

**MINUTES OF THE  
LINCOLN COUNTY PLANNING COMMISSION**

October 17, 2016

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Ron Albers, Monty Derausseau, Ron Larson, Dan King, Tyler Klatt, Darwin Sogn, and Gary Pashby.

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT (Sign-In Sheet): Winnie Peterson, Don Klassen, Julie Horst, Robert Messner, DiAnn Klinghagen, Darren Manthey, Tamara WanBockein, Dave Vander Waal, Shelly Johnson, Pat and Tom Welbig, Lou and Lori Beal, Greg Larson, Dale Hoogestraat, Jim Soukup, Gerald Teunissen, Josh Neilson, Michael VanBruggen, Cindy Thomas, Stephanie and Eric Vostad, Richard Schriever, Gerald Johnson, Nancy Deneui.

The meeting was chaired by Ron Albers.

**1. CALL TO ORDER**

The regular meeting of the Lincoln County Planning Commission was brought to order on October 17, 2016 at 7:00p.m. in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Ron Albers.

**2. APPROVAL OF AGENDA**

Mr. Brown noted a change to the agenda to strike Item 5 at the request of the petitioner. A motion to approve the modified agenda was made by Pashby and seconded by Klatt. The motion passed unanimously.

**3. APPROVAL OF SEPTEMBER 12, 2016 AND SEPTEMBER 19, 2016 MINUTES**

A motion was made by Derausseau and seconded by Sogn to approve the meeting minutes from September 12, 2016 and September 19, 2016. The motion passed unanimously.

**4. REZONING 16-REZ-006:** To rezone Lot 3C (West 66 feet that was added by replat from Lot 3B to Lot 3C), Ponderosa Park Addition, N1/2, Section 6-T99N-R50W from A-1 Agricultural District to C Commercial District.

|                        |                                     |
|------------------------|-------------------------------------|
| <i>Petitioner:</i>     | <i>Eric Willadsen</i>               |
| <i>Property Owner:</i> | <i>Lyle Schaap</i>                  |
| <i>Location:</i>       | <i>South Ponderosa Circle – Tea</i> |

**Staff Analysis:**

The petitioner has submitted a request to rezone approximately 7.98 acres (Lot 3C total) of property from A-1 Agricultural District to C Commercial District. The petitioner indicated on the application that the purpose is to rezone that portion of the lot (West 66 feet) that was added by replat from Lot 3B to Lot 3C in order that all of the lot is zoned to the same district.

- A. This request is to change the zone of approximately 7.98 acres (specifically the West 66 feet that was added by replat from Lot 3B to Lot 3C) from A-1 Agricultural to C Commercial.
- B. Lot 3B had a change of zone from A-1 to C in 2005. This application proposes to rezone the additional West 66 feet that was added by replat from Lot 3B to Lot 3C so that all of Lot 3C is zoned C Commercial.

- C. The site is within the municipal platting jurisdiction of the City of Tea. Through the platting process, the City of Tea will coordinate the proper planning and construction of street, utility and drainage systems on the site.
- D. The site is designated Urban Expansion Area on the Future Land Use Map and the proposed zoning is generally consistent or not in conflict with the 2025 Lincoln County Comprehensive Plan.
- E. The proposed land use is consistent with existing and proposed land uses in this area.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports Rezoning 16-REZ-006. Therefore, staff recommends that the Planning Commission find that:

- 1. The proposed rezoning promotes implementation of the 2025 Comprehensive Plan.
- 2. The proposed rezoning is compatible with existing surrounding land uses or the land uses envisioned in the 2025 Comprehensive Plan.
- 3. The proposed rezoning promotes the purposes of the 2009 Revised Zoning Ordinance for Lincoln County as stated in Section 1.02.
- 4. The proposed rezoning request was reviewed by the City of Tea and no objections were given.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Eric Willadsen, spoke on behalf of the application. Mr. Willadsen noted that the rezoned land would be used for access to Lot 3C.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions, but no one answered.

Commissioner Albers asked for additional public comment, but no one answered, and therefore closed the floor to public testimony.

**Discussion:**

None.

**Action:**

A motion was made by Commissioner Larson and seconded by Commissioner Pashby to recommend approval of Rezoning Application 16-REZ-006. The motion passed unanimously.

**Rezoning #16-REZ-006 – Recommend Approval**

- 5. **REZONING 16-REZ-007:** Tabled at request of petitioner.
- 6. **REZONING 16-REZ-008:** To rezone East 72.42 acres of Lots 1 and 2 except Lots H-1 and H-2 and Lot BP in the SW1/4 of Section 18-T99N-R50W and Lot BP in the East 72.42 acres of Government Lot 1 of the SW1/4 of Section 18-T99N-R50W from A-1 Agricultural District to I-1 Light Industrial District.

|                        |                                                                  |
|------------------------|------------------------------------------------------------------|
| <i>Petitioner:</i>     | <i>Jim Soukup</i>                                                |
| <i>Property Owner:</i> | <i>Hoogestraat Farms LLC</i>                                     |
| <i>Location:</i>       | <i>Intersection of 276<sup>th</sup> Street and Interstate 29</i> |

**Staff Analysis:**

The petitioner has submitted a request to rezone approximately 63 acres of property from A-1 Agricultural District to I-1 Light Industrial District. The petitioner indicated on the application that the purpose is light industrial park.

- A. This request is to change the zone of approximately 63 acres from A-1 Agricultural to I-1 Light Industrial.
- B. The site is within platting jurisdiction of Lincoln County. Through the platting process, Lincoln County will coordinate the proper planning and construction of street and drainage systems on the site.
- C. The site is designated Rural Commercial/Industrial Area on the Future Land Use Map and the proposed zoning is generally consistent or not in conflict with the 2025 Lincoln County Comprehensive Plan.
- D. The site abuts Interstate 29 (nodal pattern development) and the proposed land use is consistent with existing and proposed land uses in this area. The Interstate 29 interchange to the southeast of the site was zoned I-1 Light Industrial in 2007.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports Rezoning 16-REZ-008. Therefore, staff recommends that the Planning Commission find that:

- 1. The proposed rezoning promotes implementation of the 2025 Comprehensive Plan.
- 2. The proposed rezoning is compatible with existing surrounding land uses or the land uses envisioned in the 2025 Comprehensive Plan.
- 3. The proposed rezoning promotes the purposes of the 2009 Revised Zoning Ordinance for Lincoln County as stated in Section 1.02.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report.

The petitioner, Jim Soukup, spoke on behalf of the application. Mr. Soukup noted that there would be 1 to 5 acre lots, with paved roads and rural water access. They are working on natural gas hookups.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions. Commissioner Pashby asked about possibility of screening, and Mr. Soukup replied that they haven't gotten that far in the planning, but since the land sits high a fence would probably not screen much unless it was a very high fence.

Commissioner Albers asked for additional public comment. Nancy Deneui asked how many lots would be in the subdivision. Mr. Soukup replied that at the size of 5 acres a lot there may be about 15 lots given or take the specific lot sizes. Seeing no other public comment, Albers closed the floor to public testimony.

**Discussion:**

Commissioner Albers voiced concerns about drainage in that area since some nearby roads had been washed out in the past.

**Action:**

A motion was made by Klatt and seconded by Larson to recommend approval of Rezoning Application 16-REZ-008. The motion passed unanimously.

**Rezoning #16-REZ-008 – Recommend Approval**

7. **CONDITIONAL USE PERMIT 16-CUP-037:** To allow a Class C Swine CAFO (2,400 head) on the property legally described as the W1/2, NE1/4, Section 19-T97N-R51W.

*Petitioner:* Jacob Andersen  
*Property Owner:* Anderson Living Trust 2014  
*Location:* Approximately 1/4 mile west of the intersection of 465<sup>th</sup> Ave and 288<sup>th</sup> St.

**Staff Analysis:**

The petitioner has proposed a hog finishing barn to hold 2,400 swine larger than 55 pounds. 2,400 swine larger than 55 pounds is under the threshold for a required state permit. The facility will have to comply with the provisions and requirements of the 2009 Revised Zoning Ordinance for Lincoln County. A list of required elements for CAFOs is required by the 2009 Revised Zoning Ordinance for Lincoln County to provide clarity for any petitioner requesting a CAFO. The required elements are listed in bold font at the beginning and each listed element includes a description of the petitioner submitted materials that regard each element.

1. **The owners', managers', management company's or similar entities' name, address and telephone number.**  
Jacob Anderson, 400 Lincoln Street, Centerville, SD 57104, (605) 201-2764
2. **Legal description of the site.**  
W1/2, NE1/4, Section 19-T97N-R51W
3. **The number and type of animals to be housed by the proposed concentrated animal feeding operation.**  
2,400 swine
4. **A fly and odor control plan.**  
The submitted narrative indicates the fly and odor will be controlled by using pit additive and feed enzymes which will help to soften the manure and not allow places for flies to lay eggs. The submitted narrative also indicates that a shelter belt will be planted along the North side of the building to help odor as well. The submitted materials do not include anything specific as to how the pit additive or landscape will help disperse odors. The petitioner has submitted worksheet calculations of the South Dakota Odor Footprint Tool (SDOFT) and a supporting map that is drawn to scale. The supporting map indicates that no residence is located within the boundary of the 91% annoyance-free zone.
5. **Methods to be utilized for the disposal of dead animals.**  
The submitted narrative indicates dead animals will be dispersed of through composting and/or burial.
6. **Information on ability to meet designated setback requirements, including maps showing measured distances.**  
The setback map submitted by the petitioner shows that the proposed CAFO will meet all setbacks. The petitioner has submitted a signed waiver from one nearby property owner (Father of petitioner) that was within the setback.
7. **Plans and specifications of the proposed site and a nutrient management plan.**  
The petitioner has submitted general plans and specifications for the proposed site and a nutrient management plan. The one underground manure pit will be pumped once a year and applied to fields through injections. The land application is advised by Midwest Laboratories, Inc. to ensure that nutrients are applied on fields that need it.
8. **Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and/or 100-year floodplain designations at or within one half mile of the proposed site.**

The petitioner has submitted materials and utilizing Lincoln County GIS staff has identified no site conflicts with items.

**9. A map illustrating all land to be utilized for manure application.**

The petitioner has submitted a map showing all land to be utilized for manure application. Based on materials submitted it would appear that he has enough land available for the nutrients that will be produced.

**10. Site plan of all existing and proposed buildings and structures.**

The site has no existing buildings. The site plan includes one proposed barn.

**11. Provide farm service agency wetland map.**

The petitioner has submitted farm service agency wetland map.

**12. Test boring location and test boring results. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings shall be followed. This item may be a condition of the conditional use permit.**

The petitioner has requested that this is contingent on permit.

**13. The Lincoln County Planning Commission or the Planning Director may request information reasonably related to a concentrated animal feeding operation not contained in these regulations.**

An odor model was submitted with the application

Section 19.09 of the 2009 Revised Zoning Ordinance for Lincoln County provides review criteria for conditional use permits. Each review criterion is shown below in bold text and staff's analysis follows each criterion in standard text. The following is a summary of staff's analysis.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The proposed CAFO is located within a low density and predominantly agricultural area. The site meets the required setbacks for the size of the facility, and the closest neighbor has signed a waiver for the construction of the CAFO. The petitioner's submitted documentation from the South Dakota Odor Management Tool that shows all neighboring residential dwellings are outside of the 91% annoyance free zone. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties.

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The surrounding land uses of the proposed CAFO are predominantly agricultural with scattered farmsteads. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area, especially since many of the farmsteads in the area already have animals confined on the farmstead. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

The petitioner is requesting a new CAFO. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes and dust. The petitioner has submitted management plans and site plans to aid in reducing nuisances. Anything included in the narrative will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-037, with the following conditions:

1. That the total confinement barn conforms to the site plan attached to the application submitted August 30, 2016.
2. That the feedlot be located on a single, legally described parcel consisting of a minimum of ten (10) contiguous acres.
3. That the facility shall be limited to 2,400 animals (swine).
4. That test boring location and test boring results be furnished prior to issuance of building permit. (Per Section 12.09(G)(12) of the 2009 Revised Zoning Ordinance)
5. That all building and waste (nutrient) storage facility plans associated with the concentrated animal feeding operation shall be approved by an engineer that is licensed in the state of South Dakota. (Per Section 12.09(D) of the 2009 Revised Zoning Ordinance)
6. That all waste applied to farm fields must be knifed or injected into soil. (Per Section 12.09(D)(3) of the 2009 Revised Zoning Ordinance)
7. That manure application records, soil analysis and manure analysis shall be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
8. That the Waste (Nutrient) Management Plan must be updated annually, be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
9. That adequate measures be taken to minimize or control offensive odor, fumes, dust, noise, or vibrations so that none of these will constitute a nuisance.
10. That Lincoln County Planning and Zoning Staff shall be provided access to the property to perform onsite inspections as needed to ensure compliance with all rules and regulations set forth for this operation.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report.

Commissioner Larson asked if the nearby feedlot has had any complaint. Brown noted that there were none.

The petitioner, Jacob Andersen, spoke on behalf of the application and noted that he is wishing to expand his farming operation.

Commissioner Pashby asked if there were any other heirs to the land since it is owned by a trust. Mr. Andersen noted there a couple of other heirs including his dad and an uncle, but none of them have any issue with him wanting to build this new CAFO.

Commissioner Albers asked if there were any further questions for the petitioner or if there were any further comments, but no one answered.

Commissioner Albers asked for additional public comment, no one answered, and therefore closed the floor to public testimony.

**Discussion:**

None.

**Action:**

A motion was made by Sogn and seconded by Derausseau to approve Conditional Use Permit #16-037 with the recommended conditions. The motion passed unanimously.

**Conditional Use Permit #16-037 – Approved**

- 8. CONDITIONAL USE PERMIT 16-CUP-038:** To allow a contractor’s shop and storage yard on the property legally described as Hagedorn Industrial Park Addition, Lot 11, Block 4, SE1/4, Section 25-T100N-R51W.

*Petitioner:*                      *Nielson Construction*  
*Property Owner:*            *Leon Beckman*  
*Location:*                        *27177 Linda Ave - Tea*

**Staff Analysis:**

The property is located at 27177 Linda Avenue and is in the I-1 Light Industrial zoning district. The site is located within the Hadedorn Industrial subdivision. Contractor’s shops and storage yards are allowed as a conditional use in the I-1 district. The petitioner would like to construct a 12,592 sq. ft. building to use as contractor’s shops, which they plan to rent out. The proposed building will be on the northern end of a 1.3-acre parcel with a 25-stall parking lot on the south side of the property.

Section 19.09 of the 2009 Revised Zoning Ordinance for Lincoln County provides review criteria for conditional use permits. Each review criterion is shown below in bold text and staff’s analysis follows each criterion in standard text. The following is a summary of staff’s analysis.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Adjacent properties are currently vacant.

- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The structure may only be used for contractor’s shops and storage yards. The proposed structure is compatible to the area that is composed I-1 Light Industrial and C Commercial zoning districts.

- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-038, with the following conditions:

1. That the lot shall adhere to the site plan submitted on September 27, 2016.
2. A building permit from Lincoln County is required prior to construction of the building.
3. The building shall only be used for contractor’s shops and storage yards.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report. He noted that the site is within the City of Tea Subdivision Authority and would need the city to approve the site plan. Condition #1 should be amended to say, “The lot shall adhere to the site plan submitted to our office on September 27, 2016, and requires approval by the City of Tea.”

John Nielson, a representative for the application, spoke on behalf of the application and noted that the building will be a custom building for Leyva Drywall, and would not be rented out.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions, but no one answered.

Commissioner Albers asked for additional public comment, no one answered, and therefore closed the floor to public testimony.

**Discussion:**

None.

**Action:**

A motion was made by Pashby and seconded by Larson to approve Conditional Use Permit #16-038 with the recommended conditions, including amended condition #1 “and requires approval by the City of Tea”. The motion passed unanimously.

**Conditional Use Permit #16-038 – Approved**

- 9. **CONDITIONAL USE PERMIT 16-CUP-039:** To allow a contractor’s shop and storage yard on the property legally described as D & L Industrial Addition, Tract 8, SW1/4, Section 24-T100N-R51W.

*Petitioner:* Ken and Debra Kontz / K & K Properties  
*Property Owner:* Same  
*Location:* 46927 Cody Trail - Tea

**Staff Analysis:**

The property is located at 46927 Cody Trail and is in the C Commercial zoning district. The site is located within the D & L Industrial Addition. Contractor’s shops and storage yards are allowed as a conditional use in the commercial district. The petitioner would like to construct a 60’ x 120’ (7,200 sq. ft.) building to use as contractor’s shops, which they plan to rent out. The proposed building will be on the western end of a 1.22-acre parcel.

Section 19.09 of the 2009 Revised Zoning Ordinance for Lincoln County provides review criteria for conditional use permits. Each review criterion is shown below in bold text and staff’s analysis follows each criterion in standard text. The following is a summary of staff’s analysis.

- A. **The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Adjacent properties to the north and west have similar



commercial uses. The property to the east is zoned commercial, but has not been built upon to date. The property to the south is an agricultural parcel.

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The structure may only be used for contractor's shops and storage yards. The proposed structure is compatible to the surrounding area that is composed C Commercial zoning districts.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-039, with the following conditions:

1. That the lot shall adhere to the site plan submitted on September 30, 2016.
2. A building permit from Lincoln County is required prior to construction of the building.
3. The building shall only be used for contractor's shops and storage yards.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report. He noted that the site is within the City of Tea Subdivision Authority and would need the city to approve the site plan. Condition #1 should be amended to say, "The lot shall adhere to the site plan submitted to our office on September 27, 2016, and requires approval by the City of Tea."

The petitioner, Ken Kontz, spoke on behalf of the application. He noted that he would personally use a portion of the building and would rent the remaining space.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions, but no one answered.

Commissioner Albers asked for additional public comment, no one answered, and therefore closed the floor to public testimony.

**Discussion:**

None.

**Action:**

A motion was made by Klatt and seconded by Sogn to approve Conditional Use Permit #16-039 with the recommended conditions, including amended condition #1 "and requires approval by the City of Tea". The motion passed unanimously.

**Conditional Use Permit #16-039 – Approved**

- 10. CONDITIONAL USE PERMIT 16-CUP-040:** To allow a contractor's shop and storage yard on the property legally described as Sky Haven Heights, E200' of S150' and Lot 2B, Tract 1, NW1/4, Section 30-T100N-R50W.

*Petitioner:* Zach Warne

*Property Owner:* Larson Tea Properties, LLC

*Location: 27135 Park Lane Dr. - Sioux Falls*

**Staff Analysis:**

The property is located at 27135 Park Lane Drive and is in the C Commercial zoning district. The site is located within the Sky Haven Heights subdivision. The petitioner would like to use a portion of the existing building on the southern end of the property for materials storage for a commercial painting business. Contractor's shops and storage yards are allowed as a conditional use in the commercial district.

Section 19.09 of the 2009 Revised Zoning Ordinance for Lincoln County provides review criteria for conditional use permits. Each review criterion is shown below in bold text and staff's analysis follows each criterion in standard text. The following is a summary of staff's analysis.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The proposed use will not substantially impair the appropriate use or development of adjacent property. Adjacent properties have similar commercial uses.

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The structure may only be used for contractor's shops and storage yards. The proposed use is compatible to the surrounding area that is composed C Commercial zoning districts.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

The proposed use will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-040, with the following conditions:

1. The lot shall adhere to the site plan submitted on September 30, 2016.
2. The building shall only be used for contractor's shops and storage yards.

**Public Comment:**

Toby Brown of the County Planning Department presented the staff report. He noted that the City of Tea has voiced concerns over the amount of paint stored in the building, and that they would like a MSDS submitted.

Commissioner King asked if the FAA has any regulations on chemical storage near airports. Mr. Brown noted the FAA has regulations on height of buildings.

The petitioner, Zach Warne, spoke on behalf of the application. He noted that the building would be mostly used for storage of paint and vehicles, and that up to about 100 gallons of primer would be stored one site. The paint would be stored in a cinderblock room that is fireproof.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions.

Commissioner Derosseau noted that whoever pumps their septic tank would need to know the chemicals that they use if they go down the drain.

Commissioner Albers asked if he had talked to the fire department about any concerns they may have. Mr. Warne noted he has not done that yet.

Brown noted that it would be a good idea to have the building inspector visit the site.

Commissioner Pashby asked about the applicant relationship to the owner, Larson Tea Properties. Mr. Warne noted that he would be a rental tenant, and that the use would be in line with his lease.

Commissioner Albers asked for additional public comment.

Greg Larson, of Larson Tea Properties spoke in favor of the application and noted that past uses of the building had larger quantities of hazardous materials, and that he would have no problem with the building inspector visiting the site. Seeing no further comments, Commissioner Albers closed the floor to public testimony.

**Discussion:**

None.

**Action:**

A motion was made by Derosseau and seconded by Sogn to approve Conditional Use Permit #16-040 with the recommended conditions, including a condition that the Lincoln County Building Inspector inspects the premises. The motion passed unanimously.

**Conditional Use Permit #16-040 – Approved**

- 11. CONDITIONAL USE PERMIT 16-CUP-041:** To exceed 1,500 sq. ft. of total accessory building area - requesting an additional 1,060 sq. ft. for a total of 2,560 sq. ft. on the property legally described as Schrievers Addition. Tract 25, NW1/4, Section 8-T99N-R50W.

*Petitioner:* Stephanie Vostad  
*Property Owner:* Same  
*Location:* 27423 Idena Place - Harrisburg.

**Staff Analysis:**

The property is located at 27423 Idena Place, and is in the RR Rural Residential zoning district. The property is located within the Schriever's Addition. Accessory structures up to 1,500 sq. ft. are allowed within the rural residential district. A conditional use permit is required for accessory structures exceeding 1,500 sq. ft. The petitioner would like to construct a 40' x 64' (2,560 sq. ft.) accessory building for personal storage.

Section 19.09 of the 2009 Revised Zoning Ordinance for Lincoln County provides review criteria for conditional use permits. Each review criterion is shown below in bold text and staff's analysis follows each criterion in standard text. The following is a summary of staff's analysis.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The construction of the proposed building will not substantially impair the appropriate use or development of adjacent property. Nearby properties have similarly sized accessory buildings.

- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The structure may only be used for personal storage. The proposed structure is compatible to the surrounding area that is composed RR Rural Residential lots with similar buildings.

- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

The proposed building will not substantially produce excessive noise, odor, traffic, air and water pollution, or other negative factors.

**Recommendation:** Based upon the information and materials provided by the applicant and the staff analysis in the staff report, staff supports the conditional use permit request. Therefore, staff recommends approval of Conditional Use Permit 16-CUP-041, with the following conditions:

1. That the lot shall adhere to the site plan submitted on October 7, 2016.
2. The building shall not exceed 2,560 sq. ft.
3. The planned single-family dwelling must be permitted and commenced prior to construction of the accessory building.
4. A building permit from Lincoln County is required prior to construction.

**Public Comment:**

Toby Brown presented the staff report. He noted that the office has received a number of calls including details of the neighborhood covenants and concerns that the petitioner would be living in the accessory building.

The petitioner, Stephanie Vostad, spoke on behalf of the application and noted that they would be using the building for personal storage including a trailer. Commissioner Albers asked if she was aware of the covenants. She mentioned she was aware of the covenants but must have been confused about some of the details. She then noted she doesn't want to upset anyone and will work with the homeowner's association to clarify the covenants. Commissioner Albers also asked if the buildings will be at the same time, or will the home be built first. Ms. Vostad noted that they are using the contractor for both buildings and will be calling him right after the meeting to figure out construction details.

Commissioner Albers asked if there were any questions for the petitioner or if the petitioner had any questions.

Commissioner Pashby asked about their relationship to the owner. Ms. Vostad noted that they are her dad and step-mom.

Commissioner Albers asked for additional public comment.

Shelly Johnson, a member of the homeowner's association, noted that they were aware of a business and wanted to make sure that there wouldn't be an increase in traffic or any customers coming in and out. Ms. Vostad noted that she owns an interior design and home staging company, so there would not be any customers or sales coming to the property.

Seeing no other public comments, Commissioner Albers closed the floor to public testimony.

**Discussion:**

Commissioner Albers commented that the Vostad's would need to work with the HOA to make sure everyone is happy with interpretation of the covenants. Mr. Brown noted that they could modify condition #3 to remove commenced due to time constraints.

**Action:**

A motion was made by Klatt and seconded by Larson to approve Conditional Use Permit #16-041 with the recommended and modified conditions. The motion passed unanimously.

**Conditional Use Permit #16-041 – Approved**

**12. OTHER BUSINESS:**

Toby Brown reminded the board of the public hearing to discuss the ordinance amendments on October 24, 2016 at 7:00pm.

Commissioner Albers opened the floor for open public comments.

Winnie Peterson submitted a proposed revision to the zoning ordinance's definition of dwelling.

Rob Johnson submitted a collection of articles noting no health effects from wind turbines. He also noted that he disagrees with the 5x the height for the setback since it is not based in science. He took concern with the noise regulations since there would be no baseline for the noise levels. He closed by saying over the course of the MET tower results interpretation they have removed the following townships from the list of potential sites: Delepre, Springdale, Perry, LaValley, Dayton, Grant, Lynn, and Canton, and no towers would be in the area of Newton Hills.

Don Klassen noted that he has read news about towns breaking up due to the public not being involved in the wind turbine siting. He requests that a mile setback is instituted.

Rob Johnson also made a comment refuting the number of wind turbines that was published in an editorial. The number of towers constructed depends on the size of the turbine, but was never 700. It could be 500 if they use 2MW towers, or it could be only a couple hundred if they use 3MW.

Winnie Peterson noted that a year or so ago Dakota Wind had mentioned the project would be 700 towers.

**13. ADJOURN**

A motion was made by Larson and seconded by Sogn to adjourn the meeting at 8:25pm. The motion passed unanimously.