

**May 22, 2023 BOARD OF ADJUSTMENT/ PLANNING COMMISSION  
DEUEL COUNTY  
STAFF REPORT**

Monday – May 22, 2023 – 7:00 p.m.

**DEUEL COUNTY BOARD OF ADJUSTMENT**

**ITEM #1 CONDITIONAL USE**

**Applicant/Owner: Global Dairy**

**Property Description: Global Dairy Second Addition in S1/2NW1/4, SW1/4 & SE1/4 of Section 21-113-50, Grange Township, Deuel County, South Dakota.**

**Action Items – Conditional Uses Permit – Section 1101.04.30 Accessory Agricultural Housing (Section 1244).  
Zoning Designation: A – Agricultural District**

**Request: Applicant/Owner requesting a Conditional Uses Permit to construct employee housing – apartment building on their property.**

**History/Issue(s):**

**Specifics of Request**

1. The applicant is requesting to construct employee housing – apartment building on their property in AG District.
  - a) Global Dairy would like to build a 33' x 100' apartment building for their employees on site of the Dairy.
  - b) This apartment building will consist of 16 rooms, 8 restrooms (toilets, urinals and sinks), 8 individuals showers with sinks. This apartment building will have two separate kitchens, dining areas and washer/dryer areas.
  - c) The applicant seeks to build the apartment approximately 365' north of the right-of-way which is a SD Hwy 28.
2. Deuel County Ordinance requires that a land owner go through the Conditional Uses Permit Process to construct an Accessory Agricultural Housing in the "AG" District.

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

1. Accessory Agricultural Housing is listed as a Conditional Uses in the A – Agricultural District.

**Section 1244. Accessory Agricultural Housing.**

- a. Any Class A CAFO, permitted before July 1, 2022 may submit a request for Accessory Agricultural Housing if such request is made prior to January 1, 2024.
- b. Accessory Agricultural Housing is recommended to be located within the same section of land as the permitted Class A CAFO, but shall be no further than five (5) miles from the permitted Class A CAFO, provided the property is owned by the permit-holder.
- c. The applicant is proposing a total of 1 dwelling with 16 dwelling units to house a total of 16 employees.
  - i. For CAFOs with 9,000-12,999 animal units, the maximum number of dwellings shall not exceed 13 and the maximum number of persons shall not exceed 39.
- d. Minimum lot area shall consist of at least two (2) acres per accessory agricultural housing dwelling unit , including the residence of the agricultural employer if on the same lot.
  - i. The property consists of 388.57 acres.
- e. Prior to occupying the accessory agricultural housing dwelling/shared dwelling, the applicant shall provide documentation of compliance with the most recently adopted version of the International Building Code in accordance with SDCL 11-10-6 for any dwelling structure with two (2) or more dwelling units.
- f. Prior to occupying the accessory agricultural housing dwelling/shared dwelling, the applicant shall provide documentation of compliance with any South Dakota Administrative Rules 74:53. (septic tanks).

2. The Deuel County Comprehensive Land Use Plan states that the main goal is to accommodate growth and to minimize the disturbance of agricultural land.
3. This property is located out of the floodplain and the aquifers.
  - o This apartment will get access with exiting approach off SD Hwy 28;
  - o They have efficient Off-street parking; ample room for parking
  - o They have efficient utilities; Garage service and a dumpster
  - o They have efficient Screening and Buffering; Applicant exceeds the setbacks and considering the location, no screening is necessary;
  - o They not have a sign; security lights for the parking area.
  - o They have have efficient yard space and other open space; General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and there is one residence (house) approximately 2000' from the proposed apartment the Agriculture Zoned District. .

### **Staff Summary**

**Conditional Use Permit – Accessory Agricultural Housing: The application may be approved, postponed, or denied.**

### **Staff recommendation:**

**Approval would be based on the applicant's ability to meet the requirements for a Conditional Use Permit described in ordinance - To grant the Conditional Uses Permit for Accessory Agricultural Housing to construct employee housing –one apartment building with 16 units on their property in AG District. If approved , staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant:**

1. The applicant shall be permitted for Accessory Agricultural Housing for one (1) structure to house sixteen (16) employees.
2. The applicant shall provide documentation of compliance with the most recently adopted version of the International Building Code in accordance with SDCL-11-10-6 prior to occupation of new accessory agricultural housing.
3. The applicant shall provide documentation of compliance with any South Dakota Administrative Rules 74:53, prior to occupation of new accessory agricultural housing.
4. The dwelling/shared dwelling shall be removed or renovated into a single-family dwelling in the event the permit for the CAFO becomes void.
5. In the event the accessory agricultural housing dwelling/shared dwelling remains unoccupied for a period of one (1) year; or is not used in conformance with this Chapter, the accessory agricultural housing dwelling/shared dwelling shall be removed or with permission of the Board of Adjustment may be used for any use accessory to the CAFO.
6. 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 Deuel County Zoning Officer. If violations are substantiated, the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

**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 Conditional Use Permit will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.**

### **ITEM #1 CONDITIONAL USE**

**Applicant/Owner: Jeff Boer**

**Property Description: Lots 13-14 & SE 80' of NW 260' Lot 17 Clear Water Beach in Gov't Lot 6 in NE1/4 of the Section 4-114-47, Norden Township, Deuel County, South Dakota.**

**Action Items – CONDITIONAL USE – (1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)**

**Zoning Designation: LP – Lake Park**

**Request: Applicant requesting a Conditional Use Permit to build a garage located on a lot adjacent to a lot with principle structure separated by a public or private road.**

**Specifics of Request:**

1. Jeff Boer is purchased these lots from the Dorothy M Hayek Living Trust
2. The applicant would like to build a garage on the back side of these lots, which is Lot 17.
3. There is an existing 20' easement that runs between Lots 13-14 and Lot 17.
4. The applicant was granted a variance to build an accessory building that would be located up to the existing easement and and no closer than 20' from the edge of the platted road right-of-way (Edgewater Drive) and to meet the other Lake Park setbacks.
5. Deuel County Ordinance requires that a landowner go through the Special Exception Process to have accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road in the "LP" District.

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

- o This lot will have access off Edgewater Drive which is maintained by Deuel County
- o This site has room for off street parking; They will not park in the road right-of-way
- o They have efficient utilities; Water is provided by Brookings-Deuel Rural Water, they have been in contact with Lake Cochrane Sanitary District. They did not provide a plan for trash. Electricity is provided by H-D.
- o They have efficient Screening and Buffering and the shed will be located approximately 10' from the side lot line; they have trees located to the north applicant does not intend to plant trees or build a fence for screening.
- o They are not having any Signs;
- o They have have efficient yard space and other open space, the garage will be located up to the existing easement and and no closer than 20' from the edge of the platted road right-of-way (Edgewater Drive) and more than 10' from the side lot lines;

**Staff Summary**

**Conditional Use Permit – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road: The application may be approved, postponed, or denied.**

**Staff recommendation:**

**Approval would be based on the applicant's ability to meet the requirements for a Conditional Use Permit described in ordinance - To grant the Conditional Uses Permit for – Accessory structures (garage) located on a lot adjacent to a lot with principle structure separated by a public or private road**

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

**ITEM # 3 PLAT**

**Applicant/Owner: William M Landsman**

**Property Description: Lots 1 And 2 of Landsman Addition in NW1/4 of Section 26, T113N, R49W, Deuel County, SD.**

**Request: To plat Lot 1 which contains 5 acres irregular parcel for transferring purposes and Lot 2 which contains 20.01 acres irregular parcel for transferring purposes.**

**Action Item –Plat approval.**