

NOTICE FOR PUBLIC HEARING

A public hearing as required by the General Code of Ordinances for Marathon County Chapter 17 Zoning Code will be held by the **Marathon County Board of Adjustment** at **9:00 a.m., Thursday, May 26, 2022**, at 212 River Drive Room 5 Wausau WI 54403.

Persons wishing to attend the meeting by phone may call into the telephone conference beginning fifteen (15) minutes prior to the start time indicated above using the following number:

Phone Number: 1-408-418-9388

Access Code/Meeting Number: 2482 290 3069

PLEASE NOTE: If you are prompted to provide an “Attendee Identification Number” enter the # sign. No other number is required to participate in the telephone conference.

When you enter the telephone conference, **PLEASE PUT YOUR PHONE ON MUTE!**

1. Approval of the February 24, 2022, minutes.
2. *The application of Stuart Hanson on behalf of Hanson Sanitation & Excavating Inc. for a conditional use permit per 17.204.54 “Nonmetallic Mining” of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of operating a nonmetallic mining on property currently owned by Gunderson Farms Inc. The property is located in the G-A General Agricultural district, on property described as SW ¼ SW ¼ and NW ¼ SW ¼ Section 27, T27N, R10E and part of the SE¼ NE ¼, Section 28, T27N, R10E, Town of Elderon, further described as PIN#’s 022.2710.273.0997, 022.2710.273.0998 and 022.2710.284.0995
3. The application of Jay L. Oberholtzer for a conditional use permit per Section 17.204.07 of the General Zoning Code of Ordinances under Marathon County Chapter 17 Zoning Code for a Kennel/Boarding Facility of more than seven dogs (for commercial purposes) within the G-A General Agriculture district, part of the SW¼ of the NE¼ of Section 5, T26N, R03E, Town of McMillan; PIN # 056.2603.051.0993, with a property address of: 209223 County Road E, Stratford, WI 54484
4. Board Reappointments
 - a Announcement of County Board Chair Appointments on April 26th 2022
 - i Supervisor Tom Seubert 206308 County Road M, Stratford, for a 3-year term to expire June 30, 2025
 - ii Re-appointment Richard Lawson, 163228 Meadow View Road, Wausau, for a 3-year term to expire on June 30, 2025
5. Board education and training as needed
6. Announcements and Requests
7. Adjourn

*For agenda item #2, an opportunity will also be provided to give testimony on reclamation related matters as required by Chapter 21, Nonmetallic Mining Reclamation Code. The reclamation plan and specifications may be viewed at the Conservation Planning and Zoning Department, 210 River Drive, Wausau during regular business hours (8:00 AM to 4:30 PM –Monday – Friday). Please call 715-261-6000 with questions about the project or to make an appointment to view or discuss the reclamation plans.

All interested persons will be provided the opportunity to provide testimony at the public hearing. Those planning to attend this meeting who need some type of special accommodation in order to participate should call the County Clerk's Office at 715-261-1500. Please call at least one business day in advance of the meeting.

In the event you are unable to attend the public hearing and wish to provide written testimony, please contact the Conservation, Planning, and Zoning Department at 715-261-6000 for assistance.



Karen Piel, Chairman
Board of Adjustment



Director
Conservation, Planning, and Zoning Department

Publish: May 9th and May 16, 2022

E-mailed to Wausau Daily Herald on May 5, 2022, at 10am

APPLICATION FOR CONDITIONAL USE PERMIT
MARATHON COUNTY BOARD OF ADJUSTMENT

The applicant hereby requests the Board of Adjustment to hear and decide upon this application as prescribed by Section 17.803 of the Marathon County Zoning Ordinance. **Use a separate sheet if necessary.**

Name of Applicant: Hanson Sanitation & Excavating, Inc.
Mailing Address: PO Box 349 Wittenberg, WI 54499
Telephone: 715-253-2020 Fax: N/A
Cellphone: 715-881-0155 (Stuart Hanson) Email: hansonsanitation@gmail.com
Owner Name: (if different) Stuart T. Hanson
Mailing Address: PO Box 349 Wittenberg, WI 54499
Telephone: 715-253-2020 Fax: N/A

PARCEL INFORMATION

Parcel ID # (PIN): 022-2710-273-0997, SW SW Sec 27 T27N R10E, 022-2710-273-0998, NW SW Sec 27 T27N R10E, 022-2710-284-0995, SE SE Sec 28 T27N R10E
(If more than one parcel is included in this application, list all parcel numbers & legal descriptions on a separate sheet.)

Legal Description: Government Lot _____ or _____ 1/4 _____ 1/4
Section _____, T _____ N, R _____ E, Town of Elderon
Lot _____ . Block _____ Subdivision _____
Property Address: Mission Lake Road
Parcel size: 50 Acres **or** _____ Sq. Ft.
Zoning District: Agriculture

Present use of property (List all current uses, i.e. home, store, farm field, wooded, etc.):
Agriculture, field for farming.

Existing improvements (Structures, well, septic, etc.):
None

PROPOSAL

Describe **specifically** the nature of this request (be sure to **list all proposed uses** of the parcel). What do you plan to do?
Making a pit to crush road gravel, washing product to make concrete sand, bedding sand and washed stone.

If this application is for a use that will be restricted to part of the parcel, specify the **exact dimensions** of the affected area.
See attached sheet.

Provide the following information if this box is checked

Proposal has additional development standards in Section 17.204.54. Explain how your proposal meets or exceeds these requirements.

Use separate/additional sheet(s) if necessary

INSTRUCTIONS TO APPLICANT

1. Be sure to complete **all items** on the application. This includes a **brief, but complete explanation** of the current use and proposed new use.
2. Prepare a **map at a scale which is reproducible** (11" x 17" or smaller). For maps larger than 11" x 17", be prepared to provide as many copies as needed for transmittal. In no instance may the scale of the map be less than 1 inch equals 200 feet. There are instances where a cross-section of the property or contours will be helpful, and in some cases one or both may be required. Narrative or photos may be included as supporting documentation.

At a minimum the map must include:

- The location, dimensions, and parcel identification number of the lot or lots including a legal description.
- Location of any and all nearby public and private streets.
- Dimensions of the lot and the location of all existing and proposed buildings or structures, and location of existing or proposed private onsite wastewater treatment (septic) system.
- Required front, rear, and side yard areas, open space, and parking.
- On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms.
- Location and dimensions of all buildings or structures to be erected, structurally altered, or moved.
- Wetlands and floodplains
- Screening/Buffers
- Lighting
- Parking

3. **Include the \$600 fee** when you submit the application. Please make checks payable to Marathon County.

We cannot consider an application complete until the following are submitted to this office:

<i>Check if submitted</i>	<i>Initial of staff</i>	
<input type="checkbox"/>	_____	Completed application including signatures.
<input type="checkbox"/>	_____	Map with all required information.
<input type="checkbox"/>	_____	Additional documents, as needed (lot combination forms, hunting/fishing shelter application, etc.)
<input type="checkbox"/>	_____	Zoning Permit application
<input type="checkbox"/>	_____	Fee

Please contact the Marathon County Conservation, Planning and Zoning Department with any questions: 715-261-6000.

IMPORTANT: The applicant or authorized representative **must be present at the hearing** or Board **may deny** the application without prejudice.

<p><u>Scott Swonka</u> _____ Owner Signature (required)</p>	<p style="text-align: center;"><u>2-14-2022</u> _____ Date</p>
<p><u>Stuart T Hansen</u> _____ Agent / Person responsible for work Signature (required)</p>	<p style="text-align: center;"><u>2-14-2022</u> _____ Date</p>

Conditional Use Permits expire six (6) months from the latest date of signature on the approval letter signed by Chairman and the Secretary of the Board of Adjustment if the proposed construction or preparation of land for use has not commenced. The Zoning Administrator may grant an extension for up to six (6) months upon show of valid cause.

<p><u>Return to:</u> Board of Adjustment Marathon County CPZ Department 210 River Drive Wausau, WI 54403-5449</p>	<p>Telephone: 715-261-6000 Toll free within Marathon County: 1-800-236-0153 Facsimile: 715-261-6016</p>
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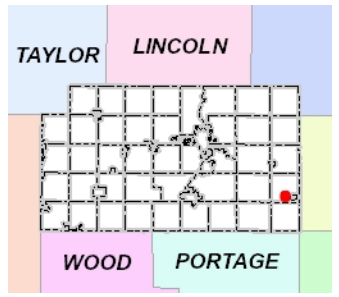
For office use ↓

For office use ↓

For office use

Amount Received: \$ _____

Date Stamp: _____



Legend

- Road Names
- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities
- 2020 Orthos Countywide
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

Notes

200.00 0 200.00 Feet

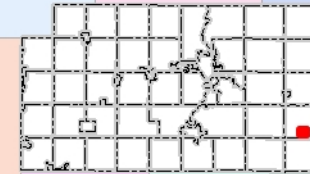
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Land Information Mapping System

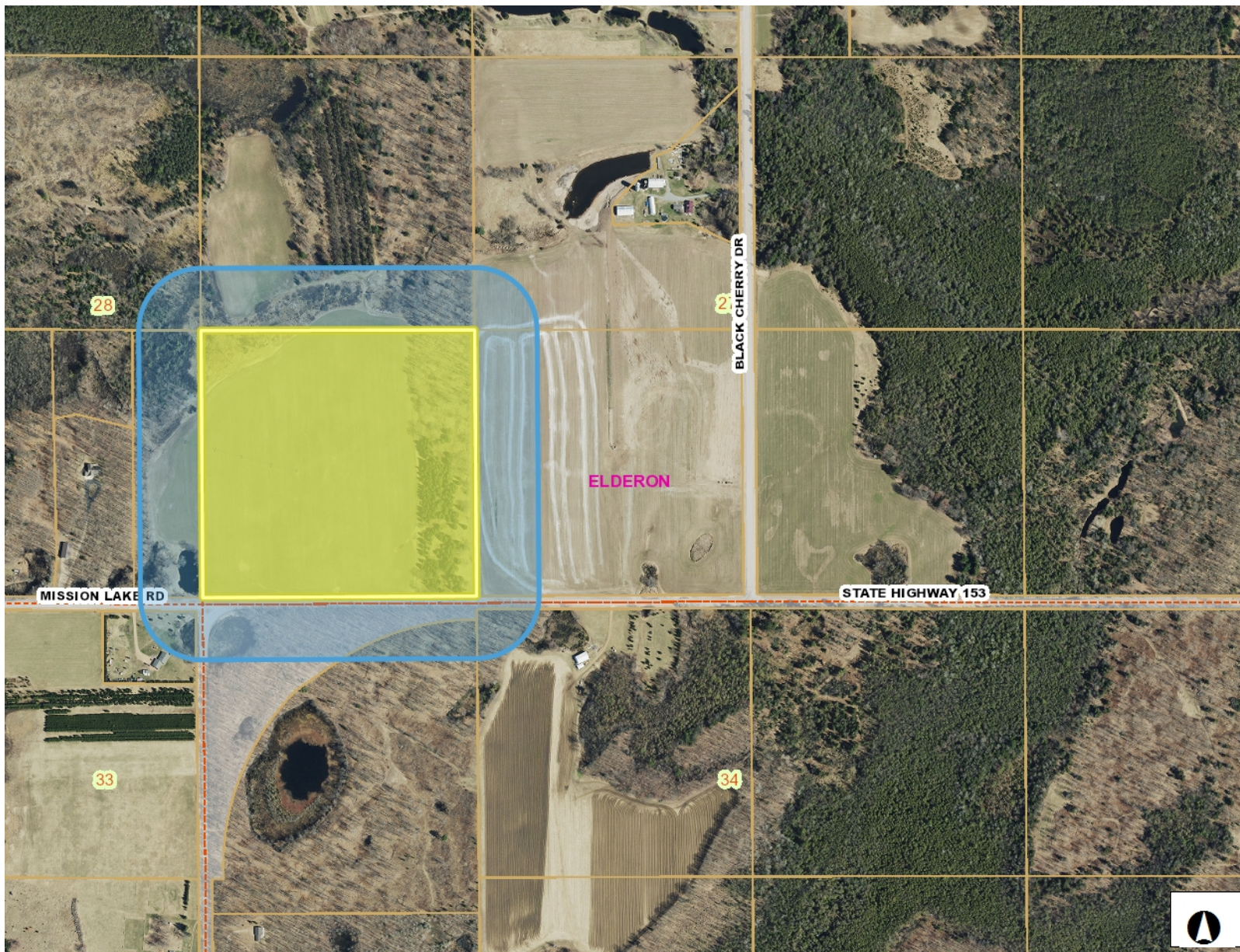
TAYLOR

LINCOLN



WOOD

PORTAGE



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358.78 0 358.78 Feet



NAD_1983_HARN_WISCRS_Marathon_County_Feet

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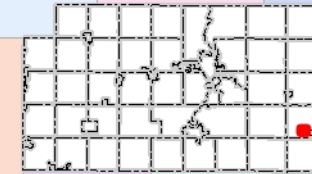
Notes



Land Information Mapping System

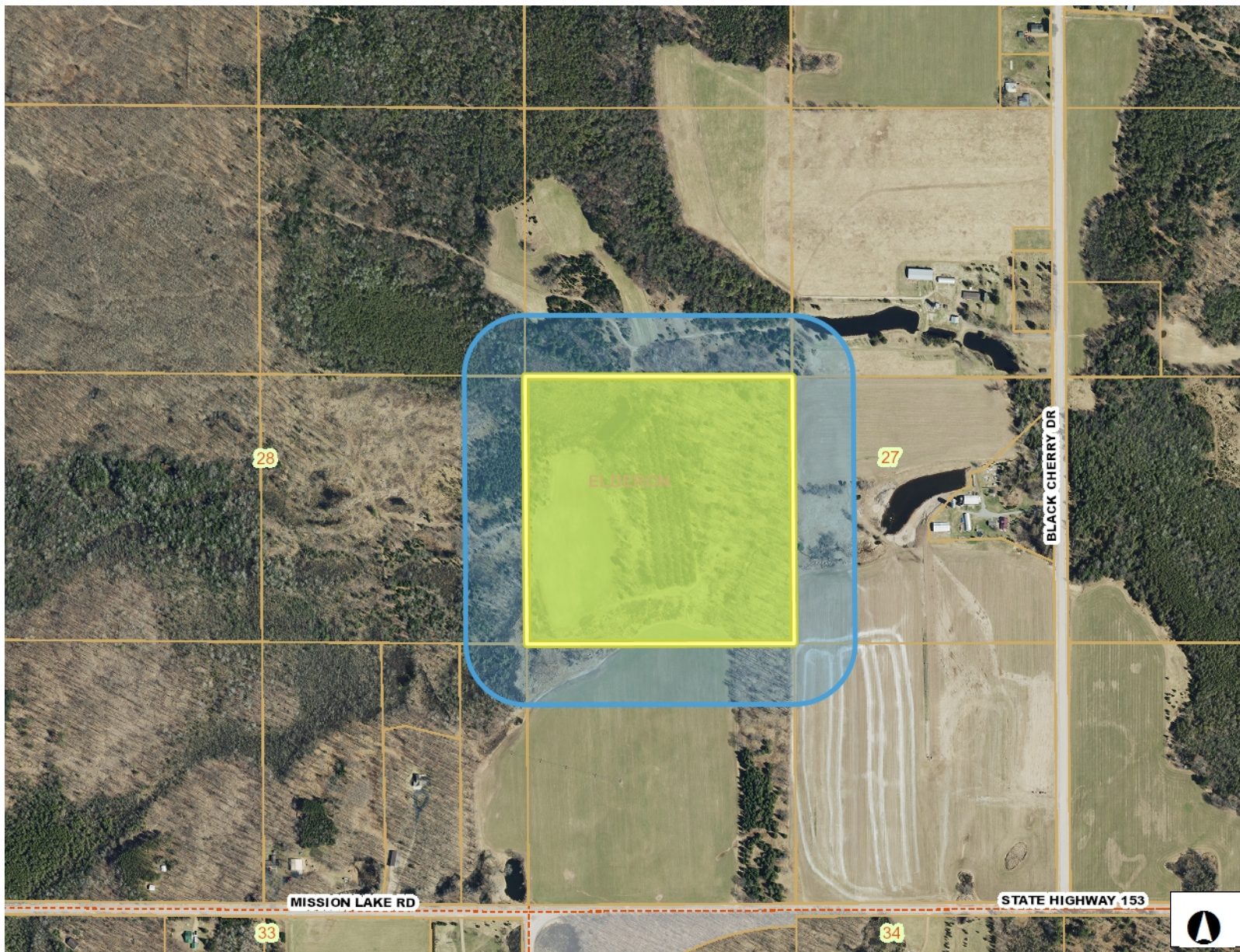
TAYLOR

LINCOLN



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367.14 0 367.14 Feet



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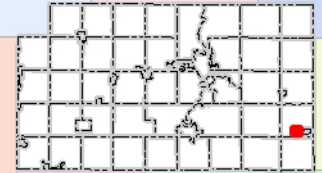




Land Information Mapping System

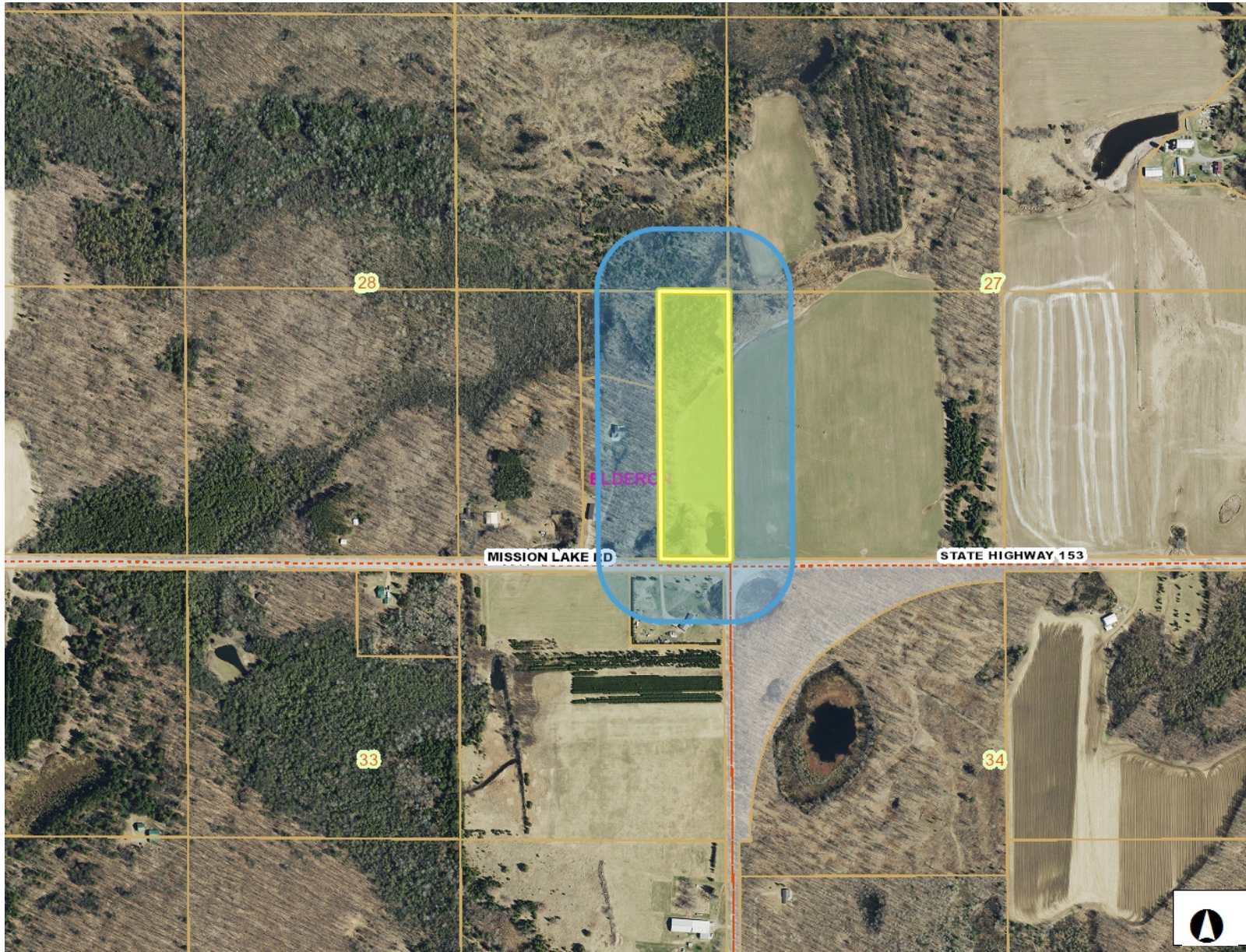
TAYLOR

LINCOLN



WOOD

PORTAGE



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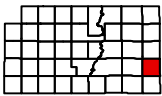


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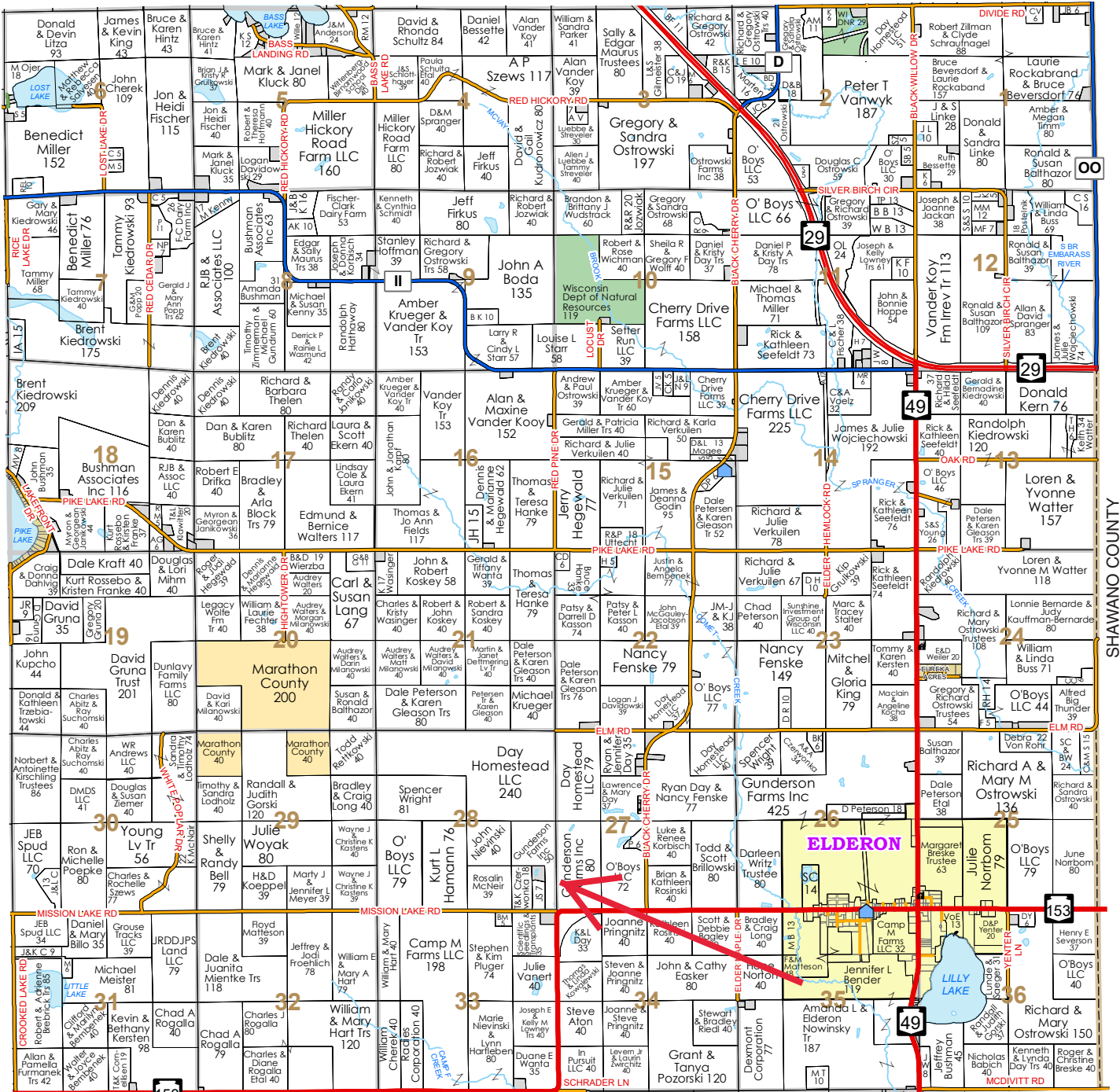
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Notes



SEE PAGE 63



SEE PAGE 27

4-H programs use hands-on activities in robotics, rocketry, computer science and electrical engineering to teach problem solving, creative and critical thinking, and build excitement for engineering and technology.

NON-METALLIC MINING PLAN

**QUARRY NAME: Scott Czerwonka Pit
SW ¼ SW ¼ Sec 27 T27N R10E
NW ¼ SW ¼ Sec 27 T27N R10E
SE ¼ SE ¼ Sec 28 T27N R10E**

**Town of Elderon
Marathon County**

**OPERATOR:
Stuart T. Hanson
HANSON SANITATION & EXCAVATING, INC.
PO Box 349
Wittenberg, WI 54499
715-253-2020
hansonsanitation@gmail.com**

Section 17.204.54 NONMETALLIC MINING

Nonmetallic mining may be permitted as a conditional use in the R-E, F-P, G-A, C-V/R-C, and the H-I districts in accordance with the following:

General Requirements. Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery are subject to the following requirements:

A. Aerial Photograph and Map.

1. The boundary of the affected parcel and any adjacent parcel, pipelines, railroads, streams, utilities, and wetlands on the proposed extraction site and any adjacent parcel.

See Attachment 1 topical map. We are staying out of the wetlands. Boundaries are pit road and lot lines. We are staying 50 ft away from centerline.

2. The name of the owner of each adjacent parcel and the location of all structures within 300 feet of the proposed mine site.

See Attachment 1: James Schreiber 180944 Mission Lake Rd, Eland, WI 54427 to west

Eugene Borth 181055 Mission Lake Rd, Eland, WI 54427 to south

3. The proposed location, extent, and depth of the intended sand, gravel, and rock excavation, showing the setback distances.

Proposed Depth of exaction varies between approximately 10 to 40 ft, or to elevation of 1210.

All activities associated with mining will maintain a minimum 10 ft setback from all property lines. See Ref 2

4. The proposed location of any ponds, sediment basins, and stockpiles showing the setback distances.

Berms will be constructed around any pond & sediment basins. During excavation, all stockpiling will be confined within the project boundary to prevent siltation to the adjacent landscape. See Attachment 1

5. The surface drainage and estimated depth to groundwater.

Surface water will drain to the north-east. Groundwater elevation is 1208. See Attachment 1

B. Operational Information.

1. The duration of any applicable lease.

We are contracted with Scott Czerwonka-owner and will be in the quarry approximately 8 to 10 years.

2. The estimated date that operations will commence and terminate.

Work is expected to start Summer of 2022 to 2032.

3. Anticipated hours of operation.

Work will be Monday-Friday, 6 am to 6 pm and possible Saturdays 6 am to 5pm

4. The proposed primary travel routes to transport material to and from the site.

Driveway is in the south west corner of the property on Mission Lake Rd and travel routes would go west and east.

5. A description of the excavation and processing equipment to be used.

We have a screening plant, loaders, backhoes, dump trucks, crusher and other equipment typical of a quarry.

6. A description of measures to be taken to screen or buffer the operation from view from any adjacent residential parcel.

This property is out in a countryside. There are trees in place to buffer the site of the quarry. Berms will also be in place.

7. A description of measures to be taken to control dust, noise, and vibrations from the operation.

This property is out in a countryside. There are trees in place to buffer the noise and help with the dust control. We will put crushed asphalt on approach of driveway to help with the dust.

C. Operation.

1. All blasting must be done by a state licensed and certified blaster, who must have a certificate of liability or proof of liability insurance.

We do not plan to blast.

2. All excavation equipment must be constructed, maintained, and operated in such a manner as to eliminate, as practicable, dust, noise, or vibration that might adversely affect or injure any person living in the vicinity of the operation.

There are trees in place to buffer the noise and help with the dust control. We will put crushed asphalt on approach of driveway to help with the dust.

3. Any excavation access road must have and be maintained with a dustless surface.

We will put crushed asphalt on approach of driveway to help with the dust. Water trucks will be used during dry periods to minimize dust.

4. Operations must be conducted in such a manner that any water runoff from the operation does not adversely affect any adjacent parcel.

We will use berms to control runoff.

5. All equipment and temporary structures, such as stone crusher, conveyor, or screener, must be removed from the site within 90 days of the termination of extraction operations.

All machinery and equipment will be removed 90 days after final reclamation is complete.

D. Setback Requirements.

1. The excavation must be setback at least 100 feet from any existing occupied structure other than the owner's.

No structures are present within 100 feet.

2. All operations shall be at least 50 feet from the centerline of any right-of-way and 10 feet from any property line unless there is a written agreement between adjoining owners both of whom hold valid nonmetallic mining permits under which they both agree to mine up to their common property line. Mining up to or into the right-of-way may be authorized where it is determined by the unit of government having jurisdiction over the road that such mining would be beneficial.

We will stay 50 ft away of centerline of roads. A minimum 10 ft will be maintained from all property lines. Unless agreement from adjacent owner to east to level fields together.

3. All accessory uses such as offices and parking areas shall be at least 75 feet from any right-of-way or property line.

No office is proposed.

E. Nonmetallic mining shall comply with the terms of Marathon County Nonmetallic Mining Code, Chapter 21, General Code of Ordinances.

See attached Reclamation Plan.

F. All nonmetallic mining shall be required to provide for the proper closure and reclamation of the extraction site to an agricultural use.

The site will go back to agriculture as a farmer's field for crops.

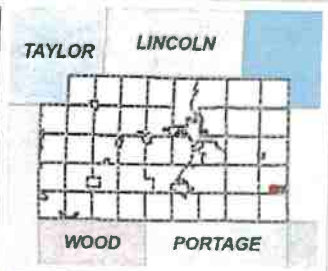
G. Nonmetallic mining activity and operation shall be consistent with Wisconsin Statute, Chapter 91, Farmland Preservation, 91.46(6)

The site will go back to agriculture as a farmer's field for crops.

Attachment 1



Land Information Mapping System



- Legend**
- Road Names
 - Parcels
 - Parcel Lot Lines
 - Land Hooks
 - Section Lines/Numbers
 - Right Of Ways
 - Named Places
 - Municipalities
 - Streams-Rivers
 - Lake-Ponds
 - 2020 Orthos Countywide
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200.00 0 200.00 Feet

NAD_1983_HARN_WISCRS_Marathon_County_Feet

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Notes

Ref 2

A to A' Cross Section

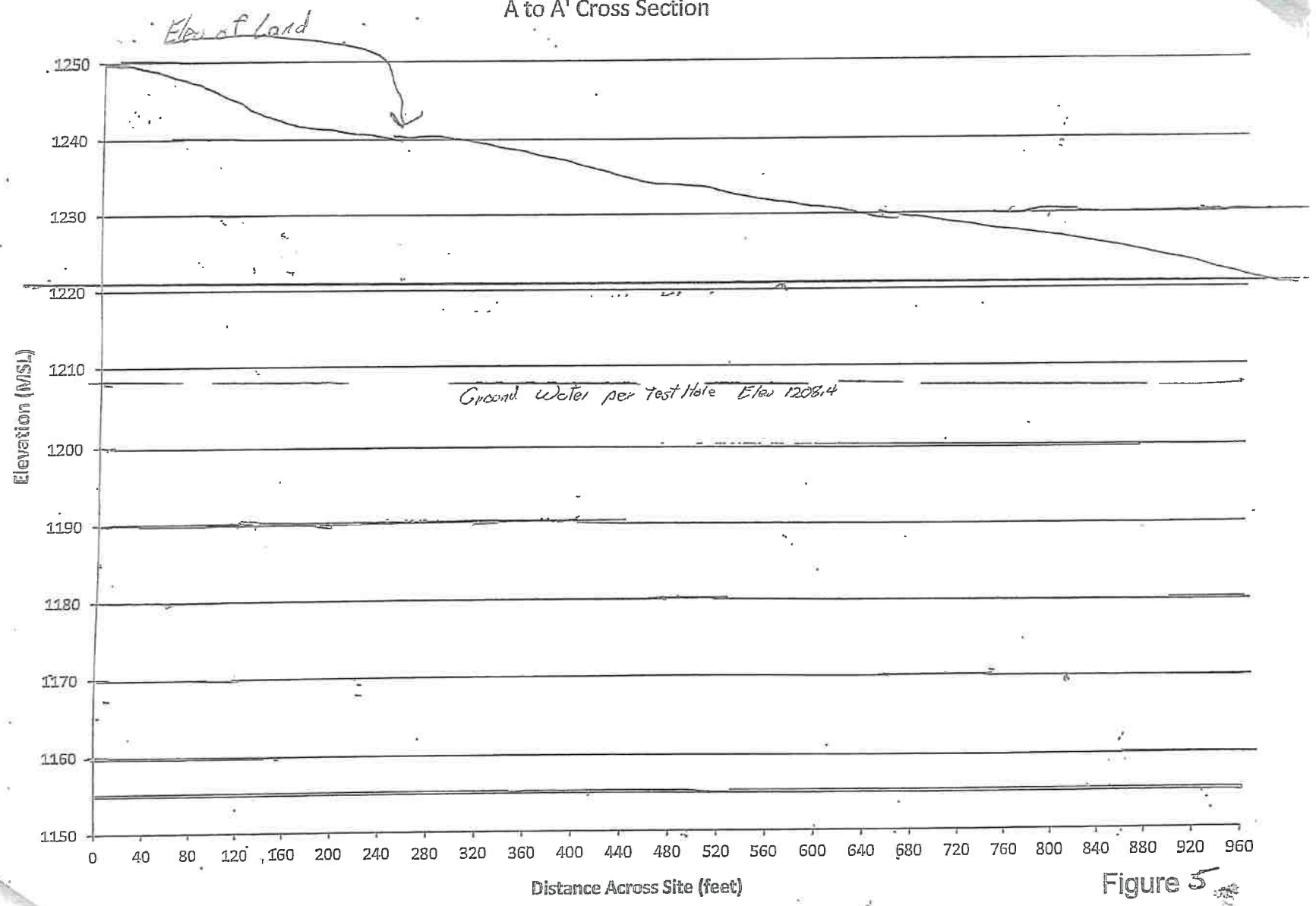


Figure 5

NON-METALLIC MINING RECLAMATION PLAN

Reclamation Permit #

**QUARRY NAME: Scott Czerwonka Pit
SW ¼ SW ¼ Sec 27 T27N R10E
NW ¼ SW ¼ Sec 27 T27N R10E
SE ¼ SE ¼ Sec 28 T27N R10E**

**Town of Elderon
Marathon County**

**OPERATOR:
HANSON SANITATION & EXCAVATING, INC.
PO Box 349
Wittenberg, WI 54499**



Parcel ID #(s): 022-2710-273-0997
022-2710-273-0998
022-2710-284-0995

Permit #: _____
(DEPARTMENT USE ONLY)

APPLICATION FOR A NONMETALLIC MINING RECLAMATION PERMIT

1. Hanson Sanitation & Excavating, Inc.
(Name of Applicant)

PO Box 349
(Street Address)

Wittenberg, WI 54499
(City, State, Zip)

715-253-2020
(Telephone Number)

2. Scott Czerwonka
(Name of Owner)

PO Box 114
(Street Address)

Elderon, WI 54429
(City, State, Zip)

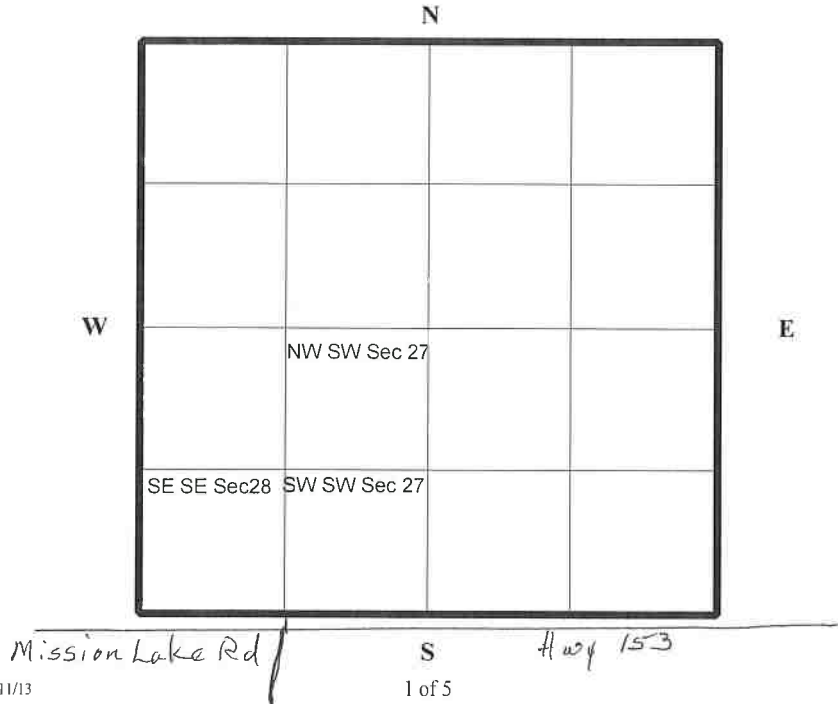
715-216-3000
(Telephone Number)

3.

Legal description of the site: SW 1/4 SW 1/4 Sec 27 T27N R10E
NW 1/4 SW 1/4 Sec 27 T27N R10E
SE 1/4 SE 1/4 Sec 28 T27N R10E

4. Total area to be affected by this project. Include areas for stockpiling, processing, conservation practices, and any roads to be reclaimed:
50 sq. ft. / acres (circle one)

5. General Location Map - (Draw the location of the site on the Section Map below. Include roads and any other pertinent information).



6. Description of the **type of material(s) extracted** the areal extent and depth of the geologic deposit, the methods of extraction and processing methods to be used in the permit area.

Crushing to make road gravel.

Screening to make bedding sand & stone products.

Washing product to make concrete sand, bedding sand & washed stone.

Area to be one foot above water table.

see Ref 1

7. **Water Quality**

Ground Water: Observed or estimated (circle one) elevation of groundwater: see Ref 2.

Reference depth to a **permanent on-site reference point (benchmark)**. Provide a narrative describing the how reclamation of the site will insure that the reclaimed site does not cause any of the following: A permanent lowering of the water table that would result in an adverse impact on surface waters. A significant reduction in the groundwater reasonably available to future users of groundwater. A change in groundwater quality that exceeds the standards of NRI40 at the point of standards application.

We are not going to be digging into water table, except for pond for washing, if we wash.

Two ponds are needed. One into the water table for washing and one above the water table for settling.

Surface Water

Describe how reclamation will be completed in a manner that assures compliance with DNR water quality standards for surface waters and wetlands as outlined in NR 102 to NR 105.

Silt fence will be installed in areas that are next to wetland. Area between wetland and pit will be leveled & seeded.

8. Information available to the operator on the **biological resources, plant communities, and wildlife** use at and adjacent to the site.

Yes

see Ref 3

9. **Estimated timetable** for beginning and ending of operations on the site including any phases or stages:
8 to 10 years in one year phases, after 3 years, start to reclaim.

see Ref 7

10. Describe the **methods of salvaging and storing topsoil** and other overburden that will be used in reclamation. Include information on conservation practices to protect the material from erosion. If topsoil substitute or off site material is to be used in reclamation, list the source and time table for acquiring it.

Placing in stockpile with silt fence around pile. If next to wetland, overburdened to be leveled in area that pit is finished.

see Ref 4

11. Describe proposed **earthwork necessary for site reclamation** including final slope angles, high wall reduction, benching, terracing, and other slope stabilization measures.

Use overburdened to level site. Bury big rocks in bank, sloping area slightly. Reclaim topdirt and to reclaim as field.

see Ref 4

12. Describe how the **long term safety** of the reclaimed mining site will be addressed. Include any site specific measures that will be necessary to address public safety with regard to adjacent land uses.

Some reclaiming will be done as pit is no longer in use. We will use MSHA safety practices and procedures. There will be berms put where the farmers are still using the field.

see Ref 4

13. Describe any **conservation practices** to be used during reclamation. The location of all conservation practices are to be shown on the reclamation plan. Include information on any steps that will be taken before disturbing topsoil on the site to divert runoff from surrounding lands from the mining site and measures that will be taken to prevent runoff from the reclaimed site from adversely impacting surface waters.

Contour & seed after reclaiming

see Ref 4

14. Description of **anticipated topography, water impoundments, artificial lakes, created wetlands** and other site features.

Hills to be removed, site to be 6% slope and reclaimed for field use.

see Ref 4

15. Description of the **proposed post mine land use**.

Agriculture, field for farming.

see Ref 4

16. Description of plans for **disposition of manmade features** that are not part of the post mine land use after completion of mining.

If washing is done, this layers of deposit, will be leveled before topdirt is placed.

see Ref 4

17. Describe or attach a **copy of a seeding plan** which shall include methods of seed bed preparation, seed mix seeding rates, mulching, netting, and/or other techniques needed to accomplish soil and slope stabilization.

see Ref 5 & 6

18. Description of the **quantifiable standard** that will be used to determine successful establishment of vegetation on reclaimed areas.

see Ref 4

19. In addition, the following drawings or documents must be attached to this application. All maps must be drawn at a scale of no less than one (1) inch equals two hundred (200) feet:

- A. A copy of the lease or proof of ownership.
- B. Copies of local and state permits or approvals including a statement from the local zoning or planning authority that the proposed post mine land use is consistent with the current zoning or land use plan unless a change to the zoning or the plan is proposed.
- C. An estimate of the cost of site reclamation and the methodology used to calculate the estimate. *see Ref 6 & 8*
- D. Four copies of a map(s) of the site as it presently exists. The map(s) shall include:
 - 1) Property boundaries and the location of all man made features on or within 300 feet of the site and, to the best of the applicant's knowledge, the purpose for which each man made feature and the adjoining land is used.
 - 2) Contours of the affected land at intervals no larger than ten (10) feet.
 - 3) The location and names of all streams, other water features and the existing drainage patterns on or within three hundred (300) feet of the site.
 - 4) Boundaries of previous excavations on the site, and the location and description of boundary stakes for the proposed site. The stakes shall be referenced to a permanent reference point. The area staked shall include all stockpiling and storage areas.
 - 5) The areal extent of the mineral deposits which will be mined on the site.
 - 6) Distribution, thickness and type of topsoil. (A copy the NRCS Soil Survey map of the area can be used to provide this information)
- E. If the site is to be mined in phases or stages, four copies of a plan which shall include the following:
 - 1) A plan view and description of sequential phases of mining including haulage ways, storage areas and processing areas.
 - 2) If necessary, a plan showing temporary erosion control measures to be employed during reclamation.
- F. Four copies of a reclaimed site plan which shall include the following:
 - 1) A plan view showing final slope angles, high wall reduction, benching, other stabilization measures and water impoundments at contour intervals of no larger than ten (10) feet.
 - 2) Cross-sectional drawings of any water impoundments, high wall reductions, benching or terracing, or other conservation practices.
 - 3) The erosion control measures to be employed during reclamation.

Fee enclosed \$ _____

See Section 21.12 of the Nonmetallic Mining Reclamation Code for the current fee schedule or contact the Conservation, Planning, and Zoning Department

To the best of my knowledge, I certify that the information provided on this application and accompanying documents are **true and accurate**.

I certify that the areas identified within the permit that are impacted by mining activities will be **reclaimed as specified in the approved permit** for the site.

I understand that submitting this application **authorizes the department administrator or his/her designee to enter onto the property** for the purposes outlined in the Nonmetallic Mining Reclamation Ordinance.



Applicant's signature

2-14-22

Date

Land Owner Certification if land owner is different than applicant:

I certify that I concur with the reclamation plan authorized by this permit and will allow it to be implemented.



Land Owner's Signature

2-14-2022

Date

Pursuant to §21.10(3)(j) of the Nonmetallic Mining Reclamation Ordinance, the Department may require the submittal of such other information as may be necessary to determine the feasibility of the nonmetallic mining reclamation.

Permit decisions shall be made by the Department no sooner than thirty (30) days nor later than sixty (60) days of receipt of a complete application, unless a public hearing is required under 21.10(6) of the Nonmetallic Mining Reclamation Ordinance, in which case a permit decision shall be made no later than 30 days following the hearing.. An accelerated procedure for application review is available by appointment and shall be accompanied with a double fee. Bonds will be set at the time of permit issuance.

Failure of the applicant to notify the Department within five (5) workdays of the receipt of a permit granted by the Department will constitute an acceptance of the permit and all conditions and amendments to the application and plans.

Permit decisions or administration decisions may be appealed pursuant to 21.10(7) of the Nonmetallic Mine Reclamation Code.

Distribution, Thickness and Type of Topsoil

CkC-Chetek sandy loam, 6 to 15% slopes. This deep, somewhat excessively drained soil is on the sides of knolls & ridges on stream terraces and outwash plains. It is sloping and moderately steep or is rolling & hilly. Most areas are irregular in shape and range from about 4 to 40 acres in size. The surface layer is dark brown sandy loam about 8 inches thick. The subsoil is about 11 inches. The substratum is to a depth of about 60 inches.

Oe-Oesterle loam, 0 to 2% slopes. This deep, nearly level, somewhat poorly drained soil is on flats adjacent to depressions and drainage ways on outwash plains and stream terraces. Most areas are long and narrow or irregular in shape and range from about 4 to 80 acres in size. Typically, the surface layer is very dark grayish brown loam about 7 inches thick. The sub soil is mottled sandy loam about 7 inches thick. The substratum is about 60 inches and mottled sand.

RoB-Rosholt sandy loam, 2 to 6 % slopes. This deep, gently sloping, well drained soil is in concave areas on outwash plains and stream terraces. Most areas are irregular in shape and range from about 10 to 400 areas in size. Usually the surface layer is dark brown sandy loam about 10 inches thick. The subsoil is 13 inches thick. The substratum is about 60 inches thick and a very gravelly sand.

KeE- Kennan sandy loam, 15 to 30% slopes, bouldery. This deep, hilly and very hilly, well drained soil is on the sides of hill and ridges on terminal and recessional moraines and on drumlins. Many boulders and stones are in the surface layer. Most areas are irregular in shape or long and narrow and range from about to 10 to 240 acres in size. The surface layer is very dark brown sandy loam about 3 inches thick. Below that is sandy loam then loamy sand.

Geologic Composition & Depth of the Mineral Deposit

Within Marathon County there are four major areas with distinct physiographic characteristics. These characteristics are primarily the result of glaciation and the influence of the underlying bedrock.

The southeastern part of the county consists mainly of nearly level to steep outwash plains and stream terraces and undulation to very hilly moraines and drumlins.

Most of Marathon County is within the Wisconsin River drainage basin. The Trappe, Big Sandy, Eau Claire, Bull Junior, Little Eau Claire, and Plover Rivers and their tributaries drain the eastern part of Marathon County. The southeastern part of the county is within the Wolf river drainage basin. The main streams in this area are Norrie Brook, Spranger Creek, Comet Creek and the Little Wolf River.

Ground Water and Surface Water in Quarry Area

Most of Marathon County is underlain by Precambrian crystalline rock. In a few places, particularly in the southeastern and extreme southwestern parts of the county, Cambrian sandstone

A to A' Cross Section

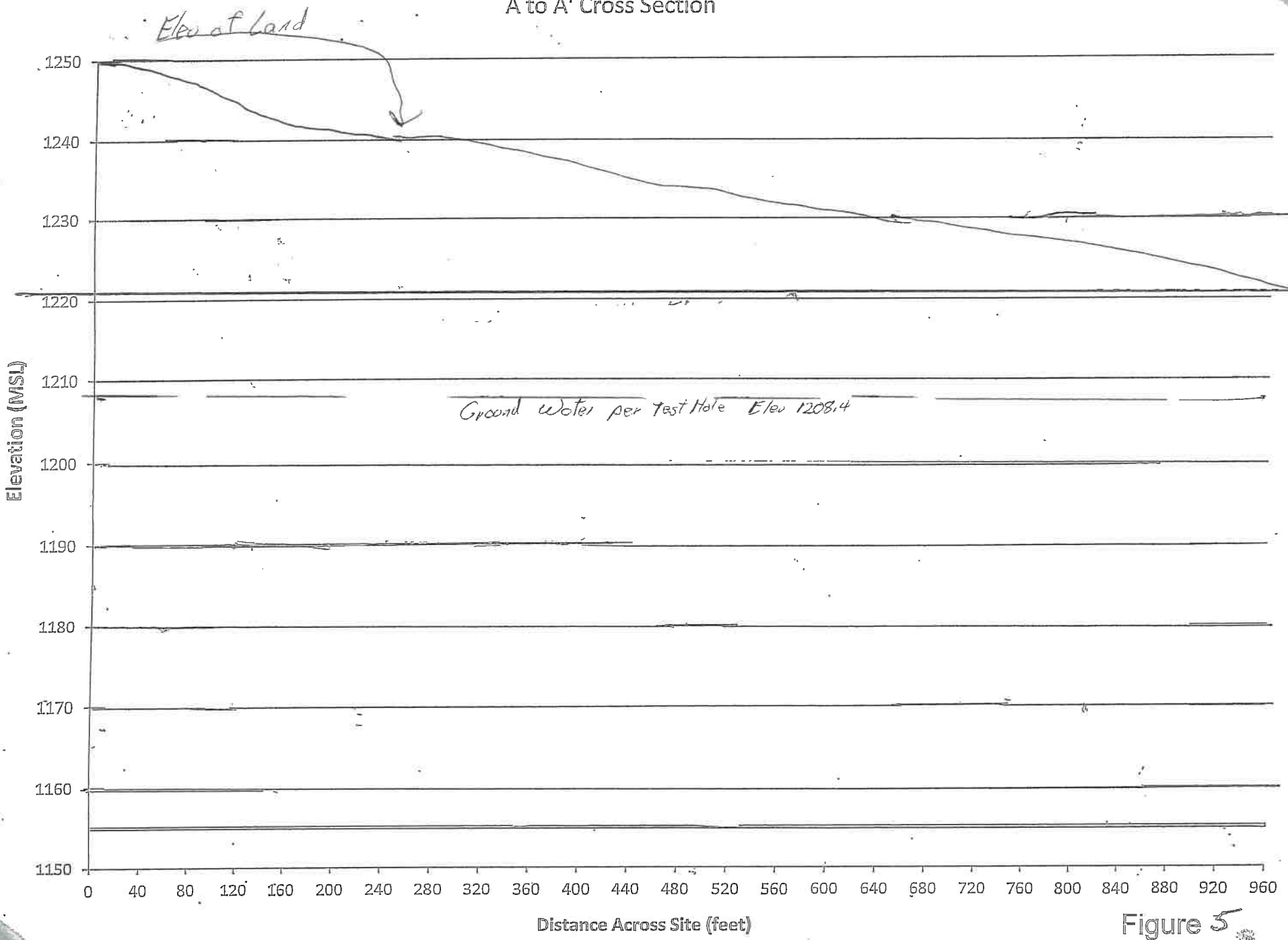


Figure 5

(As per par 8)
Biological Information

The land surrounding the mine site is mostly farm land. These lands are often planted in corn and hay. Some of the areas are then turned into pasture land for a year or two, so the soils can rejuvenate. Wildlife species that are seen around the site are squirrel, chipmunk, rabbit, raccoon, deer, fox, wild turkey, owl, duck, turtle, frog, cardinals, finches, morning dove, grouse, blue jay, robins, chickadee, mosquito, fly.

Overview and General Summary of the Mining Operation

The proposed mining facility is a sand and gravel pit, approximately 50 acres in size, located in the Town of Elderon, Marathon County, State of Wisconsin. The operation is located in the **SW ¼ SW ¼ Sec 27 T27N R10E, NW ¼ SW ¼ Sec 27 T27N R10E, SE ¼ SE ¼ Sec 28 T27N R10E**. The mine is proposed to operate for about 8 to 10 years allowing 1 to 3 years for reclamation.

Mining of the sand and gravel in this area will take place in four different phases. Each phase will be worked for about 1 year. (See General Base Map) Each area will be worked with the next phase opened as the previous area is reclaimed to its environmentally former safe land use. All excess mined materials will be stockpiled to provide easy access to reclamation of each phase site to be closed in accordance to s 91.75, Stats; restoration back to agricultural use. The permit applicant will then request that the regulatory authority consider the phase temporarily reclaimed for the purpose of fee reduction under s NR 135.41.

Legal Description

Town of Norrie, Marathon County, Wisconsin. The operation is located
SW ¼ SW ¼ Sec 27 T27N R10E,
NW ¼ SW ¼ Sec 27 T27N R10E
SE ¼ SE ¼ Sec 28 T27N R10E.

Tax Parcel: 022-2710-273-0997
022-2710-273-0998
022-2710-284-0995

Owners: Scott Czerwonka
PO Box 114
Elderon, WI 54429

Operator: HANSON SANITATION & EXCAVATING, INC.
P.O. Box 349
Wittenberg, WI 54499
(715) 253-2020, contact person is Stuart T. Hanson

10,11,12,13,14,15,17 Post-mining Land Use

The reclamation of phase one will consist of the following:

1. The phase will be turned back into farm land usage, as the property at this time is agricultural.
2. The quarry area will be leveled, with existing materials. In existing fields where topdirt was stripped, saved and replaced. Topdirt that was saved will be put back.
3. The highwalls that remain will be sloped back to 3 to 1% slope to address any safety concerns or potential danger.
4. The slopes will be planted with vegetation (see reclamation material and cost plan) to provide erosion control. If need be, silt fencing will be placed to reduce the flow of water onto the leveled areas.
5. The leveled area will also be planted with vegetation (see materials and cost plan). Each phase will be leveled and returned to agricultural use.
6. The roadway will remain for pit use and owner after pit is done.
7. Crushing and screening equipment will be moved to each phase of the quarry.

Quantifiable Standards for Determining Revegetation Success

The level success of the reclamation efforts will be judged by a standard of 70% coverage of the site, according to Marathon County standards.

Erosion Control

Overburden and topsoil will be stockpiled on-site. All piles will have a moderate covering of grass and other natural vegetation, preventing erosion for wind and rain. Established vegetation consisting of natural grass and vegetation will remain undisturbed in a 10 foot perimeter around future stockpiles where-ever possible.

Criteria for Site Reclamation Success

The success of the reclamation efforts will be primarily based upon the site meeting the requirements of this approved reclamation plan. In addition, the appearance of the area following an appropriate passage of time shall determine the degree of success of reclamation efforts. Vegetation will have returned and be suitable for field use by the landowner.

Site Reclamation

The reclamation of the quarry will begin with sloping the banks to the 3 to 1 % slope. Leveling of the prime mining site will consist of grading and filling in low areas. This will bring the topography into a reclaimed area for agricultural use. The slope will then be seeded with vegetation in the recommended type and amounts. The productivity of the newly seeded area will be monitored to maintain a sufficient cover to restore the soils to a productive field. (See Reclamation Plan Map)

Site Work and Revegetation Chart

This quarry will be located on 50 acres. Each phase will vary in amount of land in current mining operation. The following chart is for phase one, a five acre parcel. (See General Base Map.

Site work and Revegetation	Method or Amount	Time or Flat Fee	Cost per unit	\$ Amount
Earthwork: Grading and Shaping of each phase. Leveling topsoil if any.	Level all banks and hills to 3 to 1% slope for agricultural use.	\$ 1335.00 per acre	\$ 1335.00 per acre	\$ 1335.00
Planting vegetation: Labor	Machine	per acre	\$75.00 per acre	\$ 75.00
Fertilizer, seed & mulch		per acre	\$475.00 per acre	\$ 475.00
Erosion Control			\$1.75 l.f.	As needed

Vegetation on the pit bottom and 3:1 slopes will be established by applying the following pasture seed mixture per acre:

Timothy	9 lb./ac.
Tall Fescue	5 lb./ac.
Canada Wild Rye	10 lb./ac.
Agricultural Rye	9.5 lb./ac.
Alfalfa	13 lb./ac.
Alsike Clover	4.5 lb./ac.
	51 lb. Total

A nurse crop of Annual Rye will be applied at a rate of 6 pounds per acre to stabilize the 3:1 slopes against erosion in the early stages and to decrease competition from weeds.

Erosion Control

During mining activities the facility will be self-contained and will not produce erosion problems to surrounding areas. Excess stormwater from the facility will be detained in low areas within the site.

The facility is located in an agricultural field therefore the potential for pollution to surface and groundwater is minimal and comparable to that of agriculture farming practices. Any erosion problems, especially soil transport during the spring runoff period, will be handled with the use of silt fence and erosion bales.

Reclamation Plan Certification

I hereby certify, as operator of the facility, that I will comply with the provisions of this reclamation plan as well as the statewide non-metallic mining reclamation standards established in ss. NR 135.05 through NR 135.15, Wisconsin Administrative Code.

Stuart T. Hanson

Stuart T. Hanson

2-14-22

Date

Financial Assurance

<u>ITEM</u>	<u>COST/UNIT</u>	<u>QUANTITY</u>	<u>AMOUNT</u>
Grading & Shaping	\$ 1335.00	per acre	\$ 1335.00
Planting Vegetation	\$ 75.00	per acre	\$ 75.00
Fertilizer,seed,mulch	\$ 475.00	per acre	\$ 475.00
		TOTAL	\$ 1885.00

The above financial assurance will be provided by Hanson Sanitation & Excavating, Inc. in the form of reclamation bond with a bonding company.



**VERIFICATION THAT THE PROPOSED RECLAMATION
IS CONSISTENT WITH TOWN LAND USE PLAN**

Property owned by: **Scott Czerwonka**

Applicant: **Hanson Sanitation & Excavating, Inc.**

Location: SW 1/4 SW 1/4 Sec 27 T27N R10E
NW 1/4 SW 1/4 Sec 27 T27N R10E
SE 1/4 SE 1/4 Sec 28 T27N R10E

The applicant proposes to extract Sand & Stone (**Mineral Type**) from the above listed property. After completing excavation the site will be reclaimed to a Agriculture, Farm field (**Land Use Type**). Please sign this form if this land use is consistent with existing or proposed Town Land Use plans.

Name: Stuart T. Hanson

Title: President

Date: 1-24-22

Please **return completed form to:**

Marathon County
Conservation Planning and Zoning Dept.
210 River Drive
Wausau WI 54403 5449

STATE OF WISCONSIN)
MARATHON COUNTY)
TOWN OF ELDERON

TOWN RESOLUTION OF RECOMENDATION

TO THE MARATHON COUNTY BOARD OF ADJUSTMENT

I, Mary Ostrowski, Clerk of the Town of Elderon, Marathon County, State of Wisconsin, do hereby certify that the following is a true and correct copy of a resolution adopted by the Town of Elderon Town Board at a meeting held on the 19th day of April, 2022.

RESOLUTION

WHEREAS, the Marathon County Board of Adjustment is established for the purpose of hearing certain appeals, applications and granting variances in harmony with the general purpose and intent of land use regulations, and

WHEREAS, such a hearing is scheduled to come before the Board affecting lands within the Town of Elderon.

NOW, THEREFORE BE IT RESOLVED that the Town of Elderon Town Board considered on the 19th day of April, 2022, The application of Hanson's Sanitation and Excavating Inc, for a conditional use permit per 17.204.54 of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of operating a nonmetallic mining operation on property currently owned by Gunderson Farms Inc. The parcels are located in the General Agriculture (G-A) and Rural Estate (R-E) districts, and described as part of the SW ¼ SW ¼, and NW ¼ SW ¼, and SE ¼ SE ¼, Section 27, T27N, 10E, Town of Elderon, PINs# 022.2710.273.0997, 022.2710.273.0998, 022.2710.284.0995.

and hereby recommends:

- Marathon County Board of Adjustment **APPROVE** application
- Marathon County Board of Adjustment **DENY** application

Comments, conditions and reasons for recommended action:

Clerk Mary Ostrowski
Town Board Donald Anderson
Michael Reynolds
Craig Ostrowski

NOTE: If you recommend disapproval of this request, please make every effort to send a representative to the Board of Adjustment Public Hearing. Town input at the hearing is always appreciated. Please return this form before May 3, 2022 to:

Board of Adjustment
Marathon County Conservation, Planning and Zoning Department
210 River Drive
Wausau, WI 54403



**Hanson Sanitation & Excavation Inc. c/o Stuart Hanson
Conditional Use Permit Application
Staff Report, May 26th 2022
Marathon County Board of Adjustment**

Findings of Fact

REQUEST:

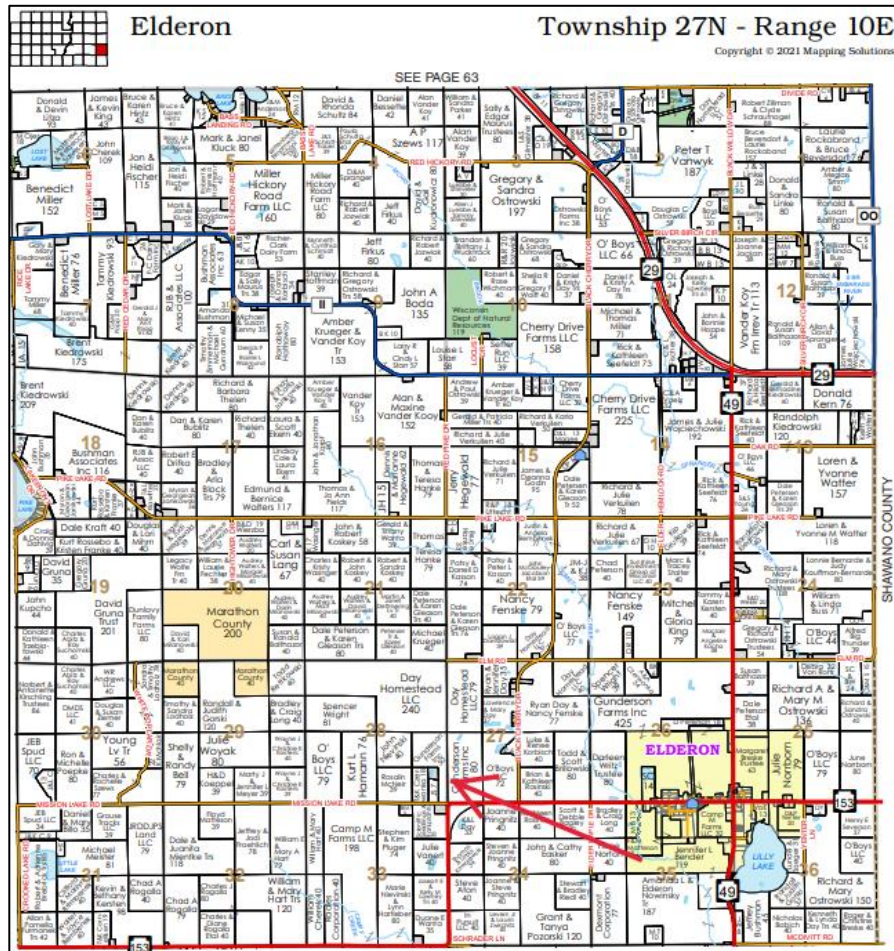
The application of Stuart Hanson on behalf of Hanson Sanitation & Excavating Inc. for a conditional use permit per 17.204.54 "Nonmetallic Mining" of the General Code of Ordinances for Marathon County Chapter 17 Zoning Code, for the purpose of operating a nonmetallic mining on property currently owned by Gunderson Farms Inc. The property is located in the R-E Rural Estate and G-A General Agricultural district, on property described as SW ¼ SW ¼ and NW ¼ SW ¼ Section 27, T27N, R10E and part of the SE¼ NE ¼, Section 28, T27N, R10E, Town of Elderon, further described as PIN#'s 022.2710.273.0997, 022.2710.273.0998 and 022.2710.284.0995

PUBLIC HEARINGS/MEETINGS:

- Town of Elderon Town Board Meeting (April 19th 2022)
- Marathon County Board of Adjustment Meeting (May 26th 2022)

APPLICANT(s): Hanson Sanitation & Excavating Inc. – PO Box 349 – Wittenberg, WI 54499

PROPERTY OWNER: Gunderson Farms Inc. – SW ¼ SW ¼ and NW ¼ SW ¼ Section 27, T27N, R10E and part of the SE¼ NE ¼, Section 28, T27N, R10E, Town of Elderon, further described as PIN#'s 022.2710.273.0997, 022.2710.273.0998 and 022.2710.284.0995



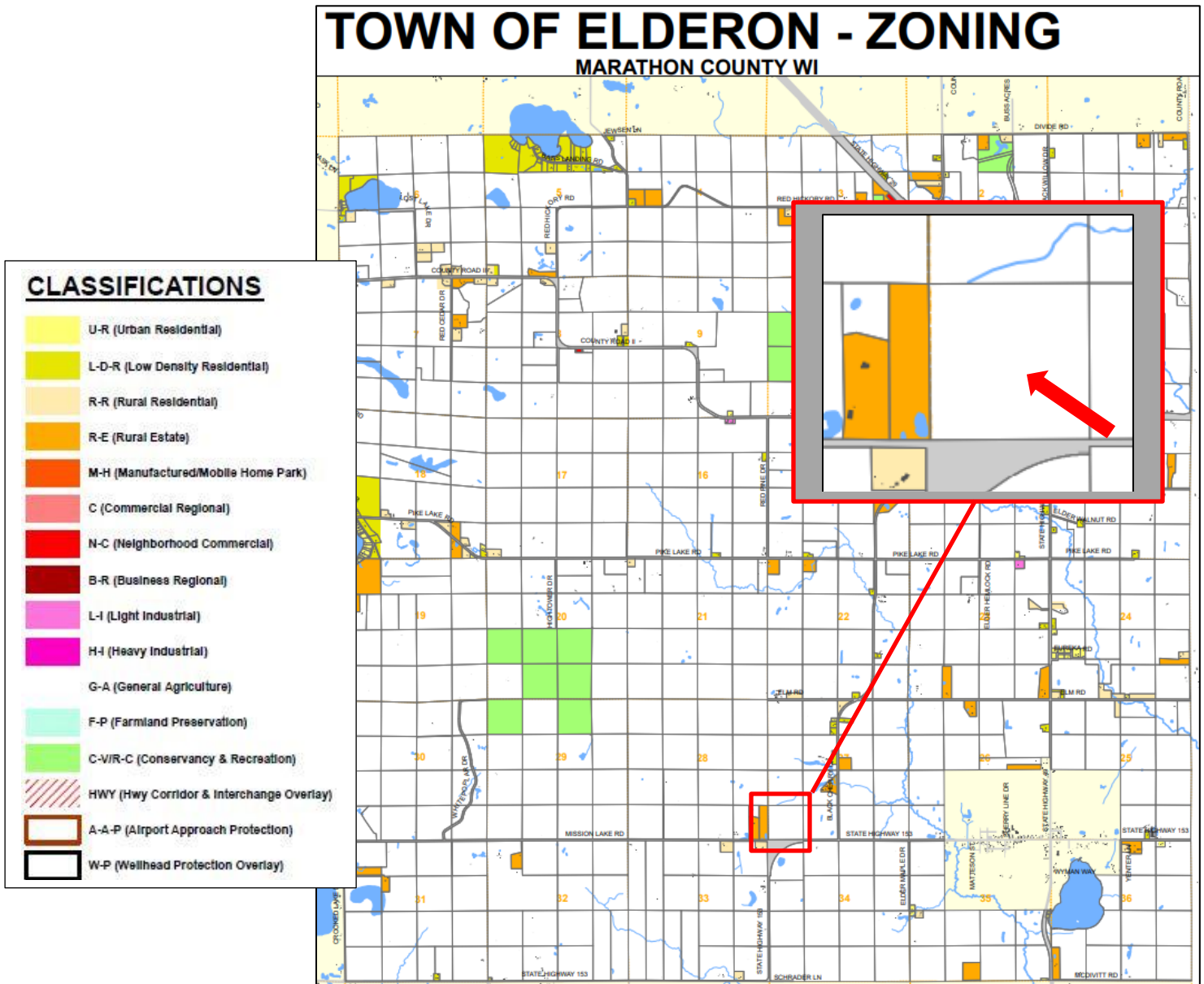
Map 1: Location of Conditional Use Permit Request

EXISTING ZONING DISTRICT:

G-A General Agricultural District - The purpose of the G-A district is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land as classified in 18.07(2) and (3) into five or more tracts, parcels or lots within a five year period. This district provides for limited residential development with modest densities that require relatively large land areas that are compatible with the surrounding rural land use activities. The district is intended to provide towns with multiple options to guide growth and development in concert with the comprehensive planning efforts.

R-E Rural Estate District - The purpose of the R-E district is to accommodate single-family residential use along existing streets, to preserve the rural character while promoting open space single-family medium residential development (involving the extension of new streets), and to separate agricultural uses from other more extensive community development within the County. Limited agricultural activities and livestock are allowed in this district. These areas may or may not be serviced by municipal water and sanitary sewer.

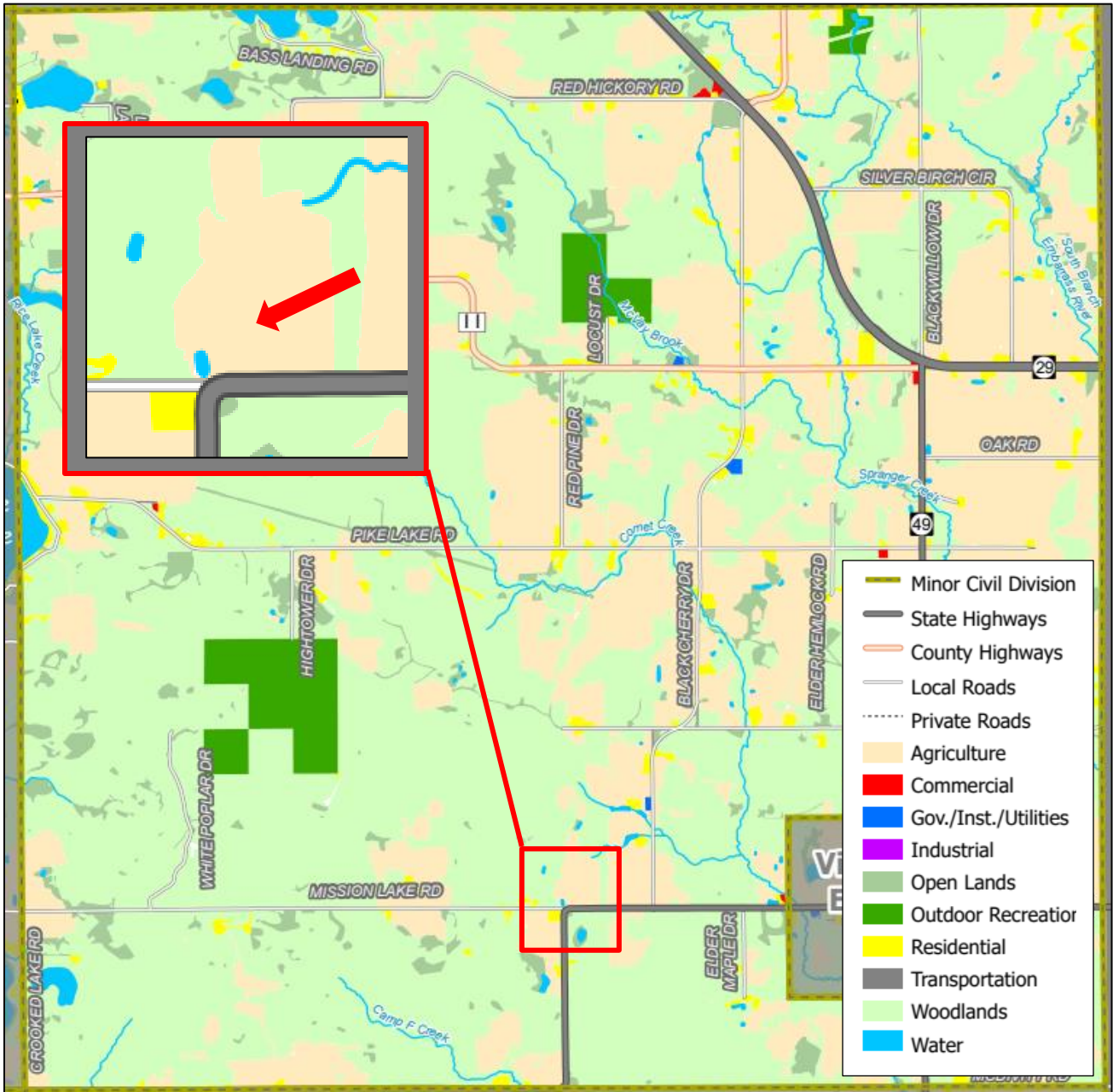
EXISTING ZONING DISTRICT MAP: Adjacent parcels and parcels within close proximity are zoned Farmland Preservation.



Legal Notification:

A legal advertisement was published in the *Wausau Daily Herald*. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

TOWN of ELDERON COMPREHENSIVE PLAN (FUTURE LAND USE MAP): The parcels in question are shown to be designated as agriculture and woodlands in the Town of Elderon's Comprehensive Plan Future Land Use Map. Surrounding parcels designated as agricultural, woodland and residential land uses.



SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

- The proposed development location on this parcel:
 - Is **Not** located within mapped floodplain.
 - **IS Not** located within DNR mapped wetlands, or water features.
 - *Though there are mapped wetlands on the parcel, the proposed nonmetallic mine boundary (development location) is NOT within mapped wetlands.*
 - **IS** located within the shoreland overlay district. (DNR stormwater permitting for nonmetallic mine sites, addresses any and all shoreland standards)



	DNR Wetland Areas
	Floodplain
	A
	AO
	AE
	AE FLOODWAY
	AE ADMINISTRATIVE FLOODWAY
	0.2 PCT ANNUAL CHANCE FLOOD HAZARD
	Shoreland Overlay Zoning

Yellow Line = Approximate pit boundary

Aerial Photo of the Property:



Yellow Line = Approximate pit boundary

Aerial Photo of adjacent lands:



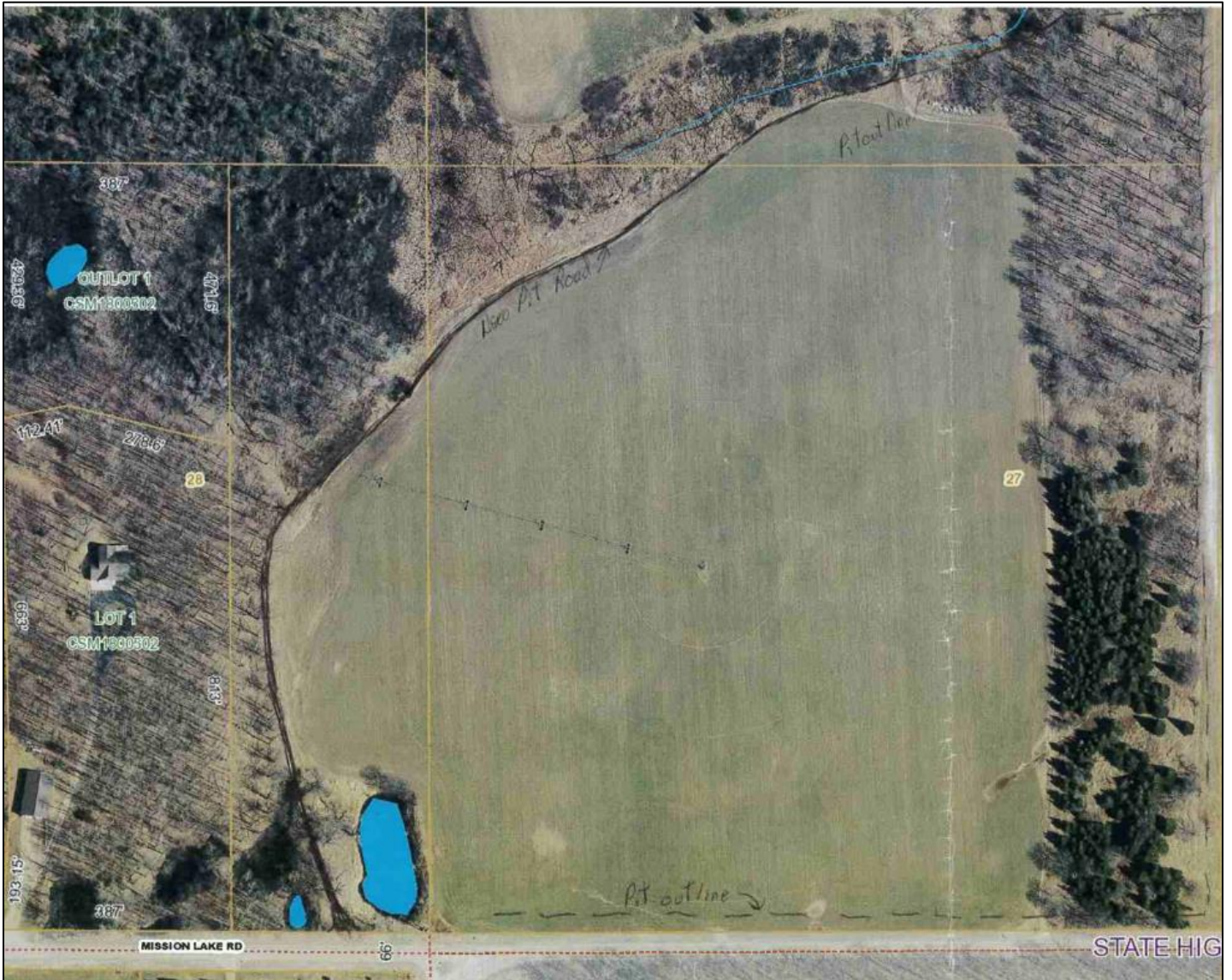
Yellow Line = Approximate pit boundary

Violations:

There are **NO** known violations on the parcel where the proposed development or use are proposed.

Approximate Project Boundary (submitted by the applicant):

Approximate Area: 43 acres



Proposed Reclaimed Nonmetallic Mine Site Plan (submitted by the applicant):

Elevational Cross-Sections

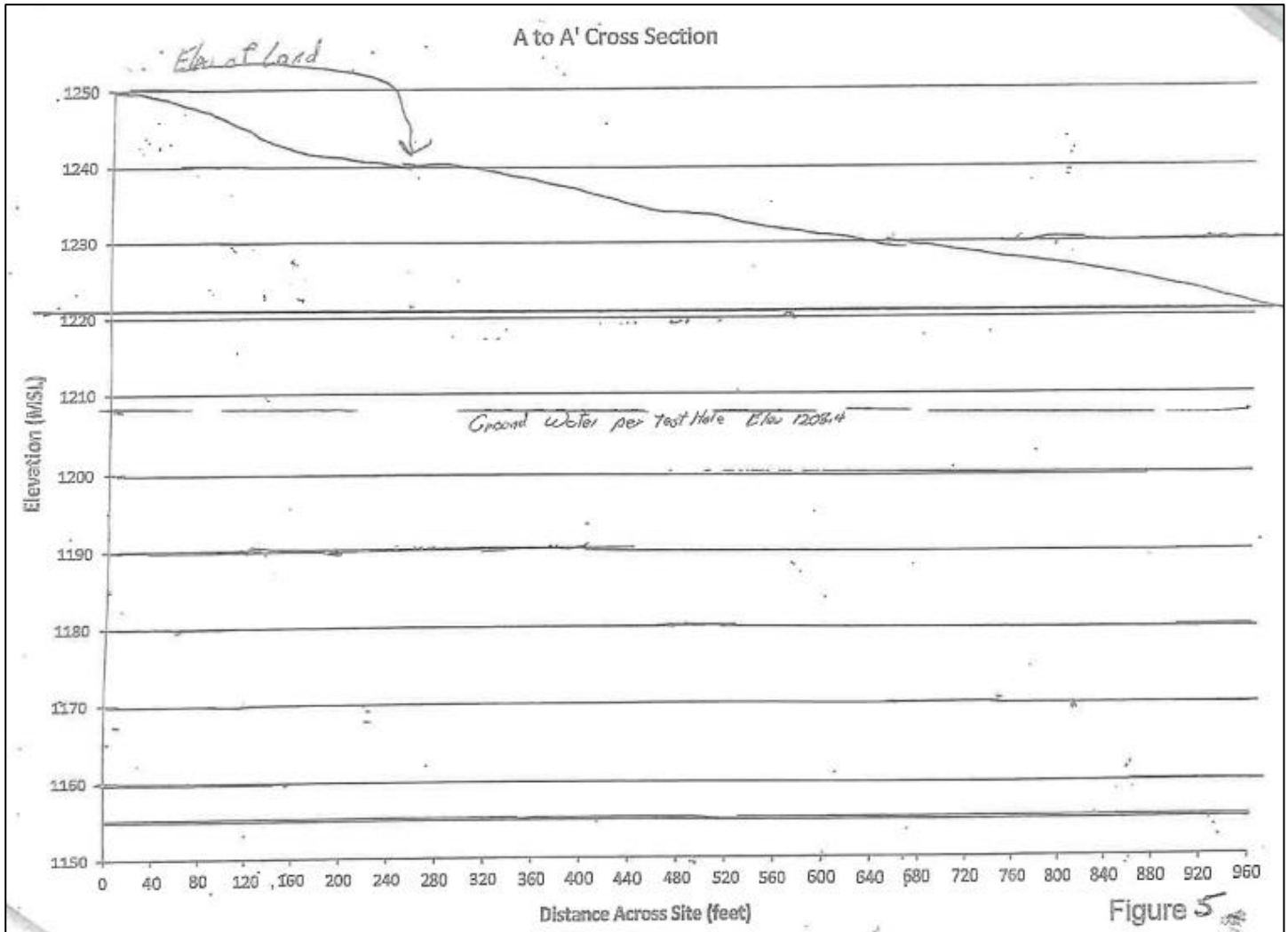


Figure 5

Provisions of Law – General Standards (Reminder)

General Standards. The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:

1. Compatibility with Adjacent Uses.
2. Comprehensive Plan.
3. Compliance with Applicable Regulations.
4. Use of Adjacent Property.
5. Public Services.
6. Impact of Traffic.
7. Enhancement of Surrounding Environment.
8. Impact on Public Health, Safety, and Welfare.
9. Isolation of Existing Uses.
10. Substantial Evidence.

Specific Provision of Law:

Title 2: Zoning Districts and Uses

Key:	P Permitted Use				C Conditional Use				(Blank) Use Not Permitted				
USE	Residential Districts				Agricultural Districts				Nonresidential Districts			Development Standards	
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I		H-I
Nonmetallic Mining	P		P	C	C	C	C		P			C	Section 17.204.54

Section 17.204.54 NONMETALLIC MINING

Nonmetallic mining may be permitted as a conditional use in the R-E, F-P, G-A, C-V/R-C, and the H-I districts in accordance with the following:

General Requirements. Mining of nonmetallic minerals and the processing for manufacture of materials incidental to such extraction and the erection of buildings and the installation of equipment and machinery are subject to the following requirements:

A. **Aerial Photograph and Map.**

1. The boundary of the affected parcel and any adjacent parcel, pipelines, railroads, streams, utilities, and wetlands on the proposed extraction site and any adjacent parcel.
2. The name of the owner of each adjacent parcel and the location of all structures within 300 feet of the proposed mine site.
3. The proposed location, extent, and depth of the intended sand, gravel, and rock excavation, showing the setback distances.
4. The proposed location of any ponds, sediment basins, and stockpiles showing the setback distances.
5. The surface drainage and estimated depth to groundwater.

B. **Operational Information.**

1. The duration of any applicable lease.
2. The estimated date that operations will commence and terminate.
3. Anticipated hours of operation.
4. The proposed primary travel routes to transport material to and from the site.
5. A description of the excavation and processing equipment to be used.
6. A description of measures to be taken to screen or buffer the operation from view from any adjacent residential parcel.
7. A description of measures to be taken to control dust, noise, and vibrations from the operation.

C. **Operation.**

1. All blasting must be done by a state licensed and certified blaster, who must have a certificate of liability or proof of liability insurance.
2. All excavation equipment must be constructed, maintained, and operated in such a manner as to eliminate, as practicable, dust, noise, or vibration that might adversely affect or injure any person living in the vicinity of the operation.
3. Any excavation access road must have and be maintained with a dustless surface.
4. Operations must be conducted in such a manner that any water runoff from the operation does not adversely affect any adjacent parcel.
5. All equipment and temporary structures, such as stone crusher, conveyor, or screener, must be removed from the site within 90 days of the termination of extraction operations.

D. Setback Requirements.

1. The excavation must be setback at least 100 feet from any existing occupied structure other than the owner's.
2. All operations shall be at least 50 feet from the centerline of any right-of-way and 10 feet from any property line unless there is a written agreement between adjoining owners both of whom hold valid nonmetallic mining permits under which they both agree to mine up to their common property line. Mining up to or into the right-of-way may be authorized where it is determined by the unit of government having jurisdiction over the road that such mining would be beneficial.
3. All accessory uses such as offices and parking areas shall be at least 75 feet from any right-of-way or property line.

E. Nonmetallic mining shall comply with the terms of Marathon County Nonmetallic Mining Code, Chapter 21, General Code of Ordinances.

F. All nonmetallic mining shall be required to provide for the proper closure and reclamation of the extraction site to an agricultural use.

G. Nonmetallic mining activity and operation shall be consistent with Wisconsin Statute, Chapter 91, Farmland Preservation, 91.46(6)

Farmland Preservation Districts. Nonmetallic mineral extraction in Farmland Preservation Districts may be permitted if the all of the following apply:

- A. The operation complies with Subchapter 1 of Chapter 295, Wis. Stats., and rules promulgated under that subchapter, with General Code of Ordinances for Marathon County Chapter 21 Nonmetallic Mining Reclamation Code under Wis. Stats., 295.13 or Wis. Stats., 295.14, and general requirements standards under this section and provided the reclamation of the extraction site is to an agricultural use (including all applicable provisions of this ordinance), and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
- B. The operation and its location in the Farmland Preservation zoning district are consistent with the purposes of the Farmland Preservation zoning district.
- C. The operation and its location in the Farmland Preservation zoning district are reasonable and appropriate, considering alternative locations outside the Farmland Preservation zoning district, or are specifically approved under state or federal law.
- D. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- E. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- F. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.

TOWN RECOMMENDATION:

On April 19, 2022 the **Town of Elderon** Town Board recommended approval to Marathon County's Board of Adjustment.

May 10th, 2022 the **Town of Elderon** Town Board approved a motion that passed 2-1 to "change their approval of the resolution to one of no vote either for or against the proposed mine." to Marathon County's Board of Adjustment.

[EXTERNAL] Request for mining permit



Don Aanonsen <aanonsendon@i

To Teal Fyksen

Cc Nicole Delonay

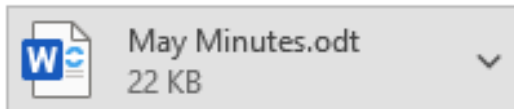


Tue 2:39 PM



You forwarded this message on 5/17/2022 4:22 PM.

Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.



To Teal Fyksen and Nicole Delonay from Don Aanonsen, Chairman of the Eldron Township.

After reviewing the minutes from our May 10, 2022 meeting the request for rescinding the motion to approve the mining permit on the Scott Czerwonka property lacked a second to have the motion to be voted on. However in those May minutes the Elderon Town Board approved a motion that passed 2-1 to "change their approval of the resolution to one of no vote either for or against the proposed mine."

This is obviously a controversial topic and the Elderon Town Board believed that the County Board of Adjustment has more experience in this area to make the decision.

Sincerely,

Don Aanonsen / Chairman

THE STAFF RESERVE THE RIGHT TO AMEND THIS REPORT BASED ON NEW EVIDENCE PRESENTED PRIOR TO AND/OR DURING THE PUBLIC HEARING.

DECISIONS OF THE BOARD ARE SUBJECT TO APPEAL AS PROVIDED IN SS.59.694(10) WIS. STATS.

RESPECTFULLY SUBMITTED:

A handwritten signature in black ink, appearing to read "Jual Singh", written over a light gray rectangular background.

05/16/2022

SIGNATURE

DATE

Exhibit #1

May 22, 2022

This letter is provided as written testimony to be read publicly before the Marathon County Board of Adjustment.

My name is James Schreiber. I live at 180944 Mission Lake Road along with my wife Hilary and our two eight-year-old daughters. Our home is immediately west of the proposed non-metallic mine site.

I present this testimony to the board in protest of the proposed mine.

I am concerned about air pollution from the dust that will be generated. Digging will create dust, crushing will create dust, screening will create dust, and trucking will create dust. The proposed pit road will run within 25 yards of my property line, as close as they can get to our house without cutting down trees. We have two people in our home with asthma. The concrete sand like that expected to be produced on the site contains silica which is a serious concern from OSHA, NIOSH, & MSHA requiring special protections and exposure limits for workers. If approved my family would be exposed to this dust for the eight-to-ten years of expected operation. The only protections noted in the mining plan are to put crushed asphalt on the driveway approach and rely on the thin tree line to hold back the dust. A tree line that is so thin since the 2021 storm damage that I can stand on my driveway and see east clear across the proposed mine site. So thin in fact that I can stand on my deck and see Popp's farm to the east beyond the 300 foot boundary for required property owner notification required by statute. I do not believe the dust control measures described would be sufficient to prevent adverse effects on our family.

I am concerned about our water supply. The permit application states, "Two ponds are needed. One into the water table for washing and one [a]bove the water table for settling." No details are provided for how this direct access to the water table will be protected from runoff pollution, biological toxins, or flocculant chemicals commonly used to wash sand. I'm also concerned about the runoff that will collect in the ponds at the southwest corner along Mission Lake Road. The mining plan claims that surface water will drain to the northeast. I struggle to see how that is possible considering the current topology slopes west. The error in the plan would be readily apparent if the application included a topology map as required by Marathon County ordinance 21.301.04(A)(5)(d), no such map is included with the application. My family relies on the groundwater for drinking, cooking, and bathing. Any change to the water quality or quantity has a direct and immediate impact on us.

I am concerned about the impact on our quality of life. Two years ago we made a significant investment to purchase our rural home where we enjoy wooded and farmland views, the sounds of birds and the wind, and an environment safe for our kids to experience nature. This mine will bring the sounds of rock crushers and heavy equipment as early as six a.m. including Saturdays. A view of sandpits and piles, and dump trucks as they pass our house on the pit road. The opportunity for my kids to walk or ride their bikes to their grandparent's house $\frac{3}{4}$ of a mile down Mission Lake Road will be eliminated by the concern of dump trucks on the narrow town road.

Regarding the dump truck haul routes, heading west it certainly won't be good for Mission Lake Road's surface condition. Going the other way, I question the safety of the Mission Lake Road and Highway 153 intersection. To head up the hill eastbound on 153 the trucks will have to cross over the westbound lane

of 153. Starting from the stop sign on Mission Lake Road a fully burdened truck may take too long to cross, and there is little time for oncoming traffic cresting the hill to see trucks in their lane.

Should this mine move forward, escaping the health and quality of life impacts by selling becomes infeasible. Studies such as those published by Diane Hite of Auburn University and George Erickcek of W.E. Upjohn Institute show a significant negative impact correlation between property values and the proximity to a mine operation. These studies show that properties three miles from the mine site reduce in value by 5-7 percent. And properties that are within ½ mile of a mine, like mine would be, drop in value by 25 percent or more. A situation where we are continuously concerned about the health of our environment while being financially harmed through reduced property value is an adverse effect of this mine that no one should have the right to force upon us.

In addition to the aforementioned impact concerns, there is also undeniable evidence the provisions of the reclamation code have not been met.

As stated above the requirement of submitting a topology map with contour intervals as required by 21.301.04(A)(5)(d) is not included in the application.

Reference 7 of the application discusses mining in four phases. However, a map showing the boundaries of each phase as required by 21.301.04(A)(5)(b) is not included in the application.

Page 2 of 5 of the reclamation permit application states the two ponds. The proposed locations of those ponds are not included in the application as required by 17.204.54(A)(4).

I question the County's adherence to Section 21.301.06(A)(1) of the County's reclamation code which states, "The department shall publish a public notice of application within 30 calendar days of the receipt of a complete application for a nonmetallic mine reclamation permit." The county has had this conditional use permit application and nonmetallic mining reclamation permit application since February 14th. The county waited until May 5th to send any notification to my family. That is 80 days between receiving the application and sending the notice. With the notice actually being received on May 9th we were left with only 17 days before this May 26th hearing. I questioned the 80 days versus 30 days discrepancy with the department and was told that they did not have a complete permit application. In fact, I was told again on May 16th that they still did not have a complete application. I question the accuracy of that status considering the permit application within the hearing packet has no revisions and maintains the February 14th certification signatures from Stuart Hanson and Scott Czerwonka. And, if the application is not complete how can this hearing be held and fit the Public Hearing requirements of state statute 295.12 and county code 21.301.06?

Of course, it is difficult for the public to know exactly what is required of the County when the code Section 21.301.06(B)(2) Reclamation Public Hearing refers to 21.301.05(B)(1)(a) which is a non-existent section, and to 21.301.05(A)(1) which references Right of Access as a permit condition, a seemingly errant unrelated reference.

Furthermore, according to the Conservation, Planning, & Zoning Department, the county sent a request to the township for recommendation on April 12th. That is 23 days before notifying neighboring property owners. The town chose not to send any notification to residents and also voted on the recommendation at their April 19th board meeting despite the business not being included on the published agenda. At the May 10th town board meeting the legitimacy of the previous resolution was

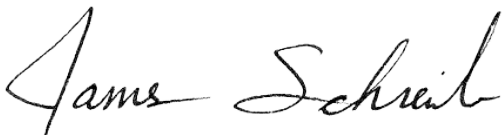
disputed and the board chose to withdraw the previous resolution recommending approval. I'm glad the town board has withdrawn their recommendation, but I still question how the county can justify notifying the town clerk 23 days before owners of land within 300 feet of the site that must be notified per 21.301.06(A)(3).

It is worth noting that page 5 of the County's Application for a Nonmetallic Mining Reclamation Permit form references §21.10(3)(j), 21.10(6), 21.10(7), and 21.12 none of which can be found within General Code of Ordinances for Marathon County Chapter 21 – Nonmetallic Mining Reclamation Code adopted in November 2019. How can the public trust that the application is complete and decided according to the ordinances when the ordinance references are outdated or plainly wrong?

There is no special need to justify the special use of this farmland as a nonmetallic mine. Approving permits for mining will risk the health, safety, and quality of life of my family directly, as well as nearby residents. This situation is riddled with mishandling, incomplete requirements, and poorly maintained documentation. I believe there is more than enough significant evidence to show that the permit applications should not be approved and should be denied.

Thank you for your time and consideration.

Sincerely,



James Schreiber

APPLICATION FOR CONDITIONAL USE PERMIT
MARATHON COUNTY BOARD OF ADJUSTMENT

The applicant hereby requests the Board of Adjustment to hear and decide upon this application as prescribed by Section 17.803 of the Marathon County Zoning Ordinance. **Use a separate sheet if necessary.**

Name of Applicant: Jay L Oberholtzer
Mailing Address: 209223 County Rd E Stratford WI 54484
Telephone: _____ Fax: _____
Cellphone: 715-650-1535 Email: jayober20@gmail
Owner Name: (if different) same
Mailing Address: same
Telephone: same Fax: _____

PARCEL INFORMATION

Parcel ID # (PIN): 05626030510993
(If more than one parcel is included in this application, list all parcel numbers & legal descriptions on a separate sheet.)

Legal Description: Government Lot _____ or SW 1/4 NF 1/4
Section 5, T 26 N, R 3 E, Town of McMillan
Lot _____ Block _____ Subdivision _____
Property Address: 209223 County Rd E Stratford WI 54484
Parcel size: 10 Acres **or** _____ Sq. Ft.
Zoning District: McMillan

Present use of property (List all current uses, i.e. home, store, farm field, wooded, etc.):
Primary residence

Existing improvements (Structures, well, septic, etc.):
New septic/holding tanks last year. 2 old outbuildings removed

PROPOSAL

Describe **specifically** the nature of this request (be sure to **list all proposed uses** of the parcel). What do you plan to do?
We plan to build a garage/kennel and raise dogs as a family project

If this application is for a use that will be restricted to part of the parcel, specify the **exact dimensions** of the affected area.

Provide the following information if this box is checked

Proposal has additional development standards in Section _____. Explain how your proposal meets or exceeds these requirements.

Use separate/additional sheet(s) if necessary

INSTRUCTIONS TO APPLICANT

1. Be sure to complete **all items** on the application. This includes a **brief, but complete explanation** of the current use and proposed new use.
2. Prepare a **map at a scale which is reproducible** (11" x 17" or smaller). For maps larger than 11" x 17", be prepared to provide as many copies as needed for transmittal. In no instance may the scale of the map be less than 1 inch equals 200 feet. There are instances where a cross-section of the property or contours will be helpful, and in some cases one or both may be required. Narrative or photos may be included as supporting documentation.

At a minimum the map must include:

- The location, dimensions, and parcel identification number of the lot or lots including a legal description.
- Location of any and all nearby public and private streets.
- Dimensions of the lot and the location of all existing and proposed buildings or structures, and location of existing or proposed private onsite wastewater treatment (septic) system.
- Required front, rear, and side yard areas, open space, and parking.
- On residential parcels, the number of dwelling units contained within each building and proposed number of bedrooms.
- Location and dimensions of all buildings or structures to be erected, structurally altered, or moved.
- Wetlands and floodplains
- Screening/Buffers
- Lighting
- Parking

3. **Include the \$600 fee** when you submit the application. Please make checks payable to Marathon County.

We cannot consider an application complete until the following are submitted to this office:

<i>Check if submitted</i>	<i>Initial of staff</i>	
<input type="checkbox"/>	_____	Completed application including signatures.
<input type="checkbox"/>	_____	Map with all required information.
<input type="checkbox"/>	_____	Additional documents, as needed (lot combination forms, hunting/fishing shelter application, etc.)
<input type="checkbox"/>	_____	Zoning Permit application
<input type="checkbox"/>	_____	Fee

Please contact the Marathon County Conservation, Planning and Zoning Department with any questions: 715-261-6000.

IMPORTANT: The applicant or authorized representative **must be present at the hearing** or Board **may deny** the application without prejudice.

<p><u>Jan 2 Orlowski</u> _____ Owner Signature (required)</p>	<p><u>3-24-22</u> _____ Date</p>
<p><u>Jan 2 Orlowski</u> _____ Agent / Person responsible for work Signature (required)</p>	<p><u>3-24-22</u> _____ Date</p>

Conditional Use Permits expire six (6) months from the latest date of signature on the approval letter signed by Chairman and the Secretary of the Board of Adjustment if the proposed construction or preparation of land for use has not commenced. The Zoning Administrator may grant an extension for up to six (6) months upon show of valid cause.

<p><u>Return to:</u> Board of Adjustment Marathon County CPZ Department 210 River Drive Wausau, WI 54403-5449</p>	<p>Telephone: 715-261-6000 Toll free within Marathon County: 1-800-236-0153 Facsimile: 715-261-6016</p>	
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RECEIVED

MAR 25 2022

For office use

For office use

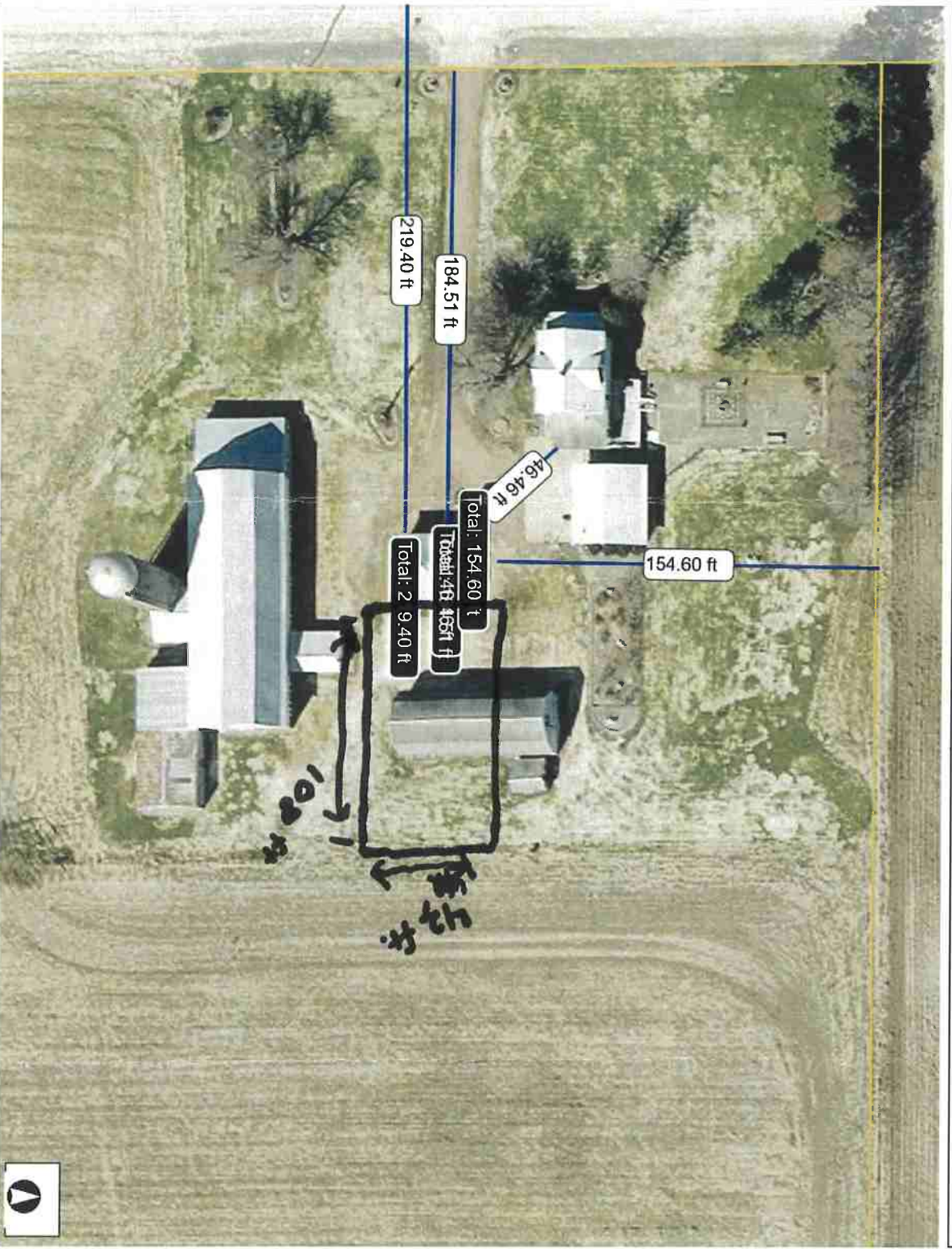
Amount Received: \$ _____
O:\CPZ\Ordinances\FORMS\ConditionalUsePermitApplication.docx

Date Stamp:

MARATHON CO. CONSERVATION,
 PLANNING & ZONING DEPT



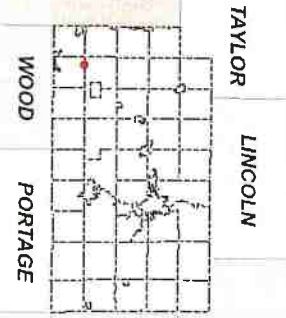
Land Information Mapping System



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Legend

- Road Centerlines
 - US
 - State
 - County
 - Local
 - Private
 - Forest
 - Park
- Road Names
- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities
- Streams-Rivers
- Lake-Ponds
- DNR Wetland Areas
- Floodplain
 - A
 - AO
 - AE
 - AE FLOODWAY
 - AE ADMINISTRATIVE FLOODWAY
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - Shoreland Overlay Zoning 2020 Orthos Countywide
 - Red: Band 1
 - Green: Band 2
 - Blue: Band 3

Notes

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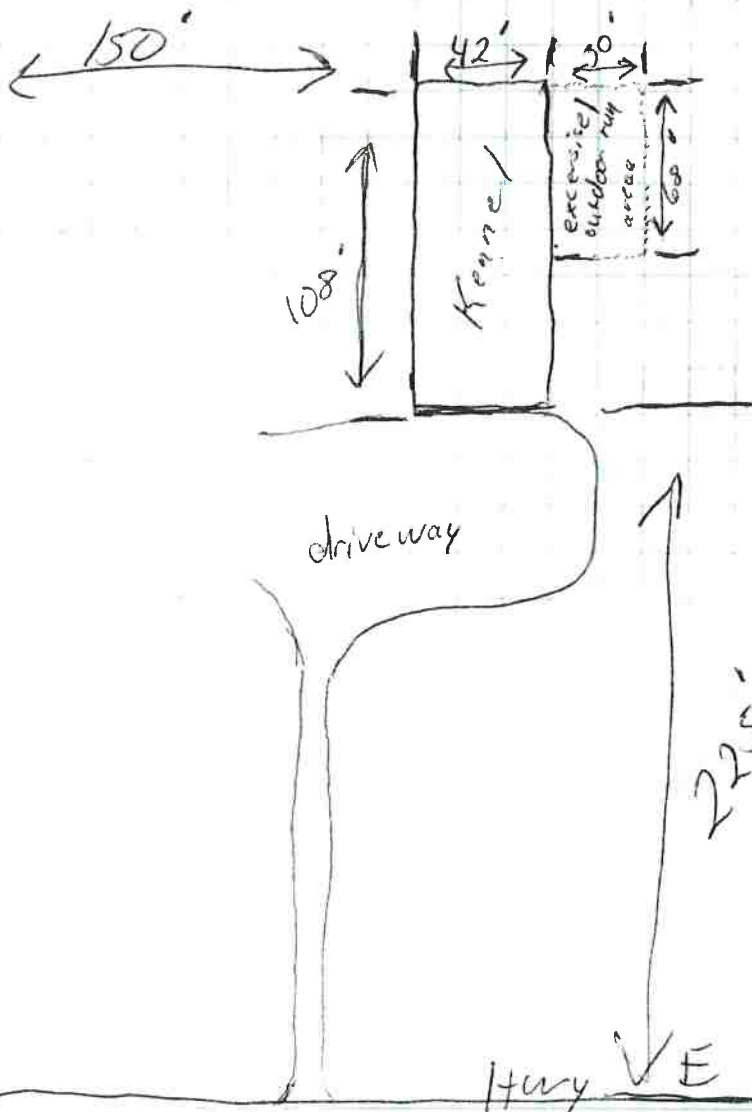
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Jay L Oberholtzer

715-223-3361

715-650-1535

Jayober20@gmail.com



Dogs to exercise appr.
 1 hr. morning and evening,
 otherwise kept inside.

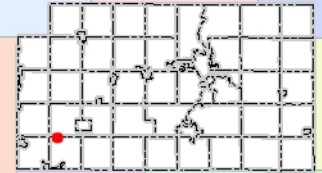
West side fence
 toward road to be
 a painted board fence
 for neat appearance



Land Information Mapping System

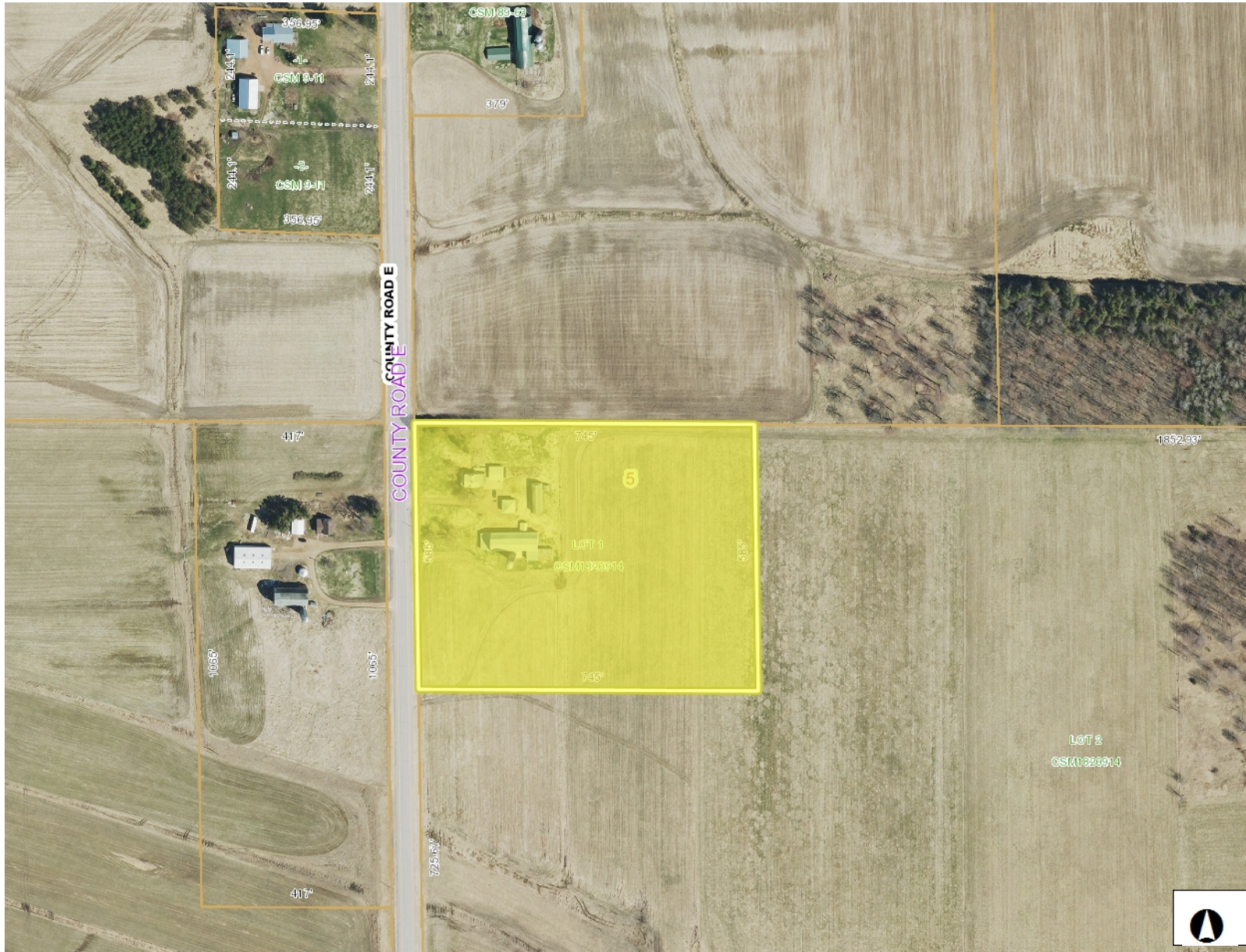
TAYLOR

LINCOLN



WOOD

PORTAGE



Legend

- Road Names
- Parcels
- Parcel Lot Lines
- Land Hooks
- Section Lines/Numbers
- Right Of Ways
- Named Places
- Municipalities
- 2020 Orthos Countywide
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 - Green: Band_2
 - Blue: Band_3

163.98 0 163.98 Feet



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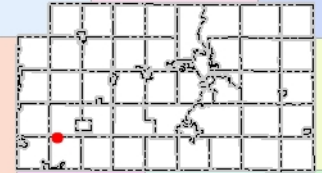
Notes



Land Information Mapping System

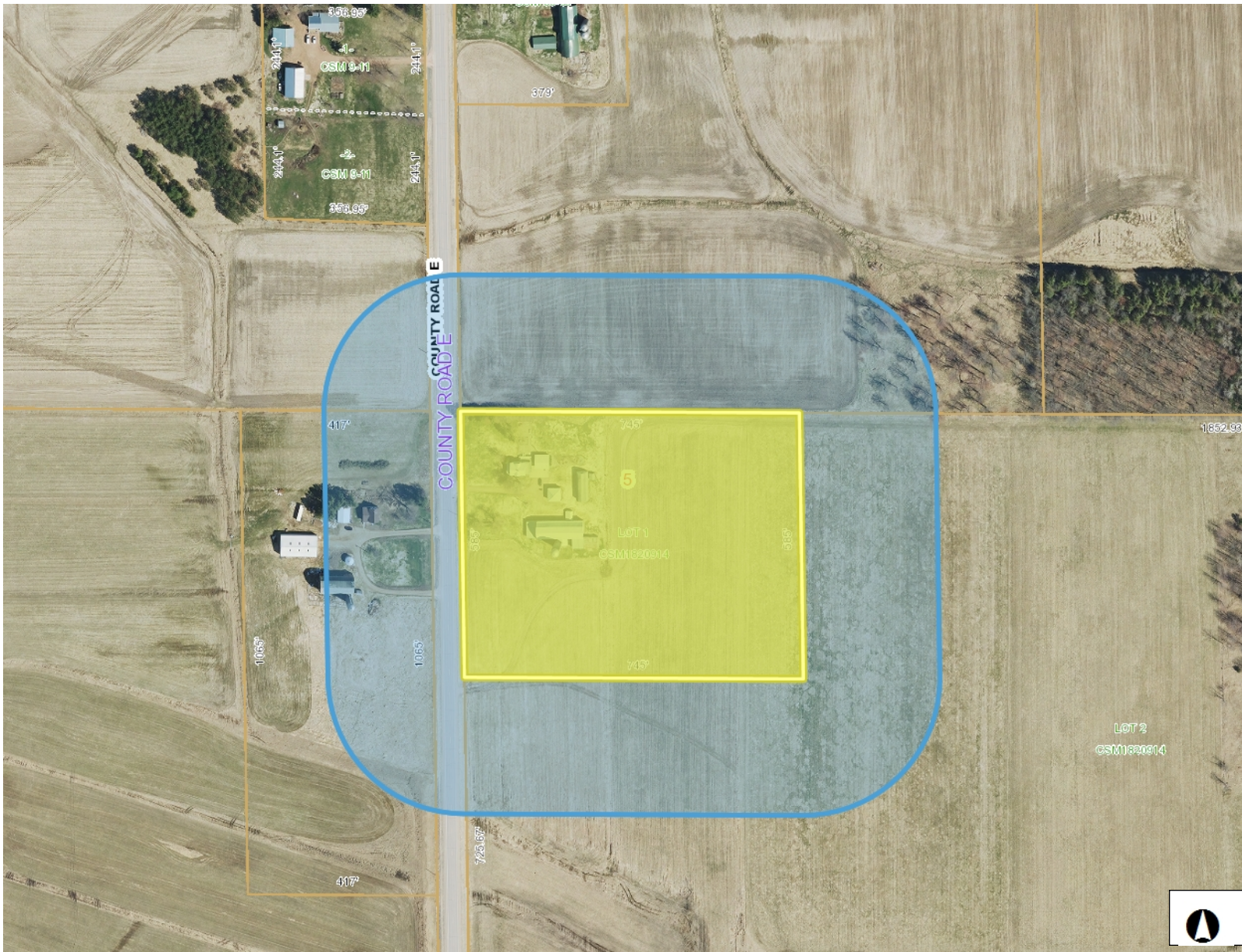
TAYLOR

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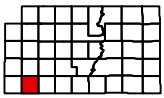


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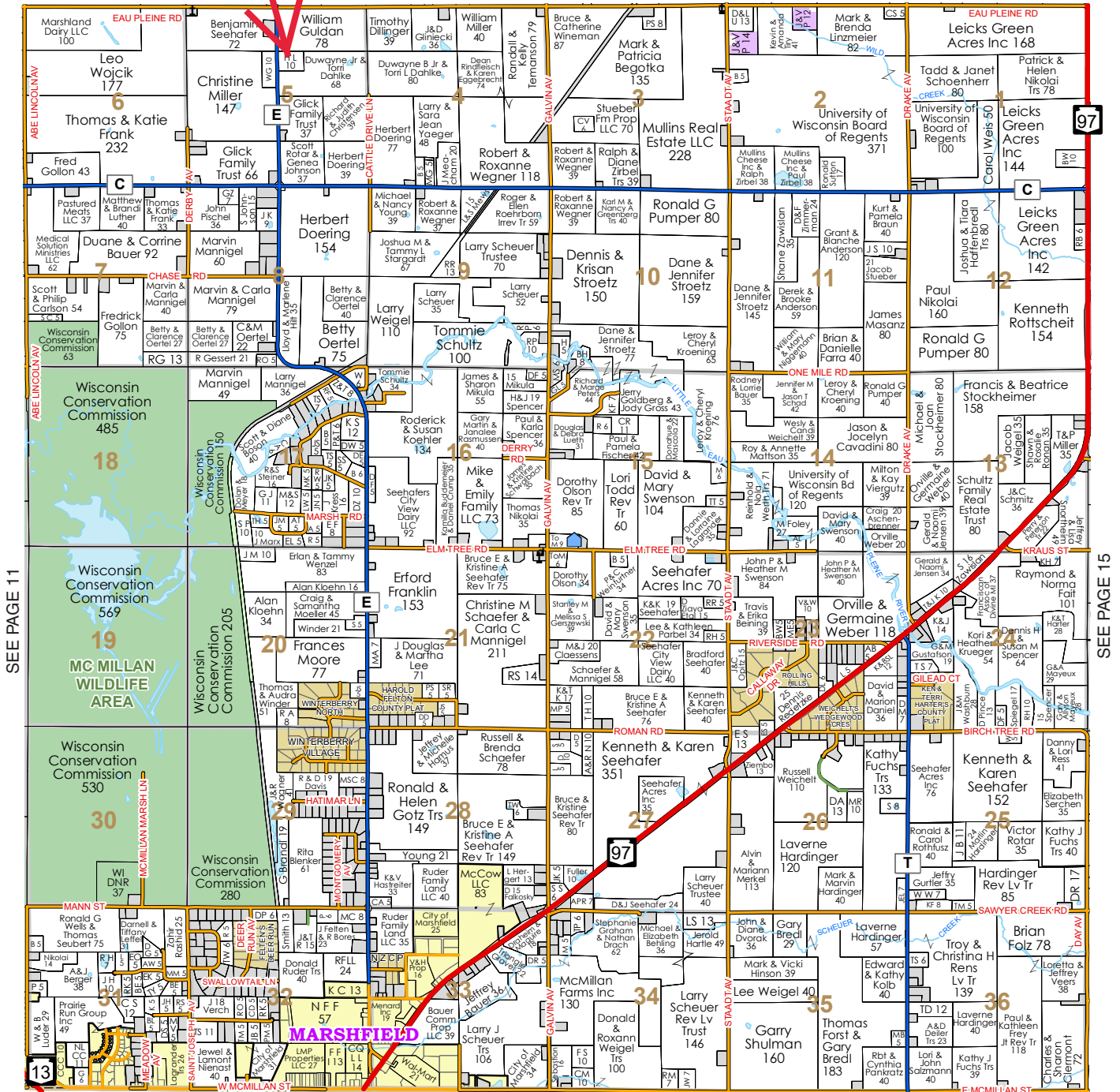


McMillan

Township 26N - Range 3E

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SEE PAGE 31



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 SATURDAY A.M. DELIVERY • HEATED IN WINTER
 SAND & STONE • REINFORCING MATERIALS
 OUTDOOR KITS • BRICK • CONCRETE PRODUCTS
 CHIMNEY & FIREPLACE SUPPLIES



Jay Oberholtzer
Conditional Use Permit Application
Staff Report, May 26, 2022
Marathon County Board of Adjustment

Findings of Fact

REQUEST:

The application of Jay L. Oberholtzer for a conditional use permit per Section 17.204.07 of the General Zoning Code of Ordinances under Marathon County Chapter 17 Zoning Code for a Kennel Facility of more than seven dogs (for commercial purposes) within the G-A General Agriculture district, part of the SW¼ of the NE¼ of Section 5, T26N, R03E, Town of McMillan; PIN # 056.2603.051.0993, with a property address of: 209223 County Road E, Stratford, WI 54484

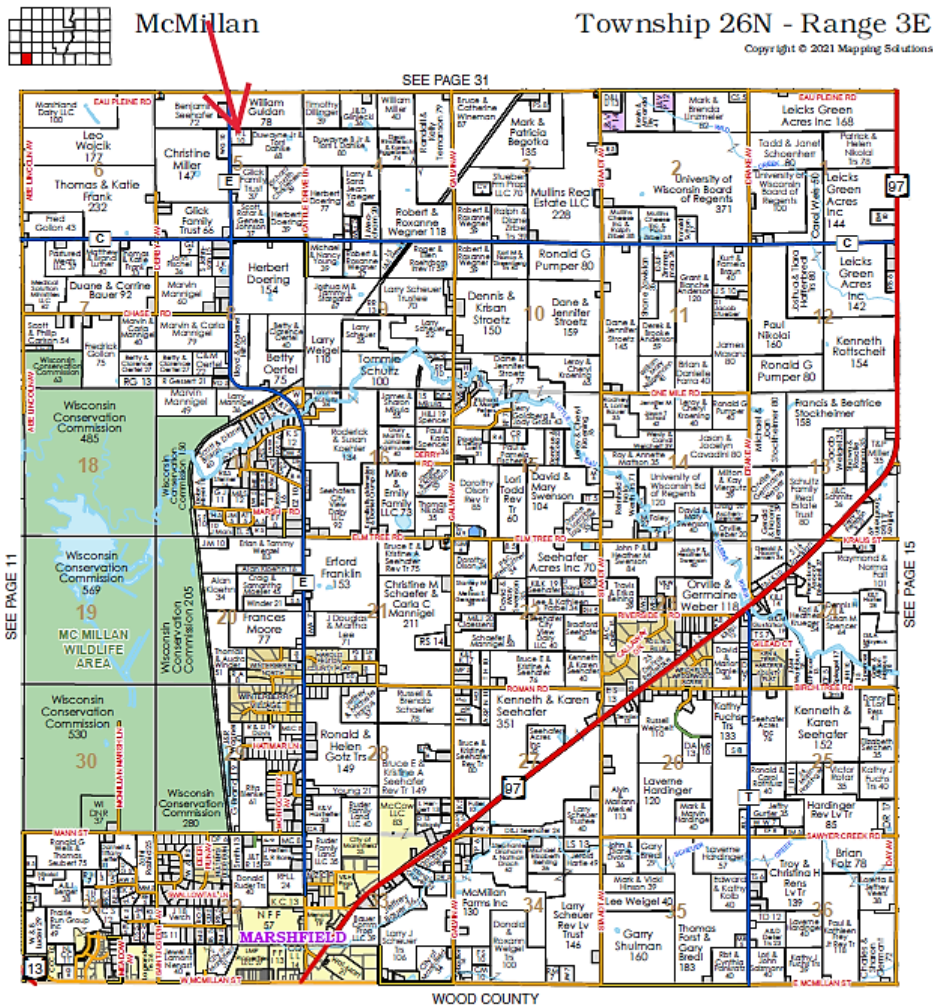
PUBLIC HEARINGS/MEETINGS:

- Town of McMillan Plan Commission Meeting: April 25, 2022
- Town of McMillan Town Board Meeting: May 25, 2022
- Marathon County Board of Adjustment Meeting: May 26, 2022; 9AM

APPLICANT(s): Jay L. Oberholtzer – 209223 County Road E, Stratford, WI 54484

PROPERTY OWNER: Jay L. & Carolyn L. Oberholtzer – 209223 County Road E, Stratford, WI 54484

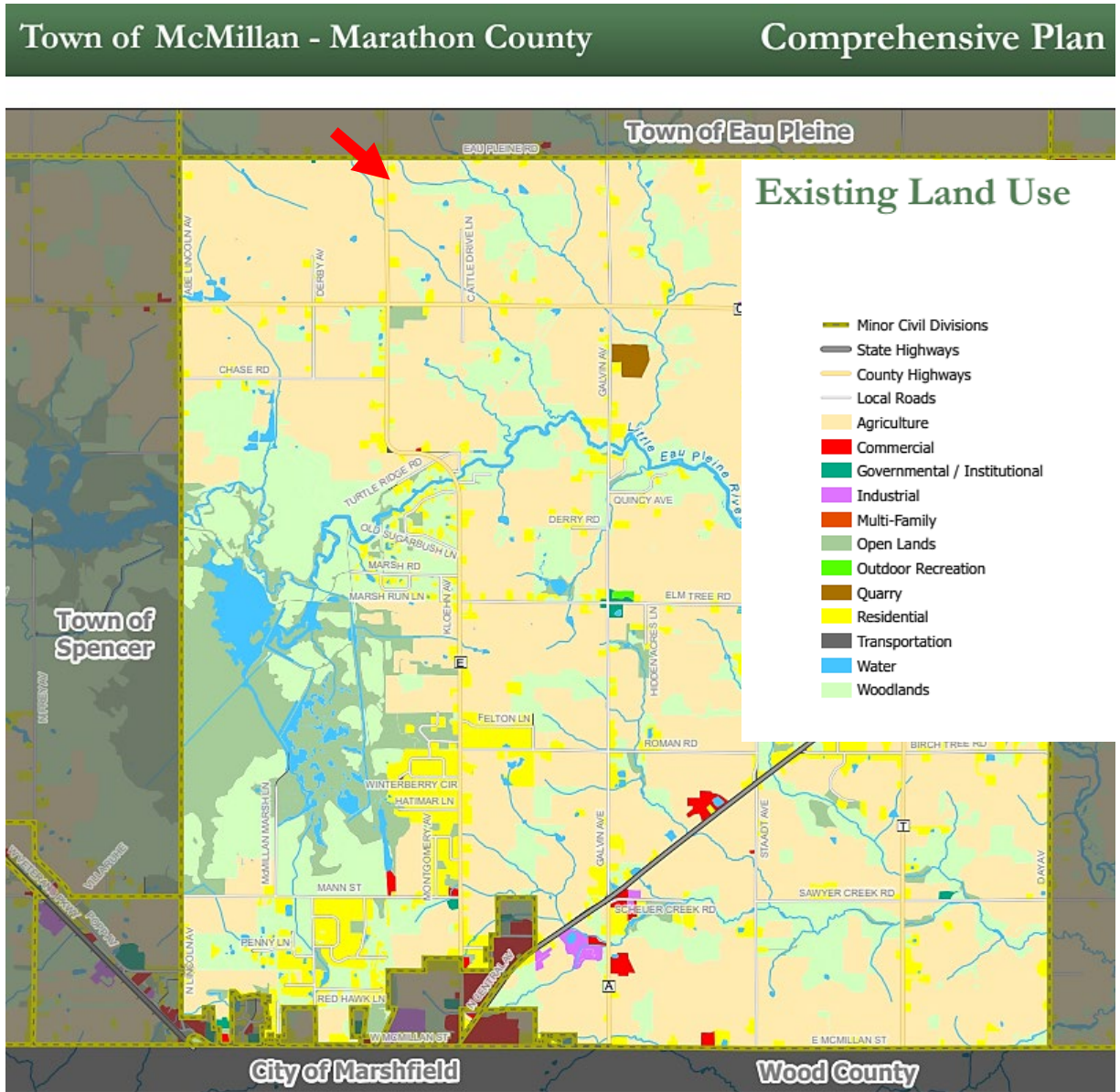
Map 1: Plat Location of Conditional Use Permit Request



EXISTING ZONING DISTRICT

G-A General Agricultural. The purpose of the G-A district is designed to foster the preservation and use of agricultural land related uses and to provide for limited residential uses in a rural environment but not the division of land as classified in 18.07(2) and (3) into five or more tracts, parcels or lots within a five-year period. This district provides for limited residential development with modest densities that require relatively large land areas that are compatible with the surrounding rural land use activities. The district is intended to provide towns with multiple options to guide growth and development in concert with the comprehensive planning efforts.

EXISTING ZONING DISTRICT MAP: Adjacent parcels and parcels within close proximity are zoned General Agriculture, some with Farmland Preservation, and a few residential parcels.



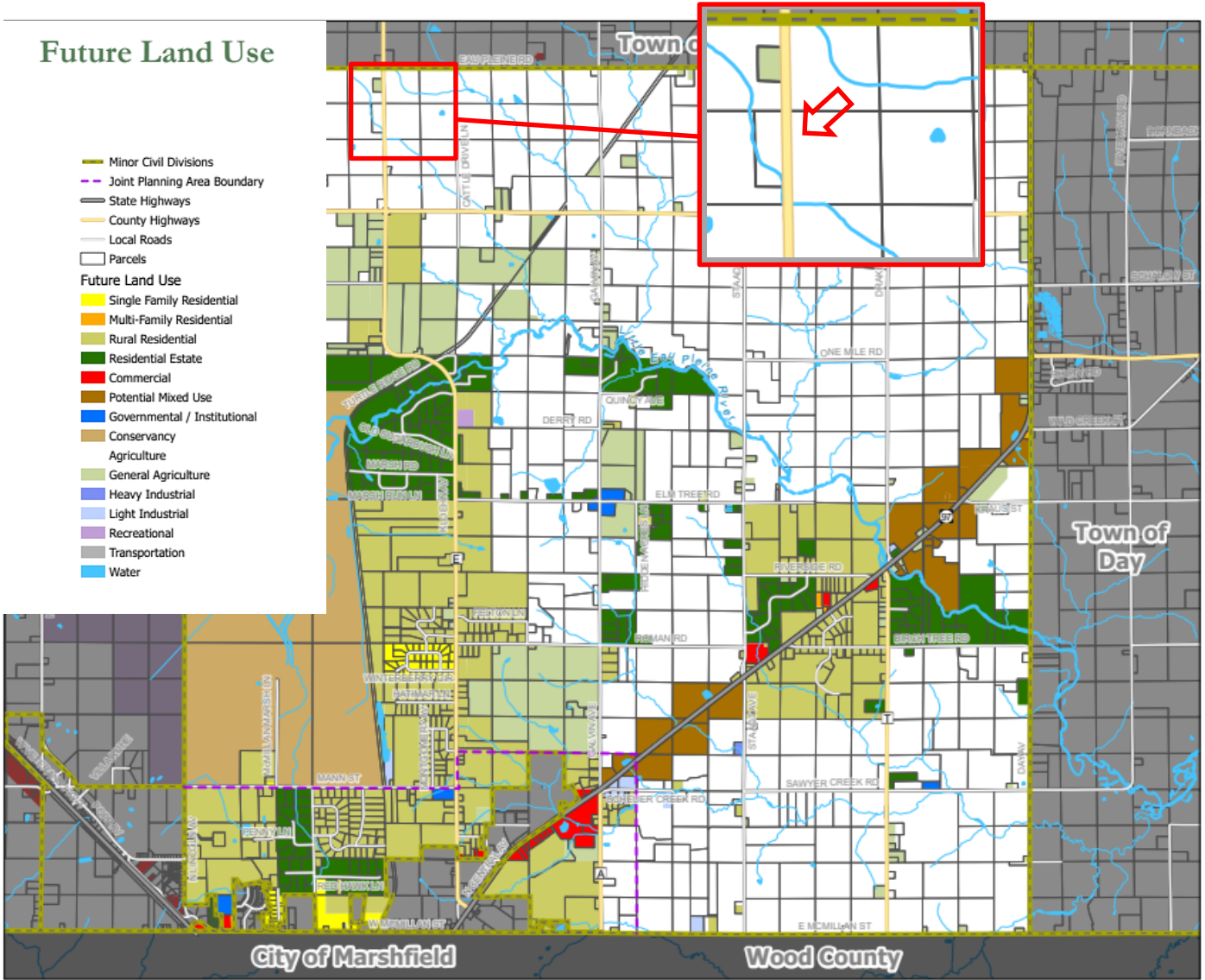
ACREAGE:
10.003 Acres

LEGAL NOTIFICATION

A legal advertisement was published in the *Wausau Daily Herald*. Notice of the zoning change request was also sent by regular mail to adjacent property owners within 300 feet of the subject property.

TOWN COMPREHENSIVE PLAN FUTURE LAND USE MAP: The parcel in question is shown to be designated as agriculture land uses in the Town of McMillan’s Comprehensive Plan Future Land Use Map (2021).

Town of McMillan - Marathon County Comprehensive Plan



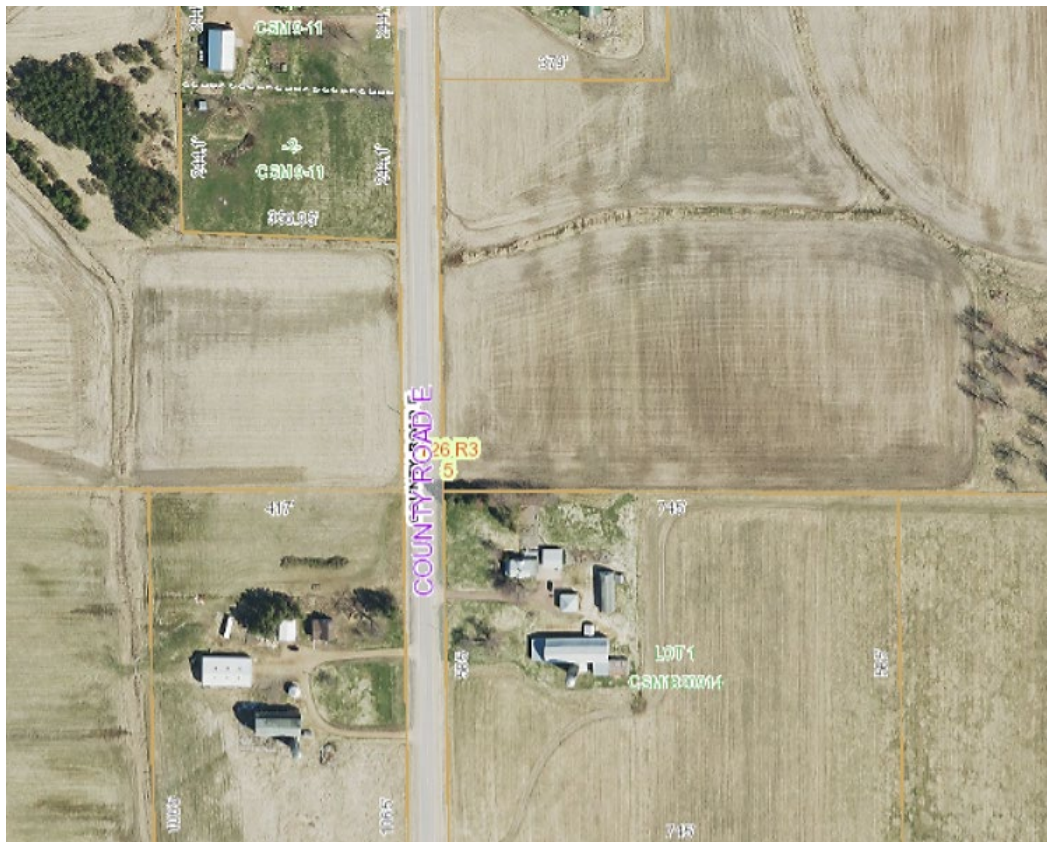
SPECIFIC PARCEL LIMITATIONS OR NATURAL FEATURES:

- The proposed development location on this parcel is:
 - **Not** located within mapped floodplain
 - **Not** located within DNR mapped wetlands, or water features.
 - The parcel and proposed development **is not** located within the shoreland overlay district.

Aerial Photo of the Property:



Aerial Photo of adjacent lands:



VIOLATIONS

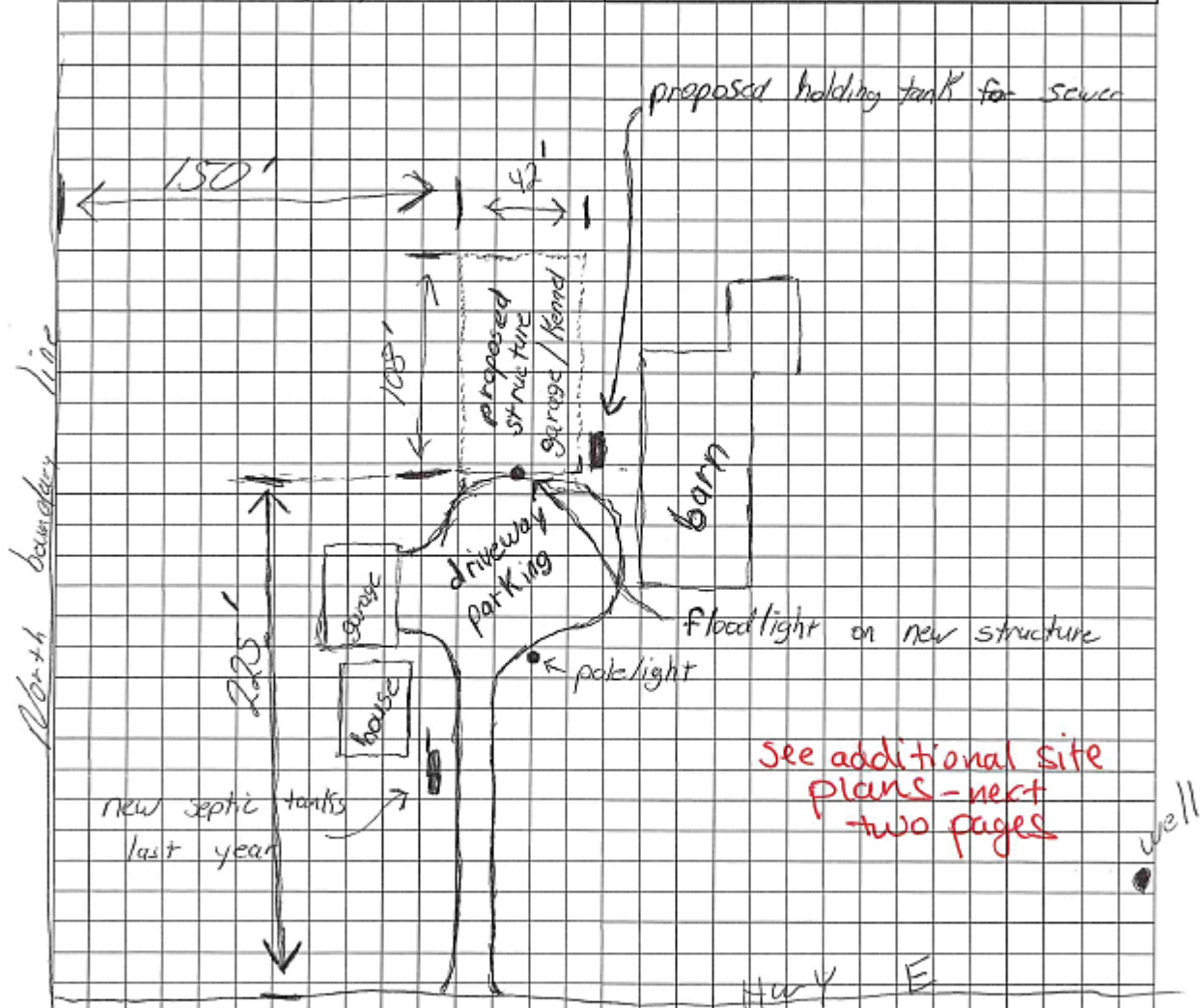
There are **NO** known violations on the property in question.

Site Plan #1: (Submitted by the Applicant)



SITE PLAN

Permit #	Date: 3-24-22	Notes/Comments: Floor drain to run to daylight 1 bathroom to holding tank for sewer	1" = ___' N
Pin # 05626030510993			
Owner(s): Jay L Oberhaltzer			
Address: 209223 CR F			
Project Type: Garage / Kennel			



<p>Requirements to be shown:</p> <ul style="list-style-type: none"> ◆ Location and dimensions of all existing & proposed buildings. ◆ Location of existing or proposed private onsite wastewater treatment system, wells, and driveways. ◆ Proposed setback distances to side and rear property lines, roads (either right-of- 	<ul style="list-style-type: none"> way line and/or centerline), septic system components (tanks and/or drain fields), and unique site features such as wetlands and waterways. ◆ Indicate & label the location of any public and private street. ◆ Location and proposed setback to any recorded access easements. 	<p>Road Setback: 225 ft from centerline Side Yard Setbacks: 150 ft and ___ ft Rear Yard Setback: ___ ft Max. Building Height: 26 ft to peak of roof Setback from Ordinary High Water Mark ___ ft Setback from Mapped Wetland Areas ___ ft Septic Component Setbacks: ___ ft and ___ ft Lot Width at Building Line: ___ ft</p>
--	---	---

O:\Zoning\FORMS\general_zoning_site_plan

Site Plan #2: (Submitted by the Applicant; additional project details)

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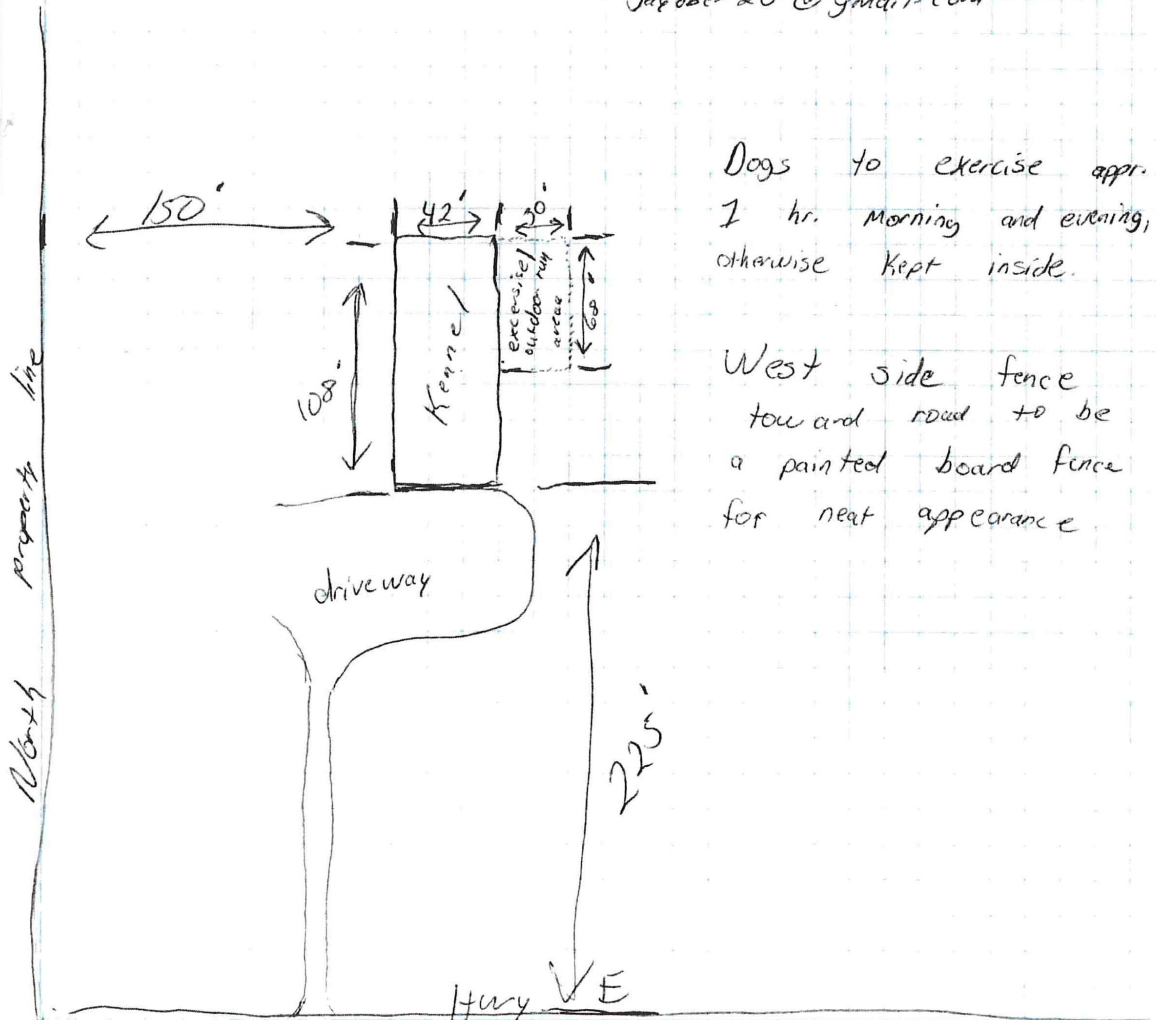
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www.mcneilus.com

Jay L Oberholtzer

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715-650-1535

Jayober20@gmail.com



Dogs to exercise approx.
1 hr. morning and evening,
otherwise kept inside.

West side fence
toward road to be
a painted board fence
for neat appearance.

Aluminum ■ Stainless ■ Carbon & Alloy ■ Sheet ■ Plate ■ Bar ■ Beam ■ Tube ■ Pipe
Cut-to-Length ■ Slit ■ Edge ■ Stretcher Level ■ Saw ■ Shear/Break ■ Rebar Fab



Site/Building Plan #3: (Submitted by the applicant; sketch of interior layout; no pens outside):

McNeilus Steel, Inc.

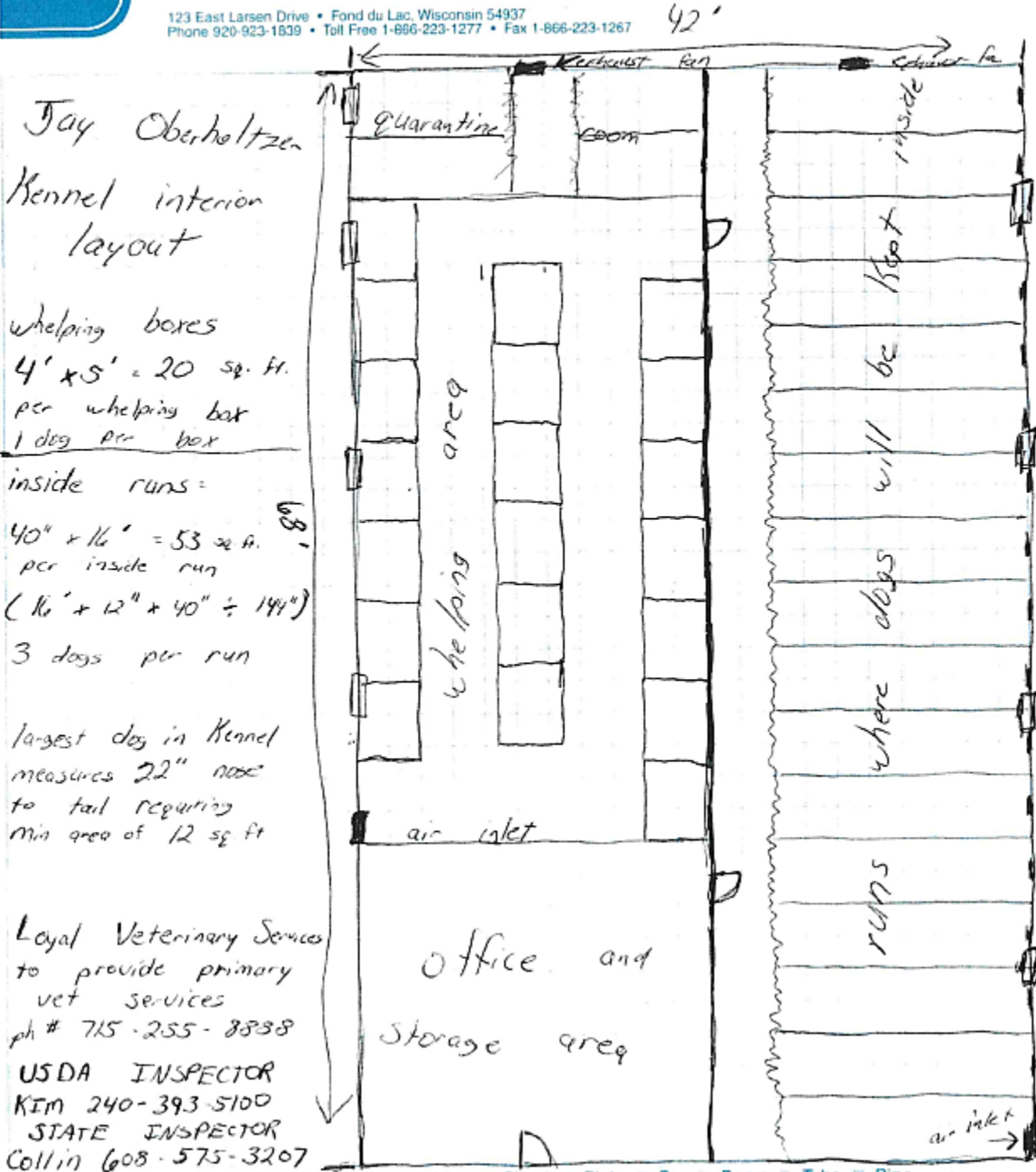


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SUPPORTING DOCUMENTATION PROVIDED BY APPLICANT

Additional Operational Information about the Kennel

#1 Parcel number 05626030510993 at 209223 CR E is 10.003 acres.

#2 Dogs will be on floor level-no cages. Inside building will be a 40 inch by 16 ft pens to house dogs. Pens will be constructed of poly and aluminum for neat appearance and easy cleaning. Outside will be exercise yard (see site plans). Runs where dogs will be kept inside will be bedded with shavings and cleaned as needed. Food will be offered free choice and fresh water in a water line with a nipple in each run for fresh water at all times. There will be 4-36x48 windows in inside run area and 3-36x48 windows in whelping area and 1-36x48 window in quarantine room. Phone numbers for vet and both inspectors at bottom of kennel drawing page/ site plan.

#3 Outside run 192 ft from north property line to south and 265 ft from HWY E to east.

#4 Dogs to exercise for apprx. 1 hr. morning and evening otherwise will be kept inside.

#5 I acknowledge and intend to go through proper sanitary requirements of Marathon County and DNR as necessary. Will be seeking a DNR industrial waste permit and holding tank with the State. Once those are approved, then would get the sanitary permit through the County.

#6 Vehicles shall have sufficient space to make a complete circle in driveway without parking on street.

#7 Highest point of building would be 16 feet. Lighting is marked on site plan.

#8 I acknowledge that boarding pets shall be confined in a building overnight.

#9 Will be seeking State and USDA licensing so will meet all of those requirements as well. Find attached some more info, the Blue Book is USDA requirements, pages 111-136 apply specifically to dog kennels. The DS fact sheet is the WI requirements.

Additional information about hours and employees is on the next page.

Jay Oberholtzer Kennel

Hours: No set hours, we plan to sell most of our puppies through dealers, and occasional litters private. we will work out appointments for each sale


Advertising: No advertising on dealer transactions, otherwise will use online outlets ie Puppy Binder, Green Field Puppies or a print ad in local papers

Employees: We want this to be an opportunity to work together as a family, without any outside help

Interior: Heated concrete floors, x poly runs, poly wall coverings, separate whelping area with whelping boxes sufficient for the size of dog, automatic waterers, as well as office and storage area

Management: As this is to be a family project, Jay and Carolyn will jointly work together to see that all records are kept up-to-date, the dogs are receiving proper care under the direction of veterinarians, and facility is kept clean and sanitary


Signature


Signature

CHAPTER 17 SECTIONS THAT APPLY TO THIS APPLICATION

Specific Provision(s) of Law for Kennels:

USE	P Permitted Use				C Conditional Use				(Blank) Use Not Permitted				
	Residential Districts				Agricultural Districts				Nonresidential Districts				Development Standards
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I	
Kennel and Pet Boarding				C	C	C							Section 17.204.07

Section 17.204.07 KENNEL AND PET BOARDING FACILITY

- A. **Kennel.** The boarding, breeding, raising, grooming, or training of seven or more dogs over six months of age either:
- Not owned by the owner or occupant of the premises, or
 - For commercial gain may be permitted and shall conform to [Section 17.204.07\(B\)](#)

Text in **RED** below indicates CPZ staff comments as it relates to application’s conformance to requirements.

B. **Pet Boarding Facility.** A pet boarding facility, sometimes referred to as “doggie day care,” is a business for the temporary boarding and care of common household pets generally during daytime hours, but in some cases including overnight boarding. Pet boarding facilities may provide related services such as grooming or training, but no animals may be bred or sold at a pet boarding facility unless the pet boarding facility is accessory to a principal retail use. **Kennel** and pet boarding facilities are subject to the following requirements:

- Minimum Site Area. Such activity shall be permitted only on a parcel of land not less than five acres in area.
Parcel is 10.003 acres
- Enclosures. All animals shall be kept in pens or cages designed, constructed, and maintained so as to be harmonious and appropriate in appearance with the character of the general area in which located, and such use will not affect the character of the same area in a negative way. **Pens/cages are in the interior of the building. The site plan shows an outdoor exercise area on the SE (furthest corner from the road) area of the project site. The applicant has indicated there will be fencing, and the dogs will only be outside exercising for an hour in the AM and an hour in the PM.**
- Enclosure Setbacks. All pens or cages shall be located not less than 100 feet from any property line and all animals shall be kept therein or within a building. No animal shall be allowed to run at large. **Pens/cages start over 200 feet from the property line/road and are inside the building. Outdoor exercise yard should be enclosed as stated by applicant.**
- Noise and Odor. Such activity shall be conducted so as not to be detrimental to any person, property, or the general welfare by reason of excessive noise or odor. **Applicant has stated dogs outdoor time will be limited. Applicant is coordinating with DNR on sanitary requirements.**
- Nuisance Prohibited. The keeping of the animals described in this subsection shall not constitute a nuisance to persons living in the surrounding area. Upon receipt of a written complaint filed by a neighbor with the County stating the animals constitute a nuisance, the Board of Adjustment shall hold a hearing with notice to all property owners within 300 feet of the property where the animals are kept. The Board of Adjustment shall determine if, in fact, the animals do constitute a nuisance. **Not applicable unless the CUP is issued, and complaint is filed.**

If the Board of Adjustment determines that the animals have and will likely continue to constitute a nuisance, the animals shall not be kept on the property after the date set by the Board of Adjustment. If, in the opinion of the Board of Adjustment, there is reason to believe that reasonable measures will be taken to alleviate the nuisance associated with the animals, the Board of Adjustment may issue a permit, renewable yearly, for the keeping of such animals with or

without restrictions. If a hearing is held and a determination is made, the matter may not be reviewed again on a complaint of a neighbor unless there has been a change of circumstances.

6. No person shall allow animals under such person's control or ownership to constitute a nuisance. Notwithstanding anything to the contrary in this ordinance, this subsection shall not be a limitation on, any other County ordinance pertaining to animals, and the enforcement of it.
7. Wastewater. A wastewater treatment system may require review and approval by the Department of Natural Resources and Department of Safety & Professional Services. Applicant has begun coordination and applications with DNR/State and County for sanitary permits and would be required to complete this process before being issued the zoning building permit. The applicant is seeking the CUP first before completing the sanitary processes and cannot get said permits without a CUP.
8. On-site vehicular circulation shall be configured to accommodate vehicles within the boundaries of the site. In no case shall vehicles awaiting drop-off or pick-up of a pet be allowed to encroach onto a public or private street. Applicant has stated all parking will be on-site, no road parking.
9. Overnight stay. Any pets being boarded overnight shall be confined within the building from the hours of 10:00 p.m. until 7:00 a.m. CUP if approved should state this condition.
10. Facilities shall be constructed, maintained, and operated so that the sounds and smell of animals cannot be discerned outside of the building. Outdoor runs shall be maintained so that no odors are discernable from adjacent properties. CUP if approved should state this condition.
11. Outdoor runs where pets will be permitted either on or off-leash shall be set back a minimum of 100 feet from any adjacent residentially zoned or used land. The 100-foot setback notwithstanding, outdoor runs shall be located as far as practicable from any adjacent residential zoning district. Any outdoor runs where pets will be permitted off-leash shall be surrounded by a minimum 54-inch, (4 ½ feet), tall fence. If the fence will be visible from any adjacent residential district or road right-of-way, the fence shall be decorative in nature, determined by the Zoning Administrator. Outdoor area is over 200 feet from the road or adjacent property. Applicant has stated there will be fencing around the run, with board fencing on the road facing side. They have stated it will be painted in a neat appearance.
12. The Zoning Administrator and/or Board of Adjustment may require a landscaped buffer or solid wall to be provided between the outdoor run and any adjacent district if the location proposed outdoor run could negatively impact adjacent land. The applicant has stated there will be fencing around the outdoor run. The ZA has discretion to determine if the buffering and fencing requirements in the zoning permit building plan are sufficient or need to be modified.

Parking Requirements

Staff recommend parking requirements be sufficient to meet the office space of 400 square feet. All employees live on the premises, and there will be no signage on the road. As such, the requirement would be for a minimum of 2 public parking spaces in driveway/parking area.

Chapter 17.803

Conditional Use Permits

Section 17.803.01 PURPOSE AND AUTHORITY

- A. **Purpose.** Certain uses are of such a nature or their effects are as dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this chapter for the determination of such uses as conditional uses. Conditional uses are land uses listed as such in [Table 3](#) Uses Permitted by District. They may be established in such district only upon approval by the Board of Adjustment.

The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

1. Ensure full compliance with the standards contained in this ordinance and other applicable local ordinances, and state and federal laws.
2. Achieve efficient use of the land.

3. Prevent adverse impact on adjoining or nearby properties.
4. Protect natural resources.
5. Facilitate development in accordance with the County's land use objectives per the Comprehensive Plan.

Section 17.803.02 APPLICATION PROCEDURES

- I. **Board of Adjustment Determination.** The Board of Adjustment shall review the application for conditional use, together with the previous meetings' findings and reports and recommendations from the Zoning Administrator, public safety officials, and other reviewing agencies. The Board of Adjustment shall then make a determination on the conditional use application, as set forth in Section [17.803.03](#) and based on the Substantial Evidence, other requirements and standards of this ordinance. The Board of Adjustment may approve, approve with conditions, or deny a conditional use request as follows:
1. **Approval.** Upon determination by the Board of Adjustment that the final plan for conditional use is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, approval shall be granted.
 2. **Approval with Conditions.** The Board of Adjustment may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:
 - a. Conditions must be to the extent of practical and measurable
 - b. Conditions shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - c. Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - d. Conditions shall be necessary to meet the intent and purpose of this ordinance, related to the standards established in this ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards. These conditions may include, but are not limited to the following:
 - 1) Permit duration, transfer or renewal
 - 2) Setback and yard dimensions.
 - 3) Specified sewage disposal and water supply facilities.
 - 4) Landscaping and planting screens.
 - 5) Operational controls.
 - 6) Sureties.
 - 7) Deed restrictions.
 - 8) Location of structures, docks, piers or signs.
 - 9) Location and amount of parking facilities.
 - 10) Type of construction.
 - 11) The obtaining of other permits required by the state or federal government agencies, and other county requirements based upon other ordinances as conditions that must be met before issuance of such permit.
 3. **Denial.** Upon determination by the Board of Adjustment that a conditional use proposal does not comply with the spirit or intent or standards and regulations set forth in this ordinance, or would constitute a nuisance by reason of noise, dust, smoke, odor, or other similar factors, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the county, the conditional use proposal shall be denied.

Section 17.803.03 BASIS OF DETERMINATION

- A. **Conformance with Requirements.** The applicant shall be required to establish by clear and convincing evidence that the applicable standards of this Chapter, the specific standards pertinent to each conditional use, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Chapter (refer to Chapter [17.204](#), Development Standards for Specific Uses) have been met.
- B. **General Standards.** The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:

1. Compatibility with Adjacent Uses. The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - c. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
2. Comprehensive Plan. The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the town and county comprehensive plan.
3. Compliance with Applicable Regulations. The proposed conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.
4. Use of Adjacent Property. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.
5. Public Services. The proposed conditional use will be served adequately by essential public facilities and services including but not necessarily limited to utilities, highways, streets, police and fire protection, drainage structures, refuse disposal, and school(s); unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
6. Impact of Traffic. The location of the proposed conditional use shall, within the zoning district, minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. Proximity and access to major thoroughfares.
 - b. Estimated traffic generated by the proposed use.
 - c. Proximity and relation to intersections.
 - d. Adequacy of driver sight distances.
 - e. Location of and access to off-street parking.
 - f. Required vehicular turning movements.
 - g. Provision of pedestrian traffic (if applicable).
7. Enhancement of Surrounding Environment. The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
 - a. The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Ordinance may be required as a condition of approval of a conditional use.
 - b. The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.
8. Impact on Public Health, Safety, and Welfare. The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, and environmental impact.
9. Isolation of Existing Uses. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
10. Substantial Evidence. Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions.

OTHER PERMITS & APPROVALS THIS PROJECT WILL NEED

The following are additional permits the applicant will need beyond the CUP; however, they are not required to secure these prior to receiving the CUP.

- DNR Industrial Waste Permit (in process)
- State Sanitary Permitting (for combined holding tank); followed by MC Sanitary Permit
- Sign Permitting (if applicable; applicant is not planning any additional signage at this time)
- Marathon County Zoning Permit Issuance (for all proposed structures) - General Zoning; cannot be issued until the DNR, State, and Marathon County sanitary permits are secured.
- Certifications from the State and USDA as applicable to kennel/breeding/dog selling facilities.

ADDITIONAL RECOMMENDATIONS FOR THE CUP

If granted, the CUP should include the following conditions:

- This CUP is for the proposed structure presented in this application. The use cannot be incorporated into another facility/structure on the parcel should the applicant not obtain the other necessary permits.
- Hours dogs cannot be outside should conform to 17.204.07(B.9); Dogs cannot be outside between: 10:00PM – 7:00AM.
- Final design and requirements of the fencing/buffering of the outside run should be approved by the Zoning Administrator when issuing the general zoning permit.
- The CUP runs with the owners in this application. Should Jay L and Carolyn L Oberholtzer sell the property, new owners would be required to get a new conditional use permit to keep operating a kennel on this site (subject to ordinances in effect if and when this were to be pursued).

TOWN RECOMMENDATION:

On May 25, 2022, the **Town of McMillan** Town Board Recommended Unknown to Marathon County’s Board of Adjustment.

The Town Resolution will be submitted to the Board of Adjustment on or before May 26, 2022

THE STAFF RESERVE THE RIGHT TO AMEND THIS REPORT BASED ON NEW EVIDENCE PRESENTED PRIOR TO AND/OR DURING THE PUBLIC HEARING.

DECISIONS OF THE BOARD ARE SUBJECT TO APPEAL AS PROVIDED IN SS.59.694(10) WIS. STATS.

RESPECTFULLY SUBMITTED:



05/18/2022

SIGNATURE

DATE