

County Planning Board of Adjustment Minutes

September 25, 2024

The Codington County Board of Adjustment met for their monthly meeting on September 25, 2024, at the Codington County Extension Complex. Members of the Board of Adjustment present were Brenda Hanten, Mel Ries, Myron Johnson, Mark O'Neill, Calvin Mack, Rodney Klatt, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Absent: Alex Kahnke.

Others present: Caitlin Riley, Thomas Riley, Paul Johnson, and Becky Goens.

Chair Hanten brought the meeting to order at 8:31 pm.

Motion by Johnson, second by O'Neill, to approve the August 19, 2024 meeting minutes. Motion passed unanimously.

Motion by O'Neill, second by Mack, to approve the agenda as published. Motion passed unanimously.

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

Motion by Klatt, second by Ries, to approve the Conditional Use Permit request by Paul and Bridget Johnson for an Existing Farmstead Exemption. Johnson's are requesting to create a 13.4 acre parcel at the site of an existing farmstead in E1/2 of Section 21-T118N-R51W to be known upon platting as LE Mack Addition in SE1/4 of Section 21-T118N-R51W, Codington County, SD. Muller read Staff Report (attached). No one was present to speak. 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 Existing Farmstead Exemption Conditional Use Permit request made by Thomas and Caitlin Riley in W1/2 of NW1/4 less pt lying Southwesterly of a line drawn between a point 742.5' E from the SW corner of NW1/4 and 368.5' N and another point 473' N of SW corner of NW1/2 and less Lot H-1, Section 11-T119N-R52W, Codington County, SD. There are two other requests by Riley so Muller read the Staff Report which pertains to all three requests (attached). Public hearing for all three requests was opened. No one was present to speak. 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 variance application for more than one single-family dwelling per quarter-quarter section for Thomas and Caitlin Riley on the same legal description as described above. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by O'Neill, second by Ries, to approve the Conditional Use Permit request by

Thomas and Caitlin Riley to construct a single family dwelling constructed less than ½ mile from an existing Concentrated Animal Feeding Operation (CAFO) at the legal description described above. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

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

Motion by O'Neill, second by Ries, to recommend approval to the Board of County Commissioners the Plat of LE Mack Addition located in the SE1/4 of Section 21-T118N-R51W, Codington County, SD. Motion passed unanimously.

Motion by Johnson, second by Ries, to convene jointly. Motion passed unanimously.

Motion by Johnson, second by Ries, to enter into Executive Session. Motion passed unanimously.

Motion to adjourn made by Johnson, second by Ries. Motion passed unanimously.  
Meeting adjourned at 7:32 pm.

Respectfully Submitted,

Becky Goens

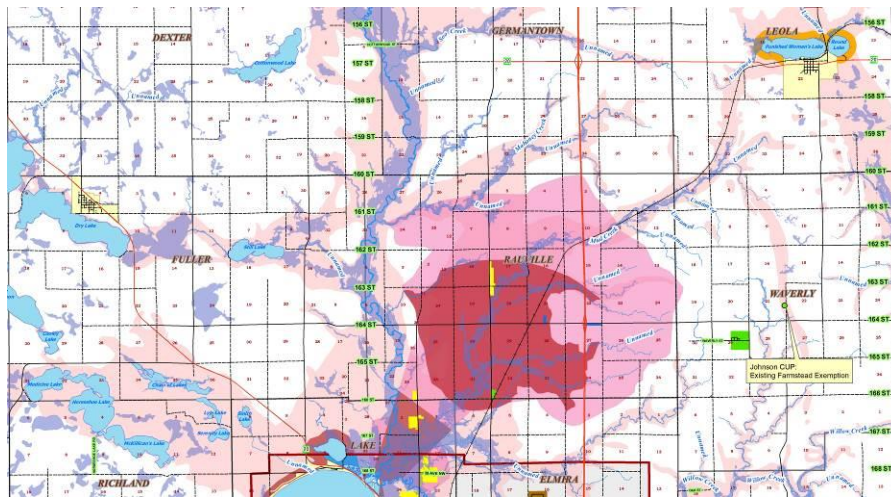
**CODINGTON COUNTY  
PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT**

**ITEM #1 CONDITIONAL USE PERMIT**

**Applicant/Owner: Paul and Bridget Johnson**

**Property Description:** a minimum five (5) acre portion of at E1/2 of Section 21-T118N-R51W to be known upon platting as LE Mack Addition in SE1/4 of Section 21-T118N-R51 West of the 5th P.M., Codington County, South Dakota (Waverly Township).

**Action Items – Conditional Use Permit – Existing farmstead exemption “B” (3.04.02.44)**



**Zoning Designation:** Agricultural

**Johnson CUP:  
Existing Farmstead Exemption**

**Request:** The applicant seeks to retain building rights at the site of an Existing Farmstead.

**History/Issue(s):**

1. The Johnsons live at the above described property.
2. The property was a base for farming operations since prior to 1976 and is currently 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 (**Conditional Use Permit**) –*Existing Farmstead Exemption* - 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 anecdotal information, records and site-visit has determined that this parcel is under contiguous ownership of an existing farmstead/residential site prior to October 26, 1976. If approved it should be done so on the following conditions:
  - a. that the applicant shall plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance.

**ITEM #2 (2) CONDITIONAL USES AND (1) VARIANCE**

**Owners/Applicants: Thomas and Caitlin Riley**

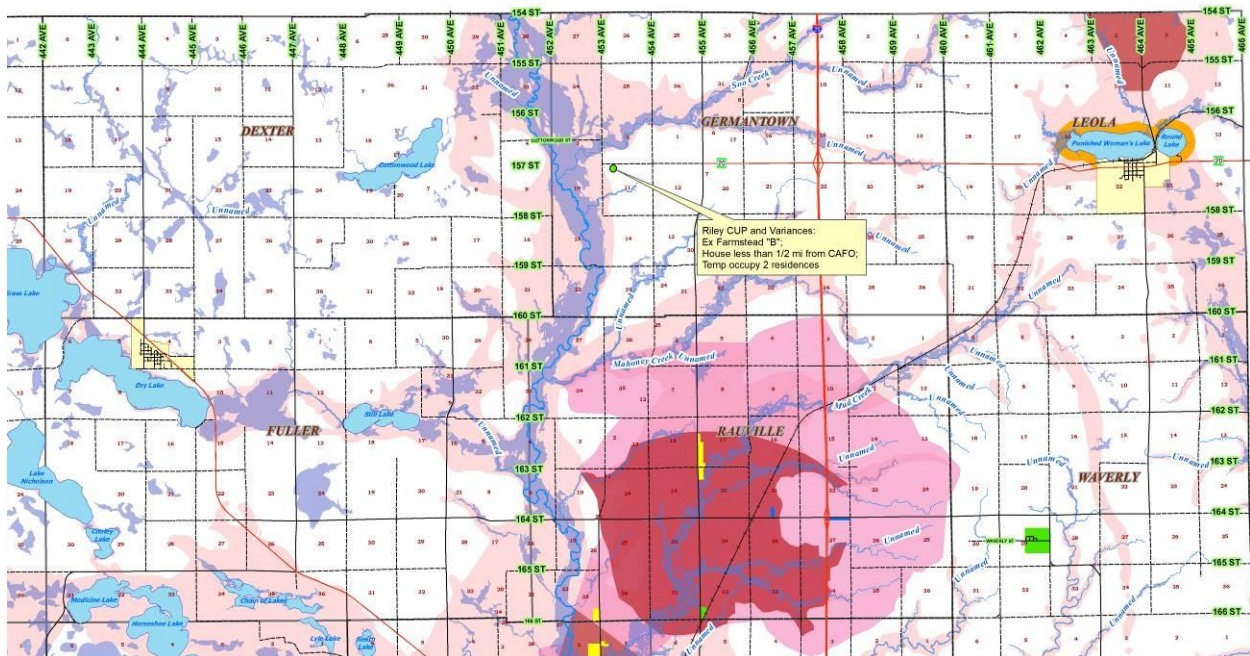
**Property Description:** in W1/2 of NW1/4 less pt lying Southwesterly of a line drawn between a point 742.5’ East from the SW corner of NW1/4 and 368.5’ North and another point 473’ North of SW corner of NW1/2 and less Lot H-1, Section 11, Township 119 North, Range 52 West of the 5<sup>th</sup> P.M., Codington County, South Dakota, former Sisseton-Wahpeton Indian Reservation. (Germantown Township)

**Action Items –**

**Conditional Use Permit – Residence less than ½ mile from existing CAFO (3.04.02.41)**

**Conditional Use Permit – Existing farmstead exemption “B” (3.04.02.44)**

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



**Zoning Designation:** Agricultural District

**Request:** The Riley’s seek to replace their existing house on the above described property

### History/Issue(s):

1. The Riley's live on the above described property.
2. They seek to start construction on a new house in the same yard this year.
3. The Riley's seek to reside in the existing house until the new house is completed. Then to tear down or move off the old house.
4. The existing and proposed new house is located less than one-half mile from a concentrated animal feeding operation (Schmig).
5. The property was a base for farming operations since prior to 1976 and is currently lived in.
6. Codington County's Zoning Ordinance does allow to deviate 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.
7. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
8. An area platted for a never completed SD HWY 20 within (what would be) their legal description is in the process of being transferred to the Riley's by the state.
  - a. Staff recommends waiting until after the transfer of the former right-of-way or two (2) years from the issuance of the Building Permit for the new house to require a lot of less than 35-acres to be platted.
9. Houses proposed less than one-half mile from an established concentrated animal feeding operation require a conditional use permit 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.)
10. The applicant agrees to sign and record the required acknowledgement in the zoning ordinance in reference to the established CAFO.
11. 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.



### Staff recommendations:

**(Conditional Use Permit) –Existing Farmstead Exemption** - 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 anecdotal information, records and site-visit has determined that this

parcel is under contiguous ownership of an existing farmstead/residential site prior to October 26, 1976. If approved it should be done so on the following conditions:

- a. that the applicant shall plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance within two (2) years of the date of the issuance of a building permit for a residence.

**(Conditional Use Permit) –Residence less than one-half mile from an 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.

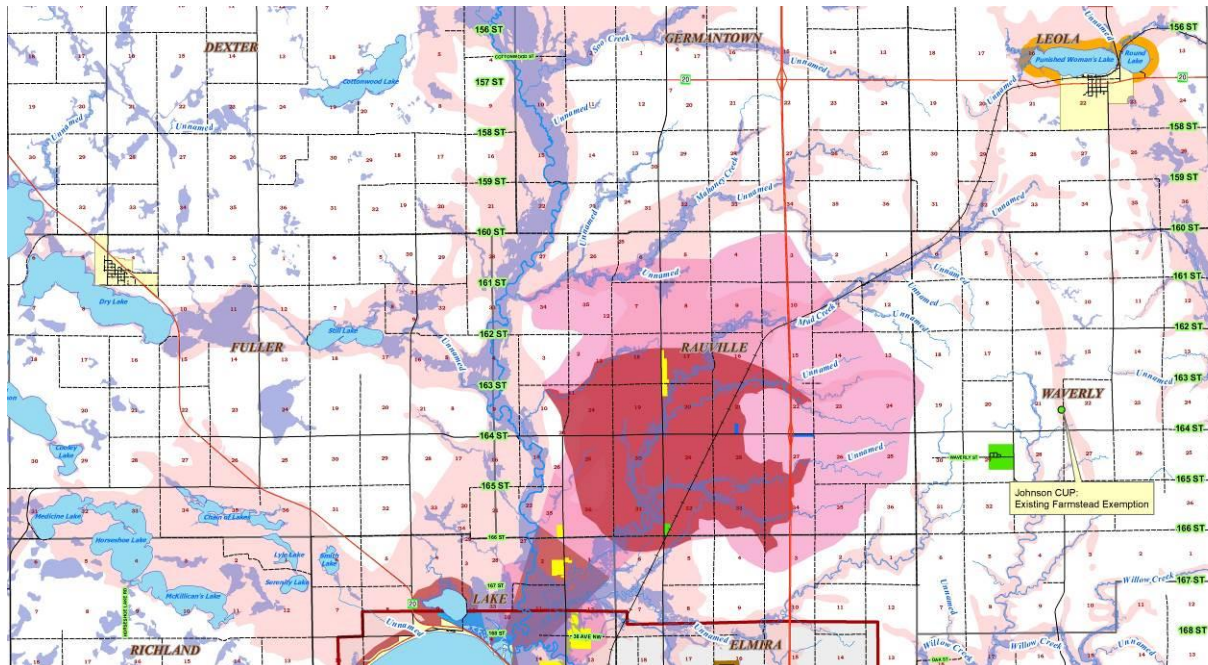
**Variance to temporarily allow two principal structures on the same lot**- Staff recommends approval of the variance for 2 principal structures subject to the applicant signing a letter of assurance agreeing to remove the existing residential structure from the above-described parcel within one year of taking occupancy of the new home.

## **CODINGTON COUNTY PLANNING COMMISSION**

### **ITEM #1 PLAT**

**Applicant/Owner: Paul and Bridget Johnson**

**Property Description:** LE Mack Addition in SE1/4 of Section 21, Township 118 North, Range 51 West of the 5th P.M., Codington County, South Dakota (Waverly Township).



**Action Items – Plat approval.**

**Zoning Designation:** Ag District

**Request:** Plat a 13.4 acre lot at site of existing farmstead as required by the BOA.



**Johnson CUP:  
Existing Farmstead Exemption**

**Legend**

- Concrete Road
- Asphalt Road
- Gravel Road



**L E Mack Addition**  
Located in the Southeast Quarter of Section 21,  
Township 118 North, Range 51 West of the 5th  
P.M., Codington County, South Dakota.

