



PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY JANUARY 21, 2020

7:30 PM Regular Meeting

1. Call to Order
2. Swearing in of Newly Appointment Planning Commissioners
3. Roll Call
4. Approval of Minutes:
 - a. November 19, 2020 Planning Commission Meeting
 - b. January 7, 2020 City Council Meeting Minutes (For Information Only)
5. **PUBLIC HEARING:** Vincent Velie III (Applicant) requests that the City consider the following action for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):
 - a. An interim use permit to replace the existing conditional use permit. The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed.
6. **PUBLIC HEARING:** Theresa Marple (Applicant/Owner) requests that the City consider the following action for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003):
 - a. A variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel.
7. Open/Misc.
8. Adjourn.

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, NOVEMBER 19, 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.

2. ROLL CALL

PRESENT: Commissioners Palmquist, Thompson, Dumas, Gardner
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner
ABSENT: Commissioner Volkenant
VISITORS: Bob Volkenant

3. Approval of Minutes:

- a. October 15, 2019 Planning Commission meeting
- b. October 15, 2019 City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the October 15, 2019 Planning Commission minutes, second by Palmquist. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: Volkenant. Motion Approved.

4. **(TO BE CONTINUED TO DECEMBER 17, 2019) PUBLIC HEARING:** Vincent Velie III (Applicant) requests that the City consider the following action for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):

- a. An interim use permit to replace the existing conditional use permit. The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed.

Kaltsas noted this item would be continued as Velie desires to construct an accessory structure so he will need to come back with the plans.

5. **PUBLIC HEARING:** 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.

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; 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.
- (d) 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.

Palmquist asked if Council was looking at limiting the scope and Kaltsas said they are looking at redefining the grey areas. The intent needs to be clarified. Dumas asked about the forestry provisions. Kaltsas said currently you can grow and sell tomatoes under Ag processing on your property but can't sell through farmers market. Thompson asked how other cities define these types of conditions. Kaltsas said similar cities have further defined variations under their Ag provisions. Thompson asked if the focus should be on number of employees and emissions and allow them to grow whatever they want as long as they employee five family members for an example.

Thompson asked why we have horticulture and forestry, and would it make sense to pull forestry out. Kaltsas said that would eliminate a lot of confusion.

Thompson asked if these policies can be tied to zoning. Kaltsas noted if it is not listed in our ordinance it is not permitted. Thompson said horticulture seems to be the most problematic.

Kaltsas noted another concern is a CUP when the ownership changes hands and want to ensure the new owner doesn't violate the boundaries of the CUP. He said these could be changed to an IUP. Council wants to make sure the business is gone for good.

Thompson asked if forestry should be eliminated. Palmquist said it could be eliminated altogether and someone would want it than it would have to be a text amendment. He said there is a lot of crossover of some products. Thompson said Rural Residential could be conditional use.

6. Open/Misc.

7. Adjourn.

Motion by Thompson, second by Dumas to adjourn at 8:23 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JANUARY 7, 2020 –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.

2. Pledge of Allegiance

3. Swearing in of newly elected Mayor and Council Members.

4. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, McCoy, Grotting and Spencer

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose, Public Works Supervisor Bode

VISITORS: WHPS Director Kroells, Pete Kittock

5. ****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 December 12, 2019 City Council Special Meeting and Workshop.
- b. Approval of City Council Minutes from the December 17, 2019 Regular City Council Meeting.
- c. Approval of Accounts Payable; Checks Numbered 19332-19370.
- d. Set the Local Board of Appeal & Equalization Meeting for Tuesday, April 7, 2020.
- e. 4th Qtr. Building Permit Report – For Information.

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

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

7. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- None

Grotting attended the following meetings:

- None

McCoy attended the following meetings:

- None

Betts attended the following meetings:

- Police Commission Meeting

Johnson attended the following meetings:

- Police Commission Meeting
- Visit with June Sutton (oldest resident of Independence)
- Met with Gina Piazza-Ward
- Met with Tom Emmer in Otsego
- Request from Congressman Phillips to meet with a farmer on January 22nd

Horner attended the following meetings:

- None

Kaltsas attended the following meetings:

- None

8. Annual City Council Appointments.

- a. **RESOLUTION 20-0107-01** - Annual Council Appointments.
- b. **RESOLUTION 20-0107-02** - Approval of Planning Commission Appointments.

Each year the City selects Council Members, consultants and staff to serve the City and fill roles supporting boards and commissions. The Council has the discretion to make appointments as necessary. The various positions are identified on the attached schedule. Council appointments that have typically changed on an annual basis are highlighted on the attached appointment schedule.

In addition to the Council appointments, there are two Planning Commission terms that expired at the end of 2019. Both Lieth Dumas and Tom Palmquist have offered to continue serving the City on the Planning Commission for another three-year term. Council will need to consider reappointment of both Planning Commissioners.

Requested Action:

It is recommended that the City Council discuss and approve the official 2020 appointments by adopting RESOLUTION No. 20-0107-01. It is further recommended that City Council consider the reappointment of Lieth Dumas and Tom Palmquist to a new three-year Planning Commission Term by adopting RESOLUTION No. 20-0107-02.

Motion by Spencer, second by McCoy to approve RESOLUTION 20-0107-01 - Annual Council Appointments. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED.

Motion by Grotting, second by McCoy to approve RESOLUTION 20-0107-02 - Approval of Planning Commission Appointments. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED.

9. Discussion Relating to Highway 12 and County Road 92 Intersection Improvements Project

- a. **RESOLUTION 20-0107-03** – Approving Local Support and Municipal Consent for Preferred Design Alternative.

Kaltsas stated Staff has been working with MNDOT and Hennepin County to better understand the potential benefits and limitations of Alternative 3a with a bypass. The City has spent the last couple of months trying to find solutions that would allow Alternative 4G to become feasible or to secure additional funding. To this point Hennepin County and MNDOT have not been willing to explore ways to realize development of Alternative 4G. Staff has also met with several outside engineering firms to review the alternatives and analyze the findings, benefits and potential limitations of both alternatives. Staff has identified the following key points for Council consideration:

Alternative 3A with bypass will increase the average daily commute of eastbound traffic by 8-12 seconds per vehicle over Alternative 4G. Westbound traffic will have the same or negligible difference during peak times. In either alternative, the level of service (functionality) of the road will not drop below a high level of service. Alternative 3A with bypass will increase the potential daily conflicts (potential crashes) over Alternative 4G by approximately 60 per day. With either alternative, the potential daily conflicts versus the current road is greatly reduced. There will likely be an increase in the local cost to administer (police) the intersection for Alternative 3A with bypass. It is difficult to quantify the actual cost but based on discussions with police departments with similar intersections, the number of incidents will increase.

The City was concerned about limiting the future mobility of the corridor with Alternative 3A with bypass. Based on a variety of conversations, both alternatives will allow the expansion of the corridor in the future. The overpass is being designed to accommodate a four-lane intersection. If a four-lane intersection is considered, the roundabout could potentially be designed as a four-lane intersection. The bond funding that was secured to develop this project has an expiration date of approximately 4 years from the date of approval (May 2017 approval, May 2021 expiration). As a result of this limitation and the time required to design, acquire right of way and bid this project, the City will need to act on approving an alternative if we want to realize an improved intersection and corridor.

Staff will review in more detail, the additional discussions relating to the intersection, design, limitations and benefits that were discussed over the past month at the City Council Meeting. Based on the discussions that have been had and the unwillingness of MNDOT and Hennepin County to fund Alternative 4G, staff will be recommending that the Council approve Alternative 3A with bypass.

McCoy asked the proposed capacity and are on/off ramps a potential down the road if needed. Kaltsas said there is a projected volume and this round-about is designed to accommodate that estimation which is peak flow. He noted round-about capacity could be increased to four lanes if needed in the future. An overpass solution would probably not be economically feasible as it would require two bridges and ramps. McCoy said he is concerned the capacity will be exceeded quickly and he prefers the 4G solution but will concede to this plan to make it happen. McCoy asked who would own the circle in the middle for maintenance. Kaltsas said the ROW acquisition has not yet been identified. McCoy asked about the local street on the south side of Highway 12. Kroells said he thought it would be considered a city street.

Grotting said it would be good for the viewing audience to understand why a round-about has been determined to be better than a controlled intersection. Kaltsas said the City has been involved in all discussions and the ultimate purpose is to make it as safe and possible. A round-about was graded the highest overall in

safety. A controlled intersection would doesn't have the same rating and there is a higher chance of fatal incidents. 4G scored the same but this option is more cost effective. Johnson noted there is still hope for additional funds, but we don't want to lose the support we got at this time.

Motion by Betts, second by Spencer to approve RESOLUTION 20-0107-03 – Approving Local Support and Municipal Consent for Preferred Design Alternative. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

10. Meeting Date Change for the March 3, 2020 Regular City Council Meeting to Accommodate the Presidential Nominating Primary.

Kaltsas said the first April City Council Meeting (March 3rd) falls on the same date as the 2020 Presidential Nominating Primary. The City will need to reschedule the Council Meeting. The City has the option to reschedule the meeting to another date. Staff is seeking direction from Council on several alternative dates?

Monday, March 2nd

Monday, March 9th

Motion by Betts, second by Spencer to approve City Council meeting date change from March 3rd to March 2nd, 2020. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

11. Adjourn.

Motion by McCoy, second by Grotting to adjourn at 7:15 p.m. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

City of Independence

Request for an Interim Use Permit for the Property located at 3315 County Road 92 N.

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	November 19, 2019
<i>Applicant:</i>	Vincent Velie
<i>Owner:</i>	Vincent Velie
<i>Location:</i>	3315 County Road 92 N.

Request:

Vincent Velie (Applicant/Owner) requests that the City consider the following actions for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):

- a. An interim use permit to allow a commercial landscape, tree removal and snowplow business on the existing property. The interim use permit, if granted, would replace the existing conditional use permit granting similar use of the property.

Property/Site Information:

The property is located at 3315 County Road 92 N. which is on the west side of CSAH 92 N. between CSAH 11 and State Highway 12. There is an existing home located on the property along with 6 detached accessory structures. The property has the additional following characteristics.

Property Information: 3315 County Road 92 N.

Zoning: *AG - Agriculture*

Comprehensive Plan: *AG-Agriculture*

Acreage: *12.47 acres*

3315 County Road 92 N.: Aerial View



Discussion:

The City originally granted a conditional use permit for this property in 1994 allowing a landscaping, irrigation and snowplowing business to be operated from the subject property. The City has perennially worked with the previous owner of the property to achieve compliance with the approved conditional use permit and its conditions. In January of 2019, the City notified the property owner that the CUP was going to be revoked due to non-compliance with the existing conditional use permit conditions. The City revoked a number of CUP's in February of 2019 and this property was unintendedly not included in the revocation resolution. The City discovered the error and sent notice that the CUP was going to be revoked at the City Council Meeting on July 30th, 2019. The buyer of the property attended that meeting and asked for the Council to delay any action on the revocation of the CUP. The delay would allow the buyer of the property to clean up the property and make application to the City for an interim use permit to continue to use the property for a commercial business. The City Council acknowledged that the buyer had already begun to clean up the property and agreed to postpone any action on the CUP with the understanding that the buyer would bring forward an application for an interim use permit (IUP) in the future.

The property has been sold and the current owner has made an application to the City for an IUP to allow a commercial landscaping, tree removal and snowplowing business to operate from the property. The City

has the ability to consider approval of the IUP and also impose any conditions relating to the proposed use that are deemed necessary to mitigate potential impacts on the surrounding properties. The applicant would like to utilize the property in a manner consistent with the previously granted conditional use permit. The previously granted CUP had the following conditions:

2. A conditional use permit is hereby granted to the Applicant for the operation of a landscaping, irrigation, and snowplowing business on the Property, subject to the following terms and conditions:
 - a. The business may not employ more than 5 persons who do not reside on the Property. The business owner/operator must reside on the Property at all times that this conditional use permit is in effect.
 - b. The Applicant must plant approximately 200 feet of conifers along the south and west boundary lines, as shown in the attached diagram. The trees must be placed on 10 foot centers and must be at least 4 feet tall when planted. Planting along the west boundary line shall be completed by December 1, 1994 and planting on the south boundary line shall be completed by June 1, 1995. The Applicant shall maintain and replace the trees as necessary at all times that the conditional use permit is in effect, in order to provide the screening required by Section 13A of Ordinance No. 88.
 - c. All business-related vehicles and equipment must be stored indoors or consolidated in the area near the barn, as shown on the attached diagram.
 - d. Scrap metals, inoperable machinery and vehicles must be removed from the site on or before January 1, 1995. The ford dump truck will be moved and stored in the area between the house and the barn.
 - e. The windmill on the site must be removed or set in place on or before June 1, 1996.
 - f. The piles of PVC that are currently stored outside must be moved to the north side of the barn by January 1, 1995.
 - g. The Applicant must comply with all applicable requirements of Section 13A.5 at all times that this conditional use permit is in effect.
 - h. There shall be no signs on the Property that identify or advertise the business.
 - i. Hours of operation for the business shall be Monday through Saturday, from 7:00 a.m. to 8:00 p.m. All maintenance work on machinery shall be done during the authorized hours of operation.
 - j. The Fire Department shall be permitted to inspect the premises at reasonable times to ascertain location and type of any chemicals used in connection with the business.

- k. **The business operation shall not be conducted in a manner that, in the determination of the city council, unreasonably interferes with the neighboring property owners' peaceable enjoyment of their property.**
- 1. **An inventory of all equipment stored on the property will be filed with the City Clerk.**

The City has the ability to revoke the current CUP and approve or not approve a new IUP for the property. One of the considerations discussed by the Council was the idea that an interim use permit would allow the City to establish new conditions relating to the use of the property while providing for a known action that would end the commercial use of the property. Staff will be seeking feedback and direction from the Planning Commission and City Council relating to whether or not the City should issue an interim use for this property.

The City has criteria relating to interim use permits. One of the criteria of an interim use permit is that it needs to meet all standards for granting a conditional use permit. In addition, the following criteria have been established for an interim use permit and conditional use permit:

- 1. *The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.*
- 2. *The date or event that will terminate the use can be identified with certainty.*
- 3. *Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.*
- 4. *The user agrees to any conditions that the city council deems appropriate for allowing the use.*
- 5. *The use meets the standards set forth in subsection 520.11 governing conditional use permits.*

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 will need to determine if the requested interim use permit meets all of the aforementioned conditions and restrictions. There are several key considerations relating to the proposed interim use permit that should be noted and further considered by the City.

1. The property has been substantially “cleaned up” since the new owner took possession of the property. There is still a significant amount of remaining equipment and other similar miscellaneous debris strewn about the property (see attached photographs taken on 11.15.2019).
2. The neighboring property owner to the west of this property has provided written and verbal correspondence to the City relating concerns about the proposed use of the property.
3. Should the City consider granting an IUP for the proposed use of the property, it is recommended that the following conditions be considered:
 - a. An interim use permit (IUP) will be granted for the property and allow a Landscape, Tree and Snow Removal business to be operated on the subject property.
 - b. The IUP shall remain effective for so long as Velie possesses and resides at the 3315 County Road 92 N. property and owns and operates the approved business.
 - c. No more than five (5) employees, in addition to Velie, may originate, regularly visit and or park at the subject property. Each of the foregoing employees shall be allowed to park their personal vehicles on the Property while present at the property. Velie agrees to screen said vehicles from view from the public roadway.
 - d. The applicant is proposing to construct a new approximately 4,800 SF detached accessory structure on the property. The new detached accessory structure would be used for the business. The existing detached accessory structures would not be used for any business purposes or storage.

DRAFT SITE PLAN



- e. No outdoor storage of any equipment, materials or similar products will permitted on the property. One commercial vehicle used by Velie on a daily basis shall be permitted to be parked outside on the property along with two landscape trailers. No equipment or materials shall be stored on the trailers when parked outside. The trailers shall be screened from public view. Velie shall provide the City with a description and registration number of the vehicle and trailers permitted to be stored outside on the property.
- f. The existing evergreen and deciduous plant screen located along the property perimeters shall be maintained in perpetuity. No removal of the existing trees shall be permitted with the exception of dead or diseased trees. In the event a tree is removed due to death or disease, a replacement tree (which provides a similar screening effect and meets the minimum tree planting size of the City at the time of planting) shall be installed by Velie.
- g. No business signs shall be permitted on the premise.
- h. Hours of operation shall be limited to Monday through Saturday between 7:00 am to 8:00 pm.

- i. No expansion of the existing buildings or construction of new accessory structures shall be permitted on the property without the approval of the City Council by an amendment to the IUP.
- j. No materials generated off of the subject property shall be brought back to the property at any time or for any time period. This includes, but is not limited to trees, brush, leaves, organic materials and similar.

The City will need to determine if the requested interim use permit meets all of the aforementioned conditions and restrictions.

Neighbor Comments:

The City has received one written letter relating to the proposed interim use permit.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the request for an interim use permit. Should the Planning Commission recommend approval of the interim use permit, the following findings and conditions should be considered:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The IUP shall be subject to the following conditions:
 - a. The interim use permit (IUP) will allow a landscape, tree and snow removal business to be operated on the subject property.
 - b. The IUP shall remain effective for so long as Velie possesses and resides at the 3315 County Road 92 N. property and owns and operates the approved business.
 - c. No more than five (5) employees, in addition to Velie, may originate, regularly visit and or park at the subject property. Each of the foregoing employees shall be allowed to park their personal vehicles on the Property while present at the property. Velie agrees to screen said vehicles from view from the public roadway.
 - d. The applicant is proposing to construct a new, approximately 4,800 SF, detached accessory structure on the property. The new detached accessory structure would be used for the business. The existing detached accessory structures shall not be used for any business purposes or storage. The proposed building shall be generally constructed on the site in the location shown in this report. Prior to City Council

consideration of the requested IUP, the applicant shall provide the City with a site and grading plan which will be incorporated by attachment to the resolution. Interim use permit approval will be subject to the applicant completing construction of the proposed detached accessory structure within 12 months from the date of City Council approval. Failure to complete the construction within this timeframe will result in nullification of the IUP.

- e. No outdoor storage of any equipment, materials or similar products will be permitted on the property. One commercial vehicle used by Velie on a daily basis shall be permitted to be parked outside on the property along with two landscape trailers. No equipment or materials shall be stored on the trailers when parked outside. The trailers shall be screened from public view. Velie shall provide the City with a description and registration number of the vehicle and trailers permitted to be stored outside on the property.
 - f. The existing evergreen and deciduous plant screen located along the property perimeters shall be maintained in perpetuity. No removal of the existing trees shall be permitted with the exception of dead or diseased trees. In the event a tree is removed due to death or disease, a replacement tree (which provides a similar screening effect and meets the minimum tree planting size of the City at the time of planting) shall be installed by Velie.
 - g. No business signs shall be permitted on the premise.
 - h. Hours of operation shall be limited to Monday through Saturday between 7:00 am to 8:00 pm.
 - i. No expansion of the existing buildings or construction of new accessory structures shall be permitted on the property without the approval of the City Council by an amendment to the IUP.
 - j. No materials generated off of the subject property shall be brought back to the property at any time or for any time period. This includes, but is not limited to trees, brush, leaves, organic materials and similar.
 - k. The business operation shall not be conducted in a manner that, in the determination of the City Council, unreasonably interferes with the neighboring property owners' peaceful use and enjoyment of their property.
3. The applicant shall pay for all costs associated with the City's review and processing of the requested interim use permit.

Attachments:

1. Application
2. Building Plans
3. Site Pictures



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 3315 CR-92 N

PID 0911824340004

Proposal -Full documentation must accompany application

Landscaping/tree company vehicle and equipment storage
Plow service

Applicant

Name Vincent Velie II Velie Enterprises Email 4172TREE@gmail.com
DBA TR 4 Tim Ser LLC

Address 3315 CR-92 N

Phone 612-570-0835

Additional phone/contact 952-472-8733

Printed Name Vincent Velie II

Signature [Signature]

Owner Information (if different from applicant)

Name _____ Email _____

Address _____

Phone _____ Additional phone/contact _____

Printed Name _____ Signature _____

Office Use Only

Date 9/26/19

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.

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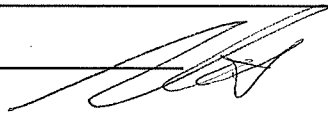
Application for Planning Consideration Fee Statement

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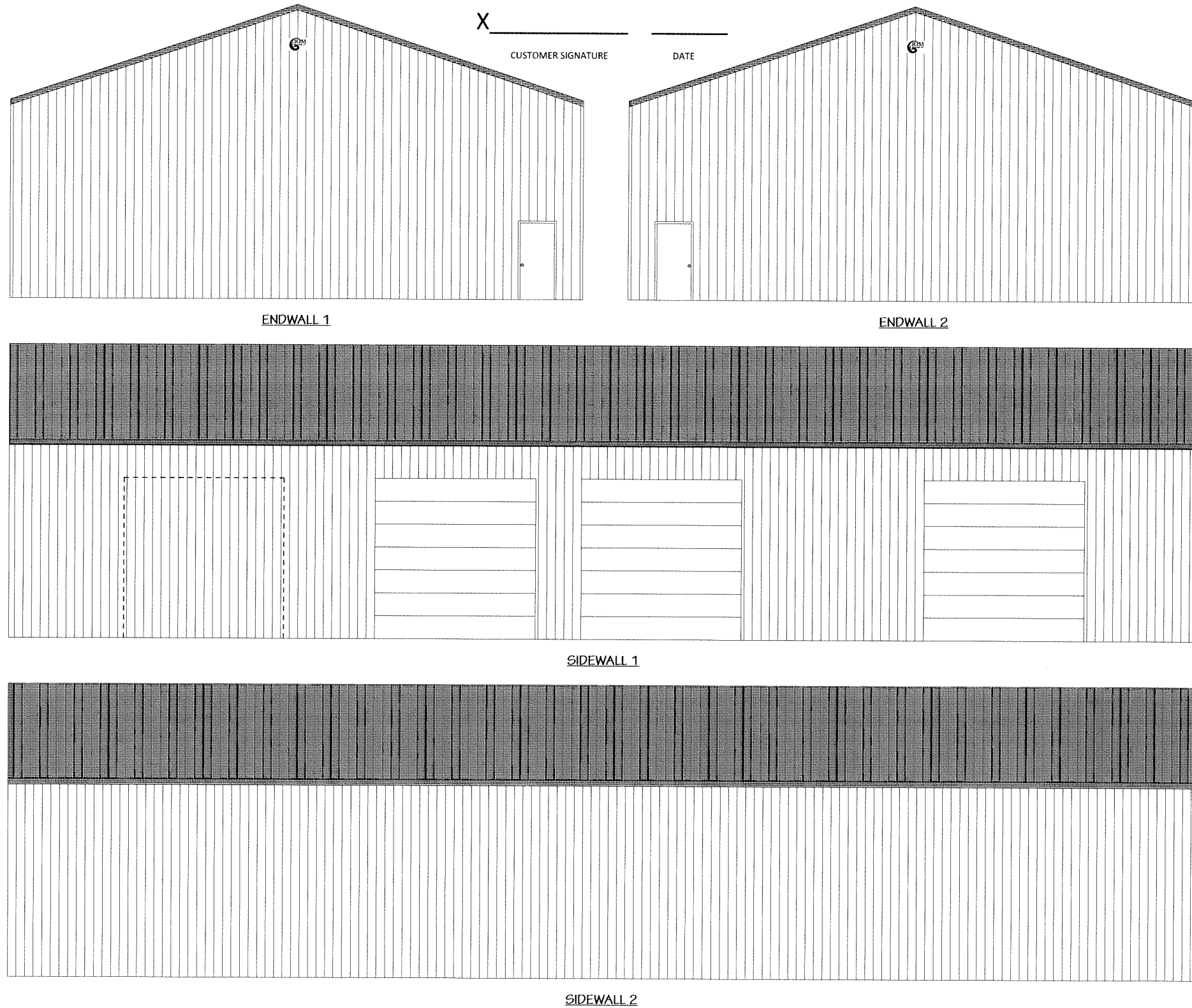
I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:


Applicant Signature: _____

Date: 9-26-19 _____

Owner Signature (if different):  _____


Date: _____



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DRAWN BY: JEREMY B.
 DATE: 12/10/2019
 SHEET 1 OF 2

PROJECT NAME: VINCENT VILIE
 PROJECT NUMBER: (19-____)
 BUILDING DESCRIPTION: 50'-0" X 104'-0" X 16'-0"
 DESIGN NUMBER: P19404



592 Industrial Drive
 P.O. Box 660
 Winsted, Minnesota 55395

320-485-2844 800-710-4726
 Fax 320-485-3625
www.rambuildings.com
 Contractor License Number 20171976























City of Independence
*Request for a Variance and Minor Subdivision for the Property
located at 7825 County Road 11*

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	January 21, 2020
<i>Applicant:</i>	Theresa Marple
<i>Owner:</i>	Theresa Marple
<i>Location:</i>	7825 County Road 11

Request:

Theresa Marple (Applicant/Owner) requests that the City consider the following action for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003):

- a. A variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel.

Property/Site Information:

The subject property is located south of County Road 11 and just west of The County Road 11/County Road 92 intersection. The property has an existing conditional use permit (CUP) to allow a guest house and an accessory structure larger than 5,000 SF. There are approximately 12 detached accessory buildings located on the property. The property is comprised of tillable acreage and dense wooded areas.

Property Information: 7825 County Road 11

Zoning: AG-Agriculture

Comprehensive Plan: Agriculture

Acreage: 78.70 acres



Discussion:

The applicant is seeking to subdivide the subject property into two parcels and ultimately sell both parcels. In 2009, the subject property was combined into one property from two existing properties. The property historically was comprised of a 5-acre parcel located along CSAH 11 and the remaining 75-acre parcel. There was an existing home located on each parcel. The City granted approval of a minor subdivision and conditional use permit to allow the existing home on the smaller 5-acre parcel to be converted to a guest house for the use of the property owners.

The applicant recently met with the City to discuss the subdivision of this property. It was noted that the City would allow a minor subdivision of the property which would permit a new parcel to be created with a minimum lot size of 2.5 acres and maximum lot size of 10 acres. The City and the applicant looked at

various configurations that would allow for a 10-acre parcel to be split off from the property and incorporate the existing second house and detached accessory structures. The applicant ultimately determined that they would like to split the property into two similar sized parcels that are approximately 40-acres rather than carving out a smaller 10-acre parcel.

The City does not allow the subdivision of property zoned Agriculture with the exception of lot line rearrangements and rural view lot splits. The City would have to consider granting a variance from the zoning ordinance to allow the subdivision of this property into two 40-acre parcels. In order to subdivide the property into two equal parcels, the north/south dividing line would need to be slightly skewed in order to accommodate requisite side yard building setbacks for the existing detached accessory structures.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not create a situation that is not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

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 standards for granting a variance:

- a. The applicants are proposing to split the property so that there is an existing residence on both properties. The use of the property as residential is consistent with the AG-Agriculture Zoning District.
- b. The properties created by the subdivision are similar in nature and character to the surrounding properties. There are many existing properties located along County Road 11 that are similar in size and configuration.
- c. The character of the surrounding area is mixed residential/agricultural and guided for long term agriculture. The City's current comprehensive plan guides this area for long term agriculture. The City will need to determine if the proposed subdivision is in keeping with the intent of the City's comprehensive plan.
- d. The requested variance to allow the subdivision of the property must be found to be unique to this property. The property was historically split into two parcels. The presence of two principle structures on the property is generally unique to just a handful of properties in the City. The significant number and size of detached accessory structures on this property is also unique. The City should note that the property is able to realize a rural view lot subdivision of the property. The rural view lot subdivision would allow a maximum of a 10-acre parcel to be subdivided from the whole. In reviewing the property frontage, lot depth to lot width and location of the two existing residences on the property, the proposed subdivision appears to be a reasonable request. The conditional use permit for the guest house will be revoked as a part of the subdivision and the properties will both be conforming in the after condition.

The Planning Commission will need to determine if the requested variance to allow the minor subdivision of the property meets the requirements for granting a variance. The proposed subdivision, if approved, would create two properties that meet all other applicable criteria of the City's zoning ordinance. Lot frontage, setbacks and accessory building square footage would all meet requisite standards.

Min. Lot Frontage Required:	300 Lineal Feet
Lot Frontage Proposed:	(Parcel A) - 703 Lineal Feet
	(Parcel B) - 607 Lineal Feet

The applicant has provided locations for an alternative septic site on Parcel B. The septic system for Parcel A is relatively new. The City would require a secondary site to be identified. The applicant is showing the requisite drainage and utility easements. The City has historically asked for additional County Road right of way to be dedicated when properties are subdivided along County Road 11. The additional right of way easement that has been requested is 17 feet wide. Staff is recommending that the City require

the additional 17 feet of right of way along the south side of County Road 11. The additional right of way would be dedicated in the form of an easement. The additional right of way does not appear to impact the proposed subdivision.

The creation of a new parcel typically requires the payment of a park dedication fee to the City. In this case, the property was historically subdivided prior to the combination of the properties in 2009. If applied, the park dedication fee would be based on the creation of a new 39-acre parcel. The City's park dedication fee is currently \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5 acres. The park dedication fee for this subdivision would be approximately \$29,255. Staff is seeking direction from the Planning Commission relating to the requirement for park dedication for this property.

Neighbor Comments:

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

Recommendation:

Staff is seeking a recommendation from the Planning Commission for a variance to allow a minor subdivision and with the following findings:

1. The proposed variance and minor subdivision request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.
2. The Applicant shall provide, execute and record the requisite drainage and utility easement with the county within six (6) months of approval.
3. The Applicant shall dedicate 17 feet of right of way to the City along County Road 11. The Applicant shall prepare the requisite easement exhibit and legal description and execute and record the document with the county within six (6) months of approval.
4. The City will revoke the existing conditional use permit for a guest house on the property.
5. The Applicant shall pay for all costs associated with the City's review of the requested variance and subdivision.
6. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Attachments:

1. Property Pictures
2. Proposed Subdivision Depiction - Before and After
3. Application

Attachment #1

7825 County Road 11



7825 County Road 11





PLANNING APPLICATION

Case No.

Type of application

- ☒ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
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Site Location— Additional addresses on back and legal description attached

Property address *7825 County Road 11,
Maple Plain, MN 55359*

PID *09-118-24-22-0003*

Proposal -Full documentation must accompany application

*To divide 78.70 acres into 2 equal plots - running
north and south*

Applicant

Name *Theresa Marple* Email *theresamarple@frontiernet.net*

Address *7825 County Road 11, Maple Plain, MN 55359*

Phone *612-709-3445* Additional phone/contact *Wendy Marple - 612-709-0143*

Printed Name *Theresa Marple* Signature *Theresa Marple*

Owner Information (if different from applicant)

Name _____ Email _____

Address _____

Phone _____ Additional phone/contact _____

Printed Name _____ Signature _____

Office Use Only

Date *11/20/2019* Application Amount *1250* Check # *6041* Accepted By *[Signature]*

Escrow Paid *750* Check # *6041* Date Accepted by Planner _____

City of Independence

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

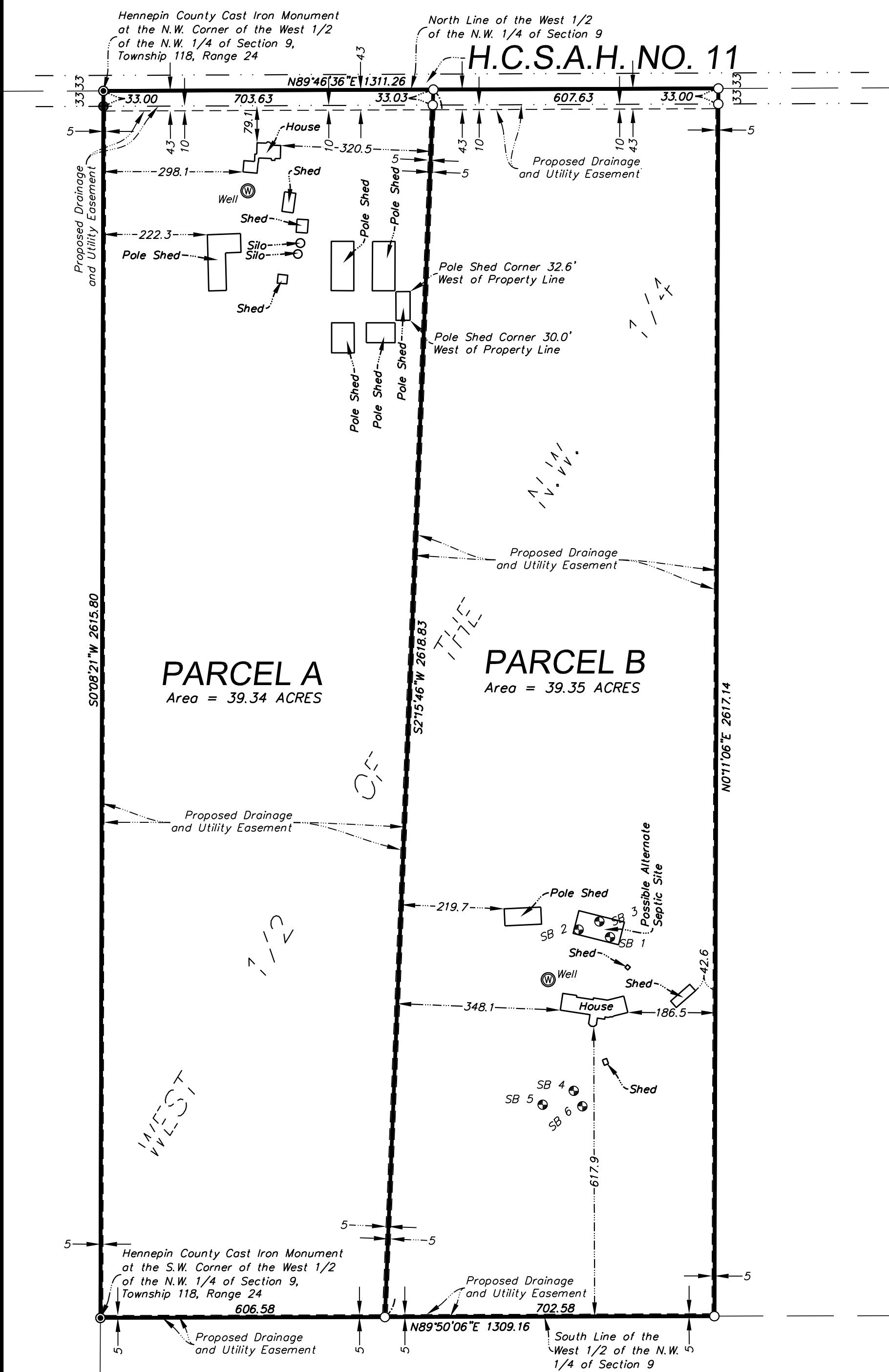
Applicant Signature: Sheresa Mayle

Date: 11-20-19

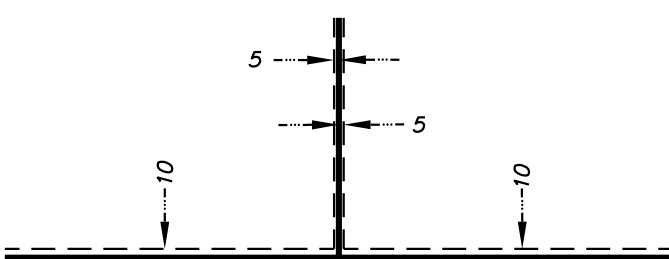
Owner Signature (if different): _____

Date: _____

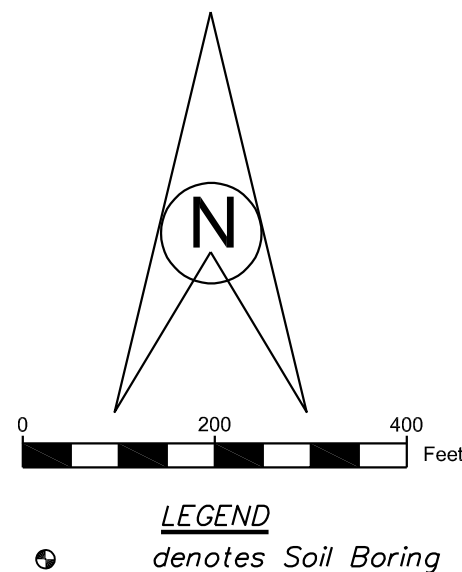
Certificate of Survey (After)



DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



BEING 10 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING RIGHT-OF-WAY LINES, AND BEING 5 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING LOT LINES, AS SHOWN ON THE PLAT.



PROPOSED DRAINAGE AND UTILITY EASEMENTS

Easement A:

A perpetual easement for drainage and utility purposes over, under, and across the South 10.00 feet of the North 43.00 feet and the West 5.00 feet and the East 5.00 feet and the South 5.00 feet of the following described property:

That part of the West Half of the Northwest Quarter of Section 9, Township 118, Range 24, Hennepin County, Minnesota, that lies Westerly of the following described line:

Commencing at the Northwest corner of said West Half of the Northwest Quarter; thence on an assumed bearing of North 89 degrees 46 minutes 36 seconds East, along the North line of said West Half of the Northwest Quarter, a distance of 703.63 feet to the point of beginning of said line; thence South 02 degrees 15 minutes 46 seconds West, a distance of 2618.83 feet to the South line of said West Half and said line there terminating.

Easement B:

A perpetual easement for drainage and utility purposes over, under, and across the South 10.00 feet of the North 43.00 feet and the West 5.00 feet and the East 5.00 feet and the South 5.00 feet of the following described property:

That part of the West Half of the Northwest Quarter of Section 9, Township 118, Range 24, Hennepin County, Minnesota, that lies Easterly of the following described line:

Commencing at the Northwest corner of said West Half of the Northwest Quarter; thence on an assumed bearing of North 89 degrees 46 minutes 36 seconds East, along the North line of said West Half of the Northwest Quarter, a distance of 703.63 feet to the point of beginning of said line; thence South 02 degrees 15 minutes 46 seconds West, a distance of 2618.83 feet to the South line of said West Half and said line there terminating.

PROPOSED PROPERTY DESCRIPTIONS

Parcel A:


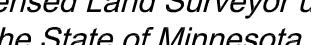
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Parcel B:

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Certificate of Survey on the West 1/2 of the N.W. 1/4 of Section 9, Township 118, Range 24, Hennepin County, Minnesota		I hereby certify that this survey, plan, 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.		Requested By: <div>Theresa Marple</div>				<div><div>www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763)682-4727 Fax: (763)682-3522 Engineers & Land Surveyors, Inc.</div></div>	<ul style="list-style-type: none">● denotes iron monument found○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062	
Revised:	<div><div>Paul E. Otto License #40062 Date: 11-15-19</div></div>	Date: 11-6-19	Drawn By: S.O.S.	Scale: 1"=100'	Checked By: P.E.O.	Project No. 19-0508				