DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.denr.sd.gov

June 19, 2018

Karl Schenk
Karl Schenk
45352 308th Street
Mission Hill, SD 57046

Dear Karl Schenk:

Thank you for submitting your Notice of Intent for the South Dakota General Permit for Stormwater Discharges Associated with Construction Activities. This letter grants you coverage under this general permit for the project listed below in Yankton County, SD. This coverage does not relieve you from complying with other state and local requirements or from obtaining other required permits. **All contractors who will be doing dirt work or who will be responsible for implementing sediment and erosion controls must submit a Contractor Authorization form identifying the contractor.** The contractor will then be considered a co-permittee and will also be responsible for complying with the general permit.

You must maintain your site in compliance with the permit conditions. Refer to Section 3.0 for effluent limits and Section 4.0 for Pollution Prevention Plan requirements. Your project's Permit Number is **SDR10J081**. Please refer to this number in all future correspondence.

Project Information (Please check to be certain this information is correct):

Karl Schenk – Project Site Contact Person
Karl Schenk - Site 26 (PCN: N/A)
Section 26, Township 94N, Range 55W
Latitude 42.925000°; Longitude 97.308000°
Effective Date: **June 19, 2018**

Thank you for preserving the natural resources of South Dakota. If you have any questions or need any guidance, please contact me at 1-800-SDSTORM (1-800-737-8676).

Sincerely,

Katie Luce
Stormwater Program Assistant
Surface Water Quality Program
stormwater@state.sd.us

cc:

Karl Schenk, SW 1/4 - SE 1/4 - 26-94-55 - Yankton County, Mission Hill, SD

Permit No.: SDR10J081
Project: Karl Schenk - Site 26

SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

General Permit Authorizing Stormwater Discharges Associated with Construction Activities Under the South Dakota Surface Water Discharge System

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD), Article 74:52, owners and operators of stormwater discharges from **construction activities** located in the state of South Dakota are authorized to discharge in accordance with the conditions and requirements set forth herein.

This General Permit shall become effective on April 1, 2018.

General Permit coverage for Karl Schenk shall become effective June 19, 2018.

This General Permit and the authorization to discharge shall expire at midnight, **March 31, 2023.**

Signed this **23rd** day of **March, 2018.**

Authorized Permitting Official

Steven M. Pirner
Secretary
Department of Environment and Natural Resources

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
NOTICE OF INTENT (NOI)
to Obtain Coverage Under the SWD General Permit for
Stormwater Discharges Associated with Construction Activities

Submit form to: SD Department of Environment and Natural Resources
Surface Water Quality Program
523 East Capitol Avenue
Pierre, South Dakota 57501
stormwater@state.sd.us
Telephone: 1-800-SDSTORM

ALL QUESTIONS MUST BE ANSWERED COMPLETELY FOR THIS FORM TO BE VALID

I. Site Owner Contact Information:

Company Name: _____

Primary Contact Person: Karl Schenk

Mailing Address: 45352 308th Street

City: Mission Hill State: SD Zip Code: 57046

Phone Number: (605) 760-0363 Email Address: knschenk@cableone.net

Type of Ownership: [x] Private [ ] Federal [ ] State [ ] Other (Municipal, County, etc.) (any type not listed previously)

II. Contractor Information:

Will any contractors be responsible for erosion and sediment control practices: [ ] Yes [x] No

(A contractor certification form must be submitted for each contractor that will have day to day responsibility for erosion and sediment control practices. If these contractors have not been identified at the time this NOI is submitted, the contractor certification form may be submitted after they have been identified, but before they being construction work.)

III. Engineering Firm Contact Information (if applicable):

Contact Person: Stockwell Engineers - Brad Woerner

Contact's Email Address: bwoerner@stockwellengineers.com

IV. Construction Project Information:

Project Name: Karl Schenk - Site 26

Physical Project Address or Description of Construction Site Location: SW 1/4 of SE 1/4 of 26-94-55 Yankton County

City: Mission Hill State: SD Zip Code: _____

On-Site Contact Person: Karl Schenk

Contact's Email Address: knschenk@cableone.net

Contact's Mailing Address: 45352 308th Street

City: Mission Hill State: SD Zip Code: 57046

Phone Number: (605) 760-0363 County of Construction Site: Yankton

Latitude: 42.925 Longitude: -97.308 Source (GPS, Google, etc): Google Earth

Quarter(s): SE Section(s): 26 Township(s): 94N Range(s): 55W

FOR DENR USE ONLY

Permit Number: _____ Date Approved: _____ Approved by: _____

Construction Project Information (Continued):

Is this project on Tribal Lands? ☐ Yes ☒ No

Total area disturbed by the project (in acres): ~3.5

Will this project encroach, damage, or destroy one of the historic sites identified at the following wesites:

http://history.sd.gov/Preservation/nationalregisterofhistoricplaces.aspx ☐ Yes ☒ No

http://www.nps.gov/nhl/find/statelists/sd/SD.pdf ☐ Yes ☒ No

V. Stormwater Pollution Prevent Plan (SWPPP):

Has the SWPPP been developed as required? ☒ Yes ☐ No

(The plan must be developed **before** the NOI is submitted. DENR will not issue coverage before this has been developed.)

VI. Receiving Waters:

Please list all possible waters that may receive a discharge from this site. If discharging to a Municipal Storm Sewer System, indicate which municipality and the ultimate receiving water.

Unnamed Tributary of James River. James River is located approximately 1 mile south of the project site.

VII. Nature of Discharge:

Please include a brief description of the construction project:

Clearing, Grubbing, Excavation, Final Seeding required for construction of two deep pit swine confinement barns.

Will construction dewatering be required? ☐ Yes ☒ No If yes, please complete section IX also.

VIII. Construction Dates:

Project Start Date (MM/DD/YYYY): 06/25/2018

Estimated Completion Date (MM/DD/YYYY): 11/30/2018

IX. Dewatering Activities (Complete this section if you answered yes in VII):

Date dewatering will commence (MM/DD/YYYY): _____

Date dewatering will end (MM/DD/YYYY): _____

Total volume of dewatering (gallons): _____ Average flow rate (gallons per minute): _____

Source of water to be discharged: _____

Receiving water: _____

Brief description of water treatment processes to be employed, if any: _____

Will the dewatering discharge contain anything other than uncontaminated groundwater and stormwater: ☐ Yes ☐ No

NOTE: If there will be dewatering activities, please place points of withdrawal and discharge on a topographic map, or other map if a topographic map is unavailable. This map should extend to one (1) square mile beyond the property boundaries of the facility and each of its discharge facilities, and those wells, springs, and other surface water bodies, drinking water wells, and surface water intake structures listed in public records, or otherwise known to the applicant in the map area.

X. Other Information

List other information you feel should be brought to the attention of the SDDENR regarding coverage under this general permit. Attach additional sheets if necessary.

STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION OF Karl Schenk	)	**CERTIFICATION OF**
STATE OF South Dakota	)	**APPLICANT**
COUNTY OF Yankton	)	

I, Karl Schenk, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

I have read and understand South Dakota Codified Law Section 1-40-27 which provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner, or resident general manager of the facility for which application has been made:

(a) Has intentionally misrepresented a material fact in applying for a permit;

(b) Has been convicted of a felony or other crime involving moral turpitude;

(c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;

(d) Has had any permit revoked under the environmental laws of any state or the United States; or

(e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification,

Karl Schenk (26) – Yankton County, SD

Storm Water Pollution Prevention Plan

SITE DESCRIPTION			
Project Name and Location: (Legal Description)	Karl Schenk – Site 26 SE ¼, Sec. 26, T94N, R55W Yankton County	Owner Name and Address:	Karl Schenk 45352 308th Street Mission Hill, SD 57046

Description: (Purpose and Types of Soil Disturbing Activities)

This project will consist of the construction of a 2,400 head deep pit swine barn.

Soil disturbing activities will include: clearing and grubbing, grading; excavation for waste containment system, and preparation for final planting and seeding.

Soil Type:	Lean clay
Runoff Coefficient:	The final coefficient of runoff for the site (using the rational method) will be c = 0.2.
Site Area:	The site is approximately 3.0 acres of which approximately 1.0 acre will be disturbed by construction activity.

Sequence of Major Activities

The order of activities will be as follows:

1. Clear and grub site
2. Grading and excavation
3. Pile topsoil
4. Stabilize denuded areas and stockpiles within 14 days of last construction activity in that area
5. Install utilities
6. Complete grading and prepare of permanent seeding and plantings
7. When all construction activity is complete and the site is stabilized, reseed any areas disturbed for permanent seeding and plantings
8. Check low spots for sediment build up and clean if needed

Name of Receiving Waters:	Unnamed tributary of James River.

CONTROLS

Erosion and Sediment Controls

Stabilization Practices

Temporary Stabilization – The site will be inspected after the first rainfall to determine accumulation areas. Sedimentation fencing and bale erosion control systems will then be installed prior to overflow of these areas to prevent sedimentation from accumulating off site.

Temporarily stock piled soils shall be piled so as not to allow erosion from rainwater and kept damp to prevent wind erosion.

Permanent Stabilization - Disturbed portions of the site where construction activities permanently cease shall be stabilized with permanent seed. The seeding specification (attached) shall be used to establish permanent vegetation following the completion of the construction activities.

Storm Water Management

Storm water drainage will be directed to the existing adjacent cropland.

Karl Schenk (26) – Yankton County, SD

Storm Water Pollution Prevention Plan

OTHER CONTROLS

Waste Disposal:

Waste Materials

All waste materials will be collected and hauled to the Regional Landfill. All personnel will be instructed regarding the correct procedure for waste disposal.

Hazardous Waste

All hazardous waste materials will be disposed of in the manner specified by local, State, or Federal regulations. Information regarding reporting requirements and procedures can be obtained by calling the Department of Environment & Natural Resources (DENR) Ground Water Program at 1-605-773-3296 during business hours or by the 24 hour emergency response number 1-605-773-3231.

Sanitary Waste

All sanitary waste will be collected from the portable units a minimum of three times per week by a licensed sanitary waste management contractor, as required by local regulation.

Offsite Vehicle Tracking:

Vehicles will use the driveways provided to the site to help reduce vehicle tracking of sediments. Dump trucks hauling material from the construction site will be covered with a tarpaulin.

TIMING OF CONTROLS/MEASURES

The site will be inspected weekly and following any storm event of 0.5" or greater to determine sedimentation fencing requirements. Once construction activity ceases permanently in an area, that area will be stabilized and prepared for permanent seed and mulch. After the entire site is stabilized, the accumulated sediment will be removed.

CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS

There are no other applicable State or Federal requirements for sediment and erosion site plans (or permits), or storm water management site plans (or permits).

MAINTENANCE/INSPECTION PROCEDURES

Erosion and Sediment Control Inspection and Maintenance Practices

These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls.

- All control measures will be inspected at least once each week and following any storm event of 0.5 inches or greater.
- All measures will be maintained in good working order; if a repair is necessary; it will be initiated within 24 hours of report.
- Built up sediment will be removed from the sedimentation fence when it has reached one-third the height of the fence.
- Permanent seeding and planting will be inspected for bare spots, washouts, and healthy growth.
- A maintenance inspection report will be made after each inspection. A copy of the report form that will be completed by the inspector is attached.
- Personnel selected for inspection and maintenance responsibilities shall be trained in all the inspection and maintenance practices necessary for keeping the erosion and sediment controls used onsite in good working order.

Karl Schenk (26) – Yankton County, SD

Storm Water Pollution Prevention Plan

MAINTENANCE/INSPECTION PROCEDURES (Continued)

Non-Storm Water Discharges

It is expected that the following non-storm water discharges will occur from the site during the construction period:

- Water from water line flushings.
- Pavement wash waters (where no spills or leaks of toxic or hazardous materials have occurred).

All non-storm water discharges will be directed to the sediment area prior to discharge.

SPILL PREVENTION (Continued)

Product Specific Practices

The following product specific practices will be followed onsite:

Petroleum Products:

All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers that are clearly labeled. Any asphalt substances used onsite will be applied according to the manufacturer's recommendations.

Spill Control Practices

In addition to the good housekeeping and material management practices discussed in the previous sections of this plan, the following practices will be followed for spill prevention and cleanup:

- Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the location of the information and cleanup supplies.
- All spills will be cleaned up immediately after discovery.
- Spills of toxic or hazardous material will be reported to the appropriate State or local government agency, regardless of the size.

CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME (print): _____

SIGNATURE: _____

DATE: _____

Karl Schenk (26) – Yankton County, SD

Storm Water Pollution Prevention Plan

INSPECTION AND MAINTENANCE REPORT FORM

TO BE COMPLETED EVERY 7 DAYS & WITHIN 24 HRS OF A RAINFALL EVENT OF 0.5 IN. OR MORE

INSPECTOR: _____ DATE: _____

INSPECTOR'S QUALIFICATIONS:

_____

_____

_____

_____

_____

DAYS SINCE LAST RAINFALL: _____ AMOUNT OF LAST RAINFALL _____ INCHES

STABILIZATION MEASURES

AREA	DATE SINCE LAST DISTURBED	DATE OF NEXT DISTURBANCE	STABILIZED? (YES/NO)	STABILIZED WITH	CONDITION
HOLDING CELLS					
BLDG. AREA					

STABILIZATION REQUIRED:

_____

_____

_____

_____

_____

TO BE PERFORMED BY: _____

ON OR BEFORE: _____

CONTRACTOR'S CERTIFICATION		
I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.		
Company Name		
Address		
Phone		
Individuals Name (please print)		
Title		
Signature		
Company Name		
Address		
Phone		
Individuals Name (please print)		
Title		
Signature		
Company Name		
Address		
Phone		
Individuals Name (please print)		
Title		
Signature		

Karl Schenk (26) – Yankton County, SD

Storm Water Pollution Prevention Plan

SIGNATORY CERTIFICATION STATEMENT
Any person signing reports or other documents shall sign the following Certification Statement I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name (please print)	
Title	
Signature	
Company Name	
Address	
Phone	

STOCKWELL

August 23, 2018

Karl Schenk
45352 308th Street
Mission Hill, SD 57046

RE: Finisher Concrete Plans (Section 26, T94N, R55W)
Yankton County, South Dakota
SEI Project No: 17141

Karl:

This submittal contains the following information:

1) Concrete Details – The enclosed plan sheets are for the proposed finisher in Section 26. The design accounts for the recommendations within the geotechnical report. The design was also completed utilizing SD DENR CAFO Permit requirements.

2) Geotechnical Logs – NTI completed a geotechnical exploration of the site. Their investigation and report conclude that the soils are suitable for construction of the proposed structure. The calculated soil bearing strength within the report provides a soil bearing strength of 3,000 psf for the interior divider wall and column footings and 2,500 psf for the exterior/perimeter footing soils. I utilized the soil bearing strength provided by the geotechnical engineer when sizing the footings for this barn. I have included the logs from the investigation.

3) Technical Specifications – The enclosed technical specifications shall be used for the construction of the concrete pit (footings, floor and walls). The enclosed specifications are utilized on SD DENR CAFO Permit applications for similar barns.

If you should need any further information or need clarification on any item within this submittal, please contact my office at your convenience. Thank you.

Sincerely,
STOCKWELL ENGINEERS, INC.

Bradley S. Woerner, PE
Project Manager

NTI
NORTHERN TECHNOLOGIES, LLC

Fargo
3522 4th Ave S
Fargo, ND 58103
P: 701.232.1822 F: 701.232.1864
www.NTIgeo.com

BORING NUMBER SB-1

Long: -97° 18' 29.268"
Lat: 42° 55' 29.856"

CLIENT Stockwell Engineers
PROJECT NAME Karl Schenk Site #26
PROJECT NUMBER 18.SFS05623.000
PROJECT LOCATION Yankton, South Dakota
DATE STARTED 5/1/18 COMPLETED 5/1/18
GROUND ELEVATION 213.1 feet HOLE SIZE 6 1/2 in.
DRILLING CONTRACTOR NTI
GROUND WATER LEVELS:
DRILLING METHOD 3 1/4 in H.S.A
AT TIME OF DRILLING ---
LOGGED BY Chris Nelson CHECKED BY Josh Holmes
AT END OF DRILLING --- No Groundwater Encountered
CAVE IN (ft) 26 FROST DEPTH (ft) NA
AFTER DRILLING ---
NOTES

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS: LIQUID LIMIT	ATTERBERG LIMITS: PLASTIC LIMIT	ATTERBERG LIMITS: PLASTICITY INDEX	FINES
0		0.5 TOPSOIL, ORGANIC CLAY, (OL) brown, trace sand 212.6										
		LEAN CLAY, (CL) brown, trace sand, trace gravel	CS 1									
			CS 2			2.3		17				
5			CS 3	163		2.1		18				
			CS 4			2.0		18				
10			CS 5	190		2.0		18				
			CS 6			2.0		17				
15			CS 7	200		2.8		16				
			CS 8			2.2		19				
20			CS 9	200		2.1		19				
			CS 10			2.4		20				
25		26.5 186.6	CS 11	200		1.8		21				
		SILTY SAND, (SM) brown, fine grained, wet	CS 12			3.2		18				
30		32.0 181.1	CS 13	153								46
		SILTY LEAN CLAY, (CL-ML) brown, with sand	CS 14									
35												

(Continued Next Page)

NTI LOG - GENERAL WITH PHOTOS - NTI-2018-02-23.GDT - 5/11/18 15:58 - S:\SF PROJECTS 2018\0-0 GEO PROJECTS\STOCKWELL YANKTON SITE 26 - 5623\STOCKWELL YANKTON SITE #26.GPJ

NTI NORTHERN TECHNOLOGIES, LLC
Fargo
3522 4th Ave S
Fargo, ND 58103
P: 701.232.1822 F: 701.232.1864
www.NTIgeo.com

BORING NUMBER SB-1

Long: -97° 18' 29.268"
Lat: 42° 55' 29.856"

CLIENT Stockwell Engineers
PROJECT NAME Karl Schenk Site #26
PROJECT NUMBER 18.SFS05623.000
PROJECT LOCATION Yankton, South Dakota

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS: LIQUID LIMIT	ATTERBERG LIMITS: PLASTIC LIMIT	ATTERBERG LIMITS: PLASTICITY INDEX	FINES
35		36.0 SILTY LEAN CLAY, (CL-ML) brown, with sand *(continued)* 177.1	CS 15	200				20				
		SANDY LEAN CLAY, (CL) brown, trace gravel 38.0 175.1	CS 16					18				
40		LEAN CLAY, (CL) gray to brown, trace sand, trace gravel	CS 17	200		3.1		18				
			CS 18					21				
45		45.0 168.1 CLAYEY SAND, (SC) brown, fine to coarse grained, wet, trace gravel 47.0 166.1	CS 19	200		1.8		19				
		SILTY SAND, (SM) brown, fine grained	CS 20					16				33
50		51.0 162.1	CS 21	100								38

Bottom of borehole at 51.0 feet.
Borehole backfilled with auger cuttings.

NTI LOG - GENERAL WITH PHOTOS - NTI 2018-0623.GDT - 5/1/18 19:56 - S:\SF PROJECTS 2018\0-0 GEO PROJECTS\STOCKWELL YANKTON SITE 26 - 5623\STOCKWELL YANKTON SITE #26.GPJ

NTI
NORTHERN TECHNOLOGIES, LLC

Fargo
3522 4th Ave S
Fargo, ND 58103
P: 701.232.1822 F: 701.232.1864
www.NTIgeo.com

BORING NUMBER SB-2

Long: -97° 18' 27"
Lat: 42° 55' 28.416"

CLIENT Stockwell Engineers
PROJECT NAME Karl Schenk Site #26
PROJECT NUMBER 18.SFS05623.000
PROJECT LOCATION Yankton, South Dakota
DATE STARTED 5/1/18 COMPLETED 5/1/18
GROUND ELEVATION 208.3 feet HOLE SIZE 6 1/2 in.
DRILLING CONTRACTOR NTI
GROUND WATER LEVELS:
DRILLING METHOD 3 1/4 in H.S.A
AT TIME OF DRILLING --- No Groundwater Encountered
LOGGED BY Chris Nelson CHECKED BY Josh Holmes
AT END OF DRILLING ---
CAVE IN (ft) 11 FROST DEPTH (ft) NA
AFTER DRILLING ---
NOTES

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS: LIQUID LIMIT	ATTERBERG LIMITS: PLASTIC LIMIT	ATTERBERG LIMITS: PLASTICITY INDEX	FINES
0		0.6 TOPSOIL, ORGANIC CLAY WITH SILT, (OL) black 207.7	AU 1									
		LEAN CLAY, (CL) brown, medium to rather stiff, trace sand, trace gravel	SS 2	89	2-4-4 (8)	2.2	107	17				
5		1" lens of fine sand at 5'	SS 3	100	3-4-7 (11)	3.6	116	17				
			SS 4	111	3-5-7 (12)	3.1	118	15				
10		2" lens of fine sand at 10.5'	SS 5	100	2-5-7 (12)	2.1		16				
			SS 6	89	2-4-5 (9)	1.8	107	20				
15			SS 7	100	2-2-7 (9)	1.2	102	26				
		16.5 191.8 LEAN CLAY, (CL) dark gray, rather stiff, trace sand, trace gravel	SS 8	122	2-5-8 (13)	2.5	117	17				
20			SS 9	111	2-4-6 (10)	2.0	111	20				
		21.0 187.3										

Bottom of borehole at 21.0 feet.
Borehole backfilled with auger cuttings.

NTI LOG - GENERAL WITH PHOTOS - NTI-2018-02-23.GDT - 5/11/18 15:58 - S:\SF PROJECTS 2018\0-0 GEO PROJECTS\STOCKWELL YANKTON SITE 26 - 5623\STOCKWELL YANKTON SITE #26.GPJ

NTI
NORTHERN TECHNOLOGIES, LLC

Sioux Falls
2301 E Rice St
Sioux Falls, South Dakota 57103
P: 605.339.3722 F: 605.332.5443
www.NTIgeo.com

GRAIN SIZE DISTRIBUTION

ASTM C136 & D422

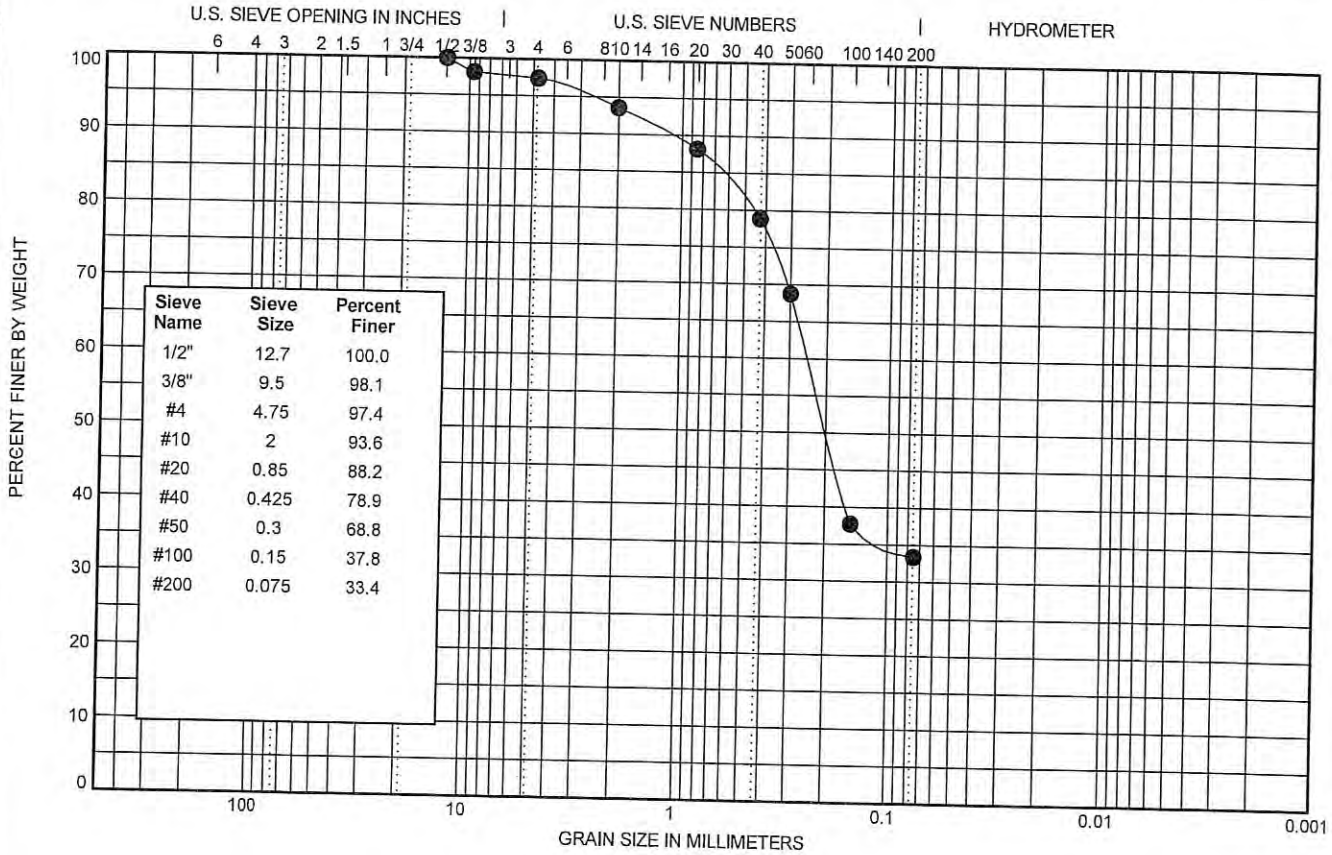
Report To:	Stockwell Engineers 215 Walnut St. Yankton SD 57078	Project:	Karl Schenk Site #26
		Project Number:	18.SFS05623.000
		Location:	Yankton, South Dakota
Attention:	Brad Woerner		

Sample Information

Boring Number:	SB-1	Date Sampled:	5/1/2018
Sample Number:	20	Sampled By:	NTI
Sample Depth:	47	Sample Type:	CS
Classification:	SILTY SAND (SM), trace of gravel		

Sample Data

Cc	Cu	D100	D60	D30	D10	%Gravel	%Sand	%Silt	%Clay
		12.7	0.247			2.6	64.0	33.4	



Sieve Name	Sieve Size	Percent Finer
1/2"	12.7	100.0
3/8"	9.5	98.1
#4	4.75	97.4
#10	2	93.6
#20	0.85	88.2
#40	0.425	78.9
#50	0.3	68.8
#100	0.15	37.8
#200	0.075	33.4

Comments:

Cc:

Submitted by,
Northern Technologies, LLC

Josh Holmes
(5/14/18)

GEO MA - NTI 2015-01-15.GDT - 5/14/18 10:30 - W:\SOUTH DAKOTA\SF PROJECTS 2018\0-0 GEO PROJECTS\STOCKWELL YANKTON SITE 26 - 5623\STOCKWELL YANKTON SITE #26.GPJ

NTI
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Sioux Falls, South Dakota 57103
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GRAIN SIZE DISTRIBUTION

ASTM C136 & D422

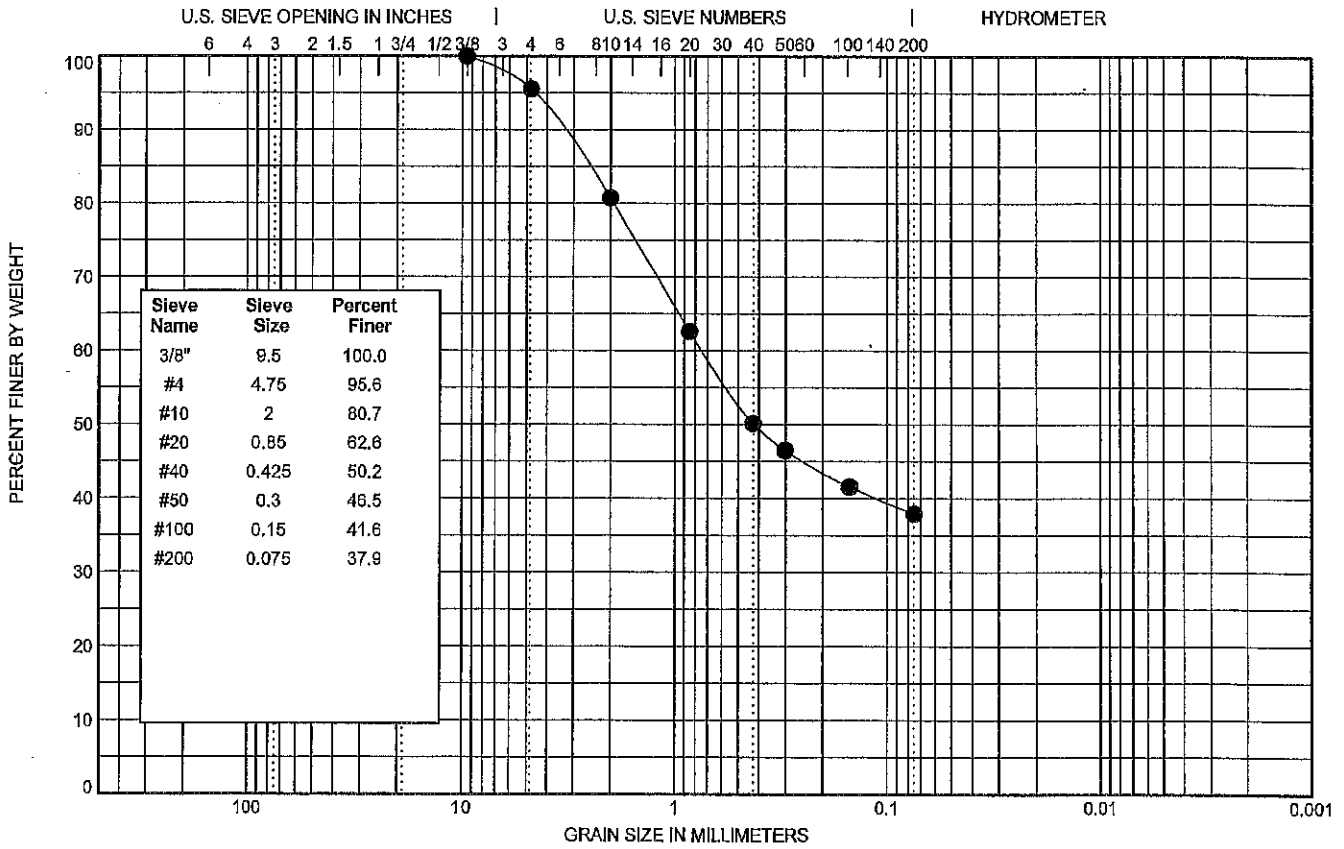
Report To:	Stockwell Engineers 215 Walnut St. Yankton SD 57078	Project:	Karl Schenk Site #26
		Project Number:	18.SFS05623.000
		Location:	Yankton, South Dakota
Attention:	Brad Woerner		

Sample Information

Boring Number:	SB-1	Date Sampled:	5/1/2018
Sample Number:	22	Sampled By:	NTI
Sample Depth:	49.5	Sample Type:	CS
Classification:	SILTY SAND (SM), trace of gravel		

Sample Data

Cc	Cu	D100	D60	D30	D10	%Gravel	%Sand	%Silt	%Clay
		9.5	0.735			4.4	57.6	37.9	



Sieve Name	Sieve Size	Percent Finer
3/8"	9.5	100.0
#4	4.75	95.6
#10	2	80.7
#20	0.85	62.6
#40	0.425	50.2
#50	0.3	46.5
#100	0.15	41.6
#200	0.075	37.9

Comments:

Cc:

Submitted by,
Northern Technologies, LLC

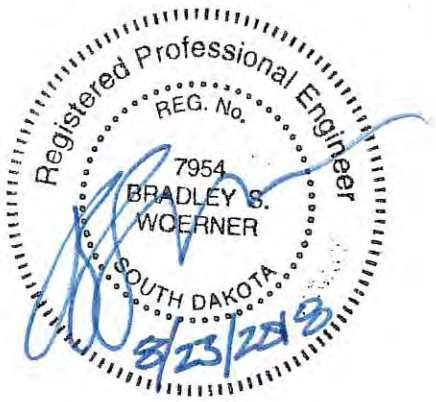
Josh Holmes
(5/14/18)

GEO MA - NTI 2015-01-15.GDT - 5/14/18 10:30 - W:\SOUTH DAKOTA\SF PROJECTS 2018\0-0 GEO PROJECTS\STOCKWELL YANKTON SITE 26 - 5629\STOCKWELL YANKTON SITE #26.GPJ

Stockwell Yankton Site #26
Project #18.SFS05623.000
Rural Yankton, South Dakota
Legend
Soil Boring
Temporary Benchmark
SB-1
SB-2
TBM
308th St
Google Earth
© 2018 Google
300 ft
N

CONCENTRATED SWINE WASTE MANAGEMENT SYSTEMS

TECHNICAL SPECIFICATIONS
FOR
DEEP PIT CONTAINMENT



PREPARED BY
STOCKWELL ENGINEERS, INC.

DIVISION 1

GENERAL INFORMATION AND REQUIREMENTS

SECTION 101 PROVISIONS AND REQUIREMENTS. All provisions and requirements of the Contract Documents, as well as those contained in the plans apply to the Work which is specified within these technical specifications.

SECTION 102 SITE CONDITIONS AND PROJECT EVALUATION. The CONTRACTOR must satisfy himself by personal examination of the construction site as to all local conditions affecting the performance of his contract. The CONTRACTOR is deemed to accept such conditions as found to exist. All CONTRACTOR activities shall be confined to the project site. Construction easements, as needed, will be or have been obtained by the OWNER. If additional area is needed, it shall be the CONTRACTOR's responsibility to obtain said area.

The CONTRACTOR shall be responsible to adequately acquaint himself with all existing conditions, utilities, improvements, and other factors that would affect his bid, and shall examine the project plans and specifications of the foregoing and existing conditions. No extra compensation will be allowed unless specifically set forth in the contract documents and included in the Bid Form.

SECTION 103 MEASUREMENT AND PAYMENT OF INCIDENTAL WORK. Prices bid for bid item shall represent full compensation for all labor, materials, equipment, supervision and other incidental items necessary for the performance and completion of each item of work in place, in strict accordance with the Contract Documents. Payment for said item shall therefore include all work which may be reasonably inferred from the contract documents as being necessary to produce the intended results. All items of work necessary to produce the intended results not specifically contained in the Bid Form shall be considered incidental work to the bid item, and no allowance for separate, additional compensation shall be made.

SECTION 104 INTERRUPTION OF UTILITY SERVICE. The CONTRACTOR shall make every possible effort to minimize the downtime of any utilities which may be directly or indirectly affected by Work performed on this project. The CONTRACTOR shall at all times conduct his Work in such a manner as to cause minimum interference with routine daily use.

The CONTRACTOR shall notify residents affected by his proposed action at least twenty-four (24) hours in advance of such interruptions in residential, commercial and industrial areas.

SECTION 105 EXISTING FACILITIES. The CONTRACTOR shall take complete field measurements affecting all existing constructions in the Work, and he shall be solely responsible for proper fit between his Work and existing structures. He shall examine all work to which he will connect; and if any misalignment is found he shall so arrange his Work that the misalignment is corrected. Any dimensions given on the Drawings related to existing structures are based on available records and it shall be the responsibility of the CONTRACTOR to verify the accuracy of these dimensions. Any discrepancies shall be brought to the attention of the OWNER prior to start of new construction.

SECTION 106 PROTECTION OF EXISTING STRUCTURES. The CONTRACTOR will be held responsible for any damage to existing structures, work, materials, or equipment because of his operations and shall repair or replace any damaged structures, work, materials, or equipment to the satisfaction of, and at no additional cost to the OWNER. The CONTRACTOR shall be responsible for all damage to streets, roads, curbs, sidewalks, highways, shoulders, ditches, embankments, culverts, bridges, or other public or

SECTION 112 QUALITY CONTROL.

112.1 Laboratory Testing. Certain tests and inspection will be necessary for quality control as specified for this project. The OWNER has arranged for and employ, at his expense, an independent testing lab to perform the tests and inspections utilizing recognized standard procedures and criteria. Retests required due to initial test failures will be paid for by the CONTRACTOR. Location and frequency shall be as specified in these specifications.

The CONTRACTOR shall furnish all sample materials required for these tests and shall deliver same without charge to the OWNER when and where directed by these specifications. Any additional tests necessary beyond those required under this specification may be ordered by the ENGINEER to settle disagreements with the CONTRACTOR regarding quality of work done. If the work is defective, the CONTRACTOR shall pay all costs of the extra tests and shall correct the work.

If work is satisfactory, the OWNER will pay for extra tests. Quality testing shall include, but not necessarily be limited to, concrete testing, aggregate testing, soils testing, compaction testing, and the like.

112.2 Factory Testing. Factory tests of any materials relative to performance, capacity, rating, efficiency, function, or special requirements shall be conducted in the factory or shop for each item when this type of test is specified. These tests shall be performed in accordance with applicable standards and test codes.

Factory tests shall be set up and accomplished by the equipment manufacturer who shall provide all shop space, tools, equipment, instruments, personnel, and other facilities required for the satisfactory completion of each test. Test data and results shall be submitted to the OWNER.

The cost of factory tests shall be included in the bid price of the contract and no additional payment will be made for factory testing.

SECTION 113 SALVABLE EQUIPMENT AND MATERIAL. Any equipment or materials removed during construction which is deemed salvable shall remain the property of the OWNER and shall be carefully preserved by the CONTRACTOR.

SECTION 114 TEMPORARY CONSTRUCTION FACILITIES. Site facilities which are necessary for construction shall be provided by and paid for by the CONTRACTOR. These may include but are not necessarily limited to material storage and/or waste areas, utility costs, office space, toilet facilities, storage buildings for the protection of materials and equipment, or other services. All such field office, storage sheds, and the like shall remain the property of the CONTRACTOR and shall be removed after completion of the Work and the site restored to its original condition.

When necessary, the CONTRACTOR shall make his own arrangements for electrical power and telephone service at the construction site. Obtaining water for construction purposes shall also be the responsibility of the CONTRACTOR.

The CONTRACTOR shall contact the OWNER to inquire about possible storage areas and material waste areas. However the CONTRACTOR shall be responsible for securing these areas.

SECTION 115 RECORD COPY OF CONTRACT DOCUMENTS. The CONTRACTOR shall maintain a careful up-to-date record of all changes on the Drawings during construction. Upon completion of the Work, and prior to acceptance by the OWNER, the CONTRACTOR shall file with the ENGINEER one set of complete Drawings with all changes and CONTRACTOR's field construction notes neatly and legibly recorded thereon. Such Drawings shall include the exact routing, if changed from Drawing location, of sewer, water, gas, fuel oil tanks and lines, buried electrical feeder lines, changes to routing of conduit runs which are buried or concealed in concrete slabs, and any other major buried utility lines. Such information may be used to prepare record Drawings for the OWNER.

205.7 LIMITATION OF OPERATIONS. The CONTRACTOR shall conduct the Work at all times in such a manner and in such sequence as will assure the least interference with traffic. He shall have due regard to the location of detours and to the provisions for handling traffic. The OWNER may require the CONTRACTOR to finish a section on which work is in progress before work is started on any additional sections.

205.8 MEASUREMENT AND PAYMENT. Preparation and maintenance of the construction site will not be measured for direct payment, and will be considered as incidental Work pertaining to the contract. Payment, therefore, shall be included in contract bid prices as shown on the Bid Schedule.

private interests. The Contractor shall, at his own expense, take all measures necessary to properly drain the work site. The Contractor shall be held liable for all damages which may result from neglect to provide for either natural or artificial drainage which his work may have interrupted.

221.6 EMBANKMENT. When the site is properly prepared, the ground surface upon which embankments are to be constructed shall be scarified in furrows uniformly spaced so that at least fifty percent of the surface will be broken to a depth of at least six (6) inches. No debris, including broken concrete, stumps, vegetation, trees, or rubbish shall be placed in embankments. Embankments shall be constructed of sound, suitable fill material and shall be placed in horizontal layers not exceeding 6 inches (loose measurement) and shall be compacted as specified before the next layer is placed. Material may be placed in lifts greater than six (6) inches provided it has been demonstrated that the compacting equipment in use has the ability to satisfactorily compact such material to the required density for the entire depth of the lift. Effective spreading equipment shall be used on each lift to obtain uniform thickness prior to compacting. As the compaction of each layer progresses, continuous leveling and manipulating will be required to assure uniform density. Construction equipment shall be routed uniformly over the entire surface of each layer. The top six (6) inches of all embankments shall be essentially free of rock fragments or stone that cannot be hand-passed through a four (4) inch square opening. A motor grader shall be kept in operation on the embankment for the purpose of mixing, spreading, pulverizing, and consolidating the embankment material. At all times the Contractor shall drag, blade, or slope the embankment to provide proper surface drainage. The operations on earthwork shall be suspended at any time when satisfactory results cannot be obtained on account of inclement weather or other unsatisfactory conditions. Frozen material shall not be placed in the embankment nor shall the embankment be placed on frozen material. No watering of embankments, or use of soils moist enough to incorporate in embankments without watering, will be permitted during freezing weather. The Contractor shall be responsible for the stability of all constructed embankments prior to acceptance, and he shall replace and/or reconstruct at his own expense any portions thereof which have failed due to carelessness, negligence, or poor work on his part.

221.7 COMPACTION. After a layer of embankment material has been placed and bladed, it shall be compacted at moisture contents within $\pm$ three (3) percentage points from optimum moisture and the moisture shall be such as to produce embankments with required density and adequate stability, satisfactory for support of the proposed overlaying surface. Optimum moisture will be determined in accordance with AASHTO T99; ASTM D-698. This test shall be paid for by the Owner. Earth embankment shall be compacted to as per the geotechnical report (no less than 95% of maximum dry density as determined by AASHTO T99); ASTM D-698 except as otherwise specified herein. The field density shall be determined in accordance with ASTM D-2176 except the percent compaction shall be calculated after making the proper adjustment for the weight and volume of any aggregate larger than that used in the laboratory compaction procedure. A minimum of four compaction tests shall be administered, two located on the floor of the holding pond and two located within the embankment of the holding pond. Initial tests shall be paid for by the Owner. Additional tests required shall be at the expense of the Contractor. Each layer under construction must be satisfactorily compacted before the layer next above is placed. Rolling work shall also be extended to cover the subgrade width in completed cut sections under the same general requirements, and without additional compensation therefore. Cut-sections excavated below grade and refilled with the removed excavation or with selected soils shall be compacted in the same manner as embankment.

221.8 EXCESS EXCAVATION. Unsuitable material excavated and suitable material excavated in excess of that required for construction shall be wasted in areas secured by the Contractor, subject to approval by the OWNER. If it is necessary to dispose of any material, it shall be disposed of in such a manner as to present a neat appearance, and to not obstruct proper drainage or cause damage to abutting property.

221.9 BORROW EXCAVATION. When called for in the bid schedule, and when borrow sources are outside the boundaries of the project limits, it shall be the Contractor's responsibility to locate and obtain

SECTION 280

GRASS SEEDING AND FERTILIZING OF DISTRIBUTED AREAS

280.1 SCOPE. This section includes all labor, materials, equipment, and services necessary to prepare the ground surface, furnish and apply fertilizer, furnish and sow seed, and compact in accordance with the plans and specifications.

280.2 FERTILIZER. Commercial fertilizer shall be of 10-10-10 formula, the fertilizer shall be applied to provide the minimum weight of nitrogen, phosphate, and potash available per acre as expressed in the formula respectively. Fertilizer shall be applied at a rate of 100 pounds/acre, uniformly on all areas to be seeded and shall conform to the applicable State Fertilizer Laws. It shall be uniform in composition, dry, and free flowing, and shall be delivered to the site in the original, unopened containers, each bearing the manufacturer's guaranteed analysis. Any fertilizer which becomes caked or otherwise damaged, making it unsuitable for use, will not be accepted. It shall be applied as recommended by the manufacturer for new seed beds.

280.3 SEED MIXTURE. All seed shall be in accordance with the requirements as prescribed by the applicable state. The CONTRACTOR shall submit to the OWNER a certificate covering each variety of seed from the agency supplying the seed showing the results of purity of seed, germination test, and origin of the seed.

The seed formula shall be as follows:

	By Weight	% Purity	% Germination
Brome Grass	50	90	90
Intermediate Wheat Grass	25	90	90
Russian Wild Rye*	25	90	90
Weed Content:	Maximum 1%		

*For spring seeding, use annual grass, for fall seeding, a perennial type rye grass shall be used.

280.4 PREPARATION OF SOIL. Before seeding or fertilizing, the topsoil surface shall be trimmed and graded to true lines free from unsightly variations, humps, ridges, or depressions. All objectionable material shall be removed and finely pulverized seed bed having a depth of three inches (3") shall be formed. A minimum of 2.0 tons per acre of mulching shall be spread over the soil surface.

280.5 SOWING OF SEED. The seed mixture shall be sown at a rate of application which insures a minimum of fifteen pound (15 lb) of pure, live seed per acre. The seed mixture shall be sown by means of an approved drill equipped with grass seeder attachments to provide rows of approximately three inches (3") apart and 1/4" to 1/2" deep. If seed separation within the drill becomes apparent, each grass variety shall be sown individually. Broadcast sowing will be permitted only on areas inaccessible to drills. After sowing, the seeded areas shall be rolled. Seeding may be carried on from the time the ground is workable in the spring to June 1, or between the dates of August 25 to September 15. Full advantage shall be taken of favorable weather conditions.

SECTION 330

CONCRETE WORK

330.1 SCOPE. The CONTRACTOR shall furnish and install, ready for use, all concrete work as indicated on the drawings and as specified. All concrete construction shall be performed under the personal and constant supervision of a competent superintendent experienced in this class of work. Ready-Mix Concrete will be permitted providing that the testing, materials, mixing, etc., complies with this specification and transit trucks are used for delivery.

330.2 PRECAST CONCRETE MANHOLES. All manholes to be provided under this project are to be precast and shall be in strict conformance with ASTM C 478-85a, Standard Specification for "Precast Reinforced Concrete Manhole Sections". All specifications for concrete materials, reinforcement, design, manufacture, and physical requirements contained therein shall be complied with fully. The CONTRACTOR shall provide certification and test results from the manufacturer that the precast manhole sections to be installed in the project conform to ASTM C 478-85a.

330.3 CONCRETE. All concrete to be used in forming manhole benches and channels or in any other locations as required on the project shall meet the specifications contained in this section.

330.3.1 Cement. Portland Cement shall provide moderate sulfate resistance and thus shall be Dakota Portland Cement, Type II or Type II A and shall conform to the Standard Specifications for Portland Cement, ASTM C 150.

330.3.2 Aggregates. All aggregates used for concrete work must conform to ASTM requirements of Section C 33. Methods of sampling and testing shall be as listed in the above ASTM Section. Fine aggregate shall consist of clean sand, free from organic material and shall conform to the following sieve analysis:

Sieve Size	Total % Retained
3/8"	0
No. 4	0- 5
No. 16	15-50
No. 30	40-70
No. 50	70-90
No. 100	90-98

Coarse Aggregate shall consist of crushed gravel, crushed stone, or a combination thereof, and shall have a uniform gradation within the following limits:

Sieve Size	Total % Retained
1-1/2"	0
1"	0
3/4"	0-10
3/8"	45-80
No. 4	90-100

Aggregate shall consist of clean, uncoated grains of sound material.

330.3.3 Water. Water shall be clean and free from injurious amounts of oils, acids, alkalies, organic materials, or other deleterious substances.

Concrete shall be deposited as nearly as practicable in its final position to avoid segregation due to rehandling or flowing. Concreting shall be carried on at such a rate that the concrete is at all times plastic and flows readily into the spaces between bars. No concrete that has partially hardened or been contaminated by foreign material shall be deposited on the work nor shall retempered concrete be used. When concreting is once started, it shall be carried on as a continuous operation until the placing of the section is completed. All concrete shall be thoroughly compacted by suitable means during the operation of placing, and shall be thoroughly worked around reinforcement, embedded fixtures and into the corners of the forms. Vibrators may be used to aid in the placement of concrete provided they are used under experienced supervision and the forms designed to properly withstand this action. Such surfaces as are to be finished shall be brought to proper grade, struck off, and finished in a workmanlike manner. No honeycombing, rough spots or protruding stones shall be left exposed. Precautions must be taken to be sure the thickness shown on the plans exists at all places.

330.3.8 Admixtures. Air entraining admixtures shall conform to Specifications for Air-Entraining Admixtures for Concrete, ASTM C 260. Air entrained concrete shall have an air content of 4.5% + 1.5% of the volume of the concrete. Air content shall be determined by the Pressure Method, ASTM C 231. Water Reducing Admixture shall be Master Builders Pozzolith or Protex PCA normal set or retarder, used according to manufacturer's directions. No accelerating admixture will be allowed. Any compounds or materials designed to lower the freezing point of concrete will not be permitted.

330.3.9 Hot Weather Requirements. During hot weather, steps shall be taken to reduce concrete temperature and water evaporation by proper attention to ingredients, production methods, handling, placing, protection and curing.

330.3.10 Cold Weather Requirements. Adequate equipment shall be provided for heating the concrete materials and protecting the concrete during freezing or near-freezing weather. No frozen materials or materials containing ice shall be used. All concrete materials and all reinforcement, forms, fillers and ground with which the concrete is to come in contact shall be free from frost. Whenever the temperature of the surrounding air is below 40°F., all concrete placed shall have a temperature of between 50°F. and 70°F., and adequate means shall be provided for maintaining a temperature of not less than 70°F. for three (3) days or 50°F. for five (5) days. The housing, covering or other protection used in connection with curing shall remain in place and intact at least twenty four (24) hours after the artificial heating is discontinued. No dependence shall be placed on salt or other chemicals for prevention of freezing. Whenever heated enclosures are used, care must be taken to assure that the concrete is kept moist during the curing period.

330.3.11 Curing. Provisions shall be made for maintaining concrete in a moist condition for at least three (3) days after the placement of the concrete. Curing shall commence as soon as free water has disappeared from the surface after finishing. Curing may be accomplished by any of the following methods:

Membrane Curing - Apply curing compound to freshly laid concrete surfaces as soon as initial set is reached and after surface is free of excess water in accordance with manufacturer's printed instructions. Do not use membrane curing on surfaces required to receive additional concrete or concrete fill nor on cement finish coats that are to receive hardening and dustproofing treatment.

Moist Curing - Surfaces shall be kept continually wet by covering with burlap mats or sand, thoroughly saturated with water and covering kept wet by spraying or hosing. Place materials to provide complete surface coverage and lap all joints a minimum of three inches (3").

Impervious-Sheeting Curing - Surfaces shall be thoroughly wetted with a fine spray of water and then covered with waterproof paper, polyethylene sheeting or polyethylene-coated, securely cemented or taped to form a continuous cover.

NOTIFICATION

Exhibit: 12-18-18 #1

December 5, 2018

Karl Schenk
44352 308th St.
Mission Hill, SD 57046

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 2,640 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date.
You are hereby notified. Please take a moment to review the notice of public hearing described below.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Board of Adjustment, Yankton County South Dakota, at 5:15 P.M. on the 18th day of December, 2018, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:
Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

Karl Schenk,
Petitioner

OwnerAddress1	OwnerAddress2	OwnerAddress3
AUNE, DAVID L	30825 444 AVE	MISSION HILL SD 57046
BOVERO, MIKE L	30822 444 AVE	MISSION HILL SD 57046
BRAUNESREITHER, DEAN	44432 307 ST	MISSION HILL SD 57046
CHRISTENSEN, DAVID	46170 312 AVE	VERMILLION SD 57069
CLARK, JUNE A (ELE)	434 CAMEO DR	LAKELAND FL 33803
CLOUGH, FAYE ANN	3548 EAST HWY 44	RAPID CITY SD 57703
DOLEJSI, DANIEL L	30732 444 AVE	MISSION HILL SD 57046
EAST RIVER ELECTRIC POWER	121 SE 1 ST - DRAWER E	MADISON SD 57042
GUNDERSON, JAMES D	30833 444 AVE	MISSION HILL SD 57046
JOHNSON, EDWARD N REV TRUST	514 FOUNTAIN AVE	PACIFIC GROVE CA 9395[illegible]
LARSEN, KENNETH A	30747 444 AVE	MISSION HILL SD 57046
NELSEN, CHRISTOPHER B	30725 444 AVE	MISSION HILL SD 57046
NEW HOPE FARM REVOCABLE TRUST	30725 444 AVE	MISSION HILL SD 57046
NIELSON TRUST (THE)	30767 444 AVE	MISSION HILL SD 57046
NOVAK, DAVID	30818 444 AVE	MISSION HILL SD 57046
OLSON, SCOTT	44533 308 ST	MISSION HILL SD 57046
RICE, MARJORIE N REV TRUST	PO BOX 56	CREIGHTON NE 68729
SARRINGAR, MARGARET ANN	30741 445 AVE	MISSION HILL SD 57046
SCHENK, KARL M	44352 308 ST	MISSION HILL SD 57046
SMITH, JOHN C	2507 VALLEY RD	YANKTON SD 57078
TNB FARMING SOLUTIONS	2909 PETTERSON RD	VERMILLION SD 57069
WISHON, TRAVIS J	30848 444 AVE	MISSION HILL SD 57046

#7A

Exhibit 12-18-18

received
9-18-18

STATE OF SOUTH DAKOTA)
: SS
COUNTY OF YANKTON)

IN CIRCUIT COURT

FIRST JUDICIAL CIRCUIT

PAIGE HERRIG, EMILY RADECH, and JANICE WAHLERS, Petitioners, vs. YANKTON COUNTY COMMISSION serving as the YANKTON COUNTY BOARD OF ADJUSTMENT and KARL M. SCHENK, Respondents.	CIV. 18- **SUMMONS**

THE STATE OF SOUTH DAKOTA TO THE ABOVE-NAMED RESPONDENTS:

You are hereby summoned and required to answer the Petition of the Petitioners in the above entitled action, a copy of which said Petition is hereunto annexed and herewith served upon you, and to serve a copy of your answer to said Petition upon the subscribers, Davenport, Evans, Hurwitz & Smith, L.L.P., at their office at P.O. Box 1030, 206 West 14th Street, in the City of Sioux Falls, Minnehaha County, South Dakota, 57101-1030, within thirty (30) days after the service of this Summons upon you, exclusive of the day of such service; and you will hereby take notice that in case of your failure to answer said Petition, judgment by default may be rendered against you as requested in the said Petition.

Dated at Sioux Falls, South Dakota, this 17th day of September, 2018.

DAVENPORT, EVANS, HURWITZ & SMITH, L.L.P.

Mitchell A. Peterson
206 West 14th Street
PO Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605) 336-2880
Facsimile: (605) 335-3639
Attorneys for Petitioners

STATE OF SOUTH DAKOTA) : SS COUNTY OF YANKTON)	IN CIRCUIT COURT FIRST JUDICIAL CIRCUIT
PAIGE HERRIG, EMILY RADECH, and JANICE WAHLERS, Petitioners, vs. YANKTON COUNTY COMMISSION serving as the YANKTON COUNTY BOARD OF ADJUSTMENT and KARL M. SCHENK, Respondents.	CIV. 18- **PETITION**

Under SDCL 11-2-61 through 11-2-65, and all other statutes, case law, or common law that may be applicable, Petitioners Paige Herrig, Emily Radech, and Janice Wahlers (collectively referred to as "Petitioners") present to the Court this duly verified Petition seeking a writ of certiorari and reversal of the decision set forth below, which decision is illegal as explained in this Petition.

PARTIES AND PROCEDURAL BACKGROUND

1. Respondent Yankton County Commission serving as the Yankton County Board of Adjustment ("the Board") is the board of adjustment for Yankton County as set forth in the Yankton County Zoning Ordinance ("the Ordinances") §§ 1713 and 1901-1907 and as contemplated by SDCL chapter 11-2 (and, more specifically, SDCL 11-2-49 and 11-2-60).

2. Respondent Karl M. Schenk ("Schenk") is the applicant for and recipient of a conditional use permit ("CUP") to operate a Class E Animal Feeding Operation ("AFO"), which CUP and Board decision granting the CUP are described in more detail in ¶ 3 of this Petition.

3. On August 21, 2018, the Board voted and made a decision as follows with respect to Schenk's application for a Class E CUP (which shall be referred to as "the Decision"):

> Action 18304Z: A motion was made by Epp and seconded by Bodenstedt to approve a Conditional Use Permit for Karl Schenk, based on Findings of Fact from the July 31, 2018 Yankton County Planning Commission meeting and on file in the Zoning Administrator's Office, to modify Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County, pursuant to Article 19, Section 1905 of the Yankton County Zoning Ordinance. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. E911 address is TBA 308th Street, Mission Hill, SD. Roll call vote was taken with Bodenstedt, Epp and Woods voting Aye; Swensen Voting Nay; Motion carried, 3-1.

4. Petitioners are persons who: (a) own land near the proposed site of Schenk's AFO; (b) own land in Yankton County that will be affected by the decision of the Board as described in this Petition; (c) are South Dakota tax payers; (d) are Yankton County tax payers; (e) are otherwise interested in the subject matter of this Petition; (f) are aggrieved by the decision of the Board as set forth in this Petition; or (g) a combination of the foregoing (a) through (f).

5. Petitioners are aggrieved by the Board's decision to grant a conditional use permit to Schenk, because, among other reasons, the decision creates a serious risk of pollution, diminished water quality, diminished air quality, increased odors, increased flies and pests, increased noise, increased glare, negative economic impacts, decreased property values, incompatibility with surrounding area and properties, negative impacts on ecology and wildlife, and dilapidation and deterioration of roads thereby increasing the tax burden on Yankton County and Petitioners.

6. Given their proximity to the proposed Schenk AFO site, Petitioners are aggrieved by the Board's decision to grant a conditional use permit to Schenk in ways that the general public is not aggrieved.

INSUFFICIENT VOTES

7. Petitioners restate and incorporate by reference all other allegations contained in this Petition.

8. The Decision had three votes in favor (Bodenstedt, Epp, and Woods), one vote against (Swensen), and one abstention due to absence (Kettering), which is total of three (3) affirmative votes.

9. Under Ordinance § 1715, "an affirmative vote of two-thirds (2/3) (4 of 5) of the full membership of the Board of Adjustment" is required to grant conditional uses.

10. The Decision had only three (3) affirmative votes, which was legally insufficient for the Board to grant the CUP to Schenk under Ordinance § 1715.T

11. The Board's action of granting the CUP to Schenk is illegal, because the Board failed to cast the minimum four (4) affirmative votes as required by Ordinance § 1715.

"MODIFICATION" IS NOT AUTHORIZED

12. Petitioners restate and incorporate by reference all other allegations contained in this Petition.

13. The Board has no authority under the Ordinances to "modify" a CUP.

14. The Board may vote to grant a CUP (if all requirements are otherwise met), but not to "modify" a CUP.

15. If the Decision is construed to be a modification of a CUP, as opposed to granting a CUP, the Board's decision is illegal and beyond its authority and jurisdiction for this additional reason.

COMMON OWNERSHIP OF NEARBY AFO

16. Petitioners restate and incorporate by reference all other allegations contained in this Petition.

17. The site of Schenk's AFO that is the subject of the CUP is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W in Yankton County, South Dakota ("the Site").

18. Less than one mile from the Site is another AFO owned, operated, or controlled by Schenk, located on the SW ¼ of the SW ¼ of S25-T94N-R55W ("the Other Site"), which is the section adjacent to the Site.

19. The Site and the Other Site are within one mile of one another.

20. The Ordinances define AFO, which definition includes the following: "Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile)[.]"

21. The AFOS at the Site and the Other Site are under common ownership and adjoin each other (within one mile), therefore they must be considered a single animal operation under the Ordinances for purposes of determining AFO classification based on animal units.

22. Under the Ordinance, if the Site and the Other Site are considered a single animal operation, Schenk's AFO at the Site would be considered Class D, not Class E, due to the number of animal units being 1,000 to 1,999.

23. The Board ignored and failed to consider the Other Site when it made the Decision and granted a Class E CUP to Schenk for the AFO at the Site.

24. The Board acted illegally by granting a Class E CUP to Schenk for the AFO at the Site, because it is, in fact, a Class D operation based on the common ownership and less-than-one-mile proximity of the AFO at the Other Site.

GROUNDS FOR ILLEGALITY

25. Petitioners restate and incorporate by reference all other allegations contained in this Petition.

26. Under SDCL 11-2-61, anyone aggrieved by any decision of the board of adjustment may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality.

27. Under SDCL chapter 11-2, and SDCL 11-2-61 more specifically, Petitioners present this Petition appealing the Decision.

28. The Court should reverse the Decision under the writ of certiorari standard as set forth in SDCL chapter 11-2 or, alternatively, remand the Decision to the Board for further proceedings consistent with this Court's judgment.

29. Under current South Dakota Supreme Court authority, any of the following eleven bases requires reversal of the Decision under the writ of certiorari standard: (a) the Board arbitrarily or willfully disregarded undisputed proof; (b) the Board's decision was based on fraud; (c) the Board exceeded its jurisdiction; (d) the Board failed to regularly pursue its authority; (e) the Board engaged in any act forbidden by law; (f) the Board neglected to do any act required by law; (g) the Board failed to engage in independent thought; (h) the Board failed to follow the guidelines or requirements of the applicable ordinances; (i) the Board exceeded its authority; (j) members of the Board voting in favor of granting the conditional use permit for the Schenk AFO were disqualified due to actual bias, unacceptable risk of actual bias, unalterably

closed minds, conflicts of interest, partiality, not being disinterested in the proceedings, and not being free from bias or predisposition; or (k) the Board's decision is otherwise illegal.

30. The Board's Decision should be reversed because: (a) the Board arbitrarily or willfully disregarded undisputed proof; (b) the Board's decision was based on fraud; (c) the Board exceeded its jurisdiction; (d) the Board failed to regularly pursue its authority; (e) the Board engaged in any act forbidden by law; (f) the Board neglected to do any act required by law; (g) the Board failed to engage in independent thought; (h) the Board failed to follow the guidelines or requirements of the applicable ordinances; (i) the Board exceeded its authority; (j) members of the Board voting in favor of Schenk were disqualified due to actual bias, unacceptable risk of actual bias, unalterably closed minds, conflicts of interest, partiality, not being disinterested in the proceedings, and not being free from bias or predisposition; (k) the Board's decision is otherwise illegal; or any combination of (a) through (k).

31. In support of the eleven recognized bases or grounds for appeal set forth above, Petitioners present the following as the specific grounds or bases for relief:

a. The Decision was granted after the Board cast only three (3) affirmative votes in favor of granting the CUP to Schenk, when four (4) affirmative votes were required under Ordinance § 1715.

b. The Board acted illegally by granting a Class E CUP to Schenk for the AFO at the Site, because it is, in fact, a Class D operation based on common ownership of and being located less than one mile from the AFO at the Other Site.

c. Schenk failed to meet his burden of proving compliance with the following Ordinances, because Schenk applied for a Class E AFO CUP, as opposed to the correct Class D

AFO CUP: § 519(1, 2, 3, 4, 5, 7(d), 8(d), 9, 10, 11, 12, and13), which all Class D AFOs must meet under Ordinance § 519.

d. The Board failed to enter findings demonstrating compliance with the following Ordinances, because Schenk applied for a Class E AFO CUP, as opposed to the correct Class D AFO CUP: § 519(1, 2, 3, 4, 5, 7(d), 8(d), 9, 10, 11, 12, and13), which all Class D AFOs must meet under Ordinance § 519.

e. The Board ignored and failed to consider the generally applicable conditional use permit requirements in Ordinances §§ 1805 and 1905, and instead made the Decision based only on whether the AFO-specific requirements of Ordinance § 519 were met (which requirements of Ordinance § 519 were not met).

f. Members of the Board voting in favor of granting the conditional use permit for the Schenk AFO were disqualified due to actual bias, unacceptable risk of actual bias, unalterably closed minds, conflicts of interest, partiality, not being disinterested in the proceedings, and not being free from bias or predisposition, or a combination of these factors, in a manner that violates Petitioners' legal and due process rights, therefore, remanding this matter for rehearing before an unbiased Board is required.

g. The Board ignored the common ownership of the Other Site in an effort to allow Schenk to avoid and circumvent regulation by the South Dakota Department of Environment and Natural Resources designed to protect, among other things, this State's water supply and aquifers.

b. The Board failed to provide the required notice of hearing before making the Decision, because the Board incorrectly provided notice that a Class E (as opposed to the correct Class D) AFO was under consideration.

i. The Board failed to conduct a lawful hearing before making the Decision, because the Board incorrectly conducted a hearing on a Class E (as opposed to the correct Class D) AFO.

32. All of the actions, omissions, events, procedural deficiencies, and other matters set forth in detail above in Paragraph 31 (and its subparagraphs) of this Petition shall be considered for purposes of all bases for reversal under the writ of certiorari standard set forth above in this Petition or as otherwise permitted for the relief requested in this Petition.

33. If any act or omission set forth in Paragraph 31 (and its subparagraphs) of this Petition (or anywhere else in this Petition) is, in fact, a due process violation, then it shall be considered by the Court for purposes of evaluating compliance with due process and fashioning an appropriate remedy even if a due process violation is not expressly mentioned in connection with that act or omission.

34. The Board approved the Application and issued the permit for Schenk's AFO despite Schenk's failure to comply with all requirements of Ordinances, which constitutes arbitrary or willful disregard of undisputed proof, exceeding the Board's jurisdiction, failure to regularly pursue authority, engaging in acts forbidden by law, and neglecting to perform acts required by law.

35. The Board arbitrarily or willfully disregarded undisputed proof as set forth in this Petition which entitles Petitioners to reversal of the Decision and all other relief allowed by law.

36. The Board exceeded its jurisdiction as set forth in this Petition which entitles Petitioners to reversal of the Decision and all other relief allowed by law.

37. The Board failed to regularly pursue its authority as set forth in this Petition which entitles Petitioners to reversal of the Decision and all other relief allowed by law.

38. The Board engaged acts forbidden by law or neglected to do acts required by law as set forth in this Petition entitling Petitioners to reversal of the Decision and all other relief allowed by law.

39. For the reasons set forth above, the Court should grant Petitioners' requested writ of certiorari. Specifically, Petitioners request that the Court reverse the decision of the Board and revoke (or void) the CUP granted to Schenk. Alternatively, the Court should remand this matter back to the Board for further investigation and consideration in compliance with directions from the Court.

WHEREFORE, Petitioners request the following relief in the form of a writ of certiorari, order, judgment, or other form allowed by law:

a. all relief requested in this Petition;

b. all relief allowed under SDCL chapter 11-2, including, but not limited to, reversal or modification of the Decision under SDCL 11-2-65;

c. reversal of the Decision;

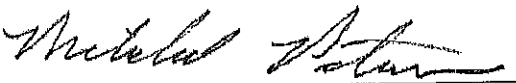
d. voiding the CUP the Board granted to Schenk;

e. alternatively, a remand of this matter to the Board; and

f. for all other relief allowed by law.

Dated at Sioux Falls, South Dakota, this 17th day of September, 2018.

DAVENPORT, EVANS, HURWITZ & SMITH, L.L.P.



Mitchell A. Peterson
206 West 14th Street, PO Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605) 336-2880
Attorneys for Petitioners

VERIFICATION

I hereby verify that the matters set forth in the foregoing Petition are true and accurate based on my personal knowledge and on my best information and belief.

Paige Herrig

Subscribed and sworn to before me this 17th day of September, 2018.

Notary Public, South Dakota
My Commission expires: 11-11-19

VERIFICATION

I hereby verify that the matters set forth in the foregoing Petition are true and accurate based on my personal knowledge and on my best information and belief.

Emily Radech

Subscribed and sworn to before me this 17th day of September, 2018.

Connie S Moore
Notary Public, South Dakota
My Commission expires: Jan 27, 2022

VERIFICATION

I hereby verify that the matters set forth in the foregoing Petition are true and accurate based on my personal knowledge and on my best information and belief.

Janice Wahlers

Subscribed and sworn to before me this 17th day of September, 2018.

Notary Public, South Dakota
My Commission expires: 11-11-19

EMC
Insurance Companies

Pat Garrity, Zoning Administrator
Yankton County
321 W 3rd Street
Yankton, SD 57078-0137

Count on EMC®

EMC INSURANCE

October 2, 2018

Certified Mail
Return Receipt Requested

Patty Hojem, Auditor
Yankton County
321 W 3rd Street
Yankton, SD 57078-0137

Pat Garrity, Zoning Administrator
Yankton County
321 W 3rd Street
Yankton, SD 57078-0137

DEFENSE PROVIDED UNDER A RESERVATION OF RIGHTS

RE:	EMC Primary Named Insured:	Yankton County
	EMC Claim #:	1446599
	Case:	CIV.18--- First Judicial Circuit, Yankton County, South Dakota, **Petition for Writ of Certiorari, Reversal of Decision by County**
	Title:	*Paige Herrig, Emily Radech, and Janice Wahlers, Petitioners, vs. Yankton County Commission serving as the Yankton County Board of Adjustment and Karl M. Schenk, Respondents.*
	Filed:	September 17, 2018
	Served on the County:	On or about September 18, 2018
	Notice Given to EMC:	September 18, 2018
	Commercial Umbrella policy, #:	**4J46157**
	EMC Named Insured:	**Yankton County**
	Effective date:	January 1, 2018 to January 1, 2019
	Liability Limit;	$2,000,000 Occurrence Limit (Excess)
	Coverage Form:	CU0001 4-13
	Linebacker policy:	**4K46157**
	EMC Named Insured:	**Yankton County**
	Policy period:	January 1, 2018 to January 1, 2019

Liability Limit:	$1,000,000 Each Loss
Deductible:	$2,500 per loss
Retroactive Date:	January 1, 1993
Coverage Form:	CL7001 10-12

Dear Ms. Hojem,

Employers Mutual Casualty Company, ("EMC"), acknowledges notice of the above captioned Petition filed in the First Judicial Circuit, Yankton County by Paige Herrig and other Petitioners, ("Petitioners"). EMC has retained Doug Deibert of the Cadwell Sanford & Garry Law Firm as defense counsel for the County in this matter. Please offer Doug your full cooperation. He may be reached at:

Doug Deibert
Cadwell Sanford Deibert & Garry
PO Box 2498
Sioux Falls, SD 57101
Phone: 605 336-0828
Email: ddeibert@cadlaw.com

EMC will be providing this defense under a complete reservation of rights. This defense is also subject to your $2,500 deductible that applies to loss settlement payments, legal defense expenses, covered damage awards if any, and investigative expenses. Any deductible request will be sent under separate cover once that amount is reached.

The Petition

The Petitioners seek a Writ of Certiorari and reversal of a decision to issue a Conditional Use Permit, ("CUP"), to Karl M. Schenk to operate a Class E Animal feeding Operation, ("AFO"), on August 21, 2018. The Petitioners seek that the court in the form of a Writ or Order, or Judgment, reverse the Board's decision, revoking the permits, and/or remand to the board with directions to comply with the ordinances.

This appears to be a new Petition for an adjacent location previously granted a CUP to Schenk by the County or modification by the County of a CUP for the "Mission Hill" site. The action challenged is 18304Z on August 21, 2018 modifying this CUP from Class D to Class E Confined Animal Feeding Operation. The Petitioners claim they are local landowners who are aggrieved by the decision. They allege wrongful acts in that there were insufficient votes to grant a CUP. They allege modification is not authorized if the action is described as a modification. The Petitioners allege common ownership of an adjacent site within 1 mile by Schenk and that the board ignored or failed to consider it.

The Petitioners state the decision was illegal. The Petition seeks to describe the matter as a due process violation and asks the court to fashion an appropriate remedy even if a due process violation is not expressly mentioned in connection with any act or omission.

Coverage Discussion

The discussion is not to be deemed an acknowledgement that the allegations made against you are true. Relevant portions of the policy are cited. Please understand that by citing specific portions of the policy we do not waive any of our rights to deny coverage to any party seeking coverage under this policy for any other reason which might arise and is not meant to be an exhaustive list of all potential exclusions or exceptions.

Umbrella policy

This policy provides excess liability limits of $2,000,000 for each occurrence. The declarations page shows that the Linebacker policy are scheduled. The Umbrella policy provides no broader coverage than the scheduled underlying policies. The Umbrella policy has not been triggered in this instance.

Linebacker Public Official's and Employment Practices Liability, ("Linebacker"), policy

The Linebacker policy provides liability limits of $1,000,000 subject to a $2,500 deductible which applies to legal defense expenses, loss settlement payments or covered damage awards if any.

The insuring agreement is found under the heading of Section I - Coverages

> ***SECTION I - COVERAGES***
>
> ***1. Insuring Agreement Coverage A - Public Officials Liability and Coverage B – Employment Practices Liability***
> ***a. Public Officials Liability***
> *We will pay for "defense expense(s)" and/or those sums that the insured becomes legally obligated to pay as "damages" because of a "public official's wrongful act" rendered in discharging duties on behalf of the insured named in the Declarations.*

...

The definition of wrongful act is found under the heading of definitions.

> ***16. "Wrongful act"*** *includes any of the following:*
>
> ...
>
> ***b. "Public official's wrongful act"*** *shall mean*

any of the following:
***(1)** Actual or alleged errors;*
***(2)** Misstatement or misleading statement;*
***(3)** Act, omission, neglect, or breach of duty by an insured*
in the discharge of "organizational" duties.
"Public Officials Wrongful Act(s)" does not include an "employment wrongful act".
...

There has been an allegation of a public official wrongful act in the Petition. Therefore the Linebacker policy applies to this situation. However, there are certain exclusions which apply to this situation.

5. Exclusions - Coverage A and Coverage B
Each of the following exclusions is an absolute exclusion with no duty to defend or pay "damages" unless otherwise indicated. If both an absolute exclusion and an exclusion with a duty to defend apply, coverage for "defense expenses" is excluded and we have no duty to defend.
This insurance does not apply to:
...

b. *"Bodily Injury", "Property Damage", or "Personal and Advertising Injury"*
***(1)** "Bodily injury";*
***(2)** "Property damage";*
***(3)** "Personal and advertising injury",*
*applicable to Coverage **A** only.*

...

l. Land Use
The direct or indirect operation of the principles of eminent domain, including but not limited to: adverse possession; taking of property; and condemnation or inverse condemnation proceedings.
However, we will defend a claim against the insured for exercising its zoning or permitting duties in a land use regulatory capacity, but we will not have any obligation to pay "damages".

The policy has been endorsed with the land use Endorsement CL7179 2-15.

With respect to this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.
***1. Exclusion 5.l. Land Use** in **SECTION I – COVERAGES** is replaced by the following:*
l. Land Use
The direct or indirect operation of the principles of eminent domain, including but not limited to: adverse possession; taking of property; and condemnation or inverse condemnation proceedings.
However, this exclusion does not apply when the insured is exercising its zoning or permitting duties in a land use regulatory capacity.

***2.** The definition of **"Property Damage"** in the **DEFINITIONS SECTION** of the coverage form is replaced by the following:*
***"Property Damage"** means:*
***a.** Physical injury to tangible property, including all resulting loss of use of that property; and*
***b.** Loss of use of tangible property that is not physically injured.*
"Property Damage" includes actual or alleged damages or diminution of property values including, but not limited to, those that arise from the insured exercising or failing to exercise its power of eminent domain including:
***a.** Condemnation proceedings; and*
***b.** Inverse condemnation.*
However, a "wrongful act" on which a claim is brought pursuant to the insured exercising its zoning or permitting duties in a land use regulatory capacity is not "property damage".

This policy will provide a defense for claims involving the County exercising or not exercising its zoning and permitting duties. This exclusion for land use is cited for your reference should claims be made that allege condemnation, inverse condemnation or diminution in value.

Under the definition of damages, there are certain awards that are not considered "damages".

4. "Damages" means those amounts that the insured becomes legally obligated to pay for claims arising out of a "wrongful act" to which this insurance applies.
"Damages" does not include:

a. Fines or penalties imposed by law;
b. Salaries of your "employees" and office expenses incurred by you; or
c. Judgments, or awards arising out of matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

Your own County State's Attorney will continue to be involved in this process as part of your normal operating expenses and handling any corrections or application of any order.

EMC is able to provide a defense to the County regarding claims alleging improper or inadequate actions involving the County's zoning and permitting duties. However, this policy does not consider damages if any that are fines or penalties imposed by law.

Reservation of Rights

Please be advised that no action by any company representative while investigating a claim, negotiating a settlement, or defending a lawsuit, may be construed as a waiver of any of our rights under the policy. In allowing for the potential of new information to be received, we reserve our right to deny coverage to you, or anyone else making a claim under this policy, for any other valid reason that might arise. The company, by naming the specific grounds for this disclaimer of coverage, does not waive any of its rights or any of the other provisions and conditions of this policy of insurance and reserves all of its rights and remedies under the statutes and common law.

Should you have any questions regarding this letter, please do not hesitate to contact me and I will be happy to discuss this matter with you. My office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. My direct line is (402) 951-8335. My Fax Number is (888) 992-6167. Electronic Documents can be sent to my attention at Omaha.Claims@EMCINS.com

Sincerely,

S/

Scott Kerr, CPCU
Claims Specialist, Extension

CC: Roger Smith
MT & RC Smith Insurance, Inc.
PO Box 1077
Yankton, SD 57078

Robert Klimisch/Lisa Ven Osdel
State's Attorney Office for Yankton County
410 Walnut Street Ste.100
Yankton, SD 57078

Doug Deibert
Cadwell Sanford Deibert & Garry
PO Box 2498
Sioux Falls, SD 57101

YANKTON COUNTY
BUILDING PERMIT APPLICATION

Each building site must have a separate site plan

Applicant to complete numbered spaces only. 44460

1. Job Address	TBA 308th Street, Yankton, SD
2. Legal Description of Construction Site	E½, SW¼ SE¼, 26-94-55
3. Owner / Mail Address / Zip / Phone	Earl M Schenk 44352 308th St. Yankton SD
4. Contractor / Mail Address / Zip / Phone	Ethan Coop Lumber Parkston
5. Architect or Designer / Mail Address / Zip / Phone	Stockwell Engineering Yankton
6. Type and Use of Building	61 x 396 Swine finisher
7. Class of Work (Check One)	☑ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove
8. Describe Work:	finishing barn with vault See attachments
9. Valuation of Work: $	800,000

Owner

Job Address

Mobile/Manufactured Home Tax Affidavit Y N

For Official Use Only-

SPECIAL CONDITIONS: May proceed as per site plan, attachments, CUP #3855, Article 5, Section 579

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:
DK	DK	DK

PERMIT FEE 600.00 **Check #** 6787

Type of Construction New	**Sewer/Water Certification of Service** BF
Total Square Feet 24,156	**Number of Stories** —
Zoning District AG	**Number of Accessory Buildings** —
Number of Dwelling Units —	**Property/Parcel/Lot Size** —

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN ONE HUNDRED EIGHTY (180) DAYS OR CONSTRUCTION IS NOT SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF ISSUANCE.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY ZONING ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING CONSTRUCTION ACTIVITIES OR THE USE OF ANY PROPERTY.

Signature of Contractor or Authorized Agent — Date 8-24-18

Signature of Owner (if owner builder) — Date

BY THIS SIGNATURE, THE ZONING ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

For County Officials Use Only

When properly validated (in this space), this is your permit.

The above application is hereby approved.

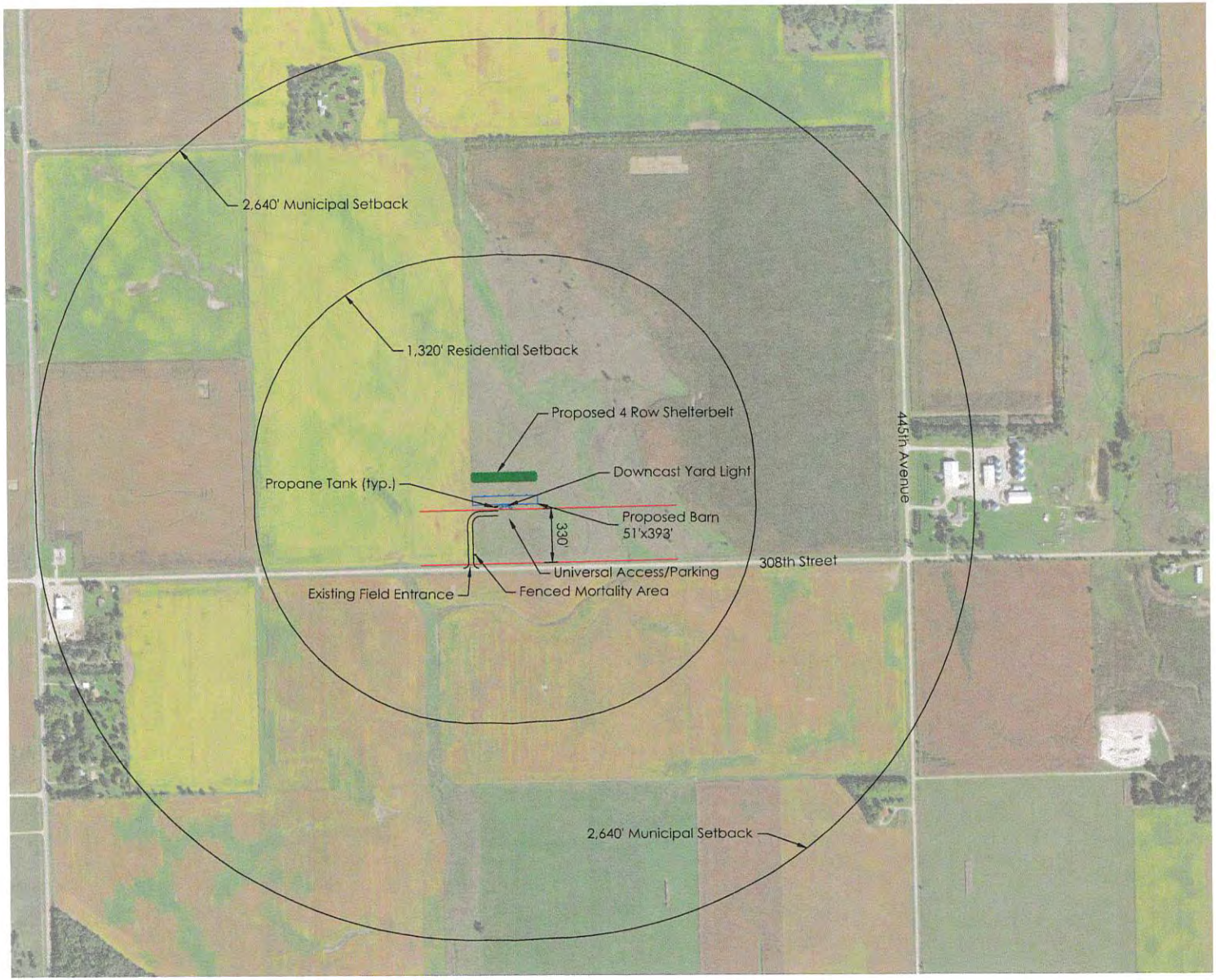
Building Permit Number: 3301

Post Construction? Y N

Zoning Administrator or Authorized Representative — Date 8-24-18

Exhibit #4

Ex. A Modified site



1" = 600'

There are no known Public Wells within 1,000 feet of the site.

There are no known Private Wells within 250 feet of the site.

There are no Lakes, Rivers, Streams Classified as Public Drinking Water Supplies nor Fisheries within 1,000 feet of the site.

The site is NOT located within the 100 year floodplain.

STOCKWELL
STOCKWELL ENGINEERS, INC.
215 WALNUT ST
YANKTON, SD 57078
PH: 605.665.8092
FAX: 605.665.0523

Karl Schenk
45352 308th Street | Mission Hill, SD 57046
SE 1/4, Section 26, T94N, R55W - Yankton County, SD

REVISION SCHEDULE
ISSUE/REVISION DATE

SEI PROJECT #: 17141

Location

KS 1

Yankton.dwg

CONTACT INFORMATION
Karl Schenk
TBA 308th Street, Mission Hill, SD

APPLICATION NUMBER
3255

APPLICANT/PROPERTY OWNER
Karl Schenk

PLANNING COMMISSION PUBLIC HEARING DATE
July 31, 2018
BOARD OF ADJUSTMENT
August 21, 2018

PROPERTY ADDRESS/LOCATION
E1/2, SW1/4 & SE1/4, S26-T94N-R55W

SUMMARY OF REQUEST / HARDSHIP

- Conditional Use Permit
- Class E swine production facility, one (1) 2400 head barns, 960 Animal Units.
- Barns are 51' x 392' with pit manure storage systems.
- Trees and shrubs are provided on applicant site plan.

STAFF RECOMMENDATION

APPROVE **APPROVE WITH CONDITIONS** **DENY**

ZONING ORDINANCE COMPLIANCE

Conditional Use Permit – Required Conditions

Article 5, Section 507 and Section 519 – Article 19, Section 1905:

- Application, Property Information
- Notification
- Residential, Class II community and yard setbacks compliant
- Storm Water Permit for Construction, DENR
- Odor and screening
- Facility management plan Section 519 (10)
  - mortality plan
  - screening / buffer plan
  - storm water management plan
  - fly and rodent control plan
  - manure / nutrient management field application and notification plan
- DENR application and performance standards is NOT required for Class E CAFO.

ATTACHMENTS

Application, Property Information
Findings of Fact
Exhibits
Submitted photos

OTHER (DESCRIBE)

Yankton County Planning Commission
Yankton County Board of Adjustment

Date filed: 7-17-2018

Applicant: **Karl Schenk**

District type: ☒ AG ☐ R1-Low ☐ R2-Moderate ☐ R3-High ☐ C-Comm.
☐ LC – Lakeside Commercial ☐ RT-Rural Transitional

Conditional Use Permit(s) needed:
☒ Section 507 ☒ Section 519 ☐ Section 605 ☐ Section 705 ☐ Section 805
☐ Other

North Side/ Yard lot line: _____feet or no closer than_____feet to the_____lot line.

East Side / Yard lot line: _____ feet or no closer than _____ feet to the _____lot line.

South Side / Yard lot line: _____feet or no closer than_____feet to the_____lot line.

West Side / Yard lot line ___feet or no closer than ____ feet to the _____lot line.

Accessory Building Size allowed: _____ sq. ft. Side wall: _____
Proposed building size: _____ or _____ sq. ft.
Proposed sidewall height: _____ ft.
Affects Section: _____

NOTE:
Conditional Use Permit for (1) animal feeding operation-Swine finishing unit.
(2,400 head) MODIFY Prior Application Mission Hill Site #3138.

PC: Article 18, Section 1805 (1-5)

BOA: Section 1905 (1-6)

FILED
AUG 22 2018
YANKTON
PLANNING/ZONING

FILED
SEP 12 2018
YANKTON
PLANNING/ZONING

Planning Commission date: 7-31-2018 Time: 7:05 PM

Board of Adjustment date: 8-21-2018 Time: 4:30 PM

Yankton County Planning Recommendation

The Yankton County Planning Commission recommends that the following be approved / denied by the Yankton County Commission or the Board of Adjustment.

Applicant: Karl Sedlacek
Address: 47352 308th M. Hill
Hearing date: 7-31-18
Description: CUP Modification to Mission Hill Farm

Action 73118A: Moved by Kettering, second by Kretsinger to recommend to a Conditional Use Permit based on Finding of Facts dated July 31, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.
By roll call vote, all members present voted aye.
Motion carried.

Michael Welch	Y	N	AB
Don Kettering	Y	N	AB
Debra Bodenstedt	Y	N	AB
Butch Becker	Y	N	AB
Zane Williams	Y	N	AB
Dan Guthmiller	Y	N	AB
Carll Kretsinger	Y	N	AB
Erik Koenigs	Y	N	AB
Jeff Gudahl	Y	N	AB

Motion: Kettering
Second: Kretsinger

Yankton County Planning Commission

Meeting date: July 31, 2018

CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Karl Schenk

Parcel Number: 06.02~~8~~6.200.100

Legal description: E1/2, SW1/4, & SE1/4, S26-T94N-R55W

Physical Address: TBA 308th Street, Mission Hill, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; *Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.*
2. Notice of public hearing was given, as in Section 1803 (3-5); *The applicant mailed letters of notification to property owners within a one-half mile radius of the proposed CUP on July 19, 2108 (supported by affidavit), a legal notice was published on July 21, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 23, 2018.*
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; *A public meeting was held at 7:05 pm on July 31, 2018 in the Yankton County Government Center County Commission chambers. Planning Commission chairperson, Mike Welch, stated this hearing will follow the written protocol:*

Yankton County Planning Commission
Meeting Protocol
9-12-17

- *The application is introduced by the chairperson.*
- *The P&Z staff provides application details and ordinance requirements.*
- *Applicant presents application, provides any expert support.*
- *Proponents for application allowed 30 minutes.*
- *Opponents for application allowed 30 minutes.*
- *Applicant allowed 10 minutes rebuttal.*
- *Planning Commission closes public comment.*

- *Planning Commission discusses application, creates "finding of fact" and requests motion for action.*

Michael Stevens, representing Karl Schenk, stated the application is to provide a modification of an existing Conditional Use Permit to build one (1) barn, a Class E facility. The reduction of one barn changes the Conditional Use Permit from a Class D facility to a Class E facility. The application also provides a site plan with one (1) barn with conforming setbacks and proper ingress and egress. The site plan also provides a tree planting plan from Natural Resources Conservation Service. The plan shows four rows of trees on northwest side of the facility. The application also provides an odor footprint model, illustrating a reduced odor footprint from two (2) barns to one (1) barn.
Mr. Welch requested any proponents of the Conditional Use Permit to present their statements. No proponent statements.
Mr. Welch requested any opponents of the Conditional Use Permit to present their statements. Margaret Healy, stated she is moving to 30848 444th Avenue, Mission Hill, SD. This is in the one-half mile buffer notification zone but greater than the required 1,320 feet setback requirement for a Class E animal production facility. Mrs. Healy's daughter and family, currently residing at this residence will relocate to the city of Yankton. Mrs. Healy stated the intent of the ordinance is to protect the quality of life of the county residences. She stated the Best Management Practices are not being considered for these Conditional Use Permits. She would like bio-filters, trees / shrubs and pit additives be applied as conditions for this application.
David Healy, stated he is moving to 30848 444th Avenue, Mission Hill, SD. Mr. Healy discussed odor footprint models. Mr. Healy stated the model has Level 1, Level 2 and Level 3 annoyance *-free frequencies. The levels measure odor impact from slight notice of odor to overwhelming odor (unable to be outdoors). Mr. Healy stated the odor footprint models do not accurately predict odor annoyance-free frequency because the parameters are not consistent between the odor levels.*
Mr. Healy also discussed environmental issues which are inherent is the facility design for the proposed facility. Odor, particulates, water quality, dust from roads, manure (nutrient) applications and mortality containment are all potential negative environmental impacts.
Mr. Healy stated the rural residential acreage in Yankton County is not compatible with production pork facilities. The environmental issues create too much impact on the quality of life of the rural residences.
Paige Herrig, area neighbor, stated the environmental issues are plentiful in our history. The country experienced rapid growth in the early and mid-1900's and pollution became a major public concern. Many incidents lead to the formation of Environmental Protection Agency (EPA) in the 1970's by Richard Nixon. Mr. Herrig stated the time is here for "common sense environment" and protect our resources and quality of life with a proactive process.
Mr. Welch stated the applicant has ten (10) minutes for rebuttal. The applicant has no rebuttal.
Mr. Welch ended public comment and requested commission discussion.
The Planning Commission discussed the application, with Mr. Welch discussing the process for a special meeting request. The Planning Commission discussed the application and stated the request changes the performance standards when the request is from a Class D facility to a Class E facility. The main performance standard change is the Department of Environment

and Natural Resources (DENR) does not regulate facilities less than 1,000 Animal Units. All the remaining performance standards will require compliance.
The Planning Commission discussed the site plan and noted the tree / shrub placement and compliant setbacks.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
   A. Recommend granting of the conditional use;
   B. Recommend granting with conditions; or

The commission recommends granting of the conditional use permit with conditions.

   C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
   A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; *The applicant has shown sufficient access to property with established roadway (308th Street) and site plan turn around for emergency vehicles. (Exhibit #4)*
   B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; *All off right-of-way areas are designated in the detailed site plan with sufficient area for deliveries, parking and production barn facilities such as animal disposal areas is in compliance required by Article 5. (Exhibit #4)*
   C. Refuse and service areas, with particular reference to the items in (A) and (B) above; *Refuse and service areas, including specific requirements such as equipment storage areas, animal disposal areas, nutrient handling areas and personnel requirements will be in compliance with Article 5 as shown in applicant site plan. (Exhibit #4)*
   D. Utilities, with reference to locations, availability, and compatibility; *Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security. Exhibit #4)*
   E. Screening and buffering with reference to type, dimensions, and character; *Screening and buffering at this site location will provide four rows of trees / shrubs (Exhibit #4, #6, #8).*
   F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; *All signage will conform to Article 14, Yankton County Zoning Ordinance*
   G. Required yards and other open spaces; *Yards and open spaces requirements are compliant with current regulations (Exhibit #4).*

H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. *The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest. The intent of the Agriculture District is to preserve land best suited to agriculture uses.*

Section 519 Animal Feeding Operation Performance Standards

Animal Feeding Operations are considered conditional uses and shall comply with the Conditional Use Process, all applicable state and federal requirements, and the applicable requirements as defined in this section:

Class A (5,000 – 10,000)	Section 519 (1,2,3,4,5,6,7(a),8(a),9,10,11,12,13)
Class B (3,000 – 4,999)	Section 519 (1,2,3,4,5,6,7(b),8(b),9,10,11,12,13)
Class C (2,000 – 2,999)	Section 519 (1,2,3,4,5,7(c),8(c),9,10,11,12,13)
Class D (1,000 – 1,999)	Section 519 (1,2,3,4,5,7(d),8(d),9,10,11,12,13)
Class E (300 – 999)	Section 519 (2,3,4*,5,7(e),8(e),9,10,11,12,13)

This is a Class E proposed operation. The facility will be one (1) 2400 head feeder swine (960 animal units).

Class F (1 – 299)	NA

*If required by state law

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources or as amended by the State of South Dakota or the South Dakota Department of Environment and Natural Resources.

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

2. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. The Storm Water Pollution Prevention Plan required by the permit must be developed and implemented upon the start of construction.

The facility will be required to receive and maintain a Storm Water Permit by South Dakota Department of Environment and Natural Resources. The DENR contact is Kent Woodmansey, Natural Resources Feedlot Engineer.

3. Animal confinement and waste facilities shall comply with the following facility setback requirements:

A. Public Wells	1,000 feet
B. Private Wells	250 feet
C. Private Wells (Operator's)	150 feet
D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply	1,000 feet
E. Lakes, Rivers, Streams Classified as Fisheries	1,000 feet
F. Designated 100 Year Flood Plain	PROHIBITED

As illustrated in the attached site plan, the proposed facility will meet or exceed all setbacks as required in the Yankton County Zoning Ordinance for a Class E CAFO. The facility acknowledges and will meet each of the requirements and the applicant detailed site plans verifying compliance. (Exhibit #4).

4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification. Examples of such management shall include at least:

   A. Proposed maintenance of waste facilities;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

   B. Land application process and/or methods;

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

   C. Legal description and map, including documented proof of area to be utilized for nutrient application; and

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

   D. All CAFO's are required to obtain a South Dakota State General Permit that outlines the manure management practices that an operator must follow to prevent water pollution and protect public health.

The facility is not required to receive and maintain a General Permit by South Dakota Department of Environment and Natural Resources.

5. New animal feeding operations, new CAFO's and waste facilities shall be setback six hundred and sixty (660) feet from a property line delineating a change in ownership and three hundred and thirty (330) feet from a right-a-way line. Additionally, the applicant shall locate the operation ¼ of a mile or 1,320 feet from neighboring residential dwellings. The Planning Commission and/or Board of Adjustment may mandate setbacks greater than those required herein to further the intent of the Zoning Ordinance while protecting the public health, safety, and welfare.

The facility is compliant with the Property Line Setback and Right of Way Setback Requirement and will meet neighboring residential setback with applicant detailed site plans verifying compliance. (Exhibit #4)

6. New Class A and B Animal Feeding Operations shall be prohibited from locating within the area bounded by the City of Yankton, 431st Avenue, the Missouri River, and South Dakota Highway 50.

The proposed site is outside the described area and a Class E operation. (Exhibit #4)

7. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from any Class I incorporated municipality or residentially zoned area bounded by the City of Yankton, 431st Avenue, the Missouri River and South of South Dakota Highway 50:

   A. Class A 4 miles

B. Class B 2 miles
C. Class C 1 mile
D. Class D 2,640 feet
E. Class E 2,640 feet

The proposed site is outside the described area and is a Class E operation. (Exhibit #4)

8. New animal confinement and waste facilities shall be located no closer than ½ mile from any Class II or III incorporated municipality, active church, or established R2 or R3 residential area as shown on the Official Zoning Map. New animal confinement and waste facilities shall be located no closer than the following regulations prescribe from a residential dwelling; one dwelling unit is allowed on the facility site. The owner(s) of an animal feeding operation and/or residential dwelling may request the required setback be lessened or waived in accordance with the variance procedures as detailed herein. Residential waiver request forms are obtainable from the Zoning Administrator. This waiver would run with the land and be filed with the Yankton County Register of Deeds.
   A. Class A 2 miles
   B. Class B 1.25 miles
   C. Class C 2,640 feet
   D. Class D 1,320 feet
   E. Class E 1,320 feet

The proposed site is a Class E operation outside the described buffer area. (Exhibit #4)

9. Animal waste shall be transported no further than five miles from the point of origination by equipment designed for direct application. Animal waste hauled within non-application or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.

Manure from the facility will be transported via either dragline hose or in leak proof tankers and incorporated in to the soil of the lands in the NMP by injection. Yankton County load limits will be followed and no manure will be transported further than five (5) miles. The plan will provide details regarding aspects of nutrient application. (Exhibit #4, #5, and #6; additional field information in original application))

10. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure, and wastewater in such a manner as to control odors and flies. The County Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors shall be addressed in a management control plan:
   A. An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented:

An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented; all operational plans, will be kept updated and implemented.

   B. The methods to be utilized to dispose of dead animals shall be identified:

Mortality management shall be done in compliance with one of the methods allowed by the South Dakota Animal Industry Board. Current plans are to place a rendering service on contract to promptly dispose of mortalities. Mortalities will be screened by a 3-sided, minimum of 4' high enclosure as illustrated in the site plan. (Exhibit #4)

C. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of odors generated by the facility:

As illustrated in the attached odor model (Exhibit #4), we are proposing to position the facility in such a way to avoid potential odor impacts on neighbors as much as possible. With even our closest neighbors being beyond the 98% nuisance level, we are not planning to plant a shelterbelt at this time. Below is additional information written by Dr. Erin Cortus pertaining to the South Dakota Odor Footprint Tool provided by SDSU:

The South Dakota Odor Footprint Tool (SDOFT) provides estimates of the odor footprint for livestock facilities in South Dakota. Think of a footprint in the sand. If the pressure increases, the indented area will also increase. An odor footprint works the same way. As odor emission increases, the area affected increases. As odor emission decreases, so does the area affected. The key components to the odor footprint estimate are the South Dakota County, the type of housing and/or manure storage, the surface area of the housing or manure storage, and whether there are any odor control technologies in place. The list of odor control technologies currently built into SDOFT are biofilters, oil sprinkling and manure storage covers (geotextile, impermeable or straw).

An odor footprint is shown through annoyance-free frequency curves during warm weather. For example, an annoyance-free frequency of 97% means that annoying odors should not be experienced more than 22 hours a month between April and October, at or beyond the setback distance estimate. The affected area is rarely a perfect circle around an odor source – this is because there are different setback distances in different directions, depending on the prevailing winds between April and October for the selected county. Annoyance-free does not mean odor free. Annoyance-free means the odor intensity is a 2, on a scale of 0-5, for which the majority of the population would not find annoying. Note: Cold weather reduces odor generation by manure sources, so the footprint would be smaller during winter months.

Odor footprint estimates are useful for livestock producers, local government land use planners, and citizens concerned about the odor impact of existing, expanding or new animal production sites. These estimates are based on measured odor emission rates and dispersion modeling. SDOFT takes average South Dakota climatic conditions into account. While SDOFT does not take into account all of the impacts topography and site-specific features (like animal diet and management) can have on the odor footprint for a particulate site, it does provide a starting point for investigating the impacts odor-mitigating technologies can have on the area surrounding a facility.

D. A storm water management section shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining drier confinement areas to reduce odor production.

Our enclosed facility will not expose pens to uncontrolled water and the site will be graded to direct storm-water drainage away from the facility so to avoid any standing water near the facility.

E. A solid manure storage plan detailing the number and size of containment areas and methods of controlling drainage to minimize odor production.

All animal organic waste/nutrients will be contained in an 8' covered concrete vault directly underneath the facility. Construction materials will be reinforced concrete construction commonly used in the industry with the desired results of controlling the manure/nutrients and limiting potential odors. The manure/nutrients shall be contained within the reinforced concrete vault designed and constructed in accordance with accepted industry standards. (Exhibit #4)

F. A description of the method and timeframe for removal of manure/nutrients from open pens to minimize odor production:

Aside from daily cleaning as needed, each facility will empty out and receive new pigs approximately 2.5 times per year during which times it will be fully disinfected and power washed throughout the inside of the building.

The proposed facility will have the manure/nutrients in a covered vault which will be removed annually via pump. The manure/nutrients will be directly applied to nearby fields identified in section (H) via injection below the soil surface. The transportation method will be via hose or tanker equipment (covered/contained) for direct application via injection.

The time frame is expected to take three days for application of all the manure/nutrients and will occur primarily in the fall after harvest or, on rare occasion, in the spring before planting but after snow melt.

G. The applicability, economics, and effect of Industry Best Management Practices shall be covered:

Industry Best Management practices are to control the manure/wastewater in a covered pit. The design of Karl Schenk's facility is designed to do this. Although the sealed concrete pit has higher relative cost that an uncovered open lagoon, the benefits of odor control and manure/wastewater containment are worth the additional investment. This greatly controls the dissemination of odor to the neighboring area as reflect in the attached odor model.

Industry Best Management Practices are to apply the manure/nutrient as a fertilizer to farmed fields. To control odor, the best practice is to do this once annually and to do it via direct injection to reduce gas and particle emissions. This best practice is more costly than direct spreading on top of the soil but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment.

Industry Best Management Practices is to promptly remove mortalities and that is the practice Karl Schenk will follow. Industry Best Management Practice is to avoid the application of the manure/nutrient on extremely windy days and to avoid land application ahead of rain that may produce run-off. Application preceding a rain that does not produce run-off may reduce particle emissions. Karl Schenk's operation shall follow these practices.

Aeriation, anaerobic lagoons and digesters and solid separation are all practices that may reduce odor and particle emissions at additional expense. Karl Schenk's operation will employ the covered pit method to control odor and particle emissions at additional expense because of its wide acceptance as an effective best industry management practice and does not intend to use these alternative methods.

Location of the facility to limit the effect of odor on neighboring residences is one of the most effective best management practices. The attached odor model demonstrates the limited impact

this facility is expected to have on its neighbors based upon greater than one-half mile. (Exhibit #6)

A. A notification section should be formulated by the applicant. It is to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half mile of the applicant's manure application fields. The preferred hauling and application process shall be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the seasons shall be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.

OCCUPIED RESIDENCES WITHIN ½ MILE OF CROP GROUND ON WHICH INJECTION OF NUTRIENTS MAY OCCUR:

Resident	Address	City / State / Postal Code	Phone Number
Brain Pinkelman	44513 307th Street	Mission Hill, SD 57046	402-360-3102
Chris Nelsen	30725 44th Ave.	Mission Hill, SD 57046	
Dan Dolejsi	30732 444th Ave.	Mission Hill, SD 57046	
Dave Aune	30825 444th Ave.	Mission Hill, SD 57046	
David Novak	30818 444th Ave.	Mission Hill, SD 57046	
Sean Schulte	44587 308th Street	Mission Hill, SD 57046	
Janelle Yaggie	30855 445th Ave.	Mission Hill, SD 57046	
Jim Gunderson	30833 444th Ave.	Mission Hill, SD 57046	
JoAnn Nielson	30767 444th Ave.	Mission Hill, SD 57046	
Joe Yaggie	30848 445th Ave.	Mission Hill, SD 57046	
Margaret Sarringar	30741 445th Ave.	Mission Hill, SD 57046	665-5475
Mike Bovero	30522 444th Ave.	Mission Hill, SD 57046	
Nate Clough	30814 444th Ave.	Mission Hill, SD 57046	
Scott Olson	44533 308th Street	Mission Hill, SD 57046	
TNB Farming	44401 308th Street	Mission Hill, SD 57046	
Tom Yaggie	44452 309th Street	Mission Hill, SD 57046	665-9762
Travis Wishon	30848 444th Ave.	Mission Hill, SD 57046	
Ed Johnson	30750 444th Ave.	Mission Hill, SD 57046	
Gordon Olson	30781 Cedar Bluff Road	Mission Hill, SD 57046	
Bill Reardon	30719 Cedar Bluff Road	Mission Hill, SD 57046	
Dean Braunesreither	4432 307th Street	Mission Hill, SD 57046	
Jackie Logue	44432 307th Street	Mission Hill, SD 57047	

Hebda Family Produce	30661 444th Ave.	Mission Hill, SD 57048	665-2806
Pat Gunderson	30883 444th Ave.	Mission Hill, SD 57049	
David Christensen	46170 312th Ave.	Vermillion, SD 57069	

There are no public meeting sites within ½ mile of the proposed facilities.
All manure application setbacks will be followed in accordance to the Zoning Ordinance and incorporated by injection in to the soil.
Industry best management practices are to apply the manure/nutrient as a fertilizer to nearby fields. To control odor, the manure /nutrients are directly injected annually into the soil to reduce gas and particle emissions. This best practice is more costly than surface application but the benefits of odor reduction and decreased nitrogen volatilization are worth the extra investment. (Exhibit #4 and #6; additional field information in original application)

B. A review of weather conditions shall include reviewing the effect of climate upon manure application. This section shall also include the preferred times ad conditions for application to mitigate the potential effects upon neighboring properties while outlining the least advantageous climatic conditions.

Most advantageous weather conditions are in cool dry conditions with a mild breeze. The least advantageous time is in hot wet weather. Our intent, to capitalize on favorable conditions and avoid unfavorable conditions, is to apply the manure in the fall after harvest. In rare instances, the manure will be applied in the spring (after snow-melt). In every instance, the application shall be done in compliance with both Yankton County Zoning Ordinances.

Additional procedures Karl Schenk will follow to control flies and odors:

Fly, Odor & Rodent Control Guidelines
For Animal Feeding Operations

Fly, Odor and Rodent control are important to maintain a healthy, community friendly livestock operation. These guidelines are provided as a broad management tool to control fly populations, odor emissions and dust at an acceptable level. Each animal feeding operation must implement a system to fit their specific operation.

A) Fly Control
1. Remove and properly dispose of spilled and spoiled feed.
2. Repair leaky waterers.
3. Keep vegetation mowed near the facilities.
4. Properly drain rainwater away from the facilities.
5. Apply commercial insecticides in a proper and timely manner.

B) Odor Control
1. Manage mortalities per SD Animal Industry Board requirements.

2. Adjust feed rations per industry standards to reduce potential odor generating byproducts.

C) Rodent Control

1. Two foot wide gravel barrier around the perimeter to discourage rodent entry.
2. Bait boxes at 75-100 ft. intervals that are checked 2x per month.
3. Spilled feed will immediately be cleaned up to discourage rodent activity.
4. Site routinely mowed to remove rodent harborage areas

The fly and odor control guidelines above will be conducted concurrently with one another to help prevent a nuisance problem from occurring.

11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is injected or incorporated within twenty-four (24) hours:

A. Public Wells 1,000 feet

There are no known Public Wells within 1,000 feet of fields.

B. Private Wells 250 feet

The applicant will meet the setback requirement for Private Wells.

C. Private Wells (Operator's) 150 feet

The applicant will meet the setback requirement for Private Wells (Operator's).

D. Lakes, Rivers, Streams Classified as a Public Drinking Water Supply 1,000 feet

The applicant will meet the setback requirement for Lakes, Rivers, Streams Classified as Public Drinking Water Supplies.

E. Lakes, Rivers and Streams Classified as Fisheries 200 feet

The applicant will meet the setback requirement for Lakes, Rivers, Streams Classified as Fisheries.

F. All Public Road Right-of-ways 10 feet

The applicant will meet the setback requirement for All Public Road Right-of-ways.

G. Incorporated Communities 660 feet

The applicant will meet the setback requirement for Incorporated Communities.

H. A Residence other than the Operators 100 feet

The applicant will meet the setback requirement for a Residence other than the Operators.

12. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is irrigated or surface applied:

A. Public Wells 1,000 feet

The facility will not irrigate or surface apply any nutrient applications.

B. Private Wells 250 feet

The facility will not irrigate or surface apply any nutrient applications.

C. Private Wells(Operator's) 150 feet

The facility will not irrigate or surface apply any nutrient applications.

D. Lakes, Rivers, Steams Classified as a Public Drinking Water Supply 1,000 feet

The facility will not irrigate or surface apply any nutrient applications.

E. Lakes, Rivers and Streams Classified as Fisheries 660 feet

The facility will not irrigate or surface apply any nutrient applications.

F. All Public Road Right-of-ways (Surface Applied) 10 feet

The facility will not irrigate or surface apply any nutrient applications.

G. All Public Road Right-of-ways (Irrigated Application) 100 feet

The facility will not irrigate or surface apply any nutrient applications.

H. Incorporated Communities (Surface Applied) 1,000 feet

The facility will not irrigate or surface apply any nutrient applications.

I. Incorporated Communities (Irrigated Application) 2,640 feet

The facility will not irrigate or surface apply any nutrient applications.

J. A Residence other than the Operators (Surface Applied) 330 feet

The facility will not irrigate or surface apply any nutrient applications.

K. A Residence other than the Operators (Irrigated Application) 750 feet

The facility will not irrigate or surface apply any nutrient applications.

13. If irrigation is used for removal of liquid manure, dewatering a lagoon (gray water) basin, or any type of liquid manure holding pit, these rules apply:
    A. Drops must be used on systems that disperse the liquid no higher than 18" off the ground if no crop is actively growing on the field.

Applicant is not requesting irrigation application permit.

    B. If a crop is actively growing on the field, the liquid must then be dispersed below the crop canopy.

Applicant is not requesting irrigation application permit.

    C. No runoff or diffused spray from the system onto neighboring property or public right-of-way will be allowed.

Applicant is not requesting irrigation application permit.

    D. No irrigation of liquid on frozen ground or over FSA designated wetlands.

Applicant is not requesting irrigation application permit.

    E. No "big gun" type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.

Applicant is not requesting irrigation application permit.

Action 73118A: Moved by Kettering, second by Kretsinger to recommend to a Conditional Use Permit based on Finding of Facts dated July 31, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.

By roll call vote, all members present voted aye.
Motion carried.

YANKTON COUNTY
APPLICATION # 3138

Modification of CUP 3138

(Type or Print)
OWNER: Karl Schenk 3255

OWNERS ADDRESS: 44352 309th St Mission Hill, SD 57046

OWNERS DAYTIME PHONE#: _____

- ___ Variance Application
- ✓ Conditional Use Permit 3138 Modification
- ___ Rezoning Permit

DATE OF BUILDING PERMIT REQUEST: See CUP 3138

DESCRIPTION OF BUILDING PERMIT: Modify from a class "D" to class "E" cafo, Add Trees, Class E performance stands apply.

REASON FOR BUILDING PERMIT DENIAL: See CUP 3138

DATE OF DENIAL: See CUP 3138

JOB ADDRESS: _____

LEGAL: See original Application 3138

TOWNSHIP: Mission Hill SECTION: 26

EXISTING USE OF PROPERTY: Ag

PRESENT ZONING CLASSIFICATION: Ag

PROPOSED ZONING CLASSIFICATION: Ag

AFFECTED SECTION OF ZONING ORDINANCE: See original Application

REASON FOR REQUEST: Compromise with neighbors Single location barn prefered.

FILED
AUG 22 2018
YANKTON PLANNING/ZONING

LIST SPECIFIC HARDSHIPS: _____

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

A) Detailed Site Plan (Refer to handout) - See original 3138 application
B) Location and Use of Adjacent Structures "
C) Application Fee(s) "

SCHEDULED FOR PLANNING COMMISSION ACTION (Date): 7-31-18
SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date): 8-21-18
*TENTATIVE DATE: Final date announced at Planning Commission Meeting:

APPLICATION FEE: 350.00 CHECK #: 6797 RECEIPT #: _____

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent.

Karl M Schenk 7-17-18 Karl M Schenk 7-17-18

Name of Applicant Date Signature of Applicant/Owner Date

YANKTON COUNTY
APPLICATION # 3138

(Type or Print)
OWNER: Karl M Schenk

OWNERS ADDRESS: 41332 308th St

OWNERS DAYTIME PHONE#: N/A

DATE OF BUILDING PERMIT REQUEST: 1-26-2018

DESCRIPTION OF BUILDING PERMIT: Two (2); 2400 head finishing barn

REASON FOR BUILDING PERMIT DENIAL: CUP required, Class D CAFO

DATE OF DENIAL: 1-26-2018

JOB ADDRESS: TBA 308th Street, Mission Hill

LEGAL: E½ SW¼ & SE¼ 26-94-55

TOWNSHIP: Mission Hill North SECTION: 26

EXISTING USE OF PROPERTY: Agriculture

PRESENT ZONING CLASSIFICATION: AG

PROPOSED ZONING CLASSIFICATION: AG

AFFECTED SECTION OF ZONING ORDINANCE: Article 5, Section 507.5.7.9

REASON FOR REQUEST: Class D, 1920 AU, pork production facility in agriculture district

LIST SPECIFIC HARDSHIPS: CUP required for Class D CAFO

	Variance Application
X	Conditional Use Permit
	Rezoning Permit

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

A) Detailed Site Plan (Refer to handout)
B) Location and Use of Adjacent Structures
C) Application Fee(s)

SCHEDULED FOR PLANNING COMMISSION ACTION (Date): 2-13-2018
SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date): 3-6-2018
*TENTATIVE DATE: Final date announced at Planning Commission Meeting:

APPLICATION FEE: 100.00 CHECK #: 6827 RECEIPT #:

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent.

Karl M Schenk 1-26-18 — 1-26-18
Name of Applicant — Date — Signature of Applicant/Owner — Date

Yankton County South Dakota
Parcel Record Information

Parcel Number: 06.026.200.100 Type: RE Year: 2018

Address Info

Deed:
SCHENK, KARL M
SCHENK, NANCY P

Contract:

Mailing:
SCHENK, KARL M
44352 308 ST
MISSION HILL SD 57046

Legal Info

Location: Section/Town/Range: 26/ 94/ 55

Township: MISSION HILL TOWNSHI Addition/Block/Lot: 26-94-55 Acres: 235.41

Legal Description: E2 SW4 EXC LTS B & C JOHNSON'S S/D & SE4 EXC N8'3" NE4 SE4 & EXC LT D JOHNSON'S S/D

Values Info

Class	Description	Assessed	Equalized	Exempt
AGA	AGRICULTURAL LAND	673,740	572,679	0
TOTAL		673,740		

NOTIFICATION

Exhibit #1

July 18, 2018

Karl Schenk
44352 308th St.
Mission Hill, SD 57046

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 2,640 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date.
You are hereby notified. Please take a moment to review the notice of public hearing described below.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County South Dakota, at 7:05 P.M. on the 31st day of July, 2018, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:
Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

Karl Schenk,
Petitioner

OwnerAddress1	OwnerAddress2	OwnerAddress3
AUNE, DAVID L	30825 444 AVE	MISSION HILL SD 57046
BOVERO, MIKE L	30822 444 AVE	MISSION HILL SD 57046
BRAUNESREITHER, DEAN	44432 307 ST	MISSION HILL SD 57046
CHRISTENSEN, DAVID	46170 312 AVE	VERMILLION SD 57069
CLARK, JUNE A (ELE)	434 CAMEO DR	LAKELAND FL 33803
CLOUGH, FAYE ANN	3548 EAST HWY 44	RAPID CITY SD 57703
DOLEJSI, DANIEL L	30732 444 AVE	MISSION HILL SD 57046
EAST RIVER ELECTRIC POWER	121 SE 1 ST - DRAWER E	MADISON SD 57042
GUNDERSON, JAMES D	30833 444 AVE	MISSION HILL SD 57046
JOHNSON, EDWARD N REV TRUST	514 FOUNTAIN AVE	PACIFIC GROVE CA 93950
LARSEN, KENNETH A	30747 444 AVE	MISSION HILL SD 57046
NELSEN, CHRISTOPHER B	30725 444 AVE	MISSION HILL SD 57046
NEW HOPE FARM REVOCABLE TRUST	30725 444 AVE	MISSION HILL SD 57046
NIELSON TRUST (THE)	30767 444 AVE	MISSION HILL SD 57046
NOVAK, DAVID	30818 444 AVE	MISSION HILL SD 57046
OLSON, SCOTT	44533 308 ST	MISSION HILL SD 57046
RICE, MARJORIE N REV TRUST	PO BOX 56	CREIGHTON NE 68729
SARRINGAR, MARGARET ANN	30741 445 AVE	MISSION HILL SD 57046
SCHENK, KARL M	44352 308 ST	MISSION HILL SD 57046
SMITH, JOHN C	2507 VALLEY RD	YANKTON SD 57078
TNB FARMING SOLUTIONS	2909 PETTERSON RD	VERMILLION SD 57069
WISHON, TRAVIS J	30848 444 AVE	MISSION HILL SD 57046

Exhibit 1A

MH

AFFIDAVIT OF MAILING

I, Karl M Schenk, hereby certify that on the 19th day of July, 2018, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Public Hearing to all owners of real property lying within a 1/2 mile radius of the proposed project to the most recent address of the recipient known to your Affiant.

A true and correct copy of the Notice of Public Hearing notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

Dated the 19th day of July, 2018.

Karl M Schenk
(Name)
Affiant

Subscribed and sworn to before me this 19 day of July, 2023.

Denise L. Wubben
Notary Public - South Dakota
My commission expires: July 1, 2023

DENISE L. WUBBEN
NOTARY PUBLIC
SOUTH DAKOTA
SEAL

NOTIFICATION

August 7, 2018

Exhibit #2

Karl Schenk
44352 308th St.
Mission Hill, SD 57046

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 2,640 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date.
You are hereby notified. Please take a moment to review the notice of public hearing described below.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Board of Adjustment, Yankton County South Dakota, at 4:30 P.M. on the 21st day of August, 2018, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:
Applicant is requesting the modification of Conditional Use Permit #3138 "Mission Hill Site" to be modified from a Class D Confined Animal Feeding Operation to a Class E Confined Animal Feeding Operation. Applicant requests to decrease to one (1) 2400 head pork (finisher swine over 55 pounds) (960 AU Animal Units) Class E finishing barn in an Agriculture District (AG) in Yankton County. Said property is legally described as E1/2, SW1/4 & SE1/4, S26-T94N-R55W, hereinafter referred to as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is TBA 308th Street, Mission Hill, SD.

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

Karl Schenk,
Petitioner

OwnerAddress1	OwnerAddress2	OwnerAddress3
AUNE, DAVID L	30825 444 AVE	MISSION HILL SD 57046
BOVERO, MIKE L	30822 444 AVE	MISSION HILL SD 57046
BRAUNESREITHER, DEAN	44432 307 ST	MISSION HILL SD 57046
CHRISTENSEN, DAVID	46170 312 AVE	VERMILLION SD 57069
CLARK, JUNE A (ELE)	434 CAMEO DR	LAKELAND FL 33803
CLOUGH, FAYE ANN	3548 EAST HWY 44	RAPID CITY SD 57703
DOLEJSI, DANIEL L	30732 444 AVE	MISSION HILL SD 57046
EAST RIVER ELECTRIC POWER	121 SE 1 ST - DRAWER E	MADISON SD 57042
GUNDERSON, JAMES D	30833 444 AVE	MISSION HILL SD 57046
JOHNSON, EDWARD N REV TRUST	514 FOUNTAIN AVE	PACIFIC GROVE CA 93950
LARSEN, KENNETH A	30747 444 AVE	MISSION HILL SD 57046
NELSEN, CHRISTOPHER B	30725 444 AVE	MISSION HILL SD 57046
NEW HOPE FARM REVOCABLE TRUST	30725 444 AVE	MISSION HILL SD 57046
NIELSON TRUST (THE)	30767 444 AVE	MISSION HILL SD 57046
NOVAK, DAVID	30818 444 AVE	MISSION HILL SD 57046
OLSON, SCOTT	44533 308 ST	MISSION HILL SD 57046
RICE, MARJORIE N REV TRUST	PO BOX 56	CREIGHTON NE 68729
SARRINGAR, MARGARET ANN	30741 445 AVE	MISSION HILL SD 57046
SCHENK, KARL M	44352 308 ST	MISSION HILL SD 57046
SMITH, JOHN C	2507 VALLEY RD	YANKTON SD 57078
TNB FARMING SOLUTIONS	2909 PETTERSON RD	VERMILLION SD 57069
WISHON, TRAVIS J	30848 444 AVE	MISSION HILL SD 57046

Exhibit #2A

AFFIDAVIT OF MAILING

I, Karl Eakenk, hereby certify that on the 10th day of August, 2018, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Public Hearing to all owners of real property lying within a ½ mile radius of the proposed project to the most recent address of the recipient known to your Affiant.

A true and correct copy of the Notice of Public Hearing notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

Dated the 10th day of August, 2018.

(Name)
Affiant

Subscribed and sworn to before me this 10th day of August, 2018.

Notary Public - South Dakota
My commission expires: 03-13-2021

(SEAL)

07-14-2018

Exhibit 4-3

Yankton County Planning Director

Yankton County Planning Commission'

Yankton County BOA

Karl M. Schenk

44352 308th Street

Mission Hill, SD 57046

Dear Commissioners:

Attached please find the indicated modifications to CUP 3138 and 3139. As stated in the application for modification, I wish to only build one 2400 head finishing barn at each location instead of the approved two barns. Therefore, I'm requesting to downsize my classification from a Class D CAFO to a Class E CAFO. The Class E Performance Standards shall apply.

Further, manure application map of the W ½ of Section 25, 94-55 is removed from CUP 3138 and the resulting Notice of Application of Manure from applicable residences is amended by the removal of the following individuals: Tom Moore, Bill Hummel, Elmer Hasker and Dee Williams.

An amended Odor Footprint Map is included. The new mapping indicates a significantly smaller area impacted by potential odor due to the locations consisting of only one 2400 head finishing barn.

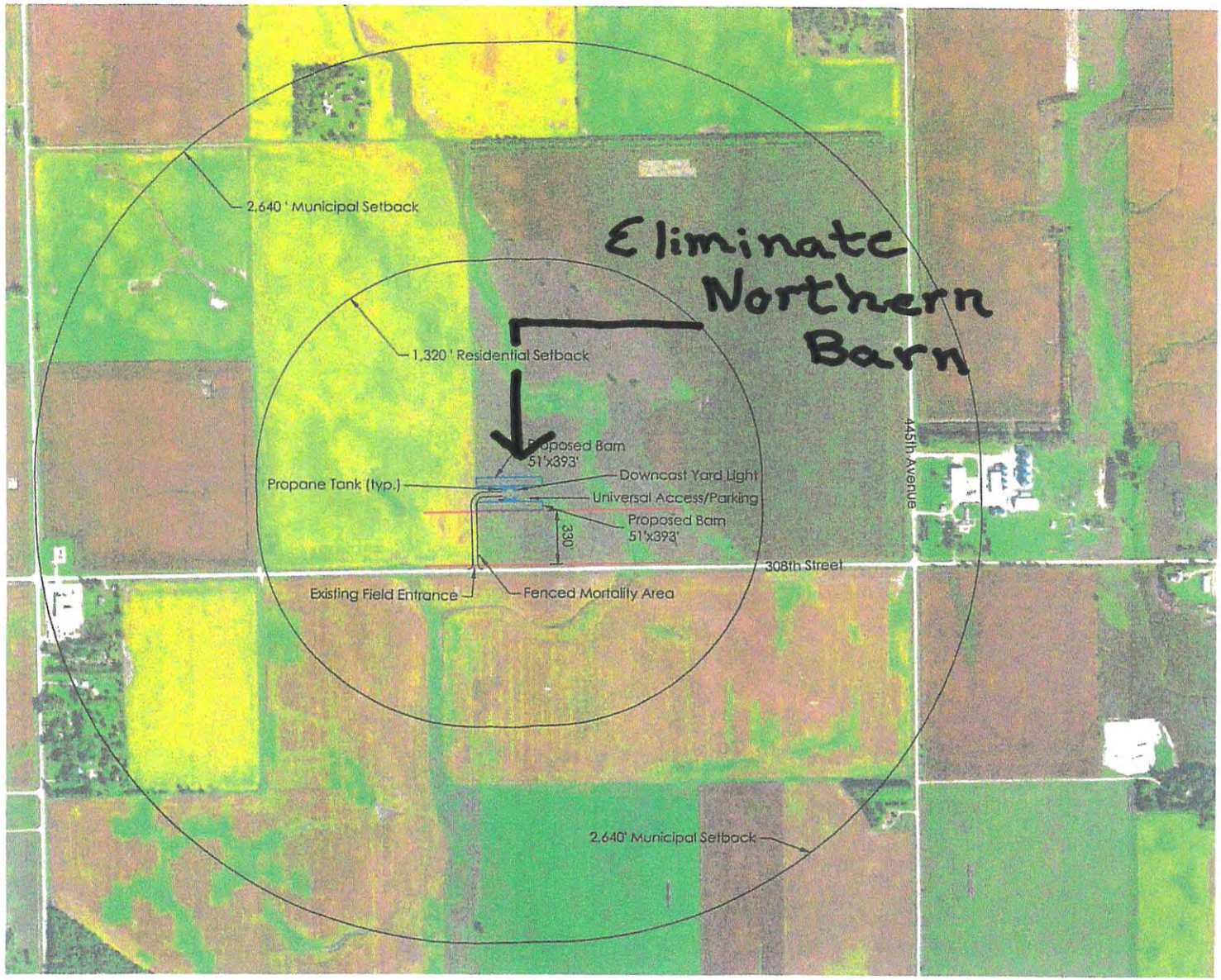
Should you have any questions, please let me know.

Sincerely,

Karl M. Schenk

Exhibit #5

Exhibit A



1" = 600'

There are no known Public Wells within 1,000 feet of the site.

There are no known Private Wells within 250 feet of the site.

There are no Lakes, Rivers, Streams Classified as Public Drinking Water Supplies nor Fisheries within 1,000 feet of the site.

The site is NOT located within the 100 year floodplain.

STOCKWELL

STOCKWELL ENGINEERS INC
[illegible]

Karl Schenk
45352 308th Street | Mission Hill, SD 57046
SE 1/4, Section 26, T94N, R55W - Yankton County, SD

REVISION SCHEDULE
DESCRIPTION DATE

SE PROJECT #: 17141

Location

KS 1

Version 4.1

SOUTH DAKOTA ODOR FOOTPRINT TOOL

Exhibit # 6

Procedure to use SDOFT:

1 Select South Dakota County from drop down list where site is located.
2 Select Odor Source Type from drop down list for each odor source at the site.
3 Select housing or manure storage type from drop down list for each odor source at the site.
4 Enter size (width and length) of emitting surface for each odor source at the site.
5 Enter odor control technology if any from drop down list for each odor source at the site.
6 View annoyance-free distances at bottom of page (scroll down).
7 Select the annoyance-free curves to be graphed by checking the square on the left bottom of this page.

County of Site: Yankton

	Source 1	Source 2	Source 3	Source 4	Source 5
Source Type	Swine Barn	Swine Barn	Manure Storage	Manure Storage	Cattle Yard
Housing Type or Manure Storage	Finishing - Deep Pit	Finishing - Pull Plug	Earthen Storage Basin	Earthen Storage Basin	Dirt/Concrete lot
Emitting Factor	165	97	63	63	19
Emitting Surface Width (ft)	51	0	0	0	0
Emitting Surface Length (ft)	392	0	0	0	0
Emitting Area (sq ft)	19992	0	0	0	0
Odor Control Technol	A No Odor Control	A No Odor Control	A No Odor Control	A No Odor Control	A No Odor Control
Odor Control Factor	1	1	1	1	1
Source Emitting Factor	330	0	0	0	0

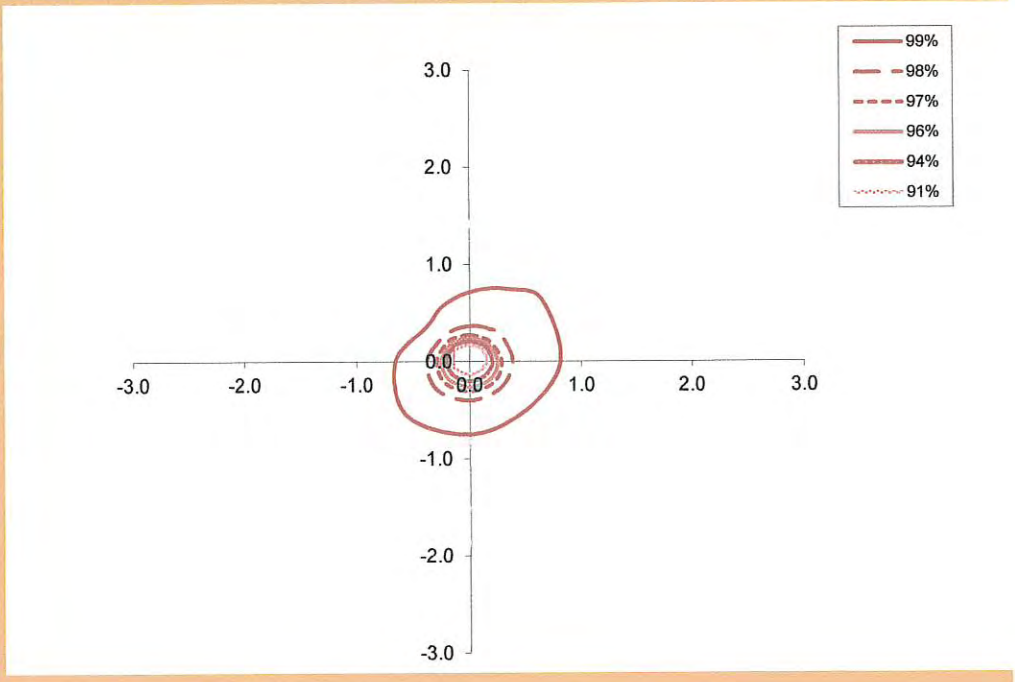
Total Odor Emitting Factor (TOEF): 330

SETBACK DISTANCES FROM ODOR SOURCE AT VARIOUS ODOR ANNOYANCE-FREE FREQUENCIES IN FEET

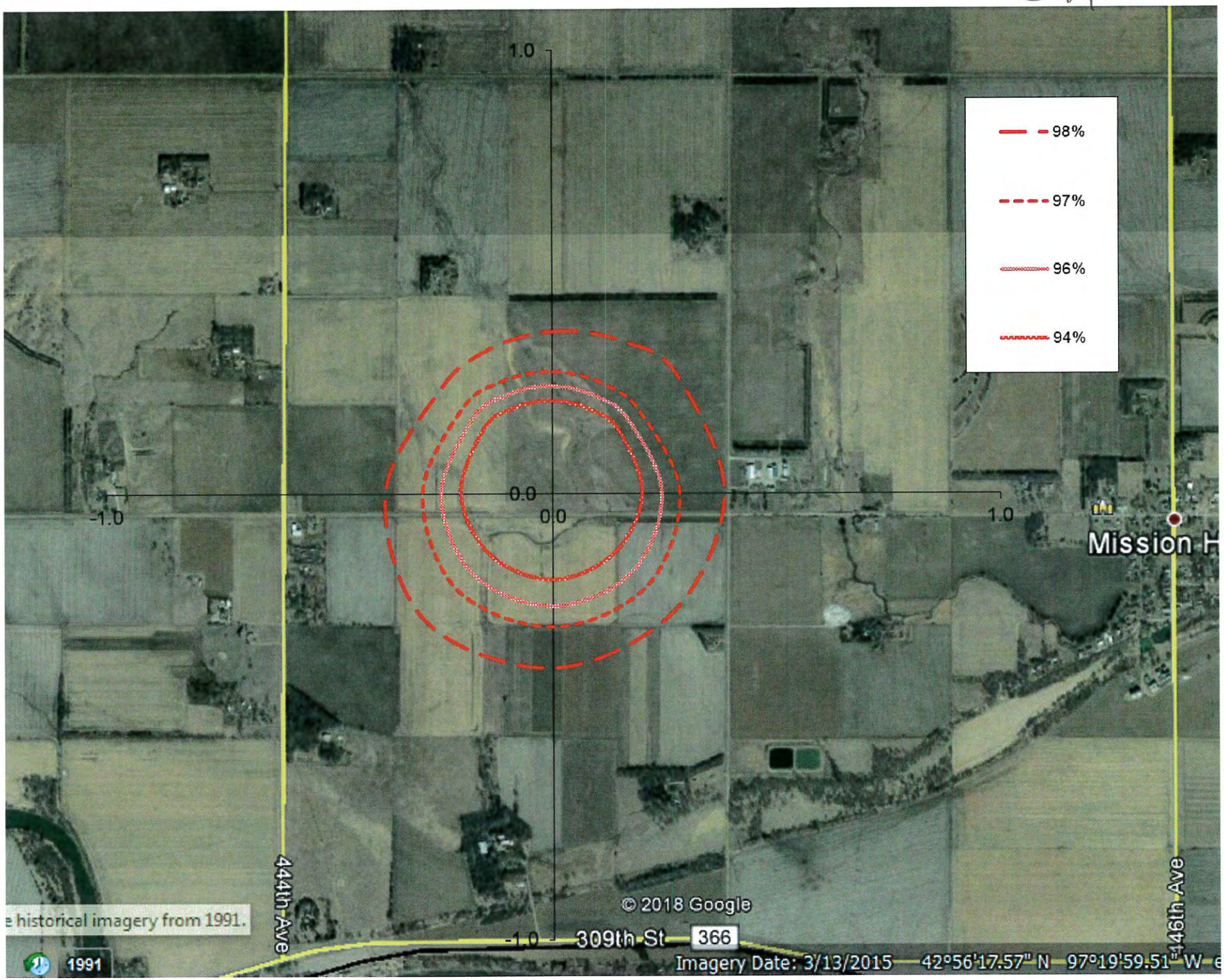
Direction from source	99% Annoyance-free	98% Annoyance-free	97% Annoyance-free	96% Annoyance-free	94% Annoyance-free	91% Annoyance-free
Northeast	4811	2063	1432	1271	1092	878
Southeast	3728	2023	1578	1331	1020	669
Southwest	4152	2161	1631	1363	1052	716
Northwest	2786	1843	1491	1324	1139	936

Select which annoyance-free curves to show on graph

- [x] 99% Annoyance-free
- [x] 98% Annoyance-free
- [x] 97% Annoyance-free
- [x] 96% Annoyance-free
- [x] 94% Annoyance-free
- [x] 91% Annoyance-free



#6A


1.0
0.0
-1.0
1.0
0.0
-1.0
98%
97%
96%
94%
Mission H
444th Ave
446th Ave
309th St
366
© 2018 Google
historical imagery from 1991.
1991
Imagery Date: 3/13/2015 42°56'17.57" N 97°19'59.51" W

Version 4.1

SOUTH DAKOTA ODOR FOOTPRINT TOOL

Procedure to use SDOFT:

1 Select South Dakota County from drop down list where site is located.
2 Select Odor Source Type from drop down list for each odor source at the site.
3 Select housing or manure storage type from drop down list for each odor source at the site.
4 Enter size (width and length) of emitting surface for each odor source at the site.
5 Enter odor control technology if any from drop down list for each odor source at the site.
6 View annoyance-free distances at bottom of page (scroll down).
7 Select the annoyance-free curves to be graphed by checking the square on the left bottom of this page.

Exhibit #1 f

County of Site: Yankton

	Source 1	Source 2	Source 3	Source 4	Source 5
Source Type	Swine Barn	Swine Barn	Manure Storage	Manure Storage	Cattle Yard
Housing Type or Manure Storage	Finishing - Deep Pit	Finishing - Deep Pit	Earthen Storage Basin	Earthen Storage Basin	Dirt/Concrete lot
Emitting Factor	165	165	63	63	19
Emitting Surface Width (ft)	51	51	0	0	0
Emitting Surface Length (ft)	392	392	0	0	0
Emitting Area (sq ft)	19992	19992	0	0	0
Odor Control Techno	A No Odor Control	A No Odor Control	A No Odor Control	A No Odor Control	A No Odor Control
Odor Control Factor	1	1	1	1	1
Source Emitting Factor	330	330	0	0	0

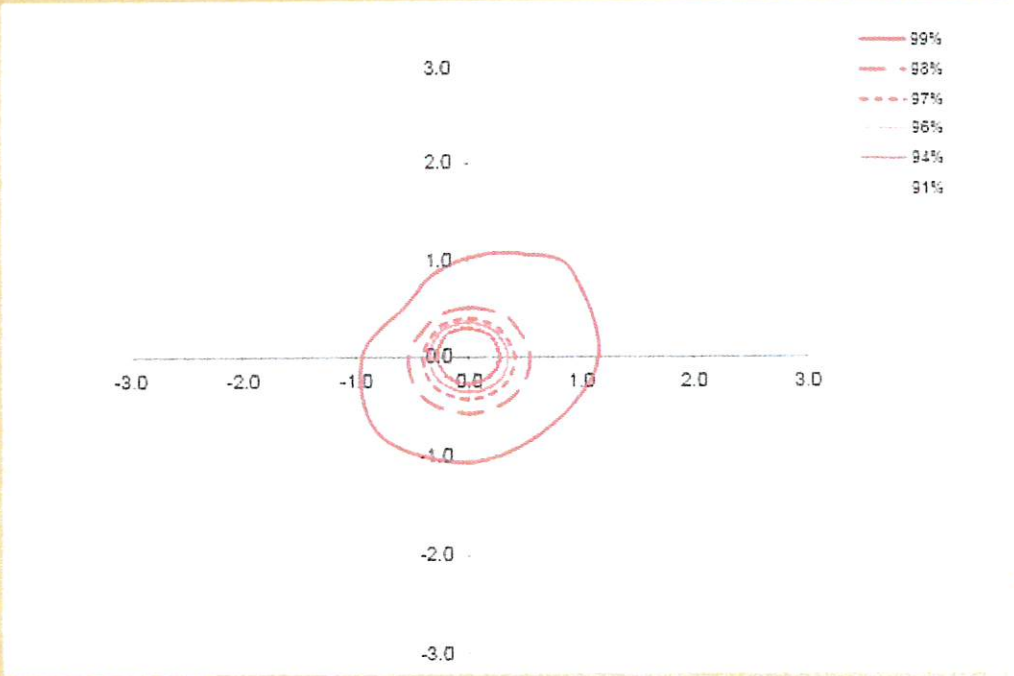
Total Odor Emitting Factor (TOEF): 660

SETBACK DISTANCES FROM ODOR SOURCE AT VARIOUS ODOR ANNOYANCE-FREE FREQUENCIES IN FEET

Direction from source	99% Annoyance-free	98% Annoyance-free	97% Annoyance-free	96% Annoyance-free	94% Annoyance-free	91% Annoyance-free
Northeast	6813	2790	2056	1803	1475	1098
Southeast	5290	2924	2194	1836	1343	821
Southwest	5936	3085	2273	1882	1430	990
Northwest	4112	2654	2136	1913	1607	1289

Select which annoyance-free curves to show on graph

- [x] 99% Annoyance-free
- [x] 98% Annoyance-free
- [x] 97% Annoyance-free
- [x] 96% Annoyance-free
- [x] 94% Annoyance-free
- [x] 91% Annoyance-free

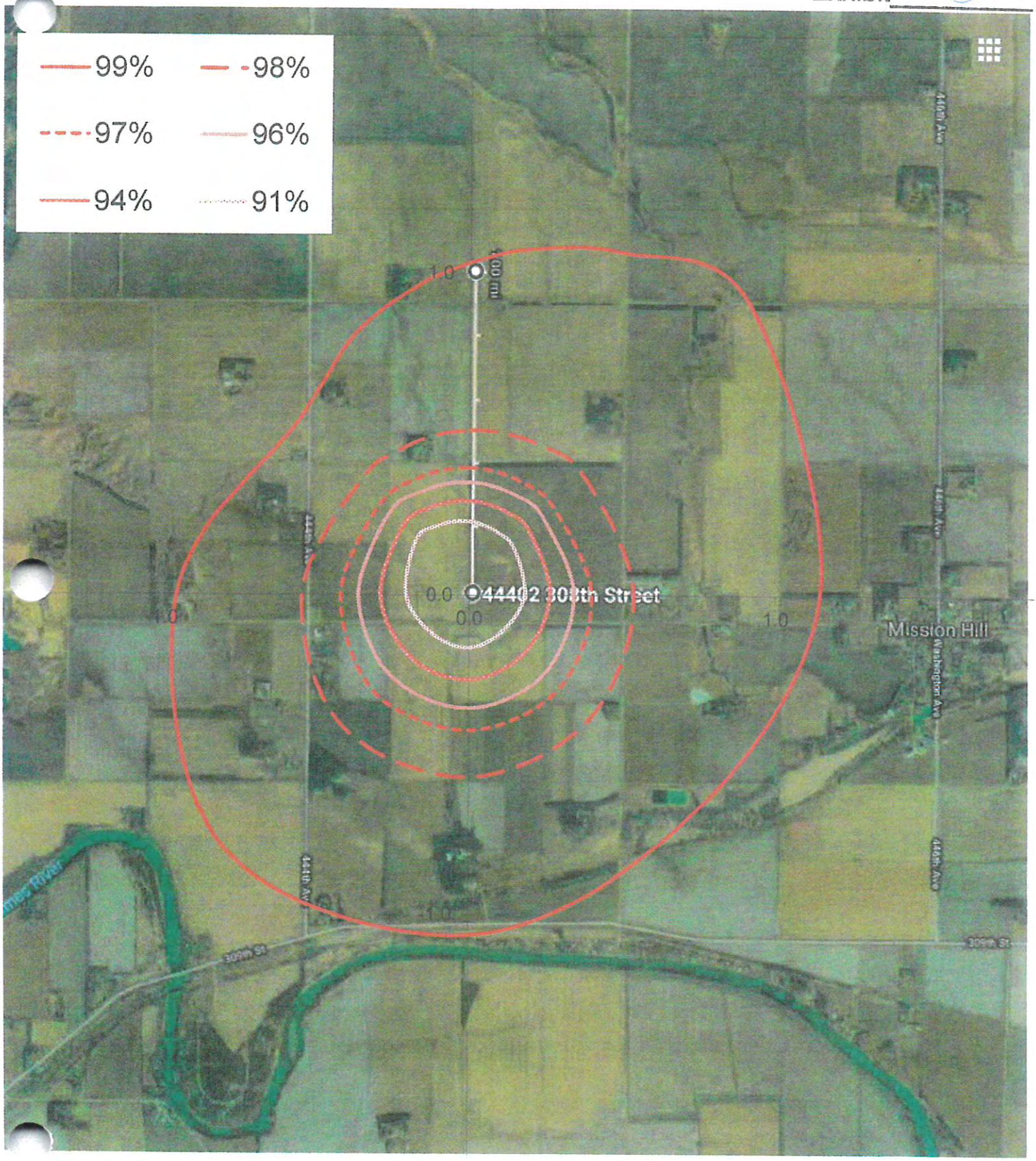


2 barns

Mission Hill

Aerial Map with SDOFT Overlay for Mr. Schenk – 2 barn site– Updated 2/1/18

Exhibit #7B



UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

Exhibit #6A

SD-CPA-6e
Revised 1/16

TREE PLANTING SPECIFICATION SHEET

oducer: Karl Schenk Year to be Planted: ~~2018~~ 2019

County Yankton Farm 7150 Tract 5767 Field ___ Windbreak Type Field Windbreak

Program ___ CIN or referral # ___ Practice ___ Practice # ___

MLRA 55C Soil Map Unit: ___

Resource Concern (CPPE Impact): Livestock Production Limitation
Inadequate Shelter (5)

Purpose: 380 - Improve air quality by reducing and intercepting air borne particulate matter, chemicals and odors.

Present Ground Cover:

List the herbicides applied	2017	
List the herbicides applied	2016	
List the herbicides applied	2015	

Fallow Needed? ☐ Yes ☐ No

Are Utilities Present? (Overhead or Underground) (Call Before You Dig 1-800-781-7474) ☐ Yes ☐ No

Are Cultural Resource Concerns Addressed? ☐ Yes ☐ No

Site Preparation Needed Prior To Planting: ☐ None ☐ Herbicide ☑ Chisel Plow ☑ Disk ☐ Roto Tiller ☐ Windbreak Renovation ☐ Other

Describe Other:

Planting Method: ☑ Machine ☐ Scalp ☐ Hand Plant

Planned Weed Control:

Within Row ☐ Mechanical ☐ Herbicide ☑ Tree Fabric — 2,830 Feet of Fabric

In Between Row ☑ Mechanical ☐ Herbicide ☐ Grass Seeding — 0.0 TreeTubes

Estimated Fencing Needed to Exclude Livestock (feet): ___ Feet of Fence

Planning Assistance By: Megan Brown (Name) 2/8/2018 (Date)

PRACTICE CERTIFICATION

Date Planted: ___ **Planted By:** ___

Practice Meets SD Standards and Specifications: Yes ☐ No ☐ (If "No" is checked, state reasons in the comments on performance section)

Certified By: ___ (Name) ___ (Title) ___ (Date)

Recheck of Quantities by: ___ (Name) ___ (Date)

How Measured? ☐ Wheel ☐ Photo ☐ GPS ☐ Other Describe other ___

0.62 **Acres Planned** ___ **Acres Applied** ___ **Feet of Windbreak Applied**

___ **Feet Fabric Applied** ___ **Tree Tubes Applied**

Comments on Performance: ___

Exhibit #88

Establishment

SD-CPA-6e

MLRA 55C

PLANTING INFORMATION --

No.	CTSG	Spacing (feet) Isolation	Spacing (feet) Between Row	Row No.	Species from North or West	PLANNED (Feet) Spacing in Row	Approx. Length of rows Feet	Approx. Length of rows Rods	Approx. No. of Plants	Fabric (Feet)	Tree Tubes	Seedling Source	APPLIED Width (feet) Isolation	APPLIED Width (feet) Between Row	Spacing (Ft.) Approximate In the Row	Length (Feet)	Length (Rods)	Check if Installed ☐ Fabric (Feet)	Check if Installed ☐ Tree Tubes	Calc-ulate ☐ No. of Plants
	3		12	1	American Linden	12	566	34.3	47	Yes										
	3		12	2	Eastern redcedar	12	566	34.3	47	Yes										
	3		12	3	Meyer Spruce	12	566	34.3	47	Yes										
	3		12	4	Meyer Spruce	12	566	34.3	47	Yes										
				5	Meyer Spruce	12	566	34.3	47	Yes										
						Totals	2,830	171.5	235	2,830.0										

0.62 acres planned

_____ acres applied

Section ______

Township ______

Range ______

Comments: ______

N

LOCATION MAP

Section

Producer Name Karl Schenk

Address ______

Site Address ______

Phone Home ______ Work ______ Cell ______

Type of Planting Field Windbreak

Program

Site Prep Chisel Plow, Disk,

Practice #

Applied Date Completed: Completed by:

Windbreak ______ ______

Fabric ______ ______

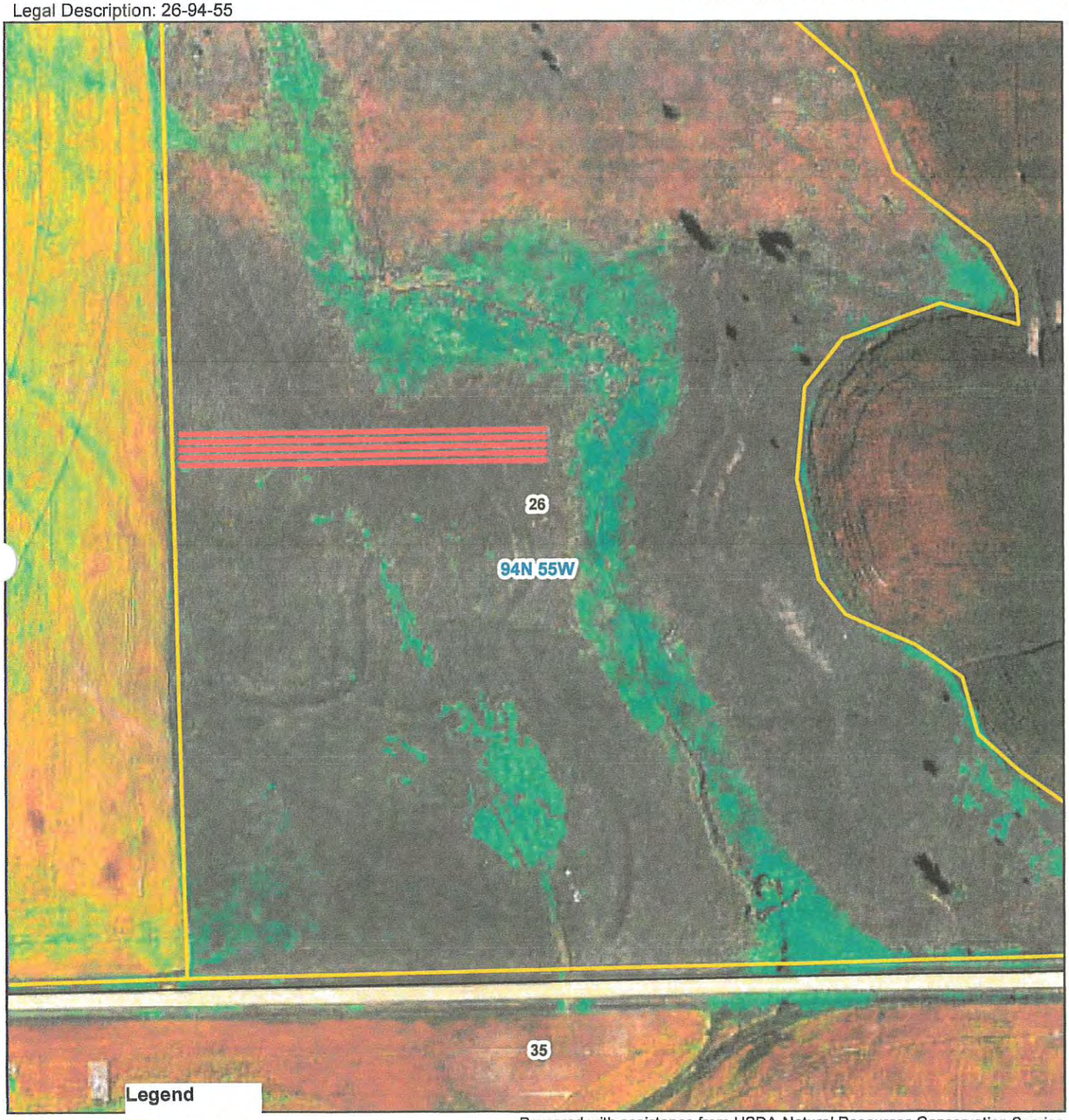
Tree Plan Map

Date: 02/08/2018

Exhibit C

Customer(s): KARL M SCHENK
District: YANKTON COUNTY CONSERVATION DISTRICT
Approximate Acres:
Legal Description: 26-94-55

Field Office: YANKTON SERVICE CENTER
Agency: USDA-NRCS
Assisted By: MEGAN BROWN
State and County: SD, Yankton County, South Dakota



Legend

- FY18 Trees
- Trees
- Townships
- Sections

Prepared with assistance from USDA-Natural Resources Conservation Service

125 0 125 250 375 500 Feet

N

Exhibit 4G

06.026.100.100
06.026.325.300
26
25
MISSION HILL NORTH
94 N - 55 W
06.026.200.100
445TH AVE
308TH ST
06.035.100.100
35
36
06.035.400.100
06.035.100.200

KARL M. OR NANCY P SCHENK
946 WYNSTONE DR
JEFFERSON, SD 57038

6787
76-1408/1049

Aug 24-18
Date

Pay to the Order of Yankton County $ 600 00/100

Sixhundred & 00/100 Dollars

Security Features Details on Back.

Farm Credit Services of America
5015 South 118th Street, Omaha, NE 68137
Washington County Bank, Blair NE
Payable Through: First National Bank, Omaha NE (1040)
For inquiries call: 402-348-3234

For Building Permit 3301
3255 - 3138

K Schenk
MP

⑆104914089⑆753201072170 21⑈6787

For information on this permit or the appeal process, contact Yankton County Planning & Zoning at 605-260-4445. All building permits are subject to the appeal process.
BUILDING PERMIT
Issued by
Yankton County
Permit No. 3301 Date 8-24-18
Work Authorized Pork Barn
Located at TBA 308th St.
Work must begin within 180 days from date of issue. Expires 2 years from date of issue.
NOTICE: Work may proceed after this notice is posted within 5 working days along property's frontage visible from the nearest public access point or upon the available right-of-way and upon the property in a conspicuous location.
VIOLATIONS ARE SUBJECT TO PROSECUTION.
Yankton County
Planning and Zoning
Zoning Administrator
321 West Third St.
Yankton, South Dakota
605-260-4445

Pat Garrity

From: Lisa Ven Osdel
Sent: Tuesday, November 6, 2018 3:45 PM
To: Pat Garrity
Subject: FW: Addition to Principal Building

Rob requested I forward this to you.

Lisa Ven Osdel
State's Attorney Office
410 Walnut Street Ste.100
Yankton, SD 57078
lisa@co.yankton.sd.us
(605) 665-4301

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From: Mike Marlow [mailto:mike@mwhlawyers.com]
Sent: Tuesday, November 6, 2018 12:15 PM
To: Rob Klimisch <rob@co.yankton.sd.us>
Cc: Beau Barrett <Beau@mwhlawyers.com>; Deb Barr <Deb@mwhlawyers.com>; Don Swift <annelois71@hotmail.com>
Subject: Addition to Principal Building

As promised, here is the condensed version of my legal analysis of the Zoning Ordinances regarding the addition proposed by Dr. Don and Anne Swift.

The structure proposed by the Swifts must be one of the following: a building, an accessory building or and addition. I believe it is an addition by definition under the ordinances.

Initially, the structure cannot be an accessory building because it is attached to the Swifts' dwelling. The Oxford Dictionary defines attached as: joined, fastened or connected to something. Merriam-Webster defines attached as: connected or joined to something (and specifically uses the example of a house and a garage). The MacMillan Dictionary defines attached as: joined or fixed to something. Accessory buildings are, by definition, *unattached* from the principal building by at least ten (10) feet. While the proposed structure is more than ten (10) feet from the principal building, it is attached by a structural element.

The proposed structure cannot be described as a separate building as that term is defined by the ordinances. A building must be "entirely separate from any other structure by space or wall in which there is no communicating doors, windows or similar openings." Merriam-Webster defines communicate, in pertinent part, as: to open into each other: connect. The rooms communicate." As you are aware, the proposed structure is in direct communication with the principal building and, as a result, cannot be a separate building.

The only logical result is the proposed structure must be an addition to the principal building. Indeed, one example of an addition noted in the ordinance is an "attached garage" or a "new room." Since the proposed structure is attached, it is defined by the ordinance as an addition.

I do not have Pat Garrity's email address and I would appreciate it if you would send this to him. Please give me a call if you have any other questions or comments. Thank you.

Michael F. Marlow
Marlow, Woodward & Huff, Prof. LLC
P.O. Box 667
200 West Third Street
Yankton, SD 57078
605-665-5009
605-665-4788 fax

Yankton County Planning Commission
Yankton County Board of Adjustment

Date filed: 4-6-2018

Applicant: **Don Swift II**

District type: ☐ AG ☐ R1-Low ☒ R2-Moderate ☐ R3-High ☐ C-Comm.
☐ LC – Lakeside Commercial ☐ RT-Rural Transitional

Variance needed:
☐ Section 513 ☐ Section 515 ☒ Section 705 ☐ Section 715 ☐ Section 805
☐ Other

North Side/ Yard lot line: ____ feet or no closer than ____ feet to the ____ lot line.

East Side / Yard lot line: _____ feet or no closer than _____ feet to the _____lot line.

South Side / Yard lot line: _____feet or no closer than_____feet to the_____lot line.

West Side / Yard lot line ___feet or no closer than ____ feet to the _____lot line.

Accessory Building Size allowed: 1,200 Sq. Ft.
Proposed building size: 2,688 Sq. Ft.
Proposed sidewall height: 10.2 Sq. Ft.
Affects Section: 705

NOTE:
Variance Maximum Accessory Structure from 1,200 Sq. Ft. to 2,688 sq. Ft.

PC: Article 18, Section 1805 (1-5)

BOA: Section 1905 (1-6)

Planning Commission date:	5-8-2018 6-12-2018	Time:	7:10 PM 7:05 PM
Board of Adjustment date:	7-17-2018	Time:	4:30 PM

Yankton County Planning Recommendation

The Yankton County Planning Commission recommends that the following be approved / denied by the Yankton County Commission or the Board of Adjustment.

Applicant: Don Swift
Address: 142 Katherine Way Yankton, SD
Hearing date: 6-12-18
Description: Max Accessory Structure

Action 61218B: Moved by Becker, second by Kretsinger to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated June 12, 2018, of Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.
By roll call vote, all members present voted aye.
Motion carried

Michael Welch	Y	N	AB	Jeff Gudahl	Y	N	AB
Don Kettering	Y	N	AB	Carll Kretsinger	Y	N	AB
Debra Bodenstedt	Y	N	AB	Erik Koenigs	Y	N	AB
Butch Becker	Y	N	AB	Dan Guthmiller	Y	N	AB
Zane Williams	Y	N	AB				

Motion: Kretsinger
Second: Becker

Yankton County Planning Commission

Meeting date: June 12, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Don Swift II

Parcel Number: 09.017.400.413

Legal description: Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W

Physical Address: 142 Katherine Way, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
   A. The strict application of the ordinance would produce undue hardship; The *applicant is requesting the variance to properly provide storage space for antique and collectable vehicles. The applicant currently has three storage locations and wants to consolidate to one location at the residence.*
   B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties in the district.*
   C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.*
   D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance is recurring sufficiently to provide remedy with a zoning amendment. The commission is requested to begin public hearings to address the frequency of the variances and intent of the regulations in Article 6, 7 & 8, Section 605, 705 & 805.*
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
   A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; *The*

property is providing screening of accessory structure, the building has a low profile (17 feet), located on a private road, other similar size buildings in the area and the property is a total of four (4) acres.

B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; *Previous variances of maximum accessory structure size requirement have been granted in Yankton County.*

C. The special conditions and circumstances do not result from the actions of the applicant; *The special conditions and circumstances are a result of the applicant to provide sufficient personal storage.*

D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. *Variance requests of this type (maximum accessory structure size requirement) have been approved by the Planning Commission.*

4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. *No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.*
5. Notice of public hearing shall be given, as in Section 1803 (3-5). *The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on April 28, 2018 (supported by affidavit), a legal notice was published on April 28, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on May 1, 2018.*
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. *A public hearing was held at 7:05 pm on June 12, 2018. This was a continuance from the May 8, 2018 meeting. The following is the minutes from the May 8, 2018 hearing. Mr. Swift stated his request to build an accessory structure for personal use. Mr. Swift stated his property is four acres, will use natural colors on the structure and will plant trees to screen the structure. Five neighboring landowners signed a statement to give permission to Mr. Swift to build the structure on the proposed site.*

   No proponents for variance request were present.

   Opponents of the variance request were;

   Jeanine Pyron, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. She stated the area is under covenants restricting accessory structure size. Patrick Garrity, Zoning Administrator, explained the authority of the Planning Commission and the authority of the Home Owners Association covenants.

   Denny Breck, a neighbor in the 1,320 foot buffer area, stated disapproval of the variance. The Marina Dell development has not allowed any accessory structures constructed of metal and over 100% larger (actual size is 124% larger than regulation size) than the current zoning regulation. Mr. Breck reminded the Planning Commission that the covenants are not Yankton County responsibility. Mr. Breck stated the building is too large for the Marina Dell development.

   Andrew Pyron, a neighbor in the 1,320 foot buffer area, is a new resident and the covenants were a serious consideration when the property was purchased. Mr. Pyron stated the Planning Commission meeting was properly conducted and he is hopeful for an appropriate conclusion.

Pat Garrity, Zoning Administrator, read into record letters from Jerry/Mary Dittrich and Dan/Deb Broders expressing disapproval of the variance request.
The Planning Commission discussed the application and stated the request has issues with the building materials and overall size. The Planning Commission emphasized Yankton County has no authority regarding property and development covenants. A continuance was requested to allow the applicant to evaluate the building size, building materials and building aesthetics. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

Action 5818C: Moved by Gudahl, second by Williams for a continuance (June 12) to allow the applicant to evaluate the building size, building materials and building aesthetics for a variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.
By roll call vote, all members present voted aye.
Motion carried.

On June 12, 2018, Mike Marlow, representing Don Swift, stated the proposed structure total cubic feet of the structure is less than the regulation building size in the ordinance. The Swifts have had plans to build the accessory structure for a number of years. The steel structures have better design, colors and materials than in the past. The proposed structure will have windows and siding can be an option if required. Mr. Marlow provided a power point presentation showing photographs of the topography, building site, proposed structure and other accessory structures in the area. Mr. Marlow stated the proposed accessory structure will not negatively affect the character of the neighborhood. (Exhibit #3)
Mr. Marlow stated the hardship is a consolidation of three separate storage locations to a single location at his primary residence. The Swift's have numerous antique and collector vehicles requiring proper storage. The adjacent property will have no impact or property value issues. The access is a private road and all the immediate neighbors have no objections. (Signed permission documents)
Mr. Marlow concluded with discussion about the accessory structure. The building will be a low profile (seventeen foot peak), it will be screened with evergreens and the viewshed will be protected.
Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.
Mr. Welch requested any opponents of the variance to present their statements.
Jeanie Pyron stated her opposition to the variance and asked about the requirements of hardships to qualify for a variance. She also stated the proposed building site lot is 1.01 acre, not four (4) acres. Mrs. Pyron does not think the hardships are sufficient to allow the variance.
Jerry Dittrich stated he has new house across the street from the proposed building site. Mr. Dittrich stated he moved to this location because of protection from large accessory structures and steel buildings.

Deb Broders stated the zoning ordinance needs to be enforced to protect surrounding district neighbors. Mrs. Broders stated they are all neighbors and the entire Marina Dell development is Moderate Density Rural Residential District. The size of the proposed accessory structure is too large and will impact the character of the district.
Don Engelgau stated the approval of this variance request will set a precedence and it will impact the district for future development.
Tom Posch stated the large accessory structure will affect the entire neighborhood. Mr. Posch also states the hardship requirement of the variance process has not been met.
Denny Breck stated the development is restrictive regarding large accessory structures and building materials. This proposed structure is too large and metal construction. The entire Marina Dell development is a neighborhood and everyone is impacted by this proposal. Mr. Breck is concerned about glare from the metal roof and the precedence the accessory structure will have on the district. Mr. Breck stated the Marina Dell development approximately $15,000,000 valuation is a benefit to the county.
Exhibit #4: Five letters from neighbors in one quarter mile buffer zone.
Mr. Welch ended public comment and requested commission discussion.
Zoning Administrator, Patrick Garrity, discussed the application. Mr. Garrity presented an analysis of the maximum accessory structure size variances approved by the commission, the ordinance resolution amending Article 6, 7, & 8, Section 605, 705 & 805 and parcel information on "Rupiper" and "DeJager" accessory structures. (Exhibit #5)
Mr. Garrity stated the commission should adhere to the ordinance as written or amend the ordinance to the intended use of the property. It is recommended the commission move to amend the ordinance before any more variances are approved.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
   The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request. To properly provide storage space for antique and collectable vehicles. The applicant currently has three storage locations and wants to consolidate to one location at the residence.
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. *The Planning Commission approves this request.*
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. *The variance request of Maximum Accessory Structure Size Requirement is approved.*

Action 61218B: Moved by Becker, second by Kretsinger to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding

of Facts dated June 12, 2018, of Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.
By roll call vote, all members present voted aye.
Motion carried

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 1:38 PM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 12:51:51 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: H. Andrew Pyron
> Address: 226 Marina Dell Avenue
> City/State/Zip: Yankton, South Dakota 57078
> Email: andy.pyron@bigiron.com
> Phone: 4044330864
> Message:
> I am respectfully submitting my comments on the Swift variance findings found in the minutes from the 6.12.2018 Planning Commission Meeting: 1.A. This is a weak definition of "hardship". It will not stand when contested in a court of law. Presumably, the applicant currently has "proper storage". Consolidation can only be a convenience and is not a remedy for hardship. B. All Marina Dell Road District (MDRD) residents are constrained by the same lack of convenience, in that massive storage buildings are not allowed due to county ordinances. C. All out-buildings in the MDRD have abided by voluntary covenants restricting size to 900 sq. ft., therefore, a 2700 sq. ft. out-building would certainly be a detriment to the "character" of the district. D. "Exceptional" hardship was certainly not demonstrated. Convenience was the only purpose demonstrated, see 1.A. 2. No other MDRD resident has made a variance request since at least 2012, therefore, recurrence of requests is not an issue. 3.A. There are no "existing special conditions or circumstances that are peculiar to the land, structure, or building involved", which is why they were not demonstrated. In addition, the only other similar sized structures in the MDRD are homes. B. The terms of this ordinance have not been met by the applicant, therefore, the associated "rights" cannot be enjoyed. Yankton County cannot be used as the equivalent of the MDRD. In addition, the applicant mislead the Planning Commission by stating that his property was 4 acres when it in fact is 1.01 acres (see https://beacon.schneidercorp.com) C. The applicant has purposefully acquired thirteen antique vehicles over many years' time, therefore, this situation was completely the creation of the applicant. D. No variance has been granted to

anyone in the MRDR. 4. No comment 5. No comment 6. Four highlights of these meetings to note: • No proponents for the variance were in attendance for the 5.8.2018 meeting. • No proponents for the variance were in attendance for the 6.12.2018 meeting. • Action 5818C was ignored by the applicant. • The applicant gave no evidence to substantiate the claim that property values would not be adversely affected. 7. See comment 1.A on weakness of hardship definition. 8. The Planning Commission prescribed no appropriate conditions or safeguards. 9. No comment.

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 1:38 PM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 12:48:55 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Jeanie Pyron
> Address: 226 Marina Dell Avenue
> City/State/Zip: Yankton, South Dakota 57078
> Email: jeaniepy@outlook.com
> Phone: 7705965882
> Message:
> I am respectfully submitting my comments on the Swift variance findings found in the minutes from the 6.12.2018 Planning Commission Meeting: 1.A. This is a weak definition of "hardship". It will not stand when contested in a court of law. Presumably, the applicant currently has "proper storage". Consolidation can only be a convenience and is not a remedy for hardship. B. All Marina Dell Road District (MDRD) residents are constrained by the same lack of convenience, in that massive storage buildings are not allowed due to county ordinances. C. All out-buildings in the MDRD have abided by voluntary covenants restricting size to 900 sq. ft., therefore, a 2700 sq. ft. out-building would certainly be a detriment to the "character" of the district. D. "Exceptional" hardship was certainly not demonstrated. Convenience was the only purpose demonstrated, see 1.A. 2. No other MDRD resident has made a variance request since at least 2012, therefore, recurrence of requests is not an issue. 3.A. There are no "existing special conditions or circumstances that are peculiar to the land, structure, or building involved", which is why they were not demonstrated. In addition, the only other similar sized structures in the MDRD are homes. B. The terms of this ordinance have not been met by the applicant, therefore, the associated "rights" cannot be enjoyed. Yankton County cannot be used as the equivalent of the MDRD. In addition, the applicant mislead the Planning Commission by stating that his property was 4 acres when it in fact is 1.01 acres (see https://beacon.schneidercorp.com) C. The applicant has purposefully acquired thirteen antique vehicles over many years' time, therefore, this situation was completely the creation of the applicant. D. No variance has been granted to

anyone in the MRDR. 4. No comment 5. No comment 6. Four highlights of these meetings to note: • No proponents for the variance were in attendance for the 5.8.2018 meeting. • No proponents for the variance were in attendance for the 6.12.2018 meeting. • Action 5818C was ignored by the applicant. • The applicant gave no evidence to substantiate the claim that property values would not be adversely affected. 7. See comment 1.A on weakness of hardship definition. 8. The Planning Commission prescribed no appropriate conditions or safeguards. 9. No comment.

July 17, 2018

Yankton County Board of Adjustment

Re: Variance Requested by Don Swift II

Board Members:

The Swift family has been very adamant and zealous in making sure that residents of our development have strictly followed the covenants and Yankton County Zoning Ordinances. They have brought several law suites, either on their own or through others, against those who did not adhere to the above-mentioned requirements. Now they are requesting a change even so they have opposed so many in the past.

In keeping with the aesthetics as set out in the applicable covenants and zoning requirements, I am opposed to the variance as requested by the Swifts. We need to keep our development as neat and orderly as possible.

Thank you.

Bob Fullenkamp
221 Red Cedar Drive
Yankton, SD 57078

Pat Garrity

From: Intuvio Solutions CMS <no-reply@intuviosolutions.com>
Sent: Tuesday, July 17, 2018 9:49 AM
To: Pat Garrity
Subject: New Contact Us Message

You have received a Contact Us Message from your website.

Name: Curtis Bisgard
Address: 186 Marina Dell Circle
City/State/Zip: Yankton, South Dakota 57078
Email: cabisgard@gmail.com
Phone: 6056650852
Message:
I am writing to say that I oppose the variance requested by Don Swift to build a large steel building next to his house. I live in the same development and I feel the building is simply too large for a residential neighborhood. I also don't believe it is a hardship to not be able to store your collection of old cars next to your house. There is plenty of property within a short distance of his home that Mr. Swift could purchase where a storage building could be erected to store his collection. My biggest fear is of the precedent this sets for others in my neighborhood who want to build steel storage buildings with a larger footprint than their homes. I feel this would be very detrimental to the property values in development. Please take my comments into consideration when determining if a variance should be allowed. Thank-you, Curtis Bisgard 186 Marina Dell Circle Yankton, SD 57078

Pat Garrity

From: Carol Breck <carolbreck@midco.net>
Sent: Tuesday, July 17, 2018 9:43 AM
To: Pat Garrity
Subject: FW: Building variance

-----Original Message-----
From: deb.broders@gmail.com <deb.broders@gmail.com>
Sent: Tuesday, July 17, 2018 8:40 AM
To: carolbreck@midco.net
Subject: Building variance

This is to state that Dan & Deb Broders are in opposition to the proposed metal building variance request of Don Swift. We feel a variance would set a precedent for future large buildings in our area. The county zoning rules are meant to prevent such building. The value of property in Marina Dell would decline if this were to happen. Our neighbors abide by the rules as set out and expect others to also. Issues such as water run off, the possibility of future commercial ventures and damage to our local roads are all items of concern. We ask that Yankton County elected officials listen to the voice of the majority of our neighborhood and not approve this variance.

Dan & Deb Broders
Sent from my iPhone

Sent from my iPhone=

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:23 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 9:40:47 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Curtis Bisgard
> Address: 186 Marina Dell Circle
> City/State/Zip: Yankton, South Dakota 57078
> Email: cabisgard@gmail.com
> Phone: 6056650852
> Message:
> Todd, I am writing to ask you oppose the variance requested by Don Swift to build a large steel building next to his house. I live in the same development and I feel the building is simply too large for a residential neighborhood. I also don't believe it is a hardship to not be able to store your collection of old cars next to your house. There is plenty of property within a short distance of his home that Mr. Swift could purchase where a storage building could be erected to store his collection. My biggest fear is of the precedent this sets for others in my neighborhood who want to build steel storage buildings with a larger footprint then their homes. I feel this would be very detrimental to the property values in development. Once again I ask that you oppose request for a variance. Thank-you, Curtis Bisgard 186 Marina Dell Circle Yankton, SD 57078

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:23 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 9:42:25 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Tom and Beth Kaltsulas
> Address: 188 Marina Dell Avenue
> City/State/Zip: Yankton, South Dakota 57078
> Email: te6532@gmail
> Phone: 605 665-6532
> Message:
> Todd, We have grave concerns about a building that is being considered at your meeting today. Mr. Swift plans to erect a building over 2,000 square feet. Our concerns are that this building is too large and industrial for our residential area. Please deny his request. Gratefully, Tom and Beth Kaltsulas

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:23 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 9:45:42 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Mary Dittrich
> Address: 53482 835 RD
> City/State/Zip: Tilden, Nebraska 68781
> Email: countyinsurance@cableone.net
> Phone: 402640240
> Message:
> I have a new house we just built in Marina Dell development. I am opposed to a building of that size being constructed in this area. I would feel it would be detrimental to views of valley and surrounding areas. The acreage involved would not support a building of the size.

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:22 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 9:54:21 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Rick Cheloha
> Address: 284 Marina Dell Ave
> City/State/Zip: Yankton, South Dakota 57078
> Email: rjchelo@loup.com
> Phone: 402-910-8905
> Message:
> Todd, my wife and I are opposed to the Swift variance for obvious reasons as we have just built our new home within view of the proposed building and we followed and intend to follow all current zoning and covenants of our neighborhood. Thanks, Rick Cheloha

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:23 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 16, 2018 at 8:22:04 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: dennis Breck
> Address: 264 Marina dell ave
> City/State/Zip: Yankton, South Dakota 57078
> Email: carolbreck@midco.net
> Phone: 605-661-7653
> Message:
> Don Swift did not prove a hardship! He can buy land less than 2 miles from his house for his car and etc. Marina Dell estates is not zoned for storage and that is what he wants! The resident in Marina Dell estates are very concerned with the possible building that Don Swift wants to build. I am strongly opposed as it opens a can of worms for the whole area. If we allow one metal building 2600 sq. ft. I know that others will follow. How can you allow this in our residential area? We have required many others to follow the rules and they have! If Don Swift wants a building like this he can buy the land that is for sale in the lakeside commercial area on the south side of Highway 52. Kaltsulas did and built a building, mines bought a parcel to do the same. others have adjusted their plans to meet the zoning. Why is it different for Swift. It will directly affect the home values. Please don't allow this to happen! If some one in Calumet landing wanted to do this would you allow it? Marina Dell Estates has homes of equal or more value than that subdivision. I believe you will understand that farm buildings belong in ag areas not in a residential area like Marina Dell estates. Storage buildings have a place in Lakeside commercial. You turned down the Condos for a large garage with metal and told them to come back with a different plan. They will be back to ask why Swift can do this and not them! I will fight this all the way

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 10:24 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 16, 2018 at 8:04:10 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Carol Breck
> Address: 264 Marina dell ave
> City/State/Zip: Yankton, South Dakota 57078
> Email: carolbreck@midco.net
> Phone: 605-661-7653
> Message:
> The resident in Marina Dell estates are very concerned with the possible building that Don Swift wants to build. I am strongly opposed as it opens a can of worms for the whole area. If we allow one metal building 2600 sq. ft. I know that others will follow. How can you allow this in our residential area? We have required many others to follow the rules and they have! If Don Swift wants a building like this he can buy the land that is for sale in the lakeside commercial area on the south side of Highway 52. Kaltsulas did and built a building, mines bought a parcel to do the same. others have adjusted their plans to meet the zoning. Why is it different for Swift. It will directly affect the home values. Please don't allow this to happen!

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 11:46 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 11:44:04 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Jerry Dittrich
> Address: 292 Marina Dell Ave
> City/State/Zip: Yankton, South Dakota 57078
> Email: jemarinc2@gmail.com
> Phone: 402-640-0171
> Message:
> Yankton County Commissioners, To whom it may concern, I am opposed to the new construction of Mr. Swifts oversized mechanics shop. I believe such a building of that magnitude is out of place and not in the character of a Residential Neighborhood. Buildings of that size are usually allowed on commercial lots or acreages of much greater proportion. To allow this to happen would set a precedent for which any piece or size of property could be used as a potential building site. This action would be comparable to allowing a full fledged livestock operation to be built on 1 acre. There simply is not enough real estate to handle potential runoff and environmental problems. There are guidelines on the books that protect people and the environment, I hope you respect them. Sincerely, Jerry Dittrich

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 11:45 AM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 11:41:36 AM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Jerry Smith
> Address: 110 Portside Lane
> City/State/Zip: Yankton, South Dakota 57078
> Email: jerry@photographybyjerry.net
> Phone: 665-3735
> Message:
> I am not in favor of the steel building that Don Swift wants to build. We do think by having a big steel building in a residential area is what should go. We will end up with other people wanting to put them up also and this will lower our property value. There are places other then this area where they can get land and build that kind of building. Do not vote this in.

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 2:25 PM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 2:11:54 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Greg Mueller
> Address: 161 Marina Del Circle
> City/State/Zip: Yankton, South Dakota 57078
> Email: g.mueller.eei@gmail.com
> Phone: 605-660-0690
> Message:
> Todd, Regarding the variance for Don Swift's proposed metal building: I am not one to complain or raise a red flag against anyone looking to enhance their property, but I believe careful consideration should be taken as allowing this type & size of building in this area will not only stand out but will be visually displeasing. I also believe that if this is approved it will set a precedent for other homeowners in the area. At minimum I would hope the commission would have the Swifts look at reducing the size of the building & add siding to match their home so if fits in with similar structures in the area. Thanks for your consideration in this manner. Greg Mueller

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 1:38 PM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 12:51:51 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: H. Andrew Pyron
> Address: 226 Marina Dell Avenue
> City/State/Zip: Yankton, South Dakota 57078
> Email: andy.pyron@bigiron.com
> Phone: 4044330864
> Message:
> I am respectfully submitting my comments on the Swift variance findings found in the minutes from the 6.12.2018 Planning Commission Meeting: 1.A. This is a weak definition of "hardship". It will not stand when contested in a court of law. Presumably, the applicant currently has "proper storage". Consolidation can only be a convenience and is not a remedy for hardship. B. All Marina Dell Road District (MDRD) residents are constrained by the same lack of convenience, in that massive storage buildings are not allowed due to county ordinances. C. All out-buildings in the MDRD have abided by voluntary covenants restricting size to 900 sq. ft., therefore, a 2700 sq. ft. out-building would certainly be a detriment to the "character" of the district. D. "Exceptional" hardship was certainly not demonstrated. Convenience was the only purpose demonstrated, see 1.A. 2. No other MDRD resident has made a variance request since at least 2012, therefore, recurrence of requests is not an issue. 3.A. There are no "existing special conditions or circumstances that are peculiar to the land, structure, or building involved", which is why they were not demonstrated. In addition, the only other similar sized structures in the MDRD are homes. B. The terms of this ordinance have not been met by the applicant, therefore, the associated "rights" cannot be enjoyed. Yankton County cannot be used as the equivalent of the MDRD. In addition, the applicant mislead the Planning Commission by stating that his property was 4 acres when it in fact is 1.01 acres (see https://beacon.schneidercorp.com) C. The applicant has purposefully acquired thirteen antique vehicles over many years' time, therefore, this situation was completely the creation of the applicant. D. No variance has been granted to

anyone in the MRDR. 4. No comment 5. No comment 6. Four highlights of these meetings to note: • No proponents for the variance were in attendance for the 5.8.2018 meeting. • No proponents for the variance were in attendance for the 6.12.2018 meeting. • Action 5818C was ignored by the applicant. • The applicant gave no evidence to substantiate the claim that property values would not be adversely affected. 7. See comment 1.A on weakness of hardship definition. 8. The Planning Commission prescribed no appropriate conditions or safeguards. 9. No comment.

Pat Garrity

From: Todd Woods
Sent: Tuesday, July 17, 2018 1:38 PM
To: Pat Garrity
Subject: Fwd: New Contact Us Message

Todd B. Woods
Chairman Yankton County Commission

Sent from my iPhone
Please excuse my typos.

Begin forwarded message:

> **From:** Intuvio Solutions CMS <no-reply@intuviosolutions.com>
> **Date:** July 17, 2018 at 12:48:55 PM CDT
> **To:** <twoods@co.yankton.sd.us>
> **Subject: New Contact Us Message**
>
> You have received a Contact Us Message from your website.
>
> Name: Jeanie Pyron
> Address: 226 Marina Dell Avenue
> City/State/Zip: Yankton, South Dakota 57078
> Email: jeaniepy@outlook.com
> Phone: 7705965882
> Message:
> I am respectfully submitting my comments on the Swift variance findings found in the minutes from the 6.12.2018 Planning Commission Meeting: 1.A. This is a weak definition of "hardship". It will not stand when contested in a court of law. Presumably, the applicant currently has "proper storage". Consolidation can only be a convenience and is not a remedy for hardship. B. All Marina Dell Road District (MDRD) residents are constrained by the same lack of convenience, in that massive storage buildings are not allowed due to county ordinances. C. All out-buildings in the MDRD have abided by voluntary covenants restricting size to 900 sq. ft., therefore, a 2700 sq. ft. out-building would certainly be a detriment to the "character" of the district. D. "Exceptional" hardship was certainly not demonstrated. Convenience was the only purpose demonstrated, see 1.A. 2. No other MDRD resident has made a variance request since at least 2012, therefore, recurrence of requests is not an issue. 3.A. There are no "existing special conditions or circumstances that are peculiar to the land, structure, or building involved", which is why they were not demonstrated. In addition, the only other similar sized structures in the MDRD are homes. B. The terms of this ordinance have not been met by the applicant, therefore, the associated "rights" cannot be enjoyed. Yankton County cannot be used as the equivalent of the MDRD. In addition, the applicant mislead the Planning Commission by stating that his property was 4 acres when it in fact is 1.01 acres (see https://beacon.schneidercorp.com) C. The applicant has purposefully acquired thirteen antique vehicles over many years' time, therefore, this situation was completely the creation of the applicant. D. No variance has been granted to

anyone in the MRDR. 4. No comment 5. No comment 6. Four highlights of these meetings to note: • No proponents for the variance were in attendance for the 5.8.2018 meeting. • No proponents for the variance were in attendance for the 6.12.2018 meeting. • Action 5818C was ignored by the applicant. • The applicant gave no evidence to substantiate the claim that property values would not be adversely affected. 7. See comment 1.A on weakness of hardship definition. 8. The Planning Commission prescribed no appropriate conditions or safeguards. 9. No comment.

YANKTON COUNTY
APPLICATION # 3168

(Type or Print)
OWNER: DON D. SWIFT II

OWNERS ADDRESS: 142 KATHERINE WAY, YANKTON S.D. 57078

OWNERS DAYTIME PHONE#: 605 660 7979

- ✓ **Variance Application**
- ___ **Conditional Use Permit**
- ___ **Rezoning Permit**

DATE OF BUILDING PERMIT REQUEST: 4-6-18

DESCRIPTION OF BUILDING PERMIT: Accessory Structure

REASON FOR BUILDING PERMIT DENIAL: Maximum Accessory Structure Size

DATE OF DENIAL: 4-6-2018

JOB ADDRESS: 142 KATHERINE WAY, YANKTON S.D. 57078

LEGAL: 17 93 56 KABE 9 13 NW LOT 13 BLK 9 KABE EISEMAN'S ADDN. N2 NW4

TOWNSHIP: Utica South **SECTION:** 17

EXISTING USE OF PROPERTY: Residential

PRESENT ZONING CLASSIFICATION: R-2 Moderate

PROPOSED ZONING CLASSIFICATION: R-2 Moderate

AFFECTED SECTION OF ZONING ORDINANCE: Article 7 Section 705(1)

REASON FOR REQUEST: I WISH TO BUILD A 42' BY 64' CLEARY STEEL BUILDING WITH 10'2" WALLS TO HOUSE MY AUTO'S AND BOATS (AND WWII MILITARY VEHICLES) THIS WILL BE THE ONLY OUTBUILDING ON MY >4 ACRES.

LIST SPECIFIC HARDSHIPS:

40'x60'

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

- A) **Detailed Site Plan (Refer to handout)**
- B) **Location and Use of Adjacent Structures**
- C) **Application Fee(s)**

SCHEDULED FOR PLANNING COMMISSION ACTION (Date): 5-8-18
SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date): 6-5-18
***TENTATIVE DATE: Final date announced at Planning Commission Meeting:**

APPLICATION FEE: 100.00 **CHECK #:** 1451 **RECEIPT #:** ___

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent.

DON D. SWIFT II — **Name of Applicant** — 04/06/18 **Date**

Don D. Swift II — **Signature of Applicant/Owner** — 04/06/18 **Date**

YANKTON COUNTY
BUILDING PERMIT APPLICATION
Each building site must have a separate site plan

Applicant to complete numbered spaces only.

1. Job Address	142 Katherine Way Yankton, SD 17-93-56		
2. Legal Description of Construction Site	Lot 13, Blk 9, Kabeiseman's Add., N½ NE¼		
3. Owner	Mail Address	Zip	Phone
DON & ANNE SWIFT	142 KATHERINE WAY YANKTON SD	57078	605 660 7979
4. Contractor	Mail Address	Zip	Phone
Dan Kohler			
5. Architect or Designer	Mail Address	Zip	Phone
6. Type and Use of Building	42' X 64' GARAGE WITH 10'2" WALLS		
7. Class of Work (Check One)	☑ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove		
8. Describe Work:			
9. Valuation of Work: $	Mobile/Manufactured Home Tax Affidavit Y (N)		

Owner

Job Address

For Official Use Only-

SPECIAL CONDITIONS:

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN ONE HUNDRED EIGHTY (180) DAYS OR CONSTRUCTION IS NOT SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF ISSUANCE.
I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY ZONING ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING CONSTRUCTION ACTIVITIES OR THE USE OF ANY PROPERTY.

Signature of Contractor or Authorized Agent — Date

Don D. Oberth II — 04/06/18

Signature of Owner (if owner builder) — Date

BY THIS SIGNATURE, THE ZONING ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

PERMIT FEE	Check #
Type of Construction	Sewer/Water Certification of Service
Total Square Feet	Number of Stories
Zoning District	Number of Accessory Buildings
Number of Dwelling Units	Property/Parcel/Lot Size

For County Officials Use Only

When properly validated (in this space), this is your permit.

The above application is hereby approved.

Building Permit Number: _____

Post Construction? Y N

Zoning Administrator or Authorized Representative — Date

Yankton County South Dakota
Parcel Record Information

Parcel Number: 09.017.400.413 **Type:** RE **Year:** 2018

Address Info

Deed:
KRAUSE-SWIFT, ANNE
SWIFT, DON DEROY II

Contract:

Mailing:
KRAUSE-SWIFT, ANNE
142 KATHERINE WAY
YANKTON SD 57078

Legal Info

Location: 142 KATHERINE WAY **Section/Town/Range:** 17/ 93/ 56

Township: TOWNSHIP 93-56 **Addition/Block/Lot:** 17 93 56 **Acres:** 0.00

Legal Description: LOT 13 BLK 9 KABEISEMAN'S ADDN. N2 NW4

Values Info

Class	Description	Assessed	Equalized	Exempt
NACO	OWNER OCCUPIED	50,000	50,000	0
NAC1O	OWNER OCCUPIED	346,500	346,500	0
TOTAL		396,500		

Yankton County Planning Recommendation

The Yankton County Planning Commission recommends that the following be approved / denied by the Yankton County Commission or the Board of Adjustment.

Applicant: Don D. Swift II
Address: 142 Katherine Way Yankton
Hearing date: 5-8-18
Description: Variance Maximum accessory continuance

Action 5818C: Moved by Gudahl, second by Williams for a continuance (June 12) to allow the applicant to evaluate the building size, building materials and building aesthetics for a variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.
By roll call vote, all members present voted aye.
Motion carried

Michael Welch	Y	N	AB	Jeff Gudahl	Y	N	AB
Don Kettering	Y	N	AB	Carll Kretsinger	Y	N	AB
Debra Bodenstedt	Y	N	AB	Erik Koenigs	Y	N	AB
Butch Becker	Y	N	AB	Dan Guthmiller	Y	N	AB
Zane Williams	Y	N	AB				

Motion: Gudahl
Second: Williams

NOTIFICATION

April 26, 2018

Exhibit 1

Don D. Swift II
142 Katherine Way
Yankton, SD 57078

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 1,320 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date.
You are hereby notified. Please take a moment to review the notice of public hearing described below.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County South Dakota, at 7:10 P.M. on the 8th day of May, 2018, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:

Applicant is requesting a Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County.
Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

Don & Anne Swift,
Petitioner

OwnerAddress1	OwnerAddress2	OwnerAddress3
ADAMS, BRENT	2705 MULLIGAN DR	YANKTON SD 57078
BACKMAN, PATRICK	115 STARBOARD ST	YANKTON SD 57078
BARTH, GERALD	101 MARINA BLUFFS COURT #1	YANKTON SD 57078
BISGARD, CURTIS A	186 MARINA DELL AVE	YANKTON SD 57078
BLOM, GARY	115 PIKE ST	YANKTON SD 57078
BLOM, JOSHUA J	407 GREEN ST	YANKTON SD 57078
BRODERS, DANIEL	101 LEO'S DR	YANKTON SD 57078
BURNS, DAVID	101 MARINA BLUFFS CT #2	YANKTON SD 57078
CHAPMAN, ROBERT	112 SCENIC DR	YANKTON SD 57078
CHELOHA, RICKY J	5824 33 AVE	COLUMBUS NE 68601
CHRISTENSEN, LISA J TRUST	224 NORTH HWY 20	LAUREL NE 68745
CODY, TIMOTHY	190 MARINA DELL AVE	YANKTON SD 57078
DAYHUFF, JEFFREY W	113 EAST 3 ST	YANKTON SD 57078
DECKER, NICOLE	43408 KAISER RD	YANKTON SD 57078
DEERFIELD TRUCK & EQUIPMENT CO	608 WEST 3 ST	LAUREL NE 68745
DITTRICH, JEROME R	53482 835 RD	TILDEN NE 68781
DORCEY, SUZANNE M REV TRUST	118 SCENIC DR	YANKTON SD 57078
EAST RIVER ELECTRIC POWER	121 SE 1 ST - DRAWER E	MADISON SD 57042
EHLERS, MARVIN D REVOC TRUST	31129 435 AVE	YANKTON SD 57078
EICHFELD, AMY M	31102 435 AVE	YANKTON SD 57078
ENGELGAU, DONALD LIVING TRUST	PO BOX 215	YANKTON SD 57078
EVANS, MATTHEW L	31120 435 AVE	YANKTON SD 57078
FRANKFORTER FAMILY REV TRUST	191 MARINA DELL CIR	YANKTON SD 57078
FRAUENDORFER, MICHAEL A	31118 435 AVE	YANKTON SD 57078
FULLENKAMP, ROBERT J	221 RED CEDAR DR	YANKTON SD 57078
GOEDEN, MONTE	293 MARINA DELL AVE	YANKTON SD 57078
GOLDEN, RANDY S	144 SCENIC DR	YANKTON SD 57078
GRECKEL, HARLAN H	5720 S BALDWIN CT	SIOUX FALLS SD 57108
HEIDBRINK, JOSEPH	111 PORTSIDE LN	YANKTON SD 57078
HEINE REVOCABLE TRUST	326 MARINA DELL AVE	YANKTON SD 57078
HIXSON, LARRY REV TRUST	101 MARINA BLUFFS CT #4	YANKTON SD 57078
HOUCK, BRAD	31116 435 AVE	YANKTON SD 57078
HUITINK, JUDITH ANN	467 N ROYAL TROON	DAKOTA DUNES SD 57049
HUNT, MICHAEL B REV LIV TRUST	966 QUAIL HOLLOW CIR	DAKOTA DUNES SD 57049
IWAN, KEVIN L	260 MARINA DELL AVE	YANKTON SD 57078
JACOBSON, DARON	33284 GROUSE AVE	SIOUX CITY IA 51108
KABEISEMAN, KATHERINE M	142 SCENIC DR	YANKTON SD 57078
KABEISEMAN, LEONA M REV TRUST	43520 SD HWY 52	YANKTON SD 57078
KABEISEMAN, WILLIAM J & ROSE E	142 SCENIC DR	YANKTON SD 57078
KALTSULAS, THOMAS C	188 MARINA DELL AVE	YANKTON SD 57078
KEMPCKE, GORDON P LIV TRUST	15271 US HWY 75	BLAIR NE 68008
KORTAN, DARRELL	6101 WEST QUEENS CIR	SIOUX FALLS SD 57106
KRAUSE-SWIFT, ANNE L	142 KATHERINE WAY	YANKTON SD 57078
LEARING, GREGORY	8808 W DOCKSIDE DR	SIOUX FALLS SD 57107
LEWIS & CLARK RENTALS LLC	224 WEST 3 ST	YANKTON SD 57078
MARINA BLUFFS HOMEOWNERS ASSOC	101 MARINA BLUFFS CRT #7	YANKTON SD 57078

Exhibit 1A

MARINA DELL ESTATES ROAD DISTR	142 KATHERINE WAY	YANKTON SD 57078
MATSON, MARCIA A	252 MARINA DELL AVE	YANKTON SD 57078
MCINTOSH, GREGORY W	1250 COREY DR	BLAIR NE 68008
MERTENS REAL ESTATE LLC	127 CRESTVIEW DR	YANKTON SD 57078
MESSLER, LINDA S	214 MARINA DELL AVE	YANKTON SD 57078
MINES, SCOTT L	275 MARINA DELL AVE	YANKTON SD 57078
MUELLER, GREG A	161 MARINA DELL CIR	YANKTON SD 57078
ORTNER, STEVEN L	5045 330 ST	DANBURY IA 51019
PERSINGER, JOHN T LIVING TRUST	PO BOX 1000	YANKTON SD 57078
POESCHL, JEROME A REV LIV TRST	213 KATHERINE WAY	YANKTON SD 57078
POSCH, THOMAS J	234 MARINA DELL AVE	YANKTON SD 57078
POSPISIL, DANIEL D	144 SCENIC DR	YANKTON SD 57078
PYRON, HENRY ANDREW	226 MARINA DELL AVE	YANKTON SD 57078
RABINE, BETH A	606 DAVIS MOUNTAIN CIR	GEORGETOWN TX 78633
RYAN, JAMES A	304 MARINA DELL AVE	YANKTON SD 57078
SCHRAMM, JUSTIN M	114 PORTSIDE LN	YANKTON SD 57078
SCHROEDER, DUANE F TRUST	112 STARBOARD ST	YANKTON SD 57078
SCHULZE FAMILY REVOCABLE TRUST	964 PEBBLE BEACH DR	DAKOTA DUNES SD 57049
SMITH, GERALD	508 BROADWAY AVE	YANKTON SD 57078
SWANSON, TANNER	191 KATHERINE WAY	YANKTON SD 57078
SWIFT, DON DEROY II	142 KATHERINE WAY	YANKTON SD 57078
UHING, ROBERT H	103 MARINA BLUFFS CT #2E	YANKTON SD 57078
UPHOFF, JOHN	125 PORTSIDE LN	YANKTON SD 57078
VASTENHOUT, NICOLE	43408 KAISER RD	YANKTON SD 57078
VELTKAMP, DON	325 MARINA DELL AVE	YANKTON SD 57078
VOGT, CLARENCE M	112 EAST ST	YANKTON SD 57078
WAHL, JEFF REV TRUST	PO BOX 754	YANKTON SD 57078
WASS, ROSEMARY T A	31122 435 AVE	YANKTON SD 57078
WELLING, BRIAN	7519 WEST LEGACY ST	SIOUX FALLS SD 57106
WHITE CRANE ESTATES LLC	PO BOX 805	LAUREL NE 68745
WIEMAN, BRIAN A	119 MARINA BLUFFS RD	YANKTON SD 57078
WIERSMA, JASON H	147 MARINA DELL CIR	YANKTON SD 57078
WOODS, TODD B	108 STARBOARD ST	YANKTON SD 57078

Exhibit 1A

AFFIDAVIT OF MAILING

I, DON DEROY SWIFT II, hereby certify that on the 28th day of APRIL, 2018, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Public Hearing to all owners of real property lying within a .5 mile radius of the proposed project to the most recent address of the recipient known to your Affiant.

A true and correct copy of the Notice of Public Hearing notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

Dated the 7 day of May, 2018.

X Don DeRoy Swift II
(Name)
Affiant

Subscribed and sworn to before me this 7 day of May, 2018.

Denise L Wubben
Notary Public - South Dakota
My commission expires: July 1, 2023

(SEAL) DENISE L. WUBBEN NOTARY PUBLIC SOUTH DAKOTA

NOTIFICATION

July 3, 2018

Exhibit #2.

Don D. Swift II
142 Katherine Way
Yankton, SD 57078

Dear Yankton County Property Owner:

The Yankton County Zoning Ordinance requires written notification describing a specific action be sent to the owners of real property lying within 1,320 feet of the property on which the below described action is proposed. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than 10 days prior to the hearing date.
You are hereby notified. Please take a moment to review the notice of public hearing described below.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Yankton County Board of Adjustment, Yankton County South Dakota, at 4:30 P.M. on the 17th day of July, 2018,** at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Said hearing is to consider the following:

Applicant is requesting a Variance of Maximum Accessory Structure Size Requirement from 1,200 sq. ft. with twelve (12) foot sidewalls to 2,688 sq. ft. with ten foot two inches (10'2") foot sidewalls in a Medium Density Rural Residential District (R-2) in Yankton County.
Said property is legally described as Lot 13, Block 9, Kabeiseman's Addition, N1/2, NW1/4, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 142 Katherine Way, Yankton, SD.

The application may be reviewed at the Zoning Administrators office, Yankton County Government Center, 321 West Third St., Yankton, S.D.

Sincerely,

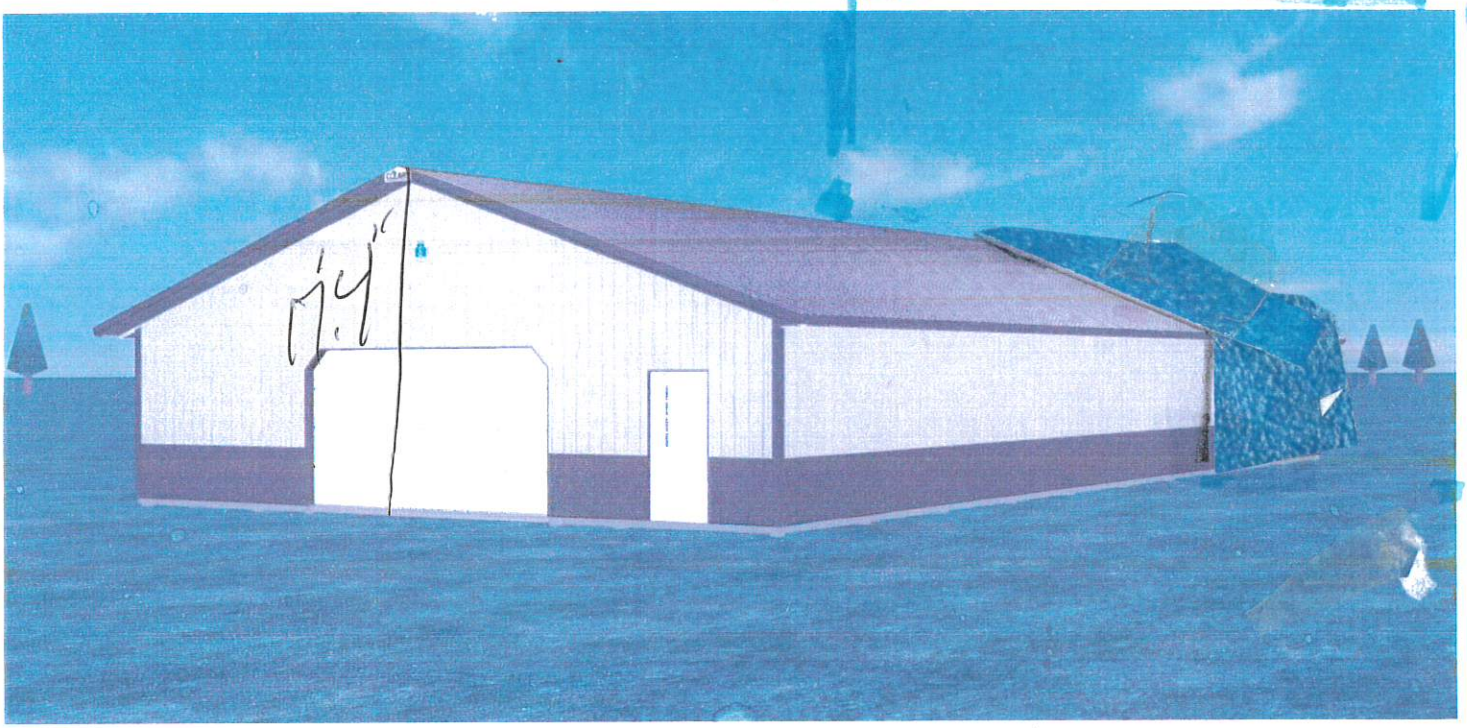
Don & Anne Swift,
Petitioner

OwnerAddress1	OwnerAddress2	OwnerAddress3
ADAMS, BRENT	2705 MULLIGAN DR	YANKTON SD 57078
BACKMAN, PATRICK	115 STARBOARD ST	YANKTON SD 57078
BARTH, GERALD	101 MARINA BLUFFS COURT #1	YANKTON SD 57078
BISGARD, CURTIS A	186 MARINA DELL AVE	YANKTON SD 57078
BLOM, GARY	115 PIKE ST	YANKTON SD 57078
BLOM, JOSHUA J	407 GREEN ST	YANKTON SD 57078
BRODERS, DANIEL	101 LEO'S DR	YANKTON SD 57078
BURNS, DAVID	101 MARINA BLUFFS CT #2	YANKTON SD 57078
CHAPMAN, ROBERT	112 SCENIC DR	YANKTON SD 57078
CHELOHA, RICKY J	5824 33 AVE	COLUMBUS NE 68601
CHRISTENSEN, LISA J TRUST	224 NORTH HWY 20	LAUREL NE 68745
CODY, TIMOTHY	190 MARINA DELL AVE	YANKTON SD 57078
DAYHUFF, JEFFREY W	113 EAST 3 ST	YANKTON SD 57078
DECKER, NICOLE	43408 KAISER RD	YANKTON SD 57078
DEERFIELD TRUCK & EQUIPMENT CO	608 WEST 3 ST	LAUREL NE 68745
DITTRICH, JEROME R	53482 835 RD	TILDEN NE 68781
DORCEY, SUZANNE M REV TRUST	118 SCENIC DR	YANKTON SD 57078
EAST RIVER ELECTRIC POWER	121 SE 1 ST - DRAWER E	MADISON SD 57042
EHLERS, MARVIN D REVOC TRUST	31129 435 AVE	YANKTON SD 57078
EICHFELD, AMY M	31102 435 AVE	YANKTON SD 57078
ENGELGAU, DONALD LIVING TRUST	PO BOX 215	YANKTON SD 57078
EVANS, MATTHEW L	31120 435 AVE	YANKTON SD 57078
FRANKFORTER FAMILY REV TRUST	191 MARINA DELL CIR	YANKTON SD 57078
FRAUENDORFER, MICHAEL A	31118 435 AVE	YANKTON SD 57078
FULLENKAMP, ROBERT J	221 RED CEDAR DR	YANKTON SD 57078
GOEDEN, MONTE	293 MARINA DELL AVE	YANKTON SD 57078
GOLDEN, RANDY S	144 SCENIC DR	YANKTON SD 57078
GRECKEL, HARLAN H	5720 S BALDWIN CT	SIOUX FALLS SD 57108
HEIDBRINK, JOSEPH	111 PORTSIDE LN	YANKTON SD 57078
HEINE REVOCABLE TRUST	326 MARINA DELL AVE	YANKTON SD 57078
HIXSON, LARRY REV TRUST	101 MARINA BLUFFS CT #4	YANKTON SD 57078
HOUCK, BRAD	31116 435 AVE	YANKTON SD 57078
HUITINK, JUDITH ANN	467 N ROYAL TROON	DAKOTA DUNES SD 57049
HUNT, MICHAEL B REV LIV TRUST	966 QUAIL HOLLOW CIR	DAKOTA DUNES SD 57049
IWAN, KEVIN L	260 MARINA DELL AVE	YANKTON SD 57078
JACOBSON, DARON	33284 GROUSE AVE	SIOUX CITY IA 51108
KABEISEMAN, KATHERINE M	142 SCENIC DR	YANKTON SD 57078
KABEISEMAN, LEONA M REV TRUST	43520 SD HWY 52	YANKTON SD 57078
KABEISEMAN, WILLIAM J & ROSE E	142 SCENIC DR	YANKTON SD 57078
KALTSULAS, THOMAS C	188 MARINA DELL AVE	YANKTON SD 57078
KEMPCKE, GORDON P LIV TRUST	15271 US HWY 75	BLAIR NE 68008
KORTAN, DARRELL	6101 WEST QUEENS CIR	SIOUX FALLS SD 57106
KRAUSE-SWIFT, ANNE L	142 KATHERINE WAY	YANKTON SD 57078
LEARING, GREGORY	8808 W DOCKSIDE DR	SIOUX FALLS SD 57107
LEWIS & CLARK RENTALS LLC	224 WEST 3 ST	YANKTON SD 57078
MARINA BLUFFS HOMEOWNERS ASSOC	101 MARINA BLUFFS CRT #7	YANKTON SD 57078

Exhibit #2

MARINA DELL ESTATES ROAD DISTR	142 KATHERINE WAY	YANKTON SD 57078
MATSON, MARCIA A	252 MARINA DELL AVE	YANKTON SD 57078
MCINTOSH, GREGORY W	1250 COREY DR	BLAIR NE 68008
MERTENS REAL ESTATE LLC	127 CRESTVIEW DR	YANKTON SD 57078
MESSLER, LINDA S	214 MARINA DELL AVE	YANKTON SD 57078
MINES, SCOTT L	275 MARINA DELL AVE	YANKTON SD 57078
MUELLER, GREG A	161 MARINA DELL CIR	YANKTON SD 57078
ORTNER, STEVEN L	5045 330 ST	DANBURY IA 51019
PERSINGER, JOHN T LIVING TRUST	PO BOX 1000	YANKTON SD 57078
POESCHL, JEROME A REV LIV TRST	213 KATHERINE WAY	YANKTON SD 57078
POSCH, THOMAS J	234 MARINA DELL AVE	YANKTON SD 57078
POSPISIL, DANIEL D	144 SCENIC DR	YANKTON SD 57078
PYRON, HENRY ANDREW	226 MARINA DELL AVE	YANKTON SD 57078
RABINE, BETH A	606 DAVIS MOUNTAIN CIR	GEORGETOWN TX 78633
RYAN, JAMES A	304 MARINA DELL AVE	YANKTON SD 57078
SCHRAMM, JUSTIN M	114 PORTSIDE LN	YANKTON SD 57078
SCHROEDER, DUANE F TRUST	112 STARBOARD ST	YANKTON SD 57078
SCHULZE FAMILY REVOCABLE TRUST	964 PEBBLE BEACH DR	DAKOTA DUNES SD 57049
SMITH, GERALD	508 BROADWAY AVE	YANKTON SD 57078
SWANSON, TANNER	191 KATHERINE WAY	YANKTON SD 57078
SWIFT, DON DEROY II	142 KATHERINE WAY	YANKTON SD 57078
UHING, ROBERT H	103 MARINA BLUFFS CT #2E	YANKTON SD 57078
UPHOFF, JOHN	125 PORTSIDE LN	YANKTON SD 57078
VASTENHOUT, NICOLE	43408 KAISER RD	YANKTON SD 57078
VELTKAMP, DON	325 MARINA DELL AVE	YANKTON SD 57078
VOGT, CLARENCE M	112 EAST ST	YANKTON SD 57078
WAHL, JEFF REV TRUST	PO BOX 754	YANKTON SD 57078
WASS, ROSEMARY T A	31122 435 AVE	YANKTON SD 57078
WELLING, BRIAN	7519 WEST LEGACY ST	SIOUX FALLS SD 57106
WHITE CRANE ESTATES LLC	PO BOX 805	LAUREL NE 68745
WIEMAN, BRIAN A	119 MARINA BLUFFS RD	YANKTON SD 57078
WIERSMA, JASON H	147 MARINA DELL CIR	YANKTON SD 57078
WOODS, TODD B	108 STARBOARD ST	YANKTON SD 57078

42'x64'x10'2" eave (17'2" peak height)



09.008.200.364
09.008.200.362
09.017.400.415
09.017.500.214
UTICA SOUTH
93 N - 56 W
09.017.400.413
17
09.017.400.418

09.008.300.130
09.008.200.364
8
09.008.200.362
N KATHERINE WAY
09.017.400.403
09.017.500.214
142 KATHERINE WAY
UTICA SOUTH
93 N - 56 W
09.017.400.413
17
09.017.400.402
09.017.400.418
09.017.400.405
09.017.400.419

Exhibit #4

Pat Garrity

From: Intuvio Solutions CMS <no-reply@intuviosolutions.com>
Sent: Sunday, May 6, 2018 9:20 PM
To: Pat Garrity
Subject: New Contact Us Message

You have received a Contact Us Message from your website.

Name: Dan & Deb Broders
Address: 101 Leo's Drive
City/State/Zip: YANKTON, South Dakota 57078
Email: d.broders@vyn.midco.net
Phone: 6056658483
Message:
We would like to comment on a public hearing to be held on Tuesday, May 8, 2018, to be held before the Yankton County Planning Commission. As a property owner we were given notification by Don & Anne Swift of their request for a variance of maximum accessory structure size requirement. We feel the structure they are planning is much too large for our residential neighborhood. Also, it is our understanding the structure will be built of metal which is not consistent with the quality of Marina Dell. Allowing such a structure to be built in this area will open the door for more of this sort of activity and eventually impact the neighborhood in a negative way. Please convey our opposition to this request to the commission. Thank you.

Pat Garrity

From: County Line Insurance <countyinsurance@cableone.net>
Sent: Tuesday, May 8, 2018 3:02 PM
To: Pat Garrity
Subject: RE: Covenant

Importance: High

ATT: Pat Garitty

We are against the request to build a larger than the covenant allows (900' and anything larger has to be attached to the house) building. The covenant also states that no metal buildings shall be allowed. This structure they are requesting will be three times larger than stated in the covenant. We are not oppose to people adding structures if they follow the by-laws-no metal buildings and similar to architecture design and not to exceed 14' maximum height. We purchased lot a year ago. We bought in this area because no metal buildings were allowed. And if this were to be approved it would lead to other structures and challenges to the covenant. This in turn will lead to diminishment of value of our property and property around us. This has been developed with a peaceful and quiet serenity as developers in initial stages had planned.

Sincerely,

Jerry Dittrich
Mary Dittrich
292 Marina Del Avenue
Yankton, SD 57078

Pat Garrity

From: Intuvio Solutions CMS <no-reply@intuviosolutions.com>
Sent: Monday, June 11, 2018 10:52 AM
To: Pat Garrity
Subject: New Contact Us Message

You have received a Contact Us Message from your website.

Name: Rick Cheloha
Address: 2822 19th St.
City/State/Zip: Columbus, Nebraska 68601
Email: rjchelo@loup.com
Phone: 402-910-8905
Message:
Re: Swift Variance at 142 Katherine Way, Yankton County, SD Mr. Garrity, My wife and I have the home under construction at 284 Marina Dell Ave near the site of this requested variance. We are opposed to this variance as requested because it more than doubles the sq. footage size requirement. we would consider it being a little larger but not double. We are also opposed as according to how it was presented it does not meet the covenants of our addition. Others in our area have followed the zoning and the covenants and this project should also. Please let me know what the status of this is and what the next steps are. Thanks, Rick and Patty Cheloha

Pat Garrity

From: wiersma.ruth@gmail.com on behalf of Ruth Wiersma <jrwiersma@hotmail.com>
Sent: Tuesday, June 12, 2018 3:01 PM
To: Pat Garrity
Subject: Don & Anne Swift variance

RE: Request for a Variance of Maximum Accessory Structure Size Requirement on property: Lot 13, Block 9, Kabeiseman's Addition, N ½, NW1/4, S17-T93N-R56W, Yankton County, SD. (142 Katherine Way, Yankton, SD – Don & Anne Swift)

I respectfully object to the request for a variance for the above-listed property. I refer to the "Declarations of Restrictions and Covenants To Run With The Land" that pertain to this specific piece of property which reads in section (1) "no building whatever... with no more than one outbuilding, which outbuilding shall be a garage no larger than a two-car garage, shall be erected, placed, or permitted... and in no event shall such outbuilding be larger than 30 feet x 40 feet... and such outbuilding including the garage shall conform in design and architectural construction to the design of the permitted dwelling on said conveyed real estate." Although I do not know the specific design of the structure, there are other references to structures in (7) "... no...structure of any kind of what is commonly known as "boxed" or "sheet metal" construction shall be built... unless the same shall be covered over on all its outside walls...." ; and in (11) " ...A garage or other outbuilding shall be of construction and architectural type similar in design to the residence structure." In (13) "These restrictions shall operate as covenants running with the land for the benefit of any and all persons who may now own property in... Marina Del Estates Two."

My first objection is to the size which is more than double the size allowed in the Covenants which states in no event can an additional structure to the property be larger than 1200 sq. feet. This sets a very serious and dangerous precedent for our Marina Del Estates development where others will then believe it is their right also to follow suit and soon the development will contain many of these structures. I do not like the direction this may be taking us.

My other objection is regarding the type of building, and although I have not seen drawings or pictures of a proposed finished structure, I am imagining that it is a "storage unit/machine shed" type of building. So if it is not of that type of structure, I apologize for my preconceived notion. The covenants also refer to the construction type, and that "boxed" or "sheet metal" buildings are not permitted unless all outside walls are completely covered with appropriate stucco, brick or stone. And the structure needs to conform to the construction and architectural type of the house on the property. Again, not having seen pictures, I would submit that it would seem pretty hard to conform a 2688 sq ft. sheet metal building to the architectural design of a house!

Respectfully submitted,

Jason & Ruth Wiersma

Jason & Ruth Wiersma
147 Marina Dell Circle
Yankton, SD 57078

Pat@co.yankton.sd.us

Pat Garrity

June 12, 2018

RE: Request for a Variance of Maximum Accessory Structure Size Requirement on property: Lot 13, Block 9, Kabeiseman's Addition, N ½, NW1/4, S17-T93N-R56W, Yankton County, SD. (142 Katherine Way, Yankton, SD – Don & Anne Swift)

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Respectfully submitted,

Marcia Matson

Marcia Matson
252 Marina Del Avenue
Yankton, SD 57078

Exhibit #5

Maximum Accessory Structures

DATE	APPLICANT	ADDRESS	ZONING	ALLOWED	REQUESTED	INCREASE	
08/08/2017	Marina Bluffs Association	101 Marina Bluffs Ct.	R-2	1200	6600	450%	DENIED
01/09/2018	Kneifl Properties	31072 434th Ave.	R-1	2000	6768	238%	DENIED
03/10/2009	Rodger Harts	3208 SD Hway 314	R-1	2000	6200	210%	
08/10/2010	Jason Sedlacek	30975 435th Ave.	R-1	2000	6000	200%	
10/13/2015	Ben Jensen	158 Hidden Hollow Dr.	R-1	2000	6000	200%	
07/14/2015	James Staley	1404 Sunrise Dr.	R-3	800	2340	193%	
11/14/2017	P.R. Olson	43423 SD Hway 50	R-2	1200	3360	180%	
03/08/2011	Rodger Harts	3208 SD Hway 314	R-1	2000	5000	150%	
03/08/2016	Allen Eilers	1600 Sunrise Dr.	R-3	800	1680	110%	
06/09/2009	Ben Jensen	158 Hidden Hollows Dr.	R-1	2000	4000	100%	DENIED
07/10/2012	Steve Zimmerman	4412 SD Hway 314	R-2	1200	2400	100%	
04/12/2016	Richard Bahm	30965 434th Ave.	R-2	1200	2400	100%	
11/09/2016	Terry Tennant	43381 Whitetail Dr.	R-1	2000	3780	89%	
08/13/2013	Rick Larson	2603 Moonlight Dr.	R-2	1200	2016	68%	
09/11/2012	Brooks Ugofsky	43394 310th St.	R-2	1200	2000	67%	
05/12/2015	John Fitzgerald	30934 434th Ave.	R-2	1200	2000	67%	
07/11/2017	David Willman	30909 Sandbar Dr.	R-2	1200	2000	67%	
09/13/2016	Christopher Happe	268 Deerfield Dr.	PUD	2000	3250	63%	
06/14/2011	Wayne Wurth	119 Nome St.	R-3	800	1176	47%	
10/08/2013	Larry Chester	180 Ridgeview Dr. Tabor	R-2	1200	1620	35%	
06/14/2016	Mark Plambeck	238 Lakeview Terrace	R-2	1200	1600	33%	
05/12/2015	Perry Volden	118 Badger Dr.	R-1	2000	2560	28%	
04/12/2016	Darren Tuch	202 Cedar Hill Rd.	R-1	2000	2520	26%	
03/14/2017	Jared Schrempp	186 Marsh Ridge Rd.	R-1	2000	2520	26%	
06/09/2015	Randy DeRaad	280 Lakeview Terrace	R-2	1200	1440	20%	
09/12/2017	Joe Eickoff	109 Wayne St.	R-3	800	936	17%	
10/08/2013	Dave Thomas	3109 West 11th	R-2	1200	1344	12%	

Maximum Accessory Structures

DATE	APPLICANT	ADDRESS	ZONING	ALLOWED	REQUESTED	INCREASE	
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06/09/2009	Ben Jensen	158 Hidden Hollows Dr.	R-1	2000	4000	100%	DENIED
08/10/2010	Jason Sedlacek	30975 435th Ave.	R-1	2000	6000	200%	
03/08/2011	Rodger Harts	3208 SD Hway 314	R-1	2000	5000	150%	
06/14/2011	Wayne Wurth	119 Nome St.	R-3	800	1176	47%	
07/10/2012	Steve Zimmerman	4412 SD Hway 314	R-2	1200	2400	100%	
09/11/2012	Brooks Ugofsky	43394 310th St.	R-2	1200	2000	67%	
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10/08/2013	Larry Chester	180 Ridgeview Dr. Tabor	R-2	1200	1620	35%	
10/08/2013	Dave Thomas	3109 West 11th	R-2	1200	1344	12%	
05/12/2015	Perry Volden	118 Badger Dr.	R-1	2000	2560	28%	
05/12/2015	John Fitzgerald	30934 434th Ave.	R-2	1200	2000	67%	
06/09/2015	Randy DeRaad	280 Lakeview Terrace	R-2	1200	1440	20%	
07/14/2015	James Staley	1404 Sunrise Dr.	R-3	800	2340	193%	
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04/12/2016	Richard Bahm	30965 434th Ave.	R-2	1200	2400	100%	
04/12/2016	Darren Tuch	202 Cedar Hill Rd.	R-1	2000	2520	26%	
06/14/2016	Mark Plambeck	238 Lakeview Terrace	R-2	1200	1600	33%	
09/13/2016	Christopher Happe	268 Deerfield Dr.	PUD	2000	3250	63%	
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07/11/2017	David Willman	30909 Sandbar Dr.	R-2	1200	2000	67%	
08/08/2017	Marina Bluffs Association	101 Marina Bluffs Ct.	R-2	1200	6600	450%	DENIED
09/12/2017	Joe Eickoff	109 Wayne St.	R-3	800	936	17%	
11/14/2017	P.R. Olson	43423 SD Hway 50	R-2	1200	3360	180%	
01/09/2018	Kneifl Properties	31072 434th Ave.	R-1	2000	6768	238%	DENIED

Yankton County
Amendment to the Zoning Ordinance-
Ordinance 16

An Ordinance to amend Articles 6, 7 and 8 of the Yankton County Zoning Ordinance: General Provisions, Sections 605, 705 and 805 Permitted Accessory Uses and Structures

The County of Yankton, State of South Dakota Ordains:

Section 1. Amendment of Articles 6, 7 and 8, Permitted Accessory Uses and Structures of the Yankton County Zoning Ordinance (Ordinance 16.)

Subsections A of Sections 605, 705 and 805 of the Yankton County Zoning Ordinance (Ordinance 16) are hereby amended to read in their entirety as follows:

> **Article 6, Section 605 – Permitted Accessory Uses and Structures**
> 1. A (one) 2,000 square foot accessory building. Side wall height shall not exceed fourteen (14) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing.
>
> **Article 7, Section 705 – Permitted Uses and Accessory Structures**
> 1. A (one) 1200 square foot accessory structure. Side wall height shall not exceed twelve (12) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing.
>
> **Article 8, Section 805 – Permitted Uses and Accessory Structures**
> 1. A (one) 800 square foot accessory structure. Side wall height shall not exceed ten (10) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing.

Section 2. Amendment of Definitions Section of the Yankton County Zoning Ordinance (Ordinance 16.)

The Definitions are hereby amended to read in their entirety as follows:

> **Side wall** – The measurement from the highest point of the finished floor at grade to the height of the highest point of wall framing.

Section 3. Separability.

Should any article, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part to be unconstitutional or invalid. The Yankton County Board of County Commissioners hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact

that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 4. Conflicts.

If any of the provisions of the Yankton County Zoning Ordinance (Ordinance 16) conflicts with these Zoning Ordinance Amendments, then the provisions of the Zoning Ordinance Amendments shall control.

Section 5. Effective Date.

This Ordinance shall become effective twenty (20) days after being published in a newspaper of general circulation within the County.

County of Yankton

By: _____ By: _____

Allen Sinclair, Chairman Paula N. Jones, Auditor

Adoption date: _____ Effective Date: _____

Sept. 22, 2005

Don and AnneSwift have my permission to build a 42' x 64' x 10'2" with a peak of 17' 2" garage on the north half of their lot #13 in Block 9, Kabeiseman Addition.

Lisa Christensen date 4-20-18

Don and Ann Swift have my permission to build a 42' x 64' x 10'2" with a peak of 17' 2" garage on the north half of their lot #13 in Block 9, Kabeiseman Addition.

Rosemary Tarsell date 4-18-18

Don and AnneSwift have my permission to build a 42' x 64' x 10'2" with a peak of 17' 2" garage on the north half of their lot #13 in Block 9, Kabeiseman Addition.

Donna Ryan 4-18-18

James A Ryan date 4-18-18

Don and Anne Swift have my permission to build a 42' x 64' x 10'2" with a peak of 17' 2" garage on the north half of their lot #13 in Block 9, Kabeiseman Addition.

Michael Hunt

_____ date 4/18/18

Re: garage proposal

Don Veltkamp <vitolv@msn.com>

Tue 4/17/2018 11:14 AM

To:Anne <annelois71@hotmail.com>;

Don and Ann Swift have my permission to build the proposed garage.

Get Outlook for Android

From: Anne <annelois71@hotmail.com>
Sent: Tuesday, April 17, 2018 6:27:40 AM
To: vitolv@msn.com
Subject: garage proposal

Hi Don,
Here are the pictures we talked about.
Could you please email back your permission, some thing to the effect that Don and Anne Swift have my permission to build a 42 x 64 x 10' 2" with a 17.2' peak garage on the north half of lot 13.
Thank you so much! We are on a deadline. Will be glad to give you a tour when your are in the area.
Don Swift

Sent from Outlook

Pat Garrity

From: Mike Marlow <mike@mwhlawyers.com>
Sent: Friday, June 15, 2018 11:54 AM
To: Pat Garrity
Cc: Beau Barrett; Deb Barr; Don Swift
Subject: Swift Variance Request

This message was sent securely using Zix®

This confirms our telephone conference today. I will be out of the country on July 3 and cannot attend the hearing before the Board of Adjustment. The Swifts request the hearing be postponed until July 17, which is the next available meeting as I understand it. Thank you for considering this request.

Michael F. Marlow
Marlow, Woodward & Huff, Prof. LLC
P.O. Box 667
200 West Third Street
Yankton, SD 57078
605-665-5009
605-665-4788 fax

This message was secured by Zix®.

YANKTON COUNTY
BUILDING PERMIT APPLICATION

Each building site must have a separate site Plan

09.018.100.100

Applicant to complete numbered spaces only.

1. **Job Address**	104 Welkom Dr Yankton SD 57078			
2. **Legal Description of Construction Site**	Lot 4 of Block 3 Lawoverlook Sub. In the SE¼ of the NE¼, and the SW¼ of the NE¼ of section 18, Township 93N, Range 56 west of the 5th PM			
3. **Owner**	**Mail Address**		**Zip**	**Phone**
Rick De Jager	116 Okie Dokie Ln		57078	605-665-3302
4. **Contractor**	**Mail Address**		**Zip**	**Phone**
Rick De Jager	116 Okie Dokie Ln		57078	605-665-3302
5. **Architect or Designer**	**Mail Address**		**Zip**	**Phone**
Rick De Jager	116 Okie Dokie Ln		57078	605-665-3302

6. **Type and Use of Building**

Steel Insulated 70x100 for Utilities

7. **Class of Work (Check One)** ☑ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove

8. **Describe Work:** Concrete Pylons for supports, Steel span overhead door.

9. **Valuation of Work:** $ 65,000

Owner Lawl DeJager

Job Address 104 Welkom Dr. Yankton SD

For Official Use Only-

SPECIAL CONDITIONS: Area to be used for & dedicated to public use as an open area and common-

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:
TT	TT	TT

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN ONE HUNDRED EIGHTY (180) DAYS OR CONSTRUCTION IS NOT SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF ISSUANCE.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY ZONING ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING CONSTRUCTION ACTIVITIES OR THE USE OF ANY PROPERTY.

Signature of Contractor or Authorized Agent — Date: 8-22-04

Signature of Owner (if owner builder) — Date: 8-22-04

PERMIT FEE 55.00 **Check #** 4408

Type of Construction New	**Sewer/Water Certification of Service** N/A
Total Square Feet 7000	**Number of Stories** 1
Zoning District R2	**Number of Accessory Buildings** N/A
Number of Dwelling Units N/A	**Property/Parcel/Lot Size** 1.3ac±

For County Officials Use Only

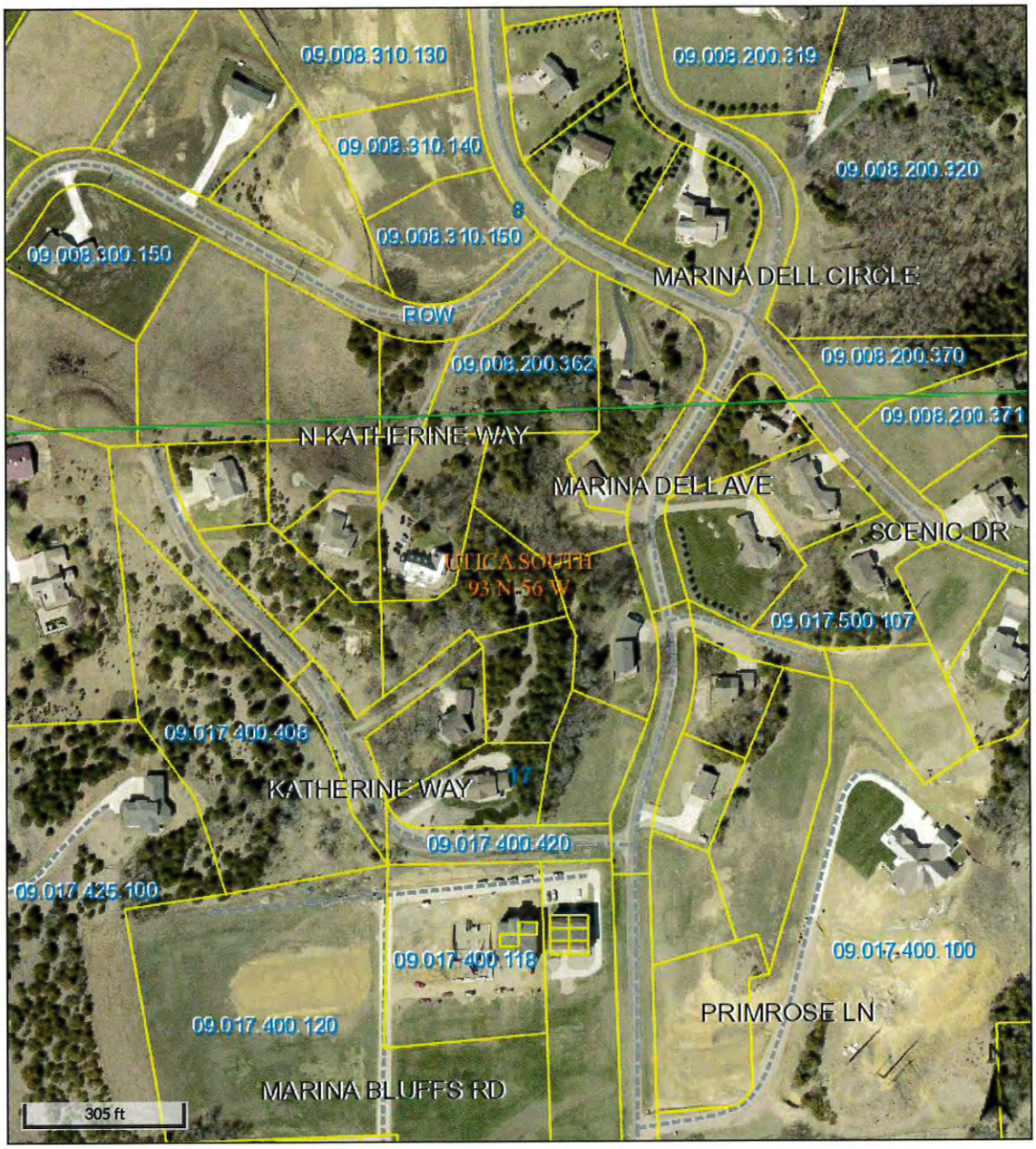
When properly validated (in this space), this is your permit.

The above application is hereby approved.

Building Permit Number: 401 **PCP?** Y (N)

Zoning Administrator or Authorized Representative — Date: 8-24-04

Beacon™ Yankton County, SD



Overview

Legend

- Townships
- Sections
- Parcels
- City Limits
- Streets and Roads

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 6/12/2018
Last Data Uploaded: 5/18/2018 5:12:51 AM

Developed by

Beacon™ Yankton County, SD

Summary

Parcel ID	09.017.400.413
Property Address	142 KATHERINE WAY
Sec/Twp/Rng	17/93/56
Brief Tax Description	LOT 13 BLK 9 KABEISEMAN'S ADDN. N2 NW4 (Note: Not to be used on legal documents)
Comments	
Class	NACO
Tax District	17633R
Gross Acres	0.00
$/Acre	N/A

Owners

Deed Holder
KRAUSE-SWIFT, ANNE

142 KATHERINE WAY
YANKTON SD 57078

Deed Holder
SWIFT, DON DEROY II

Land

Lot Dimensions	Regular Lot: 0 x 0.00
Lot Area	1.0100 Acres; 43995 SF

DISCLAIMER: ALL LOT SIZES SHOULD BE VERIFIED WITH THE REGISTER OF DEEDS.

Buildings

Residential Dwelling	
Occupancy	Single family
Year Built	1994
Style	Single Family 2 Story
Exterior Material	Wood siding
Roof Type	Gable
Roof Material	Asphalt shingles
Interior Walls	Drywall
Predominate Floor Covs	Carpet, Ceramic tile, None
Stories/Floors	2
Above-Grade Living Area	4191 SF
Attic Type	None
Number of Rooms	12
Number of Bedrooms	7
Basement Type	Full Bsmt
Basement Area	2263 SF
Basement Finished Area	1178 SF
Number of Bathrooms	3 Fix(4); 4 Fix(1); 5 Fix(1);
Central Air	Y
Fireplace	Y
Heat Type	Forced hot air-gas
Porches	
Decks	2474 SF
Garages	Attached: 526 SF;
Other Features	

Valuation

	2018	2017	2016	2015	2014	2013
+ NACO	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000
+ NAC1O	$346,500	$346,500	$346,500	$346,500	$346,500	$384,000
= Total Value	**$396,500**	**$396,500**	**$396,500**	**$396,500**	**$396,500**	**$434,000**

DISCLAIMER: ALL VALUES ARE BASED ON FULL AND TRUE VALUES BEFORE COUNTY BOARD ADJUSTMENTS, ELDERLY FREEZE, DISCRETIONARY AND EXEMPTIONS.

Taxation

2017	1st Half	2nd Half	Full Year
Due Date	April 30, 2018	October 31, 2018	
Tax Billed	2,745.36	2,745.36	5,490.72

2017	1st Half	2nd Half	Full Year
Specials Etc.	0.00	0.00	0.00
Amount Paid	2,745.36	2,745.36	5,490.72
Amount Due	0.00	0.00	0.00
Payment Status	Paid	Paid	
Date Paid	01/03/2018	01/03/2018	

2016	1st Half	2nd Half	Full Year
Due Date	April 30, 2017	October 31, 2017	
Tax Billed	2,816.46	2,816.46	5,632.92
Specials Etc.	0.00	0.00	0.00
Amount Paid	2,816.46	2,816.46	5,632.92
Amount Due	0.00	0.00	0.00
Payment Status	Paid	Paid	
Date Paid	04/07/2017	11/20/2017	

2015	1st Half	2nd Half	Full Year
Due Date	April 30, 2016	October 31, 2016	
Tax Billed	2,973.06	2,973.06	5,946.12
Specials Etc.	0.00	0.00	0.00
Amount Paid	2,973.06	2,973.06	5,946.12
Amount Due	0.00	0.00	0.00
Payment Status	Paid	Paid	
Date Paid	04/22/2016	10/10/2016	

2014	1st Half	2nd Half	Full Year
Due Date	April 30, 2015	October 31, 2015	
Tax Billed	3,052.42	3,052.42	6,104.84
Specials Etc.	0.00	0.00	0.00
Amount Paid	3,052.42	3,052.42	6,104.84
Amount Due	0.00	0.00	0.00
Payment Status	Paid	Paid	
Date Paid	04/10/2015	10/14/2015	

2013	1st Half	2nd Half	Full Year
Due Date	April 30, 2014	October 31, 2014	
Tax Billed	3,363.74	3,363.74	6,727.48
Specials Etc.	0.00	0.00	0.00
Amount Paid	3,363.74	3,363.74	6,727.48
Amount Due	0.00	0.00	0.00
Payment Status	Paid	Paid	
Date Paid	04/30/2014	10/10/2014	

Photos

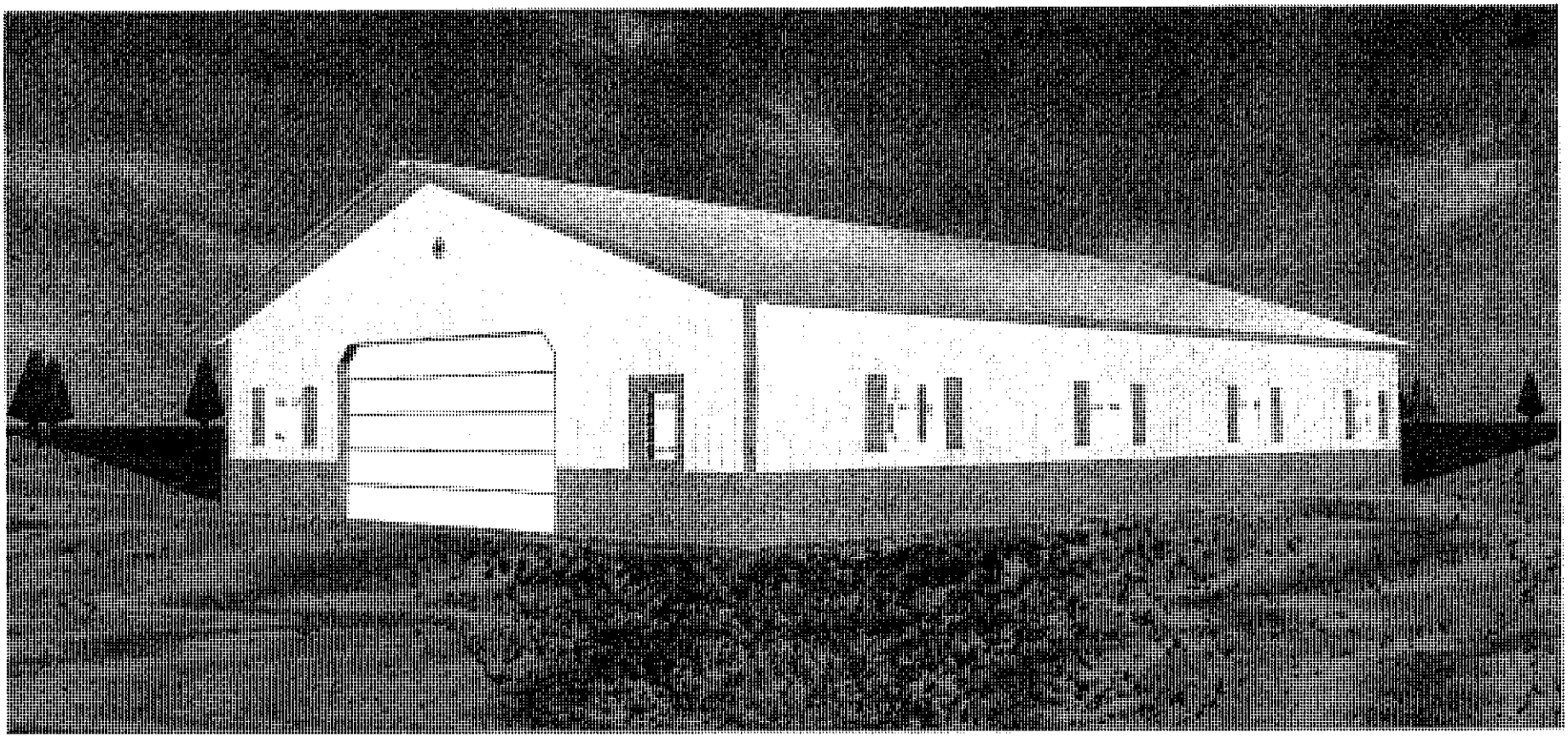
Sketches

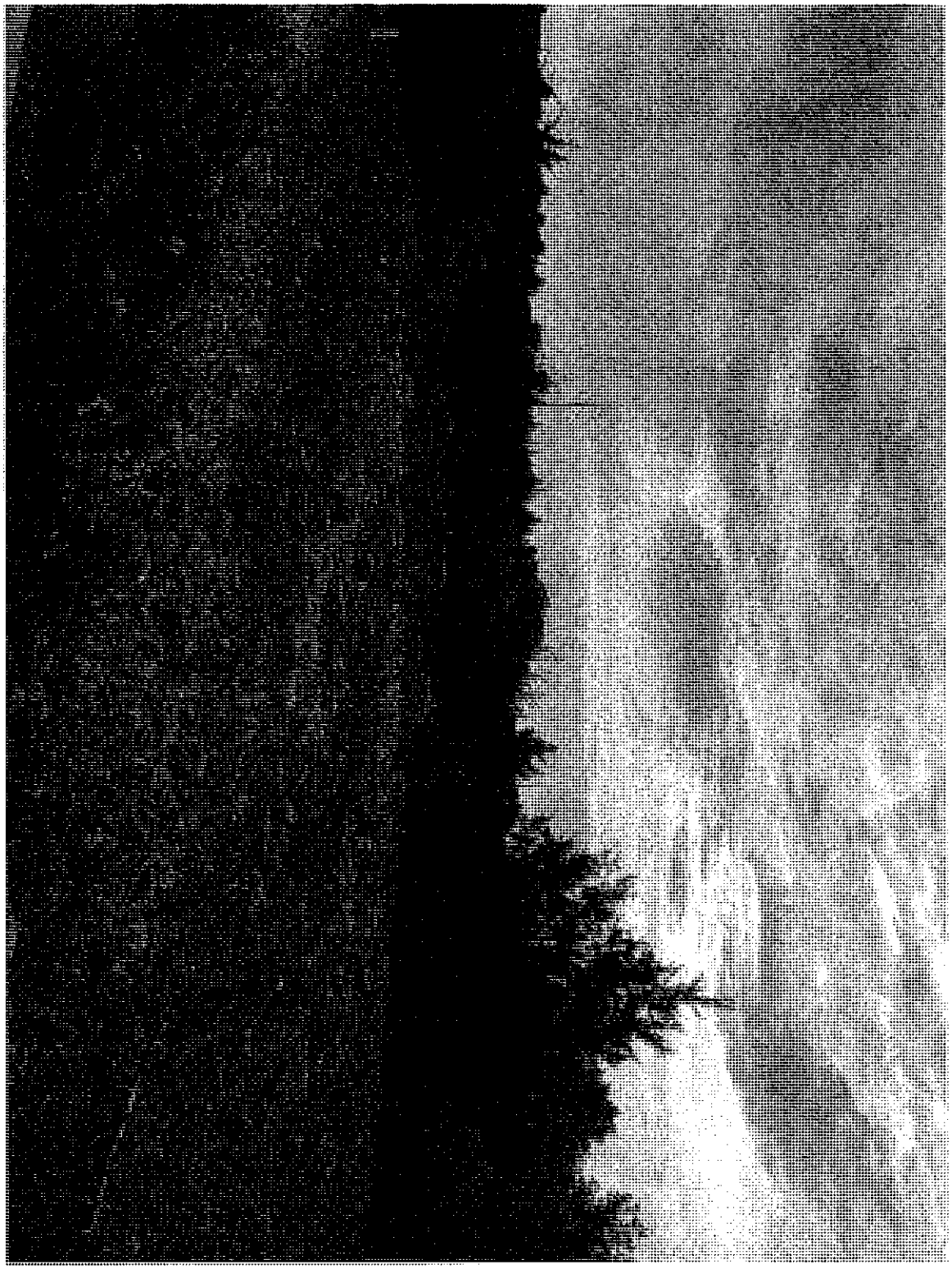
Exhibit #3

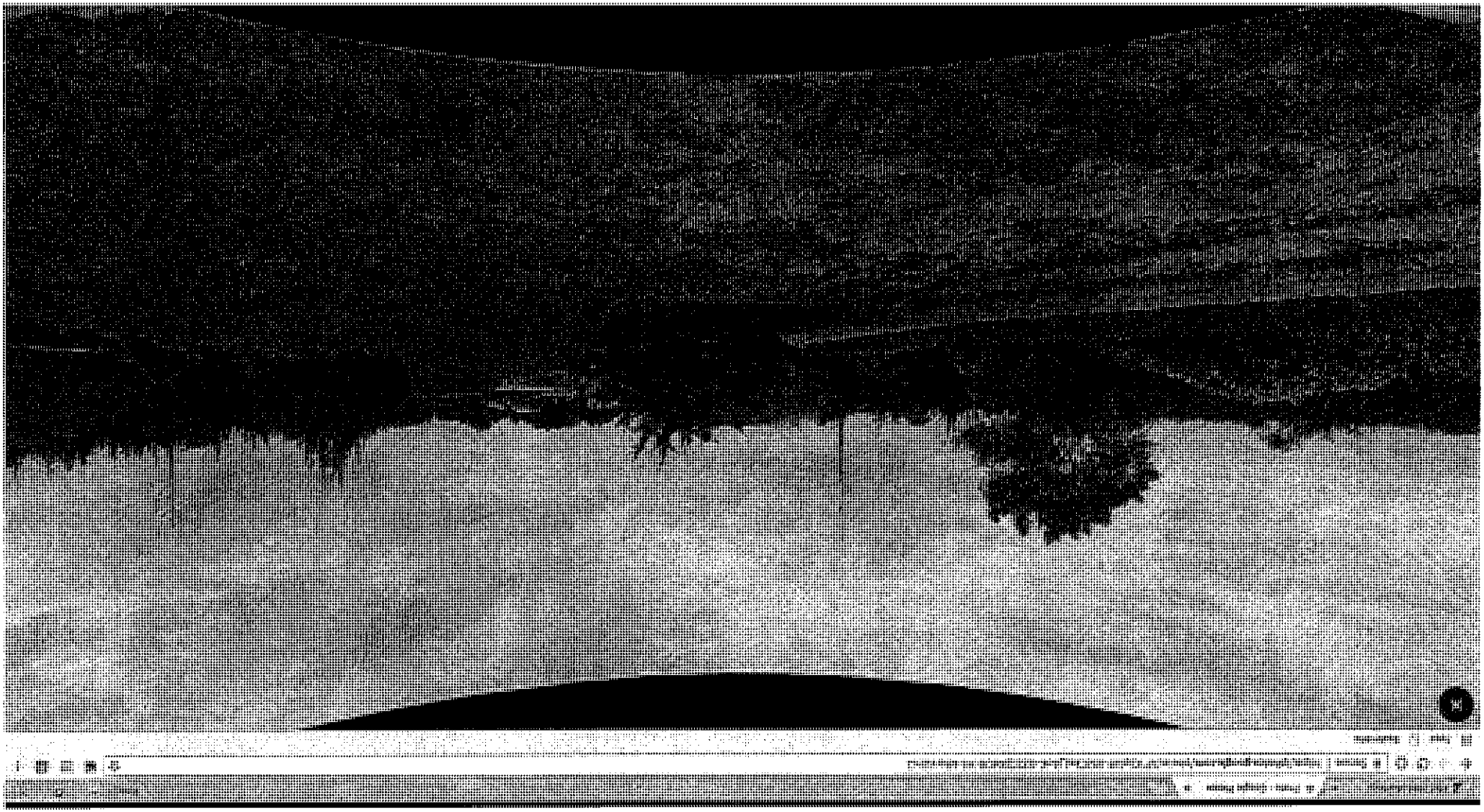
Don Swift
Variance of Maximum Accessory Structure Size Requirement

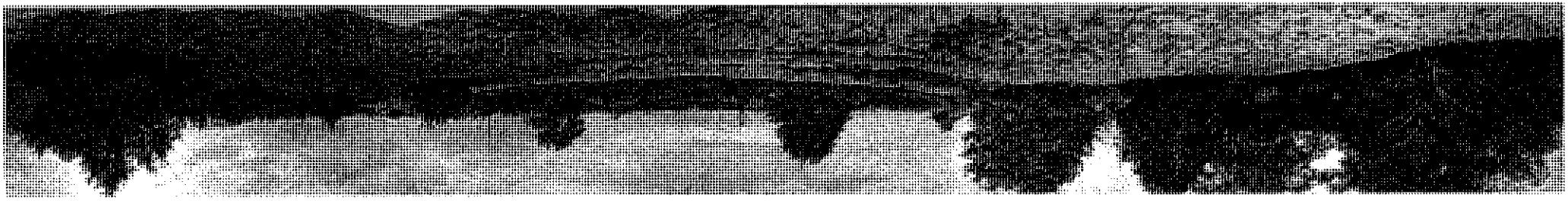
From 1,200 sq. ft. with twelve foot sidewalls to 2,688 sq. ft. with ten foot two inches sidewalls in a Medium Density Rural Residential District

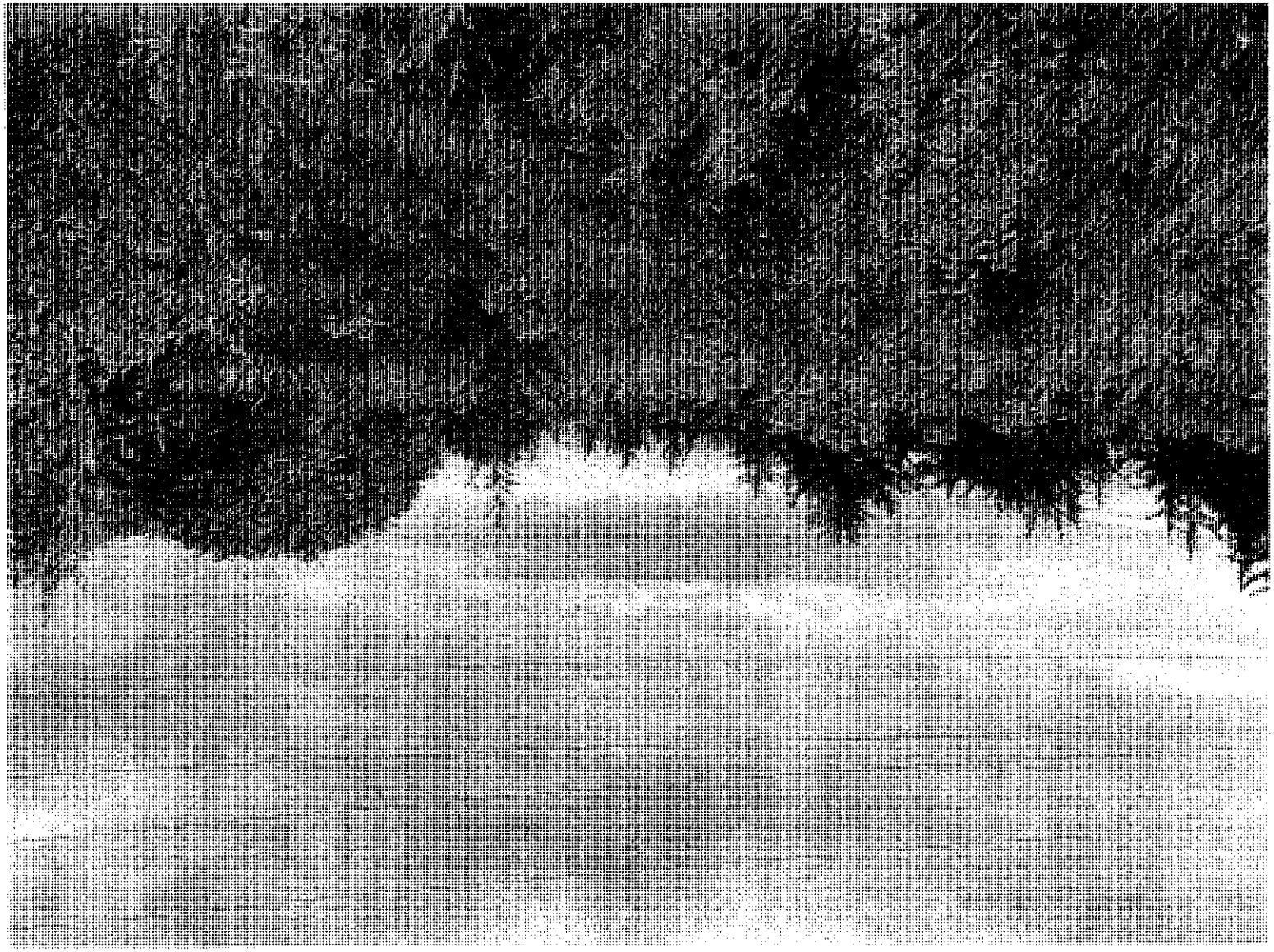
Don Swift II – 42x64x10'2"

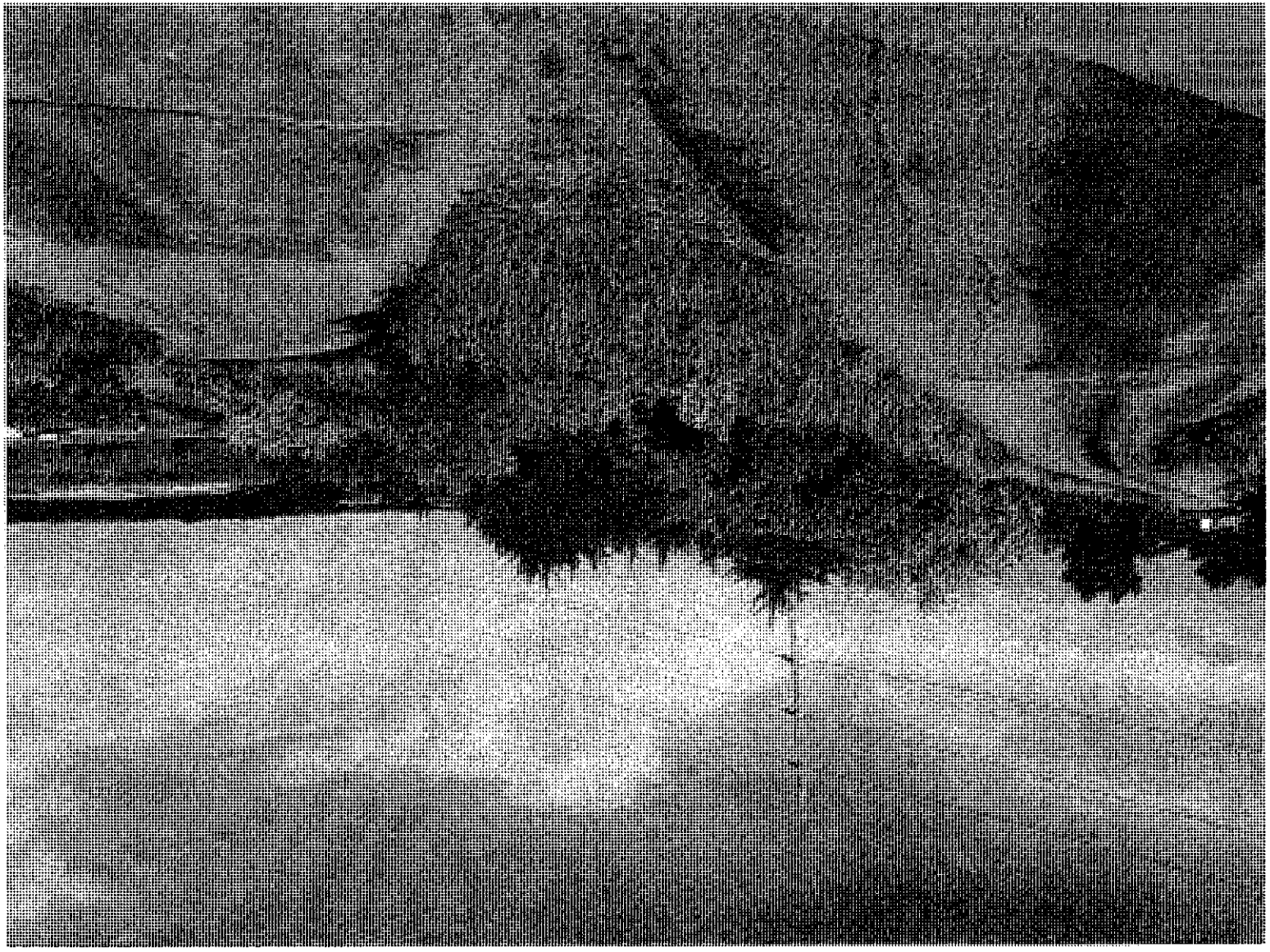


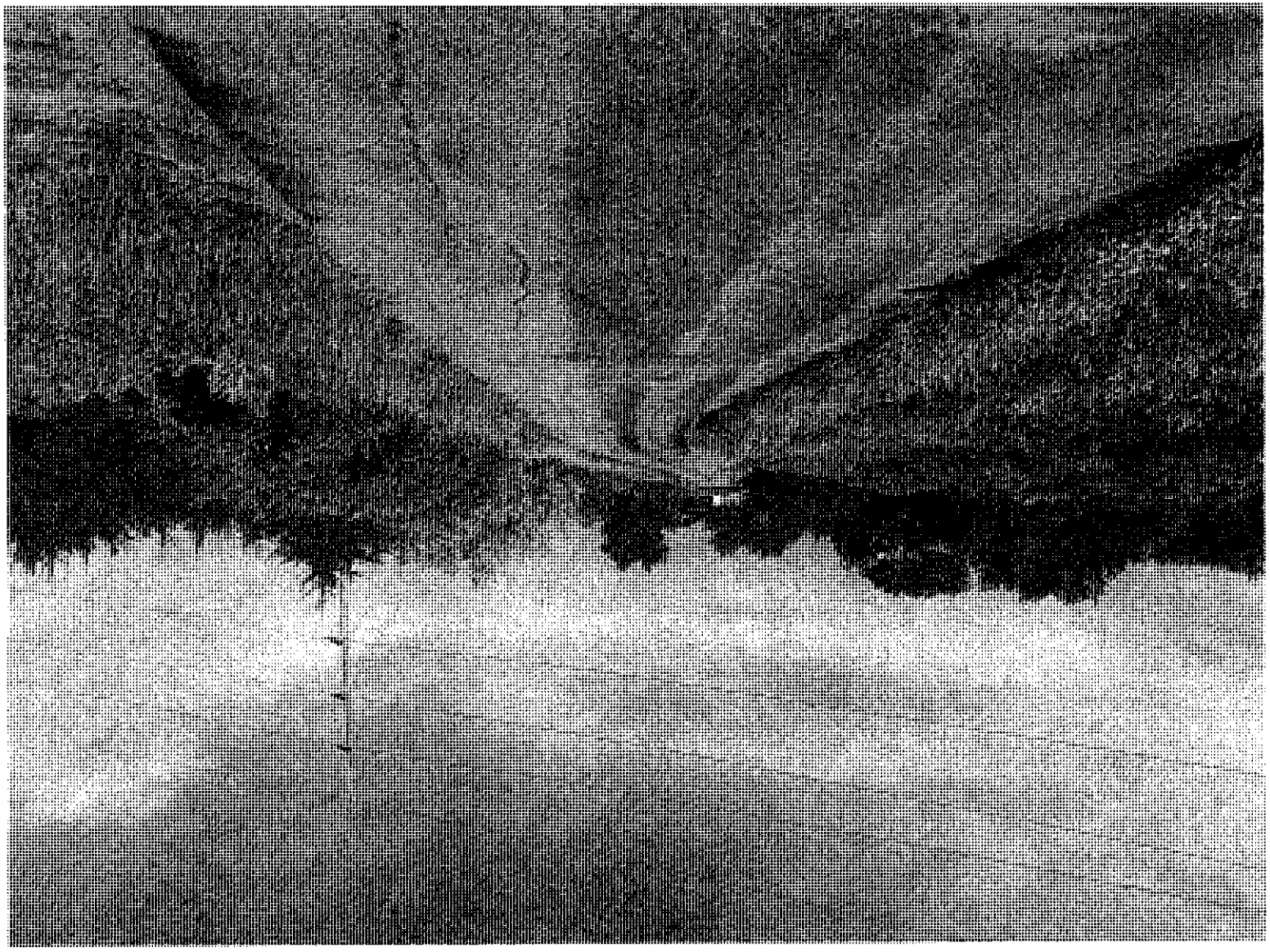


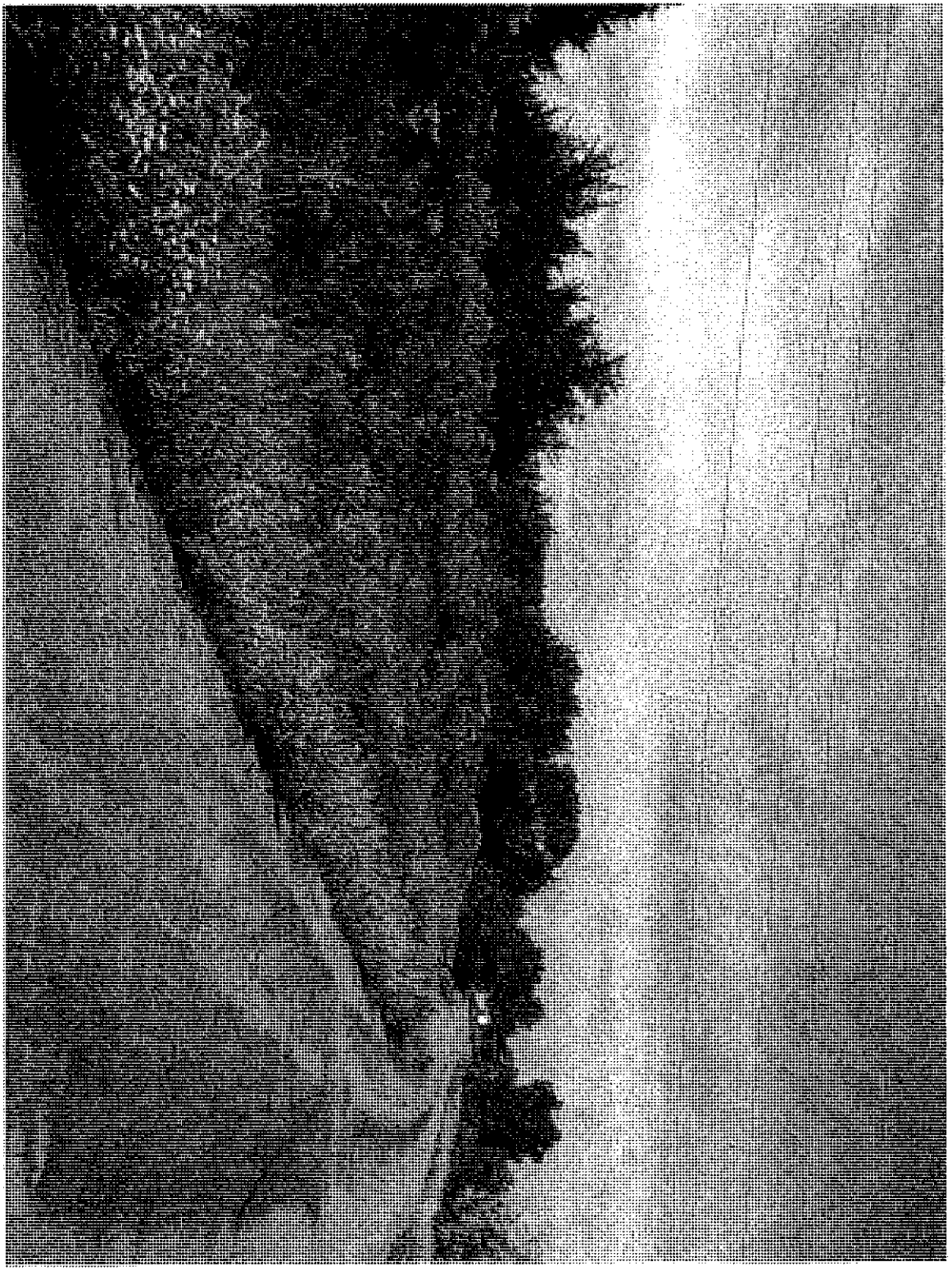


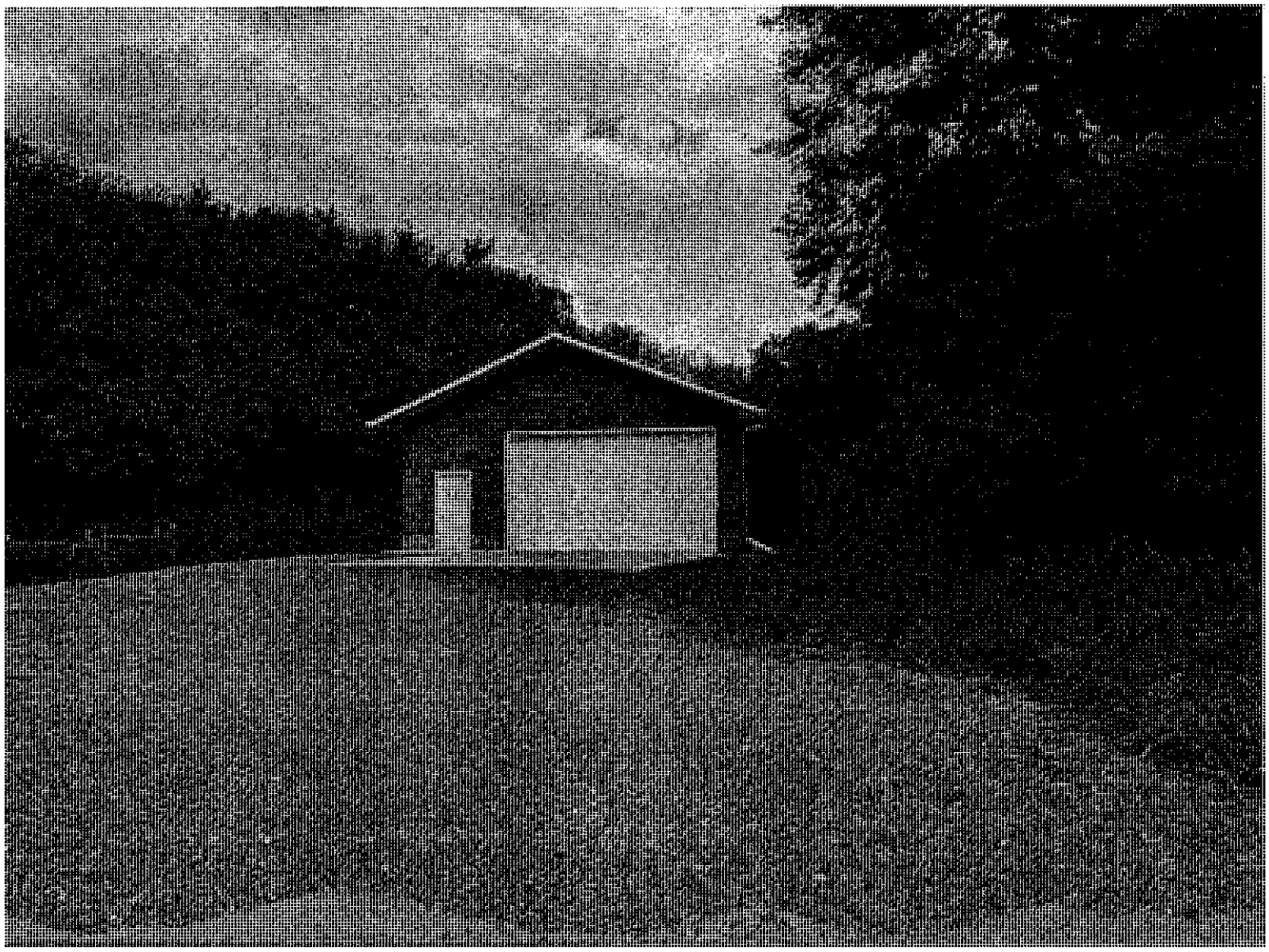


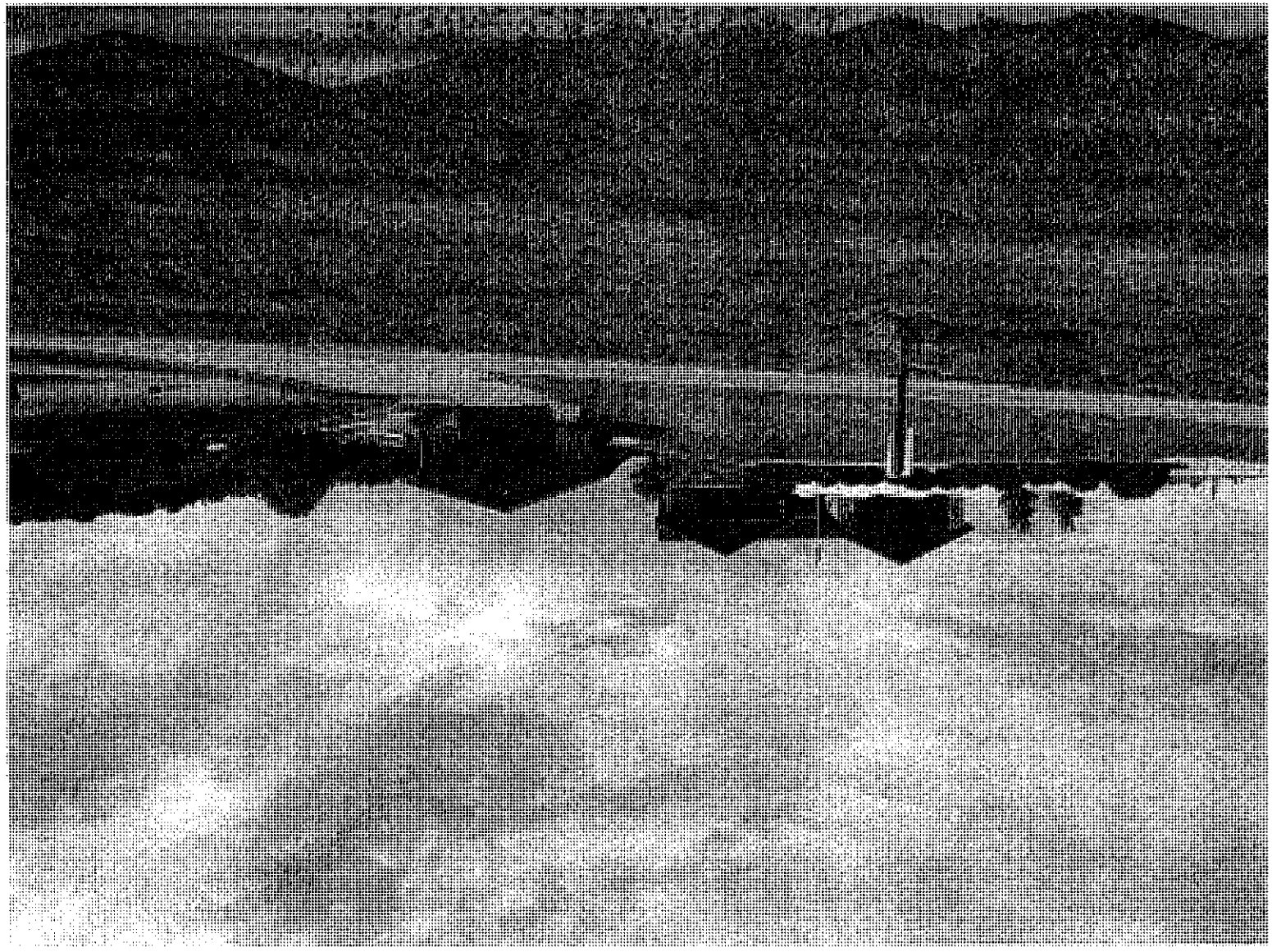


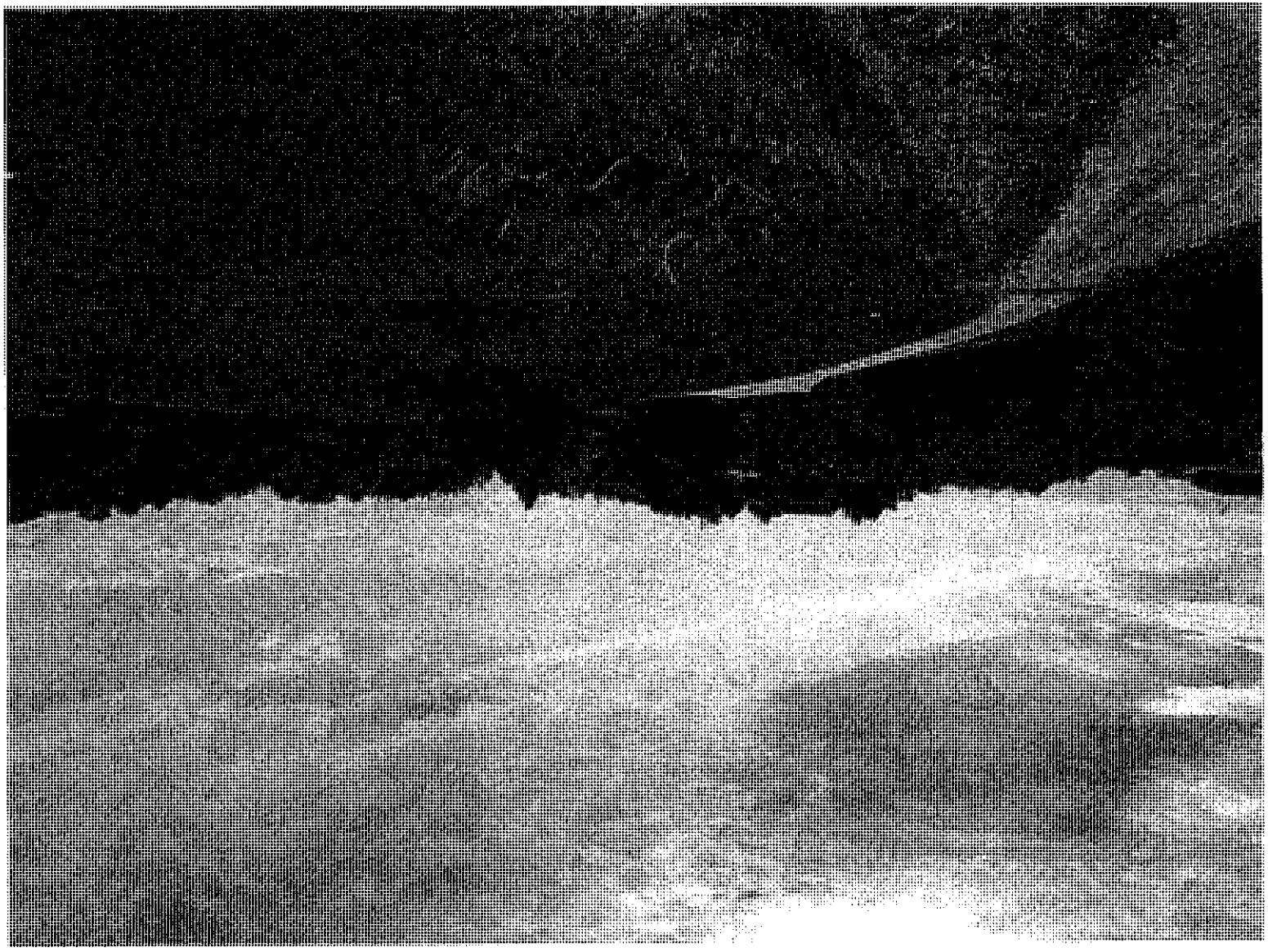


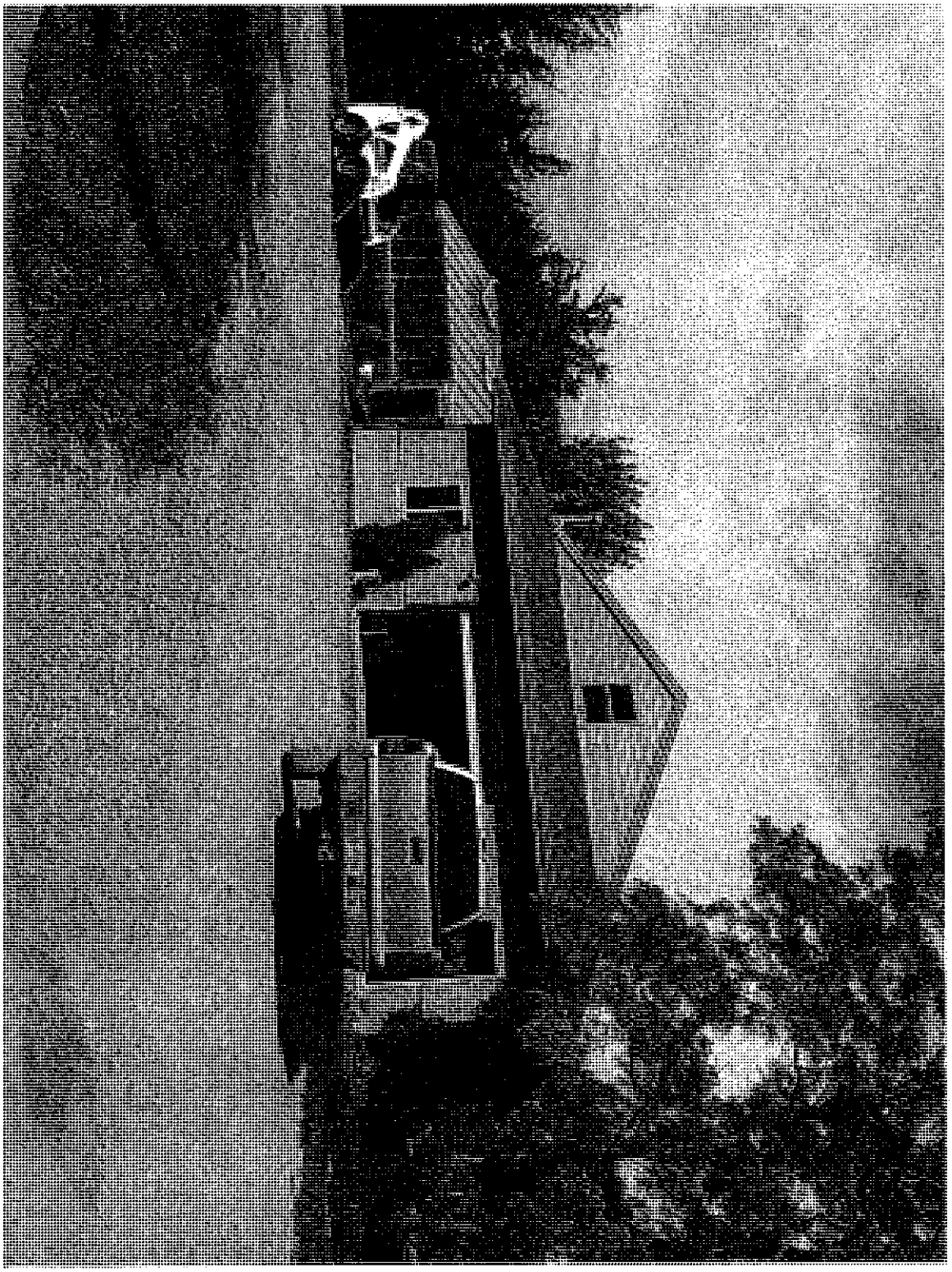


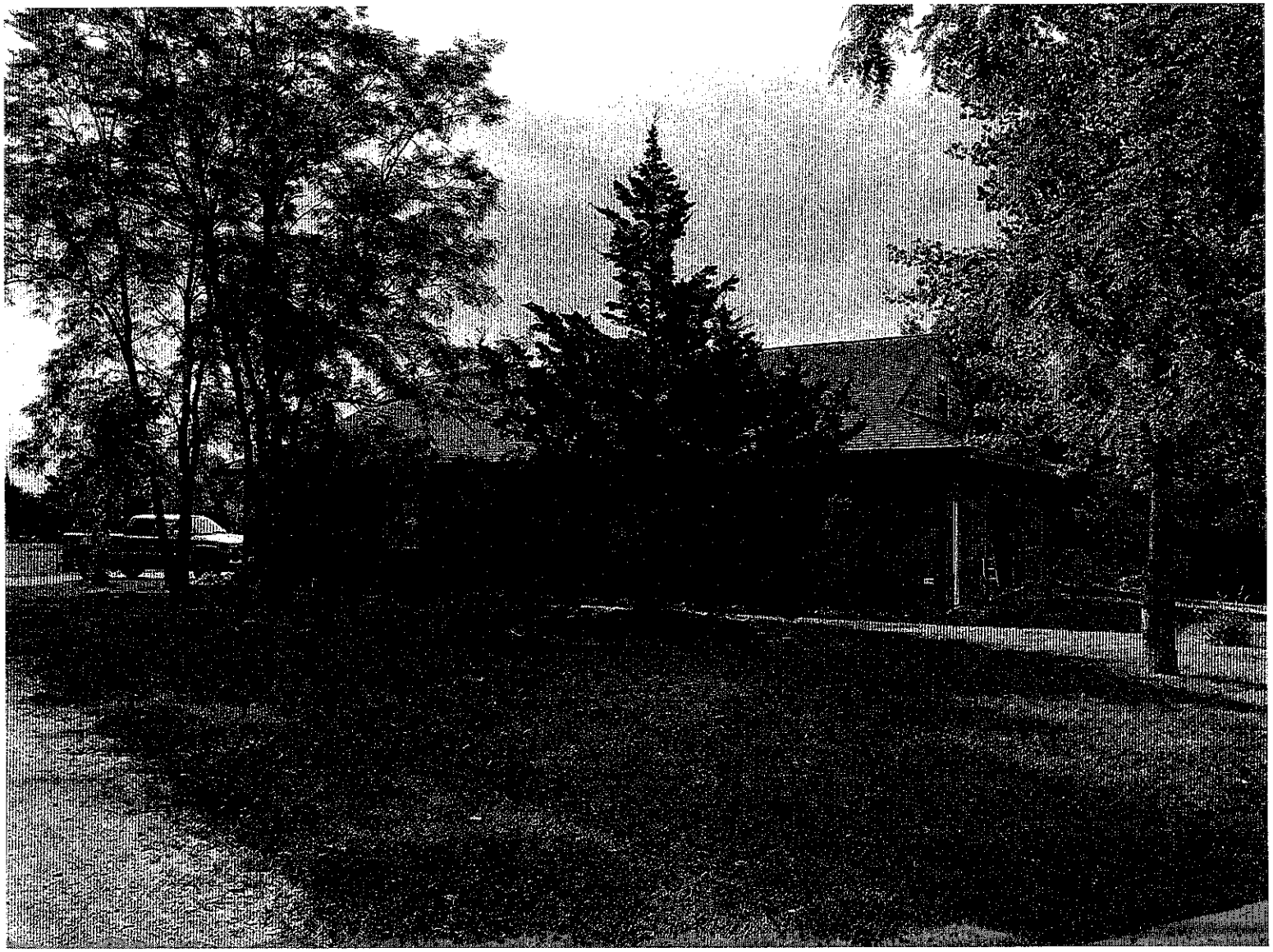


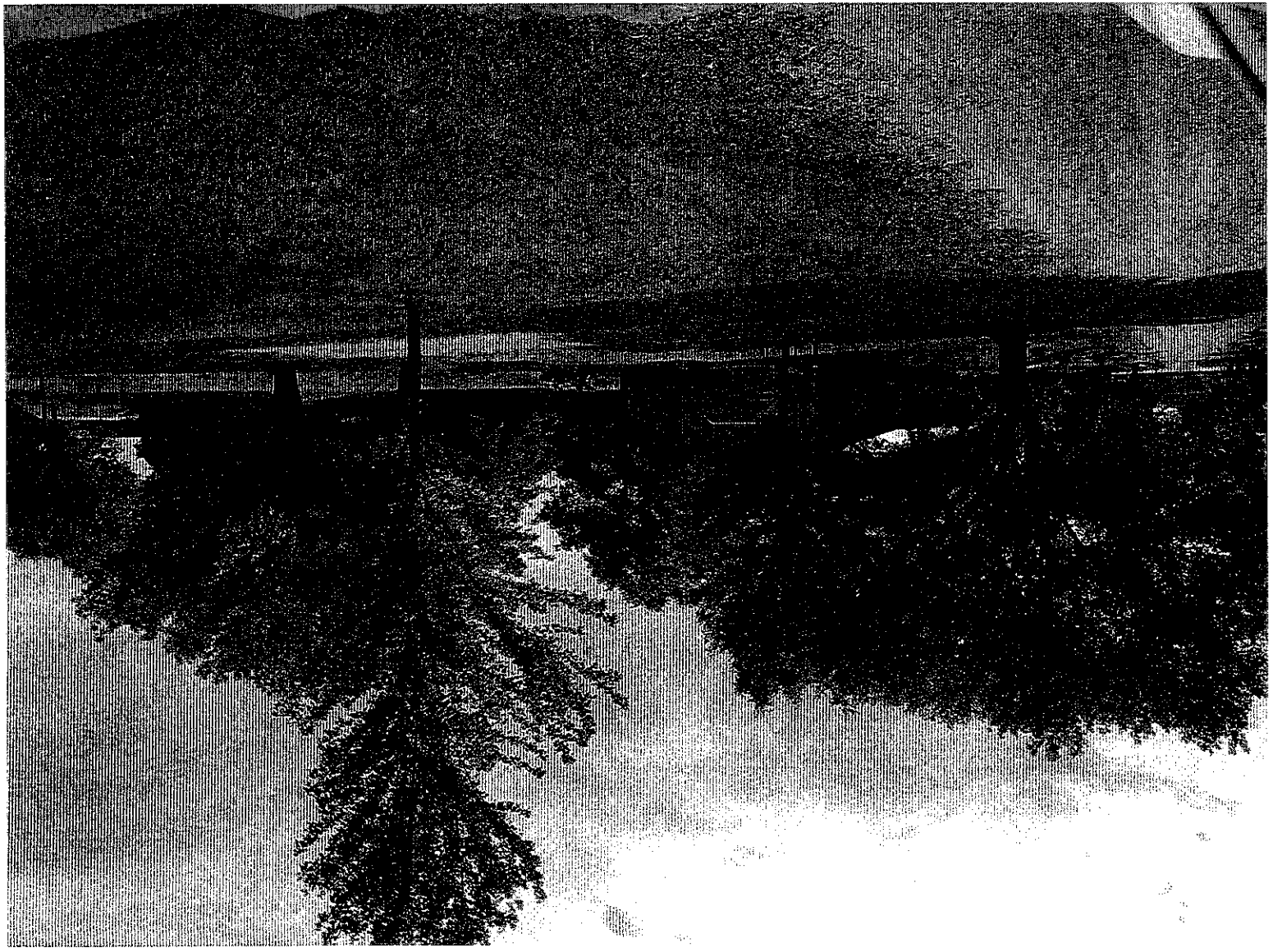












Don Swift
Variance of Maximum Accessory Structure Size Requirement

From 1,200 sq. ft. with twelve foot sidewalls to 2,688 sq. ft. with ten foot two inches sidewalls in a Medium Density Rural Residential District

Planning & Zoning

Zoning Administrator
321 W. 3rd St. Suite 209
Yankton, SD 57078

PH: (605) 260-4445
FAX: (605) 668-9682

YANKTON COUNTY
1862
SOUTH DAKOTA

December 5, 2018

Tim Gubbels
168 Acorn Dr.
Yankton, SD 57078

RE: Lot 6 & 7, Block 4, Oak Hills 32

Dear Mr. Gubbels:

The Planning & Zoning Office has scheduled you to appear at the County Commission meeting on December 18, 2018 at 5:45 PM to discuss the absence of a building permit on the property you own at 168 Acorn Drive, Yankton, SD 57078.

You were sent a letter dated September 17, 2018 regarding the fact that you did not obtain a building permit for a 12x16 shed that was placed on your property some time ago. We talked on the phone regarding the permit and the $100.00 fine.

On September 27th I received a check for $25.00 and not the $100.00 fine that was imposed by the county commission. On October 18, 2018, I returned your check #9639 for $25.00 so you could submit a new check for $125.00. This office has not received your payment.

A second letter dated November 19, 2018 was again sent to you regarding this same issue.

Please plan to attend the county commission meeting to explain your situation.

Sincerely,

Pat Garrity, AICP
Yankton County Planning
Zoning Administrator

CC: Rob Klimisch – States Attorney
CC: County Commission

EMAIL: pat@co.yankton.sd.us
WEBSITE: co.yankton.sd.us

Planning & Zoning

Zoning Administrator
321 W. 3rd St. Suite 209
Yankton, SD 57078

PH: (605) 260-4445
FAX: (605) 668-9682

YANKTON COUNTY
SOUTH DAKOTA
1862

November 19, 2018

[redacted]

Re: Violations of zoning law Structure without a building permit

2nd Notice

Parcel: 12.013.200.175

Dear Yankton County Resident:

The Yankton County Zoning office utilizes a software called Pictometry to provide aerial images of the county. This software allows us to have a history of aerial images in Yankton County and provides the ability to review compliance with zoning regulations, floodplain regulations and drainage regulations.

This letter is the first notice of a possible compliance issue (building permit) based on the historical aerial pictures. The Planning & Zoning office does not have a record of a building permit for this structure. All structures with no building permits must be compliant with the zoning regulations of Yankton County within ten (10) days.

Please respond to Pat Garrity at 260-4445.

Sincerely,

Patrick Garrity, AICP
Yankton County Planning
Zoning Administrator

CC: Rob Klimisch – States Attorney

EMAIL: pat@co.yankton.sd.us
WEBSITE: co.yankton.sd.us

13.013.500.470

YANKTON COUNTY
BUILDING PERMIT APPLICATION

Each building site must have a separate site plan

Applicant to complete numbered spaces only.

1. Job Address	168 Acorn Yankton, SD		
2. Legal Description of Construction Site	Lot 6 & 7 Blk 4 Oak Hills. #2		
3. Owner	Mail Address	Zip	Phone
Timoth Gubbels	168 Acorn Yankton, SD		
4. Contractor	Mail Address	Zip	Phone
?			
5. Architect or Designer	Mail Address	Zip	Phone
6. Type and Use of Building	12x16 shed.		
7. Class of Work (Check One)	☒ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove		
8. Describe Work:			
9. Valuation of Work:	$ 5,000	Mobile/Manufactured Home Tax Affidavit	Y N

Owner

Job Address

For Official Use Only-

Please Sign & date. Return with $125.00 Check Thank you

...uance By:

...RUCTION ...EIGHTY ...NTIALLY ...ED THIS ...ORRECT. ...NG THIS ...ECIFIED ...RESUME ...IONS OF ... OTHER ...UCTION

PERMIT FEE $25.00	Check #
Type of Construction New	Sewer/Water Certification of Service
Total Square Feet	Number of Stories
Zoning District	Number of Accessory Buildings
Number of Dwelling Units	Property/Parcel/Lot Size

For County Officials Use Only $100.00 late fe

When properly validated (in this space), this is your permit.

The above application is hereby approved.

Building Permit Number: _____

Post Construction? Y N

Signature of Contractor or Authorized Agent — Date

X Signature of Owner (if owner builder) — X Date

BY THIS SIGNATURE, THE ZONING ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

Zoning Administrator or Authorized Representative — Date

appeal 12-18-18.

Planning & Zoning

Zoning Administrator
321 W. 3rd St. Suite 209
Yankton, SD 57078

PH: (605) 260-4445
FAX: (605) 668-9682

YANKTON COUNTY
1862
SOUTH DAKOTA

October 18, 2018

Tim Gubbels
168 Acorn Dr.
Yankton, SD 57078

Dear Mr. Gubbels:

I am in receipt of your check of $25.00 for a Building Permit for a 12x16 shed that was placed on your property some time ago without a building permit.

I am returning check #9639 for $25.00. Please issue a new check for $125.00.

Please respond within seven (7) business days of receipt of this notice. Failure will force this office to forward a formal complaint to the Yankton County States Attorney for enforcement.

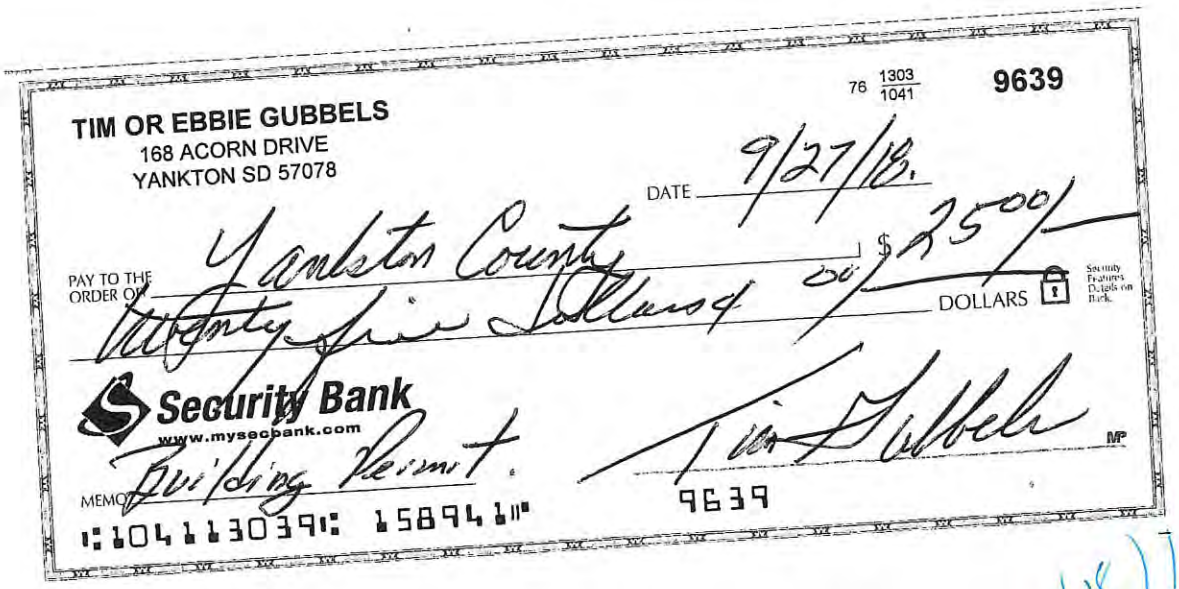
Sincerely,

Pat Garrity, AICP
Yankton County Planning
Zoning Administrator

Cc: Rob Klimisch – States Attorney

EMAIL: pat@co.yankton.sd.us
WEBSITE: co.yankton.sd.us

76 1303/1041 9639



TIM OR EBBIE GUBBELS
168 ACORN DRIVE
YANKTON SD 57078

DATE 9/27/18.

PAY TO THE ORDER OF Yankton County $ 25.00/

Twenty five Dollars 4 00/ DOLLARS

Security Features Details on Back.

Security Bank
www.mysecbank.com

MEMO Building Permit.

Tim Gubbels MP

⑆104113039⑆ 158941⑈ 9639

returned 10/18/18

Timothy Gubbels 168 Acorn Yankton

Image Date: 04/06/2017

Image Date: 03/19/2013

Review Status	Closed - Needs Letter
Determination	
Est. Value Change	
Change Type	new
Parcel ID	13.013.500.470
Area	200.912549698
Previous Area	0
Percent Change	0
Township	ZISKOV SOUTH
Zoning	MODERATE DENSITY RESIDENTIAL
Comment	Lot 6 & 7

BK4
Dak Hills.

12 x 16.

mail

$25.00

$100.00

$125.00

5,000.00

sent 9-21-18

13,013,500.470

YANKTON COUNTY
BUILDING PERMIT APPLICATION

Each building site must have a separate site plan

Applicant to complete numbered spaces only.

	Owner	Job Address
1. Job Address		168 Acorn Dr. Yankton, SD
2. Legal Description of Construction Site		Lot 6 & 7 Blk 4 Oak Hills #2
3. Owner / Mail Address / Zip / Phone	Timothy Gubbels 168 Acorn Yankton, SD	
4. Contractor / Mail Address / Zip / Phone	? Tim Gubbels	
5. Architect or Designer / Mail Address / Zip / Phone		
6. Type and Use of Building		12x16 shed Portable
7. Class of Work (Check One)	☒ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove	
8. Describe Work:		
9. Valuation of Work:	$ 5,000	Mobile/Manufactured Home Tax Affidavit: Y (N)

For Official Use Only-

SPECIAL CONDITIONS: _____

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:

PERMIT FEE $25.00 **Check #** 9629

Type of Construction New	**Sewer/Water Certification of Service**
Total Square Feet	**Number of Stories**
Zoning District	**Number of Accessory Buildings**
Number of Dwelling Units	**Property/Parcel/Lot Size**

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN ONE HUNDRED EIGHTY (180) DAYS OR CONSTRUCTION IS NOT SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF ISSUANCE.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY ZONING ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING CONSTRUCTION ACTIVITIES OR THE USE OF ANY PROPERTY.

X _____ Date _____

Signature of Contractor or Authorized Agent

X _____ Date 7/27/19

Signature of Owner (if owner builder)

BY THIS SIGNATURE, THE ZONING ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

For County Officials Use Only $100.00 late fee

When properly validated (in this space), this is your permit.

The above application is hereby approved.

Building Permit Number: _____

Post Construction? (Y) N

Zoning Administrator or Authorized Representative Date