



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
March 28, 2022**

A meeting of the Planning Commission was held on March 28th, 2022 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, Doug Ode, Ryan VanDerVliet, Mike Ralston, and Jeff Barth.

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 7:35 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 Item 5 was requested to be moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 4, 6, 7, 8, & 9 by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

ITEM 2. Approval of Minutes – February 28th, 2022

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** the meeting minutes from February 28th, 2022. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #22-17 to transfer one (1) building eligibility from the E½ NE¼ & S155' E310' S½ NW¼ NE¼ & E310' N665' N½ SW¼ NE¼ (Ex. Tract 1 Hansen's Addition) to the W½ NE¼ (Ex. S155' E310' S½ NW¼ NE¼ & Ex. E310' N665' N½ SW¼ NE¼ & Ex. Tract 1 Hansen's Addition) all in Section 7 T104N-R49W Dell Rapids Township.

Petitioner: Joseph Wolles

Property Owner: Same

Location: Along 245th Street, approximately 1 mile west of Dell Rapids

Staff Report: Scott Anderson

General Information:

Legal Description – W½ NE¼ (Ex. S155' E310' S½ NW¼ NE¼ & Ex. E310' N665' N½ SW¼ NE¼ & Ex. Tract 1 Hansen's Addition) Section 7 T104N-R49W Dell Rapids Township

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 80.58 Acres

Staff Report: Scott Anderson

Staff Analysis:

The property is located approximately 1 mile west of Dell Rapids along 245th Street. The applicant is requesting to move a building eligibility to the northwest. The transfer would be from the SE¼ NE¼ to the NW¼ NE¼. The area in which the building eligibility is now located is used as cropland. The move would locate the building eligibility near other existing residences.

On March 10, 2022, staff conducted a site visit. There is an existing large residential subdivision located approximately 1 mile to the southeast. There are four (4) existing residences located in the general area in which the building eligibility will be move to.

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.

There are four (4) existing residences located near of the proposed site. A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

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

The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Dell Rapids Township. The siting of a building eligibility



in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibility. It is likely that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. Dell Rapids Township will need to approve the location of any new driveways to be used for the new lot.

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

The 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 constitute a nuisance.

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

The proposed conditional use will have no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location will enhance the productivity of the rest of this quarter section and locate the building eligibility in closer proximity of similar uses.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #22-17 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 a single-family dwelling.
2. Approval from Dell Rapids Township must be obtained for the location of any new driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-17 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 3. CONDITIONAL USE PERMIT #22-18 to allow a Garden Center for the cultivation of trees on the property legally described as Lot 1 Tract 3 Morgan Country Addition NW¼ Section 27 T101-R48W Split Rock Township.

Petitioner: Andy Kolseth

Property Owner: Same

Location: Along Highway 42, approximately ¼-mile east of the Highway 11 intersection

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 1 Tract 3 Morgan Country Addition NW¼ Section 27 T101N-R48W Split Rock Township.

Present Zoning – A1 Agriculture

Existing Land Use – Agricultural Land

Parcel Size – 11.62 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This application is to allow a garden center on the property located approximately ¼ mile east of the SD Highway 11 and 42 intersection. The parcel contains many trees planted in rows for ongoing tree nursery business. The tree nursery once was a part of the garden center neighboring this parcel, but the neighboring parcel has since been rezoned to I1-Industrial. The petitioner would like to construct a storage/shop building with office space for continuing tree nursery operations on the site.

The location of this property is adjacent to an industrial zoned property, and access to the parcel currently must travel through the industrial development. Much of the property is already planted with rows of trees with the intent to use mechanical spading equipment to dig and transport trees to customers. The petitioner submitted a sketch of a building plan for the property. The building size is shown at 58 feet by 104 feet. The size of building is smaller than what is typically required to have engineering for non-industrial/commercial buildings. The building will be used to store equipment and for preparing trees for planting and sale, in addition to an office, bathroom and breakroom for employees.

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 property is surrounded by a mix of agriculturally used land, rural residences, and the industrial zoned development to the east of the site. The proposed building will be placed close to the industrial zoned property and will fit in with the neighboring use. Trees will be planted and removed throughout the property as has been done for many years. The addition of a building on the property may lead to an increase in activities on the property, but the activities will be similar to what is already taking place. The proposed use may lead to an increase in traffic through the access through the industrial zoned properties to the east.



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

This area already has some development of residential along SD highway 11 and the small industrial area to the east of this site. The Red Rock Corridor Plan indicates this area is favorable for future commercial development. Commercial development will not likely be affected by an active garden center, and the center may work well within a rural commercial center. SD Highway 42 will be making changes towards expansion of the highway in the area. Highway changes may impact accessibility of this and nearby properties.

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

The change in use of this property will result in a permanent building on the property. Access is currently through the driveway of the industrial development to the east. Drainage on the site will not be significantly impacted. The petitioner will be responsible for extending any necessary utilities to the building. In addition, the bathroom will be required to have a commercial septic system as required by the County Building Inspector.

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

The property is large enough to accommodate off street parking and loading. Since it is not zoned commercial and the driveway is not accessed directly from the highway, paving will not be required for the garden center.

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 use of the property will largely stay the same as it is currently being used. The proposed building will be setback hundreds of feet from the nearest residence. The long setback should reduce any potential increase in nuisance on the site. Lighting on the sight should be cutoff and directed down to prevent glare onto other properties.

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

The proposed use is largely similar to the existing use with the addition of a permanent structure. Large structures are common throughout the agricultural area of the county and common in places such as the adjacent industrial zoned property. The property should obtain an address and address sign from the county for emergency purposes.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-18 with the following conditions:

- 1). A building permit is required prior to the start of construction.
- 2). An address must be assigned to the property and an address sign placed at the driveway prior to final occupancy of the building.
- 3). All outdoor lighting must be shielded and cutoff to prevent glare on neighboring properties.



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As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-18 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 4. CONDITIONAL USE PERMIT #22-19 to exceed 3,600 square feet of accessory building space (requesting 3,950 square feet) on the property legally described as the Tract A-1 Swartz's Addition NE¼ Section 28 T103N-R49W Sverdrup Township.

Petitioner: Douglas Swartz

Property Owner: Same

Location: 47485 254th Street, southwest corner of Midway Corner

Staff Report: Mason Steffen

General Information:

Legal Description – Tract A-1 Swartz's Addition NE¼ Section 28 T103-R49W Sverdrup Township.

Present Zoning – RC Recreation/Conservation

Existing Land Use – Residential Acreage

Parcel Size – 3.50 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 3,950 square feet of accessory building area on the subject property. Currently, the property has one detached accessory building, a 30'x 46' shed. The proposed new accessory building will be a 40'x 64' building that will be located to the southwest of the existing dwelling on the property. Additionally, a portion of the west edge of this property is located within the 100-year floodplain on both the current and future FEMA Flood Maps. However, the proposed location of the accessory building will not be located in either the current or future 100-year floodplain.

On March 11th, 2022, staff conducted a site visit of the proposed site for accessory building. The subject property is located across State Highway 115 from the Midway Corner Gas Station and Raven Industries. Most of the area surrounding the subject property is agricultural in use, along with a few residential acreages and the above described commercial uses. The proposed size of the accessory building will generally fit with the other approved uses in the immediate vicinity, as well as any future residential or commercial development.

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 should not be any anticipated negative effects upon the use and enjoyment of the surrounding properties. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

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

The proposed site of the accessory building is located in an area with limited residential uses, and the other approved uses in the area tend to have larger structures. There should not be any impact on



the normal and orderly development and improvement of the surrounding vacant land, due to the construction of a personal accessory building.

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

The petitioner will be required to extend all the necessary utilities to the structure. The accessory building will be accessed by the same driveway as the residence on the property, so there will not be a need for another access point off of the county highway. Finally, the addition of another accessory building on the property should not negatively impact the drainage in the area, the building is not located within the 100-year floodplain.

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

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new accessory building will also add additional off-street parking and indoor storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will fit within the uses of other properties in the rural area. Finally, the property is located with a Rural Service Area, as designated in the 2035 Envision Comprehensive Plan, and the proposed personal use of this accessory building will not impact any future development of this Rural Service Area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-19 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 3,950 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal 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 fully-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.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full



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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 Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-19 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 6. CONDITIONAL USE PERMIT #22-21 to exceed 1,600 square feet of accessory building space (requesting 2,190 square feet) on the property legally described as Tract 1 (Ex. Lot H1) Haak's Tracts SW¼ NW¼ Section 22 T101N-R48W Split Rock Township.

Petitioner: Derek Kattenberg

Property Owner: Same

Location: 48102 Spring Valley Place, approximately 1 mile east of Sioux Falls

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 (Ex. Lot H1) Haak's Tracts SW¼ NW¼ Section 22 T101N-R48W Split Rock Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – .94 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow 2,190 square feet of total accessory building area on the subject property. This property has had a 30'x 48' detached garage since 1994. Over the last year, the petitioner built a 17.5'x 48' lean-to addition onto the east side of this shed. This work was done without first obtaining a building permit, and the County Building Inspector brought this violation to our attention. When the petitioner came to the Planning Office to obtain a building permit, it was determined that the new addition to the shed put them over their allotted amount of accessory building space, which is 1,600 square feet. It was also determined that this addition did not meet the required 30-foot front yard setback, and that in order to meet this setback the petitioner would need to remove a portion of the new addition. After much discussion with the petitioner, it was determined that they would remove the front 6 feet of the addition, which would give them a front yard setback of approximately 31 feet. Finally, this means that the final dimensions for the lean-to addition will be 17.5'x 42', making the total accessory building square footage on the property 2,190.

On March 11th, 2022, staff conducted a site visit of the subject property and the surrounding area. The property is located within a 5-lot subdivision along State Highway 11 with another subdivision located on the other side of the highway. Most of the residential acreages in the surrounding area are similar in size to the subject property, and the remaining properties in the area are used for agriculture. Additionally, one of the lots in the subdivision across the highway, was approved in 2015 for 3,024 square feet of accessory building area on a 1.84-acre lot. In the future, the area surrounding the property will continue to see an increase in residential development, and the accessory building and lean-to addition on the property will be generally compatible with the future land uses 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.

There should be no anticipated negative effects upon the use and enjoyment of the surrounding residential properties, as long as the required setback is met. Property values in the area should also not be negatively impacted due to the continued personal use of the accessory building and lean-to addition.

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

The site of the accessory building is located in an area with several similar residential acreages and cropland. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland and residential acreages. The size of the accessory building is generally compatible with other residential properties in the area.

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

The accessory building and addition will continue to be accessed by the current driveways onto the property. The addition of a lean-to onto an existing accessory building should not have any negative effects on drainage in the surrounding area. Finally, the petitioner will need to extend any other required utilities to the structure.

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

The site of the accessory building and lean-to addition is large enough to accommodate the off-street parking requirement. The new lean-to addition will also add additional off-street parking and indoor storage to the 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.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

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

The health, safety, and general welfare of the public will not be negatively affected by the construction of the addition to the accessory building. The proposed use will fit within the uses of other properties in the rural area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-21 with the following conditions:

- 1) The building location shall adhere to the submitted site plan, and the required 30-foot front yard setback must be maintained.



- 2) The total area of all accessory buildings may not exceed 2,190 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal 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 fully-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is still required for the addition to the accessory building, and that approval of this permit does not waive the requirement of obtaining a building permit.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building 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 Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-21 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 7. CONDITIONAL USE PERMIT #22-22 to transfer three (3) building eligibilities from Lots 1 & 2 (Ex. N1215' E528' Lot 2 & Ex. Tract 1 Johnson's Addition Govt. Lot 2) to the N½ NE¼ all in Section 34 T102N-R47W Red Rock Township.

Petitioner: Isaac Crawford

Property Owner: Clair Crawford

Location: Along 261st Street, ½-mile west of the South Dakota/Minnesota border

Staff Report: Scott Anderson

General Information:

Legal Description – Lots 1 & 2 (Ex. N1215' E528' Lot 2 & Ex. Tract 1 Johnson's Addition Govt. Lot 2) Section 34 T102N-R47W Red Rock Township.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 122 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 1 mile north of Valley Springs along 261st Street. The applicant is requesting to move three building eligibilities to the north and locate them along 261st Street. The transfer would be from the NW, SE and SW¼'s of the NE¼ to the NE¼ NE¼. The area in which the building eligibility is now located is used as cropland. The move would locate the building eligibility near other existing residences. The applicant indicated that they want to move the eligibilities into dryer areas.

On March 11, 2022, staff conducted a site visit. There is an existing large residential subdivision located approximately 1 mile to the southeast. There are four (4) existing residences located in the general area in which the building eligibility will be move to.

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.

There are four (4) existing residences located near of the proposed site. A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

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

The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Red Rock Township. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.



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

No other extra utilities or services will be required for this site to utilize the building eligibility. It is likely that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. Red Rock Township will need to approve the location of any new driveways to be used for the new lot.

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

The 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 constitute a nuisance.

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

The proposed conditional use will have no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location will enhance the productivity of the rest of this quarter section and locate the building eligibility in closer proximity of similar uses.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #22-22 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 a single-family dwelling.
2. Approval from Red Rock Township must be obtained for the location of any new driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Barthand seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-22 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 8. CONDITIONAL USE PERMIT #22-25 to transfer one (1) building eligibility from SE $\frac{1}{4}$ SW $\frac{1}{4}$ to the SW $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 36 T104N-R49W Dell Rapids Township.

Petitioner: Michael Siemonsma

Land Owner: Same

Location: Approximately 3 miles east of Baltic

Staff Report: Scott Anderson

General Information:

Legal Description – SW $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 36 T104N-R49W Dell Rapids Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 163.66 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 3 miles east of Baltic near the intersection of 477th Avenue and County Highway 114. The applicant is requesting to move one building eligibility to the west and locate it near the intersection, which is the SW $\frac{1}{4}$ SW $\frac{1}{4}$. The area in which the building eligibility is now located is used as cropland. The move would locate the building eligibility near other existing residences.

On March 11, 2022, staff conducted a site visit. There are many residences located within 1 miles of the proposed location of the transfer. This area is desirable for development, as it is close to Baltic, SD Highway 115 and located next to a County Highway.

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.

There are many residences located near of the proposed site. A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

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

The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the Dell Rapids Township. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

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

No other extra utilities or services will be required for this site to utilize the building eligibility. It is



likely that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. Dell Rapids Township will need to approve the location of any new driveways to be used for the new lot.

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

The 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 constitute a nuisance.

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

The proposed conditional use will have no effect on the health, safety and general welfare of the public. Placing this building eligibility in this location will enhance the productivity of the rest of this quarter section and locate the building eligibility in closer proximity of similar uses.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #22-25 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 a single-family dwelling.
2. Approval from Dell Rapids Township must be obtained for the location of any new driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-25 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 9. CONDITIONAL USE PERMIT #22-27 to allow a Class C Hog Concentrated Animal Feeding Operation on the property legally described as the SW¹/₄ SE¹/₄ of Section 20 T104N-R48W Logan Township.

Petitioner: Nick Siemonsma

Land Owner: Kenneth & Marcia Siemonsma

Location: 47964 248th Street, approximately 4 miles southeast of Dell Rapids

Staff Report: Mason Steffen

General Information:

Legal Description – SW¹/₄ SE¹/₄ of Section 20 T104N-R48W Logan Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 40 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located approximately 4 miles southeast of Dell Rapids. The petitioner is requesting to operate a hog finishing barn with up to 999 animal units, which is the limit of a Class C CAFO. Currently on the property, there are several existing hog barns that were built between 1983 and 1998. If this request is approved, these structures would no longer contain any animals, and the new barn would house all of the animals on the property. Finally, since the proposed facility would be a Class C CAFO, it is not required to acquire a State General Permit from the SD Department of Environment And Natural Resources (DENR).

The petitioner submitted several items for review along with the permit request. These items included a narrative, a dead animal disposal plan, a nutrient/manure management plan, an odor model map, buildings plans, and a site plan. These documents were used to review the proposed hog 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. All submitted materials are used to review site plan elements including written narratives.

The address of the property and the legal description.

The location of the proposed CAFO will be within the parcel that is addressed as 47964 248th Street and has the following legal description:

SW¹/₄ SE¹/₄ Section 20 T104N-R48W Logan Township

The name of the project and/or business.

There was no project and/or business name listed within the submitted documents.



The scale and north arrow.

The submitted site plan and odor model map were prepared by Centrol Crop Consulting. A north arrow and graphic scale were included on both of these documents, and the top of both pages are oriented north.

All existing and proposed buildings or additions.

There are currently 3 existing buildings within the farmstead that were permitted to hold hogs. All of these buildings can be seen on submitted site plan, and these buildings will not be used for animal confinement if this request is approved. The proposed new confinement barn can also be found on the site plan, and this will be the only barn where hogs are located if this request is approved.

The dimensions of all buildings.

The dimensions for the current confinement buildings on the property are as follows: 24'x 120', 32'x 200', and 41'x 140'. The proposed new confinement barn would be a 101'x 192' structure that would be located in the NW corner of the farmstead.

The distance from all buildings to the property lines at the closest points.

The proposed barn will be the closest to the west property line, but will still be located approximately 200 feet from the property line. The barn will also be approximately 600 feet from the north property line, and approximately 400 feet from the south property line.

Building height and number of stories.

The provided site plan indicated that the building will be one story and have underground manure containment. Additionally, the proposed barn will be 101 feet wide, meaning the building plans for the barn must be certified by a registered engineer and reviewed by the County Building Inspector prior to the issuance of a building permit.

Dimensions of all property lines.

Since the subject property is the entire SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, the property lines do not have exact dimensions. However, since the property is a full 40 acres, all of the property lines are approximately $\frac{1}{4}$ -mile long.

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 residential acreage, which should be large enough to accommodate the parking requirements involved with the operation. Parking lots and space requirements are typically calculated for commercial and industrial uses. No parking or loading will be allowed within the right-of-way of 248th Street.

**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 petitioner did not submit a landscape or screening plan with the request. Since the



proposed location of the barn meets all of the required setbacks for a Class C CAFO, the petitioner is not required to supply any screening around the property. Finally, the existing trees on the farmstead will also help to screen the proposed barn.

Name and location of all adjacent streets, alleys, waterways and other public places.

The hog operation is located on 248th Street. The only waterway in the immediate area around the property, is an intermittent stream, which is located approximately 1,000 feet to the south of the proposed location for the barn. There are no known public places within the required setbacks for a Class C CAFO.

A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.

The animals will be housed within the confinement barn and the barn will have an underground pit for the manure. Both of these factors will minimize the likelihood that the manure will be affected by stormwater runoff. Finally, according to the contours on the property, the flow of water will generally flow to the southeast from the barn's location.

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 proposed new confinement barn will meet the required 50-foot setback from the property lines. None of the existing buildings on the property will be used as a confinement facility if this request is approved, but all of the current structures also meet the 50-foot setback from of the property lines.

Setbacks and other requirements.

In addition to the setbacks on the site plan, the Class C operation requires a 1,320-foot buffer from any dwellings, churches, and businesses. The closest dwelling to the property is located approximately 2,300 feet to the northwest. When measuring from the proposed barn location to the closest point on the neighboring dwelling's property line. Finally, there are not any known churches or businesses in the area surrounding the request.

The Minnehaha County Zoning Ordinance also requires setbacks from any CAFO's to municipalities. For this proposed CAFO, the closest municipality is Dell Rapids. Since the population of Dell Rapids is between 500 and 5,000 people, the required setback for a Class C CAFO is $\frac{3}{4}$ -mile, or 3,960 feet. The subject property for this request is located approximately 4 miles away from Dell Rapids.

Furthermore, the County Zoning Ordinance lists several situations when a State General Permit will be required for a new or expanding CAFO. One of the situations listed that requires a State General Permit, is when a Class C CAFO is proposed to be located with 1,320 feet from an operating permitted Class C CAFO or larger. For this CAFO, there are several permitted and/or operating CAFO's in the general area, including one owned by the petitioner for this request. However, the closest permitted and operating CAFO to this request is approximately 2,000 feet to the southeast. Therefore, the proposed CAFO is not required to obtain a State General Permit. Finally, the



Planning Commission may add the requirement to obtain a State General Permit if it is deemed necessary.

The manure produced at the facility is planned to be stored in a pit under the proposed confinement barn, which will screen the manure from the road and surrounding properties. Additionally, the manure will be pumped out of this containment facility once a year in the Fall, in order to spread it onto the petitioner's fields. The method of spreading the manure will be to inject and then cover the manure, so that there is not a loss of nutrients and to contain the odor. Finally, any deceased animals will be moved to a screened enclosure before the hired rendering service picks them up from the property.

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 immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The proposed CAFO is located within a predominantly agricultural area with a low density of existing residences. Almost all of the area surrounding the subject property is used for crops, and there are also several other CAFO's in the general vicinity. So, the addition of another hog CAFO in the area should have little effect on the use and enjoyment of the other properties in the immediate area

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 few residential dwellings and farmsteads. Agricultural uses such as crops and livestock will likely continue to be prominent into the future for the area. The proposed CAFO should not affect further agricultural development in the area, and will allow the petitioner to have easy access to manure in order to fertilize their land. Additionally, when intense land uses like CAFO's are permitted it may cause residential land uses to become less desirable within the surrounding area. However, animal production is a regular part of agricultural operations, so any future residential development will be required to have a right-to-farm notice covenant placed on the property prior to the construction of the residence.

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

The petitioner will need to extend the required utilities to the proposed barn, but the property already has driveway access onto 248th Street. Also, drainage on the site will be maintained with the exception of structures built to contain manure.

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

The operation is located on a lot that is large enough to meet the 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 to develop a CAFO facility. The 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. Staff finds that the separation distances between the CAFO and the current residences in the area is sufficient to reduce the concerns about odor, fumes, and dust.

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

The proposed 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.

Additionally, the proposed CAFO is located 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 this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #22-27 with the following conditions:

- 1) The entire property shall not exceed 999 animal units in size.
- 2) 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.
- 3) 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.
- 4) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 5) 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.
- 6) A building permit is required for all structures prior to construction.
- 7) The proposed barn shall have engineer certified drawings that shall be submitted for review by the County Building Inspector prior to the issuance of a building permit.
- 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.

Action

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ralston to **approve** Conditional Use Permit #22-27 with staff recommended conditions. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



Regular Agenda

ITEM 5. CONDITIONAL USE PERMIT #22-20 to allow Outdoor Industrial Storage on the property legally described as Tract 3 Harr's Addition SW¼ Section 30 T102N-R50W Benton Township.

Petitioner: White Buffalo Ridge, LLC.

Property Owner: Same

Location: Along 261st Street, approximately 1-mile southeast of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 3 Harr's Addition SW¼ Section 30-T102N-R50W Benton Township.

Present Zoning – I1 Light Industrial

Existing Land Use – Pasture

Parcel Size – 13.28 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This property came to the attention of the Planning and Zoning Department from a series of complaints from a nearby property owner. This property had items stored outside and visible from the right-of-way. The complaint likely started because many of the items stored on the property are in questionable condition and poorly organized. The property owner applied for a conditional use permit to allow outdoor storage after staff sent a notice of zoning violation.

Outdoor storage within an industrial zoning district requires a conditional use permit. This location is at the end of gravel road which serves other industrial uses and a gravel quarry. The neighboring property to the east is used as a residential acreage, but the acreage has a separate access onto SD Highway 38. The outdoor storage is clearly visible from the residential acreage and screening should be required for this use and for any future industrial use on the property.

The current location of outdoor storage is on the south side of the property composing approximately the south 250 feet. The site has two driveways onto 261st Street and the driveways and yard are topped with dirt and no noticeable gravel surfacing. This likely will cause issues with tracking mud and dirt onto the township road when conditions are wet.

Some of the site had topsoil stripped and a berm constructed along the east and north property lines. The east berm stops before it reaches this storage area and the neighboring dwelling. A berm or tree line would be useful in reducing sight lines from the residential dwelling to the storage area and to any future use on the property.



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.

Outdoor storage is a common part of land uses in this industrial development, however outdoor storage is usually a part of a larger business operations. A concrete casting company has a large outdoor storage area which has gravel surface area but no fence requirement. The neighboring property has outdoor storage as part of a mix of businesses including camper storage. The entire neighboring property is surrounded by fencing to screen visibility of the outdoor storage as required by the conditional use permit.

Screening would be beneficial for this property as the storage area is rather small and the nearby dwelling is very close. A screening fence should be required on the south side of the property and screening fence, berm, or trees should be placed on the east side between the property and the residential dwelling. With required screening, outdoor storage of equipment and materials should be expected as a common land use in a rural industrial development.

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

This is in a development which is actively developing. New buildings and plats have been a regular occurrence over the last few years. The petitioner has stated to staff that he hopes to develop this property in the future which will likely include other uses rather than only outdoor storage. Any required screening or berms will help future development on the site with screening and berms in place. Neighboring industrial properties will likely continue to develop since outdoor storage is a regular part of industrial property.

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

The outdoor storage portion of the property is accessed from the gravel road 261st Street. Some gravel aprons are in place on the two driveway access points, but the gravel does not extend throughout the site. Not having gravel on the site will likely lead to mud and dirt getting dragged onto the township road and weeds growing between items being stored on the site. A gravel surface should be required for a minimum of all driving areas on the site, and storage areas would benefit from a gravel storage area to reduce weeds and tall grass around items getting stored on the property.

Drainage will not be significantly affected because there will be no pavement or buildings on the property at this time. Storm water management should be a consideration for future development because of the properties large size and close proximity to Skunk Creek.

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

The site is large enough to accommodate off-street parking and loading. No on-street parking and loading should 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.



Outdoor storage of equipment and materials does not typically produce odor, fumes, dust, noise, vibration or lighting; however, there is some possibility of dust and noise being created by moving equipment on the site. A gravel surface will reduce dust on heavily used driving surfaces. Noise concerns will be limited as this site is not active full time. hours of operation may be added to reduce nuisance noise during sensitive times of the day.

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

The proposed use will not likely have a negative effect on the health, safety, or general welfare of the public. To reduce potential harm a condition can be added to prohibit chemical or petroleum products from being stored outside.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-20 with the following conditions:

- 1). Gravel must be used to cover all regular driving surfaces in accordance with Article 15.04 (B). of the zoning ordinance.
- 2). The applicant shall provide a 90% opaque screening fence along the south property line.
- 3). Two rows of evergreen trees must be planted between the house and the storage yard. The two rows of trees must extend from the end of the berm south to the property line.
- 4). Required trees must maintain a 90% survivability rate, and any dead trees must be replaced within one year.
- 5). No chemicals or petroleum products shall be allowed to be stored on the property.

Public Testimony

Kevin Hoekman, of county planning staff, presented a brief summary of the staff report and recommendation to the commission.

Commissioner Mohrhauser asked Kevin how many complaints have been received for the property. Kevin explained that only one neighbor has been complaining, and that they are not the next-door neighbor to the east. Commissioner Mohrhauser asked how long the industrial equipment has been on the property. Kevin stated that the county imagery was taken in the Spring of 2020, so the equipment has been on the property for at least that long. Commissioner Mohrhauser followed up to ask how long the current property owner has owned the property. Kevin responded to say that he did not know how long the current ownership had owned the property.

Commissioner Ode stated that he feels there should be a timeline for when the trees must be in place, in order to screen the property. Kevin explained that the condition of approval requiring trees can be amended to add a timeline for placement.

A representative for White Buffalo Ridge LLC, Thomas Hurd of 5401 S Shadow Wood Cir, Sioux Falls, was present at the meeting. Commissioner Ode asked the petitioner if he would have any issues with a proposed timeline for the placement of the trees. Mr. Hurd explained that they would not have an issue with a timeline for trees, and that they soon plan to move the equipment and strip the black dirt on the property. He further explained that this will allow them to continue building the berm on the property in order to cover the east and south property lines, and to place gravel as the



surface on the lot. Finally, he stated that White Buffalo Ridge LLC has owned the property for about four years, and most of the current equipment has been there the entire time.

Commissioner Mohrhauser asked what the intent was for the equipment that has been on the property. Mr. Hurd stated that the site is being used for temporary excess storage, and they do not plan on getting rid of the equipment because they use it almost every day. He also explained that in the future they would like to development the property into smaller industrial lots that they would sell.

Gary Meyer, of 26154 466th Avenue, expressed his concerns with property to the commission. Mr. Meyer explained that the property is only storing junk, and that the vehicles and equipment on the property are not operable. He further explained that he has problems with the entire industrial park that the subject property is located within and that it is poorly maintained. Mr. Meyer then explained that he originally brought his concerns to the Planning Office in November, and that he was told that the property was not zoned for outdoor storage. Additionally, he stated that he would like to see some accountability from the neighbors, in regards to keeping the neighborhood safe and clean. Finally, Mr. Meyer presented several photos of the property to the commission, and explained why he believes they are storing junk and not building materials on the property.

Thomas Hurd returned to the podium to address the concerns raised by Gary Meyer. He stated that the equipment on the property is operable, and that they use the materials on the property almost everyday for construction jobs around the county. He did admit there is one junk pile on the property that needs to be removed.

Gary Meyer came to the podium to state that he disagrees with the statement that there is only one pile of junk and that the excavators are being used. He also explained that the excavators have been there for years and that he doubts that they are operable.

Discussion

Commissioner Mohrhauser stated that this property is raising red flags for him, and that he is worried that it may be the start of a dumping site or junkyard. He also explained that he used Google Earth to explore the property, and it looked to him like the junk had been there for years.

Commissioner Barth agreed with Commissioner Mohrhauser and stated that junkyards pop up quite often and they are hard to get rid of once they start. Commissioner Barth then stated that if the commission does not approve the request they would not have leverage over the property to add conditions that may solve some of the issues on the property.

Scott Anderson, of county planning staff, addressed the commissioners and stated that he disagrees that the county would not have leverage if the request were to be denied. Scott further explained that if the request is denied then the property would be in violation of the zoning ordinance, and the County Planning Department would start a public nuisance case. Finally, Scott explained that if the property owner continued to not clean up the property then the case would be referred to the State's Attorney for legal action.



Commissioner Barth asked Scott if the county normally requires unlicensed and inoperable equipment indoors. Scott explained that if the petitioner moved the equipment to an indoor location than it could be kept on the property.

Action

A motion was made by Commissioner Mohrhauser to deny Conditional Use Permit #22-20 and seconded by Commissioner Randall. A roll call vote was taken and the motion was approved with 4 votes in favor (Commissioners Barth, VanDerVliet, Randall and Mohrhauser) and 2 votes against (Commissioners Ode and Ralston).

Conditional Use Permit #22-20 - Denied



ITEM 10 CONDITIONAL USE PERMIT #22-28 to allow a Class C (960 Animal Units), Hog Concentrated Animal Feeding Operation on the property legally described as Tracts 1 & 2 Hainje Addition NW¼ Section 19 T104N-R48W Logan Township.

Petitioner: Jeffery Siemonsma

Land Owner: Same

Location: 47832 Pipestone Street, approximately 3 miles southeast of Dell Rapids

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tracts 1 & 2 Hainje Addition NW¼ Section 19 T014N-R48W Logan Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 19.23 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 2,400 head finishing swine barn on the edge of a farmstead of this property. The size of the barn makes the request a Class C CAFO up to 999 animal units. A new Class C CAFO requires a conditional use permit, and it is required to meet specific standards as required by the ordinance.

The property is located approximately three miles southeast of Dell Rapids on Pipestone Street. County Highway 121 is located less than one quarter mile west from the farm. The site plan for the barn shows the placement will be along the east side of the farmstead. A row of evergreens are located on the west of the barn and other trees are located to the north and west of the barn. The east side of the barn is shown on the site plan to have no additional screening; however, the petitioner explains in the provided narrative that trees can be planted if required. The building plans provided by the petitioner indicate that the barn is planned to be 101 feet by 198 feet in size. Manure will be kept in a pit below the barn, and will be planned to inject into surrounding farm land once per year in the fall.

Part of the submitted materials is a printout of the south Dakota Odor Footprint Tool. The size of the barn was input into the worksheet and the tool calculated the distance of a percentage of nuisance free days from the barn. The 97% nuisance free distance circle is highlighted on the worksheet with distances ranging from 1,418 feet to the northeast to 1,617 feet to the southwest. A map was provided to show that no dwellings other than the petitioner owned dwelling are outside of the area of 97% nuisance free.

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 several site plans and narrative descriptions to describe locations and plans for the proposed barn.

The address of the property and the legal description.

The address provided for the property is 47832 Pipestone Street. The legal description is included on the application.

The name of the project and/or business.

The name of the petitioner is Jeff Siemonsma. One of the narrative descriptions includes the name of the project as Jeff Siemonsma's Hog Barn.

The scale and north arrow.

Each plan submitted has a scale and north arrow except for the one which shows the barn location and approximate size. This site plan does not have a scale either. The orientation of the map is easy to determine and the size of the property allows for the approximate scale to be reasonable for the size and location of the barn.

All existing and proposed buildings or additions.

Aerial photos on the site plan show existing buildings. The location of the barn is depicted by a star on several plan and a grey rectangle on the site location plan.

The dimensions of all buildings.

The dimensions of the existing buildings are not included and not very applicable to the proposed use. There are many existing buildings within the farmstead. The size of the proposed barn is shown on the building plan as 101 feet wide by 192 feet long

The distance from all buildings to the property lines at the closest points.

Distances to property lines are not included on the site plan. The property is large enough that the approximate location of the barn will leave space to meet the required 50 feet setback from any property line.

Building height and number of stories.

The barn will have one story with a manure pit underneath.

Dimensions of all property lines.

The property is large with the approximate size of over 1000 feet wide by 700 feet deep from the road.

Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles.

Parking requirements are more typical for commercial and industrial type uses. This property is large enough to accommodate off street parking and loading.

**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 petitioner does not show a plan for trees or landscaping. Trees are mentioned in the narrative as something which could be added.

Name and location of all adjacent streets, alleys, waterways and other public places.

The access street to the south is Pipestone Street. The nearest highway is County Highway 121 approximately ¼ mile to the west. These are included on the site plans.

A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.

No grading plan is submitted. The facility is planned to be contained in one building including the manure pit to prevent water runoff contamination.

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 proposed barn will be located adjacent to an existing farmstead. The animals and manure will be contained within the barn and setbacks from property lines will be met as the barn is located on the site plan in the approximate center of the parcel.

Setbacks and other requirements.

A Class C CAFO requires a setback of 1,320 feet from a dwelling, church, or business. The proposed barn as shown on the site plans meets all separation criteria and environmental setbacks required by the ordinance. No waivers will be required prior to approval of this proposed hog barn.

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 immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The proposed barn is located within an active agricultural area. Much of the area is agricultural cropland and low-density residential farmsteads and acreages. The barn exceeds minimum setback requirements and includes the advantage of exiting trees on the north and west sides to break winds from those directions. The barn is planned to be placed adjacent to a farmstead owned and lived on by the petitioner.

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

The proposed barn is located within an active agricultural area. 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, and CAFOs such as this will likely become more common in the future. 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 will be minimally affected for the 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. Anything included in the narrative and plans 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.

One way to reduce many nuisances is with the use of trees to shelter wind, dust and sightlines. The barn is located in an area where trees exist on the west and north sides of the barn. Additional tree planting can be required if the Planning Commission considers it necessary.

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."

One neighbor contacted planning staff after receiving notification. The neighbor informed staff that he is opposed to the proposed with the first objection due to its location near a wetland which flows into Slip Up Creek. The County GIS maps indicate Slip Up Creek begins about ½ mile southeast of where the barn is located. Our maps do not indicate any water source protection or aquifers in the vicinity of the barn. The barn will be constructed to contain manure within a pit under the animals. This will be outside of rain and stormwater.



Recommendation: Staff recommends **approval** of Conditional Use Permit #22-28 with the following conditions:

- 1.) The facility shall be limited to swine confinement of a maximum of 999 animal units in size.
- 2.) 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.
- 3.) The manure containment facility must be in conformance with South Dakota Department of Agriculture 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.
- 4.) 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.
- 5.) A building permit is required for all structures prior to construction.
- 6.) 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 & Discussion

Kevin Hoekman explained that the petitioner requested to defer action for one month in order to consider option for alternate location for the barn. The deferred hearing will take place on April 25th, 2022 at the regular planning commission meeting.

Jeff Siemonsma, 47826 Pipestone Street, explained that he wants to build the barn to create profit for his farm operation. He confirmed with Commissioner Duffy that he is wanting to defer the decision for one month.

Commissioner Ode asked what his neighbors biggest fears are for the proposed barn. Jeff Siemonsma responded that his neighbors fear loss of property value and smell.

Jerome Garrets stated that his wife owns the land to the south of the property. He raised concern over the manure management plan and spreading manure in low land and spreading manure too close to houses in the past.

Nick Siemonsma, 47749 246th Street, explained that he works for Centrol Crop consulting and that they have signed up plenty of acres to spread the manure. Commissioner Barth confirmed that manure gets injected when applied.

Dwight Merry, 47968 247th Street, asked if any trees would be put around the facility to help with smell, and what ground has been signed up for the manure spreading. Nick Siemonsma responded to the questions by stating that he did not feel it was appropriate to name the farmers who agreed to take the manure, and that there are trees on the north and west side of the barn already.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

MARCH 28th, 2022

Mike Mechtenberg, 24687 478th Avenue, first explained that he lived 880 yards west of the barn. He noted that has been talking with Jeff and trying to work with the applicant and will have more comments at the next hearing.

Discussion

Commissioner Barth discussed after the motion to defer action, that any potential conditions can be talked about at the next hearing.

Action

A motion was made by Commissioner Barth to defer action on Conditional Use Permit #22-28 until the April 25th, 2022 planning commission meeting. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #22-28 – Deferred until April 25, 2022



ITEM 11. CONDITIONAL USE PERMIT #22-26 to allow an Indoor Recreation Facility on the property legally described as Tract 4 Coburn's Addition NW¼ Section 11 T102N-R48W Brandon Township.

Petitioner: Brandon Valley Hockey Association

Land Owner: Richard Funke

Location: Southeastern corner of State Highway 11 & 257th Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 4 Coburn's Addition NW¼ Section 11 T102N-R48W Brandon Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 90.75 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting an indoor recreation facility on the described property in order to construct a building for an indoor ice rink primarily for hockey. A recreation facility is allowed within the A1 Agricultural zoning district with approval of a conditional use permit. A recreation facility is defined as:

A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive. Related functions such as changing rooms or restrooms, and maintenance may be housed in buildings or structures.

The petitioner submitted a brief narrative and a sketched site plan. The narrative describes the ice rink to be available all year with a primary season of October through March. The facility would likely require early morning and evening open times to facilitate games and practices. The location of the facility on the site plan is depicted as 1,000 feet east of SD Highway 11 on 257th Street. The property is shown to be 400 feet wide by 400 feet deep with a 140 feet by 240 feet building on the west side of the property. The size and proposed use of the building would necessitate engineered drawings and architectural review for building code compliance.

Staff reviewed the application and found several areas of concern regarding the proposed use. First, the property has street frontage on a South Dakota Highway and a gravel township road. The plan is to have access to the facility 1000 feet onto the gravel road. The township road is currently narrow and would need improvements and ongoing maintenance to meet the demand of dozens of vehicles every day. A road maintenance agreement should be part of the permit if it is approved.

The second concern is regarding the floodplain. I visited the site for review and noticed the location of the proposed facility is unusually flat. The site is not within the current floodplain of the most recently adopted floodplain map provided by FEMA. FEMA has been working with the State and Counties on the east side of South Dakota to update floodplain maps with more accurate data. These



floodplain maps are available for public review online, but the new maps have not yet been adopted by the county. Placing an indoor skating rink on this location would be a large investment in a high risk area. Even if the structure is raised above the 100 year base flood height, the access to and from the building would be underwater. Adding fill to raise the building will displace floodwaters outside of its projected inundation area.

Third, the proposed facility is located over an aquifer and within the water source protection overlay district. A large facility such as will need a large septic system over a sensitive water source.

The petitioner should be aware of the county's building permit processes. County Policy requires commercial projects such as this to be engineered and have architectural review for code compliance. It is likely the facility will be required to have a fire suppression sprinkler system. Rural water does not support fire sprinkler system and therefore a large engineered water tank and pump would be required to supply adequate water.

The narrative describes the use of signs to direct and inform the public of the building location. The petitioner should be aware that sign regulations within the A1 Agricultural zoning district are generally restricted to small sizes and locations.

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 area around the proposed recreation facility is mostly agricultural with a few farmsteads and residential acreages scattered through the area. Placing a large recreation facility in the area will increase traffic on the township road used by other residential properties on 257th Street. Increased traffic on the gravel will lead to increased dust for neighboring parcels. The use will not likely affect surrounding cropland other than removing some productive land out of production.

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

The area around the proposed facility is low density agricultural land, and it will likely continue to be low density agricultural land for the foreseeable future. Agricultural cropland would likely remain agricultural into the future. There is some potential of nearby building eligibilities being developed with residential uses, but the floodplain updates will likely reduce demand on any structural developments such as dwellings.

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

If the permit is approved, the petitioner would be responsible for extending any needed utilities to the proposed site. The land area is rather flat and a large building and parking area would likely increase stormwater drainage onto other properties. No drainage plan has been submitted, and if the permit is to be approved a stormwater BMP should be considered as a requirement of approval. The access road is narrow gravel township road. Dust control and maintenance should be addressed with Brandon Township if the use is approved.



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

The site is large enough to accommodate off-street parking. Any parking area would be required to be surfaced with gravel. An indoor ice rink would require one parking space for every 300 square feet of building. Based on the site plan 112 parking spaces would be required.

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 would create minimal nuisances. Increased traffic and dust would affect neighboring properties, but most everything else would take place indoors. Lighting would need to be designed to be fully cutoff and directed downward to prevent glare from spilling onto other properties.

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

Staff is very concerned with development of this scale within a rural floodplain and over a watershed protection area. The projected rate of flooding may be a one percent chance per year, but the likely hood of a large flood impacting the building and users over the life of the structure is compounded through years. The Natural Resources & Open Spaces chapter of the comprehensive plan specifically lists “limit development in floodplains and over aquifers” as goal #3. Staff will recommend denial of the permit request to support this comprehensive plan goal.

Recommendation: Staff recommends **denial** of Conditional Use Permit #22-26.

Public Testimony & Discussion

Kevin Hoekman, planning staff, presented the staff report and recommendation.

Tom Gruenig, 1901 S. Archstone Circle, represented the petitioner. He explained that the hockey association has been trying to build a hockey rink but land is expensive. He further explained that four acres would allow for expansion in the future. Mr. Gruenig added that he would like to raise the facility or move it to land not in the future floodplain. Commissioner Barth asked about access and parking along the gravel road. Mr. Gruenig responded that the road is wide enough and there will be plenty of parking on the site. He added that there will be enough water for sprinkler system and adequate electricity. The main drive for moving outside of the city is cost of land.

Commissioner Ode asked how this land was chosen. Tom Gruenig responded that the Hockey Association has been looking for land for many years now and land in Brandon is too expensive. Commissioner Ode asked what the potential growth for hockey in the next 30 years. Mr. Gruenig stated that he doesn't want to predict the future but he hopes there will be growth. Right now there are 120 families involved from the surrounding area.

Kirt Dutson, 48255 257th St., explained that his location is good because of close proximity to river and lack of light pollution. He does not want a parking lot full of lights and believes the facility will reduce safety in the area. Furthermore, the road is narrow and cannot support lots of traffic in string when roads are wet. Mr. Dutson raised concern that fill dirt for the ice rink will raise the flood levels to his house. He finished by noting that he moved to the location for the privacy and the hockey rink will reduce his privacy.



Siri Beckman-Sorenson, 48186 257th St., raised concern for the road because it is soft and not very wide. She explained that SD Highway 11 has fast moving traffic all day and the intersection at 257th St. is dangerous. Mrs. Beckman-Sorenson added that the Brandon Valley Hockey Association is a 501c3 non-profit and will not be paying taxes to the township to work with the road.

Jeff Sorenson, 48186 257th St., noted that the 2035 comprehensive plan for Minnehaha County has commercial and industrial uses along the highway, but it stops 1 mile south of this location. The comprehensive plan is there to preserve rural land, and it does not support uses such as a hockey rink looking for cheap land.

Loren Schoeneman, 25697 482nd Ave., raised concerns that the association website explains that the hockey rink is planned to be operated for many uses other than hockey. The revenue over summer months will support the winter uses. Mr. Schoeneman also raised concerns over traffic at the intersection is a problem. The use is a commercial use and should go in a commercial zoned property.

Tom Brown, 48806 259th St., stated that he is a supervisor for the township. He noted that the road is not wide enough and they have problems with drainage on the road. Mr. Brown also stated that his experience with septic systems in the area lead him to believe this area would be problematic for septic systems.

David Coburn, 25732 482nd Ave., He stated his property is right next to the proposed site. He stated that the comprehensive plan does not support building over an aquifer. He further explained that placing the facility on higher ground would affect his property. Mr. Coburn explained the property is agriculture and not for commercial.

David Sorenson, 48344 257th St., stated that he lives 1/5 miles east of the highway and people have gotten killed and hit at this location. The hill to the north is dangerous for added traffic.

Greg Scott, 26041 484th Ave., stated he is in agreement with David Coburn. He stated the added cost to build ground up and fix sewer would likely match cost of other ground.

Joni Haggen, 48215 258th St, stated there are numerous accidents on the highway including her husband. She raised concerns about kids driving to and from the hockey site.

Wanda Schoenaman, 25697 482nd St., stated the neighborhood is agriculture with 3rd and 4th generation farmers. She explained that the site is 3 miles from utilities, police, fire protection. And finally, the area has much farm traffic and other traffic is increasing already.

Wyatt Sundvold 48152 Palisade St., explained that he has cattle not farm from the site. He raised concern that the submitted materials was not much of a plan and wonders how the site is to get staff for the proposed use. He provided the example of his hay grinder getting rear ended as an example of bad traffic.



**MINNEHAHA COUNTY
PLANNING COMMISSION
MEETING MINUTES**

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Kirt Dutson returned to the podium and stated the road turns into a one lane road at the rail road bridge, and that would cause problems for people traveling east.

Tom Gruenig responded to some of the concerns by noting that he can't help traffic, but the association can help with the road. Commissioner Barth asked if the association was approved to build at Aspen Park. Mr. Gruenig explained that the association has permission to build, but the bank won't loan money when the land is not owned by the association.

The floor was closed by Chair Duffy.

Discussion

Commissioner Barth explained that he really liked youth hockey, but the project is not ready for this location. The idea is worthy by maybe someplace else.

Commissioner Duffy explained that she had kids in the Brandon area. She raised concern about the floodplain and aquifer for the project.

Commissioner Ode stated that this is not the right location for the facility, because of roads, floodplain, and wintertime road conditions.

Action

A motion was made to **deny** conditional use permit #22-26. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #22-26 - Denied

Old Business

None

New Business

Scott Anderson shared that the Planning & Zoning Administration Assistant, Deb Johnson, is retiring and that there is a retirement reception on April 8th.

Adjourn

A motion was made to **adjourn** by Commissioner Ode and seconded by Commissioner Ralston. The motion was approved unanimously. The meeting was adjourned at 9:04 p.m.