



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
February 26, 2018**

A meeting of the Planning Commission was held on February 26, 2018 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Doug Ode, Becky Randall, Mike Ralston, Paul Kostboth, Adam Mohrhauser, 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 7:00 p.m.

Kevin Hoekman, Planning Staff requested an amendment to the January 22nd 2018 minutes to remove items pertaining to conditional use permit # 18-06, because the petitioner asked before the meeting to have the item heard at a later date.

ITEM 1. Approval of Minutes – January 22, 2018

A motion was made by Commissioner Kostboth and seconded by Commissioner Ralston to **approve** the meeting minutes from January 22, 2018 with the removal of item for Conditional Use Permit #18-06. The motion passed unanimously.

ITEM 2. REZONING #18-02 to rezone from the C Commercial District to the Hoppe PD Planned Development District, property legally described as Tract 1, Severson's Addition, SW1/4, Section 32-T101N-R47W, Valley Springs Township, Minnehaha County, South Dakota.

Petitioner: Don Hoppe

Property Owner: Dawn Grim

Location: NE corner of the intersection of South Dakota State Highway 42 and 268th Street. Approximately 6 miles east of Sioux Falls

Staff Report: David Heinold

This would rezone from the C Commercial District to the Hoppe PD Planned Development District.

General Information:

Legal Description – Tract 1 Severson's Addition, SW1/4, Section 32-T101N-R47W

Present Zoning – [C Commercial District](#)

Existing Land Use – vacant/grassland

Parcel Size – 9.48 Acres to be rezoned



Staff Report: David Heinold

Staff Analysis:

The applicant is requesting to rezone approximately 9.48 acres of a vacant lot from the C Commercial District to the Hoppe PD Planned Development District to allow the same uses listed in the C Commercial District zoning ordinance regulations with the addition of a single family dwelling as a permitted use. The subject property is located within the Red Rock Corridor Overlay (RRC) District is a zoning overlay district, which adds development standards and guidelines to the existing base zoning districts. The area of the proposed rezoning is referred to as “The Gateway”.

Goal 6 of the Envision 2035 Comprehensive Plan states plan ahead for additional growth along major transportation corridors that often act as gateways into and out of cities and towns. The result of this effort requires special attention to encourage orderly and attractive growth with participation amongst the general public as well as affected governmental entities. Currently, the property is zoned C Commercial and the petitioner is requesting a change to the PD Planned Development District to allow a single family dwelling as a permitted use along with the same uses listed throughout the C Commercial District.

The RRC District is intended to increase the quality of development by applying design and development standards formalized through the planning process by the Red Rock Corridor Task Force, elected and appointed officials from the city and county, the general public, county staff. The further development of this parcel will require extensive site plan review by both the planning commission and county planning staff to ensure that the intent of the zoning ordinance is upheld. The rezoning application for a planned development district is the first step in the process prior to the site and final development plan review located in the RRC Overlay District.

Goal 5 of the Envision 2035 Comprehensive Plan states to support the orderly development of non-agricultural land uses. The proposed land use for a planned development consisting of a warehouse, contractor’s shop, display room, and attached living quarters promotes the concept of clustering a mix of uses together; therefore, discouraging commercial, industrial, and residential strip development along major transportation routes. The remaining action steps are analyzed in the chart, below, that details the consistency among the rezoning request.

Comprehensive Plan Action Steps	Staff Comments
Action 5.1 Support development around rural service areas and intersections that are delineated on the land use map and are compatible with existing land uses.	The existing land use is C Commercial. There is a small parcel across the highway zoned C Commercial as well. The future land use plan for the Red Rock Corridor Plan denotes this area as “The Gateway”, which encourages limited commercial development along major roadways. Grand Falls Casino is located directly to the south of the subject property across the state line in Iowa. The



	<p>remaining land primarily agricultural with a few residential acreages in close proximity. With the context of the surrounding area in mind, it is expected that this intersection will see continued development pressure in a form consistent with the Red Rock Corridor Plan and long range planning efforts across the state line in Iowa determined solely by the respective government agencies.</p>
<p>Action 5.3 Locate residential subdivisions in community type developments where adequate services are available including but not limited to sanitary sewer, utilities, and drinking water supply.</p>	<p>The rezoning request proposes to add single family dwelling to the list of planned development uses that mirror the zoning ordinance regulations for the C Commercial District. The type and intensity of residential development will be determined by but not limited to the availability of services and utilities. The petitioner plans to utilize a septic system for the proposed shop building and living quarters as shown in the site plan.</p>
<p>Action 5.4 Enforce the Minimum Road Improvements and Design Standards article of the Subdivision Ordinance.</p>	<p>The property is adjacent to a hard surfaced road; therefore, must meet the minimum standards for all driveways, parking areas, and loading/unloading areas.</p>
<p>Action 5.5 Utilize preliminary subdivision plan approval process to discourage strip development, create conformity among other development plans, and encourage joint access for subdivisions.</p>	<p>The further development of this parcel is required by the regulations set forth in the Article 11.10 Red Rock Corridor Overlay District to submit to a site development plan review by the County Planning Staff to determine if the proposed development meets the development standards set forth in Article 11.10 of the zoning ordinance. If the proposed development is unable to meet the regulations set forth in Article 11.10, Red Rock Corridor Overlay District, then the site development plan must be reviewed by the Zoning Board of Adjustment for major ordinance variations. Minor adjustments to the site plan may be approved by the county planning staff. In addition, a final development plan is required for all planned developments prior to issuance of a building permit per the zoning ordinance. Since the subject property lies adjacent to a Lyon County, Iowa Highway, the petitioner shall</p>



	contact the appropriate government agency for any driveway access improvements off of the paved highway.
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On February 7, 2018, staff conducted a site visit to review the accuracy of the rezoning application submittal documents. The site is bounded on three sides by a few rows of an existing shelterbelt consisting of a variety of trees. There is a berm that runs parallel with South Dakota State Highway 42 with some evergreen trees as well. The surrounding area consists of a mix of land uses such as a casino resort facility, agricultural land, and a few residential acreages.

The proposed building size submitted with the rezoning application is 100'x224'x18' and shown in a burgundy exterior color. All commercial buildings built in Minnehaha County require the following plans be submitted to the Minnehaha County Chief Building Inspector prior to obtaining a building permit:

1. Detailed set of architectural, structural, mechanical and electrical design plans, all have to be stamped and sealed by the respective licensed professionals.
2. Detailed set *engineered foundation design plans*, stamped and sealed by the respective licensed professionals.
3. Building use and classification. Structures or portions of structures shall be classified with respect to occupancy in one or more of the groups listed in section 301 Use and Occupancy Classification of the 2015 International Building Code book. A room or space that is intended to be occupied at different times for different purposes shall comply with all the requirements that are applicable to each of the purposes for which the room or space will be occupied.

Structures with multiple occupancies or uses shall comply with Section 508 of the IBC. Where a structure is proposed for a purpose that is not specifically provided for in this code, such structure shall be classified in the group that the occupancy most nearly resembles, according to the fire safety and relative hazard involved. Building use and Classification must be certified by a Registered Architect.

4. Comply with all requirements stated in Conditional use permit and Minnehaha County ordinance.
5. Approval from State DENR and have obtained a Septic system or Holding tank permit.

Recommendation

Staff finds the proposed rezoning from the C Commercial District to the PD Hoppe Planned Development District is consistent with the goals and policies of the Envision 2035 Comprehensive Plan and recommends **approval** of Rezoning #18-02.



HOPPE PLANNED DEVELOPMENT DISTRICT. The regulations set forth herein or elsewhere in these regulations are the district regulations of the Hoppe Planned Development District.

INTENT. This district is intended to provide for a wide variety of commercial uses generally located at major intersections and along major roads. This district will include general commercial uses requiring large land areas, extensive retail operations, outdoor display, and limited residential use.

PERMISSIVE USES. A building or premises shall be permitted to be used for the following purposes in the PD Hoppe Planned Development District:

- (1). Office.
- (2). Bank or financial institution.
- (3). Group day care, day care center, group home.
- (4). Mortuary.
- (5). Indoor recreational facility.
- (6). Nursery or greenhouse.
- (7). Church.
- (8). Antenna support structure.
- (9). Residential - Single Family Dwelling

PERMITTED SPECIAL USES. A building or premises may be used for the following purposes in the PD Hoppe Planned Development District in conformance with the conditions prescribed herein or by obtaining a Conditional Use for such uses in conformance with the requirements of Article 19.00:

- (1). Retail sales and trade, contractor's shop, personal services, communication facilities, and warehousing provided:
 - (1). There is limited outside storage.
 - (2). There is no storage of a regulated substance.
 - (3). The building contains 25,000 square feet of area or less.
- (2). Veterinarian clinic provided there is no outside kenneling of dogs.
- (3). Frozen food locker provided there is no slaughtering of animals on the premises.
- (4). Off-premise signs in conformance with Article 17.00.
- (5). Telecommunication and broadcast tower in conformance with Article 12.12.



CONDITIONAL USES. A building or premises may be used for the following purposes in the PD Hoppe Planned Development District if a conditional use for such use has been obtained in conformance with the requirements in Article 19.00:

- (1). Wholesale trade.
- (2). Bar or lounge.
- (3). Equipment sales, display and repair.
- (4). Motor vehicle sales, display, service and rental.
- (5). Auto body shop.
- (6). Transportation, including gasoline service station, truck stop, and terminal.
- (7). Recycling facility.
- (8). Fireworks sales provided sales are conducted from a permanent building when business operations exceed nine (9) days.
- (9). Uses which store or handle a regulated substance.
- (10). Lumberyard.
- (11). Storage yard.
- (12). Car wash.
- (13). Airport/heliport.
- (14). Hotel or motel.
- (15). Hospital.
- (16). Motor vehicle repair shop.
- (17). Public utility facility.
- (18). Campground.
- (19). Commercial recreation facility.
- (20). Wind energy conversion system.
- (21). [Reserved.]
- (22). Electrical substation.
- (23). Adult use in conformance with Section 12.09.
- (24). Animal shelter.
- (25). Solar energy conversion system in conformance with Article 12.15.

ACCESSORY USES. Accessory uses permitted in the PD Hoppe Planned Development District are accessory buildings and uses customarily incident to any permitted uses in this district.

PARKING REGULATIONS. Parking within the PD Hoppe Planned Development District shall be regulated in conformance with the provisions of Article 11.10.

SIGN REGULATIONS. Signs within the PD Hoppe Planned Development District shall be regulated in conformance with the provisions of Article 11.10.



DENSITY, AREA, YARD AND HEIGHT REGULATIONS. A maximum height and minimum lot requirements within the PD Hoppe Planned Development District shall be as follows:

(1). General Requirements:

	All Uses
Density	4 acres
Lot Area	4 acres
Lot Width	125'
Front Yard	30'
Side Yard	10'
Rear Yard	20'
Maximum Height	35'

- (2). There shall be a required front yard on each street side of double frontage lots.
- (3). There shall be a required front yard on each street side of a corner lot.
- (4). Any accessory uses shall be required to comply with the height, front, rear and side yard requirements of the main building.

Public Testimony

Commissioner Duffy requested the petitioner for any questions. Don Hoppe, the petitioner, was present for questions.

Commission Ode asked the petitioner if he had any concerns for traffic issues on the stretch of highway in front of his property. Don Hoppe responded that he is aware of accidents and feels they are largely associated with the casino. He added that perhaps the highway departments could consider lower speed limits or other action to make the area safer.

Commissioner Duffy asked for anyone with objections to the rezoning to speak. Nobody spoke in opposition to the item.

Action

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **recommend approval** of Rezoning #18-02. The motion passed with five votes for approval and one vote against the motion. Commissioner Ode voted against the motion.

Rezoning #18-02 – Approval Recommended



Regular Agenda

ITEM 3. CONDITIONAL USE PERMIT #18-07 to transfer one (1) building eligibility from the W1/2 SE1/4 (Ex. Johnson's Grove Addn. & Ex. High Estates & Ex. SW1/4 SW1/4 (school) & Ex. H-1 & H-2) to the NE1/4 SW1/4 (Ex. N208' E420'); all in Section 7-T102N-R49W.

Petitioner: Samuel R. Assam

Property Owner: Todd & Linda Dawley U/T/D July 2nd 2012

Location: Approximately 3 miles north of Sioux Falls

Staff Report: Kevin Hoekman

This would transfer one (1) building eligibility.

General Information:

Legal Description (Receiving Parcel) – NE1/4 SW1/4 (Ex. N208' E420'); all in Section 7-T102N-R49W

Present Zoning – A1-Agriculture

Existing Land Use – Crop and Pasture land

Parcel Size – 33.92 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The applicant has applied to transfer one building eligibility (BE) from the W1/2 SE1/4 (Ex. Johnson's Grove Addn. & Ex. High Estates & Ex. SW1/4 SW1/4 (school) & Ex. H-1 & H-2) to the NE1/4 SW1/4 (Ex. N208' E420'); all in Section 7-T102N-R49W of the same section. The proposed building site was once part of a farmstead with at least one structure remaining on the property. The building eligibility proposed to be moved is the last remaining available eligibility in the section.

This item was briefly discussed at the January 22nd Planning Commission meeting. Staff explained at the time that the proposal did not meet the requirements of the zoning ordinance as both the sending and receiving properties were not owned by the same person. Staff explained at the meeting a way that building eligibilities have been transferred in the past with similar situations. The individuals involved with the proposal have since been working to comply with the requirements of the ordinance.

Since the January Planning Commission meeting, the receiving parcel (NE1/4 SW1/4 (Ex. N208' E 420')) has been purchased and placed in the name of the individual who wants the building eligibility. Staff has been working with a realtor who has explained that there is a plan to have a quit claim deed complete on February 19, 2018 in order to have both properties in the same name. If successful, the properties will be in compliance with the requirements for a transfer.

Below is a copy of the section and item of the ordinance that pertains to the transferring of building eligibilities for the commission's review:



3.04 CONDITIONAL USES.

(Y). The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met: *(amended by MC16-69-04 3/16/04)*

- 1). The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel. *(amended 16-87-06 8/19/06)*
- 2). Suitability as a building site based on the following factors:
 - a). Agricultural productivity of the soil.
 - b). Soil limitations.
 - c). Orientation of the building site(s) with respect to road circulation and access to public rights-of-way.
- 3). The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant.
- 4). The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
- 5). Approval has been granted by the appropriate governing entity for access onto a public road.

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 locations for the moved building eligibilities are located in an active agricultural zone where many residential properties have already been developed. This is the last available eligibility in this section, an all remaining land should be maintained for agricultural uses. A right-to-farm notice covenant is required for new residential dwellings to notify potential buyers to the realities of locating in an agricultural area.

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

Future development in the area will be limited with the lack of available building eligibilities. Some properties southwest of the site have recently rezoned to commercial property. Commercial development may continue in the area. The transfer of a building eligibility will not likely effect this potential commercial development.

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 any septic system for waste water disposal. The property has an existing driveway that may have to be upgraded with new gravel or other surface.



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.

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 Envision 2035 Comprehensive Plan supports the clustering of building eligibilities. The proposed receiving parcel has a portion of land that was formerly part of a farmstead. This farmstead area is proposed to contain the dwelling in order to preserve farmland.

Recommendation:

This conditional use permit is still in process of complying with the ordinance requirements. Staff will not know if all requirements are met until after this report is sent to the Planning Commission. If the deed transfer happens as planned, staff will recommend **approval** of CUP #18-07.

Public Testimony

Kevin Hoekman, county planning staff, presented a brief summary of the staff report and an update regarding the status of property ownership. Kevin explained that both properties are now under the same ownership and the request now meets all requirements for approval

Nobody spoke either for or against the item.

Action

A motion was made by Commissioner Barth and seconded by Commissioner Kostboth to **approve** Conditional Use Permit #18-07. The motion passed unanimously.

Conditional Use Permit #18-07 – Approved



Regular Agenda

ITEM 4. CONDITIONAL USE PERMIT #18-08 to allow a Class C, Hog CAFO (960 AU) on the property legally described as S1/2 of SW1/4, of SW1/4, of SW1/4 of the SE1/4 (Ex. H-1) & S66' E660', NE1/4, Section 18-T101N-R52W.

Petitioner: Craig Lukes

Property Owner: same

Location: Approximately 0.5 miles west of SD Hwy 42 and 455th Ave. & SD Hwy 19 junction

Staff Report: Kevin Hoekman

This would allow a Class C, Hog CAFO (960 AU).

General Information:

Legal Description – S1/2 of SW1/4, of SW1/4, of SW1/4 of the SE1/4 (Ex. H-1) & S66' E660', NE1/4, Section 18-T101N-R52W

Present Zoning – A1-Agriculture

Existing Land Use – agricultural cropland

Parcel Size – 160 acres

Staff Report: Kevin Hoekman

Staff Note:

On February 13, 2018, planning staff received receipts for the mailers sent out by the petitioner. Upon inspection, staff found that the letters were sent as certified mail only. The zoning ordinance reads that notice is to be sent certified mail with a return receipt. Planning staff has concerns that the petitioner’s method of mailing notice does not meet the ordinance requirements. It will be up to the Planning Commission to decide if the intent of the ordinance has been met and approve the proposal, or if the petitioner must resend the notice and defer the item to allow for the correction. The portion of the ordinance regarding notification is as follows:

CAFO & AQUACULTURE EXCEPTION: The applicant for a conditional use permit request for a new or expanding concentrated animal feeding operation or aquaculture facility must make a good faith effort to notify all property owners (inclusive of Contract for Deed buyers) of land laying within one-half (1/2) mile, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with “Notice of Hearing” forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by certified mail with a return receipt no less than fifteen (15) days prior to the public hearing on the request held by the Planning commission. The applicant shall provide the Planning Department the addressed certified mail receipts at least five (5) working days prior to the Planning Commission meeting. (amended by MC16-150-17)

Below is the staff report as prepared for a staff recommendation of approval. The



recommendation as stated below will remind the Planning Commission of staff concerns for how notification was sent.

Staff Analysis:

The property is located approximately 7 miles south of Humboldt along SD Highway 42. The petitioner would like to construct a 2,400 head swine-finishing CAFO operation on the southwest corner of the quarter section parcel. The petitioner currently lives on a farmstead in the northeast corner of the same quarter section.

The petitioner has proposed a swine finishing barn to hold 2,400 swine larger than 55 pounds. Each finishing swine is calculated at 0.4 animal units for a total request for the facility as 960 animal units. 960 animal units is under the threshold for a required state permit and will be considered a Class C CAFO for Minnehaha County's Ordinance. The 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 drawings of a site plan with different scales and different information on each. In addition, a three page narrative and a map of odor modeling are used to describe aspects of the plan.

The address of the property and the legal description. The location of the proposed swine facility does not have an address assigned to it yet. Both pages of site plans include the legal description of the property.

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

The scale and north arrow. The surveyor drawn site plans include a north arrow, written, and graphic scale.

All existing and proposed buildings or additions. The site shows the proposed building in relation to existing buildings through areal imagery. The site plan includes one proposed barn in the southwest corner of the property. The proposed building will be the only one in the area, as it is located outside of the farmstead.

The dimensions of all buildings. The dimensions of the proposed confinement building is listed on the site plan as 51 feet by 393 feet. No other buildings are located near the proposed site.

The distance from all buildings to the property lines at the closest points. The site plan indicates that the proposed confinement structure will be setback approximately 136



feet from the front yard property line, and 50 feet from the side yard property line. Other nearby property lines are too far away to show on the site plan. These setbacks meet or exceed property line setback for Minnehaha County's ordinance.

Building height and number of stories. The height of the structure is not directly indicated. The petitioner has noted that the structure will be one story with a slatted floor to allow manure to drop to a pit underneath.

Dimensions of all property lines. The provided site plan shows that the facility is located on a full quarter section of land with a H-1 lot removed for the state highway.

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 a filed access from SD Hwy. 42 that is proposed to be used for site access. 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 or loading will be allowed within the right-of-way.

Screening including height, location, and type of material to be used. - And similarly - The landscape setback and trees indicating the species of trees and materials to be used for landscaping. The submitted site plan does not include any plans for landscaping or screening. The submitted narrative indicates that tree groves and landscaping may restrict airflow through the barn. The narrative also points to the odor setback modeling as a reason to not need screening or trees. All neighboring structures are outside of the 98% nuisance free line of the odor model. An estimation tool from Purdue University suggests that 94% odor free is acceptable for rural residential uses.

Name and location of all adjacent streets, alleys, waterways and other public places. The surveyor drawn site plan includes the name of SD Hwy. 42 which is the closest street to the proposed site and 455th Avenue along the east side of the property. The nearest water source is an intermittent stream is located approximately 700 feet to the east of the site. 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. As noted earlier, the petitioner has submitted site plan calculations of the South Dakota Odor Footprint Tool (SDOFT). The site plan indicates that no dwellings are located within the boundary of the 98% annoyance-free zone.

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. Manure containment will be located within an enclosed pit under the animals. The Minnehaha County GIS indicate that the general slope splits to the west and to the east of the



proposed site.

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.

In relation to the site plan, the 960 animal unit operation will require a 1,320 foot buffer from a dwelling, church, or business. Staff used GIS to confirm the petitioner's site plan that no dwellings, churches, or businesses are located within this setback. No waiver letters from neighboring landowners are required.

In addition to site plan elements, an application for a CAFO is required to submit other plans and meet requirements. The petitioner's narrative follows the ordinance with responses to requirements within specific ordinance items. According to the narrative section C) 2, dead animals will be placed in an area enclosed on three sides until a rendering truck can get to the site and in accordance with Animal Industry Board Standard.

Manure is planned to be managed as a liquid that will be stored in a concrete pit below the barn. The manure is planned to be injected according to the ordinance after the fall harvest. Injected manure should reduce runoff caused by rain.

Conditional Use Permit Criteria:

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

The proposed CAFO is located within a low density and predominantly agricultural area. The site meets the required setbacks for the size of the facility. The petitioner's submitted documentation from the South Dakota Odor Management Tool shows that all neighboring residential dwellings 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. Other nearby farms appear to have animals confined in small numbers.

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



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

The proposed facility indicates that an existing field approach is planned to be used as the driveway for the facility. The petitioner will have to acquire a change in use permit from the SD DOT and extend any utilities to the proposed facility. Grading and drainage are described in the narrative to be directed away from the proposed barn.

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

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

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

The petitioner is requesting a new CAFO facility. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes, and dust. 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 has concerns with the method used to send notice to surrounding property owners. If the Planning Commission finds that the requirements of the ordinance have been met, then staff would recommend approval of CUP #18-08 with the following conditions:

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

Public Testimony

Commissioner Kostboth recused himself from the item.

Kevin Hoekman, county planning staff, presented concerns regarding how required notices were sent, and invited discussion regarding notices prior to reviewing the staff report for the petition.

Commissioner Barth began by noting that a notice was sent and that several people were present in the audience for the hearing. Commissioner Barth asked the chair if a show of hands would be useful to understand who among the audience were opposed to the hog confinement. One individual commented that he had some questions regarding the facility. Commissioner Barth confirmed with that individual that he did receive a notice for the meeting.

Commissioner Duffy asked how many letters were sent out. Kevin Hoekman explained that staff received receipts for certified mail for all the people on the list. Commissioner Ode asked how many letters were sent and the petitioner relayed that he sent out 16 letters.

Commissioner Ralston raised concern with consistency for future applications. He questioned if similar measures would be taken for seemingly minor requirements.

Commissioner Randall raised concern with future challenges if the ordinance is not met.

Commissioners Ode and Mohrhauser reiterated the concern for consistency moving forward.

Commissioner Barth noted that the intent of the ordinance was likely met and notices did go out. He raised concern for delaying a project that costs lots of money and requires must work to get started.

Commissioner Duffy raised concern that passing this may set a precedent for future projects. She added that complying with the ordinance will be better for the petitioner in the long run anyways.



Kevin Hoekman, county planning staff, presented a brief summary of the staff report. He noted that staff would have recommended approval of the project if it were not for the concerns for the notification requirements.

Craig Lukes, the petitioner, addressed the commission. Craig explained that he showed the mailing instructions to the post office, and was informed that a certified letter would be enough. He also noted that there was proof that all the letters were delivered available through online tracking.

Commissioner Randall asked if there would be an increase in traffic on the township road. Craig Lukes responded the accesses is on the highway where any traffic would be. Commissioner Randall further asked staff if any approval would be needed from the State Highway. Staff noted that there is currently an agricultural approach on the property that would not likely need approval for another agricultural structure.

Commissioner Duffy asked if Craig had any contact with the other neighbors. Craig Lukes responded that he contacted one of the neighbors that did not sign for the letter originally. After he made contact the neighbor signed for and picked up the letter.

Bahne Bahnson, property owner within section, began with noting that many questions of his were answered with the staff presentation. He listed several questions with the intent that the petitioner or staff could answer them. Questions are as follows: Has the petitioner raised hogs before? How large of investment is the project? What is the risk of success if the project isn't viable? Where do taxes go? Who are the partners in the project? Bahne noted that he was initially concerned with odor but felt a little more comfortable since the presentation. Craig Likes responded to the questions first by stating that his brother and himself are the owners of the barn who will lease the barn to Sun Terra hog operations. And that he has not raised hogs before. Commissioner Ode asked if Craig would manage the barn and Craig responded that Sun Terra has a manager. Commissioner Ode further asked if Craig foresees additional hog confinements in the area. Craig responded that he has no plans for expansion beyond what is proposed in the area, but there may be further expansion in McCook County where he owns land too.

Commissioner Barth noted that there are no guarantees that any project will succeed, but he is happy to see investment in the county and increase in property values for tax purposes.

Terry, Kueter, 26325 455th Avenue, questioned if the proposal was being approved for the site or for the entire quarter section. Planning staff and the Commission reassured him that the petitioner would need to return if the site is changed. Terry added that the proposed site is probably the best site in the county for a hog barn.

Discussion



Commissioner Ralston commented that the site and application are good for the proposed use, but he stressed that for consistency the item should be deferred to allow for notice requirements to be met.

Action

A motion was made by Commissioner Ralston and seconded by Commissioner Ode to **defer** conditional use permit 18-08 for one month. The motion passed unanimously.

Conditional Use Permit #18-08 – Deferred to March 26, 2018 Planning Commission Meeting



Old Business

Scott Anderson, planning staff, updated the planning commission on the Hope Harbor Planned Development District. Many people were present at the hearing on February 20th. The planned development was approved at the County Commission Meeting with 3 approved votes and one in opposition.

New Business

Stott Anderson, planning staff presented a yearend report that was provided in the planning commission packets. Commissioner Randall inquired about the number of nuisance complaints that were involved with CAFOs. Planning Staff indicated approximately 3 to 4 complaints about CAFOs.

Adjourn

A motion was made to **adjourn** by Commissioner Randall and seconded by Commissioner Ode. The motion passed unanimously. The meeting was **adjourned** at 7:41 pm.