

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes

May 16, 2016

The Codington County/City of Watertown Planning Commission/Joint Board of Adjustment met for a meeting on May 16, 2016 at the Codington County Extension Complex. Members of the Joint Planning Commission/Joint Board of Adjustment present were: Bob Fox, Mark O'Neill, Brenda Hanten, Mark Stein, Pat Shriver, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Myron Johnson, Charles Rossow, Mel Ries, Vincent Cordell, John Knight, Van Schwinger, Jim Lloyd, Juliane Lloyd, Brian Comes, Lonnie Knutson, Todd Kays, Chad Voelsch, Dawn Voelsch, Gary Voelsch, Kenneth Schwinger, Jeff DeVille, Jim Thyen, Lee Gabel, Tyler McElhany, and Becky Goens.

Chairman Fox brought the meeting of the Joint Board of Adjustment to order.

Motion by Hanten, second by Shriver, to approve the February 22 meeting minutes. Motion passed unanimously.

Motion by Hanten, second by O'Neill, to approve the Conditional Use Permit application by James and Juliane Lloyd, subject to conditions (N.1-15) as presented by Staff. Lloyd is requesting to operate a small engine repair and accessorizing business on their property located at Lot 1, Block 1, Bever's 1st Addition in NE1/4, Section 18-T116N-R53W. Muller read Staff Report (attached).

John Knight, attorney for Evolution Powersports, spoke in opposition of the proposed Permit. Concerns stated included the Lloyd's having conducted this business without the property permit in place; as well as Extended Home Occupations within the Lake Park District should be ag-related. Under these circumstances, Knight does not feel this is an ag-related business. Knight addressed retail sales as it is not allowed by the ordinance unless it is specifically manufactured or produced on site. Per Knight, if the Board were to approve the request, perhaps they could limit the repairs to ATV's and UTV's which are used in ag-related businesses rather than boats, watercraft, etc. He also feels the Board should limit retail sales and should be included in any Letter of Assurance as well.

Adjoining landowner, Denise Lundquist, called to indicate her support of the Lloyd's request.

Public hearing was closed and conversation has been restricted to the Board.

Motion by Hanten, second by O'Neill, to amend the motion by adding a condition that retail sales will be limited to only materials necessary to complete the repairs. Motion passed unanimously. Original motion, with amendment, passed 4-1, with O'Neill dissenting.

Motion to adjourn by Hanten, second by Shriver. Motion passed unanimously.

Respectfully Submitted,

Becky Goens, Secretary

**MAY 2016
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT PLANNING COMMISSION/ JOINT BOARD OF ADJUSTMENT
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT**

MONDAY – MAY 16, 2016 – 7:30 p.m.

CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE PERMIT

Applicant/Owner: James and Juliane Lloyd

Property Description: Lot 1, Block 1, Bever’s 1st Addition in NE1/4, Section 18-T116N-R53W, Codington County, South Dakota. (Pelican Township)

Zoning Designation: LP – Lake Park

Action Items: Conditional Use – Extended Home Occupation (3.07.03.9)

Request: Mr. Lloyd seeks to continue operating an extended home occupation (atv, snowmobile, etc).

History/Issue(s):

Specifics of Request:

1. The Lloyd’s own and live at the above described property.
2. Mr. Lloyd has repaired and conditioned atv’s, snowmobiles, and other similar equipment in a detached accessory building at his property for over a year, and made application for conditional use upon being notified a permit was required.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Extended Home Occupations are a listed use in the LP – Lake Park District.
2. Codington County Ordinance requires the permit fee to be doubled for a project started before a permit is considered – Mr. Lloyd has paid that.
3. 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.
4. 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.
5. There shall be no more than 3 non-related employees.
 - a. Only family members work at this site
6. No change to the outside appearance of the property except to allow for a 16 sq ft sign.
 - a. No sign is planned at this time. (Replace existing one).
7. Only off-premise signage allowed is SDDOT Tourist Oriented Direction Signs.
 - a. None proposed.

8. No retail sales allowed on site except products prepared on premise in connection with the business.
 - a. Only product sales will be items installed in the process of fixing or conditioning recreational equipment.
9. There shall be no outdoor storage associated with the business.
 - a. The Board has allowed limited outdoor storage in certain similar instances (auto sales and repair, boat/RV repair.)
 - b. Applicant anticipates no more than 3 vehicles/boats outdoors relating to the repair business.
10. Businesses should be agriculturally related.
 - a. Comprehensive land use plan (updated after the zoning ordinance) cites the Board's ability to consider businesses which are of a similar character to other uses allowed in the agricultural district.
 - b. Recreational storage, recreational vehicle repair, farm repair, and auto-repair have been allowed as an extended home occupation in the Ag District.
11. Traffic should be of similar volumes as would be expected of other agricultural uses, and parking shall be accomplished outside of the required front yard.
 - a. 449th Avenue is a collector street in the county and is paved to meet the needs of the present 153 ADvT.
 - b. It is not expected the business will significantly increase traffic on 449th Avenue.
12. The business should not be obnoxious to the senses to owners of property neighboring this property.
 - a. All repair will be carried out inside the new shop.
13. 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.
14. The applicant collects and brings all fluids drained to facilities in Watertown for disposal.

Staff Recommendation

Conditional Use Permit – **Extended Home Occupation (ATV/Snowmobile/Recreational Vehicle Repair)**: The Board may table the request, deny the request or approve the request. If approved, the Board may use findings based upon the comprehensive land use plan, zoning ordinance, previous similar requests, and testimony heard at this meeting:

- A. Standard Findings of Fact for Conditional Uses and Variances adopted November 23, 2015.
- B. The following use is listed in the LP – Lake Park District and Zone C of the Aquifer Protection Overlay District of the City of Watertown/Codington County Joint Jurisdiction Zoning Ordinance (Ref: SDCL 11-2-17.3): Extended Home Occupation (Ref: Zon. Ord. 3.07.03.9).
All Conditional Uses Allowed in underlying districts, with the exception of those prohibited provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones (Ref Zon. Ord. 3.12.04.02.1).
- C. On or before May 2, 2016, James Lloyd applied for a conditional use permit (Ref: Zon. Ord. 4.05.01.1) to operate an ATV/Snowmobile/Recreational Vehicle repair business as an extended home occupation on property described as: Lot 1, Block 1, Bever's 1st Addition in NE1/4, Section 18-T116N-R53W, Codington County, South Dakota. (Pelican Township)
- D. That Extended Home Occupations (Ref: Zon. Ord. 3.07.03.9) are allowable in the LP – Lake Park District under certain conditions (Ref: Zon. Ord. 5.12). Therefore the Joint Board of Adjustment finds that it is empowered under Section 3.07.03.9 of the Zoning Ordinance to

grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest. (Ref: Zon. Ord. 4.05.01.5)

- E. The proposed extended home occupation will employ three or less non-family employees. (Ref. Zon. Ord. 5.12.2.b)
- F. 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, not to exceed sixteen (16) square feet in area, non-illuminated is proposed. (Ref. Zon. Ord. 5.12.2.c)
- G. No off-premise signage is proposed in conjunction with this application (Ref. Zon. Ord. 5.12.2.d)
- H. Retail sales will be limited to only materials necessary to complete the repair of boats and other recreational equipment (Ref. Zon. Ord. 5.12.2.e)
- I. Outdoor storage will be limited in a manner similar with other extended home occupations in the Agricultural District in Codington County in the past. (Ref. Zon. Ord. 5.12.2.f)
- J. The application to operate an ATV/Snowmobile/Recreational Vehicle repair business as an extended home occupation is of a similar character to other uses allowed in the agricultural district. (Ref. Cod. Co Comprehensive Land Use Plan p52; Zon. Ord. 5.12.2.g)
- K. No equipment or process is proposed which would create noise, vibration, glare, fumes, or odor detectable to the normal senses off the property. (Ref. Zon. Ord. 5.12.2.h)
- L. No equipment or process is proposed which would create visual or audible electrical interference in any radio or television receiver or cause fluctuation in line voltage off the property. (Ref. Zon. Ord 5.12.2.i)
- M. The findings contained herein combined with the findings of the Board contained in the motion to approve the conditional use permit serve as the Official Findings of Fact referenced in Section 4.05.01.6 and will be presented, as such to the applicant in written correspondence notifying the applicant of the decision of the Board. The zoning officer is hereby authorized to prepare and issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit. All documentation described herein shall be retained at the Codington County Zoning Office.
- N. In order to comply with the requirements of Section 4.05.01.6, Section 3.12.05, and Chapter 5.12 of the City of Watertown/Codington County Joint Jurisdiction Zoning Ordinance, the Joint Board of Adjustment prescribes the following conditions and safeguards in conformity with the Joint Jurisdiction Area Comprehensive Land Use Plans and Zoning Ordinance (Zon. Ord. 4.05.01.7) to be agreed to in the form of a "Letter of Assurance" (Ref. Zon. Ord. 4.05.01.10):
 - 1) Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
 - 2) Repair work is to be performed inside where possible.
 - 3) Up to 3 vehicles to be repaired or that have been repaired may be stored outside.
 - 4) No vehicles for sale may be stored outside at any time.
 - 5) If complaints are substantiated regarding the outdoor storage of vehicles that have been or will be repaired the Board may require all storage to be inside or screened from view of the right-of-way by means of a fence or tree planting.
 - 6) No junk or salvage materials may be stored on site.
 - 7) 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".
 - 8) 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.

- 9) Noxious weeds shall be controlled.
- 10) 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.
- 11) 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.
- 12) Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system.
- 13) The applicant shall meet all State and Federal standards for storage, handling and disposal of all other potentially hazardous waste materials.
- 14) The Conditional Use permit for the extended home occupation is not transferable. Subsequent owners/operators will be required to obtain a conditional use permit.
- 15) 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.