

**MINUTES
LINCOLN COUNTY PLANNING AND ZONING COMMISSION
NOVEMBER 17, 2008**

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

The Lincoln County Planning and Zoning Commission met at 6:00 pm on Monday, November 17, 2008 for a workshop on the 1995 Revised Zoning Ordinance. Workshop participants were June Nusz, Craig Andersen, Dick Portz, Chad Nelson, Dennis Weeldreyer, Jon Peters-GIS, Toby Brown-SECOG, Paul Aslesen-Director Planning and Zoning

The regular meeting was brought to order at 7:09 pm by Chairwoman June Nusz with members Andersen, Weeldreyer, Sogn, Portz and Nelson reporting for duty at the Lincoln County Courthouse, Commissioners Room, 104 N Main Street, Canton, SD 57013.

APPROVAL OF AGENDA - A motion was made by Andersen and seconded by Portz to accept the agenda with revisions. The motion passed unanimously.

ITEM 1. APPROVAL OF MINUTES – October 20, 2008

A motion was made by Portz and seconded by Andersen to approve the minutes as read. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #08-055 rental of a former “mother-in-laws” residence

Legal Description: Lot 1 Blk 4 New Earth Addition NW1/4, 1-99-51

Location: 27322 Stagecoach Rd, Tea, SD 57064

Petitioner/Owner: Don A Solum

General Information

Present Zoning: “RR” Rural Residential

Existing Land Use: Residential

Parcel Size: 1 Acre

Report By: Director Aslesen

Staff Analysis:

The petitioned structure is located in a zoned Rural Residential subdivision known as “New Earth” which is accessed by Stagecoach Road off of County Highway 110. Area is not within the growth area of any municipality and is not within a joint jurisdictional area. Ordinance specifies that the petitioned use (multifamily or two-family) may be obtained by obtaining a Conditional Use Permit. **Article 8, Section 804**

(C)

- 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 and this use should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The structure resembles a single family dwelling. Very little effect is anticipated. Development and improvement of the properties, vacant or occupied, should continue as normal.

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

This is an existing dwelling with appropriate access roads, utilities, and drainage provided as per subdivision ordinances in effect at the time of development.

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

Petitioned residential use will not have any negative effects on off-street parking and no off loading requirements are anticipated.

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.

There should be no offensive odors, fumes, dust, noise or vibration from the petitioned residential uses on this property.

Recommendation:

Staff found the request will conform to the neighborhood and recommend approval of Conditional Use Permit #08-055 with the following stipulations:

1. The petitioned portion of the residence be inspected by County Building Inspector and State Plumbing and Electrical inspectors and receive certificate of occupancy.

Public Testimony:

Petitioners: Don and Sally Solum were in agreement with staff recommendation for inspection of the residence by County Building Inspector and State Plumbing and Electrical inspectors.

Speaking in Opposition:

Michael Weisz 27338 Atkins Pl

Mr. Weisz lives southeast of the property and is with the Atkins Road District and was concerned about additional traffic on the roads due to having a single rental property.

David Quittem 27321 Atkins Pl

Mr. Quittem lives adjacent to the property and is concerned that the rental of property may cause a nuisance with trash in the area as well as additional traffic.

Petitioners response: Since the Petitioners will still be living in the main part of the residence they feel that the road concerns as well as the renter concerns should not be an issue. Mr. Solum stated that he has and plans to continue using Stagecoach Place as the main access to his property. He also stated that he personally pays to have the road cleared during inclement weather so it should not cause any burden on the Atkins Road District.

Action:

A motion was made by Portz and seconded by Weeldreyer to **approve** Conditional Use Permit # 08-055 Motion was unanimous.

ITEM 3. CONDITIONAL USE PERMIT #08-056 Temporary storage of vehicles

Legal Description: Lot 3 Verhey Addition, S1/2 Government Lots 1 & 2, 31-100-50

Location: 27294 Verhey Place, Tea, SD 57064

Petitioner/Owner: Gerald Gosmire/Robert Smith

General Information

Present Zoning: "C" Commercial District

Existing Land Use: Commercial

Parcel Size: 1.371 Acres

Report By: Director Aslesen

Staff Analysis:

Advice received from Assistant Lincoln County States Attorney that this use is not compatible with **Article 5** of the Lincoln County Zoning Ordinance. Petition is null and void.

ITEM 4. CONDITIONAL USE PERMIT #08-057 Off-site sign location

Legal Description: SE1/4 Lots 1 *Ex Lot H-1* & Lot 2 Blk 5

Location: SW corner of Monty St and 470th Ave

Petitioner/Owner: Kim Carhart-Hepburn

General Information

Present Zoning: "C" Commercial

Existing Land Use: Commercial

Parcel Size: 1.97 Acres

Report By: Director Aslesen

Staff Analysis:

The petitioner is requesting an off site sign be allowed on the above location. Sign would advertise the Carhart Lumber Co. which is a new business located in the Hagedorn Development. The purpose of signs is to promote safety, communicate effectively, and enhance the appearance and economic value of the landscape.

Article 13, Section 1309, Item (B)

- 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.**

Proposed sign should have a positive effect on the area.

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

Sign should aid and assist this business and thus have a positive effect on the chances for more development.

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

Proposed sign should not need the above items provided.

- 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.**

- 6. Not applicable**

Recommendation:

Staff recommends approval of Conditional Use Application 08-058. Size and location are in compliance with appropriate zoning ordinances.

Action: A motion was made by Portz and seconded by Andersen to **approve** Conditional Use Permit # 08-057. Motion was unanimous.

ITEM 5. CONDITIONAL USE PERMIT #08-058 Off-site sign location

Legal Description: NE ¼ *Ex Mueller's Tr1* 25-200-51

Location: NE corner of NE1/4 corner of Hwy 106 and Sundowner Ave.

Petitioner/Owner: Kim Carhart-Hepburn

General Information

Present Zoning: "I" Industrial

Existing Land Use: Agriculture

Parcel Size: 157.15

Report By: Director Aslesen

Staff Analysis:

The petitioner is requesting an off site sign be allowed on the above location. Sign would advertise the Carhart Lumber Co. which is a new business located in the Hagedorn Development. The purpose of signs is to promote safety, communicate effectively, and enhance the appearance and economic value of the landscape.

Article 13, Section 1309, Item (B)

- 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.**
Proposed signage should have a positive effect on permitted property and property values in general.
- 2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
Anticipate a positive effect.
- 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.**
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 found the request to be in compliance with size and location. Recommend approval of CUP 08-058.

Action:

A motion was made by Weeldreyer and seconded by Portz to approve Conditional Use Permit 08-058
Motion was unanimous.

ITEM 6. CONDITIONAL USE PERMIT #08-059 Private Cemetery

Legal Description: Lot A; Lots 1-10, inclusive, in Block 1; Lots 1-10, inclusive in Block 2 and Lots 1-10, inclusive, in Block 3 of Svensson Prairie Private Cemetery Addition in E1/2 of 7-99-48

Location: 24454 482nd Ave, Canton, SD 57013

Petitioner/Owner: Arvid J. Swanson

General Information

Present Zoning: "A" Ag Public Use District

Existing Land Use: Agriculture

Parcel Size: .42 Acres

Report By: Director Aslesen

Staff Analysis:

The petitioned area for a private cemetery is located within the Ag-Public Use District and is not within any municipal/county joint jurisdictional area or city growth area. Property is served by a township road (482nd St.) Lincoln County Ordinances do allow the petitioned use in this district with a Conditional Use Permit.

Article 4 Section 404, Item (I)

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 as property in the immediate vicinity is under same or family ownership.

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

Predominant uses include small acreages and farm related activities. No negative effects are anticipated.

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

An access easement is provided. No other utilities or other facilities are required.

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

A Common Area is included to accommodate parking and loading requirement.

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 offensive issues are anticipated.

Recommendation:

Staff recommends approval of Conditional Use Permit #08-059 with the following stipulation:

1. All federal and state requirements will be complied with.

Action:

A motion was made by Weeldreyer and seconded by Portz to **approve** Conditional Use Permit # 08-059 Motion was unanimous.

ITEM 7. CONDITIONAL USE PETITION – REVIEW #06-070 Requesting extension of the expiry date of December 31, 2008 of this petition.

Legal Description: W55 Acres of the NE1/4 ex Lot H-1 of 8-97-51
Location: 46569 286th Street, Lennox, SD
Petitioner/Owner: George Hofer

General Information

Present Zoning: "A" Ag Public Use District
Existing Land Use: Agriculture
Parcel Size: 55 Acres

Report By: Director Aslesen

Staff Analysis:

The petitioner is requesting continuation of his Conditional Use Permit through 2011 at his current location. There are circumstances that have created a need for this and the petitioner is prepared to address those with the review board. A new plan for placement of the business in the appropriate location will be provided. As this is not a formal review hearing, a decision will be made as to scheduling a formal review hearing to determine conditions/stipulations etc. At this time it appears that the petitioner will not be in compliance when the time frame for the current CUP expires.

Recommendation: The Director recommends a formal Conditional Use Hearing be held to accept public input on Conditional Use Permit #06-070. A motion was made by Andersen and seconded by Weeldreyer to schedule a review hearing. Portz was in opposition. Motion passed.

Action: Hearing date and time will be set for December 15, 2008

ITEM 8 PLATS:

1. Tracts A & B an Addition in SW1/4 Section 3, Township 96, Range 51 and remaining SW1/4, Section 3, Township 96, Range 51 **Reason for plat:** Split of farm and acreage
2. Tract 1 of Schuttloffel's Addition in Government Lot 2, NW1/4 Section 1, Township 97, Range 50
Reason for plat Transfer of property
3. Tract 1C of Meier's Addition in the S1/2 of the SW1/4 of Section 27, Township 100, Range 49, Lincoln County South Dakota, consisting of Tract C. **Reason for plat:** Plat off flood plain for insurance purposes.
4. Fink Tract 2B and Fink Tract 10 and Tract 11 in the SE1/4 of Section 33, Township 100, Range 49
Reason for Plat: To allot acres to family members
5. Lot A; Lots 1-10, inclusive, in Block 1; Lots 1-10, inclusive in Block 2 and Lots 1-10, inclusive, in Block 3 of Svensson Prairie Private Cemetery Addition in E1/2 of 7-99-48 **Reason for plat: Private Cemetery**

Recommendation: Staff recommends approval of all 5 plats. The plats have been reviewed by Clark Engineering for Lincoln County and are in order. A motion was made by Andersen and seconded by Portz to approve plats 1-5

- Additional Items:**
- 1) Joint Jurisdiction on December 10, 2008 at 7:00 pm
 - 2) Zoning Ordinance Workshop on December 15, 6:00 pm followed by regular meeting at 7:00 pm.
 - 3) Toby and Jon will have a final map and finalized document with changes to be sent out in December packet.

Respectfully submitted by:

Laurie Powell

Deputy

Lincoln County Planning and Zoning