



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
January 24th, 2022**

A meeting of the Planning Commission was held on January 24th, 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, Ryan VanDerVliet, Mike Ralston, Doug Ode, and Jeff Barth.

STAFF PRESENT:

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

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:00 p.m.

ITEM 1. Election of Officers for 2022

Commissioner Randall made a motion to nominate Bonnie Duffy for Chair and was seconded by Commissioner Barth. The motion passed unanimously. Commissioner Ralston made a motion to nominate Becky Randall for Vice-Chair and was seconded by Commissioner VanDerVliet. The motion passed unanimously.

Commissioner Barth made a motion to recess the County Planning Commission and was seconded by Commissioner Randall. The motion passed unanimously. The County Planning Commission meeting was **recessed** at 7:01 p.m.

Commissioner Duffy reconvened the County Planning Commission meeting at 7:23 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 6 was moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 2, 3, 4, and 5 by Commissioner Randall and seconded by Commissioner Barth. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

ITEM 2. Approval of Minutes – November 22nd, 2021

As part of the consent agenda, a motion was made by Commissioner Randal and seconded by Commissioner Barth to **approve** the meeting minutes from November 22nd, 2021. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.



ITEM 3. CONDITIONAL USE PERMIT #22-01 to transfer one (1) building eligibility from the E1000' SE¼ SW¼ (Ex. Part Tract 2A & Street Adjacent in Christensen's Addition & Ex. H-1) to Tract 8A Christensen's 2nd Addition S½ SW¼ all in Section 23 T102N-R51W Hartford Township.

Petitioner: Paul Sundermann

Property Owner: Highway 38 Sundermann Land, LLC.

Location: Along SD Highway 38, ½-mile southeast of West Central High School

Staff Report: Scott Anderson

General Information:

Legal Description – Tract 8A Christensen's 2nd Addition S½ SW¼ Section 23 T102N-R51W

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 12.90 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately ½ mile southeast of Hartford on the north side of SD Highway 38. The applicant is requesting to move the building eligibility to the west, which would allow for the ability to cluster the residential site and also preserve farmland. The proposed site is close to Hartford and experiencing residential growth.

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.

A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area. There are many other residences located along the north side of S.D. Highway 38 and residential development is occurring to the south within the City of Hartford. The proposed transfer will not affect property values in the area, nor impede the uses already permitted.

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

The transfer of building eligibilities does not increase the number of dwelling units allowed in this section. Access would have to be approved by the SD Department of Transportation. 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



appears that the only access to the subject property is from SD Highway 38. The applicant will need to obtain an approach permit from SD DOT or share a driveway approach with one of the existing residences. The location of a new additional driveway may pose an issue given the speed of the traffic, the slight hill and the curve of the highway.

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 each proposed lot.

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 on pasture land will prevent the conversion of crop land into residential use 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 #22-01 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 Hartford Township must be obtained for the location of the driveway before a building permit is to be issued.

Action

As part of the consent agenda, a motion was made by Commissioner Randal and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-01 with staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #22-01 – Approved



ITEM 4. CONDITIONAL USE PERMIT #22-02 to allow a Class C, Beef Cattle Concentrated Animal Feeding Operation (500 Animal Units) on the property legally described as Tract 1 Burggraff Addition NE¼ Section 32 T104N-R51W Taopi Township.

Petitioner: Levi Burggraff

Property Owner: Bert & Susan Burggraff

Location: Approximately 2-miles southwest of Colton, along 462nd Avenue

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Burggraff Addition NE¼ Section 32 T104N-R51W

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 2.47 Acres

Staff Report: Mason Steffen

Staff Analysis:

The subject property is located approximately 2 miles southwest of Colton. The petitioner is requesting to operate a cattle CAFO with up to 500 animal units (500 head of cattle). The proposed CAFO will be classified as a Class C because it is more than 250 animal units and less than 999 animal units. Finally, because the proposed facility is 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 has submitted several items for review along with the permit request. These items include building plans, a dead animal disposal plan, a nutrient/manure management plan, and a site plan. These documents were used to review the proposed cattle 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 does not have an assigned address as of now. The legal description for the property is located on the submitted application.

The name of the project and/or business.

The business name for the proposed project will be Burggraff Land & Cattle LLC.

The scale and north arrow.

The final site plan that was submitted was prepared by ProAg. Engineering, Inc. A north arrow was included on the site plan, and the top of the page is oriented north. A graphic



scale was also included on the site plan, and the scale of the map is 1 inch = 80 feet.

All existing and proposed buildings or additions.

Currently, there is one existing building on the site that is depicted on the site plan. In addition, the site plan shows plans for a new cattle building and a covered manure containment facility.

The dimensions of all buildings.

The dimensions of the existing building on the property is 40'x 60', and the dimensions for the proposed new confinement barn is listed on the site plan as 52'x 432'. Additionally, the manure containment facility is listed as being 50'x 70'.

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

The setbacks for the proposed new building and manure containment facility to all of the property lines were listed with the submitted site plan. The proposed barn will be the closest to the north and west property lines, which was measured to be 50.5 feet, and the manure containment facility will be 51 feet from the south and east property lines.

Building height and number of stories.

The height of the proposed confinement building was determined by finding the average height between the eaves and ridge for the structure and measuring to grade on the property. Based on the submitted building plans the calculated height for the barn will be 23 feet above grade. Additionally, the proposed barn will be 52 feet wide, which means it does not meet the building inspection requirement for engineered plans.

Dimensions of all property lines.

The dimensions for all the property lines are included on the site plan. The north and south property lines measure 628.67 feet and the east and west property lines measure 171 feet. Since the lot is relatively small and the proposed barn will take up a majority of the lot these dimensions help to confirm the setbacks from the property lines.

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

The proposed land use is for agricultural purposes on a lot that is large enough to accommodate parking requirements. Parking lots and space requirements are typically calculated for commercial and industrial uses. The site will be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.

Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.

The submitted site plan does not include any plans for landscaping or screening. Since the proposed property meets all of the required setbacks for a Class C CAFO the petitioner is not required to supply any screening around the property.



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

The cattle operation is located on 462nd Avenue. There is only one intermittent stream in the area and it is located approximately 800 feet to the east of the subject property. Additionally, cropland separates the confinement area and this waterway. Finally, there are no known public places around the facility.

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 all of the dirt overbuild around the barn will be sloped away in order to minimize stormwater runoff. Additionally, the manure will be located inside of a covered containment facility that will prevent any runoff. Finally, the barn will be built on a high spot of land with the general slope directing water flow to the southeast of the property.

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 and manure containment facility will meet the 50-foot setback requirements from the property lines. The existing building on the property is closer to the east property line than 50 feet. However, this existing structure will not be used as a confinement building or manure containment facility, so it is not required to meet this setback.

Setbacks and other requirements.

In addition to the setbacks on the site plan, the 500-animal operation will require a 1,320-foot buffer from any dwellings, churches, or businesses. The closest dwelling to the subject property is approximately 2,000 feet to the northeast, and there are no known churches or businesses in the area.

The County Zoning Ordinance also requires setbacks from a CAFO to municipalities. The nearest municipality to this property is Colton. Colton is classified as a Second-Class Municipality since its population is between 500 and 5,000 people. Since Colton is labelled as a Second-Class Municipality the CAFO must be at least $\frac{3}{4}$ -mile away from the city limits of the municipality. The proposed CAFO is more than 2 miles away from the city limits of Colton.

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. In the case of this CAFO there are no operational CAFO's within the 1,320-foot buffer around the property. Therefore, the proposed CAFO is not required to obtain a State General Permit. However, the Planning Commission may add the requirement to obtain a State General Permit if it is deemed necessary.

Manure is planned to be managed as solid manure pack that will be stored in a covered concrete facility in between the new confinement barn and the existing building. This will screen the manure



from the road. The manure is planned to be incorporated according to the ordinance into five separate fields that are owned by the petitioner, and this will generally take place in the Spring, Fall, and Summer when crop rotation allows. Incorporating the manure into the fields within five days of application should reduce the concerns about manure runoff due to rain. Finally, deceased animals will be screened from the road on the west side of the existing building to the north of the manure facility, as described on the site plan, until the hired rendering service picks up the animals.

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, and a majority of the land in the immediate area is also owned by the land owner for this permit request. So, there should be little effect on the use and enjoyment of other properties in the immediate vicinity, which is mostly agricultural cropland. Additionally, due to the prevalence of agriculture in the area, the addition of a cattle barn should not negatively affect property values in the immediate vicinity.

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

The surrounding 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 a driveway access onto 462nd 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 finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #22-02 with the following conditions:

- 1) The facility shall not exceed 500 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 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 Randal and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-02 with staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #22-02 – Approved



ITEM 5. CONDITIONAL USE PERMIT #22-05 to allow a Class 1, Major Home Occupation (Livestock Brokerage) on the property legally described as W Johnson's Addition SW¼ NW¼ Section 35 T104N-R50W Burk Township.

Petitioner: Deffenbaugh Homes

Land Owner: Dyce Livestock, Inc.

Location: 24940 470th Avenue, approximately 3 miles northwest of Baltic

Staff Report: Mason Steffen

General Information:

Legal Description – W Johnson's Addition SW¼ NW¼ Section 35 T104N-R50W Burk Township

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 19.11 Acres

Staff Report: Mason Steffen

Staff Analysis: The petitioner is requesting conditional use permit approval to allow a Class 1, Major Home Occupation on the above described property. The home occupation involves a livestock brokerage for the buying and selling of hogs. The occupation is classified as a Class 1 Major Home Occupation because it will be conducted inside of an accessory building. Additionally, the petitioner for this request, Deffenbaugh Homes, is the contractor who recently remodeled the accessory building that the proposed occupation will utilize. Finally, the owner of the property, David Dyce, will be the main employee for business along with two secretaries that will make occasional visits to the property.

The petitioner submitted a simple site plan and narrative along with the application for the home occupation. The proposed occupation will utilize a recently remodeled accessory building on the property. Additionally, the application also stated that there will be no sale of products or livestock on the property, and that the business will mostly be consulting work handled over the phone. The owner also explained that they would like to place a sign on the subject accessory building for the business. Any signage for the occupation will need to meet the requirements of Section 16.04 (I) Special Use Signs of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit will also be required before any signage will be allowed on the subject property.

On January 7th, 2022, staff visited the property and determined that the proposed use for a Major Home Occupation involving the buying and selling of hogs is an appropriate use for the rural area. The subject property appeared to be in good order and the accessory building being used in the proposed request is a recently renovated building. Finally, the driveway onto the property appeared adequate to handle the proposed amount of visitors, and was easily visible from the highway.



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 subject property is located in a rural area with only a few residential uses in the immediate vicinity. As long as the use is maintained within the accessory building and the other home occupation regulations are followed, the proposed use will not have a significant impact on property values in the surrounding area. Complaints from neighbors may trigger a review of this permit to consider additional conditions or revocation.

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

The proposed occupation will not affect the appearance of the property, and the minimal proposed visits involved with the occupation is not likely to impact the future growth of the area. This proposed home occupation supports agricultural business in an area where a majority of the vacant land is being used for agricultural related purposes, so the use and development of vacant property in the area should not be impacted.

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

The petitioner has the utilities, access roads, and drainage systems in place due to the residence and accessory building that exist on the property. There should be no further infrastructure needed in order to properly run the home occupation.

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

The petitioner has adequate space adjacent to the existing accessory building for several parking spaces due to the current residential use of the property. The driveway on the property is adequate for the proposed number of daily visitors and deliveries.

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 excessive vibration, glare, fumes, or odors will be allowed while this proposed use is maintained. The proposed hours of operation will general follow a normal work day, and the business will be conducted entirely in a closed accessory building. Both of these parameters limit the potential for any nuisances that may be involved with the home occupation. Finally, the use of any new outdoor lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The site is located in an active agriculture production area. The comprehensive plan encourages agriculture and businesses that support agriculture in this area. The agriculturally related operation of livestock brokerage should fit with the intent of this plan. Additionally, due to the low impact and visibility of the proposed home occupation, the effect to surrounding residential and agricultural properties should be minimal.



Recommendation: Staff recommends **approval** of Conditional Use Permit #22-05 with the following conditions:

- 1) That the occupation shall comply will all regulations of Section 12.0302 (A) of the 1990 Revised Zoning Ordinance for Minnehaha County.
- 2) A building permit must be obtained for any signage placed on the property.
- 3) All new or replacement outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 4) That the Planning & Zoning Department reserves the right to enter and inspect the home occupation 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 Randal and seconded by Commissioner Barth to **approve** Conditional Use Permit #22-05 with staff recommended conditions. The motion passed unanimously with 5 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #22-05 – Approved



ITEM 6. CONDITIONAL USE PERMIT #22-06 to expand the Class A, Dairy Concentrated Animal Feeding Operation on the property legally described as the SE¼ SE¼ Section 3 T103N-R49W Sverdrup Township to include an updated manure management system on the property legally described as the W½ SW¼ (Ex. Tract 1 Brende's Addition) Section 2-T103N-R49W Sverdrup Township.

Petitioner: Danny Vanderdussen

Land Owner: Ronald & Elise Hefty

Location: 47592 251st Street, approximately 1.5 miles southeast of Baltic

Staff Report: Kevin Hoekman

General Information:

Legal Description – W½ SW¼ (Ex. Tract 1 Brende's Addition) Section 2-T103N-R49W Sverdrup Township.

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 77.25 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The purpose of this request is to expand the footprint of an existing dairy. The expanded footprint will allow for manure management of the dairy to include a methane digester to separate natural gas from the manure. The current permit for the dairy is CUP #19-30 which allows 5,600 animal units on the dairy. The number of animals will remain as approved in 2019.

The location of the proposed expanded footprint will be across 476th Avenue directly to the east of the existing dairy. Submitted site plan shows an uncovered manure basin, a covered manure basin, and an area for the digester and related equipment. Trees are proposed to be located to the north, east, and south of the expanded site addition. The west side of the new addition will be open to the township road and to the existing dairy.

Since this project is an expansion of an existing permit, the recommended conditions include all existing conditions with additions and revisions to include the proposed additional area.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a site plan for the proposed expansion area. Since the existing dairy has already been approved, the descriptions of the site plan elements pertain only to the proposed expansion.

The address of the property and the legal description.

The expanded property does not have an address yet. The legal description of the expanded area is included in the application



The name of the project and/or business.

The project name is on the site plan as Driftwood Dairy Proposed Digester Site.

The scale and north arrow.

A north arrow and scale are provided on the site plan.

All existing and proposed buildings or additions.

The buildings and lagoons of the existing dairy are located on the site plan. The proposed lagoons and digester site are located on the proposed site too.

The dimensions of all buildings.

The dimensions of buildings are not specifically listed in the site plan. The proposed site will have minimal buildings on the site but rather new lagoons and equipment will be the primary structures on proposed site expansion.

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

The distances of the structures and building to the property lines of the proposed expansion site are not included on the site plan. The scale of the project shows that the 50 feet required setbacks can and will be met by the structures. The 50 feet setback requirement will include 50 feet from the front yard of any structures or manure containment.

Building height and number of stories.

The proposed expansion will have a few small buildings the size and height are not listed on the plan. The scale of the buildings are small and few in number. Agricultural structures do not have height restrictions.

Dimensions of all property lines.

The dimensions of the property lines are not included on the site plan. The size of the entire property addition is approximately 77 acres, and the north/south property lines are nearly ½ mile long. The proposed use of the property will not take the entire area.

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

The property is large and will accommodate all parking. No on-street loading and unloading will be allowed.

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 site plan of the proposed addition shows a tree belt around the north, east, and south of the addition. The plan states that the tree belt will include five rows of trees.

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

The adjacent street names are included on the plan. The proposed additional land will front



476th Avenue between 250th Street and 251st Street.

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

A grading plan is not included in the site plan. The area generally slopes to the north. The lagoons on the property must not be allowed to contain diverted precipitation.

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.

Setbacks and other requirements.

As a Class A CAFO requires a setback of 3,960 feet from a dwelling, church, or business. This setback can be reduced to 1,980 feet if a shelterbelt of trees are planted and maintained between the structures and the CAFO. The site plan shows that the proposed addition will meet setback requirements if trees are planted to reduce the required distance. No waivers will be required prior to approval of this proposed addition.

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 project is an addition to an existing dairy. The footprint of the site will extend over the township road to the east to set up a methane digestion facility in order to process manure. No required setbacks will be further reduced due to the proposed facility. The process separating methane from the manure will have the added benefit of removing several other gasses which cause odor and reduce the overall odor of the dairy.

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 dairy are predominantly agricultural with a mix of several single-family dwellings and farmsteads. Agriculture will likely continue to be prominent into the future of the area. The expanded area of the dairy will unlikely affect further agricultural development in the area.

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

The petitioner will have the responsibility of extending any needed utilities to the facility. Since the addition will cross a township road the petitioner should work closely with the township for any required permits for work in the right-of-way. The land where the addition is proposed generally drains to the north. The lagoon on the site will be designed to capture the rainfall which lands directly inside of the basin.



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

The site is large enough to accommodate off street parking and loading. No parking or loading should take place on the township roads.

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 primary means of reducing offensive odor, fumes, dust, noise, vibration, and lighting is the distance required through setbacks to neighboring dwellings, businesses, and churches. The petitioner is proposing a processing facility which has the ability to reduce noxious fumes from the manure. In addition, there will be trees planted around the facility as shown on the site plan.

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

The proposed project will expand the footprint of an existing dairy. The expanded area is planned for use of a methane digester to produce natural gas and reduce odor causing items out of the manure. The dairy and its expansion are located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to “protect, preserve, and promote agricultural uses and the economic viability of farming operations.”

Recommendation: Staff recommends **approval** of Conditional Use Permit #22-06 to expand CUP19-30 with the following amended conditions:

- 1.) The maximum size of the dairy facility shall be limited to 5,600 animal units.
- 2.) Any required permits from the state must be obtained and maintained for the dairy and all manure processing.
- 3.) Before the facility can be expanded to more than 1,000 animal units, the shelter belt tree plantings must be completed.
- 4.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 5.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
- 6.) 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.
- 7.) All new structures must obtain building permits prior to construction.
- 8.) Trees must be planted around the additional manure facility as shown on the submitted site plan on or before July 2024. Trees must be maintained with a 90 percent survivability rate, and dead trees must be replaced within one year.

Action

Conditional Use Permit #22-06 – Withdrawn



ITEM 7. CONDITIONAL USE PERMIT #21-71 to allow Outdoor Commercial Storage on the property legally described as Tract 1 Funke's Addition SE¼ Section 26-T101N-R48W Split Rock Township.

Petitioner: Alex Halbach

Property Owner: Rex Gulickson

Location: Southwest corner of Rowena

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 1 Funke's Addition SE¼ Section 26 T101N-R48W Split Rock Township

Present Zoning – C – Commercial

Existing Land Use – Cropland

Parcel Size – 2.00 Acres

Staff Report: Kevin Hoekman

Update:

This project was first proposed at the October 25th, 2021 planning commission meeting, and again at the November 22nd 2021 meeting. The reason for the deferrals were to understand road and drainage issues for the property. Split Rock Township discussed Ledge Rock Avenue at the December 14th meeting. The township is requesting that the petitioner present a drainage plan for the project prior to development. The planning department has not received a drainage plan at this time. A drainage plan requirement has been added to the list of staff recommended conditions.

Staff Analysis:

The petitioner is requesting to have outdoor storage on the above site with lights and full surround fence with a gate. An outdoor storage yard requires approval of a conditional use permit in a commercial zoning district. The parcel is located on a gravel surfaced road which runs along the west side of Rowena between SD Highway 42 and 267th Street. The subject property is located within the Red Rock Corridor Overlay District which requires several increased development standards compared to the Zoning Ordinance at large.

The petitioner has submitted a brief narrative description of the project and a detailed site plan. The narrative explains that the property will be used for paid storage of boats, campers, trailers, and similar items. The property will be illuminated and have a fence surrounding all outdoor storage. The site plan indicates 77 parking spaces measuring 12 feet by 35 feet which line the perimeter of the property.

Since the property is located within the Red Rock Corridor Overlay District, several increased development standards will apply to the parcel. The enhanced standards primarily include increased buffer yards between properties and required tree plantings within the buffer yard. The standards are addressed in the current site plan. The proposed use of the property should be simple to arrange to meet the standards with administrative approval.



The first standard which will be required is that all lighting must be directed downward and fully cutoff. This will prevent light from glaring into neighboring properties.

As a commercial property in the Red Rock Corridor, a 30 feet wide buffer yard must be placed between the land use and the residential used property to the east of the site. The 30 feet buffer yard will be required to include 8 trees per 100 linear feet of property line. Since the property line on the east side of the parcel is approximately 140 feet long 12 trees must be placed in the buffer yard. the aerial imagery of the site shows that some trees may be existing on the property now. These existing trees can act as the required planting as long as they meet the quantity requirement of 8 trees per 100 feet. Staff suggests that the proposed chain link fence include screening slates along the east side of the property to aid in the buffer of the residential and commercial use.

The Red Rock Corridor also requires a buffer yard of 15 feet between any new commercial development and any existing commercial development. This 15-foot buffer yard must be placed along the north side of the property line. Five trees must be planted for every 100 feet of buffer yard. since the north property line is just short of 500 feet long, 25 trees must be planted in the buffer yard.

This item was heard by the Planning Commission on October 25, 2021. It was continued at that meeting in order to allow the applicant additional time to address the drainage with Split Rock Township and nearby property owners.

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 low impact use and similar to what already exists in the area. Lighting should be limited to cut off fixtures and the slatted fence should prevent headlights from shining in neighboring residential uses.

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

Rowena has recently been expanding this sort of personal storage uses around the perimeter of the village. Residential uses will not likely expand in the area. And commercial uses will likely slowly continue to expand as more traffic travels SD Highway 42.

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

The property is accessed from Ledge Rock Avenue which is a gravel road. The use will increase impermeable ground on the site through gravel or other surfacing materials. The slope of the land will direct water to the southwest and towards water ways to the west. The petitioner will be responsible to extend any needed utilities to the site.



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

Off street parking for the site is not applicable since the entire property will act as a parking lot for storage. Since the property is accessed from a gravel road, the surface of the outdoor storage may be gravel to comply with surfacing requirements.

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.

Fencing, buffer yards, and required tree plantings will reduce many potential nuisances of the site. Cutoff lighting must be used to prevent glare on neighboring properties.

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

Rowena is a rural service area within the comprehensive plan. Expanding commercial use is expected.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-71 with the following conditions:

- 1) This conditional use permit is to approve outdoor storage on the described property.
- 2) A revised site plan must be approved by Planning Staff to meet all requirements of the Red Rock Corridor Overlay District. The site plan must be approved prior to construction of the fence.
- 3) The fence along the east property line must include screening slats through the entire length.
- 4) All lighting must be fully cutoff and directed downward to prevent glare from spreading off the property.
- 5) A drainage plan must be accepted by the Planning Department prior to development. The drainage plan must at a minimum show how silt and debris will be prevented from entering the road ditch.

Public Testimony & Discussion

Kevin Hoekman, of county planning staff, presented a brief update of the conditional use permit to the commission.

Commissioner Ode asked Kevin whether there had been any clarification on if Split Rock Township accepts Ledge Rock Avenue as a legal road. Kevin explained that the Split Rock Township attorney has stated that they accept Ledge Rock Avenue as a minimum maintenance road.

Commissioner Ode then asked if it will be necessary to place culverts under Ledge Rock Avenue once the ditch on the east side has been cleared. Kevin explained that once the silt in the ditch is removed, there should not be any need for culverts under the road. Kevin did explain, however, that there will still need to be culverts added under the driveway onto the subject property.

The petitioner's representative, Brian Smit, of 4900 S Kalen Place, Sioux Falls, SD, was asked to come to the podium. Mr. Smit explained to the commission that Split Rock Township is requiring him to have a drainage plan approved by the township before any development on the property can occur. He further explained that, due to the cost of hiring a civil engineer, he created the drainage



plan for the property himself. This drainage plan includes a two-foot berm on the south side of the property in order to minimize excess water flowing into the neighboring properties. Finally, he stated that his proposed drainage plan has been sent to the township and the adjacent neighbors, but that it has not been before the township board meeting to be officially approved.

Commissioner Duffy asked the petitioner who would be responsible for maintaining the road once the ditch is cleared out. Brian Smit explained that the township would maintain the road up until the access point on the subject property, which is about 400 feet from SD Highway 42. Additionally, he stated that the typical road closure sign that is placed on the road in the winter will be moved back far enough, so that the subject property will be accessible in the winter.

Commissioner VanDerVliet asked for clarification on if Ledge Rock Avenue is a minimum maintenance road. Brian Smitt stated that it is a legally recognized road by the township, and that, yes, it has been minimum maintenance for several years.

Commissioner Barth stated that he did not see a way for the planning commission to approve the request at this time, and that they need to wait for further clarity on the drainage plan with the township.

Action

Commissioner Barth made a motion to **defer** Conditional Use Permit #21-71 to the **February 28th, 2022** meeting. The motion was seconded by Commissioner VanDerVliet. The motion passed unanimously with 5 votes in favor of the motion, and 0 vote against the motion.

Conditional Use Permit #21-76 – Deferred to February 28th, 2022

Old Business

None.

New Business

Scott Anderson, of county planning staff, explained to the commissioners a new software that the county recently obtained in order to manage the agendas, packets, and minutes for the planning commission meetings. He additionally stated that this Civic Plus software will eventually replace the county's current system of mailing all the meeting information to the commissioners, and will allow them to access the information at any time.

Commissioner Barth asked Scott if would be possible to do a demonstration of the software at the next planning commission in February. This was agreed upon by all commissioners present and the planning staff.

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 7:54 p.m.