



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
January 28, 2019

A meeting of the Planning Commission was held on January 28, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

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

STAFF PRESENT:

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

Scott Anderson, County Planning Director, opened the special meeting at 7:03 p.m. to conduct the election of officers for 2019. Commissioner Barth made a motion to elect Bonnie Duffy as Chairperson and was seconded by Commissioner Ralston. The motion passed unanimously.

Commissioner Ode made a motion to elect Becky Randall as Vice-Chairperson and was seconded by Commissioner Barth. The motion passed unanimously.

A motion was made by Commissioner Barth to recess and seconded by Commissioner Ode for the Joint Minnehaha County and City of Dell Rapids Planning Commission meeting at 7:05 p.m.

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 9:09 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda. Items 4, 5, and 6 were requested to be moved to the regular agenda for discussion. Items 4, 5, and 6 were moved to the regular agenda.

A motion was made to **approve** the consent agenda consisting of Items 1, 2, and 3 by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously.

ITEM 1. Approval of Minutes – November 26, 2018

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** the meeting minutes from November 26, 2018. The motion passed unanimously.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #19-01 to exceed 3,600 square feet of total accessory building area – requesting 5,400 sq. ft. on the property legally described as Bollinger’s Tract 2 (Ex. Lot 1), N1/2, Section 29-T103N-R47W.

Petitioner: Jeff Lowe

Property Owner: same

Location: 48553 254th St. Located approximately 0.5 mile south of Garretson

Staff Report: David Heinold

General Information:

Legal Description – Bollinger’s Tract 2 (Ex. Lot 1), N1/2, Section 29-T103N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 16.53 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow 5,400 square feet of total accessory building area on a 16.53 acre parcel. The subject property is located in a subdivision of more than four lots, which requires a conditional use permit to exceed 3,600 square feet of total accessory building area on lots larger than 3 acres. The proposed 40’x72’ building will be located approximately 170 feet directly east of the existing house replacing a few structures.



The property to the east about a quarter mile at 48587 254th St. has 4,476 square feet of total accessory building area on 20.79 acres. The property directly to the east at 48577 254th St. has a 2,160 sq. ft. accessory building. The property, 48608 254th St., has approximately 2,664 sq. ft. of total accessory building area on 6.5 acres. Similarly, the property directly across the street to the south from the previous property at 48609 254th St. has 16,443 sq. ft. on 3 acres. It is important to note that this property was platted out of 80 acres of farmland, which likely caused the larger accessory building.



On January 14, 2019, staff visited the property and determined that the proposed accessory building size is appropriate for the surrounding area. There are a few other properties with comparable sizes to the 3,600 square feet total accessory building requirement in the zoning ordinance.

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.

There are several properties in the immediate vicinity with total accessory building sizes comparable to the petitioner's request. The use of the proposed building addition for personal storage of household items and property maintenance equipment should not negatively affect the use 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 subject property is located within a half mile of the current Garretson city limits boundary. The proposed placement of an accessory building should not negatively affect the normal and orderly development in the surrounding area. The future growth of surrounding vacant properties is determinant of the available building eligibilities and/or municipal annexation.

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 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 structure 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 #19-01 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 5,400 square feet.
- 2.) That a building permit is required prior to construction of the accessory structure.
- 3.) An inspection must be made of the proposed accessory structure to ensure that the total floor area of the structure does not exceed 5,400 square feet.
- 4.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #19-01 and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #19-01 – Approved



ITEM 3. CONDITIONAL USE PERMIT #19-04 to transfer one (1) building eligibility from the NW1/4 SE1/4 (Ex. Hartman's Addn.) to the SW1/4 SE1/4 (Ex. Hartman's Addn.); all in Section 8-T104N-R47W.

Petitioner: Darwin Veldkamp

Property Owner: Veldkamp Living Trust

Location: About a quarter mile west of the 486th Ave. & 246th St. Intersection

Located approximately 4.5 miles north of Sherman

Staff Report: David Heinold

General Information:

Legal Description – SE1/4 (Ex. Hartman's Addn.), Section 8-T104N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 139.16 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to transfer one (1) building eligibility from the NW1/4 SE1/4 (Ex. Hartman's Addn.) to the SW1/4 SE1/4 (Ex. Hartman's Addn.) in Section 8-T104N-R47W.

There is an existing cattle yard across the street to the south of the proposed transfer location, which appears to have no more than fifty cows shown on the aerial imagery.

On January 14, 2019, staff visited the site and determined that the proposed transfer of building eligibility would allow a single family dwelling to be built in the immediate area. There are no concentrated animal feeding operations within the surrounding area where the building eligibility will be located.

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 is 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. The proposed building site will be located on an existing farm area.

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 a few existing single family dwellings north and south of the proposed location for the dwelling.

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 driveway approach proposed to be installed with access to 246th St.

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 transfer of one 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 #19-04 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.
- 2.) That a driveway or culvert permit be obtained from Highland Township prior to the issuance of a building permit.

Action

As part of the consent agenda, a motion was made by Commissioner Barth to **approve** Conditional Use Permit #19-04 and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #19-04 – Approved



Regular Agenda

ITEM 4. CONDITIONAL USE PERMIT #19-05 to allow a Class C, Hog Concentrated Animal Feeding Operation (960 Animal Units) on the property legally described as SW1/4, Section 5-T101N-R51W.

Petitioner: Orrin Geide

Property Owner: same

Location: 46134 263rd St. Located approximately 3 miles southwest of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – SW1/4, Section 5-T101N-R51W

Present Zoning – A1-Agriculture

Existing Land Use – agricultural land and farmstead

Parcel Size – 160 acres (location site to be platted as approximately 5 acres)

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 3 miles southwest of Hartford. The petitioner would like to construct a 2,400 head swine-finishing concentrated animal feeding operation (CAFO) southwest of the existing farmstead at 46134 263rd Street. The location of the barn is planned and depicted on the provided site plan and narrative to be platted separately and operated as a separate entity from the existing farm. The petitioner currently lives on the farmstead.

The county zoning ordinance has several situations where a proposed CAFO would be required to obtain a general pollution control permit from the State DENR prior to the construction of the proposed facility. The first situation is regarding the size of the proposed CAFO. 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 planning commission should be aware that the proposed Class C CAFO would be located adjacent to an existing farmstead which already contains a small CAFO for beef cattle and buffalo. Staff has been informed that the current operation does not contain more than 250 animal units (a Class D CAFO). Aerial photography and the staff site visit supports that the operation does not exceed a Class D operation. The zoning ordinance requires that a Class C CAFO must obtain a State permit if a Class C CAFO is located within 1,320 feet from another Class C CAFO. The petitioner should be aware that any expansion of the existing cattle and buffalo feeding operation above 250 animal units would require a new conditional use permit from Minnehaha County and a general pollution control permit from the DENR. The planning commission may require that a state permit is obtained if it is determined to be needed. The facility will have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance.



The site plan is a requirement and 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 site plan generated though Google Earth. 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. The legal description of the property if available on the application for the CAFO.

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

The scale and north arrow. The site plan drawn with Google Earth includes a north arrow and graphic scale.

All existing and proposed buildings or additions. The site shows the proposed building in relation to existing farmstead buildings through areal imagery. The site plan includes one proposed barn located to the southwest of the farmstead. The proposed building will be the only one on a future platted parcel which will be approximately 5 acres in area.

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 on the proposed development 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 145 feet from the front and side yard property lines. The rear property line, north of the proposed building, is approximately 110 feet from the proposed barn. These setbacks meet or exceed property line setback for Minnehaha County's ordinance.

Building height and number of stories. The provided narrative includes that the building will be one story and be 18 feet in height.

Dimensions of all property lines. The current parcel is the entire SW ¼ of the section. The site plan highlights the area proposed to contain the barn. Dimensions of the proposed future platted lot have not yet been determined.

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 site will have an access from the township road 263rd Street. The site will be large enough to allow for parking, loading, 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 also references odor setback modeling as a reason to not need screening or trees. All neighboring structures are outside of the 97% nuisance free line of the odor model. The existing farmstead to the east does have an established shelter belt.

Name and location of all adjacent streets, alleys, waterways and other public places. The site plan shows 263rd Street and 461st Avenue. The nearest water source is an intermittent stream is located approximately ¼ mile 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 landscaping to 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 97% 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 would have water flow toward the farmstead and north.

The location and description of the animal waste facilities and structure. The submitted narrative 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. The submitted site plan indicates that the proposed barn is located outside of the required setback by 58 feet of a building used a church. The distance meets the requirements, but it leaves little room for error if construction shifts the building further west. The site appears to be generally flat and there is more space to the east to move the structure further away from the nearest church and residence structures if the need arises. Staff suggests that a more precise method of measurement is used to survey the location of the structure prior to construction. A record of this measurement or survey should be provided to the Planning Department. 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) 3, 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 and primarily 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 nearest structure to the proposed site is an outbuilding used as a church located west of the site. The church is located as accessory to the residential acreage use of the property. Other dwellings and another church is located east of the site and outside of any setback requirements. The petitioner's submitted documentation from the South Dakota Odor Management Tool shows that all neighboring residential dwellings and the neighboring churches are outside of the 97% 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. Staff found during a site visit that the neighboring structures are difficult to see from the road where the structure is planned.

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, scattered single family dwellings, farmsteads, and two churches. 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 a couple 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 a new driveway will have to be installed. The petitioner will have to acquire a driveway permit from the township 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 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 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 #19-05 with the following conditions:

- 1.) The facility shall be limited to swine confinement of 960 animal units in size.
- 2.) The land must be platted as a separate property prior to the issuance of a building permit. As a separate property a separate address and address sign must be obtained.
- 3.) The facility shall conform to the submitted site plans. Any minor changes, such as the shape of the building, 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.) A surveyor or engineer must confirm that the placement of the barn will meet the minimum separation requirements from the nearest church or residence.
- 5.) 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.
- 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 CAFO shall comply with all applicable regulations of the County Zoning Ordinance.

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, presented a summary of the staff report and recommendation for Conditional Use Permit #19-05.

Commissioner Mohrhauser asked if there was a signed waiver for the resident.

Orrin Geide, 46134 263rd St., identified himself as the petitioner and asked for questions.

Commissioner Barth asked the petitioner if the pipeline goes through his property and Mr. Geide mentioned that the pipeline is located just to the east.

Paul Kostboth, 101 N. Main Ave., identified himself as the owner of A-1 Development Solutions and mentioned that he assisted Orrin Geide with the conditional use permit application and the proposed site of the operation. Mr. Kostboth mentioned that the same type of hog barn was approved just east of Garretson and along west South Dakota Highway 42.

Larry Fossum, 46089 263rd St., identified himself as the owner of the house to the west and mentioned concerns about the view. Mr. Fossum would like to see an additional condition for screening trees from the proposed operation. He continued to mention that he would like to make sure the standards are being met by the operator.

Bryan Albers, 26193 460th Ave., mentioned that he is a representative for Zion Lutheran Church and they would like to be made aware of spreading manure 48 hours prior to a wedding or a funeral from Orrin Geide.

Chris Enger, 47335 271st Ave., mentioned that he owns the farmland across the street to the south of the subject property. Mr. Enger explained that he has 6 building eligibilities on the 240 acres of land and that the proposed operation in close proximity would be a detriment to the auction sale of the property.

Steve Enger, 47335 271st Ave., identified himself as a co-owner of farmland across the street to the south of the subject property for 38 years. Mr. Enger mentioned concerns over the reason for the proposed hog concentrated animal feeding operation at this time. He continued to explain that they have concerns about the resale potential of the property if the use is approved.

Bryan Albers, 26193 460th Ave., mentioned that construction of the proposed swine operation would not have a negative effect on the sale of the land auction.



Commissioner Duffy asked the petitioner if he is okay with notifying the church before spreading manure.

Mr. Geide mentioned that he has no problem with letting the church know in advance of spreading manure.

Commissioner questioned if the planning commission should add landscaping as a condition.

Mr. Hoekman explained that a condition can be placed on the permit depending on the particular site conditions and application request.

Commissioner Barth asked how far the barn is from the property line and Mr. Hoekman mentioned that it is about 150 feet from the property line.

Larry Fossum, 46089 263rd St., mentioned that he would rather have trees around all sides of the proposed facility for screening the view of the building.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Discussion

Commissioner Barth mentioned that he is not sure if it is necessary to add a condition for screening.

Commissioner Ode concurred with Commissioner Barth.

Action

A motion was made to **approve** Conditional Use Permit #19-05 with the staff recommended conditions by Commissioner Barth and seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #19-05 - Approved



ITEM 5. CONDITIONAL USE PERMIT #19-07 to allow a Class C, Beef Concentrated Animal Feeding Operation (999 Animal Units) on the property legally described as NW1/4 Lying South and West of Railroad Including Tract 2 Johnson’s Addn. (Ex. Tract 1A Johnson’s Addn. & Ex. Benson’s Addn. & Ex. H-1), Section 20-T103N-R50W.

Petitioner: Jamen Benson

Property Owner: same

Location: 25330 467th Ave. Located approximately 0.5 mile south of unincorporated Lyons

Staff Report: David Heinold

General Information:

Legal Description – NW1/4 Lying South and West of Railroad Including Tract 2 Johnson’s Addn. (Ex. Tract 1A Johnson’s Addn. & Ex. Benson’s Addn. & Ex. H-1), Section 20-T103N-R50W.

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 87.91 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting conditional use permit approval to allow a Class C, Beef Concentrated Animal Feeding Operation (999 Animal Units). The property is located about a half mile to the south of unincorporated Lyons. The petitioner currently owns and operates an existing cattle lot on the subject property, which appears to be about 100 animal units. A 68’x252’ monoslope roof building with a 12 foot deep concrete containment pit below will be constructed to house the cattle. The proposed building will be located directly south of the existing cattle yard and new holding pond. The site plan does indicate a potential second building as well. All buildings wider than 60 feet require structural engineering for the building and foundation to be reviewed by the Building Inspector.

The applicant plans to maintain the existing work area and two of the cattle lots on the property. The site itself is bounded by a railroad to the east and accessible to the County Highway west of the cattle lot.

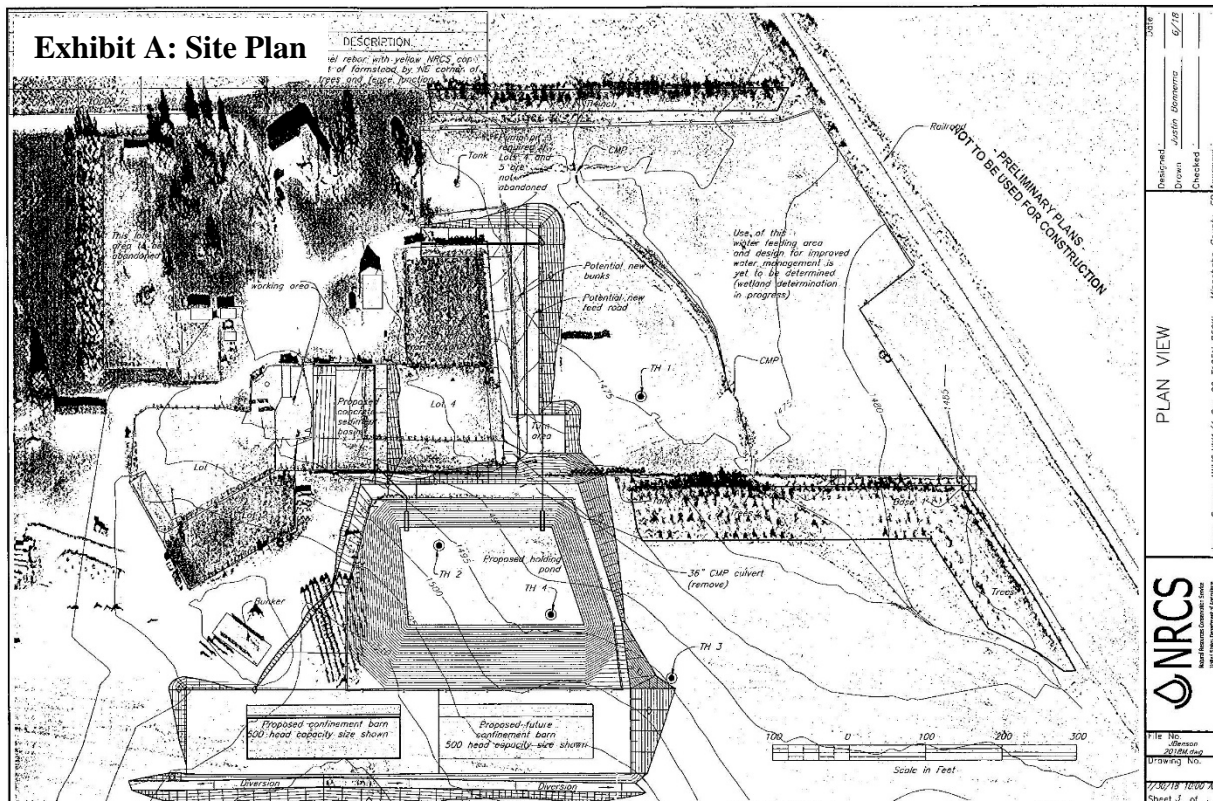
On January 14, 2019, staff met with the petitioner to verify the conditions of the site as well as the details submitted in the original application. The proposed site is appropriate for the surrounding area, which is primarily farm land.

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: *This operation feeds cattle to finish weights, along with calving cows in two pasture areas. There will be a maximum of 999 animal units on the property.*
- (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: My plan for dead animal disposal will be to conceal the carcass in a location until a rendering service is able to remove the carcass. This location will be somewhat hidden on the property so as it is not causing a nuisance in the community.

- (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: The Waste Management System is designed to contain waste and wastewater runoff from 400 head of cattle with 925 lb average weights kept in open lots 365 days per year. A confinement barn with 500 head capacity is also planned for the site, which will be certified by a technical service provider in separate set of plans and specification. The holding pond is designed to contain the runoff from the lots and contributing drainage areas and to contain the rainfall falling on the pond surface through less evaporation. The water in the holding pond requires emptying in accordance with the Nutrient Management Plan by traveling gun, hose, or small-sized pivot system. See Attached Waste Management System and Nutrient Management Plan for complete details.

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

Applicant Response: See Attached Waivers. The applicant has obtained all of the required waivers for land use setback reduction.

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: It is not considered likely to be required at this time, but may be in the future if the second pit barn shown is constructed.*

(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 of the minimum environmental separation requirements will be met for the proposed operation.



- (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. Applicant Response: *See Attached Map, Minimum Separation Criteria. All of the required setbacks will be met by the siting of a concentrated animal feeding operation. The minimum setback distance from the proposed Class C, Beef CAFO is 1,320 feet, or 1/4 mile, from a residence. The closest residence is about 1,296 feet away from the north edge of the existing shelterbelt of trees, which the applicant plans to plant additional rows of trees. The Zoning Ordinance allows a fifty percent reduction in setback distances if appropriate landscaping is completed and the waivers are obtained from residential property owners. The property owner at 46722 253rd St. has signed and returned the waiver included in the packet. Additionally, there is a residential property a little over a quarter mile away from the proposed site.*

(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: *The applicant has included 529 acres in the Nutrient Management Plan for incorporation of the manure from the proposed beef concentrated animal feeding operation. The applicant meets the required minimum separation requirements for application of manure.*
- (2). Liquid Manure Application. Applicant Response: *The Nutrient Management Plan shows that the operator will have approximately 52,954 lbs of liquid manure available for application twice annually by injection on fields listed in the report.*
- (3). Other Than Liquid Manure Application. Applicant Response: *The Nutrient Management Plan shows that the operator will have approximately 5,416 lbs of solid manure available for application twice annually by broadcast with partial injection on fields.*

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 petitioner already owns and operates a small amount of cattle on the subject property. There should be little effect on the use and enjoyment of other property in the immediate vicinity, which is mostly agricultural cropland. The addition of cattle barn for agricultural use should not negatively affect property values 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 surrounding area is primarily agricultural farmland with a few residential acreages and commercial businesses nearby in the unincorporated area of Lyons. The proposed construction and operation of a cattle feeding business should not affect the normal and orderly development of surrounding vacant property as agricultural farms. The number of available building eligibilities will determine the future residential growth of the surrounding area.

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 petitioner has supplied the necessary maps that show the access and drainage plan for the proposed beef concentrated animal feeding operation. The petitioner already is connected to all other utilities needed for the proposed feeding operation. The northern portion of the subject property is located within the Water Source Protection Overlay District; however, the petitioner does not indicate any animal confinement in these areas as shown on the attached site plan. It is important to note that this type of use is prohibited from locating within the Water Source Protection Overlay District.

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

The petitioner meets the required parking and loading regulations as a result of the size of the subject property for this type of use. No parking will be allowed in the highway right-of-way.

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 an existing cattle feedlot with some cows on this property. 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 applicant has a plan for dead animal disposal screened away from the public right-of-way.

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.

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:

Staff finds that the proposed use for a Class C, beef cattle concentrated animal feeding operation is consistent with the goals and actions of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-07 with the following conditions:

- 1.) The facility shall not exceed 999 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.) 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, be submitted to the Planning Department for review prior to issuance of a building permit.
- 6.) A building permit is required for all structures prior to construction.
- 7.) 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 Staff, presented a brief summary of the staff report and recommendation.

Jamen Benson, 25330 467th Ave., identified himself as the petitioner and asked the planning commission for any questions.

Laverne Boer, 601 E. 3rd St., mentioned concerns over the smell, close proximity to a town, the function of the holding pond, and drainage around the railroad.

Commissioner Barth explained that Lyons is not an incorporated town. Mr. Boer indicated that they are a village.

Commissioner Ode mentioned that he doesn't think there will be a problem because the animals will be in a covered building with a deep pit manure storage system and no runoff from the proposed facility.

Andy Karssen, 48316 258th St., mentioned that he wrote the Nutrient Management Plan for Jamen Benson and explained that he has enough land to spread manure from the proposed beef cattle concentrated animal feeding operation. Mr. Benson explained on the overhead map where the manure will be spread.

Commissioner Barth asked if the petitioner plans to inject in the fall and summer. Mr. Benson explained that the may inject the manure twice per year.

Commissioner Ode asked the petitioner how many gallons per acre of manure storage there will be on site. Mr. Benson mentioned that it would be about 3,000 to 4,000 gallons per acre.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Action

A motion was made to **approve** Conditional Use Permit #19-07 with the staff recommended conditions by Commissioner VanDerVliet and seconded by Commissioner Ralston. The motion passed unanimously.

Conditional Use Permit #19-07 - Approved



ITEM 6. CONDITIONAL USE PERMIT #19-08 to amend Conditional Use Permit #08-78 on the property legally described as E1/2 of NE1/4, except Tract 1 and except North 8 Rods of the East 20 Rods and the E1/2 of SE1/4, Section 7-T101N-R50W.

Petitioner: Friessen Construction Co., Inc.

Property Owner: same

Location: 26335 467th Ave. Located approximately 3.5 miles west of Sioux Falls

Staff Report: Scott Anderson

General Information:

Legal Description – E1/2 of NE1/4, except Tract 1 and except North 8 Rods of the East 20 Rods and the E1/2 of SE1/4, Section 7-T101N-R50W

Present Zoning – A1 Agriculture

Existing Land Use – mining and pasture

Parcel Size – 40 acres

Staff Report: Scott Anderson

Staff Analysis: On January 26, 2009, the Planning Commission approved of Conditional Use Permit #08-78 to allow rock, sand and gravel extraction with the following conditions:

1. An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
2. There shall be no fuel storage allowed in areas designated as a ground water protection area or flood plain.
3. Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
4. That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
5. That prior to any sand or gravel extraction, the applicant shall obtain a Haul Road Agreement from Wayne Township for the use of 467th Avenue. All truck traffic is to be directed north onto 467th Avenue when leaving the extraction site.
6. The portion of 467th Avenue being used as the haul road shall be hard surfaced with a minimum of a 6 inch granular base course and a 2 inch thickness of asphalt or a 7 inch thickness of Portland cement concrete.
7. The ambient air quality standards for total suspended particulate matter shall be 150



micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.

8. The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator's expense.
9. The sound level from on-site operations shall not exceed an average of 55 decibels recorded over a 10 minute period measured at the nearest residence.
10. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
11. The boundaries of the extraction area shall conform to the site plan submitted with the application.
12. Topsoil shall remain on the site and be used in final reclamation.
13. Only clean fill shall be used as backfill.
14. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
15. A gate shall be required at the haul road entrance to the property.
16. That a review of Conditional Use Permit #08-78 shall be presented to the Planning Commission in January 2020.
17. That if one (1) or more acres of area is disturbed the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
18. That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$5,000.00.
19. The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC32-03, when working in the 100 year floodplain and/or floodway.
20. The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
21. That no mining activity shall be allowed in the area north of Skunk Creek.



22. That the applicant obtains a waiver from the property owners of 46697 263rd Street or remains at least 1,000 feet from the property lines of the old school house lot.

The applicant is requesting three (3) amendments to Conditional Use Permit #08-78. Specifically, conditions 16, 21 and 22. The applicant would like to have access and mine the material located north of Skunk Creek and to use this amendment to count as the review which was scheduled to occur next year.

Mining in conjunction with Conditional Use Permit #08-78 has been on going for nearly ten (10) years. During that time, no one has resided at 46697 263rd Street. The property has been used primarily as a garden site with some personal storage.

Staff can support the amendment, as the mining can occur there and be completely reclaimed within 3-5 years. The sand and gravel and other material is significantly important to the local economy and these types of mineral deposits are not widely located in the county. The applicant has provided a site plan indicating that a berm/buffer strip would be installed along the entire southern boundary of the adjacent property. The buffer strip will aid in mitigating the nearby mining activity. The Zoning Ordinance indicates that a 1000 foot buffer strip should be maintained between an existing residence and the mining activity unless a waiver has been obtained. This is not a requirement as indicated by the word “should”. The applicant has been unable to obtain a waiver. The old school house located at 46697 263rd Street has not been used for a residence for at least the past 10 years.

The applicant has provided a narrative and site plan. Both are included for the Planning Commission’s review. The approval of the CUP #08-78 occurred 10 years ago. During that period, staff has not had any issues arise in conjunction with the operation of the site. A review was scheduled to be heard next year, however, staff feels that now would suffice for a review and report to the Planning Commission. All other conditions approved in conjunction with Conditional Use Permit #08-78 shall stay in place.

Recommendation: Staff recommends approval of Conditional Use Permit amendment #19-08, removing conditions #21 and 22, satisfying condition #16, and recommends approval of the following conditions:

That at least a 50’ wide berm be constructed along the south property boundary of 46697 263rd Street and maintained during the time material is extracted in the area north of Skunk Creek.



Public Testimony

Scott Anderson, County Planning Director, presented a brief summary of the staff report and recommendation. Mr. Anderson explained that condition #6 should be changed to “That dust control shall be applied to the portion of 467th Avenue being used as the haul road.”

Commissioner Mohrhauser asked how many acres the proposed use would encompass.

Cindy Monnin, 615 Marion Rd., displayed a powerpoint slideshow of pictures taken at the site on the overhead projector. Mrs. Monnin explained that the proposed site is about 8 acres.

Tom McCoy, 46697 263rd St., identified himself as the owner of property that plans to build house and doesn't want dust in the air from the proposed use.

Commissioner Barth asked Mr. McCoy when he will decide to build a house on the property and he indicated sometime next week.

Cindy Monnin explained that she made some calculations on the amount of space there would be on the adjacent property after the required front and rear yard setbacks for a house.

Commissioner Barth asked about the reclamation plan for the site.

Commissioner Duffy called for public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.

Action

A motion was made to **approve** Conditional Use Permit #19-08 with the staff recommended conditions by Commissioner Ode and seconded by Commissioner VanDerVliet. The motion passed unanimously.

Conditional Use Permit #19-08 - Approved



MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES

January 28, 2019

Old Business

None.

New Business

Scott Anderson, County Planning Director, presented a few updates regarding the sign ordinance.

Adjourn

A motion was made to **adjourn** by Commissioner Mohrhauser and seconded by Commissioner Ode. The motion passed unanimously.

The meeting was **adjourned** at 10:32 pm.