

6:30 PM REGULAR MEETING

- 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 September 20, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21508-21514, Batch # 2; Checks Numbered 21515-21535).
- c. Approval of Additional Election Judges for 2022 Primary Election.
- 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. Don Hamilton (Owner/Applicant) requests that the City consider the following actions for the property located at 5687 County Road 6, Independence, MN (PID No. 35-118-24-11-0003):
 - a. **RESOLUTION NO. 22-1004-01** Considering approval of the rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan; and
 - b. A minor subdivision to allow a rural view lot subdivision.
- 8. Nicholas Mozena (Applicant/Owner) requests that the City consider the following action for the property located at 1187 County Road 92 N., Independence, MN (PID No. 29-118-24-14-0003):
 - a. **RESOLUTION NO. 22-1004-02** Considering approval of a variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location.
- 9. Review Concept Plan Submittal for the property located at 9285 Highway 12 (PID No. 18-118-24-21-0001). William Stoddard (Applicant) and John Zeglin (Owner) are asking the City to provide feedback relating to the proposed concept development of the subject

Fax: 763.479.0528

property. The Applicant is proposing to develop the property into office warehouse, garage condominiums and rural residential lots on the subject property.

- 10. Consider approval of an *Early Development Grading Agreement* as requested by BohLand BridgeVine, LLC in association with the proposed 28 single family lot BridgeVine Subdivision.
- 11. Open/Misc.
- 12. Adjourn.

MINUTES OF A REGULAR MEETING OF THE INDEPENDENCE CITY COUNCIL TUESDAY, SEPTEMBER 20, 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**

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

ABSENT: Grotting

City Administrator Kaltsas. STAFF:

Troy Gabler- Clifton Larson Allen/CLA and VISITORS:

Ali Howe - Orono School Board Member

(See additional on Sign-In Sheet.)

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

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

- a. Approval of City Council Minutes from the September 6, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21474-21477, Batch # 2; Checks Numbered 21478-21507).

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

Spencer attended the following meetings:

- WHPS vs. Maple Plain Fire Dept. Softball Game
- Lake Sarah Board Mtg and Ice Cream Social Octoberfest Lk Ind Sat @ noon Baker Pk Shelter

McCov attended the following meetings:

- WHCC Mtg presented
- WHPS vs. Maple Plain Fire Dept. Softball Game
- Rick Denneson's father's funeral

Betts attended the following meetings:

• Police Commission Mtg

Johnson attended the following meetings:

- Rick Denneson's father's funeral
- Deb Taylor Senior Community Services Blackwater Mayor will be leaving its board Dec'22.
- WHPS vs. Maple Plain Fire Dept. Softball Game
- Regional Council of Mayors Mtg Attorney's Office Downtown Mpls.
- League of Women's Voters 2 Representatives
- Orono School Board Mtg
- Police Commission Mtg
- League of MN Cities Policy Committee Mtg
- WHCC Mtg
- NW League of Mayors County Commissioner presented
- Herb Bunting's funeral
- Kristin Robbins' event
- Tom Loucks' (former City Planner) memorial service
- Fire District Mtg

Kaltsas attended the following meetings:

- Three Rivers & HN Cty
- 7. Presentation of the 2021 Financial Audit.
 - a. 2021 Financial Audit
 - b. 2021 Audit Presentation

Troy Gabler, from Clifton Larson Allen/CLA presented the audit results. They've given the City an unmodified (Clean) opinion for the state pf the City's financials, which is the best possible. A comparative statement for the Sanitary Sewer Fund was included again as well as the Government-wide Financial Results 2020-2021, highlighting a strong Cash and Investments Balance funds which increased pandemic funding. The General Fund Revenues reflect yearly increases which are necessary with inflation demands which uptick over time and are very typical with needs. Capital Outlay increased from new truck, radar signs, and Public Works' dust control, road tiling and culvert work. Delinquent Taxes Receivable have a 98% collection rate with \$3,329,920 collected of the \$3,395,208 levied for 2021. This is nice to see and helps with cash flow projections and people are happier without them. Unassigned Fund Balance – General Fund policy is to maintain 40-60% of the next year which contributes to the health of the fund. Future Debt Service shows all the principal and interest payments due this year and the next 9 years, and it stays consistent until 2026 and then dips lower helping with cash flow projections. Johnson asked if it's 2026 that a bond is paid off. Gabler stated 2026 begins some of that and then one that's structured for principal payoffs until 2028 which is typical for cash flow management payoff. It's good to not have spikes throughout the year. Kaltsas clarified that the 2015 street project will be coming off in 2026. The

goal of the Sanitary Sewer Fund and the Enterprise Fund is to pay for itself or create additional funds for the City's projects. It's great to see this is healthy now. Johnson asked if we had received any MetCouncil 2020 funding? Kaltsas said it began in 2021 and is a nominal amount but every bit helps. Cash Flows from Operations has been positive. Unrestricted (Spendable) Net Position trend is a healthy fund. No MN legal compliance issues were noted. Required Communications: we provide reasonable but not absolute assurance taking into consideration the possibility of any errors in statements we're given. The City and ABDO agreed that 3 entries needed to be adjusted. The City's year-ending actual vs. budget again shows that the City's expenditures came in less than revenues by \$57,557. As a result of the City Hall construction and Cares act funding, there were some unplanned expenditures made throughout the year. These expenditures were offset by the additional \$360,000 in revenue. ABDO is heavily involved and there's been no management issues. Internal Control Letter is good. Future Accounting Standards: BASB No 87 Leases – tangible leases for 12+ months = assets. GASB No 96 – Subscription Based Info Technology Agreements (non-intangible leases – Microsoft, etc.) implemented in 2023. Kaltsas – We lease very little: copier. Some subscriptions are needed. Calculation is complex but the accounting firm handles it well. We work closely with them. We can do a workshop or email if you have questions going forward. (24:31) Questions: Johnson and Kaltsas discussed the Conduit Funding being in the General Fund now and it's thankfully healthy. The Legislation Road Fund is still listed as a revenue. The AG credit was new last year.

Motion by Betts, second by McCoy to accept the 2021 Financial Audit. Ayes: Johnson, McCoy, Betts, and Spencer. Nays: None. Absent: Grotting. Abstain. None. MOTION DECLARED CARRIED. 4:0

- 8. Consider Approval of the 2023 Preliminary Budget and Tax Levy:
 - a. **RESOLUTION NO. 22-0920-01** Establishing the General and Debt Service Preliminary Tax Levy and Setting a Date for the 2022 Truth in Taxation Meeting for December 6, 2022.
 - b. **RESOLUTION NO. 22-0920-02** Establishing the Pioneer Sarah Creek Watershed Management Commission Preliminary Tax Levy.

Kaltsas summarized since Viktoriya from ABDO is on maternity leave. It represents about a 5% increase on the total City operating levy. It includes a \$193,000 WHPS increase for next year which is the majority of our increase. We've been doing our long-range planning efficiently as possibly maintaining a flat tax rate for 8 years now, and this year we are reducing our tax rate. If all things were equal, the City would see a reduction in taxes for market values, and we're going from a 38% to 32% tax rate for 2023. The proceeds of the bond issuance are being used and that will decrease. We've been successfully doing long-range planning on capital improvements needs - city hall, equipment, and streets. Over the last 8 yrs. we paid cash for equipment and funded long-range for needs. We added in \$40,000 for the road grader overhaul and likely have a few tweaks in 2024-25. There's a 2025 line item for a tandem axel vehicle – possibly pushing it back a year or funding it if needed. We're implementing a 3% increase annually on that capital for increasing inflation costs. It's smart to budget for it upfront. The Preliminary Property Tax Levy can go down but not up after it's certified. The City's current proposed levy is \$3,627,322, and the Truth in Taxation meeting will be held on December 6th, 2022, at 6:00 PM.

Then RESOLUTION 22-0920-02 relates to the approval the Preliminary Pioneer Sarah Creek Watershed Management Commission Tax Levy for the 2023 Budget which increased by 5% this year,

up to \$67,736. Johnson, Spencer, and Kaltsas agreed that it's considerably lower than other Minnehaha Watershed District's.

Motion by Betts, second by Spencer to approve RESOLUTION 22-0920-01 – approving the 2023 Preliminary Property Tax Levy and Setting Public Hearing Date for the 2022 Truth in Taxation Meeting to be held on December 6th, 2022, at 6:00 pm. Ayes: McCoy, Betts, Johnson, and Spencer. Nays: None. Absent: Grotting. Abstain. None. MOTION DECLARED CARRIED 4:0

The Truth in Taxation meeting will be held on December 6th, 2022, at 6:00 PM.

Motion by Spencer, second by McCoy to approve RESOLUTION 22-0920-02 – approving the Preliminary Pioneer Sarah Creek Watershed Management Commission Tax Levy for the 2023 Budget. Ayes: McCoy, Betts, Johnson, and Spencer. Nays: None. Absent: Grotting. Abstain. None. MOTION DECLARED CARRIED 4:0

Mayor Johnson thanked Kaltsas for his hard work on this noting the City's tax rate was closer to 40% last year but then dropped closer to the end of the year. Will it likely repeat this year? Kaltsas replied that we will fine tune it after getting information from the County as far as projected market values. We use actuals for budgets. We just got the first round of our compensation pay analysis yesterday and will be scheduling a Personnel Committee meeting to review that. We're set up to handle that and we may be able to come down a little from the preliminary budget projections. It's a balance from the market value swings, If MN could ever get to a rolling average, it'd be easier for us. When market values compress, we could be in lots of trouble. ... Government/cities think if we could still be flat and have all this stuff added in, but you know to be careful with that moving forward. Johnson - If we can get most of the Public Safety Building payments out of the way then the surplus % will change drastically because we had the money in the bank. So we'll have to answer for the carry-over amount too. We haven't heard 57% for a long time. That's a good number.

9. Presentation by Orono School Board Member Ali Howe - Technology Levy

Howe recapped the 2022 Tech Levy Fact Sheet stating that this is a simple renewal of their existing technology levy which the schoolboard unanimously passed. It originally began in 2002 and then was renewed again in 2011. If the voters passed it, there won't be a tax increase and it would continue to provide a dedicated funding for the next 10 years. If not approved, they'd face budget cuts of \$1.2 million annually which would cause significant funding loss impacting the teachers, programs, and technology districtwide. A portion of their 4-minute Tech Levy Renewal informational video (https://www.oronoschools.org/) was played. She highlighted the three bulleted points on their informational flyer. The levy includes the classroom learning and teacher support, and reliable access (updated fiber, etc.), and security (building and cyber, student privacy, etc.) and technical support.

Mayor Johnson asked if the levy was based on market valuation and considered for new homes too? I suspect it, yes. Kaltsas – Affirmed it's based on a percentage. Johnson – I hope the community is in support of it.

10. Consideration of Approval of the First Amendment to Development Agreement Between Gustavus Development LLC and the City of Independence.

Mayor Johnson turned the meeting over to Vice Mayor Spencer.

Kaltsas introduced the first amendment to the Hilltop Prairie development after meeting with Hennepin County relating the needs of building turn lanes are being approved as part of the final plat. Since it is off County Rd 90, the City typically defers to their requirements and noted that there are (13) lots in this initial development preserving a ROW on the NE -W road on the North part of the land and is anticipating connecting to Co Rd 90 from Cty Rd 83. If passed, they'd defer the construction of the Cty Rd 90 Northbound and Southbound turn lanes to the future. Costs, Cty Rd shoulder being rebuilt, and the smaller development now - with a larger future connection while still ensuring the turn lanes being built in the future - were all taken into consideration. We agree after the City Engineer reviewed it.

Spencer – This would happen with the next phase of the development. Kaltsas- Turns lanes will be needed if the northern E-W road gets connected. Preserve the ROW for a collector road to Co Rd 83 in lieu of Turner Rd connection. I anticipate this Quass Cutoff extension going through E-W. Anyone who'd develop that doesn't have enough Co Rd 83 frontage to build 2 connection points without future acquisition. On the north there's property that goes to Main St W, but it's a gravel road and comes out to Cty Rd 90 at a bad location. So this is the best possible E-W connection. This development agreement is being recorded so that it is remembered. Hennepin County is involved with the Co Rd 83 access which triggers the turn lane conversation again. This will be recorded against the property. Spencer – The turn lanes wouldn't be necessary until more development? Kaltsas – That was the County's finding. We looked at it with 13 lots. It is a high-speed road and there are some sightline issues at some point, but the County looks at the number coming in & out of it and whatever is on Co Rd 90 right now. Spencer – If there becomes a public safety at some point, could we trigger that? Kaltsas – No language regarding that is included, but this suggests it'll be pushed off until the next development. Whoever the landowner is will be needing the turn lanes at some point. The County is approving it because it is their road and the City is trying to support them. McCoy – We just don't want another Brie Kessel issue. Kaltsas – The one thing we have going on here is that we have the separate N-S ROW. Gustavus has its own cul-de-sac and does not extend through. It's north of that that we collected a blank ROW. They are berming and landscaping it. They can't develop that further without getting this to be a road at some point, and then the turn lanes wouldn't be needed.

Motioned by McCoy, second by Betts to approve the First Amendment to the Development Agreement Between Gustavus Development LLC and the City of Independence as presented. Ayes: McCoy, Betts, and Spencer. Nays: None. Absent: Grotting. Abstain. Johnson. MOTION DECLARED CARRIED 3:0

Vice Mayor Spencer returned the meeting to Mayor Johnson.

11. Open/Misc.

12. Adjourn.

Motion by Spencer, second by McCoy to adjourn the meeting around 7:23pm.

Respectfully Submitted, Linda Johnson / Recording Secretary

City of Independence

Approval of Election Judges for the 2022 Primary and General Elections

To: City Council

From: Amber Simon

Meeting Date: October 4, 2022

Discussion:

The City Council is required to appoint election judges for the upcoming primary and general elections to be held in August and November 2022. Staff has prepared a list of election judges for consideration by the City Council. The following election judges can be considered for appointment by the City Council:

- Charlie Hayes
- Marilyn Hamilton
- Darcy Ciatti
- Lori McNamara
- Marvin Johnson
- Lynette Boyd Timpe
- Chris Lyrek
- Martha McCabe
- Damon Kocina
- Susan Ritts
- Chris Burr
- JP Story
- Julie Larson
- James Schmitt
- Carol Nevens
- Kim Klancke
- Michelle Hammer
- Allison Hirschberg
- Sarah Baker

Additional election judges available:

- Ruth Modrow
- Khalid Kader

Recommendation:

It is recommended that the City Council approve appointing the additional listed election judges.

City of Independence

Request for Rezoning and Minor Subdivision for the Property Located at 5687 County Road 6

To: City Council

From: Mark Kaltsas, City Planner

Meeting Date: October 6, 2022

Applicant: Don Hamilton

Owner: Don Hamilton

Location: 5687 County Road 6

Request:

Don Hamilton (Owner/Applicant) requests that the City consider the following actions for the property located at 5687 County Road 6, Independence, MN (PID No. 35-118-24-11-0003):

- a. Rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan.
- b. A minor subdivision to allow a rural view lot subdivision.

Property/Site Information:

The subject property is located at the southwest corner of County Road 6 and County Road 110. The property has an existing home and several detached accessory structures. The Luce Line Trail borders the property to the south. There are several small wetlands on the property and a portion of the property is actively farmed.

Property Information: 5687 County Road 6 (PID No. 35-118-24-11-0003)

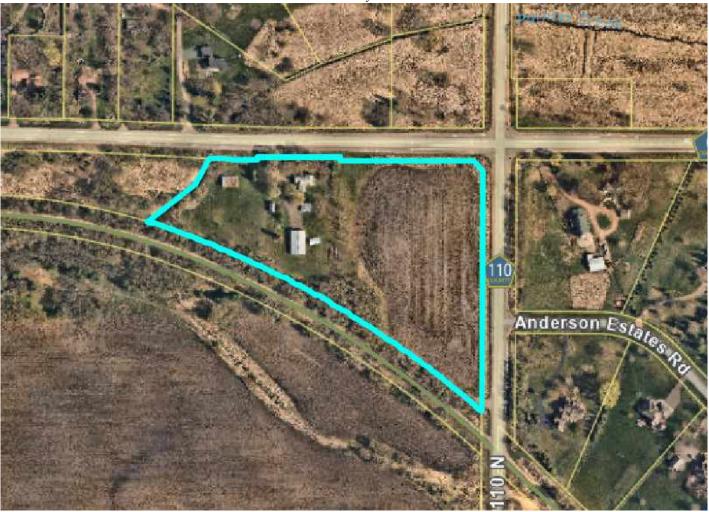
Zoning: *AG-Agriculture*

Comprehensive Plan: RR- Rural Residential

Acreage: (Before) 11.54 acres

(After) West Parcel 5.52 acres

East Parcel 6.05 acres



Discussion:

The applicant approached the City about the possibility of splitting the existing lot into two lots. The City noted that the property is currently zoned AG-Agriculture and guided for RR-Rural Residential in the Comprehensive Plan. The City noted that the property would need to be rezoned to RR in order for the lot to be subdivided. Rezoning of the property to RR is consistent with the Comprehensive Plan.

The existing property is 11.54 acres in size including the right of way for County Roads 6 and 110. The City allows the subdivision of properties in the RR zoning district with a minimum of 7.6 acres. The City noted that the there are several detached accessory buildings on the property in addition to the existing house. In the before condition, the property exceeds 10 acres in size and has no limitation on the square footage of detached accessory buildings. In the after condition, the existing property and buildings will need to conform with applicable regulations. For properties less than 10 acres in size, the City allows a maximum of 2% of the buildable upland area to be covered with detached accessory structures.

There are several factors to consider relating to proposed minor subdivision as follows:

- o The applicant will need to provide the City with a primary and secondary septic site for both the east and west parcels prior to City Council consideration.
- The east and west properties will far exceed the requisite public road frontage requirements: (East Parcel 922/191 LF) West Parcel (652 LF).
- The east parcel has an approved driveway connection off of CSAH 110 that is located just south of the Luce Line Trail. No access to the east parcel will be permitted unless approved by Hennepin County.
- The west parcel is proposed to be 5.52 acres and will continue to accommodate the existing detached accessory buildings. The City allows a maximum of 2% of the buildable upland to be covered with detached accessory buildings. The City calculated the total square footage of the existing buildings as follows:

Pole shed: 2,880 sq ft Barn: 598 sq ft Milk house: 390 sq ft

Garage: 624 sq ft
Lean-to shed: TO BE REMOVED

TOTAL 4,492 sq ft

The property requires 5.15 upland acres to accommodate the existing detached building coverage. There is an estimated 0.37 (0.25 + 0.12) acres of wetlands on the proposed west parcel. The proposed 5.52-acre lot would provide sufficient land to accommodate the existing buildings and proposed parcel size.

- The proposed north/south lot line is not a perpendicular to CSAH 6 or CSAH 110 but does appear to provide for a reasonable subdivision point that aligns with the angled or triangular configuration of the existing property.
- o The existing home and detached accessory structures meet all applicable building setbacks in the after condition.
- The newly created East Parcel will be required to pay the City's requisite Park Dedication fee. For this property the requirement is \$4,288.00 (\$3,500 + \$788) (\$750*1.05 acres). This fee will need to be paid prior to recording the subdivision.
 - Park dedication fee of \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5acres

The proposed minor subdivision to allow the subdivision of the property into two properties generally complies with applicable standards. There do not appear to be any adverse impacts resulting from the proposed subdivision.

Planning Commission Review and Recommendation:

Planning Commissioners reviewed the application and asked questions of staff and the petitioner. Commissioners noted that the property is currently considered a legal property that is fully conforming including all existing detached buildings. In the proposed condition, the new properties are not grandfathered in as the original property would no longer exist. Commissioners discussed that the applicant can create two lots that are fully conforming including the existing buildings. Commissioners believed that the requested rezoning and minor subdivision met applicable criteria and recommended approval with the conditions noted in this report.

Neighbor Comments:

The City has not received any comments at the time this report was prepared.

Recommendation:

The Planning Commission recommended approval of the requested rezoning and minor subdivision to allow a lot line rearrangement, with the following findings and conditions:

- 1. The proposed rezoning and minor subdivision request meet all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions and Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
- 2. The applicant shall obtain all applicable permits from all regulatory authorities including Hennepin County and the Minnehaha Creek Watershed District. Any additional drainage and utility easement and or wetland buffer easements shall be prepared and conveyed by the applicant. Copies of the approvals shall be submitted to the City.
- 3. The applicant will need to provide the City with verification of a primary and secondary septic site for both the east and west parcels.
- 4. 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.
- 5. The applicant shall pay the park dedication fee of \$4,288 prior to the subdivision being recorded by the City.
- 6. The applicant shall pay for all costs associated with the City's review and recording of the requested rezoning and minor subdivision.
- 7. The Applicant shall record the rezoning Ordinance, minor subdivision and City Council Resolution and requisite D&U easement conveyance documents with the county within six (6) months of approval.

Attachments:

ORDINANCE NO. 2022-06 RESOLUTION NO. 22-1004-01

Site Survey – Depicting both the Before and After Conditions



RESOLUTION OF THE CITY OF INDEPENDENCE HENNEPIN COUNTY, MINNESOTA

ORDINANCE NO. 2022-06

AN ORDINANCE AMENDING THE CITY OF INDEPENDENCE ZONING CODE, INCLUDING ZONING MAPS

THE CITY OF INDEPENDENCE, MINNESOTA DOES ORDAIN:

Section 1. The City of Independence Zoning Code shall be amended to rezone the property (11.54 acres) located at 5687 County Road 6 and identified as (PID No. 35-118-24-11-0003) from A-Agriculture to RR Rural Residential legally described as follows:

EXISTING LEGAL DESCRIPTION (PER DOC. NO. 8885429):

That part of the Northeast 1/4 Section 35, Township 118 North, Range 24, West of the 5th Principal Meridian, lying north of the northerly line of the Luce Line Trail, formally Minnesota Western Railway and east of a line described as follows: Commencing at the northwest corner of said Northeast 1/4; thence east along the north line of said Northeast 1/4 a distance of 1800 feet to the point of beginning of the line being described; thence deflecting right 118 degrees a distance of 161.75 feet; thence deflecting right 23 degrees to said northerly line of Luce Line Trail and there ending.

- Section 2. The City Administrator is hereby directed to amend the City of Independence Zoning Ordinance, including Zoning Maps, in accordance with the foregoing amendment.
- Section 3. Effective date. This ordinance shall be and is hereby declared to be in full force and effect after its passage and publication according to law.

Adopted this 4 th day of October 2022.		
	Marvin Johnson, Mayor	
ATTEST:		
Mark Kaltsas, City Administrator		



RESOLUTION OF THE CITY OF INDEPENDENCE HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 22-1004-01

A RESOLUTION APPROVING A MINOR SUBDIVISION FOR THE PROPERTY LOCATED AT 5687 COUNTY ROAD 6

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

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

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

WHEREAS, Don Hamilton (Applicant/Owner) has submitted a request for rezoning and a minor subdivision for the property located at 5687 County Road 6 and identified by (PID No. 35-118-24-11-0003) in the City of Independence, MN; and

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

WHEREAS, the Property is zoned RR-Rural Residential; and

WHEREAS the requested minor subdivision meets all requirements, standards and specifications of the City of Independence subdivision and zoning ordinance for Rural Residential property; and

WHEREAS the City held a public hearing on September 20, 2022, to review the application for a minor subdivision, following mailed and published noticed as required by law; and

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

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by

Don Hamilton for a minor subdivision per the City's subdivision and zoning regulations with the following conditions:

- 1. The proposed Minor Subdivision meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning and Subdivision Ordinance.
- 2. City Council approval of the Minor Subdivision is subject to the following:
 - a. The applicant shall address all comments and applicable requirements pertaining to the proposed subdivision.
 - b. The applicant shall obtain all applicable permits from all regulatory authorities including Hennepin County and the Minnehaha Creek Watershed District. Any additional drainage and utility easement and or wetland buffer easements shall be prepared and conveyed by the applicant. Copies of the approvals shall be submitted to the City.
 - c. The applicant shall provide the City with verification of a primary and secondary septic site for both the east and west parcels.
 - d. 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.
- 3. The applicant shall pay the park dedication fee of \$4,288 prior to the subdivision being recorded by the City.
- 4. The applicant shall pay for all costs associated with the City's review and recording of the requested rezoning and minor subdivision.
- 5. The Applicant shall record the rezoning Ordinance, minor subdivision and City Council Resolution and requisite D&U easement conveyance documents with the county within six (6) months of approval.

This resolution was adopted by the of October 2022, by a vote of	-	City of Independence on this 4 th day
ATTEST:		Marvin Johnson, Mayor

Mark Kaltsas, City Administrator

EXHIBIT A

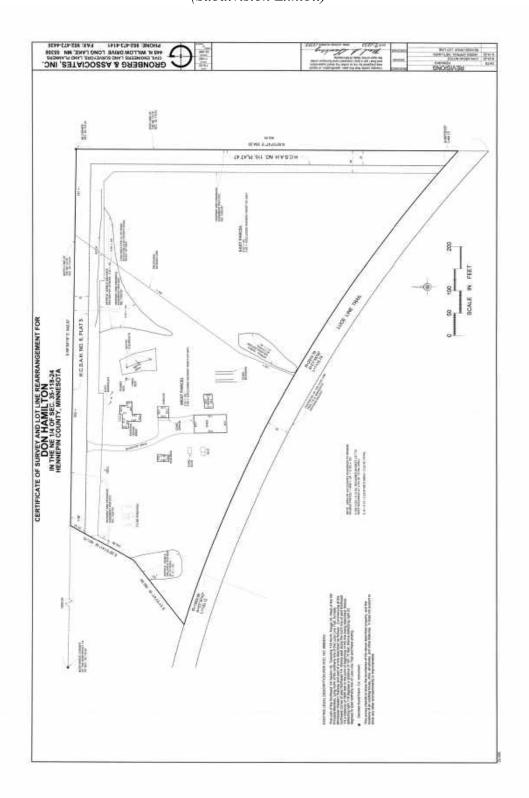
(Legal Description of Property)

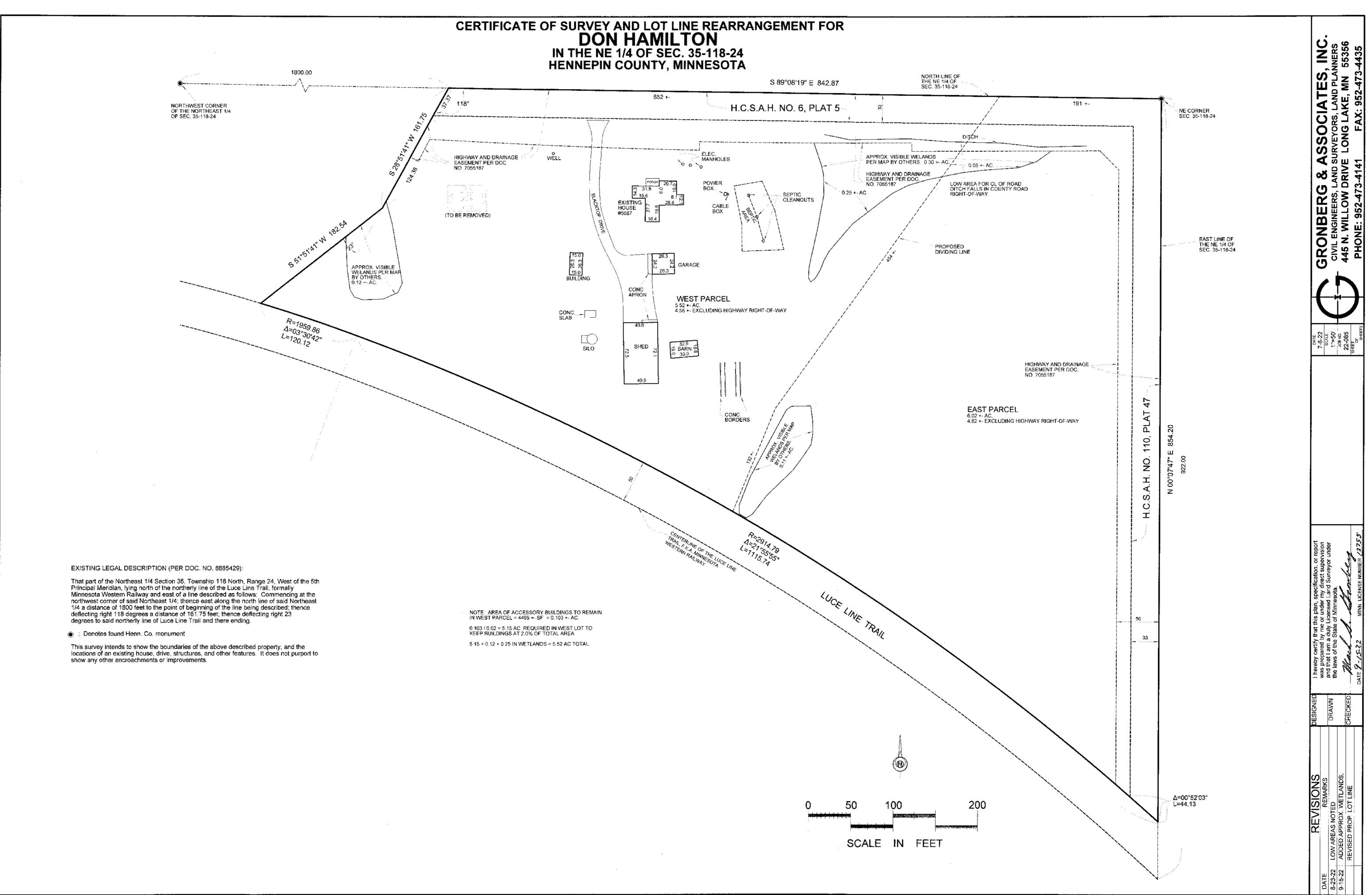
EXISTING LEGAL DESCRIPTION (PER DOC. NO. 8885429):

That part of the Northeast 1/4 Section 35, Township 118 North, Range 24, West of the 5th Principal Meridian, lying north of the northerly line of the Luce Line Trail, formally Minnesota Western Railway and east of a line described as follows: Commencing at the northwest corner of said Northeast 1/4; thence east along the north line of said Northeast 1/4 a distance of 1800 feet to the point of beginning of the line being described; thence deflecting right 118 degrees a distance of 161.75 feet; thence deflecting right 23 degrees to said northerly line of Luce Line Trail and there ending.

EXHIBIT B

(Subdivision Exhibit)





City of Independence

Request for a Variance from the Rear Yard Setback for the Property Located at 1187 County Road 92 N.

To: City Council

From: | Mark Kaltsas, City Planner

Meeting Date: October 4, 2022

Applicant: Nicholas Mozena

Owner: Nicholas Mozena

Location: 1187 County Road 92 N.

Request:

Nicholas Mozena (Applicant/Owner) requests that the City consider the following action for the property located at 1187 County Road 92 N., Independence, MN (PID No. 29-118-24-14-0003):

a. A variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location.

Property/Site Information:

The subject property is located at 1187 County Road 92 N. There is an existing home and two (2) detached accessory structures located on the subject property.

Property Information: 1187 County Road 92 N.

Zoning: AG-Agriculture

Comprehensive Plan: AG-Agriculture

Acreage: 4.58 acres



Discussion:

The applicant approached the City about the possibility of rebuilding the existing pole barn located on the property. During a routine review of the proposed building, the City identified that there was an existing shed located on the property that had not been permitted. The City notified the owner that it had not been permitted and it was determined that the shed was built prior to the current owners acquisition of the property. The City and owner discussed relocating

the shed, applying for ABRC consideration to allow a reduced rear yard setback or to seek a variance to allow the shed to remain in its current location.

The existing shed is 16' x 9' (144 SF) in dimension and is located approximately 3 feet (at its closest point) to the west property line. The west property line in this location is considered the rear property line. All structures are required to be setback a minimum of 40 feet from the rear property line. The applicant is requesting that the City consider a variance that would allow the existing shed to remain in its current location. This would constitute a variance of approximately 37 feet from the applicable rear yard setback. The applicant has prepared a narrative with illustrations and pictures that further present their request for a variance (see attached).

The City did notify the property owner that they could seek relief from the rear yard setback requirement utilizing the ABRC process for consideration of reduced rear yard setback. The reason that this is possible is that the adjoining property (to the west) would be subject to a side yard setback of 15 feet from this shared property line. This condition is considered a possible condition for ABRC consideration of a reduced setback.

The applicant is seeking a variance from the rear and side yard setbacks to allow the proposed structure. The variances requested would allow the construction of a detached accessory structure to be located closer to the east and north property lines than permitted by the City. The applicant is proposing to setback the proposed structure 10'-0" from the east property line and 10'-0" from the north property line. The required rear yard setback is 40' and the required side yard setback is 15'.

Setbacks for AG-Agricultural Properties are as follows:

Side Yard Setback for Detached Accessory Structures:

Required: 15'-0"

Rear Yard Setback for Detached Accessory Structures:

Required: 40'-0"

Existing: (West): \sim 3'-0" (variance of 37'-0")

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. <u>Standards for granting variances</u>. Subdivision1. 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. Residential/Agriculture use of the property is consistent with the AG Zoning District. The applicants are seeking a variance that exceeds the typical setback granted for properties in this area.
- b. The property backs up to a property that is operated as a commercial riding stable. The City recently adopted standards that would allow the City's ABRC to consider allowing relief of the rear yard setback to a minimum of 15' (see actual ordinance provision below). The applicant was provided with this information. The applicant has noted that there would be difficulty associated with moving the shed from both a logistic and geographic location standpoint. In order to meet the 15' setback that could be considered by the ABRC, the fence would need to be relocated and the shed would begin to encroach into the pool area, existing mature trees and septic mound on the property.
- c. The character of the surrounding area is rural. The existing detached accessory structure is well positioned on the property and appears to have minimal impacts on the surrounding property.
- d. There is a second detached accessory structure located to the north of the existing house that is in the process of being replaced. The overall size of the proposed structure will be 1,800 SF. The City allows a maximum of 2% of the total buildable upland to be utilized for detached accessory structures (3,990 SF). The existing and proposed detached accessory structures would be 1,944 SF which is less than the maximum permitted.

Planning Commission Discussion and Recommendation:

Planning Commissioners reviewed the request and asked questions of the applicant and staff. Commissioners clarified the existing conditions and noted that there were some physical limitations relating to the location of the existing swimming pool, septic field and other detached accessory structure. Commissioners noted that the shed was constructed by the previous owner without applicable permits. Commissioners found that the condition was not created by the

applicant and would be difficult to fully cure without a significant change in the condition of the property. Commissioners found that the criteria for granting a permit had been met by the applicant and recommended approval to the City Council.

Public Comments:

The City has not received any written or verbal comments at the time this report was prepared.

Recommendation:

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

- 1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
- 2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Use of the property for a garden style shed is consistent with the Agriculture Zoning District.
 - b. The property abuts a commercial riding stable that has different (side yard versus rear yard) setbacks along the shared property line.
 - c. The character of the surrounding area is rural. The proposed detached accessory structure is generally in keeping and consistent with the surrounding uses found in this part of the City.
 - d. Moving the shed to an alternate location will be difficult and there does not appear to be a suitable site that does not impact additional elements of the site within a similar proximity to the existing home.
- 3. The variance will permit a 37-foot reduction of the west rear yard setback (from 40 feet to 3 feet) to allow the existing detached accessory structure to remain on the site. Any modification changes or alteration to the structure that does not meet applicable setbacks in the future would require additional review and approval in the form of a variance.
- 4. The applicant shall pay for all costs associated with the review and consideration of the requested variance.
- 5. The Applicant shall record the City Council Resolution with the county within six (6) months of approval.

Attachments:

- 1. **RESOLUTION NO. 22-1004-02**
- 2. Application3. Original Survey
- 4. Narrative



RESOLUTION OF THE CITY OF INDEPENDENCE HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 22-1004-02

RESOLUTION APPROVING A VARIANCE TO ALLOW A REDUCED REAR YARD SETBACK FOR THE PROPERTY LOCATED AT 1187 COUNTY ROAD 92 N.

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, Nicholas Mozena, (the "Applicant/Owner") submitted an application for a variance to allow a reduced rear yard setback on the property located at 1187 County Road 92 N. (PID No. 29-118-24-14-0003) (the "Property"); and

WHEREAS, the Property is zoned AG-Agriculture; and

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

WHEREAS the requested variance meets all requirements, standards and specifications of the City of Independence zoning ordinance for Agriculture lots; and

WHEREAS the Planning Commission held a public hearing on September 20, 2022, to review the application for a variance, 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 Nicholas Mozena and grants the requested variance for the property in accordance with the City's zoning regulations with the following findings and conditions:

Fax: 763.479.0528

- 1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
- 2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Use of the property for a garden style shed is consistent with the Agriculture Zoning District.
 - b. The property abuts a commercial riding stable that has different (side yard versus rear yard) setbacks along the shared property line.
 - c. The character of the surrounding area is rural. The proposed detached accessory structure is generally in keeping and consistent with the surrounding uses found in this part of the City.
 - d. Moving the shed to an alternate location will be difficult and there does not appear to be a suitable site that does not impact additional elements of the site within a similar proximity to the existing home.
- 3. The variance will permit a 37-foot reduction of the west rear yard setback (from 40 feet to 3 feet) to allow the existing detached accessory structure to remain on the site. Any modification changes or alteration to the structure that does not meet applicable setbacks in the future would require additional review and approval in the form of a variance.
- 4. The applicant shall pay for all costs associated with the review and consideration of the requested variance.
- 5. The Applicant shall record the City Council Resolution with the county within six (6) months of approval.

This resolution was adopted by the City C 4 th day of October 2022, by a vote ofayes and _	Council of the City of Independence on thisnays.
ATTEST:	Marvin Johnson, Mayor
Mark Kaltsas, City Administrator	_

EXHIBIT A

(Legal Description)

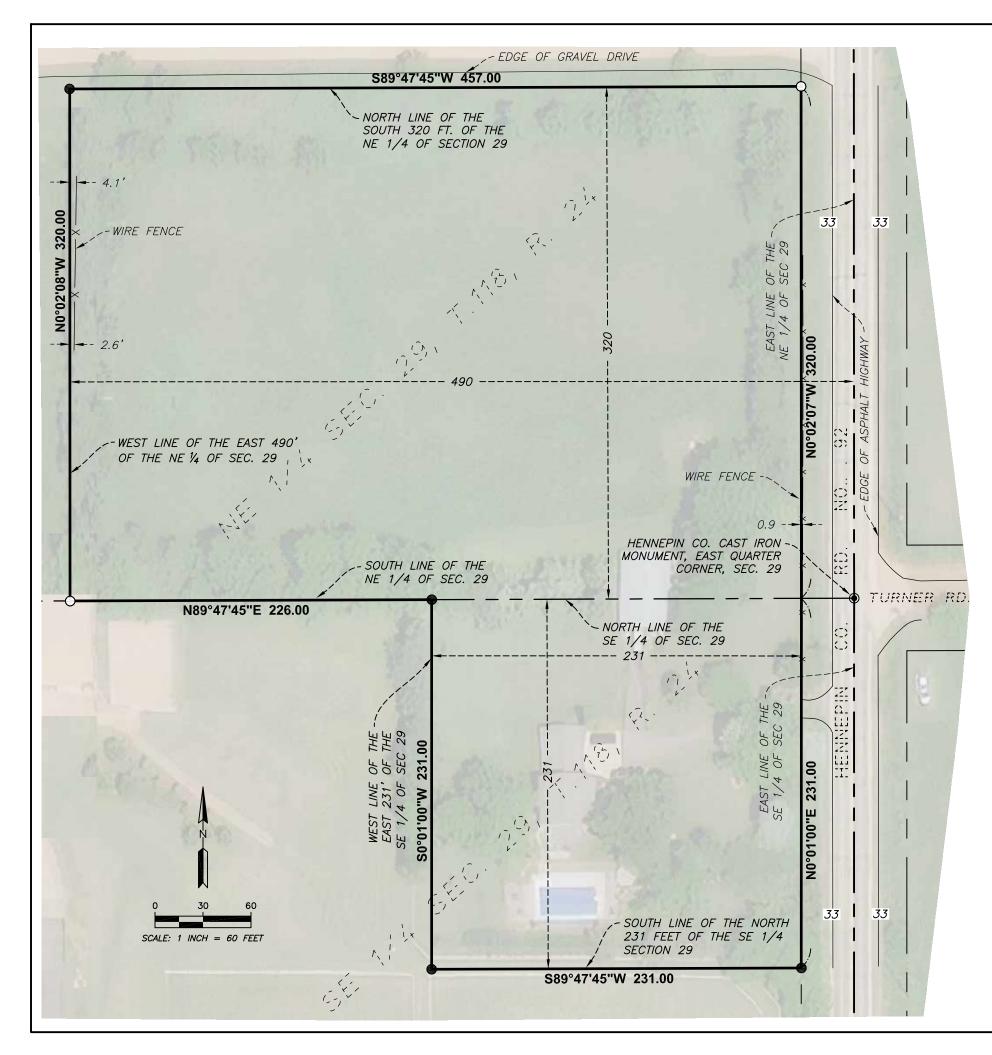
LEGAL DESCRIPTION:

The East 490.00 feet of the South 320.00 feet of the Northeast Quarter, and the East 264.00 feet of the North 231.00 feet of the Southeast Quarter of Section 29, Township 118, Range 24, Hennepin County, Minnesota. Except Road.

EXHIBIT B

(Site Plan)

1187 County Road 92 N. (blue outline)



CERTIFICATE OF SURVEY

NICK MOZENA 1187 C.R. 92, INDEPENDENCE, MN 55359

LEGAL DESCRIPTION:

The East 490.00 feet of the South 320.00 feet of the Northeast Quarter, and the East 264.00 feet of the North 231.00 feet of the Southeast Quarter of Section 29, Township 118, Range 24, Hennepin County, Minnesota. Except Road.

NOTES:

- 1. The survey is based on the property tax parcel description from Hennepin county tax services GIS. No title records for the property were researched or provided to the surveyor; nor any easements, conditions or restrictions of record, if any, are shown on the survey.
- 2. The orientation of this bearing system is based on the Hennepin County Coordinate System NAD83. Coordinates are Hennepin County ground feet, relative to the Minnesota Coordinate System, Southern Zone, NAD83, 2011.
- 3. The area of the above described property is 199,602 square feet or 4.582 acres, more or less.
- 4. The property was surveyed on October 10, 2021.

Law Brechlund

5. Aerial photo is shown for reference only, and is approximate or radially displaced from survey ground location.

SURVEYORS CERTIFICATION:

I hereby certify that this survey was completed by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.

Gary J. Bigrklund, MN. License 46563

October 13, 2021 Date

GARY BJORKLUND LS 612-801-2995 qbjorklu@gmail.com

LEGEND

- O SET 3/4" OD x14" IRON PIPE
- FOUND 1" OPEN IRON PIPE

Nick & Maura Mozena 1187 County Road 92 N Independence, MN 55359

Shed Variance Request

City of Independence Planning Commission & City Council Members –

We are writing this letter to request a variance for an existing shed at 1187 County Road 92 N, Independence, MN 55359.

Maura and I are new City of Independence residents as we moved in September of 2021. Upon further inspection of the existing pole barn on the property, it was determined that rotting of post beams made for an unsafe building to stable horses. As a result, we have obtained approval of a permit (Building Permit No. 22-176) to build a new barn with the condition that a shed located in the backyard be moved 40' away from our rear property line.

The shed (approx. 16' x 9') we are seeking a variance for sits adjacent to our rear property line and the side property line of 1115 County Road 92 N, Independence, MN 55359 (please see Image 1 below – shed highlighted in red). There are several factors that have driven our desire to seek a variance allowing the shed to remain in its current location.

- 1. Challenges in safely and properly removing the shed intact
 - a. Fence removal In late 2021 a fence surrounding the backyard and pool of the property was installed (Building Permit No. 21-334) for child and animal safety. To remove the shed from its current location, fencing would need to be removed from the ground (fence posts are in concrete), two skid loaders would be required to lift the shed, then navigate out of the backyard to the North. The current gate to gain access to the backyard is only 8' wide which is not wide enough to allow for the shed to pass through without damage to the fencing or shed.
 - i. Note: please see images 2 3 for visual reference
 - b. Well and Septic Tank Impact In the immediate path for removal of the shed are our home's well and septic tank. We were advised by a contractor that they would not feel comfortable maneuvering over the well nor septic tank area with skid loader(s) and shed.
 - i. Note: please see images 2 3 for visual reference
- 2. Destruction of garden and backyard landscaping by removal of the shed
 - a. By removing the shed with skid-loaders, we would incur damage to our backyard landscaping including grass, potential removal of existing tree branches, and potential removal of sandbox and jungle-gym.
- 3. Addition of new fencing -
 - a. As a result of the potential removal of the shed, we would be required to add fencing (where the shed currently sits) in order keep the backyard fenced in and safe for children and animals
 - i. Note: please see images 4 5 for visual reference
- 4. Lack of suitable alternative locations in the backyard

a. Due to the layout of our property (see image 6) and the portion of the lot in which the home, well, and septic sit, there is limited space within the fenced area to relocate the shed and garden.

5. Installation of the shed

a. The shed was installed by previous owners of the property who did not obtain a permit for installation. This was not disclosed to us via the seller's disclosure at the time of sale.

We are very proud residents of the City of Independence and are intent on following City Ordinances and the applicable processes. We hope that you will take our application for variance under consideration.

If there are any additional materials that we might be able to provide, please do let us know.

Thank you for your time, consideration, and partnership, Nick & Maura Mozena

Image #1



The garden shed we are seeking a variance for is highlighted in red, the home's well is highlighted in orange, and the home's septic is highlighted in blue.

Image #2



The garden shed is highlighted in red. In the foreground is our home's well. The fence on the right-hand side of the image is on the northern side of the backyard.

Image #3



This image is of the northern fence line, the home's well, and on the other side of the fence is the home's septic tank. Portions of the fence would be required to be removed to remove the shed from its current location. The current gate is 8' wide and would not accommodate the width of the shed.

Image #4



Visual contains current shed and adjacent garden, and black fencing on the right and left of the shed that would be required to be connected to enclose the backyard for child and animal safety.

Image #5



Visual contains current shed and adjacent garden, and black fencing on the right and left of the shed that would be required to be connected to enclose the backyard for child and animal safety.

Image #6



City of Independence

Concept Plan Review of a Proposed Business Park on the Propety Located at 9285 Highway 12

To: City Council

From: | Mark Kaltsas, City Planner

Meeting Date: October 4. 2022

Applicant: | William Stoddard

Owner: John Zeglin

Location: 9285 Highway 12

Request:

William Stoddard (Applicant) and John Zeglin (Owner) are asking the City to provide feedback relating to the proposed concept development of the subject property. The Applicant is proposing to develop the property into office warehouse, garage condominiums and rural residential lots on the subject property.

Property/Site Information:

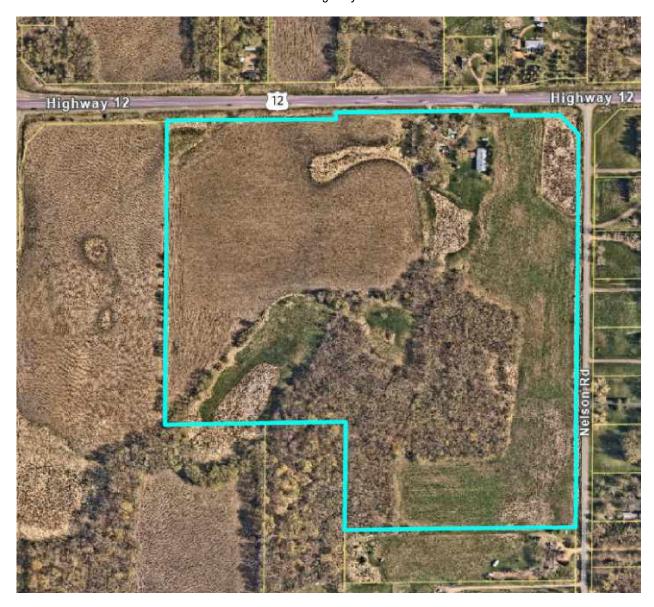
The property is located on the south side of Highway 12 and west side of Nelson Rd. The property has frontage on both roads and is comprised primarily of agriculture land, woodlands and wetlands. There is an existing home and several detached accessory structures on the subject property.

Property Information: 9285 Highway 12

Zoning: *Agriculture*

Comprehensive Plan: Agriculture/Urban Commercial

Acreage: ~58 acres



Discussion:

The applicant is asking the City to consider and provide feedback relating to a concept plan for the proposed development of the subject property. The City of Independence does not have a formal concept plan review/approval process, but typically permits a landowner and or applicant to submit conceptual plans before submitting a formal application. The City will review the concept plan and provide high level comments and feedback relating to the proposed development without formally considering the proposal. This informal process allows the property owner/applicant to receive feedback prior to determining whether to submit a formal proposal and application to the City.

In order for the City to ultimately consider approval of a plan similar to the proposed concept plan, the following steps would be required:

- 1. Amend the Comprehensive Plan.
 - a. This would re-guide a portion of the property (~16 acres) from AGAgriculture to Urban Commercial.
- 2. Rezone that portion of the property to Urban Commercial.
- 3. Consider Site Plan Review.
- 4. Consider a Conditional Use Permit to allow a planned unit commercial development on the subject property.
- 5. Consider Preliminary Plat approval.
- 6. Consider Final Plat approval.

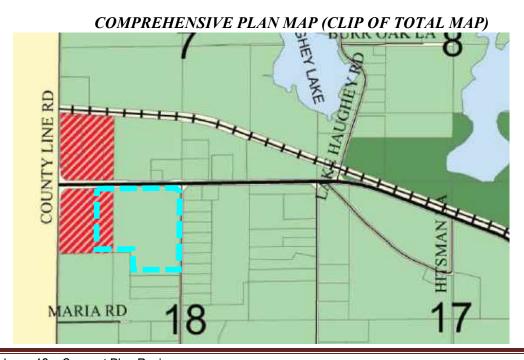
The following land uses are proposed by the applicant (plans attached):

- Commercial office/warehouse/business park (2 buildings − 100,000 SF each on ~17 acres)
- Individual garage condominiums (102 units on ~9 acres)
- Three (3) Residential Lots (approximately 4.5 acres each)

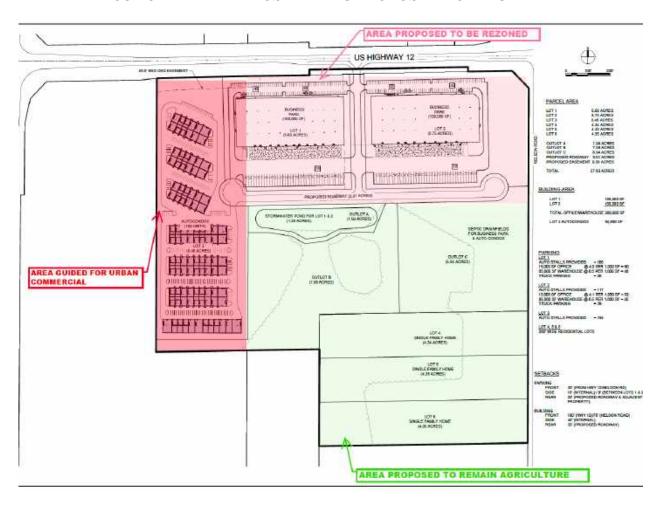
There are several key points of information that should be noted relating to the proposed development:

- The entire property is currently zoned AG-Agriculture.
- A portion of the property, approximately 12 acres on the west side (see area of property that appears in red total property outline shown in blue), is guided by the City's Comprehensive Land Use Plan for Urban Commercial.
- The applicant is asking the City to consider rezoning a larger portion of the property from AG-Agriculture to Urban Commercial (~16 acres).
- The remainder of the property (~28 acres) would not be rezoned and or change from AG-Agriculture.
- In order for the property to be rezoned, the City would first need to approve a Comprehensive Plan Amendment. A comprehensive plan amendment process would be subject to approval by the Metropolitan Council.
- The initial submittal considered access to Nelson Road and the applicant was notified that the City would not support any commercial access to Nelson Road. The plans submitted include two options for access: right in/right out only onto Highway 12 or a frontage road

- connection to the west connecting to County Line Road (shown on site plan). The City and MNDOT would need to review any proposed access to this site.
- The City noted that any development adjacent to residential should consider horizontal as well as vertical separation in the form of earthen berms and landscaping. The applicant has prepared a concept landscape plan.
- The applicant is proposing to provide on-site sewer (septic) and on-site water to serve the proposed development. The City would need to further review any formal proposal relating to how the proposed development would be served with utilities.
- The City is looking at the possibility of establishing a municipal well/water service in the location of the Urban Commercial to serve commercial development on the north and south sides of Highway 12.
- The applicant has completed a wetland delineation for the property. Stormwater management would be required for any development of this property and would have to meet all applicable criteria.
- The applicant is proposing to preserve a large portion of the mature trees on the property. The City would review in more detail any proposed preservation or tree removal associated with the proposed development if it were to move forward.
- The applicant has prepared a narrative along with more visual information relating to the proposed development of the property.



CONCEPT PLAN ILLUSTRATING PROPOSED ZONING



Recommendation:

The applicant is seeking feedback from the City Council pertaining to the concept plan for the development of this property. The City did mail a letter last week to the residents on Nelson Road notifying them of the concept plan submittal and noting that there is no public hearing associated with a concept plan submittal. No formal action can be taken by the City on the concept plan. There are many steps that will need to be taken for any development of this property to occur.

Attachments:

- 1. Application
- 2. Concept Site Plan
- 3. Concept Site Plan with Aerial
- 4. Colored Concept Site Plan
- 5. Landscape Plan
- 6. Building Illustrations

Concept Stage Sketch Plan Application for a PUD on a 58 Acre Parcel Located on State Hwy. 12 in Independence for an Upscale Business Park Development Updated September 6, 2022

Proposed Concept Stage Sketch Plan PUD Application Summary:

Our proposed development by SH Ventures, Inc. is for a an upscale Business Park bordering State Hwy 12 in western Independence on a 58 acre site. We are proposing to create two buildings in the Business Park and Upscale Life-Style Auto Condos on the site's western portion while adding three single family lots bordering the existing neighboring residential on the southern portion of the property. The site is currently farmed with Future Comprehensive Plan designation of Urban Commercial and Agricultural.

The City of Independence Comprehensive Plan 2040 states various Visions, Goals and Policies it desires with its land planning including:

- Promoting & attracting quality industrial and commercial business to the City of Independence;
- Working to update official controls and ordinances to accommodate the projected comprehensive plan; and
- Maintaining an economic balance and enhance the geographic advantage of the City.

Our proposed Business Park development helps realize Independence's Vision by:

- Entitling our proposed development as a Planned Unit Development and constructing buildings featuring a business park consisting of office, distribution and warehouse space with employment opportunities;
- Adds three residential lots/homes to blend in with the residential neighborhood to the south;
- Saves many existing trees and also proposes to add berms and ample new trees and vegetation on the east to buffer the Nelson Road neighborhood;

- Takes geographic advantage of the abutting City of Delano's commercial offerings to our western Independence location.

There has been a strong demand for similar projects and our proposed development aims to raise the bar and deliver a beautifully designed Business Park by award winning ESG Architects with ample open space. This market is burgeoning, and our proposed development may add north of \$35,000,000.00 to the local tax base, while not requiring municipal sewer service. Municipal water service would be a strong plus.

We have designed ample open space with large setbacks from abutting properties to the east and south. We have attached two different concept/sketch plans with various site access approaches to discuss. Current MnDot planning will influence final site plan access with either Hwy 12 or County Line Road access being considered. The existing Nelson Road/Hwy 12 intersection is also currently under review by MnDot.

This Narrative and accompanying Plans & Exhibits will further detail items as requested by City requirements.

Concept PUD Information:

(a) <u>General Information</u>: Names and addresses of existing landowner and applicant found on attached Exhibit #1- PID's & Legal Description of Property and on City Application Form. Professional Consultants for our proposed development include:

Architect: ESG Architecture & Design

500 S. Washington Ave. #1080

Minneapolis, MN 55415

Civil Engineer: Anderson Engineering of MN, LLC

13605 1st Ave. N #100

Plymouth, MN 55441

Traffic Engineer: Swing Traffic Solutions

4290 Norwood Land North

Plymouth, MN 55442

Attorney/Legal: Messerli & Kramer

1400 Fifth Street Towers

100 South Fifth St.

Minneapolis, MN 55402

Title Company: Custom Homes Builders Title LLC

10850Old County Rd 15 #100

Plymouth, MN 55441

Applicant and landowner confirm that a valid purchase agreement exists, and a title commitment is provided from Custom Homes Builders Title LLC of Plymouth, MN.

- (b) <u>Present Status</u>: Address of vacant land is 9285 US Highway No. 12 with property Identification Information and legal addresses attached. Existing Zoning is Agricultural and is guided for Urban Commercial and Ag in the Comprehensive Land Use Plan. The Comprehensive Land Use Plan is attached as Exhibit #2 and the Wetland Investigation, Delineation & Report is attached as Exhibit #3. An updated site survey is being currently obtained.
- (c) <u>Site Conditions:</u> Site conditions depict a relatively flat site currently being farmed with a farmhouse, outbuildings and a wooded area. New survey on order will depict topography, drainage patterns and any significant rock outcroppings if any along with the soil conditions, etc.
- (d) <u>Architectural Renderings of Proposed Developmen</u>: Refer to attached Exhibit #4 -Architectural Renderings by ESG Architects depicting Upscale Business Park buildings in two separate buildings of 100,000 sf. each along with about 100 Units of Life-Style Auto Condos in up to seven separate buildings to reduce scale and mass of project. Business Park buildings will feature 32 ft. interior clear heights and Auto Condo ceilings of 22 ft. with an external façade showcasing glass panel, metal architectural ornamentation and concrete for low maintenance requirements. With the site featuring 2,526,480 sf. in size, we are proposing about 11.5% to have building coverage.
- (e) <u>Concept Site Plans by Anderson Engineering:</u> Please refer to attached Exhibit #5- Concept Site Plans, Landscape/Plantings Plan & Plantings Plan with Aerial by Anderson Engineering featuring two different site access plans to be discussed. Landscape Plan will feature berming and heavy vegetation to buffer Nelson Road and the Planting Plan with Aerial shows how most of the current woodsy area will be saved for additional buffering from Nelson Road Neighbors. Additionally, very large areas of open space will be left vacant on the different site plan options.

- (f) <u>Utilities Plan:</u> A Utilities plan will be forthcoming with the sanitary septic designed by a registered engineer & designer. Ample space exists for this low usage need and while City water would be a huge advantage to this development, well water could be provided for its water needs including fire safety.
- (g) <u>Additional Information</u>: Applicant will forward any additional information as requested by City in prompt fashion.

ATTACHED EXHIBITS:

- 1. PID's & Limited Legal Description of Property;
- 2. Comprehensive Land Use Plan Map;
- 3. Wetland Investigation, Delineation & Report;
- 4. Architectural Renderings by ESG Architects;
- 5. Site Plan Options, Landscape Plantings Plan & Planting Plan with Aerial by Anderson Engineering; and
- 6. Two Birds Eye Perspectives from Nelson Road Neighbors of East Side of Proposed Project Site by ESG Architects.

EXHIBIT No. 1: PID's & Limited Legal Description of Property

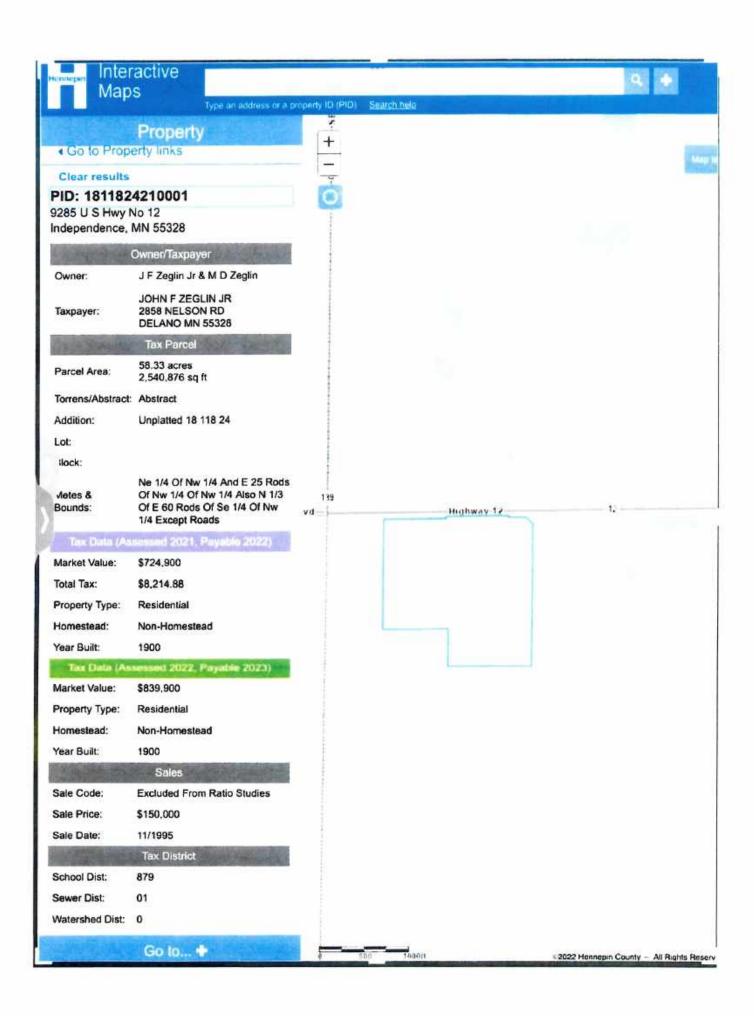


EXHIBIT No. 2: Comprehensive Land Use Plan Map

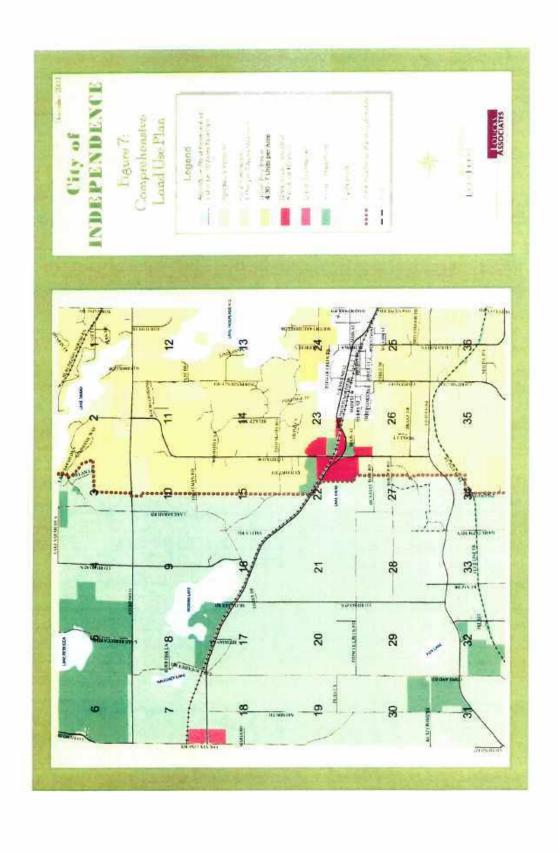


EXHIBIT No. 3: Wetland Investigation, Delineation & Report

Full Detailed Report via pdf to City Planner







WETLAND INVESTIGATION

STODDARD COMPANIES 9285 US HIGHWAY 12

HENNEPIN COUNTY (PID: 1811824210001)
INDEPENDENCE, MINNESOTA

MAY 6, 2022 AE JOB NO. 16915



ANDERSON

13605 1st Avenue North #100, Plymouth, MN 55441 P 763.412.4000 F 763.412.4090 ae-mn.com



EXHIBIT No. 4: Architectural Renderings by ESG

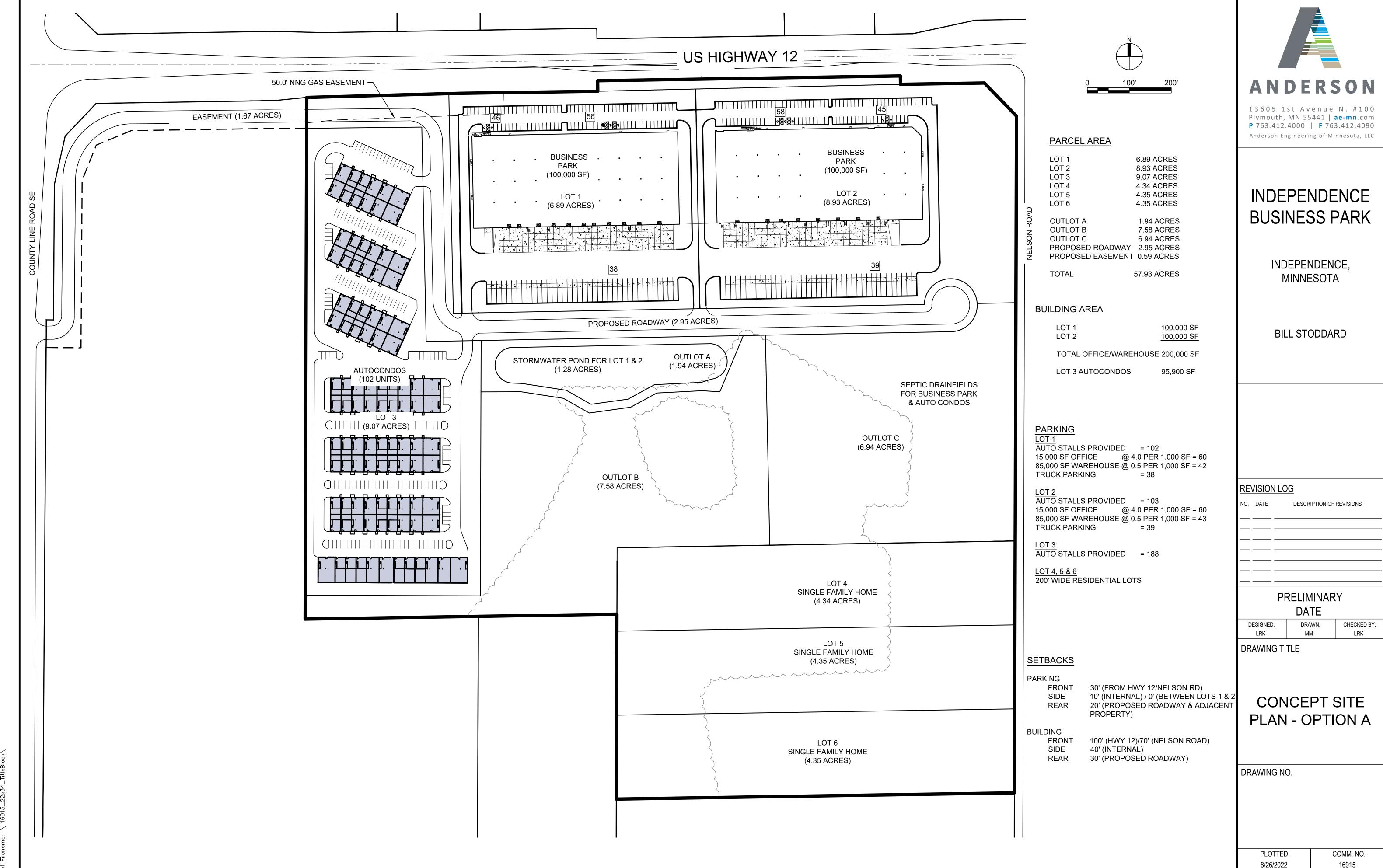
EXHIBIT No. 5: Site Plan Options, Landscape Plantings Plan & Planting Plan with Aerial by Anderson Engineering.

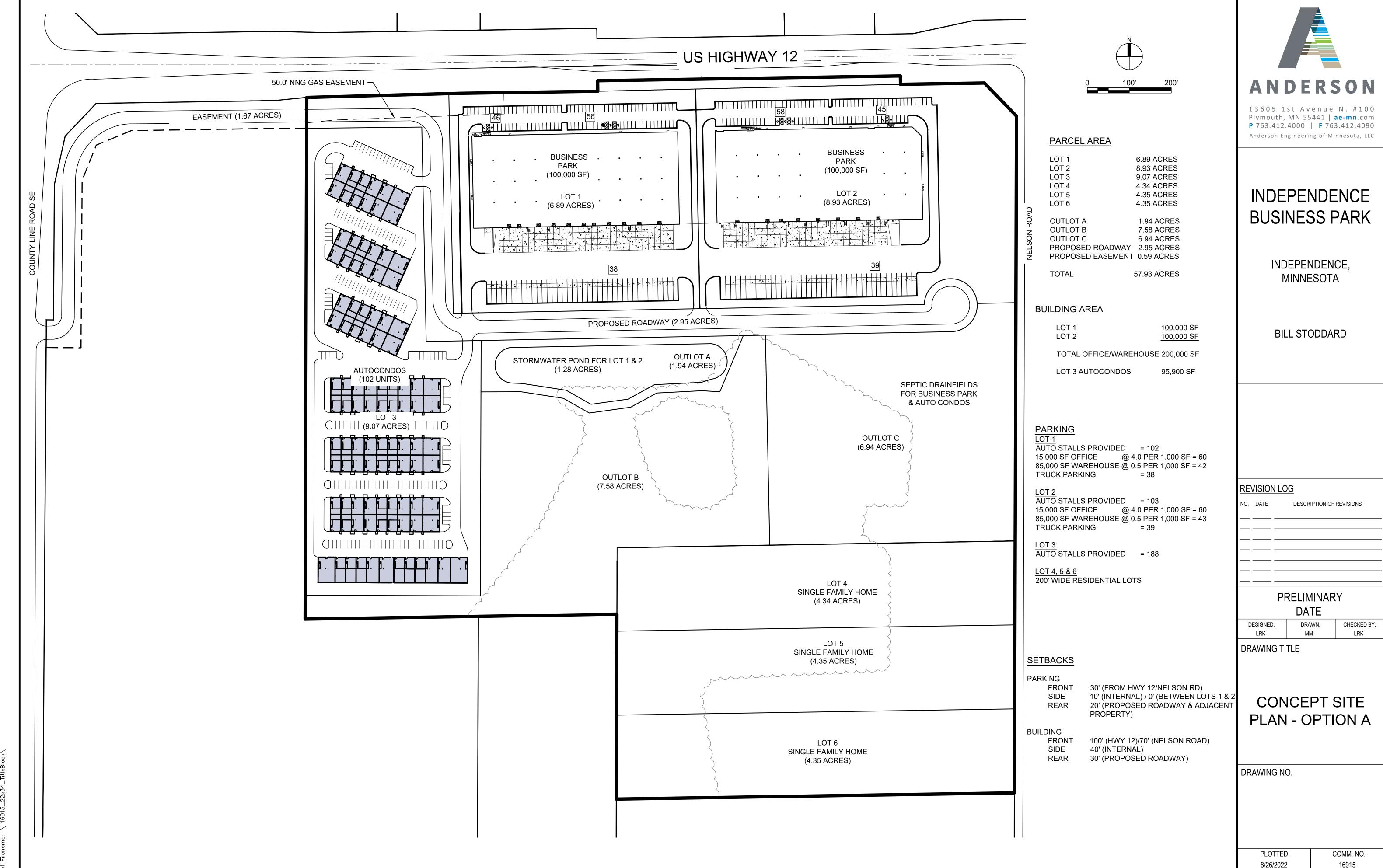
EXHIBIT No. 6: Two Birds Eye Perspectives from Nelson Road

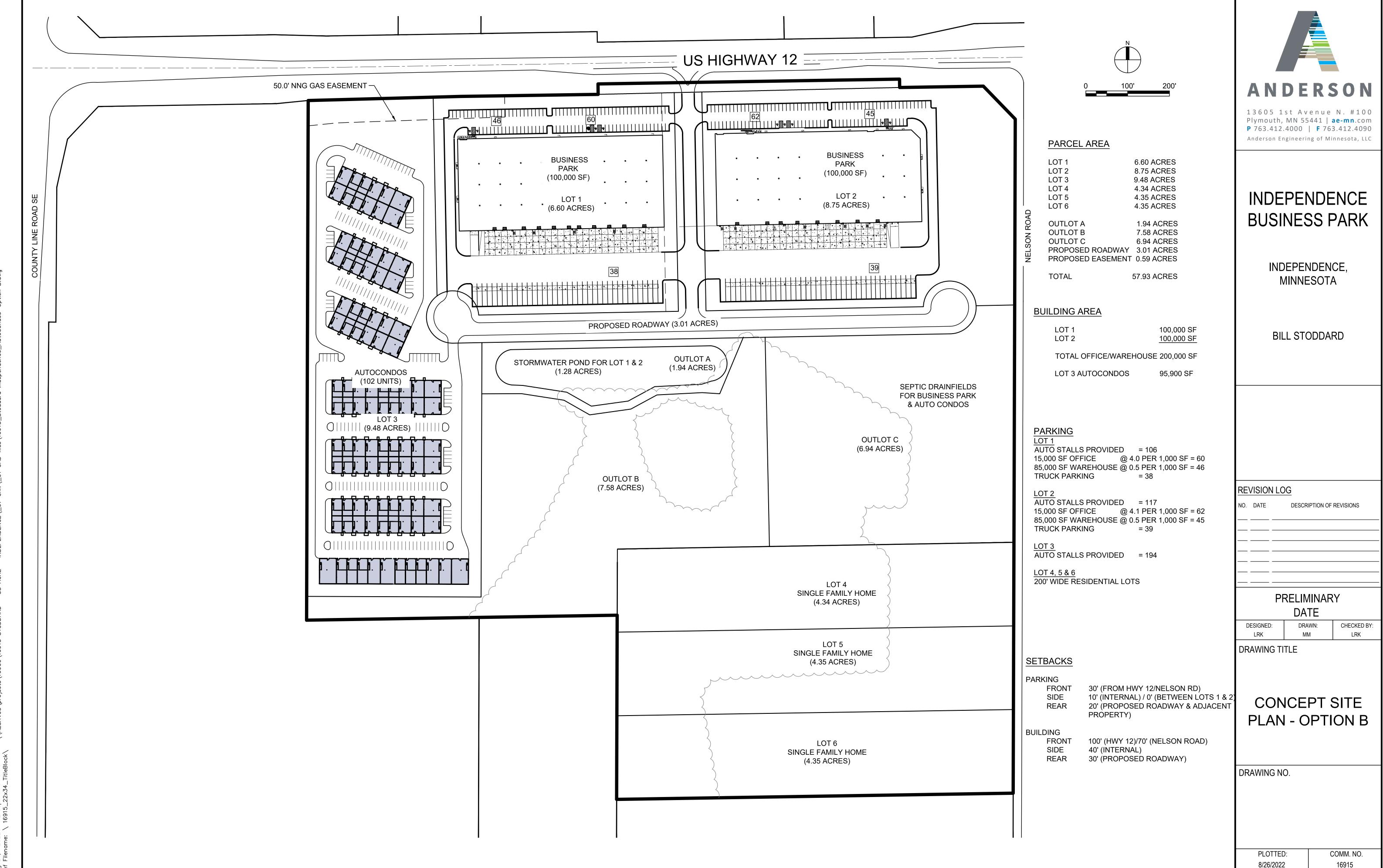
Neighbors of East Side of Proposed Project Site by

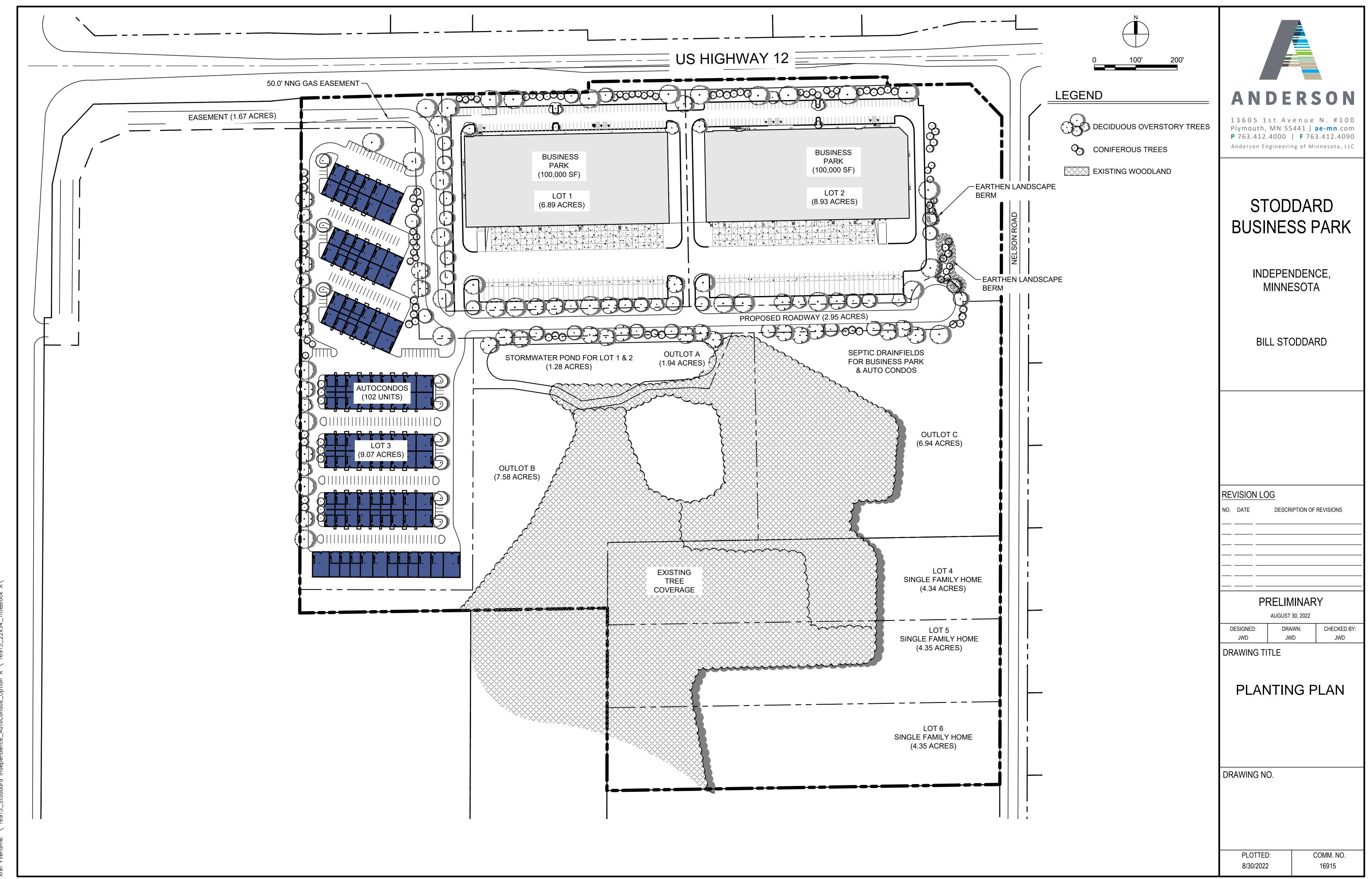
ESG Architects.

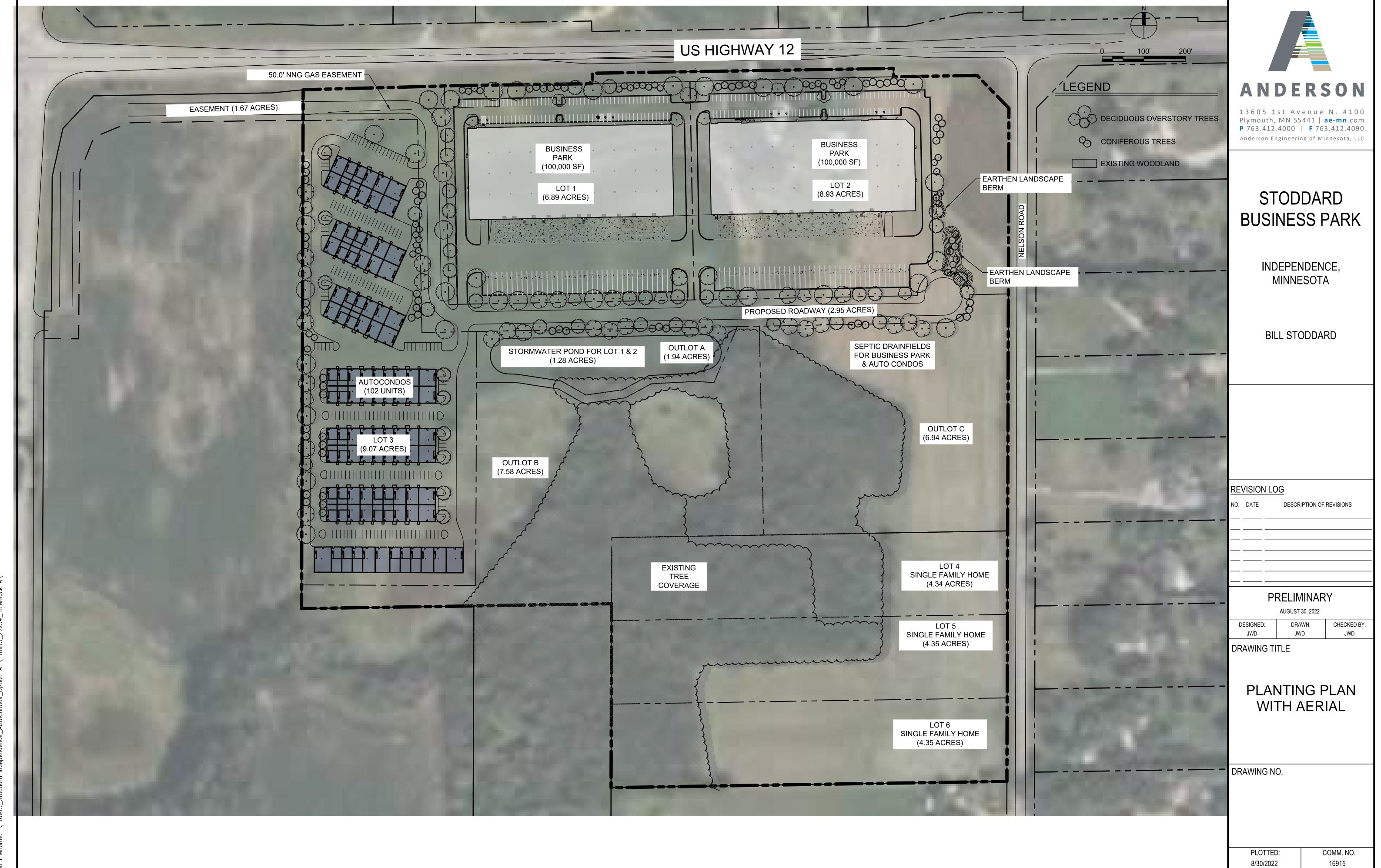
Attached Line Angle Diagram of the Two Camera Angles of the Site. Actual Diagrams Submitted via pdf and Full-Size Plans due to Memory Capacity.











Aug 30, 2022 — 2:25pm jdeitner Y:\16900\16915 STODDARD — 58 ACRE — INDEPENDENCE_06 LA_01 CAD files\16915_L—Base_A Xref Filename: \ 16915_Stoddard Independence_AutoCondos_Option A \ 16915_22x34_TitleBlock A\







PID: 0511823220005 Medina, MN





PID: 0511823220005 Medina, MN



Stoddard ESG

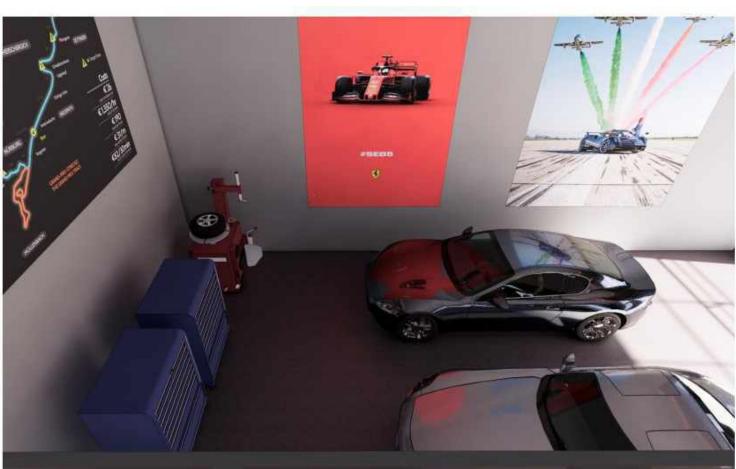
SEPT 2021 PID: 0511823220005 Medina, MN



Stoddard eSG

PID: 0511823220005 Medina, MN









SEPT 2021

Medina, MN



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City of Independence

BridgeVine Early Development Grading Agreement

To: | City Council

From: | Mark Kaltsas, City Administrator

Meeting Date: October 4, 2022

Discussion:

The City recently considered and granted approval for a preliminary plat to allow a 28-unit single-family subdivision subject to the completion of several additional conditions. While the applicant works to satisfy all applicable conditions, they are asking the City to consider allowing early development grading of the subject property. Early grading is a common request made by developers which would allow grading of the property at the developer's sole risk. The City is not obligated to approve the final plat and or make additional concessions as a result of permitting early grading of the property.

In order to ensure that the property could be restored to an acceptable permanent condition should the final plat not be approved for any reason, the City would enter into an early grading agreement and require security in the form of a letter of credit from the developer. The City's attorney has drafted an agreement for consideration by the City Council.

There are few additional considerations that should be noted by the City Council:

- Grading/site disturbance would not be permitted within any of the areas noted on the preliminary plat that are to be protected, specifically those areas along the lakeshore, Maple Drive and the ravine.
- The applicant would be required to obtain all necessary watershed and NPDES permits.
- The City would review the erosion control measures put into place by the developer prior to allowing grading to commence.
- No access to the site by any equipment and or hauling of any material would be permitted on South Lake Shore Dr.
- The letter of credit amount would be reviewed and approved by the City's engineer.

Council Direction:

The City Council is being asked to consider approval of the Early Development Grading Agreement as prepared by the City attorney.

Attachments: EARLY DEVELOPMENT GRADING AGREEMENT

AGREEMENT ALLOWING EARLY DEVELOPMENT GRADING

This AGREEMENT ALLOWING EARLY DEVELOPMENT GRADING ("Agreement") is made this 12th day of July, 2022 by and between the City of Independence, a municipal corporation under the laws of Minnesota ("City"), and BohLand BridgeVine, LLC ("Developer").

RECITALS

- A. The Developer is proposing to construct a 28-unit single-family residential housing subdivision development, called BridgeVine, including five (5) outlots ("Development"), located on three (3) properties (PID No's. 24-118-24-14-0005, 24-118-24-11-0009 and 24-118-24-11-0012) ("Subject Property) on Perkinsville Road and South Lake Shore Drive.
- B. The Preliminary Plat for the Development was approved by the City Council on September 6, 2022 per Resolution No. 22-0906-04 (Preliminary Plat).
- C. The Developer anticpates requesting approval of the Final Plat of the Development and Developer shall enter into one (1) or more agreements with the City governing the Development including, but not limited to, a Development Agreement with each phase of the Development, which will set-forth certain requirements and obligations relating to the installation of certain public improvements, including, but not limited to, grading, streets and utilities, landscaping, trails and sidewalks, and park dedication.
- D. Prior to entering any agreements governing the Development, the Developer has requested authorization to commence early grading ("Grading Work"), which shall include mass grading of the entire Development area.

In consideration of the mutual covenants and promises contained herein, the parties hereto agree and stipulate as follows:

AGREEMENT

- 1. **Permit.** Contemporaneous with the execution of this Agreement, Developer shall submit a grading permit application to the City of Independence for review and approval and pay the appropriate permit fees, and Developer shall provide a copy of its National Pollutant Discharge Elimination System (NPDES) permit and watershed district approval authorizing the proposed grading activities. All grading activities shall be subject to, and completed in conformance with, the grading permit, NPDES permit, and watershed district approval.
- 2. **Security**. The Developer shall deposit with the City security, in the form of a cash deposit or letter of credit, ensuring that the Developer completes grading, erosion control and other related early improvements according to the applicable permits and approved plans for the Development. The security amount shall be 150% of the Engineer's Estimate for the Grading Work as provided by the Developer and reviewed and approved by the City Engineer. If security is provided by Letter of Credit, said Letter shall conform to City policy and shall be reviewed and approved by the City Administrator and City Attorney.

3. **Effect and Entire Agreement**. This Agreement contains the entire understanding of the parties regarding the Grading Work, but does not impact, amend or replace any Development Agreement, or any other agreement which may be entered with respect to the Development. Nothing herein constitutes an approval, or a promise or assurance of any other approval, related to the Development, including specific approval of any Final Plat thereof. No modifications to this Agreement shall be in effect unless reduced to writing and signed by the all of the parties.

4. Miscellaneous.

- a. The Developer shall pay all costs incurred by it, or the City, in conjunction with the grading of the Property, including but not limited to legal, planning, engineering, and inspection expenses incurred in connection with approval and acceptance of the work, review of plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting the grading of the Subject Property.
- b. The Developer shall hold harmless the City and its officials, employees, and agents from claims made by themselves and third parties for damages sustained or costs incurred resulting from this grading approval. The Developer shall indemnify the City and its officials, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees.
- c. The Developer agrees to obtain and maintain until after completion of the work under this Agreement, public liability and property damage insurance coverage covering personal injury, including death, and claims for property damage which may arise out of the Developer's work or the work of its contractors or subcontractors. Liability limits shall not be less than \$1,500,000 for any number of claims arising out of a single occurrence. The City shall be named as an additional insured on the policy. The certificate of insurance shall provide that the City must be given the same advance written notice of the cancellation or nonrenewal of the insurance as is afforded to the Developer.
- d. The Developer shall reimburse the City for costs incurred in the enforcement of this Agreement, including reasonable engineering and attorneys' fees.
- e. The Developer shall pay in full all bills submitted by the City for obligations incurred under this Agreement within 30 days after receipt. Upon request, the City will provide copies of detailed invoices of the work performed.
- f. The Developer agrees to comply with all laws, ordinances, regulations, and directives of the State of Minnesota and the City applicable to the Subject Property. This Agreement shall be construed according to the laws of Minnesota.
- g. In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable by any court of competent jurisdiction, such holding shall pertain only to such section and shall not invalidate or render unenforceable any other provision of this Agreement.
- h. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original and shall constitute one and the same Agreement

IN WITNESS OF THE ABOVE, the duly authorized representatives of the parties have caused this Agreement to be executed in duplicate on the date and year written above.

BOHLAND BRIDGEVINE, LLC	CITY OF INDEPENDENCE
Ву	By
Steven R. Bohl	Marvin Johnson
Its: President	Its Mayor
	By
	Mark Kaltsas
	Its City Administrator

THIS INSTRUMENT WAS DRAFTED BY:

Kennedy & Graven, Chartered (RJV) 150 South Fifth Street, Suite 700 Minneapolis, MN 55402