

# **Bond Case Briefs**

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## **ZONING & PLANNING - SOUTH DAKOTA**

### **Hoffman v. Van Wyk**

**Supreme Court of South Dakota - August 9, 2017 - N.W.2d - 2017 WL 3426532 - 2017 S.D. 48**

Property owners applied for writ of mandamus to compel county planning and zoning administrator and the planning and zoning commission to revoke a building permit for a hog confinement unit.

Following a bench trial, the Circuit Court denied the application, and property owners appealed.

The Supreme Court of South Dakota held that:

- Proposed hog containment facility was a permitted use without the need for a variance or conditional use permit, and
- Even if application for building permit did not conform to ordinance's requirement for a detailed site plan, mandamus would not be granted, when the facility had already been completed at the time of trial.

A proposed hog containment facility, which was located in an agricultural district, was a permitted use without the need for a variance or conditional use permit. Applicant owned the land where the facility was to be built, such land exceeded the minimum 25 acres for a farm or ranch, applicant testified he farmed for a living, and aerial photographs clearly showed the land surrounding the proposed facility was being used for cultivation.

Even if application for building permit for a hog confinement unit did not conform to zoning ordinance's requirements for a detailed site plan, mandamus would not be granted, when the facility had already been completed at the time of trial, and when the facility was a permitted use under the ordinance as part of a farm or ranch.