

Planning Commission Meeting Minutes

October 6, 2022

Completed by: Sue Bertrand, P&Z Staff

Site visit on Item 1 conducted by Adam Ossefoort and Jim Pratt on July 28th, 2022.

Site visit on Item 2 and 3 conducted by Adam Ossefoort, Jim Pratt and Ken Hovet on September 29th, 2022.

Meeting attended by board members: Chair Jim Pratt, Vice Chair Ken Hovet, Arnie Boie.

Staff members: Adam Ossefoort, Tim Ebnet and Sue Bertrand.

Other members of the public: Sign-in Sheet is available for viewing upon request.

Jim called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited as a collective group.

Introduction of the staff and board members by Jim.

Arnie mentioned there should be one correction with the September minutes, that he was omitted from attendance, when, in fact he was present and Adam confirmed, and stated it has already been corrected.

Ken motioned to have the September 1st, 2022 meeting minutes approved with the noted correction. Arnie seconded the motion. Voice vote, no dissent heard. Motion carried.

Jim asked if there were any agenda changes to which Adam responded none, so Jim asked for a motion to approve the agenda.

Ken motioned to approve the Agenda and Jim seconded. Voice vote, no dissent heard. Motion carried.

AGENDA ITEM 1: Dan Swartzentruber – PID 15-0028400 – Leslie Township

Request for Conditional Use Permit to create a two-acre Plat for an Amish Cemetery in AF-1 zoning.

Dan was present as the applicant. Dan stated he would like to create an Amish Cemetery.

Adam mentioned this is the same application that was before the board in the past, however it had not gone in front the of Township for review per the platting process. It has since been reviewed by township and the township found no issues with the proposal, and other than that there are no changes. Although there were no other changes, Jim asked for the staff report to be read for review.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Adam recommended approval with the following conditions.

Proposed Condition(s):

1. Applicant shall remain compliant with applicable local, state or federal regulations related to operation of the cemetery.

2. Declare a cemetery official and an alternate that will be responsible for following state rules and provide contact information to the County to be recorded with the final plat.
3. Maintain a list of individuals buried and exact location within the cemetery.
4. Cemetery plot must be completely fenced off with boundaries clearly identified. All burial sites must remain inside of the fenced area.

Correspondence received: None

Public comment: None

Board discussion:

Ken wondered if there was a well for the school to which Adam replied no, and Ken asked if there were any regulation setbacks from a cemetery to a schoolhouse and again, Adam replied no.

Jim thought it was a pretty good spot for a cemetery as it is out in the middle of a field.

Ken motioned to approve with the four conditions as presented, Arnie seconded.

Conditions:

1. Applicant shall remain compliant with applicable local, state or federal regulations related to operation of the cemetery.
2. Declare a cemetery official and an alternate that will be responsible for following state rules and provide contact information to the County to be recorded with the final plat.
3. Maintain a list of individuals buried and exact location within the cemetery.
4. Cemetery plot must be completely fenced off with boundaries clearly identified. All burial sites must remain inside of the fenced area.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	Yes
Arnie Bois	Yes
Jim Pratt	Yes

Motion carried. Jim and Adam noted the application will be presented to the County Board of Commissioners on October 18th, 2022 at 9:00 am and added, for Dan, he could be present, but does not have to be.

AGENDA ITEM 2: Arnold Gruenes – PID 03-0026200 – Birchdale Township

Request for Conditional Use Permit for the expansion of an existing feedlot from 450 animal units to 999 animal units in AF-1 zoning.

Arnold was present as the applicant. He stated he was requesting to increase his feedlot to 999 animal units.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning

& Zoning Office.

Tim Ebnet read through the Feedlot Review Findings, File Investigation report and the Land application findings. These are also available on file at the Planning and Zoning Office for review.

Adam thanked Tim and recommended the listed conditions.

1. The facility owners must maintain registration every four years and remain compliant with the Todd County ordinance and MN 7020 rules.
2. Any future livestock lot or barn construction will be required to be reviewed for compliance by the Feedlot Program prior to construction or install.
3. The conditions of the CUP must be disclosed to any future landowners or real estate transaction.
4. All land application setbacks and MN 7020 rules pertaining to the storage and handling of manure must be followed.
5. Construction of clay lined manure pit must be completed prior to stocking of open lots.
6. Applicant must obtain land use permits for any new structures established on the site.
7. Applicant must abide by all other applicable federal, state, and local standards.

Correspondence received:

One piece of correspondence was received for this application. The correspondence is available upon request in the Planning and Zoning Office.

Public comment: Dale Ahrens, adjoining neighbor, and also on the Birchdale Twp. board, stated several concerns of ground water contamination, wondering what the effects would be, who would be regulating out there, that there will be no one counting the animal units (could end up being 3,000). He also stated he was concerned that they will not follow a manure management plan.

Kenneth Zehrer, stated he was the owner of this site and has no nitrogen content higher than .001, basically no nitrogen in the flow into the lagoon. He pointed out, in Todd County, there cannot be enough land application of nitrogen with all of the corn being grown. He said he is able to be a 300-bushel producer because of the land application of manure, and reminded all, when we leave this earth we should leave the land in better condition than when we found it. He said we need farmers as we all need to eat and yes, clean water. He assured all that everything will be in compliance.

Dale Ahrens would like a stipulation that manure application can only be put on when the ground is not frozen over concerns for wetlands and runoff.

James Carstens, resident of Birchdale Twp. and supervisor, said he understood farmers need to expand, had seen in the past they were pumping liquid manure onto the ground near wetlands, and not always tilling it in. He questioned if that will be increasing with the expansion. He stated it sounds like they have enough land to ground apply in different areas, however, with over double the size in what they have now, had the concern with dust created on the township roads during those hauling times. James stated they put a lot of time into their twp. roads.

Adam invited zoom call public to speak if they would like to, with no response.

Board discussion: Ken said he had nothing, as most of his questions were answered on site.

Arnie said it looked like some serious considerations have been made and he will go with the staff.

Adam asked Chairman, Jim, if he and Tim could address a few of the public's comments, to which Jim agreed.

In reference to manure management planning, Adam stated feedlots of 300 animal units or more, must have an approved manure management plan according to MN chapter 7020 rules, meeting all requirements of the rule or no feedlot permits will be issued from the Feedlot Program. It is a whole additional, separate set of standards to comply with, other than the CUP application.

Dale asked how many acres one needs to land apply that much manure produced from 999 animal units.

Tim stated the 1250 acres listed was calculated to be sufficient, and explained they entered all factors; crops planted, estimated yields and how much phosphorous and nitrogen were needed from the soil for this type of crop rotation, projected output from the animals, 440 acres under irrigation, etc. and confirmed the Gruenes had enough acres for the plan they have set up.

Adam addressed the number of animal units on site is regulated through feedlot registration, and again, by MN 7020 feedlot rules. Every four years feedlot operators must certify their animal units. The Planning Commission must base their conditions on the facts and the concern that it could be 3,000 animal units is based on speculation not facts.

Arnie stated it sounds like this is an enforcement issue.

Dale Ahrens asked what is done if there are complaints of more animals out there.

Tim stated although it is a low travelled road, any complaints will be addressed as far as the number of animal units are actually out there.

Patsy Ahrens asked for clarification on the weight of the animals in reference to the count.

Tim replied, the animals are up to 1,000 lbs. and technically they cannot go over the 999 head out there, or they would have to jump up to State level.

Arnie asked if the owner is planning to maximize the 999-unit capability.

Gruenes stated yes, to be more efficient, they will be moving animal units in from Wisconsin, and by purchasing this other lot, it would allow them to be under their own supervision.

Jim asked if there were any more comments, with no response.

Arnie made a motion to approve with the seven conditions and Ken seconded.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
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Arnie Bois	yes
Ken Hovet	yes
Jim Pratt	yes

1. Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 18th, 2022, and said they do not have to attend; however, it might be a good idea in case the commissioners have any questions.

AGENDA ITEM 3: Kenneth and Pamela Zehrer – PID 03-0026201 – Birchdale Township

Request for Conditional Use Permit for expansion of an existing feedlot from 650 animal units to 999 animal units in AF-1 zoning.

Zehrer was present as the applicant. Zehrer stated he has had the idea to expand for a long time. He mentioned they are redoing basically the whole operation, and stated they need to do more with less and would like to increase the number of units.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Feedlot Review and Land Application Findings read by Tim Ebnet and can also be found on file in the planning and zoning office to review upon request.

Adam recommend approval with the following proposed Condition(s):

1. Construction and regrading of open lots shall be completed in a manner that prevents ponding within each lot and directs all storm water run-off to the existing earthen lagoons. Regrading must be approved by the Todd County Feedlot Program prior to stocking.
2. All fencing and gates must be re-established on the earthen lagoon and the inspection port must be restored to original design status. (component #12 in the application).
3. Earthen manure pits must be maintained to prevent trees and weeds from establishment in the banks.
4. Both existing manure pits must be clearly delineated with fencing and signage on corners and pump out locations.
5. The facility owners must maintain registration every four years and remain compliant with the Todd County ordinance and MN 7020 rules.
6. Any future livestock lot or barn construction will be required to be reviewed for compliance by the Feedlot Program prior to construction or install.
7. The conditions of the CUP must be disclosed to any future landowners or real estate transaction.
8. All land application setbacks and MN 7020 rules pertaining to the storage and handling of manure must be followed.
9. Applicant must obtain land use permits for any new structures established on the site.
10. Applicant must abide by all other applicable federal, state, and local standards.

Correspondence received:

One piece of correspondence was received for this application. The correspondence is available upon request in the Planning and Zoning Office.

Public comment:

Ahrens asked if the manure run-off basin at the bottom has been made larger. Tim stated no, it has been operating at that size since it was first applied for, and can remain that size. Tim stated 10A is the new lot, and per county ordinance, the size does not have to be increased.

Ahrens had concerns of overflow of the lagoons and felt the board cannot act on this application until the conditions are met.

Zehrer brought up old issues of the operation design, and Jim Pratt redirected to the application at hand.

Gruenes and James Carstens communicated points of the new design with re-grading, and all that has been rebuilt, run-off issues will be taken care of.

Carstens inquired how often feedlots were inspected.

Adam answered it is based on a rotating schedule or trigger factors for inspection such as a complaint or request from the owner/operator. So, it may be on an "as need" bases as well. He stated the 7020 rule requires we must inspect 7% of our total registered feedlots in the County per year.

Carstens also questioned if a feedlot was compliant now, would we have records for previous years, even if they were noncompliant, to which Adam answered yes, however not on hand, as they would be in the paper files.

Carsten's reasoning for the question is his concern it doesn't take a new application to find problems.

Adam invited zoom call input with no response.

Jim opened it up to Board discussion.

Ken said there must be a requirement for storm water management, and the concern is the manure not staying in the pit.

Gruenes said the lagoons are pumped twice a year and there are alternatives like haul it, run it through an irrigator or transfer to another lagoon.

Zehrer said we are not talking more manure, we are talking run-off catch basin.

Ahrens stated concerns over more animal units causing changes in the quality of the run-off.

Adam stated the total square footage of the lot is not supposed to change. The run-off is based on precipitation, so there is an engineered standard set for square footage and the amount of rainfall. Even though there are additional numbers of animal units on the lot, the same amount of rainfall is anticipated, it doesn't change the size of the lagoon as opposed to a concrete manure storage unit, which is based on actual

quantity of manure produced. So, in theory, this site should hold twelve months' worth of storage, based on normal rainfall. There are other standards set up for emergency scenarios where large operators report back to the County, do the best they can at managing on their own, like check points and alternative storage plans for pumping during these catastrophic events. He stated we work with the operators when these situations come up.

Ken stated, when he was out there, it was very obvious there was a drainage problem with one of the lots and asked if it had been fixed yet. They referred to overhead photos, to which Zehrer mentioned they are in the process of building it up. Adam also confirmed it is the reason for the listed proposed condition #1, to prevent ponding and address proper drainage flows to the appropriate location in two earthen lagoons.

Arnie stated he noticed the properties are so close to each other, and questioned if we are ignoring any regulation concerning this.

Adam said they are completely independent from each other with separate owners and although they are contiguous, there is no standard requesting setbacks from one feedlot to another.

Arnie questioned if the two neighboring feedlots, so close together, change the area environmentally.

Adam stated they both must remain in compliance with all of the standards and added they are not required to have complete containment of run-off (being under 1,000 animal units each) however, there is a threshold for the amount of allowed run-off for each and stressed we cannot look at the neighboring site to decide on this one. He said they must be viewed completely independent of one another and are operated separately.

Arnie requested clarification, and Adam insisted we cannot look at the other site for the purpose of this application.

Ken addressed staff and said he noticed some deficiencies that were not in compliance in Tim's report and wondered if the conditions listed in Adam's report covered all of those points as well.

Adam said it was our Feedlot Officer, Dylan Pratt, who wrote up the report for the feedlot program and added it was an Interim Feedlot permit applied for. He explained it allows the feedlot to continue to operate, but make improvements to meet conditions within certain set time-lines with layering conditions being met to come into compliance.

Ken confirmed there is a time-line for each one to which Adam agreed, however they are not set up yet, as that permit has not been issued yet and it is independent of the CUP process, but that is in review with the feedlot staff.

Ahrens again said it should not be approved until they meet all conditions first, then come back.

Zehrer went over some of the conditions listed in the File Investigation report that have been met; trees removed, put the signs up and met all the red flag areas already, that were previously listed.

Jim stated even with the CUP they can't operate without Feedlot permit.

Adam mentioned the fence was down and the new one must be put up or face a penalty, so although these conditions are set, the operator is authorized to move forward, given a chance to meet those conditions prior to, however, they are not required to meet conditions until the CUP permit is granted and the conditions must continue to be met, even after tonight.

Arnie requested clarification on the timeline.

Adam stated we want to see all these in place, prior to stock. He said many are met already, the fence is up the signage is up around the lagoons, the check valve on the East side of the second lagoon was in process by the time of the site visit, and these are all being addressed through the Interim Feedlot process, as well, which does set specific timelines. If this board would like to set specific timelines themselves, you have the right to do that, many of them are already met.

Jim said he didn't see what advantage there would be to setting a timeline, because without their Feedlot permit they still can't operate anyway. So basically, you have two permits interacting with one another.

Jim followed up with a motion to grant the CUP with the ten conditions, and Ken seconded, stating he was under the impression there were enough safe guards in place to bring it into compliance.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	yes
Arnie Bois	yes
Jim Pratt	yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 18th, 2022, addressed the applicant and said he may be present if he wants to be, you don't have to but it might not be a bad idea.

Jim asked for a motion to adjourn, being no other business to discuss.

Ken motioned to adjourn and Arnie seconded. Voice vote to adjourn the October Planning Commission Meeting, no dissention heard, motion carried and meeting adjourned at 7:18 PM.