



CITY COUNCIL MEETING AGENDA
TUESDAY JUNE 7, 2022

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 May 17, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21256 and Batch # 2; Checks Numbered 21257-21283).
- c. Personnel Committee Recommendations:
 - i. Approval of Assistant City Administrator Position Appointment
 - ii. Approval of Administrator/Planner Contract Amendment

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. Tony Post (Applicant/Owner) is requesting that the City consider the following action for the property located at 2791 Copeland Road (PID No. 18-118-24-41-0002) in Independence, MN:

- a. **RESOLUTION 22-0607-01:** considering a variance and conditional use permit to allow an accessory dwelling unit to be located within the existing accessory building that exceeds the maximum size.

8. Dan Vanderheyden (Applicant) and Michael Crees (Owner) are requesting that the City consider the following action for the properties located off of Maple Street with an unassigned address (PID No.s 24-118-24-11-0007 and 24-118-24-11-0006) in Independence, MN:

- a. **RESOLUTION 22-0607-02:** considering a minor subdivision to allow a lot combination of the two subject properties a variance seeking reduced building setbacks to allow the construction of a new home on the combined properties.

11. Open/Misc.

- a. City of Independence on TV

12. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY MAY 17, 2022–6:30 P.M.
City Hall Chambers

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.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: None

STAFF: City Administrator Kaltsas, Chief Gary Kroells

VISITORS: Al Sterner, Pete Bullemer

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 May 3, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21222-21223, Batch #2; 21224, Batch #3, 21225-21255)

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Grotting attended the following meetings:

- None

Spencer attended the following meetings:

- Hwy 12 Safety Collision – phone
- Spring Clean Up Day

McCoy attended the following meetings:

- Maple Plain Fire Commission
- Funeral of a long time Independence Resident

Betts attended the following meetings:

- Hwy 12 Safety Collision Meeting
- Maple Plain Fire Commission
- Chamber Meeting

Johnson attended the following meetings:

- Hwy 12 Safety Collision
- Judy Crosby's husband's Memorial Service
- Independence longtime resident funeral
- Regional Council of Mayors
- Maple Plain Fire Commission
- Chamber of Commerce
- Senior Community Services Finance Committee (virtual)
- Visit with John Kuntz (past Independence resident/Council Member)
- Northwest League Meeting
- Hennepin County Representatives Carla Stueve Director of County Engineering) & Chris Sagsveen (Director of Transportation Operations)
- Gilliespie Center - Annual Appreciation Breakfast
- Energy and Environmental Resources for League of Cities (virtual)

Kaltsas attended the following meetings:

- None

7. West Hennepin Public Safety – Director Gary Kroells: Presentation of the April 2022 Activity Report.

Chief Kroells mentions that since the beginning of the year there have been 1,243 incident complains: 836 were in Independence. When you add in TZD and agency assists we have been involved with 1,347 incident reports. In April there were 222 incidences in Independence and 124 incidences in Maple Plain. We are showing upward trends and traffic enforcement compared to years past.

See full report for further details.

Johnson asked that there be a reserve officer at the cemetery on West Main Street the morning of the memorial service coming up. Kroells said yes, they can do that.

Johnson recused himself

8. Planning Commission Alternate Appointment.

Spencer said that there is one position open for planning commission alternate. We had 3 applicants that were interviewed at the last meeting. Kaltsas said that this is a 3-year appointment for this position. It would end on December 31st, 2024. He asked that the council make a recommendation to appoint the new planning commission alternate.

Spencer asked Betts what her thoughts were. Betts said she knows Gene Snyder by reputation and is a member of her church. He is responsible and has lived here a long time. He is retired and has the time to do it and would be regular in attendance. She has a leaning towards him. McCoy said he could make an argument for every one of the applicants. Every applicant has their strong points. He likes the longevity of Gene Snyder. Marty Chelstrom has been involved.

Grotting asked why Hal was appointed a spot on the planning commission and Story was not. Kaltsas said because Hal was the senior most only because we appointed him before Story and that is what our ordinance said. Grotting said he has the same opinion as McCoy. It is a shame to lose any applicant. Kaltsas said we could ask that if something comes up, we could call on the other applicants if they were open to it. Spencer asked if Grotting had a preference. Grotting said they were all very good, but he would go with Marty Chelstrom.

Spencer said that he really liked the thought that Tim put into it and could be a long running servant to the community. Lynn said we could put them all in a hat and draw because they all are really good. Spencer asked that everyone write one name down on a piece of paper and gives it to him and he will break the tie if necessary.

Spencer asked that staff sends out a letter of thanks to the other applicants and to keep in touch. Spencer said that he would like to cast a vote for Tim and wants to make that official.

**Motion by Spencer, seconded by Betts to appoint Tim Usset as the Planning Commission Alternate.
Consent Agenda. Ayes: Spencer, Grotting, McCoy and Betts. Recused: Johnson Nays: None.
Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

Mayor Johnson reconvened the meeting

9. Lake Haughey Road Resident Petition Regarding Property Condition.

Kaltsas said that there are some residents here tonight requesting that the City take action on the property located at 3585 Lake Haughey Road. Last year the city issued a letter to the resident citing that they were not in compliant with ordinances related to junk stored on the property. We usually notify them to comply, if we don't receive anything back, we send another letter that they are in violation of a city ordinance and what that is. We ask they comply within a set time; we note that noncompliance will make city take legal action. We did not get any response and we turned it over to WHPS to issue a formal citation which is a criminal violation of the city's ordinance. It will go into HC legal system and attorney takes over. They were given a court hearing of April 22, neither party appeared. They were issued bench warrants. They have until July 15th to appear in court. Our attorney said that the courts are backlogged. This is an ongoing problem. They will likely

issue a second citation. This will help reinforce when they do get in front of the judge. Once we get there, we will ask the court to comply with the ordinances and a timeframe to complete by. If they do not do this, we can go to a settlement conference and trial. It will then go to abatement. It is not fast. We will continue to follow through with this. Their noncompliance does not help us, it just makes it longer, but we will get to a point that we can physically enforce our ordinances.

Kroells said that the owner wouldn't speak with them. The boyfriend talked a little bit to them, and there was no confirmation that they were going to do that. One thing to note, unfortunately in this court system, a warrant doesn't necessarily mean a warrant that we think of. They think it is minor. It is frustrating that there is less enforcement. The only thing an officer can do is to issue them a sign and release warrant.

Johnson asked if the residents want to speak on this issue.

Al Sterner – 8910 Hwy 12, the problem has been in their eyesight for years. He talked with Bruce and DNR years ago. The DNR said that there was nothing they needed to deal with because they are only concerned with the high-water mark and not what's down below. He listed 4 reasons why the citizens are concerned about it. One is that there is a concern about traffic on Lake Haughey and there are two trucks with trailers that have skids with cement blocks on them in the road. They should not be vehicles there. He believes there is a business going on there that is not in CUP. There is no screening either. There is nothing being done, and it is an eye sore. He has a copy of a petition of signed residents that want to see something done and support the city doing something about this.

Kaltsas said that the property cannot get a business at this site and the city is just focusing on the accumulation of materials on the property. The city's intent is to enforce the ordinance and get the court to help support our ordinances. We have enforced businesses and debris on the property, but it has taken 3 years in the past and it costs a lot of money. Grotting said it costs the residents of Independence a lot of money.

Spencer said that he appreciates Al being here tonight. We have a lot of issues like this in the city and it is important for residents of Independence to get involved and help the city enforce these things.

Pete Bullemer - Lake Haughey Road, asked if they don't show on July 15th, how can residents get notified of the progress of this. Kroells said we should discuss this through the city and then we can give this information to the residents. This can get drug out with the court hearings and lack of compliance from this property. Some people don't want to comply until they are forced to. And the forcing through the court system takes some time. Kaltsas said to reach out to the city and check in on updates.

10. Open/Misc.

11. Adjourn.

Motion by Spencer, seconded by McCoy to adjourn the meeting at 7:21pm. Consent Agenda. Ayes: Johnson, Spencer, Grotting, McCoy and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,

DRAFT

City of Independence

Personnel Committee Recommendations

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: June 7, 2022

Discussion:

The City's current Assistant City Administrator is retiring at the end of June 2022. The Personnel Committee met to discuss this change in staffing and the process/plan for moving forward. The City had been planning for the potential turnover by cross training our current administrative assistant, Amber Simon so that she could transition into this position. The City is now ready to move forward with her transition from Administrative Assistant to Assistant City Administrator. This position includes many of the typical clerk, administrator, finance, and planning functions. The City has posted a new administrative assistant position to replace Amber and is going to be conducting interviews this week. With this change, the City would move Amber from pay grade 4 to pay grade 6 based on the increase in responsibilities and associated job classification. As a result of the cross training and increase in responsibilities that started earlier this year, it is recommended that the change in pay commence on March 1, 2022.

The Personnel Committee also conducted a review of the Administrator/Planner performance and current contract/compensation. The Personnel Committee discussed the current contract term and compensation. Based on the discussion, Personnel Committee is recommending an extension of the contract through 2027 (currently ends in 2025) and an increase in compensation that is reflected in the new contract which will replace the current contract. It was noted that the current contract is based on both a Planning contract and Administrator contract. The increase reflects an hourly rate increase commensurate with similar administrative and planning compensation reviewed for surrounding cities.

It was also discussed that the City will move forward with a compensation assessment for all positions within the City prior to final preparation of the 2023 Budget.

Council Recommendation:

Staff reviewed the Personnel Committee recommendations at a recent workshop in order to provide more detail and solicit additional discussion. The Personnel Committee recommends approval to the City Council to move Amber Simon to the position of Assistant City Administrator and approve the new (updated) City Administrator/Planner Contract.

JOB DESCRIPTION

I. IDENTIFYING INFORMATION		
POSITION TITLE: Assistant City Administrator	DEPARTMENT: Administration	WORK STATUS: Full-time
SUPERVISOR: City Administrator	LOCATION: City Hall	WORK HOURS: Per Supervisor
	FLSA STATUS: Non-exempt	

II. ORGANIZATIONAL RELATIONSHIPS	
Reports to: City Administrator	
Works Closely with: Accounting Clerk and Administrative Assistant	
Communicates with:	
<i>Internally-</i>	Department managers, contracted planner, council & various board members, and all other city employees
<i>Externally-</i>	City residents and City Hall visitors
Supervises: None	

III. DELEGATION OF AUTHORITY
<p>This position is expected to initiate regular/routine work tasks and carry out work assignments with little or no direct supervision. Work output is usually reviewed as drafts or in final form by the requesting manager or City Administrator. The incumbent uses word/data processing skills and can provide creative input – through a variety of software used – on the design, layout, and presentation of content that is provided by the relevant department, and through use of existing documents, samples, or based on directed research.</p> <p>The incumbent does not have any formal budget or purchase authorities other than the ability to order regular office supplies. The incumbent does not have the authority to make independent decisions that impact City or individual department programs or services.</p>

IV. PURPOSE
<p>Performs <i>non-supervisory</i> high-level administrative and support work to assist the City Administrator, department managers, city planners, and the City Council. Supports other city boards and commissions. Serves as the City's primary customer service representative. Successful performance is based on a smooth work flow, complete, timely, and accurate work product, ability to adapt to changing processes and priorities, and increased productivity achieved through the position's non-technical and technical support of elected and appointed officials.</p>

V. ESSENTIAL FUNCTIONS	
<p><i>This section states the position's major areas of accountability, priorities/key responsibilities, and recurring duties. All are essential. The list of recurring duties is not exhaustive. All duties and tasks that can be logically inferred are not specified. Other accountabilities, responsibilities, as well as particular duties and tasks may be assigned.</i></p>	
Major Areas of Accountability	Priorities/Key Responsibilities
DAILY OPERATIONS	> Effective & accurate support of the City Administrator and City Council functions
ADMINISTRATIVE TASKS	> Planning/Budgeting/Recordkeeping/Reporting/ Policies & Procedures
PLANNING & PROJECTS	> City Representation & Liaison/Intergovernmental Relations/Customer Relations/Public Relations
OUTSIDE COMMUNICATIONS/PUBLIC RELATIONS	> Shared Responsibilities/City-wide projects, events, activities
COORDINATION WITH OTHER DEPARTMENTS	

ASSISTANT CITY ADMINISTRATOR

V. ESSENTIAL FUNCTIONS (cont.)

ADMINISTRATIVE

- Responsible for records management and data request responses according to MN Data Practice regulations and MN Records Retention schedule.
- Administer preparation of the agenda and packet for board and committee meetings and prepare the meeting minutes, including posting to website(s) once approved.
- Prepare and coordinate legal publications in compliance with state statutes and local ordinances.
- Direct license and permit issuance and prepare related reports for Council.
- Administer and supervise all elections according to State Statute, including: recruitment and training of judges, diagnostic testing and coordination of maintenance, programming and operation of hardware, establishment of precincts, organization of polling places, management of absentee ballot process, maintenance of voter registration files, organization of supplies and supervision of election day procedures and activities.
- Manage regulatory functions of local elections, including: candidate filling, campaign financial reporting, certification of candidates, ballot questions and filing of election results with Hennepin County.
- Manage and/or coordinate special studies and projects as requested.
- Oversee specific programs for City departments, including: recycling, organics, and community activities. Prepare related grant reports and reimbursement requests.
- Assist in planning of City sponsored events, including room scheduling, setup, and clean up support.
- Oversee the preparation, production and maintenance of City communications including Newsletter, Website, and other informational material.
- Research, assemble information and compose reports, memos and correspondence and review administrative documents for clerical accuracy.
- Complete/collect and remit employee timesheets and payroll changes to third party payroll provider.
- Provide and facilitate exceptional customer service through caring, helpful, and professional contacts (in person, phone, e-mail, and in writing).
- Research, design, implement and evaluate effective processes for communication including telephone and voice mail systems, e-mail, memos, bulletin boards, mail, web site, newsletters, etc.

UTILITY BILLING AND ACCOUNTING

- Prepare and distribute sewer/ utility billings and other month/ quarter billings as required
- Create and update customer account files and records.
- Review and verify billing edit reports for accuracy and make necessary changes.
- Post daily receipts.
- Prepare delinquent account data and apply delinquent penalties.
- Assist Accounting Department with payables, including distribution and filing

GENERAL

- Manage and coordinate ongoing office supply inventory and office equipment/facility general maintenance, include some occasional light cleaning.
- Coordinate with other governmental agencies on strategic needs of the City to facilitate effective project management and identify fiscal resources.
- Facilitate intergovernmental cooperation with neighboring communities and other government and non-profit partners, including shared services and other cooperative ventures.
- Foster healthy working relationships between Council, staff, the public, and other community and consulting partners.
- Represents the City at public meetings or gatherings and presents a positive and professional image.
- Develops policies and procedures which ensure the most effective and efficient achievement of organizational objectives utilizing management information and other available resources.
- Develop and recommend departmental policies and procedures for effective operation of the City and ensure council actions are implemented.
- Performs other related duties as assigned or as apparent.

ASSISTANT CITY ADMINISTRATOR

VII. REQUIRED KNOWLEDGE, SKILLS, and ABILITIES

This section contains the knowledge base, skills set, and abilities that are essential to the incumbent's successful performance of this position.

Knowledge of;	Skill in;	Ability to;
<ul style="list-style-type: none"> • relevant laws, rules and regulations • City and department policies and procedures • City's and Department's organizational structure and operations, projects and activities • each major area of accountability • process control and improvement • office procedures, business writing rules and techniques • relevant word processing, spreadsheet, presentation, and publishing software program • basic website management 	<ul style="list-style-type: none"> • communicating, both verbally and in writing, with clarity and understanding • preparing draft documents from author's input, actual examples, and relevant samples • editing written material from draft to final form • maintaining and retrieving complete and accurate computer and physical records • establishing and maintaining cooperative and productive relationships with a variety of individuals and groups • performing basic research and presenting results in an understandable/concise manner • processing numerical data with speed and accuracy • using information technologies to increase work productivity 	<ul style="list-style-type: none"> • continually improve personal knowledge base and keep current with best practices, new technologies, and industry trends • handle multiple, ongoing tasks, interruptions, and rapidly changing priorities • carry out orders and directives from supervisory personnel • follow policies and procedures with consistency and uniformity • interact with staff from various levels of local government and area organizations • handle confidential information with appropriate degree of discretion • initiate routine work duties and carry out tasks with little direct supervision • attend any employer or City related trainings and meetings
<p><i>Machines, tools, and equipment regularly used:</i> personal computer and peripherals, network hardware and accessories, typewriter, phone, other typical office equipment.</p>		

ASSISTANT CITY ADMINISTRATOR

VIII. MINIMUM QUALIFICATIONS

An equivalent combination of education and experience, as determined by the City, may be considered during the hiring process.

- High school diploma or equivalent.
- Two years of post-secondary education and/or training in the administrative support job family
- Specific experience (at least one year) of providing similar administrative duties in an municipal office setting
- Notary public or ability to obtain licensure

IX. PREFERRED QUALIFICATIONS

- Three or more years of experience performing Assistant City Administrator or Deputy Clerk functions within a municipal environment
- Demonstrated skills with word processing, spreadsheet, and database applications
- Demonstrated knowledge and experience working with elections and records management

X. WORKING CONDITIONS

Works in typical office setting including sitting at desk for extended periods of time. Works at computer (on keyboard and with mouse) majority of time using a number of repetitive movements and fine motor skills. Uses near vision, ability to focus, sense of touch, and hearing.

Physical demands also include walking, reaching, pulling/pushing, grasping, twisting/turning, and some kneeling. Performs some lifting of files and office supplies.

ASSISTANT CITY ADMINISTRATOR

XI. EMPLOYEE ACKNOWLEDGEMENT

I have reviewed a copy of the Assistant City Administrator job description and understand it covers the City's expectations for my work. I also understand this document replaces any previous job description(s) and acknowledge management's exclusive right to make any changes to it. I agree this job description is a complete and accurate representation of the work I perform.

Employee's Signature: _____

Date: _____

XII. NON-DISCRIMINATION STATEMENT

The City of Independence seeks to administer its employment practices in a manner that promotes fairness and is free of illegal discrimination. No individual, within the context of their employment or application for employment with the City, shall be discriminated against or subjected to harassment on the basis of race, color, religion, national origin, sex, age, disability, marital status, sexual orientation, veteran status, public assistance status, or membership on a local commission. And, no individual who is protected by applicable Federal and State laws, rules, or regulations against discrimination shall otherwise be subjected to illegal discrimination.

<<<For more information, please contact the City Administrator>>>

XIII. REASONABLE ACCOMMODATION STATEMENT

The City of Independence is committed to promoting equal opportunity for all of its employees and applicants for employment. The City affirmatively acknowledges its obligation to comply with the Americans with Disabilities Act (ADA) and the Minnesota Human Rights Act (MHRA). Every reasonable effort will be made to provide an accessible work place and offer other accommodations to qualified individuals. Reasonable accommodation will be explored and determined on a case-by-case basis, generally after the individual concerned initiates a dialogue with the City's authorized representative.

<<<For more information, please contact the City Administrator>>>

XIV. EMPLOYMENT-AT-WILL & RIGHT-TO-REVISE DISCLAIMERS

This job description is provided to you as the primary source of information and immediate reference for the City's expectations regarding your position. This document is subject to unilateral change by the City at any time, without prior notification. It is not a contract and does not alter the employment-at-will relationship the City maintains between its employees and itself. Employment-at-will means an employee may resign from his/her position at any time, with or without cause. The City has similar rights to terminate the employment relationship. This document replaces any existing job description(s).

CHANGE HISTORY

ADOPTED: _____ (Date)

NEXT REVIEW: _____ (Date)

REVISED: _____ (Date)

(Date)

(Date)

(Date)

(Date)

City of Independence

Request for a Conditional Use Permit and Variance to Allow an Accessory Dwelling Unit in the Existing Principal Structure on the Property Located at 2791 Copeland Road

<i>To:</i>	City Council
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	June 7, 2022
<i>Applicant:</i>	Tony Post
<i>Owner:</i>	Tony Post
<i>Location:</i>	2791 Copeland Road

Request:

Tony Post (Applicant/Owner) is requesting that the City consider the following action for the property located at 2791 Copeland Road (PID No. 18-118-24-41-0002) in Independence, MN:

- a. A variance and conditional use permit to allow an accessory dwelling unit to be located within the existing building that exceeds the maximum size.

Property/Site Information:

The property is located on the west side of Copeland Road and south of Highway 12. The property is comprised primarily of pasture and wetlands. The property has one large and connected building that houses the barn, riding arena, garage and principal residence. The building is really four buildings that have been connected together.

Property Information: 2791 Copeland Road

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: *52 acres*

2791 Copeland Road - Aerial



Discussion:

The applicant is seeking a conditional use permit to allow an accessory dwelling unit inside a portion of the existing structure on the property. This property is unique in that there is one large, combined building that houses a series of spaces and uses, including the principal dwelling unit. The applicant approached the City prior to purchasing the property to inquire about building a second home on the property and maintaining the existing dwelling unit located within the combined building. It was noted that the property cannot have two (2) dwelling units so the existing space would need to be converted into something that conforms with applicable provisions of the City's zoning ordinance (i.e. accessory dwelling unit). Accessory dwelling units are a conditional use within the AG-Agriculture zoning district. There was some question relating to the existing residence and whether or not it really appears to look/feel/act as a principal dwelling unit. Staff visited the property and found that the existing space definitely felt and acted as a dwelling unit even though it is connected in a non-traditional manner to the barn and garage.

The space does have the potential to be converted into an ADU; however, the space associated with the existing dwelling unit is larger than the maximum size permitted of 1,200 SF. Staff discussed the possibility of converting a portion of the space and or closing off a portion of the space in order to meet the maximum ADU size of 1,200 SF. The dwelling unit is comprised of a

semi-finished basement (currently is mostly finished with a bedroom, utility room, storage, family room and closet), main level with full kitchen, living and dining areas and an open second floor loft with bathroom and closet. There is also a laundry room and back “office/multipurpose” room that could be associated with the existing barn/arena or the dwelling unit.

The existing dwelling unit square footage is broken down as follows:

- Basement: 1,014 SF
 - First Floor: 1,317 SF
 - Second Floor: 554 SF
- TOTAL: 2,885 SF

The proposed ADU square footage is broken down as follows:

- Basement: 0 SF (closed off from remaining dwelling, closet removed, use as storage)
 - First Floor: 798 SF (add door to close off 519 SF of utility/laundry/office/3/4 bath)
 - Second Floor: 389 SF (City to not count ~165 SF of closet/bathroom with low ceiling)
- TOTAL: 1,187 SF

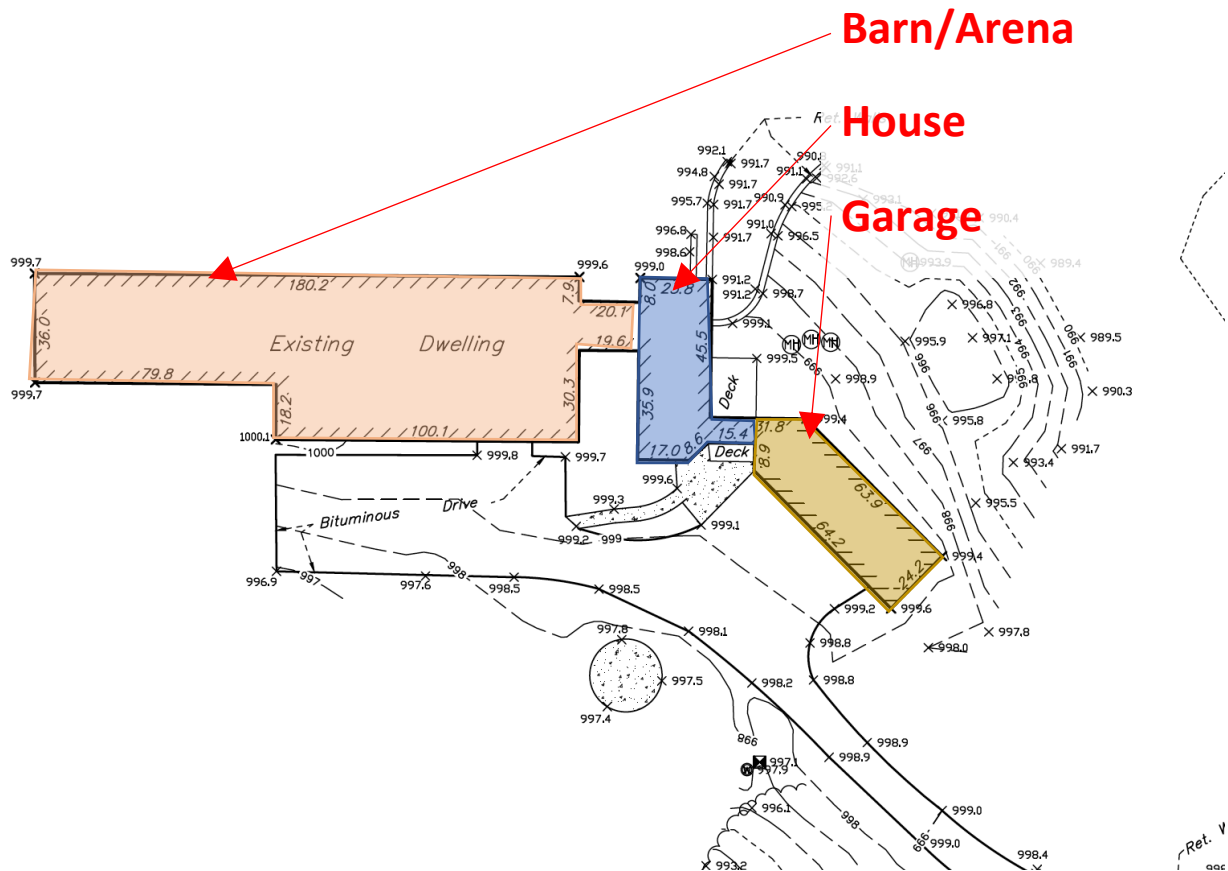
The applicant has provided a plan that indicates their proposed conversion of the space into a conforming ADU (gray areas to not be counted towards ADU square footage calculation). The proposal includes closing off the basement with a lockable door and closing off the laundry and office/multipurpose room and $\frac{3}{4}$ bath on the first floor with a lockable door. In order for the square footage to drop below 1,200, the City would also have to allow the second floor loft bathroom/closet to be excluded from the total square footage calculation. The applicant noted that this space has a low ceiling height.

The City adopted an ADU ordinance to allow for “mother in law” type units within an existing structure or as a stand-alone structure in the AG-Agriculture zoning district. The criteria established attempted to ensure that ADU’s would be clearly subordinate to the principal structure and not constitute a second home on an existing property. This building and the way it was constructed is definitely not typical of other single-family dwelling units within the City. Ironically, the City is seeing an increase in the number of “barndominiums” being proposed and constructed currently. This type of structure and their future conversion into ADU’s is something that the City may be faced with in the future.

Staff is seeking direction from the Planning Commission relating to this request. The City will need to determine if the proposed conversion of this space meets the intent of the ADU criteria. In addition, the City would need to determine if the square footage calculations (based on the proposed conversion) meet the intent of the ADU ordinance. The City has noticed this application and request as a conditional use permit and variance. The variance would allow the City to consider granting a variance to the maximum size limitations for an ADU (greater than 1,200 SF). The City could determine that the proposed changes do not meet the intent/criteria for granting an ADU based on exceeding the size limitations and could recommend granting a

variance to allow an ADU that is larger than 1,200 SF. The City has not historically granted approval of an ADU that exceeds the size limitations.





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

An accessory dwelling unit must meet the following criteria:

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

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

The applicant is proposing to use the accessory dwelling unit located within the existing detached accessory structure.

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

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

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

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

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

The proposed accessory structure is existing.

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

The proposed new principal structure will have more than 3,640 square feet of above ground space not including the basement.

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

There is not a limitation on the total amount of accessory structure square footage for properties zoned Agriculture and greater than 10 acres.

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

The existing structure has permanent provisions for cooking; living and sanitation (see attached depiction).

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

The existing structure has one bedroom within the accessory dwelling unit.

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

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

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

The structure is connected to the existing septic system on the property.

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

The detached accessory building is a conforming structure that is currently in existence.

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

The proposed accessory structure will meet all applicable building codes and may be required to obtain requisite after-the-fact permits.

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

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

There are several items that should be noted by the Planning Commission:

- The applicant is proposing to construct a new home on the subject property (see layout proposed). The proposed home has more than 3,640 SF of above ground square footage. The new home would allow for a 1,200 SF ADU on the subject property. Any approval of an ADU would be subject to the construction of a new home on the property.
- Even if the space is modified as proposed, the general living space will have the ability to function in a manner similar to that of a larger dwelling unit.
- The City has both historically and recently received similar conversion requests and or requests for ADU's that are larger than 1,200 SF. This is something that should be further discussed and considered by the City.
- If the City determines that a variance is warranted, the criteria for granting a variance would have to be satisfied.
- The location of the existing accessory building and its proximity to the surrounding properties does mitigate potential impacts of allowing a portion of the space to be used as an accessory dwelling unit. The surrounding properties are similar in character and have similar sized detached accessory buildings.
- The City has received letters of support from two of the adjacent property owners.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit

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

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

Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The location of the proposed accessory dwelling unit and its compliance with all applicable setbacks does help to mitigate potential impacts resulting from the construction of the accessory dwelling unit. The City will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

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

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

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

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

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

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

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

Given the unique nature of the existing dwelling unit, its overall size, original intent to be a principal residence and the applications that have been submitted, staff is seeking more direction from the Planning Commission. The Planning Commission will need to determine if the proposed ADU as modified meets the intent of the City’s zoning ordinance. If the intent is not satisfied as proposed, the Planning Commission can make a determination that the criteria for granting a variance have been met by the applicant and could recommend approval of a variance to allow an ADU that exceeds the maximum size of an ADU (larger than 1,200 SF).

Planning Commission Comments/Discussion:

Planning Commissioners reviewed the request and asked questions of staff and the applicant. Commissioners asked about the potential to break off the existing building on its own lot and building on a vacant lot. It was noted that this property does qualify for a subdivision and could be split. Commissioners discussed that the existing building from the exterior vantage point does not appear to be residential. Commissioners discussed the interior spaces and the proposed “interior modifications” that would be done to try and meet the maximum SF requirement. Commissioners discussed how the building would be used by the applicant and it was noted that they would use it for family members and also an office space. Commissioners discussed whether or not this request meets the criteria for granting a variance. Commissioners noted that the space was previously approved and not created by the applicant. Commissioners noted that the building does not look like a residential structure. Commissioners recommend approval of a variance and conditional use permit to allow an accessory dwelling unit at the size of 1,871 SF with the findings and conditions noted.

Neighbor Comments:

The City has received written comments from both adjacent property owners supporting the request for the proposed conditional use permit/variance to allow an accessory dwelling unit.

Recommendation:

The Planning Commission recommended approval of the requested Accessory Dwelling Unit by granting approval of a CUP/Variance with the following findings and conditions:

1. The proposed Conditional Use Permit/Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a) An accessory dwelling unit is permitted in and consistent with the AG-Agriculture District. The applicant is seeking a variance to allow an ADU that exceeds the allowable size.
 - b) The location of the proposed ADU in the existing accessory building and its relation to the surrounding properties mitigates potential impacts.
 - c) The building was constructed prior to the adoption of the current standards relating to and allowing accessory dwelling units and is unique due to its overall size, architecture and original intent to be a principal residence.
 - d) The proposed use of the existing residence as an ADU is generally in keeping and consistent with the surrounding uses found in this neighborhood.
3. The variance will permit an accessory dwelling unit with a maximum size of 1,871 SF. The allowable ADU is depicted on the approved site plan attached hereto as **Exhibit B**.
4. The conditional use permit will allow an accessory dwelling unit to be located within the existing accessory structure on the property. The criteria for permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling, not in compliance with the applicable criteria for the accessory dwelling unit, will cause the conditional use permit to be revoked by the City.
5. The conditional use permit will be issued subject to the following items being completed:
 - a. The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

- b. Approval of the CUP allowing the accessory dwelling unit is subject to the construction of a new home on the property.
6. The Applicant shall pay for all costs associated with the City's review of the requested variance and conditional use permit.

Attachments:

1. **RESOLUTION No. 22-0607-01**
2. Application
3. Narrative
4. Site Survey
5. Proposed Accessory Dwelling Unit Floor Plan
6. Interior Pictures



RESOLUTION OF THE
CITY OF INDEPENDENCE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 22-0607-01

**A RESOLUTION GRANTING APPROVAL OF A VARIANCE AND CONDITIONAL
USE PERMIT TO ALLOW AN ACCESSORY DWELLING UNIT WITHIN THE
EXISTING ACCESSORY STRUCTURE ON THE PROPERTY LOCATED AT 2791
COPELAND ROAD**

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 ordinance and other official controls to assist in implementing the comprehensive plan; and

WHEREAS Tony Post (Applicant/Owner) is requesting a variance and conditional use permit to allow an accessory dwelling unit on the property located at 2791 Copeland Road (PID No. 18-118-24-41-0002) in the City of Independence, MN:

WHEREAS, the Property is zoned Agriculture (“AG”); and

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

WHEREAS, Section 530.01, Subd. 4 of the City Code provides that an “accessory dwelling unit” is a conditional use in the AG-Agriculture zoning district; and

WHEREAS the requested accessory dwelling unit, with the conditions imposed by this Conditional Use Permit and Variance to allow an increase in the maximum size permitted, meets all requirements, standards and specifications of the City of Independence zoning ordinance for Agriculture property; and

WHEREAS the Planning Commission held a public hearing on May 17, 2022, to review the application for a Variance and Conditional Use Permit, 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, with the conditions noted below, 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 Tony Post to grant a Variance and Conditional Use Permit for the subject property in accordance with the City's zoning regulations with the following findings and conditions:

1. The proposed Variance and Conditional 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 City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a) An accessory dwelling unit is permitted in and consistent with the AG-Agriculture District. The applicant is seeking a variance to allow an ADU that exceeds the allowable size.
 - b) The location of the proposed ADU in the existing accessory building and its relation to the surrounding properties mitigates potential impacts.
 - c) The building was constructed prior to the adoption of the current standards relating to and allowing accessory dwelling units and is unique due to its overall size, architecture and original intent to be a principal residence.
 - d) The proposed use of the existing residence as an ADU is generally in keeping and consistent with the surrounding uses found in this neighborhood.
3. The variance will permit an accessory dwelling unit with a maximum size of 1,871 SF. The allowable ADU is depicted on the approved site plan attached hereto as **Exhibit B**.
4. The conditional use permit will allow an accessory dwelling unit to be located within the existing accessory structure on the property. The criteria for permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling, not in compliance with the applicable criteria for the accessory dwelling unit, will cause the conditional use permit to be revoked by the City.
5. The conditional use permit will be issued subject to the following items being completed:
 - a. The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

- b. Approval of the CUP allowing the accessory dwelling unit is subject to the construction of a new home on the property.
6. The Applicant shall pay for all costs associated with the City's review of the requested variance and conditional use permit.

This resolution was adopted by the city council of the City of Independence on this 7th day of June 2022, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

Exhibit A
(Legal Description)

Exhibit B
(Approved Plan)



**CITY OF
INDEPENDENCE
MINNESOTA**

Applicant Information

Name: Tony Post

Address: 2791 Copeland Rd
Independence, Minnesota
55359

Primary Phone: 5074810546

Email: tonypost@gmail.com

Owner Information

Name: Tony Post

Address: 2791 Copeland Rd
Independence, Minnesota
55359

Primary Phone: 5074810546

Email: tonypost@gmail.com

Property Address:

PID:

Planning Application Type: Conditional Use Permit, Accessory Building Review

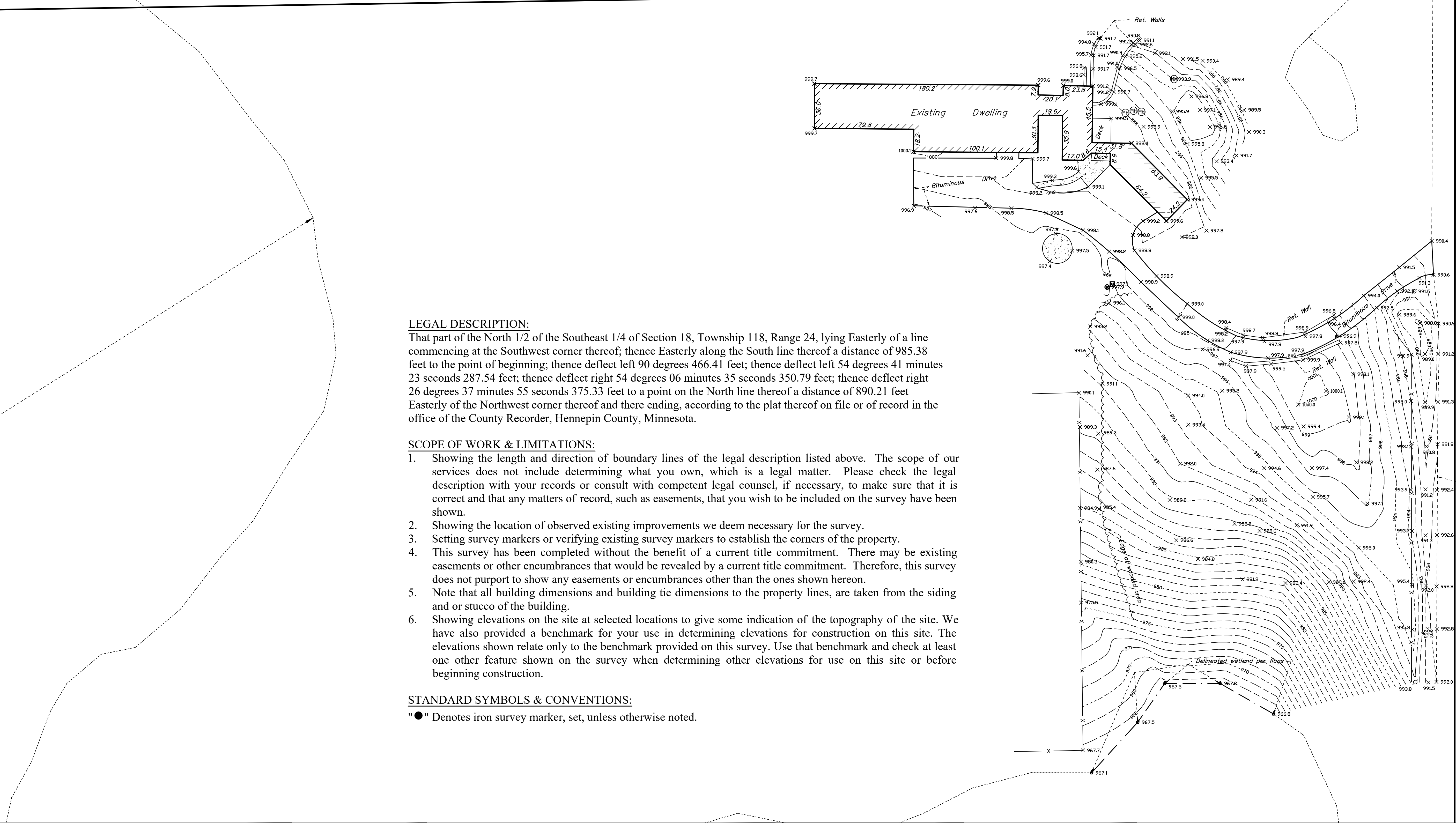
Description:

Supporting Documents: Preliminary/Final Plan

Signature:

N 89°06'12" E
--1723.02--

Delineated wetland per data supplied to us. Not field verified.




LEGAL DESCRIPTION:
That part of the North 1/2 of the Southeast 1/4 of Section 18, Township 118, Range 24, lying Easterly of a line commencing at the Southwest corner thereof; thence Easterly along the South line thereof a distance of 985.38 feet to the point of beginning; thence deflect left 90 degrees 466.41 feet; thence deflect left 54 degrees 41 minutes 23 seconds 287.54 feet; thence deflect right 54 degrees 06 minutes 35 seconds 350.79 feet; thence deflect right 26 degrees 37 minutes 55 seconds 375.33 feet to a point on the North line thereof a distance of 890.21 feet Easterly of the Northwest corner thereof and there ending, according to the plat thereof on file or of record in the office of the County Recorder, Hennepin County, Minnesota.

- SCOPE OF WORK & LIMITATIONS:**
1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
 2. Showing the location of observed existing improvements we deem necessary for the survey.
 3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
 4. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.
 5. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.
 6. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.

STANDARD SYMBOLS & CONVENTIONS:
"●" Denotes iron survey marker, set, unless otherwise noted.

DATE		REVISION DESCRIPTION		DRAWING ORIENTATION & SCALE		CLIENT NAME / JOB ADDRESS		I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.		DATE SURVEYED: AUGUST 5, 2021		SHEET TITLE		SHEET SIZE 22 X 34	
						HAYLEY POST 2791 COPELAND ROAD INDEPENDENCE, MN		Advance Surveying & Engineering, Co. 17917 Highway 7 Minnetonka, Minnesota 55345 Phone (952) 474-7964 Web: www.advsur.com		Thomas M. Bloom # 42379 LICENSE NO. AUGUST 9, 2021 DATE		EXISTING CONDITIONS SURVEY		SHEET NO.	
										DATE DRAFTED: AUGUST 9, 2021		DRAWING NUMBER 211441 TB		S1	
														SHEET 1 OF 2	

17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com



Thomas M. Bloom

42379

LICENSE NO.

AUGUST 9, 2021

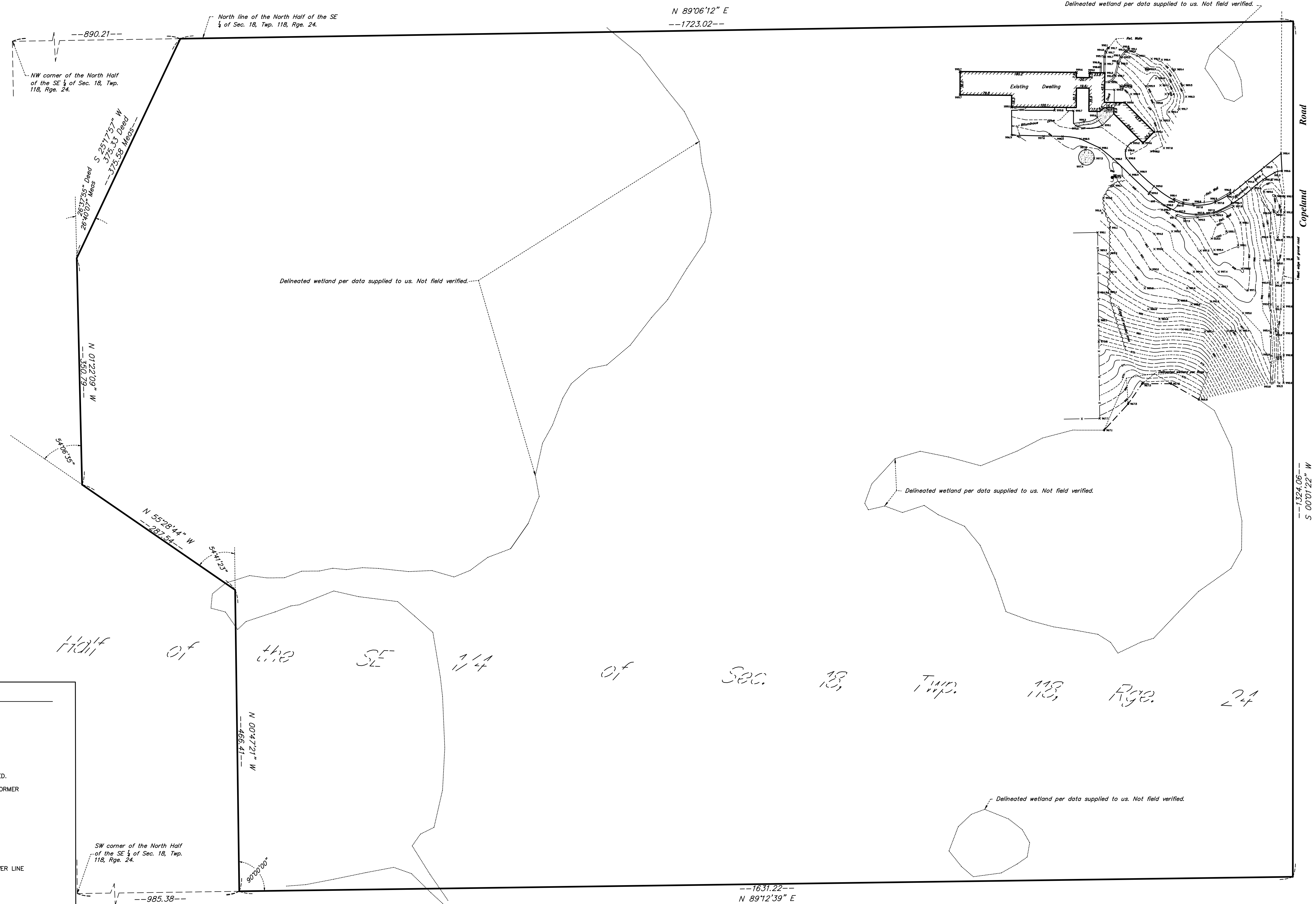
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*INDEPENDENCE,
MN*

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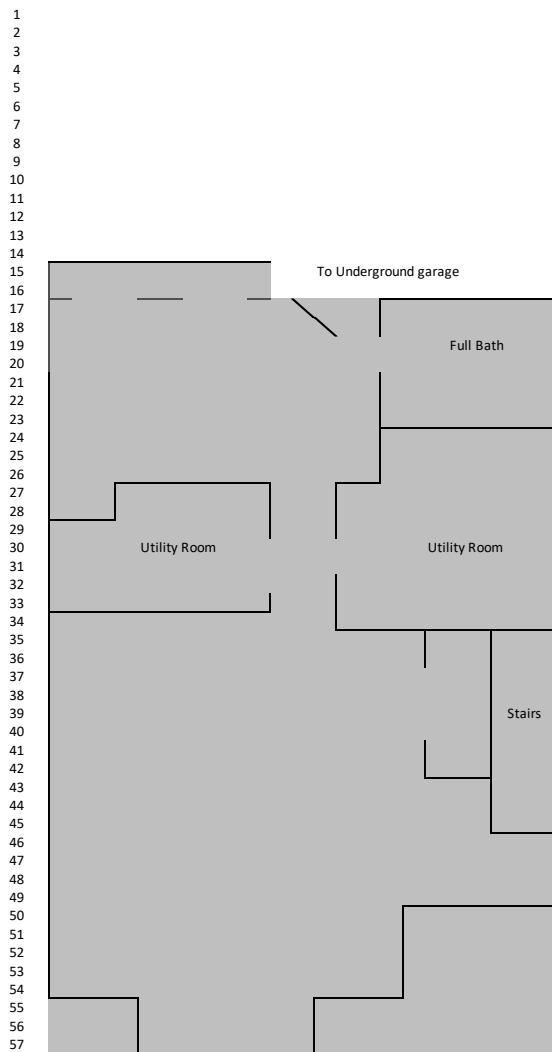
SHEET 2 OF 2



	=	CATCH BASIN
	=	GAS METER
	=	FIRE HYDRANT
	=	POWER POLE
	=	MANHOLE
	=	TELEPHONE PED.
	=	ELEC. TRANSFORMER
	=	WELL
	=	GATE VALVE
	=	LIGHT POLE
	=	TREE
	=	FENCE LINE
	=	SANITARY SEWER LINE
	=	WATER LINE
	=	GAS LINE
	=	STORM DRAIN LINE
	=	OVERHEAD UTILITY LINE

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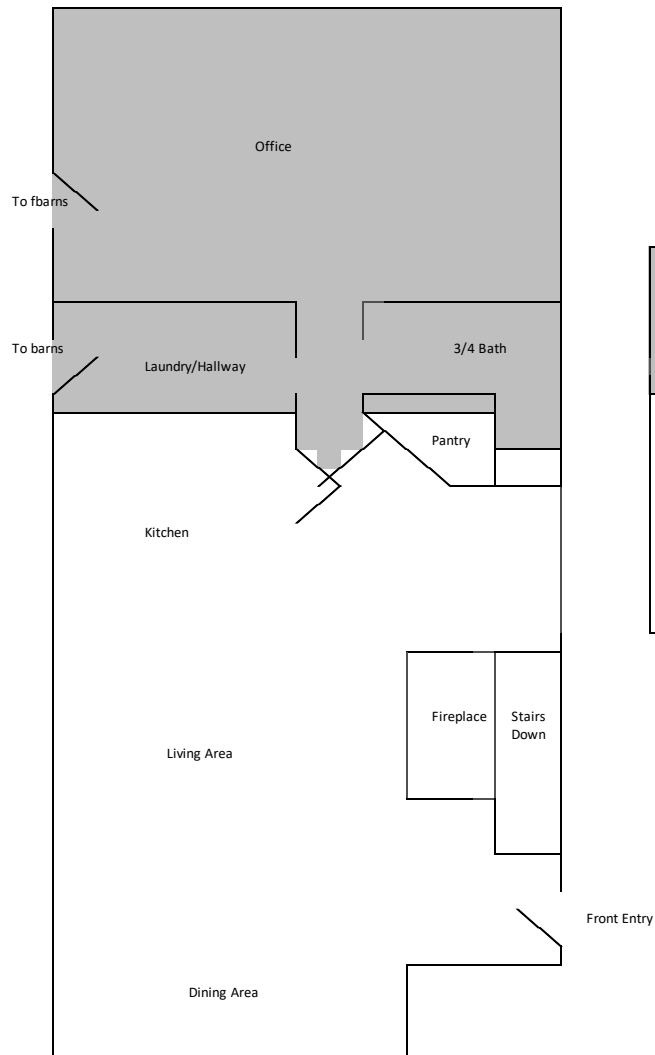
Basement



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Main Floor

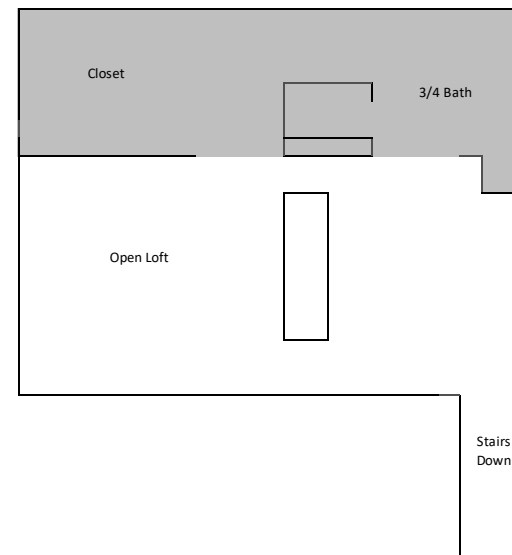


798

1187

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23

Loft



389

POST RESIDENCE





City of Independence

Request for a Minor Subdivision and Subsequent Variance to Allow the Construction of a New Home on the for the Property Located at 4944 South Lake Shore Drive

To:	City Council
From:	Mark Kaltsas, City Planner
Meeting Date:	June 7, 2022
Applicants:	Dan Vanderheyden
Owners:	Michael Crees
Location:	4944 South Lake Shore Drive (New Address if Combined)

Request:

Dan Vanderheyden (Applicant) and Michael Crees (Owner) are requesting that the City consider the following action for the properties located off of “Maple Street” (PID No.s 24-118-24-11-0007 and 24-118-24-11-0006) in Independence, MN:

- a. A minor subdivision to allow a lot combination of the two subject properties.
- b. A variance seeking reduced building setbacks to allow the construction of a new home on the combined properties.

Property/Site Information:

The subject properties are located along the south side of Lake Independence off of South Lake Shore Drive. The property is mostly wooded with a wetland and no structures. The property has the following site characteristics:

Property Information: 4944 South Lakeshore Drive

Zoning: *Rural Residential (Shoreland Overlay)*

Comprehensive Plan: *Rural Residential*

Acreage (Before): *Lot 5 (East Lot) - .22 acres*

Lot 5 (West Lot) - .21 acres

Acreage (After): *.43 acres*



Discussion:

The applicant approached the City about the possibility of constructing a new home on the subject properties. The City noted that both lots independently, have building eligibilities and are considered lots of record in the City. The City also noted that a structure cannot be constructed across a property line and combining the lots would be possible. One aspect of this property that creates additional challenges relating to its development, is an existing wetland in the northeast corner. The applicant delineated the wetland and determined that the wetland plus applicable wetland buffer would significantly limit the ability to construct a home on the property.

After discussing possible solutions that would facilitate the construction of a home, the applicant applied to the Minnesota Board of Water and Soil Resources to allow a reduction in the applicable wetland buffer from 20' to 10'. This application was considered and approved (see attached). The reduction in the requisite wetland buffer will help facilitate the construction of a new home. Even when combined, the applicable building setbacks limit the construction of a typical single-family home on the properties. There are several considerations that should be noted by the Planning Commission:

- The lots in their current condition would be able to take advantage of the 60% setback provisions permitted for lots located within the S-Shoreland overlay district for properties in existence prior to December 31, 1982. If the lots are combined, they would constitute a new lot and would not qualify for the 60% setback provision.

- The applicable building setbacks without the 60% provision are as follows:

Front Yard Required:	85 ft from centerline or 50 ft. from right-of-way, whichever is greater
Side Yard Required:	30 feet
OWHL Required:	100 feet
Wetland Buffer:	10 feet

- The applicable building setbacks with the 60% provision are as follows:

Front Yard Required:	51 ft from centerline or 30 ft. from right-of-way, whichever is greater
Side Yard Required:	18 feet
OWHL Required:	60 feet
Wetland Buffer:	10 feet

- The applicant is proposing to construct a new home on the property that would meet the 60% setback provisions and take advantage of the reduced wetland buffer setback.

- The proposed building setbacks are as follows:

Front Yard:	50 ft from centerline (1 foot variance)
East Side Yard:	30 feet (no variance)
West Side Yard:	18 feet (12-foot variance)
OWHL:	67 feet (33-foot variance)
Wetland Buffer:	0 feet (10-foot variance)

Based on the requirements of the City's current zoning ordinance, the applicant will need a variance from the setback requirements in order to construct the proposed home on this property.

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

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

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*

(c) the variance, if granted, will not alter the essential character of the locality.

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

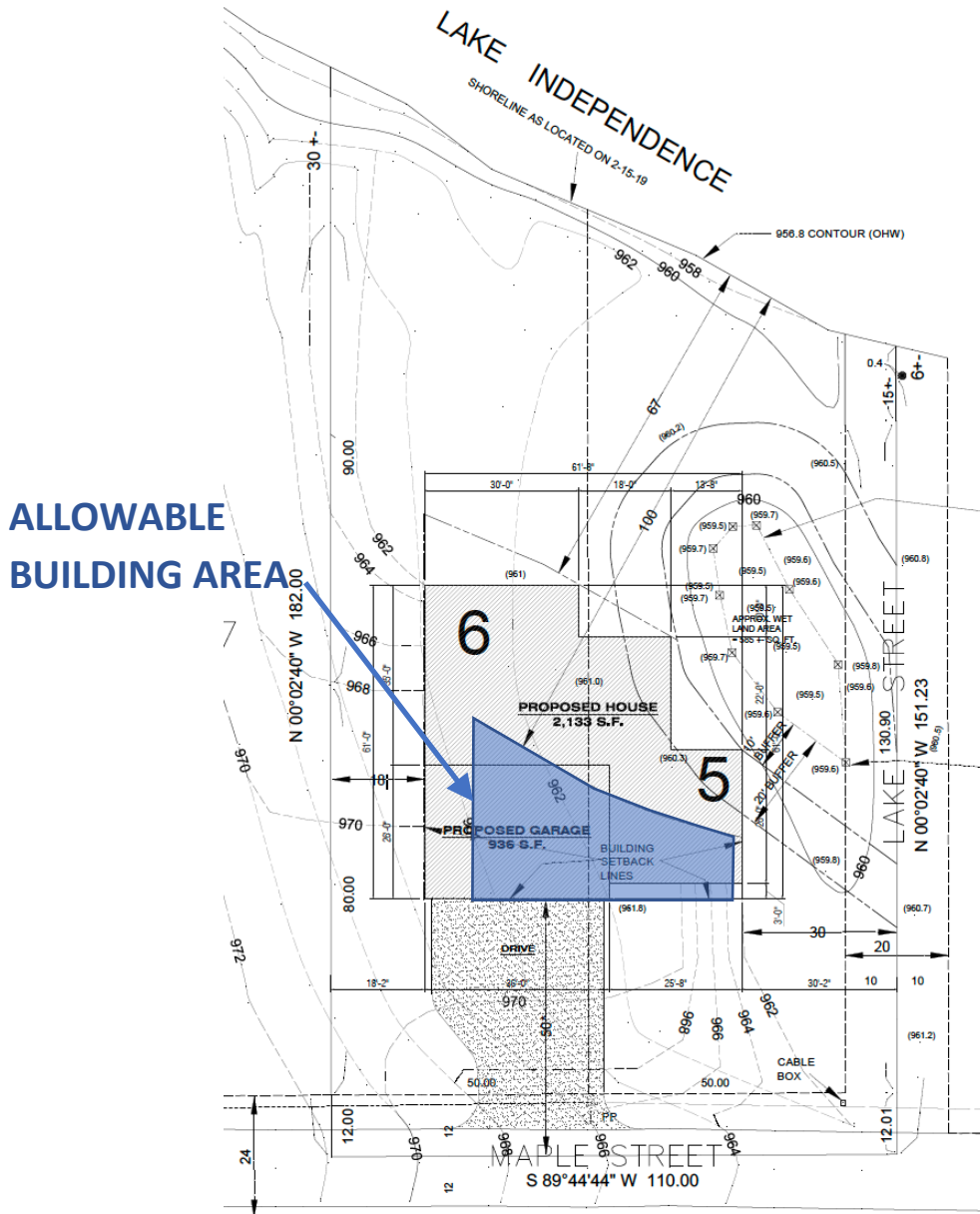
Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)

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

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Rural Residential District.
- b. The combination of the properties into one lot will reduce the overall and allowable coverage permitted if it was to remain as two (2) properties. The applicant has demonstrated that the proposed site development will not exceed the maximum 25% impervious surface coverage limitation (22.54%)
- c. The character of the surrounding area is residential. The applicant is proposing to construct a principal structure which is similar to that found on the surrounding properties.
- d. “Maple Street” is not a public right of way or road. It is considered a private driveway. The applicant has the ability to utilize the private driveway through a shared driveway agreement with the surrounding properties. The City allows up to three (3) lots on a private driveway. The combined lot would aid in maintaining no more than three lots on this private driveway.
- e. The proposed home would be connected to City sewer.
- f. Once combined, the proposed lot has a width of 100 feet. If the applicable 30 foot side yard setbacks were applied, the remaining width would be 40 feet. This is less than a typical lot in this area. Similarly, if you applied the 100 foot setback from The OHWL along with the 50’ front yard setback, there would be very little width remaining (see exhibit).
- g. The property located to the east of the subject lots does not meet all applicable setbacks. It can be seen from aerial photographs, and it is otherwise known that many lake properties do not fully comply with all applicable zoning requirements.
- h. The applicant has provided the City with the initial building plans and elevations. The proposed home is a rambler-walkout style home (see attached).

The applicant has been working with the City to construct a reasonable home on the subject property. The existence of the wetland somewhat complicates the development of the property. The combination of the two lots into one lot should mitigate development impacts compared to the development of both of the subject properties. The Planning Commission will need to determine if the requested variance meet the requirements for granting a variance. The minor subdivision to allow a lot combination appears to meet all applicable requirements. The applicant will need to provide the City with the requisite 10' perimeter drainage and utility easements.



Planning Commission Discussion/Comments:

Planning Commissioners reviewed the request and asked questions of staff and the petitioner. Commissioners discussed the setback requirements and wetland buffer reduction. Commissioners clarified that the 60% provision applies to the existing lots but would not apply to a newly created (combined) lot. Commissioners asked about the setback from the OHWL and it was noted by the applicant that the 67' was a request by the neighboring property owner. Commissioners noted that the individual lots would not support development in any reasonable manner. Commissioners noted that the request to use the 60% provision on the newly created lots was reasonable and recommended approval of the variance and minor subdivision to allow a lot combination.

Neighbor Comments:

The City received a written letter of support from the neighbor to the east of the subject property.

Recommendation:

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

1. The proposed variance and minor subdivision meet all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. Prior to the City executing the minor subdivision to be recorded at the County, the applicant shall provide the City with the following items:
 - a. The Applicant shall provide a revised exhibit indicating the requisite perimeter drainage and utility easements and legal descriptions. The Applicant shall execute all documents to convey the easements to the City.
 - b. The Applicant shall provide the City with a more detailed grading plan in the area adjacent to the wetland.
3. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. A single-family home is a permitted use and consistent with the RR-Rural Residential District.
 - b. The location of the proposed home on the property and its relation to the surrounding properties and their setbacks generally mitigates potential impacts.
 - c. The proposed development of the property, type of home, setbacks and overall lot development is generally in keeping and consistent with the surrounding uses found in this neighborhood.

4. The requested variances will allow the construction of the proposed home in accordance with the associated building plans (approved plans only - plans will become an exhibit of the resolution). The variances will allow the following setbacks:
 - Front Yard: 50 feet (1-foot variance)
 - West Side Yard: 18 feet (12-foot variance)
 - OWHL: 67 feet (33-foot variance)
 - Wetland Buffer: 0 feet (10-foot variance)
5. The newly created lot will be required to connect to the City's sewer at the time a building permit application for a new home is submitted to the City.
6. The Applicant shall pay for all costs associated with the City's review of the requested variance and minor subdivision.
7. The Applicant shall record the minor subdivision and City Council Resolution with the county within six (6) months of approval.

Attachments:

1. **RESOLUTION No. 22-0607-02**
2. Application
3. Existing Survey
4. Proposed Survey
5. House Plans/Elevations
6. Wetland Exception Application



RESOLUTION OF THE
CITY OF INDEPENDENCE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 22-0607-02

**A RESOLUTION GRANTING APPROVAL OF A MINOR SUBDIVISION AND
VARIANCE TO ALLOW CONSTRUCTION OF A NEW HOME TO BE LOCATED AT
4944 SOUTH LAKE SHORE DRIVE (NEW ADDRESS OF COMBINED PROPERTIES)**

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 ordinance and other official controls to assist in implementing the comprehensive plan; and

WHEREAS, Dan Vanderheyden (Applicant) and Michael Crees (Owner) submitted a request for minor subdivision and variance to allow construction of a new home on the property located at 4944 South Lake Shore Drive (new address) (PID No.s 24-118-24-11-0007 and 24-118-24-11-0006): (the “Property”); and

WHEREAS, the Property is zoned Rural Residential with the Shoreland Overlay; and

WHEREAS, the Properties are legally described on **Exhibit A** attached hereto; and

WHEREAS the requested Minor Subdivision and Variance meet all requirements, standards and specifications of the City of Independence zoning ordinance for Rural Residential lots; and

WHEREAS the Planning Commission held a public hearing on May 17, 2022 to review the application for a variance and 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 Dan Vanderheyden and grants a variance and minor subdivision to allow the construction of a

new home on the property in accordance with the City's zoning regulations with the following findings and conditions:

1. The proposed variance and minor subdivision meet all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. Prior to the City executing the minor subdivision to be recorded at the County, the applicant shall provide the City with the following items:
 - a. The Applicant shall provide a revised exhibit indicating the requisite perimeter drainage and utility easements and legal descriptions. The Applicant shall execute all documents to convey the easements to the City.
 - b. The Applicant shall provide the City with a more detailed grading plan in the area adjacent to the wetland.
3. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. A single-family home is a permitted use and consistent with the RR-Rural Residential District.
 - b. The location of the proposed home on the property and its relation to the surrounding properties and their setbacks generally mitigates potential impacts.
 - c. The proposed development of the property, type of home, setbacks and overall lot development is generally in keeping and consistent with the surrounding uses found in this neighborhood.
4. The requested variances will allow the construction of the proposed home in accordance with the associated building plans (approved plans only - plans will become an exhibit of the resolution). The variances will allow the following setbacks:

○ Front Yard:	50 feet (1-foot variance)
○ West Side Yard:	18 feet (12-foot variance)
○ OWHL:	67 feet (33-foot variance)
○ Wetland Buffer:	0 feet (10-foot variance)
5. The newly created lot will be required to connect to the City's sewer at the time a building permit application for a new home is submitted to the City.
6. The Applicant shall pay for all costs associated with the City's review of the requested variance and minor subdivision.

7. The Applicant shall record the minor subdivision 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 7th day of June 2022, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

EXHIBIT A
(Legal Description)

EXHIBIT B

(Site Plan)



**CITY OF
INDEPENDENCE
MINNESOTA**

Applicant Information

Name: Dan Vanderheyden

Address: 1905 Wayzata Blvd. E.,
Suite 100
Wayzata, Minnesota
55391

Primary Phone: 763-228-8555

Email: dan@blackdoghomes.com

Owner Information

Name: Michael Crees

Address: Parcel ID 2411824110006,
2411824110007
Independence, Minnesota
55359

Primary Phone: 763-639-3022

Email: Michaelcrees11@gmail.com

Property Address:

PID:

Planning Application Type: Subdivision, Variance, Planning / Building, Other

Subdivision Type: Lot Line Rearrangement

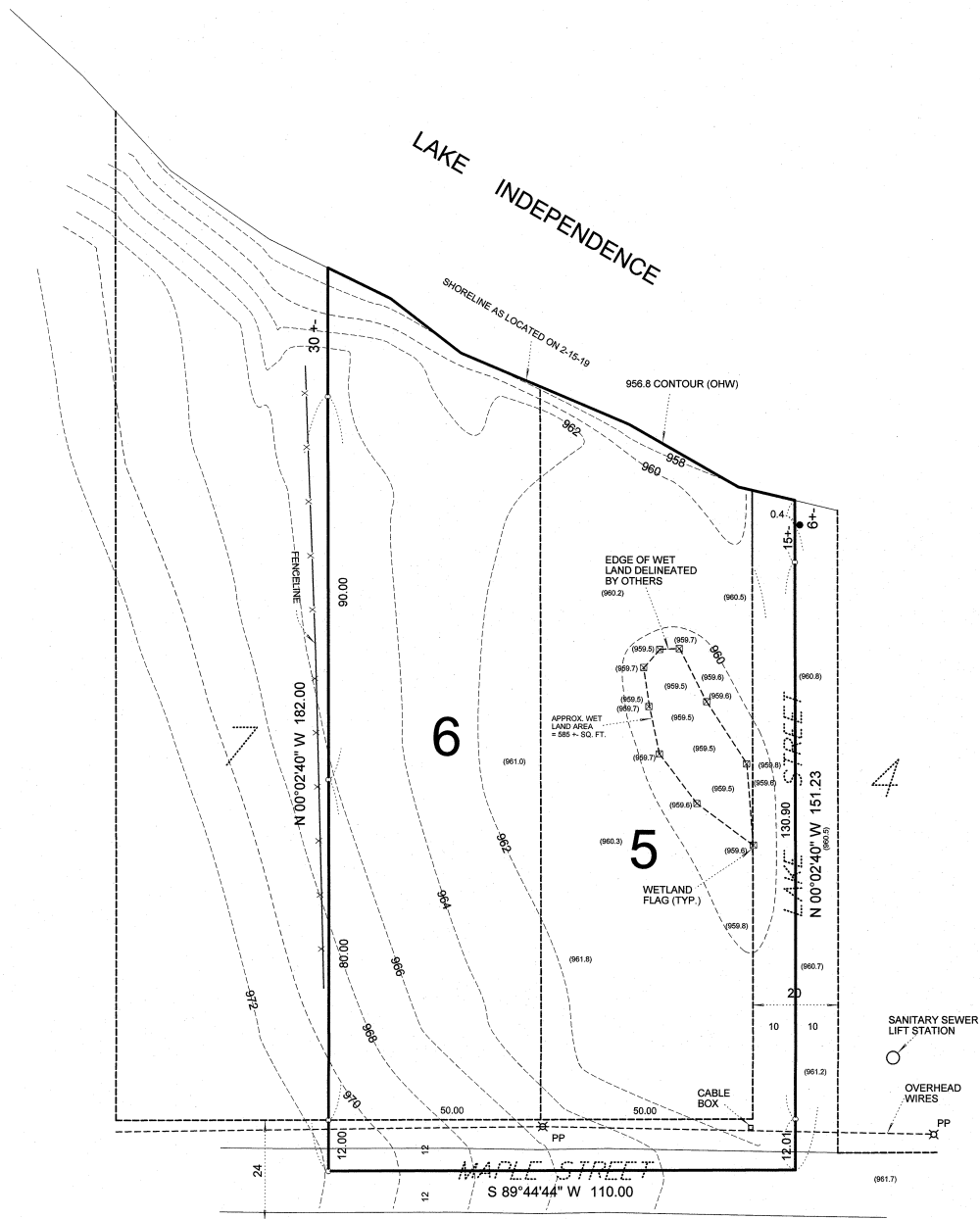
Description:

Supporting Documents: Site Survey (Existing Conditions), Site Survey (Proposed Conditions), Building Plans

Signature:

Daniel Q. Van

**BOUNDARY AND TOPOGRAPHIC SURVEY FOR
MICHAEL CREES
OF LOTS 5&6, FRED W. ANDERSON'S ADDITION
HENNEPIN COUNTY, MINNESOTA**



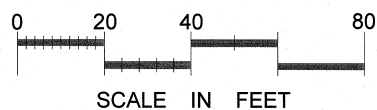
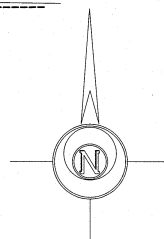
LEGAL DESCRIPTION (From Deed Document No. 6656549):


Lots Five (5) and Six (6), "FRED W. ANDERSON'S ADDITION" according to the recorded plat thereof, being a part of the Northeast Quarter (NE 1/4) of Section Twenty-Four (24), Township One Hundred Eighteen (118), Range Twenty-Four (24), according to the Government Survey thereof.

- : Denotes found iron marker
- : Denotes set iron marker
- 970— : Denotes existing contour
- (980.3) : Denotes existing spot elevation

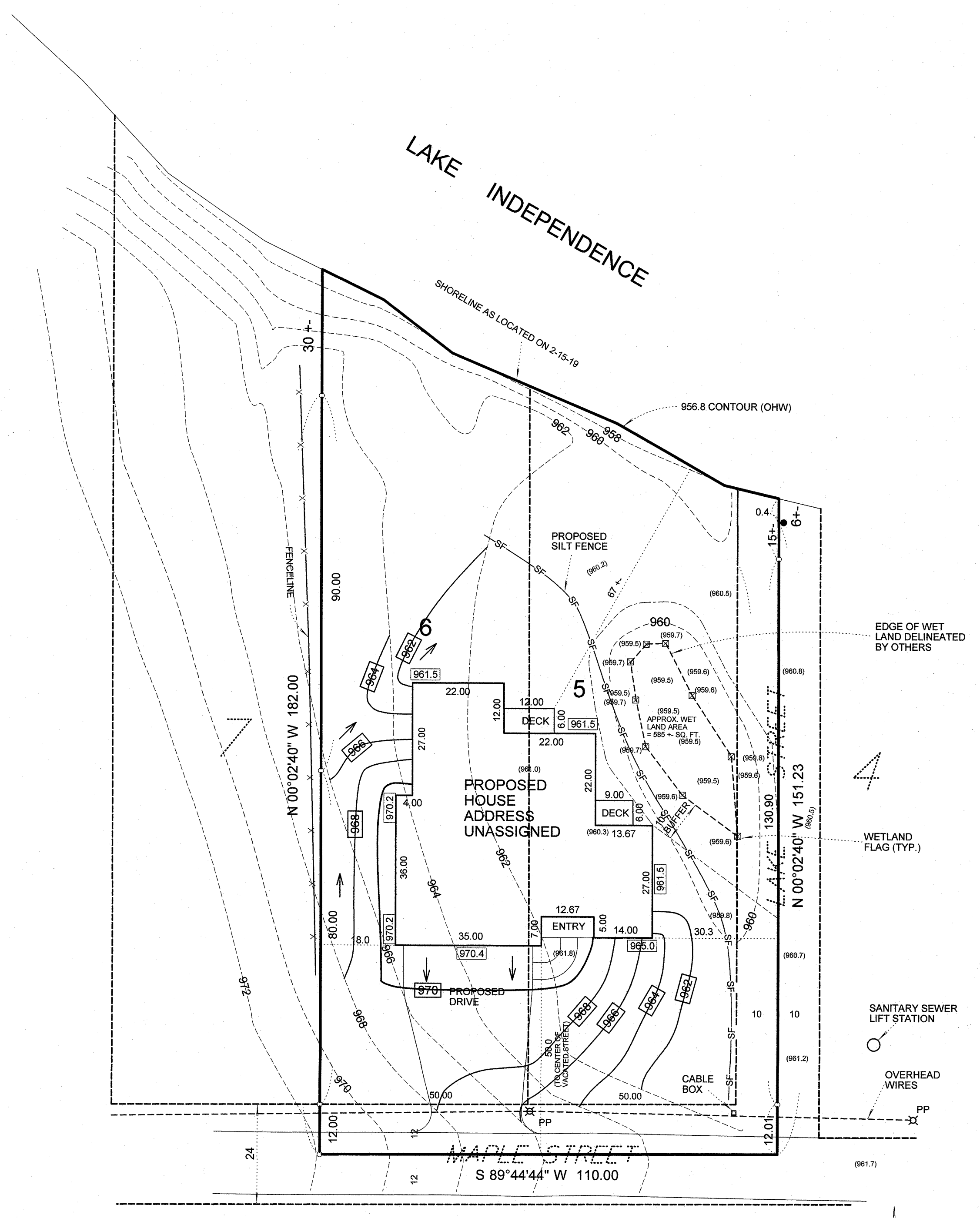
This survey intends to show the boundaries of the above described property and topography thereon. It does not purport to show any other encroachments or improvements.

NOTE: While we used the Deed description noted above, the Hennepin County Tax Map shows ownership to the centerlines of the adjoining vacated streets.



REVISIONS DATE REMARKS 12-7-20 ADDED SPOT ELEVATIONS 1-20-21 WETLAND FLAGS LOCATED		DESIGNED I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. DRAWN CHECKED DATE: 1-20-21 MARY J. LISCHE, M.L.S., 27955	DATE: 10-21-20 SCALE: 1"=20' NORTH 20-321 SHEET 1 OF 1	 GRONBERG & ASSOCIATES, INC. CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS 445 N. WILLOW DRIVE LONG LAKE, MN 55356 PHONE: 952-473-4141 FAX: 952-473-4435
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BOUNDARY AND TOPOGRAPHIC SURVEY FOR
MICHAEL CREES
OF LOTS 5&6, FRED W. ANDERSON'S ADDITION
HENNEPIN COUNTY, MINNESOTA



LEGAL DESCRIPTION (From Deed Document No. 6656549):

Lots Five (5) and Six (6), "FRED W. ANDERSON'S ADDITION" according to the recorded plat thereof, being a part of the Northeast Quarter (NE 1/4) of Section Twenty-Four (24), Township One Hundred Eighteen (118), Range Twenty-Four (24), according to the Government Survey thereof.

- : Denotes found iron marker
- : Denotes set iron marker
- 970- : Denotes existing contour
- (960.3) : Denotes existing spot elevation
- 962- : Denotes proposed contour
- (970.4) : Denotes proposed spot elevation

This survey intends to show the boundaries of the above described property and topography thereon. It does not purport to show any other encroachments or improvements.

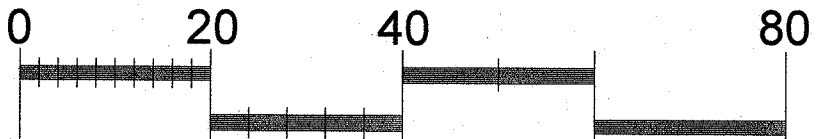
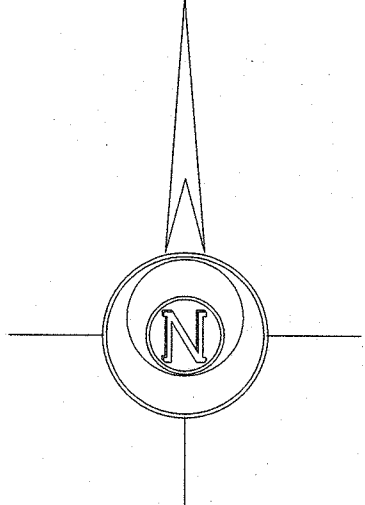
NOTE: The Hennepin County Tax Maps shows ownership to the centerlines of the adjoining vacated streets.

PROPOSED HARDCOVER

LOT = 18776 +/- S.F.
HOUSE = 2932 +/-
DRIVE = 1056 +/-
ENTRY = 63 +/-
DECKS = 126 +/-
WALK = 56 +/-
TOTAL = 4233 +/-
4233 / 18776 = 22.54%

PROPOSED ELEVATIONS (VERIFY):

GARAGE = 970.4
TOP OF FDN. = 970.7
MAIN FLOOR = 972.4
BASEMENT = 962.0



SCALE IN FEET

REVISIONS	
DATE	REMARKS
12-7-20	ADDED SPOT ELEVATIONS
1-20-21	WETLAND FLAGS LOCATED
2-15-22	BUILDING SETBACKS ADDED
4-14-22	ADDED PROPOSED HOUSE

DESIGNED	
DRAWN	
CHECKED	
DATE	
DATE	4-14-22
MINN. LICENSE NUMBER	12755

DATE	10-21-20
SCALE	1"=20'
JOB NO.	22-026
SHEET	OF
SHEETS	



GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435

Minnesota Wetland Conservation Act Notice of Application

Local Government Unit: City of Independence	County: Hennepin
Applicant Name: Michael and Chanel Crees	
Applicant Representative:	
Project Name: Crees Property	LGU Project No. (if any): IN401-22-04
Date Complete Application Received by LGU: 3/18/2022	
Date this Notice was Sent by LGU: 3/21/2022	
Date that Comments on this Application Must Be Received By LGU¹: 4/11/2022	

¹ minimum 15 business day comment period for Boundary & Type, Sequencing, Replacement Plan and Bank Plan Applications

WCA Decision Type - check all that apply

<input type="checkbox"/> Wetland Boundary/Type	<input type="checkbox"/> Sequencing	<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Bank Plan (not credit purchase)
<input checked="" type="checkbox"/> No-Loss (8420.0415)		<input type="checkbox"/> Exemption (8420.0420)	
Part: <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H		Subpart: <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9	

Replacement Plan Impacts (replacement plan decisions only)

Total WCA Impact Area Proposed:
--

Application Materials

<input checked="" type="checkbox"/> Attached <input type="checkbox"/> Other ¹ (specify):

¹ Link to ftp or other accessible file sharing sites is acceptable.

Comments on this application should be sent to:

LGU Contact Person: Matt Danzl
E-Mail Address: Mattd@haa-inc.com
Address and Phone Number: 3601 Thurston Ave., Anoka, MN 55303 Ph: (763) 852-0496
Decision-Maker for this Application:
<input checked="" type="checkbox"/> Staff <input type="checkbox"/> Governing Board/Council <input type="checkbox"/> Other (specify):

Notice Distribution (include name)

Required on all notices:

<input checked="" type="checkbox"/> SWCD TEP Member: Stacey Lijewski (Stacey.lijewski@hennepin.us)	<input checked="" type="checkbox"/> BWSR TEP Member: Ben Carlson (Ben.carlson@state.mn.us)
<input type="checkbox"/> LGU TEP Member (if different than LGU contact):	
<input checked="" type="checkbox"/> DNR Representative: Wes Saunders-Pearce, Wes.Saunders-Pearce@state.mn.us	
<input checked="" type="checkbox"/> Watershed District or Watershed Mgmt. Org.: Andrew Vistad (Andrewv@haa-inc.com)	
<input checked="" type="checkbox"/> Applicant (notice only):	<input checked="" type="checkbox"/> Agent/Consultant (notice only):

Optional or As Applicable:

<input checked="" type="checkbox"/> Corps of Engineers: TBD
<input type="checkbox"/> BWSR Wetland Mitigation Coordinator (required for bank plan applications only):
<input type="checkbox"/> Members of the Public (notice only): <input type="checkbox"/> Other:

Signature: 	Date: 3/21/22
--	----------------------

This notice and accompanying application materials may be sent electronically or by mail. The LGU may opt to send a summary of the application to members of the public upon request per 8420.0255, Subp. 3.

Joint Application Form for Activities Affecting Water Resources in Minnesota

This joint application form is the accepted means for initiating review of proposals that may affect a water resource (wetland, tributary, lake, etc.) in the State of Minnesota under state and federal regulatory programs. Applicants for Minnesota Department of Natural Resources (DNR) Public Waters permits **MUST** use the MPARS online permitting system for submitting applications to the DNR. Applicants can use the information entered into MPARS to substitute for completing parts of this joint application form (see the paragraph on MPARS at the end of the joint application form instructions for additional information). This form is only applicable to the water resource aspects of proposed projects under state and federal regulatory programs; other local applications and approvals may be required. Depending on the nature of the project and the location and type of water resources impacted, multiple authorizations may be required as different regulatory programs have different types of jurisdiction over different types of resources.

Regulatory Review Structure

Federal

The St. Paul District of the U.S. Army Corps of Engineers (Corps) is the federal agency that regulates discharges of dredged or fill material into waters of the United States (wetlands, tributaries, lakes, etc.) under Section 404 of the Clean Water Act (CWA) and regulates work in navigable waters under Section 10 of the Rivers and Harbors Act. Applications are assigned to Corps project managers who are responsible for implementing the Corps regulatory program within a particular geographic area.

State

There are three state regulatory programs that regulate activities affecting water resources. The Wetland Conservation Act (WCA) regulates most activities affecting wetlands. It is administered by local government units (LGUs) which can be counties, townships, cities, watershed districts, watershed management organizations or state agencies (on state-owned land). The Minnesota DNR Division of Ecological and Water Resources issues permits for work in specially-designated public waters via the Public Waters Work Permit Program (DNR Public Waters Permits). The Minnesota Pollution Control Agency (MPCA) under Section 401 of the Clean Water Act certifies that discharges of dredged or fill material authorized by a federal permit or license comply with state water quality standards. One or more of these regulatory programs may be applicable to any one project.

Required Information

Prior to submitting an application, applicants are **strongly encouraged** to seek input from the Corps Project Manager and LGU staff to identify regulatory issues and required application materials for their proposed project. Project proponents can request a pre-application consultation with the Corps and LGU to discuss their proposed project by providing the information required in Sections 1 through 5 of this joint application form to facilitate a meaningful discussion about their project. Many LGUs provide a venue (such as regularly scheduled technical evaluation panel meetings) for potential applicants to discuss their projects with multiple agencies prior to submitting an application. Contact information is provided below.

The following bullets outline the information generally required for several common types of determinations/authorizations.

- For delineation approvals and/or jurisdictional determinations, submit Parts 1, 2 and 5, and Attachment A.
- For activities involving CWA/WCA exemptions, WCA no-loss determinations, and activities not requiring mitigation, submit Parts 1 through 5, and Attachment B.
- For activities requiring compensatory mitigation/replacement plan, submit Parts 1 thru 5, and Attachments C and D.
- For local road authority activities that qualify for the state's local road wetland replacement program, submit Parts 1 through 5, and Attachments C, D (if applicable), and E to both the Corps and the LGU.

Submission Instructions

Send the completed joint application form and all required attachments to:

U.S Army Corps of Engineers. Applications may be sent directly to the appropriate Corps Office. For a current listing of areas of responsibilities and contact information, visit the St. Paul District's website at:

<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx> and select "Minnesota" from the contact information box.

Alternatively, applications may be sent directly to the St. Paul District Headquarters and the Corps will forward them to the appropriate field office.

Section 401 Water Quality Certification: Applicants do not need to submit the joint application form to the MPCA unless specifically requested. The MPCA will request a copy of the completed joint application form directly from an applicant when they determine an individual 401 water quality certification is required for a proposed project.

Wetland Conservation Act Local Government Unit: Send to the appropriate Local Government Unit. If necessary, contact your county Soil and Water Conservation District (SWCD) office or visit the Board of Water and Soil Resources (BWSR) web site (www.bwsr.state.mn.us) to determine the appropriate LGU.

DNR Public Waters Permitting: In 2014 the DNR will begin using the Minnesota DNR Permitting and Reporting System (MPARS) for submission of Public Waters permit applications (<https://webapps11.dnr.state.mn.us/mpars/public/authentication/login>).

Applicants for Public Waters permits **MUST** use the MPARS online permitting system for submitting applications to the DNR. To avoid duplication and to streamline the application process among the various resource agencies, applicants can use the information entered into MPARS to substitute for completing parts of this joint application form. The MPARS print/save function will provide the applicant with a copy of the Public Waters permit application which, at a minimum, will satisfy Parts one and two of this joint application. For certain types of activities, the MPARS application may also provide all of the necessary information required under Parts three and four of the joint application. However, it is the responsibility of the Applicant to make sure that the joint application contains all of the required information, including identification of all aquatic resources impacted by the project (see Part four of the joint application). After confirming that the MPARS application contains all of the required information in Parts one and two the Applicant may attach a copy to the joint application and fill in any missing information in the remainder of the joint application.

PART ONE: Applicant Information

If applicant is an entity (company, government entity, partnership, etc.), an authorized contact person must be identified. If the applicant is using an agent (consultant, lawyer, or other third party) and has authorized them to act on their behalf, the agent's contact information must also be provided.

Applicant/Landowner Name: Michael and Chanel Crees

Mailing Address: 5054 S. Lakeshore Dr., Maple Plain, MN 55379

Phone: 763-639-3022

E-mail Address: Michaelcrees11@gmail.com

Authorized Contact (do not complete if same as above): N/A

Mailing Address:

Phone:

E-mail Address:

Agent Name: N/A

Mailing Address:

Phone:

E-mail Address:

PART TWO: Site Location Information

County: Hennepin

City/Township: Independence

Parcel ID and/or Address: 2411824110006, 2411824110007

Legal Description (Section, Township, Range): Lots 5 and 6, Fred W. Anderson's Addition

Lat/Long (decimal degrees): Lat. 45.0203, Long. -93.6491

Attach a map showing the location of the site in relation to local streets, roads, highways.

Approximate size of site (acres) or if a linear project, length (feet): 0.46 Acres

If you know that your proposal will require an individual Permit from the U.S. Army Corps of Engineers, you must provide the names and addresses of all property owners adjacent to the project site. This information may be provided by attaching a list to your application or by using block 25 of the Application for Department of the Army permit which can be obtained at:

http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/RegulatoryDocs/engform_4345_2012oct.pdf

PART THREE: General Project/Site Information

If this application is related to a delineation approval, exemption determination, jurisdictional determination, or other correspondence submitted **prior to** this application then describe that here and provide the Corps of Engineers project number.

Describe the project that is being proposed, the project purpose and need, and schedule for implementation and completion. The project description must fully describe the nature and scope of the proposed activity including a description of all project elements that effect aquatic resources (wetland, lake, tributary, etc.) and must also include plans and cross section or profile drawings showing the location, character, and dimensions of all proposed activities and aquatic resource impacts.

Description: The proposed project is to build a residential home and driveway on consolidated lots 5 and 6 in the area identified (see attached). The structure itself, or any disturbance during construction will not occur within 10' of the delineated

wetland. A delineation was conducted in the fall of 2020 with a Notice of Decision received by the applicant on 2/5/2021. This approved boundary is shown in the attached site plan.

Purpose and Need: The purpose of this project is to allow for landowners and their family to build a home on their property. This home will act as their main place of residence.

Schedule for Implementation and Completion: If approved, this project is scheduled to begin construction approximately July 2022 with completion approximately April 2023.

PART FOUR: Aquatic Resource Impact¹ Summary

If your proposed project involves a direct or indirect impact to an aquatic resource (wetland, lake, tributary, etc.) identify each impact in the table below. Include all anticipated impacts, including those expected to be temporary. Attach an overhead view map, aerial photo, and/or drawing showing all of the aquatic resources in the project area and the location(s) of the proposed impacts. Label each aquatic resource on the map with a reference number or letter and identify the impacts in the following table.

Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) ¹	Size of Impact ²	Overall Size of Aquatic Resource ³	Existing Plant Community Type(s) in Impact Area ⁴	County, Major Watershed #, and Bank Service Area # of Impact Area ⁵

¹If impacts are temporary; enter the duration of the impacts in days next to the "T". For example, a project with a temporary access fill that would be removed after 220 days would be entered "T (220)".

²Impacts less than 0.01 acre should be reported in square feet. Impacts 0.01 acre or greater should be reported as acres and rounded to the nearest 0.01 acre. Tributary impacts must be reported in linear feet of impact and an area of impact by indicating first the linear feet of impact along the flowline of the stream followed by the area impact in parentheses). For example, a project that impacts 50 feet of a stream that is 6 feet wide would be reported as 50 ft (300 square feet).

³This is generally only applicable if you are applying for a de minimis exemption under MN Rules 8420.0420 Subp. 8, otherwise enter "N/A".

⁴Use *Wetland Plants and Plant Community Types of Minnesota and Wisconsin* 3rd Ed. as modified in MN Rules 8420.0405 Subp. 2.

⁵Refer to Major Watershed and Bank Service Area maps in MN Rules 8420.0522 Subp. 7.

If any of the above identified impacts have already occurred, identify which impacts they are and the circumstances associated with each:

PART FIVE: Applicant Signature

☐ Check here if you are requesting a pre-application consultation with the Corps and LGU based on the information you have provided. Regulatory entities will not initiate a formal application review if this box is checked.

By signature below, I attest that the information in this application is complete and accurate. I further attest that I possess the authority to undertake the work described herein.

Signature:  Date: 5/17/22

I hereby authorize _____ to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this application.

¹ The term "impact" as used in this joint application form is a generic term used for disclosure purposes to identify activities that may require approval from one or more regulatory agencies. For purposes of this form it is not meant to indicate whether or not those activities may require mitigation/replacement.

Attachment A

Request for Delineation Review, Wetland Type Determination, or Jurisdictional Determination

By submission of the enclosed wetland delineation report, I am requesting that the U.S. Army Corps of Engineers, St. Paul District (Corps) and/or the Wetland Conservation Act Local Government Unit (LGU) provide me with the following (check all that apply):

☐ **Wetland Type Confirmation**

☐ **Delineation Concurrence.** Concurrence with a delineation is a written notification from the Corps and a decision from the LGU concurring, not concurring, or commenting on the boundaries of the aquatic resources delineated on the property. Delineation concurrences are generally valid for five years unless site conditions change. Under this request alone, the Corps will not address the jurisdictional status of the aquatic resources on the property, only the boundaries of the resources within the review area (including wetlands, tributaries, lakes, etc.).

☐ **Preliminary Jurisdictional Determination.** A preliminary jurisdictional determination (PJD) is a non-binding written indication from the Corps that waters, including wetlands, identified on a parcel may be waters of the United States. For purposes of computation of impacts and compensatory mitigation requirements, a permit decision made on the basis of a PJD will treat all waters and wetlands in the review area as if they are jurisdictional waters of the U.S. PJDs are advisory in nature and may not be appealed.

☐ **Approved Jurisdictional Determination.** An approved jurisdictional determination (AJD) is an official Corps determination that jurisdictional waters of the United States are either present or absent on the property. AJDs can generally be relied upon by the affected party for five years. An AJD may be appealed through the Corps administrative appeal process.

In order for the Corps and LGU to process your request, the wetland delineation must be prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, any approved Regional Supplements to the 1987 Manual, and the *Guidelines for Submitting Wetland Delineations in Minnesota* (2013).

<http://www.mvp.usace.army.mil/Missions/Regulatory/DelineationJDGuidance.aspx>

Attachment B

Supporting Information for Applications Involving Exemptions, No Loss Determinations, and Activities Not Requiring Mitigation

Complete this part *if* you maintain that the identified aquatic resource impacts in Part Four do not require wetland replacement/compensatory mitigation OR *if* you are seeking verification that the proposed water resource impacts are either exempt from replacement or are not under CWA/WCA jurisdiction.

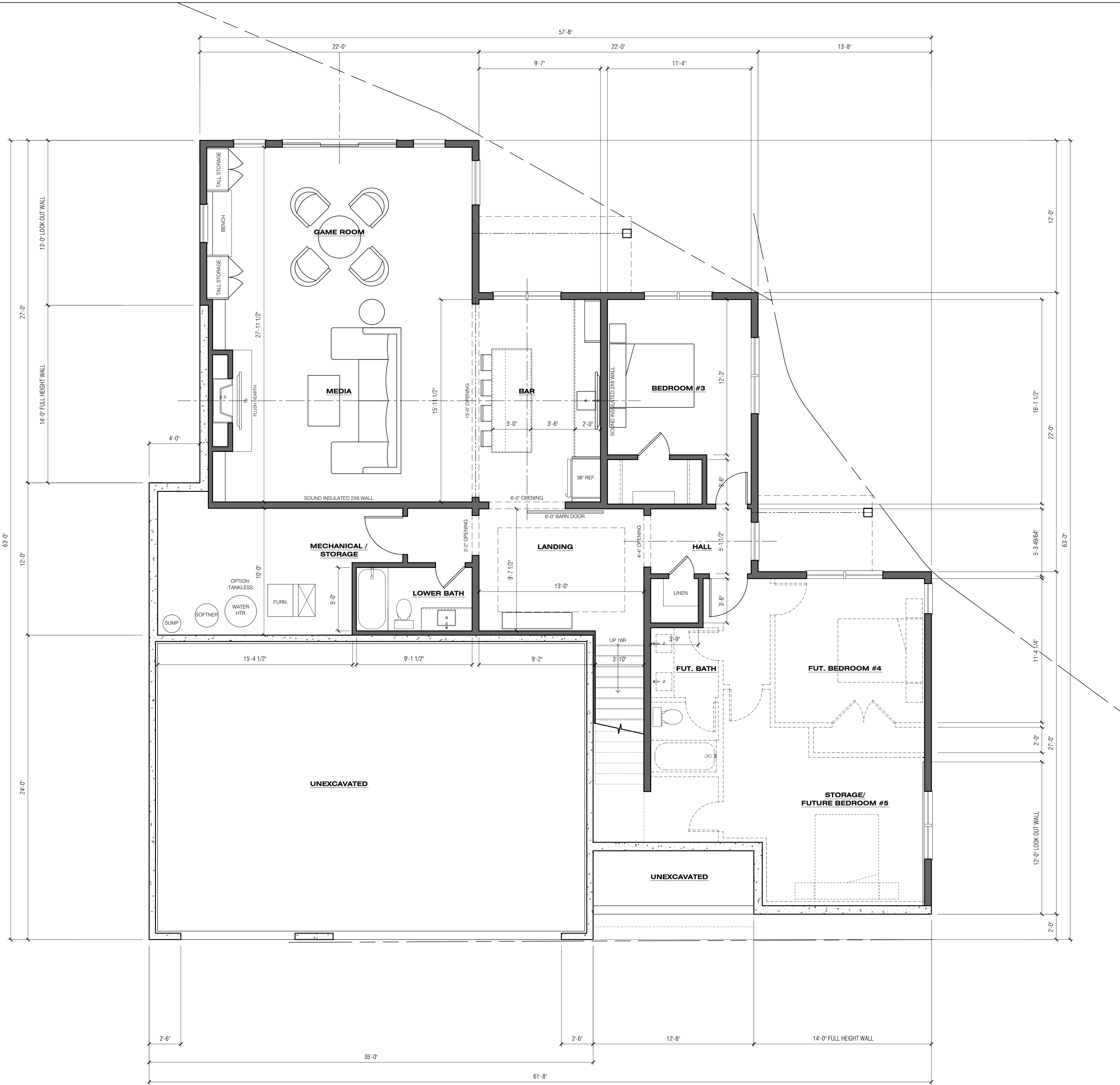
Identify the specific exemption or no-loss provision for which you believe your project or site qualifies:

The no-loss provision for which this project is believed to qualify under can be found in "Section 8420.0415 NO-LOSS CRITERIA" item "A. an activity that will not impact a wetland."

Provide a detailed explanation of how your project or site qualifies for the above. Be specific and provide and refer to attachments and exhibits that support your contention. Applicants should refer to rules (e.g. WCA rules), guidance documents (e.g. BWSR guidance, Corps guidance letters/public notices), and permit conditions (e.g. Corps General Permit conditions) to determine the necessary information to support the application. Applicants are strongly encouraged to contact the WCA LGU and Corps Project Manager prior to submitting an application if they are unsure of what type of information to provide:

Mike and Chanel Crees have communicated with the TEP Committee via the "pre-application" process to gain a better understanding of what a "no-loss" application means. With this "no-loss" application, it is the Applicant's intention to build their new home without disruption to the wetland on the property. This will be done by installing a high visibility orange silt fence (4-5' high) around the wetland and keeping all construction machinery, workers, fill, etc. from the wetland while the new home is being built. The proposed location of the newly constructed home will not be closer than 10' from the wetland and the grading plan shows minimal change to the existing grading on the property (see attached). It is assumed that indirect impacts will not alter the type of wetland or its functionality and will retain being a Type I wetland.

Mike and Chanel Crees have communicated with the City of Independence Planner, Mark Kaltsas, and are following his recommendation regarding keeping two of the setbacks in order (south and east sides of the lot). They have also discussed buffer averaging in order to satisfy the City of Independence's ordinance of buffering as it relates to a wetland.



1 Floor Plan 1,551 S.F.
A1.0 1/4" = 1'-0"

NOT FOR CONSTRUCTION

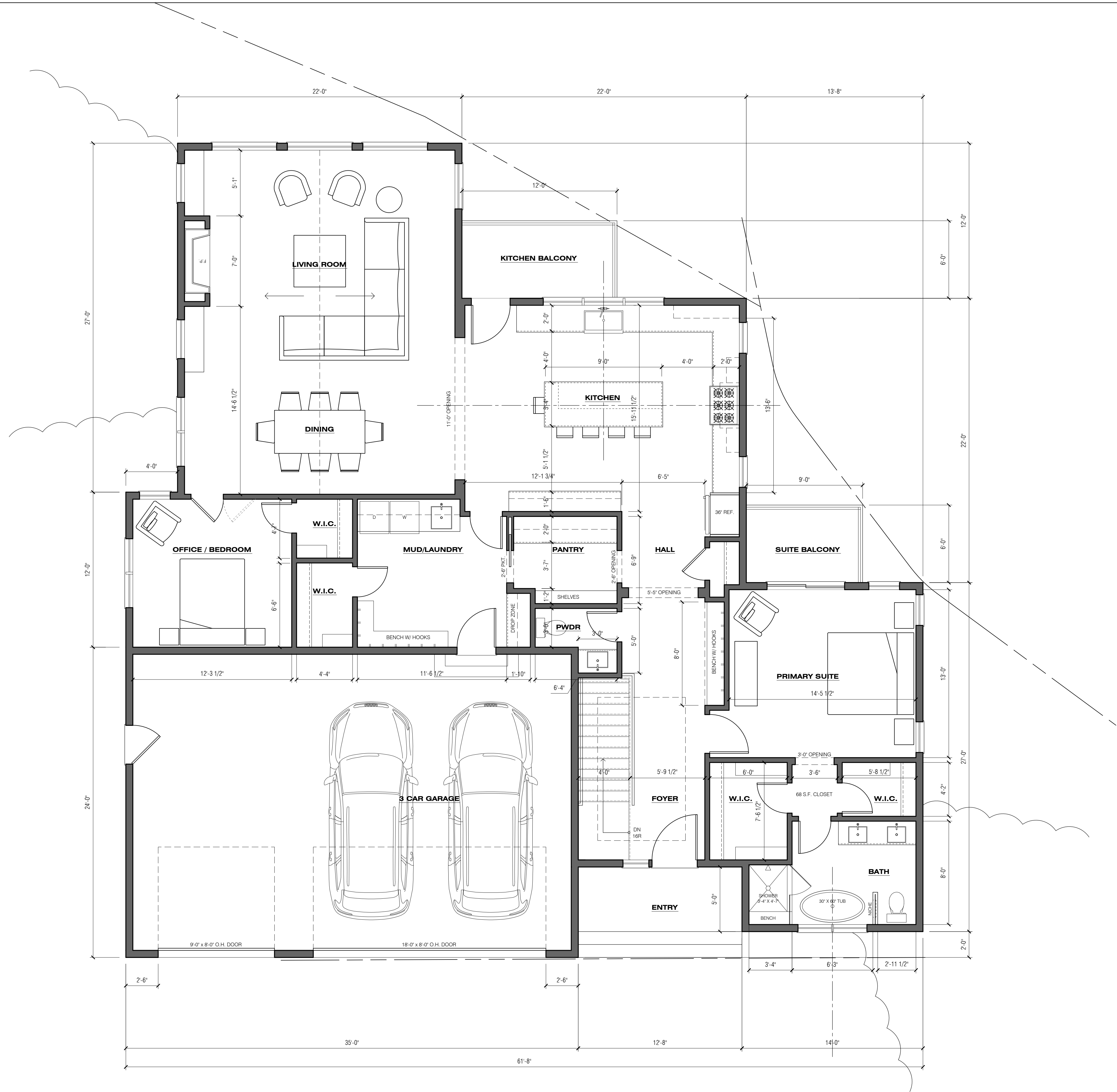


C R E E S R E S I D E N C E
PARCEL ID AND/OR ADDRESS: 2411824110006, 2411824110007
LOTS 5 & 6, FRED W. ANDERSON'S ADDITION
INDEPENDENCE, MN

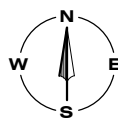
NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
4. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
5. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

ISSUE DATE
4.14.22

A1.0
LOWER FLOOR
PLAN



1 Floor Plan 2,130 S.F.
A1.1 1/4" = 1'-0"



NOT FOR CONSTRUCTION



C R E E S R E S I D E N C E
PARCEL ID AND/OR ADDRESS: 2411824110006, 2411824110007
LOTS 5 & 6, FRED W. ANDERSON'S ADDITION
INDEPENDENCE, MN

NOTES:
1. THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
3. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL JURISDICTION.
4. THE DESIGNER SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION PROVIDED BY THE OWNER OR ANY OTHER PARTY.
5. THE DESIGNER SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION PROVIDED BY ANY OTHER PARTY.

ISSUE DATE
4.14.22

A1.1
MAIN FLOOR
PLAN



1 Exterior Elevation
A2.0 1/4" = 1'-0"



2 Exterior Elevation
A2.0 1/4" = 1'-0"



C R E E S R E S I D E N C E
PARCEL ID AND/OR ADDRESS: 2411824110006, 2411824110007
LOTS 5 & 6, FRED W. ANDERSON'S ADDITION
INDEPENDENCE, MN

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

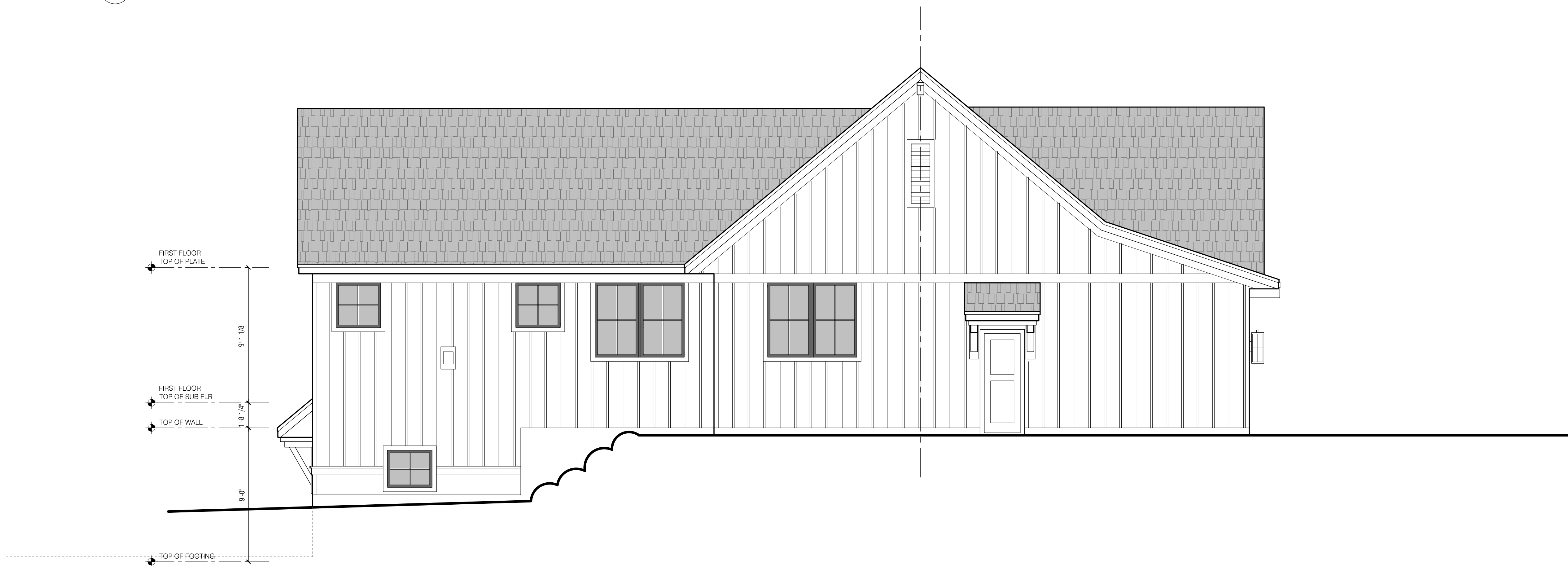
ISSUE DATE
4.14.22

A2.0
ELEVATIONS

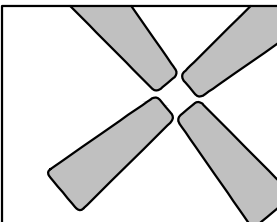
NOT FOR CONSTRUCTION



1 Exterior Elevation
1/4" = 1'-0"



2 Exterior Elevation
1/4" = 1'-0"



932.255.1941
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C R E E S R E S I D E N C E
PARCEL ID AND/OR ADDRESS: 2411824110006, 2411824110007
LOTS 5 & 6, FRED W. ANDERSON'S ADDITION
INDEPENDENCE, MN

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

ISSUE DATE
4.14.22

A2.1
ELEVATIONS

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