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# **Le Sueur County, MN**

**Thursday, March 10, 2016**

**Regular session**

## **Item 2**

**Dale & Sandi Johnston-Mark Jindra Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# STAFF REPORT

## GENERAL INFORMATION

**APPLICANT:** Dale & Sandi Johnson      **OWNER:** Mark Jindra

**911 ADDRESS:** New Lexington Road

**PROJECT DESCRIPTION:** Transfer the development right from the SW1/4 SE1/4 in a Special Protection "SP" District, on a Natural Environment Lake, Hackridge Lake, to the NE1/4 SE1/4, in an Agriculture "A" District.

**ZONING ORDINANCE SECTIONS:** 8, 13.1, 19, 21

**ZONING DISTRICT PURPOSES:** The Agriculture (A) District is established for areas where agriculture uses are seen as the best and highest long term use of the land. The land itself needs to be preserved for primarily agricultural activities. These areas should avoid existing cities, residential zones and subdivisions. They should be large contiguous land areas with mostly prime soils. Rezoning should only be considered on the zone's borders in order to maintain the Zoning integrity of the District. Dwellings that are allowed should be on the edges of the open farmland where possible or utilize existing abandoned farm sites. The total number of Dwellings shall not exceed sixteen (16) per section of land with the exception of Transfer of Development Right and lots of record. Transfer of development rights may be utilized to exceed the permitted housing density of one dwelling per quarter-quarter section (40 acres), provided that the density does not exceed four dwellings per quarter-quarter section in the receiving quarter-quarter section. Lots of Record, shall be exempt from density standards.

### GOALS AND POLICIES:

**Goal 4:** Le Sueur County should adopt and enforce land use goals and policies that provide a wide range of opportunity for Urban and Rural Housing Development.

**Policy:** Le Sueur County should allow non-farm development to occur in agricultural areas, but with guidelines meant to reduce conflicts with agricultural operators.

## SITE INFORMATION

**LOCATION:** Property is located in the SE 1/4, Section 1, Lexington Township.

**ZONING:** Sending ¼ ¼ Special Protection "SP" Receiving ¼ ¼ Agricultural "A"

### GENERAL SITE

**DESCRIPTION:** Wooded, pasture land

**ACCESS:** Approved Access off Lexington Road

### EXISTING LAND USE WITHIN ¼ MILE:

North: Scattered Housing, farmland, feedlot (meets the separation distance)  
East: Farmland

South: Scattered Housing, farmland  
West: Farmland

## TOWNSHIP BOARD NOTIFICATION

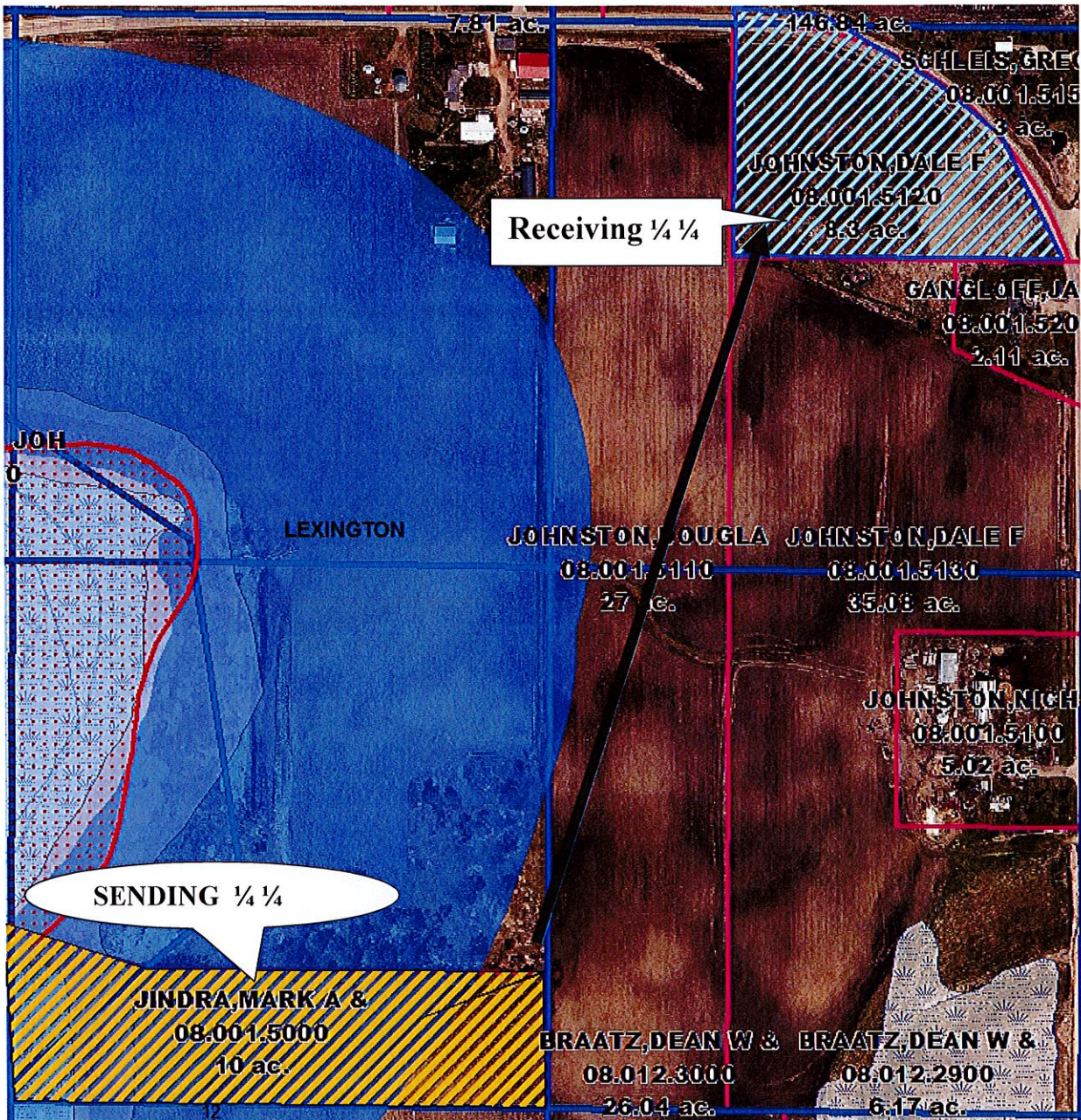
Larry John Rynda, Lexington Township Officer was notified on February 3, 2016.

## NATURAL RESOURCES INFORMATION

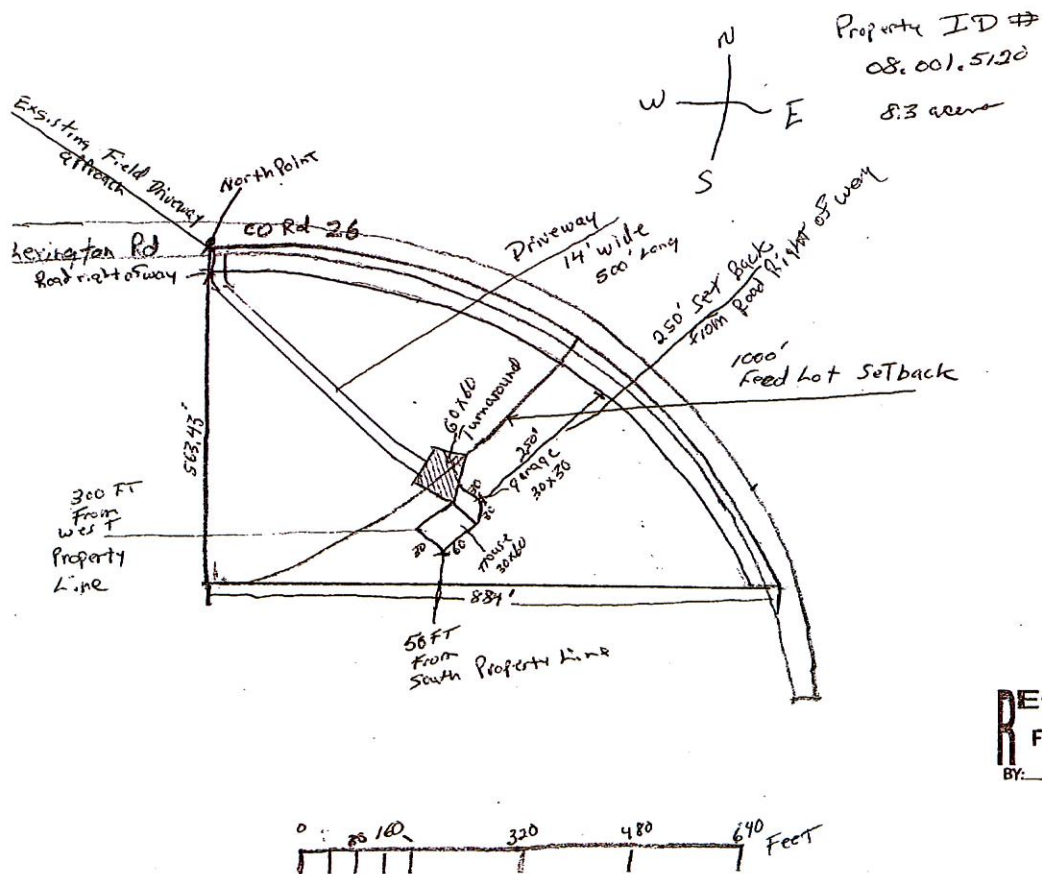
**SHORELAND:** The proposal is not located within the Shoreland District.

**WETLANDS:** According to the National Wetlands Inventory, No wetlands located in the quarter-quarter section where the project is proposed.

SITE PLAN/AERIAL PHOTO







## LAND USE & PERFORMANCE STANDARDS- SECTION 19, LE SUEUR COUNTY ZONING ORDINANCE

1. Development rights may be transferred to a contiguous quarter-quarter section in the Agricultural District, upon obtaining a conditional use permit.
2. For the purpose of this Subdivision contiguous shall mean quarter-quarter sections that are touching along a boundary or at a point. Quarter-quarter sections that are separated by a road shall be considered contiguous.
3. Development rights shall not be transferred from one township to another township.
4. The sending quarter-quarter shall have a building eligibility, as defined by this Ordinance, in order to transfer development rights.
5. The transferred development right shall meet the registered feedlot separation requirements of this Ordinance, including transferred Lot of Record building eligibilities.
6. The transfer shall not allow the establishment of more than four (4) dwellings in a quarter-quarter section, with the exception of non-transferred lots of record and existing building sites.
7. There shall be no maximum number of building eligibilities in the sending quarter-quarter section.
8. Upon approval of the Conditional Use Permit for transfer of development rights, the building site shall not be required to be established and shall be exempt from the one (1) year completion requirement for the conditional use permits as set forth in this Ordinance.
9. The transfer shall be memorialized in a document that is recorded against both the sending and receiving property.

Right to Farm-Per Section 19, Subdivision 11.

### ATTACHMENTS

Application, Narrative, Legal Descriptions, Septic Contractor letter, Driveway approval.

### PLANNING AND ZONING COMMISSION CONSIDERATIONS

The Planning Commission and staff shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce such adverse effects. Its judgment shall be based upon the following factors to include, but not limited to:

1. Relationship to County plans.
2. The geographical area involved.
3. Whether such use will negatively affect surrounding properties in the area in which it is proposed.
4. The character of the surrounding area.
5. The demonstrated need for such use.
6. Whether the proposed use would cause odors, dust, flies, vermin, smoke, gas, noise, or vibration or would impose hazards to life or property in the neighborhood.
7. Whether such use would inherently lead to or encourage disturbing influences in the neighborhood.
8. Whether stored equipment or materials would be screened and whether there would be continuous operation within the visible range of surrounding residences.
9. Abatement of Environmental Hazards as regulated in this Ordinance
10. **Other factors impacting the public health, safety and welfare.**

### PLANNING AND ZONING COMMISSION FINDINGS

Based on the information submitted by the applicant, contained in this report, and as required by the Le Sueur County Zoning Ordinance, the following findings have been developed for this request:

*(Please circle one for each item: Agree, Disagree, Not Applicable.)*

1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity. **A D NA**
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **A D NA**
3. The adequate utilities, access roads, drainage and other facilities have been or are being provided.  
**A D NA**
4. The adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.  
**A D NA**
5. The adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **A D NA**

*Recommend (circle one) approval / denial / table / of Conditional Use Permit.*



# Le Sueur County

## Conditional Use Application

### I. Applicant:

Name Dale + Sandi Johnston  
Mailing Address 19123 Lexington Rd  
City Montgomery State MN Zip 56069  
Phone # 952-292-9377 Phone # \_\_\_\_\_

### II. Landowner:

Name Mark Jindra  
Mailing Address 20488 360th St  
City Le Center State MN Zip 56057  
Property Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

III. Parcel Information: Receiving - 08.001.5120 - 8.3  
Parcel Number Siding - 08.001.5000 - 10 Parcel Acreage 8.3 + 10  
Attach Full Legal Description (**NOT** abbreviated description from tax statement)  
Township Lexington Section 1  
Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

### IV. Township Notification: Township must be notified of proposed use prior to application.

Lexington Twp Township notified on 2-3-16  
(Township Name) (Date)

Board Member Larry John R Jindra regarding the proposed use.  
(Name)

### V. Quantities and Submittal Formats:

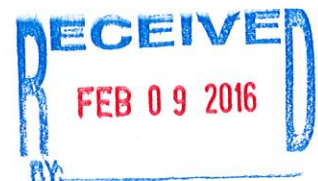
- One (1) reproducible 8.5" x 11" copy of the request and all other supporting documents.
- Twenty three (23) copies must be submitted, if any documents are in color, an aerial, or larger than 8.5" x 11" in size.
- Electronic version of any supporting documents *if available*.
- Additional copies may be requested as deemed necessary by the Department.
- Application must be made **in person** by the applicant and/or landowner no later than 12 P.M. on the date of application deadline.
- Appointment is necessary.
- Applications will not be accepted by mail.**

### VI. Fees: Must be paid at the time of application.

Conditional Use Permit \$ 750 After-The-Fact fee is **doubled.**  
Filing Fee \$ 46

#### Additional Fees:

Special Meeting \$ 2,000  
After-The-Fact Penalty \$ 1,500 OR 10% of improvement, whichever is greater



## VII. Type of Request:

- |  |   |
|--|---|
| <input type="checkbox"/> Self Service Storage      | <input type="checkbox"/> Value Added Agriculture            |
| <input type="checkbox"/> School/Church/Cemetery    | <input type="checkbox"/> Antique Sales/Service/Repair       |
| <input type="checkbox"/> Retail Nursery/Greenhouse | <input type="checkbox"/> Substation/Transmission Lines etc. |
| <input type="checkbox"/> School/Church/Cemetery    | <input checked="" type="checkbox"/> Other <u>TOE</u>        |

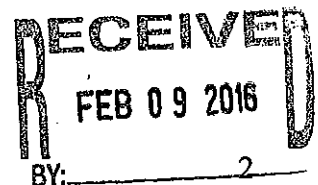
## VIII. Description of Request:

- a. A full description of request with detailed information must be attached.
- b. Complete the following in relationship to the proposed Conditional Use Permit.

1. PROPOSED DAYS AND HOURS OF OPERATION: NA
2. ESTIMATED NUMBER OF PERSONS TO ATTEND PLACE OF BUSINESS/LOCATION ON A DAILY OR WEEKLY BASIS: NA
3. LIST OF PUBLIC HEALTH PLANS:
  - i. Water Supply: Private Well
  - ii. Toilet facilities: Private Septic System
  - iii. Solid Waste Collection: Waste Management
4. FIRE PREVENTION: NA
5. SECURITY PLANS: NA
6. RETAIL SALES: NA
7. FOOD OR ALCOHOL SERVED OR FOR SALE: NA
8. DESCRIBE IF THE APPLICANT REQUESTS THE COUNTY TO PROVIDE ANY SERVICES OR COUNTY PERSONNEL: (For example, pedestrian and/or vehicular traffic control.)  
NA
9. SOUND AMPLIFICATION, PUBLIC ADDRESS SYSTEM, PLAYING OF MUSIC:  
NA
10. EXTERIOR LIGHTING: NA
11. PARKING AND LOADING: NA
12. SIGNAGE: NA
13. ROAD ACCESS: (Approved by the road authority) See attached
14. CERTIFICATE OF INSURANCE: NA
15. MEET ALL APPLICABLE COUNTY STATE & FEDERAL REGULATIONS:  
(For example additional licensing and/or permitting) NA

## IX. Site Plan: Shall include but not limited to the following:

- |                     |           |                       |                            |
|---------------------|-----------|-----------------------|----------------------------|
| • North point       | • Lake    | • Existing Structures | • Septic system            |
| • Setbacks          | • River   | • Proposed Structures | • Well                     |
| • Property Lines    | • Wetland | • Lot Dimensions      | • Access (size & location) |
| • Road Right-Of-Way | • Stream  | • Ponds               | • Easements                |
- 
- Parking (Size & location-if applicable to application)
  - Landscape, screening and buffering (if applicable to application)
  - Location of significant trees to be removed (if applicable to application)



**X. Attachments: shall include but not limited to:**

- ☒ a. **Description of Request**-See Part VIII for full details and requirements.
- ☒ b. **Site Plan**-See Part IX for full details and requirements.
- ☒ c. **Full legal description**-Not abbreviated description from tax statement.
- ☒ d. **Access approval**-Attach approval in writing from proper road authority.
- ☒ e. **Township Notification**-See Part IV for details and requirements.
- ☒ f. **Septic System Compliance Inspection**
- ☒ g. **Erosion control plan**-Attach completed and signed plan including map.
- ☒ h. **Floor plans and/or blue prints**

**XI. Procedure:**

The Planning & Zoning Commission shall hold a public hearing on the proposed Conditional Use Permit at a scheduled Planning and Zoning Commission meeting.

The Planning and Zoning Commission is an advisory board to the County Board of Commissioners and will make a recommendation to the County Board.

The Department shall report the findings and the recommendations of the Planning Commission to the County Board for final decision.

Action by the County Board shall be a majority vote of its members.

The Department shall notify the applicant and/or landowner in writing of the County Board decision.

A certified copy of the Conditional Use Permit shall be filed with the Le Sueur County Recorder by the Department.

**XII. Signatures:**

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

*[Signature]*  
Applicant signature

2-5-16  
Date

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

*[Signature]*  
Property Owner signature

2-8-16  
Date

**OFFICE USE ONLY**

**Request:** Transfer of Development Right

Pre-App Date 2-9-16 Lake Classification -1 SP Feedlot 500' 1000' N  
Meeting Date 3-10-16 Lake -1 Hackberry Wetland Type 1-2 3-8 N  
60 Day 4-9-16 FEMA Panel # 27079C0 175 D Water courses Y N  
Zoning District A / SP Flood Zone X-outside Bluff Y N

- ☒ Request Description
- ☒ Site Plan
- ☒ Full Legal
- ☒ Ordinance

- ☒ Access Approval
- ☒ Erosion Control Plan
- ☒ Blue Prints
- ☐ Other

- ☒ Septic
- ☒ Meeting
- ☒ Fee
- ☐ Penalty

Comp Insp / Design  
Reg / ATF / Spec  
\$ 790

*Letter from Designer*

☒ Application Complete

*[Signature]*  
Planning & Zoning Department Signature

2-9-16  
Date

16013  
Permit #

**RECEIVED**  
**FEB 09 2016**  
BY:



February 8<sup>th</sup>, 2016

To whom it may concern:

I am here to request a transfer of development rights in order to build a private residence in Lexington Township near the address of 19123 Lexington Rd, Montgomery.

In May 2015 I went into the Planning and Zoning Office and the County Recorder Office and was told I had a lot of record and everything was good for the permit. We then proceeded with selling our home to our daughter, Allison Johnston, with the intentions of building a new home on a different part of our land.

I called the Planning and Zoning Office in December 2015 to obtain a permit to begin the process of building our new home. I was then informed I no longer have a plot of record as there was a deed filed to split off 2 acres of agricultural land to my brother in order to settle the estate of my mother, Rita Johnston.

Mark Jindra has agreed to transfer development rights to us from a 10 acre parcel of his land from an adjoining quarter-quarter section to the west, in Lexington Township.

Thank you,



Dale Johnston



DESCRIPTION FOR PID 08.001.5120 - DALE JOHNSTON

Part of the Northeast Quarter of the Southeast Quarter of Section 1, Township 111 North, Range 24 West, Le Sueur County, Minnesota being bounded by the following:

On the North and East by the centerline of Le Sueur County Road No. 26.

On the West by the West 443.66 feet of said Northeast Quarter of the Southeast Quarter.

On the South lying north of the following described line: Commencing at the East Quarter Corner of said Section 1; thence South 00 degrees 00 minutes 00 seconds West on the east line of Section 1, a distance of 563.43 feet to the beginning of the line to be described; thence North 90 degrees 00 minutes 00 seconds West, a distance of 884 feet, more or less, to the east line of the West 443.66 feet of said Northeast Quarter of the Southeast Quarter and there terminating.

Containing 8.3 acres, more or less.



## EXHIBIT "A"

08,012,0300

The SW 1/4 of NE 1/4 of Section 12-111-24, in Le Sueur County, Minnesota.  
Containing 40 acres, more or less.

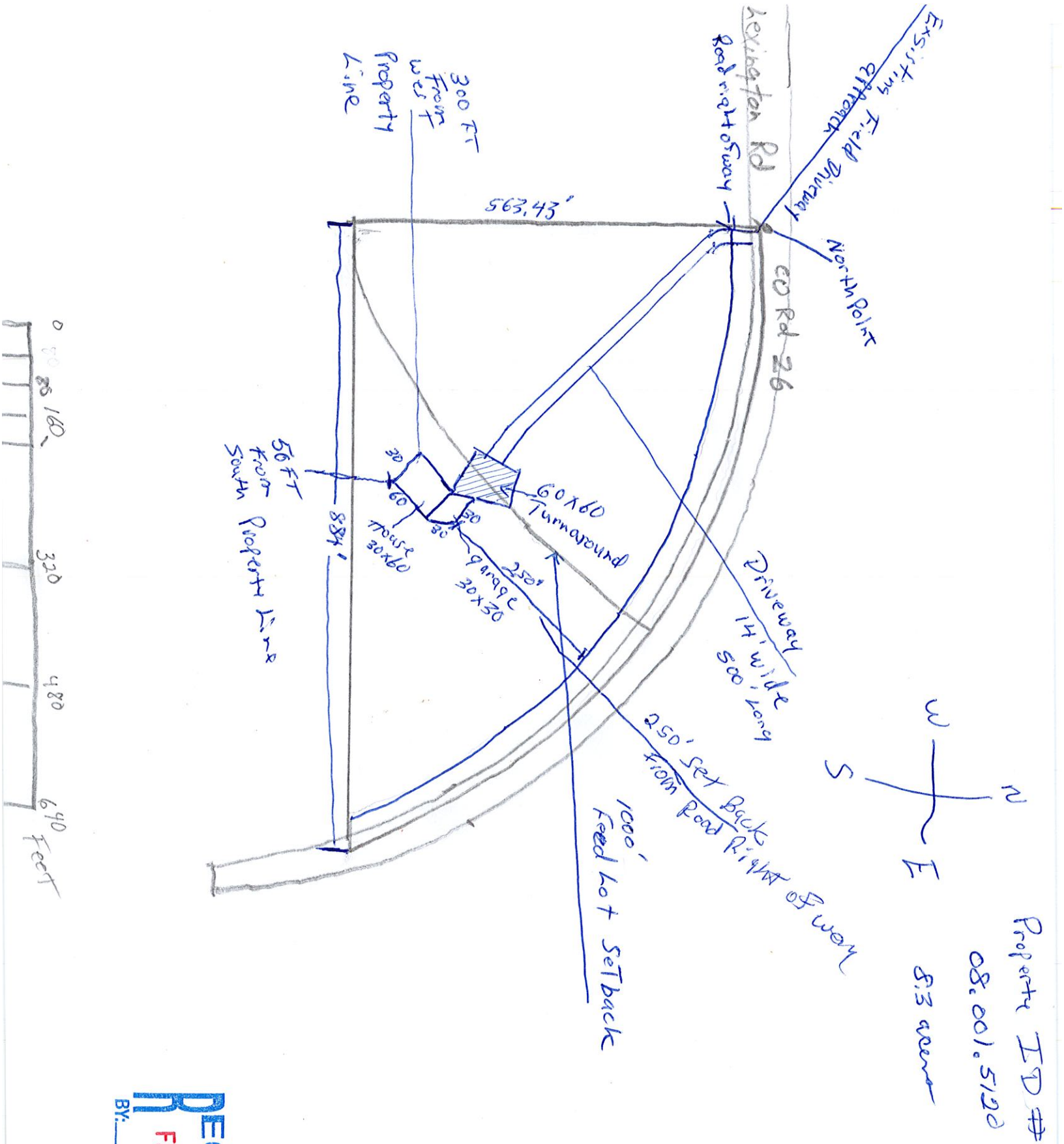
AND ALSO: 08,001.5000 , 08,012,0300

Lot One and the Northwest Quarter of the Northeast Quarter of Section Twelve, and; the South Ten acres of Lot No. Four, also known as the South 330 feet of Lot No. Four, in Section One, Township One Hundred Eleven North, of Range Twenty-four West, in Le Sueur County, Minnesota.

## EXCEPT THE FOLLOWING:

Part of Government Lot Number 1 and part of the Northwest Quarter of the Northeast Quarter of Section 12, Township 111, Range 24, Le Sueur County, Minnesota, described as follows:  
Beginning at the southeast corner of said Government Lot Number 1; thence on an assumed bearing South 88 degrees 35 minutes 22 seconds West along the South line of said Government Lot Number 1 a distance of 407.00 feet; thence North 01 degrees 16 minutes 12 seconds West 710.07 feet; thence North 89 degrees 08 minutes 53 seconds East 616.13 feet; thence South 01 degrees 16 minutes 12 seconds East 706.11 feet to the South line of said Northwest Quarter of the Northeast Quarter; thence South 89 degrees 08 minutes 53 seconds West along said South line 209.13 feet to the point of beginning.





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 BY:

313 Lyndale Ave. N  
New Prague, MN. 56071  
Phone (612) 232-9737  
Fax (952) 758-6278

**Advanced Onsite,  
Inc.**

# Memo

To: Le Sueur County Environmental Health Attn: Michelle  
From: Tom Klanchnik  
Date: February 5, 2016  
Re: **Soils/Septic Sites PID # 08.001.5120**

Hi,

I (noted above, as a licensed designer (R5945, L2656) am submitting this letter on behalf of Randy Trnka of R/T Excavating and his customers Dale & Sandra Johnston for the property noted as PID # 08.001.5120. As per your request, I have examined the Web Soil Survey for the area noted above and discussed below (please see attached) for future possible/required septic design for development.

- 1) The designated area is more than adequate for 2 x 5000 sq ft (primary & Alt) septic drain field sites located on contour in the 138B soils zone (Lerdal Clay Loam) in addition to multiple possible house pads and a 50 ft well setback.
- 2) The area of 238B (Kilkenny Loam) would probably work better.
- 3) Please note that the soil survey is not precise and the MPCA does not allow Septic Design on the survey without Verified (Second Soils) Soil Borings.
- 4) The Area of 08.001.5120 noted above (138B & 238B) exceed 8 feet in elevation above the 256 (low, wet area) soils. This alone is a good indication of suitability for septic drain field consideration.

If you have any questions please call Tom Klanchnik at (612) 232-9737.







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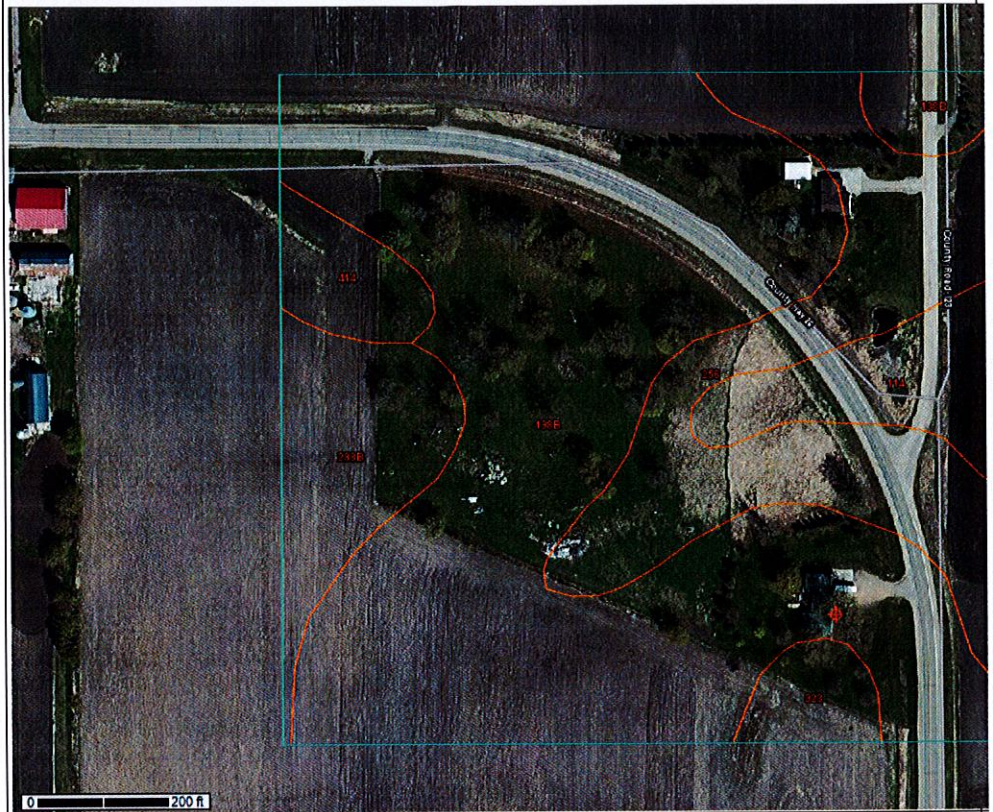
Map Unit Legend

**Le Sueur County, Minnesota (MN079)**

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
114	Glencoe clay loam, 0 to 1 percent slopes	1.8	6.7%
138B	Lerdal clay loam, 2 to 6 percent slopes	15.8	59.2%
238B	Kilkenny loam, 2 to 6 percent slopes	2.0	7.7%
256	Mazaska silty clay loam	5.6	20.9%
323	Shields silty clay loam	0.6	2.4%
414	Hamel loam, 0 to 2 percent slopes	0.8	3.2%
<b>Totals for Area of Interest</b>		<b>26.6</b>	<b>100.0%</b>

Soil Map

Scale (not to scale)



**Warning: Soil Map may not be valid at this scale.**

You have zoomed in beyond the scale at which the soil map for this area is intended to be used. Mapping of soils is done that comprise your AOI were mapped at 1:20,000. The design of map units and the level of detail shown in the resulting scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of show the small areas of contrasting soils that could have been shown at a more detailed scale.

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## **Mettler, Michelle**

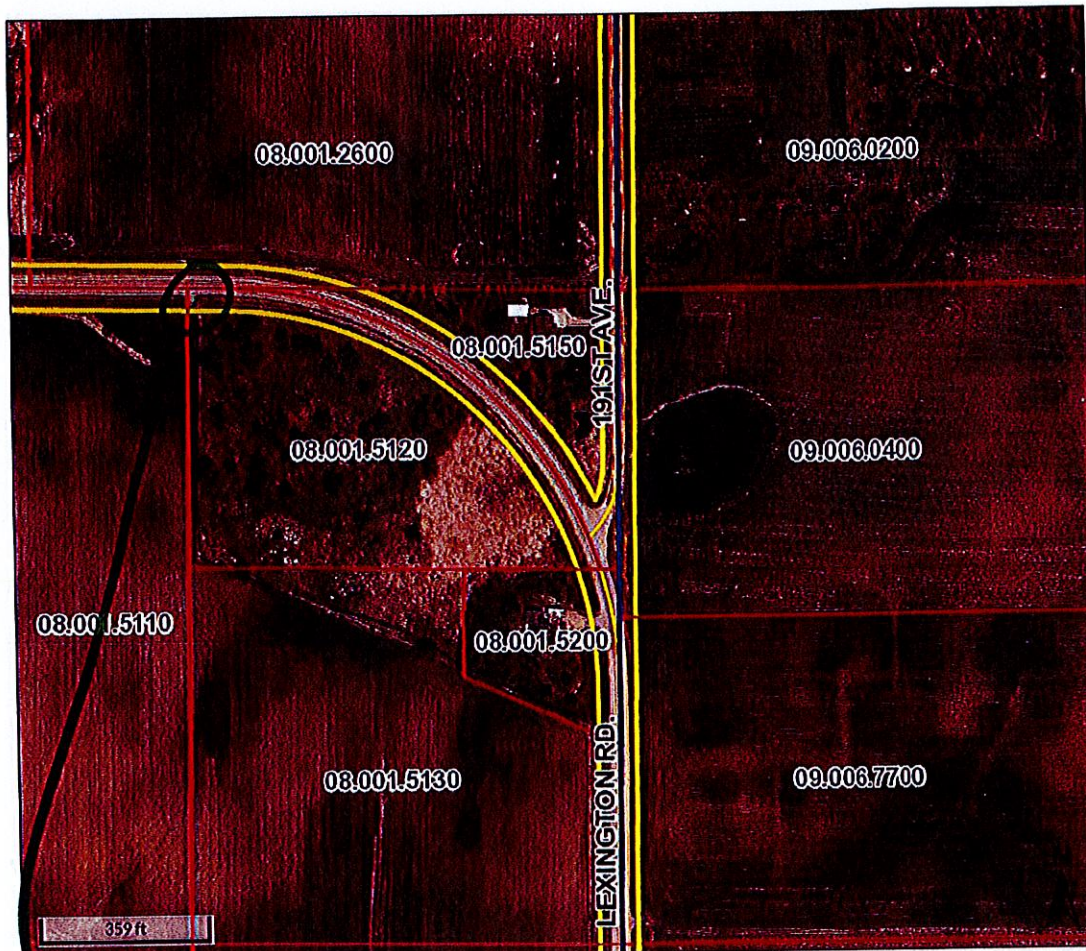
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**From:** Tiegs, David  
**Sent:** Friday, February 05, 2016 11:41 AM  
**To:** Mettler, Michelle  
**Subject:** Access Approval  
**Attachments:** DOC020516.pdf

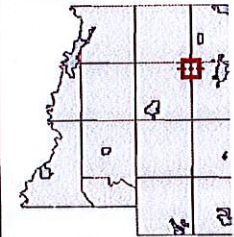
Michelle, The existing entrance in the Northwest corner of parcel 08.001.5120 is acceptable for use as an access to a new single family dwelling. If anything else is needed please let me know.

Thanks,  
Dave Tiegs  
Assistant Highway Engineer  
Le Sueur County





**Overview**



**Legend**

- ☐ City Limits
- ☐ Political Township
- Cadastral Lines**
  - Corp Line
  - County Line
  - Easement Line
  - Geo Twp Line
  - Gov Lot Line
  - Lot Line
  - Misc Line
  - New Split Line
  - Parcel Line
  - Pol Twp Line
  - Quarter Line
  - Railroad Centerline
  - Railroad ROW
  - Road Centerline
  - Road ROW
  - Road ROW Vac
  - Section Line
  - Sub Line 400
  - Unknown Linear
- ☐ Parcels

*Access approved for use with/for single family dwelling.*

<b>Parcel ID</b>	08.001.5100	<b>Alternate ID</b>	n/a	<b>Owner Address</b>	JOHNSTON, NICHOLAS
<b>Sec/Twp/Rng</b>	01-111-024	<b>Class</b>	201 - RESIDENTIAL		19105 LEXINGTON RD
<b>Property Address</b>	19105 LEXINGTON RD	<b>Acreage</b>	5.02		MONTGOMERY, MN 56069
	MONTGOMERY				
<b>District</b>	n/a				
<b>Brief Tax Description</b>	Sect-01 Twp-111 Range-024 5.02 AC COMM FR SE COR OF SEC 1, TH N 702.94 FT TO POB, TH N 475 FT, W 460 FT, S 475 FT, E 460 FT TO POB				
	(Note: Not to be used on legal documents)				

Photo from April 2013

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