



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
May 24, 2021**

A meeting of the Planning Commission was held on April 26, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building and in the Zoom Personal Meeting Room ID 728 439 8039.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Ryan VanDerVliet, Mike Ralston, and Jeff Barth were present at the meeting.

STAFF PRESENT:

Scott Anderson and Kevin Hoekman - County Planning
Eric Bogue – States Attorney’s Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 8:13 p.m.

Commissioner Barth motioned to amend the agenda by placing Item #2 after Item #8 in the agenda. Commissioner Ralston seconded the motion. The motion passed unanimously.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak and no hands were raised in the Zoom Personal Meeting Room.

ITEM 1. Approval of Minutes – April 26, 2021

Chair Duffy called for any comments or amendments to the minutes. Nobody raised any comments or amendments.

A motion was made by Commissioner Mohrhauser and seconded by Commissioner Barth to approve the meeting minutes from April 26, 2021. The motion passed unanimously.



ITEM 3. CONDITIONAL USE PERMIT #21-36 to transfer (1) building eligibility from SE ¼ NW ¼, Section 9-T104N-R51W to the NE1/4 NW1/4, Section 9-T104N-R51W.

Petitioner: Ryan & Sarah VanDerVliet

Property Owner: same

Location: ½ mile east of the intersection of 462nd Avenue and County Highway 104

Located Approximately 3 mile northwest of Colton, SD

Staff Report: Scott Anderson

General Information:

Legal Description –Section 9-T104N-R51W

Present Zoning – A1-Agriculture

Existing Land Use – cropland

Parcel Size – 137.39 acres

Staff Report: Scott Anderson

Staff Analysis: The property is located approximately 3 miles to the northwest of Colton along County Highway 104. The applicant is requesting to move a landlocked building eligibility to the north where it will have access off a paved county highway. The transfer would be from the SE ¼ NW ¼ to the NE1/4 NW ¼. The noted location of the building site would be directly east of the existing residence. The applicant has indicated that this lot is somewhat cut out from the rest of the farm ground by a waterway.

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 is an existing residential lot next to the proposed site. A right-to-farm notice covenant should be required to notify potential buyers to the realities of locating in an agricultural area.

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

The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The requested location for the eligibility places it near other residentially used property. Access would have to be approved by the County Highway Department. 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. The applicant has indicated that rural water and electricity are already located in the ditch. There is already an approach onto the proposed building site. The County Highway Department



will need to approve the location of this approach for use as a residential approach, which is a change in use from a field approach.

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

The off-street parking requirements will be provided for once a single-family residence is constructed on the subject property.

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

The proposed conditional use will not cause odor, fumes, dust, noise, vibrations or lighting in any amounts that would constitute a nuisance.

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

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

Recommendation:

Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-36 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 the County Highway Department must be obtained for the location of the driveway before a building permit is to be issued.

Public Testimony

Commissioner VanDerVliet recused himself from the hearing of this item as he is the petitioner.

Scott Anderson, county planning staff, presented the staff report and recommendation.

Nobody moved to speak for or against the item.

Action

A motion was made by Commissioner Barth to **approved** Conditional Use Permit #21-36 with the staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #21-36 – Approved



ITEM 4. CONDITIONAL USE PERMIT #21-39 to exceed 3,600 square feet of total accessory building area – requesting 4,302 sq. ft. on the property legally described as Tract 2, Arends Addition, NE1/4, Section 12-T103N-R51W.

Petitioner: Michael R. Peterson

Property Owner: same

Location: 25115 466th Ave. Located Approximately 3 miles southeast of Colton

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 2, Arends Addition, NE1/4, Section 12-T103N-R51W

Present Zoning – A1-Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 3.63 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 36 feet by 60 feet accessory building on the subject property. The building will be in addition to an existing building on the property to add up to 4,302 square feet total.

The proposed building will be located northwest of the existing shed. The location will require several rows of trees to be removed, but a few rows of trees will remain and help screen the building from neighboring properties. The petitioner submitted a narrative regarding the proposed building. The narrative explains the building is for an automobile collection. It also explains that access to the building will be from the existing driveway at this time.

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 around the property is largely agricultural with the scattered residential uses. The residential uses have some separation between properties. The proposed building will also be screened by a couple rows of existing trees.

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

The proposed use will generally match the current development patterns. Increasing the size of allowed accessory building space may lead to other nearby property owners to request similar sized structures, however, a very large structure is located on a property about ¼ mile south of the subject property already.

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

The petitioner will be required to extend all required utilities to the structure. The current driveway will provide access to the shed. A driveway permit may be required by the township if another driveway is wanted by the petitioner.



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

The property already has existing attached garage and large accessory building. The new shed will add 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.

The propose shed is planned for personal vehicle storage. It will be screened form many of the neighbors with existing trees and structures. The petitioner should be aware that inoperable or unlicensed vehicles and vehicle parts are not allowed to be stored outside of an enclosed permanent structure. The property must comply with the public nuisance ordinance.

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

The health, safety, general welfare of the public will not be negatively affected by the construction for 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 #21-39 with the following conditions:

- 1.) That the total accessory building square footage on the property shall not exceed 4,302 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

Public Testimony

Kevin Hoekman, planning staff, briefly presented the staff report.

Michael Peterson, the petitioner, was present for questions. Nobody else moved to speak about the item.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #21-39 with the staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #21-39 – Approved



ITEM 5. CONDITIONAL USE PERMIT #21-41 to transfer one (1) building eligibility from the NW1/4 SW1/4 to the NE1/4 SW ¼; on the property describe as SW1/4 (Ex E642 N596 & Ex AC in NW1/4 SW1/4 Lying W of Rd Also Described in Meets & Bounds Described in Book 457 Page 40) Section 30-T103N-R50W.

Petitioner: Josh Schuette

Property Owner: Mike Boer (Boer Investments)

Location: East of the intersection of Grand Meadow Street and 466th Avenue

Approximately 2 miles south of Lyons

Staff Report: Kevin Hoekman

General Information:

Legal Description – SW1/4 (Ex E642 N596 & Ex AC in NW1/4 SW1/4 Lying W of Rd Also Described in Meets & Bounds Described in Book 457 Page 40) Section 30-T103N-R50W

Present Zoning – A-1 Agriculture

Existing Land Use – agricultural crop and pasture

Parcel Size – approximately 140.87 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to transfer one building eligibility from agricultural cropland to pasture land located near an existing residential acreage. The petitioner will be platting and purchasing a parcel of land from the landowner after the building eligibility is transferred.

The proposed building site is located approximately 2 miles south of Lyons and near Skunk Creek. The transfer will remove the building eligibility outside of the floodplain. The transfer will also have the added benefit of moving the eligibility further away from several hog confinements located within farmsteads west of the creek.

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 around the building eligibility is primarily agricultural with a few scattered residential uses. The proposed parcel will be located adjacent to another residential acreage. The additional residential use will not significantly affect the surrounding properties.

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

The surrounding area is primarily agricultural ground with a few residential acreages. The agricultural use will likely remain predominant for a long time. The property is also located within a Water Source Protection Area which will limit new Confined Animal Feeding Operations. A single family residence will not change these limiting factors for growth in the area.



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

The proposed property is located along a township road for primary access. The petitioner will be required to obtain all necessary utilities to the property. A single-family dwelling will have minimal affect on drainage of the area.

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

Off-street parking requirements will be met when the single family dwelling is 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 do not typically create odor, fumes, dust, noise, or vibration. The property will have to comply with the public nuisance ordinance. The property is located over a watershed protection area. The property owner will have to comply to all requirements for septic system on the site.

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

The proposed transfer of building eligibilities will remove a building eligibility out of the floodplain, off of productive cropland and into a cluster of residential properties.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #21-41 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.

Public Testimony

Kevin Hoekman, county planning department, presented the staff report.

Josh Schutte, the petitioner, was available for questions. Nobody else moved to speak on the item.

Action

A motion was made by Commissioner Mohrhauser to **approve** Conditional Use Permit #21-41 with the staff recommended conditions. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #21-41 – Approved



ITEM 6. CONDITIONAL USE PERMIT #21-42 to transfer one (1) building eligibility from the NE1/4 NW1/4 to Tract 1 MCD Addition in the NW1/4 Section 10-T104N-R47W.

Petitioner: Tim Qualm

Property Owner: Timothy and Lynette Qualm Living Trust

Location: Approximately 5 miles North of Sherman

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 1 MCD Addition in the NW1/4 Section 10-T104N-R47W

Present Zoning – A1-Agriculture

Existing Land Use – Remaining Farmstead

Parcel Size – approximately 7.14 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to transfer a building eligibility off of productive agricultural land and onto a recently platted portion of a former farmstead. The result will be two dwellings located close to each other on adjacent parcels within the former farmstead.

The proposed transfer is located near Moody County Dairy, a Class A CAFO. The petitioner and owners of the CAFO have been working together regarding the property and everyone involved is aware of the CAFO.

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 around the transfer is largely agricultural. Non-agricultural residences are few. The proposed location of the building eligibility will have the advantage of not converting any crop land and having some existing tree belt protection of the former farmstead.

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

The dwelling is located within the required setbacks for the Class A dairy. The close proximity of the dwelling to the dairy may cause problems in the future for setbacks, but the dairy and the property owner have been working together with this process and both are aware of the request.

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

The petitioner will be required to extend any needed utilities for the dwelling. A septic system must be approved by the County prior to permitting the single family dwelling.

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

Off street parking will be met once a single family dwelling is built.



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 single family dwelling typically does not generate odor, fumes, dust, noise, vibration, or lighting that will be a nuisance. The property must be maintained according to the public nuisance ordinance.

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

The proposed transfer will bring a building eligibility within a former farmstead. It will share a driveway with the neighboring property too. The existing farmstead will be an advantage over taking more cropland out of production.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #21-42 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.

Public Testimony

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

Mark Rogan, 48194 252nd Street, was present to represent the petitioner. He noted that they are leaving two building eligibilities available along the highway.

Nobody else moved to speak for or against the item.

Action

A motion was made by Commissioner Ode to **approve** Conditional Use Permit #21-42 with the staff recommended conditions. The motion was seconded by Commissioner Barth. The motion passed unanimously.

Conditional Use Permit #21-42 – Approved



ITEM 7. PRELIMINARY SUBDIVISION PLAN #21-02 to allow subdivision of Peterson's First Addition in Section 3-T102N-R49W.

Petitioner: Tyson Hasz

Property Owner: Billy Peterson

Location: Approximately 3.5 miles North of Sioux Falls along SD Hwy 115

Staff Report: Scott Anderson

General Information:

Legal Description – Lot 1A Petersons 1ST Addition, Section 3-T102N-R49W (Mapleton Township)

Present Zoning – RR Rural Residential

Existing Land Use – residential – mobile home park

Parcel Size – 57.07 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant has submitted a preliminary plan for a new subdivision located north of Sioux Falls. The new subdivision will consist of forty (40) residential lots. The property is already zoned RR Rural Residential and has been the location of the Peterson Mobile Home Park for over 30 years. The property owner is redeveloping the site, transitioning from a mobile home park into lots that can be sold off and stick built homes constructed on them. Many mobile homes have already been removed from the park. The proposed concept of the street and lots generally follows the existing layout of the mobile home park. The streets within the proposed platted subdivision will need to be hard surfaced. The applicant is proposing to re-develop this property in three (3) phases.

Staff has reviewed Section 4.01 of the Minnehaha County's Subdivision Ordinance to determine that all requirements have been met. The applicant has provided all of the required information for a Preliminary Plan, including detailed topographic information, typical cross section for road construction, a grading and drainage plan, and erosion control plan.

The sizes of the lots within the proposed subdivision range in size from between 1.001 acres to 2.01 acres, which meets the minimum lot size requirements for the RR Rural Residential zoning district. The entire subdivision will utilize on-site wastewater disposal systems and will connect to Minnehaha Community Water. There are existing water lines servicing the current mobile homes. A review of any on-site waste water disposal system would need to occur to determine if it is adequately sized and functioning correctly before it could be re-used in conjunction with a new residential construction. Any systems not meeting current state standards would need to be replaced and meet current standards and requirements.

The primary road through the new residential subdivision is Jademan Court. This looped road will use the two existing approaches onto SD Highway 115. Roads extending off of Jademan Court include Sherdean Trail, Jurgen Trail, Rhode Circle, and Wades Way. Prior to a final plat being approved, the applicant shall either construct the roads in each phase to the County's road standards or post surety in an amount to cover the construction cost. Engineered road plans shall



also be provided. The applicant is required to provide road signs that meet all County addressing criteria.

The applicant will have to address the future maintenance of all the roads. Should the applicant create a homeowner's association to maintain the roads, staff recommends that a copy of the covenants be submitted with the final plat to make sure maintenance is addressed.

Recommendation: Staff recommends **approval** of Preliminary Plan #21-02.

Public Testimony

Scott Anderson, county planning department, presented a brief staff report. The applicant will be required to post surety for paving the proposed roads. Commissioner Ode asked how many lots will be on the site and what will happen if a manufactured home is wanted to be placed on a lot. Scott Anderson responded that each lot will meet the 1.00 acre minimum requirement and that a mobile home will have to get a conditional use permit in order to be placed on a property in the development.

Bill Peterson, 2720 E Bison Trail, was present for questions. He confirmed that there were 42 mobile homes in the mobile home park.

Action

A motion was made by Commissioner Barth to **approve** preliminary subdivision plan #21-02. The motion was seconded by Commissioner Ode. The motion passed unanimously.

Conditional Use Permit #21-02 – Recommended for Approval



ITEM 8. CONDITIONAL USE PERMIT #21-44 to exceed 2,400 square feet of total accessory building area – requesting 4,200 sq. ft. on the property legally described as Tract 1 Struck’s Second Addition, SE1/4 NE1/4, Section 23-T103N-R52W.

Petitioner: Ken Mays

Property Owner: same

Location: 25335 459th Ave. Located Approximately 5 miles northeast of
Humboldt

Staff Report: Kevin Hoekman

General Information:

Legal Description – Tract 1 Struck’s Second Addition, SE1/4 NE1/4, Section 23-T103N-R52W

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 2.5 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to build a 25 feet by 40 feet accessory horse shed on the subject property. The shed will be in addition to an existing building on the property to add up to 4,200 square feet total.

The property received a conditional use permit in 2015 to allow 3,200 square feet of accessory building space. The location of the property is loosely a part of a subdivision of houses along the quarter section.

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 around the property is largely agricultural with the scattered residential uses. The residential uses have some separation between properties. A horse shed is a common use in agricultural areas throughout the county, and it will be compatible in the area.

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

The proposed use will generally match the current development patterns. Increasing the size of allowed accessory building space may lead to other nearby property owners to request similar sized structures.

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

The petitioner will be required to extend all required utilities to the structure. The current driveway will provide access to the shed.



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

The property already has existing attached garage and large accessory building. The existing parking will accommodate the new traffic from the proposed horse shed.

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 propose shed is planned for holding horses. Accumulations of horse manure can cause issues with smells and rodents for neighboring property owners. Staff recommends a limit of one year of accumulated manure to be allowed on the property at any one time.

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

The health, safety, general welfare of the public will not be negatively affected by the construction for the proposed accessory building. The proposed use as a horse shed will fit within the uses of other properties in the rural area.

Recommendation:

Staff recommends **approval** of Conditional Use Permit #21-44 with the following conditions:

- 1.) That the total accessory building square footage on the property shall not exceed 4,200 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) No more than one year of accumulated manure from animals housed on the property shall be allowed to be stockpiled on the property.
- 7.) That a building permit is required prior to construction of the accessory building.

Public Testimony

Kevin Hoekman, county planning department, presented a summary of the staff report.

Ken Mays, 25335 459th Avenue, was present for questions. He noted that he tills the horse manure into his garden regularly.

Action

A motion was made by Commissioner Barth to **approve** Conditional Use Permit #21-44 with the staff recommended conditions. The motion was seconded by Commissioner Mohrhauser. The motion passed unanimously.

Conditional Use Permit #21-44 – Approved



ITEM 2. CONDITIONAL USE PERMIT #21-35 to allow a Class C, Hog CAFO (960 Animal Units) on the property legally described as the Proposed Tract 1 of Stockwell Addition, SW1/4, Section 19-T101N-R52W.

Petitioner: Lloyd Stockwell

Property Owner: Lloyd & Opal Stockwell

Location: Southeast Corner of the SW 1/4 of section 19 in Wellington Township.

Approximately 8 miles south of Humboldt

Staff Report: Kevin Hoekman

General Information:

Legal Description – SW1/4, Section 19-T101N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – Farmland

Parcel Size – 160 Acres (Proposed 2.07 acres)

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 8 miles south of Humboldt. The petitioner would like to construct a 2,400 head swine-finishing concentrated animal feeding operation (CAFO) in a small portion of a ¼ section of land. The petitioner has begun the process of platting land and the barn will be located about 100 feet from the right-of-way of 266th Street. The petitioner’s mailing address is approximately one mile northwest of the proposed hog confinement.

The county zoning ordinance has several situations where a proposed CAFO would be required to obtain a general pollution control permit from the State DENR prior to the construction of the proposed facility. The first situation is regarding the size of the proposed CAFO. The petitioner has proposed a swine finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit and will be considered a Class C CAFO for Minnehaha County’s Ordinance. the proposed CAFO is not located over any known aquifers or floodplains which would also be cause for a state permit requirement.

The site plan is a requirement and an important aspect of any conditional use permit. A list of required elements for general CUPs and specifically CAFOs have been created to provide clarity for any petitioner requesting a CAFO. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a site plan prepared by Meyer Land Surveying. In addition, the petitioner describes in a brief narrative the manure management plan and dead animal disposal plan.

The address of the property and the legal description. The location of the proposed swine facility does not have an address assigned to it yet. The parcel is in the process of getting platted out of the southeast ¼ of the southwest ¼. The application included the likely but not official address of 45440 266th Street.



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

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

All existing and proposed buildings or additions. The site has no existing buildings. The proposed building is shown on the site plan and it takes up most of the space in the back half of the property.

The dimensions of all buildings. The dimensions of the proposed confinement building is listed on the site plan as 51 feet by 399 feet. No other buildings are located on the proposed development site.

The distance from all buildings to the property lines at the closest points. The site plan indicates that the proposed confinement structure will be setback approximately 100 feet from the front yard property lines. The site plan shows that the barn will fit closely within the proposed platted lot with 10 feet site yards and 30 feet rear yards. The ordinance requires CAFOs to be setback 50 feet from all property lines. This will work for the property owner as long as the new tract and the quarter section is owned by the same person. Not meeting the setbacks can cause problems if the tract with the barn is sold to another property owner, because the barn would then be non-conforming with the ordinance. Staff suggests that the tract is made larger to meet the minimum setbacks of 50 feet from each property line now rather than having complications in the future.

Building height and number of stories. The provided site plan indicates that the building will be one story and have underground manure containment.

Dimensions of all property lines. The current parcel is the entire SW ¼ of the section. The proposed parcel is to be approximately 420 feet wide by 215 feet deep. The dimensions may change slightly based on 50 feet required setback distance.

Parking lots or spaces; designate each space; give dimensions of the lot, stalls, and aisles. The proposed land use is for agricultural purposes on a large lot. Parking lots and space requirements are typically calculated for commercial and industrial uses. The site will have an access from the township road 266th Street. The site will be large enough to allow for parking, loading, and maneuvering. No parking or loading will be allowed within the right-of-way.

Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping. The submitted site plan does not include any plans for landscaping or screening.



Name and location of all adjacent streets, alleys, waterways and other public places. The site plan shows 266th Street. The nearest water source is Elce Creek which is well over 200 feet away to the east of the proposed CAFO. No public places are located nearby.

A landscaping in plan designed to assist in the dispersal of odors. The submitted materials do not include anything specific as to landscaping to help disperse odors. The closest dwelling is located over 2,000 feet to the southeast.

A grading plan designed to help keep pens and solid waste containment areas dry. The animals and manure will both be located inside the proposed structure in an underground manure containment system. The Minnehaha County GIS indicate that the general slope would have water flow to the east and west of the site as the barn will be located on the top of a hill.

The location and description of the animal waste facilities and structure. The indicates only the one manure containment facility under the barn.

In relation to the site plan, the 960 animal unit operation will require a 1,320 foot buffer from a dwelling, church, or business. The submitted site plan indicates that the proposed barn is located outside of the required setback for all dwellings in the area, and no waivers or reductions are required.

In addition to site plan elements, an application for a CAFO is required to submit a manure management plan and dead animal disposal plan. The petitioner submitted a short explanation for each. Manure is to be injected in nearby cropland as weather and crop rotation allows. Dead animal disposal will take place through a rendering company and the dead animals will be screened from view.

Conditional Use Permit Criteria:

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

The proposed CAFO is located within a low density and predominantly agricultural area. The site meets the required setbacks for the size of the facility. The nearest residence to the proposed site is over 200 feet away to the west. A small cluster of residential acreages exists a short distance further west. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural, scattered single family dwellings, and farmsteads. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area. However, as intense



land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility indicates that a new driveway will have to be installed. The petitioner will have to acquire a driveway permit from the township and extend any utilities to the proposed facility. Grading will be minimally affected for the barn.

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

The operation is located on a large site that will have enough space to meet off street parking and loading requirements. Parking and loading in the right-of-way will not be allowed.

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

The petitioner is requesting a new CAFO facility. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes, and dust. Anything included in the narrative and plans will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

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

The proposed swine CAFO will have to comply with the conditions of this permit and the regulations for CAFOs in the 1990 Revised Zoning Ordinance for Minnehaha County. These rules and regulations are designed to allow for development while preventing much of the potential harms that a CAFO facility may create. The facility is not required to obtain a State permit; however the state will review the application if Minnehaha County deems state permitting to be necessary.

The proposed CAFO is located firmly within the Agricultural Production Area of the Envision 2035 Comprehensive Development Plan. In the description of this designated area, a goal of the Envision 2035 Comprehensive Development Plan is to "protect, preserve, and promote agricultural uses and the economic viability of farming operations."

Recommendation:

Staff recommends **approval** of CUP #21-35 with the following conditions:

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

Public Testimony

Kevin Hoekman, county planning department, presented a summary of the staff report.

Commissioner Mohrhauser asked where the proposed barn is compared to the closest paved road. SD Highway 19 is about ½ mile east of the location.

Lloyd Stockwell, the petitioner, was present for the hearing. He stated that he has lived in the community for a long time. he noted that he thinks hog barns are scarier in thought than they are in person. Bernard Stockwell noted that he lives within 1600 feet of another hog barn which is closer than any of the current residences from his proposed barn.

Commissioner Barth asked how rendering services will work for the property. Bernard Stockwell responded that he has a place where dead pigs will be placed out of the sight of the public.

Commissioner Randall asked where the barn is going on the ¼ section. Bernard pointed out that the barn will go on the far southeast corner of the lot. Commissioner Randall further asked where truck traffic will travel to load and unload the hogs from the barn. Bernie Stockwell noted that they will likely go east of the barn to SD Highway 19.

Eric Willadsen, 902 S Cleveland, noted that he was asked to present for some of the neighbors. He stressed that the barn will carry 2,400 pigs and be 400 feet long. He asked the Planning Commission to require a state permit for the CAFO and for dead animal removal process. He further asked for screening of the facility and for the consideration of requiring insurance for the barn.

Cathy Carmen, 26591 454th Ave., lives west of the proposed barn. She noted that she is not opposed to agriculture. She stated concerns for poor management for the proposed barn, in addition she raised concern regarding road limitations and potential problems for the roads and added traffic. Cathy Carmon also pointed out that there will be no screening of the barn and she does not have room to place trees on her property. She asked who will be managing the property and who will be monitoring the site. Furthermore, there is concern about dead animals attracting coyotes, and the barn attracting pests. She asked about manure management for pit enzymes to land application.



Dwane Marsh, 45522 266th Street, noted that he is allergic to hogs and has problems breathing around hog barns. This is especially true when a hog barn is not well maintained. He noted that he owns a property with a building eligibility close to the hog barn which will not be as valuable once the hog barn is built. Dwane Marsh also raised concern that manure could be spread very close to his house. Commissioner Barth asked if new barns or old barns are considered worse. Dwane Marsh responded that spreading manure is the worst but he didn't know if old or new was better.

Anna Weinstein, 26609 454th Avenue, noted that she has 4 kids and are very concerned about smell and traffic. She reiterated that the barn needs to be well maintained and taken care of.

Dale McNamara, 26608 454th Avenue, lives in the first place west of the proposed hog barn. He said a pig house will stink no matter what. The smell will make people not want to live in the area. He said nobody will buy his 5 acres when he sells the place. Commissioner Barth confirmed Dale's house on the map. Dale McNamara noted that the barn will tear up the roads and there are other places to build a pig barn.

Scott Bleaker, 26597 454th Avenue, began by sharing that he has been diagnosed with pulmonary emphysema from his time serving over seas. He stated that he would not have moved out to the property if the hog barn was coming as it will kill him. He explained that the site the petitioner currently operates is not taken care of. He noted that some who live north of the other barn cannot go out of the house on certain days due to smell. He shared that the petitioner told them that he was going to build a barn elsewhere if this is not approved.

Mitch Peterson, attorney at Davenport, Evens, Hurwitz, & Smith at 206 W 14th Street, represented a member of the audience. He stated that the petitioner has an existing hog barn which is currently managed. He explained that the proposed barn is a low tech barn with no odor control. His client has pending litigation against the petitioner's existing barn, and the proposed barn appears to be the same barn. He pointed out that there is a cluster of housing a short distance down the road from the proposed barn. Mr. Peterson explained that the Planning Commission has the ability to deny the application based on the health safety and general welfare of the people. He discussed several conditional use permit criteria regarding the application.

Kahli Bryant, 26597 454th Avenue, brought photos of the petitioners existing barn and property. She specifically pointed out the dead pigs in a couple of photos. She also brought a petition with 13 signatures of nearby property owners and residents who are against the proposed hog barn.

Nancy Anne Robert, 4211 Verizon Heights, said she is speaking on behalf of Ila Mathieu and the property where her sister lives. She noted that her sister has stopped her plans to put up a barn for herself when she heard the plans for this CAFO.

Bernard Stockwell responded to many of the concerns brought up from neighboring property owners. He noted that weeds did come up this spring but have been cut down. He noted that the hog barn is the best financial way to continue farming. He stated that he will hire a professional



manure spreader to inject the manure according to nutrient needs and county and state requirements. He stated that the fear of the barn is likely worse than the reality of the barn. Barnard Offered to plant trees and township approval of road maintenance if that would allow the barn to be approved.

Lloyd Randall added some explanation of the property history. He noted that his one neighbor has had a lawsuit against him since before the existing barn was built. He explained that a house sold near his existing barn and his rental house has always had renters.

Commissioner Duffy Closed the floor for discussion.

Discussion

Commissioner Barth noted that the area is zoned for agriculture and that he agrees that this sort of request is usually more frightening than reality.

Commissioner Ode added that this is rural agriculture. He noted that he operates a dairy farm which doesn't get complaints about smell. He explained that he is certain the petitioner will apply manure as what the soil and crop needs and that runoff will not be a problem for the barn as the manure is under a roof. Commissioner Ode suggested that about three rows of trees be added to the conditions of approval for screening and windbreak.

Commissioner Mohrhauser noted that he lives near a hog barn which he doesn't smell on a daily basis. He also explained that the township has the ability to set tonnage limitations on the roads if truck traffic causes problems.

Commissioner Randall agreed that tree screening would probably be a good idea. She noted that she lives near a similar barn which she only notices occasionally. She added that the manure management plan will not waste manure with over application.

Commissioner VanDerVliet explained that he too lives near a hog barn and that he has to follow many regulations for his livestock.

Commissioner Barth stated that he would like to get more details on how trees will be planted and road maintenance, and dead animal disposal plan.

Commissioner Duffy commented that she lives east of Sioux falls and she chose to live in the country where farmers are producing animals and crops.

The Planning Commission discussed with the petitioner some possibilities for adding tree screening on the west side of the property. The discussion included the need for tall trees including an evergreen and fast growing trees. Bernard Stockwell urged the Planning Commission to approve the barn now with conditions because his prices for construction continue to go up.

Action



A motion was made by Commissioner Barth to **approve** Conditional Use Permit #21-35 with the staff recommended conditions and an additional condition for the petitioner to submit a landscaping plan for staff approval to screen the west site of the barn. The motion was seconded by Commissioner Ode. The motion passed with 5 votes in favor of the motion and Commissioner Randall abstained from voting.

Conditional Use Permit #21-35 – Approved with the following conditions:

- 1.) The facility shall be limited to swine confinement 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.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.
- 8.) A landscape plan for the purpose of screening the west side of the barn must be submitted and approved by the planning department. The plan must contain three rows of trees with one row a minimum height of six feet at the time of planting.

Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Ode. The motion was approved unanimously. The meeting was **adjourned** at 9:58 p.m.