

# MINUTES OF THE LINCOLN COUNTY PLANNING COMMISSION

June 19, 2017

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Monty Derausseau, Ron Larson, Darwin Sogn, Gary Pashby, Ron Albers, Tyler Klatt, and Jim Schmidt (arrived at 7:00)

STAFF PRESENT: Toby Brown and Joan Doss - County Planning

PUBLIC PRESENT: Jean Riley, Dave & Kathy Stuessi, Randy & Linette Dump, Linday Koth, Larry & Corinne Young, Darrell Zweifel, Zac & Sara Mousel, Lance Arp, Andrew Mark, Tony Ventura, Cortney Needy, Cliff Sorum, Bill Mellenberndt, Jeff Koops, Alvin Bylsma, Jim Moody, Jerrod Lynott, Paul Goertz, Winnie Peterson.

The meeting was chaired by Monty Derausseau

## 1. CALL TO ORDER AND ROLL CALL

The regular meeting of the Lincoln County Planning Commission was brought to order on May 15, 2017 at 7:00pm in the Commission Meeting Room of the Lincoln County Courthouse by Chairman Derausseau.

## 2. APPROVAL OF MAY 15, 2017 MINUTES

A motion to approve the May 15, 2017 minutes was made by Pashby and seconded by Larson. The motion passed unanimously.

## 3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Sogn and seconded by Klatt. The motion passed unanimously.

4. **REZONING 17-REZ-005:** Request for review and recommendation for approval to the Board of County Commissioners of a Rezoning application from A-1 Agricultural District to C Commercial District. The application is for a portion of the property legally described as the South 1323.65 feet except Lot H-1 and H-2 and East 432.89 feet and Ikens Tract of the Southwest quarter (SW1/4) of Section 21, Township 99 North, Range 51 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Randy Dump*

*Owner: Albert and Lorna Iken*

*Location: Approx. 600 feet North of the intersection of 277<sup>th</sup> St. and 466<sup>th</sup> Avenue – Lennox*

### **Staff Analysis:**

The petitioner has submitted a request to rezone a portion (approximately 2 acres) of a 63.97-acre property from the A-1 Agricultural District to the C Commercial District. The petitioner indicated on the application that the purpose is to use property for a small engine repair business.

- A. This request is to change the zoning of a portion of 63.970 acres from A-1 Agricultural to C Commercial.
- B. The site is not within a municipal platting jurisdiction.
- C. The site is designated Agriculture Area on the 2025 Future Land Use Map.  
The property is currently utilized for limited agricultural purposes, specifically single-family residential.
- D. The proposed rezoning is near a high traffic intersection and use(s) will be developed in a nodal pattern.
- E. Relative to the request for commercial zoning staff notes this zoning does not align with the Future Land Use Plan, but it is in proximity to commercial zoning.

**Staff Recommendation:** Staff supports Rezoning 17-REZ-005, and recommends that the Planning Commission find that:

1. The proposed rezoning does promote implementation of the 2025 Comprehensive Plan.
2. The proposed rezoning is compatible with existing surrounding land uses and the land uses envisioned in the 2025 Comprehensive Plan.
3. The proposed rezoning does promote the purposes of the 2009 Revised Zoning Ordinance for Lincoln County as stated in Section 1.02.

### **Public Comment & Discussion:**

Toby Brown presented the staff report and noted this portion of land is just outside of the Lennox growth area.

Randy Dump, the petitioner, noted they have outgrown their current location and would like to expand the business that this location. He also noted the parcel would be platted at 3-acres.

Derausseau asked for public comment on the application, and hearing none, he closed the floor to the public.

Toby noted that their motion should include rezoning the platted land area.

**Action:**

A motion was made by Schmidt, and seconded by Pashby to recommend approval of Rezoning 17-005. The motion passed unanimously.

**Rezoning 17-REZ-005 – Recommend Approval**

**5. CONDITIONAL USE PERMIT 17-CUP-011:** Request for review and approval of a Conditional Use Permit application to operate a kennel on the property. The property is legally described as Government Lot 1 and West half (W1/2) of Government Lot 2 in the Northwest quarter (NW1/4) of Section 3, Township 96 North, Range 48 West of the 5<sup>th</sup> Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Zac and Jenna Mousel                      Owner: Wesley and Deborah Kats*

*Location: 48527 291<sup>st</sup> Street – Fairview*

**Staff Analysis:**

The property is located at 48527 291<sup>st</sup> Street. The petitioner is proposing to operate a kennel in an existing 26' x 40' building. The petitioners noted there would be 20 kennels, and would house up to 30 dogs, if individual owners bring in more than one dog at a time. The closest neighboring residence is approximately 1/3 mile to the east.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

Applicant Response: "Surrounding properties: cropland. This is a conditional use in the district."

Staff Comments: None

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

Applicant Response: "Typical accessory building."

Staff Comments: The proposal will be using an existing building.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

Applicant Response: "None anticipated."

Staff Comments: If the proposed conditions are implemented, negative factors, especially noise, should be mitigated.

**Staff Recommendation:** Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. The kennel shall be limited to 30 dogs at a given time.
2. Any outdoor exercise area shall be fenced in, and dogs will remain under supervision of kennel owner or employee when outside.
3. Petitioner shall take adequate measures to minimize noise so that it will not constitute a nuisance. Measures taken shall include installing sound proofing/sound absorbing insulation in walls and ceiling of the building prior to accepting clients.
4. If at any time the business ceases to exist, or changes ownership, the owner shall contact Lincoln County Planning and Zoning.

**Public Comment & Discussion:**

Toby Brown presented the staff report and noted the site plan changed from the petitioner proposing to build a new building, to now the petitioner will use an existing building.

Zac Mousel, the petitioner, noted this would not be a breeding facility, and that his wife would be in charge of the business. They would not have pick up or drop off on Sundays. Pashby asked if they actually needed a cap on capacity at 30 if they only have 20 kennels. Zac noted they will have 4 larger kennels for multiple dog owners, and that if those are filled there could be 16 dogs within just 4 of the 20 kennels.

Derausseau asked for public comments. Hearing none, he closed the floor to the public.

Sogn noted he felt it was a prime location for this type of operation because of the long driveway and trees.

**Action:**

A motion was made by Sogn, and seconded by Klatt to approve Conditional Use 17-011 with the conditions as recommended. The motion passed unanimously.

### **Conditional Use Permit 17-CUP-011 - Approved**

- 6. CONDITIONAL USE PERMIT 17-CUP-012:** Request for review and approval of a Conditional Use Permit application for a Class 1 Major Home Occupation – Shock Absorber Repair. The property is legally described as Tract 1 of Huizenga’s Addition of the SW1/4 of the SW1/4 and Lot 1 of SW1/4, all in Section 2, Township 99 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Wm. C. Mellenberndt                      Owner: Deffenbaugh Construction Inc.*

*Location: 47400 274<sup>th</sup> Street – Harrisburg*

#### **Staff Analysis:**

The property is located at 47400 274th Street. The petitioner is proposing to operate a shock absorber repair business as a Class 1 Major Home Occupation in an existing 60’ x 106’ building. This property has been granted a previous Conditional Use Permit (06-CUP-064) for Class 1 Major Home Occupation. The petitioner noted the building would also be used as a personal shop along with use for the occupation.

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

The proposal shall be generally compatible since the property has held previous conditional use permits, and all business activities shall be conducted inside of the buildings on the property.

- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

The proposal will be using an existing building, and thus will not alter the character of the neighborhood.

- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

If the proposed conditions are implemented, negative factors should be mitigated.

**Staff Recommendation:** Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and shall be clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. That employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise, which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. There shall be no outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in Condition #8.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

#### **Public Comment & Discussion:**

Toby Brown presented the staff report, and noted the conditions were the stipulations of the Major Home Occupations in the zoning ordinance. Pashby asked why there were noise regulations for this permit but they were dissuaded from implementing noise regulations on a contractor's shop previously. Toby noted this is to protect surrounding residential properties, the other permit in question was in a commercial setting.

Bill Mellenberndt, the petitioner, noted his son would be living at the residence and would be manufacturing and repairing race car shock absorbers. He also noted the majority of the building would be used for personal storage space not associated with the occupation.

Derousseau asked for public comments on the application. Hearing none, he closed the floor to the public.

**Action:**

A motion was made by Albers and seconded by Larson to approve Conditional Use Permit 17-012 with the conditions as recommended. The motion passed unanimously.

**Conditional Use Permit 17-CUP-012 - Approved**

**7. CONDITIONAL USE PERMIT 17-CUP-013:** Request for review and approval of a Conditional Use Permit application to exceed 1,500 square feet of accessory building space – requesting an additional 960 square feet for a total of 2,400 square feet. The property is legally described as Lot 5 in Block 3 of Sunrise Addition in the Southwest quarter (SW1/4) of the Northwest quarter (NW1/4) of Section 1, Township 99 North, Range 51 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner/Owner:* Lance Arp

*Location:* 46918 Daggett Place – Lennox

**Staff Analysis:**

The property is located at 46918 Daggett Place within the Sunrise Addition. The petitioner is proposing to construct a 30' x 32' addition to an existing 30' x 48' shed to use as a hobby workshop. The property currently has an additional 14' x 22' garage, which the petitioner has noted will be demolished prior to construction of the new addition.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

Applicant Response: "I am looking to add onto my shed, tear down the existing single stall garage that is falling apart."

Staff Comments: None

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

Applicant Response: "It will be landscaped and look good."

Staff Comments: There are similarly sized accessory buildings within the neighborhood.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

Applicant Response: "Yes."

Staff Comments: The proposed use should not have any negative factors.

**Staff Recommendation:** Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. A building permit from Lincoln County is required prior to construction of the proposed accessory building addition, and shall not permit construction in excess of 960 square feet.
2. The total area of accessory buildings on the property shall not exceed 2,400 square feet.
3. No businesses shall be allowed to operate out of the accessory building, unless allowed by an additional conditional use permit.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted on the site plan the small garage would be demolished.

Lance Arp, the petitioner, noted the small garage is currently falling apart and he would like to replace the lost square footage onto the existing building to use for hobby space.

Derousseau asked for public comments. Hearing none, he closed the floor to the public.

**Action:**

A motion was made by Sogn and seconded by Albers to approve Conditional Use Permit 17-013 with the conditions as recommended. The motion passed unanimously.

**Conditional Use Permit 17-CUP-013 - Approved**

**8. CONDITIONAL USE PERMIT 17-CUP-014:** Request for review and approval of a Conditional Use Permit application to construct and operate one new total confinement swine finishing facility capable of holding 2,490 finishing pigs (Class C). The application is for a portion of property legally described as the Northeast quarter (NE1/4) of Section 27, Township 96 North, Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Lynott Hog Co.                      Owner: John and Jackie Thompson*

*Location: Approx. 1/2 mile South of intersection 295<sup>th</sup> St and 474<sup>th</sup> Ave – Beresford*

**Staff Analysis:**

The proposal is to construct one 393' x 51' swine finishing barn. The facility will be designed for 2,490 swine larger than 55 pounds. The facility will be under the threshold for a required state permit, but will have to comply with the provisions and requirements of the 2009 Revised Zoning Ordinance for Lincoln County.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

Applicant Response: "The livestock facility located in farming county with other livestock buildings in the area. This will be located in the county away from any cities."

Additional Staff Comments: The proposed location is within the A-1 Agricultural zoning district. The proposed location is within a predominantly agricultural area with scattered farmsteads. The site meets the required setbacks for the size of the facility, and the closest dwelling is over 1,900 feet to the east. As mentioned previously, the petitioner submitted documentation from the South Dakota Odor Footprint Tool (SDOFT) that shows all dwellings except the property owner's are beyond the 97% annoyance free area. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties. The proposal appears to be typical of feedlot developments within the County and there exist no extraordinary circumstances regarding the project.

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

Applicant Response: "The facility is out in the country with other livestock present in the general area any from any towns."

Additional Staff Comments: The predominant land use in the area is agricultural production. The facility design appears to be typical of feedlot development within the county. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling. The proposal locates an agricultural use within an existing agricultural area, thereby avoiding the mixing of uses which may result in potential land use conflict.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

Applicant Response: "The facility meets all separation distances, will use pit additive, manure contained in concrete pit, as well as meets all required ventilation needs."

Additional Staff Comments: The petitioner is requesting a new CAFO. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes and dust. The petitioner has submitted management plans and site plans to aid in reducing nuisances. The proposal will meet the applicable county standards for manure handling and management. Anything included in the narrative and site plan will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner's plans and staff recommendations are inadequate to mitigate nuisances.

**Staff Recommendation:** Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. That the total confinement barn shall be located on a single, legally described parcel consisting of a minimum of two (2) contiguous acres.
2. That the total confinement barn shall be limited to 2,499 finishing pigs (Class C CAFO).
3. That all building and waste storage facility plans associated with the concentrated animal feeding operation shall be approved by an engineer that is licensed in the state of South Dakota. (Per Section 12.09(D) of the 2009 Revised Zoning Ordinance)
4. That all waste applied to farm fields must be knifed or injected into soil. (Per Section 12.09(D)(3) of the 2009 Revised Zoning Ordinance)
5. That all manure application records, soil analysis, and manure analysis shall be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
6. That the Waste (Nutrient) Management Plan must be updated annually, be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
7. That adequate measures shall be taken to minimize or control offensive odor, fumes, dust, noise, or vibrations so that none of these will constitute a nuisance.
8. That additional fly control shall be addressed with pesticides when necessary.
9. That landscaping be installed after the completion of the total confinement barn and that all exposed earthen surfaces be seeded into grass or utilized as crop acreage.
10. That Planning and Zoning Department Staff may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.
11. That the conditional use permit will be periodically reviewed by the Planning and Zoning Department to assure compliance with the permit and permit conditions.
12. Test boring location and test boring results be furnished prior to issuance of a building permit.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted the current land owner, signed setback waiver from his residence. He also noted staff received communication about a property to the south has a business, but they do not have a CUP, and did not respond to communications asking for further details.

Jerrold Lynott, the petitioner, noted that he's known John Thompson for many years and have always discussed building a swine facility. He said it would be a standard barn, and be built on land bought from John. Pashby asked if there were any complaints at his other sites. Jerrold had not heard of any. Albers asked how frequently the pit would be pumped, and he replied one annually. Sogn asked how close it is to John's house. Jerrold noted they didn't measure that setback, but John is the closest residence. Sogn also asked questions pertaining to who would be operating the facility, which has yet to be determined.

Derausseau asked for public comments in favor of the application.

Jeff Koops, Farmers Coop, noted he wrote the nutrient management plan, which includes 411 acres near the site and meets all of the setbacks. He noted benefits outweigh the cons since it will provide jobs for the county. Pashby asked if he knew how many CAFOs are in Sioux County, IA. Jeff noted he did not have an exact figure, but that Lincoln County doesn't come close. Albers asked if additives actually work and if different feeds help odors as well. Jeff noted that some brands work better than others, and that technology is improving all the time.

Schmidt noted he attended a presentation from SDSU discussing odor and the future seems bright for mitigation.

Derausseau asked for public comments in opposition of the application.

Allen Voegeli expressed concern that trees weren't part of the plan. He also questioned how many swine CAFOs will be allowed. Schmidt agreed incorporating trees is a good idea. Jerrold noted he was not opposed to trees.

Darrell Zweifel noted they live ½ mile to the east are worried about the odor, and asked about noise limits.

Dave Stuessi, noted they live ¾ of a mile to the south and are also concerned about odor.

Schmidt asked Jerrold is there was any reason the barn is planned to be so close to the acreage instead of more west toward the house. Jerrold noted for ease of farming around the site.

Paul Goertz expressed that it wasn't fair that is wasn't right up next to landowner's house.

Hearing no further comments, he closed the floor to the public.

Schmidt noted concern about the density that the county should allow, but also noted that the demand is high.

Larson noted he has lived within 5,000 feet of a confinement, and there is no noise nor odor other than when the pits are being pumped.

Sogn noted that in the past, each section had numerous family farms with all types of animals, but times have changed. He also suggested halting permitting any more until they know more about proper siting.

Klatt suggested adding condition #13 to include trees. Toby noted this would amend condition #9 and suggested including working with the NRCS on tree selection.

**Action:**

A motion was made by Klatt and seconded by Albers to approve Conditional Use Permit 17-014 with the conditions as recommended and further amended to include #9 – Under advisement of the NRCS, a tree line shall be installed after the completion of the total confinement barn and that all exposed earthen surfaces be seeded into grass or utilized as crop acreage. The motion passed unanimously.

**Conditional Use Permit 17-CUP-014 - Approved**

**9. CONDITIONAL USE PERMIT 17-CUP-017:** Request for review and approval of a Conditional Use Permit application to construct and operate one new total confinement swine finishing facility capable of holding 2,490 finishing pigs (Class C). The application is for a portion of property legally described as the Southeast quarter (SE1/4) of the Northeast quarter (NE1/4) of Section 5, Township 96 North, Range 49 West of the 5th Principal Meridian, Lincoln County, South Dakota.

*Petitioner: Alvin Bylsma                      Owner: Vanregenmorter Land LLLP*

*Location: Approx ½ mile South of intersection of 291<sup>st</sup> and 478<sup>th</sup> – Hudson*

**Staff Analysis:**

The proposal is to construct one 393' x 51' swine finishing barn. The facility will be designed for 2,490 swine larger than 55 pounds. The facility will be under the threshold for a required state permit, but will have to comply with the provisions and requirements of the 2009 Revised Zoning Ordinance for Lincoln County.

**A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.**

Applicant Response: “This is a livestock facility, being built in the country, away from populated areas, and in area where other livestock is present.”

Additional Staff Comments: The proposed location is within the A-1 Agricultural zoning district. The proposed location is within a predominantly agricultural area with scattered farmsteads. The site meets the required setbacks for the size of the facility, and the closest dwelling is over 2,400 feet to the northeast. As mentioned previously, the petitioner submitted documentation from the South Dakota Odor Footprint Tool (SDOFT) that shows all dwellings are beyond the 98% annoyance free area. Since the surrounding area is primarily agricultural land uses, the proposed CAFO will have little effect on current use and enjoyment of surrounding properties. The proposal appears to be typical of feedlot developments within the County and there exist no extraordinary circumstances regarding the project.

**B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.**

Applicant Response: “This is rural setting, other livestock is present in area. Site will not alter characteristics.”

Additional Staff Comments: The predominant land use in the area is agricultural production. The facility design appears to be typical of feedlot development within the county. There is potential for further development of agricultural uses, such as CAFOs, and residential uses in farmsteads and acreages. The land use of a CAFO will unlikely affect further agricultural development in the area. Future residential development will be required to have the Right-to-Farm Covenant placed on the deed prior to construction of a dwelling. The proposal locates an agricultural use within an existing agricultural area, thereby avoiding the mixing of uses which may result in potential land use conflict.

**C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.**

Applicant Response: “All set backs will be maintained, pit additives will be used to control flies and help reduce odors, ventilations standards used in barn, manure stored in concrete pit.”

Additional Staff Comments: The petitioner is requesting a new CAFO. The inherent nature of a CAFO like this has the potential to create nuisances if not managed properly. This is especially true for odor, fumes and dust. The petitioner has submitted management plans and site plans to aid in reducing nuisances. The proposal will meet the applicable county standards for manure handling and management. Anything included in the narrative and site plan will be expected to be carried out. In addition, the Planning Commission has the ability to add conditions if they feel the petitioner’s plans and staff recommendations are inadequate to mitigate nuisances.

**Staff Recommendation:** Based upon the analysis/findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use permit with the following conditions:

1. That the total confinement barn shall be located on a single, legally described parcel consisting of a minimum of two (2) contiguous acres.
2. That the total confinement barn shall be limited to 2,499 finishing pigs (Class C CAFO).
3. That all building and waste storage facility plans associated with the concentrated animal feeding operation shall be approved by an engineer that is licensed in the state of South Dakota. (Per Section 12.09(D) of the 2009 Revised Zoning Ordinance)
4. That all waste applied to farm fields must be knifed or injected into soil. (Per Section 12.09(D)(3) of the 2009 Revised Zoning Ordinance)
5. That all manure application records, soil analysis, and manure analysis shall be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
6. That the Waste (Nutrient) Management Plan must be updated annually, be retained on file for a period of at least three (3) years, and shall be available to the Planning and Zoning Department upon request.
7. That adequate measures shall be taken to minimize or control offensive odor, fumes, dust, noise, or vibrations so that none of these will constitute a nuisance.
8. That additional fly control shall be addressed with pesticides when necessary.
9. That landscaping be installed after the completion of construction of the total confinement barn and that all exposed earthen surfaces be seeded into grass or utilized as crop acreage.
10. That Planning and Zoning Department Staff may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.
11. That the conditional use permit will be periodically reviewed by the Planning and Zoning Department to assure compliance with the permit and permit conditions.
12. Test boring location and test boring results be furnished prior to issuance of a building permit.

**Public Comment & Discussion:**

Toby Brown presented the staff report, and noted setbacks outlined in the ordinance are minimum setbacks, but he recommended deferring to the odor model if they wanted to increase them. He also noted neighbors have voiced concerns. Sogn asked what is a public water supply since there are water towers nearby. Toby said the setback would be from the well, not the water tower.

Alvin Bylsma, the petitioner, noted he currently lives at a confinement site in Iowa, and looking for a source of manure for the landowner. Sogn noted the township road is a minimum maintenance road and questioned if it would hold up to the CAFO. Albers noted they should talk to the township first to make sure everything is okay.

Derausseau asked for public comments in favor of the application.

Jim Moody noted he will own the pigs and they have emergency plans in place. He noted they will hire local staff to run the site. Albers asked for his thoughts on the road, and he replied some sites improve the road themselves.

Jeff Koops noted the odor model was developed by state universities and uses a wealth of data to be an accurate representation of the odors emitted.

Derausseau asked for public comments in opposition of the application.



Tony Ventura noted there is a wind easement on the property and called for further studies on how wind turbines affect the odor from the barns.

Cliff Sorum is concerned that rural water may not have the capacity to serve the CAFO.

Andy Mark, representing TransOva Genetics, voiced concerns about biosecurity and the complex nature of the research facility about ½ mile away.

Marlyn Harris said it wasn't fair that they wouldn't be living on site.

Hearing no further comments, he closed the floor to the public.

Albers asked if Rural Water was contacted, Alvin said they were not, but the intention is to put a well on site.

Pashby noted he would like to see plans for day to day operations, and would like to see a plan for planting trees.

**Action:**

A motion was made by Klatt and seconded by Albers to table Conditional Use Permit 17-017 until staff receive additional information showing sufficient infrastructure to support the proposed operation. The motion passed 6-1 with Schmidt dissenting.

**Conditional Use Permit 17-CUP-017 - Tabled**

**10. OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSION**

Toby noted staff researched CAFO setbacks, and they were amended in 2012. Schmidt was concerned that a church setback is much larger than a residence which is a continuous use versus an organization that meets a couple times a week. Sogn noted he would like to have a moratorium and have a workshop with SDSU.

**11. OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA**

- a. Correspondence received - None
- b. Comments from Planning Commission members - None
- c. Comments from the audience

Winnie Peterson, thanked the commission for their work and reminded them to vote on July 18<sup>th</sup>.

**12. REPORT OF LINCOLN COUNTY BOARD OF COMMISSIONERS' REPRESENTATION - None**

**13. NEW BUSINESS – WORK SESSION (6:00 P.M.)**

- a. Commercial Wind Energy Conversion Systems (WECS) Text Amendments – Section 12.02(C)(3), Illumination and Security, and Section 12.02(C)(9), Decommissioning/ Restoration/Abandonment

The work session was held at 6:00pm, prior to the regular meeting, Schmidt was not in attendance. The commission advised staff to draft amendments to include provisions for aircraft detection lighting and more detail on the funding of decommissioning. The commission suggested changing the current escrow account provision to a bond account. Staff noted interest in including formal communication with the department when decommissioning is scheduled to begin. The commission directed staff to present a draft at the next regular meeting.

**14. ADJOURNMENT**

Motion to adjourn at 9:25pm was made by Albers and seconded by Larson. The motion passed unanimously.

Respectfully submitted,  
Joan Doss  
Planner