

Yankton County Planning Commission
September 26, 2018

The meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welsh at 7:00 p.m. on September 26, 2018.

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

Members absent: Williams

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 Jay Cutts. 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 and Minimum Property Line Setback requirement from 660 feet to 75 feet in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, SE1/4, S19-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 307th Street, Mission Hill, SD.

Jay Cutts stated the application has met all Conditional Use Permit requirements for a Class E Animal Feeding Operation. The variance request of Minimum ROW Setback requirement from 330 feet to 150 feet and Minimum Property Line Setback requirement from 660 feet to 75 feet is the main concern in this application. Mr. Cutts explained his production property is in Mission Hill South Township which is in the Zone A Floodplain. Yankton County prohibits Animal Feeding Operations in established floodplains. The site is in the five (5) mile transportation buffer to supply these southern fields with the nutrient management plan. The site plan shows a barn location with the best setbacks from area residents and the Zone A Floodplain. The proposal is the same design as the almost completed facility north of this site.

Mr. Cutts stated Yankton County has granted many variances in the Mission Hill North Township. The most common variance is the Minimum Lot Requirement for residential farmsteads or acreages. This is not always meeting the intent of the Agriculture District “and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.”

Proponents for the application were requested to present their comments:

Lynn Peterson, area businessman, stated the agriculture economy is currently in downturn. The Class E facilities provide an opportunity to diversify income and increase profitability of the corn produced in the area. Each barn is consuming one half section (320 acres) per year. The city of Yankton has several CAFO’s located near the community. The manure management is in place and is effectively implemented year after year. In 2012 Yankton County agriculture census was 10,000 head of swine, Sioux County, IA census was 1,100,000,000 head of swine. Yankton County has some room for expansion of pork production.

Mr. Peterson also discussed some comparisons regarding health concerns and Concentrated Animal Feeding Operations. A comparison between Sioux County, IA and Yankton County, SD shows little difference between the counties in regard to air quality and respiratory health issues.

Brad Holm, MDS Manufacturing, stated the natural ventilated curtain barn are modern and provide many features a producer requires to be successful. Other barn designs are appropriate for

Yankton County Planning Commission
September 26, 2018

producers based on weather conditions, topography, production type and many other factors. Mr. Holm also stated his experience with injection application of manure in a nutrient management program is the best choice for healthy soils.

Opponents for the application were requested to present their comments:

Milo Hanson, an adjacent landowner impacted by the 660 foot setback, request no variance for the application. Mr. Hanson stated the applicant has not provided sufficient hardship for his variance request.

Andrea Wittmayer, an adjacent landowner, stated her opposition to the variance request. She provided a letter (Exhibit #1).

Brandon Gramkow, an adjacent landowner, sated his opposition to the variance request. He provided a letter (Exhibit #2).

Patty Gramkow stated her opposition to variance and conditional use permit. She stated several things about campaign signs, a review of the CAFO School in Huron, SD, the Beresford SDSU research facility and the flood waters from this summer rain events (Exhibit #5).

Paige Heirigs, Mission Hill resident, stated his opposition to the variance and conditional use permit. He states chapter seven of the Comprehensive Plan and Section 105 of the Yankton County Zoning Ordinance. Mr. Heirigs states the curtain barns are not compatible with the public welfare because of the particulates and pathogens in the odor. Mr. Heirigs will not be able to enjoy his garden, his outdoor life will be diminished and his property value will diminish. The previous application was denied in January and this application should be denied.

Kristi Schultz, area resident, stated her opposition to the variance and conditional use permit. M. Schultz stated M. Peterson is not a doctor and feels the statistics will be worse if CAFO's are permitted in Yankton County. She also stated that manure is not organic until the feed and production practices are certified... deadly gases are ventilated from curtain barns...Attorney Mr. Peterson stated it is illegal to have variances along with conditional use permits...this application only benefits the producer...everything is the same as the January application...court costs will be incurred if this is approved...any future permits will require berms around the facility, performance bonds, enclosed barns with biofilters, buffer evergreen strips, electronic fences, ground water monitors, semi-annual inspections, shallow well monitoring, application training, no CAFO systems and no combining feeding operations or application fields.

Michael Welch admitted two letters to the record as opposition to the Conditional Use Permit and variance request. The letters were from David Nielsen (Exhibit #3) and LaRue Hanson (Exhibit #4).

A ten minute (10) rebuttal from the applicant, Mr. Cutts, stated the Agriculture District intent as provided in Article 5, Section 501...odor will always be present in Agriculture Districts...nutrient management plans are science based application systems to properly apply multiple elements beyond the N-P-K requirements with many micro nutrients included in the plan...the floodplain is on part of the property but the barn is not in the floodplain as provided in the site plan...animal production is a listed permitted principal use with conditions as listed in Section 519...town of Mission Hill has an open lagoon and no complaints...restated his property south of Mission Hill is in the floodplain and it is prohibited...this is forty (40) acre field (1,320 feet by 1,320 feet) and it is very difficult to site a barn with the current six hundred sixty (660) foot and three hundred thirty (330) foot setback requirements.

The Planning Commission began discussion and Mr. Gudahl requested Brad Holm to discuss types of barns and the ventilation systems designs. Mr. Holm discussed curtain barns and tunnel air barns, dust control and animal health concerns.

Yankton County Planning Commission
September 26, 2018

Don Kettering stated the precedence for variances is to evaluate the neighbor property owners concerns regarding the applicant's request. It is evident the conditional use permit is not the issue but the variance is meeting resistance from adjacent property owners. The Planning Commission discussed the Marquardt conditional use permit and variance request. The applicant received a variance of three hundred thirty (330) feet to locate a barn from the adjacent property line. The discussion continued about the hardship of the topography and floodplain impact on the site plan. The Planning Commission discussed the application and asked for a continuance to allow the applicant to arrange the barn on the site plan to meet the adjacent property line setback (660 feet) and allow a 180 foot variance for the Right of Way setback requirements (330 feet).

Yankton County Planning Commission

Meeting date: September 26, 2018

CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Jay Cutts

Parcel Number: 02.019.200.200

Legal description: SE1/4, SE1/4, S19-T94N-R54W

Physical Address: TBA 307th 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 to build one (1) 2400 head pork (finisher swine over 55 pounds) Class E (960 AU Animal Units) finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, SE1/4, S19-T94N-R54W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 307th 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 September 13, 2018 (supported by affidavit), a legal notice was published on September 15, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2017.*
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; *A public meeting was held at 7:05 pm on September 26, 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

Yankton County Planning Commission
September 26, 2018

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.

Jay Cutts stated the application has met all Conditional Use Permit requirements for a Class E Animal Feeding Operation. The variance request of Minimum ROW Setback requirement from 330 feet to 150 feet and Minimum Property Line Setback requirement from 660 feet to 75 feet is the main concern in this application. Mr. Cutts explained his production property is in Mission Hill South Township which is in the Zone A Floodplain. Yankton County prohibits Animal Feeding Operations in established floodplains. The site is in the five (5) mile transportation buffer to supply these southern fields with the nutrient management plan. The site plan shows a barn location with the best setbacks from area residents and the Zone A Floodplain. The proposal is the same design as the almost completed facility north of this site. Mr. Cutts stated Yankton County has granted many variances in the Mission Hill North Township. The most common variance is the Minimum Lot Requirement for residential farmsteads or acreages. This is not always meeting the intent of the Agriculture District “and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.”

Proponents for the application were requested to present their comments:

Lynn Peterson, area businessman, stated the agriculture economy is currently in downturn. The Class E facilities provide an opportunity to diversify income and increase profitability of the corn produced in the area. Each barn is consuming one half section (320 acres) per year. The city of Yankton has several CAFO’s located near the community. The manure management is in place and is effectively implemented year after year. In 2012 Yankton County agriculture census was 10,000 head of swine, Sioux County, IA census was 1,100,000,000 head of swine. Yankton County has some room for expansion of pork production.

Mr. Peterson also discussed some comparisons regarding health concerns and Concentrated Animal Feeding Operations. A comparison between Sioux County, IA and Yankton County, SD shows little difference between the counties in regard to air quality and respiratory health issues.

Brad Holm, MDS Manufacturing, stated the natural ventilated curtain barn are modern and provide many features a producer requires to be successful. Other barn designs are appropriate for producers based on weather conditions, topography, production type and many other factors. Mr. Holm also stated his experience with injection application of manure in a nutrient management program is the best choice for healthy soils.

Opponents for the application were requested to present their comments:

Milo Hanson, an adjacent landowner impacted by the 660 foot setback, request no variance for the application. Mr. Hanson stated the applicant has not provided sufficient hardship for his variance request.

Yankton County Planning Commission
September 26, 2018

Andrea Wittmayer, an adjacent landowner, stated her opposition to the variance request. She provided a letter (Exhibit #1).

Brandon Gramkow, an adjacent landowner, stated his opposition to the variance request. He provided a letter (Exhibit #2).

Patty Gramkow stated her opposition to variance and conditional use permit. She stated several things about campaign signs, a review of the CAFO School in Huron, SD, the Beresford SDSU research facility and the flood waters from this summer rain events (Exhibit #5).

Paige Heirigs, Mission Hill resident, stated his opposition to the variance and conditional use permit. He states chapter seven of the Comprehensive Plan and Section 105 of the Yankton County Zoning Ordinance. Mr. Heirigs states the curtain barns are not compatible with the public welfare because of the particulates and pathogens in the odor. Mr. Heirigs will not be able to enjoy his garden, his outdoor life will be diminished and his property value will diminish. The previous application was denied in January and this application should be denied.

Kristi Schultz, area resident, stated her opposition to the variance and conditional use permit. M. Schultz stated M. Peterson is not a doctor and feels the statistics will be worse if CAFO's are permitted in Yankton County. She also stated that manure is not organic until the feed and production practices are certified... deadly gases are ventilated from curtain barns...Attorney Mr. Peterson stated it is illegal to have variances along with conditional use permits...this application only benefits the producer...everything is the same as the January application...court costs will be incurred if this is approved...any future permits will require berms around the facility, performance bonds, enclosed barns with biofilters, buffer evergreen strips, electronic fences, ground water monitors, semi-annual inspections, shallow well monitoring, application training, no CAFO systems and no combining feeding operations or application fields.

Michael Welch admitted two letters to the record as opposition to the Conditional Use Permit and variance request. The letters were from David Nielsen (Exhibit #3) and LaRue Hanson (Exhibit #4).

A ten minute (10) rebuttal from the applicant, Mr. Cutts, stated the Agriculture District intent as provided in Article 5, Section 501...odor will always be present in Agriculture Districts...nutrient management plans are science based application systems to properly apply multiple elements beyond the N-P-K requirements with many micro nutrients included in the plan...the floodplain is on part of the property but the barn is not in the floodplain as provided in the site plan...animal production is a listed permitted principal use with conditions as listed in Section 519...town of Mission Hill has an open lagoon and no complaints...restated his property south of Mission Hill is in the floodplain and it is prohibited...this is forty (40) acre field (1,320 feet by 1,320 feet) and it is very difficult to site a barn with the current six hundred sixty (660) foot and three hundred thirty (330) foot setback requirements.

The Planning Commission began discussion and Mr. Gudahl requested Brad Holm to discuss types of barns and the ventilation systems designs. Mr. Holm discussed curtain barns and tunnel air barns, dust control and animal health concerns.

Don Kettering stated the precedence for variances is to evaluate the neighbor property owners concerns regarding the applicant's request. It is evident the conditional use permit is not the issue but the variance is meeting resistance from adjacent property owners. The Planning Commission discussed the Marquardt conditional use permit and variance request. The applicant received a variance of three hundred thirty (330) feet to locate a barn from the

Yankton County Planning Commission
September 26, 2018

adjacent property line. The discussion continued about the hardship of the topography and floodplain impact on the site plan. The Planning Commission discussed the application and asked for a continuance to allow the applicant to arrange the barn on the site plan to meet the adjacent property line setback (660 feet) and allow a 180 foot variance for the Right of Way setback requirements (330 feet).

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
 - C. Recommend denial of the conditional use.

The commission recommends to continuance of the conditional use permit.

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; N/A
 - 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; N/A
 - C. Refuse and service areas, with particular reference to the items in (A) and (B) above; N/A
 - D. Utilities, with reference to locations, availability, and compatibility; N/A
 - E. Screening and buffering with reference to type, dimensions, and character; N/A
 - 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; N/A
 - G. Required yards and other open spaces; N/A
 - 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. N/A

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)

Yankton County Planning Commission
September 26, 2018

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.

N/A

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.

N/A

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

N/A

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

Yankton County Planning Commission
September 26, 2018

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.

N/A

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

N/A

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

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

N/A

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

N/A

9. Animal waste shall be transported no further than five miles from the point of origination

Yankton County Planning Commission
September 26, 2018

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.

N/A

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:

N/A

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

N/A

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:

N/A

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.

N/A

E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production.

N/A

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

N/A

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

N/A

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

Yankton County Planning Commission
September 26, 2018

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:**

OwnerAddress1	Exhibit #5 OwnerAddress2	OwnerAddress3
	601 BROADWAY #700	SEATTLE WA 98122
AULD, KEVIN		
BAK, RENEE J	30837 447 AVE	MISSION HILL SD 57046
	44571 CHRIS RD	
BEESON, DUSTIN D		YANKTON SD 57078
BRANAUGH, DARLENE B REV TRUST	PO BOX 8	MISSION HILL SD 57046
CHRIS AND KRISTIE BURKE LLC	PO BOX 220	YANKTON SD 57078
COOK, KEITH	44674 310 ST	MISSION HILL SD 57046
CUTTS, JAY F	44681 309 ST	MISSION HILL SD 57046
	44563 CHRIS RD	
DORZOK, RONALD E		MISSION HILL SD 57046
EPP, RAYMON	30849 448 AVE	MISSION HILL SD 57046
	30925	
FAULK, TIMOTHY	DAKOTA LN	MISSION HILL SD 57046
HEINE FARMS	PO BOX 477	YANKTON SD 57078
HEINE, ARLENE REVOCABLE TRUST	2201 VALLEY RD	YANKTON SD 57078
	30908	
HILLBERG, RONALD C	DAKOTA LN	MISSION HILL SD 57046
HUBER, BERNAL H REV TRUST	44728 309 ST	MISSION HILL SD 57046
J & J FARMING COMPANY LLC	214 CAPITAL ST STE 4	YANKTON SD 57078
J J INDUSTRIES LLC	205 GREEN ST	YANKTON SD 57078
JANSSEN, LAMOINE	PO BOX 75	MISSION HILL SD 57046
	44553 CHRIS RD	
JENSEN, RANDY		MISSION HILL SD 57046
	44573 CHRIS RD	
KOEPSSELL, SCOTT		MISSION HILL SD 57046
LYONS, JIM	30844 447 AVE	MISSION HILL SD 57046

Yankton County Planning Commission
September 26, 2018

MARQUARDT, DOUG	1314 GOLF VIEW LN	YANKTON SD 57078
MARQUARDT, RALPH	PO BOX 1040	YANKTON SD 57078
MISSION HILL PROPERTY LLC	30995 446 AVE	MISSION HILL SD 57046
NELSON, NANCY L	30997 446 AVE	MISSION HILL SD 57046
	41349	
PALSMA, MARLYN	BUZZY'S RD	SPRINGFIELD SD 57062
PAPIK, LELAND	30852 446 AVE	MISSION HILL SD 57046
SCHMIDT, NICHOLAS S	30846 447 AVE	MISSION HILL SD 57046
SCHWADER, TOM	PO BOX 42	MISSION HILL SD 57046
SYLLIAASEN, DOROTHY REV TRUST	44772 309 ST	MISSION HILL SD 57046
	31352 465TH	
WALSH, RANDY J	AVE	VERMILLION SD 57069
WOOD ACRES INC	44755 309 ST	GAYVILLE SD 57031

Exhibit #5A

OwnerAddress1	OwnerAddress2	OwnerAddress3
BAGSTAD, DON A	1005 EAST 13 ST	YANKTON SD 57078
BAGSTAD, RAMONA (LE)	30753 447 AVE	MISSION HILL SD 57046
BERBERICH, JOSEPH A	89851 556 AVE	SAINT HELENA NE 68774
CUTTS, JAY F	44681 309 ST	MISSION HILL SD 57046
FREEBURG LIMITED PARTNERSHIP	PO BOX 188	GAYVILLE SD 57031
GRAMKOW, BRENDAN	30674 447 AVE	MISSION HILL SD 57046
	615 EAST 72	
HANSON, MILAN D	ST	KANSAS CITY MO 64131
HEINE FARMS	PO BOX 477	YANKTON SD 57078
HERRIG WAHLERS REVOCABLE TRUST	44628 308 ST	MISSION HILL SD 57046
J J INDUSTRIES LLC	205 GREEN ST	YANKTON SD 57078
LAFAVE, STEVEN L	30752 446 AVE	MISSION HILL SD 57046
LANE, SUSAN R	30782 446 AVE	MISSION HILL SD 57046
NELSON AG HOLDINGS LLC	44023 306 ST	YANKTON SD 57078
NELSON, ELLA E	44023 306 ST	YANKTON SD 57078
	17	
NIELSEN FARM ENTERPRISES	STAGECOACH RD	AMHERST MA 01002
NIELSEN, ANDREW J	44670 308 ST	MISSION HILL SD 57046

Yankton County Planning Commission
September 26, 2018

SAWTELL, RICHARD W	30731 447 AVE	MISSION HILL SD 57046
VANGEN NORSK EVANGELISK	300 WEST 3 ST	MISSION HILL SD 57046

Exhibit #5B

OwnerAddress1	OwnerAddress2	OwnerAddress3
BERBERICH, JOSEPH A	89851 556 AVE	SAINT HELENA NE 68774
CUTTS, JAY F	44681 309 ST	MISSION HILL SD 57046
EPP, RAYMON	30849 448 AVE	MISSION HILL SD 57046
FREEBURG LIMITED PARTNERSHIP	PO BOX 188	GAYVILLE SD 57031
GRAMKOW, BRENDAN	30674 447 AVE	MISSION HILL SD 57046
HANSON, MILAN D	615 EAST 72 ST	KANSAS CITY MO 64131
KLIMCZYK, ALOJZY	89741 556 AVE	CROFTON NE 68730
NIELSEN FARM ENTERPRISES	17 STAGECOACH RD	AMHERST MA 01002
SAWTELL, RICHARD W	30731 447 AVE	MISSION HILL SD 57046
SMITH, JOHN C	2507 VALLEY RD	YANKTON SD 57078
SMITH, ROBERT G	44630 306 ST	MISSION HILL SD 57046

N/A

- 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.

N/A

Additional procedures Jay Cutts 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.

Yankton County Planning Commission
September 26, 2018

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>	
G. Incorporated Communities	660 feet
<i><u>The applicant will meet the setback requirement for Incorporated Communities.</u></i>	
H. A Residence other than the Operators	100 feet
<i><u>The applicant will meet the setback requirement for a Residence other than the Operators.</u></i>	

Yankton County Planning Commission
September 26, 2018

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:
- A. Drops must be used on systems that disperse the liquid no higher than 18” off the ground if no crop is actively growing on the field.
Applicant is not requesting irrigation application permit.
 - B. If a crop is actively growing on the field, the liquid must then be dispersed below the crop canopy.
Applicant is not requesting irrigation application permit.
 - C. No runoff or diffused spray from the system onto neighboring property or public right-of-way will be allowed.
Applicant is not requesting irrigation application permit.
 - D. No irrigation of liquid on frozen ground or over FSA designated wetlands.
Applicant is not requesting irrigation application permit.
 - E. No “big gun” type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.
Applicant is not requesting irrigation application permit.

Action 92618A: Moved by Becker, second by Kretsinger to recommend to a continuance of a Conditional Use Permit and variance of Minimum ROW Setback requirement from 330 feet to 150 feet and Minimum Property Line Setback requirement from 660 feet to 75 feet in an

Yankton County Planning Commission
September 26, 2018

Agriculture District (AG) in Yankton County to October 9, 2018, 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 SE1/4, SE1/4, S19-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 307th Street, Mission Hill, SD. The applicant will provide a site plan to comply with the a property line delineating a change in ownership setback requirement of six hundred sixty (660) feet and the Right of Way setback minimum of one hundred fifty (150) feet. By roll call vote, all members voted aye.
Motion carried.

The next agenda item is a First Reading for an amendment to Article 17, Section 1715, Board of Adjustment Voting Requirements. The proposal is the amendment to change the voting requirements for Conditional Use Permits to a simple majority of the full membership of the Board of Adjustment. The Planning Commission discussed the proposed language and no changes were recommended.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present.

Mr. Welch requested opponents for the variance request. Kristi Schultz stated she is opposed to this amendment change. She states the ordinance does not need this change and it is a “power grab” by the County Commission. Mrs. Schultz stated the Conditional Use Permit process is not to be taken lightly by the Planning Commission or the County Commission.

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

Action 92618B: Moved by Kretsinger, seconded by Gudahl to approve the First Reading resolution “A Resolution Recommending the Amendment of Article 17, Administrative Procedure and Enforcement, Section 1715, Board of Adjustment Voting Requirements, Yankton County Zoning Ordinance #16.

**Yankton County Planning Commission
Yankton County, South Dakota
Resolution**

Date: September 26, 2018

Department: Planning and Zoning

Motion by Commissioner: Kretsinger

Second by Commissioner: Gudahl

A Resolution Recommending the Amendment of Article 17
Administrative Procedure and Enforcement
Section 1715, Board of Adjustment Voting Requirements
Yankton County Zoning Ordinance #16

WHEREAS, South Dakota Codified Law 11-2-13 allows Yankton County to establish zoning regulations; and,

Yankton County Planning Commission
September 26, 2018

WHEREAS, The Yankton County Zoning Ordinance (Ordinance #16) establishes zoning regulations in Yankton County, South Dakota; and,

WHEREAS, Section 1809 of The Yankton County Zoning Ordinance (Ordinance #16) gives the Yankton County Planning Commission powers to recommend amendments to The Yankton County Zoning Ordinance (Ordinance #16); and,

WHEREAS, The Yankton County Planning Commission hereby finds in order to establish simple majority vote by the Board of Adjustment for Conditional Use Permits as authorized by SDCL 11-2-53 and SDCL 11-2-59. The following regulations are intended to promote and preserve the health, safety and welfare of all residents in Yankton County.

Section 1715 Board of Adjustment Voting Requirements

The Board of Adjustment shall, upon a vote of two-thirds (2/3) (4 of 5) of the full membership of the Board of Adjustment, overrule the Zoning Administrator or grant ~~conditional uses or~~ variances to the terms of this ordinance. *The Board of Adjustment shall, upon a vote of a simple majority of the full membership of the Board of Adjustment, grant conditional uses to the terms of this ordinance.*

NOW, THEREFORE, BE IT RESOLVED, that the Yankton County Planning Commission, hereby recommends in order to establish a fair and efficient process for Conditional Use Permits in Yankton County and to protect the health, safety and welfare of the County of Yankton, recommend amendment adoption of Article 17, Administrative Procedure and Enforcement, Section 1715, Board of Adjustment Voting Requirements, to amending Yankton County Zoning Ordinance (Ordinance #16).

By roll call vote, five (5) members present voted aye, three (3) members present voted nay. Motion carried.

Public comment period. No public comment.

Action 92618C: Moved by Gudahl, seconded by Kretsinger 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, October 9, 2018.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator