

Yankton County Planning Commission  
January 9, 2018

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welsh at 6:00 p.m. on January 9, 2017.

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

Members absent: Klimisch, Gudahl and Kretsinger

This was the time and place for a working session for discussion regarding the Comprehensive Plan. Pat Garrity, Zoning Administrator, lead the discussion on Chapter IV. The Planning Commission reviewed the chapter and edited some language in the each chapter. The commission also indexed some of the tables and figures in the chapters. All changes will be implemented before the next meeting and available for review. After review from the commission, each session draft will be available to the public.

This was the time and place to review and approve the minutes from December 12, 2017.

Action 1918A: Moved by Kettering, second by Becker to approve the December 12, 2017. As written.

By roll vote, seven members present voted aye.

Motion carried.

This was the time and place for discussion regarding application from Jeremy Sayler. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to sixteen +/- (16.44) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as NE1/4, NW1/4, exc Lot R-38, S1-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. The E911 address is 44543 291<sup>st</sup> Street, Irene, SD.

Plat consideration:

Sayler Tract 1, NE1/4, NW1/4, S1-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. The E911 address is 44543 291<sup>st</sup> Street, Irene, SD.

Mr. Sayler stated he is separating production agriculture property from the farmstead property. The plat includes all farmstead buildings and shelterbelts. The ingress / egress is 291<sup>st</sup> Street. The property has existing house and septic system.

The Planning Commission discussed the application. The Planning Commission discussed the statement for the findings. The findings shall state at the time this variance was approved, the plat consideration is in an Agriculture District.

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: Jeremy Saylor

Parcel Number: 08.001.400.100

Legal description: NE1/4, NW1/4, exc Lot H-38, S1-T96N-R55W

Physical Address: 44543 291<sup>st</sup> Street, Irene, 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 property is created to meet mortgage 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 but is limited to properties requiring mortgage arrangements.
  - 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 purposes 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.
  - 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.

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- 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 December 29, 2017 (supported by affidavit), a legal notice was published on December 30, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on January 3, 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 7:00 pm on January 9, 2018. Mr. Sayler stated he is separating production agriculture property from the farmstead property. The plat includes all farmstead buildings and shelterbelts. The ingress / egress is 291<sup>st</sup> Street. The property has existing house and septic system.  
The Planning Commission discussed the application. The Planning Commission discussed the statement for the findings. The findings shall state at the time this variance was approved, the plat consideration is in an Agriculture District.  
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. The property is in an Agriculture District and shall be subject to all Agriculture District regulations.
  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 1918B: Moved by Becker, second by Kettering to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated January 9, 2018, of Minimum Lot Requirement from twenty (20) acres to sixteen +/- (16.44) acres in an Agriculture District (AG) in Yankton County. Said property is legally

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described as NE1/4, NW1/4, exc Lot R-38, S1-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. The E911 address is 44543 291<sup>st</sup> Street, Irene, SD.

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

Action 1918C: Moved by Sylliaasen, second by Williams to recommend approval of a plat. Said property is legally described as: Sayler Tract 1, NE1/4, NW1/4, S1-T96N-R55W, hereinafter referred to as Mayfield Township, County of Yankton, State of South Dakota. The E911 address is 44543 291<sup>st</sup> Street, Irene, SD.

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

This was the time and place for discussion regarding application from Clifford Luikens. Applicant is requesting a variance of Minimum Lot Requirement from one-half (.5) acre to .41 acres in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 3, Block 2, Timberland Park Addition, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 102 Cottonwood Lane, Yankton, SD.

Plat consideration:

Lots 2A & 3A, Block 2, Replat Timberland Park Addition, SE1/4, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 102 Cottonwood Lane, Yankton, SD.

Mr. Luikens stated he is purchasing property to reflect encroachment on the neighboring property. The proposed lot will still be under the one-half (.5) acre requirement. The neighboring property will meet the minimum lot requirement. The lot is proposed to be moved thirty-seven (37) feet on the east side.

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: Clifford Luikens

Parcel Number: 09.015.500.203

Legal description: Lot 3, Block 2, Timberland Park, S15-T93N-R56W

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Physical Address: 102 Cottonwood Lane, 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 plat is created to correct encroachment issues.
  - 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 with encroachment issues.
  - 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 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 due to encroachment issues.
  - 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-quarter mile radius of the proposed variance

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on December 27, 2017 (supported by affidavit), a legal notice was published on December 30, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on January 3, 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 7:10 pm on January 9, 2018. Mr. Luikens stated he is purchasing property to reflect encroachment on the neighboring property. The proposed lot will still be under the one-half (.5) acre requirement. The neighboring property will meet the minimum lot requirement. The lot is proposed to be moved thirty-seven (37) feet on the east side. 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 in a High Density Rural Residential District..
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 1918D: Moved by Bodenstedt, second by Kettering to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated January 9, 2018, of Minimum Lot Requirement from one-half (.5) acre to .41 acres in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 3, Block 2, Timberland Park Addition, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 102 Cottonwood Lane, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

Action 1918E: Moved by Becker, second by Kettering to recommend approval of a plat. Said property is legally described as: Lots 2A & 3A, Block 2, Replat Timberland Park Addition, SE1/4, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 102 Cottonwood Lane, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

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This was the time and place for discussion regarding application from Kneifl Properties, LLC. Applicant is requesting a variance of Maximum Accessory Structure Size Requirement from 2,000 sq. ft. with fourteen (14) foot sidewalls to 6,768 sq. ft. with sixteen (16) foot sidewalls in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Tract 1, Kneifl's Addition, SW1/4, S7-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 31072 434<sup>th</sup> Avenue, Yankton, SD.

Mr. Kneifl stated he has 45.23 Acre property in a Low Density Rural Residential District. He requests an accessory structure with 6,768 sq. ft. with 16 foot sidewalls. All storage will be personal machinery, yard tools, personal woodworking area and other personal items. No events or commercial activity will occur in the accessory structure. The structure will be a split level building as proposed by Morton Buildings. Mr. Kneifl has visited with neighbors and located the building in an area with the least impact on viewsheds. The building façade will be neutral earth-tone colors with exterior features such as a porch, decorative additions, all exterior lighting downcast, 16 foot sidewalls with 14 foot garage doors for a total roof height of 28 feet.

No proponents for the application were present for the meeting.

Several opponents were present at the meeting:

Richard Stark, neighbor, is concerned about viewshed protection. The area is a residential district and large accessory structure will impact the view-shed in the neighborhood.

Mike Villanueva, a neighbor, stated his concern for the viewshed in the neighborhood.

Lisa Huber, a neighbor, stated she is a resident of Sundance Ridge Subdivision. She stated the ordinance regulation for accessory structures is 2,000 sq.ft. with 14 foot sidewalls. Mrs. Huber states the size of the proposed structure (6,768 sq.ft. with 16 foot sidewall) causes concern for multiple uses for the building beyond personal uses. Mrs. Huber question the extent of the variance request (339% larger than the ordinance) and questions the limitations of a variance.

Elaine Schmidt, a neighbor, stated the building is too large for the residential district at over 300% larger than the regulation size. She also stated the view-shed protection is important in this residential district.

The Planning Commission discussed the application and stated the accessory structure is larger than any previous variances granted in this neighborhood. The applicant property is 45.23 acres, much larger than the five (5) acre minimum lot requirement and provides sufficient space for the structure. The Zoning Administrator stated the current lot size may be subdivided down to five (5) acre minimum lot requirement anytime the owners wish to pursue a subdivision plan. The building is two separate sections with lower sidewalls on a portion of the building. A suggestion to build two separate buildings on the property. Can trees be planted to protect the view-shed? The size of the building is very large for a residential district. Four speakers were in opposition, the property is a High Density Rural Residential District (R-1) and notification letters were mailed as stated in the ordinance.

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: Kneifl Properties, LLC

Parcel Number: 09.007.325.100

Legal description: Tract 1, Kneifl's Addition, SW1/4, S7-T93N-R56W

Physical Address: 31072 434 Avenue, 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 property owners require larger storage areas and want to locate the structure on their property.*
  - 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 larger lot properties and topography issues.*
  - 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 is subject to substantial detriment to adjacent property and the character of the district.*
  - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance can be recurring with special circumstances regarding total size and sidewall impact in a rural residential district.*
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.*
  - 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



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the terms of this ordinance; Previous variances of maximum structure 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 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 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 December 29, 2017 (supported by affidavit), a legal notice was published on December 30, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on December 29, 2017.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:25 pm on January 9, 2018. Mr. Kneifl stated he has 45.23 Acre property in a Low Density Rural Residential District. He requests an accessory structure with 6,768 sq. ft. with 16 foot sidewalls. All storage will be personal machinery, yard tools, personal woodworking area and other personal items. No events or commercial activity will occur in the accessory structure. The structure will be a split level building as proposed by Morton Buildings. Mr. Kneifl has visited with neighbors and located the building in an area with the least impact on viewsheds. The building façade will be neutral earth-tone colors with exterior features such as a porch, decorative additions, all exterior lighting downcast, 16 foot sidewalls with 14 foot garage doors for a total roof height of 28 feet.  
No proponents for the application were present for the meeting.  
Several opponents were present at the meeting:  
Richard Stark, neighbor, is concerned about viewshed protection. The area is a residential district and large accessory structure will impact the view-shed in the neighborhood.  
Mike Villanueva, a neighbor, stated his concern for the viewshed in the neighborhood.  
Lisa Huber, a neighbor, stated she is a resident of Sundance Ridge Subdivision. She stated the ordinance regulation for accessory structures is 2,000 sq.ft. with 14 foot sidewalls. Mrs. Huber states the size of the proposed structure (6,768 sq.ft. with 16 foot sidewall) causes concern for multiple uses for the building beyond personal uses. Mrs. Huber question the extent of the variance request (339% larger than the ordinance) and questions the limitations of a variance.  
Elaine Schmidt, a neighbor, stated the building is too large for the residential district at over 300% larger than the regulation size. She also stated the view-shed protection is important in this residential district.  
The Planning Commission discussed the application and stated the accessory structure is larger than any previous variances granted in this neighborhood. The applicant property is 45.23 acres, much larger than the five (5) acre minimum lot requirement and provides

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sufficient space for the structure. The Zoning Administrator stated the current lot size may be subdivided down to five (5) acre minimum lot requirement anytime the owners wish to pursue a subdivision plan. The building is two separate sections with lower sidewalls on a portion of the building. A suggestion to build two separate buildings on the property. Can trees be planted to protect the view-shed? The size of the building is very large for a residential district. Four speakers were in opposition, the property is a High Density Rural Residential District (R-1) and notification letters were mailed as stated in the ordinance. 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 denies 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 Requirement is denied.

Action 1918F: Moved Bodenstedt, second by Guthmiller to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated January 9, 2018, a variance of from 2,000 sq. ft. with fourteen (14) foot sidewalls to 6,768 sq. ft. with sixteen (16) foot sidewalls in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Tract 1, Kneifl's Addition, SW1/4, S7-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 31072 434<sup>th</sup> Avenue, Yankton, SD.

By roll call vote, three members present voted aye, four member present voted nay.

Motion failed.

This was the time and place for discussion with 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.

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

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- 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 discussed the application for a Class E Concentrated Animal Feeding Operation. The application also request a Variance of Minimum ROW and Minimum Property Line Setback to locate the facility away from the floodplain. The requested site plan provides greater distance from the area residence too. The Cutts family is a multi-generation farm operation and wants to provide opportunities to remain competitive in current market conditions.

Proponents for the application were requested to present their comments:

Jim Schmitz, pork producer from LeMars, Plymouth County, IA stated Plymouth County is the largest pork producing county in the United States. He has witnessed ten (10) to twelve (12) pork facilities built in the last few years...the forecast is sixty (60) to eighty (80) more plan to be built in the near future...the pork industry is booming. He states it keeps young farmers on the farm...with grain prices low...the pork industry provide diversity. Mr. Schmitz has a four thousand (4,000) head pork facility and a \$1,000,000.00 house was built about thousand (1,000) feet away three (3) years later. The smell factor is evident for three (3) days while pumping and field applying the manure. Farming has animal odors. Mr. Schmitz states young farmers need diversity to stay on the farm...world markets want beef and pork...someone will raise this livestock...his barn is less than three hundred (300) feet from his home...no increase in illness...no reduction in property values...increase in farmland (\$25,000/acre) because of high demand for manure application.

Opponents for the application were requested to present their comments:

Brandon Gramkow and Andrea Wittmayer, neighbors of the proposed facility, provided written statements (Exhibit #13, Exhibit #14) for the record. Ms. Wittmayer stated she is opposed to the application. She is immunocompromised and has experienced a number of health issues in 2017. The proposed pork facility will force her to move from their property. Mr. Gramkow stated the application is incomplete and the variance request is illegal.

Patty Gramkow, county resident, stated she will fear for her life when she visits her family...the hog barn will kill her...a request for Mr. Kettering to go to IGrow website regarding biofilters...showed a statement by Joyce Novak, stamped by Yankton County Auditor, regarding

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Center For Disease Control (CDC)...attendance at the John Ikerd seminar...biofilters defray health issues...why are Schmitz in attendance...Mr. Garrity accepts an incomplete application...little \$100.00 fee...do you make sure they comply...do your job.

Cathy Weise, county resident, (Exhibit #15 )stated vote no for this application...Cutts can find a better location...BS Forestry, Missouri...Austree is not a good species to plant in this area and recommends cedar trees.

Vicki Tanner, county resident, states she has CPOD asthma...questions Mr. Schmitz knowledge regarding Iowa water quality conditions at 90% contaminated...Mr. Welch stated he recently went to Iowa and visit with relatives near pork facilities and does not see health or pollution issues.

Kristi Schultz, county resident, compared the Kneifl variance request (Accessory Structure Size Requirement) as an issue which does not hurt values, has no health issues but the commission voted to deny the variance...review the 750 page report by former Tom Vilsack regarding CAFO impacts...the Cutts site is not appropriate on the flood plain...Cutts owns 1,600 acres in Yankton County and should find a better building site...soil borings...what depth...who prepared the site plan – incomplete...who is the engineer...why no biofilters as they remove 95% odor, this is not modern technology, doing it on the cheap...how many employees...economic development with reduced tax base and devalued area properties...road damage...road maintenance agreement.

Phil Tau, county resident, states opposition to the Conditional Use Permit and Variance...present two letters from Hanson and Nielsen...county ordinance notification process is fifteen (15) years old and mail communication to property owners is inefficient...South Dakota State University has enclosed biofilter barn...the odor footprint tool is improperly located on this application.

Dan Grant, neighbor of the proposed facility, states anyone aware of the prevailing winds in Mission Hill area...thank-you to Don Kettering for not arguing with people, cannot build a house on the flood plain...Deb Bodenstedt did not approve a utility pole in the lake area...keep young farmers in the county when two have been run out, sad in my book.

Jay Cutts, in his rebuttal, states he is concerned about his neighbors...all letters (notification) sent had his personal phone number for any questions...of the 1,600 acres in ownership, only four sites offer the 1,320 feet residential setback requirement...odor map is a tool by a third party evaluation...can combine dust cause COPD and asthma too...Stockwell Engineering did site plan...no borings until the Conditional Use Permit and Variance is approved...the site is not in a flood plain...a north / south orientation is not recommended for a curtain ventilated barn...a biofilter barn will cost an additional \$400,000.00 to build.

Mr. Welch read the letter from Milan Hanson (Exhibit #16) stated they do not approve of the variance to locate the facility closer to the property line than the requirement of 660 feet and a letter from David Nielsen (Exhibit #17) stated they do not approve of the variance to locate the facility closer to the Right of Way than the requirement of 330 feet.

Mr. Welch ended the public comment period and open discussion with the Planning Commission. Don Kettering discussed shelterbelt trees appropriate for the site, Cutts agreed to the proposal...Deb Bodenstedt discussed the letters from two adjacent neighbors regarding the variance request...a request was made to contact Milo Hanson to discuss this application.

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

Yankton County Planning Commission

Meeting date: January 9, 2017

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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 307<sup>th</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 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 307<sup>th</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 December 28, 2017 (supported by affidavit), a legal notice was published on December 30, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on December 29, 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 7:20 pm on December 12, 2017 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.
- 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.

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Jay Cutts discussed the application for a Class E Concentrated Animal Feeding Operation. The application also request a Variance of Minimum ROW and Minimum Property Line Setback to locate the facility away from the floodplain. The requested site plan provides greater distance from the area residence too. The Cutts family is a multi-generation farm operation and wants to provide opportunities to remain competitive in current market conditions.

Proponents for the application were requested to present their comments:

Jim Schmitz, pork producer from LeMars, Plymouth County, IA stated Plymouth County is the largest pork producing county in the United States. He has witnessed ten (10) to twelve (12) pork facilities built in the last few years...the forecast is sixty (60) to eighty (80) more plan to be built in the near future...the pork industry is booming. He states it keeps young farmers on the farm...with grain prices low...the pork industry provide diversity. Mr. Schmitz has a four thousand (4,000) head pork facility and a \$1,000,000.00 house was built about thousand (1,000) feet away three (3) years later. The smell factor is evident for three (3) days while pumping and field applying the manure. Farming has animal odors. Mr. Schmitz states young farmers need diversity to stay on the farm...world markets want beef and pork...someone will raise this livestock...his barn is less than three hundred (300) feet from his home...no increase in illness...no reduction in property values...increase in farmland (\$25,000/acre) because of high demand for manure application.

Opponents for the application were requested to present their comments:

Brandon Gramkow and Andrea Wittmayer, neighbors of the proposed facility, provided written statements (Exhibit #13, Exhibit #14) for the record. Ms. Wittmayer stated she is opposed to the application. She is immunocompromised and has experienced a number of health issues in 2017. The proposed pork facility will force her to move from their property. Mr. Gramkow stated the application is incomplete and the variance request is illegal.

Patty Gramkow, county resident, stated she will fear for her life when she visits her family...the hog barn will kill her...a request for Mr. Kettering to go to IGrow website regarding biofilters...showed a statement by Joyce Novak, stamped by Yankton County Auditor, regarding Center For Disease Control (CDC)...attendance at the John Ikerd seminar...biofilters defray health issues...why are Schmitz in attendance...Mr. Garrity accepts an incomplete application...little \$100.00 fee...do you make sure they comply...do your job. Cathy Weise, county resident, (Exhibit #15) stated vote no for this application...Cutts can find a better location...BS Forestry, Missouri...Austree is not a good species to plant in this area and recommends cedar trees.

Vicki Tanner, county resident, states she has CPOD asthma...questions Mr. Schmitz knowledge regarding Iowa water quality conditions at 90% contaminated...Mr. Welch stated he recently went to Iowa and visit with relatives near pork facilities and does not see health or pollution issues.

Kristi Schultz, county resident, compared the Kneifl variance request (Accessory Structure Size Requirement) as an issue which does not hurt values, has no health issues but the commission voted to deny the variance...review the 750 page report by former Iowa Governor Tom Vilsack regarding CAFO impacts...the Cutts site is not appropriate on the flood plain...Cutts owns 1,600 acres in Yankton County and should find a better building site...soil borings...what depth...who prepared the site plan – incomplete...who is the engineer...why no biofilters as they remove 95% odor, this is not modern technology, doing it on the cheap...how many employees...economic development with reduced tax base and devalued area properties...road damage...road maintenance agreement.

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Phil Tau, county resident, states opposition to the Conditional Use Permit and Variance...present two letters from Hanson and Nielsen...county ordinance notification process is fifteen (15) years old and mail communication to property owners is inefficient...South Dakota State University has enclosed biofilter barn...the odor footprint tool is improperly located on this application.

Dan Grant, neighbor of the proposed facility, states anyone aware of the prevailing winds in Mission Hill area...thank-you to Don Kettering for not arguing with people, cannot build a house on the flood plain...Deb Bodenstedt did not approve a utility pole in the lake area...keep young farmers in the county when two have been run out, sad in my book.

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Mr. Welch ended the public comment period and open discussion with the Planning Commission. Don Kettering discussed shelterbelt trees appropriate for the site, Cutts agreed to the proposal...Deb Bodenstedt discussed the letters from two adjacent neighbors regarding the variance request...a request was made to contact Milo Hanson to discuss this application. 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 deny granting 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; The applicant has shown sufficient access to property with established roadway (307<sup>th</sup> Street) and site plan turn around for emergency vehicles.
  - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way

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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 #4 and #9)

- 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 #4 and #9)
- 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 (Exhibit #8).
- 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 not compliant with current regulations and will require a Variance of Minimum ROW Setback and Minimum Property Line Setback Requirement (Exhibit #4 and #9).
- 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 adversely affect the public interest due to the adjacent property owners' objection to the Variance of Minimum ROW Setback and Minimum Property Line Setback Requirement. 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



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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 |

The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #4 and #9 and #9A).

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.

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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 requests a Variance of Property Line Setback and Right of Way Setback Requirement and will meet neighboring residential setback with applicant detailed site plans verifying compliance. The adjacent landowners are in opposition to granting the variance. (Exhibit #4 and #9)

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 #4 and #9)

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 #4 ad #9)

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 #4 and #9)

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

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or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.

The plan will provide details regarding aspects of nutrient application (Exhibit #5, #5A, #5B, #6, #6A, #6B, #7, #7A, #7B, #7C).

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:

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

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

All waste-water from cleaning activities shall be captured in the underground enclosed vault.

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

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

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

The South Dakota State University odor footprint tool shows the level of odor annoyance free for the buffer area around the facility. (Exhibit #8) There are no residential structures on property within a quarter mile of the proposed site, so no screening or buffering is being proposed. (Exhibit #4, #9) This will maximize the best use of the surrounding property as agricultural production.

D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining drier confinement areas to reduce odor production.

The manure/ nutrients will be collected in a reinforced concrete vault to prevent any leakage. The vault shall be constructed to be approximately eight feet deep, of which approximately 36 inches will be above grade. The vault shall be located directly underneath and attached to the covered facility. In addition, the site shall be graded to direct storm-water drainage away from the facility. This construction design and grading plan shall prevent any storm-water from reaching the manure/nutrients and shall prevent the manure/nutrients from escaping its intended confinement area unintentionally.

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

All animal organic waste/nutrients will be contained in an 8' covered concrete vault directly underneath the facility. Construction materials will be reinforced concrete construction commonly used in the industry with the desired results of controlling the manure/nutrients and limiting potential odors. The manure/nutrients shall be contained within the reinforced concrete vault designed and constructed in accordance with accepted industry standards.

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

The proposed facility will have the manure/nutrients in a covered vault which will be removed annually via pump. The manure/nutrients will be directly applied to nearby fields identified in section (H) via injection below the soil surface. The transportation method will be via hose or tanker equipment (covered/contained) for direct application via injection.

The time frame is expected to take three days 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/nutrients and wastewater in a covered vault. The facility is designed to do this. Although the reinforced concrete vault has higher relative cost than an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This reduces the

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potential dissemination of odor to the neighboring area as reflected in the attached odor model. The design of the facility is NOT an open lagoon system.

Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the organic manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.

Industry best management practices is to promptly remove mortalities and that is the practice Jay Cutts 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. Jay Cutts' operation shall follow these practices.

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

Please see exhibit #4, #4A – proposed site plans

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>OwnerAddress1</b>                         | <b>Exhibit #5<br/>OwnerAddress2</b>         | <b>OwnerAddress3</b>         |
|--|---|------------------------------|
| <b>AULD, KEVIN</b>                           | <b>601<br/>BROADWAY<br/>#700</b>            | <b>SEATTLE WA 98122</b>      |
| <b>BAK, RENEE J</b>                          | <b>30837 447 AVE<br/>44571 CHRIS<br/>RD</b> | <b>MISSION HILL SD 57046</b> |
| <b>BEESON, DUSTIN D</b>                      | <b>RD</b>                                   | <b>YANKTON SD 57078</b>      |
| <b>BRANAUGH,<br/>DARLENE B REV<br/>TRUST</b> | <b>PO BOX 8</b>                             | <b>MISSION HILL SD 57046</b> |

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|                                  |                         |                       |
|----------------------------------|-------------------------|-----------------------|
| CHRIS AND KRISTIE<br>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 |
| DORZOK, RONALD E                 | 44563 CHRIS<br>RD       | MISSION HILL SD 57046 |
| EPP, RAYMON                      | 30849 448 AVE           | MISSION HILL SD 57046 |
| FAULK, TIMOTHY                   | 30925<br>DAKOTA LN      | MISSION HILL SD 57046 |
| HEINE FARMS                      | PO BOX 477              | YANKTON SD 57078      |
| HEINE, ARLENE<br>REVOCABLE TRUST | 2201 VALLEY<br>RD       | YANKTON SD 57078      |
| HILLBERG, RONALD C               | 30908<br>DAKOTA LN      | MISSION HILL SD 57046 |
| HUBER, BERNAL H<br>REV TRUST     | 44728 309 ST            | MISSION HILL SD 57046 |
| J & J FARMING<br>COMPANY LLC     | 214 CAPITAL<br>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 |
| JENSEN, RANDY                    | 44553 CHRIS<br>RD       | MISSION HILL SD 57046 |
| KOEPSSELL, SCOTT                 | 44573 CHRIS<br>RD       | MISSION HILL SD 57046 |
| LYONS, JIM                       | 30844 447 AVE           | MISSION HILL SD 57046 |
| MARQUARDT, DOUG                  | 1314 GOLF<br>VIEW LN    | YANKTON SD 57078      |
| MARQUARDT, RALPH                 | PO BOX 1040             | YANKTON SD 57078      |
| MISSION HILL<br>PROPERTY LLC     | 30995 446 AVE           | MISSION HILL SD 57046 |
| NELSON, NANCY L                  | 30997 446 AVE           | MISSION HILL SD 57046 |
| PALSMA, MARLYN                   | 41349<br>BUZZY'S RD     | SPRINGFIELD SD 57062  |
| PAPIK, LELAND                    | 30852 446 AVE           | MISSION HILL SD 57046 |
| SCHMIDT, NICHOLAS<br>S           | 30846 447 AVE           | MISSION HILL SD 57046 |
| SCHWADER, TOM                    | PO BOX 42               | MISSION HILL SD 57046 |
| SYLLIAASEN,<br>DOROTHY REV TRUST | 44772 309 ST            | MISSION HILL SD 57046 |
| WALSH, RANDY J                   | 31352 465TH<br>AVE      | VERMILLION SD 57069   |
| WOOD ACRES INC                   | 44755 309 ST            | GAYVILLE SD 57031     |

**Exhibit #5A**

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| 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 |
| HANSON, MILAN D                | 615 EAST 72 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      |
| NIELSEN FARM ENTERPRISES       | 17 STAGECOACH RD | AMHERST MA 01002      |
| NIELSEN, ANDREW J              | 44670 308 ST     | MISSION HILL SD 57046 |
| 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      |

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|                    |                |                       |
|--------------------|----------------|-----------------------|
| 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 |

There are no public meeting sites within ½ mile of the proposed facilities.  
Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment. Please see (Exhibit #5, #5A, #5B, #6, #6A, #6B, #7, #7A, #7B, #7C)– manure/nutrient application fields.

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.

Jay Cutts intends to avoid application of the manure/nutrients during the warmer summer months and will avoid holiday and weekends whenever feasible.

Jay Cutts will provide notification to the effected neighbors by a letter (electronic notification and telephone will be utilized when feasible) to remind them of our application time frame with a 30-day window and a goal of a one week window. Due to the number of residents a sign at the field may also be placed.

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

**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.
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.



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

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 |
|-----------------|------------|

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|   |            |
|---|------------|
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| B. Private Wells  | 250 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| C. Private Wells(Operator’s)  | 150 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply             | 1,000 feet |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| E. Lakes, Rivers and Streams Classified as Fisheries                              | 660 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| F. All Public Road Right-of-ways (Surface Applied)                                | 10 feet    |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| G. All Public Road Right-of-ways (Irrigated Application)                          | 100 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| H. Incorporated Communities (Surface Applied)                                     | 1,000 feet |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| I. Incorporated Communities (Irrigated Application)                               | 2,640 feet |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| J. A Residence other than the Operators (Surface Applied)                         | 330 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |
| K. A Residence other than the Operators (Irrigated Application)                   | 750 feet   |
| <u>The facility will not irrigate or surface apply any nutrient applications.</u> |            |

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 1918G: Moved by Bodenstedt, second by Williams to recommend to deny a Conditional Use Permit based on Finding of Facts dated January 9, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, 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

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to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 307th Street, Mission Hill, SD.

By roll call vote, five (5) members voted aye and two (2) members voted nay.  
Motion carried.

No action was taken regarding the 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.

Action 1918H: Moved by Bodenstedt, seconded by Sylliaasen 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, February 13, 2018.**

Respectfully submitted:  
Patrick Garrity AICP  
Zoning Administrator