

Carver County Planning Commission

Regular Meeting - **Tuesday, June 21, 2022**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska, Mn

AGENDA

7:00 P.M.

- 1.) Approve minutes of May 17, 2022, regular meeting
Pages 1-1 through 1-3
- 2.) **File #PZ20220019** – Public hearing on application by Todd Mesenbring
for a Conditional Use Permit. (Home-Extended Business Accessory Use)
Benton Township Pages 2-1 through 2-15
- 3.) **File #PZ20220022** – Public hearing on application by Carver County for
an Ordinance amendment.
(Chapter 54 – Feedlot Management Ordinance)
ALL Townships Pages 3-1 through 3-26
- 4.) **File #PZ20220024** – Public hearing on application by Mitch Michaelson
for a Conditional Use Permit. (Large Scale Activity-Scream Town)
Dahlgren Township Pages 4-1 through 4-33

Other Business

CARVER COUNTY PLANNING COMMISSION
Regular Meeting – May 17, 2022
Minutes

Members Present: Scott Wakefield, Scott Hoese, Greg Grazzini, Frank Mendez, Roger Storms,

Members Late: Matt Kerber (7:01 p.m.)

Members Absent: John P Fahey

Staff Present: Jason Mielke, Donovan Hart

Pursuant to due call and published notice thereof, the May 17, 2022, regular meeting of the Carver County Planning Commission was called to order by Chairman Wakefield at 7:00 p.m.

Wakefield conducted roll call which showed six board members present and one absent (John P Fahey).

Agenda – Chairman Wakefield called for any changes to the agenda or a motion to approve. A motion was made by Storms to approve the agenda as printed. Mendez seconded the motion. All voted aye. Motion carried. The agenda was approved as printed.

Minutes – A motion was made by Hoese and seconded by Kerber to approve the minutes from the April 19, 2022, regular meeting. All voted aye. Motion carried.

File #PZ20220019 – Bongards Creamery – Chairman Wakefield called the public hearing to order at 7:01 p.m. to consider a request by Chris Anderson, representing Bongards Creamery. The purpose of the public hearing was to consider a request for an amendment to a CUP for Rural Service District (RSD) Business (Farm-Related Business) pursuant to Chapter 152 of the County Code. The property is in Sections 16 & 17 of Benton Township.

The following were present: Chris Anderson, Ian Weber, John Carlson, Andy Steinhagen, Linda Werp, Richard Mallett

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the applicant dated April 21, 2022

Exhibit F – Staff Report addressed to the Planning Commission and Benton Township dated May 10, 2022, and all attachments

Hart explained this request is an amendment (i.e. new CUP) to expand the existing facility with construction of an independent boiler building and propane area and consolidate a number of individual parcels owned by Bongards Creameries into one taxing parcel. This amendment

would supersede CUP #20220064 to include a number of site improvements which have been made since that time. The Bongards Creamery facility lies within the Bongards Rural Service District (RSD), which allows for commercial activities in the rural areas. Bongards Creamery has been producing dairy products at this site since 1908. This facility focuses on processing cheese and ships out 125 million pounds of cheese annually. Hart referenced prior CUP's, dating as early as 1976 and recently in 2015, which have been issued for a variety of associated activities and improvements at this site. The proposed boiler building would be approximately 1,200 square feet in size. Located nearby, the proposed propane storage tanks measure about 1,400 square feet in area. A 100,000-gallon fuel tank would be removed from service after construction of the proposed boiler building. The boiler would replace the site's need to burn fuel oil as part of normal operations. The site plan identifies the general facility building, administration building, retail store, fuel storage facilities, parking areas, and many other facets of the operation. The plant runs as a 24-hour, 365-day business, staffed with 227 employees. Two shifts of employees work in processing cheese production and other components of the facility are open during limited hours on weekdays ranging from 6:30 a.m. to 7:00 p.m. Anticipated traffic for the site is estimated at 194 vehicles entering and leaving the site daily, with most of the vehicles being employees coming to and leaving from work shifts. About 31 trucks transport commodities and material to and from the property daily. There are 14 parking lots on the site with 185 parking spaces for trailers, employees, customers, and contractors. Generally, the facility operations and vehicle traffic have little impact on neighboring parcels. However, the applicant has proposed landscape screening (for the gravel area labeled Parking Lot A on the site plan) consisting of a single row of arbor vitae along the east boundary of the parking lot and surrounding three exterior lights to mitigate impacts of dust, light and noise from adjacent neighboring parcels. Most of the other parking lots are not near any neighboring residences and screening is not proposed. There are a number of legal non-conforming signs on the property, totaling approximately 985 square feet, which were constructed prior to adoption of the sign ordinance. The ordinance allows for the signs to be maintained, but not expanded. No new signage is proposed with this request. The Carver County Water Management Organization (CCWMO) is reviewing the request, and if required, all related permits and conditions of the CCWMO must be met prior to the issuance of any building permits or excavation activity. The Minnesota Pollution Control Agency (MPCA) is the regulatory authority for the wastewater treatment system. Due to Bongards operating under an MPCA/SDS permit, no permits are required by the Carver County SSTS program. Carver County Public Works Department has reviewed the site plan with the proposed expansion and provided comments focused on vehicle access and safety along County Rd 51. The Benton Town Board reviewed the request at their April 14, 2022, meeting and recommended approval without further comments. Hart read the proposed conditions for consideration if the request is approved.

Chris Anderson, Representative for Bongards Creameries, stated the information was presented accurately and had no additional comments.

Chairman Wakefield asked the applicant if he had read and agrees with the proposed conditions of the permit.

Mr. Anderson replied that he has read and agrees with the proposed conditions.

Andy Steinhagen, Benton Township Supervisor, confirmed the applicant's attendance at their April 14th meeting and stated the Town Board recommended approval and supports the request. The Town Board were concerned with screening the parking area closest to the neighboring residential properties; however, the applicant is willing to provide screening.

Hoese stated he will be abstaining from a vote on this request because he is an active board member of Bongards Creamery. He stated the new boiler is necessary as a safety precaution for the facility as the old boiler system is worn out.

There were no public comments from the audience.

A motion was made by Mendez to close the public hearing. Hoese seconded the motion to close. All voted aye. Motion carried. The public hearing was closed at 7:14 p.m.

A motion was made by Mendez to **approve and adopt Resolution #22-06** incorporating the findings of fact and staff recommendations approving the Conditional Use Permit for a Bongards Rural Service District (RSD) Business (Farm-Related Activity - Bongards Creameries). Grazzini seconded the motion for approval. Mendez, Grazzini, Wakefield, Storms, and Kerber voted aye. Hoese abstained from the vote. Motion carried.

Adjournment

A motion was made by Mendez and seconded by Hoese to adjourn the meeting. All voted aye. Motion carried. The meeting was adjourned at 7:19 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

June 13, 2022

TO: Carver County Planning Commission & Benton Town Board
FROM: The Land Management Department
SUBJECT: Application for a Conditional Use Permit (Home Extended Business Accessory Use)

FILE #: PZ20220023
APPLICANT: Todd Mesenbring
OWNER: Todd and Vicky Mesenbring
SITE ADDRESS: 11790 County Road 153 Cologne, MN 55322
PERMIT TYPE: Home Extended Business Accessory Use
PURSUANT TO: County Code, Chapter 152, Sections 152.079 (C)(9)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 01-003-0310

STAFF ANALYSIS:

1. Todd and Vicky Mesenbring own an approximate 4.08-acre parcel located in the Southwest Quarter (SW¼) of Section 3, Benton Township. The property is improved with a house (w/an attached garage) and a 40' x 60' accessory structure, which was permitted in 2006 by Conditional Use Permit (CUP) #PZ20060024. The property is located in the Agriculture Zoning District, Shoreland Overlay District (Winkler Lake) and the CCWMO (Carver Creek watershed).
2. In October of 2012, Interim Use Permit (IUP) #PZ20120034 was issued and authorized the owner/applicant to operate a Home Occupation Business in a detached structure "light to medium diesel repair" on the subject property. The 2012 IUP was approved under Section 152.082 (C)(4) of the Carver County Zoning Code which allows for some business type activities as a home occupation within a detached structure. A Home Occupation is typically limited to the single-family residence and the attached garage. The Zoning Code standards have changed since 2012.
3. The applicant is requesting a Conditional Use Permit (CUP) to replace the Home Occupation to a Home Extended Business Accessory Use (HEBAU) in order to expand upon the existing repair business, pursuant to Section 152.079 (C)(9) of the Carver County Zoning Code, which reads as follows:

§ 152.079 CONDITIONAL USES—ACTIVITIES CENTERED AROUND A HOME OR A HOME/FARM COMBINATION.

(A) Minimum criteria for issuance of permit:

- (1) Minimum five-acre lot size; unless another size is specified under a particular provision;
- (2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;
- (3) Land is not subject to the land use restrictions of an AG preserve covenant;
- (4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;
- (5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;

- (6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs—traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal—that will exceed those available in the area should locate in municipalities where the services are available.

(B) Minimum conditions:

- (1) Permit shall be subject to administrative review or compliance review as set by the permit. A change in ownership, operations or operator shall be cause for the permit to be reviewed to determine whether an application for an amendment or similar consideration is necessary.
- (2) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The operational plan and site plan shall become part of the permit.
- (3) Outside storage is prohibited unless the storage area is adequately screened from nearby roads and residences.
- (4) The operational plan and site plan shall become part of the permit.
- (5) The applicant must submit a copy of workers' compensation insurance or sign an affidavit stating that he or she will not have any employees.
- (6) All buildings utilized by the operation must meet the State Building Code.

(C) Activities.

(9) Home extended business accessory use.

- (a) It is the intent of this section to provide for the use of newly constructed accessory structures, or adaptive re-use of residential accessory and farm structures on parcels two acres or greater by permitting the use of the structures for limited business purposes upon the issuance of a conditional use permit pursuant to this section. Permits shall be issued and remain in effect pursuant to this section only upon findings that the proposed use will clearly be accessory and subordinate to the principal use of the land. Examples of businesses permitted under this section include: woodworking, repair, machining, professional services, and small-scale contractor's activities.
- (b) The following shall be the minimum conditions/operational standards for the issuance and continuation of such a permit; additional conditions may be added as necessary;
 1. The business shall be located at least 500 feet from neighboring residences not on the same parcel of property existing at the time of application for the permit.
 2. The business must be conducted in one or more of the following: an attached or detached garage, residential accessory structure, or agricultural structure.
 3. Businesses prohibited for the purposes of this section shall be on-site recreation and entertainment businesses, mini-storage or seasonal vehicle storage when storage is the principal activity of the business, and businesses that require more than one truck with capacity greater than one ton.
 4. There shall be no more than four employees in addition to the owner/operator of the business and family of the owner/operator residing in the home, providing the parcel is five acres or greater. Parcels two acres or greater but less than five acres shall be restricted to two employees in addition to family members residing in the home.
 5. The business shall utilize no more than four business vehicles, providing the parcel is five acres or greater. Parcels two acres or greater but less than five acres shall be restricted to two business vehicles.
 6. There shall be no retail sales. The sale of incidental stock-in-trade shall not be considered retail sales.
 7. No more than three clients shall be allowed on the premises at any one time.

4. Mr. Mesenbring is requesting to replace the current IUP with a CUP in order to expand his diesel repair business "shop" by constructing a 42' x 40' (1,680 square-foot) addition onto the existing accessory structure. The addition would include a 42' x 10' (420 square-foot) lean-to for outdoor storage. The applicant repairs small to medium sized tractors and other equipment. Currently, his skid steer, service truck, and compact tractor are being stored outdoors, but would be stored inside the proposed structure in the future or under the lean-to located on the north side the proposed addition. The new addition will feature a 10' x 10' office space. The total accessory structure space, once the proposed addition (w/lean-to) is completed, would total 4,500 square feet. Up to 500 square feet of the proposed addition and lean-to would be utilized for personal storage of garden equipment and firewood. The remaining square footage would be solely for business use.

5. The applicant's narrative (dated: May 25, 2022) states there would not any changes to the hours of operations (Monday-Friday 8AM-5PM), nor the number of vehicles stored on the property. Mr. Mesebring would be allowed a maximum of two (2) business related vehicles based on the HEBAU standards based on parcel acreage. He is considering hiring a technician, which would bring the total number of employees to two (2), including the owner/operator. The HEBAU standards would allow Mr. Mesebring a maximum of two (2) employees in addition to family members residing in the home based on parcel acreage. The site plan shows sufficient gravel parking and turnaround areas to the east and south of the structure. Based on the nature of the business activity conducted on site, no more than three (3) clients would frequent the site at any one time. The operation appears to meet the standards of the Zoning Code
6. On June 9, 2022, the application request was reviewed by Mike Mrotz, Senior Environmentalist - Carver County Environmental Services Department. Mr. Mrotz stated the applicant would need to reach out to the Environmental Services Department to determine if a Hazardous Waste Generator's License would be needed for the type of repair services performed.
7. On June 10, 2022, the application request was reviewed by Jack Johanson, Transportation Planner - Carver County Public Works. Mr. Johanson stated that since the business is existing and the proposed expansion does not involve changes to access or setbacks to the roadway, then no additional conditions are warranted.
8. On June 10, 2022, Lori Brinkman, Senior Environmentalist - Carver County Environmental Services Department, reviewed the application request. Ms. Brinkman stated that a connection to the existing holding tank would require a compliance inspection, as well as a completed permit application by a licensed Subsurface Sewage treatment System (SSTS) Professional. A maintenance contract is on file with the Carver County Environmental Services Department.
9. The Benton Town Board reviewed and recommended approval of the request during their May 12, 2022, meeting, without any additional conditions.

PLANNING COMMISSION CONSIDERATION:

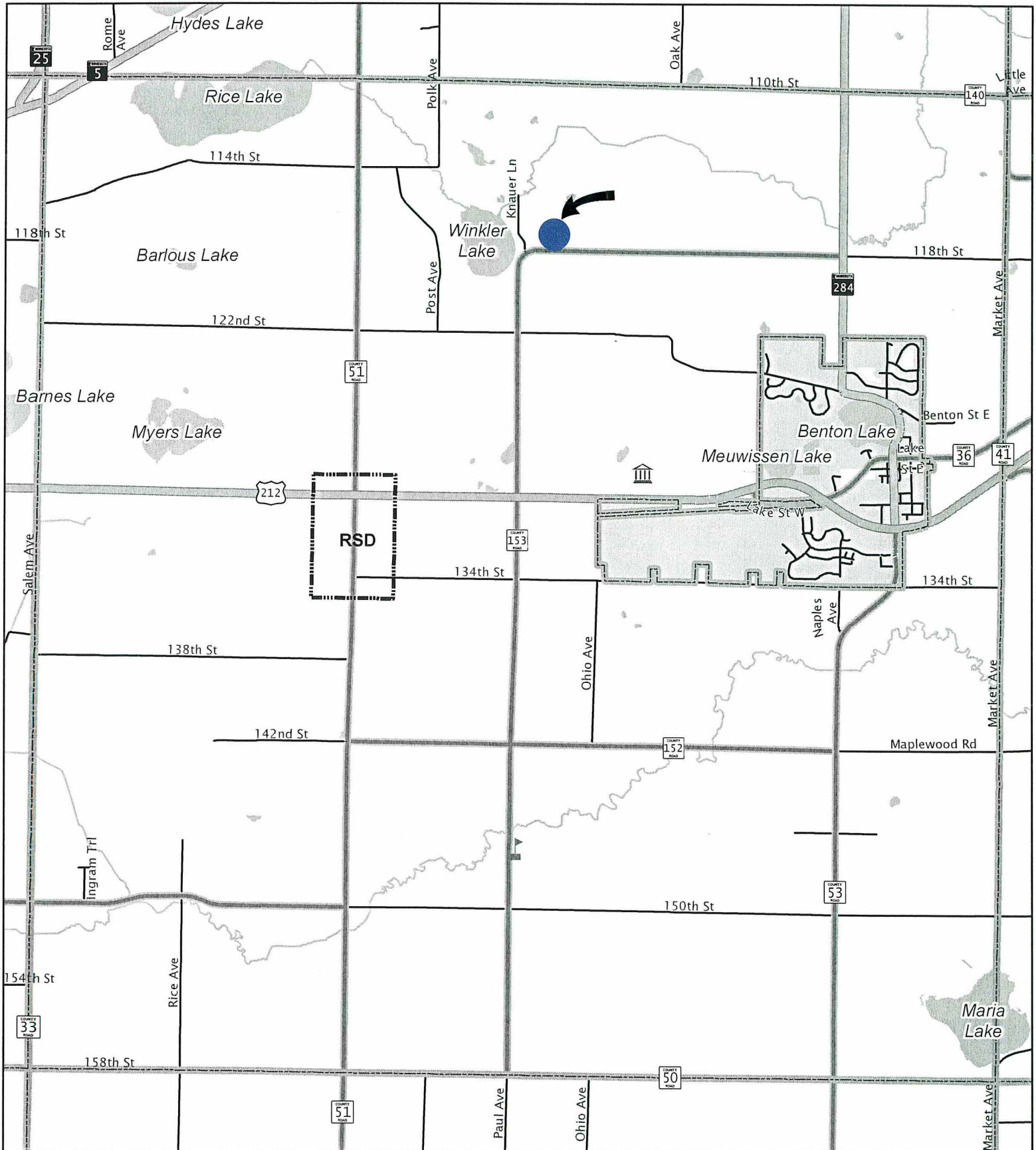
If the Planning Commission recommends approval of the permit application for a Home Extended Business Accessory Use (Conditional Use Permit), the previous IUP (#PZ20120034) for a Home Occupation detached Structure and CUP (#PZ20060024) for an Oversize Accessory Structure shall be terminated, and the following conditions should be considered part of the permit:

1. The permit is subject to administrative review. The Permittee shall homestead and occupy the property. The accessory building shall be used solely for personal storage and approved business uses. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Land Management for a determination as to whether an application for an amendment or similar consideration is necessary. Proposed owners and/or operators are encouraged to contact Land Management as early in the timeline of the proposed change as possible.
2. The Home Extended Business Accessory Use (HEBAU) shall substantially operate in accordance with the submitted operational plan (dated: May 25, 2022) and site plan (dated: June 13, 2022). These plans shall be requirements of this permit.
3. Any outside storage in addition to the proposed 42' x 10' covered porch portion on the north side of the accessory structure shall constitute an expansion of the operational area. When applicable, the applicant shall submit a screening plan to the Land Management department for a determination as to whether an application for an amendment or similar consideration is necessary.
4. All appropriate building permits shall be obtained for the existing accessory structure and proposed addition and shall meet the applicable MN State Building Code standards based on the intended use.
5. Permittee shall submit a completed SSTS compliance inspection as well as a completed permit application by a Licensed

SSTS Professional for the connection to the existing holding tank.

6. The permittee shall contact the Carver County Environmental Services Department to determine if a Hazardous Waste Generator License is required.
7. Permittee shall comply with all road authority (Carver County Public Works Department) access requirements. There shall be no customer parking within County Right-of-Way.
8. The Permittee shall submit Proof of Liability insurance and Workers Compensation insurance to the Land Management Department annually when there are additional employees beyond the owner/operator.
9. The Permittee shall comply at all times with the County standards as detailed in Chapter 152 – Zoning Code and Chapter 154 – Sign Regulations. The Permittee shall not exceed the allowed square footage of signage per property.

BENTON TOWNSHIP



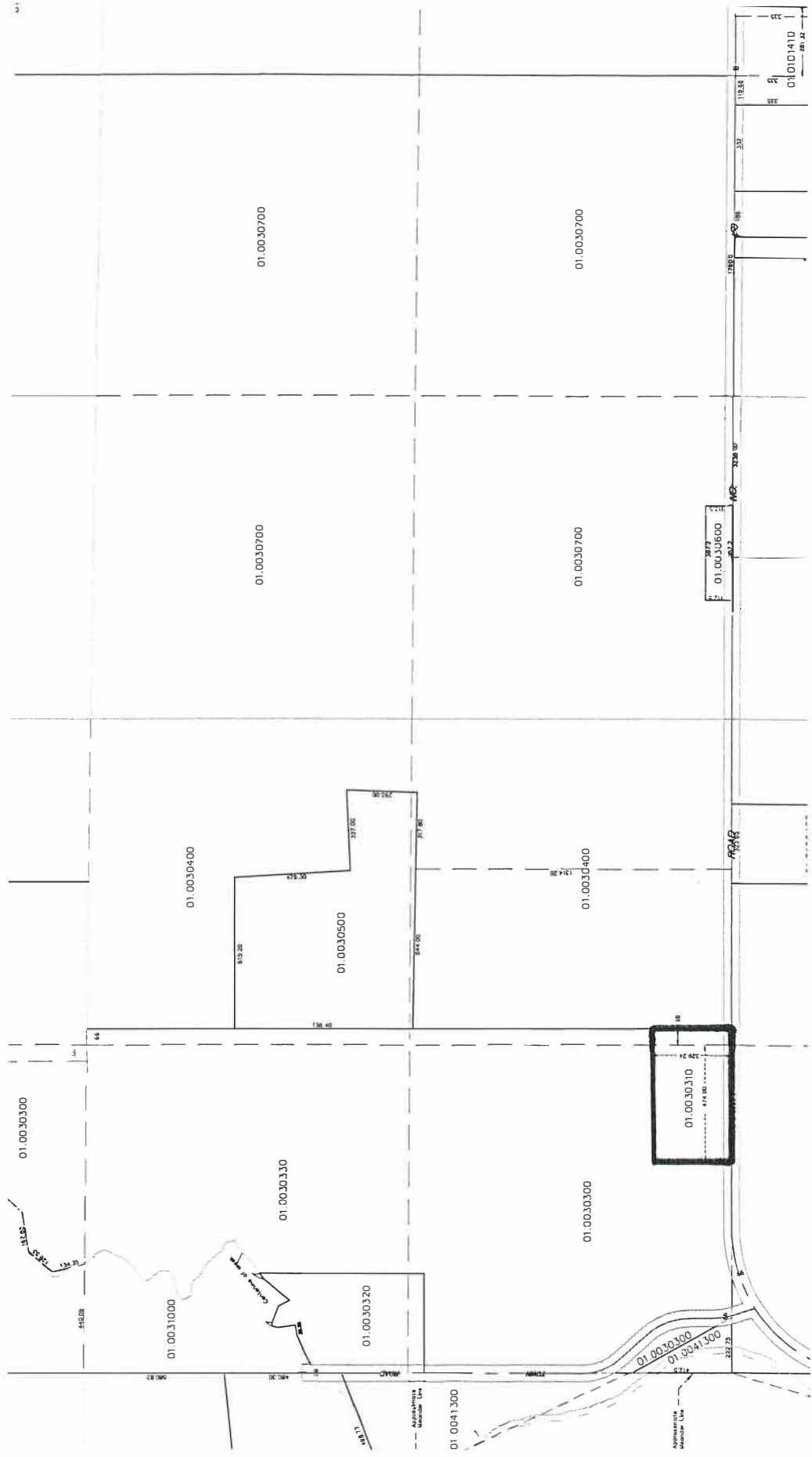
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



Map Created by Carver County GIS

S 1/2 SEC. 3, T.115, R.25

THIS IS NOT A LEGALLY REPRODUCIBLE PLAN. IT IS A PRELIMINARY MAP FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT A GUARANTEE OF ACCURACY OR A WARRANTY OF ANY KIND. THE COUNTY OF CALVER, MINNESOTA, DOES NOT WARRANT THE ACCURACY OF THIS MAP. THE COUNTY OF CALVER, MINNESOTA, DOES NOT WARRANT THE ACCURACY OF THIS MAP. THE COUNTY OF CALVER, MINNESOTA, DOES NOT WARRANT THE ACCURACY OF THIS MAP.



From: auberstediesel@yahoo.com
Sent: Wednesday, May 25, 2022 9:03 PM
To: Christina Neel
Subject: Updated Information for CUP

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Christina,

Here is the additional information you requested.

I'm asking for this additional 1680 sq. ft. of shop as my business has grown tremendously in the last couple of years. I repair larger pieces of equipment and need to be able to keep equipment inside until parts arrive. At any given time I'm typically working on 6-8 things at one time while waiting for parts, (which can take up to weeks now.) Also, with this addition my service truck, skid steer and compact tractor would be able to stay inside during the day. This new addition would also have a 10×10 office as well, (which at this time I have no office.) The outside lean-to would be for my skid steer and tractor attachments, garden equipment and possibly some firewood storage.

The personal storage of equipment and one vehicle I'm estimating would be around 500 sq. ft.

I'm also considering a floor drain in the new addition that would hook up to my existing floor drain if possible.

My shop hours and days would remain the same (Monday-Friday 8AM-5PM)

I'm also entertaining the thought of possibly hiring one technician.

Thank you for your consideration of allowing me to hopefully go through with this addition.

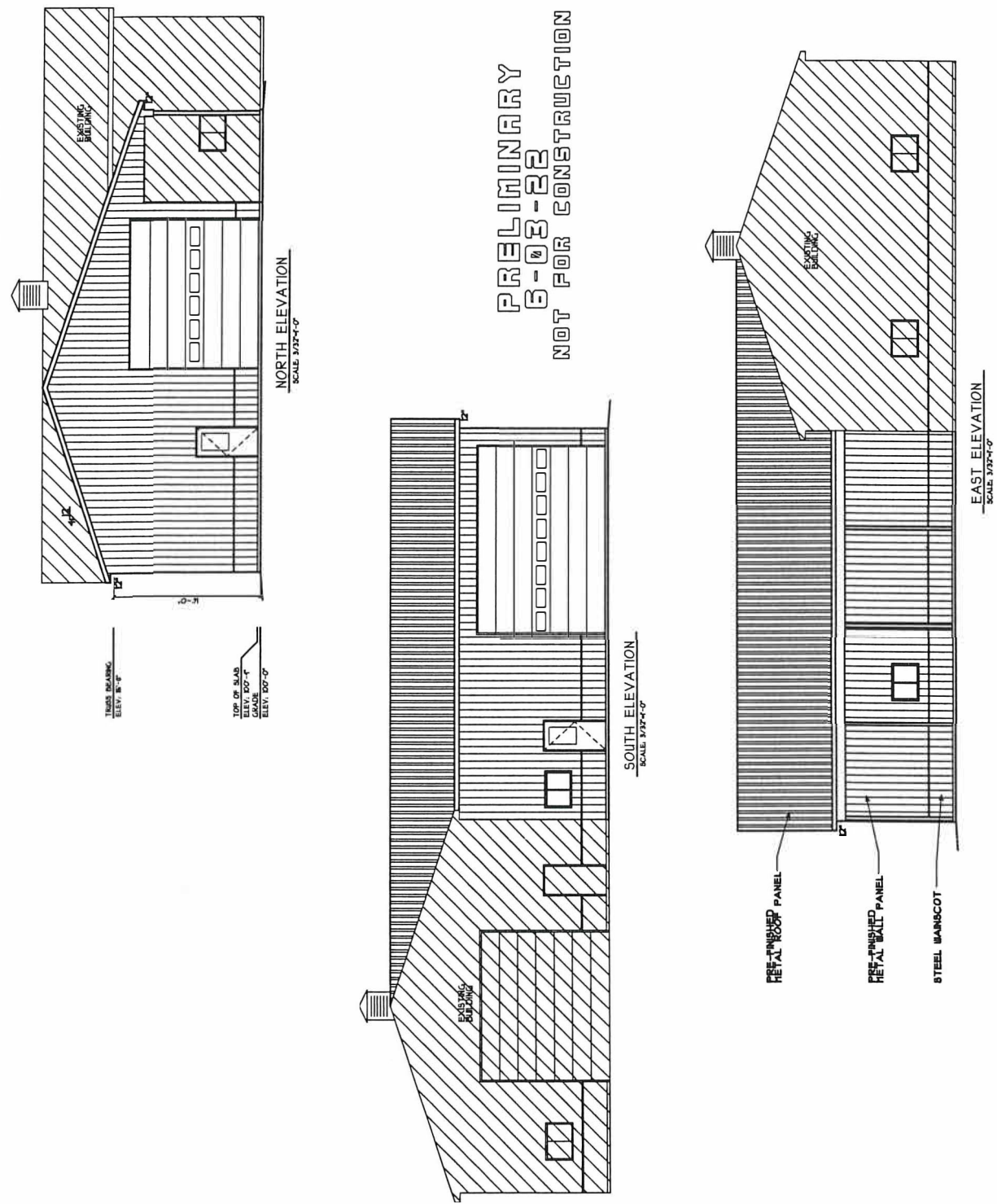
Respectfully,
Todd

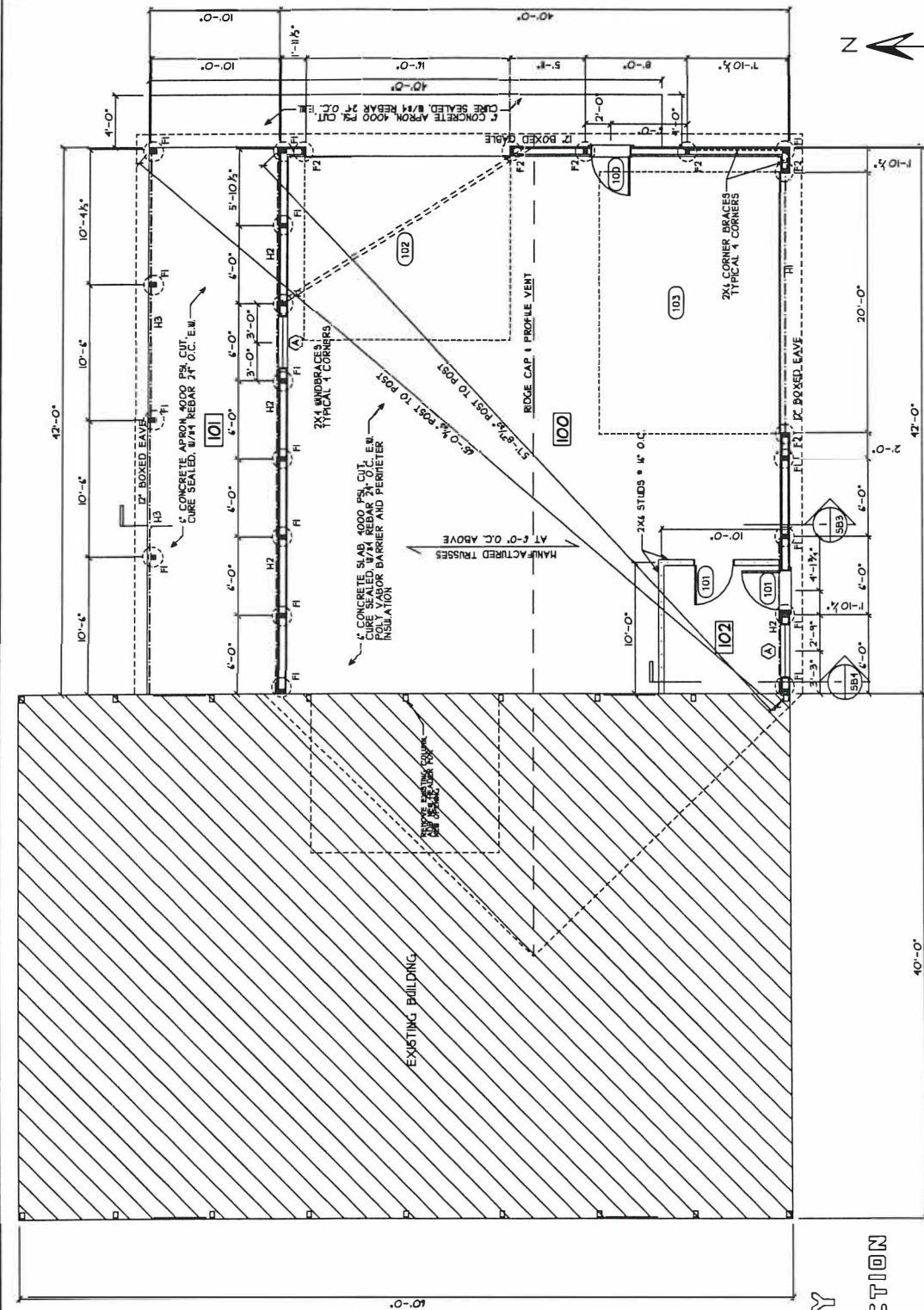
MESENBRING ADDITION



Date: 6/13/2022
This map was created using Carver County's
Geographic Information System (GIS). It is a
digital representation of the land and is not a
survey. It is not to be used for legal purposes.
Carver County, Minnesota
www.carvercountymn.gov







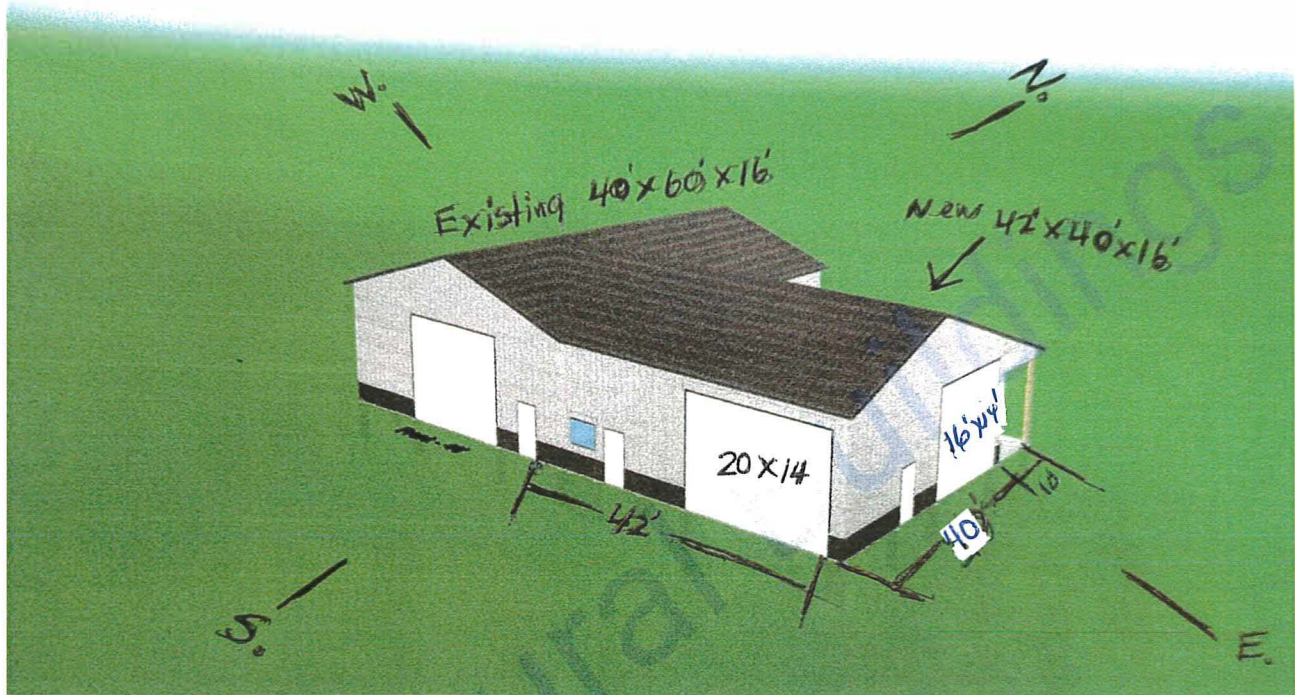
FOUNDATION / FLOOR PLAN
 SCALE: 1/8"=1'-0"

PRELIMINARY
 6-03-22
 NOT FOR CONSTRUCTION

FOOTING SCHEDULE			HEADER SCHEDULE	
SYN	D/A	DEPTH	MIX	REMARKS
F1	18"	10"	3,000 PSI	-
F2	18"	14"	3,000 PSI	-
F3	18"	8"	3,000 PSI	-

SYN	SIZE	REMARKS
H1	2PLY 18" LVL	NAILED TOGETHER
H2	2X2	TRUSS SUPPORT, LEDGER FOR MEZZ.
H3	2PLY 2X2	NAILED TOGETHER

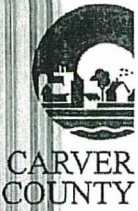
3d View for Messenbring, Todd T-shape



STRUCTURAL
BUILDINGS

3d View for Messenbring, Todd T-shape





Township Presentation & Recommendation Form

PARCEL # <u>01-003-0310</u>	Permit # <u>P2202200023</u>
Owner's Name: <u>Todd Mesenbrink</u>	Owner's Mailing Address: <u>11790 Co Rd 153</u>
City: <u>Dodge</u>	Owner State: <u>MIN</u> Owner Zip: <u>55322 9075</u>
Applicant (if other than owner): <u></u>	Site Address: <u>11790 Co Rd 153</u>

Type of Request: ☒ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☐ Variance ☐ Appeal
Description of Request: <u>expansion of existing CUP - Home extended business accessory use (direct repair)</u>
Date of County Public Hearing: <u>June 24, 2022</u> Date of Township Meeting: <u>May 12, 2022</u>

Actions:

Township Action Taken:

- ☒ Recommends approval and use of the Township Road (if applicable) with the following comments:
- ☐ Recommends denial for the following reasons:
- ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

****Important:** I understand that I must appear at the Town Board meeting to present my request and obtain their recommendation prior to appearing before the County Planning Commission or Board of Adjustment.

Signature of Applicant

Signature of Township Official

Date

Date 5-12-22



COUNTY OF CARVER
State of Minnesota

Document No.
A 564567

OFFICE OF THE
COUNTY RECORDER
CARVER COUNTY, MINNESOTA

Fee: \$0

Receipt#: RA 2012000114

Certified Recorded on 10/24/2012 at 04:02 ☐ AM ☐ PM



Mark Lundgren
County Recorder

FILE #: PZ20120034

OWNER/APPLICANT: Todd Mesenbring

SITE ADDRESS: 11790 Co Rd 153

PERMIT TYPE: Interim Use, Home Occupation in Detached Structure

PURSUANT TO: Carver County Code: Sections 152.081 & 152.082

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 01-003-0310

Drafted by) Land Management
Return to } Land Management

INTERIM USE PERMIT #PZ20120034

COUNTY BOARD ORDER #: PZ20120034

DATE ISSUED: October 2, 2012

This permit is issued for property legally described on the attached Exhibit "A", pursuant to Chapter 152 of the Carver County Code.

THE INTERIM USE (HOME OCCUPATION IN DETACHED STRUCTURE) IS AUTHORIZED BY COUNTY BOARD ORDER #PZ20120034, AS FOLLOWS:

IT IS HEREBY ORDERED THAT THE CARVER COUNTY ZONING ADMINISTRATOR SHALL ISSUE INTERIM USE PERMIT #PZ20120034. THIS PERMIT IS ISSUED PURSUANT TO THE CARVER COUNTY CODE, SECTION(S) 152.081 & 152.082 FOR AN INTERIM USE (HOME OCCUPATION IN DETACHED STRUCTURE) ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A". THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO THE PERMIT:

1. The permit is subject to administrative review. The Interim Use Permit (IUP) is issued to Todd Mesenbring and it is not transferable to another person/owner/occupant. A change in ownership or occupant(s) of the residence shall be cause for the permit to expire. Upon expiration of this permit, the conditions of CUP #PZ20060024 shall prevail.
2. The approved operational plan and site plan shall be considered part of the permit. A maximum of one (1) business vehicle and one (1) employee reporting to the site shall be permitted. The trees shall be planted substantially in accordance with the approved site plan by May 31, 2013.
3. Permittee shall obtain an appropriate building permit(s) prior to any expansion of the accessory structure, which shall not exceed a total area of 3,360 sq. ft. (i.e. up to a 960 sq. ft. addition). An acceptable management plan must be submitted by a licensed SSTS contractor for the existing holding tank for the shop, or Permittee shall obtain a building

permit for the installation of a separate flammable waste trap for the floor drain waste, as determined by the County's Building Official.

4. Permittee shall contact the Environmental Services (E.S.) Department to obtain a Hazardous Waste Generator's License for the business prior to commencing operations.
5. Permittee shall submit a Certificate of Workers' Compensation Insurance and/or proper affidavit to the Land Management Department.



Steve Just
Carver County
Land Management Department Manager

THIS PERMIT IS NOT EFFECTIVE UNTIL SIGNED BY THE APPLICANT. FAILURE OF THE APPLICANT TO SIGN AND RETURN PERMIT WITHIN 90 DAYS OF THE BOARD'S ISSUANCE OF THE ORDER SHALL BE CAUSE FOR CANCELLATION OF THE PERMIT.

Applicant signature block

I HAVE READ THE ABOVE CONDITIONS AND AGREE TO FOLLOW THEM. I REALIZE THAT FAILURE TO ABIDE BY THE CONDITIONS IS A VIOLATION OF THE ZONING ORDINANCE. I AGREE THAT THE ZONING ADMINISTRATOR OR A DESIGNATED REPRESENTATIVE MAY ENTER UPON THE SUBJECT PROPERTY TO CHECK FOR COMPLIANCE OR FOR REVIEW PURPOSES. I ALSO UNDERSTAND THAT UNLESS SIGNIFICANT ACTION IS TAKEN PURSUANT TO THIS PERMIT WITHIN SIX (6) MONTHS OF THE ISSUANCE OF THE BOARD ORDER THE PERMIT SHALL AUTOMATICALLY BE NULL AND VOID. THE TIME PERIOD CAN BE EXTENDED ONLY BY ACTION OF THE COUNTY BOARD OF COMMISSIONERS. A PETITION FOR EXTENSION MUST BE SUBMITTED AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE.

FAILURE OF THE APPLICANT TO SIGN AND RETURN THE PERMIT WITHIN 90 DAYS OF THE BOARD'S ISSUANCE OF THE ORDER SHALL BECAUSE FOR CANCELLATION OF THE PERMIT. I ALSO UNDERSTAND THAT THIS IS NOT A BUILDING PERMIT AND THAT OTHER PERMITS MAY BE REQUIRED.



Signature of Applicant

10 / 22 / 12
Date

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 01-003-0310

File#PZ20220023

APPLICANT/OWNER: Todd J & Vicky L Mesenbring

* * * * *

The South 329.24 feet of the East 474.00 feet of the Southwest Quarter of the Southwest Quarter and the South 329.24 feet of the West 66.00 feet of the Southeast Quarter of the Southwest Quarter, all being part of Section 3, Township 115, Range 25, Carver County, Minnesota. This tract contains 4.08 acres of land and is subject to any and all easements of record.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

June 6, 2022

TO: Carver County Planning Commission

FROM: The Environmental Services Department

SUBJECT: Carver County Code Text Amendments

FILE #: OA-PZ20220022

INITIATED BY: County Staff

TYPE: Ordinance No. 101-2022 to amend Chapter 54 of the County Code

PURSUANT TO: Carver County Code, Chapter 54

LEGAL DESCRIPTION: County-wide

BACKGROUND:

1. The Carver County Feedlot Management Ordinance regulates animal feedlots and livestock wastes in Carver County. The purpose is to maintain and improve the County's agricultural economy and community, and to ensure that animal feedlots and animal wastes are properly managed to protect public health and the environment. The ordinance was established on July 23, 1996, with the last major revision taking place in 2003. Minor amendments related to Conditional Use Permits were adopted in 2007.

STAFF ANALYSIS:

1. Carver County Environmental Services and the Carver County Attorney's Office have drafted an ordinance amending Chapter 54, Feedlot Management of the Carver County Code. The proposed amendments to the County Feedlot Management Ordinance are necessary to better align with Minnesota Rules Chapter 7020.
2. Staff notified the ten Townships and all registered Carver County feedlots of the County's intent to propose amendments to the Feedlot Management Ordinance. Letters were sent to the Townships on April 20, 2022, and to registered feedlot owners on May 2, 2022. A feedlot ordinance amendment webpage was created on April 21, 2022, to display the existing ordinance and the proposed text amendments. A comment section was open for submittal through 12:00 pm on Friday, June 3, 2022, and no comments were received by the comment deadline or at the time of writing this staff report.
3. Minn. Stat. § 394.25 Subd.3(C) requires counties amending an existing feedlot ordinance to notify the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Agriculture (MDA) prior to adoption. A draft ordinance was delivered to the MPCA on January 24, 2022, and the MDA on May 5, 2022. Environmental Services also requested approval of draft text amendments by the Minnesota Department of Natural Resources (MnDNR) on January 31, 2022.
4. **PROPOSED ADOPTIONS:** The proposed text amendment includes additions of numerous definitions and other minor modifications to be consistent with Minnesota Rules Chapter 7020 and the Carver County Zoning Code. Tables identifying animal unit calculations and manure application setbacks have been included as well. The proposed amendments also include the additions of the following sections below:
 - A. **Construction Short-Form Permits and Interim Permits (§ 54.32)**
The current ordinance omits the two types of feedlot permits issued by the County. Construction Short-Form Permits and Interim Permits are incorporated to align with Minnesota Rules 7020.0535.

- B. Feedlot Registration (§ 54.33)
Carver County requires feedlots of ten animal units or more to register with the County. Registration data and the required notification requirements are identified to match Minnesota Rules 7020.0350.
 - C. Setbacks (§ 54.46)
Setback requirements for short-term manure stockpiles to sensitive features, road ditches, and water wells are included to align with Minnesota Rules Chapter 7020.2125. Setback requirements for new and existing feedlots from lakes, rivers, and streams are incorporated as well.
 - D. Locations (§ 54.47)
Location requirements for new and existing feedlots in the shoreland district or floodplain are proposed in order to be consistent with Minnesota Rules Chapter 7020.2005.
 - E. Short-term Manure Stockpiling Sites (§ 54.61)
Technical requirements for short-term manure stockpiling sites are incorporated to be consistent with Minnesota Rules 7020.2125.
 - F. Animal Feedlot or Manure Storage Area Closure (§ 54.65)
Regulations for permanently closing feedlots and manure storage areas are included to reflect Minnesota Rules 7020.2025.
5. PROPOSED REPEALS: Several definitions are described in § 54.04, but they are not used in the County Feedlot Management Ordinance. The proposed amendment also eliminates the following sections below:
- A. Education (§ 54.33)
Education requirements identified in the ordinance have not been enforced over the years.
 - B. Steel Manure Holding Tanks (§ 54.62)
Steel is not listed as an acceptable material used for the construction of liquid manure storage areas in Minnesota Rules 7020.2100.
6. PROPOSED CHANGES: The definition of a “New Animal Feedlot” has been modified to match Minnesota Rules Chapter 7020.0300. The setback for a manure stockpile has been increased from 200 feet to 300 feet from residences, churches, schools, regional parks, cemeteries, non-agricultural commercial activities, and restaurants. Minor changes such as grammar, spacing, punctuation, and other editorial changes have been changed throughout the ordinance, as well as the sections indicated below:
- A. Appeals (§ 54.19)
The appeals section has been modified to match Chapter 152 of the Carver County Zoning Code.
 - B. Commercial Manure Pumpers and Applicators (§ 54.63)
Section 54.63 of the County Feedlot Management Ordinance has been updated to accurately reflect registration requirements for Commercial Animal Waste Technicians.
7. The public hearing notice for the proposed text amendments was published in the Chaska Herald (official newspaper), several other local newspapers, and it was sent to all ten townships in Carver County, MPCA, MDA, and the MnDNR. If the proposed amendments are approved by the Planning Commission, a public hearing would also be held with the County Board, and the hearing notices would be properly titled “intent to enact” an ordinance.
8. The draft text amendments for Chapter 54, Feedlot Management are attached for your review (Note – underline is for new language, strikethrough is for deletion, and both underline and strikethrough are for language that’s been moved). Tables identifying animal unit calculations and manure application setbacks have also been attached for review.

PLANNING COMMISSION CONSIDERATION: If the Planning Commission concludes the public hearing and recommends approval, the County Board would likely hold a public hearing in July/August to consider the adoption of Ordinance No. 101-2022.

If approved, the Planning Commission's recommendation would likely include the following findings of fact:

1. The amendments are in conformance with the Minnesota Pollution Control Agency (MPCA) standards.
2. The amendments are in conformance with the 2040 Comprehensive Plan.
3. The amendments are in conformance with the County Zoning Code.
4. The amendments are not in conflict with any other official controls.
5. The amendments will not be detrimental to the health, safety, or general welfare.

CHAPTER 54: FEEDLOT MANAGEMENT (DRAFT)
ORDINANCE NO. 101-2022

Section

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GENERAL PROVISIONS

§ 54.01 PURPOSE.

It is the intent and purpose of this chapter to maintain and improve the county's agricultural economy and community, and to ensure that animal feedlots and animal wastes are properly managed to protect public health and natural resources.
(Ord. 49, passed 7-7-03)

§ 54.02 TITLE.

This chapter shall be known, cited, and referred to as the Carver County Feedlot Management Ordinance.
(Ord. 49, passed 7-7-03)

§ 54.03 SCOPE AND AUTHORITY.

(A) Scope. From and after the effective date of July 23, 1996, when this chapter was originally adopted, the use of all land and every building or portion of a building used for a feedlot, or as part of a feedlot shall be in conformity with the provisions of this chapter. Pre-existing structures, which are not in conformity with the setback and area provisions of this chapter, and/or ~~the County Zoning Code (§ 152.001 et seq.) Chapter 152 of the Carver County Zoning Code~~, but were in conformity with the standards prior to changes established by the ~~County Zoning Code~~ and/or this chapter, shall be allowed as long as pollution hazards are mitigated within the timelines set forth by the ~~MPCA Feedlot Rule, Minnesota Rules~~ Chapter 7020, or this chapter.

(B) ~~Statutory~~ Authority. This chapter is adopted pursuant to the authorization and policies contained in M.S. Chapters 115 and 116, ~~and MPCA Feedlot Rule, Minnesota Rules~~ Chapter 7020, and the planning and zoning enabling legislation in M.S. Chapter 394.

(C) Jurisdiction. The jurisdiction of this chapter shall apply to all the areas of Carver County outside the incorporated limits of municipalities.
(Ord. 49, passed 7-7-03)

§ 54.04 —DEFINITIONS.

(A) For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

- (1) The word "shall" is mandatory, and not discretionary; the word "may" is permissive; the word "person" shall include individuals, businesses, and corporations;
- (2) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular;
- (3) Words shall be given their common usage if not defined;
- (4) The word "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for";
- (5) The masculine gender shall include the feminine and neuter;
- (6) The word "Board" includes the "county commissioners," the "Board of County Commissioners", or any other word or words meaning the "Carver County Board of Commissioners".

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning or the term is defined in ~~Minn. Rule Minnesota Rules Chapter~~ 7020.

~~AGENCY. The Minnesota Pollution Control Agency (MPCA) as established in M.S. Chapter 116.~~

ANIMAL FEEDLOT. As defined by Minnesota Rules Chapter 7020, a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

ANIMAL UNIT. A unit of measure used to compare differences in the production of animal manure which has a standard, the amount of manure produced on a regular basis by a slaughter steer or heifer. A multiplication factor set by the MPCA in Minnesota Rules Chapter 7020, will be hereinafter adopted by reference without change except as may be amended by state.

ANIMAL MANURE. Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.

~~BLUFF. As defined by the Chapter 152 of the Carver~~ County Zoning Code.

~~BLUFF IMPACT ZONE. As defined by the Chapter 152 of the Carver~~ County Zoning Code.

~~BUILDING, AGRICULTURAL. All buildings, other than dwellings, which are incidental to a farming operation.~~

BUFFER. A vegetative feature as defined by M.S. § 103F.48.

~~CEMETERY. As defined by the Chapter 152 of the Carver~~ County Zoning Code.

~~COMMERCIAL APPLICATOR. As defined by M.S. § 18C.430, Commercial animal waste technician.~~

~~COMMISSIONER. The Commissioner of the Minnesota Pollution Control Agency whose duties are defined in M.S. § 116.03.~~

CONDITIONAL USE PERMIT (CUP). A permit specifically and individually granted, with provisions, by the County Board, after recommendations thereon, pursuant to the provisions of the County Zoning Code. As defined by Chapter 152 of the Carver County Zoning Code.

CONSTRUCTION SHORT-FORM PERMIT. A permit issued for an animal feedlot or manure storage area pursuant to Minnesota Rules Chapter 7020.0505 and 7020.0535.

COUNTY. Carver County, Minnesota.

COUNTY FEEDLOT OFFICER. A county employee, appointed by the County Board, to administer the provisions of this chapter and Minnesota Rules Chapter 7020.

DOMESTIC FERTILIZER. Domestic fertilizer means:

1. Animal manure that is applied on or injected into the soil to improve the quality and/or quantity of plant growth or;
2. Animal manure that is used as compost, soil conditioners, or specialized plant beds.

~~CHURCH. As defined by the Chapter 152 of the Carver~~ County Zoning Code.

~~DRAINAGE WAY. Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.~~

~~DRAINAGE DITCH. A man-made trench that is dug for the purpose of draining water from the land or for transporting water for use on the land and that is not built for navigational purposes.~~

~~EXISTING ANIMAL FEEDLOT. An animal feedlot that has registered with Carver County or the MPCA prior to July 7, 2003 and has been utilized for livestock production within the past five years.~~

~~EXPANSION. Construction or any activity that may result in an increase in the number of animal units that an animal feedlot is capable of holding or an increase in storage capacity of a manure storage area.~~

~~FAMILY. An individual, or two or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.~~

~~FAMILY FARM. As defined by M.S. § 116B.02(6).~~

~~FAMILY, IMMEDIATE. Persons related by blood, marriage, or certified legal instrument.~~

~~FARM. A tract of land or lands, which is primarily used for agricultural activities such as the production of cash crops, livestock or poultry farming. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm. It may be individually, jointly, or corporately owned. As defined by Chapter 152.010 of the Carver County Zoning Code.~~

~~FEEDLOT ADMINISTRATOR. A county employee, or his/her designee, appointed by the County Board, to administer the provisions of this chapter. This employee(s) shall have the same duties and powers as a County Feedlot Pollution Control Officer as defined by MPCA Feedlot Rule, Chapter 7020.~~

~~FEEDLOT, (NEW) ANIMAL. An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of three years or more.~~

~~FEEDLOT, (EXISTING) ANIMAL. An animal feedlot that has registered pursuant to Minn. Rule 7020.0350 and/or has registered with Carver County Environmental Services prior to July 7, 2003.~~

~~FEEDLOT OPERATOR. An individual, a corporation, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.~~

~~FEEDLOT PERMIT. A document issued by the MPCA or County that contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants, management of animal manure, or construction/operation of animal holding areas or manure storage areas. These permits include NPDES, SDS, construction short-form, and interim.~~

~~FEEDLOT REGISTRATION. Required information for animal feedlots and manure storage areas pursuant to Minnesota Rules Chapter 7020.0350.~~

FEEDLOT RUNOFF. The movement of water, in any form, from, or through, a feedlot, carrying particles of manure or process wastewater into a body of water, ditch, right of way, or to a channelized flow environment.

~~FLOOD. As defined by the County Zoning Code.~~

~~FLOODPLAIN. As defined by Chapter 152 of the Carver County Zoning Code.~~

~~FLOOD FREQUENCY. As defined by the County Zoning Code.~~

~~—FLOOD FRINGE. As defined by the County Zoning Code.~~

~~HOTEL. As defined by the County Zoning Code.~~

~~INTERIM PERMIT. A permit issued by the MPCA or County Feedlot Officer to correct a pollution hazard.~~

~~INCORPORATION (ANIMAL MANURE). The mixing of manure with the topsoil by means such as disking, plowing, rototilling, injection or other mechanical means concurrent with the application or within 24 hours, providing the mixing occurs before a rain event.~~

~~LETTER OF COMPLETION. A letter, from the County Environmental Services Department, that an owner/operator of an animal feedlot has attended an approved educational workshop.~~

~~LIVESTOCK. Domestic farm animals including, but not limited to cattle, hogs, horses, bees, sheep, goats, chickens, and other animals commonly kept for commercial food production purposes.~~

~~LIQUID MANURE STORAGE AREA. An area where liquid animal manure and process wastewaters are stored or processed.~~

~~MANURE MANAGEMENT PLAN. A plan that manages the amount (rate), source, placement (method of application) and timing of commercial fertilizers, manure, soil amendments, and organic by-products to agricultural landscapes as a source of plant nutrients while protecting local air, soil, and water quality.~~

~~MANURE STORAGE AREA. An area where animal manure or process wastewaters are stored or processed. Short-term and permanent manure stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to Minnesota Rules Chapter 7020.2000, are not manure storage areas.~~

~~MDA. The Minnesota Department of Agriculture. As established in M.S. Chapter 17.~~

~~MINNESOTA RULES CHAPTER 7020. This rule governs the storage, transportation, disposal, and utilization of animal manure and process wastewaters and the application for and issuance of permits for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment. This chapter does not 104 address wastes from fish.~~

~~MPCA. The Minnesota Pollution Control Agency. As established in M.S. Chapter 116.~~

~~MODIFICATION. A change to a facility component or operational practice described, required, or authorized by a permit issued under this chapter, including an expansion of an existing animal feedlot.~~

~~NEW ANIMAL FEEDLOT. An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five years or more.~~

NPDES PERMIT. National Pollution Discharge Elimination System Permit. A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations (CAFOs).

NON-AGRICULTURAL COMMERCIAL USE. The principal use of land or buildings, for the sale, lease, rental, or trade of products, that is not associated with an agricultural activity. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services. The principal or accessory use of land or buildings for the sale, lease, rental, or trade of products, goods, and services that is not associated with an agricultural activity.

NON-AGRICULTURAL INDUSTRIAL USE. The principal use of land or buildings, for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items, that is not associated with an agricultural activity.

NRCS. The Natural Resources Conservation Service of the USDA, a federal agency.

NUISANCE. Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

OFFSET. Odor From Feedlots Setback Estimation Tool developed by the Department of Biosystems and Agricultural Engineering of the University of Minnesota

ORDINARY HIGH WATER LEVEL. As defined by Chapter 152 of the Carver County Zoning Code.

PARCEL. As defined by the Chapter 152 of the Carver County Zoning Code.

PASTURE. Areas where grass or other vegetation is used for grazing, and the concentration of animals does not allow a vegetative cover to be maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

PERSON. Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. As defined by Chapter 152 of the Carver County Zoning Code.

POLLUTION HAZARD. As defined by the MPCA Feedlot Rule, Minnesota Rules Chapter 7020, including but not limited to an animal feedlot or manure storage area where construction or operation will allow a discharge of pollutants to surface water or ground water in excess of applicable standards, including Minn. Rules 7050 and 7055, during a rainstorm event less than a 25-year, 24-hour magnitude or will violate any state or county rules or ordinances.

POLLUTION, IMPAIRMENT, OR DESTRUCTION. As defined by M.S. § 116B.02(5).

PROCESS WASTEWATERS. Waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material, final material, or product used in or resulting from the production of animals, poultry, or direct products, such as milk or eggs.

REGIONAL PARK. As defined in the County 2020 Comprehensive Plan as Baylor Regional Park, Lake Minnewashta Regional Park, Carver Park Reserve, Lake Waconia County Park, and Lake Bavaria Boat Launch.

RESTAURANT. As defined by M.S. § 157.15(12).

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied or used by a road, street, trail, water line, sewer line, electrical transmission line or similar public and/or utility service. Unless otherwise specified, the term **RIGHT-OF-WAY (R-O-W)** as used in this chapter refers to road or street right-of-way. However, if no records exist, the right- of-way shall be assumed to be 33 feet, measured from the centerline of the road, as built.

SCHOOLS. As defined by ~~the Chapter 152 of the Carver County Zoning Code.~~ For the purpose of this chapter, home schools shall not apply.

REGIONAL PARK. As defined in the County 2020 Comprehensive Plan as Baylor Regional Park, Lake Minnewashta Regional Park, Carver Park Reserve, Lake Waconia County Park, and Lake Bavaria Boat Launch.

RESTAURANT. As defined by M.S. § 157.15(12).

RIGHT-OF-WAY. For the purpose of this chapter, the right-of-way shall be one-half of the actual right-of-way width, indicated by available county records. Unless otherwise specified, the term **RIGHT-OF-WAY (R-O-W)** as used in this chapter refers to road or street right-of-way. However, if no records exist, the right- of-way shall be assumed to be 33 feet, measured from the centerline of the road, as built.

SETBACK. As defined by Chapter 152 of the Carver County Zoning Code.

SENSITIVE AREAS. Areas determined by the State of Minnesota and Carver County that require minimum setbacks for manure application to minimize pollution potentials.

SHORELAND. As defined by Chapter 152 of the Carver County Zoning Code.

SPECIAL PROTECTION AREA. Land within 300 feet of all:

A. Protected waters and wetlands identified through the Department of Natural Resources protected waters and wetlands maps; and

B. Intermittent streams and ditches identified on United States Geological Survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams that are grassed waterways.

SDS PERMIT. State Disposal System Permit. A state permit issued that is processed in accordance with chapter 7001.

SWCD. The Carver County Soil and Water Conservation District.

USDA. The United States Department of Agriculture.

VARIANCE. ~~A modification or variation of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of this chapter would cause an unnecessary hardship.~~ As defined by Chapter 152 of the Carver County Zoning Code.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portions of the state.

WELLHEAD PROTECTION AREA. The surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field.

WETLAND. As defined by M.S. § 103G.005(17b).

(Ord. 49, passed 7-7-03)

§ 54.05 COMPLIANCE AND MEASUREMENTS.

(A) The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this chapter, the County Zoning Code, the provisions of ~~MPCA Feedlot Rule, Minnesota Rules~~ Chapter 7020, the provisions of ~~the MPCA Waters of the State Rule, Minnesota Rules~~ Chapter 7050, and the provisions of ~~the Department of Health Wells and Borings Rule, Minnesota Rules~~ Chapter 4725.

(B) All stated and measured distance shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(Ord. 49, passed 7-7-03)

§ 54.06 –TOWNSHIP POLICIES.

Township Comprehensive Plan Chapters may address policies regarding maximum animal unit density/numbers and thresholds that would trigger a Conditional Use Permit (CUP). This chapter will administer township feedlot policies provided Township Comprehensive Plan Chapters are adopted in accordance with the ~~€~~County's Comprehensive Land Use Plan.

(Ord. 49, passed 7-7-03)

§ 54.07 PROPERLY OPERATED FEEDLOT NOT A NUISANCE.

(A) Agriculture often includes such activities as the intense use of farm equipment and machinery; plowing during dry and windy conditions; the raising of livestock and fowl; the use of soil amendments, including manure, herbicides, and pesticides; and storage of manure. These activities may occur during any 24-hour period. Thus, owners or renters of property located in agricultural areas may be subject to discomforts such as odors, dust, insects, and noise. While these activities may be considered nuisances in a more urban setting, they are common in an agricultural community and vital to the sustenance of an agricultural economy.

(B) Pursuant to M.S. § 561.19, agricultural activities shall not be considered a public nuisance, provided such activities do not violate any state statute, rule, or other law.

(C) This section shall not prevent any party or person from proceeding to bring civil action against an agricultural operator/owner. However, it is strongly encouraged that complaints between agricultural operations and local property owners/renters seek a resolution through the County Dispute Resolution Program or other form of mediation or dispute resolution before pursuing litigation.

(Ord. 49, passed 7-7-03)

ADMINISTRATION AND ENFORCEMENT

§ 54.15 ADMINISTRATION.

(A) The County Environmental Services Department shall administer this chapter. The County Board shall appoint a County Feedlot ~~Administrator~~Officer(s) to discharge the authorities of this Department under the Feedlot Management Chapter.

(B) The County Feedlot ~~Officer~~ ~~Administrator(s)~~ shall have the authority to:

- (1) Administer and enforce this chapter;
- (2) Supervise the keeping of all necessary records for feedlots, including but not limited to:
 - (a) Permit applications;
 - (b) Inspection reports;
 - (c) Correspondence;
 - (d) Site plans;
 - (e) Engineering and construction reports for manure storage facilities, and/or other required engineering plans;

(f) Registrations;

(g) Complaint investigation reports;

(h) Odor exemption logs;

(i) Manure Management Plans;

(3) Consult with SWCD, NRCS, MPCA, and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures, or other management practices for the purpose of pollution control;

(4) Provide and maintain public information and educational materials relative to this chapter and feedlot management;

(5) Oversee the inspection of feedlot operations to ~~insure~~ensure compliance with the standards of this chapter;

(6) Review permits and feedlot sites every four years, or more, to determine continuing compliance with this chapter;

(7) Consult with other county departments, state and federal agencies, and private consultants as needed.

(C) The County Feedlot ~~Administrator~~Officer(s) shall have the authority to review applications and process as follows:

(1) Copies of application materials for state and/or federal administered feedlots shall be submitted to the County Feedlot ~~Administrator~~Officer. Originals should be sent to the MPCA. However, feedlot owners and/or operators that need assistance with state and/or federal applications can request support from the County Feedlot ~~Administrator~~ Officer.

(2) No building permits, or other similar permit, for the purpose of the confined feeding, breeding, raising, or holding of animals or the handling or storage of manure shall be issued until approval is made by the County Feedlot ~~Administrator~~Officer(s).

(D) Feedlots that are administered by the MPCA shall not be exempt from this chapter, or ~~the Chapter 152 of the Carver County~~ Zoning Code.

(1) Animal feedlots of 1,000 animal units or more shall be administered by the MPCA.

(2) Animal feedlots of less than 1,000 animal units with a NPDES or SDS Permit shall be administered by the MPCA.

(Ord. 49, passed 7-7-03)

§ 54.16 VIOLATIONS AND ENFORCEMENT.

(A) Violations. Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

(B) Enforcement.

(1) Access to premises. Upon the request of the County Feedlot ~~Officer~~Administrator, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises for the purposes of regulating and enforcing this chapter.

(2) Interference prohibited. No person shall hinder or otherwise interfere with the County Feedlot ~~Officer~~Administrator in the performance of duties and responsibilities required pursuant to this chapter.

(3) Stop work orders. Whenever any work is being done contrary to the provisions of this chapter, the County Environmental Services Department, or the Land Management Department may order the work stopped by written notice personally served upon the owner or operator of the feedlot. All activities shall cease and desist until subsequent authorization to proceed is received from the Environmental Services Department or the Land Management Department.

(4) Revocation. Any person who fails to comply with the conditions set forth in the feedlot permit may be subject to revocation upon written notice personally served upon the owner or operator of the feedlot.

(5) Injunctive relief and other remedies. In the event of a violation or a threat of a violation of this chapter, the county may institute appropriate actions or proceedings, including injunctive relief, to prevent, restrain, correct or abate such violations or threat of violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, and such costs may be certified by court order to the County Auditor as a special tax against the real property. These and other remedies, as determined appropriate by the county, may be imposed upon the applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

(Ord. 49, passed 7-7-03)

§ 54.17 JOINT AND SEVERABLE LIABILITY.

(A) Owners and operators of feedlots shall have joint and severable liability for clean-up, closure, and remediation of abandoned feedlot sites.

(B) The owner, and/or operator, of any animal feedlot shall be responsible for the storage, transportation, and disposal of all animal manure and associated wastewater generated by the animal feedlot.

(Ord. 49, passed 7-7-03)

§ 54.18 VARIANCES.

(A) Any person seeking a variance to this chapter shall complete a Variance Application Form and submit it to the County Environmental Services Department.

(B) All variances shall be processed per the ~~County Zoning Code, § 152.215 Chapter 152 of the Carver County Zoning Code.~~

(C) The Board of Adjustment may impose conditions it considers necessary to protect the public health, safety, and welfare. Such conditions may include odor mitigation or other agricultural management practices.

(D) Any use that is also prohibited by the Zoning Code will require a variance to the Zoning Code and can be addressed in the same application to the Land Management Department.

(Ord. 49, passed 7-7-03)

§ 54.19 -APPEALS.

(A) Filing. The appeal shall be filed with the Environmental Services Department within 30 days of the action that is being appealed and shall include specifically the order, requirement, decision, or determination which is being appealed, the requested remedy, and shall state the reasons for appeal. The Department shall prepare a report and refer the appeal to the County Board of Adjustment for a decision. The appeal shall be heard at a public hearing by the Board of Adjustment. The Board shall give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public.

(B) Stay of action. The filing of an appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate the stay would cause imminent peril to life or property.

(C) Decision. The Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and to that end shall have all of the powers of the officer from whom the appeal was taken and may direct issuance of the permit. The Board's decision shall be by the adoption of an order. The order shall include the findings of fact supporting the Board's decision. The Board shall not act on an appeal in such a fashion as to violate the comprehensive plan or violate any state or federal law or rule. The Board shall act in such time as required to comply with state law.

~~—(A) Hearing. An appeal from any order, requirement, decision, or determination from the Feedlot Administrator shall be heard by the Board of Adjustment within 60 days from the date of filing the appeal. The Board of Adjustment shall give due notice thereof to the appellant and the officer, from whom the appeal is taken, and to the public and decide the same within 90 days of the hearing date.~~

~~—(B) Stay of action. An appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate the stay would cause imminent peril to life or property.~~

~~—(C) Action to Board of Adjustment. The Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and to that end shall have all of the powers of the officer from whom the~~

~~appeal was taken and may direct issuance of the permit. The reasons for the Board of Adjustment's decision shall be stated in writing.~~

(Ord. 49, passed 7-7-03)

PERMIT AND ~~EDUCATIONAL-REGISTRATION~~ REQUIREMENTS

§ 54.30 FEEDLOT PERMITS.

~~—(A) All feedlots of ten animal units or more shall be inventoried through the County Feedlot Inventory.~~

~~(B)~~(A) Permit required. Any person owning or operating an existing feedlot, or proposing a new feedlot, shall make application to the Environmental Services Department, and obtain a permit:

(1) When required under ~~the MPCA Feedlot Rule, Minnesota Rules~~ Chapter 7020;

(2) When a change in the construction or operation of an animal feedlot would significantly or adversely affect the storage, handling, utilization, or disposal of animal manure;

(3) When a new feedlot, of ~~ten animal units or more in shoreland, and~~ 50 animal units or more out~~side~~ of shoreland, is proposed;

(4) (a) The County Board may, by resolution, require all un-permitted feedlots within environmentally sensitive areas to apply for, obtain, and operate according to the requirements of a permit. These areas may include, but are not limited to:

1. Shoreland areas;
2. Specific watersheds or sub-watersheds;
3. Areas determined by the County Board to be sensitive to ground or surface water pollution;

~~(b)~~ The resolution adopting these requirements must state the reason or reasons for declaring the area an environmentally sensitive area and shall include legally sufficient findings of fact. A public meeting, for the purpose of receiving comment on the proposed resolution, shall take place prior to the adoption of the resolution. All known feedlots and local governments within the area shall receive written notice of the intention of the County Board to take such action at least 14 days prior to the public comment meeting.

(5) A feedlot, of any size, which is located within the Shoreland Zoning District, may be reviewed by the Carver County Feedlot ~~Administrator-Officer~~ to determine if a pollution hazard exists. The Feedlot ~~Administrator-Officer~~ may place conditions upon the operations of such feedlots to limit their impact on surface water quality.

~~(C)~~(B) Permit application. Applications will be the MPCA permit application for animal feedlots and/or manure storage areas.

(Ord. 49, passed 7-7-03)

§ 54.31 CONDITIONAL USE PERMITS.

~~(A) Feedlots meeting one or more of the following criteria must apply for and receive a Conditional Use Permit (CUP), pursuant to Chapter 152 of the Carver County Zoning Code, when issuance of a permit is required by § 54.30(B) of this chapter:~~

- (1) Feedlots, of ten animal units or more, located in the Shoreland Zoning District;
 - (2) Feedlots of 300 animal units or more located in the following areas:
 - (a) The portion of the county located east of County Road 10 in Watertown Township, all of Laketown Township, all of Chaska Township, the part of Dahlgren Township lying east of Guernsey Avenue and north of County Road 140 and that part of Dahlgren Township lying east of County Road 40, and the part of San Francisco Township lying east of County Road 40;
 - (b) Feedlots of 600 animal units or more located in that part of the county not covered by division (2) above;
 - (c) Feedlots identified by specific policies of a Township Comprehensive Plan Chapter, pursuant to § 54.06 of this chapter;
 - (d) Any feedlot expansion of an existing animal feedlot requested within Transition Areas identified by the County Comprehensive Land Use Plan. An application shall only be accepted by the county provided the affected municipality submits a letter stating the operation would conform to the city's Comprehensive Plan.
 - (B) Continuation of the public hearing may be necessary in order to gather further information prior to making recommendation to the County Board.
 - (C) Conditions shall be required for approval. Conditions should address, but may not be limited to, the following:
 - (1) Maintaining an appropriate crust or cover on an earthen basin;
 - (2) Providing a notice to neighbors before manure hauling/application;
 - (3) Using an injection method or a spread and incorporate method for manure application;
 - (4) Managing odors through use of covers, curtains, or biofilters;
 - (5) Utilizing new technology, approved by the County Feedlot Officer;
 - (6) Utilizing OFFSET for odor prediction.
- (Ord. 49, passed 7-7-03 ; Am. Ord. 62-2007, passed 12-11-07)

§ 54.32 CONSTRUCTION SHORT-FORM AND INTERIM PERMITS.

- (A) A Construction Short-Form Permit will be issued for construction or expansion of the feedlot or manure storage areas unless a NPDES, SDS, or Interim Permit is required.
- (B) An interim permit may be issued if there is demonstrated non-compliance with this Ordinance or Minnesota Rules Chapter 7020, the animal feedlot has less than 1000 animal units, manure is used as a domestic fertilizer, and the potential pollution hazard will be mitigated within 24 months or less, and a SDS or NPDES permit is not required.
- (C) Term of Construction Short-Form and Interim Permits. All Construction Short-Form Permits and Interim Permits expire within 24 months of the date of issuance.
- (D) If the work for which a Construction Short-Form Permit was issued is not complete upon expiration of the permit, the expiration date may be extended by no more than 24 months.
- (E) If the pollution hazard for which an Interim Permit was issued is not corrected upon expiration of the permit, the expiration date may be extended by no more than 90 days if:
 - (1) The facility is currently eligible for the same permit;

(2) The owner notifies the County Feedlot Officer at least 90 days prior to the expiration of the permit.

(F) Applicability. This section applies to owners who apply for Construction Short-Form and Interim Permits.

(G) Construction Short-Form Permit content. A Construction Short Form-Permit issued by the County Feedlot Officer must state: "The permittee shall comply with Minnesota Rules, parts 7020.2000 to 7020.2225, and all applicable requirements." The permit shall also identify at least the following information:

(1) The permit number;

(2) The names and addresses of the owners and the signature of at least one of the owners;

(3) The legal name and business address of the facility, if different than the owner;

(4) The location of the facility by County, township, section, and quarter section;

(5) A list of all animal types and the maximum number of animals of each animal type that can be confined within each lot, building, or area at the animal feedlot;

(6) A list of all existing and proposed manure storage areas including plans and specifications as required in Minnesota Rules Chapter 7020 for proposed liquid manure storage areas and permanent stockpile sites;

(7) The total number of animal units the facilities will be capable of holding after completing construction or expansion of an existing feedlot;

(8) The soil type or texture and depth to saturated soils at the facility as identified in the USDA Soil Survey Manual or a site-specific soils investigation;

(9) An aerial photograph showing the location of all wells, buildings, surface tile intakes, lakes, rivers, and watercourses within 1,000 feet of the proposed facility;

(10) The number of acres available for land application of manure;

(11) A Manure Management Plan if the facility is capable of holding 100 or more animal units;

(H) Interim Use Permit content. An Interim Permit issued by the County Feedlot Officer must also include the requirements listed under item B and the following:

(1) The corrective and protective measures required to bring the facility into compliance with Minnesota Rules 7020.2000 to 7020.2225, as amended;

(2) The Schedule under which the corrective and protective measures must be completed;

(3) Additional requirements related to the specific site or operation as determined necessary to ensure compliance with applicable rules and requirements.

§ 54.33 FEEDLOT REGISTRATION.

(A) All feedlots of ten animal units or more shall register with Carver County Environmental Services.

(B) Registration Data. Carver County Environmental Services shall maintain registration data for animal feedlots and manure storage areas. The registration data must include:

1. Date the registration form was completed;

2. Name and address of all owners of the animal feedlot or manure storage area;

3. Facility location according to township, county, section, and quarter section;
4. Permit or certificate number for owners who have been issued a county feedlot permit or certificate of compliance;
5. Types of animal holding areas including pastures, confinement barns, and open lots;
6. Number and types of animals;
7. Identity of surface waters within 1,000 feet of the facility;
8. Presence and type of manure storage areas;
9. Shortest distance from an animal holding area or manure storage area to a well;
10. The name of the person that completed the registration form;

(C) Notification. The County Feedlot Officer shall notify owners at least 90 days prior to the scheduled registration update deadline and send a receipt of registration to owners within 30 days of receipt of the registration.

Animal Unit Calculations

<u>Animal Type</u>	<u>Animal Unit (AU) Factor</u>	<u>Animal Type</u>	<u>Animal Unit (AU) Factor</u>
<u>Dairy Cow > 1,000 lbs. (milked or dry)</u>	<u>1.4</u>	<u>Sheep or Lamb</u>	<u>0.1</u>
<u>Dairy Cow < 1,000 lbs. (milked or dry)</u>	<u>1.0</u>	<u>Goat</u>	<u>0.15</u>
<u>Dairy - Heifer</u>	<u>0.7</u>	<u>Chickens - liquid manure</u>	<u>0.033</u>
<u>Dairy - Calf</u>	<u>0.2</u>	<u>Chickens - Broilers > 5 lbs.</u>	<u>0.005</u>
<u>Beef - Cow & Calf Pair</u>	<u>1.2</u>	<u>Chickens - Broilers ≤ 5 lbs.</u>	<u>0.003</u>
<u>Beef - Slaughter/Stock/Bull</u>	<u>1.0</u>	<u>Chickens - Layers > 5 lbs.</u>	<u>0.005</u>
<u>Beef - Feeder/Heifer</u>	<u>0.7</u>	<u>Chickens - Layers < 5 lbs.</u>	<u>0.003</u>
<u>Beef - Calf</u>	<u>0.2</u>	<u>Turkeys > 5 lbs.</u>	<u>0.018</u>
<u>Swine > 300 lbs.</u>	<u>0.4</u>	<u>Turkeys > 5 lbs.</u>	<u>0.005</u>
<u>Swine 55-300 lbs.</u>	<u>0.3</u>	<u>Ducks - dry manure</u>	<u>0.01</u>
<u>Swine < 55 lbs.</u>	<u>0.05</u>	<u>Ducks - liquid manure</u>	<u>0.01</u>
<u>Horse</u>	<u>1.0</u>	<u>Other Animals</u>	<u>Average weight ÷ 1,000 lbs.</u>

§ 54.31 CONDITIONAL USE PERMITS.

~~—(A) Feedlots meeting one or more of the following criteria must apply for and receive a Conditional Use Permit (CUP), pursuant to the County Zoning Code, when issuance of a permit is required by § 54.30(B) of this chapter:~~

~~—(1) Feedlots, of ten animal units or more, located in the Shoreland Zoning District;~~

~~—(2) Feedlots of 300 animal units or more located in the following areas:~~

~~—(a) The portion of the county located east of County Road 10 in Watertown Township, all of Laketown Township, all of Chaska Township, the part of Dahlgren Township lying east of Guernsey Avenue and north of County Road 140 and that part of Dahlgren Township lying east of County Road 40, and the part of San Francisco Township lying east of County Road 40;~~

~~—(b) Feedlots of 600 animal units or more located in that part of the county not covered by division (2) above;~~

~~—(c) Feedlots identified by specific policies of a Township Comprehensive Plan Chapter, pursuant to § 54.06 of this chapter;~~

~~—(d) Any feedlot expansion requested within Transition Areas identified by the County Comprehensive Land Use Plan. An application shall only be accepted by the county provided the affected municipality submits a letter stating the operation would conform to the city's Comprehensive Plan.~~

~~—(B) Continuation of the public hearing may be necessary in order to gather further information prior to making recommendation to the County Board.~~

~~—(C) Conditions shall be required for approval. Conditions should address, but may not be limited to, the following:~~

~~—(1) Maintaining an appropriate crust or cover on an earthen basin;~~

~~—(2) Providing a notice to neighbors before manure hauling/application;~~

~~—(3) Using an injection method or a spread and incorporate method for manure application;~~

~~—(4) Managing odors through use of covers, curtains, or biofilters;~~

~~—(5) Utilizing new technology, approved by the County Feedlot Administrator;~~

~~—(6) Utilizing OFFSET for odor prediction.~~

~~(Ord. 49, passed 7-7-03 ; Am. Ord. 62-2007, passed 12-11-07)~~

~~§ 54.34~~ **SERVICE FEES.**

Service fees are annually set by the County Board for various permits and other such services.

(Ord. 49, passed 7-7-03)

~~§ 54.33~~ **EDUCATION.**

~~—(A) Any operator/owner of an animal feedlot, with ten animal units or more, shall participate in an educational workshop or program, approved by the Environmental Services Department, once every three years. A letter of completion or attendance shall be proof of fulfillment of this requirement.~~

~~—(B) Any operator/owner of an animal feedlot, who is required to fulfill the educational requirement in division (A), is exempt from such requirement if he/she has an approved~~

~~manure management plan, in accordance with Minn. Rule 7020.2225, or has a written agreement to close the feedlot, within three years, in accordance with Minn. Rule 7020.2025.~~

~~—(C) Any person, required to meet this condition, who fails to attend an approved workshop or program, within the three-year period, shall be subject to a \$100 penalty fee. This fee may be used to offset the cost of an unscheduled workshop or program that the individual(s) are required to attend.~~

~~{Ord. 49, passed 7-7-03}~~

FEEDLOT AND SETBACK REQUIREMENTS

§ 54.45 MINIMUM ACREAGE.

A minimum area of five acres or such greater area required to meet all setbacks set forth by ~~the County Zoning Code Chapter 152 of the Carver County Zoning Code~~ and this chapter shall be required for feedlot operations.

(Ord. 49, passed 7-7-03)

§ 54.46 SETBACKS.

(A) Livestock buildings, all types of manure storage areas, and manure stockpiles shall be constructed, operated, and maintained to minimize, within economical reason and industry standards, the aesthetic, health, odor, and pollution concerns.

(B) For the purpose of this section, when measuring from a road, the edge of the right-of-way line shall be considered the property line.

(C) New feedlots.

(1) A setback of 200 feet shall apply to all new feedlots of ten animal units or more from rear, front, and side property lines.

(2) A setback of 1,000 feet shall apply to all feedlots of 30 animal units or more from residences, churches, schools, regional parks, cemeteries, non-agricultural commercial ~~and industrial~~ activities, and restaurants.

(a) A setback of 1,000 feet shall also apply to all new residences, churches, schools, regional parks, cemeteries, non-agricultural commercial ~~and industrial~~ activities, and restaurants from animal feedlots of 30 animal units or more.

(b) Owners and/or operators of a proposed feedlot, that also own the residences, churches, schools, regional parks, cemeteries, non-agricultural commercial ~~and industrial~~ activities, and restaurants, on the site, shall be exempt from the setback requirements set forth in this section. This exemption shall be reciprocal.

(D) Existing feedlots as of July 7, 2003.

(1) The modifications and/or expansions of ~~existing~~ animal feedlots, that are located within 200 feet of existing property lines, may be allowed if they do not further encroach on the established setback.

(2) The modification or expansion of ~~existing~~ animal feedlots that are located within 1,000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural

commercial ~~and industrial~~ activities, and restaurants may be allowed if the modification and/or expansion does not further encroach on the established setback.

(a) This setback shall be reciprocal.

(b) Odor mitigation techniques as authorized in § 54.48 of this chapter may be required for feedlots seeking to expand or modify pursuant to this section.

(E) Feedlots established after July 7, 2003. Animal feedlots, consisting of fewer than 30 animal units, that are located within 1,000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants shall not be allowed to expand to greater than 30 animal units.

(F) Residential lots and building sites that were approved by plat, minor subdivision, CUP, variance, or other similar action -- prior to May 1, 2000 -- shall be exempt from the 1,000-foot setback requirement. The dwelling shall be located as far from the feedlot as reasonably practical, determined by the Department of Environmental Services in coordination with the Land Management Department.

(G) Manure stockpiles.

(1) No manure stockpile, of a feedlot over 30 animal units, shall be permitted within 200-300 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants.

(2) No manure stockpile shall be permitted within 300 feet of flow distance and at least 50 feet horizontal distance, to waters of the state, rock outcroppings, open tile intakes, and any uncultivated wetlands.

(3) No manure stockpile shall be permitted within 300 feet of flow distance to any road ditch that flows to the features identified in subitem (2) or 50 feet of any road ditch where subitem (1) does not apply.

(4) No manure stockpile shall be permitted within 100 feet of any private water supply or any unused and unsealed well and 200 feet from any private well that contains less than 50 feet of watertight casing and is not cased through a confining layer of at least 10 feet thick.

(H) Wetlands.

(1) No new feedlot shall be permitted within 300 feet of an unprotected wetland ~~that is Type 3-8 or greater~~ of one acre or more, as defined by the Circular 39 Wetland Classification System.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of an unprotected wetland ~~that is Type 3 or greater~~ Type 3-8, of one acre or more, as defined by the Circular 39 Wetland Classification System, are allowed as long as the expansion does not further encroach ~~into any closer to~~ the wetland or pose a pollution hazard.

(3) No new feedlots shall be permitted within 500 feet of any wetland designated as a special protection area.

(4) Modifications or expansions to existing feedlots that are located within 500 feet of any wetland designated as a special protection area are allowed as long as the expansion does not further encroach any closer to the wetland or pose a pollution hazard.

(I) Lakes.

(1) No new feedlot shall be permitted within 1,000 feet of the ordinary high water level of a lake.

(2) Modifications or expansions to existing feedlots that are located within 1,000 feet of a lake are allowed as long as the expansion does not further encroach any closer to the ordinary high water level of a lake.

(J) Rivers.

(1) No new feedlot shall be permitted within 300 feet of the ordinary high water level of a river.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of a river are allowed as long as the expansion does not further encroach any closer to the ordinary high water level of a river.

(K) Streams and intermittent streams.

(1) No new feedlot shall be permitted within 300 feet of the ordinary high water level of a stream or intermittent stream.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of a stream or intermittent stream are allowed as long as the expansion does not further encroach any closer to the ordinary high water level of a stream or intermittent stream.

(Ord. 49, passed 7-7-03)

§ 54.47 LOCATIONS.

(A) Well head protection areas. Feedlot and manure management practices may be further regulated within a Well Head Protection Zone established by local units of government.

(B) Bluff impact zone. Modifications or expansions ~~to of~~ existing animal feedlots that are located within a bluff impact zone are allowed if they do not further encroach on the bluff impact zone, all zoning regulations are complied with, and all identified pollution hazards are corrected.

(C) Transition areas. No new feedlot shall be constructed within any of the Transition Areas identified by the County Comprehensive Land Use Plan without approval of the city.

(D) Abandoned Wells. All abandoned wells shall be properly sealed pursuant to ~~Minn. Department of Health Rule, Minnesota Rules~~ Chapter 4725.

(E) Shoreland. New Feedlots shall not be located within a Shoreland District. Existing animal feedlots or manure storage areas expanding in the Shoreland District shall not locate any portion of the expanded animal feedlot or the manure storage area closer to the ordinary high water level than any existing portion of the animal feedlot or the manure storage area.

(1) Existing feedlots in a Shoreland District shall not be expanded above 999 animal units.

(F) Floodplain. No new feedlot shall be constructed within a floodplain. Existing animal feedlots or manure storage areas in a Floodplain District shall not be expanded.

(Ord. 49, passed 7-7-03)

§ 54.48 ODOR MITIGATION.

(A) The use of odor modeling to analyze feedlot odors and make recommendations for odor management may be necessary for an expansion or modification of an existing animal

feedlot pursuant to § 54.46(D)(2), a CUP, or variance request. For the purpose of this section, measuring for an odor rating shall be achieved by using OFFSET -- or another feedlot odor measuring tool recommended by the University of Minnesota and approved by the County Feedlot ~~Administrator~~Officer.

(B) New liquid manure storage facilities, for swine feedlots over 300 animal units, shall not be constructed unless the facility will be covered, with an approved cover, for the purpose of odor mitigation. The cover shall be in place and maintained from May 1 through November 1.

(C) New barns, including modifications of barns, with shallow or deep pits, must be constructed using approved biofiltration air systems, or approved equivalent (i.e., University of Minnesota approved systems).

(D) Feedlots requiring a liquid manure storage facility, for the purpose of pollution abatement, may be exempt from this section, if so determined by action of the Board of Commissioners.

(Ord. 49, passed 7-7-03)

MANURE AND LAND APPLICATION REQUIREMENTS

§ 54.60 –LAND APPLICATION OF MANURE.

(A) All application of manure shall follow ~~the MPCA Feedlot Rule, Minnesota Rules Chapter 7020.2225, as amended~~, in addition to the requirements set forth in this chapter.

~~(B) Manure and process wastewater must not be applied to land in a manner that will:~~

~~(1) Result in a discharge to waters of the state during the application process.~~

~~(2) Cause pollution of waters of the state due to manure-contaminated runoff.~~

~~(B)~~ Buffer requirements.

(1) Streams, wetlands, and drainage ditches.

(a) Protected. If applying manure, or process wastewater, ~~with~~within 300 feet of the ordinary high water of a protected stream, wetland, or drainage ditch, a 25-foot vegetated buffer shall be maintained along the stream, wetland, or drainage ditch~~-, and manure must be injected or incorporated within 24 hours.~~

(b) Unprotected. If applying manure, or process wastewater, within 50 feet of the ordinary high water of an unprotected stream, wetland, or drainage ditch, one rod (16.5 feet) of vegetated buffer shall be maintained along the stream, wetland, or drainage ditch.

(2) Lakes. If applying manure, or process ~~waste water~~wastewater, within 300 feet of the ordinary high water of any lake, a 25-foot vegetated buffer shall be maintained along the lake~~-, and manure must be injected or incorporated within 24 hours.~~

(C) Right-of-Way. Manure shall not be applied to the right-of-way of public roads.

(D) Wells.

(1) If no pollution hazard exists, a minimum distance of 100 feet shall be maintained between manure, or process wastewater, and any private water supply well.

(2) If no pollution hazard exists, a minimum distance of 300 feet shall be maintained between manure, or process wastewater, and any public water supply well.

(E) Residences. Animal manure, and process wastewater, shall not be applied within 100 feet of a residence unless it is injected or immediately incorporated into the soil. However, permission by the resident may be granted to spread closer. When determining the distance between a residence and manure application, the distance shall be measured from the residence, not property lines, to manure application.

(F) Treatment or disposal. Any manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state rules.

(G) Irrigation of liquid manure. Irrigation of liquid manure is strictly prohibited in the county.

(Ord. 49, passed 7-7-03)

<u>Land Application of Manure Setbacks</u>		
<u>Physical Features/Structures</u>	<u>Surface Spread or Winter Application</u>	<u>Injected/Incorporated within 24 hours</u>
<u>Lakes*</u>	<u>300 feet</u>	<u>25 feet</u>
<u>Rivers or Streams*</u>	<u>300 feet</u>	<u>25 feet</u>
<u>Wetlands*</u>	<u>300 feet</u>	<u>25 feet</u>
<u>Drainage Ditches*</u>	<u>300 feet</u>	<u>25 feet</u>
<u>Open Tile Intakes</u>	<u>300 feet</u>	<u>0 feet</u>
<u>Mines and Quarries</u>	<u>50 feet</u>	<u>50 feet</u>
<u>Floodplain</u>	<u>Prohibited</u>	<u>Prohibited</u>
<u>Public Roads (right-of-way)</u>	<u>0 feet</u>	<u>0 feet</u>
<u>Wells** (public)</u>	<u>300 feet</u>	<u>300 feet</u>
<u>Wells** (private)</u>	<u>100 feet</u>	<u>100 feet</u>
<u>Residences*** (other than landowner or operator)</u>	<u>100 feet</u>	<u>---</u>

*Non-winter setbacks may be reduced from 300' to either 100' (lakes and perennial streams) or 50' (wetlands, drainage ditches, and intermittent streams) if permanent vegetative buffers of at least 100' or 50' wide are planted along the waters.

** Sensitive water-supply wells must be setback twice the indicated distance.

***Distance may be reduced with resident's permission.

§ 54.61 SHORT-TERM MANURE STOCKPILING SITES.

(A) Manure stockpiling sites shall comply with Minnesota Rules Chapter 7020.2125, as amended.

(B) Manure stockpiling sites shall be located and constructed where manure-contaminated runoff from the site does not discharge to waters of the state.

(C) An owner of a short-term manure stockpile site must operate and maintain the stockpile such that:

(1) The manure is removed from the site and land applied in accordance with Minnesota Rules 7020.2225, as amended, within one year of the date when the stockpile was initially established.

(2) A vegetative cover is established on the site for at least one full growing season prior to reuse as a short-term stockpiling site except for the following:

(a) Sites located within the confines of a hoofed-animal open lot at a facility having the capacity to hold fewer than 100 animal units.

(b) Sites where manure is stockpiled for fewer than ten consecutive days and no more than six times per calendar year.

(D) Manure stockpiling sites shall not be placed on land with greater than six percent slope.

§ 54.62~~1~~ MANURE SPREADERS AND OTHER VEHICLES.

(A) All vehicles used to transport animal manure, or process wastewater, on public roads shall be leak proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak proof.

(B) All animal manure shall be stored and transported in conformance with ~~MPCA Feedlot Rule (Chapter 7020)~~ Minnesota Rules 7020 and this chapter.

(Ord. 49, passed 7-7-03)

~~§ 54.62 STEEL MANURE HOLDING TANKS.~~

~~—No steel tanks shall be used for underground manure storage.~~

~~(Ord. 49, passed 7-7-03)~~

§ 54.63 COMMERCIAL MANURE PUMPERS AND APPLICATORS.

(A) All commercial manure pumpers and applicators must be registered with the ~~County Environmental Services Department~~ MDA and follow Minnesota Rules Chapter 7020.2225, as amended, in order to conduct business within the county.

(B) Registration must be in conformance with County and State regulations.

~~—(B) Registration must include the following:~~

~~—(1) Written request for registration that includes company name, owner(s) name, address, description of land application procedures/policies used;~~

~~—(2) Any other information as requested by the County Environmental Services Department;~~

~~—(3) Registration shall be renewed every four years.~~

(C) The following conditions shall apply to manure application:

- (1) Liquid manure must be injected or incorporated within 24 hours of application;
- (2) Pumpers and applicators shall comply with the conditions of this chapter and the feedlot owner's permit.

(Ord. 49, passed 7-7-03)

§ 54.64 ADDITIONAL LAND.

The feedlot owner and/or operator shall own, or have sufficient additional land under contract to meet the manure utilization requirement for spreading of manure produced at their feedlot. The county may retain copies of all written agreements between the feedlot operators and lessors, or any person who permits land manure application. Each parcel of land subject to agreement shall be limited to one agreement per parcel.

(Ord. 49, passed 7-7-03)

§ 54.65 ANIMAL FEEDLOT OR MANURE STORAGE AREA CLOSURE

(A) Within one year of ceasing operation, manure and manure contaminated soils from animal holding areas and manure storage areas to be land applied in accordance with Minnesota Rules 7020.2225, as amended.

(B) After the requirements of item A have been completed, reduce soil nitrogen by growing alfalfa, grasses, or other perennial forage for at least five years.

(C) Within 60 days after final closure, submit a certified letter to the County Feedlot Officer stating that the animal feedlot or the manure storage area has been closed according to the requirements in this part. The letter must identify the location of the animal feedlot or the manure storage area by county, township, section, and quarter section.

COUNTY OF CARVER
LAND & WATER SERVICES DIVISION
Department of Land Management

June 14, 2022

TO: Carver County Planning Commission & Dahlgren Town Board

FROM: The Land Management Department

SUBJECT: Application for a Conditional Use Permit (Recreational Large-Scale Activity)

FILE #: PZ20220024

APPLICANT: Mitch Michaelson

OWNER: SSP Holdings LP

SITE ADDRESS: 7410 Highway 212 Chaska, MN 55318

PERMIT TYPE: Large Scale Activity (Recreational)

PURSUANT TO: County Code, Chapter 152, Section 152.080

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 04-009-0600

STAFF ANALYSIS:

1. SSP Holdings LP, owns an approximate 190-acre parcel, located in the North Half (N½) and South Half (S½) of Section 9, Dahlgren Township. The subject property is located on the northerly side of Highway 212 and the westerly side of Mellgren Lane. The property consists of agricultural production land, an apple orchard, wooded acres, Hwy 212 corridor, and a seasonal commercial business (Scream Town) Conditional Use Permit #PZ20080001. The site is located in the Agriculture Zoning District and the CCWMO (Carver Creek watershed).
2. Operating at the same site since 2008, Mitch Michaelson proposes to expand the seasonal attraction Scream Town's days of operation, operating hours, and operational area. Also, this Conditional Use Permit (CUP) application, which would amend the current CUP (#PZ20080001) requests to have one — instead of two — Carver County Sheriff's Deputy perform traffic control, as well as eliminate a 600 annual average daily patron limit.
3. The 2040 Comprehensive Plan provides for "Large-Scale Activities with Unique Land or Location Needs" (LU-21) as potential land uses. The application by Mitch Michaelson for a Conditional Use Permit is pursuant to Section 152.080 of the Zoning Code, which reads as follows:

§ 152.080 CONDITIONAL USES—LARGE SCALE ACTIVITIES WITH UNIQUE LAND OR LOCATION NEEDS.

(A) Minimum criteria for issuance.

- (1) The activity conforms to all other county ordinances, state, and federal regulations.
- (2) Minimum five-acre lot size, unless another size is specified under a particular provision.
- (3) Sewage can be managed in accordance with Chapter 52 of this code of ordinances. The county may require design by a registered engineer.
- (4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless specific approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect.

- (5) The activity is of a scale that the demand for support services such as sewer, water, police, fire protection, emergency equipment access, roads or streets, can be accommodated within the context of the service levels available in the commercial agricultural area.
- (6) Land is not subject to the land use restrictions of an AG preserve covenant.
- (7) The operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs—traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal—that will exceed those available in the area should locate in municipalities where the services are available.

(B) Minimum conditions.

- (1) Permit shall be subject to administrative review or compliance review as set by the permit.
- (2) The operational plan and site plan shall become part of the permit.
- (3) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The site plan and operational plan shall become part of the permit.
- (4) The applicant must submit a copy of workers compensation insurance or sign an affidavit stating that he or she will not have any employees.
- (5) All buildings used in the operation must meet the State Building Code.

(C) Activities.

- (6) Recreational, educational, institutional facilities or activities that require a location in a rural area because of a need for seclusion or a natural setting or a large area of land or activities conducted on a permanent, seasonal or scheduled basis subject to the following criteria:
 - (a) No more than 20% of the land utilized for the activity, with the exception of agri-tourism, shall be designated as prime agricultural land under till, as illustrated by the Carver County geographic information systems (GIS) mapping;
 - (b) The road authority will grant an access permit;
 - (c) A certificate of insurance and/or a performance surety may be required;
 - (d) A stipulation is made in the permit as to the number of persons to be using the facility at any one time;
 - (e) Any type of special event that will attract or involve more than the number of people stipulated in subsection (6)(d) above shall require approval of the County Board.

Ord. 47, passed 7-23-02; Am. Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 97-2021, passed 7-20-21)

§ 152.036 ACCESS REQUIREMENTS.

Relation to road authority. Nothing in this chapter shall abrogate the ability of a road authority to approve, deny, or require modification of an access, require a permit for an access, develop and impose standards and conditions for an access. Approval by the Department of an access pursuant to this chapter shall not constitute approval by the road authority nor shall approval by the Department require that the road authority approve the access.

- 4. The current CUP (#PZ20080001) has an annual average of 600 patrons each day the operation is open to the public. The established hours of operation are 5:30PM to 11:00PM Friday, Saturday, and Sunday from the last full weekend in September to the first full weekend in November, and also including the Wednesday and Thursday of MEA weekend. (In 2022 this amounts to 23 days.) “To reduce the risk of accidents on site and on Highway 212,” two County Sheriff’s Deputies are required for traffic control, as well as warning signage and lights as required by the road authority or law enforcement authority. The permit also requires compliance with other agency (MNDOT, SWCD, Dept. of Health, etc.) regulations, minimization of dust and sediment tracking onto Highway 212, liability insurance coverage, solid waste reduction, and other measures to mitigate impacts on surrounding properties and public infrastructure.
- 5. With an operation area of approximately 35 acres (i.e. woods, courtyard, access road, and parking), Scream Town employs a staff of about 150 during its operation, about 90 staff members per night. From year-to-year sets, scenes, and maze pathways may be changed. Scream Town obtains temporary structure building permits for the attractions as needed.

6. The applicant has provided a description of Scream Town activities that take place on the site. Scream Town is comprised of a haunted corn maze, other themed mazes, “small sheds with different phobias,” a haunted woods walk, and a welcome area with concessions. The submitted site map (received: May 31, 2022) shows an approximate 1-acre expansion of the night trail area northwest of the current operational area and about 2.3 acres of additional parking area southwest of the existing parking area. The new night trail area may have a temporary wooden maze, like other mazes on the site.
7. The submitted narrative (dated: May 27, 2022) proposes changes to the several conditions of the existing permit. Listing the numbered CUP conditions, the applicant proposes (new text in ***bold italics***, text to be removed with a ~~strikethrough~~) the following changes to the existing 2008 CUP approval:
 1. No Change
 2. ~~This Large-Scale activity will be limited to an annual average of 600 patrons each day the operation is open to the public.~~ The permittee must maintain records of the number of tickets sold to enter the site each day and provide a copy of this record to the Land and Water Services Division at the end of each season upon request
 3. Operations shall be substantially in accordance with ~~the application letters, responses, supplemental information and the approved operation/site plan.~~ The hours of operation are 5:30 p.m. until 11:00 p.m. ***Extended hours are allowed till midnight when warranted due to weather or unforeseen incidents, for example, to provide a safe and orderly closing related to vendor cleanup, attendance, customer pick up, actors checkout and other closing procedures. For nights with expected larger attendance (possibly 5 nights a year) we may allow guests to arrive at 10:30 and leave around 11:30.*** The days of operation are Friday, Saturday and Sunday from the last full weekend in September to the first full weekend of November ***including the full week of Halloween, which is the last week in October starting on the last Sunday before Halloween, until Halloween, Oct 31*** and also the Wednesday and Thursday of MEA weekend each year.
 4. No Change.
 5. To reduce the risk of accidents on site and on highway 212 the permittee shall contract a minimum of ~~two (2)~~ ***one (1)*** County Sheriff’s Deputies for the duration of the event. The permittee shall also provide warning signage and lights as required by the road authority and/or sheriff’s department and/or state patrol.
- 6-13. No Changes.
8. Pursuant to the Zoning Code, Chapter 152.080 (C)(6)(d) for a Recreational Large-Scale Activity, “a stipulation needs to be made in the permit as to that the number of persons to be using the facility at any one time.” The applicant has proposed to remove the average annual 600 patrons per day limit as part of this application request. However, after reviewing the Zoning Code language with County Staff, Mr. Dunn, the operator of Scream Town, feels 2,500 people would be a reasonable number to utilize for the permit application.
9. The submitted narrative offers rationales for the requested changes which include safety improvements with the Highway 212 reconstruction, 14 years of experience at the site, and that a reconfiguration of parking would improve efficiency and help during soggy conditions. The narrative notes that expansion of the operational area “does not impact wetlands, does not impact agricultural land and does not encroach closer and is well-separated from neighboring lands.” Regarding the increase in days and hours of operation, the applicant notes that historically the attraction has never been open to the public all the available days in the season and the additional operating time would provide flexibility in case of inclement weather, larger crowds, or unforeseen circumstances. The proposal would add an additional five days of operation in 2022. The applicant indicates that since problems have not been observed at the event, a reduction to one Sheriff Deputy on-site is warranted.
10. The applicant proposes no change to the current vehicle access. However, the intersection of the driveway and Highway 212 will significantly change by the Fall 2022 operating season due to the reconstruction of the roadway. The improved intersection will create a right-in/right-out access to the property. Although the weather in the summer 2022 construction season may produce uncertainties, it is expected that the roadway shown in the submitted site plan (dated: May 31, 2022) would be in place when Scream Town opens in late September. The applicant would have to work with MNDOT, the road authority, to arrange for temporary traffic signage and safe ingress/egress for event patrons and workers.

11. The Zoning Code requires that no more than 20% of the land utilized for the activities shall be designated as prime agricultural land under till, as illustrated by the Carver County Geographic Information Systems (GIS) Mapping. The operation area (i.e., woods, courtyard, and parking) consists of approximately 35 acres. The total amount of prime ag land consumed with seasonal parking consists of an approximate 6 acres, or about 17% of the property's prime agricultural soils under till. When Scream Town is not operating, most of this acreage grows alfalfa.
12. In response to an inquiry with the applicant's project team, the following information regarding existing parking usage and demand was provided in an email (dated June 2, 2022):

"Since we are parking cars with no distinguished parking layout it would be difficult to come up with an accurate parking number. We can comfortably park 100-120 cars per acre, including: emergency service lanes, drive lanes, walking lanes, handicap parking spaces and pickup/drop off areas. The current CUP permits approximately 11 acres for parking, in the 14 years of operation we have never used more than 40% of the current parking area on any given night. The purpose for the expansion is to utilize the areas of the property that are better suited for parking, particularly when the conditions are wet."
13. The Carver County Water Management Organization (CCWMO) is in the process of reviewing the request and the proposed operational area with respect to the County Water Rules (Chapter 153), site stabilization requirements, and Best Management Practices (BMP's). The overall area of disturbance and the proposed operational area may trigger additional permit requirements by the CCWMO. If required, all CCWMO related permits and conditions shall be met prior to the issuance of any future building permits or beginning any excavation activity. There are wetlands on the property but would not be impacted by any site improvement proposed in this application.
 - Recently, an access road for the hayrides near the western property line was expanded/improved. Stormwater runoff from the improvements shall not impact the neighboring property and would be reviewed as part of the CCWMO process.
14. Carver County Soil and Water Conservation District (Carver SWCD) has been contacted regarding the applicant's proposal; however, no comments have been received at the writing of this report.
15. The Carver County Sheriff, Jason Kamerud, has reviewed the proposal and in an email response (dated: June 13, 2022) provided the following statements:
 - A. "The applicant asserts (on P2), "In addition, we have letters and documentation from Carver County deputies stating that they have not seen any problems at the event and that the operators do an outstanding job in keeping the event safe." If these letters do in fact exist, they were not written nor authorized by me, the elected Sheriff of Carver County. Therefore, they should not be deemed as carrying my endorsement nor to be reflective of the official position of the Carver County Sheriff's Office in this matter."
 - B. "The original (and current) CUP reads (in applicable part), "To reduce the risk of accidents on site and on Highway 212 the permittee shall contract a minimum of two (2) County Sheriff's Deputies for the duration of the event. The permittee shall also provide warning signage and lights as required by the road authority and/or sheriff's department and/or state patrol." The proposed change in highway design will likely lessen the need for traffic control at the entrance/exit of the site. If I understand it correctly, all traffic will enter while travelling westbound using a "right turn only lane" and exit going westbound only. If true, there is likely no need for staffed supplemental traffic control at US Hwy 212 and the entrance/exit. I will defer to highway/traffic engineers on this point, however. Traffic control onsite (i.e., parking) is purely a private business matter and not the responsibility of the Sheriff."
 - C. "There is no CUP requirement for sheriff's deputies for grounds patrol. The CUP requires sheriff's deputies for traffic control "to reduce the risk of accidents on Highway 212." The applicant has hired private security to manage onsite security matters. The numbers of onsite police calls for service have been manageable. I do not believe onsite police presence is required, assuming the applicant continues to provide reasonable security measures."
 - D. "If the Board requires law enforcement for traffic control along US Highway 212 or for onsite policing, I respectfully request the CUP reflect a requirement for "licensed peace officers having jurisdictional authority" versus "sheriff's deputies." Our office does not always have adequate resources to fulfill the demands of staffing the position. By allowing "licensed law enforcement," the applicant has the option to explore contracts with MN State Patrol or other authorized service providers in lieu of closing or violating the CUP due to our inability to fulfill the contract."
 - E. **Recommendation:** "No police services contract required, assuming highway construction is complete as detailed."

16. Minnesota Department of Transportation (MnDOT) is the road authority for trunk Highway 212. In a letter dated June 13, 2022, MnDOT indicated they reviewed the application materials (more specifically the site map) and provided the following comments:
 - A. Work Zones and Pavement Markings – “The event should still have two law enforcement officers for the 2022 season until trunk Highway 212 construction is completed.”
 - B. Any use of, or work within or affecting, MnDOT right of way will require a permit pursuant to the Permits Division.
17. The Dahlgren Township Board reviewed and recommended approval of three of the four CUP requests at their June 13, 2022, meeting, with no recommendation on the fourth request. Voting on motions, the Township Supervisors recommended approval of the removal of the car count and the guest capacity limits, recommended “to let the Carver County Sheriff decide if Deputy’s need to be on site,” recommended approval of the expanded parking area and trail expansion, and passed a motion “to make no recommendation on the changing of allowed number of days or extension of hours. But the Board did have concern about the expanding the hours of operation.”

PLANNING COMMISSION CONSIDERATION:

- If the Planning Commission recommends approval of the CUP application for a Recreational Large-Scale Activity, the previous CUP (#PZ20080001) would be terminated upon final approval (and recording) of the new CUP (#PZ20220024). Therefore, CUP #PZ20220024 would supersede any prior approvals. The following conditions should be attached to the new CUP:
 1. The permit is subject to Compliance Review. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Land Management for a determination as to whether an application for an amendment or similar consideration is necessary. Proposed owners and/or operators are encouraged to contact Land Management as early on in the timeline of the proposed change as possible.
 2. Operations shall be substantially in accordance with the operational plan “applicant narrative” (dated: May 27, 2022), the additional information provided by email (dated: June 2, 2022), CUP Site Plan (received May 31, 2022), and the General Map of Operation (received: June 2, 2022). The hours of operation for patrons within the areas of attractions will be 5:30PM until 11:00PM. The days of operation are Friday, Saturday, and Sunday from the last full weekend in September to the first full weekend of November including the full week of Halloween, defined as starting on the last Sunday of the October until up to and including October 31st. Days of operation also include the Wednesday and Thursday of MEA weekend.
 3. The permittee must maintain records of the number of tickets sold to enter the site each day of operation and provide a copy of this record to the Land Management Department at the end of each season or upon request. A maximum 2,500 persons shall be allowed to utilize the facility at any one time.
 4. All operational areas, structures, access roads, and parking areas shall maintain a 10-setback from property lines. The permittee shall survey and submit a certificate of survey to the County the western property line along the length of the newly expanded hayride road to ensure the 10-foot setback is maintained.
 5. To reduce the potential for dust, vegetation shall be preserved as much as possible. A watering truck shall be utilized for dust control, as conditions warrant.
 6. To assist with traffic control on Highway 212 until the road reconstruction is completed, the permittee must have two licensed peace officers having jurisdictional authority stationed at the site driveway and Highway 212 intersection. After road construction is completed, the permittee may contract with one licensed peace officer having jurisdictional authority to be stationed at the site driveway entrance and the new and improved Highway 212 during all hours of operation to assist with traffic control as deemed necessary. A copy of the contract agreement shall be provided to the Land Management Department prior to any public activities taking place on the property (annually).

7. The permittee shall contract with a private security firm to provide on-site security in the operational area (i.e., night trails, night maze, courtyard, and parking areas). A copy of the contract agreement shall be provided to the Land Management Department prior to any public activities taking place on the property (annually).
8. From dusk until the last patron vehicle leaves the site, temporary three-bulb portable lighting or other approved lighting measures shall illuminate the Highway 212 and site driveway intersection. The lighting must be turned off promptly after the last patron vehicle leaves. Lighting shall be approved by the road authority, if applicable.
9. The Permittee shall obtain an appropriate access, signage and construction permits and/or approval(s) from MnDOT prior to any public activities taking place on the property. Any measures required by the appropriate road or zoning authority must be completed in accordance with MnDOT standards prior to public activities taking place on the property. The permittee shall also provide warning signage and lights as required by the road authority.
10. Any grading and/or filling activity on the property shall be completed in accordance with the Carver County Water Management Organization (CCWMO) and the Wetland Conservation Act (WCA), if applicable. Any and all site improvements shall be completed pursuant to Chapter 153 – Water Resource Management. Stormwater Management review and approvals are required prior to the issuance of construction and/or building permits. Measures shall be implemented to minimize tracking onto the Highway 212 and a sweeper shall be utilized within 12 hours of discovery of mud accumulation on Highway 212.
11. The Permittee shall furnish a certificate of Insurance to the County providing coverage by an insurance company duly licensed by the State of Minnesota indicating that the Permittee has in force coverage for public liability, vehicle liability, loading and unloading, completed operations liability, explosion and collapse of underground operations liability, and bodily injury liability in the amount of at least \$2,000,000 for injury of any one person in any one occurrence. Property damage insurance coverage shall be in force with a minimum amount of at least \$1,000,000. Further, the Permittee shall furnish proof of workman's compensation coverage. Insurance certificate(s) described above shall carry an irrevocable notice to the County by the carrier 30 days prior to any change, modification, lapse, or cancellation of the policies required.
12. All structures used in conjunction with the business including tents, facades, and the like, shall meet the applicable requirements of the Carver County Zoning Code and State Building Code. Any required building and septic permit(s) shall be applied for and issued prior to construction. Any future remodeling or construction shall be reviewed by the Zoning Administrator to determine if an amendment to the CUP is necessary. Any fences over seven feet in height require a building permit.
13. Any structure(s), not utilized for the business, shall be used only by the occupant(s) of the property owner for agriculture, personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and for the keeping of animals and appurtenant equipment and supplies, and as otherwise regulated by the County Zoning Code and shall meet State Building Code, if applicable.
14. The permittee shall maintain a conforming Subsurface Sewage Treatment System (SSTS) pursuant to Chapter 52 of the Carver County Code to accommodate any restroom(s) and/or wastewater produced within any structure(s) utilized as part of the business operation, if applicable.
15. The permittee is responsible for obtaining and abiding by all appropriate permits from the Department of Health, Dept of Agriculture and all required food service and alcohol licenses and permits. The Permittee shall submit copies of all required permits and licenses to the Carver County Land Management Department annually.
16. The permittee shall comply at all times with the County standards as detailed in Chapter 152 – Zoning Code and Chapter 154 – Sign Regulations. Signage for the activity shall not exceed the provisions set forth in the Carver County Sign Ordinance of the Carver County Code.

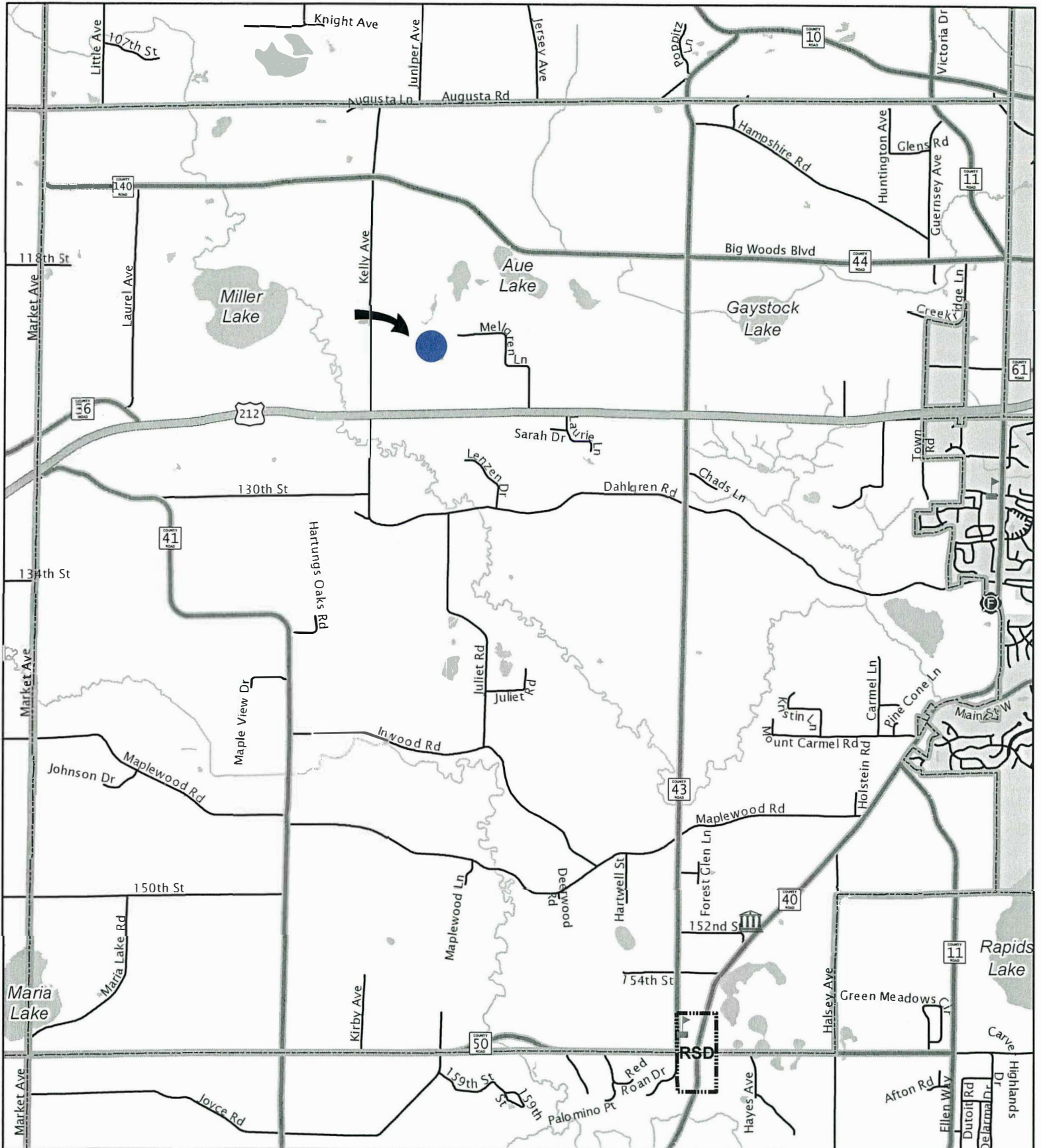
17. The permittee shall comply with all conditions of Chapter 50: Solid Waste Management of the Carver County Code of Ordinances pertaining to the storage and disposal of solid waste materials.
 18. The permittee is responsible for compliance with all Federal, State and Local rules, regulations, and permitting requirements.
- If the Planning Commission recommends denial of the permit application, the deficiencies found in Section 152.251 (Required Findings) of the Carver County Zoning Code, should be referenced, as follows:

§ 152.251 REQUIRED FINDINGS.

An order for the issuance of a CUP or IUP can be adopted only if all of the following are found as fact. Any conditions imposed by the permit or actions required as part of the order shall be considered in making findings:

- (A) The conditional or interim use is permitted as a permitted conditional or interim use within the zoning district, and meets all requirements of this chapter and any other county, regional, state, or federal laws, ordinances, rules or regulations.
 - (B) The conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
 - (C) The establishment of a conditional or interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - (D) The effects of the proposed use will not be detrimental to the health, safety and welfare of Carver County or to the occupants of the immediate neighborhood.
 - (E) That adequate utilities, access roads, drainage and other facilities have been or are being provided.
 - (F) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use if these measures are applicable.
 - (G) 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 if these measures are applicable.
 - (H) The use or development conforms to the County Comprehensive Plan.
 - (I) The use or development is compatible with the land uses in the neighborhood.
 - (J) A public hearing was held pursuant to § 152.285 and M.S. § 394.26, as it may be amended from time to time.
- If the current application fails, or it is withdrawn, the Scream Town CUP (#PZ20080001) would remain in full force and effect. The existing use (Scream Town) runs with the land, regardless of the property ownership, unless the operator violates the terms and conditions (and subsequent action is taken).

DAHLGREN TOWNSHIP

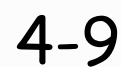


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED MAP.
THIS MAP IS A COMPILATION OF RECORDS
AS THEY APPEAR ON THE CARMEL COUNTY
OFFICES AND OTHER SOURCES. THIS MAP
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PURPOSES. THE COUNTY AND ITS AGENTS
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MISUNDERSTANDINGS CONTAINED HEREIN.



NARRATIVE

SCREAM TOWN, May 27, 2022

Changes to Existing Conditional Use Permit

The purpose for a revised permit is based on the Highway 212 improvements occurring at and around our site in addition to implementing operation improvements to better serve our guests and the community. Scream Town has been successfully operating since 2008. Through the years we have learned that we need to periodically adjust our business model in order to continue providing a family friendly event that draws people from miles away on a yearly basis. The proposed changes will not alter the current operations of our events, which will continue to operate in accordance with the existing permit, it is solely to clarify our operations and make minor improvements to our operation plan based on what we have learned throughout the years.

With the Highway 212 improvements and the safety measures it provides for the access of our event we believe that the following 4 changes to our current CUP are warranted for the reasons noted below.

- 1) Elimination of car count/attendance capacity limitations
- 2) Amend requirement of Sheriff's Deputies from two deputies on site to one
- 3) Extend the days of operation to include Thursdays, the week of Halloween (including Halloween) and extend the hours from 11 pm to midnight when warranted
- 4) Change the Site Plan to increase the event area slightly to the northwest and to increase the parking boundary to the southwest

Reason for Changes to Specific Conditions

Condition 2—Annual Average of 600 Patrons

With the improvements to Highway 212 and efficiency of traffic flow and volume capacity the limitation of patrons should no longer be a safety issue. After operating for over 14 years, we have the appropriate data that shows what the daily and yearly patronage is for our event. With this historical context it can be determined that our operation can safely handle the number of guests visiting our site. We recommend that the condition be changed to allow us to provide the County an annual record of attendees but that an average patronage limit is not necessary.

Condition 3-- Operations in accordance to approved site plan and supplemental information, including time of operation and allowed days

We are requesting two changes to the Site Plan.

1. Extend the western parking area to the southwest. Over the years we have noticed that parking and traffic circulation can be improved with an extended parking area so vehicles can more easily maneuver within the site and create less impact to the farm fields at the current parking area.

2. Extend the event area to the northwest. The addition of the land does not expand the attractions but allows for more space to provide a more favorable experience, such as a longer walking trail. The expansion supports the event for the following reasons:

- Does not impact wetlands
- Does not impact agricultural land
- It does not encroach closer and is well separated from neighboring lands

We are requesting changes to the number of days and time of operations.

1. Number of Days. Scream Town is currently permitted to be open for up to 21 days as the CUP permit reads. Historically we have never been open for more than 12-19 days and do not expect to exceed that amount. The change is to provide flexibility in trying to provide make-up days due to bad weather or other unforeseen circumstance. It is costly to operate the event each day we are open, but like any good business we want to provide our guests the product that they came to enjoy. For example, if the event were to be closed due to rain within the first two weeks, we would consider adding a flex day, within the same time period allowed by the existing permit. Also, we are including the week of Halloween, which is considered the last week in October starting on the last Sunday before Halloween, all the way up until Halloween Oct 31. For example, if Halloween were on a Wednesday, we would like the ability to consider that day, as well as the Monday and Tuesday prior.

2. Similarly, we are requesting flexibility to our hours of operation. With higher labor costs across the board, we do not wish to stay open any later than necessary. For example, historically we close at 10pm on Sundays. However due to weather related issues or unexpected situations, we may need to stay open until 11:10pm, 11:30pm, or at the latest midnight. This would in all likelihood never occur on more than 5 nights. Our web site would still advertise an 11pm close. For example, this flexibility allows us to accommodate guests who could not attend on a day due to rain who now will attend on a different day, increasing that day's attendance as ticket holders need to redeem their tickets on other nights of the same year. Thus, we may need the extra time to handle the larger crowds which tend to slow down lines extending the time to get customers out of the site. The flexible time also allows us to attend to other unforeseen incidents, for example:

- The need for more time to get the cars out
- Time for staff to leave safely, clean up after the event, food vendors pack up and departures.
- To ensure safe pick-up of teens and other guests as they wait for rides.

Condition 5-- Required 2 Sheriff Deputies for reducing risk of accidents

With the construction of the improved 212 roadway the risks of vehicle accident are reduced. Per the MnDOT Highway 212 website the project design used Reduced Conflict Intersections (RCI). In addition, we have letters and documentation from Carver County deputies stating that they have not seen problems at the event and that the operators do an outstanding job in keeping the event safe. Based on these comments and the highway safety improvements we do not feel it is necessary to infringe on the time and expense of having two deputies on site.

REVISED CUP CONDITIONS FROM EXISTING PERMIT (*new language in bold italics*)

1. No Change
2. ~~This Large Scale activity will be limited to an annual average of 600 patrons each day the operation is open to the public.~~ The permittee must maintain records of the number of tickets sold to enter the site each day and provide a copy of this record to the Land and Water Services Division at the end of each season upon request
3. Operations shall be substantially in accordance with the ~~application letters, responses, supplemental information and the approved operation/site plan.~~ The hours of operation are 5:30 p.m. until 11:00 p.m. ***Extended hours are allowed till midnight when warranted due to weather or unforeseen incidents, for example; to provide a safe and orderly closing related to vendor cleanup, attendance, customer pick up, actors checkout and other closing procedures. For nights with expected larger attendance (possibly 5 nights a year) we may allow guests to arrive at 10:30 and leave around 11:30.*** The days of operation are during Friday, Saturday and Sunday from the last full weekend in September to the first full weekend in ***November including the full week of Halloween, which is the last week in October starting on the last Sunday before Halloween, until Halloween, Oct 31*** and also the Wednesday and Thursday of MEA weekend each year
4. No Change
5. To reduce the risk of accidents on site and on highway 212 the permittee shall contract a minimum of ~~two~~ ***{2} one (1)*** County Sheriff's Deputies for the duration of the event. The permittee shall also provide warning signage and lights as required by the road authority and/or sheriff's department and/or state patrol.
- 6-13. No Changes

As noted in Condition 3 we always believed we operated substantially in accordance with our current permit but due to the Hwy. 212 improvements we are taking the opportunity to change and clarify the conditions that were established 14 years ago to better align with the operation and site plan that exists today.

SCREAM TOWN OPERATION

Scream Town consists of 13 acres located at 7410 Highway 212. Our event consists of 8 different themed areas and has a staff of about 150 people during the season. Our themed areas include mazes, trails and hayrides where guests pass by different Halloween stages with decorations, animations, and live actors.

- Courtyard: The Courtyard is the gathering/waiting place for guests as well as a place to enjoy food and beverage. A warming tent is also provided for guests
- Corn Maze: The corn maze portion of the event consists of a "maze like" pattern with laser lights, Halloween alien themed decorations, and actors in costumes.
- Woods Walk: contains theatrical sets and decorations for guests to walk through.

- Hayride: is made up of a short-wooded trail where guests pass by 10 different Halloween/ nightmare esc stages with decorations, animations, and live actors. And then a wooded walk to follow.
- Time Challenge Fence Maze
- Zombie Themed Maze
- A circus themed maze
- A spooky Christmas themed maze
- Small sheds with different phobia's

Sets and scenes are often redressed and redecorated annually and specific pathways may change within the permitted use area. Because our attractions/wooden mazes change from year to year we receive a temporary structure permit via Metro West Inspections. An on-site inspection is conducted yearly for compliance and safety.

Scream Town currently has about 90 staff per night (of the 150) consisting of actors, neighbors, family friends, former teachers, local farmers, volunteers, retired police officers, and security. Our actors and security are a diverse group that are independently contracted with and consist of primarily those that live in Carver County. We pride our self in our diverse community of help, and welcome those with all talents, abilities, and skills. Several members of our talent have worked for us for the duration of our event, 14 years.

During days of operation 5-10 staff may arrive as early as 8am to prepare details for the show. Typically, the event is "turned on/ electrified" around 6:30pm and is "turned off" about 15-20 minutes after close time of that evening. The majority of staff, (approximately 90 - 100 people) such as actors, food vendors, and security arrive between 4:30pm and 6:30pm at an even pace. The vendors and actors are scheduled to be off the site between 11:00 pm and 11:30. Occasionally the management team will stay later to conclude final business such as accounting, next day business meeting, or end of night reports.

The hours of operation are 5:30 p.m. until 11:00 p.m. Extended hours are allowed till midnight when warranted due to weather or unforeseen incidents.

The days of operation are during Friday, Saturday and Sunday from the last full weekend in September to the first full weekend in November including the full week of Halloween, which is the last week in October starting on the last Sunday before Halloween, until Halloween, Oct. 31 and also the Wednesday and Thursday of MEA weekend each year

Scream Town guests are provided several local vendors along with concession stands and portable bathroom facilities on site.

OWNER TESTIMONIAL

My name is Matt Dunn. I have been in the family entertainment and Halloween industry for 30 years. I met Sever Peterson in 2006 (age 23) when I called him at his family farm to hear more about his event Severs Corn Maze. We met soon after and I was astonished by his family friendly agra-tainment business he had created in Shakopee.

At that point in my life I had operated a night time Halloween event for two years, "The Haunted Trail", but wished to grow it into something more. Previously to that I had operated a "home spook Halloween event" for 13 years at my parent's home which raised food for the food shelf. After meeting with Sever at his Corn

Maze, he shared with me his desire to expand his family event later into the evening with something similar to what I had already been operating. We subsequently did that and began the Scream Town portion of Severs Corn Maze, which operated in Shakopee for two years.

One day Sever told me about a property in Chaska he hoped to move the Corn Maze to within the next 3 years. He and I later visited that property and I expressed my interest to be there sooner than later, due to the fact it had a terrific atmosphere and a large amount of woodland which was not something that existed in Shakopee. We soon began that process of asking for permission to move the night-time activity of Severs Corn Maze, Scream Town, out of the property located at 7410 Highway 212.

Sever soon met with neighbors, township, and council members to explore this possibility. Sever and I met with John from the planning commission to work on details of our conditional use permit. In hindsight I would have done somethings differently:

1. I did not join Sever when he met any of the neighbors. I believe eventually when neighbors learned of me after being approved at the city council, they were confused as to who I was and where I came from. What happened to Sever Peterson? However, I was present at city council meetings, spoke, and did answer questions.

2. I think Sever and I could have been clearer that Severs Corn Maze, like the MN State Fair, has different sectors with different names like the Grand Stand, The Miracle of Birth Barn, and the Midway. While we both explained at city council meetings that this was at night, would produce noise, was Halloween themed, and would have food venders, a corn maze, a woods walk, etc., subsequently again name Scream Town made folks feel as though something had been switched. Where was Severs Corn Maze?

Severs Corn Maze would have been out to the property shortly after the night-time activity started, but when and if highway 212 would expand was a crucial detail due to large attendance numbers, and the time frame in which that expansion would happen was largely unknown, and later of course took 14 years.

3. I am embarrassed to say to this day, that I did not realize where Mrs. Bloomquist, now Mrs. Johnson, lived. I knew of the home that was close to the Peterson property but did not realize it was she that lived there, an important detail considering how her previous husband tragically passed away.

I grew up watching Minister Fred Rogers AKA "Mr. Rogers" and that program instilled in me that being a good neighbor was one of the most important things a human could do. Neighborhoods are communities with people that rely on each other and help one another. Mr. Rogers is still a role model to me with his picture hung in my home, and quotes of his found about. One of my favorite quotes being...

"All of us, at some time or other, need help. Whether we're giving or receiving help, each one of us has something valuable to bring to this world. That's one of the things that connects us as neighbors — in our own way, each one of us is a giver and a receiver."

I am happy that Mrs. Johnson and I have found ways to communicate and be neighbors the past few years, as I am similarly pleased with other neighbors. Many of whom I now have close relationships with.

I am proud of the 14 years of business I have operated in Carver County and its community. And I look forward to continuing to contribute and do all I can to be a good neighbor.

Below are just a few ways the Scream Town event have made the community a better place:

- Injected thousands of dollars into local businesses like Storms Welding, Sticks Tavern, Cooling System Services, local farms, agriculture, retailers, and construction companies, helping generate revenue and more jobs.
- Driven traffic to restaurants, gas stations, and retailers. Some of whom credit Scream Town to saving their business.
- Created thousands of great entry level jobs for many that really need someone to give them a chance.
- Provided regular seasonal jobs to entire families, artists, theater folk, and local contractors.
- Provided a valuable venue/ resource for local search and rescue dog trainers who use these dogs in Carver County.
- Raised thousands of dollars for Meals on Wheel and collected hundreds of pounds of food for local food shelves.
- Provided a home to the arts. A creative outlet for many that are looking for a creative place and outlet to share their unique gifts.
- Provided a family friendly atmosphere where families and friends of all ages can spend time together in the great outdoors.
- Acted as a fundraiser for the local fire department
- Provided additional income to retired and off duty Carver County Police – to date well over \$150,000
- Provided thousands of dollars in fees for permits at Carver County

After 14 years in business, we have learned the trials and tribulations that go along with a seasonal business and how difficult it can be. The changes being requested are based on flexibility and the unpredictable weather that comes with doing an outdoor event that is open for an extremely limited amount of time.

These amendments will help the event pivot in the event of rain, mud, snow, or other obstacles that may become apparent if the event has to close on one or more days. These amendments have no direct relation to building projects. Historically, many of the attractions/ exhibits at Scream Town have gotten smaller, and continues to be the trend for 2022, reducing two of the largest attractions significantly. It should be noted that the additional square footage requested would act as potential back up or contingency plan if another attraction where to be removed or replaced, as during the 14 years, Scream Town has discovered that several of the initially approved terrain areas are hilly, muddy or root filled.

In an effort to rebuild what was clearly lost 14 years ago, we want to answer all questions. We will provide thorough answers and any information that might assist with the documentation of those answers.

In response to staff questions, the applicant's project team provided additional information in an email dated June 2, 2022:

Q: The attached aerial map has two different color schemes. Could the entire map be shown in one color shade? This would make it easier for the Planning Commission and public to view.

A: To show the Hwy 212 improvement we had to import the MnDOT map from the project website, which is a different shade than Google Maps. The MnDOT map does not make for a good site plan as it is too crowded with information. Because the new road improvements are a major reason for the updates we thought it best to include the project detail. Google Maps does not show the 212 corridor.

Q: Would it be possible to show a zoomed in map of the "night maze & courtyard" in order to provide the Planning Commission and public a visual of the narrative description on page 4?

A: Attached is a general map of the operation providing a good overview of the site.

Q: Would it be possible to identify the number of parking spaces at full capacity and available to patrons? An anticipated traffic projection will probably be asked by MnDOT and the Planning Commission; therefore, having that information in advance may be helpful. (e.g. whether an average of paying customers can be identified or average trips generated as part of the land use.)

A: Since we are parking cars with no distinguished parking layout it would be difficult to come up with an accurate parking number. We can comfortably park 100-120 cars per acre, including: emergency service lanes, drive lanes, walking lanes, handicap parking spaces and pickup/drop off areas. The current CUP permits approximately 11 acres for parking, in the 14 years of operation we have never used more than 40% of the current parking area on any given night. The purpose for the expansion is to utilize the areas of the property that are better suited for parking, particularly when the conditions are wet.

Q: Approximate acreages for the proposed parking area and the proposed new night trail area?

A: Measurements we made using Carver County GIS mapping system and are approximate. Proposed additional parking area: 2.34 acres Proposed night trail area: 1.05 acres

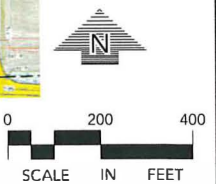
Q: Will the proposed new night trail area have temporary or permanent structures?

A: This section would be used as an additional woods walk, or possibly a temporary wooden maze like other attractions such as the Asylum Maze. We will be working with the County Building Inspector if any structures are proposed.

Q: What is the setback from property line for the proposed new night trail area and parking area?

A: We do not expect to encroach any closer than the existing setbacks for the trail, buildings and parking. A 10-foot setback for the woods walk with standard zoning building setbacks with a 40-foot setback for the parking area to provide buffering and possible water-way drainage area.

Plotted: 05/12/2022 12:23 PM W:\2022\22053\CADD DATA\CIVIL_dwg Sheet Files\C2-1 SITE PLAN



4-17

General Map of the Operation



Rev'd 6/2/22

From: Jason Kamerud
Sent: Monday, June 13, 2022 4:12 PM
To: Donovan Hart
Cc: Jason Mielke; Christina Neel; Dave Hemze; Jason Kamerud
Subject: RE: Scream Town CUP submittal for your review

Thank you for the opportunity to provide some input.

The applicant asserts (on P2), "In addition, we have letters and documentation from Carver County deputies stating that they have not seen any problems at the event and that the operators do an outstanding job in keeping the event safe." If these letters do in fact exist, they were not written nor authorized by me, the elected Sheriff of Carver County. Therefore, they should not be deemed as carrying my endorsement nor to be reflective of the official position of the Carver County Sheriff's Office in this matter.

The original (and current) CUP reads (in applicable part), "To reduce the risk of accidents on site and on Highway 212 the permittee shall contract a minimum of two (2) County Sheriff's Deputies for the duration of the event. The permittee shall also provide warning signage and lights as required by the road authority and/or sheriff's department and/or state patrol." The proposed change in highway design will likely lessen the need for traffic control at the entrance/exit of the site. If I understand it correctly, all traffic will enter while travelling westbound using a "right turn only lane" and exit going westbound only. If true, there is likely no need for staffed supplemental traffic control at US Hwy 212 and the entrance/exit. I will defer to highway/traffic engineers on this point, however. Traffic control onsite (i.e., parking) is purely a private business matter and not the responsibility of the Sheriff.

There is no CUP requirement for sheriff's deputies for grounds patrol. The CUP requires sheriff's deputies for traffic control "to reduce the risk of accidents on highway 212." The applicant has hired private security to manage onsite security matters. The numbers of onsite police calls for service have been manageable. I do not believe onsite police presence is required, assuming the applicant continues to provide reasonable security measures.

If the Board requires law enforcement for traffic control along US Highway 212 or for onsite policing, I respectfully request the CUP reflect a requirement for "licensed peace officers having jurisdictional authority" versus "sheriff's deputies." Our office does not always have adequate resources to fulfill the demands of staffing the position. By allowing "licensed law enforcement," the applicant has the option to explore contracts with MN State Patrol or other authorized service providers in lieu of closing or violating the CUP due to our inability to fulfill the contract.

Recommendation: No police services contract required, assuming highway construction is complete as detailed.

Jason Kamerud, Sheriff

Carver County Sheriff's Office
606 East Fourth Street
Chaska, MN 55318

June 13, 2022

Donovan Hart
Carver County
600 East 4th Street
Chaska, Minnesota 55318

SUBJECT: Scream Town
 MnDOT Review S22-014
 NW Quad of US 212 and Hwy 43
 Control Section: 1013
 Dahlgren Township, Carver County

Dear Donovan Hart,

The Minnesota Department of Transportation (MnDOT) has reviewed the above-referenced site plan. Please address the following issues before any further development:

Work Zones and Pavement Markings

The event should still have two law enforcement officers for the 2022 season until trunk highway 212 construction is completed.

For questions regarding this comment, contact Kevin Farraher, Workzone Design, at Kevin.Farraher@state.mn.us or 651-775-1270.

Permits

Any use of, or work within or affecting, MnDOT right of way will require a permit. Permits can be applied for at this site: <https://olpa.dot.state.mn.us/OLPA/>. Please upload a copy of this letter when applying for any permits.

For questions regarding this comment, contact Buck Craig, Permits, at buck.craig@state.mn.us or 651-234-7911.

Review Submittal Options

MnDOT's goal is to complete reviews within 30 calendar days. Review materials received electronically can be processed more rapidly. Do not submit files via a cloud service or SharePoint link. In order of preference, review materials may be submitted as:

1. Email documents and plans in PDF format to metrodevreviews.dot@state.mn.us. Attachments may not exceed 20 megabytes per email. Documents can be zipped as well. If multiple emails are necessary, number each message.
2. For files over 20 megabytes, upload the PDF file(s) to MnDOT's Web Transfer Client site: <https://mft.dot.state.mn.us>. Contact MnDOT Planning development review staff using the same email above for uploading instructions, and send an email listing the file name(s) after the document(s) has/have been uploaded.

You are welcome to contact me at 651-234-7785, or Jake.Schutt@state.mn.us with any questions.

Sincerely,



Jake Schutt
Principal Planner

Copy sent via email:

Jason Swenson, Water Resources
Buck Craig, Permits
Doug Nelson, Right of Way
Alexander Hogan, Traffic
Kevin Farragher, Workzone Design
Diane Langenbach, Area Engineer
Lance Schowalter, Design
Mike Samuelson, Ped/Bike Planning

Mackenzie Turner Barger, Multimodal Planning
Jesse Thorsen, Ped/Bike Planning
Tod Sherman, Planning
Cameron Muhic, Planning
David Elvin, Planning
David Kratz, Planning
Russell Owen, Metropolitan Council



Township Presentation & Recommendation Form

PARCEL # <u>040090600</u>	Permit # <u>PZ 2022 0024</u>
Owner's Name: <u>SSP HOLDINGS</u>	Owner's Mailing Address: <u>15900 ELYING CANYON DRIVE</u>
City: <u>EDEN PRAIRIE</u>	Owner State: <u>MINNESOTA</u>
	Owner Zip: <u>55347</u>
Applicant (if other than owner): <u></u>	Site Address: <u>7410 Hwy 212, CHASKA, MN 55318</u>

Type of Request: ☒ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☐ Variance ☐ Appeal
Description of Request: <u>SEE ATTACHED - update Conditional Use Permit - downtown</u>

Date of County Public Hearing: <u>6-21-22</u>	Date of Township Meeting: <u>6/13/22</u>
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Actions:

Township Action Taken:

- ☐ Recommends approval and use of the Township Road (if applicable) with the following comments:
- ☐ Recommends denial for the following reasons:
- ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

See Attachment

****Important:** I understand that I must appear at the Town Board meeting to present my request and obtain their recommendation prior to appearing before the County Planning Commission or Board of Adjustment.

[Signature]

Signature of Applicant

Date 6-13-2022

[Signature]

Date 5/27/2022

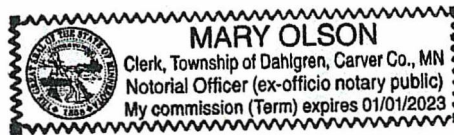
Signature of Township Official

Dahlgren Township Recommendations for SSP Holdings LLC Updating Screamtown CUP

1. Car count and guest capacity limits (currently 600 guests per day for number of days open): On motion by Chairman Thompson and seconded by Supervisor Gennrich to lift the car count and guest capacity limits. Vote-aye-all-approved.
2. Sheriff Deputy on-site: On motion by Chairman Thompson and seconded by Supervisor Gennrich to let the Carver County Sheriff decide if Deputy's need to be on-site. Vote-aye-all-approved.
3. Expansion of parking and trail: On motion by Chairman Thompson and seconded by Supervisor Gennrich to approve the expanded parking area and trail expansion. Vote-aye-all-approved.
4. Days and hours of operation: On motion by Chairman Thompson and seconded by Supervisor Gennrich to make no recommendation on the changing of allowed number of days or extension of hours. But the Board did have concern about the expanding the hours of operation. Vote-aye-all-approved.



Mary Olson
Dahlgren Township Clerk
June 13, 2022





COUNTY OF CARVER
State of Minnesota

Document No.
A 488312

OFFICE OF THE
COUNTY RECORDER
CARVER COUNTY, MINNESOTA

Fee \$ Check#

Certified Recorded on 08-25-2008 at 02:30 ☐ AM ☒ PM



Carl W. Hanson, Jr.
County Recorder

FILE #: PZ20080001
APPLICANT: Sever Peterson
OWNER: Peterson Farm Holding
SITE ADDRESS: 7410 Highway 212
PERMIT TYPE: Fall Festival and Corn Maze
PURSUANT TO: County Code, Chapter 152, Section(s) 152.080
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-009-0600

Drafted by: Land Management
Return to: Land Management

CONDITIONAL USE PERMIT #PZ20080001

PLANNING COMMISSION RESOLUTION #: 08-03

ORDER #: PZ20080001

DATE ISSUED: June 10, 2008

This permit is issued for property legally described on the attached Exhibit "A", pursuant to Chapter 152 of the Carver County Code.

THE LARGE SCALE ACTIVITY (NIGHT CORN MAZE) IS AUTHORIZED BY COUNTY BOARD ORDER #PZ20080001, AS FOLLOWS:

IT IS HEREBY ORDERED THAT THE CARVER COUNTY ZONING ADMINISTRATOR SHALL ISSUE CONDITIONAL USE PERMIT #PZ20080001. THIS PERMIT IS ISSUED PURSUANT TO CHAPTER 152 OF THE CARVER COUNTY CODE, SECTION(s) 152.080 FOR A HAUNTED CORN MAZE RECREATIONAL ACTIVITY ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A". THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO THE PERMIT:

1. The permit is subject to Compliance Review. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Land Management for a determination as to whether an application for an amendment or similar consideration is necessary. Proposed owners and or operators are encouraged to contact Land Management as early on in the timeline of the proposed change as possible.
2. This Large Scale activity will be limited to an annual average of 600 patrons each day the operation is open to the public. The permittee must maintain records of the number of tickets sold to enter the site each day and provide a copy of this record to the Land and Water Services Division at the end of each season or upon request.
3. Operations shall be substantially in accordance with the application letters, responses, supplemental information and the approved site plan. The hours of operation would be 5:30 p.m. until 11:00 p.m. during Friday, Saturday and Sunday from the last full weekend in September to the first full weekend in November and also the Wednesday and

Thursday of MEA weekend each year.

4. To reduce the potential for dust, vegetation shall be preserved as much as possible. A watering truck shall be utilized for dust control, as conditions warrant.
5. To reduce the risk of accidents on site and on Highway 212 the permittee shall contract a minimum of two (2) County Sheriff's Deputies for the duration of the event. The permittee shall also provide warning signage and lights as required by the road authority and/or sheriffs department and/or state patrol.
6. The Permittee shall obtain an appropriate access, signage and construction permits and/or approval(s) from MnDOT prior to any public activities taking place on the property. Any measures required by the appropriate road or zoning authority including turn lanes and access permits must be completed in accordance with MnDOT standards prior to public activities taking place on the property.
7. The applicant shall submit a finalized operational plan and site plan to SWCD prior to commencing operations open to the public. The applicant shall abide by SWCD recommendations for the operation of the activities on site in accordance with the state water rules. Measures must be implemented to minimize tracking onto the Highway 212 and a sweeper shall be utilized within 12 hours of discovery of mud accumulation on Highway 212.
8. The Permittee shall furnish a certificate of Insurance to the County providing coverage by an insurance company duly licensed by the State of Minnesota indicating that the Permittee has in force coverage for public liability, vehicle liability, loading and unloading, completed operations liability, explosion and collapse of underground operations liability, and bodily injury liability in the amount of at least \$2,000,000 for injury of any one person in any one occurrence. Property damage insurance coverage shall be in force with a minimum amount of at least \$1,000,000. Further, the Permittee shall furnish proof of workman's compensation coverage. Insurance certificate(s) described above shall carry an irrevocable notice to the County by the carrier 30 days prior to any change, modification, lapse, or cancellation of the policies required.
9. Any required building and septic permit(s) must be applied for and issued prior to construction. Any future remodeling or construction shall be reviewed by the Zoning Administrator to determine if an amendment to the CUP is necessary. All structures shall meet the applicable State Building Code requirements.
10. The permittee is responsible for obtaining and abiding by all appropriate permits from the Department of Health and Department of Agriculture.
11. Signage for the activity shall not exceed the provisions set forth in the Carver County Sign Ordinance of the Carver County Code.
12. The permittee shall work with Carver County Environmental Services to reduce waste that his operation produces. Where possible, the operation shall utilize the Carver County Master Plan waste hierarchy to reduce the amount of waste entering landfills.
13. The permittee shall block all access from the permitted property to Mellgren lane during the permitted activity to ensure the public does not utilize the cartway.


Steve Just
Land Management Department Manager

THIS PERMIT IS NOT EFFECTIVE UNTIL SIGNED BY THE APPLICANT. FAILURE OF THE APPLICANT TO SIGN AND RETURN PERMIT WITHIN 90 DAYS OF THE BOARD'S ISSUANCE OF THE ORDER SHALL BE CAUSE FOR CANCELLATION OF THE PERMIT.

Applicant signature block

I HAVE READ THE ABOVE CONDITIONS AND AGREE TO FOLLOW THEM. I REALIZE THAT FAILURE TO ABIDE BY THE CONDITIONS IS A VIOLATION OF THE ZONING ORDINANCE. I AGREE THAT THE ZONING ADMINISTRATOR OR A DESIGNATED REPRESENTATIVE MAY ENTER UPON THE SUBJECT PROPERTY TO CHECK FOR COMPLIANCE OR FOR REVIEW PURPOSES. I ALSO UNDERSTAND THAT UNLESS SIGNIFICANT ACTION IS TAKEN PURSUANT TO THIS PERMIT WITHIN SIX (6) MONTHS OF THE ISSUANCE OF THE BOARD ORDER THE PERMIT SHALL AUTOMATICALLY BE NULL AND VOID. THE TIME PERIOD CAN BE EXTENDED ONLY BY ACTION OF THE COUNTY BOARD OF COMMISSIONERS. A PETITION FOR EXTENSION MUST BE SUBMITTED AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE.

FAILURE OF THE APPLICANT TO SIGN AND RETURN THE PERMIT WITHIN 90 DAYS OF THE BOARD'S ISSUANCE OF THE ORDER SHALL BE CAUSE FOR CANCELLATION OF THE PERMIT. I ALSO UNDERSTAND THAT THIS IS NOT A BUILDING PERMIT AND THAT OTHER PERMITS MAY BE REQUIRED.



Signature of Applicant



Date

REVISED OPERATIONAL PLAN

TO: Carver County Planning Commission

FROM: Sever Peterson / Sever's Corn Maze and Fall Festival

SUBJECT: Conditional Use Permit for Evening Event

Sever's Corn Maze and Fall Festival is applying for a conditional use permit to locate it's evening event to 7410 Hwy. 212 in Dahlgren Township, Carver County.

This event includes a six acre haunted maze, haunted houses, haunted trails and concessions. We have portable bathroom facilities on site.

The event will be open Friday and Saturday evenings for five weekends up to Halloween. Including Thursday evening of MEA and possibly Thursday evening of Halloween week. The hours will be from dusk to 11 PM.

In 2007 our evening event had almost 8,000 visitors over twelve evenings. We hope to increase this number by fifty percent over the next three years. If we are successful we plan to have up to 300 cars at any one time.

We plan to expand our present access off Hwy. 212 to accommodate two lanes of traffic entering. This will assure there is never a delay of traffic turning into our property off of Hwy. 212.

We will have up to thirty employees who serve as parking attendants, concessionaires, actors in the haunted events and supervisors.

Respectfully,

Sever Peterson representing Sever's Corn Maze and Fall Festival.

January 27, 2008

Dear Carver County Planning Commission,

My name is Sever Peterson, and like many of your families, our family has been farming in Carver County since the 1800s. I am the third generation to continue the family farm, and the fourth generation is already very much involved. It is a family owned and operated farm, including my two brothers, my wife, son and daughter, my daughter-in-law, as well as two full time employees.

Over the years and as our family grew, our farm business has had to adapt and grow in order to keep the growing family employed, which has enabled us to grow and sell fresh produce at Sever's Farm Markets, as well as the creation and operation of Sever's Corn Maze and Fall Festival, which began in 1997. Sever's Corn Maze and Fall Festival began as an idea from an English exchange student that spoke of intricate hedge mazes, and my wife and I thought of making a maze out of corn, a farmer's specialty! Some of our designs have included the Titanic, the United States, the world, the U.S. capitol, Sever's Safari, and Sever's Wild West. Our family brainstorms and creates the maze design in the winter, plants it in the spring, cuts it in the early summer, nurtures it all season to ensure all of the corn is strong and tall, and operates it in the fall, after which the field is harvested. This year will culminate our 12th year. Sever's Corn Maze is not only a family owned and operated business, but is family oriented and fun for all ages.

We are applying for a conditional use permit under the land use ordinance 152.080 in order to obtain permission to move Sever's Corn Maze and Fall Festival to our property at 7410 Highway 212. Our event has two parts. First, is the day time event which includes the corn maze, live entertainment, straw bale maze, hay rides, corn pit, slide, petting zoo, magic and wildlife shows, pig races, pony and camel rides, a pumpkin patch, and concessions, among other activities. Second, is our night time event which includes

7-10

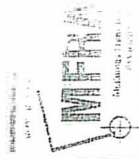
4-28

Sever's Corn Maze and Fall Festival is a haunted trail, a haunted maze, and concessions. Sever's Corn Maze and Fall Festival is open Fridays, Saturdays, and Sundays, plus Wednesday and Thursday of MEA from the beginning of September until the first weekend of November, weather permitting. The daytime hours are from 11am until 6pm, and the nighttime hours are from dusk until 11pm. Last year, Sever's Corn Maze and Fall Festival had almost 30,000 visitors. Our parking lot is approximately 25 acres and can easily accommodate 1,000 vehicles. We have bathroom facilities, sanitary cleanser, and portable hand wash facilities at various locations throughout the event. These facilities are professionally serviced after each day of operation, as well as garbage services after every weekend. We plan to use the 32 square foot allowed signage, and if possible, would like to request a variance in order to explore the possibility of a larger sign. Our entire family works at Sever's Corn Maze and Fall Festival, and we also employ approximately twenty people. Their titles include parking attendants, trail assistants, maze orientation, and "ghouls" in the haunted trail and maze. Our event and activities are insured fully, including workman's compensation insurance.

We plan to relocate Sever's Corn Maze and Fall Festival to our farm in Dahlgren Township, Carver County in phases over at least two years. We anticipate that the haunted portion of our event will move in 2008 and the remainder of the event will move the following season. We have included site plans, legal description, and a demonstration of sufficient interest, in addition to the actual conditional use permit application. We would be more than happy to provide additional information, if needed, or you can visit our website at www.severscornmaze.com to see aerial photos and get more of an idea of what the event entails.

Sincerely,

The Petersons
Sever, Sharon, Aaron, Brooke, and Nicola



Client
SEVEN PETERSON

Project
**SEVEN FARMS
ROAD ACCESS**

Location
7410 HIGHWAY 71

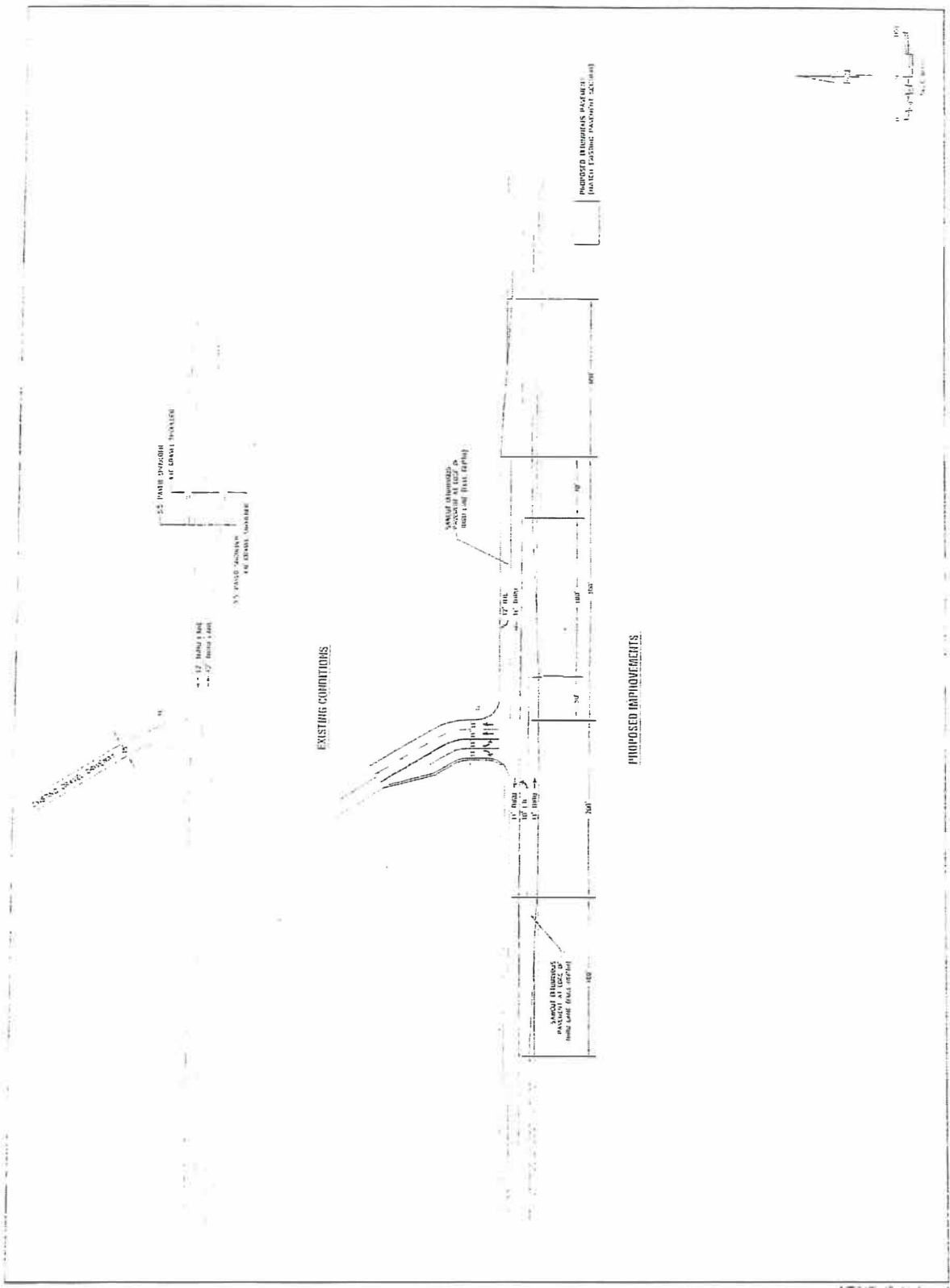
Engineered by
BRUNNEN ENGINEERING

Certification
Professional Engineer

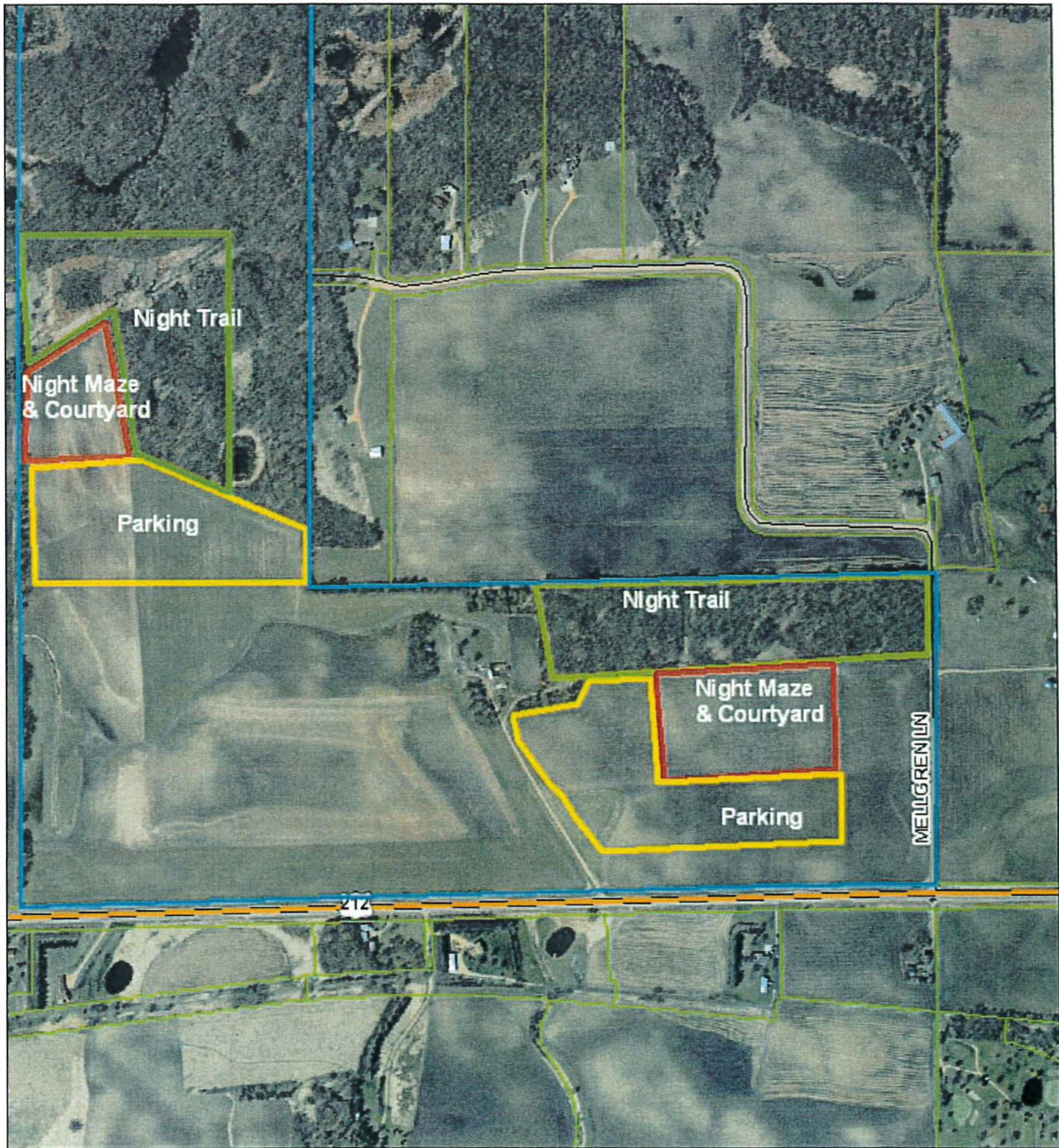
Summary
Project No. 2371-1000
Revision History
Rev. 001 by 01/01/2010

Sheet Title
**EXIST CORRIDOR
PROPOSED
IMPROVEMENTS**

Project No. 2371-1000



Scream Town Possible Configurations



Map date: 7/9/2007

This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a survey or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

0 175 350 700 1,050 1,400 Feet



EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-009-0600

File# PZ20220024

APPLICANT: Mitch Michaelson

OWNER: SSP Holdings, LP

* * * * *

An undivided 9/10th interest in the East Half of the Southwest Quarter (E1/2 of SW1/4);

and the Southeast Quarter of the Northwest Quarter (SE1/4 of NW1/4) EXCEPTING
THEREFROM the West 10 ½ acres,

and also the South Half of the Southeast Quarter (S1/2 of SE1/4), all situated in Section 9,
Township 115, Range 24, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department