

Yankton County Planning Commission  
November 13, 2018

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welsh at 7:00 p.m. on November 13, 2018.

Members present at call to order: Guthmiller, Kettering, Becker, Bodenstedt, Gudahl, Williams, Kretsinger, and Welch.

Members absent: Koenigs.

This was the time and place to review and approve the minutes from September 26, 2018.

Action 111318A: Moved by Kretsinger, second by Guthmiller to approve the September 26, 2018 minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Action 111318B: Moved by Kretsinger, second by Guthmiller to approve the October 9, 2018 minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Plat Considerations:

Jon Gunderson

Tract A Tract B, SW1/4, NW1/4, NW1/4, SW1/4, S28-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30744 448<sup>th</sup> Avenue, Mission Hill, SD.

Action 111318C: Moved by Becker, second by Kretsinger to recommend approval of the plat legally described as: Tract A Tract B, SW1/4, NW1/4, NW1/4, SW1/4, S28-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30744 448<sup>th</sup> Avenue, Mission Hill, SD.

By roll call vote, all members present voted aye.

Motion carried.

Todd Knutson

Knutson Tract 1, SE1/4, S9-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is TBA 430<sup>th</sup> Avenue, Lesterville, SD.

Action 111318D: Moved by Guthmiller, second by Kretsinger to recommend approval of the plat legally described as: Knutson Tract 1, SE1/4, S9-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is TBA 430<sup>th</sup> Avenue, Lesterville, SD.

By roll call vote, all members present voted aye.

Motion carried.

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Planning Commission chairman, Mike Welch, explained the public comment period implemented on July 1, 2018. The session will be provided at the meeting. Please sign the speaker sheet in the back of the room prior to speaking.

This was the time and place for discussion regarding application from Robert Law. Applicant is requesting a variance of Maximum Accessory Structure Size from 2,000 sq.ft. with 14 foot sidewalls to 12,000 sq.ft. with 20' foot sidewalls (80'x150') in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as W1/2, NW1/4, N/Hiway, S10-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 3812 SD Hwy 314, Yankton, SD.

Robert Law stated his request to build an accessory structure in a Low Density Rural Residential District (R-1). The structure will be a steel construction with cement footings. Mr. Law currently has three (3) accessory structures and three (3) grain bins located on the parcel. Mr. Law has reside at this address since 1960. Mr. Law is a construction contractor with heavy equipment. Mr. Law also has a large farming operation which utilizes larger farm machinery. The area is rural in character, Mr. Law owns the adjacent property and the structure will not change the character of the neighborhood.

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

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Robert Law

Parcel Number: 09.010.400.400

Legal description: W1/2, NW1/4, N/Hiway, S10-T93N-R56W

Physical Address: 3812 SD Hwy 314, 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 applicant is requesting the Maximum Structure Size variance to build an accessory structure in a Low Density Rural Residential District (R-1). Mr. Law has reside at this address since 1960. Mr. Law is a construction contractor with heavy equipment. Mr. Law also has a large farming operation which utilizes larger farm machinery. The area is rural in character,*

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Mr. Law owns the adjacent property and the structure will not change the character of the neighborhood.

- A. 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 in the district when in areas remaining rural in character but have zoning classification which require flexibility to allow activity appropriate for the current character of the neighborhood.
  - B. 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 a variance will not be of substantial detriment to adjacent property nor the character of the district.
  - C. 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 is recurring sufficiently to provide remedy with a zoning amendment.
  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:
    - 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 area is rural in character, Mr. Law owns the adjacent property and the structure will not change the character of the neighborhood.
    - 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 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 structure size requirement) have been approved 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 September 28, 2018 (supported by affidavit), a legal notice was published on September 29, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on October 1, 2018.

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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 7:05 pm on November 13, 2018. Robert Law stated his request to build an accessory structure in a Low Density Rural Residential District (R-1). The structure will be a steel construction with cement footings. Mr. Law currently has three (3) accessory structures and three (3) grain bins located on the parcel. Mr. Law has reside at this address since 1960. Mr. Law is a construction contractor with heavy equipment. Mr. Law also has a large farming operation which utilizes larger farm machinery. The area is rural in character, Mr. Law owns the adjacent property and the structure will not change the character of the neighborhood. 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 satisfy all requirements for this variance request
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 Requirement is approved.

Action 111318E: Moved by Becker, second by Kretsinger to recommend approval of the Variance, based on Findings of Fact dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, of Maximum Accessory Structure Size from 2,000 sq.ft. with 14 foot sidewalls to 12,000 sq.ft. with 20' foot sidewalls (80'x150') in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as W1/2, NW1/4, N/Hiway, S10-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 3812 SD Hwy 314, Yankton, SD.

By roll call vote, all members present voted aye.  
Motion carried.

This was the time and place for discussion regarding application from Jasen Clark. Applicant is requesting a variance of Minimum Yard Requirement in rear yard from twenty (20) feet to five (5) feet for an accessory structure in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 14, Block 3, Riverside Acres, S22-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 116 Case Street, Yankton, SD.

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Jason Clark stated his request for the variance is the lot size limitation and septic drain field limit the area to place an accessory structure. The size is 768 sq. ft. and meets the High Density Rural Residential District (R-3) requirements.

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

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Jason Clark

Parcel Number: 09.022.700.314

Legal description: Lot 14, Block 3, Riverside Acres, S22-T93N-R56W

Physical Address: 116 Case 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 applicant is requesting the minimum yard variance to build an accessory structure in a High Density Rural Residential District (R-3). Jason Clark stated his request for the variance is the lot size limitation and septic drain field limit the area to place an accessory structure. The size is 768 sq. ft. and meets the High Density Rural Residential District (R-3) requirements.
  - 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 in the district when in areas with long narrow lots and septic drain fields which must be protected.
  - 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 a 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

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amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.

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:
  - 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 area is rural residential with long narrow lots which limit available building area.
  - 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 minimum yard 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 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 (minimum yard requirement) have been approved 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 November 1, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
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 7:15 pm on November 13, 2018. Jason Clark stated his request for the variance is the lot size limitation and septic drain field limit the area to place an accessory structure. The size is 768 sq. ft. and meets the High Density Rural Residential District (R-3) requirements.  
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 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 Minimum Yard Requirement is approved.

Action 111318F: Moved by Guthmiller, second by Kettering to recommend approval of the Variance, based on Findings of Fact dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, of Minimum Yard Requirement in rear yard from twenty (20) feet to five (5) feet for an accessory structure in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 14, Block 3, Riverside Acres, S22-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 116 Case Street, Yankton, SD.

By roll call vote, all members present voted aye.  
Motion carried.

This was the time and place for discussion regarding application from Paul Rolston. Applicant is requesting a variance of Minimum Yard Requirement in side yard from ten (10) feet to three (3) feet for an accessory structure in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 19, Block 1, Timberland Park, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 104 Forestview Drive, Yankton, SD.

Paul Rolston stated his lot size is restrictive for area to properly place an accessory structure. The adjacent neighbor submitted a letter of approval for the minimum yard requirement request. The site plan shows the rear yard setback is meeting requirements and the side yard is the action for a variance. The error is corrected in these findings.

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

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Paul Rolston

Parcel Number: 09.015.500.119

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Legal description: Lot 19, Block 1, Riverside Acres, S15-T93N-R56W

Physical Address: 104 Forestview Drive, 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 applicant is requesting the minimum yard variance to build an accessory structure in a High Density Rural Residential District (R-3). Paul Rolston stated his request for the variance is the lot size limitation limiting the area to place an accessory structure. The size is 192 sq. ft. and meets the High Density Rural Residential District (R-3) requirements.
  - 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 in the district when in areas with long narrow lots and limited space from landscaping and accessibility.
  - 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 a 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 is not recurring sufficiently to provide remedy with a zoning amendment.
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:
  - 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 area is rural residential with narrow lots which limit available building area.
  - 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 minimum yard 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 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 (minimum yard requirement) have been approved 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

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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 October 30, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
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 7:25 pm on November 13, 2018. Paul Rolston stated his lot size is restrictive for area to properly place an accessory structure. The adjacent neighbor submitted a letter of approval for the minimum yard requirement request. The site plan shows the rear yard setback is meeting requirements and the side yard is the action for a variance. The error is corrected in these findings. 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 satisfy all requirements for this variance request
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 Minimum Yard Requirement is approved.

Action 111318G: Moved by Bodenstedt, second by Kretsinger to recommend approval of the Variance, based on Findings of Fact dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, of Minimum Yard Requirement in side yard from ten (10) feet to three (3) feet for an accessory structure in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 19, Block 1, Timberland Park, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 104 Forestview Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion regarding application from Melvin Peterson. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to six (6) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc

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Lot R-1, S8-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 29885 430<sup>th</sup> Avenue, Lesterville, SD.

Plat consideration:

Julie and Mitch Addition, S1/2, SE1/4, S8-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is TBA 430<sup>th</sup> Avenue, Lesterville, SD.

Cathy Peterson, Melvin Peterson's wife, stated the plat request is to provide a parcel on the farmstead for her daughter to build a single family residence. The proposed parcel is six acres and includes all the surrounding trees and outbuildings. The parcel also included surrounding agriculture areas.

The findings shall state at the time this variance was approved, the plat consideration is in an Agriculture District. A signed agriculture waiver will be required for this variance.

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

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Melvin Peterson

Parcel Number: 15.008.200.100

Legal description: SE1/4, exc Lot R-1, S8-T95N-R57W

Physical Address: 29885 430<sup>th</sup> Avenue, Lesterville, 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 parcel is created to meet mortgage requirements for residential plats.*
  - 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 requiring mortgage arrangements and family member locating on the farmstead.*
  - 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 a variance will not be of substantial detriment to adjacent property nor the*

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character of the district. The parcel is to existing family member for a single family dwelling.

- 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:
  - 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 with size and location and could be applicable to others structures or buildings when property is separated to provide mortgage financing and family member on the farmstead.
  - 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 minimum lot 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 (minimum lot 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-half mile radius of the proposed variance on November 2, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
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 7:35 pm on November 13, 2018. Cathy Peterson, Melvin Peterson's wife, stated the plat request is to provide a parcel on the farmstead for her daughter to build a single family residence. The proposed parcel is six acres and includes all the surrounding trees and outbuildings. The parcel also included surrounding agriculture areas.

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The findings shall state at the time this variance was approved, the plat consideration is in an Agriculture District. A signed agriculture waiver will be required for this variance.

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 satisfy all requirements for this variance request.
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 Minimum Lot Requirement is approved.

Action 111318H: Moved by Williams, 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 November 13, 2018, of Minimum Lot Requirement from twenty (20) acres to six (6) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc Lot R-1, S8-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 29885 430<sup>th</sup> Avenue, Lesterville, SD.

By roll call vote, all members present voted aye.

Motion carried

Action 111318I: Moved by Becker, second by Kretsinger to recommend approval of a plat. Said property is legally described as: Julie and Mitch Addition, S1/2, SE1/4, S8-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is TBA 430<sup>th</sup> Avenue, Lesterville, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Curtis Olivier. Applicant is submitting a sketch plan for Planning Commission consideration under Subdivision Ordinance Article 3, Section 303 - A. Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 - 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.

Patrick Garrity, Zoning Administrator, stated the applicant is presenting a sketch plan for approval from the Planning Commission. The sketch plan shows the plans for a multifamily area and

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campground proposal. The approval of sketch plan will require a preliminary plan submission before any land use is conducted.

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

Action 111318J: Moved by Bodenstedt, second by Becker to recommend approval of the Sketch Plan, a sketch plan, Yankton County Subdivision Ordinance Article 3, Section 303 - A, in Yankton County. Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Curtis Olivier. Applicant is requesting a Conditional Use Permit to build a campground in a Lakeside Commercial District (LC) in Yankton County. Applicant is requesting a Conditional Use Permit to build ten (10) multi-family units in a Moderate Density Rural Residential District (R-2). Applicant is requesting two (2) variances of Maximum Building Size Requirement, to provide park model construction facility from 1,200 sq. ft. to 11,500 sq. ft. and multi-family storage facility from 1,200 sq. ft. to 5,000 sq. ft. in a Moderate Density Rural Residential District (R-2). Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.

Mr. Olivier stated his request is to build a ten (10) unit multifamily townhouses along Welkom Drive. The site plan shows the proposed project and a storage building for the residents. The multifamily structures will meet the quality expectation of the neighborhood and not be a negative impact on current or future property owners. The septic systems are in cooperation with South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The variance request for the accessory structure size requirement is to provide a planned storage facility for the residences in the townhouses. No commercial storage is proposed.

Mr. Olivier discussed the proposed campground and stated the concept will be “park models” which will be purchased by individuals and the space will be leased in the campground. The proposal is for Phase #1 to have 32 units and Phase #2 to have 38 units. The septic system plan is approved by South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The project will provide upscale infrastructure and landscaping. The “park models’ will be \$70,000.00 to \$90,000.00 price range. The facility will have proper security and Home Owner Association (HOA) regulations. The larger accessory structure variance is for the construction of the “park models” and then provide storage for the campground.

Mr. Welch requested any proponents of the Conditional Use Permit and variance to present their statements. Ken Hoffman, neighbor resident, stated his approval of the townhouse proposal and the buffer it provides for the residential neighborhood to west of the proposal site. He suggested some photos or graphic illustrations to show end results. Sally Vinson, county resident, stated the townhouse buffer as a strong benefit of this proposal. She suggested a developer covenant on the

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campground to restrict rentals, activity and property uses. This will be beneficial to the campground but also the entire neighborhood and future development plans.

Mr. Welch requested any opponents of the Conditional Use Permit and variance to present their statements. Chris Dickes, neighbor resident, stated his opposition to the proposal because it will cause detriment to adjacent properties values and attract more activity to the area. Karen Dickes, neighbor resident, stated her opposition to the proposal as it will increase traffic and maybe attract excessive people similar to Lake Okoboji in Iowa. Gerald Kleinschmidt, neighbor resident, stated his opposition to the campground proposal as it will not be appropriate for the district. Keith DeJager, neighbor resident, stated the houses in the area are expensive (\$400,000.00) and deserve protection from excessive traffic, noise and other impacts. He feels the area property values will be reduced if this proposal is approved.

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

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Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Curtis Olivier

Parcel Number: 09.018.100.100

Legal description: N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W

Physical Address TBA Welkom Drive, 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 is requesting a Conditional Use Permit for a Conditional Use Permit (Article 7, Section 707) to build ten (10) multi-family units in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, 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-quarter mile radius of the proposed CUP on October 31, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.

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3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:55 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Mr. Olivier stated his request is to build a ten (10) unit multifamily townhouses along Welkom Drive. The site plan shows the proposed project and a storage building for the residents. The multifamily structures will meet the quality expectation of the neighborhood and not be a negative impact on current or future property owners. The septic systems are in cooperation with South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The variance request for the accessory structure size requirement is to provide a planned storage facility for the residences in the townhouses. No commercial storage is proposed.  
Mr. Olivier discussed the proposed campground and stated the concept will be “park models” which will be purchased by individuals and the space will be leased in the campground. The proposal is for Phase #1 to have 32 units and Phase #2 to have 38 units. The septic system plan is approved by South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The project will provide upscale infrastructure and landscaping. The “park models’ will be \$70,000.00 to \$90,000.00 price range. The facility will have proper security and Home Owner Association (HOA) regulations. The larger accessory structure variance is for the construction of the “park models” and then provide storage for the campground.  
Mr. Welch requested any proponents of the Conditional Use Permit and variance to present their statements. Ken Hoffman, neighbor resident, stated his approval of the townhouse proposal and the buffer it provides for the residential neighborhood to west of the proposal site. He suggested some photos or graphic illustrations to show end results. Sally Vinson, county resident, stated the townhouse buffer as a strong benefit of this proposal. She suggested a developer covenant on the campground to restrict rentals, activity and property uses. This will be beneficial to the campground but also the entire neighborhood and future development plans.  
Mr. Welch requested any opponents of the Conditional Use Permit and variance to present their statements. Chris Dickes, neighbor resident, stated his opposition to the proposal because it will cause determent to adjacent properties values and attract more activity to the area. Karen Dickes, neighbor resident, stated her opposition to the proposal as it will increase traffic and maybe attract excessive people similar to Lake Okoboji in Iowa. Gerald Kleinschmidt, neighbor resident, stated his opposition to the campground proposal as it will not be appropriate for the district. Keith DeJager, neighbor resident, stated the houses in the area are expensive (\$400,000.00) and deserve protection from excessive traffic, noise and other impacts. He feels the area property values will be reduced if this proposal is approved. 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; orThe commission recommends granting approval of the conditional use permit with listed conditions.
  - C. Recommend denial of the conditional use.

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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 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 (Welkom Drive).
  - 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 are currently compliant.
  - C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas is in compliance.
  - 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, septic systems are DENR approved.
  - E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering is provided with townhouse alignment and landscaping.
  - 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 for proposed activity.
  - 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.

Action 111318K: Moved by Bodenstedt, second by Kretsinger to recommend to approve a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to build ten (10) multi-family units in a Moderate Density Rural Residential District (R-2). Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.

By roll call vote, all members voted aye.  
Motion carried.

Yankton County Planning Commission  
November 13, 2018

Yankton County Planning Commission

Meeting date: November 13, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Curtis Olivier

Parcel Number: 09.018.100.100

Legal description: N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W

Physical Address: TBA Welkom Drive, 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 proposal is to provide personal storage for a multifamily development. The structure will be in harmony with the ten (10) townhouses.
  - 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 requiring multifamily storage facility. This proposal is in harmony with the proposed development.
  - 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 a variance will not be of substantial detriment to adjacent property nor the character of the district. The variance is part of the overall plan for the property.
  - 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:
  - 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

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- property is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings.
- 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 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 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 October 30, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public meeting was held at 7:55 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Mr. Olivier stated his request is to build a ten (10) unit multifamily townhouses along Welkom Drive. The site plan shows the proposed project and a storage building for the residents. The multifamily structures will meet the quality expectation of the neighborhood and not be a negative impact on current or future property owners. The septic systems are in cooperation with South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The variance request for the accessory structure size requirement is to provide a planned storage facility for the residences in the townhouses. No commercial storage is proposed.  
Mr. Olivier discussed the proposed campground and stated the concept will be "park models" which will be purchased by individuals and the space will be leased in the campground. The proposal is for Phase #1 to have 32 units and Phase #2 to have 38 units. The septic system plan is approved by South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The project will provide upscale infrastructure and landscaping. The "park models" will be \$70,000.00 to \$90,000.00 price range. The facility will have proper security and Home Owner Association (HOA) regulations. The larger accessory structure variance is for the construction of the "park models" and then provide storage for the campground.  
Mr. Welch requested any proponents of the Conditional Use Permit and variance to present their statements. Ken Hoffman, neighbor resident, stated his approval of the townhouse proposal and the buffer it provides for the residential neighborhood to west of the proposal site. He suggested some photos or graphic illustrations to show end results. Sally Vinson, county resident, stated the townhouse buffer as a strong benefit of this proposal. She suggested

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a developer covenant on the campground to restrict rentals, activity and property uses. This will be beneficial to the campground but also the entire neighborhood and future development plans.

Mr. Welch requested any opponents of the Conditional Use Permit and variance to present their statements. Chris Dickes, neighbor resident, stated his opposition to the proposal because it will cause detriment to adjacent properties values and attract more activity to the area. Karen Dickes, neighbor resident, stated her opposition to the proposal as it will increase traffic and maybe attract excessive people similar to Lake Okoboji in Iowa. Gerald Kleinschmidt, neighbor resident, stated his opposition to the campground proposal as it will not be appropriate for the district. Keith DeJager, neighbor resident, stated the houses in the area are expensive (\$400,000.00) and deserve protection from excessive traffic, noise and other impacts. He feels the area property values will be reduced if this proposal is approved. 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 satisfy all requirements for this variance request.
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 Structure Size Requirement is approved.

Action 111318L: Moved by Bodenstedt, second by Becker to recommend to approve a variance based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, variances of Maximum Structure Size Requirement, multi-family storage facility from 1,200 sq. ft. to 5,000 sq. ft. in a Moderate Density Rural Residential District (R-2). Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.

By roll call vote, four members voted aye, four members voted nay.  
Motion failed.

Action 111318M: Moved by Guthmiller, second by Kretsinger to recommend to approve a variance based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, variance of Maximum Building Size Requirement, multi-family storage facility from 1,200 sq. ft. to 5,000 sq. ft. in a Moderate Density

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Rural Residential District (R-2). Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD.  
By roll call vote, four members voted aye, four members voted nay.  
By roll call vote, six members voted aye, two member voted nay.  
Motion carried.

Yankton County Planning Commission

Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Curtis Olivier

Parcel Number: 09.018.100.100

Legal description: N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W

Physical Address TBA Welkom Drive, 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 is requesting a Conditional Use Permit for a Conditional Use Permit (Article 11, Section 1107-2) to build a campground in a Lakeside Commercial District (LC) in Yankton County. Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA SD Hwy 52, Yankton, 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-quarter mile radius of the proposed CUP on October 31, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:55 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Mr. Olivier stated his request is to build a ten (10) unit multifamily townhouses along Welkom Drive. The site plan shows the proposed project and a storage building for the residents. The multifamily structures will meet the quality expectation of the neighborhood and not be a negative impact on current or future property owners. The

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septic systems are in cooperation with South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The variance request for the accessory structure size requirement is to provide a planned storage facility for the residences in the townhouses. No commercial storage is proposed.

Mr. Olivier discussed the proposed campground and stated the concept will be “park models” which will be purchased by individuals and the space will be leased in the campground. The proposal is for Phase #1 to have 32 units and Phase #2 to have 38 units. The septic system plan is approved by South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The project will provide upscale infrastructure and landscaping. The “park models” will be \$70,000.00 to \$90,000.00 price range. The facility will have proper security and Home Owner Association (HOA) regulations. The larger accessory structure variance is for the construction of the “park models” and then provide storage for the campground.

Mr. Welch requested any proponents of the Conditional Use Permit and variance to present their statements. Ken Hoffman, neighbor resident, stated his approval of the townhouse proposal and the buffer it provides for the residential neighborhood to west of the proposal site. He suggested some photos or graphic illustrations to show end results. Sally Vinson, county resident, stated the townhouse buffer as a strong benefit of this proposal. She suggested a developer covenant on the campground to restrict rentals, activity and property uses. This will be beneficial to the campground but also the entire neighborhood and future development plans.

Mr. Welch requested any opponents of the Conditional Use Permit and variance to present their statements. Chris Dickes, neighbor resident, stated his opposition to the proposal because it will cause detriment to adjacent properties values and attract more activity to the area. Karen Dickes, neighbor resident, stated her opposition to the proposal as it will increase traffic and maybe attract excessive people similar to Lake Okoboji in Iowa. Gerald Kleinschmidt, neighbor resident, stated his opposition to the campground proposal as it will not be appropriate for the district. Keith DeJager, neighbor resident, stated the houses in the area are expensive (\$400,000.00) and deserve protection from excessive traffic, noise and other impacts. He feels the area property values will be reduced if this proposal is approved. 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; orThe commission recommends granting approval of the conditional use permit with listed conditions.
  - 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 proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access

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in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (SD Hwy 52).

- 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 are currently compliant, the proposal should provide detailed site plan, completed preliminary plan and campground covenants / regulations.
- C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas is in compliance.
- 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, septic systems are DENR approved.
- E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering is provided with townhouse alignment and landscaping.
- 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 for proposed activity.
- 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 applicant will provide sufficient regulations to control excessive activity, noise and traffic.

Action 111318N: Moved by Becker, second by Gudahl to recommend to approve a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to build a campground in a Lakeside Commercial District (LC) in Yankton County. Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Welkom Drive, Yankton, SD. By roll call vote, two members voted aye, six members voted nay. Motion failed.

Yankton County Planning Commission

Meeting date: November 13, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Curtis Olivier

Parcel Number: 09.018.100.100

Legal description: N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W

Physical Address: TBA Welkom Drive, Yankton, SD.

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
  - E. The strict application of the ordinance would produce undue hardship; The proposal is to provide personal storage for a multifamily development. The structure will be in harmony with the proposed campground.
  - F. 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 requiring campground storage facility. This proposal is in harmony with the proposed development.
  - G. 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 a variance will not be of substantial detriment to adjacent property nor the character of the district. The variance is part of the overall plan for the property.
  - H. 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:
  - 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 with size and location and could be applicable to others structures or buildings with a development proposal.
  - 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 structure size requirement have been granted in Yankton County.

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- 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 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 October 30, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public meeting was held at 7:55 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Mr. Olivier stated his request is to build a ten (10) unit multifamily townhouses along Welkom Drive. The site plan shows the proposed project and a storage building for the residents. The multifamily structures will meet the quality expectation of the neighborhood and not be a negative impact on current or future property owners. The septic systems are in cooperation with South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The variance request for the accessory structure size requirement is to provide a planned storage facility for the residences in the townhouses. No commercial storage is proposed.  
Mr. Olivier discussed the proposed campground and stated the concept will be "park models" which will be purchased by individuals and the space will be leased in the campground. The proposal is for Phase #1 to have 32 units and Phase #2 to have 38 units. The septic system plan is approved by South Dakota Department of Environment and Natural Resources (DENR) and meet all requirements. The project will provide upscale infrastructure and landscaping. The "park models" will be \$70,000.00 to \$90,000.00 price range. The facility will have proper security and Home Owner Association (HOA) regulations. The larger accessory structure variance is for the construction of the "park models" and then provide storage for the campground.  
Mr. Welch requested any proponents of the Conditional Use Permit and variance to present their statements. Ken Hoffman, neighbor resident, stated his approval of the townhouse proposal and the buffer it provides for the residential neighborhood to west of the proposal site. He suggested some photos or graphic illustrations to show end results. Sally Vinson, county resident, stated the townhouse buffer as a strong benefit of this proposal. She suggested a developer covenant on the campground to restrict rentals, activity and property uses. This will be beneficial to the campground but also the entire neighborhood and future development plans.  
Mr. Welch requested any opponents of the Conditional Use Permit and variance to present their statements. Chris Dickes, neighbor resident, stated his opposition to the proposal because it will cause detriment to adjacent properties values and attract more activity to the

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area. Karen Dickes, neighbor resident, stated her opposition to the proposal as it will increase traffic and maybe attract excessive people similar to Lake Okoboji in Iowa. Gerald Kleinschmidt, neighbor resident, stated his opposition to the campground proposal as it will not be appropriate for the district. Keith DeJager, neighbor resident, stated the houses in the area are expensive (\$400,000.00) and deserve protection from excessive traffic, noise and other impacts. He feels the area property values will be reduced if this proposal is approved. 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 do not satisfy all requirements for this variance request.
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission deny 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 Structure Size Requirement is denied.

Action 1113180: Moved by Gudahl, second by Kettering to recommend to deny a variance based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, variance of Maximum Building Size Requirement, to provide park model construction facility from 1,200 sq. ft. to 11,500 sq. ft., in a Lakeside Commercial District (LC). Said property is legally described as N123 Acres, NE1/4, exc Lots 3, 5, 6, Block 1 & exc Lots 2 – 5, 7, 8, 10, 11, 12, Block 2, Law Overlook & exc Tract A, Law Overlook S/D, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA SD Hwy 52, Yankton, SD.

By roll call vote, six members voted aye, two member voted nay.

Motion carried.

This was the time and place for discussion regarding application from Karl Schenk. Applicant is requesting a Conditional Use Permit to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. The applicant is requesting a variance of Minimum ROW Setback requirement from 330 feet to 150 feet in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, NE1/4, E3/4, NW1/4, & N3/7, SE1/4, NE1/4, exc Gray's Addition & N3/7, E3/4, SW1/4, NE1/4, S24-T94N-R55W hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 306th Street, Mission Hill, SD.

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Karl Schenk stated he will withdraw the variance of 330' Right of Way (ROW) request and meet all requirements for a Class E swine finisher barn. Mr. Schenk provided a summary for the Planning Commission review. The barn will be a curtain ventilated design with the nutrient management plan. All the requirements are included in the application packet.

Mr. Welch requested any proponents for the Conditional Use Permit request to present their statements. No proponents.

Mr. Welch requested any opponents of the Conditional Use Permit.

Jane Grant, neighbor, requested a tree buffer on the east side of the proposed facility. Daniel Grant stated the zoning regulations are not properly enforced. Kristi Schultz stated the commission should put an immediate moratorium on all CAFO applications. Ms. Schultz compares this application activity as financially greed. Ms. Schultz stated the commission must make fair and right decisions. The conditions should be electrostatic fencing and biofilters as this is life changing event for the neighbors.

Karl Schenk stated he will work with the Grant's to place tree buffer on east side of barn. Mr. Schenk stated management will achieve the odor footprint model and presented a wind rose model to demonstrate seasonal patterns.

The Planning Commission discussed the application and determined all requirements were completed.

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

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Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Karl Schenk

Parcel Number: 06.024.100.100

Legal description: NE1/4, NE1/4, E3/4, NW1/4, & N3/7, SE1/4, NE1/4, exc Gray's Addition & N3/7, E3/4, SW1/4, NE1/4, S24-T94N-R55W

Physical Address: TBA 306th Street, Mission Hill, 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 (Article 5, Section 519) to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, NE1/4, E3/4, NW1/4, & N3/7, SE1/4, NE1/4, exc Gray's Addition & N3/7, E3/4, SW1/4,

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NE1/4, S24-T94N-R55W hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 306th Street, Mission Hill, 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 November 2, 2108 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 8:15 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Planning Commission chairperson, Mike Welch, stated this hearing will follow the written protocol:

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Meeting Protocol

9-12-17

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

Karl Schenk stated he will withdraw the variance of 330’ Right of Way (ROW) request and meet all requirements for a Class E swine finisher barn. Mr. Schenk provided a summary for the Planning Commission review. The two barns will be curtain ventilated design to fit the allocated space. All the requirements are included in the application packet.

Mr. Welch requested any proponents for the Conditional Use Permit request to present their statements. No proponents.

Mr. Welch requested any opponents of the Conditional Use Permit.

Jane Grant, neighbor, requested a tree buffer on the east side of the proposed facility. Daniel Grant stated the zoning regulations are not properly enforced. Kristi Schultz stated the commission should put an immediate moratorium on all CAFO applications. Ms. Schultz compares this application activity as financially greed. Ms. Schultz stated the commission must make fair and right decisions. The conditions should be electrostatic fencing and biofilters as this is life changing event for the neighbors.

Karl Schenk stated he will work with the Grant’s to place tree buffer on east side of barn. Mr. Schenk stated management will achieve the odor footprint model and presented a wind rose model to demonstrate seasonal patterns.

The Planning Commission discussed the application and determined all requirements were completed.

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

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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 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 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 (306<sup>th</sup> Street) and site plan turn around for emergency vehicles. (Exhibit #3)
  - 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 are 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 #3)
  - 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 #3)
  - 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. Exhibit #3)
  - E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering at this site location will provide trees / shrubs (Exhibit #3).
  - 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 (Exhibit #3).
  - 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.

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

This is a Class E proposed operation. The facility will be one (1) 2400 head feeder swine (960 animal units).

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 is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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 Storm Water Permit by South Dakota Department of Environment and Natural Resources. The DENR contact is Kent Woodmansey, Natural Resources Feedlot Engineer.

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

As illustrated in the attached site plan, the proposed facility will meet or exceed all setbacks as required in the Yankton County Zoning Ordinance for a Class E CAFO. The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #3).

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

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include at least:

A. Proposed maintenance of waste facilities;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

B. Land application process and/or methods;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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 facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

5. New animal feeding operations, new CAFO's and waste facilities shall be setback six hundred and sixty (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 is compliant with the Property Line Setback and Right of Way Setback Requirement with applicant detailed site plans verifying compliance. (Exhibit #3)

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

The proposed site is outside the described area and a Class E operation. (Exhibit #3)

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, 431<sup>st</sup> 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 E operation. (Exhibit #3)

8. New animal confinement and waste facilities shall be located no closer than ½ mile from any

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Class II or III incorporated municipality, active church, or established R2 or R3 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
- E. Class E 1,320 feet

The proposed site is a Class E operation outside the described buffer area. (Exhibit #3)

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.

Manure from the facility will be transported via leak proof tankers and incorporated in to the soil of the lands in the NMP by injection. Yankton County load limits will be followed and no manure will be transported further than five (5) miles. The plan will provide details regarding aspects of nutrient application. (Exhibit #4, #4A, #4B additional field information in original application)

10. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure, and wastewater in such a manner as to control odors and flies. The County Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors shall be addressed in a management control plan:

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

An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented; all operational plans, will be kept updated and implemented (Exhibit #5).

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

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. Mortalities will be screened by a 3-sided, minimum of 4' high enclosure as illustrated in the site plan. (Exhibit #3)

- 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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As illustrated in the attached odor model (Exhibit #6), we are proposing to position the facility in such a way to avoid potential odor impacts on neighbors as much as possible. We are planning to add a tree buffer at this time. Below is additional information written by Dr. Erin Cortus pertaining to the South Dakota Odor Footprint Tool provided by SDSU:

The South Dakota Odor Footprint Tool (SDOFT) provides estimates of the odor footprint for livestock facilities in South Dakota. Think of a footprint in the sand. If the pressure increases, the indented area will also increase. An odor footprint works the same way. As odor emission increases, the area affected increases. As odor emission decreases, so does the area affected. The key components to the odor footprint estimate are the South Dakota County, the type of housing and/or manure storage, the surface area of the housing or manure storage, and whether there are any odor control technologies in place. The list of odor control technologies currently built into SDOFT are biofilters, oil sprinkling and manure storage covers (geotextile, impermeable or straw).

An odor footprint is shown through annoyance-free frequency curves during warm weather. For example, an annoyance-free frequency of 97% means that annoying odors should not be experienced more than 22 hours a month between April and October, at or beyond the setback distance estimate. The affected area is rarely a perfect circle around an odor source – this is because there are different setback distances in different directions, depending on the prevailing winds between April and October for the selected county. Annoyance-free does not mean odor free. Annoyance-free means the odor intensity is a 2, on a scale of 0-5, for which the majority of the population would not find annoying. Note: Cold weather reduces odor generation by manure sources, so the footprint would be smaller during winter months.

Odor footprint estimates are useful for livestock producers, local government land use planners, and citizens concerned about the odor impact of existing, expanding or new animal production sites. These estimates are based on measured odor emission rates and dispersion modeling. SDOFT takes average South Dakota climatic conditions into account. While SDOFT does not take into account all of the impacts topography and site-specific features (like animal diet and management) can have on the odor footprint for a particulate site, it does provide a starting point for investigating the impacts odor-mitigating technologies can have on the area surrounding a facility.

- 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.

Our enclosed facility will not expose pens to uncontrolled water and the site will be graded to direct storm-water drainage away from the facility so to avoid any standing water near the facility.

- 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 accepted industry standards. (Exhibit #11)

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- F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:

Aside from daily cleaning as needed, each facility will empty out and receive new pigs approximately 2.5 times per year during which times it will be fully disinfected and power washed throughout the inside of the building.

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 tanker equipment (covered/contained) for direct application via injection.

The time frame is expected to take three days 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.

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

Industry Best Management practices are to control the manure/wastewater in a covered pit. The design of Karl Schenk's facility is designed to do this. Although the sealed concrete pit has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This greatly controls the dissemination of odor to the neighboring area as reflect in the attached odor model.

Industry Best Management Practices are to apply the manure/nutrient as a fertilizer to farmed fields. To control odor, the best practice is to do this once annually and to do it via direct injection to reduce gas and particle emissions. This best practice is more costly than direct spreading on top of the soil 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 Karl Schenk 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. Karl Schenk's operation shall follow these practices.

Aeriation, anaerobic lagoons and digesters and solid separation are all practices that may reduce odor and particle emissions at additional expense. Karl Schenk's operation will employ the covered pit 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 to limit the effect of odor on neighboring residences is one of the most effective best management practices. The attached odor model demonstrates the limited impact this facility is expected to have on its neighbors based upon greater than one-half mile. (Exhibit #6)

- 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

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

<b>Exhibit #7 &amp; #7A &amp; #7B</b>		
<b>Resident</b>	<b>Address</b>	<b>City / State / Postal Code</b>
Tyler Hoxeng	44826 305 <sup>th</sup> Street	Volin, SD 57072
Jerry Gustad	44746 305 <sup>th</sup> Street	Volin, SD 57072
Tyler Hacecky	30616 446 <sup>th</sup> Avenue	Mission Hill, SD 57046
Tom Moore	30665 446 <sup>th</sup> Avenue	Mission Hill, SD 57046
Duane Tiezen	30627 446 <sup>th</sup> Avenue	Mission Hill, SD 57046
David Helgerson	30589 306 <sup>th</sup> Street	Mission Hill, SD 57046
Richard Adams	44521 306 <sup>th</sup> Street	Mission Hill, SD 57046
Gary Smith	30572 446 <sup>th</sup> Avenue	Mission Hill, SD 57046
Bob Smith	44630 306 <sup>th</sup> Street	Mission Hill, SD 57046
Daniel Grant	30626 446 <sup>th</sup> Avenue	Mission Hill, SD 57046
A Palu	44741 305 <sup>th</sup> Street	Volin, SD 57072

*There are no public meeting sites within ½ mile of the proposed facilities.*

*All manure application setbacks will be followed in accordance to the Zoning Ordinance and incorporated by injection in to the soil.*

*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 Exhibit #4, #4A, #4B additional field information in original application)*

- 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.

*Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Our intent, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure in the fall after harvest. In rare instances, the manure will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with both Yankton County Zoning Ordinances.*

**Additional procedures Karl Schenk 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. Manage mortalities per SD Animal Industry Board requirements.
2. 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
<i><u>There are no known Public Wells within 1,000 feet of fields.</u></i>	
B. Private Wells	250 feet
<i><u>The applicant will meet the setback requirement for Private Wells.</u></i>	
C. Private Wells (Operator's)	150 feet
<i><u>The applicant will meet the setback requirement for Private Wells (Operator's).</u></i>	
D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply	1,000 feet
<i><u>The applicant will meet the setback requirement for Lakes, Rivers, Streams Classified as Public Drinking Water Supplies.</u></i>	
E. Lakes, Rivers and Streams Classified as Fisheries	200 feet

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

F. All Public Road Right-of-ways 10 feet  
The applicant will meet the setback requirement for All Public Road Right-of-ways.

G. Incorporated Communities 660 feet  
The applicant will meet the setback requirement for Incorporated Communities.

H. A Residence other than the Operators 100 feet  
The applicant will meet the setback requirement for a Residence other than the Operators.

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 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.

B. Private Wells 250 feet  
The facility will not irrigate or surface apply any nutrient applications.

C. Private Wells(Operator's) 150 feet  
The facility will not irrigate or surface apply any nutrient applications.

D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.

E. Lakes, Rivers and Streams Classified as Fisheries 660 feet  
The facility will not irrigate or surface apply any nutrient applications.

F. All Public Road Right-of-ways (Surface Applied) 10 feet  
The facility will not irrigate or surface apply any nutrient applications.

G. All Public Road Right-of-ways (Irrigated Application) 100 feet  
The facility will not irrigate or surface apply any nutrient applications.

H. Incorporated Communities (Surface Applied) 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.

I. Incorporated Communities (Irrigated Application) 2,640 feet  
The facility will not irrigate or surface apply any nutrient applications.

J. A Residence other than the Operators (Surface Applied) 330 feet  
The facility will not irrigate or surface apply any nutrient applications.

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:

1. 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.

2. 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.

3. No runoff or diffused spray from the system onto neighboring property or public right-of-

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way will be allowed.

Applicant is not requesting irrigation application permit.

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

Applicant is not requesting irrigation application permit.

5. 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 111318P: Moved by Becker, second by Kretsinger to recommend approval of a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, a Conditional Use Permit to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, NE1/4, E3/4, NW1/4, & N3/7, SE1/4, NE1/4, exc Gray's Addition & N3/7, E3/4, SW1/4, NE1/4, S24-T94N-R55W hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 306th Street, Mission Hill, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Joshua Johnson. Applicant is requesting a Conditional Use Permit to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. Said property is legally described as Johnson Family Addition, S12-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30443 446<sup>th</sup> Avenue, Volin, SD.

Planning Commission chairperson, Mike Welch, stated this hearing will follow the written protocol:

Yankton County Planning Commission  
Meeting Protocol

9-12-17

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

Joshua Johnson stated the application meets all requirements for Article 5, Section 519. The proposed site and surrounding parcels are owned by the same partnership. The site meets the Right of Way (ROW) setback requirement. Mr. Johnson proposal is a curtain ventilated barn with no discharge operation.

Mr. Welch requested comments from the proponents.

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Craig Johnson, county resident, stated his approval of the Conditional Use Permit as an opportunity for his son and future family.

Brad Hohn, MDS – Parkston, SD, stated the technology, safety factors, monitoring equipment and backup generator are all part of the facility. The electrostatic fencing is experimental at present time.

Robert Freng, county resident, stated his approval of the Conditional Use Permit. Mr. Freng states zoning should protect agriculture producers in Yankton County. The application shows the applicant meets all zoning requirements which promotes good managers and operation decisions. Mr. Freng also stated frustration with the “Quality of Life” group and impact on the “Right to Farm” interest.

Mr. Welch requested comments from the opponents.

Kristi Schultz, county resident, stated the Conditional Use Permit should be denied. The application is not addressing performance bonds, road maintenance agreements, modern “state of art” facilities, biofilters, buffer of evergreens, electrostatic fencing, feed additives, air monitoring for noxious gases, disease & insect control, ground water monitor, shallow aquifers, berms of specific specifications, grass buffer strips, no manure applications on 10% slopes, soil testing, annual inspection by SD Department of Environment and Natural Resources, mandatory Concentrated Animal Feeding Operation training, enough barns in Yankton County

Paige Herrig, neighbor, stated his opposition to the proposal and requests conditions on the proposal.

Mr. Welch stated the applicant has ten (10) minutes for rebuttal.

No rebuttal was provided.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the site plan. The odor footprint model will be utilized to monitor the facilities for odor control.

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

Yankton County Planning Commission

Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Joshua Johnson

Parcel Number: 06.012.150.100

Legal description: Johnson Family Addition, S12-T94N-R55W

Physical Address: 30443 446<sup>th</sup> Avenue, Volin, SD

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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 (Article 5, Section 519) to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. Said property is legally described as Johnson Family Addition, S12-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30443 446<sup>th</sup> Avenue, Volin, 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 November 2, 2108 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 9:00 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Planning Commission chairperson, Mike Welch, stated this hearing will follow the written protocol:

Yankton County Planning Commission  
Meeting Protocol

9-12-17

- The application is introduced by the chairperson.
- The P&Z staff provides application details and ordinance requirements.
- Applicant presents application, provides any expert support.
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No rebuttal was provided.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the site plan. The odor footprint model will be utilized to monitor the facilities for odor control.

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 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 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 (306<sup>th</sup> Avenue) and site plan turn around for emergency vehicles. (Exhibit #3)

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 are 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 #3)

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 #3)

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- 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. Exhibit #3)
- E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering at this site location will provide trees / shrubs (Exhibit #3).
- 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 (Exhibit #3).
- 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)
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)
Class E (300 – 999)	Section 519 (2,3,4*,5,7(e),8(e),9,10,11,12,13)

This is a Class E proposed operation. The facility will be one (1) 2400 head feeder swine (960 animal units).

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 is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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.

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The facility will be required to receive and maintain a Storm Water Permit by South Dakota Department of Environment and Natural Resources. The DENR contact is Kent Woodmansey, Natural Resources Feedlot Engineer.

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

As illustrated in the attached site plan, the proposed facility will meet or exceed all setbacks as required in the Yankton County Zoning Ordinance for a Class E CAFO. The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #3).

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:

A. Proposed maintenance of waste facilities;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

B. Land application process and/or methods;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

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 facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

5. New animal feeding operations, new CAFO's and waste facilities shall be setback six hundred and sixty (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.

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The facility is compliant with the Property Line Setback / Right of Way (ROW) Setback and will meet neighboring residential setback with applicant detailed site plans verifying compliance. (Exhibit #3)

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

The proposed site is outside the described area and a Class E operation. (Exhibit #3)

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, 431<sup>st</sup> 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 E operation. (Exhibit #3)

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 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
E. Class E	1,320 feet

The proposed site is a Class E operation outside the described buffer area. (Exhibit #3)

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.

Manure from the facility will be transported via either dragline hose or in leak proof tankers and incorporated in to the soil of the lands in the NMP by injection. Yankton County load limits will be followed and no manure will be transported further than five (5) miles. The plan will provide details regarding aspects of nutrient application. (Exhibit #4, #4A, #4B additional field information in original application)

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10. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure, and wastewater in such a manner as to control odors and flies. The County Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors shall be addressed in a management control plan:

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

An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented; all operational plans, will be kept updated and implemented (Exhibit #5).

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

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. Mortalities will be screened by a 3-sided, minimum of 4' high enclosure as illustrated in the site plan. (Exhibit #3)

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:

As illustrated in the attached odor model (Exhibit #6), we are proposing to position the facility in such a way to avoid potential odor impacts on neighbors as much as possible. The odor model will be utilized to monitor the facility odor control performance.

Below is additional information written by Dr. Erin Cortus pertaining to the South Dakota Odor Footprint Tool provided by SDSU:

The South Dakota Odor Footprint Tool (SDOFT) provides estimates of the odor footprint for livestock facilities in South Dakota. Think of a footprint in the sand. If the pressure increases, the indented area will also increase. An odor footprint works the same way. As odor emission increases, the area affected increases. As odor emission decreases, so does the area affected. The key components to the odor footprint estimate are the South Dakota County, the type of housing and/or manure storage, the surface area of the housing or manure storage, and whether there are any odor control technologies in place. The list of odor control technologies currently built into SDOFT are biofilters, oil sprinkling and manure storage covers (geotextile, impermeable or straw).

An odor footprint is shown through annoyance-free frequency curves during warm weather. For example, an annoyance-free frequency of 97% means that annoying odors should not be experienced more than 22 hours a month between April and October, at or beyond the setback distance estimate. The affected area is rarely a perfect circle around an odor source – this is because there are different setback distances in different directions, depending on the prevailing winds between April and October for the selected county. Annoyance-free does not mean odor free. Annoyance-free means the odor intensity is a 2, on a scale of 0-5, for which the majority of the population would not find annoying. Note: Cold weather reduces odor generation by manure sources, so the footprint would be smaller during winter months.

Odor footprint estimates are useful for livestock producers, local government land use planners, and citizens concerned about the odor impact of existing, expanding or new animal production sites. These estimates are based on measured odor emission rates and dispersion modeling.

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SDOFT takes average South Dakota climatic conditions into account. While SDOFT does not take into account all of the impacts topography and site-specific features (like animal diet and management) can have on the odor footprint for a particulate site, it does provide a starting point for investigating the impacts odor-mitigating technologies can have on the area surrounding a facility.

- 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.

Our enclosed facility will not expose pens to uncontrolled water and the site will be graded to direct storm-water drainage away from the facility so to avoid any standing water near the facility (Exhibit #3).

- 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 accepted industry standards. (Exhibit #3)

- F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:

Aside from daily cleaning as needed, each facility will empty out and receive new pigs approximately 2.5 times per year during which times it will be fully disinfected and power washed throughout the inside of the building.

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 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 (Exhibit #5).

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

- Industry Best Management practices are to control the manure/wastewater in a covered pit as this facility is designed to do. Although the sealed concrete pit has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This greatly controls the dissemination of odor to the neighboring area as reflected in the attached odor model.
- Industry Best Management Practices are to apply the manure/nutrient as a fertilizer to farmed fields. To control odor, the best practice is to do this once annually and to do it via direct injection to reduce gas and particle emissions. This best practice is more costly than direct

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spreading on top of the soil but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.

- Industry Best Management Practices are to promptly remove mortalities and that is the practice we 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. Our operation shall follow these practices.
- By having the building above the concrete pit, our facility will be using the covered pit method as an effective best industry management practice way to control odor and particle emissions.
- Location of the facility to limit the effect of odor on neighboring residences is one of the most effective best management practices. The attached odor model demonstrates the limited impact this facility is expected to have on its neighbors.

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

<b>Exhibit #4B</b>		
<b>Resident</b>	<b>Address</b>	<b>City / State / Postal Code</b>
CUTTS, JAY F	44681 309 ST	MISSION HILL SD 57046
FRENG, DOUGLAS A	43474 KAISER RD	YANKTON SD 57078
FRENG, KATIE (AKA KATIE MARIE)	30431 4445 AVE	MISSION HILL SD 57046
FRENG, RANDY S	30405 444 AVE	MISSION HILL SD 57046
FRENG, THOMAS C	1207 EAST 15 ST	YANKTON SD 57078
HANSON, LYNN MELVIN REV TRUST	30484 445 AVE	MISSION HILL SD 57046
HANSON, LYNN MELVIN REV TRUST	30484 445 AVE	MISSION HILL SD 57046
HANSON, RONALD G	1000 EAST 18 ST	YANKTON SD 57078
HUBER, KAREN A	44334 304 ST	MISSION HILL SD 57046
ROTH, TOM JAY	30324 444 AVE	MISSION HILL SD 57046
SVENDSEN, TAD H	2683 S LIMA ST	AURORA CO 80014
VAN OSDEL, BARRY G	44732 SD HWY 50	MISSION HILL SD 57046

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WOLFE, DENNIS W	30287 444 AVE	MISSION HILL SD 57046
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**Exhibit #4C**

Resident	Address	City / State / Postal Code
BOYD, MARY ANNE	1004 MULBERRY ST	YANKTON SD 57078
CHRISTIANSEN, CHAUNCEY	30172 449 AVE	VOLIN SD 57072
DEJONG TRUST (THE)	30365 448 AVE	VOLIN SD 57072
ENGBRECHT, ELMER A	30495 446 AVE	VOLIN SD 57072
GUSTAD, JEANNIE K REV LV TRUST	30701 CEDAR BLUFF RD	MISSION HILL SD 57046
GUSTAD, ORDELL B TRUST	30701 CEDAR BLUFF RD	MISSION HILL SD 57046
GUSTAD, PAUL C	30393 447 AVE	VOLIN SD 57072
HANSON, LYNN MELVIN REV TRUST	30484 445 AVE	MISSION HILL SD 57046
HLADKY, ADAM	30481 446 AVE	VOLIN SD 57072
HORTON, CHIP L	30440 446 AVE	VOLIN SD 57072

There are no public meeting sites within ½ mile of the proposed facilities. All manure application setbacks will be followed in accordance to the Zoning Ordinance and incorporated by injection in to the soil.

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 Exhibit #4, #4A, #4B, #4C, additional field information in original application)

- 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.

Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Our intent, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure in the fall after harvest. In rare instances, the manure will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with both Yankton County Zoning Ordinances.

**Additional procedures Joshua Johnson 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

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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. Manage mortalities per SD Animal Industry Board requirements.
2. 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 |
| <i><u>There are no known Public Wells within 1,000 feet of fields.</u></i>   |            |
| B. Private Wells   | 250 feet   |
| <i><u>The applicant will meet the setback requirement for Private Wells.</u></i>   |            |
| C. Private Wells (Operator's)  | 150 feet   |
| <i><u>The applicant will meet the setback requirement for Private Wells (Operator's).</u></i>  |            |
| D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply   | 1,000 feet |
| <i><u>The applicant will meet the setback requirement for Lakes, Rivers, Streams Classified as Public Drinking Water Supplies.</u></i> |            |
| E. Lakes, Rivers and Streams Classified as Fisheries   | 200 feet   |
| <i><u>The applicant will meet the setback requirement for Lakes, Rivers, Streams Classified as Fisheries.</u></i>                      |            |
| F. All Public Road Right-of-ways   | 10 feet    |
| <i><u>The applicant will meet the setback requirement for All Public Road Right-of-ways.</u></i>                                       |            |

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- G. Incorporated Communities 660 feet  
The applicant will meet the setback requirement for Incorporated Communities.
- H. A Residence other than the Operators 100 feet  
The applicant will meet the setback requirement for a Residence other than the Operators.
14. 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 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.
- B. Private Wells 250 feet  
The facility will not irrigate or surface apply any nutrient applications.
- C. Private Wells(Operator’s) 150 feet  
The facility will not irrigate or surface apply any nutrient applications.
- D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.
- E. Lakes, Rivers and Streams Classified as Fisheries 660 feet  
The facility will not irrigate or surface apply any nutrient applications.
- F. All Public Road Right-of-ways (Surface Applied) 10 feet  
The facility will not irrigate or surface apply any nutrient applications.
- G. All Public Road Right-of-ways (Irrigated Application) 100 feet  
The facility will not irrigate or surface apply any nutrient applications.
- H. Incorporated Communities (Surface Applied) 1,000 feet  
The facility will not irrigate or surface apply any nutrient applications.
- I. Incorporated Communities (Irrigated Application) 2,640 feet  
The facility will not irrigate or surface apply any nutrient applications.
- J. A Residence other than the Operators (Surface Applied) 330 feet  
The facility will not irrigate or surface apply any nutrient applications.
- K. A Residence other than the Operators (Irrigated Application) 750 feet  
The facility will not irrigate or surface apply any nutrient applications.
15. 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:
6. 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.
7. 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.
8. 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.
9. No irrigation of liquid on frozen ground or over FSA designated wetlands.  
Applicant is not requesting irrigation application permit.
10. No “big gun” type irrigation systems shall be used for liquid manure or dewatering

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lagoons or other manure containment systems.

Applicant is not requesting irrigation application permit.

Action 111318Q: Moved by Williams, second by Kretsinger to recommend approval, based on Finding of Facts dated November 13, 2018, a Conditional Use Permit to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. Said property is legally described as Johnson Family Addition, S12-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30443 446<sup>th</sup> Avenue, Volin, SD. By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Craig Johnson. Applicant is requesting a Conditional Use Permit to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4 & SW1/4, exc Lot H-1 & exc Lot R-65, NW1/4, SW1/4 & exc Lot R-66, SW1/4, SW1/4 & exc 10 Acres & exc S300', W330', SW1/4, SW1/4, exc S300', E200', W530', SW1/4, SW1/4, S7-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30441 447<sup>th</sup> Avenue, Volin, SD.

Craig Johnson stated he is involved with a lawsuit and the process is now fifteen months old. Mr. Johnson wants to place nursery swine in the barn and the fastest process is to get a Conditional Use Permit for the Class F barn. Mr. Johnson does believe the Class F requires a Conditional Use Permit but the delay in the judicial system is financially difficult for the farm operation.

Mr. Welch requested any proponents for the application.

John Gunderson stated the legal system is not responsive and the selection of just swine operation is not a proper process to implement the zoning ordinance.

Robert Freng stated the court cases have extended the application requirements and it appears small acreage owners have control over excessive agriculture property. Mr. Johnson is doing an agriculture activity in an Agriculture District.

Mr. Welch requested any opponents for the application.

Veronica Wagner stated her opposition to the permit as CAFO are not good for the environment. The health consequences are real and research shows it is dangerous.

The Planning Commission discussed the application and determined all requirements were completed.

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

Yankton County Planning Commission

Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

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Applicant: Craig Johnson

Parcel Number: 02.007.200.200

Legal description: NE1/4 & SW1/4, exc Lot H-1 & exc Lot R-65, NW1/4, SW1/4 & exc Lot R-66, SW1/4, SW1/4 & exc 10 Acres & exc S300', W330', SW1/4, SW1/4, exc S300', E200', W530', SW1/4, SW1/4, S7-T94N-R54W

Physical Address: 30443 446<sup>th</sup> Avenue, Volin, 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 a Class F 2400 head (240 AU Animal Units) pork (finisher swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. (Article 5, Section 507) Said property is legally described as NE1/4 & SW1/4, exc Lot H-1 & exc Lot R-65, NW1/4, SW1/4 & exc Lot R-66, SW1/4, SW1/4 & exc 10 Acres & exc S300', W330', SW1/4, SW1/4, exc S300', E200', W530', SW1/4, SW1/4, S7-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30441 447<sup>th</sup> Avenue, Volin, 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 November 3, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 9:45 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Craig Johnson stated he is involved with a lawsuit and the process is now fifteen months old. Mr. Johnson wants to place nursery swine in the barn and the fastest process is to get a Conditional Use Permit for the Class F barn. Mr. Johnson does believe the Class F requires a Conditional Use Permit but the delay in the judicial system is financially difficult for the farm operation.  
Mr. Welch requested any proponents for the application.  
John Gunderson stated the legal system is not responsive and the selection of just swine operation is not a proper process to implement the zoning ordinance.  
Robert Freng stated the court cases have extended the application requirements and it appears small acreage owners have control over excessive agriculture property. Mr. Johnson is doing an agriculture activity in an Agriculture District.  
Mr. Welch requested any opponents for the application.  
Veronica Wagner stated her opposition to the permit as CAFO are not good for the environment. The health consequences are real and research shows it is dangerous.  
The Planning Commission discussed the application and determined all requirements were completed.  
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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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 to approve granting of the conditional use permit with conditions.*
  - 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 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 (447<sup>th</sup> Avenue) and site plan turn around for emergency vehicles (Exhibit #3).*
  - 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 are 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 #3)*
  - 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 #3)*
  - 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 odor footprint modeling for annoyance-free conditions. The area residences are in the 98% or greater annoyance free zones. The odor footprint model will be utilized to monitor facility odor control management (Exhibit #4).*
  - 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 (Exhibit #3).*
  - 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*

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*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.*

Action 111318R: Moved by Bodenstedt, second by Kretsinger to recommend approval of a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4 & SW1/4, exc Lot H-1 & exc Lot R-65, NW1/4, SW1/4 & exc Lot R-66, SW1/4, SW1/4 & exc 10 Acres & exc S300', W330', SW1/4, SW1/4, exc S300', E200', W530', SW1/4, SW1/4, S7-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30441 447<sup>th</sup> Avenue, Volin, SD.

By roll call vote, all members voted aye.

Motion carried.

This was the time and place for discussion with Jay Cutts. Applicant is requesting a Conditional Use Permit to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, NW1/4, exc Lot 1, Block 1, Hanson Addition, S3-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 303<sup>rd</sup> Street, Mission Hill, SD.

Jay Cutts stated the application is complete and meets the zoning requirements for a Class F nursery barn. Mr. Cutts is proposing a tree buffer on the east side of the facility. The ingress / egress is the county road 303<sup>rd</sup> Street.

No proponents were provided.

Opponents for the application were Dale Knode, neighbor, stated the seventy five (75) foot setback is not sufficient to protect his family farm.

Cheri Loest stated the proposed nursery barn is within a one-half mile of a previous approved production barn on 303<sup>rd</sup> Street. The operations will be part of the DENR permit if both facilities become operational.

Jay Cutts rebuttal is the proposed property is low yielding, on a county hard surface road and required setbacks are met.

The Planning Commission discussed the application and determined the requirements are met.

Mr. Kettering requested more communication with the neighbors during an application process.

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

Yankton County Planning Commission

Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Jay Cutts

Parcel Number: 06.003.400.100

Legal description: W1/2, NW1/4, exc Lot 1, Block 1, Hanson Addition, S3-T94N-R55W

Physical Address: TBA 303<sup>rd</sup> Street, Mission Hill, 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 (Article 5, Section 507) to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, NW1/4, exc Lot 1, Block 1, Hanson Addition, S3-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 303<sup>rd</sup> Street, Mission Hill, 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 November 3, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 10:10 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Jay Cutts stated the application is complete and meets the zoning requirements for a Class F nursery barn. Mr. Cutts is proposing a tree buffer on the east side of the facility. The ingress / egress is the county road 303<sup>rd</sup> Street.  
No proponents were provided.  
Opponents for the application was Dale Knode, neighbor, stated the seventy five (75) foot setback is not sufficient to protect his family farm.  
Cheri Loest stated the proposed nursery barn is within a one-half mile of a previous approved production barn on 303<sup>rd</sup> Street. The operations will be part of the DENR permit if both facilities become operational.  
Jay Cutts rebuttal is the proposed property is low yielding, on a county hard surface road and required setbacks are met.  
The Planning Commission discussed the application and determined the requirements are met. Mr. Kettering requested more communication with the neighbors during an application process.  
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:

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- A. Recommend granting of the conditional use;
  - B. Recommend granting with conditions; or  
*The commission recommends to approve granting of the conditional use permit with conditions.*
  - 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 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 (303<sup>rd</sup> Street) and site plan turn around for emergency vehicles (Exhibit #3, #4A).*
  - 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 are 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 #3, #4A)*
  - 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 #3, #4A)*
  - 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 will be provided on the east side at this site location.*
  - 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. (Exhibit #3, #4A).*
  - 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.*

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Action 111318S: Moved by Kretsinger, second by Gudahl to recommend approval of a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, NW1/4, exc Lot 1, Block 1, Hanson Addition, S3-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 303<sup>rd</sup> Street, Mission Hill, SD.

By roll call vote, seven members voted aye, one member voted nay.  
Motion carried.

This was the time and place for discussion with Frank Cutts. Applicant is requesting a Conditional Use Permit to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, exc Tract B, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 447<sup>th</sup> Avenue, Mission Hill, SD.

Frank Cutts stated the application is complete and meets the zoning requirements for a Class F nursery barn. The ingress / egress is 447<sup>th</sup> Avenue.

No proponents were provided.

Opponents for the application were Rick Sawtell, neighbor, stated the seventy five (75) foot setback is not sufficient to protect his family residence. The structure location is seventy-five (75) feet from property lines but eight hundred (800) feet from the Sawtell residence.

Doug Haar, neighbor Ramona Bagstad son in law, stated medical issues, quality of life concerns and the barn located seventy-five (75) feet from the Bagstad's residence. Mr. Haar also stated the family is a Centennial Farm, decreasing property values and infrastructure issues. The structure location is seventy-five (75) feet from property lines but eight hundred (880) feet from the Bagstad residence.

Paige Herrig stated his opposition to the CUP request as a health issue and odor concentration with multiple barns in the area.

Nathan Sawtell, neighbor, stated the barn is too close to the residence. He requests the barn be moved to a different location.

Frank Cutts rebuttal is the Class F setback requirements are met.

The Planning Commission discussed the application and determined the requirements are met.

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

Yankton County Planning Commission

Meeting date: November 13, 2018

CONDITIONAL USE  
Article 18, Section 1805

FINDINGS OF FACT

Yankton County Planning Commission  
November 13, 2018

Applicant: Frank Cutts

Parcel Number: 02.030.100.100

Legal description: NE1/4 & SW1/4, exc Lot H-1 & exc Lot R-65, NW1/4, SW1/4 & exc Lot R-66, SW1/4, SW1/4 & exc 10 Acres & exc S300', W330', SW1/4, SW1/4, exc S300', E200', W530', SW1/4, SW1/4, S7-T94N-R54W

Physical Address: TBA 447 Avenue, Mission Hill, 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 (Article 5, Section 507) to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, exc Tract B, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 447<sup>th</sup> Avenue, Mission Hill, 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 November 3, 2018 (supported by affidavit), a legal notice was published on November 3, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 5, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 10:25 pm on November 13, 2018 in the Yankton County Government Center County Commission chambers. Frank Cutts stated the application is complete and meets the zoning requirements for a Class F nursery barn. The ingress / egress is 447<sup>th</sup> Avenue.  
No proponents were provided.  
Opponents for the application were Rick Sawtell, neighbor, stated the seventy five (75) foot setback is not sufficient to protect his family residence. The structure location is seventy-five (75) feet from property lines but eight hundred (800) feet from the Sawtell residence.  
Doug Haar, neighbor Ramona Bagstad son in law, stated medical issues, quality of life concerns and the barn located seventy-five (75) feet from the Bagstad's residence. Mr. Haar also stated the family is a Centennial Farm, decreasing property values and infrastructure issues. The structure location is seventy-five (75) feet from property lines but eight hundred (880) feet from the Bagstad residence.  
Paige Herrig stated his opposition to the CUP request as a health issue and odor concentration with multiple barns in the area.  
Nathan Sawtell, neighbor, stated the barn is too close to the residence. He requests the barn be moved to a different location.  
Frank Cutts rebuttal is the Class F setback requirements are met.  
The Planning Commission discussed the application and determined the requirements are met.  
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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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 to approve granting of the conditional use permit with conditions.*
  - 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 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 (447 Avenue) and site plan turn around for emergency vehicles (Exhibit #3, #4A).*
  - 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 are 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 #3, #4, #4A, #4B)*
  - 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 #3, #4, #4A, #4B)*
  - 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 will not be at required at this site location.*
  - 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. (Exhibit #3, #4, #4A, #4B).*
  - 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.*

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Action 111318T: Moved by Kretsinger, second by Guthmiller to recommend approval of a Conditional Use Permit based on Finding of Facts dated November 13, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to build/operate a Class F 2400 head (240 AU Animal Units) pork (swine under 55 pounds) nursery barn in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, exc Tract B, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 447<sup>th</sup> Avenue, Mission Hill, SD.  
By roll call vote, six members voted aye, two members voted nay.  
Motion carried.

The next agenda item is Accessory Structures in Yankton County. The Zoning Administrator, Pat Garrity, briefly discussed some thoughts and concepts regarding amendment changes for accessory structures in Rural Residential Districts. The discussion will continue at the December 11, 2018 meeting.

Public comment period.  
No comment.

Action 111318U: Moved by Kretsinger, 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 7:00 P.M. Tuesday, December 11, 2018.**

Respectfully submitted:  
Patrick Garrity AICP  
Zoning Administrator