

**AUGUST 2022  
CODINGTON COUNTY  
JOINT PLANNING COMMISSION/BOARD OF ADJUSTMENT &  
CODINGTON COUNTY/CITY OF WATERTOWN  
JOINT BOARD OF ADJUSTMENT**

**STAFF REPORT**

**MONDAY – AUGUST 15, 2022 – 7:30 p.m.**

**CITY OF WATERTOWN/CODINGTON COUNTY  
JOINT BOARD OF ADJUSTMENT**

**ITEM #1**

**Applicant/Owner: Terri Richards-Frank and Greg Frank**

**Property Description:** Lot 3 Laqua's First Subdivision in the West Half of Section 17-T117N-R52W, Codington County, SD. (Elmira Township)

**Latitude/Longitude: 44.933949° / -97.102188°**

**Action Item –**

- **Extended Home Occupation (Greenhouse) (3.13.03.9)**

**Zoning Designation:** RR – Rural Residential District

**Request:** The applicant requests to operate a commercial greenhouse from accessory structures at the above described property/residence.

**Specifics of Property/Request:**

1. The Richards' recently purchased this property for a residence with the intent to operate a greenhouse as well.
2. The property was rezoned from Ag to RR in 2014 and again through the JJO in 2015.
3. SDDOT owns additional right of way on the south side of the property.
4. The property utilizes a primary access on the property and (a loop to) an access on adjoining property which is shared with adjoining property owners. Both access are to US HWY 81/26<sup>th</sup> Ave NE.
5. The property currently includes the house/garage, a 26 x 20 shed, and a 36 x 64 shed.
6. The request calls for 2 additional greenhouses to be constructed. One (80' x 30') will be west of the 36 x 64 shed (between the house and the road) and the other (40' x 24') will be between the house and the shed.
  - a. Ancillary discussion has been held about at least one of the greenhouses being used. Whether the greenhouses are new or used are not a determining factor in whether the extended home occupation permit may be issued. For the greenhouse(s) to be used, 100% of adjoining neighbors would need to sign a permit approving of it.

**Ordinance and Comprehensive Land Use Plan regarding this request:**

1. Extended Home Occupations are a listed use in the RR – Rural Residential District.
2. The Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) lists numerous considerations for Extended Home

Occupations on pages 51-52, most of which are addressed in the zoning ordinance, others relating to policies of the Board in granting similar permits.

3. According to the Codrington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area), Conditional Uses may only be denied if specific criteria for denying the permit can be identified.
4. The applicant would be limited to not more than 3 employees other than residents of the house.
5. A maximum sign area of 16 sq ft is allowed. No signs are proposed at this time.
6. No specifics were provided regarding retail sales. Retail sales are limited only to products grown or produced on site. Allowing retail sales of any other items would amount to a "use variance" which this Board is not allowed to issue. (It should be noted that over-stock of materials used in the process of performing the service for the business has been allowed. IE. welding materials/metal used by a welder, excess soil, seeds, etc. in this case.)
7. It is not expected that any outdoor storage would be associated with this permit.
8. This business is intended to serve neighboring agricultural and non agricultural residents.
9. No parking plan has been provided. Ample area exists for parking outside the front yard setback, right-of-way, and easement area; however there is no discernable evidence of where those boundaries are located.
10. US 81 is a high traffic road in the area. This use will not increase traffic beyond the capacity of the roadway, however will increase traffic beyond that of a residential use at times.
11. It is not anticipated that any processes associated with the business will be noticeable by heat, glare, vibration, etc. on neighboring properties.
12. In 2007, the County Board of Adjustment denied an extended home occupation to adjoining landowner (Wicks) to operate a fuel injection business/service due to the probability of the use created noise audible on neighboring properties.
13. In the Rural Residential District, in the past, the Board of Adjustment has limited any NEW/ADDITIONAL structures for the operation of the business to be limited to the size of the largest existing neighboring accessory structure. In this case the largest building in the neighborhood is the existing 36 x 64 shop on this property.
14. Ancillary discussion has been held about at least one of the greenhouses being used. Whether the greenhouses are new or used are not a determining factor in whether the extended home occupation permit may be issued. For the greenhouse(s) to be used, 100% of adjoining neighbors would need to sign a permit approving of it.

#### Staff Summary:

The action before the Board is to allow a home-based greenhouse with retail sales of items produced on the lot. Without an amendment to exempt greenhouses from the limitation on retail sales there is no mechanism to allow the sales of items not grown on the lot. Unless made a condition of the permit, there is no requirement to obtain written approval of the neighborhood for the business, only for structure to be moved in which may be "used." (Such a condition would be unique to this request and is not recommended.) Recommended conditions below are based upon past permits in high density (rural) subdivisions.

#### Staff Recommendation

Conditional Use Permit – **Extended Home Occupation (greenhouse)** may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 1) Individuals engaged in such occupation shall consist of family members residing on or off the premises and up to three (3) non-family employees.

- 2) Off-premise signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs".
- 3) On-premise signage may be permitted by the Zoning Officer subject to the following:
  - a) A maximum of 16 square feet of sign area will be allowed.
  - b) Sign will be non-illuminated.
- 4) No structure used for the extended home occupation may exceed 2,310 sq. ft.
- 5) No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood,
- 6) No portion of any vehicles parked for the use of the greenhouse may be located less than sixty-five (65) feet north of the US 81/26<sup>th</sup> Ave Right-of-way (approximately in-line or north of the existing 36 x 64 shed south of the house.)
- 7) Before any portion of the area east of the existing 36 x 64 shed is used for parking, a fence, or other manner of controlling vehicles from crossing/parking over the easement shall be placed between the applicant's property and the neighboring property/easement to the east.
- 8) The only retail sales allowed shall consist of the sale of commodities/products grown or prepared on the premises.
- 9) There shall be no outdoor storage of materials, vehicles, etc. related to the extended home occupation.
- 10) No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 11) The Conditional Use permit for the extended home occupation is not-transferable. Subsequent owners/operators will be required obtain a separate conditional use permit in order to continue the use for which this permit is granted.
- 12) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Codington County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

## CODINGTON COUNTY BOARD OF ADJUSTMENT

### ITEM #1 CONDITIONAL USE PERMIT

**Applicant/Owner: Steve Borns**

**Property Description:** the South 660 Feet of the West 1,250 Feet of the East 2,170 Feet of the Southeast Quarter of Section 17-T116N-R54W of the 5<sup>th</sup> P.M, Codington County, South Dakota.

**Action Items – Conditional Use Permit – Existing farmstead exemption “B” (3.04.02.44)**

**Zoning Designation:** Agricultural

**Request:** The applicant seeks Existing Farmstead Exemption to retain building rights at the site of an existing farmstead.

**History/Issue(s):**

1. The Applicant seeks to retain building rights at the site of his present house.
2. The property was used as a base for farming operations prior to 1976 and is still lived in.
3. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
4. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
5. The parcel contains at least five-acres which was legally described prior to 2004. The Policy of the Comprehensive land use plan is that if the legal description of an existing farmstead was created prior to 2004, a plat is not required as a condition of approval.
6. Staff recommendation **(Conditional Use Permit) –Existing Farmstead Exemption-** Approve request because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of anecdotal information, records and site-visit has determined that this parcel is under contiguous ownership of an existing farmstead/residential site prior to October 26, 1976.

## CODINGTON COUNTY PLANNING COMMISSION

### ITEM #1 PLAT

**Applicant/Owner: Donald and Carol Mack**

**Property Description:** Plat of Don Mack Addition in the Southwest Quarter of Section 32, Township 116 North, Range 51 West of the 5<sup>th</sup> Prime Meridian, Codington County, South Dakota (Kranzburg (S) Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat an irregularly shaped, 40-acre parcel with a building site and pasture.

### ITEM #2 PLAT

**Applicant/Owner: Darrell and Donna Redlin**

**Property Description:** Plat of Redlin Second Addition in the East Half of the Northeast Quarter of Section 19, Township 119 North, Range 52 West of the 5<sup>th</sup> Prime Meridian, in the Former Sisseton Wahpeton Indian Reservation, Codington County, South Dakota (Dexter Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat an irregularly shaped, 35-acre parcel with a building site and pasture.

### ITEM #3 PLAT

**Applicant/Owner: Pelican Plaza LLC**

**Property Description:** Plat of Jabe Kahnke Second Addition in the Northwest Quarter of Section 3, Township 116 North, Range 53 West of the 5<sup>th</sup> Prime Meridian, Codington County, South Dakota (Pelican Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat a 22-acre parcel surrounding and including Pelican Plaza, as was required by Conditional Use Permit granted earlier this year. Staff Recommends a letter of assurance be agreed upon with conditions binding the owner to:

- Annex to the City of Watertown, if and when city limits becomes contiguous with this property.
- Connect to Sanitary Sewer Services and pay pro-rata share of extension/connection, if and when services are brought within 200' of the property and such connection is requested by the City of Watertown.

- Connect to Watertown Municipal Water Services and pay pro-rata share of extension/connection, if and when services are brought within 200' of the property and such connection is requested by the City of Watertown.
- Meet subdivision requirements of the City of Watertown at the time of annexation, and/or subsequent plat approval.

#### **ITEM #4 PLAT**

**Applicant/Owner: Daryl Boerger Family Trust et. Al.**

**Property Description:** Plat of Boerger Second Addition Located in the Northeast Quarter of Section 3, Township 116 North, Range 52 West of the 5<sup>th</sup> Prime Meridian, Codington County, South Dakota (Sheridan Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat a 12-acre for TRANSFER PURPOSES ONLY. The plat is adjacent to City Limits and requires (according to State law) approval by the City of Watertown. The prospective buyer and the sellers agent have provided documentation indicating they understand that, despite plat approval, no building permits will be issued to this lot unless platted and annexed within the City of Watertown.

#### **ISSUE #2 OPEN/ADMINISTRATIVE REPORT**

#### **ISSUE #3 EXECUTIVE SESSION (if Necessary)**