



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
June 27th, 2022**

A meeting of the Planning Commission was held on June 27th, 2022 at 7:00 p.m. in the City Council Chambers located at Carnegie Town Hall.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Ryan VanDerVliet, Adam Mohrhauser, 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 7:16 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, 3, 4, 5, 6, 7, & 8 by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

ITEM 1. Approval of Minutes – May 23rd, 2022

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Mohrhauser to **approve** the meeting minutes from May 23rd, 2022. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.



Consent Agenda

ITEM 2. CONDITIONAL USE PERMIT #22-43 to allow Outdoor Industrial Storage on the property legally described as Lot 1 Harr's Addition SW¼ Section 30 T102N-R50W Benton Township.

Petitioner: Michael Young

Property Owner: Same

Location: 46619 Highway 38, approximately 1 mile southeast of Hartford

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 1 Harr's Addition SW¼ Section 30 T102N-R50W Benton Township.

Present Zoning – I1 Light Industrial

Existing Land Use – Industrial Lot

Parcel Size – 2.50 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to allow outdoor industrial storage on the newly developed property at 46619 SD Highway 38. The company does contracting out of the building and requires outdoor storage for supplies and equipment in between jobs.

The property is located in the industrial park south of the Hartford Interstate Exit 390, and south of where Buffalo Ridge is located. The industrial park is expanding, and similar uses with outdoor storage have been approved on three other properties within the development. However, one location within the development was denied the request for outdoor storage due to condition of the property.

Staff visited the subject property and found the building is occupied and some items are already parked on the south side of the lot. Most of the lot is covered in a gravel surface. The property owner explained at the site visit that he plans to bring in crushed asphalt later in the season after construction of the building a couple lots down is complete. He further explained that he has had theft problems during construction and put up large lights to deter theft. He continued that he plans on placing lights on the southwest side of the property in order to add lights and allow for the existing lights to be pointed more toward the ground.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The property is within a growing industrial park. There are established businesses, vacant lots, and new construction in the park. The lot to the south is composed of CemCast plant and storage yard. There is an existing chain link fence on the CemCast side of the property. To the east of the



property is an empty lot, followed by new construction for a warehouse with outdoor storage area to the south. The request to have outdoor storage on this lot is similar to the existing and permitted uses on the properties around it.

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

The industrial park where the subject property is located is still developing. The adjacent lot is vacant and a large area to the east of the site is being used for temporary asphalt plant which will be vacating the parcel in a season or two. These lots will be developed into other industrial uses likely similar to this contractor warehouse with outdoor storage. Therefore approval of outdoor storage will not likely change how the remaining industrial lots will be developed.

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

The property has already been developed with a warehouse and gravel yard, and utilities have already been extended to the building. Access to the property is through a shared driveway onto SD Highway 38. As an industrial lot with access onto a paved highway, the driveway and parking area is required to be hard surfaced. The property owner is aware of the hard surfacing requirement and plans to install crushed asphalt according to the ordinance after construction of the building is complete a couple of properties to the west. The reason for delay is to prevent damage to surface materials during construction season. Staff suggests adding a hard surfacing condition to this permit.

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

The property is 2.5 acres in size and has plenty of space to accommodate parking and loading on the parcel. No loading or unloading should be allowed on the street.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

Outdoor storage of equipment and materials does not typically produce odor, fumes, dust, noise, or vibration, but some other approvals for outdoor storage require fencing to screen visual aspects of the operation or prevent trash from blowing off site. CemCast has an existing chain link fence on the portion of land south of this site to protect equipment. Staff suggests that a fence be placed on the remaining south property line which does not have an existing fence on the neighboring property. This would account for approximately 110 feet of fence on the south property line.

Prior to this conditional use permit request, staff was made aware that several buildings including the subject property have lighting which glairs off site. The property owned explained to staff that he intends on pointing the existing lights on the south of the building further down and adding lights to the southwest corner of the lot for added security. A standard requirement of conditional use permit applications is to have all lighting pointed down and cutoff to prevent glare. Staff suggests the same condition to have all new and existing lighting should be directed down and cutoff as to prevent glare onto neighboring properties and roads.



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 #22-43 with the following conditions:

- 1). Gravel must be used to cover all regular driving surfaces of the storage area in accordance with Article 15.04 (B). of the zoning ordinance.
- 2). All parking and driveways must meet requirements of 15.04 (A). of the zoning ordinance.
- 3). The applicant shall provide a minimum of 90% opaque screening fence along the south property line where the neighboring property does not have an existing fence.
- 4). No outdoor storage is allowed north of the south wall of the building.
- 5). No chemicals or petroleum products shall be allowed to be stored outside on the property.
- 6). All new and existing outdoor lighting must be fully shielded and cutoff to prevent the spillage of light off the property. Existing lighting must be replaced or modified on or before September 1st, 2022.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the facility 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 Mohrhauser to **approve** Conditional Use Permit #22-43 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-43 – Approved



ITEM 3. CONDITIONAL USE PERMIT #22-44 to allow an Agricultural Operation (Colostrum Storage) on the property legally described as the W99' E297' N440' Lot 2 NE¼ (Ex. H-1) Section 4 T103N-R49W Sverdrup Township.

Petitioner: Dustin Stoel

Property Owner: Elizabeth Rogers-Stoel

Location: Located at the intersection of SD Highway 115 & 250th Street

Staff Report: Mason Steffen

General Information:

Legal Description – W99' E297' N440' Lot 2 NE¼ (Ex. H-1) Section 4 T103N-R49W Sverdrup Township

Zoning District – A1 Agricultural

Existing Land Use – Vacant Lot

Parcel Size – 1.00 acres

Staff Report: Mason Steffen

Staff Analysis: This property was originally brought to the Planning Department's attention by the County Building Inspector when he noticed a refrigerated storage container was moved on the property without a building permit. After discussion with the petitioner, it was determined that the storage container was being used for an agricultural related operation without the proper conditional use permit approval. Therefore, the petitioner is requesting conditional use approval for an agricultural related operation involving the storage of colostrum. Colostrum is the first milk produced after cows give birth, and it contains high levels of antibodies and nutrients that can help young calves. In addition, a refrigerated storage container is necessary for the colostrum, as opposed to an unrefrigerated storage building, because the colostrum needs to be refrigerated or frozen in order to be kept for longer periods of time. Finally, the petitioner has explained that this site would be used as a storage location for the colostrum until a truck load is acquired, and at that time the colostrum would be shipped to Canada.

On June 8th, 2022, staff conducted a site visit of the subject property and the surrounding area. The property is located at the intersection of two major highways, State Highway 115 & County Highway 114 (250th Street), and the majority of the surrounding area is agricultural in use. There is one residential acreage directly to the south of the subject property, and to the east there is the commercially zoned Baltic Corner Bar. Due to the property only being used for storage, with no regular daily visits, the proposed operation would add minimal traffic to the area. Finally, since the property is located on a major highway, this minimal traffic increase should not cause any nuisance issues to surrounding area, such as dust or noise.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The area surrounding the subject property is primarily agricultural land, with the Baltic Corner Bar being located directly adjacent to the property. The owner of the Baltic Corner Bar is the



same owner as the subject property, therefore the limited amount of traffic added by the operation should not affected the immediate surrounding area.

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

The subject property is located at the intersection of two major highways with much of the surrounding area being used for agricultural. Therefore, the proposed colostrum storage generally fits within the uses that would be allowed on any vacant land in the surrounding area. There should be no anticipated impact on the normal or orderly development of vacant properties in the area.

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

The property already has access to the site off of 250th Street. The petitioner has also placed gravel on the portion of the lot that would be used for trucks to pick up the colostrum, which will minimize the potential for dirt and dust to leave the property. Finally, the petitioner will be responsible for extending any other required utilities on the property, and the proposed storage container should not affect the drainage in the area.

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

Generally, off-street parking requirements are only computed for commercial/industrial lots. However, the subject property is large enough to meet any off-street parking that the operation will require. Additionally, no parking or loading on the property will be allowed within the right-of-way of either 250th Street or State Highway 115.

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 agricultural related operation of colostrum storage should not create any odor, fumes, or vibrations. The property is hard surfaced and accessed from a major highway, which will limit the potential for any dust or dirt leaving the property. Additionally, since the property will be mostly used for idle storage, with the occasion truck pick up, there should not be any concern with the operation creating substantial noise. Finally, all outdoor lighting on the property should be fully-shielded and directed downward to prevent light pollution off-site.

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

This proposal would be to store colostrum within a refrigerated storage container, on a property that is adjacent to two major highways. This intersection is designated as a ¼-mile commercial/industrial growth area in the 2035 Envision Comprehensive Plan. As of now, the majority of the properties in the area are agricultural in use. However, if development at the intersection expands in the future, the proposed operation would also generally fit within a commercial/industrial area. Finally, this proposed use will not have a negative effect on the public health, safety, and general welfare of the surrounding area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-44 with the following conditions:



- 1) That this permit shall allow for the storage and shipping of colostrum, and that all storage on the property must be contained within an enclosed structure
- 2) That no parking or loading shall be allowed within the right-of-way of County Highway 114 or State Highway 115.
- 3) That a building permit is required for the storage container and any future buildings on the property.
- 4) That any signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 5) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.
- 6) That the Planning & Zoning Department reserves the right to enter and inspect the business 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 Mohrhauser to **approve** Conditional Use Permit #22-44 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-44 – Approved



ITEM 4. CONDITIONAL USE PERMIT #22-46 to transfer three (3) building eligibilities from the NW¹/₄ SW¹/₄ & NE¹/₄ SW¹/₄ & SW¹/₄ SW¹/₄ to the SE¹/₄ SW¹/₄ Section 28 T102N-R47W Red Rock Township.

Petitioner: Mary Jo Beal

Land Owner: Same

Location: 48650 261st Street, approximately 1 mile northwest of Valley Springs

Staff Report: Scott Anderson

General Information:

Legal Description – SW¹/₄ (Ex. H-2) Section 28 T102N-R47W Red Rock Township

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 137.67 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 1 mile northwest of Valley Springs at the intersection of County Highway 105 and Interstate 90. The applicant is requesting to move three building eligibilities to the southeast and locate them so they would access from the township road, 261st Street. The area in which the building eligibilities are now located is used as cropland. The move would locate the building eligibilities near other existing residences.

On June 7, 2022, staff conducted a site visit. There are several residences located within 1 mile of the proposed location of the transfer. This area is desirable for development, as it is close to Valley Springs and an interstate exit. Long range, the area in which the building eligibilities are currently located is best suited for commercial/industrial growth and it is likely than in a 20-40 year timeframe, this area will be developed commercially.

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 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 three building eligibilities does not increase the number of dwelling units allowed in this section. The requested location for the eligibilities places them near other residentially used property. Access would have to be approved by the Valley Springs Township. The siting of a building eligibilities 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 these building eligibilities. It is likely that rural water and electricity are already located in the ditch or area. Valley Springs Township will need to approve the location of any new driveways to be used for the new lots.

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 these building eligibilities in this location will enhance the productivity of the rest of this quarter section and locate the building eligibilities 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 #22-46 with the following conditions:

1. A right-to-farm notice covenant shall be placed on the deed of each lot prior to the issuance of a building permit for a single-family dwelling.
2. Approval from Valley Springs 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 Mohrhauser to **approve** Conditional Use Permit #22-46 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-46 – Approved



ITEM 5. CONDITIONAL USE PERMIT #22-47 to transfer two (2) building eligibilities from the E½ SW¼ to the SW¼ SW¼ all in Section 16 T103N-R51W Grand Meadow Township.

Petitioner: Tom Winker

Land Owner: Kevin VanVeldhuizen

Location: Intersection of 253rd Street & 462nd Avenue, approximately 5 miles north of Hartford

Staff Report: Scott Anderson

General Information:

Legal Description – SW¼ SW¼ Section 16 T103N-R51W Grand Meadow Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 40 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 5 miles north of Hartford near the intersection of 253th Street and 462nd Avenue. The applicant is requesting to move two building eligibilities to the southwest. The area in which the building eligibilities are now located is used as cropland. The move would locate the building eligibilities near other existing residences.

On June 13, staff conducted a site visit. There are several residences located within 1/2 mile of the proposed location of the transfer. The proposed site is located approximately 1 mile north of County Highway 122.

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 three residences located near 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 two building eligibilities does not increase the number of dwelling units allowed in this section. The requested location for the eligibilities places them near other residentially used property. Access would have to be approved by the Grand Meadow Township. The siting of a building eligibilities in this area 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 eligibilities. It is likely that rural water and electricity are already located in the ditch or area. Grand Meadow Township will need to approve the location of any new driveways to be used for the new lots.

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 these building eligibilities in this location will enhance the productivity of the rest of this quarter section and locate the building eligibilities 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 #22-47 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 Grand Meadow 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 Mohrhauser to **approve** Conditional Use Permit #22-47 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-47 – Approved



ITEM 6. CONDITIONAL USE PERMIT #22-48 to allow a Manufactured House on the property legally described as Tract 1 Hoffman's Addition SW¹/₄ NW¹/₄ & N¹/₂ SW¹/₄ Section 16 T104N-R50W Burk Township.

Petitioner: Lee Hoffman

Land Owner: Kurt & Mary Hoffman

Location: 24657 Burk Avenue, approximately 4 miles northeast of Colton

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Hoffman's Addition SW¹/₄ NW¹/₄ & N¹/₂ SW¹/₄ Section 16 T104N-R50W Burk Township.

Present Zoning – A1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 3.74 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting to place a manufactured home as their primary residence on the site of an existing farmstead. The placement of manufactured homes on lots outside of a designated mobile home park requires a conditional use permit. In addition, the property currently only has the one building eligibility, so the current dwelling would need to be removed before the final inspection for the manufactured home. Finally, the dimensions of the proposed manufactured home are 27.5' x 56', excluding overhangs, which meets the minimum width requirement of twenty-two feet.

On June 8, 2022, staff conducted a site visit of the subject property and the surrounding area. The area surrounding the property is almost entirely agricultural in use, with the nearest neighbors being approximately ½-mile to the north. The low density of residential properties in the area will reduce much of the concerns of a manufactured home being different than a typical stick framed house. In addition, the property is located with the Water Source Protection Area, which means the septic system for the manufactured home would need to be approved by the State of South Dakota before a building permit would be issued. Finally, Section 12.06 (C) of the 1990 Revised Zoning Ordinance for Minnehaha County includes several requirements for the placement of manufactured homes, which the petitioner must follow if the conditional use permit is approved.

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 is mostly comprised of agricultural land and large farmsteads. A right-to-farm covenant will be required prior to a building permit being issued for the proposed manufactured home. The right-to-farm covenant informs property owners of some of the realities of living on a rural site. The low density of residential properties in the area will reduce much of the concerns of a manufactured home being different than a typical stick framed house.



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

The primary use of the general area is agriculture. The erection of a manufactured home on a site where a previous farmstead resided will not inhibit the agricultural production of the area. There should be no anticipated impact on the normal or orderly development of vacant properties in the area.

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

The proposed site of the manufactured home will be in the same location as a previous farmstead. The site is already serviced with most utilities, including a driveway onto Burk Avenue. However, due to the property being located in the Water Source Protection Area, the petitioner will need to have any septic system on the property approved by the State Department of Agriculture & Natural Resources. They will also need to obtain a septic permit through the County Planning Department before a building permit will be issued for the manufactured home.

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

Each residence is required to have two (2) off-street parking spaces. The site of the proposed manufactured home is large enough to accommodate this residential parking requirement.

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 typical residential use will not create any offensive odor, fumes, dust, noise, or vibration. Any new lighting will be required to be shielded and pointed downward, and the property must be maintained in accordance with the public nuisance ordinance.

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

The zoning ordinance includes requirements to minimize the negative aesthetics associated with a manufactured home. The requirements include minimum width, roof pitch, and standard building materials. A manufactured home can be an affordable housing option for the owner. With general requirements and low density of the area, the placement of a manufactured home will not negatively affect the health, safety, or general welfare of the public.

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 #22-48 with the following conditions:

- 1.) A building permit must be obtained prior to the placement of the manufactured home.
- 2.) Each section of manufactured home must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.
- 3.) The manufactured home must comply with all requirements of Article 12.06 (C) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 4.) The septic system for the property must be approved by the State of South Dakota,



and a septic permit must be obtained before a building permit is to be issued for the manufactured home.

- 5.) Prior to the issuance of a building permit, a right-to-farm notice covenant must be filed on the deed with the Register of Deeds.

Action

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Mohrhauser to **approve** Conditional Use Permit #22-48 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-48 – Approved



ITEM 7. CONDITIONAL USE PERMIT #22-50 to exceed 3,600 square feet of accessory building space (requesting 5,208 square feet) on the property legally described as Tract 1 Matthies 2nd Addition SW¼ SW¼ Section 28 T102N-R51W Hartford Township.

Petitioner: Jessica & Jon Haneke

Property Owner: Same

Location: 46212 261st Street

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Matthies 2nd Addition SW¼ SW¼ Section 28 T102N-R51W Hartford Township.

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 5.00 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow a total of 5,208 square feet of accessory building area on the subject property. There is currently one detached structure on the property, which is a 16'x 25' storage building. This request would allow the petitioner to build a 50' x 84' detached garage with a covered porch, which the petitioner has stated would be used for personal storage and entertainment. In addition, the Minnehaha County Zoning Ordinance prohibits the use of an accessory building as an additional dwelling. Therefore, conditions should be placed on this permit to limit the potential of the building becoming a dwelling in the future. This would include prohibiting bedrooms within the structure, as well as a full size kitchen including an oven/range.

On June 8, 2022, staff conducted a site visit of the subject property and surrounding area. The property is located south of Hartford in an area that is mostly used for agriculture with a few large residential acreages. Additionally, several of the residential properties in the area have larger accessory buildings. This includes the property directly to the west of the subject property, which is also a five-acre parcel and was approved for 6,800 square feet of accessory building area in 2021. Finally, adding an additional accessory building to the property will not negatively impact the current or future development of the surrounding area, and the accessory building generally conforms to uses already permit in the vicinity of the subject 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.

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. 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 other similar residential acreages and farmland. There should be no anticipated impacts to the normal and orderly development and improvement of the surrounding vacant farmland or residential acreages. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

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

The petitioner will be required to extend all necessary utilities to the structure. The accessory building will be accessed by the same driveway as the current buildings on the property. The addition of another accessory building on the property should not have any negative effects on the drainage of the surrounding area.

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 parking and 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.

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-50 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 5,208 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) The building is not to be used for commercial uses or as a dwelling at any time.
- 5) No bedrooms or full-sized kitchen shall be allowed as part of the construction of the accessory building.
- 6) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7) That a building permit is required prior to construction of the accessory building.



- 8) 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 Mohrhauser to **approve** Conditional Use Permit #22-50 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-50 – Approved



ITEM 8. CONDITIONAL USE PERMIT #22-51 to transfer four (4) building eligibilities from the S1/2 SW1/4 (Ex. W600' SE1/4 SW1/4), SW1/4 SE1/4 & the S1/2 NW1/4, NE1/4 SW1/4, NW1/4 SE1/4 all in Section 27 T103N-R50W to the SE1/4 (Ex. H-1 & Ex. County Auditor Lot H-2 & Ex. Gunderson Farms Tracts) Section 22 T102N-R50W Lyons Township.

Petitioner: Scott Swanson

Land Owner: Gunderson Farms

Location: Approximately 2 miles north of Crooks

Staff Report: Kevin Hoekman

General Information:

Legal Description – SE¼ (Ex. H-1 & Ex. County Auditor Lot H-2 & Ex. Gunderson Farms Tracts) Section 22 T102N-R50W Lyons Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland

Parcel Size – 142.76 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to transfer four building eligibilities from locations within Section 27 of Lyons Township to a location along County Highway 137 in Section 22. The transfer will cluster the four building eligibilities in a line with an existing acreage site and several other developing lots which se eligibilities from a previous transfer.

The location of the proposed transfer is approximately 2 miles north of the city of Crooks. If the transfer is approved, the building eligibilities will move further away from the petitioner's farmstead and farther away from a large hog CAFO. This transfer request would move most of the remaining building eligibilities owned by the petitioner. Therefore, this transfer request will likely complete the possible clustering of building eligibilities in section 22. Other transfer requests were made by Scott Swanson in 2015 and 2021. These were all approved.

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 receiving parcel where building eligibilities are proposed for development is located in a predominately agricultural area. The area is primarily agricultural cropland with residential acreages and a couple clusters of residential acreages from previous transfers. The proposed cluster development will have access to the county highway, and this access will prevent problems such as dust from gravel roads. The transfer will move the building eligibilities further from existing CAFOs to the south.

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



The area is predominately agricultural cropland with some residential acreages developed. Three area many building eligibilities in the area. These building eligibilities may develop in the future, but it is unlikely the rural character of the area will change significantly.

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

The property owner will have to extend any needed utilities for the future dwellings. The dwellings will be required to have onsite septic systems according to county ordinance. The County Highway Department will require permits for all new driveways onto the County Highway. It is likely the driveway accesses for the proposed cluster of eligibility sites will need to have shared driveways.

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

Off street parking will be met once single family dwellings are constructed.

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.

Single family dwellings generally do not generate nuisance odor, fumes, dust, noise, vibration, or lighting. Each property must comply with the Public Nuisance Ordinance.

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

The comprehensive plan encourages clustering of building eligibilities to provide clear areas for agriculture to be preserved. The building eligibilities area also be transferred further away from existing CAFOs.

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 #22-51 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. Applicable driveway permits must be obtained for the location of the driveways 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 Mohrhauser to **approve** Conditional Use Permit #22-51 with staff recommended conditions. The motion passed unanimously with 5 votes in favor and 0 votes against the motion.

Conditional Use Permit #22-51 – Approved



Regular Agenda

ITEM 9. REZONING #22-06 to rezone from the A-1 Agricultural District to the RR Rural Residential District the property legally described as Lot 1 Songbird Acres 6th Addition NW¼ Section 32 T102N-R50W Benton Township.

Petitioner: Robert Duzlak & Lisa Larson

Property Owner: Same

Location: 46745 Dorothy Drive

Staff Report: Kevin Hoekman

General Information:

Legal Description – Lot 1 Songbird Acres 6th Addition NW¼ Section 32 T102N-R50W Benton Township.

Present Zoning – A-1 Agricultural

Existing Land Use – Residential Acreage

Parcel Size – 7.14 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

This request is to rezone a seven acre property adjacent to the Songbird Acres subdivision from A1-agriculture to RR-rural residential zoning district. Songbird Acres subdivision is located approximately three and a half miles west of Sioux Falls on the south side of SD Highway 38. A sketch plan for subdividing the property was submitted for five total lots including one lot for the existing dwelling.

This property and the adjacent subdivision has formed over decades of development. The majority of the development known as Songbird Acres was platted and developed prior to density zoning in 1988. A rezoning request was approved in 1991 for eight more lots on the east side of the development where most properties have access to Cardinal Drive today. Soon after, in 1992, a rezoning request north of this subject property was denied due to concerns about added traffic and septic systems. In 1996, the majority of songbird acres was rezoned from A1-agriculture to RR-rural residential for the purpose of having the zoning of the development reflect the reality of dozens of lots just over one acre in size. The subject property was not part of the community raised request. The last rezoning request in the Songbird Acres development was in 1999. The 1999 request was to rezone 38 acres of land including the subject property into RR-rural residential in order to “finish the east end of Songbird Acres.” This request was denied with concerns from commissioners for not having a sanitary sewer district and concerns from staff that the request did not support agricultural development of the area. The existing dwelling on the subject property was permitted with a building eligibility transfer in 2005.

Planning staff still has concerns over density zoning and adding to a large cluster of residential septic systems. If this rezoning request for a small parcel of land is approved, then the result may lead to similar rezoning requests both close by Songbird Acres and further throughout the county.



There are several examples where the county denied small lot zoning requests in the recent past. In 2017, a similar rezoning request to this one was denied. The request was made by a couple who wanted three extra lots to sell in order offset increasing maintenance cost and tax burden on their large acreage. In 2015, a rezoning request was made to allow a residential dwelling on a property because it was too small for agriculture and no building eligibilities were available. The request for a dwelling was discouraged through the public review process and the planned development was changed to allow the use of the property for horse stabling purposes. A rezoning request for single family dwelling subarea change in the High Prairie Ranch Planned Development is pending a second planning commission hearing this August. The High Prairie Ranch change request has the potential to add 12 lots to the subdivision. Staff finds this rezoning request #22-06 shares similar concerns for density zoning and spot zoning small parcels as the two denied examples. Approving this request will make it more difficult to deny other small lot residential rezoning requests throughout the county.

The Envision 2035 Comprehensive Plan for Minnehaha County includes the described property within the transition area around Sioux Falls. The comprehensive plan describes the transition area to have the primary purpose of maintaining the rural landscape until eventual development of residential and/or municipal development, and residential development should be limited unless adequate sanitary sewer and other utilities are available. The Songbird Acres development has approximately 53 single family dwellings all on separate septic systems. This request is for a small addition to the development; however, it is likely that similar requests will be made to add to songbird acres if this is approved. An expansion of a rural residential development without sanitary sewer would be contrary to the comprehensive plan. Previous attempts to rezone this property failed due to concerns of increasing residential encroachment in the agricultural area and increasing usage of septic systems.

Recommendation: Staff recommends **denial** of Rezoning #22-06 to rezone the subject property from the A-1 Agricultural District to the RR Rural Residential District.

Public Testimony & Discussion

Kevin Hoekman, County planning staff, presented the staff report and recommendation for the rezoning request.

Lisa Larson, the petitioner at 46745 Dorothy Drive, was present for questions. Commissioner Barth asked if she had any thoughts about the staff report. Lisa explained that her request is much smaller than the request in 1999 which included new roads. She continued that the proposed lot layout was designed to meet minimum acres and road frontages of the ordinance. Lisa Larson explained that the wetland shown in photos was south of her property and that the proposed rezoning lots would be high on the hillside.

Carol Heifner, 2613 W 28th Street, explained that she is part of the 3rd generation who has owned the adjacent land to the east of Songbird Acres. As a long time owner, she feels that she is a steward of the land, and she tries to avoid erosion that degrades the land. Carol Heifner explained that housing is necessary and suggested that the Planning Commission review the American Planning Association design guide for rural subdivisions. The guide includes the suggestion of



40 to 50% of the land to remain undeveloped for wildlife and wetland development. She explained that the Skunk Creek waterway would be a good corridor for wildlife and wetlands. Carol concluded by asking the Planning Commission to create a larger plan for the area rather than development by piecemeal rezonings, and to deny the request.

Rick Starnes, 46728 Dorothy Drive, was there in opposition to the request. He raised concerns with heavier traffic on the roads when people are already driving too fast on the roads. He noted that the land adjacent to the south of the property is the waterway drainage for the development. He explained that his house was built in 1988 and that since the development was started there has been an agreement with Benton Township to maintain roads.

Commissioner Barth asked how many homes are in the subdivision. Kevin from planning staff stated that there is approximately 53 homes.

Brad Hanisch stated that he is a realtor representing the property owners. He explained that the proposed development is different than the past because the properties will be similar in size to what exists, and there will be no additional roads created with the development.

Donna Perrion, 46713 Meadowlark Lane, began by noting that 53 homes with septic systems already exist, and any more could cause problems. She explained that she was present for the last rezoning hearing where a commissioner stated that more than 40 houses would need a lagoon system before any new growth should be added. Donna Perrion finished by stating that the gravel roads do get soft spots on the now where busses have been stuck on the gravel.

Patrick Ebert, 26119 Cardinal Drive, explained that he agrees with what has been said, and he would like to add another name to the neighborhood requesting denial of the rezoning request.

Tony Even 46732 Dorothy Drive, stated that he agrees with the county recommendation and the other neighbors who want denial of the project. He added that traffic and septic systems would increase demand in the rural subdivision. He finished by stating that the Minnehaha County Rural Water has high demands in the development, and water pressure is sometimes lowered due to high demand.

Kim Williams, 46728 Meadowlark Lane, stated that she lived there for 20 years, and shared that there is Sioux Falls and Hartford to do development in.

Chris Buller, 46729 Dorothy Drive, agrees with denial requests.

Wayne Mader, 46716 Meadowlark Lane, affirmed that water pressure in the development is an issue. He added that there were likely 10 other people from the development at the hearing who have not spoken.

Tony Even returned to the podium and requested that a show of hands be taken to show how many people were present against the proposed rezoning. The Planning Commission was advised that a show of hands could be taken but it is difficult to record in the minutes without each



individual stating that they are there. No show of hands took place.

Commissioner Barth asked when this development would be part of a municipality. Kevin Hoekman explained that the development is outside of joint jurisdiction boundaries for Sioux Falls or Hartford, and that there is likely no plans for future annexation of the area at this time. Commissioner Barth stated that there are plans for a regional sewer system to be built near Hartford. He finished by saying that now is not the right time for rezoning.

Commissioner Ralston commented that Songbird Acres is an existing development that would not have been approved today. Adding additional houses in the development would just add to an undesirable situation.

Action

Commissioner Barth motioned to **deny** Rezoning #22-06. Commissioner Ralston seconded the motion. The motion passed unanimously with 5 votes in favor of denial, and 0 votes against the motion.

Rezoning #22-06 – Denial Recommended



ITEM 10. CONDITIONAL USE PERMIT #22-49 to allow a Class C (960 Animal Units), Hog Concentrated Animal Feeding Operation on the property legally described as SE¼ Section 28 T104N-R48W Dell Rapids Township.

Petitioner: Nick Siemonsma

Land Owner: Heesch Living Trust

Location: Approximately 5 miles southeast of Dell Rapids

Staff Report: Mason Steffen

General Information:

Legal Description – SE¼ Section 28 T104N-R48W Dell Rapids Township.

Present Zoning – A1 Agricultural

Existing Land Use – Cropland/ Residential Acreage

Parcel Size – 160 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located approximately 5 miles southeast of Dell Rapids. The petitioner is requesting to operate a hog finishing barn with up to 960 animals units, which classifies the operation as a Class C CAFO. Currently, the property is mostly used for cropland, along with the existing residential dwelling that would be directly south of the proposed barn location. Since the proposed facility is a Class C CAFO and is not located within a ¼-mile of another Class C CAFO, the proposed facility is not required to obtain a State General Permit from the SD Department of Agriculture and Natural Resources (DANR).

The petitioner submitted several items for review along with the permit request. These items included a narrative, a dead animal disposal and pest management plan, a nutrient/manure management plan, an odor model map, building plans, and a site plan. These documents were used to review the proposed hog confinement barn.

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 24883 481st Avenue and has the following legal description:

SE¼ Section 28 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.

The proposed new confinement barn can also be found on the site plan, and this will be the only barn where hogs are located. The single-family dwelling and accessory building were not considered as a part of the request.

The dimensions of all buildings.

The proposed new confinement barn would be a 101'x 192' structure that would be located to the north of the farmstead. The farm building that is currently on the property is a 60'x 80' building that will not be used in conjunction with this request.

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

The proposed barn will be the closest to the east property line, with a setback of just over the required 50 feet. The setbacks to the rest of the property lines are relatively large, due to the property being the entire SE $\frac{1}{4}$ of Section 28.

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 SE $\frac{1}{4}$ of Section 28, the property lines do not have exact dimensions. However, since the property is a full 160 acres, all of the property lines are approximately $\frac{1}{2}$ -mile long.

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

Parking lots and space requirements are typically calculated for commercial and industrial uses. The proposed land use is for agricultural purposes on a large agricultural lot, which will be large enough to accommodate the parking requirements involved with the operation. No parking or loading will be allowed within the right-of-way of 481st Avenue.

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 screen the barn from the current residence on the property.

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

The hog operation is located on 481st Avenue. The only waterway in the immediate area around the property is an intermittent stream, which is located approximately 650 feet to the southwest 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 barn will be built on a fairly flat piece of land, with any runoff generally flowing to the south and southeast.

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. The manure containment will be in a covered pit underneath the barn, so the manure containment facility will also meet the required 50-foot setback.

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. Other than the dwelling on the subject property, the closest dwelling is located approximately 3,200 feet to the northeast of the proposed barn location. When measuring from the proposed barn location to the closest point on the neighboring dwelling's property line. Additionally, there are not any known churches or businesses in the area surrounding the request. Finally, the Minnehaha County Zoning Ordinance also requires setbacks from any CAFO's to municipalities, however the proposed barn is more than five miles away from any municipalities.

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 or permitted Class C CAFO or larger. For this CAFO, there are several permitted and/or operating CAFO's in the general area. However, the closest permitted and operating CAFO to this request is approximately 3,500 feet to the southwest. 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. Additionally, the submitted Nutrient Management Plan states that the fields involved in the request are adequate based on Nitrogen analysis. It also states that P2O5 will be in excess of removal in approximately 20 years, but given this long timeframe it is unlikely that this threshold will ever be met. 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 481st Avenue. 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 recommends **approval** of Conditional Use Permit #22-49 with the following conditions:

- 1) The facility shall be limited to swine confinement of a maximum of 960 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) 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.
- 7) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 8) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

Public Testimony

Commissioner Duffy stated that Commissioner Randall would be recusing herself from the public hearing on this item.



Mason Steffen, of county planning staff, presented an overview of the staff report and recommendation to the commission.

The petitioner, Nick Siemonsma of 47749 246th Street, was present and available for questions from the commissioners. Mr. Siemonsma presented an overview for his proposed operation and explained that he is trying to become a full-time farmer, which is why he has been applying for several hog confinement barns.

Lisa Geiver, of 48174 Logan Street, came to the podium to address the commission with her concerns for the proposed operation. Mrs. Geiver explained that her family made a significant investment when they bought their home on thirty acres of land to the northeast of the subject property in 2021. She further explained that their family enjoys time outside and that the proposed operation would negatively impact their quality of life. In addition, she stated her concerns that the barn will add traffic and dust to the surrounding area, and that the pig manure produced from the operation can be toxic. Mrs. Geiver also brought up several environmental concerns, including waterway pollution from runoff, and she stated that Iowa has over 700 waterways that are polluted from runoff that they are actively trying to cleanup. Additionally, she stated that the hogs that will be in the barn are from Iowa & Canada, and that South Dakota should learn from surrounding states in regards to confinement barns. Mrs. Geiver then stated that neither the petitioner nor the current property owner lives on the subject property. Therefore, this request will not affect them, but it will affect her family. Finally, she stated that the petitioner should put the barn on his own property closer to Dell Rapids.

Rebecca Randall, of 48031 248th Street, addressed the commission with her comments on the request. She explained that she lives to the northwest of the subject property and that she has concerns with the potential sight and odor nuisances that the proposed barn could create. She also explained several mitigating factors that could be required for the operation in order to limit these potential nuisances. She stated that vegetation is a relatively low cost solution that would help disperse the odor & dust from the barn, and that she would like to see trees and shrubs required as part of the permit, if the request is approved. Finally, Mrs. Randall commented that it was her understanding that Dale Heesch wanted the barn on his property in order to have access to the manure produced at the barn, but that none of Mr. Heesch's land was listed on the submitted Nutrient Management Plan.

Commissioner Mohrhauser asked Mrs. Randall what she would recommend in order to help mitigate the potential nuisances. She replied that the planning department may have a better answer, but that she would like to see trees planted, especially given their relatively low cost when spread out over the life of the barn.

Commissioner Barth then asked Mrs. Randall about the current odor in the area due to her proximity to the petitioner's existing barn. Mrs. Randall explained that she signed a waiver for the existing barn directly across the road from her, and that she does not usually smell this barn due to it being to her northwest. Additionally, Mrs. Randall stated that she currently has heifer cows on her property in an open feedlot, which she explained has less of a potential to create a nuisance than a confinement barn.



The petitioner, Nick Siemonsma, returned to the podium to address the concerns raised by the neighbors. He began by stating that all of the hogs for the barn will be born on a sow farm in South Dakota, and will not come from surrounding states. Additionally, he explained that he would like to have the barn on his own property, but his residence is only 2 miles from Dell Rapids city limits. He also stated that the water line at his residence is not adequate to supply the proposed barn, and the cost involved with updating the water line is prohibitive. Furthermore, he explained that he will most likely not be living on his current property for much longer, so having the barn on that property does not make sense. Then he stated that during the first year of operation, the barn usually smells the worst because the bacteria in the manure pit has not built up yet. Mr. Siemonsma then suggested that if the neighbors continue to smell the barn after the first year then he would be willing to install trees. Furthermore, he went on to explain that the proposed area is meant for agricultural purposes and the nearest neighbors are over ½-mile away from the site. Finally, he stated that he does not want the barn to smell any more than the neighbors do, and that he is doing everything to make sure it does not produce odor.

Dale Weinacht, of 24884 480th Avenue, addressed the commission with his concerns on the operation. He explained that he lives ½-mile south of the existing Siemonsma barn and ¾-mile west of this proposed new barn. Mr. Weinacht also stated that if this barn is approved there will be barns to his northwest & southeast, and that he will have odor carried to his property no matter which direction the wind is blowing. Additionally, he commented that the pigs and feed that would be used for this barn would be coming from out of state, so this proposed operation would not have a benefit to the state of South Dakota. Finally, he stated that this barn was proposed to be on Jeffery Siemonsma's land, which is the petitioner's brother, but the neighbors surrounding that property paid the Siemonsmas a large sum of money to not put a barn there.

Lisa Geiver returned to the podium and stated that if the operation is approved, property values in the area will go down. She also stated that she did not understand how the petitioner is concerned with putting the barn on his own property because it is two miles from Dell Rapids, but that he is not concerned with this proposed location, which is only ½-mile away from her property. Finally, she explained that the petitioner has other options on property he owns where he can deal with the potential nuisances, and that she does not have the option to move her house.

Nick Siemonsma readdressed the commission and reiterated that the hogs are born in South Dakota. He also explained that currently the hogs go to the Tyson plant in Storm Lake, Iowa to be processed. Then he added that if the new processing plant in Sioux Falls is approved the animals would be processed within the state of South Dakota in the city of Sioux Falls. Additionally, he explained that the feed comes from a business just over the South Dakota/Iowa border in Larchwood, and that many of the farmers in the area use the same feed. Then Mr. Siemonsma explained why he operates the fans and vents the way he does at his current barn, which helps to keep the hogs cool in the summer and warm in the winter. Finally, he stated that he would like to live directly next to his barn, but that the cost of upgrading the water line at his current residence is too much.

Commissioner Barth asked Kevin Brown, a Logan Township Supervisor, what his thoughts were



on the proposed operation. Kevin Brown stated that the township does not have any issues with the operation or confinement barns in general, but that he would like to see the operation placed on land that the petitioner owns, such as the quarter section directly south of the subject property. Nick Siemonsma explained to the commission that the property his parents own directly south of the subject property does not have access to rural water. He also commented that the rural water line from the north stops at the Heesch's farmstead, and that the water line that exists along County Highway 114 to the south is over ½-mile away and would need to be extended.

Dale Weinacht came to the podium and explained that he had to extend the water line to his house, and that this should not be a reason that the petitioner cannot have the barn on their own property. He also stated that the feed trucks for the existing Siemonsma barn do not have enough room to turn around on the property, and that they have to back up onto the road in order to leave the property. Finally, he stated that the petitioner should also be required to plant trees around the barn.

Nick Siemonsma returned to the podium and stated that the existing barn was placed far enough back to meet the zoning requirements while also trying to preserve as much crop ground as possible. Mr. Siemonsma also stated that the existing barn has been in operation for six years and that there have been no issues at that barn during this time period.

Ken Siemonsma, of 47964 248th Street and the petitioner's father, addressed the commission with his comments on the request. He stated that he does not like to see farmers being harsh to each other, and that they are all on the same side. Additionally, Ken stated almost every feedlot or confinement barn has animals that belong to someone else, and that the ownership of the animals should not impact this request.

Commissioner Duffy closed the floor for public comment and the commissioners discussed the request.

Discussion

Commissioner Barth commented that the presentation by Lisa Geiver was an articulate presentation. He also stated that there are barns close to several municipalities including Lyons and Jasper, and that he believes the odor from confinement barns is blown out of proportion. Finally, Commissioner Barth stated that some things could be done to make the odor less noticeable, such as trees and vegetation.

Commissioner Mohrhauser stated that he agrees with Mrs. Randall that trees could help make the operation less of a potential nuisance.

Commissioner VanDerVliet stated that confinement barns are going to smell sometimes and that people will always complain.

Mason Steffen, of county planning staff, explained to the commission that the last Siemonsma confinement barn that was approved after appeal was required to plant trees around the barn if the smell became a nuisance to neighbors after one year of operation.



Commissioner VanDerVliet asked if the petitioner would be able to put trees on the east side of the barn. Mason explained that the east side of the barn would be where trucks would enter the site, so it would not be conducive to have trees on the east side.

Commissioner Ralston asked if there are any requirements for the height of the trees, or the number of rows that would be required. Mason explained that the ordinance states that the shelterbelt must be designed by the Minnehaha County Conservation District, and that they would work with the petitioner to find the best solution. Mason also explained that it would be best to give the petitioner until July 1, 2023 to plant the trees.

Commissioner Barth then asked why the trees should not be required immediately once the operations begin. Mason explained that if the barn were to start operations this fall/winter as expected, the petitioner would not be able to acquire the trees from the conservation district until next spring. Mason further explained that the one year window would give the petitioner time to acquire and plant the trees, and that this timeframe is typical and in accordance with the ordinance.

Commissioner Duffy commented that she understands it is difficult to acquire trees from the conservation district right now and that she is okay with the one year timeframe.

Commissioner Mohrhauser stated that he would like to see trees only on the north side of the barn, so that the airflow on the south side is not affected. Commissioner Mohrhauser also stated that the current shelter belt of trees for the farmstead to the south will help to disperse the odor in that direction.

Commissioner Barth commented that he is still not ready to vote in favor of the request, even with a condition that requires trees to be planted.

Action

A motion was made to **approve** Conditional Use Permit #22-49 with 9 conditions by Commissioner VanDerVliet. The motion was seconded by Commissioner Mohrhauser. A roll call vote was taken and the motion passed with 3 votes in favor and 2 votes against the motion. Commissioners VanDerVliet, Mohrhauser, and Duffy voted in favor of the motion. Commissioners Ralston and Barth voted against the motion.

Conditional Use Permit #22-49 – Approved with the following conditions:

- 1) The facility shall be limited to swine confinement of a maximum of 960 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) 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.
- 7) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 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.
- 9) Trees must be planted on the north side of the barn by July 1, 2023. The shelterbelt must be designed by the Minnehaha County Conservation District, and the trees must be maintained to a 90% survivability threshold while the operation is active.

Old Business

None.

New Business

Scott Anderson, the County Planning Director, addressed the commission and asked if there would be interest in having a summer get together with the commissioners and staff. He stated that the get together would be at the Safari Bar & Grill, and that it would most likely be on a weeknight in July or August.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ralston. The motion was approved unanimously.

The meeting was adjourned at 9:05 p.m.