



GOODHUE COUNTY MINNESOTA

TO EFFECTIVELY PROMOTE THE SAFETY, HEALTH, AND WELL-BEING OF OUR RESIDENTS

Goodhue County Planning Commission
Government Center - Board Room
509 West 5th St, Red Wing MN 55066

Planning Advisory Commission

Call Meeting To Order

Approval Of Current Agenda

Approval Of Previous Month's Meeting Minutes

1. March 19, 2018 Meeting Minutes

Documents:

[MINUTES_MARCH2018_PAC_DRAFT.PDF](#)

Conflict/Disclosure Of Interests

Public Hearings:

1. Request For Amendments To Article 11, Section 24 (Preservation Of Farming Practices)
Request submitted by Circle "K" Farms (Michael, Yon, & Jeff Kohlnhofer) to consider proposed text amendments to Goodhue County Zoning Ordinance Article 11, Section 24 (Preservation of Farming Practices).

Documents:

[PACREPORT_TEXTAMEND-ART11SEC24.PDF](#)

2. Request For Map Amendment (Rezone)
Request for map amendment submitted by Blake Thompson to rezone 38 acres from A3 (Urban Fringe District) to R1 (Suburban Residence District). Parcels 31.001.6100 and 31.001.6200. Part of the SW ¼ of SE ¼ and GOVT Lot 2 in Sect 01 Twp 112 Range 15 in Featherstone Township. A3 Zoned District.

Documents:

[PACPACKET_THOMPSON.PDF](#)

3. Request For CUP For A Veterinary Clinic
Request submitted by Nicholas and Krystyna Stoffel for CUP to establish a Veterinary Clinic at 26336 130th Ave Welch, MN 55089. Parcel 46.029.0303. Part of the NW ¼ of NW ¼, SW ¼ of NW ¼, and SE ¼ of NW ¼, Sect 29 Twp 113 Range 16 in Welch Township. A2 Zoned District.

Documents:

[PACPACKET_STOFFEL.PDF](#)

4. Simanski Metals LLC (Kevin Simanski)
29409 HWY 58 BLVD, Red Wing, MN 55066. Parcels 34.008.1400 and 34.008.1500. Part of the SE ¼ of NW ¼, Sect 08 Twp 112 Range 14 in Hay Creek Township. A2 and B2 Zoned District.

1. Map Amendment (Rezone)

Request for map amendment to rezone part of Parcel 34.008.1500 from B2 to A2.

2. CUP for a Junk/Salvage Reclamation Yard

Request for a conditional use permit (CUP) to establish a Junk/Salvage Reclamation Yard for storage, loading, and processing of recyclable materials.

Documents:

[PACPACKET_SIMANSKI_1.PDF](#)

Adjourn

Anyone interested is invited to attend. Agenda items may be subject to change.

Goodhue County Land Use Management

◆ Goodhue County Government Center ◆ 509 West Fifth Street ◆ Red Wing ◆ Minnesota ◆ 55066 ◆
◆ Building ◆ Planning ◆ Zoning ◆ Telephone: 651/385-3104 ◆ Fax: 651/385-3106 ◆

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The meeting of the Goodhue County Planning Advisory Commission was called to order at 7:00 PM by Chair Darwin Fox at the Goodhue County Government Center 3rd Floor Board Room in Red Wing, Minnesota.

Roll Call

Commissioners Present: Ron Allen, Tom Drazkowski, Len Feuling, Tom Gale, Darwin Fox, Marc Huneke, Richard (Dick) Nystuen, Sarah Pettit

Commissioners Absent: None

Staff Present: Land Use Management Director Lisa Hanni, Zoning Administrator Mike Wozniak, Zoning Assistant Ryan Bechel

1. Approval of Agenda

¹Motion by Commissioner Feuling; seconded by Commissioner Huneke to approve the meeting agenda. Motion carried 8:0

2. Approval of Minutes

²Motion by Commissioner Feuling; seconded by Commissioner Pettit to approve the previous month's meeting minutes. Motion carried 8:0

3. Conflict/Disclosure of Interest

There were no reported conflicts of interest.

4. PUBLIC HEARINGS: Roger Kittelson (applicant/owner)

39744 Highway 58 Blvd, Goodhue, MN 55027, Parcel 33.033.0600, Part of the NE ¼ of the SE ¼ Section 33 Twp 111 Range 15 in Goodhue Township. A1 Zoned District

A. CUP for a Bed and Breakfast Inn

Request for a conditional use permit (CUP) to establish a Bed and Breakfast Inn with a proposed maximum occupancy of 15 guests.

B. CUP for a Non-Agricultural Use Associated with Agri-tourism (Wedding and Event Center)

Request for a conditional use permit (CUP) to establish a Wedding Facility with a proposed maximum occupancy of 150 guests.

The applicant was not present to represent the application.

Mike Wozniak (Wozniak) presented the staff report and attachments.

Commissioner Pettit raised concerns regarding the classification of wedding event centers as an "Agri-tourism" use. She stated was not opposed to the type of use, but stated the classification of the use as being "Agri-tourism" doesn't fit the definition as was initially intended.

Lisa Hanni (Hanni) referenced the Article 10 definition of "Agricultural Tourism"

AGRICULTURAL TOURISM. "Ag-tourism" and/or "Agri-tourism" means the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, vineyard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation."

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Ryan Bechel (Bechel) added the definition of a “Non-agricultural Uses Associated with Agri-tourism.”

NON-AGRICULTURAL USES/ACTIVITIES ASSOCIATED WITH AN AGRITOURISM

USE. This means activities that are part of an agri-tourism operation’s total offerings but not tied to farming or the farm’s buildings, equipment, fields, etc. Such non-agriculturally related uses include but are not limited to:

A. Temporary Amusement rides associated with an event

B. Art or cultural related festivals

C. Gift shops for the sale of non-agricultural products

D. Benefit events

E. Kitchen facilities, processing/cooking items for sale (subject to State of Minnesota, Department of Public Health standards) including eating establishments such as restaurants or cafés.

F. Temporary camping (subject to State of Minnesota Department of Public Health Standards for Recreation Camping)

G. Wedding ceremonies or receptions

H. Wine and catered food events

I. Reunions

J. Concerts

K. Social gatherings or similar types of events

Commissioner Gale commented that it may not be a tourism use directly related to agriculture but rather a tourism use in an agricultural district (such as snowmobiling).

Commissioner Pettit suggested that the county has made efforts to more narrowly define other uses in the ordinance that are too broad by definition and Non-Ag Uses Associated with Agri-tourism should also be reviewed in the future.

There was discussion of potential reclassifications for wedding event centers and previously permitted uses under the existing ordinance language (Round Barn, Legacy Hills).

Hanni stated LUM staff would review existing ordinance language and determine if wedding event centers may be more appropriately classified.

Chair Fox opened the Public Hearing.

No one spoke for or against the request.

³After Chair Fox asked three times for comments. It was moved by Commissioner Pettit and seconded by Commissioner Huneke to close the public hearing. Motion carried 8:0

Wozniak commented that Mr. Kittleson does conduct organic farming on the property.

Commissioner Pettit asked staff for clarification regarding the Applicant’s statements pertaining to odor concerns that were provided in the submitted application.

Wozniak responded that he was led to believe there were not any immediate odor concerns but the Applicant was expressing his willingness to cooperate with neighboring property owners to resolve potential conflicts.

Commissioner Pettit commented that it was a “red flag” and highlighted a common concern with these facilities bringing guests who may be unaccustomed to agricultural farming practices into agricultural districts.

Commissioner Pettit asked how long the Applicant had occupied the property.

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Wozniak replied the property had been in the Applicant's family for some time and it appeared the Applicant had an understanding about Agricultural impacts.

Commissioner Fox commented that it is difficult to get an impression of an Applicant's intentions when they are not present to answer the questions.

Commissioner Drazkowski added that given no one from the public came to object, there appears to be few concerns from those in the immediate vicinity.

Hanni mentioned about adding a condition that the Applicant make guests aware of agricultural operations in the area which has been added to similar facilities in the past.

Bechel stated the aforementioned condition stated "The Applicants must notify event participants of the local crop and animal agriculture farming practices in the area, which could include odors, dust, large farm equipment on the roads, and hauling or spreading of agricultural related products."

4Motion by Commissioner Nystuen seconded by Commissioner Drazkowski, for the Planning Advisory Commission to recommend the County Board to

- adopt the staff report into the record;
- adopt the findings of fact;
- add condition #10 to the staff suggested conditions;
- accept the application, testimony, exhibits, and other evidence presented into the record; and;

Recommend the County Board of Commissioners **APPROVE** the request from Roger Kittelson for a CUP to establish a Wedding Event Center with a proposed maximum occupancy of 150 guests. Subject to the following conditions:

1. Activities shall be conducted according to submitted plans, specifications, and narrative unless modified by a condition of this CUP;
2. Hours of operation shall be June 1 – September 30 Thursday through Sunday, 8:00 AM to 10:00 PM unless a variance is granted by the Goodhue County Board of Adjustment to allow hours to extend to no later than 12:00 PM on Friday and Saturday evenings.
3. Maximum occupancy shall be limited to 150 guests per event and a maximum of 8 Events per June – September Season with a limit of 1 event per day (Thursday – Sunday);
4. On-street event parking shall be prohibited;
5. The Applicant shall provide the County evidence of driveway access approval from MNDOT District 6 prior to start of operations;
6. Use of the property by event guests for over-night stays shall require issuance of a separate CUP/IUP;
7. Security personnel shall be provided at events in which alcohol is served;
8. Applicants shall work with Goodhue County Environmental Health to achieve compliance with the GOODHUE COUNTY SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE. A septic system design and application must be approved prior to any construction on site or use of the property as proposed. The proposed use will be subject to an annual operating permit under the Subsurface Sewage Treatment Ordinance;

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9. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations.
10. The applicants must notify event participants of the local crop and animal agriculture farming practices in the area, which could include odors, dust, large farm equipment on the roads, and hauling or spreading of agricultural related products;

At 39744 Highway 58 Blvd, Goodhue, MN 55027, Parcel 33.033.0600, Part of the NE ¼ of the SE ¼ Section 33 Twp 111 Range 15 in Goodhue Township as legally described in Document #638002.

Motion carried 8:0

Commissioner Gale asked about the hours of operation for the Bed and Breakfast Inn.

Wozniak replied there is typically not hours of operation applied to Bed and Breakfast Inns given that guests are allowed to stay overnight. He referenced the Applicant's "days of operation" indicated in the application (Thursday through Sunday).

Hanni replied that condition #2 should be amended to state "days of operation", not "hours" to reflect the Applicant's application. She also asked the PAC if they felt it would be warranted to include a condition similar to condition #10 added to the Wedding Event Center request.

Commissioner Gale agreed that it would be beneficial to include the condition.

5Motion by Commissioner Drazkowski seconded by Commissioner Huneke, for the Planning Advisory Commission to recommend the County Board to

- adopt the staff report into the record;
- adopt the findings of fact;
- amend condition #2 to state "days of operation";
- add condition #10 to the staff suggested conditions;
- accept the application, testimony, exhibits, and other evidence presented into the record; and;

Recommend the County Board of Commissioners **APPROVE** the request from Roger Kittelson for a CUP to establish a Bed and Breakfast Inn with a proposed maximum occupancy of 15 guests. Subject to the following conditions:

1. Activities shall be conducted according to submitted plans, specifications, and narrative unless modified by a condition of this CUP;
2. Days of operation shall be year round Thursday - Sunday;
3. Maximum occupancy shall be limited to 15 guests per night;
4. No more than 6 rooms shall be designated for guest use;
5. On-street parking shall be prohibited;
6. Applicants shall work with Goodhue County Environmental Health to achieve compliance with the GOODHUE COUNTY SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE;
7. The applicant shall provide evidence to the County that MNDOT District 6 has approved the use of the driveway access to Hwy 58 for the proposed use(s) of the property;
8. All applicable building code requirements must be met prior to start of operations;
9. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations.

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10. The applicants must notify event participants of the local crop and animal agriculture farming practices in the area, which could include odors, dust, large farm equipment on the roads, and hauling or spreading of agricultural related products:

At 39744 Highway 58 Blvd, Goodhue, MN 55027, Parcel 33.033.0600, Part of the NE ¼ of the SE ¼ Section 33 Twp 111 Range 15 in Goodhue Township as legally described in Document #638002.

Motion carried 8:0

PUBLIC HEARING: to consider Goodhue County Ordinance updates

- Article 10 (Definitions), Article 11 (Performance Standards) regarding proposed Contractor Yard definition and related performance standards. Article 21 A-1, Agricultural Protection District, Article 22 A-2, Agricultural District, and Article 23 A-3, Urban Fringe District in regards to Contractor Yards.

Hanni presented the staff report and appendixes.

Commissioner Fox commented that proposed changes would allow greater flexibility for Applicant's and allow the PAC to review larger scale proposals without necessitating a variance.

Chair Fox opened the Public Hearing.

No one spoke for or against the request.

After Chair Fox asked three times for comments. It was moved by Commissioner Feuling and seconded by Commissioner Allen to close the public hearing.

Motion carried 8:0

Motion by Commissioner Pettit seconded by Commissioner Huneke, for the Planning Advisory Commission to:

- adopt the staff report into the record and;

Recommend the County Board of Commissioners **APPROVE** the proposed amendments to Article 30 (Commercial Recreational District) as presented.

Motion carried 8:0

PUBLIC HEARING: to consider Goodhue County Ordinance updates

- Article 10 (Definitions), Article 11 (Performance Standards) regarding proposed Contractor Yard definition and related performance standards. Article 21 A-1, Agricultural Protection District, Article 22 A-2, Agricultural District, and Article 23 A-3, Urban Fringe District in regards to Contractor Yards.

Hanni presented the staff report and appendixes.

Commissioner Drazkowski asked how the suggested 3 acre minimum lot size was determined.

Hanni replied the 3 acre minimum was suggested through discussion with the Zoning Density Sub-Committee by assessing various established businesses around Goodhue County and it was felt that 3 acres was the minimum size necessary to accommodate the establishment of these types of uses given space needs and proposed setbacks.

Commissioner Pettit added that septic system installation and replacement site space needs

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were also considered and it was concluded that 3 acres provided enough space to accommodate those needs.

Commissioner Fox added that the specific types of uses being allowed by the proposed definition warrant a larger minimum lot size to meet setbacks and accommodate potential future growth of the business.

Commissioner Drazkowski noted the staff provided research of similar county standards did not require a minimum lot size and asked if we are arbitrarily setting a state standard.

Hanni replied we aren't setting a statewide standard, but setting a standard for what we think would work in Goodhue County.

Commissioner Huneke commented that setting a minimum standard at 3 acres might arbitrarily restrict some legitimate business ventures that don't require as much space from being established in the county.

Commissioner Pettit commented that a larger minimum lot size discourages people from initially establishing a business on a lot that wouldn't be able to accommodate future business growth.

Commissioner Drazkowski commented that the usage of "building trades" in the proposed definition allows for a wide range of uses that may not require as much space.

Hanni replied that businesses have many opportunities to get established (such as a Home Business) and the perceived goal of the proposed Contractors Yards is not to create storage shed-lots for all businesses in the county.

Commissioner Huneke stated that if the minimum lot size were not included, the PAC could have the opportunity to recommend denial of a proposal if they felt the site was not large enough.

Commissioner Allen commented that a 3 acre minimum allows for greater flexibility for a business to do some expansion after they become established and invested on a parcel.

Commissioner Fox commented that an added benefit of a larger lot size is a reduction in potential variance requests for people that want to expand on a lot that is too small.

Commissioner Drazkowski responded that variance requests could work both ways if an applicant has just below the minimum required lot size.

Hanni stated that it's not possible to create a standard to apply to every scenario.

Bechel commented that a establishing a minimum lot size does provide an opportunity to discourage an applicant from establishing a business on a lot that is too small to accommodate any potential future growth.

Commissioner Gale asked what the county's minimum lot size.

Hanni replied that it depends on the zoning district but the minimum in the agricultural districts is 2 acres.

Commissioner Fox added that many townships have higher minimums than the county.

Commissioner Gale asked if they could match the required minimum lot size with the existing minimum lot size in the district regulations.

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Hanni mentioned that there are implications to be considered for folks in the A3 district where the minimum lot size is 35 acres.

Commissioner Drazkowski mentioned that the proposed definition is broad and he doesn't want to restrict business "contractors" that aren't the normal contractors that come to mind.

Commissioner Huneke stated that the minimum lot size may rule out some non-traditional contractors that don't require as much space.

There was discussion amongst the PAC regarding what would be an appropriate lot size.

Hanni clarified that the proposed Contractors Yards are not intended to serve small scale contractors that are better fit into existing Home Business regulations. The standards are meant to appropriately permit large scale contractors that have been inappropriately permitted as "businesses intended to serve the agricultural community."

Commissioner Pettit commented that the goal of the proposed language is not to restrict small businesses, but to provide a mechanism for them to be appropriately permitted.

Bechel commented that he would caution the PAC from matching the required minimum lot size to existing district regulations as it would put those in A3 at a large disadvantage given the existing 35 acre minimum lot size. If the goal is to establish a smaller required lot size, maybe 2 acres would be more appropriate.

Commissioner Fox agreed stating he owns property in A3 and could see how that would be a large disadvantage for those landowners.

Chair Fox opened the Public Hearing.

No one spoke for or against the request.

⁸After Chair Fox asked three times for comments. It was moved by Commissioner Feuling and seconded by Commissioner Allen to close the public hearing.

Motion carried 8:0

Commissioner Nystuen recommended the PAC vote by a show of hands given the difference of opinion on the proposed amendment.

⁹Motion by Commissioner Nystuen seconded by Commissioner Allen, for the Planning Advisory Commission to:

- adopt the staff report into the record and;

Recommend the County Board of Commissioners **APPROVE** as presented the proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards) regarding proposed Contractors Yard definition and related performance standards. Article 21 A-1, Agricultural Protection District, Article 22 A-2, Agricultural District, and Article 23 A-3, Urban Fringe District in regards to Contractor Yards.

Split Vote (4 yes: 4 no) Motion denied

¹⁰Motion by Commissioner Nystuen seconded by Commissioner Allen, to amend the motion to:

- adopt the staff report into the record;
- Amend Article 11 Section 33 Subd. 1(A) to require a minimum lot size of 2 acres;

Recommend the County Board of Commissioners **APPROVE** the proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards) regarding proposed Contractors Yard definition and related performance standards. Article 21 A-1, Agricultural Protection District, Article 22 A-2,

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Agricultural District, and Article 23 A-3, Urban Fringe District in regards to Contractor Yards.

Split Vote (4 yes; 4 no) Motion denied

¹¹Motion by Commissioner Huneke seconded by Commissioner Drazkowski, for the Planning Advisory Commission to:

Recommend the County Board of Commissioners to:

- adopt the staff report into the record;
- **APPROVE** the proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards), Article 21 A-1, Agricultural Protection District, Article 22 A-2, Agricultural District, and Article 23 A-3, Urban Fringe District as presented and recommend the County Board of Commissioners determine the minimum parcel size (Article 11 Section 33 Subd. 1 (A) for proposed Contractors Yards.

Motion carried 8:0

5. Other discussion

- A3
- Table of Uses
- Conservation Subdivisions

¹²Adjourn: Moved by Commissioner Feuling, second by Commissioner Drazkowski, to adjourn the Planning Commission meeting at 8:18 PM.

Motion carried 8:0

Respectfully Submitted,

Ryan Bechel; Recording Secretary

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¹ APPROVE the PAC meeting agenda.

Motion carried 8:0.

² APPROVE the previous month's meeting minutes.

Motion carried 8:0.

³ Motion to close the Public Hearing.

Motion carried 8:0

⁴ Recommend the County Board of Commissioners Approve the Kittelson Non-Ag Uses Associated with Agri-tourism CUP:

Motion Carried 8:0

⁵ Recommend the County Board of Commissioners Approve the Roger Kittelson Bed & Breakfast Inn CUP:

Motion Carried 8:0

⁶ Motion to close the Public Hearing.

Motion carried 8:0

⁷ Recommend the County Board of Commissioners APPROVE the proposed amendments to Article 30 (CR Zone)

Motion Carried 8:0

⁸ Motion to close the Public Hearing.

Motion Denied 4:4

⁹ Recommend the County Board of Commissioners APPROVE the proposed amendments to Contractors Yard as presented

Motion Denied 4:4

¹⁰ Recommend the County Board of Commissioners APPROVE the proposed amendments to Contractors Yard with suggested amendments to Article 11 section 33 subd. 1(A)

Motion Denied 4:4

¹¹ Recommend the County Board of Commissioners CONSIDER the amendment to Article 11 section 33 subd. 1(A) and APPROVE the rest of the amendment as presented.

Motion Carried 8:0

¹² ADJOURN the Planning Commission meeting.

Motion carried 8:0

UNOFFICIAL UNTIL APPROVED BY THE PAC

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director

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County Surveyor / Recorder

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
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To: Planning Commission
From: Land Use Management
Meeting Date: April 16, 2018
Report date: April 6, 2018

PUBLIC HEARINGS: Request for Zoning Ordinance Text Amendment

Application Information:

Applicant(s): Yon Kohlhofer/Jack Perry
Zoning Districts affected by text change: A1, A2, A3

Attachments and links:

Applicant Text Amendment
Staff Recommended Changes
GC Element1:Agriculture (Comp Plan)
Application Document
GC Zoning Ordinance: <http://www.co.goodhue.mn.us/DocumentCenter/View/2428>
GC Comprehensive Plan: <https://www.co.goodhue.mn.us/DocumentCenter/View/11368>

Background:

Application:

The County has received a request to amend Goodhue County Zoning Ordinance Article 11, Section 24 PRESERVATION OF FARMING PRACTICES.

Staff has added page numbers (center top of page) to the Application Document submitted by the applicant for reference (beginning on page 22 of this pdf document):

Pages 1 -2: Text Amendment application

Pages 3-5: Proposed text amendments

Pages 5-6: Practical Application of the Proposed Ordinance Amendment

Pages 6-7: Legal Authority for such an enactment

Pages 7-9: An Example for such an enactment

Pages 9-10: Consistency with the Ordinance

Page 10-12: Consistency with the Plan (Comprehensive Plan)

Pages 14-16: Attachment A- Todd County's Right-to-Farm Ordinance

Pages 17-19: Attachment B- 2/9/16 Order (re: Noise)

Pages 20-24: Attachment C- Dec. 6, 2017 Order (re: Right-to-Farm Ordinance)

Pages 25-27: Attachment D- Todd County's (proposed) Revised Right-to-Farm Ordinance

Staff Review:

Over the years the County has held public meetings to discuss and amend text within the Zoning Ordinance, and in cases such as the Confined Feedlot Regulations (Article 13), the County Board established a citizen committee to review and suggest text modifications, which were subsequently adopted.

"To effectively promote the safety, health, and well-being of our residents"

www.co.goodhue.mn.us

The County adopts Minnesota Rules 7020, Rules for the Control of Pollution from Animal Feedlots, in addition to specific additional regulation as outlined in our Confined Feedlot Regulations (Article 13). Some of the additional regulations set by the County include setbacks and the Odor Offset Model for acceptable limits of odor at specific distances.

There is an on-going concern at the Planning Commission that non-agricultural uses in the Agricultural districts may limit the establishment, expansion, or continuation of agricultural operations such as feedlots. This is evidenced by recent conditions to some non-agricultural uses in agricultural zones stated as “The applicant must notify event participants of the local crop and animal agriculture farming practices in the area, which include odors, dust, large farm equipment on the roads and hauling or spreading of agricultural related products.”

In 2017, the County worked with the Townships and asked them specifically if they were satisfied with the dwelling density in the County and all but 3 townships were satisfied with the limited amount of additional dwelling sites available. Three Townships wanted more options for a limited amount of dwellings in specific parts of their Township. Overall, the Townships had similar concerns about additional dwellings limiting agricultural practices in the County.

Staff do not believe we have legal authority to deny a party the ability to sue another party and therefore do not agree with the applicant’s suggested wording “no property owner shall bring an action(s) of law,…” We do however state that the County will not consider a legally operating or permitted feedlot a nuisance and have suggested additional wording to reinforce the position.

County Land Use staff and the County Attorney have reviewed the proposed changes and suggest alternative wording found in the *Staff Recommended Changes* attachment.

Staff recommendation is based on the review of the submitted application prior to the public hearing.

Staff Recommendation:

LUM Staff recommends the Planning Advisory Commission

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

recommend that the County Board of Commissioners **APPROVE** Staff’s recommended wording for the text amendment request and **DENY** the language changes requested by the applicants to the extent they are inconsistent with staff recommendations.



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March 6, 2018

Jack Y. Perry
(612) 977-8497
jperry@briggs.com

VIA U.S. MAIL

Lisa M. Hanni
Director, Goodhue County Land Use Management
Goodhue County Government Center
509 West Fifth Street
Red Wing, MN 55066

Re: Petition for an amendment to Article 11 Section 24 ("PRESERVATION OF FARMING PRACTICES") of the Goodhue County Zoning Ordinance

Dear Ms. Hanni:

On behalf of Jeff, Mike and Yon Kohlnhofer (Kohlnhofers) and Circle K Family Farms (Circle K), this Petition, requests an amendment to Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**") of County's Zoning Ordinance (Ordinance). The legal authority underlying, as well as an example for, the requested Ordinance amendment is discussed below.

Besides being consistent with Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**"), the requested Ordinance amendment is, as discussed below, also consistent with County's Ordinance — *i.e.*, Article 13 Section 1 ("**INTENT**") of Article 13 ("**CONFINED FEEDLOT REGULATIONS**") and Article 1 Section 2 ("**PURPOSE**") of Article 1 ("**GENERAL PROVISIONS**"). As likewise discussed below, the requested Ordinance amendment is, as well, consistent with County's Comprehensive Plan (Plan) — *i.e.*, the Plan's "**OVERVIEW,**" "**ANIMAL AGRICULTURE OBJECTIVES,**" "**ANIMAL AGRICULTURE IMPLEMENTATION STRATEGIES**" and "**AGRICULTURALLY RELATED BUSINESS OBJECTIVE.**" In sum, Circle K's requested Ordinance amendment simply asks County to reaffirm its commitment to the protection of regulatorily-compliant agricultural operations from legal action due to their operation.

A. REQUESTED ORDINANCE AMENDMENT

The requested Ordinance amendment is for the passage of the following redlined edits to Article 11 Section 24:

SECTION 24. PRESERVATION OF FARMING PRACTICES

It is the declared policy of this County to enhance and encourage agricultural operations within the County.



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Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations may be the subject of, among other legal actions, private nuisance or negligence complaints that would result in the cessation or curtailment of operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.

It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be ~~considered~~ sued for, among other legal actions, a private nuisance or negligence.

~~Agricultural production that complied with all Goodhue County Ordinances, shall not be considered by this County as constituting a nuisance.~~

~~This Ordinance is not to be construed as in any way modifying or abridging the State law, rather, it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.~~

Subd. 1. **AGRICULTURAL OPERATION.** A facility consisting of real or personal property used for the production of crops including fruit and vegetable production, tree farming, livestock, poultry, dairy products, or poultry products, but not a facility primarily engaged in processing agricultural products. Agricultural operation shall also include certain farm activities and uses as follows: chemical and fertilizer spraying, farm machinery noise, extended hours of operation, manure collection, disposal, spreading or storing, open storage of machinery, feedlots, odors produced from farm animals, crops or products used in farming.

Subd. 2. **ESTABLISHED DATE OF OPERATION.** For the purposes of this section, the established date of operation shall be the date on which the agricultural operation commenced.

~~Subd. 3. **AGRICULTURAL OPERATION NOT A NUISANCE.** An agricultural operation which continues without interruption or change shall not become a private nuisance if the operation was not a nuisance at its established date of operation. The provisions of this subdivision do not apply:~~

~~A. To a condition or injury which results from the negligent or improper operation of an agricultural operation or from~~



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~~operations contrary to commonly accepted agricultural practices.~~

~~B. To applicable State or local laws, ordinances, rules or permits.~~

~~C. When an agricultural operation causes injury or direct threat or injury to the health or safety of any person.~~

~~D. To the pollution of, or change in the condition of, waters of the State or the water flow of waters on the lands of any person;~~

~~E. To an animal feedlot facility of one thousand (1,000) or more animal units.~~

Subd. 3. RIGHT-TO-FARM ORDINANCE

A. There will be from time to time sights, sounds and smells associated with the operation of farming.

B. No property owner shall bring an action(s) of law, including without limitation claims for private nuisance under Minn. Stat. § 561.01 and common law negligence, against any farming operation, because of such farming activities, as long as such farming activity is complying with the local, County, State and Federal permits, ordinances, rules, statutes and other regulations which both apply to and are enforceable against the farming operation.

B. PRACTICAL APPLICATION OF THE PROPOSED ORDINANCE AMENDMENT

The proposed Right-to-Farm Ordinance simply codifies common sense and County's already existing commitment to the preservation of agricultural operations. The appropriateness of and need for this Ordinance amendment is illustrated by its application to standard "noise" and "odor" nuisance and negligence claims against an agricultural operation.

1. **Applied to "noise" claims.** A property owner should not be able to bring a § 561.01 "noise" nuisance or "noise" negligence action against a farming operation due to noise levels from the farming activity which comply with the state's objective "maximum levels of noise," particularly when (1) such levels were statutorily-required to be set by the Minnesota Pollution Control Agency (MPCA) so as to avoid being "injurious to human health or welfare . . .

Staff Recommended Changes

SECTION 24. PRESERVATION OF FARMING PRACTICES

It is the declared policy of this County to enhance and encourage agricultural operations within the County.

Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations may be the subject of ~~private~~-nuisance complaints that would result in the cessation or curtailment of operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.

It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance.

Agricultural production that complied with all Goodhue County Ordinances, shall not be considered by this County as constituting a nuisance.

This Ordinance is not to be construed as in any way modifying or abridging the State law, rather, it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

Subd. 1. **AGRICULTURAL OPERATION.** A facility consisting of real or personal property used for the production of crops including fruit and vegetable production, tree farming, livestock, poultry, dairy products, or poultry products, but not a facility primarily engaged in processing agricultural products. Agricultural operation shall also include certain farm activities and uses as follows: chemical and fertilizer spraying, farm machinery noise, extended hours of operation, manure collection, disposal, spreading or storing, open storage of machinery, feedlots, odors produced from farm animals, crops or products used in farming.

Subd. 2. **ESTABLISHED DATE OF OPERATION.** For the purposes of this section, the established date of operation shall be the date on which the agricultural operation commenced or was permitted, whichever is earliest.

Subd. 3. **AGRICULTURAL OPERATION NOT A NUISANCE.** The County will not view A an agricultural operation which continues without interruption or change as shall not become a private-nuisance if the operation was not a nuisance at its established date of operation, is permitted or conditionally permitted by the County or MPCA, and the activity is complying with the local, County, State, and Federal permits, ordinance, rules, statutes, and other regulations which both apply to and are enforceable against the farming operation. The provisions of this subdivision do not apply:

- ~~A. To a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices.~~
- ~~B. To applicable State or local laws, ordinances, rules or permits.~~
- ~~C. When an agricultural operation causes injury or direct threat or injury to the health or safety of any person.~~
- ~~D. To the pollution of, or change in the condition of, waters of the State or the water flow of waters on the lands of any person;~~
- ~~E. To an animal feedlot facility of one thousand (1,000) or more animal units.~~

ELEMENT 1: AGRICULTURE



**AN ESTIMATED 70% OF THE COUNTY'S 758
SQUARE MILES HAS BEEN IDENTIFIED AS PRIME
FARMLAND BY THE USDA AND 92% OF GOODHUE
COUNTY'S PRIME FARMLAND IS HARVESTED.**

(USDA & NRCS, Web Soil Survey, 2013)

OVERVIEW

Goodhue County has a long history of agricultural priorities: with more than 492 square miles of land in Goodhue County being harvested. Agriculture is highly valued by both urban and rural residents. The preservation of agriculture is valued as a component of the economy, a land resource, a visual feature of the landscape, and a way of life. Desire to protect the County's agricultural and rural landscape also acknowledges the aesthetic and quality of life values of agriculture, as well as the economic benefits to both the farmers and the County as a whole.

Agricultural zoning districts have been established to maintain and preserve agricultural land. This Plan classifies agricultural lands into three general categories: plant agriculture, animal agriculture and agricultural related business. This element focuses on assisting the competitiveness of our agricultural enterprises and protecting the farmland base that is key to a thriving agricultural economy.

The success of agriculture in Goodhue County lies in the creativity and drive of our farmers. The nature of agriculture has evolved over the years, but changes have become even more pronounced recently. Farmers are becoming increasingly entrepreneurial and the line between agriculture and manufacturing, tourism, and other business is diminishing.



KEY POINTS	STRENGTHS	CHALLENGES
------------	-----------	------------

Preserve and protect agricultural land for sustained and long term use

Maintain and promote agricultural infrastructure to enhance and sustain agriculture operations

Encourage best management practices for crop and animal agriculture in order to protect our water and land resources

Encourage farming practices that maintain and improve soil health

Continue to promote Erosion Control and adopt additional controls as farming practices evolve

Continue to allow and support a broad range of agriculturally related businesses within incorporated and unincorporated areas of the County

The majority of Goodhue County Soils are rated as prime farmland soils and an estimated 92% of the prime farmland soils are harvested

Goodhue County has a rich history of animal agriculture. The type of animals being reared include but are not limited to chicken, turkey, goats, lamb, alpaca, beef and dairy cattle, and hogs with the latter two being the County's largest animal industries

The limitation of housing through density controls has maintained large tracks of land available for agriculture purposes

The County has a desirable scenic, rural character providing open spaces that contribute to valuable aesthetics and a high quality of life

Secession planning for agricultural businesses and agricultural land uses

Erosion and sedimentation control is a concern for farmers and adjacent landowners within the County

An increase in housing density within agricultural zones could create potential conflicts between potentially incompatible land uses

It cannot be the goal or the responsibility of local government to regulate and preserve every acre of farmland within its jurisdiction, but it is the intent to create a planning framework that maximizes the possibilities for voluntary farmland protection

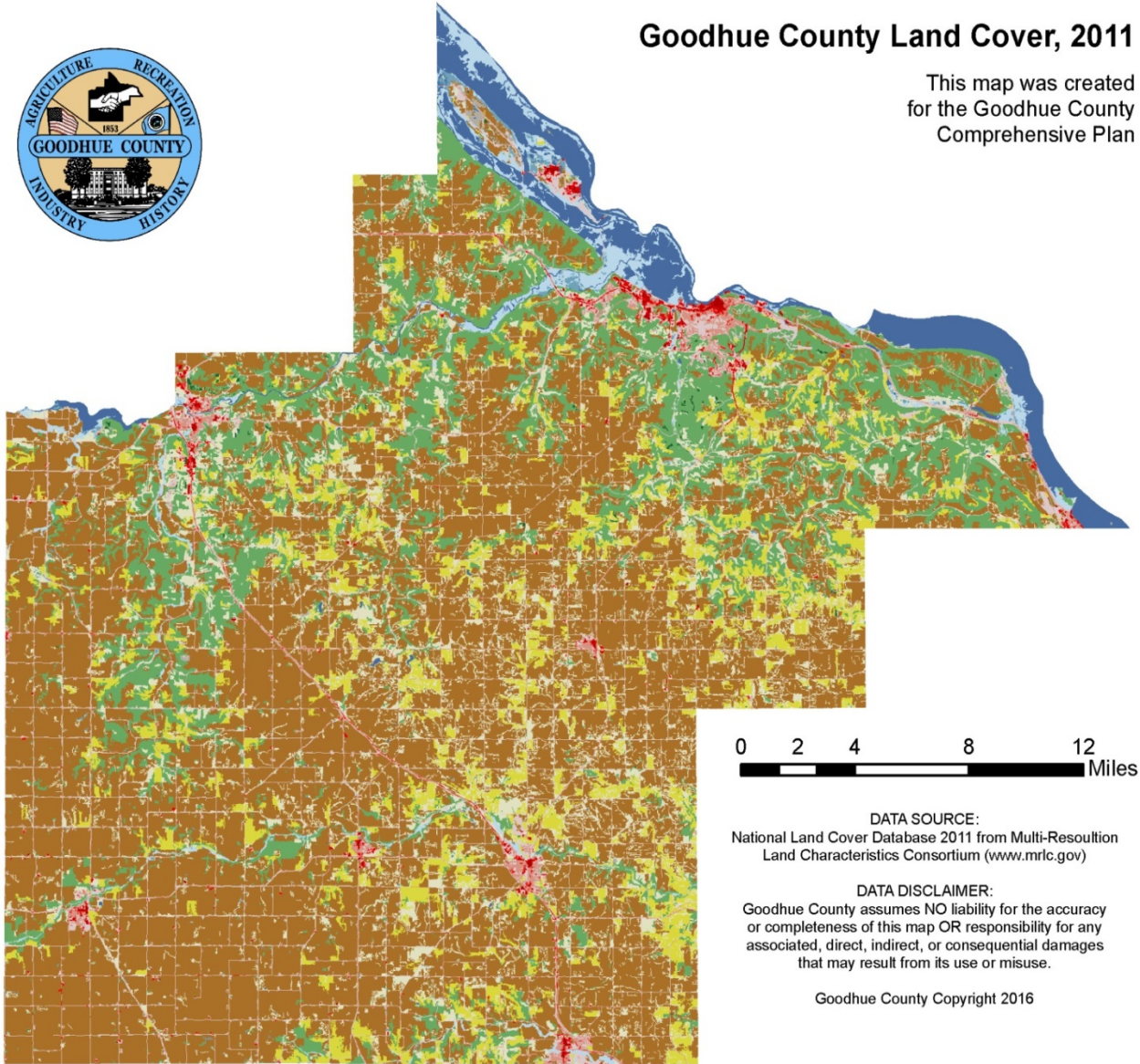
PLANT AGRICULTURE

Agriculture joins tourism and manufacturing as a pillar of the County economy. There was a 4% increase of harvested land in the Goodhue County between 2007 and 2012 according to the USDA, Censuses of Agriculture.



Goodhue County Land Cover, 2011

This map was created for the Goodhue County Comprehensive Plan

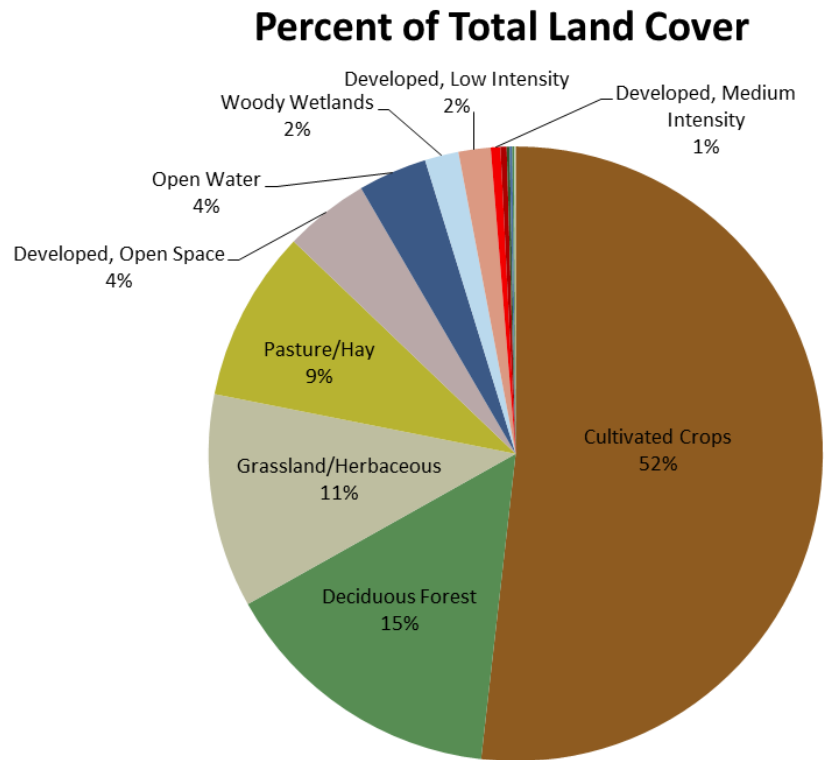
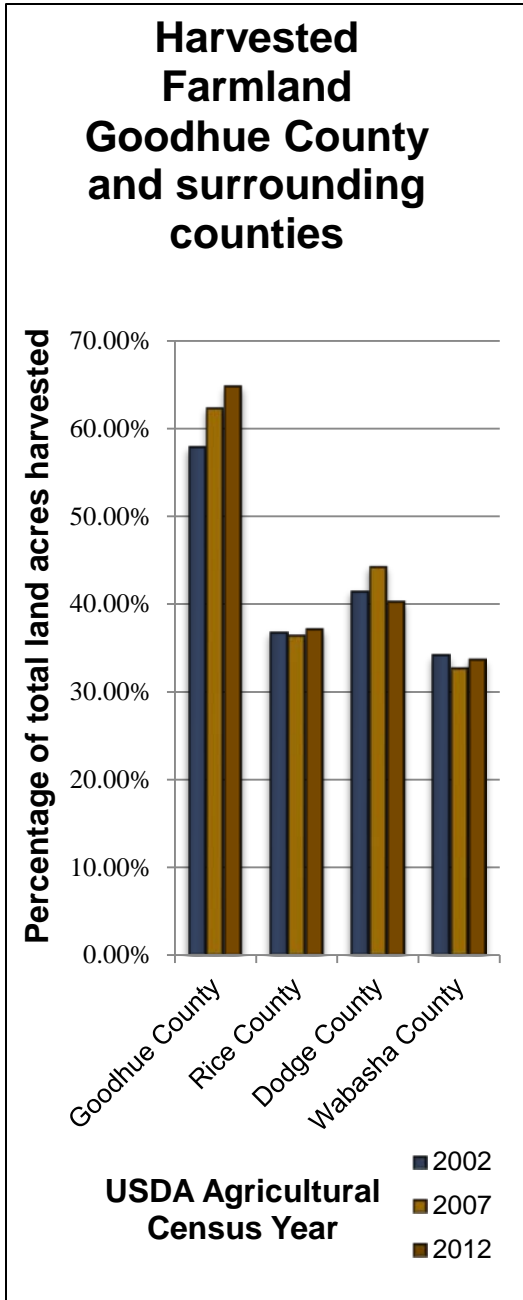


Landcover

Open Water	Barren Land (Rock/Sand/Clay)	Grassland/Herbaceous
Developed, Open Space	Deciduous Forest	Pasture/Hay
Developed, Low Intensity	Evergreen Forest	Cultivated Crops
Developed, Medium Intensity	Mixed Forest	Woody Wetlands
Developed, High Intensity	Shrub/Scrub	Emergent Herbaceous Wetlands

PLANT AGRICULTURE

Goodhue County has a higher percentage of land area in harvested agriculture than similar abutting Counties. During outreach activities, residents have continued to express the importance of maintaining and preserving agricultural land (Goodhue County, 2015).



National Land Cover Database 2011 from www.mrlc.gov

PLANT AGRICULTURE

Goodhue County has rich, prime farming soils which have created a strong history in field crop agriculture. The most common field crops in Goodhue County are corn and soybeans. Over 170,000 acres were reported in corn production for grain in 2012, and over 95,000 acres of land was reported in soybean for grain production (USDA, Census of Agriculture, 2012). As shown on the pie chart on the previous page, over half of the land in the County is classified as cultivated cropland. Due to potential conflicts between housing and agricultural production, the County has limited the dwelling densities within the agricultural districts.



An example of shares one could receive from a CSA during peak harvest.

COMMUNITY SUPPORTED AGRICULTURE (CSA)

Community Supported Agriculture (CSA) farms are direct-farm marketing and production model farms in which farmers sell shares to members who receive a portion of produce on a weekly schedule. Some CSA's are purely produce, others allow for add-ons such as artisan cheese, bread, meat, eggs, cut flowers, or canned goods. This model of farming allows for the consumers to share in the risks and benefits of the farm. It allows the farmer to get paid before the crop yield, which reduces the risk to the farmer and spreads the risk amongst all shareholders. According to the 2012 Agricultural Census, Goodhue County has nine CSA's, which dropped from twelve in 2007. CSA's can be supported through the same objectives and implementation measures for crop and animal agriculture, perhaps with an emphasis of agricultural tourism.



VINEYARDS

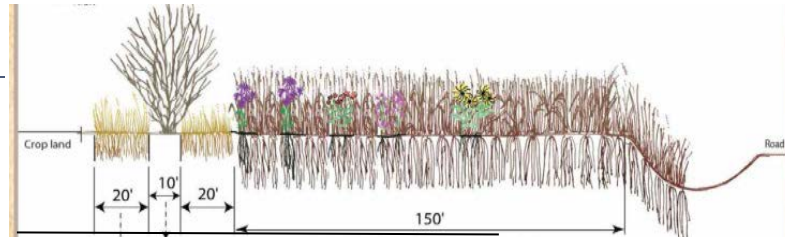
The University of Minnesota initiated a breeding program for cold hardy wine grapes in the mid 1980's. Through this research Minnesota has become a contender in the viticulture industry. It was reported in 2012 that Goodhue County was home to 16 vineyards (USDA, Census of Agriculture, 2012). Vineyards have a unique part of recreation and tourism in the County. More information on vineyards in the County is available in the Recreation and Tourism element of this plan.



Photograph courtesy of Cannon Valley Vineyard

ORCHARDS

As of 2012, the County had thirty four farms in orchards which equated to 178 acres. (USDA, Census of Agriculture, 2012). Orchards in Goodhue County typically harvest varieties of apples; however they could contain other fruit trees such as peach, pear, or cherry.

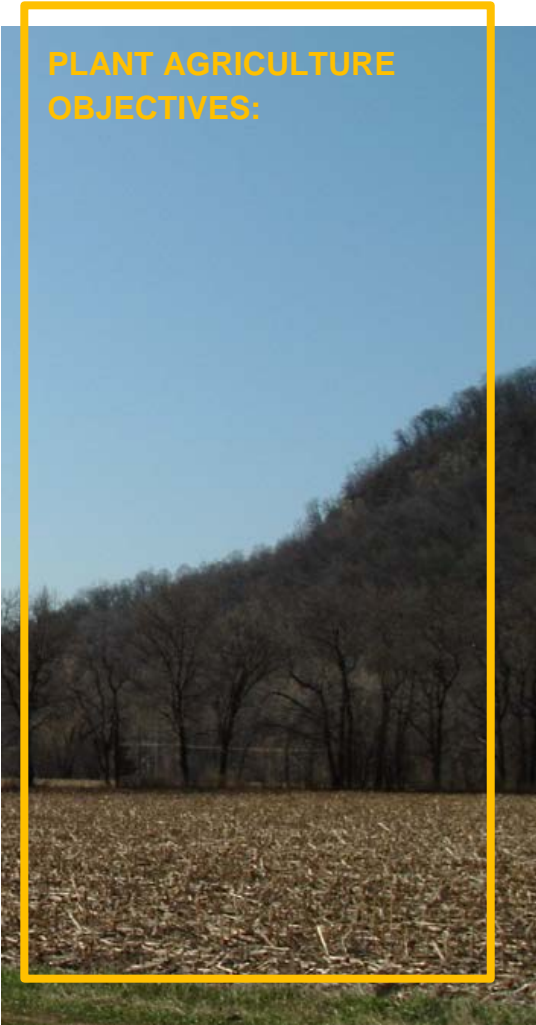


Example of a living snow fence with nesting bird and pollinator components incorporated in. More examples can be found at <http://www.dot.state.mn.us/environment/livingsnowfence/index.html>

BEE AND POLLINATOR COLONIES

Pollinators include butterflies, moths, wasps, flies, beetles, ants, hummingbirds and bees. There were 17 farms with honey bee colonies reported in 2012 (USDA, Census of Agriculture, 2012). Bees are a vital organism to our environment. Their pollination is a keystone role for the natural habitat and the productivity of agriculture. According to the U.S. Fish and Wildlife Service, honey bee and some pollinator populations are declining (U. S. Fish & Wildlife Service, 2015). Pollinator habitats provide food, shelter, and nesting resources for these species. The Minnesota Department of Agriculture has developed best management practices for pollinator habitat for agricultural landscapes, yards, gardens, and roadside and right of ways. Creating pollinator habitat near roads have multiple benefits such as improved visibility on the road, increased crop yields, and controlled soil erosion.

**PLANT AGRICULTURE
OBJECTIVES:**



- 1. Soils with a prime farmland rating shall be protected from non-agricultural development whenever possible.**
- 2. Promote sustained, long term, agricultural industry or use as the desired use on agricultural lands.**
- 3. Lands outside the cities growth zones will be considered rural and shall be managed to preserve the rural character and be compatible with the continued operation of agricultural uses, their inherent activities, and lifestyle.**
- 4. If residential development occurs, it should be compact and designed to preserve the prime farmland for agricultural uses or other compatible uses to minimize conflicts between agricultural and non-agricultural uses.**
- 5. Encourage farmers to adopt and maintain sound environmental practices through the utilization of buffer zones to aid in soil erosion prevention practices, chemical application procedures, manure spreading, irrigation, odor control, ensure a sustained agricultural use of the land, and to protect ground water and environmentally sensitive habitats.**
- 6. Support and encourage private and public agreements that preserve farmland.**
- 7. Support new and innovative agricultural products such as vineyards, orchards, bee production, and other innovative practices to enhance emerging agriculture industries..**

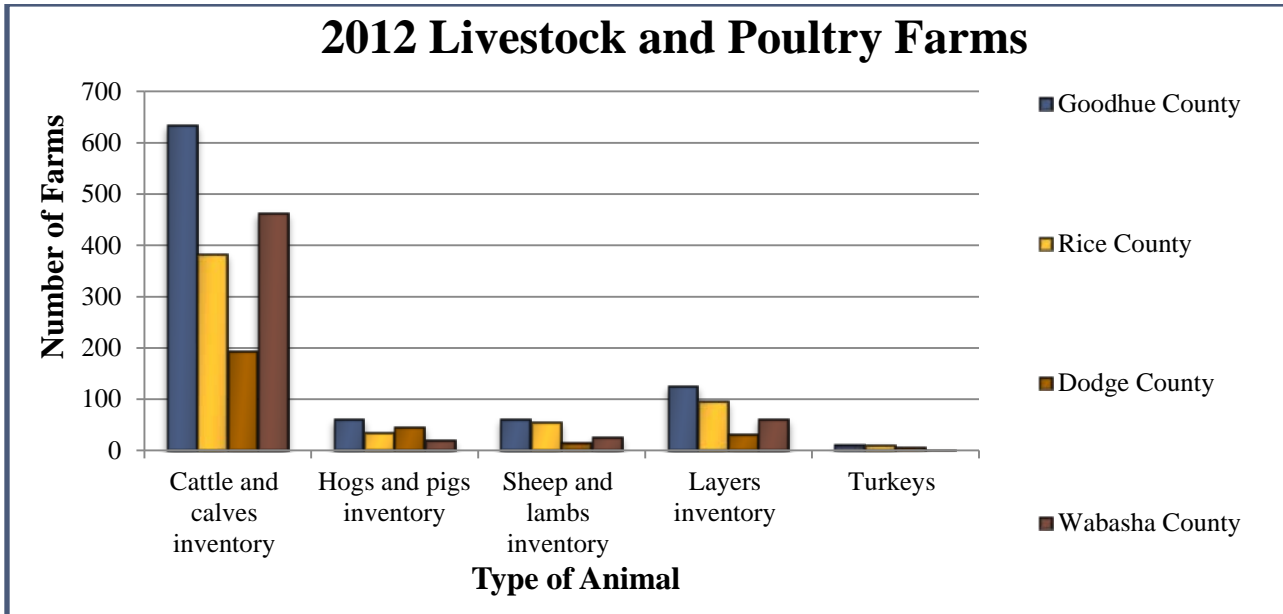
**PLANT AGRICULTURE
IMPLEMENTATION
STRATEGIES:**



- 1. Soils with a prime farmland rating shall be protected from non-agricultural development whenever possible.**
- 2. Siting of dwellings or businesses should take into consideration the amount of farmland being used and shall minimize the impact to the greatest extent possible.**
- 3. Housing developments shall be directed to incorporated city limits first.**
- 4. Educate landowners on the requirements of management of protected waterways and agricultural uses.**
- 5. Establish a process for monitoring land applications of manure and processing of wastewater.**
- 6. Educational material will be made available to inform landowners the importance of pollinator habitats.**

ANIMAL AGRICULTURE

Goodhue County leads the region in the number of feedlot operations. The chart below shows number of farms with animal inventories for the types of animals listed.



(USDA, Census of Agriculture, 2012)

ANIMAL AGRICULTURE

In 2012, it was reported that there were 636 farms with cattle and calves, equating to over 59,000 animals; and 63 farms with more than 143,000 hogs. Other typical animals in Goodhue County are sheep, chickens, and turkeys (USDA, Census of Agriculture, 2012)

PASTURE AND GRAZING LANDS

Soils that are not rated prime farmland may be better utilized as pasture and grazing lands. Marginal farming soils and topographically challenged areas were historically identified as “goat prairies.” These areas may be ideal for pasture and grazing lands if best management practices are utilized to ensure that land is not over grazed causing soil erosion issues.



ELEMENT 1: AGRICULTURE



EMERGING AGRICULTURE

Goats: Generally goat farming means rearing goats for the purpose of harvesting milk, meat and fiber. Local goat herds have even been used by the Minnesota Department of Resources for controlling invasive species.

Alpaca: Alpaca are docile creatures that are often raised for their soft fleece. They can produce an estimated 10 pounds of fiber each year.



Small farms: Small farms are also known as hobby farms and are on the rise in Minnesota, according to the University of Minnesota Extension data. Small farm needs are slightly different than major farming operations. They require less land and may be secondary to the individuals' main source of income. Small farms could be home to agricultural tourism opportunities such as corn mazes, direct farm markets, and pick your own produce.



**ANIMAL AGRICULTURE
OBJECTIVES:**



1. **Support and encourage farming activities so farmers can continue to provide an adequate supply of healthy livestock.**
2. **Support agricultural industries that are directly and indirectly related to animal agriculture such as veterinarian services, crop advisory services, livestock sales and auction services.**
3. **Encourage the use of best management practices for animal and crop agricultural practices.**
4. **Continue to allow for agricultural tourism opportunities to allow diversification of the agricultural economy.**
5. **Support the growth of animal agriculture in an environmentally friendly manner.**



**ANIMAL AGRICULTURE
IMPLEMENTATION
STRATEGIES:**



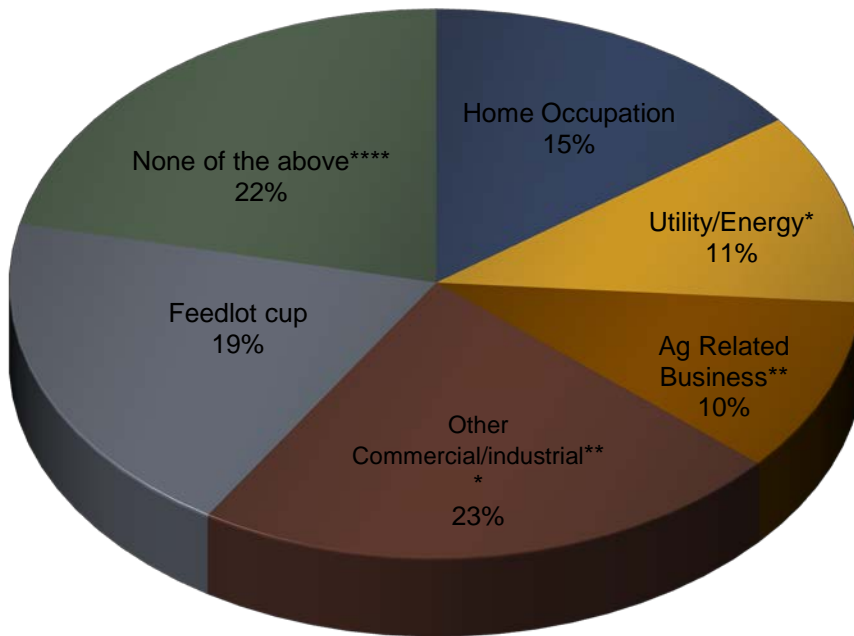
1. **The University of Minnesota’s odor OFFSET tool will be used when considering new feedlots and feedlot expansion requests.**
2. **Support and promote best management animal farming practices in order to protect the health, safety, welfare of the operation as well as surrounding properties.**
3. **Work with the Soil and Water Conservation District to enforce the designated feedlot program in accordance with MN Rules 7020.**
4. **Encourage best practices for waste handling, manure spreading, pest control, fertilizer application, and erosion control.**
5. **Evaluate feedlots and feedlot registration requirements to ensure they are addressing health, safety, and welfare concerns for adjacent landowners, water quality, and soil health.**



AGRICULTURAL RELATED BUSINESSES

Goodhue County contains a number of agricultural industries within the agriculturally zoned districts and even within the urban fringe districts. Such industries are vital to economic sustainability of the County. They support and enhance the agricultural products within the County as well as offer alternative income methods to landowners. Such businesses include seed and crop research, fertilizer transfer stations, agricultural cooperatives and grain elevators, turkey manure compost site and transfer stations, hay transfer stations, livestock and agricultural product auctions, and veterinary services. Other businesses have shown to support the agricultural community such as welders, electricians, mechanics, and trucking and transport businesses. As shown in the following chart, 10% of conditional use permit requests since 2002 were requests to establish or expand a commercial or industrial use intended to serve the agricultural community.

Land Use and Conditional Use Permits 2002-2014



* MET towers, wind turbines, solar and wireless CUP or LUP etc.

** farm winery, ag related business, farm retreat, etc.

*** kennel, shooting preserve, non-ag tourism

**** wetland, floodplain, mineral extraction

**AGRICULTURALLY
RELATED BUSINESS
OBJECTIVES:**



1. Identify agriculturally related businesses and industrial uses that are appropriate for the agricultural districts.
2. Support agriculturally related businesses and industrial uses when sited in compatible areas that would not create extraneous nuisances to adjacent landowners.
3. Provide appropriate expectations for minimizing impacts between industrial agricultural businesses and the surrounding uses such as landscape buffers and setbacks.
4. Consideration for the location, type, and intensity of surrounding existing land uses shall be taken into account during the process of reviewing permits or applications for the establishment of new or expanding land uses.
5. Create performance standards for business and industrial uses that primarily serve the agricultural community.
6. Allow the use of minimally intrusive signs to advertise and support agriculturally related businesses.

**AGRICULTURALLY
RELATED BUSINESS
OBJECTIVES:**



1. Create performance standards for business and industrial uses.
2. Allow the use of minimally intrusive signs to advertise and support agriculturally related businesses.



Text Amendment

Land Use Management

509 W 5th Street Suite 103
Red Wing, MN 55066

T: 651-385-3104

F: 651-385-3106

Pursuant to Goodhue County Zoning Ordinance Article 2 Section 3: it shall be unlawful to proceed with the change of use, erection, enlarging or structural alteration of any building without first procuring the Zoning Administrator's approval and the Building Official's approval for a building permit, if applicable.

The first page consists of instructions which should be read carefully before the application form is completed. Land Use Management Department (LUM) staff is available to advise you in the preparation of this application. Call (651) 385-3104 for further information.

The Zoning Ordinance promotes and protects the public health, safety and general welfare of the people of Goodhue County. The Zoning Ordinance will assist in the economic growth of the County by providing a basis for reasonable and orderly residential, commercial and industrial development; and shall encourage farmers, residents and businesses to protect the land from erosion, loss of wetlands, loss of water quality, and loss of woodlands. To achieve this purpose the Zoning Ordinance shall regulate the use of property, and the size, design, and siting of buildings that may be constructed on a piece of property. Each Zoning District has standards for buildings that govern such features like rear yard setbacks, front yard setbacks, usable open space, height, and parking. No permit shall be issued unless such building or land use is designed and arranged to conform to the provisions of the Goodhue County Zoning Ordinance and the adopted Building Code. Application for a permit shall be signed by the applicant or his authorized agent and filed with the Zoning Administrator's office.

WHAT IS A ZONING TEXT AMENDMENT?

The County Board may issue an amendment to the Zoning District or Zoning Map to reflect changes in conditions in the County or to correct mistakes in the Ordinance or Map.

Any text within the Ordinances governed by the Land Use Management Division can be amended, unless otherwise stated. State and Federal laws may require specific regulations.

WHO MAY INITIATE AMENDMENTS?

The proposal to amend, extend, or add to the regulation of the Zoning Ordinance shall be filed to the Zoning Administrator. The application can be filed by a petition from residents, recommendations from the PAC, or by action from the County Board. (Article 3, Section 2, Subd1.).

INSTRUCTIONS FOR SUBMITTAL:

A complete application shall include the following materials:

1. **Text Amendment Application Form:** Completed application form fulfilling the requirements of Article 3, Section 2: Applications.
2. **Additional Information:** as it pertains to this request.
3. **Application Fees:** Fees for such permits shall be pursuant to fee schedules and amendments, thereto, as established by the County Board. Please refer to the Goodhue County Land Use Management Department Fee Schedule available at <http://www.co.goodhue.mn.us> or at the Land Use Management offices Located in the Government center at 509 West 5th Street Suite 103, Red Wing, MN 55066

Some applications may require additional materials not listed. Upon review, applications may require other information concerning the property or adjoining property as determined by the Zoning Administrator and/or Building Official. All plans and other exhibits submitted with this application will be retained as part of the permanent record in this case.

Applicant or representative is encouraged to attend the scheduled public hearings

To file your Zoning Text Amendment application, please call (651) 385-3104 in advance to schedule an intake appointment. At your scheduled appointment with a staff planner, please bring the application completed to the best of your ability with all required materials. Receipt of this application and required materials by the LUM Department serves to open a Planning file for the proposed project. At that time, the planner assigned will review for completeness to Ordinances and Minnesota Statue 15.99 or whether additional information is required. The necessary County permits shall be issued when they are deemed in compliance with the above items.

APPLICATION FOR

Text Amendment

APPLICANT OR AUTHORIZED AGENT'S NAME: Circle "K" Family Farms and Michael, Yon and Jeff Kohlnhofer	
APPLICANT'S ADDRESS: 35559 Co. 45 Blvd Lake City, MN 55041	TELEPHONE: (651) 764-2282
	EMAIL: yonkohl@hotmail.com

CONTACT FOR PROJECT INFORMATION Jack Y. Perry Same as Above <input type="checkbox"/>	
ADDRESS: 2200 IDS Center 80 South 8th Street Minneapolis, MN 55402	TELEPHONE: (612) 977-8497
	EMAIL: jperry@briggs.com

- Amendment to Subdivision Ordinance Article: _____, Section: _____, _____
- Amendment to Zoning Ordinance Article: 11, Section: 24, _____
- Amendment to Zoning Ordinance Article: _____, Section: _____, _____
- Other: _____

1. Stated reason for amendment(s) requested:

See March 6, 2018 letter from Jack Y. Perry to Lisa M. Hanni, enclosed herein.

2. Compatibility of proposed ordinance amendment(s) with the Goodhue County Comprehensive Plan:

See March 6, 2018 letter from Jack Y. Perry to Lisa M. Hanni, enclosed herein.

3. Provide proposed amended text and statements outlining any perceived effects the proposed amendment(s) may have on other areas of the Ordinance:

See March 6, 2018 letter from Jack Y. Perry to Lisa M. Hanni, enclosed herein.


4. Provide any additional information that will assist the Planning Advisory Commission and the County Board in reviewing your request:

See March 6, 2018 letter from Jack Y. Perry to Lisa M. Hanni, enclosed herein. The \$500 application fee was sent to County on March 6, 2018

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- 1. The information presented is true and correct to the best of my knowledge
- 2. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by USPS mail.
- 3. Other information or applications may be required.

Signature:  Date: 3/22/18

Print name: Jack Y. Perry owner or authorized agent



2200 IDS Center
80 South 8th Street,
Minneapolis, MN 55402
OFC 612-977-8400
FAX 612-977-8650
URL: Briggs.com

March 6, 2018

Jack Y. Perry
(612) 977-8497
jperry@briggs.com

VIA U.S. MAIL

Lisa M. Hanni
Director, Goodhue County Land Use Management
Goodhue County Government Center
509 West Fifth Street
Red Wing, MN 55066

Re: Petition for an amendment to Article 11 Section 24 ("PRESERVATION OF FARMING PRACTICES") of the Goodhue County Zoning Ordinance

Dear Ms. Hanni:

On behalf of Jeff, Mike and Yon Kohnhofer (Kohnhofers) and Circle K Family Farms (Circle K), this Petition, requests an amendment to Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**") of County's Zoning Ordinance (Ordinance). The legal authority underlying, as well as an example for, the requested Ordinance amendment is discussed below.

Besides being consistent with Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**"), the requested Ordinance amendment is, as discussed below, also consistent with County's Ordinance — *i.e.*, Article 13 Section 1 ("**INTENT**") of Article 13 ("**CONFINED FEEDLOT REGULATIONS**") and Article 1 Section 2 ("**PURPOSE**") of Article 1 ("**GENERAL PROVISIONS**"). As likewise discussed below, the requested Ordinance amendment is, as well, consistent with County's Comprehensive Plan (Plan) — *i.e.*, the Plan's "**OVERVIEW**," "**ANIMAL AGRICULTURE OBJECTIVES**," "**ANIMAL AGRICULTURE IMPLEMENTATION STRATEGIES**" and "**AGRICULTURALLY RELATED BUSINESS OBJECTIVE**." In sum, Circle K's requested Ordinance amendment simply asks County to reaffirm its commitment to the protection of regulatorily-compliant agricultural operations from legal action due to their operation.

A. REQUESTED ORDINANCE AMENDMENT

The requested Ordinance amendment is for the passage of the following redlined edits to Article 11 Section 24:

SECTION 24. PRESERVATION OF FARMING PRACTICES

It is the declared policy of this County to enhance and encourage agricultural operations within the County.

Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations may be the subject of, among other legal actions, private nuisance or negligence complaints that would result in the cessation or curtailment of operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.

It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be ~~considered~~ sued for, among other legal actions, a private nuisance or negligence.

~~Agricultural production that complied with all Goodhue County Ordinances, shall not be considered by this County as constituting a nuisance.~~

~~This Ordinance is not to be construed as in any way modifying or abridging the State law, rather, it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.~~

Subd. 1. **AGRICULTURAL OPERATION.** A facility consisting of real or personal property used for the production of crops including fruit and vegetable production, tree farming, livestock, poultry, dairy products, or poultry products, but not a facility primarily engaged in processing agricultural products. Agricultural operation shall also include certain farm activities and uses as follows: chemical and fertilizer spraying, farm machinery noise, extended hours of operation, manure collection, disposal, spreading or storing, open storage of machinery, feedlots, odors produced from farm animals, crops or products used in farming.

Subd. 2. **ESTABLISHED DATE OF OPERATION.** For the purposes of this section, the established date of operation shall be the date on which the agricultural operation commenced.

~~Subd. 3. **AGRICULTURAL OPERATION NOT A NUISANCE.** An agricultural operation which continues without interruption or change shall not become a private nuisance if the operation was not a nuisance at its established date of operation. The provisions of this subdivision do not apply:~~

~~A. To a condition or injury which results from the negligent or improper operation of an agricultural operation or from~~



Lisa M. Hanni
March 6, 2018
Page 3

~~operations contrary to commonly accepted agricultural practices.~~

~~B. To applicable State or local laws, ordinances, rules or permits.~~

~~C. When an agricultural operation causes injury or direct threat or injury to the health or safety of any person.~~

~~D. To the pollution of, or change in the condition of, waters of the State or the water flow of waters on the lands of any person;~~

~~E. To an animal feedlot facility of one thousand (1,000) or more animal units.~~

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A. There will be from time to time sights, sounds and smells associated with the operation of farming.

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B. PRACTICAL APPLICATION OF THE PROPOSED ORDINANCE AMENDMENT

The proposed Right-to-Farm Ordinance simply codifies common sense and County's already existing commitment to the preservation of agricultural operations. The appropriateness of and need for this Ordinance amendment is illustrated by its application to standard "noise" and "odor" nuisance and negligence claims against an agricultural operation.

1. **Applied to "noise" claims.** A property owner should not be able to bring a § 561.01 "noise" nuisance or "noise" negligence action against a farming operation due to noise levels from the farming activity which comply with the state's objective "maximum levels of noise," particularly when (1) such levels were statutorily-required to be set by the Minnesota Pollution Control Agency (MPCA) so as to avoid being "injurious to human health or welfare . . .



Lisa M. Hanni
 March 6, 2018
 Page 4

. or could interfere unreasonably with the enjoyment of life or property" and (2) "[n]o local governing unit shall set standards describing the maximum noise levels of sound pressure which are more stringent." To allow otherwise, then, is to allow property owners to insist upon an undefined subjective standard for "noise" that they alone can describe with a six-person jury being asked whether this standard was violated even though the jurors are unlikely to ever get to visit the agricultural operation to hear for themselves the noise at issue. *See, e.g.*, Attach. B.

2. **Applied to "odor" claims.** A property owner should not be able to bring a § 561.01 "odor" nuisance or "odor" negligence action against a farming operation due to odor levels from the farming activity which comply with the state's "livestock odor" standard for "responding to citizen complaints regarding feedlot odor and its hydrogen sulfide component" — *i.e.*, the state's ambient air quality standards for hydrogen sulfide, particularly when (1) such standards were set by the MPCA to avoid "interfer[ence] with normal activity in healthy and sensitive individuals or . . . interfer[ence] with the enjoyment of life or property" and (2) "[n]o local governing units shall set standards of air quality which are more stringent." To allow otherwise, then, is, like with "noise," to allow property owners to insist upon an undefined subjective standard for "livestock odor" that they alone can describe with a six-person jury being asked whether this standard was violated even though the jurors are unlikely to ever get to visit the agricultural operation to smell for themselves the odor at issue.

C. **LEGAL AUTHORITY FOR SUCH AN ENACTMENT**

Under Minnesota's private nuisance case law and related jury instruction, a private nuisance is determined by (1) "the degree of discomfort by the standards of ordinary people in relation to the area where they reside" (*Citizens for a Safe Grant v. Lone Oak Sportsmen's Club*, 624 N.W.2d 796, 803 (Minn. App. 2001)) or (2) "the standards of ordinary people in the area in which the property is located" (Minn. Pract. Series Vol. 4A, 49 (5th. Ed. 2006)). And, under Minnesota's negligence law and related jury instruction, a negligence claim can be proven by nothing more than a private nuisance. *Wendinger v. Forst Farms, Inc.*, 662 N.W.2d 546, 550 (Minn. App. 2003).

Per Merriam-Webster's Dictionary, "standards" means "something set up and established by authority as a rule for the measure of quantity, weight, extent, value, or quality." (Emphasis added). And County is, per Minn. Stat. Chps. 375.51 and 394, the "authority" charged with enacting the applicable "standards of ordinary people in relation to the area where they reside," including such "standards" applicable to private nuisance and negligence claims brought against farming operations within County.

More specifically, County's Ordinance, including without limitation Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**") and Article 13 ("**CONFINED FEEDLOT REGULATIONS**"), can and should define "the standards of ordinary people in relation to the area where they reside" (or "in the area in which the property is located") — *e.g.*,



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County's "A-1, Agricultural Preservation" and "A-2 Agriculture" zoning districts — in such a way as to protect regulatorily-compliant farming operations from such suits. And, to illustrate its authority to do so, County could undisputedly impose "standards" for its A-1 and A-2 zoning districts which altogether prohibit certain incompatible non-agricultural uses — e.g., retail or non-farm residential uses — in those zoning districts. As such, County has the authority, as well, to enact "standards" in those zoning districts which impose all "lesser included" restrictions therein, including the above proposed Right-to-Farm Ordinance.

Because of County's authority under Minn. Stat. Chps. 375.51 and 394 to enact these "standards" for "agricultural operations," including feedlots, in its A-1 and A-2 zoning districts, these "standards" are clearly not somehow "preempted." Rather, in *Blue Earth County Pork Producers, Inc. v. County of Blue Earth*, 558 N.W.2d 25, 28 (Minn. App. 1997), the Court found that the local manure management ordinance was not preempted by state pollution laws because the state regulatory scheme explicitly delegated enforcement to localities, stating that local governments could impose additional controls upon feedlots. And the above-discussed case law has done this very thing. That is, County was, per Chapter 375.51 and 394, explicitly delegated to enact its "standards" for permitting farming operations in its A-1 and A-2 zoning districts, inclusive of the requested amendment thereto, as "the standards of ordinary people in relation to the area where they reside" (or "in the area in which the property is located").

Moreover, the Legislature clearly knows how to "preempt" local controls, and it does so explicitly. *See, e.g.*, Minn. Stat. § 18B.02 ("Except as specifically provided in this chapter, the provisions of this chapter preempt ordinances by local governments that prohibit or regulate any matter relating to the legislation, labeling, distribution, sale, handling, use, application, or disposal of pesticides" (emphasis added)); Minn. Stat. § 133F.227 ("This section . . . preempts local ordinances that are inconsistent with its terms" (emphasis added)); Minn. Stat. § 216G.02, subd. 4 ("[t]he pipeline routing permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances" (emphasis added)); Minn. Stat. § 504B.205, subd. 3 ("This section preempts any inconsistent local ordinance or rule" (emphasis added)). Yet the Legislature failed to so preempt County's enactment of "the standards of ordinary people in relation to the area where they reside" (or "in the area in which the property is located"). To the contrary, the Legislature authorized County under Chapters 375.51 and 394 to enact just such "standards."

D. AN EXAMPLE FOR SUCH AN ENACTMENT

In 2008, Todd County enacted a similar Right-to-Farm Ordinance. Attach. A. Todd County is, however, in the process of slightly amending its Right-to-Farm Ordinance (Attach. D) so that, like Kohlshofers and Circle K's proposed amendment here, it satisfies the Todd County District Court's very discrete issues with its initial version (Attach. E). And Todd County is amending its Right-to-Farm Ordinance because it saw firsthand the resulting problems which could arise for a state-of-the-art and fully-compliant agricultural operation.



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In Todd County, a group of neighbors living in the four closest residences to a new 1,412 AU sow facility filed and prosecuted a baseless multi-year private odor nuisance and negligence case brought against the facility. Built in 2012, this facility cost \$10 million, plus \$1.6 million in annual local labor and feed thereafter. Sponsored by two national anti-feedlot organizations (*i.e.*, Humane Society of the United States (HSUS) and Socially Responsible Agricultural Project (SRAP)), the neighbors brought this suit even though the facility undisputedly (1) employed the industry's best odor mitigation measures, (2) satisfied MPCA's rigorous environmental review, inclusive of odor modeling, and (3) complied with all regulatory requirements, including compliance with, as shown through odor modeling and air emissions monitoring, both (a) the OFFSET odor evaluation model's requirements and (b) Minn. Stat. § 116.0713's "**LIVESTOCK ODOR**" standards — *i.e.*, the state ambient air quality standards for hydrogen sulfide (H₂S) under Minn. R. 7009.0080 at the property boundaries. And, even though the facility prevailed following a two-week jury trial, Todd County has recognized that no one else would prospectively invest in such a farming operation in Todd County if it does not revise its Right-to-Farm Ordinance to protect animal agriculture from such scenarios.

As proven by this lawsuit, Todd County's concern was, more specifically, that, per Minn. Stat. § 561.01 as interpreted by *Wendinger*, 662 N.W.2d at 550, neighborhood opponents could enforce, through private odor nuisance/negligence claims, an unspecified subjective "livestock odor" standard which is more stringent than that which could be enforced by MPCA or any other local regulatory unit. These neighbors could, for example, enforce this amorphous stricter "livestock odor" standard even though the legislatively-prescribed "livestock odor" standards which MPCA is, per Minn. Stat. § 116.0713(a) (1997), required to (*i.e.*, "must") enforce were, per Minn. R. 7009.0080, "primary standards" for hydrogen sulfide. And "primary standards" are, per Minn. R. 7009.0010, subp. 2, "established to protect the public health from adverse effects . . . that are likely [(1)] to interfere with normal activity in healthy or sensitive individuals or [(2)] to interfere unreasonably with the enjoyment of life or property" (*a/k/a* nuisance). Not surprisingly, then, this result is contrary to the legislative purpose for the legislatively-prescribed "livestock odor" standard, which was, as advocated by concerned citizens, to establish objective standards which were to be enforced by MPCA. Another concern of Todd County was that these neighbors could enforce, through private odor nuisance/negligence claims, this amorphous stricter "livestock odor" standard even during the feedlots' Minn. Stat. § 116.0713(b)-(d) (2000) and Minn. R. 7020.2002-prescribed 21-day "exemption" from MPCA's enforcement of these "primary standards" for "livestock odor" during their manure "pump out" time period. Strikingly, however, the 21-day "exemption" was enacted in 2000 because no feedlot could otherwise comply with the legislatively-prescribed "livestock odor" standard during the once-a-year manure "pump out." In other words, the statutory purposes for Minn. Stat. § 116.0713(a) (1997) and Minn. Stat. § 116.0713(b)-(d) (2000) were contravened by neighborhood opponents being able to enforce, through private odor nuisance/negligence claims, an unspecified subjective "livestock odor" which is more stringent than that which could be enforced by MPCA.



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In order to encourage agriculture investment within its boundaries, Todd County is revising its Right-to-Farm Ordinance. Yet, in order to simultaneously protect its neighbors from unreasonable impacts, Todd County's proposed revised Right-to-Farm Ordinance only protects regulatorily-compliant farming operations in its agricultural preservation zoning districts from such actions.

E. CONSISTENCY WITH THE ORDINANCE

Beyond Article 11 Section 24 ("**PRESERVATION OF FARMING PRACTICES**"), this requested Ordinance amendment is consistent with Article 13 Section 1 ("**INTENT**"). Article 13 Section 1 provides, in full, as follows:

SECTION 1. INTENT

An adequate supply of healthy livestock, poultry, and other animals is essential to the wellbeing of Goodhue County citizens and the State of Minnesota. These domesticated animals provide our daily source of meat, milk, eggs and fiber. Their efficient, economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.

Through this and other ordinances, Goodhue County supports conservation efforts and environmentally safe land use practices. Livestock, poultry and other animals produce manure which may, where improperly stored, transported, or disposed, have a negative affect [sic] on the environment. When animal manure adds to surface water, groundwater, long term air pollution or land pollution in the county, it must be controlled.

The following regulations for the control of livestock, poultry, and other animal feedlot and manure application has been promulgated to provide protection against pollution caused by manure from domesticated animals. However, these rules recognize that animal manure provides beneficial qualities to the soil and to the production of agriculture crops.

These rules comply with the policy and purpose of the state of Minnesota in regard to the control of pollution as set forth in Minnesota Statutes, chapter 115 and 116. It has been our experience that residential and agricultural uses of land can be incompatible. These feedlot controls will regulate the uses and development of land in Goodhue County which may adversely affect the health, safety, and general welfare of the public.

No person shall permit or allow their land or property under their control to be used for any confined feedlots, and no animal manure from any confined feedlot



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shall be disposed of within the County of Goodhue, except at an operation which has been approved in accordance with the provisions of this Article.

All feedlots within Goodhue County shall comply with minimum standards set forth within MPCA Chapter 7020 (herein referred to as MPCA 7020) rules of this Ordinance.

OFFSET Odor Modeling references in this Article are based on the model developed or modified by the University of Minnesota Department of Bio systems and Agricultural Engineering.

(Bold in original; underlining added).

The requested Ordinance amendment is also consistent with Article 1, Section 2 ("PURPOSE") of the Ordinance. Article 1 Section 2 provides, in full, as follows:

SECTION 2. PURPOSE

The purpose of this Ordinance is to promote and protect the public health, safety and general welfare of the people of Goodhue County. This Ordinance will protect and preserve prime agricultural land by limiting the density of residential development in these areas. This Ordinance will assist in the economic growth of the County by providing a basis for reasonable and orderly residential, commercial and industrial development. At the same time, this Ordinance shall encourage farmers, residents and businesses to protect the land from erosion, loss of wetlands, loss of water quality, and loss of woodlands.

(Bold in original; underlining added).

F. CONSISTENCY WITH THE PLAN

County's recently-enacted Plan provides several protections for animal agriculture. As part of its "OVERVIEW," the Plan provides as follows:

Agricultural zoning districts have been established to maintain and preserve agricultural land. This Plan classifies agricultural land into three general categories: plant agriculture, animal agriculture and agricultural related business. This element focuses on assisting the competitiveness of our agricultural enterprises and protecting the farmland base that is key to a thriving agricultural economy.

The success of agriculture in Goodhue County lies in the creativity and drive of our farmers. The nature of agriculture has evolved over the years, but changes



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have become even more pronounced recently. Farmers are becoming increasingly entrepreneurial and the line between agriculture and manufacturing, tourism, and other business is diminishing.

Plan at 8 (bold in original; underlining added).

More specifically, the Plan's five "**ANIMAL AGRICULTURE OBJECTIVES**" are as follows:

1. Support and encourage farming activities so farmers can continue to provide an adequate supply of healthy livestock.
2. Support agricultural industries that are directly and indirectly related to animal agriculture such as veterinarian services, crop advisory services, livestock sales and auction services.
3. Encourage the use of best management practices for animal and crop agricultural practices.
4. Continue to allow for agricultural tourism opportunities to allow diversification of the agricultural economy.
5. Support the growth of animal agriculture in an environmentally friendly manner.

Id. at 18 (bold in original; underlining added).

The Plan's five "**ANIMAL AGRICULTURE IMPLEMENTATIONS STRATEGIES**" are as follows:

1. The University of Minnesota's odor OFFSET tool will be used when considering new feedlots and feedlot expansion requests.
2. Support and promote best management animal farming practices in order to protect the health, safety, welfare of the operation as well as surrounding properties.
3. Work with Soil and Water Conservation District to enforce the designated feedlot program in accordance with MN Rules 7020.
4. Encourage best practices for waste handling, manure spreading, pest control, fertilizer application, and erosion control.



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5. Evaluate feedlots and feedlot registration requirements to ensure they are addressing health, safety, and welfare concerns for adjacent landowners, water quality, and soil health.

Id. at 19 (bold in original; underlining added).

And the Plan's six "**AGRICULTURALLY RELATED BUSINESS OBJECTIVES**" are as follows:

1. Identify agriculturally related businesses and industrial uses that are appropriate for the agricultural districts.
2. Support agriculturally related business and industrial uses when sited in compatible areas that would not create extraneous nuisances to adjacent landowners.
3. Provide appropriate expectations for minimizing impacts between industrial agricultural businesses and the surrounding uses such as landscape buffers and setbacks.
4. Consideration for the location, type and intensity of surrounding existing land uses shall be taken into account during the process of reviewing permits or applications for the establishment of new or expanding land uses.
5. Create performance standards for business and industrial uses that primarily serve the agricultural community.
6. Allow the use of minimally intrusive signs to advertise and support agriculturally related businesses.

Id. at 21 (bold in original; underlining added).

With this requested Ordinance amendment, County has the opportunity to further reinforce its support for regulatory-compliant farming operations. Kohlnhofers and Circle K, together with the rest of County's sizeable animal agriculture industry, respectfully requests that County seize upon this opportunity with the enactment of its Right-to-Farm Ordinance.



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March 6, 2018
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Sincerely,

A handwritten signature in black ink, appearing to read 'Jack Y. Perry', written over a large, loopy flourish.

Jack Y. Perry

JYP

Enclosure: \$500 application fee

Attachments

- Attach. A: 2008 Todd County's Right-to-Farm Ordinance
- Attach. B: 2/9/16 Order (re: Noise)
- Attach. C: December 6, 2017 Order (re: Right-to-Farm Ordinance)
- Attach. D: 2018 Todd County's (proposed) Revised Right-to-Farm Ordinance

- cc:
- Jeff Kohlnhofer, Circle K Family Farms
 - Mike Kohlnhofer, Circle K Family Farms
 - Yon Kohlnhofer, Circle K Family Farms
 - Dr. Mark FitzSimmons, Protein Sources
 - Dr. Charles Gantzer, Barr Engineering
 - David Preisler, Minnesota Pork Board
 - Maren F. Grier, Briggs and Morgan, P.A.

- (xii) All recreational vehicle park projects shall be equipped with at least one (1) central toilet, bathing, and laundry building which meets or exceeds the requirements of the Minnesota Department of Health, except that in primitive tent camping areas, only toilet facilities shall be required as per the Minnesota Department of Health.

Section 9.11 Feedlots.

- A. Policy - An efficient and profitable livestock industry is an economic benefit to Todd County and to the State of Minnesota. It provides a value-added opportunity to our crop based agriculture and creates service industries, which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and ground water pollution. When properly utilized such wastes contribute to soil fertility and structure and enhance efficient crop production. The following section has been promulgated to reduce risk of pollution of natural resources from feedlots.
- B. Todd County is an MPCA delegated Feedlot County.
- C. This section regulates feedlots as well as storage and land application of animal waste. All existing and future feedlots in Todd County shall comply with the standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020 rules and updates, and this Ordinance.
- D. Within the agricultural preservation districts, the construction, expansion and operation of feedlots and other agricultural uses are permitted or permitted by conditional uses.
- E. There will be from time to time, sights, sounds and smells associated with the operation of farming. No property owner shall bring action of Law against any farming operation, because of such farming activities, as long as such farming activity complies with State, Federal or County regulations.
- F. More restrictive standards. Minnesota Rules Chapter 7020 are hereby modified by the following more restrictive standards.
- G. The County Board may appoint a Feedlot Officer(s) as are necessary and to designate their power and duties within the limits of this section.
- H. A land use permit shall be required for all expansions of buildings of an existing feedlot that does not increase the animal unit numbers.
- I. A land use permit with a feedlot inspection is required for all expansions of buildings or lots that increase animal unit numbers of existing registered feedlots of more than 10 animal units but less than 300 animal units. An Interim Permit may be required to correct environment hazards on feedlots.
- J. Registration. An animal feedlot capable of holding ten (10) or more animal units, or a manure storage area capable of holding the manure produced by 10 or more animal units is required to register with the County every four (4) years.

- K. Conditional Use Permit - Expansion of animal unit numbers to existing feedlots located within 300 feet of any river class or within 1,000 feet of any lake class may be approved if they do not exceed 1,000 animal units and they do not further encroach into the riparian setback or bluff impact zone.
- L. The owner of a proposed or existing animal feedlot of over 300 animal units in the Agricultural District shall make an application to the County for a Construction Short Form Permit when any of the following conditions exist:
 - (i) A new feedlot is proposed where a feedlot did not previously exist;
 - (ii) Expansion of an existing feedlot beyond registered animal units;
 - (iii) Any change in species on an existing animal feedlot or facility;
 - (iv) A feedlot is to be restocked after being abandoned for five (5) or more years;
 - (v) An inspection reveals that the feedlot is creating a potential pollution hazard and due process is observed by the authorized entity Department and provides the ability to correct the infraction as listed in MPCA regulations;
 - (vi) Application for conditional use permit;
 - (vii) A National Pollutant Discharge Elimination System (NPDES) permit application is required under State or Federal rules and regulations (over 1,000 animal units of manure is produced on the farm);
 - (viii) Other actions as specified in the Ordinance.
- M. Feedlot setbacks and separations -feedlot setbacks. All setbacks of this section shall apply within the county and shall not cross county lines. The setback standards of the county where the feedlot is located shall apply. No new feedlot shall hereafter be erected within the following distances:

New Feedlot or Manure Storage Area	Animal Units	Municipal Limits or Municipal Growth Boundaries*	Public Drainage Ditch*	School, Church, Park, or Airport*
Tier I	10-100	Half (1/2) mile	300 feet	Quarter (1/4) mile
Tier II	101-300	One (1) mile	300 feet	Half (1/2) mile
Tier III	Over 300	One (1) mile	300 feet	Half (1/2) mile
* All setbacks are reciprocal in nature				

- N. All application of animal waste shall comply with all setbacks of Minnesota Statutes Chapter 7020, to minimize odor nuisance, potential point and non-point pollution.
- O. Performance Standards:
 - (i) All new liquid manure storage structures must have a minimum of twelve (12) months of storage capacity.

- (ii) All expansions of feedlots with a liquid manure handling system must have a liquid storage capacity to accommodate the increase in animal units. The plans for this expansion must be provided to the Department prior to any construction taking place, and must be completed within two years of the date that the permit was issued. This rule is not intended to be applied to any expansion that utilizes a solid manure handling system.
 - (iii) No open-air swine or poultry liquid manure storage basins will be allowed.
 - (iv) All liquid manure storage basins must be fenced to Natural Resources Conservation Service (NRCS) specifications.
 - (v) Manure application agreements must be for at least four years for all expansions or new construction.
 - (vi) All new manure storage structures (earthen basins, slurry stores, concrete manure storage, runoff ponds, sediment ponds or other similar structures) shall be a minimum of 300 feet from any property line (including a road right-of-way) unless the manure storage structure is being installed to mitigate a pollution hazard and meeting the 300 foot setback is not feasible or is impractical. In no case shall a new manure storage structure be located within the minimum building setback for the zoning district where it is located.
- P. For parcels of land greater than 1 acre in shoreland or "R" zoning.
- 1. Limited to up to 25 Chickens (no other fowl) and/ 20 rabbits
 - 2. Shelter, fencing, cages must be provided – no free range animals.
 - 3. Roosters are prohibited
 - 4. All litter must be garden applied and tilled or removed from property
 - 5. Property owner must maintain a Livestock Registration with Todd County
- Q. For parcels located in shoreland zoning that have historic feedlot use.
- 1. Owner must maintain Livestock Registration with Todd County.
 - 2. May register for up to 9.9 AU maximum animal units on parcel.
 - 3. Todd County will require plans and specifications for review prior to approval of registration verifying setbacks, potential runoff, wetlands, etc..
 - 4. Final determination is made by Planning and Zoning Administrator
- R. A violation of this section shall constitute a misdemeanor and be processed according to the procedures established in Article X.

Section 9.12 Mining and Extraction Use.

A. Mining & extraction permits. Activities permitted include washing, crushing, screening, and stockpiling of soil, rock, sand, gravel, concrete, and asphalt, removal of barrow material, temporary administrative office structures that will not be present after the permit expires, and equipment maintenance activities under the following conditions:

- (i) **Permittee signatures.** Both the landowner and the contractor shall sign the application and be responsible for meeting the conditions of the permit.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF TODD

SEVENTH JUDICIAL DISTRICT

Travis Winter, Aimee Goodwin, Corey
Goodwin, Joel Walsh, Amy Walsh, Katrina
Downes, Russell Anderson,

Court File No. 77-CV-14-933

Plaintiffs,

vs.

Gourley Premium Pork, L.C., d/b/a Gourley
Brothers and Gourley Bros. Premium Pork;
and Protein Sources, LLP and Protein Sources
Milling, LLC; and John Doe,

Defendants.

ORDER

This matter came on for hearing before District Court Judge Douglas P. Anderson on November 20, 2015, at the Todd County Courthouse in Long Prairie, Minnesota, pursuant to Defendants' motion for summary judgment. Appearances were noted in the record.

Based on the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. Defendants' motion for dismissal of Plaintiff Downes' claims for lack of standing is denied.
2. Plaintiffs Winter's and Goodwin's claims are limited to nuisance and/or negligence damages incurred while they resided at their respective residences.
3. Plaintiffs Winters and Goodwin shall not be allowed to offer evidence of adverse health impacts caused by Defendants operation of the facility.
4. Defendants' motion for summary judgment on Plaintiffs' nuisance claim is granted in part and denied in part. The motion is granted as to claims based on light and noise and denied as to claims based on odors.
5. Defendants' motion for summary judgment on Plaintiffs' negligence claim is granted in part and denied in part. The motion is granted as to claims based on light and noise and denied as to claims based on odors.
6. Defendants' motion for certification is denied.

cited by Defendants are relevant, for all of them deal with the limits of MPCA (or local) actions involving *regulated* (and therefore measurable) standards for noise or air emissions.

Light and noise nuisance

Fourteen 250-watt lights are stationed on fourteen-foot tall poles around the perimeter of the facility to provide illumination for the perimeter road as well as for security. They are light activated, turning on at nightfall and off at daylight.

Light illumination can be objectively measured in foot candles. Defendants conducted such measurements (on the evening of October 13, 2015). *See* Def. Ex. 112. The testing indicated that there is illumination from the lights up to a distance of 120 feet from the facility; at any point further there is no illumination. In other words, the facility's lights cannot cause a shadow at a distance of more than 120 feet. Plaintiffs have presented no facts or expert opinions that dispute this finding. The nearest neighbor is 1,320 feet from the facility.

With respect to Plaintiffs' noise-related nuisance claims, Plaintiffs allege that (1) three feed trucks bring feed to the facility each week; (2) one truck each weeks takes pigs from the facility; (3) exhaust fans at the facility run continuously; (4) a skid steer is operated daily outside the facility from early morning until late evening; (5) when pigs are removed from the facility (once a week), they make squealing noises; and (5) that there is a banging or clanging of the feed trucks as facility workers unload the feed.

None of the noises of which Plaintiffs complain are other than those usually and customarily associated with farming operations, albeit magnified here because of the size of the operation. No evidence has been presented that the noise generated from the facility exceeds what should be expected

odor to a measured concentration across a diverse population. As a result, it is not possible to adopt a state ambient air quality odor standard. Despite this, *odors can be a source of private or public nuisance.*" Def. Ex. 137 (emphasis added).

The "Odor Policy" also states that "*In some limited circumstances, however, a facility that reduces its emissions of certain chemicals may also reduce neighborhood odor. In these rare cases, the MPCA may be able to use odor measurement as a surrogate for specific chemical concentrations.*" Def. Ex. 137 (emphasis added). The MPCA's references to "limited circumstances," "rare cases," and the modal verb "might" indicate that, as a general rule, hydrogen sulfide is a legislatively established surrogate for swine odor.

in an agriculturally zoned area.

The state has established maximum noise levels for various land use activities (*see* Minn. R. 7030.0020, *et. seq.*). Specifically, for agricultural and related activities (noise area classification 3), noise levels may not, day or night, exceed 80 decibels for more than six minutes or 75 decibels for more than 30 minutes of each hour. Minn. R. 7030.0040, 7030.0050. The only testing conducted at the facility (the “Skoglund Report,” Def. Ex. 111) indicates that noise levels, projected to the nearest residences, did not exceed 40 decibels—approximately sixteen times less than the state standard for such areas. Therefore, the only evidence before the court is that Defendants’ have not come close to exceeding those levels.

In short, there is an objective, scientific means by which to measure sound, and that is in decibels. The sounds of which Plaintiffs complain are regular, consistent and easily measured. Defendants’ measurements show compliance with the state-regulated noise standards for agricultural activities. Plaintiffs, on the other hand, have conducting no testing.

For an interference with the enjoyment of life or property to constitute a nuisance, it must be material and substantial, *Citizens for a Safe Grant v. Lone Oak Sportsmen's Club, Inc.*, 624 N.W.2d 796, 803 (Minn. Ct. App. 2001), and a fact finder is to measure the degree of discomfort by the standards of ordinary people in relation to the area where they reside. *Id.* Under the circumstances, the court finds, as a matter of law, that the light and noise emitted from the facility do not cause a *substantial and material* interference with Plaintiffs’ enjoyment of their properties and therefore to exclude at trial evidence of excessive light or noise as a basis for Plaintiffs’ nuisance claim.

Negligence claim

There is deposition testimony that Defendants left “dead animals laying [sic] out in the hot sun, bloating up, all day long clearly visible from the road,” and that on several occasions Defendants garbage blew across the facility’ property and ended up on their neighbors’ land. *See* Pl. Opp. Mot.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF TODD

SEVENTH JUDICIAL DISTRICT

Travis Winter, Aimee Goodwin, Corey
Goodwin, Joel Walsh, Amy Walsh, Katrina
Downes, Russell Anderson,

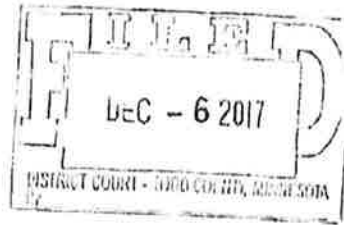
Court File No. 77-CV-14-933

Plaintiffs,

vs.

Gourley Premium Pork, L.C., d/b/a Gourley
Brothers and Gourley Bros. Premium Pork;
and Protein Sources, LLP and Protein Sources
Milling, LLC; and John Doe,

Defendants.



ORDER ON FINAL JURY INSTRUCTIONS AND SPECIAL VERDICT FORM

This matter came on for trial before District Court Judge Douglas P. Anderson on December 4, 2017 at the Todd County Courthouse in Long Prairie, Minnesota. Appearances were noted in the record.

Based on the files, records and proceedings herein,


IT IS HEREBY ORDERED:

1. Defendants' requested inclusion of Todd County's Right to Farm Ordinance is DENIED.
2. Defendants' requested revision to this Court's private nuisance instruction is DENIED.
3. Defendants' requested removal of the instruction to determine damages even without a determination of liability is DENIED.
4. Defendants' requested revision to this Court's instruction on allowable items of damages is DENIED.
5. Defendants' requested revisions to the recoverable damage period for (1) Aimee and Corey Goodwin and (2) Russell Anderson, Katrina Downes, and Joel Walsh is GRANTED.
6. Defendants' requested revision of this Court's proposed jury instructions to reflect Minn. Stat. § 116.0713's limitation on claims based upon odor nuisance is DENIED, at this time.

7. Defendants' requested revision to the special verdict form to conform to the requested revised jury instructions is DENIED.
8. Defendants' request to submit one damage question for each of the 2 households, that is, (1) Aimee and Corey Goodwin and (2) Russell Anderson and Katrina Downes is DENIED.
9. The attached Memorandum is made a part of this Order.

Dated December 6, 2017.

BY THE COURT:



Douglas P. Anderson
Judge of District Court

MEMORANDUM

The dates have all been corrected.

Combining (1) Aimee Goodwin and Corey Goodwin and (2) Russell Anderson and Katrina Downes

The court declines to combine spouses or household occupants in the same damage question. The occupants have different factual situations. For example, Corey Goodwin worked out of the home during the daytime hours, and Aimee Goodwin did not. Katrina Downes worked out of the home as well, and Russell Anderson did not. The alleged exposure to the facility is different. Additionally, Downes and Anderson are granddaughter/grandfather and allocating a single damage award between the two of them would not be as simple as allocating a damage award between husband and wife.

The Right to Farm Ordinance

The Right to Farm Ordinance instruction will not be given. Section 9.11 E of the Todd County Ordinance provides that no action of law against a farming operation, because of such farming activities, may be brought as long as such farming activity comply with state, federal or county regulations.

The ordinance is arguably incorrect. The last phrase is written in the disjunctive. No suit can be commenced as long as the farming activity complies with state, federal or county regulations. The way it is written, if a farming operation complied with state regulations but not county regulations, it would still be exempt from litigation (and vice-versa). As the court has stated, an activity can have all the appropriate permits and still be operated negligently or as a nuisance. In fact, the facility in question was granted a conditional use permit (CUP) predicated on the fact that the facility would be operated consistently with the conditions stated at the time the CUP

was granted. Additionally, there are periodic compliance checks and reviews as noted by Defendants. Because permits are initially granted, it does not mean that the facility is forever barred from litigation if it ceases to be operated in compliance with the regulations or if it otherwise engages in conduct that can subject it to litigation. The court orally gave the parties 3 examples of why section E is incorrect. First, Todd County has no animal disposal regulations, but defendants must comply with these regulations. Second, Todd County has no hydrogen sulfide standard, yet defendants must comply with these standards set by the state. Third, Todd County has no grace period for exceeding air emissions as does Minnesota statute 116.0713, yet that statute applies to the defendants' facility. Read literally, the Gourley facility would be exempt from suit under section E if it complied with just the Todd County's regulations, and it would not have to comply with state and federal regulations. Besides being written in the conjunctive, Section E should probably require compliance with rules, regulations, and statutes; not just regulations. The term "regulation" is not defined in the Todd County ordinance either.

Defendants can certainly bring forth Section 9.11 of the zoning ordinance to support the underlying premise of the Todd County Ordinance. However, it is a jury question whether or not the facility is being operated in compliance with state, federal, and county regulations. This would include compliance with state and federal laws which include laws which allow for nuisance claims and negligence claims.

Instruction on Livestock Odor under Minn. Stat. § 116.0713

If Plaintiffs claim that Defendants exceed the state ambient air quality standards during manure removal, the court would give, as an instruction, Minn. Stat. § 116.0713(c). Even though there would be no objective evidence that Defendants have exceeded state ambient air quality standards for hydrogen sulfide, they would still be entitled to an instruction that the usual and

customary odors affiliated with the operation could be, pursuant to the statute, exceed (or increase) for the cumulative period of 21 days for the removal process under the statute.

D.P.A.

A handwritten signature in black ink, appearing to be the initials 'DPA' written in a stylized, cursive font.

Section 9.11 Feedlots.

- A. Policy - An efficient and profitable livestock industry is an economic benefit to Todd County and to the State of Minnesota. It provides a value-added opportunity to our crop based agriculture and creates service industries, which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and ground water pollution. When properly utilized such wastes contribute to soil fertility and structure and enhance efficient crop production. The following section has been promulgated to reduce risk of pollution of natural resources from feedlots.
- B. Todd County is an MPCA delegated Feedlot County.
- C. This section regulates feedlots as well as storage and land application of animal waste. All existing and future feedlots in Todd County shall comply with the standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020 rules and updates, and this Ordinance.
- D. Within the agricultural-preservation districts, the construction, expansion and operation of feedlots and other agricultural uses are permitted or permitted by conditional uses.
- E. There will be from time to time, sights, sounds and smells associated with the operation of farming. No property owner shall bring an action(s) of law, including without limitation claims for private nuisance under Minn. Stat. § 561.01 and common law negligence, against any farming operation, because of such farming activities, as long as such farming activity is complying with the local, County, State, and Federal or County permits, ordinances, rules, statutes and other regulations which apply to and are enforceable against the farming operation.
- F. More restrictive standards Minnesota Rules Chapter 7020 are hereby modified by the following more restrictive standards.
- G. The County Board may appoint a Feedlot Officer(s) as are necessary and to designate their power and duties within the limits of this section.
- H. A land use permit shall be required for all expansions of buildings of an existing feedlot that does not increase the animal unit numbers.
- I. A land use permit with a feedlot inspection is required for all expansions of buildings or lots that increase animal unit numbers of existing registered feedlots of more than 10 animal units but less than 300 animal units. An Interim Permit may be required to correct environment hazards on feedlots.
- J. Registration. An animal feedlot capable of holding ten (10) or more animal units, or a manure storage area capable of holding the manure produced by 10 or more animal units is required to register with the County every four (4) years.

- K. Conditional Use Permit - Expansion of animal unit numbers to existing feedlots located within 300 feet of any river class or within 1,000 feet of any lake class may be approved if they do not exceed 1,000 animal units and they do not further encroach into the riparian setback or bluff impact zone.
- L. The owner of a proposed or existing animal feedlot of over 300 animal units in the Agricultural District shall make an application to the County for a Construction Short Form Permit when any of the following conditions exist:
- (i) A new feedlot is proposed where a feedlot did not previously exist;
 - (ii) Expansion of an existing feedlot beyond registered animal units;
 - (iii) Any change in species on an existing animal feedlot or facility;
 - (iv) A feedlot is to be restocked after being abandoned for five (5) or more years;
 - (v) An inspection reveals that the feedlot is creating a potential pollution hazard and due process is observed by the authorized entity Department and provides the ability to correct the infraction as listed in MPCA regulations;
 - (vi) Application for conditional use permit;
 - (vii) A National Pollutant Discharge Elimination System (NPDES) permit application is required under State or Federal rules and regulations (over 1,000 animal units of manure is produced on the farm);
 - (viii) Other actions as specified in the Ordinance.
- M. Feedlot setbacks and separations -feedlot setbacks. All setbacks of this section shall apply within the county and shall not cross county lines. The setback standards of the county where the feedlot is located shall apply. No new feedlot shall hereafter be erected within the following distances:

New Feedlot or Manure Storage Area	Animal Units	Municipal Limits or Municipal Growth Boundaries*	Public Drainage Ditch*	School, Church, Park, or Airport*
Tier I	10-100	Half (1/2) mile	300 feet	Quarter (1/4) mile
Tier II	101-300	One (1) mile	300 feet	Half (1/2) mile
Tier III	Over 300	One (1) mile	300 feet	Half (1/2) mile
* All setbacks are reciprocal in nature				

N. All application of animal waste shall comply with all setbacks of Minnesota Statutes Chapter 7020, to minimize odor nuisance, potential point and non-point pollution. 0. Performance Standards:

- (i) All new liquid manure storage structures must have a minimum of twelve (12) months of storage capacity.

- (ii) All expansions of feedlots with a liquid manure handling system must have a liquid storage capacity to accommodate the increase in animal units. The plans for this expansion must be provided to the Department prior to any construction taking place, and must be completed within two years of the date that the permit was issued. This rule is not intended to be applied to any expansion that utilizes a solid manure handling system.
 - (iii) No open-air swine or poultry liquid manure storage basins will be allowed.
 - (iv) All liquid manure storage basins must be fenced to Natural Resources Conservation Service (NRCS) specifications.
 - (v) Manure application agreements must be for at least four years for all expansions or new construction.
 - (vi) All new manure storage structures (earthen basins, slurry storos, concrete manure storage, runoff ponds, sediment ponds or other similar structures) shall be a minimum of 300 feet from any property line (including a road right-of-way) unless the manure storage structure is being installed to mitigate a pollution hazard and meeting the 300 foot setback is not feasible or is impractical. In no case shall a new manure storage structure be located within the minimum building setback for the zoning district where it is located.
- P. For parcels of land greater than 1 acre in shoreland or "R" zoning.
- 1. Limited to up to 25 Chickens (no other fowl) and/ 20 rabbits
 - 2. Shelter, fencing, cages must be provided — no free range animals.
 - 3. Roosters are prohibited
 - 4. All litter must be garden applied and tilled or removed from property
 - 5. Property owner must maintain a Livestock Registration with Todd County
- Q. For parcels located in shoreland zoning that have historic feedlot use.
- 1. Owner must maintain Livestock Registration with Todd County.
 - 2. May register for up to 9.9 AU maximum animal units on parcel.
 - 3. Todd County will require plans and specifications for review prior to approval of registration verifying setbacks, potential runoff, wetlands, etc..
 - 4. Final determination is made by Planning and Zoning Administrator
- R. A violation of this section shall constitute a misdemeanor and be processed according to the procedures established in Article X.

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director



County Surveyor / Recorder

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

To: Planning Commission
From: Land Use Management
Meeting Date: April 16, 2018
Report date: April 6, 2018

PUBLIC HEARINGS: Request for Map Amendment (Rezone)

Request for map amendment submitted by Blake Thompson to rezone 38 acres from A3 (Urban Fringe District) to R1 (Suburban Residence District). Parcels 31.001.6100 and 31.001.6200. Part of the SW ¼ of SE ¼ and GOVT Lot 2 in Sect 01 Twp 112 Range 15 in Featherstone Township. A3 Zoned District.

Application Information:

Applicant(s): Blake Thompson

Address of zoning request: 23849 289th ST, Red Wing, MN 55066

Parcel(s): 31.001.6100 and 31.001.6200

Abbreviated Legal Description: Part of the SW ¼ of SE ¼ and GOVT Lot 2 in Sect 01 Twp 112 Range 15 in Featherstone Township

Township Information: Featherstone Township endorsed acknowledgement of the applicant's request.

Zoning District: A3 (Urban Fringe District)

Attachments and links:

Application and submitted Project Summary

Site Map(s)

Goodhue County Zoning Ordinance (GCZO):

<http://www.co.goodhue.mn.us/DocumentCenter/View/2428>

Background:

The applicant owns 2 parcels of land comprising approximately 38 acres in Featherstone Township. The parcels are currently zoned A3 (Urban Fringe District) requiring a minimum of 35 acres per parcel to establish new dwelling sites. The applicant's primary residence currently occupies the eastern most parcel, there is density remaining to establish a second dwelling on the unoccupied parcel. The applicant is requesting the rezone to R1 to allow the property to be subdivided in the future to establish a proposed total of up to 4 dwelling sites.

Project Review:

- The subject property consists of 2 contiguous parcels comprising 38 acres.
- Existing property access is located off of 289th ST in the southwest corner of the property. 289th ST is an existing private drive that may require upgrades to meet the private road standards required by Goodhue County's Subdivision Controls Ordinance.
- The applicant is proposing to establish a second driveway access off of Hay Creek Trail on the west side of the property.
- The proposed future use of the parcels is to subdivide the property to establish a total of four dwelling development sites.
Future subdivision of the property will require platting.
- The property has significant topographical relief and portions of the northern half of the property

may qualify as Blufflands. Future development of these areas would be subject to the requirements of GCZO Article 12 (Bluffland Protection).

- There is no Shoreland District located within property limits. Aerial imagery does indicate the presence of intermittent streams (dry runs) on the property that should be carefully considered with proposed development to prevent erosion and protect downstream water quality.
- The majority of the property is currently undeveloped and is covered by deciduous forest. Future cutting and vegetation removal necessary for development will be required to adhere to the standards and best management practices outlined in GCZO Article 7 Section 7 (Vegetative, Tree, & Woodland Alterations).
- Surrounding land uses include low-density residential to the east, south, and west. A medium density rural residential subdivision is situated less than 1000 feet north of the subject properties. High-density residential subdivisions located within Red Wing city limits are situated less than a half-mile east.
- Adjacent zoning districts include A3 to the north, east, and west; A2 to the south.
- Per GCZO Article 13 (Confined Feedlot Regulations):
 - New residential districts (R1) shall not be located within 1000 feet or 96% OFFSET odor annoyance free rating distance, as determined by the OFFSET odor evaluation model, from any existing feedlot, whichever is greater.
 - New feedlots are not permissible within 1 mile of the city of Red Wing or within A3 and R1 districts.

The nearest adjacent registered feedlot is located greater than 1 mile south of the subject properties.

- The purpose of the R1 district is to provide a district which will define and protect areas suitable for low to medium density residential development as the principal use of the land and to allow related facilities desirable for a residential environment. It is also intended that this district allow varying densities of development in accordance with the ability to provide water and sewer facilities.
- The Prime Farmland Rating for Agriculture is as follows:

Soil Name	Slope	Amount (acres)	% of Total	Prime Farmland Rating
Rasset Fine Sandy Loam	0-6%	1.7	4.5%	Prime Farmland
Newhouse-Valton	12-18%	4.6	12.3%	Not Prime Farmland
Chelsea Loamy Sand	2-6%	6.2	16.5%	Not Prime Farmland
Chelsea Loamy Sand	6-12%	4.3	11.5%	Not Prime Farmland
Chelsea Loamy Sand	12-35%	0.5	1.4%	Not Prime Farmland
Hawick Sandy Loam	18-45%	14.0	37.3%	Not Prime Farmland
Udifluent Loam	2-12%	6.1	16.2%	Not Prime Farmland
Coloma Loamy Sand	0-6%	0.1	0.4%	Not Prime Farmland

- The property appears to have adequate soils and ample room to accommodate compliant sanitary facilities for proposed future developments consistent with SSTS regulations.
- Staff's review of property records revealed no Condition or Interim Use Permits have been issued to the property.
- The proposed rezone appears compatible with the goals and objectives of the Goodhue County Comprehensive Plan:

“Direct the location of new or replacement dwelling sites in areas that minimize loss or conversion of prime agricultural soils”

“If residential development occurs, it should be compact and designed to preserve the prime farmland for agricultural uses or other compatible uses to minimize conflicts between

agriculture and non-agricultural uses”

“Soils with Prime Farmland rating shall be protected from non-agricultural development whenever possible”

“Provide more housing choices for rural residents”

- No impacts to historic amenities are anticipated as a result of the proposed rezone.
- Future development near any qualifying bluffs will be required to meet setbacks to areas qualifying as Bluffland on the property as well as meet Bluffland protection standards specified in GCZO Article 12 to protect those scenic amenities.
- Dwelling development density in A3 is restricted to 1 dwelling per 35 acres.

Dwelling density for section 01 is currently at 64 dwellings, 61 of which are located in the E1/2 of the section, and 9 are not located within an existing platted area. The applicants are proposing 2 additional dwellings beyond what is currently allowed, bringing the final density total to 66 for the section.

Allowing additional dwelling development sites in this location does not appear to negatively affect the surrounding area or the city of Red Wing.

- No substantial negative impacts to adjacent properties are anticipated as a result of the proposed rezone.
- The proposed rezone appears compatible with existing adjacent land uses in the immediate area.

Staff Recommendation:

LUM Staff recommends the Planning Advisory Commission

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

Recommend the County Board of Commissioners **APPROVE** the map amendment request from Blake Thompson to rezone 38 acres from A3 (Urban Fringe District) to R1 (Suburban Residence District).

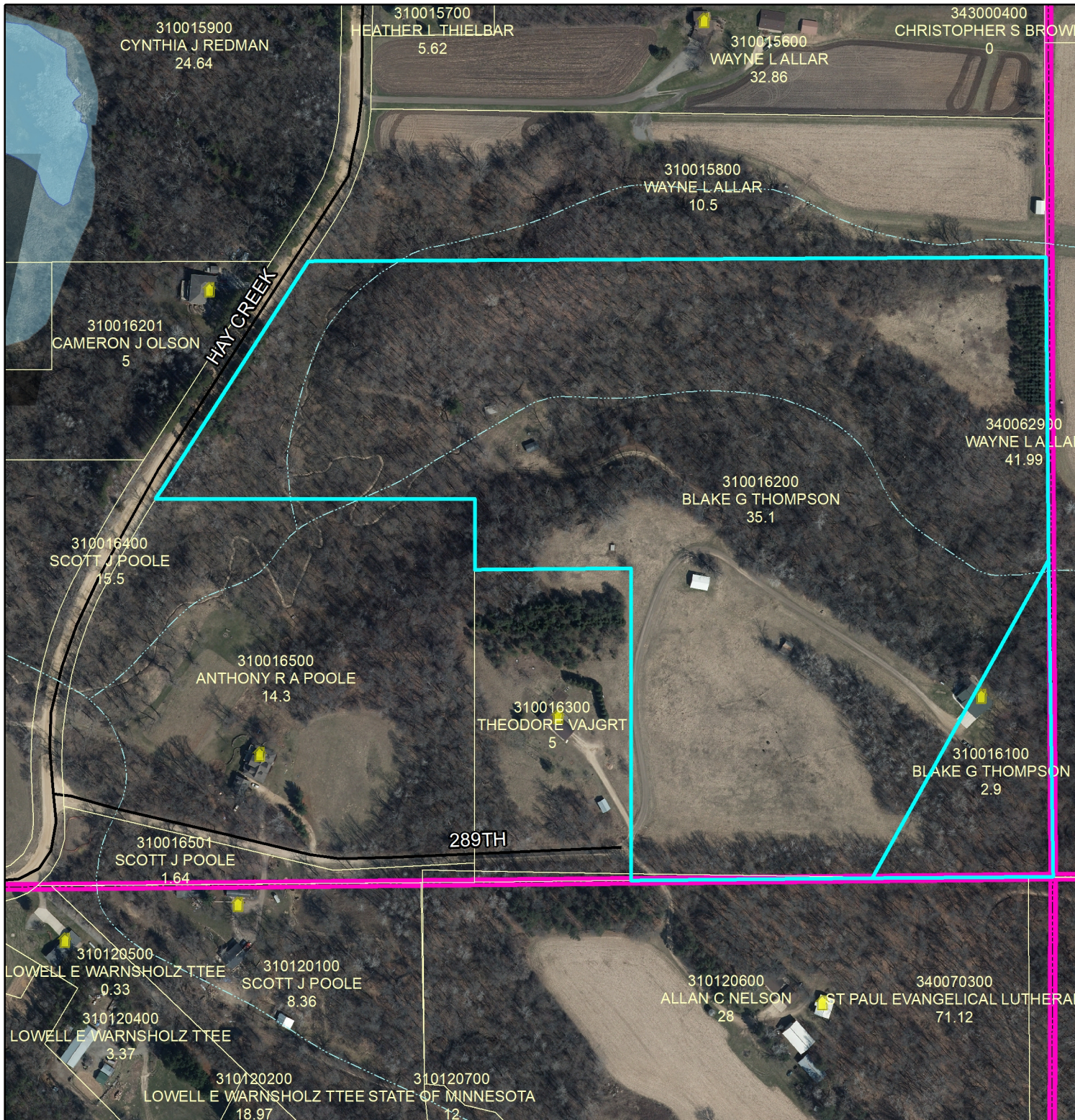
Planning Advisory Commission

Public Hearing
April 16, 2018

Blake Thompson
A3 Zoned District

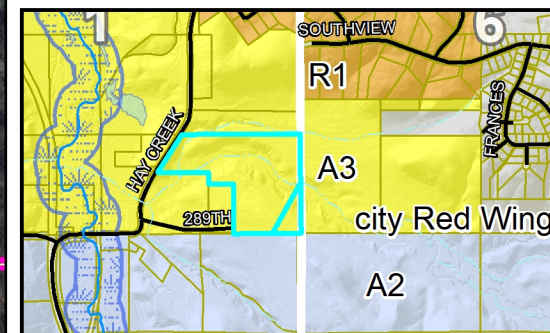
Parcels 31.001.6100 &
31.001.6200, Part of the
SW ¼ of SE ¼ and GOVT
Lot 2 in S01 T112 R15 in
Featherstone Township

Map amendment request to
rezone property from A3 to R1



Legend

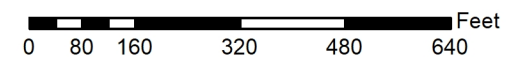
Intermittent Streams	Bluff Impact Zones (% slope) 20
Protected Streams	Bluff Impact Zones (% slope) 30
Lakes & Other Water Bodies	FEMA Flood Zones
Shoreland	2% Annual Chance
Historic Districts	A
Parcels	AE
Registered Feedlots	AO
Dwellings	X
Municipalities	



DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2018.

2016 Aerial Imagery

Map Created April, 2018, Ryan Bechel



RECEIVED

MAR 23 2018

Land Use Management

Permit # Z18-0020

1

GOODHUE COUNTY ZONING DISTRICT CHANGE APPLICATION

Parcel # 31-001-6100

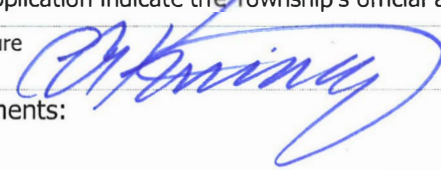
PROPERTY OWNER INFORMATION			
Last Name <u>Thompson</u>	First <u>Blake</u>	M.I. <u>G</u>	Date of Birth
Street Address <u>23849 289th St.</u>			Phone
City <u>Red Wing</u>	State <u>MN</u>	Zip <u>55066</u>	Attach Legal Description as Exhibit "A" <input checked="" type="checkbox"/>
Authorized Agent <u>n/a</u>		Phone <u>n/a</u>	
Mailing Address of Landowner: <u>23849 289th St. - Red Wing, MN 55066</u>			
Mailing Address of Agent: <u>n/a</u>			

PROJECT INFORMATION	
Site Address (if different than above):	
Lot Size <u>35.1+2.9= 38acre</u>	Structure Dimensions (if applicable) <u>60x40</u>
Existing Zone <u>A3</u>	Proposed Zone <u>R1</u>
Existing Use <u>Residential (two parcels- A3)</u>	
Proposed Use: <u>Residential (four parcels- R1)</u>	

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 	Date <u>3/19/2018</u>
Signature of Agent Authorized by Agent	

TOWNSHIP INFORMATION		
Township Zoning Permit Attached?	<input type="checkbox"/>	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 variance request.		
Signature 	Title <u>TREASURER</u>	Date <u>3/19/18</u>
Comments:		

COUNTY SECTION		COUNTY FEE \$ <u>500</u>	RECEIPT # <u>16200</u>	DATE PAID <u>3/23/18</u>
Applicant requests a variance from 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:				

**APPLICANT FINDINGS OF FACT
AND SUPPORTING INFORMATION REGARDING ZONING DISTRICT CHANGE APPLICATION**

1. How does the requested change compatible with the Goodhue County Comprehensive Plan?

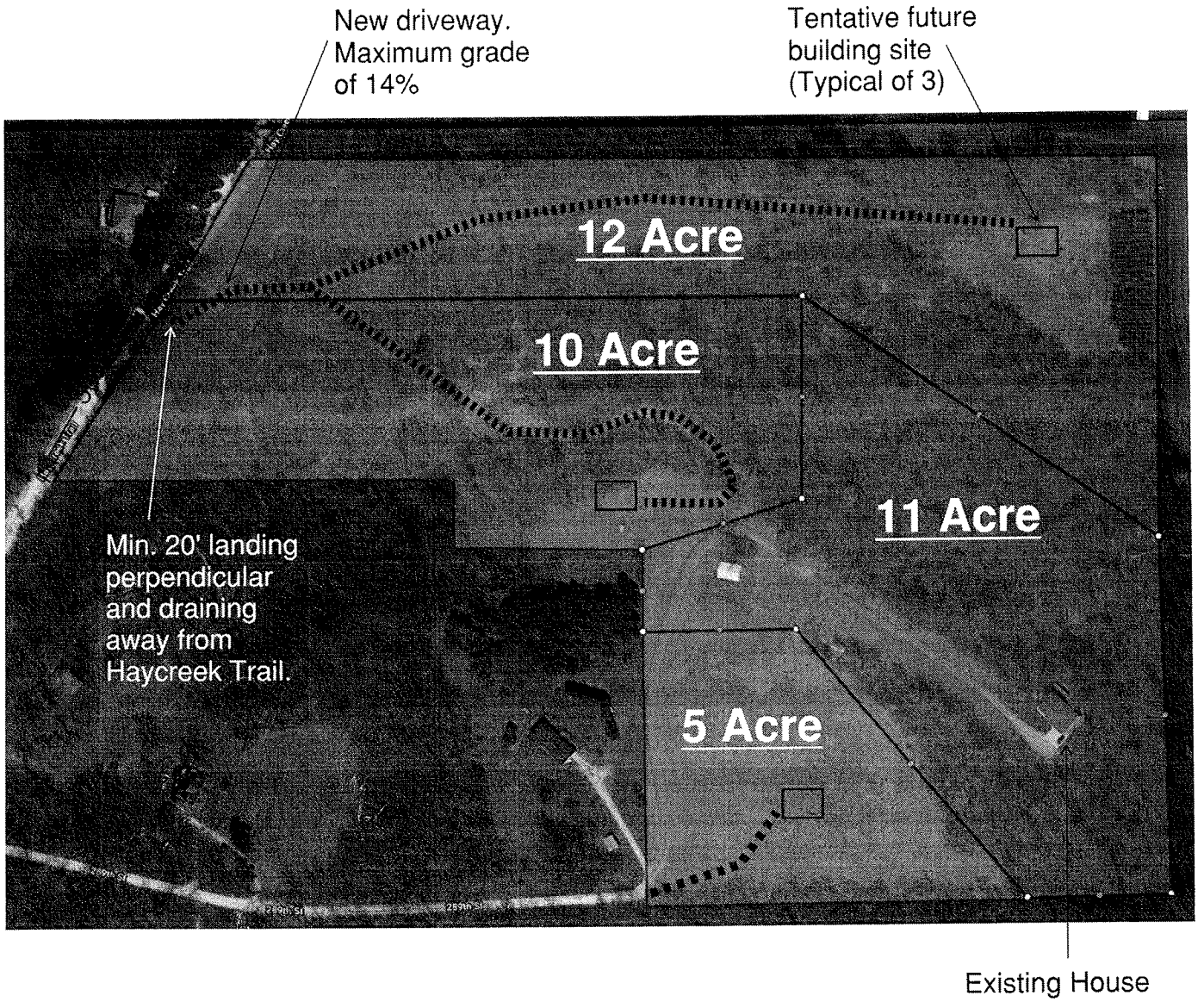
Convert A3 zoning which could be eliminated from county zoning.

2. What is the cumulative effect of the requested zoning change on the affected Township and any cities located within 2 miles of the proposed parcel?

One additional residential building site likely. Potentially a total of three additional building sites possible in the future.

3. Is the zoning change compatible with the affected Township and any cities located within 2 miles of the proposed parcel?

In contact with Featherstone Township they noted that property falls within township designated area for R1 zoning and has a preference for 5 acre minimum lot size.



23849 289th Street - Proposed Layout

CERT. OF R. E. VALUE FILED

23441

No Delinquent Taxes and transfer entered
this 6th day of February 2012
Carolyn Holmsten Goodhue County Auditor
[Signature]
By Deputy Auditor

DOC#: A- 592142

Certified, Filed, and or Recorded on:
February 06, 2012 8:00 AM
Signed [Signature] Deputy
LISA M HANNI
GOODHUE COUNTY RECORDER
Fee Amount: \$96.00

OFFICE OF COUNTY RECORDER
GOODHUE COUNTY, MN
 WELL CERTIFICATE RECEIVED

Drafted By+
After Recording Return to:
PowerLink
345 Rouser Rd.
Coraopolis PA 15108
Prepared by: Anna Crawley
PI# 194029
Prepared by signature: [Signature]

DEED TAX
\$956.67
[Signature] 02/06/12
Goodhue County A/T OR Deputy - Date

Mail Tax Statements to:
BLAKE THOMPSON
23849 289TH ST
RED WING, MN 55066-7142

Property Tax ID#: 31-001-6100 and 31-001-6200

SPECIAL WARRANTY DEED

State Deed Tax Due 956.67

MADE this 29 day of DEC, 2011, by and between DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR ARGENT SECURITIES INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-W1, whose post office address is 4600 Regent BLVD STE 200 Irvin TX 75063 Grantor, and BLAKE THOMPSON and REBECCA THOMPSON, MARRIED, whose post office address is 23849 289TH ST RED WING, MN 55066-7142, Grantee;

WITNESSETH, that said Grantor, for and in consideration of the sum of Two hundred eighty nine thousand nine hundred dollars and 00/100 (\$289,900.00 DOLLARS), and other good and valuable considerations in hand paid by Grantee, the receipt whereof is hereby acknowledged, this day bargained and sold to the said Grantee forever, all the right, title, interest, claim and demand which the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in Goodhue County, Minnesota, to wit:

The tract of land lying and being in the County of Goodhue, State of Minnesota, described as follows, to-wit:

Government Lot 1 and those parts of Government Lot 2 and the SW 1/4 of the SE 1/4, all in Section 1, Township 112 North, Range 15 West, Goodhue County, Minnesota, described as follows:

Beginning at the SE corner of said Section 1; thence on an assumed bearing of West, along the South line of Government Lots 1 and 2, a distance of 1219.73 feet to SW corner of that certain property as described in Goodhue County Document Number 289316; thence on a bearing of North, along the west line of said document 289316 and its extension, a distance of 810.00 feet; thence on a bearing of West, a distance of 708.80 feet to the centerline of Hay Creek Road; as now located and established; thence northeasterly along said

Order No: 194029

1/5 60545

centerline to the north line of the SW ¼ of the SE ¼ of said Section 1; thence South 89 degrees 43' 56" East, along said North line and along the North line of said Government Lot 2, a distance of 1599.51 feet to the NE corner of said Government Lot 2; thence South 0 degrees 01' 54" East, along the East line of said Government Lots 1 and 2, a distance of 1308.57 feet to the point of beginning.

EXCEPT

That part of Government Lot 2, of Section 1, Township 112, Range 15, Goodhue County, Minnesota, according to the original Government Survey thereof, described as follows:

Commencing at the SE corner of said Section 1; thence on an assumed bearing of West, along the South line of Government Lots 1 and 2, in said Section 1, a distance of 889.73 feet to a placed iron pipe at the point of beginning of the land to be described; thence continue on a bearing of West, along the South line of said Government Lot 2, a distance of 330.00 feet to a placed iron pipe; thence on bearing on North, a distance of 660.00 feet to a placed iron pipe; thence on a bearing of East, a distance of 330.00 feet to a placed iron pipe; thence on a bearing of South, a distance of 660.00 feet to the point of beginning.

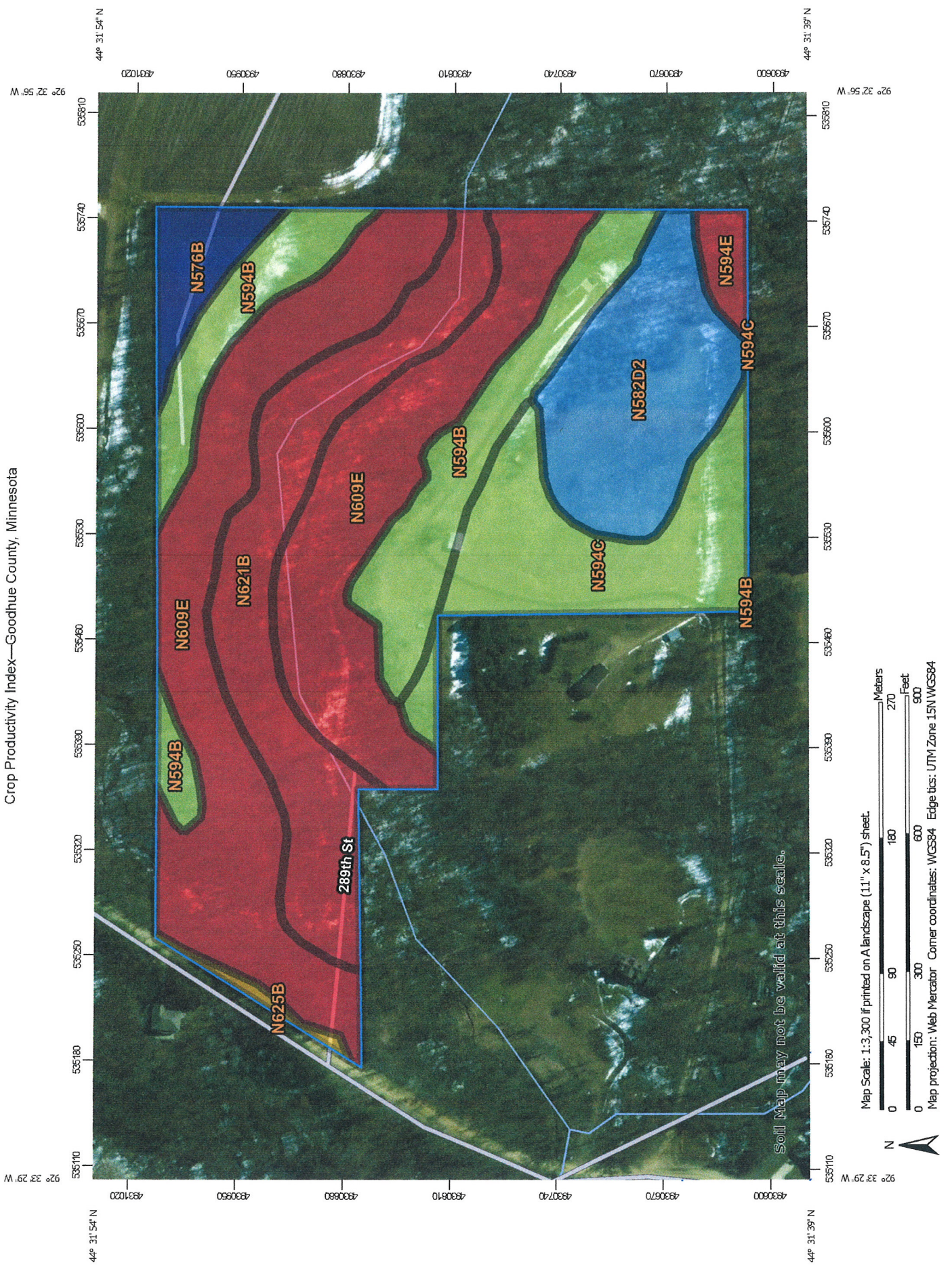
TOGETHER WITH THE FOLLOWING EASEMENT:

An easement for roadway purposes over, under and across the South 81.00 feet of the Theodore Vajgrt and Elisa Vajgry property as described in that certain Warranty Deed dated January 6, 1984 and recorded January 6, 1984 as Document No. 289316.

ALSO, a 66.00 foot wide roadway easement over, under and across that part of Government Lot 2, of Section 1, and that part of the SW ¼ of the SE ¼ of Section 1, all in Township 112, Range 15, Goodhue County, Minnesota, according to the original Government Survey thereof. The centerline of said easement is described as follows:

Commencing at the SE Corner of said Section 1; thence on an assumed bearing of West, along the South line of Government Lot 1 and 2; in said Section 1, a distance of 1219.73 feet to a placed iron pipe; thence on a bearing of North, a distance of 52.85 feet to the point of beginning of the centerline to be described; thence South 89 degrees 07' 35" West, a distance of 327.31 feet thence North 76 degrees 37' 06" West, to the easterly right of way line of the Township Road, as now located and established and there terminating. The sidelines of said easement are to be prolonged or shortened to

Crop Productivity Index—Goodhue County, Minnesota



Crop Productivity Index

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
N576B	Rasset fine sandy loam, 0 to 6 percent slopes	61	1.2	3.4%
N582D2	Newhouse-Valton complex, 12 to 18 percent slopes, moderately eroded	53	4.6	12.7%
N594B	Chelsea loamy sand, 2 to 6 percent slopes	46	5.6	15.6%
N594C	Chelsea loamy sand, 6 to 12 percent slopes	45	4.5	12.5%
N594E	Chelsea loamy sand, 12 to 35 percent slopes	23	0.6	1.5%
N609E	Hawick sandy loam, 18 to 45 percent slopes	18	13.4	37.3%
N621B	Udifulvents, loamy, 2 to 12 percent slopes, frequently flooded	20	5.9	16.3%
N625B	Coloma loamy sand, 0 to 6 percent slopes	33	0.2	0.7%
Totals for Area of Interest			36.0	100.0%

Description

Crop productivity index ratings provide a relative ranking of soils based on their potential for intensive crop production. An index can be used to rate the potential yield of one soil against that of another over a period of time. Ratings range from 0 to 100. The higher numbers indicate higher production potential. The rating is not crop specific. Minnesota inquiries must use the 'Map Unit Cropland Productivity Report (MN)' soils report from the Soil Reports tab under 'Vegetative Productivity'.

When the soils are rated, the following assumptions are made: a) adequate management, b) natural weather conditions (no irrigation), c) artificial drainage where required, d) no frequent flooding on the lower lying soils, and e) no land leveling or terracing. Even though predicted average yields will change with time, the productivity indices are expected to remain relatively constant in relation to one another over time.

Rating Options

Aggregation Method: Weighted Average

Component Percent Cutoff: None Specified

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director

Building | Planning | Zoning
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Fax: 651.385.3106



County Surveyor / Recorder

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Telephone: 651.385.3223
Fax: 651.385.3098

To: Planning Commission
From: Land Use Management
Meeting Date: April 16, 2018
Report date: April 6, 2018

PUBLIC HEARING: Request for CUP for a Veterinary Clinic

Request submitted by Nicholas and Krystyna Stoffel for CUP to establish a Veterinary Clinic at 26336 130th Ave Welch, MN 55089. Parcel 46.029.0303. Part of the NW ¼ of NW ¼, SW ¼ of NW ¼, and SE ¼ of NW ¼, Sect 29 Twp 113 Range 16 in Welch Township. A2 Zoned District.

Application Information:

Applicant: Nicholas and Krystyna Stoffel (owners)
Address of zoning request: 26336 130th Ave Welch, MN 55089
Parcel(s): Part of the NW ¼ of NW ¼, SW ¼ of NW ¼, and SE ¼ of NW ¼, Sect 29 Twp 113 Range 16 in Welch Township
Township Information: Welch Township endorsed acknowledgment of the applicants' request.
Zoning District: A2 (Agriculture District)

Attachments and links:

Application and submitted project summary
Site Map(s)
Goodhue County Zoning Ordinance (GCZO):
<http://www.co.goodhue.mn.us/DocumentCenter/View/2428>

Background:

The applicants have owned and operated Stoffel Equine Veterinary Services as a mobile veterinary clinic with a focus on providing horse care and examinations. In 2017 the Stoffel's received approval from Goodhue County to construct a 20,800 sq ft "L"-shaped agricultural accessory building for "hay storage and personal use." The applicants desire CUP approval to utilize this existing structure as a permanent base for their equine veterinary business to provide "in-patient" and "out-patient" veterinary services. The business currently exists as a mobile ambulatory practice.

Goodhue County Zoning Ordinance: Article 4 Conditional/Interim Uses

No CUP/IUP shall be recommended by the County Planning Commission unless said Commission specifies facts in their findings for each case which establish the proposed CUP/IUP will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, will not substantially diminish and impair property values within the immediate vicinity, will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area, that adequate measures have been, or will be, taken to provide utilities, access roads, drainage and other necessary facilities, to provide sufficient off-street parking and loading space, to control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Project Summary:

- The subject property is the site of the applicant's primary residence and consists of a single parcel comprising approximately 23.78 acres.
- Adjacent zoning districts include A2 (Agriculture District) to the north, east, and south; A1

(Agriculture Protection District) to the west.

- Adjacent land uses include agriculture, low-density residential and undeveloped forest-land.
- The Veterinary Clinic will be located in an existing 80 ft by 60 foot and 76 ft by 80 ft (20,800 total sq ft) pole-style detached accessory building. The building was permitted by Goodhue County in October 2016. The structure has capacity to hold up to 6 horses at a time.

No new structures are proposed with the request.

A new building permit is required due to the change of use of the facilities.

- The business is operated by the applicants. No Non-resident Employees are proposed with this request.
- Parcel access consists of a “u-shaped” gravel drive located off of 130th Ave on the west side of the property.

130th Avenue is a gravel surfaced roadway.

- A separate fire number has been assigned to the Veterinary Clinic site.

Adequate emergency vehicle access is available to service the existing building location.

- Typical equipment utilized for the business includes a utility vehicle, trailers, veterinary implements, and standard office equipment.
- The main activities on-site are the loading and off-loading of trailers with animals and equipment.
- Minimal additional traffic is anticipated to be generated as a result of the request. Business operations will continue to be primarily ambulatory, minimizing traffic to the site.
- Hours of operation are proposed to be year-round, Monday through Friday from 8:00 AM to 6:00 PM and Saturday from 9:00 AM to 1:00 PM (excluding holidays).
- Incidental sale of retail items is made available to customers. The applicant indicated the sale of retail items comprises no more than 5% of total business operations.
- Minimum off-street parking provisions are not specified for Veterinary Clinics. Pursuant to GCZO Article 11, Section 16, minimum off-street parking provisions shall be determined by using the requirements for a closely related use which is listed.

The Zoning Administrator has determined Veterinarian Clinics to be most similar to “Hospitals” which require a minimum of one parking space for every three guest beds, plus one space for every two employees. The minimum number of parking stalls required for this request is 4.

Ample room exists on the property to fulfill off-street parking requirements.

- An existing compliant holding tank septic system services the facility.
- Ben Hoyt, Goodhue County Sanitarian, offered the following comments regarding the applicants’ wastewater needs:

“A veterinary Clinic would be required to have a compliant septic system for appropriate wastewater treatment. A business of this nature would also require a septic system operating permit. Any building permits or other subsequent permits associated with the use of the property as a veterinary clinic would require a septic system installation permit and septic system operating permit prior to approval by Environmental Health. Prior records on this property indicate that a holding tank system was allowed for the structure’s previous use. Some components of the holding tank system may be utilized for the new system provided that they meet requirements for what is proposed.”

- Solid waste disposal services are provided by a P.I.G of Hager City, WI.

Prompt disposal of any deceased animal carcasses will be provided by a local rendering service.

- The applicants are proposing to install one exterior sign on the front of the building near the main entrance.

All exterior signage located within property boundaries must follow GCZO Article 11 section 17.

The applicants shall consult the appropriate road authority prior to placing any signage located within road right-of-ways.

- Existing “dusk to dawn” farmyard lights provide exterior lighting for the facility. No additional lighting is proposed.
- Landscaping, grading, and excavating activities were completed with the construction of the facility. No additional landscaping measures are proposed.
- Stormwater is collected via existing roof guttering and directed to existing drainage culverts and natural drainage channels.
- Exterior storage of business materials will be screened from public view via a covered lean-to area located along the east side of the existing building.
- The facility is currently used to stable horses. No additional offensive noise, dust, odors, or fumes are anticipated to be generated as a result of the proposed use.

Manure generated within the facility is collected and land applied on the property for use as a soil fertilizer.

- Goodhue County Feedlot Officer Virginia Westlie offered the following comments regarding the applicants’ request:

“Goodhue County requires locations to register if they have over 10AU (animal units). This place would be staying under 10AU. They would not be required to register. Being that it is a confinement barn they will also be able to control the manure more as well. It also appears that they have acreage that they would be placing the manure on from the barns. As long as they still follow the setbacks from sensitive features and neighbors while spreading it throughout their acreage they should be fine.”

- The Welch Township Board approved a Conditional Use Permit for the applicants’ request on 3/22/18; subject to the following conditions:
 - *“No kitchen or living facilities”*
 - *“No transfer of CUP to the third party”*
 - *“A sign identifying the business will be permitted – not to exceed approximately 6’x6’.”*

Welch Township also offered the following comment: *“Request Goodhue County consider annual review of permit.”*

- Goodhue County typically reserves annual CUP review requirements for unique uses that have demonstrated the potential for unanticipated land use impacts or intense land uses that warrant a second look once operations have commenced to address issues that could not be anticipated at the time of approval.

Draft Findings of Fact:

The following staff findings shall be amended to reflect concerns conveyed during the PAC meeting and public hearing.

1. The proposed Veterinary Clinic 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. The use would provide a necessary service to the rural community and support the agricultural economy established in the vicinity.
2. The establishment of the proposed Veterinary Clinic is not anticipated to impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. The use is proposed to meet all development standards of the Goodhue County Zoning Ordinance and is an agriculturally-oriented use that appears compatible with adjacent land uses.
3. A review of the applicants submitted project summary indicates adequate utilities, access roads, drainage and other necessary facilities are available to accommodate the proposed use.

4. The submitted plans identify means to provide sufficient off-street parking and loading space to serve the proposed use and meet the Goodhue County Zoning Ordinance's parking requirements.
5. The submitted plans detail adequate measures to prevent or control offensive odor, fumes, dust, noise, and vibration so that none of these will constitute a nuisance. Furthermore, the applicants' lighting plans appear capable of controlling lights in such a manner that no disturbance to neighboring properties will result.

Staff recommendation is based on the review of the submitted application and project area prior to the public hearing.

Staff Recommendation:

LUM Staff recommends the Planning Advisory Commission

- 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

Recommend the County Board of Commissioners **APPROVE** the request from Nicholas and Krystyna Stoffel for a CUP to establish a Veterinary Clinic.

Subject to the following conditions:

1. Activities shall be conducted according to submitted plans, specifications, and narrative unless modified by a condition of this CUP;
2. Hours of operation shall be Monday through Friday, 8:00 AM to 6:00 PM, and Saturdays from 9:00 AM to 1:00 PM (excluding holidays);
3. On-street parking shall be prohibited;
4. On-street loading or off-loading shall be prohibited;
5. Applicants' shall obtain Building Permit approvals for change of use for the existing structure from the Goodhue County Building Permits Department prior to establishing the use;
6. Applicants' shall work with Goodhue County Environmental Health to achieve compliance with the Goodhue County SSTS Ordinance;
7. Compliance with Goodhue County Zoning Ordinance including, but not limited to Article 22 A-2 (Agriculture District);
8. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations.

Planning Advisory Commission

Public Hearing
April 16, 2018

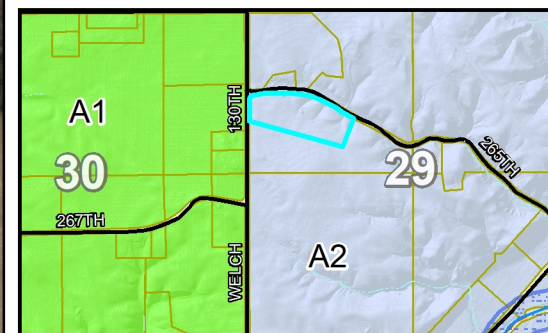
Nicholas & Krystyna Stoffel
26336 130th Ave
Welch, MN 55089
A2 Zoned District

Parcel # 46.029.0303
NW¹/₄ NW¹/₄, SW¹/₄ NW¹/₄,
and SE¹/₄ NW ¹/₄, Sect 29
Twp 113 Range 16
Welch Township

CUP request for a
Veterinary Clinic

Legend

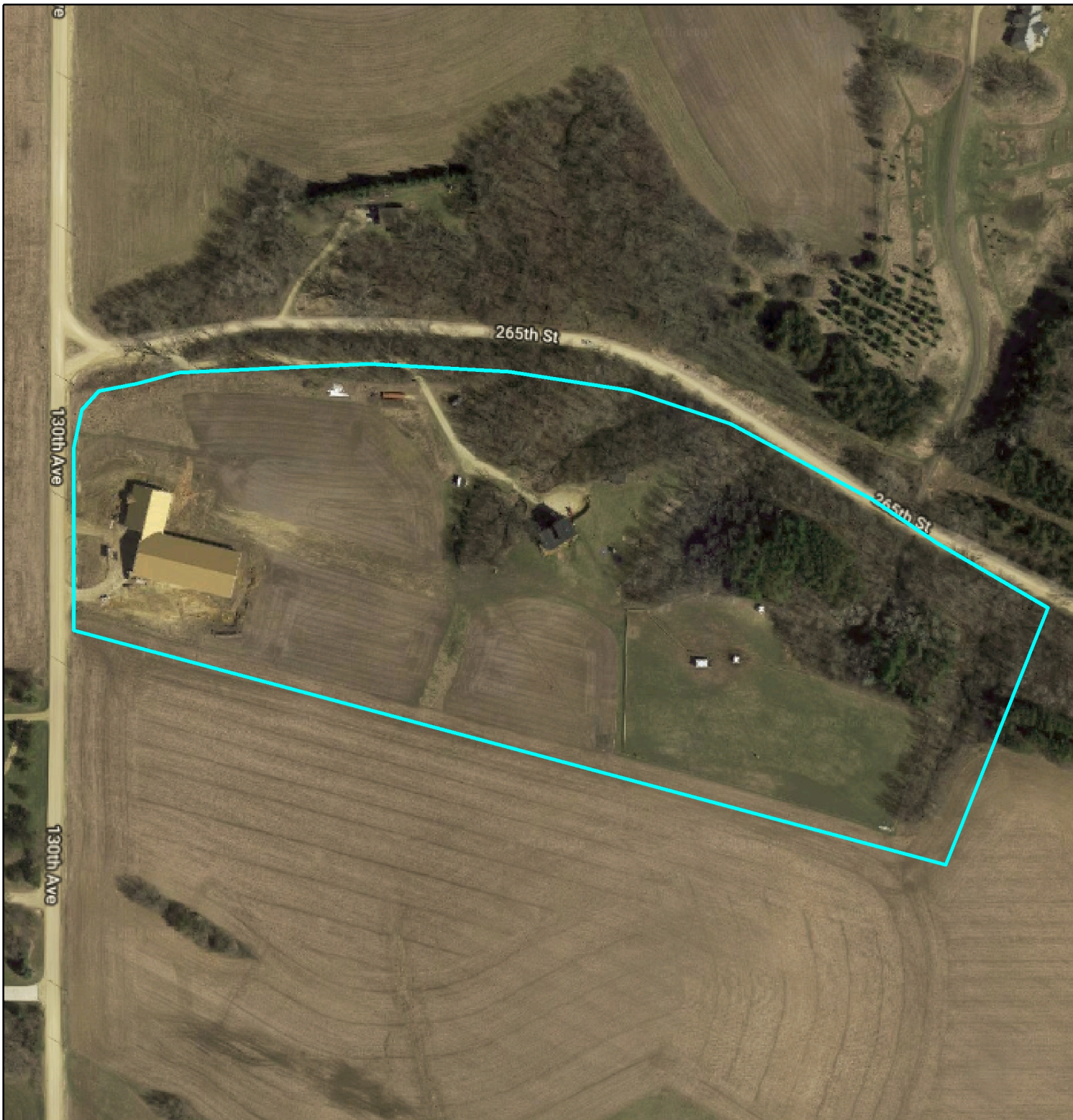
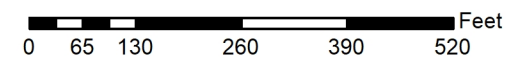
Intermittent Streams	Bluff Impact Zones (% slope) 20
Protected Streams	Bluff Impact Zones (% slope) 30
Lakes & Other Water Bodies	FEMA Flood Zones
Shoreland	2% Annual Chance
Historic Districts	A
Parcels	AE
Registered Feedlots	AO
Dwellings	X
Municipalities	



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2016 Aerial Imagery

Map Created March, 2018, Ryan Bechel



GOODHUE COUNTY CONDITIONAL/INTERIM USE PERMIT APPLICATION

Parcel # 46.029.0303

MAR 23 2018

Permit# 218-0019

PROPERTY OWNER INFORMATION Land Use Management

Last Name Stoffel First Nicholas + Krystyna Email _____

Street Address 13014 265th St Phone _____

City Welch State MN Zip 55089 Attach Legal Description as Exhibit "A"

Authorized Agent _____ Phone _____

Mailing Address of Landowner: same as above

Mailing Address of Agent: _____

PROJECT INFORMATION

Site Address (if different than above): 26336 130th Ave Welch, MN 55089

Lot Size 23.78 acres Structure Dimensions (if applicable) 80x60 / 185x80

What is the conditional/interim use permit request for? Veterinary Clinic

Written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized

I am proposing to use an already existing structure, therefore, this permit will not be detrimental to the surrounding properties. The building will not obstruct any development of the surrounding farm land, which is the predominant use of land in the area.

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: [Signature] Date 2-12-18

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 [Signature] Title CLERK Date MAR 22, 2018

Comments: _____

COUNTY SECTION

COUNTY FEE \$350 RECEIPT # 16198 DATE PAID 3/23/18

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: _____

TOWNSHIP ZONING APPLICATION

TOWNSHIP NAME Welch

Goodhue County

Parcel # _____

APPLICANT INFORMATION


Last Name	<u>STOFFEL</u>	First	<u>DR. KRISTYNA</u>	M.I.	
Street Address	<u>13014 265 ST</u>			Phone	
City	<u>WELCH</u>	State	<u>MN</u>	ZIP	<u>55089</u>
Email Address					
Township	<u>113</u>	Range	<u>016</u>	Section	<u>29</u>

PROJECT INFORMATION

Site Address					
Zoning District	<u>CHANGE OF</u>	Lot Size	<u>USAGE - CUP</u>	Structure Dimensions	
Type of Project	<u>STORAGE BLDG</u>	Proposed Use	<u>VETERINARY CLINIC - ONLY HORSES</u>		
Structure Type	<u>EXISTING</u>	Replacement?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
Variance #	_____		Conditional Use Permit #	_____	
GPS Coordinates					

DISCLAIMER AND SIGNATURE

I hereby apply for a zoning permit and I acknowledge that the information above is complete and accurate, that the work will be in conformance with the ordinances and codes of Goodhue County. The applicant also understands by signing this application he / she could be held responsible as representative of this project for any violation of compliance with all applicable laws and ordinances of Goodhue County. This permit may be suspended or revoked if the permit has been issued in error or on the basis of incorrect information supplied or in violation of any ordinance or regulation of Goodhue County. All provisions of law and ordinances governing this type of work will be complied with whether specified herein or not.

Signature  Date 3/22/18

TOWNSHIP APPROVALS

I hereby certify by signing that I am authorized to act on the behalf of the Township Board, and the structure and use will meet all Township Codes and Ordinances if constructed as indicated.

Signature Ken Kingsley Title CLERK Date MAR 22, 18

Signature _____ Title _____ Date _____

Application fee _____ Receipt Number _____

RESTRICTIONS: 1. NO KITCHEN OR LIVING FACILITIES.
 2. NO TRANSFER OF CUP TO THIRD PARTY.
 3. A SIGN IDENTIFYING THE BUSINESS WILL BE PERMITTED - NOT TO EXCEED APPROXIMATELY 6'x6'.

REQUEST GOODHUE CO. CONSIDER ANNUAL REVIEW OF PERMIT

Conditional Use Permit Application for Veterinary Clinic

in Welch Township PID# 46.029.0303

PROJECT SUMMARY

1. Stoffel Equine Veterinary Services has been in business for almost 11 years as a mobile Veterinary practice for horses. The business address has been linked to by home address since I began operations. I have always had a home office for the business. We recently built a new barn on our property for personal use, and my home office space has expanded to the barn area. Therefore, I am applying for a conditional use permit for a Veterinary clinic. As a Veterinarian I do provide my clients with some retail items. These items are currently tracked, logged, and in compliance with Minnesota state and county sales and use tax. The sale of retail items is not a large part of my practice, making up approximately 5% of total business operations.
2. The planned use of the existing building would be used intermittently for both out-patient and in-patient procedures. However, Stoffel Equine Veterinary Services will remain as a primary ambulatory practice. No new structures are being proposed.
3. There are no proposed new hire of non-resident employees.
4. The hours of operation would consist of Monday-Friday 8am -6 pm, Saturday 9am -1 pm, year round, excluding holidays.
5. The planned maximum occupancy of horses is 6, as this is the number of stalls currently available to house horses in the existing building.
6. The traffic generation will be minimal, since Stoffel Equine Veterinary Services will remain as a primary ambulatory practice. When horses are hauled to the site, the existing gravel driveway for the proposed clinic is a large horseshoe shape that is right off the main road, 130th Ave. This will allow for plenty of off street loading and unloading potential. Therefore, no congestion will be on the main road, and the site is easily accessible.

7. Parking will be made available in the driveway itself and to the west of the building. Currently, the driveway and parking area is gravel, just as the main road, 130th Ave is gravel as well.
8. Solid waste disposal provisions are in place with P.I.G. Furthermore, as a practicing Veterinarian, I have an active relationship with a rendering service that provides prompt disposal of deceased animal carcasses. This service will be utilized if needed at the clinic.
9. The existing building is equipped with optimal utilities such as electric, propane gas, water from our existing well on the property, and sanitary facilities in place with a septic holding tanks already in use.
10. The exterior lighting on the building is already established, and it is in accordance with other properties surrounding the location. This consists of a bright exterior “farm light” which automatically turns on at dusk and off at dawn.
11. An exterior sign stating the name of the business is being proposed. This sign would be located in front of the building with appropriate set backs from the road. If exterior lights would be placed on or near the sign, they will consist of small soft solar lighting pointed directly at the sign.
12. No proposed exterior storage is needed. Existing exterior storage is located off the back of the barn on the east side of the building, as the roof line forms a lean-to. This allows for exterior storage that is still contained and hidden out of plain view.
13. Safety and security measures are currently in place as the existing building is equipped with an ADT security system that provides both fire alarms and burglar alarms. All exterior access doors have locks. In addition, inventory for the operation of the business is further under lock and key with in the building.

14. Accessibility measures for emergency services to the site are in place. The county has already issued a new address/fire number for our barn, since it is located at the end of our property and the entrance is on 130th Avenue. The house address is located on 265th Street. The new barn address makes it easy and convenient to differentiate between the house and the barn locations in case of an emergency.

15. As an already operating horse facility, there is no more potential to generate more noise, odor, or dust for this conditional use permit on the existing building. However, measures are in place to control odors such as manure. This consists of taking the waste from the horses and placing it into a manure spreader. The waste is then spread onto our property. This not only helps to keep odors minimal, but also helps to decrease fly populations, provides an excellent nutrient source for fertilizing our hay fields, and builds soil fertility. There is minimal noise that comes from a horse operation. Furthermore, I cannot foresee any significant increase in dust due to the Veterinary Clinic. The road for the potential clinic is located on 130th Avenue, which is a gravel road, and the driveway to the potential clinic is gravel as well. Therefore, the dust potential is no more than normal traffic traveling by on the road. The township does spray the road with sodium chloride in front of properties to help decrease the dust from the traffic onto buildings/properties.

16. Landscaping, grading, excavating, and filling has been completed on the existing building, therefore, no proposals are necessary.

17. Proper drainage routes, culverts, and gutters are in place on existing building.

18. Not Applicable.

19. The conditional use permit for a Veterinary Clinic will provide a needed service for our region. It will benefit our community horse owners so I can provide a broader range of services to contribute to our horse community.

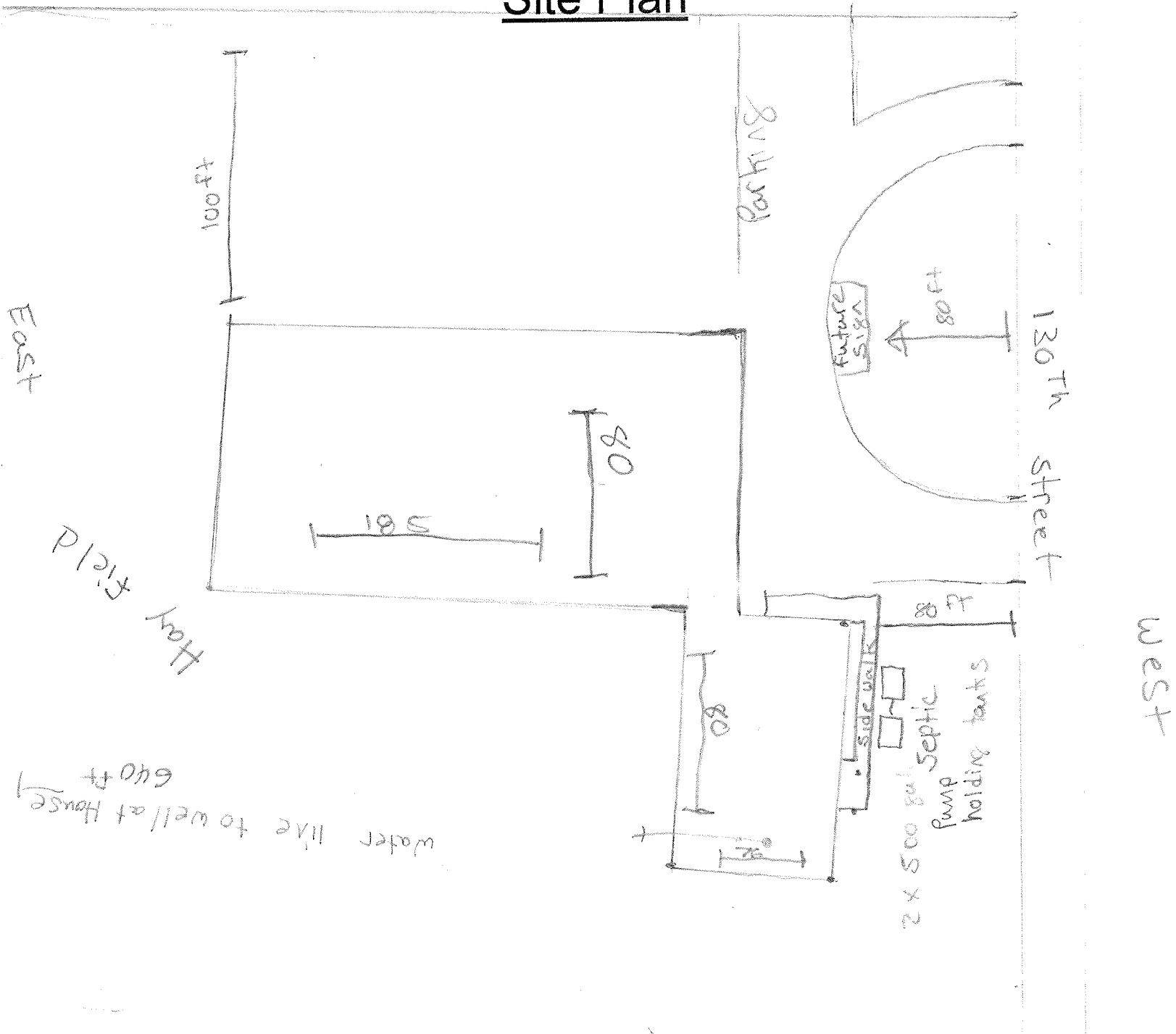
The township has approved this conditional use permit for an Equine Veterinary Clinic with a few reasonable restrictions. However, their request of an annual review of the permit by the county is, what I believe, to be excessive. If this is a stipulation that must be met, I request that the township pays any yearly fees for this process to occur.

An Equine Veterinary Clinic needs to be in a rural, agricultural area. There is already a shortage of Equine Veterinarians in the State. By allowing a new Equine Clinic to emerge, it will help to serve the citizens of the county and many of the surrounding counties as well.

South Property line

23.78 Acres

Site Plan



- Must include the following information (if applicable):**
- North arrow
 - Property lines
 - Dimensions of parcel
 - All buildings with dimensions
 - Distance
 - Proposed building(s) with dimensions and distances to property lines
 - Distance from proposed building(s) to well
 - Distance from proposed building(s) to septic system
 - Any natural feature(s) having an influence on the variance

NORTH



PID # 460290303
Zoning District A2

The following information is required for a

- Site Plan:**
1. Location, size and shape of any structures
Clearly distinguish between existing and proposed;
 2. Distances from structures to property lines;
 3. Distances between structures, porches and decks;
 4. All wells and sanitary sewer systems (including any abandoned) and the distance to nearby structures
 5. The existing and intended use of the property;
 6. All landscape, screening, and fencing plans;

Upon review, projects may require other information

Legend

- Road
- 2014 Fencible parcel
- Tax Parcel
- Section Line
- Municipal Boundaries
- Dewatering Point
- % Slope**
- 30
- 20
- Sheetland
- Special Flood Hazard Area
- FLOOD ZONE**
- AE
- AO
- X
- 0.2 PER ANNUAL CHANCE FLOOD HAZARD

Scale: 0 100 200 400 600 Feet

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Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106



County Surveyor / Recorder

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

To: Planning Commission
From: Land Use Management
Meeting Date: April 16, 2018
Report date: April 6, 2018

PUBLIC HEARINGS:

Request for Map Amendment (Rezone)

Request for map amendment submitted by Simanski Metals LLC (Authorized Agent: Kevin Simanski) to adjust the zone district boundaries of two existing parcels of property totaling 4.06 acres resulting in 3.20 acres to be included within the A2 (Agriculture District) and 0.84 acres to be included in the B-2 (Highway Business District). Parcel 340081400 and Parcel 340081500. Part of the SE ¼ of NW ¼ of Sect 8 Twp 112 Range 14 in Hay Creek Township.

Request for Conditional Use Permit (CUP) for a Junk/Salvage Reclamation Yard

Request for a CUP by Simanski Metals LLC (Authorized Agent: Kevin Simanski) to construct and operate a Junk Salvage Reclamation Yard. Parcel 340081400 and Parcel 340081500. Part of the SE ¼ of NW ¼ of Sect 8 Twp 112 Range 14 in Hay Creek Township.

Application Information:

Applicant(s): Simanski Metals LLC (Authorized Agent: Kevin Simanski)

Address of zoning request: 29409 Hwy 58 Blvd, Red Wing, MN 55066

Parcels: 34-008-1400 and 34-008-1500

Abbreviated Legal Description: Part of the SE ¼ of NW ¼ of Sect 8 Twp 112 Range 14 in Hay Creek Township.

Township Information: The Conditional/Interim Use Permit Application was signed by the Hay Creek Township Clerk on March 13, 2018, indicating that the Township acknowledges having been made aware of the application made to the County. The Township has provided a list of questions raised by the residents at an April 5, 2018, Public Meeting held by the Hay Creek Township Planning Commission. The list of questions and responses offered by the Applicant have been included as an attachment with this Staff Report.

Current Zoning Districts: Parcel 340081400 A2 (Agricultural District), Parcel 340081500 B2 (Highway Business)

Attachments and links:

Application and Project Summary

Site Map(s)

Photographs – Appendix 1

GC Enforcement Letter – Appendix 2

Hay Creek Township Comments – Appendix 3

Neighbor Comments – Appendix 4

LUM Staff Rezone Project Review – Appendix 5

Goodhue County Zoning Ordinance: <http://www.co.goodhue.mn.us/DocumentCenter/View/2428>

Background:

Simanski Metals LLC currently owns two parcels of property located at the intersection of Hay Creek Hills Trail and State Hwy 58, in Hay Creek Township. Tax Parcel #340081400 is 1.78 acres (with frontage on State Hwy 58) and is currently in the A-2 (Agriculture) Zone District. The 1.78-acre parcel is currently vacant, buildings that previously existed on the site have been demolished and removed. Tax Parcel #340081500 is 2.28 acres and is in the B-2 (Highway Business) Zone District. Parcel #340081500 is located at the intersection of State Hwy 58 and Hay Creek Hills Trail and is currently vacant.

The Simanski's are proposing to reconfigure the existing parcels to create a 3.20-acre parcel proposed to be included in the County's A-2 (Agriculture) Zone and a 0.84-acre parcel to be included in the B-2 (Highway Business) Zone. The purpose of the Zoning Map Amendment request is to reconfigure the two existing parcels to create a larger site (3.20 acres) zoned A-2 to accommodate proposed plans for a scrap metals recycling/transfer station. The proposed 0.84-acre parcel is intended to include a portion of a shared access driveway and some additional space that would be available to an unspecified business use. The proposed reconfiguration of property would require platting as a follow-up step if the Zoning Map Amendment is approved.

In addition to submitting an application to amend the County's Official Zoning Map to reconfigure the two parcels, Simanski Metals LLC has also applied for a Conditional Use Permit to construct and operate a Junk/Salvage Operation in an A-2 Zone District in order to develop a Metals Recycling/Transfer Station on the proposed 3.20 parcel.

Included below is a summary of key information used to evaluate the Zoning Map Amendment (Change of Zone) and Conditional Use Permit requests:

- 1. Existing uses:** Following acquisition of the subject property, the Simanski's demolished and removed several existing structures, which were in poor condition and cleared some of the vegetation, which had become established on the site. The property had been used for business purposes in the past. Historical uses included the old Skyline Ballroom and Supper Club, Camper and Snowmobile Sales, and a dwelling site and agricultural use.
- 2. Proposed Uses:** Simanski Metals, LLC is proposing the following uses on the property: "Construction of a building to house their trucks and be able to service them on site. The space directly behind the building will be for a truck scale. The back corner of the lot adjacent to Hay Creek Hill Drive will be for parking roll-off boxes and trailers. The other back corner adjacent to the Gadiant property will be where the proposed transfer station will be located. The purpose of the transfer station is to have a designated receiving area where loads of mixed metal and loads of mixed demolition materials are dumped onto state-approved areas, sorted and reloaded into separate and larger containers to be hauled more efficiently to market."

The Metals Recycling/Transfer Station proposed use would be conducted on the on the proposed 3.20 acre parcel as a conditionally permitted use (if approved) within the A2 Zone District. The proposed 0.84 acre parcel is to retain the B2 (Highway Business) Zoning classification and would include development of a shared driveway intended to serve both parcels and some additional space for an un-specified future business use.

- 3. Reconfiguration of Parcel Boundaries:** If Simanski Metals LLC is successful in gaining approval from the County Board of the proposed Zoning Map Amendment reconfiguring of the existing parcel boundaries will require platting of the property. The Conditional Use Permit if approved may include a condition requiring platting of the subject property according to applicable provisions of the County's Subdivision Controls Ordinance.

4. **Criteria for evaluating Zoning Map Amendment:** The County's process and criteria for reviewing a Zoning Map Amendment request is specified in Article 3, Section 2, Subd. 5. Included as an attachment to this Staff Report is a review of the Simanski Metals LLC Zoning Map Amendment request for conformance with the provisions set forth in Subd. 5.
5. **Access to Site:** The subject property proposed for the Zoning Map Amendment request and CUP is located at the intersection of State Highway 58 and Hay Creek Hills Drive. A Driveway Access Permit has been approved by MNDOT that restricts use of a shared drive access (with the Thomas Gadiant Property) currently at the northeast corner the property and allow a driveway access point from Hay Creek Hills Drive at the southeast corner of the subject property. The proposed driveway access to the site negotiates a sloped portion of the site and meets Hay Creek Hills Drive just beyond the limit of bituminous asphalt. The turning movement of trucks entering and exiting the site may generate significant wear and tear on the gravel portion of Hay Creek Hills Drive. In addition the close proximity of the driveway access point to State Highway 58 (@ 50 feet), allows for very little stacking distance if more than one truck is leaving the site at the same time. The proposed access driveway is designed to serve both proposed lots. If the project were approved cross-driveway, access easements would need to be recorded.
6. **MPCA Transfer Station Permit:** The Applicant has not provided any detail regarding Minnesota Pollution Control Agency permitting requirements for the proposed Transfer Station. It is anticipated that the Applicant would apply for a "Permit by Rule" Solid Waste Transfer Station Permit. If a decisions is made to approve the Conditional Use Permit that would authorize zoning approval for the Metals Recycling/Transfer Station Project, a condition would have to included that the Transfer Station Use may not begin until approved by the MPCA.
7. **Screening/Buffers:** The applicant has proposed some tree plantings and has stated that the location of the proposed structure and some of the existing slopes would serve to screen and buffer exterior operations including storage of containers, semi-trailers, and the transfer station component of the proposed use. Land Use Management Staff believes the Applicant has failed to provide sufficient measures to screen and buffer the Recycling/Transfer Station Use from surrounding residential properties and motorists traversing Highway 58. Additional landscaping, privacy fences, and/or earthen berms may be needed to sufficiently screen and buffer the proposed use. The limited size of the site somewhat limits opportunities for screening and buffering measures.
8. **County Solid Waste Management Plan:** The County has adopted a Solid Waste Plan Designation calling for all MMSW (Mixed Municipal Solid Waste) generated in Goodhue County to be sent to the RWRRF (Red Wing Resource Recovery Facility). The County intends to pass an Ordinance to implement this MMSW designation-planning goal. The Simanski's have stated that the proposed Metals Recycling/Transfer Station Use will not handle municipal solid waste or hazardous waste materials. The proposed facility would be subject to the County's Solid Waste Management Plan and Ordinance.
9. **Current Violations:** Simanski Metals LLC has made some improvements to the current 1.78-acre parcel (A2 Zone) including construction of a driveway access at the northeast corner of the property and a gravel parking lot area. In addition, a variety of different types of containers have been placed on the property. Evidence has been provided to the County illustrating truck traffic during early morning and evening hours hauling items to and from the site. Planning and Zoning Administrator, Michael A. Wozniak, AICP, contacted Simanski Metals, LLC by letter (dated February 16, 2018; Appendix 2) to inform the Simanski's that a Scrap Metals Transfer Facility would require approval of Conditional Use Permit or Interim Use Permit by the County. The letter expressly stated, "Any operation of a Scrap Metals storage, recycling or transfer facility must cease immediately". Nearby property, owners have complained that use of the property has continued. Photographs have been provided to County Staff to confirm this activity.

10. **Stormwater Management:** The proposed site plan includes an “infiltration basin” located in the southwest corner of the site that would capture runoff from most of the hard surfaced features on the site including gravel or paved parking/driveways.

The Applicant stated that the MPCA will establish storm water permit requirements when considering the Transfer Station Permit request. If the requested CUP is approved a condition should be included that the applicant must provide evidence of compliance with MPCA Storm Water Permit requirements prior to any site grading or construction.

11. **Parking/Loading:** The submitted site plan includes a large gravel surfaced area and paved driveways plus a concrete apron at the vehicular access to the proposed building (shop to store and service trucks). Parking spaces have not been specifically identified. The applicant has not specified how many drivers or other employees are expected to be present on-site and/or parking personal vehicles. There appears to be room on the property to provide sufficient site area for the use. If the CUP is approved, a condition should require that parking spots be specified on a revised site prior to initiation of any site work or building construction. No on-street parking will be allowed.
12. **Lighting:** The applicant has indicated that they are planning to place security lighting on the building and possibly in the transfer area. They are not planning on any lights on poles anywhere on the property. The County requires that site lighting be directed downward towards the ground and not off-site.
13. **Hours of Operation:** The Applicant stated “Currently their drivers start at 6am Monday-Friday. One of the semi tractors leaves earlier on weekdays, and is gone all day. Our workday generally ends by 6 pm. Some sorting may be done on Saturdays, and some truck servicing is also done on Saturdays.” If a determination is made to approve the CUP, a condition should be included to specifically identify and limit hours of operation.
14. **Water/Wastewater Treatment:** The applicant has indicated that plans call for use of an existing well and development of a new Sub-surface Wastewater Treatment System to serve water/wastewater needs for the proposed shop building. The well and wastewater treatment system are intended to also serve future development that may occur on the 0.84 acre parcel.

Conclusions:

The subject property included in the Simanski Metals LLC, Zoning Map Amendment and Junk/Salvage Reclamation Yard Conditional Use Permit request proposes a use of the property that appear incompatible with nearby residential properties including a residential district (Moore’s Addition). Neighboring residents have raised numerous concerns regarding aesthetic and nuisance related impacts that may be generated by the proposed Metals Recycling Transfer Station Use. Issues of concern include traffic safety, noise, blowing trash/debris and potential environmental contamination concerns from handling of demolition debris on-site.

Land Use Management Staff are of the opinion that the proposed site included in the Zoning Map Amendment and CUP requests is not appropriate for proposed Junk/Salvage Reclamation Yard (Metals Recycling/Transfer Station) based on its limited site area and close proximity to fourteen existing dwelling sites. Furthermore, site access is challenging for Semi-Trucks and may pose significant traffic safety issues at the intersection of Hay Creek Hills Drive and State Highway 58.

Staff does not support the proposed Zoning Map Amendment or CUP requests and have drafted Findings of Fact to support denial of these requests.

Actions for Consideration:

Land Use Management Staff recommendations:

Draft Findings of Fact to support “Denial” Simanski Metals LLC Zoning Map Amendment request:

The following staff findings shall be amended to reflect concerns conveyed during the PAC meeting. Staff recommendations are based on the review of the submitted application and project area prior to the public hearing.

Draft Findings of Fact:

1. Goodhue County Comprehensive Plan Element 4 (Business and Industry)

Diverse Business Objectives:

Ensure that new and expanding commercial, industrial, and institutional uses are consistent and compatible with the County’s natural environment, quality of rural living, and the needs of County residents. ***The land use being proposed as a reason for the Zoning Map Amendment may negatively affect the “quality of rural living”.***

Diverse Business Implementation Strategies:

Direct business and industry growth to the approximately zoned districts keeping in mind access to public services and surround land uses. ***The proposed Metals Recycling/Transfer Station use may be more appropriately located on a site not in close proximity to a residential district and relatively high concentration of dwelling sites.***

2. The proposed use of the property included in the Zone Map Amendment request as a Metals Recycling and Transfer Station is incompatible with surrounding residential land uses.
3. The proposed use of the subject property will create aesthetic and nuisance related conflicts that may significantly affect the ability of nearby property owners to use and enjoy their properties.
4. The fourteen existing dwellings within Section 8, in close proximity (within 1800 feet) may be negatively impacted by the proposed Metals Recycling/Transfer Station Use.
5. The Applicant has constructed site improvements and conducted business activity prior to obtaining required permits.

Staff Recommendation:

LUM Staff recommends the Planning Advisory Commission

- 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

Recommend the County Board of Commissioners **DENY** the map amendment request from Simanski Metals LLC to reconfigure Zone Districts for Parcel 340081400 and Parcel 340081500 resulting in amendment of the Official Zoning Map to result in 3.20 acres to be included in the A2 (Agriculture) District and 0.84 acres to be included in the B2 (Highway Business) District. Part of the SE ¼ of NW ¼ of Sect 8 Twp 112 Range 14 in Hay Creek Township. As legally described on the attached “Rezoning Exhibit.

Goodhue County Zoning Ordinance: Article 4 Conditional/Interim Uses

No CUP/IUP shall be recommended by the County Planning Commission unless said Commission specifies facts in their findings for each case which establish the proposed CUP/IUP will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, will not substantially diminish and impair property values within the immediate vicinity, will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area, that adequate measures have been, or will be, taken to provide utilities, access roads, drainage and other necessary facilities, to provide sufficient off-street parking and loading space, to control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Draft Findings of Fact to support “Denial” of Simanski Metals LLC, Conditional Use Permit request to allow construction and operation of a Junk/Salvage Reclamation Yard:

Draft Findings of Fact:

1. The proposed use of the property included in the Zone Map Amendment request as a Metals Recycling and Transfer Station is incompatible with surrounding residential land uses.
2. The proposed use of the subject property will create aesthetic and nuisance related conflicts that may significantly impact the ability of nearby property owners to use and enjoy their properties.
3. The fourteen dwellings within Section 8, in close proximity (within 1800 feet) may be negatively impacted by the proposed Metals Recycling/Transfer Station Use.
4. Neighborhood concerns include potential noise, traffic safety and potential unsightliness of the proposed Metals Recycling/Transfer Station use.
5. The proposed Metals Recycling/Transfer Station use may make surrounding vacant property less desirable for future residential development.
6. The proposed driveway access to the site negotiates a sloped portion of the site and meets Hay Creek Hills Drive just beyond the limit of bituminous asphalt. The turning movement of trucks entering and exiting the site may generate significant wear and tear on the gravel portion of Hay Creek Hills Drive. In addition, the close proximity of the driveway access point to State Highway 58 (@ 50 feet), allow for very little stacking distance if more than one truck is leaving the site at the same time.
7. The Applicant has not clearly specified designated off-street parking spaces for employees/owners.
8. The Applicant has not proposed sufficient screening and buffering improvements including trees or hedges, earthen berms and/or privacy fences to screen the proposed transfer site area and the container storage area.
9. The Applicant has constructed site improvements and conducted business activity prior to obtaining required permits.

Staff Recommendation:

LUM Staff recommends the Planning Advisory Commission

- 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

Recommend the County Board of Commissioners **DENY** the Conditional Use Permit request from Simanski Metals LLC to construct and operate a Junk/Salvage Reclamation Yard as proposed on Parcel 340081400 and Parcel 340081500. Part of the SE ¼ of NW ¼ of Sect 8 Twp 112 Range 14 in Hay Creek Township.

March 12, 2018

Goodhue County Board, Haycreek Township and whomever else it may concern,

As owners of Simanski Metals LLC, owner of parcels 340081400 and 340081500, we submit the following proposal.

Our plan is to obtain a conditional/interim use permit to operate a junk salvage reclamation yard on this commercial property. In order to make the best use of the property for our purposes, we have decided to reduce the size of the B2 parcel to approx. .84 acres and connect the remainder of that parcel with the adjoining parcel zoned A2. The reasoning behind this change is because the conditional/interim use permit only covers one type of zoning, and our operation requires more space than the A2 parcel currently provides. This is where the zoning district change application comes into play.


We also plan to construct a commercial driveway off of Hay Creek Hills Drive. We have recently been granted a permit to put this driveway in by MnDOT.

The next step will be to have the current well tested and brought into compliance. After that, we plan to construct a commercial building and install a new septic system. All of these improvements are contingent on obtaining the conditional/interim use permit.

Also contingent on obtaining the conditional/interim permit is the application we are submitting to the MN Pollution Control Agency for a transfer station permit. This permit goes hand in hand with the junk salvage reclamation as it would enable our business to sort different grades of metal and haul loads more efficiently to larger markets.



Kevin Simanski



Margaret Simanski

GOODHUE COUNTY CONDITIONAL/INTERIM USE PERMIT APPLICATION

Parcel # 340081400

Permit

218.0017

PROPERTY OWNER INFORMATION			
Last Name	Simanski Metals LLC		Em
Street Address	28983-320 Ave Way		Phone
City	Red Wing	State	MN Zip 55066
Authorized Agent	Kevin Simanski		Attach Legal Description as Exhibit "A" <input type="checkbox"/>
Mailing Address of Landowner:	Same as above		
Mailing Address of Agent:	Same as above		
PROJECT INFORMATION			
Site Address (if different than above):	29409 Hwy 58 Blvd, Red Wing, MN		
Lot Size	3 acres	Structure Dimensions (if applicable)	Approx. 104x100
What is the conditional/interim use permit for?	to operate a junk/salvage reclamation yard		
Written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized	Truck traffic and noise will be during normal business hours. The property will be kept neat and orderly. Any concerns will be addressed promptly.		
DISCLAIMER AND PROPERTY OWNER SIGNATURE			
<i>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.</i>			
Signature of Landowner	Simanski Metals LLC, Margaret Simanski		Date 3-4-18
Signature of Agent Authorized by Agent	Kevin Simanski		
TOWNSHIP INFORMATION			
Township Zoning Permit Attached? <input type="checkbox"/>		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 variance request.			
Signature	Marilyn Schlegel	Title	clerk
		Date	3-13-18
Comments:			
COUNTY SECTION			
COUNTY FEE	\$350	RECEIPT #	16196
DATE PAID	3-21-18		
Applicant requests a variance from 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:			

GOODHUE COUNTY CONDITIONAL/INTERIM USE PERMIT APPLICATION

**APPLICANT FINDINGS OF FACT
AND SUPPORTING INFORMATION REGARDING CONDITIONAL/INTERIM USE PERMIT**

1. In the foreseeable future could the use be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or will the use substantially diminish and impair property values within the immediate vicinity. Please explain why or why not.

30 plus years of overgrowth and trash dumping has been cleaned up.
New landscaping, structures, a legal driveway will be installed for
operating a viable business.

2. Could the conditional/interim use permit impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area? Why or why not.

No. It is a zoned and will be operated under the
permitted use set by the Goodhue County Board.

3. Will adequate utilities, access roads, drainage and other necessary facilities be provided, or are they currently being provided. Please explain.

They will be provided. Electric is on site as well as
gas hook-ups. Everything else is in the site plan.

4. Will adequate measures be, or are they currently being, taken to provide sufficient off-street parking and loading space to serve the proposed use. Please describe.

All parking and activities will be done on-site. There
will not be any need for anything off the property.

5. Will adequate measures be, or are they currently being, taken control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. Please describe.

All activity will be done during normal business hours. Attention
to noise, dust and other concerns will be a priority.

Goodhue County Conditional/Interim Use Permit Application Project Summary

Simanski Metals LLC – Kevin & Margaret Simanski

1. We plan to construct a building to house our trucks and be able to service them on site. The space directly behind the building will be for a truck scale. The back corner of the lot adjacent to Hay Creek Hills Drive will be for parking roll-off boxes and trailers. The other back corner adjacent to the Gadiant property will be where the proposed transfer station will be located. The purpose of this transfer station is to have a designated receiving area where loads of mixed metal and loads of mixed demolition materials are dumped onto a state-approved area, sorted and reloaded into separate and larger containers and then hauled more efficiently to market. **There will not be any municipal solid waste (trash) brought into this facility to be sorted.**
2. There are no existing structures. We plan to build an approximate 100x120 building on the site.
3. All current employees are residents of Goodhue County.
4. Currently our drivers start at 6am Monday-Friday. One of the semi tractors leaves earlier on weekdays, and is gone all day. Our workday generally ends by 6pm. Some sorting may be done on Saturdays, and some truck servicing is also done on Saturdays.
5. There are currently five drivers and the projected plan would be to have 10.
6. Access will only be off of Hay Creek Hills Drive. All loading/unloading will be done on site with no traffic congestion anticipated.
7. There will be no off-street parking.
8. We have an agreement to dispose of solid waste with Countryside Disposal from Goodhue, MN.
9. There is a well on the property that will be tested and brought into compliance, and a new septic system will be installed. Utilities are located in the right-of-way.
10. We plan on placing security lighting on the building and possibly in the transfer area, but we are not planning on any lights on poles anywhere on the property.
11. We plan on putting our company name on the building or approved site.
12. We own enclosed semi trailers to store tires and items that can withstand the elements. Everything else will be stored in the building.
13. We plan on installing a gate across the access from Hay Creek Hills Drive, and locking it when the property is unoccupied.
14. The commercial driveway we are installing is designed for semi use, so it will be sufficient for emergency vehicles to access.
15. There will be some truck traffic during the day, and some equipment (skid loader, pay loader) being used at different times during business hours.
16. Most of the overgrowth of trees has been removed. The site plan shows a row of pine trees along the property line with Tom Gadiant. The trees along Hwy 58 Blvd that we left will remain where they are. The wooded area along Hay Creek Hills Drive will remain intact except for the driveway access. We feel the trees and the fact that the building placement toward the front of the property facing Hwy 58 Blvd. will eliminate the need to install fencing. All work will be done behind the building and out of direct site. The ground will be either cement, gravel or asphalt.

17. On grading site drawing
18. N/A
19. We plan on keeping this site organized and moving material out quickly. All material will either be placed in roll-off boxes, semi trailers or in the approved transfer area until it is ready to be transported. We have no plans to take in cars for recycling or any other material that would generate hazardous waste. We are working on recycling materials such as cardboard, shingles, lumber and all metals.

Kevin Simonski

Margaret Amianski



APPLICATION FOR ACCESS (DRIVEWAY) PERMIT

Document Management System # _____
 District 6B Permit # A-2018-79357
 C.S. 2510 T.H. 58
 R.P. ± 19.809 - west of 19.909
 (THIS SECTION FOR MnDOT OFFICE USE ONLY)

ATTACH A SKETCH OF THE PROPOSED WORK AREA AND RELATION TO TRUNK HIGHWAY.
 SUBMIT TO DISTRICT OFFICE OF MINNESOTA DEPARTMENT OF TRANSPORTATION.

APPLICANT <u>Kevin/Margaret Simanski</u>	TELEPHONE <u>Kevin (551)</u>	ADDRESS (Street, City, State, Zip) <u>28983-320 Ave Way, Red Wing, MN 55066</u>
PROPERTY OWNER <u>Simanski Metals LLC</u>	TELEPHONE	ADDRESS (Street, City, State, Zip) <u>29409 Hwy 58 Blvd, Red Wing, MN 55066</u>

LOCATION OF PROPOSED WORK (City/Township) (County) (Distance) (N-S-E-W) SPECIFIC ROAD INTERSECTION OR LANDMARK
Highway 58 in Hay Creek Goodhue 100 miles W of Hwy 58 on Hay Creek Hills Rd

WILL THIS ACCESS BE WITHIN TRIBAL LANDS? Yes No IF YES, WHICH ONE? SM

PURPOSE OF DRIVEWAY <input type="checkbox"/> Temporary <input type="checkbox"/> Field Entrance <input type="checkbox"/> Residential <input type="checkbox"/> Proposed Public Street <input checked="" type="checkbox"/> Commercial (Specify Type) <u>Trucking</u>	REQUESTED ENTRANCE WIDTH <u>32</u> Feet 25	PROPERTY IS IN <input type="checkbox"/> Platted Area <input checked="" type="checkbox"/> Unplatted Area	ZONING FOR PROPERTY IS <u>B2</u>
---	---	---	-------------------------------------

IS BUILDING TO BE CONSTRUCTED <input checked="" type="checkbox"/> Not at this time <input type="checkbox"/> Yes (Specify Type)	WILL BUILDING BE <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <u>n/a</u>	NUMBER OF PRESENT DRIVEWAYS TO PROPERTY <u>1</u>
--	---	---

EXACT LOCATION OF PRESENT DRIVEWAY(S) <u>Shared driveway on E side of property</u>	EXACT LOCATION OF PROPOSED DRIVEWAY(S) <u>Approx 100' from corner of Hwy 58 on Hay Creek Hills Road</u>
---	--

LEGAL DESCRIPTION OF PROPERTY Sec 08 Twp 112 Range-014, PT of SE 1/4 of NW 1/4 Sec 8 112.14 from SE COR.

WORK TO START ON OR AFTER <u>immediately after permit is approved</u>	WORK TO BE COMPLETED BY <u>Nov 2017</u>
---	---

APPLICANT'S ACCEPTANCE, WAIVER AND INDEMNIFICATION

The undersigned applicant hereby agrees to comply with applicable statutes, rules, and all the standard conditions and special provisions of this permit. The applicant understands and agrees that no work in connection with this application will be started until the application has been approved and the permit issued.

The applicant also understands that this permit may also be subject to the approval of local road authorities having joint supervision over said street or highway, and may be subject to applicant's compliance with the rules and regulations of the Minnesota Environmental Quality Board and/or any other affected governmental agencies.

The applicant is aware of circumstances or hazards that may arise while performing the work associated with this application that could result in injury, loss, damage or death, and the applicant assumes the risk of such circumstances, dangers or hazards, whether reasonably foreseeable or not.

The undersigned applicant expressly agrees that except for negligent acts of the State, its agents and employees, the applicant or his/her agents or contractor shall assume all liability for, and save the State, its agents and employees, harmless from any and all claims to be done in connection with this application and permit.

NAME AND TITLE <u>Margaret Simanski, member</u>	EMAIL ADDRESS
DATE <u>August 22, 17</u>	SIGNATURE

DO NOT WRITE BELOW THIS LINE

PERMIT NOT VALID UNLESS BEARING SIGNATURE AND NUMBER

AUTHORIZATION OF PERMIT

In consideration of the applicant's agreement to comply in all respects with the applicable laws and the conditions of the Commissioner of Transportation pertaining to this permit, permission is hereby granted for the work to be performed as described in the above application, said work to be performed in accordance with the following standard conditions and special provisions:

SEE ATTACHED STANDARD CONDITIONS AND SPECIAL PROVISIONS

<u>7-1-18</u> Date All Work To Be Completed By	<u>[Signature]</u> Authorized MnDOT Signature	<u>3-1-18</u> Date of Authorized Signature
---	--	---

DISTRIBUTION <input checked="" type="checkbox"/> Original to Area Maintenance Engineer <input type="checkbox"/> Applicant <input type="checkbox"/> Subarea Supervisor <input type="checkbox"/> Roadway Regulations Supervisor	DEPOSIT REQUIREMENTS <input type="checkbox"/> No Deposit Required <input checked="" type="checkbox"/> Deposit Required in the Amount of \$ <u>1000.</u> Date Deposit Received <u>copy attached</u> Deposit to be returned upon satisfactory completion of all work	DEPOSIT TYPE Cashier's Check # _____ Certified Check # _____ Money Order # _____ Bond # _____
---	--	---

DATE WORK COMPLETED _____ (The date when the work is completed must be reported to the MnDOT District Permits Office)

mailed 3/2/18

ABSTRACT OF TITLE

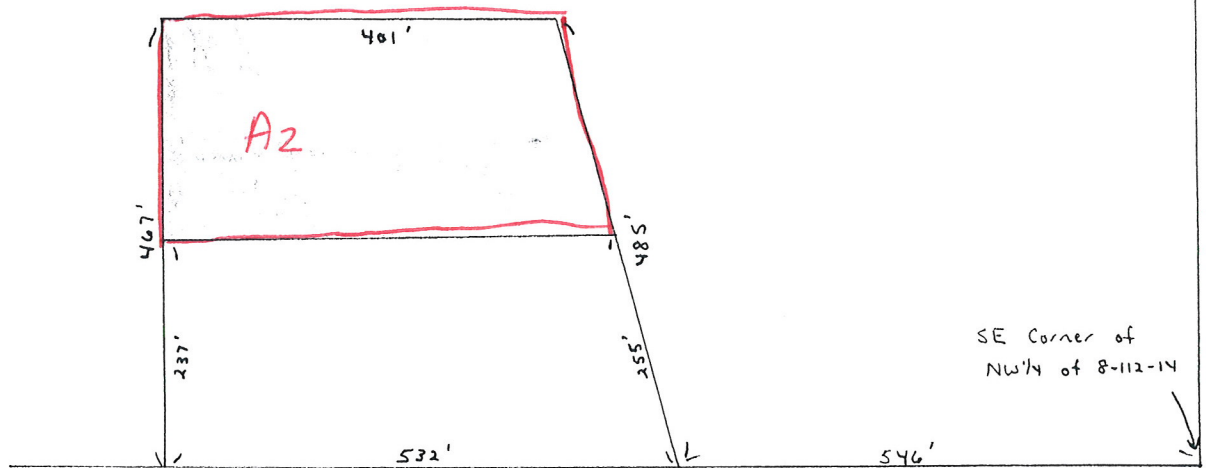
COMPILED BY
GOODHUE COUNTY
ABSTRACT CO.

Exhibit A

STATEMENT of instruments recorded or filed in the office of the County Recorder of Goodhue County, Minnesota, affecting the title to the lands described below, and situate in said County, as such instruments appear upon the books of ABSTRACTS OF TITLE to lands in said County, kept by Goodhue County Abstract Co., of Red Wing, in said County and which books have been carefully compiled from, and compared with, such records.

THIS ABSTRACT OF TITLE IS A HISTORY OF THE RECORD TITLE
OF THE PROPERTY DESCRIBED THEREIN AND DOES NOT
REPRESENT THAT THE TITLE IS GOOD AND MARKETABLE.

LANDS



No. 1

Part of the Southeast Quarter ($SE\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 8, Township 112 North, Range 14 West of the Fifth Principal Meridian, in the County of Goodhue, State of Minnesota, described as follows:

From the southeast corner of the $NW\frac{1}{4}$ of said section 8, run west 546 feet along the south line of said $NW\frac{1}{4}$, to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract to be described; thence run west 532 feet to an iron; thence run north 467 feet to an iron; thence run east 401 feet to the westerly right of way line of said Highway; thence run southerly along the westerly right of way line of said Highway for 485 feet to the place of beginning. EXCEPTING THEREFROM, the following parcel of land: From the southeast corner of the $NW\frac{1}{4}$ of said section 8, run west 546 feet along the south line of said $NW\frac{1}{4}$ to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of the tract here to be described; thence run west along said quarter line 532 feet to an iron; thence north 237 feet to an iron; thence easterly in a straight line to a point on the westerly line of said highway 255 feet northerly from the place of beginning and measured along the westerly line of said highway; thence southerly along the westerly line of said highway 255 feet to the place of beginning.

=====

RECEIVED

MAR 21 2018

Land Use Management

1

GOODHUE COUNTY ZONING DISTRICT CHANGE APPLICATION

Parcel # 340081400

Permit # Z18-0014

PROPERTY OWNER INFORMATION

Last Name <u>Simanski Metals LLC</u>	First	M.I.	Date of Birth
Street Address <u>28983-320 Avenue Way</u>		Phone	
City <u>Red Wing</u>	State <u>MN</u>	Zip <u>55066</u>	Attach Legal Description as Exhibit "A" <input type="checkbox"/>
Authorized Agent <u>Kevin Simanski</u>		Phone	
Mailing Address of Landowner: <u>28983-320 Avenue Way, Red Wing, MN 55066</u>			
Mailing Address of Agent: <u>same as above</u>			

PROJECT INFORMATION

Site Address (if different than above): 29409 Hwy 58 Blvd., Red Wing, MN 55066

Lot Size 2.18 acres Structure Dimensions (if applicable)

Existing Zone B2 Proposed Zone A2 - all "except", 84 acres that will remain as B2 zoning per site plan.

Existing Use currently vacant

Proposed Use: To operate a junk/salvage reclamation yard -

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 Simanski Metals LLC, Margaret Anderson Date 3-12-18

Signature of Agent Authorized by Agent Kevin Simanski

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 variance request.

Signature Maia Shilg Title Clerk Date 3-13-2018

Comments:

COUNTY SECTION

COUNTY FEE \$ 500 RECEIPT # 16195 DATE PAID 3-21-18

Applicant requests a variance from 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:

**APPLICANT FINDINGS OF FACT
AND SUPPORTING INFORMATION REGARDING ZONING DISTRICT CHANGE APPLICATION**

1. How does the requested change compatible with the Goodhue County Comprehensive Plan?

Adjoining parcel is same zone.

2. What is the cumulative effect of the requested zoning change on the affected Township and any cities located within 2 miles of the proposed parcel?

Should not change anything, B2 parcel adjoins A2 parcel and we're just making the A2 parcel larger and retaining approx half of the B2 parcel

3. Is the zoning change compatible with the affected Township and any cities located within 2 miles of the proposed parcel?

Yes.

Existing Zoning

PID 340081400 - Zoned A2 AGRICULTURAL

Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 8, Township 112 North, Range 14 West, of the Fifth Principal Meridian, in the County of Goodhue, State of Minnesota, described as follows:

From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4, to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract to be described; thence run west 532 feet to an iron; thence run north 467 feet to an iron; thence run east 401 feet to the westerly right of way line of said Highway; thence run southerly along the westerly right of way line of said Highway for 485 feet to the place of beginning.

Excepting therefrom, the following parcel of land:

From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4 to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract here to be described; thence run west along said quarter line 532 feet to an iron; thence north 237 feet to an iron; thence easterly in a straight line to a point on the westerly line of said Highway 255 feet northerly from the place of beginning and measured along the westerly line of said Highway; thence southerly along the westerly line of said Highway 255 feet to the place of beginning.

Also Excepting therefrom:

That part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

PID 340081500 - Zoned B2 HIGHWAY BUSINESS

Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 8, in Township 112 North, Range 14 West, described as follows: From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4 to the westerly right of way line of State Trunk Highway No. 58 at an iron, for the place of beginning of tract here to be described; thence run west along said quarter line 532 feet to an iron; thence north 237 feet, thence easterly in a straight line to a point on the westerly line of said Highway 255 feet northerly from the place of beginning and measured along the westerly line of said Highway; thence southerly along the westerly line of said Highway 255 feet to the place of beginning.

Excepting therefrom that part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

Proposed Zoning

PID 340081400 - Zoned A2 AGRICULTURAL

Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 8, Township 112 North, Range 14 West, of the Fifth Principal Meridian, in the County of Goodhue, State of Minnesota, described as follows:

From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4, to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract to be described; thence run west 532 feet to an iron; thence run north 467 feet to an iron; thence run east 401 feet to the westerly right of way line of said Highway; thence run southerly along the westerly right of way line of said Highway for 485 feet to the place of beginning.

Which lies westerly and northerly of the following described Line 1:

Commencing at the southeast corner of the Northwest Quarter of said Section 8; thence North 89 degrees 48 minutes 22 seconds West, along the south line of said Northwest Quarter, a distance of 863.40 feet to the point of beginning of Line 1 to be described; thence North 00 degrees 17 minutes 50 seconds West a distance of 202.63 feet; thence South 89 degrees 48 minutes 22 seconds East a distance of 181.40 feet to the westerly line of Minnesota Department of Transportation Right of Way Plat Numbered 25-54 on file and of record in the office of the County Recorder, Goodhue County, Minnesota and said Line 1 there terminating.

Excepting therefrom that part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

PID 340081500 - Zoned B2 HIGHWAY BUSINESS

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Which lies easterly and southerly of the following described Line 1:

Commencing at the southeast corner of the Northwest Quarter of said Section 8; thence North 89 degrees 48 minutes 22 seconds West, along the south line of said Northwest Quarter, a distance of 863.40 feet to the point of beginning of Line 1 to be described; thence North 00 degrees 17 minutes 50 seconds West a distance of 202.63 feet; thence South 89 degrees 48 minutes 22 seconds East a distance of 181.40 feet to the westerly line of Minnesota Department of Transportation Right of Way Plat Numbered 25-54 on file and of record in the office of the County Recorder, Goodhue County, Minnesota and said Line 1 there terminating.

Excepting therefrom that part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

Planning Advisory Commssion

Public Hearings
April 16, 2018

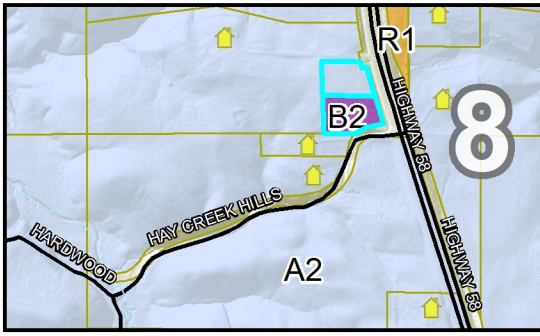
Simanski Metals LLC
29409 HWY 58 BLVD
Red Wing, MN 55066
A2 & B2 Zoned District

Parcels 34.008.1400 &
34.008.1500; SE ¼ NW ¼,
Sect 08 Twp 112 Range 14
in Hay Creek Township

Request for Rezone &
CUP request for junk/salvage
reclamation yard

Legend

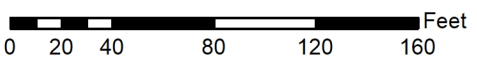
Intermittent Streams	Bluff Impact Zones (% slope)
Protected Streams	20
Lakes & Other Water Bodies	30
Shoreland	FEMA Flood Zones
Historic Districts	2% Annual Chance
Parcels	A
Registered Feedlots	AE
Dwellings	AO
Municipalities	X



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2016 Aerial Imagery

Map Created April, 2018, Ryan Bechel



APPENDIX 1





Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106



County Surveyor / Recorder

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

February 16, 2018

Simanski Metals LLC
320th Avenue Way
Red Wing, MN 55066

RE: Operation of a Scrap Metals Transfer Facility (Parcel #340081400)
c/o Kevin and Margaret Simanski

Dear Kevin and Margaret:

This letter regards improvements you have made to Tax Parcel #340081400 and the operation of a Scrap Metals Storage/Transfer Operation from that property. I previously mailed a letter regarding this matter by certified mail on January 9, 2018 to 29409 Highway 58 Blvd (the mailing address for the property), and my letter was returned to the County by the U.S. Postal Service.

As you had been previously made aware by Land Use Management Department Staff, the use of Parcel #340081400 as a Scrap Metals Transfer Facility would require approval of a Conditional or Interim Use Permit for a Junk/Salvage Operation by the Goodhue County Board of County Commissioners. I have observed that you have proceeded with construction of a driveway and parking lot and have placed a variety of storage containers on the property. In addition, I have been made aware by nearby residents that materials are being hauled to and from the property.

Any operation of a Scrap Metals storage, recycling or transfer facility must cease immediately. As you were previously informed, you may apply to the County for a Conditional or Interim Use Permit for a Junk/Salvage Operation. I believe you were previously provided with applicable Zoning Ordinance provisions and given a copy of the CUP/IUP Application Form. Recently, the County's CUP/IUP Application Form changed, so I have enclosed a copy of the new form plus a copy of the schedule for submitting an application for future Planning Advisory Commission Meeting Dates.

Please contact me at 651-385-3117 or Michael.wozniak@co.goodhue.mn.us to let me know what your intentions are regarding this matter. I expect to hear from you by February 23, 2018, or further enforcement action will be forthcoming to order removal of materials/containers currently located on the subject property.

Sincerely,

Michael A. Wozniak, AICP
Planner and Zoning Administrator

Ref: CUP Application # Z18.0017

The Hay Creek Planning Commission held a public meeting on 5 April 2018 for the purpose of promoting communication between Township residents and the applicants for a CUP request to operate a Junk, Salvage Yard on parcels 340081400 and 340081500 in Hay Creek. The Simanskis attended the meeting and were given an opportunity to present and discuss their proposal. The purpose of this message is to pass on a sense of the resident's position on the important CUP issues and pass on the recommendations of the Hay Creek Planning Commission on the CUP. It is my hope and expectation that this email and its attachments will be passed on to the Planning Commission members so that they may consider them before their 16 April, 2018, meeting.

The approximately thirty-five Township residents present at the meeting expressed universal opposition to the granting of a permit. The opposition is based on the inability of the applicants to satisfactorily overcome key objections regarding effects of their proposed business on the health, safety, and welfare of the citizens of Hay Creek Township. The applicants statements regarding their plans were not able to satisfactorily deal with the following concerns:

- Traffic safety problems caused by a poorly located access to the site and Hwy 58
- Groundwater protection
- Protection of land values
- Interference with the ability of neighboring residents to enjoy their property
- Disruption of the rural residential nature of the area by an industrial operation
- Past and potential future applicant disregard for compliance with ordinances and permit conditions

The recommendation of the Hay Creek Planning Commission is that a permit not be granted at this time. The serious potential groundwater pollution and traffic safety problems cry for further research, followed by effective prevention measures, before the proposal is seriously considered by the County Planning Commission. If the two health and safety issues can be mitigated the important landowner concerns about enjoyment of their property, effect on land values and disruption of the nature of area will remain as barriers to approval of a recycling business for the site.

The attachment entitled "Simanski-Hay Creek Public Mtg" provides questions that were answered by the applicants in a manner that did not settle the concerns of the Planning Commission and residents in attendance at the meeting.

The attachment entitled "Simanski Issues" provides questions for County staff that we believe should be researched, with answers provided to the County Planning Commission and the Board before they reach any well considered conclusion on the permit application.

Jim Maybach
Chairman, Hay Creek Planning Commission

QUESTIONS ABOUT PROPOSED BUSINESS USE OF SIMANSKI PROPERTY

The following questions were discussed with the Simanskis at a public meeting of the Hay Creek Planning Commission on 5 April, 2018. Their responses are in italics.

QUESTIONS ABOUT THE PROPOSED OPERATION

Q: What is the Standard Industrial Code (SIC) for the proposed business? A: *We don't know yet. The county will assign that code.*

Q: What materials do you plan to bring into the junk salvage reclamation yard? A: *Wood, shingles, metals, cardboard.*

Q: What are mixed demolition materials? A: *Most anything except hazardous waste and municipal solid waste.*

Q: What will the source of your materials be? A: *Primarily industrial and commercial customers.*

Q: Will you accept material from private parties? A: *Not at this time, but possibly in the future.*

Q: What materials will you not accept? A: *Asbestos, hazardous waste, including cars, lead, and municipal solid waste.*

Q: How will you prevent prohibited material from coming onto the site? A: *Well, it can't be completely prevented. If it comes in with a load we will dispose of it as solid waste, contain it and reship it, or otherwise dispose of it properly.*

Q: How will you deal with solid waste that may find its way into incoming recyclable material? A: *Sort it out and dispose of it as solid waste.*

Q: How is material handled, processed, and stored between the time it arrives at the facility and when it departs? A: *When we are operating under a permit we dump it, sort it, load it, and send it out. We will not be using shears or a shredder and will not be cutting metal.*

Q: How many trucks will be entering and exiting the site per day? A: *Five a day to start. A lot more in the future.*

Q: Will there be any burning on site? A: *No.*

Q: In your answer to Project Summary question #1 regarding purpose and scope of your operations you state there will be a transfer station in the back corner adjacent to the Gadiant property. Can you tell us what a transfer station is? A: *It is a dumping area that may have a concrete or gravel surface where the loads are dropped and sorted.*

Q: What liquid containment provisions and airborne debris catching provisions do you plan for the transfer station? A: *None, unless the PCA or county requires them.*

Q: Since you are not planning on installing a fence how will you prevent the spreading of debris by wind? A: *That isn't going to be a problem. The loads will be tarped.*

Q: An industrial recycling facility has a high probability of being incompatible with the predominantly residential area in which the proposed site is located. Are either of the two vacant recycling sites in the area that are zoned for this activity available for use in lieu of the Hay Creek site? A: *They are not suitable for our purpose.*

Q: With two area recycling facilities having gone out of business, what will make your operation different and able to survive? A: *The one facility with which I am familiar went out of business by choice. They made some big investments in yards before the price of scrap went down and chose to consolidate to reduce costs when volume and prices dropped. We will operate more smartly.*

Q: What are your plans for use of the property between now and the time a license is issued by the MN PCA? A: *Put up the building and continue to use the property as a storage yard.*

Q: Your cover letter states that the application for a MN PCA permit is contingent upon receiving the county conditional use permit (CUP). Would you accept a permit condition that no operations would be conducted before a PCA permit is granted? A: *We would want to continue to park roll-offs there.*

Q: How do we know whether you will last in business or cut and run leaving a messy site if things go bad? A: *We know what we are doing. I have a good reputation in the business. We will make it. We plan to eventually turn the business over to our son.*

Q: Did you receive a “cease and desist” letter about your use of your site, and if so, what did it require and did you comply? A: *Yes. It said stop transferring material, and we complied.*

Q: What noise generators will you have operating on your site? A: *Metal falling into boxes, and construction equipment noises.*

Q: You have said that the DOT design for your site access driveway is satisfactory for 80 foot long trucks entering and exiting. I (the questioner) have a similar layout and I know from personal experience it is not big enough for that size of truck. Why do you think it is going to work? A: *It’s not our design. It’s DOT’s. There isn’t going to be a traffic problem.*

Q: How will you deal with dust problems? A: *We could sprinkle.*

QUESTIONS ABOUT IMPACTS ON NEIGHBORS

Q: Question # 1 on the county permit application form asks about potential adverse effects of the proposed business operations on adjoining landowners. Do you recognize any potential adverse effects and, if so, how can they be reduced? A: *We don’t see any adverse effects.*

Q: Your response to question #5 on the county permit application says your activities will be conducted during normal business hours. What are normal business hours? A: *6 AM to about 6 PM except for one truck that leaves about 4:30 AM.*

Q: Which days of the week will the site be closed? A: *Sunday.*

QUESTIONS ABOUT GROUNDWATER AND STORMWATER

Q: Is the infiltration basin shown on the Ridgeline Group grading plan dated Oct 21, 2017, still planned? Since the function of the basin is to allow surface water to percolate into the ground it is essential that runoff going into the basin be free of anything that could pollute the water table. Will site runoff water be treated before it enters the infiltration pond? A: *We handle only non-hazardous material. There will be no need for treatment.*

Q: Where will overflow from the infiltration basin go? A: *I don’t know the answers to the technical water flow questions.*

Q: Will any incoming material be placed on a surface that allows water to seep through it? A: *Yes, potentially.*

Q: How will potential groundwater contaminants be prevented from leaching out of materials on the site? A: *There are no groundwater pollutants in the material we handle.*

Q: How will stormwater be prevented from flowing onto Hay Creek Hills Drive from the south site entrance road? A: *By a culvert and a swale. Most of the site water will not go down the driveway.*

Q: Have you completed a storm water pollution prevention plan? A: *No. I won't know if one is required until the MPCA lets me know.*

Q: Have you applied for an industrial stormwater permit for the proposed operation? A: *No. I won't know if one is required until the MPCA lets me know.*

RESIDENT COMMENTS ABOUT PROPOSED BUSINESS USE OF SIMANSKI PROPERTY

Comment by adjoining landowner: "The noises you make on your property during the night spook my horses."

Comment by Hay Creek Hills resident: " If I had known a business like this was going in on this site I would not have bought my home here."

Comment by adjoining landowner who described himself as "living in Simanski's toilet" because he is downhill from their property : "I still have a pond in my yard from your overflow. I want you to come and fix it."

ISSUES THAT SHOULD BE CONSIDERED

BY COUNTY STAFF AND THE PLANNING COMMISSION

BEFORE THE GRANTING OF A PERMIT UNDER APPLICATION Z18.0017

GENERAL

The county's definition of a "junk/salvage yard" includes permissible activities that, if they are present, create a much greater need for permitting, restrictions, and oversight than if clean recycling were the only activity. The applicants proposal does not provide enough information to unambiguously define which activities will be performed on site and what risks their operations will pose to safety and health. Since the applicant has not been prescriptive the county must be before permit conditions are drawn up.

Since the extent of Pollution Control Agency review and regulation of hazardous waste permit applications depends on the Standard Industrial Code (SIC) of the proposed business and the applicant has not provided a SIC the county should independently determine what the proper code is.

Because of the residential nature of properties surrounding this site, and because of evidence gathered from existing operations at the site it does not appear to be possible to meet the requirements set forth in the Goodhue County Zoning Ordinance, dated 2 Jan., 2018, Section 2, Subdivision 2, Findings 1 and 5, for the granting of a permit.

An expert opinion should be provided as to whether proposed building construction, installation of impermeable surfaces, and grading changes to the site's ground surface will increase the stormwater runoff from the site, and if so whether the increase is prohibited by law.

Does the county believe that permitting a third site for a junk/ salvage yard is in the best interest when two vacant sites with suitable zoning may be available?

The applicants have said they do not plan to apply for a MN PCA permit until a CUP is issued, and that they plan to continue storage operations on the site, without sorting, until a PCA permit is obtained. Since the residents believe there are serious concerns about the willingness of the applicants to comply with temporary operation constraints, and because operation without a PCA permit may endanger the health of surrounding residents we strongly recommend that any CUP contain a condition that no operation be allowed until a PCA permit is issued.

Even a well hidden industrial operation creates a blight in a residential area. The sight of construction equipment , dumpsters, other outside equipment, and wind scattered debris further adds insult to injury. Any CUP should require a visual barrier around the site with design of the barrier subject to resident review before approval.

Heavy truck traffic on Hay Creek Hills Dr. will increase the township's road maintenance cost. Any CUP should include a requirement for the permit holder to reimburse the township for the increases.

POLLUTION ISSUES

Because of the potential for groundwater contamination and debris dispersal any CUP for this site should require that all material dumping, sorting, and handling be carried out only in an enclosed building.

A determination needs to be made as to whether the proposed operation requires a storm water pollution prevention plan. If it is required it should be a condition of the permit.

A determination needs to be made as to whether the proposed operation requires an industrial stormwater permit. If it is required it should be a condition of the permit.

The application lacks infiltration basin design data. Without proper design the basin presents a groundwater pollution hazard. The proposed plan should not be approved as submitted. Considering the proposed business's potential for groundwater contamination at this site the county needs to ascertain:

whether treatment of runoff before entry into the infiltration basin will be required

what rain events the basin is designed for

what the treatment characteristics, if any, of the basin are

what the percolation rates of the soils below the site are

and what the treatment characteristics are of the soils between the basin and the groundwater.

Does the applicant's proposal comply with all regulatory provisions the county has in place that protect the health and safety of its residents with regard to potential stormwater runoff, groundwater contamination, air pollution, airborne debris dispersal, and leachate containment?

Does the County have any recourse if they believe the license review and approval process by the MN PCA does not adequately ensure the County's health and safety concerns regarding the proposed operation?

Does the county or the state have the primary enforcement responsibility for the provisions of a PCA permit?

Has MN PCA permit enforcement, or assistance in county enforcement, been timely and effective in the past when compliance problems have developed?

What are the human resources to which the county has ready access for permit enforcement purposes? Does the county have the technical expertise to enable informed enforcement of anti-pollution requirements?

TRAFFIC SAFETY ISSUES

The permit issued by the state DOT for a site access onto Hay Creek Hills Dr. should be critically reviewed for safety implications.

If trucks are stacked up on Hay Creek Hills Dr. or southbound Hwy 58 trying to enter the Simanski site there is a good probability they will obscure southbound Hwy 58 traffic from the view of east bound Hay Creek Hills Dr. traffic trying to enter Hwy 58. Truck-trailer combinations exiting the site have the potential to prevent west bound Hay Creek Hills Dr. traffic from proceeding due to their inability to clear the west bound lane of the drive before coming to the stop sign.

Posted speed limits in the area are 55 mph which may not provide adequate evasion time or space for vehicles entering Hwy 58 or leaving northbound Hwy 58 at the intersection of Hwy 58 and Hay Creek Hills Dr.

The relatively steep grade of Hay Creek Hills Dr. as it approaches Hwy 58 will create the possibility of loss of control problems for east bound trucks that stop at the stop sign and attempt to restart on the grade during slippery conditions. Traction problems may also strand east bound trucks in front of Hwy 58 traffic if they can't achieve their anticipated acceleration through the intersection.

COMPLIANCE and TRUST

Was the applicant issued a permit before building demolition was undertaken on the site last year?

Do you know that demolition debris was buried on site? If so, was a permit issued in advance of the burial?

Neighbors have complained to the Land Use Office about the applicant's business use of their property. Was the applicant immediately compliant to your office's request to them?

Do you know that the applicants have been operating a business at the site without a permit?

If a disregard for existing county requirements on the part of the applicant is known to exist will that disqualify the applicant from being granted a permit?

April 05, 2018

Goodhue County Planning Commission
Hay Creek Town Board
Goodhue County Board
City of Red Wing
Other Local Government Units, Boards, and Commissions

RE: Proposed conditional use / interim use and /or zoning changes requested by the Kevin and Margaret Simanski of Simanski Metals LLC for the proposed improvement and operation of junk, salvage, reclamation yard on their parcels No 34-008-1400 and 34-008-1500

To Whom It May Concern:

We, as indicated by the signatures in the attached exhibit, respectfully object to the proposed conditional use / interim use and /or zoning changes requested by the Kevin and Margaret Simanski of Simanski Metals LLC for the proposed improvement and operation of junk, salvage, reclamation yard on their parcels No 34-008-1400 and 34-008-1500.

The property as requested for conditional use is substantially different from the neighboring properties in close proximity to Simanski Properties. It is our belief that this requested use is not harmonious to the area. We also believe that this request is not in compliance with zoning ordinance requirements of Article 4 Section 2 Subd. 2 paragraphs 1, 2, 5, and possibly 4 which state:

Subd 2. **FINDINGS.** No CUP or IUP use shall be recommended by the County Planning Commission unless said Commission specifies in their findings, the facts in each case which shall establish:

1. That the CUP/IUP will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
2. That the establishment of the CUP/IUP will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.
4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

In addition without actual verification, we are unsure if the process has conformed with Article 4 Section 4 Subd. 4 which states:

Subd. 4. All property owners of record within five hundred (500) feet of the incorporated areas and/or one-quarter (1/4) mile of the affected property or to the ten (10) properties

nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the conditional/interim use is proposed shall be notified by depositing a written notice in the U.S. Mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed conditional/interim use shall be given proper notice.

Since the request is for a junk/salvage/reclamation yard among other things, we question what operations and activities can be conducted if said conditional or interim use is granted since the use definition by ordinance states:

JUNK/SALVAGE YARD. A place maintained for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used, or second-hand material of any kind, including used motor vehicles, machinery of any kind, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron, or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

This definition would leave the uses very open and for potential uses more than requested which adds to our concerns.

The proposal indicates that the applicant desires to reduce the size of the current B2 zone and connect the balance to the current A2. It seems as though this request would require a minor re-subdivision or subdivision and rezoning request prior to consideration of a CUP. The rezoning request was applied for, separate from the conditional use process. Has a minor re-subdivision or minor subdivision been applied for and what procedure needs to be followed? How is a CUP granted on only a portion of a parcel of record?

As part of the applicants request it is indicated that they will be submitting a request for a transfer station. How does this fit into the conditional or interim use permit and is allowed in an A2 zone?

The transfer station also brings into question other issues. While the applicants letter states that no solid waste (trash) will be brought in, we believe that anytime any household waste is added to a dumpster that the classification of that waste then becomes Mixed Municipal Waste which then bring it to a classification of solid waste.

The applicants driveway permit application indicates that they didn't intend to construct a building yet the conditional / interim use application indicates that one will be built. Based on the information submitted by the applicant for the trucking and that it is intended to perhaps double the number of drivers, what is the Heavy Commercial Average Daily Traffic impact and anticipated individual drop off traffic? Has any analysis been given to this and potential congestion and safety? Has anyone at the State expressed concern that the approaches and vehicle turning movements may be inadequate or unsafe based on the proposal?

From what we understand, the applicant may not be in compliance now with current operations and permits, how does this impact what is being considered or what must be done?

Since the City of Red Wing is within the 2 mile restriction, what action or comments have they done relative to this proposal.

Since the County has submitted its Solid Waste Plan to the State for approval, how does this transfer station fit into that plan? Years ago the County Solid Waste Committee had recommended that a western county transfer station be considered for solid waste and demo, wouldn't this request be a potential conflict with that? Another consideration would be where are the current sites that are similar to this request and just how many and where should these be located? Red Wing has their waste campus and it sounds probable that the old AMG site in Clay City may be reopening.

The County also has a 2016 Hazardous Mitigation Plan. How does this request comply with that. It would seem that the metals which would be salvaged and sorted at the site may have gases, chemicals, and oils that may fall into this area. How will this potential be contained and what is the pollution prevention plan for such things?

The County has also adopted a Health Impact Analysis as part of its A3 Urban Fringe change considerations and requirements. How will this proposal meet the recommendations of that study.

How does this proposal correspond to the recommendation and guiding principals of the County's Comprehensive Plan particularly Elements 1, 2, 4, and 5?

What other agencies that may be subject to review courtesy have reviewed the proposal? DNR, Goodhue County Soil and Water, City of Red Wing, Goodhue County Public Works and Solid Waste?.

The County also has a 1990 Solid Waste Ordinance, which may be somewhat outdated . How does this comply with pertinent provisions in that?

The applicant indicates that they don't believe a fence is necessary, but we believe that litter could be an issue especially since the site is very open even though there are some trees on parts of the site. Material that has been blown around, has already been seen on the site and adjoining properties.

In closing we feel that the proposal will be very disruptive to the area and will be injurious to the use and enjoyment of nearby property in the immediate vicinity for the purposes already permitted, and also substantially diminish and impair property values within the same vicinity. The current use of neighboring property is primarily residential and agriculture.

Thank You

Land Use Management Staff Review of Simanski Metals LLC
 Zone Map Amendment Request April 6, 2018

- Subd. 5 A. The names and addresses of the petitioner or petitioners and their signatures to the petition. **See application**
- B. Survey information: **See application**
- C. The current and proposed district: **A2 (3.20 acres) to B2 (0.84 acres)**
- D. The current use and the proposed use of the land **See application**
- E. The reason for the requested change of zoning district. **See application**
- F. A copy of the soil map showing the soils types within the proposed boundary and the surrounding area. **The applicant has submitted this information.**
- G. Prime Farmland Rating of the soil types in F.
- The Prime Farmland Rating for Agriculture is as follows:

Soil Name	Slope	Amount (acres)	% of Total	Prime Farmland Rating
Timula-Mt. Carroll	6-12%	0.0	4.0%	Farmland of Statewide Importance
Timula-Mt. Caroll	12-18%	0.2	3.4%	Not Prime Farmland
Frankville-Nasset-Mt. Carrol	6-12%	2.2	45.6%	Farmland of Statewide Importance
Chelsea loamy sand	2-6%	0.5	11.4%	Not Prime Farmland
Winneshiek-Waucoma	12-18%	1.9	39.2%	Not Prime Farmland

- H. A statement of how the requested change is compatible with the Goodhue County Comprehensive Plan including but not limited to the following:
1. The environmental impacts of the proposed use of land on the:
 - a. Groundwater *The site includes an existing well that will be retained for use by the proposed land uses. Proposed site improvements will be required to conform with applicable setbacks from the existing well. The Transfer Station is subject to*
 - b. natural plant and animal communities *The subject property has been significantly modified in the past due to varioius past uses of the property.*
 - c. existing trees and vegetation *Some of the existing trees and vegetation were removed when various structure from prior uses of the property were recently removed. Additional vegetation will be removed if the proposed site improvement are constructed. Some existing trees will be retained and the applicant has proposed some additional tree plantings for screening and beautification, however no specifics regarding species or height at the time of planting have been provided.*
 - d. bluffland stability *No bluff impact zones on site or immediately abutting property.*
 - e. shoreland stability *The subject property is not located within a shoreland management area. The nearest shoreland management*

overlay district is located more 4000 feet east of the site. No negative impact on shoreland stability are anticipated.

2. The compatibility with surrounding land uses *Nearby residents have expressed significant concerns regarding aesthetic impacts, noise impacts, traffic safety and potential for trash/junk to be blown onto surrounding properties and road right-of-ways. Concerns have been expressed regarding these potential impacts affecting the ability of the nearby residents to use and enjoy their properties. In addition concerns have been express regarding potential negative impacts on property values and development potential for surrounding properties.*
3. The physical and visual impacts on any scenic or historic amenities within or surrounding the proposed parcel.
We do not indicate any historic amenities in the immediate vicinity.

Subd. 6 The housing density of the affected Section

Subd. 7 The impact on any surrounding agricultural uses. *Negative impacts on agricultural uses are not anticipated. The site area proposed for change of zone to A-2 from B-2 was previously used for business purposes and is not currently in agricultural use.*

Subd. 8 The impact on the existing transportation infrastructure **The applicant has provided a copy of a Driveway Access Permit issued by the Minnesota Department of Transportation on 3/1/2018. MNDOT has restricted use of an existing driveway access from State Highway 58 that is currently shared with a private driveway serving the Thomas B. Gadiant Property situated north and west of the subject property. The MNDOT Permit authorizes a driveway access to Hay Creek Hills Drive to be located at the Southeast corner of the proposed 0.84 acre parcel near the intersection of Hay Creek Hills Drive and State Highway 58. The proposed driveway access point onto Hay Creek Hills Trails falls within MNDOT Right-of-Way.**

The proposed driveway to Hay Creek Hills Drive would connect to a gravel surface just west of the limit of the bituminous surface extending approximately 50 feet into Hay Creek Hills Drive from the right turn lane of State Hwy 58. The turning movement of trucks into and out of site will cause significant wear and tear on the gravel surface.

The Applicant has indicated they have five drivers and anticipate increasing that number to ten. They have not provide an estimate of the number of daily trips expected to be generated by the proposed Metals Recycling/Transfer Station Use.

- Subd. 9 The impact on surrounding zoning districts *Surrounding zoning districts within Section 8 of Hay Creek Township include additional A2 (Agriculture) Zoned property including 9 dwellings a strip of R1 (Suburban Residence) Zoned property including 5 dwelling sites (Moore's Addition) located directly east of the Simanski Metals LLC Property along the east Right-of-Way of Hwy 58. Fourteen dwelling are located within 1800 feet of the subject property.*
- Subd. 10 A statement concerning the cumulative effect and compatibility of the requested zoning change on the affected Township and any cities located within 2 miles of the proposed parcel. **The Hay Creek Township Planning Commission held a public meeting on April 5, 2018, to discuss the Proposed Business Use of the Simanski Metals LLC Property. A copy of questions raised and responses offered by Kevin Simanski has been provided the County (see attachment)**
- Subd. 11. Additional information as may be requested by the Planning Commission or zoning staff.

REZONING EXHIBIT



EXISTING ZONING



PROPOSED ZONING

PID 340081400 - Zoned A2 AGRICULTURAL

Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 8, Township 112 North, Range 14 West, of the Fifth Principal Meridian, in the County of Goodhue, State of Minnesota, described as follows:

From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4, to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract to be described; thence run west 532 feet to an iron; thence run north 467 feet to an iron; thence run east 401 feet to the westerly right of way line of said Highway; thence run southerly along the westerly right of way line of said Highway for 485 feet to the place of beginning.

Excepting therefrom, the following parcel of land:

From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4 to the westerly right of way line of State Trunk Highway No. 58, at an iron, for the place of beginning of tract here to be described; thence run west along said quarter line 532 feet to an iron; thence north 237 feet to an iron; thence easterly in a straight line to a point on the westerly line of said Highway 255 feet northerly from the place of beginning and measured along the westerly line of said Highway; thence southerly along the westerly line of said Highway 255 feet to the place of beginning.

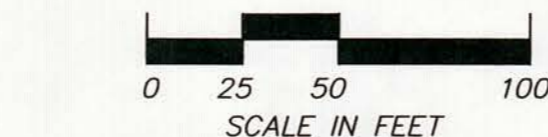
Also Excepting therefrom:

That part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

PID 340081500 - Zoned B2 HIGHWAY BUSINESS

Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 8, in Township 112 North, Range 14 West, described as follows: From the southeast corner of the NW1/4 of said section 8, run west 546 feet along the south line of said NW1/4 to the westerly right of way line of State Trunk Highway No. 58 at an iron, for the place of beginning of tract here to be described; thence run west along said quarter line 532 feet to an iron; thence north 237 feet, thence easterly in a straight line to a point on the westerly line of said Highway 255 feet northerly from the place of beginning and measured along the westerly line of said Highway; thence southerly along the westerly line of said Highway 255 feet to the place of beginning.

Excepting therefrom that part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.



BEARINGS SHOWN HEREON ARE ORIENTED TO THE GOODHUE COUNTY COORDINATE SYSTEM, NAD83 (1986 ADJ.)

PID 340081400 - Zoned A2 AGRICULTURAL

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Which lies westerly and northerly of the following described Line 1:

Commencing at the southeast corner of the Northwest Quarter of said Section 8; thence North 89 degrees 48 minutes 22 seconds West, along the south line of said Northwest Quarter, a distance of 863.40 feet to the point of beginning of Line 1 to be described; thence North 00 degrees 17 minutes 50 seconds West a distance of 202.63 feet; thence South 89 degrees 48 minutes 22 seconds East a distance of 181.40 feet to the westerly line of Minnesota Department of Transportation Right of Way Plat Numbered 25-54 on file and of record in the office of the County Recorder, Goodhue County, Minnesota and said Line 1 there terminating.

Excepting therefrom that part of the SE1/4 of the NW1/4 of Section 8, Township 112 North, Range 14 West, shown as Parcel 251 on Minnesota Department of Transportation Right of Way Plat Numbered 25-54 as the same is on file and of record in the office of the County Recorder in and for Goodhue County, Minnesota.

PID 340081500 - Zoned B2 HIGHWAY BUSINESS

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Which lies easterly and southerly of the following described Line 1:

Commencing at the southeast corner of the Northwest Quarter of said Section 8; thence North 89 degrees 48 minutes 22 seconds West, along the south line of said Northwest Quarter, a distance of 863.40 feet to the point of beginning of Line 1 to be described; thence North 00 degrees 17 minutes 50 seconds West a distance of 202.63 feet; thence South 89 degrees 48 minutes 22 seconds East a distance of 181.40 feet to the westerly line of Minnesota Department of Transportation Right of Way Plat Numbered 25-54 on file and of record in the office of the County Recorder, Goodhue County, Minnesota and said Line 1 there terminating.

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DATE	REVISION	BY

SIMANSKI METALS, LLC
 29409 HIGHWAY 58 BLVD, RED WING, MN
 REZONING EXHIBIT

HEREBY CERTIFY THAT THIS SURVEY PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
MARK A. SCHOENFELDER
 DATE: MAR. 23, 2018 LC. NO. 42302

RIDGELINE
 C R O U P
 ENGINEERS | PLANNERS | SURVEYORS
 30602 HIGHWAY 58 BLVD
 RED WING, MN 56066
 (651) 746-8241

DRAWN: MAS
 CHECKED: MAS
 DATE: MAR 2018
 SHEET
 1 OF 1
 REZONING EXHIBIT
 17010

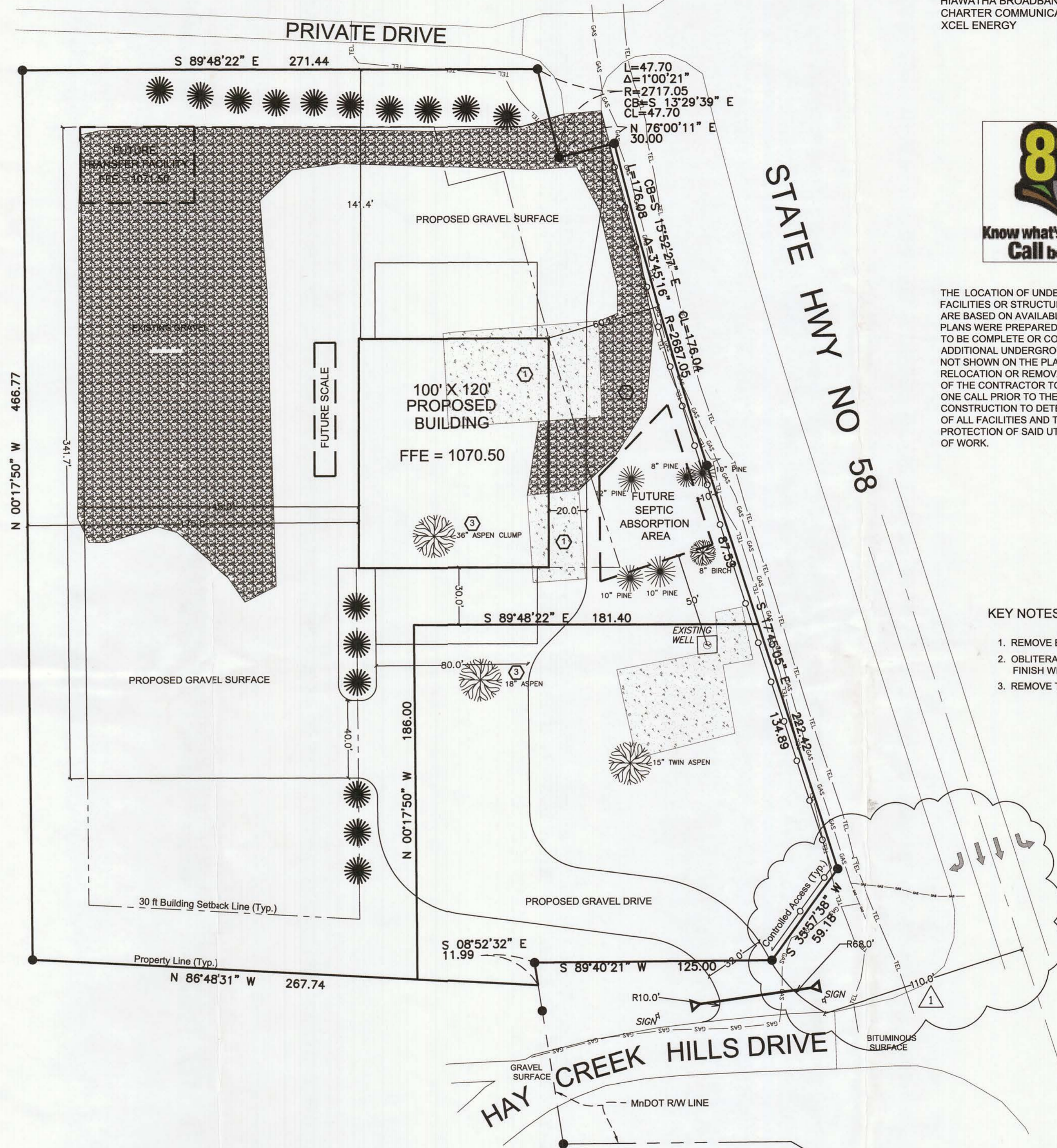
THIS EXHIBIT WAS PREPARED USING INFORMATION FROM DEED DESCRIPTIONS, SURVEY DRAWING S-6423 PREPARED BY JOHNSON AND SCOFIELD, INC. AND OTHER RECORD INFORMATION. NO FIELD SURVEY WAS PERFORMED AS PART OF THIS EXHIBIT.



EXISTING ZONING



PROPOSED ZONING



EXISTING UTILITIES NOTIFIED
GOPHER STATE ONE CALL TICKET # 172711307

UTILITY NAME	PHONE
CENTURYLINK	(855)742-6062
GOODHUE COUNTY COOP	(507)732-5117
HIAWATHA BROADBAND COMMS	(507)474-4000
CHARTER COMMUNICATIONS	(800)778-9140
XCEL ENERGY	(800)848-7558



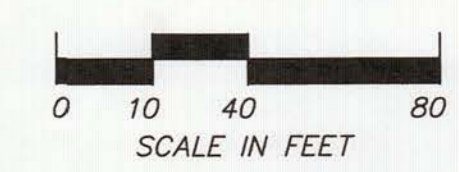
THE LOCATION OF UNDERGROUND AND OVERHEAD FACILITIES OR STRUCTURES AS SHOWN ON THE PLANS ARE BASED ON AVAILABLE RECORDS AT THE TIME THE PLANS WERE PREPARED AND ARE NOT GUARANTEED TO BE COMPLETE OR CORRECT. THERE MAY BE ADDITIONAL UNDERGROUND AND OVERHEAD UTILITIES NOT SHOWN ON THE PLAN THAT MAY REQUIRE RELOCATION OR REMOVAL. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REQUEST A GOPHER STATE ONE CALL PRIOR TO THE START OF ANY CONSTRUCTION TO DETERMINE THE EXACT LOCATION OF ALL FACILITIES AND TO PROVIDE ADEQUATE PROTECTION OF SAID UTILITIES DURING THE COURSE OF WORK.

KEY NOTES:

1. REMOVE EXISTING CONCRETE
2. OBLITERATE EXISTING GRAVEL DRIVEWAY, FINISH WITH MINIMUM OF 6 INCHES OF TOPSOIL
3. REMOVE TREE

BASIS OF DRAWING FILE:

DATE OF SURVEY: 10-01-2017
 COORDINATE SYSTEM: GOODHUE COUNTY
 HORIZONTAL DATUM: NAD83(2011) REF: VRS
 VERTICAL DATUM: NAVD88 REF: VRS
 ADDITIONAL FILE INFORMATION:



320 West Broadway
 Suite 3
 Plainview, MN 55964
 (507) 272-6447
 plans@wse.engineering
 www.WSE.website

DRAWN BY: GFN
 REVISIONS:
 1 01/03/2018
 12-20-17 MNDOT EMAILED COMMENTS

PROFESSIONAL ENGINEER

I Herby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: Tom Wiener
 Signature: _____
 01/03/2018 License # 46387

This drawing and the information it contains is the property of WSE, INC. It must not be copied, traced, or released without our consent.

PROJECT TITLE:

SIMANSKI METALS
 29409 HIGHWAY 58 BLVD
 RED WING, MN

SHEET TITLE:

SITE PLAN

SHEET NUMBER:

C-1.0

PROJECT NUMBER:

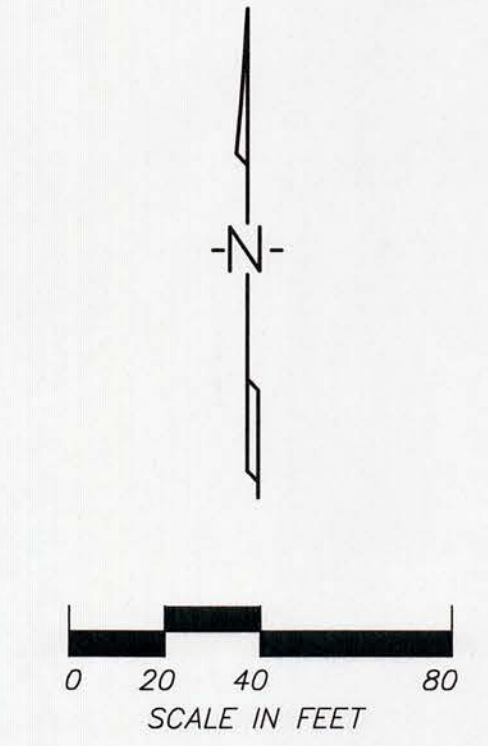
1.CO-18001A

EXISTING UTILITIES NOTIFIED
GOPHER STATE ONE CALL TICKET # 172711307

UTILITY NAME	PHONE
CENTURYLINK	(855)742-6062
GOODHUE COUNTY COOP	(507)732-5117
HIAWATHA BROADBAND COMMS	(507)474-4000
CHARTER COMMUNICATIONS	(800)778-9140
XCEL ENERGY	(800)848-7558



THE LOCATION OF UNDERGROUND AND OVERHEAD FACILITIES OR STRUCTURES AS SHOWN ON THE PLANS ARE BASED ON AVAILABLE RECORDS AT THE TIME THE PLANS WERE PREPARED AND ARE NOT GUARANTEED TO BE COMPLETE OR CORRECT. THERE MAY BE ADDITIONAL UNDERGROUND AND OVERHEAD UTILITIES NOT SHOWN ON THE PLAN THAT MAY BE REQUIRE RELOCATION OR REMOVAL. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REQUEST A GOPHER STATE ONE CALL PRIOR TO THE START OF ANY CONSTRUCTION TO DETERMINE THE EXACT LOCATION OF ALL FACILITIES AND TO PROVIDE ADEQUATE PROTECTION OF SAID UTILITIES DURING THE COURSE OF WORK.



GRADING NOTES:

1. AN NPDES CONSTRUCTION STORMWATER PERMIT SHALL BE OBTAINED BY THE OWNER AND CONTRACTOR IF THE DISTURBED AREA EXCEEDS 1 ACRE. A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SHALL BE PREPARED IN ACCORDANCE WITH THE NPDES CONSTRUCTION STORMWATER PERMIT.
2. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT SEDIMENT DOES NOT LEAVE THIS SITE. IT IS RECOMMENDED (NOT REQUIRED) THAT THE CONTRACTOR INSTALL A STABILIZED VEHICLE EXIT TO KEEP SEDIMENT TRACKING TO A MINIMUM.
3. ALL PROPOSED ELEVATIONS ARE TOP OF PAVING OR FINISHED GRADE, UNLESS NOTED OTHERWISE. PROPOSED ELEVATIONS ARE INTENDED TO PROVIDE POSITIVE DRAINAGE TOWARDS CATCH BASINS AND/OR OUTLETS. THE CONTRACTOR SHALL BE RESPONSIBLE TO PROVIDE THE REQUIRED ELEVATIONS, WHICH WILL PROMOTE POSITIVE DRAINAGE THROUGHOUT THE PROJECT SITE.
4. SPOT ELEVATIONS ARE FLOW LINE AND/OR FINISHED GRADES, UNLESS OTHERWISE INDICATED BY THE LOCATION OF THE SPOT. ADD 6" TO FLOW LINE ELEVATIONS TO OBTAIN THE TOP OF CURB ELEVATIONS, UNLESS NOTED OTHERWISE.
5. THE OWNER IS AWARE THAT SOME GRADES ON THE SITE ARE LESS THAN 2.00% LOCALIZED PONDING MAY OCCUR AND THEY ACCEPT ALL IMPACT.
6. EROSION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES (BMP) SHALL BE INSTALLED BEFORE LAND DISTURBING OPERATIONS BEGIN AND SHALL REMAIN IN PLACE UNTIL FINAL STABILIZATION HAS BEEN ESTABLISHED.
7. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND ELEVATION OF ALL UTILITIES PRIOR TO THE BEGINNING OF CONSTRUCTION.
8. THE CONTRACTOR SHALL NOTIFY ALL APPROPRIATE ENGINEERING DEPARTMENTS AND UTILITY COMPANIES 72 HOURS PRIOR TO CONSTRUCTION. ALL NECESSARY PRECAUTIONS SHALL BE TAKEN TO AVOID DAMAGE TO EXISTING UTILITIES.
9. THE SITE HAS NOT NECESSARILY BEEN DESIGNED TO BALANCE THE ON-SITE MATERIALS. THE CONTRACTOR IS RESPONSIBLE FOR DETERMINING THE EARTHWORK QUANTITY ON THIS SITE. EXCESS MATERIAL, IF ANY SHALL BE DISPOSED OF OFF-SITE. THE CONTRACTOR SHALL IMPORT SUITABLE MATERIAL AS NEEDED.
10. CONTRACTOR SHALL VERIFY ALL EXISTING AND PROPOSED ELEVATIONS PRIOR TO START OF CONSTRUCTION. VERIFY CRITICAL ELEVATIONS TO ENSURE CONFORMANCE WITH GRADING PLAN, PARTICULARLY WITH WALK AND/OR PAVEMENTS TO REMAIN. MEET EXISTING GRADES ALONG STREETS, PROPERTY LINES AND DRIVEWAY ENTRANCES. RESTORE ALL EXISTING PAVEMENTS TO THEIR ORIGINAL, IF NOT BETTER CONDITION. NOTIFY OWNER OF ANY CONFLICTS.

EROSION PREVENTION:

Construction of silt fence and all other erosion control measures shall be complete before other construction activity occurs.

Use phased construction whenever practical and establish turf as soon as possible to minimize sediment transport.

The contractor shall inspect the construction site once every seven days and within 24 hours after rain events for damage to erosion control devices. If damaged or ineffective erosion control devices are discovered, they shall be repaired or replaced. The contractor shall maintain inspection records, which include date and time of inspections, dates of rainfall events, rainfall amount, findings of inspections, corrective actions taken (including dates and times), and documentation of any changes to the temporary or permanent erosion control plans made during construction.

Temporary stockpiles require additional sediment control and temporary cover after 7 days.

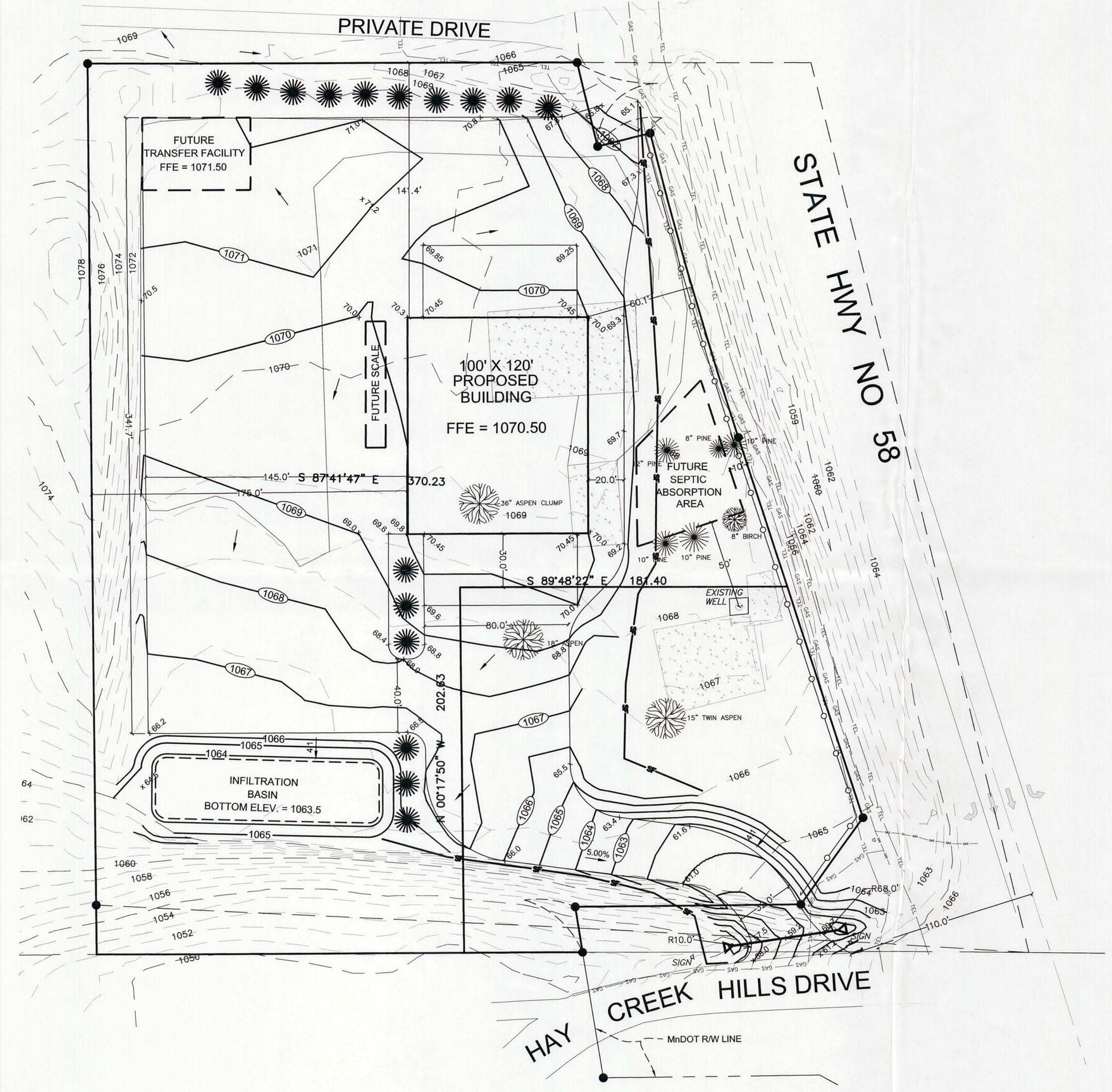
Turf establishment or temporary seeding of all exposed soil not being actively worked shall be practiced using the following:

Type of Slope or Disturbance Area	Time Area Can Remain Open Without Being Actively Worked	
	Normal Water	Special/Impaired Water
Steeper than 3:1	14 Days	7 Days
10:1 to 3:1	14 Days	7 Days
Flatter than 10:1	14 Days	7 Days
Ditches	14 Days	7 Days
Pipe Ends	1 Day	1 Day
Within 200 feet of Surface Water	1 Day	1 Day

All exposed soils shall be seeded or sodded at the earliest possible time to prevent/reduce erosion.

- Seed shall be MnDOT mixture 260 and shall be placed in accordance with Mn/DOT 2575. Seed shall meet Mn/DOT Specification 3876. Seed shall be applied at a rate of 100 lbs/acre. Mulch shall be Mn/DOT Type 1 mulch. Mulch shall be applied at a rate of 2.0 tons/acre. Mulch shall be disc anchored. Fertilizer shall be applied to seeded areas as incidental to seeding. Fertilizer shall be a 22-5-10 (%N-P-K) applied at a rate of 300 lbs/acre. Storm water retention areas shall be Mn/DOT mixture 328 with placement as previously described.
- Sod shall meet Mn/DOT Specification 3878.2A, Type Lawn and Boulevard Sod. Sodding shall be in accordance with Mn/DOT 2575.

Additional erosion prevention measures may be found in the permit and MPCA's Best Management Practices.



LEGEND

(1066)	DENOTES PROPOSED CONTOUR ANNOTATION
x 60.7	DENOTES PROPOSED SPOT ELEVATION
(---)	DENOTES EROSION MAT
(---)	DENOTES DRAINAGE DIRECTION
(---)	DENOTES SILT FENCE

PROJECT AREAS:

LOT SIZE	176,820 SQ FT (4.06 AC.)
TOTAL PROJECT SIZE (DURBED AREA)	129,070 SQ FT (2.96 AC.)
MINIMUM DISTURBED AA REQUIRING MPCA PERMIT	1.00 ACRE
EXISTING AREA OF IMPEVIOUS SURFACE	40,514 SQ FT (0.93 AC.)
NEW IMPERVIOUS AREA/EATED	57,295 SQ FT (1.32 AC.)
POST CONSTRUCTION AA OF IMPERVIOUS SURFACE	97,809 SQ FT (2.25 AC.)

DATE	REVISION	BY

SIMANSKI METALS, LLC
29409 HIGHWAY 58 BLVD, RED WING, MN
GRADING AND EROSION CONTROL

HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
MARK A. SCHOENFELDER
DATE: OCT. 21, 2017
LIC. NO. 42302

RIDGELINE
GROUP
ENGINEERS | PLANNERS | SURVEYORS
30622 HIGHWAY 58 BLVD
RED WING, MN 55068
(507) 748-9521

DRAWN: MAS
CHECKED: MAS
DATE: OCT 2017
SHEET
1 OF 1
Grading/Erosion Plan
17010