



REDWOOD COUNTY ENVIRONMENTAL OFFICE

*Planning & Zoning • Parks & Trails • GIS
Aquatic Invasive Species • Septic Inspector
Drainage Inspector • Agricultural Inspector*

PO BOX 130
REDWOOD FALLS
MINNESOTA 56283
PH: 507-637-4023

REDWOOD COUNTY PLANNING COMMISSION

MINUTES

Meeting Date: May 30, 2019

A meeting of the Redwood County Planning Commission convened on Monday, the 30th day of May, 2019, at the Redwood County Government Center.

The following members of the Redwood County Planning Commission were present: Mark Madsen, Mike Scheffler, Mike Kaufenberg, DaVonna Zeug, and Commissioner Dave Forkrud. Jeff Huseby was absent. Also present were the following individuals: Tyler Maertens, Karen Maertens, Brian Maertens, Mike Boerboom, Tom Daub, Vincent Maertens, Delbert Kuehn, Sharrol Kuehn, Doug Rohlik, Jim Salfer, Lon Walling, Raymond Walz, Environmental Director Scott Wold, Land Use & Zoning Supervisor Nick Brozek, and Administrative Assistant Lali Ortega.

At 1:00 p.m. the Redwood County Planning Commission meeting continued from May 20th, was called to order by Vice-Chair Scheffler.

Mike Kaufenberg announced that he would have to leave early. It was noted that his departure would leave 4 Planning Commissioners present, which is a quorum.

Vice-Chair Scheffler asked Brozek to report the CUP application that had been tabled on the 20th of May (Tyler Maertens' application for a feedlot CUP - #7-19). Specifically the Commissioners had wanted to know whether a setback applied between Maertens' feedlot and David Fuhr's airport, and they wanted more detail about previous complaints about Maertens' feedlot.

Prior to the meeting, Brozek sent a written report to the Planning Commissioners, County Board members, and interested parties (David and Penny Fuhr, Tyler Maertens, Ben Trochlil, and Mike Boerboom). The report was as follows:

Introduction:

A meeting of the Redwood County Planning Commission has been scheduled for Thursday, the 30th day of May, 2019, beginning at 1:00 o'clock p.m. at the Board Room of the Redwood County Government Center, located at 403 South Mill Street, Redwood Falls, MN 56283, in order to continue a public hearing begun on Monday, May 20, 2019, regarding an Application for Animal Confinement Feedlot Conditional Use Permit submitted by Tyler Maertens.

The Planning Commission voted to continue the hearing in order to gather additional information, in relation to issues raised by members of the public during the hearing. Specifically, the Commissioners requested information on the following topics:

1. Whether a ½ mile setback applies to the project, from David Fuhr's private airport.

2. Detailed report of complaints received and investigation undertaken in connection with the feedlot site since it was first permitted in 2015.

This report attempts to shed light on the above matters, including an evaluation of complaints received during the May 20 public hearing.

Various documents were received from the interested parties after the hearing on May 20. These have been entered into the record and copies attached to this report. These are as follows (in order of receipt):

1. FAA map from David Fuhr
2. Airnav.com airport info from David Fuhr & Tyler Maertens (independently of one another)
3. Email correspondence with David Fuhr
4. AvnWx.com airport info from Tyler Maertens
5. Well and boring records from Tyler Maertens
6. Letter from Wayne & Rosemary Bennett, supporting the project

Additional documentation obtained from other government agencies and departments is also attached, including the following:

1. Email correspondence and letter from DNR Water Appropriations Hydrologist Anne Hall stating that Maertens has obtained the required water appropriations permit and is in compliance with its terms and conditions
2. Email correspondence from Rylan Juran, MNDOT Office of Aeronautics Aviation Planner stating that there is no FAA approval or licensing process for private airports that are more than 5 miles away from a public airport
3. Copy of Wednesday May 15 edition of the Wabasso Standard

FAA Approved Airport:

David Fuhr spoke at the May 20 meeting in opposition to the project. He brought with him an outdated version of the Redwood County Feedlot Ordinance, which he obtained from the Environmental Office prior to March 5, 2019, before which date it was still current law. It is the version of the feedlot ordinance which was in effect in 2015, when Tyler Maertens permitted his existing swine barn.

The old version of the Ordinance states, in pertinent part, that all feedlots must be set back at least ½ of a mile from an “FAA approved airport.” Mr. Fuhr presented an airport map published by the Federal Aviation Administration (FAA) showing the location of his private airport, at his home site. Mr. Fuhr argued, based on the old ordinance and the FAA map, that Mr. Maertens’ existing feedlot is illegal and must be shut down because it does not the ½ mile setback.

It should first be noted that Redwood County does not have the power to revoke Mr. Maertens’ existing Conditional Use Permit during a hearing that was advertised as a review of his new permit application. Due Process requires that Mr. Maertens receive prior notice that the hearing includes review for the purpose of determining whether or not to revoke his existing permit. The hearing notice in this case did not include that information, in part because Mr. Fuhr did not notify Redwood County about the alleged setback violation until the hearing was already underway.

The notice issue notwithstanding, the Redwood County Environmental Office has determined that Mr. Maertens’ existing feedlot was permitted and constructed in compliance with the Redwood County Ordinance in effect at the time, because Mr. Fuhr’s airport was not “approved” by the FAA. This determination is based on the following factors:

1. The FAA does not have a role in approving private airstrips (see correspondence with Juran)
2. The State of Minnesota does not require a license for any private facility that is more than 5 miles from a public airport (see correspondence with Juran)
3. The FAA map legend defines Mr. Fuhr’s airport as a “private ‘(Pvt)’ non-public use having emergency or landmark value.”
4. Airport data downloaded from the FAA website shows that the FAA does not inspect Mr. Fuhr’s facility, has not entered into an agreement with Mr. Fuhr regarding operation of the site, does not provide funding, does not

provide a certification of the site, does not list the site for commercial, commuter, air taxi, local traffic, military, or general aviation operations, or any other category of airport operations overseen by the FAA.

5. The airport data lists 12/1/1978 as the “activation date” of the site, which it defines as “the date the facility was added to the airport database.”
6. Mr. Fuhr was asked to provide a copy of any FAA approval of his site, but has not done so (see email correspondence with Mr. Fuhr).

The above information supports the position that Mr. Fuhr’s site has not been approved by the FAA, though it has been registered with the FAA. The text of the old ordinance makes this an important distinction, but the ordinance does not provide a definition of “FAA approved.” The Merriam Webster online dictionary defines “approval” as follows: “To have or express a favorable opinion of” or “to give formal or official permission.” The FAA has not provided such approval, it has only placed the site in its database and on its map. This fits the Merriam Webster definition of “register,” which is “to make a record of.” Consequently, Mr. Maertens’ 2015 Conditional Use Permit was validly issued because the airport setback did not apply to Mr. Fuhr’s airport.

In addition to the plain language and meaning of the old ordinance, the context of the setback requirement clearly shows that the intent of the Planning Commission and County Board was not to apply the setback to private, personal use, airports. The other features from which a setback was required for a feedlot fall into two categories: 1) places where people congregate, such as churches, cemeteries, golf courses, towns, and public parks; and 2) geological and man-made features that are susceptible to contamination, such as wells, rivers, lakes, drainage ditches, and floodplains. Private personal use airports are not in either category.

A significant amount of time need not be devoted to arguing the point that Mr. Maertens’ existing permit was legally issued, because on March 5, 2019, the Redwood County Ordinance was amended, by the County Board of Commissioners, to remove the FAA approved airport setback requirement for feedlots, among many other changes. Alternatively stated, the airport setback no longer applies to any airport in Redwood County.

Furthermore, the Minnesota Court of Appeals ruled in *State v. Reinke* (702 N.W.2d 308) that “use of land that is unlawful at its inception, but which exists when a [county] enacts a regulatory change, is not exempt from the change...” This means that if (for the sake of argument) the airport setback should have applied to the first barn, the barn meets all the setbacks currently required, making it legal now, even though it is alleged not to have been “at its inception.”

Complaints previously received about the existing barn:

The Environmental Office has received complaints over the years since Maertens’ existing barn was built. Like all sites for which complaints are received, staff investigated the complaints by speaking with both the complainant and the permit holder, and often by visiting the site. Complaints received, actions taken, and current status are as follows:

March of 2017 – received complaint from David Fuhr regarding odor.

- Action: staff visited Maertens’ site on 3-20-17 and spoke with Maertens. Maertens stated Fuhr had already spoken with him and that he was going to do two things to address odor: 1) contract with Doug Rohlik to treat the pit with bacterial additive; and 2) plant trees east and north of the barn.

Prior to this point, Maertens had been treating the pit himself with additive purchased in Redwood Falls, but it wasn’t working.

The tree planting was to consist of 50 hybrid willow trees purchased from the Yellow Medicine Soil and Water Conservation District.

A memorandum describing these conversations was placed in the file.

Staff followed up with Fuhr. He stated that the pigs squealing is loud when they get big. He said that odor is better on windy days. However, he stated that odor was no better on still days since the new additive was started.

- Status: No action was taken against Mr. Maertens' permit. Time was given to see whether the new additive was effective. The additive did reduce crust and flies. Doug Rohlik testified at the hearing about the effectiveness of the additive.

Due to unavailability of trees and a hired tree planter backing out, Maertens did not plant any trees. However, he continued to work with the Environmental Office to determine the best way to plant more trees.

- Note: staff did not observe oppressive odor or noise during the site visit.

August of 2018: received complaint from Penny Fuhr regarding odor and noise, forwarded by the State Duty Officer.

- Action: spoke with Penny and David on 8/29/19. Visited the Fuhr residence and spoke with Penny on or about 8/31/2018. No odor was detected on the site at that time.

David Fuhr stated that part of the problem is the topography of the area. Mr. Fuhr stated he understands topography because of his work. Fuhr said that the odor flows down like water, and that the sound is amplified by the feedlot being up on a hill. Brozek asked Fuhr where the best place is for Maertens to plant trees in order to prevent odor, based on Fuhr's knowledge of the topography. Fuhr said he did not know.

Performed a follow up site visit on 10/4/19, when the wind was about 8 to 10 mph from the east. Could smell a faint odor of pigs at the Fuhrs' driveway. Could clearly hear agricultural equipment noise from the Maertens farm, but could not hear the pigs.

Reviewed topography maps (two-foot elevation contours) on the Redwood County Zoning Maps. Determined that the Fuhr residence is actually at a slightly higher elevation than the Maertens barn. The elevation (feet above sea level) of the barn is between 1064 and 1070, whereas the Fuhr residence elevation is between 1072 and 1074.

- Status: No action taken on Maertens' permit.

October of 2018: received complaints from David Fuhr, Delbert Kuehn, and Debra Kuehn that Maertens was spreading manure without having given two days' notice to the neighbors.

- Action: staff reviewed Maertens permit application and determined that notice of manure spreading is not required. Complainants were informed of this determination.
- Status: No enforcement action taken

General follow up:

- Environmental Director Scott Wold periodically drove by the site when in the area on other county business. Did not note any significant odor by the Fuhr residence.
- Staff reviewed the MPCA reports stating that Maertens' site passed the air quality tests

Overall complaint status: All complaints have been investigated by site visits with Maertens and/or review of the records. Additionally, the complainants have been interviewed, and site visits of the complainants' property have been conducted. Maertens has taken action to address odor by treating the pit with additive. Furthermore, Maertens offered to plant trees, though this plan fell through. However, the Environmental Office feels that Maertens has acted in good faith regarding the trees, for the following reasons:

1. Maertens is offering to make tree planting an official obligation on his permit.
2. Maertens has continued to work with and listen to county staff.

At no time when county staff has visited the sites, either by stopping to visit or stopping on the road, has any permit violation been observed. Consequently, Maertens is considered to be in compliance with his permit and Redwood County Code of Ordinances.

Analysis of complaints made at the May 20 hearing:

Each complaint noted by staff is first listed, followed by analysis in bullet-point format.

- Hydrogen sulfide can be harmful to health and a nuisance:
 - o Complainant made no assertion that this specific substance has been harmful or a nuisance in this case.
 - o MPCA testing shows hydrogen sulfide is within the legal limits on the site.
- Maertens' existing permit requires an odor offset rating of 99%:
 - o This is not in Maertens' permit nor in the law. Maertens permit does not require any specific odor offset minimum rating. This 99% rating was an erroneous comment made by Maertens' consultant, Jeff Bauman, during the public hearing in 2015, and was included in the minutes of that hearing. However, the real offset rating of 87% was provided to the Planning Commission by staff at the same hearing, along with the offset rating of 96% for the Fuhr residence.
- Quality of life has been ruined:
 - o Strong odor or nuisance odor and noise has not been observed on the site by staff.
- Maertens neglects his responsibility to his neighbors:
 - o Complainant did not provide examples of what Maertens' responsibilities to his neighbors are, or how Maertens is failing to meet them.
- Complainant's oldest son says he won't move his family to the farm because of the odor and noise:
 - o This is hearsay, being a statement made by an individual who was not present at the public hearing. It would carry more weight if it were delivered in person.
 - o Even at the minimum limit of 94% annoyance free rating allowed in the ordinance, there will be some odor and some of it will be "annoying." County Zoning does not guarantee that no land use will ever have any effect whatsoever on any other land use. Some people may wish to avoid annoying odor or avoid all odor.
- Neighbors are unable to plan outdoor events, cook outdoors, work in the garden, and hang clothes to dry. Odor is bad when the wind is from the NE, E, SE, or when there is no wind:
 - o Odor and noise rising to this level has not been observed by staff.
 - o The predominant wind direction in the winter is from the NW and in the summer from the SW, which is not in the direction of the complainant.
 - o Perfectly calm days are not common on the SW Minnesota prairie, which is why wind farms are built here.
- It is "well known" that feedlots lower property values and the value of neighboring house has decreased by 40%:
 - o The basis for this fact being "well known" was not provided.
 - o No appraisal of the property was provided.
 - o According to the Redwood County Assessor's office, the value of the complainants' house has increased 22.6% since 2014.
- The "valley smells like hogs"
 - o Maertens' and the complainants' properties are about 50 to 60 feet higher up than the riverside properties
 - o The folks who live in the river valley did not show up to oppose the project at the hearing, nor did they sign the petition opposing the project.
- "No one" has enforced the odor and noise mitigation:
 - o This is contrary to complainants statements that county staff has come out to the site to speak with complainant.
 - o Staff has inspected on multiple occasions and found no violation.
 - o Staff has worked with Maertens to implement mitigating measures (not always successfully, as with the trees). However, this has been done on an entirely voluntary basis to address neighbor complaints, and not in response to an established violation.
- Complainant presented a petition against the project:
 - o Permits may be denied based on the evidence presented, but may not be denied merely because neighbors object.

- Complainant alleged that Maertens is preventing his use and enjoyment of his property in violation of Condition #6 of his existing permit:
 - o The ordinance allows annoying odor up to 6% of the time, so this condition is not a guarantee that there will be no effect at all to complainant. The County ordinance and comprehensive plan acknowledge that feedlots smell, and promote mitigating actions, but ultimately a feedlot is allowed to smell like one in the agricultural district.
 - o Staff investigation has discovered no violation.
- Complainant alleges that adequate measures have not been taken to mitigate odor in violation of Condition #9 of Maertens' existing permit:
 - o Maertens has taken measures (additive).
 - o Additional trees are proposed as a condition for his Maertens' new project.
- Complainant alleges that Maertens is in violation of Condition #12, which allows Redwood County to place certain additional conditions on Maertens' permit, including tree planting:
 - o Redwood County has not placed any additional conditions on Maertens' permit, beyond those originally required, so it is not clear how complainant believes Maertens to be in violation of this condition, nor did complainant explain what additional conditions he would like to see on the permit.
- Complainant alleges that Maertens is in violation of Condition #18, which states that the County Board may revoke his permit if new information is discovered which would have affected the issuance of the permit at the time it was approved:
 - o Complainant bases this assertion on his theory that his personal airport requires a ½ mile setback. This theory has been shown in this report to be without merit.
- Who checks to make sure the barn is not overcrowded?
 - o Complainant provided no evidence showing that Maertens' barn is overcrowded, other than the fact that the pigs squeal, which complainant admits could also be due to feeding practices.
 - o The barn is designed for a certain number of pigs (2400), and likewise the pig supplier's production facility is designed to produce a certain number.
 - o The MPCA feedlot officer conducts periodic site inspections.
 - o Business records would show the number of pigs moving through the site, if the Commission believes this is an issue that should be looked into.
- Concerns about use of the road and the road being a 5-ton road:
 - o The township is the road authority and was sent a notification about the project, and has not expressed any concern.
- Are there enough acres for the manure to be applied?
 - o The MPCA reviews the manure management plan.
- There could be runoff into the creek:
 - o Complainant did not provide any evidence that runoff is an issue at this site.
 - o All manure and feed is kept enclosed. Compost will also be required to be enclosed.
 - o NPDES permit required by the proposed expansion and overseen by MPCA has heightened requirements for prevention of runoff.
- Complainant brought in a recent copy of the Wabasso newspaper, with an article about invasive seed coming into the county in animal feed:
 - o The article documents invasive seed in cattle feed, not swine feed.
 - o The complainant does not allege that there has ever been any invasive seed in Maertens feed.
 - o Without specific evidence that Maertens' feed has contained invasive seed in the past, or is likely to contain invasive seed in the future, this statement amounts to an argument that no animal feed should be brought into Redwood County, which is an issue far beyond the scope of this hearing.
- The concrete pit will fail:
 - o Concrete manure pits have had a very good track record over the 30 plus years they have been used in Redwood County. The Environmental Office does not have a documented case of one failing in Redwood County.
 - o Perimeter tile inspection riser will allow monitoring of the integrity of the pit.

- Hog farms shouldn't be "factory farms":
 - o The term "factory farm" has no legal meaning.
 - o The issue of how big feedlots should be allowed to get is an issue that complainant should bring to the county board of commissioners to request an ordinance amendment, if complainant has concerns about it. The current ordinance allows feedlots of the size proposed by Maertens, and larger.
- Composting attracts vermin:
 - o Complainant provides no evidence that this specific project will attract vermin.
 - o Multiple feedlot sites in Redwood County already use composting, and the Environmental Office has received no complaints.
 - o State and county rules govern and allow composting, and require the compost be protected from vermin and that carbon material and moisture be used to help the compost break down properly.
- Will complainant's well dry up?
 - o The DNR regulates the use of well water for agricultural purposes.
 - o Staff has received an email and letter from the DNR confirming that Maertens has the required permit and is in compliance therewith.
 - o Complainant provided no evidence that the project will cause his well to dry up. When asked by staff whether he noticed any effect on his well after Maertens built his existing barn, complainant only said that he has problems with his well in dry years. Complainant did not connect that problem to Maertens' feedlot or state that it had only begun after Maertens built his barn, even when invited to do so.
 - o There have not been many dry years since Maertens built his barn in 2015.

Conclusion:

Complainants have failed to prove that the setback formerly required between an airport and a feedlot applied to Maertens' existing barn at the time it was built, or that the former setback (having been repealed) has any legal effect on the proposed project currently in front of the Planning Commission. In fact, the law as currently written, and in its former version, both clearly support the Environmental Office's position that the existing barn was legally permitted.

Complainants have failed to prove that the situations they complained about rise to the level of permit violations on the part of Mr. Maertens. County staff has inspected the sites and the records and was not able to find a violation. Redwood County Ordinance and Comprehensive Plan acknowledge that feedlots can potentially impact the surrounding land uses, and county staff remains committed to ensuring that this is kept to a minimum through mitigation and siting factors, as much as is practical and as required by the ordinance.

Many of the complaints and concerns brought up in the hearing were conclusory in nature. In other words, the complaints stated a claim without providing specific evidence in support thereof. Other concerns were expressed as open-ended questions (e.g. "What if my well dries up?"). It should be noted that the role of the Planning Commission is not to answer hypothetical questions about the project, or to predict future events. Rather, the Planning Commission's role is to receive testimony and other evidence in order to evaluate the merits of the project. Alternatively stated, the purpose of the public hearing is for interested parties to bring information to the Commission, not the other way around.

This concludes Brozek's report.

Brozek made the following statements about the report:

- There was a requirement, in the ordinance at the time Maertens' permitted and built his first barn, that feedlots be set back at least ½ of a mile from an "FAA approved" airport. However, the setback did not apply because Fuhr's airport is a private, personal use airport, which is not required to go through any review and approval process with the FAA. Instead the airport is merely registered with the FAA, and the FAA puts it on its official map for emergency purposes.
- Furthermore, the airport setback was removed from the ordinance, amongst a number of other changes, when the County adopted a new code of ordinances in March of 2019. This means that even if the barn had been illegally placed when it was built, it would be legal now.

- The purpose of the airport setback was to keep feedlots away from places where people tend to congregate, which does not apply to private, personal use airports. This is proven by looking at the nature of the other features that have feedlot setbacks – they are divided into two groups: 1) places where people congregate; and 2) natural and manmade features that are sensitive to surface water runoff or ground water contamination.
- The airport setback was removed from the ordinance because the setback from cities was increased. Since all the FAA approved airports are within city limits, this made the airport setback superfluous.
- Complaints have been received about odor and noise at Maertens' existing barn. These are listed in the report.
- All complaints have been investigated. During staff inspections of the sites, no offenses against the ordinance or permit terms and conditions have been observed.
- Brozek stated that he had received a written response to his report from David Fuhr, which he had forwarded to the Commissioners and interested parties. Brozek read Fuhr's response aloud.
- Brozek received a written response to Fuhr from Mike Boerboom, which Brozek also read aloud to the audience.

David Fuhr's response is reproduced below:

Items for the May 30th meeting

On going odor and noise issues.

The Redwood County Zoning Commission used a 96% annoyance free estimate using the Uof M model, in the original permit 7-15, but since the barn was built this has proven inaccurate. This is not an actuation, this is proven by the complaints that have been made to the Redwood County Commissioners, and the Zoning Committee.

There has not been an airflow study for this site, only an estimate using the U of M model.

An airflow study must be done for this site, using the elevation and terrain as it is really depicted on the Redwood County terrain map.

The Zoning Committee is requesting evidence without any time to produce evidence.

I request a 90 day delay to gather the required information.

Composting dead hogs.

Existing 2400 head barn x 2+turn overs per year = 4800 pigs. With a 1 ½ % average death loss, (which is industry standards), the facility is currently composting 720 dead hogs per year. With the expansion to 4800 head with 2+ turn overs there will be 7200 hogs on site annually. With the average death loss there will be more than 1500 dead hogs being subjected to composting. This results in odor and disease issues.

The proposed composting facility sits 19 feet up hill and within 865 feet from an open creek ,this presents a dangerous situation for the water shed.

Shelter belts.

The original plan did not require a shelter belt, but Mr. Maertens, told Mr. Brent Riess, Minnesota Pollution Control Marshall MN in 2016 he was going to plant one, and never made an attempt in the last 3 years to do so. This was after we had brought odor and noise issues to Mr. Riess's attention.

A shelterbelt should be mandatory. A shelter belt must be planted on three sides of the existing building and the proposed building, starting North to South on the East side of the existing grove starting 50 feet north of the existing barn and continuing South 500 feet, then East to the site property line and North fifty feet north of the North edge of existing building.

This planting consisting of 4 rows, a row of tall deciduous trees (poplar), a row of shrubs, and two rows of established pine trees (5-6 ft.)

https://www.extension.umn.edu/environment/agroforestry/selecting-trees-shrubs-windbreaks/docs/windbreaksrevised_1.pdf

<https://www.nationalhogfarmer.com/environmental-stewardship/trees-block-hog-odors-0915>

https://email.ionos.com/appsuite/?tl=y#!&app=io.ox/mail&folder=default0/INBOX&language=en_US&user_id=4

This shelter belt will take years to establish with no relief in the near term.

Near term relief:

- Noise (squealing):

Install noise walls in front of the open curtains, like they do along roads to control noise.

Lower population in the barns, to reduce crowding, and competition for feed and water, with quarterly audits done by Redwood County Zoning Commission.

- Odor from light wind and calm conditions:

Install chimneys on all fans on existing and future barn, to mix exhaust odor with higher atmospheric air movement.

- This site is NOT a family farm this is a Hog Factory .

The County does not take any precautions for establishing guidelines for this, nor any remedies in event of abandonment or closure of facilities.

There are no guide lines to close the pits or money in a bond account to protect the county from these items.

This concludes Fuhr's written submission.

Zeug stated that of three website links listed in Fuhr's response, only one worked.

Brozek made the following comments regarding Fuhr's response to the report:

- Fuhr stated that the UMN Odor OFFSET model showing a 96% annoyance free rating for the existing barn is wrong, that the odor is worse than that, based on Fuhr's previous complaints. However, the fact that complaints have been made about odor does not prove that the OFFSET model is wrong.
- Fuhr is requesting an airflow study. However, an airflow study has not been done before for any other barn, and it is not clear that Fuhr would benefit from an airflow study, since the prevailing seasonal winds do not blow to Fuhr from the direction of Maertens' feedlot and Fuhr's residence is at a slightly higher elevation than the feedlot, so gas from the feedlot will not tend to be carried there by gravity during still times.
- Fuhr is asking for a 90 day delay. However, state law requires that permits be processed within 60 days of receipt of an application. Maertens' application was received on April 16, which gives the County till June 15 to approve or deny, or the permit is automatically approved per state law. The law allows the County to unilaterally extend the time frame for an additional 60 days only, but not 90 days.
- Fuhr is concerned that composting dead animals will endanger the watershed. However, the compost will be contained in concrete bunkers.
- Fuhr is requesting that the Planning Commission perform audits to lower the population of pigs in the barns. However, head county and pig space numbers are under the jurisdiction of the MPCA, not the Redwood County Planning Commission. The State of Minnesota enforces state regulations about barn design and space per pig. Research shows that common industry standard pig space is 7.5 square feet per pig. The proposed barn will have 8.5 square feet of space per pig.
- Fuhr requests the installation of chimneys on the vent fans. The UMN Odor Offset model shows that properly installed chimneys would increase the Offset rating of the existing barn from 96% to 98%, and

would raise the combined Offset rating of two barns from 94% to 97%. According to UMN research, the chimneys would need to rise 20 feet above the ridge line of the roof of the barns in order to be 100% functional.

- County Ordinances neither promote nor prevent the construction and operation of “factory farms” because that term has no legal meaning, and is not defined by Fuhr. The County does have setback requirements and other precautions that must be observed in the construction and operation of feedlots generally, whether people consider them to be “family farms” or “factory farms.”
- Redwood County has not experienced any issues with closure of feedlots and the decommissioning of manure pits.

Madsen made the following comments:

- The UMN Odor Offset model is based on science. Individual experience of odor can vary from person to person.
- Feedlot regulations require random inspections which address crowding, if found.
- Madsen has personal experience with the veterinarian/nutrition consultants (Pipestone Vet Clinic Systems) used by Boerboom, who supply the pigs. Pipestone is one of the best and they set the standards for the rest of the industry. They do not allow animal mistreatment (overcrowding).

Madsen inquired if a shelterbelt is still being planned. Maertens said he is willing to plant trees on the west side of the site, including one row of shrubs and one row of trees. He is limited in what he can do due to tile lines. He also intends to add trees to the south end of the existing grove. Forkrud asked if more than two rows could be planted. Maertens said he could plant more than 2, but this is not commonly done on feedlot sites.

Raymond Walz spoke as a representative of the Fuhrs, in opposition to the project. He made following statements:

- This is a quality of life issue
- His clients did not understand that it is a complainants’ responsibility to provide evidence to prove their complaints.
- Walz told an anecdote about a person unrelated to the Fuhrs, who lives near a different feedlot in another county and had problems with that feedlot.
- Walz stated that the Fuhrs would be fine with a delay of less than 90 days, if 90 is not possible.
- The odor coming from the feedlot constitutes a failure to comply with the rules

Brozek made the following statements in response to Walz:

- Redwood County does not require that a complainant provide evidence of their complaint before staff will investigate. The Environmental Office investigates all complaints as they are received. However, it is always a requirement, particularly at an official hearing, that a person should provide evidence of the assertions that they make.

The Kuehns asked if trees could also be planted on the east side of the site, to protect them from the odor. Maertens said he would also plant two rows on the east side.

The Commissioners discussed the possible use of chimneys, air “scrubbers”, and pit fan filters. Brozek stated that there is no “scrubber” technology available, that he is aware of. Pit fan filters have been used in the past, but are bulky and must be maintained. Using filters could require the installation of different fans. There are two barns in Redwood County with fan filters, which were required in response to neighborhood opposition, and installed by agreement with the barn owner. Brozek stated that there is only one barn that he knows of with chimneys in Redwood County. Chimneys are very common in Europe, where the barns are designed differently from American barns. In Europe, they use fans that blow upwards, instead of outwards, which are placed in chimneys that run up the middle of the barn and out through the roof.

Vice-chair Scheffler closed the meeting to public comment at 2:00 p.m.

The Planning Commissioners discussed the following items:

- Trees are needed on the east and west sides of the site.
- Trees can be planted into pre-emergent herbicide used on the corn field.
- Should have a condition requiring the extension of the grove 50 feet south, and 2 rows of trees on the west side and two rows on the east side of the barns. The trees should be different heights with the short row on the inside, to promote air mixing.
- Evergreens do a good job of stopping odor.

The Commissioners viewed an aerial image of the property and Maertens pointed out where the new trees would go. He stated that trees on the east side will help protect his fans, which struggle with a stiff headwind.

The Commissioners determined that the public was afforded ample time to respond to the proposed project. The Commissioners then discussed the findings of fact and filled out the findings of fact worksheets (attached to permit).

Zeug made a motion to recommend approval of permit #7-19, subject to the conditions recommended by staff and the following additional conditions:

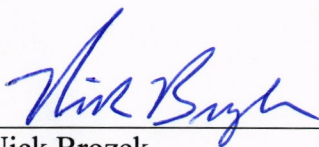
- The permit holder shall maintain the existing grove on the site and shall plant and maintain additional tree lines as follows: (1) two rows of trees on the west side of the barns; and (2) two rows of trees on the east side of the barns. The tree planting plan, including the types of trees to be planted, shall be subject to review and approval by the Environmental Office.

Madsen seconded the motion and it passed unanimously.

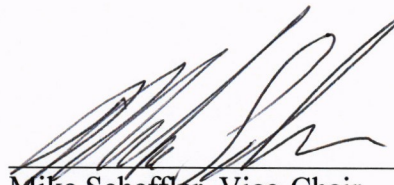
It was noted that the Application would go to the County Board of Commissioners on June 4th for a final decision.

Brozek summarized upcoming permit applications.

On a motion by Zeug, seconded by Madsen, the meeting was adjourned at 2:43 pm.



Nick Brozek
Land Use & Zoning Supervisor
Redwood County Environmental Office



Mike Scheffler, Vice-Chair
Redwood County Planning Commission

Redwood County Planning Commission Meeting

Date: May 30, 2019

<u>NAME</u> (Please PRINT legibly)	<u>MAILING ADDRESS</u> (Street, City, State and ZIP code)
Vincent Maertens	Olivie MN 56277 05290 360 th St.
Tom Dauda	26374 280 St. Wabasso Mn. 56285
Tom Mullis	25624 290 th St Wabasso Mn
Burr Maertens	25624 290 th St Wabasso Mn.
Karen Maertens	Wabasso MN
Tyler Maertens	26174 290 th St Wabasso
Delbert Keehn	" " " "
Laural Keehn	230 E. 3 rd Street
RAYMOND WALL	RWF
JIM SAUER	WABASSO
Mike Boerboom	3175 State Hwy 19 Marshall, MN 56258