt, Travis Christensen, Gary Wadsworth, Rich Ohm, Scott Martens, Zach Fischer, Brandi Hanten, and Becky Goens.

Bob Fox brought the meeting of the Joint Board of Adjustment to order at 7:40 pm.

Motion by Hanten, second by O'Neill to approve the minutes of the June 21, 2021 meeting. Motion passed unanimously.

Motion by O'Neill, second by Dahle to approve the minutes of the August 19, 2021 meeting. Motion passed unanimously.

Motion by O'Neill, second by Dahle, to approve the agenda. Motion passed unanimously.

Motion by Hanten, second by O'Neill, to approve the Conditional Use Permit request by Lew's Fireworks to allow for storage of fireworks in temporary structures. Property is owned by Greg Endres and located in S852' N100' N1/2 S1/2 NW1/4, Section 2-T116N-R52W. Muller reviewed Staff Report (attached). If approved, the applicant would sign a Letter of Assurance agreeing to the following conditions:

- 1) There are no retail sales conducted on-site.
- 2) There is no signage allowed on site. Exception – signs stating safe distance regarding flames, smoking, etc.
- 3) The temporary structures are not to contain any advertising.
- 4) The applicant agrees that if the Board of Adjustment determines a need for screening that the applicant will screen the site – Screening materials may include the planting of trees or a fence with fencing materials to be determined by Board of Adjustment.
- 5) If there are documented complaints, the applicant may be required to forfeit his/her claim to the conditional use permit.
- 6) Staff recommends specifying in the permit that the applicant is allowed to utilize temporary storage structures in (seven) 7 locations described in the application, provided said storage is operated in accordance with Federal, State, and Watertown Fire Department regulations/standards.

Mr. Raderschadt indicated this additional container was located on his business site but is being moved so that the neighboring business can expand. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by O'Neill, second by Hanten, to approve the Conditional Use Permit request by Independent Ag Services to operate seed sales and grain storage, fertilizer and chemical storage and sales on property owned by Pelican Plaza LLC. The legal description is 11.82 acre parcel in N1/2 lying north and south of Railroad Addition, less right-of-ways and less Lots H2-H4 in NE1/4 and less Lots H2-H6 in NW1/4 and less W120.33' of E4,523.5' of N725' and less W550' of E2,064.7' of N643' and less N687' of E1,014.5' and less W500.2' of E1,514.7' of N687' and less S75' of W295' and less W128' of E1,219.7' of S80'; and Railroad Addition less E1,219.7 in Section 3-116-53 to be known upon platting as Jabe Kahnke Addition in N1/2 of Section 3-T116N-R53 West of the 5th Prime Meridian, Codington County, South Dakota. Muller reviewed the Staff Report (attached). If approved, the applicant would be required to sign a Letter of Assurance agreeing to the following conditions:

- 1) Effective date, transferability, and future permits required:
 - a. The permit shall become active upon signing of this letter of assurance.
 - b. The Conditional Use permit for a truck terminal and warehouse is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- 2) Site improvements (hard surfacing):
 - a. Driveways and required parking areas shall be paved with asphalt, concrete, or similar material within one (1) year of completion of any proposed structure.
- 3) General Requirements
 - a. Grantor shall provide at least three (3) paved parking spaces or equivalent to the maximum number of employees at the largest shift plus one (1) additional spot (whichever is greater).
 - b. There will be no outdoor storage associated with this permit
 - c. Noxious weeds shall be controlled.
 - d. On-site wastewater shall be contained in a sealed holding tank installed in accordance with any applicable regulations of the South Dakota Department of Agriculture and Natural Resources, with pumping logs available upon request by the Zoning Officer.
 - e. Prior to any future construction on the above-described property, documentation shall be submitted to the Zoning Officer identifying that the structure shall be constructed in accordance with the most recently adopted (by South Dakota Codified Law) International Building Code.

- f. Sign area is limited to the maximum amount allowed by ordinance or previous permits.
- g. Discharge of industrial processed water on site is prohibited without Board of Adjustment approval.
- h. The volume of any chemicals (fertilizer/herbicide) shall not exceed the total volume able to be contained by the cubic area of the concrete floor with “toe-wall” provided in the warehouse.

4) Waivers of Right to Protest

- a. The Grantor agrees to petition for annexation to the City of Watertown and connection to the City of Watertown Sanitary Sewer system and hereby waives the right to protest the annexation; and payment of pro-rata share of improvements to comply with City of Watertown engineering standards at the time of annexation; formal dedication of any agreed upon rights-of-way contained in access easements; and connection to the City of Watertown Sanitary Sewer system if and when such sanitary services are adjacent to Jabe Kahnke Addition in N1/2 of Section 3-T116N-R53 West of the 5th Prime Meridian, Codington County, South Dakota.
- b. At the time of annexation, the Grantor agrees to meet all requirements of the City of Watertown regarding platting and zoning at the time of annexation.

5) Violations and Penalties.

- 1. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.
 - a. Any violation will result in the prescription of actions to correct the violation and may result in a review of the validity of the conditional use permit and potential revocation of said permit.
 - b. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Board to the Board. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board shall be taken to Circuit Court.

Shawn Mohr and Rick Borkhuis were present representing Independent Ag Services. Mohr indicates soybeans will only be loaded out about 2 months per year and would like to keep gravel around the load-out areas. Brandi Hanten, Planner for the City of Watertown, would like to see hard surfacing in commercially zoned areas and gravel can remain in industrial zoned areas. She would

also like any structures on the property to meet the city's setback guidelines due to future annexation. Motion by Hanten, second by Dahle, to require a 40' setback from any future right-of-way and from highway setback requirements. Motion on the amendment passed unanimously. When the property is annexed in the future, the owner would have to maintain 30,000 square feet if zoned I1 and 20,000 if zoned C3; allowing a portion of the property to be sold for additional subdivision. Chairman Fox read the Findings of Fact. There were no questions or objections.

Motion to adjourn made by Hanten, second by O'Neill. Motion passed unanimously. Meeting adjourned at 7:56 pm.

Respectfully Submitted,

Becky Goens

**SEPTEMBER 2021
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT BOARD OF ADJUSTMENT STAFF REPORT**

ITEM #1 CONDITIONAL USE

Applicant: Lew's Fireworks, Inc.

Owner: Greg Endres

Property Description: S852' N100' N1/2 S1/2 NW1/4, Section 2-T116N-R52W, Codington County, South Dakota. (Sheridan Township)

Latitude/Longitude: 44.886979° / - 97.047335°

Action Items –

- **Conditional Use – Storage of Fireworks in Temporary Structures (3.04.02.32)**

Zoning Designation: A - Agricultural

Request: The applicant seeks to allow one (1) additional location to store fireworks in a temporary structure on this property.

History/Issue(s):

History of site/Specifics of Request:

1. On November 17, 2008, after amendment of the County Zoning Ordinance, Mr. Raderschadt was allowed to park 6 trailers at this site for storage of fireworks subject to satisfaction of certain requirements, satisfaction of local fire marshal, and satisfaction of ATF requirements.
2. It was determined in April 2009, that some confusion over the permit had occurred and that the original intent was for 8 trailers in 6 different locations. The Board determined that their intent was to allow for 6 locations (pads) to be used for storage, and all other conditions of the permit needed to be complied with.
3. It was found this Spring that an additional "pad" was being used for the storage of fireworks. Lew's Fireworks was informally notified of the violation in July, and submitted application to amend the permit.
4. Currently a central driveway is utilized to the site with (7) different "pads" utilized for fireworks storage "bunkers". Those "bunkers" include one or two repurposed trailers for storage of certain fireworks at a spacing prescribed by the ATF.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Fireworks storage in a temporary structure is a listed use in the Ag District.
2. The Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) lists considerations for fireworks sales and storage on pages 52-53. Most of the considerations apply to sales instead of storage.
3. Very specific requirements exist for the sales of fireworks in the Joint Jurisdiction Area. This permit would not authorize the sale of fireworks at this location.
4. The applicant agrees to continue complying with the rest of the conditions of the permit granted in 2008.
 - a. There are no retail sales conducted on-site.
 - b. There is no signage allowed on site. Exception – signs stating safe distance regarding flames, smoking, etc.
 - c. The temporary structures are not to contain any advertising.

- d. The applicant agrees that if the Board of Adjustment determines a need for screening that the applicant will screen the site – Screening materials may include the planting of trees or a fence with fencing materials to be determined by Board of Adjustment.
 - e. If there are documented complaints, the applicant may be required to forfeit his/her claim to the conditional use permit.
5. Staff recommends specifying in the permit that the applicant is allowed to utilize temporary storage structures in 7 locations described in the application, provided said storage is operated in accordance with Federal, State, and Watertown Fire Department regulations/standards.

Staff Summary

The request before the Board is essentially to amend the initial request (in 2008) which allowed 6 storage locations for fireworks on the above location. A “no” vote would require the removal of one of the “pads” for storage of fireworks. A “yes” vote allows the additional pad provided applicable local, state, and federal rules are complied with while provided a little more detail on number of storage locations.

Staff Recommendation

Conditional Use Permit – **Storage of Fireworks in Temporary Structures (Amendment to Permit issued 11/17/08)** The Board may postpone the request, deny the request 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):

- 7) There are no retail sales conducted on-site.
- 8) There is no signage allowed on site. Exception – signs stating safe distance regarding flames, smoking, etc.
- 9) The temporary structures are not to contain any advertising.
- 10) The applicant agrees that if the Board of Adjustment determines a need for screening that the applicant will screen the site – Screening materials may include the planting of trees or a fence with fencing materials to be determined by Board of Adjustment.
- 11) If there are documented complaints, the applicant may be required to forfeit his/her claim to the conditional use permit.
- 12) Staff recommends specifying in the permit that the applicant is allowed to utilize temporary storage structures in (seven) 7 locations described in the application, provided said storage is operated in accordance with Federal, State, and Watertown Fire Department regulations/standards.

ITEM #1 CONDITIONAL USE

Applicant: Independent Ag Services.

Owner: Pelican Plaza, LLC

Property Description: in 11.82 acre parcel in N1/2 lying north and south of Railroad Addition, less right-of-ways and less Lots H2-H4 in NE1/4 and less Lots H2-H6 in NW1/4 and less W120.33’ of E4,523.5’ of N725’ and less W550’ of E2,064.7’ of N643’ and less N687’ of E1,014.5’ and less W500.2’ of E1,514.7’ of N687’ and less S75’ of W295’ and less W128’ of E1,219.7’ of S80’; and Railroad Addition less E1,219.7 in Section 3-116-53 to be known upon platting as Jabe Kahnke Addition in N1/2 of Section 3-T116N-R53 West of the 5th Prime Meridian, Codington County, South Dakota. (Pelican Township)

Latitude/Longitude: 44.890172° / - 97.176145°

Action Items –

- **Conditional Use –**
 - **Seed sales and grain storage, fertilizer and chemical storage and sales (3.05.02.10; 3.06.02.15)**
 - **All Conditional Uses allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones (3.12.04.02.1)**

Zoning Designation: I – Industrial; C – Commercial; Zone B – Shallow Aquifer Protection District

Request: The applicant seeks to operate a seed cleaning, treatment, and sales business with ancillary herbicide sales.

History/Issue(s):

History of site/Specifics of Request:

1. The applicant seeks to operate seed and chemical treatment, storage, and sales at this location. Improvements include:
 - a. 80' x 60' Warehouse with connected 30' x 24' office.
 - b. 120' x 20' bin pad with six (6) seed bins.
 - c. 50' x 30' treater.
 - d. No outdoor storage is proposed.
 - e. Entrance from US HWY 212 would be paved up to the office and include required parking spaces to be paved as well.
 - f. Maneuvering and driveway area south of the office is proposed to consist of gravel.
2. The warehouse for the storage of any chemicals on site will consist of a concrete "toe-wall," for the purpose of providing secondary containment of any potential spilled chemicals.
3. Sanitary Sewer will be provided by means of sealed holding tank (no drainfield) to be pumped.
4. The property has access to US HWY 212. Staff has been notified by SDDOT that the location meets access requirements of SDDOT for the proposed use.
5. The proposed site is screened from the manufactured home park on the west by a shelterbelt. Said manufactured home park is also owned by the current owner (seller) of this property.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The proposed use is listed as allowed in both the Commercial and Industrial Zoning Districts in the Joint Jurisdiction Area.
2. The Comprehensive Land Use Plan (County)
 - a. Numerous land use policies regarding development in the Joint Jurisdiction Area as well as for commercial uses are listed.
 - b. Commercial/Industrial policies primarily address rezoning of property to commercial/industrial category. Despite this property being zoned Industrial and Commercial in the 1970's most of the goals/policies relating to commercial development are met with this request.
 - 1) The goals primarily focus on commercial and industrial uses being supportive of ag; efficient orderly development (avoid leapfrog development); redevelopment of existing zoned sites.
 - 2) Though the use could be operated within City Limits it is directly supportive of the Agricultural Industry (providing seed and direct service to crop farmers); location fills in the currently commercially zoned strip between Codington Clark Electric and Pelican Plaza, so it does not extend development beyond current high(er) density development along this corridor to the community.
 - 3) Provision of utilities (except sewer) will be provided by rural services utilizing existing infrastructure at the site. Service of neighboring property if and when annexation occurs

- will result in connection of this and neighboring holding tank(s) (to the east) to municipal sanitary sewer. (Connection to municipal infrastructure at time of annexation)
- 4) The landowner is willing to provide documentation agreeing upon connecting the “collector street” entering the property from the south at the “Quarter-Line” to the US 212 access at present day 39th Street in Pelican Plaza to accommodate the collector street shown on the City’s Major Street Plan which would otherwise go through the proposed site. (Connection to municipal infrastructure at time of annexation)
3. The Comprehensive Land Use Plan (City)
 - a. This property is considered either “currently developed” or expected to be annexed between 2030-2035. As such, development of this property should comply with present zoning requirements in the Joint Jurisdiction Ordinance.
 - b. City staff supports the use and development of the property if a collector street (intersection with HWY 212) is provided in conjunction with this development.
 4. Applicant proposes to pave required parking spaces. Driveway and parking area will exceed 1,500 square feet. Staff recommends provision of at least three (3) paved parking spaces or equivalent to the maximum number of employees at the largest shift plus one (1) additional spot (whichever is greater).
 5. Applicant shall provide documentation of approach permit from SDDOT.
 6. Refuse will be handled by commercial service.
 7. Lighting will be designed to minimize light spillage on neighboring property.
 8. No screening is proposed. The property is screened from existing residential uses by shelterbelts.
 9. No outdoor storage is proposed.
 10. Signs are proposed to meet minimum sign area requirements.
 11. 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 Summary:

Unless otherwise stated during the meeting, in order to approve the permit as requested the Board will need to determine whether the loadout area constitutes a “loading dock” requiring hard surfacing. If so, the conditions below will need to be changed to require hard surfacing back to the load-out area.

The question of where a potential collector street should go is a question of subdivision of the property and addressed later with the plat.

Staff Recommendation

Conditional Use Permit – **Seed Sales and Grain Storage, fertilizer and chemical storage and sales** may postpone the request, deny the request; 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):

- 6) Effective date, transferability, and future permits required:
 - a. The permit shall become active upon signing of this letter of assurance.
 - b. The Conditional Use permit for a truck terminal and warehouse is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- 7) Site improvements (hard surfacing):

- a. Driveways and required parking areas shall be paved with asphalt, concrete, or similar material within one (1) year of completion of any proposed structure.

8) General Requirements

- a. Grantor shall provide at least three (3) paved parking spaces or equivalent to the maximum number of employees at the largest shift plus one (1) additional spot (whichever is greater).
- b. There will be no outdoor storage associated with this permit
- c. Noxious weeds shall be controlled.
- d. On-site wastewater shall be contained in a sealed holding tank installed in accordance with any applicable regulations of the South Dakota Department of Agriculture and Natural Resources, with pumping logs available upon request by the Zoning Officer.
- e. Prior to any future construction on the above-described property, documentation shall be submitted to the Zoning Officer identifying that the structure shall be constructed in accordance with the most recently adopted (by South Dakota Codified Law) International Building Code.
- f. Sign area is limited to the maximum amount allowed by ordinance or previous permits.
- g. Discharge of industrial processed water on site is prohibited without Board of Adjustment approval.
- h. The volume of any chemicals (fertilizer/herbicide) shall not exceed the total volume able to be contained by the cubic area of the concrete floor with "toe-wall" provided in the warehouse.

9) Waivers of Right to Protest

- a. The Grantor agrees to petition for annexation to the City of Watertown and connection to the City of Watertown Sanitary Sewer system and hereby waives the right to protest the annexation; and payment of pro-rata share of improvements to comply with City of Watertown engineering standards at the time of annexation; formal dedication of any agreed upon rights-of-way contained in access easements; and connection to the City of Watertown Sanitary Sewer system if and when such sanitary services are adjacent to Jabe Kahnke Addition in N1/2 of Section 3-T116N-R53 West of the 5th Prime Meridian, Codington County, South Dakota.
- b. At the time of annexation, the Grantor agrees to meet all requirements of the City of Watertown regarding platting and zoning at the time of annexation.

10) Violations and Penalties.

2. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.
 - c. Any violation will result in the prescription of actions to correct the violation and may result in a review of the validity of the conditional use permit and potential revocation of said permit.
 - d. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Board to the Board. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board shall be taken to Circuit Court.