

Codington County Planning Commission/Board of Adjustment Minutes

March 19, 2018

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on March 19, 2018 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Bob Fox, Myron Johnson, Charles Rossow, Brenda Hanten, Mel Ries, Mark O'Neill, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Greg Wall, Larin Bunde, Marlin Bunde, Leon Maag, Teresa Kaaz, John Kittelson, Ken Bunde, Brent Zemlicka, Brenda Zemlicka, Rodney Zemlicka, Jim Beskow, Tawny Arthur, Paul Waldron, Elmer Kruger, Brian Friedrichsen, Lee Gabel, and Becky Goens.

Chairman Fox brought the meeting of the Board of Adjustment to order at 12:34 pm.

Motion by Hanten, second by Ries, to approve the January 29, 2018 meeting minutes. Motion passed unanimously.

Motion by Johnson, second by Klatt, to approve the February 14, 2018 meeting minutes. The secretary was requested to add the beginning and end times of the meeting to the minutes. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the February 27, 2018 meeting minutes. Motion passed unanimously.

Motion by O'Neill, second by Hanten, to approve the variance request by John Kittelson to construct a new home while temporarily residing in existing home. Property is located in NW1/4, Section 34-T116N-R55W. Applicant will be required to sign a Letter of Assurance agreeing to remove the existing residential structure from the above described parcel within one year of taking occupancy of the new home. Adjoining landowner Carlos Abraham contacted the Zoning Office in support of this request. Motion passed unanimously.

Based on Staff recommendation, motion by Hanten, second by Klatt, to approve two variances requested by Nathan and Kathy Meland on property owned by Janice Johnson in NW1/4, Section 9-T119N-R55W, excluding strip, excluding S1072.5'. The two variances are for an Existing Farmstead Exemption and Minimum Lot Width. Meland's would like to purchase this property. Applicant will be required to plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance prior to the issuance of any building permit for a new house. Public hearing closed. Motion passed unanimously.

Motion by Johnson, second by Ries, to approve the Conditional Use Permit request for Brent Zemlicka to operate a Class 3 Concentrated Animal Feeding Operation (CAFO) subject to conditions as read by staff. Property is owned by Rodney Zemlicka and located in NW1/4, Section 4-T118N-R52W. Zemlicka seeks to construct a 2,400 head finisher swine facility. Muller

reviewed *Specifics and History of Request* per the Staff Report (attached). This feedlot request is substantially the same as was presented and approved on February 27, 2018; however the decision was void on the basis that a neighbor, Keith Schick, was not mailed a notice of the hearing. Changes to the application were provided in an addendum and have been made available to the public. These changes include:

- a) Update of site plan to correct road name (160th Street) and to include location for trees if required by Board.
- b) Update Manure/Nutrient Management Plan to include the transport of manure by tank truck east on 160th Street to 456th Avenue, the south to 161st Street (county gravel), and back west to County Road 1.

Maps of the aquifer districts were displayed for the public to view. Staff reviewed *Ordinance and Comprehensive Land Use Plan* per the Staff Report (attached).

If approved, the staff recommends, at a minimum, the following conditions:

1. The proposed barn will be constructed to provide manure containment for 2,400 finisher swine (960 animal units).
2. The applicant shall make application for a "Certificate of Compliance" from SDDENR prior to the issuance of any building permit(s) for the proposed site. The applicant shall not stock the site until providing documentation to the office of receipt of a Certificate of Compliance and/or demonstrating that any changes required as a result of the Certificate of Compliance have been implemented.
3. The applicant agrees to comply with the submitted nutrient management plan, fly and odor management plan, and manure management plan.
4. Applicant shall provide updated information regarding fields included in the nutrient management plans upon request by the Zoning Officer.
5. This Conditional Use Permit authorizes the use of this property for a Concentrated Animal Feeding Operation (nursery and feeder swine) consisting of 960 animal units. Any expansion beyond 960 animal units will require a new conditional use permit and the review of the site by SDDENR for compliance with the State General Permit requirements.
6. Haul road agreements with Codrington County, Germantown Township, and Rauville Township shall be approved for the use of 160th Street, 456th Avenue, and 161st Street as primary haul routes. Unless otherwise agreed to between the township and the applicant, Codrington County requires the Grantor to abide by the following terms to be included in the Agreements:

- a. Unless otherwise agreed upon between the grantor and the applicable road authority, the grantor shall be responsible for any costs associated with extraordinary maintenance and graveling on the portions of 160th Street, 456th Avenue, and 161st Street used for the hauling of manure, feed, animals, etc. for the operation, which are hereby designated as the primary haul roads, and;
 - b. Unless otherwise agreed upon between the grantor and the applicable road authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the applicable road authority and meet its specifications. The work shall be done through the applicable contractor unless the Grantor receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - c. The applicable road authority shall be responsible for all ordinary snow removal on 160th Street, 456th Avenue, and 161st Street on the same basis as provided to the remainder of the Township. Any additional snow removal deemed necessary for the Grantor to continue its operations is hereby authorized to be done at Grantor's expense.
 - d. The Grantor acknowledges that, to the extent already provided for by the law, and further acknowledges that it shall be responsible for any and all damages to applicable road authority roads or road right-of-ways due to the result of the Grantor's operations (i.e. Delivery of feed, silage chopping or manure disposal). Work will be done on the same basis as specified hereinabove. However, no unique standard or obligation not otherwise provided for by law is created by this acknowledgment.
 - e. The Grantor may have an Agreement with a contractor for cutting silage or forage, or for hauling manure and shall notify the Townships in advance of manure hauling or chopping by listing the roads that will be traveled.
 - f. Unless otherwise agreed upon with the applicable road authority, the applicant shall notify and/or obtain any appropriate licenses prior to the laying of any pipes intended to transport liquid manure within the applicable right-of-way.
 - g. The applicable road authority and applicant may review and assign new haul routes on an annual basis.
7. In the event the haul road agreements hereinbefore described are not executed, the grantor, his heirs, assigns or successors in interest of the Grantor agree that all

of the terms and conditions of Item "6" are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "6".

8. The Grantor shall consult with NRCS and/or Conservation District to plant a minimum of two rows of trees intended to screen properties to the north and west from odor generated by the proposed barn.
9. The Grantor shall comply with established minimum manure application setbacks when spreading manure generated from the CAFO.
10. The conditional use permit shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are adhered to.
11. The Conditional Use Permit is transferable. Subsequent owners/operators will be required to agree to the terms of this permit.
12. If there are 1) Violations of the Conditional Use Permit or other Codington County Zoning regulations; or 2) Failure of the manure containment system, the applicant may be required to forfeit the Conditional Use Permit.
13. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.

(1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.

(2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

(3) Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.

14. All of the terms and conditions herein shall extend to and be binding upon the heirs, assigns, or successors in interest of the Grantor, and are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this agreement which shall, upon its execution, be recorded with the Codington County Register of Deeds Office.

Jim Beskow, adjacent landowner, addressed concerns regarding feed additives to help control odor, placing the building east/west for different tree planting options, four (4) rows of trees, and would like additional information on the outside compost site. Larin Bunde, adjoining landowner, is not opposed to the project but would like to see road maintenance and dust control, tree planting, and a feed additive used for odor control. Mr. Bunde also inquired about constructing this facility in Aquifer Protection District A, liquid manure use in irrigation pivots, size of tree belt, and effect of wind tower easements on adjacent properties. Paul Waldron questioned if the county has its own engineer to review Dakota Environmental's engineering documents. Chairman Fox indicated Dakota Environmental has a state-certified engineer and DENR will oversee. DENR is not required to oversee because the animal units is less than 1,000 but the Zoning Board is requiring it. Mr. Waldron feels a broader notification should occur when there is an application whereas odor may be a concern.

Zoning Officer Muller addressed the process on enforcing complaints. It is handled largely by complaints filed with the Zoning Office. Violations are sometimes determined when Staff is traveling in the county. Regarding engineer reviewing, Muller is not aware of any county in the state other than Minnehaha or Pennington that has an engineer on staff. The Zoning Board makes the determination if further review is required. Any failure in the engineer design will fall back onto the engineer. Notices for variances and Conditional Use Permits are the same and include notification via certified letter to adjacent landowners seven (7) days prior to said hearing. Ordinance amendment 67 is being proposed later in this meeting. This ordinance includes the notification section. It can be considered during discussion. Muller also reviewed requirements for obtaining CAFO permits over Aquifer Protection Districts per current ordinance (Ordinance #65).

Brent Zemlicka and Brian Friedrichsen, Dakota Environmental, were invited to assist in answering questions generated from the public. The estimated length of the proposed tree planting is 250' and 50' in width. The purpose of constructing the barn in the north/south position

is for ease of truck accessibility and reduction in size of driveway. Per Mr. Friedrichsen, repositioning of the barn would not affect air flow (odor). For clarification, trees are to be planted on the north side with the planting taking place westward (one side total, east/west planting) per the map displayed. Feed additive research has not been completed. A composting site/building will most likely be used. It would consist of a three-sided, concrete building with a fully-enclosed roof to keep precipitation out. Zemlicka is not pumping liquid manure through irrigation pivots. Per Friedrichsen, DENR General Permit does allow application through irrigation but the setbacks and conditions placed on this process make it very restrictive and impractical. Per Muller, any field receiving manure application via irrigation requires its own separate Conditional Use Permit. Manure in storage is considered a separated slurry. If agitated before pumping, it is brought back to a more liquid form. The agitation process will create some odor. Regarding the questions about wind tower placement near Ag facilities/structures, Muller indicated there is no setback between agriculture structures and wind tower easements. Custom manure hauling wagons will include injectors. Regarding dust control, there have been no requirements on any other Permit request. Chairman Fox indicated that farmers hauling corn are not required to do any dust control. It is recommended any applicant use their best judgment during hauling. If dust becomes an issue, begin watering to control it so as to not generate a complaint. Chemicals should not be used for dust control as it packs gravel and does not allow for grading.

Motion by Hanten, second by Ries, to amend the condition for tree planting to clarify the rows of trees are to be planted on the north side of the property running east/west per the drawing submitted. Motion on amendment passed unanimously. Chairman Fox read the Findings of Fact. Motion on the Conditional Use Permit, with the amendment, passed unanimously.

Motion by Hanten, second by Ries, to adjourn the Board of Adjustment meeting.

Chairman Fox brought the meeting of the Planning Commission to order.

Motion by Rossow, second by Ries, to recommend approval of Plat of Carpenter Addition in the NE1/4 of Section 14-T118N-R51W. Property owner is Beverly Carpenter. Muller reviewed Staff Report *Request* and *Summary* (attached). A Letter of Assurance signed by the applicant will be required agreeing the building rights remain only if lots 1 and 3 are transferred in the future with the applicable surrounding/adjacent quarter so there is not less than 35 acres total per lot. Chairman Fox clarified - of the three lots and three houses, Lot 2 has the existing farmstead exemption while the other two lots must be tied with a minimum total of 35 acres each. Motion passed unanimously.

Motion by Rossow, second by Klatt, to recommend approval of Ordinance #67 to the Board of County Commissioners. This ordinance amends the administrative section of the

Codington County Zoning Ordinance. Elmer Kruger would like to see a change in Section 4.03.01 changing “at least one (1) member” to read only one (1) member shall be a member of the Board of County Commissioners. Chairman Fox indicated reviewed the process of what happens when one or two members of the Planning Commission Board is unable to attend a meeting. This allows commissioners to act as alternates. Kruger would like to see alternates that are not County Commissioners for “checks and balances” purposes. Chairman Fox advised Kruger that alternates must be familiar with current county ordinances as it is a continuous learning process.

Kruger addressed Section 4.04.01. He felt the wording was unclear. Clarification is that when a County Commissioner is acting on the Planning Commission, he/she, during the meeting, is considered a Planning Commissioner/Board of Adjustment member. Kruger would like to see alternates that are not County Commissioners and would like to avoid quorum’s of County Commissioners. Per Muller, over half of the Planning Board’s in the state of South Dakota are the Board of County Commissioners members. Muller displayed a map of South Dakota showing which counties have County Commissioners acting as the Planning Board and which counties have a different body serving as the Planning Board. Clarification was provided regarding majority votes of the Planning Commission and Board of Adjustment action.

Kruger identified a grammatical error in Section 4.04.04. The word “an” should be “the” preceding Zoning Officer.

Greg Wall would prefer only one County Commissioner reside on the Planning Commission Board.

Lee Gabel referenced Section 4.03.01 and suggested revised wording to read “one (1) member, but not more than two (2)” County Commissioners could serve as members if needed. Chairman Fox reiterated the Board of County Commissioners have been a good resource to fill vacancies on the board.

Motion by Klatt, second by Rossow, to amend ordinance draft Section 4.03.01 to include “but not more than two (2)” County Commissioners. Motion on the amendment passed 6-1.

Motion by Johnson, second by Klatt, to correct the word “an” to “the” in Section 4.04.04. Motion passed unanimously.

Motion on Ordinance #67, with the two amendments, passed unanimously.

Muller presented the Plat of Big John Addition in the NW1/4 of Section 9-T119N-R55W. Motion by Klatt, second by Ries, to recommend approval to the Board of County Commissioners. This plat is a result of Nathan Meland’s approved variances on Janice Johnson’s property.

No one was present to address the Board during the Open session.

Staff advised the Board of the policy regarding applications submitted by an applicant that is not the property owner.

The next meeting of the Wind Energy ordinance will be at 6:00 pm on Monday, April 16, 2018. This ordinance meeting will conclude not later than 7:30 p.m. so the regular monthly meeting of the Codington County Planning Commission/Board of Adjustment may convene.

Motion to adjourn by Rossow, second by O'Neill. Motion passed unanimously. Meeting adjourned at 3:31 p.m.

Respectfully Submitted,

Becky Goens, Secretary

**MARCH 2018
CODINGTON COUNTY PLANNING COMMISSION/BOARD OF ADJUSTMENT
UPDATED STAFF REPORT**

MONDAY – MARCH 19, 2018 – 12:30 p.m.

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

Owner/Applicant: John Kittelson

Property Description NW1/4, Section 34-T116N-R55W, Codington County, South Dakota.
(Henry Township)

Action Item – Variance – more than one principal structure per lot (5.20)

Zoning Designation: A – Agricultural District

Request: Mr. Kittelson seeks to construct a new home while keeping their existing home on site until construction is complete.

History/Issue(s):

1. Mr. Kittelson owns the above described property and propose to remove the existing house and build a new house.
2. Regarding the second home, the zoning ordinance specifies that only one principal structure (in this case, a house) can be located on a single lot.
3. In the past, the Board has granted variance to temporarily allow more than one residence on a site provided the applicant agree to remove the existing house. Historically, one of the two houses has been required to be removed within one year of occupying the new residence.
4. Staff recommendation – ***Variance to temporarily allow two principal structures on the same lot***- Staff recommends approval of the variance for 2 principal structures subject to the applicant signing a letter of assurance agreeing to remove the existing residential structure from the above-described parcel within one year of taking occupancy of the new home.

ITEM #2 (2) VARIANCES

Applicant: Nathan and Kathy Meland

Owner: Janice Johnson

Property Description: NW1/4, Section 9-T119N-R55W, excluding strip, excluding S1072.5', Codington County, South Dakota. (Eden Township)

Action Items – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.7.b), minimum lot width (3.04.03.2).

Zoning Designation: Agricultural

Request: The applicant seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption), to retain building rights on property with an existing farmstead.

History/Issue(s):

1. The Melands seek to purchase the above property at the site of the existing farmstead located on the above property.
2. The property was used as a base for farming operations prior to 1976 and is still lived in.
3. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
4. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
5. Staff recommendation (**Variance**) –*Existing Farmstead Exemption and variance to Minimum Lot Width*- Approve request because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of records and site-visit has determined that this parcel was used as an existing farmstead/residential site prior to October 26, 1976. If approved it should be done so on the condition that the applicant plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance prior to the issuance of any building permit for a new house.

ITEM #3 CONDITIONAL USE PERMIT

Applicant: Brent Zemlicka / Owner: Rodney Zemlicka

Property Description: NW1/4, Section 4-T118N-R52W, Codington County, South Dakota. (Rauville Township)

Action Items: Conditional Use - Class 3 CAFO (3.04.03.8)

Zoning Designation: A - Agricultural

Request: Mr. Zemlicka seeks to construct a 2,400 head finisher swine facility.

History/Issue(s):

Specifics and History of Request:

1. Mr. Zemlicka proposes to operate a Concentrated Animal Feeding Operation on the above described property owned by his father.
2. Portions of the property are located over Zones B and C of the Aquifer Protection District, however no aspect of this operation are proposed over the shallow aquifer. Mr. Zemlicka performed soil borings to verify this.
3. The site will be constructed for 2,400 finisher swine (960) animal units in a slatted/deep pit barn. The barn will be 102' x 193'.
4. He is working with an engineering firm to help prepare the application, in anticipation of the Board requiring a "certificate of compliance" from DENR based on the size of the operation.
5. Rodney Zemlicka, Brent's father, operates a grandfathered CAFO over Zone A of the aquifer protection district. Initially it was the intent of the Zemlicka's to add this barn at the farm, but they were told it was prohibited by ordinance.
6. This feedlot request is substantially the same as was presented and approved on February 27, 2018. The decision was void on the basis that a neighbor (Mr. Schick) was not mailed a notice of the hearing.

7. The changes to the application were provided in an addendum to the request. They include:
 - a. Update of site plan to correct road name (160th Street) and to include location for trees if required by Board.
 - b. Update Manure / Nutrient Management Plan to include the transport of manure by tank truck east on 160th Street to 456th Avenue, the south to 161st Street (County gravel), and back west to County Road 11.
8. The primary haul route for feed and animals is still intended to be 160th Street (Germantown) a township road.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive land use plan lists numerous considerations for CAFO's on pages 59-60, all of which are addressed in the zoning ordinance (see below).
2. The request is to construct a new facility with numbers described above
3. No portion of the animal feeding operation is located over the Aquifer Protection District.
 - a. Soil boring was performed at the request of the zoning officer to verify the location of the aquifer in relation to this project. It is the opinion of the engineer that the aquifer materials map is substantiated by the borings performed.
4. It should be noted that this proposal is not to a scale large enough to require a State General Permit from SDDENR; however it is within the scope of the Board to ask for a certificate of compliance for this operation. The following assumes the Board will require such certificate.
5. The Board shall consider the following in determining whether the proposed CAFO will create a significant contribution of pollution:
 - a. Adding a review for certificate of compliance by SDDENR would ensure that DENR, the authority on water pollution, reviews the plans for compliance.
 - b. Size of feeding operation and amount of manure reaching waters of the state
 - 1) At its meeting on August 28, 2017; the Board heard from SDDENR – Feedlot permitting that they have had no pollution issues with deep pit barns.
 - 2) All manure from will be stored under roof and only removed when transported for spreading
 - c. Location of feeding operation in relation to waters of the state
 - 1) A blue line does cross this property approximately 150' south of the proposed barn.
 - d. Means of conveyance of manure and process wastewater into waters of the state
 - 1) Manure is contained in a pit with 8" of concrete and inside a barn.
 - 2) The barn is on a flat area, but the property slopes toward the blue line to the south/southwest (150' at its nearest point.)
 - e. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.
 - 1) See "a" "c" and "d" above.
 - 2) Between proposed barns and blue line the land is used for crops.
6. A nutrient management plan is required.
 - a. Nutrient management plan has been prepared and submitted.
 - b. Fields in the nutrient management plan are expected to change (per the applicant and based upon the zoning ordinance.)
 - c. The engineer certifies that the land currently used for spreading is sufficient for spreading the manure generated.
7. A manure management plan is required
 - a. The applicant prepared the manure management plan. It included:
 - 1) A site plan
 - 2) Operation procedures and maintenance of manure facilities for existing and proposed facilities.

- 3) Verified that no containment is intended to store waste for more than two years
 - 4) Final as-built plans will be submitted to the zoning office if they change.
 - 5) Manure containment is designed for greater than 270 days storage.
 - 6) Plans specify manure will not be stored more than 2 years.
 - 7) Plans specify records on manure application will be kept and document that acceptable manure and nutrient management practices have been followed.
8. A Management plan for fly and odor control.
- a. Completed –
 - 1) Operational plans for manure collection storage, treatment have been developed
 - 2) Applicant will contract with a rendering service for death loss or create a compost area.
 - 3) No trees are proposed around this facility.
 - 4) There is no outdoor manure storage
 - 5) Manure from the barn is entirely contained indoors.
 - 6) It is the intent to avoid spreading manure on weekends, holidays, and evenings on warm days.
 - 7) It is the intent to avoid spreading on calm and humid days.
 - 8) Manure will be transported by hose and injected.
 - 9) The applicant would prefer not to plant trees but will do so as an additional precaution to control odor.
9. The site is greater than suggested separation distances for Churches, businesses, commercially zoned areas, Town Districts, Incorporated municipalities, private wells other than the operator's, lakes and streams classified as fisheries, and established residences.
10. The barn meets the minimum setbacks from rights-of-way.
11. The Board has historically accepted proposed setbacks (internal property lines) of facilities where they can meet suggested minimums or variances have been issued.
12. Review of Specifications and nutrient management plan by DENR.
- a. Applicant is not required by ordinance though may be required by the Board to have the nutrient management plan reviewed by DENR for a Certificate of Compliance. DENR does not review or inspect sites as follow up in these cases where a state permit is not required.
13. The zoning office does not have a record of any complaints against the Zemlicka Operation.
14. All information required of the applicant in Section 5.14.9 were provided.
15. Information on soils, shallow aquifers, wellhead protection areas and floodplain (provided)
16. Zoning Office notified Germantown and Rauville townships of the request.
17. Zoning Office notified Clark rural water director of the request.

Staff Recommendation

Conditional Use Permit – **Class 3 CAFO**: The Board may table the request, deny the request or approve the request. If approved, the staff recommends, at a minimum, the following conditions:

1. The proposed barn will be constructed to provide manure containment for 2,400 finisher swine (960 animal units).
2. The applicant shall make application for a "Certificate of Compliance" from SDDENR prior to the issuance of any building permit(s) for the proposed site. The applicant shall not stock the site until providing documentation to the office of receipt of a Certificate of Compliance and/or demonstrating that any changes required as a result of the Certificate of Compliance have been implemented.

3. The applicant agrees to comply with the submitted nutrient management plan, fly and odor management plan, and manure management plan.
4. Applicant shall provide updated information regarding fields included in the nutrient management plans upon request by the Zoning Officer.
5. This Conditional Use Permit authorizes the use of this property for a Concentrated Animal Feeding Operation (nursery and feeder swine) consisting of 960 animal units. Any expansion beyond 960 animal units will require a new conditional use permit and the review of the site by SDDENR for compliance with the State General Permit requirements.
6. Haul road agreements with Codrington County, Rauville, and Germantown Townships shall be provided for the use of 160th Street, 457th Avenue, and 161st Street as primary haul routes. Unless otherwise agreed to between the township and the applicant, Codrington County requires the Grantor to abide by the following terms to be included in the Agreements:
 - a. Unless otherwise agreed upon between the grantor and the applicable road authority, the grantor shall be responsible for any costs associated with extraordinary maintenance and graveling on the portions of 160th Street, 457th Avenue, and 161st Street used for the hauling of manure, feed, animals etc. for the operation, which are hereby designated as the primary haul roads, and
 - b. Unless otherwise agreed upon between the grantor and the applicable road authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the applicable road authority and meet its specifications. The work shall be done through the applicable contractor unless the Grantor receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - c. The applicable road authority shall be responsible for all ordinary snow removal on 160th Street, 457th Avenue, and 161st Street the same basis as provided to the remainder of the Township. Any additional snow removal deemed necessary for the Grantor to continue its operations is hereby authorized to be done at Grantor's expense.
 - d. The Grantor acknowledges that, to the extent already provided for by the law, and further acknowledges that it shall be responsible for any and all damages to applicable road authority roads or road right-of-ways due to the result of the Grantor's operations (i.e. Delivery of feed, silage chopping or manure disposal). Work will be done on the same basis as specified hereinabove. However, no unique standard or obligation not otherwise provided for by law is created by this acknowledgment.
 - e. The Grantor may have an Agreement with a contractor for cutting silage or forage, or for hauling manure and shall notify the Townships in advance of manure hauling or chopping by listing the roads that will be traveled.
 - f. Unless otherwise agreed upon by the applicable road authority, the applicant shall notify and/or obtain any appropriate licenses prior to the laying of any pipes if intended to be used for the transport liquid manure within the applicable right-of-way.
 - g. The applicable road authority and applicant may review and assign new haul routes on an annual basis.
7. In the event the haul road agreements hereinbefore described are not executed, the grantor, his heirs, assigns or successors in interest of the Grantor agree that all of the terms and conditions of Item "6" are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "6".

8. The Grantor shall consult with the NRCS and/or Conservation District to plant a minimum of two rows of trees intended to screen properties to the north and west from odor generated by the proposed barn.
9. The Grantor shall comply with established minimum manure application setbacks when spreading manure generated from the CAFO.
10. The conditional use shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are adhered to.
11. The Conditional Use Permit is transferable. Subsequent owners/operators will be required to agree to the terms of this permit.
12. If there are 1) Violations of the Conditional Use Permit or other Codington County Zoning regulations or 2) Failure of the manure containment system, the applicant may be required to forfeit the Conditional Use Permit.
13. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment to the Codington County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
 - (3) Failure to comply with the decision of the Zoning Officer or other agent of the Codington County Board of Adjustment may be deemed a separate violation.
14. All of the terms and conditions herein shall extend to and be binding upon the heirs, assigns, or successors in interest of the Grantor, and are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this agreement which shall, upon its execution, be recorded with the Codington County Register of Deeds Office.

CODINGTON COUNTY PLANNING COMMISSION

ISSUE #1 PLAT

Applicant/Property Owners: Beverly Carpenter

Property Description: Plat of Carpenter Addition in the NE1/4 of Section 14-T118N-R51W, in the County of Codington, South Dakota.(Waverly Township)

Zoning Designation: A-Agricultural District

Request: The Carpenter's seek to create 3 lots, each approximately 5 acres.

Summary: In 2007 Libby Carpenter was granted a farmstead exemption to have a house on the same lot as the farm owner/operator provided it be removed if she no longer works on the farm or the house be transferred with 35 or more acres in the future. In 2008, Rob Carpenter built a house to remain tied to the SE1/4 of the section and a farmstead exemption was granted to allow a 5-acre lot to allow Butch and Beverly Carpenter to remain at the farmstead. The plat is intended to create lots at the sites of the houses. Libby will own the quarter section surrounding Lot 1 (her house is located on lot 1); Rob will own the Quarter section surrounding Lot 3 (his house is located on lot 3). Staff recommends approval of the plat conditional upon applicant signing a letter of assurance agreeing the building rights remain only if lots 1 and 3 are transferred in the future with the (applicable surrounding/adjacent quarter).

ISSUE #2 Ordinance Amendment

Initiated by Planning Commission

Action Item – Recommendation of approval of Ordinance Amending the Zoning Ordinance:

Summary: This is the version of Article IV Administration, as discussed by the Planning Commission during a work session in January. It implements changes dictated by state law and updates the ordinance to be more consistent with policies of Board decisions, administration, and the Comprehensive Land use Plan.

Ordinance #67

AN ORDINANCE ENTITLED, AN ORDINANCE AMENDING ARTICLE IV ADMINISTRATION OF ORDINANCE 65 AN ORDINANCE AMENDING ORDINANCE #15 AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CODINGTON COUNTY, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, PURSUANT TO SDCL 11-2, 1967, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL RESOLUTIONS AND/OR ORDINANCES IN CONFLICT HEREWITH.