

Yankton County Planning Commission
September 12, 2017

The monthly meeting of the Yankton County Planning Commission was called to order by Vice Chairperson Jeff Gudahl at 6:00 p.m. on September 12, 2017.

Members present at call to order: Klimisch, Guthmiller, Gudahl, Kettering, Williams (6:15 pm) Bodenstedt (6:20 pm) Sylliaasen (6:55 pm) and Becker (7:00 pm).

Members absent: Kretsinger, Pietila and Welch.

This was the time and place for discussion regarding the comprehensive plan. Pat Garrity, Zoning Administrator, discussed the past three years of activity and commission work on the plan. A proposal was made to conduct a county wide survey to increase public participation and identify specific areas to address in the comprehensive plan. The audience response was favorable but validity issues are difficult to address with simple survey methods such as “Survey Monkey”. The process will take some more research and must be approved by the county commission. The intent of all this effort is to increase public awareness.

A discussion about the comprehensive plan and looking ahead to year 2030. How will our community adapt to changing production methods, changing demographics, evolving employment dynamics, education requirements and many other aspects of community life. The community needs to find ways to discuss tough issues and reach consensus. How do we have rural social fabric and animal production? How do we have employment growth and stable education system? How do we preserve recreational opportunities and vibrant rural residential districts? The objective is to achieve the “and” in each of these issues.

This was the time and place to review and approve the minutes from August 8, 2017 and August 28, 2017.

Action 91217A: Moved by Becker, second by Guthmiller to approve the August 8, 2017 as written. By voice vote, all members present voted aye. Motion carried.

Action 91217B: Moved by Klimisch, second by Guthmiller to approve the August 28, 2017 as written. By voice vote, all members present voted aye. Motion carried.

This was the time and place for discussion regarding meeting protocol. A proposal is provided to the Planning Commission:

Meeting Protocol

- The application is introduced by the chairperson.
- The P&Z staff provides application details and ordinance requirements.
- Applicant presents application, provides any expert support.
- Proponents for application allowed 30 minutes.
- Opponents for application allowed 30 minutes.
- Applicant allowed 10 minutes rebuttal.
- Planning Commission closes public comment.

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- Planning Commission discusses application, creates “finding of fact” and requests motion for action.

The Planning Commission discussed the proposal and motion to adopt the Meeting Protocol as presented.

Action 91217C: Moved by Williams, second by Bodenstedt to recommend approval of the Meeting Protocol as presented.

By voice vote, seven members present voted aye, one member present voted nay.

Motion carried.

This was the time and place for discussion regarding Ralph Marquardt. Applicant is requesting a Conditional Use Permit to operate an outdoor shooting range (local law enforcement) in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc Lot H1 & exc Lot 6, Sun Valley S/D, S2-T94N-R56W, hereinafter referred to as Utica North Township, County of Yankton, State of South Dakota. The E911 address is TBA 439th Avenue, Yankton, SD.

Continuance 8-8-17 hearing.

The following is minutes from August 8, 2017:

Mike Burgeson, representing the Yankton Police Department and leasing from Ralph Marquardt, stated the outdoor shooting range is for the Yankton Count Sheriff department, the Yankton Federal Prison System and Yankton City Police Department. The shooting range is under a lease with the City of Yankton, is built to National Rifle Association standards and will be secured with a chain link fence.

The following people were in favor of the Conditional Use Permit with some conditions: James Sparks and Guy Larson. Topics of discussion were proper berm protection for surrounding residences, hours of operation, lease with the city is required to maintain Conditional Use Permit, notification of neighbors before shooting activity, access responsibility, possible calendar of shooting events and point of contact person.

The Planning Commission discussed the application and determined the applicant needs to provide additional information to the commission. The requested items are calendar of shooting events, no Sunday shooting, off-duty officer shooting hours, notification system and completion of the facility fencing and access points. A continuance is requested until next Planning Commission meeting (September 12, 2017) to provide the requested information.

The following is from September 12, 2017 meeting:

Mike Burgeson, representing the Yankton Police Department and leasing from Ralph Marquardt, met with James Sparks and Guy Larson to discuss and review the shooting range area. The shooting facility is complete and all citizens are content with the conditions as presented in the findings of fact. Many of the concerns from the August 8, 2017 were addressed and procedure in place to implement them. Several attachments are included with the application and specifically address concerns and procedure:

1. Memorandum #17-35
2. Yankton Police Department Firing Range Project
3. Training Liability in the Use of Deadly Force

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4. YPD Range Updates for Concerned Neighbors
5. YPD Shooting Range calendar
6. Guy Larson memo

The Planning Commission discussed the application and determined all issues and citizen concerns were addressed and appropriate procedures are implemented.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting Date: August 8, 2017

CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Ralph Marquardt

Parcel Number: 10.002.200.100

Legal description: SE1/4, exc Lot H1 & exc Lot 6, Sun Valley S/D, S2-T94N-R56W

Physical Address: TBA 439th Avenue, Yankton, SD.

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant requested CUP under Article 5, Section 507 (29), Shooting Range.
2. Notice of public hearing was given according to state and county law; The applicant mailed notifications letters to all owners of real property one-half mile buffer on July 27, 2017, 10 days prior to the PC hearing as supported by the affidavit. Legal notification was published on July 29, 2017, 10 days before the Planning Commission meeting. The property was posted on August 1, 2017.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public hearing was held at 7:00 pm on August 8, 2017. The following is minutes from August 8, 2017:
Mike Burgeson, representing the Yankton Police Department and leasing from Ralph Marquardt, stated the outdoor shooting range is for the Yankton Count Sheriff department, the Yankton Federal Prison System and Yankton City Police Department. The shooting range is under a lease with the City of Yankton, is built to National Rifle Association standards and will be secured with a chain link fence.
The following people were in favor of the Conditional Use Permit with some conditions: James Sparks and Guy Larson. Topics of discussion were proper berm protection for surrounding

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residences, hours of operation, lease with the city is required to maintain Conditional Use Permit, notification of neighbors before shooting activity, access responsibility, possible calendar of shooting events and point of contact person.

The Planning Commission discussed the application and determined the applicant needs to provide additional information to the commission. The requested items are calendar of shooting events, no Sunday shooting, off-duty officer shooting hours, notification system and completion of the facility fencing and access points. A continuance is requested until next Planning Commission meeting (September 12, 2017) to provide the requested information.

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The Planning Commission discussed the application and determined all issues and citizen concerns were addressed and appropriate procedures are implemented.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this ordinance described in the application to include:
 - A. Recommend granting of the conditional use;
 - B. Recommend granting with conditions; The Planning Commission recommends approval of the conditional use permit with conditions as stated in the findings.
 - C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - A. Ingress and egress to property and structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The ingress and egress is established with existing roads, 439th Avenue and provide sufficient room for any activity and emergency procedures if necessary.
 - B. Off right-of-way parking and loading areas where required; with particular attention to the items in A) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; The applicant will provide

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sufficient management of the facility and Exhibit #2 provides detailed procedure and protocol.

- C. Refuse and service areas are required; The applicant will provide sufficient refuse containers and Exhibit #2 provides detailed procedure and protocol.
- D. Utilities, with reference to locations, available and compatibility; All utilities are available and compatible with the district.
- E. Screening and buffering with reference to type, dimensions, and character; The area is a properly implemented shooting range in accordance with the National Rifle Association. All activity is carefully monitored and proper buffers and barriers are in place which will be maintained by the Yankton Police Department and Exhibit #2 provides detailed procedure and protocol.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signs will meet Article 14 requirements and all exterior lighting will be compatible with surrounding property.
- G. Required yards and open spaces; and; The area is large enough and sufficient buffers are present to be compatible in the neighborhood and Exhibit #2 provides detailed procedure and protocol.
- H. The use is compatible with adjacent properties and the granting of a conditional use will not adversely affect the public interest; The use will not affect adjacent properties with proper implementation of the stated conditions and continuous monitoring of the facility.

Motion 91217D: Moved by Klimisch, second by Sylliaasen to recommend approval of a Conditional Use Permit, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 8, 2017, to operate an outdoor shooting range (local law enforcement) in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc Lot H1 & exc Lot 6, Sun Valley S/D, S2-T94N-R56W, hereinafter referred to as Utica North Township, County of Yankton, State of South Dakota. The E911 address is TBA 439th Avenue, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Joe & Julie Eickhoff. Applicant is requesting a variance of Maximum Accessory Structure Size Requirement from 800 sq. ft. to 936 sq. ft. in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 5, Block 1, Riverside Acres, S22-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 109 Wayne Street, Yankton, SD.

Joe & Julie Eickhoff stated the accessory structure request will be placed in the backyard with sufficient space to meet the district yard requirements. The access is on east side of the property with existing driveway to be extended to the proposed structure.

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The Planning Commission discussed the application and determined all requirements were met for a variance. The structure is requested to be increased on size by seventeen percent (17%), a metric comparing the required size to the proposed size.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting date: September 12, 2017

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Joe & Julie Eickhoff

Parcel Number: 09.022.700.105

Legal description: Lot 5, Block 1, Riverside Acres, S22-T93N-R56W

Physical Address: 109 Wayne Street, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The variance is for an accessory structure in a residential district for private use.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties but is limited to properties meeting the yard setbacks for the district.*
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of this variance will not be of substantial detriment to adjacent property nor the character of the district.*
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance can be recurring with special circumstances discussed in the findings.*
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:

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- A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property is demonstrating special conditions or circumstances due to sufficient property space and suitable access...
- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of maximum accessory structure size requirement have been granted in Yankton County.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not a result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (maximum accessory structure size requirement) have been recommended previously by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 31, 2017 (supported by affidavit), a legal notice was published on September 2, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 5, 2017.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:10 pm on September 12, 2017. Joe & Julie Eickhoff stated the accessory structure request plan to be placed in the backyard with sufficient space to meet the district yard requirements. The access is on east side of the property with existing driveway to be extended to the proposed structure. The Planning Commission discussed the application and determined all requirements were met for a variance. The structure is requested to be increased on size by seventeen percent (17%), a metric comparing the regulation size to the proposed size. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The Planning Commission further finds that the reasons set forth in the application and hearing does satisfy all requirements for this variance request.

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8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Maximum Accessory Structure Size Requirement is approved.

Action 91217E: Moved by Kettering, second by Becker to recommend approval of the variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 12, 2017, of Maximum Accessory Structure Size Requirement from 800 sq. ft. to 936 sq. ft. in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 5, Block 1, Riverside Acres, S22-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 109 Wayne Street, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with JHGAS FARMS, LLC. Applicant is requesting a Conditional Use Permit to build two (2) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units each) Class D finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4 & SE1/4, S16-T95N-R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota. The E911 address is 29875 443rd Avenue, Irene, SD.

John Gunderson introduced himself and other individuals; Brad Woerner, Stockwell Engineering; Andrew Gunderson, son and JHGAS FARMS, LLC member; Richard Hammond, Certified Professional Geologist, to present the application to the Planning Commission.

Mr. Woerner, engineer for the project, stated the operation is a Class D, 1,960 Animal Units in Yankton County Zoning Regulations. The Agriculture District requires a Conditional Use Permit, Section 507 (1) with Section 519 Animal Feeding Operation Performance Standards establishing regulations based on specific classes defined in the section. The following listed requirements were addressed by Mr. Woerner:

1. The DENR requirement is started and will be properly completed before a building permit is approved and a Notice of Completion / Notice of Compliance will be on file in the Planning & Zoning office upon completion of the construction phase...
2. Storm Water Permit for construction will be in compliance before and during construction of the facility.
3. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
4. The DENR nutrient management plan will be in compliance with approval and/or certification before a building permit is approved.
5. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
6. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
7. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
8. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
9. All regulations will be compliant with application fields as proposed in the application.

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10. Response to Section 519(10):

An operational plan for manure/ nutrients collection, storage, treatment and use shall be kept updated and implemented:

Manure/nutrients are a valuable input component to my, in fact, any farm for crop production. The manure/nutrients management starts with capturing the manure/nutrients in a reinforced concrete vault directly under each of the proposed facilities. This has the benefit of both containing the manure/nutrients and also covering the vault with the facility structure so the manure/nutrients are both contained and covered. This design also aids in the control of potential orders. In addition, the manure/nutrients are controlled and beneficial by annually directly applying the manure/ nutrients via injection into nearby fields as a fertilizer (reducing the use of surface applied petroleum based fertilizers). The annual application period is expected to take three days for each barn and neighbors will be notified as indicated in the notification section (H). Reputable area vendors who specialize in the application of manure/nutrient shall be used to ensure best practices and suitable equipment is utilized. A 2,400 unit facility is expected to produce annual nutrient adequate to enhance 200 acres. Due to differing nutrient needs of expected annual crop rotations each 2,400 unit facility will need approximately 400 acres of land for nutrient application on a rotational basis. Consequently, the manure/nutrient application plan has identified approximately 800 acres in direct proximity to the proposed swine facilities for treatment. This will maximize the use of nutrients in crop rotation which minimizes the risk of water contamination.

The design of facility is NOT an open lagoon system. The building is designed so that storm waters are diverted away from the manure/nutrient vault. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to each of the covered facilities. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.

- A. An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented:
 - A Concentrated Animal Feeding Operational (CAFO) Permit for the proposed facility will be filed with South Dakota Department of Environment and Natural Resources (“SD DENR”). This is a requirement for DENR regulations under the Nutrient Management Plan requirement Section 519 (3).
 - All waste-water from cleaning activities shall be captured in the underground enclosed vault.

- B. The methods to be utilized to dispose of dead animals shall be identified:
 - The plan for mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current plans are to place a rendering service on contract to promptly dispose of mortalities.

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- C. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of odors generated by the facility:
- There are no residential structures on property adjoining the road (443rd Avenue) east of the proposed site. There are two inhabited structures on the road south (330th Street; ¾ mile away) of the proposed site from which existing trees and topography provide a visual buffer. The nearest road to the west of the proposed site is NE Jim River Road and the site is screened from inhabited structures (over a mile away) by trees and topography. To the northeast on 444th Avenue, there is a non-residential site, consisting of grain bins and storage buildings, approximately a mile away. On 298th Street, there is a residence to the northwest, well over a mile away, but the site will be screened by existing trees and owners/applicants farmstead at 29875 443rd Avenue. Consequently, no trees or shrubs are proposed for the site.
- D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining drier confinement areas to reduce odor production.
- The manure/ nutrients will be collected in a reinforced concrete vault to prevent any leakage. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to the covered facility. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.
- E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production.
- All animal organic waste/nutrients will be contained in an 8' covered concrete vault directly underneath the facility. Construction materials will be reinforced concrete construction commonly used in the industry with the desired results of controlling the manure/nutrients and limiting potential odors. The manure/nutrients shall be contained within the reinforced concrete vault designed and constructed in accordance with SD DENR CAFO permit requirements and accepted industry standards.
- F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:
- The proposed facility will have the manure/nutrients in a covered vault which will be removed annually via pump. The manure/nutrients will be directly applied to nearby fields identified in section (H) via injection below the soil surface. The transportation method will be via hose or tanker equipment (covered/contained) for direct application via injection.

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- The time frame is expected to take three days (each barn) for application of all the manure/nutrients and will occur primarily in the fall after harvest or, on rare occasion, in the spring before planting but after snow melt in accordance with SD DENR CAFO nutrient management plan that will be filed with SD DENR.

G. The applicability, economics, and effect of Industry Best Management Practices shall be covered:

- Industry best management practices are to control the manure/nutrients and wastewater in a covered vault. The JHGAS FARMS LLC's facility is designed to do this. Although the reinforced concrete vault has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This reduces the potential dissemination of odor to the neighboring area as reflected in the attached odor model. The design of the JHGAS FARMS LLC facilities are NOT an open lagoon system. (Exhibit #1)
- Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the organic manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.
- Industry best management practices is to promptly remove mortalities and that is the practice JHGAS FARMS LLC will follow.
- Industry best management practice is to avoid the application of the manure/nutrient on extremely windy days and to avoid land application ahead of rain that may produce run-off. Application preceding a rain that does not produce run-off may reduce particle emissions. JHGAS FARMS LLC operation shall follow these practices.
- Aeration, anaerobic lagoons and digesters and solid separation are all practices that may reduce odor and particle emissions. However, JHGAS FARMS LLC operation will employ the covered vault method to control odor and particle emissions at additional expense because of its wide acceptance as an effective best industry management practice and does not intend to use these alternative methods. Location of the facility is sited to limit the effect of odor on neighboring residences in one of the most effective best management practices.
- Exhibit #2A and #2B

Notification section:

H. A notification section should be formulated by the applicant. It is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half mile of the applicant's manure application fields. The preferred hauling and application process shall be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the seasons shall be avoided whenever possible.

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Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.

OCCUPIED RESIDENCES WITHIN ½ MILE OF CROP GROUND ON WHICH INJECTION OF NUTRIENTS MAY OCCUR:

NAME	ADDRESS	PHONE
Larry Sees	44222 298 th St. Irene, SD 57037	660-7057
Jim Harts	44202 300 th St. Mission Hill, SD 57046	668-9755
Cathy/Leo Harts	30431 445 th Ave. Mission Hill, SD 57046	668-6624
Larry & Kristie Lyngstad	30392 445 th Ave. Volin, SD 57072	665-0655
Dustin Mulinberg	29875 444 th Ave., Irene, SD 57037	661-0969
Berta/Greg Graham	44342 300 th St., Mission Hill, SD 57046	665-7839

- There are no public meeting sites within ½ mile of the proposed facilities. Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.
Exhibit #3 and #3A and #3B
- I. A review of weather conditions shall include reviewing the effect of climate upon manure application. This section shall also include the preferred times and conditions for application to mitigate the potential effects upon neighboring properties while outlining the least advantageous climatic conditions.
- JHGAS FARMS LLC intends to avoid application of the manure/nutrients during the warmer summer months and will avoid holiday and weekends whenever feasible.
 - JHGAS FARMS LLC will provide notification to the effected neighbors by either a letter or through electronic notification (email/text) or through a phone call to remind them of our application time frame with a 30-day window and a goal of a one week window.
 - Review of weather conditions, outlining the most advantageous and the least advantageous conditions for organic manure/nutrients application of fertilizer and his plan to mitigate the effect on neighbors.

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- Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Avoid application if rain is forecast in the near future. The plan, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure/nutrient in the fall after harvest. In rare instances, the manure/nutrient will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with SD DENR requirements.

Additional procedures JHGAS FARMS LLC will follow to control flies and odors:

**Fly, Odor & Rodent Control Guidelines
For Animal Feeding Operations**

Fly, Odor and Rodent control are important to maintain a healthy, community friendly livestock operation. These guidelines are provided as a broad management tool to control fly populations, odor emissions and dust at an acceptable level. Each animal feeding operation must implement a system to fit their specific operation.

A) Fly Control

1. Remove and properly dispose of spilled and spoiled feed.
2. Repair leaky waterers.
3. Keep vegetation mowed near the facilities.
4. Properly drain rainwater away from the facilities.
5. Apply commercial insecticides in a proper and timely manner.

B) Odor Control

1. Odor Footprint Tool from South Dakota State University provides estimated odor impact for 4800 head swine facility. (Exhibit #1 and #1A and #1B and #1C and #1D)
2. Manage mortalities per SD Animal Industry Board requirements.
3. Adjust feed rations per industry standards to reduce potential odor generating byproducts.

C) Rodent Control

1. Two foot wide gravel barrier around the perimeter to discourage rodent entry.
2. Bait boxes at 75-100 ft intervals that are checked 2x per month.
3. Spilled feed will immediately be cleaned up to discourage rodent activity.
4. Site routinely mowed to remove rodent harborage areas

The fly and odor control guidelines above will be conducted concurrently with one another to help prevent a nuisance problem from occurring.

11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is injected or incorporated within twenty-four (24) hours:

- | | |
|--|------------|
| A. Public Wells | 1,000 feet |
| There are no known Public Wells within 1,000 feet of fields. | |
| B. Private Wells | 250 feet |

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The application will meet the setback requirement for Private Wells.

C. Private Wells (Operator's) 150 feet

The application will meet the setback requirement for Private Wells (Operator's).

D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply 1,000 feet

The application will meet the setback requirement for Lakes, Rivers, Streams Classified as Public Drinking Water Supplies.

E. Lakes, Rivers and Streams Classified as Fisheries 200 feet

The application will meet the setback requirement for Lakes, Rivers, Streams Classified as Fisheries.

F. All Public Road Right-of-ways 10 feet

The application will meet the setback requirement for All Public Road Right-of-ways.

G. Incorporated Communities 660 feet

The application will meet the setback requirement for Incorporated Communities.

H. A Residence other than the Operators 100 feet

The application will meet the setback requirement for A Residence other than the Operators.

Andrew Gunderson stated the application is a partnership decision for the family farm operation. He plans to participant in daily activities and is a proponent for the nutrient value of the animal operation. The facility will meet all regulations be responsible stewards of their property.

Richard Hammond (Exhibit #8) stated the soil types found on this site location are excellent structural soils recommended for municipal treatment plants and open lagoon systems. The soil profile is determined to be favorable for the proposed facility.

The following people spoke in favor of the proposed Conditional Use Permit. Craig Anderson, Centerville, SD, area pork producer; John Gunderson, applicant; Lynn Lyons, area resident and Andy Gunderson, applicant: Topics discussed were viability of pork production in current markets, applicants research, site location, importance of quality water, no discharge with proper soil types, open communications with everyone and family farm operation. (Exhibit #5)

The following people spoke in opposition of the Conditional Use Permit. Tony Keller, David Healy, Terry Altena, Brandon Gramkow, Joe Healy and Kristi Schultz. Topics of discussion were inadequate enforcement of regulations, water must be protected, sustainability of CAFO operations, quality of life concerns, vault vs. pit interpretation, rendering records available to the public, no tree requirement, more emphasis on odor control and mitigation, roads, a list of conditions were presented and drainage tile impact. (Exhibit #7 and Exhibit #4)

The applicant provided the following rebuttal:

Andy Gunderson stated tile is all subsurface and outlets over pasture property before entering any "blue line" streams. (Exhibit #9)

John Gunderson stated all accessory structures are part of the facility, all water is domestic source and any road issue will be addressed as necessary.

Brad Woerner stated all nutrient management records are public documents, the odor model shows annoyance factors and the model provided shows low annoyance in the buffer zone. (Exhibit #1 and #1A and #1B and #1C and #1D and #6)

The Planning Commission discussed the application and Dan Klimisch motion to extend open discussion regarding the application. No second. Mr. Klimisch discussed manure management

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plan, multiple soil testing, soil borings and impact of tree/shrubs on cross ventilation with the barns. Mr. Becker stated the barns are ventilated with cross ventilation from curtain sidewalls. Mr. Sylliaasen stated the barns are rated for 270 days storage but can hold 365 days storage. Mr. Kettering requested a clarification on bio filters and trees/shrubs value. Mr. Woerner stated trees can help large operations, curtain barns are not efficient for bio filters and feed additives can be beneficial for odor mitigation.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting date: September 12, 2017

CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: JHGAS FARMS LLC

Parcel Number: 07.016.100.100

Legal description: NE1/4 & SE1/4, S16-T95N-R55W

Physical Address: TBA 443rd Avenue, Irene, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant is requesting a Conditional Use Permit to build two (2) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units each) Class D finishing barns in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4 & SE1/4, S16-T95N-R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota. The E911 address is 29875 443rd Avenue, Irene, SD.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-half mile radius of the proposed CUP on August 31, 2017 (supported by affidavit), a legal notice was published on September 2, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 1, 2017.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:35 pm on September 12, 2017 in the Yankton County Government Center County Commission chambers. John Gunderson introduced himself and other individuals; Brad Woerner, Stockwell Engineering; Andrew Gunderson, son and JHGAS, LLC member; Richard Hammond, Certified Professional Geologist; to present the application the Planning Commission.

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Mr. Woerner, engineer for the project, stated the operation is a Class D, 1960 Animal Units in Yankton County Zoning Regulations. The Agriculture District requires a Conditional Use Permit, Section 507 (1) with Section 519 Animal Feeding Operation Performance Standards establishing regulations based on specific classes defined in the section. The following listed requirements were addressed by Mr. Woerner:

1. The DENR requirement is started and will be properly completed before a building permit is approved.
2. Storm Water Permit for construction will be in compliance before and during construction of the facility.
3. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
4. The DENR nutrient management plan will be in compliance with approval and/or certification before a building permit is approved.
5. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
6. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
7. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
8. The facility will meet all requirements as evident on the site plan, Exhibit #2A and #2B.
9. All regulations will be compliant with application fields as proposed in the application.
10. Response to Section 519(10):

An operational plan for manure/ nutrients collection, storage, treatment and use shall be kept updated and implemented:

Manure/nutrients are a valuable input component to my, in fact, any farm for crop production. The manure/nutrients management starts with capturing the manure/nutrients in a reinforced concrete vault directly under each of the proposed facilities. This has the benefit of both containing the manure/nutrients and also covering the vault with the facility structure so the manure/nutrients are both contained and covered. This design also aids in the control of potential odors. In addition, the manure/nutrients are controlled and beneficial by annually directly applying the manure/ nutrients via injection into nearby fields as a fertilizer (reducing the use of surface applied petroleum based fertilizers). The annual application period is expected to take three days for each barn and neighbors will be notified as indicated in the notification section (H). Reputable area vendors who specialize in the application of manure/nutrient shall be used to ensure best practices and suitable equipment is utilized. A 2,400 unit facility is expected to produce annual nutrient adequate to enhance 200 acres. Due to differing nutrient needs of expected annual crop rotations each 2,400 unit facility will need approximately 400 acres of land for nutrient application on a rotational basis. Consequently, the manure/nutrient application plan has identified approximately 800 acres in direct proximity to the proposed swine facilities for treatment. This will maximize the use of nutrients in crop rotation which minimizes the risk of water contamination.

The design of facility is NOT an open lagoon system. The building is designed so that storm waters are diverted away from the manure/nutrient vault. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to each of the covered facilities. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-

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water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.

- A. An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented:
- A Concentrated Animal Feeding Operational (CAFO) Permit for the proposed facility will be filed with South Dakota Department of Environment and Natural Resources (“SD DENR”). This is a requirement for DENR regulations under the Nutrient Management Plan requirement Section 519 (3).
 - All waste-water from cleaning activities shall be captured in the underground enclosed vault.
- B. The methods to be utilized to dispose of dead animals shall be identified:
- The plan for mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current plans are to place a rendering service on contract to promptly dispose of mortalities.
- C. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of odors generated by the facility:
- There are no residential structures on property adjoining the road (443rd Avenue) east of the proposed site. There are two inhabited structures on the road south (330th Street; ¾ mile away) of the proposed site from which existing trees and topography provide a visual buffer. The nearest road to the west of the proposed site is NE Jim River Road and the site is screened from inhabited structures (over a mile away) by trees and topography. To the northeast on 444th Avenue, there is a non-residential site, consisting of grain bins and storage buildings, approximately a mile away. On 298th Street, there is a residence to the northwest, well over a mile away, but the site will be screened by existing trees and owners/applicants farmstead at 29875 443rd Avenue. Consequently, no trees or shrubs are proposed for the site.
- D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining drier confinement areas to reduce odor production.
- The manure/ nutrients will be collected in a reinforced concrete vault to prevent any leakage. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to the covered facility. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.

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- E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production.
- All animal organic waste/nutrients will be contained in an 8' covered concrete vault directly underneath the facility. Construction materials will be reinforced concrete construction commonly used in the industry with the desired results of controlling the manure/nutrients and limiting potential odors. The manure/nutrients shall be contained within the reinforced concrete vault designed and constructed in accordance with SD DENR CAFO permit requirements and accepted industry standards.
- F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:
- The proposed facility will have the manure/nutrients in a covered vault which will be removed annually via pump. The manure/nutrients will be directly applied to nearby fields identified in section (H) via injection below the soil surface. The transportation method will be via hose or tanker equipment (covered/contained) for direct application via injection.
 - The time frame is expected to take three days (each barn) for application of all the manure/nutrients and will occur primarily in the fall after harvest or, on rare occasion, in the spring before planting but after snow melt in accordance with SD DENR CAFO nutrient management plan that will be filed with SD DENR.
- G. The applicability, economics, and effect of Industry Best Management Practices shall be covered:
- Industry best management practices are to control the manure/nutrients and wastewater in a covered vault. The JHGAS FARMS LLC's facility is designed to do this. Although the reinforced concrete vault has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This reduces the potential dissemination of odor to the neighboring area as reflected in the attached odor model. The design of the JHGAS FARMS LLC facilities are NOT an open lagoon system. (Exhibit #1)
 - Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the organic manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.
 - Industry best management practices is to promptly remove mortalities and that is the practice JHGAS FARMS LLC will follow.
 - Industry best management practice is to avoid the application of the manure/nutrient on extremely windy days and to avoid land application ahead of rain that may produce run-off. Application preceding a rain that does not

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produce run-off may reduce particle emissions. JHGAS FARMS LLC operation shall follow these practices.

- Aeration, anaerobic lagoons and digesters and solid separation are all practices that may reduce odor and particle emissions. However, JHGAS FARMS LLC operation will employ the covered vault method to control odor and particle emissions at additional expense because of its wide acceptance as an effective best industry management practice and does not intend to use these alternative methods. Location of the facility is sited to limit the effect of odor on neighboring residences in one of the most effective best management practices.
- Exhibit #2A and #2B

Notification section:

H. A notification section should be formulated by the applicant. It is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half mile of the applicant's manure application fields. The preferred hauling and application process shall be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the seasons shall be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.

OCCUPIED RESIDENCES WITHIN 1/2 MILE OF CROP GROUND ON WHICH INJECTION OF NUTRIENTS MAY OCCUR:

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>
<u>Larry Sees</u>	<u>44222 298th St. Irene, SD 57037</u>	<u>660-7057</u>
<u>Jim Harts</u>	<u>44202 300th St. Mission Hill, SD 57046</u>	<u>668-9755</u>
<u>Cathy/Leo Harts</u>	<u>30431 445th Ave. Mission Hill, SD 57046</u>	<u>668-6624</u>
<u>Larry & Kristie Lyngstad</u>	<u>30392 445th Ave. Volin, SD 57072</u>	<u>665-0655</u>
<u>Dustin Mulinberg</u>	<u>29875 444th Ave., Irene, SD 57037</u>	<u>661-0969</u>
<u>Berta/Greg Graham</u>	<u>44342 300th St., Mission Hill, SD 57046</u>	<u>665-7839</u>

- There are no public meeting sites within 1/2 mile of the proposed facilities. Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions.

This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.

Exhibit #3 and #3A and #3B

I. A review of weather conditions shall include reviewing the effect of climate upon manure application. This section shall also include the preferred times and conditions for application to mitigate the potential effects upon neighboring properties while outlining the least advantageous climatic conditions.

- JHGAS FARMS LLC intends to avoid application of the manure/nutrients during the warmer summer months and will avoid holiday and weekends whenever feasible.
- JHGAS FARMS LLC will provide notification to the effected neighbors by either a letter or through electronic notification (email/text) or through a phone call to remind them of our application time frame with a 30-day window and a goal of a one week window.
- Review of weather conditions, outlining the most advantageous and the least advantageous conditions for organic manure/nutrients application of fertilizer and the plan to mitigate the effect on neighbors.
- Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Application preceding a rain that does not produce run-off may reduce particle emissions. Avoid application if rain is forecast in the near future. The plan, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure/nutrient in the fall after harvest. In rare instances, the manure/nutrient will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with SD DENR requirements.

Additional procedures JHGAS FARMS LLC will follow to control flies and odors:

Fly, Odor & Rodent Control Guidelines
For Animal Feeding Operations

Fly, Odor and Rodent control are important to maintain a healthy, community friendly livestock operation. These guidelines are provided as a broad management tool to control fly populations, odor emissions and dust at an acceptable level. Each animal feeding operation must implement a system to fit their specific operation.

A) Fly Control

1. Remove and properly dispose of spilled and spoiled feed.
2. Repair leaky waterers.
3. Keep vegetation mowed near the facilities.
4. Properly drain rainwater away from the facilities.
5. Apply commercial insecticides in a proper and timely manner.

B) Odor Control

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1. Odor Footprint Tool from South Dakota State University provides estimated odor impact for 4800 head swine facility. (Exhibit #1 and #1A and #1B and #1C and #1D).
2. Manage mortalities per SD Animal Industry Board requirements.
3. Adjust feed rations per industry standards to reduce potential odor generating byproducts.

C) Rodent Control

1. Two foot wide gravel barrier around the perimeter to discourage rodent entry.
2. Bait boxes at 75-100 ft intervals that are checked 2x per month.
3. Spilled feed will immediately be cleaned up to discourage rodent activity.
4. Site routinely mowed to remove rodent harborage areas

The fly and odor control guidelines above will be conducted concurrently with one another to help prevent a nuisance problem from occurring.

11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is injected or incorporated within twenty-four (24) hours:

- A. Public Wells 1,000 feet
There are no known Public Wells within 1,000 feet of fields.
- B. Private Wells 250 feet
The application will meet the setback requirement for Private Wells.
- C. Private Wells (Operator's) 150 feet
The application will meet the setback requirement for Private Wells (Operator's).
- D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply 1,000 feet
The application will meet the setback requirement for Lakes, Rivers, Streams Classified as Public Drinking Water Supplies.
- E. Lakes, Rivers and Streams Classified as Fisheries 200 feet
The application will meet the setback requirement for Lakes, Rivers, Streams Classified as Fisheries.
- F. All Public Road Right-of-ways 10 feet
The application will meet the setback requirement for All Public Road Right-of-ways.
- G. Incorporated Communities 660 feet
The application will meet the setback requirement for Incorporated Communities.
- H. A Residence other than the Operators 100 feet
The application will meet the setback requirement for A Residence other than the Operators.

Andrew Gunderson stated the application is a partnership decision for the family farm operation. He plans to participant in daily activities and is a proponent for the nutrient value of the animal operation. The facility will meet all regulations be responsible stewards of their property.

Richard Hammond stated the soil types found on this site location are excellent structural soils recommended for municipal treatment plants and open lagoon systems. The soil profile is determined to be favorable for the proposed facility. (Exhibit #8)

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The following people spoke in favor of the proposed Conditional Use Permit. Craig Anderson, Centerville, SD, area pork producer; John Gunderson, applicant; Lynn Lyons, area resident and Andy Gunderson, applicant: Topics discussed were viability of pork production in current markets, applicants research, site location, importance of quality water, no discharge with proper soil types, open communications with everyone and family farm operation.(Exhibit #5)

The following people spoke in opposition of the Conditional Use Permit. Tony Keller, David Healy, Terry Altena, Brandon Gramkow, Joe Healy and Kristi Schultz. Topics of discussion were inadequate enforcement of regulations, water must be protected, sustainability of CAFO operations, quality of life concerns, vault vs. pit interpretation, rendering records available to the public, no tree requirement, more emphasis on odor control and mitigation, roads, a list of conditions were presented from the opposition and drainage tile impact. (Exhibit #4 and #7)

The applicant provided the following rebuttal:

Andy Gunderson stated tile is all subsurface and outlets over applicant owned pasture property before entering any "blue line" streams. (Exhibit #9)

John Gunderson stated all accessory structures are part of the facility, all water is domestic source and any road issue will be addressed as necessary.

Brad Woerner stated all nutrient management records are public documents, the odor model shows annoyance factors and the model provided shows low annoyance in the buffer zone. (Exhibit #6)

The Planning Commission discussed the application and Dan Klimisch motion to extend open discussion regarding the application. No second. Mr. Klimisch discussed manure management plan, multiple soil testing, soil borings and impact of tree/shrubs on cross ventilation with the barns. Mr. Becker stated the barns are ventilated with cross ventilation from curtain sidewalls. Mr. Sylliaasen stated the barns are rated for 270 days storage but can hold 365 days storage. Mr. Kettering requested a clarification on bio filters and trees/shrubs value.

Mr. Woerner stated trees can help large operations, curtain barns are not efficient for bio filters and feed additives can be beneficial for odor mitigation.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:

- A. Recommend granting of the conditional use;
- B. Recommend granting with conditions; or

The commission recommends granting of the conditional use permit with conditions stated in the following findings

- C. Recommend denial of the conditional use.

5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

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- A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (443rd Avenue) site plan turn around for emergency vehicles.
- B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way areas will designated in the detailed site plan with sufficient area for deliveries, parking and production barn facilities such as animal disposal areas is in compliance required by Article 5. (Exhibit #2A and #2B)
- C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas, including specific requirements such as equipment storage areas, animal disposal areas, nutrient handling areas and personnel requirements will be in compliance with Article 5 as shown in applicant site plan. (Exhibit #2A and #2B)
- D. Utilities, with reference to locations, availability, and compatibility; Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security.
- E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are not required at this site location due to topography and existing trees and shrubs in the buffer area..
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
- G. Required yards and other open spaces; Yards and open spaces requirements are compliant with current regulations.
- H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest. The intent of the Agriculture District is to preserve land best suited to agriculture uses.

Section 519 Animal Feeding Operation Performance Standards

Animal Feeding Operations are considered conditional uses and shall comply with the Conditional Use Process, all applicable state and federal requirements, and the applicable requirements as defined in this section:

Class A (5,000 – 10,000)	Section 519 (1,2,3,4,5,6,7(a),8(a),9,10,11,12,13)
Class B (3,000 – 4,999)	Section 519 (1,2,3,4,5,6,7(b),8(b),9,10,11,12,13)

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Class C (2,000 – 2,999) Section 519 (1,2,3,4,5,7(c),8(c),9,10,11,12,13)
Class D (1,000 – 1,999) Section 519 (1,2,3,4,5,7(d),8(d),9,10,11,12,13)

This is a Class D proposed operation. The facility will be two (2) 2400 head feeder swine (1,920 animal units).

Class E (300 – 999) Section 519 (2,3,4*,5,7(e),8(e),9,10,11,12,13)
Class F (1 – 299) NA

*If required by state law

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources or as amended by the State of South Dakota or the South Dakota Department of Environment and Natural Resources.

The facility will be required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources. South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota, chapters 74:52:01 through 74:52:11, the South Dakota Department of Environment and Natural Resources directs Concentrated Animal Feeding Operations to have no discharge from their manure management systems to waters of the state. The DENR contact is Kent Woodmansey, Natural Resources Feedlot Engineer. The Planning Commission recommends all components of the DENR permit completed prior to issuance of a Yankton County building permit.

2. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. The Storm Water Pollution Prevention Plan required by the permit must be developed and implemented upon the start of construction.

The facility will be required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources. The DENR contact is Kent Woodmansey, Natural Resources Feedlot Engineer. The Planning Commission recommends all components of the DENR General Permit Process completed prior to issuance of a Yankton County building permit.

3. Animal confinement and waste facilities shall comply with the following facility setback requirements:

A. Public Wells	1,000 feet
B. Private Wells	250 feet
C. Private Wells (Operator's)	150 feet
D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply	1,000 feet
E. Lakes, Rivers, Streams Classified as Fisheries	1,000 feet
F. Designated 100 Year Flood Plain	PROHIBITED

The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #2A and #2B).

4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification. Examples of such management shall include at least:

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A. Proposed maintenance of waste facilities;

The applicant facility will meet all DENR requirements as stated in the General Permit Process prior to issuance of a Yankton County building permit.

B. Land application process and/or methods;

The application and methods will be provided in the Nutrient Management Plan. The applicant will meet all DENR requirements as stated in the General Permit Process prior to issuance of a Yankton County building permit (Exhibit #3 and #3A and #3B).

C. Legal description and map, including documented proof of area to be utilized for nutrient application; and

The legal description and map will be provided in the Nutrient Management Plan. The applicant will meet all DENR requirements as stated in the General Permit Process prior to issuance of a Yankton County building permit (Exhibit #3 and #3A and #3B).

D. All CAFO's are required to obtain a South Dakota State General Permit that outlines the manure management practices that an operator must follow to prevent water pollution and protect public health.

The applicant will meet all DENR requirements as stated in the General Permit Process prior to issuance of a Yankton County building permit.

5. New animal feeding operations, new CAFO's and waste facilities shall be setback six hundred and sixty six (660) feet from a property line delineating a change in ownership and three hundred and thirty (330) feet from a right-a-way line. Additionally, the applicant shall locate the operation ¼ of a mile or 1,320 feet from neighboring residential dwellings. The Planning Commission and/or Board of Adjustment may mandate setbacks greater than those required herein to further the intent of the Zoning Ordinance while protecting the public health, safety, and welfare.

The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #2A and #2B)

6. New Class A and B Animal Feeding Operations shall be prohibited from locating within the area bounded by the City of Yankton, 431st Avenue, the Missouri River, and South Dakota Highway 50.

The proposed site is outside the described area and a Class D operation. (Exhibit #2A and #2B)

7. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from any Class I incorporated municipality or residentially zoned area bounded by the City of Yankton, 431st Avenue, the Missouri River and South of South Dakota Highway 50:

A. Class A	4 miles
B. Class B	2 miles
C. Class C	1 mile
D. Class D	2,640 feet
E. Class E	2,640 feet

The proposed site is outside the described area and is a Class D operation. (Exhibit #2A ad #2B)

8. New animal confinement and waste facilities shall be located no closer than ½ mile from any Class II or III incorporated municipality, active church, or established R2 or R3

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residential area as shown on the Official Zoning Map. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from a residential dwelling; one dwelling unit is allowed on the facility site. The owner(s) of an animal feeding operation and/or residential dwelling may request the required setback be lessened or waived in accordance with the variance procedures as detailed herein. Residential waiver request forms are obtainable from the Zoning Administrator. This waiver would run with the land and be filed with the Yankton County Register of Deeds.

- A. Class A 2 miles
- B. Class B 1.25 miles
- C. Class C 2,640 feet
- D. Class D 1,320 feet

The proposed site is a Class D operation outside the described buffer area. (Exhibit #2A and #2B)

- E. Class E 1,320 feet

9. Animal waste shall be transported no further than five miles from the point of origination by equipment designed for direct application. Animal waste hauled within non-application or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.

The legal description and map will be provided in the Nutrient Management Plan. The applicant will meet all DENR requirements as stated in the General Permit Process prior to issuance of a Yankton County building permit. The plan will provide details regarding all aspects of nutrient application (Exhibit #3 and #3A and #3B).

10. An operational plan for manure/ nutrients collection, storage, treatment and use shall be kept updated and implemented:

- A. An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented:

- A Concentrated Animal Feeding Operational (CAFO) Permit for the proposed facility will be filed with South Dakota Department of Environment and Natural Resources ("SD DENR"). This is a requirement for DENR regulations under the Nutrient Management Plan requirement Section 519 (3).
- All waste-water from cleaning activities shall be captured in the underground enclosed vault.

- B. The methods to be utilized to dispose of dead animals shall be identified:

- The plan for mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current plans are to place a rendering service on contract to promptly dispose of mortalities.

- C. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of odors generated by the facility:

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- There are no residential structures on property adjoining the road (443rd Avenue) east of the proposed site. There are two inhabited structures on the road south (330th Street; ¾ mile away) of the proposed site from which existing trees and topography provide a visual buffer. The nearest road to the west of the proposed site is NE Jim River Road and the site is screened from inhabited structures (over a mile away) by trees and topography. To the northeast on 444th Avenue, there is a non-residential site, consisting of grain bins and storage buildings, approximately a mile away. On 298th Street, there is a residence to the northwest, well over a mile away, but the site will be screened by existing trees and owners/applicants farmstead at 29875 443rd Avenue. Consequently, no trees or shrubs are proposed for the site.
- D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining drier confinement areas to reduce odor production.
- The manure/ nutrients will be collected in a reinforced concrete vault to prevent any leakage. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to the covered facility. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.
- E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production.
- All animal organic waste/nutrients will be contained in an 8' covered concrete vault directly underneath the facility. Construction materials will be reinforced concrete construction commonly used in the industry with the desired results of controlling the manure/nutrients and limiting potential odors. The manure/nutrients shall be contained within the reinforced concrete vault designed and constructed in accordance with SD DENR CAFO permit requirements and accepted industry standards.
- F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:
- The proposed facility will have the manure/nutrients in a covered vault which will be removed annually via pump. The manure/nutrients will be directly applied to nearby fields identified in section (H) via injection below the soil surface. The transportation method will be via hose or tanker equipment (covered/contained) for direct application via injection.
 - The time frame is expected to take three days (each barn) for application of all the manure/nutrients and will occur primarily in the fall after harvest or, on rare occasion, in the spring before planting but after snow melt in accordance

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with SD DENR CAFO nutrient management plan that will be filed with SD DENR.

G. The applicability, economics, and effect of Industry Best Management Practices shall be covered:

- Industry best management practices are to control the manure/nutrients and wastewater in a covered vault. The JHGAS FARMS LLC's facility is designed to do this. Although the reinforced concrete vault has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This reduces the potential dissemination of odor to the neighboring area as reflected in the attached odor model. The design of the JHGAS FARMS LLC facilities are NOT an open lagoon system. (Exhibit #1 and #1A and #1B and #1C and #1D)
- Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the organic manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.
- Industry best management practices is to promptly remove mortalities and that is the practice JHGAS FARMS LLC will follow.
- Industry best management practice is to avoid the application of the manure/nutrient on extremely windy days and to avoid land application ahead of rain that may produce run-off. Application preceding a rain that does not produce run-off may reduce particle emissions. JHGAS FARMS LLC operation shall follow these practices.
- Aeration, anaerobic lagoons and digesters and solid separation are all practices that may reduce odor and particle emissions. However, JHGAS FARMS LLC operation will employ the covered vault method to control odor and particle emissions at additional expense because of its wide acceptance as an effective best industry management practice and does not intend to use these alternative methods. Location of the facility is sited to limit the effect of odor on neighboring residences in one of the most effective best management practices.
- Exhibit #2A and #2B)

Notification section:

H. A notification section should be formulated by the applicant. It is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half mile of the applicant's manure application fields. The preferred hauling and application process shall be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the seasons shall be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure

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applications. Annual notification advising of an upcoming 30 day window should be given.

**OCCUPIED RESIDENCES WITHIN ½ MILE OF CROP GROUND ON
WHICH INJECTION OF NUTRIENTS MAY OCCUR:**

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>
<u>Larry Sees</u>	<u>44222 298th St. Irene, SD 57037</u>	<u>660-7057</u>
<u>Jim Harts</u>	<u>44202 300th St. Mission Hill, SD 57046</u>	<u>668-9755</u>
<u>Cathy/Leo Harts</u>	<u>30431 445th Ave. Mission Hill, SD 57046</u>	<u>668-6624</u>
<u>Larry & Kristie Lyngstad</u>	<u>30392 445th Ave. Volin, SD 57072</u>	<u>665-0655</u>
<u>Dustin Mulinberg</u>	<u>29875 444th Ave., Irene, SD 57037</u>	<u>661-0969</u>
<u>Berta/Greg Graham</u>	<u>44342 300th St., Mission Hill, SD 57046</u>	<u>665-7839</u>

- There are no public meeting sites within ½ mile of the proposed facilities. Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment. (Exhibit #3 and #3A and #3B)
- I. A review of weather conditions shall include reviewing the effect of climate upon manure application. This section shall also include the preferred times and conditions for application to mitigate the potential effects upon neighboring properties while outlining the least advantageous climatic conditions.
- JHGAS FARMS LLC intends to avoid application of the manure/nutrients during the warmer summer months and will avoid holiday and weekends whenever feasible.
 - JHGAS FARMS LLC will provide notification to the effected neighbors by either a letter or through electronic notification (email/text) or through a phone call to remind them of our application time frame with a 30-day window and a goal of a one week window.
 - Review of weather conditions, outlining the most advantageous and the least advantageous conditions for organic manure/nutrients application of fertilizer and his plan to mitigate the effect on neighbors.

- Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Application preceding a rain that does not produce run-off may reduce particle emissions. Avoid application if rain is forecast in the near future. The plan, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure/nutrient in the fall after harvest. In rare instances, the manure/nutrient will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with SD DENR requirements.

Additional procedures JHGAS FARMS LLC will follow to control flies and odors:

Fly, Odor & Rodent Control Guidelines For Animal Feeding Operations

Fly, Odor and Rodent control are important to maintain a healthy, community friendly livestock operation. These guidelines are provided as a broad management tool to control fly populations, odor emissions and dust at an acceptable level. Each animal feeding operation must implement a system to fit their specific operation.

D) Fly Control

1. Remove and properly dispose of spilled and spoiled feed.
2. Repair leaky waterers.
3. Keep vegetation mowed near the facilities.
4. Properly drain rainwater away from the facilities.
5. Apply commercial insecticides in a proper and timely manner.

E) Odor Control

1. Odor Footprint Tool from South Dakota State University provides estimated odor impact for 4800 head swine facility. (Exhibit #1 and #1A and #1B and #1C and #1D)
2. Manage mortalities per SD Animal Industry Board requirements.
3. Adjust feed rations per industry standards to reduce potential odor generating byproducts.

F) Rodent Control

1. Two foot wide gravel barrier around the perimeter to discourage rodent entry.
2. Bait boxes at 75-100 ft intervals that are checked 2x per month.
3. Spilled feed will immediately be cleaned up to discourage rodent activity.
4. Site routinely mowed to remove rodent harborage areas

The fly and odor control guidelines above will be conducted concurrently with one another to help prevent a nuisance problem from occurring.

11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is injected or incorporated within twenty-four (24) hours:

- | | |
|------------------|------------|
| a. Public Wells | 1,000 feet |
| b. Private Wells | 250 feet |

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- | | |
|--|------------|
| c. Private Wells (Operator's) | 150 feet |
| d. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply | 1,000 feet |
| e. Lakes, Rivers and Streams Classified as Fisheries | 200 feet |
| f. All Public Road Right-of-ways | 10 feet |
| g. Incorporated Communities | 660 feet |
| h. A Residence other than the Operators | 100 feet |

The applicant acknowledges and will meet each of the required setbacks.

12. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is irrigated or surface applied:

- | | |
|---|------------|
| A. Public Wells | 1,000feet |
| B. Private Wells | 250feet |
| C. Private Wells(Operator's) | 150feet |
| D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply | 1,000feet |
| E. Lakes, Rivers and Streams Classified as Fisheries | 660 feet |
| F. All Public Road Right-of-ways (Surface Applied) | 10 feet |
| G. All Public Road Right-of-ways (Irrigated Application) | 100 feet |
| H. Incorporated Communities (Surface Applied) | 1,000 feet |
| I. Incorporated Communities (Irrigated Application) | 2,640 feet |
| J. A Residence other than the Operators (Surface Applied) | 330 feet |
| K. A Residence other than the Operators (Irrigated Application) | 750 feet |

The facility will not irrigate or surface apply any nutrient applications.

13. If irrigation is used for removal of liquid manure, dewatering a lagoon (gray water) basin, or any type of liquid manure holding pit, these rules apply:

- A. Drops must be used on systems that disperse the liquid no higher than 18" off the ground if no crop is actively growing on the field.

Applicant is not requesting irrigation application permit.

- B. If a crop is actively growing on the field, the liquid must then be dispersed below the crop canopy.

Applicant is not requesting irrigation application permit.

- C. No runoff or diffused spray from the system onto neighboring property or public right-of-way will be allowed.

Applicant is not requesting irrigation application permit.

- D. No irrigation of liquid on frozen ground or over FSA designated wetlands.

Applicant is not requesting irrigation application permit.

- E. No "big gun" type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.

Applicant is not requesting irrigation application permit.

Action 91217F: Moved by Bodenstedt, second by Becker to recommend approval of a Conditional Use Permit based on Finding of Facts dated September 12, 2017, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to build two (2) 2400 head pork (finisher swine over 55 pounds) Class D (1920 AU Animal Units) finishing barn in an Agriculture District (AG)

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in Yankton County. Said property is legally described as NE1/4 & SE1/4, S16-T95N-R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota. The E911 address is 29875 443rd Avenue, Irene, SD.

By roll call vote, seven (7) members voted aye and one (1) member voted nay.
Motion carried.

Action 91217G: Moved by Kettering, seconded by Gudahl for adjournment.
By voice vote, all members present voted aye.
Motion carried.

The next meeting of the Yankton County Planning Commission will be held at 6:00 P.M. Tuesday, October 10, 2017.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator