

**MARCH 30, 2026  
CODINGTON COUNTY  
BOARD OF ADJUSTMENT  
SPECIAL MEETING  
STAFF REPORT**

**MONDAY – MARCH 30, 2026 – 6:30 p.m.**

**ITEM #1 CONDITIONAL USE**

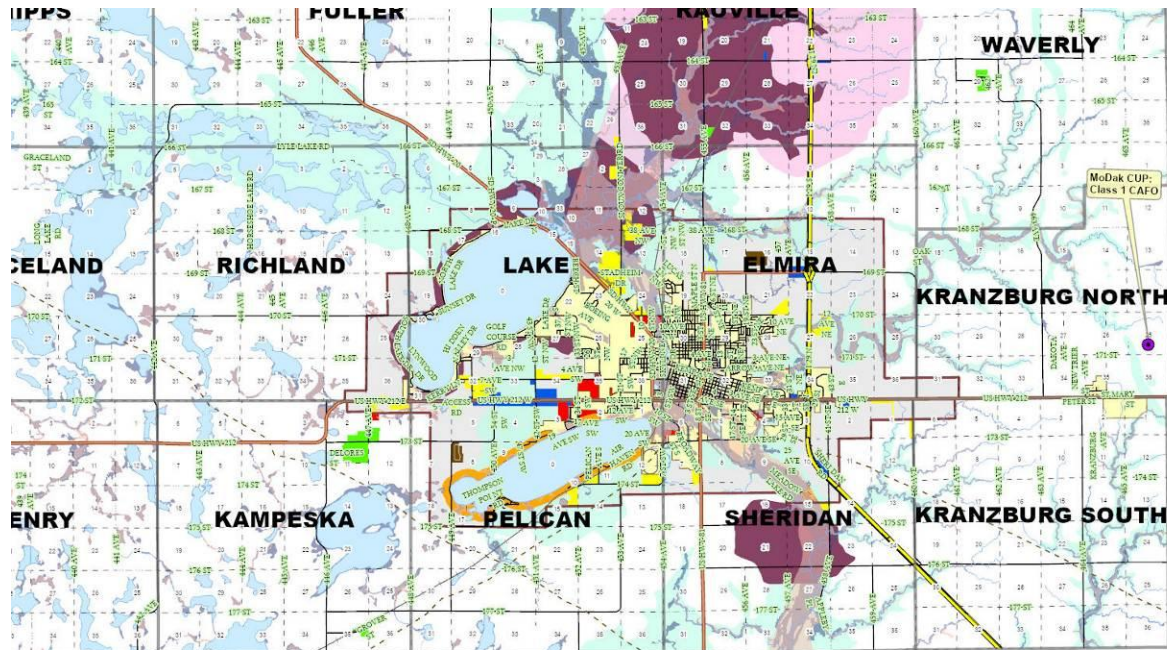
**Applicant/Owner: MoDak Dairy Inc.**

**Property Description:** SE1/4, less Greg Moes Addition in Section 26-T117N-R51W and the MoDak Addition in SW1/4 of Section 25-T117N-R51W, Codington County, South Dakota (Kranzburg (N) Township).

**Action Item – Conditional Use – Class 1 Concentrated Animal Feeding Operation up to 7,499 animal units**

**Zoning Designation:** Agricultural District

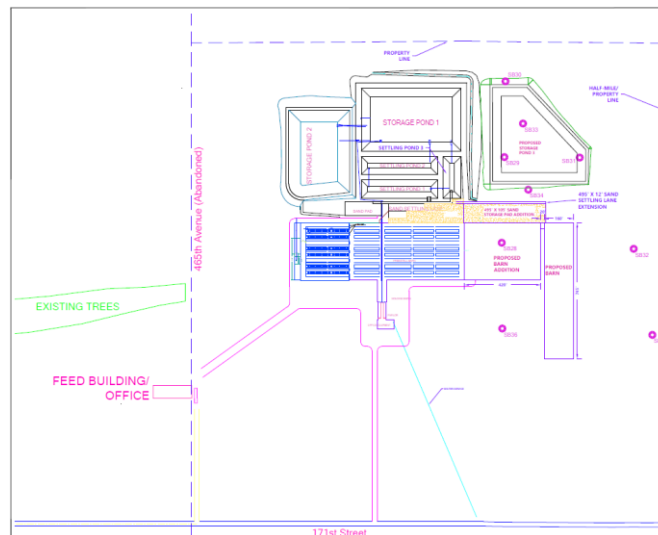
**Request:** Applicant seeks to expand existing permit to the East 987' of the Southwest Quarter of Section 25-117-51 and to allow up to 7,499 animal units at the site.



**History/Issue(s):**

**Specifics of Request:**

1. MoDak received a conditional use permit on August 20, 2007 for up to 3,000 animal units plus 499 at the old site of dairy cattle.
2. Applicant requests to expand to allow up to 7,499 animal units on site
  - a. Mature (Milking) Cattle: 3,865 (5,527 AU)
  - b. Mature (Dry) Dairy Cattle: 400 (572 AU)
  - c. Cattle other than Dairy Cattle: 1,400 (1,400 AU)
3. Applicant intends to feed up to 960 of the cattle (other than dairy cattle) at the “old site” in the southeast quarter of section 26. (These are included in the above totals)
4. Applicant intends to construction the following additions:
  - a. Extend main barn 420 feet east.
  - b. Add additional freestall barn east of and running south (160’ x 745’).
  - c. Extension of sand settling lane.
  - d. Add additional manure storage pond.
5. The site is near but not located in Zone C of the aquifer protection district. Soil Borings were performed to demonstrate where gravel is located under the soil on this property to be expanded upon.



**Ordinance and Comprehensive Land Use Plan regarding this request:**

1. The comprehensive land use plan lists considerations for Concentrated Animal Feeding Operations on pages 69-71
2. Concentrated Animal Feeding Operations are listed and allowed as a conditional use in the Agricultural District subject to numerous conditions and considerations.
3. Access will be at the existing location(s) on 171<sup>st</sup> Street.
4. The following table outlines the review by the zoning officer of the application as presented by the applicant at the time of this report:

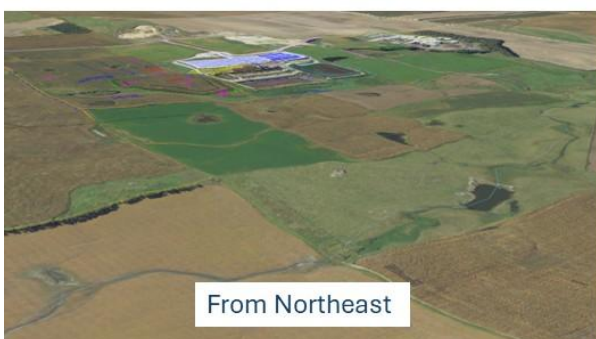
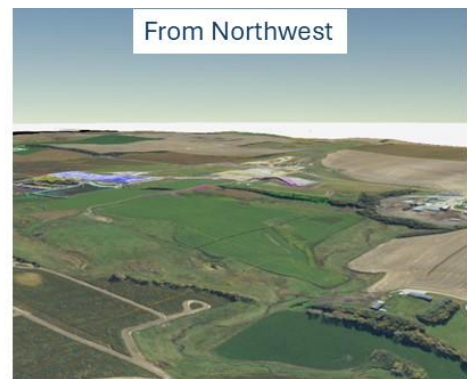
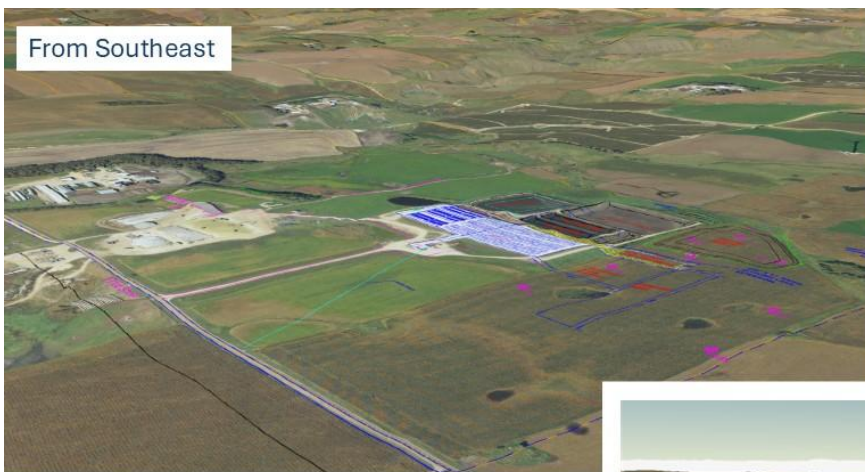
Section	Summary	Reference Page	Notes
5.21.04.3	Permit Requirements: New permit required for expansion beyond permitted number	Letter “C” introductory letter and appendix C	Original Permit Granted on August 20, 2007 for 3,000 animal units. Applicant requests 7,500 animal units.
5.21.05.1&2	Compliance with SDD[A]NR	Letter “H” of introductory letter and Appendix H	Site is currently permitted by SDDANR and maintains its State General Permit. All plans were prepared with the intent of meeting SDDANR requirements to expand the permit at that level.

5.21.05.3(a) &(b)	Nutrient Management Plan (must have one)	Letter “D” of introductory letter; Appendix D; SD-CPA-63 Spreadsheet	The preparation of a nutrient management plan is an on-going requirement of the permit. Applicant demonstrated creation of a NMP and intent to update it in accordance DANR requirements and subject to DANR review. Issuance of State General Permit will satisfy the requirements for an approved NMP.
5.21.05.3(c)	NMP must be reviewed and approved by DANR	Letter “D” of introductory letter; Appendix D; SD-CPA-63 Spreadsheet	
5.21.05.3(e) &(f)	Maintain records; and have easements available upon request	Appendix D;	These are ongoing requirements of a permit. Appendix D includes letter from DANR indicating past practice to comply with updates to fields, testing, easements/agreements, etc.
5.21.05.4(a) &(b)	Manure Management Plan (must have one)	Letter “E” of introductory letter and Appendix E	The preparation and maintenance of a manure management plan is an on-going requirement of the permit. Applicant demonstrated creation of a Manure management plan and intent to update it in accordance DANR requirements and subject to DANR review. Issuance of State General Permit will satisfy the requirements for an approved Manure Management Plan.
5.21.05.4(e.i)	Plan must include location and specifics of manure facilities	Site Plan	Site plan includes location of barns, lagoon, and sand lanes, as well as pipes.
5.21.05.4(e.ii)	Operation procedures and maintenance	Appendix E – Operation and Maintenance Manual	Has it
5.21.05.4(e.iii)	Prepared by engineer	Introductory letter and multiple locations stamped	Documents stamped by Brian Friedrichsen, Registered Professional Engineer; Vantage Point Solutions
5.21.05.4(e.iv)	Manure not stored longer than 2 years	Not specified	Applicant agrees to store for less than 2 years
5.21.05.4(e.v)	Design volume of 365 days and 25 yr storm	Appendix C	Calculations included, subject to DANR review
5.21.05.4(e.vi)	Transport of manure	Not specified	Not specified – typically pumped in hoses
5.21.05.5(a.i)	Have fly and odor plan with plans for manure collection, storage and treatment	Appendix F	Barns and earthen lagoons
5.21.05.5(a.ii)	Have fly and odor plan with plans for dead disposal	Appendix F	Rendering service
5.21.05.5(a.iii)	Have fly and odor plan include new tree plantings or screening	None specified	Site plans with aerial image indicate existing plantings

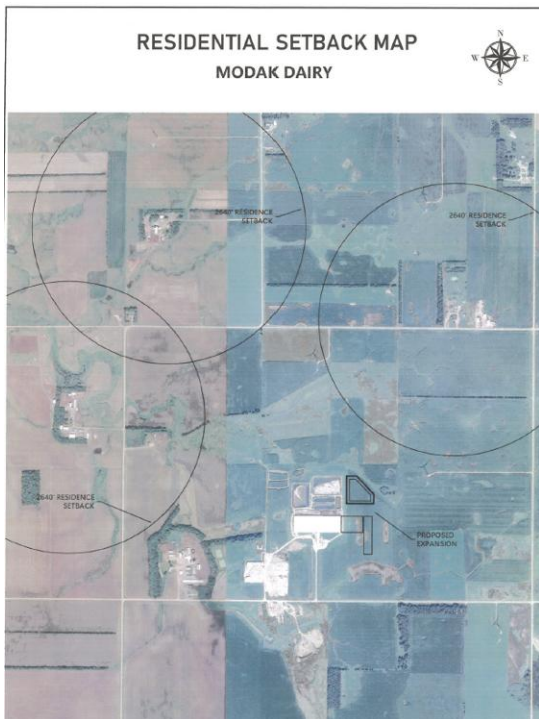
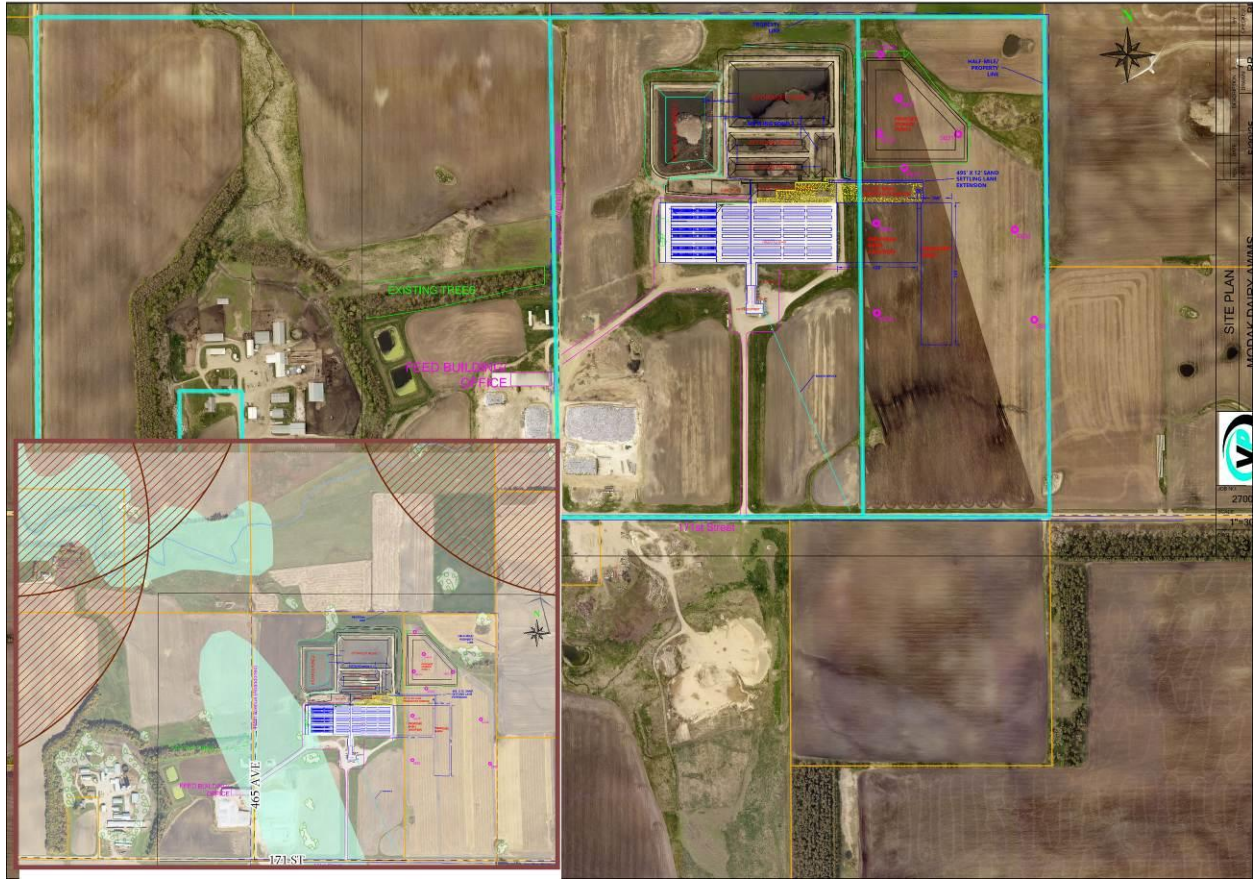
Section	Summary	Reference Page	Notes
5.21.05.6	Established Residences	Appendix G Setback Maps	Nearest residence to expanded facilities is greater than 2,640 feet (Raml – 3,500 ft)
	Nearest Business	Appendix G Setback Maps	Cell tower – 3,590 ft (not necessarily a business, but nearest non residence.
	Nearest Municipality	Appendix G Setback Maps	7,480 ft recommended separation: Kranzburg is 5,800 ft from nearest portion of expansion. This separation distance can be waived in accordance with Section 5.21.05.7(e) if a written waiver (minutes) is submitted prior to action by the Board. The Town of Kranzburg submitted a waiver, acted upon on 2/2/26 supporting the proposed project because it does not come <b>closer</b> to Kranzburg.
	Nearest Right-of-way	Site Plans	Greater than 300' from nearest right-of-way
	Nearest Private well	None provided	Applicant attests that no wells other than those operated by the applicant have been used for potable human consumption less than 1 year prior to this application within ½ mile of the proposed expansion.
	Nearest Public Water Well	None provided	Staff is unaware of any public water well within one-half mile of the proposed expansion
	Nearest fisheries	None provided	No fisheries are located within the areas of any maps provided. (miles away)
5.21.05.8	Considerations to increase or decrease setbacks	None provided	The Board has the ability to decrease or increase setbacks on the basis of improvements or unique considerations for manure handling or odor modeling. The Board has yet to use this as reason to increase setbacks; and has sparingly used it to decrease setbacks within meeting some version of 5.21.05.7.
5.21.05.9	Manure application setbacks	Appendix D	This is an ongoing requirement of ALL CAFO's. The applicant is required to meet certain other requirements (as outlined in the application) by DANR. Liquid manure is intended to be injected or incorporated. There is no intent to apply by irrigation.
5.21.05.10.a	Ask for additional information	Appendix J	Due to proximity to mapped sand and gravel within 50' of the surface, staff requested additional soil boring be performed at the proposed site. The results are contained in Appendix J. The summary by the engineer (verbal) is that any veins of gravel are less significant than those west of the existing barns.
5.21.05.10.c	CUP in effect as long as spreading agreements are valid		This is an ongoing condition of the county permit and State General Permit.

Section	Title	Reference Page	Notes
5.21.05.10.d	Consideration of past violations	None provided	<p>This office has investigated instances of manure spreading too close to water features and property lines associated with this operation.</p> <p>This office has been made aware of ruptures in manure hoses (and/or holes) that have been reported via the SDDANR after being reported.</p> <p>The largest incident was a manure spill that occurred in 2014. The incident was investigated by the county and DANR. The County added requirements to the previously issued conditional use permit: construction of emergency retention berm; installation of monitoring cameras; completion of notification, clean-up, and monitoring plan for any future spill. Those requirements are expected to be retained should this permit be issued (or denied)</p>
5.21.05.11	Minimum application information	Reference introductory letter	All information listed in this section was either provided or referenced in the application letter or throughout the application.

5. No additional signs are expected
6. No additional approaches are requested.
7. Applicant has a haul road agreement with Codington County from 2008. The highway superintendent reports good compliance with MoDak in reference to the agreement.
8. No significant additional lighting is expected.
9. Water and electrical services are already provided to the facility.



MoDak Conditional Use Permit  
 Class 1 Concentrated Animal Feeding Operation



Staff summary:

This request is to expand the existing permit by herd size (to 7,450 animal units) and location (East 987' of the Southwest Quarter of Section 25-117-51). No action of the board will revoke the permit, nor add additional conditions unless approved. If no documentation of consent, waiving the suggested setback is received prior to the meeting, staff recommends postponement of action or outright denial.

Staff recommendation:

**Conditional Use Permit: Class 1 Concentrated Animal Feeding Operation.** The Board may postpone the request, deny the request, or approve the Conditional Use Permit(s). The Zoning officer recommends that, if approved, the applicant agree to the following conditions in a letter of assurance to be filed with the application:

**(1) Effective Date and Transferability:**

- a. As of the approval date of the South Dakota State General Permit this permit shall authorize up to 7,450 animal units, consisting of a combination of Dairy Cattle, and other Cattle.
  - i. Up to 960 animal units may be confined at the property described as: SE1/4, less Greg Moes Addition, Section 26-117-51.
  - ii. The remaining 6,490 animal units shall be confined on MoDak Addition in SW1/4 of Section 25-T117N-R51W, Codington County, South Dakota, & East 987' of the Southwest Quarter of Section 25-117-51.
- b. The site may only be stocked in accordance the applicable State General Permit.
- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
- d. 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.

**(2) General Requirements:**

- a. Applicant shall provide updated nutrient and manure management plans information regarding fields included in the nutrient management plans upon request by the Board of Adjustment.
- b. The Grantor shall comply with established minimum manure application setbacks when spreading manure generated from the CAFO.
- c. 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.

- d. Grantor shall install monitoring wells in locations and number as recommended by East Dakota Water Development District and/or other SDDANR to monitor potential contamination as a result of construction of the addition both north and south of the proposed expansion.
- e. Grantor shall include plans to construct and expand the Berm required in following the manure spill in 2014 in a manner to provide secondary containment of any manure/wastewater that may spill.
- f. The Grantor(s), his heirs and assigns will submit and comply with a plan for fly and odor control plan to the Codington County Zoning Officer.
- g. The Grantors, his heirs and assigns will submit haul road agreements, if required, from Codington County and Kranzburg Township. If not required, grantor shall submit documentation of such determination from the applicable road authority. Kranzburg Township and Codington County reserve the right to request haul road authorities at a later date, if determined unnecessary at any point in time.
- h. The permit holder shall provide and at all times maintain General Liability insurance in the amount of at least \$1,000,000.00, with an Environmental Protection Insurance rider of at least \$100,000.00. Proof of such insurance must be received prior to stocking the new proposed barn and must be provided upon request by the zoning officer during the operation of such CAFO. The insurance carrier shall be required to provide Codington County with notice of insurance and with a notice of cancellation or change in coverage. Failure to maintain such insurance shall be grounds for cancellation of the Conditional Use Permit.
- i. Installation of and maintenance camera for monitoring manure lagoon.
- j. Submittal of management plan for manure management system for incidence of extreme cold temperatures, including, at a minimum, increased monitoring/inspection of the system. Plan to be submitted to the Zoning Officer upon request.
- k. Create plan for notification, clean-up, and monitoring any spill in the future. At a minimum the plan is expected to require:
  - 1. Notification of SDDENR, Codington County Emergency Management, and Codington County Zoning Officer within 2 hours of becoming aware of the spill.
  - 2. Notification of affected landowners (owners of property with spilled effluent on their property) within 4 hours of becoming aware of the spill, or within 2 hours of containment of the spill whichever is less.
  - 3. Clean-up of spill shall be carried out in accordance with SDDENR requirements.
  - 4. Unless otherwise agreed upon by the operator of the CAFO and the affected landowner, or a requirement of SDDENR; clean-up of affected property (not owned/operated by the CAFO operator) should be cleaned up first.
  - 5. Unless otherwise agreed upon by the operator of the CAFO and the affected landowner(s), SDDENR, and the Codington County Board of Adjustment; the CAFO operator shall at a minimum provide weekly updates regarding the status of the clean-up, projected completion of clean-up, and monitoring of affected waterways.
  - 6. Monitoring of affected waterways/ water sources shall be coordinated, at a minimum, with SDDENR. The results of which shall be provided to the Codington County Zoning Office, and the owner of land from which the sample was taken.

### **(3) Violations**

- a. If there are 1) Violations of the conditional of approval for 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 in accordance with the procedure(s) of Item “3.b” below.
- b. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and letter of assurances. Any violation of the regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance occurs, permit applicants will be notified by registered mail and a hearing before the board of adjustment will be held to consider revocation of the permit.