

**MINUTES**  
**LINCOLN COUNTY PLANNING AND ZONING COMMISSION**

**April 19, 2010**

Public Hearing 6:00 PM  
7:00 pm Regular Meeting, Commission Room  
Lincoln County Courthouse

**ROLL CALL** The Public Hearing for the revised Temporary Use Ordinance was brought to order on April 19, 2010 at 6:00 pm by Chairwomen June Nusz with members Chad Nelson, Ron Larson and County Commissioner Jason Melcher reporting for duty at the Lincoln County Courthouse, Commissioner's Meeting Room, 104 N Main, Canton, SD 57013. Darrel Sogn reported at 6:30 and Dick Portz reported at 6:40. Craig Andersen was absent.

Staff members present were Paul Aslesen-Director Planning and Zoning, Laurie Powell-Deputy Director, John Peters-GIS, Toby Brown –SECOG, Mike Nadolski-Assistant States Attorney

No one was present to speak in favor of the Revised Temporary Zoning Ordinance.

Larry Nelson, local legal counsel, spoke both in opposition and in favor of the proposed Ordinance. After discussion and a presentation by Mr. Nelson the hearing was closed to discussion at 6:40 pm. A motion was made by Chad Nelson to approve the Revised Temporary Use Ordinance and recommend for approval by the County Commission. The motion was seconded by Larson. The motion was unanimous.

**ITEM 1. APPROVAL OF AGENDA** – A motion was made by Nelson and seconded by Portz to approve the April 19, 2010 agenda with the addition of two plats to the agenda. The motion was unanimous.

**ITEM 2. APPROVAL OF MINUTES** – A motion was made by Melcher and seconded by Sogn to approve the minutes of March 15, 2010. The motion was unanimous.

**ITEM 3. CONDITIONAL USE PERMIT – 10-CUP-006 For the purpose of building an accessory building over 1500 square feet. (2400 square feet) Tabled March 15, 2010 at petitioner's request.**

Chairperson Nusz requested a motion to remove from the table for consideration. A motion was made by Nelson to remove Conditional Use Permit 10-CUP-006 from the table. The motion was seconded by Sogn and was unanimous.

**Legal Description:** Kich's Addition, Lot 6, Section 1, Township 99, Range 51, Lincoln County, South Dakota  
**Location:** 46959 273<sup>rd</sup> St, Tea, SD 57064  
**Petitioner/Owner:** Robert E Brenner

**General Information**

**Present Zoning:** Ag with Residential Use  
**Existing Land Use:** Residential  
**Parcel Size:** 1.12 Acres

**Report By:** Paul Aslesen

**Action:** A motion was made by Portz to approve with site plan showing room for alternate drain field. The motion was seconded by Melcher and was unanimous.

**ITEM 4. CONDITIONAL USE PERMIT – 10-CUP-008 For the purpose of building an addition to the existing Top Dog Resort- a 40X40 expansion with capacity for an additional 20 dogs.**

**Legal Description:** N160' of W701.7' of Tract 2 Haas Addition, NW1/4 SW1/4 Section 35, Township 100, Range 50, Lincoln County South Dakota

**Location:** 27246 SD Hwy 115, Harrisburg, SD 57032

**Petitioner/Owner:** Deb and Jim Heine

**General Information**

**Present Zoning:** Rural Residential

**Existing Land Use:** Commercial

**Parcel Size:** 7.55 Acres

A letter was presented to Chairwomen June Nusz from Rick Fink asking that the hearing for Conditional Use (10-CUP-008) be tabled until a later date. He and his wife would be out of the country and unable to attend and have concerns about noise and the property value of their home and would like the opportunity to voice those concerns before this board.

**Report By: Paul Aslesen**

**Recommendation:**

*Staff recommendation is to not approve of this request as the expansion has the potential to contribute more issues with noise.*

***Speaking in Favor:*** *There were no members of the public present to speak in favor; the Heine's did present signatures from neighboring property owners stating that they had no concerns with the expansion.*

***Speaking in opposition:*** *Collin Fink, speaking on behalf of his parents, requested that the petition be tabled so they could be present for the hearing.*

The hearing was not tabled.

***Action:***

*After much discussion, a motion by Larson to approve the expansion was seconded by Sogn. The motion passed on a 3-2 roll-call vote. Nelson, Sogn and Larson voting to approve with Portz and Melcher voting against.*

*Melcher voted against because the Fink's were unable to attend to present their concerns about the expansion. He stated that the board has set precedence in the past of taking care of the closest neighbor. Portz voted against because the property is zoned Rural Residential and he felt they should not be allowed to expand a commercial business in a Rural Residential district.*

**ITEM 5. CONDITIONAL USE PERMIT #10-CUP-009 For the purpose of operating a Major Home Occupancy business-Class 1, Woodworking and Millwork Manufacture.**

**Legal Description:** W885.2' of N300' of N1/2SW1/4 Section 32, Township 99, Range 50, Lincoln County, South Dakota

**Location:** 27852 471<sup>st</sup> Ave, Worthing, SD 57077

**Petitioner/Owner:** Jeff A Hurley

**General Information**

**Present Zoning:** Ag  
**Existing Land Use:** Residential  
**Parcel Size:** 6.09 Acres

**Report By:** Paul Aslesen

**Recommendation:**

*Staff recommends approval with compliance to the ordinance stipulations listed below for a Class 1 Major Home Occupation. The proposed activity shall be evaluated in accordance with these criteria.*

**12.0302 Major Home Occupation.**

It is recognized that home occupations which exceed the requirements of Section 12.0301 may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

A. Class 1:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.

11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

**Action:** A motion was made by Nelson and seconded by Portz to approve the petition with the stipulations listed for a Home Occupancy business Class-1. Section 12.0301. The motion was unanimous.

**ITEM 6. CONDITIONAL USE PERMIT #09-CUP-010 For the purpose of building an addition to a storage unit making it over 10,000 square feet.**

**Legal Description:** Lot 2 Block 6 Kerslake 2<sup>nd</sup> Addition, South half (S1/2) Section 24, Township 100, Range 51 Lincoln County, South Dakota

**Location:** 27064 South Gayle Ave

**Petitioner/Owner:** Dale & Susan Dachtler

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 235' x 300.15'

**Report By:** Paul Aslesen

**Recommendation:**

Staff recommends approval with compliance to set backs and the approved drainage plans for this addition.

**Action:** A motion was made by Larson and seconded by Portz to approve the petition with stipulations that the building be in compliance with set-backs and the approved drainage plans be followed for this addition.

**ITEM 7. CONDITIONAL USE PERMIT #09-CUP-011 For the purpose of an addition for manufacture and storage of feed mill and roller parts.**

**Legal Description:** Lot 2, Block 1, Hagedorn Industrial Park Addition, Southeast quarter (SE1/4), Section 25, Township 100, Range 51, Lincoln County, South Dakota

**Location:** 46994 Mindy St, Tea, South Dakota

**Petitioner/Owner:** Kevin Mielke/Bob A Scherer

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 1.24 Acres

**Report By:** Paul Aslesen

**Recommendation:**

*Staff recommends approval.*

**Action:** A motion was made by Portz and seconded by Melcher to approve the petition with consideration of set-back distances set by the City of Tea as the property is within the Tea growth area. The motion was unanimous.

**ITEM 8. CONDITIONAL USE PERMIT #09-CUP-012 For the purpose of operating a mechanic/body and restoration shop. Sales of a few vehicles/classic cars and trailers.**

**Legal Description:** Van Woudenberg's Addition Lot B \*Ex Lot H-1 & H-4 & Tract1 Lot B\*, Lincoln County, South Dakota  
**Location:** 47872 US Hwy 18, Canton, South Dakota  
**Petitioner/Owner:** Adrian Nelson/Steve Frislie

**General Information**

**Present Zoning:** "C" Commercial  
**Existing Land Use:** Commercial  
**Parcel Size:** 3 Acres

**Report By:** Paul Aslesen

**Recommendation:**

*Staff recommends approval of this application with the following suggested stipulations:*

- 1. No outside storage of any junk vehicles or parts.*
- 2. Any improvements to the property such as trees scrubs etc should be in compliance with City of Canton*

**Action:** A motion was made by Nelson and seconded by Portz to approve the petition with staff recommended stipulations listed. The motion was unanimous.

**ITEM 9. CONDITIONAL USE PERMIT #09-CUP-013 For the purpose of operating a contractors shop.**

**Legal Description:** Tract 14 B of D & L Industrial Addition in the Southwest quarter (SW1/4) of Section 24, Township 100, Range 51, Lincoln County, South Dakota  
**Location:** 46923 Austin Street, Tea, SD 57064  
**Petitioner/Owner:** Mark & Jay Wehde/Donnie Coffee

**General Information**

**Present Zoning:** "C" Commercial  
**Existing Land Use:** Commercial  
**Parcel Size:** 1.38 Acres

**Report By:** Paul Aslesen

**Recommendation:** Staff recommends approval with any outside storage being fenced with commercial grade security type fencing.

**Action:** A motion was made by Portz and seconded by Nelson to approve the petition with staff recommended stipulation. The motion was unanimous.

A motion was made by Melcher and seconded by Portz to move to Board of Adjustment. The motion was unanimous.

**ITEM 10. VARIANCE 10-VAR-001 For the purpose of appealing the setback distance.**

**Legal Description:** Tr2 Dykstra's Addition SE1/4, Section 22, Township 100N, Range 51 W, Lincoln County, South Dakota  
**Location:** 46785 Dykstra Ct, Tea, South Dakota  
**Petitioner/Owner:** Joel Jansen

## **General Information**

**Present Zoning:** Ag-Residential Use  
**Existing Land Use:** Residential  
**Parcel Size:** 1.55 Acres

## **Recommendation:**

*Staff recommends that the board read the standards and make their decision based on them.*

**Action:** After much discussion concerning drainage a motion was made by Portz to table the requested variance until petitioner could acquire an engineered plan for drainage. For lack of a second a new motion was called for. A new motion by Melcher to approve with stipulations that applicant must hire an engineer to identify any drainage issue and Petitioner will be in compliance with the engineered grading plan prior to issuance of a building permit. The motion was seconded by Larson. The motion passed. Portz voted in opposition.

A motion was made by Nelson and seconded by Melcher to move out of Board of Adjustment. Motion was unanimous.

## **ITEM 11. PLATS**

- A. Tracts 1 and 2 of Vande Stroet Addition in Gov't Lot 1 and the Southwest quarter (SW1/4) of the Southwest quarter (SW1/4) of Section 14, Township 97N, Range 48W of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota
- B. Lot 2 in Tract 1 Kolb's Addition in the Northwest quarter (NW1/4) of Section 4, Township 99N, Range 50W of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota
- C. Plat of Tracts 2 and 3 of Olsen's Addition in the South half (S1/2) of the Northwest quarter (NW1/4) and the North half (N1/2) of the Southwest quarter (SW1/4) of Section 28, Township 97 N, Range 48W of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota

A motion was made by Sogn and seconded by Portz to approve the plats. The motion was unanimous.

A motion was made by Nelson and seconded by Larson to adjourn. Motion was unanimous.

**Respectfully submitted by:**

**Laurie Powell**  
**Deputy Director**  
**Lincoln County Planning & Zoning**