

Carver County Planning Commission

Regular Meeting - **Tuesday, June 20, 2023**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska, Mn

AGENDA

7:00 P.M.

- 1.) Approve minutes of May 16, 2023, regular meeting
Pages 1-1 through 1-13
- 2.) **File #PZ20230025** – Public hearing on application by Loren & Susan Kohls for a Conditional Use Permit. (Additional Density)
Watertown Township Pages 2-1 through 2-12
- 3.) **File #PZ20230021** – Public hearing on application by Joe White of B H Aggregate Services Inc., representing Robert & Jenifer Weerts and Jean F Beuning Revocable Trust, for a Conditional Use Permit.
(Mining)
Hollywood Township Pages 3-1 through 3-41

Other Business

CARVER COUNTY PLANNING COMMISSION
Regular Meeting – May 16, 2023
Minutes

Members Present: Scott Wakefield, Scott Hoese, Greg Grazzini, Frank Mendez, Matthew Kerber, John P Fahey

Members Late: None

Members Absent: Andy Steinhagen

Staff Present: Jason Mielke, Donovan Hart, Jennifer Tichey

Pursuant to due call and published notice thereof, the May 16, 2023, regular meeting of the Carver County Planning Commission was called to order by Chairman Wakefield at 7:00 p.m.

Chairman Wakefield announced the roll call indicated six members are present and acknowledged the absence of Planning Commission Member Steinhagen.

Agenda – A motion was made by Hoese to approve the agenda as printed. Grazzini seconded the motion for approval. All voted aye. Motion carried.

Minutes – A motion was made by Grazzini and seconded by Hoese to approve the minutes from the April 18, 2023, regular meeting. All voted aye. Motion carried.

File #PZ20230022 – Mitchell Jamison – Chairman Wakefield called the public hearing to order at 7:02 p.m. to consider a request by Mitchell Jamison. The purpose of the public hearing was to consider a request for a public equestrian facility pursuant to Chapter 152 of the County Code. The property is located in Section 17 of San Francisco Township.

The following were present: Mitchell Jamison

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 April 20, 2023

Exhibit F – Staff Report addressed to the Planning Commission and San Francisco Township dated May 8, 2023, and all attachments

Exhibit G – Letter of support from Lee Wickstrom dated May 11, 2023

Hart stated the applicant owns an approximate 16.27-acre parcel, improved with a single-family dwelling, two accessory structures and several agricultural structures, and outdoor riding arenas. A large portion of the property is pasture area. The property is also located within the Residential Cluster Zoning District (Molnar Addition, platted in 1998), partially located within the Shoreland

Overlay District (Johnson Lake), and the Carver County Water Management Organization (CCWMO) – Bevens Creek Watershed. The applicant purchased the property in 2021 with the understanding that the existing equestrian facility was approved and permitted. He has since found that it was not and is working to obtain the appropriate permits to establish an approved and permitted equestrian facility. The property was issued a variance to allow a Conditional Use Permit for his equestrian facility on a property in a Residential Cluster District. Hart used an aerial photo to illustrate the current layout of structures, feedlot components, pasture areas, and customer parking on the property. The applicant is proposing to have a maximum of 25 animal units on the property. No new structures have been erected and there is no request for additional buildings at this time. The proposed hours of operation are sunrise to sunset during the summer and sunrise to 7:00 p.m. in the winter, and any emergency vehicles as needed. The proposed vehicle trips at the property average approximately 4 per day. The Environmental Services Department verified that the current SSTS system is compliant. Matt Steele, Carver County Feedlot Officer, reviewed the request and documented the current feedlot registration information, reflecting the change in ownership and operations. Jack Johansen, Carver County Transportation Planner, reviewed the request and recommended a 25-foot turning radius at the site access to accommodate horse trailers that may enter/exit the site. The San Francisco Township Board reviewed the application and recommended approval of the request at their March 20, 2023, meeting. Hart read the proposed conditions for consideration if the request is recommended for approval. If the Planning Commission recommends denial of the request, the reasons supporting the denial should be clearly stated.

Mitchell Jamison, 17580 County Rd 40, had no additional comments.

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

Mr. Jamison stated he agrees with the proposed conditions.

No one was present to represent the San Francisco Township Board.

No one from the public was present to comment about the request.

A motion was made by Fahey to close the public hearing. The motion was seconded by Kerber. Chairman Wakefield called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:08 p.m.

Hoese questioned the language in proposed Condition #2 listing a specific number and type of animals versus animal units, noting that the current operation consists of mules and horses.

Mr. Jamison responded that in a conversation with Matt Steele, the Carver County Feedlot Officer, he understood that they would be able to have up to 29.9 animal units on the property. He agreed that it might be more appropriate if horses and mules were listed, but they are only asking for 25 horses, with the understanding that they would be allowed up 29.9 total animal units according to the feedlot regulations.

Mielke stated the conditions can be amended to reflect what is needed for the proposed operation. The application indicated the property can accommodate 25 horses, but the CUP permitting is different from the feedlot permitting regulations. He noted that one of the conditions requires a compliance inspection with the County Feedlot Officer and compliance with the MPCA Feedlot Rules and the Carver County Feedlot Management Ordinance. If the Board feels the language should be amended, it would appropriate to do it.

Fahey asked Mr. Jamison if he was comfortable with having a 25-foot turning radius at the access, as suggested by the Carver County Transportation Planner.

Mr. Jamison stated he was unsure what that would entail but would comply with the requirements.

Fahey suggested Mr. Jamison should contact Mr. Johansen to get all of the information surrounding the access requirement. It appeared to Mr. Fahey that there would be room to accommodate the access improvements.

Fahey made a motion to **approve and issue Resolution #23-09** incorporating the findings of fact and staff recommendations approving the Conditional Use Permit for a public equestrian facility and including changing the language in Condition #2 to allow for up to 29.9 animal units. Mendez seconded the motion for approval. Chairman Wakefield called for a vote on the motion. All voted aye. Motion carried.

File #PZ20230020 – Matt Dunn – Chairman Wakefield called the public hearing to order at 7:13 p.m. to consider a request by Matt Dunn. The purpose of the public hearing was to consider a request for amendments to a Large-Scale Activity – Recreational (Scream Town) pursuant to Chapter 152 of the County Code. The property is located in Section 9 of Dahlgren Township.

The following were present: Matt Dunn, Mitch Michaelson, Theresa Mieseler, James Mieseler, Thomas Kathan, Mariah Kathan, Mark Willems, Richard Licht, JoAnn Schindler, Michele Imdieke, Brian Gennrich, John Darden, Pete Vickerman, Kevin Mijal

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Exhibit D – Site Plan

Exhibit E – Letter from the applicant dated April 17, 2023

Exhibit F – Staff Report addressed to the Planning Commission and Dahlgren Township dated May 8, 2023, and all attachments

Exhibit G – Letter from Karin Johnson dated May 11, 2023

Exhibit H – Petition dated May 11, 2023, containing 23 signatures

Exhibit I – Letter from Thomas & Mariah Kathan dated May 12, 2023

Exhibit J – Letter from Peter Vickerman dated May 15, 2023

Exhibit K – Letter from Carson Bock dated May 12, 2023

Exhibit L – Letter from Matt Dunn describing the proposed access road dated May 12, 2023

Hart stated the applicant has been operating a large-scale activity (recreational) on this approximate 190-acre site since the current CUP, #PZ20080001, was issued in 2008. The property consists mainly of agricultural production land, an apple orchard, wooded acres and the structures and mazes that make up the Halloween attraction. The current CUP has an annual daily average of 600 patrons each day the operation is open to the public. The established hours of operation are 5:30 p.m. to 11:00 p.m., Friday through 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. Two County Sheriff's Deputies are required for traffic control as well as warning signage and lights required by the road authority or law enforcement authority. Additional conditions in the current CUP relate to compliance with agency regulations, such as the Department of Health and MnDOT, minimization of dust and sediment tracking on Hwy 212, liability insurance, solid waste reduction, and other measures that may have impacts on surrounding properties and infrastructure. The current operational area is approximately 35 acres of the property. The proposed expansion would include approximately 1 acre for a wooded night trail in the northwest corner of the property and about 2.3 acres of additional parking southwest of the existing parking area. A proposed new internal access road would skirt the property's eastern boundary and allow vehicles to enter the existing parking area from the east, as an addition to the existing access on the south side. Other proposed changes include increasing attendance from an average of 600 per night to 2,000 at any one time, extending hours from 11:00 p.m. to 12:00 p.m. when warranted, adding Thursdays, and the Monday or Tuesday of Halloween week and Halloween (with limited hours no later than 10:00 p.m.), remove the requirement for deputies for traffic control, and allowing the additional road for incoming traffic to be decorated/themed with theatrical sets, lighting, and props. Site plans have been submitted which show the proposed physical changes on the property. Hart noted that pursuant to the Zoning Code for a Recreational Large-Scale Activity, "a stipulation needs to be made in the permit as to the number persons to be using the facility at any one time." The applicant is proposing attendance be limited at 2,000 persons at any one time. Reviewing the past attendance records which have been submitted, the attendance has not been near the requested 2,000 persons at any one time. The Zoning Code also regulates the amount of prime ag land of the parcel used for the activities, and the proposed changes appear to be within the required limits. An access road for hayrides near the western property line was recently expanded and improved. The Carver County Water Management Organization (CCWMO) is in the process of reviewing the request and all CCWMP related permits and conditions shall be met prior to the issuance of any future building permits or beginning any excavation activity. Jason Kamerud, Carver County Sheriff, has reviewed the application and commented that if all traffic entering or exiting the property is using a right turn only lane, there is likely no need for staffed supplemental traffic control at the Hwy 212 entrance or exit from the Sheriff's Department. Concerning the traffic control, Sheriff Kamerud recommended that no police services contract be required, assuming highway construction is complete as detailed. The applicant has hired private security to manage onsite security measures and the number of onsite police calls for service has been manageable, he felt onsite police presence would not need to be required. MnDOT has issued an access permit for the days of operation. Dahlgren Town Board reviewed and recommended approval of all of the CUP amendment requests at their March 13, 2023, meeting, with the exception of the

extension of the operating hours to midnight when warranted. The Township supervisors recommended approval of removing the car count and guest capacity limits, addressing the police presence at the public hearing, and approval of increasing the parking area and trail expansion. Hart read the proposed conditions for consideration if the Planning Commission recommends approval of the request. If the current application fails, or is withdrawn, CUP #PZ20080001 would remain in full force and effect.

Matt Dunn, 4130 Juneau Ln N, thanked the Planning Commission for their time to hear and consider the request and acknowledged the Township Board, thanking them for their time also. He reviewed the proposed changes and described the requests as ‘an insurance plan’ or offering additional flexibility to their schedule allowing recovery when things go vastly different than planned. The information surrounding the 2023 business schedule is already planned and ready to be posted on-line. One huge component in their operation is weather and no one can predict that 6 or more months in advance. He stated the current CUP offers some flexibility, citing they are allowed to be open to 11:00 p.m. on Sundays, however, they are often closed by 10:00 p.m. because their clientele is not staying that late. They are striving for the flexibility to be open during the optimal times when people will most likely want to visit the attraction. He mentioned the increase of patrons from 600 to 2,000, stating the 600 number had been a suggestion from MnDOT for the capacity of the access from Hwy 212 at that time. The highway reconstruction has changed the traffic flow opportunity and they are requesting up to 2,000 people, knowing that just because they request that number does not mean that many people will arrive, but would be a manageable number on site. He stated the change in operations with timed ticketing has greatly increased the positive flow of traffic and people through the site and allows better control of the visitors as they are only allowed to go through an attraction once and then leave. He mentioned a traffic backup issue which was caused when the lines were being painted on the newly constructed highway. He did not anticipate that this would be a recurring problem since the highway construction is now completed. Mr. Dunn commented about extending the hours to 12:00 a.m. and explained that this would offer some flexibility if a repair or other delay would occur and still allow their clientele the opportunity to experience their full ticketed event. He would not need to advertise that they could be open until midnight, but it would allow them to operate within the guidelines of their permit and get the patrons safely off the property. He explained the additional requested dates in the same way, as contingency dates to replace and recover if other days are cancelled. He briefly mentioned the removal of the deputy requirement, noting Sheriff Kamerud may not have adequate staff to cover the event and with the Highway 212 reconstruction completed, the access is much safer. The proposed internal access road will help traffic flow and act as a backup lane for additional vehicles, if needed, and would add another visual experience for visitors as they enter or exit with a theme and theatrical sets. The additional parking area will offer a more level space for vehicles in the case of rain or other undesirable conditions. He described the additional area for the night trail as a marsh and the trail would circle around the marsh. Mr. Dunn explained that he places signage on Mellgren Ln to alert people that it is a private drive and not an access to Scream Town so the vehicles should turn around and go to the next access to the west. He stated ‘no event traffic’ signage is also posted on Kelly Av to better direct vehicles to the appropriate event entrance. Construction and completion of the hayride road is ready go as soon as the CCWMO completes their review and issues the appropriate permit requirements. He concluded by stating he understands this event might not be a favorite activity for some of the area residents, however, in the past 15 years of

operation, it has brought many people to the area who do business with other local establishments. He also employs many people from Chaska and surrounding communities and noted there are people working at this site a larger part of the year than just the days that the event is open to the public. He stated the list of requested amendments has been somewhat cut back from what they may have wanted because he wants to be accommodating and remain a good neighbor in the area. He has offered his phone number to the surrounding property owners and invited them to call him at any time if they have an issue they want to discuss.

Chairman Wakefield confirmed with the applicant that he has read and understands and agrees with the 17 proposed conditions of the permit.

Mr. Dunn stated he has read and agrees with the proposed conditions.

Brian Gennrich, Dahlgren Township supervisor, confirmed the applicant's attendance at their March 13, 2023, meeting at which the proposed amendments were discussed. He addressed each proposed change and offered the Township Board vote on each one, which resulted in the Township Board recommending approval of all the amendments with the exception of extending the operation hours to midnight when warranted. He stated the extended hours when warranted did not support structure for the business plan and the Board unanimously voted to deny that one amendment request.

Theresa Mieseler, 7777 Herb Farm Ct, read the submitted letter, which was signed by 23 area residents, and reviewed the comments made by residents concerning each amendment request. She also read the letter submitted by Karin Johnson who was unable to attend this meeting. Ms. Mieseler also noted her documentation of two instances from the previous season where lack of dust control was noticeably disturbing.

Chairman Wakefield asked Jim Mieseler what he had heard from the CCWMO about the hayride road construction along the westerly property line.

Jim Mieseler, 7777 Herb Farm Ct, stated the construction was still under review and he understood they were going to wait until after a decision was made on the CUP amendment request before issuing any permits. He also mentioned issues with another ditch where water drains into from this area, and since the hayride road disturbance, he has noticed fallen trees and tree roots washed out from changes in the water flow.

Chairman Wakefield asked the applicant if he wished to respond to the comments.

Mr. Dunn stated his initial comments had followed the items on the Mieseler' letter and he had nothing to add at this time unless the Board had questions for him.

Mariah Kathan, 7570 Mellgren Ln, stated they had submitted a letter which was provided to the Board. She wanted to address Mr. Dunn's request for flexibility with the proposed amendments and recognized it as a valid point. She felt flexibility in terms of the area residents should also be considered. She stated that if additional flexibility is given to the business, the flexibility of the residents is compromised. She noted that some of the neighbors said they leave the area while

Scream Town is open and asked that some consideration be given to that action. She also stated that even though the noise levels of the activity meet the requirements of the laws, consideration should be given to the types of noises being heard such as gun shots, screams, etc. which is very different from the sounds of a babbling brook or other typical country sounds. She stated they have recently moved to Mellgren Ln and have not experienced the Scream Town event season, so they do not direct experience with the activity. After hearing the testimony from the neighbors, she believed they are living near to an unfortunate situation which is clearly distressing to many of them. She asked that the Board consider the request carefully for the protection of the area residents as well as the business.

Thomas Kathan, 7570 Mellgren Ln, expressed concern with vehicles that drive on Mellgren Ln in error when trying to find the Scream Town event. He felt if they are ignoring the signage provided, maybe police presence is warranted to redirect them.

Mr. Dunn stated he had not yet met the Kathan's and offered to share his telephone number with them and discuss any concerns they may have.

Michelle Imdeike, 2710 Shadow Wood Ct, stated she is the owner of Sticks Restaurant at Dahlgren Golf Course in the area. She appreciated the people who came to Scream Town, stating that her business increased last fall because of them. She described traffic and vehicles in the neighborhood where she lives and said there are stray vehicles from time to time for no reason. She empathized with the residents but realized that there is little control over stray traffic. She spoke positively about Mr. Dunn as a businessman and stated she has heard many positive comments about Scream Town. She stated it was billed as one of the top attractions of its kind in the country.

Mark Willems, 9310 150th St, stated this request has been heard a number of times in the past and it is not the same business that was presented and permitted 15 years ago. He understands that Mr. Dunn is trying to operate a business, however, he also sympathizes with the residents who live in the area. He questioned the flexibility of extending the hours until midnight, asking at what point in the evening is it decided that the hours will be extended. He stated the additional flexibility with the dates and noted that Mr. Dunn's website clearly states the event is weather-dependent and there are no refunds on the tickets. With that information, he concluded that flexibility of the dates is not a legitimate excuse because of the way the event is advertised, and the tickets are paid for and not refundable. He pointed out the dust coating issue and stated it had been mentioned in previous meetings also and wondered when it becomes a violation of the CUP if it is not done. He asked if there was any record that dust coating had ever been done on the property. In conclusion, he asked that the CUP, if amended, is not issued until the hayride road and CCWMO permit is issued and resolved.

Mr. Dunn responded saying that dust control has been applied in the past and was done with a watering truck. He agrees that the calcium chloride would be a better choice and they will apply that this year, as required. He also stated that the request for extended hours until midnight is not meant to hide anything, but it will be used occasionally to get the guests out safely when handling weather-related issues. He confirmed that they do not want to be open until midnight

as it would cost more and would not be good business sense. He estimated that flexibility may be exercised on about 5 of the evenings.

Kevin Mijal, 12315 Kelly Av, asked whom the neighbors can contact or what is the process if they feel there is a violation of the CUP conditions. He expressed his concern with the request to allow up to 2,000 people on site as he felt that is 3 times the current number of people and seems like an unmanageable amount.

Mr. Dunn asked if any of the Board members have been out to the event while it is open and would comment about what they experienced.

Matt Udermann, Carver County Commissioner, stated he visited the site on a Friday evening and brought two people with him. It was a quiet night with no wind, so he did not see any dust generated. He stopped on Mellgren Ln and listened, and then went onto the site and asked Mr. Dunn to take them to the loudest area of the attraction. Mr. Dunn took them to three or four areas of the property and one of Mr. Udermann's friends commented that the noise of the train and the highway traffic was louder than the noise of the event.

Ms. Imdieke commented that an area succeeds when businesses generate revenue and currently the downtown area of Chaska is struggling. She hoped that people would be cognizant of how this area is growing and changing and that business is necessary to succeed.

Mitch Michaelson, 1165 Symphony Ln, is the owner of the land on which Scream Town operates and is very familiar with this permit and application. He is discouraged by all the negativity surrounding the business, despite all the compromises and changes that have been made. This is an established business and they are working to make improvements and make things work better. He feels there is no sense of resolve to the issues with the neighbors. There is a community of clients that is growing for this business that they want to capture. He stated they have been through many public hearings and are willing to make changes and work together for a positive result. He stated the requested amendments offering flexibility for the business to continue forward. He asked the Board to carefully consider this request.

Mielke explained some background history on the initial permit and subsequent requests which grew into the current activity. He stated the original request included a fall festival, corn maze, and Scream Town activity (haunted trail and mazes). At that time, the Planning Commission wasn't comfortable to issue a permit for both the fall festival and Scream Town and asked the applicant to make a choice for one of the activities. The applicants chose the Scream Town activity and Mielke noted the permit included a condition concerning dust control which referenced preserving vegetation and using a watering truck as conditions warranted. (The historical information was also included in the meeting packet for this public hearing.) He clarified that current dust control will require calcium chloride or other similar substance. Mielke visited the site a few times and spoke with Mr. Dunn about dust control and also recognized that some of the appearance of dust hovering in the air could have been caused by the fog machines used in the attractions. He commented about the CCWMO permitting process, stating he has been somewhat involved and was expecting an application to be submitted last year for the driveway access. The WMO did not issue the permit based on the timeframe and

time of year relating to surveying for the stormwater retention ponds. The project commenced this spring, and the information has been submitted and is being reviewed with respect to the impervious areas and increased impervious area. The westerly property line has been surveyed and established and corrections made with the culvert. The CUP application submitted last fall was withdrawn and the site continued to operate under the existing CUP issued in 2008.

Fahey asked if there is a setback for the culvert from the property line.

Mielke stated a 15-foot setback from the property pertains to a building or structure. The facades that are used with the attractions are not considered a structure by the building official, and a 10-foot setback was determined to be a reasonable distance from the property line to ensure all of the activity would be on this property. There is no required setback for the access as long as the water can disperse in the area of the culvert flares without impacting the adjacent property. This is also a part of the stormwater permitting process approval.

Hoese commented about dust control, noting that it may need to be applied more than once to be effective.

Mr. Dunn asked if Mielke could comment about the time he stopped by the Johnson property on Mellgren Ln.

Mielke stated it has been 5 or 6 years or more since he stopped at the Johnson property to experience the effects of Scream Town at their location. He acknowledged that the noise of people and screams was audible, however, not to the point of being a violation of any lawful decibel level.

Ms. Mieseler asked how far the culvert will be moved from the property line and if the road will need to be moved also. She reiterated that this work was begun without any permits.

Mielke replied that the Planning and Water Management Department would need to respond to that question, as he does not have authority on the WMO review and permitting process.

Mr. Mieseler expressed his frustration with the beginning of this event stating that 15 years ago, Sever Petersen talked with the neighbors and proposed having hay rides and some other activities on the property. He claimed no one would even know it was taking place and there would be no activity after dark. Mr. Mieseler stated the application was far different from what was initially communicated and felt this has grown and evolved from underhanded information.

Hoese asked for clarification about the reference to temporary three-bulb portable lighting or other lighting measures at the Highway 212 access intersection.

Mr. Dunn replied that the lighting has been in place for the past 15 years consisting of 2 flood lights aimed at and illuminating the sign at the event entrance.

Mendez asked what studies have been done to mitigate the dust and noise from the event.

Mielke replied that requiring calcium chloride or other type of dust coating rather than just watering will have a huge impact on reducing the dust.

Chairman Wakefield offered information and effects of different types of dust control application from his experience on the township board. He advised Mr. Dunn to consult and work with Dahlgren Township to coordinate the dust control application with their scheduling.

Fahey noted that the Condition #5 referencing the dust control requirement indicates ‘annually’. If the application should be done more than once in the season, the Board may want to consider clarifying that requirement.

Mr. Kathan responded to a previous comment difficulty trying to reach a resolution with neighbors. He stated shorter operating hours and limiting the number of people on site would help to reduce the noise and dust, which is contrary to what they are requesting, but would mitigate some of the neighbors’ issues and still allow Scream Town to operate.

Mr. Michaelson confirmed he has not yet met Mr. Kathan and looks forward to talking with him. He didn’t disagree that there are many techniques that could be implemented to mitigate some of the differences, however, he stated there has been a history with a lack of resolve.

A motion was made by Hoese to close the public hearing. The motion to close was seconded by Grazzini. Chairman Wakefield called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 9:00 p.m.

Hoese stated he would support the Township recommendation of keeping the hours of operation until 11:00 p.m. and not the requested midnight. He also would suggest changing the language in Condition #5 referring to the dust control measures and directing application to be done twice in the first year and annually after that, dependent upon the conditions.

Mielke offered a revision to the language for clarifying the application requirement.

Chairman Wakefield stated this application contains a number of amendments to the current CUP. He stated it may be difficult to collectively address all of them effectively as a unit and asked the Board members if they wanted to discuss each one separately.

The Board decided to address each amendment item separately (in a similar fashion to how the Township had done) to clarify their decision for a recommendation on the request.

Grazzini asked for clarification about the WMO permit and the road construction process and how it impacts their decision on the CUP amendment request.

Mielke clarified the requirement of Condition #9 describes the WMO’s role in reviewing this site. They will look at the current project and the property as a whole dating back to 2000 when the Water Rules went into effect. All of the impervious area along with the road access is being considered with their permit. The language in this condition is securing the work will be done according to the WMO standards and satisfaction. They will issue the permit and are the

enforcement authority for its completion, which is required prior to Scream Town opening in the fall.

Fahey commented about the number of people who have been involved with this application and the time that has been invested to express opinions and be heard concerning this request. He stated it has been a permitted event for the past 15 years and he would like to get some resolution on this request as well.

Mendez acknowledged the work of Dahlgren Township to hear the concerns and present their recommendation clearly.

Chairman Wakefield recalled from the last gathering for this request, a suggestion made to the applicant about talking with the neighbors and continuing to keep communication open to work toward a resolution. He emphasized the importance of continuing to do that.

Chairman Wakefield read the request to increase the average attendance of 600 per night to a limit of 2,000 people at any one time. The Planning Commission's majority on this request was to allow this amendment, increasing the total attendance at any one time to 2,000. (4-2 support)

Chairman Wakefield read the request to increase the hours from 11:00 p.m. to 12:00 a.m. when warranted. The Planning Commission's majority on this request item was to deny this amendment, keeping the hours limited to 11:00 p.m. (4-2 support)

Chairman Wakefield read the request to be open on Thursdays with a cap of 23 days total to be open. The Planning Commission's majority on this request was to allow this amendment request, to be open on Thursdays, with a cap of 23 total days of operation. (5-1 support)

Chairman Wakefield read the request to be open on Halloween, with hours limited to no later than 10:00 p.m. The Planning Commission's majority on this request was to allow the amendment, to include days of operation the Monday or Tuesday of Halloween week as well as Halloween (if on Monday-Wednesday), with hours of operation for patrons to cease at 10PM. (6-0 support)

Chairman Wakefield read the request to remove the requirement to have deputies of any kind on Hwy 212 for traffic control. The Planning Commission's majority on this request was to allow removal of the requirement for deputies of any kind to conduct traffic control on Hwy 212. (6-0 support)

Chairman Wakefield read the request for an additional road/access point for incoming traffic and the ability to decorate/theme it with theatrical sets, lighting, and props. The Planning Commission's majority on this request was to allow an additional road/access point for incoming traffic and the ability to decorate/theme it with theatrical sets, lighting, and props. (4-2 support)

Chairman Wakefield read the request for additional parking on the southwest corner of the property. The Planning Commission's majority on this request was to allow additional parking on the southwest corner of the property. (6-0 support)

Chairman Wakefield read the request for additional woods space/night trail at the northwest portion of the hayride road. The Planning Commission's majority on this request was to allow additional woods space/night trail at the northwest portion of the hayride road. (6-0 support)

Mr. Dunn asked if he could offer a change to the request for extended hours of operation to apply to Fridays and Saturdays only during the last 3 weeks of the event.

Chairman Wakefield stated the Planning Commission general agreement at this time was no.

Mielke read the clarified language changes for proposed Conditions #2 (clarifying the hours until 11:00 p.m., and for Halloween dependent upon what day of the week it falls), #5 (clarifying requirements for calcium chloride application), and #9 (clarifying the WMO permitting authority and approval). He recapped the Planning Commission's general agreement on the amendment items which were recently discussed and stated that with the exception of the extended hours request, the other 8 proposed amendments had majority support to allow.

Hoese made a motion to **approve and issue Resolution #23-10** incorporating the findings of fact and staff recommendations with Planning Commission changes, to amend Conditional Use Permit for a Large-Scale Activity (Recreational). Mendez seconded the motion for approval. Chairman Wakefield called for a vote on the motion for recommending approval of the request to the County Board. All voted aye. Motion carried.

Adjournment

A motion was made by Grazzini and seconded by Fahey to adjourn the meeting. All voted aye. Motion carried. The meeting was adjourned at 9:39 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

June 12, 2023

TO: Carver County Planning Commission & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Conditional Use Permit (High Amenity - One Lot Incentive).

FILE #: PZ20230025

APPLICANTS: Loren & Susan Kohls

PROPERTY OWNERS: Loren & Susan Kohls

SITE ADDRESS: 25xx Navajo Ave., Watertown 55388

PERMIT TYPE: Additional Density (High Amenity - One Lot Incentive)

PURSUANT TO: County Code, Chapter 152, Section(s) 152.078 (A) (C) & (E)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-011-0730

BACKGROUND:

1. Loren and Susan Kohls own an approximate 64.8-acre parcel located in Government Lots 3, 4, 5 of the Northeast Quarter (NE¼) of Section 11 and part of the Southeast Quarter (SE¼) of Section 2, Watertown Township. The parcel consists almost entirely of crop production land, with some wetlands and treed areas. The parcel is bisected by the Luce Line Trail and contains Oak Lake shoreline. The parcel is located in the Agricultural Zoning District, Shoreland Overlay District of Oak Lake, and Carver County Water Management Organization (CCWMO) - Crow River Watershed.
2. The Kohls' are requesting a Conditional Use Permit (CUP) to allow for the creation of one (1) High Amenity (Lakeshore) Lot. The request is pursuant to Section 152.078 (A) (C) and (E) of the Carver County Zoning Code, which reads as follows:

§ 152.078 CONDITIONAL USES – ADDITIONAL DENSITY OPTIONS.

(A) General provisions.

- (1) Effect on 1/40 or lot of record building eligibility. Residential building eligibilities pursuant to this provision are in addition to and shall have no impact on residential building eligibilities available as a permitted use. This provision shall not prohibit the transfer of 1/40 building eligibilities pursuant to the provisions of this chapter.
- (2) Limitation on density. No more than four homes shall be located on a quarter-quarter section (40-acre parcel) based on the configuration of the parcel on July 1, 1974; homes subdivided from a parcel prior to July 1, 1974 shall not be considered in this calculation. In cases where the land does not follow the quarter-quarter section configuration, the shape most nearly approximating a quarter- quarter section containing 40 acres shall be used.
- (3) Limitation on use of density options. The issuance of a conditional use permit pursuant to "wooded and lakeshore lots" or "high amenity" provisions is prohibited on any parcel that was of record as of July 1, 1974 or any parcels derived therefrom, if at any time since December 7, 1982 a conditional use permit was issued or a rezoning occurred which provided residential density greater than that provided by the basic one per 40 or one per quarter-quarter section provisions of this chapter.
- (4) Compliance with township chapter of the comprehensive plan. The additional density options provided in this section shall be available only in townships which specifically provide for the option in their township chapter of the comprehensive plan. Residential development pursuant to these options shall be subject to and limited

by any additional criteria or standards contained in the township plan chapter. Applications for conditional use permits pursuant to this section shall not be considered complete unless a written statement is received from the affected township stating that the application complies with the township comprehensive plan chapter.

- (5) Road access requirement. All lots created under the additional density options shall have frontage on: a public road existing at the time of application; or the applicant must submit evidence that the township will accept the road as a township road at some point after it is constructed in accordance with township standards; or a road will be constructed that is privately maintained but with the right-of-way dedicated to the township. All roads shall be constructed to meet the standards in the comprehensive plan, the subdivision regulations, the standards manual, and the water plan.
- (6) Notice pertaining to agricultural uses. A notice or acknowledgment will be required regarding the “odors, dirt dust, insects, noises, long hours of operation and other factors associated with agriculture and feedlot activities.

C) High amenity areas

- (1) A maximum of three residential building lots may be subdivided from eligible high amenity land. This provision may be exercised only once for each parcel that was of record as of July 1, 1974. The parcel from which the lots are to be subdivided was a parcel of record of 40 acres or more, a complete quarter-quarter section or a complete government lot on July 1, 1974.
- (2) The maximum density in any area shall not exceed four single-family dwelling units per forty acres.
- (3) Only land within the amenity area shall be used to calculate additional density. In no case shall land currently enrolled in the agricultural preserve program be included in a density calculation that exceeds 1 per 40 (1 per $\frac{1}{4}$ - $\frac{1}{4}$). Any residential lots that have been subdivided after July 1, 1974, and/or existing homes on the parcel shall be considered 1 per 40-acre (or lot of record) eligibilities and shall be included in the density calculations. Remnant pieces not included in the additional density calculations shall have building eligibilities based on the applicable regulations of the “A” District.
- (4) Eligible land:
 - (a) Wooded land. A contiguous area of land which has trees that are confirmed to be of a desirable species, healthy and mature, 20 years or older, shade or evergreen trees with a minimum height of 10 feet. The distribution of the trees is such that there are no areas greater than $\frac{1}{4}$ -acre in size not covered by canopy in the summer months.
- (5) General criteria:
 - (a) Eligible land considered wooded, wooded pasture, and areas consisting of a mixture of wooded land and native grasses shall not be in agricultural production for the past 20 years and shall include soils suitable for an SSTS (land enrolled in a state or federal program is in agricultural production).
 - (b) The Comprehensive Plan policy allowing for no more than four homes per 40 (4 homes per $\frac{1}{4}$ - $\frac{1}{4}$) shall not be violated.
 - (c) All building lots created must meet the general criteria and the criteria specific to the lot eligibility type (wooded and/or lakeshore). Inability to meet one or more of those criteria shall negate the eligibility for additional lots under this provision.
 - (d) The high amenity building sites are to be considered residential lots, not agricultural parcels. The minimum lot size shall be $2\frac{1}{2}$ acres and able to accommodate a minimum one-acre building site having at least two SSTS (primary and alternate), a house, garage and detached storage structure, while maintaining all required setbacks. Although each lot shall contain at least two and one-half acres of land that meets the criteria for eligible land, wetlands and/or non-wooded steep slope (12% and over) land may be added to individual lots as determined to be necessary during the permitting process. These lands shall not be counted as part of the two and one-half acres needed to qualify as a high amenity lot.
 - (e) Building sites shall be clustered in the amenity area as much as possible.
 - (f) There may be no more than two acres of long-term agricultural crop production land included in any residential lot. The road right-of-way setback as required by this chapter shall not be included in the calculation nor shall any required setbacks be included in this calculation.
 - (g) The maximum amount of long-term agricultural land shall be preserved for continued agricultural use. The long-term agricultural land shall be retained in a large parcel(s) suitable for agricultural purposes. The long-term agricultural land shall not be split up and attached to each residential sized parcel unless the amount of agricultural land is so small that it is not reasonably farmable. One of the residential sites and the agricultural land may be combined to form a 20+ acre farm.

- (h) All lots that contain a building eligibility shall include a building site as defined by this chapter. No remnant parcels of less than 20 acres shall be created as a stand-alone parcel.
- (i) High amenity areas shall be located to provide the most effective buffering from through roads, agricultural areas and feedlots within the context of the other requirements and general criteria.
- (j) A road to serve the lots may be constructed over production land as defined by this chapter.
- (6) Minimum conditions of high amenity lots:
 - (a) The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any residential lot.
 - (b) All conditional use permit activities shall be prohibited on any residential lot. Agricultural parcels and/or lots shall be subject to the “A” District regulations.
 - (c) A statement that the area is rural and that commercial agriculture and other rural land use activities will likely be occurring in the area. A notice should be provided regarding the odors, dirt, dust, insects, noises, long hours of operation and other factors associated with agriculture and feedlot activities. Complaints relating to these activities shall be considered unwarranted so long as the activities are being conducted in accordance with existing standards.
 - (d) The protection of environmentally sensitive land shall be addressed in the conditions. Protections can include, but are not limited to, restrictions on clear cutting or vegetation removal; erosion control plan to control erosion during and after building construction; designation of specific building sites or areas with buildings prohibited; requiring certain management practices.

(E) One building eligibility incentive.

- (1) This section provides for flexibility under the conservation incentive, wooded and lakeshore, or high amenity area provisions of this chapter, to those landowners who are willing to pursue only one building eligibility as a conditional use. A maximum of one building eligibility may be granted under this provision.
- (2) Building eligibility flexible standard. A building eligibility may be assigned to the qualifying wooded, lakeshore or amenity area, without a subdivision requirement or it may be subdivided as a single lot, primarily for mortgage purposes. The configuration and specific standards for the lot shall be evaluated and stipulated during the conditional use permit process. The criteria for issuance are as follows:
 - (a) The qualifying land could support two or more building site eligibilities. The applicant must demonstrate that he/she is proposing to eliminate at least one potential building site.
 - (b) There would not be a need to construct a new township road.
 - (c) The building site may be utilized without subdividing the subject property, or via a single lot split principally for mortgage purposes.
 - (d) The applicant submits an acceptable plan for preserving long-term agricultural land. An acceptable plan may include, but would not be limited to, the agricultural preserves covenant and/or a conservation easement.

STAFF ANALYSIS:

1. The subject property has been a parcel of 40 acres or more (i.e. 64.8 acres) as of July 1, 1974 and has been under one ownership. Watertown Township provided for the additional density option “High Amenity” in their Chapter of the Comprehensive Plan. The submitted “proposed” Certificate of Survey (dated May 24, 2023) shows the subject property and the proposed lot.
2. The applicants are pursuing one (1) building eligibility pursuant to 152.078 (C) “High Amenity” and (E) “one building eligibility incentive” which provides for flexibility and incentives for pursuing a single eligibility or lot split. The incentive avoids the platting process or having to construct a township road to meet the road frontage requirement for new lots. The proposed 28-acre lot consists of tilled land, shoreland on Oak Lake, wetlands, and includes soils suitable for an SSTS; therefore, the proposal is considered eligible land. In the 2040 Comprehensive Plan’s Watertown Township section, Oak Lake is listed as a qualifying lake. The proposed lot would comply with the limitation of 4 homes per 40 acres (i.e. no more than 4 per ¼¼). The subject property is not enrolled in the Ag Preserve program, nor has a Conditional Use Permit for additional density been previously issued on this parcel.

3. Due to the parcel's current configuration, which is physically split by the Luce Line Trail, the applicants have proposed lot boundaries that largely correspond to that separation. However, the proposed southern lot would not be a conforming lot. Therefore, the Kohls applied for, and were issued a variance to create the lot with the intention of applying for the one building eligibility incentive. Variance #PZ20230015, issued on May 3, 2023, is for reduced road frontage, excessive width-to-depth ratio, and reduced parcel width for a shoreland lot. The site plan shows access from Navajo Avenue; an access permit from Watertown Township (the road authority) would be required prior to the issuance of a building permit.
4. The applicants' letter, dated May 24, 2023, states their request for a CUP for the one building eligibility following the approval of the variance. The letter references the septic report that "shows we have two proposed building sites available for this parcel." The qualifying land could support two or more building site eligibilities. However, the applicant has demonstrated that they are proposing to eliminate at least one potential building site in order to pursue only one building eligibility as a conditional use.
5. The applicants' request would meet the intent of the 2040 Comprehensive Plan. The proposed lot could support two building sites, as shown in the submitted septic report (dated April 20, 2022). The owners' remaining parcel would remain a conforming lot after the approximate 28-acre lot is created. The proposed high amenity lot would not need to be platted, but an administrative Minor Subdivision application and approval would be required. Section 152.078 states that the CUP provision may be exercised only once for each parcel that was of record as of July 1, 1974.
6. The newly created lot would be required to comply with the Carver County Water Management Organization (CCWMO) Water Rules Standards pursuant to Chapter 153.
7. This request was reviewed by Lori Brinkman, Senior Environmentalist with Carver County. In an email dated May 30, 2023, Ms. Brinkman stated that she visited the property in May 2022 and reports that "both sites met minimum SSTS requirements for the creation of a new lot."
8. The Watertown Town Board reviewed the request and recommended approval at their June 5, 2023, Town Board meeting with the comment: "Approved as requested."

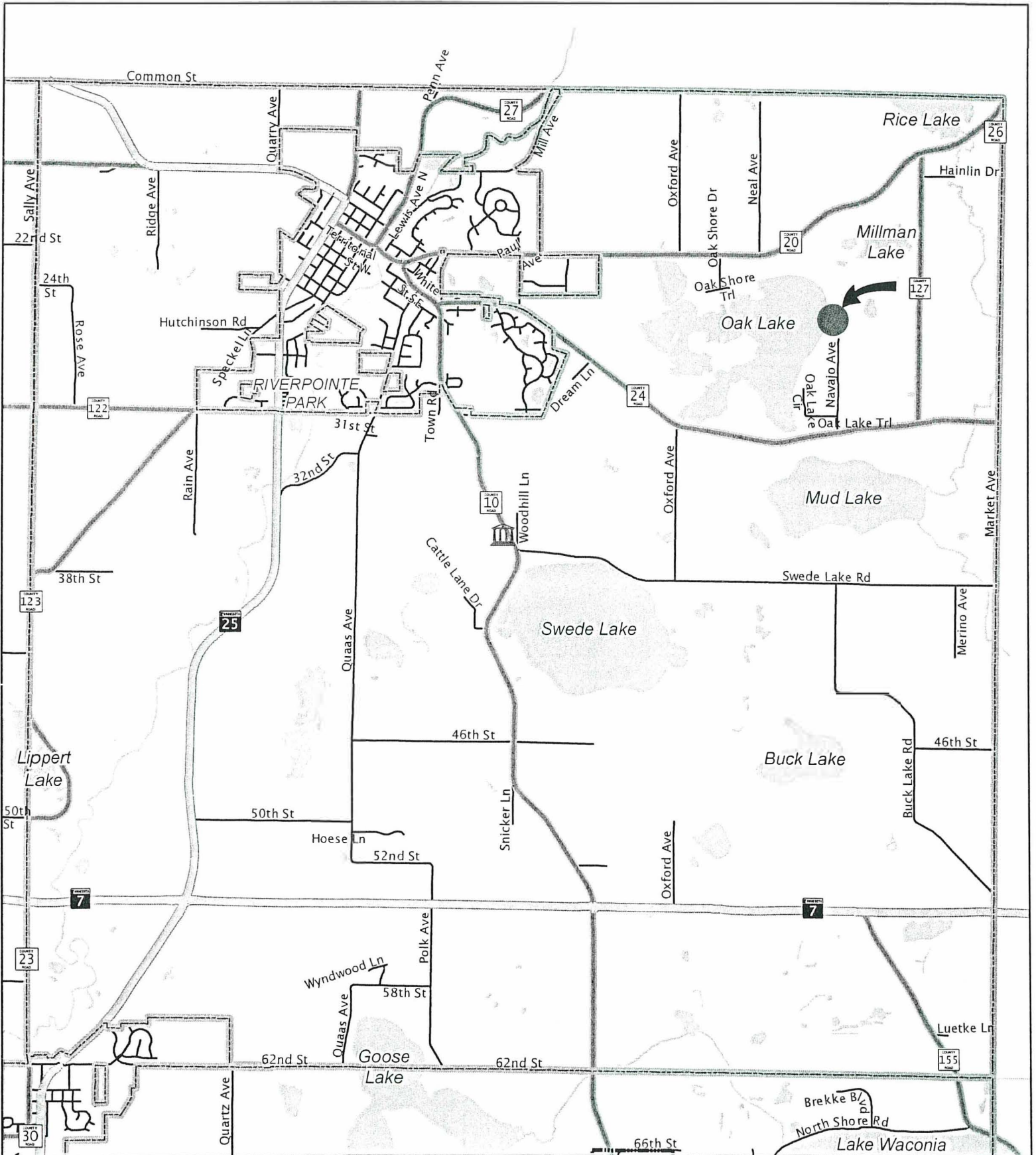
PLANNING COMMISSION CONSIDERATION:

If the Planning Commission recommends approval of the permit application to utilize the one building eligibility incentive (High Amenity Lakeshore Lot) provision in the Carver County Zoning Code to create a building eligibility on the subject property, the following conditions should be considered part of the permit:

1. One (1) High Amenity Lakeshore Lot building eligibility shall be available, pursuant to the approved site plan. Additional lots (eligibilities) shall not be granted as a conditional use. The proposed lot shall be subdivided in accordance with the Minor Subdivision requirements including but not limited to, a survey, and primary and alternate SSTS locations.
2. Prior to any construction activities, appropriate building permits shall be obtained for a single-family house and any accessory buildings, garage, or other structures.
3. The access permit must be approved by Watertown Township prior to the issuance of a building permit and prior to any work occurring within the road right-of-way.
4. Notice pursuant to Section 152.078 (C) (5) is hereby provided stating the following:
 - (a) The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any residential lot.
 - (b) All conditional use permit activities shall be prohibited on any residential lot. Agricultural parcels (i.e. 20 acres or more) and/or lots shall be subject to the "A" District regulations.

- (c) The area is rural and that commercial agriculture and other rural land use activities will likely be occurring in the area. A notice should be provided regarding the odors, dirt, dust, insects, noises, long hours of operation and other factors associated with agriculture and feedlot activities. Complaints relating to these activities shall be considered unwarranted so long as the activities are being conducted in accordance with existing standards.
- (d) The protection of environmentally sensitive land shall be enforced. The protections shall include; restrictions on clear cutting or vegetation removal; erosion control plan to control erosion during and after building construction; and designation of specific building sites or areas with buildings prohibited.

WATERTOWN TOWNSHIP

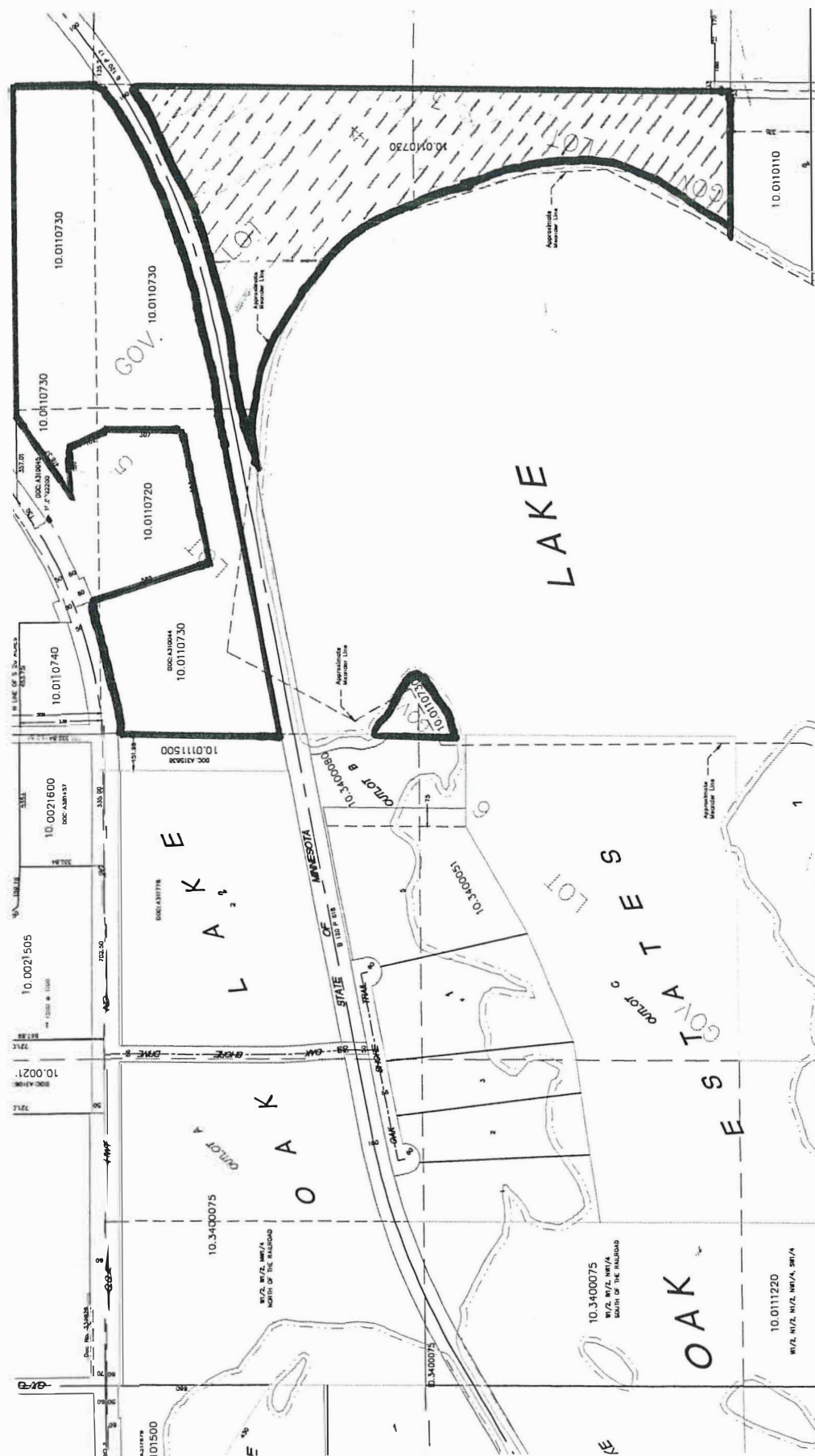


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
THIS MAP IS A COMPILATION OF RECORDS
AS THEY APPEAR IN THE CARVER COUNTY
OFFICES AND OTHER SOURCES. THIS MAP
IS ONLY TO BE USED FOR REFERENCE
PURPOSES. THE COUNTY AND ITS AGENTS
ARE NOT RESPONSIBLE FOR ANY
INACCURACIES CONTAINED THEREIN.



May 24, 2023

Carver County Board of Adjustment
Chaska, MN

To Whom it may concern.

Per our request on March 21, 2023, for the variance that was approved by the County on May 3, 2023, we are now requesting a Conditional Use Permit for "one building eligibility incentive" to create a building eligibility for the future 28-acre parcel. Our request is to obtain only one building eligibility.

Per the attached Site Evaluation for Subsurface Sewage Treatment System (SSTS) that was prepared by Chip's Septic Service LLC on April 20, 2022, that shows we have two proposed building sites available for this parcel.

Enclosed is also a copy of the proposed survey indicating the locations of those building sites.

Also enclosed is the \$600 application fee.

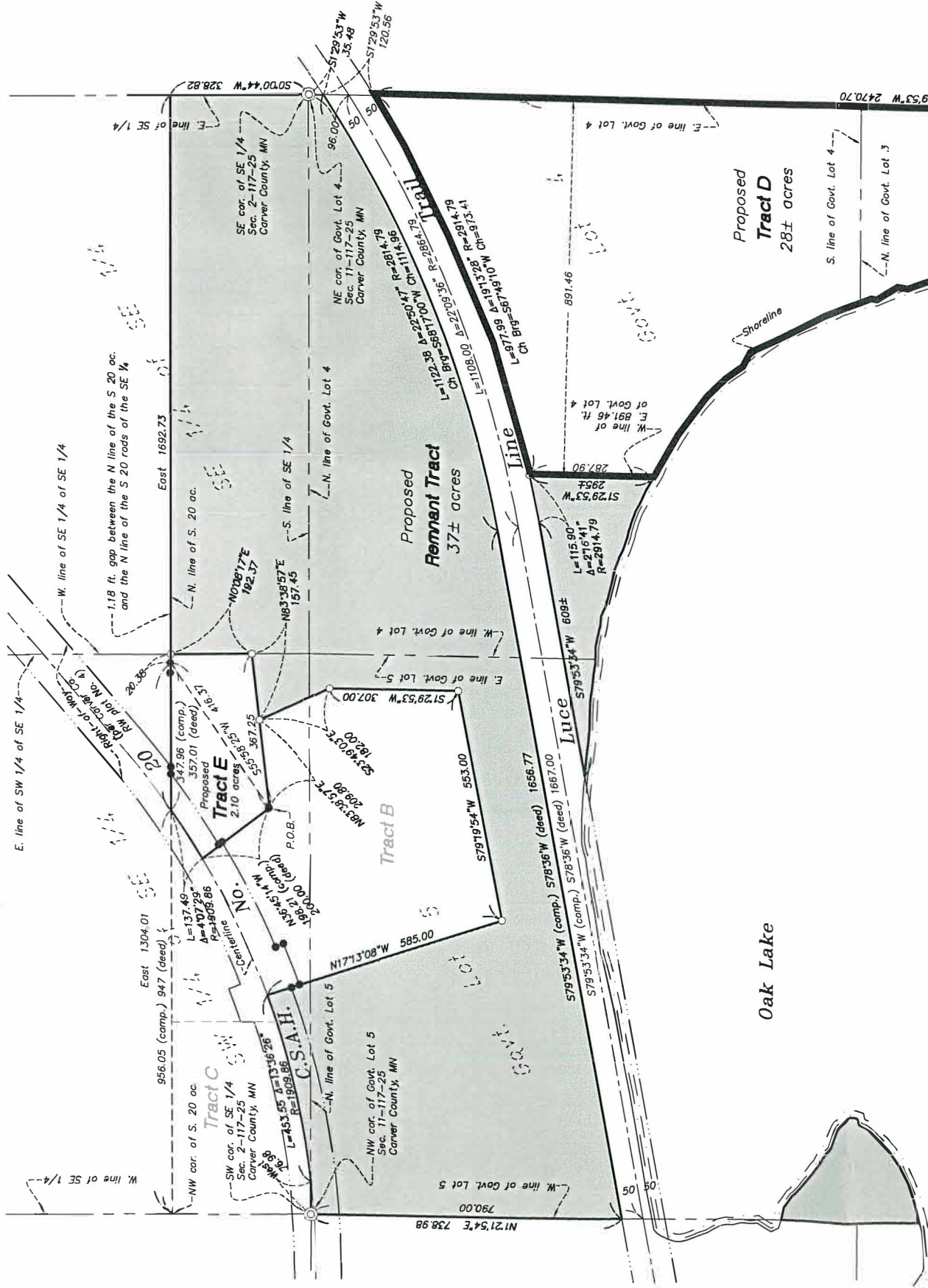
Sincerely,


Loren Kohls
Owners


Susan Kohls

Certificate of Survey

Prepared for:
Loren Kohls



Proposed Tract D
That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, and that part of the East 891.46 feet of Government Lot 4 of said Section 11, lying southerly of the southerly right-of-way of a strip of land 100 feet wide over and across Government Lot 4 and 5, said Section 11, said strip of land is now known as the Luce Line Trail, described as follows:
Beginning at a point in the East line of said Lot 4 distant 96 feet South of the Northeast corner of said Lot 4; thence Southwesterly on a 2 degree right curve a distance of 1108 feet; thence South 78 degrees 36 minutes West a distance of 1667 feet to a point on the West line of said Lot 5, distant 790 feet South of the Northwest corner of said Lot 5; above described course being center line of said 100 foot strip of land now located over and across said Lot 4 and 5 in said Section 11, and containing 6.37 acres of land, more or less.

Subject to any and all easements of record. Subject to road right-of-way.

Proposed Tract E
That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 08 minutes 17 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 43 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Subject to any and all easements of record. Subject to road right-of-way.

Proposed Remnant Tract
That part of Government Lot 3 of Section 11, Township 117, Range 25, Carver County, Minnesota, and that part of the East 891.46 feet of Government Lot 4 of said Section 11, lying southerly of the southerly right-of-way of said 100 foot wide strip of land described above.
EXCEPT That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 08 minutes 17 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 43 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Proposed Tract F
That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 08 minutes 17 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 43 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Proposed Tract G
That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 08 minutes 17 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 43 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Subject to any and all easements of record. Subject to road right-of-way.

Proposed
North
Bldg. Site

Proposed
South Bldg.
Site



Bearings based on assumed datum.

SCHOBORG LAND SERVICES INC.		I hereby certify that this certificate of survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.	
763-972-3221 8997 Co. Rd. 13 SE www.schoborg.land.com Delano, MN 55328		<i>Paul B. Schoborg</i> Paul B. Schoborg	
		Date: January 26, 2022	Registration No. 14700
		Job Number: 7290	
		Survey Date: 1/11/22	
		Drawing Name: kohls-01-10-22.dwg	
		Drawn by: OMS	
		Revisions:	Rev. 5/24/23 for PLC



Township Presentation & Recommendation Form

PARCEL # <u>10-0110730</u>	Permit # <u>PZ 20230025</u>
Owner's Name: <u>Loren + Susan Kohls</u>	Owner's Mailing Address: <u>10175 County Road 20</u>
City: <u>Delano</u>	Owner State: <u>MN</u> Owner Zip: <u>55328</u>
Applicant (if other than owner): <u></u>	Site Address: <u>XXX Noyajo Ave. Watertown MN 55388</u>
Type of Request: ☒ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☐ Variance ☐ Appeal	
Description of Request: <u>Apply for CUP for one building eligibility</u>	
Date of County Public Hearing: <u>6/20/2023</u>	Date of Township Meeting: <u>6-5-2023</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:

Approved as requested

****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 <u>Loren Kohls</u>	Date <u>5/24/23</u>
Signature of Township Official <u>Justin Hou</u>	Date <u>6-5-23</u>

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-011-0730

File# PZ20230025

APPLICANT/OWNER: Loren Kohls & Susan Kohls

* * * * *

That part of Government Lots 3, 4, and 5 of the Northeast Quarter of Section 11, and that part of the South 330.00 feet of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, lying south of the centerline of County State Aid Highway No. 20, according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4.

Excepting therefrom a strip of land 100 feet wide over and across Government Lots 4 and 5, Section 11, Township 117, Range 25, described as follows: Commencing at a point in the East line of said Lot 4, distant 96 feet South of the Northeast corner of said Lot 4; thence Southwesterly on a 2 degree right curve, a distance of 1108 feet; thence South 78 degrees 36 minutes West, a distance of 1667 feet to a point on the West line of said Lot 5, distant 790 feet South of the Northwest corner of said Lot 5; above described course being center line of said 100 foot strip of land now located over and across said Lot 4 and 5 in said Section 11, and containing 6.37 acres of land, more or less.

And also excepting that part of the South 505 feet of the Southwest Quarter of the Southeast Quarter of Section 2, Township 117 North, Range 25 West of the 5th Principal Meridian, lying North of County Road No. 20, EXCEPT that part thereof lying south of "Line A", said "Line A" being a line drawn East, parallel with the South line of said Southwest Quarter of the Southeast Quarter, from a point on the West line of said Southwest Quarter of the Southeast Quarter, distant 330 feet North of the Southwest corner of said Southwest Quarter of the Southeast Quarter, and lying West of a line drawn South parallel with said West line from a point on said "Line A" distant 453.75 feet East, measured along said "Line A" of said West line, according to the recorded map or plat thereof.

And also excepting that part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows: Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres on an assumed bearing of East, a distance of 947.00 feet to the centerline of County State Aid Highway No. 20 as it now exists on and across said South 20 acres, being the actual point of beginning; thence continue East along the north line of said South 20 acres, a distance of 357.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet; thence North 36 degrees 45 minutes 14 seconds West, a distance of 200.00 feet to the centerline of said County State Aid Highway No. 20; thence northeasterly along said centerline, a distance of 130 feet, more or less, to the point of beginning. Containing 1.26 acres of land, more or less.

And also excepting all that part of Government Lot 5 in the Northeast Quarter of Section 11, and of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows: Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 38 minutes 57 seconds East, a distance of 209.80 feet; thence South 23 degrees 49 minutes 03 seconds East,

a distance of 182.00 feet; thence South 1 degree 29 minutes 53 seconds West, a distance of 307.00 feet; thence South 79 degrees 19 minutes 54 seconds West, a distance of 553.00 feet; thence North 17 degrees 13 minutes 08 seconds West, a distance of 585.00 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence northeasterly along said centerline to its intersection with a line which bears North 36 degrees 45 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East, a distance of 198.21 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

June 12, 2023

TO: Carver County Planning Commission & Hollywood Town Board
FROM: The Land Management Department
SUBJECT: Application for an Interim Use Permit (gravel mining operation)

FILE #: PZ20230021

APPLICANT: Joe White (B.H. Aggregate Services, Inc.)

OWNER: Robert & Jenifer Weerts, Jean F Beuning Revocable Trust

SITE ADDRESS: 17XXX Hwy 7 & 5120 Vega Avenue, New Germany 55367

PERMIT TYPE: Mining and/or Land Reclamation

PURSUANT TO: County Code, Chapter 152, Section(s) 152.081 and 152.082

LEGAL DESCRIPTIONS: See attached Exhibit "A"

PARCEL #: 06-028-0101 & 06-028-0122

STAFF ANALYSIS:

1. Robert & Jenifer Weerts and Jean Beuning own approximate 84.9 and 36.5-acre parcels, respectively, in the North Half (N½) of the Southeast Quarter (SE¼) of Section 28, Hollywood Township. The application involves two parcels of current and proposed mining sites. The northern parcel is currently improved with a single-family dwelling, several accessory structures, with one of the structures containing a commercial dog kennel (CUP #PZ20030020), and dog run areas. The southern parcel consists of an active gravel pit, agricultural production land, a wooded area, wetlands (which include a Bureau of Water and Soil Resources wetland banking project), and a pond created from an ongoing mining project (CUP #PZ20070059). The properties are located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) - Crow River watershed.
2. Joe White of B.H. Aggregate, is requesting an Interim Use Permit (IUP) for the expansion of an existing sand & gravel mining operation and the creation of new gravel mining area pursuant to Sections 152.081 and 152.082 of the Carver County Zoning Code. The request would encompass an approximate 5.5-acre area for the extraction of sand and gravel resources which would then be processed for use as base material for private and public construction projects in the area over time. The project may operate 3 to 6 years; however, the final timeline of the mine would be dependent on market demand.
3. Sections 152.081 and 152.082 of the Carver County Zoning Code allows for mining and/or land reclamation involving 10,000 cubic yards or more as an Interim Use Permit (IUP), as follows:

§ 152.081 INTERIM USE PERMIT (IUP).

The county may authorize an interim use of a property by means of an IUP. These interim uses may be utilized in a temporary manner as approved by the County Board. In reviewing the interim use permit application, the county will establish a specific date or event that will terminate the use of the property. In granting an IUP, the County Board shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the Planning Commission and County Board shall make the following findings where applicable.

(A) *General provisions.*

- (1) The use conforms to the zoning regulations.
 - (2) The date or event that will terminate the use can be identified with certainty.
 - (3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
 - (4) The user agrees to any conditions that the governing body deems appropriate for permission of the use.
 - (5) Any interim use may be terminated by a change in zoning regulations.
- (Ord.70-2010, passed 1-25-11; Am. Ord. 97-2021, passed 7-20-21)

§ 152.082 INTERIM USE PERMIT-AG DISTRICT.

(A) *Minimum criteria for issuance.*

- (1) If improvements are made, they shall be so designed and constructed that they are not unsightly in appearance to the extent that it will hinder the orderly and harmonious development of the district wherein proposed.
- (2) The activity conforms to all other county ordinances, state, and federal regulations.
- (3) Minimum five-acre lot size; unless another size is specified under a particular provision.
- (4) Waste generated shall be treated in accordance with Chapter 52 of this code of ordinances. The county may require design by a registered engineer.
- (5) 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.
- (6) 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. Adequate water supply, subsurface sewage treatment system facilities, erosion control and stormwater management are provided in accordance with applicable standards.
- (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 treatment and dispersal-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.
- (6) The use will be sufficiently compatible with, or separated by sufficient distance from, or screened from adjacent agricultural or residential land uses so that there will be no deterrence to the use or development of adjacent land and uses.
- (7) The date or event that will terminate the use shall be identified.

(C) *Activities (For the purpose of this section, conditional use permit activities may also be considered and processed as interim uses).*

- (1) Mining and/or land reclamation involving 10,000 cubic yards or more (allowed in AG Preserve if the principal use remains ag and restoration is suitable for farming).
 - (a) The permit shall be issued only upon findings that:
 1. There is no substantial environmental impact or that the impact will be alleviated through a restoration program and other condition of the permit; and
 2. The activity will have no substantial adverse impact on surrounding property or that the impact will be alleviated through the conditions of the permit.

- (b) Each permit shall contain the following minimum standards unless modified by the County Board, and all activities shall conform to these and any additional standards.
1. General operating requirements must address operating hours, dust control, housekeeping, safety and specifying compliance review.
 2. Minimum requirements for the operation.
 - (i) Erosion control measures shall be required. Erosion and siltation of the surrounding area shall be prohibited.
 - (ii) No non-granular material shall be removed unless the permit is specifically for such an operation.
 - (iii) Vertical faces shall be kept to a minimum except during actual mining.
 - (iv) Mining shall not take place within 50 feet of a property line. All slopes at property lines shall maintain a 2.5:1 slope or flatter. The setback from the assumed road right-of-way shall be a minimum of 50 feet. The setback from all homes shall be a minimum of 500 feet, excluding the residence of the mine owner and/or permittee. The setback from a bluff shall be a minimum of 100 feet.
 - (v) The permit shall specify what operations are to occur in the permitted area and what general types of equipment may be used in the operation. The Board may order the exclusive use of white noise beepers on trucks and equipment utilized on the site.
 - (vi) Processing machinery must be located consistent with setback standards for structures from ordinary high-water levels of public waters and from bluffs.
 - (vii) The maximum permitted operational area for mining shall be 35 acres. Only one active IUP for mining is allowed for a parcel.
 - (viii) Stockpiles in excess of 1,000 cubic yards shall not be located within the Floodplain Overlay District.
 - (ix) Any mining within 300 feet of a Class 3 through 8 wetlands must include a plan to improve public value(s), in conjunction with any Wetland Conservation Act requirements.
 - (x) A mandatory traffic study shall be prepared by a licensed engineer.
 - (xi) The operation must comply with applicable watershed management rules.
 - (xii) The operation must comply with the applicable road authority review and approval.
 3. *Site/operational plan.* A plan shall be drawn on both a 1 inch = 200 feet half section map and a 1 inch=200 feet aerial plat showing at a minimum the operational area, mining area, phasing of mining, erosion control measures or structures, restoration areas, type of restoration, and staging of restoration, any areas where mining will be below the water table or result in standing water.
 4. *Reclamation plan.* A reclamation plan must include the grading plans, on-site topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and an end use plan for final site restoration. The operator and owner must follow the reclamation plan approved by the County Board. The following minimum standards and conditions apply.
 - (i) The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No graded slope shall exceed a 5:1 ratio (20%). The final grade slope shall commence at the setback. Berms will be removed to the original elevation of the land, unless the Board has approved a different elevation as part of the end use plan. Restored slopes must be 8:1 or flatter within 500 feet of the top of a bluff.
 - (ii) Excavated, graded or back-filled areas shall meet the following requirements.
 - A. All materials used for back-filling in any area of the reclamation shall be free of all contaminants and shall be non-noxious, non-flammable and non-combustible.
 - B. The graded or back-filled area shall not collect or permit stagnant water to remain therein, unless there is an approved ponding area or wetland restoration or creation.
 - C. Such graded or back-filled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four inches and seeded or sodded.

- D. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
- (iii) Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
- (iv) Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage and staging areas within each phase.
- (v) Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protecting Water Quality in Urban Areas."
- (vi) Unless otherwise amended or approved by the county, all final grades and site restoration efforts shall be consistent with the reclamation plan.
- (vii) When the end-use is some form of open space, the type of vegetative regrowth must provide appropriate habitat for wildlife consistent with the form of end-use.
- (viii) The end-use plan shall consider the safe use of the property. The end-use plan shall be consistent with the Comprehensive Plan and the zoning ordinance.
- (ix) Within nine months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, stockpiles of extracted mineral materials and debris shall be removed from the subject property.
- (x) For each phase, within nine months after completion of mineral extraction for that phase, reclamation must be completed. If the permit is terminated earlier, reclamation must be completed within nine months after termination.
- (xi) Soil and Water Conservation District and watershed review and recommendations. As a part of the original application for an interim use permit, the applicant shall submit grading plans, phased reclamation plans and water control plans to the Carver County Soil and Water Conservation District and to the governing bodies of the watersheds for review and recommendations. The recommendations on the phased reclamation, grading, soil and water retention plans may be included as conditions of the IUP. The permit may require reforestation. Reforestation requirements shall be based on the recommendation of the Natural Resources Conservation Service and/or the DNR Forester.

5. *Performance securities and insurance.*

- (i) The permittee shall acquire and keep in force for the duration of the permit, liability insurance specifically covering the mining and/or restoration and related operations. The permittee shall provide certification of insurance.
- (ii) A performance surety shall be provided. The permit shall specify the amount and type of surety required. The surety shall be used to reimburse the county for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit. The surety may be used after failure to execute the restoration plan. The surety may also be used if there is a failure to execute a phase of a restoration plan specifically scheduled in the permit.

4. The applicant's engineer, Carlson McCain, Inc., has provided the IUP application, all supporting documentation, and site plans for the IUP request. The project description (dated June 1, 2023) provides details of the mining operation and reclamation plan. The proposed site activities include topsoil stripping, sand and gravel excavation, material screening and crushing, and stockpiling. Recycling of concrete and asphalt, which includes transporting concrete and asphalt rubble to the site, is proposed. The material processing equipment would be located on the floor of the mine and moved around as needed. The proposed site equipment used in mining activities are what are typically found at such sites: excavators, bulldozers, haul trucks, conveyors, crushers, etc., with "specialized mining and processing equipment may be brought to the site as needed." The excavation would be done with a backhoe to an approximate depth of 939 feet above sea level, which is about 25 feet below the water table. The narrative states no dredging would occur and typical slopes on the active mining face would be approximately 2.5:1 (horizontal to vertical). The project description includes operational steps for

site safety, site housekeeping, and dust control. The hours of operation would be from 6:30AM to 8:00PM Monday through Saturday, except for emergencies.

5. The Mining Site Plan (dated June 1, 2023) shows the planned 5.55-acre excavation area in which approximately 188,250 cubic yards of material would be removed, with accompanying stockpiling area and perimeter silt fence on the north side to protect the nearby wetlands on the northern parcel. The applicant estimates that the mine would export an average of 25,000 cubic yards per year, which may increase up to 75,000 cubic yards in a high-demand year. At this rate, the mine's operational life would be 3-6 years. The submitted Mining Plan shows a single mine pit spanning the property boundary between the two parcels. The applicant was granted a variance to mine within the mining setbacks of the two parcels, approved at the June 7, 2023, Board of Adjustment meeting (#PZ20230019), thus allowing the single mine, subject to issuance of IUP under current review. If the IUP is not approved, the variance is null and void. The proposed pit does maintain the required 500-foot setback from adjacent residential structures not in the subject properties existing at the time of application of the IUP.
6. There are wetlands on the properties and a wetland delineation on the northern parcel was approved in August 2022. The approved wetland boundary is shown on the Mining Plan. All mining activities are shown outside the required 30-foot setback from wetlands. As specified in the zoning code, "Any mining within 300 feet of a Class 3 through 8 wetlands must include a plan to improve public value(s)" (§ 152.082(C)(1)(b)(ix)). Since the submitted wetland report (dated June 2, 2022) shows pockets of Type 6 wetlands within 300 feet of mining activities the application states: "The project will improve public value by providing a locally sourced aggregate product for area construction projects which will reduce costs and emissions when compared to using more distant aggregate sources." As requested by the Technical Evaluation Panel (TEP) to provide a baseline and a means of measurement to determine if nearby mining activities would impact the project area's wetlands, the applicant submitted a Wetland Hydrology Monitoring Work Plan (dated September 23, 2022).
7. The proposed mine operation proposes to utilize the existing truck access on Co Rd 33 via PID 06-028-0400 as shown in the Site Access Map (dated May 1, 2023). A table in the project narrative shows the estimated average daily trips (ADT) for the project. The table estimates that an average of 20 trips per day would export an average of 35,000 tons (or 25,000 cubic yards) per year from the mine. On the high side, the applicant estimates 58 trips per day exporting 105,000 tons (or 75,000 cubic yards) per year. ADT generation was based on the average of 20 tons per load and with hauling occurring on 180 days per year. Actual production rates could fluctuate based on market demand and amount of material recycling. The a.m. peak hourly traffic (6:30-8AM) is estimated to be 7 trips per hour and the p.m. peak (3-4PM) hourly traffic would be about 6 trips per hour. The narrative states the "worse-case" hourly traffic would be 30 trips (15 loads) per hour.
8. The applicant would also like to recycle concrete and asphalt aggregates. This would include transporting concrete and/or asphalt rubble to the site and subsequently crushing, screening, and stockpiling the materials within the processing area. At this time, the application does not include a request to operate an asphalt plant; therefore, if the future asphalt production is desired, a new Interim Use Permit and formal review would be required.
9. The existing permit (CUP #PZ20070059) for gravel mining on the southern parcel allowed for the removal of approximately 10,000 to 15,000 cubic yards of material per year until the full removal of the estimated 100,000 cubic yards on the property. The applicant reports that the only remaining gravel left in the current pit not within the 50' mining setback is under the lakebed, where there isn't a financial benefit to remove it. If the current IUP application is approved and recorded, the existing CUP would be superseded by the IUP and the CUP terminated.
10. The operational area(s) would be substantially screened through a mixture of trees on the northern/eastern perimeter of the mining area and the remoteness of the site from neighboring residences. However, there is some visibility from the nearest residence to the southeast, about 1,480 feet from the proposed mining activities. The berm on the eastern side of the existing lake largely screens the view of the proposed pit from the home. Topsoil would be scraped off and

stockpiled in an area northeast of the pit. Once reclamation is completed approximately 12,000 cubic yards of topsoil and non-granular overburden material would be re-applied to create the final slopes of the future pond. The Reclamation Plan (dated June 1, 2023) shows the proposed contours of the future pond, which would be connected to the current pond on the southern parcel. Any extra overburden from the pit would be used for reclamation fill. The pond slopes would be shaped, seeded and mulched to establish vegetation. SWCD would continue to provide technical assistance on these matters.

11. The applicant has indicated that white noise backup alarms would be utilized to help control equipment noise, as well as establishing circular traffic patterns for loading to reduce backup movements. Locating the processing equipment on the mine floor, recessed from the surrounding ground surface, would help reduce sound for the surrounding receptors.
12. Based on the anticipated operational timeframe, the IUP would terminate upon the following events, whichever occurs first: The permit shall terminate upon a change in ownership, upon the exhaustion of the aggregate mining, or June 1, 2033. However, Permit #PZ20230021 shall not be considered terminated until all reclamation areas have been completed to the satisfaction of the approved Carver County Water Management Organization (CCWMO) permit and Zoning Code standards, and release of the financial security, if applicable.
13. Jack Johansen, Transportation Planner with Carver County Public Works, reviewed the submitted materials. In a review letter dated June 7, 2023, Mr. Johansen lists staff comments and conditions of approval:
 1. *Regarding Traffic:*
 - a. *The comments within this memo apply to the proposed traffic within the reviewed IUP application. If the traffic increases beyond the reported trips, this may require access improvements.*
 2. *Regarding Access:*
 - a. *The proposed interim use has no new access and proposes to use the existing access from CSAH 33 west of the site.*
 - b. *Dust and debris from the site tracked onto CSAH 33 are required to be monitored and controlled. Prompt removal of tracked material onto CSAH 33 is required during hauling operations.*
 - i. *A debris management plan is a condition of approval by Public Works, please provide a plan that demonstrates how debris being tracked out onto the public roadways will be mitigated. The details of the management plan will need to be reviewed and approved by the County Engineer.*
 3. *Prior to any work affecting or on County highways or in County right of way, the applicant shall coordinate plans with the County Engineer and obtain a Utility or Excavating/Filling/Grading Permit(s) from Carver County Public Works: <http://www.co.carver.mn.us/how-do-i/apply-for-a-permit>. Final details of locations, grades, and profiles affecting County roads as well as any utility connections will need to be reviewed and approved prior to any permits.*
 4. *Any damages, modifications, or changes incurred on County highways from current or approved conditions will need to be remedied or updated at applicant expense, including costs incurred by the County.*
14. Jacob McLain, Senior Environmentalist with Carver County Environmental Services, reviewed the submitted site plans and soil boring report. The submitted mining plan appeared to comply with SSTS setbacks. Field work is required to determine if the proposed mining activities are in compliance with all SSTS standards. Adherence to the SSTS code is required before proposed IUP mining activities can be initiated.
15. A Carver County Water Management Organization (CCWMO) Permit is required, and Stormwater Management standards would need to be met for the reclamation of all aggregate mining areas. The applicant would need to secure a permit with the Planning and Water Management Department in order to establish an appropriate restoration phasing plan. The applicant has submitted a Pollution Prevention Plan for review. The permittee shall submit the required financial security and comply with all reclamation requirements, including topsoil depth requirements for restoration and preservation.

16. Taylor Huinker, Area Hydrologist with the MN DNR, reviewed the submitted materials and offer the comment that if the project would exceed what is currently permitted with in DNR water appropriations permits, then the current permit would need to be amended.
17. The Hollywood Township Town Board reviewed and recommended approval with requested conditions for this request during their May 8, 2023, Town Board meeting.

PLANNING COMMISSION CONSIDERATION:

If the Planning Commission recommends approval of the Interim Use Permit application for mining and processing activities on parcels identified within the application request, the previous CUP #PZ20070059 (Document No. A 480202) would be terminated upon final approval (and recording) of the new CUP #PZ20230021. Therefore, CUP #PZ20230021 would supersede any prior approvals. The following conditions should be considered part of the permit:

GENERAL REQUIREMENTS:

1. The permit is subject to compliance review. The Interim Use Permit (IUP) is issued to B.H. Aggregates. The permit allows for extraction limited by the approximate 5.5-acre operational area and it is not transferable to another property owner and/or allowed for leasing activity. The permit shall terminate upon the exhaustion of the aggregate mining, upon a change in ownership, or June 1, 2033, which occurs first. However, Permit #PZ20230021 shall not be considered terminated until all reclamation areas have been completed to the satisfaction of the approved Carver County Water Management Organization (CCWMO) permit and Zoning Code standards and the financial security has been released, if applicable.
2. The Permittee shall comply with all applicable requirements of Variance #PZ20230019.
3. The Permittee shall comply with all Carver County Public Works access requirements. Mining and/or similar disturbance shall not occur within 40 feet of the public right-of-way.
4. The Permittee shall comply with any/all CCWMO rules and regulations including but not limited to, grading, vegetation (w/maintenance) and landscaping plan(s). An erosion/sediment control plan and stormwater management plan for site restoration, screening, vegetation and maintenance shall be prepared and implemented in accordance with the CCWMO Water Management guidelines and the Wetland Conservation Act (WCA) before mining commences, if applicable. Any and all site improvements shall be completed pursuant to Chapter 153 – Water Resource Management. Permittee shall obtain a National Pollutant Discharge Elimination System (NPDES) permit as required by the Minnesota Pollution Control Agency (MPCA).
5. Permittee shall obtain and maintain a Non-generator's Certificate or contact the Environmental Services (E.S.) Department to obtain a Hazardous Waste Generator's License, if required.
6. The Permittee shall always comply 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 on the property.
7. Permittee agrees to defend, indemnify and hold harmless the County, its officers and employees against any and all liability, loss, costs, damages and expenses which the County, its officers or employees may hereafter sustain, incur, or be required to pay arising out of the certificate holder's performance or failure to adequately perform its obligations pursuant to this permit, or arising out of a dispute as to the ownership of the property.

OPERATIONAL REQUIREMENTS:

These requirements combined with the most current Site and Operational Plans shall govern the mining operation.

1. The mining activity shall operate in accordance with the submitted Project Description (dated: June 1, 2023), Site Plan and Reclamation Plans (dated June 1, 2023), Field Wetland Delineation Report (dated June 2, 2022), any/all CCWMO permit approval(s) (i.e. stormwater infiltration, BMPs, site vegetation and plantings, and site reclamation), and any/all Hollywood Township conditions, Carver County Public Works access requirements/right-of-way standards. If there are any inconsistencies between previously submitted versions, the terms of the most recent shall prevail and shall be considered requirements of this permit. The mining activity shall be operated and maintained in accordance with the Carver County Zoning Code (i.e. screening, noise mitigation, etc.) These plans shall be attached to and be considered part of this permit.
2. The hours of operation shall be from 6:30 a.m. to 8:00 p.m. Monday through Saturday. Mining and processing shall not occur on Sundays or Federally observed holidays, unless for emergency related purposes (i.e. flooding, etc.).
3. The construction equipment located on-site includes, but is not limited to: front-end loaders, backhoes, excavators, bulldozers, skid steers, and haul trucks. Other processing equipment may include: classifying screens, crushers, and conveyors.
4. Existing drainage patterns shall not be altered if possible; if alteration is unavoidable, the alteration shall not adversely affect surrounding properties and/or cause erosion or sedimentation.
5. Permittee shall submit to the Land Management Department quarterly tonnage calculations, in order to document all aggregate material(s) removed from the site.
6. Vertical faces shall be kept to a minimum except during the actual mining operation and pursuant to the County Zoning Code. Mining below the water table shall only be allowed pursuant to Minnesota Pollution Control Agency (PCA), Minnesota Department of Natural Resources (DNR), and/or any other State or Federal regulations.
7. If internal access roads are used to the extent that dust becomes a problem for surrounding properties, the access roads shall be treated with water or other similar dust control measures.
8. All storage of equipment and materials used in the operation shall be kept within the operational area to minimize visual exposure to areas outside the mining area. The existing earthen berm on the east side of the existing lake on the southern parcel shall not be removed until reclamation activities have commenced.
9. The Permittee shall comply with the noise pollution requirements/standards of the Minnesota State Rules Chapter 7030. White noise backup alarms shall be installed and maintained on all Permittee owned mining equipment operating at the site, as well as establishing circular traffic patterns for loading to reduce backup movements.
10. No trash, garbage, waste, construction debris, or other similar materials shall be deposited in or near the operational area.
11. Permittee shall obtain and maintain a Non-generator's Certificate or contact the Environmental Services (E.S.) Department to obtain a Hazardous Waste Generator's License, if required.

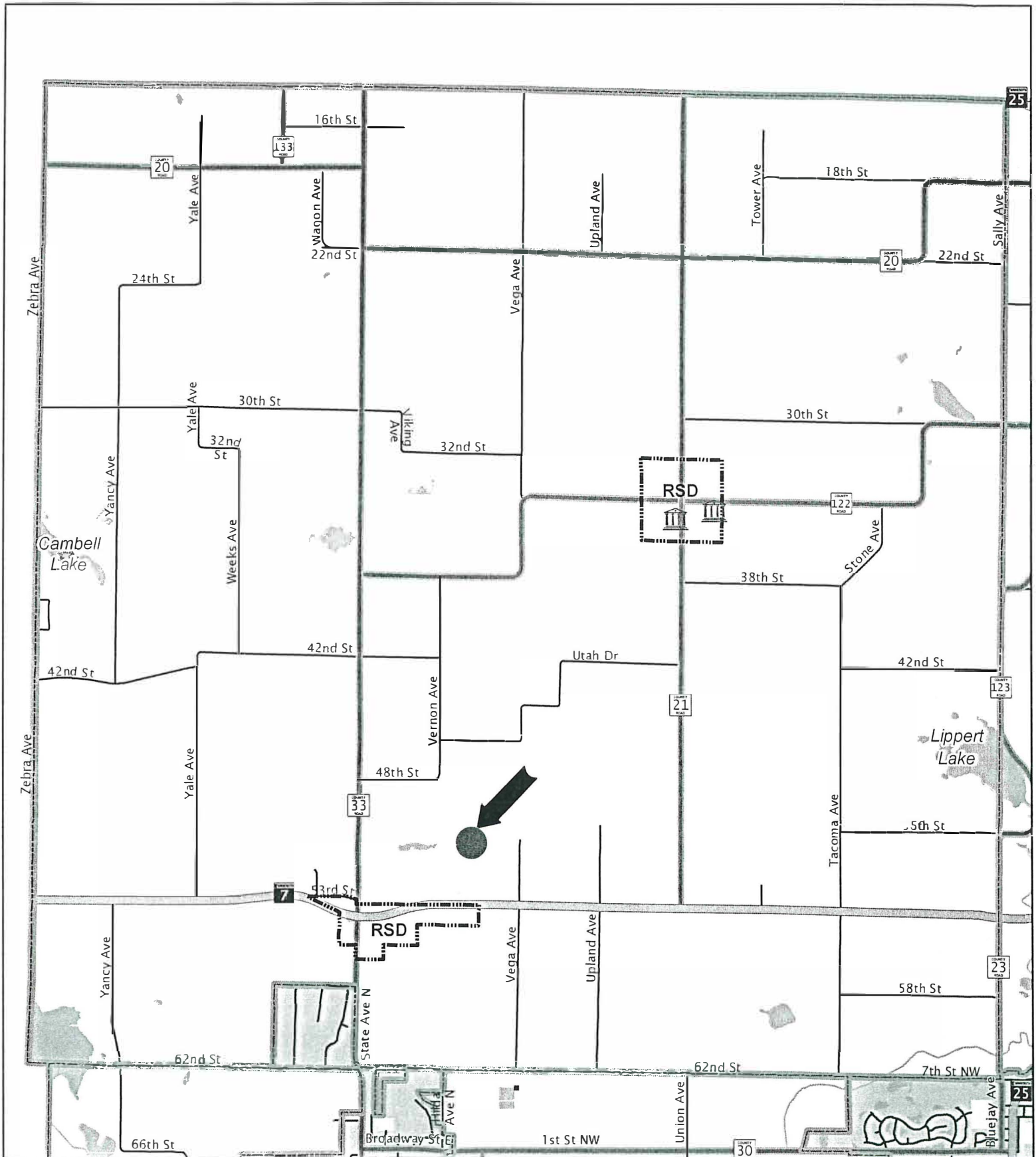
RESTORATION REQUIREMENTS:

1. The design of the restored areas must be according to standards of the Zoning Code and the CCWMO Water Management Rules. To the extent possible, restoration shall be staged such that the exhausted phases of the operation are stabilized and have established turf. Said design may be subject to revisions and modifications by the Land Management Department and Carver County SWCD.
2. The Permittee must maintain existing vegetation wherever possible and implement erosion control as required by the CCWMO Rules permit. The Permittee is responsible for obtaining a CCWMO Permit regarding stormwater management and site reclamation of all aggregate mining areas. If a CCWMO Permit is not obtained within six (6) months of the County Board's approval, File #PZ20230021 shall be suspended until the appropriate permit is obtained. A financial security for erosion control/restoration shall be held by the County for the duration of the project/permit.
3. Topsoil and overburden required for restoration shall be maintained and shall be preserved from erosion or other loss. Only material necessary for restoration may be hauled to the site. Said material shall be incorporated into site restoration immediately or stockpiled according to the site plan.

PERFORMANCE SECURITIES & INSURANCE REQUIREMENTS:

1. Permittee shall provide a performance security in a form acceptable to the County, naming the County as an obligee. The security shall be drafted to be effective for at least 3 months after the annual anniversary dated of this point.
2. The conditions of the surety shall be that if the Permittee fails to conform to any of the conditions or requirements of this permit or for any reason ceases to operate the facility in accordance with the provisions of this permit and the County is required to expend monies, labor, or material to bring the operation into conformance with the permit or to perform restoration as provided in this permit due to non-performance by the Permittee, the County may utilize the performance security for reimbursement for any and all expenses incurred to remedy such failure of the Permittee.
3. The obligor and its sureties hereby indemnify and save the County harmless from all losses, costs, and charges that may occur to the County because of default.
4. Permittee shall submit a Certificate of Insurance with coverage provided by an insurance company duly licensed by the State of Minnesota indicating that the Permittee has in force coverage for General Liability, Automobile Liability, Loading and Unloading, Completed Operations Liability, Explosion and Collapse of Underground Operations Liability including a minimum limits of liability in the amount of \$2,000,000 for any one occurrence. The Certificate of Insurance shall include Workers' Compensation Insurance or Permittee shall sign an appropriate affidavit regarding employee status and submit it to the Land Management Department. The 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.
5. Insurance coverage required above shall be kept in effect for the duration of the permit. If the permit is to be terminated, insurance shall be maintained until the completion of restoration and return of the performance security.
6. The Permittee shall submit a copy of Worker's Compensation Insurance to the Carver County Land Management Department annually.

HOLLYWOOD TOWNSHIP



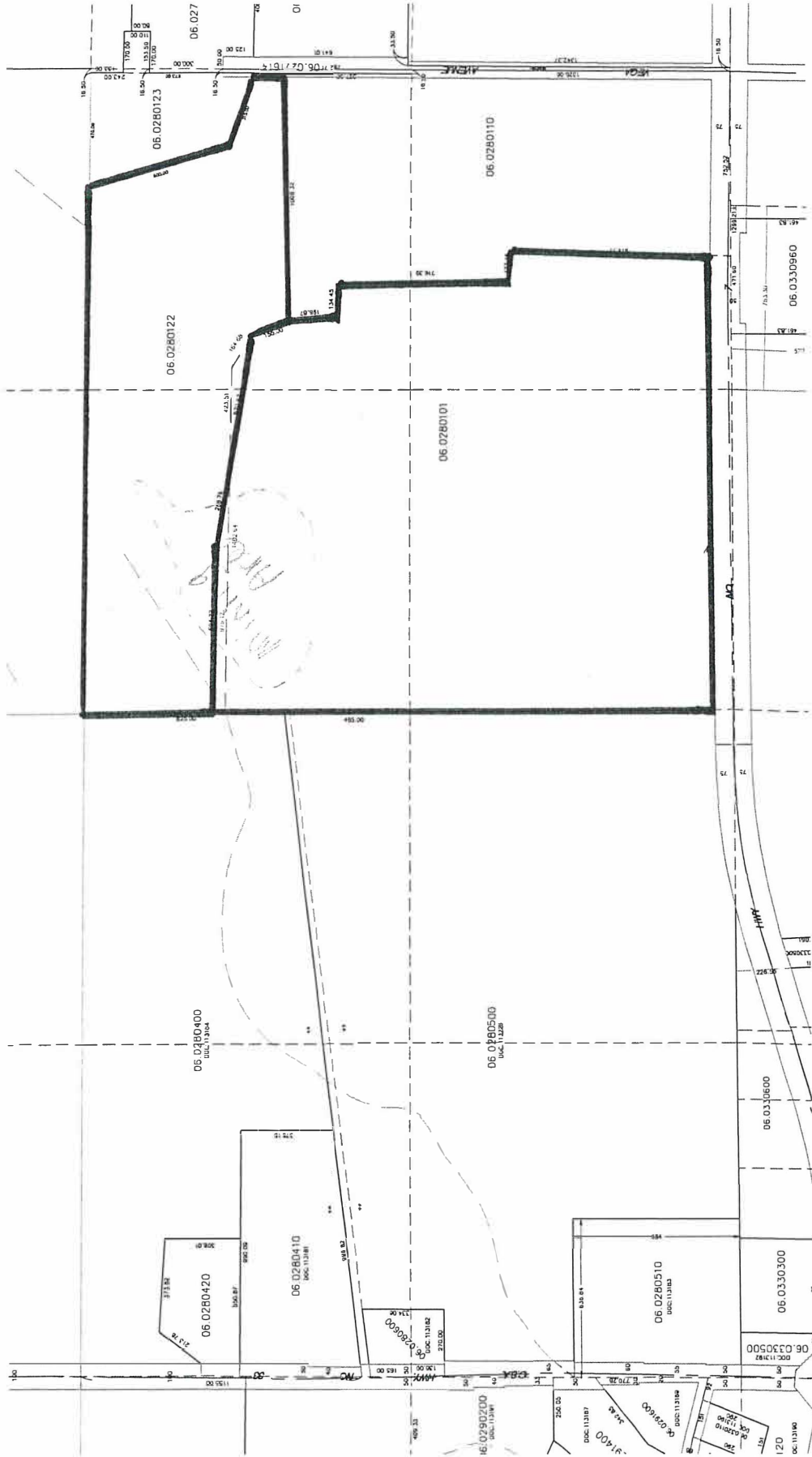
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

S 1/2 SEC. 28, T.117, R.26

THIS IS NOT A LEGALLY RECORDED PLAT.
THIS MAP IS A COMPARISON OF RECORDS
OFFICES AND OTHER SOURCES. THIS MAP
PURPOSES THE COUNTY AND ITS AGENTS
INDICATES CONTAINED THEREIN.



INTERIM USE PERMIT APPLICATION

Sand and Gravel Mining Operation
Vega Pit
Hollywood Township, Minnesota

Prepared for:

B.H. Aggregate Services, Inc.
10492 135th St
Kimball, MN 55353

November 1, 2022

Revised: April 26, 2023

Revised: May 1, 2023

Revised: May 3, 2023

Revised: May 23, 2023

Revised: June 1, 2023



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ENGINEERING \ LAND SURVEYING \ ENVIRONMENTAL

1.0 INTRODUCTION

1.1 Application Request

B.H. Aggregate Services, Inc. (BAH) is applying for an Interim Use Permit for sand and gravel mining on two parcels located within Section 28, Township 117N, Range 26 W, Carver County, Minnesota. The proposed site contains sand and gravel resources which will be mined and processed for use in redi-mix concrete, asphalt pavement, and as base material for private and public construction projects in the area.

The following sections of this document describe information required under the Carver County Zoning Ordinance (Ordinance) Chapter 152.081 and 152.082 pertaining to Interim Use Permits in the AG District.

1.2 Applicant Information

Name: B.H. Aggregate Services, Inc.
Contact Person: Joe White
Address: 10492 135th St, Kimball, MN 55353
Telephone (office): (320) 552-1483
Email: whitefarmjoe@gmail.com

1.3 Site Location and Ownership

The mining will take place on the following parcels, which are listed below according to the corresponding Carver County Parcel ID number:

Parcel ID 060280122

Owner	Jean F Beuning Revocable Trust
Address	5120 Vega Ave, New Germany, MN 55367
Mapped Acres	34.82
Current Use	Commercial
PLSS Description	All that part of the of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North line of said Southeast Quarter a distance of 16.50 feet to the point of beginning of the tract to be described; thence South 0 degrees 36 minutes 03 seconds West parallel with the East line of said Sou All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North

IUP Application

Vega Pit

Parcel ID 060280101

Owner	Robert D Weerts & Jenifer L Weerts
Address	PO Box 897, Winnebago, MN 56098
Mapped Acres	80.89
Current Use	Agricultural
PLSS Description	SE1/4 EXC E 16.5' OF NE1/4 OF SE1/4, ALSO EXC: THAT P/O SE1/4 DESC AS: COMM AT NE CORN SE1/4; TH WLY ON BEARING N88*W ON N LINE OF SE1/4 16.50', TH S PARALLEL WITH E LINE OF SE1/4 798.66'; TH S89*W 1008.32'; TH N19*W 155' TO PT OF BEG; TH N57*W 164.68'; TH N88*W 423.51' TO INTERSECT WITH A LINE BEARING N79*W FROM PT OF BEG; TH S79*E ON LAST LINE 570.62' TO PT OF BEG ALSO EXC THAT P/O SE1/4 DESC AS: BEG AT SE CORN OF SE1/4 TH N 1326.06'; TH N89*W 16.5'; TH N 527.58'; TH S89*W 1008.32'; TH S3*E 198

The locations of these parcels are shown on the attached Figure 1. The Applicant will operate the mine under a lease agreement with the landowners.

2.0 PROJECT DESCRIPTION

2.1 Site Plans

A set of mining plan drawings (Mining Plans) is attached and consists of the following sheets:

- Sheet 1 Mining Plan
- Sheet 2 Reclamation Plan

The Mining Plans show existing features including: 2-foot existing Lidar contours provided by the Minnesota Department of Natural Resources (DNR); wetland boundaries provided by a wetland delineation performed by Carlson McCain (Report in Appendix C); property boundaries provided by Carver County GIS; and building locations and existing vegetation shown on aerial imagery obtained from Google Earth. The Mining Plans also illustrate pertinent site development information including site access, mining limits, and site grading.

2.2 Mining Operations and Phasing

The mining operation will primarily include excavation of native sand and gravel resources, and processing of the materials to produce aggregate products for use in area construction projects.

The mining area is illustrated on Sheet 1 of the Mining Plans, and encompasses a total of approximately 5.55 acres. Active mining and processing will take place within the mining boundary shown on Sheet 1, and will generally consist of the following activities:

- **Overburden Stripping** - Topsoil and overburden will be stripped and stockpiled for use as future reclamation fill.
- **Excavation** - Sand and gravel will be excavated at the working face and transported to the processing area.
- **Screening** - Material will be screened to produced different sized aggregates.
- **Crushing** - Larger cobbles and boulders, if encountered, will required crushing for use in aggregate products.
- **Stockpiling** - screened materials will be stockpiled in the processing area prior to export.

Production of recycled concrete and asphalt aggregates will also occur periodically. This will include transporting concrete and/or asphalt rubble to the site and subsequently crushing, screening, and stockpiling the materials within the processing area.

The types of equipment used during typical mining operations are listed below. Additional, specialized mining or processing equipment may occasionally be brought to the site as needed.

- Excavators
- Front-End Loaders
- Bulldozers
- Skid-Steer Loaders
- Classifying Screens

IUP Application

Vega Pit

- Conveyors
- Crushers
- Haul trucks

The granular deposits are prevalent through the entire depth of the subsurface. Mining will occur utilizing a backhoe, therefore the estimated average depth of excavation within the Vega Pit is 25 feet below the water table (approximately an elevation of 939'), which is the furthest depth reachable by a backhoe. No dredging will occur. Excavation is anticipated to begin on the northeast corner of the mining area and work to the southwest.

The processing area will be set up on the floor of the mine and will be moved around the floor of the mine as needed during mining operations.

The overall volume of the excavation shown on Sheet 1 of the Mining Plans is approximately 201,250 cubic yards. Of this volume, it is anticipated that approximately 188,250 cubic yards of material will be exported as aggregate product, with the remaining 13,000 cubic yards assumed to be topsoil and non-granular overburden material that will remain on site for use as reclamation fill. The overall excavation volume and lifespan of the mine will ultimately be determined by market demand for aggregates. For the purposes of the IUP application, it is estimated that on average the mine will export 25,000 cubic yards per year, and during a high-demand year may export up to 75,000 cubic yards. This rate of export results in a 3- to 6-year operating life.

Upon completion of the mining, the Vega Pit will be restored for end use as a pond. Reclamation conditions are shown on Sheet 2 of the Mining Plans. The pond created from mining in the Vega Pit will be connected to the existing pond (created from previous sand and gravel mining). It is anticipated that the Vega Pit will require approximately 8,100 cubic yards of reclamation fill to establish the grades shown on Sheet 2, resulting in approximately 4,900 cubic yards of overburden that will be left over. It is expected that any extra overburden from the Vega Pit will be used as reclamation fill, making the final reclamation slopes slightly flatter than what is currently shown on Sheet 2. Additional detail on site reclamation is presented in Section 4 of this application.

3.0 OPERATIONAL STANDARDS

3.1 Hours of Operation

Hours of operation for mining and processing operations are from 6:30 a.m. to 8:00 p.m., Monday through Saturday.

3.2 Site Access

Access to the mine will be via the existing haul road from the previous mining project. The haul road runs from the western edge of the mining area to County Road 33 via PID 060280400 as shown on Figure 2.

3.3 Mining Limits and Setbacks

Mining and processing will not take place within 50 feet of a septic system, future septic area, property line, or road right-of-way. The setback from homes will be a minimum of 500 feet, with the exception of the home of the property owner(s). The total operational mining area will not exceed 35 acres.

3.3.1 Floodplains

The site is not located within the Floodplain Overlay District.

3.3.2 Wetlands

Wetlands mapped by a wetland delineation performed by Carlson McCain, and approved on August 15th, 2022, in the vicinity of the mining area, are shown on the Mining Plans. These include three wetlands designated as Class 2 wetland (i.e. palustrine emergent saturated) and one wetland designated as a Class 2 wetland, with pockets of Type 6 areas. The mining limits are at least 30 feet from the wetlands. The wetlands will be monitored for water levels, per the request of the LGU. This monitoring will be described in more detail in Section 3.7.3. Type 6 wetlands require a 300-foot setback, however since there are only pockets of Type 6 wetlands within a larger Type 2 complex, and due to monitoring to ensure that the wetlands are not impacted by mining, the mining area will be within the 300-foot setback. The project will improve public value by providing a locally sourced aggregate product for area construction projects which will reduce costs and emissions when compared to using more distant aggregate sources.

3.4 Non-Granular Material

All non-granular overburden material will be used as reclamation fill.

3.5 Vertical Faces

Vertical faces will be kept to a minimum. Typical slopes on the active mining face are approximately 2.5:1 (horizontal to vertical).

3.6 Housekeeping and Site Safety

The mine site employs good housekeeping practices. Examples of these good housekeeping practices include the following:

- Equipment will be inspected daily during normal operations and kept in good working order.
- Equipment washing will occur in a designated area and no detergent or chemicals will be used to wash equipment onsite.
- Any fuel or chemical stored onsite will be stored in compliance with all applicable MPCA requirements. Secondary containment will be provided for all tanks.
- Leaks and spills will be promptly cleaned up and reported to the site manager and MPCA as appropriate. Spill cleanup material will be stored onsite in an accessible.
- Appropriate waste receptacles will be available to employees and customers to prevent litter around the site.
- Sanitary facilities will be available on site and will be serviced regularly.
- Routine employee training is conducted on good housekeeping practices and spill response.

BAH maintains a corporate safety manual which describes safety standards that will be employed at the mine site.

3.7 Environmental Controls

The project size does not trigger preparation of a mandatory Environmental Assessment Worksheet. Operational practices used to prevent environmental impacts are presented in this section.

3.7.1 Dust

Mining activities generate dust through vehicle traffic on unpaved roads, processing operations such as screening and crushing, loading from stockpiles, and other material handling and transport operations. The following is a list of Best Management Practices (BMPs) that will be employed to minimize fugitive dust emissions at the site.

- Applying water to unpaved roads, stockpiles and other unvegetated areas
- Stabilizing unworked areas with topsoil and vegetation
- Limiting unnecessary traffic through the mine
- Limiting traffic speed within the mine
- Limiting the size of the active mine area
- Applying chemical dust suppressant such as magnesium chloride for
- Performing prompt reclamation of mined areas following completion of mining

3.7.2 Noise

Mining activities generate noise through operation of earthmoving and processing equipment. Noise generated at the site will be mitigated using the following techniques, which have proven effective at other similar aggregate mining operations:

- Processing equipment will be located on the mine floor, which is recessed from the existing ground surface. The perimeter slopes and berms surrounding the mine will block sound and reduce the decibel levels experienced at surrounding receptors.
- Truck traffic will be routed in a loop to the extent practical in order to minimize the use of back up alarms.
- White noise backup alarms will be utilized if existing controls do not sufficiently mitigate the noise generated by traditional beeping backup alarms.
- Equipment will be maintained in good working order and with standard noise reduction equipment such as mufflers.

3.7.3 Wetlands

During the approval of the wetland delineation performed for the site by Carlson McCain, and approved on August 15th, 2022, the LGA required that water level monitoring be continuously performed for the neighboring wetlands to ensure that mining activities are not negatively impacting the respective wetlands. More details can be found in the Wetland Hydrology Monitoring Work Plan, submitted under a different cover.

3.7.4 Traffic

The mine will generate additional vehicle traffic resulting from the import/export of soil and aggregate materials to and from the mine site, as well as employee commuting and vendor/supplier visits to the site. This section provides an analysis of the estimated additional traffic in terms of the average daily traffic (ADT) and the peak hourly traffic generated. Current traffic via Vega Avenue is limited to two single family residences and from Top Dog Country Club.

Average Daily Traffic

The ADT is related to the rate of material production and import/export at the mine. The higher the production rate, the more truck traffic will be generated to haul the product to the market area.

As noted above in Section 2.2, it is estimated that the average production would result in approximately 25,000 cubic yards of exported material per year, and high production would result in approximately 75,000 cubic yards of exported material per year. Assuming a unit weight of 1.4 tons per cubic yard, this equates to an average export of 35,000 tons per year and a high of 105,000 tons per year. To determine the corresponding number of truck trips, the following assumptions are used:

- A typical load of exported aggregate or imported reclamation fill is 20 tons.
- Each load includes two trips: one into the site and one out of the site.
- Hauling occurs 180 days per year.

Table 1 – ADT Summary

	Loads per day - Average	Loads per day - High
Aggregate	10	29
Reclamation Fill	none	none
	Trips per day – Average	Trips per day - High
Aggregate	20	58
Reclamation Fill	none	none
Employees/Suppliers	6	8
Total trips per day (ADT)	26	66

The estimated ADT presented above is based on anticipated production rates. Actual production rates may vary from those shown depending on market conditions.

Peak Hourly Traffic

The a.m. peak hourly traffic is estimated to be 7 trips per hour, or 10% of the High ADT, and is expected to occur between 6:30 a.m. and 8:00 a.m. The p.m. peak hourly traffic is estimated to be 6 trips per hour, or 8% of the High ADT, and is expected to occur between 3:00 p.m. and 4:00 p.m.

The “worst-case” hourly traffic is estimated using an import/export rate of one load every 4 minutes, which BAH estimates is the highest feasible rate based on anticipated site equipment and operational constraints. This results in 15 loads, or 30 truck trips per hour. The worst-case traffic would occur infrequently and for limited duration throughout the life of the mine.

3.7.5 Stormwater and Erosion Control

Stormwater contacting mining activities will be contained on site within the mining area and peak runoff rates and volumes will not exceed current levels. Stormwater management for the mining and reclamation operation will comply with runoff quantity, quality and rate control regulations as specified by the MPCA as well as requirements of the National Pollutant Discharge Elimination System (NPDES), including obtaining a permit and adoption of a Pollution Prevention Plan (P2 Plan). The P2 Plan addresses stormwater management and is required for coverage under the NPDES Nonmetallic Mining and Associated Activities permit (MNG490000).

Site soils are granular and highly erodible; however, sediment generated from erosion of the active mining face will be contained on-site within the excavation and will not be transported onto other areas of the property. Silt fence, diversion berms or swales, and/or other perimeter controls will be employed as needed to prevent erosion and sediment transport during the initial mining activities such as topsoil stripping and overburden removal and stockpiling. Double silt fence will be installed along the wetlands and will be maintained throughout the life of the project. Perimeter controls shall remain in place and be maintained until vegetation is established (at least 70% coverage) on upslope areas, or until all disturbed areas drain to the mine excavation. Temporary stormwater ponds may also

be employed as needed to prevent any off-site discharge during start-up, particularly during development of the processing plant site.

The main entrance to the site will be monitored for soil tracking and corrective action will be taken to reduce tracking as necessary. The site entrance will be sprayed with chloride as needed and will be swept as needed to prevent soil accumulation. If tracking becomes problematic, tracking mitigation measures can be implemented. These mitigation measures may include, but are not limited to, installation of rock rumble strips and/or steel track-out grates. Soil tracked onto public right of ways will be removed promptly.

Additional detail on stormwater controls can be found in the P2 Plan. As part of the IUP application process, the P2 Plan is submitted to the Carver County Soil and Water Conservation District and the Carver County Watershed Management Organization for review and recommendations. Any resulting recommendations may be included as conditions of the IUP.

Topsoil Management

Topsoil will be stripped to the full depth at the commencement of mining and segregated into in a dedicated stockpile. The topsoil stockpile will be labeled with signage identifying the contents of the stockpile. The topsoil stockpile area for the mine is expected to be located in the southwest corner of the mining boundary, as shown on Sheet 1 of the Mining Plans. The side slopes of the topsoil stockpile will be uniformly graded and vegetated. Silt fence will be installed on the downslope side of the topsoil stockpile and maintained until the stockpile has been vegetated (at least 70% coverage) and there is no evidence of erosion around the pile.

During topsoil stripping, a sample of topsoil will be collected and analyzed for the parameters listed in the Carver County Topsoil Standard, and results will be submitted to Carver County. A minimum of two business days prior to re-spreading topsoil, testing data of samples from the stockpile will be submitted to the County. The samples will be compared to the Carver County Topsoil Standard and the existing (i.e. pre-mining) on-site topsoil characteristics in order to demonstrate that the topsoil is of sufficient quality for placement. The table below describes the Carver County Topsoil Standard and provides the range of values for site soils, obtained from the U.S. Department of Agriculture Natural Resources Conservation Services (NRCS) Web Soil Survey, for each requirement. The majority mining area will consist of the Biscay clay loam unit, therefore the ranges for this unit has been provided in the table below. NRCS data is provided in Appendix B of this report.

Carvery County Topsoil Standard		Site Range
Requirement	Carver County Required Range	
Material Passing the ¾"	100%	96% - 100%
Material Passing the No. 4	≥85%	90% - 100%
Clay	5% - 30%	23% - 33%
Silt	5% - 35%	27% - 52%
Sand	38% - 75%	20% - 50%
Organic Matter	3% - 15%	4% - 10%
pH	6.1-7.5	6.9

Based on the NRCS information, the topsoil from the site generally meets the Carver County Topsoil Standards. If any topsoil is imported for site restoration, it will meet the Carver County Topsoil Standard.

Topsoil will be placed to a minimum depth of 6-inches, which corresponds to a volume of approximately 1,700 cubic yards over the mining area. A topographic survey of the topsoil stockpile will be conducted prior to re-spreading to confirm that enough topsoil will be available for reclamation. Once the topsoil is placed it shall be tilled or disced prior to seeding to ensure that the soil meets compaction requirements. Once topsoil is placed, heavy traffic and equipment should be kept off the topsoil to the maximum extent possible to prevent any unnecessary compaction.

4.0 SITE RECLAMATION

As mining progresses, reclamation will occur as permissible in those areas where mining is complete. This will include placing reclamation backfill materials as needed to establish the approximate grades shown on Sheet 2 of the Mining Plans. The final land use for the mining area will be a pond, which will be connected to the existing pond on the south end of the mining area, that was created by prior mining activities. The final topography surrounding the pond will be established such that the peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall.

Reclamation slopes will be graded to a slope of 5H:1V or flatter over the entire reclamation area. As finished reclamation grades are established, areas that will not be reclaimed as a pond will be seeded with MnDOT seed mixture 25-141 at a seeding rate of 59 pounds per acre, MnDOT Type 1 Mulch (2 tons/acre) and commercial fertilizer (application rate will be determined from soil testing prior to reclamation) will be used. The reclamation pond slopes will be seeded with MnDOT seed mixture 34-181 at a seeding rate of 35 lbs./acre and MnDOT Type 1 Mulch (2 tons/acre) will be used. Upon establishment of end-use conditions, sediment carried by stormwater over reclaimed areas will be collected within either the pond or surrounding surficial depressions\wetlands, in a similar manner to the current surface drainage.

The following additional reclamation standards will be implemented:

- All materials used for reclamation backfill shall be free of contaminants and shall be non-toxic, non-flammable and non-combustible.
- The graded or backfilled area shall not collect or permit stagnant water to remain therein, unless there is an approved ponding area or wetland restoration or creation.
- Graded or backfilled areas shall be surfaced with at least four inches of soil of a quality at least equal to the topsoil of the surrounding area.
- Reclamation will be completed within 9 months after completion of mining within a phase, or after the termination of mining. This includes removal of all equipment, vehicles, machinery, materials, stockpiles and other materials incidental to the mining operation.
- Reclamation will not result in an increase in impervious area.
- Erosion and sediment control measures specified in the P2 Plan will be followed until the termination of applicable permits (e.g. NPDES)

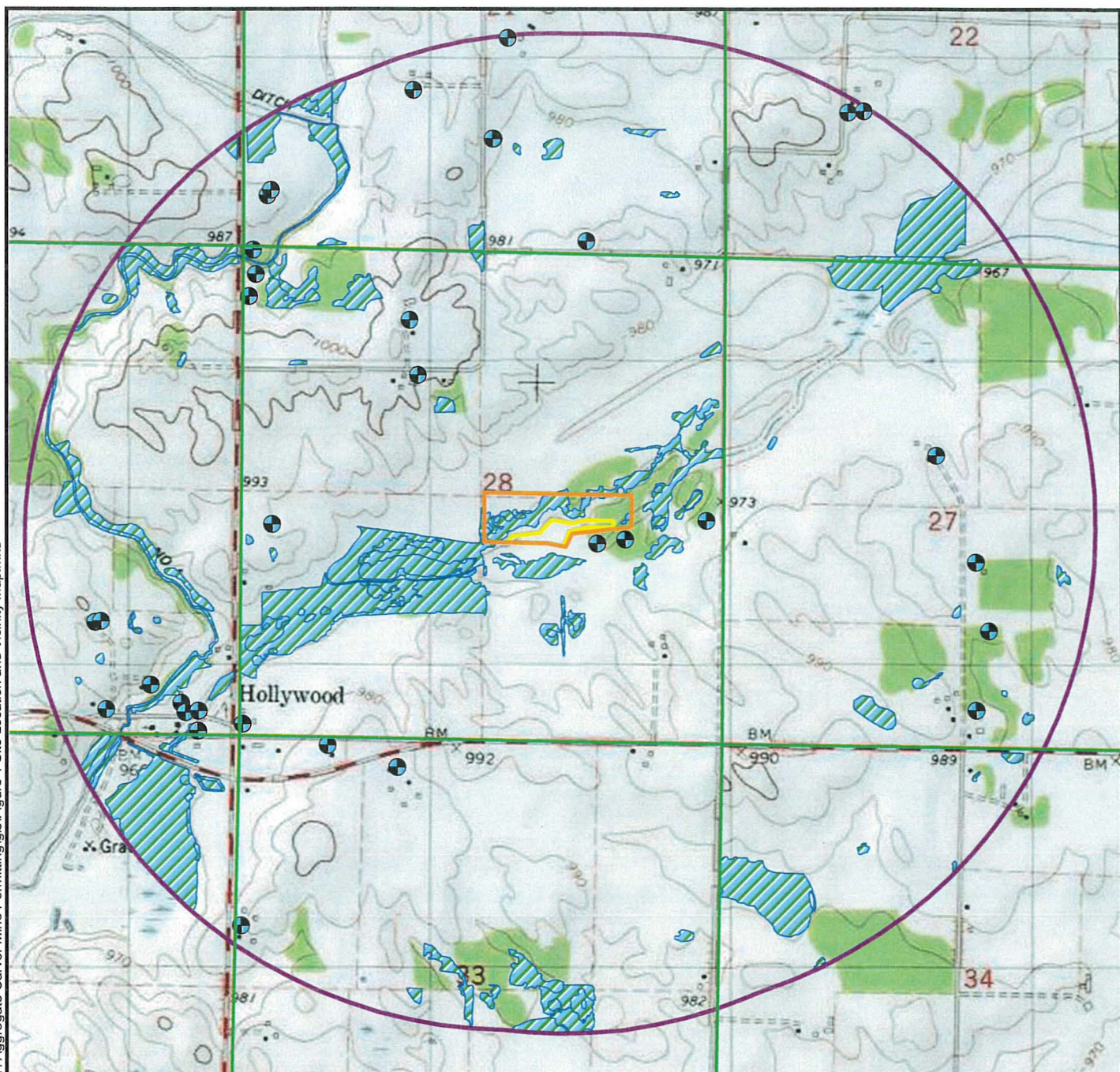
5.0 CERTIFICATION

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



Dan Wilke, P.E.

Date: 6/1/23 License # 53182

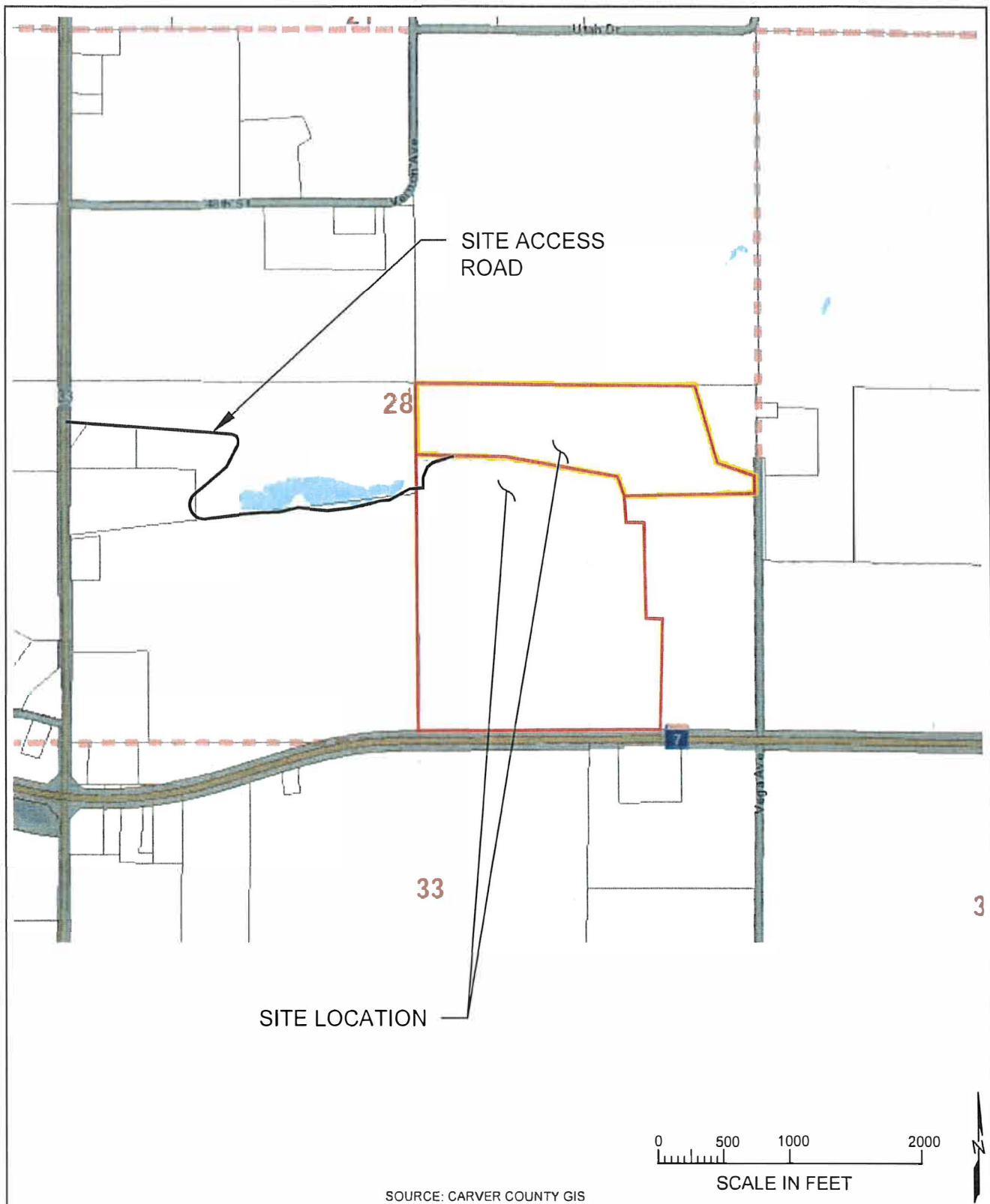


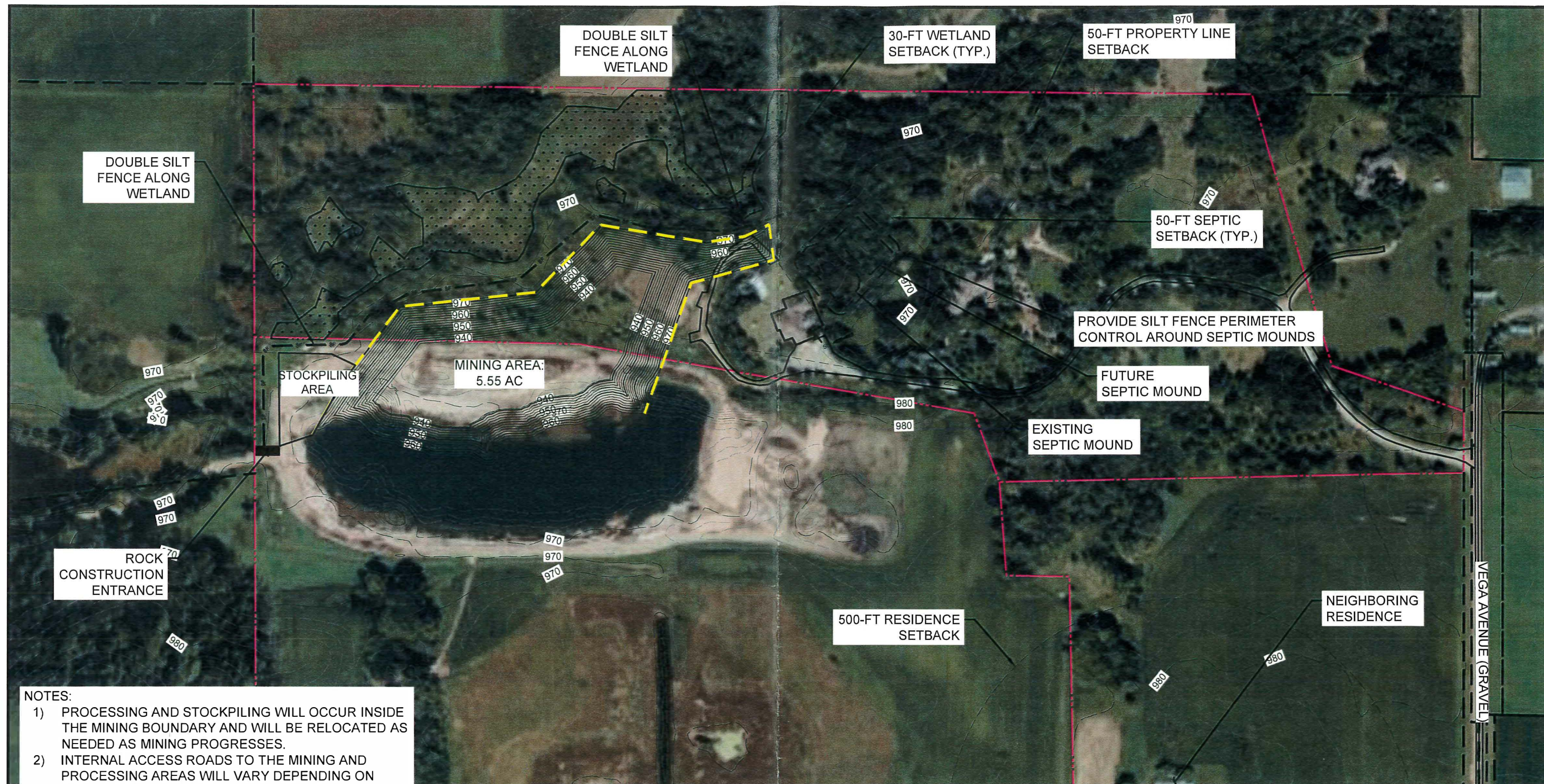
Legend

- Well
- ▨ National Wetland Inventory (MnDNR Update) Wetlands
- ▭ Mining Boundary
- ▭ Project Area
- 1-Mile Search Area
- ▭ Sections

*No Impaired Waters, listed Trout Streams, or Outstanding Resource Value Waters are located within the 1-mile search Area.







NOTES:

- 1) PROCESSING AND STOCKPILING WILL OCCUR INSIDE THE MINING BOUNDARY AND WILL BE RELOCATED AS NEEDED AS MINING PROGRESSES.
- 2) INTERNAL ACCESS ROADS TO THE MINING AND PROCESSING AREAS WILL VARY DEPENDING ON WHAT AREA THAT MINING IS OCCURRING.
- 3) SILT FENCE WILL BE INSTALLED ON ALL DOWNSTREAM PERIMETERS AS NEEDED FOR EACH LAND DISTURBING ACTIVITY.
- 4) DISTURBED AREAS WILL BE STABILIZED WITH MNDOT SEED MIXTURE 25-141 AT A SEEDING RATE OF 59 POUNDS PER ACRE, MNDOT CATEGORY 3N OR 3P EROSION CONTROL BLANKET AND COMMERCIAL FERTILIZER.

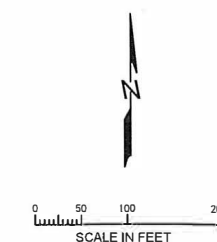
LEGEND

EXISTING CONTOUR IDX
EXISTING CONTOUR INT
MINING CONTOUR IDX
MINING CONTOUR INT
PROPERTY BOUNDARY

---960---
---960---
---960---
---960---

MINING BOUNDARY
SETBACK
WETLANDS
SILT FENCE

BACKGROUND AERIAL SOURCE: GOOGLE EARTH



18650 36TH AVE N
SUITE 115
PLYMOUTH, MN 55446
TEL: (952) 346-3950
FAX: (952) 346-3951
CARLSONMCCAIN.COM

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

Print Name: Dan J. Wilke
Signature: *Dan Wilke*
Date: 11/1/2022 License #: 33182

Drawn: DJW
Designed: DJW
Date: 11/1/22

REV	DATE	BY	DESCRIPTION
0	11/1/22	DJW	ISSUED FOR IUP
1	4/26/23	DJW	PER COMMENTS
2	5/1/23	DJW	RELOCATED ROCK CONSTRUCTION EXIT & PARKING
3	5/23/23	DJW	ADJUSTED PER SEPTIC COMMENTS
4	6/1/23	DJW	PER COMMENTS

B.H. AGGREGATE SERVICES, INC.
10492 135th Street
Kimball, MN 55353

VEGA PIT
Carver County, MN

MINING PLAN
IUP DRAWINGS



NOTES:

- 1) ALL RECLAIMED AREAS SHALL RECEIVE A MINIMUM OF 6 INCHES OF TOPSOIL.
- 2) ALL RECLAMATIONS SLOPES ARE 5H:1V OR FLATTER.
- 3) DISTURBED AREAS WILL BE STABILIZED WITH MNDOT SEED MIXTURE 25-141 AT A SEEDING RATE OF 59 POUNDS PER ACRE, MNDOT CATEGORY 3N OR 3P EROSION CONTROL BLANKET AND COMMERCIAL FERTILIZER.

LEGEND

EXISTING CONTOUR IDX	--- 960 ---	MINING BOUNDARY	---
EXISTING CONTOUR INT	---	SETBACK	---
RECLAMATION CONTOUR IDX	--- 960 ---	WETLANDS	...
RECLAMATION CONTOUR INT	---	SILT FENCE	--- SF --- SF ---
PROPERTY BOUNDARY	---		

BACKGROUND AERIAL SOURCE: GOOGLE EARTH



16650 26TH AVENUE N
SUITE 120
PLYMOUTH, MN 55448
TEL (952) 346-2855
FAX (952) 346-2851
CARLSONMCCAIN.COM

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

Print Name: Dan J. Wilke
Signature: *Dan Wilke*
Date: 11/1/2022 License #: 53182

Drawn: DJW
Designed: DJW
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B.H. AGGREGATE SERVICES, INC.
10492 135th Street
Kimball, MN 55353

VEGA PIT
Carver County, MN

RECLAMATION PLAN
IUP DRAWINGS

2 of 2

3-28



**Carver County
Public Works**

11360 Highway 212, Suite 1
Cologne, MN 55322

June 7, 2023

Land Management Department
c/o Donovan Hart, Senior Planner
Carver County Government Center
600 East 4th Street, Chaska, MN 55318
astubbs@co.carver.mn.us

**Re: Development / Access Review Comments: Vega Pit Interim Use Permit Application
RE: PID 060280101 near County Highway 33, adjacent to Hwy 7 in Hollywood
Township**

Thank you for the opportunity to review the subject Interim Use Permit (IUP) in Hollywood Township. Consistent with the County Comprehensive Plan and County Codes, and other official controls of the County, the following are comments and recommended conditions of approval and as potential requirements for any necessary permits to be issued for the project.

1. Regarding Traffic:
 - a. The comments within this memo apply to the proposed traffic within the reviewed IUP application. If the traffic increases beyond the reported trips, this may require access improvements.
2. Regarding Access:
 - a. The proposed interim use has no new access and proposes to use the existing access from CSAH 33 west of the site.
 - b. Dust and debris from the site tracked onto CSAH 33 are required to be monitored and controlled. Prompt removal of tracked material onto CSAH 33 is required during hauling operations.
 - i. A debris management plan is a condition of approval by Public Works, please provide a plan that demonstrates how debris being tracked out onto the public roadways will be mitigated. The details of the management plan will need to be reviewed and approved by the County Engineer.
3. Prior to any work affecting or on County highways or in County right of way, the applicant shall coordinate plans with the County Engineer and obtain a Utility or Excavating/Filling/Grading Permit(s) from Carver County Public Works: <http://www.co.carver.mn.us/how-do-i/apply-for-a-permit>. Final details of locations, grades, and profiles affecting County roads as well as any utility connections will need to be reviewed and approved prior to any permits.
4. Any damages, modifications, or changes incurred on County highways from current or approved conditions will need to be remedied or updated at applicant expense, including costs incurred by the County.

These are the County’s comments at this time. If you have any questions or need further assistance, please do not hesitate to contact those noted below:

Jack Johansen Transportation Planner Carver County Public Works jjohansen@co.carver.mn.us	Angie Stenson AICP Transportation Planning Manager Carver County Public Works astenson@co.carver.mn.us	Whitney Schroeder Traffic Engineer Carver County Public Works wschroeder@co.carver.mn.us
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Township Presentation & Recommendation Form

PARCEL #	060280122 / 060280101	Permit #	PZ20230021 / PZ20230019
Owner's Name:	Jean F Beuning Revocable Trust , Bob Weerts		
Owner's Mailing Address:	5120 Vega Avenue		
City:	Owner State:	Owner Zip:	
New Germany	MN	55367	
Applicant (if other than owner):	Site Address:		
Joe White	10492 135th Street, Kimball, MN 55353		

Type of Request:	☐ CUP	☒ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:	PZ20230021		PZ20230019			
See Attachment #1 Variance is approved as long as County has all approved. This approval also includes the IUP request.						
Date of County Public Hearing:	June 20, 2023		Date of Township Meeting:	May 8, 2023		

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:

Twp Recommendation to approve based on Twp mtg & Telephone conversation w/ Jason Mielke, Carver County Land Use Manager.

****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

Twp signed application Form 5-8-23

Signature of Township Official

Date 5-8-23

Date 5-8-23

(Mark Meubels)

*Document completed by Jason Mielke 5-8-23

3-31

November 1, 2022

**B.H. Aggregate Services, Inc. – Jean F Beuning Revocable Trust Property & Joel Vinkemeier Property,
Hollywood Township**

Attachment 1: Description of Request

B.H. Aggregate Services, Inc. is requesting an Interim Use Permit for mining and processing sand and gravel on the above-mentioned parcels of land located in Hollywood Township, Carver County. The properties are currently owned by Jean F Beuning Revocable Trust and Joel Vinkenmeier. Total parcel of land is approximately 34.82 acres and 80.89 acres respectively, of which we are seeking to mine 6.06 acres. Operations would be conducted onsite and include the following: screening, crushing, and stockpiling of aggregates for upcoming road construction projects. Upon depletion of material, the mined area will be reclaimed back into either a pond or back to original uses as grasslands.

Access to the mine will be via a driveway entrance off of Vega Avenue at the location of the existing entrance for the Jean F Beuning Revocable Trust property (PID 060280122). Truck traffic exiting the mine will be directed south on Vega Avenue and then west Minnesota State Highway 7 to County Road 33. Chlorides will be added to the road, as necessary, to provide dust suppression.

Land use of the Jean F Beuning Revocable Trust property is currently commercial (dog boarding), while the land use of the Joel Vinkemeier property is agricultural. The area around the site is predominantly agricultural.

Legal Description of the Jean F Beuning Revocable Trust Property:

All that part of the of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North line of said Southeast Quarter a distance of 16.50 feet to the point of beginning of the tract to be described; thence South 0 degrees 36 minutes 03 seconds West parallel with the East line of said Sou All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North

Legal Description of the Joel Vinkemeier Property:

SE1/4 EXC E 16.5' OF NE1/4 OF SE1/4, ALSO EXC: THAT P/O SE1/4 DESC AS: COMM AT NE CORN SE1/4; TH WLY ON BEARING N88*W ON N LINE OF SE1/4 16.50', TH S PARALLEL WITH E LINE OF SE1/4 798.66'; TH S89*W 1008.32'; TH N19*W 155' TO PT OF BEG; TH N57*W 164.68'; TH N88*W 423.51' TO INTERSECT WITH A LINE BEARING N79*W FROM PT OF BEG; TH S79*E ON LAST LINE 570.62' TO PT OF BEG ALSO EXC THAT P/O SE1/4 DESC AS: BEG AT SE CORN OF SE1/4 TH N 1326.06'; TH N89*W 16.5'; TH N 527.58'; TH S89*W 1008.32'; TH S3*E 198

**COUNTY OF CARVER
BOARD OF COMMISSIONERS**

**AN ORDER FINDING CERTAIN FACTS AND ORDERING
THE ISSUANCE OF A CONDITIONAL USE PERMIT**

DATE: March 4, 2008

ORDER #: PZ20070059

FILE #: PZ20070059

APPLICANT: Knife River Corp – North Central

OWNER: Joel Vinkemeier

SITE ADDRESS: No Address Assigned

PERMIT TYPE: Mining Activity

PURSUANT TO: County Code, Chapter 152, Section(s) 152.080 C4

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 06-028-0100

A public hearing was held on this matter on February 19, 2008, by the Carver County Planning Commission, and the recommendation of the Planning Commission was duly considered in the issuance of this order.

FINDINGS OF FACT

1. Knife River Corporation has applied for a Conditional Use Permit (CUP) to mine aggregate and place a temporary asphalt plant on the Joel Vinkemeier property located in the SE¼ of Section 28, Hollywood Township. The subject property has an active mining operation (CUP #12348) located in the northerly portion of the property. The property is located in the Agricultural Zoning District and the CCWRMA – Crow River.
2. Section 152.080 C4 of the Carver County Zoning Code provides for mining and/or land reclamation involving 10,000 cubic yards or more as a conditional use.
3. The Vinkemeier property is currently being utilized as a small aggregate mining operation under CUP #12348. Steve Burns, the CUP operator, excavates and hauls approximately 10,000 to 15,000 cubic yards of material from the site per year. The current hours of operation are from 7:00 a.m. to 5:00 p.m., Monday through Saturday. Mr. Burns has indicated that after the Highway 7 project is completed, his intention would be to continue to utilize the mining area only if aggregate is available. If no aggregate remains, the mining area will be restored and all CUP's on the property would be terminated.
4. The site will be utilized for the mining/processing, stockpiling of materials, asphalt operations and truck hauling for the upcoming Highway 7 project. The applicant states that the site operation would utilize an area of approximately 34 acres. However, that area has been reduced to 17 acres with revisions to plans. The remainder of the property has been either mined, consists of a wetland banking project through BWSR, and/or has setback restrictions due to existing residential home locations.
5. Early April is the approximate starting date for the project when mining/processing operations will begin and continue through late November (all depending on weather and demand of material needed for the project). The asphalt operation are proposed to begin in early June. No structures will be erected, all equipment is portable and on wheels. Stockpiles will be strategically placed around the operation to help reduce the transfer of noise. There will be no use of explosives as part of the mining activities. Approximately 100,000 cu. yds. of material (Class 3 aggregate) will be excavated on the site. The applicant has indicated that the amount taken out will deplete all possible mining on the

property. Material will be excavated by backhoe and hauled on/off site for the Highway 7 project. Knife River is proposing approximately 5 acres for excavation; approximately 2.5 acres will be excavated as a depth of 30', all depending on the availability of the material. The majority of the aggregate mined will be stockpiled and stored on-site for the purpose of processing and for the asphalt operation.

6. Based on the applicant's operational plan; the mining/processing and asphalt activities are considered to be a 24 hour Monday through Saturday operation based on the following:
 - **Mining/processing:** 6 a.m. to 9 p.m., Monday – Saturday (however, the warm up of equipment with a 5:30 a.m. startup).
 - **Asphalt:** 6 a.m. to 9 p.m., Monday – Saturday (however, the warm up of equipment with a 5:30 a.m. startup).
 - **Hauling:** 6 a.m. to 9 p.m., Monday – Saturday.
 - **Maintenance:** 24 hours, on occasion and only when necessary minor equipment repairs that may require the use of a small generator. Any lighting that would be required during periods of darkness will be directed downward, onto the equipment.
 - **Number of employees, etc.:** Number of employees on-site will depend on the operation, approximately 2-3 employees for mining/processing operations, whereas asphalt and truck hauling would require more employees to be on-site. Knife River employees and contracted employees of Knife River would access the site.
 - **Sewage disposal and waste management:** Portable satellites will be provided for employees on-site with an independent contractor. Trash will be collected and contained in a suitable receptacle and hauled off site to an appropriate disposal site.
7. The Carver County Water Management Rules require a formal erosion/sediment control plan and stormwater management plan for an operation of 5 acres or more (Level 3). There is a very large wetland banking project taking place in the center of the property, which does not allow for any disturbance within the proposed easement area. Therefore, Knife River has designed their operational area in order to meet the wetland banking criteria (no disturbance). Carver County, Carver SWCD and the Board of Water (BWSR) have been involved in the review process. The proposal has been reviewed by the SWCD and Wenck Assoc. (see attached). Formal stormwater data is not required because the majority of all runoff would be contained on-site. A silt fence would not be necessary, but appropriate stabilization, topsoil and seeding is to be implemented. Berming will be implemented to help with screening around the temporary staging area located along Highway 7.
8. The relatively small size and limited scope of the operation should minimize the potential for adverse environmental effects. The mining will take place in the northerly portion of the property. The existing pond will be expanded upon. ~~De-watering is not being proposed as the pond dredging progresses. The operation will consist of mining~~ approximately 100,000 cu. yds. (numbers vary based on type of material).
9. Restoration would require grading at a 5:1 ratio (20%, or flatter) slope, and returning the stockpiled material in a uniform manner to provide for final turf establishment. An NPDES (MPCA permit) is required. Seeding & mulching would be required for the stockpiles and restored areas. SWCD would continue to provide technical assistance on these matters. According to the applicant, the asphalt plant operation will be graded slightly for equipment and stockpiling. Overburden topsoil will be stored in berms surrounding the asphalt operations. At the completion of asphalt operations, the topsoil that will be stored in the surrounding berms will be replaced over the disturbed area. The area will be returned to agricultural use for farmable land.
10. Prior to the issuance of the permit, Carver County shall receive the performance securities and insurance which are required as part of the existing CUP and proposed project. The Zoning Code requires that the permittee acquire and keep in force for the duration of the permit, **liability insurance** specifically covering the mining and/or restoration and related operations. The permittee must provide certification of insurance. Also, a **performance surety** must be provided. The permit must specify the amount and type of surety required. The surety shall be used to reimburse the county for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit. The surety may be used after failure to execute the restoration plan. The surety may also be used if there is a failure to execute a phase of a restoration plan specifically scheduled in the permit. Based on past mining activities by

Mr. Burns, restoration has not been completed as required by prior CUP #12348; therefore, an additional amount will be required as part of this permit application. The performance security is based on the Carver County Zoning Code and Water Management Rules standards. It will also be based on two separate uses: Knife River – a temporary use & Vinkemeier/Burns future use. A security in the amount of \$17,000 for Water Rules and \$20,000 for Zoning Code securities are required of Knife River. A security in the amount of \$10,000 for Water Rules and \$20,000 for Zoning Code securities are required of Vinkemeier/Burns.

11. Access to the site would be via two temporary accesses from Highway 7. The applicant has proposed to control dust on the haul road and site entrance by means of watering regularly and if necessary, calcium chloride. Per MnDOT requirements, 'truck hauling' signs will be placed accordingly to indicate hauling will be taking place. The applicant has submitted a Traffic Study narrative to address the estimated truck traffic on the site. Based on the estimated total average daily traffic generated per hour, the applicant anticipated 20 trucks hauling continuously from 6 a.m. to 9 p.m. Therefore, a 15 hour day would generate approximately 600 trips on the Highway 7 project with perfect weather. However, thru traffic should not be a concern because Highway 7 will be closed and only open to local traffic during the construction project.
12. The Hollywood Town Board has reviewed and recommended approval of the request during their January 2008 Town Board Mtg.
13. The Board has considered all the factors required by Section 152.251 of the Carver County Code and finds that all are either true in this case or can be mitigated by conditions placed on the permit.

IT IS HEREBY ORDERED THAT THE CARVER COUNTY ZONING ADMINISTRATOR SHALL ISSUE CONDITIONAL USE PERMIT #PZ20070059. THIS PERMIT IS ISSUED PURSUANT TO THE CARVER COUNTY CODE, SECTION 152.080 C4 FOR MINING ACTIVITY/TEMPORARY ASPHALT OPERATION ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A". THIS PERMIT SHALL TERMINATE AND SUPERCEDE THE PRIOR APPROVED CONDITIONAL USE PERMIT #12348. THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO THE PERMIT:

General Requirements:

1. This 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 in the timeline of the proposed change as possible.
2. The Knife River portion of the CUP shall be terminated upon completion of the Highway 7 project, site restoration and a final site inspection conducted by Carver County Land Management and Carver SWCD staff. The Vinkemeier/Burns activity shall be allowed only if aggregate material is available after the Highway 7 project has been completed.
3. Operations shall be substantially in accordance with the operational letters (dated: 12/21/07 & dated: 2/12/08) and the site plans (dated: 2/12/08). The hours of operation shall be from 5:30 a.m. to 9:00 p.m. Monday through Saturday. No operations shall occur on Sundays and/or the following holidays; New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
4. Mining and/or similar disturbances shall not occur within 50' of the public right-of-way or any property line, 100' of the proposed wetland banking project and 500' of an existing residential home.
5. A Grading Plan (including restoration), Erosion/Sediment Control Plan and Stormwater Management Plan shall be implemented according to the Carver County Zoning Code, Carver SWCD and Wenck Associates comments. No mining and/or impacts are permitted within the proposed wetland banking easement on the site.

6. Stockpiles and restored areas must be seeded and disc mulched within 72 hours of final grading. Weeds and other unsightly vegetation shall be cut or sprayed as necessary to present a neat appearance and to prevent seeding of adjacent properties. (All standards of Zoning Code must be met.)
7. Permittee must apply dust control measures on all haul roads and/or access roads in order to minimize dust for the surrounding properties. The areas shall be treated with water or other similar dust control measures. Waste oil shall not be utilized. If Vinkemeier/Burns continue to utilize the mining area as in the past, access will still need to be maintained from County Road 33. Mr. Vinkemeier & Mr. Burns will need to maintain an access across the neighboring property owners land. The mining area will be allowed to exceed a 5 acre area due to setbacks.
8. All storage of equipment and materials utilized as part of the operation shall be kept within the interior of the mining area in order to minimize visual exposure to areas outside the mining area.
9. No trash, garbage, waste, construction debris, or similar materials shall be deposited in or near the permitted area.
10. Signage "NO ENGINE BRAKING" (or similar signage) shall be placed along the Hwy 7 site entrance to the Vinkemeier property. Permittee is responsible for notifying all employees and contracted employees hauling to and from the site about the requirement for no engine braking within ¼ mile of the two (2) identified accesses to the Vinkemeier site.

Operational Requirements:

1. The operation shall be conducted so that the required material can be removed while disturbing a minimum area and to permit restoration at the earliest possible time. The Permittee shall confine mining operations as much as possible to one area at a time.
2. Permittee shall maintain erosion control measures including, but not limited to, a berm near wetland area to ensure erosion, sedimentation, or drainage of the wetlands, does not occur.
3. Existing drainage patterns shall not be altered if possible except that runoff containment is mandatory, unless a re-submittal has been approved for the County Water Rules.
4. Topsoil and overburden required for the restoration shall be maintained and shall be preserved from erosion or other loss. Only materials necessary for roadbed re-construction and site restoration may be hauled onto the site. Said materials shall be incorporated into the site restoration immediately or stockpiled according to the site plan. (All standards of the Zoning Code and Water Rules apply).
5. De-watering is not allowed.
6. The material removed pursuant to this permit for the Highway 7 project and/or Knife River is not expected to exceed 100,000 cubic yards. The volume will be reviewed by the Land Management Administrator and/or Carver SWCD during review. The permit must be amended if the land Management Administrator determines that the size or intensity of the operation exceeds the scope of the permit. Once Knife River has restored the project and the temporary use is terminated, this permit shall revert to allow Vinkemeier/Burns to excavate & haul 10,000 to 15,000 cubic yards per year.

Restoration:

1. The design of the restored areas must be in accordance to the Zoning Code and the Water Management Rules. To the extent possible, restoration shall be staged such that the exhausted areas are stabilized and turf established as soon as possible. Said design may be subject to revisions and modifications by the Land Management Dept. and Carver SWCD. Due to the possibility of the site still being utilized for aggregate mining after Knife River has completed the temporary Highway 7 project, a separate restoration plan is needed for permanent mining activities. Prior to the final inspection, all restoration shall be completed and be in accordance to Section 152.080 C4 – Mining & the Water Management Rules. In addition, the following need to be completed:

Knife River:

- Temporary asphalt plant operation shall be restored to agricultural use for farmable land. At a minimum of 4" to 6" of topsoil shall be replaced over the disturbed area or upland areas.
- No hauling of topsoil off site.
- Final grade shall not impact neighboring properties.
- Seeding and mulching shall be consistent with the Minnesota Department of Transportation specifications for right-of-ways.
- No grades shall exceed a 5:1 ratio (20%). The final grade slope shall commence at the setback.
- Contact the Carver County Land Management Dept. & Carver SWCD prior to moving equipment off-site.
- GPS mapping area on map prior to excavation and again after excavation and submit information to the County Land Management Dept in order to determine restoration area needed to be completed by Knife River.

Vinkemeier/Burns:

- Restoration shall take place immediately on areas outside of the original site plan and on neighboring properties.
- At a minimum of 4" to 6" of topsoil shall be replaced over the disturbed area or upland areas.
- No hauling of topsoil off site.
- Final grade shall not impact neighboring properties.
- Seeding and mulching shall be consistent with the Minnesota Department of Transportation specifications for right-of-ways.
- No grades shall exceed a 5:1 ratio (20%). The final grade slope shall commence at the setback.
- Contact the Carver County Land Management Dept. & Carver SWCD prior to moving equipment off-site.

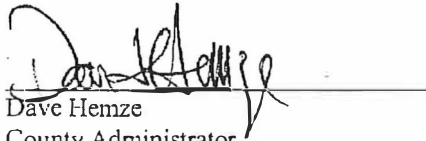
Performance Securities and Insurance:

2. The Permittees shall provide a performance security in a form acceptable to the County, naming the County as obligee. The security shall be drafted so as to be effective for the duration of the project which would include restoration and a final site inspection conducted by the Carver County Land Management Dept and Carver SWCD.
3. A security in the amount of \$17,000 for Water Rules and \$20,000 for Zoning Code securities are required of Knife River (\$37,000). A security in the amount of \$10,000 for Water Rules and \$20,000 for Zoning Code securities are required of Vinkemeier/Burns (\$30,000).
4. The conditions of the surety shall be that if the Permittees fails to conform to any of the conditions or requirements of this permit or for any reason ceases to operate the facility in accordance with the provisions of this permit and the County is required to expend monies, labor, or material to bring the operation into conformance with the permit or to perform restoration as provided in this permit due to non-performance by the Permittees, the County may utilize the performance security for reimbursement for any and all expenses incurred to remedy such failure of the Permittees.
5. The obligor and its sureties hereby indemnify and save the County harmless from all losses, costs, and charges that may occur to the County because of default.
6. Both Permittees shall furnish to the County a Certificate of Insurance providing coverage by an insurance company duly licensed by the State of Minnesota indicating that the Permittees have 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 \$2,000,000. Further, the Permittees 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.

7. Insurance coverage required above shall be kept in effect for the duration of the permit. If the permit is to be terminated, insurance shall be maintained until the completion of restoration and return of the performance security.



Jim Ische, Chair
Carver County Board



Dave Henze
County Administrator

THE STIPULATIONS OF THIS ORDER, IF ANY, SHALL BE SATISFIED WITHIN SIX (6) MONTHS OF THE DATE FIRST WRITTEN ABOVE, OR SAID ORDER SHALL BE NULL AND VOID AND THE CONDITIONAL USE PERMIT SHALL NOT BE ISSUED. THE SIX (6) MONTH DEADLINE MAY BE EXTENDED ONLY BY ACTION OF THE COUNTY BOARD OF COMMISSIONERS.

EXHIBIT "A" – LEGAL DESCRIPTION

**PID NUMBER: 06-028-0101
06-028-0122**

File# PZ20230021

**APPLICANT: B H Aggregate Services, Inc.
OWNERS: Robert D Weerts & Jenifer L Weerts &
Jean F Beuning Revocable Trust**

* * * * *

06-028-0101

The Southeast Quarter of Section 28, Township 117 North, Range 26 West, Carver County, Minnesota.

EXCEPTING THEREFROM a strip of land 1 rod wide along the East side of the Northeast Quarter of the Southeast Quarter of said section;

ALSO EXCEPTING therefrom that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West, along the North line of said Southeast Quarter, a distance of 16.50 feet; thence on a bearing of South 0 degrees 36 minutes 03 seconds West, parallel with the East line of said Southeast Quarter, a distance of 798.66 feet; thence on a bearing of South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence on a bearing of North 19 degrees 45 minutes 00 seconds West, a distance of 155.00 feet to the point of beginning of a tract to be described; thence on a bearing of North 57 degrees 13 minutes 21 seconds West, a distance of 164.68 feet; thence on a bearing of North 88 degrees 34 minutes 15 seconds West, a distance of 423.51 feet to its intersection with a line bearing North 79 degrees 56 minutes 09 seconds West from the point of beginning; thence on a bearing of South 79 degrees 56 minutes 09 seconds East along last said line, a distance of 570.62 feet to the point of beginning;

ALSO EXCEPTING therefrom that part of the said Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Beginning at the Southeast corner of the said Southeast Quarter; thence on an assumed bearing of North 0 degrees 36 minutes 03 seconds East along the East line of said Southeast Quarter, 1,326.06 feet; thence North 89 degrees 11 minutes 21 seconds West, 16.50 feet; thence North 0 degrees 36 minutes 03 seconds East, 527.58 feet; thence South 89 degrees 12 minutes 26 seconds West, 1,008.32 feet; thence South 3 degrees 50 minutes 54 seconds East, 198.87 feet; thence South 88 degrees 48 minutes 19 seconds East, 134.45 feet; thence South 0 degrees 35 minutes 17 seconds East, 716.39 feet; thence South 87 degrees 12 minutes 41 seconds East, 127.46 feet; thence South 1 degree 51 minutes 33 seconds West, 914.10 feet to the South line of the said Southeast Quarter; thence South 89 degrees 48 minutes 51 seconds East along said South line, 752.51 feet to the point of beginning and there terminating;

AND ALSO EXCEPTING therefrom that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minute 15 seconds West along the North line of said Southeast Quarter, a distance of 16.50 feet to the point of beginning of the tract to be described; thence South 0 degrees 36 minutes 03 seconds West, parallel with the East line of said Southeast quarter, a distance of 798.66 feet; thence South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence North 19 degrees 45 minutes West, a distance of 155.00 feet; thence North 57 degrees 13

minutes 21 seconds West, a distance of 164.68 feet; thence North 88 degrees 34 minutes 15 seconds West, a distance of 1,402.64 feet to the West line of the Southeast Quarter of said Section 28; thence on a bearing of North along the said West line, a distance of 607.65 feet to the Northwest corner of the said Southeast Quarter; thence South 88 degrees 34 minutes 15 seconds East along the North line of said Southeast Quarter, a distance of 2,610.44 feet to the point of beginning and there terminating.

AND INCLUDING that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North line of said Southeast Quarter, a distance of 16.50 feet; thence on a bearing of South 0 degrees 36 minutes 03 seconds West parallel with the East line of said Southeast Quarter, a distance of 798.66 feet; thence on a bearing of South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence on a bearing of North 19 degrees 45 minutes 00 seconds West, a distance of 155.00 feet; thence on a bearing of North 57 degrees 13 minutes 21 seconds West, a distance of 164.68 feet; thence on a bearing of North 88 degrees 34 minutes 15 seconds West, a distance of 423.51 feet to the point of beginning of the tract to be described; thence continue on a bearing of North 88 degrees 34 minutes 15 seconds West along last said line, a distance of 979.12 feet to the West line of said Southeast Quarter; thence on a bearing of North along last said line, a distance of 43.37 feet; thence on a bearing of South 88 degrees 34 minutes 15 seconds East, a distance of 694.72 feet to its intersection with a line bearing North 79 degrees 56 minutes 09 seconds West from the point of beginning; thence on a bearing of South 79 degrees 56 minutes 09 seconds West along last said line, a distance of 288.76 feet to the point of beginning.

06-028-0122

All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West, along the North line of said Southeast Quarter, a distance of 16.50 feet to the point of beginning of the tract to be described; thence South 0 degrees 36 minutes 03 seconds West, parallel with the East line of said Southeast Quarter, a distance of 798.66 feet; thence South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence North 19 degrees 45 minutes West, a distance of 155.00 feet; thence North 57 degrees 13 minutes 21 seconds West, a distance of 164.68 feet; thence North 88 degrees 34 minutes 15 seconds West, a distance of 1,402.64 feet to the West line of the Southeast Quarter of said Section 28; thence on a bearing of North along the said West line, a distance of 607.65 feet to the Northwest corner of the said Southeast Quarter; thence South 88 degrees 34 minutes 15 seconds East along the North line of said Southeast Quarter, a distance of 2,610.44 feet to the point of beginning and there terminating.

AND

All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North line of said Southeast Quarter, a distance of 16.50 feet; thence on a bearing of South 0 degrees 36 minutes 03 seconds West, parallel with the East line of said Southeast Quarter, a distance of 798.65 feet; thence on a bearing of South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence on a bearing of North 19 degrees 45 minutes 00 seconds West, a distance of 155.00 feet to the point of beginning of the tract to be described; thence on a bearing of North 57 degrees 13 minutes 21 seconds West, a distance of 164.68 feet; thence on a bearing of North 88 degrees 34 minutes 15 seconds West, a distance of 423.51 feet to its intersection with a line bearing North 79 degrees 56 minutes 09

seconds West from the point of beginning; thence on a bearing of South 79 degrees 56 minutes 09 seconds East along last said line, a distance of 570.62 feet to the point of beginning.

EXCEPTING THEREFROM All that part of the Southeast Quarter of Section 28, township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence on an assumed bearing of South 0 degrees 36 minutes 03 seconds West along the East line of said Southeast Quarter, a distance of 679.00 feet; thence North 89 degrees 11 minutes 09 seconds West, a distance of 16.50 feet to the point of beginning fo the tract to be described; thence North 70 degrees 56 minutes 58 seconds West, a distance of 315.00 feet; thence North 15 degrees 58 minutes 36 seconds West, a distance of 600.00 feet to the North line of said Southeast Quarter; thence South 89 degrees 11 minutes 09 seconds East along said North line, a distance of 470.00 feet to a point 16.50 feet westerly of the Northeast corner of said Southeast Quarter; thence South 0 degrees 36 minutes 03 seconds West along a line parallel with the East line of said Southeast Quarter, a distance of 673.00 feet to the point of beginning and there terminating.

FURTHER EXCEPTING THEREFROM All that part of the Southeast Quarter of Section 28, Township 117, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Southeast Quarter; thence westerly on an assumed bearing of North 88 degrees 34 minutes 15 seconds West along the North line of said Southeast Quarter, a distance of 16.50 feet; thence on a bearing of South 0 degrees 36 minutes 03 seconds West, parallel with the East line of said Southeast Quarter, a distance of 798.66 feet; thence on a bearing of South 89 degrees 12 minutes 26 seconds West, a distance of 1,008.32 feet; thence on a bearing of North 19 degrees 45 minutes 00 seconds West, a distance of 155.00 feet; thence on a bearing of North 57 degrees 13 minutes 21 seconds West, a distance or 164.68 feet; thence on a bearing of North 88 degrees 34 minutes 15 seconds West, a distance of 423.51 feet to the point of beginning of the tract to be described; thence continue on a bearing of North 88 degrees 34 minutes 15 seconds West along last said line, a distance of 979.32 feet to the West line of said Southeast Quarter; thence on a bearing of North along last said line, a distance of 43.37 feet; thence on a bearing of South 88 degrees 34 minutes 15 seconds East, a distance of 694.72 feet to its intersection with a line bearing North 79 degrees 56 minutes 09 seconds West from the point of beginning; thence on a bearing of South 79 degrees 56 minutes 09 seconds East along last said line, a distance of 288.76 feet to the point of beginning.