

**MINUTES**  
**LINCOLN COUNTY PLANNING AND ZONING COMMISSION**  
**DECEMBER 15, 2008**

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

The Lincoln County Planning and Zoning Commission met at 6:15 pm on Monday, December 15, 2008 for a workshop on the 1995 Revised Zoning Ordinance. Workshop participants were June Nusz, Chad Nelson, Dennis Weeldreyer, Darrel Sogn arrived at 6:20 pm, and Chuck Molstad arrived at 6:40 pm. Jon Peters-GIS, Toby Brown-SECOG, Gregg Thompson-Compliance Officer, Paul Aslesen-Director Planning and Zoning, Mike Nadolski-Assistant State's Attorney.

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

**APPROVAL OF AGENDA – December 15, 2008 Additional items**

A special meeting will be held on December 22, 2008 at 4:00 pm. for a plat approval. A motion was made by Weeldreyer and seconded by Molstad to approve agenda with the addition. The motion passed unanimously.

**ITEM 1. APPROVAL OF MINUTES – November 17, 2008** – A motion was made by Sogn and seconded by Nelson to approve the minutes of November 17, 2008 as read. The motion passed unanimously.

**ITEM 2. CONDITIONAL USE PERMIT #08-CUP-060** Dispatching, towing, impound & storage of vehicles, general office duties.

**Legal Description:** N148.5' of Albers Tr7 NE1/4 Section 30, Township 100, Range 50 Lincoln County, SD

**Address/Location:** 27114 Independence Ave, Sioux Falls, SD 57108-8101

**Petitioner/Owner:** A Plus Towing & Repair-Mark Pyle/Gerald Huls

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** .5 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 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 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 conditions:

1. *The approval of the petitioned use does not enable the petitioner to create a salvage yard/junk yard area. Suggest a review of the use be accomplished in 6 months by the compliance officer to ensure the use satisfies the commercial guidelines for the approved use.*
2. *No on street parking, loading, or unloading will be allowed.*
3. *Recommend that outside storage area be of an opaque type on sides and rear to provide for ascetics.*

**Public Testimony:**

Tim Nicolai- Part owner in antique store in close proximity. Mr. Nicolai voiced concerns in regard to anti-freeze, oil, pollutants and chemicals of this nature having an adverse effect on the area.

**Action:**

A motion was made by Molstad and seconded by Weeldreyer to **approve** Conditional Use Permit #08-060 with the following stipulations:

1. The approval of the petitioned use does not enable the petitioner to create a salvage yard/junk yard area. Suggest a review of the use be accomplished in 6 months by the compliance officer to ensure the use satisfies the commercial guidelines for the approved use.
2. No on street parking, loading, or unloading will be allowed.
3. Recommend that outside storage area be of an opaque type on sides and rear to provide for aesthetics.

**ITEM #3. CONDITIONAL USE PERMIT #08-061 Construction of warehouse over 10,000 square feet.**

**Legal Description:** Lot 7 Blk 1 Hagedorn Industrial Park Add NE1/4 SE1/4 Section 25, Township 100, Range 51 Lincoln County, SD

**Location:** 46974 Mindy St. Tea, SD 57064

**Petitioner/Owner:** Anthony Bello, 2612 Regency Court, Sioux Falls, SD

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 1.24 Ac

**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.**  
*Above items are existing.*
4. **That the off-street parking and loading requirements are met.**  
*Existing and proposed parking, loading, set backs are in compliance with 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.**  
*Increase in size of structure will not contribute to any nuisance issues.*

**Recommendation:**

*Staff recommends approval of the addition to the existing structure with the following condition(s):*

1. *An engineered approved building plan is provided prior to a building permit being approved.*
2. *A drainage plan be provided to and approved by Lincoln County Engineers.*

**Public Testimony:** None

**Action:** A motion was made by Nelson and seconded by Weeldreyer to **approve** Conditional Use Permit #08-061 with stipulations:

1. An engineered approved building plan is provided prior to a building permit being approved.
2. A drainage plan be provided to and approved by Lincoln County Engineers.

At 7:35 pm a motion was made by Molstad and seconded by Sogn to adjourn until 8 pm. Motion was unanimous. Work shop conducted on draft Zoning Ordinance from 7:35 pm to 8:00 pm.

At 8:00 pm a motion to reconvene was made by Nelson and seconded by Weeldreyer. Motion was unanimous.

**ITEM 4. PUBLIC HEARING FOR REZONING 08-REZ-009** Rezone from the "A" Ag Public Use District to "I" Industrial District. *Date and Time December 15, 2008 at 8:00 pm*

**Reason for rezone:** Provide method to expand current manufacturing business.

**Legal Description:** Lot 1A of TR1 of Van Beeks Addition E1/2 NE1/4 of Section 31, Township 97, Range 49 Lincoln County, SD

**Location:** 29023 477<sup>th</sup> Ave., Canton, SD 57013

**Petitioner/Owner:** D.L.C. Inc/ Leonard Decker

**General Information**

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

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

**Parcel Size:** 7.68 Ac

**Staff Analysis:**

*Previous to the petition under consideration, the petitioner received a Conditional Use Permit # 04-CUP-099 which was passed unanimously with the following stipulations:*

- 1. The previous CUP was revised to remove the Home Occupancy and allow continuation of use.*
- 2. No new expansion of buildings (Building Permit was issued on Nov 22, 2004 for a 100' X 200' bldg)*
- 3. A buffer of trees was requested.*

*As stated on the rezoning petition, the petitioner is requesting this action in order to expand his current manufacturing business. Staff has been advised by the petitioner that an addition to the current structure located at the above legal description will take place when and if the rezoning is approved along with any Conditional Use Permits. Approval of this petition would in reality change what this board has previously motioned.*

*Staff believes that any decisions pertaining to the rezoning of land must be guided by the Lincoln County Comprehensive Plan. Staff offers the following:*

- 1. As defined by the LCCP (Lincoln County Comprehensive Plan) and illustrated by the Lincoln County Zoning Map, the petitioned area is not within an urban or transitional area and is not subject to annexation or the jurisdiction of any municipality. In accordance with the LCCP, the majority of commercial/industrial growth should be located within municipal growth areas.*
- 2. Petitioned area is not served by a major highway system and no plans are in the works to change County Highway #144 from gravel to hard surface. In accordance with the LCCP an industrial site could be located in the rural area of Lincoln County where some expansion is appropriate and at major highway intersections.*
- 3. As defined by the LCCP and the Lincoln County Zoning Map, the petitioned area is located in an Ag Area. The petitioned area is surrounded for the most part by land used for crop production and not by any similar use either commercial or industrial. In accordance with the Lincoln County LCCP, Industrial uses intended to support the agricultural sector should be located at appropriate rural locations. Staff believes the intent of the LCCP is not to allow an industrial use in an ag area that is dependent on non-related ag businesses for their income. An example of an acceptable industrial business would be an ethanol plant.*

**Recommendation:**

*Staff found this rezoning request to be not compatible with the Lincoln County Comprehensive Plan and recommends non-approval of Rezoning Petition #08-REZ-009*

**Public Testimony:**

**Petitioner:** Mr. Decker stated that when he received his previous review he knew his construction goals were not complete. He stated that he needs additional storage for equipment and supplies inside where it would be more efficient. He also stated that he should be allowed to rezone because most of his business is Ag related, such as Ag storage, dairy barns, hog confinements. He also stated that it is not economical to move his business.

**Speaking in Favor:** Mr. Dick Fossum was present to speak in favor of Mr. Decker's petition.

**Action:** A motion was made by Molstad to **deny** rezoning petition #08-REZ-009 because it does not fit within the Lincoln County Comprehensive plan; the motion was seconded by Weeldreyer. Motion to deny was unanimous.

**ITEM 5. CONDITIONAL USE PETITION – HEARING #06-070 Requesting three (3) year extension of expiration date of December 31, 2008 of this petition. *Date and Time December 15, 2008 at 8:30 pm***

**Legal Description:** W55 Acres of the NE1/4 ex Lot H-1 of 8-97-51

**Location:** 46569 286<sup>th</sup> Street, Lennox, SD

**Petitioner/Owner:** George Hofer

**General Information**

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

**Existing Land Use:** Agriculture

**Parcel Size:** 55 Acres

**Reported by:** Paul Aslesen

**Staff Analysis:**

*Staff review indicates that the petitioner has not been able to comply with the time frames established by the previous Conditional Use Permit. The informal review conducted on November 17, 2008 laid the ground work for conducting the formal review of Conditional Use Permit #06-070. No responses have been received from the public on this petition nor were any received during the last three years. Staff suggests a condition of the extension is to have current signage changed to be in compliance with county ordinance.*

*Staff encourages the Planning and Zoning Board, if the extension is approved, to request a detailed time frame as per the previous Conditional Use with a review of the time frame every 6 months.*

**Public Testimony:** A. J. Swanson, attorney representing Paul Jr. & George Hofer. Mr. Hofer is in receipt of a purchase agreement for land that is zoned Commercial for planned relocation of existing business. This agreement expires in June of 2009.

**Speaking in Favor:** Sandy Poppinga, Delaware Reformed Church, Gordon Hagen, and Barbara Poppinga all spoke in favor of allowing the extension to the Hofers'. They had no complaints or problems with the business receiving an extension of three (3) years to relocate.

A motion was made by Weeldreyer and seconded by Sogn to **approve** the three (3) year extension of Conditional Use Permit #06-070 with Staff recommendations:

1. A detailed time frame as per the previous Conditional Use and advise staff on progress of project every six (6) months.

Motion carried unanimously.

**ITEM 6 PLATS:**

1. Tract 1 Bolte's Addition N1/2 SW1/4 Section 12, Township 100, Range 51 Lincoln County South Dakota. **Purpose of plat:** Property being conveyed.
2. Saugstad Tracts 2, 3 and 4, an Addition in a part of the NW1/4 and the N1/2 of the SW1/4 of Section 20, Township 96, Range 49 Lincoln County, South Dakota. **Purpose of plat:** To market/sell real estate in Probate Estate
3. Tract 1, Tract 2, and Tract 3 of Schuttloffel's Addition in the S1/2 of the NE1/4 of Section 36, Township 98, Range 50, Lincoln County South Dakota. **Purpose of plat:** Split out acreage and Tract 3 is a boundary correction.

A motion was made by Sogn and seconded by Molstad to approve the plats. Motion was unanimous.

**ADDITIONAL ITEMS:** A special meeting has been requested to approve a plat. Date and Time set for December 22, 2008 at 4:00 pm in the Conference Room of the Planning and Zoning office, Canton, SD.

A motion was made by Weeldreyer and seconded by Nelson to adjourn. Motion was unanimously

**Respectfully submitted by:**

**Laurie Powell**

**Deputy**

**Lincoln County Planning & Zoning**