

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 12, 2009 PLANNING COMMISSION MEETING

PROJECT #: County Change of Zone 09018

PROPOSAL: Text amendment to change the provisions to allow an expanded home occupation. This will set new conditions and criteria in the provisions of Article 2, 4, 13.001 (14) and 15 in the County Zoning Resolution.

LOCATION: Lancaster County Zoning Resolution in the AG district

CONCLUSION: This proposal would adjust the current home occupation language and add provisions for expanded rural business in the County AG zoned areas through the mechanism of a special permit for an expanded home occupation .

<u>RECOMMENDATION:</u>	Approval of the attached text
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Amending the Lancaster County Zoning Resolution by amending Article 2 Definitions, Article 4.007 Agricultural District special uses, Article 13, Special Permit, Section 13.001(27) and Article 15 Addition Use Regulations, to allow for an expanded home occupation by special permit and allow a home occupation to have one non-family employee.

COMPREHENSIVE PLAN SPECIFICATIONS:

Continue to encourage and permit accessory home businesses and explore options to assist in the expansion of legal and compatible home occupations. As home occupations may desire to grow further, they should locate within the commercial areas of incorporated towns. pg 39

ANALYSIS:

This process began in early September 2008 when the Planning Department and Building and Safety Department staff met with the Lancaster County Board to discuss businesses in the rural areas of the county and the idea of expanding the allowable scope of home occupations in the county. At that time, the Board asked staff and the Planning Commission to research and report back to the Board with options on addressing small rural business.

The Planning Department reviewed the codes of jurisdictions in the Midwest and across the United States, and discussed issues, options and potential problems with county

agencies including Building and Safety, Health, County Engineer, County Sheriff, County Attorney and others.

On December 18, 2008 the Planning Department issued a report entitled “**Expanding Home-Based Business in Rural Lancaster County**”. This report reviewed the issues of rural business, the current Lancaster County regulations, a review of several other Counties’ regulations across the nation, concerns raised by departments and agencies and potential options for amending the zoning code. The report did not support amending the codes to lift the current home business restrictions, However, in recognizing the desire for more flexible provisions for home based business the report set out a set of recommendations including: 1) limiting the business to home-based business, 2) Approve any expanded home business on a case by case basis by special permit, 3) Limit the sites to at least 10 acres in size in the Agriculture District, and 4) Specify conditions of approval to protect nearby residents and county services such as the number of non-family employees working on site, limits on the floor area that could be used and the area for outside storage and parking, and requiring setbacks and screening from properties and streets.

In March 2009, the County Board hosted a joint meeting with Villages and Cities of the County, the County Board and County Departments and Agencies. The towns generally supported the concept of expanded home business, provided that business was still to be directed to the towns and that proper notification be given to neighbors regarding an expanded home occupation request.

Briefings with the Planning Commission in late March further refined the draft language.

On June 4th 2009 the County Board had a staff meeting on the status of progress on the home based business code and requested that the Planning Department proceed with the appropriate zoning text change.

This proposed text change reflects that request.

The proposed text;

- 1) adjusts the definition of home occupation to allow one on-family employee.
- 2) adds the expanded home occupation to the list of Special Permitted uses in the AG Agriculture District.
- 3) adds a provision to the Special Permit Chapter that allows an expanded home occupation and lists the conditions that should be applied to the special permit. It also allows the County Board to remove, modify, or add to specified conditions as needed.
- 4) adjusts the home occupation language under Article 15 (A use allowed in all districts) to reflect these other changes.

Prepared by:

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Planner
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DATE:

July 23, 2009

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PROPOSED LANGUAGE:

ARTICLE 2

DEFINITIONS

2.067. Home Occupation. Home occupation shall mean any occupation or activity which:
1) is carried on within a dwelling unit or accessory building by a member of the family residing on the premises and by non-family members as allowed by this Resolution; and
2) which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in Articles 13 and 15.

ARTICLE 4

"AG" AGRICULTURAL DISTRICT

4.007 Permitted Special Uses. A building or premises may be used for the following purposes in the "AG" Agricultural District if a special permit for such use has been obtained in conformance with the requirements of Article 13:

cc) Expanded home occupations

ARTICLE 13

SPECIAL PERMIT

13.001 Special Permit. In addition to uses allowed under other districts, the County Board may by special permit after public hearing, authorize the location of any of the following

buildings or uses in any district from which they are prohibited by this resolution, or as limited in this section, and may also permit an increase in the height of any such building and permit a lesser area than required aforesaid in this resolution, and may modify or waive or add conditions of approval to the listed conditions in this Article as deemed appropriate to maintain the health, safety, and general welfare of the surrounding properties. The County Board may also grant special permits for variances from the provisions of Article 11 of this resolution.

27) Additional percentages of floor area for home occupations; Expanded home occupations; Expanded home occupations may be allowed by special permit in the AG zoning district under the following conditions:

a) The expanded home business may include such uses as, but not be limited to,

(1) Farm-related, maintenance and repair of agricultural equipment, including those serving non-farm customers with equipment and skills applied to agricultural uses;

(2) vehicle repair and body work (including non farm vehicals). Vehical repair and body work shall not include junk yards and inoperable vehicals. Vehicles being repair and reconditioned must be moved inside or off the property within 30 days.

(3) Trucking.

(4) Welding.

(5) Blacksmithing

(6) Heat treating or machine shop

(7) Landscaping

(8) Boarding of horses and other animals

(9) Bed-and-breakfasts

(10) Conference centers

(11) Outside storage of vehicles, motor homes, watercraft and camper trailers, boats,

((12) Manufacturing or assembly; including assembly of small mechanical or electrical devices or components.

(13) Household dining establishments in the main dwelling (by reservation only and limited to seating for no more than 16 patrons at a time)

(14) Contractors' storage of vehicles, equipment, and materials

(15) Custom butchering, meat curing and processing

(16) Manufacturing of ceramic products

(17) Production, processing, packing or treatment of food-related products

(18) Production, fabrication or assembly of small implements used in homes, shops, garages, lawn, garden and farm

(19) Use of accessory buildings for non-agricultural storage

b) On-site sales shall be limited primarily to products grown, manufactured, processed, treated or assembled on the premise.

c) No more than two (2) persons, who are not members of the family residing on the premises, may be employed to carry out the occupation or activity on the premises.

d) The lot area shall be 10 acres or larger

- e) Driveways and parking areas shall be provided with an all-weather (gravel or rock) surface to minimize dust and mud
- f) No more than 50% of the floor area of the residence may be used for said business.
- g) The total floor area for all buildings used for said business shall not be more than 10,000 square feet
- h) Outside area used for work area, storage or other business activity (of vehicles, equipment, or materials used in the business) and parking shall not exceed 15,000 square feet.
- l) All outside business related activity shall be located at least 200 feet from all premise property lines and shall be visually screened from public streets and adjacent property lines. Said visual screening shall be approved as part of the special permit
- i) Health Department regulations and all other County, State, and Federal rules and regulations shall apply. The Health Department may require dust control of nearby unpaved roads to mitigate the impact of traffic approaching and leaving the premise.
- k) Building permits will be obtained as required for all new construction and remodeling of existing buildings under this permit.
- l) Only one vehicle/truck over 2.5 tons (gross weight) is permitted on the site. No more than four (4) business vehicles shall be parked or stored outside on the site at any one time.
- m) There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than twenty (20) square feet in area, which name plate designates the home occupation carried on within.
- n) A site plan for this special permit shall be approved and followed

The Planning Commission/County Board may establish additional conditions such as hours of business operation, maximum daily non-resident trips to and from the business, as deemed appropriate for compatibility, health safety and welfare relative to this use and activity.

ARTICLE 15

ADDITIONAL USE REGULATIONS

15.001. Home Occupations. A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

a) There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than two (2) square feet in area, which name plate designates the home occupation carried on within, in letters not to exceed two (2) inches in height and attached to the building wherein the home occupation is conducted;

b) There is no commodity sold upon the premises except that which is prepared grown, manufactured, processed, or treated on the premises in connection with such occupation or activity or which is sold in relation and incidental to such occupation or activity;

c) ~~There is no~~ No more than one person may be engaged in the home occupation who is employed on the premises other than a member of the family residing on the premises;

d) Any activities carried on outdoors in the "R" Residential District in connection with the home occupation is screened from view of a public street or adjacent property, and there is no outdoor storage of any equipment, machinery, parts,

or other articles of any nature used in connection with such home occupation;

e) There ~~is~~ are no ~~chemical, mechanical or electrical materials~~ equipment used which will cause noise, vibration, or odors, electrical interference, smoke or particulate matter in excess of the ordinary and unusual conditions in the general area. disturbing to the residents of surrounding property or interference with television or radio

~~reception;~~

f) No more than twenty (20) percent of the total floor area of all buildings on the premises is utilized in conducting such home occupation.

Mike DeKalb

From: WebForm [none@lincoln.ne.gov]
Sent: Thursday, July 23, 2009 12:24 PM
To: Mike DeKalb
Cc: Michele M. Abendroth
Subject: Rural Home-Based Businesses Comment Form

Planning
Rural Home-Based Businesses Comment Form

Date : 7/23/2009 12:24:02 PM

~name: Fran Upp
email: franny@diodecom.net
~phone: 4027980223
~comment: I would like to see expansion of rural home based businesses to include having employees. There are many rural needs for extra help related to our land/homesites. For example, help in growing and harvesting produce for market, canning or cooking foods that use home grown produce for market, greenhouse work, etc.

IP : 24.246.216.48

LANCASTER
COUNTY
ENGINEERING

Don R. Thomas
County Engineer

Kenneth D. Schroeder - Deputy
County Surveyor

DEPARTMENT


RECEIVED

JUL 29 2009

Lincoln/Lancaster Co.
Planning Department

DATE: July 28, 2009

TO: Mike DeKalb
Planning Department

FROM: Ken D. Schroeder 
County Surveyor

SUBJECT: CHANGE OF ZONE - ARTICLES 2, 4, 13 AND 15
CZ09018

Upon review, this office has no direct objections to this submittal.

KDS/bml