

County Planning Commission/Board of Adjustment Minutes

September 18, 2023

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on September 18, 2023 at the Codington County Extension Complex. Members of the Planning Commission/ Board of Adjustment present were Rodney Klatt, Myron Johnson, Alex Kahnke, Brenda Hanten, Mel Ries, Calvin Mack, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Absent: Mark O'Neill.

Others present: Caitlyn German, Cole Jurgens, Daisy Jurgens, Nicki Jurgens, Jason Ducker, Judy Swanson, Janet Collins, Terry Kaufman, and Becky Goens.

Chair Hanten brought the meeting to order at 7:30 pm.

Motion by Johnson, second by Ries, to approve the August 23, 2023 meeting minutes. Motion passed unanimously.

Motion by Klatt, second by Mack to approve the agenda. Motion passed unanimously.

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

Motion by Klatt, second by Kahnke, to approve the Conditional Use Permit required by Jason Ducker to operate a small engine repair and service operation as an Extended Home Occupation. Property is in Ducker Addition, Section 9-T116N-R55W. Muller reviewed Staff Report (attached). If approved, the applicant would be required to sign a Letter of Assurance agreeing to the following conditions:

- 1) Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- 2) Off-premise signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs".
- 3) Up to one (1) non-illuminated, freestanding or wall sign with a maximum sixteen (16) square feet of surface area is allowed on-site.
- 4) Up to ten (10) vehicles or pieces of equipment may be stored outside waiting to be repaired or picked up.
- 5) No vehicle or equipment is on site for more than six (6) months.
- 6) No vehicle or equipment is stored outside, between the structure in which the extended home occupation is carried out and any adjacent right-of-way.
- 7) Any vehicles or equipment associated with the extended home occupation which are stored outside shall be screened from the right-of-way and adjacent property by means of buildings and/or the existing shelterbelts. Should the existing shelterbelt(s) be

removed or degrade in effect to a point that the storage is no longer screened, outdoor storage may be required to be removed, moved, or screened by means of solid walled fence, not more than eight (8') feet in height and/or conifer trees spaced not more than forty-five feet (45'), and greater than five feet (5') at the time of planting.

- 8) No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- 9) No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 10) Sale of products necessary to perform the service provided by the business and incidental accessory sale of excess inventory may be allowed. No other retail is allowed unless the product is associated with the business and produced on site.
- 11) The Conditional Use permit for the extended home occupation is non-transferable. Subsequent owners/operators will be required obtain a separate conditional use permit in order to continue the use for which this permit is granted.
- 12) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Codington County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

Ducker indicated this will begin as part time with hopes of developing into a full-time operation in the future. No one was present to speak during the public hearing. Public hearing closed. Muller 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 Clark Rural Water to install a public utility bulk water tank with meter tower on property in N120' E362' SE1/4, Section 7-T118N-R55W. Muller reviewed the Staff Report (attached). Public hearing was opened for discussion regarding the Conditional Use Permit and variance. No one was present to speak during the public hearing. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Klatt, second by Ries, to approve the variance application by Clark Rural Water for a 10' side yard setback variance to construct a meter tower on property in N120'

E362' SE1/4, Section 7-T118N-R55W. Muller reviewed Staff Report (attached). Motion passed unanimously.

Motion by Klatt, second by Johnson, to approve a variance application by Caitlyn German to construct a 6' fence less than 25' from a private street in a location agreed upon with the Township. Property is in W100' of E200' of N1/2 of OL B and the W100' of N1/2 of OL B in SW1/4 of NE1/4, Section 29-T118N-R51W. Muller reviewed Staff Report (attached). No one was present to speak during the public hearing. Public hearing portion closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

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

Motion by Kahnke, second by Mack, to recommend approval to the Board of County Commissioners the Plat of Kampeska Cemetery in the NE1/4 of Section 11-T116N-R54W, Codington County, SD. Motion passed unanimously.

Motion by Kahnke, second by Klatt, to recommend approval to the Board of County Commissioners the Plat of Jurgens Addition located in SE1/4 of SE1/4, Section 2-T116N-R54W, Codington County, SD. Motion passed unanimously.

Motion by Johnson, second by Kahnke, to recommend approval to the Board of County Commissioners the Plat of Viola Engels Addition in W1/2 of SE1/4, and Government Lot 2 in Section 18-T117N-R53W, Codington County, SD. Motion passed unanimously.

Motion by Ries, second by Mack, to recommend approval to the Board of County Commissioners the Plat of Boeder Addition in NW1/4 and NW1/4 of NE1/4, Section 21-T118N-R52W, Codington County, SD. Motion passed unanimously.

Muller gave a report on potential upcoming applications.

Motion to adjourn made by Johnson, second by Mack. Motion passed unanimously. Meeting adjourned at 8:35 pm.

Respectfully Submitted,

Becky Goens

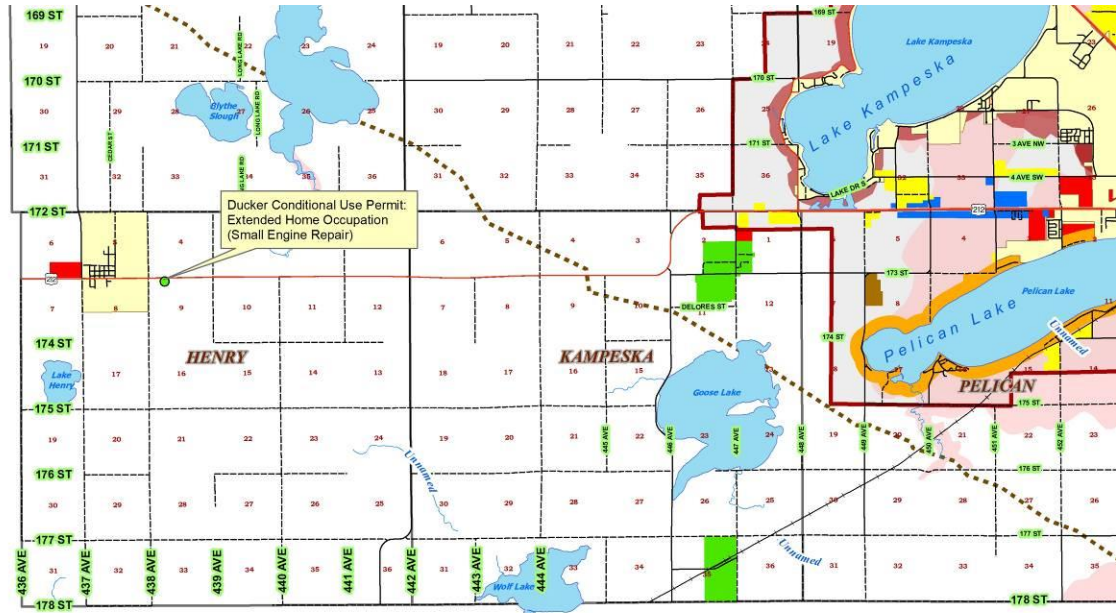
PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE

Applicant/Owner: Jason Ducker

Property Description: Ducker Addition, Section 9, Township 116 North, Range 55 West of the 5th P.M., Codington County, South Dakota. (Henry Township)



Action Items – Conditional Use – Extended Home Occupation (Small Engine/auto/recreational vehicle repair) (3.04.02.16)

Zoning Designation: A – Agricultural District

Request: The applicant seeks to operate a small engine repair shop.

History/Issue(s):

Specifics of Request:

1. Mr. Ducker lives at this site which was granted existing farmstead exemption 2010.
2. Access to this property is provided directly to US HWY 212.
3. Mr. Ducker proposes to repair small engines, ATV's, similar farm vehicles, and certain small watercraft.
4. The repairs will primarily be carried out in the existing out buildings or at the location of the [vehicle] owner in some cases.
5. Mr. Ducker intends to store and fix everything inside, but wants the ability to temporarily park finished or waiting vehicles outside until they can be worked on or taken off-site.
6. A shelterbelt with at least 4 rows of trees is located between the highway and the area to be used for any outdoor parking of vehicles/equipment.

- If overflow vehicles being repaired are on site they will be stored south of existing buildings and screened from view of the highway.



Ordinance and Comprehensive Land Use Plan regarding this request:

- Extended Home Occupations are a listed use in the A – Agricultural District.
- The Codington County Comprehensive Land Use Plan lists numerous considerations for Extended Home Occupations on pages 51-52, most of which are addressed in the zoning ordinance, others relating to policies of the Board in granting similar permits.
- According to the Codington County Comprehensive Land Use Plan Conditional Uses may only be denied if specific criteria for denying the permit can be identified.
- The county recently updated requirements for extended home occupations. The only reason Mr. Ducker requires a conditional use permit is because he *may* store items outside if waiting to be worked on or picked up.
- No non-resident employees are expected at this time.
- No on or off-premise signs are planned at this time and no additional structures.
- No sales will be conducted on site except parts necessary to complete the work necessary on a per project basis.
- This property is NOT located over the aquifer protection district
- Outdoor storage is proposed to be south of the shed in which repair will be completed.
- Outdoor storage is proposed to be located approximately 300' south of the right-of-way, behind an existing building, and screened from view by an established shelterbelt which includes conifer trees greater than 5' in height..
- Buildings and existing shelterbelts screen adjoining properties from outdoor storage.
- The applicant does not intend to keep equipment on site for greater than six months.

13. The applicant does not intend to have more than 10 vehicles or pieces of equipment on site waiting to be repaired or waiting to be picked up.
14. No need for additional parking (on or off-street) is expected.
15. US HWY 212 is paved to a standard to handle traffic generated by this use.
16. It is not anticipated that any processes associated with the business will be noticeable by heat, glare, vibration, etc. on neighboring properties.

Staff Recommendation

Conditional Use Permit – **Extended Home Occupation (Pet Crematorium)** 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):

- 13) Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- 14) Off-premise signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as “Blue Signs”.
- 15) Up to one (1) non-illuminated, freestanding or wall sign with a maximum sixteen (16) square feet of surface area is allowed on-site.
- 16) Up to ten (10) vehicles or pieces of equipment may be stored outside waiting to be repaired or picked up.
- 17) No vehicle or equipment is on site for more than six (6) months.
- 18) No vehicle or equipment is stored outside, between the structure in which the extended home occupation is carried out and any adjacent right-of-way.
- 19) Any vehicles or equipment associated with the extended home occupation which are stored outside shall be screened from the right-of-way and adjacent property by means of buildings and/or the existing shelterbelts. Should the existing shelterbelt(s) be removed or degrade in effect to a point that the storage is no longer screened, outdoor storage may be required to be removed, moved, or screened by means of solid walled fence, not more than eight (8') feet in height and/or conifer trees spaced not more than forty-five feet (45'), and greater than five feet (5') at the time of planting.
- 20) No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- 21) No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- 22) Sale of products necessary to perform the service provided by the business and incidental accessory sale of excess inventory may be allowed. No other retail is allowed unless the product is associated with the business and produced on site.
- 23) The Conditional Use permit for the extended home occupation is non-transferable. Subsequent owners/operators will be required obtain a separate conditional use permit in order to continue the use for which this permit is granted.
- 24) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Codington County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

Issue #2 Conditional Use and Variances

Applicant/Owner: Clark Rural Water Systems

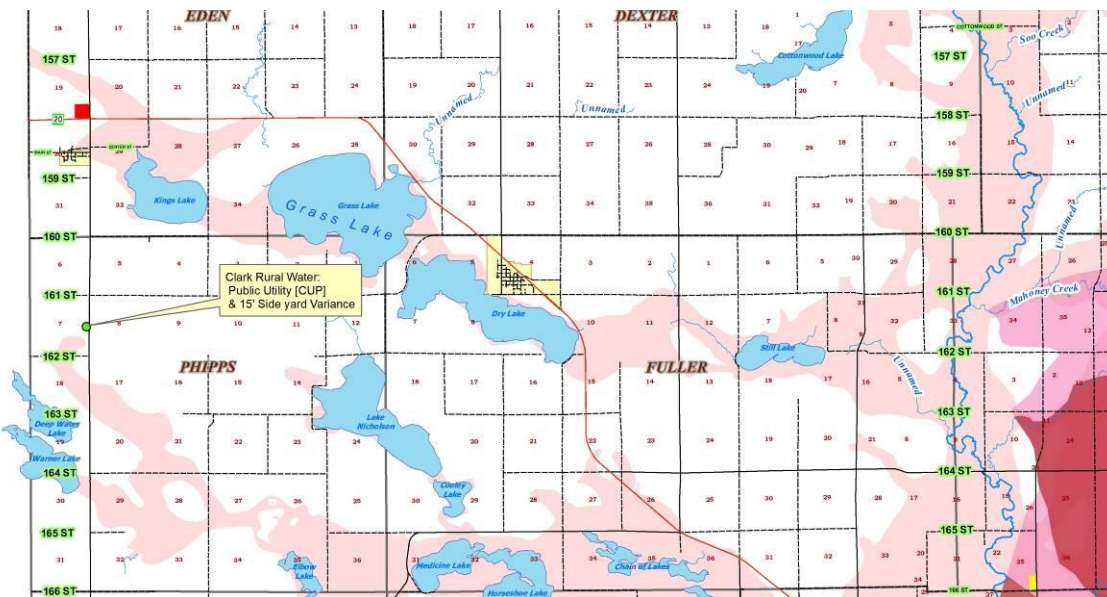
Property Description: The North 120 Feet of the East 362 Feet of the Southeast Quarter, Section 7, Township 118 North, Range 55 West of the 5th P.M. (Phipps Township), Codington County, South Dakota.

Action Items: Conditional Use – Public Utility and Public Service Structure (water tank) (Section 3.04.02.11)
 Variance – 15’ side yard Variance (Section 3.04.03.4)

Zoning Designation: Agricultural District

*(Make Motion to Approve the **Conditional Use** Request Subject to the Conditions in the Staff Report)*

Location:



Zoning Designation: Agricultural District

Request: Clark Rural Water seeks conditional use permit to add accessory structures 10’ from

the north property line at the site of a water tank.

Specifics of Property/Request:

1. Clark Rural Water constructed a water tank on the above described property in 2018. There is no record of a conditional use nor building permit for the tank.
2. Clark Rural Water is seeking to construct 50' tower to communicate operational information to the main office.
3. Small accessory structures are proposed 10' from the north property line.



**Clark Rural Water Conditional Use and Variance:
Public Utility (CUP); 15' Side yard variance**



Ordinance and Comprehensive Land Use Plan regarding this request:

- *Conditional Use Permit*
1. The comprehensive land use plan encourages lowest public expenditures necessary to maintain utility networks in the county, and encourages clustering of non-ag uses to limit the amount of intrusion/removal of land from agricultural production.
 2. The intent of the Ag District, and land use plan is to reserve land in the Ag District for agricultural uses.
 3. No specific requirements are listed for public utilities such as this structure.
 4. Certain provisions of the Telecommunications Tower Section apply, but most are exempt since the tower is less than 100' tall.
 5. Applicant provided name, address, and telephone number of the owner and lessee where the tower is located

6. Applicant provided legal description of property where tower will be located.
7. Applicant verified that no other towers within ½ mile could be used for co-location.
8. The tower is 50' in height
 - a. Telecommunications towers are exempt from maximum height requirements in the Ag District;
 - b. Towers less than 100' in height do not have additional setback requirements from any specific land uses (such as residences or businesses), nor is there an additional setback from property lines (other than Ag District Minimums.)
 - c. Towers less than 100 feet in height are expected to meet the minimum front yard setbacks in the Agricultural District.
 - i. The applicant proposes to decrease the side yard setbacks to 10' from the north property line, but not for the tower itself.
 - ii. The Board does have the authority to establish minimum setbacks for conditional uses unless otherwise specified in the ordinance.
 - iii. It should be noted that this telecommunications tower is being sited as an accessory use to the existing utilities.
9. The proposed tower is not required to have FAA lighting and is not planned to have any lights.
10. State law requires all non-residential/non-agricultural structures to be constructed according to the most recent version of international building code.
11. Following construction, no vehicles are expected at this site in conjunction with the use except for the purpose of maintenance.
12. No septic systems/sanitary sewer is proposed, nor necessary. There is no expected need for trash services.
13. No fencing is specified or proposed for this site.
14. No signs other than safety signs are proposed with this request.
15. No information has been provided regarding the satisfaction of the county highway office regarding the use of the road, however it is unlikely the proposed structure will create any significant increased need in snow removal due to the lattice design of the tower.

- *Minimum front yard setbacks*

1. The zoning ordinance requires a 25' setback from the right of way for permitted uses.
2. Section 3.04.3.4 notes that conditional uses may have setbacks as determined by the Board of Adjustment
3. The Board has a history of granting variances for utility uses.
4. A water pit is located in the area (25' from the property line) where the accessory structures would generally be located.
5. Should the Board approve this variance it should be based on its ability to determine necessary setbacks for non-residential structures.
6. The intent of the Ag District, and land use plan is to reserve land in the Ag District for agricultural uses. Decreasing setbacks may be seen as minimizing the amount of agricultural land being disturbed and taken out of production.

Staff Recommendation:

Staff Recommendation: Conditional Use Permit – ***Public utility (water tank with accessory telecommunications tower)***: The Board may postpone the request, deny the request or approve the request. If approved, staff does not have any recommended conditions outside of the requirements of the Zoning Ordinance.

Staff Recommendation – Variance: Minimum required side yard setback ((to allow) 10' side Yard Setback from the north property line: The Board may approve, deny, or postpone

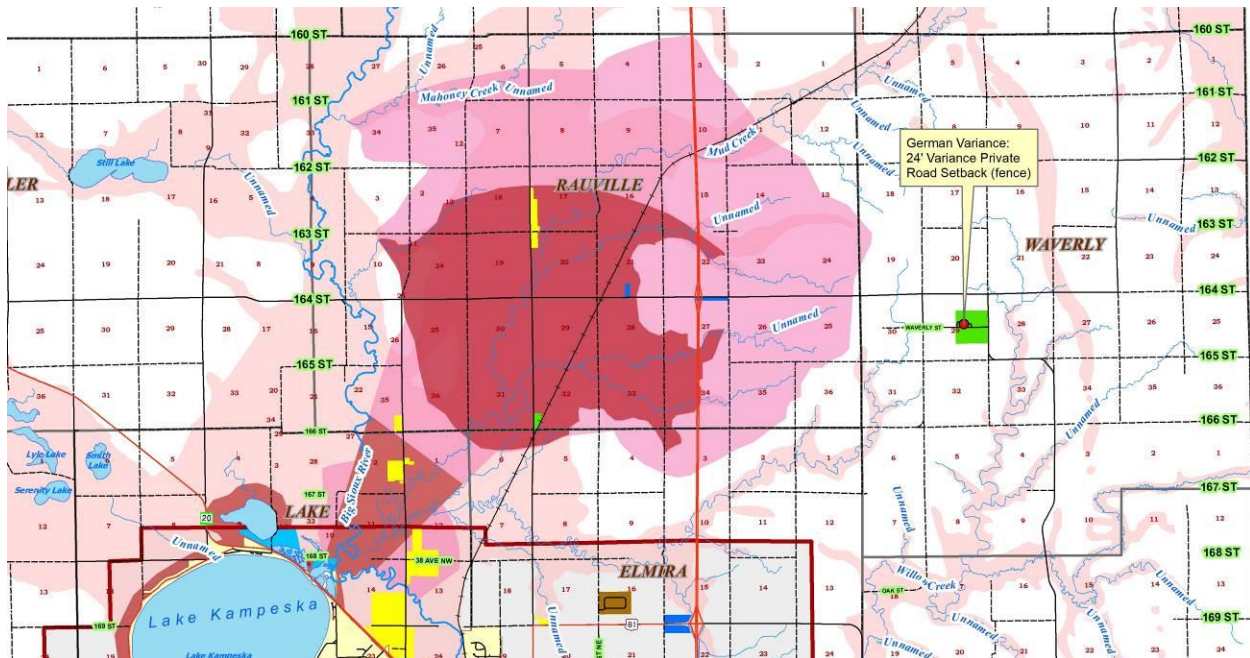
the request.

- The request could be approved based upon the following findings
 - a. The proposal is intended to minimize the intrusion into agricultural uses in the ag district.
 - b. Meeting the required setback would create undue hardship to the applicant and the residents of Codington County in discouraging *the most* efficient provision of water services within the county.
 - c. The zoning ordinance allows for area regulations for conditional uses to be established by the Board of Adjustment.
- The request could be denied on the basis that there is no hardship unique to this property that is not a result of actions of this or previous property owners. Therefore the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

ITEM #2 VARIANCE

Applicant/Owner: Caitlyn German

Property Description: The West 100 Feet of the East 200 Feet of the North Half of Outlot B, and the West 100 Feet of the North Half of Outlot B in the Southwest Quarter of the Northeast Quarter, Section 29 Township 118 North, Range 51 West of the 5th P.M., Codington County, South Dakota. (Waverly Township).



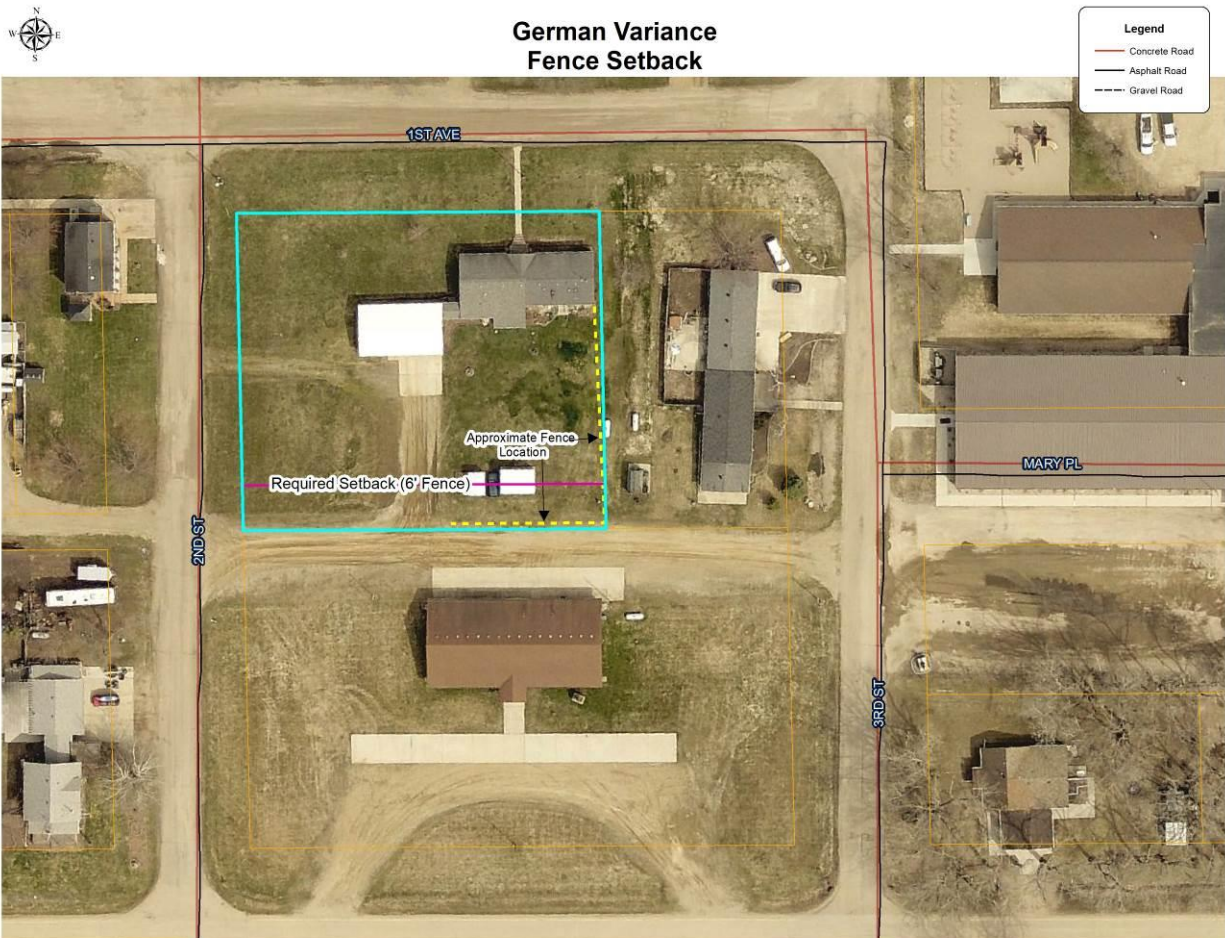
Action Items – Variance – Fence Setback (5.13.03.1)

Zoning Designation: “TD” Town District

Request: The applicant seeks to construct a 6 foot tall fence less than 25’ from a private street.

History/Issue(s):

1. The German's propose to construct a 6' tall perimeter fence 1' from the east and south sides of their property.
2. The property immediately south of the German's is owned by the township with a road on its north edge which is used as a private road/alley to access the school and for overflow parking at school events.
3. As of the date of this report the German's are in conversation with the township about a location for the fence but no resolution has been achieved.



Ordinance and Comprehensive Land Use Plan regarding this request:

1. The zoning ordinance allows fences 4' or less in height within 1 foot of a right-of-way or private street; requires a 25' setback for fences between 4' and 7' in height.
2. The board has a history of granting variances to fence and shelterbelt setbacks with permission from the affected property owner or road authority.

Staff Summary and Recommendation:

Staff Summary – As of the date of the report, no agreement has been provided between the applicant and the Township regarding the height and location of the fence. The Board has the option of determining the private road is not actually a private road necessary to meet the setback, or approve the variance *if an agreement is made with the township*. If the variance is denied, a fence can be located within 1' of the south property line provided the fence is 4' tall or less.

Staff Recommendation – Variance: Minimum required private road to allow a 6’ tall fence less than 25’ from a private road: The Board may approve, deny, or postpone the request.

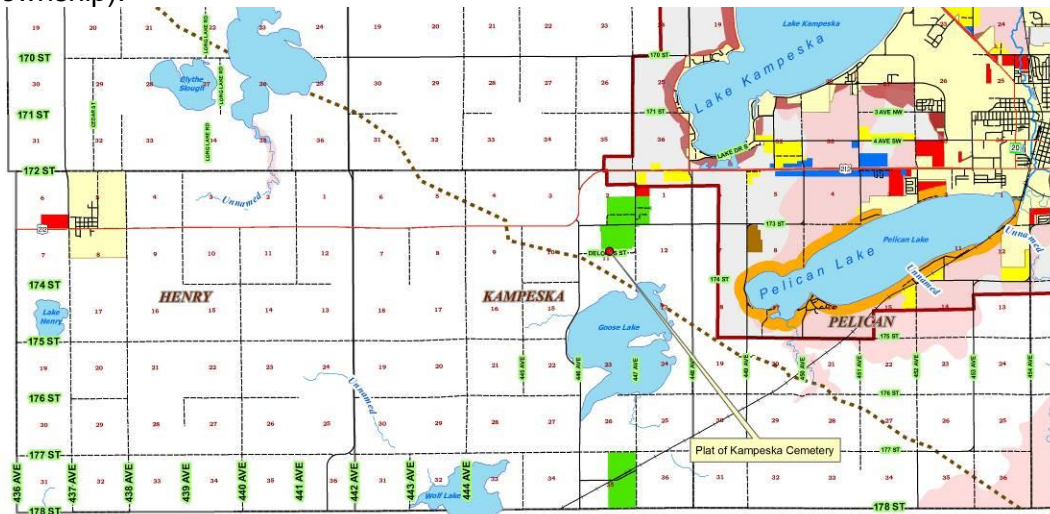
- The request could be approved based upon the following findings
 - a. The Board determines Waverly Township to be the road authority in this case.
 - b. An agreement between Waverly Township and the applicant regarding the placement and height of the fence may be warranted considering the road is a private road (maintained by a public entity).
- The request could be denied on the basis that there is no hardship unique to this property that is not a result of actions of this or previous property owners. Therefore the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

CODINGTON COUNTY PLANNING COMMISSION

ITEM #1 PLAT

Applicant/Owner: Kampeska Cemetery Association

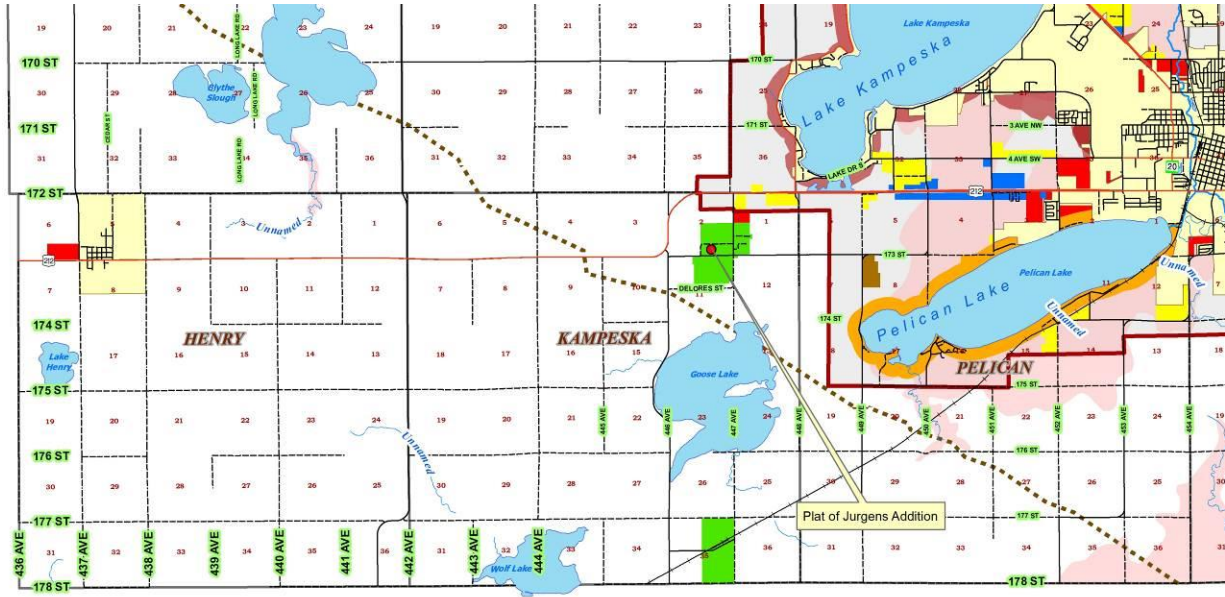
Property Description: Kampeska Cemetery in the Northeast Quarter of Section 11 Township 116 North, Range 54 West of the 5th P.M., Codington County, South Dakota. (Kampeska Township).



Action Items – Plat approval.

Zoning Designation: Ag District

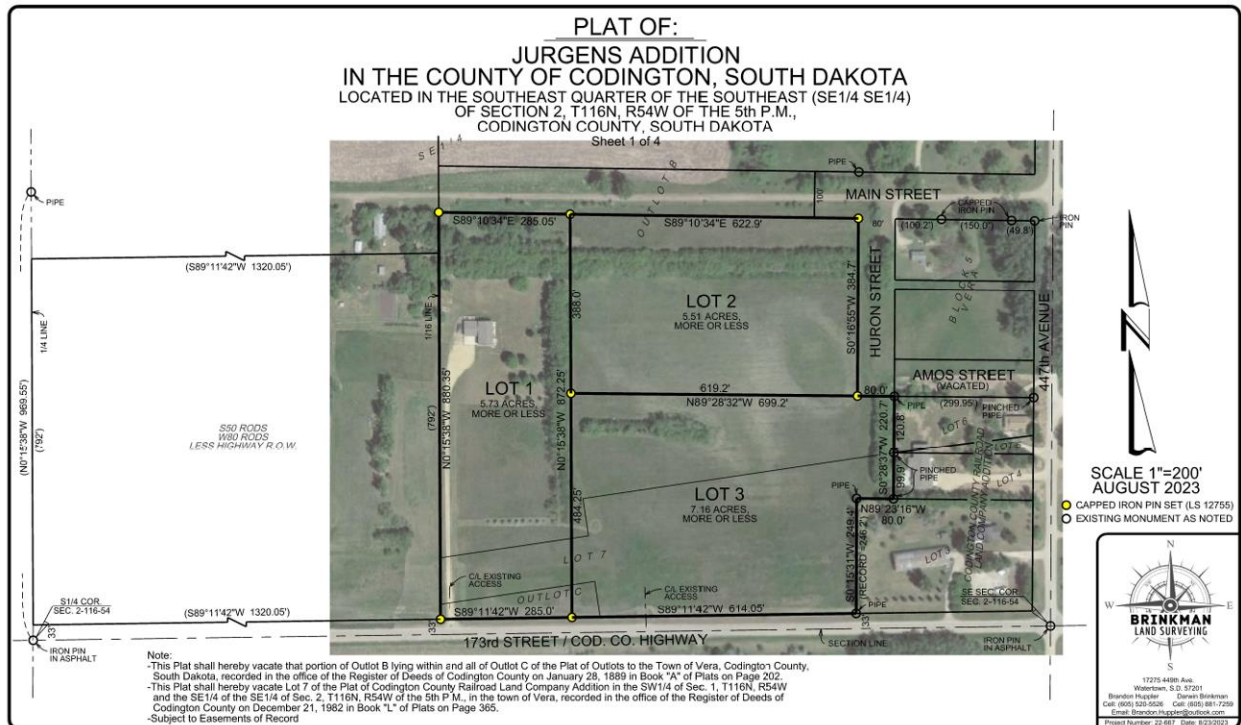
Request: Plat a cemetery which was originally surveyed, but never recorded, in 1885. The Cemetery is (obviously) a nonconforming use, so no permitting is necessary prior to Plat approval.



Action Items – Plat approval.

Zoning Designation: TD Town District

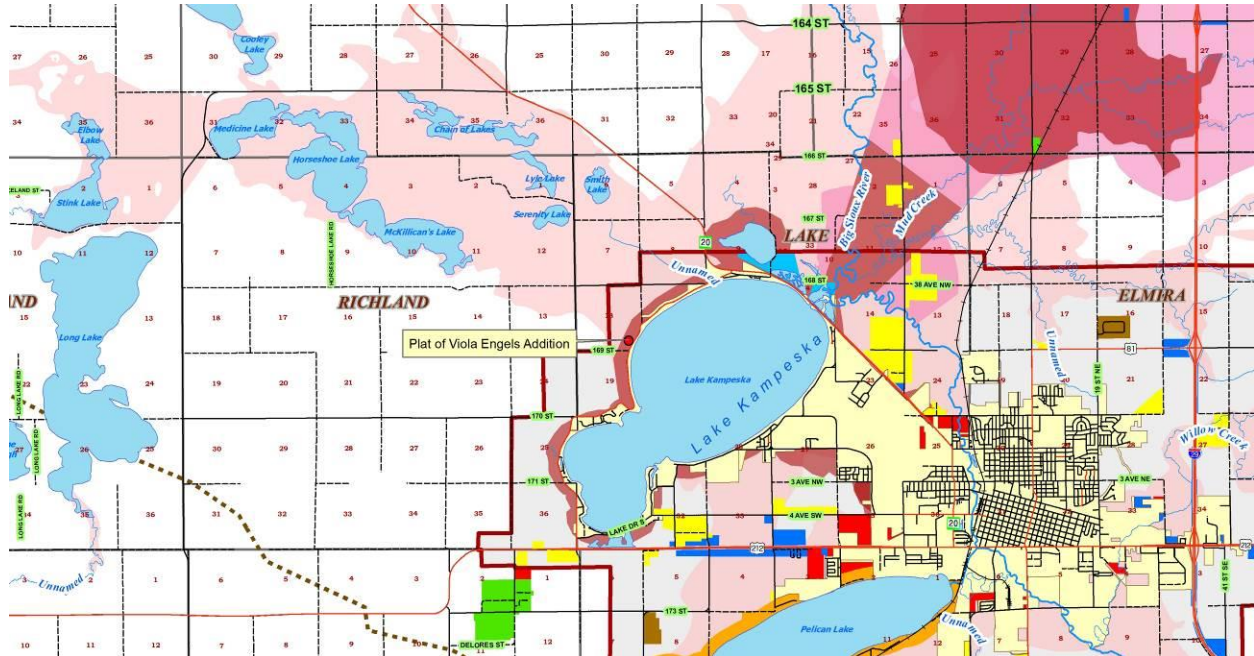
Request: Replat portions of multiple lots/outlots which were originally platted with the Town of Vera/Kampeska. This Plat effectively replats 3 lots (1 was nonconforming) into 3 conforming lots. Lots 1 and 3 access a county road (173rd Street) Lot 2 has access to Main Street which is a privately maintained, public road.



ITEM #3 PLAT

Applicant/Owner: [on behalf of] Viola Engels

Property Description: Viola Engels Addition Located in the West Half of the Southeast Quarter, and Government Lot 2 all in Section 18, Township 117 North, Range 53 West of the 5th P.M., Codington County, South Dakota. (Lake Township).

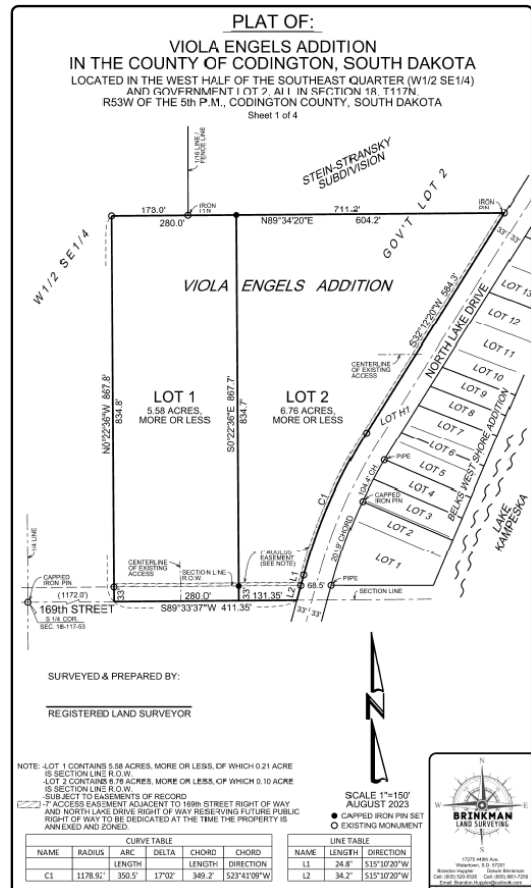


Action Items – Plat approval.

Zoning Designation: Ag District

Request: Plat 2 lots.

- Lot 1 is 5.58 acres and retains the existing farmstead exemption building right granted in 2019. The plat was not recorded in 2020 due to various reasons.
- Lot 2 will not be buildable unless it is annexed within City Limits. Staff recommends an agreement be signed and filed with this plat to ensure that future owners are aware of this limitation. A 7' easement has been reserved adjacent to both North Lake Drive and 169th Street to meet future requirements for Collector Street Widths when the property is annexed.



ITEM #4 PLAT

Applicant/Owner: Brenda Boettcher and Bruce Boeder

Property Description: Boeder Addition Located in the Northwest Quarter and the Northwest Quarter of the Northeast Quarter, of Section 21, Township 118 North, Range 52 West of the 5th P.M., Codington County, South Dakota.

Action Items - Plat Approval

