

# **TOWNSHIP COOPERATIVE PLANNING ASSOCIATION**

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-- TCPA --

Date: 3/12/12

To: Viola Township Planning Commission  
Shea Dairy Inc., Tom and Jason Shea

Re: Conditional Use Permit  
Viola Township, Section 21

## ***Pubic Hearing***

The Viola Township Planning Commission will hold a public hearing at the Viola Town Hall, 4010 Center Street NE, Viola, MN 55934 on Monday, March 26, 2012 after 7:00 PM regarding:

## **Request**

An application for a conditional use permit (CUP) to allow the expansion of a feedlot up to 1,255 animal units consisting of dairy cows, dairy heifers and dairy calves. The township ordinance requires a CUP when a feedlot exceeds 1,000 animal units.

**Notice is hereby given per MN Statutes, Chapter 116, that Shea Dairy Inc., has made application to the MN Pollution Control Agency for a permit to construct or expand a feedlot with the capacity of 500 animal units or more.** The existing and or proposed feedlot will be located in the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 21 of Viola Township, Olmsted County, Minnesota. The existing facility consists of 647 mature dairy cows over 1,000 lbs, 45 dairy heifers, and 220 dairy calves. The existing buildings consist of 7 total confinement barns, 2 partial confinement barns with open lots, and calf huts. The proposed facility consists of 800 mature dairy cows over 1,000 lbs, 45 dairy heifers, and 516 dairy calves for a total of 1,254.7 animal units. The buildings for the proposed expansion will consist of the existing buildings and one new 50 foot X 200 foot confinement barn with manure pack on floor. This publication shall constitute as notice to each resident within 5,000 feet of the perimeter of the proposed feedlot as required by MN State Law in addition to post cards mailed to all property owners and residents within the 5,000 foot perimeter.

**Property Owner & Applicant:** Shea Dairy Inc., Tom and Jason Shea, 10240 Viola Rd NE, Viola, MN, 55934.

**Legal:** Part of the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 21, T107N-R12W, Olmsted County, MN.

**Zoning:** A-1 (Agricultural Protection District)

**Ordinance:** Section 5.00 B. Conditional Uses #9. Animal feedlots exceeding 1,000 animal units and as regulated in section 10.26 as addressed below.

**Staff Review Notes:** The applicant has applied for a NPDES/SDS (national pollutant discharge elimination system and state disposal system permits with MPCA. These permits include manure management plan, air emission plan with complaint response protocol, animal mortality plan, operation and maintenance plan, plan and specifications for liquid manure storage area, stormwater pollution prevention plan, groundwater

monitoring plan and an emergency response plan. The manure management plan consists of nitrogen management, phosphorus management with a schedule of when and where manure will be applied. The plan also includes a solid manure plan. The applicant is not planning on constructing any new structures at this time because of the proposed animal unit expansion.

**Reviewers List**

Rochester-Olmsted County Planning  
Olmsted County Public Works  
Minnesota Department of Natural Resources  
Olmsted County Soil and Water-James Stannard Feedlot Officer  
Minnesota Pollution Control  
GGG-Septic Inspector

Enclosures

1. Application
2. Location Map
3. Site Plan
4. Zoning Map

Conditional Use Permit

ARTICLE IV Zoning Procedures- A. Criteria for Granting Conditional Uses  
(Staff comments are in italics)

A. Criteria for granting conditional uses: In granting a conditional use, the

Planning Commission shall consider the effect of the proposed use on the

Comprehensive Plan and upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the Commission shall consider the following:

1. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property;

*The feedlot is located in an A-1 Agricultural District. This use is consistent and would be expected to be located within an agricultural district. The use should not reduce property values or be a deterrent to neighboring property's if best management practices are used for the animal barns and the manure handling.*

2. The proposed use will not impede the normal and orderly development and improvements of the surrounding property;

*The proposed use is a normal use for A-1 Districts and will not impede orderly development of surrounding property. The area is resource protected (agricultural) as labeled by the Olmsted County Land Use Plan.*

3. Adequate utilities, parking, drainage and other necessary facilities will be provided;

*The applicant has applied for a NPDES permit which should address the drainage.*

4. Adequate ingress and egress will be provided to minimize traffic

congestion in the public streets;

*The operation is located along a County Road and should be able to accommodate the proposed expansion. Olmsted County Public Works has not commented as of this time.*

5. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the Township in order to handle the additional traffic generated by the use.

*The location of this parcel is along Olmsted County Road # 2 (Viola Road) and it should be adequate for traffic generated by this use. County 2 has width on its shoulders for larger equipment.*

6. Adequate measures have been taken or proposed to prevent control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property.

*Odors and fumes from feedlots are controlled by MPCA regulations. This type of use should not increase dust, noise or vibration above normal levels in Agricultural Districts. Any lighting around the sheds should be directed away from any neighboring property or road right-of-ways.*

7. The special criteria or requirements indicated in Article X, General Regulations are complied with.

*Yes, especially Section 10.28 as noted in this report below.*

8. The water and sanitary systems are or would be adequate to prevent disease, contamination and unsanitary conditions.

*If the applicants increase the number of employees the septic system should be reviewed for sizing with the townships septic official. Adequate distance must be met with any additional structures to the well and septic systems located on the parcel.*

9. The likelihood or necessity of the proposed use increasing the size and number of signs, displays, outdoor lighting, demands on septic systems, water resources, paved areas, and drainage systems.

*The proposed use should not cause an increase of the above factors- no additional signage has been requested.*

When deciding on conditional uses to the floodplain items 10 through 21 address floodplain only. According to the Viola Floodplain Map, the proposed site is not in a floodplain.

When deciding on a conditional use permit to the A-1, A-2, A-3, and A-Agricultural Districts, the following additional factors should be considered.

The amount of prime agricultural land with a crop equivalent rating of 60 or above that would be taken out of production as a result of the use.

*The proposed use is agricultural in nature.*

The need for new public roads or the need for improvement to existing public roads is minimal.

*Expanding the feedlot should not have any change for road use.*

24 A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

*Addressed by Soil Conservation and MPCA permits.*

2. The visibility of structures and other facilities as viewed from public waters are limited;

N/A

3. The site is adequate for water supply and on-site sewage treatment; and

N/A

4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

N/A

Additional Conditions from ARTICLE X Section 10.26 Animal Feedlots:

C. Any animal feedlot requiring a conditional use permit shall, in addition to the criteria specified in Section 4.02 Conditional Uses, consider the following:

- A. No new animal feedlots or manure storage facilities shall be located in a floodplain or shoreland district.
- B. No new animal feedlots or manure storage facilities shall be located within one half mile of an incorporated city limit boundary.
- C. Any new animal feedlot requiring a conditional use permit shall, in addition to the criteria specified in Section 4.02, Conditional Uses, consider the following:
  1. All construction and design plans for manure handling, manure storage facilities and procedures of applying the manure to the land have been approved by the Soil and Water Conservation Board.

*This condition must be met; the applicant has stated that no facility expansion is being planned in the near future.*

2. The public road serving the feedlots is adequate and would not need to be upgraded or improved in order to service the feedlots.

*County Road 2 is a hard surface road and should be adequate*

3. The proposed feedlot will not adversely affect the neighboring properties.

*This is an expansion of a feedlot that already exists. No comments have been received prior to this report from neighboring property owners. No complaints have been submitted to TCPA in the past for feedlot related issues.*

4. A proposed new feedlot would be located one-quarter mile or more from the nearest non-farm resident. For setback for non-farm dwellings from feedlots see section 5.00, C. # 4, Standards for non-farm dwellings.

NA

Conclusion:

Staff has reviewed this request in accordance with the applicable standards and provisions, as included in this report. Based upon review and analysis included above, staff recommends approval of this application subject to the following conditions:

Note: The Planning Commission should conduct the public hearing and determine findings to support their decision on the CUP request.

1. The applicant must obtain all applicable permits that are required by federal, state, and local agencies and keep all the required permits current.
2. Outside lighting shall be diffused or directed away from adjoining properties and public roads.
3. A zoning certificate must be issued prior to construction of any additional agricultural structures; the shoreland rules and setbacks will be applied to any future construction on the site.
4. Applicant must maintain a current MPCA permit or this CUP permit is void.
5. Manure odor must not exceed MPCA regulations and guidelines and the applicant/owner must use best management practices to control odor and other feedlot related nuisances that may affect neighbors.
6. The owner/operator must use "best management practices" as identified in their NPDES permit.
7. This permit is for a feedlot up to 1,255 animal units.
8. Review of Conditional Use Permit. This Conditional Use includes, at the discretion of the Town Board, a periodic review to determine compliance with the conditions of the permit and whether changed circumstances or conditions require changes to the permit. The Town

Board may also elect, upon adoption of an appropriate resolution following verification of a complaint that a condition has been violated, to conduct a review of the permit. Said review shall only take place following written notice to the owner of the subject property and a duly noticed public hearing. Following such hearing, the permit may be amended based on changed conditions and experiences with the site.