

**MINUTES**  
**LINCOLN COUNTY PLANNING AND ZONING COMMISSION**  
**February 22, 2011**

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

**6:00 pm Public Hearing** – A public hearing was held to review the changes to the Subdivision Ordinance and to take testimony from the public. There were no members of the public in attendance. Following a brief review of final changes by Toby Brown a motion was made by Gillespie to accept the changes and recommend referral to the Lincoln County Commission for approval. The motion was seconded by Nusz. Motion was unanimous.

Dick and Helen Portz were in attendance at the beginning of the hearing. Dick resigned from the Planning and Zoning Board effective February 1, 2011 for health reasons. Dick was presented with a plaque in honor of his 10 years of service on the Lincoln County Planning and Zoning Board. His presence will be sorely missed.

**ROLL CALL** The regular meeting of the Lincoln County Planning and Zoning Commission was brought to order on February 22, 2011 at 7:00 pm by Chairman Craig Andersen with members Ron Larson, Darrel Sogn, June Nusz, Chad Nelson and County Commissioner Dave Gillespie in attendance at the Lincoln County Courthouse, Commissioner's Meeting Room, 104 N Main, Canton, SD 57013.

Staff members present were Paul Aslesen-Director Planning and Zoning, Laurie Lundquist-Deputy Director, Greg Thompson-Compliance Officer, Mike Nadolski-Assistant State's Attorney, Jon Peters-GIS, Toby Brown-SECOG

**ITEM 1. APPROVAL OF AGENDA** – A motion was made by Larson to approve the agenda of February 22, 2011 with the addition of Item 6, Conditional Use Permit 11-CUP- 003 and the deletion of plat D in Item 7, Plats. The motion was seconded by Nelson. Motion was unanimous.

**ITEM 2. APPROVAL OF MINUTES** – A motion was made by Nelson to approve the minutes of January 18, 2011 with a correction to Item 4. (motion by Larson). The motion was seconded by Larson and was unanimous.

**ITEM 3. CONDITIONAL USE PERMIT – 10-CUP-037** For the purpose of construction and operation of a twin screen drive-in movie theater. Future additions may include mini-golf and a maze. Petition was deferred from the November 15, 2010 to January 18, 2011 meeting to give the applicant ample time to address the issues presented by members of the Planning and Zoning Board/community at the November 2010 meeting. A letter was received from petitioner asking for a deferral until February 22 meeting due to being out of town on business.

**Legal Description:** A portion of W730' of N1090' \*Ex N26.5 Rds of W 18 Rds & Ex Lot H-2\* NW1/4  
Section 33, Township 100, Range 51, Lincoln County, South Dakota  
**Location:** NW corner of SD Hwy 17 and 272<sup>nd</sup> St  
**Petitioner/Owner:** Richard Peters

**General Information**

**Present Zoning:** Commercial/Agriculture  
**Existing Land Use:** Agriculture  
**Parcel Size:** Approximately 5 Acres

**Report By:** Paul Aslesen

Please reference page 7 conditional uses in the A-1 Agriculture District item L Private Outdoor Recreation Facility and also reference page 16 conditional uses in the Commercial District item S. Commercial recreation facility.

**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.**

*The area surrounding this site includes a commercial storage site, a commercial site used for a taxidermy business, a residential subdivision, and ag land used for crop production. The applied for use will create more traffic for the general area throughout the week with major increase anticipated on Saturdays. Any negative effects are not anticipated for the residential subdivision with appropriate control and location of the screens. Property owners may have their property value enhanced as additional commercialization takes place along this major road.*

**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 the anticipated demand is for commercial use and not residential use.*

**3. That utilities, access roads, drainage and/or other necessary facilities are provided.**

*Applicants' site plan (supplement) provides utility access road availability, drainage measures and surface preparation information. The only infrastructure available is 272 St. and highway 17. Applicant has plans for providing required utilities, facilities for water/septic, access roads and buffers to control noise and light.*

**4. That the off-street parking and loading requirements are met.**

*Parking will be dependent on space available. Site plan should be provided.*

**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.**

*Some noise, dust and fumes will be generated by traffic but with the hard ball surface for traffic no nuisance is anticipated from traffic. Sound and fugitive lighting will have to be controlled as per site plan.*

**Recommendation:**

*Staff recommends approval with the following stipulations:*

- 1. A plan for the removal of the screens and the facility be provided to the county.*
- 2. A review of the use be brought to the Lincoln County Planning and Zoning Board after one year or sooner if complaints are provided to the county.*

The petitioner was asked to address the concerns about traffic, drainage, garbage, septic and a landscape buffer that were requested by the Commission/community at the November 15, 2010 meeting and deferred until this date. An engineered site plan was presented with location changes of the screens, fence surrounding the entire property for security as well as the prevention of fugitive garbage. He addressed traffic concerns and a septic design capable of handling facility waste. Drainage from the site was determined to flow to the west and south away from the subdivision.

**Speaking in opposition:** Several homeowners of the Homestead Acres subdivision spoke in opposition to the drive-in theater. Their concerns were very similar to those Mr. Peters was asked to address by the Planning and Zoning Commission at the November meeting. Additional concerns by the public were an increased rate of crime, underage drinking and lowered property values,

**Action:** Following additional discussion the meeting was closed to discussion by the public. A motion was made by Larson and seconded by Sogn to approve the drive-in theater with stipulations listed and site plan followed.

1. A plan for the removal of the screens and the facility be provided to the county in the event that the venture fails.
2. A turning lane to be implemented only if a need is found.

The motion passed 4-1 with Nelson in opposition for the following reasons:

1. He doesn't feel the highway is able to handle the increased traffic.
2. It will create a noise nuisance
3. Light issue
4. Not fair to residents who were there first.
5. He doesn't feel this location is correct area for a drive-in theater.

**CUP-037 Drive-in Theater- Approved**

**ITEM 4. CONDITIONAL USE PERMIT – 11-CUP-001** For the purpose of operating a rental shop, small engine repairs, sales of lawn mowers, chain saws, etc. Sales of skid loader attachments etc. Sale of small power tools and repair.

**Legal Description:** Tract 1 of Lot B of Van Woudenberg's Addition in the Southeast Quarter (SE1/4) of Section 16, Township 98, Range 49 Lincoln County, South Dakota

**Location:** 47874 US Hwy 18, Canton, SD

**Petitioner/Owner:** Tom Rutten

**General Information**

**Present Zoning:** Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 211.51' x 411.90'

**Report By: Paul Aslesen**

Please reference the Lincoln County 2009 Revised Zoning Ordinance Article 6.04, page 16, Conditional Uses, item C. Equipment sales display and repair

**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.**

*The Van Woudenberg Addition has a variety of commercial businesses located in the immediate vicinity to include motor vehicles sales, vehicle body repair shops, cold storage and light manufacturing. The effect of this business is anticipated to have a positive effect on the area and no negative impact to property values is expected.*

- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**

*The allowance of this business will contribute to the normal and orderly growth of the commercial district. The business will utilize an existing structure which meets the Lincoln County Ordinance specifications. The applied for use may generate the locating of similar businesses in this area.*

- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**

*Facilities are provided to include handicap accessibility.*

- 4. That the off-street parking and loading requirements are met.**

*Site plan indicates area for parking and loading which coincides with the size of the building and the set back distances.*

- 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.**

*The applied for use generally does not have issues that creates nuisances. Nuisance issues are not anticipated or expected.*

**Recommendation:**

*Staff recommends approval of the use with one stipulation: 1. any outside storage of pilferable non-end items shall be secured.*

**Action:** A motion was made by Nelson to approve CUP-001 with stipulation listed in staff recommendation. The motion was seconded by Gillespie; motion was unanimous. **CUP-001 - Approved**

**ITEM 5. CONDITIONAL USE PERMIT #11-CUP-002** For the purpose of operating a contractors shop for painting siding, cement fiber planks, trim and commercial painting.

**Legal Description:** Lot 4, Blk1 LaValley Business Park Section 5, Township 99, Range 50

**Location:** Corner of Homefield Place and LaValley Place

**Petitioner/Owner:** Salvador R Madrigal & Oscar Madrigal

**General Information**

**Present Zoning:** "Commercial"

**Existing Land Use:** "Agriculture"

**Parcel Size:** 1.62 Acres

**Report By:** Paul H. Aslesen

*Please reference page 16 of 2009 Revised Lincoln County Zoning Ordinance*

**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.**  
*The La Valley Subdivision has a variety of like uses located in the immediate vicinity. No negative effect is anticipated for the proposed uses or for futuristic commercial businesses or on the property values.*
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*The La Valley subdivision has an approved plan for development and a positive effect is expected from this use. A vacant lot is to be used for the construction of an appropriate structure that will add to the development.*
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*The appropriate utilities are in and the infrastructure is available for this use.*
- 4. That the off-street parking and loading requirements are met.**  
*Lot size is large enough to accommodate required parking and loading areas.*
- 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.**  
*The use will be conducted entirely within the proposed structure and must use appropriate measures and equipment to meet any environmental requirements. No nuisance issues are anticipated with the appropriate odor and fumes control.*

**Recommendation:**

Staff recommends approval with stipulations: 1. All environmental requirements are to be complied with and 2. Appropriate measures are taken to control garbage and product wrappings or containers.

**Action:** A motion was made by Nusz to approve CUP-002 with staff recommended stipulations. The motion was seconded by Larson. Motion was unanimous. **CUP-002 – Approved**

**ITEM 6. CONDITIONAL USE PERMIT- #11-CUP-003** For the purpose of constructing an accessory building over 1500 square feet. Proposed building is 2240 square feet for cold storage.

**Legal Description:** S 350' of N 500' of E 150' of W 527' NE ¼ Section 5, Township 98, Range 51, Lincoln County, South Dakota.

**Location:** 46557 SD Hwy 44, Lennox, SD

**Petitioner/Owner:** Brock Hoogestraat

**GENERAL INFORMATION**

**Present Zoning:** Agriculture

**Existing Zoning:** "RR" Rural Residential

**Parcel Size:** 1.21 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.**  
*Staff has provided the applicant with the appropriate directives for notification of ordinance identified stakeholders. As indicated by 19.09A, the impact of the proposed use on adjacent properties shall be a major consideration. The proposed use is similar in nature to other structures in the immediate area. Sizes of structures include some at 1650 square feet, others at 2700 square feet and some structures over 10,000 square feet. No negative effect is anticipated and no negative responses have been received.*
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*Applicant's building will be used for personal storage and not commercial storage. Although the proposed structure is 700 square feet over the authorized accessory size, no negative effect upon the neighbors' development and improvement of their property is anticipated.*
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*Site plan indicates an existing approach in place to accommodate this use. Building will not be furnished with any bathroom facilities or floor drains so no septic system is required. Plans have been reviewed by the city of Lennox, SD with no negative responses pertaining to drainage. Structure location must be in compliance with site plan in order to eliminate problems with city water or sewer.*
- 4. That the off-street parking and loading requirements are met.**  
*The petitioned use will not generate the need for parking and loading by anyone besides the applicant. Area is large enough to facilitate the ordinance requirements for parking and loading in a residential use area.*
- 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.**  
*No nuisance issues are anticipated by a structure used for cold storage of personal items.*

**Recommendation:**

*Staff recommends approval.*

**Action:** A motion was made by Nusz to approve CUP-003 and was seconded by Sogn. The motion was unanimous.  
**CUP-003 - Approved**

**ITEM 7. Plats**

- A. Lot A of Tract 2 of Thormodsgaard's Addition –an Addition in the Northwest Quarter (NW1/4) of Section 33, Township 96, Range 49, Lincoln County, South Dakota

- B. Tract 1 of Hensch's Addition in the SE1/4 of the SE1/4 and the W1/2 of the SE1/4 of Section 28, Township 100, Range 50, Lincoln County, South Dakota
- C. Van Engen's Tract 1, an Addition in the W1/2 of the NE1/4 of Section 6, Township 96, Range 48, Lincoln County, South Dakota
- D. Tract 1 and Tract 2 of Decker's Addition in Government Lot 2 of the Northwest quarter (NW1/4) of Section 30, Township 97, Range 49, Lincoln County, South Dakota
- E. Tract 1F and Tract 1G of Burgers Addition in the Northwest Quarter (NW1/4) of Section 24, Township 100, Range 49, Lincoln County, South Dakota

**Action:** A motion was made by Gillespie to approve plats A, B, C, and E. The motion was seconded by Larson; motion was unanimous.

**Adjourn:** A motion was made by Larson to adjourn the meeting; the motion was seconded by Sogn

**Respectfully submitted by:**

**Laurie Lundquist**  
**Deputy Director**

**Lincoln County Planning & Zoning**