

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
March 27, 2017

A meeting of the Planning Commission was held on March 27, 2017 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Doug Ode, Mike Ralston, and Jeff Barth.

STAFF PRESENT:

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

Bonnie Duffy chaired the meeting. Planning Commission Chair Bonnie Duffy called the Minnehaha County Planning Commission meeting to order at 7:14 p.m.

**CONSENT AGENDA**

Commissioner Duffy read each item on the agenda individually.

A motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** the consent agenda consisting of Items 1, 2, 3, and 4. The motion passed unanimously.

**ITEM 1. Approval of Minutes** – February 27, 2017

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** the meeting minutes from February 27, 2017. The motion passed unanimously.

**Consent Agenda**

**ITEM 2. CONDITIONAL USE PERMIT #17-09 to exceed 1,200 square feet of total accessory building area – requesting 2,000 sq. ft. on the property legally described as Tract 49, West Acres, SW1/4, Section 17-T101N-R50W.**

Petitioner: John McCarthy

Property Owner: same

Location: 46715 Buckeye St. Approximately 2 miles west of Sioux Falls

Staff Report: David Heinold

This would allow 2,000 square feet of total accessory building area.

**General Information:**

Legal Description – Tract 49, West Acres, SW1/4, Section 17-T101N-R50W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 0.53 Acre

**Staff Report:** David Heinold

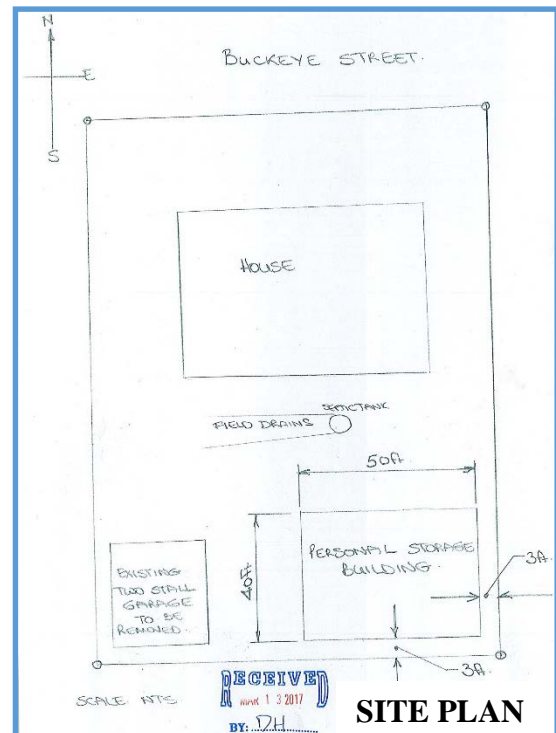
**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 2,000 square feet of total accessory building area. The proposed 40'x50' accessory building will be located south of the house and the existing 30'x40' detached garage is planned to be removed upon construction of the proposed building. The subject property encompasses 0.53 acre.

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 subject property is located 2 miles west of Sioux Falls. The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in total accessory building area.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 46702 Snowberry St., located immediately across the road to the east of the subject property has approximately 4,818 square feet of total accessory building area on a 1.95 acre parcel that is used for only personal storage. The property owner, 46702 Sage St., has 3,360 sq. ft. of total accessory building area on 0.85 acres. In April 2014, conditional use permit #14-18 was approved by the planning commission and upheld by the county commission following a written appeal to allow a 2,688 sq. ft. accessory building size at 46710 Chestnut St. In February 2017, conditional use permit #17-08 was approved by the planning commission to allow 2,880 sq. ft. accessory building size at 26471 467th Ave.

On March 14, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, at right, shows the location of the proposed building in the southeast corner of the lot. The proposed building will be located on a 0.53 acre parcel.



**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 are a few other properties within a half-mile of the subject property that has a building size larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a twenty-lot subdivision within a quarter-mile.

**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 buildings, 2,000 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. 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 building for private use and storage will create few problems to neighboring properties. The subject property is located within the transition area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of maintaining the rural landscape until the eventual development of residential and/or municipal development. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping around the perimeter of the proposed location for the accessory building.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-09 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,000 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #17-09. The motion passed unanimously.

**Conditional Use Permit #17-09 – Approved**

**ITEM 3. CONDITIONAL USE PERMIT #17-13 to allow a Class C Finisher Swine CAFO (960 AU) on the property legally described as Kroll Tract 1 (Ex. 208.71' S208.71'), SE1/4, Section 19-T104N-R51W.**

Petitioner: Matthew Vogel

Property Owner: same

Location: 46060 248th St.                      Approximately 3 miles west of Colton

Staff Report: Kevin Hoekman

This would allow a Class C Finisher Swine CAFO (960 AU).

**General Information:**

Legal Description – Kroll Tract 1 (Ex. 208.71' S208.71'), SE1/4, Section 19-T104N-R51W.

Present Zoning – A1 – Agriculture

Existing Land Use – Farm Yard

Parcel Size – 9.76 acres

**Staff Report:** Kevin Hoekman

**Staff Analysis:**

The property is located approximately three miles west of Colton along County Highway 110. The petitioner would like to construct a 2400 head swine-finishing CAFO operation on the northwest corner of a nearly 10 acre property. The petitioner currently lives adjacent to the site in a one acre division from the larger lot.

The petitioner has proposed a swine finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit. The facility will have to comply with the provisions and requirements of the 1990 Revised Zoning Ordinance.

The site plan is an important aspect of any conditional use permit. A list of required elements for general CUPs and specifically CAFOs have been created to provide clarity for any petitioner requesting a CAFO. The required elements are listed in bold font at the beginning of the following paragraphs, and each listed element includes a description of the petitioner submitted materials that regard each element. The petitioner has provided two engineered drawings of a site plan with slightly different information on each. In addition, a large scale site plan that indicates the general location and odor setback distance was also provided.

**The address of the property and the legal description.** The site plan large scale site plan includes the landowner's address which is located adjacent to the southeast of the proposed site. The site plan does not include a legal description, but one is provided on the application.

**The name of the project and/or business.** The indicated name of the project is located in the title portion of both site plans as Vogel Swine.

**The scale and north arrow.** The engineered site plan includes a north arrow, written, and graphic scale. The large scale site plan includes a written scale only.

**All existing and proposed buildings or additions.** The site shows the proposed building in relation to existing building through areal imagery. The site plan includes one proposed barn in the northwest corner of the site. Many agricultural related buildings are located on the property already.

**The dimensions of all buildings.** The dimensions of the proposed confinement building is listed on the engineered site plan as 101.83 feet by 193 feet. Several structures are listed on the plan for demolition and a couple other buildings are shown on the plan.

**The distance from all buildings to the property lines at the closest points.** The site plan indicates that the proposed confinement structure will be setback approximately 340 feet from the front yard property line, 110 feet from the side yard property line, and 131 feet from the rear property line. It appears that the proposed swine facility will be located within two tree groves on the north and west sides of the property. The email that was sent including the engineered site plan included a statement that the intent is to maintain as many trees as possible during construction.

**Building height and number of stories.** The height of the structure is indicated on the Zoning Map as 22 feet tall. The petitioner has submitted section drawings of the manure storage structure. The proposed barn will have one floor that is slatted to allow manure to drop to a pit underneath.

**Dimensions of all property lines.** The provided site plan includes accurate depiction of the property line dimensions.

**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 current site has access from 248<sup>th</sup> Street. The site will be large enough to allow for parking and maneuvering. A gravel maneuvering area is indicated on the site plan to be located to the south of the proposed barn. No parking will be allowed on 248<sup>th</sup> Street.

**Screening including height, location, and type of material to be used.** - And similarly - **The landscape setback and trees indicating the species of trees and materials to be used for landscaping.** The submitted site plan shows the existing tree groves located on the north and the west of the proposed barn. No additional landscaping is indicated on the site plan.

**Name and location of all adjacent streets, alleys, waterways and other public places.** The engineered site plan includes the name of 248<sup>th</sup> Street which is the closest street to the proposed site. The nearest water source is an intermittent stream is located approximately ½ mile away. No public places are located nearby.

**A landscaping in plan designed to assist in the dispersal of odors.** The submitted materials do not include anything specific as to how the landscape will help disperse odors. The petitioner has submitted worksheet calculations of the South Dakota Odor Footprint Tool (SDOFT) and the provided site plan includes data from the tool. The site plan indicates that boundary of the 98% annoyance-free zone extends beyond the nearest two dwellings, but both of the property owners of these dwellings have signed waivers for the CAFO.

**A grading Plan designed to help keep pens and solid waste containment areas dry.** The animals and manure will both be located inside the proposed structure. The site plan showed that the proposed barn will require much grading and diversion ditches are located on either side of the structure. The Minnehaha County GIS indicate that the general slope of the parcel will move water to the south and eventually across the road.

**The location and description of the animal waste facilities and structure.** The submitted site plan includes only one animal waste facility located under a slatted floor where the hogs will be kept. The petitioner included several engineered drawings regarding the waste containment.

In relation to the site plan, the 960 animal unit operation will require a 1,980 foot buffer from a dwelling, church, school, or business. Staff has used GIS to determine that two dwellings are located within this setback. Property owners of both dwellings have provided signed waivers for the setback.

In addition to site plan elements, an application for a CAFO is required to submit several plans and meet requirements. A brief narrative was submitted with a numbered statement for each plan. According to the plan, dead animals will be placed in an area enclosed on three sides until a rendering truck can get to the site. The pest control plan includes bait stations for rodents and chemical treatments for flies. The odor control plan notes the existing vegetation for odor control. Odor control plan also includes new vegetation, but no further description is provided as to what or where vegetation will be used. The applicant has utilized the South Dakota Odor Footprint Tool to show the relation of neighboring dwellings and nuisance odor. The two closest dwellings are within the 98% annoyance free zone, but each dwelling has submitted a waiver for setback for the CAFO.

A nutrient management plan is not required until after approval for a CUP; although, the Planning Commission has typically reviewed the Nutrient management plan for potential concerns. The petitioner has not submitted a nutrient management plan, and he will need to do so if and after the permit is approved.

### **Conditional Use Permit Criteria:**

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

The proposed CAFO is located within a low density and predominantly agricultural area. The site meets the required setbacks for the size of the facility, and the closest neighbors have signed

a waiver for the reduction of the CAFO setbacks. The petitioner's submitted documentation from the South Dakota Odor Management Tool shows that all neighboring residential dwellings except the two who signed waivers are outside of the 98% annoyance free zone. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties. An existing Class C beef CAFO is located approximately ¼ mile southwest of the proposed site.

**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 scattered single family dwellings and farmsteads. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area, especially since several of the farmsteads in the area already have animals confined on the farmstead. However, as intense land uses such as CAFOs increase in numbers, residential uses may become less desirable in close proximity to this type of project. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling.

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

The proposed facility includes two existing driveways off of 248<sup>th</sup> Street. The east driveway is shared with the parcel in which the petitioner has a single family dwelling. The petitioner will have to acquire any utilities to the proposed facility. Grading and drainage are included on the engineered site plans.

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

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

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

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

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

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



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

**Recommendation:**

Staff finds that the proposed CAFO is an acceptable land use under the comprehensive plan. Staff recommends **Approval** of Conditional Use Permit #17-13 with the following conditions:

- 1.) The facility shall be limited to 960 animal units in size.
- 2.) The CAFO shall comply with all applicable regulations of the County Zoning Ordinance.
- 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 manure containment facility must be in conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
- 5.) A nutrient management plan must be approved by the planning and Zoning Department before the issuance of building permit.
- 6.) 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.
- 7.) A building permit is required for all structures prior to construction.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the CAFO at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #17-013. The motion passed unanimously.

**Conditional Use Permit #17-13 – Approved**

**ITEM 4. CONDITIONAL USE PERMIT #17-14 to exceed 1,200 square feet of total accessory building area – requesting 3,376 sq. ft. on the property legally described as Lot 2, Tract B, Heikes’ Addition, N1/2, Section 34-T103N-R49W.**

Petitioner: Matt Hanson

Property Owner: same

Location: 47560 Washington St.                      Approximately 5.5 miles north of Sioux Falls

Staff Report: David Heinold

This would allow 3,376 square feet of total accessory building area.

**General Information:**

Legal Description – Lot 2, Tract B, Heikes’ Addition, N1/2, Section 34-T103N-R49W

Present Zoning – [A-1 Agricultural District](#)

Existing Land Use – Residential

Parcel Size – 8.69 Acres

**Staff Report:** David Heinold

**Staff Analysis:**

The petitioner is requesting conditional use permit approval to allow 3,376 square feet of total accessory building area. The proposed building will be located to the northwest of the house. The subject property encompasses an area of approximately 8.69 acres.



The subject property is located approximately 5.5 miles north of Sioux Falls. The petitioner is requesting conditional use permit approval to exceed 1,200 sq. ft. in 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.

There are several buildings in the surrounding area that exceed the 1,200 sq. ft. requirement. The property owner, 47572 Washington St., located immediately to the east of the subject property has 3,792 sq. ft. of total accessory building area on a 13.58 acre parcel used for personal storage. The property owner, 47542 Washington St., has 2,850 sq. ft. of total accessory building area on 3.81 acres. In April 2002, conditional use permit #02-25 was approved by the planning commission to allow 1,536 sq. ft. accessory building size at 25560 Stoneway Ave.



On March 6, 2017, staff visited the site and determined that the proposed accessory building size is appropriate for the immediate area. The image, above, shows the location for the proposed building that will be located just to the north of the house and existing row of shelterbelt trees on the subject property. The proposed building will be located on a 8.69 acre parcel.

### **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 other property within a half-mile of the subject property that has a building size larger than the petitioner's requested total accessory building area. It is unlikely that the proposed building size will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with a thirty-lot subdivision within a quarter-mile.

#### **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 buildings, 3,376 sq. ft. of accessory building area would be congruent with the land composition.

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

Access will be provided via an extension of the petitioner's driveway between the house and location for the proposed accessory building. 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 building for private use and storage will create few problems to neighboring properties. The subject property is located within the agricultural production area identified in the Envision 2035 Comprehensive Plan, which recognizes that the primary purpose of the area is to protect, preserve, and promote agricultural uses and the economic viability of farming operations. The proposed use of the building for personal storage should not affect surrounding land uses with an established shelterbelt of landscaping on the south side of the proposed location for the accessory building.

**Recommendation:**

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory buildings in the immediate vicinity. Staff recommends **approval** of Conditional Use Permit #17-14 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 3,376 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

**Action**

As part of the consent agenda, a motion was made by Commissioner Barth and seconded by Commissioner Ode to **approve** Conditional Use Permit #17-14. The motion passed unanimously.

**Conditional Use Permit #17-14 – Approved**

**Regular Agenda**

None.

**Old Business**

Scott Anderson, Planning Department, informed the planning commission that the County Commission's decision to approve a water tower east of Brandon was appealed to circuit court.

**New Business**

Scott Anderson, Planning Department, handed out a MEMO for the planning Commission regarding potential amendments to WECS (Wind Energy Conversion System) requirements in the ordinance. Planning staff received requests regarding possible amendments in response to amendments considered by Lincoln County.

Kevin Hoekman, Planning Department, handed out an update for potential amendments for CAFO regulations. The planning commission and staff discussed options for how to move forward with the proposal.

**Adjourn**

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