



CITY COUNCIL MEETING AGENDA
REGULAR MEETING
TUESDAY, OCTOBER 17, 2017

CITY COUNCIL MEETING TIME: 6:30 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
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 October 3, 2017 City Council Meeting.
 - b. Approval of Accounts Payable; Checks Numbered 17468-17499.
 - c. Approval of request by Beverly Hamilton to renew and then set the clock for expiring the Agriculture Preserve status for the property identified by PID No. 35-118-24-14-0001.
5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.
6. Reports of Boards and Committees by Council and Staff.
7. Director Gary Kroells, West Hennepin Public Safety - Activity Report for the Month of September, 2017.
8. **PUBLIC HEARING:** Consideration to authorize the issuance of revenue bonds for the benefit of Augustana Chapel View Homes, Inc.; adopting a housing program; and authorizing the execution and delivery of the revenue bonds related documents.
 - a. **RESOLUTION NO. 17-1017-01** – Authorizing the the issuance of revenue bonds for the benefit of Augustana Chapel View Homes, Inc.; adopting a housing program; and authorizing the execution and delivery of the revenue bonds related documents.

9. John Peterson (Applicant) and LE Peterson Living Trust (Owner) request that the City consider the following action for the properties located at the east end and south of Burr Oak Lane (PID No.s 08-118-24-42-0001 and 08-118-24-31-0001) in Independence, MN:

- a. **RESOLUTION NO. 17-1017-02** – Considering approval of a lot line rearrangement which would move the existing lot line between the two properties further to the west.

10. Open/Misc.

11. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, OCTOBER 3, 2017 –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 Councilor Betts at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Councilor Betts led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Councilors Betts, Grotting and McCoy
ABSENT: Mayor Johnson, Councilor Spencer, City Administrative Assistant Horner
STAFF: City Administrator Kaltsas, Police Chief Gary Kroells
VISITORS: Don and Winnie Baird

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 September 19, 2017 Regular City Council Meeting.
- b. Approval of City Council minutes from the September 19, 2017 City Council Workshop.
- c. Approval of Accounts Payable; Checks Numbered 17437-17467.
- d. Approval of the Mayor's Attendance at the National League of Cities Annual Conference, November 14-18, 2017, in Charlotte, NC.
- e. Approval of a Large Assembly Permit for an Auction to be Held on the Property Located at 2020 County Road 90 on October 7th, 2017.
- f. Cancellation of the November 7th, 2017 City Council Meeting Due to the Election.

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

Grotting attended the following meetings:

McCoy attended the following meetings:

- Doug Brooks Retirement Party
- Joyce Larson Funeral
- Community Concert at Christ Lutheran

Betts attended the following meetings:

- Doug Brooks Retirement Party
- Police Commission Meeting

Johnson attended the following meetings:

Horner attended the following meetings:

Kaltsas attended the following meetings:

- Meeting with Mayor Johnson and Met Council Representative Katie Rodriguez about eligibility for the I&I Grant Program
7. Morton Buildings, Inc. (Applicant) and Virgil and Theresa Marple (Owners) request that the City consider the following action for the property located at 7825 County Road 11 (PID No. 09-118-24-22-0003) in Independence, MN:
- a. **RESOLUTION NO. 17-1003-01** - Granting a conditional use permit which would allow an expansion to an existing accessory building which would cause it to be greater than 5,000 square feet.

Kaltsas said the property is located south of County Road 11 and just west of The County Road 11/County Road 92 intersection. There are two houses on the subject property and approximately 12 detached accessory buildings. The property has a CUP allowing for the two homes to be located on the property.

The applicants are seeking a conditional use permit to allow the expansion of an existing building which will exceed 5,000 sf in overall size. The proposed building expansion will add approximately 1,200 SF to the existing 5,000 SF accessory building. The expansion area will be to the south of the existing building and internal to the property. All applicable setbacks will be met by the proposed addition. The existing building is used for the private storage of the owners. There are several additional accessory buildings located on this property. The owners live in the existing home on this property.

The maximum size of any accessory structure on a property is 5,000 SF. Any accessory structure greater than 5,000 SF requires a conditional use permit. In this particular case, the proposed existing building will be expanded which will result in a building greater than 5,000 SF. The City has established criteria for granting a conditional use permit.

The City has the following criteria for granting a Conditional Use Permit:

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.*

Kaltsas noted properties greater than 10 acres do not have a limitation on the total square footage of accessory buildings permitted on the properties. The applicant could construct an additional accessory structure on the property that is detached from the existing building. The proposed expansion would include the residing and reroofing of the entire building. The requested Conditional Use Permit appears to meet all of the aforementioned conditions and restrictions. Allowing the expansion of the existing building does not appear to have any adverse effects on this property or the surrounding properties.

Commissioners reviewed the request and asked questions of staff and the applicant. Commissioners asked why the applicant was adding on to an existing building versus building another standalone building. The applicant noted that they wanted to re-side and roof the existing building so it made sense to just add onto that building. Commissioners asked if there would be any commercial use of the building and the applicant noted that this was for the private use of the homeowner. Commissioners recommended adding a condition that no commercial use of the building would be permitted. Commissioners ultimately recommended approval of the conditional use permit to the City Council.

The Planning Commission recommended approval of the Conditional Use Permit with the following findings and conditions:

1. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. No future expansion of the accessory building shall be permitted on the property without the further review and approval by the City through the conditional use permit amendment process.

3. No commercial use of the building shall be permitted.
4. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Motion by Grotting, second by McCoy to approve RESOLUTION NO. 17-1003-01 - Granting a conditional use permit which would allow an expansion to an existing accessory building which would cause it to be greater than 5,000 square feet for the property located at 7825 County Road 11 (PID No. 09-118-24-22-0003). Ayes: Grotting, McCoy and Betts. Nays: None. Absent: Johnson and Spencer. MOTION DECLARED CARRIED.

8. Open/Misc.

9. Adjourn.

Motion by McCoy, second by Grotting to adjourn at 6:40 p.m. Ayes: Grotting, McCoy and Betts. Nays: None. Absent: Johnson and Spencer. MOTION DECLARED CARRIED.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary

City of Independence
Agriculture Preserve Renewal Request

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: October 17, 2017

Request:

The City has received a request from Beverly Hamilton to renew and then set the clock for expiring the Agriculture Preserve status for the following property:

- 35-118-24-14-0001

The City has reviewed the request and it appears to meet the criteria for granting Agriculture Preserve status in accordance with *Minnesota Statue 473H.03 Required Size of Parcel; Exceptions*. The property is at least 20 acres and has abutting properties on two sides to properties that are eligible for Agriculture Preserve.

Recommendation:

It is recommended that the City Council consider approval of the renewal and expiration request. The expiration request would establish the eight year time period before removal of the property from the Agriculture Preserve status.



Date: October 12, 2017

To: Public Safety Commissioners
City of Independence Council Members
City of Maple Plain Council Members

From: Director Gary Kroells *G. Kroells*

SUBJECT: SEPTEMBER 2017 ACTIVITY REPORT

The purpose of this report is to give the reader a quick overview of the activities of the Public Safety Department each month. It also compares monthly and year-to-date information to the reader.

The report is broken down into five categories, as defined by the Criminal Justice Reporting System.

CRIMINAL-- Criminal is broken down into Part I and Part II crimes.

Part I includes crimes against persons versus crimes against property; criminal homicide, forcible rape, robbery assault, aggravated assault, burglary -breaking or entering, larceny-theft, larceny analysis, motor vehicle theft and arson.

Part II includes other assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, buying, receiving, possession; vandalism, weapons, carrying, possessing, etc.; prostitution and commercialized vice, sex offenses; drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses, suspicion, curfew and loitering laws - persons under 18; and runaways - persons under 18.

TRAFFIC-- Includes violations of the road and driving laws.

PART III-- Lost and Found: Includes lost and found persons, animals, and property, and stalled and abandoned vehicles.

PART IV-- Casualties: Includes all motor vehicle accidents, boating, and snowmobile; public home occupational accidents, fires, suicides, sudden deaths, burning permits, and burning violations.

PART V-- Miscellaneous Public: Includes open doors, gun permit applications, suspicious activities, animal complaints, motorist assists, alarm calls, parking complaints, house checks, driving complaints, civil matters, family disputes, department assists.

The balance of the report shows the total number of incidents handled, miles driven and how the Public Safety Department received calls. If anyone should desire more detailed statistical data, please contact my office.

\\WHPS#0\share\monthlyactivityreport\2017\lettertocouncilmonthlyreport.docx

West Hennepin Public Safety Department
1918 County Road 90 / Maple Plain, Minnesota 55359
Phone: (763) 479-0500 / Fax: (763) 479-0504
Web Address: <http://www.westhennepin.com> E-mail: westhennepin@westhennepin.com

Monthly Activity Report

September 2017

Offense	This Month	Same Month Last Year	This Year To Date	Last Year To Date
City Of Independence				
Criminal	10	13	87	96
Traffic	184	161	1,615	1,922
Part III	8	4	73	107
Part IV	23	26	255	299
Part V	137	154	1,372	1,517
Total City of Independence	362	358	3,402	3,941
City Of Maple Plain				
Criminal	6	1	43	58
Traffic	71	134	949	864
Part III	9	14	43	73
Part IV	20	17	145	176
Part V	110	149	1,190	1,229
Total City Of Maple Plain	216	315	2,370	2,400
Grand Total Both Cities	578	673	5,772	6,341
TZD	18	1	185	131
Agency Assists	55	92	498	402
Total ICR Reports	633	766	6,455	6,743
Mileage	9,814	12,169	113,173	115,147
How Received				
Fax	7	5	102	103
In Person	29	21	228	330
Mail	2	1	12	17
Other	2	3	35	52
Phone	39	40	275	336
Radio	164	251	1,638	1,944
Visual	351	387	3,743	3,484
Email	2	6	44	44
Lobby Walk In	37	52	378	433
				6,743
Total	633	766	6,455	6,743

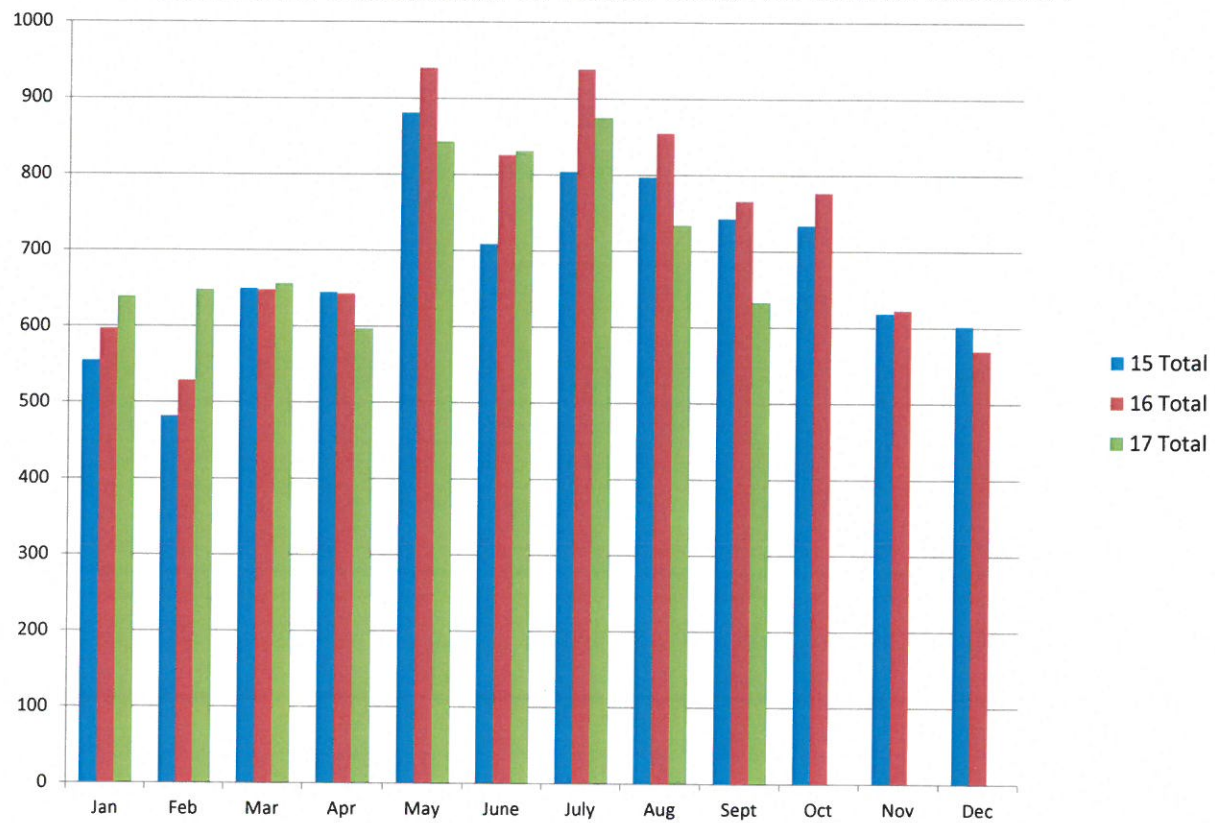
September 2017 Criminal Part I & II
City of Independence Grid #'s 3-5

<u>AGN</u>	<u>ICR</u>	<u>Title</u>	<u>Create Date</u>	<u>Grid #</u>	<u>Reported Date</u>	<u>MOC</u>
WHPS	17005870	Felony Theft of Jewelry	9/2/2017	3	9/2/2017	TB009
WHPS	17005873	Domestic Assault	9/2/2017	3	9/2/2017	AL351
WHPS	17006002	Theft from Auto	9/10/2017	4	9/10/2017	TC159
WHPS	17006053	Mailbox Damage	9/12/2017	3	9/12/2017	P3119
WHPS	17006129	Give Peace Officer False Name / Warrant Arrest	9/15/2017	4	9/15/2017	X3200
WHPS	17006225	Property Damage / Theft of Street Signs	9/20/2017	5	9/20/2017	TR229
WHPS	17006267	Terroristic Threats / Threats of Violence	9/21/2017	5	9/21/2017	A9B41
WHPS	17006268	3rd Degree Gross Misdemeanor DWI	9/21/2017	3	9/21/2017	JFW01
WHPS	17006316	Theft of Street Signs	9/25/2017	3	9/25/2017	TG229
WHPS	17006444	2nd Degree Gross Misdemeanor DWI	9/30/2017	3	9/30/2017	JGW01

City of Maple Plain Grid # 1-2

<u>AGN</u>	<u>ICR</u>	<u>Title</u>	<u>Create Date</u>	<u>Grid #</u>	<u>Reported Date</u>	<u>MOC</u>
WHPS	17005917	Burglary / Theft	9/5/2017	2	9/5/2017	B0394
WHPS	17005959	2nd Degree Gross Misdemeanor DWI - Refusal	9/7/2017	2	9/7/2017	JER01
WHPS	17006100	Theft of Plants	9/14/2017	1	9/14/2017	TD229
WHPS	17006215	Auto Theft	9/19/2017	1	9/19/2017	VB121
WHPS	17006268	3rd Degree Gross Misdemeanor DWI	9/21/2017	2	9/21/2017	JFW01
WHPS	17006376	2nd Degree Gross Misdemeanor DWI	9/27/2017	1	9/27/2017	JEW01

THREE YEAR COMPARISON OF POLICE CALLS FOR SERVICE & ACTIVITY



DIRECTOR'S NEWS & NOTES

WEST HENNEPIN PUBLIC SAFETY September 2017 Activity Report

Year to Date Activity Report

At the end of September 30, 2017 West Hennepin Public Safety (WHPS) handled a total of 6,455 incident complaints, 2,370 in Maple Plain and 3,402 in Independence. For the month of September 2017, WHPS handled 216 incidents in Maple Plain and 362 in Independence.

The Criminal Part I and Part II cases for both cities have been highlighted for your review on the attached documents.

Recent Highlighted Cases:

Suspicious Activity

Sept 1 2:00 a.m. 5200 Clayton Drive, Maple Plain. Routine patrol found a van parked in the driveway with its lift gate open. Police checked the area around the neighborhood and did not find suspicious persons or activity. Appeared the lift gate was mistakenly left open.

Traffic Complaint

Sept 1 Highway 12/ Co Rd 83, Maple Plain. Complaint of a motorcyclist driving dangerously fast, passed in no passing zone with oncoming traffic. Motorcyclist was stopped, stated his MC was operating poorly so he would accelerate to try and clean out the bad gas. His driver's license status showed suspended for child support. He had paid his fine and did not pay his reinstatement fee as indicated on his letter. His M/C was parked; and was issued a citation for driving after suspension.

Rescue / Extricate

Sept 1 5600 Highway 12, Maple Plain. Police and MP Fire Rescue responded to a 9 year old child with a finger stuck in a shredder. The finger was unstuck and he did not have life threatening injuries.

Felony Theft of Property

Sept 2 5300 Moline Rd, Independence. Homeowner reported she had moved to North Carolina and during her move \$5,000 in cash, two gold bracelets and a diamond pendent valued at \$7,800.00 disappeared from her belongings. The case is under investigation.

Welfare Check

Sept 2 1500 Budd Ave., Maple Plain. Caller was unable to reach a friend for the last 2 -3 days and requested a welfare check. Police contact with the friend found everything was ok; she had her phone off because her ex-boyfriends son was calling her.

Missing / Stolen Property

Sept 5 5300 Bryant Street, Maple Plain. Resident reported theft of property while he was out of town. Money and a gun were reported missing / stolen. The resident reported later he found his shotgun. The money is still missing and the case is under investigation.

Buried Dog / Unfounded

Sept 5 3100 Brie-Kessel Rd, Independence. Resident reported they backed their trailer into their woods and found a dog had been buried in the ground, only the eyes and snout were showing. Police met with the homeowners and discovered it was a stuffed animal.

Crash
Sept 5

7800 Highway 12, Independence. Witness reported a van swerved a hard right from eastbound Highway 12; at first thought the vehicle was pulling into a driveway, instead it struck a guardrail. The driver was helped from his vehicle. He was uninjured. The driver stated he was looking in the center console for a car wash coupon when he drifted over the fog line and struck the guardrail. His vehicle was towed from the crash site.

Welfare Check

Sept 6

5200 Bryantwood Drive, Maple Plain. An employer requested a welfare check for an employee who did not show up for work and it is unusual for her to not call or show up. Police contact with the employee who was not feeling good and did not want to go to work. Everything was ok. The employer was advised of the Police findings.

Civil Matter

Sept 6

7500 Turner Rd, Independence. Homeowner requested information for Police standby in case things escalate when a tenant is removing her horse and equipment from the stables due to non-payment. Homeowner was advised it is a civil issue and to call if Police help is needed.

2nd Degree DWI / Refusal

Sept 7

5200 Bryantwood Drive, Maple Plain. Reported a vehicle passing on the left of traffic. A 2nd caller reported a driver had fallen asleep in the vehicle at the intersection. Police contact with the driver, Gary Douglas Anspach, 28 from Maple Plain arrested and transported to Hennepin County Jail for 2nd Degree DWI Refusal. Truck pending forfeiture.

Littering / Dumping

Sept 8

Lake Sarah Dr S / Lake Sarah Rd, Independence. Caller reported a white truck pulled over and dumped a whole case of empty beer bottles into the ditch. The caller provided the license plate on the truck and description of the male driver. The case is under investigation and charges pending with contact of the registered owner of the truck.

Theft from Auto

Sept 10

5700 Co Rd 11, Independence. Victim reported she left her purse in her vehicle. When returning to her vehicle a black SUV accelerated at a high rate of speed leaving the church parking lot. Shortly after the theft \$832.00 was charged on the victim's credit card at a Target store and another large transaction was attempted and denied as the debit pin number could not be figured out. The case is under investigation.

Crash

Sept 11

Highway 12 / Marsh Ave., Maple Plain. Vehicle stopped at the traffic light was rear-ended. The driver said she was unable to stop and there were no skid marks at or near the point of impact. The driver was issued a citation for Failure to Drive with Due Care. No injuries. One vehicle was towed.

Agency Assist A & D

Sept 12

Vinland Center. Crow Wing County Probation Officer requested Police to pick up their client who was threatening to be violent and wanted to leave Vinland Center. An Apprehension and Detention Order was received and the male client was picked up and transported to Hennepin County Jail to wait for Crow Wing County Sheriff's Office to pick him up.

Suspicious Activity-Gun Shots

Sept 15 Police dispatched to Co Rd 90 / Quaas Cutoff, Independence for someone shooting a rifle and the caller was unsure if the person should be there shooting. Police found the person; it was legal, safe and had permission to be on the land from the land owner.

Vehicle Stall/ False Name to Police

Sept 15 7900 Co Rd 11, Independence. Reported an abandoned vehicle in a driveway. Contact with the male who refused to cooperate with Police and gave a false name. IBIS was used to fingerprint the male, ID' d him as Austin James Upegai, 24, of Elk River who had a warrant out of Wright County for Disorderly Conduct and one from Ramsey County for Possession of a Controlled Substance. Wright County Sheriff's Office took custody of Upegai.

Speed / Drug Paraphernalia

Sept 16 Police radar clocked a vehicle passing cars westbound on Highway 12 at Hitsman Lane, Independence at 81 mph in a 55 mph zone. The vehicle continued at a high rate of speed and was located in Delano in a parking lot. 30 year old male driver from Montrose admitted to trying to elude Police, he did not want his new girlfriend's car towed. Male was placed under arrest as in plain view Police observed tin foil with burn marks on the passenger seat. The male was cited for Speed, Driving after Revocation and Possession of Drug Paraphernalia.

Theft

Sept 18 1200 Co Rd 19, Independence. Two storage units were broken into. Cases under investigation.

Lost Property

Sept 18 Caller asked if anyone had turned in a Coach purse, wallet, cash and credit cards. Her purse was on the back of an M/C and she lost it somewhere between Loretto, Independence, Maple Plain or Mound. No one had turned in a purse or its contents.

Property Damage Crash

Sept 18 A vehicle was rear-ended while stopped westbound on Highway 12 waiting for eastbound Hwy 12 traffic to clear, to turn south on Co Rd 90, Independence. 19 year old male driver from Delano admitted he never saw the vehicle was stopped and was messing with his radio when the crash occurred. He was cited for Follow too Close.

Car Theft

Sept 19 5300 Pioneer Creek Dr., Maple Plain. Owner of vehicle reported her vehicle was stolen from the repair shop and knew who stole it. Contact with the suspect who refused to state she took the vehicle. The vehicle was located in the 5200 block of Bryantwood Dr., Maple Plain. Hennepin County Sheriff's Office Crime Lab responded and processed the vehicle for possible DNA. Case pending results and charges.

Theft of Street Signs

Sept 20 City of Independence Public Works reported two street signs were stolen. Stephanie Way and Dylan Way and the sign posts were damaged. Case under investigation.

- PI Crash
Sept 21 1:29 a.m. Reported a single car roll over crash. Police contact with the driver, 16 year old juvenile from Independence, who admitted he reached for his iPad, lost control and crashed. The vehicle was westbound on Co Rd 6, crossed over to the eastbound lane of Co Rd 6 and entered the ditch; continued in the ditch, struck a driveway culvert, became air born, and then struck a suspended limb of a tree and the vehicle rolled over to its side. The juvenile was transported to the hospital by ambulance. He was issued a citation for Drive without Valid Class Driver's License and Fail to Drive with Due Care. His father responded to the scene and the vehicle was towed.
- DWI
Sept 21 9:24 p.m. Highway 12 / County Line Road / Independence Rd. Caller reported a motor cycle passed in no passing zone, weaving in lane of traffic and crossing over center line. Police observed same driving actions. Rider, Scott Bower Wilson 54, Bloomington submitted breath sample resulting in .18 Breath Alcohol Concentration. Wilson was booked into Hennepin County Jail pending charges for Gross Misdemeanor Third Degree DWI.
- Personal Injury Crash
Sept 24 1:27 p.m. Co Rd 6 / Co Rd 19, Independence. 17 year old driver from Norwood Young America stated he was looking at the GPS on his phone and did not see the stop sign; no attempt was made to slow down or stop at 45 – 50 mph and he rear ended the stopped vehicle. The driver of the struck vehicle refused medical attention. Both vehicles were disabled and had to be towed. The driver was issued a citation for Failure to Stop for Stop Sign.
- Personal Injury Crash
Sept 24 6:03 p.m. Main Street West / Co Rd 90, Independence. 19 year old male driver from Mound lost control of his vehicle; his vehicle rolled over two times and struck a power pole. The driver had cuts and scrapes and was checked by North Memorial Ambulance. The driver was issued a citation for Failure to Drive with Due Care. The vehicle was towed from the scene and Xcel Energy responded to fix the power pole.
- Theft
Sept 25 Becker Rd / Pagenkopf Rd, Independence. Routine Police patrol, Officer found the street signs at Pagenkopf and Becker Roads were missing. The pole that held the sign was slightly bent. City of Independence was notified of the theft.
- Warrant
Sept 27 Baker Park Rd, Highway 12, Maple Plain. Motorist stopped at the stop light was texting on his phone. Admitted to the Police that he was texting his boss and his driver's license was suspended. The 52 year old male from Minneapolis had a Warrant from Anoka County for a probation violation – 5th Degree Drugs. He was taken into custody and transported to Hennepin County Jail for his warrant. The 60 year old male passenger from Fridley had a revoked driver's license and waited in the car for their boss to pick him up and the van.

Gross Misdemeanor 2nd Degree DWI

Sept 27 6:19 p.m. Reported a female waiting to pick up her child in the 5000 block of Pioneer Creek Dr, Maple Plain appeared to be impaired. Police contact with the female, Emily Marie Dunlap, 37 from Minnetrista was found intoxicated. Dunlap admitted to drinking at home, driving to the business and drinking while at the business. Dunlap provided a breath sample which resulted in .23 breath alcohol concentration. Dunlap was transported to Hennepin County Jail on Gross Misdemeanor 2nd Degree DWI.

2nd Degree DWI

Sept 30 Cty Rd 90/Main St, Independence. Vehicle stopped for the driver not wearing his seatbelt and was found to be intoxicated. Jeffrey Cordes, 46 from Orono submitted to a breath test that resulted in .19 BAC. He was arrested, charged with 2nd Degree DWI and transported to Hennepin County Jail.

City of Independence

Consideration of a Proposal for the Issuance of Conduit Revenue Bonds for the Benefit of Augustana Chapel View Homes, Inc. Under Minnesota Statutes, Sections 469.152 Through 469.1655.

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: October 17, 2017

Discussion:

The City Council is being asked to consider a proposal for the issuance of revenue bonds for the benefit of Augustana Chapel View Homes, Inc. project. The proceeds derived from the sale of the bonds are proposed to be loaned Augustana Chapel View Homes, Inc. to refinance the their skilled nursing and senior housing facilities located at 615 Minnetonka Mills Road, Hopkins, Minnesota.

Augustana Chapel View Homes, Inc. is seeking \$5,500,500 in tax-exempt bonds. The project to be financed is located in the City of Hopkins. Any issuer that has plans to issue tax-exempt general obligation bonds in calendar year 2017 would likely not want to pursue this issuance because that amount of bonds would put the issuer over the \$10,000,000 bank-qualified limit and, therefore, the issuer's general obligation bonds could not be issued as bank-qualified bonds. For this reason, the City of Hopkins is not interested in issuing the conduit bonds this year for this project. The City of Hopkins will grant host-city approval to the issuance of conduit revenue bonds by the City of Independence to project.

The bonds will be special, limited revenue obligations of the City payable solely from the revenues expressly pledged to the payment thereof and will not constitute a general or moral obligation of the City. The bonds will not be secured by the taxing powers of the City or any assets or property of the City, but will be payable from loan payments made by the borrower to the City pursuant to the loan agreement.

The City of Independence does not have any planned projects for calendar year 2017 that would require the issuance of bank qualified general obligation bonds (G.O. bonds). The City is limited to issuing no more than \$10,000,000 per year of bank-qualified G.O. bonds.

The City has issued conduit revenue bonds in the past and would be compensated by a one-time fee of one-half of one percent (~\$27,500). In addition, the Borrower shall pay to the City any and all costs incurred by the City in connection with the Bonds or the financing of the Project, whether or not the financing of the Project is approved by DEED, whether or not the financing is

carried to completion, and whether or not the Bonds or operative instruments are executed and delivered.

The City Council is being asked to consider **RESOLUTION NO. 17-1017-01**, granting approval for the issuance of the conduit revenue bonds.

CITY OF INDEPENDENCE, MINNESOTA

RESOLUTION NO. 17-1017-01

AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR THE BENEFIT OF AUGUSTANA CHAPEL VIEW HOMES, INC.; ADOPTING A HOUSING PROGRAM; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE REVENUE BONDS AND RELATED DOCUMENTS

WHEREAS, the City of Independence, Minnesota (the “City”) is a statutory city and political subdivision duly organized and existing under the Constitution and laws of the State of Minnesota; and

WHEREAS, Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), authorizes a municipality to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds to provide funds to finance and refinance multifamily housing developments (including nursing and assisted living facilities); and

WHEREAS, Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the “Industrial Development Act”), authorizes a municipality to issue revenue obligations to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension of a “project,” defined in the Industrial Development Act, in part, as any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including hospitals, nursing homes, and related medical facilities; and

WHEREAS, Augustana Chapel View Homes, Inc., a Minnesota nonprofit corporation (the “Borrower”), has proposed that the City issue its revenue obligations (the “Bonds”), in one or more series, as taxable or tax-exempt obligations, in an aggregate principal amount not to exceed \$5,500,000; and

WHEREAS, the Borrower proposes to use the proceeds of the Bonds to (i) refinance the Borrower’s skilled nursing and senior housing facilities (the “Facilities”) located at 615 Minnetonka Mills Road, Hopkins, Minnesota through the redemption and prepayment of the Health Care Facilities Refunding Revenue Bonds (Augustana Chapel View Homes, Inc. Project), Series 2005A, issued by the City of Minneapolis, Minnesota (the “City of Minneapolis”) on February 24, 2005, and the Health Care Facilities Revenue Bonds (Augustana Chapel View Homes, Inc. Project), Series 2005C, issued by the City of Minneapolis on May 31, 2005; (ii) finance improvements to the Facilities (the “Improvements”); (iii) fund required reserves; and (iv) pay costs of issuance of the Bonds; and

WHEREAS, in accordance with the Housing Act, the City has prepared a housing program (the “Housing Program”), which authorizes the issuance of the Bonds by the City to provide financing for the senior housing portion of the Facilities (the “Housing Facilities”), including the Improvements thereto, to be funded by the Bonds, and the Housing Program was submitted to the Metropolitan Council for its review and comment; and

WHEREAS, the Borrower has represented to the City that it is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the “Code”), as a result of the application of Section 501(c)(3) of the Code; and

WHEREAS, Section 147(f) of the Code, and regulations promulgated thereunder, Section 462C.04 of the Housing Act, and Section 469.154, subdivision 4 of the Industrial Development Act require that prior to the issuance of the Bonds, the City Council approve the issuance of the Bonds after conducting a public hearing thereon preceded by publication of a notice of public hearing (in the form required by Section 147(f) of the Code and applicable regulations) in a newspaper of general circulation within the City at least fifteen (15) days prior to the public hearing date; and

WHEREAS, a notice of public hearing (the “Public Notice”) was published at least fifteen (15) days before the regularly scheduled meeting of the City Council of the City in the *Crow River News*, the official newspaper of and a newspaper of general circulation in the City, with respect to the required public hearing under Section 147(f) of the Code, the Housing Act, and the Industrial Development Act; and

WHEREAS, on the date hereof, the City Council conducted a duly noticed public hearing at which a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on the following issues: (i) approval of the issuance of the Bonds pursuant to the requirements of Section 147(f) of the Code and the regulations promulgated thereunder; (ii) approval of the portion of the Improvements related to the skilled nursing portion of the Facilities (the “Skilled Nursing Facilities”) pursuant to Section 469.154, subdivision 4 of the Industrial Development Act; and (iii) approval of the Housing Program for the Housing Facilities under Section 462C.03, subdivision 1a of the Housing Act; and

WHEREAS, the Bonds are to be issued by the City pursuant to the Housing Act, the Industrial Development Act, and an Indenture of Trust (the “Indenture”) between the City and U.S. Bank National Association, as trustee (the “Trustee”), and the City will loan the proceeds of the Bonds to the Borrower pursuant to a Loan Agreement (the “Loan Agreement”) between the City and the Borrower; and

WHEREAS, the principal, premium (if any), and interest on the Bonds (i) shall be payable solely from the revenue pledged therefor; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; and (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City’s interest in the Loan Agreement; and

WHEREAS, the Loan Agreement requires the Borrower to make payments thereunder in amounts and at times sufficient to pay the principal of, premium (if any), and interest on the Bonds when due, and the loan repayments required to be made by the Borrower to the City under the terms of the Loan Agreement will be assigned by the City to the Trustee to secure the payment of the principal of, premium (if any), and interest on the Bonds; and

WHEREAS, to secure its obligations under the Loan Agreement, the Borrower will provide a mortgage lien on and a secured interest in certain of its property to the Trustee pursuant to an Amended and Restated Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents (the “Mortgage”) between the Borrower and the Trustee; and

WHEREAS, the City and the City of Hopkins, Minnesota (the “City of Hopkins”) are proposing to enter into a Cooperative Agreement (the “Cooperative Agreement”) pursuant to which the City of Hopkins will consent to the issuance by the City of the Bonds and the financing and refinancing of the Facilities located in the City of Hopkins by the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, AS FOLLOWS:

1. The Housing Program, in the form substantially on file with the City, is hereby approved.
2. The City acknowledges, finds, determines, and declares that the issuance of the Bonds is authorized by the Housing Act and the Industrial Development Act (together, the “Act”) and is consistent with the purposes of the Act and that the issuance of the Bonds, and the other actions of the City under the Loan Agreement and this resolution constitute a public purpose and are in the interests of the City. In authorizing the issuance of the Bonds, the City’s purpose is and the effect thereof will be to promote the public welfare of the City and its residents by providing multifamily housing developments for senior residents of the City and health care services for seniors who are unable to live independently and otherwise furthering the purposes and policies of the Act.
3. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Bonds in the aggregate principal amount not to exceed \$5,500,000. The Bonds shall bear interest, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, shall be in such form, and shall have such other terms, details, and provisions as are prescribed in the Indenture, in substantially the form now on file with the City.
4. All of the provisions of the Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Bonds shall be substantially in the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the principal amount of the Bonds, the determination of the interest rates on the Bonds, and changes to the terms of redemption of the Bonds) as the Mayor and the City Administrator of the City (the “Mayor” and “City Administrator,” respectively), in their discretion, shall determine. The execution of the Bonds with the manual or facsimile signatures of the Mayor and the City Administrator and the delivery of the Bonds by the City shall be conclusive evidence of such determination.
5. The Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the Loan Agreement and other funds pledged pursuant to the Indenture and shall be issued in an aggregate principal amount not to exceed \$5,500,000. The City Council of the City hereby authorizes and directs the Mayor and the City Administrator to execute and deliver the Indenture to the Trustee, hereby authorizes and directs the execution of the Bonds in accordance with the terms of the Indenture, and hereby provides that the Indenture shall provide the terms and conditions, covenants, rights, obligations, duties, and agreements of the owners of the Bonds, the City and the Trustee as set forth therein.
6. All of the provisions of the Indenture, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Indenture shall be substantially in the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, or as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.
7. The Mayor and the City Administrator are hereby authorized and directed to execute and deliver the Loan Agreement, the Cooperative Agreement, and the Bond Purchase Agreement (the “Bond Purchase Agreement”) between the City, the Borrower, and Northland Securities, Inc. (the “Underwriter”). All of the provisions of the Loan Agreement, the Cooperative Agreement, and the Bond Purchase

Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement, the Cooperative Agreement, and the Bond Purchase Agreement shall be substantially in the forms on file with the City which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.

8. The Bonds shall be revenue obligations of the City the proceeds of which shall be disbursed pursuant to the Indenture and the Loan Agreement, and the principal, premium, if any, and interest on the Bonds shall be payable solely from the proceeds of the Bonds, the revenues derived from the Loan Agreement, the revenues and assets pledged and assigned under the terms of the Mortgage and the other sources set forth in the Indenture. The Trustee is hereby authorized and directed to accept from the Borrower any additional instruments, documents, or other security provided by the Borrower or, at its direction to secure the obligations of the Borrower under the Loan Agreement and Mortgage or to secure the Bonds.

9. The Trustee is hereby appointed as paying agent and bond registrar for the Bonds.

10. The Mayor and the City Administrator are hereby authorized to execute and deliver, on behalf of the City, such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including one or more certificates of the City, an endorsement to the Borrower's Tax Certificate, an Information Return for Tax-Exempt Private Activity Bond Issues, IRS Form 8038 (Rev. April 2011), and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Bonds. The City hereby approves the execution and delivery by the Trustee of the Indenture and all other instruments, certificates, and documents prepared in conjunction with the issuance of the Bonds that require execution by the Trustee. The City hereby authorizes Kennedy & Graven, Chartered, as bond counsel of the City ("Bond Counsel"), to prepare, execute, and deliver its approving legal opinion with respect to the Bonds.

11. The City hereby authorizes the Borrower to provide such security for payment of its obligations under the Loan Agreement and for payment of the Bonds, including but not limited to the Mortgage or any other security agreed upon by the Borrower and the Trustee, and the City hereby approves the execution and delivery of such security.

12. The United States Department of the Treasury has promulgated final regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City or a borrower from the City for project expenditures paid prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within eighteen months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

To the extent any portion of the proceeds of the Bonds will be applied to expenditures with respect to the Improvements, the City reasonably expects to reimburse the Borrower for the expenditures made for costs of the Improvements from the proceeds of the Bonds after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance

of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

13. The City has not participated in the preparation of the Preliminary Official Statement (the "Preliminary Official Statement") or the Official Statement (the "Official Statement") relating to the Bonds and has made no independent investigation with respect to the information contained therein, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Bonds of the Preliminary Official Statement and the Official Statement. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the City for use in connection with the offer and sale of the Bonds. The City hereby approves the Continuing Disclosure Agreement (the "Disclosure Agreement") between the Borrower and the Trustee, as the dissemination agent, in the form now on file with the City, and hereby authorizes the Trustee, as the dissemination agent, to execute and deliver the Disclosure Agreement.

14. All covenants, stipulations, obligations, and agreements of the City contained herein and in the aforementioned documents shall be deemed to be the covenants, stipulations, obligations, and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations, and agreements shall be binding upon the City. Except as otherwise provided herein, all rights, powers, and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City Council, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City Council of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City Council of the City nor any officer or employee executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

No provision, covenant or agreement contained in the aforementioned documents, the Bonds or in any other document relating to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement and the Mortgage, which are to be applied to the payment of the Bonds, as provided therein and in the Indenture.

15. Except as herein otherwise expressly provided, nothing herein or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the Bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, this resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any holder from time to time of the Bonds issued under the provisions of this resolution.

16. In case any one or more of the provisions of this resolution, other than the provisions contained in the first sentence of Section 5 hereof, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this

resolution, the aforementioned documents, and the Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

17. The Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bonds, and to the execution of the aforementioned documents to happen, exist and be performed precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

18. The officers of the City, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bonds for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bonds, the aforementioned documents and this resolution. In the event that for any reason the Mayor is unable to carry out the execution of any of the documents or other acts provided herein, any other member of the City Council of the City shall be authorized to act in the capacity of Mayor and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City. If for any reason the City Administrator is unable to execute and deliver the documents referred to in this resolution, such documents may be executed by a member of the City Council, with the same force and effect as if such documents were executed and delivered by the City Administrator.

19. The City understands that the Borrower will pay directly to the City any and all costs paid or incurred by the City in connection with the transactions authorized herein, whether or not the Bonds are issued. The City further understands that the Borrower will pay to the City its administrative fee for the issuance of conduit debt.

20. This resolution shall be in full force and effect from and after its passage.

Adopted by the City Council of the City of Independence, Minnesota this 17th day of October, 2017.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

City of Independence

Request for a Minor Subdivision to Permit a Lot Line Rearrangement for the Property Located at the East End of Burr Oak Lane

To: City Council
From: Mark Kaltsas, City Planner
Meeting Date: October 17, 2017
Applicant/Owner: John Peterson/LE Peterson Living Trust
Location: End of Burr Oak Lane

Request:

John Peterson (Applicant) and LE Peterson Living Trust (Owner) request that the City consider the following action for the properties located at the east end and south of Burr Oak Lane (PID No.s 08-118-24-42-0001 and 08-118-24-31-0001) in Independence, MN:

- a. A lot line rearrangement which would move the existing lot line between the two properties further to the west.

Property/Site Information:

The subject property is located east of Lake Haughey Road and North of Hwy 12. The property is located at the east end of the improved portion of Burr Oak Lane. There are no structures on either property. The property has the following site characteristics:

Property Information: Burr Oak Lane

Zoning: Agriculture

Comprehensive Plan: Agriculture

Acreage (Before PID No. 08-118-24-42-0001): 38.39

Acreage (Before PID No. 08-118-24-31-0001): 10.10

Acreage (After PID No. 03-118-24-21-0002): 29.29

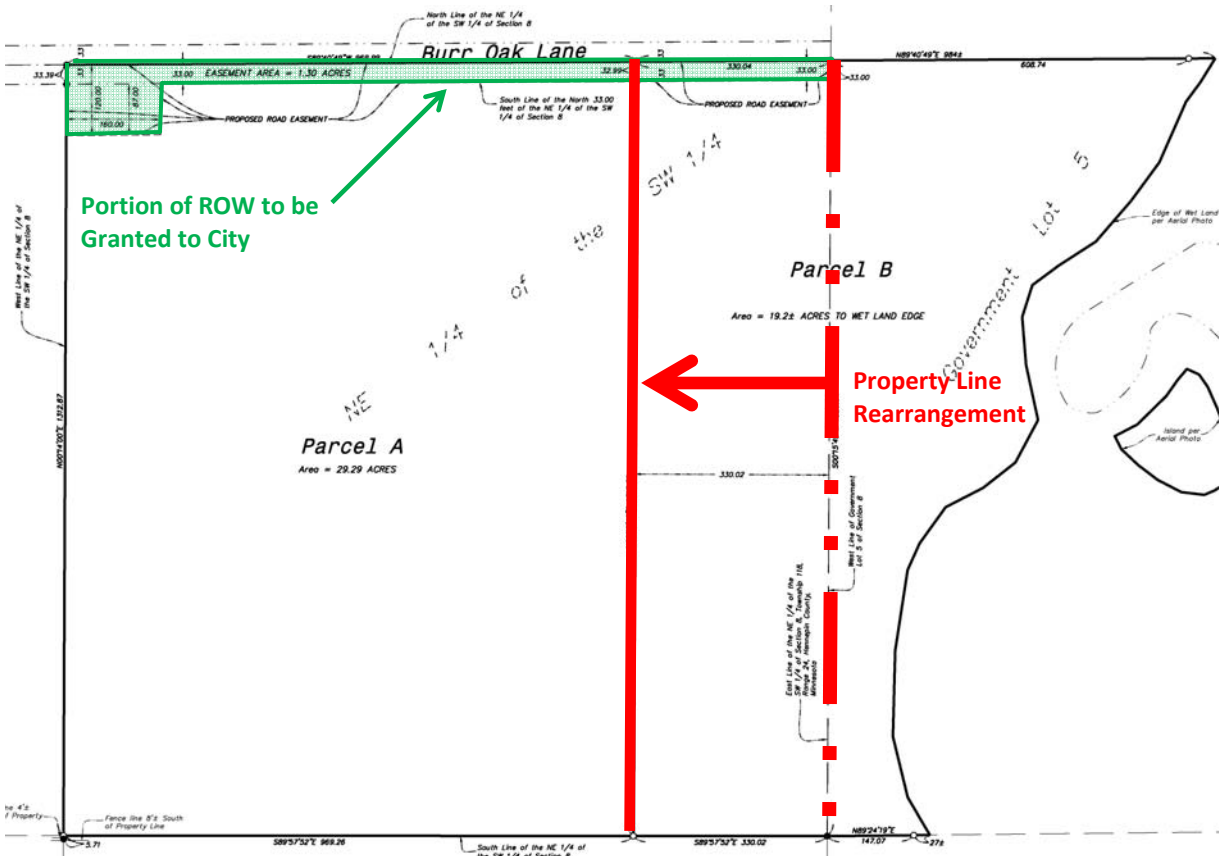
Acreage (After PID No. 03-118-24-22-0002): 19.20



Discussion:

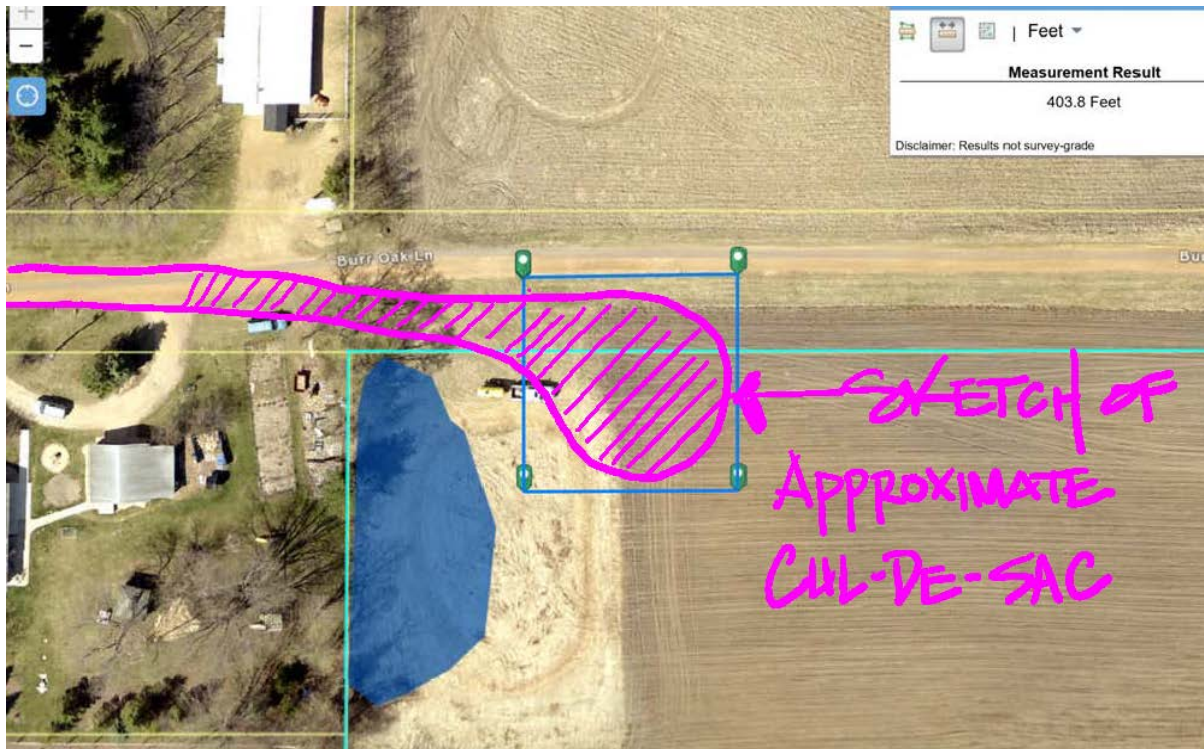
The applicant is seeking a minor subdivision to expand the smaller (eastern) property from 10 acres to 20 acres and include frontage on a portion of right of way to be dedicated for the future extension of Burr Oak Lane. The smaller property located to the east of the larger property does not currently have access onto a public right of way. The applicant has stated that they would like to expand the smaller property to allow for a more saleable parcel with a more suitable building site.

In 1969 a plat was filed which appears to have provided 66 feet of right of way to be known as Burr Oak Lane along the north property line of the western parcel. Even though it appears to have conveyed the right of way to the City, the method of the platting did not actually accomplish the conveyance to the City at that time. In order for the City to ensure that it has the ability to extend Burr Oak Lane in the future, the applicant will provide a 33-foot-wide easement to the City along the entirety of the existing west properties northern line. The easement will give the City the ability to extend the improved portion of Burr Oak Lane in the future if warranted. Granting the 33-foot-wide easement in combination with the proposed lot line rearrangement would provide the requisite 300 LF of frontage on a public right of way for the eastern lot.



In addition to the applicant granting a 33-foot-wide road easement, the City is requesting that the applicant dedicate additional right of way for the development of a public cul-de-sac to ensure emergency vehicle and public works access to these properties. The cul-de-sac will extend to the east (beyond the improved portion) of Burr Oak Lane. The cul-de-sac will need to comply with the City's specifications and details for a private driveway turn around (see attached exhibit) and will be required to be constructed at the time a building permit is pulled for either lot. Once constructed by the applicant or the buyer of the property, the City will accept the improvements and maintain the newly improved cul-de-sac.

In order for the eastern lot to gain access to the property, the City will need to grant a private driveway license agreement. This license agreement will allow the owner of the property to use the 33-foot-wide easement to access their property. The City has historically considered granting similar license agreements that allow the use of an unimproved right of way. It may be possible for the property owner of the eastern parcel to work with the property owner of 8448 Burr Oak Lane (property north of subject lot) to utilize a portion of their existing private driveway. The use of the private driveway would not involve the City and would have to be a private agreement.



After the subdivision, the larger parcel will be reduced by 10 acres to approximately 30 acres in overall acreage. In the existing condition, the larger property to the west has the ability to realize an additional building eligibility through the rural view lot provisions (minimum of a 40 acre parcel). In the after condition, the property will no longer be eligible for an additional building eligibility as it will no longer be an original quarter-quarter section. The applicant is aware of this condition.

The applicant has demonstrated that both properties have a minimum of 2.5 acres of buildable upland and the requisite primary and secondary septic site locations.

Summary:

The proposed lot line rearrangement is generally in keeping with the City's zoning and subdivision regulations. The applicant is proposing to make the smaller property arguably better due to the inclusion of the requisite frontage on a public right of way. The proposed minor subdivision appears to meet all of the applicable standards of the City's zoning and subdivision ordinance.

Planning Commission Discussion:

Commissioners discussed the proposed subdivision and asked questions of the petitioner and staff. Commissioners discussed the access to the property from Burr Oak Lane. Commissioners noted that there are currently two existing lots of record. Commissioners stated that the lot line rearrangement would improve the condition of the eastern lot and provide for a public safety cul-de-sac at the end of the improved part of Burr Oak Lane. Commissioners recommended approval of the proposed subdivision.

Neighbor Comments:

The City has not received any written comments regarding the proposed minor subdivision. Steve Pool (8145 County Road 11) commented on whether or not this subdivision would affect his property to the northeast. Steve Barcel (8448 Burr Oak Lane) noted that the City did not have a 66 foot right of way and that his private driveway was located within a private 33-foot-wide easement that was obtained from the neighboring property owner.

Recommendation:

The Planning Commission recommended approval of the requested minor subdivision with the following findings and conditions:

1. The proposed minor subdivision for a lot line rearrangement meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. City Council approval of the minor subdivision to allow a lot line rearrangement is subject to the following:
 - a. The Applicant shall provide the City with all necessary legal descriptions and depictions for the required 33-foot-wide road easement and cul-de-sac.
 - b. The Applicant shall execute and record all requisite easement conveyance documents.
 - c. The Applicant shall provide a legal description for the required drainage and utility easements, as required by the City. The Applicant shall execute the requisite conveyance documents pertaining to the D & U easements.
3. Prior to the City issuing a building permit for either parcel, the applicant for a building permit shall provide the City with a construction plan detailing the location and details for the cul-de-sac to be located at the eastern end of the improved portion of Burr Oak Lane. The construction of the cul-de-sac will be required to be completed by the building permit applicant prior to issuance of a certificate of occupancy for a principal structure on the subject

property.

4. The City will license the use of the 33-foot-wide road easement to the owner of the eastern parcel for the purpose of allowing access to the subject property.
5. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
6. The Applicant shall record the subdivision, easement and City Council Resolution with the county within six (6) months of approval.

Attachments:

1. Application
2. Existing and Proposed Subdivision Survey
3. Road and Cul-de-sac Easement Exhibit



RESOLUTION 17-1017-02

**A RESOLUTION APPROVING A MINOR SUBDIVISION TO ALLOW
A LOT LINE REARRANGEMENT FOR THE PROPERTIES
LOCATED AT THE EAST END OF
BURR OAK LANE (PID No.s 08-118-24-42-0001 and 08-118-24-31-0001)**

WHEREAS, the City of Independence (the "City") is a municipal corporation under the laws of Minnesota; and

WHEREAS, the City adopted a Comprehensive Plan in 2010 to guide the development of the community; and

WHEREAS, the City has adopted a Zoning and Subdivision Ordinance and other official controls to assist in implementing the Comprehensive Plan; and

WHEREAS, John Peterson on behalf of the LE Peterson Living Trust (the "Applicant/Owner") has submitted a request for a minor subdivision to allow a lot line rearrangement for the properties located at the east end of Burr Oak Lane (PID No.s 08-118-24-42-0001 and 08-118-24-31-0001); and

WHEREAS, the Property is legally described on attached Exhibit A; and

WHEREAS, the Property is zoned Agriculture; and

WHEREAS the requested minor subdivision meets all requirements, standards and specifications of the City of Independence subdivision and zoning ordinance for Agriculture Property; and

WHEREAS the Planning Commission held a public hearing on September 19, 2017 to review the application for a minor subdivision, following mailed and published noticed as required by law; and

WHEREAS, the City Council has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by John Peterson for a minor subdivision to allow lot line rearrangement per the City's subdivision and zoning regulations with the following conditions:

1. The proposed minor subdivision for a lot line rearrangement meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. City Council approval of the minor subdivision to allow a lot line rearrangement is subject to the following:
 - a. The Applicant shall provide the City with all necessary legal descriptions and depictions for the required 33-foot-wide road easement and cul-de-sac.
 - b. The Applicant shall execute and record all requisite easement conveyance documents.
 - c. The Applicant shall provide a legal description for the required drainage and utility easements, as required by the City. The Applicant shall execute the requisite conveyance documents pertaining to the D & U easements.
3. Prior to the City issuing a building permit for either parcel, the applicant for a building permit shall provide the City with a construction plan detailing the location and details for the cul-de-sac to be located at the eastern end of the improved portion of Burr Oak Lane. The construction of the cul-de-sac will be required to be completed by the building permit applicant prior to issuance of a certificate of occupancy for a principle structure on the subject property.
4. The City will license the use of the 33-foot-wide road easement to the owner of the eastern parcel for the purpose of allowing access to the subject property.
5. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
6. The Applicant shall record the subdivision, easement and City Council Resolution with the county within six (6) months of approval.

This resolution was adopted by the City Council of the City of Independence on this 17th day of October, 2017, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

EXHIBIT A
(Legal Descriptions)

PARCEL A:

That part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota, that lies West of the East 330.02 feet thereof.

PARCEL B:

Government Lot 5 of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

AND

The East 330.02 feet of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

*****Note:** All parties with a fee interest in the real estate must sign this application before the City will review for consideration!

Applicant Information:

Name: John H. Peterson

Address: 8910 Hwy 12

City, State, Zip: Delano, MN 55328

Phone: 612-770-8495

Email: jhpeterson@frontiernet.net

Signature: John H. Peterson

Owner Information (if different than applicant)

Name: L E Peterson Living Trust

Address: 8910 Hwy 12

City, State, Zip: Delano, MN 55328

Phone: _____

Email: _____

Signature: John H. Peterson - Trustee

Checklist: Please review the checklist that goes with the request(s) as all materials in the checklist unless waived by the City.

Review Deadline and Timeline: All applications must be received by the deadline according to the schedule attached hereto. Failure to submit by the date shown will result in a delay in the scheduling of the application review by Planning Commission and City Council.

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2014 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 shown at the bottom of this form. 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: John H. Peterson

Date: 8/23/17

Owner Signature (if different): John H. Peterson (Trustee)

Date: 8/23/17

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 viewed on a case-by-case basis.

- ☐ Appeal
- ☐ Comprehensive Plan Amendment
- ☐ Concept Plan
- ☐ Conditional Use Permit
 - ☐ Residential
 - ☐ Commercial/Light Industrial
 - ☐ Telecommunications
 - ☐ Agriculture
 - ☐ Home Occupation
 - ☐ Non-Conforming Use
 - ☐ Guest/Bunk House
 - ☐ Institutional
 - ☐ CUP Amendment
- ☐ Extension Request
- ☐ Final Plat
- ☐ Interim Use Permit
- ☐ Lot Consolidation
- ☒ Minor Subdivision (Survey)
 - ☐ Lot Subdivision
 - ☐ Lot Combination
 - ☒ Lot Line Rearrangement
- ☐ Moving Buildings
- ☐ Preliminary Plat
- ☐ Rezoning
- ☐ Site Plan Review (Commercial)
- ☐ Vacation
- ☐ Variance
 - ☐ Subdivision Regulations
 - ☐ Zoning
 - ☐ Road Frontage
- ☐ Zoning Text Amendment

**Please check all that apply*

Request: Lot line
rearrangement to
add 10 acres to parcel
B.

Site Address or Property Identification Number(s):

08-118-24 42 0001

08-118-24 31 0001

NOTE: 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.

Office Use Only

8/23/2017
Date

1,250
Application Amount

1048
Application Check #

750
Escrow Paid

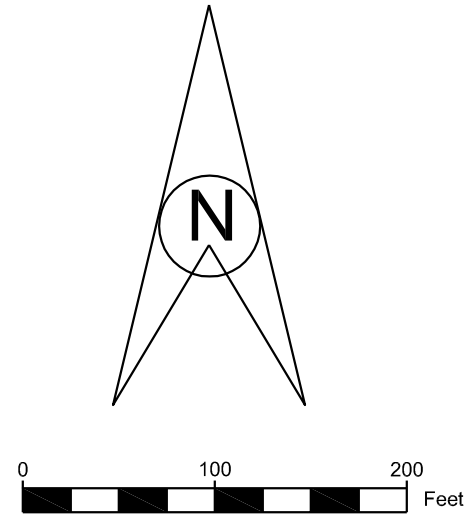
1048
Escrow Check #

Date Accepted by Planner

Accepted By

City Planner

Certificate of Survey



PROPOSED PROPERTY DESCRIPTIONS:

PARCEL A:

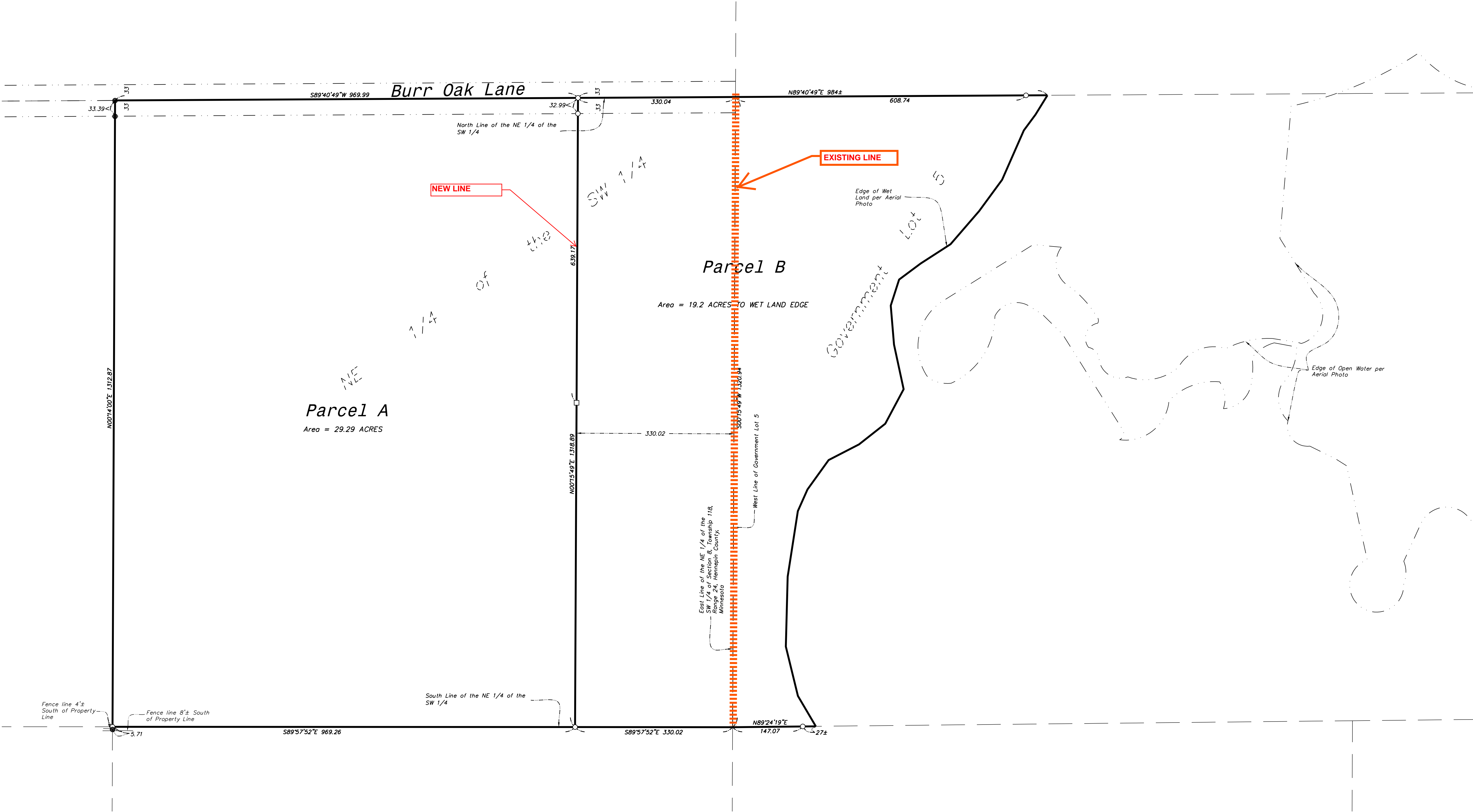
That part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota, that lies West of the East 330.02 feet thereof.

PARCEL B:

Government Lot 5 of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

AND

The East 330.02 feet of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota.



Certificate of Survey on part of the NE 1/4 of the SW 1/4 and Gov't Lot 5, Section 8, Township 118, Range 24, Hennepin County, Minnesota.

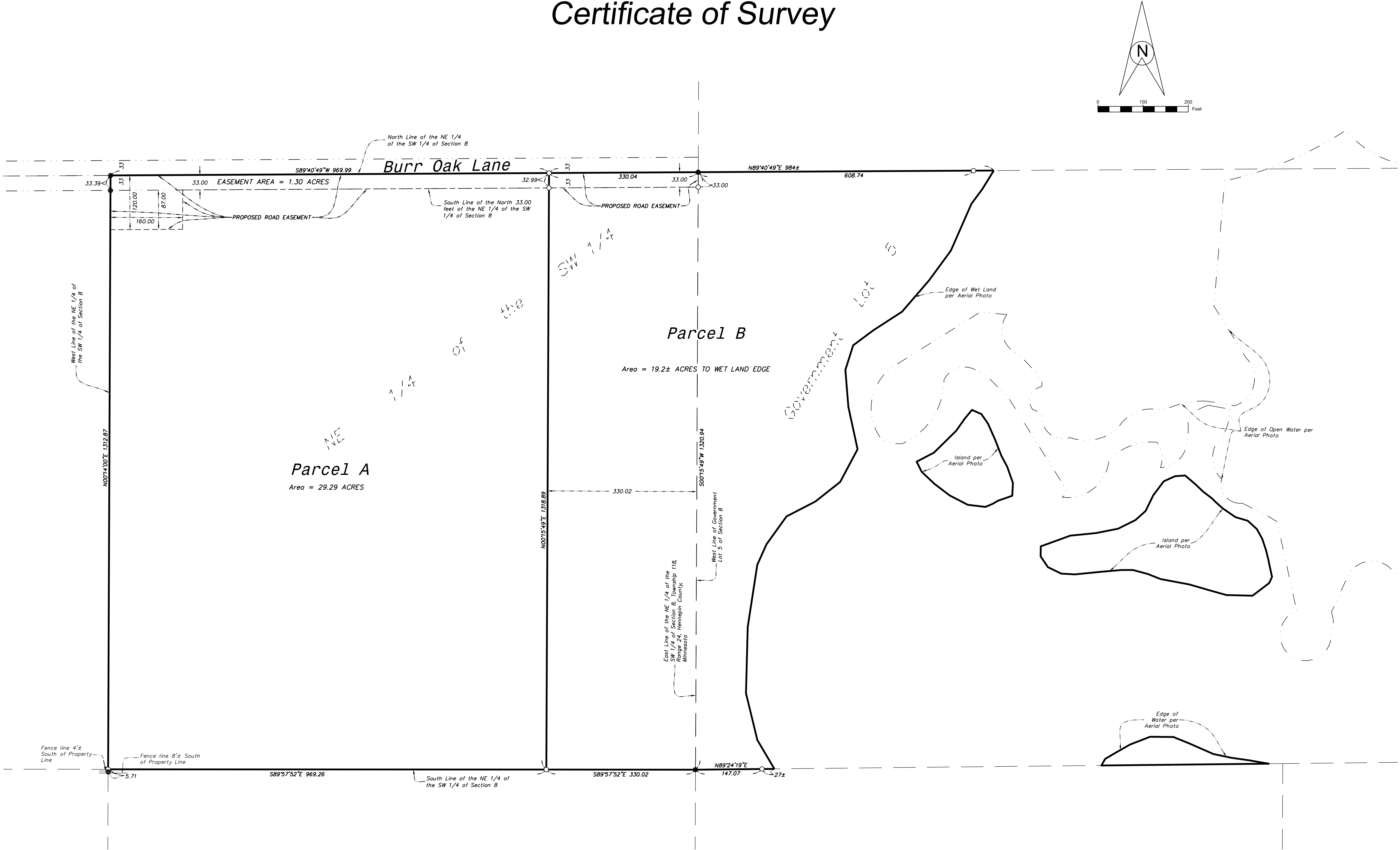
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Requested By: **John Peterson**
Date: **7-27-17**
Drawn By: **B.L.C**
Checked By: **P.E.O**
Scale: **1" = 100'**

www.ottoassociates.com
9 West Division Street
Buffalo, MN 55313
(763) 662-4727
Fax: (763) 662-3522
OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.

denotes iron monument found
denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062
denotes Lathe set
Project No. **17-0376**

Certificate of Survey



PROPOSED PROPERTY DESCRIPTIONS

PARCEL A:

That part of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota, that lies West of the East 330.02 feet thereof.

PARCEL B:

Government Lot 5 of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

AND

The East 330.02 feet of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

PROPOSED ROAD EASEMENT

A perpetual easement for road purposes over, under, and across the North 33.00 feet of the Northeast Quarter of the Southwest Quarter of Section 8, Township 118, Range 24, Hennepin County, Minnesota.

AND

A perpetual easement for road purposes over, under, and across the South 87.00 feet of the North 120.00 feet of the West 160.00 feet of the Northeast Quarter of the Southwest Quarter of Section 8 Township 118, Range 24, Hennepin County, Minnesota.

Certificate of Survey on part of the NE 1/4 of the SW 1/4 and Gov't Lot 5, Section 8, Township 118, Range 24, Hennepin County, Minnesota.

Revised: 9-1-17 - Islands Per Aerial Photo - S.O.S. 10-12-17 - Proposed Road Easement - T.J.B.

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.

Paul E. Otto License #40062 Date: 10-12-17

Requested By:

John Peterson

Checked By:

P.E.O

Scale:

1" = 100'

Drawn By:

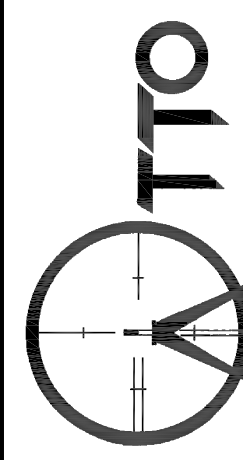
B.L.C

Date:

7-27-17

www.ottoassociates.com

9 West Division Street
Buffalo, MN 55313
(763) 662-4727
Fax: (763) 662-3522



OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.

• denotes iron monument found
○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062
□ denotes Lathe set

Project No.

17-0376