

**\*MINUTES\***  
**LINCOLN COUNTY PLANNING AND ZONING COMMISSION**  
**March 16, 2009**

7:00 pm Regular Meeting, Commissioner's Room  
Lincoln County Courthouse

**ROLL CALL**

The regular meeting was brought to order at 7:00 pm by Chairwoman June Nusz with members Molstad, Sogn, Andersen, Melcher, Portz and Nelson 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, Jon Peters-GIS, Gregg Thompson-Compliance Officer, Laurie Powell-Deputy.

**APPROVAL OF AGENDA – March 16, 2009** A motion was made by Andersen and seconded by Nelson to approve the agenda as written. The motion was unanimous.

**ITEM 1. APPROVAL OF MINUTES – February 17, 2009 Minutes** A motion was made by Molstad to approve the minutes of February 17, 2009 as written, the motion was seconded by Andersen. Motion was unanimous.

**ITEM 2. CONDITIONAL USE PERMIT #09-CUP-001** Home occupancy business- Internet Sales  
**Legal Description:** Tract 8, Schriever's Addition NW1/4 NW1/4 Section 8, Township 99, Range 50 Lincoln County South Dakota  
**Location:** 47109 Dorothy Place, Harrisburg, SD 57032  
**Petitioner/Owner:** Zachariah Lenning

**General Information**

**Present Zoning:** Ag  
**Existing Land Use:** Residential  
**Parcel Size:** 1 Acre

**Action: Petition was tabled on February 17, 2009.** A motion was made by Portz to take off the table, motion was seconded by Sogn. Motion was unanimous. Petitioner vacated this facility and is working on acquiring a new facility. Petition will be reconsidered at the time a new facility is found.

**ITEM 3. CONDITIONAL USE PERMIT Review #05-CUP-075** Review hearing 7:15 pm 3-16-2009  
**Legal Description:** Lot A Van Woudenbergs' Addition in the SE1/4 of Section 16, Township 98, Range 49 Lincoln County South Dakota  
**Location:** 47862 Hwy 18, Canton, SD 57013  
**Petitioner/Owner:** Tom Rutten

**General Information**

**Present Zoning:** "C" Commercial  
**Existing Land Use:** Commercial  
**Parcel Size:** 6.38 Ac

**Report By:** Gregg Thompson Compliance Officer

**Petitioner Comments:** Mr. Rutten stated that he would do whatever the Board required of him but he would like to wait to put down a hard surface until planned additions and additional building projects for the complex are completed. Construction traffic and heavy equipment would be detrimental to a blacktop surface.

**Action:** A motion was made by Molstad to remove the stipulation of a blacktop driveway. Review the CUP when all planned building projects are completed. The petitioner is to provide suitable surface so as not to track debris onto Hwy 18 until that time- no timeline was set for completion of construction. A review of CUP will follow the completion of the complex. The motion was seconded by Portz, the motion was unanimous.

**ITEM 4. CONDITIONAL USE PERMIT Review #07-CUP-015** Review hearing 7:30 pm 3-16-2009

**Legal Description:** Tract 1 of Huizenga Farms Addition in SW1/4 of Section 2, Township 99, Range 50 Lincoln County, South Dakota

**Location:** 47426 274<sup>th</sup> Street, Harrisburg, SD 57032

**Petitioner/Owner:** Dale and Myra Zomer

**General Information**

**Present Zoning:** "A" Agriculture Public Use

**Existing Land Use:** Agriculture

**Parcel Size:** 22.69 Acres

**Report By:** Paul Aslesen- Conditional Use Permit #07-CUP-015 was found to be in compliance on this date. No action to be taken.

**ITEM 5. CONDITIONAL USE PERMIT Review #07-CUP-048** Review hearing 7:45 pm 3-16-2009

**Legal Description:** Tract 1 Superior Addition SE1/4 Section 18, Township 97, Range 50 Lincoln County, South Dakota

**Location:** 28777 Superior Place, Beresford, South Dakota 57004

**Petitioner/Owner:** Claire Rauser

**General Information**

**Present Zoning:** "C" Commercial

**Existing Land Use:** Commercial

**Parcel Size:** 6 Ac on 63 Acre Parcel

**Report By:** Gregg Thompson Compliance Officer- This item was tabled until after 8:00 pm to allow petitioners' representative to attend a prior commitment. A motion by Nelson was seconded by Portz to table until later. Motion was unanimous. Steve Johnson, Of Superior, Inc arrived at 8:20 pm. A motion was made by Andersen to remove from the table, motion was seconded by Portz. Motion to remove from the table was unanimous. Petitioner was brought in to review the stipulation of a fence on this conditional use permit.

**Petitioner comments:** Steve Johnson represented Mr. Rauser and is requesting that the stipulations of a fence be removed. He has planted over 3000 trees and feels that it will be more aesthetically pleasing than a fence and will eventually serve the same purpose

**Action:** A motion was made by Portz to remove the stipulation since trees are already planted and products stored outside are not easily pilfered. The motion was seconded by Andersen, motion was unanimous.

**ITEM 6. CONDITIONAL USE PERMIT – 09-CUP-002 Home Occupancy- handyman service**

**Legal Description:** Ash Acres NE1/4 Tr1 Section 18, Township 100, Range 51

**Location:** 27102 Ash Court, Tea, SD 57064

**Petitioner/Owner:** Robert Erickson

**General Information**

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

**Existing Land Use:** Residential

**Parcel Size:** 2.31 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.**  
*Use should not have any negative effect on other uses or property values in the immediate vicinity.*  
*Use will be conducted inside an accessory building with very little activity outside the structure.*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*Staff review indicates that this area is an agricultural residential site of approximately eight developed lots and abutting property is zoned agriculture. Use is not anticipated to have any negative effect on development or improvement possibilities.*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*Current development has appropriate facilities, drainage, utilities and access roads.*
4. **That the off-street parking and loading requirements are met.**  
*Site is of a size large enough to accommodate this use and any anticipated parking and loading requirements.*
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 utilization of good management techniques, none of the listed should become a nuisance.*

**Recommendation:**

Staff recommends approval with consideration of stipulations listed for home occupations located in Section 1107, page 53 and 54 of the 1995 Revised Zoning Ordinance for Lincoln County.

**Action:** A motion by Portz to **approve** with the stipulation that a fence be constructed to block the view of any equipment that may be stored outside. The motion was seconded by Sogn. Motion was unanimous.

**ITEM 7. CONDITIONAL USE PERMIT – 09-CUP-003 Contractor's storage yard**

**Legal Description:** Tract 8 SW1/4 of Section 24, Township 100, Range 51

**Location:** Cody Trail, Tea, South Dakota

**Petitioner/Owner:** K & K Properties, LLC

## General Information

**Present Zoning:** "C" Commercial District  
**Existing Land Use:** Commercial  
**Parcel Size:** 1.22 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.**  
*The use is located in a Commercial District with like uses and values. No negative 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 negative effect is anticipated as the development is focused on like uses.*
- 3. That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*All preliminary plans have been followed and approved by the City of Tea.*
- 4. That the off-street parking and loading requirements are met.**  
*By using Article 12 Regulations for Parking and Loading within the Districts, page 74 thru page 76, this use should be in compliance.*
- 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 petitioner wants to use the parcel for a contractor's storage yard. None of the above should constitute a nuisance.*

## Recommendation:

Staff recommends approval of this use which is identified as item (J) on page 28 with the following stipulations designed to aid and assist security:

1. Commercial grade fence and
2. have an approved lighting plan.

**Petitioner Comments:** Since the grade has not yet been established for building he would like to use the lot for temporary storage of equipment. He is proposing a security fence to be erected at the time that he is able to build a permanent structure for office and inside storage use. Petitioner presented pictures of neighboring properties that do not have fence; these lots have been in use for some time without benefit of permanent fence. This fence requirement is part of covenants set up by the developer.

**Action:** A motion by Portz to require temporary security fence and review in one (1) year. The motion was seconded by Molstad. After additional discussion the motion was withdrawn. A motion was made by Molstad to **approve** with the following stipulations:

1. Petitioner must interact with the developer and respond to Planning and Zoning Staff within sixty (60) days.
2. Grant current request of temporary storage
3. Review in one (1) year

Motion was seconded by Andersen. Motion was unanimous.

**ITEM 8. CONDITIONAL USE PERMIT – 09-CUP-004 Move in double wide mobile home**

**Legal Description:** SE1/4 \*Ex lot H-1 & H-2, & Ex Tammen Addition & Ex W339' E1036' S257' Section 18, Township 99, Range 50

**Location:** 47062 276<sup>th</sup> Street, Lennox, South Dakota 57039

**Petitioner/Owner:** Ernest & Shirley Tammen

**General Information**

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

**Existing Land Use:** Ag

**Parcel Size:** 126.4 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.*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*No negative effect.*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*Building permit will monitor this requirement.*
4. **That the off-street parking and loading requirements are met.**  
*Not applicable*
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.**  
*Not applicable.*

**Recommendation:**

Staff recommends approval. Proposed home meets ordinance requirements listed on page 55.

**Petitioner response:** Petitioner hopes to have home moved in during the next two months.

**Action:** A motion was made by Portz and seconded by Andersen to **approve** the request with standard building permit requirement. Motion was unanimous.

**ITEM 9. CONDITIONAL USE PERMIT – 09-CUP-005 Auto Repair Shop**

**Legal Description:** Smith's Addition SE1/4 Tract 2 \*Ex Lot H-1 & N292.34\*\* Section 31, Township 100, Range 50

**Location:** 27294 Ironworks Ave, Harrisburg, SD 57032

**Petitioner/Owner:** Nick Cable

**General Information**

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

**Existing Land Use:** Commercial  
**Parcel Size:** Approximately 1.96 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.*
2. **The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**  
*Use will be in compliance with other uses.*
3. **That utilities, access roads, drainage and/or other necessary facilities are provided.**  
*Use will occupy existing structure.*
4. **That the off-street parking and loading requirements are met.**  
*Staff will provide this information to the petitioner. Area is large enough to comply with ordinance regulations pertaining to parking and loading.*
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.**  
*Use will be conducted inside a structure. No negative effects are anticipated. Staff will respond to any nuisance complaints.*

**Recommendation:**

*Staff recommends approval of this use as this use is located in an appropriate district. Please reference page 27, item (D) Conditional Uses in a Commercial District.*

**Action:** A motion was made by Nelson and seconded by Sogn to **approve** the request. Motion was unanimous.

**ITEM 10 PLATS:**

- A. Lots 2, 3, 5, 6 and 7 inclusive, in Block 1, and Lot 2, Lot 3 and Lot 4, inclusive in Block 2 of Arthur Estates an Addition in the W1/2 of the NE1/4 of Section 32, Township 100, Range 50 Lincoln County, South Dakota
- B. Tract 1 of Slack's Addition in the N1/2 of Section 20, Township 99, Range 49 Lincoln County, South Dakota
- C. Tract 1A and Tract 1B of Nagel's Addition in the E1/2 of the NW1/4 of Section 25, Township 97, Range 49 Lincoln County, South Dakota
- D. Tract 1 of Oltmann's Addition in the SW1/4 of Section 21, Township 99, Range 51 Lincoln County, South Dakota
- E. Tract 1 of Hoogestraat's Addition in the E1/2 of the NE1/4 of Section 15, Township 98, Range 51 Lincoln County, South Dakota

- F. Hill's Tract an Addition in Govt. Lot 2 of the SW1/4 of Section 6, Township 98, Range 48 Lincoln County, South Dakota
- G. Plat of Tracts 2, 3, and 4 an Addition in the NE1/4 of the NE1/4 & the SE1/4 of the NE1/4 of Section 20, Township 97, Range 51 Lincoln County, South Dakota

A motion was made by Sogn and seconded by Andersen to recommend all plats for approval to the Lincoln County Commissioners. The motion was unanimous.

**ITEM 11. CONDITIONAL USE PERMIT REVIEW #07-CUP-049 Set Date and Time for Review Hearing**

**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

**Action:** Date and Time set for Review Hearing is April 20, 2009 at 7:15 pm., Lincoln County Courthouse Commissioners' Room. A motion was made by Andersen and seconded by Portz. Motion was unanimous.

**ADDITIONAL ITEMS:**

1. Set date/time for workshop to discuss building permit fee increase and CAFO Ordinance.

Date and Time set for this workshop is 6:00 pm on April 20, 2009, Lincoln County Courthouse.

2. Rob Bozell- Augustana Archeology Laboratory was present to give an overview of their work in Lincoln, Clay and Union Counties this spring. They will be checking on areas believed to be Indian or Pioneer burial grounds. Most sites are along the Big Sioux River and permission has been granted by landowners. Planning and Zoning will receive a report of these findings; the report is expected to be completed by July 15, 2009.

A motion to adjourn was made by Portz and seconded by Nelson at 9:40 pm. The motion was unanimous.

**Respectfully submitted by:**

**Laurie Powell**

**Deputy**

**Lincoln County Planning & Zoning**