

Codington County Planning Commission/Board of Adjustment Minutes

July 19, 2021

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on July 19, 2021 via teleconference and at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Brenda Hanten, Mel Ries, Mark O'Neill, Bob Fox, Alex Kahnke, Rodney Klatt, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Joy Nelson, Francis Kearney, Annelies Seffrood, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 7:30 pm.

Motion by Hanten second by Kahnke, to approve the June 21, 2021 meeting minutes. Motion passed unanimously.

Motion by Johnson, second by Ries, to approve the July 12, 2021 special meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Kahnke, to approve the agenda. Motion passed unanimously.

Motion by Ries, second by Johnson, to recess the Planning Commission and convene only as the Board of Adjustment. Motion passed unanimously.

Motion by Klatt, second by Hanten, to approve the Conditional Use Permit request by Thomas Darrington to construct a single family dwelling less than 1/2 mile from existing Concentrated Animal Feeding Operation (CAFO). Property is located in W1/2 of Section 11-T119N-R54W. Muller reviewed Staff Report (attached). Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Johnson, second by Ries, to approve the Conditional Use Permit request by Joy Ranch of South Dakota to transfer ownership of the currently permitted religious conference facility from Lutheran Outdoors in SD, Inc. Property is owned by Lutheran Outdoors in SD and located in Lot 1 Lutheran Outdoors Addition less Joy C. Nelson Cemetery Plot Lutheran Outdoors Addition, Section 1-T117N-R54W. Muller reviewed Staff Report (attached). If approved, applicant would be required to sign a Letter of Assurance agreeing to the following conditions:

- a. Conditions of approval are for uses and structures at the time of issuance of this permit. Grantor must present application to the Board of Adjustment for approval prior to construction of any further non-agricultural ancillary accessory uses including but not limited to new structures originally considered "Phase III plans" (gymnasium and swimming pool),

new commercial structures, and additional staff housing. Additions or expansions to structures existing on July 19, 2021 may occur if constructed in accordance with the applicable building code.

- b. All interior roads shall use concrete, asphalt or asphalt re-grind surfacing.
- c. The Grantor is responsible for construction and maintenance of all interior roads.
- d. The Grantor will maintain a mechanical pretreatment plant and have the sewage treatment plan professionally engineered to comply with standards established by the SDDENR. The location of the treatment pond is to be located at least ¼ mile from the closest residence. No septic tanks and drain fields shall be used in conjunction with the facility.
- e. The Grantor will sign an Agricultural Easement.
- f. On-site signage at the entrance of the facility shall be setback sixty-five (65) feet from the public right-of-way and shall further be limited to maximum square footage of thirty-two- (32) square feet.
- g. Issuance of Codington County Building Permits shall conform to the approved site plan; and may include additional ancillary agricultural or recreational/landscaping structures and may include expansion of existing uses with additions to existing structures which include a siding and roof-type similar to that of the structures, existing as of July 19, 2021.
- h. With the exception of letter “g” above, approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans.
- i. Sleeping and dining facilities shall be registered with the South Dakota Department of Health and provide a smoke detector in each sleeping room.
- j. The length of stay of any registered guest, not to include staff, shall not exceed thirty (30) days during any one hundred twenty (120)-day consecutive period.
- k. The campground associated with the facility shall comply with the following conditions:
 - i. Campground use is restricted to family members and participants engaged in sanctioned camp activities.
 - ii. Each campsite shall contain at least two thousand (2,000) square feet.
 - iii. The campground(s) shall be supplied with a water supply and sewage disposal facilities, including washing, toilets, and similar facilities, and all of which shall meet all applicable State and County codes and regulations.
 - iv. Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen (14) feet for all one-way roads, and twenty (20) feet for all two-way roads.
 - v. No manufactured homes shall be located in any campground.

- vi. The facility shall keep accurate records as to the length of time a person stays in the campground and shall make said records available to the Zoning Officer upon request.
- vii. If there are substantiated complaints of noise, documented by the Codington County Zoning Officer, the Grantor may be required to construct a lakeside noised barrier. Type of barrier to be determined by the Board of Adjustment.
- l. Trees placed on site and angled SE to NW in a manner to protect the Chenoweth property while not interfering with the Religious Conference Facility's view of the lake shall be maintained, unless written permission from the Chenoweth's or successor's in title interest is filed with the zoning officer requesting removal of said trees.
- m. The Grantor shall construct the lake side exterior of commercial structures in a manner which is compatible with the setting, so as not to add to the visibility of the project. The exterior shall not consist of steel siding. Compatibility with the setting is to be determined by the Codington County Zoning Officer.
- n. The Grantor shall maintain not less than two (2) rows of trees relocated from the ranch to act as a site line/noise barrier on the Severson's property line, unless written permission from the Severson's or successor's in title interest is filed with the zoning officer requesting removal of said trees.
- o. Up to two residences may be occupied by staff or owners of the Religious Conference Facility.
- p. The Grantor is required to meet all health and safety requirements of the State of South Dakota for the proposed staff quarters including but not limited to building code, fire code, and Department of Health. Documentation of the satisfaction of any of these requirements shall be maintained and available to the zoning officer upon request.
- q. If the above-described property is no longer used for a Religious Conference Facility, any residence shall be transferred to lots with not less than thirty-five (35) acres, unless otherwise in conformance with minimum lot area at the time of discontinuance of the use.
- r. Any portion to be subdivided from the above-described property shall contain at least thirty-five acres.
- s. Should any portion of the above-described property be subdivided and transferred, a new conditional use permit shall be required.
- t. This Conditional Use Permit for the Religious Conference Facility is not transferable. Subsequent owners/operators will be required to obtain a Conditional Use Permit.
- u. The Grantor acknowledges that if any terms of this agreement are not complied with, the Grantor may be required to forfeit his claim to a Conditional Use Permit.

- v. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Office and Codington County Board of Adjustment.
- w. The first violation substantiated by the Zoning Officer of this conditional use permit will result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one (1) calendar year of the initial violation will result in the cessation of all religious conference facility activities/operations for a period of seven (7) days. A third violation occurring within one (1) calendar year of the initial violation will result in the cessation of all religious conference facility activities/operations for a period of fifteen (15) days. A fourth violation occurring within one (1) year of the initial violation will result in revocation of the conditional use permit and cessation of all Religious Conference Facility activities/operations within forty-five days (45) of notice of said revocation.
- x. The Grantor 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 Grantor 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.

Joy Nelson spoke as to how this application came to be. Joy Ranch no longer fit the "model of Lutheran Outdoors of South Dakota. There will be no change in the operation of Joy Ranch, only a change in the ownership. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Hanten, second by Ries, to reconvene jointly. Motion passed unanimously.

Muller provided a report which include a Marijuana Ordinance, availability of buildable lots, Permit and Use inquiries in the zoning office,

Motion to adjourn made by Johnson, second by Ries. Motion passed unanimously.
Meeting adjourned at 9:12 pm.

Respectfully Submitted,

Becky Goens

JULY 2021
CODINGTON COUNTY BOARD OF ADJUSTMENT STAFF REPORT

ITEM #1 CONDITIONAL USE PERMIT

Applicant/Owner: Thomas Darrington

Property Description: W1/2 of Section 11-T119N-R54 West of the 5th P.M., Codington County, South Dakota. (Dexter Township)

Action Item – Conditional Use - Residence less than one-half mile from existing CAFO (3.04.02.41)

Zoning Designation: Agricultural

Request: The applicant seeks to construct a residence less than ½ mile from a neighbor's existing CAFO.

History/Issue(s):

1. Mr. Darrington seeks to construct a house on this parcel.
2. The proposed house will be located approximately 1,000 feet north of Larry Halse's CAFO
3. The County requires a conditional use permit to construct a residence within one-half mile of an existing CAFO, to establish that since the CAFO was in existence before the house:
 - a. The CAFO will not be considered nonconforming.
 - b. If the neighboring CAFO applies for an expansion, the new home will not be a residence which requires a setback be measured from it. (Does not meet the definition of Established Residence.)
4. As of the date of this report staff has received no correspondence regarding this request:

Staff recommendation:

Conditional Use Permit: Dwelling less than ½ mile from existing CAFO. The Board may postpone the request, deny the request or approve the request. If approved the applicant would be required to sign and record the "Acknowledgment of Existing Concentrated Animal Feeding Operation" prior to issuance of a building permit for the house.

ITEM #2 CONDITIONAL USE PERMIT

Applicant/Owner: Joy Ranch of South Dakota

Property Description: Lot 1 Lutheran Outdoors Addition less Joy C. Nelson Cemetery Plot Lutheran Outdoors Addition, Section 1-T117N-R54 West of the 5th P.M., Codington County, South Dakota. (Richland Township)

Action Items –

- **Conditional Use – Religious Conference Facility (3.04.02.28)**

Zoning Designation: A – Agricultural

Request: Joy Ranch of South Dakota (applicant) seeks to transfer the permit for a religious conference facility from Lutheran's Outdoors.

History/Issue(s):

Specifics of Request:

1. The applicant has an agreement to purchase the above described property from Lutheran's Outdoors.
2. On May 19, 2008 Lutheran's Outdoors was granted a conditional use permit to operate a Religious Conference Facility
 - a. The permit included numerous conditions, but was not transferable. Therefore, in order for any new entity to take ownership, a new conditional use permit is required.
3. Original application (in 2008) included 3 phases of construction. The first two phases were permitted at that time, and have been completed. Phase 3 (gymnasium and pool) required additional review by the Board of Adjustment. There are no plans to complete Phase 3.
4. The applicant proposes continue operation in a manner which meets the terms of the ordinance and in accordance with the original site plan approved in 2008.
 - a. An amendment to the permit was approved in May 2017 to allow an additional residence to be placed in the southeast corner of the property on the condition the house be removed if no longer occupied by employees.
 - b. The house on site (formerly occupied by Chuck Schuchard) will be removed as soon as possible upon property transfer so that only one house will be used for staff housing.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive Land Use Plan lists considerations for Religious Conference Facilities on page 64.
2. The nearest structure (former Chuck Schuchard House) to the nearest residence occupied by someone other than Joy Nelson is 700' away.
 - a. The nearest residence to any commercially used structure is 1,100' (Chenowith)
3. The legal description includes 108 acres.
4. The applicant provide documentation of 501 (c) 3 status.
5. Since the beginning of operation, the zoning office is aware of only one noise complaint regarding music being played late at night during set-up for an outdoor event.
6. Interior streets are paved, and the site has direct access to 448th Avenue (paved county road.)
7. This site is located over the shallow aquifer. According to the original permit:
 - a. The facility shall utilize a sanitary sewer collection treatment system approved by the SDDENR. With the location of the treatment pond to be located at least ¼ mile from the closest residence. No septic tanks and drainfields shall be used in conjunction with the facility.
 - b. All water is treated with a greywater lagoon on the northern end of the property approximately 1,380' from the nearest residence.
8. An Ag Easement was signed and recorded prior to construction of this facility.
9. Applicant provided a site plan of the existing and planned facilities utilized for the conference facility. That information along with publicly available documents provide a full site plan of the property.
10. No new signs are proposed at this time. Originally signage was limited to 32 square feet of on-premise signage. Applicant agrees to the same limitations.
11. Sleeping and dining facilities shall be registered with the South Dakota Department of Health and provide a smoke detector in each sleeping room. Applicant has agreed to standard.

12. The length of stay of any registered guest shall not exceed thirty (30) days during any 120-day consecutive period. Applicant has agreed to standard.
13. Campgrounds: Applicant has agrees to continue complying with standards contained within ordinance regarding facilities, roads, restrictions, and record keeping.
14. The site currently includes three residences. One is occupied by Joy Nelson. One is occupied by staff of Joy Ranch. One is currently abandoned.
15. Regarding any future subdivision of this property:
 - a. Should the applicant/grantor determine it prudent to sell one of the existing residences with a building site, it should be noted that the issuance of this permit changes the primary use of this property from “existing farmstead” or “farm residence” to “Religious Conference Facility.” Therefore, any future subdivision of the above described property shall include at least 35-acres to retain residential building rights for any of the existing houses in addition to any other lots.
 - b. Further should any portion of this lot be decreased in area, a new conditional use permit shall be required in order to determine whether the total area is appropriate for the use at the time.
 - c. Additional property may be acquired and used for parking, screening, and open space; however no additional structures or new uses may be added to the new property due to the limitation on
16. Regarding any future addition of property to this legal description:
 - a. Additional property may be acquired and used for parking, screening, open space, and ancillary agricultural uses (ie. field crops, grazing (excluding feedlots), garden plots, horticultural uses, etc.); however no additional structures or new uses may be added to the new property without Board of Adjustment approval.

Staff Summary and Recommendation:

In 2008 a permit was issued for Joy Ranch to operate a Religious Conference facility. A condition of approval was that ANY TRANSFER OF OWNERSHIP would require a new conditional use; presumably to determine suitability of the incoming owners and review any planned changes in operation and site by the new owners. In this case no significant changes in outward appearance/site plan are expected except for the removal of one house formerly used for staff housing. The use has operated for 12 years with remarkably few complaints. Staff suggests updating previous conditions to require the applicant to continue operating by the initial conditions on site, unless additional concerns related to the ordinance arise during the hearing.

Conditional Use Permit – ***Religious Conference Facility*** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- y. Conditions of approval are for uses and structures at the time of issuance of this permit. Grantor must present application to the Board of Adjustment for approval prior to construction of any further non-agricultural ancillary accessory uses including but not limited to new structures originally considered “Phase III plans” (gymnasium and swimming pool), new commercial structures, and additional staff housing. Additions or expansions to structures existing on July 19, 2021 may occur if constructed in accordance with the applicable building code.
- z. All interior roads shall use concrete, asphalt or asphalt re-grind surfacing.
 - aa. The Grantor is responsible for construction and maintenance of all interior roads.
 - bb. The Grantor will maintain a mechanical pretreatment plant and have the sewage treatment plan professionally engineered to comply with standards established by the SDDENR. The location of the treatment pond is to be located at least ¼ mile from the

closest residence. No septic tanks and drain fields shall be used in conjunction with the facility.

- cc. The Grantor will sign an Agricultural Easement.
- dd. On-site signage at the entrance of the facility shall be setback sixty-five (65) feet from the public right-of-way and shall further be limited to maximum square footage of thirty-two (32) square feet.
- ee. Issuance of Codington County Building Permits shall conform to the approved site plan; and may include additional ancillary agricultural or recreational/landscaping structures and may include expansion of existing uses with additions to existing structures which include a siding and roof-type similar to that of the structures, existing as of July 19, 2021.
- ff. With the exception of letter "g" above, approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans.
- gg. Sleeping and dining facilities shall be registered with the South Dakota Department of Health and provide a smoke detector in each sleeping room.
- hh. The length of stay of any registered guest, not to include staff, shall not exceed thirty (30) days during any one hundred twenty (120)-day consecutive period.
- ii. The campground associated with the facility shall comply with the following conditions:
 - viii. Campground use is restricted to family members and participants engaged in sanctioned camp activities.
 - ix. Each campsite shall contain at least two thousand (2,000) square feet.
 - x. The campground(s) shall be supplied with a water supply and sewage disposal facilities, including washing, toilets, and similar facilities, and all of which shall meet all applicable State and County codes and regulations.
 - xi. Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen (14) feet for all one-way roads, and twenty (20) feet for all two-way roads.
 - xii. No manufactured homes shall be located in any campground.
 - xiii. The facility shall keep accurate records as to the length of time a person stays in the campground, and shall make said records available to the Zoning Officer upon request.
 - xiv. If there are substantiated complaints of noise, documented by the Codington County Zoning Officer, the Grantor may be required to construct a lakeside noised barrier. Type of barrier to be determined by the Board of Adjustment.
- jj. Trees placed on site and angled SE to NW in a manner to protect the Chenoweth property while not interfering with the Religious Conference Facility's view of the lake shall be maintained, unless written permission from the Chenoweth's or successor's in title interest is filed with the zoning officer requesting removal of said trees.
- kk. The Grantor shall construct the lake side exterior of commercial structures in a manner which is compatible with the setting, so as not to add to the visibility of the project. The exterior shall not consist of steel siding. Compatibility with the setting is to be determined by the Codington County Zoning Officer.
- ll. The Grantor shall maintain not less than two (2) rows of trees relocated from the ranch to act as a site line/noise barrier on the Severson's property line, unless written permission from the Severson's or successor's in title interest is filed with the zoning officer requesting removal of said trees.
- mm. Up to two residences may be occupied by staff or owners of the Religious Conference Facility.
- nn. The Grantor is required to meet all health and safety requirements of the State of South Dakota for the proposed staff quarters including but not limited to building code, fire code, and Department of Health. Documentation of the satisfaction of any of these requirements shall be maintained and available to the zoning officer upon request.

- oo. If the above-described property is no longer used for a Religious Conference Facility, any residence shall be transferred to lots with not less than thirty-five (35) acres, unless otherwise in conformance with minimum lot area at the time of discontinuance of the use.
- pp. Any portion to be subdivided from the above-described property shall contain at least thirty-five acres.
- qq. Should any portion of the above-described property be subdivided and transferred, a new conditional use permit shall be required.
- rr. This Conditional Use Permit for the Religious Conference Facility is not transferable. Subsequent owners/operators will be required to obtain a Conditional Use Permit.
- ss. The Grantor acknowledges that if any terms of this agreement are not complied with, the Grantor may be required to forfeit his claim to a Conditional Use Permit.
- tt. Violation of the terms of this conditional use permit will be determined by the Codington County Zoning Office and Codington County Board of Adjustment.
- uu. The first violation substantiated by the Zoning Officer of this conditional use permit will result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one (1) calendar year of the initial violation will result in the cessation of all religious conference facility activities/operations for a period of seven (7) days. A third violation occurring within one (1) calendar year of the initial violation will result in the cessation of all religious conference facility activities/operations for a period of fifteen (15) days. A fourth violation occurring within one (1) year of the initial violation will result in revocation of the conditional use permit and cessation of all Religious Conference Facility activities/operations within forty-five days (45) of notice of said revocation.
- vv. The Grantor 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 Grantor 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.