

STAFF REPORT

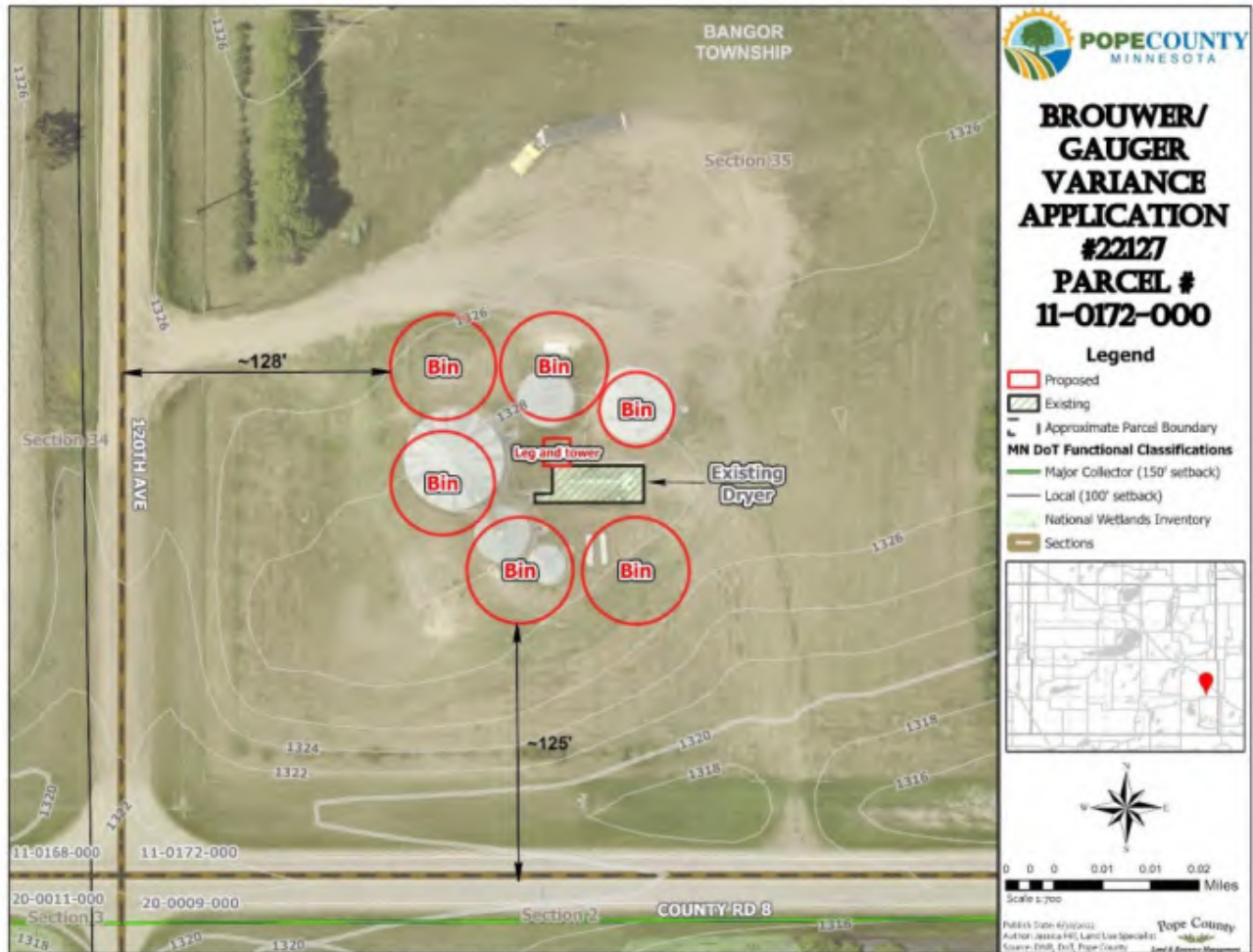
Applicant Information

Applicant: Darrin & Amber Brouwer and Georg Gauger

Application: Variance

Zoning: Agriculture Protection (A-2)

Location: Part of the Southwest Quarter (SW¹/₄) of the Southwest Quarter (SW¹/₄) of the Southwest Quarter (SW¹/₄), Section 35, Township 124 (Bangor), Range 36, Pope County, Minnesota



DISCLAIMER: THIS MAP IS NOT A SUBSTITUTE FOR ACCURATE FIELD SURVEYS OR FOR LOCATING ACTUAL PROPERTY LINES AND ANY ADJACENT FEATURES.



Background

The applicant is seeking to locate an agricultural structure (grain bin) at approximately 125 feet from the center of County State Aid Highway 8. An agricultural structure is a permissible use in the Agriculture Protection (A-2) zoning district; however, the proposed location of the structure would not meet the required setback of 150 feet from the road centerline.

Applicable Statutes

Local Ordinance

- This application is subject to the criteria and procedures as prescribed in Section 11.6 Variance From Standards of the Pope County Land Use Controls Ordinance.
- Specific standards of use and development for parcels located in the Agriculture Protection (A-2) zoning district are referenced in the Pope County Land Use Controls Ordinance section 7:

7.6.C. *From centerline of public roadways classified as:*
Major Collector *150 feet*

State Statute/Rule

- Minnesota Statute Chapter 394 Planning, Development, Zoning (*enabling legislation*)
- Minnesota Statutes 394.27 Subd. 7 *Variances; practical difficulties*

Staff Comments

Staff offers the following comments for consideration:

The bin site is located in an Agricultural Protection zoning district. Therefore, the use is permissible. As a matter of fact, this site has been used as a grain bin site for multiple decades. Due to a recent storm event, the owner will be replacing damaged structures. Because there is a need for additional onsite storage so that the owners can be more self-reliant, the replacement structures will be larger. In an effort to salvage as much of the operational integrity of the site as possible, the configuration of the new/replacement bins must be integrated with existing onsite equipment (dryer). For these reasons, several of the structures will be located as close as 125 feet from the centerline of the highway. The bin site is located adjacent to County State Aid Highway 8, which is classified as a Major Collector. Based on this classification of road the required setback for any structure is 150 feet. MN DOT reports that the average daily traffic volume on this road is 460. For comparison, County State Aid Highway 18 is also designated as a Major Collector and has an average traffic volume of 1250. The County



Engineer has stated that *there are no concerns with the proposed project as it pertains to county road maintenance or construction.*

Based on Minnesota Statute 394.27 subd. 7: A variance may be granted if it is in harmony with the general purposes and intent of the official control and when the variance is consistent with the comprehensive plan. A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner “practical difficulties.” The standard for establishing a Practical Difficulty is as follows:

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.

3. Essential Character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Staff Recommendation

Having reviewed and considered the application, local ordinances, and state statutes, staff **does not object** to the issuance of a variance in this case that would allow for the structure to be located at 125 ft from the centerline of County State Aid Highway 8. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider. If the Board of Adjustment does grant a variance to the applicant, Staff recommends that the following conditions be considered:

1. That a construction activity permit(s) be secured from the Pope County Land & Resource Management department prior to locating or construction of the agricultural structures onsite.
2. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.



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Staff Findings

Based upon the information available at the time of writing of this report, Staff proposes the following findings of fact for consideration by the Board of Adjustment. These findings may be amended based upon additional information gathered during the public hearing and discussion process.

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**

Finding: The Pope County Land Use Controls Ordinance is the official controlling document for land uses within Pope County. Regarding structure location, there are identified regulated setback dimensions established for each particular zoning district. The purpose of the required setback is to provide for yard space such that there may be assurance of adequate light, air, privacy and safety. In addition, there are other “use specific” standards established for purposes of maintaining neighborhood character and esthetics. The location of this structure(s) as proposed will not impact adequate lighting, air or privacy nor will it create a safety hazard. So, there is no inconsistency with the purpose of official controls.

2. **Use of property/structure is a reasonable use:**

Finding: Agricultural structures are reasonable and permissible uses in Agricultural zoned districts.

3. **Character of locality and detriment to neighboring properties:**

Finding: The structure is not inconsistent with other uses and development in the neighborhood. Therefore, there is no change in character of the locality nor shall there be a detriment to the neighboring properties.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**

Finding: The circumstances contributing to the need for the variance include that the equipment and structures on the property were damaged during a recent storm event. This part of the parcel has been used as a grain bin site for many years (decades). Replacement equipment is larger but still needs to be located in a manner that maintains the operational integrity of the rest of the equipment onsite. Due to the existing onsite configuration of the remaining equipment, it is onerous to comply with the setback performance standard.



REPORT APPENDIX

- **Routing Sheet** (*Comments, concerns and conditions*)
- **Public Notice**
- **Supplemental Information**
 - **Attachment 1:** *Variance Application (Darrin & Amber Brouwer and Georg Gauger, 17 June 2022)*
 - **Attachment 2:** *Submitted Site Plan (Darrin & Amber Brouwer and Georg Gauger, 17 June 2022)*
 - **Attachment 3:** *Site Visit Photos (L&RM Staff, 18 July 2022)*



Routing Sheet

Comments, Concerns and Conditions

County Department

Ag Inspector/Feedlot Officer *COMMENTS: This proposal will not have adverse impact on the existing land use in that neighborhood. It is primarily a crop farming area with many bin sites and a tree screening already exists between Co.Rd. 8 and the bin area.*

PROPOSED CONDITIONS: Maintain tree screening of the bin site.

Attorney *COMMENTS: N/A*

Engineer *COMMENTS: There are no concerns with the proposed project as it pertains to county road maintenance or construction.*

PROPOSED CONDITIONS: None

Recorder *COMMENTS: Please see MN Statute 507.093 Standards for documents to be recorded or filed for recording. Our records show that the current property owner for the above parcel is Gauger Farms, LLC per recorded document #287184; in which, can be found in the Laredo land records program.*

Township

Bangor No comments received.

Other Comments Received

No comments received.



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Public Notice

**POPE COUNTY LAND & RESOURCE MANAGEMENT
POPE COUNTY COURTHOUSE
130 E. MINNESOTA AVENUE, SUITE 113
GLENWOOD, MINNESOTA 56334
(320) 634-7791**

POPE COUNTY BOARD OF ADJUSTMENT NOTICE OF PUBLIC HEARING FOR VARIANCE REQUEST

Notice is hereby given that a Public Hearing will take place in conjunction with the Board of Adjustment meeting to be held at 6:00 pm or shortly thereafter on Thursday, July 28th 2022 in the Pope County Courthouse to consider the following variance request.

Description of Request: Variance hearing on the application by Darrin & Amber Brouwer and Georg Gauger, if granted would allow applicants to locate agricultural bin structures at less than the minimum setback standard of 150 feet from the road centerline in an Agriculture Protection (A-2) zoning district per Section 7.6.C. of the Pope County Land Use Controls Ordinance.

Legal Description/Site Location: Part of the Southwest Quarter (SW¹/₄) of the Southwest Quarter (SW¹/₄) of the Southwest Quarter (SW¹/₄), Section 35, Township 124 (Bangor), Range 36, Pope County, Minnesota.

Public participation will include an opportunity to:

- 1) submit written concerns and comment prior to the scheduled meeting. All such communications will be shared with the Board of Adjustment prior to or during the meeting;
- 2) submit concerns and comments via Pope County’s Public Comment web map (<https://popecounty.maps.arcgis.com/apps/webappviewer/index.html?id=22a203912a864a77b4cdabe672e35e3f>)
- 3) opportunity to review the staff prepared report via Pope County website;
- 4) observe and/or participate in the proceedings of the Board of Adjustment meeting.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. Thank you for your patience and consideration in this matter.

Dated: July 8, 2022

By: David Green, Director, Land & Resource Management



Supplemental Information

Supplemental Information Attachment 1:

Variance Application (Darrin & Amber Brouwer and Georg Gauger, 17 June 2022)

POPE MINNESOTA COUNTY

VARIANCE APPLICATION

L&RM FORM 18

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VARIANCE APPLICATION

A variance allows a modification or variation of the provisions of the Pope County Land Use Controls Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of any provision of the ordinance would cause the landowner "practical difficulty" (see Practical Difficulty Test on the following page).

Variations from official zoning controls are defined under Minnesota Statute 394.27 and require the landowner to prove the property could not otherwise be used or enjoyed in the proposed way by complying with the Pope County Land Use Controls Ordinance and there will be no negative impact on surrounding properties.

Prior to submission of this application, please discuss your variance request with the Land and Resource Management department.

Applicant Information

Today's Date June 15, 2022	Applicant Names Darrin & Amber Brouwer, Georg Gauger		
Phone Number (320) 212-0254	Email brouwer_darrin@hotmail.com	Lake	
Mailing Address 4747 1st Ave W	City Willmar	State MN	Zip 56201

Property Description

Property Address	City	State	Zip
Township Name Bangor	Section 35	Twp 124	Range 36
Parcel No. 11 - 0172 - 000	Associated Parcel No.		

Project Narrative

What is the variance application for?	
Provide written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized:	<p>The current bin site has been there for many years and was recently damaged by a storm. Since bins need to be replaced we are planning for the future to construct 48 Ft diameter bins around the existing dryer. We are requesting that the two proposed bins to the south be at 125' from the center of Co Rd 8 where 150' is required on a major collector road. The bin site is in an ag area primarily used for raising crops. We do not see any conflicts with existing land use and the site has existing tree screening in place.</p>

L&RM FORM 18

INCOMPLETE FORMS WILL BE RETURNED

Pope County Land & Resource Management
130 East Minnesota Ave. Suite 113 | Glenwood, Minnesota 56334 |
Phone: (320) 634-7791 | Email: pub.lrm@co.pope.mn.us

POPE MINNESOTA COUNTY

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Practical Difficulty Test

A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a three factor test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a structure to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees that prevent the structure from being located in compliance.

3. Essential Character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Questions	Yes/No
Does your project satisfy all three factors of the Practical Difficulty Test?	
Please state how your project satisfies all three factors in the space provided below:	
<p>1. We feel the request is reasonable in that we can keep the grain dryer in place and build around it.</p>	
<p>2. If the bin site was being started all new the Variance request would not be needed. It is a benefit for us to be able to keep the dryer in place.</p>	
<p>3. The location of the bin site is in character with the locality. The use and appearance of the site will remain the same.</p>	

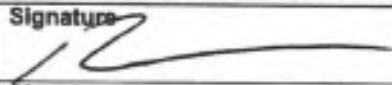
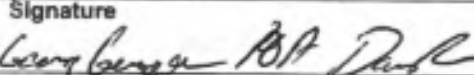
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APPLICATION REQUIREMENTS

The following application requirements must be provided:	Description
1. The applicant for a Variance shall file an application in the office of the Administrator and pay a fee according to the fee schedule resolution of County Board of Commissioners.	<p>Two separate checks (made out to Pope County) must be provided:</p> <ol style="list-style-type: none"> 1. Application Fee = \$315 2. Recording Fee = \$46
2. Include a project narrative on Page 1 of this application (or attach) which describes the proposed variance.	
3. Complete the Practical Difficulty Test on Page 2 of this application (or attach).	
2. Site plan (completed by a licensed land surveyor if applicable*) including, but not limited to: <ol style="list-style-type: none"> a. Property lines; b. Existing and proposed development (including roads, driveways, structures, septic components, wells, etc.); c. Distance from water body, road, property lines, septic components (tank and drainfield), well, neighboring feedlots, etc.; and d. Other requirements as deemed appropriate by the Administrator. 	<p>Please <u>ATTACH</u> to this application upon submittal.</p> <p>*Please Note: Applicants for Conditional Use Permit and Variance shall be required to submit a land surveyor's plot plan showing exact lot boundary and location of existing and proposed development as a part of application. Surveyor stakes shall be in place for site inspection of lot boundary and proposed development. Above policy shall be applicable for development on all lots of one acre or smaller. (ADOPTED 4 September 1985) (Land Use Controls Ordinance Section 11.6.2.H)</p>
3. Any additional information required by the Administrator.	

APPLICANT SIGNATURES

<ul style="list-style-type: none"> • I hereby certify that I have examined this application and acknowledge the information submitted to be true. • I have submitted a complete site plan. • I acknowledge this variance application does not constitute a building permit, septic system permit or the like. Separate permits will have to be applied for and obtained prior to any construction activities. • I acknowledge the granting of this variance does not exempt the permittee from having to secure other permits from other state, federal or local units of government which may have jurisdiction over portions of the authorized project. 		
Applicant Name <i>Dana Brower</i>	Signature 	Date <i>6-15-22</i>
Co-Applicant Name <i>Gary Geyer</i>	Signature 	Date <i>6-15-22</i>

POPE MINNESOTA COUNTY

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L&RM OFFICE USE ONLY

Application Status & Further Information

Date Received:

RECEIVED
 JUN 17 2022
 BY: JH

Applicant requests a Variance pursuant to Section 7.6.C of the Pope County Land Use Controls Ordinance.

What is the formal wording of the request?

Zoning District

R / A-1 / A-2 / C / S-GD / S-RD / S-NE / S-RS / SP / SR / SC

Permit Type

Variance

Permit No

22127

Board of Adjustment Hearing Date

28 July 2022

Application Fee Paid (\$315)?

Yes / No / Provide Receipt No:

Recorder Fee Paid (\$46)?

Yes / No / Provide Receipt No:

Setbacks Met?

Yes / No Reason for Variance

Project located in Floodplain?

Yes / No

Wetlands Present?

Yes / No

Impervious Surface?

< 25 %

Riparian Aid?

Yes / No

Application Complete?

Yes / No

Application Complete Date:

I have reviewed and determined the application is complete.

Director's Name

David J. Green

Signature

David J. Green

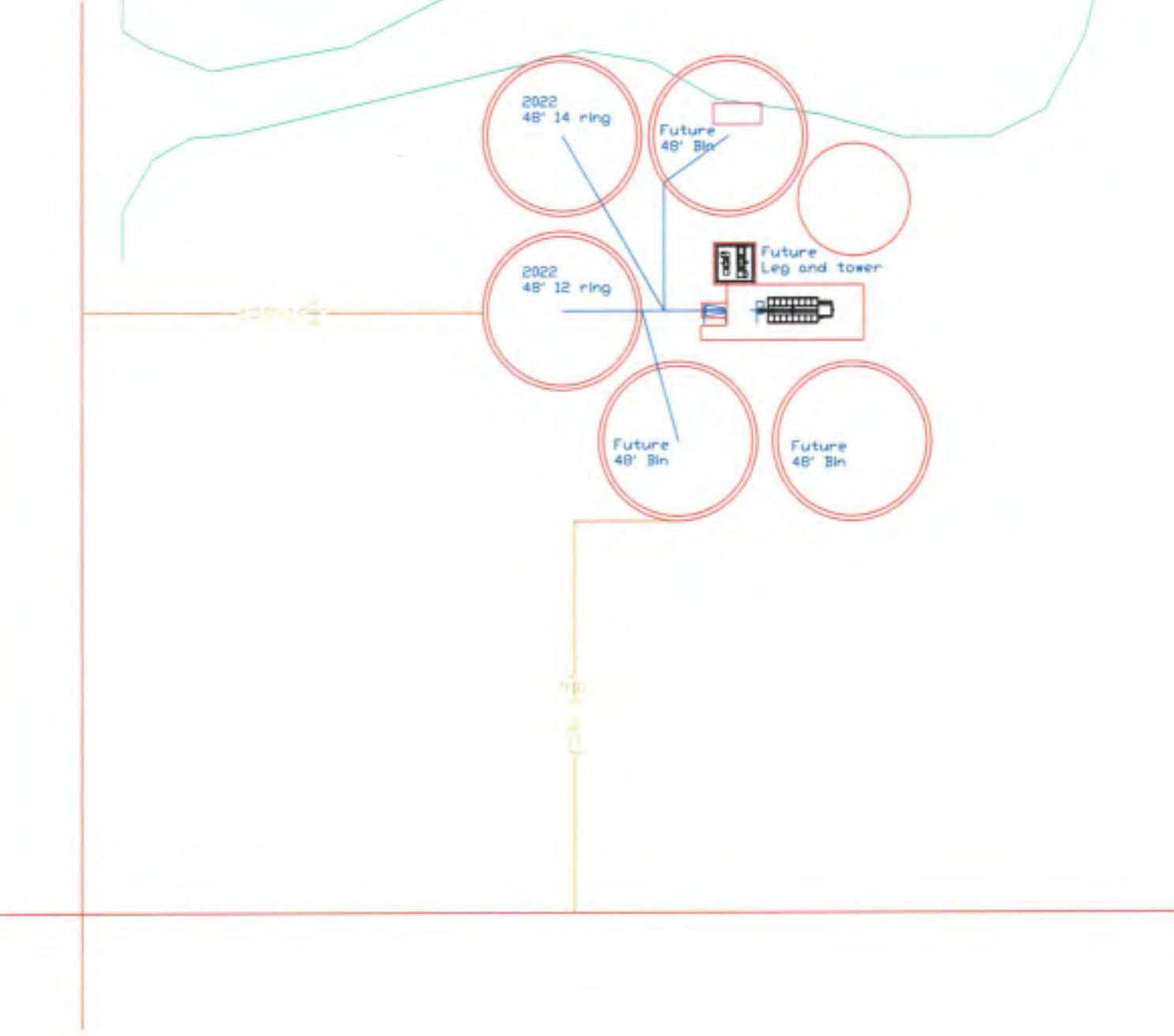
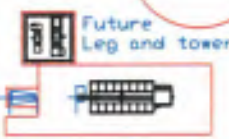
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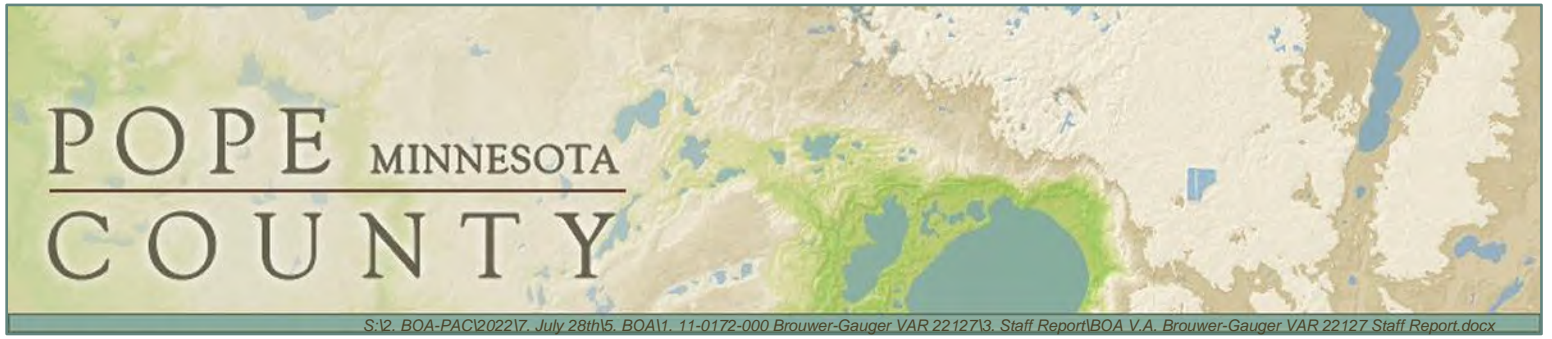
July 6, 2022



Supplemental Information Attachment 2:

Submitted Site Plan (Darrin & Amber Brouwer and Georg Gauger, 17 June 2022)





Supplemental Information Attachment 3:
Site Visit Photos (L&RM Staff, 18 July 2022)







