



**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION  
September 23, 2019**

A meeting of the Planning Commission was held on September 23, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Mike Ralston, Ryan VanDerVliet, Doug Ode, and Jeff Barth.

**STAFF PRESENT:**

Scott Anderson, David Heinold, and Kevin Hoekman - County Planning  
Donna Kelly – States Attorney

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:10 p.m.

**PUBLIC COMMENT.**

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

**Consent Agenda**

Commissioner Duffy read each item of the consent agenda. Commissioner Barth requested Items 2 and 7 to be moved to the regular agenda. Item 5 was also requested to be moved to the regular agenda for discussion.

A motion was made to **approve** the consent agenda consisting of Item 1, 3, 4, 6, and 8 by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

**ITEM 1. Approval of Minutes – August 26, 2019**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Randall to approve the meeting minutes from August 26, 2019. The motion passed unanimously.



ITEM 3. CONDITIONAL USE PERMIT #19-38 to Allow Building for Office Space & Inventory Storage for Commercial Seed Sales Business on the property legally described as NE1/4 (Ex. S33') & N1/2 NW1/4 (Ex. N355.9' W297' & Ex. H-1), Section 17-T104N-R47W.

Petitioner: Taylor Elverson

Property Owner: Tom Elverson

Location: 48575 246<sup>th</sup> St. Located approximately 4 miles north of Sherman

Staff Report: David Heinold

**General Information:**

Legal Description – NE1/4 (Ex. S33') & N1/2 NW1/4 (Ex. N355'.9' W297' & Ex. H-1, Section 17-T104N-R47W

Present Zoning – A-1 Agricultural District

Existing Land Use – Farmstead/Cropland

Parcel Size – 234.85 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow a building for office space and inventory storage to manage a commercial seed sales business. The narrative states that there will be semi-loads of large seed shipments loaded and unloaded at the site. There will be customer meetings in the office area and pickups at the building as well. The proposed hours of operation will be 7:30 am to 5:00 pm, June through March and 5:00 am to 9:00 pm, April-May.

**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.**

Due to the nature of the proposed retail seed sales business, there is likely to have negative effect upon the use and enjoyment of other property in the immediate vicinity. In addition, the construction of an agricultural-type warehouse building should not affect property values in the surrounding area. There will be increase in the amount of wear and tear to the township roads with the increase in semi-truck loads of seed shipments, but should not have significant negative effect due to the seasonal nature of the proposed business.

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

The area is primarily agricultural with a few residential acreages within the surrounding area. There should be minimal effect of the normal and orderly development of surrounding vacant property, which is dependent on the availability of building eligibilities. The siting of the proposed land use may discourage existing or future residents from locating a residential dwelling near the subject property. Although, the Envision 2035 Comprehensive Plan identifies the future growth of surrounding vacant property as remaining primarily agricultural land use.



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

The applicant will need to gain approval from Highland Township for a new driveway and culvert permit if any additional access roads are planned for the proposed business. All other necessary facilities will be provided prior to construction of the proposed accessory building.

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

The petitioner is required to provide parking and loading areas in conformance with the zoning ordinance for the number of employees as well as delivery vehicles on the subject property. The petitioner should provide two parking spaces for each three employees on the maximum shift with additional space to accommodate all trucks and other vehicles used in connection with the use. The petitioner has allotted an area for a minimum of 5 spaces on the south side of the proposed building with room for additional parking to the east in this area.

**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 has not provided any details about any of the above nuisance control measures for the proposed use. The amount of sales activity at the subject property will depend on the season. At a minimum, the seed and storage areas should be secured during non-business hours.

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

The proposed agricultural seed retail business will be located in an area identified as long-term agriculture in the Envision 2035 Comprehensive Plan. The primary goal of this area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use is an appropriate complement to the agricultural economy that provides support for agriculture operations in the area and should not significantly affect the health, safety, and general welfare of the public. The agriculturally-related operation of agricultural seed sales should fit with the intent of the plan. This is an area with a few residential acreages in the immediate vicinity that may pose potential nuisances with regards to the nature of the proposed seed sales business.

**Recommendation:**

Staff finds that the proposed use for a commercial seed sales is an appropriate use for the surrounding area and conforms to the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-38 with the following conditions:

- 1.) That CUP #19-38 shall allow agricultural seed sales.
- 2.) That the property shall adhere to the submitted site plan dated 8-13-2019.
- 3.) That all signage shall be in conformance with Article 16.00 and 17.00 of the 1990 Revised Zoning Ordinance for Minnehaha County. A building permit is required for the installation of any signage.
- 4.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundary.



5.) That the Planning & Zoning Department reserves the right to enter and inspect the business at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**Action**

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-38 with amended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #19-38 – Approved**



ITEM 4. CONDITIONAL USE PERMIT #19-39 to Exceed 2,400 Square Feet of Total Accessory Building Area – requesting 3,300 square feet on the property legally described as Tract 2A, Langen’s Subdivision, NW1/4 SW1/4, Section 2-T101N-R48W.

Petitioner: Rod Hoeke

Property Owner: same

Location: 26253 McHardy Rd. - Located approximately 1 mile south of Brandon

Staff Report: Scott Anderson

**General Information:**

Legal Description – Tract 2A, Langen’s Subdivision, NW1/4 SW1/4, Section 2-T101N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – Residential

Parcel Size – 1.29 acres

**Staff Report:** Scott Anderson

**Staff Analysis:** The petitioner is requesting to exceed 2,400 square feet of total accessory building area. The petitioners are requesting 3,300 square feet of total accessory building area. According to the Minnehaha County Zoning Ordinance, Section 12.07 (D) states:

(D) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

- (1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 3,300 square foot accessory building for personal storage. The petitioner recently applied for a building permit to construct a 40’x60’ structure for personal storage. The applicant is proposing to construct a 15’ by 60’ lean to onto the accessory building which is being constructed west of the existing residence.

The petitioner’s property is located approximately one mile south of Brandon at 26253 S. McHardy Road. There are other accessory buildings McHardy Rd. relatively comparable to the requested total accessory building area. The property owner at 26254 McHardy Rd. applied for a conditional use permit in 2001 and was approved for a 3,816 square foot accessory building. The property owner at 26288 McHardy Rd. was approved by conditional use permit in 2002 to increase the total accessory building area to 2,646 square feet. The property owner at 26264 McHardy Rd. applied for a conditional use permit in 2006 and was approved to allow 2,400 square feet.

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

There are several properties in the immediate vicinity that have a total accessory building area up



to 3,816 square feet, so there should be no impact on the property values of surrounding properties. The building will only be used for the property owner's personal storage. The property adjacent to the petitioner's property consists of agricultural land and subdivided properties that range in size from 2 to 10 acres. Thus, the proposed accessory building size should not affect the residential uses or agricultural land 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 accessory building may only be used for residential purposes, no commercial or business activities are allowed. Given the size of the other larger accessory structures in the immediate vicinity of the petitioner's property, a 3,300 sq. ft. accessory structure would be congruent with the land composition.

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

The petitioner will be utilizing the existing driveway as access to the proposed accessory building and no further infrastructure will need to be provided.

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

No off-street parking will be needed with the supplemental area for parking as a result of residential activities. No commercial or business parking will be allowed at any time.

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

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

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

The proposed accessory building should have no effect on the health, safety, and general welfare of the public. The use of the accessory structure for private use and storage will create few problems to neighboring properties. The property is located within the area defined as the Agricultural Production Area in the Envision 2035 Comprehensive Plan, which sets forth the purpose to protect, preserve, and promote agricultural uses and the economic viability of farming operations in the rural area.

**Recommendation:**

Staff finds that the proposed building size conforms to the general sizes of other accessory buildings in the area. Staff recommends **approval** of Conditional Use Permit #19-39 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,300 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That a building inspection is required to determine that the building does not exceed 3,300 square feet measured from the outside perimeter.
- 4.) That the building shall be an accessory use to the continued use of the property as a



residential lot.

- 5.) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 6.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 7.) That a building permit is required prior to construction of the accessory building.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**Action**

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-39 with amended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #19-39 – Approved**



**ITEM 6. CONDITIONAL USE PERMIT #19-41 to expand current dairy operation up to a maximum of 7,700 Animal Units, or 5,500 head on the property legally described as SE1/4, Section 20-T102N-R52W.**

Petitioner: Turner County Dairy

Property Owner: Turner County Dairy (Walt Bones, President)

Location: Located approximately 2.5 miles southwest of Humboldt

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – TRACTS 1 & 2 SHUMAKER'S THIRD ADDITION & SE1/4 (EX H-1 & H-2 & EX SHUMAKER'S THIRD ADDN), Section 20-T102N-R52W

Present Zoning – A1 Agriculture

Existing Land Use – existing dairy and cropland

Parcel Size – approximately 160 acres.

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately 1 and a half miles southwest of Humboldt at 25971 456<sup>th</sup> Avenue. The petitioner would like to expand an existing dairy CAFO to a Class A dairy CAFO with 7,700 animal units (5,500 head of cattle and cows). This proposal does change the classification of the CAFO size, and the facility will be required to acquire a State General Permit from the SD Department of Environment and Natural Resources (DENR) before the operation exceeds 1,000 animal units.

The petitioner has submitted several items for review of the permit request. These items include a detailed narrative that addresses ordinance sections required for CAFOs, a manure management plan, and both a large area neighborhood site plan to show setbacks and a close up site plan to show more detail of buildings and manure containment. These documents were used to review the proposed dairy expansion.

This property has an existing CAFO for some time. The petitioner states in the narrative that they have owned the property for 10 years. The property received a conditional use permit in 1996 to allow a lagoon manure management system for a 600 head dairy. The operation is listed as having a DENR state general permit already, and will need to have a general permit moving forward with any expansion.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided a neighborhood site plan that shows primarily setbacks and a close up site plan which shows many details with existing infrastructure. Some of the required site plan elements are described within the narrative.





**The address of the property and the legal description.** The address of the expanding dairy CAFO is 27167 458<sup>th</sup> Ave. The application and the site plan both include the legal description of the property.

**The name of the project and/or business.** The project name on the site plan is Humboldt Dairy, Proposed Dairy Expansion.

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

**All existing and proposed buildings or additions.** The site plan includes an aerial photo as the background of the map. The aerial photo shows the locations of existing buildings, lagoons, and other parts of the CAFO operation. The site plan includes one large proposed barn northwest of the existing facility, and the manure storage lagoons located at the southwest corner of the site. In addition the site plan shows a feed storage area located in the northeast corner of the site.

**The dimensions of all buildings.** The dimensions of the proposed confinement building, feed storage area, and lagoons are listed on the site plan.

**The distance from all buildings to the property lines at the closest points.** The site plan does not include distances of facilities to property lines. The ordinance requires a 50 feet setback from any property line for structures for any CAFO. The site is planned for 5 rows of trees to surround the CAFO. The trees will likely be separated enough to create the required 50 feet setbacks.

**Building height and number of stories.** The height of the building is not included in the narrative or site plan. It is likely that an animal feeding barn will have only one story to keep the animals. Agricultural structures do not have a height limitation. Engineering is required for any building wider than 60 feet. The proposed barn will require engineering because of size.

**Dimensions of all property lines.** The dimensions of the property lines are not included on the site plan. The proposed expansion will fit within the SE ¼ of the section. It would not be practical to include property line dimensions on such a large and defined parcel.

**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 be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.

**Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** Trees are indicated on the site plan to surround the entire dairy site. It is listed to have 5 rows of deciduous and coniferous trees.



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

The dairy operation is located at the intersection of SD Highway 19 (456<sup>th</sup> Avenue) and 260<sup>th</sup> Street. No waterways are located on the property or within 100 feet of the proposed dairy. There are no public places named on the map. Federal and state game and wildlife production areas do exist approximately on half mile west and south of the dairy site.

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

The animals will be housed within the barn. Manure containment will be located within the lagoons located southeast of the barn. The site plan shows that the lagoons will have berms constructed to hold manure and rainwater. Rainwater will not be allowed to flow through the barns and the lagoon will be contained. Generally the property drainage flows to the southeast, and it appears from the site visit that much dirt work will be needed to construct the proposed facilities.

**The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.** The proposed new structures including manure appear that they will meet the required 50 feet setback from the right-of-way lines.

**Setbacks and other requirements.**

In relation to the site plan, the 7,700 animal unit operation will require a 3,960 foot buffer from a dwelling, church, or business. The property owner of a dwelling, church, or business may sign a waiver to reduce the required setback. The setback can also be reduced by half to 1,980 feet if trees are planted as designed by the Minnehaha Conservation District or a Professional Landscape Architect as required by the Zoning Ordinance. The entire site is indicated to have trees planted by the conservation district; with the trees, the setback can be reduced for all dwellings, churches, and businesses. The dairy site is designed to meet 2,640 feet setback as depicted in the site plans. No waivers will be needed for this plan.

The county zoning ordinance requires setbacks from a CAFO to municipalities. The nearest municipality to the Turner County Dairy is Humboldt. Humboldt is a Second Class city with a population between 500 and 5,000. As a Second Class city, the dairy must meet 1.5 mile setback from the city limits. The submitted setback map shows that all confinement barns, pens, and manure containment will meet the 1.5 mile setback from Humboldt as intended by the ordinance.

The county zoning ordinance also requires setbacks from a CAFO to public parks and schools. There are no public parks or schools located within the required 1 mile setback from the proposed dairy site.

In addition to site plan elements and setbacks, an application for a CAFO is required to submit other plans and meet requirements. The petitioner's narrative explains the manure management will be performed with USDA standards for construction and management. The manure is to be



contained within three lagoon on the southwest side of the new facility. The manure will be maintained in a liquid state and applied primarily in the fall by an injection process. According to the narrative the operation has a contract with a rendering service to remove dead animals.

Since this request is for an expansion of an existing facility, this CUP request will replace previously permitted requests and conditional use permit 96-28 if the new request is approved. The operation is proposed to be large enough to require a state general pollution control permit for a CAFO. The proposed facility shall not be populated above the current quantity of animals until a state permit is completed.

**Conditional Use Permit Criteria:**

As part of any conditional use permit request, the Planning Commission is required to consider several criteria.

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

The proposed CAFO expansion is located within predominantly agricultural area and this proposal is expanding an existing site. Many of the dwellings in the area are located over one half mile away from the proposed dairy expansion. A tree grove is planned for planting to reduce the setbacks from neighboring properties. The grove of trees should aid in the reduction of wind, smell, and visibility of the farm from the neighborhood.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with several single family dwellings and farmsteads. Agricultural uses such as crops and livestock will likely continue to be prominent into the future of the area. The expansion of a CAFO will unlikely affect further agricultural development in the area, and it may increase value of nearby cropland with easy access to manure for fertilization of the soils. In general, when intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Expanding an existing facility should help reduce the negative aspects that would affect future development. Future residential development will be required to have the Right-to-Farm Notice 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 petitioner will have to extend any new utilities to the proposed new barn. The existing facility is located within on a state highway, which will reduce wear and tear on gravel roads.

**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 an expansion of an existing 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. Staff finds that separation distances and tree line wind protection are effective ways to reduce nuisance issues. 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 CAFO expansion 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 also required to obtain a State permit because of its size. The state general permit will aid in reducing potential for environmental problems from nutrients.

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 #19-41 with the following conditions.

- 1.) The maximum size of the dairy facility shall be limited to 7,700 animal units.
- 2.) Before the facility can be expanded to more than 1,000 animal units, the entire facility shall be permitted by the state of South Dakota.
- 3.) Before the facility can be expanded to more than 1,000 animal units, the shelter belt tree plantings must be completed.
- 4.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 5.) The proposed barn shall have engineer certified drawings that shall be submitted for review by the Building Inspector prior to the issuance of a building permit.
- 6.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.



**Action**

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-41 with amended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #19-41 – Approved**



**ITEM 8. CONDITIONAL USE PERMIT #19-43 to transfer one (1) building eligibility from Lot 1 Moody County Dairy Subdivision, Gov't Lots 1 & 2 to Lot 1 and 2 (Ex. Lot 1 Moody County Dairy Subdivision); all in the SE1/4, Section 10-T104N-R47W.**

Petitioner: Moody County Dairy. LP

Property Owner: Lynn Boadwine

Location: 48790 246<sup>th</sup> St.

Located approximately 4 miles north of Sherman

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – Lot 1 and 2 (Ex. Lot 1 Moody County Dairy Subdivision); all in the SE1/4, Section 10-T104N-R47W

Present Zoning – A1 Agriculture

Existing Land Use – a dairy operation and the surrounding shelter belt

Parcel Size – 38 acres

**Staff Report:**

The applicant has applied to transfer and make available one building eligibility (BE) from Lot 1 Moody County Dairy Subdivision, Gov't Lots 1 & 2 where the Moody County Dairy operation exists to Lot 1 and 2 (Ex. Lot 1 Moody County Dairy Subdivision) which wraps around the dairy and contains much of the trees for the operation; all of the parcels are located in the SE1/4, Section 10 of Highland Township. The request is made to allow for a building site northwest of the dairy to be used for agricultural workforce housing.

If approved, this transfer would move one eligibility off the parcel of the primary dairy to the adjacent parcel where most of the shelter belt for the operation exists. The petitioner wishes to place the workforce housing towards the far end of the dairy operation.

At the time of application the petitioner submitted a purchase agreement for the owner of the sending parcel, Moody County Dairy, to buy the land from the receiving parcel, Dairy maize. The closing date must take place prior to the date of the Planning Commission Meeting in order to move forward with the transfer.

**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 proposed location for the moved building eligibility is located in the northwest corner of the property near the shelter belt trees. The location will be far off the road as the agricultural workforce housing will contain multiple units. The proposed housing unit will be used for the adjacent dairy. Other agricultural uses will maintain agricultural character if this is approved.



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

The proposed building eligibility is planned for workforce housing. The additional workforce housing should benefit the dairy and have no disruption of other nearby property. The transfer of the building eligibility does 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 applicant will have to make these arraignments for any extension of utilities including waste water disposal. Drainage will likely remain largely the same once dwellings are constructed.

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

Off-street parking requirements will be provided for once each single-family residence is constructed on the subject property. The property is large enough to contain off street parking.

**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 health, safety, general welfare of the public will not be negatively impacted by the transfer of one building eligibility. The intent of the Comprehensive Plan will be met, as density zoning will be followed, and workforce housing will help develop existing agricultural uses.

**Recommendation:**

Staff finds this conditional use permit request to be consistent with density zoning and recommends **approval** of Conditional Use Permit #19-43 with the following conditions:

1. Requirements of section 3.03 (M) of the zoning ordinance must be met to use the building eligibility for agricultural workforce housing.
2. An on-site wastewater treatment system must be approved by the building inspector and a septic permit must be issued prior to the issuance of a building permit.

**Action**

As part of the Consent Agenda, a motion was made to **approve** Conditional Use Permit #19-43 with amended conditions by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously.

**Conditional Use Permit #19-43 – Approved**





Regular Agenda

**ITEM 2. CONDITIONAL USE PERMIT #19-37 to Amend CUP #01-85 to Expand Sand and Gravel Mining Area Limits on the property legally described as the N1/2 NE1/4 (Except Lot H-1 contained therein, and except Nesheim’s Addition contained therein); Tract 1, Nesheim’s Addition, NE1/4 (Except Lot H-1 contained therein); and S1/2 NE1/4 (Except Tract 1, Nesheim’s Addition contained therein and except Lot H-1 contained therein; all in Section 24-T102N-R48W.**

Petitioner: Sweetman Construction Co.

Property Owner: same

Location: Located approximately 2 miles northeast of Brandon

Staff Report: David Heinold

**General Information:**

Legal Description – N1/2 NE1/4 (Except Lot H-1 contained therein, and except Nesheim’s Addition contained therein); Tract 1, Nesheim’s Addition, NE1/4 (Except Lot H-1 contained therein); and S1/2 NE1/4 (Except Tract 1, Nesheim’s Addition contained therein and except Lot H-1 contained therein; all in Section 24-T102N-R48W

Present Zoning – A-1 Agricultural District

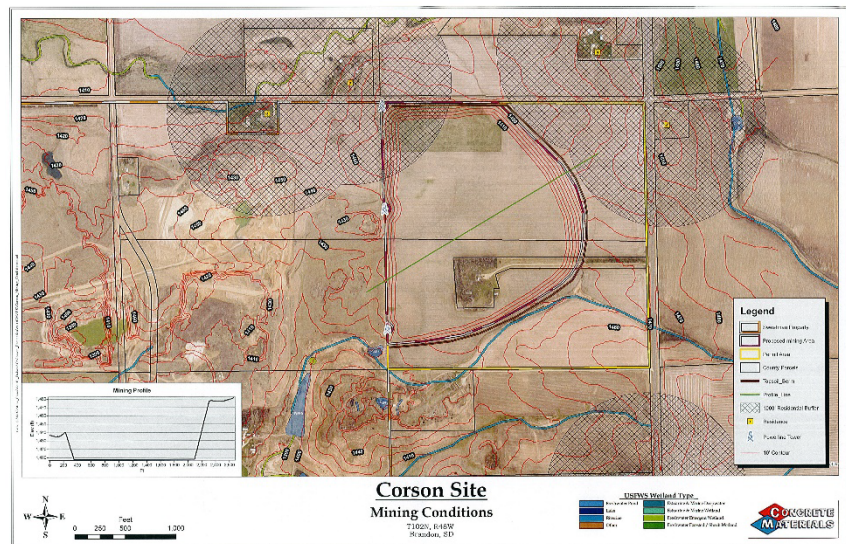
Existing Land Use – Agriculture

Parcel Size – 158.98 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow an amendment to Conditional Use Permit #01-85 for the expansion of sand and gravel mining area limits further to the east towards County Highway 109. The subject property of the expansion request is used for farming and has a residential single family dwelling, which the house will be removed upon receiving approval for the mining operation and as mining progresses in the future. The applicant has provided a narrative of the proposed work and mining to be conducted on the property in accordance with the zoning ordinance. The site plan, at right, shows the proposed mining area limits for the







expansion of the existing sand and gravel mining operation. The plan also shows the elevation profile of mining in feet below the ground surface. The petitioner expects production in the proposed mining expansion area to disturb approximately 90 acres for an additional 12 years, depending on demand and materials. As depicted in the elevation profile on the previous page, the excavation is expected to average about 50 feet below the original surface but may go deeper depending on the quality of material found as well as the subsurface conditions.

On September 12, 2019, staff visited the existing sand and gravel mining operation and the proposed sand mining expansion. Most of the land in the surrounding area is primarily used in agricultural production with a few residential acreages spread out along the public roadways. The proposed use to expand an existing sand and gravel mining operation is appropriate for the surrounding area and fits with the overall intent of the Envision 2035 Comprehensive Plan.

**Conditional Use Permit Criteria:**

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

There is one residence located within the required 1,000-foot buffer area. According to the applicant, the property owner located at 48336 259<sup>th</sup> St. has signed the required waiver for residences within 1,000 feet of the mining operation and is included in the packet for review. The proposed mining area is planned to stay at least 500 feet from County Highway right-of-way. The applicant plans to stay at least 500 feet from the Township road right-of-way to the north depending on the quality of sand below the surface for mining. The hours of operation for the facility will mainly be normal business hours; however, maintenance operations not creating off-site noise may occur outside of the designated hours of operation.

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

The land used for mining will be reclaimed to maximum slopes of 3:1 and anticipated to return to the present use, agricultural land. The area is primarily agricultural land, commercial businesses, and a few residential homes in the surrounding area. There should be no effect on the normal and orderly development of surrounding vacant property, which is determinant on the availability of building eligibilities and future municipal annexation or development.

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

The petitioner supplied information from the Hydrologic Study that states that natural drainage makes its way to Split Rock Creek and on to the Big Sioux River eventually. The proposed mining expansion area will collect and infiltrate stormwater within the pit. There is a small intermittent stream to the south of the proposed mining area, but will not be impacted because it will be protected from mining run-off in accordance with the site Stormwater Pollution Prevention Plan (SWPPP). The sections of 259<sup>th</sup> St. and 484<sup>th</sup> Ave. will only be utilized for emergency access to the mining area. No access will be used from the north on 259<sup>th</sup> St. or from the east on 484<sup>th</sup> Ave. The material mined will be moved to the existing plants using roads within the existing mines and conveyor systems, which then is transferred to railroad cars for shipping.



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

The applicant has not provided any details regarding the parking and loading requirements, but the amount of land area allows for flexible space for meeting the minimum parking spaces for the extension of an existing sand and gravel mining operation.

**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 applicant proposed to incorporate buffer zones on the north, east, and south sides of the mining area as they currently utilized along the existing boundaries of the operation. The buffer zones will have shelterbelts and other features to reduce dust, noise, and visual impacts from surrounding property owners as well as passersby. The use of rail transportation to-and-from the pit will lessen the impacts on the roads as well as reduce air emissions and related carbon footprint impacts.

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

The Envision 2035 Comprehensive Plan, Goal 5 states to recognize that sand and gravel deposits within the County are a nonrenewable natural resource and beneficial to the economy of the County and the welfare of its people. There should be no significant negative harm to the health, safety, general welfare of the public, and the Comprehensive Plan with the proposed addition to an existing sand and gravel mining operation.

**Recommendation:**

Staff finds that the conditional use permit request to expand the existing sand and gravel mining extraction site is an appropriate land use for the surrounding area and conforms to the goals and policies of the Envision 2035 Comprehensive Plan. Staff has reviewed all of the past conditional use permit application conditions of approval and recommends **approval** of Conditional Use Permit #19-37 for the sand and gravel mining operation 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 allowed in areas designated as a ground water protection area or flood plain.
- 3.) Hours of operation shall be from 7:00 am to 6:00 pm on weekdays and 8:00 am to noon on Saturdays.
- 4.) That the only dewatering shall be for use in dust control, road projects and rock washing. The applicant shall obtain any required permits from the state for use of the water.
- 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 PM (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.) That earth berms and vegetation shall be constructed in the areas where the mining operation is directly adjacent to a public road or residence as required by the 1990 Revised Zoning Ordinance for Minnehaha County in Section 12.08 (G).
- 14.) That all mining activity is concluded by January 1, 2032 and that 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 December 31, 2033 in accordance to all requirements outlined in Article 12(G) of the Minnehaha County Zoning Ordinance.
- 15.) That if one (1) or more acres of area is disturbed the applicant is required to obtain a General Permit from the Department of Environment and Natural Resources.
- 16.) That the applicant provides the Minnehaha County Auditor with a surety bond or cash in the amount of \$100,000.00,
- 17.) The applicant shall abide by all regulations outlined in Minnehaha County Flood Management Ordinance, MC32-03, when working in the 100 year floodplain and/or floodway.
- 18.) The sand and gravel operations shall be secured during non-working hours by means of gates and fencing. The property shall be continuously secured until all required reclamation activities have been completed.
- 19.) All existing shelterbelts around the sand and gravel mining extraction areas shall be maintained.
- 20.) The sand processing plant and concrete ready mix plant shall be limited to the hours from 6:00 am to 8:00 pm except as authorized by the Planning Department.
- 21.) Recycled concrete or asphalt shall not be stored on the site. Unused concrete from the ready mix plant shall not be allowed to accumulate on the property.
- 22.) A non-point discharge elimination system (NPDES) permit shall be obtained for all applicable areas of sand and gravel mining extraction.
- 23.) All other required federal and state permits shall be obtained for the facility.
- 24.) The facility shall comply with all plans submitted to the planning staff.

### **Public Testimony**

David Heinold, County Planning Staff, presented a brief summary of the staff report and recommendations for Conditional Use Permit #19-37.



Billy Pollema, Sweetman Construction Co., identified himself as the representative for the petitioner. Mr. Pollema explained that the area in highlighted in red on the subject property map includes about 750 acres of existing mining area and approximately 150 acres of land highlighted in yellow as part of the proposed mining area. He mentioned that the time period for the proposed sand mining area consisting of approximately 90 acres will be about 5 years and be reclaimed for farmland and/or pasture.

Mr. Pollema explained that the mined sand will transported via an extension of the existing conveyor belt system to the overhead power line for getting the sand to the railroad that eventually makes it to production facilities in Sioux Falls.

Commissioner Barth asked the petitioner if they have had any problems with stray bullets from the nearby gun club.

Tim Schiebout, 48329 259<sup>th</sup> St., identified himself as the property owner surrounded by the existing mining area on three sides. Mr. Schiebout questioned what will happen to his property values if he becomes completely surrounded by the mining operation. He mentioned concerns regarding dust and dirt from being on a lower elevation than the mining area. Mr. Schiebout stated that the property has a berm, but would like trees and vegetation to better manage the sediment erosion occurring near his property. He also noted concerns about daily noise.

Michelle VerWey, 25904 484<sup>th</sup> Ave., stated that she purchased the property about 3 years ago and expressed a few questions. She asked if the sand is blasted or dug from the pit, and concerned about dust, and asked if erosion will take place where the digging happens.

Mr. Pollema explained that they have to make sure the land area is reclaimed correctly to the appropriate elevations. He mentioned that they have done test borings and found sand up to 40 feet deep within the approximately 90 acre land area. Mr. Pollema continued to explain that it will be dusty at times, but they continue to work on incorporate magnesium chloride on the roads when it is appropriate. He stated that they will talk with the Schiebouts about their concerns and work with them on mitigating the erosion issues.

Commissioner Duffy called for public testimony. There was no additional public testimony.

Commissioner Duffy closed the floor to public testimony.

### **Discussion**

Commissioner Barth mentioned that the property owner has done a good job with the reclamation of the existing mining areas.

### **Action**

A motion was made to **approve** Conditional Use Permit #19-37 with the staff recommended conditions by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.



**Conditional Use Permit #19-37 - Approved**

**ITEM 5. CONDITIONAL USE PERMIT #19-40 to allow a Class C, 900 Animal Unit Concentrated Animal Feeding Operation on the property legally described as Tract 2, Anderson’s Addition, N1/2, Section 10-T102N-R48W.**

Petitioner: Wyatt Sundvold

Property Owner: Candice Jo Anderson

Location: 48152 Palisades St.

Located approximately 3 miles north of Brandon

Staff Report: Kevin Hoekman

**General Information:**

Legal Description – Tract 2 (Ex Trs A & B & Ex A 100' Strip Lying W & Adjacent to Tract A), Anderson’s Addition, N1/2, Section 10-T102N-R48W

Present Zoning – A1 Agriculture

Existing Land Use – cropland, pasture land, and penned animals

Parcel Size – approximately 141.61 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately 3 miles north of Brandon at 48152 Palisades Street. The petitioner would like to operate a cattle CAFO with up to 900 animal units (900 head of cattle). The proposed CAFO will be a class C, and the facility is not required to acquire a State General Permit from the SD Department of Environment and Natural Resources (DENR).

This is the second permit request for a CAFO on this site by this petitioner. In 2015 the Planning Commission approved a 499 animal unit CAFO with conditions. The permit was appealed and later approved by the County Commission with additional conditions. Since the permit was approved, the petitioner built some confinement pens and applied for a building permit, but the building was not constructed. The permit was not maintained, conditions were not met, and the conditional use permit expired (in 2015 there was a one year expiration date if the permit was not completed). This application is to allow the CAFO to begin and to change the extent of what was allowed by the previous permit. It should also be recognized that the regulations for CAFO permits have changed since the original permit was approved in 2015.

The petitioner has submitted several items for review of the permit request. These items include a general narrative, a manure management narrative, a site plan, a grading plan, and plans from the Conservation District to plant trees. These documents were used to review the proposed cattle CAFO.

The site plan is an important aspect of any conditional use permit. Below is a list of required elements for general CUPs as well as the last two elements that specifically address requirements



for CAFOs. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. All submitted materials are used to review site plan elements including written narratives.

**The address of the property and the legal description.** The address of the parcel is 48152 Palisades Street in Brandon SD. The application and the narrative both include the legal description of the property.

**The name of the project and/or business.** The project name on the site plan is Wyatt Sundvold Calving Barn.

**The scale and north arrow.** The site plan appears to be created in MinnEmap (the online interactive map of the county). The top side of the site plan is orientated north, and a hand written north arrow is on the submitted site plan.

**All existing and proposed buildings or additions.** Nothing was on the site when the aerial photo was taken for the site plan. The petitioner shows an open dirt lot, a barn, and feed storage area on the site plan. The open dirt lot has been constructed on the lot already.

**The dimensions of all buildings.** The dimensions of the proposed confinement barn and open dirt lot are listed on the site plan at 56' x 208'.

**The distance from all buildings to the property lines at the closest points.** The petitioner had wrote the setback dimensions on the submitted site plan. The open dirt lot is located the closest to the west property line at 65 feet. The barn will be located further from the property line at 124 feet.

**Building height and number of stories.** The height of the building is included in the building plan. It is planned to be 1 story with 14 feet tall side walls. The proposed barn is 56 feet wide which does not meet the building inspection requirement for engineered plans.

**Dimensions of all property lines.** The dimensions of the property lines are not included on the site plan. The property is large and the area of the proposed CAFO is a small portion of the entire lot. Property line dimensions would not add to the clarity of the site plan.

**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 be large enough to allow for parking and maneuvering. No parking or loading will be allowed within the right-of-way.





**Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** The petitioner left some existing trees on the north side of the site and has plans for Soil Conservation District trees on the neighboring property to the west of the site.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The cattle operation is located on Palisade Street. West Pipestone Creek flows through the property and is located approximately 525 feet northeast of the open lot. An intermittent tributary is also located approximately 265 feet to the northeast of the open lot. Pasture land separates the confinement area and the water ways. There are no known public places around this facility.

**A grading Plan designed to minimize contamination of stormwater runoff from manure containment facilities or animal pens.** The animals will be housed within an open lot and a calving barn. The barn will be contained to not have rainwater disturb the manure. The open lot is depicted to have a concrete separating wall to contain manure from the pen on the site. In addition a dirt berm to the northeast will have trees and plants to absorb nutrients. The general drainage will remain to the northeast and east towards West Pipestone Creek.

**The location of all existing and proposed structures, including manure containment facilities and confinement buildings and corrals. All new structures and corrals shall be located a minimum of 50 feet from any property line.** The proposed outside lot and calving barn will meet 50 feet setback requirements from property lines.

**Setbacks and other requirements.**

In relation to the site plan, the 900 animal unit operation will require a 1,320 feet buffer from a dwelling, church, or business. The property owner of a dwelling, church, or business may sign a waiver to reduce the required setback. Or, the setback can also be reduced by half to 660 feet if trees are planted as designed by the Minnehaha Conservation District or a Professional Landscape Architect as required by the Zoning Ordinance. The petitioner states in the submitted narrative that all setbacks are met except for the farmstead to the southwest of the site. The dwellings north of the site are clearly outside of the setbacks, and the farmstead (located at 48139 Palisade Street) southwest of the operation appears to be located about 970 feet away from the proposed barn. The petitioner states that he expects a waiver from the property owner, and if the waiver is not received, there are still plans to have landscape trees planted by the conservation district. The dwelling located at 48178 Palisade Street is located very close to the required setback distance from the proposed CAFO. Without some more precise mapping of the site plan, it would not be possible to verify that the 1,320 feet setback is met for the open lot animal pen. The barn does appear to meet the separation requirement. Staff suggests that the line of trees and berm that is depicted on the site plan can be extended south to come between the



neighboring dwelling and the open lot. If this is completed the setback requirement would be met by the presence of landscape trees and no waivers will be required.

The county Zoning Ordinance requires setbacks from a CAFO to municipalities. The nearest municipality to the Sundvold CAFO is Brandon. Brandon is a First Class city with a population greater than 5,000 people. As a First Class city, the CAFO must meet 1 mile setback from the city limits. The proposed CAFO is more than 2 miles away from Brandon City Limits.

The County zoning ordinance that pertains to CAFOs includes a list of situations when a State General Permit will be required for a new or expanding CAFO. A class C CAFO proposed to be located within 1,320 feet from an operating permitted class C CAFO or larger will be required to obtain a state general permit. The farmstead located to the southwest of the proposed CAFO has confined animals on the property. It is located closer than 1,320 feet from the proposed CAFO, but it is not being operated as another Class C CAFO. Therefore, the proposed CAFO is not required to obtain a state general permit. The Planning Commission may add the requirement to obtain a state general permit if it is deemed necessary.

In addition to site plan elements and setbacks, an application for a CAFO is required to submit other plans and meet requirements. The petitioner submitted a manure management plan that explains how manure will be maintained and used on nearby fields. The manure from inside the building will be a bedpack manure that will be scraped and stored inside the building. The manure from the open lot will be cleaned off the lot periodically, spread on cropland, and incorporated mechanically. Manure is planned to be spread in the fall, winter, and spring while the crops are not present.

**Conditional Use Permit Criteria:**

As part of any conditional use permit request, the Planning Commission is required to consider several criteria.

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

The proposed CAFO is located within predominantly agricultural area. The petitioner has constructed and maintained an open pen to keep a small confinement of cattle, and no complaints have been documented from the small CAFO. The petitioner is proposing multiple ways to screen smells and visual aspects of the CAFO including maintaining some existing trees, conservation district trees, and a berm with conifer trees. The petitioner writes that the management of his cattle will be to split the heard for calving and leading cattle to and from pasture land and residue crops. There will be times when animal are not even present at the site such as when staff visited the site. Many of the neighborhood dwellings are located over ¼ mile away even before trees. Animal production is a regular part of agricultural properties and operations.

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

The surrounding land uses of the proposed CAFO are predominantly agricultural with several





single family dwellings and farmsteads. Agricultural uses such as crops and livestock will likely continue to be prominent into the future of the area. The proposed CAFO will unlikely affect further agricultural development in the area, and it may increase value of nearby cropland with easy access to manure for fertilization of the soils. It is also recognized when intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Animal production is a regular part of agricultural operations and properties. Future residential development will be required to have the Right-to-Farm Notice 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 petitioner will have to extend any new utilities to the proposed new barn. The property already has a driveway. Drainage on the site will largely be maintained with the exception of structures built to contain manure.

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

The operation is located on a 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 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. Staff finds that separation distances and tree line wind protection are effective ways to reduce nuisance issues. In addition, the petitioner has expressed with staff that the entire property has had fence installed in order to provide extra barrier when cattle occasionally escape the pen. There will be the only break in the fence which narrows the likely path for escape onto neighboring property. The petitioner has cameras located throughout the lot to protect from harm and to alarm when cattle get out. 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 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 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 #19-40 with the following conditions.



- 1.) The maximum size of the CAFO shall be limited to 900 animal units.
- 2.) Proposed trees and shelter belt must be planted in the calendar year of 2020.
- 3.) The facility shall conform to the submitted site plans. Any minor changes may be approved by the Planning Director at the Minnehaha County Planning Department. Major changes will require an amendment to this permit and a public hearing.
- 4.) The berm and trees depicted to the east of the open lot on the site plan shall be extended to the south to pass between the open animal lot and the dwelling located at 48178.
- 5.) A building permit is required prior to the construction of the barn.
- 6.) The Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

### **Public Testimony**

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

Wyatt Sundvold, 48152 Palisade Street, began by explaining why the barn wasn't built until he gained enough equity in the property. He also explained what he does to manage cattle to have calving cows on the property in shifts. The 900 head request allows the flexibility in the event that all the cattle need to be on the site for a time while calves are still present with one of the herds. Commissioner Ode asked if there was any outreach to the neighbors. Wyatt responded that he did send a notice for a neighbor meeting with the notice for the Planning Commission meeting, and several neighbors did show up. He said that the response was concern about 900 head request and they were largely relieved when explained that the cattle will be on pasture during summer.

Less Timm, 25861 482<sup>nd</sup> Ave., stated that he bought the property to the west of the site about one and a half years ago. He said that he invested in the property primarily for the building eligibilities, and was concerned with how the proposed CAFO will affect his property values. To reduce the setback the ordinance requires 5 rows of trees but only 3 rows were proposed by Wyatt. Less stated that he would like to have more trees between the petitioner's property and any building site.

Darren Timm, 26414 483<sup>rd</sup> Ave., said that he represents the property west of the proposed site. He expressed concerns about the position of the building eligibilities and the setbacks of the future dwelling site. He expressed concern that the operation has previously piled snow with manure and rocks on their property which caused problems with the tenant for crop losses. Mr. Timm expressed concern that no fence is located between the properties. He requested the permit to be denied. Commissioner Barth clarified that the family owns only the "73" acres from 257<sup>th</sup> Street to Palisade Street.



Commissioner Ode asked Darren Timm if he had any concerns about the animals to the south of the property when he bought the land a year and a half ago. Darren Timm responded that the animals on the farm to the south are not confined and that they do not concern him.

Wyatt Sundvold spoke again to address some concerns. He began with an apology for the snow removal and explained the situation. He also explained that he has the long term plan to include a fence.

**Action**

A motion was made to **approve** Conditional Use Permit #19-40 with the staff recommended conditions by Commissioner Barth and seconded by Commissioner VanDerVliet. The motion passed unanimously.

**Conditional Use Permit #19-40 - Approved.**



ITEM 7. CONDITIONAL USE PERMIT #19-42 to allow a Rubble Site for Storage, Processing, and Transport of Wood Products on the property legally described as E1/2 SE1/4 & NW1/4 SE1/4, Ex. 2 Acre Strip & Ex. RY, Section 6-T101N-R50W.

Petitioner: Margaret E. Mueller

Property Owner: Minnehaha County

Location: 46686 263rd St. Located approximately 4 miles west of Sioux Falls

Staff Report: David Heinold

**General Information:**

Legal Description – E1/2 SE1/4 & NW1/4 SE1/4, Ex. 2 Acre Strip & Ex. RY), Section 6-T101N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – County Training Grounds/Rubble Site/Recreation Area

Parcel Size – 116 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow a Rubble Site for Storage, Processing, and Transport of Wood Products. The narrative explains that the site would be used to collect non-treated dry wood (conventional) and wet wood (trees) from the public to grind up and sell the mulch. The hours of operation for the proposed use will be from 7 am to 6 pm, Monday through Saturday. The public hours of operation would be 8 am to 5 pm, Monday through Friday and 8 am to Noon on Saturday.

On September 10, 2019, staff visited the site of the proposed rubble site for storage, processing, and transport of wood products. The proposed use is appropriate for the surrounding area with adequate setbacks from the property boundaries. The subject property is already equipped with a locking security gate since it is owned and maintained by Minnehaha County for miscellaneous use consisting of a shooting area for Sheriff’s training as well as additional recreational use by the model airplane club on the property surrounding the proposed rubble site.

**Conditional Use Permit Criteria:**

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

There are a few residential homes in the surrounding area, including two immediately across 467<sup>th</sup> Ave. to the east of the subject property that will be affected by the proposed use of wood grinding, processing, and transport of products. The subject property has an established tree shelterbelt setback along 467<sup>th</sup> Ave. that may serve as a visual buffer from the actual tree grinding area; however, the petitioner does not plan to have any screening for vehicle parking.



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

The area is primarily agricultural land, gravel pits, and a few residential homes in the surrounding area. There should be no effect on the normal and orderly development of surrounding vacant property, which is determinant on the availability of building eligibilities.

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

The site plan shows driveway access via a new approach off of 467<sup>th</sup> Ave.; however, does not show any directions of traffic for drop off and pick up from the tree grinding site. At a minimum, directional signage should be placed on site to direct traffic in-and-out of the proposed tree grinding operation. All of the necessary facilities have been provided as result of the existing infrastructure for the County-owned property. The petitioner will be required to extend any other utilities to the site for the proposed tree grinding operation.

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

The narrative states that majority of traffic will be deliveries and pickups, which the applicant should provide a truck turnaround point within the rubble site area. There should also be two parking spaces per three employees on maximum shift near the site. The site is large enough to accommodate any parking needs and no parking shall be allowed within the right-of-way. The site plan shows a parking area on the property parallel with 467<sup>th</sup> Ave.

**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 processing of trees into wood products will create noise and visual sight disturbances to single family dwellings in the immediate vicinity and road traffic. The applicant has set the grinding area back well off the township road to take advantage of measures to control any fumes, dust, noise, and vibration from nearby residences. Staff suggests hours of operation will also reduce nuisance affects and limit concerns of extra traffic. The property should be maintained with a gate or a person on site during operating hours to prevent unwanted dumping on the property.

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

The public health, safety and general welfare will not be negatively harmed by the proposed project. It may be of great importance for Minnehaha County to have facilities such as this to recycle waste wood since the Emerald Ash Borer was found in the county. The proposed project would be beneficial by creating a close location for area arborists to drop waste wood products and to have them recycled into a useful mulch product. The Envision 2035 Comprehensive Plan, Goal 1 of the Future Land Use Plan section states to develop a countywide land use pattern that ensures compatibility and functional relationships among jurisdictions and related land use activity. Therefore, a change in the land use designation of the subject property is appropriate because the proposed use for processing of trees into wood products is in the long-term interest of the County.



**Recommendation:**

Staff finds that the proposed use conforms to the goals and policies of the Envision 2035 Comprehensive Plan. Staff recommends **approval** of Conditional Use Permit #19-42 with the following conditions:

- 1.) The property shall adhere to the submitted site plan.
- 2.) The process of grinding wood shall take place during the hours of 8:00 am through 7:00 pm on Monday through Saturday.
- 3.) All driveways and driving paths on the site must be gravel surface.
- 4.) Only clean, untreated, unpainted, and unstained wood shall be accepted for processing. No other materials shall be accepted.
- 5.) The operation must maintain a gate or a person on the site during drop off hours to prevent dumping of non-wood products.
- 6.) The operation will be allowed to operate under the conditions of this permit until January 31st, 2030. The business owner will be required to obtain another conditional use permit before this date if they wish to continue operating at this location.
- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

**Public Testimony**

David Heinold, County Planning Staff, presented a brief summary of the staff report and recommendations for Conditional Use Permit #19-42.

Margaret Mueller, 27059 Mueller Place, identified herself as the representative for Mueller Pallets and introduced the other members of the company.

Commissioner Barth mentioned concern regarding the haul road and would like for the applicant to work with Wayne Township to maintain the road to an acceptable standard.

Mrs. Mueller mentioned that they will make a deal with the township for maintenance. She also noted that they have a zero-waste recycling company that has magnets that take out the unwanted steel.

Commissioner Barth asked the petitioner about the Emerald Ash Borer threat. Mrs. Mueller explained that they are also dealing with it in Iowa and Minnesota.

Commissioner Ode asked how many locations Mueller Pallets has in the area.

Mrs. Mueller added that there a total of 75 locations in four different states.

Commissioner Ode questioned if the woodpile will be a breeding area for rodents.



Mrs. Mueller explained that they operate based on emergencies primarily and have about 9 semi-truck loads per day throughout the whole year.

Commissioner Ode asked about the process of grinding the wood and transporting off site.

Margaret mentioned that they have a partnership with POET for burning the wood chips.

Commissioner Barth added that he would like to see an additional condition be included for an agreement between the applicant and Township for maintaining the road.

Mrs. Mueller mentioned that they are willing to work with the Township on road maintenance issues that may come up throughout the operation.

Commissioner Barth explained that wood chips can also be used to help agricultural drainage with the use of bioreactors on farmland in the area.

Commissioner Duffy called for public testimony. There was no additional public testimony.

Commissioner Duffy closed the floor to public testimony.

### **Action**

A motion was made to **approve** Conditional Use Permit #19-42 with the conditions recommended by staff and adding condition #8 to require the applicant to obtain a Haul Road Agreement with Wayne Township for maintenance of 467<sup>th</sup> Avenue by Commissioner Barth. The motion was seconded by Commissioner Mohrhauser. The motion passed unanimously.

### **Conditional Use Permit #19-42 - Approved**

- 1.) The property shall adhere to the submitted site plan.
- 2.) The process of grinding wood shall take place during the hours of 8:00 am through 7:00 pm on Monday through Saturday.
- 3.) All driveways and driving paths on the site must be gravel surface.
- 4.) Only clean, untreated, unpainted, and unstained wood shall be accepted for processing. No other materials shall be accepted.
- 5.) The operation must maintain a gate or a person on the site during drop off hours to prevent dumping of non-wood products.
- 6.) The operation will be allowed to operate under the conditions of this permit until January 31st, 2030. The business owner will be required to obtain another conditional use permit before this date if they wish to continue operating at this location.



- 7.) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.
- 8.) That the applicant be required to obtain a Haul Road Agreement with Wayne Township for maintenance of 467<sup>th</sup> Avenue.





**Old Business**

Scott Anderson updated the Planning Commission on the decision to have Hartford do some public meetings to get input on the joint jurisdiction proposal.

**New Business**

None.

**Adjourn**

A motion was made to **adjourn** by Commissioner VanDerVliet and seconded by Commissioner Ode. The motion passed unanimously.

The meeting was **adjourned** at 8:41 pm.