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PLANNING COMMISSION MEETING AGENDA  
REGULAR MEETING  
TUESDAY, MAY 16, 2017

**6:30 PM Regular Meeting**

1. Call to Order
2. Roll Call
3. Approval of Minutes:
  - a. April 18, 2017 Planning Commission Meeting
4. **PUBLIC HEARING:** Dean Fowser (Applicant/Owner) requests that the City consider the following actions for the property located at 8875 Highway 12 (PID No. 18-118-24-11-0001) in Independence, MN:
  - a. An amendment to the conditional use permit to expand the commercial building located on the property.
5. Accessory Dwelling Unit Ordinance – Draft Amendment to Clarify Basements and Mechanical Rooms in Ordinance.
6. Open/Misc.
7. Adjourn.

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, APRIL 18, 2017 – 6:30 P.M.

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Chair Phillips at 6:30 p.m.

2. ROLL CALL

PRESENT: Chair Phillips, Commissioners Dumas, Gardner, Thompson and Palmquist  
STAFF: City Administrative Assistant Horner, City Administrator Kaltsas  
ABSENT: None  
VISITORS: Jason Sievers

3. Approval of minutes from the March 21, 2017 Planning Commission Meeting.

**Motion by Thompson, to approve the minutes of the March 21, 2017 Planning Commission Meeting, second by Gardner. Ayes: Phillips, Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

4. **PUBLIC HEARING:** Jason Sievers (Applicant/Owner) requests that the City consider the following actions for the property located at 1180 County Road 83 (PID No. 25-118-24-32-0001) in Independence, MN:

- a. A variance to allow a reduced side yard setback. The setback reductions would permit the construction of a home and garage addition attached to the existing home.

Proposed: 37 feet from the right of way (variance of 14 feet)

Kaltsas said the subject property is located at 1180 County Road 83. The property is on the east side of County Road 83 and south of the intersection of Timber Trail and County Road 83. There is an existing home and one small detached accessory structure on the subject property.

The applicant is seeking approval to construct an addition onto the existing home. The addition includes living space as well as a larger garage. The applicant is proposing to remove a portion of the existing house, which includes the existing garage. The applicant would then construct an addition onto the portion of the existing home to remain. The existing home is currently in compliance with all applicable setbacks for this property.

The applicant is asking the City to consider granting a variance from the side yard setback (north property line) to allow expansion of the existing home. The City requires a side yard setback of 30 feet for properties zoned RR-Rural Residential. The applicant is proposing to construct the home addition so that it is setback 17.6 feet from the side property line rather than 30 feet as required. The resulting variance to the side yard setback would be 12.4 feet.

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

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

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

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

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

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

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

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent with the Rural Residential District.
- b. There are several surrounding properties that do not appear to be in compliance with applicable principle structure setbacks.
- c. The character of the surrounding area is residential. The proposed expansion for a single-family home is in keeping with the City’s comprehensive plan.

There are several additional items that could be considered by the City:

- 1. The required detached accessory structure setback from the side yard is 15 feet. The applicant could locate a detached accessory structure on this property and meet applicable setbacks.
- 2. The property directly north of this property has several detached accessory buildings which do not meet applicable setbacks. The owner of the property directly north did

provide a note to the City stating that they found the requested variance to be acceptable.

3. Several properties directly west of the subject property appear to have reduced front yard setbacks.
4. The proposed home/garage addition is a two-story addition, which will be taller than the portion of the existing structure that is being removed.

Ultimately, the City will need to find that the criteria for granting a variance have been met by the applicant.

The City received a letter from the neighboring property owner located at 1212 County Road 83 supporting the requested variance. Staff is seeking a recommendation or direction from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a variance, the following findings and conditions should be considered.

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 Applicant shall pay for all costs associated with the City's review of the requested variance.
3. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts. No expansion of the home/ garage or impervious areas will be permitted without an additional variance request.

#### Public Hearing Open

Thompson asked Sievers if there was a viable option to use the existing setbacks with the demolition process that goes back to the blue area. Sievers said the foundation sits low and is currently 19' from the northern neighbors. He said it used to be detached. Thompson asked what the architectural consideration is that this new structure would need to go so far past the setback. Sievers said it was going to be a three-car garage.

#### **Motion by Gardner to close the Public Hearing, second by Palmquist.**

#### Public Hearing Closed

Palmquist asked Kaltsas to explain the standards for granting a variance (subdivision 2). Kaltsas said the City can determine if the plight of the property owner is due to circumstances is unique to the property and not created by the landowner. He said the applicant needs to demonstrate practical difficulties. Palmquist said he was not sure the "plight" was unique in this application. Gardner made a motion to approve but there was no second.

Thompson said his concern is there is no plight issue and he would deny. He said there is not a compelling argument at this point to approve. Palmquist stated he was ok with conditions (a) and (c) but does not feel it meets condition (b).

Dumas said why we have an ordinance if we keep adding variances to it. Dumas asked why there were two different standards; 15' for ancillary structure and 30' for a principle structure. Kaltsas said that has been in place before his time here. Kaltsas said this application/ structure could probably be drawn up differently.

Palmquist asked if Kaltsas would expand on the properties that have reduced setbacks that are west of this property. Kaltsas said those properties had been grandfathered in.

**Motion by Thompson, to deny the application for a variance to allow a reduced side yard setback. The setback reductions would permit the construction of a home and garage addition attached to the existing home and asks the applicant to reconfigure to meet required setbacks, second by Palmquist. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: None. Abstain: Phillips. Motion approved.**

**5. PUBLIC HEARING – (TO BE CONTINUED TO MAY 16, 2017):** Dean Fowser

(Applicant/Owner) requests that the City consider the following actions for the property located at 8875 Highway 12 (PID No. 18-118-24-11-0001) in Independence, MN:

- a. An amendment to the conditional use permit to expand the commercial building located on the property.

**6. Community Survey Follow-Up**

Kaltsas asked if there was any feedback from the Planning Commissioners about the upcoming community survey that will go out to residents regarding the 2040 Comp Plan. He asked if they had any input on what should be addressed and questions that should be asked. Gardner noted urban development could be better defined. Palmquist asked if it should look at population density more than expansion. Phillips thought item (3) could be better defined to specifically address the rural character, whether it was dog parks or trails, etc. Dumas said it should include a map and Kaltsas said he was developing that. Kaltsas said he wants to know who is responding and where they live. Palmquist asked if there would be some type of control to make sure those submitting are not submitting more than once. Kaltsas said that really is not necessary with the size of the City. Palmquist said it would be important to make it easy to do and return.

**7. Open/ Misc.**

**8. Adjourn**

**Motion by Thompson, second by Gardner to adjourn at 7:15 p.m. Ayes: Phillips, Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

Respectfully Submitted,

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Trish Bemmels  
Recording Secretary

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, APRIL 25, 2017 –7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: None

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas, City Attorney Vose

VISITORS: Lynda Franklin

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 minutes from the April 11, 2017 Joint City Council Meeting.
- b. Approval of minutes from the April 11, 2017 Board of Appeal and Equalization Meeting.
- c. Approval of minutes from the April 11, 2017 Regular City Council Meeting.
- d. Approval of Accounts Payable; Checks Numbered 17073-17102.

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Planning Commission Meeting
- Board of Review and Appeal Meeting

**Grotting attended the following meetings:**

- Planning Commission Meeting
- Board of Review and Appeal Meeting

**McCoy attended the following meetings:**

- Board of Review and Appeal Meeting

- Retired Police Chiefs Event in St. Cloud
- Wright/ Hennepin Pork Chop Dinner in Rockford
- Community Easter Egg Hunt in Maple Plain

**Betts attended the following meetings:**

- Board of Review and Appeal Meeting

**Johnson attended the following meetings:**

- Northwest League of Municipalities Meeting
- Community Action Partnership Meeting
- Wright/ Hennepin Pork Chop Dinner Event in Rockford
- Highway 55 Corridor Meeting
- Alumni Association Meeting at U of M
- Judge at State FFA Convention
- Senior Community Services Finance Committee Meeting
- Orono School Board Meeting
- Board of Review and Appeal Meeting

**Horner attended the following meetings:**

- Board of Review and Appeal Meeting
- Planning Commission Meeting

**Kaltsas attended the following meetings:**

**7. PRELIMINARY ORDINANCE DISCUSSION:**

- a. Massage Parlor Ordinance – Discussion relating to possible update to the City’s massage parlor ordinance based on recommendation of West Hennepin Public Safety.

Kaltsas said West Hennepin Public Safety has worked with the City of Maple Plain to adopt an ordinance regulating the licensing of massage services parlors. The ordinance was developed following difficulties the City and West Hennepin had with non-legitimate massage parlors. West Hennepin would like the City to consider adopting a similar ordinance for the purpose of regulating the licensing of massage services parlors in Independence.

He said the basis of the ordinance is to regulate the licensing of individuals and business providing massage services in the City. The City has reviewed the ordinance adopted by the City of Maple Plain and believes that it could adopt similar language in order to regulate licensing of legitimate businesses and individuals. WHPS has reviewed the ordinance and believes that adoption of the ordinance would better protect the City and its residents. Staff is seeking discussion and direction from the City Council relating to the possibility of adopting an ordinance similar to that adopted in Maple Plain. Based on the discussion and direction provided by the City Council, staff would bring back an official ordinance for consideration and adoption.

Grotting asked what the issue was with the massage parlor that was operating in Maple Plain and if it was a prostitution issue. Kaltsas said allegedly they were providing more than massages. Grotting asked if there was a law in place against prostitution already. Kaltsas said the issue is enforcement. He said an ordinance would ensure that these types of businesses would not be able to operate within the City of Independence.

Vose said it would be efficient for WHPS to have like ordinances on the books between Maple Plain and Independence. He stated that massage therapists are currently not licensed through the state.

- b. Predatory Offender Ordinance – Discussion relating to possible adoption of a predatory offender dwelling location restriction ordinance.

Kaltsas said many metropolitan area cities have recently contemplated adopting certain residency location restrictions for predatory offenders. Cities that have adopted local legislation have typically found that such residency location restrictions would be prudent to protect the local health, safety and welfare of their residents. Cities have adopted a relatively standard and consistent model ordinance language as an amendment to local zoning codes.

Most ordinances restrict Level II and III offenders.

- The model ordinance defines “protected areas” such as schools, playgrounds, parks, and other places children are known to regularly congregate. Level II and III predatory offenders would be prohibited from living a certain distance from those protected areas (e.g. 750 feet measured lot line to lot line).
- Ordinances exempt residences which were established by Level II and III offenders prior to adoption of the ordinance.
- Typically, an offender is also allowed to move into a residence with certain relatives (e.g. parents, siblings, spouses, children etc.) regardless of the proximity to a protected location. The City of Independence Attorney has prepared a draft ordinance based on the model language used by other similar communities. While these residency restriction ordinances can be further customized by cities, there are two factors that are typically needing to pertain to the specific city. Independence will need to consider the type of protected area (i.e. parks, daycare facilities, schools, etc.) and the restricted distance that offenders will be prohibited from living from protected areas.

#### *Types of Protected Areas:*

The types of protected areas are typically those areas where children commonly congregate. Most cities identify schools, public parks and licensed daycare facilities. Some cities have found other similarly used areas as needing to be defined in the ordinance. Staff did not identify any similar use areas that appear to need further definition in the ordinance.

#### *Restricted Distance:*

The City can determine the distance from restricted areas that residency of predatory offenders would be restricted. The distances established by the City cannot purposefully restrict the entire City. The general standard adopted by most Cities is 2,000. The 2,000 feet is measured from the outer edge of the restricted properties to the property line of the residential properties. If any portion of a residential property falls within the distance, the entire property becomes prohibited. Based on the discussion and direction provided by the City Council, staff would bring back an official ordinance for consideration and adoption.

**\*\*to view the draft copy see the city council packet\*\***

Johnson asked if they were bound by state law on where they could live. Vose said no, that once they are out they are not supposed to be told where not to live. Predators are the highest rate of repeat offenders.

**Motion by Betts, second by McCoy to direct staff to work on crafting the Massage Parlor Ordinance and the Predatory Offender Ordinance for further review. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

8. COMMUNITY SURVEY – DISCUSS DRAFT SURVEY.

Kaltsas said based on the information developed and provided during the initial kick-off meeting for the 2040 Comprehensive Plan, staff has prepared a draft community survey. The community survey was developed in an effort to solicit feedback and comments from constituents relating to land use, planning, parks, economic development and transportation. Questions were formulated to seek feedback that will be used to help direct the development of the 2040 comprehensive plan.

The survey incorporates a variety of question formats as discussed during the joint meeting. The number of questions was strategically limited to a reasonable number. It was intended that this survey would have limited redundancy and/or open ended questions. The questions seek to provide the City with tangible feedback relating to key planning and growth issues. Several topics are presented in multiple-questions, but with different context (i.e. do you think the City should pursue a type of development; and then, do you think the City should utilize public funding to support the development).

The draft survey was prepared in a single-page mail-able format but is also anticipated to be available on the City's website as an online survey. Staff would anticipate that the City will mail a copy of the survey to every resident and have a pre-paid return reply. In addition, the City will have the survey available on the website.

Kaltsas noted residents would be able to respond via mail or electronically through the website. One survey would be sent to each household but residents would also be able to go online if more than one person in the household wanted to fill out their own survey. Johnson said he was concerned people would fill out more than one and skew the results.

Spencer thought there should be a question regarding affordable housing and water quality.

McCoy said the question about commuting to work should also have a N/A answer or retired option.

Kaltsas said content can be difficult as tainting the questions should be avoided. He noted the questions can be tweaked and a final draft can be approved. He said residents would have 3-4 weeks to respond.

9. ADJOURN.

**Motion by McCoy, second by Grotting to adjourn at 8:30 p.m. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully Submitted,

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Trish Bemmels/ Recording Secretary

## City of Independence

### ***Request for an Amendment to the Conditional Use Permit Allowing a Kennel on the Property located at 8875 Highway 12***

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|                      |                            |
|----------------------|----------------------------|
| <i>To:</i>           | City Council               |
| <i>From:</i>         | Mark Kaltsas, City Planner |
| <i>Meeting Date:</i> | May 16, 2017               |
| <i>Applicant:</i>    | Dean Fowser                |
| <i>Owner:</i>        | Dean Fowser                |
| <i>Location:</i>     | 8875 Highway 12            |

#### ***Request:***

Dean Fowser (Applicant/Owner) requests that the City consider the following actions for the property located at 8875 Highway 12 (PID No. 18-118-24-11-0001) in Independence, MN:

- a. An amendment to the conditional use permit to reconstruct and expand the commercial building located on the property.

#### ***Property/Site Information:***

The property is located on the south side of Highway 12 and just west of Copeland Road. The property has an existing residence and three detached accessory buildings. The property has a significant wetland on the west and south sides. The property has the following characteristics:

Property Information: **8875 Highway 12**

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: 5.32 acres



**Discussion:**

The subject property was granted a conditional use permit to allow a dog kennel in 1977. In 1993, the City amended the conditional use permit to allow an outside dog run in association with the conditional use permit. The conditional use permit has the following key conditions (see attached City copy of minutes for CUP):

1. Metal pole building can be up to 36' x 82.5'. Expansion of the building can occur without further City Council review.
2. 55-60 dogs.
3. Boarding and impounding of dogs from 8:00am – 7:00pm 7 days a week.
4. An outdoor fenced exercise area up to 2,400 square feet is permitted.

A kennel is defined as follows:

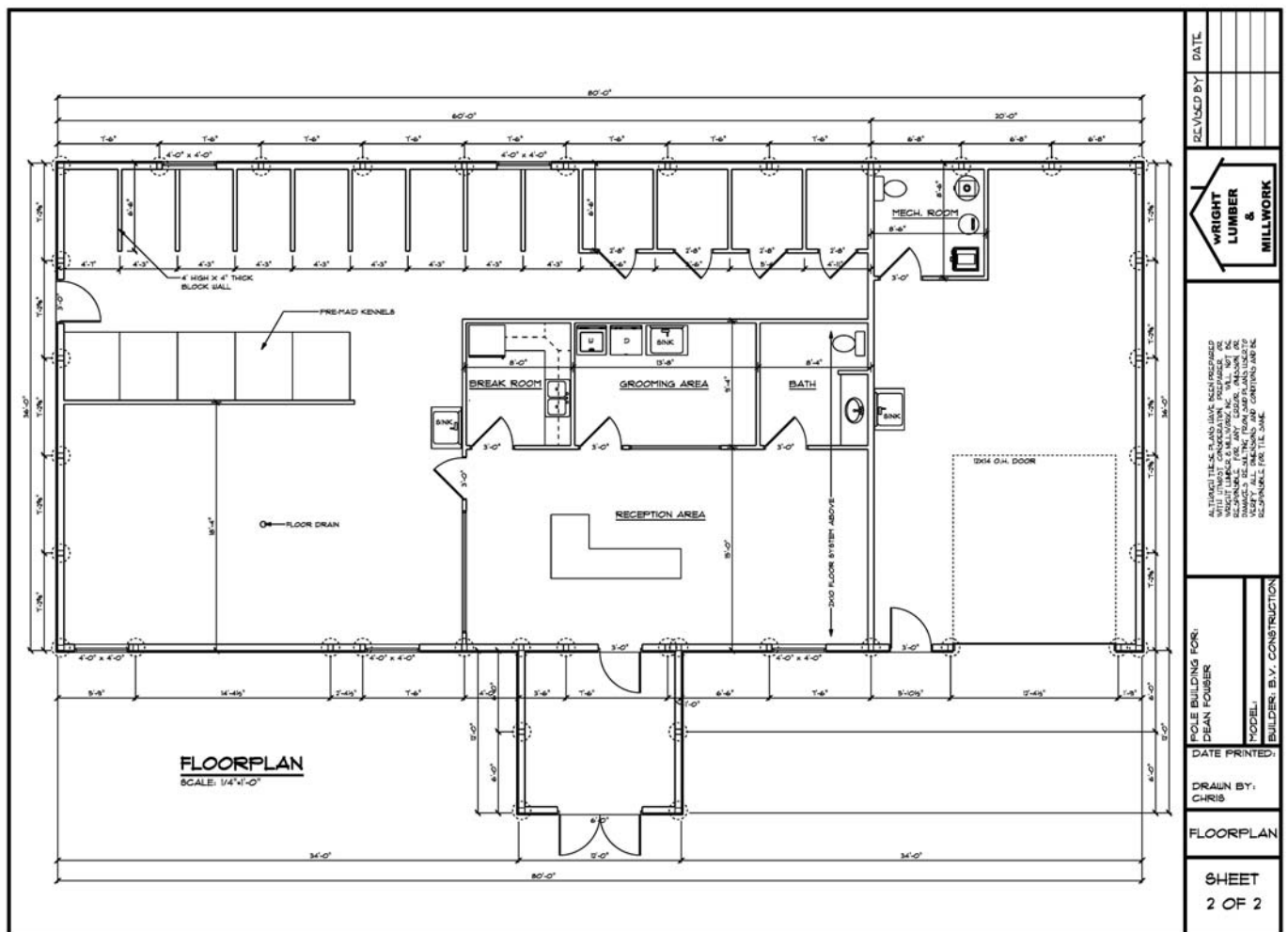
"Kennel." Any structure or premises on which four or more dogs over six months of age are kept.

The City was contacted by the owner (Dean Fowser) last year to discuss the possibility of expanding the existing building. Dean currently leases the building to Abby Lake Kennel. The kennel would like to improve the existing facility in order to stay competitive and potentially attract new clients. The existing kennel currently houses approximately 15-20 dogs at any given time. Abby Lakes has noted that they are

not expecting to increase the number of dogs kept on the premise, but rather improve the facilities for their current clients.

The original conditional use permit allows for 55-60 dogs to be kept on the premise and an expansion of the building up to 36' x 80'. When discussing the expansion of the building with the owner, he noted that he would like to turn the building 90 degrees and construct a new building rather than trying to expand the existing building. The City informed him that this would require an amendment to the conditional use permit. Turning the building appears to fit better on the property and would avoid potential conflicts with the adjacent wetlands.

The proposed building would be 36' x 80' in size with a small 12' x 12' vestibule. The proposed building would be a one-story metal pole building similar in design to the existing building. The building would have the interior kennel space, a grooming area, reception area and then a separate storage garage.



The kennel is accessed off of Highway 12 via a gravel driveway. It is proposed that the kennel will continue to utilize the existing Highway 12 access. The applicant will need to modify the existing driveway and parking area to accommodate the new building. Based on the setback from the Highway 12 (north) property line, there is adequate space to modify the parking area. The City will require one (1) handicap accessible parking space to be signed and delineated in the parking lot.

The outdoor fenced kennel area will remain following the construction of the new building. The area will be connected along the rear of the building and cannot exceed 2,400 square feet.

The applicant just recently updated the on-site septic system. The newly installed system will accommodate the proposed new building with no further modifications necessary.

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

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

The proposed facility has been in existence since 1977. The City does not have a history of complaints or concerns relating to the use of the property as a kennel. The natural features of the property and its geographic relationship to the surrounding properties and Highway 12 minimize potential impacts to the adjacent properties. As the proposed Conditional Use Permit relates to the criteria for granting a CUP, the following items should be noted:

- The conditional use permit granted in 1977 allows for the expansion of the building up to 36' x 80' without further City approval. The applicant is proposing to reconstruct the entire building

rather than add on to the existing. The total square footage proposed is consistent with the already approved expansion. The front vestibule would be in addition to the square footage allowed under the 1977 CUP. Turning the building allows the building to “fit” on the site better than if expanded to the south.

- The number of dogs kept in the kennel is not anticipated to increase. The kennel operates well under the 55-60 dogs permitted by the conditional use permit.
- Hours of operation will remain the same as previously approved.
- The applicant will need to modify the parking area and driveway. The applicant will need to submit the driveway plan with the building permit application. The City will require one (1) handicap accessible parking space.
- The City can prescribe any additional conditions that are deemed necessary in order to ensure that the conditional use permit does not impact surrounding properties and complies with all applicable criteria.

Staff is seeking discussion and direction from the City relating to the request for a conditional use permit amendment.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed amendment to the conditional use permit.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the request for an amendment to the Conditional Use Permit with the following findings and conditions:

1. The proposed Conditional Use Permit amendment request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. All conditions of the 1977 approved conditional use permit and 1993 amended conditional use permit shall remain in full force.
3. The Conditional Use Permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
4. The proposed breeding facility is permitted as shown on the approved site plan. Any expansions, additions or other changes to the proposed site plan will require an amendment to the Conditional Use Permit.
5. The applicant shall obtain a building permit from the City to allow the construction of the new building.
6. The applicant shall provide the City with a updated site plan indicating the location of the driveway and parking areas. The plan shall identify the location of a handicap accessible parking space. The

applicant shall be required to install the requisite space at the time the building is constructed.

7. The applicant shall be responsible to pay all fees associated with the consideration and review of the conditional use permit amendment.

***Attachments:***

1. Property Pictures
2. Application
3. Site Survey
4. Building Floor Plan

## Attachment #1

8875 Highway 12 (Looking south)



8875 Highway 12 (Looking west)



**City of Independence**

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

- ☐ Appeal
- ☐ Comprehensive Plan Amendment
- ☐ Concept Plan
- ☒ Conditional Use Permit
  - ☒ Residential
  - ☐ Commercial/Light Industrial
  - ☐ Telecommunications
  - ☐ Agriculture
  - ☐ Home Occupation
  - ☐ Non-Conforming Use
  - ☐ Guest/Bunk House
  - ☐ Institutional
  - ☐ CUP Amendment

- ☐ Extension Request
- ☐ Final Plat
- ☐ Interim Use Permit
- ☐ Lot Consolidation
- ☐ Minor Subdivision (Survey)
  - ☐ Lot Subdivision
  - ☐ Lot Combination
  - ☐ Lot Line Rearrangement
- ☐ Moving Buildings
- ☐ Preliminary Plat
- ☐ Rezoning
- ☐ Site Plan Review (Commercial)
- ☐ Vacation
- ☐ Variance
  - ☐ Subdivision Regulations
  - ☐ Zoning
  - ☐ Road Frontage
- ☐ Zoning Text Amendment

*\*Please check all that apply*

**Request:** Remodel existing building  
and add on, making the  
entire structure 80 x 40  
current structure 30x30

**Site Address or Property Identification Number(s):**

8 Dan Fouser 8875 Hwy 12  
Delano MN 55325

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

**Office Use Only**

|                          |                     |
|--------------------------|---------------------|
| <u>1,250</u>             | <u>5618</u>         |
| Application Amount       | Application Check # |
| <u>750</u>               | <u>5618</u>         |
| Escrow Paid              | Escrow Check #      |
| <u>Deposit</u>           | <u>Deposit</u>      |
| Date Accepted by Planner | Accepted By         |
| City Planner             |                     |

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

**Applicant Information:**

Name: Dean Fowser  
Address: 8875 Hwy 11  
City, State, Zip: Delano MN 55328  
Phone: 612 418 8567  
Email: Dean Fowser@hotmail.com  
Signature: [Signature]

**Owner Information (if different than applicant)**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Signature: \_\_\_\_\_

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

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

***Application for Planning Consideration Fee Statement***

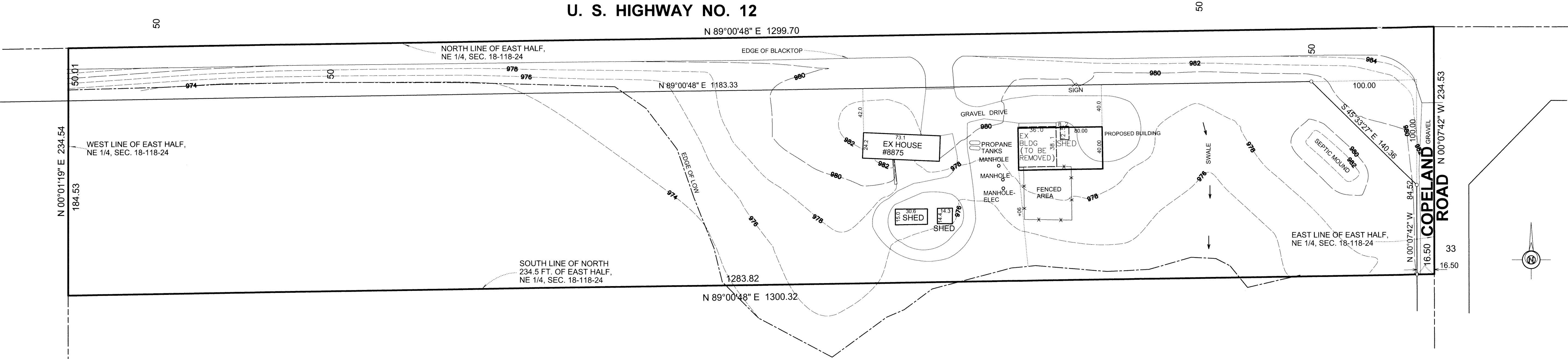
The City of Independence has set forth a fee schedule for the year 2014 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are shown at the bottom of this form. By signing this form, the applicant recognizes that he/she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

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

Applicant Signature: [Signature]  
Date: 1/10/17

Owner Signature (if different): \_\_\_\_\_  
Date: \_\_\_\_\_

BOUNDARY AND TOPOGRAPHIC SURVEY FOR  
**DEAN FOWSER**  
IN THE NE 1/4 OF SECTION 18-118-24  
HENNEPIN COUNTY, MINNESOTA

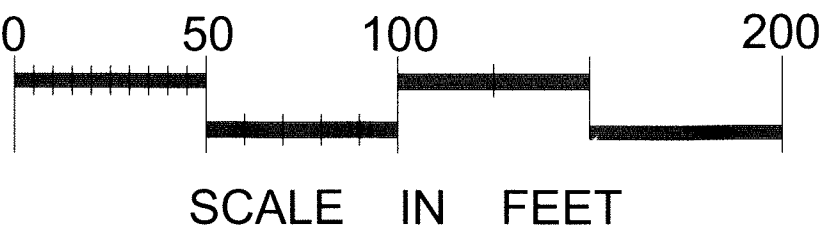


LEGAL DESCRIPTION OF PREMISES SURVEYED:

The North 234.5 feet of the East Half of the Northeast Quarter of Section 18, Township 118 North, Range 24 West of the 5th Principal Meridian.

This survey shows the boundaries and topography of the above described property, and the location of all buildings, if any, thereon, the location of an existing gravel drive, and the proposed location of a proposed building. It does not purport to show any other improvements or encroachments.

- : Iron marker set  
-982- : Existing contour line



| REVISIONS |    | DESIGNED | DRAWN | CHECKED | DATE | MINN. LICENSE NUMBER |
|-----------|----|----------|-------|---------|------|----------------------|
| DATE      | BY |          |       |         |      |                      |
|           |    |          |       |         |      |                      |
|           |    |          |       |         |      |                      |
|           |    |          |       |         |      |                      |
|           |    |          |       |         |      |                      |

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

*Mark J. Gronberg*  
DATE: 3-15-17 MINN. LICENSE NUMBER: 22755

**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

DATE: 3-15-17  
SCALE: 1"=50'  
JOB NO: 17-091  
SHEET: 1 OF 1



## City of Independence

### **A Proposed Text Amendment to Chapter V of the City of Independence Ordinance – Section 510.05, Definitions - Accessory Dwelling Units**

|                      |                            |
|----------------------|----------------------------|
| <i>To:</i>           | Planning Commission        |
| <i>From:</i>         | Mark Kaltsas, City Planner |
| <i>Meeting Date:</i> | May 16, 2017               |

#### ***Discussion:***

In January of this year the Planning Commission discussed and prioritized potential ordinance amendments. The first priority identified was to 'clean up' the accessory dwelling unit ordinance. The City has had several questions pertaining to the application of the ordinance over the last several years. The ordinance prescribes a total area permitted for accessory dwelling units. The question is whether or not mechanical rooms and or unfinished basements are calculated into the total square footage permitted.

In practice the City has determined that the total square footage permitted for an accessory dwelling unit should not include the mechanical room or unfinished basement. In order to clarify this practice moving forward, the City is proposing an amendment to the ordinance. The amendment would clearly provide for mechanical rooms and unfinished basements to not be counted towards the total square footage of an accessory dwelling unit.

Staff has prepared a draft ordinance amendment (attached) for Planning Commission discussion and consideration. Based on direction from the Planning Commission, a public hearing will be held to formally consider the amendment.

***Attachments: Draft Ordinance Amendment***

CITY OF INDEPENDENCE  
COUNTY OF HENNEPIN

STATE OF MINNESOTA

ORDINANCE NO. \_\_\_\_\_

AMENDING SECTION 510.05 OF THE INDEPENDENCE CITY CODE RELATING TO  
DEFINITIONS AND SECTION 530.01 AND 530.05 RELATING TO CONDITIONAL USES

THE CITY OF INDEPENDENCE DOES ORDAIN:

Section 1. Section 510.05 of the Independence City Code is hereby amended as follows:

520.21 Definitions. Subdivision 1. The following words and terms, and their derivations have the meanings given in this zoning code.

*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<sup>a</sup> accessory building that has a principal structure on the parcel; and*
- (b) Subordinate in size to the single family dwelling unit; and*
- (c) Fully separated from the single family dwelling unit by means of a wall or floor, with or without a door; and*
- (d) Architecturally compatible with the principal structure (using similar materials, finishes, style and colors similar to the principal structure); and*
- (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. **The total square footage shall not include a designated mechanical room or unfinished basement area below the accessory dwelling unit;** and*
- (f) Not in excess of the maximum square footage for accessory structures as permitted in this code; and*
- (g) Has permanent provisions for cooking, living and sanitation; and*
- (h) Has no more than 2 bedrooms; and*

- (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*
- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*
- (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*
- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

<sup>a</sup> 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.

<sup>b</sup> 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.

Sec. 2. This ordinance shall take effect upon the day of publication.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Marvin D. Johnson, Mayor

ATTEST:

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Mark Kaltsas, City Administrator