



PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY AUGUST 20, 2019

7:30 PM Regular Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes:
 - a. July 16, 2019 Planning Commission Meeting
 - b. July 30, 2019 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Laura Dwyer (Applicant/Owner) requests that the City consider the following action for the properties located at 5215 and 5175 Sunset La. (PID No. 01-118-24-31-0002 and 01-118-24-42-0028) in Independence, MN:
 - a. A Minor Subdivision to consider a lot line rearrangement for the properties located 5215 and 5175 Sunset Ln. The lot line rearrangement would allow for a portion of the property currently attached to 5175 Sunset Ln. to be combined with 5215 Sunset Ln.
5. **PUBLIC HEARING:** Sharratt Design & Company (Applicant) and Curt Marks (Owner) request that the City consider the following action for the property identified by (PID No. 28-118-24-14-0006) and located at 7220 Turner in Independence, MN:
 - a. A Conditional Use Permit and Variance to allow an accessory dwelling, an accessory structure larger than 5,000 SF and taller than the principal structure.
6. **PUBLIC HEARING:** Gregory Hamman (Applicant/Owner) requests that the City consider the following action for the property identified by (PID No. 16-118-24-33-0002) and located at 2460 CSAH 92 N in Independence, MN:
 - a. A Variance to allow an accessory structure to exceed the height of the principle structure.

7. **(TO BE CONTINUED TO SEPTEMBER 17, 2019) PUBLIC HEARING:** Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):
 - a. An amendment to the existing interim use permit previously granted on the property.
8. Open/Misc.
9. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JULY 16, 2019 – 7:30 P.M.

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Gardner at 7:30 p.m.

3. ROLL CALL

PRESENT: Commissioners Thompson, Gardner and Dumas
STAFF: City Administrator Kaltsas, Administrative Assistant Horner
ABSENT: Commissioner Palmquist
VISITORS: Lynda Franklin, Jan Gardner, Bob Volkenant

4. APPROVAL OF MINUTES:

- a. June 18, 2019 Planning Commission Meeting
- b. July 2, 2019 City Council Meeting Minutes (For Information Only)

Motion by Thompson, to approve the June 18 Planning Commission Minutes, second by Dumas. Ayes: Thompson, Gardner and Dumas. Nays: None. Absent: Palmquist. Abstain. None. Motion Approved.

5. **PUBLIC HEARING:** George and Linda Betts (Applicants) request that the City consider the following action for the properties identified by (PID No.s 14-118-24-34-0003 and 14-118-24-34-0007) and located at 6050 Pagenkopf Road and 2465 Becker Road in Independence, MN:

- a. A minor subdivision to allow a lot line rearrangement to adjust the east west property line separating the properties to the north.
- b. A conditional use permit to allow the existing detached structure to be used as an accessory dwelling unit on the 6050 Pagenkopf Road property.

Kaltsas said there are two subject properties involved in the applicant's request. Both properties are located at the intersection of Pagenkopf and Becker Roads. There is a residential structure located on each property. 6050 Pagenkopf Road has two additional detached accessory structures. The City allows accessory dwelling units as a conditional use in both Rural Residential and Agriculture zoning districts. The intent of the ordinance was to allow for "mother-in-law" type units to be located within the principle structure or within a detached accessory building. The applicants have two properties with a residential structure located on each property. The applicants have historically used the residential structure located on the 2465 Becker Road property as a "mother-in-law" unit. It is apparent that the structure was constructed as a secondary dwelling due to the location of the structure, the lack of an independent access, the subordinate size of the second structure and the proximity of the structure to the principle residence on 6050 Pagenkopf Road. The applicants would like to adjust the east/west property line separating the two properties to the north to capture the secondary residential structure as an accessory dwelling unit on the 6050 Pagenkopf Road property. This lot line rearrangement would allow the 2465 Becker Road property to be developed with a new principle residential structure.

The existing accessory dwelling unit is comprised of two bedrooms, a bathroom, a kitchen, dining and family room area. In order to allow an accessory dwelling unit, the applicant will need to demonstrate that they meet all

applicable criteria for granting a conditional use permit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:

- (a) Physically attached to or within a single-family dwelling unit or within a detached^a accessory building that has a principal structure on the parcel; and*

- (b) **The applicant is proposing to utilize the existing detached accessory dwelling unit. Subordinate in size to the single-family dwelling unit; and***

The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit.

- (c) Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

The proposed accessory dwelling unit would be separated from the single-family home.

- (d) Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

The proposed accessory structure is existing and somewhat architecturally similar to the principal structure. The structure has siding and architectural features that complement the principle home on the property.

- (e) The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

The principal structure has 3,306 square feet of above ground space not including the basement. 33% of 3,306 square feet equals 1,091 square feet. The applicant is proposing to include the existing detached accessory structure which is a total of 1,100 square feet. The proposed square footage would be close (would round up 9 SF) to equal to the permitted maximum number of square feet.

- (f) Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

The maximum accessory structure size for properties zoned RR-Rural Residential is 2% of the buildable (upland) lot area. In the after condition, the subject property would be 2.93 acres. This would allow a total of 2,552 SF of accessory structures to be constructed on the property. There are two existing detached accessory structures comprised of 830 SF and 200 SF which total 1,030 SF. With the additional 1,100 SF of the existing accessory dwelling unit added to the total square footage (2,130), the subject property would comply with applicable standards.

- (g) Has permanent provisions for cooking, living and sanitation; and*

The existing accessory dwelling unit has permanent provisions for cooking; living and sanitation.

- (h) Has no more than 2 bedrooms; and*

The existing accessory dwelling unit has two bedrooms.

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

The applicant is proposing that the accessory dwelling unit be occupied solely by family members.

- (j) *Uses the existing on-site septic system^b or an approved holding tank; and*

The existing detached accessory dwelling unit on the 2465 Becker Road property has an existing on-site septic system that is in working condition. The applicant is asking the City to consider allowing the existing detached accessory unit to continue to utilize the existing system rather than connecting to the septic system serving the principle residence. The City can condition approval of the CUP on this condition. If considered by the City, it is recommended that the condition stipulate that the accessory dwelling unit be connected to the principle system upon sale or transfer of the property.

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

The subject property cannot be further subdivided and the location of the existing accessory dwelling unit to the north of the existing home would not impede the ability to subdivide the property or locate a secondary septic site if standards were changed in the future.

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

The existing detached accessory dwelling unit meets all applicable building codes.

^a *On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

^b *The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The existing detached accessory dwelling unit has historically been used as an “mother-in-law” unit of the principle residence located on 6050 Pagenkopf Road. The historic use of the property and the relationship of the existing accessory dwelling unit to the principle structure would not change if the property line was adjusted to the north. The remaining property located at 2465 Becker Road would be required to meet all applicable standards. A primary and secondary septic system will be required to be verified on the 2465 Becker Road property in the after condition.

2465 Pagenkopf Road

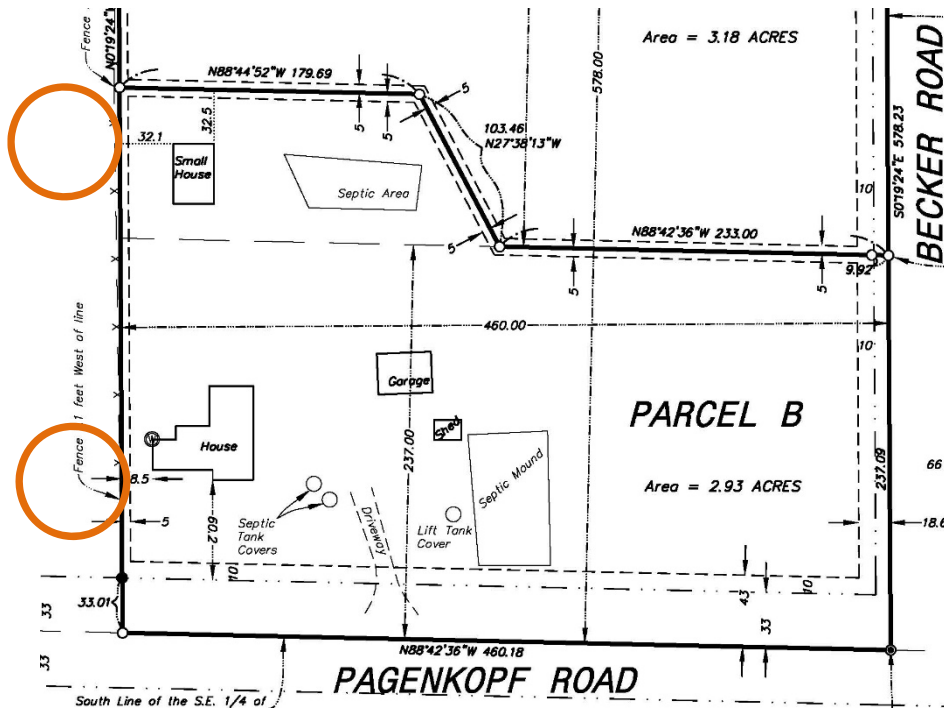
Minimum Lot Size Required: 2.5 acres

Minimum Lot Size Proposed: 3.18 acres

Road Frontage Required: 200 LF

Road Frontage Proposed: 578 LF

The 6050 Pagenkopf Road property will need to comply with applicable standards in the after condition. The applicant is proposing to adjust the north property line so that the existing accessory dwelling unit meets the applicable side yard setback of 15 feet (proposed 32.5 feet). The existing residential structure and the detached accessory dwelling unit do not currently meet the requisite rear yard setback standard of 40 feet. As such, they are considered legal non-conforming structures (front yard for both properties is considered Becker Road).



As proposed, the existing detached accessory dwelling unit appears to meet all applicable criteria established in the zoning ordinance with the exception of using the septic system for the principle structure and meeting the rear yard setback (existing condition). The 6050 Pagenkopf Road property has the capacity to accommodate the additional detached accessory structure square footage. In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

Consideration for the proposed conditional use permit should weigh the impact of moving the lot line to allow the existing accessory dwelling unit to be located on the 6050 Pagenkopf Road property. The historic use of both properties will essentially remain the same in the after condition. The applicant has used the detached accessory dwelling unit as a "mother-in-law" apartment since it was originally constructed. The Becker Road property will become an available buildable lot. The location of the existing accessory dwelling unit and its compliance with most applicable standards would allow the City to consider approval of the conditional use permit. The proposed minor subdivision to allow a lot line rearrangement can only be considered at this time if the City recommends approval of City of Independence

the conditional use permit for the detached accessory dwelling unit. The City will need to find that the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

Should the CUP to allow an accessory dwelling unit be recommended for approval by the Planning Commission, it is suggested that the following conditions be noted by the City:

- The 6050 Pagenkopf Road property has a fully compliant septic system. The applicant will need to provide verification that the 2465 Becker Road property can accommodate a primary and secondary septic system.
- Upon the sale or transfer in title or ownership of the 6050 Pagenkopf Road property, the existing detached accessory dwelling unit shall be connected to the principle residence septic system.
- The applicant is proposing to dedicate the requisite drainage and utility easements to the City for both properties. The City will require that the applicant deed the easements to the City.
- The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit and possibly a variance following all applicable procedures.

Kaltsas said Staff is seeking a recommendation from the Planning Commission for the requested conditional use permit and minor subdivision with the following findings and conditions:

- A. The proposed conditional use permit and minor subdivision request meets all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions and Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
- B. The conditional use permit will be issued subject to the following Conditions:
 1. The existing accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit and possibly a variance following all applicable procedures.
 2. Upon the sale or transfer in title or ownership of the 6050 Pagenkopf Road property, the existing detached accessory dwelling unit shall be connected to the principle residence septic system.
- C. Prior to the City Council placing the Conditional Use Permit into effect, the applicant shall provide the City with the following items:
 - The applicant will need to provide verification that the 2465 Becker Road property can accommodate a primary and secondary septic system.
 - The Applicant shall provide, execute and record the requisite drainage and utility easement with the county within six (6) months of approval.
 - The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit and subdivision.
 - The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

George Betts noted the parcel is next to there land and the home has rented out to relatives since 1993. They would like it included in their lot and stated water runs from their home to the other home. The second home has it's own septic. New access would be through Betts property.

Gardner noted this was a minor lot rearrangement. Dumas asked if the septic would stay in the other parcel. Betts said with the line rearrangement it would be on the Bett's property. There is also a culvert under the road. Lynn Betts said it has not happened before as it was not allowed. She noted it also allows sale of the property without the house on it.

Dumas asked if the septic would be ok for 2 more bedrooms. Kaltsas said it was a modern system with room for an additional module so it would be able to accommodate 2 more bedrooms.

Thompson asked if there was anything in the City ordinance that compels straight lot lines. Kaltsas responded no. He said it is encouraged as it makes sense but there is nothing requiring straight lines. Thompson said it would make sense for future owners to have a straight lot line. George Betts said they did not put a straight line as they wanted the new parcel to have more acreage.

Public Hearing Open

No comments.

Public Hearing Closed

Motion by Dumas to approve (a) A minor subdivision to allow a lot line rearrangement to adjust the east west property line separating the properties to the north and (b) a conditional use permit to allow the existing detached structure to be used as an accessory dwelling unit on the 6050 Pagenkopf Road property; for the properties identified by (PID No.s 14-118-24-34-0003 and 14-118-24-34-0007) and located at 6050 Pagenkopf Road and 2465 Becker Road in Independence, MN.; second by Volkenant. Ayes: Gardner, Thompson, Volkenant and Dumas. Nays: None. Absent: Palmquist. Abstain. None. Motion Approved.

6. Preliminary Discussion Regarding a proposed text amendment to the City of Independence Ordinances as follows:

- a. Chapter 5, Section 510.05, Definitions and 530 Zoning District Provisions – Considering an amendment to the several definitions relating to permitted land uses in various districts and to consider amendment of permitted, accessory and conditional land uses in each district.

Kaltsas said based on issues that continue to surface relating to the City's allowable uses in the Agriculture and Rural Residential zoning districts, Council has directed the Planning Commission to review several definitions and relating lands uses in the zoning ordinance. The City currently has two primary zoning districts; AG-Agriculture and RR-Rural Residential. The City has established the following permitted, accessory and conditional land uses within each district:

530.01. - Agricultural District established.

Subd. 1. *Purpose.* The agricultural district is established for the purpose of promoting continued farming of agricultural lands.

Subd. 2. *Permitted uses.* The following uses are permitted in the Agricultural District:

- (a) Agriculture and horticulture;
- (b) Feedlots and poultry facilities;
- (c) Farm drainage and irrigation systems;
- (d) Forestry;
- (e) Public recreation;
- (f) Single-family dwellings

Subd. 3. *Accessory uses.* The following accessory uses are permitted in the Agricultural District:

- (a) Private garages for single-family dwellings,
- (b) Home occupations operated in accordance with subsection 515.09 of this zoning code;
- (c) Fences;
- (d) Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:
- (e) Retail sales, on a seasonal basis of agricultural and horticultural products grown on the premises by a person who occupies the premises as a principal residence, provided that the applicant apply for and receive an administrative permit from the city prior to commencing any sales of products. All applications shall meet and comply with all of the following standards:
- (f) Aeration or decorative windmills provided the following performance standards are satisfied:

Subd. 4. **Conditional uses.** The following conditional uses may be permitted in the Agricultural District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

- (a) Accessory dwelling units;
- (b) Riding stables;
- (c) Bunkhouses;
- (d) Farrieries;
- (e) Detached agricultural storage buildings, barns, or other accessory structures that exceed the size limitations of subdivision 3(d) of this subsection;
- (f) Kennels;
- (g) Local government buildings;
- (h) Churches;
- (i) Cemeteries;
- (j) Extraction;
- (k) Essential services;
- (l) Temporary use of a mobile home or camper as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;
- (m) Wind energy conversion systems (WECS);
- (n) Commercial indoor storage in existing farm buildings, provided:
- (o) Guest houses and non-rental guest apartments;
- (p) Commercial golf courses;
- (q) Telecommunications towers approved pursuant to section 540 of this Code;
- (r) Forestry products processing, provided that:
 - (1) The operation of the conditional use must be on a lot that is being used as an occupied single-family dwelling;
 - (2) The lot upon which the conditional use is operated must be not less than ten acres in area;
 - (3) The area devoted to the conditional use, including buildings, parking, storage area, and all related uses may not exceed 15,000 square feet or 12 percent of the size of the lot, whichever is smaller, subject to existing accessory building standards.
- (s) Polo grounds.
- (t) Catering business, provided that:
 - (1) The business is subordinate to the principal use of the property as a residence;
 - (2) No materials, equipment or parts used in the business may be stored on the premises other than within the dwelling unit or accessory structure;

- (3) No signs relating to the business may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning ordinance;
- (4) No exterior alterations may be made to the dwelling unit to accommodate the business except those alterations customarily found with the dwelling units on lots of similar size within the district;
- (5) No traffic shall be generated by the business beyond what is reasonable and normal for the area in which it is located;
- (6) The hours and days during which the business is conducted on the premises is limited so as not to unreasonably interfere with the residential character of the surrounding areas;
- (7) No over the counter retail sales may occur on-site.

The City has identified several land uses and associated definitions that have recently come into question. The question essentially pertains to the use of a property for a business that includes the permitted land use, but also includes a closely associated use of the property for off premise sales/service, etc. The City has historically permitted Agriculture, Horticulture and Forestry in both the AG and RR zoning districts. The definitions are as follows:

Subd. 3. "Agriculture." The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

- (a) Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers.*
- (b) Livestock as defined in subsection 510.05, subdivision 44.*
- (c) Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.*

Subd. 34. "Forestry." The cultivation and management of forests or woods located on the premises, including: felling and trimming of timber; transportation of timber and timber logs, pulpwood, cordwood and similar products; sawing of logs into lumber and similar operations.

Subd. 42. "Horticulture." The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.

Staff would like to discuss the permitted, accessory and conditional land uses within both the AG and RR zoning districts. In addition, staff would like to discuss the definitions of Agriculture, Horticulture and Forestry. In order to provide some framework around this discussion, staff offers the following considerations:

1. The City currently does not define any specific Interim Uses within any zoning district. Allowed interim uses should be provided for each district similar to permitted, accessory and conditional uses. Some of the land uses that the City often considers could be reassigned from a permitted or conditional use to an interim use. If this were to occur, the City should give consideration to whether or not the investment relating to the land use (i.e. commercial buildings for a riding stable) would be taken away if the use were to no longer be permitted.
2. The City should review all permitted, accessory and conditional uses and determine if there are now uses that should be reassigned (i.e. forestry as a permitted use in RR should maybe be an Interim Use or not permitted). Should any of the permitted uses be reassigned to conditional or interim uses and should any of the conditional uses be reassigned to permitted?
3. The City should clarify the intent of the Agriculture, Forestry and Horticulture. It has historically been interpreted by the City (since the ordinance amendment in 1993) that these land uses excluded boutique industry businesses that also had "offsite" operations. The City could continue to allow

these uses in one or both of the zoning districts but enhance the definitions to specify that offsite operations are not permitted. An example of possible language changes is as follows:

- a. **"Agriculture."** *The use of land for the growing and production of field crops, livestock, and livestock products, defined as follows:*

"field crops" shall mean barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers;

"livestock" shall be defined as provided in subsection [510.05](#), subdivision 44, and;

"livestock products" shall mean milk, butter, cheese, eggs, meat, fur, honey, or similar products involving only light, on-site processing.

"Forestry." *The cultivation and management of forests or woods located on the premises, including the felling and trimming of timber and associated light production such as cutting or sawing of timber into rough lumber, but not including the sale and transportation of finished lumber from the premises or the storing or stockpiling of such lumber.*

"Horticulture." *The use of land for the growing, production and sale of fruits, vegetables, flowers, cultured sod, nursery stock, or ornamental plants and trees. Such term shall not include the operation of a commercial nursery, landscaping business or similar enterprise involving 3 or more employees.*

4. Staff reviewed several surrounding communities' ordinances to determine how or if this issue was being addressed in similar cities. One common thread in the cities of Minnetrista, Orono and Medina was the use of a wide-array of zoning districts. Independence essentially has two zoning districts AG-Agriculture and RR-Rural Residential. As a result of having more zoning districts, cities are able to more closely prescribe land uses that are compatible with surrounding and like properties. Independence could evaluate the existing zoning districts and possibly establish zoning overlay districts and or sub zones within the two districts.
5. It is not intended that Planning Commission will provide a recommendation relating to the information presented in this report at this meeting. Staff would like to begin a discussion relating to the issues that are outlined herein and obtain feedback from the Planning Commission. It is anticipated that any amendments to the zoning ordinance will require an iterative process that will take several meetings realize. Please review the list of permitted, accessory and conditional uses for both the AG and RR zoning district for discussion at the meeting.

Gardner said when there are new property owners it may be the opportunity to start these kinds of things. He said right now we are just playing catch-up. Kaltsas provided an example of a new housing development which has a distinctly different look than a 10 or 12 acre parcel with historic buildings and would it be compatible with surrounding properties. Kaltsas noted the number of commercial riding stables in the City and if that should be memorialized with the land as far as the commercial aspect. He said it could also be an interim permit that doesn't automatically transfer with a new owner.

Thompson asked if one of the premises was trying to make sense of new housing developments sitting in rural residential areas. Kaltsas said other cities classify many more land use categories than Independence does. He noted the City has very broad land use definitions. Dumas said if someone puts in a commercial barn when they sell it would obviously be to the same type of buyer who wants to use it in the same commercial manner. Volkenant asked if someone could get an amendment for a CUP like an IUP. Kaltsas said they could but it would be hard to require that.

Volkenant asked how many IUP's were active. Kaltsas said there was one and it is expired. He said it is a tool that is not defined but needs to be defined like CUP's are. Thompson agreed the zoning needs to be defined. Gardner asked about the history of the interim use permits. Kaltsas said cities were allowed to define CUP use and put a clause in that the CUP ended with the sale of the property. It was determined that was not allowed and the CUP runs forever with the property. Cities then developed the IUP so a date or event could be established to eliminate the IUP as determined.

Kaltsas noted there is discussion on adding districts with the new comp plan. He said it may be necessary to add a fourth district such as sewer residential. Thompson noted there could be a housing development next to a hobby farm and what would happen when the hobby farm sold. Volkenant agreed that terms need to be further defined. Volkenant asked if rezoning could be part of the 2040 Comp Plan and if there was a date for the next Comp Plan meeting. Kaltsas said Met Council needs to agree with the density and then a date can be scheduled. Thompson said the Ag district is huge and the work done on what's conditional has been very good. Rural Residential is a broad spectrum but needs more rules. Kaltsas said historically we have a set of rules for rural residential that applies to five-acre lots. Kaltsas said if Planning agreed he would go to the City Council. It would be a good time to look at this since they are not done with the Comp Plan yet.

7. Conditional Use Permit Enforcement Update

Kaltsas noted the CUP's highlighted in pink were recommended for revocation. All others on the list are either in compliance or revoked. Kaltsas said current CUP's were reviewed to make sure they were all in compliance. Two cell phone towers have been brought up to compliance. Kaltsas said we are on letter five and all letters are sent via certified mail. The resolutions are being attached via pdf to the CUP spreadsheet.

Volkenant asked if a lot more come in how will staff be able to manage them. Kaltsas said there are not too many now as there were in the early years. Kaltsas said he would update the Planning Commission bi-annually on the CUP list.

6. Open/Misc.

5. Adjourn.

Motion by Thompson, second by Volkenant to adjourn at 9:21 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JULY 30, 2019 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Spencer, McCoy, Grotting and Betts
ABSENT: City Administrator Kaltsas, City Attorney Vose
STAFF: City Administrative Assistant Horner
VISITORS: Shawn Bode, Lynda Franklin, Gina Piazza Ward

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the July 16, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19016-19038.
- c. Set Truth in Taxation Meeting Date for Tuesday December 3, 2019 at 6:00 PM.
- d. Approval of the Cystic Fibrosis Bike Ride Assembly Permit (Event Held on September 14, 2019).
- e. Approval of the Homes by Architects Tour Assembly Permit (Event Held on September 21 and 22, 2019).

Motion by Betts, second by McCoy to approve the Consent Agenda. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Lake Sarah Association Meeting and Picnic

Grotting attended the following meetings:

- Planning Commission Meeting

McCoy attended the following meetings:

- Welcome home reception for Ben Raskin

Betts attended the following meetings:

- Planning Commission Meeting
- Delano Senior Center get together for volunteers

Johnson attended the following meetings:

- Planning Commission Meeting
- 4 Community Theatre production of the Addams Family
- Lake Sarah Association Meeting and Picnic
- Welcome home reception for Ben Raskin
- Met with Ellie Howe who is interested in filing for the Orono School Board position
- Community Action Partnership for Hennepin County Board Meeting
- Met with Staff Members of Met Council Waste Commission
- Met with Ronan Bonavige about his Eagle Scout Project

Horner attended the following meetings:

- Met with Ronan Bonavige about his Eagle Scout Project

Kaltsas attended the following meetings:

- Met with Pioneer Sarah Creek Watershed Commission about what will happen next year, if they will hire a replacement for Jim Kijawa who is retiring. If he is not replaced there may be a consultant group hire for technical service.
- Kaltsas noted the Waste Water Quad City agreement will be replacing the Tri-City agreement.

7. Roger Pitts of 4330 Woodhill Drive Would Like to Discuss the Highwater Level on Lake Sarah.

Johnson asked Pitts what he would like to discuss. Pitts provided his research materials on the high-water levels of Lake Sarah and asked the Council to review and then address at a future date. Johnson said Staff would look at it and come back with their recommendations. Spencer noted the level today was 4 inches below the high-water level. He said Lake Sarah has been remarkably stable this year.

8. Consider Revocation of Conditional Use Permits No Longer in Use or Not in Compliance with Applicable Conditions of Approval.

a. RESOLUTION 19-0730-01

Kaltsas said the City has reviewed all the active conditional use permits over the last year and half. The City initially notified property owners of the intent and need to review the conditions of the conditional use permit and asked owners to contact the City to schedule an inspection. Following inspection of the majority of conditional use permits and or multiple attempts to inspect properties, it was recommended that a handful of conditional use permits be considered for revocation.

The City Council revoked several conditional use permits in February 2019 based on non-compliance or no longer being used by the property owner. One of the properties determined to be non-compliant (the City has not been contacted by the property owner to schedule an inspection and could only conduct a visual inspection from the public right of way) and without response to multiple notifications of non-compliance, was provided a final notice of the City's intent to consider revocation at the February 5th City Council Meeting. Unfortunately, it was mistakenly not included in the February resolution. That property is located at 3315 County Road 92 (PID: 09-118-24-34-0004). The property is currently in a non-compliant condition (conditional use permit resolution attached). A second property is being recommended for revocation following non-use of the conditional use permit and failure to comply with applicable conditions by a designated date.

The property located at 4885 Perkinsville Rd. (PID: 24-118-24-41-0004) is not compliant and the conditional use permit is no longer in use (conditional use permit resolution attached). City Council is being asked to consider revocation of the following conditional use permits:

Leo Poole	3315 County Road 92	09-118-24-34-0004
Rachel Myskevitz	4885 Perkinsville Road	24-118-24-41-0004

Grotting asked if the Myskevitz property was sold would the new owner want the CUP? Kaltsas said it was clear that revocation is recommended due to non-compliance. Grotting noted the City has tried numerous times to get the Poole property to comply. Vose said that from a legal prospective the CUP's are set by statute and an ordinance that follows that statute. There is not a revocation statute but City's want to give land owners notice that revocation is being considered. Betts asked if the CUP went with the land or the owner. Vose noted they run with the land not the owner and it runs as long as it is compliant. Vose said a new owner should have a blank slate and new conditions would apply.

Vilie (Attorney) said he bought the property because it as a CUP for landscaping and snow plowing. He had heard it was not revoked. He did understand there had a been a long, messy history. Vilie has been cleaning up the property for two weeks by spending \$3000 on labor. He said there are five trucks, skid loaders and no employees. Vilie is planning to build a pole barn to put his equipment in and he wants to be a good neighbor. He will also be remodeling the home. McCoy said Vilie bought the property assuming the CUP was active, and the City could not revoke it now in good conscience. McCoy said he would like to see them work with Staff to get it into compliance.

Motion by Betts, second by Spencer to amend RESOLUTION 19-0730-01 with the deletion of the line pertaining to the Leo Poole property at 3315 County Road 92 /09-118-24-34-0004. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Motion by Betts, second by McCoy to approve RESOLUTION 19-0730-01 with the deletion of the Leo Poole property at 3315 County Road 92 /09-118-24-34-0004. Ayes: Johnson, Betts, McCoy and Spencer. Nays: Grotting. Absent: None. MOTION DECLARED CARRIED.

9. Designate Replacement Council Member for the August 13, 2019 Loretto Fire Commission Meeting.

The date was changed for the Loretto Fire Department meeting and the Mayor is not able to attend. Councilor McCoy will attend.

10. Open/Misc.

11. Adjourn.

Motion by Spencer, second by McCoy and carried to adjourn the meeting at 7:44 p.m.

Respectfully Submitted,

Trish Gronstal/Recording Secretary

City of Independence

Request for a Minor Subdivision to Allow a Lot Line Rearrangement on the Properties Located at 5215 and 5175 Sunset Lane

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	August 20, 2019
<i>Applicant:</i>	Laura Dwyer
<i>Owner:</i>	Laura Dwyer and Tyler and Dayna Stephenson
<i>Location:</i>	5215 and 5175 Sunset Lane

Request:

Laura Dwyer (Applicant/Owner) requests that the City consider the following action for the properties located at 5215 and 5175 Sunset La. (PID No. 01-118-24-31-0002 and 01-118-24-42-0028) in Independence, MN:

- a. A Minor Subdivision to consider a lot line rearrangement for the properties located 5215 and 5175 Sunset Ln. The lot line rearrangement would allow for a portion of the property currently attached to 5175 Sunset Ln. to be combined with 5215 Sunset Ln.

Property/Site Information:

The property is located on the south side of Sunset Lane near the intersection of Sunset Lane and Lake Sarah Heights Drive. There is an existing residence located on each of the respective properties. 5175 Sunset Lane has lakeshore access on Lake Sarah. The properties have the following characteristics:

Property Information: 5215 Sunset Lane

Zoning: *Rural Residential (Shoreland Overlay)*

Comprehensive Plan: *Rural Residential*

Acreage: Before – *0.84 acres*
 After – *0.97 acres*

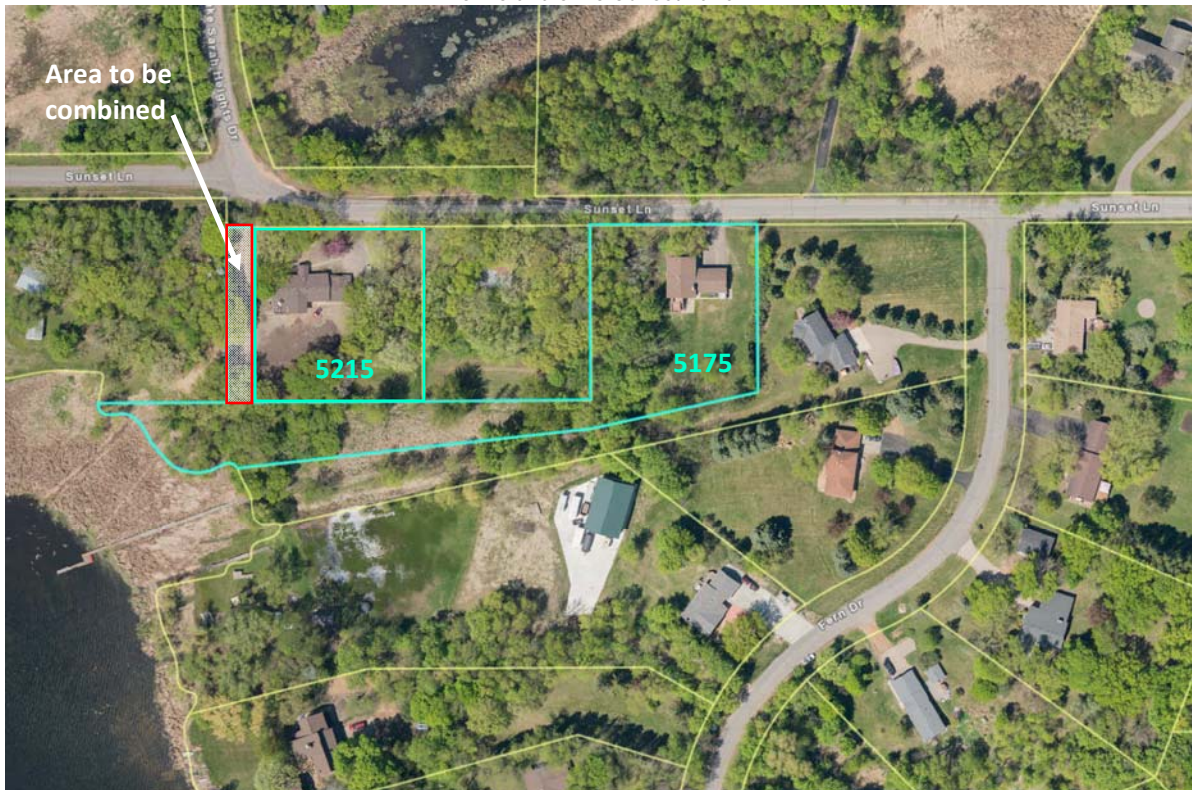
Property Information: 5175 Sunset Lane

Zoning: *Rural Residential (Shoreland Overlay)*

Comprehensive Plan: *Rural Residential*

Acreage: Before – *1.67 acres*
 After – *1.54 acres*

5215 and 5175 Sunset Lane



Discussion:

The applicant is seeking a minor subdivision to allow a lot line rearrangement that would allow the property located at 5215 Sunset Lane to capture a “strip” of land directly adjacent and currently belonging to the property located at 5175 Sunset Lane. The 30-foot-wide piece of property appears to have been attached to the 5175 Sunset property to provide access to the western portion of the property along the lakeshore. There is an existing low area between the house on 5175 Sunset Lane and the lake frontage which can restrict access to the shoreline in wet years. The subject 30 foot wide strip of land has historically been maintained by the owners of 5215 Sunset Lane. The two property owners have worked out an agreement that would allow the property to be combined with 5215 Sunset Lane. In exchange for the sale of the property, the owners of 5215 Sunset Lane would grant an access easement back to the owners of 5175 Sunset Lane.

5215 Sunset Lane is considered a legal non-conforming lot by the City. The minimum lot size for sewered properties located in the Shoreland Overlay district is one acre. In addition, the property located at 5215 Sunset Lane received a side yard and front yard setback variance in 2017 to allow the expansion of the existing home. Should the City approve the minor subdivision, the existing home would come into conformance with the requisite side yard setback. The 5175 Sunset Lane property is a legal property.

Staff has reviewed the request and offers the following information for consideration by the Planning Commission:

1. The lot line rearrangement does not appear to impact either property or create any additional non-conformities.
2. The side yard setback of the existing home on the 5215 Sunset Lane property would be conforming in the after condition.
3. Both properties are connected to City sewer.
4. The minor subdivision would clean up both properties and align with the historical use and maintenance of the properties.

Neighbor Comments:

The City has not received any written comments pertaining to the request for a lot line rearrangement.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested minor subdivision to allow a lot line rearrangement with the following findings and conditions:

1. The proposed minor subdivision to allow a lot line rearrangement request meets all applicable conditions and restrictions stated Chapter V, Sections 500 and 510, Planning and Land Use Regulations and Zoning, in the City of Independence Zoning Ordinance.
2. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
3. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Attachments:

1. Application
2. Surveys (Before and After)

**RECEIVED**

7-9-19

PLANNING APPLICATION

Case No. _____

Type of application

- ☒ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
- ☐ Rezoning ☐ Conditional Use Permit ☐ Variance ☐ Ordinance Amendment ☐ Subdivision
- ☐ Preliminary Development Plan ☐ Interim Use Permit ☐ Comprehensive Plan Amendment
- ☐ Final Development Plan ☐ Final Site & Building Plan ☒ Other minor subdivision Lot line adjustment / rearrangement

Site Location— Additional addresses on back and legal description attachedProperty address 5215 Sunset LanePID 0111824310002**Proposal -Full documentation must accompany application**Lot Line Rearrangement -see all attached**Applicant**

Name Laura L Dwyer Email DWLA0001@hotmail.com

Address 5215 Sunset Lane Independence, MN 55357

Phone 701-226-9192 Additional phone/contact corey deffling 651-248-2707

Printed Name Laura L Dwyer Signature Laura L Dwyer

Owner Information (if different from applicant)

Name _____ Email _____

Address _____

Phone _____ Additional phone/contact _____

Printed Name _____ Signature _____

Office Use Only

Date

7-9-19

Application Amount

750.00 + 1250.00

Check #

11940 + 2092

Accepted By

TG

Escrow Paid _____

Check # _____

Date Accepted by Planner _____

City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others— all applications are reviewed on a case-by-case basis.

Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/ or if additional information is needed to adequately review the subject request. ***To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/ Administrator at least one week prior to submittal.*** Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2019 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are noted on the current fee schedule. By signing this form, the applicant recognizes that he/ she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

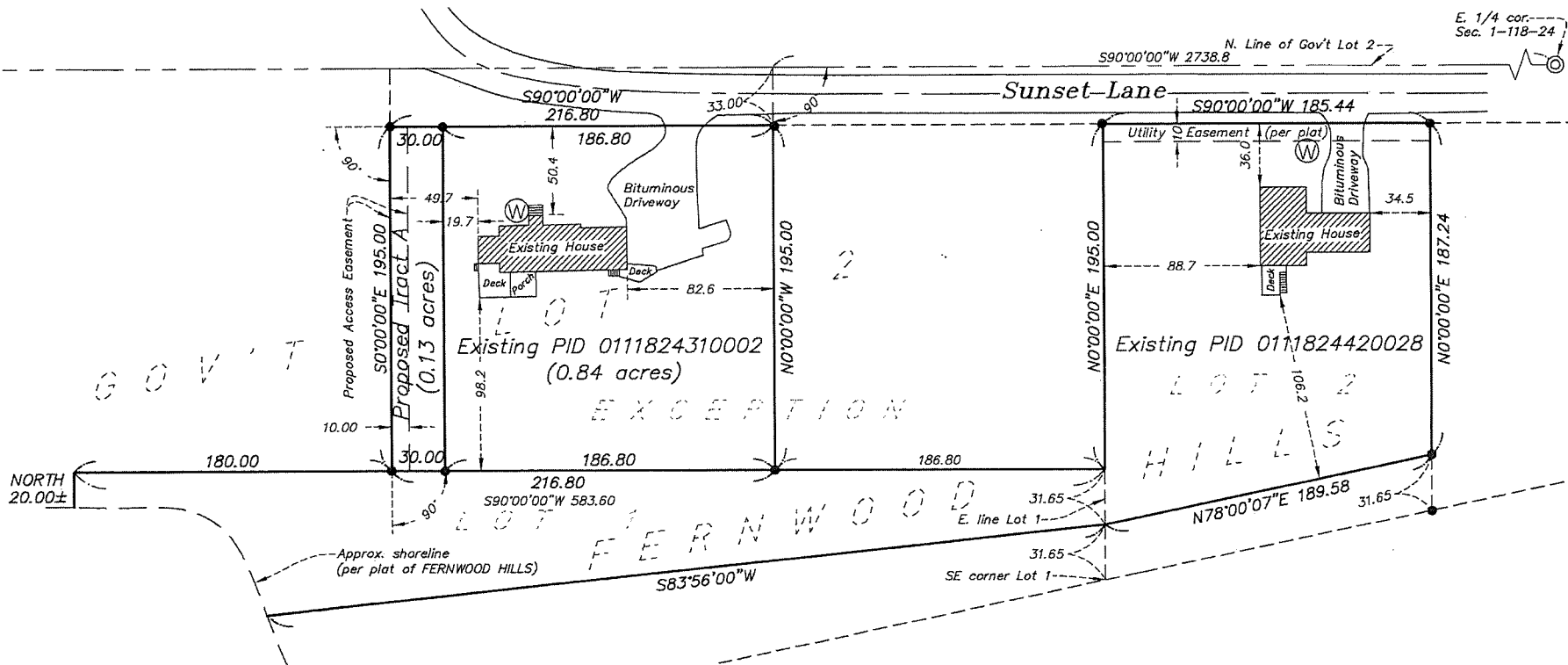
I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: Laura L. Dwyer

Date: 7-9-19

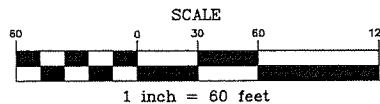
Owner Signature (if different): _____

Date: _____



Legend

- Found Iron Monument
- Set Iron Monument (LS 14700)
- Ⓜ Existing Well



Bearings based on plat of FERNWOOD HILLS, Henn. Co., Minn.

**SCHOBORG
LAND SERVICES
INC.**

763-972-3221 8997 Co. Rd. 13 SE
www.SchoborgLand.com Delano, MN 55328

I hereby certify that this certificate of survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Kelly L. Brouwer
Kelly L. Brouwer

Date: July 2, 2019 Registration No. 48328

Job Number: 8345
Survey Date: 6-17-19
Drawing Name: oeffling.dwg
Drawn by: KLB
Revisions: 7-02-19 (easements)

Certificate of Survey

Prepared for:
Corey Oeffling and Laura Dwyer

Sheet 1 of 2

Existing Description PID 0111824310002 (5215 Sunset Lane, Independence):

That part of Government Lot 2, Section 1, Township 118, Range 24, described as follows:

Commencing at a point on the north line of said Government Lot 2, a distance of 2738.8 feet West of the East Quarter corner of said Section 1; thence South at right angles with said north line 33 feet to the point of beginning of the property being described; thence West parallel with said north line 186.8 feet; thence deflecting left 90 degrees a distance of 195 feet; thence deflecting left 90 degrees a distance 186.8 feet; thence North to the point of beginning, Hennepin County, Minnesota.

Existing Description PID 0111824420028 (5175 Sunset Lane, Independence):

That part of Lot 2, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of the southerly 31.65 feet thereof, measured along the east and west lines thereof.

That part of Lot 1, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of a line and the easterly and westerly extensions thereof which bears South 83 degrees 56 minutes 00 seconds West, and which commences at a point in the east line of said Lot 1, distance 31.65 feet north of the southeast corner of said Lot 1, and terminates at the westerly line of said Lot 1. The east line of said Lot 1 bears North.

"Released Property" Proposed Tract A Description:

That part of Lot 1, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of a line described as follows:

Commencing at a point on the north line of Government Lot 2, Section 1, Township 118, Range 24, a distance of 2738.8 feet West of the East Quarter corner thereof; thence South at right angles with said north line 33 feet; thence West parallel with said north line 216.80 feet; thence deflecting left 90 degrees a distance of 195 feet to the point of beginning of the line to be described; thence deflecting left 90 degrees a distance 30.00 feet and said line there terminating.

Proposed Access Easement:

An easement for ingress and egress purposes over, under and across the west 10.00 feet of that part of Lot 1, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of a line described as follows:

Commencing at a point on the north line of Government Lot 2, Section 1, Township 118, Range 24, a distance of 2738.8 feet West of the East Quarter corner thereof; thence South at right angles with said north line 33 feet; thence West parallel with said north line 216.80 feet; thence deflecting left 90 degrees a distance of 195 feet to the point of beginning of the line to be described; thence deflecting left 90 degrees a distance 30.00 feet and said line there terminating.

"Retained Property" Proposed Description for 5215 Sunset Lane, Independence:

That part of Government Lot 2, Section 1, Township 118, Range 24, and of that part of Lot 1, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, all in Hennepin County, Minnesota, described as follows:

Commencing at a point on the north line of said Government Lot 2, a distance of 2738.8 feet West of the East Quarter corner of said Section 1; thence South at right angles with said north line 33 feet to the point of beginning of the property being described; thence West parallel with said north line 216.80 feet; thence deflecting left 90 degrees a distance of 195 feet; thence deflecting left 90 degrees a distance 216.80 feet; thence North to the point of beginning.

Subject to an easement for ingress and egress purposes over, under and across the west 10.00 feet thereof.

"Retained Property" Proposed Description for 5175 Sunset Lane, Independence:

That part of Lot 2, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of the southerly 31.65 feet thereof, measured along the east and west lines thereof.

That part of Lot 1, Block 1, FERNWOOD HILLS, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of a line and the easterly and westerly extensions thereof which bears South 83 degrees 56 minutes 00 seconds West, and which commences at a point in the east line of said Lot 1, distance 31.65 feet north of the southeast corner of said Lot 1, and terminates at the westerly line of said Lot 1. The east line of said Lot 1 bears North.

Except that part of said Lot 1, lying northerly of a line described as follows:

Commencing at a point on the north line of Government Lot 2, Section 1, Township 118, Range 24, a distance of 2738.8 feet West of the East Quarter corner thereof; thence South at right angles with said north line 33 feet; thence West parallel with said north line 216.80 feet; thence deflecting left 90 degrees a distance of 195 feet to the point of beginning of the line to be described; thence deflecting left 90 degrees a distance 30.00 feet and said line there terminating.

Reserving there from an easement for ingress and egress purposes over, under and across the west 10.00 feet of said exception.

Bearings based on assumed datum.



763-972-3221 8997 Co. Rd. 13 SE
www.SchoborgLand.com Delano, MN 55328

Job Number:	8345
Survey Date:	6-17-19
Drawing Name:	oeffling.dwg
Drawn by:	KLB
Revisions:	7-02-19 (easements)

Boundary Descriptions

Prepared for:
Corey Oeffling and Laura Dwyer

Sheet 2 of 2

3995543

JAN 11 1973

No delinquent taxes
and transfer entered
DEPT. OF FINANCE
KENNEBEC COUNTY, ME.

James A. [Signature]

BY *[Signature]* DIRECTOR

THIS CERTIFICATE IS VALID FOR THREE MONTHS
FROM THE DATE OF ISSUANCE. IT IS NOT VALID
FOR THE PURPOSE OF A SALE.

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

That part of Lot 1, Block 1, FERNWOOD HILLS lying north of the westerly extension of the south line of the following described property:

That part of Government Lot Two (2), Section 1, Township 118, Range 24, described as follows: Commencing at a point on the North line of said Government Lot 2, a distance of 2738.8 feet West of the East quarter corner of said Section 1; thence South at right angles with said North line 33 feet to the point of beginning of the property being described; thence West parallel with said North line 186.8 feet; thence deflecting left 90 degrees a distance of 195 feet; thence deflecting left 90 degrees a distance of 186.8 feet; thence North to the point of beginning, Hennepin County, Minnesota.

If a licensed surveyor recommends a different legal description which essentially describes the same property as described above, the Parties agree to substitute the surveyor's description in this Agreement and utilize that description in the Deed.

EXHIBIT B

EASEMENT AGREEMENT

See attached.

City of Independence

Request for a Conditional Use Permit and Variance on the Property located 7220 Turner Road

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	August 20, 2019
<i>Applicant:</i>	Sharratt Design & Company
<i>Property Owner:</i>	Curt Marks
<i>Location:</i>	7220 Turner Road

Request:

Sharratt Design & Company (Applicant) and Curt Marks (Owner) request that the City consider the following actions for the property identified by (PID No. 28-118-24-14-0006) and located at 7220 Turner in Independence, MN:

- a. A Conditional Use Permit to allow an accessory dwelling unit.
- b. A Conditional Use Permit to allow an accessory structure larger than 5,000 SF.
- c. A variance to allow an accessory structure that is taller than the principal structure.

Property/Site Information:

The property is located on the north side of Turner Road between CSAH 90 and CSAH 92. The property is comprised of an existing home, barn and several additional detached accessory structures. The property has pasture areas, paddocks and a small wetland. The property has the following characteristics:

Property Information: 7220 Turner Road

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: *21.46 acres*



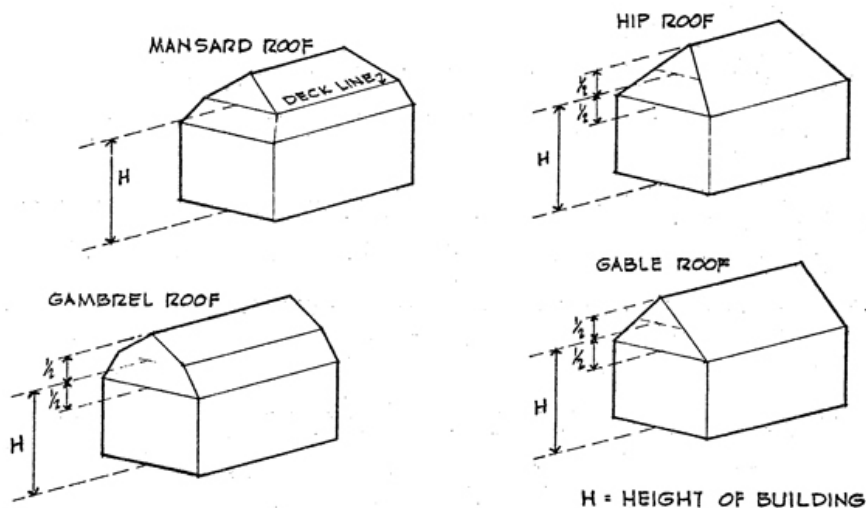
Discussion:

The property owner currently has an existing home with large barn and indoor riding arena on the subject property. The City granted a conditional use permit in 2018 to allow use of the property for a commercial riding stable. The property owner is now interested in constructing a new detached accessory structure on the property that is larger than 5,000 SF, is taller than the principle residence and houses an accessory dwelling unit.

The owner would like to construct a new detached accessory structure for personal use as a multipurpose recreation building. The proposed building would be a multi-story building comprised of approximately 6,000 SF on the first floor and 3,000 SF on the second floor. The building would have a garage, game room, accessory dwelling unit, office, kitchen and other similar and associated recreation space.

All accessory structures greater than 5,000 SF require a conditional use permit. In addition to the limitation on building size, the City regulates the maximum height of detached accessory structures. The maximum height of a detached accessory structure shall not exceed the height of the principle structure.

³ The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.



The existing home on the property is two story home with a mean height of 24 feet (total height of 28). The applicant would like the City to permit the detached accessory building to have a mean height of 28 feet (total height of 36 feet). In order for the applicant to construct a building higher than that which is permitted, the City will need to consider a 4-foot variance.

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)

520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Agriculture Zoning District. The City is currently working on revising the ordinance to provide a method for permitting detached accessory structures that exceed the height of the home.
- b. The effect of the requested variance will be somewhat mitigated as a result of the size of the property as well as its relationship to surrounding properties.
- c. The character of the surrounding area is agriculture. The proposed detached accessory building is generally in keeping with the City's comprehensive plan.

The applicant would also like to utilize a portion of the detached accessory structure for an accessory dwelling unit. The City allows accessory dwelling units as a conditional use in the Agriculture zoning district. The intent of the ordinance was to allow for "mother-in-law" type units to be located within the principle structure or within a detached accessory building.

In order to allow an accessory dwelling unit, the property owner will need to demonstrate that they meet all applicable criteria for granting a conditional use permit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:

- (a) Physically attached to or within a single-family dwelling unit or within a detached^a accessory building that has a principal structure on the parcel; and*

The applicant is proposing to locate an accessory dwelling unit within the proposed detached accessory building.

- (b) Subordinate in size to the single-family dwelling unit; and*

The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit as only a portion of the proposed detached accessory building would be used as an accessory dwelling unit.

- (c) Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

The proposed accessory dwelling unit would be separated from the single-family home.

- (d) *Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

The proposed accessory structure would have an architectural character that is consistent with the agricultural use of the property.

- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

The principal structure has approximately 4,500 square feet of above ground space not including the basement or garage. 33% of 4,500 square feet equals 1,485 square feet. The applicant is proposing to construct approximately 1,150 square feet of accessory dwelling unit. The proposed layout of the bedrooms, bathroom and kitchen is somewhat unique due to the multi-purpose use of the detached accessory structure. The City will need to consider the proposed layout and determine if it meets the intent of the accessory dwelling unit ordinance. Historically, the City looked to establish a clear separation or distinction between the ADU and the remaining finished or unfinished space in the detached accessory structure.

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

There is no maximum accessory structure size for properties zoned AG-Agriculture and larger than 10 acres in overall size

- (g) *Has permanent provisions for cooking, living and sanitation; and*

The proposed accessory dwelling unit has permanent provisions for cooking; living and sanitation.

- (h) *Has no more than 2 bedrooms; and*

The proposed accessory dwelling unit has one bedroom.

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

The applicant is proposing that the accessory dwelling unit be occupied solely by family members.

- (j) *Uses the existing on-site septic system^b or an approved holding tank; and*

The applicant will likely need to increase the size of the existing on site-septic system to accommodate the additional bedroom. The City will need to evaluate the proposed structure in more detail should the City grant approval of the ADU.

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

The subject property cannot be further subdivided at this time due to the zoning and permitted land use.

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

The proposed detached accessory dwelling unit will need to meet all applicable building codes.

^a *On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

^b *The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

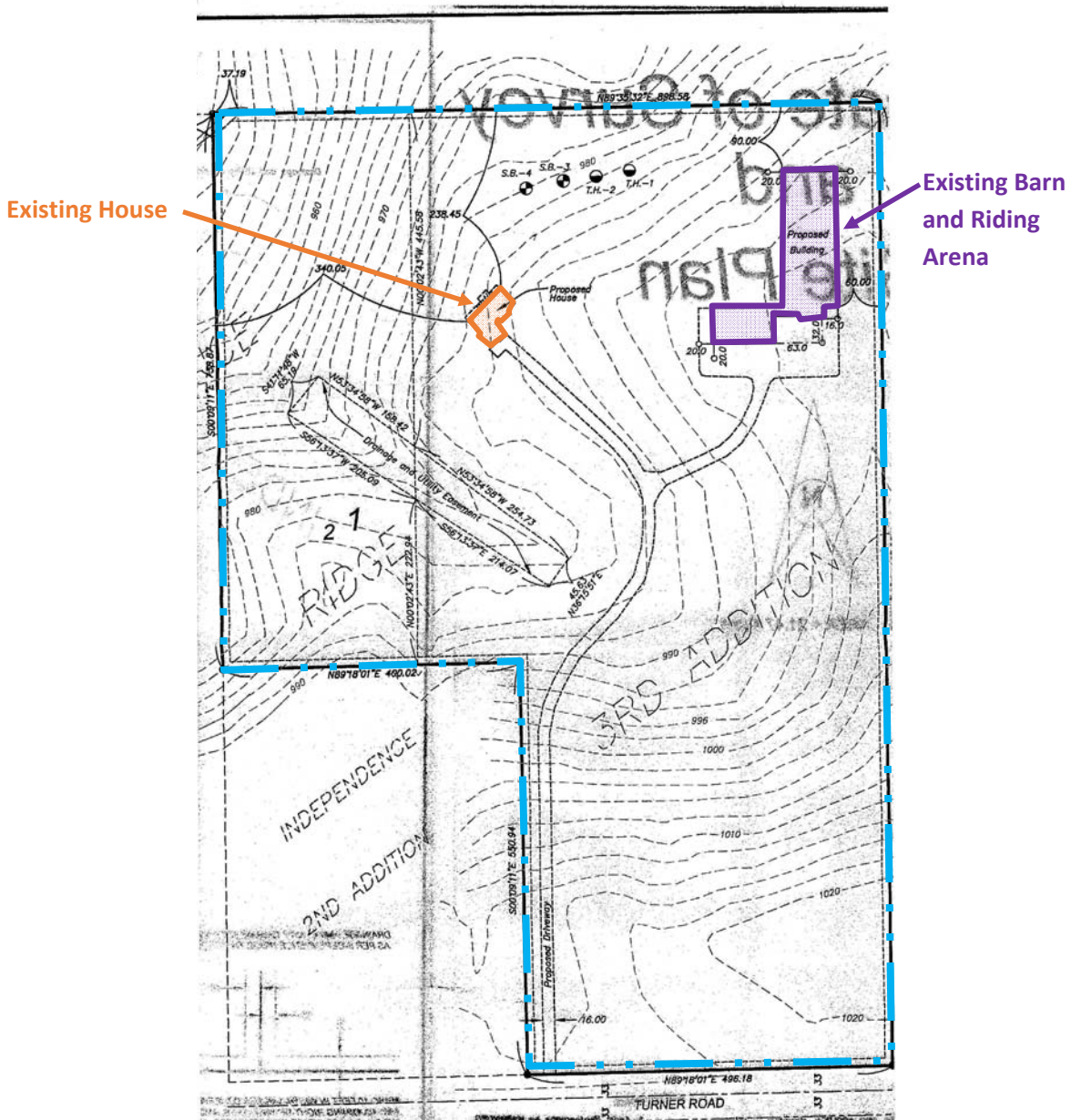
1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.

7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The City should consider the following issues/points during their review of the requested actions:

- The City is considering amending the ordinance to provide a mechanism for allowing accessory structures that are taller than the principle structure. The property owner is proposing to develop a structure that appears to be designed to have an agricultural theme utilizing materials and colors that will be compatible with character of the area.
- The property owner has noted that they intend to construct a new principle structure on the property in the near future. The new principle structure will be larger than the existing home on the property and establish a better sense of proportionality between the structures on the property.
- The location of the proposed structure and its relationship to surrounding properties will help to mitigate the potential impact of the taller and larger detached accessory structure. In addition, there is a larger stand of existing trees that would further screen the proposed structure from surrounding properties.
- The proposed accessory dwelling unit does not appear to meet the historic interpretation of the ADU ordinance. The City will need to consider how the proposed bedroom and kitchen relate to the remaining space within the detached accessory structure. There could be a concern relating to the structure being misunderstood as a second residential home as a result of the size, interior space and more traditional garage space. Typically, the City has reviewed ADU's that are fully delineated within a detached accessory structure and therefore clearly subordinate to the use of the detached accessory structure. Staff is seeking direction from the Planning Commission relating to the proposed detached accessory structure. For context and discussion, the City would allow a finished detached accessory structure with similar features to that which is proposed without the full kitchen and bedrooms. Bathrooms, recreation space, bar, etc. would all be permitted without a conditional use. The City has typically distinguished an accessory dwelling unit from an accessory structure by whether or not there are bedrooms and or a kitchen stove/oven.

Existing Property and Buildings



The City has visited the site and discussed the proposed detached accessory structure with the architect. Given the location of the property off of Turner Road and the orientation of the buildings and their relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit and variance as requested.

Neighbor Comments:

The City has not received any written or oral comments regarding the proposed conditional use permit or variance.

Recommendation:

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit and variance with the following findings and conditions:

- a) The proposed conditional use permit and variance request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
- b) The conditional use permit will include the following conditions:
 - 1. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
 - 2. The existing accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit and possibly a variance following all applicable procedures.
 - 3. The accessory dwelling unit is limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code.
- c) The 4-foot variance will allow the detached accessory building to have a maximum height of 28 feet as measured in accordance with City standards.
- d) The Owner will be required to meet all applicable standards relating to the on-site septic system for the proposed detached accessory structure.
- e) The applicant shall pay for all costs associated with the review and recording of the resolution.

Attachments:

- 1. Applicants Narrative
- 2. Site Plan/Survey
- 3. Proposed Building Plans



PLANNING APPLICATION

Case No. _____

Type of application

- ☒ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
- ☐ Rezoning ☒ Conditional Use Permit ☒ Variance ☐ Ordinance Amendment ☐ Subdivision
- ☐ Preliminary Development Plan ☐ Interim Use Permit ☐ Comprehensive Plan Amendment
- ☐ Final Development Plan ☐ Final Site & Building Plan ☐ Other _____

Site Location— Additional addresses on back and legal description attached

Property address 7220 TURNER ROAD PID 28-118-24-14-0006
INDEPENDENCE, MN. 55359

Proposal -Full documentation must accompany application

SEE ATTACHED.

Applicant

Name SHARRATT DESIGN & COMPANY Email msharratt@sharrattdesign.com

Address 464 SECOND STREET, STE. 100
EXCELSIOR, MN. 55331

Phone 952.470.9750 Additional phone/contact _____

Printed Name MICHAEL D. SHARRATT Signature _____

Owner Information (if different from applicant)

Name CURT MARKS Email curt@curtmarks.com

Address 5703 YEATS MANOR DRIVE, #402
TAMPA, FL. 33616

Phone 407.421.5550 Additional phone/contact _____

Printed Name CURT MARKS Signature _____

Office Use Only

Date _____

Application Amount _____

Check # _____

Accepted By _____

Escrow Paid _____

Check # _____

Date Accepted by Planner _____

City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others— all applications are reviewed on a case-by-case basis.

Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/ or if additional information is needed to adequately review the subject request. ***To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/ Administrator at least one week prior to submittal.*** Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2019 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are noted on the current fee schedule. By signing this form, the applicant recognizes that he/ she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: _____

Date: _____

Owner Signature (if different): _____

Date: _____

CITY OF INDEPENDENCE

ATTACHMENT TO APPLICATION FORM FOR CONDITIONAL USE PERMIT AND VARIANCE APPLICATION

**Applicant: Curt Marks
Project Address: 7220 Turner Road
Independence, MN 55359**

NARRATIVE FOR CONDITIONAL USE PERMIT (CUP)

In-law-quarters is in a detached accessory building with a kitchen facility.

This detached accessory building will be used primarily as a recreation building. The Owner understands and agrees that the building will never be occupied by anyone other than family and friends, and will never be used for separate dwelling unit purposes on this property.

NARRATIVE FOR VARIANCE APPLICATION

1. FOOTPRINT SIZE:

- Variance application is for an accessory building for a footprint size in excess of 5,000 sf.
- The proposed building's enclosed and occupied conditioned space footprint is 5,930 sf.

FOOTNOTE TO FOOTPRINT:

- An existing riding arena accessory building on this property is currently allowed at 12,960 sf.

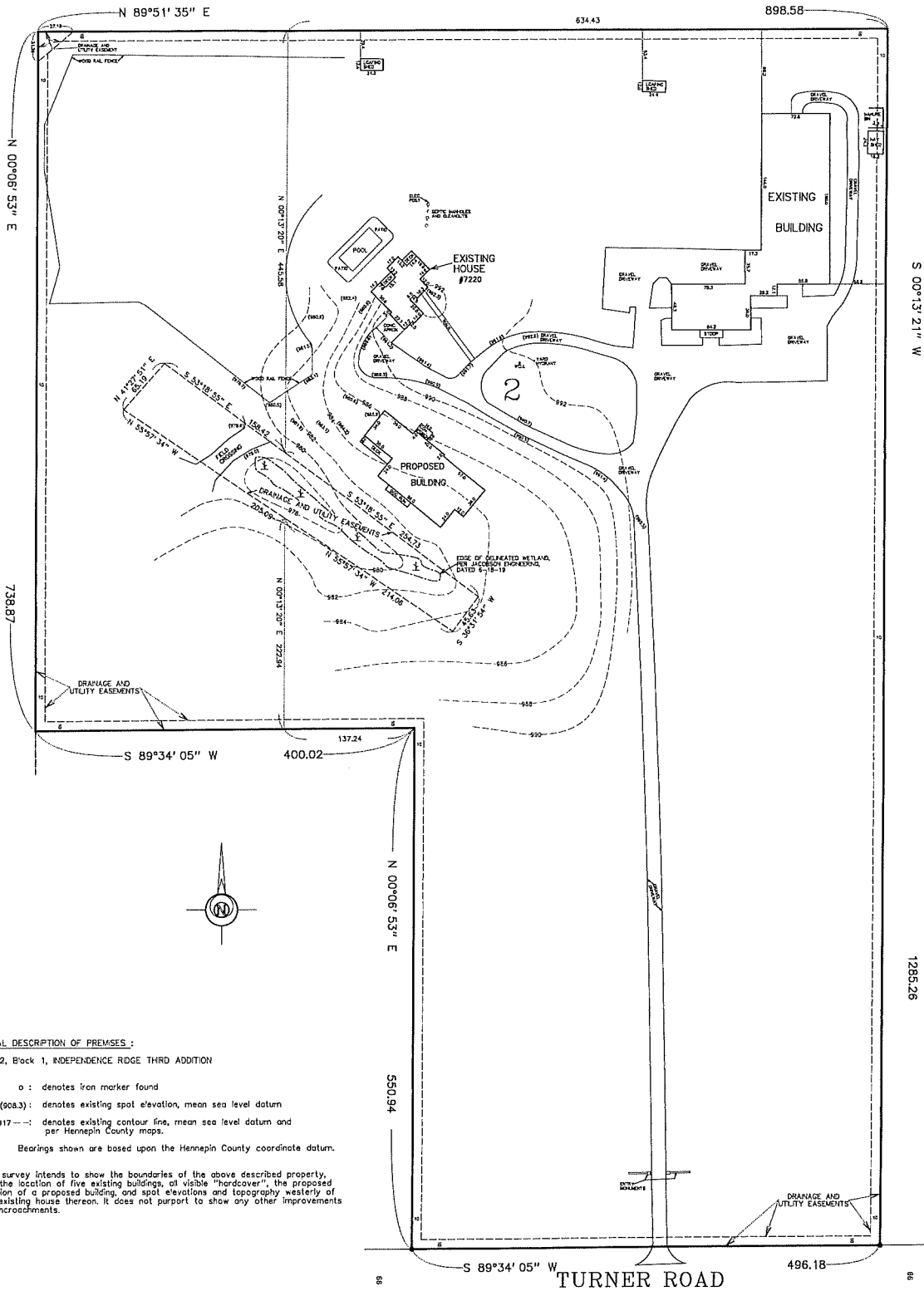
2. BUILDING HEIGHT:

- The existing home height is currently at approximately 28' in height.
- The proposed accessory building used for recreation will be 36' in height.

FOOTNOTES TO HEIGHT:

- It is understood that the ordinance controlling accessory building height is in the process of changing in the near future.
- The current home is planned to be moved off-site; and a new, larger, and taller principal residence will be constructed within the next two (2) years.
- The proposed project will be constructed roughly in the middle of the 25 acre property, and immediately adjacent to a large grove of trees that will mitigate its visibility from various angles.

CERTIFICATE OF SURVEY FOR
SHARRATT DESIGN & CO.
 OF LOT 2, BLOCK 1, INDEPENDENCE RIDGE THIRD ADDITION
 HENNEPIN COUNTY, MINNESOTA



LEGAL DESCRIPTION OF PREMISES:

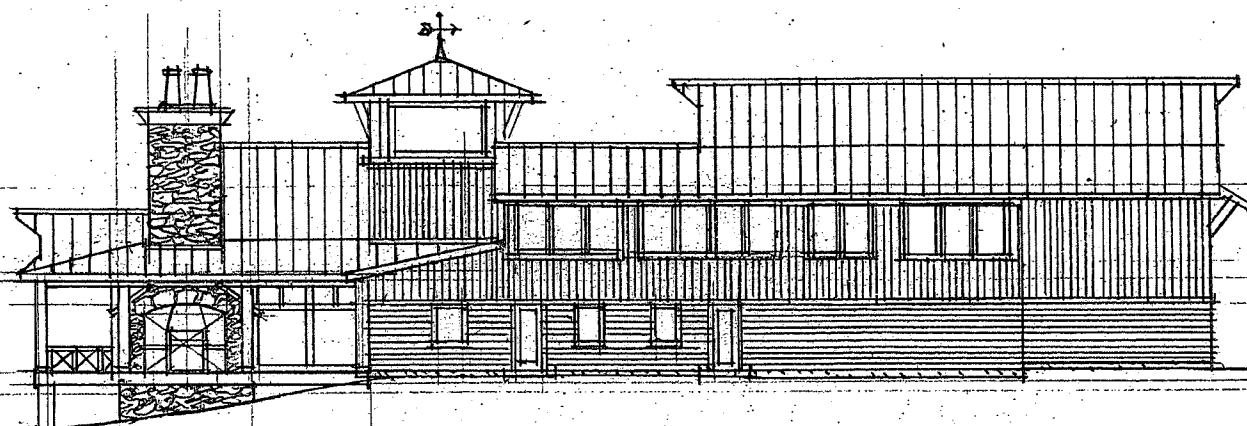
Lot 2, Block 1, INDEPENDENCE RIDGE THIRD ADDITION

- o : denotes iron marker found
 - (908.3) : denotes existing spot elevation, mean sea level datum
 - 917--- : denotes existing contour line, mean sea level datum and per Hennepin County maps.
- Bearings shown are based upon the Hennepin County coordinate datum.

This survey intends to show the boundaries of the above described property, and the location of five existing buildings, all visible "hardcover", the proposed location of a proposed building, and spot elevations and topography westerly of the existing house thereon. It does not purport to show any other improvements or encroachments.

DATE	REMARKS	I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota. Mark S. Gronberg Minnesota License Number 12755	PROJECT	LVL 7-3-19 SCLT 1"=200' 10-222	GRONBERG & ASSOCIATES, INC. CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS 445 NORTH WILLOW DRIVE LONG LAKE, MN 55356 952-473-4141



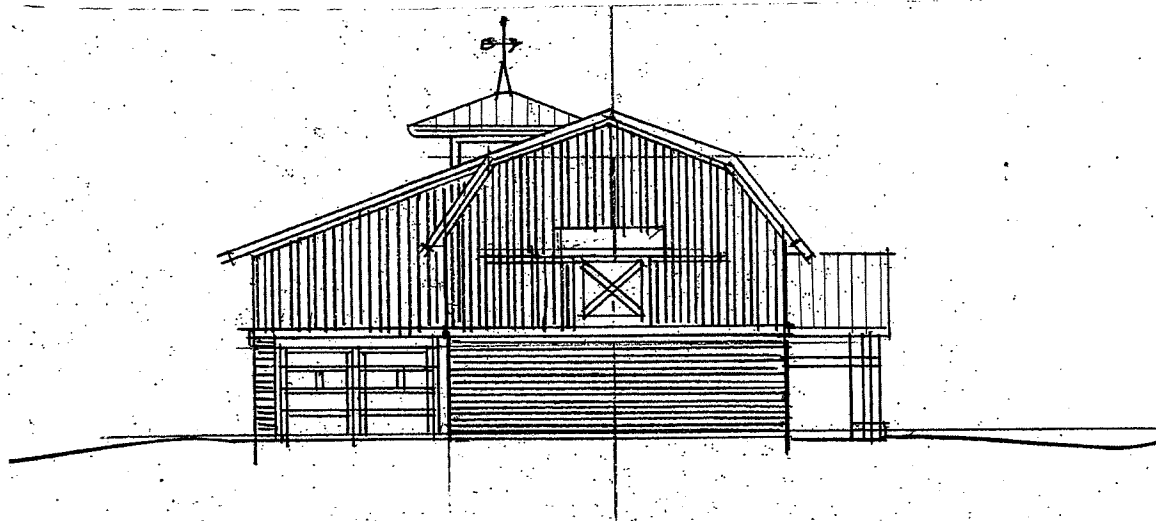


CONCEPT: FBAR ELEVATION

MARKS ACCESSORY BUILDING

SHARPST DESIGN & CO. LLC 7/2/2019

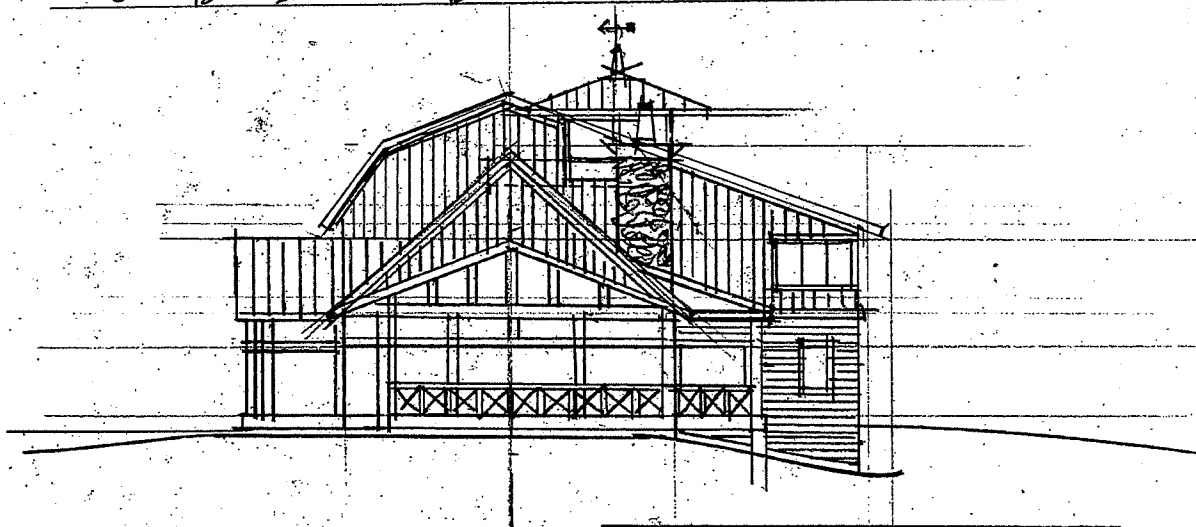
0 10 20 30 60



CONCEPT SIDE ELEVATION

MURKIN ACCESSORY BUILDING
SHERRATT DESIGN LLC 7/9/2018

0 10 20 40



CONCEPT SIDE ELEVATION

MURKIN ACCESSORY BUILDING
SHERRATT DESIGN LLC 7/9/2018

0 10 20 30 40 60

City of Independence

Request for a Variance to Allow an Accessory Structure Which Exceeds the Height Limitations of the City's Zoning Ordinance for the Property Located at 2460 County Road 92 N.

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	August 20, 2019
<i>Applicant:</i>	Greg Hamman
<i>Owner:</i>	Greg Hamman
<i>Location:</i>	2460 County Road 92 N.

Request:

PUBLIC HEARING: Gregory Hamman (Applicant/Owner) requests that the City consider the following action for the property identified by (PID No. 16-118-24-33-0002) and located at 2460 CSAH 92 N in Independence, MN:

- a. A Variance to allow an accessory structure to exceed the height of the principle structure.

Property/Site Information:

The subject property is located at 2460 County Road 92 N. which is on the east side of CSAH 92 and south of Highway 12. There is one residential structure on the property and the land is comprise of wetlands and upland.

Property Information: 2460 County Road 92 N.
Zoning: AG - *Agriculture*
Comprehensive Plan: *Agriculture*
Acreage: 4.65 acres



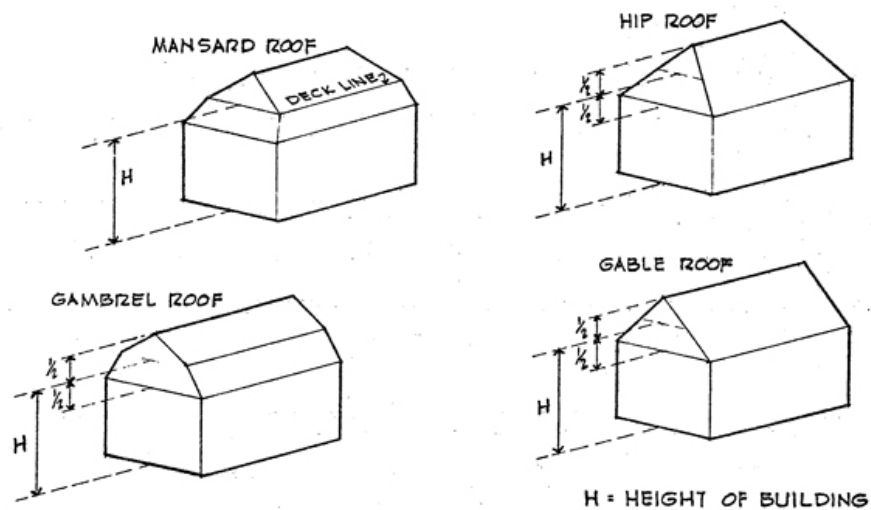
Discussion:

The applicant would like to construct a detached accessory structure on the property. There is currently an existing home located on the property. The City regulates the total square footage permitted for detached accessory structures using a formula. The formula allows a property owner to construct an accessory building which does not exceed 2% of the upland square footage of the property. In this particular case the City has determined that the upland portion of the property is 2.71 acres. Based on this determination, the total allowable square footage for a detached accessory structure is 2,361 (2.71 acres - 118,048 sf * .02 = 2,361).

The applicant is proposing to construct a 2,000 square foot detached accessory structure which is less than the maximum size permitted. In addition to the limitation on building size, the City regulates the maximum height of detached accessory structures. The maximum height of an accessory structure shall not exceed the height of the principle structure.

³ The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured

in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.



The existing home on the property is a rambler with a mean height of 16 feet. The applicant would like the City to permit the detached accessory building to have a mean height of 19 feet. In order for the applicant to construct a building higher than that which is permitted, the City will need to consider a 3-foot variance. The applicant is proposing to locate the building to the east of the principle structure. The elevation of the proposed accessory building is approximately 2 feet lower than the elevation of the principle home. The applicant has noted that the proposed detached accessory structure would be located in a manner that would limit its visibility in relation to the existing home on the property (see attached photo simulation).



The proposed accessory structure is proposed to meet applicable building setbacks (15 foot side yard, 40 foot rear yard setback). The applicant has noted in his narrative that the proposed detached accessory structure would have an 8/12 roof pitch versus a lower pitch. It was noted that the steeper pitch will provide a nicer aesthetic appearance.

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)

520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Rural Residential District. The City is currently working on revising the ordinance to provide a method for permitting detached accessory structures that exceed the height of the home.
- b. The effect of the requested variance will be somewhat mitigated as a result of the size of the property as well as its relationship to surrounding properties.

- c. The character of the surrounding area is agriculture. The proposed detached accessory building is generally in keeping with the City's comprehensive plan.

The Planning Commission will need to determine if the requested variance meets the requirements for granting a variance.

Neighbor Comments:

The City has not received any written comments regarding the proposed variance.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested Variance with the following findings and conditions:

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The 3-foot variance will allow the detached accessory building to have a maximum height of 19 feet as measured in accordance with City standards.
3. The proposed building cannot be used for a commercial business or storage.
4. The Applicant shall pay for all costs associated with the City's review of the requested variance.
5. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.

Attachments:

1. Property Pictures
2. Building Plans
3. Site Survey



PLANNING APPLICATION

Case No. _____

Type of application

☒ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication

☐ Rezoning ☐ Conditional Use Permit ☒ Variance ☐ Ordinance Amendment ☐ Subdivision

☐ Preliminary Development Plan ☐ Interim Use Permit ☐ Comprehensive Plan Amendment

☐ Final Development Plan ☐ Final Site & Building Plan ☐ Other _____

Site Location *Additional addresses on back and legal description attached*

Property address 2460 County Road 92 North

PID 16-118-24-33-0002

Proposal *Full documentation must accompany application*

Seeking variance to build an accessory structure for Agricult. & Non-Ag. use. Variance is requested for 3' additional roof height beyond house height at walk-out elevation. See: City Code 530.05 Rural Res. District, Subd. 3, footnote 3 to Building Size Table. See photo/schematic. 8/12 roof pitch desired - more attractive.

Applicant

Name Gregory W. Hamman

Email gwhamma@hotmail.com

Address 2460 County Road 92 North, Maple Plain, Minnesota 55359

Phone 952-217-1055

Additional phone/contact

Printed Name Gregory W. Hamman

Signature

Owner Information *(if different from applicant)*

Name

Email

Address

Phone

Additional phone/contact

Printed Name

Signature

Office Use Only

Date 7/8/2019

Application Amount \$1,250.

Check # 2970

Accepted By

Escrow Paid 750.

Check #

Date Accepted by Planner

City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others– all applications are reviewed on a case-by-case basis.

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Application for Planning Consideration Fee Statement

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I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: 

Date: July 10, 2019

Owner Signature (if different): _____

Date: 7/8/19

Supplement to Variance Application

Property Owner: Gregory W. Hamman

Property Address: 2460 County Road 92 North, Maple Plain, MN

Parcel Size: 4.65 Acres

Zoning: Rural Residential

Variance Requested: Building height increase to allow construction of a 40'X 50' accessory structure with an 8/12 roof pitch, for an accessory building height of 18 feet as determined by City Code and an overall building height of 25.5 feet from adjacent grade. Variance is to City Code 530.05 Rural Residential District, Subdivision 3, footnote 3 to the Building Size Table.

Discussion: This variance is requested because as written, the City Zoning Code imposes a hardship on owners of rambler style homes. As defined by the zoning code, the building height of a typical rambler would prohibit the construction of any sizeable accessory structure. The resulting accessory structure would be dimensionally awkward, squat and unattractive.

The only side of the rambler visible from County Road 92 is the south side. On the south side, the overall height of the rambler from adjacent grade is 22'.

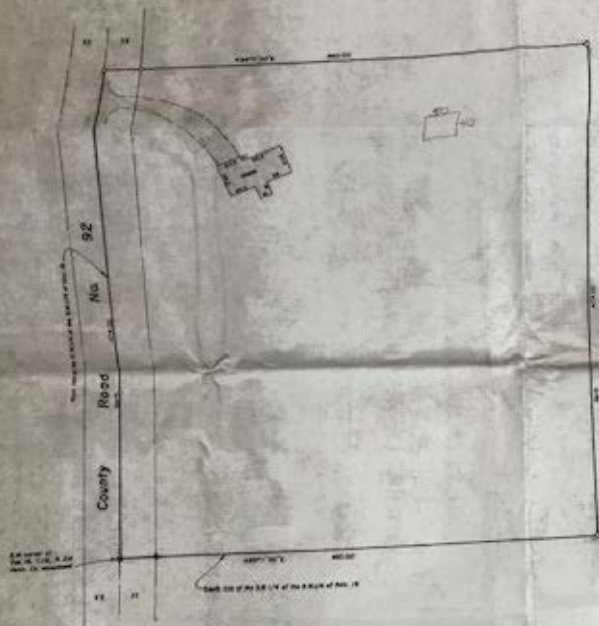
The proposed accessory structure would be constructed directly east of the residence as depicted on the attached land survey. It would be for agricultural and non agricultural use, and sited at a lower base elevation than the house. The proposed location of the accessory structure would conceal the building from view from County Road 92, except from north bound traffic. However, as depicted by the attached photo rendering, north bound traffic would see the walk-out side of the rambler with a 22' overall height, and in the distance the proposed accessory structure will have an overall building height nearly identical to the rambler.

The proposed accessory structure would be in colors to match and complement the residence, be constructed with a 4' wainscot, have fenestration (windows and doors) to break up the wall planes and landscaping to accent the residential setting.

Respectfully,

Gregory W. Hamman

of



● denotes 2-nd instrument used
○ denotes 1-st instrument used
number in a box = 10000

David Schwartzman

The eggs, which form 1/2 of the north 1/2 of the northeast 1/4 of the northeast 1/4 of Section 16, Township 17N, Range 10E, Tenth Range, 21st Range of Range 10E, are the same as those found in the north 1/2 of the northeast 1/4 of the northeast 1/4 of Section 16, Township 17N, Range 10E, Tenth Range, 21st Range of Range 10E.

I hereby certify that the foregoing is
a true and correct copy of the original
as it appears in my possession and control.
Attest:
[Signature]
Notary Public



OTTO
ASSOCIATES

Land Surveys

40. See 807

Source: *Journal of the American Statistical Association*, 1974, 69, 1, 1-14.

546. 10. 7. 11. 8. 19. 24

Marquette County, Minnesota.

10/17/1988

Journal of

W. J. O.

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