



Le Sueur County, MN

Thursday, April 16, 2015

Regular Session

Item 1

Perkins Use Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Mark Perkins
911 ADDRESS: 28717 440th St, Cleveland MN 56017
VARIANCE REQUEST: To allow the applicant to expand a legal non-conforming feedlot operation.
VARIANCE NUMBER: 15017
PARCEL NUMBER: 01.028.0700

SITE INFORMATION

LOCATION: Part of the SE 1/4 of the NW 1/4 in Section 28, Cleveland Township.
ZONING & PURPOSE: Agriculture

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.

GENERAL SITE DESCRIPTION: Agriculture, scattered residences, less than 1 mile from the City of Cleveland.
ACCESS: Existing off 440th Street
LAKE: NA
RFPE: NA

ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact, Letter from Amy Beatty

STAFF FINDINGS

Staff findings per Le Sueur County Ordinance, the following findings have been developed for this request:

- | <u>Variance:</u> | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u> | <u>Page:</u> |
|---|-----------------|------------------|------------------------|--------------|
| a. Non-conformities cannot be enlarged. | | | Section 24, Subdiv.3.1 | 24-1 |
- Variations shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
 - A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
 - It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
 - A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

CONSIDERATIONS

- The following shall be considered at the hearing:

- a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
- b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
- c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

CONDITIONS

1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
3. *If approved*, construction must be completed **prior to the Variance expiration**, Section 22; Subdivision 7.
4. *If approved*, a **zoning permit** must be purchased prior to starting construction, Section 26.
5. **Extension** must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.

USE VARIANCE

LE SUEUR COUNTY PLANNING AND ZONING BOARD OF ADJUSTMENT 88 SOUTH PARK AVENUE LE CENTER MN 56057

Direct Dial (507) 357-8538 Fax (507) 357-8541

APPLICATION DATE: 2/13/2015 PERMIT NUMBER 15017 FEE: \$646.00
60 DAY RULING DATE: 4/14/2015

APPLICANT: MARK PERKINS PROPERTY OWNER: MARK PERKINS
ADDRESS: 28717 440TH ST ADDRESS: 28717 440TH ST
CITY: CLEVELAND CITY: CLEVELAND
STATE: MN ZIP: 56017 STATE: MN ZIP: 56017
PHONE: 507-381-8733 PHONE: 507-381-8733

PARCEL NO: 01.028.0700 TOWNSHIP: CLEVELAND 911: 28717 440TH ST
SEC: 28 SUBDIV: NA
TWP: 110 LOT: NA ZONE: A
RANGE: 25 BLOCK: NA FEMA PANEL #: 27079C0265D
Q/Q: SE NW ROAD: CNTY FLOOD ZONE: X OUTSIDE

I (We), the undersigned, owner(s) and/or applicant of the property described herein, do hereby respectfully petition your Honorable Bodies to grant a variance, as hereinafter designated, and in support thereof, the following facts are presented:

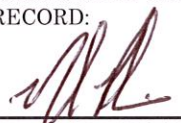
1.) Reason for Requested Variance:

TO ALLOW THE APPLICANT TO EXPAND A LEGAL NONCONFORMING FEEDLOT OPERATION. *on 6.11 acres.*

2.) Reasons for Approval or Denial of Request as Listed in Findings.

3.) Special Conditions of Variance:

RECORDED LEGAL DESCRIPTION OF PROPERTY MUST BE SUBMITTED PRIOR TO ISSUANCE OF ZONING PERMITS. ADDITIONAL CONDITIONS AS STATED IN RECORD:



APPLICANT/PROPERTY OWNER

2/17/15
DATE

Kathy Brockway
LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

2/17/15
DATE

**** FEES ARE NON-REFUNDABLE****

ON-SITE TOUR DATE:	<u>3/19/2015</u>
PUBLIC HEARING DATE:	<u>3/19/2015</u>
ACTION:	_____
<input type="checkbox"/> AS WRITTEN	<input type="checkbox"/> WITH CONDITIONS

BOARD OF ADJUSTMENT CHAIRMAN

DATE

BUILDING SITE MUST BE STAKED OUT THE MONDAY PRIOR TO THE MEETING OR THE APPLICATION WILL BE TABLED.

USE VARIANCE FINDINGS OF FACT

Name of Applicant: MARK PERKINS

Variance # 15017

Variance Request: TO ALLOW THE APPLICANT TO EXPAND A LEGAL NONCONFORMING FEEDLOT OPERATION. *on 6.11 acres.*

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a hardship exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

Y N 1. Does the property owner propose to use the property in reasonable manner?

Explain _____ JM JW JD CH FC

Y N 2. Is the alleged hardship unique to the property?

Explain _____ JM JW JD CH FC

Y N 3. Were the circumstances causing the hardship created by someone other than the applicant / landowner?

Explain _____ JM JW JD CH FC

Y N 4. Will the issuance of the Variance maintain the essential character of the locality?

Explain _____ JM JW JD CH FC

Y N 5. Does the alleged hardship involve more than economic considerations?

Explain _____ JM JW JD CH FC

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain _____ JM JW JD CH FC

Y N 7. Is the Variance consistent with the Comprehensive Plan?

Explain _____ JM JW JD CH FC

G. **IF ALL THE ANSWERS ARE " YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.**

() APPROVED () DENIED

CONDITIONS: _____

Applicant response to conditions: Agree () Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date

Le Sueur County Environmental Services

Mailing Address:
88 South Park Avenue
Le Center, MN 56057
Direct Dial (507) 357-8538

Physical Address:
515 South Maple Avenue
Le Center, MN 56057
Fax (507) 357-8541

Date: Tuesday, April 07, 2015

To: Le Sueur County Board of Adjustment Members

From: Amy Beatty, Le Sueur County Environmental Programs Specialist

RE: Mark Perkins Variance Applications

Dear Board Members:

As stated in Mr. Perkins's variance applications, he is requesting to deviate from the county zoning ordinance to expand an existing, registered animal feedlot that is a legal non-conformity, setbacks to property lines, lot size, and suitable area acreage.

Currently, Mr. Perkins has a registered animal feedlot that is capable of housing 850 head of finishing pigs or 340 animal units. Mr. Perkins is current on his registration as required under the county zoning ordinance and Minnesota Administrative Rules, Chapter 7020 Animal Feedlots. This office has not received a complaint on this registered animal feedlot operation.

Over the past year and a half, Mr. Perkins has been in communications with me regarding construction, both at his current location and at new locations. He has approached various landowners in the county but has not been able to secure both the lot requirement and suitable area acreage. Not being able to secure the required acreage and thinking about accessing his property during adverse weather events, Mr. Perkins has decided to apply for variances at his existing site.

In regards to his variance requests,

1. The expansion of a legal non-conformity: The animal feedlot site is an existing site in an agricultural zoning district. There are five (5) existing, registered animal feedlots within approximately one (1) mile of his property. Therefore, in my opinion, he would be in harmony with the general purposes and intent of the zoning district.
2. The setback to property lines: The property to the south and east of the existing total confinement building is currently used to grow row crops. It should not have an adverse effect on the current land use.
3. The lot size and suitable area acreage requirements: In calculating the suitable area acreage, there is approximately 4.38 acres (subtracted approximately 0.36 acres of steep slopes from the 4.74 acres). The zoning ordinance requires 10 acres for both lot size and suitable area acreage. Mr. Perkins did try to purchase property adjoining his but was unable to come to an agreement with the current landowner. Also, by living on the same property in which his animal feedlot buildings are located on can be viewed as a safety factor. If adverse weather conditions arise, he will be close to his total confinement buildings and livestock.

Le Sueur County

Use Variance Application

I. **Applicant:**
Name Mark & Denise Perkins
Mailing Address 28717 440th St
City Cleveland State MN Zip 55007
Phone # 507-381-8644 Phone # 507-381-8645

II. **Land Owner (s), if different from above:**
Name Same
Property Address _____
City _____ State _____ Zip _____
Phone # _____ Phone # _____

III. **Parcel Information:**
Parcel Number 01.028.0700 Parcel Acreage 6.11
Legal Description-Full legal description must be attached (not from tax statement)
See survey

IV. **Variance Request:**
to allow the expansion of a legal non-conformity

V. **Township Notification: Township must be notified of proposed request prior to application.**

Cleveland Township notified on 12/20/2014
(Township Name) (Date)

Board Member John Kluntz regarding the proposed request.
(Name)

VI. Quantities and Submittal Formats:

- One (1) reproducible 8.5" x 11" copy of the request and all other supporting documents.
- Ten (10) copies must be submitted, if 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.**
- All required information must be correct and submitted **at the time of application**, or the application will not be accepted.
- Applications will not be accepted by mail.**



VII. Site Plan-must be a survey and shall include but not limited to the following:

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Easements
- Access
- Impervious Surface -- Itemized current & proposed with total percentages *(If in Shoreland)*
- Location of significant trees to be removed *(If in Shoreland)*
- Note how disturbed areas will be restored *(If in Shoreland)*
- Landscape, screening and buffering *(If applicable)*
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Existing structures *(within and adjacent to project area)*
- Proposed Structures
- Lot Dimensions
- Septic System
- Well

Building site shall be physically staked by the surveyor or the application will be tabled.

VIII. Attachments shall include but not limited to:

- a. Site Plan-**survey**
- b. Full legal description
- c. Access approval **Ext**
- g. Surveyor Certification
- d. Floor plans and/or blue prints *(For structures)*
- e. Septic System Compliance Inspection
- f. Erosion control plan
- g. Written Detail of Variance

IX. Fee: Must be paid at the time of application.

Variance: \$ 600 **After-The-Fact meeting fees are doubled.**
Filing Fee: \$ 46

Additional Fees:

Special Meeting: \$1,200
After-The-Fact Penalty: \$1,500 OR 10% of the improvement, whichever is greater.

X. Procedure:

The Board of Adjustment shall hold a public hearing on the proposed Variance at a regularly scheduled Board of Adjustment meeting.

The Board of Adjustment has the authority to determine Variance approval or denial.

The Planning & Zoning Administrator shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.

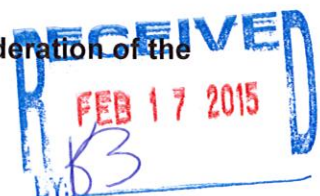
A zoning permit is required prior to starting construction; however zoning permits will not be available the day of the Board of Adjustment meeting.

XI. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.

A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.

It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.

A determination that a practical difficulty exists upon the consideration of the following criteria:



1. Describe how the variance request is reasonable compared to the ordinance requirements being varied from.
To deviate from Set backs of road right away and
property lines and deviate away from the 10 acres
and to be within 1000' of neighbors

2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?
The land owner that owns the land surrounding our property is
not willing to sell additional 5.25 acres but is willing to sell 1.3 acres
to be able to add the addition

3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.
The property was split and sold to different parties when we bought
our feedlot which made it a illegal non-conformity and in 2006 we
were issued a permit to rebuild after the tornado to make it a
legal non-conformity

4. How will the request maintain the essential character of the locality?
This will be added to our existing building making it all
under 1 roof

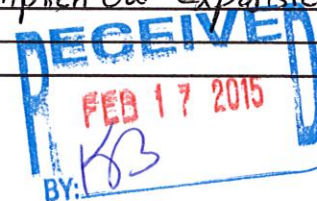
5. Does the alleged practical difficulty involve more than economic considerations?
This is part of our livelihood and benefits our family's future

6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?
yes, Ag district

7. Describe how the request is consistent with the Comprehensive Land Use Plan.
This will be an addition of 1,400 pigs to our existing property

8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.
N/A

9. Explain why this request is the minimum variance amount to afford relief.
It is the most efficient way we can accomplish our expansion



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

2/13/2015
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]
Land Owner signature

2/13/2015
Date

OFFICE USE ONLY

Date received <u>2/13/15</u>	Present Zoning Classification <u>A6</u>	Feedlot within 500' 1000' N
Meeting date <u>3/19/15</u>	Lake Classification <u>/</u>	Erosion Control Plan Y N
60 Day <u>4/17/15</u>	Lake <u>/</u>	Water courses Y N
FEMA Panel # <u>27079026SD</u>	Flood Zone <u>Xoutside</u>	Bluff Y N
<input type="checkbox"/> Surveyor Certificate	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Septic _____ CI / DESIGN
<input type="checkbox"/> Site Plan -survey	<input type="checkbox"/> Access approval <u>NA</u>	<input type="checkbox"/> Fee \$ <u>646</u> ATF / SPEC MTG
<input checked="" type="checkbox"/> Full legal	<input type="checkbox"/> Blue Prints	<input type="checkbox"/> Other _____
<input checked="" type="checkbox"/> Application complete	<input checked="" type="checkbox"/> Written Detail of Var	

Kathy Brockway
Planning & Zoning Department Signature

2/17/15
Date

15017
Permit #

04-15-13

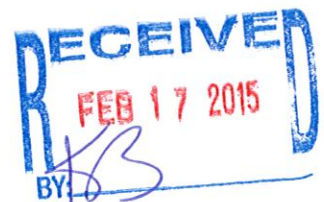


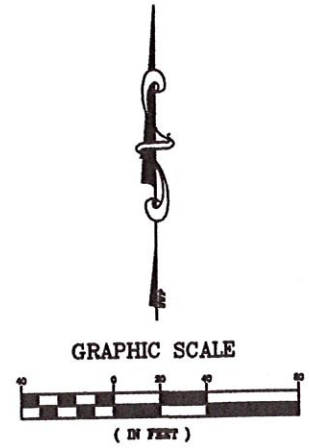
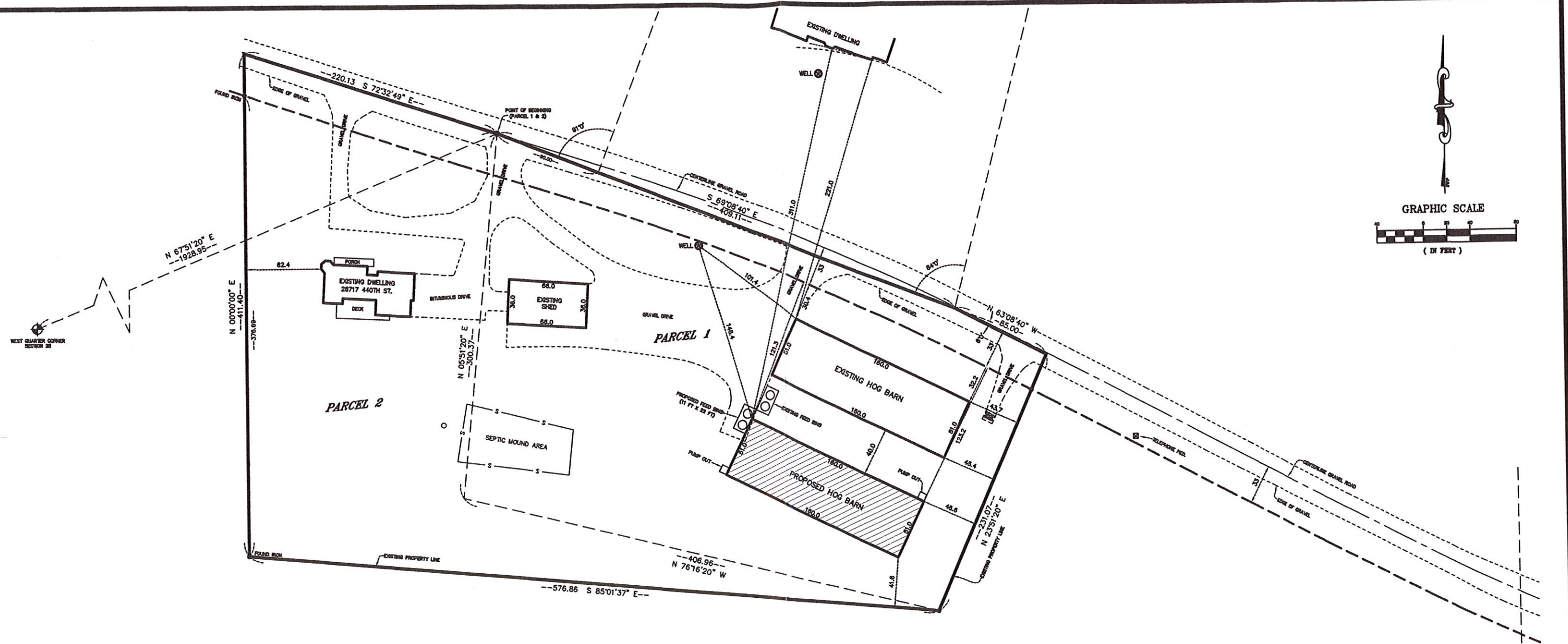
February 15, 2015

In 2002, I made a deal with George Warrant to buy the property he owned with hog barns on it, which made it an illegal non-conformity. There was a house located on the north side of the road but at that time was not for sale and was owned by someone else. A few years later, the house went into foreclosure. My wife and I tried to buy it, but the price was too high and we would have had to sell our house in Cleveland. So we never had a chance to get it. It was then bought by Patty Aalid in 2004 or 2005. In August of 2006, a tornado ripped through our property totaling all buildings. The county allowed me to rebuild 1 new building, which made it a legal nonconformity. The house across the street was also destroyed. My wife and I then approached Patty and offered to buy her now vacant lot. She told us she wanted to rebuild and stay. We then explained to her where we were going to rebuild our hog barn and she had no problem with it. In 2007 we bought an additional 2 acres from Greg Ballman, attached to our existing property to one day in the future build a house. In 2009 we sold our house in Cleveland, which allowed us to be able to build our house on the farm. We approached Patty Aalid and told her our plans and also to see if she was interested in selling her house to us. She told us she wasn't planning on selling any time soon. So we went ahead with our plans to build our house. We moved in March 2010. After we had built our house, Patty had a life-changing event, which caused her to sell her house to the Reinhardt's.

Now, we are looking at expanding our livestock business. We need to add on to our building. The reason for the addition to the existing building is because we have nowhere else close for us to go. Robert Zimmerman owns all land around us and is not willing to sell us the extra 5.25 acres needed to be in compliance. But he is willing to sell us the 1.3 acres to be able to add the addition to existing building. That way he can also square up his land to ours. So, we feel it is beneficial to both of us to be able to do this addition. I know it is not the most ideal location, but it works well for us. I have searched for 2 years trying to find land to build a new building and be close to our existing property, but no one was willing to sell us property to do so. Also, having all of our livestock under one roof is beneficial to us and everyone involved. We have always maintained our property very clean to follow by all rules and regulations involved in our feedlot. This is our business and our business is doing well, therefore we would like to expand and continue building our family's future.

Thank you
Mark & Denise Perkins





CERTIFICATE OF SURVEY

SURVEY FOR: MARK PERKINS

SURVEYED: February, 2015 **DRAFTED:** March 9, 2015
REVISED: March 13, 2015, to show additional dimensions per county's request.

LEGAL DESCRIPTION PARCEL 1:
That part of the Southeast Quarter of the Northwest Quarter of Section 28-110-25, Le Sueur County, Minnesota, described as follows: Assuming that the East - West quarter line of said Section 28 has a bearing of East and West. Commencing at the West quarter corner of said Section 28; thence North 67 degrees 51 minutes 20 seconds East, a distance of 1928.95 feet to the point of beginning of the tract to be described; thence South 69 degrees 08 minutes 40 seconds East, a distance of 409.11 feet; thence South 63 degrees 08 minutes 40 seconds East, a distance of 85.00 feet; thence South 23 degrees 51 minutes 20 seconds West, a distance of 231.07 feet; thence North 76 degrees 16 minutes 20 seconds West, a distance of 406.96 feet; thence North 05 degrees 51 minutes 20 seconds East, a distance of 300.37 feet to the point of beginning. This tract subject to right of way of existing town road and subject to any and all easements of record.

LEGAL DESCRIPTION PARCEL 2:
That part of the Southeast Quarter of the Northwest Quarter of Section 28, Township 110 North, Range 25 West, Le Sueur County, Minnesota, described as: Commencing at the West Quarter corner of Section 28; (the East - West centerline of Section 28 to a have an assumed bearing of North 90 degrees 00 minutes 00 seconds East); thence North 67 degrees 51 minutes 20 seconds East, a distance of 1928.95 feet to a point on the centerline of the Township Road; said point being the point of beginning; thence South 05 degrees 51 minutes 20 seconds West; 300.37 feet; thence South 76 degrees 16 minutes 20 seconds East, 406.96 feet; thence North 85 degrees 01 minutes 37 seconds West, 576.86 feet; thence North 00 degrees 00 minutes 00 seconds East, 411.40 feet to a point on the center line of the Township Road; thence South 72 degrees 32 minutes 49 seconds East, along said center line, 220.13 feet to the point of beginning.

- SCOPE OF WORK & LIMITATIONS:**
1. Showing the length and direction of boundary lines of the above legal descriptions. The scope of services does not include determining what you own, that is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that they are correct, and that any matters of record, such as easements, that you wish to be shown on the survey, have been shown.
 2. Setting new monuments or verifying old monuments to mark the corners of the property, as shown.
 3. While I show proposed improvements to your property, I am not as familiar with your plans as you are nor am I as familiar with the requirements of governmental agencies as their employees are. I suggest that you review the survey to confirm that the proposals I show are what you intend and submit the survey to the governmental agencies that may have jurisdiction over your project and gain their approval before beginning construction or planning further improvements to the property.
 4. Showing the location of existing improvements deemed significant.

STANDARD SYMBOLS & CONVENTIONS:
"●" Denotes 1/2" ID pipe with plastic plug bearing State License Number 43503, set, unless otherwise noted.

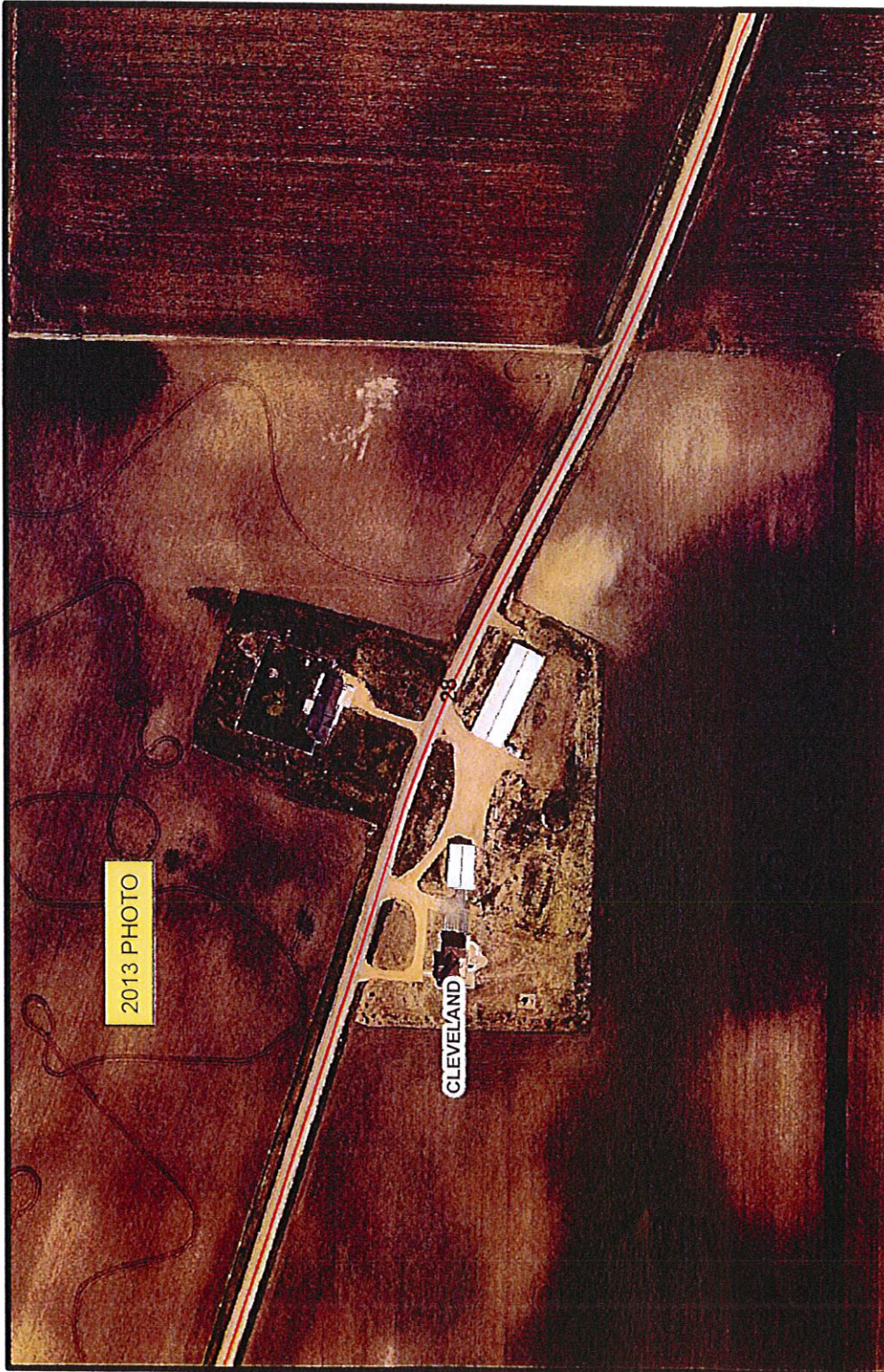
CERTIFICATION:
I hereby certify that this survey was prepared by me or under my direct supervision and I am a Professional Surveyor under the Laws of the State of Minnesota.

Wayne Preuhs
Wayne William Preuhs, P.S. No. 43503

EAST - WEST CENTERLINE
SECTION 28
S 90°00'00" E

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Perkins
 PID: 01.028.0700
 DATE: 04-06-15
 FIRM #: 27079C0.265D
 F-Zone: Xoutside
 RFPE: NA
 District: Agriculture



Map Disclaimer

Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, development methodology, interpretation of source data, and other circumstances.

*The maps are date specific and are intended for use only at the published scale.
 *These maps should not be used for navigational, engineering, legal, or any other site-specific use.



Roads	Road Code
US Highway	Red line
MN Highway	Blue line
CSAH	Black line
County Road	Grey line
Township Road	Red dashed line
Municipal Street	Blue dashed line
Unspecified	Black dashed line
Incorporated	Red outline
Townships	Blue outline
Sections	Green outline

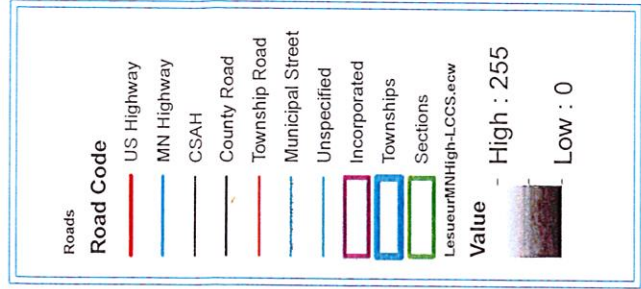
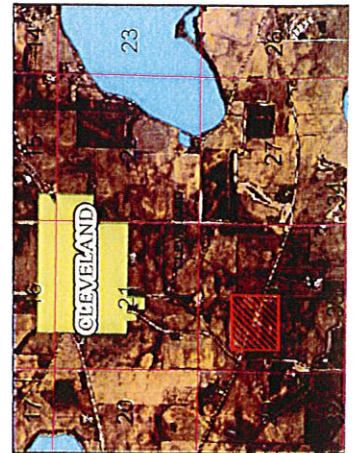
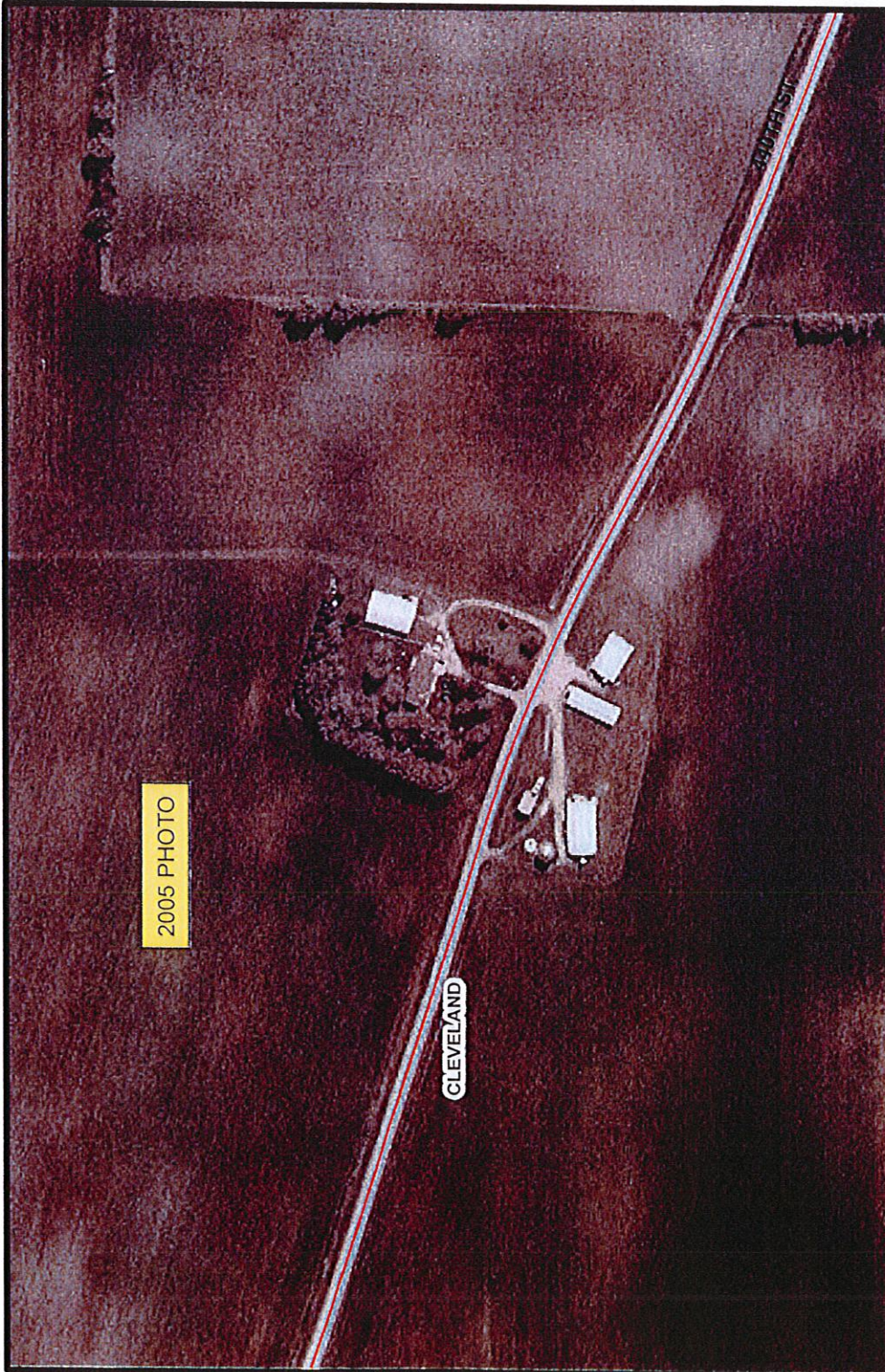
LE SUEUR COUNTY
 ENVIRONMENTAL SERVICES
 507-357-8538

Created By: MRM

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet
 Photo dated April/May 2013

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Perkins
 PID: 01.028.0700
 DATE: 04-06-15
 FIRM #: 27079C0 265D
 F-Zone: Xoutside
 RFPE: NA
 District: Agriculture



Map Disclaimer

*Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, development methodology, interpretation of source data, and other circumstances.
 *The maps are date specific and are intended for use only at the published scale.
 *These maps should not be used for navigational, engineering, legal, or any other site-specific use.



Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

Photo dated April/May 2013

Created By: MRM

LE SUEUR COUNTY
 ENVIRONMENTAL SERVICES
 507-357-8538