

To: County Board
From: Land Use Management
Meeting Date: July 3, 2024
Report date: June 24, 2024

CONSIDER: Request for CUP for a Contractors Yard

Request, submitted by David and Victoria Bauer (Owners) for a Conditional Use Permit (CUP) to operate a Contractor’s Yard for tree and brush storage and mulching.

Application Information:

Applicant: David and Victoria Bauer (Owners)

Address of zoning request: 21726 287th Street Red Wing, MN 55066

Parcel(s): 31.010.0102

Abbreviated Legal: Part of the N ½ of the NE ¼ of Section 10 TWP 112 Range 15 in Featherstone Township

Township Information: Featherstone Township is aware of the request. The Applicant has attended multiple Township meetings however a formal decision on the matter has not been made by the Town Board as of the writing of this report. Featherstone Township does not allow commercial operations in the Township. All staff communications from the Township have indicated the Township will deny the request. Denial of the request by the Township does not prevent the County from approving a County CUP. The County Board must make a decision based on the County’s Ordinances and policies.

Featherstone Township is responsible for enforcing its ordinance.

Zoning District: A-2 (Agricultural District)

Attachments and links:

Applications and submitted project summary

June 17, 2024 DRAFT Planning Commission Meeting Minutes

Site Map(s)

Background:

The Applicants purchased the property in 2023 to store brush and logs from tree removal work completed in the Red Wing area. The brush and logs are brought to the site to be mulched and hauled off-site. The property contains five accessory buildings that are not proposed to be used for the Contractor’s Yard. There will be no on-site office or sales, no on-site equipment storage apart from a lawnmower and front-end loader, and no on-site staff apart from individuals loading/unloading brush, logs, and mulch. The Applicants have already begun storing logs and brush on-site.

Contractors Yards are defined in the Goodhue County Zoning Ordinance as: “A site used for storage, maintenance, and staging of vehicles, equipment, and materials related to contracting work in any of the building trades, landscaping, road building, sewer installation, transport and hauling, or similar professions in which work is principally conducted off-site”. Based on the use of the property and

business operations, staff has determined the operation qualifies as a Contractors Yard requiring a Conditional Use Permit in the A-2 District.

Project Summary:

Property Information:

- The subject property consists of a single parcel comprising approximately 26.95 acres.
- The property and adjacent land to the east, west, and south are zoned A-2 (Agricultural District). Land to the north is zoned A-3 (Urban Fringe District). Adjacent land uses consist mainly of forested bluffs among medium-density residential, row crop agriculture, and feedlot operations. Shoreland of an unnamed creek is located on the northernmost portion of the property and runs along 287th Street to County 1 BLVD.
- Section 10 of Featherstone Township is limited to 12 dwellings one per original $\frac{1}{4}$ $\frac{1}{4}$ section as an A-2 zoned section. There are currently 7 dwellings in Section 10 therefore dwelling density is available for up to 5 additional dwellings. The Applicant's parcel does not contain a dwelling but is considered an eligible building site by County Zoning since the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ is currently not occupied by a dwelling.
- The property contains five accessory buildings. These structures are not proposed to be used for the business. The property contains forested bluffs with a flat field at the bottom of the bluff where brush and logs are stored until mulched. A dry run creek runs through the property near the existing structures and continues along 287th Street.

No new structures are proposed for the Contractor's Yard.

- The property does not have existing exterior lighting and no lighting is proposed to be installed.
- There is the potential for noise to be generated by the trucks hauling and the brush being ground into mulch. Truck traffic is proposed to consist of one log loader truck taking 3 to 4 trips 2 or 3 days per week year round. The processing of logs into mulch would occur once per year for 2 or 3 days. Mulch would be hauled off-site after processing in approximately 50 trips per year. This results in a maximum of 674 truck trips per year or 1.8 trips per day.
- The nearest dwelling is located approximately 750 feet east of the proposed brush pile (parcel 31.010.0102 owned by Brent Seely). This property is separated from 287th Street and the Applicants' property by wooded bluffs.
- 287th Street is a dead end road accessed from County 1 BLVD to the northeast. Trucks will pass 4 parcels with dwellings on the way to and from the property. Three of these dwellings are within 80 feet of 287th Street.
- There is the potential for dust to be created by the operation as it is located on an aggregate road. The road authority is Featherstone Township. The Planning Commission may consider adding a condition that dust control be applied to 287th Street by the Applicant.

Business Information:

- The property owners own and operate Rivertown Tree Service out of Hastings, MN. The main activity on this site is the loading and unloading of logs and brush to be stored until they are ground into mulch. No repair work is conducted on-site and there is not a public office on-site. There will be no composting on-site. The only equipment stored on-site will be a tractor lawnmower and front-end loader.
- Primary hours of operation will be year-round, 2 to 3 days per week from 7:00 AM to 4:00 PM.
- There are no on-site employees associated with the business except for loading/unloading logs and brush, grinding, and hauling mulch. Individuals will occasionally be on-site to maintain the property by mowing overgrown trees and grass.
- The truck used for hauling brush and logs is a log loader truck. The weight of the truck full is 50,000 pounds (25 tons) and the empty truck weighs 25,000 pounds (12.5 tons).
- Parcel access is located off 287th Street on the northeast side of the property. Adequate emergency vehicle access is available to service the facility.
- The Applicants added a 6 foot culvert over the dry run for trucks to access the proposed brush and log storage area. The Goodhue Soil and Water Conservation District reviewed this and is okay with the culvert installation.
- Ample space exists on the property to accommodate parking requirements.
- The property entrance is gated at 287th Street. No signage is proposed to be installed.

Drainage/Landscaping:

- The site has varying topography with steep wooded bluffs and flatter areas at the top and bottom of the bluff. Drainage flows into the dry run creek which runs along 287th Street to County 1 BLVD as a designated Shoreland stream.
- No additional grading or excavating is proposed. Existing trees and vegetation screen the property from 287th Street during leaf-on conditions. The brush storage area is somewhat visible from the end of 287th Street.

PAC Findings of Fact:

1. The proposed Contractors Yard does not appear injurious to the use and enjoyment of properties in the immediate vicinity for uses already permitted, nor would it substantially diminish and impair property values in the immediate vicinity. Truck trips are proposed to be limited to a few days per week.
2. The Contractor's Yard is not anticipated to impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. The use, as

proposed, appears compatible with existing adjacent land uses. Grinding of logs into mulch is proposed to occur only a few days per year.

3. A review of the Applicant's submitted project summary indicates adequate utilities, drainage, and other necessary facilities are available to accommodate the proposed use. The access road may be impacted by truck traffic and is narrow in some spots. The Applicant has indicated they will apply dust control if required. The Applicant has stated a desire to work with the Township on road maintenance.
4. The facility has ample room to provide sufficient off-street parking and loading space to serve the use and meet the Goodhue County Zoning standards.
5. The submitted plans detail adequate measures to prevent or control offensive odor, fumes, and vibration so that none of these will constitute a nuisance. Dust generated on the roadway may be addressed by requiring the Applicant to apply chloride/dust control. Noise caused by the mulching of brush is proposed to be limited to a few days per year during daytime hours. Truck noise may be mitigated by limited truck trip days and duration.

PAC Recommendation:

The Planning Advisory Commission recommends the County Board of Commissioners:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request submitted by David and Victoria Bauer (Owners) for a Contractors Yard to store brush and logs for processing into mulch.

Subject to the following conditions:

1. The Contractors Yard shall be constructed according to submitted plans, specifications, and narrative unless modified by a condition of this CUP;
2. Compliance with Goodhue County Zoning Ordinance including, but not limited to, Article 22 (Agricultural District) and Article 11 Section 33 (Contractors Yards);
3. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations; and
4. No on-street parking, loading, or off-loading is permitted;
5. Truck hauling shall be limited to 3 days per week;
6. The Applicant shall apply chloride/dust control along all of 287th Street from County 1 BLVD to their property entrance.

***The Board may consider adding language to condition 5 that additional hauling may occur should Goodhue County be impacted by an extreme weather event.**



**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
June 17, 2024, MEETING MINUTES
DRAFT**

The meeting of the Goodhue County Planning Advisory Commission was called to order at 6:00 PM by Chair Chris Buck at the Goodhue County Government Center in Red Wing.

Roll Call

Commissioners Present: Christopher Warrington, Richard Miller, Chris Buck, Todd Greseth, Darwin Fox, Marc Huneke, and Tom Gale

Commissioners Absent: None

Staff Present: Zoning Administrator Samantha Pierret, Zoning Assistant William Lenzen

1. Approval of Agenda

¹Motion by Commissioner Miller; seconded by Commissioner Fox to approve the meeting agenda.

Motion carried 7:0

2. Approval of Minutes

²Motion by Commissioner Warrington; seconded by Commissioner Greseth to approve the previous month's meeting minutes.

Motion carried 7:0

3. Conflict/Disclosure of Interest

There were no reported conflicts/disclosures of interest.

4. Public Hearing(s):

PUBLIC HEARINGS: Request for CUP for a Contractor's Yard

Request, submitted by David and Victoria Bauer (Owners) for a Conditional Use Permit (CUP) to operate a Contractor's Yard for tree and brush storage and mulching. 21726 287th Street Red Wing, MN 55066. Parcel 31.010.0102. Part of the N ½ of the NE ¼ of Section 10 TWP 112 Range 15 in Featherstone Township. A-2 Zoned District.

Pierret presented the staff report and attachments. She added information from Featherstone Township stating that the Township had not yet made a formal decision on the proposal but the Township does not allow commercial operations and they would likely be denying the request. She added that she emailed the Clerk reminding them of the 60-day rule for decisions.

Drew Bauer (Applicant's Son) stated they would bring logs in to store them in a brush pile. Originally they had proposed to compost on site. That idea changed when Featherstone Township said composting is not allowed. They now are proposing only to store brush and logs on site until they can be mulched.

Commissioner Miller clarified that they will only be grinding mulch about 3 days a year.

Drew Bauer stated they are proposing only to be grinding for 3 days out of the year. The equipment that will be used is quite large and is anticipated to take up to 3 days to grind their entire brush pile.

Chair Buck Opened the Public Hearing

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
June 17, 2024, MEETING MINUTES
DRAFT

Patrick Fitschen (28299 Hwy 19 Red Wing) stated that this is a commercial operation and Featherstone Township doesn't have commercial zones or allow commercial uses in their zoning ordinance.

Steve Van Deusen (21872 287th Street Red Wing) questioned if the facility opens as a business what happens when a storm comes in and they need to work more hours than what they have stated? Or, what if they begin allowing other tree removers and the public to come dump their brush?

³After Chair Buck called three times for additional comments, it was moved by Commissioner Miller and seconded by Commissioner Warrington to close the Public Hearing.

Motion carried 7:0

Commissioner Greseth asked staff if Featherstone Township could have stricter guidelines than the County.

Pierret stated that the Planning Advisory Commission is making their decision based on the County's Ordinances. If Featherstone Township is stricter and denies the application, then the Township is responsible for enforcing its ordinances. Addressing VanDeusen comments, if the County hears that the operation is working more than what they listed in the CUP or more than just their company is storing brush on site, that would violate the CUP, and the County would be enforcing that.

Commissioner Greseth stated that if Featherstone had formally denied this permit then it wouldn't be here before the County today for approval.

Pierret stated that the County and the Township are two separate entities and there is nothing that states that one is dependent on the other before making a decision. Even if the Township denies a permit, there is no statute saying an applicant cannot apply with the County.

Commissioner Buck stated that if the County PAC approves then the Township still has to enforce their permit.

Commissioner Warrington clarified that the Township doesn't have an ordinance for commercial uses but the County does.

Pierret stated that the PAC can decide to accept or deny staff recommendations. To deny staff's recommendation the PAC must state reasons for denial on the record and show how the permit does not meet the County's Ordinances.

Commissioner Greseth stated that he was confused about how to proceed. In the 4 years he has been here, this is the first time this has come up.

Pierret stated that it comes down to what the Goodhue County Ordinance says is allowed and is not dependent on what the Township decides.

Commissioner Fox stated that Featherstone Township does have their ordinances and has commercial properties that were there before Featherstone's current ordinances. They have to make the decision based on Goodhue County's Zoning Ordinances.

Commissioner Miller stated that he would like to see a more specific condition stating that they can only haul 3 days a week and can only process mulch 3 days a week.

Commissioner Gale suggested amending the condition to only allow them to only work Monday-Friday rather than 3 days a week. He would rather see fewer trucks per day than a lot of trucks in just 3 days.

Commissioner Miller commented that if there is an emergency, such as a storm event, limiting them to working only Monday through Friday could prohibit them from taking care of storm damage.

Commissioner Warrington questioned whether is it typical that this would come before the PAC without Township approval.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
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DRAFT**

Pierret stated it is more commonly seen for variances by the Board of Adjustment but it can happen for CUPs. Staff always requires applicants to make their Township aware of their proposals however with meeting schedules and timelines occasionally the Township decides after the County. No statute or law says the Township must make a decision before the County Planning Commission or County Board.

Commissioner Greseth stated that he would like to table the motion and wait for the Township to decide at their next meeting.

Commissioner Miller stated that the proposal meets the County ordinances and is up to the Township to decide and enforce its rules. If we needed Township approval before making decisions, then the Ordinances would have been written that way. He added that if the Township denies the permit at their next meeting, his motion to approve would not change because the proposal meets County Ordinances. He also clarified he would like to add dust control to a proposed motion.

⁴It was moved by Commissioner Miller and seconded by Commissioner Gale for the Planning Advisory Commission to:

- Adopt the staff report into the record
- Adopt the findings of fact
- Accept the application, testimony, exhibits, and other evidence into the record; and

Recommend the County Board of Commissioners **APPROVE** the Request, submitted by David and Victoria Bauer (Owners) for a Conditional Use Permit (CUP) to operate a Contractor’s Yard for tree and brush storage and mulching. Subject to the following conditions:

1. The Contractor Yard shall be constructed according to submitted plans, specifications, and narrative unless modified by a condition of this CUP;
2. Compliance with Goodhue County Zoning Ordinance including, but not limited to, Article 22 (Agricultural District) and Article 11 Section 33 (Contractors Yards);
3. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations; and
4. No on-street parking, loading, or off-loading is permitted;
5. Truck hauling shall be limited to 3 days per week;
6. The Applicant shall apply chloride/dust control along all of 287th Street from County 1 BLVD to their property entrance.

Motion carried 7:0

5. Other Discussion

There was no additional discussion.

6. ⁵ADJOURN: Motion by Commissioner Fox and seconded by Commissioner Warrington to adjourn the Planning Commission Meeting at 6:30 p.m.

Motion carried 7:0

1 GOODHUE COUNTY CONDITIONAL/INTERIM USE PERMIT APPLICATION

Parcel # 31.010.0102

Permit# 224-0030

PROPERTY OWNER INFORMATION

Last Name BAUER First DAVID & VICTORIA

Street Address 19998 Kirby Avenue

City Hastings State MN Zip 55033 Attach Legal Description as Exhibit "A"

Authorized Agent _____ Phone _____

Mailing Address of Landowner: _____

Mailing Address of Agent: _____

PROJECT INFORMATION

Site Address (if different than above): 21726 281th Street, Red Wing, MN 55066

Lot Size _____ Structure Dimensions (if applicable) _____

What is the conditional/interim use permit request for?
Grinding Wood into Mulch and Then Mulch will Be hauled away.
Written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized

DISCLAIMER AND PROPERTY OWNER SIGNATURE

I hereby swear and affirm that the information supplied to Goodhue County Land Use Management Department is accurate and true. I acknowledge that this application is rendered invalid and void should the County determine that information supplied by me, the applicant in applying for this variance is inaccurate or untrue. I hereby give authorization for the above mentioned agent to represent me and my property in the above mentioned matter.

Signature of Landowner: David C Bauer

Date 5-24-24

Signature of Agent Authorized by Agent: _____

TOWNSHIP INFORMATION

Township Zoning Permit Attached? If no please have township complete below:

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the request.

Signature _____ Title _____ Date _____

Comments: _____

COUNTY SECTION

COUNTY FEE \$400

RECEIPT # 273370996

DATE PAID 5/24/24

Applicant requests a CUP/IUP pursuant to Article _____ Section _____ Subdivision _____ of the Goodhue County Zoning Ordinance

What is the formal wording of the request? _____

Shoreland _____ Lake/Stream Name _____ Zoning District _____

Date Received _____ Date of Public Hearing _____ DNR Notice _____ City Notice _____

Action Taken: Approve Deny Conditions: _____

RECEIVED

MAY 24 2024

Land Use Management



GOODHUE COUNTY CONDITIONAL/INTERIM USE PERMIT APPLICATION

PROJECT SUMMARY

Please provide answers to the following questions in the spaces below. If additional space is needed, you may provide an attached document.

1. Description of purpose and planned scope of operations (including retail/wholesale activities).

Recycle brush and logs.

2. Planned use of existing buildings and proposed new structures associated with the proposal.

No plans for the buildings.

3. Proposed number of non-resident employees.

No one will be working there.

4. Proposed hours of operation (time of day, days of the week, time of year) including special events not within the normal operating schedule.

7:00 AM to 4:00 PM, 2 to 3 days a week, 12 months.

5. Planned maximum capacity/occupancy.

None.

6. Traffic generation and congestion, loading and unloading areas, and site access.

One truck going in & out 2/3 days a week. 3 or 4 Times on Those Days.

7. Off-street parking provisions (number of spaces, location, and surface materials).

None.

8. Proposed solid waste disposal provisions.

None.

9. Proposed sanitary sewage disposal systems, potable water systems, and utility services.

None.

10. Existing and proposed exterior lighting.

None.

11. Existing and proposed exterior signage.

None.

12. Existing and proposed exterior storage.

Five small buildings.

13. Proposed safety and security measures.

Gated area.

14. Adequacy of accessibility for emergency services to the site.

Yes.

15. Potential for generation of noise, odor, or dust and proposed mitigation measures.

Yes, once a year when grind brush & logs (2/3 days a year).

16. Anticipated landscaping, grading, excavation, filling, and vegetation removal activities.

Maintaining over growth of trees and mowing grass.

17. Existing and proposed surface-water drainage provisions.

None.

18. Description of food and liquor preparation, serving, and handling provisions.

None.

19. Provide any other such information you feel is essential to the review of your proposal.

None.

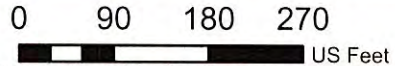
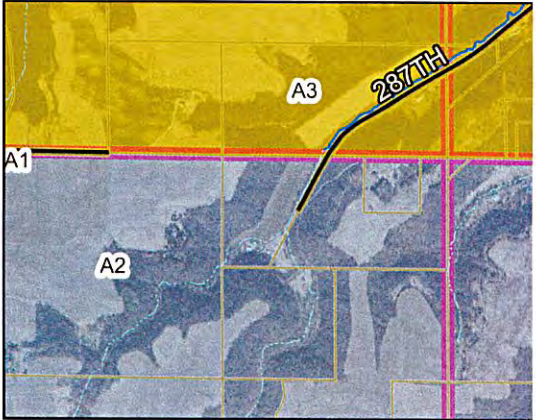


SITE PLAN

State the use of the property. Show the size, shape and location of structures with distance to property lines and location of ALL wells and septic systems.

Legend

- Intermittent Streams
- Protected Streams
- Lakes & Other Water Bodies
- Shoreland
- National Wetland Inventory
- Parcels
- Registered Feedlots
- Dwellings
- Municipalities
- Blufflands
- 30% Slope or Greater
- Bluffland Protected Soil
- FEMA Flood Zones
- 2% Annual Chance
- A
- AE
- AO
- Floodway



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2023 Aerial Imagery
Map Created May, 2024 Samantha Pierret



MAP 01: PROPERTY OVERVIEW



PLANNING COMMISSION

PAC Meeting
June 17, 2024

David & Victoria Bauer (Owner)

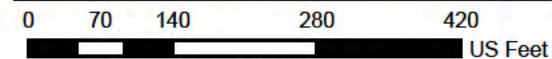
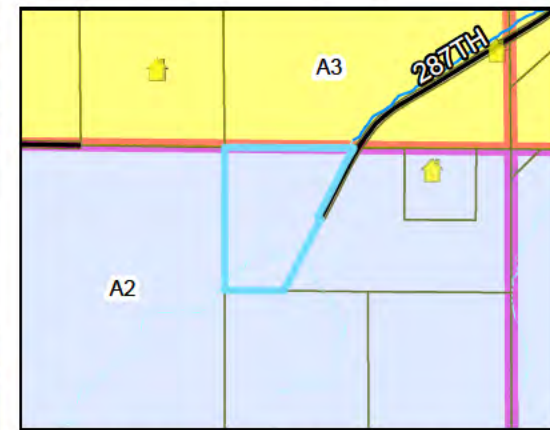
A2 Zoned District

Part of the N 1/2 of the NE 1/4 of
Section 10 TWP 112 Range 15
in Featherstone Township

Request for CUP to establish a
Contractor's Yard for tree and brush storage
and mulching

Legend

Intermittent Streams	Blufflands
Protected Streams	30% Slope or Greater
Lakes & Other Water Bodies	Bluffland Protected Soils
Shoreland	FEMA Flood Zones
Historic Districts	2% Annual Chance
Parcels	A
Registered Feedlots	AE
Dwellings	AO
Municipalities	X

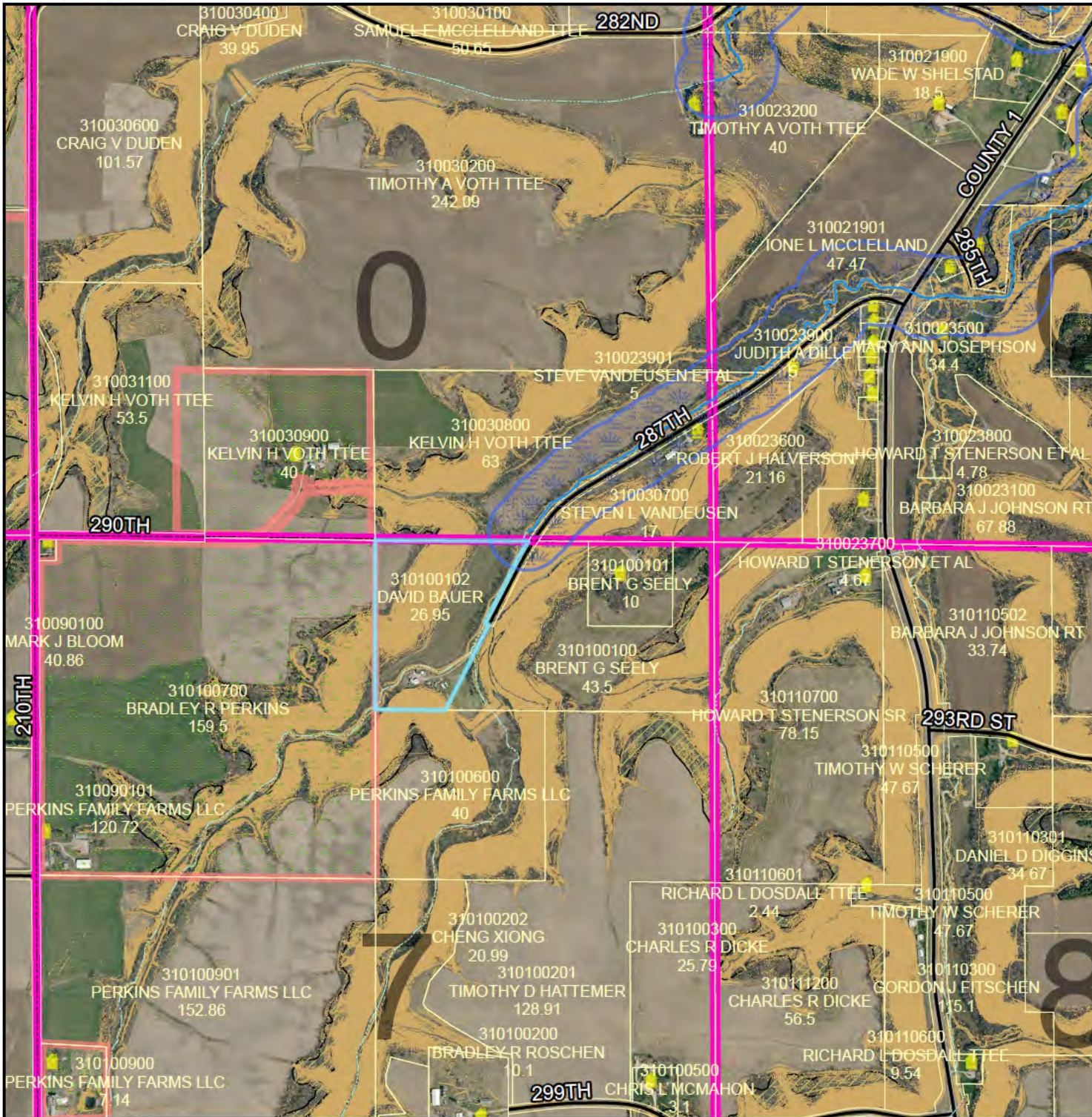


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MAP 02: VICINITY MAP



PLANNING COMMISSION

PAC Meeting
June 17, 2024

David & Victoria Bauer (Owner)

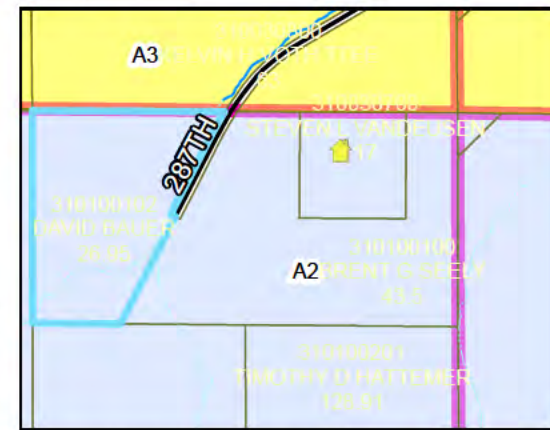
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Legend

	Intermittent Streams		Blufflands
	Protected Streams		30% Slope or Greater
	Lakes & Other Water Bodies		Bluffland Protected Soils
	Shoreland		FEMA Flood Zones
	Historic Districts		2% Annual Chance
	Parcels		A
	Registered Feedlots		AE
	Dwellings		AO
	Municipalities		X

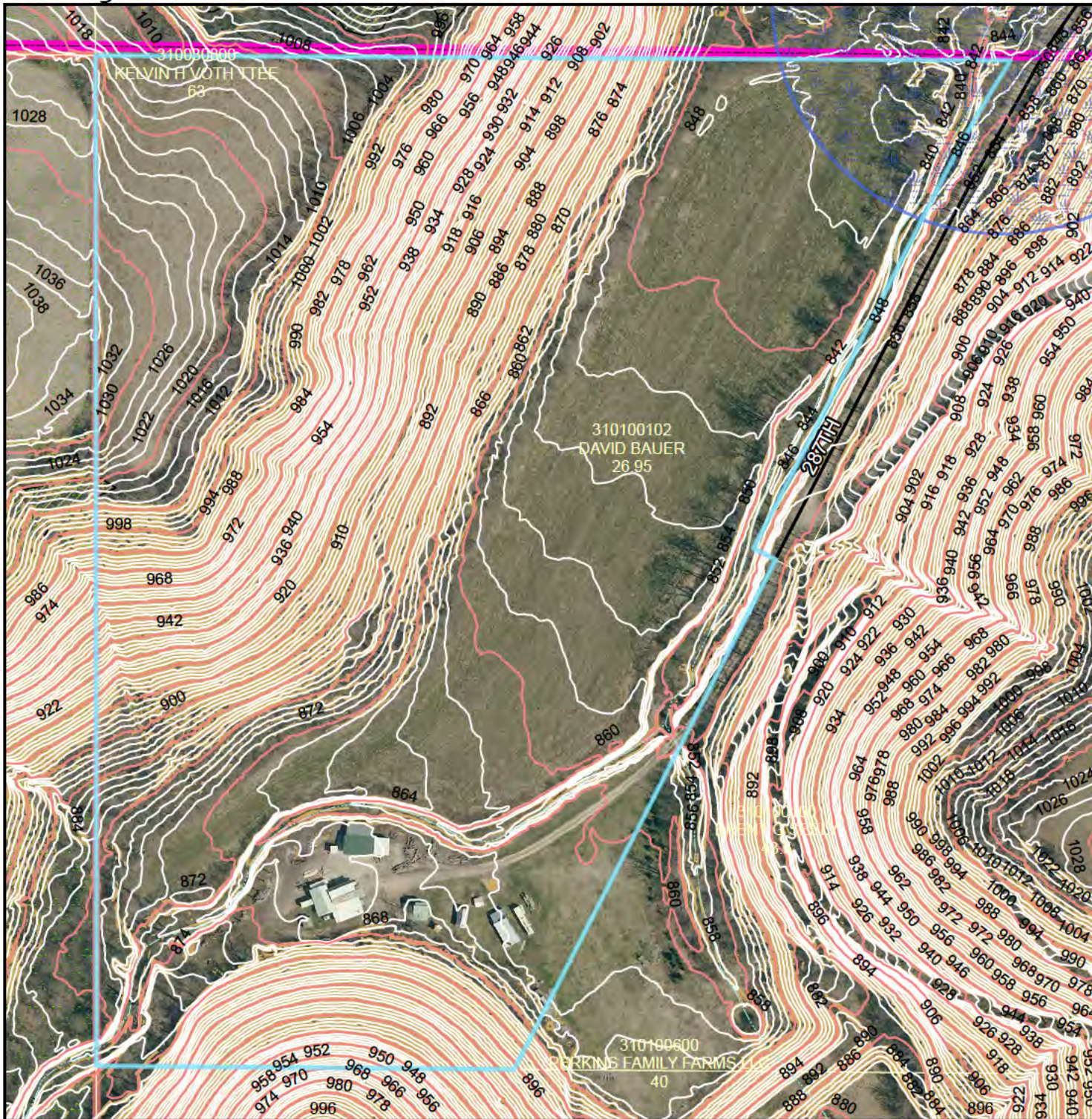


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MAP 03: ELEVATIONS



PLANNING COMMISSION

PAC Meeting
June 17, 2024

David & Victoria Bauer (Owner)

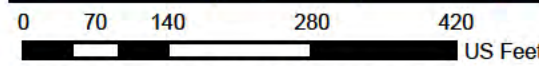
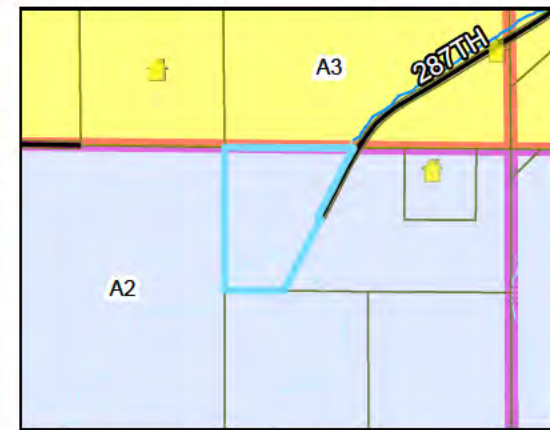
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Legend

- | | | | |
|--|----------------------------|--|---------------------------|
| | Intermittent Streams | | Blufflands |
| | Protected Streams | | 30% Slope or Greater |
| | Lakes & Other Water Bodies | | Bluffland Protected Soils |
| | Shoreland | | FEMA Flood Zones |
| | Historic Districts | | 2% Annual Chance |
| | Parcels | | A |
| | Registered Feedlots | | AE |
| | Dwellings | | AO |
| | Municipalities | | X |



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