



Chisago County, MN
PLANNING COMMISSION
Meeting Agenda
October 5, 2023 | 7:00 pm

Chisago County Government Center | 313 N. Main Street | Center City, MN 55012

Tour Details: Wednesday, October 4, 2023 at 9:00 am
Departing from Chisago County Highway Department, 31325 Oasis Road, Center City, MN

- 1. Call to Order – Pledge of Allegiance**
- 2. Roll Call: Determination of a Quorum**
- 3. Approval of Agenda**
- 4. Approval of Minutes**
 - a. September 7, 2023 Regular Meeting
- 5. Receive all Materials and Submittals into Record**

Previously Distributed:

 - a. Complete meeting packet including staff reports with attachments for agenda items 6a and 6b
- 6. Public Hearings – New Applications**
 - a. **William & Beverly Payne and Keith Payne** – Property owners William & Beverly Payne and applicant Keith Payne are requesting an Interim Use Permit (IUP) allowing a Contracting Business Owned and Operated by Persons Residing at the Property. The proposed business will offer lawn care and landscaping services. The 20.00± acre subject site is zoned Agricultural (AG) District and located at 38575 Kost Trail in Sunrise Township, S20, T35, R20 (PID 09.00225.10).
 - b. **Mackenzie & Megan Johnston** – Property owners Mackenzie & Megan Johnston are requesting an after-the-fact Conditional Use Permit (CUP) allowing a Major Home Occupation in order to operate a business known as East Central Sports at 4840 Rush Lake Road / CSAH 1. The 23.50± acre subject site has a split zoning classification of Rural Residential I (RRI) District and Agricultural (AG) District and is located in Nessel Township, S19, T37, R21 (PID 06.00058.00)
- 7. Public Hearings – Continued Hearings**
- 8. Old Business**
- 9. New Business**
- 10. Communications and Reports**
 - a. County Board Liaison Report / Update
- 11. Miscellaneous**
- 12. Adjourn Meeting**
 - The next regular meeting is scheduled for Thursday, November 2, 2023 at 7:00 pm.
 - The next special work session is scheduled for Thursday, November 16, 2023 at 6:00 pm.

Planning Commission

Tour Date and Time:

Wednesday, October 4, 2023 at 9:00 am

Departing from Chisago County Highway Department
31325 Oasis Road, Center City, MN 55012



**CHISAGO COUNTY
PLANNING COMMISSION
OFFICIAL PROCEEDINGS
September 7, 2023**

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, September 7, 2023, at the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; Kurt Schneider, Environmental Services Director; and Nikki Garner, Office Support Specialist.

Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Commission members was taken. Commission members present: John Sutcliffe, Dave Whitney, Chip Yeager, Eric Leivian, John Sutcliffe, Jolene Wille, Chris DuBose, and Jim McCarthy (via Teams). Also present: Ex Officio County Commissioner Rick Green. A quorum was established with all members present.

Approval of Agenda – Motion by Chris DuBose to approve the agenda as presented; second by John Sutcliffe. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None.

Approval of Minutes – Motion by John Sutcliffe to approve the August 3, 2023 Regular Meeting minutes as presented; second by Eric Leivian. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None. **Motion** by Jolene Wille to approve the August 17, 2023 Special Work Session minutes as presented; second by Chris DuBose. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None.

Receive all Materials and Submittals into Record - Motion by Chris DuBose to accept all materials and submittals into the record; second by Jolene Wille. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None. Materials distributed to the Planning Commission in advance of the meeting for their review included staff reports with attachments. Copies of all correspondence and meeting materials were made available for the public.

Public Hearings – New Applications

JDNH Properties, LLC and Nick Hammond – Coordinator Gervais provided a brief background on the CUP Amendment request, explaining that the property owners wished to expand operations at Flickabirds Resort on property located at 50091 Clover Trail in Nessel Township (PID 06.00520.22). Gervais provided a brief history of the CUP, sharing that the original CUP, granted on August 17, 2005, allowed the operation of a Recreational Campground with 30 permanent sites and an on-premise bar and restaurant. The first Amendment was granted on July 11, 2007 and allowed expansion the campground by adding 20 additional campsites. The second Amendment was granted on May 19, 2010 and allowed a camp store with bait sales. The third Amendment was granted on September 21, 2011 and allowed expansion of the campground by adding 15 additional campsites. The fourth Amendment, granted on September 20, 2017, allowed expansion of the campground by adding 12 additional campsites bringing the total number of allowable campsites to 77.

Gervais provided detail about the subject site and surrounding area and explained that the property owner had applied for a CUP Amendment in order to expand operations at Flickabirds Resort by constructing a 40' x 60' accessory structure with 12' x 60' lean-tos on either side for storage of resort fixtures and modifying the legal description to include recently acquired land. Gervais clarified that the request did not include any additional campsites.

The Technical Review Committee met on August 9, 2023 and did not identify any concerns. The Nessel Town Board considered the request on August 8, 2023 and recommended approval with the condition that the “property owner applied dust control as needed and specifically more than once per year when needed from CSAH 7 to Flickabirds driveway. Coordination and application shall be at the discretion of the township as Road Authority”. Gervais reminded the Planning Commission that the requested Amendment was specific to an accessory structure and legal description and dust control was not within the scope of consideration. The 60-day review period was scheduled to expire on October 2, 2023.

Gervais concluded by offering a recommendation of approval with two conditions in addition to the previously approved 27 conditions, and reviewed options available to the Planning Commission.

Chair Yeager invited the applicant to address the Planning Commission. The applicant was not present.

Chair Yeager opened the public hearing and sought comment.

Mark Ferris of 50065 Clover Trail, Nessel Township shared his concerns related to noise, traffic and dust control from Flickabirds Resort. Ferris added that the proposed structure itself may not increase the number of people on-site but it may make it possible to increase the number of people in attendance at events. Ferris believed that the issue of noise needed to be addressed by the County as well as any other rules that were not being followed.

With no other persons wishing to speak, ***motion*** by John Sutcliffe to close the public hearing; second by Dave Whitney. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None.

Chair Yeager asked Planning Commission members for comments.

Motion by John Sutcliffe to adopt Resolution No. PC2023-0901, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of an Amendment to a Conditional Use Permit allowing a Commercial Recreation Area use on property located at 50091 Clover Trail in Nessel Township, with Findings of Fact and conditions as presented; second by Eric Leivian. Jim McCarthy questioned if outdoor music was allowed as part of the existing CUP. Chris DuBose responded that outdoor music was allowed per the 2007 Amendment. Chris DuBose shared that he witnessed what appeared to be several park models during the Planning Commission’s September 6, 2023 site visit and expressed concern that this may be a violation of the existing CUP which specifically prohibited park models. Director Schneider suggested that the issue of compliance be dealt with separately from the requested CUP Amendment, adding that staff could investigate and enforce as deemed appropriate. DuBose mentioned that the Nessel Town Board raised the issue of dust control and acknowledged that the CUP already included a condition which addressed dust control. Director Schneider shared that dust control was an ongoing concern due to multiple commercial activities operating on Clover Trail and the County would continue to work with the township, the business owners, and the concerned neighbors. With no further discussion, ***motion passed*** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None.

Conditions:

1. This Conditional Use Permit (CUP) Amendment supersedes the original CUP granted by the Chisago County Board of Commissioners on August 17, 2005 (original CUP) which granted approval for the operation of a recreational campground and bar / restaurant (recorded as Document No. A-458888) and four subsequent Amendments granted on July 11, 2007, May 19, 2010, September 21, 2011, and September 20, 2017. With this approval, all previously approved conditions are still in effect and the following is allowed:

- a. Expansion of the existing operation through construction of an accessory structure intended for storage purposes; and,
 - b. Modification of the legal description to include recently acquired land.
2. The accessory structure shall be constructed in general conformance (including location, size and materials) with application materials kept on file with the Department of Environmental Services. Any significant deviation, as determined by Chisago County Department of Environmental Services staff, shall require further review by the Planning Commission and approval by the County Board.

Original CUP:

3. Wastewater Treatment System must meet County and State Rules.
4. Reserved wastewater treatment site must be fenced off to prevent disturbance of area by traffic and/or other campground activities.
5. Wells(s) must meet Minnesota Department of Health Standards.
6. Must obtain and maintain a valid recreational camping area, food and beverage license from Minnesota Department of Health.
7. Road construction into and throughout camping ground must meet approval of County and/or Township Engineer.
8. NPDES and SWPP permits must be obtained from Minnesota Pollution Control Agency with plans also submitted and reviewed by SWCD.
9. Impervious surface coverage in each tier must not exceed 25%.
10. Adequate parking spaces must be provided to accommodate all business at the site and must be maintained in a nuisance free manner.
11. The pond shown between the restaurant and the shoreline is actually in the shore impact zone, therefore, this pond must be redesigned so as to have minimal effect in the shore impact zone (i.e., narrower and longer in design) and adequate erosion control must be in place prior to any construction of the pond.
12. Dust control on township road leading up to entrance of campground must be done as needed as determined by the zoning administrator or appointed designee.
13. Bar and restaurant must be discontinued if the recreational camping area is discontinued unless zoning regulations have changed to allow a bar/restaurant as a stand-alone primary use.
14. Docks and boat ramps must meet Minnesota Department of Natural Resources standards.
15. Notification must be made to Chisago County Environmental Services if any changes to the proposed docking and/or boat ramp are made.
16. Any expansion to camping sites and/or bar and restaurant will require an amended Conditional Use Permit.
17. Site must be available for inspection by County staff during operating hours.
18. Campground rules must be posted on site.

Amendment (1) to expand with 20 additional campsites with two conditions:

19. Flickabirds may expand their campground by 20 more sites to a total of 50.
20. Flickabirds may hold outdoor events such as live music and fireworks provided that all required County approvals are obtained.

Amendment (2) to allow a camp store with bait sales with five conditions:

21. This CUP Amendment allows conversion of one half of the recently added storage space (14' x 28') to serve as a small camp-store offering basic groceries, sundries, and live bait for sale to the campers in residence.
22. This small retail expansion must be subordinate and accessory to the campground and will not be considered a principal conditional use in its own right.

23. If the campground ceases operation through voluntary withdrawal, revocation, or other legal means, the camp store must also cease to operate, as it is clearly incidental to the principal use of the campground and is otherwise not an allowed use in the Zoning District.

24. The camp store cannot be advertised to the general public as a retail store.

25. Other than within the campground itself, no advertising signage will be permitted for this retail use.

Amendment (3) to expand with 15 additional campsites (total of 65) with one condition and one suggestion:

26. The septic system must be evaluated for capacity and performance and found to be in compliance.

****It is suggested, but not required that the Mells offer a “goodwill gesture” on the matter of dust control.****

Amendment (4) to expand with 12 additional campsites (total of 77) with three conditions:

27. The permittee shall submit required annual monitoring reports on the main septic system in order to maintain the compliant status of the system and the RV park.

28. The permittee shall submit completed engineering on the recalculated retention pond prior to beginning construction on the new sites.

29. The permittee shall ensure that all RVs housed and stored in the park remain licensed as recreational vehicles and are transportable; park model cottages shall be prohibited.

Janine and Allen Schifsky – Coordinator Gervais provided a brief background for Janine & Allen Schifsky’s requested Conditional Use Permit (CUP) for Rural Retail Tourism on property located at 16559 373rd Street in Amador Township (PID 01.00153.55). Gervais provided detail about the subject site and surrounding area and shared that the property owners were proposing such Rural Retail Tourism activities as mentoring / tutoring sessions, coaching services, sale of locally produced goods and agricultural products, tours, and photo sessions, with activity taking place both within existing structures as well as outdoors. The business would be known as Wild Country Acres, LLC. The property owners intended to operate the facility year-round with an anticipated three to seven events scheduled each month. The event schedule would vary depending on demand and personal schedules. The facility was proposed to be open Monday – Friday 9:00 am – 7:00 pm, Saturday 9:00 am – 5:00 pm, and Sunday 12:00 – 3:00 pm. Events could be as short as one to two hours or as long as eight hours or longer, depending on subject matter and event type / focus. The Schifsky’s were anticipating 1-80 people in attendance for each event, with at least one of the business owners or staff members present during business hours. The written narrative explained that most visitors would be dropped off or arrive in groups being that events were family focused. There were approximately 16 - 9’ x 18’ parking spaces available on the driveway, with additional / overflow parking available in the front pasture. The property owners were proposing mandatory quiet hours from 9:00 pm to 7:00 am and suggested that they may utilize sound amplification on a rare basis for larger groups. The Events were proposed both indoors and outdoors. When indoors, events could take place within the living room, kitchen, dining room, or basement. When outdoors, events could take place on the front porch or in the backyard, pole barn, garden, front yard, woods, or pasture. Visitors would not be allowed to bring pets to the site. Gervais noted that the application materials mentioned that there may be staff members in addition to the business owners but there was no specific detail about the number of proposed staff members.

The Technical Review Committee met on August 9, 2023. The Building Official spoke about occupancy ratings for the existing pole building and the Sanitarian spoke about the proposed use of the existing septic system / bathrooms within the dwelling for Rural Retail Tourism activities, recommending that the existing septic system / bathrooms within the dwelling not be allowed for Rural Retail Tourism activities and that the property owners instead utilize porta potties. The Amador Town Board considered the request on August 15, 2023 and recommended approval with notations of “Parking, access for emergency vehicles, less number of occupants on

site". Staff interpreted this to mean that the CUP was recommended for approval with the conditions that sufficient on-site parking be provided for customers / visitors and sufficient access be provided for emergency vehicles. The 60-day review period was scheduled to expire on October 2, 2023.

Gervais concluded by offering a recommendation of approval with 17 conditions, and reviewed options available to the Planning Commission.

Chair Yeager invited the applicants to address the Planning Commission. Janine & Allen Schifsky stepped forward and addressed the Commission. J. Schifsky thanked the Commission for their consideration of the request and offered additional information about the proposed Rural Retail Tourism use. Wild Country Acres, LLC was an educational farm with a focus on providing mentoring / tutoring, information, and consulting services, that would be delivered with a multitude of methods including in-person and virtually. Wild Country Acres' ideal customers were families with children that desired to have a passion for education, general life skills, gardening, raising animals, growing and preserving food, or a desire to live simply. Three to 7 events would be held monthly, with 1-80 people in attendance per event. Wild Country Acres desired to fill a gap in the local community with resources, encouragement and accessibility to families and individuals who wished to be more involved with their children's home education or learn about valuable skills that involved family farm and homestead. J. Schifsky provided the Commission with sample event schedules.

Eric Leivian noted that the proposed mandatory quiet hours did not align with the proposed hours of operation and sought clarification. J. Schifsky responded that the quiet hours would supersede the hours of operation and further clarified that events would be structured and she had no interest in opening the site up as a wedding venue or other similar use. Leivian inquired about the use of sound amplification. J. Schifsky responded that it would only be used during events with large numbers of participants and she did not believe it would happen often.

Chair Yeager opened the public hearing and sought comment.

Julie and Lance Gebauer of 16334 373rd Street, Amador Township voiced concerns about sales, signage, and the impact of traffic on Highway 95, Quinlan Avenue and 373rd Street.

With no other persons wishing to speak, ***motion*** by John Sutcliffe to close the public hearing; second by Dave Whitney. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, Wille, and McCarthy. Nays: None.

Chair Yeager asked Planning Commission members for comments.

Dave Whitney questioned the types of products being sold and if they were currently being sold. J. Schifsky responded that nothing was currently being sold and that items would be sold to people who were already onsite for events. J. Schifsky added that she had obtained a cottage food license through the State of Minnesota. Whitney also questioned how the butchering of livestock and wild game would be demonstrated. J. Schifsky explained that they would use their own facilities and materials and demonstrations would take place outside with instruction on how to provide meat for individuals and families. Chris DuBose noted that he was concerned about parking and acknowledged that the proposal included overflow parking in a pasture area. DuBose also acknowledged the Gebauer's concerns about traffic and noted, based on J. Schifsky's comments, that most visitors would ride-share.

J. Schifsky inquired about the recommended condition limiting the number of employees to two and asked if there could be some flexibility. In response, Jolene Wille inquired about the Schifsky's desired ratio of children

to staff / volunteers. J. Schifsky stated that she would like the ratio to be roughly one staff / volunteer to 10 children. Commission members and the applicants discussed this issue in greater detail, with the applicants offering that four staff members would meet their needs.

Motion by Chris DuBose to amend staff's recommended condition no. 7 to allow a maximum of four employees rather than two; second by Jolene Wille. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Jim McCarthy expressed his concern over the proposed number of customers / visitors being 80 but shared that he felt more comfortable knowing that there would only be a maximum of seven events per month. The Commission members and applicants had a lengthy discussion about issues relating to number of customers / visitors and the use of bathroom facilities within the dwelling versus the use of porta potties.

Motion by Eric Leivian to amend staff's recommended condition no. 6 to allow no more than 60 customers / visitors at any given time rather than 80; second by Dave Whitney. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Motion by Eric Leivian to amend staff's recommended condition no. 5 to require quiet hours from 8:00 pm to 7:00 am rather than 9:00 pm to 7:00 am; second by Dave Whitney. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Motion by Chris DuBose to approve Resolution No. PC2023-0902, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of a Conditional Use Permit allowing Rural Retail Tourism on property located at 16559 373rd Street in Amador Township, with Findings of Fact as presented and conditions as amended; second by Jolene Wille. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Conditions:

1. This Conditional Use Permit for Rural Retail Tourism allows for the operation of a gathering venue with events focused on homesteading and mentoring / tutoring sessions. Events and activities may include mentoring / tutoring sessions, coaching services, sale of locally produced goods and agricultural products, tours, photo sessions, and other types of events and activities specifically described in the application materials dated received July 31, 2023 and kept on file with the Department of Environmental Services and in accordance with the conditions contained herein. Any significant deviation or expansion, as determined by Chisago County Department of Environmental Services staff, shall require further review by the Planning Commission and approval by the County Board of Commissioners.
2. Activities may take place within existing structures, including the dwelling and pole building located immediately north of the dwelling, as well as outdoors. Use of the existing structures for Rural Retail Tourism purposes is conditioned on the structures being compliant with the State Building Code and subject to occupancy limits as established by the State Building Code.
3. The existing pole building located immediately north of the dwelling is rated for a maximum occupancy of 36 people being that it does not have a sprinkler system. The permit holder shall adhere to State Building Code occupancy limits and not allow more than 36 people within the structure at any given time.
4. This Conditional Use Permit allows use of the property for Rural Retail Tourism purposes seven days a week year-round and subject to the following hours of operation. Rural Retail Tourism activities may not occur earlier or later than the listed hours of operation.
 - Monday – Friday – 9:00 am to 7:00 pm
 - Saturday – 9:00 am to 5:00 pm
 - Sunday – 12:00 pm to 3:00 pm
5. The permit holder shall implement mandatory daily quiet hours of ~~8:00 pm~~ 9:00 pm to 7:00 am.

6. The maximum number of customers / visitors at any given time shall be no more than ~~80~~ 60.
7. The maximum number of employees – in addition to the permit holder – on-site at any given time is ~~two (2)~~ four (4). This condition is not intended to prohibit the permit holder from having more than ~~two (2)~~ four (4) employees but, rather, to limit the number of employees on-site.
8. The maximum number of organized events each month shall be seven (7).
9. Aside from service animals, pre-approved special guests, and pets / animals belonging to the permit holder, no additional pets / animals shall be allowed on the property.
10. Noise generated from the approved Rural Retail Tourism use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
11. There shall be no outdoor amplified music at any time.
12. The permit holder shall accommodate all customer / visitor parking on-site. No customer / visitor parking shall be allowed on 373rd Street or Quinlan Avenue.
13. The permit holder shall ensure adequate year-round access and parking for emergency vehicles on-site, including space to maneuver/turn vehicles. If emergency vehicles are damaged due to lack of maneuverable space and/or adequate driveway width/height, the permit holder will be held responsible for emergency vehicle repairs pursuant to the adopted policies and directions of Amador Township and/or the Almelund Fire Chief / Department.
14. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
15. The permit holder shall provide porta potties for customer / visitor use. No Rural Retail Tourism activities shall utilize bathroom facilities within the dwelling unless specifically authorized by the Department of Environmental Services.
16. The property and uses thereon are subject to all applicable local and State codes, including Zoning, Building and Septic Codes.
17. Annual certification of the Conditional Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Conditional Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Conditional Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

Kelly Hokanson – Coordinator Gervais provided a brief background on Kelly Hokanson's request for the Preliminary Plat of Hokanson View, explaining that the subject site was located on 460th Street in Sunrise Township (PID 09.00523.10). Gervais provided detail about the subject site and surrounding area and explained that the proposed plat included the creation of one 8-acre parcel from the 198-acre tract of land. Gervais commented that the proposed parcel met and exceeded the County's minimum dimensional requirements for the AG District. Gervais noted that the plat drawing included a 66' wide "future ingress & egress easement" adjacent to the western property boundary which staff assumed was intended to accommodate future development of land to the north.

The Technical Review Committee met on August 9, 2023 and no concerns were identified. The Sunrise Town Board reviewed the request on August 17, 2023 and recommended approval with no conditions. The ordinance prescribed 120-day review period was scheduled to expire on December 2, 2023.

Gervais concluded by offering a recommendation of approval with three conditions, and reviewed options available to the Planning Commission.

Chair Yeager invited the applicant to address the Planning Commission. Property owner Kelly Hokanson and Land Surveyor Kelly Jordan were present and addressed the Planning Commission. Jordan commented that he was made aware immediately prior to the start of the meeting that, in order for the proposed parcel to qualify

for Green Acres status / agricultural tax classification, the parcel would need to be increased from eight acres to 11 acres. Jordan inquired if it would be possible to amend the request and, if so, if the request would need to be tabled to allow time to revise the Preliminary Plat drawing. Commission members and Jordan briefly discussed how the property boundaries would be amended to increase the size of the proposed parcel.

Chair Yeager opened the public hearing and sought comment.

Maureen Puziewicz of 9955 468th Street, Sunrise Township inquired about and expressed concern with possible future development of the balance of Hokanson's land. Hokanson responded to the Commission explaining that the proposed 66' easement was intended to provide him access to the balance of his land.

With no other persons wishing to speak, ***motion*** by Chris DuBose to close the public hearing; second by John Sutcliffe. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Acknowledging Puziewicz' concern about future development, Chris DuBose offered that any future platting would require a public hearing and concerns could be addressed at that time. DuBose inquired if staff had any concerns with the proposed amendment to increase the size of the proposed parcel. Gervais responded that staff did not have any concerns so long as it was added as a condition of approval, adding that she did not believe the request would need to be tabled.

Motion by Chris DuBose to amend staff's recommended conditions of approval to include a condition allowing the proposed parcel to increase in size in order to make it eligible for Green Acres status / agricultural tax classification per staff approval; second by Jolene Wille. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Motion by John Sutcliffe to approve Resolution No. PC2023-0903, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of the Preliminary Plat of Hokanson View, with conditions as amended; second by Dave Whitney. **Motion passed** 7-0. Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None.

Conditions:

1. The Preliminary Plat of Hokanson View is approved per plat drawing dated signed July 31, 2023 and amended on August 3, 2023. Any significant deviation from the approved plat drawing, except as noted herein and as determined by the Department of Environmental Services, shall require further review by the Planning Commission and approval by the County Board.
2. Based on the applicant's desire to increase the size of the proposed parcel in a manner which would allow for the proposed parcel to be eligible for an agricultural tax classification, the Planning Commission authorizes expansion of the parcel accordingly and upon staff review and approval.
3. The applicant shall obtain all necessary and applicable permits from Federal, State, and County jurisdictions for any wetland impacts prior to commencement of development.
4. The applicant shall submit request for Final Plat within one year following approval of the Preliminary Plat unless an extension of time is requested by the applicant and granted by the County Board upon recommendation of the Planning Commission.

Public Hearings – Continued Hearings – None

Old Business – None

New Business – None

Communications and Reports – County Board Liaison Greene commented that the County’s preliminary 2024 budget was down to a 3.34% increase over 2023, with budget efforts continuing. Greene shared that he received an email from a Franconia Township resident who was approached about leasing their land for solar battery storage, with Greene suggesting that the use be discussed at an upcoming work session. Greene also suggested that the Commission discuss the planting of trees on or adjacent to property boundaries at an upcoming work session, suggesting that there should be a setback for trees.

Miscellaneous – None

Adjourn Meeting – Motion by Jolene Wille to adjourn the meeting; second by Eric Leivian. **Motion passed 7-0.** Ayes: DuBose, Whitney, Yeager, Leivian, Sutcliffe, McCarthy and Wille. Nays: None. The meeting was adjourned at 8:10 p.m.

Chip Yeager
Chair

ATTEST:

Beth Gervais
Land Services Coordinator



Staff Report

TO: Planning Commission
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Interim Use Permit for Contracting Business Owned and Operated by Persons Residing at the Property
 38575 Kost Trail, Sunrise Township
 DATE: October 5, 2023

ACTION TO CONSIDER

The Planning Commission will conduct a public hearing to consider a request for an Interim Use Permit (IUP) allowing a Contracting Business Owned and Operated by Persons Residing at the Property on 20.00± acres in the Agricultural (AG) District.

SITE & APPLICATION INFORMATION

Applicant(s):	William Payne and Keith Payne
Property Owner(s):	William & Beverly Payne
Location:	38575 Kost Trail Sunrise Township Section 20, Township 35, Range 20
PID:	09.00225.10
Property Area:	20.00± Acres
Current Zoning:	Agricultural (AG) District
Adjacent Zoning:	
North:	Agricultural (AG) District
South:	Agricultural (AG) District
East:	Agricultural (AG) District
West:	Agricultural (AG) District
Date Application Received:	August 24, 2023
Date Application Complete:	September 6, 2023
60-Day Review Period:	November 5, 2023

BACKGROUND

Property owners William & Beverly Payne and applicant Keith Payne are requesting an Interim Use Permit (IUP) to allow a Contracting Business Owned and Operated by Persons Residing at the Property (Contracting Business) on 20.00± acres in the Agricultural (AG) District. The proposed business will offer lawn care and landscaping services.



SITE ANALYSIS

The 20.00± acre subject site is located approximately four-tenths (.4) of a mile south of St. Croix Trail / TH 95 on the east side of Kost Trail in Sunrise Township. Topography of the site includes fairly level elevations ranging from 867' to 883'; pockets of heavy forestation in the northwest corner, along much of the southern property boundary, and a band across the eastern portion of the site; and, two wetland areas. The site has been developed with a dwelling, two pole buildings, a recently constructed salt bin used for the Contracting Business, and a new structure intended to be an office for the proposed Contracting Business is currently under construction. The subject site is located in the AG District and is entirely surrounded by the AG District. Properties in the general area range in size from 3 acres to 59 acres, with the majority of properties currently used for residential and/or agricultural purposes. The general area is heavily wooded.

PROPOSAL ANALYSIS

The property owners and applicant wish to operate a family-owned Contracting Business, known as Finishing Touch Lawn Care and Landscape, LLC, from their residence located at 38575 Kost Trail in Sunrise Township. The application materials and clarification received from the applicant offer the following information:

Employees:

- The business is owned and operated by William Payne and Keith Payne (father and son) who both reside on the subject site.
- The Paynes employ a total of eight individuals, including seven part-time employees and one full-time employee. Three of these employees currently reside on the subject site and five reside elsewhere.
- Employees report to the office / subject first before going to a job site.

Hours of Operation:

- The business operates year-round.
- Hours during spring, summer, and fall are 7:00 am to 9:00 pm. Equipment may be running from 6:00 am to 10:00 pm. Work very rarely occurs outside of this time range, with the application materials suggesting that it may happen once or twice a year.
- The business operates around the clock during the winter, as they offer snow removal and ice management services.

Services Offered:

- Spring – clean-up and removal of yard debris and waste, fertilization and weed control services, and coordination of irrigation services.
- Summer – complete grounds maintenance services, fertilization and weed control services, coordination of irrigation services, and landscape installation / repairs.
- Fall – clean-up and removal of yard debris and waste and coordination of irrigation services.
- Winter – residential and commercial snow removal and ice management.
- All seasons – tree removal and trimming services on an as-needed basis.

Buildings / Structures:

- The main office building, which is currently under construction, is located approximately 30' west of the dwelling and immediately north of the employee parking area. The building size is 12' x 28' (336 sf).

- A recently constructed 22' x 25' (550 sf) salt bin is located immediately adjacent to the southernmost pole building. This bin stores all the salt needed for winter services.
- One or both of the pole buildings is used to store off-season equipment. Equipment maintenance and repair is also done within the pole building(s).
- The site plan shows that all structures are at least 210' and as much as 970' from the nearest property boundary.

Parking:

- Employee parking is located on the west / southwest side of the dwelling. The parking area is 88' x 25' and is reported to accommodate parking for all employees.
- Equipment parking is located adjacent to the two pole buildings. This parking area accommodates four pickup trucks, 2-5 trailers, a bobcat, and occasionally 1-2 lawnmowers.

Screening:

- The applicant commented that sloping elevations between the roadway and structures as well as existing vegetation to the north, south and east provide screening to surrounding property owners.

Sanitary Facilities:

- The proposed office building will not include sanitary facilities. Instead, the dwelling will be made available for this purpose.
- The County Sanitarian did not express any concerns with the intent to use the dwelling's sanitary facilities for business purposes.
- At the recommendation of the County Sanitarian, the existing septic system – serving the dwelling – was inspected on September 21, 2023 and found to be compliant.

REVIEW PROCESS

As part of the review process, the Technical Review Committee met with applicant Keith Payne on September 13, 2023. The group discussed plans for sanitary facilities. It was revealed to staff that the business has been operating for three years, with employees and equipment for the past 1 ½ years. Staff notes that this request for IUP is not a result of code enforcement efforts but, rather, the business owners' desire to bring the business into compliance after learning that an IUP was required. The Committee did not identify any other concerns.

The Sunrise Town Board considered the request at its September 21, 2023 meeting and recommended approval with no conditions.

The application was submitted on August 24, 2023 and deemed complete on September 6, 2023. The State mandated 60-day review period expires on November 5, 2023.

FINDINGS OF FACT

Zoning Ordinance Section 8.04-1 (Interim Use Permits) C. states that the Planning Commission shall consider possible effects of the proposed interim use based upon, but not limited to, the general factors listed below. Staff has provided proposed findings, shown in *italics* below, for the Commission's consideration.

Factor #1	The [proposed action is consistent with the] Comprehensive Plan and development policies of the County;
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- Finding #1 The Chisago County Comprehensive Plan identifies as a policy the allowance “for home occupations, rural retail tourism and limited rural businesses on homesteads in agricultural areas ...” (see page 9-9), and, generally speaking, offers broad support and encouragement for identified commercial activities within the Agricultural District so long as they comply with established performance standards. Therefore, the County finds that the proposed use is consistent with the goals and policies established by the Comprehensive Plan.*
- Factor #2 The proposed use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area;*
- Finding #2 The proposed Contracting Business will have no associated use of parks, schools, or other public facilities or utilities, and will likely not create any appreciable demand on Kost Trail; therefore, the County finds that the proposed use will not create any increase or demand on these facilities or utilities. Further, the Sunrise Town Board / Road Authority did not identify any concerns with the proposed use in relation to existing public facilities.*
- Factor #3 The proposed use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development;*
- Finding #3 The proposed use – including structures and parking areas used for business purposes – is reported by the applicants to be located no closer than approximately 210’ from the closest property boundary and there is well-established vegetation by way of heavy forestation between the business activities and the north, south, and east property boundaries. Business activities are screened from the west property boundary by sloping elevations. Therefore, the County finds that distance, existing vegetation and continued maintenance of said vegetation, sloping elevations, and the implementation of specific conditions will mitigate potential negative impacts, such as noise, so as to neither cause undue negative impact nor deter future development.*
- Factor #4 The proposed use and site will have an appearance that will not have an adverse effect upon adjacent properties;*
- Finding #4 The proposed Contracting Business will utilize existing structures for office, storage, and maintenance purposes as well as utilize land immediately adjacent to these structures for staff and equipment parking. After reviewing the application materials and the Planning Commission having conducted a site visit on October 4, 2023, the County finds no evidence to suggest that the proposed use will have an appearance that will have an adverse effect upon adjacent properties. Further, the County finds that the appearance of the structures is consistent with the appearance of structures commonly found throughout the Agricultural District.*
- Factor #5 The proposed use, in the opinion of the County, is reasonably related to the overall land use goals of the County and to the existing land use;*
- Finding #5 The Chisago County Zoning Ordinance specifically allows Contracting Business Owned and Operated by Persons Residing at the Property as an Interim Use in the Agricultural District; therefore, the County finds that the proposed use is in compliance with land use goals and regulations established by the County’s official land use controls.*

Factor #6	The proposed use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
Finding #6	<i>The stated purpose of the Zoning Ordinance is to provide for and protect the public health, safety, and general welfare through nine specific objectives. Through close evaluation of the request and the establishment of specific conditions of approval, the County finds that the proposed use is consistent with the purposes of the Zoning Ordinance and, more specifically, with the purposes of the Agricultural District.</i>
Factor #7	The proposed use will not cause traffic hazard or congestion; and
Finding #7	<i>Aside from a slight increase in traffic related to employees arriving for work at the beginning of their shift and departing from work at the end of their shift, there will be no added traffic to and from the site. There will be no retail or customer drop-in components associated with this proposed business. Therefore, the County finds that the proposed use will not cause traffic hazards or congestion. Further, the Sunrise Town Board / Road Authority has not identified traffic hazards or congestion as a concern.</i>
Factor #8	The proposed use will not adversely impact existing nearby properties by intrusion of noise, glare or general unsightliness.
Finding #8	<i>While there is no indication that the proposed use will adversely impact nearby properties in terms of glare, there may be concerns related to general unsightliness if equipment and materials are not screened and noise from arrival / departure of employees and running equipment. The County finds that unsightliness and noise can be mitigated with distance, existing vegetation and continued maintenance of said vegetation, sloping elevations, and the implementation of conditions which address these mitigation efforts. If these measures are implemented, the County finds that the proposed use will not adversely impact nearby properties by intrusion of noise, glare or general unsightliness.</i>

STAFF RECOMMENDATION

Staff believes that the proposed IUP complies with and is consistent with the intent of the Chisago County Zoning Ordinance and Comprehensive Plan. Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the request with conditions (see below) and has prepared a resolution for the Commission's consideration.

Staff notes that, in an effort to address potential negative impacts to surrounding properties / property owners, the recommended conditions include limiting business activity to Monday – Saturday (no Sunday activity) with no business activity beginning before 7:00 am and no business activity taking place after 9:00 pm except for during the winter when business activity is based on unpredictable weather conditions (refer to condition no. 2). Condition no. 3 also includes noise mitigation measures.

Recommended Condition(s):

1. This Interim Use Permit grants approval for the operation of a lawn care and landscaping Contracting Business Owned and Operated by Persons Residing at the Property, as specifically described in the application materials dated received August 24, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein. No commercial or retail activity, apart from the activities described in the application materials shall be permitted as part of this approval.

2. The Contracting Business shall be allowed to operate Monday through Saturday (no Sundays) year-round with hours of operation being 7:00 am to 9:00 pm during spring, summer, and fall. Equipment may begin warming up on site no earlier than 7:00 am and shall not run on site later than 9:00 pm. Winter hours will vary depending on weather conditions, which means that the business may operate 24 hours a day and equipment may run on site as needed when snow and ice conditions exist.
3. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
4. To mitigate potential adverse impacts related to noise:
 - a. No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
5. In addition to the business owners, the permit holder may employ up to ten (10) employees.
6. Except for the outdoor parking of equipment (i.e., trucks, trailers, and heavy machinery), there shall be no outdoor storage of lawn care and/or landscaping goods or materials used in conjunction with the approved Contracting Business.
7. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
8. No hazardous waste shall be generated or stored on the subject site.
9. Any fuel storage at the subject site shall be in accordance with MPCA regulations.
10. This Interim Use Permit shall expire at such time that the property is no longer owned and occupied by either William Payne or Keith Payne.
11. Any expansion of the use – including, but not limited to, the construction of new structures used for the Contracting Business, the expansion of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of an Interim Use Permit Amendment.
12. Annual certification of the Interim Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Interim Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Interim Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

OPTIONS

1. Recommend that the County Board **approve** the Interim Use Permit with Findings of Fact and conditions presented or amended.
2. Should the Planning Commission determine that the proposed Interim Use Permit does not comply with and/or is not consistent with the intent of County's Zoning Ordinance or Comprehensive Plan upon completion of the public hearing and/or upon discovery of any new or unknown evidence, recommend that the County Board **deny** the Interim Use Permit based on factors deemed

appropriate. *(Note: If the Commission considers this option, specific factor(s) for denial should be included in the motion.)*

3. **Table** the request to allow for submission of additional supporting documentation and/or further review and consideration. Being that the review period expires on November 5, 2023 and the next regularly scheduled Planning Commission meeting is on November 2, 2023, the Commission should also include in its motion a **60-day extension** of the review period.

ACTION REQUESTED

Motion to adopt Resolution No. PC2023-1001, a resolution recommending approval of an Interim Use Permit allowing a Contracting Business Owned and Operated by Persons Residing at the Property on property located at 38575 Kost Trail in Sunrise Township, with Findings of Fact and conditions as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plans
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. PC2023-1001

CC: William & Beverly Payne, property owners
Keith Payne, applicant
County file



Chisago County Department of Environmental Services
Planning & Zoning Application

Permit # 23-1541

Township Sunrise S/T/R 20/035/020 PID# 09.00225.10

Project Address 38575 Kost Trl, North Branch, MN 55056

Property Owner(s) William & Beverly Payne

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Applicant(s) William Payne & Keith Payne

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☐ Variance
☐ Administrative Appeal

Planning Commission

- ☐ Conditional Use Permit (CUP)
☒ Interim Use Permit (IUP)
☐ Amendment to CUP or IUP

- ☐ Preliminary Plat
☐ Rezoning
☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) See Attached IUP for Contracting Business in AG District

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

- ☐ Full Legal Description ☐ Detailed Site Plan ☐ Detailed Written Narrative ☐ Plat Drawings

William Payne Keith Payne
Applicant Signature

7-3-23
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Fees		Dates	
Base Fee	\$ <u>525</u>	Application Received	<u>8-24-23</u>
Recording Fee	\$ <u>46</u>	Application Complete	<u>9-6-23</u>
Plat Fee – No Road(s) / With Road(s)	\$ _____	60 / 120 Day Review Period	<u>11-5-23</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>571</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Sunrise S/T/R S20, T35, R20 PID# 09.00225.10

Project Address 38575 Kost Trl, North Branch, MN 55056

Property Owner(s) William & Beverly Payne

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) William Payne & Keith Payne

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☐ Variance
☐ Administrative Appeal

Planning Commission

- ☐ Conditional Use Permit (CUP)
☒ Interim Use Permit (IUP)
☐ Amendment to CUP or IUP

- ☐ Preliminary Plat
☐ Rezoning
☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) See Attached IUP for
Contracting Business in AG District

William Payne Keith Payne
Applicant Signature

7-3-23
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Date of County Public Hearing OCT 5, 2023 Date of Township Presentation SEPT 21, 2023

Township Action Taken (Township Use Only)

- ☒ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

APPROVAL - NO CONDITIONS

Signatures of Township Officials or Authorized Personnel

Mark Delaney Casey Peltola Dan Hauser
Ray Z. Stein

Finishing Touch Lawn Care and Landscape LLC
38575 Kost Trl
North Branch, MN 55056
[REDACTED]

We are a small family-owned company. There are 2 owners of the company that are father and son, and both reside in the same residence as the business. There is 1 part time employee that is family, and does not reside in the same residence as the business. There is 1 part time employee that is family, and does reside in the same residence as the business. There is 1 full time employee that is family, and does reside in the same residence as the business. There are 4 part time employees that are not family, and do not reside in the same residence as the business. There is 1 part time employee that is not family, and does reside in the same residence as the business. That totals 8 employees and 2 owners.

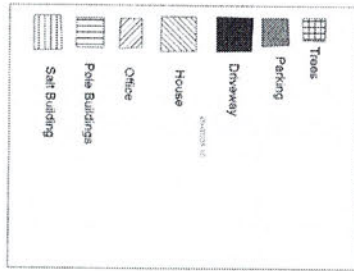
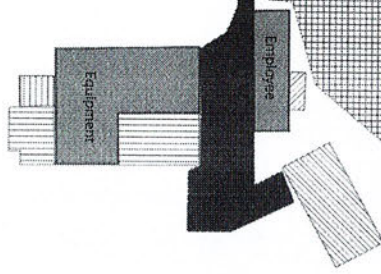
On the west side of the house is where the employee parking is located, and there are adequate spaces for all of our employees. The size of the employee parking is 88' long by 25' wide. The office building will be located on the west side of the house, 30' away from the house, next to the employee parking, the office building is 12' wide by 28' long by 7' high/lofted barn. On the south side of the house there is a new salt bin for storing all the salt needed for the winter services, the salt bin is 12' high by 25' long by 22' wide. There is a pole barn that we use to store off season equipment and is where repairs are done on all the equipment, trucks and trailers are parked on the west side of the pole barn.

We operate all year long. In the winter we provide services for both residential and business locations. We provide snow removal and ice management services. In the spring we provide cleanup and removal of yard debris and waste, fertilization and weed control services, and we also coordinate irrigation services. In the summer we provide complete grounds maintenance services, fertilization and weed control services, continue irrigation service coordination, and provide landscape installation as well as repairs to existing landscapes. In the fall we provide cleanup and removal of yard debris and waste, and coordinate irrigation services. Year round we coordinate tree removal and trimming services, but only on an as needed basis.

Payne
38575 Kost Trl
R. Ranch MN 55056

KOST TRAIL

	Setback in feet			
	North	East	South	West
Office	235	965	405	325
Pole Barn	310	925	285	355
Salt Building	415	970	210	330
Pole Building	415	925	205	355



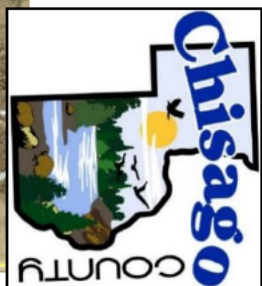
William & Beverly Payne and Keith Payne – Property owners William & Beverly Payne and applicant Keith Payne are requesting an Interim Use Permit (IUP) allowing a Contracting Business Owned and Operated by Persons Residing at the Property. The proposed business will offer lawn care and landscaping services. The 20.00± acre subject site is zoned Agricultural (AG) District and located at 38575 Kost Trail in Sunrise Township, S20, T35, R20 (PID 09.00225.10).

Payne Property - 



William & Beverly Payne and Keith Payne – Property owners William & Beverly Payne and applicant Keith Payne are requesting an Interim Use Permit (IUP) allowing a Contracting Business Owned and Operated by Persons Residing at the Property. The proposed business will offer lawn care and landscaping services. The 20.00± acre subject site is zoned Agricultural (AG) District and located at 38575 Kost Trail in Sunrise Township, S20, T35, R20 (PID 09.00225.10).

Payne Property - 



RESOLUTION NO. PC2023-1001

**A RESOLUTION OF THE PLANNING COMMISSION OF CHISAGO COUNTY, MINNESOTA,
RECOMMENDING APPROVAL OF AN INTERIM USE PERMIT ALLOWING A CONTRACTING BUSINESS
OWNED AND OPERATED BY PERSONS RESIDING AT THE PROPERTY ON PROPERTY LOCATED
AT 38575 KOST TRAIL IN SUNRISE TOWNSHIP**

WHEREAS, property owners William & Beverly Payne and applicant Keith Payne submitted an application dated received August 24, 2023 and considered complete on September 6, 2023 for an Interim Use Permit allowing a Contracting Business Owned and Operated by Persons Residing at the Property on property located at 38575 Kost Trail in Sunrise Township; and

WHEREAS, the subject site is located in the Agricultural (AG) District; and

WHEREAS, the subject site is 20.00± acres in size and legally described as:

PID 09.00225.10

*The South Half of Southwest Quarter of Northeast Quarter of Section Twenty (20),
Township Thirty-five (35), Range Twenty (20), of Chisago County, Minnesota.*

WHEREAS, notice was provided and on October 5, 2023 the Planning Commission conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the applicant(s) and/or property owner(s), and invited members of the public to comment; and

WHEREAS, the Planning Commission considered several factors for granting Interim Use Permits and made the following findings per Zoning Ordinance Section 8.04-1, C.:

Factor #1 The [proposed action is consistent with the] Comprehensive Plan and development policies of the County;

Finding #1 The Chisago County Comprehensive Plan identifies as a policy the allowance “for home occupations, rural retail tourism and limited rural businesses on homesteads in agricultural areas ...” (see page 9-9), and, generally speaking, offers broad support and encouragement for identified commercial activities within the Agricultural District so long as they comply with established performance standards. Therefore, the County finds that the proposed use is consistent with the goals and policies established by the Comprehensive Plan.

Factor #2 The proposed use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area;

Finding #2 The proposed Contracting Business will have no associated use of parks, schools, or other public facilities or utilities, and will likely not create any appreciable demand on Kost Trail; therefore, the County finds that the proposed use will not create any increase or demand on these facilities or utilities. Further, the Sunrise Town Board / Road Authority did not identify any concerns with the proposed use in relation to existing public facilities.

Factor #3	The proposed use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development;
Finding #3	<i>The proposed use – including structures and parking areas used for business purposes – is reported by the applicants to be located no closer than approximately 210’ from the closest property boundary and there is well-established vegetation by way of heavy forestation between the business activities and the north, south, and east property boundaries. Business activities are screened from the west property boundary by sloping elevations. Therefore, the County finds that distance, existing vegetation and continued maintenance of said vegetation, sloping elevations, and the implementation of specific conditions will mitigate potential negative impacts, such as noise, so as to neither cause undue negative impact nor deter future development.</i>
Factor #4	The proposed use and site will have an appearance that will not have an adverse effect upon adjacent properties;
Finding #4	<i>The proposed Contracting Business will utilize existing structures for office, storage, and maintenance purposes as well as utilize land immediately adjacent to these structures for staff and equipment parking. After reviewing the application materials and the Planning Commission having conducted a site visit on October 4, 2023, the County finds no evidence to suggest that the proposed use will have an appearance that will have an adverse effect upon adjacent properties. Further, the County finds that the appearance of the structures is consistent with the appearance of structures commonly found throughout the Agricultural District.</i>
Factor #5	The proposed use, in the opinion of the County, is reasonably related to the overall land use goals of the County and to the existing land use;
Finding #5	<i>The Chisago County Zoning Ordinance specifically allows Contracting Business Owned and Operated by Persons Residing at the Property as an Interim Use in the Agricultural District; therefore, the County finds that the proposed use is in compliance with land use goals and regulations established by the County’s official land use controls.</i>
Factor #6	The proposed use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
Finding #6	<i>The stated purpose of the Zoning Ordinance is to provide for and protect the public health, safety, and general welfare through nine specific objectives. Through close evaluation of the request and the establishment of specific conditions of approval, the County finds that the proposed use is consistent with the purposes of the Zoning Ordinance and, more specifically, with the purposes of the Agricultural District.</i>
Factor #7	The proposed use will not cause traffic hazard or congestion; and
Finding #7	<i>Aside from a slight increase in traffic related to employees arriving for work at the beginning of their shift and departing from work at the end of their shift, there will be no added traffic to and from the site. There will be no retail or customer drop-in components associated with this proposed business. Therefore, the County finds that the proposed use will not cause traffic hazards or congestion. Further, the Sunrise Town Board / Road Authority has not identified traffic hazards or congestion as a concern.</i>

Factor #8 The proposed use will not adversely impact existing nearby properties by intrusion of noise, glare or general unsightliness.

Finding #8 *While there is no indication that the proposed use will adversely impact nearby properties in terms of glare, there may be concerns related to general unsightliness if equipment and materials are not screened and noise from arrival / departure of employees and running equipment. The County finds that unsightliness and noise can be mitigated with distance, existing vegetation and continued maintenance of said vegetation, sloping elevations, and the implementation of conditions which address these mitigation efforts. If these measures are implemented, the County finds that the proposed use will not adversely impact nearby properties by intrusion of noise, glare or general unsightliness.*

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of Chisago County, Minnesota hereby recommends approval of the request for Interim Use Permit, subject to the following conditions:

1. This Interim Use Permit grants approval for the operation of a lawn care and landscaping Contracting Business Owned and Operated by Persons Residing at the Property, as specifically described in the application materials dated received August 24, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein. No commercial or retail activity, apart from the activities described in the application materials shall be permitted as part of this approval.
2. The Contracting Business shall be allowed to operate Monday through Saturday (no Sundays) year-round with hours of operation being 7:00 am to 9:00 pm during spring, summer, and fall. Equipment may begin warming up on site no earlier than 7:00 am and shall not run on site later than 9:00 pm. Winter hours will vary depending on weather conditions, which means that the business may operate 24 hours a day and equipment may run on site as needed when snow and ice conditions exist.
3. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
4. To mitigate potential adverse impacts related to noise:
 - a. No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
5. In addition to the business owners, the permit holder may employ up to ten (10) employees.
6. Except for the outdoor parking of equipment (i.e., trucks, trailers, and heavy machinery), there shall be no outdoor storage of lawn care and/or landscaping goods or materials used in conjunction with the approved Contracting Business.
7. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
8. No hazardous waste shall be generated or stored on the subject site.
9. Any fuel storage at the subject site shall be in accordance with MPCA regulations.

10. This Interim Use Permit shall expire at such time that the property is no longer owned and occupied by either William Payne or Keith Payne.
11. Any expansion of the use – including, but not limited to, the construction of new structures used for the Contracting Business, the expansion of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of an Interim Use Permit Amendment.
12. Annual certification of the Interim Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Interim Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Interim Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

Adopted by the Planning Commission of Chisago County, Minnesota, this 5th day of October, 2023.

Chris DuBose
Eric Leivian
Jim McCarthy
John Sutcliffe

Dave Whitney
Jolene Wille
Chip Yeager

Chip Yeager
Chair

ATTEST:

Beth Gervais
Land Services Coordinator



Staff Report

TO: Planning Commission
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Conditional Use Permit for Major Home Occupation
 4840 Rush Lake Road / CSAH 1, Nessel Township
 DATE: October 5, 2023

ACTION TO CONSIDER

The Planning Commission will conduct a public hearing to consider an after-the-fact Conditional Use Permit (CUP) allowing a Major Home Occupation to operate a business known as East Central Sports on 23.50± acres in the Rural Residential I (RRI) District / Agricultural (AG) District.

SITE & APPLICATION INFORMATION

Applicant(s):	Mackenzie & Megan Johnston
Property Owner(s):	Mackenzie & Megan Johnston
Location:	4840 Rush Lake Road / CSAH 1 Nessel Township Section 19, Township 37, Range 21
PID:	06.00058.00
Property Area:	23.50± Acres
Current Zoning:	Rural Residential I (RRI) District / Agricultural (AG) District
Adjacent Zoning:	
North:	Agricultural (AG) District
South:	Rural Residential I (RRI) District
East:	Rural Residential I (RRI) District / Agricultural (AG) District
West:	Rural Residential I (RRI) District / Agricultural (AG) District
Date Application Received:	August 31, 2023
Date Application Complete:	September 6, 2023
60-Day Review Period:	November 5, 2023

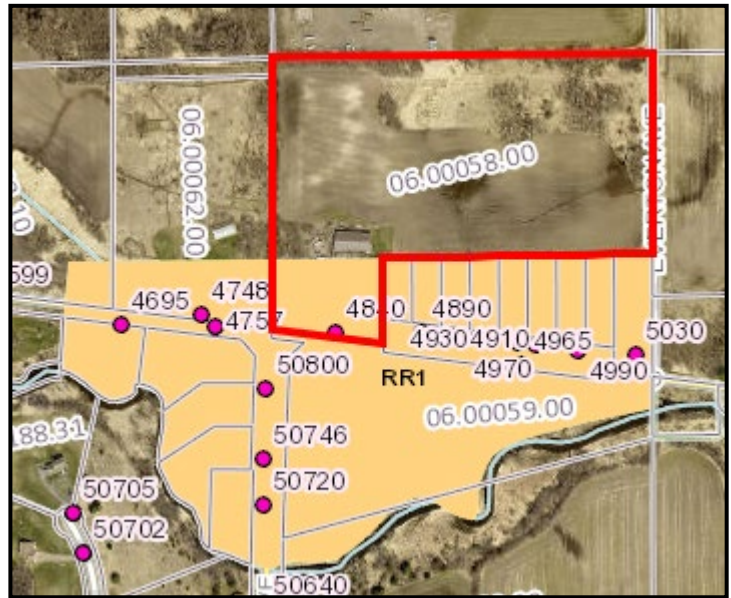
BACKGROUND

Property owners Mackenzie & Megan Johnston are requesting an after-the-fact CUP for Major Home Occupation in order to operate and expand their business known as East Central Sports on their 23.50± acre property located at 4840 Rush Lake Road / CSAH 1 in the RRI District / AG District. East Central Sports has a retail location in downtown North Branch and, according to their website, specializes in the sale of ATVs and snowmobiles. The owners of East Central Sports reside at the subject site and also use it in conjunction with their business activities.



SITE ANALYSIS

The 23.50± acre subject site is located approximately one mile west of I-35 at the northeast corner of Rush Lake Road / CSAH 1 and Evergreen Avenue / CSAH 9. The site has a split zoning classification of RRI District and AG District. The adjacent image shows the southernmost portion of the property – being approximately 2.4 acres in size – located in the RRI District (yellow highlighting) and the balance of the site – being approximately 21.1 acres in size – located in the AG District (no highlighting). Generally speaking, surrounding properties to the south, southwest, and southeast are located in the RRI District, whereas surrounding properties to the north, northwest, and northeast are located in the AG District.



The site is currently developed with a dwelling and attached garage, a 60' x 120' (7,200 sf) pole building, and a 28' x 60' (1,680 sf) shed. The pole building is entirely located in the AG District portion of the property and approximately 1/3 of the smaller shed is in the AG District with the remaining 2/3 in the RRI District.

Topography of the site includes fairly level elevations ranging from 922' to 930'; three wetland areas located near the northern property boundary; and, clusters of trees throughout as well as bordering the property along the north, west, and south (adjacent to roadway) property boundaries. Approximately half of the property appears to be utilized for agricultural purposes.

Surrounding properties vary widely in size from 1 acre to 40 acres. There are several residentially developed properties immediately adjacent to the subject site, as well as several properties which appear to have a strong agricultural focus.

PROPOSAL ANALYSIS

The property owners wish to operate a business, known as East Central Sports, as a Major Home Occupation from their property located at 4840 Rush Lake Road / CSAH 1 in Nessel Township. The application materials offer the following information:

Existing Operation:

- The Johnstons own a 2,000 sf retail location in North Branch and utilize the subject site as their warehouse storage facility. Products are assembled and stored at the subject site and typically transported to the North Branch location.
- The existing 60' x 120' pole building is the shop used in conjunction with the business.

Proposed Expansion:

- The Johnstons are proposing the construction of a 60' x 80' (4,800 sf) structure to be used as a cold storage facility. This structure will warehouse crated and unassembled units.

- The proposed structure is shown to be located 25' west of the existing pole building. Staff notes that the proposed location is entirely within the AG District where there is no limit on the square footage of accessory structures.
- The existing structure has reached capacity and the new structure is needed to keep all equipment indoors.

Hours of Operation:

- The current hours of operation are Monday through Friday, 9:00 am to 6:00 pm.

Employees:

- Per the written narrative, the Johnstons currently employ two (2) full-time employees and one (1) part-time seasonal employee. However, the written narrative later suggests that the Johnstons employ a total of five (5) in addition to themselves. Staff is not entirely certain of the total number of employees (three or five).
- No additional employees are proposed at this time.

Parking:

- The site plans show that there are five (5) customer parking spaces, three (3) employee parking spaces, and two (2) ADA accessible parking spaces located immediately south of the existing pole building.
- The site plans show two truck & trailer parking spaces southwest of the existing pole building / south of the proposed structure.
- The Johnstons believe that they have sufficient space for all customer and employee parking needs.
- The written narrative states that there is sufficient space for business trucks and trailers which transport products from the subject site to the North Branch location and other destinations.

REVIEW PROCESS

The Technical Review Committee met with Mackenzie Johnston on September 13, 2023.

- Johnston stated that the subject site is primarily used for storage and assembly of product, with an average of 2-3 customers per day and 1-2 deliveries per week. Johnston added that the proposed structure is intended for cold storage only and will not increase the number of customers, employees, or traffic in general.
- The Sanitarian recommended a septic compliance inspection. Staff notes that a septic compliance inspection has been applied for and is either in-process or complete; however, staff was not aware of the status or results of the inspection at the time that this report was completed.
- Staff notes that this request for CUP is not a result of code enforcement efforts but, rather, the business owners' desire to bring the business into compliance and expand the business by constructing a new structure.

The Nessel Town Board considered the request at its September 12, 2023 meeting and recommended approval with no conditions.

The application was submitted on August 31, 2023 and deemed complete on September 6, 2023. The State mandated 60-day review period expires on November 5, 2023.

MAJOR HOME OCCUPATION STANDARDS

The Planning Commission, as outlined in Zoning Ordinance Section 4.04.C, shall consider possible effects of the proposed Major Home Occupation based upon the following general factors and any other

requirements set forth in the Zoning Ordinance or deemed otherwise relevant. The applicants have provided responses to these factors for the Commission's consideration (refer to the attached written narrative).

C. Major Home Occupations Requiring a Conditional Use Permit.

Purpose: A Conditional Use Permit that allows for a Major Home Occupation is intended to provide an avenue for suitable business growth or other suitable home occupations beyond that which is permitted under Section 4.04 B (Minor Home Occupations).

Intent: It is the intent of this provision to allow for the case by case consideration of the suitability of a Major Home Occupation proposal as a conditionally permitted home based activity. In doing so, the suitability of each proposed home occupations shall be evaluated and determined upon specific consideration of the size of the property, scale of the business, and environmental (health, safety, welfare) conditions unique to the proposal.

Suitable conditionally permitted Major Home Occupations are those which by determination of the Planning Commission can be allowed as moderate business activities from the home; are deemed to be of a size, scale, and intensity that will not adversely affect the health, safety, or welfare of the public; and, are not otherwise deemed inappropriate at the subject site. The home and residency of the subject property must remain a principal focus of any Major Home Occupation location. Conditionally permitted Major Home Occupations are not intended to provide a place of business operations for a use that is of such intensity or dependence on public services such that the appropriate location is that of a commercially zoned and publicly serviced county or municipal business district. The adequacy of on-site well and septic and affiliated transportation and roadway classification shall be reviewed and deemed adequate for each Major Home Occupation. If the proposed Home Occupation is deemed to be of such impact that public transportation, police, fire, water, sewer, and other such demands are too great to be served from the home it shall not be approved.

Review of said Home Occupation in this section is to ensure compatibility in residential or agricultural districts. Home Occupations requiring a Conditional Use Permit, as determined by the Zoning Administrator, shall meet the following standards at a minimum with other conditions as deemed necessary to meet the intent of said ordinance:

1. Said Home Occupation is partially or entirely conducted in an accessory building.
2. Only those persons residing in the home and up to fifteen (15) other persons may be employed on site of a Major Home Occupation. The maximum number of employees must be identified with the permit request and may be restricted to less than fifteen by permit condition if property size or site conditions, parking accommodations, traffic impacts, or other environmental constraint cannot be adequately mitigated as determined by the County.
3. An existing accessory structure subjected to a State Building Code specified change of occupancy or use as a result of a Home Occupation shall be retrofitted to conform to current State Building Code structural standards for the new occupancy or use and shall be certified by an architect or engineer as determined to be necessary by the County Building Official.
4. No outdoor display or storage of goods or materials is permitted. The identification of business

waste management and disposal plan, including outdoor placement and screening of refuse and recycling containers, shall be required and may be expressly permitted on an approved site plan.

5. The number, type, size, and nature of business vehicles, trailers, or affiliated equipment parked/stored on the subject property must be expressly identified and may be limited in number or restricted to indoor placement by permit condition. All such vehicle and affiliated equipment parking, including employee parking, shall be detailed on an approved site plan.
6. The use must not adversely affect the residential or agricultural character of the surrounding area due to noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, number of deliveries, hours of operation, or any other annoyance. A suitable landscape, fencing, screening, traffic and delivery, and lighting, or other such plan(s) may be required and detailed on an approved site plan.
7. Should the Home Occupation be repaired, the items repaired shall be of a size or nature that repair and storage can occur within the accessory structure as allowed by this Ordinance.
8. No Home Occupation shall be conducted between the hours of 10 PM and 7 AM unless said Home Occupation is conducted entirely within the principal dwelling.
9. Home Occupations requiring a Conditional Use Permit shall not generate noise or vibrations in excess of that as outlined in Performance Standards, Section 7.05.
10. The application and approval of a Conditional Use Permit to allow a Home Occupation may be denied if the Home Occupation proposal and affiliated property is deemed unsuitable pursuant to the intent of this section. The size of the property, scale of the business proposal, and environmental (health, safety, welfare) conditions unique to the proposal must be adequately addressed and mitigated in seeking permit approval.

FINDINGS OF FACT

Zoning Ordinance Section 8.04 (Conditional Use Permits) C. states that the Planning Commission shall consider possible effects of the proposed conditional use based upon, but not limited to, the general factors listed below. Staff has provided proposed findings, shown in *italics* below, for the Commission's consideration.

- | | |
|-------------------|---|
| Factor #1 | The [proposed action is consistent with the] Comprehensive Plan and development policies of the County; |
| <i>Finding #1</i> | <i>Chapter 6 of the Chisago County Comprehensive Plan identifies a goal of providing for a range of economic diversity and development opportunities to maintain and strengthen the County's economy, with a policy of continuing to allow and encourage Home Occupations in all zoning districts if performance standards are met. The County finds that the proposed Major Home Occupation is consistent with the Comprehensive Plan and meets all performance standards provided in Zoning Ordinance Section 4.04 C.</i> |
| Factor #2 | The proposed use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area; |
| <i>Finding #2</i> | <i>The proposed use will utilize self-contained sanitary facilities, private utilities, and off-street parking for customers, employees and deliveries, and access to the subject site will be gained from the well-established and well-maintained Rush Lake Road / CSAH 1.</i> |

Further, the proposed use will have no impact on schools or other public facilities or utilities. Therefore, the County finds that the proposed Major Home Occupation will not create an excessive demand on existing parks, schools or utilities which serve the subject site.

- Factor #3 The proposed use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development;
Finding #3 *While the subject site is partially located within a residentially developed area, the subject site is 23.50± acres in size and the proposed use is largely screened from adjacent properties by existing natural vegetation (trees) and distance. Therefore, the County finds that the proposed use is sufficiently separated by natural vegetative screening and distance from adjacent properties so as to not cause undue negative impact or deter future development.*
- Factor #4 The proposed use and site will have an appearance that will not have an adverse effect upon adjacent properties;
Finding #4 *The proposed Major Home Occupation will be conducted within an existing 60' x 120' structure and a proposed 60' x 80' structure. Based on the Planning Commission's October 4, 2023 site visit, the County finds that the existing structure is well-maintained with an aesthetically pleasing appearance. Therefore, the County has no evidence to suggest that either the existing structure or the proposed structure will have an appearance which would cause adverse effects upon adjacent properties.*
- Factor #5 The proposed use, in the opinion of the County, is reasonably related to the overall land use goals of the County and to the existing land use;
Finding #5 *The Chisago County Zoning Ordinance identifies Major Home Occupations as an allowable Conditional Use in the Rural Residential I (RRI) and Agricultural (AG) zoning districts (districts in which the subject site is located). Further, as described in Finding #1, the Chisago County Comprehensive Plan identifies a goal of providing for a range of economic diversity and development opportunities to maintain and strengthen the County's economy, with a policy of continuing to allow and encourage Home Occupations in all zoning districts if performance standards are met. Therefore, the County finds that the proposed use directly relates to the land use goals of the County.*
- Factor #6 The proposed use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
Finding #6 *See Finding #5.*
- Factor #7 The proposed use will not cause traffic hazard or congestion; and
Finding #7 *The subject site is located immediately adjacent to a well-established and well-maintained County State Aid Highway road system (Rush Lake Road / CSAH 1 and Evergreen Avenue (CSAH 9) and in close proximity to Interstate 35. As proposed, the Major Home Occupation will primarily serve as a warehousing facility and will not generate a significant or noticeable amount of customer or delivery traffic (applicants verbally stated 2-3 customers per day and 1-2 deliveries per week). Therefore, the County finds no evidence to suggest that the proposed use will cause traffic hazards or congestion.*

Factor #8	The proposed use will not adversely impact existing nearby properties by intrusion of noise, glare or general unsightliness.
Finding #8	<i>The proposed Major Home Occupation is primarily a warehousing facility with business activity taking place within structures, with business-related traffic and parking likely being the most noticeable impact to nearby properties. Based on detail provided in the application materials, existing natural vegetation, and distance, the County finds no evidence to suggest that the Major Home Occupation will cause any noise, glare or general unsightliness which would impact nearby properties.</i>

STAFF RECOMMENDATION

Staff believes that the proposed Major Home Occupation complies with and is consistent with the intent of the Chisago County Zoning Ordinance and Comprehensive Plan. Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the CUP with conditions (see below) and has prepared a resolution for the Commission's consideration.

Recommended Condition(s):

1. This Conditional Use Permit grants approval for a Major Home Occupation involving the use of detached accessory structures, as specifically described in the application materials dated received August 31, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein.
2. Hours of operation shall be limited to Monday through Friday, 9:00 am to 6:00 pm.
3. The maximum number of employees – in addition to the permit holder – on-site at any given time is five (5). This condition is not intended to prohibit the permit holder from having more than five (5) employees but, rather, to limit the number of employees on-site.
4. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
5. To mitigate potential adverse impacts related to noise:
 - a. No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
6. The permit holder shall accommodate all customer, employee and delivery parking on-site. No such parking shall be allowed on Rush Lake Road / CSAH 1.
7. The permit holder shall ensure adequate year-round access and parking for emergency vehicles on-site, including space to maneuver/turn vehicles.
8. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
9. No hazardous waste shall be generated or stored on the subject site.
10. Any fuel storage at the subject site shall be in accordance with MPCA regulations.
11. Any expansion of the use – including, but not limited to, the construction of new structures used for the business activity (aside from the one proposed structure included in this request), the expansion

of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of a Conditional Use Permit Amendment.

12. Annual certification of the Conditional Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Conditional Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Conditional Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

OPTIONS

1. Recommend that the County Board **approve** the Conditional Use Permit with Findings of Fact and conditions presented or amended.
2. Should the Planning Commission determine that the proposed Conditional Use Permit does not comply with and/or is not consistent with the intent of County's Zoning Ordinance or Comprehensive Plan upon completion of the public hearing and/or upon discovery of any new or unknown evidence, recommend that the County Board **deny** the Conditional Use Permit based on factors deemed appropriate. *(Note: The Commission will need to include specific factor(s) for denial in its motion.)*
3. **Table** the request to allow for submission of additional supporting documentation and/or further review and consideration. Being that the review period expires on November 5, 2023 and the next regularly scheduled Planning Commission meeting is on November 2, 2023, the Commission should also include in its motion a **60-day extension** of the review period.

ACTION REQUESTED

Motion to adopt Resolution No. PC2023-1002, a resolution recommending approval of a Conditional Use Permit allowing a Major Home Occupation on property located at 4840 Rush Lake Road / CSAH 1 in Nessel Township, with Findings of Fact and conditions as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plans
 - d. Building plans
 - e. Site photo showing location of proposed structure
2. Aerial location map (1) – subject property
3. Aerial location map (2) – vicinity map
4. Draft Resolution No. PC2023-1002

CC: Mackenzie & Megan Johnston, property owners
County file



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 23-1599

Township Nesse S/T/R 19/37/21 PID# 06.00058.00

Project Address 4840 Rush Lake Rd Rush City MN 55069

Property Owner(s) Mackenzie & Megan Johnston

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) Mackenzie & Megan Johnston

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☐ Variance
☐ Administrative Appeal

Planning Commission

- ☒ Conditional Use Permit (CUP)
☐ Interim Use Permit (IUP)
☐ Amendment to CUP or IUP

- ☐ Preliminary Plat
☐ Rezoning
☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) _____

To run commercial business at our property which is already zoned
Commercial

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

- ☒ Full Legal Description ☐ Detailed Site Plan ☒ Detailed Written Narrative ☐ Plat Drawings

Applicant Signature

Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Fees

Base Fee AFTER-THE-FACT \$ 1000
Recording Fee \$ 410
Plat Fee — No Road(s) / With Road(s) \$ _____
Septic Compliance Fee \$ _____
Wetland Fee \$ _____
TOTAL FEE \$ 1040

Dates

Application Received 8-31-23
Application Complete 9-4-23
60 120 Day Review Period 11-5-23
Extended Review Period _____



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Nesse S/T/R 19/37/21 PID# 06.00058.00

Project Address 4840 Rush Lake Rd Rush City MN 55069

Property Owner(s) Mackenzie & Megan Johnston

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Mackenzie & Megan Johnston

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

☐ Variance

☐ Administrative Appeal

Planning Commission

☒ Conditional Use Permit (CUP)

☐ Interim Use Permit (IUP)

☐ Amendment to CUP or IUP

☐ Preliminary Plat

☐ Rezoning

☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) Conditional Use Permit for business

at property. Property is already zoned Commercial & Pay Commercial Taxes.

[Signature]
Applicant Signature

8-30-23
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Date of County Public Hearing OCT 5, 2023 Date of Township Presentation SEPT 12, 2023

Township Action Taken (Township Use Only)

☒ Recommendation of Approval

☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

Signatures of Township Officials or Authorized Personnel

Michelle Meis Betsy Rising Stacy White
[Signature] [Signature] [Signature]

Our names are Mackenzie and Megan Johnston and we reside at 4840 Rush Lake Rd, Rush City MN 55069. We own East Central Sports which we operate a store in downtown North Branch and we also have our warehouse storage facility up in Rush City at our property of 4840 Rush Lake Rd. We use this part of our property currently for assembly and storage of our products that we sell out of our North Branch location. Our current size of business down in North Branch is only about 2,000 Sq ft so that's why we need the extra space out of Rush City because we cannot operate our business doing assembly and storage in the downtown part of North Branch with only 2000 Sq ft. At our property in Rush City our current shop is 60x120. We are looking to add an additional cold storage shop of 60x80 which will warehouse crated and unassembled units only. We being Mackenzie and Megan Johnston own and operate our business. We have been in business since 2012. The 4840 Rush Lake Rd property as you will see in the drawings has plenty of parking spaces for customers and employees. We currently have 2 full time employees and one part time seasonal employee. We have plenty of room for business trucks and trailers which transports our products from Rush City down to North Branch and other events that we go to. Currently we sell Toro lawn mowers and we do not currently have enough room to keep them inside our current building that we have so we would need the extra space to make sure we keep everything inside.

1. Said Home Occupation is partially or entirely conducted in an accessory building. (This requirement does not apply to the use of accessory buildings existing in the Agriculture District on or prior to July 24, 1997, to seasonally store recreational vehicles and equipment.)

Our proposed home occupation will be conducted entirely within the existing accessory building (Shop) located on the property and a new inventory (cold storage) facility to be constructed. The only exception to this statement would be the parking of employee/customer vehicles (not to exceed 5 spaces) and parking of delivery and personal use trailers (2 truck and 2 trailers). Proposed parking is depicted on our site plan.

2. Only those persons residing in the home and up to fifteen (15) other persons may be employed on site of a Major Home Occupation. The maximum number of employees must be identified with the permit request and may be restricted to less than fifteen by permit condition if property size or site conditions, parking accommodations, traffic impacts, or other environmental constraint cannot be adequately mitigated as determined by the County.

Our current home occupation has a total of five (5) employees, and we don't foresee the need to have more than 5 employees in addition to those of us residing on the property. We also understand that should we sell and/or vacate the residential structure, this use would be discontinued unless the new owners of the house bought the business and continued the existing use pursuant to Minnesota Statutes.

3. An existing accessory structure subjected to a State Building Code specified change of occupancy or use as a result of a Home Occupation shall be retrofitted to conform to current

State Building Code structural standards for the new occupancy or use and shall be certified by an architect or engineer as determined to be necessary by the County Building Official.

While we believe our existing structure does comply with the State Building Code based on the existing occupancy. However, will also agree to make any necessary code upgrades required to comply with the State Building codes. Our proposed cold storage inventory facility will also comply with said codes.

4. No outdoor display or storage of goods or materials is permitted. The identification of business waste management and disposal plan, including outdoor placement and screening of refuse and recycling containers, shall be required and may be expressly permitted on an approved site plan.

As part of the Conditional Use Permit for our Major Home Occupation, we agree that there will be not outdoor storage of goods or materials. We have identified the placement/screening of our refuse and recycling containers on our site plan.

5. The number, type, size, and nature of business vehicles, trailers, or affiliated equipment parked/stored on the subject property must be expressly identified and may be limited in number or restricted to indoor placement by permit condition. All such vehicle and affiliated equipment parking, including employee parking, shall be detailed on an approved site plan.

As we stated in our response to Major Home Occupation Standard #1, we have identified parking of business vehicles (2) and trailers (2) together with employee and customer parking on our proposed site plan. We believe our site is more than adequate in size to reasonably accommodate these uses without negative impact to surrounding properties as evidenced by our operating history.

6. The use must not adversely affect the residential or agricultural character of the surrounding area due to noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, number of deliveries, hours of operation, or any other annoyance. A suitable landscape, fencing, screening, traffic and delivery, and lighting, or other such plan(s) may be required and detailed on an approved site plan.

Our home occupation will not adversely affect the residential or agricultural character of the surrounding area due to noise, odor, smoke, dust, gas, heat, glare, vibrations, electrical interference, traffic congestion, deliveries, hours of operation, or any other annoyance. Noise from our operation is minimal. We do not generate odor, smoke, dust, gas, heat, glare, vibrations, or electrical interference. While there is some traffic generated by our home occupation consisting of customers visiting the site and approximately 3 deliveries per month, Rush Lake Road (County Road #1) more than adequately handles this traffic as evidenced by our past operating history. Our current operating hours are from 9:00 a.m. to 6:00 p.m. Monday through Friday. In no event will our hours exceed the those listed in Major Home Occupation Standard #8.

We do not believe any additional landscaping, fencing, or screening, traffic and delivery, and lighting accommodations are needed to ensure compliance with this provision as evidenced by the lack of complaints resulting from our home occupation that has existed for the past which is zero.

7. Should the Home Occupation be repaired, the items repaired shall be of a size or nature that repair and storage can occur within the accessory structure as allowed by this Ordinance.

All repair associated with our home occupation will be conducted within our accessory structures.

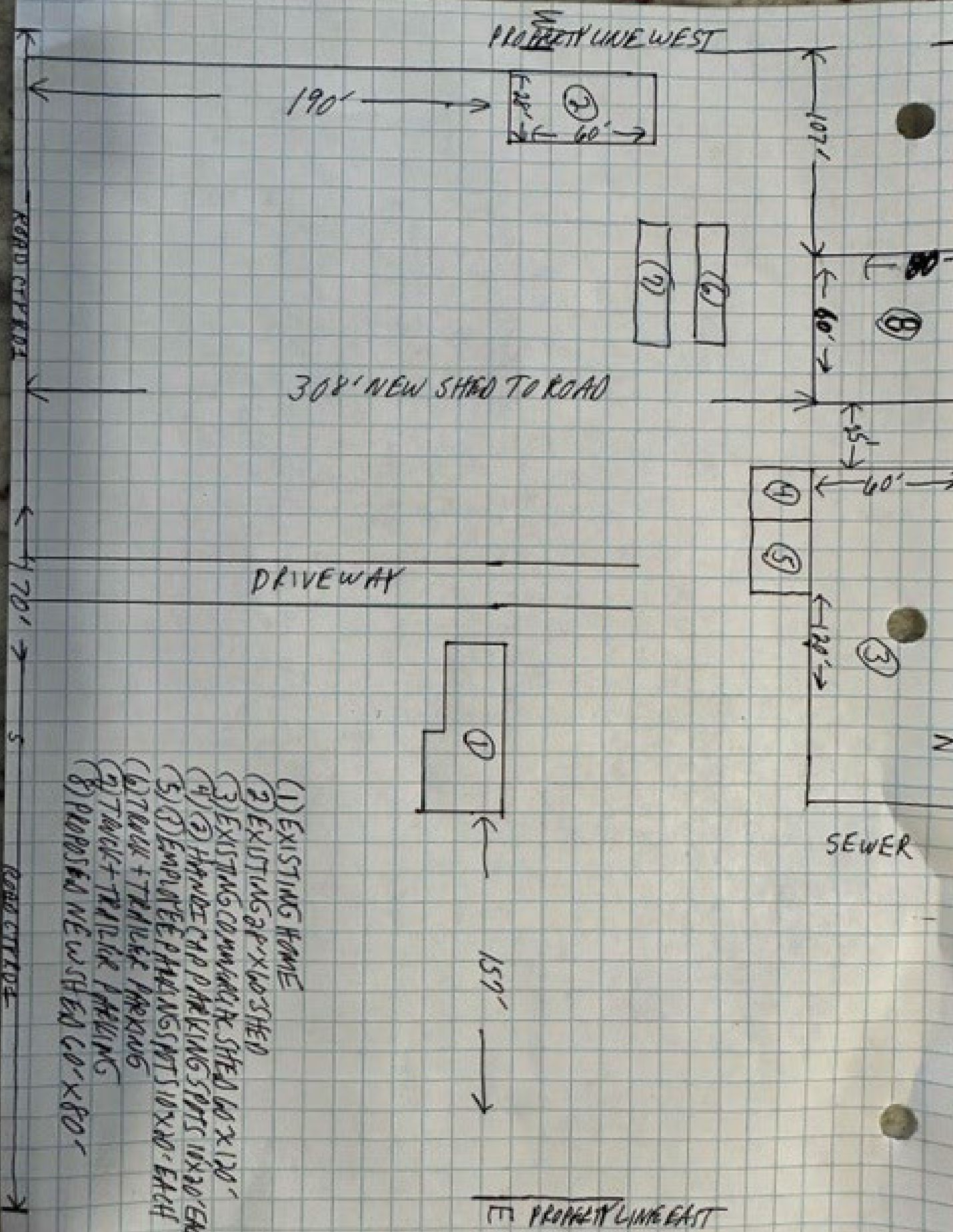
8. No Home Occupation shall be conducted between the hours of 10 PM and 7 AM unless said Home Occupation is conducted entirely within the principal dwelling.

Our home occupation will not be conducted between the hours of 10:00 p.m. and 7:00 a.m.

9. Home Occupations requiring a Conditional Use Permit shall not generate noise or vibrations in excess of that as outlined in Performance Standards, Section 7.05.

Our home occupation will not generate noise or vibrations in excess of the County's performance standards as outlined in Section 7.05 of the zoning ordinance as noted below:

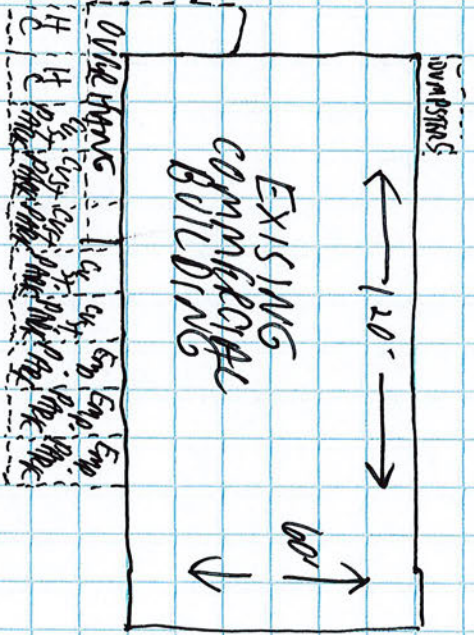
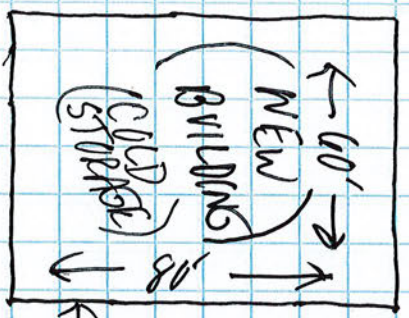
7.05 Noise and Vibrations Noise and vibrations generated from any use shall be in compliance with Minnesota Pollution Control Agency rules. Any use established shall be so operated that no undue or objectionable noise resulting from said use is transmitted beyond the boundaries of that plot line of the site on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction, or temporary maintenance operations. Any use creating periodic earth shaking vibration shall be prohibited if such vibrations are perceptible to persons beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.



- (1) EXISTING HOME
- (2) EXISTING GARAGE
- (3) EXISTING COMMERCIAL SHED 60' X 120'
- (4) HANDICAP PARKING SPOTS 10' X 20' EACH
- (5) EMERGENCY PLANS STS 10' X 20' EACH
- (6) TRUCK + TRAILER PARKING
- (7) TRUCK + TRAILER PARKING
- (8) PROPOSED NEW SHED 60' X 80'

N

W



E

TRAFFIC #1
+ TRAFFIC #2

S

COUNTY RD 1 NORTH CREEK ROAD

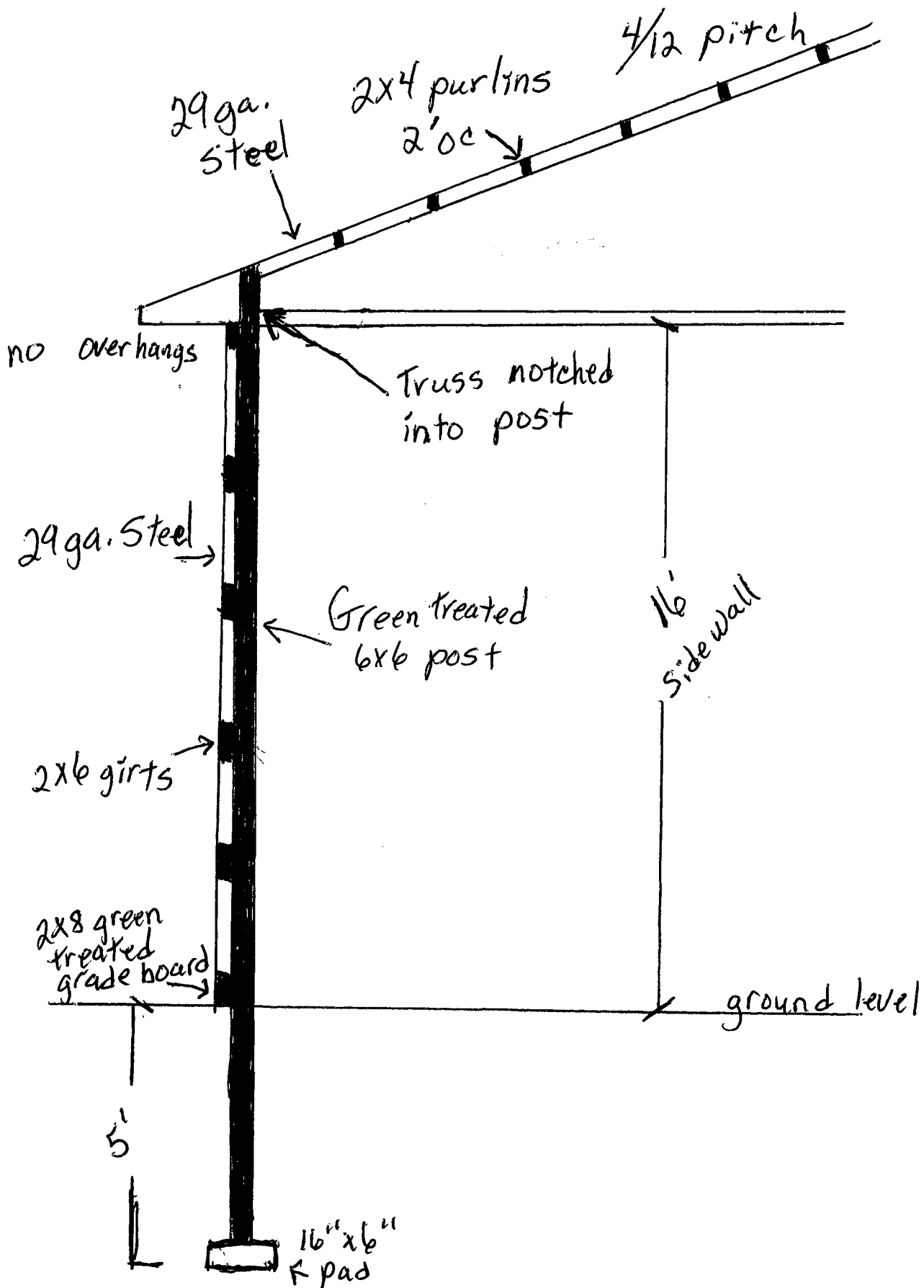
—,09—

2x12
DHDO

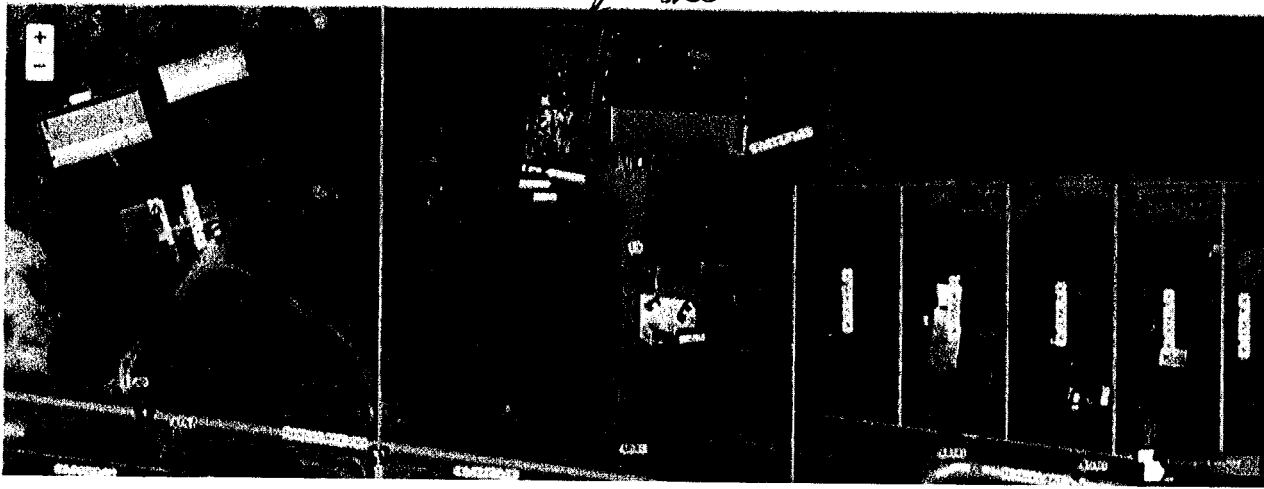
posts 8'00

—80'—

Header 3-2x12
12x12
DHDO



new shed



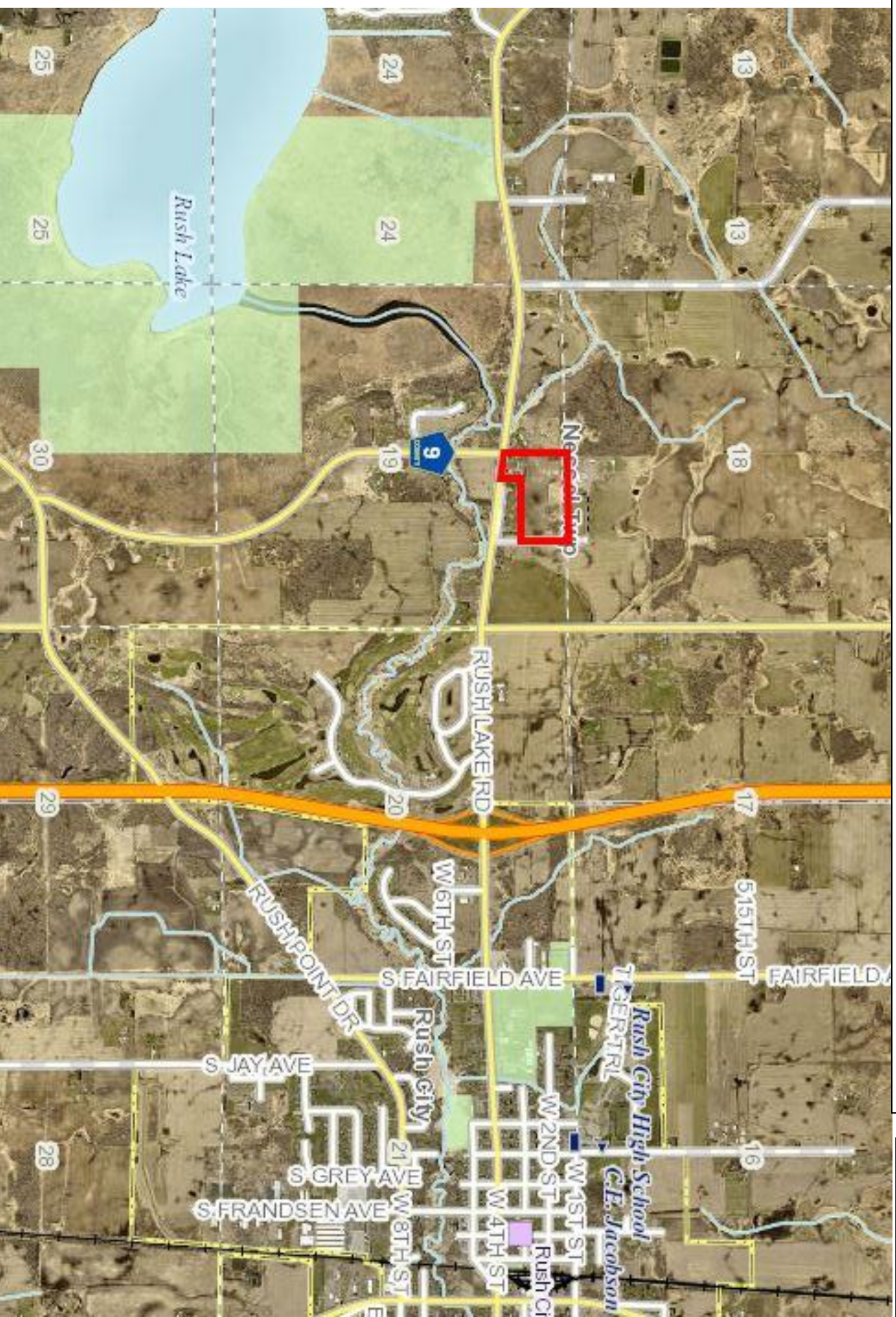
Mackenzie & Megan Johnston – Property owners Mackenzie & Megan Johnston are requesting an after-the-fact Conditional Use Permit (CUP) allowing a Major Home Occupation in order to operate a business known as East Central Sports at 4840 Rush Lake Road / CSAH 1. The 23.50± acre subject site has a split zoning classification of Rural Residential I (RRI) District and Agricultural (AG) District and is located in Nessel Township, S19, T37, R21 (PID 06.00058.00)

Johnston Property - 



Mackenzie & Megan Johnston – Property owners Mackenzie & Megan Johnston are requesting an after-the-fact Conditional Use Permit (CUP) allowing a Major Home Occupation in order to operate a business known as East Central Sports at 4840 Rush Lake Road / CSAH 1. The 23.50± acre subject site has a split zoning classification of Rural Residential I (RR) District and Agricultural (AG) District and is located in Nessel Township, S19, T37, R21 (PID 06.00058.00)

Johnston Property - 



RESOLUTION NO. PC2023-1002

**A RESOLUTION OF THE PLANNING COMMISSION OF CHISAGO COUNTY, MINNESOTA,
RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT ALLOWING A MAJOR HOME
OCCUPATION ON PROPERTY LOCATED AT 4840 RUSH LAKE ROAD / CSAH 1 IN NESSEL TOWNSHIP**

WHEREAS, property owners Mackenzie Johnston & Megan Johnston submitted an application dated received August 31, 2023 and considered complete on September 6, 2023 for a Conditional Use Permit allowing a Major Home Occupation on property located at 4840 Rush Lake Road / CSAH 1 in Nessel Township; and

WHEREAS, the subject site is located in both the Rural Residential I (RRI) District and Agricultural (AG) District; and

WHEREAS, the subject site is 23.50± acres in size and legally described as:

PID 06.00058.00

The W1/2 of the NE1/4 of Section 19, Township 37, Range 21, subject to a 66-foot roadway easement along the most northerly part thereof for ingress and egress from the adjacent County Road, EXCEPT the following described parcels in Chisago County, Minnesota:

A) That part the W1/2 of the NE1/4 of Section 19, Township 37, Range 21 lying South of the Rush City-Braham Road (County State Aid No. 1).

B) The East 933 feet of that part of the W1/2 of the NE1/4 of Section 19, Township 37, Range 21, lying South of the North 700 feet thereof.

WHEREAS, notice was provided and on October 5, 2023 the Planning Commission conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the applicant(s) and/or property owner(s), and invited members of the public to comment; and

WHEREAS, the Planning Commission considered several factors for granting Conditional Use Permits and Conditional Use Permit Amendments and made the following findings per Zoning Ordinance Section 8.04:

Factor #1 The [proposed action is consistent with the] Comprehensive Plan and development policies of the County;

Finding #1 Chapter 6 of the Chisago County Comprehensive Plan identifies a goal of providing for a range of economic diversity and development opportunities to maintain and strengthen the County's economy, with a policy of continuing to allow and encourage Home Occupations in all zoning districts if performance standards are met. The County finds that the proposed Major Home Occupation is consistent with the Comprehensive Plan and meets all performance standards provided in Zoning Ordinance Section 4.04 C.

Factor #2 The proposed use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area;

Finding #2 The proposed use will utilize self-contained sanitary facilities, private utilities, and off-street parking for customers, employees and deliveries, and access to the subject site will

be gained from the well-established and well-maintained Rush Lake Road / CSAH 1. Further, the proposed use will have no impact on schools or other public facilities or utilities. Therefore, the County finds that the proposed Major Home Occupation will not create an excessive demand on existing parks, schools or utilities which serve the subject site.

- Factor #3 The proposed use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development;
- Finding #3 *While the subject site is partially located within a residentially developed area, the subject site is 23.50± acres in size and the proposed use is largely screened from adjacent properties by existing natural vegetation (trees) and distance. Therefore, the County finds that the proposed use is sufficiently separated by natural vegetative screening and distance from adjacent properties so as to not cause undue negative impact or deter future development.*
- Factor #4 The proposed use and site will have an appearance that will not have an adverse effect upon adjacent properties;
- Finding #4 *The proposed Major Home Occupation will be conducted within an existing 60' x 120' structure and a proposed 60' x 80' structure. Based on the Planning Commission's October 4, 2023 site visit, the County finds that the existing structure is well-maintained with an aesthetically pleasing appearance. Therefore, the County has no evidence to suggest that either the existing structure or the proposed structure will have an appearance which would cause adverse effects upon adjacent properties.*
- Factor #5 The proposed use, in the opinion of the County, is reasonably related to the overall land use goals of the County and to the existing land use;
- Finding #5 *The Chisago County Zoning Ordinance identifies Major Home Occupations as an allowable Conditional Use in the Rural Residential I (RRI) and Agricultural (AG) zoning districts (districts in which the subject site is located). Further, as described in Finding #1, the Chisago County Comprehensive Plan identifies a goal of providing for a range of economic diversity and development opportunities to maintain and strengthen the County's economy, with a policy of continuing to allow and encourage Home Occupations in all zoning districts if performance standards are met. Therefore, the County finds that the proposed use directly relates to the land use goals of the County.*
- Factor #6 The proposed use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
- Finding #6 *See Finding #5.*
- Factor #7 The proposed use will not cause traffic hazard or congestion; and
- Finding #7 *The subject site is located immediately adjacent to a well-established and well-maintained County State Aid Highway road system (Rush Lake Road / CSAH 1 and Evergreen Avenue (CSAH 9) and in close proximity to Interstate 35. As proposed, the Major Home Occupation will primarily serve as a warehousing facility and will not generate a significant or noticeable amount of customer or delivery traffic (applicants verbally stated 2-3 customers per day and 1-2 deliveries per week). Therefore, the*

County finds no evidence to suggest that the proposed use will cause traffic hazards or congestion.

Factor #8 The proposed use will not adversely impact existing nearby properties by intrusion of noise, glare or general unsightliness.

Finding #8 The proposed Major Home Occupation is primarily a warehousing facility with business activity taking place within structures, with business-related traffic and parking likely being the most noticeable impact to nearby properties. Based on detail provided in the application materials, existing natural vegetation, and distance, the County finds no evidence to suggest that the Major Home Occupation will cause any noise, glare or general unsightliness which would impact nearby properties.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of Chisago County, Minnesota hereby recommends approval of the request for Conditional Use Permit, subject to the following conditions:

1. This Conditional Use Permit grants approval for a Major Home Occupation involving the use of detached accessory structures, as specifically described in the application materials dated received August 31, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein.
2. Hours of operation shall be limited to Monday through Friday, 9:00 am to 6:00 pm.
3. The maximum number of employees – in addition to the permit holder – on-site at any given time is five (5). This condition is not intended to prohibit the permit holder from having more than five (5) employees but, rather, to limit the number of employees on-site.
4. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
5. To mitigate potential adverse impacts related to noise:
 - a. No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
6. The permit holder shall accommodate all customer, employee and delivery parking on-site. No such parking shall be allowed on Rush Lake Road / CSAH 1.
7. The permit holder shall ensure adequate year-round access and parking for emergency vehicles on-site, including space to maneuver/turn vehicles.
8. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
9. No hazardous waste shall be generated or stored on the subject site.
10. Any fuel storage at the subject site shall be in accordance with MPCA regulations.
11. Any expansion of the use – including, but not limited to, the construction of new structures used for the business activity (aside from the one proposed structure included in this request), the expansion of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning

Commission and approval by the Board of Commissioners by way of a Conditional Use Permit Amendment.

12. Annual certification of the Conditional Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Conditional Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Conditional Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

Adopted by the Planning Commission of Chisago County, Minnesota, this 5th day of October, 2023.

Chris DuBose _____
Eric Leivian _____
Jim McCarthy _____
John Sutcliffe _____

Dave Whitney _____
Jolene Wille _____
Chip Yeager _____

Chip Yeager
Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator