

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION**
April 27, 2015

A meeting of the Planning Commission was held on April 27, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Mike Cypher, Bonnie Duffy, Becky Randall, and Doug Ode.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning

The meeting was chaired by Wayne Steinhauer.

CONSENT AGENDA

Item #4 was moved to the regular agenda for discussion purposes.

A motion was made by Commissioner Cypher and seconded by Commissioner Duffy to **approve** the consent agenda consisting of items #1, 2, 3, 5, and 6. The motion passed unanimously.

ITEM 1. Approval of Minutes – March 23, 2015

A motion was made by Commissioner Cypher and seconded by Commissioner Duffy to **approve** the meeting minutes from March 23, 2015. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #15-21 to allow a Single Family Dwelling on the property legally described as S1/2 NE1/4 & E1/2 SE1/4 (Ex. Ry & Lot H-1) & (Ex. Hustrulid Tr. 1), Section 33-T103N-R50W.

Petitioner: Kenneth Benson

Property Owner: same

Location: Approximately 1.5 miles northwest of Crooks

Staff Report: Kevin Hoekman

This would allow a single family dwelling.

General Information:

Legal Description – S1/2 NE1/4 & E1/2 SE1/4 (Ex. Ry & Lot H-1) & (Ex. Hustrulid Tr. 1), Section 33-T103N-R50W.

Present Zoning – A1 – Agricultural District

Existing Land Use – Cropland

Parcel Size – 131.96

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately 1.5 miles to the northwest of Crooks. The subject

property is a large parcel of cropland that is divided by a railroad line. The proposed location of the dwelling unit will be south of the railroad line and south of an existing farmstead. The parcel also has a total of 3 building eligibilities one is available in the SE ¼ of NE ¼ and the other two (including the requested building eligibility) are available only through a conditional use permit. No building eligibility will be moved with this CUP, rather this will allow the use of the building eligibility at its current location.

The petitioner would like to build a single family dwelling on the SE ¼ of SE ¼ that is located south of the railroad. The petitioner currently lives in the farmstead located directly north of the proposed building site. The new building site will likely be parceled into a new property, but this will not be required since it will be the only dwelling on the current parcel. The driveway is proposed to be located on 469th Avenue which is a township road.

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.

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

Allowing the use of this building eligibility does not increase the number of dwelling units allowed in this section. The location of the proposed dwelling site is adjacent to County Highway 126. Many residential lots are located along this highway.

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

The approval of this building eligibility will result in a single family dwelling. The petitioner noted that he would likely have the driveway access onto 469th Avenue. This access would be preferable rather than allowing yet another driveway on the County Highway. The railroad is paralleled by a significant ridge that limits the sight distance for the County Highway from the east. The same ridge limits sight distance on 469th Avenue. Because of this it would be preferable for the driveway to access the road from the top of the ridge for the best view of potential traffic.

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 little to no effect on the health, safety and general welfare of the public. Placing this building eligibility is in compliance with the density zoning

regulations.

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 #15-21 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. The driveway shall be accessed off of 469th street.

ACTION

A motion was made to **approve** Conditional Use Permit #15-21 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-21 – Approved

ITEM 3. CONDITIONAL USE PERMIT #15-22 to allow a Single Family Dwelling on the property legally described as N1/2 SE1/4 & E2/3 S1/2 SE1/4, Section 30-T101N-R50W

Petitioner: Rodney Urban

Property Owner: same

Location: Approximately 2 miles west of Sioux Falls on County Highway 148

Staff Report: David Heinold

This would allow a single family dwelling.

General Information:

Legal Description – N1/2 SE1/4 & E2/3 S1/2 SE1/4, Section 30-T101N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 132.32 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to build a single family residence on the southern portion of the subject property along 267th Street, County Highway 148. The existing building eligibility on this parcel requires conditional use permit approval prior to the allowance of a building permit for a new single-family dwelling.

On April 1, 2015, staff inspected the site and determined that the allowance of a single-family dwelling at this property would not increase the number of dwelling units in the section. The proposed location of the dwelling would be near three (3) existing residences. There are no concentrated animal feeding operations within one mile of the proposed location for the single family residence.

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.

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

The transfer of the building eligibility will not increase the number of dwelling units allowed in this section.

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

The transfer of building eligibility will result in the construction of single-family dwelling with a new driveway off of County Hwy. 148, which requires permission from the County Highway Department.

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

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 otherwise constitute a nuisance.

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

The proposed building eligibility transfer will not negatively affect the health, safety, general welfare of the public, and conforms to the goals and policies of the 1998 Comprehensive Development Plan.

Recommendation:

Staff finds that the transfer of building eligibility request is consistent with density zoning. Staff recommends **approval** of Conditional Use Permit #15-22 with the following conditions:

- 1.) That the lot shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from the Minnehaha County Highway Department for a new driveway approach.

ACTION

A motion was made to **approve** Conditional Use Permit #15-22 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-22 – Approved

ITEM 5. CONDITIONAL USE PERMIT #15-24 to allow a Single Family Dwelling on the property legally described as W64 Acres W1/2 NW1/4 (Ex. W933' N466.5' & Ex. H-1), Section 22-T101NR52W.

Petitioner: Justin Wenzlaff

Property Owner: same

Location: Approximately 7 miles south of Humboldt on State Highway 42

Staff Report: David Heinold

This would allow a single family dwelling.

General Information:

Legal Description – W64 Acres W1/2 NW1/4 (Ex. W933' N466.5' & Ex. H-1),
Section 22-T101N-R52W

Present Zoning – A-1 Agricultural District

Existing Land Use – Agriculture

Parcel Size – 64 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to build a single family residence on the north portion of the subject property along 265th Street, or South Dakota State Highway 42. The existing building eligibility on this parcel requires conditional use permit approval prior to the allowance of a building permit for a new single-family dwelling.

On April 1, 2015, staff inspected the site and determined that the allowance of a single-family dwelling at this property would not increase the number of dwelling units in the section. The proposed location of the dwelling would be near three (3) existing residences. There are no concentrated animal feeding operations within one mile of the proposed location for the single family residence. The applicant farms this property and indicated that the proposed location for the dwelling would make it easier to farm the agricultural land to the south.

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.

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

The transfer of the building eligibility will not increase the number of dwelling units allowed in this section.

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

The transfer of building eligibility will result in the construction of single-family dwelling with a new driveway off of State Highway 42, which requires permission from the South Dakota

Department of Transportation.

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

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 otherwise constitute a nuisance.

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

The proposed building eligibility transfer will not negatively affect the health, safety, general welfare of the public, and conforms to the goals and policies of the 1998 Comprehensive Development Plan.

Recommendation:

Staff finds that the transfer of building eligibility request is consistent with density zoning. Staff recommends **approval** of Conditional Use Permit #15-24 with the following conditions:

- 1.) That the lot shall be platted and a right-to-farm notice covenant shall be placed on the deeds prior to issuance of a building permit.
- 2.) That the construction of a single-family dwelling shall require permission from the South Dakota Department of Transportation for a new driveway approach.

ACTION

A motion was made to **approve** Conditional Use Permit #15-24 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-24 – Approved

ITEM 6. CONDITIONAL USE PERMIT #15-25 to allow Sand & Gravel Extraction on the property legally described as N1/2 SW1/4 (Ex. H-1), Section 6-T102N-R47W.

Petitioner: Brad Lowe

Property Owner: David Sorenson

Location: Approximately 3 miles south of Garretson

Staff Report: Scott Anderson

This would allow Sand & Gravel Extraction.

General Information:

Legal Description – N ½ of the SW ¼ of Section 6, T102, R47W

Present Zoning – A-1 Agriculture

Existing Land Use – Agriculture

Parcel Size – 80 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting a conditional use permit to continue the existing mining that has been occurring in Section 6 of Redrock Township. The applicant obtained Conditional Use Permit #05-57 in June of 2005 to start mining activities in this area.

Location and Background

The location of the site is approximately 4 miles south of Garretson between 256th Street and 257th Street, east of County Highway 109. Sand and gravel deposits are common in the areas adjoining Split Creek and other extraction operations currently exist in this area. Pasture and crop land are the predominate land uses in those areas which have not yet been mined and on reclaimed land.

The proposed extraction area is located south of 256th Street near the middle of Section 6. Historically this area has been used in the past for sand and gravel extraction. Lowe Sand and Gravel has indicated that they will be expanding to the south of the gravel pits allowed in 2005. There are three (3) residences located approximately ½ mile to the west along 484th Avenue and a single residence located ½ mile to the east at the intersection of 256th Street and 485th Avenue. The applicant has indicated that the majority of sand and gravel will be sold locally to various townships.

Planning Considerations

The projected life of the project is 10 to 15 years depending on the demand for construction aggregate. Extraction will be done with earth moving equipment. No blasting will occur on the

site.

The petitioner has proposed to mine up to 20,000 tons per year which will result in traffic of 5 round trips per day on average (spring, summer & fall only). A haul road will extend to 484th Avenue which is a hard surfaced County highway.

There is no designated floodplain located on the property. The subject property is located within the Split Rock drainage basin.

The zoning regulations list developmental and operational criteria for use in evaluating extraction activities. Following is a review of the proposal based on the criteria.

Buffer area - The suggested minimum setback between extraction areas and existing residences is 1000 feet. There are no residences located within the buffer area.

Hours of operation - The zoning criteria suggests that operations be limited to the hours from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays. However, no residences will be impacted by this activity. Furthermore, there are no restrictions on most of the existing extraction sites since they are pre-existing uses. It seems more appropriate that the hours of operation be from sunrise to sunset.

Berms - Berms are commonly used to screen on-site activities from public view and to minimize noise. The petitioner has indicated that no berms will be constructed around the pit area. The applicant indicated that the mining and extraction activities will not be visible from 484th Avenue or 256th Street. The topography is such that the roads are considerably lower than the pit locations. The applicant indicated that only portions of the piles of sand and gravel would be visible to the public.

Noise - 55 decibels recorded over a 10 minute period measured at the nearest residence. This standard is generally addressed on a complaint basis.

Dust - Air quality should not be a concern due to the nature of the extraction operation. Dust from truck traffic can be controlled by applying dust control agents to the haul road. The County Planning Department should be given authority to require the operator to install on-site monitoring devices if air quality becomes a problem.

Hydrology, dewatering and drainage - The petitioner has indicated that extraction will not extend below the water table. No dewatering of the pit is anticipated so the areas hydrologic conditions should not be impacted. The petitioner has anticipated mining to a depth of 15 to 20 feet on the site. The applicant did not submit a hydrologic study as required in Article 12.08.C.3 of the County Zoning Ordinance. The applicant simply stated that any mining activity would not extend into the ground water and thus no de-watering would be needed or used. A hydrological study is a requirement and should the Planning Commission consider this a necessity for this request, then staff would ask that this item be continued and the applicant asked to provide the study. The applicant obtained a South Dakota Surface Water Discharge Permit for Storm Water Associated with Industrial Activities on March 20, 2015.

Haul roads - The most common problem associated with extraction operations is the use of gravel township roads for truck hauling. In this case, the haul road will exit directly onto County Highway 109. The applicant obtained an Approach Permit from the Minnehaha County Highway Department on March 27, 2015 for the new approach onto County Highway 109.

Operator surety - The petitioner has indicated a willingness to file a surety bond of up to \$1,000 to ensure proper reclamation of the site. This figure is based on disturbing two (2) additional acres of land. The area has been used in the past for sand and gravel extraction. Lowe Sand and Gravel has operated without incident in the past and staff does not feel it is necessary to require the surety bond. It should be noted that the operator is required to file a \$1,000 surety bond with the State and has met this requirement.

Reclamation – The plan submitted by the applicant simply indicates that the topsoil will be stripped and stockpiled for use in reclamation. The site will be restored to a farmable status within one (1) year of conclusion of mining operations. Reclamation should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create an aesthetic appearance and promote the most appropriate future use of the property. The application states that the site will be returned to agricultural use.

Other considerations - The entrance to the property should be gated to discourage individuals from disposing of refuse in the pit during non-working hours.

The site is not located in the Water Source Protection Overlay District. Only clean fill will be used as backfill on the site as defined by the County Nuisance Ordinance.

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 majority of uses in the general vicinity reveal around agricultural production. The proposed use should not impact the property values of the agricultural land in the general vicinity. With proper planning and execution of the plan, the proposed sand and gravel extraction should not effect the enjoyment of other properties 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 proposed use could have an impact on the development of surrounding vacant property. While most agricultural uses, such as animal husbandry or crop production would not be impacted by the proposed use, some uses such as rural residences may not desire to locate near this proposed use. The proposed use will generate additional heavy truck traffic, and minor amounts of noise and dust. The applicant has indicated that this use occurred on the site in the past and that the extraction activities will occur for up to 15 years.

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

The existing road infrastructure will be utilized for this proposed land use. The applicant will be constructing and maintain their private haul road, which directly accesses a county highway. No other infrastructure is needed for this land use.

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

Article 15 does not set any off street parking requirements for this land use. Staff recommends that a minimum of one off-street parking space for each employee and an additional two off-street spaces for customers be provided.

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.

With the proposed sand and gravel extraction, there is a possibility of noise, dust and vibration to occur. Staff has addressed dust and noise in the recommended conditions of approval. The hours of operation will reduce the possibilities of these elements becoming a nuisance.

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

The health, safety, general welfare of the public should not be impacted by the mining activity proposed to occur on the subject property. Similar mining activity has occurred on a site less than ¼ mile to the north with no issues. The intent of the Comprehensive Plan will be met,

Recommendation: Staff recommended **approval** of Conditional Use Permit #15-25 to allow sand and gravel extraction with the following conditions:

1. An annual fee shall be paid to the County in accordance with Section 15.14 of the zoning regulations. (Note: An annual fee of \$10 per acre of unreclaimed land is assessed to the operator.)
2. There shall be no fuel storage on the site.
3. Hours of operation shall be 7 am to 6 pm Monday to Friday and 8 am to noon on Saturday.
4. No dewatering of the extraction area shall be permitted.
5. The ambient air quality standards for total suspended particulate matter shall be 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once a year, and 60 micrograms per cubic meter of air as an annual arithmetic mean. The standards for PM¹⁰ (10 micrometers or less in size) shall be consistent with the regulations of the State of South Dakota.
6. The County Planning Department shall direct the operator to install air quality sampling stations if the standards appear to be exceeded. Such monitoring shall be at the operator=s expense.
7. The sound level from on-site operations shall not exceed an average of 55 decibels

- recorded over a 10 minute period measured at the nearest residence.
8. That one (1) off-street parking place for each employee and two (2) customer off-street parking spaces shall be provided.
 9. The boundaries of the extraction area shall conform to the site plan submitted with the application.
 10. Topsoil shall remain on the site and be used in final reclamation.
 11. Only clean fill shall be used as backfill.
 12. There shall be no storage or accumulation of inoperable or discarded equipment or parts.
 13. A gate shall be required at the haul road entrance to the property.
 14. Reclamation shall be in accordance with the plan filed with the State and outlined in the application and all reclamation of the site shall be completed by July 1, 2026.
 15. That the applicant provides the Planning Department with proof of a \$1,000 surety bond posted with the State of South Dakota for reclamation.

ACTION

A motion was made to **approve** Conditional Use Permit #15-25 with conditions by Commissioner Cypher and seconded by Commissioner Duffy. The motion passed unanimously.

Conditional Use Permit #15-25 – Approved

REGULAR AGENDA

ITEM 4. CONDITIONAL USE PERMIT #15-23 to allow a Class C Dairy CAFO on the property legally described as SE1/4 NE1/4, Section 36-T102N-R52W.

Petitioner: Kyle Albers

Property Owner: same

Location: 26171 460th Ave. Approximately 2.5 miles southwest of Hartford

Staff Report: Kevin Hoekman

This would allow a Class C Dairy CAFO (999 Animal Units).

General Information:

Legal Description – SE ¼ 36-102-52 Humboldt Township

Present Zoning – A1 - Agricultural

Existing Land Use – Cropland

Parcel Size – 160

Staff Report: Kevin Hoekman

Staff Analysis:

The property is located approximately three (3) miles southwest of Hartford. The petitioner would like to construct a dairy operation on an approximately 10 acre portion of the existing parcel. The proposed site location was described as the SE ¼ of the NE ¼ of the SE ¼ of section 36 in Humboldt Township. The petitioner expressed that he intends on parceling the 10 acre property off. This description places the proposed site approximately 1000 feet north of an existing farmstead and small CAFO for beef cattle. The proposed dairy would be classified as a completely separate operation from the existing beef CAFO because of the separation distance and different management styles.

The proposed facility will be 999 animal units which is under the threshold for a required state permit. The facility will still have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance. Each dairy cow would be counted equivalent to have 1.4 animal units and each calf and dry cow will be counted equivalent to 1 animal unit. The petitioner noted that he expects to start smaller than 999 animal units, but he would like to maintain an option to grow up to that point as soon as possible.

The site plan for the proposed dairy operation includes two large structures and a lagoon on the west side. The one building is noted as a freestall barn with a parlor attached, and the other building is noted as a calf and dry cow barn. The petitioner noted that the manure separation will take place in a small lean-to of the main structure. In addition feed will be stored on site in a dome pile on the north portion of the site plan. The site plan currently does not include a landscape plan as the ordinance requires. Based on the site plan, a shelter belt would provide the most protection to the west and the north of the lagoon.

The conditional use process includes several applicable requirements to be met as part of the

approval process. First, the operator shall maintain inspection and maintenance records on the animal waste facilities, and records on compliance with the waste and nutrient management plan and odor and pest control plan. Copies of records shall be filed annually with the County. A manure management plan is required to show that the application of manure shall meet setback and application requirements. The site is not within a Water Source Protection Overlay District so it will not be required to obtain geotechnical test boring. The provided narrative does include provisions for rendering services. Finally, it is required by the ordinance that a registered engineer approves and inspects the facility before and while the facility is built. This shall be a requirement of the Conditional Use Permit.

A manure management plan has been submitted along with the narrative for the proposal. The manure will first be separated and the dried solids will be reused as bedding for the cows while the liquids will be stored in the lagoon. The narrative references that all liquid manure will be knifed into the soil of fields that are monitored for nutrient needs. Immediate incorporation is required by the Zoning Ordinance for liquid manure. The dry manure can be applied without incorporation when certain conditions apply. The submitted manure management plan indicates that the petitioner has access to enough cropland available to apply the manure based on the crop nitrogen needs. Waste application agreement must be submitted for the application of manure on property not owned by the petitioner.

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 primary use of property surrounding the dairy operation is agricultural farmsteads and cropland. The described 10 acre location of the operation meets the setback requirements for all properties except the single family dwelling to the south of the parcel. Without a signed waiver from this property owner, the petitioner will be required to present new technology, management practices, topographic features, soil conditions, or other factors which substantiate a reduction in the minimum separation requirements. There are a few single family dwellings on acreages a little farther out in the surrounding area. A dog training facility is located on County Highway 159 approximately $\frac{3}{4}$ mile to the southwest of the proposed site. On the other side of the highway is Grass Lake which has much of its shoreline controlled by the SD Game, Fish, and Parks Department. The lake is located upstream from the proposed facility. The proposed location of this dairy operation is overall an area of low density for single family dwelling units and conflicting land uses.

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

The construction of this operation will have little effect on the surrounding agricultural production lands. It may even be helpful to nearby agricultural production because of the manure that is produced can be applied onto cropland as an organic fertilizer. The petitioner owns or operates enough acres of crop land to utilize all of the manure that is produced as a result of the dairy operation.

Since this proposal would result in a new facility there is potential for concern by potential buyers and developers may have an effect on the future development of rural single family acreages in the surrounding area. The comprehensive plan does also repeatedly warn against

residential development inhibiting the productivity of agriculture within the county.

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

The facility is located approximately 1 and ¾ mile away from County Highway 159. The gravel township roads seem to be narrow for frequent truck traffic. Both Hartford and Humboldt Townships have been notified of the application for this dairy CAFO. The petitioner intends on extending rural water and other utilities to the facility.

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

The operation is located on a 10 acre 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.

Since this is a proposal for a new facility, there are some possibilities for creating nuisance problems. Of the problems, dairy operations primarily produce odor from the animal and manure facilities, and dairies increase traffic from milk trucks and workers that may increase the amount of dust created from the roads. The submitted narrative does not include any mention of an odor management plan or utilizing dust control methods on the township roads. Despite low densities of single family dwellings, certain odor control measures should be a part of an operation of this size. The planting of shelterbelts will significantly help with odor control, and considerations should be given to other odor control alternatives such as microbial treatment for the creation of bio cover, and perhaps even multiple lagoons. It is recognized that in no case, the odor can be completely eliminated.

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

The proposed new dairy operation will unlikely cause a significant increase to the public health, safety, and welfare concerns because of the low density of dwelling units in the vicinity. The proposed dairy operation will have to comply with the conditions of this permit and the regulations for CAFOs in the 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 expansion is located firmly within the Commercial Agricultural Area of the 1998 Comprehensive Development Plan. In the description of this designated area, the Comprehensive Development Plan states that the area is “intended to be preserved for farm related use where such activities can freely operate without the need to impose restrictions due to competing uses.” One of the policies of this designated area is to “regulate concentrated animal feeding and processing operations to protect the environmental quality and minimize conflicts with human activities.” The new dairy will be required to follow county ordinances concerning CAFOs and the listed conditions. With these regulations in place, the proposed new dairy operation works within the directions of the Comprehensive Development Plan

Recommendation:

Staff finds that the proposed CAFO expansion from is an appropriate use within the commercial

agricultural area of the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #15-23 with the following conditions:

- 1.) The facility shall be limited to 999 animal units in size.
- 2.) Copies of the nutrient management plans shall be approved and filed with the Minnehaha County Planning Department on an annual basis.
- 3.) Shelter belt trees shall be planted along the entire length of the proposed lagoon on the north and west sides. Any dead trees shall be replaced within one season.
- 4.) The location of the shelter belt trees shall be noted on the site plan and approved by the Minnehaha County Planning Department. The shelter belt trees shall be planted utilizing at a minimum Minnehaha County Conservation district standards.
- 5.) Approval must be obtained by the township for the construction of the new road access.
- 6.) An address sign must be purchased at the planning department and placed at the driveway of the facility.
- 7.) The lagoon 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.
- 8.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the staff at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 9.) All driveways, parking, and loading areas within the dairy site must comply with minimum standards that are listed in section 15.04 of the Zoning Ordinance for Minnehaha County.
- 10.) A rendering service must be used to pick up and remove dead animals from the property.
- 11.) A building permit is required for all structures prior to construction.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the dairy 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 presented the staff report and conditions with several pictures and items on Power Point presentation.

Commissioner Steinhauer asked staff several questions starting with how many units are on the existing CAFO, and he asked if beef cattle and dairy cattle are often combined into one facility like this very often in the county. Staff responded that the exact number was uncertain, but recollection was that it would bring the CAFO over 1000 animal units. Staff also was unable to respond if the dairy and beef cattle combination was common or not. Commissioner Steinhauer continued to ask about state regulations and what requirements would be part of the operation if both the proposed and the old CAFO were to be combined. Staff responded that the county regulations are very similar to state regulations already, and the larger CAFO would increase the size of the setbacks to include more dwellings and businesses. Commissioner Steinhauer then

asked if the petitioner had a signed waiver and whether the requirements have been met to not need a waiver. Staff responded that a waiver has not been received and that it should be a part of approval unless the petitioner makes a case that his management and new technologies are good enough to reduce the setback requirements.

Commissioner Ode commented that because of the proximity to the stream, he would feel more comfortable with adding a requirement for a monitoring well on the south side of the manure storage. Staff asked for clarification that this would be a state or county requirement, and Commissioner Ode said that it would be asked by the county.

Commissioner Randall asked for clarification of how often monitoring should happen and suggested every year for three years.

Commissioner Ode added that it should be tested 4 times in the first year to make sure that the lagoon meets standards.

Kyle Albers, the petitioner, spoke about his expectation for the new CAFO facility. Kyle explained that he is requesting a 480 head dairy operation that will also have heifers and dry cows. The buildings will be tunnel ventilated and the cows will have dried manure bedding. He also noted that liquid manure will be injected during the application process. Kyle noted that he is the 4th generation of family farmer on this site and would like to continue to make improvements in the operation. He commented that the lagoon has had permeability tests done to ensure that the manure is handled safely and that the tests have found nothing but clay. Kyle added that the operation will add little traffic to the area other than the daily milk truck and that many intersections have only three roads connecting. Kyle explained that his management will include spraying for flies, rendering services, planting a shelterbelt, and working with Central Crop Consulting for soil testing and nutrient management.

Commissioner Steinhauer asked Kyle several questions, first clarifying the number of animals on the proposed site and the existing site. Kyle said the proposed site will start with 480 milk cows and that the existing site has approximately 250 calves, 80 cows, and 20 horses. Commissioner Steinhauer also asked about the technology for the waiver requirements and where trees are currently proposed. Kyle responded that there is a considerable buffer between the proposed site and the dwelling within the setback, and that this buffer includes two belts of trees and the original farmstead. Kyle added that trees will be added on the west and north side of the lagoon.

Commissioner Ode asked if the existing animal operation will continue for the foreseeable future. Kyle responded that his dad (the operator) has many years that he intends on continuing the cattle operation.

Commissioner Steinhauer asked if state process had any additional steps and if Kyle would be willing to obtain a state permit. Kyle noted that he did not want to get a permit from the state because it would be one more layer of bureaucracy that would take more time to get started.

Tim Kennedy spoke against the CAFO as a member of the Sioux Valley Retriever Club that is located to the southwest of the proposed facility. Tim expressed concern for the water quality of

both run off and ground water conditions of the proposed CAFO. He also was concerned that the new dairy will use an abundance of water that may drain his wetland through wells. He mentioned that he has been neighbors to the Albers for many years.

Dennis Kapperman, 45994 263rd Street, spoke against the proposed CAFO as an adjacent landowner for the past 20 years. Dennis expressed much concern about the conditions of the existing facility including: improper fencing, trash of the facility washed or blown onto property, manure flowing downhill, and the potential high nitrogen in the water. Dennis noted that he has to pick up after the existing facility and he does not want to have another similar facility that is run from the same family to clean up after. He also expressed great concern for the creek and the water quality of the creek and ground water. He stated that staff underplayed the importance of the creek when it flows into Skunk Creek and then the Big Sioux River. He showed several pictures of the creek encroaching on the existing facility where manure can enter the waterway. Dennis noted that as a township board member he was also concerned about added traffic on the road. In addition, he commented that he had several residential eligibilities that will likely lose value because of the poor conditions of the current and proposed facility.

Doug Viet noted that he was representing his mother living on the farm directly to the north. He raised concerns for flow of water as an uphill property owner that may drain water onto the proposed site.

Darwin Viet, brother of Doug, raised more concern about housing eligibilities and the existing facility causing potential devaluation of the surrounding land.

Mark Harden of the Humboldt Township Board discussed the traffic situation. He noted that the direction of the milk trucks and supporting vehicles will have to be known in order to understand the potential effect of added traffic.

Roberta Jacobs spoke on behalf of Bob and Rebecca Lueth, the property owners to the south of the site within the required setback. Roberta noted that they have been neighbors for 60 years and have had a good relationship with them for that time. She did bring up concerns for drainage issues, property values, the environment, and conditions of the existing farm.

Terry Krueger, Hartford Township Board, spoke about the road concerns. He noted that the CAFO will unlikely create any more damage to the roads than existing farms found anywhere in the county. Darwin Viet stood up and commented that other farming is seasonal traffic where a dairy is every day traffic.

Kyle Albers spoke for a short time based on the concerns raised by the public. He first noted that he too is concerned about the creek and that is the reason for moving the CAFO further from the farm site. He noted that they already use the roads often because of daily hauling of manure from the existing facility. He added that the operation will still be seasonal because feed will come in seasonally and manure will be hauled away seasonally and similar management still revolves around the crop season.

Commissioner Steinhauer asked where the trucks are going to travel, and Kyle responded that he

did not know where the milk truck would come from, but most of his traffic will be in Hartford and Humboldt Townships. Commissioner Steinhauer then asked if he had any ideas to reduce the setback and not need the waiver. Kyle responded that injecting the manure will help a lot and the existing and future tree groves should help to reduce nuisance and reduce the required buffer.

Commissioner Ode asked how many acres they have under production and if they will continue to do grid sampling of the soil. Kyle noted that they have 500 acres within 2.5 miles and 3 of them are by the creek and that they will do a 4 year cycle of grid sampling. Commissioner Ode also questioned if the petitioner had other neighbors that would accept manure if his land became not enough to spread the nutrients. Kyle responded that his uncle had approximately 1000 acres of land that they could apply the manure on.

Commissioner Steinhauer asked if the manure from the existing facility would be added into the manure system of the new facility. Kyle responded that would not be the case.

Dennis Kapperman approached the podium again to reiterate that there has been years and years of accumulation of junk on the existing site and that does not make up for the good intentions of the petitioner. He noted that it takes a great deal of management, planning, and integrity to operate a facility such as this that is proposed.

Commissioner Steinhauer closed the floor to any more public input.

DISCUSSION

Commissioner Randall motioned for approval with added condition that monitoring well was to be installed and tested four times in the first year and if not in compliance with water quality continued water testing shall take place four times a year until water quality issues are corrected. Commissioner Ode Seconded.

Commissioner Steinhauer added that he would not vote for it without state approval.

Commissioner Randall commented that the proposed operation was sited much farther from the creek, and questioned why so many people are afraid of CAFO's when they can solve a lot of issues with animal management. She added that the Planning Commissioners are there to vote on appropriate land use, and that the Comprehensive Plan denotes that CAFO's are an appropriate land use in the Agricultural District.

Commissioner Steinhauer asked if the commission has heard enough to reduce the setback requirement for a waiver.

Commissioner Randall asked what is considered new technology.

Commissioner Ode responded what is new today is old tomorrow and that technology changes fast.

Commissioner Duffy added that she agrees with Commissioner Randall about land use. She commented that everyone comes to the country for a reason and that most farmers were there far

before the other residences. In addition she noted that new techniques have helped greatly in reducing nuisances for farming practices.

Commissioner Randall motioned to amend her original motion to add a condition for DENR approval for the CAFO.

Commissioner Ode seconded the motion.

ACTION

A motion was made by Commissioner Randall to **approve** Conditional Use Permit #15-23 with the following amended conditions. The motion was seconded by Commissioner Ode. The motion passed with 4 ayes. Commissioner Cypher recused himself from voting.

- 1.) The facility shall be limited to 999 animal units in size.
- 2.) Copies of the nutrient management plans shall be approved and filed with the Minnehaha County Planning Department on an annual basis.
- 3.) Shelter belt trees shall be planted along the entire length of the proposed lagoon on the north and west sides. Any dead trees shall be replaced within one season.
- 4.) The location of the shelter belt trees shall be noted on the site plan and approved by the Minnehaha County Planning Department. The shelter belt trees shall be planted utilizing at a minimum Minnehaha County Conservation district standards.
- 5.) Approval must be obtained by the township for the construction of the new road access.
- 6.) An address sign must be purchased at the planning department and placed at the driveway of the facility.
- 7.) The lagoon 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.
- 8.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the staff at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 9.) All driveways, parking, and loading areas within the dairy site must comply with minimum standards that are listed in section 15.04 of the Zoning Ordinance for Minnehaha County.
- 10.) A rendering service must be used to pick up and remove dead animals from the property.
- 11.) A building permit is required for all structures prior to construction.
- 12.) That the Planning & Zoning Department reserves the right to enter and inspect the dairy 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.
- 13.) A test well site must be dug downstream from the lagoon. Four water quality tests shall be completed within the first year of operation and samples taken as needed after that. If the water quality test fail to meet minimum standards, then testing shall take place four times a year until the problem is corrected.

- 14.) A General Water Pollution Control Permit for Concentrated Animal Feeding Operations shall be approved from the DENR and a copy shall be filed with the Minnehaha County Planning Department.

Conditional Use Permit #15-23 – Approved (4 - 0)

Old Business

None

New Business

David Heinold of County Planning staff, presented a brief informal Power Point presentation of the comprehensive plan and the process going forward to approval. The Planning Commissioners expressed favorable opinions of the work that they have seen in the comprehensive plan draft.

David Heinold also presented a brief narrative and several photos from the APA National Conference in Seattle, Washington.

County Commission Items

None

Adjourn

A motion was made by Commission Cypher and seconded by Commissioner Duffy to **adjourn**. The motion passed unanimously.