



**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
March 26, 2018

A meeting of the Planning Commission was held on March 26, 2018 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Mike Ralston, Paul Kostboth, Adam Mohrhauser, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning  
Donna Kelly – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:17 p.m.

**ITEM 1. Approval of Minutes** – February 26, 2018

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** the meeting minutes from February 26, 2018. The motion passed unanimously.

**Consent Agenda**

A motion was made to **approve** the consent agenda by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.



**ITEM 2. CONDITIONAL USE PERMIT #18-09 to transfer one (1) building eligibility from the S1/2 N1/2 SW1/4 to Tract 2 Halverson's Addition & S1/2 SW1/4 (Ex Tracts 1 & 3 Halverson's Addn.); all in Section 20-T103N-R48W.**

Petitioner: Craig Halverson

Property Owner: same

Location: Approximately 6 miles west of Garretson

Staff Report: Scott Anderson

This would transfer one (1) building eligibility.

**General Information:**

Legal Description (Receiving Parcel) – Tract 2 Halverson's Addition & S1/2 SW1/4 (Ex Tracts 1 & 3 Halverson's Addn.); all in Section 20-T103N-R48W.

Present Zoning – A1-Agriculture

Existing Land Use – Ag production

Parcel Size – 67 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** The applicant is requesting conditional use permit approval to transfer one building eligibility from the SW 1/4 of Section 20, Edison Township to the South 1/2 of the SW 1/4 of Section 20 of Edison Township. The proposed location for the building eligibility transfer will be from cropland to cropland.

On March 13, 2018, staff visited the property and determined that the proposed location is appropriate for a single family dwelling. The attached questionnaire indicates that the building eligibility is being moved between crop producing parcels. There are no concentrated animal feeding operations within the immediate vicinity.

**Conditional Use Permit Criteria:**

**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.**

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. The addition of residential land use should not negatively affect the nearby residences and farmland.

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

The approval of the building eligibility for a single family dwelling will not increase the number of dwelling units allowed in this section. The surrounding area is primarily agriculture with many acreages in the area.

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

The placement of the building eligibility will result in the construction of a single family



dwelling with a separate driveway.

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

Off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

**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 proposed conditional use will not cause odor, fumes, dust, noise, vibrations, or lighting in any amounts that would otherwise constitute a nuisance.

**6. Health, safety, general welfare of the public and the Comprehensive Plan.**

The health, safety, general welfare of the public should not be significantly impacted by the placement of one single family dwelling with a building eligibility. The intent of the Envision 2035 Comprehensive Plan will be met under the requirements of density zoning.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #18-09 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for the single family dwelling.

**Action**

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-09 and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #18-09 - Approved**



**ITEM 3. CONDITIONAL USE PERMIT #18-11 to exceed 3,600 square feet of total accessory building area – requesting 5,760 sq. ft. on the property legally described as Tract 1 Lunstra Addn., W ½ SW ¼, Section 4-T102N-R48W.**

Petitioner: Kiley Buettner

Property Owner: same

Location: 25668 480<sup>th</sup> Ave.                      Approximately 5.5 miles north of Brandon

Staff Report: David Heinold

This would allow 5,760 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 1, Lunstra Addition, W1/2 SW1/4, Section 4-T102N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 6 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 5,760 square feet of total accessory building area. According to Section 12.07 of the 1990 Revised Zoning Ordinance for Minnehaha County, accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

- (1). In the A-1 and RC Districts, the total area of accessory buildings shall be limited based on the size of the parcel as depicted in Table 4. Total Permissible Area of Accessory Buildings when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

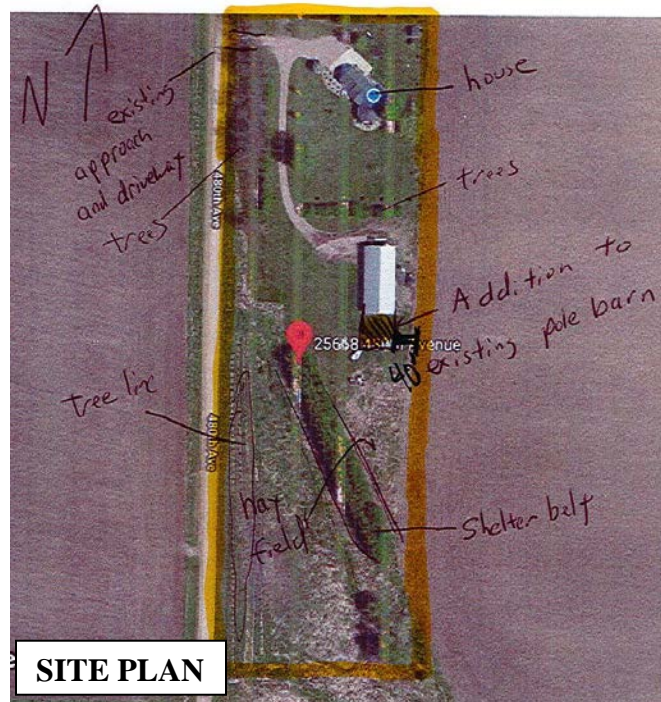
Table 4 Total Permissible Area of Accessory Buildings	
Size of Parcel	Total Permissible Area of Accessory Building Footprint
1.0 acres or less	1,600 Square Feet
1.1 to 3.0 acres	2,400 Square Feet
3.1 acres or more	3,600 Square Feet

The subject property has an existing 40'x88' accessory structure, which the petitioner is requesting to allow a 40'x56' addition on the south end of the existing building for personal storage. The sizes of the existing buildings ranges from 1,200 square feet to 5,148 square feet of total accessory building area within a general half mile distance from the subject property.



The site plan, at right, shows the proposed 40'x56' accessory building addition on the south end of the existing 40'x88' accessory building.

There are a few accessory building sizes in the surrounding area exceeding the 3,600 square foot total permissible area of accessory building footprint for properties larger than 3 acres. The property owner, 25733 480<sup>th</sup> Ave., has approximately 4,998 square feet on a much smaller one and half acre parcel than the subject property located about a half mile to the south. The same property owner has an additional 20 acre parcel with a building eligibility for a single family dwelling directly adjacent that has a total accessory building area of about 11,353 sq. ft. for personal storage originally built for agricultural use as part of the farmstead.



The property located about a quarter mile to the southwest at 47960 257<sup>th</sup> St. has approximately 4,114 sq. ft. on an approximately 4.50 acre parcel. Conversely, the property at 48022 257<sup>th</sup> St. has 5,148 sq. ft. of total accessory building area located about a quarter mile to the southeast on 20.27 acres.

On March 15, 2018, staff inspected the location, pictured above, of the requested addition and determined that the proposed total accessory building area is appropriate for the immediate area. The accessory building addition adds an extra storm door and a sliding barn door on the south.



**Conditional Use Permit Criteria:**

**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 size of the requested accessory building addition area exceeds the sizes of existing buildings on similar properties to the subject property; however, many of the properties in the area have accessory building sizes exceeding the 3,600 sq. ft. total area on smaller lot sizes. The personal use of the proposed building addition for storage will likely not significantly affect the use and enjoyment of properties in the immediate vicinity.

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

The area primarily consists of agricultural farmland with several residential acreages and existing farmsteads. The requested accessory building area would set a precedent for future undeveloped properties in the surrounding area and would further increase the size of personal accessory buildings in the rural area; however, accessory building sizes over 5,000 sq. ft. have been approved in other parts of the county on similar lot arrangements. The future development of agricultural land is entirely dependent on the availability of building eligibilities for residential homes in the area.

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

The petitioner has not indicated a need to increase utilities or included any provisions for accommodating drainage facilities to manage the type, intensity, and flow of water from the proposed accessory building addition. The site plan shows that the building addition will be accessible via an extension of the existing driveway.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

**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 nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory building for private use and storage will create few problems to neighboring properties. The property is located within the area defined as the Agricultural Production Area in the Envision 2035 Comprehensive Plan, which sets forth the purpose to protect, preserve, and promote agricultural uses and the economic viability of farming operations in the rural area.



**Recommendation:**

Staff finds that the requested total accessory building area is relatively comparable to the existing accessory building sizes on similar properties in the surrounding area. Staff recommends **approval** of Conditional Use Permit #18-11 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,760 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**Action**

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-11 and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #18-11 - Approved**



**Regular Agenda**

Commissioner Kostboth recused himself at 7:21 p.m. from Items 4 and 5.

**ITEM 4. CONDITIONAL USE PERMIT #18-08 to allow a Class C, Hog CAFO (960 AU) on the property legally described as S1/2 of SW1/4, of SW1/4, of SW1/4 of the SE1/4 (Ex. H-1) & S66' E660', NE1/4, Section 18-T101N-R52W.**

Petitioner: Craig Lukes

Property Owner: same

Location: Approximately 0.5 miles west of SD Hwy 42 and 455<sup>th</sup> Ave. & SD Hwy 19 junction

Staff Report: Kevin Hoekman

This would allow a Class C, Hog CAFO (960 AU).

**General Information:**

Legal Description – S1/2 of SW1/4, of SW1/4, of SW1/4 of the SE1/4 (Ex. H-1) & S66' E660', NE1/4, Section 18-T101N-R52W

Present Zoning – A1-Agriculture

Existing Land Use – agricultural cropland

Parcel Size – 160 acres

**Staff Report:** Kevin Hoekman

**Staff Note:**

This item was presented to the Planning Commission at the February 26, 2018 meeting. At that time, staff had concerns that the petitioner did not correctly send notice of the hearing to the surrounding property owners. The Planning Commission agreed with staff and asked the petitioner to re-notify the landowners as required. On March 15, 2018, The petitioner submitted receipts showing that the notices were sent as required. The Planning Commission can now take action to approve or deny the permit.

**Staff Analysis:**

The property is located approximately 7 miles south of Humboldt along SD Highway 42. The petitioner would like to construct a 2,400 head swine-finishing CAFO operation on the southwest corner of the quarter section parcel. The petitioner currently lives on a farmstead in the northeast corner of the same quarter section.

The petitioner has proposed a swine finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit and will be considered a Class C CAFO for Minnehaha County's Ordinance. The facility will have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance.

The site plan is an important aspect of any conditional use permit. A list of required elements for general CUPs and specifically CAFOs have been created to provide clarity for any petitioner





requesting a CAFO. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided two drawings of a site plan with different scales and different information on each. In addition, a three page narrative and a map of odor modeling are used to describe aspects of the plan.

**The address of the property and the legal description.** The location of the proposed swine facility does not have an address assigned to it yet. Both pages of site plans include the legal description of the property.

**The name of the project and/or business.** The proposed swine finishing project does not have a specific name. Craig Lukes is the petitioner for the facility.

**The scale and north arrow.** The surveyor drawn site plans include a north arrow, written, and graphic scale.

**All existing and proposed buildings or additions.** The site shows the proposed building in relation to existing buildings through areal imagery. The site plan includes one proposed barn in the southwest corner of the property. The proposed building will be the only one in the area, as it is located outside of the farmstead.

**The dimensions of all buildings.** The dimensions of the proposed confinement building is listed on the site plan as 51 feet by 393 feet. No other buildings are located near the proposed site.

**The distance from all buildings to the property lines at the closest points.** The site plan indicates that the proposed confinement structure will be setback approximately 136 feet from the front yard property line, and 50 feet from the side yard property line. Other nearby property lines are too far away to show on the site plan. These setbacks meet or exceed property line setback for Minnehaha County's ordinance.

**Building height and number of stories.** The height of the structure is not directly indicated. The petitioner has noted that the structure will be one story with a slatted floor to allow manure to drop to a pit underneath.

**Dimensions of all property lines.** The provided site plan shows that the facility is located on a full quarter section of land with a H-1 lot removed for the state highway.

**Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles.** The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The current site has a filed access from SD Hwy. 42 that is proposed to be used for site access. The site will be large enough to allow for parking and maneuvering. A gravel maneuvering area is indicated on the site plan to be located to the south of



the proposed barn. No parking or loading will be allowed within the right-of-way.

**Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** The submitted site plan does not include any plans for landscaping or screening. The submitted narrative indicates that tree groves and landscaping may restrict airflow through the barn. The narrative also points to the odor setback modeling as a reason to not need screening or trees. All neighboring structures are outside of the 98% nuisance free line of the odor model. An estimation tool from Purdue University suggests that 94% odor free is acceptable for rural residential uses.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The surveyor drawn site plan includes the name of SD Hwy. 42 which is the closest street to the proposed site and 455th Avenue along the east side of the property. The nearest water source is an intermittent stream is located approximately 700 feet to the east of the site. No public places are located nearby.

**A landscaping in plan designed to assist in the dispersal of odors.** The submitted materials do not include anything specific as to how the landscape will help disperse odors. As noted earlier, the petitioner has submitted site plan calculations of the South Dakota Odor Footprint Tool (SDOFT). The site plan indicates that no dwellings are located within the boundary of the 98% annoyance-free zone.

**A grading plan designed to help keep pens and solid waste containment areas dry.** The animals and manure will both be located inside the proposed structure. Manure containment will be located within an enclosed pit under the animals. The Minnehaha County GIS indicate that the general slope splits to the west and to the east of the proposed site.

**The location and description of the animal waste facilities and structure.** The submitted site plan includes only one animal waste facility located under a slatted floor where the hogs will be kept.

In relation to the site plan, the 960 animal unit operation will require a 1,320 foot buffer from a dwelling, church, or business. Staff used GIS to confirm the petitioner's site plan that no dwellings, churches, or businesses are located within this setback. No waiver letters from neighboring landowners are required.

In addition to site plan elements, an application for a CAFO is required to submit other plans and meet requirements. The petitioner's narrative follows the ordinance with responses to requirements within specific ordinance items. According to the narrative section C) 2, dead animals will be placed in an area enclosed on three sides until a rendering truck can get to the site and in accordance with Animal Industry Board Standard.



Manure is planned to be managed as a liquid that will be stored in a concrete pit below the barn. The manure is planned to be injected according to the ordinance after the fall harvest. Injected manure should reduce runoff caused by rain.

**Conditional Use Permit Criteria:**

**1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

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. The petitioner's submitted documentation from the South Dakota Odor Management Tool shows that all neighboring residential dwellings are outside of the 98% 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. Other nearby farms appear to have animals confined in small numbers.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with scattered single family dwellings and 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 several of the farmsteads in the area already have animals confined on farmsteads. However, as intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility indicates that an existing field approach is planned to be used as the driveway for the facility. The petitioner will have to acquire a change in use permit from the SD DOT and extend any utilities to the proposed facility. Grading and drainage are described in the narrative to be directed away from the proposed barn.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

**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 is requesting a new CAFO facility. 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 and showing the likely extent of odor. 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.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed beef CAFO will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is not required to obtain a State permit; however the state will review the application if Minnehaha County deems state permitting to be necessary.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to "protect, preserve, and promote agricultural uses and the economic viability of farming operations."

**Recommendation:**

Staff finds that the proposed CAFO meets the zoning requirements and conforms with the Comprehensive plan. Staff recommends **approval** of CUP #18-08 with the following conditions:

- 1.) The facility shall be limited to swine confinement of 960 animal units in size.
- 2.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 3.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 4.) The manure containment facility must be in conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 5.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
- 6.) A building permit is required for all structures prior to construction.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

**Public Testimony**

Kevin Hoekman, County Planning Staff, provided a brief summary of the staff report on Conditional Use Permit #18-08.



Craig Lukes, 26453 455<sup>th</sup> Ave., mentioned that he is okay with the conditions of approval and explained that the mailing notification was done correctly.

Glen Kropuenske, 26425 455<sup>th</sup> Ave., mentioned that he lives north of the subject property as well as concerns regarding the dust, noise, and smell impacts associated with a hog CAFO. Mr. Kropuenske added concern over health safety risks, overall negative impact to quality of life, and waste transport creating significant negative impact to nearby roads.

Commissioner Barth asked where the facility will be located on the subject property and Mr. Lukes cited that the barn will be in the southwest corner furthest away from the nearest neighbor. Commissioner Barth questioned if there would be any dust generated from the proposed use and Mr. Lukes explained there will be no dust as the facility has a liquid manure pit.

Commissioner Duffy asked the petitioner if he would run the operation himself and Mr. Lukes indicated that the hogs will be brought in by someone else but that he would manage the facility.

Commissioner Barth questioned if there could be anything done to mitigate the concerns of the neighboring landowner.

Glenn Kropuenske responded that he would rather the planning commission not allow construction of the proposed use. Mr. Kropuenske explained there will always be dead carcasses, smells, and other issues associated with agricultural operations of this scale. He continued to mention uncertainty about how else the proposed use would change anything.

Commissioner Randall asked Mr. Kropuenske if planting trees would help with odor issues and Mr. Kropuenske responded that it would be doubtful that trees would block the odor.

Commissioner Mohrhauser added that the petitioner has gone out of the way to help mitigate concerns with planting shelterbelt trees but cannot eliminate all odor.

Commissioner Ralston concurred with Commissioner Mohrhauser and explained that odor travelling across the fields is a fact of living in the rural area. Commissioner Ralston thinks that the proposed facility is a good thing for the area.

Commissioner Barth mentioned that the proposed site of the hog barn is about a mile from McCook County and is not a bad location due to sparsely populated residential dwellings.

#### **Action**

Commissioner Barth made a motion to **approve** Conditional Use Permit #18-08 and the motion was seconded by Commissioner Ralston. The motion was **approved** unanimously.

#### **Conditional Use Permit #18-08 – Approved**



**ITEM 5. CONDITIONAL USE PERMIT #18-10 to allow a Class C, Swine CAFO (960 AU) on the property legally described as NE ¼, Section 15-T103N-R47W.**

Petitioner: Richard Funke

Property Owner: same

Location: Approximately 1.75 miles northeast of Garretson

Staff Report: David Heinold

This would allow a Class C, Swine CAFO (960 AU).

**General Information:**

Legal Description – NE1/4, Section 15-T103N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agricultural

Parcel Size – 130 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow a Class C, Swine Concentrated Animal Feeding Operation for 960 animal units. The narrative describes that the proposed swine barn will be a single-story, 393 ½'x51' structure with 18-foot sidewalls to house 2,400 head of finisher swine over 55 pounds. The structure will be built over a concrete pit, which will collect and maintain all manure produced from the facility.

The conditional use application shall be accompanied, at a minimum, by the following information:

- (1). A description of the type of concentrated animal feeding operation and the number of animals proposed for the facility.  
Applicant Response: *The proposed facility is a single-story 2,400-animal swine finishing facility which will be approximately 18' in total height.*
- (2). A site plan of the proposed facility including:
  - (a). The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.
  - (b). A grading plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.
  - (c). All required site plan elements for a Conditional Use Permit as listed in Section 19.04.

Applicant Response: *Site Plan included as Exhibit A.*



- (3). A dead animal disposal plan which complies with South Dakota Animal Industry Board requirements. Temporary dead animal storage or disposal sites shall be screened or located out of site from neighboring dwellings and the adjacent right-of-way.

*Applicant Response: Mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current plans are to place a rendering service on contract to promptly dispose of mortalities. Mortalities will be screened by a 3-sided, minimum of 4' high enclosure as illustrated in the site plan.*

- (4). A manure management plan including the following information:
- (a). Location and description of the manure containment facilities and structures.
  - (b). Description of type of manure and method of storage.
  - (c). Description of the proposed method and schedule for manure application.

*Applicant Response: Manure is a valuable component of our facility. Manure management starts with capturing the manure in a reinforced concrete pit directly under the proposed facility. This has the benefit of both fully containing the manure and also covering the pit with the facility which eliminates exposure to weather while helping further control potential odors.*



*The liquid manure stored in the pit will be applied by injection directly in to the soils which further reduces the potential for odor. Our intent will be to apply the manure annually in the fall after harvest, when the temperatures are cooler and air less humid which further aids in odor reduction. We will also make every effort to avoid applying on windy days or ahead of anticipated saturating rains even though manure is being injected which makes any kind of runoff very unlikely even in significant rain events.*

- (5). Any applicable waivers for land use setback reduction as described in Section 12.10 (F). 2.

*Applicant Response: The proposed facility is outside of all required setbacks, as illustrated on the site plan, and therefore no waivers are required.*

A concentrated animal feeding operation which is granted a conditional use permit shall, at a minimum, meet the following requirements:

- (1). General Permit Requirement. A state general permit is required if any of the following situations are met.

*Applicant Response: As a 960 AU, fully contained, facility a DENR state general permit will not be required.*

- (2). General Permit Record Keeping. When a state general permit is required, the operator shall maintain and have available the following records.

*Applicant Response: As a 960 AU, fully contained, facility a DENR state general permit will not be required.*

- (3). Construction Documents. The following documents are required, when applicable, before a building permit can be acquired.

*Applicant Response: The facility will measure 51' x 393.5' and be built to engineered plans which will be provided for approval prior to requesting a building permit.*

(F). Separation Requirements and Criteria for Concentrated Animal Feeding Operations.

- (1). Environmental Setbacks. A concentrated animal feeding operation shall comply with the minimum environmental separation requirements in Table 1.

*Applicant Response: All environmental setbacks will be met as required by the Ordinance and as illustrated in the site plan.*

- (2). Land Use Setbacks. The minimum separation criteria in Table 2 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions.

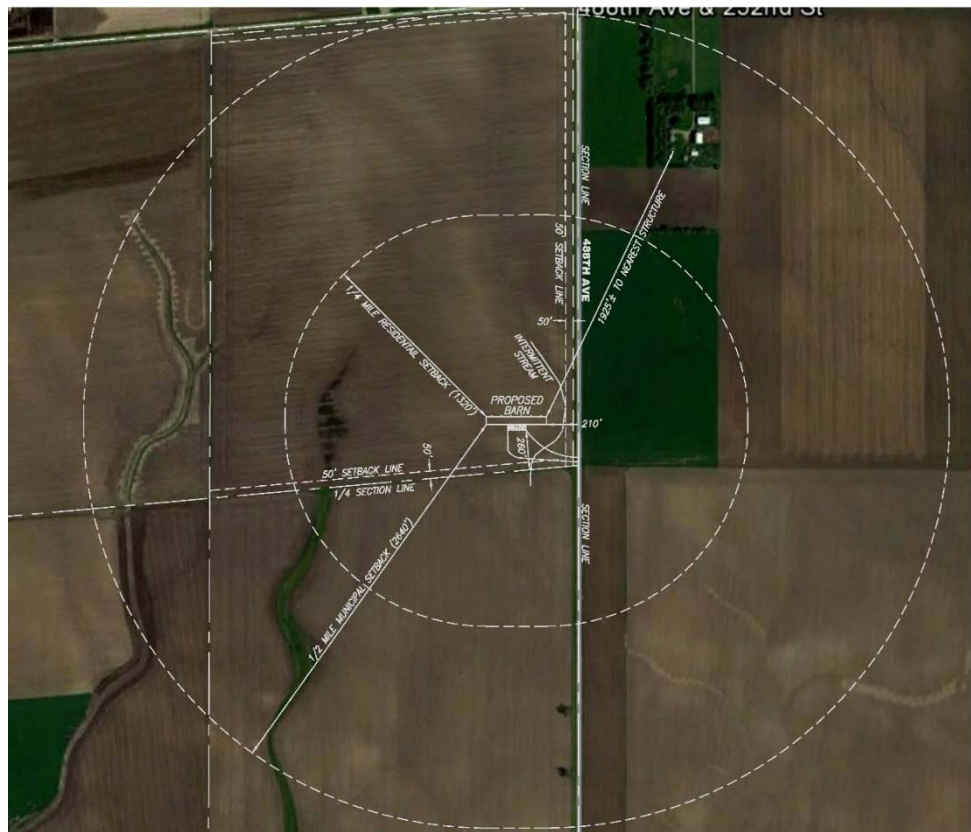




When a proposed operation does not meet the minimum separation criteria, the following alternatives may apply.

- (a). Setback Reduction for Dwellings and Businesses.
  - 1. A signed waiver from each landowner who owns land with a dwelling or business located closer than the minimum separation criteria.

Applicant Response: *All land use setbacks will be met as required by the Zoning Ordinance and as illustrated in the site plan.*



1 OF 2

(G). Manure Application Requirements.

- (1). The minimum separation requirements in Table 3 shall apply to the application of manure from a concentrated animal feeding operation.  
Applicant Response: *All minimum separation requirements for manure application will be followed.*
- (2). Liquid Manure Application.  
Applicant Response: *The facility will consist of liquid manure which is intended to be injected for all applications. In the rare instance surface*



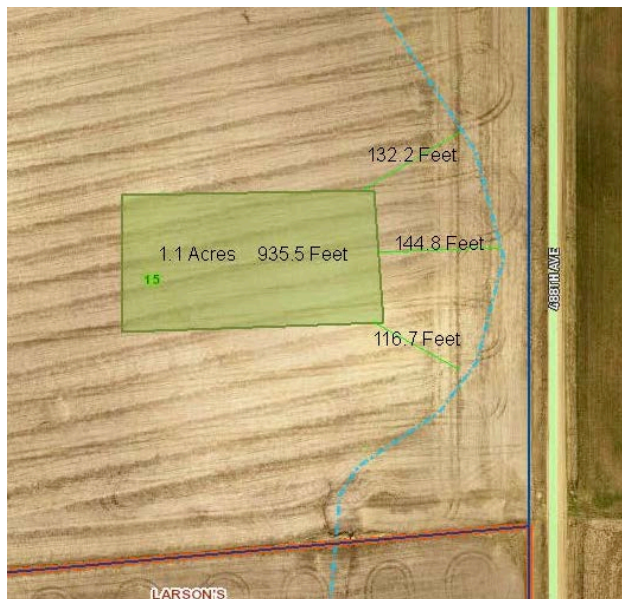
*application is required, all necessary approvals through DENR or the Planning Director will be obtained in advance and followed accordingly.*

- (3). Other Than Liquid Manure Application.  
Applicant Response: *All manure contained within this facility will be liquid.*

The petitioner has included additional information regarding the proposed Class C, Finisher Swine CAFO in the attached written narrative.

On March 15, 2018, staff inspected the subject property to verify the conditions of the site as well as the details submitted in the original application. The proposed site for a new finisher swine operation is appropriate for the surrounding area, which is primarily agricultural with a few residential acreages and cattle lots within a half mile of the subject property.

Staff created the map, at right, showing the approximate distances from the proposed building site for the swine facility to the intermittent stream as delineated by the United States Geological Survey 7.5 minute topographic map. The minimum environmental separation requirement from intermittent streams or waterways is 100 feet for a Class C concentrated animal feeding operation.



**Conditional Use Permit Criteria:**

**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 primary use of property surrounding the swine operation is agricultural farmland and a few existing farmsteads within a half mile. The described approximately one and half acre location of the operation meets the setback requirements for all residential dwellings. There is a single family dwelling on an existing farmstead across the stateline in Minnesota a little farther out directly to the northeast about three-eighths of a mile from the CAFO site.

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

The construction of this operation will have little effect on the surrounding agricultural production lands. It may even be helpful to nearby agricultural production because of the



manure that is produced can be applied onto cropland as an organic fertilizer. The petitioner owns or operates enough acres of crop land to utilize all of the manure that is produced as a result of the swine operation.

Since this proposal would result in a new facility there is potential for concern by potential buyers and developers may have an effect on the future development of rural single family acreages in the surrounding area. The future development of agricultural land is entirely dependent on the availability of building eligibilities for residential homes in the area.

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

The proposed location for the swine operation is located a little over a mile from County Highway 120. The petitioner plans to utilize well water and connecting other utilities as necessary to the facility.

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

The operation is located on an approximately one and half acre site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right of way will not be allowed.

**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.**

Since this is a proposal for a new facility, there are some possibilities for creating nuisance problems. Of the problems, swine operations primarily produce odor from the animal and manure facilities, and swine facilities increase traffic and workers that may increase the amount of dust created from the roads. The submitted narrative includes the petitioner's written explanation of odor management and analysis from the proposed use. Despite low densities of single family dwellings, certain odor control measures should be a part of an operation of this size. The planting of shelter belt trees will significantly help with odor control, and considerations should be given to other odor control alternatives. It is recognized that in no case, the odor can be completely eliminated.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed new swine operation will unlikely cause a significant increase to the public health, safety, and welfare concerns because of the low density of dwelling units in the vicinity. The proposed swine operation will have to comply with the conditions of this permit and the regulations for CAFOs in the Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create.

The subject property is located firmly within the Agricultural Production Area defined by the Envision 2035 Comprehensive Plan, which Goal 3 on Page 91 defines the sole purpose of this planning category to protect, preserve, and promote agricultural uses and the economic vitality of farming operations. Action 3.5 of the Plan states to evaluate potential constraints for operation and expansion of agricultural production such as separation criteria for concentrated animal



feeding operations. The result of this evaluation step for expansion of existing and new operations is the facilitation of community feedback to mitigate land use impacts associated with intensive agricultural development in the rural area.

**Recommendation:**

Staff finds that the proposed use for a Class C, finisher swine concentrated animal feeding operation is consistent with the goals and actions of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #18-10 with the following conditions:

- 1.) The facility shall not exceed 960 animal units in size.
- 2.) Approval must be obtained by the township for the construction of the new road access.
- 3.) An address sign must be purchased at the planning department and placed at the driveway of the facility.
- 4.) The roofed sorting and receiving area must be in conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 5.) The facility shall conform to the submitted site plan. Any minor changes may be approved by the staff at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 6.) A rendering service must be used to pick up and remove dead animals from the property. All temporary dead animal storage disposal sites shall be screened or not visible from neighboring dwellings and the public right-of-way.
- 7.) That a detailed set of architectural, structural, mechanical, electrical, and engineered foundation design plans, all have to be stamped and sealed by the respective licensed professionals.
- 8.) A building permit is required for all structures prior to construction.
- 9.) That the Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

**Public Testimony**

David Heinold, County Planning, presented a brief summary of the staff report.

Commissioner Duffy questioned who would manage the proposed facility.

Richard Funke, 48249 267<sup>th</sup> St., explained that Sunterra initially to get the management setup but he indicated that this will be a family-operated hog facility once they learn how to get started.

Commissioner Mohrhauser asked about the intermittent stream and the proximity to the neighbor's property.



Mr. Funke explained there will be no obstruction of water due to drain tile being installed in the past and will meet all the required setbacks for streams as well as residential dwellings.

Gary Hanson, 112 171<sup>st</sup> St., identified himself as the property owner to the northeast of the proposed site across the state line in Minnesota. Mr. Hanson presented concern about dust, road conditions, and township road maintenance by Springwater Township. He continued mention that there used to be waterways on the subject property and now water runs like a river when it rains. Mr. Hanson explained that the zoning ordinance regulations are different than Rock County, Minnesota and thinks that the proposed use should adhere to the most restrictive rules because his house is within the residential dwelling setback.

Commissioner Barth asked Mr. Hanson if he would feel more comfortable if there was a half mile setback to his house. Mr. Hanson indicated that he has been a longtime resident of the area and has a good knowledge of the site conditions. Mr. Hanson continued to mention that he wouldn't be as opposed should someone decided to build a house and operate the facility.

Greg Beaner, 300 S. Main St., identified himself as a current City Council representative and Mayor Candidate for the City of Garretson. Mr. Beaner indicated that the biggest concern about the proposed use is odor. He continued to mention worries about the impact to the city park and the limiting development possibility to the east with the proposed facility. Mr. Beaner suggested a smaller size of operation, other measures to mitigate concerns, or deny the proposed facility.

Commissioner Mohrhauser asked Mr. Beaner how far Garretson is from the proposed site and Mr. Beaner mentioned that the town is about a mile and half to the southwest.

Commissioner Barth indicated that the proposed use will produce smell a few times a year, but there will still be smell from other agricultural operations.

Mr. Beaner mentioned there is another small operation located just west of his property.

Helen Williamson, 48716 253<sup>rd</sup> St., identified herself as a longtime resident and explained that her well has been in use for 25 years by the creek located about half mile to the south of the proposed site for the swine barn. Mrs. Williamson stated concerns over close proximity to Garretson and pollution into Split Rock Creek. She continued to mention an example of a similar facility in Stevens County, Minnesota as a worst case scenario. Mrs. Williamson questioned who will pay for her well with the concern about water pollution into the creek. She added that the proposed use will affect the nursing home, swimming pool, and the million dollar football field that are all within barely one and half miles.

Commissioner Barth mentioned that the manure is contained in the barn except for the application procedures for the manure. Commissioner Barth explained there has been technological changes now and things are not the same as they once were for concentrated animal feeding operations.



Mrs. Williamson stated that the proposed use will be too close to Garretson.

Greg Franka, 912 Dows St., identified himself as a Garretson resident and questioned where the applicant proposes to get water. Mr. Franka explained that a connection to rural water for the proposed facility of this size would take away from the development progress in the community. He continued to reiterate the concerns presented regarding municipal and school district facilities, such as the city park and football field. Mr. Franka thinks this is not a great location for the type and size of facility with the future growth of Garretson in mind.

Ryan Nelson, 48761 256<sup>th</sup> St., asked if there are any past violations with and the name of the corporate entity involved in the planning of this proposed facility.

Karl Liester, 48737 253<sup>rd</sup> St., identified himself as a resident within about a half mile of the proposed site for the swine facility and mentioned odor is a main concern. Mr. Liester added that he built the house on his property 12 years ago because he enjoys being away from Garretson, but not in Garretson city limits. He continued to mention that odor free is not annoyance free and there might not be a strong odor; however, first impressions do matter for visitors and the growth of the city. Mr. Liester stated concerns over increased truck traffic from the proposed use through town on a dangerous curve near Garretson, which is popular route for the local runners. He added that the petitioner has no ties to the area and questioned why not build next to their own house.

Commissioner Barth asked Mr. Liester where he lives on the map and Mr. Liester indicated that he lives about a half mile to the south of the subject property. Mr. Liester continued to mention that the proposed facility doesn't have any trees or shelterbelt planned.

Troy W., 110 161<sup>st</sup> St., identified as a representative of Springwater Township who has maintenance authority over the gravel road that is adjacent to the proposed site to the east. Mr. W. stated concerns over dragging out mud, dust control, and traffic increase on the road.

Gary Hanson mentioned there are other cattle operations and manure being applied nearby. Mr. Hanson questioned when we are going to cutoff the amount of animal feeding operations. He continued to mention that he thinks that 130 acres won't contain the manure and it will have to go somewhere.

Richard Funke mentioned that he would rather dig their own well if rural water does not approve the connection to the facility. Mr. Funke stated that he will get the necessary permits for access to the road. He continued to mention that his preference is not to have shelterbelt trees because of ventilation and disease issues. Mr. Funke explained that he does not plan to waste manure. He added that this quarter should be sufficient and the neighbor would like manure if available. Mr. Funke indicated that Sunterra has no violations through his research of the company.



Commissioner Mohrhauser mentioned that he lives three-quarters of a mile from a hog farm bigger than the applicant's proposal near Crooks and there is smell but he can count how many times on one hand there is an odor issue.

Commissioner Ralston indicated that he rarely smells the hog operation near Crooks as Commissioner Mohrhauser mentioned. Commissioner Ralston added that the Comprehensive Plan has set goals to place operations together in the rural area.

Commissioner Randall noted that the location of the proposed use is good and appreciates the concerns of the Garretson community residents.

Commissioner Randall questioned if there are any other CAFOs near cities or towns.

There was discussion amongst the planning commission members and county planning staff.

Commissioner Duffy called for additional public testimony but there was no answer. The floor was closed for further public testimony.

### **Discussion**

Commissioner Barth suggested that the planning commission defer the item to address questions regarding traffic impact to the roads, rural water availability, water table depth, road access from the township, and the impact of semi-tractors on the gravel road.

Commissioner Duffy mentioned that we choose to live where we do, but it is the planning commission's purview to decide the highest and best land use for the area. Commissioner Duffy concurs with Commissioner Barth that the planning commission needs a better plan for addressing the questions posed by neighboring landowners and interested individuals.

### **Action**

Commissioner Barth made a motion to **defer** Conditional Use Permit #18-10 to the April 23, 2018 Planning Commission Meeting and the motion was seconded by Commissioner Mohrhauser. The motion passed unanimously.

**Conditional Use Permit #18-10 – Deferred to April 23, 2018 Planning Commission Meeting**



Commissioner Kostboth returned at 8:25 pm for the remainder of the planning commission meeting.

**ITEM 6. CONDITIONAL USE PERMIT #18-12 to allow a Salvage Yard on the property legally described as Lot 3A, Block 2, Brower's 2<sup>nd</sup> Addn., SW 1/4, Section 27-T102N-R51W.**

Petitioner: Derek Rondeau

Property Owner: Lena Wollman (Alpine Property Management)

Location: 46333 Jeffrey Street Approximately 0.25 miles south of Hartford

Staff Report: Scott Anderson

This would allow a Salvage Yard.

**General Information:**

Legal Description – Lot 3A, Block 2, Brower's 2<sup>nd</sup> Addition

Present Zoning – I1 – Light Industrial District

Existing Land Use – Non-conforming Salvage Yard

Parcel Size – 1.54 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** Early in February the Planning Department received a complaint about a salvage yard operating in the Brower Addition without the necessary conditional use permit. On February 7, 2018, staff investigated the complaint and found that a salvage yard was operating on the subject property. On February 8, 2018, staff sent the property owner a zoning violation notice. The property owner contacted the Planning Department and believed that the tenants had already obtained the necessary permits. On February 26, 2018, the petitioner submitted the request for a conditional use permit to operate a salvage yard and paid a double penalty fee.

On March 13, 2018 staff conducted a site inspection. The Brower Addition can generally be described as an industrial park. There are a variety of light industrial and commercial uses in the area. The area to the north and west of the subject property has been developed. The area to the south is zoned A1 Agriculture and used for agricultural purposes. The area to the east is zoned I1 – Light Industrial and undeveloped at this time.

Upon site inspection, staff found excessive amounts of mud and debris being tracked onto Jeffrey Street from the subject property. Vehicles and a trailer were parked in the right-of-way. There was no off-street parking provided. The area of the lot adjacent to Jeffrey Street was muddy. The salvage yard was in operation with material being moved and processed. It appeared that the petitioner was crushing material.

The Envision 2035 Comprehensive Plan indicates that the industrial areas in the county should be encouraged to develop in a cohesive and attractive manner. The Plan goes on to state in the goals and actions that cooperative efforts between the County and municipalities in dealing with





growth and development issues should be promoted. Staff contacted the City of Hartford on March 5, 2018 providing the City with the development proposal on the subject property. Staff requested written comments to be returned from the City. The City of Hartford provided comments indicating that they do not support the development request. The City identified the poor condition of Jeffrey Street, the added heavy traffic, lack of adequate maintenance as road concerns. The City stated that they would have concerns with a salvage yard at this location and any future annexation. The City noted that the use is already in operation on the site and it is unsightly with no screening. The City has received concerns from adjacent property owners. The Hartford City Planning Commission reviewed the request and recommended that the County deny the proposed request.

**Conditional Use Permit Criteria:**

**1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

The proposed use could have significant impacts on the use and enjoyment of other properties in the area. Proposed increased traffic will impact all of the properties between County Highway 151 and the subject property along Jeffrey Street. The proposed use could negatively impact property values by decreasing the commercial activities and moving the future uses to more heavy industrial uses.

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

The introduction of a salvage yard within an area that has primarily developed as a business park will have impacts on future growth and development. It is likely to deter the more commercial uses and attract more heavy industrial uses. The proposed use could reduce the attractiveness of the vacant land to the east, as traffic would drive past the salvage yard.

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

Jeffrey Street provides access to the subject property. The existing driving surface of Jeffrey Street is standardly deficient and not well maintained. Increased traffic from the proposed use with the significant weight of material being moved onto and off the site will negatively impact the future condition of the road.

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

The parking requirements are not being met. During the site inspection, staff observed junk and operable vehicles and equipment parked in the right-of-way. There was no employee or customer parking provided. The driveway and parking lot are to be hard surfaced as they are coming off the hard surface portion of Jeffrey Street.



**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 proposed use will generate noise and vibrations. The salvage activities could be loud as material is unload and processed. The heavy equipment used to move material or crush material will produce noise to a degree to disturb neighboring properties. The applicant did not provide any details on lighting for the site. The applicant indicates that they will handle all hazardous material but did not provide any details on how contaminants such as oil and other engine fluids would be handled and disposed of. The existing use is already tracking significant amounts of mud and debris onto Jeffrey Street, which is a nuisance. No screening of the site is in place.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

It is the opinion of planning staff that the proposed use does not meet the goals of the Envision 2035 Comprehensive Plan. The proposal has been reviewed by the City of Hartford and they have indicated that it does not fit into the development pattern that they would like to see for this area. From a health and safety aspect, the proposed use will result in increased noise and traffic. The proposed use is not compatible with the other existing land uses within the Brower Addition.

Staff review of the proposed use finds that the proposed use is incompatible with the existing land use pattern in the area. It will negatively impact future growth and development of the surrounding vacant property to the east and north. The proposed use will have significant negative impacts on Jeffrey Street. The applicant has already demonstrated that they will not abide by the Zoning Ordinance and have parked vehicles and equipment within the right-of-way and on the driving surface of the Jeffrey Street. The proposed use will cause noise and dust that will nuisance the area. The County works closely with its municipal partners. The City of Hartford also does not support the request and feels it is not a compatible use should this area be annexed into the city.

**Recommendation:** Staff recommends **denial** of Conditional Use Permit #18-12 to allow a salvage yard.

**Public Testimony**

Commissioner Kostboth returned to his seat for the remainder of the planning commission meeting.

Scott Anderson, County Planning Director, presented a brief overview of the staff report and recommendation for denial of Conditional Use Permit #18-12.

Commissioner Barth questioned if there was any lighting or plumbing at the site. Mr. Anderson mentioned it did not appear there was lighting or plumbing on the property.



Mr. Anderson explained that he received a letter and sent the letter to both the planning commission as well as the applicant.

Derek Rondeau, 1701 W. 39<sup>th</sup> St., identified himself as the petitioner and Sioux Falls resident.

Commissioner Barth mentioned that the petitioner has been operating the salvage yard without first obtaining conditional use permit approval and Mr. Rondeau confirmed that is correct.

Commissioner Barth questioned what is being done with the liquids, such as gasoline, oil, etc.

Mr. Rondeau explained there is containment inside the building in a container with a filtration system and the used oil is brought to the site from the Harrisburg location.

Commissioner Barth questioned if there is any discharge of contaminants into the soil and Mr. Rondeau responded that he is not discharging any contaminants into the soil. Mr. Rondeau continued to mention that he has spoken with Scott Bickley, Department of Environment and Natural Resources (DENR) about storage and transportation of fluids, and provided the DENR representative a walk around tour of the operation.

Commissioner Kostboth questioned how long and why the operation has existed at this site. Mr. Rondeau explained that it has been about 3 months and he has done research indicating there was a salvage yard on this property a few years ago. He added that the fine for operating the use without a conditional use permit has been paid to the county planning department.

Commissioner Barth asked the petitioner if he sells cars and Mr. Rondeau indicated that he sells cars at a different location. Mr. Rondeau explained that the cars at this location are brought in from local tow yards, but he doesn't sell any cars on the subject property.

Commissioner Duffy asked how many employees are on site and Mr. Rondeau mentioned there are two.

Commissioner Duffy questioned if there are any public facilities, such as bathrooms. Mr. Rondeau added that this facility is not open to the public and no cars or parts are sold to the public at all. He continued to mention that the facility is only used for storage, processing, and shipping to other locations.

Teresa Sidel, 125 N. Main Ave., identified herself as the City Administrator for the City of Hartford and presented concerns from the Hartford Planning Commission brought up at a previous meeting. Mrs. Sidel stated the city has similar concerns as were brought forth in the staff report. She continued to mention the issues, such as more and more cars being brought in to the site, poor existing road conditions and drainage along Jeffrey St., the impact of increasing heavy truck traffic on the road, mud on the road, trailer parked on the street, no adequate screening, operating the business seven days per week, no plan on addressing contaminants, and future annexation issues with the proposed use for a salvage yard.



Mike Fulkin, 46304 Jeffrey St., identified himself as part of the new Road Association called the I-90 Business Park. Mr. Fulkin explained the association has a plan for improving Jeffrey St. over the next approximately three years. He continued to mention concerns about contaminants to the cattle yard in the neighboring field to the south. Mr. Fulkin added that he is not against recycling, but it can be done properly with the right safeguards for all of the above concerns.

Richard Brower, 46240 261<sup>st</sup> St., identified himself as a neighboring property owner with concerns over the petitioner having no regards for property lines. Mr. Brower indicated that the truck driver has no regard for street corners and keeps driving on his land.

Mr. Rondeau explained that the property is messy, but the weather has help up cleanup. He continued to mention that the trailer does not belong to him and have told the owner to move the trailer off the street. In addition, Mr. Rondeau told the day laborers to move cars out of the road right-of-way. He also expressed interest to the adjacent property owners a part of the road association that he would be willing to maintain the existing road.

Commissioner Barth asked county planning staff if the zoning was the same as the property near the Crooks/Renner Exit. Scott Anderson explained that it was the same, but a salvage yard is listed as a conditional use in the zoning ordinance. Mr. Anderson added that the applicants for that property were applying for an automobile auction business, not a salvage yard.

Commissioner Barth asked county planning staff what recourse there is for closing the salvage yard use on this property. Mr. Anderson stated that it would be classified as a zoning violation and the county planning department would work with the States Attorney's Office in order to correct the land use violation of the zoning ordinance while providing appropriate notification.

Commissioner Kostboth questioned if there were any issues with the prior salvage yard on this property. Mr. Anderson explained that Scott Nisich didn't meet the conditional use permit conditions of approval, failed compliance with the zoning ordinance, and left the property.

Commissioner Kostboth asked if there is timeline if the conditional use permit is denied. Mr. Anderson explained that the county planning department would send a letter to the property owner stating that their property is not in compliance with the zoning ordinance and the owner has about 60 days to abate the zoning ordinance violations or the violation would be forwarded to the States Attorney for further action.

### **Discussion**

Commissioner Barth made a motion to deny the conditional use permit stating that the proposed use would be a clear and present danger to neighbors and agricultural land downstream.



**Action**

A motion was made by Commissioner Barth to **deny** Conditional Use Permit #18-12 and the motion was seconded by Commissioner Ralston. The motion was passed unanimously.

**Conditional Use Permit #18-12 – Denied**



**ITEM 7. CONDITIONAL USE PERMIT #18-13 to allow a Class C, Hog CAFO (960 AU) on the property legally described as SW 1/4 (Ex. Lot H-1) and Fugelsby's Addn., Tract 1, SW1/4, Section 34-T104N-R48W.**

Petitioner: Anthony Siemonsma

Property Owner: Mike Siemonsma

Location: 48132 250<sup>th</sup> St.                      Approximately 5 miles northwest of Garretson

Staff Report: Kevin Hoekman

This would allow a Class C, Hog CAFO (960 AU).

**General Information:**

Legal Description – SW 1/4 (Ex. Lot H-1) and Fugelsby's Addn., Tract 1, SW1/4, Section 34-T104N-R48W

Present Zoning – A1-Agriculture

Existing Land Use – Agriculture adjacent to Farmstead

Parcel Size – approximately 159 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately 5 miles northwest of Garretson along County Highway 114 (250<sup>th</sup> Street). The petitioner would like to construct a 2,400 head swine-finishing CAFO operation east of the existing farmstead of the quarter section parcel. The adjacent farmstead is owned by the petitioner's father.

The petitioner has proposed a swine finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit and will be considered a Class C CAFO for Minnehaha County's Ordinance; however, an existing 430 animal unit Class C hog CAFO is located immediately south of the proposed building site, and cattle are confined on the farmstead in open pens. The existing facility is owned and operated by the father of the petitioner, and the proposed facility will be owned and operated by the petitioner. The new facility will be separated from the parcel by a new plat if this permit is approved. The close proximity to an existing facility is allowable within the zoning ordinance, but the site will be required to obtain a State General Permit. In addition, the facility will have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance.

The site plan is an important aspect of any conditional use permit. A list of required elements for general CUPs and specifically CAFOs have been created to provide clarity for any petitioner requesting a CAFO. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a handful of maps of the site with different information on each. In addition, a two page narrative and a map of odor modeling are used to describe some aspects of the plan.



**The address of the property and the legal description.** The location of the proposed swine facility does not have an address assigned to it yet. The application and narrative for the project both include the legal description of the property.

**The name of the project and/or business.** The proposed swine finishing project does not have a specific name. Tony Siemonsa is the petitioner for the facility.

**The scale and north arrow.** All the provided maps include a minimum of a graphic scale. Two of the more general maps include a north arrow. North is orientated toward the top of the pages on the maps that do not have a north arrow.

**All existing and proposed buildings or additions.** Several of the site plans include an aerial photo as the background of the maps. The aerial photos show where existing buildings are, and this includes the existing barn. The site plan includes one proposed barn north of the existing barn and adjacent to the existing farmstead. The proposed building will be over 350 feet away from the right-of-way.

**The dimensions of all buildings.** The dimensions of the proposed confinement building is listed in the narrative as 122 feet by 165 feet. Dimensions are not provided for the existing buildings

**The distance from all buildings to the property lines at the closest points.** The site plan indicates that the proposed confinement structure will be setback approximately 350 feet from the front yard property line, and even farther from the side yard property line to the east. Currently the site includes a platted lot that outlines an existing farmstead and the remaining  $\frac{1}{4}$  section of land all combined into one parcel. The new barn must be placed on a separate parcel after approval if the barn is to be considered as a separate CAFO as to the zoning ordinance. The new parcel will have to be platted to meet the 50 feet setbacks from all property lines.

**Building height and number of stories.** The petitioner has noted in the narrative that the structure will be one story with a slatted floor, and approximately 20 feet tall.

**Dimensions of all property lines.** The provided site plan shows that the facility is located on a full quarter section of land. The future required plat is not included in any of the site plans.

**Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles.** The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The proposed site will use the existing access off of County Highway 114. The site will be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.



**Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** The submitted site plan does not include any plans for landscaping or screening. The narrative refers to the South Dakota Odor Footprint Tool (SDOFT) as a model that shows all neighboring structures, other than the current property owner, are outside of the 98% annoyance free line of the odor model. An estimation tool from Purdue University suggests that 94% odor free is acceptable for rural residential uses.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The site plans include the name of the nearest streets. The nearest water source is an intermittent stream located along the east property line approximately 400 feet away. No public parks or other places are located nearby.

**A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.** The animals and manure will both be located inside the proposed structure. Manure containment will be located within an enclosed pit under the animals. The Minnehaha County GIS indicate that the general slope flows to the east of the proposed site.

**The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.** The aerial photos within the site plan show the existing buildings. The proposed building is located behind an existing hog barn. When the new lot is platted by the petitioner, it will have to be platted in a manner to meet the minimum 50 foot setbacks. The submitted site plan includes only one animal waste facility located under a slatted floor where the hogs will be kept. The existing hog confinement is also located within an enclosed structure.

In relation to the site plan, the 960 animal unit operation will require a 1,320 foot buffer from a dwelling, church, or business. Staff used GIS to confirm the petitioner's site plan that no dwellings, churches, or businesses are located within this setback other than the property owner who signed the permit application and a waiver. No additional waiver letters from neighboring landowners are required. Since this operation will be located adjacent to an existing CAFO, staff also reviewed the setbacks for the size of CAFO if both facilities were combined together. Even if both CAFOs are combined, the site would still meet the setbacks for the next size larger facility.

In addition to site plan elements, an application for a CAFO is required to submit other plans and meet requirements. The petitioner's narrative largely follows the ordinance with responses to requirements within specific ordinance items. According to the narrative section C) 3, dead animals will be placed in an area enclosed on three sides until a rendering truck can get to the site.





Manure is planned to be managed as a liquid that will be stored in a concrete pit below the barn. The manure is planned to be injected according to the ordinance after the fall harvest. Injected manure should reduce runoff caused by rain.

**Conditional Use Permit Criteria:**

**1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

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. The petitioner submitted documentation using the South Dakota Odor Management Tool to show that all neighboring residential dwellings are outside of the 98% 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. The proposed location may be advantageous for the area in that the barn is located near an existing facility rather than separating facilities throughout the section.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with scattered single family dwellings and farmsteads. There is potential for further development of agricultural uses, such as more 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 several of the farmsteads in the area already have animals confined on farmsteads. However, as intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Locating this CAFO near an existing facility should help reduce the negative aspects that would affect future development. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility indicates that an existing access is planned to be used as the driveway for the facility. The petitioner will have to acquire and extend any utilities to the proposed facility. Grading and drainage are described in the narrative to be directed away from the proposed barn.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

**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 is requesting a new CAFO facility. 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 and showing the likely extent of odor. Any management practices 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.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed swine CAFO will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is also required to obtain a State permit because of the close proximity to an existing CAFO.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to "protect, preserve, and promote agricultural uses and the economic viability of farming operations."

**Recommendation:**

Staff finds that the proposed facility meets the requirements of the ordinance and goals of the comprehensive plan. Staff recommends **approval** of CUP #18-13 with the following conditions:

- 1.) The facility shall be limited to swine confinement of 960 animal units in size.
- 2.) The property must be platted as a separate property that meets all yard setback requirements. The plat must be obtained prior to the issuance of a building permit.
- 3.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 4.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 5.) The proposed CAFO must obtain the State General Permit prior to the facility being populated with swine.
- 6.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
- 7.) A building permit is required for all structures prior to construction.
- 8.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

**Public Testimony**

Kevin Hoekman, County Planning, presented a brief summary of the staff report.



Commissioner Barth asked if the proposed operation is adjacent to a paved county highway and Mr. Hoekman indicated that the access is from a paved county highway.

Anthony Siemonsma, 24954 477<sup>th</sup> Ave., identified himself as the petitioner and asked for questions from the planning commissioners.

Commissioner Mohrhauser asked the petitioner how much land he owns around the proposed site for application of manure. Mr. Siemonsma explained there are couple 80 acre parcels of farmland adjacent to the site that the property owner of the proposed site has possession as well as a few of the neighboring landowners being interested in receiving some of the manure from the operation. He added that the manure will be knifed in or sent through drag line.

Commissioner Duffy asked the petitioner if he was aware that property needs to be platted and Mr. Siemonsma understands that the property should be platted.

Commissioner Duffy questioned if the petitioner's father lives across the road and Mr. Siemonsma indicated that his father lives at the property where the proposed operation will be located.

Greg Franka, 912 Dowes St., mentioned that he never realized how many CAFOs there were and there are five requests tonight. Mr. Franka stated concerns about water quality in regards to the operations. He continued to mention that the planning commission needs to think about the decision they will make with 2,400 animal units to the east and northwest of Garretson.

Commissioner Randall explained that she appreciates the concerns brought forward in this discussion; however, manure management is calculated based on the needed acres of corn and soybean areas.

Mr. Franka questioned the discrepancy between drinking water for animals and humans.

Commissioner Randall indicated that rural water won't take any new connections unless they show the ability to service particular developments.

Commissioner Kostboth indicated that most animal feeding operations include their own well as opposed to utilizing rural water.

Commissioner Barth added that we have received a lot of CAFO applications this month.

### **Action**

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #18-13 and the motion was seconded by Commissioner Kostboth. The motion passed unanimously.

### **Conditional Use Permit #18-13 – Approved**



**ITEM 8. CONDITIONAL USE PERMIT #18-15 to allow a Class B, Beef CAFO (1,500 AU) on the property legally described as NE ¼, Section 14-T103N-R50W.**

Petitioner: Jared Questad

Property Owner: Evelyn Questad

Location: 25235 471<sup>st</sup> Ave.

Approximately 3 miles southwest of Baltic

Staff Report: David Heinold

This would allow a Class B, Beef CAFO (1,500 AU).

**General Information:**

Legal Description – NE1/4, Section 14-T103N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 160 Acres

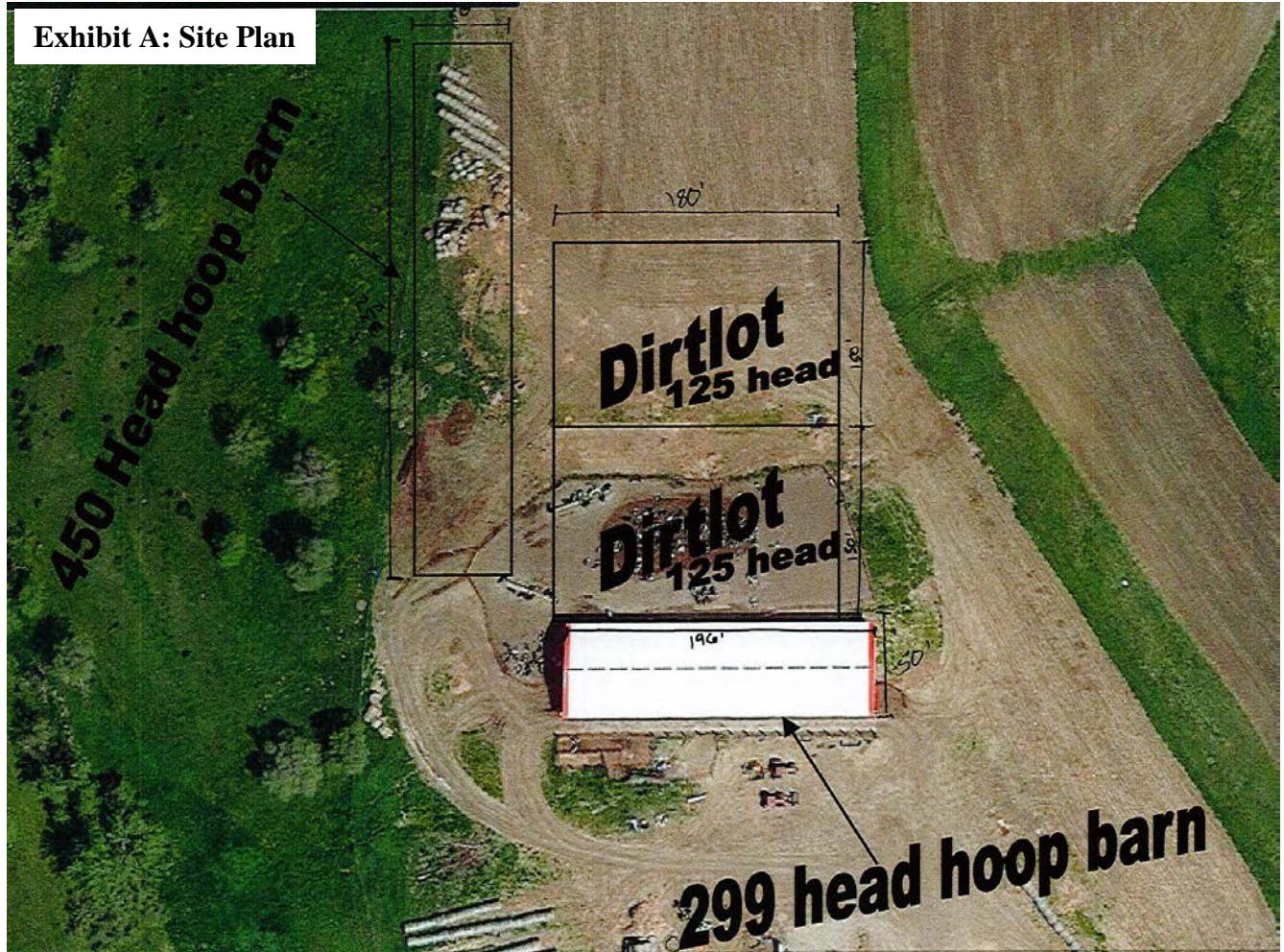
**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow a Class B, Beef Concentrated Animal Feeding Operation for 1,500 animal units. The narrative describes that the proposed hoop building will be 332'x50' to house 450 additional head of finishing cattle. The site has an existing capacity of 500 head with the intent of growing towards 1,500 head. The existing cattle barn has a full concrete floor with concrete walls, which the manure is scraped and hauled to the fields.

The conditional use application shall be accompanied, at a minimum, by the following information:

- (1). A description of the type of concentrated animal feeding operation and the number of animals proposed for the facility.  
Applicant Response: *The proposed feedlot has 2 existing outdoor pens and an existing 300 head hoop barn.*
- (2). A site plan of the proposed facility including:
  - (a). The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.
  - (b). A grading plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.
  - (c). All required site plan elements for a Conditional Use Permit as listed in Section 19.04.  
Applicant Response: *Site Plan Included as Exhibit A.*



- (3). A dead animal disposal plan which complies with South Dakota Animal Industry Board requirements. Temporary dead animal storage or disposal sites shall be screened or located out of site from neighboring dwellings and the adjacent right-of-way.

*Applicant Response: Mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current mortality is disposed of by a rendering service that is contacted when mortality happens.*

- (4). A manure management plan including the following information:
- (a). Location and description of the manure containment facilities and structures.
  - (b). Description of type of manure and method of storage.
  - (c). Description of the proposed method and schedule for manure application.



Applicant Response: *Manure is a valuable resource that is produced from the feedlot. We capture the manure by proactively scraping our dirt lots and hauling manure out to fields where the nutrients can benefit the crops that grow. In the existing barn we have a full concrete floor with concrete walls that we scrape the manure from and also haul to fields. We practice no-till farming on a majority of our acres, so in order for us to utilize the manure we spread a thin layer of manure in the fields. Spreading a lesser amount onto the fields reduces the impact of smell and also reduces the possibility of a runoff situation to occur.*

- (5). Any applicable waivers for land use setback reduction as described in Section 12.10 (F). 2.

Applicant Response: *The proposed feedlot is will require setback waivers from the two closest neighbors to the southeast and northwest, or a reduction in the setback can be made with planting landscaping tree grove as designed by a Certified Landscape Architect. I intend on obtaining waivers, and I am willing to plant the required trees if the waivers are not obtained.*

A concentrated animal feeding operation which is granted a conditional use permit shall, at a minimum, meet the following requirements:

- (1). General Permit Requirement. A state general permit is required if any of the following situations are met.

Applicant Response: *As a 1500 AU feedlot a DENR state general permit will be required when AU count exceeds 999. See additional information.*

- (2). General Permit Record Keeping. When a state general permit is required, the operator shall maintain and have available the following records.

Applicant Response: *As a 1500 AU feedlot a DENR state general permit will be required when AU count exceeds 999.*

- (3). Construction Documents. The following documents are required, when applicable, before a building permit can be acquired.

Applicant Response: *Current building is 196'x 50' and any additional building will be engineered to the specifications of a county building permit.*

(F). Separation Requirements and Criteria for Concentrated Animal Feeding Operations.

- (1). Environmental Setbacks. A concentrated animal feeding operation shall comply with the minimum environmental separation requirements in Table 1.

Applicant Response: *All environmental setbacks will be met as required*

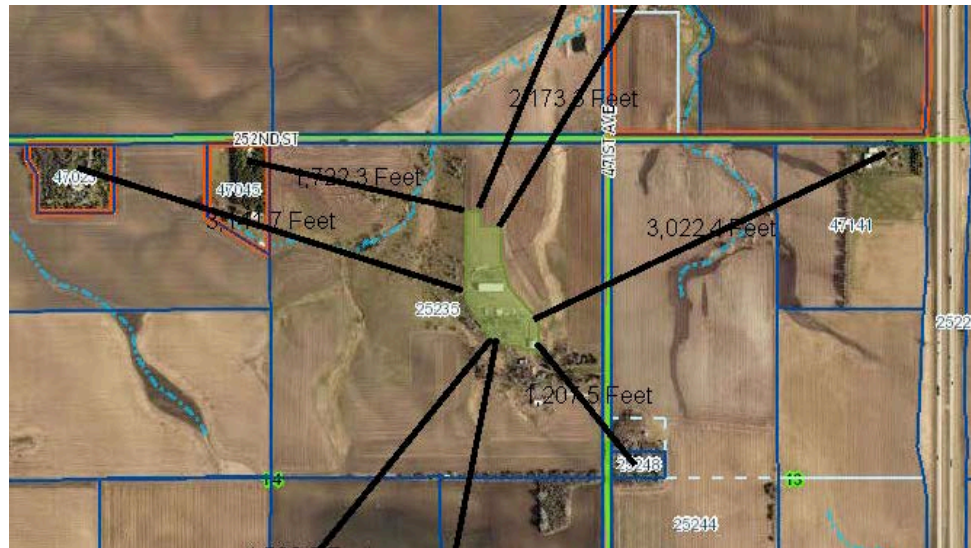


*by the Ordinance and as illustrated in the site plan*

- (2). Land Use Setbacks. The minimum separation criteria in Table 2 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. When a proposed operation does not meet the minimum separation criteria, the following alternatives may apply.
- (a). Setback Reduction for Dwellings and Businesses.
1. A signed waiver from each landowner who owns land with a dwelling or business located closer than the minimum separation criteria.
  2. In the absence of a waiver, the required setback may be reduced up to 50% if all of the following requirements are met:
    - i. The applicant must plant a shelter belt of trees between the proposed CAFO and the affected residence or business without a waiver.
    - ii. The shelterbelt must run the entire length of the footprint of the CAFO, and it must include a minimum of five rows of trees and consisting of both evergreen and deciduous species.
    - iii. The shelterbelt must be design to assist in the reduction of odor by a Professional Landscape Architect.
    - iv. The shelter belt shall be planted in the first year of obtaining a conditional use permit, and all trees that die must be replaced within one growing season.

*Applicant Response: All land use setbacks will be met as required by the Zoning Ordinance other than that discussed regarding the two closest neighbors.*

Staff created the map, below, that shows the setback distances to the nearest residential dwellings from the proposed concentrated animal feeding operation area as depicted in the submitted site plan.



(G). Manure Application Requirements.

- (1). The minimum separation requirements in Table 3 shall apply to the application of manure from a concentrated animal feeding operation.  
Applicant Response: *All minimum separation requirements for manure application will be followed*
- (2). Liquid Manure Application.  
Applicant Response: *N/A*
- (3). Other Than Liquid Manure Application.  
Applicant Response: *The facility will consist of dry manure which will be spread on top of the ground in order to utilize the manure in our no-till farming practices.*

The petitioner has included additional information regarding the proposed Class B, Beef CAFO in the attached written narrative.





On March 15, 2018, staff met with the petitioner to verify the conditions of the site as well as the details submitted in the original application. The proposed site is appropriate for the surrounding area. Staff has not received a landscape plan and/or the waivers from residential property owners within the minimum separation setback distance for a Class B operation.

Staff created the map, at right, showing the approximate distances from the proposed building site for the cattle facility to the intermittent stream as delineated by the United States Geological Survey 7.5 minute topographic map. The minimum environmental separation requirement from intermittent streams or waterways is 100 feet for a Class B concentrated animal feeding operation.



The following is a list of conditions that would be required should the waivers and landscape plan be submitted:

- 1.) The facility shall not exceed 1,500 animal units in size.
- 2.) The roofed sorting and receiving area must be in conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 3.) The facility shall conform to the submitted site plan. Any minor changes may be approved by the staff at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 4.) A rendering service must be used to pick up and remove dead animals from the property. All temporary dead animal storage disposal sites shall be screened or not visible from neighboring dwellings or the public right-of-way.
- 5.) A landscaping plan shall be submitted to the Planning Department consisting of shelter belt trees on the west side of the proposed cattle shed in accordance with Section 12.10 (F) (2) (a) of the 1990 Revised Zoning Ordinance for Minnehaha County. The trees shall be maintained in a live state.
- 6.) That a detailed set of architectural, structural, mechanical, electrical, and engineered foundation design plans, all have to be stamped and sealed by the respective licensed professionals.
- 7.) A building permit is required for all structures prior to construction.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.



**Conditional Use Permit Criteria:**

**1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

The primary use of property surrounding the cattle operation is agricultural farmland and a few existing farmsteads within a half mile including the property owner's house. The described approximately six and half acre location of the operation meets the setback requirements for except for the residential home located to the southeast about a quarter mile. There is also a single family dwelling located about three-eighths of a mile to the northwest of the site, which falls within the setback distance for the proposed size operation. Waivers must be obtained from the two property owners within the minimum required setback for dwellings, or the petitioner may have a registered professional landscape architect develop a landscape plan for a shelterbelt of trees designed to assist in the dispersal of odors.

On March 15, 2018, staff discussed the requirements with the petitioner who plans to provide the necessary details regarding the planting of a shelterbelt if the waivers are not obtained.

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

The expansion of this operation will have little effect on the surrounding agricultural production lands. It may even be helpful to nearby agricultural production because of the manure that is produced can be applied onto cropland as an organic fertilizer. The petitioner owns or operates enough acres of crop land to utilize all of the manure that is produced as a result of the cattle operation.

Since this proposal would result in the expansion of an existing facility there is potential for concern by potential buyers and developers may have an effect on the future development of rural single family acreages in the surrounding area. The future development of agricultural land is entirely dependent on the availability of building eligibilities for residential homes in the area as well as through the decision-making process of either the planning or county commissioners.

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

The proposed location for the cattle operation is located a little over a mile from County Highway 137. The applicant plans to extend existing rural water and other necessary facilities to the proposed cattle hoop shed.

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

The operation is located on an approximately six and half acre site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right of way will not be allowed.



**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 currently operates a cattle feedlot with an existing capacity of approximately 500 animal units. Due to proposed size expansion of the beef cattle feedlot, there are possibilities for creating nuisance problems. Of the problems, cattle operations primarily produce odor from the animal and manure facilities, and cattle operations increase traffic and workers that may increase the amount of dust created from the roads.

The submitted narrative includes a written explanation of odor management and analysis from the proposed use. Despite low densities of single family dwellings, certain odor control measures should be a part of an operation of this size. The planting of shelter belt trees will significantly help with odor control, and considerations should be given to other odor control alternatives. It is recognized that in no case, the odor can be completely eliminated. The existing facility has a rendering area at the end of the driveway within the trees just west of 471<sup>st</sup> Ave. Staff suggests that any existing or proposed rendering areas should be screened from adjacent properties as well as the travelling public on the township road.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed expansion of an existing cattle feedlot will unlikely cause a significant increase to the public health, safety, and welfare concerns because of the relative low density of dwelling units in the immediate vicinity. The proposed cattle operation will have to comply with the conditions of this permit and the regulations for CAFOs in the Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create.

The subject property is located firmly within the Agricultural Production Area defined by the Envision 2035 Comprehensive Plan, which Goal 3 on Page 91 defines the sole purpose of this planning category to protect, preserve, and promote agricultural uses and the economic vitality of farming operations. Action 3.5 of the Plan states to evaluate potential constraints for operation and expansion of agricultural production such as separation criteria for concentrated animal feeding operations. The result of this evaluation step for expansion of existing and new operations is the facilitation of community feedback to mitigate land use impacts associated with intensive agricultural development in the rural area.

**Recommendation:**

Since the conditional use permit application has not met the requirements for a concentrated animal feeding operation, staff recommends **deferral** of Conditional Use Permit #18-15.

**Public Testimony**

David Heinold, County Planning, presented a brief summary of the conditional use permit request and provided an overview of the location as well as the site pictures for the proposed beef cattle operation expansion. Mr. Heinold also provided the staff recommendation for deferral of the conditional use permit request for one month to address application deficiencies.



Jared Questad, 25176 471<sup>st</sup> Ave., identified himself as the petitioner and stated that the neighboring landowners within the residential dwelling setback of one half mile are not openly opposed to the expansion but won't sign the required waiver. Mr. Questad continued to mention that neither do not have a strong opinion either way.

Commissioner Barth commented that it is positive that the petitioner is willing to work with the adjacent neighbors within one half of the proposed expansion.

Commissioner Duffy concurred with Commissioner Barth about the petitioner being willing to work with the adjacent property owners.

Commissioner Kostboth stated concern over taking action on the conditional use permit application without the residential dwelling setback waivers or the landscape plan.

**Action**

A motion was made by Commissioner Barth to **defer** Conditional Use Permit #18-15 to the April 23, 2018 Planning Commission Meeting and seconded by Commissioner Mohrhauser. The motion passed unanimously.

**Conditional Use Permit #18-15 – Deferred to April 23, 2018 Planning Commission Meeting**



Commissioner Randall recused herself at 9:28 pm from Item 9.

**ITEM 9. CONDITIONAL USE PERMIT #18-16 to allow a Class B, Dairy CAFO (1,680 AU) on the property legally described as Tract 1 & Tract 2, Boadwine South Addition, SW ¼, Section 20-T103N-R49W.**

Petitioner: Boadwine Farms, Inc. (Lynn Boadwine)

Property Owner: same

Location: 25386 473<sup>rd</sup> Ave.

Approximately 3.5 miles south of Baltic

Staff Report: Kevin Hoekman

This would allow a Class B, Dairy CAFO (1,680 AU).

**General Information:**

Legal Description – Tract 1 & Tract 2, Boadwine South Addition, SW ¼, Section 20-T103N-R49W

Present Zoning – A1-Agriculture

Existing Land Use – Dairy Farm

Parcel Size –approximately 34 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately 3.5 miles south of Baltic along County Highway 122 (254<sup>th</sup> Street). The petitioner would like to expand an existing dairy CAFO that holds 600 cows to a Class B dairy CAFO with 1,160 cows and 50 calves. This would be 1,680 animal units when calculated within the County zoning ordinance. This proposal is a Class B CAFO, and it would require to obtain a State General Permit from the SD Department of Environment and Natural Resources.

This property has a long permitted history regarding the dairy that dates back to 1981. The large facility with a lagoon was started in 1994. When Boadwine Farms took over the operation, the company also must operate under the most recent approved CUP #08-58. Since then Boadwine farms has been working with county staff to meet and fulfill several conditions of the permit including an addition to the barn and existing lagoon. The most recent permit allows up to 890 animal units.

The petitioner has proposed expanding the current facility to hold 1,160 dairy cows (1.4 animal units each) and 50 calves (1 animal unit each) totaling 1,680 animal units for the facility. The proposed facility is larger than 1,000 animal units which triggers that the operation must obtain a state General Permit. The CAFO is also located over a mapped shallow aquifer which triggers a requirement for a General Permit as required by the zoning ordinance. The state General Permit will have a requirement for the petitioner to test the soils and take necessary precautions to avoid contamination of any waters. The petitioner has included in his statement that the City of Sioux Falls has been contacted regarding the proposal. Contact was made to find if the city had



concerns regarding the municipal wells located within the Big Sioux River aquifer. The petitioner has already started the process of working with the Department of Environment and Natural Resources to obtain a General Permit for the proposed CAFO.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a site plan that shows many details as well as a tree planting plan as designed with the Minnehaha Conservation District. In addition, a one page narrative was submitted to accompany the application and site plan. Some of the required site plan elements are described within the narrative.

**The address of the property and the legal description.** The address of the expanding dairy CAFO is 25386 473<sup>rd</sup> Avenue, as it is shown on the application. The application also includes the legal description of the property.

**The name of the project and/or business.** The proposed dairy will be called Pioneer Dairy. It will be operated by Boadwine Farms. Both of these names are on the site plan.

**The scale and north arrow.** The site plan includes a north arrow and a scale. The tree planting plan does not include these items. North is orientated toward the top of both plans.

**All existing and proposed buildings or additions.** Several of the site plans include an aerial photo as the background of the maps. The aerial photos show where existing buildings are, and this includes the existing barn. The site plan includes one proposed barn east of the existing barn.

**The dimensions of all buildings.** The dimensions of the proposed confinement building is not listed on the site plan or narrative. Based on the scale drawing, staff estimates the dimensions of the proposed new building to be approximately 200 feet by 300 feet in size. Dimensions are not provided for the existing buildings either.

**The distance from all buildings to the property lines at the closest points.** The site plan indicates that the proposed confinement structure will be located on the east side of the existing barn. The property line on the east side roughly follows an intermittent stream. The site plan shows a 100' setback from this intermittent stream that separates the property. All other confinement buildings and manure containment facilities are existing on the property.

**Building height and number of stories.** The height of the building is not included in the narrative or site plan. It is likely that an animal feeding barn will have only one story to keep the animals. Agricultural structures do not have a height limitation.



**Dimensions of all property lines.** The dimensions of the property lines are not included on the site plan. The property is approximately 34 acres in size for the two parcels that contain the CAFO. The property lines follow roughly what would be the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of the entire section.

**Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles.** The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The proposed site will use the existing access off of 473<sup>rd</sup> Avenue. The site will be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.

**Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** The main site plan shows the general location of tree belts around the east, south, and west sides of the farm. A narrower secondary row of trees is planned to parallel the intermittent stream and property line on the east side of the property. Details of the landscaping plan are included in a separate conservation tree planting plan which was produced by the Minnehaha Conservation District. The south and southwest sides of the farm will have six rows of trees. East of the manure waste facility will have three rows adjacent to the lagoon, and two more rows further away along the property line. Further north along the east property line is planned for only the two rows of trees. The Haagenson farmstead is located immediately north of the site, and the farm has a number of existing trees and structures to buffer the dairy.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The site plans include the name of the nearest streets. The nearest water source is an intermittent stream located along the east property line approximately that has been indicated to have proper setbacks. The nearest public place is the Pioneer Cemetery located approximately  $\frac{1}{4}$  mile away.

**A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.** The animals will be housed within the barns. Manure containment will be located within a lagoon located directly south of the barns. The rim of the lagoon is higher in elevation than the surrounding land and the animals are kept under a roof at all times.

**The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.** The aerial photos within the site plan show the existing buildings. The proposed building is located east of an existing hog barn. The new barn will meet the minimum setback from the closest property line to the east.



Some of the required elements for a site plan are not found within the site plan or narrative; however, staff finds that the site plan depicts an accurate representation of the proposal. The zoning ordinance allows the waiving plan requirements if the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance. Staff finds that the information presented in the site plans are enough to obtain compliance with requirements.

**Setbacks and other requirements.**

In relation to the site plan, the 1,680 animal unit operation will require a 1,980 foot buffer from a dwelling, church, or business. The setback can be reduced by half to 990 feet if trees are planted as designed by a Professional Landscape Architect. The petitioner has submitted a detailed landscape plan for trees surrounding the east, west, and south sides of the CAFO. These plantings are not designed by a Professional Landscape Architect as required in Section (2) (a) 2. iii. (The complete section of the ordinance can be seen below.) A professional Landscape Architect may approve the submitted plans to fulfill the requirement for the dwellings located east, west, and south of the CAFO. Five of the twelve dwellings are located north of the CAFO where no landscape plan is present. The nearest farmstead, which this CAFO once was a part of, includes many trees and structures to buffer the dwellings to the north. Staff will accept the existing trees to reduce the required setback if a Professional Landscape Architect approves the existing groves and a written and signed agreement is presented requiring the approved trees to remain on the farmstead. Waivers may be obtained from the property owners north of the CAFO in lieu of the agreement with the north neighbor.

*(2). Land Use Setbacks. The minimum separation criteria in Table 2 shall be used in siting a concentrated animal feeding operation. The minimum separation criteria may be increased based on site specific conditions. When a proposed operation does not meet the minimum separation criteria, the following alternatives may apply.*

*(a). Setback Reduction for Dwellings and Businesses.*

- 1. A signed waiver from each landowner who owns land with a dwelling or business located closer than the minimum separation criteria.*
- 2. In the absence of a waiver, the required setback may be reduced up to 50% if all of the following requirements are met:*
  - i. The applicant must plant a shelter belt of trees between the proposed CAFO and the affected residence or business without a waiver.*
  - ii. The shelterbelt must run the entire length of the footprint of the CAFO, and it must include a minimum of five rows of trees and consisting of both evergreen and deciduous species.*
  - iii. The shelterbelt must be design to assist in the reduction of odor by a Professional Landscape Architect.*
  - iv. The shelter belt shall be planted in the first year of obtaining a conditional use permit, and all trees that die must be replaced within one growing season.*

Since the reduction of setbacks only allows for 50% of what is required, the proposed expansion





will still require two property owners of the twelve dwellings to sign a waiver. Planning staff has received waivers for these two dwellings.

In addition to site plan elements and setbacks, an application for a CAFO is required to submit other plans and meet requirements. The petitioner's narrative explains the manure management of liquid manure and sand bedding. The manure is contained in a clay lined lagoon that meets DENR requirements. According to the narrative the operation has a contract with a rendering service to remove dead animals. The petitioner has contacted the City of Sioux Falls to inform them of the lagoon and manure management of the facility.

**Conditional Use Permit Criteria:**

**1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.**

The proposed CAFO expansion is located within predominantly agricultural area and expanding an existing site. Twelve single family dwellings are located within the required setbacks as noted earlier in the staff report. The higher than normal density is in part due to a subdivision of dwellings near the cemetery to the east of the site. Many of the dwelling were present when the last couple of permit applications were presented to the Planning Commission. A few nearby dwellings that recently have been built were required to have a Right-to-Farm Notice covenant placed on the deed of the property at the time of construction.

The proposed use is an expansion of an existing use. The expansion will approximately double the number of allowable animal units on the property. All the animals will still be located within a building and trees will be planted around the CAFO. The tree belt should reduce smells and site lines of the facility.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with several single family dwellings and farmsteads. Agricultural uses such as crops and livestock will likely continue into the future of the area. The expansion of a CAFO will unlikely affect further agricultural development in the area, and it may increase value with easy access to manure for fertilization of the soils. In general, when intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Expanding an existing facility should help reduce the negative aspects that would affect future development. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility will use the existing driveway. The petitioner will have to extend any utilities to the proposed new barn. Grading and drainage are shown on the site plan.

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



The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

**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 is requesting an expansion of an existing CAFO facility. 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 including odor and flies. Any management practices 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.

**6) Health, safety, general welfare of the public and the Comprehensive Plan.**

The proposed CAFO expansion will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is also required to obtain a State permit because of its size and location on a mapped aquifer.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to "protect, preserve, and promote agricultural uses and the economic viability of farming operations."

This area has many single family dwellings located nearby, and staff finds that the setback reduction requirements have not been adequately addressed at this time. Options for setback reduction include submittal of landscape plans by a Professional Landscape Architect for the tree planting plan or waivers from property owners within the required setback. For this reason staff will recommend deferral of action. If the setback reduction requirements can be addressed, staff has the following conditions prepared for consideration:

- 1.) The facility shall be limited to 1,680 animal units in size.
- 2.) Shelter belts of tree plantings must comply with approved plans of a Professional Landscape Architect. Any dead trees must be replaced within one year.
- 3.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 4.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 5.) The proposed CAFO must obtain the State General Permit prior to the facility being populated above 1,000 animal units.
- 6.) The proposed barn shall have engineer certified drawings that shall be submitted



- for review by the Building Inspector prior to the issuance of a building permit.
- 7.) A building permit is required for all structures prior to construction.
  - 8.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

**Recommendation:**

Staff finds that the proposed facility does not meet the requirements of the ordinance, but it does meet the goals of the comprehensive plan. Staff recommends **deferral** of CUP #18-16 to the April 23, 2018 Planning Commission meeting.

**Public Testimony**

Kevin Hoekman, County Planning, presented a brief overview of the staff report and the application materials submitted by the petitioner.

Commissioner Barth questioned the trees that are located in the upper left hand corner of the landscape plan and Mr. Hoekman indicated that the existing trees are on the Haagenson property.

Commissioner Kostboth questioned how many houses are not part of the subject property. Mr. Hoekman explained that there are 5 homes and a cemetery to the east; one and an old house that could be used for another dwelling with the building eligibility; about 9 homes to the west, north, and south directions from the proposed site of the animal feeding operation expansion.

Lynn Boadwine, 46945 261<sup>st</sup> St., identified himself as both the petitioner and property owner.

Commissioner Barth asked the petitioner if he had met with any of the neighbors regarding the proposed expansion. Mr. Boadwine indicated that he hasn't personally met with the neighbors, but he did hold an open house on Saturday with a good turnout, which he sent invitations.

Mark Wheeldon, 25418 Riverbend Pl., identified himself as the resident of a newly constructed house just to the southeast of the proposed site for an animal feeding operation expansion and indicated that he may not have seen the invitation due to not moving in yet. Mr. Wheeldon stated concerns over proximity to existing residential homes and sites of available building eligibilities for dwellings in the immediate area. He continued to mention that failure of the lagoon may be a cause for concern regarding the adjacent creek that outlets straight into the Big Sioux River, which he owns property on both sides of the river. Mr. Wheeldon presented a question regarding expansion of the lagoon, but Mr. Boadwine explained that the lagoon is finished.

Mr. Wheeldon stated there has always been smell in the area; however, he presented concern over pollution and odor from the proposed doubling expansion of the facility. He also indicated there is potential to add eight more single family dwellings in the area and that will have an impact on property values. Mr. Wheeldon also asked how long it will take the trees to grow.



Pat Cannon, 25425 Riverbend Pl., identified himself as a resident of the area just to the southeast of the subject property and has been improving the vacant property that was part of a farmstead. Mr. Cannon stated concerns over the millions of pounds of manure in regards to how much thought has been given to the Big Sioux River watershed area. He questioned if the size of the operation could be limited to 1,140 animal units and also asked about transferability of the use.

Mr. Boadwine mentioned that he understood the amount of homes in the area and knew that he would have to be on the top of his game with the collective of surrounding land uses. He explained the waste system and lagoon liner were rebuilt as a personal preference for wanting to know how the manure management system was designed. He added that he met with the City of Sioux Falls both before buying the property and again before planning the expansion. He stated that he will get the DENR state permit regardless of the requirements.

Mr. Boadwine explained that owning the system has its own risk mitigation for overflow potential. He indicated there will be one row of Aus Willows, one row of Poplar trees, and a row of evergreen trees including the landscape plan after consultation with the NRCS, Soil Conservation District, and a Registered Landscape Architect about a tree planting plan. He continued to mention that he would like this operation to serve as an ideal site of how agriculture can survive in a vibrant community.

Mr. Cannon questioned the transferability of the operation and if it will work with 1,140 animal units. He continued to mention that 1,680 AU is tripling the number of existing cows on site.

Commissioner Barth explained that one dairy cow equals 1.4 animal units.

Commissioner Kostboth explained that 1,160 cows and 50 calves is the equivalence of 1,680 animal units.

Commissioner Barth asked planning staff about the status of the transfer of ownership for the operation.

Mr. Hoekman explained that if the property owner takes over the existing permit, then they would be permitted to operate under the existing permit. He continued to mention that Mr. Boadwine is currently operating under the permit approved in 2008 for the Haagenson Dairy.

Commissioner Duffy asked planning staff if the recommendation would be to defer the item for future action.

Mr. Hoekman stated that the petitioner has obtained waivers and a landscape plan prepared by a registered landscape architect. He continued to mention there could be a condition added for the addition of a few rows of shelterbelt trees on the north side from the four residential dwellings.

Commissioner Barth questioned if Mr. Haagenson would speak in regards to the proposal.



David Haagenson, 25357 473<sup>rd</sup> Ave., stated that he thinks the existing trees on the property would be sufficient to move forward. Mr. Haagenson added that his mother said she cannot even see the barn from the house to the north of the proposed site of the expansion because of the trees already there. He continued to mention that maybe there could be some trees added to the north and east of the proposed feedlot area, but he believes that wouldn't have any effect on neighbors. Mr. Haagenson explained that the existing trees would already do what the planning commission is asking the proposed use complete for mitigating odor control.

Commissioner Ralston asked planning staff if the request could be contingent approval based on an acceptable landscape plan being submitted.

Mr. Hoekman explained that the conditional use permit could be contingent upon receiving a landscape plan acceptable between the adjacent property owners.

Commissioner Barth stated his approval of the plan currently under review since all of the requirements of the zoning ordinance being met for the proposed expansion.

Commissioner Kostboth concurred with Commissioner Barth and mentioned that the registered landscape architect added an additional row of trees. Commissioner Kostboth indicated that good faith has been shown for mitigating the concerns of the adjacent property owner to the north and doesn't think that there is a benefit to adding the trees to the north side. He reiterated that twice the cows doesn't necessarily mean twice the stink. Commissioner Kostboth explained that this is an existing operation currently operated in a responsible manner.

Commissioner Mohrhauser concurred with both Commissioners Barth and Kostboth.

Commissioner Duffy concurred with the planning commissioners that effort has been made by the petitioner to mitigate concerns, but living in the rural area bring a certain understanding of the agricultural environment. Commissioner Duffy thinks the requirements have been met.

Mr. Hoekman reiterated that the motion should reflect the staff recommended conditions.

#### **Action**

A motion was made by Commissioner Kostboth to **approve** Conditional Use Permit #18-16 with the planning staff recommended conditions and the motion was seconded by Commissioner Barth. The motion passed unanimously.

#### **Conditional Use Permit #18-16 – Approved**



Commissioner Randall returned at 10:09 pm for the remainder of the planning commission meeting.

**Old Business**

None.

**New Business**

Scott Anderson encouraged the planning commissioners to attend a bus tour taking place on Tuesday, May 8, 10 am to 5 pm that will visit different facilities around the county. Mr. Anderson added that the adjacent landowner has filed an appeal in the Circuit Court on Rezoning #18-01 for the Hope Harbor PD Planned Development.

**Adjourn**

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Kostboth. The motion passed unanimously. The meeting was **adjourned** at 10:11 pm.