

TO: Viola Township Planning Commission
Viola Township Board
Township Cooperative Planning Association

This email is provided in addition to the previously provided public comment offered at the July 20th meeting on the Viola Planning Commission regarding the Scanlan feedlot application for Conditional Use Permit (CUP).

The following facts provide the basis to support the denial of this permit.

In 2017 Craig Scanlan applied for and received approval to construct a confined animal feedlot consisting of 720 animal units to be used to finish and house 2400 hogs. As a part of this application process the Scanlans offered to the Viola Board and the assembled members of the community a plan which included the building of a shelter belt. This shelter belt was designed by the Olmsted Soil and Water District (SWCD) using best practices to both mitigate the visual impact of the structure and the odor coming from the facility.

As you know, in the 4 years since then, the shelter belt has never been constructed and at the July 20th 2021 Viola Planning Commission meeting Kevin Scanlan acknowledged that they never intended to construct the shelter belt as they were planning in the future to enlarge the facility. This unabashed admission by the applicant shows a complete disregard of the plan and is a direct affront to the authority of the Township Board as well as the members of the community. It is understood that in 2017 the Board had no enforcement authority to compel Mr. Scanlan to erect this shelter belt. However, the fact that Mr. Scanlan offered this plan to the board and our community and then blatantly ignored his own plan, speaks volumes about the Scanlans' propensity to ignore rules, regulations, agreements, and best agricultural practices.

In July of 2021 we became aware of the fact that Craig Scanlan dumped numerous loads of barn manure in a field gully approximately 1200 feet from the proposed feedlot. The gully that this barn manure was dumped and packed into is located only a few hundred feet from a natural pond on a neighboring property not owned by the Scanlans. This pond, which is spring fed, forms an unnamed tributary to a branch of the Whitewater river. The Minnesota Pollution Control Agency (MPCA) is currently investigating this incident and has verified that the material dumped in the gully is manure. Although the initial MPCA investigation appears to indicate that technically this dumping of manure falls into a gray area between their existing rules and regulations they have asked the Scanlans to mediate the impact of this dumping by restricting potential water runoff into the neighboring pond and to seed and cover the area in an attempt to minimize the run off of nitrates.

The Minnesota Department of Natural Resources (DNR) is also monitoring the MPCA investigation to determine if any DNR rules may have been violated. We have spoken to several individuals that are currently actively engaged in farming practices or work as advisors and content experts to the agriculture industry and each of them has indicated

that the practice of dumping manure in a gully is not acceptable best practice in the farming industry. Further, they have indicated that incidents of this nature pose a significant risk to the environment, specifically related to streams and waterways. It is our opinion that the actions of the Scanlans related to this manure dumping is yet another egregious example of ignoring best farming practices and disregard for the natural environment.

On July 19th, 2021 DNR Hydrologist Nicole Lehman authored an email to numerous State and County officials summarizing the DNR's review of the Scanlan proposed feedlot CUP. A copy of this email was distributed at the July 20th, 2021 public meeting of the Viola Planning Commission. In her email Lehman points out that the Scanlan manure plan included fields containing 21 intermittent streams and 5 fields within floodplain. She recommends manure injection setbacks of 300 feet of creeks and areas of shallow depth bedrock. She further recommends berms be built around known sink holes and an annual pre-injection walk through of the fields to ensure no changes to karst and surface karst features. She also details her concern for potential phosphorus loading to affect Silver Creek Reservoir. Because of these concerns, twice in her memo she states the proposed feedlot is inconsistent with the goals of the Zumbro River One Watershed One Plan as well as inconsistent with the DNR's clean water goals.

These reasons along with the testimony offered at the public hearing regarding frequent and repeated odor complaints, potential damage to the environment, and intangibles regarding effects on real estate values form the basis for the Viola Planning Commission to deny the Scanlan feedlot CUP.

Should the Planning Commission determine to approve the feedlot CUP we wish to address the following concerns regarding the specific conditions the Scanlan feedlot CUP would be required to adhere to and complete, to operate in Viola Township.

1. All local, State, and Federal requirements of the Scanlan feedlot application should be properly filled out in the application, reviewed, and approved by each agency.
2. Bio filters must be installed and maintained on both feedlot structures.
3. Dust mitigation near the facility is required.
4. All heavy traffic should enter and exit to the north on 80th Avenue.
5. Drafting of a condition related to the construction and maintenance of a shelter belt must be specific and detailed. The construction should be according to plans detailed by the Olmsted County SWCD and should represent best practices. The shelter belt requirement should include language requiring the applicant to use trees provided by a nursery and be of a minimum size, such as 6-foot nursery stock. The trees should be installed according to design and should be maintained annually by replacing damaged, diseased, and dead trees.

The applicant should submit to an annual inspection of the shelter belt by the Township Board to determine if replacement is necessary. A provision requiring the shelter belt to be constructed prior to building construction may be advisable to ensure compliance.

6. Since the DNR is calling for 300 feet of setback for manure injection/application near streams, creeks, and shallow bedrock it seems reasonable to require the applicant to follow these same set back near private well heads. A condition restricting the applicant from applying/injecting manure within 300 feet of a private well will protect the individual well owner's investment into their property and help protect the environment. This condition could be written in a manner allowing the applicant to obtain written permission from the well owner if they wished to waive the 300-foot restriction. Since wells are a significant expense/investment and since they can act as pathways for nitrates to pollute our aquifer, this restriction/requirement is appropriate.

In conclusion, we believe that abundant concern and information exists to warrant denial of this permit.

If it is the decision of the commission to move forward with approval, the detailed conditions stated above represent a starting point for reasonable conditions. If the commission or the township board advances this CUP without considering reasons for denial or inclusion of these conditions, we understand that we are afforded the right to appeal the process as an aggrieved party.

Respectfully,

Brian and Cheryl Winters
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