



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
June 24, 2024**

A meeting of the Planning Commission was held on June 24, 2024 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet and Joe Kippley.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Maggie Gillespie – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 8:10 p.m.

PUBLIC COMMENT.

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

Consent Agenda

Commissioner Duffy read each item on the consent agenda and no items were requested to be moved to the regular agenda.

A motion was made to **approve** the consent agenda consisting of Items 1 & 2 by Commissioner Ralston and seconded by Commissioner Mohrhauser. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – May 20, 2024

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Mohrhauser to **approve** the meeting minutes from May 20, 2024. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #24-27 to allow Temporary Firework Sales on the properties legally described as Lot 4 & N10' E125' Lot 5 Block 1 Corson Fauskes Addition & Lots 5 (Ex. E125') & Lot 6 Block 1 Corson Fauskes Addition & the E125' Lot 5 Block 1 Corson Fauskes Addition (Ex. N10') & the W51' E125' Lot 6 Block 1 Corson Fauskes Addition & the E74' (Including Lot PE1) Lot 6 Block 1 Corson Fauskes Addition all in Section 22 T102N-R48W Brandon Township.

Petitioner: Mike Denning

Property Owner: Troy Novak

Location: Located in the northwest corner of Hemlock Boulevard & SD Highway 11

Staff Report: Mason Steffen

General Information:

Legal Description – Lot 4 & N10' E125' Lot 5 Block 1 Corson Fauskes Addition & Lots 5 (Ex. E125') & Lot 6 Block 1 Corson Fauskes Addition & the E125' Lot 5 Block 1 Corson Fauskes Addition (Ex. N10') & the W51' E125' Lot 6 Block 1 Corson Fauskes Addition & the E74' (Including Lot PE1) Lot 6 Block 1 Corson Fauskes Addition all in Section 22 T102N-R48W Brandon Township

Present Zoning – C Commercial

Existing Land Use – Vacant Lots

Parcel Size – 1.63 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject properties are located within Corson in the northwest corner of Hemlock Boulevard and SD Highway 11. The properties are zoned commercial and are currently used as parking spaces for the other commercial uses to the north. The petitioner is requesting conditional use permit approval to operate a temporary fireworks stand within a tent on the properties. The petitioner has operated an existing fireworks tent at the interstate exit, a half-mile to the south of these properties, for several years and is requesting to temporarily use this site while the construction at the interstate exit takes place. Approval of this request would allow for annual nine-day retail sales of fireworks from June 27 to July 5. Staff would also like to note that the earliest this conditional use permit will be effective is July 2, 2024, and therefore no set up activities or firework sales may take place on the site until after this date.

On June 10, 2024 staff conducted a site visit of the subject properties and the surrounding area. The site plan indicates that fireworks will be sold from a tent located in the center of the parking area on the site. Additionally, there are several residential properties to the south of the properties, but the temporary increase in traffic and noise to the site should have a minimal impact compared to the existing state highway. Since the properties are currently used as a parking lot, the entire area surrounding the tent will be utilized as parking space. Finally, given the temporary nature of this request, and the fact that it is on property adjacent to a state highway, the proposed temporary fireworks stand should not overly impact development in the area.



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.

Due to the limited timeframe for the firework sales, the proposed use should not have a negative effect on the enjoyment or property values of property in the immediate vicinity. The hours of operation will be limited from 8:00 a.m. to 12:00 a.m., which is consistent with several other firework sale operations approved by conditional use permits.

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

The surrounding properties are a mix of commercial/industrial uses, as well as residential uses, and the temporary nature of the proposed use should not have an impact on future development in the area. Additionally, the property is adjacent to a state highway, so any temporary increase in traffic to this site should not overly impact the surrounding residences.

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

Access to the site will be provided from existing driveways off of Hemlock Boulevard and SD Highway 11. The site plan also shows that a portable restroom will be provided in the northwest portion of the properties, and that the shipping container for the fireworks will also be stored in this area. Finally, the temporary infrastructure that will be put in place on this property every year will be minimal, and therefore the drainage on the site should not be impacted.

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

There are no specific parking requirements outline in the zoning ordinance for this type of use. However, the general requirement for unspecified nonresidential uses in the ordinance is one parking space for every 300 square feet of building area, so the petitioner would be required to provide at least six off-street parking spaces. The current use of the properties is for parking and there will be ample space for temporary parking around the tent. No parking will be allowed within the public right-of-way 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.

The temporary use should not create odor, fumes, dust, or vibration. Lighting should be directed away from the highway to prevent glare. Additionally, any signage placed on the property for this use will need to meet the regulations in the zoning ordinance, in order to limit any safety concerns. Finally, any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property.

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

The proposal is for a temporary use adjacent to a state highway on land that is in close proximity to other commercial/industrial uses. Therefore, the proposed temporary fireworks stand should not have a negative impact on the general welfare of the public, and will not conflict with the 2035 Envision Comprehensive Plan. Finally, the petitioner has operated an existing fireworks stand in this general area for many years without issues or complaints.



Recommendation: Staff recommends **approval** of Conditional Use Permit #24-27 with the following conditions:

- 1) The property shall adhere to the submitted site plan.
- 2) No outside storage shall be allowed at any time.
- 3) The retail sale of fireworks must abide by all applicable SD laws and regulations.
- 4) That the temporary retail sales of fireworks shall be allowed to operate annually between June 27th and July 5th.
- 5) That the business shall only be allowed to operate between the hours of 8:00 a.m. and 12:00 a.m. Set up and tear down activities outside of the nine-day sales period must take place between 8:00 a.m. and 8:00 p.m.
- 6) Temporary signage for the operation must meet the requirements of Article 16.00 of the Revised Zoning Ordinance for Minnehaha County.
- 7) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th.
- 8) That parking shall not be allowed within the public right-of-way of Hemlock Boulevard or SD Highway 11 at any time.
- 9) That all outdoor lighting shall be of a full-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 10) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand 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 the Minnehaha County Zoning Ordinance.

Action

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #24-27 with the staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #24-27 – Approved



Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #24-28 to expand the Class A, Dairy Concentrated Animal Feeding Operation on the property legally described as the NW¼ Section 10 T103N-R50W to include the property legally described as the S½ NE¼ (Ex. H-1 & Ex. S974' E389') Section 10 T103N-R50W all in Lyons Township.

Petitioner: Boadwine Farms Inc.

Land Owner: Same

Location: 46945 251st Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – S½ NE¼ (Ex. H-1 & Ex. S974' E389') Section 10 T103N-R50W

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 230.78 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The property owner is requesting to expand the existing Class A dairy operation located northeast of Lyons, SD. The CAFO has expanded several times over the years. This expansion request includes two main changes. A new calf barn will be placed on a new parcel of land that previously was not part of the CAFO permit. In addition, the requested animal unit count will increase from 8,200 animal units to 8,800 animal units. The most recent permit was approved in 2021 to expand the dairy to maximize utilization of methane digesters on the site.

The applicant submitted a detailed site plan and narrative for the expansion. The site plan includes the locations of all existing barns, structures, and waste management. It also includes the proposed locations of the calf barn on the 80 acre parcel to the east, a future addition to the calf barn on the south side of the site, and a future heifer barn is depicted directly north of the manure pond. The future calf barn addition and heifer barn do not encroach closer to any houses than the previous approved site plan.

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. Some of the required elements are found on other aspects of the application and narrative.

The address of the property and the legal description. The address of the expanding dairy CAFO is 46945 251st Street, as it is shown on the application. The legal description on the site plan provides the general area as the NW ¼ of Section 10 and now includes the S ½ NE ¼ of Section 10-103-50.



The name of the project and/or business. The dairy is called Boadwine Farms on the site plan. The project name is the 2024 Farm Map.

The scale and north arrow. The site plan includes a north arrow and a graphic scale.

All existing and proposed buildings or additions. The site plan includes an aerial photo as the background of the map. The aerial photo shows the locations of existing buildings, lagoons, and other parts of the CAFO operation. The proposed and future calf barns and heifer barn is also depicted in the site plan.

The dimensions of all buildings. The dimensions of the proposed and existing buildings are not listed on the site plan. But the buildings are set on the plan according to the scale provided.

The distance from all buildings to the property lines at the closest points. The distances to property lines are included on portions of the site plan. All proposed new structures will meet the required 50 feet setback from the property lines.

Building height and number of stories. The heights of the buildings are not included in the narrative or site plan. It is likely that animal feeding barns and other equipment 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 properties combined are approximately 230 acres in size. It would be difficult to scale the site plan and include the large dimensions of the property lines.

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 246th Street. 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 existing dairy is partially surrounded by tree grove screening on the south, west, and north sides. The north side also includes trees within the farmstead and a grove north of 251st Street. There are no plans for additional trees with this proposed expansion. Boadwine Farms does however, acquire the closest property to the east that includes a grove of trees for the dwelling.

Name and location of all adjacent streets, alleys, waterways and other public places. The nearest street is 251st Street, which serves as the primary entrance for the operation. There are no known public places around this facility. The only waterway mapped on the



property is an intermittent stream several hundred feet east of the proposed calf barn. It is not visible on the site plan.

A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens. The site plan does not have specific grading plan. All existing facilities drain into the existing wastewater ponds. The new animal barns will be enclosed to prevent runoff from manure outside of the barn. The ordinance requires manure to be stored on site of generation until spread for fertilizer. If manure is cleared from the proposed barns and stored on site, it must be placed in a location where drainage will not contaminate water.

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 location of all existing and proposed structures is shown on the provided site plan. The setbacks of the proposed structures are included and the structures will meet property line setbacks.

Setbacks and other requirements.

In relation to the site plan, the 8,800 animal unit operation will require a 3,960 foot buffer from a dwelling, church, or business. The property owner of a dwelling, church, or business may sign a waiver to reduce the required setback. The setback can also be reduced by half to 1,980 feet if trees are planted as designed by the Minnehaha Conservation District or a Professional Landscape Architect as required by the Zoning Ordinance. County planning staff prepared a map to indicate where nearby dwellings are located and the approximate distance between the dairy and the dwellings. Below is further description of the setbacks.

Several dwellings to the northwest are located within the 3,960 foot buffer, but are owned by the petitioner. In addition, there is a tree belt on the northwest side of the dairy that can reduce the required setbacks for the dwellings in the northwest. A couple dwellings to the south/southwest are located within the required buffer, but established tree belts are located between these dwellings and the dairy. Dwellings located to the northeast also meet ordinance requirements for setbacks.

Three dwellings almost directly east of the property are located within the required setbacks. This is also the direction where the expansion extends further east. Two of the dwellings to the east are owned by the petitioner. the third dwelling is located approximately 3,615 feet away from the proposed calf barn. In between this east dwelling and the CAFO is the recently acquired acreage site with many trees. These trees can be considered as part of the setback reducing requirements, staff suggests that maintaining these trees be included as a condition of approval of the expansion of the CAFO.

The County Zoning Ordinance requires setbacks from a CAFO to municipalities. The nearest municipality to the Boadwine Farms Dairy is Baltic. Baltic is a Second Class city with a population between 500 and 5,000. As a Second Class city, the dairy must meet 1.5 mile setback from the city limits. Staff finds that Baltic is approximately 3.5 miles east of the dairy, and the setback requirement is met.



Conditional Use Permit Criteria:

As part of any conditional use permit request, the Planning Commission is required to consider several 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 property is in an active agricultural area. There are several residential dwellings located around the dairy as described in the setbacks portion of this report. The dairy is already a large operation. The proposed expansion expands the footprint of the dairy by a small amount. In addition, the proposal is accompanied by new manure management with methane digestion. The methane digestion should aid in removing smells from the facility. The expansion should have minimal affect on the use and enjoyment on the surrounding area.

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

The property is within an active agricultural area and far away from any municipality. It is likely that agriculture will remain the predominant use into the future.

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

The petitioner will have to extend any necessary utilities for new structures. Drainage will not significantly be affected by the additional structures. The property is accessed through 251st Street which is a township gravel road. The dairy operation has helped with maintenance in the past and should continue to do so going forward.

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

The property is large enough to accommodate off street parking. No loading and unloading shall be allowed from the 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.

A Class A CAFO has the possibility of creating nuisances. The primary concerns are odor, fumes, and dust. The petitioner has maintained a large dairy operation on the property since 2000. Many tree belts have been planted to reduce wind for odor and dust. Manure from the dairy also travels through a methane digestion process that removes much of the odor causing smells from the facility. Animal operations are a normal part of agricultural land uses. A right to farm notice covenant should notice new dwellings that normal smells and dust is a common part of rural life.

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

The property is located within an Agricultural Production Area of the comprehensive plan. Typical uses listed within the comprehensive plan include larger-scale farms and related agricultural uses including feedlots, and livestock raising. The proposed use is also an expansion of an existing dairy where impacts will be minimal on neighboring properties.

It should be noted that the structure that is proposed for the calf barn is currently under construction. The petitioner is aware that this CUP request for expansion is required before the barn can be filled



with animals. If the expansion request is denied, the petitioner plans to use the structure for machinery storage as allowed within the A1 Zoning District.

Recommendation: Staff recommends **approval** of Conditional Use Permit #24-28 to expand Conditional Use Permit #21-18 with the following amended conditions:

- 1.) The facility shall be limited to 8,800 animal units in size.
- 2.) The entire facility, including existing and future expansion shall be fully permitted by the state of South Dakota, and it shall remain in good standing.
- 3.) Copies of the state-approved nutrient management plans shall be available upon request by the Minnehaha County Planning Department.
- 4.) The facility shall comply with all of the best management practices that were listed within the submitted narrative that was received for CUP #21-18 with the application and listed in the staff report.
- 5.) The shelter belt trees located at 25137 470th Avenue must remain at the property or be replaced as required by the zoning ordinance.
- 6.) 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 & Discussion

Kevin Hoekman, of county planning staff, explained the staff report and recommendation to the commission.

The petitioner, Lynn Boadwine of 4009 W 49th Street Suite 308, Sioux Falls, SD, was present and available for questions from the commission.

Commissioner Kippley stated that he recently toured this operation and that he appreciates the operation Mr. Boadwine has built. Commissioner Kippley then asked the petitioner about the methane digesters on the site and if this request will impact them. Mr. Boadwine explained that the methane digesters are almost at full capacity, and that the proposed expansion will not add much to the digesters. He further explained that other locations on the property for the proposed new barn were low in elevation, and the proposed location made the most sense next to the existing calf barn. Finally, he stated that most of the new animals requested will be small calves between 200 and 450 pounds, so the amount of manure added will be minimal.

Commissioner Ralston commented that the fact that no neighbors were in attendance to speak against the operation shows the petitioner's commitment to the surrounding area.

Action

A motion was made by Commissioner Ralston and seconded by Commissioner VanDerVliet to **approve** Conditional Use Permit #24-28 with the staff recommended conditions. The motion passed with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #24-28 – Approved



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

JUNE 24, 2024

Old Business

None.

New Business

Mason Steffen & Kevin Hoekman, from county planning staff, provided an update on the ongoing updates to the 2035 Envision Comprehensive Plan. They presented the updates to the rural conservation and growth management chapters of the comprehensive plan, and provided the commission with preliminary information from the density zoning taskforce meetings. This included the potential of adding accessory dwelling units into the zoning ordinance, adopting minimum standards for residential rezonings, and changing the requirements for building eligibility transfers. After the presentation, the commission and staff discussed the timeline for the rest of the comprehensive plan update, and when and where to set up meetings with the public to obtain the most public input on the plan changes.

Adjourn

A motion was made to **adjourn** by Commissioner Ralston and seconded by Commissioner VanDerVliet. The motion was approved unanimously. The meeting was adjourned at 8:46 p.m.