Planning Advisory Commission
November 20, 2025
CUP-25-014

POPE COUNTY MINNESOTA

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STAFF REPORT

Applicant Information

Applicant: Brent Beckwith

Application: Conditional Use Permit (CUP-25-014)

Zoning: Industrial (I) and Special Commercial Overlay (SC)

Location: Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼), Section 17, Township 125 (Glenwood), Range 37, Pope County, Minnesota

Background

The applicant is seeking the right to develop a contractor's yard on a parcel located in an Industrial (I) zoned district in Glenwood Township. Such a use requires a conditional use permit to be issued by the Board of County Commissioners.

Applicable Statutes

Local Ordinance

- Pope County Land Use Controls Ordinance
  - Section 8 Industrial (I)
    - 8.2.3 Conditional Uses:
      - F. Contractor's offices and storage yards greater than 50,000 square feet per storage yard.
  - Section 11.5 Conditional & Interim Use Permits *(criteria and procedures)*

State Statute/Rule

- Minnesota Statute, Chapter 394 Planning, Development, Zoning *(enabling legislation)*
- Minnesota Administrative Rules, Chapter 1341 Accessibility for Buildings and Facilities
- Minnesota Administrative Rules, Chapter 1800, Part 1800.5200 unless exempted by Part 1800.5900 Classes of Buildings
- Minnesota Administrative Rules, Chapter 7035, Part 7035.2860 *Beneficial Use of Solid Waste*, Subp 4

Staff Comments

Based on the review of the application, Staff offers the following comments:

Zoning

Land uses associated with this property are subject to Industrial (I) zoning standards. Conditional Uses in this zoning district are identified in Section 8.2.3 which include, *Contractor's offices and storage yards greater than 50,000 square feet per storage yard*.

Wellhead Protection Area

The Beckwith property is located approximately 500 feet northwest of the Pine Hills Mobile Home Park Community which has a delineated Wellhead Protection Area (WPA) within a Drinking Water Supply Management Area (DWSMA) associated with its well. The well is Moderately vulnerable to sources of contamination due to its construction and geologic sensitivity. Though the Beckwith property is not within either the WPA or the DWMSA, the Minnesota Department of Health has provided some recommendations for consideration including:

- Properly construct and manage any new onsite wells;
- Maintain setbacks to adjacent properties and all public water supply wells;
- Maintain spill controls;
- Properly construct and maintain SSTS;
- Properly manage stormwater; and
- Exclude groundwater dewatering and wastewater infiltration basins.

Accessibility

Because the property owner has stated that they intend to construct an office in the near future, and have identified on the submitted site plan such a structure, consideration has to be given to accessibility according to the Minnesota Accessibility Rules (Minnesota Administrative Rules, Chapter 1341) and Federal ADA Regulations and Standards (36 CFR 1191), which could include providing accommodations for parking, bathroom facilities, doorway widths, signage, etc.

Construction Code

Also to be considered is whether plans and specifications as prepared and certified by an architect or engineer are required per Minnesota Administrative Rules, Chapter 1800, Part 1800.5200. According to the Minnesota State Fire Code, Occupancy Classifications, a contractor's office and storage facility would likely have an Occupancy Classification of either Group B - Business or as Group S – Storage. Under Minnesota Administrative Rules, Chapter 1800, Part 1800.5900, a building classified as;

Business, Group B "*Not greater than two stories with a basement; and Not greater than 2,250 GSF;*

Storage, Group S *"Not greater than one story with no basement; and Not greater than 3,000 GSF"*

are excepted out from the above-stated requirement to have plans or specifications prepared and certified by an architect or engineer.

Solid Waste

Finally, as the proposed use includes the handling and storage of demolition construction materials that can be defined as solid waste, the operator must manage these materials in conformance with MPCA standards. Minnesota Administrative Rules, Chapter 7035 provides for a procedure to determine when (re)use of a material classified as a solid waste is a *beneficial use*. Certain items such as unrecognizable concrete, recycled concrete, brick, and salvaged bituminous are predetermined to have a beneficial use (see MN Rules 7035.2860 Subp 4). Therefore, the onsite storage of this type of material does not conflict with the standard.

Staff Recommendation

Approve with Conditions

Based on the findings of fact presented in this report the Staff recommends approving the application with the following conditions:

1. Submittal of a professionally developed Stormwater Management Plan.
2. Any change in the use (other than the permitted uses in the zoning district or what is included in this permit) or expansion of the business shall require a conditional use permit.
3. That prior to use/occupancy of a structure, that a SSTS (septic) design be completed by a MPCA Licensed Septic Designer, a septic permit applied for, the permitted septic system be installed by a MPCA Licensed Septic Installer, and inspected by Pope County.
4. All outside lighting must be hooded and directed straight down.
5. Any sign advertising the business must be located outside of the road right-of-way, may be no larger than 48 sq. ft. on each side, and may be no more than 15 ft. in total height. The sign may not be lighted except for ground-level, flagpole-type lighting.
6. Operating hours should be posted and adhered to.
7. That prior to any construction activities or placement of signage, that all necessary permits are secured from Township, County and State agencies.
8. That prior to business operations, that all other state and local permits, licenses and approvals shall be obtained for the operation of the business.

Staff Findings

The Staff offers the following findings:

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:**

   Finding: Any proposed structure and/or use will necessarily be in compliance with the provisions of the Pope County Land Use Controls Ordinance as a condition of the permitting unless a variance has been granted.

2. **The use is not in conflict with the County Comprehensive Land Use Plan:**

   Finding: The current Comprehensive Plan includes goals that state a recognition of diverse and existing land uses throughout the county. It is noted that not all uses are compatible and that there should be consideration as to separation, siting, development requirements and operating standards. The Comprehensive Plan also states that the ground and surface water resources should be protected for future use and enjoyment and that there should be ample overview, regulation and standards to prevent activities that are not sound from an environmental perspective. Based on the proposed land use including distance from sensitive environmental features, roadway and neighboring properties, the proposed use is not in conflict with the County Comprehensive Plan.

3. **That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish or impair neighborhood property values in the area and will not interfere with the best interest of the surrounding area or the community as a whole:**

   Finding: The proposed use is located bounded by County Road 21 on the west and State Highway 55 on the east. Properties to the west include a residence, a church and a manufacturing business. Other properties nearby include industrial, wholesale lumber yard, and automotive repair facilities. With proper upkeep and site management, there should be no negative impact on these existing uses.

4. **The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems and other public facilities and utilities which serve or are proposed to serve in the area:**

   Finding: This land use is not expected to have a significant negative impact on public infrastructure.

5. **The structure and sites shall have an appearance that will not have an adverse effect on adjacent properties:**

   Finding: The site is expected to remain neat and orderly in appearance.

6. **The road on which the project is proposed is adequate to handle increased traffic during operation, and that the use will not cause traffic hazards or congestion:**

   Finding: The road network is adequate to handle traffic associated with the operation of the business.

7. **Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, odor, or general unsightliness:**

   Finding: There should not be any negative impacts related to the intrusion of noise, glare, odor or general unsightliness upon nearby existing businesses.

8. **That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property uses predominant to the area:**

   Finding: The proposed land use will not conflict with existing uses in the area.

9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**

   Finding: Any necessary utilities, drainage or other facilities will be addressed prior to and as a condition of issuance of any construction activities permit.

10. **That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise, and vibration in order that none of these will constitute a nuisance, and that adequate measures have been or will be taken to prevent negative impacts on surface water, groundwater, and air quality, and that measures have been taken to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result:**

    Finding: The site is expected to remain neat and orderly in appearance. As such, the site should not have a negative impact on neighboring properties with noise, dust, appearance, and other nuisances or impacts.

REPORT APPENDIX

- **Routing Sheet** *(Comments, concerns and conditions)*
- **Public Notice**
- **Supplemental Information**
  - **Attachment 1:** *Conditional Use Permit Application (Brent Beckwith, 14 October 2025)*
  - **Attachment 2:** *Survey Site Plan (Radach Land Surveying, LLC, 1 October 2025)*
  - **Attachment 3:** *Project Narrative (Brent Beckwith, 14 October 2025)*
  - **Attachment 4:** *Minnesota Administrative Rules, Chapter 7035, Part 7035.2860, Beneficial Use of Solid Waste*
  - **Attachment 5:** *Site Visit Photos (L&RM Staff, 10 November 2025)*

Routing Sheet

Comments, Concerns and Conditions

Agency

MDH — *COMMENTS: The Minnesota Department of Health has delineated a Drinking Water Protection Management Area for the Pine Hill Mobile Home Park Community which includes area east of the proposed project area. This protection area is currently assigned Moderate Vulnerability due to well construction, geologic sensitivity, and water quality test results. The potential contaminant sources of concern for the public water system would include chemical spills, stormwater mismanagement, and other wells that would act as a contamination conduit into the aquifer.*

PROPOSED CONDITIONS: Properly construct and manage the proposed well and any other wells that may exist on the project property, maintain setback distances to adjacent properties and all public water supply wells, maintain spill controls (including employee training and arrangements with local responders), properly construct and maintain the proposed SSTS, properly manage stormwater and obtain permits as required, and exclude groundwater dewatering and wastewater (such as snow pile melt) infiltration basins from operations and site design. Storage of aggregate materials and equipment should not be excessive to create nuisance conditions.

MnDOT — *COMMENTS: No signs or advertising is allowed on MnDOT ROW. Any work on MnDOT RW will require a permit*

MPCA (Small Business Environmental Assistance Program

Hello, Jessica,

Thank you for your email and the clarification. The Small Business Environmental Assistance Program (SBEAP) is structured to provide general assistance and resources to small businesses regarding environmental compliance. However, we are unable to offer official determinations on whether a specific facility or business is required to comply with any particular regulation. Determining the applicability of environmental requirements is ultimately the responsibility of the business owner or operator.

Based on the information provided in the conditional use permit application, here is a list of resources that may apply to the business's activities:

- Industrial Stormwater (ISW)**:** Facilities in specific industries that store materials, waste, or equipment outdoors are subject to industrial stormwater regulations administered by the MPCA. The first step covers how a facility can determine if they need a permit.
- Construction Stormwater (CSW)**:** A facility requires permit coverage if they are the owner or operator for any construction activity that disturbs:

- One acre or more of soil
- Less than one acre of soil, if the activity is part of a larger "common plan of development or sale" that covers more than one acre.
- Please consult this decision flowchart for assistance in determining if a CSW permit is required.

- Aggregate: Sand and Gravel**:** This page provides comprehensive information on air, waste, and water requirements specific to aggregate: sand and gravel operations.
- Septic Systems**:** This page offers details on rules and regulations, compliance information, and other resources related to septic systems.
  - For questions specific to septic systems, there is a hotline available.
  - SSTS program hotline:
    - 651-757-2201, 800-657-3659 (press 1)
- Hazardous Waste: Commercial entities that produce any amount of hazardous waste are regulated as hazardous waste "generators." Here is a summary of hazardous waste requirements for businesses.
- Storage Tanks: This page has information on both underground and aboveground commercial storage tanks and includes requirements for each. For questions about tanks, staff contacts are listed on the main Storage Tanks webpage.

Please note that the business may be subject to other applicable requirements. The business may contact us via phone, 651-282-6143 or email, smallbizhelp.pca@state.mn.us if they have questions or would like assistance.

Best,

Clare Grilley| Environmental Specialist

(she/her/hers)

Small Business Environmental Assistance Program

651-757-2429| Hotline: 651-282-6143

www.pca.state.mn.us/smallbizhelp

County Department

Assessor	No comment received.
Attorney	No comment received.

E911 Addressing	*COMMENTS: The Pope County E911 Rural Addressing Ordinance, Section 2.2.B. states, "Notice of New Construction. Every owner of real property in Pope County on which a structure is erected or placed after the effective date of this Ordinance shall notify the PCRA of the structure and obtain an E-911 address to be displayed as required per this ordinance."* *PROPOSED CONDITIONS: Applicant must apply for an E911 address in accordance with the Pope County E911 Rural Addressing Ordinance, Section 2.2.B.*
Emergency Mgt	No comment received.
Engineer	*COMMENTS: CSAH 21 is scheduled to be resurfaced next construction season. We can evaluate any necessary driveway surface improvements (within the highway right-of-way) as part of our county road project. If any other driveway improvements are needed as a result of the change in land use, the owner will need to coordinate those improvements with the Highway Department.* *PROPOSED CONDITIONS: None.*
WCA Officer	*COMMENTS: There do not appear to be any wetlands on the parcel in question, so I have no concerns from a WCA standpoint. As Ag Inspector, I would recommend the use of best management practices in regard to stockpiles of earthen materials and areas of bare ground, to lessen the risk of the establishment or spread of noxious weeds.* *PROPOSED CONDITIONS: - Deployment of best management practices for dealing with exposed ground, including stockpiles, to prevent the spread of noxious weeds.*

Township

Glenwood	No comment received.

Other Comments Received

No comment received.

Public Notice

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

POPE COUNTY PLANNING ADVISORY COMMISSION
NOTICE OF PUBLIC HEARING FOR
CONDITIONAL USE REQUEST

Notice is hereby given that a Public Hearing will take place in conjunction with the Planning Advisory Commission meeting to be held at 6:00 pm or shortly thereafter on Thursday, November 20th, 2025 in the Pope County Courthouse to consider the following conditional use request.

Description of Request: Conditional Use hearing for an application by Brent Beckwith (CUP-25-014, Parcels#09-0311-007), if granted would allow applicant to establish a contractor office and storage yard in an Industrial (I) zoning district per section 8.2.3.F of the Pope County Land Use Controls Ordinance.

Legal Description/Site Location: Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼), Section 17, Township 125 (Glenwood), Range 37, 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 Planning Advisory Commission 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) review the staff prepared report via Pope County website;
4) observe and/or participate in the proceedings of the Planning Advisory Commission meeting.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. ***Notices of Decision*** *will be posted* ***online*** *shortly after decision making at the following Pope County webpage:*

- *https://www.popecountymn.gov/land-resource-management/boa-pac-notices-of-decision/*

Thank you for your patience and consideration in this matter.

Dated: November 7, 2025
By: Jessica Hill, Zoning Administrator, Land & Resource Management

Supplemental Information

Supplemental Information Attachment 1:

Conditional Use Permit Application
(Brent Beckwith, 14 October 2025)

POPE COUNTY MINNESOTA

CONDITIONAL/INTERIM USE PERMIT APPLICATION

L&RM FORM 17

RECEIVED
OCT 14 2025
BY: GG

S:\0_ADMIN\1_Forms\Form 17_CUP-IUP Application\L&RM Form 17_CUP-IUP Application.docx

CONDITIONAL /INTERIM USE PERMIT APPLICATION

A conditional or interim use is permitted within a zoning district only when allowed by the County Board of Commissioners or their legally designated agent after public hearing provided certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district. A Conditional Use or Interim Use permit may be denied if the use is deemed incompatible with other permitted uses of the district.

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

CUP-25-014

Applicant Information

Applicant Names	Brent Beckwith
[redacted]	

Property Description

Property Address	County Road 21 - 1,000 Feet South Of Park Road			City	Glenwood	State MN	Zip 56334
Township Name	Glenwood			Section 17		Twp 125	Range 37
Parcel No.	09-03110-007			Associated Parcel No.			

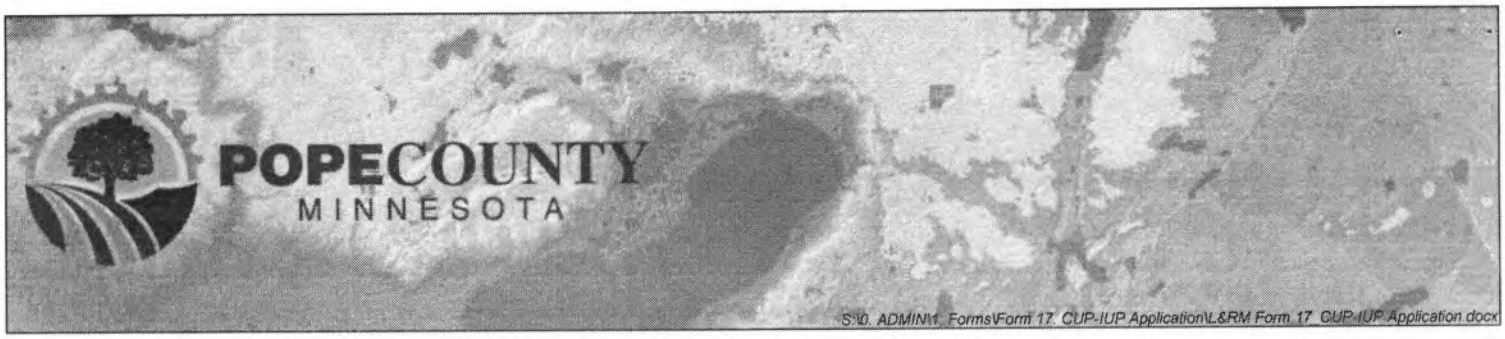
Project Narrative

What is the conditional / interim use permit application for?	Contractor Office and Storage Yard

Provide written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized:

See attached.

Pope County Land & Resource Management
130 East Minnesota Ave | Glenwood, Minnesota 56334 |
Phone (320) 634-7791 | Email pub.lrm@popecountymn.gov
Website https://www.popecountymn.gov/land-resource-management/



APPLICATION REQUIREMENTS

The following application requirements must be provided:	Description
1. The applicant for a Conditional or Interim Use Permit 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.	***Two separate checks (made out to Pope County) must be provided:*** 1. ***Application Fee = $500*** 2. ***Recording Fee = $46***
2. Written description of the proposed activities, including:	See attached.
a. Type of business or activity (including scope of operations);	See attached.
b. Proposed number of employees;	<10 Employees
c. Days and hours of operation;	Hours will be limited to business hours primarily.
d. Equipment and vehicles to be used for the activity;	Standard equipment, such as trucks, excavators, and similar to equipment used by nearby property owners.
e. Proposed floor plan of any structure or use indicated;	See attached.
f. Sanitary sewer and water plan with estimated use per day;	Will construct private septic system and private well - Under 500 GPD
g. Any maintenance to take place on-site, including how hazardous materials and solid waste will be stored and disposed of; and	No hazardous waste will be stored on-site. Solid waste will be disposed of by a sanitary disposal company (ie. West Central Sanitation)
h. Proposed exterior lighting, signage and storage.	Basic security lighting, no signage, and storage of normal construction equipment/trucks and stockpiles of aggregate materials
3. Site plan (completed by a licensed land surveyor if applicable*) including, but not limited to: a. Property lines; b. Existing topography; c. Existing and proposed development (including roads, driveways, structures, septic components, wells, etc.); d. Distance from water body, road, property lines, septic components (tank and drainfield), well, neighboring feedlots, etc.; e. Finished grading and drainage plan; f. Existing and proposed screening; and g. Other requirements as deemed appropriate by the Administrator.	***Please <u>provide</u> on the <u>Site Plan page of this application</u> or <u>attach</u> to this application upon submittal.*** ***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)*
4. Any additional information required by the Administrator.	

Pope County Land & Resource Management
130 East Minnesota Ave | Glenwood, Minnesota 56334 |
Phone: (320) 634-7791 | Email: pub.lrm@popecountymn.gov
Website: https://www.popecountymn.gov/land-resource-management/

Supplemental Information Attachment 2:

Survey Site Plan
(Radach Land Surveying, LLC, 1 October 2025)

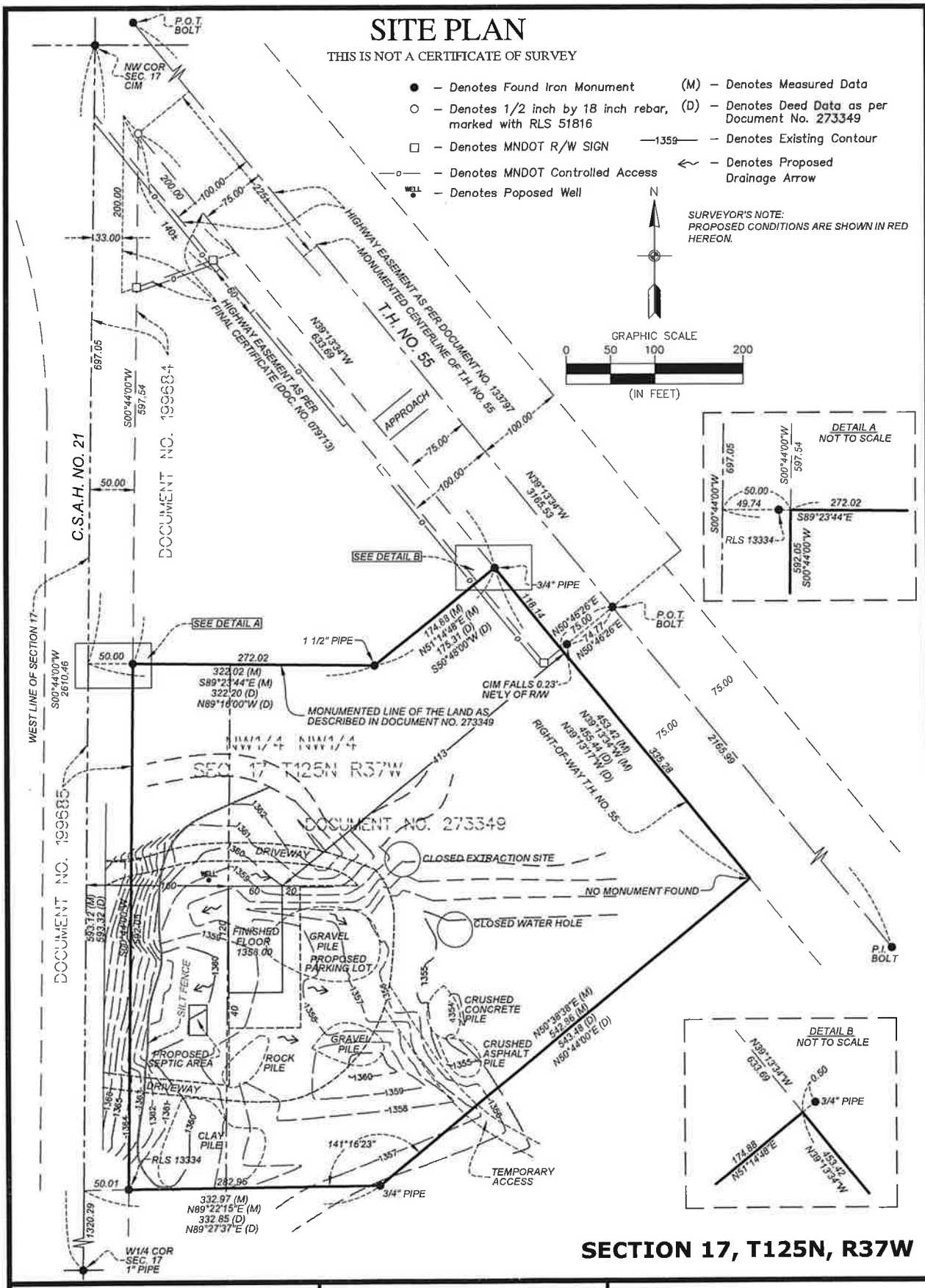
SITE PLAN

THIS IS NOT A CERTIFICATE OF SURVEY

● – Denotes Found Iron Monument
○ – Denotes 1/2 inch by 18 inch rebar, marked with RLS 51816
□ – Denotes MNDOT R/W SIGN
—o— – Denotes MNDOT Controlled Access
WELL – Denotes Poposed Well
(M) – Denotes Measured Data
(D) – Denotes Deed Data as per Document No. 273349
—1359— – Denotes Existing Contour
– Denotes Proposed Drainage Arrow

SURVEYOR'S NOTE:
PROPOSED CONDITIONS ARE SHOWN IN RED HEREON.

GRAPHIC SCALE
0 50 100 200
(IN FEET)



SECTION 17, T125N, R37W

RADACH
land surveying llc
4288 Little Ida Beach Rd NW, Alexandria, MN 56332
(320) 815-8582 | micah@radachlandsurveying.com

DRAWN BY: MTR
ISSUE DATE:10/1/2025
JOB NO. 1121B

SURVEY PREPARED FOR:

Brent Beckwith

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota

Name: Micah T. Radach
Date: 10/1/2025 License #: 51816
Signature:

Supplemental Information Attachment 3:

Project Narrative
(Brent Beckwith, 14 October 2025)

Narrative for Conditional Use Permit – Beckwith Construction LLC:

Contractor Office and Storage Yard Greater than 50,000 Square Feet

This will be a contractor shop/office and a storage yard for equipment and stockpiles. The contractor will be performing construction, excavation and septic installation offsite. Stockpiles will include storage of aggregate materials, such as rock, gravel, concrete, asphalt used for business purposes. Hours will be limited to business hours primarily. Standard equipment, such as trucks, excavators, and similar to equipment used by nearby property owners.

1. ***The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted.***

The use meets setbacks and has adequate stormwater management. See site plan.

2. ***The use is not in conflict with the County Comprehensive Land Use Plan.***

The use will not conflict with the County Comprehensive Land Use Plan. It is a conditional use listed in the ordinance and promotes economic development and increases the tax base on in the township.

3. ***That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair neighboring property values in the area, and will not interfere with the best interest of the surrounding area or the community as a whole.***

The plan is to build a steel building with neutral colors that will be approximately 20' in height, which is similar to nearby buildings. It will be built according to industry standards. There are no scenic views that will be blocked by the building. The building will not impair or dimmish neighboring property uses or values.

4. ***The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems and other public facilities and utilities which serve or are proposed to serve in the area.***

The use is not anticipated to increase traffic or create a burden on roads. Transportation of equipment will be done via semi-truck and trailer. No customers are expected to be onsite. No parks, schools or public facilities are in the area. No public utilities service the property.

5. ***The structure and site shall have an appearance that will not have an adverse effect on adjacent properties.***

The plan is to build a steel building with neutral colors that will be approximately 20' in height, which is similar to nearby buildings. It will be built according to industry standards.

6. ***That the road on which the project is proposed is adequate to handle increased traffic during construction and operation, and that the use will not cause traffic hazards or congestion.***

It is not anticipated that the proposed use will increase traffic or use of the road. The equipment and employees are already using the neighboring properties and need more space to store aggregate materials and office.

7. ***Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, odor or general unsightliness.***

The existing businesses nearby are largely related businesses to the applicant. It is not anticipated that other businesses will be affected as the equipment is already of use on the neighboring properties. The only change will be an additional storage/office building and the storage of aggregate materials onsite.

8. ***That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property uses predominant to the area.***

The use will not impede the development and improvement of surrounding areas.

9. ***That adequate utilities, drainage, and other necessary facilities have been or are being provided.***

See attached site plan. Adequate utilities, drainage, septic and well will be installed.

10. ***That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise and vibration in order that none of these will constitute a nuisance, and that adequate measures have been or will be taken to prevent negative impacts on surface water, groundwater and air quality, and that measures have been taken to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.***

The proposed use will occur primarily during business hours. The applicant will take necessary measures to minimize fumes from equipment, dust from the storage of aggregate materials, and noise and vibrations from equipment on site. The applicant will take necessary measures to protect groundwater and air quality. No lighted signs or lights other than security lights will be used on the property.

Supplemental Information Attachment 4:

Minnesota Administrative Rules, Chapter 7035, Part 7035.2860, Beneficial Use of Solid Waste

7035.2860 BENEFICIAL USE OF SOLID WASTE.

Subpart 1. **Applicability.** This part establishes a procedure for determining when use of a material classified as a solid waste is a beneficial use. The uses listed in subpart 4 as standing beneficial use determinations have been reviewed and determined to be beneficial uses of solid waste by the agency. All other proposed uses of solid wastes must obtain case-specific beneficial use determinations in accordance with the procedures in subpart 5. The following exemptions are provided:

A. Beneficial uses authorized to occur by an agency permit or legally binding document issued prior to March 15, 2004, are exempt from this part. Upon expiration of the authorization, the procedure for obtaining a case-specific beneficial use determination in subpart 5 must be followed.

B. Recyclable materials recycled in accordance with part 7035.2845 and Minnesota Statutes, section 115A.03, subdivision 25, are exempt from this part.

C. Recyclable materials that are not exempt under item B are exempt from the requirement to obtain a case-specific beneficial use determination under subpart 5 when they are incorporated into a manufactured product as defined by part 7035.0300, subpart 62a.

D. Composts that are used in accordance with the standards contained in part 7035.2836 are exempt from this part.

Subp. 2. **Beneficial use standards.** To constitute a beneficial use under this part, the following standards must be met:

A. the solid waste must not be stored in anticipation of speculative future markets;

B. the solid waste must be adequately characterized in accordance with part 7035.2861;

C. the solid waste must be an effective substitute for an analogous material or a necessary ingredient in a new product;

D. the use of the solid waste does not adversely impact human health or the environment; and

E. the solid waste must not be used in quantities that exceed accepted engineering or commercial standards. Excess use of solid waste is not authorized by this part and is considered disposal.

Subp. 3. **Regulatory exemption.** Unless specified otherwise by the agency in a beneficial use determination or permit, a material remains a solid waste until it is incorporated into a manufactured product or utilized in accordance with a standing or a case-specific beneficial use determination. Until the time this regulatory exemption occurs, the material must be stored in compliance with part 7035.2855 and managed as a solid waste in accordance with this chapter.

Subp. 4. **Standing beneficial use determinations.** A standing beneficial use determination means that the generator or end user of a material can do so in accordance with this subpart without

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contacting the agency. Only those specific solid wastes and the uses designated in items A to Q have been given standing beneficial use determinations. Any other uses of the solid waste are not authorized and must follow the procedure outlined in subpart 5.

A. Unadulterated wood, wood chips, bark, or sawdust when these materials are used as mulch, landscaping, animal bedding, erosion control, wood fuel production, a bulking agent at a compost facility operated in compliance with part 7035.2836, or as a substitute for wood.

B. Unadulterated newspaper and newsprint when used as animal bedding, insulation, or as a substitute for paper products.

C. Uncontaminated glass when used as a sandblast agent.

D. Unusable latex paints, characterized as high solid content, off-specification colors, sour, frozen, or poor quality, when used to produce processed latex pigment for use as an additive for the production of ASTM-specified specialty cement.

E. Reclaimed glass and porcelain fixtures when used as a substitute for conventional aggregate or subgrade applications in accordance with Minnesota Department of Transportation Standard Specifications for Construction 2000 Edition, 3138.2 A2.

F. Crumb rubber when used in asphalt paving or applications where it is used as a substitute for rubber or similar elastic material.

G. Tire shreds when used as lightweight fill in the construction of public roads in accordance with Minnesota Statutes, section 115A.912, subdivision 4.

H. Tire chips when used as a substitute for conventional aggregate in construction applications when the ratio of this substitution is no greater than one to one by volume. This does not include use of tire chips as general construction fill or clean fill.

I. Uncontaminated recognizable concrete, recycled concrete and concrete products, and brick when used for service as a substitute for conventional aggregate.

J. Salvaged bituminous when used as a substitute for conventional aggregate in accordance with Minnesota Department of Transportation Standard Specifications for Construction 2000 Edition, 3138.2 A2.

K. Coal combustion slag when used as a component in manufactured products such as roofing shingles, ceiling tiles, or asphalt products.

L. Coal combustion slag when used as a sand blast abrasive.

M. Coal combustion fly ash as defined by ASTM C 618 when used as a pozzolan or cement replacement in the formation of high-strength concrete.

N. Coal combustion fly ash or coal combustion gas scrubbing by-products when used as an ingredient for production of aggregate that will be used in concrete or concrete products. This does not include use in flowable fill.

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O. Foundry sand when used as a feed material for the manufacture of Portland cement.

P. Uncontaminated by-product limes when used as agricultural liming materials and distributed in accordance with chapter 1508 and Minnesota Statutes, sections 18C.531 to 18C.575. Application rates for by-product limes must be based on the lime recommendations of the University of Minnesota Extension Service and cannot cause the soil pH to exceed 7.1 after application. Site-specific application rates for by-product lime must be determined by an individual that has a background and understanding of crop nutrient management such as a crop consultant or University of Minnesota Extension Specialist. Recommended rates for lime can be obtained from the University of Minnesota Extension Service publication "Fertilizer Recommendations for Agronomic Crops in Minnesota" BU-06240-S, and the Minnesota Department of Agriculture publication "Ag-Lime Recommendations in Pounds ENP per acre" available on their website at http://www.mda.state.mn.us/lime.

Q. Manufactured shingle scrap and ground tear-off shingle scrap when used in asphalt pavement or road subbases.

Subp. 5. **Case-specific beneficial use determinations.** For uses of a solid waste not identified in subpart 4, the agency shall make a case-by-case determination on whether the proposed management option for the specific solid waste is a beneficial use. This determination must be based on information submitted in accordance with this subpart. In cases where the information required by this subpart is not available, a demonstration/research project designed to provide the missing information may be proposed in accordance with part 7035.0450. Unless otherwise directed by the agency, proposals must include the following information at a minimum:

A. a description of the solid waste, manner in which it is generated, quantity generated, quantity to be utilized, and its proposed end use;

B. results of chemical and physical characterization of the solid waste done in accordance with part 7035.2861;

C. an evaluation of the human health and environmental impacts the proposed use may have and a comparison of these impacts with those from other management alternatives for the solid waste;

D. verification that the end product complies with industry standards and specifications for its intended use and a comparison of the chemical and physical characteristics of the solid waste proposed for use with the material it will replace;

E. a description of the routine sampling and analysis that will be conducted of the solid waste to ensure that the information submitted for review is representative and the solid waste has consistent characteristics. The description must include the procedure and frequency of sampling and analysis, parameters to be analyzed, analysis methods, and laboratory reporting limits to be used;

F. a copy of a contract to purchase or use the proposed product or other documentation proving that a market for the proposed product or use exists;

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G. a detailed description of how and where the product will be distributed. This should also include a detailed description of how the solid waste will be managed from the time it is generated until the time it will be utilized and the management practices that will be in place to ensure that human health and the environment are protected;

H. the following information related to the management of solid waste stored prior to its use:

(1) a complete description of the types of storage to be used prior to beneficial use; and

(2) a description of how the solid waste will be managed to meet the requirements in part 7035.2855;

I. a description of any wastes that will need to be managed as a result of beneficially using the solid waste;

J. verification that local units of government with authority to regulate the proposed process or use of the solid waste have received a copy of this application and have been provided information on who to contact at the agency to provide comments on the proposed beneficial use activity; and

K. a proposal for notification of interested or affected parties. The agency shall review this proposal and make a determination on the appropriate notification procedures.

Subp. 6. **Agency actions.** Upon completing review of the information submitted under subpart 5, the commissioner will take one of the following actions:

A. request additional information for evaluation of the proposal;

B. notify the proposer in writing, that a beneficial use determination has been made and the commissioner agrees the proposed use of the solid waste is beneficial. If the determination is conditional, the notification must include the conditions; or

C. deny the request for a case-specific beneficial use determination.

If the request is denied, the proposer must obtain a permit or variance before the solid waste can be managed in the manner proposed. If a permit is required, the type of permit issued may be a state disposal system or a solid waste management facility permit depending on the type of environmental concerns that need to be addressed by the permit.

Subp. 7. **Reporting requirements.** Proposers that have applied for and received case-specific beneficial use determinations according to subpart 5 must submit a report to the county in which the solid waste is generated annually by January 31. The report must contain a description of the type and quantity of solid waste beneficially used during the time period from January 1 to December 31 of the previous year. The Minnesota Pollution Control Agency will provide a format for submitting this report.

Subp. 8. **Modification of a beneficial use determination.** The commissioner may modify conditions attached to any beneficial use determination made under subpart 5 if the commissioner

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finds, on the basis of new information, that new conditions are necessary to protect human health and the environment.

Subp. 9. **Revocation of a beneficial use determination.** The commissioner may revoke any beneficial use determination made under subpart 5 if the commissioner finds, on the basis of new information, the standards in subpart 2 are not being met. If the commissioner revokes a beneficial use determination, use of the solid waste can only continue if authorized by a permit and/or a variance is obtained. The commissioner shall provide a reasonable amount of time for the proposer to apply for a permit or variance or to terminate the regulated activity.

Subp. 10. **Public information.** The agency shall post all case-specific beneficial use determinations made by the agency on its website.

Statutory Authority: *MS s 116.07*

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Supplemental Information Attachment 5:

Site Visit Photos
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