

Codington County Planning Commission Minutes

April 19, 2022

The Codington County Planning Commission met for their monthly meeting on April 19, 2022 via teleconference and at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were Rodney Klatt, Mel Ries, Mark O'Neill, Bob Fox, Myron Johnson, Brenda Hanten, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Board member Alex Kahnke joined via Zoom.

Others present were Jeremy Stricherz, David Swanson, Judy Swanson, Wayne Lovelis, Jeremy Maag, Kelly German, Richard Boerma, Bert Magstadt, Casey Schwinger, Lee Schull, and Becky Goens. Others present via teleconference/Zoom were Sally Boerma, Curt Hlavacek, Kim Hlavacek, Blake Dahle, Liam Culhane, Ed Dorneman, and Chris Dorneman.

Chairman Fox brought the Planning Commission meeting to order at 6:40 pm.

Motion by Klatt, second by Ries, to approve the April 4, 2022 meeting minutes. Motion passed unanimously.

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

Motion by Klatt, second by Ries, to recommend approval to the Board of County Commission a Petition to vacate public right-of-way located between the south line of Lots 6, 7, and alley right-of-way in Block 7 of North Kampeska and the north line of Lot 28 and alley right-of-way in Block 2 of Vera and Lot 1 of Poor's Third Addition, all in the SW1/4, Section 1-T116N-R54, Codington County, SD. The petition was filed by Kelly German, Wayne Schleich, Theodore Frost, Carla Frost, and Sandra Schleich. Muller reviewed Staff Report (attached). Chair closed public hearing. Motion passed unanimously.

Motion by O'Neill, second by Ries, to recommend approval of Ordinance #78 Establishment of and rezoning certain properties to "TD-R" Rauville Town District. Adjoining landowner David Swanson inquired about potential changes to his property with this rezoning. Public Hearing closed. Motion by Hanten, second by Klatt, to correct language stated in section 3.10.A.06.3 to add the words highlighted in green.

1. Unless written approval on behalf of Watertown Municipal Utilities is presented to the Board of Adjustment, storage of products for sale and storage or parking of any petroleum products; and further commercial equipment, vehicles, trailers, implements, etc. overnight shall only occur over concrete surfaces.

Motion passed unanimously on the amendment. Motion passed unanimously on

Ordinance #78 to include the amendment.

Motion by O'Neill, second by Kahnke, to recommend approval of Ordinance #79 Amending Uses in the Aquifer Protection Districts. Public hearing closed. Motion passed unanimously.

Motion by Johnson, second by Klatt, to recommend approval of Ordinance #80, Amendment to standards and permitting process of Extended Home Occupations. Jeremy Stricherz requesting clarification on flooring material. Public hearing closed. Motion passed unanimously.

Motion by Ries, second by O'Neill, to recommend approval of Ordinance #81, Amendment to Administrative section of the ordinance. Public hearing closed. Commissioner Gabel has two suggestions for changes to be incorporated into this ordinance amendment:

AMENDMENT #1

Section 4.03.01. Establishment.

1. The Board of County Commissioners shall appoint a Planning Commission of seven (7) members.
2. **Prior to January 1, 2023 membership of the Planning Commission shall include** at least one (1) member but not more than two (2) of which shall be a member of the Board of County Commissioners. (*Amended: Ord. 67; April 10, 2018*)
3. **After January 1, 2023, membership of the Planning Commission shall include one (1) member of the Board of County Commissioners.**

AMENDMENT #2

Section 4.05.03. Zoning Amendments.

- g. Adoption. Amendments to the zoning ordinance **recommended for approval by the Planning Commission** may be adopted by a majority vote. **Amendments recommended for denial by the Planning Commission may only be approved by** ~~unless the amendment has been denied by the Planning Commission in which case~~ a two-thirds (2/3) vote of the Board of Codrington County Commissioners **is required.**

Motion by O'Neill to accept Commissioners Gabel's recommendation #1. Motion failed for lack of second. Motion by O'Neill to accept Commissioner Gabel's recommendation #2. Motion failed for lack of second. Motion on Ordinance #81 passed unanimously.

Motion to adjourn made by Johnson, second by O'Neill. Motion passed unanimously. Meeting adjourned at 7:50 pm.

Respectfully Submitted, Becky Goens

**APRIL 2022
CODINGTON COUNTY
JOINT PLANNING COMMISSION/COUNTY COMMISSION &
CODINGTON COUNTY STAFF REPORT**

**CODINGTON COUNTY PLANNING COMMISSION/
CODINGTON COUNTY BOARD OF COMMISSIONERS (JOINT MEETING)**

ISSUE #1 VACATION OF RIGHT-OF-WAY

Property Owner/Applicant: Kelly German, Wayne Schleich, Theodore Frost, Carla Frost, and Sandra Schleich

Action Item –approval of petition to vacate alley right-of-way.

Property Description: Right-of-way located between the south line of lots 6, and 7, and the alley right-of-way in Block 7 of North Kameska and the north line of Lot 28, and the alley right-of-way in Block 2 of Vera and Lot 1 of Poor's Third Addition, all in the SW1/4 of Section 1-T116N-R54W of the 5th P.M., in the Town of Kameska, Codington County, South Dakota" (Kameska Township)

Request: Vacate the above described alley.

History:

1. The petitioners own the above described properties.
2. The subject right-of-way is on the Township Road system; however Kameska Township has requested the county handle the vacation of right-of-way in this case. They cite no objections to the request.
3. State law allows either the Township or County to vacate a township right-of-way. Codington County policy is to require the petitioners to ask whether the Township would prefer to hear the request or that the request come to the County.
4. The right-of-way is unimproved and has not been used for regular traffic for over 20 years.
5. The property owners maintain the above right-of-way (mow the grass, control the weeds) to varying degrees, though exact responsibility for maintenance has been debated.
6. Kelly German spurred the vacation of this right of way to clearly define the matter of maintaining the property within this right-of-way and to allow a different setback from her southern property line.
7. The planning commission makes a recommendation on this matter since the planning commission is also involved in the recommending whether a road is created and how wide it should be.
8. State law requires that the County Commission only vacate right of way when it determines the public interest will be better served by such proposed vacating, changing, or locating of the highway in question, and upon resolution in the affirmative, shall make its order that such highway be vacated, changed, or located.
9. Since the street is unimproved it may be hazardous to imply ingress/egress across the property. There is no intention by the township to improve this right-of-way, nor desire to retain it.
10. Staff Summary and Recommendation – Based on the comments by the township supervisors, the presence of an (abandoned) existing structure, and overgrown of brush in the right-of-way staff supports the vacation of right-of-way pending location of any utilities which may be located there; and subsequent reservation of an easement should any public utilities be found.

If the Planning Commission would recommend approval, the following findings may be used to justify the decision:

The Planning Commission agrees that the public interest will be better served by such proposed vacating, changing, or locating of the highway in question, and upon resolution in the affirmative, shall make its order that such highway be vacated, changed, or located because:

- The right of way is unimproved and may be it may be hazardous to imply ingress egress across the unimproved stretch of road.
- The right-of-way has not been used for regular vehicular traffic in over 20 years (non-user)
- Access may be accommodated for each of the above described properties in another means.

If the Planning Commission would recommend denial, the following findings may be used to justify their decision:

The Planning Commission does not agree that the public interest will be better served by such proposed vacating, changing, or locating of the highway in question, and upon resolution in the affirmative, shall make its order that such highway be vacated, changed, or located because:

- The action should be taken up directly by Kampeska Township

ISSUE #2 Ordinance #78 Establishment of and rezoning certain properties to “TD-R” Rauville Town District

AN ORDINANCE ENTITLED, AN ORDINANCE AMENDING ARTICLE III DISTRICT REGULATIONS OF ORDINANCE 65, AN ORDINANCE AMENDING ORDINANCE 15, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CODINGTON COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.

ISSUE #3 Ordinance #79 Amending Uses in the Aquifer Protection Districts

AN ORDINANCE ENTITLED, AN ORDINANCE AMENDING CHAPTER 3.12 AP AQUIFER PROTECTION OVERLAY DISTRICT OF ORDINANCE 65, AN ORDINANCE AMENDING ORDINANCE 15, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CODINGTON COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.

ISSUE #4 Ordinance #80 Amendment to standards and permitting process of Extended Home Occupations.

AN ORDINANCE ENTITLED, AN ORDINANCE AMENDING ARTICLE III DISTRICT REGULATIONS AND CHAPTER 5.12 EXTENDED HOME OCCUPATIONS OF ORDINANCE

65, AN ORDINANCE AMENDING ORDINANCE 15, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CODINGTON COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.

ISSUE #5 Ordinance #81 Amendment to Administrative section of the ordinance

AN ORDINANCE ENTITLED, AN ORDINANCE AMENDING ARTICLE II DEFINITIONS AND ARTICLE IV ADMINISTRATION OF ORDINANCE 65, AN ORDINANCE AMENDING ORDINANCE 15, AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CODINGTON COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.

ISSUE #6 OPEN/ADMINISTRATIVE REPORT