

McKENZIE COUNTY

Planning and Zoning Commission

#08-24CUP River Ranch Retreat

Application:	April 22, 2024
Hearing Date:	June 12, 2024 postponed until August 12, 2024
Description:	14388 45th St NW, Alexander, ND IT#1999 PID 150046100 S- 31 T-153N R- 101W
Owner(s)/Applicant:	River Ranch Retreat
Reason for Request:	Applicant wishes to use the location as a Wedding, Event rental, and hunting lodge.

Comprehensive Plan Land Use: Agriculture

Zoning: Agriculture

Findings of Fact:

1. All Public Notices have been made.
2. No Comment has been received from the public.
3. Applicant is the property owner.
4. Property is in Tri Township and has Township approval.
5. Applicant has an approved approach permit.
6. The proposed site is already in existence and will not impede the normal orderly development of the area.
7. Applicant has an approved Weed plan from the County Weed Department.
8. Applicant has an approved emergency evacuation plan.
9. Applicant is in contact with State Food and Lodging.
10. The property set backs are front-25ft back-25ft and side-25ft in Agriculture Zoning.
11. Applicant is registered and in good standing with the North Dakota Secretary of State.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

- a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.**

This site is established and has been in existence since 2014.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposed uses are unique in nature and will be intermittent and will not diminish the enjoyment of the surrounding property.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed uses are unique in nature and will be intermittent and will not diminish the enjoyment of the surrounding property.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

The site is already existing. Therefore utilities, road, and drainage are established.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Applicant has an approach permit approved by Tri Township.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

It will not diminish the Agricultural Area.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agriculture.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend approval of Conditional Use Permit #08-24, River Ranch Retreat, to the County Commission to allow the facility to be used for wedding, Event rentals, and Hunting Lodge. Adopt the findings and conditions as provided in the staff report."

Conditions:

1. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Ordinance Section 4.10 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. The applicant shall adhere to the noxious weed containment plan as submitted to the County Weed

Control Officer.

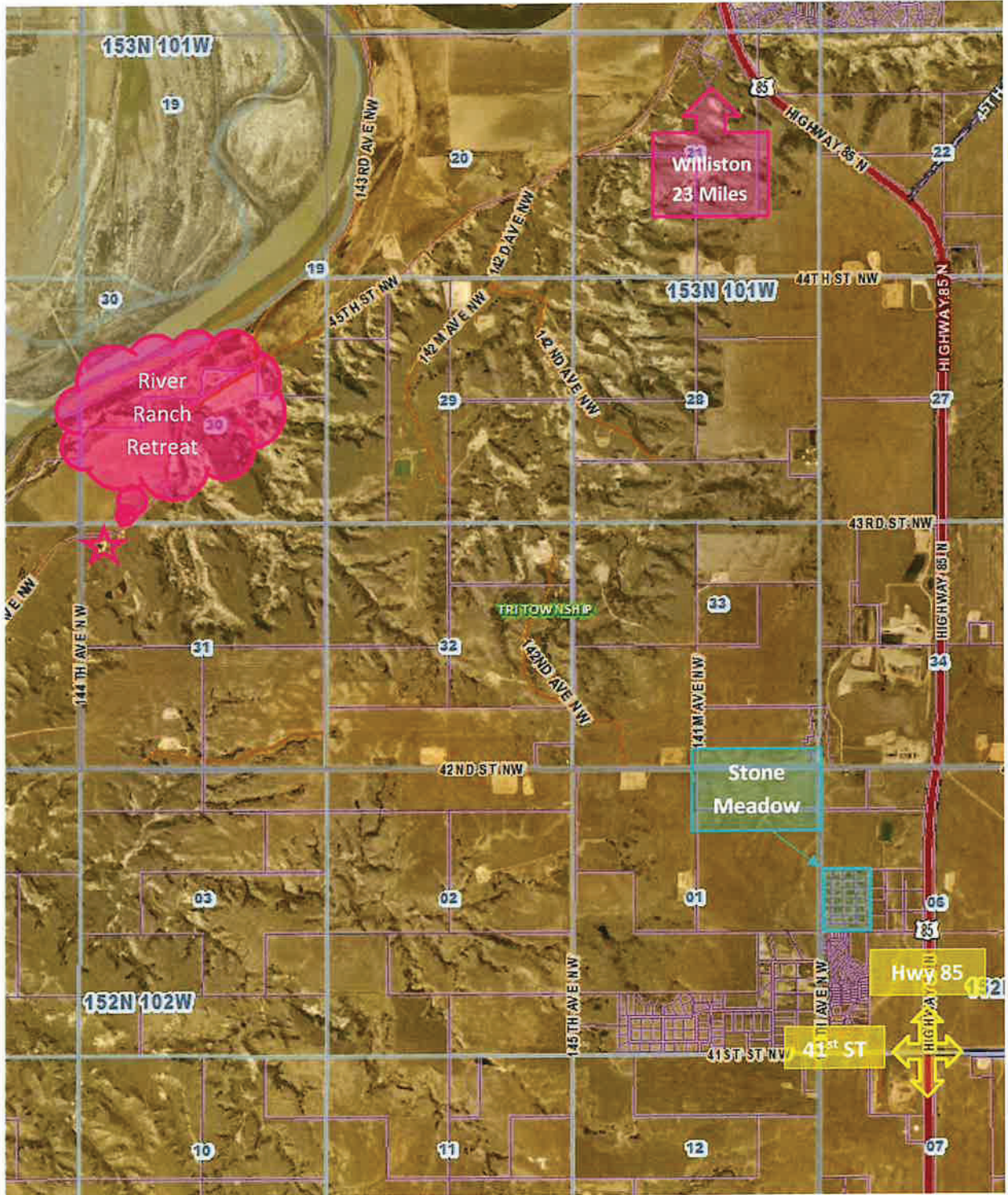
3. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.
4. Access on the roadway into the site must be maintained for 911 purposes.
5. Any additional structures on site will require a building permit.
6. No RV's shall be stored on site.
7. Any future construction shall adhere to requirements as outlined in the McKenzie County Land Development Ordinance.

#08-24CUP

PID # 150046100

S-31,T-153N,R-101W

Vicinity MAP

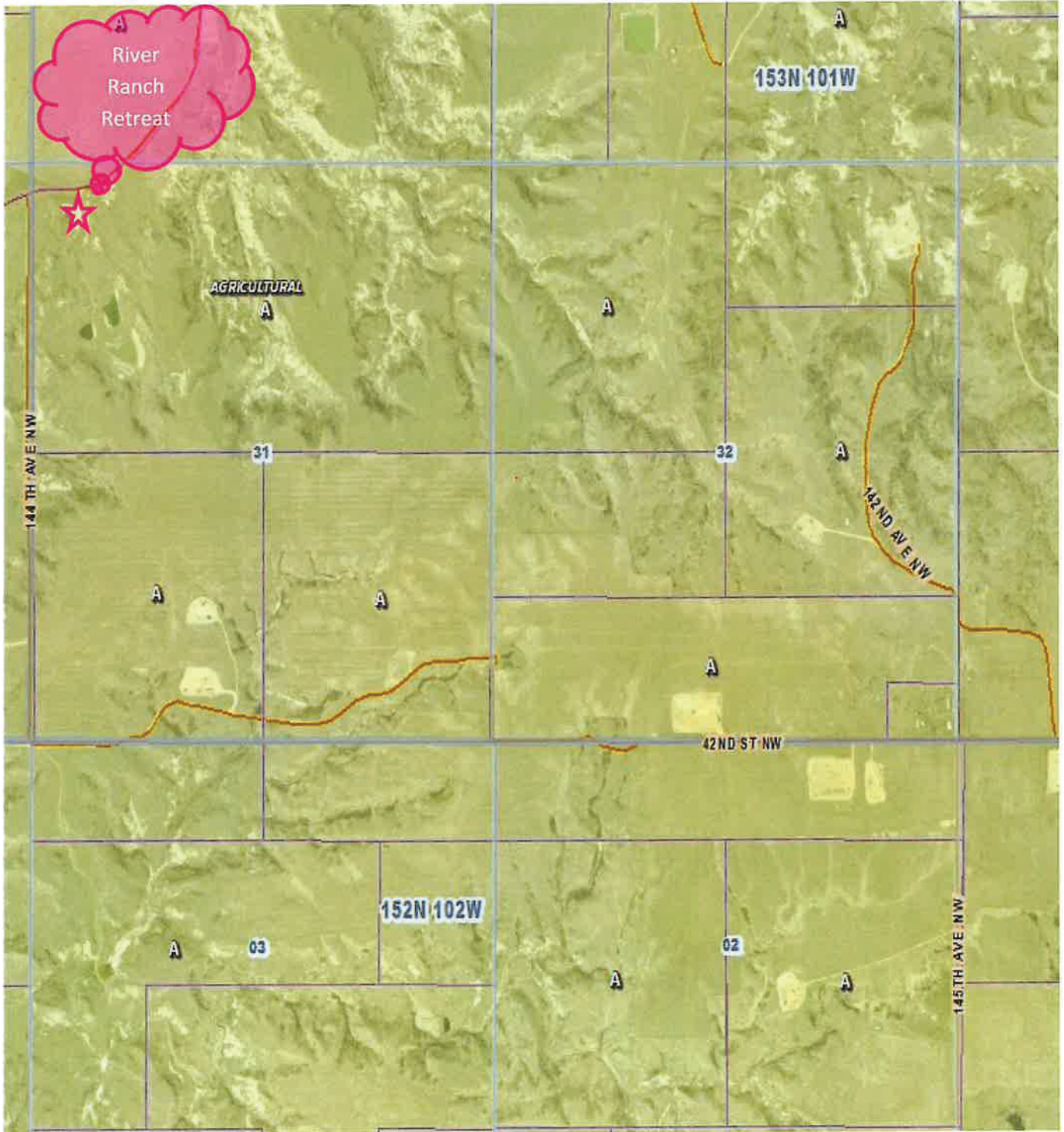


#08-24CUP

PID # 150046100

S-31,T-153N,R-101W

Comprehensive Plan Map- Agriculture

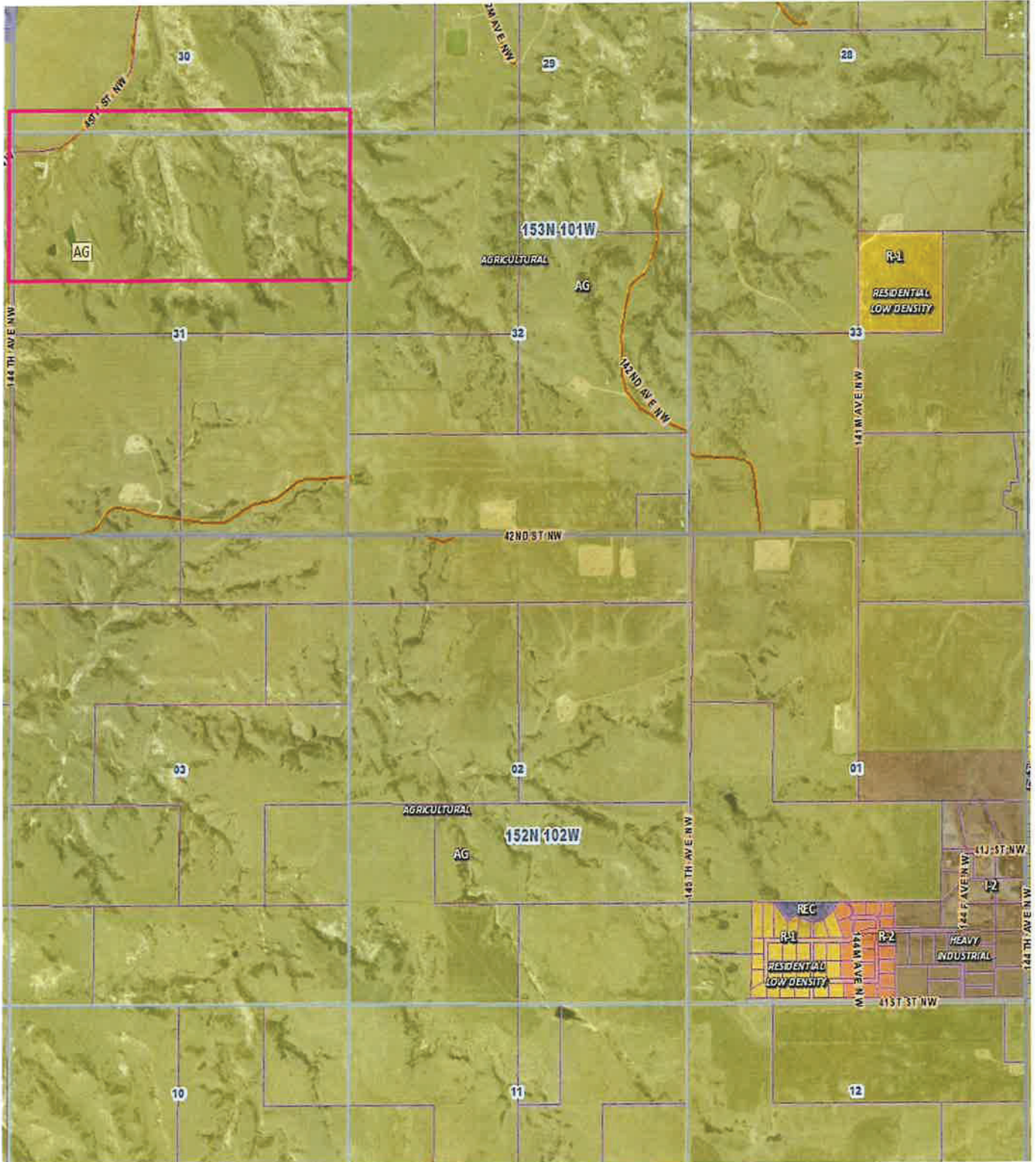


#08-24CUP

PID # 150046100

S-31,T-153N,R-101W

Zoning Map-Agriculture



#08-24CUP
PID # 150046100
S-31,T-153N,R-101W
SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#11-24 CUP Central Specialties Inc

Application:	July 11, 2024
Hearing Date:	August 12, 2024
Description:	PID 09-00-09700, W1/2 NE1/4, S-22, T-150N, R-95W, Hwy 73 Keene, McKenzie County, ND
Owner(s)/Applicant:	Central Specialties Inc
Reason for Request:	Applicant would like to permit a Temporary Asphalt plant for the Hwy 73 Project. The project is estimated to be finished and the site renovated late summer 2025

Comprehensive Plan Land Use: Agriculture

Zoning: Agriculture

Findings of Fact:

1. All requirements for public notification have been met.
2. No comments have been received.
3. Asphalt plants are a conditional use in the Ag District per 3.4.3(19)
4. Applicant has approval from NDDOT for the project.
5. Applicant is not the owner but does have an agreement with the Landowner to apply for the CUP and to use the site.
6. Applicant will transform the land to the specifications set forth by the landowner when the job is done.
7. Plant is Temporary, and will be cleaned up by the end of summer 2025
8. Applicant has an Approved Weed control plan on file with the County Weed Department
9. Applicant has an approved SWPPP from DEQ for Hwy 73.
10. Property is located within an organized Township and has township approval.
11. Applicant has provided a Certificate of Good Standing from the State of North Dakota.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

This temporary facility will not be detrimental or endangering to the public health, safety, comfort or general welfare. Property will be reclaimed when project is over.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The temporary Conditional Use will not diminish or impair the value and enjoyment of other property in the area. The location is accessed via an Hwy 73. The project will cause some inconvenience with traffic control, odor and dust but will be mitigated since the use is temporary the inconvenience will be short lived.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed Conditional Use is located off of Hwy 73 on private property and will not impede the normal orderly development of the area.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Utilities, access roads drainage and all other necessary site improvements have or are being provided.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion.

f. The proposed temporary use is conditionally allowed in the Agriculture District. Conditions are required to be met during the life of the project.

The proposed temporary use is conditionally allowed in the Agriculture District. Conditions are required to be met during the life of the project.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agriculture.

Staff Recommendation:

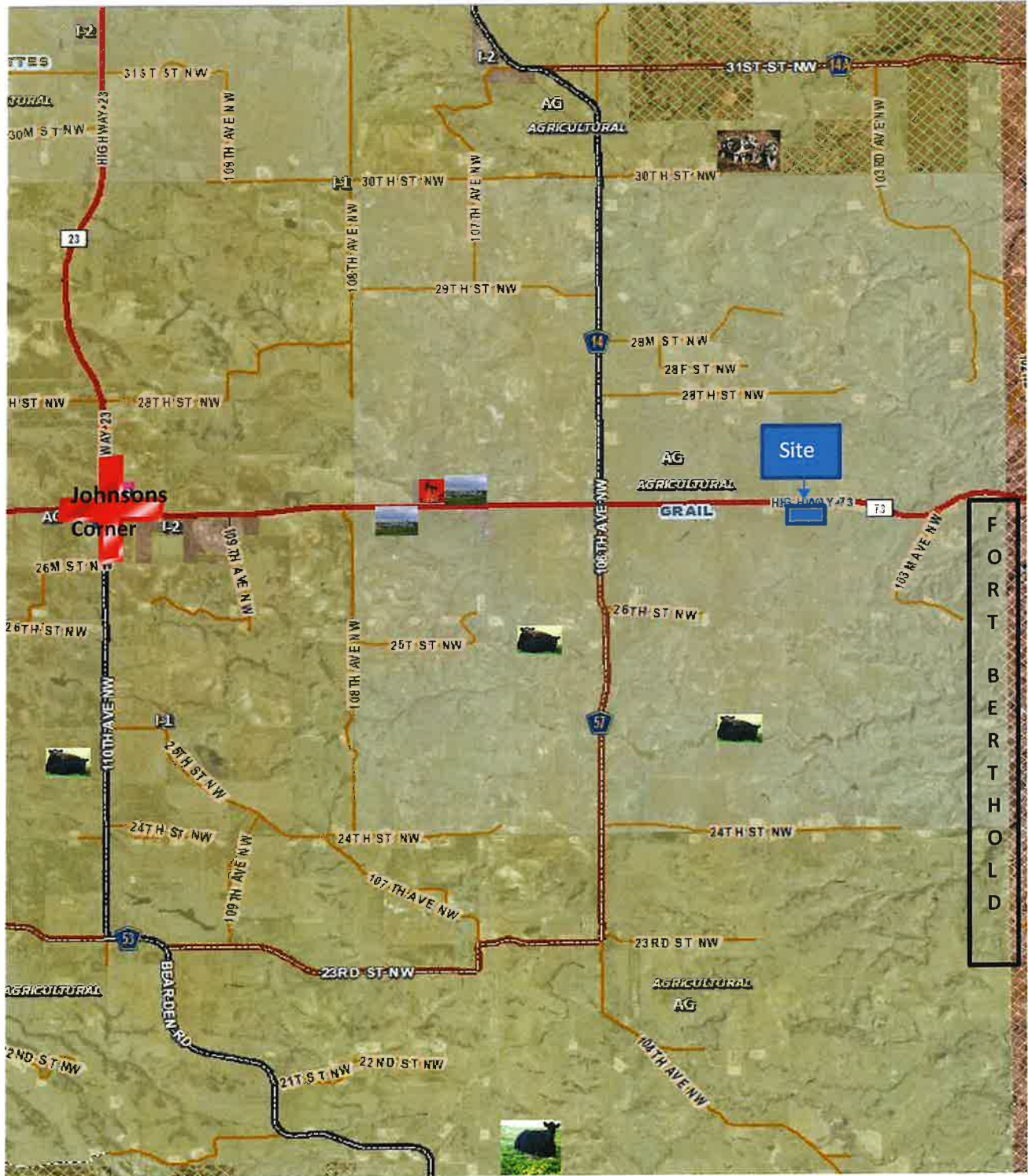
Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Approve Conditional Use Permit #11-24CUP to the County Commission to allow the temporary asphalt plant. Adopt the findings and conditions as provided in the Staff Report. ""

Conditions:

1. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT, within sixty (60) days of Approval from the Board of County Commissioners. Per the McKenzie County Zoning Ordinance, Section 2.13.2.2 the bond shall be for one hundred and fifty (150) percent of a licensed engineer or the Planning Director estimate of the cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a predevelopment appearance, and re-seed the site with native grasses and vegetation. Per Ordinance 4.18.2.6 Reclamation shall include the grading of the site, top soil shall be applied to a depth of at least six (6) inches on all disturbed areas. The Bond shall name the county as the beneficiary and must be submitted to the Planning and Zoning Department prior to any operations on site. This bond shall remain in effect until released by the Planning and Zoning Director.
2. The applicant shall follow all Federal, State and Local Laws, Regulations and Conditions for the operation of the proposed facility.
3. The applicant shall share all final approvals and continuing approvals/reviews with County, State, Federal agencies as they are obtained or altered, along with any violations as it relates to this Conditional Use approval for the CUP file.
4. The entire site shall be free of trash from within the site and/or outside sources.
5. The applicant shall adhere to the noxious weed containment plan as submitted to the County Weed Control Officer.
6. The applicant shall not deposit any snow or water onto the neighboring properties and dispose of storm water onsite through an approved engineering method.
7. The applicant shall adhere to Sign Ordinance 4.2-4.2.8 and apply for a permit, post the address and emergency contact information clearly onsite.
8. All security lighting on site shall be downward facing and shall not glare on adjacent property owners or the public travel way.
9. Any changes in area, volume, extended use or current permitted use will require an amendment to the existing Conditional Use Permit per Section 5.8.5 of the McKenzie County Zoning Ordinance.
10. No trailers or workforce housing allowed on this site.
11. Any trailers or workforce housing utilized for this project shall require an additional permit.
11. This Conditional Use Permit will remain in force, but can be placed before the County Commission for revocation if there are violations or changes of the approved conditions.
12. Best management practices should be implemented to control the dust associated with this project. Dust Control mitigation shall be utilized whenever conditions warrant.

#11-24CUP
PID # 09-00-09700
S-22,T-150N,R-95W
Vicinity MAP

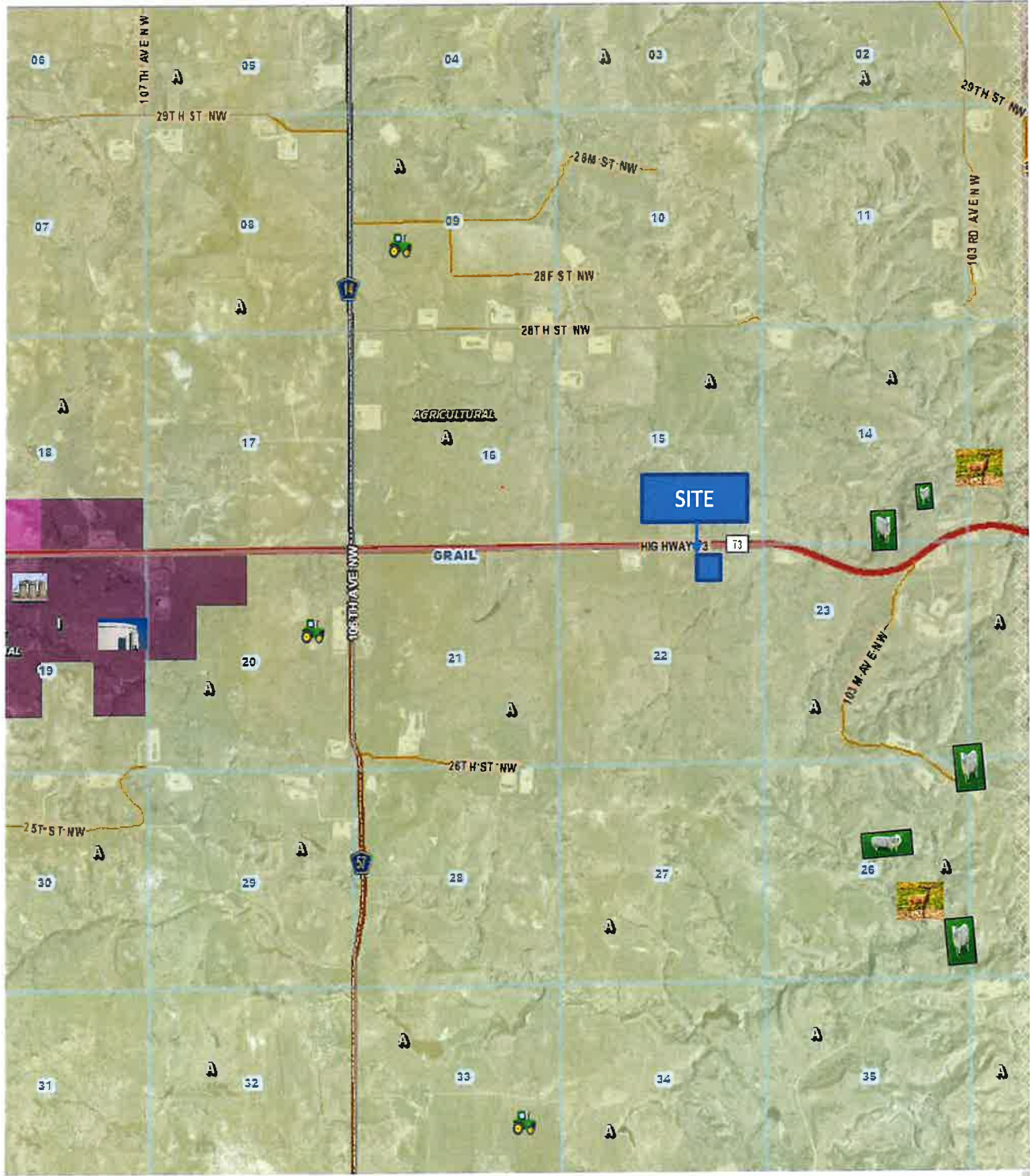


#11-24CUP

PID # 09-00-09700

S-22,T-150N,R-95W

Comprehensive Plan Map-Agriculture

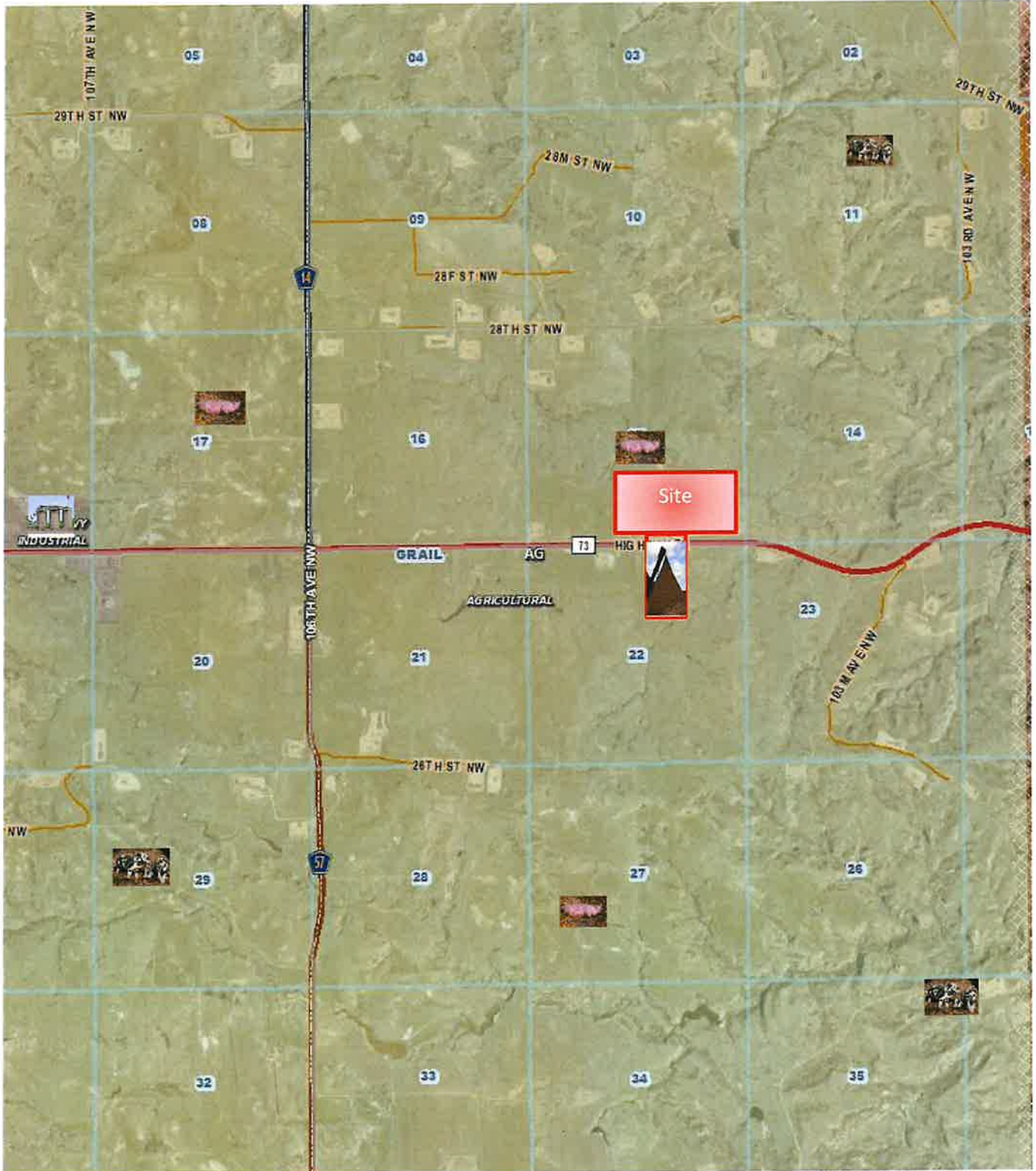


#11-24CUP

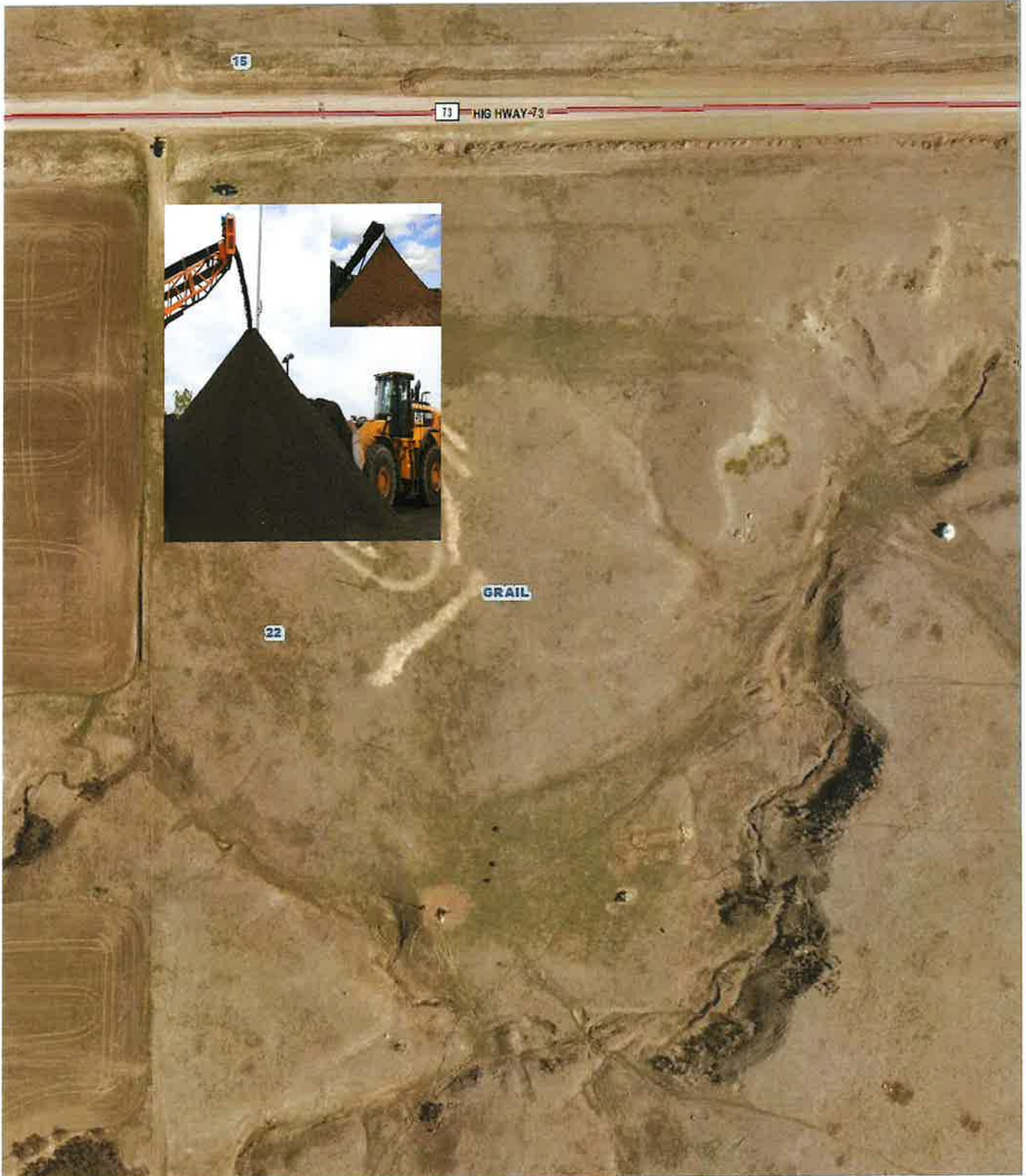
PID # 09-00-09700

S-22,T-150N,R-95W

Zoning Map-Agriculture



#11-24CUP
PID # 09-00-09700
S-22,T-150N,R-95W
SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#10-24CUP Dakota Data Diggers LLC

Application:	June 10, 2024
Hearing Date:	July 8, 2024, Postponed to August 12, 2024
Description:	Parcel ID 490000775, SE1/4 S-7, T-145N, R-103W IT 1073
Owner(s)/Applicant:	Dakota Data Diggers / Bicentennial Crypto Facility
Reason for Request:	Dakota Diggers intends to locate 5, 20 Ft. data mining containers and 5, 40 Ft. cooler containers adjacent to the Bicentennial electric substation using power from that substation to run the equipment.

Comprehensive Plan Land Use: Agriculture

Zoning: Agricultural

Findings of Fact:

1. All public notifications have been made.
2. A Public Comment has been received.
3. Applicant is not the property owner but has owners permission.
4. Applicant has a Certificate of Good Standing with the State of ND.
5. Applicant has a contract with McKenzie Electric Coop for power.
6. Application has received responses from Sidney Fire, Alexander Fire, 911 coordinator and the Sheriff's office.
7. There will be no lithium batteries on site.
8. Applicant will be using a closed loop water system for cooling, using approx. 820 gallons annually.
9. Once constructed, Site will be monitored via satellite link as well as fiber connection which will monitor individual computer performance, temp of each computer as well as ambient temp of room, and monitoring of the cooling systems.
10. Site will have a sign with name, address and emergency contact.
11. Site is less than one acre and will be completely fenced.
12. There are no residences or other occupied buildings within a 1 mile radius.
13. Applicant has applied for an Approach permit.

14. Applicant has received an Acoustic Study for the area of installation, at 1200 ft. from the installation the sound will be less than 40 Db
15. Installation will follow state electrical code and be compliant with all State requirements as well.
16. There are no other Data Centers within a 3 mile Radius.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The operation of this facility will not be detrimental or endanger public health, as it is at least a mile from any residence.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

Site will encompass 1 acre adjacent to an electrical substation, which will be supplying the electricity to the installation and will not diminish the value or enjoyment of other property in the area.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed conditional use shall not impede the normal orderly development of the surrounding property, as it is at least 1 mile from any residence.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Site will be unmanned so there will be no extra traffic on the road except during the initial construction

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agriculture.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Staff Recommends Approval of Conditional Use Permit 10-24CUP to allow the Data Center. Accept the finding and conditions as presented in the Staff Report "

Conditions:

1. Applicant shall mark the site with a (4' x 8') sign visible from the road with the following information. Name, Address and Emergency contact. This must be completed within 30 days of the County Commission Approval.
2. Maintain Weed control as approved by the McKenzie County Weed Control Officer.
3. The Applicant shall adhere to all Local, State and Federal laws, regulations and conditions for the proposed facility.
4. A Reclamation bond shall be required per the McKenzie County Land Development Code. 2-13-3 (B) requires the Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and re-seed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
5. Access on the private roadway must be maintained for 911 purposes.
6. Any change in area or volume will require an amendment to the Conditional Use Permit, per Section 5.13.11 of the McKenzie County Zoning Ordinance.
7. The applicant shall maintain a site free of garbage from within the site and from outside sources during and after construction.
8. All Exterior lighting shall face downward.
9. All structures and mechanical Equipment shall be setback a minimum of fifty (50) feet from property lines, and 133 feet from Section lines.
10. Applicant Shall fence the perimeter of the property with a 6ft tall fence constructed of either chain link, masonry or solid wood .
11. Data Centers shall be separated by 3 miles from any other lawfully existing Data Centers.
12. Site will be inspected Annually to ensure continued compliance with the conditions of this
13. Applicant shall obtain building permits for any permanent structures that are to be put on the property.
14. All Building, Structures and appurtenances on the property where the Data is located shall be meet the height requirements of the zoning district for which they reside.
15. All Buildings and appurtenances, including those constructed for noise mitigation, shall be finished in a non-obtrusive color and be complementary to the main building.

Public Comment

July 3, 2024

To: McKenzie County Planning Commission

RE: Conditional Use Permit request by Data Diggers LLC on 1 acre in the SW ¼ of Section 7, Twsp 145N, Range 103W on Flat Rock Road in the Homesteaders Gap area.

We received notice of the proposed data center from McKenzie County's Planning and Zoning Department as we (Mark & Beverly Maki) own Section 6, Twsp 145N, Range 103W on Flat Rock Road.

The proposed data center raises several concerns for us, as outlined below:

1. Public Notice in the McKenzie County Farmer has an error. It was stated that the deadline to submit written comments to be April 5, 2024. At the very minimum, the hearing on this request should be tabled until proper notice is given.
2. Noise Pollution – Noise would be an environmental impact to the cattle in that pasture as well as wildlife. Constant noise is a known irritant. The limited research we could do with short notice proves the data centers in the Watford City area are excessively noisy. If Data Diggers decides to run generators on gas for power, these generators will dramatically increase the noise pollution. Additionally, there is no gas to capture as it is already in the pipeline. The wells in the area are old, there is no gas to capture here. This is another reason why we question the choice to construct a data center in this area. Existing data centers we located were already on oil well locations where there is gas to capture, and they are just adding to the existing noise and traffic in the area.
3. Traffic – this will increase traffic in the area. All the way along Flat Rock Road, it is open grazing on the road right-of-way. Presently the traffic on this road is at a minimum. We have spent hours working out there and have never had one person drive by. The county road also goes through the neighbor's farmyard, which thru traffic is not invited. Increased traffic will cause more wear and maintenance required on the roads, adding to the burden of maintaining remote roadways.
4. We are questioning how the land owner of the proposed project can rent out this acre when it's already on a prior lease.
5. We understand this is an unmanned center so there are no employment possibilities for any area residents.
6. Fire – will there be a fire suppression system in place and who will monitor this system? There are possibilities of electrical failures and overheating of equipment. With this data center being in the middle of prairie, a fire would be catastrophic. While we are having ample precipitation this year, that is not always the case. For example, the wildfire of October 31, 1999.
7. Trash/Erosion/Weeds – for the data center site, dirt work will have to be done to level the ground and remove the native grass. This in itself is a breeding ground for weeds and creates

dust and erosion. Construction trash finds its way to every fence line. Who will monitor and control this?

8. Meadowlark Initiative – the proposed data center goes against the very reason the ND Game & Fish created this initiative. The goal is to preserve the state’s grasslands and wildlife, with a special focus on the Meadowlark. While spending time in this area we have noticed the abundance of wildlife, including the Meadowlarks, that are residing there in peace. Someone needs to be their voice as well.
9. Questions – What is the lifespan of the data center? How will the land be reclaimed? What will the long-term impact be of such a project. Was the federal government/forest service contacted for this data center? What was their response? What, if any, are future expansion plans? What government agency regulates and monitors this project?

We purchased property in this area because of the quiet and peacefulness of the prairie. We have been diligently improving the property with new fence, and we were able to get rural water to our property as well as our neighbor’s. As neighbors of this proposed data center project, we are concerned about the impact such a project could have on the surrounding landscape.

Simply put, we cannot find a scenario where a prairie data center benefits the area or its residents. Our belief is that we should be stewards of the land and protect it for future generations. Human health and livelihoods are entwined with the fate of grasslands. There are better suited areas for projects such as this. Respectfully, we object to this data center permit request.

Sincerely,

Mark and Beverly Maki

August 9, 2024

Dear McKenzie County Planning Commission:

RE: CUP request by Dakota Data Diggers, LLC

We are writing to notify you all that we have chosen to withdraw our previous objection to the CUP application by Dakota Data Diggers, LLC.

We have had ample time for our own research and communication with the owner. We would also like to state appreciation to the owner for having a townhall meeting with neighbors in this area.

With that being said, we ask that the committee continues due diligence to new applications for these types of CUPs. While attending the previous planning meeting we heard a couple responses that were concerning. As far as wildlife, yes they can and usually do adapt. But some may not. As with all things, there needs to be balance. Also, please familiarize yourselves with the actual landscape of the CUP application. As with the location of this data center, it is not located in the busy oil activity areas we are all so familiar with. There are no compressor stations right in this particular location. The oil wells in this area are of older status. This is one of the main reasons we enjoy this particular grassland area. And don't get us wrong, we'd be fools to resent the oil activity in our county. This just seems to be one of the last areas of the county that remains relatively unchanged, and our plan is to continue to enhance and protect this grassland we purchased.

Thank you for your time.

Respectfully,

Mark and Bev Maki

Sandee Kimpel

From: Tamra Leland <tleland@hotmail.com>
Sent: Friday, August 9, 2024 9:14 AM
To: Sandee Kimpel
Subject: Concerns about data mining regulations in McKenzie Cty



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender tleland@hotmail.com

Planning & Zoning Committee,

As a rural property owner in McKenzie County, I am concerned about the possibility of having data mining facilities dumped in our communities. Specifically, we are concerned about the acoustic noise levels and their impact on people, livestock and wildlife. The impact of the heat generated is also a concern. Will this cause excess drying of the surrounding area and increase the chances of fire? Although Data Diggers LLC repeatedly said they will only put 5 "boxes" on the site, what limitations are in place to keep them from expanding? Financially it sounds like they could be making up to \$30,000 per day so it would be in their best interest to invest and pay for additional electrical lines so they could expand. There should be limitations on the size of any facility so as not to create more conflict with their neighbors.

Minimally there needs to be limitations on the acoustic sound levels emitted from the facility (43 decibels at 400 feet). Checked 4 x per year; supervised by McKenzie County staff and paid for by the facility owners.
Dust suppression and fire control paid by the facility owners.
Data bases must be liquid cooled or the quietest system available at the time of building.
Limitations on facility footprint both on the ground and in height.

Thank you for taking these factors into consideration.

Sincerely,

Tamra Leland

To the director of planning and zoning:

Writing in concern of purposed data mining in southern McKenzie county. As local residents we believe there should be at the very least some guide lines as noise, road and dust control and liability for fires. They need to be responsible for any adverse effects that this could bring on. Thanks, Tim Leland

August 8th, 2024

Dear McKenzie County Planning and Zoning:

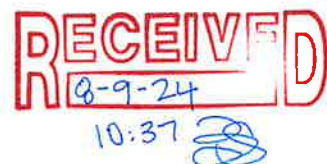
I have concerns about allowing data centers in McKenzie County. These are suppose to be placed in Heavy Industrial areas because of their noise. I know the water cooled ones are suppose to be quieter but I don't think there has been enough research done on them. In my research data centers are noisier than people were told they were going to be but after they get them in place it is hard to treat the noise. After reading the Times article July 2024 it sounds like there are health issues that need to be researched more. McKenzie County shouldn't be jumping on the bandwagon just because a few people are wanting to put them in for financial gain. There needs to be a required decimal allowance! You can't regulate the decimals if you don't have something in writing.

We live where we do because we don't want to be around industrial sites or to have to put up with the noise. Last year Texas had an overload to their electrical grid and a lot of people were without electricity. It is just the beginning for ruining our life style. It will also decrease the value of our ranches.

There has been research done near dairy farms and data centers that suggest milk production decreased after the data centers were in place.

I see Mountrail County has tabled all hearings at this time.

Sincerely,
Gary Tescher
102 Hwy 16 South
Homestead Gap,
ND
59270



August 8th,2024

Dear McKenzie County Planning and Zoning Commission,

I am voicing my concerns about Data Centers in our county. It is quiet in this end of the county. I want to be able to sit on my front step and enjoy the singing of the birds and nature in general. I have done research on data centers and all the research says they are noisier than people were told they would be at the beginning. There should definitely be a decibal limit on data centers. After they get them in we are stuck with them. There is an article in the Time magazine published on July 8th,2024 and updated on the 16th. It is titled "WE ARE LIVING IN A NIGHTMARE' Inside the Health Crisis of a Texas Bitcoin Town. North Dakota is even mentioned in this article. There are health issues people are acquiring that have not been addressed with these centers. They say these are the new and better data centers but they are new enough that they haven't been researched enough to know all the side effects. There are studies being done that show cows that are in the area of the data centers have lower milk production and don't breed back as well. There are ranchers (like us) that have grazing rights close to the proposed site in Township 145 as well as across the county. I am hoping you will not jump on the Data Center bandwagon (or solar panels or wind farms) until there is more information gathered on the effects. It should not be about servicing the few people that benefit financially but looking at all the people in the county and seeing the effects it could have on everyone.

Sincerely
Ardis Tescher
102 Hwy 16 South
Homesteaders Gap, ND.
59270

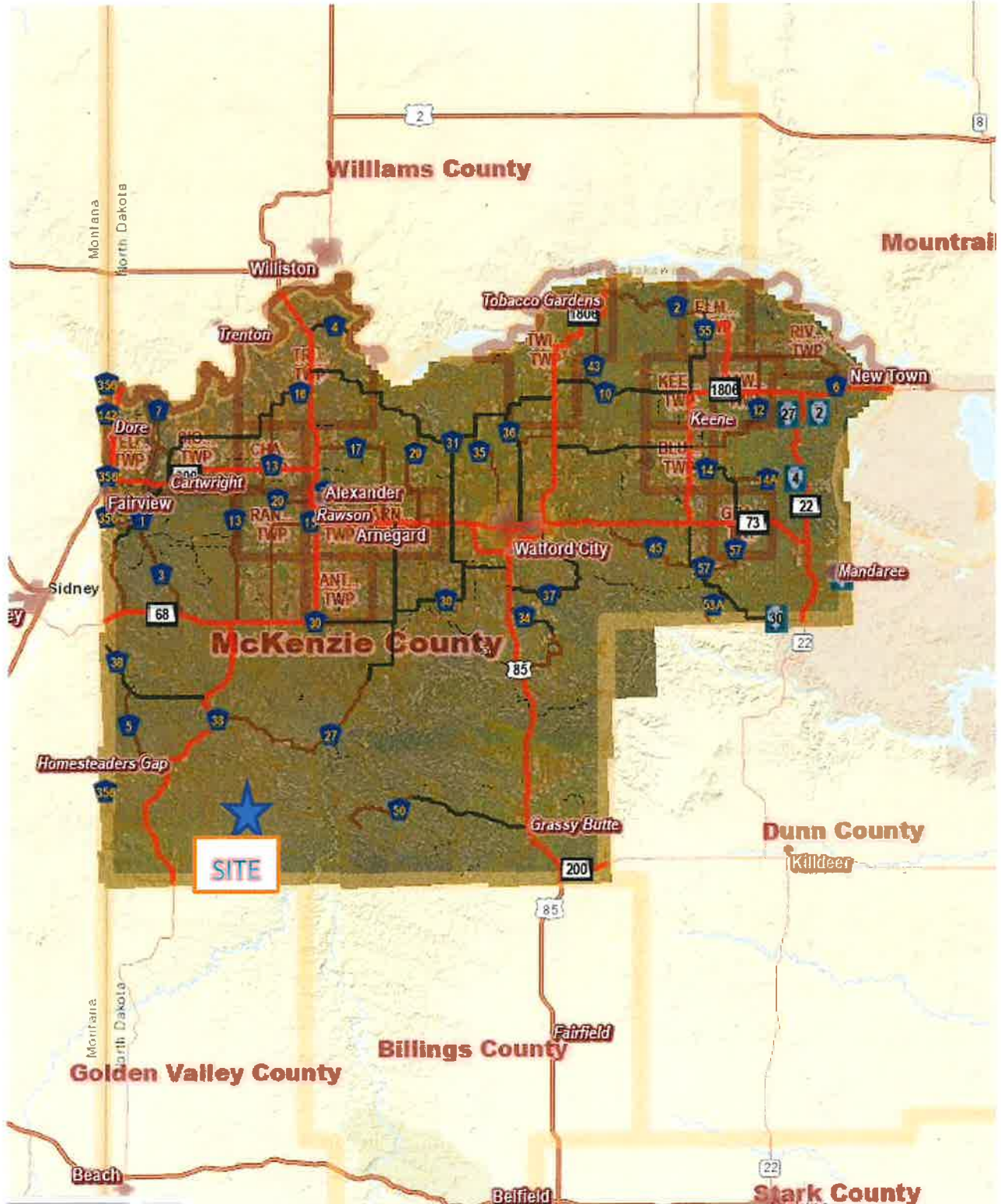
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8-9-24
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#10-24CUP Dakota Data Diggers

PID # 490000775

S-7,T-145N,R-103W

Vicinity MAP

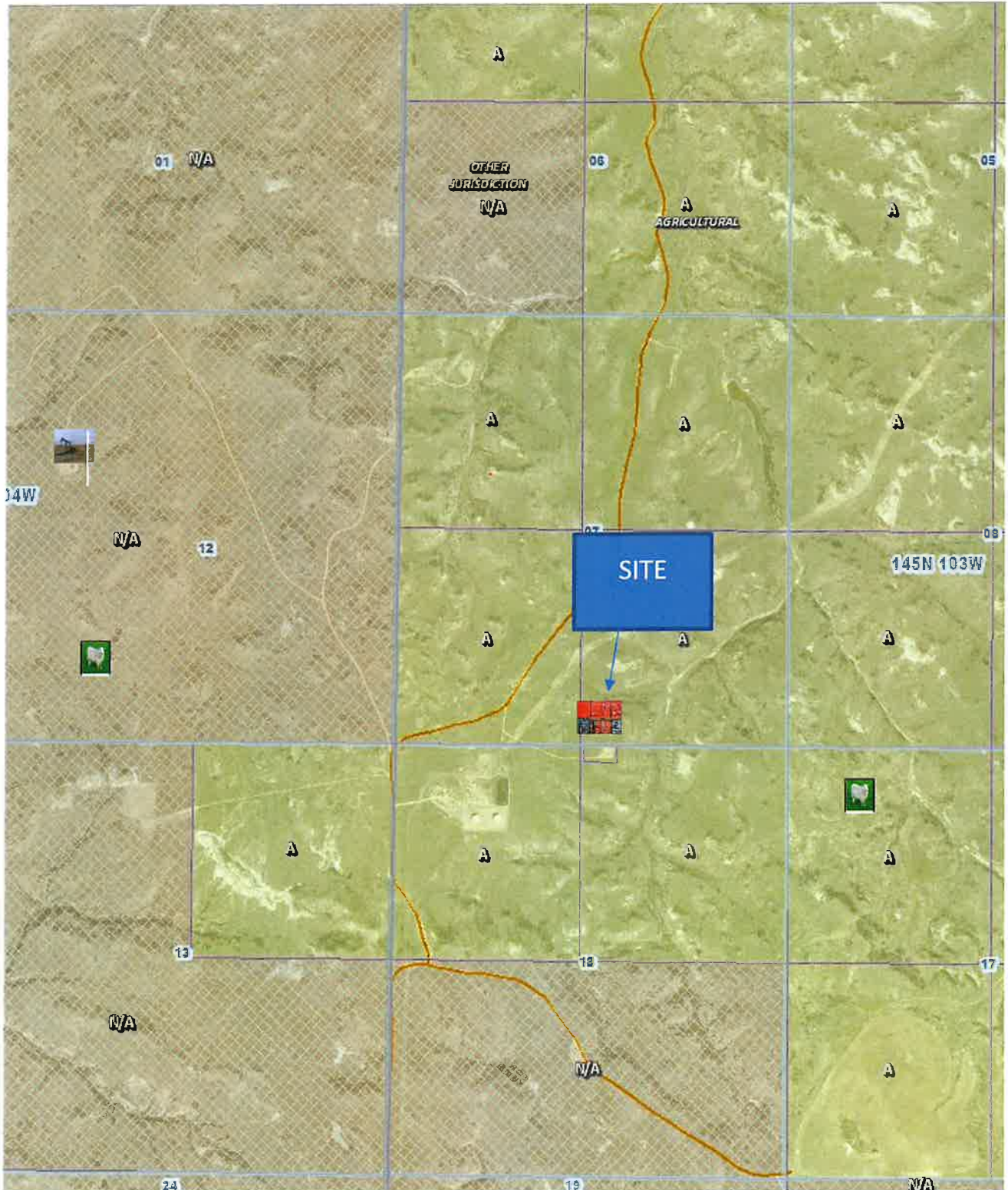


#10-24CUP Dakota Data Diggers

PID # 490000775

S-7,T-145N,R-103W

Comprehensive Plan Map-Agriculture

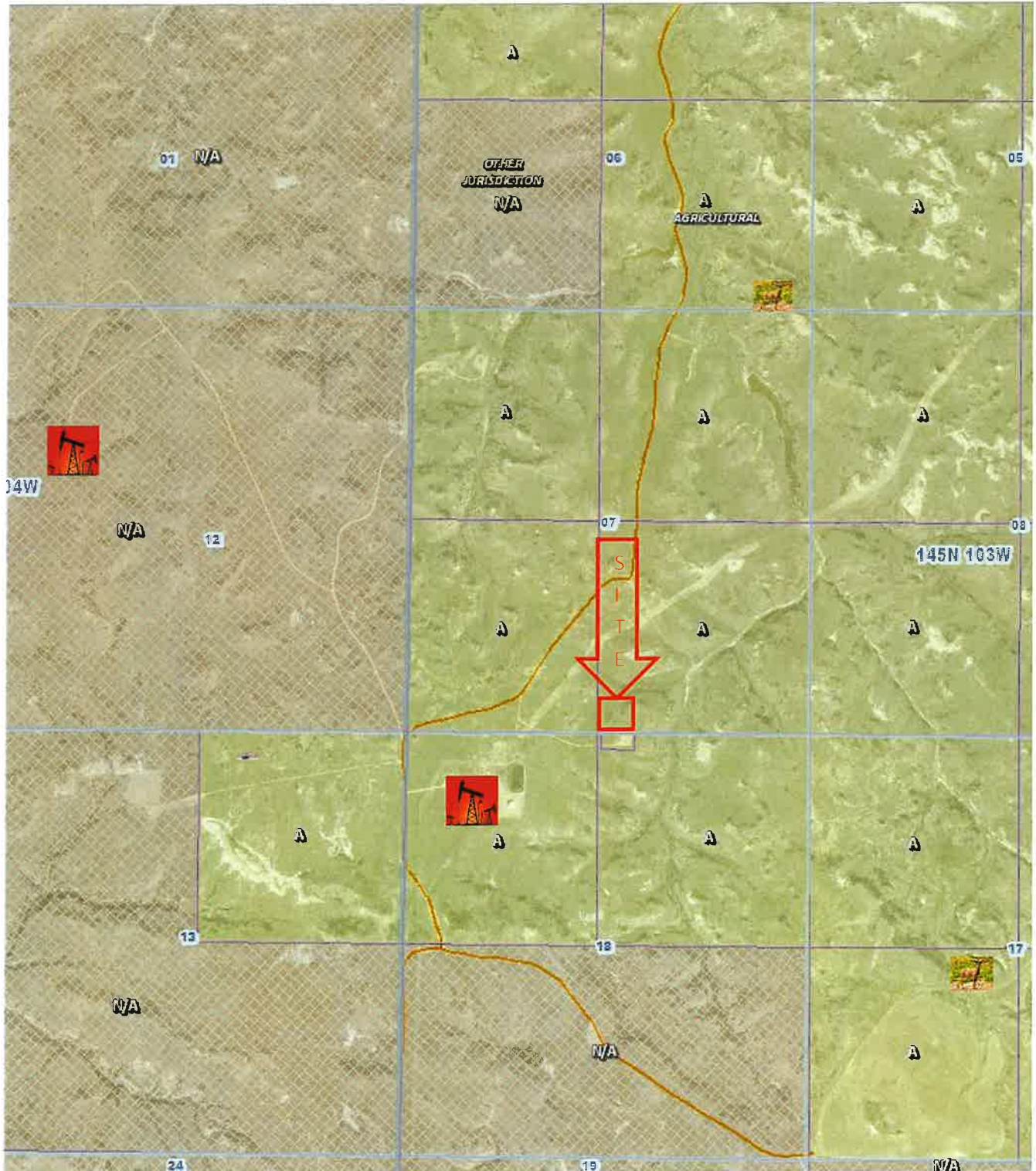


#10-24CUP Dakota Data Diggers

PID # 490000775

S-7,T-145N,R-103W

Zoning Map-Agriculture

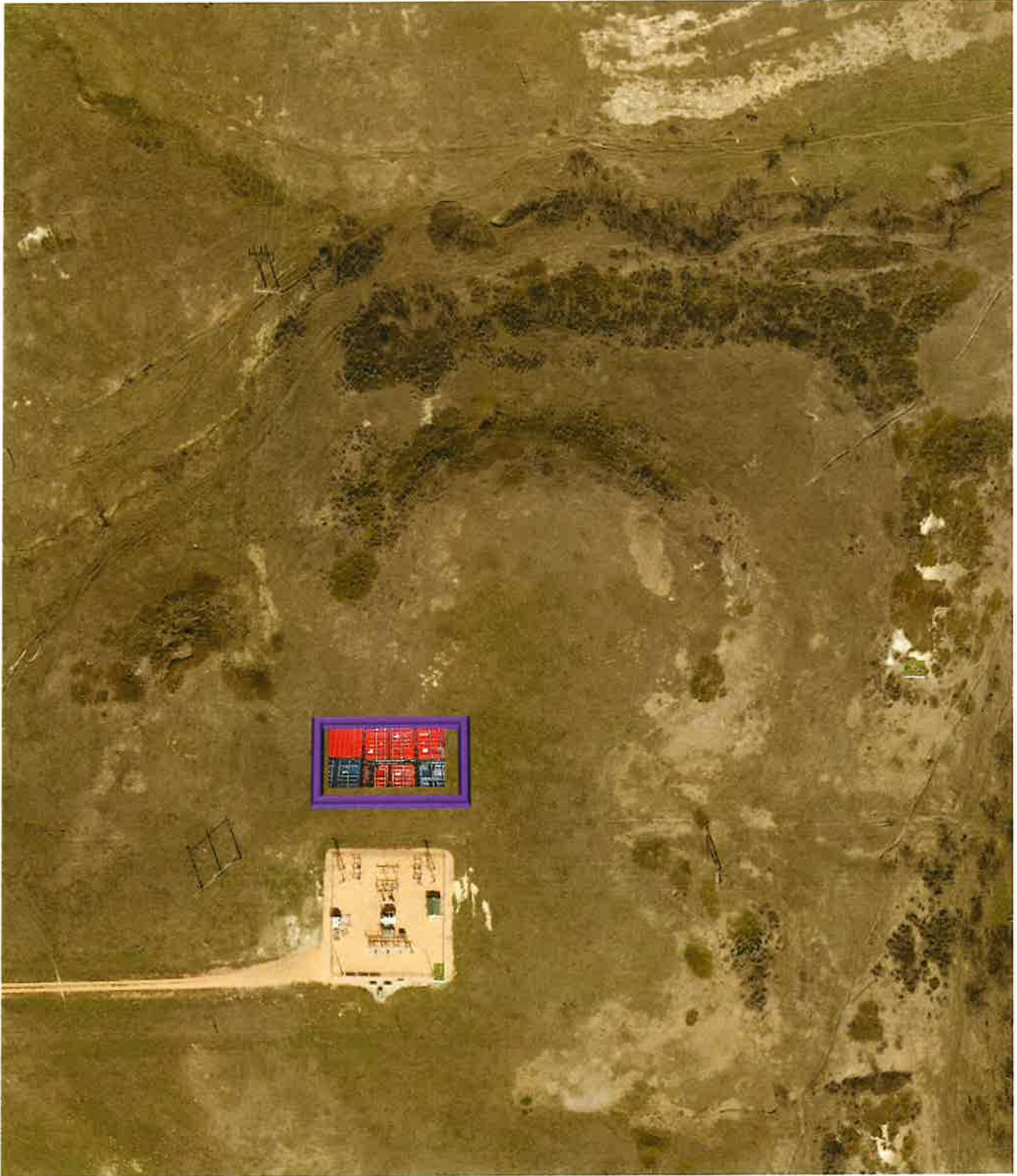


#10-24CUP Dakota Data Diggers

PID # 490000775

S-7,T-145N,R-103W

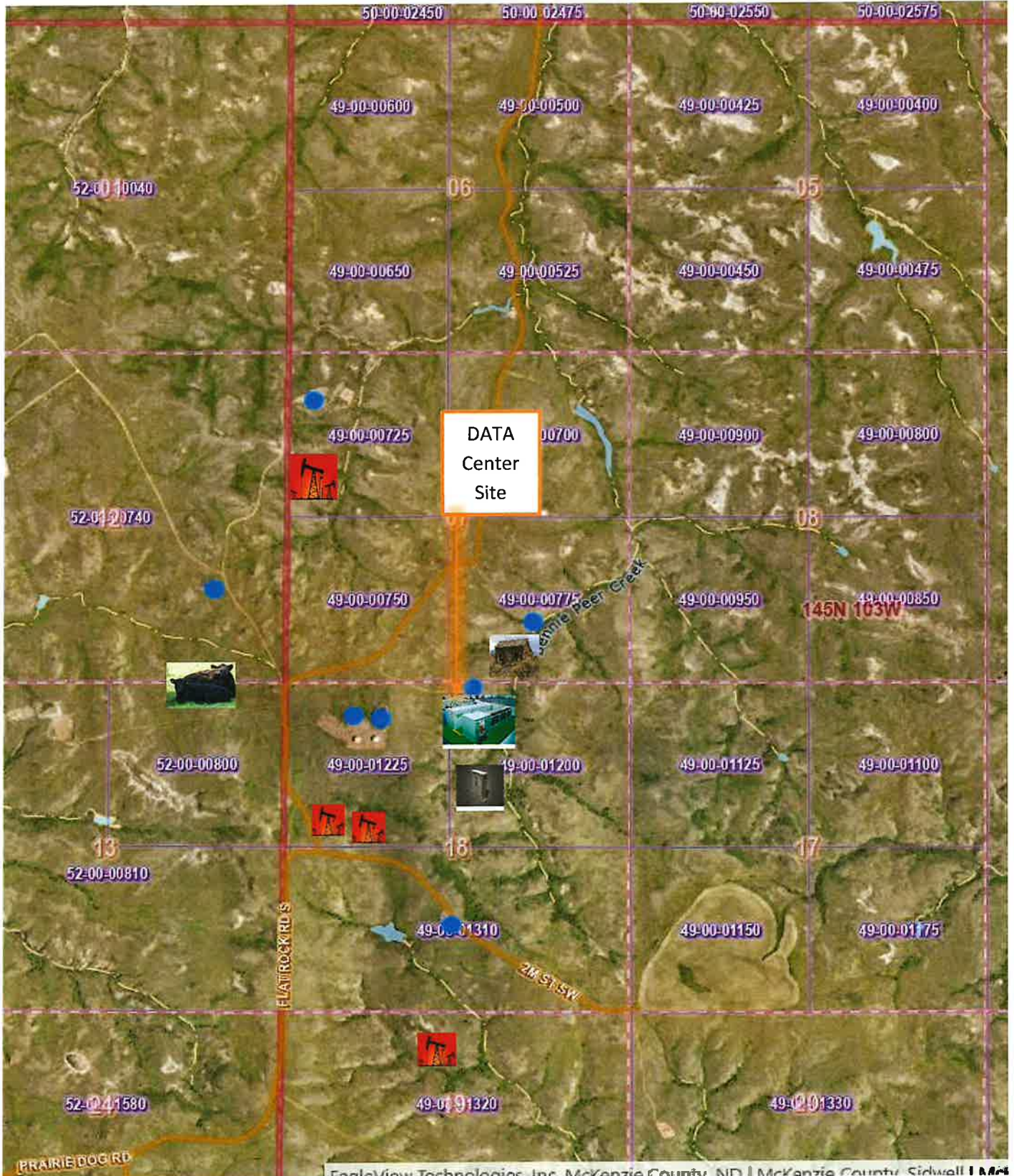
SITE MAP



#10-24CUP Dakota Data Digger

PID # 490000775
S-7,T-145N,R-103W

Address Sites Map



#10-24CUP Dakota Data Diggers

PID # 490000775
S-7,T-145N,R-103W
1 mile Radius

