

**May 16, 2022 BOARD OF ADJUSTMENT/ PLANNING COMMISSION
DEUEL COUNTY
STAFF REPORT**

Monday – May 16, 2022 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM # 1 SPECIAL EXCEPTION

**Applicant: Shane Mack
Owners: David & Kimberly Overby**

Property Description: Lot 38 Thokola Beach in Gov Lot 2 of Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota

Action Items – Special Exception – (1103.4.5 - Shoreline Alterations)

Zoning Designation: LP – Lake Park

Request: Applicants/Owners to alter the shoreline within 35 feet of the high-water-mark by redoing their retaining wall on their property.

History/Issue(s):

1. The applicant is requesting to alter the shoreline within 35 feet of the high-water-mark by redoing their retaining wall on their property.
 - a. They will be removing the old retaining wall and building new retaining wall and steps along their 40' shoreline;
 - b. Will be doing excavating behind the location of old wall to get proper geo-grid (wall fabric);
 - c. Will put drainage rock behind the retaining wall;
 - d. Will put 4" to 6" of black dirt on top of drainage rock (3/4" pee rock) and will be sodding any area along the lake disturbed at time of construction;
 - e. The walls will be approx. 21" high, the retaining wall will be approx. 14" deep;
 - f. The retaining wall will be constructed with different blocks: 6" high, 6' long, 12" long and 18' long all 12" wide;
 - g. They will be using erosion control to protect the lake;
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to alter the shoreline within 35 feet of the high-water-mark in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot has an existing access off of Edgewater Drive which is maintained by Deuel County;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they are connected to the Lake Cochrane Sanitary District. They take their trash home. Electricity is provided by H-D.
- o They have efficient trees planted for Screening and Buffering;
- o They are not having any Signs;
- o They have have efficient yard space and other open space;

Staff Summary

Special Exceptions Permit – Shoreline alteration within 35 feet of the high-water-mark by redoing their retaining wall: The application may be approved, postponed, or denied.

Staff recommendation:

Special Exceptions Permit –Shoreline Alterations(1103.4.5): The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of a Storage and the applicant's ability to meet the requirements for a special exception described in ordinance.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM # 2 SPECIAL EXCEPTION

Applicant: Shane Mack
Owners: Charlotte Oie Living Trust

Property Description: Lot 37 Thokola Beach in Gov Lot 2 of Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota

Action Items – Special Exception – (1103.4.5 - Shoreline Alterations)

Zoning Designation: LP – Lake Park

Request: Applicants/Owners to alter the shoreline within 35 feet of the high-water-mark by redoing their retaining wall on their property.

History/Issue(s):

1. The applicant is requesting to alter the shoreline within 35 feet of the high-water-mark by redoing their retaining wall on their property.
 - a. They will be removing the old retaining wall and building new retaining wall and steps along their 40' shoreline and they are redoing the upper retaining wall that is protecting the a tree;
 - b. Will be doing excavating behind the location of old wall to get proper geo-grid (wall fabric);
 - c. Will put drainage rock behind the retaining wall;
 - d. Will put 4" to 6" of black dirty on top of drainage rock (3/4" pee rock) and will be sodding any area along the lake disturbed at time of construction;
 - e. The walls will be approx. 21" high, the retaining wall will be approx. 14" deep;
 - f. The retaining wall will be constructed with different blocks: 6" high, 6' long, 12" long and 18' long all 12" wide;
 - g. They will be using erosion control to protect the lake;
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to alter the shoreline within 35 feet of the high-water-mark in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot has an existing access off of Edgewater Drive which is maintained by Deuel County;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they are connected to the Lake Cochrane Sanitary District. They take their trash home. Electricity is provided by H-D.
- o They have efficient trees planted for Screening and Buffering;
- o They are not having any Signs;
- o They have have efficient yard space and other open space;

Staff Summary

Special Exceptions Permit – Shoreline alteration within 35 feet of the high-water-mark by redoing their retaining wall: The application may be approved, postponed, or denied.

Staff recommendation:

Special Exceptions Permit –Shoreline Alterations(1103.4.5): The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of a Storage and the applicant's ability to meet the requirements for a special exception described in ordinance.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM # 3 SPECIAL EXCEPTION

Applicants/Owners: Josh & Amanda Sanow

Property Description: Lot 22 Lake Alice Shores in SW1/4 of Section 7-116-48, Lake Alice, Altamont Township, Deuel County, South Dakota.

Action Items – Special Exception – (1103.4.9 – Storage)

Zoning Designation: LP – Lake Park

Request: Applicants/Owners moved in a a storage shed on their property.

History/Issue(s):

1. The applicant is requesting allow a 12' x 16' personal storage shed.
 - a) Location of storage shed meets the setback requirement.
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to have storage in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot has an existing access off of Lake Alice Drive which is maintained by property owners;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they have a septic tank. They take their trash home. Electricity is provided by H-D.
- o They have efficient trees planted for Screening and Buffering;
- o They are not having any Signs;
- o They have have efficient yard space and other open space, the shed is approximately 87' from the road, approximately 179' from the high water mark and approximately 14' from the side lot line;

Staff Summary

Special Exceptions Permit – Storage: The application may be approved, postponed, or denied.

Staff recommendation:

Special Exceptions Permit – Storage (1103.4.9): The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of a Storage and the applicant's ability to meet the requirements for a special exception described in ordinance.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM # 4 SPECIAL EXCEPTION

Applicants/Owners: Josh & Amanda Sanow

Property Description: Lot 22 Lake Alice Shores in SW1/4 of Section 7-116-48, Lake Alice, Altamont Township, Deuel County, South Dakota.

Action Items – Special Exception – (1103.4.5 - Shoreline Alterations)

Zoning Designation: LP – Lake Park

Request: Applicants/Owners to alter the shoreline within 35 feet of the high-water-mark by redoing their retaining wall on their property.

History/Issue(s):

1. The applicant is requesting to alter the shoreline within 35 feet of the high-water-mark by filling an area of the shoreline that was removed on their property.
 - a. In 2012 they received a SEP to remove 6' by 50' with a 2% slope of the shoreline 50' from the high-water-mark;
 - b. They want to fill in that area that was removed and have a gradual slope toward the lake;
 - c. They will be using erosion control to protect the lake;
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to alter the shoreline within 35 feet of the high-water-mark in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot has an existing access off of Lake Alice Drive which is maintained by property owners;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they have a septic tank. They take their trash home. Electricity is provided by H-D.
- o They have efficient trees planted for Screening and Buffering;
- o They are not having any Signs;
- o They have have efficient yard space and other open space;

Staff Summary

Special Exceptions Permit – Shoreline alteration within 35 feet of the high-water-mark by filling in an area of the shoreline that was removed on their property.: The application may be approved, postponed, or denied.

Staff recommendation:

Special Exceptions Permit –Shoreline Alterations(1103.4.5): The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of a Storage and the applicant's ability to meet the requirements for a special exception described in ordinance.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #5 VARIANCE

Applicants/Owners: John & Andrea Van Dyke Living Trust

Property Description: E1231.5' N1070' in Gov Lot 1 Less Van Dyke in NE1/4NE1/4 of Section 4, Township 114 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.

Action Items – Variance – (1208 – Shelterbelt Setback Requirements)

Zoning Designation: AG – Agricultural

Request: Applicants/Owners to plant a shelterbelt that is closer to the road right-of-way than what the ordinance allows.

Specifics of Property/Request:

1. The Van Dyke's recently applied for a variance and was granted to plant not closer than 50' from the road right-of-way.
2. They seek to plant 1 row of dogwood trees starting approximately in line with the trees that were planted in 2019 no closer than 50' from the road right-of-way.
3. This property is located west of a township road that has a 33' road right-of-way.
4. The Van Dyke's have received written permission from the west property owners (Gordon Ommen owner of BlackFork LLC).

Ordinance/Variance History regarding this request:

Section 1208

1. The Zoning Ordinance requires a 150' of a public road right-of-way on the north and west sides of roads. Shelterbelts shall not be established within 150' of adjoining property lines without written permission of adjoining property owners.
2. Vandyke was granted: Variance (19-SPV 128) to plant a shelterbelt with 2 rows of trees that are approximately 357 feet long, approximately 60 feet from the adjoining property line with written permission from the adjoining property owner, and no closer than 50' from the road right-of-way in an Agriculture Zoned District.

Staff Summary

Section 1208

The Board has to decide whether the issuance of a shelterbelt less than 150' of a public road right-of-way on the north side of road would not produce undue hardship or be substantial detriment to adjacent property.

Staff recommendation:

Variance Permit – Shelterbelt Setback Requirements (1208): The application may be approved, postponed, or denied. If approved, approval would be based on the board:

1. That the intent of a shelterbelt is to protect yard, lots, buildings, livestock and residences recreation and wildlife from wind. This shelterbelt would also prior screening with reference to this request and warrants relaxation of the road right-of-way setback requirements.

Denial would be based upon:

1. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district. Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM #6 VARIANCE

**Applicants: Wayne & Gwen Pederson
Owner: Pederson Living Trust**

Property Description: Lots 8, 9, 10 & 10A Thokola Beach in Gov Lot 1 of Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota.

Action Items – Variance – (Section 1103.5 Area Regulations)

Zoning Designation: LP – Lake Park

Request: Applicants/Owners to build a new garage with less than 30' from road right-of-way.

Specifics of Property/Request:

1. Pederson's have owned this parcel which contains 3 lots toward which is approx. 140' toward the road and approx. 85' lake side (it is a triangle lot) for a while.
2. Pederson's would like to remove old garage and build a garage with less than 30' from the front yard.
3. The existing garage is approx. 3' from the road right-of-way, the new garage will be approx. 12' from the road right-of-way and will be approx. 10' from the side property line.
4. This property is located east of a county road that has a 50' road right-of-way.

Ordinance/Variance History regarding this request:

Section Section 1103.5 Area Regulations requires the setback to be 30 feet from road right-of-way. However, in the past the board used the interpretation of the 30' from the edge of the road. The Board is working on updating the current ordinance and will have this section clearer and more defined.

Staff Summary

Section Section 1103.5 Area Regulations

The Board has to decide whether the issuance of a garage with less than 30' from the road right-of-way and more than 34' from the edge of the road would not produce undue hardship or be substantial detriment to adjacent property.

Staff recommendation:

Variance Permit – Section 1103.5 (Area Regulations): The application may be approved, postponed, denied or disregarded. If approved, approval would be based on the board:

1. That the intent of a 30' setback from a road right-of-way is a visual and safety issue. However, in this situation the proposed new garage which is 34' from the edge of the road and within their property line.

Denial would be based upon:

2. Denial of this variance application due to the new garage is more than 34' from the edge of the road and it is within their property line (how they have treated other properties in the Lake Park District).

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district. Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM #7 VARIANCE

Applicant: Joshua Hoeke

Owner: Vida Hoeke

Property Description: W1/2 (to be known upon platting as Josh Hoeke Addition in NW1/4) of the Section 13-117-49, Portland Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1101.04 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner Applicant seeks a variance to plat a parcel of land, to retain existing building that is closer to the road right-of-way than what the ordinance allows.

Specifics of Property/Request:

1. Josh Hoeke will purchase the platted land of 25.89 acres with existing buildings from his family.
2. The property has currently an older pole shed which is approximately 94 feet from the road right-of-way which is 33 feet.
3. This property is located south side of a township road that has a 33 feet road right-of-way.

Ordinance/Variance History regarding this request:

Section 1101.04

3. The Zoning Ordinance requires a minimum depth of the front yard shall be not less 150 feet.
4. The board received requests for plat a parcel of land, to retain existing building that is closer to the new property line than what the ordinance allows within the 150 feet from the road right-of-way and in the past the board has granted to plat a parcel and to retain the existing house that is approximately 101 feet from the road right-of-way. This Variance doesn't apply to any new structures that are built on the property.

Staff Summary

Section 1101.04

The Board has to decide whether the issuance of a plat a parcel of land, that retains existing building less than 150' of a public road right-of-way would not produce undue hardship or be substantial detriment to adjacent property.

Staff is unable to identify any physical hardships on the property that would deprive the applicant of rights enjoyed by other property owners in the area on (in the same zoning district).

Staff recommendation:

Variance Permit – Section 1101.04 Area Regulations: The application may be approved, postponed, or denied. If approved, approval would be based on the board:

1. Platting this property with an existing pole shed that is approximately 94 feet from the road right-of-way will not cause any greater snow or safety concern.

Denial would be based upon:

1. The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district. A “no” vote, the property can be platted, but a deed restriction stating the structure that is too close cannot be rebuilt or added onto needs to be prepared and recorded.

Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM #8 VARIANCE

Applicant: Levi Lunden

Owner: DK Overby LLP

Property Description: Block 2 Overby Subdivision in N1/2 (to be known upon platting as Lot 1 of Block 2 Overby Subdivision in N1/2) of the Section 23-113-48, Scandinavia Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1101.04 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner Applicant seeks a variance to plat a parcel of land, to retain existing structure that that is closer to the road right-of-way than what the ordinance allows.

Specifics of Property/Request:

1. Levi Lunden will purchase the platted land of 29 acres with existing buildings from DK Overby LLP.
2. The property has currently an older pole shed which is approximately 75.6 feet from the road right-of-way which is 50 feet (county highway).
3. This property is located north side of a county road that has a 50 feet road right-of-way.

Ordinance/Variance History regarding this request:

Section 1101.04

1. The Zoning Ordinance requires a minimum depth of the front yard shall be not less 150 feet.
2. The board received requests for plat a parcel of land, to retain existing building that is closer to the new property line than what the ordinance allows within the 150 feet from the road right-of-way and in the past the board has granted to plat a parcel and to retain the existing house that is approximately 101 feet from the road right-of-way. This Variance doesn't apply to any new structures that are built on the property.

Staff Summary

Section 1101.04

The Board has to decide whether the issuance of a plat a parcel of land, that retains existing building less than 150' of a public road right-of-way would not produce undue hardship or be substantial detriment to adjacent property.

Staff is unable to identify any physical hardships on the property that would deprive the applicant of rights enjoyed by other property owners in the area on (in the same zoning district).

Staff recommendation:

Variance Permit – Section 1101.04 Area Regulations: The application may be approved, postponed, or denied. If approved, approval would be based on the board:

2. Platting this property with existing bins that are approximately 75.6 feet from the road right-of-way will not cause any greater snow or safety concern.

Denial would be based upon:

2. The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district. A “no” vote, the property can be platted, but a deed restriction stating the structure that is too close cannot be rebuilt or added onto needs to be prepared and recorded.

Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM # 9 PLAT

**Applicant: Levi Lunden
Owner: DK Overby LLP**

Property Description: Lot 1 of Block 2 Overby Subdivision in N1/2 of the Section 23, Township 113 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat a 29 acres irregular shaped parcel for transferring purposes.

Action Item –Plat approval.

ITEM # 10 PLAT

**Applicant: Joshua Hoeke
Owner: Vida Hoeke**

Property Description: Josh Hoeke Addition in NW1/4 of Section 13, Township 117 North, Range 49 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 25.89 acres for transferring purposes.

Action Item –Plat approval.

ITEM # 11 PLAT

Applicants/Owners: Michael & Laurie Magedanz

Property Description: Magedanz Addition in SW1/4 of Section 11, Township 117 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 25.89 acres for transferring purposes.

Action Item –Plat approval.

ITEM # 12 PLAT

Applicants/Owners: Gary & Jan Quail

Property Description: Cory Quail Addition in SW1/4 of Section 26, Township 114 North, Range 49 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 21.01 acres for transferring purposes.

Action Item –Plat approval.

ITEM # 13 PLAT

Applicants/Owners: Engelstad Bros Farms LLP

Property Description: BA Engelstad Addition in NE1/4 of Section 36, Township 113 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 20.29 acres irregular shaped parcel for transferring purposes.

Action Item –Plat approval.

ITEM # 14 PLAT

Applicants/Owners: Derek Hoffman

Property Description: Pieper First Addition in Gov Lots 1 and 2 in NE1/4 of Section 4, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 34.1 acres irregular shaped parcel for transferring purposes.

Action Item –Plat approval.

ITEM # 15 PLAT

Applicants/Owners: Melvin & Tawne Pieper

Property Description: Pieper Second Addition in the S1/2NE1/4 and the SE1/4 of Section 4, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

**Request: Plat Lot 1 is 17.3 acres irregular shaped parcel for transferring purposes.
Plat Lot 2 is 18.5 acres irregular shaped parcel for transferring purposes.
Plat Lot 3 is 19.2 acres irregular shaped parcel for transferring purposes**

Action Item –Plat approval.

ITEM #16 VARIANCE

**Applicant: Wild Rose Dairy LLC
Owner: Wild Rose Dairy LLC & Lucky Hills LLP**

Property Description: Gov Lot 1 & SE1/4NE1/4 & Gov Lot 2 SW1/4NE1/4 of Section 2-113-49, Blom Township, Deuel County, South Dakota.

Action Item – to Section 1304.06 CAFO Requirements Setback and Separation Distance

Zoning Designation: AG - Agricultural

Request: The applicants/owners are requesting to expand their Class “A” Concentrated Animal Feeding Operation with less than 2,640’ from an established residence.

History/Issue(s):

1. The applicant, Wild Rose Dairy LLC, and land owners, Wild Rose Dairy LLC & Lucky Hills LLP, are requesting to expand their Class "A" Concentrated Animal Feeding Operation with less than 2,640' from an established residence.
2. The proposed expansion of the CAFO will be located approximately 1,825 feet southeast of Jogchum & Maartje Andringa residence on lease site which is on Lucky Hills Property (part owner of Wildrose Dairy LLC and Lucky Hills LLP).
3. The County requires a wainer 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. Filed in the Register of Deeds: Book 2021 of Misc page 3083 – is a waiver from Wildrose Dairy LLC that they know that a residence is being built within ½ of their existing CAFO.
 - b. Filed in the Register of Deeds: Book 2021 of Misc page 3084 – is a waiver from Lucky Hills Wildrose Dairy LLC to have have a residence within the ½ mile of the existing CAFO.
 - c. Jogchum & Maartje Andringa will provide a letter that they are ok with the expansion of the existing CAFO that is within ½ mile of the residence.
 - d. 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:

Variance Permit: Dwelling less than ½ mile from expansion of the existing CAFO. The Board may postpone the request, deny the request or approve the request

ITEM #17 SPECIAL EXCEPTION

**Applicant: Wild Rose Dairy LLC
Owner: Wild Rose Dairy LLC & Lucky Hills LLP**

Property Description: Gov Lot 1 & SE1/4NE1/4 & Gov Lot 2 SW1/4NE1/4 of Section 2-113-49, Blom Township, Deuel County, South Dakota.

Action Items – Special Exceptions ((Section 1101.03 (8)) Article XIII - (Section 1300) – Concentrated Animal Feeding Operation Regulations

Zoning Designation: AG – Agricultural

Request: To apply for Special Exception Permit to expand their Class "A" Concentrated Animal Feeding Operation (CAFO from 3,100 animal units – up to 6,520 animal units which is 4,000 mature cows, 300 heifers and 500 calves) which is a Dairy Facility in an Ag District

History/Issue(s):

Specifics of Request

Specifics of Request:

1. The Wild Rose Dairy LLC is seeking to expand their Class "A" Concentrated Animal Feeding Operation (CAFO from 3,100 animal units – up to 6,520 animal units which is 4,000 mature cows, 300 heifers and 500 calves) which is a Dairy Facility in an Ag District.
 - a. This proposed site at Gov Lot 1 & SE1/4NE1/4 & Gov Lot 2 SW1/4NE1/4 of Section 2-113-49, Blom Township, Deuel County, South Dakota; they have applied for a variance to have the expansion of the existing CAFO within 1/2 mile setback for a Class A CAFO from any existing residences.
 - i. The Board has history of granting variances where the neighbors sign the waiver
 - b. Manure management was provided by Dakota Environmental.
 - c. Feed sources/storage and nutrient management provided by Dakota Environmental.
2. None of the existing site, nor proposed site is located over the shallow aquifer.

3. The improvements consist of:
 - a. Construction of 600' x 400' freestall barn, 100' x 300' parlor, separator building. Combination of the the settling ponds for storage in excess of 365 days of storage of manure from the proposed population.
 - b. Soil borings preformed in the past indicated no shallow aquifer soils.
4. Most common haul route for the CAFO includes 190th St to the north and 474th Ave to the east. The road is maintained by Blom Township.

Ordinance regarding this request:

1. The applicant will be submitting engineering and nutrient management plan to Deuel County for review decision of this Board.
2. The Board shall consider the following in determining whether the proposed CAFO will create a significant contribution of pollution:
 - a. Size of feeding operation and amount of manure reaching waters of the state
 - i. Historically the Board has relied in determination of SDANR in reference to this question since waters of the state are under their jurisdiction.
 - ii. Historically the Board has relied in determination of SDDANR in reference to this question since waters of the state are under their jurisdiction and this is a component of the State General Permit review.
3. A nutrient management plan is required.
 - a. Nutrient management plan has been prepared by a licensed Agronomist and submitted.
 - b. Fields in the nutrient management plan are expected to change (per the applicant and based upon the zoning ordinance.)
 - c. The agronomist certifies that the land currently used for spreading is sufficient for spreading the manure generated.
4. A manure management plan is required
 - a. The applicant's agronomist and engineer prepared the manure management plan. It included:
 - i. A site plan
 - ii. Operation procedures and maintenance of manure facilities for proposed facility.
 - iii. Final as-built plans will be submitted to the zoning officer following review by Deuel County Board of Adjustment.
 - iv. Plans specify records on manure application will be kept and document that acceptable manure and nutrient management practices have been followed.
5. A Management plan for fly and odor control.
 - a. Completed –
 - i. Operational plans for manure collection storage, treatment are expected to be updated and implemented
 - ii. Applicants and family members will remove mortalities from the site to a new location for composting.
 - iii. No new trees are proposed with the new facilities however, there is adequate space for shelterbelt plantings.
 - iv. The proposed modifications including the elimination of the sand settling lane will eliminate the odor production from the exposure of constantly flowing wastewater.
 - v. It is the intent to avoid spreading manure on weekends, holidays, and evenings on warm days.
 - vi. It is the intent to avoid spreading on calm and humid days.
6. The site is greater than suggested separation distances for Churches, Businesses, Commercially Zoned Areas, Town Districts, Incorporated Municipalities, other than the operator, and lakes and streams classified as fisheries.
7. Setbacks for this CAFO that is being applied as Class A setback. The proposed CAFO is located more than 1/2 of a mile from an existing residence with a variance and a waiver/and letter of the residence that is owned by the applicant .
8. The proposed facilities meet the minimum setbacks from rights-of-way.
9. Review of Specifications and nutrient management plan by Deuel County Board of Adjustment.

- a. Applicant is required to keep and maintain records of fields to receive manure, utilize adequate acres for the spreading of manure in accordance with state general permit standards, and adhere to minimum manure application setbacks.
10. The zoning office does not have a record of any complaints against the Wildrose Dairy LLC.
11. All information required of the applicant in Section 1302 were provided.
12. Information on soils, shallow aquifers, wellhead protection areas and floodplain (provided)
13. Staff notified Blom Township, in charge of maintenance of 190th St and 474th Ave maintenance.
14. Staff notified Brookings-Deuel Rural Water of the request. (Rural Water Supplier.)
15. Staff notified SDDANR, East Dakota Water Development District, and Sioux Rural Water of the request
16. The zoning office notified owners of property within two-miles of the site.

Staff Recommendation

Special Exception: The board, utilizing one motion could approve, deny or table the special exception request. If approved the Board may use the following findings:

- No complaints or objection were received from the affected neighbor.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.