



Please note that, pursuant to the authority provided by Minn. Stat. Sec. 13D.021, subd. 1(1), the City has determined that in-person meetings of the City Council are not practical or prudent due to the COVID-19 public health pandemic and the declared national, state, and local emergencies. Meetings of the Council will be conducted by electronic or telephonic means. Under Minn. Stat. Sec. 13D.021, subd. 3, to the extent practical and possible, the City Council will allow individuals to monitor the meeting electronically. Access to the meeting can be obtained online by following the link provided below or by contacting the City Hall for instructions and methods for obtaining access to the meeting.

Meeting Access Information: <https://www.ci.independence.mn.us/meetings>

PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY MAY 18, 2021

7:30 PM Regular Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes:
 - a. April 20, 2021 Planning Commission Meeting
 - b. May 4, 2021 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Brent Foster (Applicant/Owner) is requesting the following actions for the property located at 4755 Lake Sarah Heights Cir. (PID No. 02-118-24-12-0007) in the City of Independence, MN:
 - a. A variance to allow a reduced side yard setback for a detached accessory structure on the property located at 4755 Lake Sarah Heights Cir.
5. **PUBLIC HEARING:** Nate Bjerga (Applicant/Owner) is requesting the following action for the property located at 4991 Perkinsville Rd. (PID No. 24-118-24-41-0010) in the City of Independence, MN:
 - a. A variance to allow a reduced side yard setback to expand the legal non-conforming house on the subject property.
6. **PUBLIC HEARING:** Elmer Scheffers (Applicant/Owner) is requesting the following actions for the property located at 3590 Independence Road (PID No. 12-118-24-32-0003) in the City of Independence, MN:

- a. Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan.
 - b. Preliminary Plat for a 3-lot subdivision of the subject property.
 - c. Final Plat for a 3-lot subdivision of the subject property.
- 7. Open/Misc.
- 8. Adjourn.

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
APRIL 20, 2020 – 7:30 P.M.
(Virtual Meeting)

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Gardner at 7:36 p.m.

2. ROLL CALL (all virtual)

PRESENT: Commissioners Garner, Dumas, Thompson and Palmquist

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

ABSENT: Commissioner Volkenant

VISITORS: Jeff Kazin, Tom Anderson, Mike Schrader, Jim Wehman, Donovan Des Marais, Jerry Wise

3. Approval of Minutes:

- a. March 16, 2021 Planning Commission Meeting
- b. April 6, 2021 City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the March 16, 2021 Planning Commission minutes, second by Palmquist. Ayes: Gardner, Dumas, Thompson and Palmquist. Nays: None. Absent: None Abstain: Volkenant. Motion Approved.

4. **PUBLIC HEARING:** Jeff Kazin (Applicant/Owner) is requesting the following action for the property located 7475 County Road 11 (PID No. 0911824120001) in the City of Independence, MN:

- a. A conditional use permit to allow the construction of a new detached accessory structure that exceeds 5,000 SF on the property.

Kaltsas said the applicant approached the City with plans to add a second detached accessory structure on the subject property. It was noted that the proposed 7,500 square foot detached accessory structure would exceed the maximum square footage permitted of 5,000 without a conditional use permit. The applicant would like the City to consider granting a conditional use permit to allow the proposed 7,500 SF accessory building to be added to the property.

In reviewing the request, the City determined that there was a possible wetland located in the general vicinity of the proposed building (see image below). The applicant worked through the wetland delineation process and last week it was determined that no wetlands existed in the vicinity of the proposed shed and or as shown on the national wetland inventory. All accessory structures greater than 5,000 square feet require a conditional use permit

530.01 Agricultural District established.

Subd. 3. Accessory uses.

(d) Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:

3. The maximum square footage of any individual accessory building or structure shall be 5,000 square feet.

The proposed detached accessory building is 7,500 square feet in size (60' x 125'). There is an existing ~5,500 square foot detached accessory structure already on the property. For properties greater than 10 acres, there are no maximum total allowable detached accessory structure square footage limitations. The proposed building would be used for the personal and private storage of agriculture equipment associated with the applicant's farm. There would be no commercial use of the accessory structure permitted. The proposed detached accessory structure would be constructed using materials and colors identical to the existing accessory structure. The building would be oriented so that the doors are facing to the west with no openings on the north, south and east sides. The applicant has provided the City with a site survey, floor plan and building elevations of the proposed building. It should be noted that there are no doors shown on the "open" side of the building, but the applicant intends to fully enclose the building in the future with overhead doors.

The proposed site and buildings have the following characteristics:

Site Area: 63.08 Acres

Required Setbacks:

Front Yard: 85 feet from centerline

Side Yard: 30 feet principal structure

15 feet accessory structure

Rear Yard: 40 feet

Proposed Setbacks:

Front Yard: N/A (500+ feet from CL of CSAH 11)

Side Yard: 15 feet (east side property line)

Rear Yard: N/A (500+ feet from rear property line)

The proposed detached accessory structure would meet all applicable building setbacks. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

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

The City has visited the site and discussed the proposed detached accessory structure with the applicant. The conditional use permit would allow an accessory structure larger than 5,000 SF. The City is being asked to determine whether or not the proposed accessory structure larger than 5,000 SF would meet the criteria for granting a conditional use permit.

Additional Notes/Considerations:

The applicant is proposing to construct a detached accessory structure to provide additional storage for use with their farm. The applicants live on the subject property. The applicant has not submitted any information pertaining to building lighting. All building lighting will need to comply with the City's lighting standards. The City typically reviews building lighting during the building permit review process. No additional building screening is proposed given the proximity of all structures on adjacent properties combined with the existing vegetation and general screening provided by the placement of the building. The applicant has prepared a site plan and building plans for the proposed site improvements. The City will want the applicant to submit a grading and drainage plan with the building permit to ensure runoff from the building is adequately routed and or mitigated prior to exiting the property.

The following conditions should be considered:

1. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
2. The applicant shall provide a proposed grading and drainage plan for review by the City.
3. The applicant shall provide the City with information and details pertaining to any and all building and site lighting. All lighting will be required to comply with the City's applicable lighting standards.
4. No commercial use of the proposed detached accessory structure shall be permitted.
5. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit with the following findings and conditions:

1. The proposed conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. The applicant shall provide a proposed grading and drainage plan for review by the City.
4. The applicant shall provide the City with information and details pertaining to any and all building and site lighting. All lighting will be required to comply with the City's applicable lighting standards.
5. No commercial use of the proposed detached accessory structure shall be permitted.
6. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.
7. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Thompson asked if the CUP should encompass the other building as well as the considered building. Kaltsas said it could be made retro-active, but that other building would not be permitted to be expanded. Thompson said the CUP provides operation as a standard. Gardner said what happens if he decides to stop farming. Kaltsas said the CUP runs with the land so the private use of the building is still permitted.

Gardner opened the Public Hearing.

Public Hearing Open

Kazin asked if there were any questions. Gardner said it was pretty obvious in his mind. Kazin said he is going to continue to farm.

Thompson motioned to close the Public Hearing, second by Dumas.

Public Hearing Closed

Motion by Palmquist, second by Dumas to approve a conditional use permit to allow the construction of a new detached accessory structure that exceeds 5,000 SF for the property located 7475 County Road 11 (PID No. 0911824120001) in the City of Independence, MN: Ayes: Thompson, Dumas, Palmquist, Volkenant and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.

5. **PUBLIC HEARING:** Thomas Anderson (Applicant/Owner) is requesting the following action for the property located at 2076 Copeland Road (PID No. 20-118-24-23-0002) in the City of Independence, MN:

- a. A rural view lot subdivision that would create a new buildable lot.

The applicant approached the City several months ago about the possibility of purchasing the property and creating a rural view lot in accordance with applicable standards. The applicant is proposing to create one (1) rural view lot in accordance with the provisions set forth in the City's Zoning Ordinance. The subject property has a total acreage of 48.85 acres. The provisions in the Agriculture Zoning District allow one (1) rural view lot for every 40 acres of land under the same ownership. Under the current zoning standards, the subject property has the ability to realize one (1) rural view lot for a total of two (2) lots on this property.

Rural view lots must have the following characteristics:

Lot size required: between 2.5 and 10 acres

Lot size proposed: Parcel B – 6.62 acres

Minimum lot frontage required: 300 LF (for property between 5-10 acres)

Minimum lot frontage proposed: Parcel B – 524 LF **Ratio of lot frontage to lot depth required** - no more than 1:4

Ratio of lot frontage to lot depth proposed – Parcel A - ~1:1.5 (524:780)

In addition to the minimum size necessary to subdivide, the ordinance requires a minimum of 2.5 acres of buildable upland, 300 LF of frontage on a right of way and no greater than a 1:4 ratio of lot frontage to lot depth for each rural view lot. Based on the proposed subdivision, the rural view lot would have approximately 4.1 acres of useable upland and 524 LF of frontage on Copeland Road.

The proposed subdivision would produce a 6.62-acre rural view lot. The existing home and detached accessory structure would remain on the property being created as a rural view lot. The existing home meets all applicable setbacks in the after condition. The existing detached accessory structure appears to meet the setback from Copeland Road; however, the condition is not impacted as a result of the proposed subdivision and is either legal non-conforming or conforming (requires an 85-foot setback from the centerline of Copeland Road – centerline is not shown, and structure appears to be +83.6). The applicant worked with the City to configure the rural view lot in a manner that maintained conformability and worked with the existing house and detached accessory structure. In addition, the applicant wanted the

larger remainder property to maintain a significant portion of the wetland/pond area that is located on the west side of the property. The proposed angled lot line configuration provided appears to align well with the existing property conditions and also provides for the septic site on Parcel B. The remainder of the property (Parcel A) would comprise 42.23 acres and have one principal building entitlement. Parcel A would easily accommodate a new building pad given its overall size, topography and proposed dimensions. Any development on the property would need to meet all applicable setbacks including those from wetlands. The City received an on-site septic report verifying that both Parcel A and B can accommodate a primary and secondary on-site septic system.

The applicant has included the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.'s 1 and 2) for both the existing and proposed parcel. The remaining property will have **no** rural view lot subdivision eligibilities following this subdivision.

The newly created Parcel B will be required to pay the City's requisite Park Dedication fee. For this property the requirement is \$4,715.00. 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 5 acres.*

The proposed rural view lot subdivision appears to meet all applicable standards of the City. The proposed subdivision is in keeping with the character of the surrounding area and maintains a larger agricultural property that can accommodate a future residential structure. Staff is seeking a recommendation from the Planning Commission regarding the request for a rural view lot subdivision. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions:

1. The proposed rural view lot subdivision meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council approval of the rural view lot subdivision is subject to the following:
 - a) The Applicant shall pay the park dedication fees in the amount of \$4,715.00, for the newly created Parcel B, prior to the applicant receiving final approval to record the subdivision by the City.
 - b) The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
 - c) The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.
 - d) The Applicant shall execute and record the requisite drainage and utility and right of way easements with the county within six (6) months of approval.
 - e) The remaining Parcel A will have no remaining rural view lot eligibilities.

Palmquist asked about the park dedication fee and which parcel it is based on. Kaltsas said it is typically based on the smaller parcel. In this case it is parcel B. Thompson said it may make sense to clean-up the process and codify the right approach instead of practice based.

Gardner opened the Public Hearing.

Public Hearing Open

Anderson asked if there were any questions. He said he worked with Otto for the best possible split.

Palmquist motioned to close the Public Hearing, second by Volkenant.

Public Hearing Closed

Motion by Thompson, second by Palmquist to approve a rural view lot subdivision that would create a new buildable lot for the property located at 2076 Copeland Road (PID No. 20-118-24-23-0002) in the City of Independence, MN: Ayes: Thompson, Dumas, Palmquist, Volkenant and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.

6. **PUBLIC HEARING:** Mike Schrader (Applicant) and Jim Wehmann (Owner) are requesting the following actions for the property located at 6625 Fogelman Road (PID No. 10-118-24-43-0009) in the City of Independence, MN.
 - a. Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan.
 - b. A minor subdivision to allow the creation of a new lot on the property located at 6625 Fogelman Road.

Kaltsas said the applicant is proposing to create one (1) additional rural residential lot in accordance with the provisions set forth in the City's Zoning Ordinance. The ordinance stipulates that Rural Residential properties must be a minimum of 7.6 acres to allow for the subdivision of an additional lot. The new lot must be a minimum of 2.5 acres of buildable upland, have a minimum lot frontage on a public road and have no greater than a 1:4 lot frontage to lot depth ratio. In order for the City to consider granting approval for a minor subdivision to permit an additional lot using the provisions set forth in the RR-Rural Residential zoning district, the City would first need to consider approving the rezoning of the property.

Rezoning:

The property is currently zoned A-Agriculture and guided by the Comprehensive Plan as Rural Residential (see Comprehensive Plan and Zoning Map attached).

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

- 520.07. Criteria on zoning amendments. Subdivision 1. The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments.
- Subd. 2. Zoning amendments must conform to the Independence city comprehensive plan. Subd. 3. The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment.
- Subd. 4. The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts.
- Subd. 5. The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned.
- Subd. 6. The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

As it relates to meeting the criteria for granting a zoning map amendment, the following information can be considered:

Subd. 2. The proposed rezoning is consistent with the comprehensive plan.

Subd. 3. Rezoning this property to RR would allow the property to be subdivided which is generally consistent with properties surrounding the subject property.

Subd. 4. The property has historically been used as a residential property. The neighboring properties on all sides are currently used as rural residential.

Subd. 5. The property is currently zoned agriculture. The use of property as an agriculture operation is somewhat restricted due to the limited amount of tillable acreage. The city has identified that this property will be better suited for residential purposes.

Subd. 6. The City will need to determine that the rezoning of the property has public merit that reach beyond the interests of the property owner.

The rezoning from A-Agriculture to RR-Rural Residential does not appear to create a property that is inconsistent with the surrounding properties.

Minor Subdivision:

The proposed lot would have the following characteristics.

Lot size required: minimum of 2.5 buildable acres

Lot size proposed: West Parcel - 7.71 acres

East Parcel - 4.55 acres

Minimum lot frontage required: 250 LF (for property between 3.50-4.99 acres)

300 LF (for property between 5.00-10.00 acres)

Minimum lot frontage proposed: West Parcel - 529 LF

East Parcel - 313 LF **Ratio of lot frontage to lot depth required:** no more than 1:4

Ratio of lot frontage to lot depth proposed: West Parcel - 1:1

East Parcel – 1:2

Staff discussed the proposed subdivision with the applicant and identified a general configuration that would be compatible with the surrounding area and offer the least amount of impact to the surrounding properties. The survey confirms that all existing structures on the West Parcel will meet all applicable setbacks in the after condition. The east parcel will require a new driveway and provides a suitable area for a single-family home to be located on the property.

The existing home has an existing on-site septic system that will remain in use with the existing home. The applicant has provided the City with information verifying that both properties can accommodate a primary and secondary site (see locations on survey).

The proposed subdivision delineates drainage and utility easements along all property lines. The easements will need to be revised to meet the City's established criteria. They are currently shown as 5 feet along the side property lines and will need to be increased to 10 feet.

The newly created East Parcel will be required to pay the City's Park Dedication required fee. For this property, the park dedication payment amount is \$3,500.00. This fee will need to be paid prior to recording the subdivision.

Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5.

4.55 acres- \$3,500 for first 5 acres = \$3,500.00

There is one other bit of information that should be noted by the City. The property located at the southwest corner of Fogelman and County Road 90 was also originally platted as a part of the French Hills Subdivision. That property was subdivided in 2016 in a similar fashion to this request. At the time it was subdivided, there were concerns raised relating to a covenant that was placed on this subdivision that would restrict future subdivisions. The City is not a party to any covenants and does not have authority to enforce private covenants on a property. The City therefore needs to consider its current zoning ordinances

and whether or not the proposed rezoning and subdivision are consistent with the current standards. As it relates to this point as well as the overall request, it appears that the proposed subdivision meets all of the applicable standards of the City's zoning and subdivision ordinance. The lots being created will fit into the character of the surrounding area and should have minimal impacts on the surrounding properties. The adjacent properties to the east, west, north, and south are similar in size to the proposed lots after the subdivision.

Staff is seeking a recommendation from the Planning Commission for the requested rezoning and minor subdivision with the following findings:

1. The proposed rezoning and minor subdivision meet all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. The Applicant shall provide to the City a final survey indicating the requisite drainage and utility easements and legal descriptions for both lots.
3. The Applicant shall execute and record the requisite drainage and utility easement with the county within six (6) months of approval.
4. The Applicant shall pay the park dedication fees in the amount of \$3,500 prior to the applicant receiving final approval to record the subdivision by the City.
5. The Applicant shall pay for all costs associated with the City's review of the requested subdivision.
6. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Gardner opened the Public Hearing.

Public Hearing Open

Wehman said the reason for the trees stopping where they do is that they never really used that area.

Johnson, 6560 Fogelman Road, said when the lots were originally divided in the 90's they were not intended to be subdivided due to the agricultural zoning. He wondered if the zoning changed. Gardner said it is eligible to be rezoned. Palmquist said the Comp Plan has the property Rural Residential not Ag.

Thompson motioned to close the Public Hearing, second by Palmquist.

Motion by Thompson, second by Volkenant to approve Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan and a minor subdivision to allow the creation of a new lot for the property located at 6625 Fogelman Road (PID No. 10-118-24-43-0009) in the City of Independence, MN. Ayes: Thompson, Dumas, Palmquist, Volkenant and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.

7. Donavan Des Marais (Applicant) and Jerry Wise (Owner) are requesting the following actions for the property located at the northeast corner of CSAH 11 and Woodhill Drive (PID No. 01-118-24-34-0010) in the City of Independence, MN:
 - a. Concept plan review for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah).

Kaltsas said the applicant is asking the City to consider and provide feedback relating to a concept plan for the proposed subdivision of the subject property. A concept plan allows the City the opportunity to initially review the proposed subdivision and provide feedback and comments to the applicant prior to the submittal of any applications for rezoning and preliminary plat. 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. Consider Preliminary Plat approval.
2. Consider Final Plat approval. The applicant has prepared a concept plan for review by the City. The City has preliminarily reviewed this plan and provided review comments to the applicant. The property is currently zoned RR-Rural Residential and is also located within the S-Shoreland Overlay zoning district adjacent to Lake Sarah. The City Council recently concluded that properties zoned S-Shoreland and have access to sanitary sewer, can be subdivided into 1-acre minimum lots as long as all applicable requirements can be satisfied by the applicant. The applicable requirements that stipulate the number of lots generally relate to the minimum road frontage (200 LF – for lots less than 3.49 acres), minimum shoreline frontage (100 LF) and minimum width at the building setback line (100 LF).

505.13. Zoning provisions.

Subd. 1. *General.* The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. The City has discussed the potential subdivision of this property with the applicant. The initial review of the subdivision contemplates a high-level review only of the proposed concept development plan. A detailed review of the storm water, grading, wetlands, and infrastructure details will be completed prior to consideration of any future applications. The City does not formally approve or deny a concept plan. The concept plan review will provide direction and comments to the applicant for their use during the preparation of future applications. The following comments should be considered by the City:

1. The subdivision of property and corresponding plans will be subject to the review and approval of the Pioneer Sarah Watershed Management Commission.
2. A wetland delineation will need to be completed prior to any formal preliminary plat submittal.
3. Building setback and OHWL lines have been added to the concept plan to provide better context for the Planning Commission and City Council to understand how the lots would accommodate a home and driveway.
4. The proposed subdivision creates a total of 4 lots: 3 with shoreland access to Lake Sarah. The City requires a minimum lot public road frontage of 200 LF per lot. This property has approximately 1169 LF of total frontage on Woodhill Drive and CSAH 11. The City can waive the minimum frontage requirement per lot if certain criteria are satisfied. The proposed layout appears to create a more advantageous configuration due to access for all lots coming off of Woodhill Drive versus CSAH 11. Hennepin County has indicated that an additional access onto CSAH 11 would not likely be approved. This issue should be noted for discussion by the Planning Commission and City Council.
5. The proposed layout is somewhat impacted by the existing detached accessory structure located on lot 2. This structure is not considered a legal structure as there is no principal structure located on this property. The City will need to further discuss how and if this structure can remain, noting that if this property is subdivided and sells, the lot would still not have a principal structure guaranteed. This structure is shown to meet applicable building setbacks in the proposed condition.
6. The proposed lots would be connected to the City's sanitary sewer system. The type of connection to the public sewer line will need to be further reviewed and considered by the City. In addition, the invert elevation of the public sewer may dictate additional restrictions for the elevations of the

proposed homes.

7. There is one existing connection to the sanitary sewer serving the existing detached accessory structure. This connection can be used for one of the proposed lots. The three new and additional lots would be subject to applicable connection fees in addition to the initial assessment fee of \$9,550 per lot. 8. Park dedication will be required for this development if it moves forward. The City's current park dedication fee is \$3,500 per lot (less than 4.99 acres).

The Planning Commission should review the plans and provide feedback to the applicant pertaining to the proposed concept plan. No formal action can be taken by the Planning Commission on the concept plan. There are additional steps that will need to be taken for any development of this property to occur.

Thompson said would the accessory building have to as it does not make sense to continue with an illegal nonconforming structure. Kaltsas said there is no precedent to fall back on but typically we do not allow additional illegal non-conforming structures to be included. Thompson asked if the plan could be more creative by combining some driveways etc. and acknowledging lot 3 cannot be lakeside. Dumas asked if Lot 4 would have an easement to get to the lake. Kaltsas said it could be granted privately and noted docks are not regulated by the City.

Des Marais said Lot 3 would be as proposed. He noted shared drives are not as appealing. Des Marais asked if there was an option to bring the nonconforming building into compliance. Thompson noted with shared driveways you would not have to rely on having a variance. Palmquist asked about the future structure to be placed on Lot 2. He said the appropriate setback appears to be north of Lot 1 or East of Lot 3. Palmquist asked about the drainage of Lot 3. Des Marais said there is a little drainage ditch that runs into Lake Sarah. He said there is plenty of room to walk down to the shoreline.

Thompson asked Kaltsas about the pond being right along Lake Sarah and would the inflow trigger anything with the DNR. Kaltsas said he does not know now but it will be looked at further. Gardner said there were not a lot of practical problems with the proposal.

Ron Lyrek said he has lived here for 33 years but he would love to have the homes being built as far away from his property as possible.

8. Open/ Misc.

9. Adjourn.

Motion by Palmquist, second by Volkenant to adjourn at 9:06 p.m.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, MAY 4, 2021 –6:30 P.M.
(Virtual Meeting/ All Attendees)

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.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL (Note: all noted present were “virtually” present

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

ABSENT: None

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

VISITORS: Jeff Kazin, Thomas Anderson, Mike Schrader, Jim Wehmann, Donavan DesMarais, Jerry Wise, Paul Otto

3. ****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 April 20, 2021 Regular City Council Meeting.
- b. Approval of Accounts Payable; (Batch #1 Checks Numbered 20441-2046, Batch #2 Checks Numbered 20448-20466, Check Number 20447 was voided).
- c. Approval of Contract with Z Systems, Inc. to Supply and Install Audio Visual System for Community Room.
- d. Approval to Purchase Furniture from Henricksen for the Community Room.
- e. First Quarter Building Permit Report (for information only).

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

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

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings: (Virtual)

- Planning Commission Meeting
- City Council Workshop
- LSIA Spring Meeting
- Clean-up Days

Grotting attended the following meetings: (Virtual)

- Planning Commission Meeting
- City Council Workshop

McCoy attended the following meetings:(Virtual)

- Planning Commission Meeting
- City Council Workshop

Betts attended the following meetings: (Virtual)

- Planning Commission Meeting
- Police Commission Meeting (in person)
- City Council Workshop

Johnson attended the following meetings: (Virtual- unless noted)

- Planning Commission Meeting
- City Council Workshop
- National League of Cities Meeting
- Small Cities Council Meeting
- Orono School Board Meeting
- Police Commission Meeting (in person)
- Sensible Land Use Coalition Meeting
- Citizens League Seminar
- Met with Rugby team representative about games

Horner attended the following meetings: (Virtual)

- Clean-Up Days
- Planning Commission Meeting
- City Council Workshop
- BKV architect meetings

Kaltsas attended the following meetings:

- MnDOT meetings on construction efforts for Highway 12 and 92

6. Jeff Kazin (Applicant/Owner) is requesting the following action for the property located 7475 County Road 11 (PID No. 0911824120001) in the City of Independence, MN:

- a. **RESOLUTION 21-0504-01:** Considering approval of a conditional use permit to allow the construction of a new detached accessory structure that exceeds 5,000 SF on the property.

Kaltsas said the applicant approached the City with plans to add a second detached accessory structure on the subject property. It was noted that the proposed 7,500 square foot detached accessory structure would exceed the maximum square footage permitted of 5,000 without a conditional use permit. The applicant would like the City to consider granting a conditional use permit to allow the proposed 7,500 SF accessory building to be added to the property.

In reviewing the request, the City determined that there was a possible wetland located in the general vicinity of the proposed building (see image below). The applicant worked through the wetland delineation process and last week it was determined that no wetlands existed in the vicinity of the proposed shed and or as shown on the national wetland inventory. All accessory structures greater than 5,000 square feet require a conditional use permit

530.01 Agricultural District established.

Subd. 3. Accessory uses.

(d) Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:

3. The maximum square footage of any individual accessory building or structure shall be 5,000 square feet.

The proposed detached accessory building is 7,500 square feet in size (60' x 125'). There is an existing ~5,500 square foot detached accessory structure already on the property. For properties greater than 10 acres, there are no maximum total allowable detached accessory structure square footage limitations. The proposed building would be used for the personal and private storage of agriculture equipment associated with the applicant's farm. There would be no commercial use of the accessory structure permitted. The proposed detached accessory structure would be constructed using materials and colors identical to the existing accessory structure. The building would be oriented so that the doors are facing to the west with no openings on the north, south and east sides. The applicant has provided the City with a site survey, floor plan and building elevations of the proposed building. It should be noted that there are no doors shown on the "open" side of the building, but the applicant intends to fully enclose the building in the future with overhead doors.

The proposed site and buildings have the following characteristics:

Site Area: 63.08 Acres

Required Setbacks:

Front Yard: 85 feet from centerline

Side Yard: 30 feet principal structure

15 feet accessory structure

Rear Yard: 40 feet

Proposed Setbacks:

Front Yard: N/A (500+ feet from CL of CSAH 11)

Side Yard: 15 feet (east side property line)

Rear Yard: N/A (500+ feet from rear property line)

The proposed detached accessory structure would meet all applicable building setbacks.

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

1. The conditional use will not adversely affect the health, safety, morals, and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage

treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city from pollution hazards.

6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites, and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The City has visited the site and discussed the proposed detached accessory structure with the applicant. The conditional use permit would allow an accessory structure larger than 5,000 SF. The City is being asked to determine whether or not the proposed accessory structure larger than 5,000 SF would meet the criteria for granting a conditional use permit.

The applicant is proposing to construct a detached accessory structure to provide additional storage for use with their farm. The applicants live on the subject property. The applicant has not submitted any information pertaining to building lighting. All building lighting will need to comply with the City's lighting standards. The City typically reviews building lighting during the building permit review process. No additional building screening is proposed given the proximity of all structures on adjacent properties combined with the existing vegetation and general screening provided by the placement of the building. The applicant has prepared a site plan and building plans for the proposed site improvements. The City will want the applicant to submit a grading and drainage plan with the building permit to ensure runoff from the building is adequately routed and or mitigated prior to exiting the property.

The following conditions should be considered:

1. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
2. The applicant shall provide a proposed grading and drainage plan for review by the City.
3. The applicant shall provide the City with information and details pertaining to any and all building and site lighting. All lighting will be required to comply with the City's applicable lighting standards.
4. No commercial use of the proposed detached accessory structure shall be permitted.
5. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.

Kaltsas said Commissioners discussed the application and asked questions of staff and the applicant. Commissioners found the application to be complete and thought that the request met the criteria for granting a CUP. Commissioners recommended approval of the requested CUP to allow an accessory structure on the property that exceeds 5,000 SF. The Planning Commission recommends approval of the request for a conditional use permit with the following findings and conditions:

1. The proposed conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. The applicant shall provide a proposed grading and drainage plan for review by the City. The applicant may be required to add a gutter or other drain tile to the east property line to ensure that drainage resulting from the construction of the new building does not impact the adjacent property.
4. The applicant shall provide the City with information and details pertaining to any and all building and site lighting. All lighting will be required to comply with the City's applicable lighting standards.

5. No commercial use of the proposed detached accessory structure shall be permitted.
6. The City is approving the construction of the building detailed in the plan set attached as **Exhibit B**. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.
7. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Johnson asked the applicant if they had questions. Kazin thanked Kaltsas for his help and it is pretty straightforward and makes a nice courtyard for the farming operation. Grotting asked about the flow of the water. Kaltsas said this does not change the natural flow and we look at how the building impacts flow.

Motion by Spencer, second by Grotting to approve RESOLUTION 21-0504-01 for a conditional use permit to allow the construction of a new detached accessory structure that exceeds 5,000 SF property located 7475 County Road 11 (PID No. 0911824120001) in the City of Independence, MN: Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

7. Thomas Anderson (Applicant/Owner) is requesting the following action for the property located at 2076 Copeland Road (PID No. 20-118-24-23-0002) in the City of Independence, MN:
 - a. **RESOLUTION 21-0504-02:** Considering approval of a rural view lot subdivision that would create a new buildable lot.

The applicant approached the City several months ago about the possibility of purchasing the property and creating a rural view lot in accordance with applicable standards. The applicant is proposing to create one (1) rural view lot in accordance with the provisions set forth in the City's Zoning Ordinance. The subject property has a total acreage of 48.85 acres. The provisions in the Agriculture Zoning District allow one (1) rural view lot for every 40 acres of land under the same ownership. Under the current zoning standards, the subject property has the ability to realize one (1) rural view lot for a total of two (2) lots on this property. Rural view lots must have the following characteristics:

Lot size required: between 2.5 and 10 acres

Lot size proposed: Parcel B – 6.62 acres

Minimum lot frontage required: 300 LF (for property between 5-10 acres)

Minimum lot frontage proposed: Parcel B – 524 LF **Ratio of lot frontage to lot depth required** - no more than 1:4

Ratio of lot frontage to lot depth proposed – Parcel B - ~1:1.5 (524:780)

In addition to the minimum size necessary to subdivide, the ordinance requires a minimum of 2.5 acres of buildable upland, 300 LF of frontage on a right of way and no greater than a 1:4 ratio of lot frontage to lot depth for each rural view lot. Based on the proposed subdivision, the rural view lot would have approximately 4.1 acres of useable upland and 524 LF of frontage on Copeland Road.

The proposed subdivision would produce a 6.62-acre rural view lot. The existing home and detached accessory structure would remain on the property being created as a rural view lot. The existing home meets all applicable setbacks in the after condition. The existing detached accessory structure appears to meet the setback from Copeland Road; however, the condition is not impacted as a result of the proposed subdivision and is either legal non-conforming or conforming (requires an 85-foot setback from the centerline of Copeland Road – centerline is not shown, and structure appears to be +83.6). The applicant worked with the

City to configure the rural view lot in a manner that maintained conformability and worked with the existing house and detached accessory structure. In addition, the applicant wanted the larger remainder property to maintain a significant portion of the wetland/pond area that is located on the west side of the property. The proposed angled lot line configuration provided appears to align well with the existing property conditions and also provides for the septic site on Parcel B.

The remainder of the property (Parcel A) would comprise 42.23 acres and have one principal building entitlement. Parcel A would easily accommodate a new building pad given its overall size, topography, and proposed dimensions. Any development on the property would need to meet all applicable setbacks including those from wetlands. The City received an on-site septic report verifying that both Parcel A and B can accommodate a primary and secondary on-site septic system. The applicant has included the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.'s 1 and 2) for both the existing and proposed parcel. The remaining property will have **no** rural view lot subdivision eligibilities following this subdivision.

The newly created Parcel B will be required to pay the City's requisite Park Dedication fee. For this property, the requirement is \$4,715.00. 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 5 acres* The proposed rural view lot subdivision appears to meet all applicable standards of the City. The proposed subdivision is in keeping with the character of the surrounding area and maintains a larger agricultural property that can accommodate a future residential structure.

Commissioners discussed the application and asked questions of staff and the applicant. Commissioners discussed the frontage requirements and proposed layout and recognized the need for an angled property line as proposed. Commissioners found the application to be complete and thought that the request met the criteria for granting approval of a minor subdivision. Commissioners recommended approval of the requested minor subdivision to allow a rural view lot split on the property.

The Planning Commission recommended approval of the request for a rural view lot subdivision with the following findings and conditions:

1. The proposed rural view lot subdivision meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council approval of the rural view lot subdivision is subject to the following:
 - a) The Applicant shall pay the park dedication fees in the amount of \$4,715.00, for the newly created Parcel B, prior to the applicant receiving final approval to record the subdivision by the City.
 - b) The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
 - c) The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.
 - d) The Applicant shall execute and record the requisite drainage and utility and right of way easements with the county within six (6) months of approval.
 - e) The remaining Parcel A will have no remaining rural view lot eligibilities.

Motion by Betts, second by McCoy to approve RESOLUTION 21-0504-02 for approval of a rural view lot subdivision that would create a new buildable lot property located at 2076 Copeland Road (PID No. 20-118-24-23-0002) in the City of Independence, MN: Ayes: Johnson, Spencer, McCoy, and Betts. Nays: None. Absent: None. Abstain. Grotting. MOTION DECLARED CARRIED.

8. Mike Schrader (Applicant) and Jim Wehmann (Owner) are requesting the following actions for the property located at 6625 Fogelman Road (PID No. 10-118-24-43-0009) in the City of Independence, MN.

- a. **ORDINANCE 2021-03:** Rezoning the subject property from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan.
- b. **RESOLUTION 21-0504-03:** A minor subdivision to allow the creation of a new lot on the property located at 6625 Fogelman Road.

Kaltsas said the applicant is proposing to create one (1) additional rural residential lot in accordance with the provisions set forth in the City's Zoning Ordinance. The ordinance stipulates that Rural Residential properties must be a minimum of 7.6 acres to allow for the subdivision of an additional lot. The new lot must be a minimum of 2.5 acres of buildable upland, have a minimum lot frontage on a public road and have no greater than a 1:4 lot frontage to lot depth ratio. In order for the City to consider granting approval for a minor subdivision to permit an additional lot using the provisions set forth in the RR-Rural Residential zoning district, the City would first need to consider approving the rezoning of the property.

The property is currently zoned A-Agriculture and guided by the Comprehensive Plan as Rural Residential (see Comprehensive Plan and Zoning Map attached). There are several factors to consider relating to rezoning a property. The City's ordinance has established criteria for consideration in granting a zoning amendment.

520.07. Criteria on zoning amendments. Subdivision 1. The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments. Subd. 2. Zoning amendments must conform to the Independence city comprehensive plan. Subd. 3. The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment. Subd. 4. The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts. Subd. 5. The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned. Subd. 6. The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

As it relates to meeting the criteria for granting a zoning map amendment, the following information can be considered:

Subd. 2. The proposed rezoning is consistent with the comprehensive plan.

Subd. 3. Rezoning this property to RR would allow the property to be subdivided which is generally consistent with properties surrounding the subject property.

Subd. 4. The property has historically been used as a residential property. The neighboring properties on all sides are currently used as rural residential.

Subd. 5. The property is currently zoned agriculture. The use of property as an agriculture operation is somewhat restricted due to the limited amount of tillable acreage. The city has identified that this property will be better suited for residential purposes.

Subd. 6. The City will need to determine that the rezoning of the property has public merit that reach beyond the interests of the property owner.

The rezoning from A-Agriculture to RR-Rural Residential does not appear to create a property that is inconsistent with the surrounding properties.

Minor Subdivision:

The proposed lot would have the following characteristics.

Lot size required: minimum of 2.5 buildable acres

Lot size proposed: West Parcel - 7.71 acres East Parcel - 4.55 acres

Minimum lot frontage required: 250 LF (for property between 3.50-4.99 acres)
300 LF (for property between 5.00-10.00 acres)

Minimum lot frontage proposed: West Parcel - 529 LF East Parcel - 313 LF

Ratio of lot frontage to lot depth required: no more than 1:4

Ratio of lot frontage to lot depth proposed: West Parcel - 1:1 East Parcel – 1:2

Staff discussed the proposed subdivision with the applicant and identified a general configuration that would be compatible with the surrounding area and offer the least amount of impact to the surrounding properties. The survey confirms that all existing structures on the West Parcel will meet all applicable setbacks in the after condition. The east parcel will require a new driveway and provides a suitable area for a single-family home to be located on the property.

The existing home has an existing on-site septic system that will remain in use with the existing home. The applicant has provided the City with information verifying that both properties can accommodate a primary and secondary site (see locations on survey).

The proposed subdivision delineates drainage and utility easements along all property lines. The easements have been revised to meet the City's established criteria. There was initially a five-foot wide easement provided as a part of the original plat and the City now requires ten feet. The survey reflects that the additional five feet will be dedicated to the City as a drainage and utility easement. The newly created East Parcel will be required to pay the City's Park Dedication required fee. For this property, the park dedication payment amount is \$3,500.00. This fee will need to be paid prior to recording the subdivision.

Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5.
4.55 acres- \$3,500 for first 5 acres = \$3,500.00

There is one other bit of information that should be noted by the City. The property located at the southwest corner of Fogelman and County Road 90 was also originally platted as a part of the French Hills Subdivision. That property was subdivided in 2016 in a similar fashion to this request. At the time it was subdivided, there were concerns raised relating to a covenant that was placed on this subdivision that would restrict future subdivisions. The City is not a party to any covenants and does not have authority to enforce private covenants on a property. The City therefore needs to consider its current zoning ordinances and whether or not the proposed rezoning and subdivision are consistent with the current standards. As it relates to this point as well as the overall request, it appears that the proposed subdivision meets all of the applicable standards of the City's zoning and subdivision ordinance. The lots being created will fit into the character of the surrounding area and should have minimal impacts on the surrounding properties. The adjacent properties to the east, west, north, and south are similar in size to the proposed lots after the subdivision.

Commissioners discussed the application and asked questions of staff and the applicant. Commissioners discussed the concerns relating to the original development and any potential restrictions relating to the subdivision of the property. Commissioners noted that the proposed lot configuration created two lots that were consistent with the surrounding properties. Commissioners found the application to be complete and thought that the request met the criteria for granting approval of a minor subdivision. Commissioners recommended approval of the requested minor subdivision on the property.

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

1. The proposed rezoning and minor subdivision meet all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. The Applicant shall execute and record the requisite drainage and utility easement with the county within six (6) months of approval.
3. The Applicant shall pay the park dedication fees in the amount of \$3,500 prior to the applicant receiving final approval to record the subdivision by the City.
4. The Applicant shall pay for all costs associated with the City's review of the requested subdivision.
5. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Betts asked Vose about covenants and association agreements. Vose said the City acting as a governing body really does not enforce these types of agreements unless they are an "owner" in the development. He said he was not certain this was a case where there were actual covenants drawn up.

Motion by Johnson, second by Spencer to approve ORDINANCE 2021-03: Rezoning the subject property from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan for the property located at 6625 Fogelman Road (PID No. 10-118-24-43-0009) in the City of Independence, MN. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED.

Motion by Grotting, second by Spencer to approve RESOLUTION 21-0504-03: A minor subdivision to allow the creation of a new lot on the property located at 6625 Fogelman Road for the property located at 6625 Fogelman Road (PID No. 10-118-24-43-0009) in the City of Independence, MN. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED.

9. Donovan DesMarais (Applicant) and Jerry Wise (Owner) are requesting the following actions for the property located at the northeast corner of CSAH 11 and Woodhill Drive (PID No. 01-118-24-34-0010) in the City of Independence, MN:
 - a. Concept plan review for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah).

Kaltsas said the applicant is asking the City to consider and provide feedback relating to a concept plan for the proposed subdivision of the subject property. A concept plan allows the City the opportunity to initially review the proposed subdivision and provide feedback and comments to the applicant prior to the submittal of any applications for rezoning and preliminary plat. 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. Consider Preliminary Plat approval.
2. Consider Final Plat approval. The applicant has prepared a concept plan for review by the City. The City has preliminarily reviewed this plan and provided review comments to the applicant. The property is currently zoned RR-Rural Residential and is also located within the S-Shoreland Overlay zoning district adjacent to Lake Sarah. The City Council recently concluded that properties zoned S-Shoreland and have access to sanitary sewer, can be subdivided into 1-acre minimum lots as long as all applicable requirements can be satisfied by the applicant. The applicable requirements that stipulate the number of lots generally relate to the

minimum road frontage (200 LF – for lots less than 3.49 acres), minimum shoreline frontage (100 LF) and minimum width at the building setback line (100 LF).

505.13. Zoning provisions.

Subd. 1. *General.* The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. The City has discussed the potential subdivision of this property with the applicant. The initial review of the subdivision contemplates a high-level review only of the proposed concept development plan. A detailed review of the storm water, grading, wetlands, and infrastructure details will be completed prior to consideration of any future applications. The City does not formally approve or deny a concept plan. The concept plan review will provide direction and comments to the applicant for their use during the preparation of future applications.

The following comments should be considered by the City:

1. The subdivision of property and corresponding plans will be subject to the review and approval of the Pioneer Sarah Watershed Management Commission.
2. A wetland delineation will need to be completed prior to any formal preliminary plat submittal.
3. Building setback and OHWL lines have been added to the concept plan to provide better context for the Planning Commission and City Council to understand how the lots would accommodate a home and driveway.
4. The proposed subdivision creates a total of 4 lots: 3 with shoreland access to Lake Sarah. The City requires a minimum lot public road frontage of 200 LF per lot. This property has approximately 1169 LF of total frontage on Woodhill Drive and CSAH 11. The City can waive the minimum frontage requirement per lot if certain criteria are satisfied. The proposed layout appears to create a more advantageous configuration due to access for all lots coming off of Woodhill Drive versus CSAH 11. Hennepin County has indicated that an additional access onto CSAH 11 would not likely be approved. This issue should be noted for discussion by City Council.
5. The proposed layout is somewhat impacted by the existing detached accessory structure located on lot 2. This structure is not considered a legal structure as there is no principal structure located on this property. The City will need to further discuss how and if this structure can remain, noting that if this property is subdivided and sells, the lot would still not have a principal structure guaranteed. This structure is shown to meet applicable building setbacks in the proposed condition.
6. The proposed lots would be connected to the City's sanitary sewer system. The type of connection to the public sewer line will need to be further reviewed and considered by the City. In addition, the invert elevation of the public sewer may dictate additional restrictions for the elevations of the proposed homes.
7. There is one existing connection to the sanitary sewer serving the existing detached accessory structure. This connection can be used for one of the proposed lots. The three new and additional lots would be subject to applicable connection fees in addition to the initial assessment fee of \$9,550 per lot.
8. Park dedication will be required for this development if it moves forward. The City's current park dedication fee is \$3,500 per lot (less than 4.99 acres). Staff would like direction and feedback relating to the general design and layout of the proposed subdivision and the issues identified within this report.

The Planning Commission discussed the proposed concept development plan and offered the following comments:

- Commissioners discussed the existing detached building and asked if the City could come up with a mechanism/agreement that would ensure that the structure would be brought into compliance with applicable standards and obtain all applicable permits. Staff noted this comment and would work with the City Attorney to develop said mechanism/agreement.

- Commissioners discussed the tradeoff between reconfiguring the lot lines so that all properties have the requisite frontage versus allowing reduced frontage on Woodhill Drive. It was noted that the property has the requisite frontage for all lots. It was further noted that the configuration of the lots and potential access limitations that would come into play if reconfigured may be justification for allowing reduced frontage.
- Commissioners asked if any additional water quality measures would be required (i.e., ponding, buffers, rain gardens, etc.). It was noted that this would be further reviewed if a formal subdivision application were made to the City.

City Council is being asked to review the plans and provide feedback to the applicant pertaining to the proposed concept plan. No formal action can be taken by the City Council on the concept plan. There are additional steps that will need to be taken for any development of this property to occur.

Johnson asked about the lot with the shed and if the area to the North is wetland. Kaltsas said it was not but rather a treed area. Johnson said he feels lot number 4 would come off of Woodhill Dr and it would be good to consolidate to one entry. Grotting asked if there was a setback variance precedent from the lakeshore. Kaltsas said there was not a precedent for new lots.

Betts asked what was along the shoreline. Spencer said it was shallower along that end of the lake and an area of cattails, but a low dock can provide access.

Grotting asked if the structure that was there could be torn down in the future as it was in an ideal spot. Kaltsas said the applicant feels the value is high for the structure and the lot will be more marketable with it on it. Betts asked if that structure had water running to it. Kaltsas said it was connected to city sewer and it has a well. Betts asked if the well location would be an issue. Kaltsas said if they subdivided, they would have to have individual wells for each property. Johnson noted there was only one sewer connection. Kaltsas said that was correct and it comes off of Woodhill. He noted they would have to work out how to use the existing stub. Johnson asked if that would be an issue with Met Council. Kaltsas said we would be utilizing additional connections which were granted by the Met Council.

DesMarais said they may need to disconnect the original line and run a new line along lot 2 and then reconnect. He said they would put three new wells on the property as well. Spencer said the direct answer to Betts question is that the garage has its own well.

Otto stated it would be preferable to have two driveways for lots 3 and 4 rather than a shared driveway. He said the sewer line will be pretty simple with putting in a new curb stop. Otto said they have tried to manipulate the lot lines so everyone can have lake access. Johnson asked if lot 3 had a creek to the lake and wondered if there was a spring there. Otto said there was rip rap swale down there that was fairly wide.

10. Open/ Misc.

11. Adjourn.

Motion by Grotting, second by Betts to adjourn at 7:53 p.m. Ayes: Johnson, Grotting, McCoy, Betts, and Spencer. Nays: None. Absent: None. None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

City of Independence

Request for a Variance from the Side Yard Setback for the Property

Located at 4755 Lake Sarah Heights Circle

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	May 18, 2021
<i>Applicant:</i>	Brent Foster
<i>Owner:</i>	Brent Foster
<i>Location:</i>	4755 Lake Sarah Heights Circle

Request:

Brent Foster, owner of the property located at 4755 Lake Sarah Heights Circle (PID No. 02-118-24-12-0007), is requesting the following action from the City:

- a. A variance to allow a reduced side yard setback for a detached accessory structure on the property located at 4755 Lake Sarah Heights Cir.

Property/Site Information:

The owner's property is located at 4755 Lake Sarah Heights Circle which is on the west side of the road on Lake Sarah. The property is approximately .44 acres. This property is considered an existing lot of record. Existing lots of record in the shoreland district are allowed to have reduced setbacks of 60% of the required setbacks.

Property Information: **4755 Lake Sarah Heights Circle**

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential*

Detached Accessory Side Yard Setback: 15 feet from lot line or (60% of 15 feet) **9 feet**

Acreage: 0.44 acres

Impervious Surface Maximum: 25% (4,871.75 square feet)

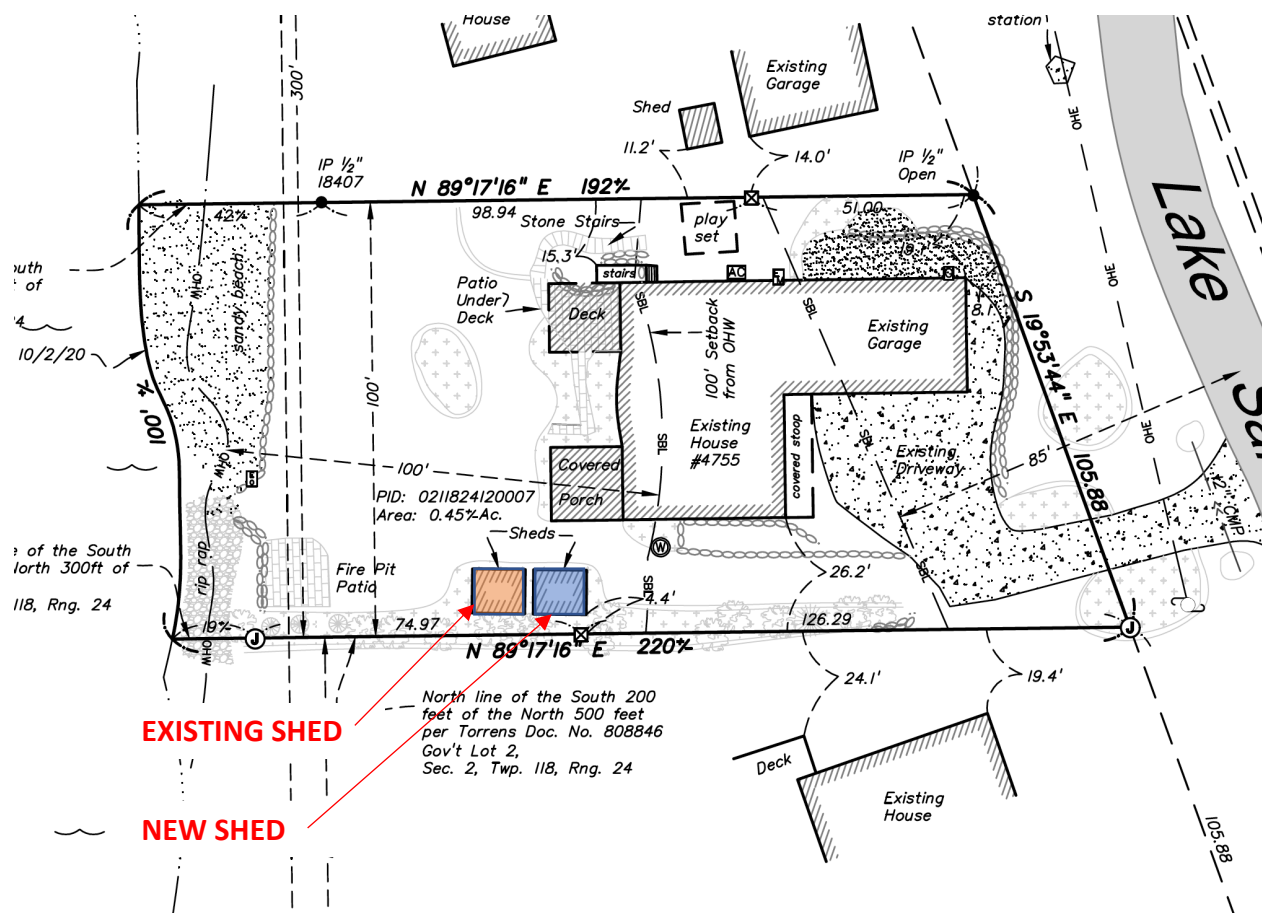
4755 Lake Sarah Heights Circle (blue outline)



Discussion:

The applicant is seeking a variance from the south - side yard setback to allow the placement of a detached accessory structure (shed) to be located on the property. The applicant located the new 10' x 12' shed on the property last year. The City notified the property owner that the shed needed to be permitted and did not meet the applicable side yard setback. In addition, it was noted that the impervious surface calculation would need to be updated for the property.

The applicant has an existing shed that is legal non-conforming located in the same area on the site. The applicant thought that he would be able to add a new (120 SF or less) shed to the same location without a need for an additional permit. The applicant is now asking the City to consider a variance to allow the shed to remain in its current location and directly in-line with the existing shed (see survey below).



The required side yard setback for detached accessory structures is nine (9) feet. The existing shed is setback 4.4 feet from the side property line and the applicant is seeking a variance to allow the new shed to also be setback 4.4 feet from the side property line. The proposed shed would require a five (5) foot variance.

The property can have a maximum of 25% impervious surface coverage. This property would be permitted to have 4,872 square feet of coverage. The current site has a total impervious coverage of 6,566 square feet or 33% coverage. This impervious surface calculation includes the new 120 SF shed. The City has been working with the applicant relating to the impervious coverage issue. As a result and in order to bring the property into compliance, the applicant is proposing to replace the existing driveway (1,766 SF) with a new pervious paver driveway. This would result in a reduction in the impervious surface coverage to 4,800 SF or 24.6%.

There are several factors to consider relating to the City's consideration of 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/Shoreland Overlay District. The applicant is seeking a variance to allow a second detached accessory structure on the property. The existing structure and the proposed structure are similar in architecture, siding, color, etc.
- b. The character of the surrounding area is residential. Many of the surrounding properties (not the property to the south) have detached accessory structures similar to that of the proposed. The City has historically provided some relief to properties in the Shoreland Overlay District.
- c. There is an existing detached accessory structure located behind the house on the subject property. The overall size of this structure is approximately 120 SF. The City allows a maximum of 1,850 SF for the total permitted for all detached accessory structures on properties less than 2.5 acres. The total SF in the after condition would be 240 SF which is less than the maximum permitted.
- d. The proposed location allows access to the rear yard from the driveway. Locating the shed further north would likely prohibit access to the rear yard.

- e. The applicant was granted a variance approximately 10 year ago for a deck stairway on the north side of the property line when adding an addition onto the existing home.
- f. Any approval would need to be subject to the applicant replacing the existing driveway with an approved permeable paver driveway.

Public Comments:

The City has received verbal comments from an adjoining property owner who was concerned about the impact of the additional detached structure.

Recommendation:

Staff is seeking a recommendation 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 City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Residential use of the property is consistent with the Rural Residential/Shoreland Overlay District. The applicant is seeking a variance to allow a second detached accessory structure on the property. The existing structure and the proposed structure are similar in architecture, siding, color, etc.
 - b. The location of the shed on the property is in line with the existing shed. The alignment, matching architecture and materials does mitigate some of the potential impacts of the proposed structure.
 - c. The character of the surrounding area is residential. The proposed detached accessory structure would be in keeping and consistent with the surrounding uses found in this neighborhood.
3. The variance will permit a 5-foot reduction (from 9 feet to 4 feet) of the south side yard setback to allow the proposed detached accessory structure as depicted on the site plan and building plans attached hereto as Exhibit A. 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 approval of a variance is subject to the applicant replacing the entire concrete driveway with an approved permeable paver driveway. The installation of the permeable paver driveway shall be in accordance with the approved detail and plan provided to the City and attached hereto as Exhibit B.

Attachments:

1. Property Pictures
2. Survey
3. Permeable Paver Detail

Attachment #1

4755 Lake Sarah Heights Circle (View from west side of property)







**CITY OF
INDEPENDENCE
MINNESOTA**

Applicant Information

Name: Brent James Foster

Address: 4755 LAKE SARAH
HEIGHTS CR
ROCKFORD, Minnesota
55373

Primary Phone: 9528365499

Email: foster_brent@allergan.com

Owner Information

Name: Brent James Foster

Address: 4755 LAKE SARAH
HEIGHTS CR
ROCKFORD, Minnesota
55373

Primary Phone: 9528365499

Email: foster_brent@allergan.com

Property Address:

PID:

Planning Application Type: Variance

Description:

Supporting Documents: Site Survey (Existing Conditions)

Signature:

Brent Foster

*for
Brent and Heidi Foster*

City of Independence, Hennepin County, Minnesota

(See Inset Map for Easement Thru LAKE SARAH HEIGHTS)



MN/DOT Geodetic Station "2722 F" at
Trunk Hwy 55 mile post 167.95, 49 feet
south of Hwy 55, 51 feet north of railroad

Elevation = 995.0 feet (NGVD 29)

ZONING

Rural Residential w/shore land overlay

SETBACKS

100' from OHW - Ordinary High Water
85' from centerline

IMPERVIOUS CALCS
Total Lot Area above OHW= 19,467 % S.F.
Patios/Walkways/Driveway Area = 2,692 % S.F.
House-Garage/Sheds Area = 3,874% S.F.
Total Impervious Area = 6,566% S.F. (33.7%)

IMPERVIOUS CALCS






















Total Lot Area above OHW= 19,467 % S.F.
 Patios/Walkways/Driveway Area = 2,692 % S.F.
House-Garage/Sheds Area = 3,874% S.F.
 Total Impervious Area = 6,566% S.F. (33.7%)

PROPERTY DESCRIPTION PER DOC. NO. 8615804

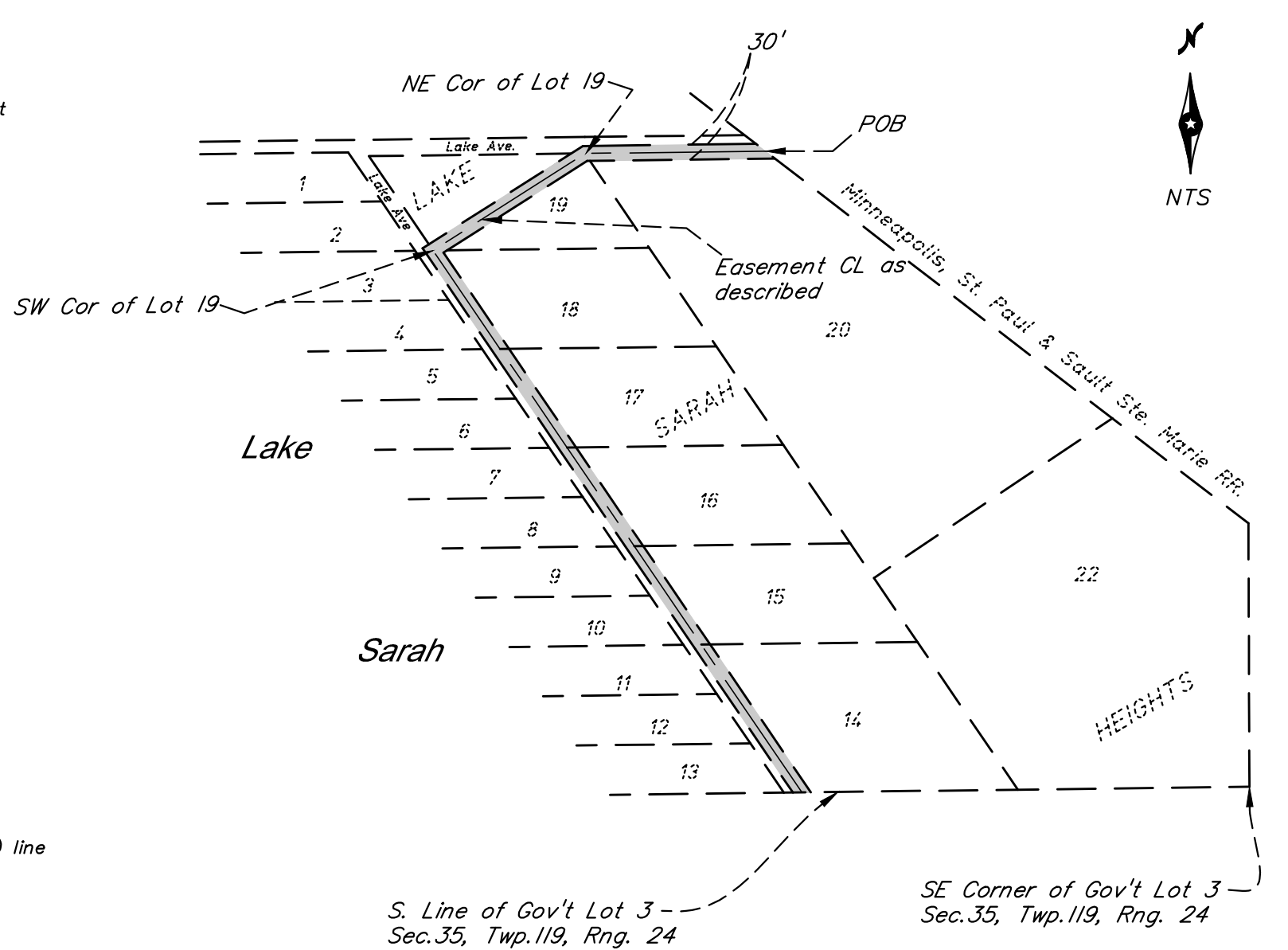
Exhibit A

The South 100 feet of the North 300 feet of all that part of Government Lot 2, Section 19, Township 118 North Range 24 West, lying westerly of the following described line: The North line of said Government Lot 2, as re-set by the Hennepin County Surveyor of May 25, 1959; thence East along said North line 234 feet to the point of beginning of the line being described; thence deflecting right 70 degrees 49 minutes to the South line of the North 100 feet of said Government Lot 2 and thence East together with a non-exclusive easement for road purposes over the following described premises, being a 30 foot strip of land in Government Lot 3, Section 35, Township 118 North, Range 24 West, being a part of LAKE SARAH HEIGHTS, vacated, the centerline of which easement is described as follows: Beginning at the intersection of the North line of Lot 20, LAKE SARAH HEIGHTS, vacated, and the North line of Government Lot 3, and there easterly to the Ste. Marie Railway; thence West along said North line to the northeasterly corner of said Lot 19, said LAKE SARAH HEIGHTS, vacated (and the South sideline of said 30 foot strip being extended east to intersect the said southwesterly right-of-way line); thence southwesterly to the southwesterly corner of said Lot 19; thence South 33 degrees 25 minutes East along the westerly line of Lots 18,17,16,15 and 14, LAKE SARAH HEIGHTS, vacated, a part of Government Lot 2, Section 2, Township 118 North, Range 24 West, to the Northeasterly sideline of said 30 foot strip being extended southeasterly to intersect said south line of said Government Lot 3. For the purposes of this description the south line of said Government Lot 3 is assumed to be due East and West line. Together with a non-exclusive easement for road purposes over the following described premises, being a part of Government Lot 2, Section 2, Township 118 North, Range 24 West, described as follows: Commencing at the meander corner of the northeasterly shore of Lake Sarah and on the North line of said Government Lot 2, as reset by the Hennepin County Surveyor on May 25, 1959; thence East along said North line 234 feet to the point of beginning of the easement being described; thence deflecting right 70 degrees 49 minutes to the South line of the North 100 feet of said Government Lot 2; thence East along said South line of the North 100 feet a distance of 61.46; thence deflecting left 77 degrees 30 minutes to the South line of said North line of the North 100 feet of said Government Lot 2; thence East along said South line to the point of beginning, Hennepin County, Minnesota

LEGEND

- | | | |
|---|--|----|
|  | Denotes found iron monument | |
|  | Denotes set lath | |
|  | Denotes found cast iron monument | |
|  | Denotes Judicial Landmark (JLM) | |
|  | Denotes power pole | |
|  | Denotes well | |
|  | Denotes gas meter | |
|  | Denotes electric meter | |
|  | Denotes air conditioning | |
|  | Denotes electric outlet | SW |
|  | Denotes tree, deciduous | |
|  | Denotes shrub/bush | |
|  | Denotes culvert | |
| 755 | Denotes Mark S. Granberg, LS | |
| 343 | Denotes Edward J. Otto, LS | |
| 407 | Denotes Mark D. Kemper, LS | |
|  | Denotes bituminous surface | |
|  | Denotes concrete surface | |
|  | Denotes gravel surface | |
|  | Denotes mulch surface | |
|  | Denotes stone wall | |
| ONE | Denotes overhead electric | |
|  | Denotes basement | |
|  | Denotes existing adjoiners | |
|  | Denotes water edges | |
| OHW | Denotes ordinary high water (OHW) line | |

*Inset Map for Easement Thru
LAKE SARAH HEIGHTS (VACATED)*

[illegible]

The Permeable Paver System

If you're environmentally conscientious, or perhaps facing zoning restrictions on surfaces or areas that are limiting what you can build on your property, a permeable paving system might be the right choice for you.

A permeable paver system is designed to mitigate the **environmental impact** of stormwater runoff by capturing and **filtering stormwater**. With a permeable system, any rain that falls onto your patio, walkway or driveway is captured and allowed to penetrate through the joints between the pavers. This stormwater then travels through a matrix of varying size aggregates that act as **natural filters** by capturing **harmful pollutants and silts**. By contrast, rain and snow falling onto non-permeable surfaces pick up these pollutants and carry them into storm drains. Unfortunately, these types of drains do not lead to treatment plants. Instead, this contaminated water is conveyed directly into streams, lakes and rivers, and ultimately affect the aquatic life and even our drinking water.

A permeable system can even be designed to harvest and recycle rainwater. And, as an added benefit, snow and ice melt more quickly and drain through the pavement openings, reducing slipping hazards.

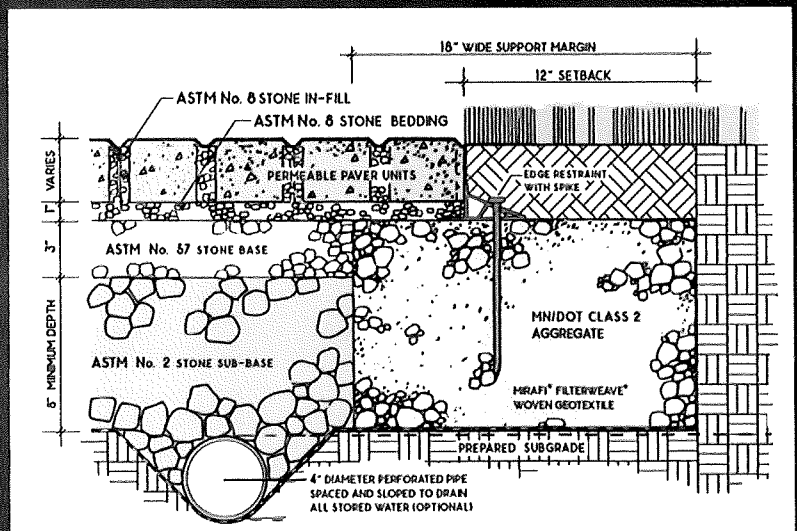
A permeable paver system is an environmentally preferable solution for several reasons:

Stormwater management - Runoff from paved surfaces can cause serious environmental damage such as erosion and polluted silt build-up in rivers, lakes and streams. By allowing rain and snowmelt to infiltrate on site, a permeable system can capture up to 85% of this runoff. In fact, it's even more effective at capturing runoff than grass which only captures 55%.

Pollution control - Permeable paver systems trap up to 80% or greater of pollutants, which include phosphorus (lawn fertilizer), salt and oil, in the runoff rather than allowing them to wash into the local watershed where they can harm fish and other wildlife.

Groundwater recharge - With a permeable system, a higher percentage of rain and snowmelt percolates naturally down through layers of aggregates to maintain healthy groundwater levels.

Government incentives - Local governments may offer grants, tax incentives or utility fee reductions.



City of Independence

Request for a Variance from the Side Yard Setback for the Property Located at 4991 Perkinsville Road

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	May 18, 2021
<i>Applicant:</i>	Nate Bjerga
<i>Owner:</i>	Nate Bjerga
<i>Location:</i>	4991 Perkinsville Road

Request:

Nate Bjerga (Applicant/Owner) is requesting the following action for the property located at 4991 Perkinsville Rd. (PID No. 24-118-24-41-0010) in the City of Independence, MN:

- a. A variance to allow a reduced side yard setback to expand the legal non-conforming house on the subject property.

Property/Site Information:

The subject property is located at 4991 Perkinsville Road. The property is on the south side of Perkinsville Road at the intersection of South Lake Shore Drive and Perkinsville Road. There is an existing home on the subject property.

Property Information: **4991 Perkinsville Road**

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential*

Acreage: 1.04 acres (43,365 square feet)

4991 Perkinsville Road (blue line)



Discussion:

The applicant is seeking approval to construct an addition onto the existing home. The addition includes living space as well as a new garage. The existing home is currently a legal non-conforming structure that does not meet all applicable setbacks for this property. The home does not meet either side yard setback (30 feet required).

The applicant is asking the City to consider granting a variance from the side yard setback (west property line) to allow an expansion of the existing home that is in line with the existing side yard setback. The City requires a side yard setback of 30 feet for properties zoned RR-Rural Residential. The existing home is

located 21 feet from the west side property line. The applicant is proposing to construct the home addition to extend north so that the side yard setback is 21 feet from the side property line rather than 30 feet as required. The resulting variance to the side yard setback would be 9 feet. The required setbacks for properties zoned RR-Rural Residential are as follows:

Front Yard Setback:

Required: 85 feet from centerline or 51 feet from the ROW
Existing: 210 feet from centerline

Rear Yard Setback:

Required: 40 feet
Existing: 203 feet

Side Yard Setback (West Side):

Required: 30 feet
Existing: 21 feet
Proposed: 21 feet (variance of 9 feet)

REQUIRED SETBACK

AREA OF HOME ADDITION

**PORTION OF EXISTING
HOUSE TO REMAIN**



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. Many of the surrounding properties do not appear to be in compliance with all applicable principle or accessory structure setbacks.
- c. The character of the surrounding area is residential. The proposed expansion and remodel of a single-family home is in keeping with the surrounding area.

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

- 1. Staff discussed alternative options for expanding the existing home with the applicant. They noted that if they were to construct the garage further to the east, it would significantly impact the front entrance. They also noted that they would like to maintain the general interior configuration of the

home. The proposed addition that stays in line with the existing structure allows for the best reuse and remodel layout of the existing home.

2. The applicant could locate a detached accessory structure on this property and meet applicable setbacks (15 feet). The applicant noted that they would like to maintain an attached garage.
3. The applicant is purposing to construct an addition that does not increase the non-conforming setback of the existing structure.
4. The proposed remodel of the existing home would likely increase the value of and bring an update to this property.
5. The proposed home/garage addition is a two-story addition which will be taller than the portion of the existing structure that is currently located on this side of the property.

Ultimately the City will need to find that the criteria for granting a variance have been met by the applicant. Due to the configuration of the house on the property and the layout of the existing house itself, there are limited ways to expands the structure that would not require a significant departure to the internal and external use of the existing home. The setback of the proposed addition from Perkinsville Road and the natural screening and buffering that exists to the surrounding property appear to help mitigate the potential impacts.

Public Comments:

The City has had several inquiries regarding the proposed addition/remodel, but no formal comments prior to the time this report was prepared.

Recommendation:

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 City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Residential use of the property is consistent with the Rural Residential District. The applicant is seeking a variance to allow a building addition to the existing home on the property.

b. The location of the proposed addition/remodel is in line with the existing home and building setback from the west property line. The alignment, updated building architecture and exterior finishes appears to mitigate some of the potential impacts resulting from the addition.

c. The character of the surrounding area is residential. The proposed building addition and remodel would be in keeping and consistent with the surrounding uses found in this neighborhood.

3. Prior to City Council consideration of the proposed variance, the applicant shall provide the City with a survey of the property and proposed building addition.

4. The variance will permit a 9-foot reduction (from 30 feet to 21 feet) of the west side yard setback to allow the proposed addition to the existing structure as depicted on the site plan and building plans attached hereto as Exhibit A. 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.

Attachments:

1. Application
2. House Plans/Elevations



**CITY OF
INDEPENDENCE
MINNESOTA**

Applicant Information

Name: Nate Bjerga

Address: 4991 Perkinsville Rd
Independence, Minnesota
55359

Primary Phone: 6512740411

Secondary Phone: 6513871812

Email: natebjerga@hotmail.com

Owner Information

Name: Nate Bjerga

Address: 4991 Perkinsville Rd
Independence, Minnesota
55359

Primary Phone: 6512740411

Secondary Phone: 6513871812

Email: natebjerga@hotmail.com

Property Address:

PID:

Planning Application Type: Variance

Description:

Supporting Documents: Preliminary/Final Plan

Signature:



NUMBER	DATE	REVISED BY	DESCRIPTION
1	3/20/2021	JOHN	

NATE & JESSICA BJERGA
4991 PERKINSVILLE RD
MAPLE PLAIN MN 55359

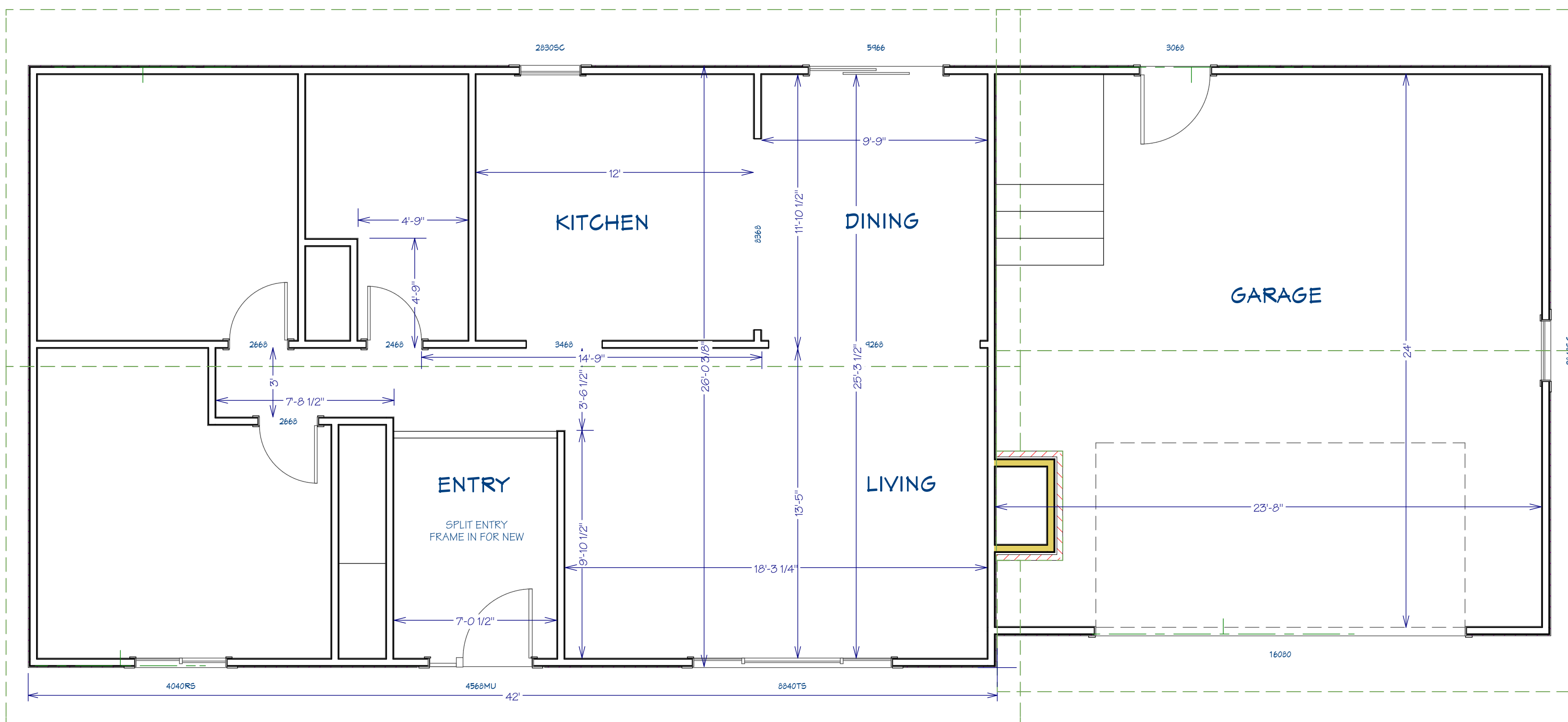
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3/21/2021

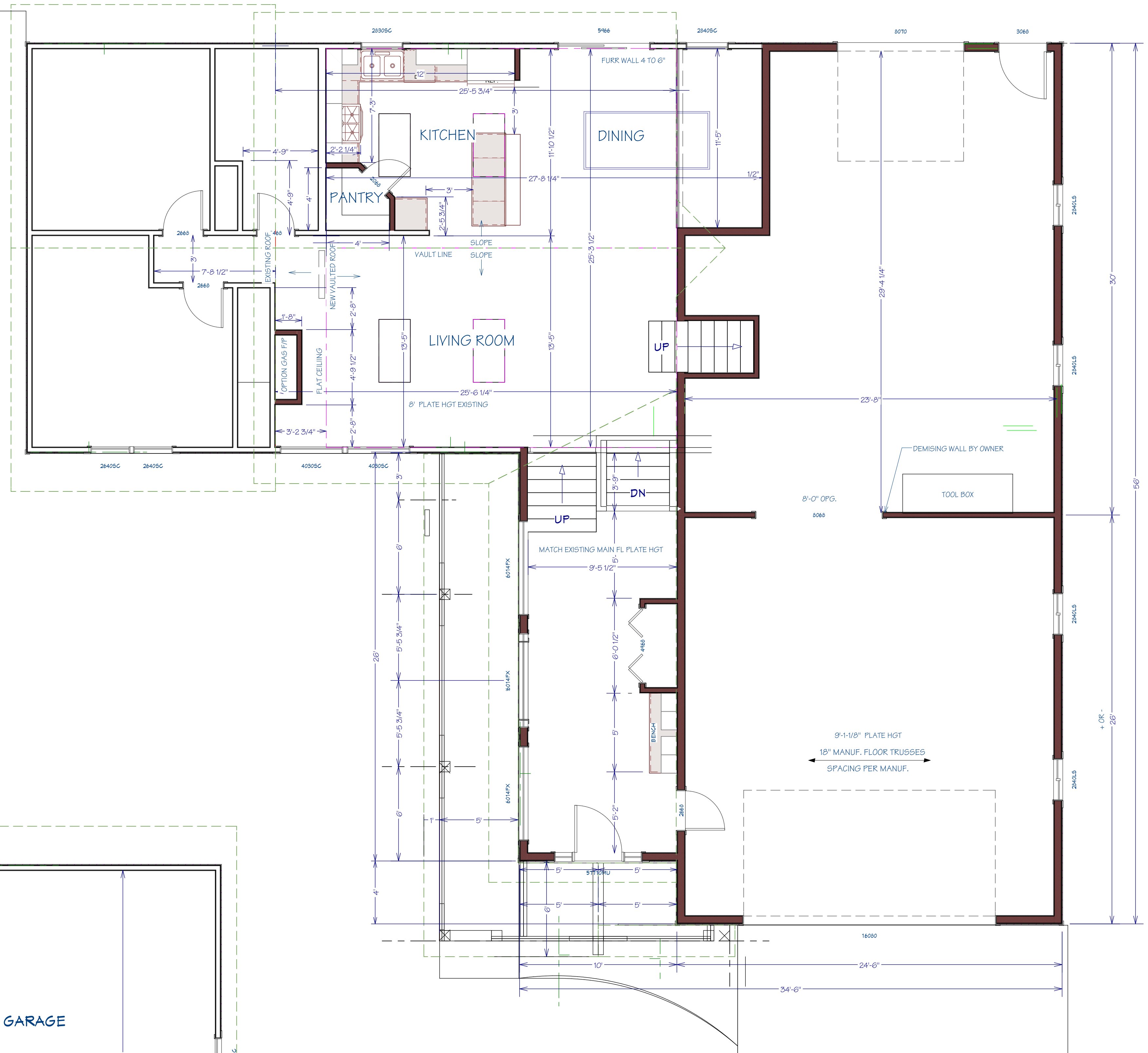
SCALE:

SHEET:

$p-1$



1st Floor



PROPOSED MAIN FLOOR 1/4" = 1'-0"

PRELIMINARY NOT INTENDED FOR CONSTRUCTION

NUMBER	DATE	REVISED BY	DESCRIPTION
1	3/20/2021	JOHN	

NATE & JESSICA BJERGA
4941 PERKINSVILLE RD
MAPLE PLAIN MN 55359

DATE:

3/21/2021

SCALE:

SHEET:

P-2



PRELIMINARY NOT INTENDED FOR CONSTRUCTION

REVISION TABLE	
NUMBER	DATE
1	3/20/2021

NATE & JESSICA BJERGA
4941 PERKINSVILLE RD
MAPLE PLAIN MN 55359

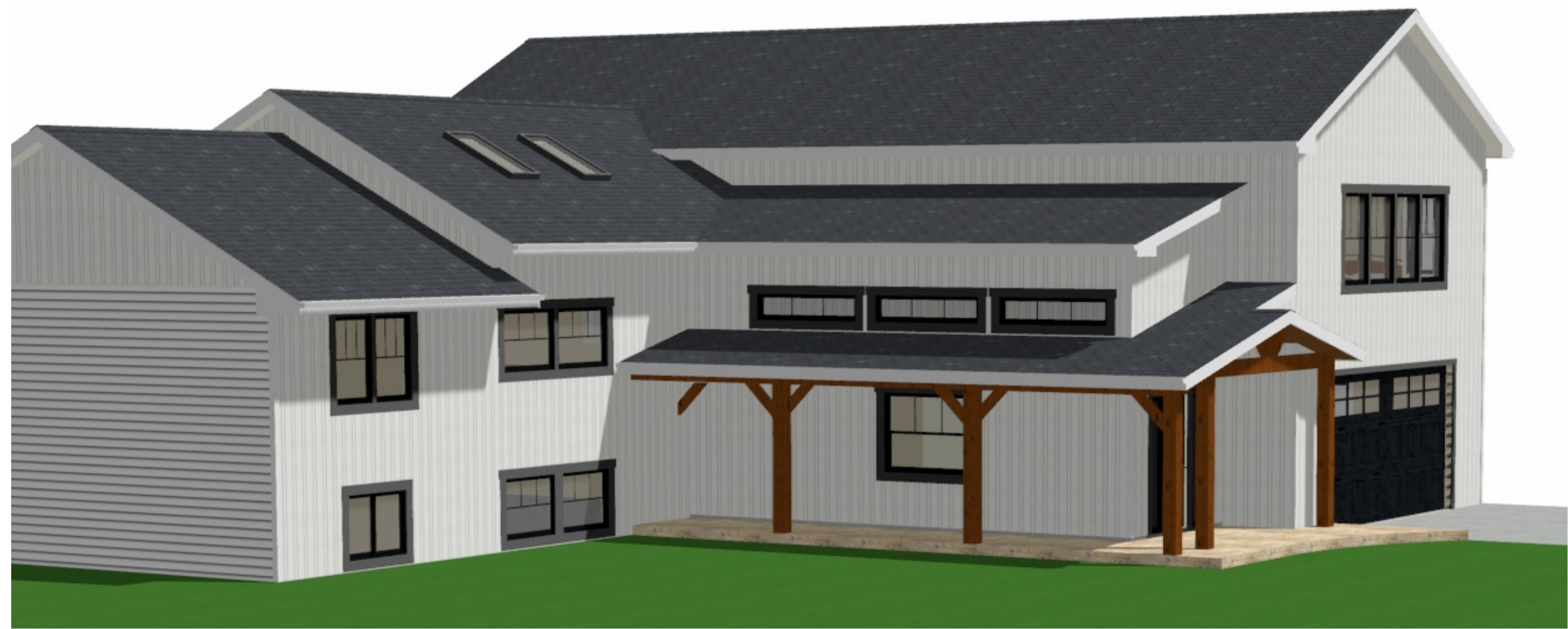
DATE:

3/21/2021

SCALE:

SHEET:

A-1



PRELIMINARY NOT INTENDED FOR CONSTRUCTION

REVISION TABLE		
NUMBER	DATE	DESCRIPTION

NATE & JESSICA BJERGA
4941 PERKINSVILLE RD
MAPLE PLAIN MN 55359

DATE:

3/21/2021

SCALE:

SHEET:

A-2

City of Independence
Rezoning, Preliminary and Final Plat Approval Request for the
Scheffers Hills Subdivision

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	May 18, 2021
<i>Applicant:</i>	Elmer Scheffers
<i>Owner:</i>	Elmer Scheffers
<i>Location:</i>	3590 Independence Road

Request:

Elmer Scheffers (Applicant/Owner) is requesting the following actions for the property located at 3590 Independence Road (PID No. 12-118-24-32-0003) in the City of Independence, MN:

- a. Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan.
- b. Preliminary Plat for a 3-lot subdivision of the subject property.
- c. Final Plat for a 3-lot subdivision of the subject property.

Property/Site Information:

The property is located on the east side of Independence Road, just north of Pete Drive. There is an existing home and a detached accessory structure located on the property. The house is accessed off of Independence Road. The property is a combination of rolling hills, tillable acreage and wetlands. The property has the following characteristics:

Property Information: **3590 Independence Road**

Zoning: *Agriculture*

Comprehensive Plan: *Rural Residential*

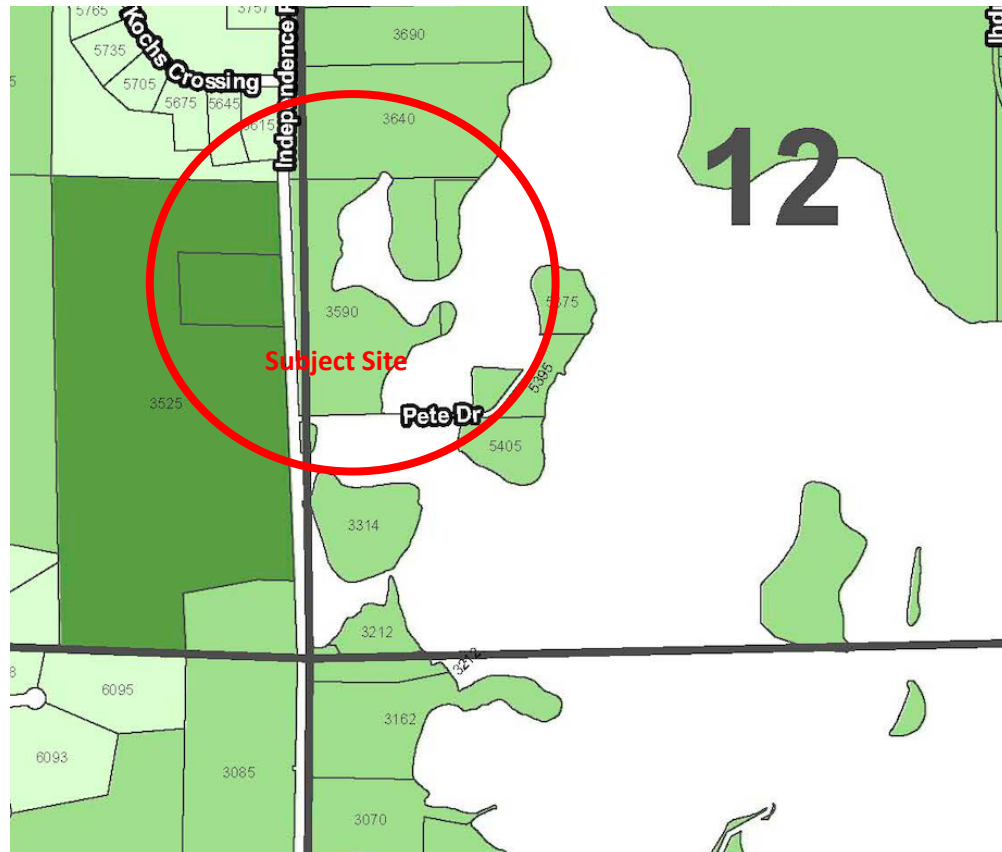
Acreage: ±24.34 acres



Discussion:

The applicant approached the City about the possibility of subdividing the subject property to realize several additional lots. The City has had multiple conversations with the applicant regarding the layout, number of lots and access to the proposed lots. The applicant has prepared a preliminary plat and is seeking Rezoning, Preliminary and Final Plat approval for a three (3) lot subdivision to be known as Schefers Hills Subdivision. The proposed subdivision would split the existing 24 acre parcel into three lots. There is an existing home located on the north edge of the property just off of Independence Road. The existing home would remain in the after condition and be located on one of the three lots.

The property is currently zoned Ag – Agriculture and is guided by the City’s Comprehensive Plan as a RR- Rural Residential property (See Map – Green = Agriculture, Light Green = Rural Residential).



Rezoning

Rezoning this property is consistent with the City’s 2030 and 2040 Comprehensive Plan. There are several lots in close proximity to the subject property which are similar in nature to the proposed lots.

Site Plan

The City allows the subdivision of property in the rural residential zoning district if it can be shown to meet all applicable criteria of the ordinance. The City’s applicable standards are further defined as follows:

Subd. 3. Density. Lots of record in the rural residential district may be divided or subdivided into the following maximum number of lots, said maximum number to include the lot for any existing dwelling unit or other principal use: (Amended, Ord. 2010-01)

<u>Area of Lot of Record</u>	<u>Maximum Number of Lots Permitted</u>
7.5 acres or less	One
7.6 through 12.5 acres	Two

12.6 through 17.5 acres	Three
17.6 through 22.5 acres	Four
22.6 through 27.5 acres	Five
27.6 through 32.5 acres	Six
32.6 through 37.5 acres	Seven
37.6 through 42.5 acres	Eight
42.6 through 47.5 acres	Nine, plus one addn. lot for every five addn. acres of land.

In addition to the maximum lot density, the City has the following standards pertaining to Rural Residential lots.

530.03. Physical Standards.

Subd. 3. Physical standards. All lots and construction thereon must meet the following physical standards:

(a) Minimum lot area ^a 2.50 acres buildable land

(b) Minimum lot frontage on an improved public road or street:

<u>Lot area</u>	<u>Minimum frontage</u>
2.50 – 3.49 acres	^b 200 feet
3.50 – 4.99 acres	^b 250 feet
5.00 – 10.00 acres	^b 300 feet

(c) Lot depth. The ratio of lot frontage to lot depth must be no more than 1:4.

^a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of 10% or other physical impediments.

A more detailed breakdown of the proposed individual lots is as follows:

<u>Block 1</u>	<u>Area</u>	<u>Upland Acreage</u>	<u>Frontage</u>	<u>Lot Frontage to Lot Depth</u>
Lot 1	15.6 acres	5.3 acres	811 LF	1:1
Lot 2	3.17 acres	2.5 acres	481/286 LF	1:1.5
Lot 3	5.57 acres	2.5 acres	531 LF	1:1

The applicant has prepared a preliminary plat and site plan that shows the proposed lots, applicable building setbacks, possible home site locations and all requisite easements. The two new lots would be connected to the City's sewer (force main) located on Independence Road. Each of the homes would have to install an individual connection to the existing sewer line. The City identified several issues relating to the proposed subdivision that are further described as follows:

- The applicant and City discussed access to the proposed lots at length. Staff recommended that the applicant provide access to the lots off of Pete Drive rather than Independence Road. The site lines on Independence Road are compromised in the vicinity of the proposed lots and potential driveways. In addition, if the lots were laid out in the current configuration, the new property owners would likely want to use Pete Drive for access to the principal structure and or accessory structures. The issue with Pete Drive access is that Pete Drive does not meet the City's current gravel road standards for the road and right of way widths. The existing road is approximately 12 feet wide, and the existing right of way is 33 feet. The City requires new roads to be 26 feet wide and right of way of 66 feet. The City recommended that the applicant provide an additional 33 feet of right of way on the subject property and reconstruct a fully compliant Pete Drive.
- The applicant has agreed to construct the new section of road and provide the City with the requested road easement for the length of the property. The City would only require the construction of the additional road width up to a point where the existing wetland makes further expansion prohibitive (see below). This would provide for an improved section of Pete Drive up to the point where the additional driveways (traffic) would access/use the public road. The widened section of road would be blended back into the existing road as it narrows to the east. The City does maintain Pete Drive beyond the wetlands to the east.



- The applicant would like the City to credit a portion of the proposed Pete Drive right of way/easement towards the upland portion of the property. This credit would allow the proposed lots to meet the applicable 2.5-acre minimum lot size. The City's current ordinance excludes right of way in the lot area for this type of subdivision.

500.57. Lots.

Subd. 1. Location. Lots may have no less than 200 feet of frontage on a street or road, except lots fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and must meet minimum width requirements at the building setback line.

Subd. 2. Size. Lot size requirements for divisions and subdivisions shall be governed by the zoning code or section 705, or both. All dimensions and lot area shall exclude right-of-way.

Staff is seeking direction from the City relating to the possibility of crediting the applicant for a portion of the additional (33 feet) Pete Drive right of way/easement? If the City does not allow the additional right of way to be credited towards the upland portion of the property, the northern property line would need to be adjusted. This could potentially limit the future subdivision of the Lot 1, Block 1 (currently has ~5.3 acres of upland).

- There are several significant wetlands located on this property which make the subdivision more difficult. The applicant and the City have reviewed the location and boundaries of the wetlands on this property. A wetland delineation has been completed and approved by the state, watershed and City. The applicant will be required to maintain the requisite wetland buffer around the wetlands.
- When the City installed the sewer on Independence Road it estimated the potential subdivision of properties located along the sewer line. It was estimated that this property could realize up to 4 lots (see attached exhibit). Each new sewer connection will be subject to the sewer assessment fee and all applicable connection charges.

The proposed lot configuration takes advantage of the best possible home locations on the southern portion of the property. Access to Pete Drive provides for a better solution to access for both properties given the limited site lines and topography along Independence Road. The properties to the east on Pete Drive have the potential to redevelop in the future. There are currently three parcels located to the east of the wetland. It is possible that the properties to the east could subdivide in the future depending on their ability to bring Pete Drive up to a full City street.

Engineering

The City will require a detailed plan for bringing Pete Drive into compliance with applicable standards. This plan would be required to be submitted and reviewed prior to City Council consideration. It is anticipated that the City and applicant would enter into a Developers Agreement for the proposed public improvements. The individual lots will be required to apply for and be granted a grading permit at the time of building permit application. At that time the City will review the individual lot grading.

Park Dedication

The proposed subdivision is subject to the City's park dedication requirements. The park dedication requirements are broken down as follows:

Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5.

Lot 1 includes the existing home and will not be subject to additional park dedication fees.

Lot 2 – 3.17 acres = \$3,500

Lot 3 – 5.57 acres = \$3,500 + 428 (\$3,928)

The total amount of the park dedication is \$7,428 for the two (2) new lots.

Neighbor Comments:

The City has received several questions and comments from adjacent property owners. Adjacent property owners had questions relating to the road improvements, number of lots and access. Neighboring property owners wanted to ensure that the proposed homes and associated traffic would not impact Pete Drive in a way that negatively impacts their respective properties.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested rezoning, preliminary plat and final plat. Should the Planning Commission make a positive recommendation, the applicant would be required to enter into a development agreement and satisfactorily complete all requisite requirements of the City prior to final plat consideration by the City Council. The Planning Commission can approve both preliminary and final plat or ask for final plat to be considered separately at a future date. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions should be considered:

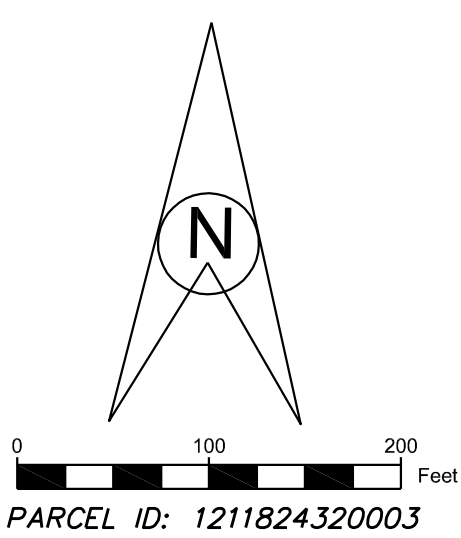
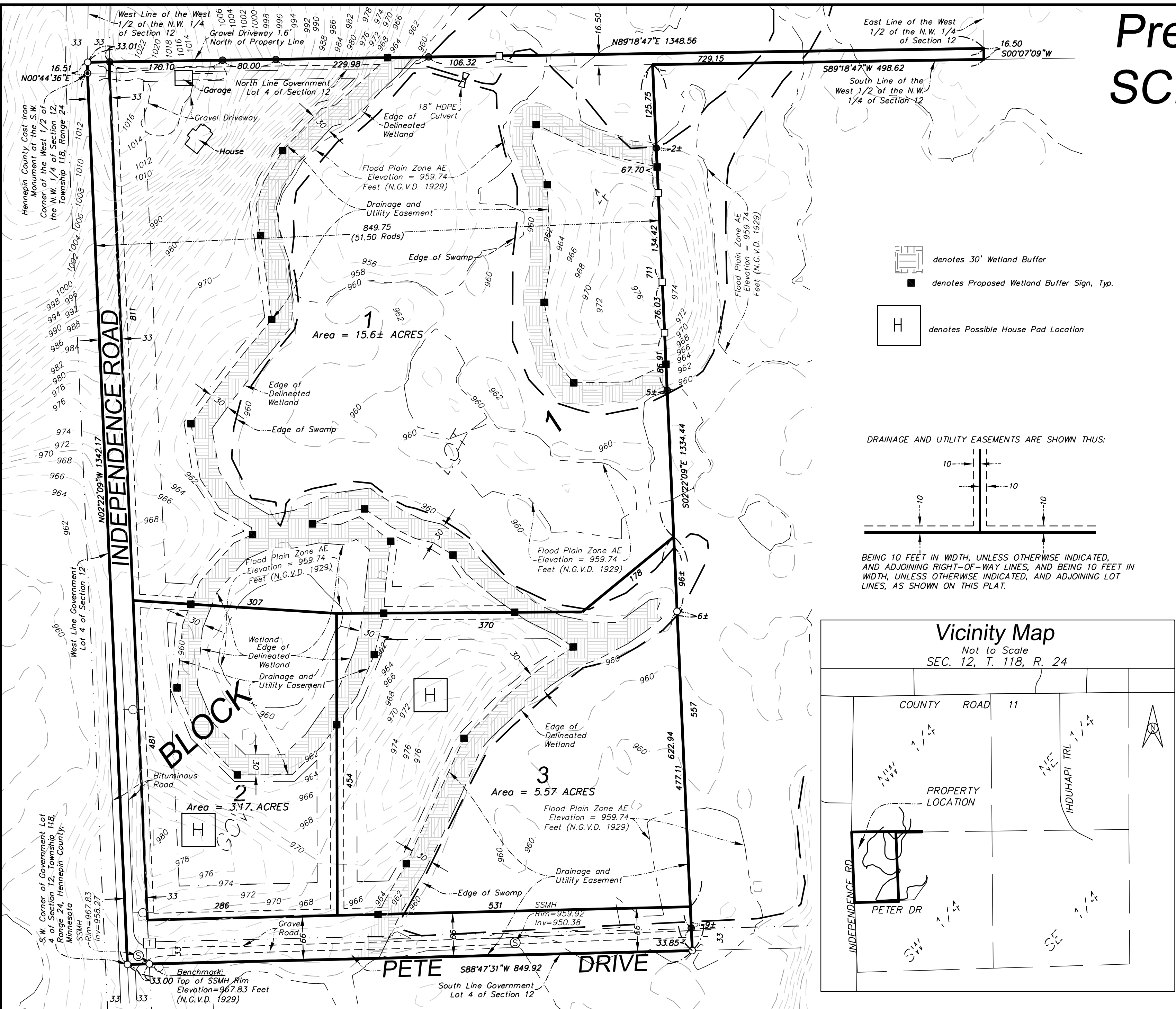
1. The proposed Rezoning and Preliminary Plat meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. Approval of the Preliminary and Final Plat is subject to the following:
 - a. The Applicant shall address all comments and applicable requirements pertaining to the development.
 - b. The Applicant shall make all revisions requested in the staff report, by the Planning Commission and City Council.
 - c. The Applicant shall comply with all applicable regulations and conditions prescribed by Pioneer Sarah Creek Watershed Management Commission.
 - d. The Applicant shall enter into a development agreement with the City for this development.

- e. The Applicant shall provide a letter of credit as established by the development agreement for all improvements associated with this development, if required.
3. The Applicant shall pay the park dedication fees in accordance with the terms defined in the Development Agreement.
4. The Applicant shall pay the applicable sewer assessment and connection fees.
5. The Applicant shall pay for all costs associated with the City's review of the rezoning, preliminary and final plats.
6. The Applicant shall submit the final plat and associated documents to the City within six (6) months of approval of the Preliminary Plat.

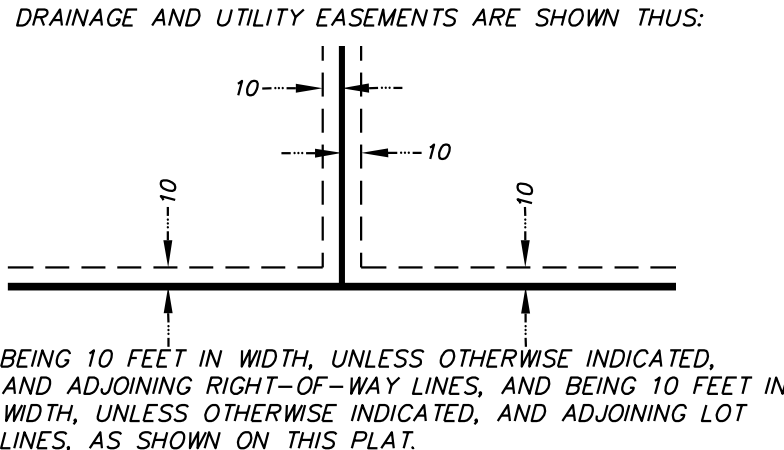
Attachments:

1. Preliminary Plat and Site Plan
2. Potential Lot Subdivision Exhibit

Preliminary Plat of SCHEFERS HILLS



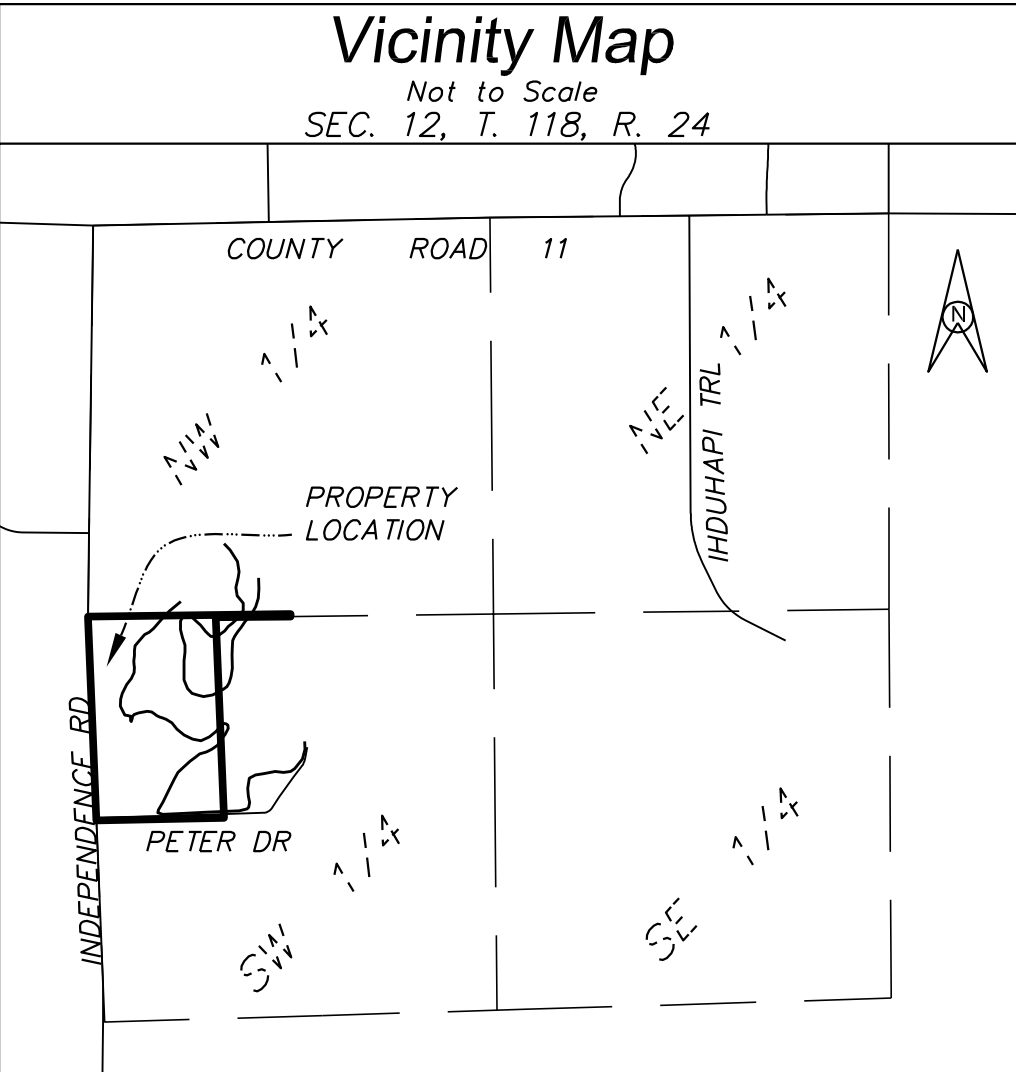
- PARCEL ID: 1211824320003
- LEGEND**
- 988 — denotes Existing Contour
 - 988.00 X denotes Existing Spot Elevation
 - [T] denotes Telephone Pedestal
 - denotes Power Pole
 - ⊙ denotes Sanitary Manhole
 - denotes Delineated Wetland
 - denotes Existing Culvert
 - - - denotes Building Setback Line
 - Front = 80' from C
 - Side = 30'
 - Rear = 40'
 - Wetland Buffer = 10'



Buildable Area:

Parcel 1 = 5.3± acres
Parcel 2 = 2.5± acres
Parcel 3 = 2.5± acres

Buildable Areas as Calculated are less Existing Road Right of Way Easements.

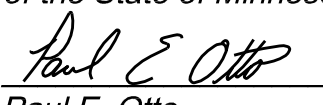
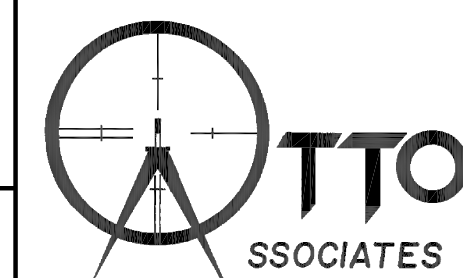


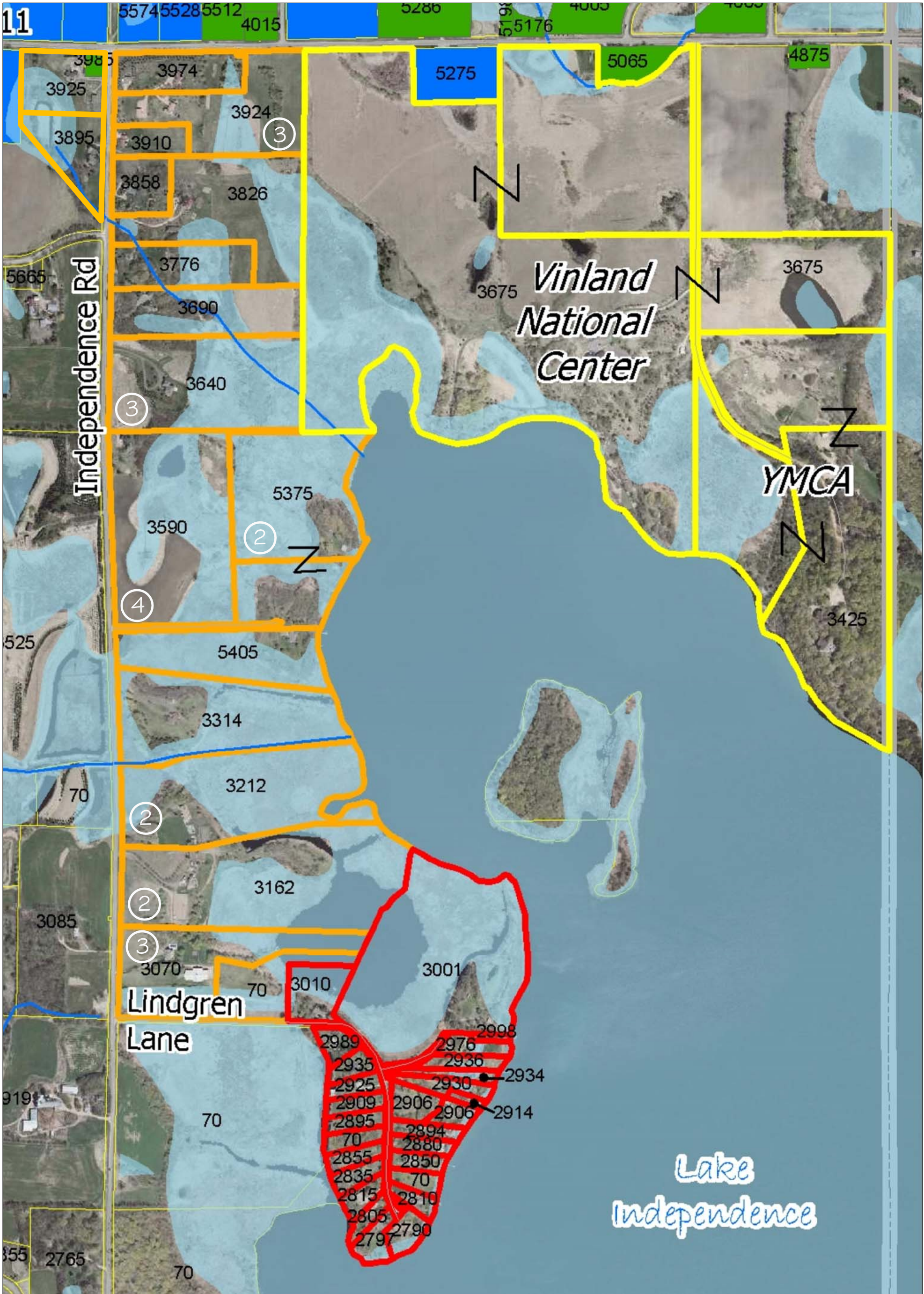
EXISTING PROPERTY DESCRIPTION

The West 51.50 rods of Government Lot 4 and the South 16.50 feet of the West Half of the Northwest Quarter of Section 12, Township 118, Range 24, Hennepin County, Minnesota.




NOTE:

Wetland delineated by Kjolhaug Environmental Services Company

Preliminary Plat on part of Government Lot 4, Section 12, Township 118, Range 24, Hennepin County, Minnesota.		I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.		Requested By:	
Revised:		 Paul E. Otto License #40062 Date: 4-20-2021		Elmer Schefers	
		Date:	Drawn By:	Scale:	Checked By:
		10-2-20	S.O.S.	1" = 100'	P.E.O.
		 Engineers & Land Surveyors, Inc.		www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763)682-4727 Fax: (763)682-3522	
		● denotes iron monument found ○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062		Project No. 20-0158	



LEGEND

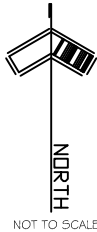
-  LOTS RECEIVING SEWER CONNECTION - INDEPENDENCE ROAD
-  LOTS RECEIVING SEWER CONNECTION - LINDGREN LANE
-  LOTS PROPOSED TO HAVE ADDITIONAL SEWER CONNECTIONS AVAILABLE - INDEPENDENCE ROAD

NOTE: ALL UNITS ASSUMED TO HAVE ONE (1) CONNECTION UNLESS OTHERWISE INDICATED ON EXHIBIT

PROPOSED ADDITIONAL SEWER CONNECTIONS EXHIBIT

TRI-CITY AGREEMENT

CITY OF INDEPENDENCE, MN
MAY, 2010



NOT TO SCALE