

**Becker County Planning Commission Special Meeting  
May 16<sup>th</sup>, 2023**

**Members Present:** Chairman Dave Blomseth, Mary Seaberg, Steve Lindow, Kim Mattson, Craig Hall, Harvey Aho, Tom Disse, Commissioner John Okeson, Commissioner Erica Jepson, Jeff Moritz, Nick Bowers, Tommy Ailie, County Attorney Brian McDonald, and Zoning Director Kyle Vareberg. **Members Absent:** Kohl Skalin

Chairman Dave Blomseth called the Planning Commission Special Meeting to order at 7:30 am. Becker County Zoning Technician Nicole Bradbury recorded the minutes.

Chairman Dave Blomseth clarified the intent of the meeting, which was to consider findings of fact drafted by staff and counsel to be consistent with the motion made on April 26<sup>th</sup>, 2023, regarding the William and Karolyn Zurn application. He stated there would be no public comment allowed for this meeting.

The proposed findings were as follows:

**FINDINGS, REPORT, AND RECOMMENDATION TO THE BECKER COUNTY BOARD**

1. By Application dated March 28<sup>th</sup>, 2023 (the “Application”), William and Karolyn Zurn (represented at the hearing by son Eric Zurn) have requested a Conditional Use Permit (“CUP”) to allow for operation of a swine feedlot consisting of 999 animal units on approximately 158.30 acres of land in Section 5, Township 140, Range 42 in Becker County. The proposed site is in Hamden Township in rural Becker County.
2. Prior to the meeting, numerous members of the public filed written objections to the project. The Commission notes that many of these objections are based on the principle of Concentrated Animal Feedlot Operations (“CAFOs”) in general and were not based on specific attributes regarding the proposed site of the application. While the Commission does not wish to downplay the concerns raised by these citizens and their objections to CAFOs, the Commission believes that the Minnesota Pollution Control Agency (“MPCA”), the Buffalo-Red River Watershed District, and the Minnesota DNR have adopted proper standards and regulations to respond to these concerns.
3. The property to the immediate east/southeast of the application site is identified as the Landrum Gun Club Partnership (hereinafter “Gun Club”). Several members of the Gun Club either filed written objections or testified at the hearing held on April 26, 2023, and voiced opposition to the application.
4. Several citizens filed written objections prior to the hearing or testified in opposition to the application. The objections are part of the record.

- 45 5. Representatives from the White Earth Band of Minnesota Chippewa Tribe filed a  
46 letter objecting to the project.  
47
- 48 6. Relevant to these Findings, and pursuant to the Becker County Shoreland Ordinance,  
49 Rassum Lake is an environmental lake located to the south of the proposed site. The  
50 Commission notes that the Minnesota DNR was properly notified of this application  
51 and did not respond or otherwise object.  
52
- 53 7. Chapter 8, Section 11 of the County Zoning Ordinances identifies the decisional  
54 criteria that apply to this CUP request. Subpart F of this Section indicates:  
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- 56 No conditional use shall be recommended by the County Planning Commission or  
57 granted by the Board of County Commissioners unless the Commission and the  
58 Board shall find that all of the following criteria are met:  
59
- 60 1. **Affect on surrounding property.** That the conditional use will not harm the  
61 use and enjoyment of other property in the immediate vicinity for the purposes  
62 already permitted, nor substantially diminish or impair property values within  
63 the immediate vicinity.
  - 64 2. **Affect on orderly, consistent development.** That establishing the  
65 conditional use will not impede the normal, orderly development and  
66 improvement of surrounding vacant property for uses predominant in the area.
  - 67 3. **Adequate facilities.** That adequate utilities, access roads, drainage and other  
68 necessary facilities have been or are being provided.
  - 69 4. **Adequate parking.** That adequate measures have been or will be taken to  
70 provide sufficient off-street parking and loading spaces to serve the proposed  
71 use.
  - 72 5. **Not a nuisance.** That adequate measures have been or will be taken to  
73 prevent or control offensive odor, fumes, dust, noise and vibration, so none of  
74 these will constitute a nuisance, and to control lighted signs and other lights so  
75 that no disturbance to neighboring properties will result.
  - 76 6. **Additional criteria for shoreland areas.** In Shoreland areas, it shall be  
77 found that adequate measures have been or will be taken to assure that:
    - 78 a. **Pollution.** Soil erosion or other possible pollution of public waters will  
79 be prevented, both during and after construction;
    - 80 b. **View from public waters.** That the visibility of structures and other  
81 facilities as viewed from public waters will be limited;
    - 82 c. **Adequate utilities.** That the site is adequate for water supply and on-  
83 site sewage treatment; and
    - 84 d. **Watercraft.** That the types, uses, and number of watercrafts that the  
85 project will generate can be safely accommodated.  
86

- 87 8. The Application came before the Planning Commission at a meeting held on April 26,  
88 2023. The Commission conducted the public hearing required by law and took  
89 extensive testimony from the Applicant and other interested parties. The Commission  
90 also received extensive written documentation and written testimony into the record.  
91
- 92 9. Based on review of the documentation submitted and the testimony provided, the  
93 Commission **recommends** to the Becker County Board that it **GRANT**<sup>1</sup> (with  
94 setback conditions outline below in Footnote 1) the CUP request for the following  
95 reasons:  
96
- 97 **a. The Applicant has demonstrated that the proposed feedlot will not harm**  
98 **the use and enjoyment of other properties in the immediate vicinity for**  
99 **the following reasons:**
- 100 i. Mr. Eric Zurn testified on behalf of the applicant. Mr. Zurn testified  
101 that he will comply with any and all rules required of him by the  
102 Minnesota Pollution Control Agency (“MPCA”).
- 103 ii. As stated, numerous individuals testified on behalf of the neighboring  
104 Gun Club and opposed the application. However, there was little to no  
105 testimony, or evidence in the record as to what activities are conducted  
106 on the land owned by the Gun Club and/or how often those activities  
107 occur. While opposition to the project was certainly voiced, there is  
108 little evidence about how the proposed project will affect the Gun  
109 Club’s use and enjoyment of their land. Assuming the Gun Club’s  
110 concerns relate to hunting or other outdoor recreation activity; the  
111 Commission still does not find evidence of how the applicant (who  
112 will be required to comply with all applicable setbacks and rules of  
113 numerous regulatory agencies) would harm or interfere with the Gun  
114 Club’s hunting/shooting/outdoor activities.  
115
- 116 iii. No other adjacent property owner filed an objection to the application.  
117
- 118 iv. Sean May testified on behalf of the United States Fish and Wildlife  
119 Service. Mr. May stated that Hamden Slough National Wildlife  
120 Refuge is approximately a mile to a mile and a half from the proposed  
121 project area.
- 122 1. Mr. May testified that water from the project would **not** flow  
123 into Hamden Slough Wildlife Refuge. Mr. May testified that  
124 the water generally flows south in the area.

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<sup>1</sup> It is crucial for purposes of these Findings of Approval that the Motion to Approve the application was *specifically* conditioned upon the applicant meeting all required setbacks for any site/operation. This includes ensuring facilities will be placed at least 1,000 feet from Rassum Lake (to the south) and at least 300 feet from the wetlands to the East.

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2. Mr. May testified that the US Fish and Wildlife has some concern with the application interfering with visitor use, especially youth field trips. However, the Planning Commission finds these concerns speculative in nature and does not find convincing that a feedlot operated approximately one (1) to 1.5 miles away could interfere with youth field trips on the Wildlife Refuge.
  3. Mr. May testified and conceded that the Fish and Wildlife Services has no regulatory or other jurisdiction over this proposed application. \
  - v. The closest residential dwelling not owned by the applicant is approximately 2000 feet from the proposed facility site. This distance provides adequate separation from adjacent residential use.
- b. The Applicant has demonstrated that the proposed feedlot would not impede the normal and orderly development and improvement of surrounding properties for the following reasons:**
- i. The area of the proposed site is extremely rural in nature. Numerous surrounding properties are engaged in agriculture activities. The operation of a swine feedlot completely within the bounds of land owned by the applicant will not affect the orderly development and improvement of surrounding properties.
  - ii. The proposed application site is located in Policy District 4 of the Becker County Comprehensive Plan. Selected policies of district 4 include designating agricultural land uses as the preferred and primary land use in agricultural areas and emphasizing natural inputs. The application will meet the preferred use criteria of the comprehensive plan and the use of manure will reduce the use of commercial fertilizer in the area.
  - iii. Planning Commission Member, Steve Lindow generally referenced a Minnesota Law pertaining to firearms being used within 500 feet of a building. Mr. Lindow expressed concern that the application would hinder the neighboring Gun Club being allowed to continue their normal hunting/shooting use.
    1. According to the Minnesota Hunting and Trapping Regulations:

On another person’s private land or a public right-of-way, a person may not discharge a firearm within 500 feet of a building occupied by humans or livestock without written permission of the owner, occupant, or lessee of the building. **This does not**

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**apply to people hunting on their own property.**

*See generally*, Minn. Stat. §97B.001, Subd. 7. As a result, the Commission finds that the application would not hinder or interfere with the Gun Club’s normal hunting/shooting activities. Also,

A person may hunt from the water, a private shooting preserve, or from public land that is within 500 feet of a building occupied by humans or livestock. A person may not discharge a firearm within 500 feet of a corral of one acre or less confining livestock for the purpose of normal livestock holding or sorting operations without permission. This does not apply to persons hunting during an established season on state or local government-owned land that is not road right-of-way.

*See generally*, Minn. Stat. §97B.001, Subd. 7.

**c. The Applicant has demonstrated that the proposed feedlot operation will have adequate utilities, access roads, drainage, and other necessary facilities.**

- i. As part of his objection, Attorney Steve Quam cited to Becker County’s GIS maps and suggested there is a question that the application’s access road may actually be on the property of the Gun Club.
  - 1. The Commission notes there is a disclaimer on the County GIS maps that they do not establish legal boundaries.
  - 2. The Commission finds it significant that there was no testimony or mention of any previous or ongoing litigation (i.e., quiet title, adverse possession, etc. or other legal actions) regarding this access road. Even if the applicant’s road did encroach on the Gun Club’s property, based on the testimony of Eric Zurn and his description of repeated and prior use of the access road, it is likely that the applicant has established some form of prescriptive use on this road. This is supported in Mr. Quam’s letter dated April 25, 2023 wherein he notes that the Gun Club has owned the neighboring property since approximately 1975.
  - 3. The Commission does not believe the CUP application is the proper forum to advance a roadway/potential boundary line dispute.
- ii. There were also concerns raised at the hearing about the roadway being adequate for the proposed semitrucks or trailers necessary for the operation of a feedlot. Eric Zurn testified that he has driven

209 1,000's of semi-trucks in and out on this same proposed access road as  
210 part of existing farming operation.  
211 iii. Hamden Township was notified by mail of the application and did not  
212 provide any comments or objection to the application.  
213 iv. The Commission finds as a matter of law that the applicant will be  
214 required to comply with any/all road restrictions.  
215 v. If the application is approved by the Becker County Board, any  
216 drainage, erosion, and stormwater would be subject to a Stormwater  
217 Pollution Prevention Plan regulated by the MPCA.  
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219 **d. The Applicant has demonstrated that there would be adequate parking at**  
220 **the project.**

221 i. The application speaks to gravel surface driveways and parking areas  
222 being created/provided for all employees. No concerns were raised or  
223 discussed regarding the adequacy of any parking for the project. The  
224 Commission finds through the numerous acres included in the project  
225 that adequate space for parking is included.  
226

227 **e. The Applicant has demonstrated that there would be no offensive odor,**  
228 **fumes, noise, vibrations, or other nuisances from the operation that could**  
229 **adversely affect neighboring properties for the following reasons:**

230 i. The Commission finds that manure management and manure land  
231 application will be handled and regulated by the MPCA. The  
232 applicant will be required to follow all rules established by Minnesota  
233 Rules Chapter 7020. As stated, Eric Zurn testified that the applicant  
234 will comply with any/all regulations required by the MPCA.  
235 ii. Mr. Zurn further testified that all affected drain tile will be removed  
236 from the building site.  
237 iii. Attorney Quam raised concerns about possible environmental review  
238 of this project. Zoning Administrator Kyle Vareberg noted that the  
239 MPCA is defined as the "Responsible Governmental Unit" for any  
240 environmental review as described and required by Minnesota Rules  
241 Chapter 4410. The Responsible Government Unit, the MCPA, will  
242 oversee any environmental review required triggered by rule, whether  
243 discretionary or mandatory.  
244 iv. In support of the application, Jim Blair of the Swine Vet Center  
245 testified that the applicant will be following a process established by  
246 the University of Minnesota to reduce offensive odors. Mr. Blair  
247 testified that additives are applied to the manure pit and that the result  
248 is 96% non-offensive odors within ½ mile radius of the project.  
249 v. Rick Muff testified at the hearing in support of the application. Mr.  
250 Muff is the owner/operator of a smaller feedlot in Becker County and a  
251 larger feedlot in Clay County. Mr. Muff stated his livestock receive

252 very few antibiotics and that livestock may not be sold with antibiotics  
253 present in their system. He stated that they must go through a  
254 withdrawal period. Mr. Muff also explained the process of how  
255 manure is distributed from the manure pit by pumps and hoses to the  
256 fields where it is injected into the ground. This process eliminates the  
257 need for hauling any of the manure. Eric Zurn testified that his  
258 manure would be handled by hose (i.e. pumped). Mr. Zurn testified  
259 that his manure would be injected (as opposed to spread). Specifically,  
260 Mr. Zurn testified that “anybody who knows the value of manure is  
261 injecting it.”

- 262 vi. No other objections or testimony focused on concerns about fumes,  
263 noises, vibrations, or other nuisances. The Commission does not find  
264 any offensive amount of these concerns applicable to this project.
- 265 vii. It appears to the Commission this application location was chosen by  
266 the applicant, in part, based off the distant proximity to other livestock  
267 to help prevent and eliminate diseases traveling into the site which  
268 lowers the use of any antibiotics.
- 269 viii. Mr. Zurn also testified that he owns one of the closest residences to the  
270 application site. He stated there are very few residences in the area  
271 because it is zoned for agriculture.

272  
273 **f. The Applicant has demonstrated that the proposed project would not**  
274 **present a risk to nearby public waters. This finding is supported by the**  
275 **following information:**

- 276 i. The Commission has conditioned approval of the application with  
277 compliance with all required setbacks as follows:
  - 278 1. 1,000 feet from any lake.
  - 279 2. 300 feet from any public water basin not classified as a lake.
- 280 ii. With regards to any manure pit and/or manure land application, the  
281 Commission finds these are subject to approval and inspection by the  
282 MPCA and regulated by Minnesota Rules Chapter 7020.
- 283 iii. Eric Zurn testified that the project will also need to go through the  
284 Buffalo-Red River Watershed District.

285  
286 **g. The Planning Commission finds that Rassum Lake is not within 1,000**  
287 **feet of the proposed project and therefore this project is not within a**  
288 **“Shoreland” area.**

- 289 i. As stated, the Minnesota DNR was properly notified of this  
290 application and did not respond or file an objection.
- 291 ii. As a result, the additional criteria regarding Shoreland areas do not  
292 apply to the Commission’s analysis.
- 293 iii. Attorney Quam raised concerns with the body of water immediately to  
294 the East of the project being Rassum Lake or part of Rassum Lake.

295 Zoning Administrator Kyle Vareberg stated that he worked extensively  
296 with the Minnesota DNR regarding the location of Rassum Lake. He  
297 clarified that the body of water to the East of the project is merely a  
298 “wetland.” After a thorough review of the record and evaluating the  
299 testimony, the Commission finds Mr. Vareberg’s comments more  
300 persuasive on this point.

301 1. Rassum Lake is identified through the Becker County  
302 Shoreland Classification List as a Natural Environment Lake.  
303 The shoreland for a natural environment lake is 1000’.  
304 Rassum’s assigned lake ID is 1123. According to the Public  
305 Waters Inventory Map Rassum lake is located South of the  
306 proposed feedlot site and the body of water to the East of the  
307 site is not classified as a lake. However, the body of water to  
308 the East of the site does have a tributary river flowing through  
309 it. The shoreland for a tributary river is 300’. As conditioned  
310 by the Commission, the proposed facility will be located  
311 beyond 1000’ from Rassum lake and beyond 300’ from the  
312 tributary river and public water classified as a wetland.

313 iv. Jim Blair testified again on behalf of the applicant regarding the  
314 location of the proposed site. Mr. Blair testified that the applicant  
315 worked extensively with Becker County Planning and Zoning to  
316 ensure the proposed site was placed somewhere that would comply  
317 with applicable setbacks. Mr. Blair added that the applicant is  
318 following the necessary steps; which are first obtaining a Conditional  
319 Use Permit (CUP), then working with the MPCA, and the Department  
320 of Natural Resources (DNR) for wells. He noted that they went  
321 through this process previously and they do have knowledge of the  
322 appropriate processes. Blair testified that the applicant worked with  
323 Becker County Planning and Zoning to submit the information  
324 required by ordinance. Mr. Blair testified that the applicant generally  
325 followed the protocol as set forth by Becker County Zoning  
326 Ordinances.  
327

328 Dated this 16<sup>th</sup> day of May, 2023.

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330 Chairperson  
331 Becker County Planning Commission  
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334 Lindow asked if this was a public meeting.

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336 Jepson stated that this is a public meeting, but it is not open for testimony from the  
337 public.



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339 Blomseth stated that he will once again be abstaining from commenting or voting in  
340 regard to the Zurn application.  
341  
342 Time was given for the members to review the proposed findings.  
343  
344 Lindow asked about the application saying it wasn't in shoreland even though the  
345 property lines reflect differently.  
346  
347 Vareberg clarified that in determining if the project is shoreland or not, the distance is  
348 measured from the proposed feedlot, not the property boundary line.  
349  
350 Jepson asked to clarify that they are looking at the project and not the property.  
351  
352 Vareberg confirmed that as correct because the property could be subdivided at any time.  
353  
354 Lindow argued that at this point it is not subdivided, therefore it should be considered  
355 shoreland.  
356  
357 Hall said it doesn't have to be subdivided.  
358  
359 Lindow brought up the concerns for shooting within five hundred (500) feet of a  
360 building.  
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362 Jepson said it was her interpretation that rule applies to five hundred (500) feet of a  
363 building on your own property.  
364  
365 Lindow said if someone shoots towards a property, they are susceptible to trespass law.  
366 He mentioned he had spoke with a game warden who said it's a safety issue if they are  
367 shooting towards those buildings.  
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369 Jepson suggested starting the review from the beginning of the findings and discussing as  
370 they go through them.  
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372 Regarding 9.a:  
373 Lindow said he felt it would harm the use and enjoyment because of the restrictions it  
374 will put on shooting.  
375  
376 Ailie commented that people still hunt Dead Shot Bay even though it is surrounded by  
377 houses.  
378  
379 Lindow said he feels the findings should reflect more on how it will affect the owners of  
380 the gun club.  
381  
382 Regarding 9.b:  
383 There were no comments.

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385 Regarding 9.c:  
386 There were no comments.  
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388 Regarding 9.d:  
389 There were no comments.  
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391 Regarding 9.e:  
392 There were no comments.  
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394 Regarding 9.f:  
395 Lindow commented that the red square in the sketch is within the shoreland for Rassum  
396 Lake.  
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398 Jepson stated that it is the MPCA who will need to approve the location of all buildings,  
399 and that our County's Zoning relies on the regulations put in place by the Minnesota  
400 Pollution Control Agency (MPCA). She noted that we can't tell through a picture where  
401 the structures will be, but instead we need the MPCA to make that determination based  
402 on their regulations.  
403  
404 Seaberg also commented that is a general area and that they will put it where the MPCA  
405 states it needs to be.  
406  
407 Vareberg noted that it was stipulated in the motion that any structures must be outside of  
408 the shoreland.  
409  
410 Jepson asked if the Department of Natural Resources (DNR) was notified.  
411  
412 Vareberg said yes, and they had no objections.  
413  
414 Lindow mentioned that he had talked with Rodger Hemphill from the DNR about  
415 Rassum Lake and the Location of the Driveway. Lindow feels that a technical committee  
416 should have been brought in ahead of time to include all agencies and get their input.  
417  
418 Jepson said the zoning ordinance doesn't require that and the Planning Commission  
419 didn't ask for it.  
420  
421 McDonald stated that he asked Hemphill to attend the County Board meeting scheduled  
422 at 8:15 am, May 16<sup>th</sup>, 2023, to give his insight.  
423  
424 At this point, both Okeson and Jepson needed to leave for the County Board of  
425 Commissioner's meeting.  
426  
427 Regarding 9.g:  
428 Seaberg asked who Jim Blair is as stated in 9.g.iv.  
429

430 Eric Zurn said that Blair is with the Swine Vet Center that will be managing the pigs.

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434 **MOTION: Hall motioned to approve the findings as presented; Moritz**  
435 **second. Roll Call; Seaberg, Mattson, Hall, Aho, Disse, Moritz, Bowers, Ailie**  
436 **in favor. Lindow opposed. Motion carried.**

437

438 The original copy of the Findings, Report, and Recommendation to the County Board  
439 signed by Vice Chair Moritz will be kept on record and copies can be made available in  
440 the Planning and Zoning Department.

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443 **Since there was no other business as the purpose and intent of this meeting had been**  
444 **fulfilled, Chairman Blomseth adjourned the meeting at 8:16 am.**

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David Blomseth, Chairman

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Jeff Moritz, Secretary

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450 ATTEST

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Kyle Vareberg, Zoning Administrator