

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

**April 20, 2009**

6:00 pm Workshop

7:00 pm Regular Meeting, Commission Room  
Lincoln County Courthouse

The regular meeting was brought to order at 7:00 pm by Chairwoman June Nusz with members Molstad, Sogn, Andersen, Portz, Nelson and County Commissioner Melcher reporting for duty at the Lincoln County Courthouse, Commissioners Room, 104 N Main Street, Canton, SD 57013.

Staff members present were, Paul Aslesen-Director Planning and Zoning, Laurie Powell-Deputy Director, Jon Peters-GIS, Gregg Thompson-Compliance Officer.

**APPROVAL OF AGENDA** – A motion was made by Andersen and seconded by Sogn to approve the agenda for April 20, 2009 with revisions to Item 8, reference H and I. The motion was unanimous.

**ITEM 1. APPROVAL OF MINUTES** – A motion was made by Andersen and seconded by Portz to accept the minutes of March 16, 2009 as written. The motion was unanimous.

**ITEM 2. CONDITIONAL USE PERMIT REVIEW #07-CUP-049 Review hearing 7:15 April 20, 2009**

**Legal Description:** Tracts 15 & 16 Albers Tracts 3 through 18 N1/2, Section 30, Township 100, Range 50

Lincoln County, South Dakota

**Location:** 47063 104<sup>th</sup> St, Tea, SD

**Petitioner/Owner:** John Fortney/Don Nix

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 1 Ac

**Report By:** Gregg Thompson – This hearing was set to review the fence stipulation on Conditional Use Permit #07-CUP-049.

**Petitioner comments:** Don Nix appeared and is requesting that the fence requirement be removed from the stipulations on Conditional Use Permit #07-CUP-049.

**Action:** Discussion followed concerning the request. A motion was made by Portz and seconded by Sogn to amend the Conditional Use Permit and to remove the fence requirement. The motion was unanimous.

**ITEM 3. CONDITIONAL USE PERMIT #09-CUP-006** Petitioner is requesting an amendment to previous Conditional use Permit

**Legal Description:** Lot 1A of Tr1 of Van Beek's Addition E1/2 NE1/4 Section 31, Township 97, Range 49 Lincoln County South Dakota

**Location:** 29006 477<sup>th</sup> Ave, Canton, SD 57013

**Petitioner/Owner:** Leonard Decker

**General Information**

**Present Zoning:** "A" Agricultural

**Existing Land Use:** "I" Industrial

**Parcel Size:** 7.68 Acres

**Report By:** Paul Aslesen

**Staff Analysis:**

1. **The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**  
*As defined by the Lincoln County Comprehensive Plan (LCCP) and the Lincoln County Zoning Map, the petitioned area is located within an Ag area. Allowing the expansion of current structures and or the building of new structures to accommodate the petition may result in an adverse effect upon neighboring residents and their properties.*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*Uses that are predominant in the area include the raising of crops and livestock with farmsteads/single family residences. Development of the area for what appears to be industrial purposes may have an adverse effect upon the qualities of life that are currently enjoyed by adjacent property owners. Also, the present infrastructure may not be able to withstand continuous heavy traffic that is usually associated with the proposed additional activity.*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*As indicated previously, this area has not been developed into an industrial subdivision or industrial park. No engineered preliminary plan has been requested. Currently, the site/use is served by a county graveled road that is connected to hard surfaced roads within ¾ to 2 miles. Currently, other than the normal wear, no major damages have taken place. Any new drainage created by roof top/hard surface areas should not create any negative effects as the site has a dedicated drainage system in place as indicated by GIS research.*
4. **That the off-street parking and loading requirements are met.**

*No preliminary plan for the development has been requested. Previous petition provided a site plan for expansion of current building but did not provide any information pertaining to a new structure.*

*Off street loading and parking should be in compliance with Lincoln County ordinances.*

**5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

*At the present time no negative effects or nuisances have been observed or reported to the office of the Planning and Zoning.*

**Recommendation:**

Allowing a revision to the stipulations of Conditional Use Permit #04-CUP-099 would allow the petitioner to apply for a building permit to either expand the current structure or apply to build additional structures within the guidelines of applicable county ordinances. Staff recommendations on previous conditional use petitions and other petitions submitted by the applicant for this property have attempted to represent the guidelines generated by the Lincoln County Comprehensive Plan.

**Petitioner response:** Leonard Decker stated that his "purpose" in asking for the amendment to the previous Conditional use permit "was for expansion".

**Action:** A motion to deny the petition was made by Molstad with the statement that the Board and Planning and Zoning staff have worked diligently with petitioner to consider locating in an industrial area. The CUP doesn't provide any conditions at present location and feels that this petition for expansion of a building is setting a precedence for the future for expansion for him or others wishing to locate a similar(Industrial) business in an Ag District. The motion was seconded by Nelson to deny the petition to amend the stipulation (no expansion) of Conditional Use Permit #04-CUP-099. Molstad, Nelson, Sogn, Portz, and Melcher voted in favor of the motion and Andersen voted in opposition. Motion passed.

**Commission Comments:**

Commissioner Andersen who voted in opposition commented that this has been a tough decision for the Board. He stated that there is no doubt that Mr Decker is a good neighbor and that it is tough to move an established business, but he shares the same concerns as other board members concerning expansion at the current location.

**ITEM 4. CONDITIONAL USE PERMIT #09-CUP-007** Purpose is a small engine repair shop/Home Occupancy

**Legal Description:** W324' of S404' SW1/4 29-99-51 Lincoln County South Dakota

**Location:** 46500 278<sup>th</sup> Street, Lennox, SD 57039

**Petitioner/Owner:** Randy Dump

**General Information**

**Present Zoning:** "A" Agricultural

**Existing Land Use:** Agricultural

Parcel Size: 3 Acres

**Report By:** Paul Aslesen

**Staff Analysis:**

1. **The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**  
*No negative effect is anticipated if adherence to ordinance requirements are maintained for a "Home Occupancy" business as indicated by Section 1107, page 54.*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*No negative effect is anticipated as stated above.*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*Not applicable.*
4. **That the off-street parking and loading requirements are met.**  
*Must be in compliance with Section 1107 "Home Occupancy", page 54.*
5. **That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**  
*Must be in compliance with Section 1107 "Home Occupancy", page 54.*

**Recommendation:**

*Recommend to approve.*

**Action:** A motion was made by Nelson and seconded by Andersen to approve the petitioners' request. The motion was unanimous.

**ITEM 5. CONDITIONAL USE PERMIT Review #09-CUP-008** Transfer of eligibilities for single family dwellings

**Legal Description:** SW1/4 27-99-50

**Location:** Intersection of 278<sup>th</sup> St and 473<sup>rd</sup> Ave

**Petitioner/Owner:** Donald Jacobs

**General Information**

**Present Zoning:** "A" Agricultural

**Existing Land Use:** Agricultural

**Parcel Size:** 146 Acres

**Report By:** Paul Aslesen

**Staff Analysis:**

1. **The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**

*Requested activity is in compliance with Section 404, item (y) on page 25, Transfer of a "building eligibility".*

2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*See Section 404, item (y).*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*See Section 404, item (y).*
4. **That the off-street parking and loading requirements are met.**  
*See Section 404, item (y).*
5. **That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**  
*See Section 404, item (y)*

**Recommendation:**

*Recommend to approve, as activity is in compliance with Section 404, item (y).*

**Action:**

A motion was made by Andersen and seconded by Sogn to approve the request for the transfer of Building eligibilities. The motion was unanimous.

**ITEM 6. CONDITIONAL USE PERMIT #09-CUP-009** Transfer of building eligibility

**Legal Description:** E1/2 SW1/4 SE1/4 \*S150' of E145'\* 28-100-50 Lincoln County South Dakota

**Location:** 47266 272<sup>nd</sup> Street

**Petitioner/Owner:** Daniel Hensch

**General Information**

**Present Zoning:** "A" Ag Public Use District

**Existing Land Use:** Agriculture

**Parcel Size:** 19.50 Acres

**Report By:** Paul Aslesen

**Staff Analysis:**

1. **The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**  
*Requested activity is in compliance with Section 404, item (y) Transfer of a "building eligibility"*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*See Section 404, item (y).*

3. That utilities, access roads, drainage and/or other necessary facilities are provided.  
*See Section 404, item (y).*
4. That the off-street parking and loading requirements are met.  
*See Section 404, item (y).*
5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.  
*See Section 404, item (y).*

**Recommendation:**

*Recommend to approve as activity is in compliance with Section 404, Item (y).*

**Action:**

A motion was made by Melcher and seconded by Portz to approve the request for the transfer of a building eligibility. The motion was unanimous.

**ITEM 7. CONDITIONAL USE PERMIT #09-CUP-010 Storage and disposal of repossessed vehicles**

**Legal Description:** Skyhaven Hgts NW1/4 TR 21 & Abandoned Drive & NW1/4 Tr 22, 30-100-50

**Location:** 27117 Sky Lane Tea, SD

**Petitioner/Owner:** Shawn Jennings/Alexsey Gladush

**General Information**

**Present Zoning:** "C" Commercial District

**Existing Land Use:** Commercial

**Parcel Size:**

**Report By:** Paul Aslesen

**Staff Analysis:**

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.  
*No adverse effect is anticipated.*
2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.  
*No adverse effect is anticipated.*
3. That utilities, access roads, drainage and/or other necessary facilities are provided.  
*All necessary utilities, access roads, drainage and or other necessary facilities are provided.*
4. That the off-street parking and loading requirements are met.  
The petitioned use will need parking and loading areas and storage areas for inside and outside use.

Present structures and parcel space will accommodate the petitioned use.

**5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

*With the use of good management practices, this use should not create or constitute a nuisance.*

**Recommendation:**

*Staff found this conditional use permit request to be consistent with uses for the Commercial District.*

*Recommend approval with the following stipulations:*

- 1. The approval of the petitioned use does not enable the petitioner to create a salvage yard/junk yard area.*
- 2. No on street parking, loading or unloading will be allowed.*
- 3. Recommend that a review of the use be conducted within 90 days to ensure the use satisfies the recommended stipulations and to ensure there are no negative effects to abutting property owners.*

**Action:** A motion was made by Portz and seconded by Sogn to approve the request with stipulations listed above. The motion was unanimous.

**ITEM 8 PLATS:**

- A. Tract 1 of Ulrikson Addition in Government Lot 1 of the NW1/4 of Section 2, Township 97, Range 49, Lincoln County, South Dakota
- B. Tract 1 of Zweifel Addition in the SW1/4 of the SE1/4 of Section 32, Township 96, Range 49 Lincoln County, South Dakota
- C. Tract 1 and Tract 2 of Oppold's Addition in the NE1/4 of Section 3, Township 98, Range 49 Lincoln County, South Dakota
- D. Tracts 1, 2, 3 and 4 of Jacobs Addition in the SW1/4 of Section 27, Township 99, Range 50 Lincoln County, South Dakota
- E. Tract 1A and Tract 1B of Buse's Addition, an Addition in the NW1/4 of Section 20, Township 99, Range 50 Lincoln County, South Dakota
- F. Tract 2A and Tract 3 of Woodfield Tracts an Addition in the N1/2 of Section 33, Township 96, Range 50 Lincoln County, South Dakota
- G. Decker's Addition in the NW1/4 of Section 30, Township 97, Range 49 Lincoln County, South Dakota
- H. **(Delete)** Lot 2B of Ruckelshausen's 5<sup>th</sup> Addition in Government Lot 3 of Section 11, Township 100, Range 51 Lincoln County, South Dakota
- I. **(Addition)** Tract 1 of Meister Addition in the NE1/4 of the NE1/4 of Section 21, Township 99, Range 50 Lincoln County, South Dakota

A motion was made by Nelson and seconded by Andersen to approve the plats. The motion was unanimous.

**ADDITIONAL ITEMS:**

1. Workshop Building Permit fees and CAFO Ordinance 6:00 pm

**Respectfully submitted by:**

**Laurie Powell**

**Deputy Director**

**Lincoln County Planning & Zoning**