

August 10, 2021

TCPA – Kalmar Township  
Attn: Dave Meir  
Rochester Township Hall  
4111 11<sup>th</sup> Ave SW  
Rochester, MN 55902

**Re: Conditional Use Permit documentation for McNeilus Private Driveway & Pond  
(SW ¼ Section 03-107-15)**

Dear Mr. Meir,

On behalf of Justin McNeilus, we are submitting supporting documentation for a Conditional Use Permit for a driveway serving a new building site and private pond on a 40.22-acre parcel in the Moon River Valley. The site and surrounding areas have an A-2 zoning classification. There are no proposed zoning or land use changes associated with this project. Due to the presence and proposed disturbance of mapped flood soils, a Conditional Use Permit is required as detailed in Section 4.02 of the Kalmar Township Zoning Ordinance. The proposed pond also falls under a Conditional Use.

*Section 4.02 CONDITIONAL USE:*

*The purpose of a conditional use is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that 1) certain conditions as detailed in the Zoning Ordinance exist; 2) the use or development conforms and promotes the Goals and Policies of the Kalmar Township Land Use Plan; and 3) is compatible with the existing area.*

*A conditional use is allowed only after a petition for a permit has been approved by the Township Planning Commission, except when there is an appeal of the Township Planning Commission decision; then, only after the approval of the Kalmar Township Board.*

*A. Criteria for Granting Conditional Uses: In granting a conditional use, the Township Planning Commission shall consider the effect of the proposed use on the Kalmar Township Land Use Plan and upon the health, safety and general welfare of occupants of surrounding lands and the Township as a whole. Among other things, the Commission shall consider the following:*

- 1. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property or nearby properties;*

- The topography and wooded nature of the area shields the proposed use from adjacent properties. The proposed use will not diminish or impair the values of such property or nearby properties.
2. *The proposed use will not impede the normal and orderly development and improvements of the surrounding property and will not impede the ordinary or traditional uses of the property or nearby properties;*
- The proposed driveway and building site were originally proposed with the Moon River Valley and will seamlessly adhere to the development concept of the area. The proposed use will be consistent with uses of adjacent parcels within the Moon River Valley area and will not impair or impede the uses of such other properties.
3. *Adequate utilities, parking, drainage and other necessary facilities will be provided;*
- The proposed private driveway will serve one residence being the McNeilus residence. The drive and ditch sections have been designed to adequately shed and convey runoff to proposed culverts. Utilities including the Individual Septic Treatment System (ISTS) and well will be new construction to serve the building site.
4. *Adequate ingress and egress will be provided to minimize traffic congestion in the public streets;*
- The proposed private driveway stems off a cul-de-sac of a newly constructed private gravel roadway that ties into 65th Street NW (public). The low density of the development will not cause traffic congestion on public roadway. The private roadway serving the parcels within the Moon River Valley has been designed to accommodate two lanes of traffic to ensure the flow of ingress and egress traffic is safe and efficient.
5. *The traffic generated by the proposed use can be safely accommodated on existing planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the Township or County in order to handle the additional traffic generated by the use;*
- The proposed use will be just one private residence. An estimated Average Daily Traffic (ADT) generated from this proposed use is 10 which can be safely accommodated on existing street systems. No existing public infrastructure will need to be upgraded or improved to accommodate the additional traffic generated by the residence.
6. *Adequate measures have been taken or proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property;*
- No unordinary odors, noises, dust, etc. will be created by the proposed use. The topography and vegetation of the area serves as a buffer between the proposed building site area and adjacent parcels in the Moon River Valley.

7. *The special criteria or requirements indicated in Article X, General Regulations, are complied with;*

The following sections pertain to Article X – General Regulations:

Section 10.00 Purpose

- The proposed land use adheres to adjoining property uses and conforms to general regulations as seen below.

Section 10.01 Single Family Dwelling Standards

- N/A (Site is Zoned A-2, not R-1, RA or RSD).

Section 10.02 Home Businesses

- N/A

Section 10.04 Parking Requirements

- The required number of parking spaces for a one family dwelling is two (2) parking spaces. A detached two (2) car garage is proposed, meeting this criterion.

Section 10.06 Loading Requirements

- N/A

Section 10.08 Bufferyards

- N/A. The proposed land use conforms to surrounding land uses.

Section 10.10 Exterior Storage and Automobiles

- N/A

Section 10.12 Salvage and Junk Yards

- N/A

Section 10.13 Discarded Tire Storage Land Disposal Prohibited

- N/A

Section 10.14 Noise, Heat, Glare, Vibration, Smoke, Toxic Waste, and Noxious Fumes

- No unordinary noise, heat, glare and vibration will be created by the use. Toxic waste and noxious fumes are not applicable to this site.

Section 10.15 Telecommunication Towers

- N/A

Section 10.16 Exterior Lighting

- Any exterior illumination that is proposed to be added to the home or garage will not adversely affect adjoining properties or public roads. The building site area is tucked in the far corner of the parcel and is bordered by woodland on the north and east sides, shielding its view from other parcels.

Section 10.18 Traffic Visibility Zone

- N/A

Section 10.20 Soil Erosion, Sedimentation, Runoff, and Slope Stability Controls

- A grading and erosion control plan and combined drainage report/stormwater pollution prevention plan (SWPPP) have been created for the proposed driveway, building site area and pond. These documents have been reviewed and signed by a licensed professional engineer for use by a contractor. Given erosion control measures as depicted on the plans are installed accordingly and construction inspections are conducted to ensure their functionality, downstream facilities and features will not be adversely impacted.

- The drainage report addresses stormwater runoff and compares existing versus proposed conditions to confirm there are no negative impacts under post-development conditions.

Section 10.21 Farmland Erosion

- N/A; the land cover will be converted from row crop to grassland/prairie under post-development conditions.

Section 10.22 Accessory Buildings

- A detached garage is proposed near the home. This structure meets the requirements for accessory buildings as depicted in Section 10.22.

Section 10.23 Swimming Pools, Private

- N/A

Section 10.24 Extraction of Materials & Minerals, Open Pits and Impounding of Waters

- In addition to the Conditional Use required for working within mapped flood prone soils, the private pond itself falls under a Conditional Use per Section 10.24 of the Ordinance. The proposed pond location is entirely within the mapped flood prone soils. No earthen material will be imported to the flood prone area for purposes of pond construction. Excess material from the pond excavation may be used to elevate the building site area and private driveway if it is deemed as appropriate load-bearing material and is free of organics. All excavated pond material will remain on-site. Haul roads or use of public infrastructure for purposes of pond creation with the exception of mobilization to the site will not be required.
- The pond has been designed with 5:1 and 4:1 slopes with the steepest being 3:1 under the normal water level (10:1 bench provided for first foot below NWL). The moderate slopes will ease maintenance activities and will provide adequate protection against erosion both during the time of construction and into its lifespan.

Section 10.26 Animal Feedlots through Section 10.54 Dumping & Disposal of Waste Material

- N/A

*8. The water and sanitary systems are or would be adequate to prevent disease, contamination and unsanitary conditions.*

- A new private well will be drilled and new septic system installed by licensed contractors to serve the McNeilus residence. These systems will be installed to current specifications, adequately preventing disease, contamination and unsanitary conditions.

*9. The likelihood or necessity of the proposed use increasing the size and number of signs, displays, outdoor lighting, demands on septic systems, water resources, paved areas, and drainage systems.*

- The proposed use will not increase the size/number of signs, displays, outdoor lighting and demands on water resources, paved areas or drainage systems. The property will have its own private well and septic which will not impact other public or private utilities and systems.

*When deciding on conditional uses to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the following additional factors shall also be considered:*

*10. The danger to life and property due to increased flood heights or velocities caused by encroachments;*

- The work within the floodplain area will not increase flood heights or velocities. A private pond is proposed within this area which will detain floodwaters for a period of time before releasing through its outlet. No earthen material will be imported to the floodplain area for purposes of pond construction or otherwise.

*11. The danger that materials may be swept onto other lands or downstream to the injury of others;*

- The only two structures proposed on the parcel are the home and detached garage. These structures will be located on an elevated pad above the estimated BFE of the Zumbro River. The danger that materials may be swept onto other lands is minimal.

*12. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.*

- Raising the building site to an average of 12 feet above the estimated BFE of the Zumbro River will essentially eliminate the susceptibility of the proposed buildings and their contents to flood damage. The structures will be situated in the far northeast corner of the open area, approximately 400 feet away from the river bank which will provide exceptional floodwater storage should a low frequency event come about.

*13. The relationship of the proposed use to the flood plain management program for the area.*

- The proposed use will maintain its current use in that the majority of the area will remain as open space, not impeding the flow of potential floodwaters. The proposed pond construction will follow that of Section 9.08C. General Flood Plain Regulations.

*14. The safety of access to the property in times of flood for ordinary and emergency vehicles.*

- The proposed private driveway serving the residence is outside of any mapped or designated floodplain or floodprone areas. The driveway profile and ditch sections have been designed to adequately convey runoff to proposed culverts to maintain safe access during periods of high precipitation.

*15. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.*

- There are no mapped FEMA or MnDNR 100-year flood elevations within the development area. G-Cubed has performed site visits and have surveyed the estimated 100-year HWL of the Zumbro River which corresponds to an elevation of 1012.00. As a factor of safety, an additional four (4) feet was added to the surveyed HWL to establish an estimated HWL or BFE of 1016.00. Velocity, duration, rate of rise and sediment transport of the floodwaters is out of scope of this analysis.

*16. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.*

- The proposed private well and sanitary systems will be new construction that will adhere to current standards and specifications. Disease, contamination and unsanitary conditions will not be present.

*17. The importance of the services provided by the proposed facility to the community.*

- The proposed residence is private in that it will not offer services to the community, however the 40.22-acre parcel and building site will add more tax base to Kalmar Township.

*18. The requirements of the facility for a waterfront location.*

- N/A; the building site is not considered a waterfront location.

*19. The availability of alternative locations not subject to flooding for the proposed use.*

- The majority of the parcel in question resides within a floodprone area due to its proximity to the Zumbro River. The private driveway leading to the building site and the building site itself have been located outside of the floodplain or raised above the floodplain on the far side of the open area to significantly minimize the possibility of flood damage. The other potential building site location is adjacent to a broad swale that conveys flows from a 90-acre watershed to the Zumbro River which presents possible scour and erosion issues should a building pad be constructed near this area.

*20. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.*

- The proposed use conforms to the Moon River Valley overall development concept seamlessly. The development of the parcels that surround the McNeilus parcel will follow the same general concept with large open areas and higher-end homes.

*21. Based upon technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.*

*When deciding on a conditional use to the A-1, A-2, A-3, and A-4 Agricultural Districts, the following additional factors shall be considered.*

*22. The amount of prime agricultural land with a crop equivalent rating of 60 or above that would be taken out of production as a result of the use.*

- With the pond construction, the amount of agricultural land with a CER of 60 or above that would be taken out of production is approximately 9.5 acres. Of this 9.5 acres, 6.9 has a CER of 70 and 2.6 has a CER of 100.

23. *The need for new public roads or the need for improvement to existing public roads is minimal.*

- No new public roads or improvements to existing public roadway or infrastructure is required with the development of this parcel.

24. *A thorough evaluation of the waterbody and topographic, vegetation and soils conditions on the site must be made to ensure:*

- a.) *The prevention of soil erosion or other possible pollution of public waters, both during and after construction;*
  - The grading and erosion control plan for the private drive and pond depicts erosion control measures that when installed adequately and properly maintained, will prevent sediment from leaving the site and entering the Zumbro River that flows through the site. Proper seeding and permanent vegetation establishment will provide long term erosion protection and prevention.
- b.) *The visibility of structures and other facilities as viewed from public waters is limited;*
  - Both sides of the Zumbro River are wooded which provides a natural buffer between the parcel in question and public waters. If one is standing at the building site, they cannot see the river; vice versa, if one is on the river, they cannot see the building site.
- c.) *The site is adequate for water supply and on-site sewage treatment; and*
  - Water supply will be provided by a private well drilled by a licensed well contractor. G-Cubed performed soil borings on July 26<sup>th</sup>, 2021 confirming areas just northwest of the building site are suitable for a septic system.
- d.) *The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.*
  - N/A; no watercraft are anticipated to be generated with this project.

25. *The extent to which the proposed use might interfere with or interrupt present or future agricultural use of the property or adjoining or neighboring properties.*

- The proposed driveway follows the toe slope of a wooded area and the building site is tucked in the far northeast corner of what is currently a field used for agricultural production. The proposed use will not interfere with or interrupt future agricultural use of the property or adjoining or neighboring properties. There are no foreseeable issues should the Owner choose to continue utilizing the field for row crop production around the pond.

Please accept this application for a Conditional Use Permit and process at your earliest convenience. Feel free to call with any questions.

Sincerely,



Jason Kappers, EIT

Cc: Justin McNeilus – Owner

Attachments: McNeilus Grading & Erosion Control Plan  
McNeilus Drainage Report/SWPPP  
Grading Permit Application & Checklist  
Conditional Use Permit Application