

Houston County Planning Commission
December 16, 2021

Approved on February 24, 2022 by Greg Myhre and Jim Wieser

The Houston County Planning Commission met at 5:00 p.m. on Thursday, December 16, 2021. A summary of the meeting follows.

The meeting was called to order by Chairman Ed Hammell. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Bob Conway, Larry Hafner and Jim Wieser. Rich Schild was absent. Greg Myhre, County Commissioner, was present. Amelia Meiners was present for Environmental Services.

Greg Myhre made a motion to approve the minutes of November 4, 2021. Wayne Feldmeier seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 935 was read for applicant, **Shawn Allen**, 4643 County 6, La Crescent, MN 55947.

The applicant is seeking a Conditional Use Permit to build a 2400 square foot accessory building in the residential district. The use of which will be accessory to the primary building.

- This is a 4.2-acre lot in the South Pine Creek Addition subdivision in La Crescent Township. The subdivision was platted in 1980. The dwelling was constructed in 1993 with Permit #691 and Permit #1186 was issued for a pole shed in 2011. Both were issued by La Crescent Township Zoning.
- Section 29, General Provisions, of the Houston County Zoning Ordinance (HCZO) includes language regulating accessory structures in various districts, which contains the CUP requirement. There is no limit on the number of accessory structures allowed.
- **29.14 ACCESSORY BUILDINGS AND STRUCTURES**
Subdivision 1. Accessory Buildings and Structures in Residential Districts.
 - (1) No accessory buildings may be located within five (5) feet of the side lot line or within eight (8) feet of the rear lot line.*
 - (2) No accessory building shall be located nearer the front lot line than the principal building on the lot.*
 - (3) No accessory building shall exceed the height of the principal building.*
 - (4) Accessory buildings, 200 square feet in area or less that are portable and not attached to any foundation, and which meet all other requirements of this ordinance, are permitted uses and do not require a building permit. All other accessory structures in the Residential District, except as provided in paragraph 5 below shall require a conditional use permit.*
 - (5) No private garage used or intended for the storage of passenger automobiles shall exceed fifteen hundred square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet. Setback standards shall meet the requirements as set forth in section 15 of this ordinance.*
 - (6) When a private garage is oriented so as to face onto a public street it shall not be less than twenty (20) feet from the right-of-way line.*
- The language is less-than-perfect and requires interpretation, thus a written policy has been drafted, which provides for placement of accessory buildings in the Residential District as follows:

=<200 sf	No permit required
201-1499 sf	Zoning permit required
=>1500 sf	CUP required

- No components that generate wastewater are proposed.
- This site is located south of County 6 in La Crescent Township. The parcel is approximately 4.2-acres, which is larger than most residential lots. It borders ag protection district to the east and residential zoning to the west. The lot has only gradual slope near the highway that increases dramatically behind the dwelling. Slopes may allow a building behind the house, but risk for erosion would be increased in that location. Since most septic systems are pressurized, this may be an ideal secondary septic location.
- Soils in the proposed location are 455B2, a silt loam. The limiting factor for this soil is its low strength. No floodplain, water features or wetlands are mapped on the property. Feedlot and mine setbacks are not relevant to accessory structures.
- The applicant will seek variances at the 5:30 pm Board of Adjustment hearing for garage door height and locating nearer the front lot line than the dwelling.
- La Crescent Township and the ten closest property owners were notified. Two comments were received.

Chairman Hammell asked Shawn Allen if he had anything to add. Shawn Allen explained that he would like to build a 40 x 60 foot accessory building in front of his house. Shawn stated that the building will be concealed by trees on two sides. Shawn stated that he spoke with the neighbors and none of them had a problem with it. Shawn stated that several trailers and a motor home currently sit where the shed will go and that those will be housed inside. Shawn explained that building behind the house is not desirable due to the slopes.

Chairman Hammell asked if the floor would be cement. Shawn stated that he hopes to cement it at some point.

Chairman Hammell asked if the sidewalls would be 16 foot Shawn stated that sidewalls would be 16 feet to allow for a 14 foot overhead door.

Shawn stated that putting equipment inside will improve the look of the property. Jim Wieser commented that he is pretty familiar with the property and that it seems like the best location for the building.

Greg Myhre asked if there would be water or septic. Shawn stated that the shed will be cold storage and will not have water or septic.

Amelia explained that Shawn is also seeking variances to place the shed in front of the house and for overhead doors in excess of 10 feet tall.

Amelia read the two comments submitted, both in favor of the application.

Chairman Hammell asked if anyone else wished to speak.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

Greg Myhre made a motion to bypass questions 8, 9, 12 and 14 that are not applicable. Jim Wieser seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Land Use Plan identifies that urban development will be encouraged in rural areas adjacent to the City of La Crescent. Accessory structures are allowable within urban areas, but are limited in size.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant is in need of storage for equipment that currently sits out in view of all the neighbors. Note that there are ordinances dictating what is allowable for exterior storage as well.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: No impacts to the water quality are anticipated.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The applicant states that his desire is to place the structure in this location to minimize potential water runoff issues.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Soils are 455B2. Soil Survey – Houston County identifies the main limitation as the shrinking-swelling characteristic of the soils and recommends backfilling around foundations with suitable coarse materials to provide assurance against structural damage.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: No pollution hazards are anticipated.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This is an existing residential property so all utilities are present, but will be extended to the new structure. That cost is the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: N/A

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The property is bordered on one side by ag protection district in which this proposal would be a permitted use. The landowner on the residentially zoned side has a structure just over 1,500 square feet, but behind his dwelling. Overall, this structure will create a more visually appealing site for all neighbors.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The land surrounding them is fully developed to the extent possible. No impact is anticipated.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: N/A

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: The shed is not intended to be used as a residence and accessory structures are allowable in the residential district.

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: As proposed, no impacts to the public's health, safety, moral, and general welfare have been identified.

Board agreed to the finding by a unanimous vote.

Larry Hafner made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

Bob Conway made the motion to recommend the Houston County Board approve the Conditional Use application to build an accessory building in a residential district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Amelia explained that Martin Herrick would be starting as the new Environmental Services Director and updated the Board on the progress of the Comp Plan.

Larry Hafner made a motion to adjourn the meeting. Jim Wieser seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on December 17, 2021.

Houston County Planning Commission
February 24, 2022

Approved on March 24, 2022 by Greg Myhre and Wayne Feldmeier

The Houston County Planning Commission met at 5:00 p.m. on Thursday, February 24, 2022. A summary of the meeting follows.

The meeting was called to order by Environmental Services Director Martin Herrick. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Larry Hafner, Rich Schild, Josh Gran and Jim Wieser. Greg Myhre, County Commissioner, was present. Martin Herrick and Amelia Meiners were present for Environmental Services.

Greg Myhre made a motion to approve the minutes of December 16, 2021. Jim Wieser seconded. All were in favor. Motion carried.

Election of Chairperson for 2022 took place. Wayne Feldmeier nominated Ed Hammell for Chairperson. Larry Hafner seconded. Greg Myhre made a motion to cease nominations. Jim Wieser seconded. All were in favor. Motion carried.

Election of Vice Chairperson for 2022 took place. Jim Wieser nominated Larry Hafner for Vice-Chairperson. Wayne Feldmeier seconded. There were no other nominations. All were in favor. Motion carried.

Notice of Public Hearing No. 936 was read for applicant, **Joseph and Janine Engen**, 19986 Old 76 Rd, Caledonia, MN 55921.

The petitioners are seeking an Interim Use Permit (IUP) for a temporary farm dwelling. The applicant's daughter will reside in the manufactured home.

- The applicants currently reside in the single-family dwelling on this 40-acre parcel in Wilmington Township. They own over 200-acres in total and have open quarter-quarters, but would like to utilize a location previously used for a manufactured home. It is within the same quarter-quarter as the permanent dwelling and will allow for use of an existing water lines and share a septic system with the main dwelling. The septic system will need to be replaced to accommodate both structures and a septic permit is pending. Per the Houston County Zoning Ordinance (HCZO), the secondary dwelling shall be removed when the applicant's cease to occupy the primary dwelling.
- The applicants lived in a mobile home in this location many years ago, but it was removed after they relocated to the main dwelling on this parcel. Permit #842 to install a mobile home was issued on 10/21/1980. The mobile home was first present in 1981 aerial imagery, but disappears in 1987.
- The 1967 ordinance allowed living quarters of persons employed on the premises as permitted accessory uses (HCZO Section 6, Subd. 4 (2)). The temporary farm dwelling language similar to what it is written today was not included in the ordinance until the 1993 version and it still considered them accessory uses within the agricultural district. A second farm dwelling as an interim use was first adopted in the 2014 Ordinance (HCZO 0110.1404 Subd. 1 (7)). At that time the language regarding temporary farm dwellings did not change, just the mechanism for allowing the use. We have permitted two temporary farm dwellings since that time.

- The ordinance language for temporary farm dwellings is vague (Section 29.20 subd. 1) and it is the understanding of staff that while the ordinance says one of the criteria must be met, the Planning Commission in the past has in fact required that all criteria be met. As a temporary dwelling, it is reasonable that it be considered an accessory dwelling as Item 1 indicates. The applicant's daughter will reside in the manufactured home, which meets the requirement for Item 2. Items 3-5 are then met by virtue of conditions being included on the IUP.

- HCZO applicable references:

SECTION 14 – AGRICULTURAL DISTRICT

14.4 INTERIM USES.

SECTION 29 – GENERAL PROVISIONS

29.20 TEMPORARY FARM DWELLING

- This is an existing farmstead consisting of a dwelling and multiple outbuildings. It is a registered feedlot, but family is exempt from feedlot setback regulations. There is no mine within 1,000 feet.
- Slopes within the farmstead are under 5% and they will utilize a flat area that had been used for this purpose previously. It is adjacent to an existing well and the septic system will be replaced to accommodate both the primary and temporary dwellings. That is ready to permit upon IUP approvals.
- There are no soil requirements for these situations and regardless, this location is within the lawn of the primary dwelling and will not remove tillable acreage from production.
- There are no floodplain, wetland or shoreland concerns. An intermittent stream flows approximately 730 feet to the south.
- Wilmington Township and the ten nearest property owners were notified. Wilmington Township commented.

Chairman Hammell asked Joe Engen if he had anything to add. Joe explained that he would like to place a mobile home on his property for his daughter to live so she can assist with farm upkeep.

Jim Wieser clarified that this is an Interim Use Permit and will stay with the person and not with the property. Amelia agreed and stated the Interim Use Permit will expire when the applicants no longer reside on the farm. General discussion continued.

Chairman Hammell asked if anyone else wished to speak.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

Greg Myhre made a motion to bypass questions 9 and 14 that are not applicable. Rich Schild seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: By limiting this proposal to a temporary dwelling, it will keep this parcel in compliance with the density limitations set forth in the Land Use Plan. In addition, preserving

agriculture is the primary goal of the Land Use Plan and this proposal brings the next generation back to the farm to provide assistance.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant identifies that the farm requires upkeep and maintenance such as maintenance, repairs, fencing, plowing snow, lawn mowing, etc. With limited physical abilities, the applicants are in need of someone younger to help out.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The applicant will be updating their septic system to accommodate both the primary and secondary dwellings.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: No impact is anticipated. The slope is under 5% and a mobile home has less roof square footage relative to other structures.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Soils are 401B. The Soil Survey – Houston County states it is suitable for building site development and septic tank absorption fields.

Rich Schild asked if the septic system would be new or an enlargement of the current system. Amelia stated that they are in the process of updating their septic and have increased the size to accommodate both dwellings.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: The largest potential pollution hazard will be a septic system. The applicants have already had a contractor design a new system large enough to accommodate both the temporary dwelling and their primary dwelling.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This site will utilize the same driveway as the main dwelling and an existing well and new septic system will be shared with the permanent dwelling. Utilities are present in this location, but if any new requirement arises it is the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space within the farmstead to accommodate parking and loading space.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The surrounding property is primarily utilized as agricultural or rural residential. The proposal will not remove tillable acreage from production or impact the ability to utilize that acreage for production nor will it affect neighboring residences as this is an existing residential property.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The surrounding predominant use on vacant property is agricultural and all of the adjacent parcels are under ownership of the applicant. There are a few rural residential properties beyond that. This proposal will not impact development of surrounding vacant property any more than the existing condition.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: No nuisances are anticipated. This proposal is for a second dwelling unit that will not include offensive odors, fumes, dust, noise or vibration.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: This is a mechanism to allow a greater density than allowed by the zoning district, but only on a temporary basis. Conditions require that it be removed within 60 days of such time that the applicant ceases to occupy the permanent dwelling.

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: There are no anticipated issues affecting the public's health, safety, morals and general welfare.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

The Board discussed modifying the proposed conditions.

Jim Wieser made the motion to recommend the Houston County Board approve the Interim Use application for a temporary farm dwelling with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The permit shall be reviewed annually by the Zoning Administrator; any substantial changes to the proposal as presented and approved will require an amendment to the permit.
4. The permit shall expire when Joseph and Janine Engen cease to reside in the permanent dwelling.
5. The temporary farm dwelling may only be inhabited by immediate family members and their immediate family (spouse and children).
6. At the time of termination of the permit, the mobile home temporary farm dwelling shall be removed from the premises, within sixty (60) days when practical.

Larry Hafner seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 937 was read for applicant, **Andy and Ellyn Mulholland**, 401 8th St E - Suite 214, PBM-7089, Sioux Falls, SD 57103.

A conditional use permit has been requested for a non-farm dwelling in an agricultural protection district per HCZO (Houston County Zoning ordinance) subd. 1 (10). The dwelling would be constructed on a parcel less than 40 acres in size.

- The parcel is 14 acres in size and is located in:
Sect-10 Twp-101 Range-007 14.00 AC E1/2 N1/2 NE1/4 SW1/4 & N 4A S1/2 E1/2 NE1/4 SW1/4
- HCZO applicable references:
SECTION 14 – AGRICULTURAL DISTRICT
14.3 CONDITIONAL USES.
- There is minimal relief with soils that have a capability rating of subclass IV e.
- Spring Grove Township and the ten nearest property owners were notified. No comments were received.

Chairman Hammell asked Andy Mulholland if he had anything to add. Andy stated that his family planned to build a home on the parcel. Jim Wieser asked where Flatin Road ends. Andy Mulholland explained that it ends in front of the SE corner of his property and that Orion Deters' private driveway begins there. Andy stated that he has a perpetual easement for a driveway on to the SE corner of the property. Larry Hafner mentioned that Andy should verify that the fire department has enough room for trucks to meet. Jim Wieser asked if slopes were an issue with this property. Martin stated that slopes are between 6 - 7%.

Chairman Hammell asked if anyone else wished to speak.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: When the requirements are met, a conditional use permit provides a mechanism for establishing a dwelling in an agricultural district that conforms to Houston County's Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Housing is a legitimate need.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: With new construction and a properly constructed and operated SSTS for managing septage the water quality will not be compromised.

Chairman Hammell asked Martin to clarify the meaning of SSTs. Martin stated that it stands for Subsurface Sewage Treatment System.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The very low percentage of impermeable surfaces and the site's gradual gradients will not substantially contribute to surface water runoff.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: The dwellings foundation can be constructed in the silty clay soils.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards have been addressed and that standards have been met.

Staff Analysis: An erosion control plan in HCZO Section 24 will be required. Additionally, new construction materials and methods have substantially improved energy efficiencies and waste minimizations.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: The proximity of the parcel to Spring Grove likely lends itself to readily hooking up to gas, electrical and other utilities. Adequate frontage exists with gentle slopes allowing access to Flatin Road.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: Ample space exists for on-site parking and other activities.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: Ample space exists for any traffic congestion during initial construction and day to day activities.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The parcel has ample room to not impede others.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The proposed use for the parcel meets the intent of Houston County's Land Use Plan.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The proposed residence and associated activities are expected to cause very minimal disturbance to neighbors.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: This activity and proposed dwelling will not exceed the 1 residence per 40-acre density requirement.

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The proposed activity is not commercial.

Board agreed to the finding by a unanimous vote.

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The SSTS, the site erosion plan put in place for the construction and other design considerations will be protective of human health and the environment.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application to build a single family dwelling on less than 40 acres in the Agricultural district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 938 was read for applicant, **Joseph Rud and Craig Helke**, 524 Enterprise Dr, Caledonia, MN 55921.

The applicants are requesting a conditional use permit to construct a steel framed building with concrete surfaces on the north and east sides of the building.

- The property owners propose to seal coat Angus Drive adjoining the 6-acre parcel. The facility will be used to repair agricultural equipment, including repair of machinery, semi-trucks and trailers used for agricultural purposes. Work will be performed within the building. The primary goal is to serve the agricultural community.
- The conditional use permit is requested under Houston County Zoning Ordinance (HCZO) 14.3 Subdivision 1. (1) Conditional Uses. In the Agricultural Protection District, the following uses may be allowed only after obtaining a Conditional Use Permit in accordance with the provision of this Ordinance. (1) Agriculture Oriented Business, including but not limited to commercial storage or blending of liquid and dry fertilizers; grain and feed sales; general repair and installation services for agricultural equipment; custom meat processing; agricultural supplies and product sales or warehousing; livestock sales pavilion.
- The project will raze some of the existing structures and change the egress from State Road 44 to Angus Drive.
- HCZO applicable references:
SECTION 14 – AGRICULTURAL PROTECTION DISTRICT
14.6 HEIGHT STANDARDS
SECTION 29 – GENERAL PROVISIONS
29.9 EXTERIOR STORAGE
29.12 NUISANCES
29.13 SCREENING
SECTION 30 PARKING STANDARDS
30.4 PARKING LOT DESIGN
- Sign regulations are covered under Chapter 173 MN Statutes.
- The site relief will not inhibit any proposed activities. The site soils in the proposed development area are a Seaton Silt loam with a capability rating of III e. There is a lot of existing infrastructure located on the site.

- Caledonia Township and the ten nearest property owners were notified. Multiple comments have been received.

Chairman Hammell asked the applicants if they had anything to add. Craig Helke explained that he co-owns H&R Enterprises with Joe Rud, Dylan Burrow and Justin Meyer. Craig shared that the business started in 2016 with one employee and now employ six. Craig stated they have outgrown their current facility. Craig stated that they have 12 wrecked trucks sitting behind the shop that are used for parts. Craig explained that they would like to disassemble the trucks and store the parts inside. Craig explained that they currently work with roughly 21 local ag customers. Craig stated that everything will be housed inside the 250' X 175' shop on the six acre parcel. Craig stated that the shop will be built by local contractors and that the business will be a financial benefit to the local community. Craig explained that they work on semis, trailers, cars, pickups, body work, and warranty work for SEMA Equipment, New Holland and John Deere. Craig explained that the State of Minnesota considers vehicles with farm plates as ag.

Chairman Hammell asked how they dispose of solvents and fumes. Dylan Burrow explained that the fumes are filtered for particulates and odors and paints are hardened in PPS cups and disposed of. Greg Myhre asked what is done with used oil and antifreeze. Dylan stated that used oil and antifreeze are stored in barrels and that when the new shop is up they plan to have a company remove all of that. Craig stated that they use waste oil to heat their current shop. Chairman Hammell asked how the new facility will be heated. Craig explained that they will utilize overhead radiant heaters fueled by propane.

Jim Wieser asked why the proposal was for six acres and not the full 19 acres. Craig explained that the trucks will need the six acres to maneuver and the rest will be seeded down with alfalfa. Jim asked if the six acres would be an impermeable surface. Craig confirmed that it will be.

Jim Wieser asked about the plan to maintain the Township road. Craig stated that they met with the Township and agreed to apply chloride for dust control on Angus Drive. Chairman Hammell asked if the traffic will increase. Craig stated that the new business traffic will include six employees and approximately 21 customers per month. Craig stated that this is an established business and that most of the customers already drive through this area. Chairman Hammell asked about parking. Craig stated that there will be parking in the back for employees and customers. Jim Wieser asked if the current entrances on Highway 44 and Angus Dr will continue to be used. Craig stated that they planned to eliminate the Highway 44 entrance. Dylan Burrow showed the board the site plan. Craig passed out the water plan to the Board.

Jim Wieser asked Craig to clarify the business name. Craig stated that business operates under H&R Enterprises. Rich Schild asked if the trucking business will be moving. Craig stated that Joe Rud Trucking is a separate business and will not be relocating.

Josh Gran asked Craig if he sees the company expanding further. Craig stated that he feels that their customer base will stay the same. Craig explained that in the beginning, they purchased wrecked trucks to rebuild for resale but now that they have a solid customer base they do not plan to do much of that. Craig explained that once they are in the new shop they plan to disassemble the parts trucks inside, organize the usable parts for indoor storage and dispose of the unusable parts. Rich Schild asked if they are willing to fence the area. Craig stated that they want the business to look nice and would be willing to put up a fence if necessary.

Martin read a response submitted by the applicants in regards to concerns. (On file.)

Jim Wieser asked if the current well would be used. Craig stated that the current well will be cased as it will be located in the parking lot and that they will remove the current sewer. Craig explained that there will be a septic system and a restroom. Josh Gran asked if the house would be torn down. Craig stated that all of the buildings will be torn down.

Greg Myhre asked why Joe Rud was not present for the hearing. Craig explained that he was unable to attend due to another commitment.

Chris Hartley spoke of his experience as a customer of H&R Enterprises.

Chairman Hammell asked if anyone else wished to speak. Neighbors Joe Welsh, Mike Jergenson, Dan Klug and Dustin Lange asked to speak for a large group in opposition to the request. Joe Welch submitted to the Board a letter signed by the group. Joe stated that this will have a negative impact on their neighborhood. Joe stated that this will be directly viewable from their homes. Joe sighted the Houston County Zoning Ordinance and stated that this project does not fit in the Ag District. Joe stated that the applicants have not provided enough information. Mike Jergenson added that this is a commercial business in the Ag District. Mike asked if the Board would approve a Conditional Use Permit for a pharmaceutical company looking to operate as an ag oriented business because they sell medications to livestock farmers. Mike stated that commercial businesses belong in the industrial park not the Ag District.

Dan Klug stated that the building is much larger than the average farm building. Chairman Hammell argued that ag buildings have increased in size in recent years and there is at least as much roof on those. Dan countered that those are full of cows. Chairman Hammell stated that the roof is still the same.

Dan said the applicants stated they are an expanding business and with that traffic comes. Joe raised concerns about dangers of increased traffic, fumes, pollution, dust, jake brakes and other noise. Joe and Mike discussed personal mitigation efforts they have taken avoid accidents while exiting and entering the highway.

Jim Wieser asked how they felt about Zenke's operation down the road. Joe commented that it is not visible from their homes and has existed for many years. Joe shared that he spoke with Zoning staff years ago and was told that he could not operate his business in the Ag District. Dan Klug agreed that the Zenke's property has been a business for many years and is most likely grandfathered in. Martin stated that Zenke's business may have predated zoning. Dan stated that Zenke's business has changed from the original use and the same could happen with this business.

Tim Murphy discussed the definition of agricultural oriented business in the ordinance and the fact that the Board can apply conditions to mitigate concerns. Tim explained that there is no place available in town that meets the needs of this business. Tim explained that the property owned by Joe Rud and Craig Helke, the business operates under the name H&R Enterprises and that Dylan Burrow and Justin Meyer are part of H & R Enterprises.

Josh Gran asked if it was possible to build in the current location. Craig stated that Joe Rud and Sno Pac own the surrounding land. Craig explained that Joe Rud's property is steep and unbuildable and that Sno Pac has future plans to build on their flatter portion of the open ground. Larry Hafner

asked if they could locate the building further away from the highway. Craig explained the building will be 275' from the Highway. Chairman Hammell asked if they could move it further back and down the hill so that it isn't so noticeable. Craig explained that they chose the flatter site to allow for semis to maneuver without getting stuck.

Greg Myhre asked what conditions the neighbors would like to see. Joe Welch stated they do not want it built there. Craig offered that he is open to making the building smaller and stated that he would like to work with them. Martin asked if they would be willing to change the roofline to break up the building. Craig stated that they are open to suggestions. Chairman Hammell stated that this is ag related and that a lot of farms have semis now. Joe Welch asked if the Board could limit the business to only work on vehicles with farm plates. The Board did not feel that would be enforceable.

Martin explained that the Zoning office has had a difficult time trying to find a similar situation to compare this too. Rick Frank stated that he was likely responsible for drafting the language in the Ordinance. Rick explained that original intention was to keep the businesses small and allow them to serve their neighbors. Rick stated that he feels that a lot of the necessary information is missing. Rick stated that this is a growing company. Rick stated that the original language of the Ordinance would not have permitted this. Rick Schild stated that the farming industry has grown to a point that no one could have predicted when the Ordinance was written.

Greg Myhre asked for a comment from the Township. Caledonia Township Board member Doug DeWall stated that he personally spoke with Dan Klug, Dusty Lange and Mike Jergenson about their concerns and that Craig addressed all those concerns at the Township Meeting. Doug stated that he feels that the applicants have good intentions of keeping the business looking nice. Doug stated that the Township was fine with the driveway access off of Angus Dr.

Larry Hafner stated that this is a necessary business and asked where will people go if they don't have this business available. Joe Welch stated that they still have their business in town. Doug explained that at the Township meeting Craig had explained that they don't like storing expensive parts outside where they can turn to junk. Larry Hafner asked if the neighbors would be open to a hog operation next door. Joe Welch stated that it is a permitted use in the Ag district and that they would have to deal with it.

Casey Klug explained that he works for the City of Caledonia but that he was here to speak as a concerned citizen and was not speaking on behalf of the City. Casey stated that this is not a permitted use in the Ag District. Chairman Hammell stated that the proposed alternative was to rezone this to commercial and explained that rezoning the site would make it harder to control. Chairman Hammell explained that the advantage of a Conditional Use is that we can control it with individual conditions.

The Board encouraged the neighbors to meet with the applicants and see if they could come to some kind of agreement.

Wayne Feldmeier asked Casey Klug if there was another part of an industrial park in Caledonia that they could use. Wayne Feldmeier stated that the City of Caledonia should be helping them to find a place within city limits. Casey again stated that he wasn't here to represent the City of Caledonia but if they could find land within the City limits a new industrial park could be established. Wayne Feldmeier stated that he feels that the owners would rather keep their business in Caledonia, but that they aren't getting any help from the City of Caledonia. Casey stated that he could not comment on that. Rich Schild stated that the business doesn't want to look like a junk yard, but they have no room to expand

or store parts so they are almost forced to store them outside and make it a junk yard. Wayne Feldmeier stated that the City will get all the tax dollars if they can keep them in an industrial park and that's why cities set up industrial parks. Wayne Feldmeier argued that they don't have other options and that is why they are trying to put it in the country. Rich Schild agreed stating "We're their last resort". Greg Myhre stated that there are a lot of tax dollars that the City will lose out on. Greg Myhre stated that the Township will get about \$17,000 worth of tax dollars, the County will get around \$45,000 and the school will get about \$6,500 from this business. Rich Schild agreed stating and even more if it grows.

The Board discussed changing the Ordinance. Wayne Feldmeier stated that small family farms don't work anymore and every farmer that's making a living right now has a semi.

Josh Gran asked if this would be automatically permitted if the building had cows in it. Amelia explained that there are feedlot regulations dealing with the number of animal units that can trigger a Conditional Use hearing. Chairman Hammell stated that if this was a machine shed of the same size it could be permitted, but because this is a business it requires a Conditional Use Permit.

Wayne Feldmeier made a motion to table the hearing for 30 days until next month's meeting. Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion carried.

Notice of Public Hearing No. 939 was read for applicant, **Kruckow Companies, LLC**, 608 Pine St N, Caledonia, MN 55921.

The petitioner is requesting a Conditional Use Permit for mineral extraction in the Agricultural Protection District.

- Section 27 of the Houston County Zoning Ordinance (HCZO) sets forth standards for quarry operation, reclamation, size, density and location.
- This quarry, commonly known as the Schutz Quarry, is an existing quarry approximately half-acre in size, but the applicant is looking to expand to seven acres. It is expected that its lifetime will expand several decades.
- Kruckow Companies, LLC, submitted the application. State business filing details indicate that the company was organized in 2001, is currently active and in good standing, and lists Michael Kruckow as the registered agent. Kruckow Companies, LLC is the fee simple owner.
- According to data from MnDOT, traffic count is 170 vehicles per day on County 5 at the quarry location.
- HCZO applicable references:

SECTION 14 – AGRICULTURAL DISTRICT

14.3 CONDITIONAL USES

SECTION 27- MINERAL EXTRACTION

27.1 PURPOSE

27.6 CONDITIONAL USE PERMIT REQUIRED

27.8 OPERATIONAL PERFORMANCE STANDARDS

27.11 PERFORMANCE BOND REQUIRED

- This is a 28.55-acre parcel in Winnebago Township. The applicant is looking to expand the existing mine northeasterly to eventually encompass an area of 7 acres. The proposed location is approximately 4 miles south of the City of Caledonia with access off County 5.
- There are no floodplain, shoreland or wetland concerns. An intermittent stream runs west of County 5, approximately 100 feet from the existing quarry floor. It runs parallel to County 5 until it reaches

the perennial stream, Winnebago Creek, approximately 4,600 feet downstream. The next closest intermittent streams are 3,500 feet to the east and 4,000 feet to the west. There is a culvert running under County 5 approximately 295 feet southeast of the existing quarry footprint. The plans to expand will encroach on this resulting in an increased risk of transmission of sediment and pollutants to the nearby intermittent stream. USGS defines an intermittent stream as one that flows only when it receives water from rainfall runoff or springs, or from some surface source such as melting snow. These water features are based on the DNRs hydrography dataset. This dataset is designed to show the location and flow direction of river and streams to better understand the potential consequences of activities on the landscape because they are susceptible to pollution and are potential conduits to other surface or groundwater resources. As anticipated, the applicant states that this intermittent stream only experiences water flow during snowmelt and after heavy rain events.

- Land use near the site consists of forest and cropland. There are five dwellings within a half mile of the parcel. The closest dwelling is approximately 1,500 feet to the southwest and the expansion will not encroach further on that dwelling. When the quarry reaches the full extent of its proposed footprint it will end up approximately 1,500 feet from a second dwelling to the east. The MN Well Index identifies one additional well aside from the ones associated with the aforementioned dwellings. This lies within the parcel directly south of the Schutz Quarry, but has been abandoned. Both of these dwelling situations still meet performance standards set forth in the ordinance after the encroachment.
- Multiple soil types exist within the proposed footprint: 584F, 592E, 580C2, and 586D2. All are silt loams and in the interim they will be used for berm material. The applicant estimates there is five feet of overburden that will be removed in stages as expansion takes place. The Web Soil Survey indicates these soils have fair value as reclamation material.
- The existing quarry floor is at elevation 980'. Quarrying will take place within the Shakopee Formation and Oneota Dolomite formation.
- There is another quarry, operated by Skyline Materials LTD, about 1,900 feet south of the Kruckow site. They received a CUP for mineral extraction in 2018. A setback standard for sand mining limits the density of sand operations, however no density limitation is provided for rock quarrying.
- Winnebago Township and the ten closest property owners were notified, as were various state agencies. Comments were received from the County Engineer, MN DNR and one neighbor.

Chairman Hammell asked Michael Kruckow if he had anything to add. Michael explained that they have recently purchased the quarry from Gary Meiners and that Kruckow Companies LLC has operated this quarry for over a decade. Michael stated that there have been issues with the grandfathered in status of the quarry and that the company agreed with the County to apply for a Conditional Use Permit. Michael explained that if the Conditional Use was denied that they could still mine as a grandfathered in quarry with a lesser number of acres. Michael stated that they intend to keep the quarry small. Chairman Hammell asked if the seven acres is the amount of rock in the quarry. Michael stated that this is a 28 acre parcel and currently the open pit is slightly under one acre in size and the Conditional Use Permit will allow the quarry to grow up to seven acres. Michael stated that expanding to seven acres will take decades. Michael explained that their company operates smaller quarries around the county to keep the rock closer to sites. There was general discussion about water runoff and the water plan.

Michael stated that he feels two of the proposed conditions are unnecessary and that they would like to find a compromise on another one.

Michael stated that he feels the comments made by the Fields pertain more to the Bruening quarry nearby. The Board agreed that the Field's comments concerned the other quarry.

Chairman Hammell asked if anyone else wished to speak.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Plan, section 0100.0510 Subd. 2, Policy 4 states: “Encourage the development of a transportation system which properly balances considerations of safety, accessibility, environmental protection and cost.” The Board may consider that allowing expansion of existing quarries is a viable option for balancing private and public interests. aggregate material.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: A conditional use permit request was required per a settlement agreement between the applicant and County. The CUP will allow for the continued use and expansion of the existing Schutz Quarry site.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The Applicant indicates the site operates under a Stormwater Permit, issued by the MPCA. That National Pollutant Discharge Elimination System (NPDES) permit regulates stormwater and wastewater discharges to land and surface waters. An intermittent stream runs parallel with County 5 on the west side of the road and flows to Winnebago Creek. There is one culvert nearby providing upslope runoff access to the intermittent stream. This feature warrants careful attention to stormwater runoff.

No fuel, hazardous materials or chemicals will be stored onsite.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: There is no change in use or proposed increase in intensity on a regular basis at this site, viewed in terms of number of hauls per day, just an expansion of the footprint. The applicant believes the proposal should not adversely increase the quantity of water runoff. However, this area (not necessarily this operator) has experienced issues with runoff in the past and careful attention is needed to prevent further problems. They plan to contain stormwater within the quarry floor with the

use of berms and a holding pond, if needed. Additional measures may be employed if necessary including riprap, concrete berms, and silt fencing.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: After stripping approximately five feet of silt loam overburden, the exposed limestone/dolostone will be drilled, blasted, processed and stockpiled on site. The overburden will be stockpiled onsite for use in berm construction and eventually to reclaim the site when operations cease.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: Potential pollution hazards for typical quarry operations may include fuel and chemical storage, wastewater, dust, vibration and noise. This site will have no fuel storage. In addition, no washing of rock will take place-mitigating concerns for hazardous chemical wastes. While limestone/dolostone is not easily airborne and dust particles are not easily suspended in the air for prolonged periods, suppressants can be used in the vicinity of machinery, but the applicants feel that screening resulting from the natural topography and surrounding resources will mitigate dust and noise disturbances on adjacent properties. Dust and noise are regulated by the State and a licensed blasting contractor will be utilized and will follow standard operating procedures to deal with vibrations.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: The infrastructure in place at the existing quarry will be utilized for the proposed expansion. No utilities are required for this operation and the applicant feels this expansion will not impact the haul traffic from their site.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: The applicant has identified locations within the future quarry footprint that will be utilized for parking of machinery and vehicles to ensure it will not take place on County 5. Parking space needs are anticipated for two employees. Until then, shot rock will be hauled off site for processing. Note that in the future, the applicant states that no material will be hauled into this site for processing. Then as the quarry footprint expands there will be more loading space for haul trucks. In the interim, no parking of vehicles or equipment can take place on the roadway or within the right of way of County 5.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: The proposal is to use the driveway and parking areas currently in use with the existing quarry. No significant increase in intensity of traffic is anticipated. If a large haul project comes up, temporary signage can be posted on County 5. No parking or stockpiling can take place on the roadway or within County right of way.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: Active quarrying is already underway in the area. The surrounding property is predominantly agricultural use and woodland, which is not anticipated to be affected. In addition, there are five dwellings located with a half mile of the site. The proposal would allow quarrying to occur further to the northeast, which will encroach further on two properties.

The Board should consider the following when assessing potential impacts on these dwellings: setbacks required by Ordinance performance standards are met, that State standards for noise and dust are applicable, that federal guidelines for vibration exist, and that the Board can require adherence to them as a condition. The Board can also limit hours of operation as a condition. Hours of operation, as proposed by the applicant, are limited to 6AM to 8PM Monday through Friday and 7AM to 3PM on Saturday.

In addition, screening, fugitive dust, noise and vibrations from blasting should all be considered.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The areas adjacent to the proposed site are cropland and woodland and the County is not aware of development plans for this area. This request may limit siting of future dwellings in adjacent open quarter-quarters, but this request does not render them unbuildable.

This proposal is to expand an existing mining site. The proposed reclamation identifies revegetation for grazing, low impact agricultural use or wildlife habitat as post-mining land use options, which are consistent with surrounding properties.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: Noise is regulated by Minnesota Administrative Rules Chapter 7030, Noise Pollution Control (Mn Rules 7030) for Class 3 noise areas (agricultural and related activities) that prescribes standards for day and night that are consistent with speech, sleep, annoyance and hearing conservation requirements on nearby properties.

The MPCA also regulates fugitive dust. Limestone excavated out of the quarry is not easily airborne and the dust particles created are not easily suspended in the air for prolonged periods. Fugitive dust is a concern and the applicants may use suppressants if necessary. Machinery will only operate during business hours and processing will take place intermittently. The applicants feel that the topography and surrounding timber will assist in creating a barrier to adjacent properties. A third party contractor will complete blasting and the applicant has indicated a willingness to notify neighbors 24 hours in advance of blasting operations. There will be no lighted signs for this request.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: NA

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: Mineral extraction is a conditional use in the Agricultural Protection District, subject to the requirements of Chapter 27, which limits rock quarries to 40 acres, and this request is substantially less. The nearby Skyline Quarry recently permitted a 34-acre quarry site. There is no density limitation for rock quarries.

Board agreed to the finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The current proposal is not significantly different from past operations at this site. The conditions offered below are intended to further protect the public's health, safety, morals and general welfare.

Board agreed to the finding by a unanimous vote.

Larry Hafner made a motion to accept the findings as presented. Rich Schild seconded. All were in favor. Motion carried.

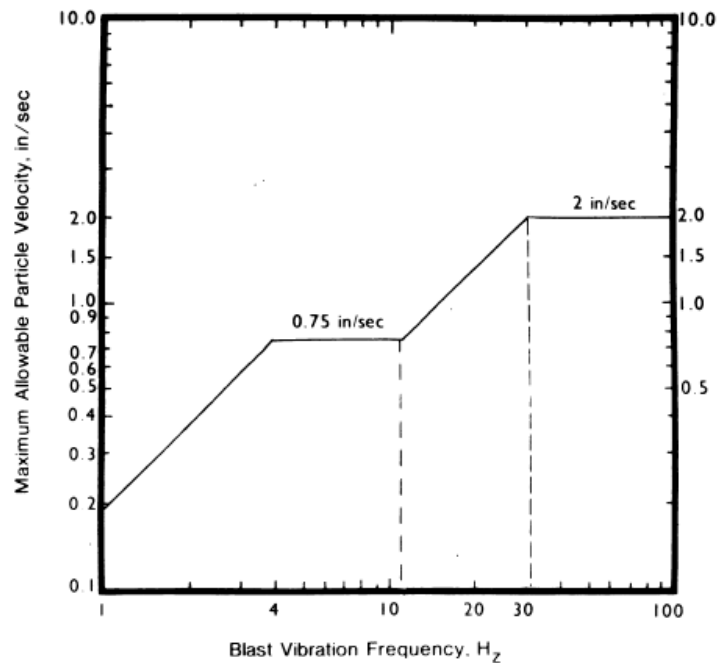
Michael Kruckow explained his reasons for asking the Board to modify the conditions.

The Planning Commission reviewed the proposed conditions. Some modifications were made and are noted within the text below.

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

3. When requested by the County, but not more than once in any year, the Permittee shall submit a reclamation report which includes the following information:
 - a. Name and mailing address of operator;
 - b. The name, telephone number, cellular number, and email address of the person to be contacted regarding mine operation;
 - c. A Map or maps that accurately show and label:
 - i. Total acreage of the mine area;
 - ii. The acreage of the mine area currently disturbed by mining operations and not yet reclaimed;
 - iii. The acreage of any portion of the mine area presently undergoing the process of reclamation;
 - iv. The total acreage of reclaimed land;
 - d. A statement of progress of mining operations since the County approved the reclamation plan or since the last submitted report, whichever is later.
 - e. A statement of mining operations and reclamation activities expected to occur in the next 12 months, including updated cost estimates for the cost of reclamation of currently disturbed areas and areas anticipated to be disturbed in the next 12 months.
 - f. A certification signed by the operator that information provided is true and accurate.
4. Final reclamation shall meet the County zoning ordinance standards after mining operation cease.
5. Houston County reserves the right to require a performance bond or other form of surety at a later date. The mine operator recognizes this right and agrees to provide the requested surety within ~~thirty~~ (30) sixty (60)-calendar days of the date of receipt of request.
- ~~5. A financial assurance shall be filed with the County Treasurer in an amount not less than \$1,500 per acre.~~
 - ~~a. Financial Assurance Requirements.~~
 - ~~i. Financial Assurance shall be in the form of bond, cash deposits, irrevocable letters of credit or other security, in such form and sum as the County Board may require covering the cost of reclamation of the property.~~
 - ~~ii. Bonds shall be issued by a surety company licensed to do business in the State of Minnesota.~~
 - ~~iii. Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days' notice to the Zoning Office, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation, the operator must deliver a replacement bond or approved alternate financial assurance in absence of which all nonmetallic mining shall cease, and the county will begin actions to call in the bond.~~
 - ~~iv. The bond shall be payable to "Houston County, Minnesota".~~
 - ~~v. Bonds must be for all areas that have been disturbed or are proposed to be disturbed within 12 months where reclamation has not been certified by the County. Bonds may be for stages of phases of a site, but in no instance shall the bond be for an area less than 4 acres. Disturbances related to nonmetallic mining shall be limited to the areas which have bonds approved for them.~~
6. The mine perimeter shall be surveyed and applicable setbacks shall be marked on the ground with posts such that each post is visible from each adjacent post. Property line setbacks shall be 50'.
7. The Permittee shall maintain a list of owners of property within 3000' of the site, as measured from the approved mine boundaries, who wish to be notified in advance of blasting. The Permittee shall contact all owners of property within 3000' of the mine site and inquire whether they wish to be included on the list; notice will be provided to those who do 24 hours in advance of blasting.

8. Seismograph(s) shall be used to monitor the effects of blasting on neighboring properties. The Permittee shall notify the owners of buildings located within one half mile of the mine site of the option of having a seismograph periodically located on their property; the Permittee shall hire a third party to place and monitor seismographs, and make the information collected available to said property owners and the County when requested. At least two seismograph measurements shall be recorded for each blast at two of the participating properties, or, if permission from neighboring property owners is not granted, at locations determined by the blasting contractor. Blasting shall only occur Monday – Friday from 8 AM – 6 PM. Measurements shall be taken using industry standard practices, and shall not exceed the curve shown on the following chart:



9. Hours of operation shall be limited to the following: Weekdays: 6:00 AM – 8:00 PM Saturdays: 7:00 AM – 3:00 PM Sundays: Closed Holidays*: Closed. *Holidays shall mean holidays observed by Houston County. Limits to hours of operation may be suspended by Houston County.
10. Excavation shall not occur below a depth of 980'.
11. ~~Quarry operations including, but not limited to, the processing or stockpiling of material and the staging, loading or weighing of trucks shall not be conducted on C.S.A.H. 5 or within right of way at any time.~~
12. ~~Within 90 days of CUP approval, please provide additional documentation showing that there will be no increase in water runoff from this site (i.e. how many acre feet of water needs to be stored per open acre of quarry floor).~~

Greg Myhre made the motion to amend the conditions by replacing the proposed language for Condition #5 with the language, "Houston County reserves the right to require a performance bond or other form of surety at a later date. The mine operator recognizes this right and agrees to provide the requested surety within sixty (60) calendar days of the date of receipt of a request." and removing Conditions #11 and #12. Jim Wieser seconded. Roll call vote was taken. All were in favor. Motion carried.

Larry Hafner made the motion to recommend the Houston County Board approve the Conditional Use application for mineral extraction in the Agricultural District with the aforementioned conditions.

Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Greg Myhre made a motion to adjourn the meeting. Larry Hafner seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on February 25, 2022.

Houston County Planning Commission
March 24, 2022

Approved on April 28, 2022 by Greg Myhre and Wayne Feldmeier

The Houston County Planning Commission met at 5:00 p.m. on Thursday, March 24, 2022. A summary of the meeting follows.

The meeting was called to order by Chairman Ed Hammell. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Josh Gran, Larry Hafner, Jim Wieser and Rich Schild. Greg Myhre, County Commissioner, was present. Martin Herrick and Amelia Meiners were present for Environmental Services.

Greg Myhre made a motion to approve the minutes of February 24, 2022. Wayne Feldmeier seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 938 was read for applicant, **Joseph Rud and Craig Helke**, 524 Enterprise Dr, Caledonia, MN 55921.

The applicants are requesting a conditional use permit to construct a steel framed building with concrete surfaces on the north and east sides of the building, located in Section 12 of Caledonia Township.

- The applicants are requesting a conditional use permit to construct a steel framed building with concrete surfaces on the north and east sides of the building. The property owners propose to seal coat Angus Drive adjoining the 6-acre parcel. The facility will be used to repair agricultural equipment, including repair of machinery, semi-trucks and trailers used for agricultural purposes. Work will be performed within the building. The primary goal is to serve the agricultural community.
- The conditional use permit is requested under Houston County Zoning Ordinance (HCZO) 14.3 Subdivision 1. (1) Conditional Uses. In the Agricultural Protection District, the following uses may be allowed only after obtaining a Conditional Use Permit in accordance with the provision of this Ordinance. (1) Agriculture Oriented Business, including but not limited to commercial storage or blending of liquid and dry fertilizers; grain and feed sales; general repair and installation services for agricultural equipment; custom meat processing; agricultural supplies and product sales or warehousing; livestock sales pavilion.
- The project will raze all of the existing structures and change the egress from State Road 44 to Angus Drive.
- An initial hearing was held on February 24, 2022 with the hearing being tabled prior to reading the 2/24/2022 Houston County Staff Report.
- A 60-day extension letter for the CUP application was sent out on February 25, 2022 by Houston County.
- The Houston County Environmental Services office received supplemental information supporting the CUP application in narrative and plot plan forms on 2/23/2022 and 3/08/2022 respectively.
- HCZO applicable references:

SECTION 29 – GENERAL PROVISIONS

29.9 EXTERIOR STORAGE

29.12 NUISANCES

29.13 SCREENING

SECTION 30 – PARKING STANDARDS

30.4 PARKING LOT DESIGN

- Sign regulations are covered under Chapter 173 MN Statutes.
- The site relief will not inhibit any proposed activities. The site soils in the proposed development area are a Seaton Silt loam with a capability rating of III e. The existing infrastructure located on the site will be razed. The development will disturb greater than 1 acre of land with an estimated .4 acre of tillable acreage being used. A small portion of the parcel is designated commercial from a 9/11/1969 zoning action.
- Caledonia Township and the ten nearest property owners were notified. Multiple comments have been received.

(HCZO = Houston County Zoning Ordinance)

Chairman Hammell asked the applicants if they had anything to add. Justin Meyer stated that they reached out to the neighbors and received no response. Justin stated that they could downsize the building to 125 feet by 225 feet (originally 175 feet by 250 feet) which would lower the roof height by 3 feet. Justin stated that they felt that they would not outgrow the building and they would still be able to serve their customers with the building size reduced. Justin then went over a letter that was received from Joe Welch's attorney Michael Flaherty. Justin stated that they read the letter several times and felt that the big question is what is an agricultural oriented business. Justin read from HCZO 14.3 Subdivision 1 Subsection 1 "Agriculture Oriented Business, including but not limited to commercial storage or blending of liquid and dry fertilizers; grain and feed sales; general repair and installation services for agricultural equipment; custom meat processing; agricultural supplies and product sales or warehousing; livestock sales pavilion.". Craig Helke stated that when they read this their main take away was "including but not limited to". Craig asked, "What is agricultural oriented?". Justin asked "Is it a 4-wheeler, a side by side; is that considered ag equipment?". Craig stated that every farmer has one of those to check fences and crops but they can also use them for deer hunting or driving around. Craig asked if that would be considered recreational or ag and stated that he would consider that ag. Justin explained that ag is changing and evolving into bigger equipment. Craig stated that in the past things that were done with a pitch fork are now done with a skid loader. Justin reiterated that ag is changing and evolving into bigger equipment. Craig stated that the wait time on a Cummins overhaul kit is 365 days out. Craig explained that their customers can't wait that long for the parts to come in and that they do what they need to do to get the parts to get their customers equipment running again. Craig explained that not everyone wants to buy new and not everyone can afford to buy new.

Chairman Hammell asked for attorney Michael Flaherty to come forward and give a response. Attorney Michael Flaherty requested that the Planning Committee and the Board of Commissioners do the following:

- 1) Analyze and determine whether the use of the property conforms with the zoning code related to the relative conditional use. And, specifically that a use classification determination be made consistent in a manner that preserves my client's right to appeal that issue.
- 2) Analyze and determine if any of the uses on the applicant's property are considered accessory uses by the County. And, if they are considered accessory uses, on what factual basis the Board or Commission is making the determination to make that determination.
- 3) If the accessory uses are considered to exist on the property, I'm asking the Planning Commission and the County Board to conduct further factual analysis to determine the extent of those uses related to the primary use.
- 4) Reference facts in the record, specifically the applicants written and verbal statements when conducting any analysis.

5) That the County review Section 11.5 regarding the general criteria to grant conditional uses.

Michael stated there hasn't been enough analysis about who the customers are in relation to the dismantling of trucks for parts. If there is one agricultural customer coming into the shop everyday there is no need for a 43,000 square foot building and that is well beyond the scope of what the applicants own statements are regarding what the business is. The logical explanation for that would be that the larger facility is used for the dismantling of vehicles portion of the business. Is that incidental to the primary use or what is the primary use? There's been no analysis of that by County staff or presumably by the Commission. If the primary use is repairing vehicles, and the County determines that motor vehicles licensed to drive on public streets are agricultural equipment pursuant to the HCZO, then why are sales allowed and why is the dismantling of trucks allowed, if there is no language in the HCZO that would even remotely suggest that this would be an appropriate use in the agricultural district. If that is being considered to be customarily incidental or in other words an accessory use what makes it accessory and what makes it incidental? Incidental means much less than the primary use. Statements from the previous hearing make it clear that the primary use is the dismantling of trucks and if that is the primary use, that does not fit within the listed conditional uses. The "including but not limited to" language in my view, doesn't even come into play, because it so far afield from the other uses surrounding it in the code, that it can't be said that an agricultural oriented business is to dismantle trucks. That's a parts business, not an ag business. If that is the determination that the Board makes, my clients are requesting and preserving the right to appeal on the issue of what factual basis the Board has to make that determination. It hasn't been vetted out in the staff reports or at the previous Board meeting. In the staff report under Section 11.05 states that conditions placed on the permit can be a mechanism to conform the use to the County's Land Use Plan. If that is the case where are the conditions? If you need to place conditions to help it conform to the Land Use Plan, that means that without the conditions it does not conform. If that determination has been made what are the conditions? If that's written in the staff report we ought to know what the conditions are. The concept of mediation is a fundamental misunderstanding of the process. It's up to the County Board to make the conditions and to determine what appropriate conditions are. Certainly, gaining input from the neighboring property owners if conditions are reasonable is probably appropriate, but my clients aren't zoning or land use professionals. They expect service from the government and this is a service that is directly in the authority and obligation of the government. And, that goes for the applicants too they're not experts in drafting conditions. They should participate in terms of what is reasonable and what is possible. I don't think that is my client's or their neighbor's obligation to do that. What is a customer? Is a customer someone who sells trucks to the business to be dismantled? Is the primary business repair or is the primary business chopping up for parts? There's nothing in the record to suggest the answer to that question. What is incidental to agriculture? Incidental to agriculture is something related to agriculture. Anything not related to agriculture clearly is not an accessory use. I would say that chopping up trucks for parts is not anything to do with agriculture either. If the Board does decide to go forward with that we expect conditions to be granted and inspections to be done. That's a large facility, 43,000 square feet, is a large facility to just be fixing one piece of agricultural equipment per day.

Wayne Feldmeier stated that the only reason they are tearing these trucks apart is to get parts. Michael further discussed expectation of the Planning Commission's duties. Michael asked what does chopping up trucks have to do with Ag? Larry Hafner said suppose a grain truck is down and the engine is trashed; they can wait for a year for parts or they can drag the truck in and put a used engine in. Larry Hafner asked are you saying that the time it takes to get parts shouldn't be considered. Michael stated that it's a legitimate concern, but it is not a concern for a conditional use permit process. Larry Hafner stated that we have to look at that and ask does that make sense. Michael

disagreed. Larry Hafner stated that the common sense person would look at that and say that's part of the process. Michael stated that if considerations like that are taken into account when issuing or denying the permit we would ask that proper factual findings are made and justifications stated so that we know what the justification is. Larry stated that we have to verify that.

Michael discussed at length with the Planning Commission previously made verbal and written statements made by the applicants and their attorney. Michael stated that there are alternative ways to allow this, such as, updating the Land Use Plan and the HCZO or even rezoning the property.

Wayne Feldmeier said, "I've dealt with real life, cause I owned an Anderson wrapper. I had to go over and take my wrapper over to St. Joseph's and steal the parts off a brand new one because Anderson would not be able to send me parts for weeks. That tells you the whole story right there. If they could buy the parts and get the parts they'd do it. And, you're saying if that's their fault that they can't do it. Whose fault is it?". Michael stated that it's not a zoning code the zoning analysis doesn't get into fault. It's just a factual analysis about use and you are going way beyond that. Chairman Hammell stated that he's studied the HCZO and it isn't too concise on what's permitted and what's not; there is room for us to say do you think this would fit. Chairman Hammell continued, "I think this 'but not limited to', that's a huge thing in there.". Michael disagreed. Rich Schild said, "It's an interpretation.". Michael argued that the activity of dismantling trucks is not relate to agriculture. Michael stated that a restaurant that only serves food to farmers shouldn't qualify as an agricultural oriented business; it's a restaurant. Chairman Hammell agreed. Michael said, "This is a dismantling of truck place, doesn't matter the purpose of it, that's what they're doing. Use is what you're doing, not who you're serving."

Martin gave a copy of the proposed conditions to Michael. Rich Schild stated that conditions are placed in advance to try to prevent problems down the road. Rich Schild stated that the idea that we are just going to make things up to get our way, that's not actually what the conditions are. Michael stated that he didn't mean it that way, he was just implying, trying to see things in the most favorable light for the applicant beyond what the code really allows. Dismantling of trucks isn't really agriculture; buying a truck, breaking it down, storing the parts, selling the parts online has nothing to do with agriculture. That truck might have 100 parts taken out of it, as long as you put one of them in a farm truck, that makes it agricultural?

There was general discussion about updating the Comp Plan.

Craig commented that the HCZO states "including but not limited to". Justin said, "I'd like to clear something up about the one customer per day thing. I think the way he interpreted it was one customer comes in, he's there for one day and he leaves. That's not the case, you know. If that was the case we wouldn't need a building that size. These (inaudible) projects take from one day, it could take up to a year, depending on the truck. I mean there are completely going redoing the frame on the truck, going through all the bushings, the bags, the engine mounts, the hoses; it's not only there for one day. That trucks gonna to be there for one to however many days it takes, so it's not only one vehicle in there per day, in the shop. That's what I wanted to clear up.". Craig said, "And, another thing was, he related back to pictures of the equipment. We need a facility so we don't have that. We keep telling people over and over, I don't want it any more than anyone else, but everyone keeps reverting back to this. That's not the case; I don't. We're not a junk yard. I will affirm we are not a junk yard.". Craig continued, "Another thing that really bothered me was I guess overall this a, he said it's the use of the property, not the customer. Well, I think my customers come first, so sorry just.". Craig said, "This talks about do we sell some stuff on the internet, yes. I'll get you the record, you guys can even call 'em. We'll get it back to you. Sold a motor out of Nebraska, just the other day. Guy was a grain farmer. His engine

goes out; can't get an overhaul kit. We had one online. He buys it. He comes with his farm plated truck, to take this engine back to Nebraska. He could have bought that engine anywhere. Why did he come to us? Reason why, we're fair. We understand it, the prices. We're not gouging people. He could have went anywhere, but he came to us." Craig said "He says well we took it out of a wrecked truck. That's not agriculture."

Jim Wieser stated that they claim their primary use is to repair farm equipment. Craig stated 100 percent. Jim said "Accessory use what percentage your business is going to be an accessory use as far as dismantling trucks and selling parts?". Craig said, "We haven't bought a truck in six months to tear apart. There's just (inaudible), very small, very small portion." Larry Hafner said, "I'd like to make a comment that, the example you just gave is what people are afraid of. Now I sold this here, we made some money on that. And if you're selling stuff to other repair shops on the internet, that's going to get you in trouble. That's I think, they talk about how many you can have, if you had that size of the building and we have a restriction on there. That's all you can have. That will limit how many trucks you're having. And then we need to know, what percentage of your resources, time, whatever is in recycling these truck parts? How much of your business is taken to do that? I mean that's the thing we're hearing. They're afraid you're going to be a recycle shop. But how much of it is it?". Justin said, "No, I'd say less than ten percent." Larry Hafner said, "So most of the stuff you repair, you buy new parts for." Craig and Justin agreed. Larry Hafner said, "Ninety percent your saying, we buy new parts for. That it has nothing to do with recycling?". Craig and Justin agreed. Larry Hafner said, "When you have this building, what percentage of this building is going to be for recycling?". Craig said, "I would say roughly ten percent." Larry Hafner said, "Are you going to advertise? You know we have, here's our inventory and you put that on the internet. People aren't going to like that. Then you're promoting and increasing the part of your business that is the recycling and that's what people want to avoid. It should be, we repair this. And, I say you know primary, we have to define that. Is it ag if the farmer's wife has got a car and she drives it to work, but you know something happens to it so she takes it to your shop cause they know you? If you do 20 of them a week I think we'd have a problem. If there's one or two along the way, that's why we have primary, I feel. And, we'll put the restrictions on it so you don't become a parts shop." Craig said, "We're fine with that. We really want to work with everybody." Larry Hafner said, "And everything is in the building. The rest of it is lawn and it's mowed and kept up." Rich Schild said, "That's one of the reasons, I think that the building is so big, because we take big equipment so you have to. Let's just say the grain truck, right. We have the grain truck that's broken down, which has to be according to Section 29.12, has to be inside, and then if you're gonna have another grain truck to get parts of that has to be inside. So now you've got two trucks inside to fix one. And, it'd be kind of unrealistic to believe that you'd only ever have one piece of equipment, so I mean you could have two or three pieces of equipment just to fix the one. I think the size for these guys is (inaudible) and kind of common sense that you have to keep everything inside you've got to." Larry Hafner said, "Typically how long does one of these trucks you buy till you sell it? I assume that at some point you try." Craig said, "We have someone come up and take what's left away." Larry Hafner said, "Yeah, recycle it. Typically, how long is the truck there?". Craig said, "I would say three months generally speaking." Larry Hafner, "Ok. Then you take what you think is valuable and you keep it?". Craig agreed. Larry Hafner said, "Ok, so there again now, you're going to have a storage of the stuff and if you become the go-to guy for somebody in La Crosse, that's not what this is for. And, I suppose there's always instances somebody that maybe is based in Houston County does what do they call it, rents out, doesn't rent it, he does custom work, but he's based in Houston County, that's kind of on the gray line. But, that's why, you know if you got, that's ten percent of your business. I think then people are ok with that, but if it becomes fifty or sixty that's an issue. Craig said, "Our main thing though is the service side." Larry Hafner said, "For the people, local people?". Craig agreed. Larry said, "Do you sometimes find one for somebody? Well I need this engine for this whatever, something. And you look

around, and say well here's one coming in. We'd go buy that and then he gets the engine, keep what you think is valuable and then you trash it out." Justin said, "Most definitely."

Chairman Hammell asked if anyone else from the public wished to comment. Joe Welch asked, "If you do this once how does that look for the whole area? Then if you multiply it by ten times and we do this ten times down that same road, what are we (inaudible) the same area. How does that affect everybody, not just the people that live here, but people who travel through here people you know that enjoy (inaudible). We have the most unique area of the whole world right here (inaudible), here in this region." Joe discussed the characteristics and layout of Houston County and then raised concerns about how this decision may lead to more businesses seeking to move into the rural areas and disrupt the character of the Agricultural Districts.

Larry Hafner stated that it would be good to have documentation of the percentage of ag jobs they have done in the recent past. Jim Wieser stated that he doesn't feel that it is relevant and stated that we need to decide if this is an ag business or not. Larry Hafner stated that he felt documentation might be necessary for the record.

The Planning Commission discussed at length requiring documentation of the percentage of agricultural services the business is providing.

Chairman Hammell said, "I guess I would kind of agreed with what Jim was bringing up there. It's kind of up to us to determine if this is an ag business and it is relevant to say that ag has changed. That's definitely relevant, because ag is different than it was when my dad and I were farming together forty years ago and when I farmed. I mean "B" John Deeres and everything's just different. I know people are buying drones now. That's gonna be a new thing. Everything is different. We've got some leeway here and it's in here and it just depends if we think that this is ag related. It's kind of almost to that simple question, in my mind. It just, and that's the bad part of being on these Boards, people don't like what you do a lot of the times, but that's not our job to be liked either. I mean this ordinance is vague in fact is what it really is, and your point about redoing it is correct when you go back to other uses here it says 'Other uses as determined by the Planning Commission and the Houston County Board of Commissioners that are similar to those uses listed above and are found to be compatible to with other use already permitted in the district.' (14.3 Conditional Uses Subdivision 1 Subsection 25). And that's real objective. It's just what we think is useful at the time." Michael Flaherty commented on the language read. Rich Schild said, "I think we in good faith interpret the Ordinance that we have in front of us." Greg Myhre agreed. Chairman Hammell agreed saying, "Well, I guess we can address a lot of the issues with conditions also. That's what a Conditional Use Permit is useful for." Chairman Hammell said, "Do we want to have a vote on if we want to table it or to move forward or we just move forward?" Rich Schild said, "Table it, for what reason, Ed?" Chairman Hammell said, "Probably just to make sure we don't have a litigation problem, would be the honest answer."

The Planning Commission briefly discussed tabling the hearing.

The Planning Commission discussed at length possible required conditions, including documentation of the percentage of agricultural service the business conducts. The applicants agreed that they could provide documentation.

Jim Wieser said, "It seems like we're getting into the weeds here. I mean, again like I said before I think it's up to us to determine whether this is a Conditional Use Permit that we can accept or that we reject. And, I guess I would make the motion that we go forward and read the conditions. If somebody

wants to make a motion to table it that's fine, but I'm saying that we should end discussion and I'll make a motion to go ahead and call to question." Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion Carried. The Planning Commission chose to hear the proposed conditions prior to hearing the Findings. The following conditions were discussed:

1. The Permittee shall comply with all federal, state, and local laws and regulations.

HCZO Section 29.12 Subdivision 6 (1). No person may store or keep any vehicle of a type requiring a license to operate on the public highway; but without a current license, attached hereto, whether the vehicle be dismantled or not, outside of an enclosed building in the residential or agricultural district.

HCZO Section 29.13 Subdivision 1. Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone but not on the side of a business or industry considered to be the front.

HCZO Section 30.4 Subdivision 7. In General Business and Highway Business Districts and in Limited and General Business Districts, parking areas and access drives shall be covered with a dust-free all-weather surface with proper surface drainage, as required by the County Engineer. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas well-kept.

HCZO Section 30.4 Subdivision 8. Lighting shall be reflected away from the public right of way and nearby or adjacent Residence Districts

2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. An operations plan shall be submitted to the Houston County Environmental Services Office for approval prior to or in concert with the building permit application. The plan shall address the following items:
 - Demolition and razing existing of buildings including any MPCA requirements and disposal at the La Crosse County Landfill,
 - The building elevations including the maximum elevation, with side elevations and exterior signage and lighting,
 - Any associated new exterior structures either attached to the building or on the premises, such as make up air units, dust collectors, fuel tanks, loading ramps, gantry cranes etc.
 - Stormwater Pollution Prevention Plan (SWPPP) from the MPCA addressing surface water management plan with proposed site contouring and structures to dissipate energy and promote infiltration, and sediment capture and erosion controls
 - Site screening, vegetation and fencing with a plot plan showing location,

- HCZO 30.3 Subd. 2. Shall be used to calculate the required number of parking spaces, where applicable.
- HCZO 30.4 Subd 1. Shall be used to develop a parking lot site plan, where applicable.
- Traffic management plan and haul routes including vehicle types, transition zones, and a road base cross section and methods to control fugitive dust.

The Planning Commission discussed adding an additional condition that the applicants provide documentation to show the percentage of agricultural service the business conducts yearly. Josh Gran questioned if their business falls below the percentage set in the conditions, 'What are you going to make them do; tear down the building?'. Josh Gran commented, "You start putting things you can't actually enforce in there, in all honesty, we've already got too many.". Josh Gran said, "I do data for a living, right. Like, you can make numbers look however you want them to look however you want them to look for whoever you want (inaudible)". The Planning Commission discussed verbiage of the additional condition. Josh Gran asked, "Can we just use primarily? Instead of, I know a direct percentage helps in some things, but I think the issue is it's below that percentage what (inaudible) gonna come to this so. If you say primarily it's like are you active, are you engaged in agriculture or not. That's really the whole question, right?".

The Planning Commission decided to add the following condition:

4. Permittee shall supply customer transactions records annually to the Environmental Services Department to ensure that primary activities are agricultural.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

Rich Schild made a motion to bypass question 13 that is not applicable. Jim Wieser seconded. All were in favor. Motion carried.

(SA= Staff Analysis)

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: When the requirements are met, a conditional use permit provides a mechanism for establishing an Agricultural orientated business in an agricultural protection district that conforms to Houston County's Land Use Plan.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		"I would kind of piggy back on what Rich said there too and

I keep coming back to this ‘but not limited to’ thing in here too, also. And, it a it’s something that we’re, we need to look at is what is actually agricultural related. And, I do think that this is that and I agree with it.”

Greg Myhre	X	
Rich Schild	X	“I think our County Land Use plan is trying to enable
agriculture to survive and flourish and I think these guys are kind of a collateral complementary part of that.’		
James Wieser	X	

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant proposes to repair agricultural equipment, including repair of machinery, semi-trucks and trailers used for agricultural purposes, which is a legitimate need.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		“Having visited their shop, everything I saw was ag related
and it was obvious that they need more room.”			
James Wieser	X		Agree it’s a legitimate need.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: With adequate surface water control and a properly constructed and operated SSTS for managing seepage the water quality will not be compromised.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		“And, I think the conditions kind of approach this too, but if
we could encourage to put in rain water gardens and stuff like that, something like that might be an excellent			use here.”
Greg Myhre	X		
Rich Schild	X		SSTS is state mandated.
James Wieser	X		

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The proposed high percentage of impermeable surfaces and structures will require adequate surface water management, including construction, operation, possible treatment, energy dissipation and infiltration to reduce surface water runoff.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		They’ll have to have a Stormwater Pollution Prevention

Plan from the MPCA.

James Wieser X

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: The soil bearing capacity is adequate for the proposed structure. The soils can be compacted and graded for the proposed roadways. Additional surface water management features can be incorporated to enhance the site's infiltration capability.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		Agree with SA.
Ed Hammell	X		Agree with SA.
Greg Myhre	X		
Rich Schild	X		Agree with SA.
James Wieser	X		

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: While an erosion control plan in HCZO Section 24 is required the primary pollution from sediment loading will be addressed in the MPCA permitting requirements because greater than 1 acre is being disturbed. The facility is proposing that all activities will be performed indoors including management of solvents, degreasers, fuels and lubricants. Additionally, new construction materials and methods have substantially improved energy efficiencies and waste minimizations.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		Agree with SA and conditions also take care of this.
James Wieser	X		Highlight the fact that MPCA permit is required.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: The proximity to existing structures and the City of Caledonia likely lends itself to accessing gas, electrical and other utilities. Adequate frontage exists with gentle slopes allowing access to Angus Drive.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		
James Wieser	X		

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space for off street parking and vehicle loading.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		The site is pretty large.
James Wieser	X		

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: Substantially larger site distances, transition zones, upgraded subbase and other features are needed for truck traffic. Traffic from the proposed facility will have to egress from Angus Drive. A 3/04/2022 E-mail from MNDOT to Amelia Meiners noted that access from HWY 44 will likely not be granted. Based on the proposed number of vehicles transitioning from the facility the site has enough area to prevent traffic hazards.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		Agree with SA.
Greg Myhre	X		
Rich Schild	X		Highlight that MN DOT was contacted.
James Wieser	X		

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: While the proposed hours of operation and activities are typical of a commercial site. The area is an agricultural protection district and commercial activities are similar in nature. Screening, vegetation, exterior lighting and other activities can be implemented to substantially reduce the viewshed of the building to the local residences.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		“You know, I’ve drove that location from all four different directions and that build is gonna be huge and it is gonna be an eyesore especially for the two closest neighbors. That’s what where I kept thinking if you could keep it in Caledonia it would make a lot more sense. You know, but if they do the vegetation and that, that would help. But, it probably should be some higher trees and stuff cause; and Mr. Welch’s view is gonna be terrible and so is Mr. Klug’s, you know. I’ll say yes too though.”
Larry Hafner	X		
Ed Hammell	X		“They did talk about making it a little smaller and if they would consider that, that might be a help”

Greg Myhre	X	
Rich Schild	X	"I think that some of the conditions have taken care of this. Also, while I know that people might be upset with it initially I think that in a few weeks like everything they'll get used to the (inaudible) building."
James Wieser	X	

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The proposed use for the parcel meets the intent of Houston County's Land Use Plan.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		"Yes, and I have to, I really want to highlight that it does meet the County Land Use Plan and that's mostly what we're interested in here."
James Wieser	X		

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The applicant proposes to perform all work indoors and the roadways will be maintained to prevent fugitive dust. The lighting will be directed down and the signage will be minimal. As noted in the Staff Analysis for Finding No.10 screening and vegetation blocking the viewshed toward the residences will substantially reduce the disturbance to neighbors.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		Agreed with SA.
James Wieser	X		

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: NA

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The intensity of the of the proposed commercial activity in an agricultural protection district, isn't substantially different when consideration is given to the larger buildings being

constructed for agricultural purposes. The proposed traffic and daily activities are not substantially more than seasonal farm activities.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		“I agree with this analysis and especially the part, a lot of dairy farms now a days, are getting bigger, and bigger and bigger buildings. I don’t think this is any different.”
James Wieser	X		

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: With SSTs, the site erosion plan, the applicable MPCA requirements, conditions for screening and other possible conditions listed below, the proposal will be protective of human health and the environment.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		“I think the recommendations have done as much as we possibly can.”
James Wieser	X		

Jim Wieser made a motion to accept the findings as presented. Rich Schild seconded. Roll call vote was taken. All were in favor. Motion Carried.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		
James Wieser	X		

Larry Hafner made a motion to approve the conditions previously discussed. Rich Schild seconded. Roll call vote was taken. All were in favor. Motion Carried.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		

Greg Myhre	X
Rich Schild	X
James Wieser	X

Larry Hafner made the motion to recommend the Houston County Board approve the Conditional Use application to operate an agriculture oriented business in an Agricultural Protection District with the conditions previously discussed:

1. The Permittee shall comply with all federal, state, and local laws and regulations.

HCZO Section 29.12 Subdivision 6 (1). No person may store or keep any vehicle of a type requiring a license to operate on the public highway; but without a current license, attached hereto, whether the vehicle be dismantled or not, outside of an enclosed building in the residential or agricultural district.

HCZO Section 29.13 Subdivision 1. Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone but not on the side of a business or industry considered to be the front.

HCZO Section 30.4 Subdivision 7. In General Business and Highway Business Districts and in Limited and General Business Districts, parking areas and access drives shall be covered with a dust-free all-weather surface with proper surface drainage, as required by the County Engineer. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas well-kept.

HCZO Section 30.4 Subdivision 8. Lighting shall be reflected away from the public right of way and nearby or adjacent Residence Districts

2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. An operations plan shall be submitted to the Houston County Environmental Services Office for approval prior to or in concert with the building permit application. The plan shall address the following items:
 - Demolition and razing existing of buildings including any MPCA requirements and disposal at the La Crosse County Landfill,
 - The building elevations including the maximum elevation, with side elevations and exterior signage and lighting,
 - Any associated new exterior structures either attached to the building or on the premises, such as make up air units, dust collectors, fuel tanks, loading ramps, gantry cranes etc.

- Stormwater Pollution Prevention Plan (SWPP) from the MPCA addressing surface water management plan with proposed site contouring and structures to dissipate energy and promote infiltration, and sediment capture and erosion controls
 - Site screening, vegetation and fencing with a plot plan showing location,
 - HCZO 30.3 Subd. 2. Shall be used to calculate the required number of parking spaces, where applicable.
 - HCZO 30.4 Subd 1. Shall be used to develop a parking lot site plan, where applicable.
 - Traffic management plan and haul routes including vehicle types, transition zones, and a road base cross section and methods to control fugitive dust.
4. Permittee shall supply customer transactions records annually to the Environmental Services Department to ensure that primary activities are agricultural.

Jim Wieser seconded. Roll call vote was taken. All were in favor. Motion carried.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		
James Wieser	X		

The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Larry Hafner made a motion to adjourn the meeting. Jim Wieser seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on March 25, 2022.

Houston County Planning Commission April 28, 2022

Approved on May 19, 2022 by Jim Wieser and Wayne Feldmeier

The Houston County Planning Commission met at 5:30 p.m. on Thursday, April 28, 2022. A summary of the meeting follows.

The meeting was called to order by Chairman Ed Hammell. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Josh Gran, Larry Hafner, Jim Wieser and Rich Schild. Greg Myhre, County Commissioner, was present. Martin Herrick and Amelia Meiners were present for Environmental Services.

Greg Myhre made a motion to approve the minutes of March 24, 2022. Wayne Feldmeier seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 940 was read for applicant, **Justin Mark**, 448 County 9, Houston, MN 55943.

The applicants are seeking a Conditional Use Permit to build a dwelling on less than 40 acres in the agricultural protection district.

- This is an existing homestead. The old house has been removed and a mobile home still exists at the site. The applicants are looking to replace the mobile home with this request. While there is an existing dwelling on the site, it has not been occupied for a couple decades. According to the Houston County Zoning Ordinance (HCZO) dwelling definition, if a dwelling has not been occupied for eight of the last ten years it is no longer considered a dwelling, hence the requirement for a Conditional Use Permit. On the same note, any nonconformity that may have existed at that time lost any right to continue. This is a difficult site because of constraints between the county highway and Silver Creek, but it has an existing well and electrical that the landowners would like to utilize.
- This is a 15-acre parcel in Houston Township and is a difficult site for locating a dwelling. The applicants are looking to replace the existing mobile home mostly in kind. There are no bluff concerns, but this location is restricted to the east by shoreland, wetland, floodplain, and to the west by CSAH 9. A 100-foot setback is required from CSAH 9, which extends to the east perimeter of the existing structure, and the existing structure is approximately 100-feet from the ordinary high water level (OHWL). That leaves no room to locate a structure while meeting all ordinance requirements.
- As stated before, floodplain, wetland and shoreland are all concerns at this site. As proposed, the structure will be outside of wetland (see Fig. 2 and attached National Wetland Inventory), but any encroachment towards the stream may push the structure into wetland area. This site is also located adjacent to FEMA mapped floodplain (see Fig. 3 below and attached Flood Elevations). The State of Minnesota and likewise, Houston County, have more restrictive floodplain elevations, which extend floodplain further to the west than indicated by FEMA shading. This most likely will require the applicants to elevate their structure slightly.
- Shoreland is an overlay zoning district based on proximity to public waters. Shoreland extends for 300 feet from the ordinary high water level and encompasses 95% of this 15-acre parcel. Silver Creek is designated as a public water and this location is more complex because there are two channels. At the recommendation of the DNR, the 100-foot setback should be applied from the

OHWL of the nearest channel. A single-family residence is a permitted use in the shoreland district and any required grading is covered under other permits that will be issued.

- The CSAH right of way as shown in Beacon is accurate. There is 60 feet of right of way in the proximity of the proposed location. The existing mobile home is approximately 73 feet from the centerline. The HCZO requires sites to meet a 100-foot county road setback and if that distance still results in an encroachment then structures should be at least 20 feet from the right of way. Applying the same logic, staff recommend that the Board of Adjustment not approve a variance less than eighty feet from the centerline in this location. The County Engineer has asked that in order for a variance to be favorable, the landowners will need to elevate the structure a minimum of a couple feet. See the enclosed email. Information regarding approved variances will be available at the hearing.
- Soils are primarily 388D2 with Type 1847 nearer the stream. 388D2, a Seaton silt loam, is an adequately drained, class 4e soil. Type 1847 is a poorly drained, class 5w soil. This site meets the nonfarm dwelling soil requirement and slopes tend to be the limiting factor for building sites. Proper construction on the contours is important.
- There are no feedlot or mine concerns. Since this is a lot of record, the applicants did not have to identify two potential Type I septic systems, but after discussions with a licensed professional, staff are reasonably assured that it will be possible to locate a septic system. The applicants are aware that a system will likely require a full sand lift mound. The western boundary of the property is county road frontage and an existing driveway meets HCZO standards.
- Variances are necessary to allow building at this site and were sought prior to the CUP hearing.
- Houston Township and the ten nearest property owners were notified. One formal comment was received in response to the notice and comments had been provided prior to application submission by the DNR and County Engineer.

Chairman Hammell asked Justin Mark if he had anything to add. Justin explained his plans to clean up the 15-acre parcel and replace the existing mobile home with a single wide mobile home. Chairman Hammell asked if he intended to remove everything existing onsite and if the site would only have the replacement mobile. Justin stated that was his plan. Chairman Hammell commented that the Board of Adjustment put conditions on the septic at the variance hearing. Chairman Hammell stated there's a lot of stuff to clean up. Justin agreed.

Martin read the comment included in the board packet. Chairman Hammell asked Justin if he knew the person who submitted the opposing comment. Justin stated that he did not. Chairman Hammell addressed the comment and stated that the ordinance permits what we are doing.

Amelia and Martin read the additional proposed conditions. Chairman Hammell asked Justin if he was ok with all of the conditions. Justin stated that he was.

Rich Schild asked Martin what would determine that the site was cleaned up. Martin stated that the documentation would prove that things were taken care of. Chairman Hammell stated that you can burn tree waste.

Jim Wieser asked about utilities. Justin stated that there's electric and a well onsite.

Rich Schild asked how much of the area would be covered with fill. Amelia stated that they would need to fill in the footprint of the building and space for the septic. Amelia stated that they would most likely have an inground mound resembling a trench system.

Chairman Hammell asked that the Findings be read being there were no further comments.

Greg Myhre made a motion to bypass questions 9, 12 and 14 that were not applicable. Larry Hafner seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Land Use Plan (CLUP) provides the basis for limiting development in the agricultural protection district. This proposal satisfies the dwelling density limitation. In addition, the CLUP encourages rehab of existing buildings. While the structures at this location are no longer salvageable, the Planning Commission may feel the same policy could apply to existing homesteads.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: A CUP is required to construct a single-family dwelling in the agricultural district.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: Wastewater is a potential pollutant associated with any dwelling. The applicants will install an onsite sewage treatment system meeting all applicable standards. Proximity to vulnerable water resources increases risks associated with erosion and strict adherence to practices outlined in the erosion control plan is important.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: An erosion control plan will be required with the zoning permit application to address construction and post construction site drainage and shall take into account any additional mitigation measures necessary when bringing in fill in this vulnerable area. Runoff quantity due to impervious surfaces (e.g. roof, driveway) are not expected to greatly differ from existing conditions.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Soils are 388D2 which are adequate for building provided attention is paid to contours during site design. A coarse textured base may be necessary to increase strength of the soil. Soil borings will be needed to determine suitability for septic system.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: Wastewater and erosion are two potential hazards. Both will require plans, permits, and the strict adherence to those documents to mitigate any pollution potential.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: A soil erosion control permit and septic permit will be required prior to building and a driveway access permit may be required. Nothing is known at this time that would prevent these permits from being issued, provided the applicants agree with fill requirements. There is an existing well and electrical. Any other utility need is the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space to accommodate off-street parking for residential use.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: No effect is anticipated as this was a residential site at one time. Neighboring properties are rural residential and recreational in nature. No effect is anticipated and the Planning Commission may view this proposal as an improvement on the existing condition of the property.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: Granting the permit will close the NW-NW quarter-quarter per the dwelling density policy and should have no effect on surrounding rural residential and recreational uses.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and

other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: N/A

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: The application conforms to the one dwelling per quarter-quarter density limitation standard for the agricultural district.

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The placement of a dwelling in compliance with County and State standards is not anticipated to have any effect on the public's health, safety, morals, and general welfare.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion Carried.

Rich Schild asked for clarification on the Board of Adjustments condition that the variances expire after one year. Amelia stated that the condition that the variances expire after one year was added to prevent the variances from existing in the case that a Conditional Use Permit was not granted.

Wayne Feldmeier made a motion to include all the conditions as presented. Rich Schild seconded. All were in favor. Motion carried.

Larry Hafner made the motion to recommend the Houston County Board approve the Conditional Use application for a single family dwelling on less than 40 acres in an agricultural district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Applicants agree to bring in not less than two feet of fill based upon a recommendation by the County Highway Engineer. The building permit will dictate the quantity of fill and any necessary erosion control practices shall be addressed within the erosion control plan.
4. Clean up and site restoration of the proposed dwelling location shall be completed prior to the submittal of a building application to the Houston County Zoning Office. Documentation of the site restoration shall be included with the building permit application or in advance.

The documentation shall include photos, records of disposal including but not limited to construction and demolition waste, non-processable waste and municipal solid waste. Site restoration shall be performed in accordance with Houston County Solid Waste Ordinances.

5. The property owners shall maintain Open Areas free of solid waste accumulations unless the Solid Waste is stored in an acceptable container as specified in the Houston County Solid Waste Ordinances. Solid Waste shall be stored in a manner to prevent the loss of Solid Waste to the environment and to preclude the development of vector, odor, and Public Health Nuisance problems.
6. No person shall place or store in Open Areas of any Residential Site dead or downed trees and brush; motor vehicles that do not display current State of Minnesota registration, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete such that there is no substantial potential further use consistent with usual function or reasonable reuse; lumber piles and building materials not being used in actual construction on the premises; and Mixed Municipal Solid Waste including, but not limited to, Recyclable materials, broken furniture, Tires and other debris.
7. All construction and demolition wastes, municipal solid wastes and non-processable waste shall be delivered to the La Crosse County Landfill for disposal.
8. The applicant shall have a licensed professional identify two SSTS drain fields. The reserve location shall be protected from uses including, but not limited to machinery storage, pasture or used for future accessory structures.

Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 941 was read for co-applicants, **Michael Rogich**, 315 Ramsey St S, Caledonia, MN 55921 and **Amanda Bennet**, 15488 Old 44 Rd Caledonia, MN 55921.

The applicant is proposing to convert a wing of the commercial building into a single-family dwelling and convert the quonset portion into storage units.

- A variance for side and rear yard setbacks in Houston County Zoning Ordinances 17.7 Subd. 2. and 17.8 Subd 2. respectively, will be addressed separately.
- The structure consists of multiple wings and has functioned in a residential and commercial capacity.
- Caledonia Township and the ten nearest property owners were notified. No comments were received.

Chairman Hammell asked Mike Rogich if he had anything to add. Mike Rogich stated that the property was the Back 40 Supper Club and that it included a dwelling at one time. Mike plans to create individual storage units out of the side of the old dance floor on the parking lot side. Mike stated that his son planned to live in the dwelling.

Jim Wieser and Mike discussed the characteristics of the lot.

Chairman Hammell asked if they were going to leave the bar and dining hall alone. Mike stated that they were.

Jim Wieser asked if the property was zoned general business. Martin confirmed that it was.

Rich Schild asked how many entities were going to be using the existing septic system. Mike stated that the septic and well are on Janice Moen's property and it's all hooked together. Rich Schild asked if there would be any changes. Mike stated that nothing would change. Mike stated that the living quarters are existing and that the restaurant had used the septic. Martin stated that the proposed septic use would be less than when the restaurant was in operation.

Jim Wieser asked if they needed to have a condition that stated that septic is on the neighboring property. Rich Schild asked if there would be a septic inspection done. Martin stated that Chase Munson did a septic verification and that it was not a full compliance inspection. Amelia answered Jim Wieser stating that the Planning Commission could include a condition. Amelia stated that there is a septic and well agreement between the current landowners. The Planning Commission agreed to add a condition requiring well and septic agreements be submitted to the Zoning Office.

Chairman Hammell asked that the Findings be read being there were no further comments.

Greg Myhre made a motion to bypass question 5 that was not applicable. Jim Wieser seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The proposal is allowed in the zoning ordinance.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant is proposing to purchase the property and convert a portion of the facility back into living quarters and another portion into a seven-unit storage facility. Both are legitimate needs.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The shared well and septic system agreements with the adjacent neighbor will be amended with no proposed changes. The proposed activity will not degrade water quality.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The proposed changes and operations will not increase water runoff or cause releases to the environment.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: The proposed activities will not result in releases to the environment and standards can be met.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: Existing utilities will be adequate for the proposed uses.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: The adjacent parking lot will provide adequate off-street parking space.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: The proposed dwelling is limited in size and consequently only one or two residents would occupy it. The proposed storage is seven-unit. Combined these two activities are less intense than previous uses for the facility and will not create traffic congestion.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The adjacent properties are residential and agricultural and the proposed use is less intense than previous for the facility.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The proposed use will have minimal impact on surrounding vacant property.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: There will be no signage for the storage units and the proposal will not create onerous odors, fumes, dust, noise or vibrations.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: The proposed density is reduced from the previous restaurant activities.

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The storage units will have infrequent activities that are substantially less than previous uses. The proposal will not substantially impact nearby commercial or agricultural activities.

Board agreed to the finding by a unanimous vote.

15. That site -specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: This proposal will not impact public health, safety and general welfare.

Board agreed to the finding by a unanimous vote.

Greg Myhre made a motion to accept the findings as presented. Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion carried.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application to convert a commercial building into a single family dwelling and storage units in a general business district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Documentation shall be provided to the Houston County Zoning Office for the shared well and septic systems.

Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion carried. The

Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 942 was read for co-applicants, **Midwest Industrial Fuels DBA Consolidated Energy Company**, 920 10th Ave N, Onalaska, WI 54650 and **Randy and Debra Myhre**, 13560 Glendale Trail, Savage, MN 55378.

The petitioners are requesting a Conditional Use Permit to operate a bulk propane storage facility in Spring Grove Township.

- Consolidated Energy Company is looking to split off a small parcel of land currently owned by Randy and Debra Myhre in Spring Grove Township. Property access will be off Myhre Drive and be adjacent to an industrial district in the City of Spring Grove. This property is zoned Agricultural Protection. The applicants wish to place a 30,000 and an 18,000-gallon propane storage tank for distribution along with constructing an accessory building. They identify that no public retail will take place from the site, but the site will act as a distribution hub for one delivery truck. The applicants anticipate there will be one to two trucks per week, seasonally, delivering product to the bulk storage tanks. The future building will provide storage for parts and equipment.
- In addition, the applicants want to disclose that they may add an additional 30,000-gallon storage tank in the future. Note that this request is only for one 18,000-gallon and one 30,000-gallon tank and the petitioner understands that if this CUP is approved, it will need to be amended at that time. The structures will need to meet appropriate property line and road setbacks.
- Minnesota State Codes, Chapter 61 and the National Fire Protection Association Standard 58 govern operations such as these.
- The Houston County Zoning Ordinance (HCZO) requires that liquid bulk storage facilities receive a conditional use permit. However, there is no cross reference for that use within the zoning districts sections. For that reason, the request was made under *other uses*.
- The applicants are looking to parcel off approximately 1.6 acres. There is one dwelling approximately 800 feet north of the location, otherwise this area is surrounded by industrial zoned property in the City of Spring Grove and tillable acreage within Spring Grove Township. There is one liquid bulk storage facility in the adjacent industrial district of the City of Spring Grove and other similar operations are permitted in the County.
- There is an intermittent stream approximately 1,000 feet north of the proposed location, but no wetland or floodplain in the vicinity. There are no bluff or shoreland concerns. Slopes are minimal in this location and access requirements should be easily achieved.
- Spring Grove Township and the ten nearest property owners were notified. No comments were received.

Chairman Hammell asked the applicants if they had anything to add. Andrew Peters stated that he agreed with all the findings, the staff reports and all conditions are fine. Joel Reinhart stated that Consolidated Energy is a fuel and propane distribution company. Joel stated that in December they purchased Severson Oil Company out of Winona. Joel stated that as part of that acquisition they acquired a 30,000 gallon propane tank that currently sits to the west of the proposed property at Farmer's Win Coop. Joel stated that they would like to move that tank on to this property and add a second tank. Joel stated that they would use the propane holding tanks to service their customer base.

Greg Myhre asked if the site would be close to the tower on the property. Joel stated that the tanks would be right off Myhre Dr adjacent to the industrial park. Amelia stated that it would be across the highway from LAX Fabricating.

Amelia stated that in their application they identified that they are looking for a 30,000 gallon and a 18,000 gallon propane tank and disclosed the fact that in the future they may decide to add an additional 30,000 gallon tank. Amelia stated that doing so would require them to seek an amended Conditional Use Permit.

Jim Wieser asked if the building would affect the Conditional Use Permit. Amelia stated it would not. Chairman Hammell asked about the use of the building. Joel stated it would mostly be used for storage and possibly house a pickup truck.

Amelia proposed an additional condition, that the site meet or exceed the plan represented in the application.

Chairman Hammell asked that the Findings be read being there were no further comments.

Greg Myhre made a motion to bypass question 13 that was not applicable. Jim Wieser seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Land Use Plan encourages diversified economic development and the continued expansion of trade and service industries in the County (0100.0505 subd. 1, Goals 1 & 2).

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicants need a satellite distribution location to provide propane fuel to area landowners for both residential and agricultural use.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The applicants identify that no materials or practices that have potential to degrade water quality will be employed.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This proposal includes minimal roof area, but much of this site will be surfaced with crushed rock. Minimal slopes and high soil hydrologic capacity should alleviate concern of increased water runoff.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Soils are 285A and 492B, which are both silt loams and considered prime ag soils. The Soil Survey – Houston County identifies underlying bedrock as a possible hindrance and that roads need to be constructed on well-compacted, coarse textured base material. Soils can accommodate structures.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: The applicant's do not propose to use any hazardous materials. There is no wastewater being proposed at this time and if a septic system is necessary when the accessory building is permitted it will be required to be designed and installed by a licensed professional. Only liquid propane will be stored on site in a manner compliant with all regulations.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This location is adjacent to an existing roadway for industrial access. Electrical utilities will be necessary and are the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There will be a crushed rock surface parking area to provide room for parking needs.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: The applicants identify that there will be minimal traffic. It's expected that one to two bulk supply trucks will deliver per week along with one local delivery truck based out of the site.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: Properties to the south and west are of similar use. Those areas are zoned industrial. There is one dwelling approximately 800 feet north, otherwise the surrounding acreage is tillable. This proposal will remove tillable acreage, but should not adversely affect any surrounding use. There is one similar operation in adjacent City property and similar operations have been permitted in the County.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The proposed use will remove tillable acreage from production, but will not impede the use of adjacent tillable acreage. The neighboring sites are industrial in nature.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The applicants state that the proposed operation will create minimal odors, fumes, dust, noise and vibration. If fugitive dust becomes prevalent, they will use water to control and one security light will be installed on site, pointed downward.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The property borders State 44 to the south, Myhre Drive to the west and agricultural land to the north and east. Adjacent properties within City jurisdiction are industrially zoned and there is one dwelling within a quarter mile within the ag district. This proposal is a similar nature to the neighboring industrial uses and this use is likely less intense than those operations.

Board agreed to the finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The proposed location near an industrial park puts this operation near similar uses and in an area away from high residential population. Adherence to Minnesota State Code, Chapter 61 and the National Fire Protection Association Standard 58 ensure this operation will meet regulations set forth by the state and federal governments to protect the public's health, safety, and general welfare.

Board agreed to the finding by a unanimous vote.

Greg Myhre made a motion to accept the findings as presented. Larry Hafner seconded. Roll call vote was taken. All were in favor. Motion Carried.

Jim Wieser asked that the applicants be made aware of Houston County's sign requirements. Amelia stated that most of our ordinance references state code for signage, but we do require that you meet the highway setbacks.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application for a liquid propane storage facility in an agricultural district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. A Certificate of Survey completed by a licensed surveyor is required for the newly created parcel, which shall be substantially similar to the proposed parcel as described in the application.
4. Site should meet or exceed what was outlined in the application (security fencing, lights, etc.).

Wayne Feldmeier seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 943 was read for applicant, **Mathy Construction**, 920 10th Ave N, Onalaska, WI 54650.

The Petitioner requests an Interim Use Permit to set up and operate a bituminous plant in the Gengler Quarry in Mayville Township to accommodate CSAH projects.

- The plant will produce asphalt for the CSAH 1, 4, and 10 projects and any additional projects within the area that are accepted after this application. The applicants identify a maximum time of operation from May through July of 2022, with the plant operating Monday through Saturday between 5AM and 9PM. Haul route maps are included in the packet.
- The applicants identify approximately 6,000 ton of manufactured sand will come from the Abnet Quarry in La Crescent as well as approximately 6,000 ton of natural sand from the Iverson Quarry in Allamakee County. They anticipate a maximum number of 120 loads per day between the quarry and project sites and 30-40 loads per day for material routes. You will see that North Kingston Street in the City of Caledonia was identified as a haul route on the enclosed maps, but the applicants have stated that is incorrect and they actually plan to utilize CSAH 3 out to Highway 44.
- The following materials will be kept on site (approximate):
 - Asphalt cement 30,000-60,000 gallons
 - Diesel Fuel 10,000 gallons
 - Burning Oil 15,000 gallons

- Tack 7,500 gallons
- Petroleum Lubricants 55-150 gallons
- Aggregate Material
- The applicant has a Spill Prevention Control Countermeasure Plan in place in accordance with 40 CFR part 112, Subparts A and B. In addition, emissions testing is completed on all plants and documentation was provided to show this plant meets MPCA standards.
- A similar plant was operated out of this location in 2016 and 2019. To the knowledge of current staff, no complaints were received regarding those operations.
- The plant will be located in the Gengler Quarry, approximately 55 acres in size. The site is accessed via County Road 32.
- There are three intermittent streams in the proximity of the proposed plant. Crooked Creek splits the quarry area and is a listed public water, which designates this area as shoreland. In addition, two unnamed tributaries conjoin with Crooked Creek in this vicinity. There is a berm between the access road and intermittent stream. Temporary asphalt plants are considered an industrial use, which is a conditional use within the shoreland zoning district. The DNR brought to the County's attention that Mathy needs to secure an industrial use conditional use permit in for activity in shoreland at this site and that will need to be complete before the interim use permit can be issued. This regulation was adopted in the local ordinance in November of 2018.
- There is floodplain and wetland along Crooked Creek.
- Mayville Township and the ten nearest property owners were notified. One comment was received.

Chairman Hammell asked the applicants if they had anything to add. Sam Costigan explained that Mathy was requesting to operate a temporary bituminous plant.

Rich Schild asked Amelia to explain why a Conditional Use Permit was also necessary. Amelia stated that it was brought by the DNR, after the Interim Use Permit was already in the works. When the shoreland ordinance was changed in late 2018 it's update included the fact that any industrial use within a shoreland district would require a Conditional Use Permit. They talked about it in 2019 and it was decided that they would deal with it the next time it came up. Amelia stated that because she was not aware of this prior to the application the Conditional Use Permit will be advertised and dealt with in the May Planning Commission hearing. The Conditional Use Permit will focus more on stormwater management and runoff, to ensure that the nearby trout stream is protected. The Conditional Use Permit will cover all of their future bituminous plant permits.

Rich Schild asked Amelia if it mattered which permit came first. Amelia stated that it did not matter and that she was proposing a condition be added that the Interim Use Permit would not technically be issued until the Conditional Use Permit is issued. The applicants would need to seek an Interim Use permit annually but the Conditional Use in shoreland will not need to be sought again.

Jim Wieser asked Sam if there was a mistake in the proposed haul route and stated that it includes the use of Oak St. in La Crescent but most likely should be following County 6 out to the lights. Sam stated that Jim Wieser was correct and they would be following County 6 to the lights and they would not be using Oak St.

Chairman Hammell asked if anyone else wished to speak.

Chairman Hammell asked that the Findings be read being there were no further comments.

Greg Myhre made a motion to bypass questions 5 and 13 that were not applicable. Jim Wieser seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The County Land Use Plan says to “Encourage the development of a transportation system which properly balances considerations of safety, accessibility, environmental protection and cost” (Section 0100.0510 Subd. 2, Policy 4).

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Scheduled projects on CSAH 1, 4, and 10 have a need for the temporary asphalt plant.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: Standard precautions required by State and Federal Law will be followed. As an added measure, operators receive specialized training for spill response. This quarry operation currently has a berm between the driveway and intermittent stream.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This use should not impact quantity of water runoff and berms will contain runoff within the existing quarry site.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: A Spill Prevention Control Countermeasure Plan is in place and maintained by educated and competent employees. Applicable air quality standards are met as well.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being

provided.

Staff Analysis: Proposed routes avoid township roads and city streets, which can be damaged by heavy traffic.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space within the quarry footprint for this use.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: For past projects, increased traffic loading on all routes utilized was not projected to impact traffic a significant amount. This will be a short-term operation. The haul routes identified make use of the most robust roadways available.

Board agreed to the finding by a unanimous vote.

10. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The nearest dwelling is approximately 2,900 feet away. Adjacent properties are quarries, woodland, and cropland. This temporary facility should not have an impact greater than the operating quarry in which it will be housed.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The predominant use in the area is agricultural cropland, which is not anticipated to be affected. In addition, this temporary facility should not have an impact greater than the operating quarry in which it will be housed.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The applicant identifies intent to reduce asphalt odor with odor suppressant and control fugitive dust with water. The measures proposed mitigate potential nuisances to the extent practical and are adequate given the relatively isolated location of the site.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: This temporary facility should not have an impact greater than the operating quarry in which it will be housed.

Board agreed to the finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The proposed location is appropriate due to distances to neighboring dwellings and presence within an existing quarry. The Spill Prevention Control Countermeasure Plan mitigates unforeseen threats to public's health, safety, morals, and general welfare to the extent practical. The proposed haul routes result in minimum wear on public road infrastructure, thus protecting the general welfare. Additionally, the applicant's previous work in the county has been conducted as presented and without incident.

Board agreed to the finding by a unanimous vote.

Larry Hafner made a motion to accept the findings as presented. Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion carried.

Greg Myhre made the motion to recommend the Houston County Board approve the Interim Use application for a Temporary Bituminous Plant in the agricultural district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Runoff from within the plant footprint shall be contained within the existing quarry floor.
4. Haul routes shall not include Kingston Street in the City of Caledonia or Oak Street in the City of La Crescent.
5. Permit expiration shall be December 31, 2022.
6. Permit shall not be issued until a Conditional Use Permit for industrial use in a shoreland district has been approved by the Board of Commissioners.

Rich Schild seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Larry Hafner made a motion to adjourn the meeting. Greg Myhre seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on April 29, 2022.

Houston County Planning Commission
May 19, 2022

Approved on July 28, 2022 by Jim Wieser and Greg Myhre

The Houston County Planning Commission met at 5:00 p.m. on Thursday, May 19, 2022. A summary of the meeting follows.

The meeting was called to order by Chairman Ed Hammell. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Josh Gran, Larry Hafner and Jim Wieser. Rich Schild and Greg Myhre, County Commissioner, were absent. Martin Herrick and Amelia Meiners were present for Environmental Services.

Jim Wieser made a motion to approve the minutes of April 28, 2022. Wayne Feldmeier seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 944 was read for applicant, **Mathy Construction**, 920 10th Ave N, Onalaska, WI 54650.

The Petitioner requests a Conditional Use Permit (CUP) to set up and operate a bituminous plant as an industrial use in the Gengler Quarry in Mayville Township. This request is specific only to activities taking place within the shoreland overlay district; there will be no change to their CUP for mineral extraction in the agricultural protection district. An interim use permit for the temporary bituminous plant was reviewed in April.

- The bituminous plant will produce asphalt for the CSAH 1, 4, and 10 projects in 2022, but this location is utilized every few years as needed. The bituminous projects generally operate for only a few months further authorized by interim permits that expire at the end of the respective years. These plants are set up in the existing rock quarry. There is no active quarrying within the shoreland overlay district of the Gengler Quarry, but it appears to be utilized for stockpiling material. The public hearing was advertised for both industrial use and mineral extraction as a safeguard, but staff recommend only making a decision on the industrial use. Sufficient application information was not provided to meet the minimum ordinance standards for mineral extraction and at a minimum, the applicants only need the CUP for the industrial use to operate the bituminous plant.
- The Houston County Zoning Ordinance (HCZO) defines shoreland as:
(39) Shoreland - "Shoreland" means land located within the following distances from public waters:
(a) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and
(b) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.
- Public waters are designated by the MN Department of Natural Resources (DNR) as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
- In November of 2018, a HCZO update was finalized which primarily included updates to the shoreland and floodplain districts. It is the understanding of staff that many of the requirements adopted at that time actually are a reflection of Minnesota Rule and the DNR was making an effort for all local codes to accurately reflect Rule to ensure regulations are applied consistently statewide. The shoreland district's purpose is *to identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality* (HCZO 22.4 subd. 2 (1)).

- A temporary asphalt plant is considered an industrial use within the shoreland district and this section of Crooked Creek is classified as tributary by the DNR. As you can see in the table below, industrial use and mineral extraction are both considered conditional uses.
- *(23) Industrial use - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.*
(19) Mineral extraction - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, soil, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51. Excavation for the purposes of residential, commercial, or industrial development or land alterations for agricultural purposes shall not be considered mineral extraction.
- Mathy Construction has an MPCA Stormwater Pollution Prevention Plan (SWPPP) for this site to address the prevention of soil erosion and pollution of public waters. This section of Crooked Creek does not see watercraft usage, however there is an active fishing easement (see Fig. 1) running through the quarry. All water is hauled to the site and there is no on-site sewage treatment. The scale house is the only permanent type structure present and lies within the 100-foot setback distance, but is considered a non-conforming use (see citation below). No new structures are proposed, but plant equipment must also meet the setback requirement.
- Bituminous plants require locations for stockpiling materials and to place equipment. While the applicants will identify the general plans for locating stockpiles and equipment for this particular asphalt plant, it should be understood that different plants may require different set ups. Mathy Construction feels the 100-foot setback is achievable for future operations. It is proposed that County Staff will administratively review and approve any proposed equipment location changes during future interim or building permits to ensure shoreland and floodplain regulations are met.
- Mathy Construction identifies that all best management practices to manage stormwater from the bituminous plant will be utilized. A berm currently exists between the access road and stream and other berms/barriers will be used to manage storm water from the plant. A culvert runs under the quarry floor directing flow from the incoming intermittent stream from the north. There is no proposal to remove or alter existing vegetation along the stream.
- Remember that the following materials will be kept on site for the current proposal (approximate):
 - Asphalt cement 30,000-60,000 gallons
 - Diesel Fuel 10,000 gallons
 - Burning Oil 15,000 gallons
 - Tack 7,500 gallons
 - Petroleum Lubricants 55-150 gallons
 - Aggregate Material
- The applicant has a Spill Prevention Control Countermeasure Plan in place in accordance with 40 CFR part 112, Subparts A and B. In addition, emissions testing is completed on all plants and documentation was provided to show this plant meets MPCA standards.
- Similar plants were operated out of this location in 2016 and 2019. To the knowledge of current staff, no complaints were received regarding those operations.
- **The DNR has requested additional information from the applicants (see comments) and it may be the position of the Planning Commission that until adequate information has been provided a decision cannot be made.**
- The Gengler Quarry, approximately 55 acres in size. The site is accessed via County Road 32.
- There are three intermittent streams in the proximity of the proposed plant. Crooked Creek splits the quarry area and is a listed public water, which designates this area as shoreland. The shoreland district extends 300 feet the stream or the landward extent of floodplain. In addition, two unnamed tributaries conjoin with Crooked Creek in this vicinity. There currently is a berm between the access

road and intermittent stream and a culvert directs the flow from the intermittent stream entering from the north under the quarry surface.

- There is floodplain and wetland along Crooked Creek.
- Mayville Township and the ten nearest property owners were notified. Comments were received from the DNR and are included in the packet.

Amelia stated that an additional information packet was given to the Planning Commission and was provided by Patrick Paulino, in response to comments made by the DNR. This Conditional Use Permit is only in regards to the industrial use in the shoreland overlay district. The existing roads and the scale house are considered legal nonconforming and the setbacks that we are discussing today will not apply to those buildings.

Chairman Hammell asked the applicants if they had anything to add. Sam Costigan of Mathy Construction Company explained that there is a 100 ft setback requirement from the edge of the stream. Our plant will sit outside of that boundary as required to comply with this permit. As far as the conditions surrounding the asphalt plant, we have our own MPCA permit that regulates stormwater.

Samantha Kaster of Mathy Construction Company stated that they have concerns about some of the proposed conditions. Our MPCA stormwater permit is fluid based on water sampling. We need to be able to change BMPs depending on water sampling results to fix any possible exceedances. We need to be able to have the fluidity to adjust BMPs and we have an engineer and a geologist on staff to handle those changes. We hesitate to put conditions in place that will dictate to those BMPs when we may need to change them based on our nonmetallic mining and associated activities permit for stormwater. For proposed condition number 3 our permit allows for discharge of stormwater to a trout stream for an asphalt plant. We can put a berm around it if required. We have some sedimentation basins and rip rap to slow down the flow. We have to do water samples every year to make sure we are within the limits. We are required to use certain BMPs so we don't increase the temperature of the trout stream. Amelia stated that the language in number 3 was also included on the Interim Use Permit and since that hasn't been reviewed by the Board of Commissioners yet it is possible to ask the Board to modify the condition before granting the Interim Use Permit.

Brief discussion on changing the verbiage of proposed condition number 3 was discussed.

Chairman Hammell asked if there were other conditions that didn't fit. Samantha discussed the other proposed conditions that were not really necessary. Amelia stated that the DNR asked for the additional conditions and stated that while they do not have any issue with the permit this is a rare opportunity for them to impose conditions.

Jim Wieser stated that number 4 asks for an elevation survey, but it looks like we have one on hand. Amelia stated that the elevation survey provided is our data. Samantha asked if the floodplain in number 4, was referring to the regular high-water level or the 100-year flood. Samantha stated that we can definitely supply a drone survey of the site. Martin explained that by asking for the elevation survey we are looking for current conditions. Sam stated that we can provide a current conditions elevations report. Amelia stated that the blue shading is floodplain, but looking at our LIDAR data it's uncertain if the quarry floor is in floodplain. Our floodplain regulations state that anything placed within floodplain has to meet state requirement which is one and a half feet above that base flood elevation. We are asking for the survey so we can actually see what our baseline data is so we can make a determination for future permits. Chairman Hammell asked if this meant that the asphalt plant itself can't be set below the floodplain. Amelia stated that the ordinance requires that any structures be

adequately anchored. A lot of the equipment is roadworthy and mobile if there was ever a need to do so. Sam stated that if the plant needed to be moved due to flooding, they could have it moved in 6 hours. Proposed condition number 5 is a problem because we can't anchor the plant. If we ever felt that it was going to flood it would be in our best interest to move the plant.

Amelia stated that they have a conservation easement that dictates their ability to place rip rap. Martin stated that on condition number 1 we could include that they must comply with their conservation easement.

Samantha stated that proposed condition number 6 also falls within MPCA permitting. Chairman Hammell stated that if the MPCA is already regulating this we don't need to have additional conditions.

Wayne Feldmeier asked how long the plant would be there. Sam stated that they hope to use it there for one month.

The DNR comment was discussed briefly.

Samantha stated that proposed conditions 7 and 8 are also covered in the MPCA permit. Amelia stated that the regulations of the MPCA are not well known by the DNR and that is why they proposed these additional conditions.

Chairman Hammell asked that the Findings be read being as there was no one present to comment.

Jim Wieser made a motion to bypass questions 5 and 13 that are not applicable. Larry Hafner seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The County Land Use Plan says to "Encourage the development of a transportation system which properly balances considerations of safety, accessibility, environmental protection and cost" (Section 0100.0510 Subd. 2, Policy 4).

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Mathy utilizes the Gengler Quarry every few years as a temporary asphalt plant to complete local infrastructure projects. The location that has historically been used is within the shoreland overlay district.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: Mathy Construction asphalt plants have a Spill Prevention Control Countermeasure (SPCC) plan in place in accordance with 40 CFR Part 112 Sub Parts A & B and a Stormwater Pollution Prevention Plans (SWPPP) on file with the MPCA. Standard precautions required by State and Federal Law will be followed and operators receive specialized training for spill response. Berms and barriers and various forms of filtration will be used to manage storm water from the asphalt plant area. In addition, regular stream monitoring takes place due to the stream easement and has not identified major noncompliance.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

The Board modified this finding due to regulations required by the applicant's MPCA permit.

Staff Analysis: This use should not affect the quantity of water runoff and stormwater discharge will be monitored to comply with existing MPCA discharge limits.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

The Board modified this finding due to regulations required by the applicant's MPCA permit.

Staff Analysis: All water that hits the quarry floor is contained within the quarry or released according to MPCA standards. Storm water pollutions prevention plans have been filed for this site to prevent nonpoint source pollution.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: Portable sanitary facilities and dumpsters for solid waste are used and serviced as needed for the duration of the project. This proposal does not include constructing new access roads. The existing access road is considered non-conforming and cannot be modified without meeting new floodplain and shoreland standards. Equipment is required to meet necessary setbacks and floodplain requirements.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space within the quarry footprint for this use. Floodplain elevation

requirements and shoreland setback requirements need to be achieved.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: For past projects, increased traffic loading on all routes utilized is not projected to impact traffic a significant amount. No new access roads will be constructed with this proposal and the existing roads are considered non-conforming.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The proposed use will not be more intrusive than the underlying use of the property. There is a DNR Aquatic Management Area Conservation Easement running through the quarry and the purpose of the shoreland district is to protect the environment and water quality. As discussed previously, current SPCC and SWPPPs in place for the underlying operation will also address concerns that may be injurious to this water resource.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The underlying operation is an aggregate quarry within the agricultural protection district. There is no proposed change to that operation. This CUP is for temporary bituminous operations to be placed within the shoreland overlay district that function out of this site every few years. The establishment of this CUP will not change the underlying operation and will allow the continued operation of a temporary use that has historically been allowed in this location.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The applicant identifies intent to reduce asphalt odor with odor suppressant and control fugitive dust with water. The measures proposed mitigate potential nuisances to the extent practical and are adequate given the relatively isolated location of the site.

There was brief discussion about the hours of operation.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: This temporary facility should not have an impact greater than the operating aggregate quarry in which it will be housed.

Board agreed to the finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The proposed location is appropriate due to distances to neighboring dwellings and presence within an existing quarry. The Spill Prevention Control Countermeasure Plan mitigates unforeseen threats to public's health, safety, morals, and general welfare to the extent practical. The proposed haul routes result in minimum wear on public road infrastructure, thus protecting the general welfare. Additionally, the applicant's previous work in the county has been conducted as presented and without incident.

Board agreed to the finding by a unanimous vote.

Larry Hafner made a motion to accept the findings as modified. Wayne Feldmeier seconded. All were in favor. Motion carried.

Amelia reviewed the modified proposed conditions with the Board.

Wayne Feldmeier made a motion to approve the conditions as modified. Jim Wieser seconded. All were in favor. Motion carried.

Amelia stated that because this was also advertised for the industrial use and mineral extraction in a shoreland district she wanted to clarify that tonight's hearing is only to recommend approval for the temporary bituminous plant as an industrial plant in the shoreland district.

Wayne Feldmeier made the motion to recommend the Houston County Board approve the Conditional Use application for a Temporary Bituminous Plant as an industrial use in the shoreland district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations, including DNR conservation easement and MPCA permit regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Runoff from within the plant footprint shall be in accordance with discharge limits on MNG49 Permit #0081.
4. A survey shall be provided verifying elevations of the existing quarry floor in relation to the mapped floodplain elevations. The survey shall show elevations of the quarry floor, including the low areas of the quarry near the riprap filtration basin and the top of the berms

(as BMPs) along Crooked Creek. This will provide a baseline for the site and future bituminous plant requests.

5. All equipment shall be portable and removed in the case of a flood.
6. Mathy staff shall submit any changes to proposed equipment placement with future permit applications for review and approval to ensure shoreland setbacks and floodplain regulations are met.

Jim Wieser seconded. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

There was brief discussion on the land use plan.

Larry Hafner made a motion to adjourn the meeting. Wayne Feldmeier seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on May 20, 2022.

Houston County Planning Commission
July 28, 2022

Approved on August 25, 2022 by Greg Myhre and Rich Schild

The Houston County Planning Commission met at 5:00 p.m. on Thursday, July 28, 2022. A summary of the meeting follows.

The meeting was called to order by Vice Chairman Larry Hafner. Roll call was taken. Members present were Wayne Feldmeier, Ed Hammell, Larry Hafner, Rich Schild, Josh Gran and Jim Wieser. Greg Myhre, County Commissioner, was present. Martin Herrick and Amelia Meiners were present for Environmental Services.

Jim Wieser made a motion to approve the minutes of May 19, 2022. Greg Myhre seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 945 was read for applicant, **Edward and Janice Hammell**, 20455 Bluebird Rd, Caledonia, MN 55921.

The petitioner is requesting a conditional use permit for an agricultural oriented business in the agricultural protection district.

- The applicant is looking to run a welding and fabricating shop to include the repair and fabricating of agricultural equipment, miscellaneous welding and sign cutting. This business will take place out of a building that is in the process of being constructed. In March of 2021, the Board of Adjustment granted a variance of 36 feet to allow placement of an accessory building 33 feet from the centerline of Bluebird Road and a variance of 20 feet to allow placement of an accessory building 80 feet from CSAH 14. Upon receipt of the variances, Permit #5029 was issued on 4/15/2021 for the shop.
- MN DOT identifies 210 trips per day on CSAH 14. Bluebird Road is a dead-end township road with one other permanent residence, one recreational property and provides one other landowner access to tillable acreage. Surrounding properties are operating farms or small rural residential acreages. Two neighbors within a mile and a half operate businesses out of their properties. The applicant does not anticipate more than one to two customers per day and plans to have varying hours of operation between 6AM and 6PM.
- There were two different options in respect to operating this business on a homestead. One is a conditional use permit and the other would be an interim permit for a home occupation. The applicant desires to seek a CUP, which would allow his children to continue to operate the business, as proposed, in the future without additional permitting. There are no plans to hire additional employees.
- There may be storage of equipment outside such as skid steer attachments and a pickup and trailer.
- The subject parcel is 1 acre in size and is part of 490 continuous acres under the same ownership. An existing dwelling built in 1983 is located on the parcel. Multiple public roads divide the contiguous acreage, resulting in an area bounded by public roads around the dwelling of approximately 20 acres.
- Permitting and construction of the proposed building has already begun. Bluff standards are met and soils are not relevant to this proposal. There are no floodplain, wetland or shoreland concerns. There is an intermittent stream directly below the site and two others approximately a quarter mile away in the westerly ordinal directions.
- Notice was sent to Jefferson Township and the ten closest neighbors. No comments were received.

Vice Chairman Hafner asked Ed Hammell if he had anything to add. Ed stated that he has been welding for the farm all of his life but now he will be operating a welding business consisting of fixing trailers, building skid steer attachments and other stuff. He stated parking is limited in the front but he has more parking along Bluebird Road. Ed stated that he may have an unlighted sign on the side of the building.

Vice Chairman Hafner asked if anyone else wished to speak.

Vice Chairman Hafner asked that the Findings be read if there were no additional questions or concerns.

Chairman Hammell abstained due to the hearing being his own.

Jim Wieser made a motion to bypass questions 5, 9 and 13 that are not applicable. Rich Schild seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Land Use Plan identifies prioritizing agriculture and its supporting industries. In addition, this use is being proposed on an existing homestead on ground that is outside of environmentally sensitive areas and off prime agricultural ground.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant identifies there is a continuous need for repair of equipment in farming operations.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: This proposal will not include the addition of any new structures; it simply consists of allowing a business at an existing site. There will be no wastewater or pollutants generated.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This proposal will not include any new activity or structures as the shed has already been permitted.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: There will be no wastewater generated from the shop building and welding generally does not generate a pollution hazard.

Rich Schild asked Ed if he paints a lot of stuff. Ed stated that he does some painting but he will not have a paint booth and that he does do a lot of brush painting.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: All necessary utilities are currently present at the site and drainage from the building was addressed during the variance process. Any new utility requirement will be the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: The applicant feels that the parking area in front of the shop will be adequate to meet the needs of the business.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: Surrounding properties are primarily residential or agricultural in nature. This use will largely mimic activities that place on an active farming operation.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: Surrounding property available for development is primarily agricultural and this business proposal will not impede orderly development for agricultural or residential uses.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: Besides family, the two closest dwellings are over a quarter mile away. While welding generates noise and fumes, it will be limited to the immediate vicinity of the building. No lighted signs are proposed.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: This proposal is for a commercial operation to take place within an existing structure. The location is amongst family farms, one which belongs to the applicant, and this activity will likely not be more intense than the surrounding agricultural uses.

Jim Wieser requested that language in the staff analysis be changed from commercial operation to agricultural oriented business

Board agreed to the corrected finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: There is no anticipated effect on the public's health, safety, morals, and general welfare.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

Rich Schild stated that if the County is going to encourage agriculture we need to help ag businesses get started.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application for an agriculture oriented business in the agricultural protection district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.

2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Wayne Feldmeier seconded. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 946 was read for applicant, **Karen Lawstuen**, 105 Norway Dr, Lanesboro, MN 55949.

The petitioners are requesting a Conditional Use Permit to place a cabin in the agricultural protection district of Black Hammer Township.

- This is a 53.08-acre parcel in Black Hammer Township. A majority of the parcel is tillable acreage, but the south boundary includes a strip of timber. There are no cabins located on adjacent property within this quarter-quarter. The applicant has cleared some of the timber at this location and the slopes are under 12% grade. Soils in the proximity are primarily 103C2, a Seaton silt loam, and on the boundary of 580D2, another silt loam. Both recommend designing structures to fit the natural slope of the land. The property is accessed from Kyseth Road, which adjoins the property in the northeast corner. An access road will be constructed down the western boundary of the property through what is currently field. The driveway will meet all standards.
- There are two dwellings about 2,500 feet from the proposed location. One is to the north and the other the west.
- Riceford Creek is approximately 375 feet east of the proposed location. That puts this site outside of the shoreland district. In addition, it is outside of floodplain and there are no wetland concerns. The cabin will meet property line and top of bluff setback requirements. There is an intermittent stream approximately 500 feet to the south.
- It should be noted that Beacon property lines are not correct for this parcel. There is a survey corner off in this area that shifts the parcel west about ten feet on the south end to almost 30 feet on the north. In addition, the north property line should start at the center of the township road.
- Upon receiving public comments, staff looked into the property boundary in question with assistance from the Surveyor's Office. The deeds for both properties are consistent and reference a "southwesterly" line. Beacon has this mapped relatively correctly (see paragraph above). There is no evidence to support the property line indicated on the FSA map and the USDA includes a disclaimer stating that deeds were not referenced in creation of maps. The legal description on the neighbor's RIM easement is consistent with the deeds as well. The cabin location is currently 70 feet from the "southwesterly" property line.
- Notice was sent to Black Hammer Township and the ten closest property owners. Two comments were received and are included in the packet.

Chairman Hammell asked the applicants if they had anything to add. John Lawstuen stated that they would like to place a cabin on some land that his wife Karen owns. The cabin will be 14 feet by 25 feet. The cabin will be on 1½ inch rock with pavers underneath to protect the skids. The tillable acreage is rented out.

Chairman Hammell asked if anyone else wished to speak. Beverly Burand and Johnny Micheel co-owners of neighboring land expressed concern about preserving the natural habitat of the area. Beverly stated that she would like to be sure that setbacks are met and would like to see a survey completed. Johnny stated want to protect the bluff and their parcel is in a conservation easement called RIM. He is a private lands forester and is concerned that cabins are popping up all over. He stated that he originally had concerns about the property borders, but those concerns were eased after speaking with Zoning staff.

Larry Hafner asked how close to the property line the cabin would be. John stated that it would be at least 70 feet from the property line. Amelia stated that they were well over 40 feet from the top of bluff setback. John stated that the driveway would boarder Nelson's property.

Rich Schild asked the neighbors if they had other concerns. Johnny expressed concern that in the future the cabin could be rented out as an Airbnb if the property were to change hands. Chairman Hammell asked if it would be possible to have a condition that would allow for private use only. Martin stated it was an option. Beverly stated that would ease her concerns. John and Karen Lawstuen did not object. Amelia stated that the cabin could not be used as an Airbnb and that would require a different kind of permit.

Greg Myhre made a motion to bypass questions 8, 9, 12, 13 and 14 that are not applicable. Wayne Feldmeier seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Plan references limiting development in agricultural areas. This proposal has limited impact on tillable acreage.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant indicates the cabin is intended for recreational use. Since this parcel is primarily tillable the applicant's do not utilize it much and would like to spend more time there. This demonstrates a need for the proposed use to the extent possible for this type of request.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: Any effects on water quality resulting from the placement of a cabin are anticipated to be negligible. There is no wastewater system requirement for cabins, but the applicant's identify they will use a porta potty. This will need to be pumped by a licensed maintainer.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The cabin footprint is minimal, and is not anticipated to have an effect on quantity of water runoff.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: The soil survey indicates that soils at both sites can accommodate buildings, but should conform to the natural slope of the land.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: There are no anticipated pollution hazards.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: No utilities are proposed. Access is from the township road from which there is an existing field access.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: NA

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: NA

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The parcel is located at the end of Kyseth Drive. There is one rural residential dwelling within a half-mile and one farmstead. Note that Hidden Bluffs Campground is within a mile of the proposed location. The addition of a cabin will increase the use of Kyseth Drive, but is not anticipated to negatively affect the use of neighboring properties.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The predominant land use is agriculture and forest, the continuation of which will not be impacted by a cabin. Much of the property north of Riceford Creek is tillable acreage with small amounts of woodland. Then there is a great deal of bluff and conservation program land to the south and east in proximity to Riceford Creek. The Zoning Office does not know of any new developments proposed in this area and a cabin should not impact neighboring landowner's ability to utilize their property for existing uses.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: NA

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: NA

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: NA

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: Public health, safety, morals, and general welfare are not anticipated to be impacted.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application for a cabin in the agricultural protection district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Cabin shall be for private use only.

Rich Schild seconded. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 947 was read for applicants, **Joseph Rud and Craig Helke**, 524 Enterprise Dr, Caledonia, MN 55921.

The Applicants request to amend the zoning map to change a portion of parcels 03.0128.000 and 03.0128.002 from Agricultural Protection District to Highway Business District.

- The applicants proposed a rezone in order to obtain a conditional use permit to operate an agricultural orientated business in a highway business district
- The project will raze all of the existing structures and change the egress from State Road 44 to Angus Drive.
- An application for rezoning the parcel to Highway Business district from Agriculture Protection District was submitted on June 18, 2022. Additionally, the applicant has an outstanding application for a conditional use permit in the Agriculture Protection District. Consequently, the conditional use permit is predicated on the corresponding rezoning being approved.
- In the previous application for a conditional use permit in the Agricultural Protection District the following comments were received in writing and in person:
 1. Potential for decreased property values.
 2. Screening for site activities.
 3. Storage of parts and/or junk outside.
 4. Signage.
 5. Lighting.
 6. Well & Septic upgrades.
 7. Roadway surfacing and long-term responsibility.
 8. Number of employees.
 9. Surface water management and protection of the Crooked Creek Watershed.
 10. Seeding open areas and control noxious weeds.
 11. Business relocation or new venture.
 12. Ultimately commercial zoning and status of both parcels.
 13. Highway 44 egress.
 14. Meeting the definition of agriculture orientated business.
 15. Potential to become a trucking terminal.
 16. Traffic management.
 17. Eyesore and community presence.
 18. Project support from an adjacent land owner based on the need for farm related repair facilities.
- Additional comments were recorded during the February 24 and March 24, 2022 hearings on the conditional use permit application for an agricultural orientated business in an agricultural protection district.
- The site relief will not inhibit the proposed CUP activities. The site soils in the proposed development are characterized as Seaton Silt loam with a capability rating of III e. The existing infrastructure located on the site will be razed. The development will disturb greater than 1 acre of land with an estimated .4 acre of tillable acreage being used. A small portion of the parcel is designated commercial from a 9/11/1969 zoning action.
- Caledonia Township and the ten nearest property owners were notified. Multiple comments were received.

Chairman Hammell asked the applicants if they had anything to add. Tim Murphy, representing Craig Helke and Joe Rud, explained that his clients have requested to rezone the property from ag to highway business. The building will be 125 by 200 feet which is smaller than the previously requested size. They have requested an extension on the previous request for a Conditional Use Permit to operate an ag oriented business in an ag district. The property has a small portion (0.6 acres) that was once rezoned to highway business. An auction company and a nursery are allowed to operate their businesses in the ag district within a half a mile of this property. Jim Wieser asked why they are requesting 6 acres. Tim stated that the facility will need parking, erosion control, berms and fencing. Jim Wieser stated that he has concerns about future buildings being added on the 6 acre parcel. Rich Schild stated that screening and buffers will take up some of the space. Tim stated that they will need the space to meet MPCA standards. Larry Hafner asked what highway business district offers vs the agricultural district. Tim stated the highway business district is broader as far as what is allowed. Larry Hafner asked Tim what specific concerns would be alleviated by rezoning the property. Tim stated that the highway business district has a broader definition that will mitigate issues concerning the agricultural business operations.

Chairman Hammell asked if anyone else wished to speak. Neighbors Joe Welch, Mike Jergenson and Dan Klug came forward to speak. Mike asked if this is grandfathered in because it was once a TV repair shop. Chairman Hammell stated that this is a separate issue. Joe stated that they have submitted a petition containing 69 signatures in opposition to this application. He stated spot zoning this will cause problems with a mix of uses in the same area. He commented that soil types contained in this parcel are types the County is trying to protect. He raised concerns about changing weather patterns and larger flooding events. He spoke of the beauty of this area being compromised by the use of spot zoning and noted the development of neighboring counties. He questioned how this will impact the township road. He asked if there will be outside storage. He stated that the application was vague. He stated that rezoning this to highway business will be less restrictive. Mike, Joe and Dan raised concerns about traffic due to the current speed limit and semis turning off of the highway. Rich Schild asked if semis turning into that business will be more dangerous than ag equipment. Dan stated this will intensify accidents. Chairman Hammell asked how many trucks would be entering per day roughly. Craig said about five to ten. Larry Hafner stated that we have to make this decision based on the pros and cons of the application highway safety is the responsibility of the State. Mike asked if the proposed business being in the center of three residences is being considered.

Randy Mell a Caledonia resident and former forester raised concerns about ground water contamination from brake fluid, antifreeze and oil. He stated that four tenths of an acre will no longer be permeable and within a 1-mile range of the site there are 17 private wells and a subdivision that could possibly be endangered. He stated if this is rezoned there will need to be major conditions placed on it and questioned if County will have the ability to enforce them.

Larry Hafner asked Martin to review the previous Conditional Use Application and the current status. Martin reviewed it and stated that the applicants have requested an extension of the time the Board of Commissioners has to rule on the previous request pending the outcome of this application. Martin stated if the Board of Commissioners do not make a ruling on the previous application by September 1st the application will be automatically approved. Larry Hafner stated that this is a valuable and needed service, but we are trying to find the best place for it and regardless of where this is built there will be potential pollution hazards. Rich Schild stated that the highway issues have absolutely nothing to do with this application and the highway should be fixed if there are safety concerns. Tim stated there is no other location. Joe brought up his offer to trade six acres of land

within the city limits on County 12 for the 12 acres on HWY 44 owned by the applicants. Tim passed out copies of the correspondence between the applicants and Joe concerning the land swap. Tim, Martin and Amelia discussed the current moratorium in the City of Caledonia on all activities in the agricultural district. Tim stated that there are no services on Joe's property. Tim stated that there is no land available near their current business. Craig explained the structure of his business and stated that offering six acres for 12 acres is an insult. Larry Hafner stated that there should be an easier place that could be rezoned other than this in the middle of a residential area. Larry stated that this is a necessary service, but it is hard to approve with a close residential community surrounding. Chairman Hammell stated that it is really not a residential area just because you have three homes close by. It is still a rural area. It is not a subdivision. It is still ag land and it can be used for more than homes. Justin stated that there are always going to be neighbors. Richard Leary stated Angus Dr. is cattle country and water runoff will go through Alan Esch's land where there is a big sinkhole. Rich Schild stated we need to make a decision on this and if we don't it will pass by default. Josh Gran asked if a farmer purchased this property and wanted to build a 25,000 square foot building strictly for his farming operation. Would it be a done deal already? Martin stated that it probably would be. Tim stated that this created jobs and opportunities. He said no one wants to see our environment harmed. Dan said there were a bunch of conditions placed on the previous CUP, but can the County enforce them. Rich Schild explained that the Planning Commission is only a recommending body and the Board of Commissioners has the final say regarding granting, denying and final conditions placed. Chairman Hammell said I was the first hearing tonight and sought the same Conditional Use without any objections; granted my business is smaller. He continued stating this is not just an ag County, we need to promote businesses too. Rich Schild questioned the order of granting the applications. Martin explained that the Conditional Use hearing would not be heard if the rezone was denied. He stated that the previously recommended Conditional Use Permit would go to the Board of Commissioners for their decision. Tim stated one of the reasons we went this route was that we want to make this right. Joe stated that rezoning this opens it up to be less restrictive. Tim stated that we don't want to deal with people reporting us for not doing enough ag business. Rich Schild agreed that we don't need people complaining about the type of service they are providing ag vs other. Tim stated that they do not want to be arguing with the neighbors forever. Dana Klug asked if there would be approved plans for the highway traffic. Martin stated that we have a ruling from MN DOT stating that they will not allow access on the highway. Josh Gran asked for the record if Craig would explain why they can't build in town. Craig stated that there is no room to build the facility and the ground around it is steep. Joe asked Craig why he doesn't build it on the 160 acres he owns near his home. Craig stated that there are no other businesses near his place and this is near other businesses. Josh Gran stated it is not realistic to dictate to a land owner that they need to seek a new land to because of opposition to their application. The Planning Commission discussed with Dana the slope of the current site.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

(SA= Staff Analysis)

Section 8.6 of the Houston County Zoning Ordinance requires that the Board make findings in support of a decision, but does not prescribe specific criteria. The following findings are proposed by staff for your consideration. Please consider formulating additional findings as you see fit.

1. A 1969 rezone changed a 120-foot by 220-foot area from A-1 Agricultural Protection to B-1 Highway Service Business. This is essentially an expansion of an existing Highway Business District.

2. The property at 11489 State 44 is zoned Highway Business District. This is just over a half mile further from the City of Caledonia than the parcel considering rezoning.
3. CLUP (Comprehensive Land Use Policy) 0100.0506 subd. 2 policy 1 provided that development should be located near cities where services can be provided. The location is approximately one mile from the City of Caledonia.
4. One business occupied the B-1 Highway Service Business District since the rezone in 1969.

Josh Gran shared that the City of Caledonia is currently building the new sewer plant near his home and he would rather see that land stay a field. He said that he understands the neighbor's frustrations, but stated it is really hard to find land to build.

Chairman Hammell stated this is close to Caledonia and a business district close to Caledonia makes sense. It doesn't seem like it's going to be an issue where every precedent following this is going have to follow this as everyone comes up individually and can be looked at that time. It makes sense to have it where it is.

Rich Schild stated that this is a vital business and there is never going to be a perfect location where everyone will be happy. I truly think this is best.

Chairman Hammell explained that the only thing we are voting on right now is if it is ok to have a business district rezoned in this spot.

Chairman Hammell called for a roll call vote on the findings.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		
James Wieser	X		

Larry Hafner made the motion to recommend the Houston County Board approval to rezone an area from agricultural protection district to highway business district.

Jim Wieser seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		

Rich Schild	X
James Wieser	X

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 948 was read for applicants, **Joseph Rud and Craig Helke**, 524 Enterprise Dr, Caledonia, MN 55921.

The applicants are requesting a conditional use permit to construct a steel framed building with concrete surfaces on the north and east sides of the building. The facility will be used to repair agricultural equipment, including repair of machinery, semi-trucks and trailers used for agricultural purposes. Work will be performed within the building. The primary goal is to serve the agricultural community.

- The conditional use permit is requested under Houston County Zoning Ordinance (HCZO) 16.3 Subdivision 1. (1) Conditional Uses (1) Agriculture Oriented Business. In the Highway Protection District, the Agriculture Oriented Business may be allowed only after obtaining a Conditional Use Permit in accordance with the provisions of Section 6 Conditional Use Permits.
- The project will raze all of the existing structures and change the egress from State Road 44 to Angus Drive.
- An application for rezoning the parcel to Highway Business district from Agriculture Protection District was submitted on June 18, 2022. Additionally, the applicant has an outstanding application for a conditional use permit in the Agriculture Protection District. Consequently, the conditional use permit is predicated on the corresponding rezoning being approved.
- In the previous application for a conditional use permit in the Agricultural Protection District the following comments were received in writing and in person:
 1. Potential for decreased property values.
 2. Screening for site activities.
 3. Storage of parts and/or junk outside.
 4. Signage.
 5. Lighting.
 6. Well & Septic upgrades.
 7. Roadway surfacing and long-term responsibility.
 8. Number of employees.
 9. Surface water management and protection of the Crooked Creek Watershed.
 10. Seeding open areas and control noxious weeds.
 11. Business relocation or new venture.
 12. Ultimately commercial zoning and status of both parcels.
 13. Highway 44 egress.
 14. Meeting the definition of agriculture orientated business.
 15. Potential to become a trucking terminal.
 16. Traffic management.
 17. Eyesore and community presence.
 18. Project support from an adjacent land owner based on the need for farm related repair facilities.
- Additional comments were recorded during the February 24 and March 24, 2022 hearings on the conditional use permit application for an agricultural orientated business in an agricultural protection district.

- The site relief will not inhibit the proposed CUP activities. The site soils in the proposed development are characterized as Seaton Silt loam with a capability rating of III e. The existing infrastructure located on the site will be razed. The development will disturb greater than 1 acre of land with an estimated .4 acre of tillable acreage being used. A small portion of the parcel is designated commercial from a 9/11/1969 zoning action.
- Caledonia Township and the ten nearest property owners were notified. Multiple comments were received.

Chairman Hammell asked the applicants if they had anything to add. Tim Murphy, representing Craig Helke and Joe Rud, asked that the previous hearings be made part of the record and that it be noted that the building will be downsized from the previously submitted condition use application. Josh Gran asked how their business would be affected by changing the size of the building. Craig explained that they decided to downsize in an effort to work with the neighbors. He stated that the original application took into consideration the projected 40-year growth of the business. He stated the smaller footprint will bring down the height of the building and make it easier to heat. Chairman Hammell asked if they would need to expand the building in the future. Craig said he does not see that happening.

Chairman Hammell asked if anyone else wished to speak. Dan Klug asked what effect this will have on towns as other businesses will see this as an opportunity to build in the country. Dan spoke about the importance of the scenic views of the country side. Chairman Hammell stated that towns are constantly expanding and subdivisions are growing. Josh Gran countered that if a farmer bought it and built the same size shed would you be ok with it? Dan stated that this was a hobby farm. Joe Welch stated the biggest impact is going to be the environment. Joe questioned the type of use of the operation and stated that the application is vague. Joe stated this needs to have enforceable conditions.

Evonne Krogstad stated that there is a petition with 69 signatures and I think you should listen to some of the other people.

Rick Frank asked will there be vehicles brought in from the outside to be salvaged for parts. Craig stated if we need parts and can't find them then we will buy trucks to disassemble. Rick stated that salvaging is not permitted in a business district. Josh Gran stated that he works for a large trucking company and we do whatever we can to get parts. Rick stated salvaging is salvaging whether it is inside or outside the building. Greg Myhre stated that there will be conditions to handle this. Rich Schild asked if it is ok for a farmer to have two junk combines for parts. Rick stated that is permitted in the ag district. Ed Hammell asked Craig if they can still salvage in the current location. Craig stated they can. Kim Klug said why move the business then; keep it where it is at. Richard Leary stated that they say everything is going to be inside, but two trucks sat out there all winter long. Dana Klug asked if the conditional use permit can be pulled if they are not following the conditions. Martin stated that it can be. Dana asked who will enforce the conditions and who will monitor the water. Amelia stated that it is a complaint driven system and if the Board wants to add a condition to inspect it they can. Larry Hafner asked what do we do about that if salvage is not an allowed in the highway business district. Josh Gran asked if you cannot see the salvaging going on what is the issue; the use itself is not salvaging. The business itself is not salvaging. If you do one thing one time to service your customers I think that's being a good business owner not a salvage yard. The conditions don't permit them to salvage outdoors. Larry Hafner asked if their business model was changing. Craig stated that they don't buy wrecked trucks to fix them anymore. Chairman Hammell stated that the reason salvage yards are not allowed in the highway business district is because junk vehicles get piled up outside. There was further discussion about salvage yards and it was determined that they could still salvage parts at their

current location. Board discussed a condition that would prevent the dismantling of trucks in the new building and no trucks for sale will be parked outside on the property.

Chairman Hammell asked that the Findings be read if there were no additional questions or concerns.

(SA= Staff Analysis)

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: When the requirements are met, a conditional use permit provides a mechanism for establishing an agricultural orientated business in a highway business district that conforms to Houston County's Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant proposes to repair agricultural equipment, including repair of machinery, semi-trucks and trailers used for agricultural purposes, which is a legitimate need.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: With adequate surface water control and a properly constructed and operated SSTs for managing septage the water quality will not be compromised.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The proposed high percentage of impermeable surfaces and structures will require adequate surface water management, including construction, operation, possible treatment, energy dissipation and infiltration to reduce surface water runoff.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: The soil bearing capacity is adequate for the proposed structure. The soils can be compacted and graded for the proposed roadways. Additional surface water management features can be incorporated to enhance the site's infiltration capability.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: While an erosion control plan in HCZO Section 24 is required, the primary pollution from sediment loading will be addressed in the MPCA permitting requirements because greater than 1 acre is being disturbed. The facility is proposing that all activities will be performed indoors including management of solvents, degreasers, fuels and lubricants. Additionally, new construction materials and methods have substantially improved energy efficiencies and waste minimizations.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: The proximity to existing structures and the City of Caledonia likely lends itself to accessing gas, electrical and other utilities. Adequate frontage exists with gentle slopes allowing access to Angus Drive.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: There is adequate space for off street parking and vehicle loading.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: Substantially larger site distances, transition zones, upgraded subbase and other features are needed for truck traffic. Traffic from the proposed facility will have to egress from Angus drive. A 3/04/2022 E-mail from MNDOT to Amelia Meiners noted that access from HWY 44 will likely not be granted. Based on the proposed number of vehicles transitioning from the facility the site has enough area to prevent traffic hazards.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: While the proposed hours of operation and activities are typical of a commercial site. The surrounding area is an agricultural protection district and commercial activities are similar in nature. Screening, vegetation, exterior lighting and other activities can be implemented to substantially reduce the view shed of the building to the local residences.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The proposed use for the parcel meets the intent of Houston County's Land Use Plan.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: The applicant proposes to perform all work indoors and the roadways will be maintained to prevent fugitive dust. The lighting will be directed down and the signage will be minimal. As noted in the Staff Analysis for Finding No.10 screening and vegetation blocking the viewshed toward the residences will substantially reduce the disturbance to neighbors.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: NA

Board agreed to the finding by a unanimous vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The intensity of the of the proposed commercial activity in a highway protection district, isn't substantially different when consideration is given to the larger buildings being constructed for agricultural purposes. The proposed traffic and daily activities are not substantially more than seasonal farm activities.

Board agreed to the finding by a unanimous vote.

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: With SSTs, the site erosion plan, the applicable MPCA requirements, conditions for screening and other possible conditions listed below, the proposal will be protective of human health and the environment.

Board agreed to the finding by a unanimous vote.

Larry Hafner made a motion to accept the findings as presented. Rich Schild seconded. Roll call vote was taken. All were in favor. Motion Carried.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		

James Wieser

X

There was further discussion about the use and if current operations fit agricultural use. The ordinance was referenced and language was read concerning ag district versus highway business district.

Rich Schild made the motion to recommend the Houston County Board approve the Conditional Use application to operate an agriculture oriented business in a highway business district with the conditions previously discussed:

1. The Permittee shall comply with all federal, state, and local laws and regulations including the following Houston County Zoning Ordinances (HCZO):
 - HCZO Section 29.13 Subdivision 1. Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone but not on the side of a business or industry considered to be the front.
 - HCZO Section 30.4 Subdivision 7. In General Business and Highway Business Districts and in Limited and General Business Districts, parking areas and access drives shall be covered with a dust-free all-weather surface with proper surface drainage, as required by the County Engineer. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas well kept.
 - HCZO Section 30.4 Subdivision 8. Lighting shall be reflected away from the public right of way and nearby or adjacent Residence Districts.
2. No person may store or keep any vehicle of a type requiring a license to operate on the public highway; but without a current license, attached hereto, whether the vehicle be dismantled or not, outside of an enclosed building.
3. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is complying with the conditions and all other statutes, rules and ordinances.
4. The demolition and razing of existing structures shall be performed in accordance with all MPCA solid waste requirements with disposal of non-recyclable materials including any contaminated soils at the La Crosse County Landfill.
5. As part of the building permit submittal, the following design information shall be submitted to the Houston County Zoning Office:
 - a. Exterior elevations drawn to scale in plan and profile.
 - b. Details on the exterior cladding, roofing materials, foundation specifications.
 - c. Exterior signage and placement of lighting.
 - d. Details on exterior building mounted structures such as air-contact units, water conveyances, awnings, walkways, driveways, aprons, bollards, etc.
 - e. Traffic management plan including routes, vehicle types, transition zones to primary roadways.
6. Within 120 days of this approval the following documents shall be submitted to the Houston County Zoning Department for approval:
 - a. A site screening plan addressing neighbors view shed of the proposed structure with the use of fences, earthen berms and vegetation. The screening submittal shall include plan and profile views of the structure and the neighbors associated view sheds of it accounting for elevation differences.
 - b. A surface water management plan with proposed site contouring, methods for managing roof run-off, dissipating energy and promoting infiltration.

- c. An erosion control plan in accordance with Houston County Zoning Ordinance Section 25 Soil Erosion and Sedimentation Control.
- 7. The rezone area shall contain only one business.
- 8. The facility shall not display vehicles for sale outdoors.

Jim Wieser seconded. Roll call vote was taken. All were in favor. Motion carried.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Josh Gran	X		
Wayne Feldmeier	X		
Larry Hafner	X		
Ed Hammell	X		
Greg Myhre	X		
Rich Schild	X		
James Wieser	X		

The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Larry Hafner made a motion to adjourn the meeting. Rich Schild seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on July 29, 2022.

Houston County Planning Commission
August 25, 2022

Approved on March 23, 2023 by Greg Myhre and Jim Wieser

The Houston County Planning Commission met at 5:00 p.m. on Thursday, August 25, 2022. A summary of the meeting follows.

The meeting was called to order by Vice Chairman Larry Hafner. Roll call was taken. Members present were Wayne Feldmeier, Larry Hafner, Rich Schild, Josh Gran and Jim Wieser. Ed Hammell was absent. Greg Myhre, County Commissioner, was present. Martin Herrick was present for Environmental Services.

Greg Myhre made a motion to approve the minutes of July 28, 2022. Rich Schild seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 949 was read for applicant, **William Gartner**, 12670 McKusick Rd N, Stillwater, MN 55082.

The petitioner is requesting a conditional use permit for an existing cabin in the agricultural protection district.

- The parcel is in Winnebago Township. Minimal amounts of the parcel are tillable acreage, with the majority of the site comprised of woodlands. There are no cabins located on adjacent property within this quarter-quarter. The applicant has cleared some of the timber at this location and the slopes are under 12% grade. The entrance road is accessed from Quarry Road and a path was selected to minimize slopes. Soils in the proximity of the cabin are primarily 586 C2, Nodine-Rollingstone Silt Loam and on the boundary of 584F, LaMoille-Doerton Silt Loam which are considered good for woodland but poor for row crops. The structure fits the natural slope of the land.
- Notice was sent to Winnebago Township and the ten closest neighbors. No comments were received.

Vice Chairman Hafner asked William Gartner if he had anything to add. William explained that the cabin is existing and is used for family use. He explained that he has a forest management plan, is trying to eradicate noxious weeds and has put in place erosion control measures. He stated that the cabin doesn't have utilities. Jim Wieser asked when the cabin was built. William stated about six or seven years ago.

Rich Schild asked why he was applying for a permit now. William stated that he needed a fire number to insure the cabin and upon seeking to acquire a fire number Zoning staff alerted him to his need for a permit. He stated that when he was looking to build the cabin he was told by county residents that a cabin under 400 square feet did not need a permit and that was obviously poor information.

Martin stated that the application fee was tripled due to being after-the-fact. There was general discussion about the fee being tripled.

Rich Schild inquired about other buildings on the property. William stated that there is a woodshed and a picnic table.

Vice Chairman Hafner asked if anyone else wished to speak. No one else was present.

Vice Chairman Hafner asked that the Findings be read if there were no additional questions or concerns.

Greg Myhre made a motion to bypass questions 8, 9, 12, 13 and 14 that are not applicable. Jim Wieser seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The Comprehensive Plan references limiting development in agricultural areas. This proposal has limited impact on tillable acreage and the soils are limited in that they are not good for row crop production.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicant indicates the cabin is intended for recreational use. Which is a legitimate need.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: Any effects on water quality resulting from the placement of a cabin are anticipated to be negligible. There is no plumbing or wastewater system with the cabin and a composting toilet is used. The cabin is not located in highly erodible soils and vegetation is established.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The cabin footprint is minimal, and is not anticipated to have an effect on quantity of water runoff. The impermeable surfaces producing runoff are limited and the site is vegetated.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: The soil survey indicates that soils can accommodate buildings, but should conform to the natural slope of the land. The placement of the skid mounted building was at the site's existing grade. The soils are best suited for woodlands.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards have been addressed and that standards have been met.

Staff Analysis: There are no anticipated pollution hazards as the cabin is very limited with no utilities.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: No utilities are proposed. Access is from Quarry Road. The owners have added a water retention structure on another part of the parcel to control site drainage.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: N/A

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The parcel is located off Quarry Road. There are two farmsteads located greater than 1000 feet away. The addition of a cabin has minimal impact on Quarry Road and is not anticipated to negatively affect the use of neighboring properties.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The predominant land use is agriculture and woodland, the continuation of which will not be impacted by a cabin. The Zoning Office does not know of any new developments proposed in this area and a cabin should not impact neighboring landowner's ability to utilize their property for existing uses.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: N/A

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: Public health, safety, morals, and general welfare are not anticipated to be impacted.

Board agreed to the finding by a unanimous vote.

Jim Wieser made a motion to accept the findings as presented. Greg Myhre seconded. All were in favor. Motion carried.

Greg Myhre made the motion to recommend the Houston County Board approve the Conditional Use application for a cabin in the agricultural protection district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Rich Schild seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

Josh Gran asked if tripling the fee was always required. Martin explained that it is in the ordinance. Josh Gran asked if the Planning Commission could ask the Board of Commissioners to refund the excess fees. Rich Schild stated in his opinion we need to triple the fee to encourage people to comply initially. There was further discussion concerning the fee policy. Jim Wieser read the fee policy in the ordinance.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 950 was read for applicant, **Jordan and Rachelle Meyer**, 18769 Eagle Heights Rd, Caledonia, MN 55921 and **Gordon and Barbara Meyer**, 9270 County 3, Caledonia, MN 55921.

The petitioners are requesting a Conditional Use Permit to operate a farm outlet to sell milk and other farm products in the agricultural protection district.

- The applicants identify in the Conditional Use Request that they would like to retrofit an existing garage into a farm outlet. The proposal has no revisions to existing septage systems.
- Rachelle and Jordan Meyer are submitting this application and currently the property description recorded does not reflect recent changes. The Zoning Department's understanding is that Gordon Meyer is no longer an owner of this parcel. The Zoning Office referenced the most recent recorded deed for the August 10th, 2022 public notice, which included Gordon and Barbara Meyer as owners. Staff have since learned from Gordon that he is no longer an owner and there are outstanding issues with recording a recent land transfer. The Zoning Office will wait to record the final conditional use permit until the land transfer is finalized and correct under the understanding that this will be done in a timely manner.
- The garage is in the middle of the farm buildings.
- Also note Section 6.2 Notification and Public Hearing Subd. 3 Omission and Notification. The zoning administrator shall be responsible proper publication of notices and notification to adjacent property owners. However, an error in the published Notice of Public Hearing of failure to notify a specific property owner of the application for a conditional use permit shall not be considered cause to declare the public hearing invalid.
- It is the responsibility of the applicant to determine if any additional state or federal permits or licensures are required to sell the specific products.
- The Meyer Farm is located approximately a quarter mile from County Road 14 off Eagle Heights Road in Winnebago Township. Since they are repurposing an existing structure, many of the standards are not applicable. There are no bluff impacts, floodplain, shoreland, slope, feedlot or mine concerns. There is an existing septic which will not have additional loading from this activity.
- Winnebago Township and the ten closest neighbors were notified. One comment was received from Gordon Meyer noting that he is no longer an owner of this parcel. The Zoning Department discussed with Gordon that the current recorded description was used for this application and that a condition can be included in the permit requiring the updated and recorded description be submitted to the Zoning Department.

Vice Chairman Hafner asked the applicants if they had anything to add. Rachelle Meyer explained that they would like to use an existing garage to sell meat and raw milk. She explained that all of their meat is USDA certified and that they adhere to the Minnesota Department of Agriculture's regulations for selling raw milk. She said that they plan to be open a few nights a week. She explained that they host pasture walks and other events at their farm to educate customers about how their food is raised.

Martin explained the land transaction is still in transition. Rachelle explained that the land is in the process of being transferred from Gordon and Barbara to Jordan and Rachelle.

Rich Schild asked if there would be a bathroom. Rachelle stated they would not have a bathroom or running water in the garage.

There was general discussion Minnesota Department of Agriculture's regulations and products that would be sold. Jim Wieser asked how many customers they expect. Rachelle stated that they expect five to ten per week.

Vice Chairman Hafner asked if anyone else wished to speak. No one came forward.

Vice Chairman Hafner asked that the Findings be read if there were no additional questions or concerns.

Greg Myhre made a motion to bypass questions 5, and 13 that are not applicable. Josh Gran seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The main purpose of the Land Use Plan is to promote practices that allow expansion and maintenance of commercial agriculture.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: The applicants are requesting a conditional use permit to change the use of a garage into a farm outlet store. This change to direct sales initiated the need for a conditional use permit.

Rich Schild questioned, if they chose to stop doing their farm store, could they do anything else ag related? Martin stated the language is pretty specific to that activity and tightly defined.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The applicant states they will have no additional septage from the proposed activity.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This is an existing building and the proposed change of use will not have a greater impact than the current use.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards have been addressed and that standards have been met.

Staff Analysis: By virtue of food grade facilities the potential pollution hazards are minimized including routine inspections for the respective products.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: The existing farmstead has all utilities and existing road access. Should any new utility need arise, the costs will be the responsibility of the landowner.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: They have designated areas for parking at this time. The applicant owns adequate contiguous acres for off-street parking and loading.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: Farm outlet guests will be managed.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: This farm is set back off the road and not directly visible to neighbors. It will remain a dairy operation as it has been for many years, but include direct to consumer sales. The farm outlet itself will have no nuisance factors and its viewshed is blocked by other structures.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: Much of the surrounding acreage is cropland and an additional component at this farm will not impede future surrounding development.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: This proposal will not produce offensive odors, fumes, dust, noise or vibrations and there will be no lighted signs.

Vice Chairman Hafner asked if there will be there be any signage. Rachelle stated that currently

they have a farm sign at the end of the driveway, but it is not lighted. Martin explained that a permit would be required to add a farm sign close to the public road.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: The agricultural community is evolving and many smaller producers are beginning to provide a unique direct sales service to increase viability. This practice ultimately does not change the commercial agriculture that already exists at this and neighboring sites.

Board agreed to the finding by a unanimous vote.

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The applicant is required to follow all county, state and federal guidelines for the operation of their business, which should result in protection for the public's health, safety, morals and general welfare.

Board agreed to the finding by a unanimous vote.

Greg Myhre made a motion to accept the findings as presented. Rich Schild seconded. Roll call vote was taken. All were in favor. Motion carried.

Jim Wieser made the motion to recommend the Houston County Board approve the Conditional Use application to operate an agriculture oriented business in the agricultural protection district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Upon completion of the updated description of the parcel being recorded with Houston County a copy shall be submitted to the zoning department to reflect the current conditions with information being added to the permit to reflect the correct ownership of the parcel.

Josh Gran seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Notice of Public Hearing No. 951 was read for applicants, **U.S. Fish and Wildlife Service**, N5727 County Road Z, La Crosse, WI 54650.

The petitioner is requesting a Conditional Use Permit to repair a levee along the Root River. Fill material for the repair will be obtained from on-site, previous ag fields facilitating wetland enhancement.

- USFWS Niebeling Tract Levee Repair and Flood Heights - Root River near Hokah, MN - The U.S. Fish and Wildlife Service (USFWS) has been working with neighboring landowners, permitting agencies and others to evaluate a March, 2019 levee breach on the Niebeling Tract, a portion of the Upper Mississippi River National Wildlife and Fish Refuge located on the north bank of the Root River downstream of Hokah, MN.
- The USFWS aims to repair the section of the levee that was breached during the spring of 2019. Previous attempts to repair the breach have been undone by subsequent flooding. The USFWS and neighboring landowners have proposed repairing the levee to pre-breach elevations. Based on LiDAR data, the pre-breach elevation of the levee in this location was approximately 950.0 ft. MSL (NAVD 1988). Survey data from March, 2022, show the existing section of the levee immediately downstream of the breach has an elevation of approximately 950.0 ft.
- The levee repair would necessitate a slight realignment, with the repaired section being setback from the river's edge and tying into the existing levee on the upstream and downstream ends. This is consistent with practices used to repair numerous other breaches along this reach of the Root River. The small size of the breach (<200 ft. in length) and the short setback (<50 ft.) do not constitute a significant increase in cross sectional area along this reach of the Root River.
- The FEMA flood map for this location is effective as of 2018, prior to the levee breach. The figure below of the FEMA flood map shows that the 100-year flood height in the vicinity of the breach is 948 ft. MSL (NAVD 1988). The proposed levee repair calls for an elevation of 950.0 ft., approximately 2 ft. above the FEMA designated 100-year flood elevation. The proposed levee repair will restore the levee to an elevation consistent with those that existed at the time of FEMA flood mapping (pre-2019). As the proposed levee repair entails an insignificant change to cross sectional area and will restore levee elevations to pre-breach conditions, there will be no discernible change to flood heights associated with the repair.
- The proposed levee repair on the USFWS Niebeling Tract will return flood dynamics on this reach of the river to conditions prior to the breach that occurred in March, 2019. Although the alignment will be adjusted slightly, this repair constitutes a 'like-for-like' restoration of levee conditions prior to the 2019 breach. The restoration of the levee to elevations that existed pre-breach (950 ft.) mean that the repair will not impact cross sectional geometry or the 100-year flood elevations as they existed at the time of FEMA flood mapping efforts prior to December 7, 2018.
- *HCZO 21.5 FLOODWAY DISTRICT (FW) Subdivision 4. Standards for Floodway Conditional Uses:* (1) A conditional use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
- An 8/12/2022 e-mail from Ceil Strauss MN DNR flood plain manager notes that a qualified individual other than a registered professional engineer can make the floodway no-rise determination. The floodway does not have existing as-builts or other elevation references and LIDAR data has been used for this purpose. On 8/17/2022 the U.S. Fish & Wildlife Hydrologist submitted a letter to the MN DNR and Houston County on this issue.
- The repair's approximate dimensions are 275 ft in length with a 40 ft base on the bottom and a top width of 11 ft and a total height of 6.5 ft. A cross section survey of the site's existing condition has been included with this packet. A rough estimate of the yardage needed is approximately 1700 yards

from the dimensions referenced above, which does not account for any additional temporary earthwork.

- The U.S. Fish & Wildlife Services' Hydrologic Assessment has been included in the packet.
- Borrow material for the repair will be obtained on site from the from area's delineated as Wetland Scrape #1 and Wetland Scrape #2.
- This parcel is 84.13-acres located in Hokah Township with substantial portions in the floodway. The borrow sources will be from on-site and a restoration plan for their final use has been plan developed.
- Hokah Township and the ten closest property owners were notified, as were various state agencies.
- Comments were received from the City of Hokah verbally and in writing from two neighbors objecting to the project in that they have seen less flooding after the breach occurred.

Vice Chairman Hafner asked the applicants if they had anything to add. Tim Miller spoke for the U.S. Fish and Wildlife Service. Tim explained that they acquired the property in 2020 and that prior to the purchase there was a levee breach. In March 2022 they had a hydrology team assess options from leaving the breach open to repairing the breach. Tim explained that the Root River was changed about 100 years ago and that the Root River is currently trying to cut a new channel. The study showed that the best option would be to repair the levee using the material that has been deposited there through the years and restore a couple of wetlands. He explained that the levee does not have a consistent elevation anywhere. U.S. Fish and Wildlife Service used prebreach LIDAR data to establish elevations prior to the breach to determine the height and dimensions of the levee with it offset from the bank 25 feet. Neighbors will be paying for the repair. Jim Wieser asked if there is another levee breach on a neighboring property owned by the MN DNR. Tim stated that breach has been repaired. Jim Wieser asked if this levee is repaired will it cause other areas to blow out. Tim stated there is greater than a twenty percent chance in any given year that the levee will be over topped and it is inevitable that there will be a flood in that area. Wayne Feldmeier asked why they only plan to move the levee back 25 feet. Tim stated that they are following state regulations. Wayne Feldmeier argued that it would make more sense to go back 100 feet and build the levee up two to three feet higher so it doesn't cut it out again. He argued that the state approved regulations will not be a long term fix. Tim stated the hydrologist recommended setting it back farther, but state regulations must be followed. Vice Chairman Hafner asked if they could get a variance on the setback to put in the levee. Tim was not certain. Vice Chairman Hafner asked how long the levee has been in place. Tim explained it was breached in both 2018 and 2019 and has been in place for almost 100 years. Martin stated that they are attempting to put this back to when the original levee was placed. Jim Wieser asked if they could leave it as is. Tim stated that is an option. He explained that this part of the river is cutting and filling and county infrastructure in it's path could eventually be damaged. Tim stated they must follow the parameters given by the state. Rich Schild asked if another agency is in control why is a permit being sought by Fish and Wildlife. Jim Wieser stated because they own the land. Vice Chairman Hafner asked if it has been repaired before several times prior. Tim stated that it has been restored one other time. Vice Chairman Hafner stated that he agreed with Wayne Feldmeier if it has needed repairs in the past that they should look at other repair options. Tim stated that the last repair was not done to the permit parameters. Josh Gran asked why the neighbors are paying for the project if U.S. Fish and Wildlife Service owns the land. Tim stated that the neighbors requested to fix. Josh Gran asked if the neighbors had approached U.S. Fish and Wildlife Service to make the application. Tim stated that they did.

Vice Chairman Hafner asked if anyone else wished to speak.

Jeff Langen stated he is a co-owner of a neighboring farm. Jeff explained that his cattle are put in danger when the river rises. Jeff explained the neighbors have always worked together to repair the

levee. Josh Gran asked Jeff if he was in favor of the permit. Jeff stated that he was one of the neighbors making the request.

Rich Schild inquired about the cost of the repair. Jim Chapel stated that there are six farmers that plan to cover the cost and that the estimate to fix it was \$35,000 - \$45,000. He stated that it needs to be fixed, as it goes across all of the neighbor's land. He has lost a third of his crop this year already. He stated that there was an ice jam that took out the levee. He believes that the levee will hold as it is a straight stretch. We would like to fix it so we can continue farming. The last little flood in Houston didn't even go over the bank and 100 acres of his beans were underwater. People are going to go out of business if it's not fixed. Vice Chairman Hafner asked if there was government funding to fix it. Jim stated that there is not.

Jerry Martell stated he was chairman of the Root River Flood Control Commission in 1992 and 1993 and the former mayor of the City of Hokah. Jerry stated that he is from the City of Hokah and that it effects the waste water treatment plant. In a past flood the City of Hokah was within an hour of losing the whole waste water treatment plant. He speculated that there were long range plans being made between the MN DNR and the U.S. Fish and Wildlife Service regarding the future of the area. He emphasized that anything done along the Root River effects the City of Hokah. Jerry explained the previously explored options. He stated that the MN DNR, the U.S. Fish and Wildlife Service and the Army Corp of Engineers are at odds. Wayne Feldmeier and Jerry discussed their prior experiences with the regulations causing unnecessary hardships. Wayne Feldmeier said farmers should be allowed to fix it the way they see fit. Jerry expressed frustration that the City of Hokah was not notified about the request. Tim stated that he had reached out to Hokah Township. Jerry stated that the City of Hokah and Hokah Township are not the same. Rich Schild asked him if it should be left as is. Jerry stated that area is going to flood no matter what you do and there is no good solution. He stated that the land owners should be treated fairly, but the City of Hokah needs to be considered. Jim Wieser stated that the only real solution to this whole problem is to take the lock and dam system out of the Mississippi River.

Tom Langen stated that the sewer treatment plant was built too low. Jerry stated that the new plant is higher than the old plant.

Rich Schild asked if it would be a comparable levee to the one that failed. Martin stated that it would be like for like.

Vice Chairman Hafner asked that the Findings be read if there were no additional questions or concerns.

Greg Myhre made a motion to bypass questions 8, 9, 13 and 14 that are not applicable. Rich Schild seconded. All were in favor. Motion carried.

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The proposed activities conform to Section 2.0 and Section 3.0 of the Houston County Comprehensive Land Use for restoration of habitat as well as agriculture and natural

resources management.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Substantial work has gone into the project including the needs analysis and evaluation of alternatives.

Rich Schild asked who performed the needs analysis. Martin explained that the needs analysis was done by the U.S. Fish and Wildlife Service.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: The project will protect water quality by providing additional protection and supporting 106 acres of buffer and wetlands in the floodplain.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The project will not increase water run-off and improved habitat will handle runoff in the floodplain.

Rich Schild stated that it won't increase it, but it will push it to someone else's property.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Soils were analyzed for their geotechnical properties in repairing the levee.

Board agreed to the finding by a unanimous vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: No additional pollution hazards are foreseen and the levee will be put back to historic elevations based on Lidar.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: Adequate access exists for the proposal.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: N/A

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: Uses will not change and potentially less flooding of neighboring properties will improve use and enjoyment.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: The project has considered surrounding properties with two stakeholder meetings in July 2021 and July 2022 to develop alternatives and an ultimate decision.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: Activities and repairs will be performed during daylight hours in manner similar to local farming.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site-specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: The Refuge Special Use Permit will establish site-specific conditions which public

health, safety, morals and general welfare for all parties involved with the site.

Board agreed to the finding by a unanimous vote.

Greg Myhre made a motion to accept the findings as presented. Jim Wieser seconded. Roll call vote was taken. All were in favor. Motion carried.

Martin read a comment from Tim Runningen in opposition to the request.

Jim Wieser made the motion to recommend the Houston County Board approve the Conditional Use application to repair a levee in a flood plain district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. A copy of the Refuge Special Use permit shall be provided to the Houston County Zoning Department upon issuance.

Greg Myhre seconded. Roll call vote was taken. All were in favor. Motion carried. The Findings will be submitted to the Houston County Board of Commissioners for their review.

The application, with these stipulations, will be presented to the Houston County Board of Commissioners for final action.

Rich Schild stated for the record this is not the way to fix things one piece at a time.

Tom Langen asked Houston County would consider forming a Judicial Ditch Committee in the future. Martin stated that it could be added when the Comprehensive Land Use Plan is updated.

Greg Myhre made a motion to adjourn the meeting. Rich Schild seconded. All were in favor. Motion carried.

Submitted by the Planning Commission Clerk on August 26, 2022.