



WASECA COUNTY BOARD OF COMMISSIONERS

June 1, 2021 • 9:30 a.m.

East Annex Public Meeting Room

300 North State Street – East Annex • Waseca, Minnesota 56093

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/550149597>

You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (646) 749-3122

- One-touch: <tel:+16467493122,,550149597#>

Access Code: 550-149-597

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/550149597>

9:30 a.m.

1. Call to Order and Pledge of Allegiance

Public Comment

Those wishing to speak must state their name and address for the record after they reach the podium. Each person will have three (3) minutes to make his/her remarks. Speakers will address all comments to the Board as a whole and not one individual commissioner. The Board may not take action on an item presented during the Public Comment period, unless the item is already on the agenda for action. When appropriate, the Board may refer inquiries and items brought up during the Public Comment period to the County Administrator for follow up.

2. Approval of Agenda

3. Consent Agenda

- a. Approval of Bills
- b. Security Agreement
- c. Renewal of Liquor License
- d. Sign DNR 2021 Boat and Water Contract
- e. Sign DNR Grant Contract for the Purchase of Rope Throwing Bags
- f. Partial Release of Exclusive Agriculture Use Zone Restrictive Covenant; Gordon and Emma C. Zimprich (Paul J. Zimprich Sr. – current owner)

4. South Country Health Alliance Update - Leota Lind, CEO and Scott Schufman, CFO

5. Southern Minnesota Initiative Foundation - Tim Penny, President and CEO

6. Set Public Hearing for Appointment of Auditor/Treasurer - Michael Johnson, Administrator

7. Early Retirement Incentive Plan – Melissa Sexton, Human Resources Director

8. Planning and Zoning - Mark Leiferman, Planning and Zoning Administrator

- a. Waseca SWCD MN Wetland Conservation Act Service Agreement
- b. Conditional Use Permit (CUP) request to allow the transfer of development rights between two owners and into another Township by Calonett Venues LLC (receiving site) and Wendell J. & Ruth A. Armstrong (sending site).
- c. Conditional Use Permit (CUP) request to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township by Bruce W & Angela Quast.
- d. Conditional Use Permit (CUP) amendment request to allow for the operation of a daycare center from an existing agri-tourism building (Ruby Ranch) in Freedom Township by Nickolas J. & Ashley A. Rehder.
- e. Conditional Use Permit (CUP) Request to mine aggregate materials on a previously mined and reclaimed parcel (PID: 08.012.1010) in Section 12 of Otisco Township by Ulland Brothers Inc.
- f. Conditional Use Permit (CUP) amendment request to remove a spray field area and add screen house and spray field area by ConAgra Foods Packaged Foods LLC

9. Cooperative Construction and Maintenance Lighting Agreement – Michael Johnson, Administrator

10. Administration

- a. Administration Update
- b. Human Resources Announcements
- c. Ditch Inspector Positions

11. Commissioner Reports

Lunch – Evan's Eatery Food Truck, parking lot across from the Sheriff's Office

Upcoming Board Events

June 1- June 15, 2021

June 1, 2021, 9:30 a.m.

County Board Work Session

Board Room, East Annex

June 1, 2021, 9:30 a.m.

County Board Meeting

Board Room, East Annex

June 15, 2021, 2 p.m.

MN Prairie Finance Committee Meeting

Virtual Meeting

June 15, 2021, 3 p.m.

MN Prairie Joint Powers Board Meeting

Virtual Meeting

June 15, 2021, 9:30 a.m.

County Board Meeting

Board Room, East Annex

05/26/2021 15:58
5264aschauer

Waseca, MN
Vendor Warrant List Report

P
apwarnt 1

DATE: 06/01/2021 CHECK RUN: C060121 AMOUNT: \$ 186,545.98

APPROVED BY: _____

05/26/2021 15:58
 5264aschauer

 | Waseca, MN
 | DETAIL INVOICE LIST

 | P 2
 | apwarnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
3653 A.H. HERMEL COMPANY	1 25257000 6807	00000		EFT	05/26/2021	875214	
		JailCntn		JailCanMis		284.52	
		Invoice Net				284.52	
				CHECK TOTAL		284.52	
4035 ADVANCED CORRECTIONAL	1 01201217 6268	00000		EFT	05/26/2021	106889	
		ShrfBrdPrs		Medical		3,470.77	
		Invoice Net				3,470.77	
				CHECK TOTAL		3,470.77	
8622 ALAN FORSBERG	1 13310000 6334	00000		INV	05/26/2021	6/1/21 STMNT	
		HwyAdmin		Mileage		691.04	
		Invoice Net				691.04	
				CHECK TOTAL		691.04	
4088 ANCOM COMMUNICATIONS I	1 13340000 6340	00000		INV	05/26/2021	101957	
		HwyEqMt/Sh		RntSvcAgrt		8,698.20	
		Invoice Net				8,698.20	
				CHECK TOTAL		8,698.20	
2455 ASSOC OF MN COUNTIES	1 01065000 6241	00000		INV	05/26/2021	58548	
		HumnRsrCs		CnfTrngRgD		75.00	
		Invoice Net				75.00	
				CHECK TOTAL		75.00	
4816 AVENU INSIGHTS & ANALY	1 01101000 6452	00000		INV	05/26/2021	INVB-024860	
		Rcrdr		RefBksMatl		195.75	
		Invoice Net				195.75	
				CHECK TOTAL		195.75	
2809 BAKER TILLY LLP	1 01062000 6267	00000		EFT	05/26/2021	BT1831420	
		CenSvcs		StAudtng		18,000.00	
		Invoice Net				18,000.00	
				CHECK TOTAL		18,000.00	
4943 BOLTON & MENK INC	1 13320000 6260	00000		INV	05/26/2021	0268391	
		HwyEng/Con		ProTechSvc		2,171.00	
		Invoice Net				2,171.00	
				CHECK TOTAL		2,171.00	
2366 BOMGAARS SUPPLY	1 01521000 6602	00000		INV	05/26/2021	081-009-5 5/16/21	
		CoParks		GrndsImp		107.15	
		Invoice Net				107.15	
				CHECK TOTAL		107.15	
2366 BOMGAARS SUPPLY	1 13340000 6410	00000		INV	05/26/2021	081-007-9 5/16/21	
		HwyEqMt/Sh		CstBldgSpp		188.92	

05/26/2021 15:58
 5264aschauer

 | Waseca, MN
 | DETAIL INVOICE LIST

 | P 3
 | apwarrnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
	2 13340000 6590			HwyEqMt/Sh	TlsShpMat	151.95	
	3 13340000 6564			HwyEqMt/Sh	MchVehPrts	38.49	
				Invoice Net		379.36	
				CHECK TOTAL		379.36	
388	BOSS SUPPLY OF JANESVI	00000		INV	05/26/2021	30994	
	1 13340000 6564			HwyEqMt/Sh	MchVehPrts	62.65	
				Invoice Net		62.65	
				CHECK TOTAL		62.65	
4624	CDW GOVERNMENT INC	00000		INV	05/26/2021	C936826	
	1 01061061 6401			ITTechnlgy	OffcSuppls	399.00	
				Invoice Net		399.00	
4624	CDW GOVERNMENT INC	00000		INV	05/26/2021	D190149	
	1 01521000 6602			CoParks	GrndsImp	97.00	
				Invoice Net		97.00	
				CHECK TOTAL		496.00	
921	CENTRAL FIRE PROTECTIO	00000		INV	05/26/2021	43814	
	1 13340000 6260			HwyEqMt/Sh	ProTechSvc	429.85	
				Invoice Net		429.85	
				CHECK TOTAL		429.85	
1853	ICON ENTERPRISES, INC.	00002		INV	05/26/2021	212264	
	1 25067000 6205			CARES	TelewrkSup	8,236.00	
				Invoice Net		8,236.00	
				CHECK TOTAL		8,236.00	
148	COLLEEN HOWARD	00000		INV	05/26/2021	5/19/21 STMNT	
	1 01014000 6812			CrtAdmnCo	JryAtndts	200.00	
				Invoice Net		200.00	
				CHECK TOTAL		200.00	
2445	COMMUNITY COMPLIANCE M	00000		INV	05/26/2021	APR21A-WSC	
	1 01254000 6264			ElecMonit	ElecMntrg	439.00	
				Invoice Net		439.00	
				CHECK TOTAL		439.00	
2165	CONTINENTAL RESEARCH C	00000		INV	05/26/2021	0026308	
	1 13340000 6590			HwyEqMt/Sh	TlsShpMat	1,287.14	
				Invoice Net		1,287.14	
				CHECK TOTAL		1,287.14	
8310	DG INVESTMENT INTERMED	00000		INV	05/26/2021	IN0005724	
	1 01041000 6310			Aud-Treas	EqRepMtc	463.50	
				Invoice Net		463.50	
				CHECK TOTAL		463.50	

05/26/2021 15:58
 5264aschauer

Waseca, MN

| DETAIL INVOICE LIST

 | P 4
 | apwarnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
5818 CPS TECHNOLOGY SOLUTIO	1 01061061 6310	00000		EFT	05/26/2021	380322	
		ITTechnlgy		EqRepMtc		98.00	
		Invoice Net				98.00	
				CHECK TOTAL		98.00	
1009 CURT KEYES	1 01602000 6111	00000		INV	05/26/2021	5/18/21 STMT	
		Extsn		PerDiems		80.00	
		Invoice Net				80.00	
				CHECK TOTAL		80.00	
330 DAVE'S BODY SHOP	1 01119000 6560	00000		INV	05/26/2021	16235	
		Fleet		AutoRep		333.00	
		Invoice Net				333.00	
				CHECK TOTAL		333.00	
8580 DENNISON TECHNOLOGY GR	1 01061061 6340	00000		INV	05/26/2021	2-6686	
		ITTechnlgy		RntSvcAgrt		35.00	
		Invoice Net				35.00	
				CHECK TOTAL		35.00	
1007 EMERGENCY AUTOMOTIVE T	1 01201201 6670	00000		INV	05/26/2021	MP051021-5	
		GenSheriff		Vehicles		429.00	
		Invoice Net				429.00	
1007 EMERGENCY AUTOMOTIVE T	1 13330000 6503	00000		INV	05/26/2021	NH041421-30	
		HwyMntnc		TrffcSgns		294.64	
		Invoice Net				294.64	
				CHECK TOTAL		723.64	
4587 FIRST STATE TIRE RECYC	1 19393000 6260	00000		INV	05/26/2021	MN-1000	
		Recycling		ProTechSvc		2,772.49	
		Invoice Net				2,772.49	
				CHECK TOTAL		2,772.49	
4570 FOUR SEASONS APPAREL &	1 01002000 6803	00000		INV	05/26/2021	249	
		Commssnrs		MiscExp		56.00	
		Invoice Net				56.00	
				CHECK TOTAL		56.00	
407 FREEDOM TOWNSHIP	1 13330000 6260	00000		INV	05/26/2021	5/10/21 STMT	
		HwyMntnc		ProTechSvc		170.00	
		Invoice Net				170.00	
				CHECK TOTAL		170.00	
8342 GFA	1 01201217 6803	00000		INV	05/26/2021	3539662	
		ShrfBrdPrs		MiscExp		650.00	
		Invoice Net				650.00	
				CHECK TOTAL		650.00	

05/26/2021 15:58
 5264aschauer

 | Waseca, MN
 | DETAIL INVOICE LIST

 | P 5
 | apwarrnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
368 GODFATHER'S EXTERMINAT	1 01115000 6340	00000		INV	05/26/2021	158801	
		EABldMtc		RntSvcAgrt		45.00	
		Invoice Net				45.00	
				CHECK TOTAL		45.00	
8312 GUARDIAN SUPPLY	1 01201201 6461	00000		INV	05/26/2021	9189	
		GenSheriff		Uniforms		425.00	
		Invoice Net				425.00	
				CHECK TOTAL		425.00	
2405 HILLYARD INC	1 01111000 6310	00000		INV	05/26/2021	700464464	
		CHBldgMtc		EqRepMtc		104.04	
		Invoice Net				104.04	
				CHECK TOTAL		104.04	
235 INNOVATIVE OFFICE SOLU	1 01107000 6401	00000		INV	05/26/2021	IN3346020	
		P&Z		OffcSuppls		15.81	
		Invoice Net				15.81	
235 INNOVATIVE OFFICE SOLU	1 01602000 6401	00000		INV	05/26/2021	IN3354048	
		Extn		OffcSuppls		85.19	
		Invoice Net				85.19	
235 INNOVATIVE OFFICE SOLU	1 01042000 6401	00000		INV	05/26/2021	IN3345917	
		LicBureau		OffcSuppls		79.51	
		Invoice Net				79.51	
235 INNOVATIVE OFFICE SOLU	1 01602000 6401	00000		INV	05/26/2021	IN3358086	
		Extn		OffcSuppls		29.22	
		Invoice Net				29.22	
235 INNOVATIVE OFFICE SOLU	1 01065000 6401	00000		INV	05/26/2021	IN3346056	
		HumnRsrcs		OffcSuppls		18.08	
		Invoice Net				18.08	
235 INNOVATIVE OFFICE SOLU	1 25259000 6401	00000		INV	05/26/2021	IN3357011	
		PermtCrry		OffcSuppls		8.65	
		Invoice Net				8.65	
				CHECK TOTAL		236.46	
3028 INTERNET CONNECTIONS	1 01281000 6260	00000		INV	05/26/2021	178106	
		EmrgyMgmt		ProTechSvc		1,800.00	
		Invoice Net				1,800.00	
				CHECK TOTAL		1,800.00	
8635 JAMIE HARTER	1 01521000 6310	00000		INV	05/26/2021	5/25/21 STMNT	
		CoParks		EqRepMtc		9.65	
		Invoice Net				9.65	
				CHECK TOTAL		9.65	
4554 JANE ROBERTA BLUHM	1 01014000 6812	00000		INV	05/26/2021	5/19/21 STMNT	
		CrtAdmnCo		JryAttndts		200.00	
		Invoice Net				200.00	

05/26/2021 15:58
5264aschauer

Waseca, MN
| DETAIL INVOICE LIST

P 6
apwarrnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
						CHECK TOTAL	200.00
8334	JOHN DEERE FINANCIAL	00001		INV	05/26/2021	11113-63314 5/8/21	
	1 13340000 6564	HwyEqMt/Sh		MchVehPrts		1,008.71	
		Invoice Net				1,008.71	
						CHECK TOTAL	1,008.71
1237	MIDWEST MOTOR SUPPLY C	00000		INV	05/26/2021	8892659	
	1 13340000 6562	HwyEqMt/Sh		OthAutoSup		322.55	
		Invoice Net				322.55	
1237	MIDWEST MOTOR SUPPLY C	00000		INV	05/26/2021	8896675	
	1 13340000 6562	HwyEqMt/Sh		OthAutoSup		956.27	
		Invoice Net				956.27	
						CHECK TOTAL	1,278.82
1410	L & L STREET ROD & SPO	00000		INV	05/26/2021	3198	
	1 01201201 6670	GenSheriff		Vehicles		350.00	
		Invoice Net				350.00	
1410	L & L STREET ROD & SPO	00000		INV	05/26/2021	3200	
	1 01201201 6670	GenSheriff		Vehicles		2,958.90	
		Invoice Net				2,958.90	
						CHECK TOTAL	3,308.90
4582	LEAGUE OF MINNESOTA CI	00000		INV	05/26/2021	340400	
	1 01065000 6240	HumnRsrcs		AdLgNt/Sub		115.00	
		Invoice Net				115.00	
						CHECK TOTAL	115.00
3987	LOCATORS & SUPPLIES IN	00000		INV	05/26/2021	0292081-IN	
	1 13340000 6562	HwyEqMt/Sh		OthAutoSup		533.44	
		Invoice Net				533.44	
						CHECK TOTAL	533.44
4315	M-R SIGN COMPANY INC	00000		INV	05/26/2021	212088	
	1 01201201 6670	GenSheriff		Vehicles		7,945.70	
		Invoice Net				7,945.70	
4315	M-R SIGN COMPANY INC	00000		INV	05/26/2021	212086	
	1 13330000 6503	HwyMntnc		TrffcSgns		1,900.72	
		Invoice Net				1,900.72	
4315	M-R SIGN COMPANY INC	00000		INV	05/26/2021	212087	
	1 13330000 6503	HwyMntnc		TrffcSgns		400.00	
		Invoice Net				400.00	
						CHECK TOTAL	10,246.42
8637	LESA HULLOPETER	00000		INV	05/26/2021	134	
	1 01101000 6241	Rcrdr		CnfTrngRgD		100.00	
		Invoice Net				100.00	

05/26/2021 15:58
5264aschauer

| Waseca, MN
| DETAIL INVOICE LIST

| P 7
| apwarnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
						CHECK TOTAL	100.00
4896 MINNESOTA TRUCK & EQUI	1 13340000 6260	00000		INV	05/26/2021	2936	
				HwyEqMt/Sh	ProTechSvc	215.74	
				Invoice Net		215.74	
4896 MINNESOTA TRUCK & EQUI	1 13340000 6260	00000		INV	05/26/2021	2935	
				HwyEqMt/Sh	ProTechSvc	287.50	
				Invoice Net		287.50	
				CHECK TOTAL		503.24	
3311 MN COMM OF TRANSPORTAT	1 13320000 6260	00000		INV	05/26/2021	P00013193	
				HwyEng/Con	ProTechSvc	493.23	
				Invoice Net		493.23	
				CHECK TOTAL		493.23	
268 MN.IT SERVICES	1 01061061 6260	00000		INV	05/26/2021	DV21040413	
				ITTechnlgy	ProTechSvc	1,300.00	
				Invoice Net		1,300.00	
				CHECK TOTAL		1,300.00	
2797 NAPA AUTO PARTS MPEC	1 01201223 6310	00000		INV	05/26/2021	306833	
				ShrfEqRepM	SqRepMtc	241.27	
				Invoice Net		241.27	
				CHECK TOTAL		241.27	
8445 NOW MICRO	1 01061061 6480	00000		INV	05/26/2021	IV519579	
				ITTechnlgy	NonCapInv	1,278.00	
				Invoice Net		1,278.00	
8445 NOW MICRO	1 01061061 6480	00000		INV	05/26/2021	IV520940	
				ITTechnlgy	NonCapInv	2,590.00	
				Invoice Net		2,590.00	
				CHECK TOTAL		3,868.00	
3699 NUTRIEN AG SOLUTIONS I	1 13330000 6508	00000		INV	05/26/2021	45147337	
				HwyMntnc	WeedSpray	5,450.22	
				Invoice Net		5,450.22	
				CHECK TOTAL		5,450.22	
99999 PAUL BORN	1 01201229 6475	00000		INV	05/26/2021	5/25/21 STMNT	
				OffSupShrf	AdmnOffSpl	642.11	
				Invoice Net		642.11	
				CHECK TOTAL		642.11	
2813 PEMBERTON LAW PLLP	1 01065000 6260	00000		INV	05/26/2021	20176309-000M 29	
				HumnRsrcs	ProTechSvc	120.00	
				Invoice Net		120.00	
				CHECK TOTAL		120.00	

05/26/2021 15:58
5264aschauer

| Waseca, MN
| DETAIL INVOICE LIST

| P 8
| apwarnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
8370	SUBARCTIC MEDIA LLC	00000		INV	05/26/2021	30926-4	
	1 25123000 6240	VtSv OpImp		AdLgNt/Sub		625.00	
		Invoice Net				625.00	
8370	SUBARCTIC MEDIA LLC	00000		INV	05/26/2021	30926-3	
	1 25123000 6240	VtSv OpImp		AdLgNt/Sub		625.00	
		Invoice Net				625.00	
8370	SUBARCTIC MEDIA LLC	00000		INV	05/26/2021	30926-2	
	1 25123000 6240	VtSv OpImp		AdLgNt/Sub		625.00	
		Invoice Net				625.00	
8370	SUBARCTIC MEDIA LLC	00000		INV	05/26/2021	30926-1	
	1 25123000 6240	VtSv OpImp		AdLgNt/Sub		625.00	
		Invoice Net				625.00	
				CHECK TOTAL		2,500.00	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524019	
	1 01062000 6341	CenSvcs		CopierMain		77.71	
		Invoice Net				77.71	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524018	
	1 01062000 6341	CenSvcs		CopierMain		302.12	
		Invoice Net				302.12	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524175	
	1 01062000 6341	CenSvcs		CopierMain		32.48	
		Invoice Net				32.48	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524176	
	1 01062000 6341	CenSvcs		CopierMain		51.86	
		Invoice Net				51.86	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524343	
	1 01062000 6341	CenSvcs		CopierMain		77.69	
		Invoice Net				77.69	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524329	
	1 01062000 6341	CenSvcs		CopierMain		223.80	
		Invoice Net				223.80	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524330	
	1 01062000 6341	CenSvcs		CopierMain		124.49	
		Invoice Net				124.49	
1934	RIVER BEND BUSINESS PR	00000		INV	05/26/2021	524285	
	1 01062000 6341	CenSvcs		CopierMain		40.58	
		Invoice Net				40.58	
				CHECK TOTAL		930.73	
2380	MJB HANSEN FAMILY LP	00000		INV	05/26/2021	102962	
	1 01062000 6341	CenSvcs		CopierMain		1,271.24	
		Invoice Net				1,271.24	
				CHECK TOTAL		1,271.24	
1629	RS EDEN	00000		INV	05/26/2021	64619	
	1 01252000 6412	CrtSvcs		UATstng		99.40	
		Invoice Net				99.40	

05/26/2021 15:58
 5264aschauer

 | Waseca, MN
 | DETAIL INVOICE LIST

 | P 9
 | apwarrnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
						CHECK TOTAL	99.40
138 RUSSELL GUSE		00000		INV	05/26/2021	5/10/21 STMT	
1 19391000 6410		TransStatn		CstBldgSpp		473.14	
		Invoice Net				473.14	
						CHECK TOTAL	473.14
2668 SOUTHERN MINNESOTA INS		00000		INV	05/26/2021	17629	
1 13340000 6260		HwyEqMt/Sh		ProTechSvc		464.90	
		Invoice Net				464.90	
						CHECK TOTAL	464.90
4631 SPORTSMAN STOP		00000		INV	05/26/2021	22 4/23/21	
1 01201229 6475		OffSupShrf		AdmnOffSpl		18.77	
		Invoice Net				18.77	
						CHECK TOTAL	18.77
4220 STEELE CO HIGHWAY DEPT		00000		INV	05/26/2021	1761 5/20/21	
1 13320000 6260		HwyEng/Con		ProTechSvc		1,507.86	
		Invoice Net				1,507.86	
						CHECK TOTAL	1,507.86
2594 STONEBROOKE ENGINEERIN		00000		INV	05/26/2021	00663.37	
1 13320000 6260		HwyEng/Con		ProTechSvc		29,507.29	
		Invoice Net				29,507.29	
						CHECK TOTAL	29,507.29
4779 TECH TRONIX INC		00000		INV	05/26/2021	199	
1 01451453 6260		CmEnvrHlth		ProTechSvc		50.00	
		Invoice Net				50.00	
						CHECK TOTAL	50.00
4586 THE ELECTRONIC CONNECT		00000		INV	05/26/2021	10129113	
1 01061061 6401		ITTechnlgy		OffcSuppls		29.99	
		Invoice Net				29.99	
						CHECK TOTAL	29.99
666 THE RETROFIT COMPANIES		00000		INV	05/26/2021	0112216-IN	
1 19392000 6260		SpecWM		ProTechSvc		445.52	
		Invoice Net				445.52	
						CHECK TOTAL	445.52
519 THE SHOP LLC		00000		INV	05/26/2021	22239	
1 13340000 6260		HwyEqMt/Sh		ProTechSvc		95.00	
		Invoice Net				95.00	
						CHECK TOTAL	95.00

05/26/2021 15:58
5264aschauer

Waseca, MN
| DETAIL INVOICE LIST

P 10
apwarnt

CASH ACCOUNT: 99000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
456 THOMAS M CONDON		00000		INV	05/26/2021	WC 5/2/21	
1 13330000 6559		HwyMntnc		MscRdMat		474.94	
		Invoice Net				474.94	
				CHECK TOTAL		474.94	
2312 THOMSON REUTERS		00000		INV	05/26/2021	844276855	
1 01091000 6453		Attrny		InfoLibChg		412.25	
		Invoice Net				412.25	
2312 THOMSON REUTERS		00000		INV	05/26/2021	844362060	
1 01091000 6453		Attrny		InfoLibChg		84.71	
		Invoice Net				84.71	
				CHECK TOTAL		496.96	
392 TOPPERS PLUS INC		00000		INV	05/26/2021	156620	
1 13340000 6310		HwyEqMt/Sh		EqRepMtc		200.00	
2 13340000 6564		HwyEqMt/Sh		MchVehPrts		139.99	
		Invoice Net				339.99	
				CHECK TOTAL		339.99	
6711 TRIMIN SYSTEMS INC		00000		INV	05/26/2021	50781	
1 25105000 6450		RcdrComp		SftwrUpgrd		6,500.00	
		Invoice Net				6,500.00	
				CHECK TOTAL		6,500.00	
8638 REGENTS OF UNIVERSITY		00000		INV	05/26/2021	4111	
1 13320000 6285		HwyEng/Con		ROWAcq		54,000.00	
		Invoice Net				54,000.00	
				CHECK TOTAL		54,000.00	
2934 ULINE		00000		INV	05/26/2021	133372760	
1 19391000 6410		TransStatn		CstBldgSpp		352.04	
		Invoice Net				352.04	
2934 ULINE		00000		INV	05/26/2021	133453097	
1 19391000 6410		TransStatn		CstBldgSpp		1,208.05	
		Invoice Net				1,208.05	
				CHECK TOTAL		1,560.09	
379 WASECA CO AG SOCIETY		00000		INV	05/26/2021	5/12/21 STMNT 1	
1 01281281 6401		Vol/CERT		OffcSuppls		50.00	
		Invoice Net				50.00	
				CHECK TOTAL		50.00	
379 WASECA CO AG SOCIETY		00000		INV	05/26/2021	5/12/21 STMNT 2	
1 01281281 6401		Vol/CERT		OffcSuppls		125.00	
		Invoice Net				125.00	
				CHECK TOTAL		125.00	

05/26/2021 15:58
5264aschauer

Waseca, MN
DETAIL INVOICE LIST

P 11
apwarnt

CASH ACCOUNT: 990000000 1001

FNB Checking

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

VENDOR	G/L ACCOUNTS	R	PO	TYPE	DUE DATE	INVOICE/AMOUNT	CHECK
4188	WASECA COUNTY NEWS (SU 1 01041000 6240	00000	Aud-Treas	INV	05/26/2021	WCN-28552 2021 63.25 Invoice Net	
						CHECK TOTAL	63.25
2601	ZIEGLER INC 1 13340000 6564 2 13340000 6310	00000	HwyEqMt/Sh HwyEqMt/Sh Invoice Net	MchVehPrts EqRepMtc	05/26/2021	9450000 4/30/21 1,199.59 1,707.75 2,907.34	
						CHECK TOTAL	2,907.34
97 INVOICES			CHECK RUN TOTAL			186,545.98	186,545.98
			CASH ACCOUNT BALANCE				4,688,297.16

05/26/2021 15:58
5264aschauer

| Waseca, MN
| CHECK RUN SUMMARY

| P 12
| apwarrnt

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

FUND	ORG		ACCOUNT		AMOUNT	AVLB	BUDGET
01	01002000	County Commissione	01-002-010-000-0000-0000-6803-	Miscellaneous Expense	56.00		-373.92
01	01014000	Court Admin Waseca	01-014-010-000-0000-0000-6812-	Jury Attendants	400.00		2,600.00
01	01041000	Auditor-Treasurer	01-041-010-000-0000-0000-6240-	Advertising/Legal Noti	63.25		4,465.63
01	01041000	Auditor-Treasurer	01-041-010-000-0000-0000-6310-	Equipment Repairs/Main	463.50		20,036.50
01	01042000	License Bureau	01-042-010-000-0000-0000-6401-	Office Supplies	79.51		806.54
01	01061061	IT Technology	01-061-010-061-0000-0000-6260-	Prof & Tech Services	1,300.00		19,257.72
01	01061061	IT Technology	01-061-010-061-0000-0000-6310-	Equipment Repairs/Main	98.00		3,010.00
01	01061061	IT Technology	01-061-010-061-0000-0000-6340-	Rentals & Service Agre	35.00		7,430.00
01	01061061	IT Technology	01-061-010-061-0000-0000-6401-	Office Supplies	428.99		5,487.48
01	01061061	IT Technology	01-061-010-061-0000-0000-6480-	Non-Capitalized Invent	3,868.00		27,717.19
01	01062000	Central Services	01-062-010-000-0000-0000-6267-	State Auditing	18,000.00		-24,575.00
01	01062000	Central Services	01-062-010-000-0000-0000-6341-	Copier Maintenance	2,201.97		3,125.26
01	01065000	Human Resources	01-065-010-000-0000-0000-6240-	Advertising/Legal Noti	115.00		-200.53
01	01065000	Human Resources	01-065-010-000-0000-0000-6241-	Conference/Trainig/Reg	75.00		581.25
01	01065000	Human Resources	01-065-010-000-0000-0000-6260-	Prof & Tech Services	120.00		21,634.40
01	01065000	Human Resources	01-065-010-000-0000-0000-6401-	Office Supplies	18.08		-162.26
01	01091000	Attorney	01-091-010-000-0000-0000-6453-	Information/Library Ch	496.96		12,279.19
01	01101000	Recorder	01-101-010-000-0000-0000-6241-	Conference/Trainig/Reg	100.00		2,100.00
01	01101000	Recorder	01-101-010-000-0000-0000-6452-	Reference Books & Mate	195.75		-346.60
01	01107000	Planning and Zonin	01-107-010-000-0000-0000-6401-	Office Supplies	15.81		1,335.03
01	01111000	Courthouse Buildin	01-111-010-000-0000-0000-6310-	Equipment Repairs/Main	104.04		3,237.98
01	01115000	East Annex Buildin	01-115-010-000-0000-0000-6340-	Rentals & Service Agre	45.00		1,214.74
01	01119000	Fleet	01-119-010-000-0000-0000-6560-	Automotive Repairs	333.00		2,081.28
01	01201201	General Sheriff	01-201-020-201-0000-0000-6461-	Uniform Expense	425.00		19,575.00
01	01201201	General Sheriff	01-201-020-201-0000-0000-6670-	Vehicles	11,683.60		-247,330.44
01	01201217	Sheriff Board of P	01-201-020-217-0000-0000-6268-	Medical Costs	3,470.77		32,950.88
01	01201217	Sheriff Board of P	01-201-020-217-0000-0000-6803-	Miscellaneous Expense	650.00		8,428.96
01	01201223	Sheriff Eqpmnt Rep	01-201-020-223-0000-0000-6310-	Squad Repairs/Maintena	241.27		13,334.28
01	01201229	Office Supplies, S	01-201-020-229-0000-0000-6475-	Administrative Office	660.88		580.83
01	01252000	Court Services	01-252-020-000-0000-0000-6412-	UA Testing	99.40		955.05
01	01254000	Electronic Monitor	01-254-020-000-0000-0000-6264-	Electronic Monitoring	439.00		8,073.00
01	01281000	Emergency Manageme	01-281-020-000-0000-0000-6260-	Prof & Tech Services	1,800.00		915.00
01	01281281	Volunteer/CERT	01-281-020-281-0000-0000-6401-	Office Supplies	175.00		925.00
01	01451453	Comm Envirnmntal H	01-451-050-453-0000-0000-6260-	Prof & Tech Services	50.00		-850.00
01	01521000	County Parks	01-521-070-000-0000-0000-6310-	Equipment Repairs/Main	9.65		1,301.25
01	01521000	County Parks	01-521-070-000-0000-0000-6602-	Grounds Improvements	204.15		1,795.85
01	01602000	Extension	01-602-090-000-0000-0000-6111-	Per Diems	80.00		920.00
01	01602000	Extension	01-602-090-000-0000-0000-6401-	Office Supplies	114.41		1,272.91

FUND TOTAL 48,715.99

CASH ACCOUNT 99000000 1001 BALANCE 4,688,297.16

13	13310000	Highway Administra	13-310-030-000-0000-0000-6334-	Mileage	691.04	-1,228.96
13	13320000	Hwy Engineering/Co	13-320-030-000-0000-0000-6260-	Prof & Tech Services	33,679.38	245,656.80
13	13320000	Hwy Engineering/Co	13-320-030-000-0000-0000-6285-	Right-Of-Way Acquisiti	54,000.00	-35,250.00
13	13330000	Highway Maintenanc	13-330-030-000-0000-0000-6260-	Prof & Tech Services	170.00	345,443.87
13	13330000	Highway Maintenanc	13-330-030-000-0000-0000-6503-	Traffic Signs	2,595.36	27,556.84
13	13330000	Highway Maintenanc	13-330-030-000-0000-0000-6508-	Weed Spray	5,450.22	8,049.78

05/26/2021 15:58
5264aschauer

| Waseca, MN
| CHECK RUN SUMMARY

| P 13
| apwarrrt

CHECK RUN: C060121 06/01/2021

DUE DATE: 05/26/2021

FUND ORG	ACCOUNT			AMOUNT	AVLB BUDGET	
13	13330000	Highway Maintenanc	13-330-030-000-0000-0000-6559-	Other Misc Road Materi	474.94	9,932.13
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6260-	Prof & Tech Services	1,492.99	22,194.15
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6310-	Equipment Repairs/Main	1,907.75	-2,168.87
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6340-	Rentals & Service Agre	8,698.20	1,376.03
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6410-	Custodial/Building Sup	188.92	-1,000.97
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6562-	Other Auto Supplies	1,812.26	35,364.46
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6564-	Machinery/Vehicle Part	2,449.43	54,165.95
13	13340000	Hwy Equipment Main	13-340-030-000-0000-0000-6590-	Tools & Shop Materials	1,439.09	14,121.39
				FUND TOTAL	115,049.58	
CASH ACCOUNT 99000000 1001	BALANCE	4,688,297.16				
19	19391000	Transfer Station	19-391-040-000-0000-0000-6410-	Custodial/Building Sup	2,033.23	-2,115.79
19	19392000	Special Waste Mana	19-392-040-000-0000-0000-6260-	Prof & Tech Services	445.52	908.67
19	19393000	Recycling	19-393-040-000-0000-0000-6260-	Prof & Tech Services	2,772.49	24,720.39
				FUND TOTAL	5,251.24	
CASH ACCOUNT 99000000 1001	BALANCE	4,688,297.16				
25	25067000	CARES	25-067-000-000-0000-0000-6205-	Telework Support	8,236.00	.00
25	25105000	Recorder's Complia	25-105-010-000-0000-0000-6450-	Software Purchases & U	6,500.00	-6,500.00
25	25123000	Vet's Svcs Operati	25-123-010-000-0000-0000-6240-	Advertising/Legal Noti	2,500.00	-2,500.00
25	25257000	Jail Canteen	25-257-020-000-0000-0000-6807-	Jail Canteen Miscellan	284.52	-3,595.97
25	25259000	Permit To Carry	25-259-020-000-0000-0000-6401-	Office Supplies	8.65	-1,492.99
				FUND TOTAL	17,529.17	
CASH ACCOUNT 99000000 1001	BALANCE	4,688,297.16				
CHECK RUN SUMMARY TOTAL					186,545.98	
GRAND TOTAL					186,545.98	

** END OF REPORT - Generated by Amy Schauer **



**Waseca County Board of Commissioners
Request for Board Action**

Approve Security Agreement – First National Bank

Meeting Date: June 1, 2021
Item Type: ☒ Consent ☐ Action
Department: Auditor-Treasurer
Contact: Tammy Spooner
Contact Phone: 507-835-0616
Prepared by: Tammy Spooner

Fiscal/FTE Impact:
☒ None
☐ Current budget
☐ New FTE(s) Requested
☐ Other
☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Request approval of a Security Agreement for the Deposit of Public Funds with First National Bank of Waseca.

SUMMARY

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners approve the annual security agreement.

EXPLANATION OF FISCAL/FTE IMPACTS

Supporting Documents:
Attachment A: Security Agreement
Attachment B:

Previous Board Action(s):
Resolution #

**FIRST NATIONAL BANK
WASECA, MINNESOTA**

SECURITY AGREEMENT FOR THE DEPOSIT OF PUBLIC FUNDS

This agreement is made this 30th day of April 2021, by and between First National Bank of Waseca, hereinafter known as "Depository," and Waseca County, hereinafter known as "Public Unit."

SECTION 1. GRANT OF SECURITY INTEREST. As required by law, Depository hereby grants a security interest in the securities, notes, and instruments specifically described on the attached exhibits as collateral for any and all deposits and certificates of deposit by the Public Unit in an amount in excess of \$250,000 FDIC insurance coverage from this date until such deposits and certificates of deposits have been paid in full.

SECTION 2. VALUE OF PLEDGED COLLATERAL. Depository shall maintain an aggregate market value of pledged collateral in an amount not less than that required by law.

SECTION 3. CUSTODIAL AGREEMENT. To allow the Public Unit to perfect its security interest, Depository will deposit said collateral with the United Bankers' Bank as agent of the Public Unit pursuant to a Custody Agreement executed by and between Depository, Public Unit, and Bank.

SECTION 4. SUBSTITUTION OF COLLATERAL. Depository may substitute collateral as provided by law. Provided the Depository is not then in default, as defined within this Agreement, Public officer shall promptly upon request of the Depository respond to Depository's Applications for Addition, Withdrawal, and/or Substitution of Securities. Failure by the Public officer to respond to Depository's request within ten (10) days (or as provided otherwise by law) shall be deemed approval of the request.

SECTION 5. INTEREST COLLATERAL. Provided that the Depository is not in default, as defined by this Agreement, all interest on collateral deposited shall be paid to the Depository. In the event of default, interest on deposited securities shall be paid to the party entitled to possession of such security and shall be aggregated with the security as additional collateral securing the obligations of the Depository.

SECURITY AGREEMENT

SECTION 6. EVENTS OF DEFAULT. Depository shall be in default under this Agreement upon the occurrence of any of the following events:

- a. The Depository shall be closed by order of its primary regulatory agency;
- b. The Depository has breached any provisions of the Deposit Agreement of this Security Agreement;
- c. The Depository is in violation of any provision of law concerning the deposit of public funds.

SECTION 7. CERTIFICATE OF DEFAULT. In the event of the occurrence of any event of default as defined herein, the Public Unit through the undersigned Public Officer, may make written demand and Certification of Default to the United Bankers' Bank as custodian of the collateral, for release to the Public Officer of all of the collateral deposited with the Bank by Depository for the benefit of the Public Unit.

SECTION 8. FORECLOSURE. Upon delivery of the collateral to the Public Unit, the Public Unit shall foreclose its security interest in the collateral provide by law.

IN WITNESS WHEREOF, the Parties, each acting through their respective duly authorized representative(s), have caused this Agreement to be signed in their names and delivered as of the date first above written.

Waseca County
Public Unit

By:
Signature

Tammy Spooner
Signor

Auditor-Treasurer
Title

First National Bank of Waseca
Depository--Full Corporate Name

By:
Signature

Bernard Gaytko
Signor

President
Title

EXHIBIT A

KNOW ALL MEN BY THESE PRESENTS, That First National Bank of Waseca in consideration of its designation as a depository of public funds of Waseca County MN, as hereinafter specified, hereby assigns, transfers, and sets over to said Waseca County those certain securities described as follows, to-wit:

SECURITIES

Cusip	Receipt	Description	Maturity Date	Rate	Market Value
3128PRCG2	216026978	FHLMC Pool J11871	3/1/2025	4	42,562.91
3128PTJ48	216028719	FHLMC Pool J13883	12/1/2025	3.5	126,593.82
3128PYJA3	167007551	FHLMC Pool J18357	3/1/2027	3	181,371.86
3132DMPX7	216052361	FHLMC Pool SD0438	4/1/1950	4	459,722.26
3132KE2B0	218010337	FHLMC Pool V60770	3/1/2030	2.5	210,485.17
3133KTMR8	190027200	FHLMC Pool RB0368	11/1/1940	2	511,509.76
3133L7WF0	190028181	FHLMC Pool RC1546	9/1/1935	2	776,259.32
3138E2J48	216025198	FNMA Pool AJ9282	12/1/2026	3.5	60,688.53
3138Y5DY9	167006884	FNMA Pool AX3718	6/1/2027	3.5	70,490.94
3140QHAZ8	190027793	FNMA Pool CA9023	2/1/1941	2.5	515,823.29
3140X5ZV8	216050720	FNMA Pool FM2555	12/1/1934	3.5	451,968.44
3140X9NB7	216057171	FNMA Pool FM5785	12/1/1940	3	542,370.23
31410LHK1	216027204	FNMA Pool 890434	7/1/2027	3	61,550.90
31417ELE9	218010336	FNMA Pool AB7524	1/1/2028	2	182,632.67
31417Y3A3	167007550	FNMA Pool MA0792	7/1/2031	4.5	119,764.80
31418B5R3	216033417	FNMA Pool MA2655	6/1/2036	4	213,599.26
31418CQF4	216046719	FNMA Pool MA3153	10/1/1937	4	326,083.16
36179N2Z0	216019426	GNMA POOL #MA1692	2/20/2044	3	31,256.15
36179NLX4	216019424	GNMA POOL #MA1242	8/20/2043	2.75	45,565.46
36241LBU9	167007552	GNMA Pool #782751	8/15/2024	4.5	34,644.94
36295KQR7	172008139	GNMA Pool #672864	7/15/2023	4.5	3,957.89
3137BP3W7	216038442	FHR 4569 JA	3/15/2042	3	109,365.30
31398M3F1	216038231	FNR 2010-32 GL	4/25/2030	4	109,470.78
38378W2E2	167005212	GNR 2013-129 DH	9/16/2028	2.5	63,989.10
38378YKB4	216043823	GNR 2013-169 GV	2/16/2027	2.5	476,136.04
83165AG40	216019463	SBA Pool #521819	7/25/2036	5.288	75,901.91
83165ALR3	216019464	SBA Pool #521936	5/25/2025	5.781	69,198.99
081383U33	216046835	Bemidji MN GO	2/1/2028	3	629,238.50
317184CN7	216041672	Fillmore MN Indpt Sch Dist Go	2/1/2027	3	416,396.00
350010ES9	216039769	Fosston MN Indpt Sch Dist GO	2/1/2026	3	325,359.00
614468G91	190020190	Monticello MN GO	12/15/2027	3.4	453,179.10
648329EK2	216028382	New Richland MN GO	12/1/2025	3	233,992.80
6577642F2	216036588	North Branch MN GO	2/1/2022	3	275,464.80
662038QW1	216024994	North Royalton OH GO	12/1/2024	3	213360.00
722580HJ9	216025201	Pine Grove PA Area Sch Dist GO	2/15/2023	2	250315.00

Total: 8,670,269.08

LETTERS OF CREDIT :

5-24-2021 780,000.00

TOTAL: 780,000.00

of the total market value of \$9,450,269.08 Dollars, together with such other securities as may hereafter be by it delivered to said Waseca County in lieu of all or any part thereof and additional thereto pursuant to the statutes of the State of Minnesota relating to depositories of public funds;

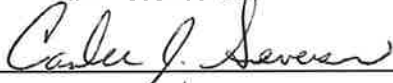
THE CONSIDERATION AND CONDITION OF THIS ASSIGNMENT AND DEPOSIT OF SECURITIES ARE SUCH;

That whereas it has submitted in writing to the Treasurer of said Waseca County its said proposal to be designated a depository of said funds of said Waseca County, All Dollars for the term of one year (s) from the 30th day of April, 2021, upon the terms of said proposal which is hereby made a part hereof, and has assigned said securities and agreed to deposit the same with the Treasurer of said Waseca County, or at such other place as the governing body of said Waseca County shall by resolution fix and determine for the safe-keeping of such collateral together with such other securities as may during said term be substituted therefor or any part thereof and additional thereto as security for the payment of All Dollars of said public funds so to be deposited.

NOW, THEREFORE, If, in case it shall be designated such depository of said funds, it shall observe all its duties as such depository according to the statutes of the State of Minnesota relating to depositories of such public funds, which statutes are hereby made a part hereof, shall credit, account for, and pay over to Treasurer of said Waseca County without exchange or other charges, on demand and its legal orders, all funds and moneys which shall be deposited with it subject to such demands and orders, with interest thereon according to its said proposal, and all funds and moneys which shall be deposited with it as time deposits, and interest thereon, as the same shall become due, and at the end of said term shall credit, account for, and pay over, the same to the Treasurer of said Waseca County, all of which it hereby promises and agrees to do, this assignment and obligation shall become void and said securities shall be surrendered and delivered to it by said First National Bank of Waseca; otherwise it shall be and remain of full force and effect; and in case of any default on its part under the statutes of the State of Minnesota relating to depositories of public funds, it hereby authorizes and empowers said Waseca County and its governing body and officers, to sell and dispose of all said securities, or such part thereof as shall be necessary, out of the proceeds thereof to retain and keep the full amounts due to said Waseca County, and to pay the overplus, if any, to it as such depository, or its assigns.

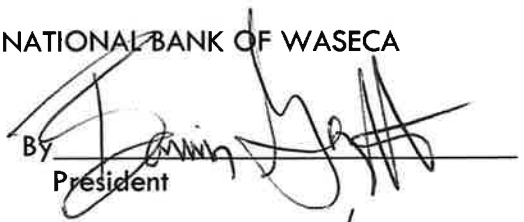
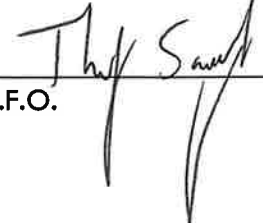
IN WITNESS WHEREOF, It has caused these presents to be executed in its corporate name by its President and CFO and its corporate seal to be hereunto affixed by authority of its Board of Directors this 11th day of May 2021.

In Presence of




Seal

FIRST NATIONAL BANK OF WASECA

By 
President
And 
C.F.O.



**Waseca County Board of Commissioners
Request for Board Action**

Renew Liquor Licenses

Meeting Date: June 1st, 2021
Item Type: ☐ Consent ☒ Action
Department: Auditor/Treasurer
Contact: Tammy Spooner
Contact Phone: 507-835-0610
Prepared by: Mary Jo Stangler

Fiscal/FTE Impact:
☒ None
☐ Current budget
☐ New FTE(s) Requested
☐ Other
☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Board approval to renew the Liquor Licenses for:

Waseca Lakeside Club, LLC

New Richland Golf Association, dba Riverview Golf Course

Half Pint Brewery, LLC

SUMMARY

Applicants have supplied necessary documentation to proceed forward to renew the 2021-2022 liquor licenses.

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners approve the renewal of the 3 liquor licenses.

EXPLANATION OF FISCAL/FTE IMPACTS

None

Supporting Documents:

Attachment A:

Attachment B:

Previous Board Action(s):

Resolution #



**Waseca County Board of Commissioners
Request for Board Action**

Sign DNR 2021 Boat and Water Contract

Meeting Date:	06/01/2021	Fiscal/FTE Impact:
Item Type:	☒ Consent ☐ Action	☒ None
Department:	Waseca County Sheriff's Office	☐ Current budget
Contact:	Sheriff Brad J. Milbrath	☐ New FTE(s) Requested
Contact Phone:	507-835-0510	☐ Other
Prepared by:	Sheriff Brad J. Milbrath	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Sign DNR 2021 Boat and Water contract.

SUMMARY

This is the annual grant from the DNR, designated for Boat and Water Safety. This year the amount allocated to Waseca County is \$1,994.00. The grant amount is down \$685 from the 2020 allocation. This grant helps offset some expenses during the year related to boat and water safety.

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners approve and sign the grant contract.

EXPLANATION OF FISCAL/FTE IMPACTS

The County covers the up front costs, the County is reimbursed by the Minnesota Department of Natural Resources (DNR).

Supporting Documents:

Attachment A:

Attachment B:

Previous Board Action(s):

Resolution #



**2021 STATE OF MINNESOTA
ANNUAL COUNTY BOAT AND WATER SAFETY
GRANT CONTRACT AGREEMENT**

ENCUMBRANCE WORKSHEET

Contract#

PO#

State Accounting Information:

Dept. ID R29	PC Bus. Unit R2901	Fiscal Year 2021	Source Type State	Vendor Number 0000197320-001
Total Amount \$1,994	Project ID R29G70CGBLA19	Billing Location R297000221	DUNS 160288213	

Accounting Distribution:

Fund 2100	Fin. Dept. ID R2937714	Appropriation ID R297400	Category 84101501	Account 441302	Activity A4CG002
--------------	---------------------------	-----------------------------	----------------------	-------------------	---------------------

Grant Begin Date January 1, 2021	Grant End Date June 30, 2022
-------------------------------------	---------------------------------

Grantee Name and Address:
Waseca County Sheriff's Office
122 Third Avenue NW
Waseca, MN 56093

Payment Address:
(where DNR sends the check)
Waseca Co. Treasurer
307 N. State St. Box 47
Waseca, MN 56093

**2021 STATE OF MINNESOTA
ANNUAL COUNTY BOAT AND WATER SAFETY
GRANT CONTRACT AGREEMENT**

This grant contract agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources, Enforcement Division ("State") and Waseca County Sheriff's Office, 122 Third Avenue NW, Waseca, MN 56093, (160288213) ("Grantee"). The payment address for this grant contract agreement is Waseca Co. Treasurer, 307 N. State St. Box 47, Waseca, MN 56093.

Recitals

1. Under Minnesota Statutes § 86B.701 & .705 the State is empowered to enter into this grant.
2. The State is in need of Sheriff's duties to carry out the provisions of Chapter 86B and the Boat and Water Safety Rules, hereinafter referred to as the "Minnesota Rules", including patrol, enforcement, search and rescue, watercraft inspection, issuance of temporary structure & event permits, waterway marking and accident investigation, all hereinafter referred to as the "Sheriff's Duties".
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract agreement to the satisfaction of the State. Pursuant to [Minn.Stat. §16B.98](#), Subd. 1, the Grantee agrees to minimize administrative costs as a condition of this grant.

Grant Contract Agreement

1 Term of Grant Contract Agreement

- 1.1 **Effective date:** January 1, 2021 or the date the State obtains all required signatures under [Minn. Stat. §16B.98](#), Subd. 5. Once this grant contract agreement is fully executed, the Grantee may claim reimbursement for 2021 grant expenditures incurred back to effective date. Per [Minn.Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant contract agreement is fully executed. Reimbursements will only be made for expenditures made according to the terms of this grant contract agreement.
- 1.2 **Expiration date:** June 30, 2022, or until all obligations have been satisfactorily fulfilled, whichever occurs first. Pursuant to Minnesota Statute §16A.28, Subdivision 6, the encumbrance may be certified for one year beyond the year in which funds were appropriated. The Grantee shall submit a final billing invoice within 30 days of the expiration of the grant as specified herein.
- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this grant contract agreement: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15. Data Disclosure.

2 Grantee's Duties

The Grantee, who is not a state employee, will provide county sheriff services for boat and water safety activities. As stated in Minnesota Statute § 86B.701, the Grantee will submit to the State a spending plan (Exhibit "A", which is attached and incorporated into this grant) along with this form to carry out the Sheriff's Duties. Boat and water safety activities are those outlined in Minnesota Statutes § 86B, Minnesota Rules, Chapter 6110, search and recovery operations in the waters of the State and the portions of Chapter 169A that are applicable to motorboats. Exhibit "B", which is attached and incorporated into this grant further defines the allowable expenditures. The Grantee is responsible for maintaining an adequate conflict of interest policy throughout the term of this grant contract. The Grantee shall monitor and report any actual, potential or perceived conflicts of interest to the State's Authorized Representative.

Reporting Requirements: The Grantee must satisfactorily submit all activity and financial reports by the date(s) requested by the State, unless the State grants an extension in writing. Exhibit "B", which is attached and incorporated into this grant further defines reporting requirements.

3 Time

The Grantee must comply with all the time requirements described in this grant contract agreement. In the performance of this grant contract agreement, time is of the essence.

4 Consideration and Payment

- 4.1 **Consideration.** The State will pay for all services performed by the Grantee under this grant contract agreement as follows:
 - (a) **Compensation.** The Grantee will be paid for all boat and water safety activities performed by the Grantee during the term of the grant up to One thousand nine hundred ninety-four dollars (\$1,994).
 - (b) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract agreement will not exceed One thousand nine hundred ninety-four dollars (\$1,994).
- 4.2 **Payment**
 - (a) **Invoices.** The State will promptly pay the Grantee after the Grantee presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Submit one invoice at the end of the grant period or when all obligations have been satisfactorily fulfilled, whichever occurs first in a form prescribed by the State within the dates previously noted in "Term of Grant Contract Agreement" in this contract.

4.3 Contracting and Bidding Requirements

Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must follow the law.

- (a) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per [Minn. Stat. §§177.41](#) through [177.44](#). These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole.
- (b) The grantee must not contract with vendors who are suspended or debarred in MN:
<http://www.mmd.admin.state.mn.us/debarredreport.asp>

5 Conditions of Payment

All services provided by the Grantee under this grant contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6 Authorized Representative

The State's Authorized Representative is Adam Block, Boating Law Administrator, Enforcement Division – Central Office, Minnesota Department of Natural Resources (DNR), 500 Lafayette Rd., St. Paul, MN 55155-4047, adam.block@state.mn.us or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is Sheriff Brad J. Milbrath, Waseca County Sheriff's Office, 122 Third Avenue NW, Waseca, MN 56093. If the Grantee's Authorized Representative changes at any time during this grant contract agreement, the Grantee must immediately notify the State.

7 Assignment, Amendments, Waiver, and Grant Contract Agreement Complete

- 7.1 **Assignment.** The Grantee shall neither assign nor transfer any rights or obligations under this grant contract agreement without the prior written consent of the State, approved by the same parties who executed and approved this grant contract agreement, or their successors in office.
- 7.2 **Amendments.** Any amendments to this grant contract agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant contract agreement, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this grant contract agreement, that failure does not waive the provision or the State's right to enforce it.
- 7.4 **Grant Contract Agreement Complete.** This grant contract agreement, including Exhibits "A" and "B," contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract agreement, whether written or oral, may be used to bind either party.

8 Liability

The Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant contract agreement by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant contract agreement.

9 Audits (State and Single)

Under [Minn. Stat. §16B.98, subd. 8](#), the Grantee books, records, documents, and accounting procedures and practices relevant to this grant contract agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant contract agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

10 Government Data Practices and Intellectual Property

- 10.1 **Government Data Practices.** The Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant contract agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract agreement. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either the Grantee or the State. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with applicable law.

11 Workers' Compensation

The Grantee certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

12 Publicity and Endorsement

- 12.1 **Publicity.** Any publicity regarding the subject matter of this grant contract agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors with respect to the program, publications, or services provided resulting from this grant contract agreement. All projects primarily funded by state grant appropriations must publicly credit the State of Minnesota, including on the grantee's website when practicable.
- 12.2 **Endorsement.** The Grantee must not claim that the State endorses its products or services.

13 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this grant contract agreement. Venue for all legal proceedings out of this grant contract agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14 Termination

- 14.1 **Termination by the State.** The State may immediately terminate this grant contract agreement with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.
- 14.2 **Termination for Cause.** The State may immediately terminate this grant contract if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.
- 14.3 **Termination for Insufficient Funding.** The State may immediately terminate this grant contract if:
- (a) It does not obtain funding from the Minnesota Legislature.
 - (b) Or, if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

15 Data Disclosure

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

16 American Disabilities Act

The Grantee is subject to complying with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) and all applicable regulations and guidelines.

17 Non-Discrimination Requirements

No person in the United States must, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. Including but not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance; Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
- (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance.
- (c) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- (d) Title II of the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination against qualified individuals with disabilities in services, programs, and activities of public entities.
- (e) Any other applicable non-discrimination law(s).

18 Invasive Species Prevention

The DNR requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The contractor shall prevent invasive species from entering into or spreading within a project site by cleaning equipment prior to arriving at the project site.

If the equipment, vehicles, gear, or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area.

The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Contract Administrator. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

The contractor shall ensure that all equipment and clothing used for work in infested waters has been adequately decontaminated for invasive species (ex. zebra mussels) prior to being used in non-infested waters. All equipment and clothing including but not limited to waders, tracked vehicles, barges, boats, turbidity curtain, sheet pile, and pumps that comes in contact with any infested waters must be thoroughly decontaminated.

19 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

19.1 The prospective lower tier participant certifies, by submission of this grant contract agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

19.2 Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this grant contract agreement.

20 Whistleblower Protection Rights

41 USC §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection

(a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239).

(b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.

(c) The recipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

Attachments:

- _____ A. State Boat Grant Contract Agreement
- _____ B. Exhibit A
- _____ C. Exhibit B
- _____ D. Conflict of Interest Disclosure

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes §16A.15.

Signed: _____

SWIFT Contract # _____

Purchase Order # _____

2. GRANTEE:

The Grantee certifies that the appropriate person(s) have executed the grant contract agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

3. STATE AGENCY: NATURAL RESOURCES

By: _____
(With delegated authority)

Distribution:

- 1. DNR - OMBS
- 2. Grantee
- 3. State's Authorized Representative

ALLOWABLE EXPENDITURES & REPORTING REQUIREMENTS

2021 BOAT & WATER SAFETY STATE GRANT PROGRAM

Use these guidelines when completing the proposed Budget --- Exhibit "A" form.

GENERAL - All of the expenditures listed below must be directly related to the boat and water safety program. When personnel or equipment costs are split between general law enforcement duties and boat and water safety work, the percentage paid out of the boat and water safety account may not exceed the percentage of time the individual or piece of equipment is actually used for boat and water safety enforcement. Boat and water safety activities are those activities outlined in: 1) M.S. § Chapter 86B, 2) Minn. Rules - Chapter 6110, 3) search and recovery operations in the waters of the state and 4) the portions of Chapter 169A that are applicable to motorboats.

(SPENDING PLAN, INVOICES, ACCOUNTING and REPORTS) – Submit one reimbursement invoice at the end of the grant period or when all obligations have been satisfactorily fulfilled, whichever occurs first. The proposed expenditures listed on your spending plan (Exhibit A) must reasonably match both your invoice and annual year-end report. If you need to purchase or pay for something that was not on the original Spending Plan, you will need to first send in a revised plan (Exhibit A) signed by the sheriff or designee, and if approved by the State, proceed from there. The Grantee must satisfactorily submit all annual performance reports and reimbursement requests for each year of participation in this Program by the date(s) requested by the State, unless the Grantee requests an extension in writing and the State approves an extension in writing. Minnesota statutes and rules require that you have a separate account for the state boat & water safety funds.

PERSONNEL - Personnel expenses (including salary, insurance, social security, retirement, worker's compensation, etc.) for persons who are actually engaged in boating and water safety duties. Records or logs of time spent on the program are necessary to support these expenses and should be retained not less than three years. If officer hours are a part of your reimbursement, please send one (1) completed officer log for the time period in which reimbursement is being requested.

SUPPLIES AND EXPENSES - This includes uniforms, fuel, oil, lubricants, repairs, rental/lease costs (docks, buildings, office facilities, equipment, etc.), insurance, travel costs, training expenses and expendable supplies (fuel, rope, paint, printing, etc.). No cell phone charges will be allowed. All expenditures need to be verifiable as allowable expenditures under this grant. Items must be listed on Exhibit A (proposed spending plan) of this grant and be descriptive in nature.

EQUIPMENT - Includes boats, motors, trailers, buoys, depth locators, radios, etc. Equipment that is being used for general duties may be either charged to the boat and water safety account according to percentage of use or by mile/hour of operation. Mileage logs showing dates, odometer readings and assignment are necessary to support all vehicle use and should be retained not less than three years. If you purchase equipment and it is greater than \$5,000, please submit a copy of the purchase invoice. The purchase of snowmobiles and ATVs with boat and water funds is not allowed.

County sheriff's departments are urged to contact Boat and Water Safety at the Minnesota Department of Natural Resources for a determination prior to any questionable proposed expenditure. All expenditures are subject to state audit. Be sure to keep accurate documentation and records of all expenditures.

Conflict of Interest Disclosure

Conflict of Interest:

A conflict of interest (actual, potential, or perceived) occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.

Actual Conflict of Interest:

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict. Examples include, but are not limited to:

- One party uses his or her position to obtain special advantage, benefit, or access to the other party's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.
- One party receives or accepts money (or anything else of value) from another party or has equity or a financial interest in or partial or whole ownership of the other party's organization.
- One party is an employee, board member or family member of the other party.

Potential Conflict of Interest:

A potential conflict of interest may exist if one party has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests. For example, when one party serves in a volunteer capacity for another party, it has the potential to, but does not necessarily, create a conflict of interest, depending on the nature of the relationship between the two parties. A disclosed potential conflict of interest warrants additional discussion in order to identify the nature of the relationship, affiliation, or other interest and take action to mitigate any potential conflicts.

Perceived Conflict of Interest:

A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist. A disclosed perceived conflict of interest warrants additional discussion in order to identify the nature of the relationship, affiliation, or other interest and take action to mitigate any potential conflicts.

Organizational Conflict of Interest:

A conflict of interest can also occur with an organization that is a grant applicant or grantee of a state agency.

Organizational conflicts of interest occur when:

- A grantee is unable or potentially unable to render impartial assistance or advice to the State due to competing duties or loyalties
- A grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties
- A grantee or potential grantee has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

This section to be completed by Grantee's Authorized Representative (AR):

I certify that we will maintain an adequate Conflict of Interest Policy and throughout the term of our agreement we will monitor and report any actual, potential, or perceived conflicts of interest to the State's Authorized Representative.

I also certify that I have read and understand the description of conflict of interest above and as of this date

(Check one of the two boxes below):

☐ I do not have any conflicts of interest relating to this project.

☐ I have an actual, potential, perceived, or organizational (*circle*) conflict of interest. The nature of the conflict is as follows:

If at any time during the grant project I discover a conflict of interest, I will disclose that conflict immediately to the State's Authorized Representative.

Grantee AR's Printed Name: _____

Date: _____

Grantee AR's Signature: _____

Organization Name: _____

Project Name: **2021 MN DNR State Boating Grant**

State AR's Printed Name: _____

Date: _____

State AR's Signature: _____



**Waseca County Board of Commissioners
Request for Board Action**

Sign DNR Grant Contract for Purchase of Rope Throwing Bags

Meeting Date:	06/01/2021	Fiscal/FTE Impact:
Item Type:	☒ Consent ☐ Action	☒ None
Department:	Waseca County Sheriff's Office	☐ Current budget
Contact:	Sheriff Brad J. Milbrath	☐ New FTE(s) Requested
Contact Phone:	507-835-0510	☐ Other
Prepared by:	Sheriff Brad J. Milbrath	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Sign DNR grant contract for the purchase of rope throwing bags.

SUMMARY

This is an annual grant where requests are made to the DNR for purchasing items at no cost to the County. This year we were granted \$500 for the purchase of rope throwing bags, which are utilized for water rescues. Waseca County purchases the items and the DNR reimburses the County for the cost of the items.

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners approve and sign the grant contract.

EXPLANATION OF FISCAL/FTE IMPACTS

The County covers the up front cost, the County is reimbursed by the Minnesota Department of Natural Resources (DNR).

Supporting Documents:

Attachment A:

Attachment B:

Previous Board Action(s):

Resolution #



**Waseca County Board of Commissioners
Request for Board Action**

**Partial Release of Exclusive Agricultural Use Zone Restrictive Covenant;
Gordon & Emma c. Zimprich (Paul J Zimprich Sr. – current owner)**

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:
Item Type:	☒ Consent ☐ Action	☐ None
Department:	Planning and Zoning Department	☐ Current budget
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ New FTE(s) Requested
Contact Phone:	(507) 835-0651	☐ Other
Prepared by:	Maame Yorke	☒ Amendment Requested

PURPOSE/ACTION REQUESTED

Approval of the Waseca County Amendment to Exclusive Agricultural Use Zone Restrictive Covenant for Gordon & Emma c. Zimprich. The current owner is Paul J Zimprich Sr.

SUMMARY

Staff has one amendment that have been requested from Exclusive Agricultural Use Zone Restrictive Covenant Agreements (hereinafter the “Ag Covenant”) that has been submitted for review by the County Board. The request is:

Owner	PID	Acres Removed (from Ag Covenant)	Acres Remaining (in Ag Covenant)
Gordon & Emma c. Zimprich (Paul J Zimprich Sr. – current owner)	06.012.0500	6.92	106.05

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners review the Ag Covenant Amendments in substantially the form as appended to this memorandum and advise if there are any concerns regarding this requested amendment.

EXPLANATION OF FISCAL/FTE IMPACTS

Properties enrolled in the program receive a reduction in the real estate taxes paid equal to \$1.50 per acre per year. The amount of the reduction is reimbursed by the State of Minnesota.

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

(Top reserved for recording data)

AMENDMENT OF EXCLUSIVE AGRICULTURAL USE ZONE RESTRICTIVE COVENANT

DATE: May ____, 2021

FOR VALUABLE CONSIDERATION, the real property located in Waseca County, Minnesota, legally described in Exhibit "A" attached hereto, is hereby released from the lien of the EXCLUSIVE AGRICULTURAL USE ZONE RESTRICTIVE COVENANT (Ag Covenant), authorized by Gordon Zimprich and Emma C. Zimprich, a married couple on the 2nd day of January 1990, as Applicants and Waseca County, a political subdivision of the State of Minnesota (Waseca County). The Ag Covenant was recorded on the 4th day of June 1990, as Document Number 184822, in the Office of the Waseca County Recorder of Waseca County, Minnesota. This Amendment of Agricultural Covenant releases the parcel described in Exhibit "A" from the Ag Covenant. The parcel or parcels described in Exhibit "B" are at least 35 acres in size and will remain bound by the Ag Covenant.

The current property owner is Paul J. Zimprich, Sr., a single person. This Amendment of Exclusive Agricultural Use Zone Restrictive Covenant releasing the parcel from the Ag Covenant described in Exhibit "A" was authorized by Waseca County on the date first written above.

Waseca County

By: _____
Mark T. Leiferman, Waseca
County Planning and Zoning
Administrator

State of Minnesota)
) ss.
County of Waseca)

This Amendment of Exclusive Agricultural Use Zone Restrictive Covenant was acknowledged before me on _____, 2021, by Mark T. Leiferman, the Planning and Zoning Administrator for Waseca County, Minnesota.

(Seal, if any)

(Signature of notarial officer)
Title (and Rank): _____
My commission expires: _____

Waseca County Board

By: _____
Doug Christopherson, Chairman
of the Waseca County Board

By: _____
Tammy Spooner, Clerk of the
Waseca County Board

State of Minnesota)
) ss.
County of Waseca)

This Amendment of Exclusive Agricultural Use Zone Restrictive Covenant was acknowledged before me on _____, 2021, by Waseca County Board Chairman Doug Christopherson and Tammy Spooner, Clerk of the Waseca County Board of Waseca County, Minnesota.

(Seal, if any)

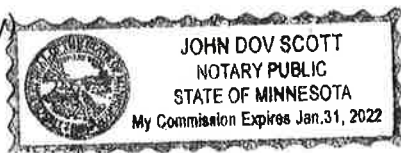
(Signature of notarial officer)
Title (and Rank): _____
My commission expires: _____

Owner _____
By: *Paul J. Zimprich, Sr.*
Paul J. Zimprich, Sr.

State of Minnesota)
) ss.
County of Waseca)

This instrument was acknowledged before me on May 18th, 2021, by Paul J. Zimprich, a single person.

(Seal, if any)



(Signature of notarial officer)
Title (and Rank): Notary
My commission expires: 1/31/2022

THIS INSTRUMENT WAS DRAFTED BY:

Patton, Hoversten & Berg, P.A.
302 First Avenue NW
Faribault, MN 55021
507-835-0650

Exhibit "A"

Property to be removed from
Exclusive Agricultural Use Zone Restrictive Covenant

That part of the West Half of the Southeast Quarter of Section 12, Township 108 North, Range 24 West, Waseca County, Minnesota, described as follows; Beginning at the Northeast Corner of said West Half of the Southeast Quarter; thence South 00 degrees 37 minutes 45 seconds West {bearings based on Waseca County Coordinate System NAD83, 1996 Adjustment) on the east line of said West Half of the Southeast Quarter, a distance of 33.00 feet; thence North 88 degrees 23 minutes 44 seconds West, a distance of 319.50 feet; thence South 00 degrees 37 minutes 45 seconds West, a distance of 280.00 feet; thence South 88 degrees 23 minutes 44 seconds East, a distance of 35.00 feet; thence South 00 degrees 37 minutes 45 seconds West, a distance of 490.76 feet; thence North 88 degrees 23 minutes 44 seconds West, a distance of 415.50 feet; thence North 00 degrees 37 minutes 45 seconds East, a distance of 803.76 feet to the north line of said Northeast Quarter; thence South 88 degrees 23 minutes 44 seconds East on said north line, a distance of 700.00 feet to the point of beginning.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL {DOC. NO. 201783};

All that part of the West Half (W 1/2) of the Southeast Quarter (SE 1/4) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, Waseca County, Minnesota described as follows: Beginning at a point 20 rods 6 feet West of a point 2 rods South of the Northeast corner of said West Half (W 1/2) of the Southeast Quarter (SE 1/4), as a point of commencement; thence in a Westerly direction, along the Southerly right of way line of the present township road which extends along the North line of said West Half (W 1/2) of the Southeast Quarter (SE 1/4), a distance of 160 feet; thence in a Southerly direction parallel to the East line of said West Half (W 1/2) of the Southeast Quarter (SE 1/4) a distance of 200 feet; thence in an Easterly direction parallel to the North line of said West Half (W 1/2) of the Southeast Quarter (SE 1/4) a distance of 160 feet to a point 200 feet South of the point of commencement; thence running in a Northerly direction a distance of 200 feet, more or less, to the point of commencement, containing .73 acre, more or less.

Said parcel contains 6.92 acres

Exhibit "B"

Property to remain bound by the benefits and requirements of the Exclusive Agricultural Use Zone Restrictive Covenant

Commencing at a point One Hundred Eleven and One Half ($111\frac{1}{2}$) rods North of the quarter post on the South section line of Section Twelve (12) , Township One Hundred Eight (108) North, Range Twenty-four (24) West, thence Eighty (80) rods West, thence Thirty-one and One Half ($31\frac{1}{2}$) rods North, thence Eighty (80) rods East to the quarter line, thence South to the place of beginning, containing Fifteen and Three-fourths ($15\frac{3}{4}$) acres, more or less.

AND ALSO:

Commencing at a point Sixty-three (63) rods North of the Southeast (SE) corner of the Northeast Quarter ($NE\frac{1}{4}$) of the Southwest Quarter ($SW\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, thence running Sixty-three (63) rods North, thence running Forty (40) rods West, thence running Sixty-three (63) rods South, and thence East Forty (40) rods to the place of beginning, containing Fifteen and Three-fourths ($15\frac{3}{4}$) acres, more or less.

AND ALSO:

The West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, **EXCEPT** the following described tracts, to-wit: Commencing on the East line of the West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West at a point Two (2) rods South of the Northeast (NE) corner of said West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, thence West along the South edge of the township road a distance of Three Hundred Nineteen and Five Tenths (319.5) feet, thence South Two Hundred Eighty (280) feet, thence East Three Hundred Nineteen and Five Tenths (319.5) feet to the East line of said West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, thence North Two Hundred Eighty (280) feet to the point of commencement, Waseca County, Minnesota; **ALSO EXCEPT** That part of the West Half of the Southeast Quarter of Section 12, Township 108 North, Range 24 West, Waseca County, Minnesota, described as follows; Beginning at the Northeast Corner of said West Half of the Southeast Quarter; thence South 00 degrees 37 minutes 45 seconds West (bearings based on Waseca County Coordinate System NAD83, 1996 Adjustment) on the east line of said West Half of the Southeast Quarter, a distance of 33.00 feet; thence North 88 degrees 23 minutes 44 seconds West, a distance of 319.50 feet; thence South 00 degrees 37 minutes 45 seconds West, a distance of 280.00 feet; thence South 88 degrees 23 minutes 44 seconds East, a distance of 35.00 feet; thence South 00 degrees 37 minutes 45 seconds West, a distance of 490.76 feet; thence North 88 degrees 23 minutes 44 seconds West, a distance of 415.50 feet; thence North 00 degrees 37 minutes 45 seconds East, a distance of 803.76 feet to the north line of said Northeast Quarter; thence South 88 degrees 23 minutes 44 seconds East on said north line, a distance of 700.00 feet to the point of beginning. **EXCEPT** All that part of the West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Twelve (12), Township One Hundred Eight (108) North, Range Twenty-four (24) West, Waseca County, Minnesota described as follows: Beginning at a point 20 rods 6 feet West of a point 2 rods South of the Northeast corner of said West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$), as a point of commencement; thence in a Westerly direction, along the Southerly right of way line of the present township road which extends along the North line of said West Half ($W\frac{1}{2}$) of the

Southeast Quarter (SE 1/4), a distance of 160 feet; thence in a Southerly direction parallel to the East line of said West Half (W 1/2) of the Southeast Quarter (SE 1/4) a distance of 200 feet; thence in an Easterly direction parallel to the North line of said West Half (W 1/2) of the Southeast Quarter (SE 1/4) a distance of 160 feet to a point 200 feet South of the point of commencement; thence running in a Northerly direction a distance of 200 feet, more or less, to the point of commencement, containing .73 acre, more or less.

Said Parcel contains 6.92 acres.

MEMBER COUNTY BOARD 2021 REPORT

Leota Lind, CEO
Scott Schufman, CFO





Year-End Audit

CliftonLarsonAllen (CLA) completed their financial audit of South Country for 2020:

- No difficulties encountered in performing the audit.
- No misstatements.
- No audit adjustments.
- Opinion - Statutory financial statements present fairly, in all material respects, the admitted assets, liabilities, and surplus of South Country Health Alliance, and the results of its operations and cash flows, on the basis of the financial reporting provisions of the Department of Health of the State of Minnesota.



2020 Results

South Country finished 2020 at a net income of \$2.3M versus budget of \$980,000 and compared to net income of \$1.8M in 2019.

Highlights included:

- Favorable revenue due to membership above budget and improvement in risk score accuracy.
- Reduction in medical claims costs year-over-year on a per member per month (PMPM) basis for Medicaid lines, especially PMAP and MNCare.
- Loss ratio of 89.5% versus prior year of 91.9%.
- Administrative expense to revenue ratio of 9.3% versus budget of 9.8%.
- Risk-Based Capital ratio of 300.0% versus prior year of 262.5%.

Financial Results

Statement of Net
Income (for twelve
months ending
December 31, 2020)

	December 2020 Actual	December 2020 Budget	Favorable/ (Unfavorable)	December 2019 Actual	Favorable/ (Unfavorable)
<u>REVENUE</u>					
TOTAL REVENUES *	\$ 211,438,045	\$ 198,829,895	\$ 12,608,150	\$ 290,369,521	\$ (78,931,476)
<u>PROGRAM EXPENSES</u>					
TOTAL PROGRAM EXPENSES	189,148,016	178,506,171	(10,641,845)	266,965,446	77,817,430
LOSS RATIO	89.5%	89.8%	0.3%	91.9%	2.4%
<u>ADMINISTRATIVE EXPENSES</u>					
EMPLOYEE RELATED	7,523,656	7,497,780	(25,876)	7,941,347	417,691
OTHER ADMIN EXPENSES	7,528,455	6,996,353	(532,102)	7,815,027	286,572
TPA FEES	4,958,390	4,980,591	22,201	6,747,330	1,788,940
CLAIMS ADJUSTMENT EXPENSES	(258,027)	0	258,027	(29,482)	228,545
TOTAL ADMINISTRATIVE EXPENSES	19,752,477	19,474,724	(277,750)	22,474,224	2,721,747
OPERATING INCOME	2,537,552	849,000	1,698,802	929,851	1,607,701
INTEREST EXPENSE	(374,269)	(269,000)	(105,269)	0	(374,269)
INVESTMENT INCOME	223,499	400,000	(176,501)	859,154	(635,655)
NET INCOME (LOSS)	\$ 2,386,781	\$ 980,000	\$ 1,406,781	\$ 1,789,004	\$ 597,777
MEMBER MONTHS	318,797	285,350	33,447	463,942	(145,145)
Admin Expense PMPM	\$ 61.96	\$ 68.28	\$ 6.32	\$ 48.44	\$ (13.52)
Admin Expense Ratio to Revenue	9.3%	9.8%	0.5%	7.7%	(1.6%)
TPA Fees PMPM	\$ 15.55	\$ 17.45	\$ 1.90	\$ 14.54	\$ (1.01)

* Revenue shown is net of Risk Corridor due to the State of \$5,090,281.



2021 Budget

South Country's 2021 budget calls for net income of \$1,200,000.

Key assumptions included:

- Membership up 12.6% - 359,000 total member months; 29,900 monthly average.
 - Revenue on PMPM basis up due to relatively moderate increases in rates, especially in PMAP, SNBC, and Medicare lines.
 - Medical claims costs up on a PMPM basis due to higher utilization assumptions in medical and pharmacy costs.
 - Loss ratio of 91.1% versus prior year of 89.5%.
 - Increase in administrative costs of 1.7% overall versus 2020 primarily due to increased TPA expenses (up 11.7%) related to increased membership.
 - Administrative expense to revenue ratio of 8.4% versus prior year of 9.3%.
 - 2021 budget assumes Risk Corridor payment to State of \$1.7 million.
- 

2021 Budget

	<u>FINAL 2020</u>	<u>BUDGET 2021</u>	<u>Change</u>
Member Months	318,797	358,957	12.6%
Revenue	\$ 211,438,045	\$ 243,838,435	15.3%
Claims	189,148,016	222,185,854	17.5%
Net Margin	22,290,029	21,652,581	
Admin Expenses	20,126,746	20,477,581	1.7%
Operating Income	2,163,283	1,175,000	
Investment Income	223,499	25,000	
Net Income	<u>\$ 2,386,782</u>	<u>\$ 1,200,000</u>	
Loss Ratio	89.5%	91.1%	1.6
Admin/Rev Ratio	9.3%	8.4%	(0.9)
Risk Corridor Payment (To) From State	\$ (5,090,281)	\$ (1,719,000)	



Risk Corridor / RBC Protection

Risk corridor language was added to DHS contracts in 2020 (via amendments) and included in 2021 contracts.

- Unpredictability of medical costs during the pandemic resulted in the inclusion of the risk corridor component over the two-year period.
- Minimum and Maximum Loss Ratios are calculated based on Target MLRs plus/minus 1.5%. This range defines the risk corridor by product for each year.
- Results outside of the risk corridor result in potential remittances due to/from the State.
- In the event South Country is required to pay the State in either contract year, such payment is limited to the extent it would reduce South Country's RBC to a level below 300%.
- Based on 2020 results, South Country booked a projected payable to MN DHS of \$5.1 million, lowering net income for 2020 by this same amount.
- 2021 budget assumes an additional risk corridor payment of \$1.7 million



South Country: Counts of Members Tested and Diagnosed with COVID-19

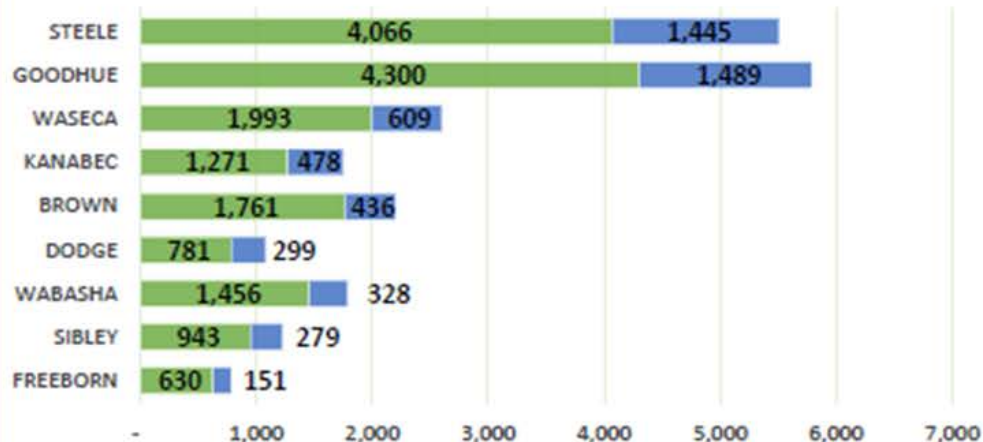
	Prior To Aug-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	Total ¹
COVID-19 Tests	4,461	1,535	2,121	2,471	4,024	2,589	1,865	1,576	1,747	326	22,715
Members Tested	3,640	1,260	1,819	2,057	3,098	1,940	1,637	1,446	1,619	311	11,500
Members with COVID-19 Diagnosis	194	91	109	143	603	426	303	161	131	40	1,818
Members with COVID-19 Admission	18	8	8	10	21	29	15	13	5	0	127

¹: Months and total differ. Member counts are distinct to that month; the total column is distinct members overall.

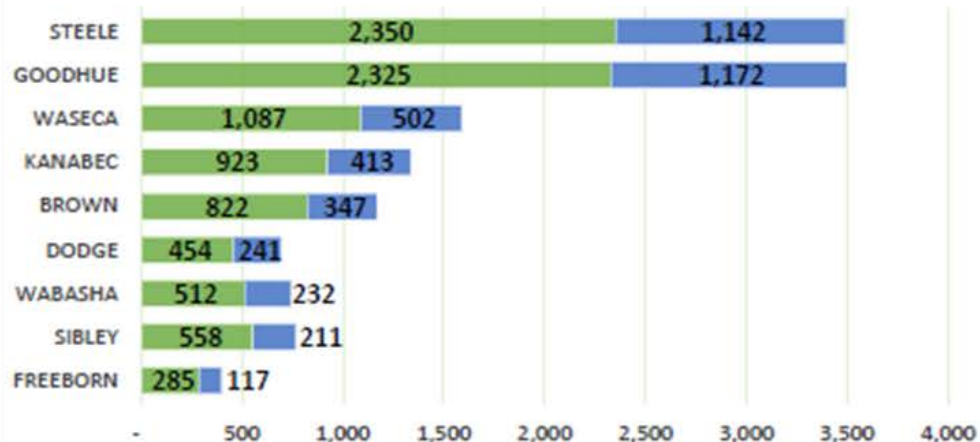
* Represents South Country data from claims data paid through Apr. 20, 2021

COVID-19 Statistics by County

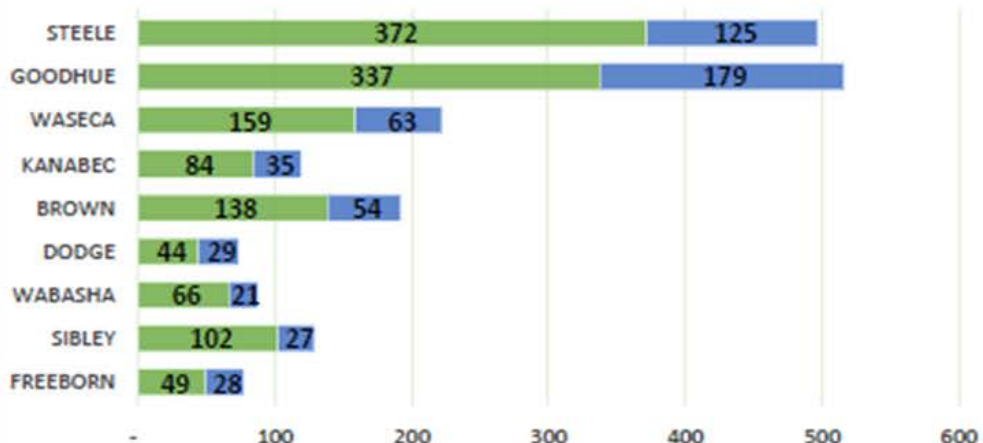
COVID-19 Tests by County



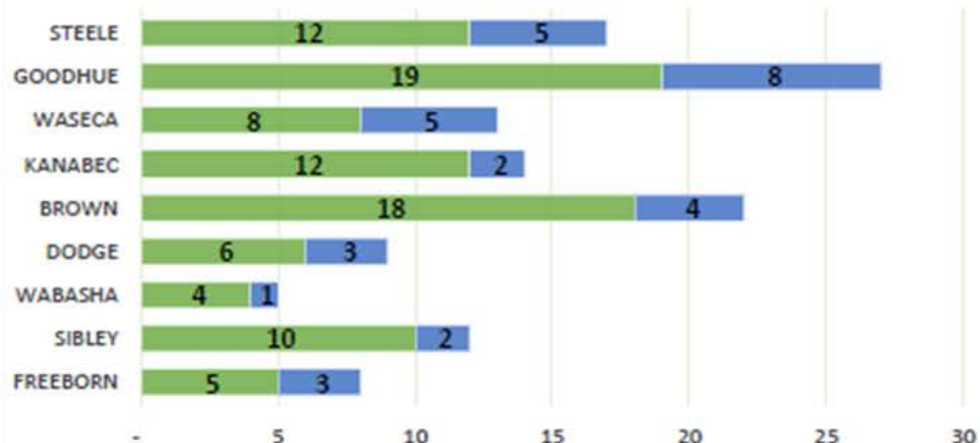
Members Tested by County



Members with COVID-19 Diagnosis by County

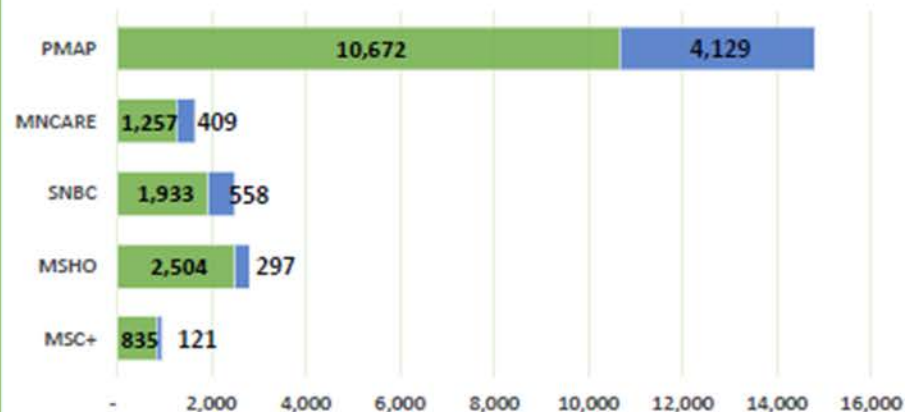


Members with COVID-19 Admitted by County

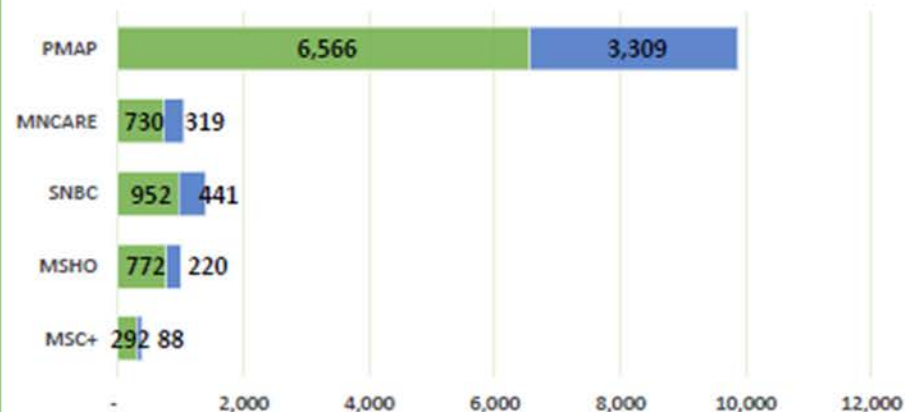


COVID-19 Statistics by Product

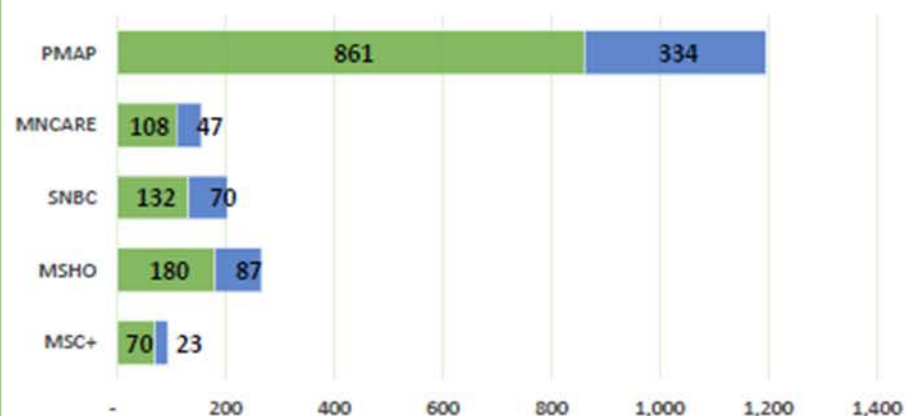
COVID-19 Tests by Product



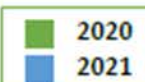
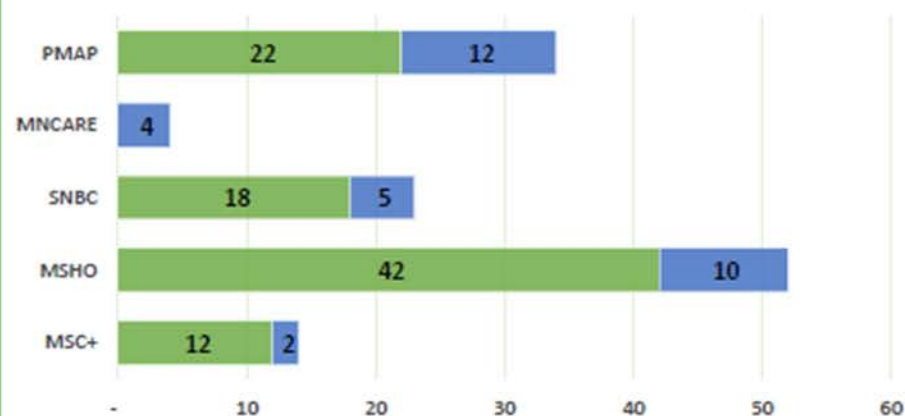
Members Tested by Product



Members with COVID-19 Diagnosis by Product



Members with COVID-19 Admitted by Product



Costs Associated with COVID-19

South Country: Paid Amount for COVID-19 Test Claims in 1,000's

	Prior To Aug-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	Total ²
COVID-19 Tests	\$353.5	\$121.7	\$177.9	\$214.5	\$348.3	\$219.7	\$125.2	\$105.6	\$121.0	\$23.3	\$1,810.7
Claims with COVID-19 Related Diagnoses	\$646.0	\$194.9	\$183.9	\$117.5	\$884.9	\$1,012.1	\$1,605.3	\$1,830.5	\$1,322.4	\$107.8	\$7,905.4
Total	\$999.4	\$316.6	\$361.8	\$332.0	\$1,233.2	\$1,231.8	\$1,730.5	\$1,936.1	\$1,443.4	\$131.1	\$9,716.0
Paid Amount for Inpatient Claims for Members with a COVID-19 Diagnosis											
Inpatient Stay for COVID-19 Diagnosed Members	\$420.4	\$108.7	\$71.0	\$197.7	\$349.7	\$526.0	\$182.0	\$152.8	\$63.5	\$0.0	\$2,071.8

THANK YOU!

FEELING GRATITUDE
AND NOT EXPRESSING IT
IS LIKE WRAPPING A PRESENT
AND NOT GIVING IT





**Waseca County Board of Commissioners
Request for Board Action**

Waseca SWCD MN Wetland Conservation Act Service Agreement

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:	
Item Type:	☐ Consent ☒ Action	☐ None	
Department:	Planning and Zoning	☒ Current budget	
Contact:	Byron, Haley	☐ New FTE(s) Requested	
Contact Phone:	(507) 835-0615	☐ Other	
Prepared by:	Byron, Haley	☐ Amendment Requested	

PURPOSE/ACTION REQUESTED

The Service Agreement with the Waseca Soil and Water Conservation District (SWCD) is for the administration of the MN Wetland Conservation Act (WCA) while the Water Resource Specialist is on a leave of absence.

SUMMARY

The Water Resource Specialist will be on a leave of absence for approximately three months beginning late June/early July. During their absence an experienced WCA practitioner who is a certified Wetland Delineator needs to fulfill the Water Resource Specialist's WCA administration responsibilities. The SWCD has agreed to take on these responsibilities for the duration of the leave of absence. The SWCD District Manager is currently part of the WCA Technical Evaluation Panel and a certified Wetland Delineator. They are involved in ongoing wetland related projects which will ensure a seamless transition of administrative responsibilities. The County Feedlot Officer will serve as a member of the Technical Evaluation Panel during this time and can assist the SWCD District Manager with administrative tasks when needed.

RECOMMENDATION

Waseca County staff recommends that the Waseca County Board of Commissioners approve the Service Agreement between the County and the Waseca SWCD.

EXPLANATION OF FISCAL/FTE IMPACTS

Services provided will be billed by the SWCD to the County at the Board of Water and Soil Resources' billable hourly rate. District Manager's current BWSR billable hourly rate is \$66.94. This rate is used and required for WCA Natural Resources Block Grant end of the year reporting.

Service Agreement

Waseca County, 307 N. State St., Waseca Minnesota, 56093, hereafter referred to as the "County" and Waseca County Soil and Water Conservation District, 300 North State St., Waseca, Minnesota, hereafter referred to as "SWCD", enter into the Agreement for the duration of the Waseca County Water Resource Specialist's leave of absence, approximately June 21, 2021 to October 11, 2021.

WITNESSETH

WHEREAS, the SWCD is qualified to provide administrative services regarding the Minnesota Wetland Conservation Act of 1991 (WCA); and

WHEREAS, the County wishes to purchase administrative oversight of the Minnesota Wetland Conservation Act in Waseca County from the SWCD;

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the County and SWCD agree as follows:

1. SWCD's DUTIES

- a. As specified in the Minnesota Wetland Conservation Act of 1991 (WCA) the County agrees to purchase and the SWCD agrees to furnish the WCA Administration Services outlined in Attachment A.
- b. The Contractor shall, in writing within sixty (60) days, notify the County whenever it is unable to, or going to be unable to, provide the required quality or quantity of services. Upon such notification, the County and the SWCD shall determine whether such inability will require modification or cancellation of the contract.

2. COST AND DELIVERY OF PURCHASED SERVICES

- a. Services provided will be billed by the SWCD to the County at the Minnesota Board of Water and Soil Resources' billable hourly rate.

3. PAYMENT FOR PURCHASED SERVICES

- a. Certification of expenditures: The SWCD must, within fifteen working days of the return of the Waseca County Water Resource Specialist, submit a standard invoice for services provided.
- b. Payment: The County must, within 30 days of the date of receipt of the invoice, make payment to the SWCD.

4. CONDITIONS OF THE PARTIES' OBLIGATIONS

- a. This agreement may be canceled by either party at any time, with or without cause, upon (60) days' notice, in writing, delivered by mail or in person.
- b. Before the termination date of this agreement, the County and SWCD may evaluate the agreement to determine each party's interest in renewal of the agreement.
- c. Any alterations, variations, modifications, or waivers of provisions of this agreement must be valid only when they have been reduced in writing duly signed, and attached to the original of this agreement.

- d. No claim for services furnished by the SWCD not specifically provided in the agreement will be allowed by the County, nor must the SWCD do any work or furnish any material not covered by the agreement, unless this is approved in writing by the County.

5. SUBCONTRACTING

The SWCD agrees not to enter into subcontracts for any of the work contemplated under this contract without written approval of the County.

6. ENTIRE AGREEMENT

It is understood and agreed that the entire contract of the parties is contained herein and this contract supersedes all oral agreements and negotiations between parties relating to the subject matter thereof.

Dated: _____

5/18/21



Chairperson, Waseca SWCD

Dated: _____

Chairperson, Waseca County Board

Dated: _____

Attest: Waseca County Administrator

ATTACHMENT A – SERVICES

This is an attachment to an Agreement between Waseca County (County) and Waseca County Soil and Water Conservation District (SWCD). The Agreement is for SWCD to provide administrative services to the County for program oversight and interpretation of the Wetland Conservation Act (WCA). The SWCD will provide up to ten (10) hours of oversight per week. This may vary depending on need and time availability. Additional or increased services should be requested in writing.

Below is a list of services to be provided by the SWCD and the corresponding responsibilities of Waseca County:

Administration

SWCD Responsibilities:

- Provide oversight and guidance for wetland programs in general
- Assist in using available technological tools

Public Interaction

SWCD Responsibilities:

- Provide guidance and answer questions for staff
- Attend meetings with landowners and staff if necessary and requested

County Responsibilities:

- Act as a contact for questions, concerns, comments from the public
- Meet with the public as necessary

Wetland Applications

SWCD Responsibilities:

- Determine completeness of wetland applications
- Perform site visits and initial landowner contacts
- Issue and distribute all Notice of Application and Notice of Decision documents

County Responsibilities:

- Sign all Notice of Application and Notice of Decision documents following review and approval by SWCD.

Field Works

SWCD Responsibilities:

- Attend site visits when necessary or requested
- Perform all aspects of field work (including site evaluation, delineation review, application review, violation documentation.)
- Investigate complaints.

County Responsibilities

Provide assistance in evaluating site information

Recordkeeping

SWCD Responsibilities:

Provide all wetland related documents to the County

County Responsibilities:

Keep and maintain all files in one place

Technical Evaluation Panel

SWCD Responsibilities:

Coordinate TEP meetings

Create and distribute agenda

Prepare necessary materials for members prior to the meeting

Attend monthly TEP meetings as necessary

Write up TEP findings and recommendations

County Responsibilities:

A representative from the Planning and Zoning department will attend all TEP meetings

Violations and Enforcement

SWCD Responsibilities:

Document violation, including pictures and descriptions

Contact necessary parties (including landowner, renters, DNR, TEP)

Perform follow-up if necessary

County Responsibilities:

Work with the SWCD to issue restoration orders



**Waseca County Board of Commissioners
Request for Board Action**

**Conditional Use Permit (CUP) Request to allow the Transfer of
Development Rights between two owners and into another Township**

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:
Item Type:	☐ Consent ☒ Action	☒ None
Department:	Planning and Zoning Department	☐ Current budget
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ New FTE(s) Requested
Contact Phone:	(507) 835-0651	☐ Other
Prepared by:	Maame Yorke	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Conditional Use Permit (CUP) request to allow the transfer of development rights between two owners and into another Township by Calonett Venues LLC (receiving site) and Wendell J. & Ruth A. Armstrong (sending site).

SUMMARY

On Thursday May 6, 2021, the Waseca County Planning Commission held its regularly scheduled meeting and unanimously moved to recommend approval of the following request to the Waseca County Board of Commissioners:

Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC. Calonett Venues LLC requests a Conditional Use Permit (CUP) to Transfer a Development Right (TDR) pursuant to Section 6.09 of the Waseca Unified Development Code (UDC). The UDC requires TDR development rights transferred between two owners and into different Townships within Waseca County be completed by CUP. The residential Density in A-1 Agriculture Protection District in Waseca County is 1 unit per Quarter-Quarter. Increases are allowed by TDR. The proposal is to transfer development rights from a sending site in the SE ¼ of the NW¼ of Section 7, T.106N R.23W (PID 11.007.0700) to a receiving site located on a 1.40 acre site in part of the NE¼ of Section 16, T107N R22W (PID 12.016.0300). Both the sending site and the receiving site are located in the A-1 Agriculture Protection District.

Both parcels are located in the A-1 Agricultural Protection Zoning District. The Waseca County Unified Development Code (UDC) allows the transfer of development rights between two property owners and townships with a conditional use permit.

The full Planning Commission Report on these matters can be found on the Waseca County website on the Agendas tab at: https://www.co.waseca.mn.us/AgendaCenter/ViewFile/Agenda/_05062021-528

RECOMMENDATION

Staff suggests the Board to consider:

- 1) The approval of Criteria for Approval and the Findings of Facts;
- 2) The approval of the Conditional Use Permit in substantially the form as appended to this report.

The Planning Commission recommend approval of Calonett Venues LLC's request to transfer of development rights between two owners and into another Township in substantially the form as presented to include the following conditions:

Staff recommends approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. If approved, staff recommends the following conditions to be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. The structure on the property shall be for single-family use.
2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

EXPLANATION OF FISCAL/FTE IMPACTS

None.

Supporting Documents:

Attachment A: Conditional Use Permit and Attachments

Attachment B: Findings of Facts (not for recording purposes)

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

Do not write above this line - Recorder use only

CONDITIONAL USE PERMIT

WASECA COUNTY

Transfer of Development Rights between two Owners and Townships

Date:	June 1, 2021	
Site Data:	<u>Sending Site:</u>	<u>Receiving Site:</u>
Applicant (s):	Wendell J. Armstrong Ruth A. Armstrong	Calonett Venues LLC
Property Address:	6439 – 310th Ave. Waseca, MN 56093	35961 150 th Street Waseca, MN 56093
Township Name:	Wilton	Woodville
Parcel Identification Number:	11.007.0700	12.016.0300
Legal Description:	SE ¼ of the NW¼ of Section 7, T.106N R.23W	NE¼ of Section 16, T107N R22W
Proposed Use of Land:	Conditional Use Permit (CUP) is granted to allow the transfer the residential development right from the Sending Site in the SE ¼ of the NW¼ of Section 7, T.106N R.23W (PID 11.007.0700) belonging to Wendell J. & Ruth A. Armstrong to a receiving site located on a 1.40 acre site in part of the NE¼ of Section 16, T107N R22W (PID 12.016.0300) belonging to Calonett Venues LLC as described above and in Attachment B.	

Attachments:

Attachment “A” – Receiving Site Conditions for Approval

Attachment “B” – Survey with Legal Description

Attachment “C” – Easement Agreement Transferring Development Rights

**THE COUNTY BOARD MOTION TO ADOPT FINDINGS OF FACT AND THE COUNTY
BOARD CONCLUSIONS AND ORDER**

The Waseca County Board of Commissioners have read the Findings of Facts referenced herein as provided to the County Board and on file in the office of the Planning and Zoning Department along with supporting information including the staff reports, and the Criteria for approval of the Conditional Use Permit that were recommended by the Waseca County Planning Commission which are included by reference with this report. The Criteria for approval are on file and of record in the office of the Waseca County Planning and Zoning Department and are incorporated in the Findings by reference. The Waseca Planning Commission took testimony at a public hearing and prepared the criteria for approval at the Planning Commission Meeting held on Thursday, May 6, 2021. The Board hereby adopts these Findings of Fact regarding the approval of the request for a Conditional Use Permit application as described above and as recommended by the Planning Commission and of record in the Waseca County Planning and Zoning Office.

The Waseca County Board also approves the recommendation of the Planning Commission to approve the request for a Conditional Use Permit in substantially the form as provided, with the conditions as outlined in Attachment "A" with all other local, state, and federal regulations.

Motion by _____ Second by _____ Vote ____ Yes ____ No

WASECA COUNTY

Dated: _____

DeAnne Malterer, Chairman
Waseca County Board of Commissioners

A T T E S T

Dated: _____

Tamara J. Spooner
Waseca County Auditor Treasurer

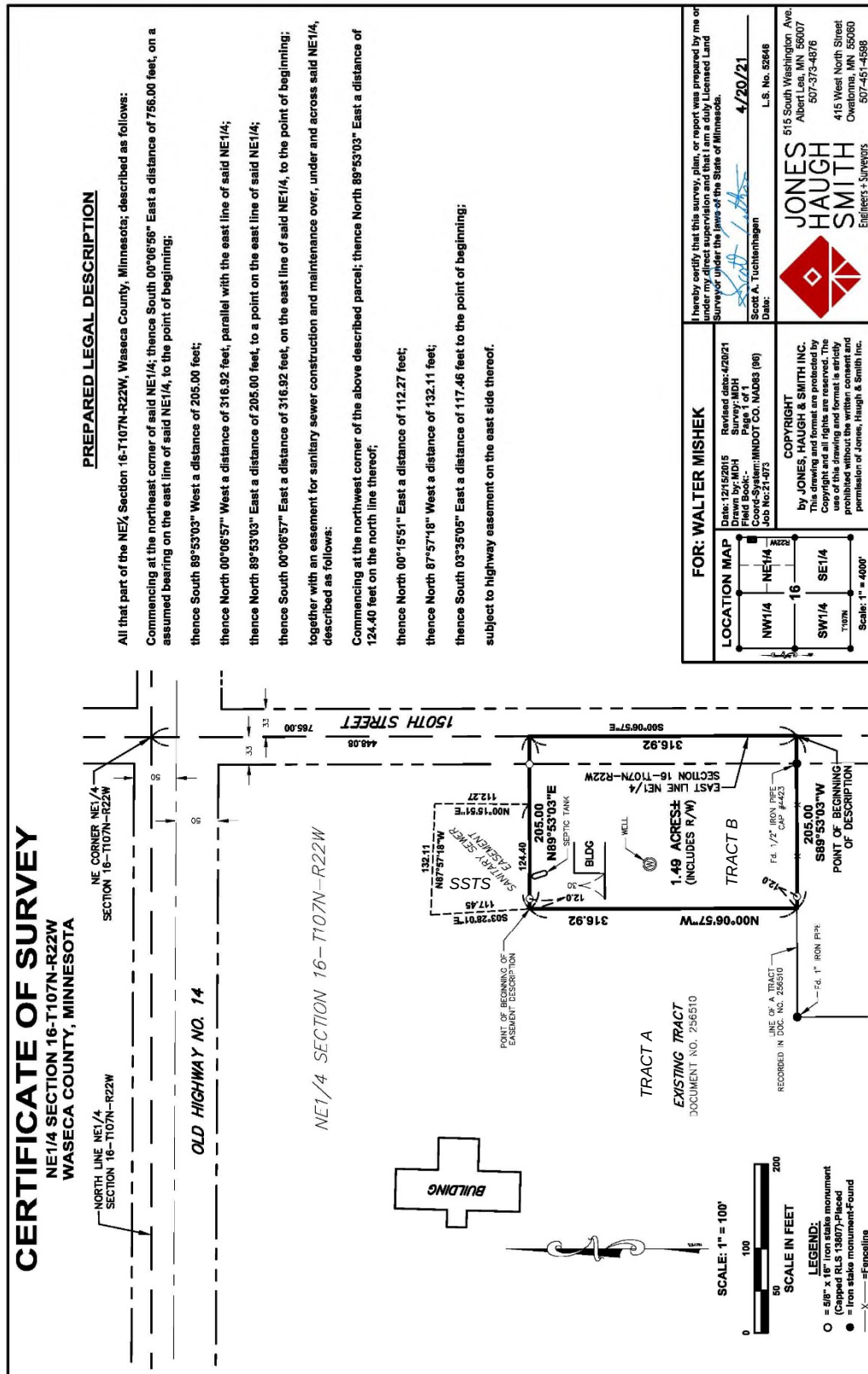
ATTACHMENT “A”

CONDITIONS REQUIRED FOR APPROVAL OF THE CONDITIONAL USE PERMIT

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. The structure on the property shall be for single-family use.
2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

ATTACHMENT "B"

Survey with Legal Description



ATTACHMENT "C"
Easement Agreement Transferring Development Rights

DOCUMENT#: A326299
Recorded 05-05-2021 at 12:26 PM
LINDA KARST, COUNTY RECORDER
WASECA, MN
Pages: 5 Fee Amount: \$46.00
RETURN TO: WASECA COUNTY ZONING

Reserved for Recording

EASEMENT AGREEMENT TRANSFERRING DEVELOPMENT RIGHTS

THIS EASEMENT AGREEMENT is made this day of May 5, 2021, by and between Wendell J. Armstrong and Ruth A. Armstrong, a married couple, hereinafter referred to as "Grantors," and Waseca County, a political subdivision of the State of Minnesota, as Grantee, hereinafter referred to as "Waseca County."

WHEREAS, the Grantors are the present owners of the lands located in Waseca County, Minnesota and described as follows:

*Southeast Quarter (SE¹/₄) of the Northwest Quarter (NW¹/₄) of Section 7, Township 106 North,
Range 23 West*

Part of Parcel Identification Number: 11.007.0700

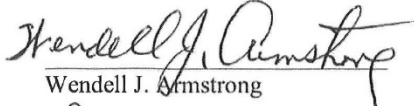
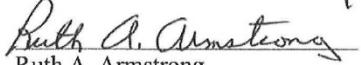
WHEREAS, Waseca County has determined that the easement restricting residential uses by Waseca County of farmland and open space land will benefit the public through the preservation of property devoted to agricultural and open space uses.

NOW, THEREFORE, in and for the consideration of allowing the development right to be transferred to the future Buyer as specified, the Grantors(s) do by these presents forever encumber the lands described above with this easement to confirm that all Residential Development Rights now existing with respect to the Land have been transferred and the Land is hereby perpetually subject to the restrictions limiting permitted activities to agricultural and open space uses. However, this easement and encumbrance shall not prohibit the Grantors from acquiring Residential Development Rights for the Land from some other parcel in accordance with the provisions of the Waseca County Unified Development Code at some future date.

RESTRICTIONS ON USE OF THE LAND

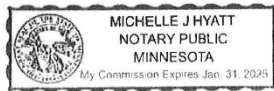
Uses Restricted to Agricultural and Open Space Uses; Agricultural and Open Space Uses Defined.
Use of the Land is permanently restricted to solely agricultural and open space uses.

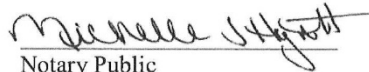
GRANTORS


Wendell J. Armstrong

Ruth A. Armstrong

STATE OF MINNESOTA)
)ss
COUNTY OF WASECA)

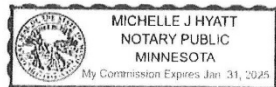
The foregoing Easement was executed before me this 5th day of May, 2021, by Wendell J. Armstrong, married to Ruth A. Armstrong.




Notary Public

STATE OF MINNESOTA)
)ss
COUNTY OF WASECA)

The foregoing Easement was executed before me this 5th day of May, 2021, by Ruth A. Armstrong, married to Wendell J. Armstrong.



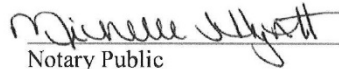
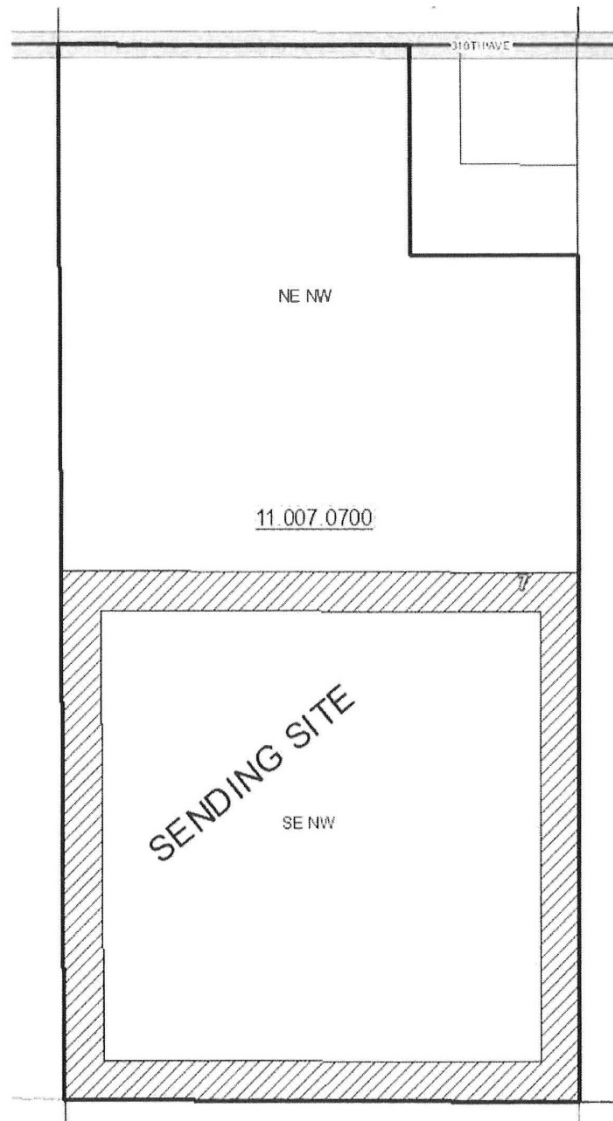

Notary Public

EXHIBIT "A"

**PARCEL MAP AND DESCRIPTION TO EASEMENT AGREEMENT
TRANSFERING DEVELOPMENT RIGHTS**



Sending Site 11.007.0700:

The Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section 7,
Township 106 North, Range 23 West, Waseca County, Minnesota

Receiving Site 12.016.TBD:

All that part of the NE1/4 Section 16-107N-R22W, Waseca County, Minnesota; described as follows:

Commencing at the northeast corner of said NE1/4; thence South 00°06'56" East a distance of 756.00 feet, on a assumed bearing on the east line of said NE1/4, to the point of beginning; thence South 89°53'03" West a distance of 205.00 feet; thence North 00°06'57" West a distance of 316.92 feet, parallel with the east line of said NE1/4; thence North 89°53'03" East a distance of 205.00 feet, to a point on the east line of said NE1/4; thence South 00°06'57" East a distance of 316.92 feet, on the east line of said NE1/4, to the point of beginning;
subject to highway easement on the east side thereof.

This instrument drafted by:
Waseca County Planning and Zoning Department
300 North State Street
Waseca, MN 56093

Calonett Venues LLC
Conditional Use Permit to Transfer of Development Rights between two Owners and Townships
May 6, 2021

FINDINGS OF FACT

1. On March 5, 2021, Calonett Venues LLC, presented an application for a Conditional Use Permit (CUP) to Transfer a Development Right (TDR) pursuant to Section 6.09 of the Waseca Unified Development Code (UDC). The UDC requires TDR development rights transferred between two owners and into different Townships within Waseca County be completed by CUP. The residential Density in A-1 Agriculture Protection District in Waseca County is 1 unit per Quarter-Quarter. Increases are allowed by TDR. The proposal is to transfer development rights from a sending site in the SE ¼ of the NW¼ of Section 7, T.106N R.23W (PID 11.007.0700) to a receiving site located on a 1.40 acre site in part of the NE¼ of Section 16, T107N R22W (PID 12.016.0300). Both the sending site and the receiving site are located in the A-1 Agriculture Protection District. Legal description for the proposed development site is attached to the CUP document.
2. As of the date of the application, the above-listed application was on file for public inspection in the Waseca County Planning and Zoning Office. The above listed application and supporting documents are incorporated into these Findings by reference.
3. Notice of the public hearing scheduled for on the applicants' request for a conditional use permit was published in the Waseca County News (the 2021 official newspaper for Waseca County) on March 19 and April 22, 2021. The Affidavit of Publication is included in the files and are incorporated herein by reference.
4. On or before March 18 and April 22, 2021, the Planning and Zoning Office notified owners of nearby properties and all of the Township Officers as per requirements of the Unified Development Code for the public hearing scheduled for May 6, 2021 by first-class mail. The Affidavits of mailing are included in the file and are incorporated herein by reference. Staff reports were provided by email to the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, Waseca Public Health Services Department, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department port for their comments and review.
5. On March 26 and April 30, 2021, the Planning and Zoning Office notified the applicants in writing about the 60 days extension of the required timeline deadline for agency action as per the Minnesota Statute Chapter 15.99.
6. On March 26 and April 30, 2021, Planning and Zoning Department staff sent the staff report to the members of the Waseca County Planning Commission by first-class mail regarding the application and accompanying documents. This staff report is incorporated in these Findings by reference. Attachments included:
 - i. Staff Analysis of Criteria,
 - ii. Recommended Conditions, if granting,
 - iii. Application materials as submitted and documented.
7. On April 1, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, advised the matter was to be tabled when staff discovered the one of the homes constructed on the property was a duplex despite being permitted as a single-family home. The applicants agreed to table this matter while the issues were sorted out with the County Attorney. The Planning Commission members elected to table the request for review by the County Attorney.
8. On May 6, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, presented a

PowerPoint presentation highlighting the applicants request, site data and approvals for the Conditional Use Permit for Ulland Brothers Inc. request. The information provided was based on a staff report provided to the Planning Commission prior to the meeting.

9. The following is an extract of the draft Planning Commission minutes of the meeting held on May 6, 2021 starting at 7:00 p.m.:

**WASECA COUNTY PLANNING COMMISSION MEETING
MINUTES OF MAY 6, 2021**

CALL TO ORDER/ESTABLISH A QUORUM

A quorum to conduct business was established and the Chair Russ Frederick called the Waseca County Planning Commission meeting to order at 7:00 p.m. at the meeting room in the East Annex Building.

MEMBERS PRESENT

DeAnne Malterer, Russ Frederick, Stephanie Roemhildt, Mark Sommers, Marv Pearson, Leon Schoenrock (arrived late but did not participate in the meeting as a Commission Member).

MEMBERS ABSENT

None.

STAFF PRESENT

Mark Leiferman, Planning and Zoning Administrator, Maame Yorke, Planning and Zoning Specialist.

OTHERS PRESENT

Names include as seen on sign-in sheet. Spellings of names shown as best as possible from handwritten signatures.

Ralph Castro, Birds Eye, Waseca (in-person), Bruce Rehwaltd, Foth (in-person), Scott Wandeloski, Foth (in-person), Ashley Rehder (in-person), Walter Mishek (in-person), John Snow (in-person), Wendell Armstrong (in-person), William Beschnett (in-person), Tom Culross (in-person), Cavit Wobschall (in-person), Verna Benson (in-person), Jeff Muenkel, Foth (online), Bruce Quast (online), Jon Erichson, Ulland Brothers (online), no caller ID (online)

APPROVAL OF AGENDA

Sommers made a motion to approve the agenda with Malterer seconding. Motion passed unanimously.

REVIEW/APPROVAL OF MINUTES – April 1, 2021

Malterer made a motion with Roemhildt seconding to approve the December 3, 2020 minutes. Motion passed unanimously.

PUBLIC HEARINGS:

Old business:

- (A) Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC.**

Leiferman started the public hearing for a Conditional Use Permit to allow the transfer of development right between Armstrong and Calonett Venues LLC, which was tabled at a prior meeting by presenting a PowerPoint. He informed the Planning Commission that the applicants had converted the duplex to a single family by having an opening between the basement and the main level.

The owners of the site are Wendell J. & Ruth A. Armstrong (sending site) and Calonett Venues LLC (receiving site). The property address of the receiving site is 35961 150th Street. Waseca, MN 56093 in Woodville Township. The applicant submitted an application on March 5, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on March 19, 2021 and April 22, 2021. Legal notice of public hearing was published in the newspaper on March 18, 2021 and April 22, 2021. 60-day from the date of application is May 4, 2021. 60-days' notice extension was provided to the applicant on March 26, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract concerning transfer of development right as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.09 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

(C) Transfer of development rights (TDR) program; receiving sites.

(5) TDR may be transferred within a township or between a common owner anywhere within the county. A transfer between two owners and into another township shall be completed only by completing a conditional use permit and by following the requirements of this section.

Leiferman then showed the Planning Commission a site plan for the receiving site showing the 1.40 acre parcel to be split from the original parcel and a proposed sanitary sewer easement area.

Issues with the request

1. **Wetlands.** Although no portion of the receiving site appears on the National Wetland Inventory or NWI, the Water Resource Specialist should review the site and verify the provisions of the Wetland Conservation Act (WCA) do not apply to this property.
2. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serving the 1.4 acre parcel being subdivided from the larger 38.45 acre tract shares a SSTS system with a small barn located on the remaining portion of the exiting tract. The SSTS is not currently located upon the 1.4 acre tract being removed from the larger tract.

The easement area shown on the survey provided as Attachment G appended to this report is immediately adjacent to the TDR tract being subdivided. §5.03 of the Unified Development Code (UDC) requires SSTS tanks and treatment areas be located at least 10 feet from a property line. The Waseca County Board recently approved an amendment to the UDC to allow these elements of an SSTS to be closer to property lines when there is an easement. The drawing shows the SSTS tank within 10 feet of the property line. An easement agreement will need to be entered into to share the system. The agreement should be approved by the Waseca County Public Health Department and the County Attorney. Staff assumes the existing well located on the property may be shared; however, no details regarding potable water were shared with staff.

3. **Duplex Use.** The home on the split to be split from the parcel was permitted by Waseca County as a single-family home. The home was constructed as a Duplex. This use is currently a legal non-conforming use. The owners plan to remove a portion on the wall separating the units to create a single-family home.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: The subdivision of the parcel should not have an adverse impact on the surrounding neighborhood.

Staff: The applicant's proposal is to split off an existing duplex from a larger piece. This should not have an adverse impact on the surrounding neighborhood.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: Adequate parking already exists. There should be little impact on traffic and parking caused by creating a parcel ID for the existing ~~duplex~~ *single family dwelling*.

Staff: There are approximately seven residences within a quarter mile of the receiving site. There is a second residence constructed on the larger parcel the 1.40 acre receiving site is being split from. This should not impact traffic or parking since the applicant will continue utilizing the site as it is currently is being used.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: The site is currently served with electric, telephone and natural gas.

Staff: From the applicant materials, there are adequate public utilities, services, roads and schools to support the continual site of the property. The parcel being subdivided is served with telephone, electric and natural gas and an existing driveway onto 150th Street.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: Creating a parcel ID for the existing ~~duplex~~ *single family dwelling* should not have a negative impact on property values or impact development in the vicinity.

Staff: As mentioned earlier, the applicant is proposing to split a 1.4 acre home site from existing 38.45 acre parcel with a second home on the tract. The continuous use of the parcel should not adversely affect property values or future development in the surrounding neighborhood.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The Transfer of Development Right, conditional use permit request is consistent with the goals and policies adopted in the comprehensive plan. The approved plan call for the area to be developed into agriculture/open spaces. This request is also consistent with the land use recommendations in the comprehensive plan relating to the development of rural open spaces.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section 3.06 relating to subdivisions and section 6.09 relating to the transfer of development rights.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

The two existing homes were developed and constructed in compliance with the conditions, county code and Minnesota state law at the time they were constructed. The parcel split using the Transfer of Development Rights provisions will not change the current use. The two homes will remain as they currently exist and should not have any adverse impact on the environment.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

There do not appear to be any natural, historic or scenic views in the vicinity of the existing ~~duplex~~ *single family dwelling*.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. *The structure on the property shall be for single-family use.*

Note: the sentence in italics was added by staff and not included in the staff report.

2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be and must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is

required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Services Department, County Sheriff, County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened and closed the public hearing at 7:15 p.m.

Malterer made a motion to approve the criteria as amended with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Calonett Venues LLC solar conditional use permit with conditions. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(B) Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Leiferman continued the public hearing for a Conditional Use Permit to operate an animal crematorium on the same parcel as their single family dwelling. The facility will consist of a 20x20" concrete slab for cremation equipment to be installed adjacent an existing 64'x34' barn. The crematory device is sized for small domestic pets and would not accommodate larger farm animals. The furnace will be fueled by natural gas or propane and will be equipped with an after-burner to reduce odor emanating from the equipment. The owners of the site are Bruce W & Angela Quast. The property address of the receiving site is 6581 300th Ave in Wilton Township. The applicant submitted an application on April 8, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 7, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The states that Waseca County should encourage commercial activity that is compatible with agricultural areas.

The zoning map places the receiving site in the A-1 Agricultural Protection zoning district. Leiferman then proceeded to reading a zoning code extract relating to the proposal as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS.

Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(26) Veterinary and animal clinic and facilities for the care and/or breeding of animals, including kennel and animal crematorium.

§6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES

(FF) Veterinary and animal clinic and facilities for the care and/or breeding of animals including kennel and animal crematorium.

(6) Animal crematorium. An animal crematorium may be operated in connection with a veterinary clinic or as a stand-alone facility that provides services to a veterinary clinic or clinics. An animal crematorium shall only be used for the disposal of animals. A stand-alone animal crematorium facility shall provide no outside appearance of the operation and shall not include a sign. Stand-alone crematoriums shall pick-up and deliver animals from veterinary clinics and shall have no visitors other than employees or inspectors. Animal pick-up shall be done in leak-proof containers. The following standards for animal crematoriums shall be met.

(a) Setback. The crematorium shall be located in a structure and be at least 500 feet from any residence other than the owner of the property.

(b) Site plan. Site plan review shall be required.

€ Parking. There shall be at least one parking space available for each employee working at the site at any time.

(d) Refrigeration. Deceased animals stored on the site prior to disposal shall be kept under refrigeration to eliminate the possibility of odor emanating from the animal.

€ Furnaces. The furnaces shall use natural gas or propane as the heat source for the furnace.

(f) Performance standards. Incinerator must be adhere to the State Pollution Control Agency guidelines as follows:

- 1. Capable of producing emissions not to exceed 20% opacity;*
- 2. Fitted with an afterburner that maintains flue gases at 1,200°F for at least 0.3 seconds; and*
- 3. Ash from the incinerator must be handled in such a manner as to prevent particulate matter from becoming airborne and shall be properly disposed of.*

Leiferman then showed a site plan for the receiving site which depicted the location of the proposed 20x20 concrete slab for cremation equipment adjacent to an existing 64x34 barn, the approximate location of septic tank and well on the Quast property as well as an existing 40x60 shop proposed to be used for crematory office space.

Issues with the request

1. **Odor.** Deceased animals will be picked up and stored in a refrigerator pending cremation. There were also odor complaints from a similar facility approved in the County which was solved by installing an afterburner. The closest residence is approximately 1,900ft away from the proposed location of the facility as such odor impacts should be minimal. The applicants should put in place measures to solve odor should odor within the vicinity of the facility be impacted.
2. **Fire and explosion.** The equipment used will be operated at high temperatures. When operating any equipment such as this, there is some risk of fire or explosion. The County Sheriff and the local fire department should be notified when the operation commences to assist in dealing with any potential fire or explosion issues.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The applicants' proposal is not anticipated to adversely impact the general health, welfare and safety of the occupants in the surrounding neighborhood if the facility is operated within the confines of the UDC and all other state and federal regulations pertaining to animal cremation.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: No.

Staff: Adequate measures are being provided to eliminate any traffic hazard which may result from the proposed use because the applicants will pick up deceased animals to the facility which will limit traffic to the facility.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: Yes.

Staff: The facility will be operated on the same parcel and the applicants' single family dwelling. There appears to be adequate utilities available on the property and also in the building where the business will operate. The existing roadway will also accommodate the traffic needs of the business since the operators will pick up and deliver deceased animals to the facility.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: No.

Staff: The proposed use will not be injurious to the use and enjoyment or have a negative impact on adjacent property values in the immediate vicinity due to the fact that the site is located approximately 1,900 feet to the closest residential use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The proposed use of the facility is consistent with the goals and policies adopted in the comprehensive plan. The approved land use plan proposed the property to use for agriculture/open space.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes.

Staff: The property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed with a CUP. The proposed use should meet the standards of the zoning ordinance should all requirements stipulated in §6.16(FF) (6) be adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: The proposal should not have an adverse impact on the environment and poses minimal threat to groundwater, surface water or to air quality if all standards and requirements are adhered to.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No.

Staff: The proposal is not anticipated to adversely impact existing natural, historic or scenic views or features in the surrounding neighborhood should the business operate in an environmentally friendly manner whilst adhering to appropriate standards and requirements of the UDC.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

No.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Wilton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Waseca Public Health Services Department, County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Wilton Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:26 p.m.

Wendell Armstrong asked the number of times or days of operation and how odor would be impacted. Leiferman provided a response.

Armstrong then asked if the business was replacing any company. Leiferman responded that the applicants were buying the business from a previous owner who operated in Alton Township.

Quast added that their business would serve Southern Minnesota and the Twin Cities and they were not replacing any person's business. He furthered that about 75-80% of ashes after animal cremation would be returned to customers. He added that the location of his business shouldn't affect his neighbors and that the business is being moved away from its current location which was close to a winery.

Frederick asked if there were any issues with the original location of the animal crematorium. Leiferman responded that the business was close to residents and odor was impacted which was later resolved with an equipment upgrade to include the installation of an after-burner.

Malterer added that there is high demand for the service and new proposed location was a good spot.

The public hearing was closed at 7:33 p.m.

Roemhildt made a motion to approve the criteria with Sommers seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Quast conditional use permit with conditions as amended. Person seconded and it was passed unanimously with 4 Yes 0 No.

(C) Request for an amendment a Conditional Use Permit to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch in Section 18 of Freedom Township – Nickolas J & Ashley A Rehder/Ruby Ranch.

The next item on the agenda was a conditional use permit request to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch) in Section 18 of Freedom Township. The proposed daycare center will be operated the same facility as the primary existing Ruby Ranch Agri-tourism structure. Ruby Ranch currently serves children ages 5 to 18 for summer camps and provides farm tours for the community throughout the summer. Little Rubies will be a farm and nature based daycare and learning center that will operate during the school year for children ages 1 to 5 years of age to provide care and indoor and outdoor learning experiences

The owners of the site are Nickolas J. & Ashley A. Rehder. The property address is 361 290th Ave, Pemberton, MN 56078 with PID 04.018.0610. The applicant submitted an application on APRIL 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 22, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS

(C) Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(13) Daycare center;

§ 6.13 SPECIFIC STANDARDS FOR INSTITUTIONAL AND CIVIC USES.

(B) Daycare center. The following standards apply to daycare centers, both permitted and conditional, and to family or group daycare accessory to a residential use.

(1) Within a residential or agricultural district, the building and any exterior fenced area shall meet the setback requirements for a single-family residence.

(2) The use shall comply with all applicable federal, state and county rules and regulations.

(3) For child daycare facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(4) For adult daycare facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(5) When the daycare facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.

Leiferman then showed and explained a site plan and drawings for the proposal.

Issues with the request

1. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serves the home and the conditionally approved Agri-tourism use. Kim Shermo, the Environmental Health Specialist for Waseca County has determined the existing SSTS is not currently appropriately sized to accommodate the proposed daycare. She suggests another SSTS be constructed for the Ruby Ranch/Little Rubies facility.
2. **Daycare Licensing.** The applicants are requesting a conditional use permit (CUP) to operate a Daycare Center under the Waseca Unified Development Code (UDC). The existing Ruby building

meets the requirements as a daycare center since the operation will not be located in their residence. A daycare family operation is to be located within a residence under the UDC.

The State licensing requirements differ from the UDC requirements. The license at the state level defines daycare relative to the number of children served. A family daycare is for 14 or fewer children and can be either within a home or in a separate building. Child and Family Services Minnesota Prairie County Alliance will inspect these facilities; whereas, any facility serving more than 14 children is licensed directly by the State of Minnesota. A family daycare needs to have a staff ratio of 1 adult per 12 children. The number of children can increase if the facility employs additional staff. A teen age assistant may be allowed if to increase the ratio. The applicants may wish to license the facility as a daycare center despite limiting the number of children permitted at the facility to allow for future expansion or seasonal increases in population.

The ratio of children to square feet of space is 1:35.

3. **Conflicting Uses**. Ruby Ranch is an event center which offers craft classes to patrons. The equipment used (power tools) in the craft class activities potentially conflict with childcare uses proposed by the Little Rubies childcare facility. The applicants will need to have an appropriate way to separate these uses. This issue should be addressed within the county/state license requirements.
4. **Signage**. The only complaint the County has received regarding the operation of the Ruby Ranch facility related to the sign for the facility which was installed originally within the right-of-way of the West County Line Road. This portion of roadway is under the jurisdictions of Freedom Township. The property owners have removed the sign and have applied for a permit to relocate the sign on the site. The applicants have asked the Township for assistance in determining where the sign can be placed.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The owners of the proposed Agri-tourism facility own approximately 8.1 acres of land. The closest occupied residence to the proposed facility reside in dwelling units that are located approximately 1,600 feet to the west of the proposed daycare center (existing Agri-tourism structure). Much of the area all sides is agricultural in nature.

The potential impacts of the Agri-tourism use on the adjacent homes will likely result in an increase in in traffic during the early morning hours and late afternoon.

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that the previous conditional use permit placed 14 conditions on the applicant's permit, and since the facility will require a Waseca Public Health Department license to operate the daycare facility.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: The Waseca County Line Road will now be trafficked more frequently with parent drop off and parent pick up. All parking will happen on our property by the classroom. This is ½ mile from the Waseca County Line Road so it will not disrupt the flow of traffic.

Staff: The addition of a daycare center to the existing Agri-tourism use will have an impact on traffic bringing parents dropping off children in the morning and picking up their children in

the afternoon. This could add up to 20 to 40 additional trips per day. The roadway known as 290th Avenue is a private drive owned and maintained by the applicants. This section of the West County Line Road is maintained by Freedom Township Road. The applicants met with Freedom Township and they indicated the Township did not have any objection to the proposed use. There should be adequate parking on site developed for the Ruby Ranch Agri-tourism use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: We have electricity with LED lights, AC, heating, water, ½ bath, and WIFI to support a space for daycare.

Staff: The Subsurface Sewer Treatment System will need to be upgraded to accommodate this proposed use. All other utilities should be available to this site. There appear to be adequate public services, roads and schools to support this use.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: We feel the space is a positive business for the Pemberton community. There isn't much for families to do and we provide activities spring through fall. Now with a daycare center it is giving local families more options to take their children to daycare/preschool.

Staff: The proposed use should not have an adverse impact on property values in the vicinity since the applicants have been operating an Agri-tourism use on the property since 2017 and since the closest neighbor is approximately 1,600 feet from the proposed use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Applicant: Yes

Staff: The use appears to be consistent with the Comprehensive Plan because of the following plan and map references:

1. Goal 6: Promote economic diversification in Waseca County, which will provide for continued employment opportunities and reasonable access to a broad range of goods and services for community residents.
2. Goal 7: Promote a healthy economy, enhance the natural and built environments, and provide opportunities to area residents.
3. The Planning Commission finds that the proposed use is compatible with the uses within the district and is of the same general character as those of the district.
4. The Planning Commission finds that the proposed use conforms to the Waseca County Land Use Plan (see attached).

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes

Staff: The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section § 6.08 A-1 Agriculture Protection District

Standards, (C) Conditional uses (13) Daycare center. Section § 6.13 outlines the Specific Standards for Institutional and Civic Uses for Daycare centers.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: No. The site plan will not change significantly.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No. The property is well maintained and safe for children to explore outdoors.

Staff: The use is not anticipated to adversely affect any existing natural, historic or scenic views or features in the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

Applicant: No.

Staff: The facility will be required to meet County and State Daycare Licensing requirements.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the

above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Department, Waseca County Sheriff, Waseca County Attorney and Waseca County Highway Department for their review. The application was also provided to the Minnesota Department of Natural Resources (DNR) for their review and comment.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Freedom Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:50 p.m.

Ashley Rehder informed the Planning Commission that their sign had been approved by the township and she was in the process of obtaining a septic permit as well as a loan for the operation of Little Rubbies.

The public hearing was closed at 7:51 p.m.

Malterer made a motion to approve the criteria with Roemhildt seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Roemhildt made a motion to approve and recommend approval to the County Board the Rehder conditional use permit with conditions. Sommers seconded and it was passed unanimously with 4 Yes 0 No.

(D) Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township – Ulland Brothers Inc.

Leiferman then read the next zoning case with was a request for a Conditional Use Permit (CUP) to mine, excavate, process and stockpile sand and gravel aggregate materials in Section 12 of Otisco Township. The parcel (08.012.1010) is south of 305th Ave and approximately 1 mile to the county border with Steele County. All of the property is in the A-1 Agricultural protection Zoning District and within the highway overlay.

The owners of the site Ulland Brothers Inc. The property address of the receiving site is 17872 – 305th Ave. The applicant submitted an application on April 13, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 12, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. This proposal indirectly relates to the infrastructure and transportation vision statement of the county since aggregate materials are needed for construct roads at a cost effective price:

- o Transportation Vision Statement: Waseca County will have a transportation system that facilitates and strengthens its economic vitality and effectively moves people to and from required destinations.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§4.13 EXTRACTION OF MATERIAL AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS.

(B) Conditional use permit. Excavations, extraction of materials and minerals, open pits and impoundment of water shall be permitted only upon the issuance of a conditional use permit.

(1) The applicant for the permit shall furnish such information as: true name and address, when required, approval by the state to impound waters, purpose of proposed activity, roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

(e) Wetland creation, restoration and/or construction shall be exempted if the proposal can satisfy all of the following criteria:

1. Wetland creation, restoration and/or construction shall be under the guidance of the County Soil and Water Conservation District using specifications and guidelines of the Natural Resource Conservation Service (NRCS);

2. Wetland creation, restoration and/or construction shall not be constructed closer than 75 feet to the boundary of any adjoining property or existing road easement; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

(f) Wetland creation, restoration and/or construction that can not satisfy the above-listed exception criteria (subsections (B)(2)(e)1., (B)(2)(e)2. and (B)(2)(e)3. above) will be subject to:

1. Conditional use permit;

2. Any conditions set forth by the Board for the conditional use permit; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

§6.07 SPECIFIC STANDARDS FOR AGRICULTURAL, NATURAL RESOURCES AND RELATED USES

(H) Mineral extraction, mining.

(2) Application requirements. Maps of existing conditions, the proposed pit or excavation and accessory structures, and site after reclamation shall be prepared by a professional engineer or land surveyor and filed with the application.

5. Structures, storage of excavated materials or topsoil, and the excavation edge shall be setback at least 300 feet from any protected water and at least 100 feet from an adjoining property line or public right-of-way. Mining and mining material operations and processing shall not be conducted within 100 feet of an adjoining property line or public right-of-way. No on-site processing of materials or storage of excavated materials or topsoil shall occur within 1,000 feet of a residence.

Leiferman then showed the Planning Commission a site plan for the gravel pit.

Issues with the request

1. **Township Road Damage.** The applicants originally received a permit to utilize the township road as a haul road for the Highway 14 project. This permit was provided to Otisco Township. In the past, staff has received complaints about the damage being done to the road due to weight of the trucks and the volume of traffic being placed on the road by the vehicles entering and exiting the site. Adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues and the depth of the material removed.
2. **Safety.** The trucks entering and leaving the site may create a potential hazard for people utilizing the roads in the vicinity. Again, adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues.

3. **Water runoff issues.** Staff has not received a copy of the National Pollution Discharge Elimination Permit for the existing facility. Staff has a concern that there may be process water utilized in the crushing and or conveying of materials processed at the site.
4. **Reclamation Plan.** The previously approved reclamation plan lacks detail and should be updated to meet the requirements of the Unified Development Code

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that 42 conditions have been previously placed upon the applicant's permit, and since additional requirements will be placed upon the applicant by the Minnesota Department of Transportation and reviewed by the Waseca Soil and Water Conservation District. In addition, the property is located in a rural setting with the closest neighbor residing over 1,000 feet from the subject property.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

The proposed use is not anticipated to impact (adverse) on traffic conditions since adequate measures are being provided to eliminate any traffic conditions due to the conditions that are being placed upon the project relating to road use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

There are adequate public utilities, public services and roads to support the proposed use of the property.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

The Planning Commission finds that the proposed use will not be injurious to the use and enjoyment or have a negative long-term impact on adjacent property values in the immediate vicinity due to the remote nature of the parcel and the distance between this site and the residents of adjacent properties.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Waseca County has determined that this use is in line with the requirements as stated in the land use plan. The proposed use is compatible with the uses within the district and are of the same general character as those of the district.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Mining, excavation, extraction of material and minerals are conditional uses in the A-1 Agricultural Protection District as specified in the Waseca County Unified Development Code. A site plan has

been submitted for this site. The facility should meet the UDC requirements if all conditions are adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Any negative impact to the environment and should be addressed by the Conditions imposed by the Waseca County Conditional Use Permit and by the requirements of the State of Minnesota and should pose no threat to groundwater, surface water or to air quality.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

The proposed use has been in operation on the property under review under various Conditional Use Permit. The proposal is not anticipated to be detrimental or have adverse effect on the existing natural, historic, scenic views or features of the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. *All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.*

Note: staff condensed the conditions into one (1) since conditions presented in the staff report were similar to prior CUPs approved for the site

Public Agency Comments

An email containing the link to the staff report was provided to the County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Otisco Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:50 p.m.

Jon Erichson (Ulland Brothers) informed staff and the Planning Commission that the reclamation plan would be upgraded and emailed to staff. He added that the township supported the CUP renewal and the pit was not open to the public with operations relative to ongoing projects.

The public hearing was closed at 8:07 p.m.

Pearson made a motion to approve the criteria with Malterer seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to the County Board the Ulland Brothers Inc. conditional use permit. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(E) Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

Leiferman continued the hearing by presenting the next zoning case which was an amendment to Conditional Use Permit (CUP) to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

The owners of the site are ConAgra Foods Packaged Foods LLC. The property address of the screen house is 34529 US Highway 14 in St. Mary Township. The applicant submitted an application on April 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

- o On page 13 of the comprehensive plan, it states that: "Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth."
- o Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- o On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the I-General Industrial zoning district. He then proceeded to reading a zoning code extract relating to the request as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

(NN) *Industrial waste processing facility. New industrial wastewater treatment facilities shall be allowed as conditional uses in the A-1 Agriculture Protection District, HC Highway Commercial District and I Industrial District. Industrial wastewater treatment facilities shall comply with the following requirements.*

(1) *Site plan. Site plan review shall be required. Any new industrial wastewater treatment facility shall meet the minimum standards of § 6.15 of the Uniform Development Code providing for general standards for commercial and industrial uses.*

(2) *Setbacks.*

(a) *Treatment pond to residence: 1,000 feet;*

(b) *Spray Field to residence: 500 feet;*

(c) *Treatment pond or spray field to a public right-of-way: 100 feet;*

(d) *Treatment pond or spray field to a public or private ditch: 100 feet;*

and

(e) *Treatment pond or spray field to any body of water, perennial or intermittent stream, or wetland: 100 feet.*

(3) *Access. If the Planning Commission determines it necessary, the site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate.*

(4) *Local, state and federal regulations. Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.*

§ 6.19 I GENERAL INDUSTRIAL DISTRICT

(C) *Conditional uses (see Article 4 for accessory uses).*

(16) *Industrial wastewater treatment facility;*

Leiferman then showed site locations for the three amendment proposals and also explained the project details for the screen house proposed to be constructed.

Issues with the request

1. **Odors- Hydrogen Sulfide.** The applicant currently utilizes various spray fields and the treatment ponds to treat the industrial wastewater generated by the vegetable processing plant. Odors are generated when these facilities are operated. Odors produced at the plant are the result of hydrogen sulfide generated by the wastewater treatment process as the water is sprayed onto fields or stored in the ponds (lagoons). Hydrogen sulfide is mainly created through the biological degradation of organic matter and sulfur compounds under anoxic or anaerobic environments. The proposed upgrades are being implemented to address the formation of hydrogen sulfide at ConAgra's existing lagoon storage facility. The company also plans to install equipment to screen the wastewater prior to placing the water in the ponds reducing the amount of material generating odors.

Foth Engineering has been employed to attempt to address the odor issues at the ConAgra plants. Foth is working to resolve the odor issues by maintaining the pH (acidity level) of the stored process wastewater. The objective is to store the water at or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide, further reducing potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Foth is recommending the installation of the following equipment and products to assist with the odor reduction effort:

1. One (1) new 2,400 ft² building to house the new process equipment.

2. Two (2) new internally fed rotary drum screens – replace existing drum screens currently installed at current manufacturing facility
3. Two (2) new belt conveyors or screw type augers to transfer collected solids from new screens to the existing silage pad for use by area farmers for animal feed.
4. One (1) new drilled well for hot and cold water including:
 - a) One (1) well pump – Approximately 125-gpm @ 175-ft TDH
 - b) One (1) pressure tank to maintain system pressure
 - c) One (1) natural gas water heater
 - d) One (1) 1,200 gallon hot water storage tank with pressure relief
 - e) Associated distribution piping

The current existing facility and proposed new additions and construction are shown in the materials provided by Foth. The location of the building housing the screens, conveyors, tanks, pumps and mixers are illustrated on the proposed-revised site plan. Finally, the layout of the equipment within the proposed screen house building are illustrated on the plan titled Screen House Layout. Please note that provisions are being made for a third screen but only two are planned for installation at this time. The facility also has plans to install additional aeration in the storage lagoons to promote oxic conditions, further reducing the formation of hydrogen sulfide. However, the addition of aerators is being completed separate from this project.

This present plan is the Company's attempt to control odor from waste generated at the main plant and this will extend to the new plant when the new facility is completed in the future. ConAgra has not advised what the plans are for the current facility once the new facility is built or whether the company will need to continue to process wastewater from the old plant once the new one is put into service. Regardless, the new plant will most likely intensify the use of the wastewater treatment facilities even if the old facility is no longer tied to the wastewater treatment facility.

2. **Water Impacts.** That there is a possibility that the process water could leave the site. County Ditch (CD) 45 and 15-1 are impacted by the flow from the ConAgra facilities. The company maintains a number of monitoring wells to assure contaminated process water does not pollute the water leaving the site. In addition, there is a private ditch which flows into County Ditch 45 which may be impacted by the increase in the amount of flow leaving the site. Staff has reached out to the ditch group to see if there are concerns with water drainage at this time and have not heard back from them.
3. **Minnesota Pollution Control Agency (MPCA).** The MPCA is responsible for the certain permits for this facility. Staff has received comments from the MPCA regarding this wastewater project. The County does not have copies of the NEW MPCA Permits as they have not been issued.
4. **Erosion Control.** The applicants have obtained National Pollution Discharge Elimination Systems Permit (NPDES) from the Minnesota Pollution Control Agency for previous projects approved by original CUP and amendments to the CUP for the Industrial Wastewater Treatment Facility. The applicants are responsible for obtaining an NPDES permit if required for this project

Criteria and Proposed Findings:

- 1) **Will the proposed use have an impact (adverse) on the health, safety, and general welfare of the occupants in the surrounding neighborhood?**

ConAgra (Foth Engineering): None anticipated. Spray field acreage removal is more than being added. Spray field addition is adjacent to existing approved spray fields. Screen house will improve wastewater treatment processes

Waseca County: Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels utilized to spray on fields and to treat the wastewater.

An Environmental Assessment Worksheet (EAW) was completed at the request of the Minnesota Pollution Control Agency and Waseca County Planning and Zoning based on interpretation of Minnesota Rule 4410.4300, subpart 18C for the construction of the industrial wastewater treatment system in 2014. The EAW finding were negative (meaning an Environmental Impact Statement was not required). Essentially, the EAW found that if the new drainage structures and equipment were constructed and utilized according to the plans presented, there should be no public health or environmental concerns.

The EAW discussions at the time of the development of the EAW and through the permit application process contemplated the construction and development of additional property to be utilized as spray fields to treat the industrial wastewater. A mixture of plants including reeds canary grass have been and will be planted and harvested will absorb some of the nutrients contained in the water.

The Minnesota Pollution Control Agency has also issued a National Pollution Discharge Elimination Systems (NPDES) permit for the original sites that has been updated from time to time when facility improvements have been made. This permit monitors air and water quality at the sites and regulates flow leaving the site. The spray sites are to be monitored daily when they are operated. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

In addition, tile discharge exceedances are managed with daily discharge inspections and spray site management. The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges.

Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels. With each new modification come hopes the odor generated by the facility will improve. Odor continues to be an issue and the smell can travel miles from the spray fields while they operate and from the ponds at certain times of the year. The screening to remove additional plant materials together with efforts to control hydrogen sulfide levels should help with odor issues. Conditions provide that the CUP may be monitored on an annual basis to determine if the project is in compliance with the requirements of the CUP.

2) Will the proposed use have an impact (adverse) on traffic conditions including parking?

ConAgra (Foth Engineering): No portion of this proposal affects parking issues.

Waseca County: The proposed project will have only a minor impact on traffic to the proposed site during construction and during the operation of the system. On-going operations will be monitored and conducted from an off-site location. Short-term vehicle parking may be needed as system technicians move spray nozzles on the site and monitor the sites or as chemical water treatment is added or employed as permitted by the NPDES permit. Inspections and farm equipment used to harvest the crops will access the site from the existing field drive on the parcels during the growing season.

3) **Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?**

ConAgra (Foth Engineering): Not applicable with proposal.

Waseca County: Additional public utilities should not be required for the proposed uses on the properties. There will not be any required changes to the existing schools or roadways.

4) **Will the proposed use have an effect (adverse) on property values or future development of land in the surrounding neighborhood?**

ConAgra (Foth Engineering): No. All proposed uses are part of existing approvals for properties.

Waseca County: Odor and Drainage are the primary concerns with this CUP amendment.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

The Minnesota Pollution Control Agency National Pollution Discharge Elimination Systems (NPDES) permit will monitor air and water quality at the sites and regulates flow leaving the site(s). The spray sites will be monitored daily when in use. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aureate the effluent to resolve these issues.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges. The ConAgra properties are included in the benefitted area of County Ditch 45. Notwithstanding any private issues related to the private drainage

agreement, the land can drain to County Ditch 45 without any additional cost or procedure.

5) Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The following are extracts from the Waseca Comprehensive Plan:

- On page 13 of the comprehensive plan, it states that: “Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth.”
- Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

6) Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The Unified Development Code (UDC) was amended in April 2014 to include Industrial Waste Treatment Facilities as a Conditional Use in the I-Industrial, HC-Highway Commercial and A-1 Agricultural Protection Districts. A site plan has been submitted for this amendment to Conditional Use permit.

7) Will the proposed use have an effect (adverse) on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The improvements to be made to the Industrial Wastewater Treatment System have been and are being completed to reduce odor generated by the facility. The goal is to maintain compliance with the company’s Minnesota Pollution Control Agency (MPCA) permits. The permitted spray irrigation acres have fluctuated over the past several years. Wastewater is generally applied to spray fields when conditions allow during the harvest season. The new industrial waste water storage treatment facility includes an on-site waste water management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank; a 25,000 square feet concrete silage storage pad.

The company has employed an aeration system to reduce the CBOD prior to land application

and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

There are systems in place to monitor water quality at throughout the system. A series of 12 ground water monitoring wells monitor the application of wastewater at the spray fields and at the silage collection and storage sites.

The processing agriculture wastewater is also complicated due to the seasonal nature of food processing. The processing of food from raw materials requires large volumes of high grade water. The method to treat the wastewater from plants, such as the one at ConAgra, is to spray the water over large areas to remove any suspended solids and BOD. The water can be collected from certain spray fields and then reprocessed to further improve water quality. At times when the ground is frozen or saturated, water can be collected in the lagoons or ponds and then processed later when weather conditions improve. The applicant has noted that additional aeration and the dual storage lagoons are designed to help with control odor. The addition of chemicals to control pH should continue the efforts to bring the facility into compliance with state odor and water standards.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

8) Will the proposed us have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

ConAgra (Foth Engineering): No, all proposed uses are consistent with existing approved CUP for properties.

Waseca County: The proposed changes to the sites involved in this Conditional Use Permit Amendment should not have a negative impact on any existing natural, historic, or scenic views or features in the surrounding neighborhoods. A portion of a permitted spray field under the original 2014 Conditional Use permit is being redeveloped into a new vegetable processing plant. This site is now located within the City of Waseca and will not be regulated by the Waseca County Conditional Use Permit. The City of Waseca has classified the use as a legal-nonconforming use. In addition, the old water storage lagoon located in Section 13 of St.

Mary Township is being filled and planted to be used as additional spray filed as part of this Conditional Use Permit Amendment. The site will take on the appearance of a vegetated farm field. Lastly, the 2,500 square foot Screen House building is rather small in scale and should not have a negative impact on the appearance in the area.

9) Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

ConAgra (Foth Engineering): Nothing that the applicant is aware of.

Waseca County: There are federal, State Statutes and Rules, Waseca City Code, as well as County requirements for this project which are incorporated in the records and in these findings. Local, State and Federal Regulations - Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No Waseca County zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. *Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.*

Note: the sentence in italics was added by staff during the hearing

3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, *with the exceptions described above*, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Note: the sentence in italics was added by staff during the hearing

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
- a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.
 - e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review

8. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Minnesota Pollution Control Agency, the Minnesota Department of Transportation, Waseca, Waseca County Public Health, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department for their review. There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to St. Mary and Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:24 p.m.

Ralph Castro (ConAgra) provided some insights on the proposal. Sommers as Castro what was not working on the pond/plant? Castro responded that chemicals were not working right and thus producing odor. Armstrong asked the number of employees projected to be added should the vegetable processing plant be operated. Castro responded that they were proposing to continue operation. Leiferman asked what ConAgra was proposing to use the old plant. Castro responded that ConAgra was proposing to shut down the old Bird's Eye plant

The public hearing was closed at 8:29 p.m.

Malterer made a motion to approve the criteria with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to County Board the ConAgra conditional use permit amendment with conditions as amended. Pearson seconded and it was passed unanimously with 4 Yes 0 No.

MISCELLANEOUS

(A) Transfer of Development Rights (TDR)

Leiferman informed the Planning Commission about the increase in projects within the county requiring a Transfer of Development Rights. He made mention of one situation along Knutson Lake where Planning Staff was asked about the need to obtain a development in a situation where a property owner had received a letter from the Waseca County Planning Department explaining that a parcel being sold the right to develop a home under the previous code (prior to July 21, 2009). The code change in July of 2009 changed the density provisions for the A-1 Agriculture Protection District. Under the previous code, the parcel along Knutson Lake was considered to be non-productive farmland but was buildable at the time prior to 2009. Leiferman then informed the Planning Commission staffs opinion in rectifying such situations thus requiring the need for a zoning code change. He furthered that the Department of Agriculture and the DNR would have to review any code changes relating to Ag. Preserve and Shoreland. The Commission considered the density limitations set forth in the code which were established as a trade-off for areas of the code which were made less restrictive. The Planning Commission members sought additional information to include the number of parcels which would be impacted by such a change. Staff will provide this information at a future Planning Commission meeting.

(B) Similar Use Provision- Licensed Residential Program

Leiferman informed the Planning Commission that the County received a request from the Trinity Sober house to redevelop the property located at 25797-120th Street, New Richland into a facility to be used as a weekend meditation and respite for people currently seeking assistance at Trinity's Minneapolis-St. Paul facilities. Leiferman then provided the Planning Commission options staff was proposing to review the request either as a similar use to the Licensed Residential Program or by a conditional use permit as a Retreat House/Retreat Center. The Planning Commission advised staff to provide the two options to the Applicant.

(C) Conditional Use Permit to Mine, Excavate, Process and Stockpile Sand and Gravel Aggregate

Leiferman continued the miscellaneous items discussion by providing a background on a CUP approved last year for Pentagon Materials and Joseph Sack which has been the location of a mining operation, off and on, for decades. He informed the Planning Commission that Jim Voda (Pentagon Materials) had

concerns about the approval process last year (COVID Public Hearing issues) and requests the County to reconsider their CUP request to allow the company mine more of the site. Leiferman then provided the Planning Commission on proposed long term uses of the site provided by Pentagon Materials. Leiferman asked if the Planning Commission wanted to proceed with the Pentagon Materials request in advance of the two year permit approval date with the next step being a neighbor meeting. The Planning Commission concurred with staff to proceed on the matter.

(D) Hunting Shack Changes

Leiferman informed the Planning Commission on recent information concerning the replacement of two out of three hunting shacks on a parcel on Buffalo Lake which appears to not meet setbacks and larger than the size requirements stipulated in the UDC. Leiferman added that there were two sites on the west side of Buffalo Lake with what appears to be 10 or 11 hunting shacks and there was no information on file at P&Z regarding these structures. He then read out the requirements for hunting shacks. An email received from the DNR was also read to the Planning Commission which basically mentioned that the 200 foot OHWL setback needed to be implemented and mentioned concerns with the storage of materials and road construction below the OHWL. The DNR also indicated the location of the shacks may be a public waters violation as well as an ordinance violation. To proceed with this request, the owners will need a variance or variances as well as a conditional use permit.

(F) Agricultural Covenant Discussion- Solar & Density

Leiferman informed the Planning Commission that staff received another request to consider a project located on Agriculture Covenant property. The project is a 1 MW facility just off the East Elysian Lake Road. He further stated over the years staff and the County Board have looked a number of ways to address the issue. The program restricts solar on the site and the MN Department of Agriculture has labeled solar as a commercial use. One may be simple remove the covenants from all of the properties as allowed under MN Statutes 40A.11. The County can send out certified letters to owners withdrawing from the program using the method in the statute. As background, the County entered into the program in 1988. The program pays farmers \$1.50 per acre in exchange for participating in the program. The goal is to preserve agricultural lands. The limited number of Counties that participate in the program pay into the state \$5.00 on each mortgages and deeds recorded with the County Recorder to fund the program. The state returns funds based upon the number of acres enrolled multiplied times \$1.50 per acre. Under these formulas, the County is a large net gainer paying in far less than we receive from the state. This is a huge disincentive to withdraw as outlined above. Also, it would still take 8 years to get out of the requirements. No solar company is looking that far out.

Staff provided another option which would be to amend the Waseca County's Farmland Preservation Plan. This would amend language within the document to define 1 megawatt solar projects as an agricultural use. If authorized by the state, the County would also need to modify our official controls (Zoning code and Comprehensive Plan) to reflect the change as well. The Planning Commission expressed a willingness to proceed with this effort.

ADJOURNMENT

Sommers made a motion with Roemhildt seconding to adjourn the meeting.
Meeting adjourned at 9:31 p.m.



**Waseca County Board of Commissioners
Request for Board Action**

Conditional Use Permit (CUP) Request to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:
Item Type:	☐ Consent ☒ Action	☒ None
Department:	Planning and Zoning Department	☐ Current budget
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ New FTE(s) Requested
Contact Phone:	(507) 835-0651	☐ Other
Prepared by:	Maame Yorke	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Conditional Use Permit (CUP) request to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township by Bruce W & Angela Quast.

SUMMARY

On Thursday May 6, 2021, the Waseca County Planning Commission held its regularly scheduled meeting and unanimously moved to recommend approval of the following request to the Waseca County Board of Commissioners:

Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Bruce W & Angela Quast request a conditional use permit to operate and maintain an animal crematorium on their 10AC parcel (PID 11.007.0510) with address 6581 300th Ave and located in Section 7 T. 106N R. 23W of Wilton Township. The applicants are proposing to construct a 20'x20' concrete slab for cremation equipment adjacent an existing 64x 34' barn and convert an already existing 40'x 60' shop to a crematory office space. The Quast property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed as a conditional use in this zone (§6.16(FF) (6)).

The parcel is located in the A-1 Agricultural Protection Zoning District. The Waseca County Unified Development Code (UDC) allows animal crematoriums in this zoning district as a conditional use.

The full Planning Commission Report on these matters can be found on the Waseca County website on the Agendas tab at: https://www.co.waseca.mn.us/AgendaCenter/ViewFile/Agenda/_05062021-528

RECOMMENDATION

Staff suggests the Board to consider:

- 1) The approval of Criteria for Approval and the Findings of Facts;
- 2) The approval of the Conditional Use Permit in substantially the form as appended to this report.

The Planning Commission recommend approval of Bruce W & Angela Quast's request to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township in substantially the form as presented to include the following conditions:

Staff recommends approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. If approved, staff recommends the following conditions to be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Alton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

EXPLANATION OF FISCAL/FTE IMPACTS

None.

Supporting Documents:

Attachment A: Conditional Use Permit and Attachments

Attachment B: Findings of Facts (not for recording purposes)

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

Do not write above this line - Recorder use only

CONDITIONAL USE PERMIT

WASECA COUNTY

Animal Crematorium

Date: June 1, 2021

Property Owners: Bruce W & Angela Quast

Property Address: 6581 300th Ave
Waseca, MN 56093

Township Name: Wilton Township

Parcel Identification No: 11.007.0510

Legal Description: See Attachment “B” (To be provided).

Proposed Use of Land: Conditional Use Permit to operate and maintain an animal crematorium on their 10AC parcel (PID 11.007.0510) with address 6581 - 300th Ave and located in Section 7 T. 106N R. 23W of Wilton Township. The project includes the construction of a 20’x20’ concrete slab for cremation equipment adjacent an existing 64x 34’ barn and conversion an already existing 40’x 60’ shop to a crematory office space. The Quast property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed as a conditional use in this zone (§6.16(FF) (6)).

Attachments:

Attachment “A” – Conditions required for approval of the Conditional Use Permit

Attachment “B” – Legal Description

Attachment “C” – Site Plan

**THE COUNTY BOARD MOTION TO ADOPT FINDINGS OF FACT AND THE COUNTY
BOARD CONCLUSIONS AND ORDER**

The Waseca County Board of Commissioners have read the Findings of Facts referenced herein as provided to the County Board and on file in the office of the Planning and Zoning Department along with supporting information including the staff reports, and the Criteria for approval of the Conditional Use Permit that were recommended by the Waseca County Planning Commission which are included by reference with this report. The Criteria for approval are on file and of record in the office of the Waseca County Planning and Zoning Department and are incorporated in the Findings by reference. The Waseca Planning Commission took testimony at a public hearing and prepared the criteria for approval at the Planning Commission Meeting held on Thursday, May 6, 2021. The Board hereby adopts these Findings of Fact regarding the approval of the request for a Conditional Use Permit application as described above and as recommended by the Planning Commission and of record in the Waseca County Planning and Zoning Office.

The Waseca County Board also approves the recommendation of the Planning Commission to approve the request for a Conditional Use Permit in substantially the form as provided, with the conditions as outlined in Attachment "A" with all other local, state, and federal regulations.

Motion by _____ Second by _____ Vote ____ Yes ____ No

WASECA COUNTY

Dated: _____

DeAnne Malterer, Chairman
Waseca County Board of Commissioners

A T T E S T

Dated: _____

Tamara J. Spooner
Waseca County Auditor Treasurer

ATTACHMENT “A”

CONDITIONS REQUIRED FOR APPROVAL OF THE CONDITIONAL USE PERMIT

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Alton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans:

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment:

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage:

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

ATTACHMENT "B"
Legal Description

The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Township One Hundred Six (106) North, Range Twenty-three (23) West, Waseca County, Minnesota.

ATTACHMENT "C"
Site Plan



Bruce W & Angela Quast
Conditional Use Permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township

May 6, 2021

FINDINGS OF FACT

1. On April 8, 2021, Bruce W & Angela Quast, presented an application for a Conditional Use Permit (CUP) to operate and maintain an animal crematorium on their 10AC parcel (PID 11.007.0510) with address 6581 300th Ave and located in Section 7 T. 106N R. 23W of Wilton Township. The applicants are proposing to construct a 20'x20' concrete slab for cremation equipment adjacent an existing 64x 34' barn and convert an already existing 40'x 60' shop to a crematory office space. The Quast property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed as a conditional use in this zone (§6.16(FF) (6)).
Legal description for the proposed development site is attached to the CUP document.
2. As of the date of the application, the above-listed application was on file for public inspection in the Waseca County Planning and Zoning Office. The above listed application and supporting documents are incorporated into these Findings by reference.
3. Notice of the public hearing scheduled for on the applicants' request for a conditional use permit was published in the Waseca County News (the 2021 official newspaper for Waseca County) on April 22, 2021. The Affidavit of Publication is included in the files and are incorporated herein by reference.
4. On or before April 23, 2021, the Planning and Zoning Office notified owners of nearby properties and all of the Township Officers as per requirements of the Unified Development Code for the public hearing scheduled for May 6, 2021 by first-class mail. The Affidavits of mailing are included in the file and are incorporated herein by reference. Staff reports were provided by email to the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, Waseca Public Health Services Department, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department port for their comments and review.
5. On April 30, 2021, the Planning and Zoning Office notified the applicants in writing about the 60 days extension of the required timeline deadline for agency action as per the Minnesota Statute Chapter 15.99.
6. On April 30, 2021, Planning and Zoning Department staff sent the staff report to the members of the Waseca County Planning Commission by first-class mail regarding the application and accompanying documents. This staff report is incorporated in these Findings by reference. Attachments included:
 - i. Staff Analysis of Criteria,
 - ii. Recommended Conditions, if granting,
 - iii. Application materials as submitted and documented.
7. On May 6, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, presented a PowerPoint presentation highlighting the applicants request, site data and approvals for the Conditional Use Permit for Bruce W & Angela Quast request. The information provided was based on a staff report provided to the Planning Commission prior to the meeting.
8. The following is an extract of the draft Planning Commission minutes of the meeting held on May 6, 2021 starting at 7:00 p.m.:

**WASECA COUNTY PLANNING COMMISSION MEETING
MINUTES OF MAY 6, 2021**

CALL TO ORDER/ESTABLISH A QUORUM

A quorum to conduct business was established and the Chair Russ Frederick called the Waseca County Planning Commission meeting to order at 7:00 p.m. at the meeting room in the East Annex Building.

MEMBERS PRESENT

DeAnne Malterer, Russ Frederick, Stephanie Roemhildt, Mark Sommers, Marv Pearson, Leon Schoenrock (arrived late but did not participate in the meeting as a Commission Member).

MEMBERS ABSENT

None.

STAFF PRESENT

Mark Leiferman, Planning and Zoning Administrator, Maame Yorke, Planning and Zoning Specialist.

OTHERS PRESENT

Names include as seen on sign-in sheet. Spellings of names shown as best as possible from handwritten signatures.

Ralph Castro, Birds Eye, Waseca (in-person), Bruce Rehwaltd, Foth (in-person), Scott Wandeloski, Foth (in-person), Ashley Rehder (in-person), Walter Mishek (in-person), John Snow (in-person), Wendell Armstrong (in-person), William Beschnett (in-person), Tom Culross (in-person), Cavit Wobschall (in-person), Verna Benson (in-person), Jeff Muenkel, Foth (online), Bruce Quast (online), Jon Erichson, Ulland Brothers (online), no caller ID (online)

APPROVAL OF AGENDA

Sommers made a motion to approve the agenda with Malterer seconding. Motion passed unanimously.

REVIEW/APPROVAL OF MINUTES – April 1, 2021

Malterer made a motion with Roemhildt seconding to approve the December 3, 2020 minutes. Motion passed unanimously.

PUBLIC HEARINGS:

Old business:

(A) Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC.

Leiferman started the public hearing for a Conditional Use Permit to allow the transfer of development right between Armstrong and Calonett Venues LLC, which was tabled at a prior meeting by presenting a PowerPoint. He informed the Planning Commission that the applicants had converted the duplex to a single family by having an opening between the basement and the main level.

The owners of the site are Wendell J. & Ruth A. Armstrong (sending site) and Calonett Venues LLC (receiving site). The property address of the receiving site is 35961 150th Street. Waseca, MN 56093 in Woodville Township. The applicant submitted an application on March 5, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on March 19, 2021 and April 22, 2021. Legal notice of public hearing was published in the newspaper on March 18, 2021 and April 22, 2021. 60-day from the date of application is May 4, 2021. 60-days' notice extension was provided to the applicant on March 26, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract concerning transfer of development right as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.09 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

(C) Transfer of development rights (TDR) program; receiving sites.

(5) TDR may be transferred within a township or between a common owner anywhere within the county. A transfer between two owners and into another township shall be completed only by completing a conditional use permit and by following the requirements of this section.

Leiferman then showed the Planning Commission a site plan for the receiving site showing the 1.40 acre parcel to be split from the original parcel and a proposed sanitary sewer easement area.

Issues with the request

1. **Wetlands.** Although no portion of the receiving site appears on the National Wetland Inventory or NWI, the Water Resource Specialist should review the site and verify the provisions of the Wetland Conservation Act (WCA) do not apply to this property.
2. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serving the 1.4 acre parcel being subdivided from the larger 38.45 acre tract shares a SSTS system with a small barn located on the remaining portion of the exiting tract. The SSTS is not currently located upon the 1.4 acre tract being removed from the larger tract.

The easement area shown on the survey provided as Attachment G appended to this report is immediately adjacent to the TDR tract being subdivided. §5.03 of the Unified Development Code (UDC) requires SSTS tanks and treatment areas be located at least 10 feet from a property line. The Waseca County Board recently approved an amendment to the UDC to allow these elements of an SSTS to be closer to property lines when there is an easement. The drawing shows the SSTS tank within 10 feet of the property line. An easement agreement will need to be entered into to share the system. The agreement should be approved by the Waseca County Public Health Department and the County Attorney. Staff assumes the existing well located on the property may be shared; however, no details regarding potable water were shared with staff.

3. **Duplex Use.** The home on the split to be split from the parcel was permitted by Waseca County as a single-family home. The home was constructed as a Duplex. This use is currently a legal non-conforming use. The owners plan to remove a portion on the wall separating the units to create a single-family home.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: The subdivision of the parcel should not have an adverse impact on the surrounding neighborhood.

Staff: The applicant's proposal is to split off an existing duplex from a larger piece. This should not have an adverse impact on the surrounding neighborhood.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: Adequate parking already exists. There should be little impact on traffic and parking caused by creating a parcel ID for the existing ~~duplex~~ *single family dwelling*.

Staff: There are approximately seven residences within a quarter mile of the receiving site. There is a second residence constructed on the larger parcel the 1.40 acre receiving site is being split from. This should not impact traffic or parking since the applicant will continue utilizing the site as it is currently is being used.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: The site is currently served with electric, telephone and natural gas.

Staff: From the applicant materials, there are adequate public utilities, services, roads and schools to support the continual site of the property. The parcel being subdivided is served with telephone, electric and natural gas and an existing driveway onto 150th Street.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: Creating a parcel ID for the existing ~~duplex~~ *single family dwelling* should not have a negative impact on property values or impact development in the vicinity.

Staff: As mentioned earlier, the applicant is proposing to split a 1.4 acre home site from existing 38.45 acre parcel with a second home on the tract. The continuous use of the parcel should not adversely affect property values or future development in the surrounding neighborhood.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The Transfer of Development Right, conditional use permit request is consistent with the goals and policies adopted in the comprehensive plan. The approved plan call for the area to be developed into agriculture/open spaces. This request is also consistent with the land use recommendations in the comprehensive plan relating to the development of rural open spaces.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section 3.06 relating to subdivisions and section 6.09 relating to the transfer of development rights.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

The two existing homes were developed and constructed in compliance with the conditions, county code and Minnesota state law at the time they were constructed. The parcel split using the Transfer

of Development Rights provisions will not change the current use. The two homes will remain as they currently exist and should not have any adverse impact on the environment.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

There do not appear to be any natural, historic or scenic views in the vicinity of the existing ~~duplex~~ *single family dwelling*.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. *The structure on the property shall be for single-family use.*

Note: the sentence in italics was added by staff and not included in the staff report.

2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be and must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon

an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Services Department, County Sheriff, County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened and closed the public hearing at 7:15 p.m.

Malterer made a motion to approve the criteria as amended with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Calonett Venues LLC solar conditional use permit with conditions. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(B) Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Leiferman continued the public hearing for a Conditional Use Permit to operate an animal crematorium on the same parcel as their single family dwelling. The facility will consist of a 20x20" concrete slab for cremation equipment to be installed adjacent an existing 64'x34' barn. The crematory device is sized for small domestic pets and would not accommodate larger farm animals. The furnace will be fueled by natural gas or propane and will be equipped with an after-burner to reduce odor emanating from the equipment. The owners of the site are Bruce W & Angela Quast. The property address of the receiving site is 6581 300th Ave in Wilton Township. The applicant submitted an application on April 8, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 7, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The states that Waseca County should encourage commercial activity that is compatible with agricultural areas.

The zoning map places the receiving site in the A-1 Agricultural Protection zoning district. Leiferman then proceeded to reading a zoning code extract relating to the proposal as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS.

Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(26) Veterinary and animal clinic and facilities for the care and/or breeding of animals, including kennel and animal crematorium.

§6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES

(FF) *Veterinary and animal clinic and facilities for the care and/or breeding of animals including kennel and animal crematorium.*

(6) *Animal crematorium. An animal crematorium may be operated in connection with a veterinary clinic or as a stand-alone facility that provides services to a veterinary clinic or clinics. An animal crematorium shall only be used for the disposal of animals. A stand-alone animal crematorium facility shall provide no outside appearance of the operation and shall not include a sign. Stand-alone crematoriums shall pick-up and deliver animals from veterinary clinics and shall have no visitors other than employees or inspectors. Animal pick-up shall be done in leak-proof containers. The following standards for animal crematoriums shall be met.*

(a) *Setback. The crematorium shall be located in a structure and be at least 500 feet from any residence other than the owner of the property.*

(b) *Site plan. Site plan review shall be required.*

€ *Parking. There shall be at least one parking space available for each employee working at the site at any time.*

(d) *Refrigeration. Deceased animals stored on the site prior to disposal shall be kept under refrigeration to eliminate the possibility of odor emanating from the animal.*

€ *Furnaces. The furnaces shall use natural gas or propane as the heat source for the furnace.*

(f) *Performance standards. Incinerator must be adhere to the State Pollution Control Agency guidelines as follows:*

1. *Capable of producing emissions not to exceed 20% opacity;*
2. *Fitted with an afterburner that maintains flue gases at 1,200°F for at least 0.3 seconds; and*

3. *Ash from the incinerator must be handled in such a manner as to prevent particulate matter from becoming airborne and shall be properly disposed of.*

Leiferman then showed a site plan for the receiving site which depicted the location of the proposed 20x20 concrete slab for cremation equipment adjacent to an existing 64x34 barn, the approximate location of septic tank and well on the Quast property as well as an existing 40x60 shop proposed to be used for crematory office space.

Issues with the request

1. **Odor.** Deceased animals will be picked up and stored in a refrigerator pending cremation. There were also odor complaints from a similar facility approved in the County which was solved by installing an afterburner. The closest residence is approximately 1,900ft away from the proposed location of the facility as such odor impacts should be minimal. The applicants should put in place measures to solve odor should odor within the vicinity of the facility be impacted.
2. **Fire and explosion.** The equipment used will be operated at high temperatures. When operating any equipment such as this, there is some risk of fire or explosion. The County Sheriff and the local fire department should be notified when the operation commences to assist in dealing with any potential fire or explosion issues.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The applicants' proposal is not anticipated to adversely impact the general health, welfare and safety of the occupants in the surrounding neighborhood if the facility is operated within

the confines of the UDC and all other state and federal regulations pertaining to animal cremation.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: No.

Staff: Adequate measures are being provided to eliminate any traffic hazard which may result from the proposed use because the applicants will pick up deceased animals to the facility which will limit traffic to the facility.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: Yes.

Staff: The facility will be operated on the same parcel and the applicants' single family dwelling. There appears to be adequate utilities available on the property and also in the building where the business will operate. The existing roadway will also accommodate the traffic needs of the business since the operators will pick up and deliver deceased animals to the facility.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: No.

Staff: The proposed use will not be injurious to the use and enjoyment or have a negative impact on adjacent property values in the immediate vicinity due to the fact that the site is located approximately 1,900 feet to the closest residential use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The proposed use of the facility is consistent with the goals and policies adopted in the comprehensive plan. The approved land use plan proposed the property to use for agriculture/open space.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes.

Staff: The property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed with a CUP. The proposed use should meet the standards of the zoning ordinance should all requirements stipulated in §6.16(FF) (6) be adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: The proposal should not have an adverse impact on the environment and poses minimal threat to groundwater, surface water or to air quality if all standards and requirements are adhered to.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No.

Staff: The proposal is not anticipated to adversely impact existing natural, historic or scenic views or features in the surrounding neighborhood should the business operate in an environmentally friendly manner whilst adhering to appropriate standards and requirements of the UDC.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

No.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Wilton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the

Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Waseca Public Health Services Department, County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Wilton Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:26 p.m.

Wendell Armstrong asked the number of times or days of operation and how odor would be impacted. Leiferman provided a response.

Armstrong then asked if the business was replacing any company. Leiferman responded that the applicants were buying the business from a previous owner who operated in Alton Township.

Quast added that their business would serve Southern Minnesota and the Twin Cities and they were not replacing any person's business. He furthered that about 75-80% of ashes after animal cremation would be returned to customers. He added that the location of his business shouldn't affect his neighbors and that the business is being moved away from its current location which was close to a winery.

Frederick asked if there were any issues with the original location of the animal crematorium. Leiferman responded that the business was close to residents and odor was impacted which was later resolved with an equipment upgrade to include the installation of an after-burner.

Malterer added that there is high demand for the service and new proposed location was a good spot.

The public hearing was closed at 7:33 p.m.

Roemhildt made a motion to approve the criteria with Sommers seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Quast conditional use permit with conditions as amended. Person seconded and it was passed unanimously with 4 Yes 0 No.

(C) Request for an amendment a Conditional Use Permit to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch in Section 18 of Freedom Township – Nickolas J & Ashley A Rehder/Ruby Ranch.

The next item on the agenda was a conditional use permit request to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch) in Section 18 of Freedom Township. The proposed daycare center will be operated the same facility as the primary existing Ruby Ranch Agri-tourism structure. Ruby Ranch currently serves children ages 5 to 18 for summer camps and provides farm tours for the community throughout the summer. Little Rubies will be a farm and nature based daycare and learning center that will operate during the school year for children ages 1 to 5 years of age to provide care and indoor and outdoor learning experiences

The owners of the site are Nickolas J. & Ashley A. Rehder. The property address is 361 290th Ave, Pemberton, MN 56078 with PID 04.018.0610. The applicant submitted an application on APRIL 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 22, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS

(C) Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(13) Daycare center;

§ 6.13 SPECIFIC STANDARDS FOR INSTITUTIONAL AND CIVIC USES.

(B) Daycare center. The following standards apply to daycare centers, both permitted and conditional, and to family or group daycare accessory to a residential use.

(1) Within a residential or agricultural district, the building and any exterior fenced area shall meet the setback requirements for a single-family residence.

(2) The use shall comply with all applicable federal, state and county rules and regulations.

(3) For child daycare facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(4) For adult daycare facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(5) When the daycare facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.

Leiferman then showed and explained a site plan and drawings for the proposal.

Issues with the request

1. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serves the home and the conditionally approved Agri-tourism use. Kim Shermo, the Environmental Health Specialist for Waseca County has determined the existing SSTS is not currently appropriately sized to accommodate the proposed daycare. She suggests another SSTS be constructed for the Ruby Ranch/Little Rubies facility.
2. **Daycare Licensing.** The applicants are requesting a conditional use permit (CUP) to operate a Daycare Center under the Waseca Unified Development Code (UDC). The existing Ruby building meets the requirements as a daycare center since the operation will not be located in their residence. A daycare family operation is to be located within a residence under the UDC.

The State licensing requirements differ from the UDC requirements. The license at the state level defines daycare relative to the number of children served. A family daycare is for 14 or fewer children and can be either within a home or in a separate building. Child and Family Services Minnesota Prairie County Alliance will inspect these facilities; whereas, any facility serving more than 14 children is licensed directly by the State of Minnesota. A family daycare needs to have a

staff ratio of 1 adult per 12 children. The number of children can increase if the facility employs additional staff. A teen age assistant may be allowed if to increase the ratio. The applicants may wish to license the facility as a daycare center despite limiting the number of children permitted at the facility to allow for future expansion or seasonal increases in population.

The ratio of children to square feet of space is 1:35.

3. **Conflicting Uses.** Ruby Ranch is an event center which offers craft classes to patrons. The equipment used (power tools) in the craft class activities potentially conflict with childcare uses proposed by the Little Rubies childcare facility. The applicants will need to have an appropriate way to separate these uses. This issue should be addressed within the county/state license requirements.
4. **Signage.** The only complaint the County has received regarding the operation of the Ruby Ranch facility related to the sign for the facility which was installed originally within the right-of-way of the West County Line Road. This portion of roadway is under the jurisdictions of Freedom Township. The property owners have removed the sign and have applied for a permit to relocate the sign on the site. The applicants have asked the Township for assistance in determining where the sign can be placed.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The owners of the proposed Agri-tourism facility own approximately 8.1 acres of land. The closest occupied residence to the proposed facility reside in dwelling units that are located approximately 1,600 feet to the west of the proposed daycare center (existing Agri-tourism structure). Much of the area all sides is agricultural in nature.

The potential impacts of the Agri-tourism use on the adjacent homes will likely result in an increase in in traffic during the early morning hours and late afternoon.

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that the previous conditional use permit placed 14 conditions on the applicant's permit, and since the facility will require a Waseca Public Health Department license to operate the daycare facility.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: The Waseca County Line Road will now be trafficked more frequently with parent drop off and parent pick up. All parking will happen on our property by the classroom. This is ½ mile from the Waseca County Line Road so it will not disrupt the flow of traffic.

Staff: The addition of a daycare center to the existing Agri-tourism use will have an impact on traffic bringing parents dropping off children in the morning and picking up their children in the afternoon. This could add up to 20 to 40 additional trips per day. The roadway known as 290th Avenue is a private drive owned and maintained by the applicants. This section of the West County Line Road is maintained by Freedom Township Road. The applicants met with Freedom Township and they indicated the Township did not have any objection to the proposed use. There should be adequate parking on site developed for the Ruby Ranch Agri-tourism use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: We have electricity with LED lights, AC, heating, water, ½ bath, and WIFI to support a space for daycare.

Staff: The Subsurface Sewer Treatment System will need to be upgraded to accommodate this proposed use. All other utilities should be available to this site. There appear to be adequate public services, roads and schools to support this use.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: We feel the space is a positive business for the Pemberton community. There isn't much for families to do and we provide activities spring through fall. Now with a daycare center it is giving local families more options to take their children to daycare/preschool.

Staff: The proposed use should not have an adverse impact on property values in the vicinity since the applicants have been operating an Agri-tourism use on the property since 2017 and since the closest neighbor is approximately 1,600 feet from the proposed use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Applicant: Yes

Staff: The use appears to be consistent with the Comprehensive Plan because of the following plan and map references:

1. Goal 6: Promote economic diversification in Waseca County, which will provide for continued employment opportunities and reasonable access to a broad range of goods and services for community residents.
2. Goal 7: Promote a healthy economy, enhance the natural and built environments, and provide opportunities to area residents.
3. The Planning Commission finds that the proposed use is compatible with the uses within the district and is of the same general character as those of the district.
4. The Planning Commission finds that the proposed use conforms to the Waseca County Land Use Plan (see attached).

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes

Staff: The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section § 6.08 A-1 Agriculture Protection District Standards, (C) Conditional uses (13) Daycare center. Section § 6.13 outlines the Specific Standards for Institutional and Civic Uses for Daycare centers.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: No. The site plan will not change significantly.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No. The property is well maintained and safe for children to explore outdoors.

Staff: The use is not anticipated to adversely affect any existing natural, historic or scenic views or features in the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

Applicant: No.

Staff: The facility will be required to meet County and State Daycare Licensing requirements.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Department, Waseca County Sheriff, Waseca County Attorney and Waseca County Highway Department for their

review. The application was also provided to the Minnesota Department of Natural Resources (DNR) for their review and comment.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Freedom Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:50 p.m.

Ashley Rehder informed the Planning Commission that their sign had been approved by the township and she was in the process of obtaining a septic permit as well as a loan for the operation of Little Rubbies.

The public hearing was closed at 7:51 p.m.

Malterer made a motion to approve the criteria with Roemhildt seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Roemhildt made a motion to approve and recommend approval to the County Board the Rehder conditional use permit with conditions. Sommers seconded and it was passed unanimously with 4 Yes 0 No.

(D) Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township – Ulland Brothers Inc.

Leiferman then read the next zoning case with was a request for a Conditional Use Permit (CUP) to mine, excavate, process and stockpile sand and gravel aggregate materials in Section 12 of Otisco Township. The parcel (08.012.1010) is south of 305th Ave and approximately 1 mile to the county border with Steele County. All of the property is in the A-1 Agricultural protection Zoning District and within the highway overlay.

The owners of the site Ulland Brothers Inc. The property address of the receiving site is 17872 – 305th Ave. The applicant submitted an application on April 13, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 12, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. This proposal indirectly relates to the infrastructure and transportation vision statement of the county since aggregate materials are needed for construct roads at a cost effective price:

- o Transportation Vision Statement: Waseca County will have a transportation system that facilitates and strengthens its economic vitality and effectively moves people to and from required destinations.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§4.13 EXTRACTION OF MATERIAL AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS.

(B) Conditional use permit. Excavations, extraction of materials and minerals, open pits and impoundment of water shall be permitted only upon the issuance of a conditional use permit.

(1) The applicant for the permit shall furnish such information as: true name and address, when required, approval by the state to impound waters, purpose of proposed activity,

roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

(e) Wetland creation, restoration and/or construction shall be exempted if the proposal can satisfy all of the following criteria:

1. Wetland creation, restoration and/or construction shall be under the guidance of the County Soil and Water Conservation District using specifications and guidelines of the Natural Resource Conservation Service (NRCS);

2. Wetland creation, restoration and/or construction shall not be constructed closer than 75 feet to the boundary of any adjoining property or existing road easement; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

(f) Wetland creation, restoration and/or construction that can not satisfy the above-listed exception criteria (subsections (B)(2)(e)1., (B)(2)(e)2. and (B)(2)(e)3. above) will be subject to:

1. Conditional use permit;

2. Any conditions set forth by the Board for the conditional use permit; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

§6.07 SPECIFIC STANDARDS FOR AGRICULTURAL, NATURAL RESOURCES AND RELATED USES

(H) Mineral extraction, mining.

(2) Application requirements. Maps of existing conditions, the proposed pit or excavation and accessory structures, and site after reclamation shall be prepared by a professional engineer or land surveyor and filed with the application.

5. Structures, storage of excavated materials or topsoil, and the excavation edge shall be setback at least 300 feet from any protected water and at least 100 feet from an adjoining property line or public right-of-way. Mining and mining material operations and processing shall not be conducted within 100 feet of an adjoining property line or public right-of-way. No on-site processing of materials or storage of excavated materials or topsoil shall occur within 1,000 feet of a residence.

Leiferman then showed the Planning Commission a site plan for the gravel pit.

Issues with the request

1. **Township Road Damage.** The applicants originally received a permit to utilize the township road as a haul road for the Highway 14 project. This permit was provided to Otisco Township. In the past, staff has received complaints about the damage being done to the road due to weight of the trucks and the volume of traffic being placed on the road by the vehicles entering and exiting the site. Adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues and the depth of the material removed.
2. **Safety.** The trucks entering and leaving the site may create a potential hazard for people utilizing the roads in the vicinity. Again, adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues.
3. **Water runoff issues.** Staff has not received a copy of the National Pollution Discharge Elimination Permit for the existing facility. Staff has a concern that there may be process water utilized in the crushing and or conveying of materials processed at the site.
4. **Reclamation Plan.** The previously approved reclamation plan lacks detail and should be updated to meet the requirements of the Unified Development Code

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that 42 conditions have been previously placed upon the applicant's permit, and since additional requirements will be placed upon the applicant by the Minnesota Department of Transportation and reviewed by the Waseca Soil and Water Conservation District. In addition, the property is located in a rural setting with the closest neighbor residing over 1,000 feet from the subject property.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

The proposed use is not anticipated to impact (adverse) on traffic conditions since adequate measures are being provided to eliminate any traffic conditions due to the conditions that are being placed upon the project relating to road use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

There are adequate public utilities, public services and roads to support the proposed use of the property.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

The Planning Commission finds that the proposed use will not be injurious to the use and enjoyment or have a negative long-term impact on adjacent property values in the immediate vicinity due to the remote nature of the parcel and the distance between this site and the residents of adjacent properties.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Waseca County has determined that this use is in line with the requirements as stated in the land use plan. The proposed use is compatible with the uses within the district and are of the same general character as those of the district.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Mining, excavation, extraction of material and minerals are conditional uses in the A-1 Agricultural Protection District as specified in the Waseca County Unified Development Code. A site plan has been submitted for this site. The facility should meet the UDC requirements if all conditions are adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Any negative impact to the environment and should be addressed by the Conditions imposed by the Waseca County Conditional Use Permit and by the requirements of the State of Minnesota and should pose no threat to groundwater, surface water or to air quality.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

The proposed use has been in operation on the property under review under various Conditional Use Permits. The proposal is not anticipated to be detrimental or have adverse effect on the existing natural, historic, scenic views or features of the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. *All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.*

Note: staff condensed the conditions into one (1) since conditions presented in the staff report were similar to prior CUPs approved for the site

Public Agency Comments

An email containing the link to the staff report was provided to the County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Otisco Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:50 p.m.

Jon Erichson (Ulland Brothers) informed staff and the Planning Commission that the reclamation plan would be upgraded and emailed to staff. He added that the township supported the CUP renewal and the pit was not open to the public with operations relative to ongoing projects.

The public hearing was closed at 8:07 p.m.

Pearson made a motion to approve the criteria with Malterer seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to the County Board the Ulland Brothers Inc. conditional use permit. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(E) Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

Leiferman continued the hearing by presenting the next zoning case which was an amendment to Conditional Use Permit (CUP) to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

The owners of the site are ConAgra Foods Packaged Foods LLC. The property address of the screen house is 34529 US Highway 14 in St. Mary Township. The applicant submitted an application on April 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

- o On page 13 of the comprehensive plan, it states that: "Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth."
- o Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- o On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the I-General Industrial zoning district. He then proceeded to reading a zoning code extract relating to the request as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

(NN) Industrial waste processing facility. New industrial wastewater treatment facilities shall be allowed as conditional uses in the A-1 Agriculture Protection District, HC Highway Commercial District and I Industrial District. Industrial wastewater treatment facilities shall comply with the following requirements.

(1) *Site plan. Site plan review shall be required. Any new industrial wastewater treatment facility shall meet the minimum standards of § 6.15 of the Uniform Development Code providing for general standards for commercial and industrial uses.*

(2) *Setbacks.*

(a) *Treatment pond to residence: 1,000 feet;*

(b) *Spray Field to residence: 500 feet;*

(c) *Treatment pond or spray field to a public right-of-way: 100 feet;*

(d) *Treatment pond or spray field to a public or private ditch: 100 feet;*

and

(e) *Treatment pond or spray field to any body of water, perennial or intermittent stream, or wetland: 100 feet.*

(3) *Access. If the Planning Commission determines it necessary, the site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate.*

(4) *Local, state and federal regulations. Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.*

§ 6.19 I GENERAL INDUSTRIAL DISTRICT

(C) *Conditional uses (see Article 4 for accessory uses).*

(16) *Industrial wastewater treatment facility;*

Leiferman then showed site locations for the three amendment proposals and also explained the project details for the screen house proposed to be constructed.

Issues with the request

1. **Odors- Hydrogen Sulfide.** The applicant currently utilizes various spray fields and the treatment ponds to treat the industrial wastewater generated by the vegetable processing plant. Odors are generated when these facilities are operated. Odors produced at the plant are the result of hydrogen sulfide generated by the wastewater treatment process as the water is sprayed onto fields or stored in the ponds (lagoons). Hydrogen sulfide is mainly created through the biological degradation of organic matter and sulfur compounds under anoxic or anaerobic environments. The proposed upgrades are being implemented to address the formation of hydrogen sulfide at ConAgra's existing lagoon storage facility. The company also plans to install equipment to screen the wastewater prior to placing the water in the ponds reducing the amount of material generating odors.

Foth Engineering has been employed to attempt to address the odor issues at the ConAgra plants. Foth is working to resolve the odor issues by maintaining the pH (acidity level) of the stored process wastewater. The objective is to store the water at or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide, further reducing potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Foth is recommending the installation of the following equipment and products to assist with the odor reduction effort:

1. One (1) new 2,400 ft² building to house the new process equipment.
2. Two (2) new internally fed rotary drum screens – replace existing drum screens currently installed at current manufacturing facility
3. Two (2) new belt conveyors or screw type augers to transfer collected solids from new screens to the existing silage pad for use by area farmers for animal feed.

4. One (1) new drilled well for hot and cold water including:
 - a) One (1) well pump – Approximately 125-gpm @ 175-ft TDH
 - b) One (1) pressure tank to maintain system pressure
 - c) One (1) natural gas water heater
 - d) One (1) 1,200 gallon hot water storage tank with pressure relief
 - e) Associated distribution piping

The current existing facility and proposed new additions and construction are shown in the materials provided by Foth. The location of the building housing the screens, conveyors, tanks, pumps and mixers are illustrated on the proposed-revised site plan. Finally, the layout of the equipment within the proposed screen house building are illustrated on the plan titled Screen House Layout. Please note that provisions are being made for a third screen but only two are planned for installation at this time. The facility also has plans to install additional aeration in the storage lagoons to promote oxic conditions, further reducing the formation of hydrogen sulfide. However, the addition of aerators is being completed separate from this project.

This present plan is the Company's attempt to control odor from waste generated at the main plant and this will extend to the new plant when the new facility is completed in the future. ConAgra has not advised what the plans are for the current facility once the new facility is built or whether the company will need to continue to process wastewater from the old plant once the new one is put into service. Regardless, the new plant will most likely intensify the use of the wastewater treatment facilities even if the old facility is no longer tied to the wastewater treatment facility.

2. **Water Impacts.** That there is a possibility that the process water could leave the site. County Ditch (CD) 45 and 15-1 are impacted by the flow from the ConAgra facilities. The company maintains a number of monitoring wells to assure contaminated process water does not pollute the water leaving the site. In addition, there is a private ditch which flows into County Ditch 45 which may be impacted by the increase in the amount of flow leaving the site. Staff has reached out to the ditch group to see if there are concerns with water drainage at this time and have not heard back from them.
3. **Minnesota Pollution Control Agency (MPCA).** The MPCA is responsible for the certain permits for this facility. Staff has received comments from the MPCA regarding this wastewater project. The County does not have copies of the NEW MPCA Permits as they have not been issued.
4. **Erosion Control.** The applicants have obtained National Pollution Discharge Elimination Systems Permit (NPDES) from the Minnesota Pollution Control Agency for previous projects approved by original CUP and amendments to the CUP for the Industrial Wastewater Treatment Facility. The applicants are responsible for obtaining an NPDES permit if required for this project

Criteria and Proposed Findings:

- 1) **Will the proposed use have an impact (adverse) on the health, safety, and general welfare of the occupants in the surrounding neighborhood?**

ConAgra (Foth Engineering): None anticipated. Spray field acreage removal is more than being added. Spray field addition is adjacent to existing approved spray fields. Screen house will improve wastewater treatment processes

Waseca County: Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels utilized to spray on fields and to treat the wastewater.

An Environmental Assessment Worksheet (EAW) was completed at the request of the Minnesota Pollution Control Agency and Waseca County Planning and Zoning based

on interpretation of Minnesota Rule 4410.4300, subpart 18C for the construction of the industrial wastewater treatment system in 2014. The EAW finding were negative (meaning an Environmental Impact Statement was not required). Essentially, the EAW found that if the new drainage structures and equipment were constructed and utilized according to the plans presented, there should be no public health or environmental concerns.

The EAW discussions at the time of the development of the EAW and through the permit application process contemplated the construction and development of additional property to be utilized as spray fields to treat the industrial wastewater. A mixture of plants including reeds canary grass have been and will be planted and harvested will absorb some of the nutrients contained in the water.

The Minnesota Pollution Control Agency has also issued a National Pollution Discharge Elimination Systems (NPDES) permit for the original sites that has been updated from time to time when facility improvements have been made. This permit monitors air and water quality at the sites and regulates flow leaving the site. The spray sites are to be monitored daily when they are operated. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

In addition, tile discharge exceedances are managed with daily discharge inspections and spray site management. The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges.

Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels. With each new modification come hopes the odor generated by the facility will improve. Odor continues to be an issue and the smell can travel miles from the spray fields while they operate and from the ponds at certain times of the year. The screening to remove additional plant materials together with efforts to control hydrogen sulfide levels should help with odor issues. Conditions provide that the CUP may be monitored on an annual basis to determine if the project is in compliance with the requirements of the CUP.

2) Will the proposed use have an impact (adverse) on traffic conditions including parking?

ConAgra (Foth Engineering): No portion of this proposal affects parking issues.

Waseca County: The proposed project will have only a minor impact on traffic to the proposed site during construction and during the operation of the system. On-going operations will be monitored and conducted from an off-site location. Short-term vehicle parking may be needed as system

technicians move spray nozzles on the site and monitor the sites or as chemical water treatment is added or employed as permitted by the NPDES permit. Inspections and farm equipment used to harvest the crops will access the site from the existing field drive on the parcels during the growing season.

3) Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

ConAgra (Foth Engineering): Not applicable with proposal.

Waseca County: Additional public utilities should not be required for the proposed uses on the properties. There will not be any required changes to the existing schools or roadways.

4) Will the proposed use have an effect (adverse) on property values or future development of land in the surrounding neighborhood?

ConAgra (Foth Engineering): No. All proposed uses are part of existing approvals for properties.

Waseca County: Odor and Drainage are the primary concerns with this CUP amendment.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

The Minnesota Pollution Control Agency National Pollution Discharge Elimination Systems (NPDES) permit will monitor air and water quality at the sites and regulates flow leaving the site(s). The spray sites will be monitored daily when in use. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges. The ConAgra properties are included in the benefitted area of County Ditch 45. Notwithstanding any private issues related to the private drainage agreement, the land can drain to County Ditch 45 without any additional cost or procedure.

5) Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The following are extracts from the Waseca Comprehensive Plan:

- On page 13 of the comprehensive plan, it states that: “Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth.”
- Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

6) Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The Unified Development Code (UDC) was amended in April 2014 to include Industrial Waste Treatment Facilities as a Conditional Use in the I-Industrial, HC-Highway Commercial and A-1 Agricultural Protection Districts. A site plan has been submitted for this amendment to Conditional Use permit.

7) Will the proposed use have an effect (adverse) on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The improvements to be made to the Industrial Wastewater Treatment System have been and are being completed to reduce odor generated by the facility. The goal is to maintain compliance with the company’s Minnesota Pollution Control Agency (MPCA) permits. The permitted spray irrigation acres have fluctuated over the past several years. Wastewater is generally applied to spray fields when conditions allow during the harvest season. The new industrial waste water storage treatment facility includes an on-site waste water management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank; a 25,000 square feet concrete silage storage pad.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard

units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

There are systems in place to monitor water quality at throughout the system. A series of 12 ground water monitoring wells monitor the application of wastewater at the spray fields and at the silage collection and storage sites.

The processing agriculture wastewater is also complicated due to the seasonal nature of food processing. The processing of food from raw materials requires large volumes of high grade water. The method to treat the wastewater from plants, such as the one at ConAgra, is to spray the water over large areas to remove any suspended solids and BOD. The water can be collected from certain spray fields and then reprocessed to further improve water quality. At times when the ground is frozen or saturated, water can be collected in the lagoons or ponds and then processed later when weather conditions improve. The applicant has noted that additional aeration and the dual storage lagoons are designed to help with control odor. The addition of chemicals to control pH should continue the efforts to bring the facility into compliance with state odor and water standards.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

8) Will the proposed us have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

ConAgra (Foth Engineering): No, all proposed uses are consistent with existing approved CUP for properties.

Waseca County: The proposed changes to the sites involved in this Conditional Use Permit Amendment should not have a negative impact on any existing natural, historic, or scenic views or features in the surrounding neighborhoods. A portion of a permitted spray field under the original 2014 Conditional Use permit is being redeveloped into a new vegetable processing plant. This site is now located within the City of Waseca and will not be regulated by the Waseca County Conditional Use Permit. The City of Waseca has classified the use as a legal-nonconforming use. In addition, the old water storage lagoon located in Section 13 of St. Mary Township is being filled and planted to be used as additional spray filed as part of this Conditional Use Permit Amendment. The site will take on the appearance of a vegetated farm field. Lastly, the 2,500 square foot Screen House building is rather small in scale and

should not have a negative impact on the appearance in the area.

9) Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

ConAgra (Foth Engineering): Nothing that the applicant is aware of.

Waseca County: There are federal, State Statutes and Rules, Waseca City Code, as well as County requirements for this project which are incorporated in the records and in these findings. Local, State and Federal Regulations - Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No Waseca County zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. *Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.*

Note: the sentence in italics was added by staff during the hearing

3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, *with the exceptions described above*, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Note: the sentence in italics was added by staff during the hearing

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.
 - e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review

8. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Minnesota Pollution Control Agency, the Minnesota Department of Transportation, Waseca, Waseca County Public Health, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to St. Mary and Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:24 p.m.

Ralph Castro (ConAgra) provided some insights on the proposal. Sommers asked Castro what was not working on the pond/plant? Castro responded that chemicals were not working right and thus producing odor. Armstrong asked the number of employees projected to be added should the vegetable processing plant be operated. Castro responded that they were proposing to continue operation. Leiferman asked what ConAgra was proposing to use the old plant. Castro responded that ConAgra was proposing to shut down the old Bird's Eye plant

The public hearing was closed at 8:29 p.m.

Malterer made a motion to approve the criteria with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to County Board the ConAgra conditional use permit amendment with conditions as amended. Pearson seconded and it was passed unanimously with 4 Yes 0 No.

MISCELLANEOUS

(A) Transfer of Development Rights (TDR)

Leiferman informed the Planning Commission about the increase in projects within the county requiring a Transfer of Development Rights. He made mention of one situation along Knutson Lake where Planning Staff was asked about the need to obtain a development in a situation where a property owner had received a letter from the Waseca County Planning Department explaining that a parcel being sold the right to develop a home under the previous code (prior to July 21, 2009). The code change in July of 2009 changed the density provisions for the A-1 Agriculture Protection District. Under the previous code, the parcel along Knutson Lake was considered to be non-productive farmland but was buildable at the time prior to 2009. Leiferman then informed the Planning Commission staffs opinion in rectifying such situations thus requiring the need for a zoning code change. He furthered that the Department of Agriculture and the DNR would have to review any code changes relating to Ag. Preserve and Shoreland. The Commission considered the density limitations set forth in the code which were established as a trade-off for areas of the code which were made less restrictive. The Planning Commission members sought additional information to include the number of parcels which would be impacted by such a change. Staff will provide this information at a future Planning Commission meeting.

(B) Similar Use Provision- Licensed Residential Program

Leiferman informed the Planning Commission that the County received a request from the Trinity Sober house to redevelop the property located at 25797-120th Street, New Richland into a facility to be used as a weekend meditation and respite for people currently seeking assistance at Trinity's Minneapolis-St. Paul facilities. Leiferman then provided the Planning Commission options staff was proposing to review the request either as a similar use to the Licensed Residential Program or by a conditional use permit as a Retreat House/Retreat Center. The Planning Commission advised staff to provide the two options to the Applicant.

(C) Conditional Use Permit to Mine, Excavate, Process and Stockpile Sand and Gravel Aggregate

Leiferman continued the miscellaneous items discussion by providing a background on a CUP approved last year for Pentagon Materials and Joseph Sack which has been the location of a mining operation, off and on, for decades. He informed the Planning Commission that Jim Voda (Pentagon Materials) had concerns about the approval process last year (COVID Public Hearing issues) and requests the County to reconsider their CUP request to allow the company mine more of the site. Leiferman then provided the Planning Commission on proposed long term uses of the site provided by Pentagon Materials. Leiferman

asked if the Planning Commission wanted to proceed with the Pentagon Materials request in advance of the two year permit approval date with the next step being a neighbor meeting. The Planning Commission concurred with staff to proceed on the matter.

(D) Hunting Shack Changes

Leiferman informed the Planning Commission on recent information concerning the replacement of two out of three hunting shacks on a parcel on Buffalo Lake which appears to not meet setbacks and larger than the size requirements stipulated in the UDC. Leiferman added that there were two sites on the west side of Buffalo Lake with what appears to be 10 or 11 hunting shacks and there was no information on file at P&Z regarding these structures. He then read out the requirements for hunting shacks. An email received from the DNR was also read to the Planning Commission which basically mentioned that the 200 foot OHWL setback needed to be implemented and mentioned concerns with the storage of materials and road construction below the OHWL. The DNR also indicated the location of the shacks may be a public waters violation as well as an ordinance violation. To proceed with this request, the owners will need a variance or variances as well as a conditional use permit.

(F) Agricultural Covenant Discussion- Solar & Density

Leiferman informed the Planning Commission that staff received another request to consider a project located on Agriculture Covenant property. The project is a 1 MW facility just off the East Elysian Lake Road. He further stated over the years staff and the County Board have looked a number of ways to address the issue. The program restricts solar on the site and the MN Department of Agriculture has labeled solar as a commercial use. One may be simple remove the covenants from all of the properties as allowed under MN Statutes 40A.11. The County can send out certified letters to owners withdrawing from the program using the method in the statute. As background, the County entered into the program in 1988. The program pays farmers \$1.50 per acre in exchange for participating in the program. The goal is to preserve agricultural lands. The limited number of Counties that participate in the program pay into the state \$5.00 on each mortgages and deeds recorded with the County Recorder to fund the program. The state returns funds based upon the number of acres enrolled multiplied times \$1.50 per acre. Under these formulas, the County is a large net gainer paying in far less than we receive from the state. This is a huge disincentive to withdraw as outlined above. Also, it would still take 8 years to get out of the requirements. No solar company is looking that far out.

Staff provided another option which would be to amend the Waseca County's Farmland Preservation Plan. This would amend language within the document to define 1 megawatt solar projects as an agricultural use. If authorized by the state, the County would also need to modify our official controls (Zoning code and Comprehensive Plan) to reflect the change as well. The Planning Commission expressed a willingness to proceed with this effort.

ADJOURNMENT

Sommers made a motion with Roemhildt seconding to adjourn the meeting.
Meeting adjourned at 9:31 p.m.



**Waseca County Board of Commissioners
Request for Board Action**

**Conditional Use Permit (CUP) amendment Request to allow for the
operation of a daycare center from an existing agri-tourism
building (Ruby Ranch) in Freedom Township**

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:	☒ None
Item Type:	☐ Consent ☒ Action	☐ Current budget	
Department:	Planning and Zoning Department	☐ New FTE(s) Requested	
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ Other	
Contact Phone:	(507) 835-0651	☐ Amendment Requested	
Prepared by:	Maame Yorke		

PURPOSE/ACTION REQUESTED

Conditional Use Permit (CUP) amendment request to allow for the operation of a daycare center from an existing agri-tourism building (Ruby Ranch) in Freedom Township by Nickolas J. & Ashley A. Rehder.

SUMMARY

On Thursday May 6, 2021, the Waseca County Planning Commission held its regularly scheduled meeting and unanimously moved to recommend approval of the following request to the Waseca County Board of Commissioners:

Nickolas J. & Ashley A. Rehder request to amend to their existing conditional use permit to allow for the operation of a daycare center on their property located at 361-290th Ave (PID 04.018.0610) in Section 18 of Freedom Township. The applicants are proposing to operate the daycare center from an existing agri-tourism building (Ruby Ranch). The applicants parcel is located in the A-1 Agricultural Protection Zoning district and the Waseca County UDC §6.08 (C) list Daycare Center as a conditional use in this zone.

The parcel is located in the A-1 Agricultural Protection Zoning District. The Waseca County Unified Development Code (UDC) allows Daycare centers in this zoning district as a conditional use.

The full Planning Commission Report on these matters can be found on the Waseca County website on the Agendas tab at: <https://www.co.waseca.mn.us/AgendaCenter/ViewFile/Agenda/05062021-528>

RECOMMENDATION

Staff suggests the Board to consider:

- 1) The approval of Criteria for Approval and the Findings of Facts;
- 2) The approval of the Conditional Use Permit in substantially the form as appended to this report.

The Planning Commission recommend approval of Nickolas J. & Ashley A. Rehder's request to amend an existing CUP to allow for the operation of a daycare center from an existing agri-tourism building (Ruby Ranch) in substantially the form as presented to include the following conditions:

Staff recommends approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. If approved, staff recommends the following conditions to be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

EXPLANATION OF FISCAL/FTE IMPACTS

None.

Supporting Documents:

Attachment A: Conditional Use Permit and Attachments

Attachment B: Findings of Facts (not for recording purposes)

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

Do not write above this line - Recorder use only

**CONDITIONAL USE PERMIT AMENDMENT
WASECA COUNTY**

Daycare Center

Date: June 1, 2021

Property Owners: Nickolas J. & Ashley A. Rehder

Property Address: 6581 300th Ave
Waseca, MN 56093

Township Name: Wilton Township

Parcel Identification No: 04.018.0610

Legal Description: See Attachment "B".

Proposed Use of Land: Conditional Use Permit Amendment to allow for the operation of a daycare center on their property located at 361-290th Ave (PID 04.018.0610) in Section 18 of Freedom Township. The applicants are proposing to operate the daycare center from an existing agri-tourism building (Ruby Ranch). The applicants parcel is located in the A-1 Agricultural Protection Zoning district and the Waseca County UDC §6.08 (C) list Daycare Center as a conditional use in this zone.

Attachments:

Attachment "A" – Conditions required for approval of the Conditional Use Permit

Attachment "B" – Legal Description

Attachment "C" – Site Plan

**THE COUNTY BOARD MOTION TO ADOPT FINDINGS OF FACT AND THE COUNTY
BOARD CONCLUSIONS AND ORDER**

The Waseca County Board of Commissioners have read the Findings of Facts referenced herein as provided to the County Board and on file in the office of the Planning and Zoning Department along with supporting information including the staff reports, and the Criteria for approval of the Conditional Use Permit that were recommended by the Waseca County Planning Commission which are included by reference with this report. The Criteria for approval are on file and of record in the office of the Waseca County Planning and Zoning Department and are incorporated in the Findings by reference. The Waseca Planning Commission took testimony at a public hearing and prepared the criteria for approval at the Planning Commission Meeting held on Thursday, May 6, 2021. The Board hereby adopts these Findings of Fact regarding the approval of the request for a Conditional Use Permit application as described above and as recommended by the Planning Commission and of record in the Waseca County Planning and Zoning Office.

The Waseca County Board also approves the recommendation of the Planning Commission to approve the request for a Conditional Use Permit in substantially the form as provided, with the conditions as outlined in Attachment "A" with all other local, state, and federal regulations.

Motion by _____ Second by _____ Vote ____ Yes ____ No

WASECA COUNTY

Dated: _____

DeAnne Malterer, Chairman
Waseca County Board of Commissioners

A T T E S T

Dated: _____

Tamara J. Spooner
Waseca County Auditor Treasurer

ATTACHMENT “A”

CONDITIONS REQUIRED FOR APPROVAL OF THE CONDITIONAL USE PERMIT

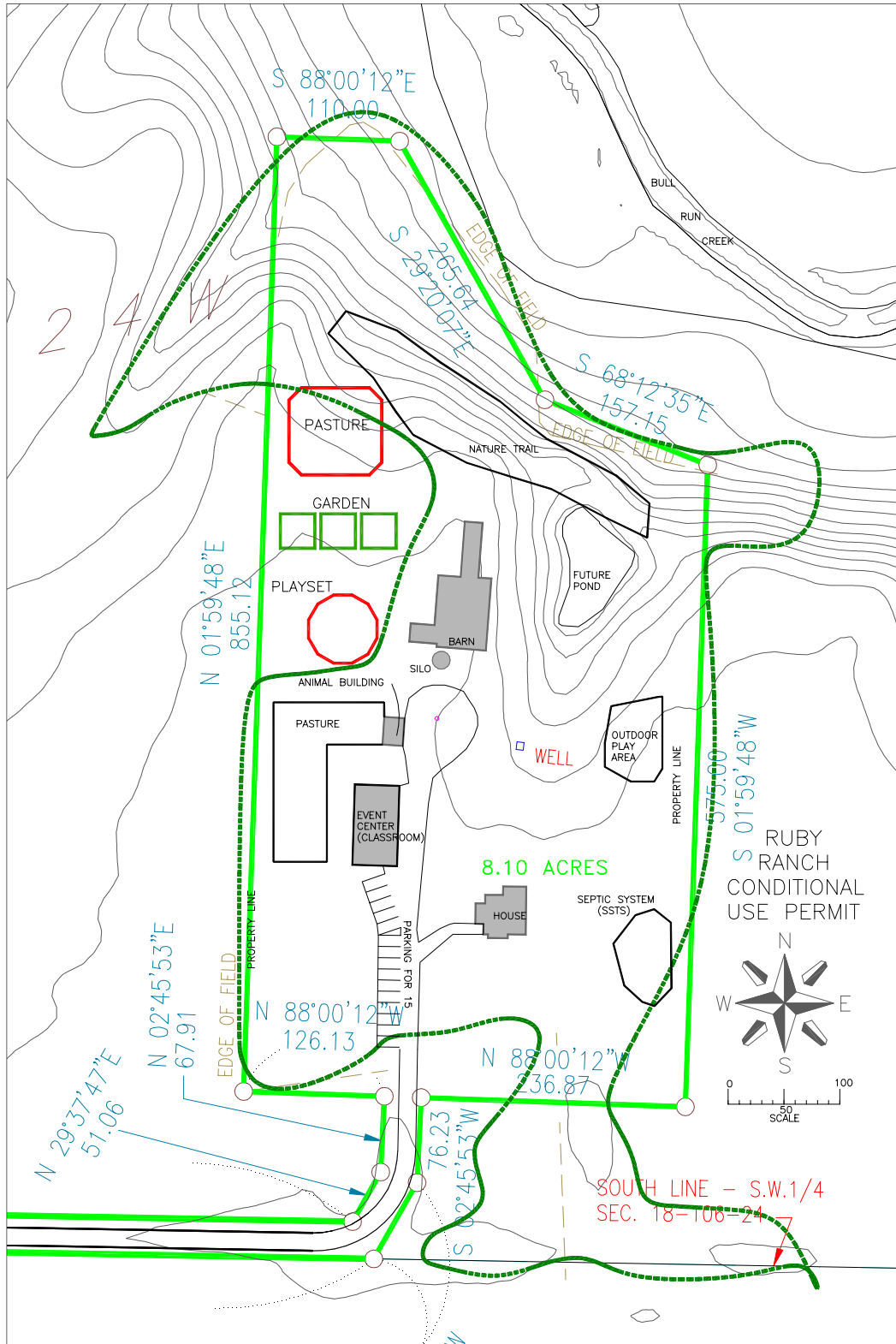
1. **Standards/Regulations:** With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).

2. **Duration, Failure to Comply and Review:** A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

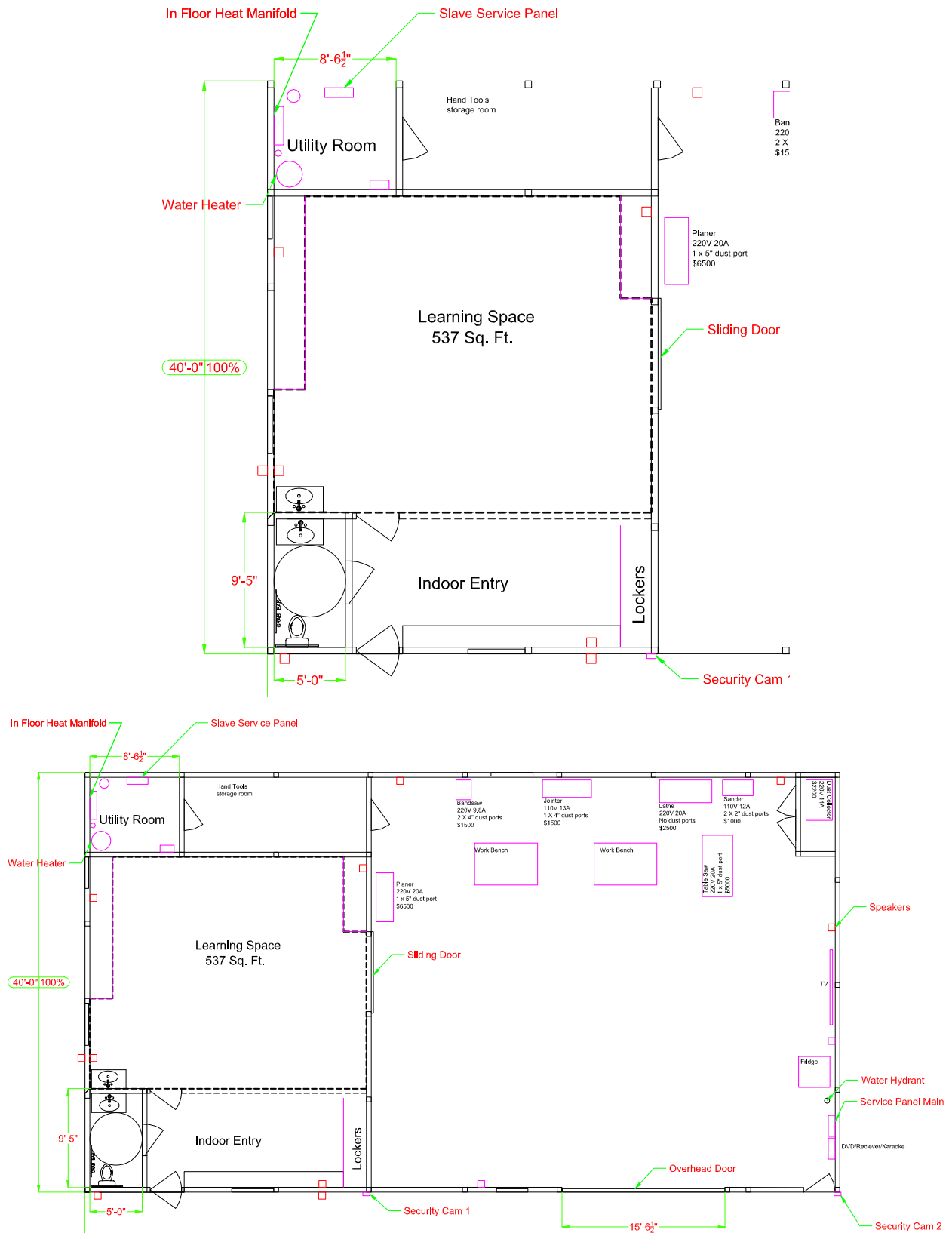
ATTACHMENT "B"
Legal Description

That part of the South Half (S $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Eighteen (18), Township One Hundred Six (106) North, Range Twenty-four (24) West, Waseca County, Minnesota, described as: Beginning at the Southwest (SW) corner of Section Eighteen (18); thence North. Zero Degrees Fifty Minutes Zero Seconds (00°50'00") East, (assumed bearing), along the West line of the Southwest Quarter (SW $\frac{1}{4}$) of Section Eighteen (18) a distance of Thirty-three and Zero Hundredths (33.00) feet; thence South Eighty-eight Degrees Fifty-nine Minutes Four Seconds (88°59'04") East, along a line parallel with and distant Thirty-three and Zero Hundredths (33.00) feet Northerly of the South line of the Southwest Quarter (SW $\frac{1}{4}$) of Section Eighteen (18) a distance of One Thousand Eight Hundred Eighty-nine and Seventy-six Hundredths (1889.76) feet; thence North Twenty-nine Degrees Thirty-seven Minutes Forty-seven Seconds (29°37'47") East, Fifty-one and Six Hundredths (51.06) feet; thence North Two Degrees Forty-five Minutes Fifty-three Seconds (02°45'53") East, Sixty-seven and Ninety-one Hundredths (67.91) feet; thence North Eighty-eight Degrees Zero Minutes Twelve Seconds (88°00'12") West, One Hundred Twenty-six and Thirteen Hundredths (126.13) feet; thence North One Degree Fifty-nine Minutes Forty-eight Seconds (01°59'48") East, Eight Hundred Fifty-five and Twelve Hundredths (855.12) feet; thence South Eighty-eight Degrees Zero Minutes Twelve Seconds (88°00'12") East, One Hundred Ten and Zero Hundredths (110.00) feet; thence South Twenty-nine Degrees Twenty Minutes Seven Seconds (29°20'07") East, Two Hundred Sixty-five and Sixty-four Hundredths (265.64) feet; thence South Sixty-eight Degrees Twelve Minutes Thirty-five Seconds (68°12'35") East, One Hundred Fifty-seven and Fifteen Hundredths (157.15) feet; thence South One Degree fifty-nine Minutes Forty-eight Seconds (01°59'48") West, Five Hundred Seventy-five and Zero Hundredths (575.00) feet; thence North Eighty-eight Degrees Zero Minutes Twelve Seconds (88°00'12") West, Two Hundred Thirty-six and Eighty-seven Hundredths (236.87) feet; thence South Two Degrees Forty-five Minutes Fifty-three Seconds (02°45'53") West, Seventy-six and Twenty-three Hundredths (76.23) feet; thence South Twenty-nine Degrees Thirty-seven Minutes Forty-seven Seconds (29°37'47") West, Seventy-eight and Fifty-three Hundredths (78.53) feet to a point on the South line of the Southwest Quarter (SW $\frac{1}{4}$) of Section Eighteen (18); thence North Eighty-eight Degrees Fifty-nine Minutes Four Seconds (88°59'04") West, along said South line, One Thousand Nine Hundred Nine and Twenty-four Hundredths (1909.24) feet to the point of beginning. Said parcel contains Eight and Ten Hundredths (8.10) acres.

ATTACHMENT "C"
Site Plan (pg. 1 of 2)



ATTACHMENT "C" - continued **Site Plan (pg. 2 of 2)**



Nickolas J. & Ashley A. Rehder

Conditional Use Permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township

May 6, 2021

FINDINGS OF FACT

1. On April 9, 2021, Nickolas J. & Ashley A. Rehder, presented an application for a Conditional Use Permit (CUP) amendment to allow for the operation of a daycare center on their property located at 361-290th Ave (PID 04.018.0610) in Section 18 of Freedom Township. The applicants are proposing to operate the daycare center from an existing agri-tourism building (Ruby Ranch). The applicants parcel is located in the A-1 Agricultural Protection Zoning district and the Waseca County UDC §6.08 (C) list Daycare Center as a conditional use in this zone.
Legal description for the proposed development site is attached to the CUP document.
2. As of the date of the application, the above-listed application was on file for public inspection in the Waseca County Planning and Zoning Office. The above listed application and supporting documents are incorporated into these Findings by reference.
3. Notice of the public hearing scheduled for on the applicants' request for a conditional use permit was published in the Waseca County News (the 2021 official newspaper for Waseca County) on April 22, 2021. The Affidavit of Publication is included in the files and are incorporated herein by reference.
4. On or before April 23, 2021, the Planning and Zoning Office notified owners of nearby properties and all of the Township Officers as per requirements of the Unified Development Code for the public hearing scheduled for May 6, 2021 by first-class mail. The Affidavits of mailing are included in the file and are incorporated herein by reference. Staff reports were provided by email to the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, Waseca Public Health Services Department, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department port for their comments and review.
5. On April 30, 2021, the Planning and Zoning Office notified the applicants in writing about the 60 days extension of the required timeline deadline for agency action as per the Minnesota Statute Chapter 15.99.
6. On April 30, 2021, Planning and Zoning Department staff sent the staff report to the members of the Waseca County Planning Commission by first-class mail regarding the application and accompanying documents. This staff report is incorporated in these Findings by reference. Attachments included:
 - i. Staff Analysis of Criteria,
 - ii. Recommended Conditions, if granting,
 - iii. Application materials as submitted and documented.
7. On May 6, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, presented a PowerPoint presentation highlighting the applicants request, site data and approvals for the Conditional Use Permit for Nickolas J. & Ashley A. Rehder request. The information provided was based on a staff report provided to the Planning Commission prior to the meeting.
8. The following is an extract of the draft Planning Commission minutes of the meeting held on May 6, 2021 starting at 7:00 p.m.:

**WASECA COUNTY PLANNING COMMISSION MEETING
MINUTES OF MAY 6, 2021**

CALL TO ORDER/ESTABLISH A QUORUM

A quorum to conduct business was established and the Chair Russ Frederick called the Waseca County Planning Commission meeting to order at 7:00 p.m. at the meeting room in the East Annex Building.

MEMBERS PRESENT

DeAnne Malterer, Russ Frederick, Stephanie Roemhildt, Mark Sommers, Marv Pearson, Leon Schoenrock (arrived late but did not participate in the meeting as a Commission Member).

MEMBERS ABSENT

None.

STAFF PRESENT

Mark Leiferman, Planning and Zoning Administrator, Maame Yorke, Planning and Zoning Specialist.

OTHERS PRESENT

Names include as seen on sign-in sheet. Spellings of names shown as best as possible from handwritten signatures.

Ralph Castro, Birds Eye, Waseca (in-person), Bruce Rehwaltd, Foth (in-person), Scott Wandeloski, Foth (in-person), Ashley Rehder (in-person), Walter Mishek (in-person), John Snow (in-person), Wendell Armstrong (in-person), William Beschnett (in-person), Tom Culross (in-person), Cavit Wobschall (in-person), Verna Benson (in-person), Jeff Muenkel, Foth (online), Bruce Quast (online), Jon Erichson, Ulland Brothers (online), no caller ID (online)

APPROVAL OF AGENDA

Sommers made a motion to approve the agenda with Malterer seconding. Motion passed unanimously.

REVIEW/APPROVAL OF MINUTES – April 1, 2021

Malterer made a motion with Roemhildt seconding to approve the December 3, 2020 minutes. Motion passed unanimously.

PUBLIC HEARINGS:

Old business:

A. Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC.

Leiferman started the public hearing for a Conditional Use Permit to allow the transfer of development right between Armstrong and Calonett Venues LLC, which was tabled at a prior meeting by presenting a PowerPoint. He informed the Planning Commission that the applicants had converted the duplex to a single family by having an opening between the basement and the main level.

The owners of the site are Wendell J. & Ruth A. Armstrong (sending site) and Calonett Venues LLC (receiving site). The property address of the receiving site is 35961 150th Street. Waseca, MN 56093 in Woodville Township. The applicant submitted an application on March 5, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on March 19, 2021 and April 22, 2021. Legal notice of public hearing was published in the newspaper on March 18, 2021 and April 22, 2021. 60-day from the date of application is May 4, 2021. 60-days' notice extension was provided to the applicant on March 26, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract concerning transfer of development right as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.09 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

(C) Transfer of development rights (TDR) program; receiving sites.

(5) TDR may be transferred within a township or between a common owner anywhere within the county. A transfer between two owners and into another township shall be completed only by completing a conditional use permit and by following the requirements of this section.

Leiferman then showed the Planning Commission a site plan for the receiving site showing the 1.40 acre parcel to be split from the original parcel and a proposed sanitary sewer easement area.

Issues with the request

1. **Wetlands.** Although no portion of the receiving site appears on the National Wetland Inventory or NWI, the Water Resource Specialist should review the site and verify the provisions of the Wetland Conservation Act (WCA) do not apply to this property.
2. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serving the 1.4 acre parcel being subdivided from the larger 38.45 acre tract shares a SSTS system with a small barn located on the remaining portion of the exiting tract. The SSTS is not currently located upon the 1.4 acre tract being removed from the larger tract.

The easement area shown on the survey provided as Attachment G appended to this report is immediately adjacent to the TDR tract being subdivided. §5.03 of the Unified Development Code (UDC) requires SSTS tanks and treatment areas be located at least 10 feet from a property line. The Waseca County Board recently approved an amendment to the UDC to allow these elements of an SSTS to be closer to property lines when there is an easement. The drawing shows the SSTS tank within 10 feet of the property line. An easement agreement will need to be entered into to share the system. The agreement should be approved by the Waseca County Public Health Department and the County Attorney. Staff assumes the existing well located on the property may be shared; however, no details regarding potable water were shared with staff.

3. **Duplex Use.** The home on the split to be split from the parcel was permitted by Waseca County as a single-family home. The home was constructed as a Duplex. This use is currently a legal non-conforming use. The owners plan to remove a portion on the wall separating the units to create a single-family home.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: The subdivision of the parcel should not have an adverse impact on the surrounding neighborhood.

Staff: The applicant's proposal is to split off an existing duplex from a larger piece. This should not have an adverse impact on the surrounding neighborhood.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: Adequate parking already exists. There should be little impact on traffic and parking caused by creating a parcel ID for the existing ~~duplex~~ *single family dwelling*.

Staff: There are approximately seven residences within a quarter mile of the receiving site. There is a second residence constructed on the larger parcel the 1.40 acre receiving site is being split from. This should not impact traffic or parking since the applicant will continue utilizing the site as it is currently is being used.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: The site is currently served with electric, telephone and natural gas.

Staff: From the applicant materials, there are adequate public utilities, services, roads and schools to support the continual site of the property. The parcel being subdivided is served with telephone, electric and natural gas and an existing driveway onto 150th Street.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: Creating a parcel ID for the existing ~~duplex~~ *single family dwelling* should not have a negative impact on property values or impact development in the vicinity.

Staff: As mentioned earlier, the applicant is proposing to split a 1.4 acre home site from existing 38.45 acre parcel with a second home on the tract. The continuous use of the parcel should not adversely affect property values or future development in the surrounding neighborhood.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The Transfer of Development Right, conditional use permit request is consistent with the goals and policies adopted in the comprehensive plan. The approved plan call for the area to be developed into agriculture/open spaces. This request is also consistent with the land use recommendations in the comprehensive plan relating to the development of rural open spaces.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section 3.06 relating to subdivisions and section 6.09 relating to the transfer of development rights.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

The two existing homes were developed and constructed in compliance with the conditions, county code and Minnesota state law at the time they were constructed. The parcel split using the Transfer

of Development Rights provisions will not change the current use. The two homes will remain as they currently exist and should not have any adverse impact on the environment.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

There do not appear to be any natural, historic or scenic views in the vicinity of the existing ~~duplex~~ *single family dwelling*.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. *The structure on the property shall be for single-family use.*

Note: the sentence in italics was added by staff and not included in the staff report.

2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be and must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon

an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Services Department, County Sheriff, County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened and closed the public hearing at 7:15 p.m.

Malterer made a motion to approve the criteria as amended with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Calonett Venues LLC solar conditional use permit with conditions. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

B. Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Leiferman continued the public hearing for a Conditional Use Permit to operate an animal crematorium on the same parcel as their single family dwelling. The facility will consist of a 20x20" concrete slab for cremation equipment to be installed adjacent an existing 64'x34' barn. The crematory device is sized for small domestic pets and would not accommodate larger farm animals. The furnace will be fueled by natural gas or propane and will be equipped with an after-burner to reduce odor emanating from the equipment. The owners of the site are Bruce W & Angela Quast. The property address of the receiving site is 6581 300th Ave in Wilton Township. The applicant submitted an application on April 8, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 7, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The states that Waseca County should encourage commercial activity that is compatible with agricultural areas.

The zoning map places the receiving site in the A-1 Agricultural Protection zoning district. Leiferman then proceeded to reading a zoning code extract relating to the proposal as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS.

Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(26) Veterinary and animal clinic and facilities for the care and/or breeding of animals, including kennel and animal crematorium.

§6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES

(FF) *Veterinary and animal clinic and facilities for the care and/or breeding of animals including kennel and animal crematorium.*

(6) *Animal crematorium. An animal crematorium may be operated in connection with a veterinary clinic or as a stand-alone facility that provides services to a veterinary clinic or clinics. An animal crematorium shall only be used for the disposal of animals. A stand-alone animal crematorium facility shall provide no outside appearance of the operation and shall not include a sign. Stand-alone crematoriums shall pick-up and deliver animals from veterinary clinics and shall have no visitors other than employees or inspectors. Animal pick-up shall be done in leak-proof containers. The following standards for animal crematoriums shall be met.*

(a) *Setback. The crematorium shall be located in a structure and be at least 500 feet from any residence other than the owner of the property.*

(b) *Site plan. Site plan review shall be required.*

€ *Parking. There shall be at least one parking space available for each employee working at the site at any time.*

(d) *Refrigeration. Deceased animals stored on the site prior to disposal shall be kept under refrigeration to eliminate the possibility of odor emanating from the animal.*

€ *Furnaces. The furnaces shall use natural gas or propane as the heat source for the furnace.*

(f) *Performance standards. Incinerator must be adhere to the State Pollution Control Agency guidelines as follows:*

1. *Capable of producing emissions not to exceed 20% opacity;*
2. *Fitted with an afterburner that maintains flue gases at 1,200°F for at least 0.3 seconds; and*

3. *Ash from the incinerator must be handled in such a manner as to prevent particulate matter from becoming airborne and shall be properly disposed of.*

Leiferman then showed a site plan for the receiving site which depicted the location of the proposed 20x20 concrete slab for cremation equipment adjacent to an existing 64x34 barn, the approximate location of septic tank and well on the Quast property as well as an existing 40x60 shop proposed to be used for crematory office space.

Issues with the request

1. **Odor.** Deceased animals will be picked up and stored in a refrigerator pending cremation. There were also odor complaints from a similar facility approved in the County which was solved by installing an afterburner. The closest residence is approximately 1,900ft away from the proposed location of the facility as such odor impacts should be minimal. The applicants should put in place measures to solve odor should odor within the vicinity of the facility be impacted.
2. **Fire and explosion.** The equipment used will be operated at high temperatures. When operating any equipment such as this, there is some risk of fire or explosion. The County Sheriff and the local fire department should be notified when the operation commences to assist in dealing with any potential fire or explosion issues.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The applicants' proposal is not anticipated to adversely impact the general health, welfare and safety of the occupants in the surrounding neighborhood if the facility is operated within

the confines of the UDC and all other state and federal regulations pertaining to animal cremation.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: No.

Staff: Adequate measures are being provided to eliminate any traffic hazard which may result from the proposed use because the applicants will pick up deceased animals to the facility which will limit traffic to the facility.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: Yes.

Staff: The facility will be operated on the same parcel and the applicants' single family dwelling. There appears to be adequate utilities available on the property and also in the building where the business will operate. The existing roadway will also accommodate the traffic needs of the business since the operators will pick up and deliver deceased animals to the facility.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: No.

Staff: The proposed use will not be injurious to the use and enjoyment or have a negative impact on adjacent property values in the immediate vicinity due to the fact that the site is located approximately 1,900 feet to the closest residential use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The proposed use of the facility is consistent with the goals and policies adopted in the comprehensive plan. The approved land use plan proposed the property to use for agriculture/open space.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes.

Staff: The property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed with a CUP. The proposed use should meet the standards of the zoning ordinance should all requirements stipulated in §6.16(FF) (6) be adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: The proposal should not have an adverse impact on the environment and poses minimal threat to groundwater, surface water or to air quality if all standards and requirements are adhered to.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No.

Staff: The proposal is not anticipated to adversely impact existing natural, historic or scenic views or features in the surrounding neighborhood should the business operate in an environmentally friendly manner whilst adhering to appropriate standards and requirements of the UDC.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

No.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Wilton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the

Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Waseca Public Health Services Department, County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Wilton Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:26 p.m.

Wendell Armstrong asked the number of times or days of operation and how odor would be impacted. Leiferman provided a response.

Armstrong then asked if the business was replacing any company. Leiferman responded that the applicants were buying the business from a previous owner who operated in Alton Township.

Quast added that their business would serve Southern Minnesota and the Twin Cities and they were not replacing any person's business. He furthered that about 75-80% of ashes after animal cremation would be returned to customers. He added that the location of his business shouldn't affect his neighbors and that the business is being moved away from its current location which was close to a winery.

Frederick asked if there were any issues with the original location of the animal crematorium. Leiferman responded that the business was close to residents and odor was impacted which was later resolved with an equipment upgrade to include the installation of an after-burner.

Malterer added that there is high demand for the service and new proposed location was a good spot.

The public hearing was closed at 7:33 p.m.

Roemhildt made a motion to approve the criteria with Sommers seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Quast conditional use permit with conditions as amended. Person seconded and it was passed unanimously with 4 Yes 0 No.

C. Request for an amendment a Conditional Use Permit to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch in Section 18 of Freedom Township – Nickolas J & Ashley A Rehder/Ruby Ranch.

The next item on the agenda was a conditional use permit request to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch) in Section 18 of Freedom Township. The proposed daycare center will be operated the same facility as the primary existing Ruby Ranch Agri-tourism structure. Ruby Ranch currently serves children ages 5 to 18 for summer camps and provides farm tours for the community throughout the summer. Little Rubies will be a farm and nature based daycare and learning center that will operate during the school year for children ages 1 to 5 years of age to provide care and indoor and outdoor learning experiences

The owners of the site are Nickolas J. & Ashley A. Rehder. The property address is 361 290th Ave, Pemberton, MN 56078 with PID 04.018.0610. The applicant submitted an application on APRIL 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 22, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS

(C) Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(13) Daycare center;

§ 6.13 SPECIFIC STANDARDS FOR INSTITUTIONAL AND CIVIC USES.

(B) Daycare center. The following standards apply to daycare centers, both permitted and conditional, and to family or group daycare accessory to a residential use.

(1) Within a residential or agricultural district, the building and any exterior fenced area shall meet the setback requirements for a single-family residence.

(2) The use shall comply with all applicable federal, state and county rules and regulations.

(3) For child daycare facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(4) For adult daycare facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(5) When the daycare facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.

Leiferman then showed and explained a site plan and drawings for the proposal.

Issues with the request

1. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serves the home and the conditionally approved Agri-tourism use. Kim Shermo, the Environmental Health Specialist for Waseca County has determined the existing SSTS is not currently appropriately sized to accommodate the proposed daycare. She suggests another SSTS be constructed for the Ruby Ranch/Little Rubies facility.
2. **Daycare Licensing.** The applicants are requesting a conditional use permit (CUP) to operate a Daycare Center under the Waseca Unified Development Code (UDC). The existing Ruby building meets the requirements as a daycare center since the operation will not be located in their residence. A daycare family operation is to be located within a residence under the UDC.

The State licensing requirements differ from the UDC requirements. The license at the state level defines daycare relative to the number of children served. A family daycare is for 14 or fewer children and can be either within a home or in a separate building. Child and Family Services Minnesota Prairie County Alliance will inspect these facilities; whereas, any facility serving more than 14 children is licensed directly by the State of Minnesota. A family daycare needs to have a

staff ratio of 1 adult per 12 children. The number of children can increase if the facility employs additional staff. A teen age assistant may be allowed if to increase the ratio. The applicants may wish to license the facility as a daycare center despite limiting the number of children permitted at the facility to allow for future expansion or seasonal increases in population.

The ratio of children to square feet of space is 1:35.

3. **Conflicting Uses.** Ruby Ranch is an event center which offers craft classes to patrons. The equipment used (power tools) in the craft class activities potentially conflict with childcare uses proposed by the Little Rubies childcare facility. The applicants will need to have an appropriate way to separate these uses. This issue should be addressed within the county/state license requirements.
4. **Signage.** The only complaint the County has received regarding the operation of the Ruby Ranch facility related to the sign for the facility which was installed originally within the right-of-way of the West County Line Road. This portion of roadway is under the jurisdictions of Freedom Township. The property owners have removed the sign and have applied for a permit to relocate the sign on the site. The applicants have asked the Township for assistance in determining where the sign can be placed.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The owners of the proposed Agri-tourism facility own approximately 8.1 acres of land. The closest occupied residence to the proposed facility reside in dwelling units that are located approximately 1,600 feet to the west of the proposed daycare center (existing Agri-tourism structure). Much of the area all sides is agricultural in nature.

The potential impacts of the Agri-tourism use on the adjacent homes will likely result in an increase in in traffic during the early morning hours and late afternoon.

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that the previous conditional use permit placed 14 conditions on the applicant's permit, and since the facility will require a Waseca Public Health Department license to operate the daycare facility.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: The Waseca County Line Road will now be trafficked more frequently with parent drop off and parent pick up. All parking will happen on our property by the classroom. This is ½ mile from the Waseca County Line Road so it will not disrupt the flow of traffic.

Staff: The addition of a daycare center to the existing Agri-tourism use will have an impact on traffic bringing parents dropping off children in the morning and picking up their children in the afternoon. This could add up to 20 to 40 additional trips per day. The roadway known as 290th Avenue is a private drive owned and maintained by the applicants. This section of the West County Line Road is maintained by Freedom Township Road. The applicants met with Freedom Township and they indicated the Township did not have any objection to the proposed use. There should be adequate parking on site developed for the Ruby Ranch Agri-tourism use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: We have electricity with LED lights, AC, heating, water, ½ bath, and WIFI to support a space for daycare.

Staff: The Subsurface Sewer Treatment System will need to be upgraded to accommodate this proposed use. All other utilities should be available to this site. There appear to be adequate public services, roads and schools to support this use.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: We feel the space is a positive business for the Pemberton community. There isn't much for families to do and we provide activities spring through fall. Now with a daycare center it is giving local families more options to take their children to daycare/preschool.

Staff: The proposed use should not have an adverse impact on property values in the vicinity since the applicants have been operating an Agri-tourism use on the property since 2017 and since the closest neighbor is approximately 1,600 feet from the proposed use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Applicant: Yes

Staff: The use appears to be consistent with the Comprehensive Plan because of the following plan and map references:

1. Goal 6: Promote economic diversification in Waseca County, which will provide for continued employment opportunities and reasonable access to a broad range of goods and services for community residents.
2. Goal 7: Promote a healthy economy, enhance the natural and built environments, and provide opportunities to area residents.
3. The Planning Commission finds that the proposed use is compatible with the uses within the district and is of the same general character as those of the district.
4. The Planning Commission finds that the proposed use conforms to the Waseca County Land Use Plan (see attached).

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes

Staff: The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section § 6.08 A-1 Agriculture Protection District Standards, (C) Conditional uses (13) Daycare center. Section § 6.13 outlines the Specific Standards for Institutional and Civic Uses for Daycare centers.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: No. The site plan will not change significantly.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No. The property is well maintained and safe for children to explore outdoors.

Staff: The use is not anticipated to adversely affect any existing natural, historic or scenic views or features in the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

Applicant: No.

Staff: The facility will be required to meet County and State Daycare Licensing requirements.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Department, Waseca County Sheriff, Waseca County Attorney and Waseca County Highway Department for their

review. The application was also provided to the Minnesota Department of Natural Resources (DNR) for their review and comment.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Freedom Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:50 p.m.

Ashley Rehder informed the Planning Commission that their sign had been approved by the township and she was in the process of obtaining a septic permit as well as a loan for the operation of Little Rubbies.

The public hearing was closed at 7:51 p.m.

Malterer made a motion to approve the criteria with Roemhildt seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Roemhildt made a motion to approve and recommend approval to the County Board the Rehder conditional use permit with conditions. Sommers seconded and it was passed unanimously with 4 Yes 0 No.

D. Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township – Ulland Brothers Inc.

Leiferman then read the next zoning case with was a request for a Conditional Use Permit (CUP) to mine, excavate, process and stockpile sand and gravel aggregate materials in Section 12 of Otisco Township. The parcel (08.012.1010) is south of 305th Ave and approximately 1 mile to the county border with Steele County. All of the property is in the A-1 Agricultural protection Zoning District and within the highway overlay.

The owners of the site Ulland Brothers Inc. The property address of the receiving site is 17872 – 305th Ave. The applicant submitted an application on April 13, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 12, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. This proposal indirectly relates to the infrastructure and transportation vision statement of the county since aggregate materials are needed for construct roads at a cost effective price:

- o Transportation Vision Statement: Waseca County will have a transportation system that facilitates and strengthens its economic vitality and effectively moves people to and from required destinations.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§4.13 EXTRACTION OF MATERIAL AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS.

(B) Conditional use permit. Excavations, extraction of materials and minerals, open pits and impoundment of water shall be permitted only upon the issuance of a conditional use permit.

(1) The applicant for the permit shall furnish such information as: true name and address, when required, approval by the state to impound waters, purpose of proposed activity,

roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

(e) Wetland creation, restoration and/or construction shall be exempted if the proposal can satisfy all of the following criteria:

1. Wetland creation, restoration and/or construction shall be under the guidance of the County Soil and Water Conservation District using specifications and guidelines of the Natural Resource Conservation Service (NRCS);

2. Wetland creation, restoration and/or construction shall not be constructed closer than 75 feet to the boundary of any adjoining property or existing road easement; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

(f) Wetland creation, restoration and/or construction that can not satisfy the above-listed exception criteria (subsections (B)(2)(e)1., (B)(2)(e)2. and (B)(2)(e)3. above) will be subject to:

1. Conditional use permit;

2. Any conditions set forth by the Board for the conditional use permit;

and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

§6.07 SPECIFIC STANDARDS FOR AGRICULTURAL, NATURAL RESOURCES AND RELATED USES

(H) Mineral extraction, mining.

(2) Application requirements. Maps of existing conditions, the proposed pit or excavation and accessory structures, and site after reclamation shall be prepared by a professional engineer or land surveyor and filed with the application.

5. Structures, storage of excavated materials or topsoil, and the excavation edge shall be setback at least 300 feet from any protected water and at least 100 feet from an adjoining property line or public right-of-way. Mining and mining material operations and processing shall not be conducted within 100 feet of an adjoining property line or public right-of-way. No on-site processing of materials or storage of excavated materials or topsoil shall occur within 1,000 feet of a residence.

Leiferman then showed the Planning Commission a site plan for the gravel pit.

Issues with the request

1. **Township Road Damage.** The applicants originally received a permit to utilize the township road as a haul road for the Highway 14 project. This permit was provided to Otisco Township. In the past, staff has received complaints about the damage being done to the road due to weight of the trucks and the volume of traffic being placed on the road by the vehicles entering and exiting the site. Adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues and the depth of the material removed.
2. **Safety.** The trucks entering and leaving the site may create a potential hazard for people utilizing the roads in the vicinity. Again, adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues.
3. **Water runoff issues.** Staff has not received a copy of the National Pollution Discharge Elimination Permit for the existing facility. Staff has a concern that there may be process water utilized in the crushing and or conveying of materials processed at the site.
4. **Reclamation Plan.** The previously approved reclamation plan lacks detail and should be updated to meet the requirements of the Unified Development Code

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that 42 conditions have been previously placed upon the applicant's permit, and since additional requirements will be placed upon the applicant by the Minnesota Department of Transportation and reviewed by the Waseca Soil and Water Conservation District. In addition, the property is located in a rural setting with the closest neighbor residing over 1,000 feet from the subject property.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

The proposed use is not anticipated to impact (adverse) on traffic conditions since adequate measures are being provided to eliminate any traffic conditions due to the conditions that are being placed upon the project relating to road use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

There are adequate public utilities, public services and roads to support the proposed use of the property.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

The Planning Commission finds that the proposed use will not be injurious to the use and enjoyment or have a negative long-term impact on adjacent property values in the immediate vicinity due to the remote nature of the parcel and the distance between this site and the residents of adjacent properties.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Waseca County has determined that this use is in line with the requirements as stated in the land use plan. The proposed use is compatible with the uses within the district and are of the same general character as those of the district.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Mining, excavation, extraction of material and minerals are conditional uses in the A-1 Agricultural Protection District as specified in the Waseca County Unified Development Code. A site plan has been submitted for this site. The facility should meet the UDC requirements if all conditions are adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Any negative impact to the environment and should be addressed by the Conditions imposed by the Waseca County Conditional Use Permit and by the requirements of the State of Minnesota and should pose no threat to groundwater, surface water or to air quality.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

The proposed use has been in operation on the property under review under various Conditional Use Permits. The proposal is not anticipated to be detrimental or have adverse effect on the existing natural, historic, scenic views or features of the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. *All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.*

Note: staff condensed the conditions into one (1) since conditions presented in the staff report were similar to prior CUPs approved for the site

Public Agency Comments

An email containing the link to the staff report was provided to the County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Otisco Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:50 p.m.

Jon Erichson (Ulland Brothers) informed staff and the Planning Commission that the reclamation plan would be upgraded and emailed to staff. He added that the township supported the CUP renewal and the pit was not open to the public with operations relative to ongoing projects.

The public hearing was closed at 8:07 p.m.

Pearson made a motion to approve the criteria with Malterer seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to the County Board the Ulland Brothers Inc. conditional use permit. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

E. Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

Leiferman continued the hearing by presenting the next zoning case which was an amendment to Conditional Use Permit (CUP) to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

The owners of the site are ConAgra Foods Packaged Foods LLC. The property address of the screen house is 34529 US Highway 14 in St. Mary Township. The applicant submitted an application on April 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

- o On page 13 of the comprehensive plan, it states that: "Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth."
- o Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- o On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the I-General Industrial zoning district. He then proceeded to reading a zoning code extract relating to the request as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

(NN) Industrial waste processing facility. New industrial wastewater treatment facilities shall be allowed as conditional uses in the A-1 Agriculture Protection District, HC Highway Commercial District and I Industrial District. Industrial wastewater treatment facilities shall comply with the following requirements.

(1) *Site plan. Site plan review shall be required. Any new industrial wastewater treatment facility shall meet the minimum standards of § 6.15 of the Uniform Development Code providing for general standards for commercial and industrial uses.*

(2) *Setbacks.*

(a) *Treatment pond to residence: 1,000 feet;*

(b) *Spray Field to residence: 500 feet;*

(c) *Treatment pond or spray field to a public right-of-way: 100 feet;*

(d) *Treatment pond or spray field to a public or private ditch: 100 feet;*

and

(e) *Treatment pond or spray field to any body of water, perennial or intermittent stream, or wetland: 100 feet.*

(3) *Access. If the Planning Commission determines it necessary, the site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate.*

(4) *Local, state and federal regulations. Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.*

§ 6.19 I GENERAL INDUSTRIAL DISTRICT

(C) *Conditional uses (see Article 4 for accessory uses).*

(16) *Industrial wastewater treatment facility;*

Leiferman then showed site locations for the three amendment proposals and also explained the project details for the screen house proposed to be constructed.

Issues with the request

1. **Odors- Hydrogen Sulfide.** The applicant currently utilizes various spray fields and the treatment ponds to treat the industrial wastewater generated by the vegetable processing plant. Odors are generated when these facilities are operated. Odors produced at the plant are the result of hydrogen sulfide generated by the wastewater treatment process as the water is sprayed onto fields or stored in the ponds (lagoons). Hydrogen sulfide is mainly created through the biological degradation of organic matter and sulfur compounds under anoxic or anaerobic environments. The proposed upgrades are being implemented to address the formation of hydrogen sulfide at ConAgra's existing lagoon storage facility. The company also plans to install equipment to screen the wastewater prior to placing the water in the ponds reducing the amount of material generating odors.

Foth Engineering has been employed to attempt to address the odor issues at the ConAgra plants. Foth is working to resolve the odor issues by maintaining the pH (acidity level) of the stored process wastewater. The objective is to store the water at or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide, further reducing potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Foth is recommending the installation of the following equipment and products to assist with the odor reduction effort:

1. One (1) new 2,400 ft² building to house the new process equipment.
2. Two (2) new internally fed rotary drum screens – replace existing drum screens currently installed at current manufacturing facility
3. Two (2) new belt conveyors or screw type augers to transfer collected solids from new screens to the existing silage pad for use by area farmers for animal feed.

4. One (1) new drilled well for hot and cold water including:
 - a) One (1) well pump – Approximately 125-gpm @ 175-ft TDH
 - b) One (1) pressure tank to maintain system pressure
 - c) One (1) natural gas water heater
 - d) One (1) 1,200 gallon hot water storage tank with pressure relief
 - e) Associated distribution piping

The current existing facility and proposed new additions and construction are shown in the materials provided by Foth. The location of the building housing the screens, conveyors, tanks, pumps and mixers are illustrated on the proposed-revised site plan. Finally, the layout of the equipment within the proposed screen house building are illustrated on the plan titled Screen House Layout. Please note that provisions are being made for a third screen but only two are planned for installation at this time. The facility also has plans to install additional aeration in the storage lagoons to promote oxic conditions, further reducing the formation of hydrogen sulfide. However, the addition of aerators is being completed separate from this project.

This present plan is the Company's attempt to control odor from waste generated at the main plant and this will extend to the new plant when the new facility is completed in the future. ConAgra has not advised what the plans are for the current facility once the new facility is built or whether the company will need to continue to process wastewater from the old plant once the new one is put into service. Regardless, the new plant will most likely intensify the use of the wastewater treatment facilities even if the old facility is no longer tied to the wastewater treatment facility.

2. **Water Impacts.** That there is a possibility that the process water could leave the site. County Ditch (CD) 45 and 15-1 are impacted by the flow from the ConAgra facilities. The company maintains a number of monitoring wells to assure contaminated process water does not pollute the water leaving the site. In addition, there is a private ditch which flows into County Ditch 45 which may be impacted by the increase in the amount of flow leaving the site. Staff has reached out to the ditch group to see if there are concerns with water drainage at this time and have not heard back from them.
3. **Minnesota Pollution Control Agency (MPCA).** The MPCA is responsible for the certain permits for this facility. Staff has received comments from the MPCA regarding this wastewater project. The County does not have copies of the NEW MPCA Permits as they have not been issued.
4. **Erosion Control.** The applicants have obtained National Pollution Discharge Elimination Systems Permit (NPDES) from the Minnesota Pollution Control Agency for previous projects approved by original CUP and amendments to the CUP for the Industrial Wastewater Treatment Facility. The applicants are responsible for obtaining an NPDES permit if required for this project

Criteria and Proposed Findings:

- 1) **Will the proposed use have an impact (adverse) on the health, safety, and general welfare of the occupants in the surrounding neighborhood?**

ConAgra (Foth Engineering): None anticipated. Spray field acreage removal is more than being added. Spray field addition is adjacent to existing approved spray fields. Screen house will improve wastewater treatment processes

Waseca County: Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels utilized to spray on fields and to treat the wastewater.

An Environmental Assessment Worksheet (EAW) was completed at the request of the Minnesota Pollution Control Agency and Waseca County Planning and Zoning based

on interpretation of Minnesota Rule 4410.4300, subpart 18C for the construction of the industrial wastewater treatment system in 2014. The EAW finding were negative (meaning an Environmental Impact Statement was not required). Essentially, the EAW found that if the new drainage structures and equipment were constructed and utilized according to the plans presented, there should be no public health or environmental concerns.

The EAW discussions at the time of the development of the EAW and through the permit application process contemplated the construction and development of additional property to be utilized as spray fields to treat the industrial wastewater. A mixture of plants including reeds canary grass have been and will be planted and harvested will absorb some of the nutrients contained in the water.

The Minnesota Pollution Control Agency has also issued a National Pollution Discharge Elimination Systems (NPDES) permit for the original sites that has been updated from time to time when facility improvements have been made. This permit monitors air and water quality at the sites and regulates flow leaving the site. The spray sites are to be monitored daily when they are operated. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

In addition, tile discharge exceedances are managed with daily discharge inspections and spray site management. The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges.

Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels. With each new modification come hopes the odor generated by the facility will improve. Odor continues to be an issue and the smell can travel miles from the spray fields while they operate and from the ponds at certain times of the year. The screening to remove additional plant materials together with efforts to control hydrogen sulfide levels should help with odor issues. Conditions provide that the CUP may be monitored on an annual basis to determine if the project is in compliance with the requirements of the CUP.

2) Will the proposed use have an impact (adverse) on traffic conditions including parking?

ConAgra (Foth Engineering): No portion of this proposal affects parking issues.

Waseca County: The proposed project will have only a minor impact on traffic to the proposed site during construction and during the operation of the system. On-going operations will be monitored and conducted from an off-site location. Short-term vehicle parking may be needed as system

technicians move spray nozzles on the site and monitor the sites or as chemical water treatment is added or employed as permitted by the NPDES permit. Inspections and farm equipment used to harvest the crops will access the site from the existing field drive on the parcels during the growing season.

3) Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

ConAgra (Foth Engineering): Not applicable with proposal.

Waseca County: Additional public utilities should not be required for the proposed uses on the properties. There will not be any required changes to the existing schools or roadways.

4) Will the proposed use have an effect (adverse) on property values or future development of land in the surrounding neighborhood?

ConAgra (Foth Engineering): No. All proposed uses are part of existing approvals for properties.

Waseca County: Odor and Drainage are the primary concerns with this CUP amendment.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

The Minnesota Pollution Control Agency National Pollution Discharge Elimination Systems (NPDES) permit will monitor air and water quality at the sites and regulates flow leaving the site(s). The spray sites will be monitored daily when in use. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges. The ConAgra properties are included in the benefitted area of County Ditch 45. Notwithstanding any private issues related to the private drainage agreement, the land can drain to County Ditch 45 without any additional cost or procedure.

5) Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The following are extracts from the Waseca Comprehensive Plan:

- On page 13 of the comprehensive plan, it states that: “Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth.”
- Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

6) Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The Unified Development Code (UDC) was amended in April 2014 to include Industrial Waste Treatment Facilities as a Conditional Use in the I-Industrial, HC-Highway Commercial and A-1 Agricultural Protection Districts. A site plan has been submitted for this amendment to Conditional Use permit.

7) Will the proposed use have an effect (adverse) on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The improvements to be made to the Industrial Wastewater Treatment System have been and are being completed to reduce odor generated by the facility. The goal is to maintain compliance with the company’s Minnesota Pollution Control Agency (MPCA) permits. The permitted spray irrigation acres have fluctuated over the past several years. Wastewater is generally applied to spray fields when conditions allow during the harvest season. The new industrial waste water storage treatment facility includes an on-site waste water management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank; a 25,000 square feet concrete silage storage pad.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard

units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

There are systems in place to monitor water quality at throughout the system. A series of 12 ground water monitoring wells monitor the application of wastewater at the spray fields and at the silage collection and storage sites.

The processing agriculture wastewater is also complicated due to the seasonal nature of food processing. The processing of food from raw materials requires large volumes of high grade water. The method to treat the wastewater from plants, such as the one at ConAgra, is to spray the water over large areas to remove any suspended solids and BOD. The water can be collected from certain spray fields and then reprocessed to further improve water quality. At times when the ground is frozen or saturated, water can be collected in the lagoons or ponds and then processed later when weather conditions improve. The applicant has noted that additional aeration and the dual storage lagoons are designed to help with control odor. The addition of chemicals to control pH should continue the efforts to bring the facility into compliance with state odor and water standards.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

8) Will the proposed us have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

ConAgra (Foth Engineering): No, all proposed uses are consistent with existing approved CUP for properties.

Waseca County: The proposed changes to the sites involved in this Conditional Use Permit Amendment should not have a negative impact on any existing natural, historic, or scenic views or features in the surrounding neighborhoods. A portion of a permitted spray field under the original 2014 Conditional Use permit is being redeveloped into a new vegetable processing plant. This site is now located within the City of Waseca and will not be regulated by the Waseca County Conditional Use Permit. The City of Waseca has classified the use as a legal-nonconforming use. In addition, the old water storage lagoon located in Section 13 of St. Mary Township is being filled and planted to be used as additional spray filed as part of this Conditional Use Permit Amendment. The site will take on the appearance of a vegetated farm field. Lastly, the 2,500 square foot Screen House building is rather small in scale and

should not have a negative impact on the appearance in the area.

9) Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

ConAgra (Foth Engineering): Nothing that the applicant is aware of.

Waseca County: There are federal, State Statutes and Rules, Waseca City Code, as well as County requirements for this project which are incorporated in the records and in these findings. Local, State and Federal Regulations - Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No Waseca County zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. *Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.*

Note: the sentence in italics was added by staff during the hearing

3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, *with the exceptions described above*, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Note: the sentence in italics was added by staff during the hearing

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.
 - e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review

8. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Minnesota Pollution Control Agency, the Minnesota Department of Transportation, Waseca, Waseca County Public Health, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to St. Mary and Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:24 p.m.

Ralph Castro (ConAgra) provided some insights on the proposal. Sommers asked Castro what was not working on the pond/plant? Castro responded that chemicals were not working right and thus producing odor. Armstrong asked the number of employees projected to be added should the vegetable processing plant be operated. Castro responded that they were proposing to continue operation. Leiferman asked what ConAgra was proposing to use the old plant. Castro responded that ConAgra was proposing to shut down the old Bird's Eye plant

The public hearing was closed at 8:29 p.m.

Malterer made a motion to approve the criteria with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to County Board the ConAgra conditional use permit amendment with conditions as amended. Pearson seconded and it was passed unanimously with 4 Yes 0 No.

MISCELLANEOUS

(A) Transfer of Development Rights (TDR)

Leiferman informed the Planning Commission about the increase in projects within the county requiring a Transfer of Development Rights. He made mention of one situation along Knutson Lake where Planning Staff was asked about the need to obtain a development in a situation where a property owner had received a letter from the Waseca County Planning Department explaining that a parcel being sold the right to develop a home under the previous code (prior to July 21, 2009). The code change in July of 2009 changed the density provisions for the A-1 Agriculture Protection District. Under the previous code, the parcel along Knutson Lake was considered to be non-productive farmland but was buildable at the time prior to 2009. Leiferman then informed the Planning Commission staffs opinion in rectifying such situations thus requiring the need for a zoning code change. He furthered that the Department of Agriculture and the DNR would have to review any code changes relating to Ag. Preserve and Shoreland. The Commission considered the density limitations set forth in the code which were established as a trade-off for areas of the code which were made less restrictive. The Planning Commission members sought additional information to include the number of parcels which would be impacted by such a change. Staff will provide this information at a future Planning Commission meeting.

(B) Similar Use Provision- Licensed Residential Program

Leiferman informed the Planning Commission that the County received a request from the Trinity Sober house to redevelop the property located at 25797-120th Street, New Richland into a facility to be used as a weekend meditation and respite for people currently seeking assistance at Trinity's Minneapolis-St. Paul facilities. Leiferman then provided the Planning Commission options staff was proposing to review the request either as a similar use to the Licensed Residential Program or by a conditional use permit as a Retreat House/Retreat Center. The Planning Commission advised staff to provide the two options to the Applicant.

(C) Conditional Use Permit to Mine, Excavate, Process and Stockpile Sand and Gravel Aggregate

Leiferman continued the miscellaneous items discussion by providing a background on a CUP approved last year for Pentagon Materials and Joseph Sack which has been the location of a mining operation, off and on, for decades. He informed the Planning Commission that Jim Voda (Pentagon Materials) had concerns about the approval process last year (COVID Public Hearing issues) and requests the County to reconsider their CUP request to allow the company mine more of the site. Leiferman then provided the Planning Commission on proposed long term uses of the site provided by Pentagon Materials. Leiferman

asked if the Planning Commission wanted to proceed with the Pentagon Materials request in advance of the two year permit approval date with the next step being a neighbor meeting. The Planning Commission concurred with staff to proceed on the matter.

(D) Hunting Shack Changes

Leiferman informed the Planning Commission on recent information concerning the replacement of two out of three hunting shacks on a parcel on Buffalo Lake which appears to not meet setbacks and larger than the size requirements stipulated in the UDC. Leiferman added that there were two sites on the west side of Buffalo Lake with what appears to be 10 or 11 hunting shacks and there was no information on file at P&Z regarding these structures. He then read out the requirements for hunting shacks. An email received from the DNR was also read to the Planning Commission which basically mentioned that the 200 foot OHWL setback needed to be implemented and mentioned concerns with the storage of materials and road construction below the OHWL. The DNR also indicated the location of the shacks may be a public waters violation as well as an ordinance violation. To proceed with this request, the owners will need a variance or variances as well as a conditional use permit.

F. Agricultural Covenant Discussion- Solar & Density

Leiferman informed the Planning Commission that staff received another request to consider a project located on Agriculture Covenant property. The project is a 1 MW facility just off the East Elysian Lake Road. He further stated over the years staff and the County Board have looked a number of ways to address the issue. The program restricts solar on the site and the MN Department of Agriculture has labeled solar as a commercial use. One may be simple remove the covenants from all of the properties as allowed under MN Statutes 40A.11. The County can send out certified letters to owners withdrawing from the program using the method in the statute. As background, the County entered into the program in 1988. The program pays farmers \$1.50 per acre in exchange for participating in the program. The goal is to preserve agricultural lands. The limited number of Counties that participate in the program pay into the state \$5.00 on each mortgages and deeds recorded with the County Recorder to fund the program. The state returns funds based upon the number of acres enrolled multiplied times \$1.50 per acre. Under these formulas, the County is a large net gainer paying in far less than we receive from the state. This is a huge disincentive to withdraw as outlined above. Also, it would still take 8 years to get out of the requirements. No solar company is looking that far out.

Staff provided another option which would be to amend the Waseca County's Farmland Preservation Plan. This would amend language within the document to define 1 megawatt solar projects as an agricultural use. If authorized by the state, the County would also need to modify our official controls (Zoning code and Comprehensive Plan) to reflect the change as well. The Planning Commission expressed a willingness to proceed with this effort.

ADJOURNMENT

Sommers made a motion with Roemhildt seconding to adjourn the meeting.
Meeting adjourned at 9:31 p.m.



**Waseca County Board of Commissioners
Request for Board Action**

**Conditional Use Permit (CUP) Request to mine, excavate, process and
stockpile sand and gravel aggregate materials**

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:
Item Type:	☐ Consent ☒ Action	☒ None
Department:	Planning and Zoning Department	☐ Current budget
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ New FTE(s) Requested
Contact Phone:	(507) 835-0651	☐ Other
Prepared by:	Maame Yorke	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Conditional Use Permit (CUP) Request to mine aggregate materials on a previously mined and reclaimed parcel (PID: 08.012.1010) in Section 12 of Otisco Township by Ulland Brothers Inc.

SUMMARY

On Thursday May 6, 2021, the Waseca County Planning Commission held its regularly scheduled meeting and unanimously moved to recommend approval of the following request to the Waseca County Board of Commissioners:

Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township. Ulland Brothers Inc. request a conditional use permit to mine, excavate and stockpile sand and aggregate materials on a 37.40AC parcel (PID 08.012.1010) with an address of 17872 – 305th Ave and located in Section 12 T.106N R22W of Otisco Township. The property has been previously mined and the applicants are proposing to continue mining operations on the parcel with this CUP renewal. The parcel under review is located in the A-1 Agricultural protection zoning district and the Waseca County UDC §6.07 allows mineral extraction, mining in this zone.

The parcel (PID: 08.012.1010) is located in the A-1 Agricultural Protection Zoning District. The Waseca County Unified Development Code (UDC) allows Mineral extraction, mining as Conditional Uses in this zoning district.

The full Planning Commission Report on these matters can be found on the Waseca County website on the Agendas tab at: <https://www.co.waseca.mn.us/AgendaCenter/ViewFile/Agenda/05062021-528>

RECOMMENDATION:

Staff recommends approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. If approved, staff recommends the following condition to be applied:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre.

With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.

EXPLANATION OF FISCAL/FTE IMPACTS

None.

Supporting Documents:

Attachment A: Conditional Use Permit and Attachments

Attachment B: Findings of Facts (not for recording purposes)

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

Do not write above this line - Recorder use only

**AMENDMENT TO CONDITIONAL USE PERMIT
WASECA COUNTY**

Date: June 1, 2021

Project Owner/Developer: Ulland Brothers
2400 Myers Road
Albert Lea, MN 56007

Property Address: 17872 – 305th Ave, Ellendale, MN 56026

Township Name: Otisco

Parcel Identification No: 08.010.1200

Legal Description: See Exhibit “B”

Proposed Use of Land:

Conditional Use Permit to mine, excavate and stockpile sand and aggregate materials on a 37.40AC parcel (PID 08.012.1010) with an address of 17872 – 305th Ave. and located in Section 12 T.106N R22W of Otisco Township. The property has been previously mined and the applicants are proposing to continue mining operations on the parcel with this CUP renewal. The parcel under review is located in the A-1 Agricultural protection zoning district and the Waseca County UDC §6.07 allows mineral extraction, mining in this zone.

Attachments:

Attachment “A” – Conditions required for approval of the Conditional Use Permit
Attachment “B” – Legal Description
Attachment “C” – Site Plan
Attachment “D” – Reclamation Plan

**THE COUNTY BOARD MOTION TO ADOPT FINDINGS OF FACT AND THE
COUNTY BOARD CONCLUSIONS AND ORDER**

The Waseca County Board of Commissioners have read the Findings of Facts referenced herein as provided to the County Board and on file in the office of the Planning and Zoning Department along with supporting information including the staff reports, and the Criteria for approval of the Conditional Use Permit that were recommended by the Waseca County Planning Commission which are included by reference with this report. The Criteria for approval are on file and of record in the office of the Waseca County Planning and Zoning Department and are incorporated in the Findings by reference. The Waseca Planning Commission took testimony at a public hearing and prepared the criteria for approval at the Planning Commission Meeting held on Thursday May 6, 2021. The Board hereby adopts these Findings of Fact regarding the approval of the request for a Conditional Use Permit application as described above and as recommended by the Planning Commission and of record in the Waseca County Planning and Zoning Office.

The Waseca County Board also approves the recommendation of the Planning Commission to approve the request for a Conditional Use Permit in substantially the form as provided, with the conditions as outlined in Attachment "A" with all other local, state, and federal regulations.

Motion by _____ Second by _____ Vote ____ Yes ____ No

WASECA COUNTY

Dated: _____

DeAnne Malterer, Chairman
Waseca County Board of Commissioners

A T T E S T

Dated: _____

Tamara J. Spooner
Waseca County Auditor Treasurer

This Document was drafted by:
Waseca County Planning and Zoning
300 N State St,
Waseca, MN 56093

ATTACHMENT “A”

CONDITIONS REQUIRED FOR APPROVAL OF THE CONDITIONAL USE PERMIT

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.

ATTACHMENT "B"
Legal Description

All that part of the W½ SE¼ & E½ SW¼ Section 12-T106N-R22W, Waseca County, Minnesota; described as follows:

Commencing at the northeast corner of the W½ SE¼ of said Section 12;

thence North 89°57'03" West a distance of 33.00 feet, on an assumed bearing on the north line of the SE¼ of said Section 12;

thence South 00°28'16" West a distance of 230.12 feet;

thence South 78°23'45" West a distance of 585.45 feet;

thence South 47°36'26" West a distance of 648.31 feet;

thence South 88°18'28" West a distance of 662.52 feet;

thence South 56°44'01" West a distance of 337.78 feet;

thence South 18°55'31" West a distance of 178.26 feet;

thence South 54°48'06" East a distance of 430.60 feet;

thence South 72°32'44" East a distance of 94.55 feet;

thence North 86°35'54" East a distance of 94.65 feet;

thence North 69°08'20" East a distance of 466.42 feet;

thence South 74°30'37" East a distance of 171.91 feet;

thence South 44°44'14" East a distance of 202.10 feet;

thence South 87°06'26" East a distance of 283.43 feet;

thence South 70°43'30" East a distance of 109.85 feet;

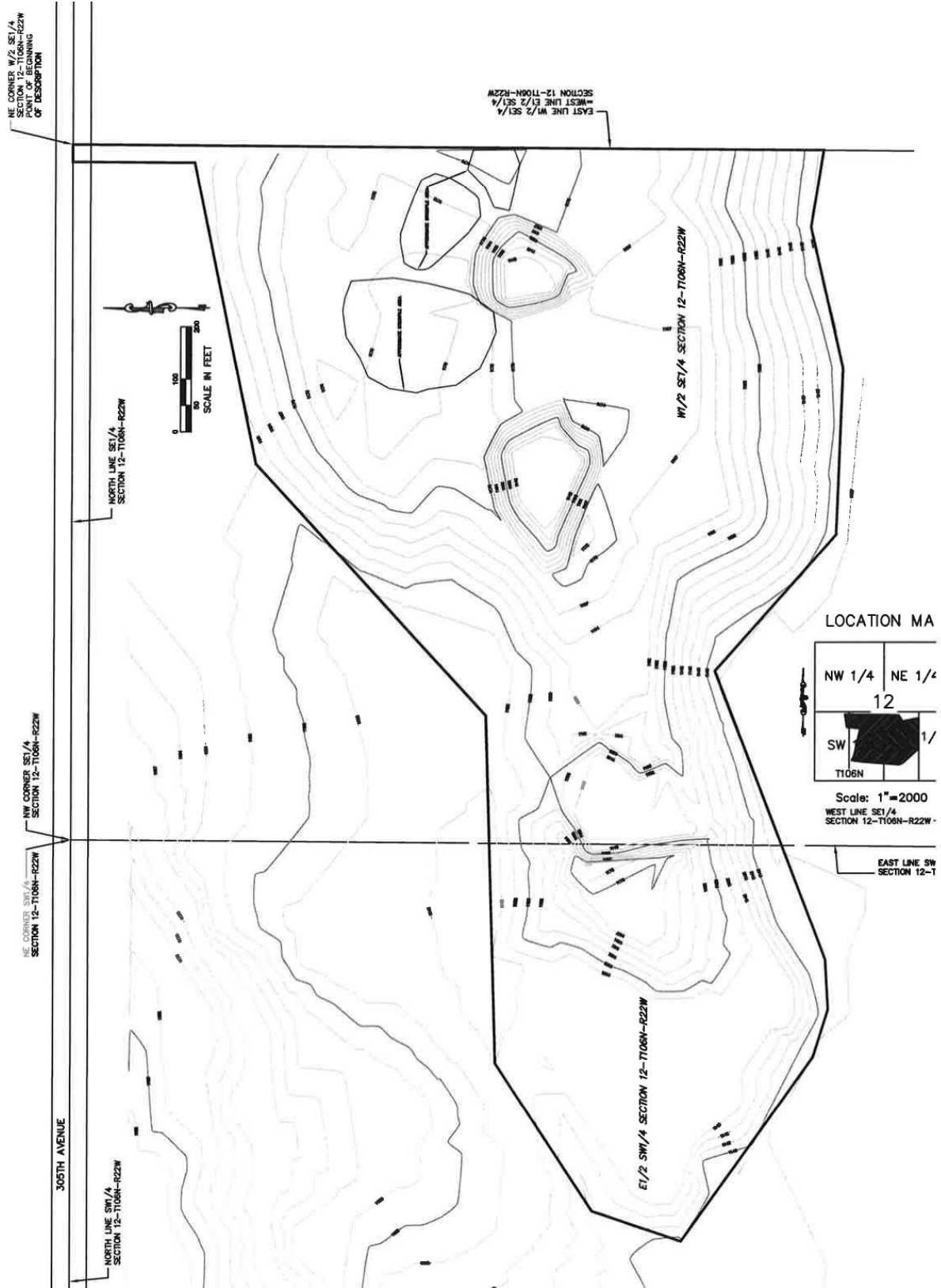
thence South 87°26'31" East a distance of 410.49 feet, to a point on the east line of said W½ SE¼;

thence North 00°28'16" East a distance of 1521.68 feet, on the east line of said W½ SE¼, to the point of beginning;

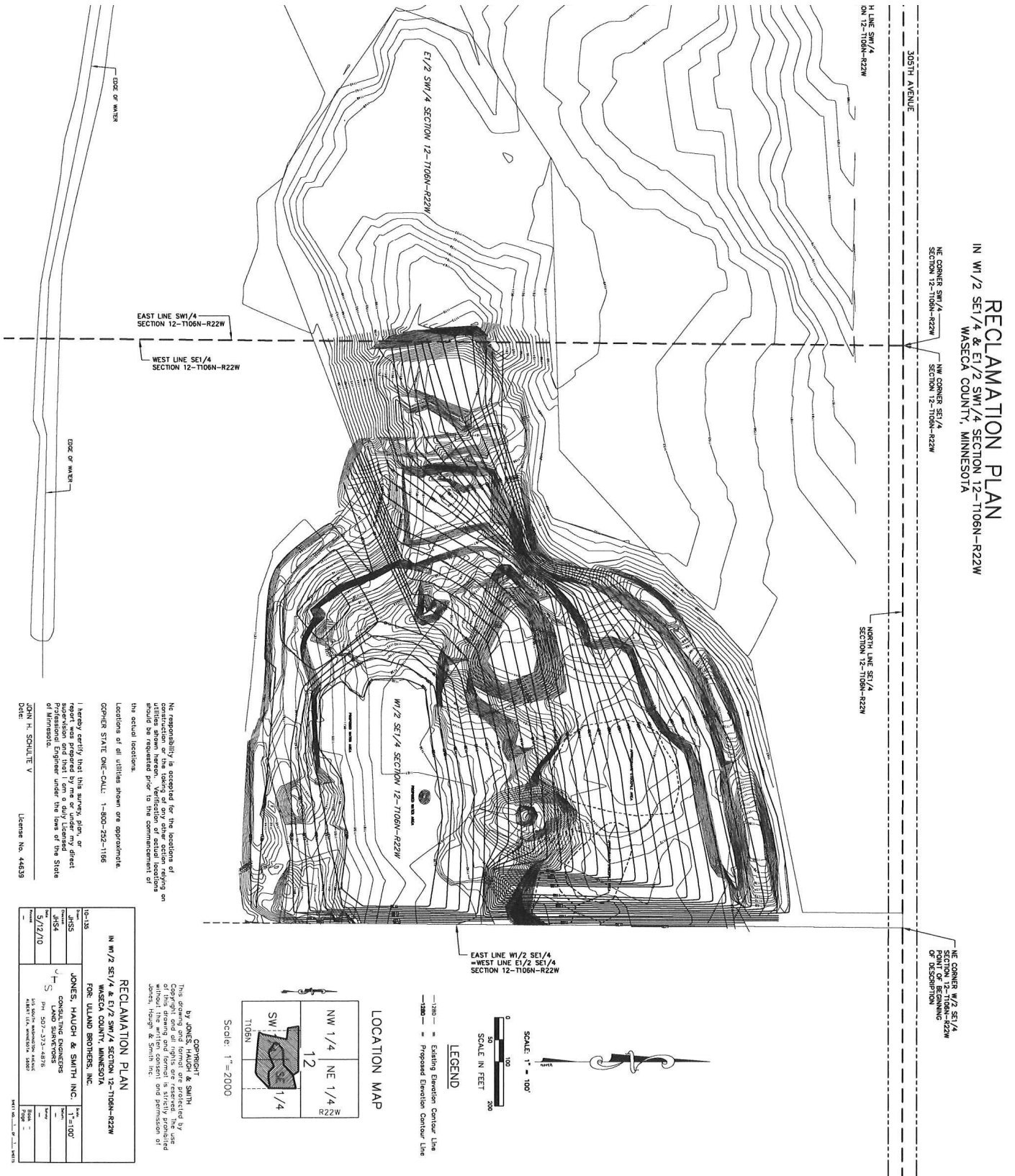
subject to highway easement on the north side thereof.

ATTACHMENT "C"

Site Plan



Site Plan – Reclamation



**Ulland Brothers Inc.
Conditional Use Permit to mine, excavate and stockpile sand and aggregate materials in Section 12
of Otisco Township**

May 6, 2021

FINDINGS OF FACT

1. On April 13, 2021, Ulland Brothers Inc., presented an application for a Conditional Use Permit (CUP) to mine, excavate and stockpile sand and aggregate materials on a 37.40AC parcel (PID 08.012.1010) with an address of 17872 – 305th Ave and located in Section 12 T.106N R22W of Otisco Township. The property has been previously mined and the applicants are proposing to continue mining operations on the parcel with this CUP renewal. The parcel under review is located in the A-1 Agricultural protection zoning district and the Waseca County UDC §6.07 allows mineral extraction, mining in this zone. Legal description for the proposed development site is attached to the CUP document.
2. As of the date of the application, the above-listed application was on file for public inspection in the Waseca County Planning and Zoning Office. The above listed application and supporting documents are incorporated into these Findings by reference.
3. Notice of the public hearing scheduled for on the applicants' request for a conditional use permit was published in the Waseca County News (the 2021 official newspaper for Waseca County) on April 22, 2021. The Affidavit of Publication is included in the files and are incorporated herein by reference.
4. On or before April 22, 2021, the Planning and Zoning Office notified owners of nearby properties and all of the Township Officers as per requirements of the Unified Development Code for the public hearing scheduled for May 6, 2021 by first-class mail. The Affidavits of mailing are included in the file and are incorporated herein by reference. Staff reports were provided by email to the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, Waseca Public Health Services Department, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department port for their comments and review.
5. On April 30, 2021, the Planning and Zoning Office notified the applicants in writing about the 60 days extension of the required timeline deadline for agency action as per the Minnesota Statute Chapter 15.99.
6. On April 30, 2021, Planning and Zoning Department staff sent the staff report to the members of the Waseca County Planning Commission by first-class mail regarding the application and accompanying documents. This staff report is incorporated in these Findings by reference. Attachments included:
 - i. Staff Analysis of Criteria,
 - ii. Recommended Conditions, if granting,
 - iii. Application materials as submitted and documented.
7. On May 6, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, presented a PowerPoint presentation highlighting the applicants request, site data and approvals for the Conditional Use Permit for Ulland Brothers Inc. request. The information provided was based on a staff report provided to the Planning Commission prior to the meeting.
8. The following is an extract of the draft Planning Commission minutes of the meeting held on May 6, 2021 starting at 7:00 p.m.:

**WASECA COUNTY PLANNING COMMISSION MEETING
MINUTES OF MAY 6, 2021**

CALL TO ORDER/ESTABLISH A QUORUM

A quorum to conduct business was established and the Chair Russ Frederick called the Waseca County Planning Commission meeting to order at 7:00 p.m. at the meeting room in the East Annex Building.

MEMBERS PRESENT

DeAnne Malterer, Russ Frederick, Stephanie Roemhildt, Mark Sommers, Marv Pearson, Leon Schoenrock (arrived late but did not participate in the meeting as a Commission Member).

MEMBERS ABSENT

None.

STAFF PRESENT

Mark Leiferman, Planning and Zoning Administrator, Maame Yorke, Planning and Zoning Specialist.

OTHERS PRESENT

Names include as seen on sign-in sheet. Spellings of names shown as best as possible from handwritten signatures.

Ralph Castro, Birds Eye, Waseca (in-person), Bruce Rehwaltd, Foth (in-person), Scott Wandeloski, Foth (in-person), Ashley Rehder (in-person), Walter Mishek (in-person), John Snow (in-person), Wendell Armstrong (in-person), William Beschnett (in-person), Tom Culross (in-person), Cavit Wobschall (in-person), Verna Benson (in-person), Jeff Muenkel, Foth (online), Bruce Quast (online), Jon Erichson, Ulland Brothers (online), no caller ID (online)

APPROVAL OF AGENDA

Sommers made a motion to approve the agenda with Malterer seconding. Motion passed unanimously.

REVIEW/APPROVAL OF MINUTES – April 1, 2021

Malterer made a motion with Roemhildt seconding to approve the December 3, 2020 minutes. Motion passed unanimously.

PUBLIC HEARINGS:

Old business:

A. Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC.

Leiferman started the public hearing for a Conditional Use Permit to allow the transfer of development right between Armstrong and Calonett Venues LLC, which was tabled at a prior meeting by presenting a PowerPoint. He informed the Planning Commission that the applicants had converted the duplex to a single family by having an opening between the basement and the main level.

The owners of the site are Wendell J. & Ruth A. Armstrong (sending site) and Calonett Venues LLC (receiving site). The property address of the receiving site is 35961 150th Street. Waseca, MN 56093 in Woodville Township. The applicant submitted an application on March 5, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on March 19, 2021 and April 22, 2021. Legal notice of public hearing was published in the newspaper on March 18, 2021 and April 22, 2021. 60-day from the date of application is May 4, 2021. 60-days' notice extension was provided to the applicant on March 26, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract concerning transfer of development right as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.09 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

(C) Transfer of development rights (TDR) program; receiving sites.

(5) TDR may be transferred within a township or between a common owner anywhere within the county. A transfer between two owners and into another township shall be completed only by completing a conditional use permit and by following the requirements of this section.

Leiferman then showed the Planning Commission a site plan for the receiving site showing the 1.40 acre parcel to be split from the original parcel and a proposed sanitary sewer easement area.

Issues with the request

1. **Wetlands.** Although no portion of the receiving site appears on the National Wetland Inventory or NWI, the Water Resource Specialist should review the site and verify the provisions of the Wetland Conservation Act (WCA) do not apply to this property.
2. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serving the 1.4 acre parcel being subdivided from the larger 38.45 acre tract shares a SSTS system with a small barn located on the remaining portion of the exiting tract. The SSTS is not currently located upon the 1.4 acre tract being removed from the larger tract.

The easement area shown on the survey provided as Attachment G appended to this report is immediately adjacent to the TDR tract being subdivided. §5.03 of the Unified Development Code (UDC) requires SSTS tanks and treatment areas be located at least 10 feet from a property line. The Waseca County Board recently approved an amendment to the UDC to allow these elements of an SSTS to be closer to property lines when there is an easement. The drawing shows the SSTS tank within 10 feet of the property line. An easement agreement will need to be entered into to share the system. The agreement should be approved by the Waseca County Public Health Department and the County Attorney. Staff assumes the existing well located on the property may be shared; however, no details regarding potable water were shared with staff.

3. **Duplex Use.** The home on the split to be split from the parcel was permitted by Waseca County as a single-family home. The home was constructed as a Duplex. This use is currently a legal non-conforming use. The owners plan to remove a portion on the wall separating the units to create a single-family home.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: The subdivision of the parcel should not have an adverse impact on the surrounding neighborhood.

Staff: The applicant's proposal is to split off an existing duplex from a larger piece. This should not have an adverse impact on the surrounding neighborhood.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: Adequate parking already exists. There should be little impact on traffic and parking caused by creating a parcel ID for the existing ~~duplex~~ *single family dwelling*.

Staff: There are approximately seven residences within a quarter mile of the receiving site. There is a second residence constructed on the larger parcel the 1.40 acre receiving site is being split from. This should not impact traffic or parking since the applicant will continue utilizing the site as it is currently is being used.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: The site is currently served with electric, telephone and natural gas.

Staff: From the applicant materials, there are adequate public utilities, services, roads and schools to support the continual site of the property. The parcel being subdivided is served with telephone, electric and natural gas and an existing driveway onto 150th Street.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: Creating a parcel ID for the existing ~~duplex~~ *single family dwelling* should not have a negative impact on property values or impact development in the vicinity.

Staff: As mentioned earlier, the applicant is proposing to split a 1.4 acre home site from existing 38.45 acre parcel with a second home on the tract. The continuous use of the parcel should not adversely affect property values or future development in the surrounding neighborhood.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The Transfer of Development Right, conditional use permit request is consistent with the goals and policies adopted in the comprehensive plan. The approved plan call for the area to be developed into agriculture/open spaces. This request is also consistent with the land use recommendations in the comprehensive plan relating to the development of rural open spaces.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section 3.06 relating to subdivisions and section 6.09 relating to the transfer of development rights.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

The two existing homes were developed and constructed in compliance with the conditions, county code and Minnesota state law at the time they were constructed. The parcel split using the Transfer

of Development Rights provisions will not change the current use. The two homes will remain as they currently exist and should not have any adverse impact on the environment.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

There do not appear to be any natural, historic or scenic views in the vicinity of the existing ~~duplex~~ *single family dwelling*.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. *The structure on the property shall be for single-family use.*

Note: the sentence in italics was added by staff and not included in the staff report.

2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be and must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon

an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Services Department, County Sheriff, County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened and closed the public hearing at 7:15 p.m.

Malterer made a motion to approve the criteria as amended with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Calonett Venues LLC solar conditional use permit with conditions. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

B. Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Leiferman continued the public hearing for a Conditional Use Permit to operate an animal crematorium on the same parcel as their single family dwelling. The facility will consist of a 20x20" concrete slab for cremation equipment to be installed adjacent an existing 64'x34' barn. The crematory device is sized for small domestic pets and would not accommodate larger farm animals. The furnace will be fueled by natural gas or propane and will be equipped with an after-burner to reduce odor emanating from the equipment. The owners of the site are Bruce W & Angela Quast. The property address of the receiving site is 6581 300th Ave in Wilton Township. The applicant submitted an application on April 8, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 7, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The states that Waseca County should encourage commercial activity that is compatible with agricultural areas.

The zoning map places the receiving site in the A-1 Agricultural Protection zoning district. Leiferman then proceeded to reading a zoning code extract relating to the proposal as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS.

Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(26) Veterinary and animal clinic and facilities for the care and/or breeding of animals, including kennel and animal crematorium.

§6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES

(FF) *Veterinary and animal clinic and facilities for the care and/or breeding of animals including kennel and animal crematorium.*

(6) *Animal crematorium. An animal crematorium may be operated in connection with a veterinary clinic or as a stand-alone facility that provides services to a veterinary clinic or clinics. An animal crematorium shall only be used for the disposal of animals. A stand-alone animal crematorium facility shall provide no outside appearance of the operation and shall not include a sign. Stand-alone crematoriums shall pick-up and deliver animals from veterinary clinics and shall have no visitors other than employees or inspectors. Animal pick-up shall be done in leak-proof containers. The following standards for animal crematoriums shall be met.*

(a) *Setback. The crematorium shall be located in a structure and be at least 500 feet from any residence other than the owner of the property.*

(b) *Site plan. Site plan review shall be required.*

€ *Parking. There shall be at least one parking space available for each employee working at the site at any time.*

(d) *Refrigeration. Deceased animals stored on the site prior to disposal shall be kept under refrigeration to eliminate the possibility of odor emanating from the animal.*

€ *Furnaces. The furnaces shall use natural gas or propane as the heat source for the furnace.*

(f) *Performance standards. Incinerator must be adhere to the State Pollution Control Agency guidelines as follows:*

1. *Capable of producing emissions not to exceed 20% opacity;*
2. *Fitted with an afterburner that maintains flue gases at 1,200°F for at least 0.3 seconds; and*

3. *Ash from the incinerator must be handled in such a manner as to prevent particulate matter from becoming airborne and shall be properly disposed of.*

Leiferman then showed a site plan for the receiving site which depicted the location of the proposed 20x20 concrete slab for cremation equipment adjacent to an existing 64x34 barn, the approximate location of septic tank and well on the Quast property as well as an existing 40x60 shop proposed to be used for crematory office space.

Issues with the request

1. **Odor.** Deceased animals will be picked up and stored in a refrigerator pending cremation. There were also odor complaints from a similar facility approved in the County which was solved by installing an afterburner. The closest residence is approximately 1,900ft away from the proposed location of the facility as such odor impacts should be minimal. The applicants should put in place measures to solve odor should odor within the vicinity of the facility be impacted.
2. **Fire and explosion.** The equipment used will be operated at high temperatures. When operating any equipment such as this, there is some risk of fire or explosion. The County Sheriff and the local fire department should be notified when the operation commences to assist in dealing with any potential fire or explosion issues.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The applicants' proposal is not anticipated to adversely impact the general health, welfare and safety of the occupants in the surrounding neighborhood if the facility is operated within

the confines of the UDC and all other state and federal regulations pertaining to animal cremation.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: No.

Staff: Adequate measures are being provided to eliminate any traffic hazard which may result from the proposed use because the applicants will pick up deceased animals to the facility which will limit traffic to the facility.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: Yes.

Staff: The facility will be operated on the same parcel and the applicants' single family dwelling. There appears to be adequate utilities available on the property and also in the building where the business will operate. The existing roadway will also accommodate the traffic needs of the business since the operators will pick up and deliver deceased animals to the facility.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: No.

Staff: The proposed use will not be injurious to the use and enjoyment or have a negative impact on adjacent property values in the immediate vicinity due to the fact that the site is located approximately 1,900 feet to the closest residential use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The proposed use of the facility is consistent with the goals and policies adopted in the comprehensive plan. The approved land use plan proposed the property to use for agriculture/open space.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes.

Staff: The property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed with a CUP. The proposed use should meet the standards of the zoning ordinance should all requirements stipulated in §6.16(FF) (6) be adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: The proposal should not have an adverse impact on the environment and poses minimal threat to groundwater, surface water or to air quality if all standards and requirements are adhered to.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No.

Staff: The proposal is not anticipated to adversely impact existing natural, historic or scenic views or features in the surrounding neighborhood should the business operate in an environmentally friendly manner whilst adhering to appropriate standards and requirements of the UDC.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

No.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Wilton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the

Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Waseca Public Health Services Department, County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Wilton Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:26 p.m.

Wendell Armstrong asked the number of times or days of operation and how odor would be impacted. Leiferman provided a response.

Armstrong then asked if the business was replacing any company. Leiferman responded that the applicants were buying the business from a previous owner who operated in Alton Township.

Quast added that their business would serve Southern Minnesota and the Twin Cities and they were not replacing any person's business. He furthered that about 75-80% of ashes after animal cremation would be returned to customers. He added that the location of his business shouldn't affect his neighbors and that the business is being moved away from its current location which was close to a winery.

Frederick asked if there were any issues with the original location of the animal crematorium. Leiferman responded that the business was close to residents and odor was impacted which was later resolved with an equipment upgrade to include the installation of an after-burner.

Malterer added that there is high demand for the service and new proposed location was a good spot.

The public hearing was closed at 7:33 p.m.

Roemhildt made a motion to approve the criteria with Sommers seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Quast conditional use permit with conditions as amended. Person seconded and it was passed unanimously with 4 Yes 0 No.

C. Request for an amendment a Conditional Use Permit to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch in Section 18 of Freedom Township – Nickolas J & Ashley A Rehder/Ruby Ranch.

The next item on the agenda was a conditional use permit request to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch) in Section 18 of Freedom Township. The proposed daycare center will be operated the same facility as the primary existing Ruby Ranch Agri-tourism structure. Ruby Ranch currently serves children ages 5 to 18 for summer camps and provides farm tours for the community throughout the summer. Little Rubies will be a farm and nature based daycare and learning center that will operate during the school year for children ages 1 to 5 years of age to provide care and indoor and outdoor learning experiences

The owners of the site are Nickolas J. & Ashley A. Rehder. The property address is 361 290th Ave, Pemberton, MN 56078 with PID 04.018.0610. The applicant submitted an application on APRIL 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 22, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS

(C) Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(13) Daycare center;

§ 6.13 SPECIFIC STANDARDS FOR INSTITUTIONAL AND CIVIC USES.

(B) Daycare center. The following standards apply to daycare centers, both permitted and conditional, and to family or group daycare accessory to a residential use.

(1) Within a residential or agricultural district, the building and any exterior fenced area shall meet the setback requirements for a single-family residence.

(2) The use shall comply with all applicable federal, state and county rules and regulations.

(3) For child daycare facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(4) For adult daycare facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(5) When the daycare facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.

Leiferman then showed and explained a site plan and drawings for the proposal.

Issues with the request

1. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serves the home and the conditionally approved Agri-tourism use. Kim Shermo, the Environmental Health Specialist for Waseca County has determined the existing SSTS is not currently appropriately sized to accommodate the proposed daycare. She suggests another SSTS be constructed for the Ruby Ranch/Little Rubies facility.
2. **Daycare Licensing.** The applicants are requesting a conditional use permit (CUP) to operate a Daycare Center under the Waseca Unified Development Code (UDC). The existing Ruby building meets the requirements as a daycare center since the operation will not be located in their residence. A daycare family operation is to be located within a residence under the UDC.

The State licensing requirements differ from the UDC requirements. The license at the state level defines daycare relative to the number of children served. A family daycare is for 14 or fewer children and can be either within a home or in a separate building. Child and Family Services Minnesota Prairie County Alliance will inspect these facilities; whereas, any facility serving more than 14 children is licensed directly by the State of Minnesota. A family daycare needs to have a

staff ratio of 1 adult per 12 children. The number of children can increase if the facility employs additional staff. A teen age assistant may be allowed if to increase the ratio. The applicants may wish to license the facility as a daycare center despite limiting the number of children permitted at the facility to allow for future expansion or seasonal increases in population.

The ratio of children to square feet of space is 1:35.

3. **Conflicting Uses.** Ruby Ranch is an event center which offers craft classes to patrons. The equipment used (power tools) in the craft class activities potentially conflict with childcare uses proposed by the Little Rubies childcare facility. The applicants will need to have an appropriate way to separate these uses. This issue should be addressed within the county/state license requirements.
4. **Signage.** The only complaint the County has received regarding the operation of the Ruby Ranch facility related to the sign for the facility which was installed originally within the right-of-way of the West County Line Road. This portion of roadway is under the jurisdictions of Freedom Township. The property owners have removed the sign and have applied for a permit to relocate the sign on the site. The applicants have asked the Township for assistance in determining where the sign can be placed.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The owners of the proposed Agri-tourism facility own approximately 8.1 acres of land. The closest occupied residence to the proposed facility reside in dwelling units that are located approximately 1,600 feet to the west of the proposed daycare center (existing Agri-tourism structure). Much of the area all sides is agricultural in nature.

The potential impacts of the Agri-tourism use on the adjacent homes will likely result in an increase in in traffic during the early morning hours and late afternoon.

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that the previous conditional use permit placed 14 conditions on the applicant's permit, and since the facility will require a Waseca Public Health Department license to operate the daycare facility.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: The Waseca County Line Road will now be trafficked more frequently with parent drop off and parent pick up. All parking will happen on our property by the classroom. This is ½ mile from the Waseca County Line Road so it will not disrupt the flow of traffic.

Staff: The addition of a daycare center to the existing Agri-tourism use will have an impact on traffic bringing parents dropping off children in the morning and picking up their children in the afternoon. This could add up to 20 to 40 additional trips per day. The roadway known as 290th Avenue is a private drive owned and maintained by the applicants. This section of the West County Line Road is maintained by Freedom Township Road. The applicants met with Freedom Township and they indicated the Township did not have any objection to the proposed use. There should be adequate parking on site developed for the Ruby Ranch Agri-tourism use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: We have electricity with LED lights, AC, heating, water, ½ bath, and WIFI to support a space for daycare.

Staff: The Subsurface Sewer Treatment System will need to be upgraded to accommodate this proposed use. All other utilities should be available to this site. There appear to be adequate public services, roads and schools to support this use.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: We feel the space is a positive business for the Pemberton community. There isn't much for families to do and we provide activities spring through fall. Now with a daycare center it is giving local families more options to take their children to daycare/preschool.

Staff: The proposed use should not have an adverse impact on property values in the vicinity since the applicants have been operating an Agri-tourism use on the property since 2017 and since the closest neighbor is approximately 1,600 feet from the proposed use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Applicant: Yes

Staff: The use appears to be consistent with the Comprehensive Plan because of the following plan and map references:

1. Goal 6: Promote economic diversification in Waseca County, which will provide for continued employment opportunities and reasonable access to a broad range of goods and services for community residents.
2. Goal 7: Promote a healthy economy, enhance the natural and built environments, and provide opportunities to area residents.
3. The Planning Commission finds that the proposed use is compatible with the uses within the district and is of the same general character as those of the district.
4. The Planning Commission finds that the proposed use conforms to the Waseca County Land Use Plan (see attached).

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes

Staff: The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section § 6.08 A-1 Agriculture Protection District Standards, (C) Conditional uses (13) Daycare center. Section § 6.13 outlines the Specific Standards for Institutional and Civic Uses for Daycare centers.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: No. The site plan will not change significantly.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No. The property is well maintained and safe for children to explore outdoors.

Staff: The use is not anticipated to adversely affect any existing natural, historic or scenic views or features in the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

Applicant: No.

Staff: The facility will be required to meet County and State Daycare Licensing requirements.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Department, Waseca County Sheriff, Waseca County Attorney and Waseca County Highway Department for their

review. The application was also provided to the Minnesota Department of Natural Resources (DNR) for their review and comment.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Freedom Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:50 p.m.

Ashley Rehder informed the Planning Commission that their sign had been approved by the township and she was in the process of obtaining a septic permit as well as a loan for the operation of Little Rubbies.

The public hearing was closed at 7:51 p.m.

Malterer made a motion to approve the criteria with Roemhildt seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Roemhildt made a motion to approve and recommend approval to the County Board the Rehder conditional use permit with conditions. Sommers seconded and it was passed unanimously with 4 Yes 0 No.

D. Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township – Ulland Brothers Inc.

Leiferman then read the next zoning case with was a request for a Conditional Use Permit (CUP) to mine, excavate, process and stockpile sand and gravel aggregate materials in Section 12 of Otisco Township. The parcel (08.012.1010) is south of 305th Ave and approximately 1 mile to the county border with Steele County. All of the property is in the A-1 Agricultural protection Zoning District and within the highway overlay.

The owners of the site Ulland Brothers Inc. The property address of the receiving site is 17872 – 305th Ave. The applicant submitted an application on April 13, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 12, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. This proposal indirectly relates to the infrastructure and transportation vision statement of the county since aggregate materials are needed for construct roads at a cost effective price:

- o Transportation Vision Statement: Waseca County will have a transportation system that facilitates and strengthens its economic vitality and effectively moves people to and from required destinations.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§4.13 EXTRACTION OF MATERIAL AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS.

(B) Conditional use permit. Excavations, extraction of materials and minerals, open pits and impoundment of water shall be permitted only upon the issuance of a conditional use permit.

(1) The applicant for the permit shall furnish such information as: true name and address, when required, approval by the state to impound waters, purpose of proposed activity,

roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

(e) Wetland creation, restoration and/or construction shall be exempted if the proposal can satisfy all of the following criteria:

1. Wetland creation, restoration and/or construction shall be under the guidance of the County Soil and Water Conservation District using specifications and guidelines of the Natural Resource Conservation Service (NRCS);

2. Wetland creation, restoration and/or construction shall not be constructed closer than 75 feet to the boundary of any adjoining property or existing road easement; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

(f) Wetland creation, restoration and/or construction that can not satisfy the above-listed exception criteria (subsections (B)(2)(e)1., (B)(2)(e)2. and (B)(2)(e)3. above) will be subject to:

1. Conditional use permit;

2. Any conditions set forth by the Board for the conditional use permit;

and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

§6.07 SPECIFIC STANDARDS FOR AGRICULTURAL, NATURAL RESOURCES AND RELATED USES

(H) Mineral extraction, mining.

(2) Application requirements. Maps of existing conditions, the proposed pit or excavation and accessory structures, and site after reclamation shall be prepared by a professional engineer or land surveyor and filed with the application.

5. Structures, storage of excavated materials or topsoil, and the excavation edge shall be setback at least 300 feet from any protected water and at least 100 feet from an adjoining property line or public right-of-way. Mining and mining material operations and processing shall not be conducted within 100 feet of an adjoining property line or public right-of-way. No on-site processing of materials or storage of excavated materials or topsoil shall occur within 1,000 feet of a residence.

Leiferman then showed the Planning Commission a site plan for the gravel pit.

Issues with the request

1. **Township Road Damage.** The applicants originally received a permit to utilize the township road as a haul road for the Highway 14 project. This permit was provided to Otisco Township. In the past, staff has received complaints about the damage being done to the road due to weight of the trucks and the volume of traffic being placed on the road by the vehicles entering and exiting the site. Adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues and the depth of the material removed.
2. **Safety.** The trucks entering and leaving the site may create a potential hazard for people utilizing the roads in the vicinity. Again, adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues.
3. **Water runoff issues.** Staff has not received a copy of the National Pollution Discharge Elimination Permit for the existing facility. Staff has a concern that there may be process water utilized in the crushing and or conveying of materials processed at the site.
4. **Reclamation Plan.** The previously approved reclamation plan lacks detail and should be updated to meet the requirements of the Unified Development Code

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that 42 conditions have been previously placed upon the applicant's permit, and since additional requirements will be placed upon the applicant by the Minnesota Department of Transportation and reviewed by the Waseca Soil and Water Conservation District. In addition, the property is located in a rural setting with the closest neighbor residing over 1,000 feet from the subject property.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

The proposed use is not anticipated to impact (adverse) on traffic conditions since adequate measures are being provided to eliminate any traffic conditions due to the conditions that are being placed upon the project relating to road use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

There are adequate public utilities, public services and roads to support the proposed use of the property.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

The Planning Commission finds that the proposed use will not be injurious to the use and enjoyment or have a negative long-term impact on adjacent property values in the immediate vicinity due to the remote nature of the parcel and the distance between this site and the residents of adjacent properties.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Waseca County has determined that this use is in line with the requirements as stated in the land use plan. The proposed use is compatible with the uses within the district and are of the same general character as those of the district.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Mining, excavation, extraction of material and minerals are conditional uses in the A-1 Agricultural Protection District as specified in the Waseca County Unified Development Code. A site plan has been submitted for this site. The facility should meet the UDC requirements if all conditions are adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Any negative impact to the environment and should be addressed by the Conditions imposed by the Waseca County Conditional Use Permit and by the requirements of the State of Minnesota and should pose no threat to groundwater, surface water or to air quality.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

The proposed use has been in operation on the property under review under various Conditional Use Permits. The proposal is not anticipated to be detrimental or have adverse effect on the existing natural, historic, scenic views or features of the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. *All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.*

Note: staff condensed the conditions into one (1) since conditions presented in the staff report were similar to prior CUPs approved for the site

Public Agency Comments

An email containing the link to the staff report was provided to the County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Otisco Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:50 p.m.

Jon Erichson (Ulland Brothers) informed staff and the Planning Commission that the reclamation plan would be upgraded and emailed to staff. He added that the township supported the CUP renewal and the pit was not open to the public with operations relative to ongoing projects.

The public hearing was closed at 8:07 p.m.

Pearson made a motion to approve the criteria with Malterer seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to the County Board the Ulland Brothers Inc. conditional use permit. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

E. Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

Leiferman continued the hearing by presenting the next zoning case which was an amendment to Conditional Use Permit (CUP) to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

The owners of the site are ConAgra Foods Packaged Foods LLC. The property address of the screen house is 34529 US Highway 14 in St. Mary Township. The applicant submitted an application on April 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

- o On page 13 of the comprehensive plan, it states that: "Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth."
- o Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- o On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the I-General Industrial zoning district. He then proceeded to reading a zoning code extract relating to the request as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

(NN) Industrial waste processing facility. New industrial wastewater treatment facilities shall be allowed as conditional uses in the A-1 Agriculture Protection District, HC Highway Commercial District and I Industrial District. Industrial wastewater treatment facilities shall comply with the following requirements.

(1) *Site plan. Site plan review shall be required. Any new industrial wastewater treatment facility shall meet the minimum standards of § 6.15 of the Uniform Development Code providing for general standards for commercial and industrial uses.*

(2) *Setbacks.*

(a) *Treatment pond to residence: 1,000 feet;*

(b) *Spray Field to residence: 500 feet;*

(c) *Treatment pond or spray field to a public right-of-way: 100 feet;*

(d) *Treatment pond or spray field to a public or private ditch: 100 feet;*

and

(e) *Treatment pond or spray field to any body of water, perennial or intermittent stream, or wetland: 100 feet.*

(3) *Access. If the Planning Commission determines it necessary, the site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate.*

(4) *Local, state and federal regulations. Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.*

§ 6.19 I GENERAL INDUSTRIAL DISTRICT

(C) *Conditional uses (see Article 4 for accessory uses).*

(16) *Industrial wastewater treatment facility;*

Leiferman then showed site locations for the three amendment proposals and also explained the project details for the screen house proposed to be constructed.

Issues with the request

1. **Odors- Hydrogen Sulfide.** The applicant currently utilizes various spray fields and the treatment ponds to treat the industrial wastewater generated by the vegetable processing plant. Odors are generated when these facilities are operated. Odors produced at the plant are the result of hydrogen sulfide generated by the wastewater treatment process as the water is sprayed onto fields or stored in the ponds (lagoons). Hydrogen sulfide is mainly created through the biological degradation of organic matter and sulfur compounds under anoxic or anaerobic environments. The proposed upgrades are being implemented to address the formation of hydrogen sulfide at ConAgra's existing lagoon storage facility. The company also plans to install equipment to screen the wastewater prior to placing the water in the ponds reducing the amount of material generating odors.

Foth Engineering has been employed to attempt to address the odor issues at the ConAgra plants. Foth is working to resolve the odor issues by maintaining the pH (acidity level) of the stored process wastewater. The objective is to store the water at or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide, further reducing potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Foth is recommending the installation of the following equipment and products to assist with the odor reduction effort:

1. One (1) new 2,400 ft² building to house the new process equipment.
2. Two (2) new internally fed rotary drum screens – replace existing drum screens currently installed at current manufacturing facility
3. Two (2) new belt conveyors or screw type augers to transfer collected solids from new screens to the existing silage pad for use by area farmers for animal feed.

4. One (1) new drilled well for hot and cold water including:
 - a) One (1) well pump – Approximately 125-gpm @ 175-ft TDH
 - b) One (1) pressure tank to maintain system pressure
 - c) One (1) natural gas water heater
 - d) One (1) 1,200 gallon hot water storage tank with pressure relief
 - e) Associated distribution piping

The current existing facility and proposed new additions and construction are shown in the materials provided by Foth. The location of the building housing the screens, conveyors, tanks, pumps and mixers are illustrated on the proposed-revised site plan. Finally, the layout of the equipment within the proposed screen house building are illustrated on the plan titled Screen House Layout. Please note that provisions are being made for a third screen but only two are planned for installation at this time. The facility also has plans to install additional aeration in the storage lagoons to promote oxic conditions, further reducing the formation of hydrogen sulfide. However, the addition of aerators is being completed separate from this project.

This present plan is the Company's attempt to control odor from waste generated at the main plant and this will extend to the new plant when the new facility is completed in the future. ConAgra has not advised what the plans are for the current facility once the new facility is built or whether the company will need to continue to process wastewater from the old plant once the new one is put into service. Regardless, the new plant will most likely intensify the use of the wastewater treatment facilities even if the old facility is no longer tied to the wastewater treatment facility.

2. **Water Impacts.** That there is a possibility that the process water could leave the site. County Ditch (CD) 45 and 15-1 are impacted by the flow from the ConAgra facilities. The company maintains a number of monitoring wells to assure contaminated process water does not pollute the water leaving the site. In addition, there is a private ditch which flows into County Ditch 45 which may be impacted by the increase in the amount of flow leaving the site. Staff has reached out to the ditch group to see if there are concerns with water drainage at this time and have not heard back from them.
3. **Minnesota Pollution Control Agency (MPCA).** The MPCA is responsible for the certain permits for this facility. Staff has received comments from the MPCA regarding this wastewater project. The County does not have copies of the NEW MPCA Permits as they have not been issued.
4. **Erosion Control.** The applicants have obtained National Pollution Discharge Elimination Systems Permit (NPDES) from the Minnesota Pollution Control Agency for previous projects approved by original CUP and amendments to the CUP for the Industrial Wastewater Treatment Facility. The applicants are responsible for obtaining an NPDES permit if required for this project

Criteria and Proposed Findings:

- 1) **Will the proposed use have an impact (adverse) on the health, safety, and general welfare of the occupants in the surrounding neighborhood?**

ConAgra (Foth Engineering): None anticipated. Spray field acreage removal is more than being added. Spray field addition is adjacent to existing approved spray fields. Screen house will improve wastewater treatment processes

Waseca County: Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels utilized to spray on fields and to treat the wastewater.

An Environmental Assessment Worksheet (EAW) was completed at the request of the Minnesota Pollution Control Agency and Waseca County Planning and Zoning based

on interpretation of Minnesota Rule 4410.4300, subpart 18C for the construction of the industrial wastewater treatment system in 2014. The EAW finding were negative (meaning an Environmental Impact Statement was not required). Essentially, the EAW found that if the new drainage structures and equipment were constructed and utilized according to the plans presented, there should be no public health or environmental concerns.

The EAW discussions at the time of the development of the EAW and through the permit application process contemplated the construction and development of additional property to be utilized as spray fields to treat the industrial wastewater. A mixture of plants including reeds canary grass have been and will be planted and harvested will absorb some of the nutrients contained in the water.

The Minnesota Pollution Control Agency has also issued a National Pollution Discharge Elimination Systems (NPDES) permit for the original sites that has been updated from time to time when facility improvements have been made. This permit monitors air and water quality at the sites and regulates flow leaving the site. The spray sites are to be monitored daily when they are operated. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

In addition, tile discharge exceedances are managed with daily discharge inspections and spray site management. The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges.

Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels. With each new modification come hopes the odor generated by the facility will improve. Odor continues to be an issue and the smell can travel miles from the spray fields while they operate and from the ponds at certain times of the year. The screening to remove additional plant materials together with efforts to control hydrogen sulfide levels should help with odor issues. Conditions provide that the CUP may be monitored on an annual basis to determine if the project is in compliance with the requirements of the CUP.

2) Will the proposed use have an impact (adverse) on traffic conditions including parking?

ConAgra (Foth Engineering): No portion of this proposal affects parking issues.

Waseca County: The proposed project will have only a minor impact on traffic to the proposed site during construction and during the operation of the system. On-going operations will be monitored and conducted from an off-site location. Short-term vehicle parking may be needed as system

technicians move spray nozzles on the site and monitor the sites or as chemical water treatment is added or employed as permitted by the NPDES permit. Inspections and farm equipment used to harvest the crops will access the site from the existing field drive on the parcels during the growing season.

3) **Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?**

ConAgra (Foth Engineering): Not applicable with proposal.

Waseca County: Additional public utilities should not be required for the proposed uses on the properties. There will not be any required changes to the existing schools or roadways.

4) **Will the proposed use have an effect (adverse) on property values or future development of land in the surrounding neighborhood?**

ConAgra (Foth Engineering): No. All proposed uses are part of existing approvals for properties.

Waseca County: Odor and Drainage are the primary concerns with this CUP amendment.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

The Minnesota Pollution Control Agency National Pollution Discharge Elimination Systems (NPDES) permit will monitor air and water quality at the sites and regulates flow leaving the site(s). The spray sites will be monitored daily when in use. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges. The ConAgra properties are included in the benefitted area of County Ditch 45. Notwithstanding any private issues related to the private drainage agreement, the land can drain to County Ditch 45 without any additional cost or procedure.

5) **Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?**

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The following are extracts from the Waseca Comprehensive Plan:

- On page 13 of the comprehensive plan, it states that: “Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth.”
- Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

6) Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The Unified Development Code (UDC) was amended in April 2014 to include Industrial Waste Treatment Facilities as a Conditional Use in the I-Industrial, HC-Highway Commercial and A-1 Agricultural Protection Districts. A site plan has been submitted for this amendment to Conditional Use permit.

7) Will the proposed use have an effect (adverse) on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The improvements to be made to the Industrial Wastewater Treatment System have been and are being completed to reduce odor generated by the facility. The goal is to maintain compliance with the company’s Minnesota Pollution Control Agency (MPCA) permits. The permitted spray irrigation acres have fluctuated over the past several years. Wastewater is generally applied to spray fields when conditions allow during the harvest season. The new industrial waste water storage treatment facility includes an on-site waste water management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank; a 25,000 square feet concrete silage storage pad.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard

units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

There are systems in place to monitor water quality at throughout the system. A series of 12 ground water monitoring wells monitor the application of wastewater at the spray fields and at the silage collection and storage sites.

The processing agriculture wastewater is also complicated due to the seasonal nature of food processing. The processing of food from raw materials requires large volumes of high grade water. The method to treat the wastewater from plants, such as the one at ConAgra, is to spray the water over large areas to remove any suspended solids and BOD. The water can be collected from certain spray fields and then reprocessed to further improve water quality. At times when the ground is frozen or saturated, water can be collected in the lagoons or ponds and then processed later when weather conditions improve. The applicant has noted that additional aeration and the dual storage lagoons are designed to help with control odor. The addition of chemicals to control pH should continue the efforts to bring the facility into compliance with state odor and water standards.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

8) Will the proposed us have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

ConAgra (Foth Engineering): No, all proposed uses are consistent with existing approved CUP for properties.

Waseca County: The proposed changes to the sites involved in this Conditional Use Permit Amendment should not have a negative impact on any existing natural, historic, or scenic views or features in the surrounding neighborhoods. A portion of a permitted spray field under the original 2014 Conditional Use permit is being redeveloped into a new vegetable processing plant. This site is now located within the City of Waseca and will not be regulated by the Waseca County Conditional Use Permit. The City of Waseca has classified the use as a legal-nonconforming use. In addition, the old water storage lagoon located in Section 13 of St. Mary Township is being filled and planted to be used as additional spray field as part of this Conditional Use Permit Amendment. The site will take on the appearance of a vegetated farm field. Lastly, the 2,500 square foot Screen House building is rather small in scale and

should not have a negative impact on the appearance in the area.

9) Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

ConAgra (Foth Engineering): Nothing that the applicant is aware of.

Waseca County: There are federal, State Statutes and Rules, Waseca City Code, as well as County requirements for this project which are incorporated in the records and in these findings. Local, State and Federal Regulations - Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No Waseca County zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. *Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.*

Note: the sentence in italics was added by staff during the hearing

3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, *with the exceptions described above*, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Note: the sentence in italics was added by staff during the hearing

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.
 - e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review

8. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Minnesota Pollution Control Agency, the Minnesota Department of Transportation, Waseca, Waseca County Public Health, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to St. Mary and Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:24 p.m.

Ralph Castro (ConAgra) provided some insights on the proposal. Sommers asked Castro what was not working on the pond/plant? Castro responded that chemicals were not working right and thus producing odor. Armstrong asked the number of employees projected to be added should the vegetable processing plant be operated. Castro responded that they were proposing to continue operation. Leiferman asked what ConAgra was proposing to use the old plant. Castro responded that ConAgra was proposing to shut down the old Bird's Eye plant

The public hearing was closed at 8:29 p.m.

Malterer made a motion to approve the criteria with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to County Board the ConAgra conditional use permit amendment with conditions as amended. Pearson seconded and it was passed unanimously with 4 Yes 0 No.

MISCELLANEOUS

(A) Transfer of Development Rights (TDR)

Leiferman informed the Planning Commission about the increase in projects within the county requiring a Transfer of Development Rights. He made mention of one situation along Knutson Lake where Planning Staff was asked about the need to obtain a development in a situation where a property owner had received a letter from the Waseca County Planning Department explaining that a parcel being sold the right to develop a home under the previous code (prior to July 21, 2009). The code change in July of 2009 changed the density provisions for the A-1 Agriculture Protection District. Under the previous code, the parcel along Knutson Lake was considered to be non-productive farmland but was buildable at the time prior to 2009. Leiferman then informed the Planning Commission staffs opinion in rectifying such situations thus requiring the need for a zoning code change. He furthered that the Department of Agriculture and the DNR would have to review any code changes relating to Ag. Preserve and Shoreland. The Commission considered the density limitations set forth in the code which were established as a trade-off for areas of the code which were made less restrictive. The Planning Commission members sought additional information to include the number of parcels which would be impacted by such a change. Staff will provide this information at a future Planning Commission meeting.

(B) Similar Use Provision- Licensed Residential Program

Leiferman informed the Planning Commission that the County received a request from the Trinity Sober house to redevelop the property located at 25797-120th Street, New Richland into a facility to be used as a weekend meditation and respite for people currently seeking assistance at Trinity's Minneapolis-St. Paul facilities. Leiferman then provided the Planning Commission options staff was proposing to review the request either as a similar use to the Licensed Residential Program or by a conditional use permit as a Retreat House/Retreat Center. The Planning Commission advised staff to provide the two options to the Applicant.

(C) Conditional Use Permit to Mine, Excavate, Process and Stockpile Sand and Gravel Aggregate

Leiferman continued the miscellaneous items discussion by providing a background on a CUP approved last year for Pentagon Materials and Joseph Sack which has been the location of a mining operation, off and on, for decades. He informed the Planning Commission that Jim Voda (Pentagon Materials) had concerns about the approval process last year (COVID Public Hearing issues) and requests the County to reconsider their CUP request to allow the company mine more of the site. Leiferman then provided the Planning Commission on proposed long term uses of the site provided by Pentagon Materials. Leiferman

asked if the Planning Commission wanted to proceed with the Pentagon Materials request in advance of the two year permit approval date with the next step being a neighbor meeting. The Planning Commission concurred with staff to proceed on the matter.

(D) Hunting Shack Changes

Leiferman informed the Planning Commission on recent information concerning the replacement of two out of three hunting shacks on a parcel on Buffalo Lake which appears to not meet setbacks and larger than the size requirements stipulated in the UDC. Leiferman added that there were two sites on the west side of Buffalo Lake with what appears to be 10 or 11 hunting shacks and there was no information on file at P&Z regarding these structures. He then read out the requirements for hunting shacks. An email received from the DNR was also read to the Planning Commission which basically mentioned that the 200 foot OHWL setback needed to be implemented and mentioned concerns with the storage of materials and road construction below the OHWL. The DNR also indicated the location of the shacks may be a public waters violation as well as an ordinance violation. To proceed with this request, the owners will need a variance or variances as well as a conditional use permit.

F. Agricultural Covenant Discussion- Solar & Density

Leiferman informed the Planning Commission that staff received another request to consider a project located on Agriculture Covenant property. The project is a 1 MW facility just off the East Elysian Lake Road. He further stated over the years staff and the County Board have looked a number of ways to address the issue. The program restricts solar on the site and the MN Department of Agriculture has labeled solar as a commercial use. One may be simple remove the covenants from all of the properties as allowed under MN Statutes 40A.11. The County can send out certified letters to owners withdrawing from the program using the method in the statute. As background, the County entered into the program in 1988. The program pays farmers \$1.50 per acre in exchange for participating in the program. The goal is to preserve agricultural lands. The limited number of Counties that participate in the program pay into the state \$5.00 on each mortgages and deeds recorded with the County Recorder to fund the program. The state returns funds based upon the number of acres enrolled multiplied times \$1.50 per acre. Under these formulas, the County is a large net gainer paying in far less than we receive from the state. This is a huge disincentive to withdraw as outlined above. Also, it would still take 8 years to get out of the requirements. No solar company is looking that far out.

Staff provided another option which would be to amend the Waseca County's Farmland Preservation Plan. This would amend language within the document to define 1 megawatt solar projects as an agricultural use. If authorized by the state, the County would also need to modify our official controls (Zoning code and Comprehensive Plan) to reflect the change as well. The Planning Commission expressed a willingness to proceed with this effort.

ADJOURNMENT

Sommers made a motion with Roemhildt seconding to adjourn the meeting.
Meeting adjourned at 9:31 p.m.



**Waseca County Board of Commissioners
Request for Board Action**

Conditional Use Permit (CUP) amendment request to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC

Meeting Date:	June 1, 2021	Fiscal/FTE Impact:
Item Type:	☐ Consent ☒ Action	☒ None
Department:	Planning and Zoning Department	☐ Current budget
Contact:	Mark Leiferman, Planning and Zoning Administrator	☐ New FTE(s) Requested
Contact Phone:	(507) 835-0651	☐ Other
Prepared by:	Maame Yorke	☐ Amendment Requested

PURPOSE/ACTION REQUESTED

Conditional Use Permit (CUP) amendment to remove a spray field area and add screen house and spray field area.

SUMMARY

On Thursday May 6, 2021, the Waseca County Planning Commission held its regularly scheduled meeting and unanimously moved to recommend approval of the following request to the Waseca County Board of Commissioners:

Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

ConAgra Foods Packaged Foods LLC requests an amendment to their existing Conditional Use Permit to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;*
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and*
- iii. Add a future spray field area on approximately 25acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled.*

All of the ConAgra parcels are located in the I-General Industrial zoning district.

The full Planning Commission Report on these matters can be found on the Waseca County website on the Agendas tab at: https://www.co.waseca.mn.us/AgendaCenter/ViewFile/Agenda/_05062021-528

RECOMMENDATION

Staff suggests the Board to consider:

- 1) The approval of Criteria for Approval and the Findings of Facts;
- 2) The approval of the Conditional Use Permit in substantially the form as appended to this report.

The Planning Commission recommend approval of ConAgra Foods Packaged Foods LLC request to their existing Conditional Use Permit to include/remove the above mentioned in substantially the form as presented to include the following conditions:

Staff recommends approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. If approved, staff recommends the following conditions to be applied:

Standards/Regulations:

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans.

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.
3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, with the exceptions described above, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements:

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are

sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.

- e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review:

- 7. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

EXPLANATION OF FISCAL/FTE IMPACTS

None.

Supporting Documents:

Attachment A: Conditional Use Permit and Attachments

Attachment B: Findings of Facts (not for recording purposes)

Administrator's Comments:

- ☐ Recommend Action
- ☐ Do Not Recommend Action
- ☐ Reviewed – No Recommendation
- ☐ Reviewed – Information Only
- ☐ Submitted at Commissioner Request

Reviewed By (if required):

- ☐ County Attorney's Office
- ☐ Risk Management
- ☐ Human Resources
- ☐ Information Technology
- ☐ Building and Grounds

County Administrator

Do not write above this line - Recorder use only

**CONDITIONAL USE PERMIT AMENDMENT
WASECA COUNTY**

Date: June 1, 2021

Property Owners: ConAgra Foods Packaged Foods LLC

Property Address: 34529 US Highway 14 (Screen House Location)
Waseca, MN 56093

Township Name: Wilton Township

PIDs: 17.013.0600; 12.019.0500; 09.013.0510 & 09.013.0550
(See Attachment A for PIDs that are not directly impacted by this CUP Amendment)

Legal Description: See Attachment “B” (To be provided).

Proposed Use of Land:

Conditional Use Permit amendment to:

- I. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- II. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- III. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

Attachments:

Attachment “A” – Parcel Identification Numbers directly impacted and those not directly impacted by the CUP amendment

Attachment “B” – Conditions required for approval of the Conditional Use Permit

Attachment “C” – Legal Description

Attachment “D” – Site and building Plans

**THE COUNTY BOARD MOTION TO ADOPT FINDINGS OF FACT AND THE COUNTY
BOARD CONCLUSIONS AND ORDER**

The Waseca County Board of Commissioners have read the Findings of Facts referenced herein as provided to the County Board and on file in the office of the Planning and Zoning Department along with supporting information including the staff reports, and the Criteria for approval of the Conditional Use Permit that were recommended by the Waseca County Planning Commission which are included by reference with this report. The Criteria for approval are on file and of record in the office of the Waseca County Planning and Zoning Department and are incorporated in the Findings by reference. The Waseca Planning Commission took testimony at a public hearing and prepared the criteria for approval at the Planning Commission Meeting held on Thursday, May 6, 2021. The Board hereby adopts these Findings of Fact regarding the approval of the request for a Conditional Use Permit application as described above and as recommended by the Planning Commission and of record in the Waseca County Planning and Zoning Office.

The Waseca County Board also approves the recommendation of the Planning Commission to approve the request for a Conditional Use Permit in substantially the form as provided, with the conditions as outlined in Attachment "A" with all other local, state, and federal regulations.

Motion by _____ Second by _____ Vote ____ Yes ____ No

WASECA COUNTY

Dated: _____

DeAnne Malterer, Chairman
Waseca County Board of Commissioners

A T T E S T

Dated: _____

Tamara J. Spooner
Waseca County Auditor Treasurer

ATTACHMENT “A”
**PARCEL IDENTIFICATION NUMBERS DIRECTLY IMPACTED AND THOSE NOT
DIRECTLY IMPACTED BY THE CUP AMENDMENT**

As described herein, the following Waseca County Parcel Identification Numbers (PIDs) will be impacted by the proposed amendment to Conditional Use Permit (CUP):

Conagra Foods Packaged Foods- Proposed Changes in Approved Uses

17.013.0600- New Vegetable Processing Plant Removed from CUP- Annexed to City of Waseca-
120 Acres

09.013.0510- Decommissioned Lagoon added to Spray Field- 5.68 Acres

09.013.0550- Decommissioned Lagoon added to Spray Field- 24.83 Acres

12.019.0500- Add 2,400 Square Foot Screen House Structure to include chemical treatment of the
industrial wastewater- 80 acres

(See map on the following page)

**The following Waseca County Parcel Identification Numbers (PIDs) will not be impacted by the
proposed amendment to Conditional Use Permit (CUP):**

Conagra Foods Packaged Foods

09.013.0600- Continued use as a spray field and equipment storage- 76.7 Acres

Harry Alfred Sotebeer

09.013.0700- Continued use as a spray field- 76.54 Acres

Elizabeth McIntire

12.019.0900- Continued use as a spray field- 149.39 Acres

12.030.2300- Continued use as a spray field- 78.74 Acres

Robert J. and Gretchen Priebe

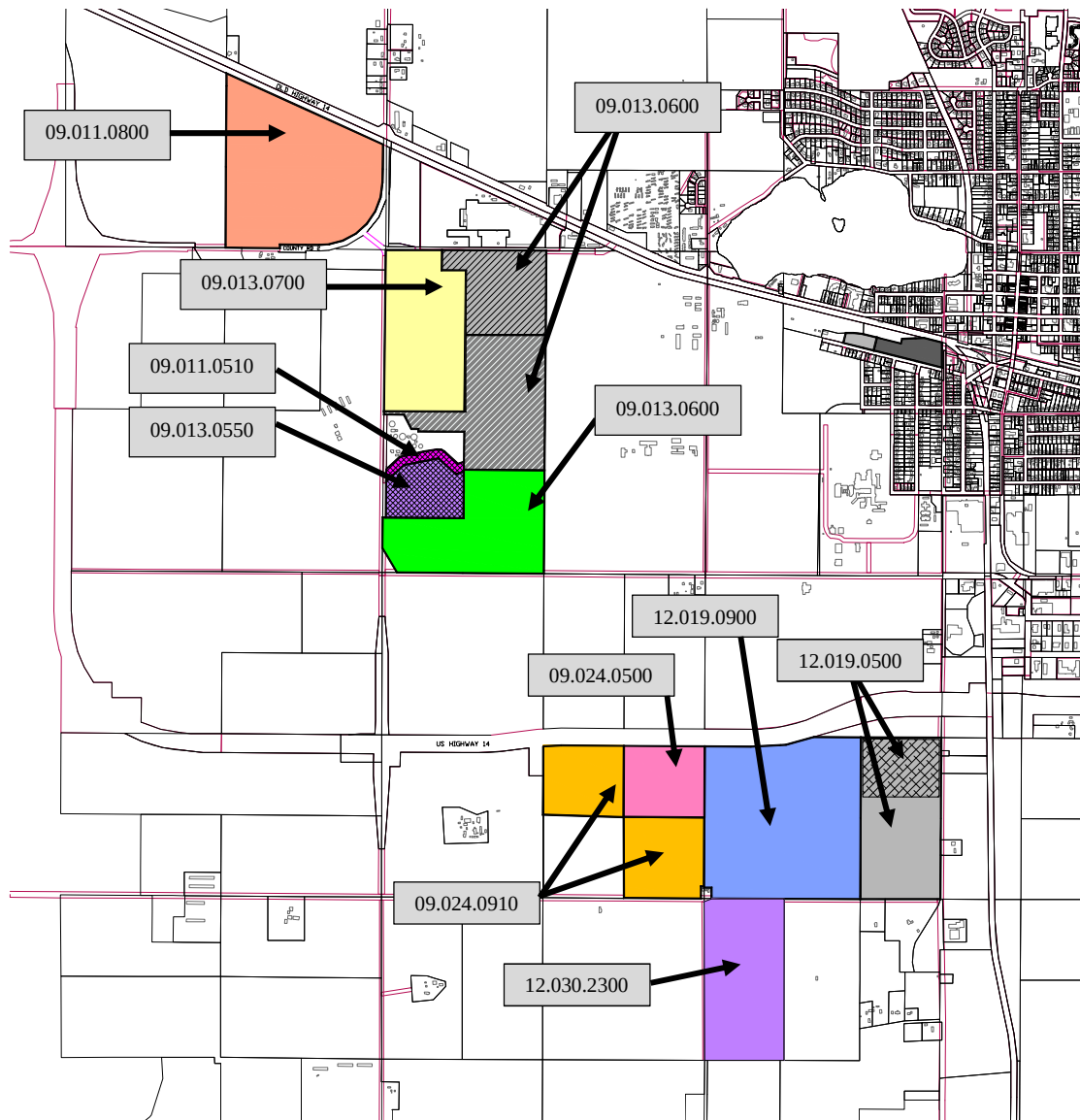
09.024.0910- Continued use as a spray field- 34.95 Acres

09.024.0500- Continued use as a spray field- 114.77 Acres

Gail J. Caven

09.011.0800 - Continued use as a spray field- 133.69

(See map on the following page)



Notes:

Hatched areas above show where current projects are being completed at the present time.

Conagra Foods Packaged Foods, LLC acquired Birds Eye Foods in 2018. Birds Eye (under various ownership names) has operated elements of an industrial wastewater processing facility in Section 13 of St. Mary Township since 1987 and in Section 19 of Woodville Township since 1995.

No conditional use permit was required for such facilities until the new industrial wastewater processing facility was constructed following the receipt of a conditional use permit (CUP) on October 21, 2014. This original CUP was recorded in the Office of the County Recorder as Document No. 305631. This CUP was amended on September 1, 2015 and again on November 6, 2018 to add additional spray fields. The Amendments to the CUP were recorded in the Office of the County Recorder as Document No. 305639 (2014) and 316671 (2018).

Conagra (Birds Eye) currently operates a food processing plant in the City of Waseca at 400 4th Street SW. In addition, a new food processing plant is under construction on a company owned spray field property in Section 13, Township 107 North, Range 23, West in the City of Waseca (County PID 17.013.0600). This construction was permitted without amendment to the existing and amended CUP since the site was annexed into the City of Waseca in 2020. In addition, the company also operates an industrial wastewater treatment system plant in Section 19 and 30 of Woodville Township and in Section 11 and 24 of St. Mary Township. The company processes the wastewater at the treatment plant or sprays water on fields (the “spray fields”) to remove pollutants from the process water under a separate permit issued by the Minnesota Pollution Control Agency (MPCA).

Birds Eye (now Conagra) is also in the process of decommissioned an old lagoon site to convert the use to spray field. This request is the third amendment of Conagra/Birds Eyes CUP to continue efforts to improve odor generated by the wastewater treatment facilities.

The primary activity at the facilities located outside of the City of Waseca is to treat wastewater used during the processing of peas and sweet corn during the vegetable harvest season for the Birds Eye facility located in the City of Waseca.

Wastewater generated at the existing plant, and in the plant under construction at the present time, consists or will continue to consist of contact and non-contact storm water, contact and non-contact cooling water, process and cleanup wastewater from vegetable processing, sweet corn silage leachate, and sweet corn silage pressate. Sanitary wastewater from the main plant facility and future plant facility is and will be routed to the City of Waseca Waste Water Treatment plant.

Birds Eye currently processes peas and sweet corn with peak production during the summer months and reduced production rates during the winter months. Process water is directly land applied during the growing season (May-November) as site conditions allow. The wastewater plant is also utilized during winter months (November-April) and during wet weather conditions which prevent direct land application using the spray fields.

The industrial wastewater storage treatment facility located in Section 19 of Woodville Township includes an on-site wastewater management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank and a 25,000 square feet concrete silage storage pad. There are also a series of 12 ground water monitoring wells for monitoring the application of wastewater at the spray fields and at the silage collection and storage site; as well as a series of drain tiles and zero discharge pump stations with three large spray sites for the land treatment of wastewater. As stated above, the new treatment plant project was located on old spray field land. The MPCA determined that Birds Eye needed to construct new spray field(s) to replace the spray field(s) lost in the area where the new industrial waste water storage and treatment facility were located.

In 2015, Birds Eye requested and received an amendment to their conditional use permit to construct additional spray fields on approximately 110 acres of land leased from Robert J. and Gretchen Priebe. A new wastewater force main was installed to connect the new treatment site to an existing force main located adjacent to the right-of-way of U.S. Highway 14. The amended CUP involved the installation

of approximately 2,220 lineal feet of new HDPE water main with seven risers that are used to apply water to fields that are drained to a private ditch.

In 2018, Pinnacle Foods (Birds Eye Foods) requested and received an amendment to their conditional use permit to construct additional spray fields on approximately 134 acres of land leased from Gail J. Caven. A new wastewater force main and circular pivot were installed and connected to the original treatment site at that time. The new facilities are located in the southeast quarter (SE ¼) of Section 11 of St. Mary Township.

All the Conditions of the original conditional use permit and the amendments referenced above shall remain in effect.

ATTACHMENT “B”
CONDITIONS REQUIRED FOR APPROVAL OF THE CONDITIONAL USE PERMIT

Standards/Regulations:

2. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans:

3. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP.
4. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
5. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises:

6. Any changes to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements:

7. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.

- e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review:

A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

ATTACHMENT "C"
**LEGAL DESCRIPTIONS OF THE PARCELS IMPACTED BY THIS CONDITIONAL USE
PERMIT AMENDMENT**

Legal Description- Parcel A
Site Removed from Conditional Use Permit when Annexed into the City of Waseca
(New Plant Site)

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 107 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASECA COUNTY, MINNESOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF NORTHWEST QUARTER OF SAID SECTION 13, THENCE SOUTH 00° 28' 07" WEST, 1466.83 FEET ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13 TO THE SOUTH LINE OF THE NORTH 1466.83 FEET OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 1326.60 FEET ALONG SAID SOUTH LINE TO THE WEST LINE OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 1136.83 FEET ALONG SAID WEST LINE TO A POINT DISTANT SOUTHERLY OF THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 396.00 FEET PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 330.00 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 89° 34' 26" EAST, 1720.49 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2,075,027 SQUARE FEET OR 47.64 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83 (96 HARN) WASECA COUNTY COORDINATE SYSTEM.

Legal Description- Parcel B
Site Removed from Conditional Use Permit when Annexed into the City of Waseca

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 107 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASECA COUNTY, MINNESOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13, THENCE SOUTH 89° 39' 46" EAST, 1328.29 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE NORTH 00° 33' 05" EAST, 1171.84 FEET ALONG THE WEST LINE OF THE EAST HALF OF SAID NORTHWEST QUARTER TO THE SOUTH LINE OF THE NORTH 1466.83 FEET OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE SOUTH 89° 34' 26" EAST, 1326.60 FEET ALONG SAID SOUTH LINE TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 00° 28' 07" WEST, 1169.78 FEET ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE CONTINUING SOUTH 00° 28' 07" WEST, 959.34 FEET ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE SOUTH LINE OF THE NORTH 959.34 FEET OF THE NORTHEAST QUARTER OF SAID SOUTHWEST QUARTER; THENCE NORTH 89° 39' 46" WEST, 1329.76 FEET ALONG SAID SOUTH LINE TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SOUTHWEST QUARTER; THENCE NORTH 00° 33' 23" EAST, 629.34 FEET ALONG SAID WEST LINE TO THE NORTHERLY LINE OF LOT 1, BLOCK 1 OF WASECA WASTEWATER TREATMENT FACILITIES FIRST ADDITION, AS RECORDED IN THE WASECA COUNTY RECORDER'S OFFICE; THENCE NORTH 89° 39' 46" WEST, 755.50 FEET ALONG SAID NORTHERLY LINE; THENCE NORTH 00° 38' 39" EAST, 39.99 FEET CONTINUING ALONG SAID NORTHERLY LINE; THENCE NORTH 89° 39' 40" WEST, 117.50 FEET CONTINUING ALONG SAID NORTHERLY LINE; THENCE NORTH 27° 19' 17" WEST, 265.32 FEET CONTINUING ALONG SAID NORTHERLY LINE; THENCE NORTH 89° 39' 40" WEST, 331.38 FEET CONTINUING ALONG SAID NORTHERLY LINE TO THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 00° 38' 39" EAST, 55.00 FEET ALONG SAID WEST LINE TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 3,152,173 SQUARE FEET OR 72.36 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83 (96 HARN) WASECA COUNTY COORDINATE SYSTEM.

The Parcel Identification Number (PID) for the above tracts is 17.013.0600. The above tracts were removed from PID 09.013.0600. The legal description for Parcel C is the remnant of PID 09.013.0600.

Legal Description- Parcel C
The Portion of Parcel Identification Number 09.013.0600 to Remain in Waseca County
(Portion Not Annexed)

That part of the SW1/4 and NW1/4 of Section 13, Township 107 North, Range 23 West, Waseca County, Minnesota, described as follows: Beginning at the SE corner of said SW1/4; thence North 89 degrees 22 minutes 03 seconds West, assumed bearing, 2418.06 feet along the south line of said SW1/4 to a point distant 246.50 feet easterly of the SW corner of said SW1/4 as measured along the south line of said SW1/4; thence North 30 degrees 54 minutes 50 seconds West 468.42 feet to a point on the west line of said SW1/4 distant 399.20 feet northerly of the SW corner of said SW1/4 as measured along the west line of said SW1/4; thence North 00 degrees 50 minutes 14 seconds East 500.81 feet to the NW corner of the South 900.00 feet of the SW1/4 of the SW1/4 of said Section; thence South 89 degrees 22 minutes 03 seconds East 1330.92 feet to the NE corner of the South 900.00 feet of the SW1/4 of the SW1/4 of said Section; thence North 00 degrees 45 minutes 03 seconds East 1408.79 feet to the SE corner of the North 330.00 feet of the NW1/4 of the SW1/4 of said Section; thence North 89 degrees 27 minutes 46 seconds West 1328.80 feet to the SW corner of the North 330.00 feet of the NW1/4 of the SW1/4 of said Section; thence North 00 degrees 50 minutes 14 seconds East 330.01 feet to the NW corner of said SW1/4; thence South 89 degrees 27 minutes 46 seconds East 1328.30 feet to the SE corner of the SW1/4 of said NW1/4; thence North 00 degrees 44 minutes 57 seconds East 1308.62 feet along the sixteenth line of said NW1/4 to a point distant 330.00 feet southerly of the NE corner of the NW1/4 of said NW1/4 as measured along said sixteenth line; thence North 89 degrees 22 minutes 32 seconds West 396.00 feet parallel with the north line of said NW1/4; thence North 00 degrees 44 minutes 57 seconds East 330.00 feet to the north line of said NW1/4; thence South 89 degrees 22 minutes 32 seconds East 1720.40 feet to the NE corner of said NW1/4; thence South 00 degrees 39 minutes 52 seconds West 5277.60 feet to the point of beginning.

EXCEPT:

Lot 1, Block 1, Waseca Wastewater Treatment Facilities First Addition, according to the Plat thereof on file and of record in the Office of the County Recorder in and for the County of Waseca, State of Minnesota.

Property Tax Identification Number: 09.013.0600

Legal Description- Parcels D & E

Former Lagoon Site to be converted to spray field and Potential Sale to the City of Waseca

That part of the NW1/4 of the SW1/4 of Section 13, Township 107 North, Range 23 West, Waseca County, Minnesota, described as follows: Beginning at the SE corner of Lot 1, Block 1, Waseca Wastewater Treatment Facilities First Addition, according to the recorded Plat thereof, said Waseca County; thence South 00 degrees 33 minutes 12 seconds West, assumed bearing along the east line of said NW1/4 of the SW1/4, a distance of 159.46 feet; thence South 70 degrees 43 minutes 05 seconds West, 138.36 feet; thence North 48 degrees 24 minutes 17 seconds West, 390.04 feet; thence South 78 degrees 44 minutes 54 seconds West, 573.22 feet; thence South 48 degrees 08 minutes 10 seconds West, 399.65 feet to the east right of way line of C.S.A.H. No. 27, as dedicated per said plat; thence North 00 degrees 38 minutes 39 seconds East along said east right of way line 203.48 feet to the SW corner of said Lot 1, Block 1; thence North 48 degrees 08 minutes 10 seconds East, along the south line of said Lot 1, a distance of 301.34 feet; thence North 77 degrees 24 minutes 51 seconds East, along said south line of Lot 1, a distance of 394.43 feet; thence North 80 degrees 50 minutes 58 seconds East, along said south line of Lot 1, a distance of 228.99 feet; thence South 83 degrees 53 minutes 10 seconds East, along said south line, a distance of 73.59 feet; thence South 61 degrees 07 minutes 02 seconds East, along said south line, a distance of 49.96 feet; thence South 48 degrees 24 minutes 17 seconds East, along said south line, a distance of 308.27 feet; thence North 70 degrees 43 minutes 05 seconds East, along said south line, a distance of 104.32 feet to the point of beginning.

AND

That part of the NW1/4 of the SW1/4 and the SW1/4 of the SW1/4 of Section 13, Township 107 North, Range 23 West, Waseca County, Minnesota, described as follows: Commencing at the SE corner of Lot 1, Block 1, Waseca Wastewater Treatment Facilities First Addition, according to the recorded Plat thereof, said Waseca County; thence South 00 degrees 33 minutes 12 seconds West, assumed bearing along the east line of said NW1/4 of the SW1/4, a distance of 159.46 feet to the point of beginning; thence South 70 degrees 43 minutes 05 seconds West, 138.36 feet; thence North 48 degrees 24 minutes 17 seconds West, 390.04 feet; thence South 78 degrees 44 minutes 54 seconds West, 573.22 feet; thence South 48 degrees 08 minutes 10 seconds West, 399.65 feet to the east right of way line of C.S.A.H. No. 27, as dedicated per said plat said line, also the east line of the West 49.50 feet of said NW1/4 of the SW1/4; thence South 00 degrees 38 minutes 39 seconds West along said east line of the West 49.50 feet and its southerly extension, a distance of 584.22 feet to the north line of the South 900.00 feet of said SW1/4 of the SW1/4; thence south 89 degrees 34 minutes 02 seconds East along said north line of the South 900.00 feet thereof, a distance of 1281.40 feet to the east line of said SW1/4 of the SW1/4; thence North 00 degrees 33 minutes 12 seconds East, along said east line of the SW1/4 of the SW1/4 and said east line of the NW1/4 of the SW1/4, 759.21 feet to the point of beginning.

Property Tax Identification No. 09.013.0510; 09.013.0550

Legal Description- Parcel F
Industrial Wastewater Treatment Facility

The SW1/4 of the SE1/4 and the NW1/4 of the SE1/4 of Section 19, Township 107 North, Range 22 West, Waseca County, Minnesota, more particularly described as follows: Beginning at the SW corner of said SE1/4; thence North 00 degrees 09 minutes 29 seconds East, assumed bearing, 2648.24 feet along the west line of said SE1/4 to the NW corner of said SE1/4; thence South 89 degrees 52 minutes 44 seconds East 1321.96 feet to the NE corner of said NW1/4 of SE1/4; thence South 00 degrees 07 minutes 29 seconds West 2649.73 feet to the SE corner of said SW1/4 of SE1/4; thence North 89 degrees 48 minutes 52 seconds West 1323.50 feet to the point of beginning.

Property Tax Identification Number: 12.019.0500

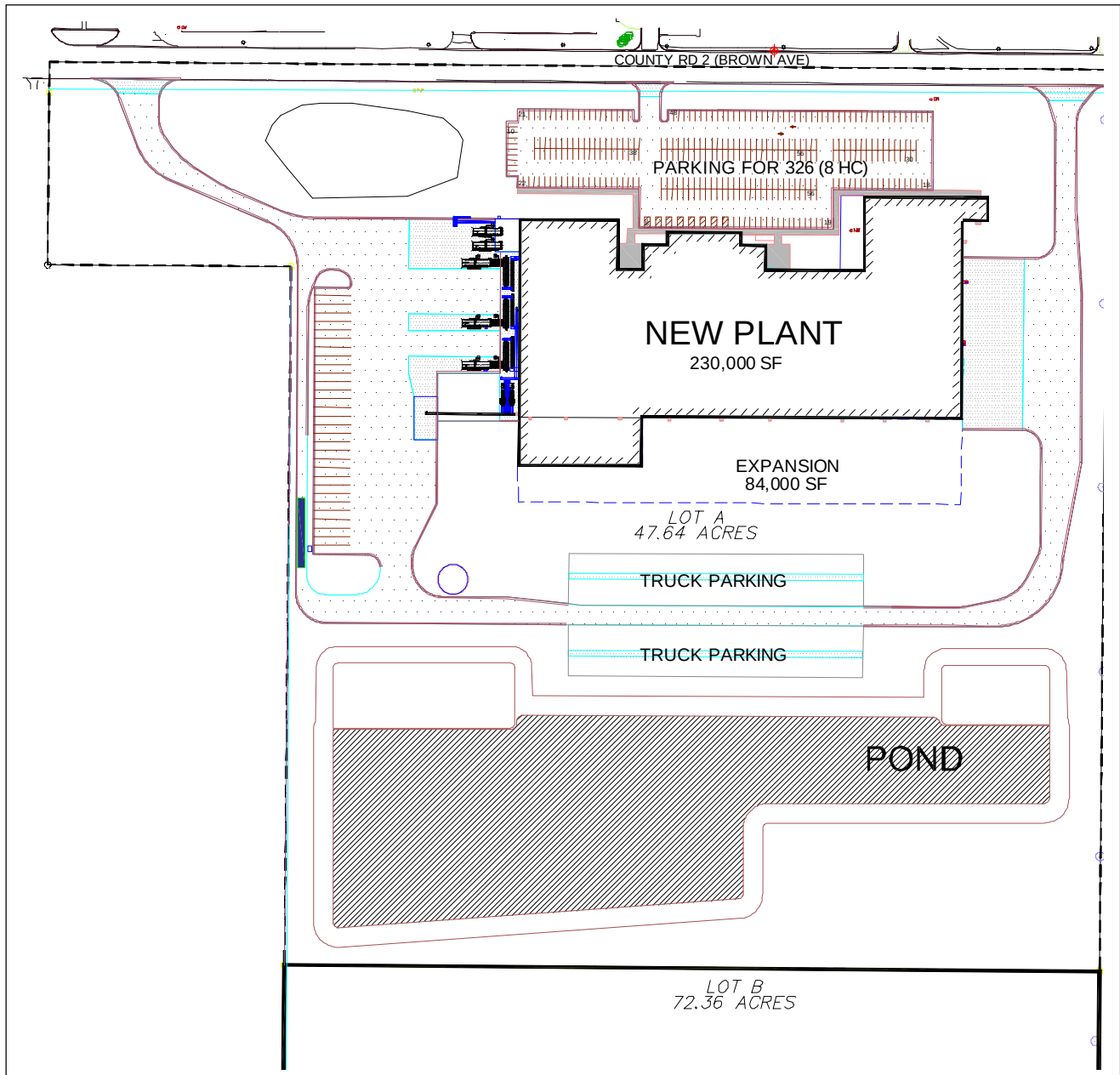
ATTACHMENT "D"

Site Plan- Parcel A

Site Removed from Conditional Use Permit when Annexed into the City of Waseca

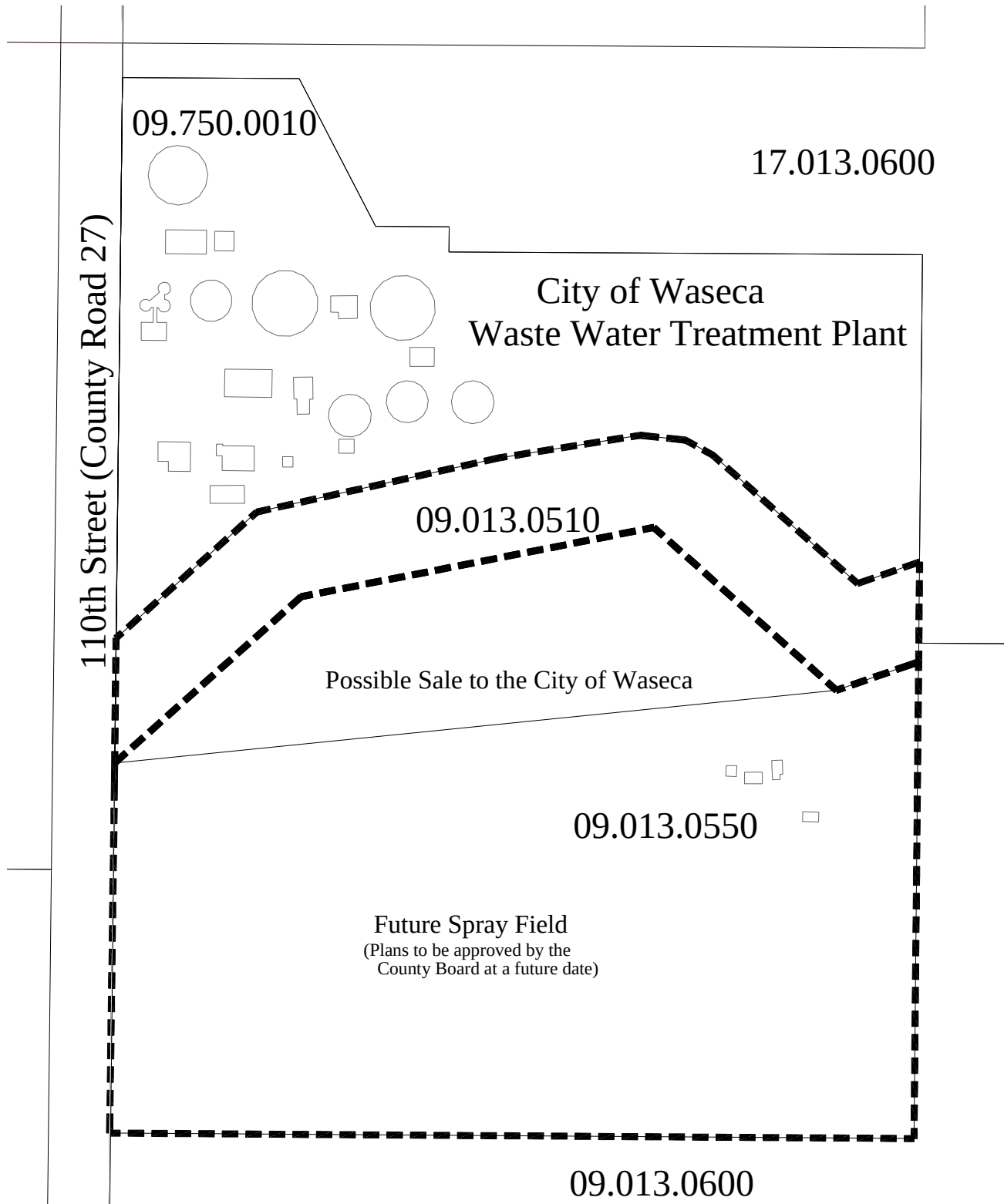
New Parcel Identification Number: 17.013.0600*

Old Parcel Identification Number: 09.013.0600

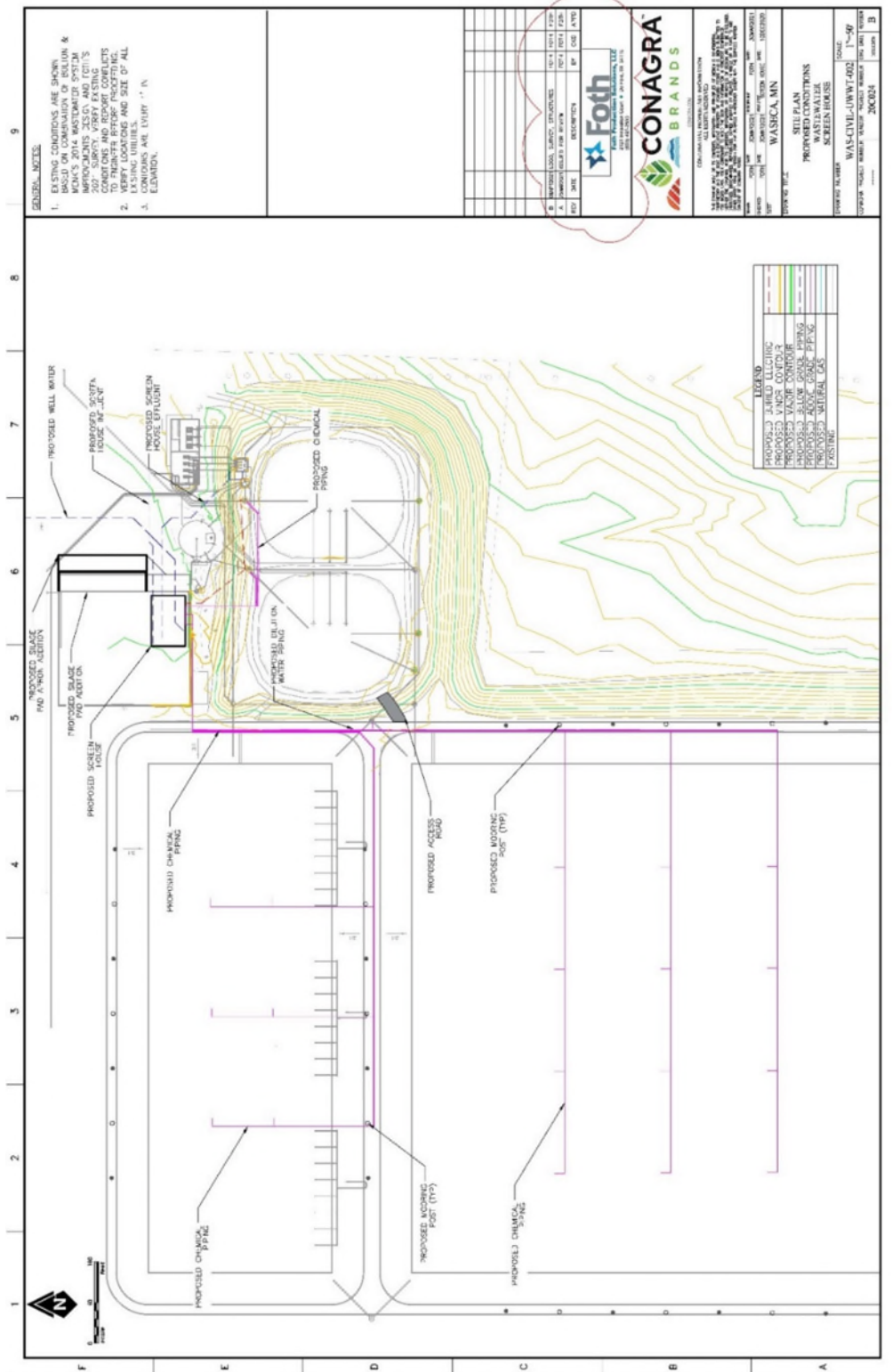


* A portion of the old Parcel Identification Number remains with this original number.

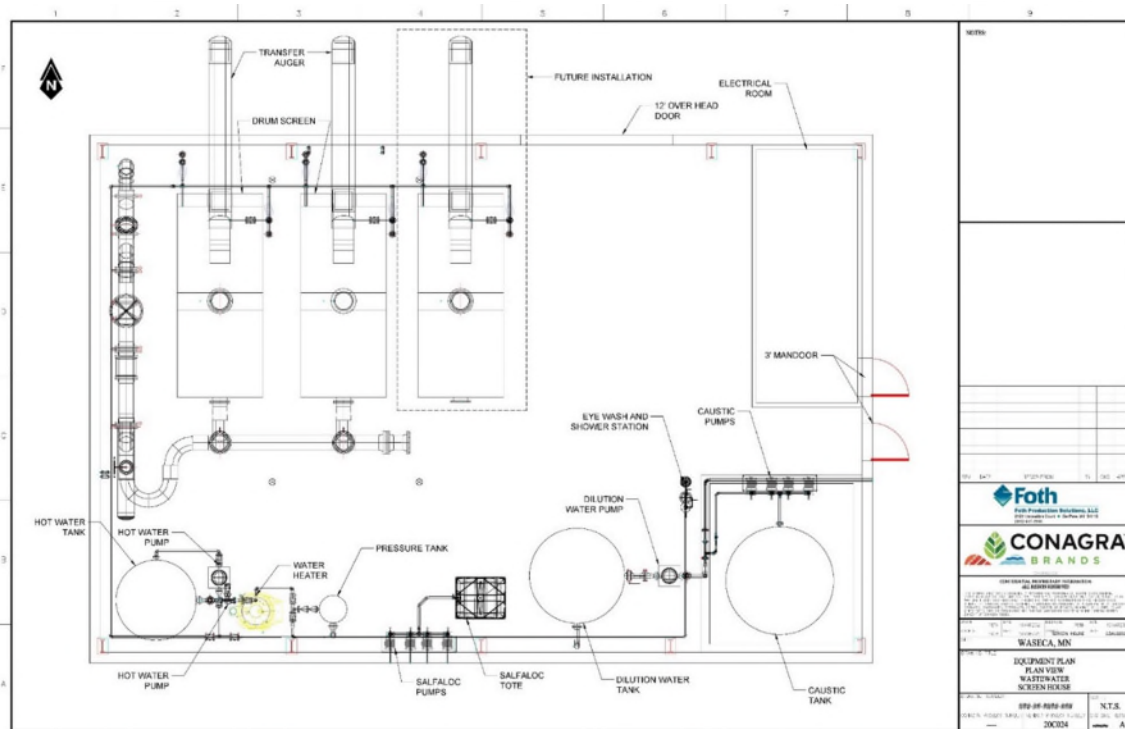
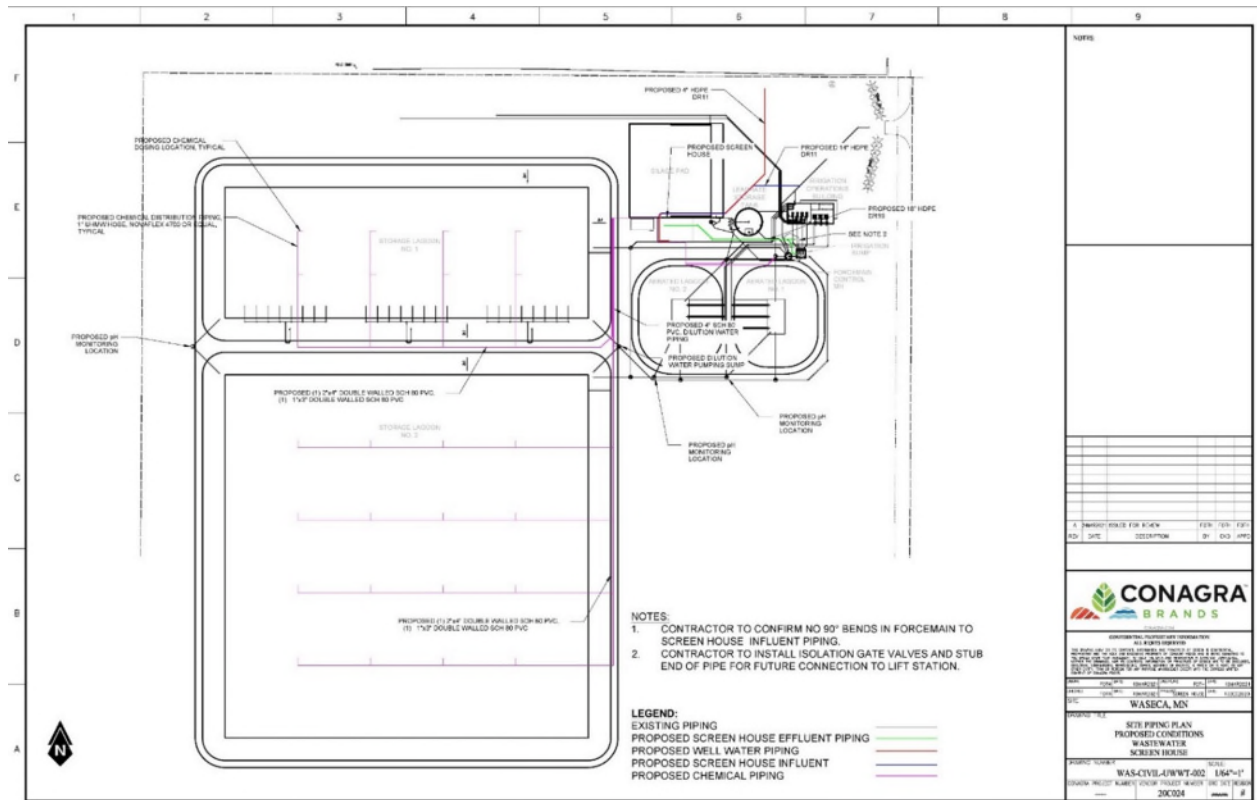
Site Plan- Parcel F
Legal Description- Parcels D & E
Former Lagoon Site to be converted to spray field



Site Plan- Parcel F **Screen House and New Piping Locations.** **Property Tax Identification Number: 12.019.0500**



Site and Building Plan- Parcel F
New Piping Locations and Screen House Floor Plan.
Property Tax Identification Number: 12.019.0500



ConAgra Foods Packaged Foods LLC
Conditional Use Permit amendment request to remove a spray field area and add screen house and spray field area

May 6, 2021

FINDINGS OF FACT

1. On April 9, 2021, ConAgra Foods Packaged Foods LLC, represented by Jeff Muenkel (Foth Engineering), presented an application for a Conditional Use Permit (CUP) amendment request to:
 - i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
 - ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
 - iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled.

Legal description for the proposed development site is attached to the CUP document.

2. As of the date of the application, the above-listed application was on file for public inspection in the Waseca County Planning and Zoning Office. The above listed application and supporting documents are incorporated into these Findings by reference.
3. Notice of the public hearing scheduled for on the applicants' request for a conditional use permit was published in the Waseca County News (the 2021 official newspaper for Waseca County) on April 22, 2021. The Affidavit of Publication is included in the files and are incorporated herein by reference.
4. On or before April 23, 2021, the Planning and Zoning Office notified owners of nearby properties and all of the Township Officers as per requirements of the Unified Development Code for the public hearing scheduled for May 6, 2021 by first-class mail. The Affidavits of mailing are included in the file and are incorporated herein by reference. Staff reports were provided by email to the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, Waseca Public Health Services Department, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department port for their comments and review.
5. On April 30, 2021, the Planning and Zoning Office notified the applicants in writing about the 60 days extension of the required timeline deadline for agency action as per the Minnesota Statute Chapter 15.99.
6. On April 30, 2021, Planning and Zoning Department staff sent the staff report to the members of the Waseca County Planning Commission by first-class mail regarding the application and accompanying documents. This staff report is incorporated in these Findings by reference. Attachments included:
 - i. Staff Analysis of Criteria,
 - ii. Recommended Conditions, if granting,
 - iii. Application materials as submitted and documented.
7. On May 6, 2021, Mark Leiferman, Waseca County Planning and Zoning Administrator, presented a PowerPoint presentation highlighting the applicants request, site data and approvals for the Conditional Use Permit for ConAgra Foods Packaged Foods LLC request. The information provided was based on a staff report provided to the Planning Commission prior to the meeting.

8. The following is an extract of the draft Planning Commission minutes of the meeting held on May 6, 2021 starting at 7:00 p.m.:

**WASECA COUNTY PLANNING COMMISSION MEETING
MINUTES OF MAY 6, 2021**

CALL TO ORDER/ESTABLISH A QUORUM

A quorum to conduct business was established and the Chair Russ Frederick called the Waseca County Planning Commission meeting to order at 7:00 p.m. at the meeting room in the East Annex Building.

MEMBERS PRESENT

DeAnne Malterer, Russ Frederick, Stephanie Roemhildt, Mark Sommers, Marv Pearson, Leon Schoenrock (arrived late but did not participate in the meeting as a Commission Member).

MEMBERS ABSENT

None.

STAFF PRESENT

Mark Leiferman, Planning and Zoning Administrator, Maame Yorke, Planning and Zoning Specialist.

OTHERS PRESENT

Names include as seen on sign-in sheet. Spellings of names shown as best as possible from handwritten signatures.

Ralph Castro, Birds Eye, Waseca (in-person), Bruce Rehwaladt, Foth (in-person), Scott Wandeloski, Foth (in-person), Ashley Rehder (in-person), Walter Mishek (in-person), John Snow (in-person), Wendell Armstrong (in-person), William Beschnett (in-person), Tom Culross (in-person), Cavit Wobschall (in-person), Verna Benson (in-person), Jeff Muenkel, Foth (online), Bruce Quast (online), Jon Erichson, Ulland Brothers (online), no caller ID (online)

APPROVAL OF AGENDA

Sommers made a motion to approve the agenda with Malterer seconding. Motion passed unanimously.

REVIEW/APPROVAL OF MINUTES – April 1, 2021

Malterer made a motion with Roemhildt seconding to approve the December 3, 2020 minutes. Motion passed unanimously.

PUBLIC HEARINGS:

Old business:

(A) Request for a Conditional Use Permit to allow the transfer of development rights between two owners and into another Township – Calonett Venues LLC.

Leiferman started the public hearing for a Conditional Use Permit to allow the transfer of development right between Armstrong and Calonett Venues LLC, which was tabled at a prior meeting by presenting a PowerPoint. He informed the Planning Commission that the applicants had converted the duplex to a single family by having an opening between the basement and the main level.

The owners of the site are Wendell J. & Ruth A. Armstrong (sending site) and Calonett Venues LLC (receiving site). The property address of the receiving site is 35961 150th Street. Waseca, MN 56093 in Woodville Township. The applicant submitted an application on March 5, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on March 19, 2021 and

April 22, 2021. Legal notice of public hearing was published in the newspaper on March 18, 2021 and April 22, 2021. 60-day from the date of application is May 4, 2021. 60-days' notice extension was provided to the applicant on March 26, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract concerning transfer of development right as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.09 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

(C) *Transfer of development rights (TDR) program; receiving sites.*

(5) *TDR may be transferred within a township or between a common owner anywhere within the county. A transfer between two owners and into another township shall be completed only by completing a conditional use permit and by following the requirements of this section.*

Leiferman then showed the Planning Commission a site plan for the receiving site showing the 1.40 acre parcel to be split from the original parcel and a proposed sanitary sewer easement area.

Issues with the request

1. **Wetlands.** Although no portion of the receiving site appears on the National Wetland Inventory or NWI, the Water Resource Specialist should review the site and verify the provisions of the Wetland Conservation Act (WCA) do not apply to this property.
2. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serving the 1.4 acre parcel being subdivided from the larger 38.45 acre tract shares a SSTS system with a small barn located on the remaining portion of the exiting tract. The SSTS is not currently located upon the 1.4 acre tract being removed from the larger tract.

The easement area shown on the survey provided as Attachment G appended to this report is immediately adjacent to the TDR tract being subdivided. §5.03 of the Unified Development Code (UDC) requires SSTS tanks and treatment areas be located at least 10 feet from a property line. The Waseca County Board recently approved an amendment to the UDC to allow these elements of an SSTS to be closer to property lines when there is an easement. The drawing shows the SSTS tank within 10 feet of the property line. An easement agreement will need to be entered into to share the system. The agreement should be approved by the Waseca County Public Health Department and the County Attorney. Staff assumes the existing well located on the property may be shared; however, no details regarding potable water were shared with staff.

3. **Duplex Use.** The home on the split to be split from the parcel was permitted by Waseca County as a single-family home. The home was constructed as a Duplex. This use is currently a legal non-conforming use. The owners plan to remove a portion on the wall separating the units to create a single-family home.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: The subdivision of the parcel should not have an adverse impact on the surrounding neighborhood.

Staff: The applicant's proposal is to split off an existing duplex from a larger piece. This should not have an adverse impact on the surrounding neighborhood.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: Adequate parking already exists. There should be little impact on traffic and parking caused by creating a parcel ID for the existing ~~duplex~~ *single family dwelling*.

Staff: There are approximately seven residences within a quarter mile of the receiving site. There is a second residence constructed on the larger parcel the 1.40 acre receiving site is being split from. This should not impact traffic or parking since the applicant will continue utilizing the site as it is currently is being used.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: The site is currently served with electric, telephone and natural gas.

Staff: From the applicant materials, there are adequate public utilities, services, roads and schools to support the continual site of the property. The parcel being subdivided is served with telephone, electric and natural gas and an existing driveway onto 150th Street.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: Creating a parcel ID for the existing ~~duplex~~ *single family dwelling* should not have a negative impact on property values or impact development in the vicinity.

Staff: As mentioned earlier, the applicant is proposing to split a 1.4 acre home site from existing 38.45 acre parcel with a second home on the tract. The continuous use of the parcel should not adversely affect property values or future development in the surrounding neighborhood.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The Transfer of Development Right, conditional use permit request is consistent with the goals and policies adopted in the comprehensive plan. The approved plan call for the area to be developed into agriculture/open spaces. This request is also consistent with the land use recommendations in the comprehensive plan relating to the development of rural open spaces.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section 3.06 relating to subdivisions and section 6.09 relating to the transfer of development rights.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

The two existing homes were developed and constructed in compliance with the conditions, county code and Minnesota state law at the time they were constructed. The parcel split using the Transfer of Development Rights provisions will not change the current use. The two homes will remain as they currently exist and should not have any adverse impact on the environment.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

There do not appear to be any natural, historic or scenic views in the vicinity of the existing ~~duplex~~ *single family dwelling*.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by the Waseca County Zoning Department, the Waseca County Public Health Services Department and the Waseca County Highway Department. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in §3.06 relating to Subdivisions, §5.02 relating to Subsurface Sewage Treatment Systems (SSTS) and §6.09 relating to the Transfer of Development Rights. *The structure on the property shall be for single-family use.*

Note: the sentence in italics was added by staff and not included in the staff report.

2. Subsurface Sewer Treatment System (SSTS): There is an existing SSTS located on the remnant of the parent parcel (Tract A) from which the 1.4 acre parcel is being subdivided (Tract B). Tract B is described in Attachment G. This SSTS will be shared between the two tracts and serve an existing horse barn on Tract A and the residence on the 1.4 acre TDR receiving site (Tract B). There must be an agreement, to be approved by the Waseca County Public Health Services Department and the Waseca County Attorney, to share, operate, repair, maintain and replace the existing shared SSTS. Following this approval, the agreement must be and must be recorded with the Waseca County Recorder. There is a second SSTS serving the residence on Tract A which must also be compliant with the appropriate requirements of the Waseca County UDC.
3. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for

suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Services Department, County Sheriff, County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened and closed the public hearing at 7:15 p.m.

Malterer made a motion to approve the criteria as amended with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Calonett Venues LLC solar conditional use permit with conditions. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(B) Request for a conditional use permit to operate and maintain an animal crematorium adjacent an existing 64'x 34' barn in Section 7 of Wilton Township – Bruce W & Angela Quast.

Leiferman continued the public hearing for a Conditional Use Permit to operate an animal crematorium on the same parcel as their single family dwelling. The facility will consist of a 20x20" concrete slab for cremation equipment to be installed adjacent an existing 64'x34' barn. The crematory device is sized for small domestic pets and would not accommodate larger farm animals. The furnace will be fueled by natural gas or propane and will be equipped with an after-burner to reduce odor emanating from the equipment. The owners of the site are Bruce W & Angela Quast. The property address of the receiving site is 6581 300th Ave in Wilton Township. The applicant submitted an application on April 8, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 7, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The states that Waseca County should encourage commercial activity that is compatible with agricultural areas.

The zoning map places the receiving site in the A-1 Agricultural Protection zoning district. Leiferman then proceeded to reading a zoning code extract relating to the proposal as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS.

Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(26) Veterinary and animal clinic and facilities for the care and/or breeding of animals, including kennel and animal crematorium.

§6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES

(FF) *Veterinary and animal clinic and facilities for the care and/or breeding of animals including kennel and animal crematorium.*

(6) *Animal crematorium. An animal crematorium may be operated in connection with a veterinary clinic or as a stand-alone facility that provides services to a veterinary clinic or clinics. An animal crematorium shall only be used for the disposal of animals. A stand-alone animal crematorium facility shall provide no outside appearance of the operation and shall not include a sign. Stand-alone crematoriums shall pick-up and deliver animals from veterinary clinics and shall have no visitors other than employees or inspectors. Animal pick-up shall be done in leak-proof containers. The following standards for animal crematoriums shall be met.*

(a) *Setback. The crematorium shall be located in a structure and be at least 500 feet from any residence other than the owner of the property.*

(b) *Site plan. Site plan review shall be required.*

€ *Parking. There shall be at least one parking space available for each employee working at the site at any time.*

(d) *Refrigeration. Deceased animals stored on the site prior to disposal shall be kept under refrigeration to eliminate the possibility of odor emanating from the animal.*

€ *Furnaces. The furnaces shall use natural gas or propane as the heat source for the furnace.*

(f) *Performance standards. Incinerator must be adhere to the State Pollution Control Agency guidelines as follows:*

1. *Capable of producing emissions not to exceed 20% opacity;*
2. *Fitted with an afterburner that maintains flue gases at 1,200°F for at least 0.3 seconds; and*

3. *Ash from the incinerator must be handled in such a manner as to prevent particulate matter from becoming airborne and shall be properly disposed of.*

Leiferman then showed a site plan for the receiving site which depicted the location of the proposed 20x20 concrete slab for cremation equipment adjacent to an existing 64x34 barn, the approximate location of septic tank and well on the Quast property as well as an existing 40x60 shop proposed to be used for crematory office space.

Issues with the request

1. **Odor.** Deceased animals will be picked up and stored in a refrigerator pending cremation. There were also odor complaints from a similar facility approved in the County which was solved by installing an afterburner. The closest residence is approximately 1,900ft away from the proposed location of the facility as such odor impacts should be minimal. The applicants should put in place measures to solve odor should odor within the vicinity of the facility be impacted.
2. **Fire and explosion.** The equipment used will be operated at high temperatures. When operating any equipment such as this, there is some risk of fire or explosion. The County Sheriff and the local fire department should be notified when the operation commences to assist in dealing with any potential fire or explosion issues.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The applicants' proposal is not anticipated to adversely impact the general health, welfare and safety of the occupants in the surrounding neighborhood if the facility is operated within

the confines of the UDC and all other state and federal regulations pertaining to animal cremation.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: No.

Staff: Adequate measures are being provided to eliminate any traffic hazard which may result from the proposed use because the applicants will pick up deceased animals to the facility which will limit traffic to the facility.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: Yes.

Staff: The facility will be operated on the same parcel and the applicants' single family dwelling. There appears to be adequate utilities available on the property and also in the building where the business will operate. The existing roadway will also accommodate the traffic needs of the business since the operators will pick up and deliver deceased animals to the facility.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: No.

Staff: The proposed use will not be injurious to the use and enjoyment or have a negative impact on adjacent property values in the immediate vicinity due to the fact that the site is located approximately 1,900 feet to the closest residential use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

The proposed use of the facility is consistent with the goals and policies adopted in the comprehensive plan. The approved land use plan proposed the property to use for agriculture/open space.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes.

Staff: The property is located in the A-1 Agricultural Protection zoning district and animal crematorium is allowed with a CUP. The proposed use should meet the standards of the zoning ordinance should all requirements stipulated in §6.16(FF) (6) be adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: The proposal should not have an adverse impact on the environment and poses minimal threat to groundwater, surface water or to air quality if all standards and requirements are adhered to.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No.

Staff: The proposal is not anticipated to adversely impact existing natural, historic or scenic views or features in the surrounding neighborhood should the business operate in an environmentally friendly manner whilst adhering to appropriate standards and requirements of the UDC.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

No.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations:

1. All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. This conditional use permit will be provided to the Waseca County Sheriff and the fire department for Wilton Township. This facility shall not be used for human cremation.
2. The owner shall comply with all Waseca County and State of Minnesota requirements regarding the demolition of structures and the disposal of any demolition debris and State of Minnesota Building Code for structures that will be visited by the public.

Site and Building Plans.

3. The site shall be developed according to the approved plan attached as Attachment A. An afterburner must be employed on the equipment to reduce the odor generated by the cremation process.

Site development, access, parking and environment

4. The parking surface and access drives shall be maintained with a dust free, all weather surface.
5. If a handicapped person is employed at the facility, the owner shall provide access, parking and restroom facilities as required by Chapter 1340 of the Minnesota State Building Code Facilities for the Handicapped.
6. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
7. The animal crematorium shall have no visitors other than employees or inspectors.

Signage.

8. No sign will be permitted with this use.

Duration, Failure to Comply and Review:

9. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the

Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Waseca Public Health Services Department, County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Wilton Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:26 p.m.

Wendell Armstrong asked the number of times or days of operation and how odor would be impacted. Leiferman provided a response.

Armstrong then asked if the business was replacing any company. Leiferman responded that the applicants were buying the business from a previous owner who operated in Alton Township.

Quast added that their business would serve Southern Minnesota and the Twin Cities and they were not replacing any person's business. He furthered that about 75-80% of ashes after animal cremation would be returned to customers. He added that the location of his business shouldn't affect his neighbors and that the business is being moved away from its current location which was close to a winery.

Frederick asked if there were any issues with the original location of the animal crematorium. Leiferman responded that the business was close to residents and odor was impacted which was later resolved with an equipment upgrade to include the installation of an after-burner.

Malterer added that there is high demand for the service and new proposed location was a good spot.

The public hearing was closed at 7:33 p.m.

Roemhildt made a motion to approve the criteria with Sommers seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Malterer made a motion to approve the Quast conditional use permit with conditions as amended. Person seconded and it was passed unanimously with 4 Yes 0 No.

(C) Request for an amendment a Conditional Use Permit to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch in Section 18 of Freedom Township – Nickolas J & Ashley A Rehder/Ruby Ranch.

The next item on the agenda was a conditional use permit request to allow for the operation of a daycare center in an existing agritourism building (Ruby Ranch) in Section 18 of Freedom Township. The proposed daycare center will be operated the same facility as the primary existing Ruby Ranch Agri-tourism structure. Ruby Ranch currently serves children ages 5 to 18 for summer camps and provides farm tours for the community throughout the summer. Little Rubies will be a farm and nature based daycare and learning center that will operate during the school year for children ages 1 to 5 years of age to provide care and indoor and outdoor learning experiences

The owners of the site are Nickolas J. & Ashley A. Rehder. The property address is 361 290th Ave, Pemberton, MN 56078 with PID 04.018.0610. The applicant submitted an application on APRIL 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 22, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. The use relates to the comprehensive plan in the following ways:

- o Rural open spaces: promote low density residential parcels with incentives for higher density cluster or open space zoning provisions.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.08 A-1 AGRICULTURAL PROTECTION DISTRICT STANDARDS

(C) Conditional uses (see Article 4 for accessory uses). Accessory uses are subject to the standards found in Articles 3, 4 and 6 of this ordinance:

(13) Daycare center;

§ 6.13 SPECIFIC STANDARDS FOR INSTITUTIONAL AND CIVIC USES.

(B) Daycare center. The following standards apply to daycare centers, both permitted and conditional, and to family or group daycare accessory to a residential use.

(1) Within a residential or agricultural district, the building and any exterior fenced area shall meet the setback requirements for a single-family residence.

(2) The use shall comply with all applicable federal, state and county rules and regulations.

(3) For child daycare facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(4) For adult daycare facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(5) When the daycare facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.

Leiferman then showed and explained a site plan and drawings for the proposal.

Issues with the request

1. **Subsurface Sewer Treatment System (SSTS) and Well.** No SSTS system design has been submitted with this request. The existing SSTS serves the home and the conditionally approved Agri-tourism use. Kim Shermo, the Environmental Health Specialist for Waseca County has determined the existing SSTS is not currently appropriately sized to accommodate the proposed daycare. She suggests another SSTS be constructed for the Ruby Ranch/Little Rubies facility.
2. **Daycare Licensing.** The applicants are requesting a conditional use permit (CUP) to operate a Daycare Center under the Waseca Unified Development Code (UDC). The existing Ruby building meets the requirements as a daycare center since the operation will not be located in their residence. A daycare family operation is to be located within a residence under the UDC.

The State licensing requirements differ from the UDC requirements. The license at the state level defines daycare relative to the number of children served. A family daycare is for 14 or fewer children and can be either within a home or in a separate building. Child and Family Services Minnesota Prairie County Alliance will inspect these facilities; whereas, any facility serving more than 14 children is licensed directly by the State of Minnesota. A family daycare needs to have a

staff ratio of 1 adult per 12 children. The number of children can increase if the facility employs additional staff. A teen age assistant may be allowed if to increase the ratio. The applicants may wish to license the facility as a daycare center despite limiting the number of children permitted at the facility to allow for future expansion or seasonal increases in population.

The ratio of children to square feet of space is 1:35.

3. **Conflicting Uses.** Ruby Ranch is an event center which offers craft classes to patrons. The equipment used (power tools) in the craft class activities potentially conflict with childcare uses proposed by the Little Rubies childcare facility. The applicants will need to have an appropriate way to separate these uses. This issue should be addressed within the county/state license requirements.
4. **Signage.** The only complaint the County has received regarding the operation of the Ruby Ranch facility related to the sign for the facility which was installed originally within the right-of-way of the West County Line Road. This portion of roadway is under the jurisdictions of Freedom Township. The property owners have removed the sign and have applied for a permit to relocate the sign on the site. The applicants have asked the Township for assistance in determining where the sign can be placed.

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

Applicant: No.

Staff: The owners of the proposed Agri-tourism facility own approximately 8.1 acres of land. The closest occupied residence to the proposed facility reside in dwelling units that are located approximately 1,600 feet to the west of the proposed daycare center (existing Agri-tourism structure). Much of the area all sides is agricultural in nature.

The potential impacts of the Agri-tourism use on the adjacent homes will likely result in an increase in in traffic during the early morning hours and late afternoon.

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that the previous conditional use permit placed 14 conditions on the applicant's permit, and since the facility will require a Waseca Public Health Department license to operate the daycare facility.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

Applicant: The Waseca County Line Road will now be trafficked more frequently with parent drop off and parent pick up. All parking will happen on our property by the classroom. This is ½ mile from the Waseca County Line Road so it will not disrupt the flow of traffic.

Staff: The addition of a daycare center to the existing Agri-tourism use will have an impact on traffic bringing parents dropping off children in the morning and picking up their children in the afternoon. This could add up to 20 to 40 additional trips per day. The roadway known as 290th Avenue is a private drive owned and maintained by the applicants. This section of the West County Line Road is maintained by Freedom Township Road. The applicants met with Freedom Township and they indicated the Township did not have any objection to the proposed use. There should be adequate parking on site developed for the Ruby Ranch Agri-tourism use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

Applicant: We have electricity with LED lights, AC, heating, water, ½ bath, and WIFI to support a space for daycare.

Staff: The Subsurface Sewer Treatment System will need to be upgraded to accommodate this proposed use. All other utilities should be available to this site. There appear to be adequate public services, roads and schools to support this use.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

Applicant: We feel the space is a positive business for the Pemberton community. There isn't much for families to do and we provide activities spring through fall. Now with a daycare center it is giving local families more options to take their children to daycare/preschool.

Staff: The proposed use should not have an adverse impact on property values in the vicinity since the applicants have been operating an Agri-tourism use on the property since 2017 and since the closest neighbor is approximately 1,600 feet from the proposed use.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Applicant: Yes

Staff: The use appears to be consistent with the Comprehensive Plan because of the following plan and map references:

1. Goal 6: Promote economic diversification in Waseca County, which will provide for continued employment opportunities and reasonable access to a broad range of goods and services for community residents.
2. Goal 7: Promote a healthy economy, enhance the natural and built environments, and provide opportunities to area residents.
3. The Planning Commission finds that the proposed use is compatible with the uses within the district and is of the same general character as those of the district.
4. The Planning Commission finds that the proposed use conforms to the Waseca County Land Use Plan (see attached).

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Applicant: Yes

Staff: The CUP request is in compliance with the requirements of the Waseca County Unified Development Code (UDC) contained in section § 6.08 A-1 Agriculture Protection District Standards, (C) Conditional uses (13) Daycare center. Section § 6.13 outlines the Specific Standards for Institutional and Civic Uses for Daycare centers.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Applicant: No.

Staff: No. The site plan will not change significantly.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

Applicant: No. The property is well maintained and safe for children to explore outdoors.

Staff: The use is not anticipated to adversely affect any existing natural, historic or scenic views or features in the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

Applicant: No.

Staff: The facility will be required to meet County and State Daycare Licensing requirements.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. Standards/Regulations: With the exception of wetland provisions contained in condition 7, all of the requirements contained within the Agri-tourism Conditional Use Permit granted by the Waseca County Board on August 17, 2017 and filed for record with the Waseca County Recorded on March 6, 2018 as Document Number 313958 shall remain in full force and effect. The provisions of condition 7 no longer apply. In addition, all County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licensures, including, but not limited to, any permit that may be required by Waseca County or the State of Minnesota to inspect and license the daycare center. Specifically, this CUP must be in compliance with the requirements of the Waseca Unified Development Code (UDC) including, but not limited to, the provisions contained in Subdivision §6.13 Specific Standards for Institutional and Civic Uses and Subdivisions related to daycare centers and §5.02 relating to compliant Subsurface Sewage Treatment Systems (SSTS).
2. Duration, Failure to Comply and Review: A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. Owner/operator shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to the Waseca Public Health Department, Waseca County Sheriff, Waseca County Attorney and Waseca County Highway Department for their

review. The application was also provided to the Minnesota Department of Natural Resources (DNR) for their review and comment.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Freedom Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 7:50 p.m.

Ashley Rehder informed the Planning Commission that their sign had been approved by the township and she was in the process of obtaining a septic permit as well as a loan for the operation of Little Rubbies.

The public hearing was closed at 7:51 p.m.

Malterer made a motion to approve the criteria with Roemhildt seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Roemhildt made a motion to approve and recommend approval to the County Board the Rehder conditional use permit with conditions. Sommers seconded and it was passed unanimously with 4 Yes 0 No.

(D) Request for a conditional use permit to mine, excavate and stockpile sand and aggregate materials in Section 12 of Otisco Township – Ulland Brothers Inc.

Leiferman then read the next zoning case with was a request for a Conditional Use Permit (CUP) to mine, excavate, process and stockpile sand and gravel aggregate materials in Section 12 of Otisco Township. The parcel (08.012.1010) is south of 305th Ave and approximately 1 mile to the county border with Steele County. All of the property is in the A-1 Agricultural protection Zoning District and within the highway overlay.

The owners of the site Ulland Brothers Inc. The property address of the receiving site is 17872 – 305th Ave. The applicant submitted an application on April 13, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 12, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

The land use plan, as part of the county's Comprehensive Plan, calls for the area's development as agricultural uses. This proposal indirectly relates to the infrastructure and transportation vision statement of the county since aggregate materials are needed for construct roads at a cost effective price:

- o Transportation Vision Statement: Waseca County will have a transportation system that facilitates and strengthens its economic vitality and effectively moves people to and from required destinations.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the A-1 Agricultural Protection zoning district. He then proceeded to reading a zoning code extract as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§4.13 EXTRACTION OF MATERIAL AND MINERALS, OPEN PITS AND IMPOUNDING OF WATERS.

(B) Conditional use permit. Excavations, extraction of materials and minerals, open pits and impoundment of water shall be permitted only upon the issuance of a conditional use permit.

(1) The applicant for the permit shall furnish such information as: true name and address, when required, approval by the state to impound waters, purpose of proposed activity,

roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

(e) Wetland creation, restoration and/or construction shall be exempted if the proposal can satisfy all of the following criteria:

1. Wetland creation, restoration and/or construction shall be under the guidance of the County Soil and Water Conservation District using specifications and guidelines of the Natural Resource Conservation Service (NRCS);

2. Wetland creation, restoration and/or construction shall not be constructed closer than 75 feet to the boundary of any adjoining property or existing road easement; and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

(f) Wetland creation, restoration and/or construction that can not satisfy the above-listed exception criteria (subsections (B)(2)(e)1., (B)(2)(e)2. and (B)(2)(e)3. above) will be subject to:

1. Conditional use permit;

2. Any conditions set forth by the Board for the conditional use permit;

and

3. An approved land alteration permit shall be obtained from the Planning and Zoning Office prior to any excavation, alteration or impoundment.

§6.07 SPECIFIC STANDARDS FOR AGRICULTURAL, NATURAL RESOURCES AND RELATED USES

(H) Mineral extraction, mining.

(2) Application requirements. Maps of existing conditions, the proposed pit or excavation and accessory structures, and site after reclamation shall be prepared by a professional engineer or land surveyor and filed with the application.

5. Structures, storage of excavated materials or topsoil, and the excavation edge shall be setback at least 300 feet from any protected water and at least 100 feet from an adjoining property line or public right-of-way. Mining and mining material operations and processing shall not be conducted within 100 feet of an adjoining property line or public right-of-way. No on-site processing of materials or storage of excavated materials or topsoil shall occur within 1,000 feet of a residence.

Leiferman then showed the Planning Commission a site plan for the gravel pit.

Issues with the request

1. **Township Road Damage.** The applicants originally received a permit to utilize the township road as a haul road for the Highway 14 project. This permit was provided to Otisco Township. In the past, staff has received complaints about the damage being done to the road due to weight of the trucks and the volume of traffic being placed on the road by the vehicles entering and exiting the site. Adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues and the depth of the material removed.
2. **Safety.** The trucks entering and leaving the site may create a potential hazard for people utilizing the roads in the vicinity. Again, adding crushing may not increase the number of trucks per day; however, it may increase the length of time the plant operation continues.
3. **Water runoff issues.** Staff has not received a copy of the National Pollution Discharge Elimination Permit for the existing facility. Staff has a concern that there may be process water utilized in the crushing and or conveying of materials processed at the site.
4. **Reclamation Plan.** The previously approved reclamation plan lacks detail and should be updated to meet the requirements of the Unified Development Code

Criteria and Proposed Findings:

1. Will the proposed use have an adverse impact on the health, safety, and general welfare of the occupants in the surrounding neighborhood?

The Planning Commission finds that the public's health, safety, comfort, morals and general welfare are adequately protected due to the fact that 42 conditions have been previously placed upon the applicant's permit, and since additional requirements will be placed upon the applicant by the Minnesota Department of Transportation and reviewed by the Waseca Soil and Water Conservation District. In addition, the property is located in a rural setting with the closest neighbor residing over 1,000 feet from the subject property.

2. Will the proposed use have an adverse impact on traffic conditions including parking?

The proposed use is not anticipated to impact (adverse) on traffic conditions since adequate measures are being provided to eliminate any traffic conditions due to the conditions that are being placed upon the project relating to road use.

3. Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

There are adequate public utilities, public services and roads to support the proposed use of the property.

4. Will the proposed use have an adverse effect on property values or future development of land in the surrounding neighborhood?

The Planning Commission finds that the proposed use will not be injurious to the use and enjoyment or have a negative long-term impact on adjacent property values in the immediate vicinity due to the remote nature of the parcel and the distance between this site and the residents of adjacent properties.

5. Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

Waseca County has determined that this use is in line with the requirements as stated in the land use plan. The proposed use is compatible with the uses within the district and are of the same general character as those of the district.

6. Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

Mining, excavation, extraction of material and minerals are conditional uses in the A-1 Agricultural Protection District as specified in the Waseca County Unified Development Code. A site plan has been submitted for this site. The facility should meet the UDC requirements if all conditions are adhered to.

7. Will the proposed use have an adverse effect on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

Any negative impact to the environment and should be addressed by the Conditions imposed by the Waseca County Conditional Use Permit and by the requirements of the State of Minnesota and should pose no threat to groundwater, surface water or to air quality.

8. Will the proposed use have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

The proposed use has been in operation on the property under review under various Conditional Use Permits. The proposal is not anticipated to be detrimental or have adverse effect on the existing natural, historic, scenic views or features of the surrounding neighborhood.

9. Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

All other required provisions shall apply including, but not limited to, Minnesota State Building and Electrical Codes, National Pollutant Discharge Elimination System (NPDES) permits, etc.

Conditions for Approval

Staff recommended approval of the request if the Waseca County Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

1. *All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. All permits shall be obtained within 12 months of approval and construction completed within one (1) year of approval of receipt of the Waseca County Zoning Permit. Although there is no significant earthwork in this project, there may be tile lines that cross this site. Any damage to tiles must be repaired by the Owner/Lessee. In addition, a National Pollutant Discharge Elimination System (NPDES) permit may be required with this application if it is expected that the area disturbed will exceed one acre. With regards to storm water management, the project must adhere to Minnesota Pollution Control Agency (MPCA) Construction Storm water Permit Requirements and also any NPDES storm water permit. All the requirements of the Conditional Use Permit (CUP) September 20, 2016 and filed for record with the Waseca County Recorder as Document No. 308939 on October 6, 2016 shall remain in effect for the duration of this Conditional Use Permit. The permit shall expire five (5) years from the approval date by the Waseca County Board for this CUP. The reclamation bond amount shall increase to \$75,000 and a reclamation plan must be submitted to, and approved by, the Waseca County Board within 30 days of approval of this Conditional Use Permit.*

Note: staff condensed the conditions into one (1) since conditions presented in the staff report were similar to prior CUPs approved for the site

Public Agency Comments

An email containing the link to the staff report was provided to the County Sheriff, County Attorney and County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to the Otisco Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:50 p.m.

Jon Erichson (Ulland Brothers) informed staff and the Planning Commission that the reclamation plan would be upgraded and emailed to staff. He added that the township supported the CUP renewal and the pit was not open to the public with operations relative to ongoing projects.

The public hearing was closed at 8:07 p.m.

Pearson made a motion to approve the criteria with Malterer seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to the County Board the Ulland Brothers Inc. conditional use permit. Roemhildt seconded and it was passed unanimously with 4 Yes 0 No.

(E) Request for an amendment to a Conditional Use Permit to remove a spray field area and add screen house and spray field area – ConAgra Foods Packaged Foods LLC.

Leiferman continued the hearing by presenting the next zoning case which was an amendment to Conditional Use Permit (CUP) to:

- i. Remove a spray field area from a parcel (approximately 120 acres) which has been annexed into the City of Waseca (17.013.0600) with a portion of the site approved for the construction of a new vegetable processing facility;
- ii. Construct a 2,500 square foot screen house and water treatment structure to assist with odor generated from the industrial wastewater treatment system in Section 19 T.107N R.22W of Woodville Township (12.019.0500); and
- iii. Add a future spray field area on approximately 25 acre parcels in section 13 T. 107N R.23W of St. Mary Township with identification numbers 09.013.0510 & 09.013.0550. These parcels were previously utilized as treatment pond and has since been reclaimed and filled

The owners of the site are ConAgra Foods Packaged Foods LLC. The property address of the screen house is 34529 US Highway 14 in St. Mary Township. The applicant submitted an application on April 9, 2021. First class mail notices were sent to adjacent property owners within a quarter mile from the proposed site on April 23, 2021. Legal notice of public hearing was published in the newspaper on April 22, 2021. 60-day from the date of application is June 8, 2021. 60-days' notice extension was provided to the applicant on April 30, 2021 (extension requested from the Applicants).

Comprehensive Plan extracts:

- o On page 13 of the comprehensive plan, it states that: "Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth."
- o Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- o On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

Leiferman showed the zoning Map extract of the area. The map places the receiving site in the I-General Industrial zoning district. He then proceeded to reading a zoning code extract relating to the request as outlined below and provided in the staff report:

Unified development Code (UDC) Extract:

§ 6.16 SPECIFIC STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

(NN) Industrial waste processing facility. New industrial wastewater treatment facilities shall be allowed as conditional uses in the A-1 Agriculture Protection District, HC Highway Commercial District and I Industrial District. Industrial wastewater treatment facilities shall comply with the following requirements.

(1) *Site plan. Site plan review shall be required. Any new industrial wastewater treatment facility shall meet the minimum standards of § 6.15 of the Uniform Development Code providing for general standards for commercial and industrial uses.*

(2) *Setbacks.*

(a) *Treatment pond to residence: 1,000 feet;*

(b) *Spray Field to residence: 500 feet;*

(c) *Treatment pond or spray field to a public right-of-way: 100 feet;*

(d) *Treatment pond or spray field to a public or private ditch: 100 feet;*

and

(e) *Treatment pond or spray field to any body of water, perennial or intermittent stream, or wetland: 100 feet.*

(3) *Access. If the Planning Commission determines it necessary, the site shall have access to a hard surfaced road of sufficient capacity to accommodate the traffic that the use will generate.*

(4) *Local, state and federal regulations. Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.*

§ 6.19 I GENERAL INDUSTRIAL DISTRICT

(C) *Conditional uses (see Article 4 for accessory uses).*

(16) *Industrial wastewater treatment facility;*

Leiferman then showed site locations for the three amendment proposals and also explained the project details for the screen house proposed to be constructed.

Issues with the request

1. **Odors- Hydrogen Sulfide.** The applicant currently utilizes various spray fields and the treatment ponds to treat the industrial wastewater generated by the vegetable processing plant. Odors are generated when these facilities are operated. Odors produced at the plant are the result of hydrogen sulfide generated by the wastewater treatment process as the water is sprayed onto fields or stored in the ponds (lagoons). Hydrogen sulfide is mainly created through the biological degradation of organic matter and sulfur compounds under anoxic or anaerobic environments. The proposed upgrades are being implemented to address the formation of hydrogen sulfide at ConAgra's existing lagoon storage facility. The company also plans to install equipment to screen the wastewater prior to placing the water in the ponds reducing the amount of material generating odors.

Foth Engineering has been employed to attempt to address the odor issues at the ConAgra plants. Foth is working to resolve the odor issues by maintaining the pH (acidity level) of the stored process wastewater. The objective is to store the water at or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide, further reducing potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Foth is recommending the installation of the following equipment and products to assist with the odor reduction effort:

1. One (1) new 2,400 ft² building to house the new process equipment.
2. Two (2) new internally fed rotary drum screens – replace existing drum screens currently installed at current manufacturing facility
3. Two (2) new belt conveyors or screw type augers to transfer collected solids from new screens to the existing silage pad for use by area farmers for animal feed.

4. One (1) new drilled well for hot and cold water including:
 - a) One (1) well pump – Approximately 125-gpm @ 175-ft TDH
 - b) One (1) pressure tank to maintain system pressure
 - c) One (1) natural gas water heater
 - d) One (1) 1,200 gallon hot water storage tank with pressure relief
 - e) Associated distribution piping

The current existing facility and proposed new additions and construction are shown in the materials provided by Foth. The location of the building housing the screens, conveyors, tanks, pumps and mixers are illustrated on the proposed-revised site plan. Finally, the layout of the equipment within the proposed screen house building are illustrated on the plan titled Screen House Layout. Please note that provisions are being made for a third screen but only two are planned for installation at this time. The facility also has plans to install additional aeration in the storage lagoons to promote oxic conditions, further reducing the formation of hydrogen sulfide. However, the addition of aerators is being completed separate from this project.

This present plan is the Company's attempt to control odor from waste generated at the main plant and this will extend to the new plant when the new facility is completed in the future. ConAgra has not advised what the plans are for the current facility once the new facility is built or whether the company will need to continue to process wastewater from the old plant once the new one is put into service. Regardless, the new plant will most likely intensify the use of the wastewater treatment facilities even if the old facility is no longer tied to the wastewater treatment facility.

2. **Water Impacts.** That there is a possibility that the process water could leave the site. County Ditch (CD) 45 and 15-1 are impacted by the flow from the ConAgra facilities. The company maintains a number of monitoring wells to assure contaminated process water does not pollute the water leaving the site. In addition, there is a private ditch which flows into County Ditch 45 which may be impacted by the increase in the amount of flow leaving the site. Staff has reached out to the ditch group to see if there are concerns with water drainage at this time and have not heard back from them.
3. **Minnesota Pollution Control Agency (MPCA).** The MPCA is responsible for the certain permits for this facility. Staff has received comments from the MPCA regarding this wastewater project. The County does not have copies of the NEW MPCA Permits as they have not been issued.
4. **Erosion Control.** The applicants have obtained National Pollution Discharge Elimination Systems Permit (NPDES) from the Minnesota Pollution Control Agency for previous projects approved by original CUP and amendments to the CUP for the Industrial Wastewater Treatment Facility. The applicants are responsible for obtaining an NPDES permit if required for this project

Criteria and Proposed Findings:

- 1) **Will the proposed use have an impact (adverse) on the health, safety, and general welfare of the occupants in the surrounding neighborhood?**

ConAgra (Foth Engineering): None anticipated. Spray field acreage removal is more than being added. Spray field addition is adjacent to existing approved spray fields. Screen house will improve wastewater treatment processes

Waseca County: Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels utilized to spray on fields and to treat the wastewater.

An Environmental Assessment Worksheet (EAW) was completed at the request of the Minnesota Pollution Control Agency and Waseca County Planning and Zoning based

on interpretation of Minnesota Rule 4410.4300, subpart 18C for the construction of the industrial wastewater treatment system in 2014. The EAW finding were negative (meaning an Environmental Impact Statement was not required). Essentially, the EAW found that if the new drainage structures and equipment were constructed and utilized according to the plans presented, there should be no public health or environmental concerns.

The EAW discussions at the time of the development of the EAW and through the permit application process contemplated the construction and development of additional property to be utilized as spray fields to treat the industrial wastewater. A mixture of plants including reeds canary grass have been and will be planted and harvested will absorb some of the nutrients contained in the water.

The Minnesota Pollution Control Agency has also issued a National Pollution Discharge Elimination Systems (NPDES) permit for the original sites that has been updated from time to time when facility improvements have been made. This permit monitors air and water quality at the sites and regulates flow leaving the site. The spray sites are to be monitored daily when they are operated. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

In addition, tile discharge exceedances are managed with daily discharge inspections and spray site management. The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges.

Odor and pollutant runoff have been the primary complaints about the facility in the past on other parcels. With each new modification come hopes the odor generated by the facility will improve. Odor continues to be an issue and the smell can travel miles from the spray fields while they operate and from the ponds at certain times of the year. The screening to remove additional plant materials together with efforts to control hydrogen sulfide levels should help with odor issues. Conditions provide that the CUP may be monitored on an annual basis to determine if the project is in compliance with the requirements of the CUP.

2) Will the proposed use have an impact (adverse) on traffic conditions including parking?

ConAgra (Foth Engineering): No portion of this proposal affects parking issues.

Waseca County: The proposed project will have only a minor impact on traffic to the proposed site during construction and during the operation of the system. On-going operations will be monitored and conducted from an off-site location. Short-term vehicle parking may be needed as system

technicians move spray nozzles on the site and monitor the sites or as chemical water treatment is added or employed as permitted by the NPDES permit. Inspections and farm equipment used to harvest the crops will access the site from the existing field drive on the parcels during the growing season.

3) Are there adequate public utilities, public services, road, and schools to support the proposed use of the property?

ConAgra (Foth Engineering): Not applicable with proposal.

Waseca County: Additional public utilities should not be required for the proposed uses on the properties. There will not be any required changes to the existing schools or roadways.

4) Will the proposed use have an effect (adverse) on property values or future development of land in the surrounding neighborhood?

ConAgra (Foth Engineering): No. All proposed uses are part of existing approvals for properties.

Waseca County: Odor and Drainage are the primary concerns with this CUP amendment.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

The Minnesota Pollution Control Agency National Pollution Discharge Elimination Systems (NPDES) permit will monitor air and water quality at the sites and regulates flow leaving the site(s). The spray sites will be monitored daily when in use. If there are fly and odor issues, spray water will need to be directed to facilities to hold and or aerate the effluent to resolve these issues.

Another primary concern exists relating to the hydraulic capacity County Ditch 45 to handle additional wastewater discharges. The ConAgra properties are included in the benefitted area of County Ditch 45. Notwithstanding any private issues related to the private drainage agreement, the land can drain to County Ditch 45 without any additional cost or procedure.

5) Is the proposed use of the property consistent with the goals and policies adopted in the Comprehensive Plan?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The following are extracts from the Waseca Comprehensive Plan:

- On page 13 of the comprehensive plan, it states that: “Waseca County will be an economically sound and business-friendly community emphasizing the need to retain and expand current and new businesses as the base for economic strength and employment growth.”
- Page 63 of the plan indicates that the proposed use is consistent with Goal 1 of the Comprehensive Land Use Plan by maintaining family wage jobs and retaining Birds Eye Foods as a quality employer.
- On page 65, the plan says: In addition to creating an environment that encourages entrepreneurship, Waseca County must focus on retaining its existing businesses. Most employment will come from the businesses that are already in Waseca.

6) Does the proposed use meet the standards of the Zoning Ordinance including that the use is allowed with a Conditional Use Permit in the designated zoning district in which it is proposed?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The Unified Development Code (UDC) was amended in April 2014 to include Industrial Waste Treatment Facilities as a Conditional Use in the I-Industrial, HC-Highway Commercial and A-1 Agricultural Protection Districts. A site plan has been submitted for this amendment to Conditional Use permit.

7) Will the proposed use have an effect (adverse) on the environment, including pollution and including impacts on groundwater, surface water and surface water runoff, and air quality?

ConAgra (Foth Engineering): Yes, all uses within industrial zoning uses approved for areas.

Waseca County: The improvements to be made to the Industrial Wastewater Treatment System have been and are being completed to reduce odor generated by the facility. The goal is to maintain compliance with the company’s Minnesota Pollution Control Agency (MPCA) permits. The permitted spray irrigation acres have fluctuated over the past several years. Wastewater is generally applied to spray fields when conditions allow during the harvest season. The new industrial waste water storage treatment facility includes an on-site waste water management system consisting of two (2) - 0.45 acre aerated ponds; (2) storage ponds (one of 4 and one of 10 acres); a 300,000 gallon silage leachate storage tank; a 25,000 square feet concrete silage storage pad.

The company has employed an aeration system to reduce the CBOD prior to land application and also reduce the potential for tile discharge exceedances. The system is now being updated to work to resolve the odor issues by maintaining the pH (acidity level) in the stored process wastewater ponds. The objective is to store the water at a pH level of or above 8.0 standard

units in order to reduce the volatilization of hydrogen sulfide. This will further reduce potential hydrogen sulfide emissions. Controlling and maintaining pH within each of the existing lagoons will be through addition of sodium hydroxide. A chemical known as SulfaLoc (a proprietary chemical mined from peat bogs) will also be added to help further with controlling hydrogen sulfide emissions and corresponding odors.

There are systems in place to monitor water quality at throughout the system. A series of 12 ground water monitoring wells monitor the application of wastewater at the spray fields and at the silage collection and storage sites.

The processing agriculture wastewater is also complicated due to the seasonal nature of food processing. The processing of food from raw materials requires large volumes of high grade water. The method to treat the wastewater from plants, such as the one at ConAgra, is to spray the water over large areas to remove any suspended solids and BOD. The water can be collected from certain spray fields and then reprocessed to further improve water quality. At times when the ground is frozen or saturated, water can be collected in the lagoons or ponds and then processed later when weather conditions improve. The applicant has noted that additional aeration and the dual storage lagoons are designed to help with control odor. The addition of chemicals to control pH should continue the efforts to bring the facility into compliance with state odor and water standards.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

8) Will the proposed us have an effect (adverse) on existing natural, historic, or scenic views or features in the surrounding neighborhood?

ConAgra (Foth Engineering): No, all proposed uses are consistent with existing approved CUP for properties.

Waseca County: The proposed changes to the sites involved in this Conditional Use Permit Amendment should not have a negative impact on any existing natural, historic, or scenic views or features in the surrounding neighborhoods. A portion of a permitted spray field under the original 2014 Conditional Use permit is being redeveloped into a new vegetable processing plant. This site is now located within the City of Waseca and will not be regulated by the Waseca County Conditional Use Permit. The City of Waseca has classified the use as a legal-nonconforming use. In addition, the old water storage lagoon located in Section 13 of St. Mary Township is being filled and planted to be used as additional spray field as part of this Conditional Use Permit Amendment. The site will take on the appearance of a vegetated farm field. Lastly, the 2,500 square foot Screen House building is rather small in scale and

should not have a negative impact on the appearance in the area.

9) Are there other provisions within the Waseca County Unified Development Code, Minnesota State Law or Federal Law that will impact the approval of the Conditional Use Permit?

ConAgra (Foth Engineering): Nothing that the applicant is aware of.

Waseca County: There are federal, State Statutes and Rules, Waseca City Code, as well as County requirements for this project which are incorporated in the records and in these findings. Local, State and Federal Regulations - Industrial wastewater treatment facilities shall comply with all applicable local, state and federal laws and rules and regulations. No Waseca County zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

The facility is permitted and monitored by the Minnesota Pollution Control Agency (MPCA) as part of the National Pollutant Discharge Elimination System (NPDES) permitting process.

Conditions for Approval

Staff recommended approval of the request if the Waseca county Planning Commission finds that the proposal meets the standard criteria for approval. Only the changes to the conditions were provided to the Commission. If approved, staff recommended the following conditions be applied:

Standards/Regulations

1. All City, County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits obtained. ConAgra (assuming Pinnacle Foods and/or Birds Eye foods CUP position as grantee) agrees to obtain all Federal, State, County and City Permits required to: a) complete work on the properties governed by this CUP; b) agrees to maintain permits as required; and c) to provide copies of all permits to the Waseca County Planning & Zoning Department.

Site and Building Plans

2. Development and operation of the use shall be in substantial conformance with the site plan and building drawings provided to the Waseca County Planning and Zoning Department with the application for the CUP. *Plans for the development of spray field on PID 09.013.0510 and 09.013.0550 must be permitted separately by erosion and sediment control permit. Any site plan amendment due to the sale of any portion of the site must be approved by the Waseca County Board.*

Note: the sentence in italics was added by staff during the hearing

3. All of the properties operated in conjunction with the Wastewater Treatment Facilities shall be maintained in a nuisance free condition. ConAgra shall be held responsible for the control of dust, odors, fire, vermin, insects, rodents, groundwater and surface water contamination and in-blown materials resulting from operations on this site. All noxious weed laws shall be followed and all areas shall be kept in a neat and tidy condition at all times.
4. Periodic odor testing may be required by Waseca County if deemed to be a problem by the County. No spraying may be done within 100 feet from the right-of-way of any road or any wetland or within 500 feet of a residential structure.

Property and Leased Premises

5. Any changes, *with the exceptions described above*, to the properties owned or leased by Grantee that reduce or modify the number of spray field acres utilized or the treatments ponds required to operate the industrial wastewater treatment facility will require an amendment to the conditional use permit.

Note: the sentence in italics was added by staff during the hearing

Minnesota National Pollution Discharge Elimination Systems (NPDES) Requirements

6. The items listed below are required as part of the NPDES permit issued by the Minnesota Pollution Control Agency. Spray site operation is regulated by the Limits and Monitoring section of the NPDES permit. Key restrictions to prevent surface runoff or discharge of contaminated water to any tile drainage include the following:
 - a) No runoff of industrial wastewater from the application site is allowed. This applies to runoff during dry weather conditions or mixed with rainwater. Industrial wastewater may not be sprayed during any rainfall event that causes runoff from the site.
 - b) Industrial wastewater shall not be applied when the cover crop is dormant as a result of frost or below freezing temperatures.
 - c) The spray irrigation system cover crop shall be cut and removed at least twice a year to stimulate growth of vegetation and to remove nutrients from the system.
 - d) The Permittee shall conduct a daily visual inspection of each tile line discharge for changes that indicate a potential exceedance of a tile line limit or intervention limit. Tile line discharges are sampled and monitored weekly as indicated in the Limits and Monitoring requirements. Results of the water monitoring must be provided upon request of Waseca County.
 - e) All spray irrigation activities must be completed under the supervision of a Type V certified operator. These certified employees are trained on the irrigation scheduling, intensity, hydraulic and nutrient loading rates, soil moisture and load/rest cycles.

Duration, Failure to Comply and Review

8. A Conditional Use Permit shall become void one (1) year after being granted by the County Board unless used or if discontinued for a period of ninety (90) days. The County Board may prescribe a different time limit within which the action for which the Conditional Use is required shall commence, or be completed, or both. Failure to commence, or complete, or both, such action within the time limit set shall void the Conditional Use Permit. Conditional Use Permit shall be issued for a particular use on a specific parcel and not for a particular person or firm. This conditional use permit may only be modified by written amendment of the permit. Birds Eye shall allow periodic inspection of the facility by Waseca County personnel, including, but not limited to, Waseca County Zoning Administrator and/or staff or assignee, Public Health Department, Environmental Health Department, Waseca County Sheriff's Department or Minnesota Pollution Control Agency staff, to determine if the terms and conditions of this Conditional Use Permit are being complied with. Failure to comply with any of the above-listed conditions shall be grounds for suspension or revocation of the Conditional Use Permit. This Conditional Use Permit may be reviewed upon an annual basis and shall be subject to any additions or modifications deemed necessary in order to meet governmental requirements.

Public Agency Comments

An email containing the link to the staff report was provided to Minnesota Pollution Control Agency, the Minnesota Department of Transportation, Waseca, Waseca County Public Health, the Waseca County Sheriff, the Waseca County Attorney and the Waseca County Highway Department for their review.

There were no government agencies present at the meeting both online or in the conference room to comment on the project.

Township Review:

A copy of the notice of public hearing was provided to St. Mary and Woodville Township for their consideration.

Public Comments:

Public hearing notices were sent to adjacent property owners. No written correspondence has been received from any neighboring property owner or other members of the public.

Frederick opened the public hearing at 8:24 p.m.

Ralph Castro (ConAgra) provided some insights on the proposal. Sommers asked Castro what was not working on the pond/plant? Castro responded that chemicals were not working right and thus producing odor. Armstrong asked the number of employees projected to be added should the vegetable processing plant be operated. Castro responded that they were proposing to continue operation. Leiferman asked what ConAgra was proposing to use the old plant. Castro responded that ConAgra was proposing to shut down the old Bird's Eye plant

The public hearing was closed at 8:29 p.m.

Malterer made a motion to approve the criteria with Pearson seconding the motion. Motion was passed unanimously with 4 Yes 0 No.

Sommers made a motion to approve and recommend approval to County Board the ConAgra conditional use permit amendment with conditions as amended. Pearson seconded and it was passed unanimously with 4 Yes 0 No.

MISCELLANEOUS

(A) Transfer of Development Rights (TDR)

Leiferman informed the Planning Commission about the increase in projects within the county requiring a Transfer of Development Rights. He made mention of one situation along Knutson Lake where Planning Staff was asked about the need to obtain a development in a situation where a property owner had received a letter from the Waseca County Planning Department explaining that a parcel being sold the right to develop a home under the previous code (prior to July 21, 2009). The code change in July of 2009 changed the density provisions for the A-1 Agriculture Protection District. Under the previous code, the parcel along Knutson Lake was considered to be non-productive farmland but was buildable at the time prior to 2009. Leiferman then informed the Planning Commission staffs opinion in rectifying such situations thus requiring the need for a zoning code change. He furthered that the Department of Agriculture and the DNR would have to review any code changes relating to Ag. Preserve and Shoreland. The Commission considered the density limitations set forth in the code which were established as a trade-off for areas of the code which were made less restrictive. The Planning Commission members sought additional information to include the number of parcels which would be impacted by such a change. Staff will provide this information at a future Planning Commission meeting.

(B) Similar Use Provision- Licensed Residential Program

Leiferman informed the Planning Commission that the County received a request from the Trinity Sober house to redevelop the property located at 25797-120th Street, New Richland into a facility to be used as a weekend meditation and respite for people currently seeking assistance at Trinity's Minneapolis-St. Paul facilities. Leiferman then provided the Planning Commission options staff was proposing to review the request either as a similar use to the Licensed Residential Program or by a conditional use permit as a Retreat House/Retreat Center. The Planning Commission advised staff to provide the two options to the Applicant.

(C) Conditional Use Permit to Mine, Excavate, Process and Stockpile Sand and Gravel Aggregate

Leiferman continued the miscellaneous items discussion by providing a background on a CUP approved last year for Pentagon Materials and Joseph Sack which has been the location of a mining operation, off and on, for decades. He informed the Planning Commission that Jim Voda (Pentagon Materials) had concerns about the approval process last year (COVID Public Hearing issues) and requests the County to reconsider their CUP request to allow the company mine more of the site. Leiferman then provided the Planning Commission on proposed long term uses of the site provided by Pentagon Materials. Leiferman

asked if the Planning Commission wanted to proceed with the Pentagon Materials request in advance of the two year permit approval date with the next step being a neighbor meeting. The Planning Commission concurred with staff to proceed on the matter.

(D) Hunting Shack Changes

Leiferman informed the Planning Commission on recent information concerning the replacement of two out of three hunting shacks on a parcel on Buffalo Lake which appears to not meet setbacks and larger than the size requirements stipulated in the UDC. Leiferman added that there were two sites on the west side of Buffalo Lake with what appears to be 10 or 11 hunting shacks and there was no information on file at P&Z regarding these structures. He then read out the requirements for hunting shacks. An email received from the DNR was also read to the Planning Commission which basically mentioned that the 200 foot OHWL setback needed to be implemented and mentioned concerns with the storage of materials and road construction below the OHWL. The DNR also indicated the location of the shacks may be a public waters violation as well as an ordinance violation. To proceed with this request, the owners will need a variance or variances as well as a conditional use permit.

(F) Agricultural Covenant Discussion- Solar & Density

Leiferman informed the Planning Commission that staff received another request to consider a project located on Agriculture Covenant property. The project is a 1 MW facility just off the East Elysian Lake Road. He further stated over the years staff and the County Board have looked a number of ways to address the issue. The program restricts solar on the site and the MN Department of Agriculture has labeled solar as a commercial use. One may be simple remove the covenants from all of the properties as allowed under MN Statutes 40A.11. The County can send out certified letters to owners withdrawing from the program using the method in the statute. As background, the County entered into the program in 1988. The program pays farmers \$1.50 per acre in exchange for participating in the program. The goal is to preserve agricultural lands. The limited number of Counties that participate in the program pay into the state \$5.00 on each mortgages and deeds recorded with the County Recorder to fund the program. The state returns funds based upon the number of acres enrolled multiplied times \$1.50 per acre. Under these formulas, the County is a large net gainer paying in far less than we receive from the state. This is a huge disincentive to withdraw as outlined above. Also, it would still take 8 years to get out of the requirements. No solar company is looking that far out.

Staff provided another option which would be to amend the Waseca County's Farmland Preservation Plan. This would amend language within the document to define 1 megawatt solar projects as an agricultural use. If authorized by the state, the County would also need to modify our official controls (Zoning code and Comprehensive Plan) to reflect the change as well. The Planning Commission expressed a willingness to proceed with this effort.

ADJOURNMENT

Sommers made a motion with Roemhildt seconding to adjourn the meeting.
Meeting adjourned at 9:31 p.m.

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
WASECA COUNTY
And
CITY OF WALDORF
(COOPERATIVE CONSTRUCTION AND MAINTENANCE
LIGHTING AGREEMENT)**

State Project Number (S.P.):	<u>8107-21</u>	Original Amount Encumbered
Trunk Highway Number (T.H.):	<u>83=201</u>	<u>\$54,767.15</u>
State Aid Number (S.A.P.):	<u>081-603-036</u>	
State Aid Number (S.A.P.):	<u>081-604-027</u>	
State Aid Number (S.A.P.):	<u>081-596-001</u>	
County Project Number (C.P.):	<u>81-1974</u>	
Lighting Feed Point Number:	<u>COUNTY</u>	

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), the City of Waldorf acting through its City Council ("City"), and Waseca County acting through its Board of Commissioners ("County").

Recitals

1. The City will install, in coordination with the State and the County, a new Trunk Highway Lighting System ("Lighting System") on Trunk Highway No. 83 at County State Aid Highway (C.S.A.H.) No. 3 and No. 4 according to State-prepared typical drawings, standard plates, specifications, and special provisions ("Project"); and
2. The County will provide for the operation, maintenance, and electrical energy of the new Lighting System; and
3. The City and the County requests the State participate in the costs of the Lighting System construction and the State is willing to participate in the costs of said construction and associated construction engineering; and
4. The State has funds encumbered tied to the County in a prior fiscal year, so the State will pay the County, and the County will pay the City, the State's cost for Lighting System construction and associated construction engineering; and
5. The City and the County have entered into a separate Joint Powers Agreement to address Project costs; and
6. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining, and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms; Plans; Incorporation of Exhibits

- 1.1. Effective Date.** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.

- 1.2. **Expiration Date.** This Agreement will expire when all obligations have been satisfactorily fulfilled.
- 1.3. **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 5. Maintenance by the County; 10. Liability; Worker Compensation Claims; 12. State Audits; 13. Government Data Practices; 14. Governing Law; Jurisdiction; Venue; and 16. Force Majeure.
- 1.4. **Plans, Specifications, and Special Provisions.** State-approved City and County plans, specifications, and special provisions designated by the City and County as C.P. 81-1974, S.A.P. 081-603-036, S.A.P. 081-604-027, and S.A.P. 081-593-001 and by the State as State Project No. 8107-21 (T.H. 83=201) are on file in the office of the City Clerk/Treasurer and County's Interim Highway Department Head and incorporated into this Agreement by reference ("Project Plans").
- 1.5. **Exhibits.** Revised Schedule "I" is attached and incorporated into this Agreement.

2. Right-of-Way Use

- 2.1. **Limited Right to Occupy.** The State grants to the City (and its contractors and consultants) the right to occupy Trunk Highway Right-of-Way as necessary to perform the work described in the Project Plans. This right is limited to the purpose of constructing the project, and administering such construction, and may be revoked by the State at any time, with or without cause. Cause for revoking this right of occupancy includes, but is not limited to, breaching the terms of this or any other Agreement (relevant to this Project) with the State, failing to provide adequate traffic control or other safety measures, failing to perform the construction properly and in a timely manner, and failing to observe applicable environmental laws or terms of applicable permits. The State will have no liability to the City (or its contractors or consultants) for revoking this right of occupancy.
- 2.2. **State Access; Suspension of Work; Remedial Measures.** The State's District Engineer or assigned representative retains the right to enter and inspect the Trunk Highway Right-of-Way (including the construction being performed on such right-of-way) at any time and without notice to the City or its contractor. If the State determines (in its sole discretion) that the construction is not being performed in a proper or timely manner, or that environmental laws (or the terms of permits) are not being complied with, or that traffic control or other necessary safety measures are not being properly implemented, then the State may direct the City (and its contractor) to take such remedial measures as the State deems necessary. The State may require the City (and its contractors and consultants) to suspend their operations until suitable remedial action plans are approved and implemented. The State will have no liability to the City (or its contractors or consultants) for exercising its rights under this provision.
- 2.3. **Traffic Control; Worker Safety.** While the City (and its contractors and consultants) are occupying the State's Right-of-Way, they must comply with the approved traffic control plan, and with applicable provisions of the Work Zone Field Handbook (<http://www.dot.state.mn.us/trafficeng/workzone/index.html>). All City, contractor, and consultant personnel occupying the State's Right-of-Way must be provided with required reflective clothing and hats.
- 2.4. **State Ownership of Improvements.** The State will retain ownership of its Trunk Highway Right-of-Way, including any improvements made to such right-of-way under this Agreement, unless otherwise noted.

3. Construction by the City

- 3.1. **Contract Award.** The City did receive bids and did award a construction contract to the lowest responsible bidder according to the Project Plans. The contract construction will be performed according to the Project Plans.

3.2. Bid Documents Furnished by the City. The City has submitted, to the State's District Engineer, a copy of the low bid and an abstract of all bids together with the City's request for concurrence by the State in the award of the construction contract.

3.3. Supervision and Inspection of Construction.

A. Supervision and Inspection by the City. The City will direct and supervise all construction activities performed under the construction contract, and perform all construction engineering and inspection functions in connection with the contract construction. The City will give the MnDOT District Permit Office five days' notice of its intention to start the contract construction.

B. Inspection and Light Pole Locations by the State. The construction covered under this Agreement will be open to inspection by the State. The State will have final approval of light pole locations and will provide for a final inspection and approval of the Lighting System installation. If the State believes the construction covered under this Agreement has not been properly performed or that the construction is defective, the State will inform the City's authorized representative of those defects. Any recommendations made by the State will be binding on the City. The State will have the exclusive right to determine whether the City's contractor installation of the Lighting System has been satisfactorily performed.

i. State Inspection Contact. Contact the MnDOT District 7 Lighting Specialist at least 7 days prior to the Lighting System installation to have the proposed Lighting System component locations inspected and approved.

Name, Title: Tod Becker, MnDOT District 7 Lighting Specialist (or successor)
Telephone: (507) 380-9625

C. Gopher State One Call. After approval of final light pole locations by the State under 3.2.B, the City will be responsible to utilize the Gopher State One Call excavation notice system as required under Minnesota Statutes § 216D.

3.4. Satisfactory Completion of Contract. The City will perform all other acts and functions necessary to cause the construction contract to be completed in a satisfactory manner.

4. Utility Permit

The County will submit to the State's Utility Engineer an original permit application for the new County owned Lighting System to be constructed upon and within the Trunk Highway Right-of-Way. Applications for permits will be made on State form "Application for Utility Permit on Trunk Highway Right-of-Way" (Form 2525).

5. Maintenance by the County

Operation, maintenance, and electrical energy responsibilities will be as follows for the Lighting System on Trunk Highway No. 83 at County State Aid Highway No. 3 and No. 4.

5.1. Power. The County will be responsible for the hook-up cost and application to secure an adequate power supply to the service pad or pole and will pay all monthly electrical service expenses necessary to operate the Lighting System.

5.2. Lighting System Maintenance. The County will provide maintenance and ownership of the lighting facilities construction. Maintenance of electrical lighting systems includes everything within the system, from the point of attachment to the power source or utility, to the last light on the feed point, including but not limited to re-lamping of lighting units or replacing of LED luminaires, repair or replacement of all

damaged luminaire glassware, loose connections, luminaires when damaged or when ballasts fail, photoelectric control on luminaires, defective starter boards or drivers, damaged fuse holders, blown fuses, knocked down poles including wiring within the poles, damaged poles, pullboxes, underground wire, damaged foundations, equipment pad, installation of approved splices or replacement of wires, repair or extending of conduit, lighting cabinet maintenance including photoelectric cell, electrical distribution system, Gopher State One Call (GSOC) locates, and painting of poles and other equipment.

- 5.3. **Right-of-Way Access.** The State authorizes the County to enter upon State Right-of-Way to perform the maintenance activities described in this Agreement.

6. Basis of State Cost

- 6.1. **Schedule "I".** The Revised Schedule "I" includes all anticipated State participation construction items and the construction engineering cost share covered under this Agreement.
- 6.2. **State Participation Construction.** The State will participate in the following at the percentages indicated. The construction includes the State's proportionate share of item costs for mobilization and traffic control.
- A. 100 Percent will be the State's rate of cost participation in all of the Lighting System construction at the Trunk Highway No. 83 locations.
- 6.3. **Construction Engineering Costs.** The State will pay a construction engineering charge equal to 8 percent of the total State participation construction covered under this Agreement.
- 6.4. **Addenda, Change Orders, Supplemental Agreements, and Work Orders.** The State will share in the costs of construction contract addenda, change orders, supplemental agreements, and work orders that are necessary to complete the State participation construction covered under this Agreement and are approved in writing by the State District Engineer's authorized representative.
- 6.5. **Liquidated Damages.** All liquidated damages assessed the County's contractor in connection with the construction contract will result in a credit shared by each party in the same proportion as their total construction cost share covered under this Agreement is to the total contract construction cost before any deduction for liquidated damages.

7. State Cost and Payment by the State

- 7.1. **State Cost.** \$54,767.15 is the State's estimated share of the costs of the contract construction which includes the 8 percent construction engineering cost share and a \$5,000.00 contingency amount as shown in the Revised Schedule "I". The Revised Schedule "I" was prepared using estimated quantities and construction contract unit prices, and may include any credits or lump sum costs. The contingency amount is provided to cover overruns of the plans estimated quantities of State participation construction and State approved additional construction including construction engineering costs.
- 7.2. **Conditions of Payment.** The State will pay the County, and the County will pay the City, the State's total estimated construction cost share, which does not include the 8 percent construction engineering cost share or the contingency amount, as shown in the Revised Schedule "I", after the following conditions have been met:
- A. Encumbrance by the State of the State's total estimated construction cost share, the 8 percent construction engineering cost share, and the contingency amount, as shown in the Revised Schedule "I".

- B. Approval by the State's head of District Land Management at Mankato of certified documentation, submitted by the County or City, for all right-of-way and easement acquisitions required for the contract construction.
- C. Execution of this Agreement and transmittal to the City and the County, including a letter advising of the State's concurrence in the award of the construction contract.
- D. The State's receipt of a written request from the County for the advancement of funds. The request will include certification by the City that all necessary parties have executed the construction contract.

7.3. Limitations of State Payment; No State Payment to Contractor. The State's participation in the contract construction is limited to the State participation construction shown in Article 7.1, and the State's participation will not change except by a mutually agreed written amendment to this Agreement. The State's payment obligation extends only to the County. The City and the City's contractor is not intended to be and will not be deemed to be a third party beneficiary of this Agreement. The City and the City's contractor will have no right to receive payment from the State. The State will have no responsibility for claims asserted against the County by the City and the City's contractor.

7.4. Construction Costs Exceeding Encumbered Amount. Whenever it appears the cost of the State participation construction covered under this Agreement is about to exceed the current amount of encumbered State funds, the County or the City will notify the State District Engineer's authorized representative in writing prior to performance of the additional State participation construction. Notification will include an estimate in the amount of additional funds necessary to complete the State participation construction including construction engineering costs and the reason(s) why the current amount encumbered will be exceeded. The State will, upon its approval of the additional State participation construction, encumber the necessary additional funds. That action will have the effect of amending this Agreement so as to include the State's share of the costs of the additional construction.

Should the County or the City cause the performance of additional contract construction which would otherwise qualify for State participation construction covered under this Agreement, but for which the State has not previously encumbered funds, that additional contract construction is done at the County's and City's own risk. The County or the City will notify the State District Engineer's authorized representative in writing of the additional State participation construction. Notification will include an estimate in the amount of additional funds necessary to cover the additional State participation construction including construction engineering costs and the reason(s) why the current amount encumbered was exceeded. If the State District Engineer's authorized representative approves the additional State participation construction, the County's or the City's claim for compensation along with a request for encumbrance of the necessary additional funds will be submitted to the State's Budget Section for review of compliance with Minnesota Statutes § 16A.15, subdivision 3, but no guarantee is made that the claim will be approved by the State's Budget Section. If the claim for compensation and the request for encumbrance of the necessary additional funds are approved by the State's Budget Section, that action will have the effect of amending this Agreement so as to include the State's share of the costs of the additional construction.

7.5. Records Keeping and Invoicing by the County and the City. The State will provide the City and the County with a Payment Processing Package containing a Modified Schedule "I" form, instructions, and samples of documents for processing final payment of the State participation construction covered under this Agreement.

The County and the City will keep records and accounts that enable it to provide the State with the following prior to final payment:

- A. A copy of the Modified Schedule "I" which includes final quantities of State participation construction.
- B. Copies of the City contractor's invoice(s) covering all contract construction.
- C. Copies of the endorsed and canceled City warrant(s) or check(s) paying for final contract construction, or computer documentation of the warrant(s) issued, certified by an appropriate City official that final construction contract payment has been made.
- D. Copies of all construction contract change orders, supplemental agreements, and work orders.
- E. A certification form, attached to a copy of the Final Schedule "I", both provided by the State. The certification form will be signed by the City's Engineer in charge of the contract construction attesting to the following:
 - i. Satisfactory performance and completion of all contract construction according to the Project Plans.
 - ii. Acceptance and approval of all materials furnished for the contract construction relative to compliance of those materials to the State's current "Standard Specifications for Construction".
 - iii. Full payment by the City to its contractor for all contract construction.
- F. When requested, copies certified by the City's Engineer, of material sampling reports and material testing results for the materials furnished for the contract construction.
- G. A copy of the "as built" plan sent to the District Engineer.
- H. A formal invoice (original and signed) in the amount due the County as shown in the Final Schedule "I".

7.6. Final Payment by the State. Upon completion of all contract construction, the State will prepare a Final Schedule "I" according to the procedures detailed in the Payment Processing Package and submit a copy to the County. The Final Schedule "I" will be based on final quantities, and include all State participation construction items and the construction engineering cost share covered under this Agreement. If the final cost of the State participation construction exceeds the amount of funds advanced by the State, the State will pay the difference to the County without interest. If the final cost of the State participation construction is less than the amount of funds advanced by the State, the County will refund the difference to the State without interest.

The State and the County waive claims for any payments or refunds less than \$5.00 according to Minnesota Statutes § 15.415.

8. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

8.1. The State's Authorized Representative will be:

Name, Title: Malaki Ruranika, Cooperative Agreements Engineer (or successor)
Address: 395 John Ireland Boulevard, St. Paul, MN 55155
Telephone: (651) 366-4634
E-Mail: malaki.ruranika@state.mn.us

8.2. The County's Authorized Representative will be:

Name, Title: Alan Forsberg, Interim Highway Department Head (or successor)
Address: P.O. Box 487, Waseca, MN 56093
Telephone: (507) 461-7566
E-Mail: alan.forsberg@co.waseca.mn.us

8.3. The City's Authorized Representative will be:

Name, Title: Dee Ann Britton, Waldorf City Clerk/Treasurer (or successor)
Address: P.O. Box 55, City Hall, Waldorf MN 56091
Telephone: (507) 239-2248
E-Mail: info@cityofwaldorf.com

9. Assignment; Amendments; Waiver; Contract Complete

9.1. Assignment. No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

9.2. Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

9.3. Waiver. If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.

9.4. Contract Complete. This Agreement contains all prior negotiations and agreements between the State, the City, and the County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

10. Liability; Worker Compensation Claims

10.1. Each party is responsible for its own acts, omissions, and the results thereof to the extent authorized by law and will not be responsible for the acts, omissions of others, and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City and the County.

10.2. Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

11. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

12. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City's and the County's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

13. Government Data Practices

The City, the County, and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City or the County under this Agreement.

The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City, the County, or the State.

14. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15. Termination; Suspension

15.1. By Mutual Agreement. This Agreement may be terminated by mutual agreement of the parties.

15.2. Suspension. In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, and performance of work authorized through this Agreement.

16. Force Majeure

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

[The remainder of this page has been intentionally left blank]

STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT Purchase Order: 3000506892

WASECA COUNTY

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for Approval:

By: _____
(District Engineer)

Date: _____

Approved:

By: _____
(State Design Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

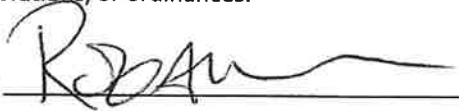
By: _____
(With Delegated Authority)

Date: _____

INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

CITY OF WALDORF

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions, or ordinances.

By: 

Title: Mayor of Waldorf

Date: April 12, 2021

By: 

Title: City Clerk of Waldorf

Date: April 12, 2021

INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

REVISED SCHEDULE "I"

Agreement No. 1035530

Waldorf and Waseca County

S.P. 8107-21 (T.H. 83=201)
S.A.P. 081-603-036 (C.S.A.H. 3)
S.A.P. 081-604-027 (C.S.A.H. 4)
S.A.P. 081-593-001 (C.R. 74)
C.P. 81-1974 (C.R. 74)

Preliminary: November 1, 2019
Revised: August 20, 2020

Bituminous surfacing, grading, storm sewer, ADA improvements, and lighting construction performed under City contract with Holtmeier Construction, Inc.
located in Waldorf on C.S.A.H. 4 from T.H. 83 to C.S.A.H. 3 (Main Street) and on C.S.A.H. 3 from T.H. 83 to 125 feet north of School Street and on County Road No. 74 from C.S.A.H. 3 (Main Street) to 375 feet east of 4th Avenue

STATE COST PARTICIPATION	
Lighting System (From Sheet No. 2)	46,080.69
(1) Subtotal	\$46,080.69
Construction Engineering (8%)	3,686.46
Subtotal	\$49,767.15
(2) Contingency Amount	5,000.00
Encumbered Amount	\$54,767.15

- (1) Amount of advance payment as described in Article 7.2 of the Agreement
(2) For the State's use only as described in Article 7.1 of the Agreement

1035530

[illegible]

WASECA COUNTY

RESOLUTION

IT IS RESOLVED that Waseca County enter into MnDOT Agreement No. 1035530 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to Waseca County and from Waseca County to the City of Waldorf of the State's share of the costs of the Trunk Highway Lighting System construction and other associated construction to be performed upon, along, and adjacent to Trunk Highway No. 83 at County State Aid Highway No. 3 and No. 4 within the corporate City limits of Waldorf under State Project No. 8107-21 (T.H. 83=201).

IT IS FURTHER RESOLVED that the _____
(Title)
and the _____
(Title)
are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Board of Commissioners of Waseca County at an authorized meeting held on the _____ day of _____, 20____, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this
_____ day of _____, 20____

Notary Public _____

My Commission Expires _____

(Signature)

(Type or Print Name)

(Title)

CITY OF WALDORF

RESOLUTION 2021-001

IT IS RESOLVED that the City of Waldorf enter into MnDOT Agreement No. 1035530 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to Waseca County and from Waseca County to the City of Waldorf of the State's share of the costs of the Trunk Highway Lighting System construction and other associated construction to be performed upon, along, and adjacent to Trunk Highway No. 83 at County State Aid Highway No. 3 and No. 4 within the corporate City limits under State Project No. 8107-21 (T.H. 83=201).

IT IS FURTHER RESOLVED that the Mayor and the City Clerk are authorized to execute the Agreement and any amendments to the Agreement.

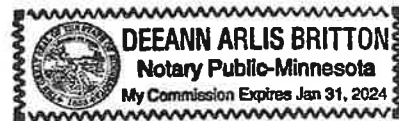
CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Waldorf at an authorized meeting held on the 12th day of April 2021, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this 12th day of April 2021.

Notary Public:

DeeAnn Arlis Britton



My Commission Expires:

January 31, 2024

(Signature)

DeeAnn Arlis Britton

(Print Name)

DeeAnn Arlis Britton

(Title)

Waldorf City Clerk

**WASECA COUNTY
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT
DITCH INSPECTOR**

This Agreement is made by and between the County of Waseca, hereinafter referred to as the "County" and _____, hereinafter referred to as "Contractor". This Agreement shall be effective on _____, 2021 for a term of ___ years or thirty (30) days after either party gives notice to the other party in writing of its intent to terminate this Agreement.

1. Scope of Services.

The County agrees to contract with the Contractor to perform select services defined in Chapter 103E of Minnesota Law and hereinafter outlined in connection with providing professional and technical assistance with the county ditch system. The Contractor agrees to furnish services described as follows:

- 1.1. The Contractor will receive and respond to issues or problems regarding the county's 42 agricultural drainage systems. The Contractor will make routine and regular inspection of County ditch systems throughout the year to identify problem areas. The Contractor will visit sites and inspect ditches to determine or confirm issues as reported. The Contractor will interpret maps, engineering data, and statutes to determine work guidance, project specifications and financial responsibilities.
- 1.2. The Contractor will provide all necessary transportation (i.e., vehicles, trailers, ATV, etc.) as part of the hourly rate of this contract. The contractor shall provide their own GPS and laser survey equipment as needed to fulfill this contract. This equipment will be required to survey and document existing conditions of the ditch system as well as document progressing projects.
- 1.3. The Contractor will work with the Soil and Water Conservation District, state departments, consultants and County officials regarding issues when appropriate. The Contractor will coordinate vendors to resolve ditch issues within the policies and spending thresholds as established by the County Board. The Contractor will coordinate other vendors to perform work if needed. The Contractor will monitor vendor performance and authorize payment accordingly.
- 1.4. The Contractor will take calls, answer questions and provide advice to landowners. The Contractor will conduct buffer strip inspections to ensure adequate compliance from property owners. The Contractor will provide maintenance guidance and advice on water control structures such as lake outlets, Moonan Marsh Dike, etc. The Contractor will facilitate meetings with landowners to resolve ditch maintenance issues affecting larger projects and will work closely with landowners when a ditch problem affects multiple landowners. The Contractor will hear petitions for drainage projects from landowners including new drainage systems, improvements to existing systems, improving outlets, establishing lateral connections or impounding, rerouting and diverting drainage system waters.
- 1.5. The Contractor will report directly to the Board of Commissioners and the Drainage Subcommittee. The Contractor will communicate and provide updates to the Board of Commissioners and the Drainage Subcommittee. The Contractor will attend regular meetings as needed. The Contractor will make County Drainage Authority presentations concerning work that has been completed, status of ongoing projects and future work plans following the discussion at a regular meetings.
- 1.6. The Contractor agrees to maintain books, records, documents, and other evidence, which sufficiently reflect services provided through this Agreement. These books, records and documents, and other information relevant to the Agreement, shall be subject at all reasonable times to inspection, review or audit on site by personnel of the County, personnel authorized by the County, and either the Legislative Auditor or the State Auditor as appropriate. The Contractor agrees to maintain records for three (3) years after the last date of services under this Agreement, provided that the County may, by furnishing written notice during the term, require continued retention of records to allow completion of an audit by the County or its ultimate funding source.

- 1.7. The Contractor shall have the authority to spend up to \$5,000 per ditch per year on any ditch project. For projects greater than \$5,000, the Contractor will obtain approval from the County prior to work commencing. Any discretionary spending should be communicated to the County Board Chair within 48 hours. The County shall remain the decision maker for all ditch policy and the Contractor shall serve to carry out the ditch related duties identified in this agreement. The County may duplicate, use and disclose in any manner consistent with the provisions of the Data Privacy Clause in this Agreement, and have others do so, all data delivered under this Agreement.
- 1.8. The County may evaluate the performance of the Contractor in regard to the provisions of this Agreement at any time. The County reserves the right to authorize independent evaluations under this paragraph.

2. Payment for Services.

- 2.1. The Contractor agrees to perform the described services at the rate of \$65.00 per hour for a total amount not to exceed \$65,000 annually for the term of this Agreement. Fractional amounts shall be billed in fifteen minute increments. Payment is contingent on submission of the following information: dates of service, amount of time worked on each date, and the description of activities by specific county ditch. Other reasonable reimbursable expenses excluding mileage, shall be billed in the same manor.
- 2.2. The Contractor shall, within sixty (60) working days following the last day of each calendar month, submit an invoice for services purchased on a form acceptable to the County. Except as provided below, the County shall make payment to the Contractor within thirty (30) days of the date on which the invoice is received. The County has the absolute right to refuse to make payment on invoices received or postmarked more than ninety (90) days after the last date the invoiced services were performed.

3. Indemnification.

- 3.1. In the performance of this contract by Contractor, or Contractor's agents or employees, the Contractor must indemnify, save, and hold harmless the County, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the County, to the extent caused by Contractor's:
 - a) Intentional, willful, or negligent acts or omissions; or
 - b) Actions that give rise to strict liability; or
 - c) Breach of contract or warranty.
- 3.2. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the County's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the County's failure to fulfill its obligation under this contract.

4. Workers' Compensation and Other Insurance Requirements.

Contractor shall not commence work under the contract until they have obtained all the insurance described below and the County has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- 4.1. Workers' Compensation Insurance: Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the County, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:

\$100,000 – Bodily Injury by Disease per employee
\$500,000 – Bodily Injury by Disease aggregate
\$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the County with a certificate of insurance.

- 4.2. *Commercial General Liability Insurance:* Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence
\$2,000,000 – annual aggregate
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
Other; if applicable, please list: None
Waseca County named as an Additional Insured

- 4.3. *Commercial Automobile Liability Insurance:* If Contractor transports consumers, Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the Contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

- 4.4. *Additional Insurance Conditions:*

- a) Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the County with respect to any claim arising out of Contractor's performance under this contract;
- b) Contractor's policy(ies) and Certificate(s) of Insurance shall contain a provision that coverage afforded under the policy(ies) shall not be cancelled without at least thirty (30) days advanced written notice to the County;

- 4.5. The County reserves the right to immediately terminate the contract if the Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the County, and copies of policies must be submitted to the County's authorized representative upon written request.

- 4.6. If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the County within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the County;
- 4.7. Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 4.8. If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- 4.9. Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits.
- 4.10. Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A-(minus); Financial Size Category (FSC) VII or better, and authorized to do business in Waseca County; and
- 4.11. An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract
- 4.12. The successful responder is required to submit Certificates of Insurance acceptable to the County as evidence of insurance coverage requirements prior to commencing work under the Contract.
- 4.13. Further, the Contractor certifies that it is in compliance with Minnesota Statute § 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered County employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the County's obligation or responsibility.

5. Non-Discrimination (in accordance with Minnesota Statute § 181.59).

The Contractor will comply with the provisions of Minnesota Statute § 181.59 which require:

"Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

- (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;*
- (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;*
- (3) That a violation of this section is a misdemeanor; and*
- (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract."*

6. Records and Information.

- 6.1. Ownership of Documents, Intellectual Property Rights and Confidentiality: All documents, reports, recommendations, designs and other work prepared or furnished by Contractor pursuant to this Agreement are

work products of the County and shall be the property of the County. Contractor represents and certifies that the works and documents created and paid for under this Agreement do not and will not infringe upon any intellectual property rights of other persons or entities. Contractor shall furnish the County with all products upon completion of the work, and at any other time as requested by the County. No reports, documents, drawings or other information that are generated under this Agreement shall be released by Contractor, its agents, personnel, employees or subcontractors except as required to be released by the Minnesota Data Practices Act.

- 6.2. Data Practices: Contractor must comply with the Minnesota Government Data Practices Act (Minnesota Statutes Chapter 13) as it applies to all data provided to Contractor by the County under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Contractor pursuant to this Agreement. If the Contractor receives a request to release data pursuant, Contractor shall follow the County's Data Practices Policies.

7. Assignment, Amendments, Waiver, and Contract Complete.

- 7.1. Assignment: The Contractor may neither assign nor transfer any rights or obligations under this contract without the prior consent of the County and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this contract, or their successors in office.
- 7.2. Amendment: Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 7.3. Waiver: If the County fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.
- 7.4. Contract Complete: This contract contain all negotiations and agreements between the County and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

8. Default.

- 8.1. Unless the Contractor's default is excused under the provisions of this Agreement, the Contractor, after receipt of notice by the County of any circumstances warranting cancellation of this Agreement, shall have ten (10) days (or such longer period as the County may authorize in writing) after receipt of notice from the County to cure the specified failure.
- 8.2. If the Contractor fails to remedy the specified condition after notice within the prescribed period of time, then the County may upon written notice immediately cancel the whole or any part of this Agreement.
- 8.3. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be construed to be modification of the terms of authorized representative of the County, and attached to the original Agreement.
- 8.4. The rights and remedies of the County provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

9. Cancellation and Finalization.

This Agreement or portion thereof may be cancelled by either party at any time, with or without cause, upon thirty (30) days written notice, delivered by mail or in person.

After receipt of a notice of cancellation, and except as otherwise directed, the Contractor shall:

- a) Discontinue provision of Purchased Services under this Agreement on the date, and to the extent specified, in the notice of cancellation.
- b) Cancel all orders to the extent that they relate to the performance of Purchased Services cancelled by the notice of cancellation.
- c) Complete performance of such Purchased Services as shall not have been cancelled by the notice of cancellation.
- d) Submit a revenue and expense statement for the performance of Purchased Services prior to the effective date of cancellation within thirty (30) days of said date.
- e) Maintain all records relating to performance of the cancelled portion of the Agreement as may be required by the County.
- f) Arrange for the return of County property.

10. Merger.

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the Contractor and any County Department(s) relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

IN WITNESS WHEREOF, the County and the Contractor have executed this Agreement, this ____ day of _____ 2021.

, Contractor

DeAnne Malterer, Board Chair
Waseca Board of Commissioners

Michael Johnson, County Administrator
Waseca County