

# 2016cu003 – April 5<sup>th</sup>, 2016

Prepared by Richard Haugen

Applicant: Kodiak Pork RE LLC by Barry R. Kerkaert, PO Box 188, Pipestone, MN 56164

Land Owners: David and Sandra Diedrich, 7345 Valley View Rd, Brookings, SD 57006

Legal Description: SE1/4 of Section 3, T109N, R48W

2016cu003: Kodiak Pork RE LLC has applied for Brookings County Zoning Ordinance, Article 11:00 Agricultural District: Section 11.01 "A" Agricultural District – Conditional Use # 11: Class A, B, C and D Concentrated Animal Feeding Operations. See Section 22.00-Article 22.00. Concentrated Animal Feeding Operation; for a Class "A" – Swine CAFO operation with a maximum of 7,224 head of swine (greater than 55 pounds) and 640 head of swine (less than 55 pounds), equaling 3,500 animal units. The breakdown is as follows: 936 farrowing sows, 5,328 gestating sows/bred gilts, 640 replacement gilts < 55 lbs and 640 replacement gilts > 55 lbs = 7,864 head of swine.

The applicant states this will be a swine breeding, gestation, farrowing and nursery facility, with the feeder pigs being moved out at 15 pounds, only the selected replacement gilt piglets will be kept on site for breeding stock replacements. The animals will all be housed in 3 separate buildings; gilt development unit, gestation unit and farrowing unit. The buildings will be connected with alleyways between the structures, which will be used for moving the animals from one building to another, with the center alley having a load out facility.

The engineer's report by Todd Van Maanen of Stockwell Engineer's, is enclosed and contains the information required per "Article 22: Section: 22.01: Concentrated Animal Feeding Operation Control Requirements # 8. Information Required for Class A and B Concentrated Feeding Operation Permit,"

- A. Owner's name, address and telephone number.
- B. Legal descriptions of site and site plan.
- C. Number and type of animals.
- D. Nutrient management plan.
- E. Manure management and operation plan.
- F. Management Plan for Fly and Odor Control.
- G. Information on ability to meet designated setback requirements including site plan to scale.
- H. General permits from South Dakota Department of Environment & Natural Resources if available for animal species.
- I. Review of Plans and Specifications and Nutrient Management Plan by the South Dakota Department of Environment & Natural Resources.
- J. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year flood plain designation.

K. Notification of whoever maintains the access road (township, county and state). Notification of public water supply officials

L. Any other information as contained in the application and requested by the County Zoning Officer.

which is located on pages 1 – 5 and appendix's A-D of his report.

The Zoning Office has reviewed the above documents and made a site visit to the proposed location.

The proposed site meets the setback requirement of 2,640 feet for any residence or well.

A note regarding the 7 individual soil boring data located in Appendix "C", refer to page 2 of Appendix B, titled "Tree Planting Plan" this site plan includes the "soil boring locations". The soil borings are marked with "\*SB # 1 -\*SB # 7". SB # 1 is located at the north end of the farrowing barn in the proposed expansion area; SB # 2 – SB # 7 are located in the olive green areas marked farrowing barn, gestation barn and GDU barn proposed locations.

The applicant has a signed agreement with the adjoining landowner to plant the proposed 6 rows trees located on the west and north side of the property closer to the adjoining property line, per Brookings County Zoning Ordinance, **Article 19.00: Shelterbelt Setback Requirements: Section 19.01. Shelterbelt Setback Requirements: A shelterbelt, consisting of one (1) or more rows shall not be established within one hundred (100) feet of the road right-of-way of any road. Shelterbelts at right angles to roads shall have a minimum setback of fifty (50) feet from the right-of- way. Shelterbelts parallel or at right angle to an adjoining property line shall maintain the same setbacks as required on the right-of-way. Shelterbelts may be planted closer to the adjoining property line than required above with the written permission of the adjoining landowner. Trees used for landscaping the area immediately adjacent to farmsteads and residences are exempt from this regulation. (Ord. 2003-01, 4-01-2003).** The proposed trees along the road meet the setback requirements.

The location of the proposed site is not located in the Zone "A" (Well head Protection Areas) or Zone "B" (remainder of the mapped shallow/surficial aquifer not included in Zone "A"), according to the "First Occurrence of Aquifer Materials in Brookings County, South Dakota" map (Article 16.00 Aquifer Protection) and is noted in the engineer's report.

The applicant has an agreement to purchase the E1,100' of the S1,310' of SE1/4 of Section 3, T109N, R48W, Brookings County, SD containing 32.98 acres, more or less, from the current owner. This is where the proposed with facility will be located with 482<sup>nd</sup> Ave (Brookings County gravel road 27) on the east side of the property and 215<sup>th</sup> Street(Parnell Township road) on the south side of the property.

The applicant is a part of Pipestone Systems based in Pipestone, MN, with shareholders being family farmers, who receive an allotment of pigs based on the shares owned and preferred schedule.

Letters were sent to the adjoining landowners, Parnell Township Chairman and clerk, Brookings County Highway Department, Brookings-Deuel Rural Water and the current landowner.

A road agreement with Parnell Township has been received and is included in the report.

The public notices were published in the Brookings Register on March 22<sup>nd</sup> & 29<sup>th</sup>, 2016 and Elkton Record on March 24<sup>th</sup> & 31<sup>st</sup>, 2016.

The Planning and Zoning Board has considered and incorporates in these findings: # 7: Standards for Conditional Uses, found on page 22.00-17 of the Brookings County Zoning Ordinance, for all permitted CAFO's in Brookings County.

Granting the conditional use would be an additional agricultural livestock use in rural Brookings County.

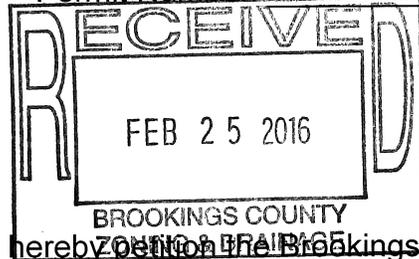
Denying the conditional use request allows the current use of the land to continue.

APPLICATION FOR CONDITIONAL USE PERMIT

Date of Application: 2-25-2016

Permit Number: 2016cu003

To: Brookings County Planning Commission  
520 3<sup>rd</sup> St, Suite 200  
Brookings, South Dakota 57006



A.) I/We, the undersigned property owner (s), do hereby ~~petition the Brookings County Planning & Zoning Commission of Brookings County, South Dakota, to grant a Conditional Use to the Brookings County Zoning Regulations for the purpose of:~~

David Allen Diedrich and Sandra Michelle Diedrich are the current owners of the property. Kodiak Pork RE, LLC is the Applicant. A copy of their land purchase option is attached.

B.) Section(s) of Zoning Regulations authorizing Conditional Use:

Article 11 Agricultural Districts, Section 11.01. "A" Agricultural District, Conditional Uses, 11. Class A, B, C, and D Concentrated Animal Feeding Operations and Section 22. Concentrated Animal Feeding Operation.

C.) Legal Description of Property:

SE ¼, Section 3, T109N, R48W, Brookings County, SD

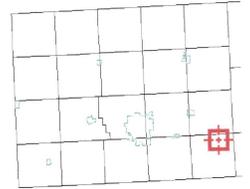
(Parnell Township) Parcel # 160001094803400

Form continued on page 2

2016 cu 003



Overview



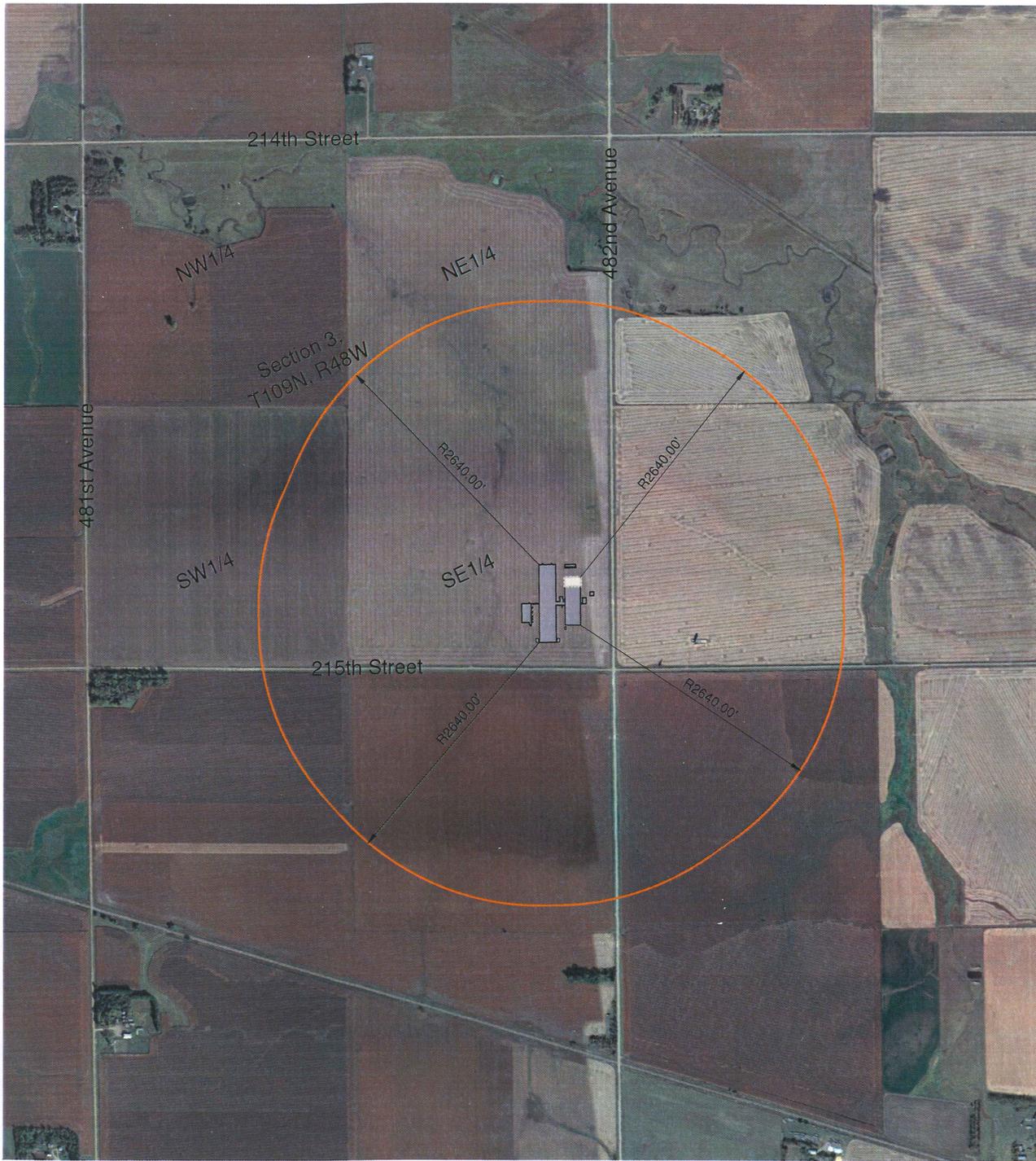
Legend

- Address Layer
- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

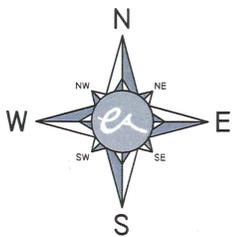
Parcel ID	160001094803400	Alternate ID	n/a	Owner Address	DIEDRICH, DAVID ALAN ET UX
Sec/Twp/Rng	3-109-48	Class	AGA		7345 VALLEY VIEW RD
Property Address		Acreage	160		BROOKINGS SD 57006
District	1603				
Brief Tax Description	SE 1/4 SEC 3-109-48 160.0 AC				
	(Note: Not to be used on legal documents)				

Date created: 3/15/2016  
 Last Data Uploaded: 2/18/2014 4:02:57 AM

# Kodiak Pork Brookings County, South Dakota



Setback Map



Scale: 1" = 1500'

	Prepared By
PROJECT NUMBER: Y15163	
DRAFTED BY: BRIANB	
REVIEWED BY: TVM	
DRAWING: C-15163-STBK	
LAYOUT: SETBACK MAP	
SHEET NO. 1 OF 1 TOTAL SHEETS	
<div style="display: flex; justify-content: space-between; font-size: x-small;"> <span>215 Walnut Yankton, South Dakota 57078</span> <span>605-665-4002 FAX 605-665-0523 www.eaweb.com</span> </div>	

# BROOKING COUNTING ZONING ORDINANCE FOR SHELTERBELT PLANTING

## ➤ ROADS & RIGHT-OF-WAYS

A SHELTERBELT, CONSISTING OF ONE (1) OR MORE ROWS SHALL NOT BE ESTABLISHED WITHIN ONE HUNDRED (100) FEET PARALLEL OF THE RIGHT-OF-AWAY OF ANY ROAD. SHELTERBELTS AT RIGHT ANGLES OF THE ROAD SHALL HAVE A MINIMUM SETBACK OF FIFTY (50) FEET FROM THE ROADS RIGHT-OF-AWAY.

## ➤ PROPERTY LINES

SHELTERBELTS ESTABLISHED PARARELL TO A PROPERTY LINE SHALL HAVE A MINIMUM SETBACK DISTANCE OF ONE HUNDRED (100) FEET. SHELTERBELTS ESTABLISHED AT RIGHT ANGLES OF THE PROPERTY LINE SHALL HAVE A MINIMUM SETBACK DISTANCE OF FIFTY (50) FEET.

## ➤ VARIANCE

SHELTERBELTS MAY BE PLANTED CLOSER TO THE PROPERTY LINE THAN WHAT IS REQUIRED IN THE ABOVE ZONING ORDINANCE WITH WRITTEN PERMISSION OF THE ADJOINING LANDOWNER AND THE APPROVAL OF THE COUNTY ZONING BOARD!

TREES USED FOR LANDSCAPING IN THE AREA IMMEDIATELY ADJACENT TO FARMSTEADS AND RESIDENCES ARE EXEMPT FROM THIS REGULATION. CONSULT WITH ZONING OFFICIAL.

I [Signature], 7345 Valley View Rd, Brookings, SD 57006 (Signature & Address).

AGREE TO GIVE PERMISSION FOR Kodiak Pork RE, LLC (Name)  
TO PLANT TREES CLOSER TO THE PROPERTY LINE THEN STATED IN THE BROOKINGS  
COUNTY ZONING ORDINANCE FOR SHELTERBELT PLANTING.

(Legal Description) E 1/2 sec 3 T-109 R.48

This form must be returned to the Brookings Conservation District before trees are planted.

\_\_\_\_\_  
DATE

DISTRICT REPRESENTATIVE

\_\_\_\_\_  
DATE

COUNTY ZONING OFFICIAL

## Road Maintenance Agreement

This Road Maintenance Agreement (the "Agreement") by and between Kodiak Pork RE, LLC ("Kodiak") and Parnell Township, Brookings County, SD (the "Township") is effective as of \_\_\_\_\_ March, 1\_\_\_\_, 2016. Kodiak and the Township are collectively referred to as the "Parties".

### RECITALS

A. Kodiak has a pending application for a Conditional Use Permit for a Class A Concentrated Animal Feeding Operation ("CAFO") in Brookings County, SD (the "Permit") and will make a corresponding application to the SD Department of Environmental Natural Resources for a State permit for such CAFO operations;

B. The location of the proposed CAFO in Brookings County, SD is legally described as the East 1100 feet of the South 1310 feet of the Southeast Quarter of Section 3, Township 109 North, range 48 West, Brookings County, SD (the "Facility"); and

C. Kodiak and the Township now desire to enter into this Agreement for the purposes of identifying the terms and conditions of Kodiak's use and maintenance of a certain Township road known as \_\_215<sup>th</sup> Street including approximately 1 mile west of 482<sup>nd</sup> Ave\_\_ (the "Road") that provides necessary access to the Facility.

### AGREEMENT

NOW THEREFORE, and in consideration of the mutual benefits, covenants and conditions accruing to the parties hereto, it is hereby agreed as follows:

1. Recitals. The Recitals above are deemed true and correct and hereby incorporated by reference.

2. Current use of Road. The parties acknowledge, understand and agree that the Road is under the jurisdiction of the Township and is a public right of way for use of the general public for all lawful purposes and the Township shall not relinquish or surrender any jurisdiction or possession of the Road by entering into this Agreement.

3. Current Road Maintenance. The parties acknowledge, understand and agree that the Road is currently operated by the Township as a "low maintenance road" meaning the Township undertakes minimal efforts, if any, to maintain the Road. Specifically, the Township does not clear snow from the Road in the Winter months, nor does it schedule and undertake grading of the Road on a consistent basis.

4. Kodiak Road Use. The parties acknowledge, understand and agree that the Road is a means of access to the Facility and Kodiak shall undertake the financial obligation of any upgrade and maintenance of the Road that is necessary as a result of its use of the Road to access the Facility. Specifically, Kodiak shall be solely responsible for the direct payment of all costs and expenses related to

the necessary upgrade and maintenance of the Road to make it suitable for its use in accessing the Facility. The necessary Road upgrade and maintenance shall include, but is not limited to, gravel addition, grading, culvert, proper drainage, dust mitigation and snow removal. The Township shall not be responsible for the costs related to the upgrade and maintenance of the Road necessary as a result of Kodiak's use for access to the Facility.

5. Road Access. The Township agrees to cooperate with and allow Kodiak access to the Road for the purpose of the upgrade and maintenance contemplated herein.

6. Authority. Each party represents and warrants that the individual signing below on behalf of each party has the requisite authority to bind the parties to this Agreement.

7. Miscellaneous. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, supersedes and replaces all prior agreements, oral or written, between the parties relating to the subject matter hereof, and may not be changed or modified except by a written instrument executed by all the parties. In case any provision of this Agreement is declared invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such provision had not been contained herein, provided that such provision shall be limited or eliminated only to the extent necessary to remove the invalidity, illegality or unenforceability. This Agreement may be executed in several counterparts and by facsimile. This Agreement is governed, enforced and construed under the laws of the State of South Dakota, without regard to its conflict of laws principles. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first mentioned above.

TOWNSHIP:

Kodiak Pork RE, LLC:

Parrell

[Signature]

By: [Signature]

By: Sen. V. Saper

Its: E. Supervisor

Its: General Counsel

2016cu003: Kodiak Pork LLC



Looking Northwest from  
482<sup>nd</sup> Ave & 215<sup>th</sup> St

Looking North from 215<sup>th</sup> St  
482<sup>nd</sup> Ave is on the right.



Looking West from 482<sup>nd</sup> Ave  
215<sup>th</sup> St is on the left.



Looking North from  
215<sup>th</sup> St

