



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 JULY 20, 2021

**7:30 PM Regular Meeting**

1. Call to Order
2. Roll Call
3. Approval of Minutes:
  - a. May 18, 2021 Planning Commission Meeting
  - b. June 15, 2021 Planning Commission Meeting
  - c. July 6, 2021 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Richard Wood (Applicant/Owner) is requesting the following actions for the property located at 5233 Lake Sarah Heights Drive (PID No. 01-118-24-24-0023) in the City of Independence, MN:
  - a. A variance to allow a reduced front yard setback related to the construction of a new home on the subject property.
5. Tom Koch (Applicant) is requesting that the City consider the following review/discussion for the property generally located at 5865 Kochs Crossing (PID No.s 111-118-24-12-0004, 111-118-24-13-0003, 111-118-24-12-0002, 111-118-24-13-0002, 111-118-24-42-0002) in Independence, MN:
  - a. Concept plan review relating to the proposed subdivision of the subject property. The concept plan proposes 34 single-family residential lots.
6. Open/Misc.
7. Adjourn.

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
MAY 18, 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 7:30 p.m.

2. ROLL CALL (all virtual)

PRESENT: Commissioners Gardner, Dumas, Thompson and Palmquist  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
ABSENT: Commissioner Volkenant  
VISITORS: Brent Foster, Heidi Foster, Randy Kyrola, Nate Bjerga, Elmer Scheffers, Paul Otto

3. Approval of Minutes:

- a. April 20, 2021 Planning Commission Meeting
- b. May 4, 2021 City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the April 20, 2021 Planning Commission minutes as amended, second by Dumas. Ayes: Gardner, Dumas, Thompson and Palmquist. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.**

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.

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

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.

Thompson asked if the old shed was granted a variance. Kaltsas said that was historically on the property and is a legal non-conforming structure. It has been redone and updated.

Gardner opened the Public Hearing.

### **Public Hearing Opened**

Kyrola said he votes to leave it as it is, or it is going to look odd from his side as a neighbor.

Brent Foster noted the access area is important to them as they host three community events noted as annually “Night to Unite”, a hockey rink for the lake residents and Heidi Foster hosts an event for an inner-city club. The storage and access are very important for these events.

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

### **Public Hearing Closed**

Gardner said it makes sense to have the access as it is a tight lot. Thompson asked Kaltsas about making sure the accountability over the permeability factors. Kaltsas said he has worked with Foster and he is



looking at putting in the driveway soon. Kaltsas noted it would bring the property into compliance and this is needed to for the variance.

**Motion by Thompson, second by Palmquist to approve a variance to allow a reduced side yard setback for a detached accessory structure on the property located at 4755 Lake Sarah Heights Circle with item (4) to be amended to note completion by October 15, 2021. Ayes: Thompson, Dumas, Palmquist and Gardner. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.**

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.

Kaltsas said 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)

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)** 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.

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. 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.

Gardner noted the 100' wide lot and Kaltsas said that is large for normal subdivisions but in Independence it is not.

Gardner opened the Public Hearing.

#### **Public Hearing Opened**

Jessica Bjerga said Kaltsas did a great job outlining what they are looking to do, and they are not going over the line. She said the neighbors wished them luck.

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

#### **Public Hearing Closed**

Dumas asked what was next to the garage in the picture. Bjerga said it was a 5<sup>th</sup> wheel camper.

**Motion by Thompson, second by Palmquist to approve a variance to allow a reduced 9' side yard setback to expand the legal non-conforming house on the subject property located at 4991 Perkinsville Rd. (PID No. 24-118-24-41-0010) in the City of Independence, MN: Ayes: Thompson, Dumas, Palmquist and Gardner. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.**

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.

Kaltsas said 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 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 Scheffers 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 Rural Residential property (See Map – Green = Agriculture, Light Green = Rural Residential). 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.

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)*

*Area of Lot Maximum Number  
of Record of Lots Permitted*

*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:*

*Lot area Minimum frontage*

*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 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:

Block 1 Area Upland Acreage Frontage Lot Frontage to Lot Depth

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.

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 is 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.

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.

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. 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.

Dumas asked if the 2.5 acres went away if connected to sewer. Kaltsas said along shoreline it can be an acre but outside of that it is 2.5-acre requirement. Kaltsas noted the centerline road measurement on properties that are 5 acres or greater. Gardner said that needs to be reviewed as it seems inconsistent.

Palmquist asked about section 705 and if would be creating a precedent. Kaltsas said he was not aware of this in past history and noted it is the difference between Ag subdivisions versus more modern subdivisions. Thompson noted they would be fine if they were not giving the City 30' for the ROW.

Dumas asked the point of high ground if you are on sewer versus just land. Kaltsas noted the 2.5 is a minimum but the average is 5 acres as far as density in the City. Dumas said he thought developers had to pave gravel roads not just "improve" the gravel road. Kaltsas said two driveways does not really need an upgrade to a paved road from gravel.

Gardner opened the Public Hearing.

### **Public Hearing Opened**

Otto said they are essentially asking for a waiver on the 30' ROW.

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

### **Public Hearing Closed**

**Motion by Thompson, second by Palmquist to approve the Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan, the Preliminary Plat for a 3-lot subdivision of the subject property and the Final Plat for a 3-lot subdivision of the subject property for the property located at 3590 Independence Road (PID No. 12-118-24-32-0003) in the City of Independence, MN. Ayes: Thompson, Dumas, Palmquist and Gardner. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.**

7. Open/ Misc.

Palmquist asked about if additional commissioners had gotten any traction. Kaltsas said the Council did approve the addition of two alternate members. He are noting they are waiting to interview the applicants in person after Covid19 safety measures. Kaltsas said that should be coming up soon.

Palmquist asked updates on the final Comp Plan. Kaltsas said he should have an update by the next meeting.

8. Adjourn.

**Motion by Palmquist, second by Dumas to adjourn at 8:40 p.m.**

Respectfully Submitted,

---

Trish Gronstal/ Recording Secretary



MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
JUNE 15, 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 7:30 p.m.

2. ROLL CALL (all virtual)

PRESENT: Commissioners Gardner, Dumas, Thompson, Volkenant and Palmquist  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
ABSENT: None  
VISITORS: Jerry Wise, Donovan DesMarais, Paul Otto, Nathan Kirkpatrick, Steve Grotting

3. Approval of Minutes:

- a. May 18, 2021 Planning Commission Meeting
- b. June 1, 2021 City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the April 20, 2021 Planning Commission minutes as amended, second by Dumas. Ayes: Gardner, Dumas, Thompson and Palmquist. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.**

4. **PUBLIC HEARING:** 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. Preliminary and Final Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah).
  - b. Final Plat 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 approving preliminary and final plat for a new four (4) lot subdivision on the subject property. Earlier this year, the City reviewed a concept plan for this development and provided feedback to the applicant and staff relating to the proposed development. The applicant has now prepared a more detailed submittal for the requested actions. The City is being asked to consider the following actions:

- 1. Consider Preliminary Plat approval.
- 2. Consider Final Plat approval.

The City has 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 allows properties zoned S-Shoreland and have access to sanitary sewer, to 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. Proposed Lot Details:

Lot No. Lot Area Lot Width at OWHL Lot Width at Setback Frontage

Lot 1 2.0 acres 142 LF ~120 LF 137 LF

Lot 2 2.8 acres 107 LF ~115 LF 137 LF

Lot 3 3.2 acres 129 LF ~125 LF 137 LF

Lot 4 2.12 acres N/A N/A 139 LF/619 LF

1. A detailed review of the storm water, grading, wetlands, and infrastructure details has been completed by the City. The following comments should be considered by the City: There is no grading being proposed as a part of the subdivision.

a. Each lot will be individually graded at the time a building permit is pulled.

b. Each lot will be individually connected to City sewer at the time a building permit is pulled.

As a result, there are no overall development concerns relating to grading, utilities, or stormwater.

2. A wetland delineation has been completed for the property. The applicant is proposing to contain the wetlands and the requisite buffer within a newly established drainage and utility easement. This is required and consistent with established City standards. a. It should be noted that Lot 3, Block 1 has approximately 5 feet of clear access from the main portion of the lot to get to the lake side of the property. In addition, the applicant would have to cross the wetland in some manner to access the lake.

3. The applicant has identified the potential home sites for each lot along with the prescribed building setbacks.

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 the following criteria is satisfied.

*Lots must have no less than the specified minimum frontage respectively on a right-of-way, provided that the city council may waive the requirement if the following conditions are met:*

*(1) The applicant submits and the city council approves a development plan encompassing all land under the control of the applicant.*

*(2) The development plan must demonstrate that vehicular and pedestrian access, as well as emergency and public vehicular access can be provided to each lot in the development plan.*

*(3) The applicant must enter into a private road agreement that meets the criteria of subsection 510.05, subdivision 70 of this Code as well as additional conditions deemed necessary by the city council to protect the health, safety, and welfare of the occupants of the lots within the development plan.*

The proposed layout appears to create a more advantageous configuration due to access for all lots coming off of Woodhill Drive versus CSAH 11. During the review of the concept plan, Council and Planning Commission noted that access for all lots off of Woodhill Drive would better serve

the proposed properties. Hennepin County has also indicated that an additional access onto CSAH 11 would not likely be approved. One key aspect of this consideration is that the property has the requisite length of frontage to support all four proposed lots. The City is therefore would be waiving the frontage requirement for each individual lot, but not the reduction of total frontage required to realize the lots. The proposed layout is somewhat impacted by the existing detached accessory structure located on Lot 2, Block 1. This structure is not considered a legal structure as there is no principal structure located on this property. The City will require an escrow deposit and agreement relating to the use and removal of the structure should no principal structure be established on the property. This structure is shown to meet applicable building setbacks in the proposed condition.

6. There is a second existing detached accessory structure located on Lot 2, Block 1 near the shoreline. This shed is also considered to be an illegal structure as there is no principal structure on the property. In addition, the maximum size of a detached accessory structure located within 100 feet of the OHWL of the lake is 120 SF. The applicant will need to verify the size of this shed and if greater than 120 SF, will need to remove the shed or modify it to comply with all applicable requirements. This can also be addressed in the recommended agreement with the applicant.

7. 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 at the time a building permit is pulled. It has been noted by the City that the invert elevation of the existing public sewer may dictate additional restrictions for the elevations of the proposed homes.

8. 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. As historically has been done along County Road 11, Hennepin County is requesting an additional 17 feet of right of way for future trail and road expansion. This has been a consistent request for all subdivisions along CSAH 11. The additional setback does not impact the potential buildable area of Lot 4, Block 1 due to the setback being taken from the centerline of CSAH 11 (which would not change as a result of the additional ROW request).

10. The City's current park dedication fee is \$3,500 per lot (less than 4.99 acres). The proposed subdivision of this property is generally in keeping with the existing Rural Residential zoning district. The proposed lots would be similar in nature and character to the surrounding properties. Lots along Woodhill Drive range in size from approximately .5 acre to 2 acres.

#### Recommendation:

The Planning Commission is being asked to consider approval of the applications for a preliminary and final plat. Should the Planning Commission recommend approval to the City Council, the following findings and conditions should be considered:

1. The proposed preliminary and final plats meet all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance. The Applicant shall address all comments made within this report and recommended by the Planning Commission.
2. The Applicant shall enter into an agreement with the City relating to the use and removal of the two detached accessory structures located on Lot 2, Block 1. The agreement will stipulate conditions of use and or modification of the existing structures and require a form of security acceptable to the City to support the agreement.
3. The Applicant shall revise the plat to include the additional 17 feet of right of way for future trail and road expansion.
4. There is one existing connection to the sanitary sewer serving the existing detached accessory structure. This connection can be used for Lot 1 or 2, Block 1. The three new and additional lots would be subject to all applicable connection fees in addition to the initial assessment fee of \$9,550

per lot. The \$9,550 shall be paid by the developer prior to recording of the final plat.

5. The Applicant shall pay the City's current park dedication fee of \$3,500 per lot (less than 4.99 acres). This The \$3,500 per lot shall be paid by the developer prior to recording of the final plat.

6. The Applicant shall pay for all costs associated with the City's review of the requested preliminary and final plat.

7. The Applicant shall record the final plat with Hennepin County within 180 days of the City Council approval.

Palmquist asked about lot 3 and guidance staff could provide on what type of crossing would be acceptable. Kaltsas said there a few options one being a boardwalk. They would possibly need to do a raised dock or platform. Palmquist asked if this guidance should be added to the request. Kaltsas said the buffer would be regulated by the watershed district.

Palmquist asked if Lot 2 would have a fee for connection to sanitary sewer. Kaltsas said yes there was fee applied and paid. Kaltsas recommends the applicant enter an agreement with a security deposit to ensure the conditions around approval and use of the accessory building.

Gardner opened the Public Hearing.

### **Public Hearing Open**

Palmquist asked about the accessory building not being used as a dwelling unit. DesMarais said this in not intended to become a primary residence and he wants to work within the current code. Thompson said it is illegal now and cannot be used in that capacity unless it goes through the process with the Planning Commission in the future. Thompson said because it exists now does not mean it is "grandfathered" in for the future. Kaltsas noted if greater than 120 square feet would have to be modified or removed and this would be a part of the agreement/ stipulation.

Otto asked about the ROW as it is 40' and usually it would be 50'. Kaltsas said he left 17 extra feet in the notes, but this can be clarified further through Council.

**Gardner motioned to close the Public Hearing, second by Thompson.**

### **Public Hearing Closed**

**Motion by Dumas, second by Volkenant to approve a Preliminary and Final Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah) and a Final Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah) with the 8 stipulations in the staff report and the additional two stipulations on ADU and noting that a letter will be sent regarding the letter on wetland buffers. Ayes: Thompson, Volkenant, Dumas, Palmquist and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.**

5. **PUBLIC HEARING:** Nathan and Molly Kirkpatrick (Applicants/Owners) are requesting the following action for the property located at 2485 County Road 90 (PID No. 15-118-24-44-0003) in the City of Independence, MN:

- a. A variance to allow a reduced side yard setback to add a screen porch to the south side of the existing home on the subject property.

Kaltsas said the applicant is seeking approval to construct a screen porch on the south side of the existing home. The applicant approached the City about the potential to encroach into the side yard setback along the south property line. The existing home is currently located approximately 31 feet off of the south property line. The City requires a side yard setback of 30 feet for properties zoned RR-Rural Residential. The proposed screen porch addition would encroach into the side yard setback approximately 19.5 feet. The house is not perfectly parallel to the south property line and the subsequent variance would allow a 20-foot encroachment.

The resulting variance to the side yard setback would be 20 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: 143 feet from centerline 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)*

*Sub. 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 lot. 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)*

*Sub. 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 screen porch addition is generally in keeping with the residential uses on properties in the surrounding area.

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

1. Staff discussed alternative options for locating the screen porch in compliance with applicable setbacks with the applicant. The applicant noted that the general interior configuration of the home would best support the proposed porch location. The proposed porch also is in line with the west (rear) of the existing home.

2. The applicant could locate a detached accessory structure on this property in the general location of the proposed screen porch and meet applicable setbacks (15 feet).
3. The adjacent property to the south is located approximately 19' from the shared property line.
4. The applicant discussed the encroachment with the neighboring property owner and they have provided a letter in support of the requested variance.

Ultimately the City will need to find that the criteria for granting a variance have been met by the applicant. The lots in this area are somewhat smaller (1 acre versus 2.5) than the typical rural residential property in the City. The existing home was located against the south property line setback. Due to the configuration of the house on the property and the interior layout there are some limitations to add this type of addition without impacting function of the existing structure/use. The setback of the proposed screen porch from County Road 90 and the natural screening and buffering that exists between this and the surrounding properties appear to help mitigate the potential impacts.

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 screen porch addition to be added onto the existing home.
  - b. The alignment of the proposed porch with the rear of the home and the proposed 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 screen porch addition and would be in keeping and consistent with the surrounding uses found in this neighborhood.
3. The variance will permit a 20-foot reduction (from 30 feet to 10 feet) to the south side yard setback to allow the proposed screen porch to be added onto 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.

Dumas asked if there was a fireplace in the porch making it appear to be more of a permanent structure. He wondered about the placement and reason why as he does not see the hardship. Kaltsas noted the City Attorney supported the request.

Gardner opened the Public Hearing.

### **Public Hearing Opened.**

Kirkpatrick noted the placement had to do with the well on the property. He confirmed the pool was going in now. Thompson asked if Kirkpatrick could better address Dumas's question on placement and what made this a unique condition not of his doing. Kirkpatrick noted the other corner was being used already for a play area and this makes it more convenient to have a room to eat right off of the kitchen. He said the lot size makes it very limited.

**Gardner motioned to close the Public Hearing, second by all.**

## **Public Hearing Closed.**

Dumas noted he is concerned about setting a precedent as he does not see a “unique condition”. Thompson asked why the neighbor to the South was not at the setback line. Kaltsas said that one predates the ordinance. Thompson said he agreed with Dumas that these need to be looked at on a case-by-case basis and not have precedents set by a case such as this. Palmquist said he agreed with Dumas as well and maybe there needed to be additional language for guidance put into place.

**Motion by Thompson, second by Palmquist to approve a variance to allow a reduced side yard setback to add a screen porch to the south side of the existing home property located at 2485 County Road 90 (PID No. 15-118-24-44-0003) in the City of Independence, MN. Ayes: Thompson, Volkenant, Dumas, Palmquist and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.**

6. **PUBLIC HEARING:** John Klinkner (Applicant/Owner) is requesting the following action for the property located at 2160 Nelson Road (PID No. 19-118-24-13-0001) in the City of Independence, MN:

- a. A rural view lot subdivision to allow the creation of two (2) rural view lots on the subject property.

Kaltsas said the applicant’s representative approached the City about the possibility of subdividing the property in order to realize the allowable rural view lots. The applicant would like to establish two (2) rural view lots and has configured both to maximize the value of the new lots created. The applicant is proposing to create two (2) rural view lots in accordance with the provisions set forth in the City’s Zoning Ordinance. The subject property has a total acreage of 80.84 acres.

The Agriculture Zoning District prohibits the subdivision of property with two exceptions: rural view lot subdivisions and lot line rearrangements. The provisions in the Agriculture Zoning District also 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 two (2) rural view lots for a total of three (3) lots across the property. Rural view lots must have the following characteristics:

**Lot size required** - between 2.5 and 10 acres

**Lot size proposed** - Parcel A – 10.00 acres

Parcel C – 10.00 acres

**Buildable Upland Required** - 2.5 acres

**Buildable Upland Proposed** - Parcel A – ~10.00 acres

Parcel C – ~9.00 acres

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

**Minimum lot frontage proposed** – Parcel A – 662 LF

Parcel B – 670 (Nelson Rd) / 812 (Copeland Rd)

Parcel C – 507 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

Parcel 4 – ~1:1.5

In addition to the minimum size necessary to subdivide, the ordinance requires at least 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, both proposed rural view lots would meet all applicable setbacks. There is an existing home and several detached accessory buildings that would be located on the newly created Parcel A. This home is accessed off of Nelson Road. The new lot would have 10 acres and all existing structures would meet applicable building setbacks. Parcels B and C would be vacant properties with no existing structures in the after condition. The applicant is proposing to subdivide the property into lots that take advantage of the natural characteristics of the property and offer the best geographic location for a potential new home site.

The remaining 60-acre Parcel B would have multiple locations for a future home site which could be accessed off of either Nelson or Copeland Roads. The City has not received an on-site septic report verifying that the proposed rural view lots can accommodate a primary and secondary on-site septic system. It is anticipated that the City will have this verification prior to City Council consideration of the application. The applicant will need to include the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.'s 1 and 2) for all three parcels. Parcel B will have **no** rural view lot subdivision eligibilities following this subdivision.

The newly created rural view lots (Parcels A and C) will be required to pay the City's requisite Park Dedication fee. For this property, the requirement is as follows: Lot A and B (10 acres) \$7,250 each. 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 Planning Commission will need to determine if the proposed rural view lot subdivision is in keeping with the requirements set forth by the City. The proposed subdivision of this property is intended to maximize the value in each of the lots being created while meeting all applicable criteria. The proposed lots being created generally align with the character of the surrounding properties and the intent of the City's Comprehensive Land Use Plan.

Staff is seeking a recommendation from the Planning Commission regarding the request for the 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. 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 \$14,500, for the newly created Parcels A and 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 easements with the county within six (6) months of approval.
  - e) Parcel B will have no remaining rural view lot eligibilities.

Dumas said it was straightforward.



Gardner opened the Public Hearing.

**Public Hearing Opened.**

Grotting said he was happy to answer any questions as the representative. There were no questions.

**Public Hearing Closed.**

**Motion by Palmquist, second by Thompson to approve a rural view lot subdivision to allow the creation of two (2) rural view lots for the property located at 2160 Nelson Road (PID No. 19-118-24-13-0001) in the City of Independence, MN. Ayes: Thompson, Volkenant, Dumas, Palmquist and Gardner. Nays: None. Absent: None. Abstain: None. Motion Approved.**

7. Open/ Misc.

Gardner asked about the house moving into the City being looked at by Council. Kaltsas said it needs to go through the process and the timeframe can be limited.

Kaltsas noted the next Planning Commission could be in person hopefully by the July meeting.

8. Adjourn.

**Motion by Palmquist, second by Thompson to adjourn at 9:08 p.m.**

Respectfully Submitted,

---

Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, JULY 6, 2021 –6:30 P.M.  
Public Works Garage & Virtual

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: McCoy

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

VISITORS: Sofia Lykke, Attorney with Kennedy & Graven; Diane Pangal, Justin Fincher; Elmer Schefers; Donovan DesMarais; Jerry Wise; Nathan Kirkpatrick; and others. All attended virtually.

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

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

- a. Approval of City Council Minutes from the June 15, 2021, Regular City Council Meeting.
- b. Approval of Accounts Payable; (Batch #1 Checks Numbered 20551-20553, Batch #2 Checks Numbered 20554-20562, batch #3 Checks Numbered 20563-20584).
- c. Approval of Large Assembly Permits:
  - i. Wedding at 7297 County Road 6 – July 24, 2021.
  - ii. Charity Fundraiser at Twin City Polo Grounds – August 1, 2021.
- d. PSCWMO – Proposed Annual Budget and Member Assessments (for information).
- e. 2<sup>nd</sup> Quarter Building Permit Report (for information).

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Planning, LMC Conference, virtual

**Grotting attended the following meetings:**

- Planning

**McCoy attended the following meetings:**

- Absent

**Betts attended the following meetings:**

- Planning

**Johnson attended the following meetings:**

- Planning
- Northwest League of Cities
- NLC Small Cities-Virtual
- LMC conference-Virtual
- WHCC
- KARE 11 t.v. interview
- Legislative update with Rep. Hertaus and Senator Osmek

**Horner attended the following meetings:**

- BKV architect meeting and Rochon
- Planning
- Administrative Asst Interviews

**Kaltsas attended the following meetings:**

- Planning
- Administrative Asst Interviews

**7. PUBLIC HEARING:** Consideration of Conduit Bond Issuance.

Attorney Sofia Lykke was present virtually to introduce the resolution and background on this bond. The City has no obligation to repay these bonds-no liability to the City.

The Public Hearing was opened for up to a \$30 million bond. This is tax exempt up to \$10 M and taxable after that. This is in Brooklyn Park to construct a charter school owned by Friends of Spero. Johnson asked who else was funding this bond. Lykke replied Independence is the only one. She clarified these are not bank qualified although they will be tax exempt, with a small taxable amount. Spencer noted it is a tuition free school.

Diane Pangal, Executive Director of Spero provided background on Spero Academy. There are 150 students focusing on kids with special needs. They have a very dedicated staff.

Justin Fincher of JBVang was introduced and thanked Independence for this opportunity.

Grotting asked how they got the name Spero. Pangal said it means Hope and was founded by Frasier. They split from Frasier to start their own. Spero is the Latin term for 'hero'.

**Motion by Spencer to close the Public Hearing, second by Grotting.**

**Motion by Spencer, second by Betts to approve RESOLUTION 21-0706-01: Considering approval of Conduit Bond Issuance for Spero Academy. Ayes: Johnson, Spencer, Betts and Grotting. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

8. 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. **ORDINANCE NO. 2021-04:** Considering approval of Rezoning from AG- Agriculture to RR-Rural Residential in accordance with the Comprehensive Land Use Plan.
- b. **RESOLUTION 21-0706-02:** Considering approval of Preliminary and Final Plat for a 3-lot subdivision of the subject property.

Elmer Scheffers (Applicant/Owner) is requesting the following actions:

- 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

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 Scheffers 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.

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
<b>22.6 through 27.5 acres</b>	<b>Five</b>
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* <sup>a</sup> 2.50 acres buildable land
- (b) *Minimum lot frontage on an improved public road or street: Lot*

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

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

<sup>a</sup> 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:

Block 1	Area	Upland Acreage	Frontage	Lot Frontage to Lot Depth
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. Construction of a widened road section through the wetland will be challenging and expensive. The neighboring property owner has recently reached out to the City to inquire about vacating a portion of Pete Drive. Staff will review this request further and may present additional information at the meeting.
- 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 has reviewed the proposed road expansion plans for Pete Drive and found them to be compliant with applicable standards. The City will require the developer to enter into a development agreement relating to the proposed road improvements, park dedication fees and sewer connection fees. 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.

#### ***Planning Commission Discussion/Comments:***

Planning Commissioners reviewed the request and asked questions of the applicant and staff. Commissioners concurred that access to the proposed lots would be off of Pete Drive. Commissioners noted that the

proposed layout was based on trying to accommodate the best home building sites. It was confirmed that each of the proposed lots would be able to connect to City sewer. Commissioners discussed that the additional right of way for Pete Drive would normally be split between the properties on either side, but in this case, there is not an option to go to the south due to the wetland. Commissioners recommended approval of the proposed subdivision with the findings and conditions included in this report and the resolution.

***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:***

The Planning Commission recommended approval of the requested rezoning, preliminary plat and final plat subject to the developer entering into a development agreement with the City. The following findings and conditions should be considered by the Council:

1. The proposed Rezoning and Preliminary and Final Plat meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council 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 or acceptable form of security as established by the development agreement for all public improvements associated with this development.
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 record the final plat and associated documents with Hennepin County within six (6)



months of approval of the City Council approval.

Spencer asked for total park dedication fees, Kaltsas said \$7428.

**Motion by Spencer, second by Johnson to approve ORDINANCE 2021-04: Considering approval of Rezoning from AG-Agriculture to RR-Rural Residential in accordance with the Comprehensive Lane Use Plan. Ayes: Johnson, Spencer, Grotting and Betts. Nays: None. Absent: McCoy: None. Abstain. None. MOTION DECLARED CARRIED.**

**Motion by Betts, second by Spencer to approve RESOLUTION 21-0706-02: Considering approval of Preliminary and Final Plat for a 3-lot subdivision of the subject property. Ayes: Johnson, Spencer, Grotting and Betts. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

9. Donavan 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. **RESOLUTION 21-0706-03:** Considering approval of Preliminary and Final Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah).

Donavon DesMarais (Applicant) and Jerry Wise (Owner) are requesting the following actions:

- a. Preliminary Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah).
- b. Final Plat for a proposed subdivision of the subject property to create four (4) new lots.

***Property/Site Information:***

The property is located at the northeast corner of CSAH 11 and Woodhill Drive. There is a non-conforming detached accessory structure located on the property. There are several wetlands on the property, and it has lake frontage on Lake Sarah.

Property Information: PID No. 01-118-24-34-0010

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential (S-Shoreland Overlay)*

Acreage: ~10

The applicant is asking the City to consider approving preliminary and final plat for a new four (4) lot subdivision on the subject property. Earlier this year, the City reviewed a concept plan for this development and provided feedback to the applicant and staff relating to the proposed development. The applicant has now prepared a more detailed submittal for the requested actions. The City is being asked to consider the following actions:

1. Preliminary Plat approval.
2. Final Plat approval.

The City has 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 allows properties zoned S-Shoreland and have access to sanitary sewer, to 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.

Subd. 2. *Lot standards.*

	Unsewered Areas			Sewered Areas		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft	200 ft	200 ft	125 ft	100 ft	100 ft
Structure setback from ordinary high water mark	150 ft	100 ft	100 ft	150 ft	100 ft	100 ft
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft	75 ft	75 ft

### Proposed Lot Details:

Lot No.	Lot Area	Lot Width at OWHL	Lot Width at Setback	Frontage
Lot 1	2.0 acres	142 LF	~120 LF	137 LF
Lot 2	2.8 acres	107 LF	~115 LF	137 LF
Lot 3	3.2 acres	129 LF	~125 LF	137 LF
Lot 4	2.12 acres	N/A	N/A	139 LF/619 LF

A detailed review of the storm water, grading, wetlands and infrastructure details has been completed by the City. The following comments should be considered by the City:

1. There is no grading being proposed as a part of the subdivision.
  - a. Each lot will be individually graded at the time a building permit is pulled.

- b. Each lot will be individually connected to City sewer at the time a building permit is pulled.

As a result, there are no overall development concerns relating to grading, utilities or stormwater.

2. A wetland delineation has been completed for the property. The applicant is proposing to contain the wetlands and the requisite buffer within a newly established drainage and utility easement. The establishment of the D&U easements surrounding wetlands and wetland buffers is required and consistent with established City standards.
  - a. It should be noted that Lot 3, Block 1 has approximately 5 feet of clear access from the main portion of the lot to get to the lake side of the property. In addition, the applicant would have to cross the wetland in some manner to access the lake. As a result of these conditions, it is recommended that the developer be required to provide perspective buyers with information relating to the lot limitations. The City has prepared information relating to Lot 3 that will be required to be recorded against the property.
3. The applicant has identified the potential home sites for each lot along with the prescribed building setbacks.
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 the following criteria is satisfied.

*<sup>b</sup> Lots must have no less than the specified minimum frontage respectively on a right-of-way, provided that the city council may waive the requirement if the following conditions are met:*

- (1) The applicant submits and the city council approves a development plan encompassing all land under the control of the applicant.*
- (2) The development plan must demonstrate that vehicular and pedestrian access, as well as emergency and public vehicular access can be provided to each lot in the development plan.*
- (3) The applicant must enter into a private road agreement that meets the criteria of subsection 510.05, subdivision 70 of this Code as well as additional conditions deemed necessary by the city council to protect the health, safety and welfare of the occupants of the lots within the development plan.*

The proposed layout appears to create a more advantageous configuration due to access for all lots coming off of Woodhill Drive versus CSAH 11. During the review of the concept plan, Council and Planning Commission noted that access for all lots off of Woodhill Drive would better serve the proposed properties. Hennepin County has also indicated that an additional access onto CSAH 11 would not likely be approved. One key aspect of this consideration is that the property has the requisite length of frontage to support all four proposed lots. The City would therefore be waiving the frontage requirement for each individual lot, but not the reduction of total frontage required to realize the lots.

5. The proposed layout is somewhat impacted by the existing detached accessory structure located on Lot 2, Block 1. This structure is not considered a legal structure as there is no principal structure located on this property. It is recommended that the City require the developer to enter into an agreement and require an escrow deposit of \$5,000 that would stipulate that there shall be no use of the building until such time as a new

principal home building permit is pulled and construction commences on the structure. It should further be noted that this structure is shown to meet all applicable building setbacks in the proposed condition.

6. There is a second existing detached accessory structure located on Lot 2, Block 1 near the shoreline. This shed is also considered to be an illegal structure as there is no principal structure on the property. In addition, the maximum size of a detached accessory structure located within 100 feet of the OHWL of the lake is 120 SF. The City will verify the size of this shed which will need to comply with all applicable requirements.
7. 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 at the time a building permit is pulled. It has been noted by the City that the invert elevation of the existing public sewer may dictate additional restrictions for the elevations of the proposed homes.
8. 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.
9. As historically has been done along County Road 11, Hennepin County is requesting additional right of way for future trail and road expansion. The existing road right of way is 80' along this property. This means that the County would like an additional 10' for future road expansion. In addition, the County is recommending that the City consider requiring a 10' wide easement that could be used for a future trail. There is a proposed 10' wide drainage and utility easement that will also need to include trail language if required by the City. The County's right of way request has been consistently applied to all recent subdivisions along CSAH 11.
10. The City's current park dedication fee is \$3,500 per lot (less than 4.99 acres).

The proposed subdivision of this property is generally in keeping with the existing Rural Residential zoning district. The proposed lots would be similar in nature and character to the surrounding properties. Lots along Woodhill Drive range in size from approximately .5 acre to 2 acres.

***Planning Commission Discussion and Recommendation:***

Commissioners reviewed the requested plat and asked questions of staff and the applicant. Commissioners noted that while the layout did not meet the requirements pertaining to road frontage, the overall property had adequate frontage which would distinguish this property from other properties requesting reduced frontage. Commissioners discussed the existing detached accessory structure. Commissioners wanted a condition added to the resolution that clearly noted that the existing building does not have any existing conditions which will be grandfathered by the approval of this subdivision. In particular, Commissioners noted that no accessory dwelling unit has been approved for this structure and any use of the structure would have to meet all applicable requirements of the City. Commissioners also discussed the limited access to the water on Lot 3. It was noted that the City will provide language pertaining to the restrictions on water access and grading and filling of the wetlands and wetland buffers. Commissioners recommended approval of the preliminary and final plat with the conditions and findings contained within this report and the resolution.

***Recommendation:***

The Planning Commission recommended approval of the applications for a preliminary and final plat with the

following findings and conditions:

1. The proposed preliminary and final plats meet all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions, 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 made within this report and recommended by the Planning Commission.
  - b. The Applicant will allow the inspection of the existing building by the City's Building Inspector. Any building code requirements that were not permitted by the City shall be corrected and brought into compliance with applicable building codes.
  - c. The Applicant shall enter into an agreement with the City and provide a \$5,000 escrow relating to the use and removal of the two detached accessory structures located on Lot 2, Block 1. The agreement will stipulate conditions of use and or modification of the existing structures.
  - d. The Applicant shall revise the plat to include the additional 10 feet of right of way and 10' trail easement for the future trail and road expansion as requested by Hennepin County.
  - e. The Applicant shall provide prospective buyers with the Letter of Information Pertaining to the Lake Sarah Hill Subdivision as prepared by the City and attached hereto.
  - f. There is one existing connection to the sanitary sewer serving the existing detached accessory structure. This connection can be used for Lot 1 or 2, Block 1. The three new and additional lots would be subject to all applicable connection fees in addition to the initial assessment fee of \$9,550 per lot. The \$9,550 shall be paid by the developer prior to recording of the final plat.
  - g. The Applicant shall pay the City's current park dedication fee of \$3,500 per lot (less than 4.99 acres). This The \$3,500 per lot shall be paid by the developer prior to recording of the final plat.
3. The existing detached accessory structure is not an approved accessory dwelling unit. Any use of the structure is subject to all applicable ordinances of the City of Independence.
4. The Applicant shall pay for all costs associated with the City's review of the requested preliminary and final plat.
5. The Applicant shall record the final plat and associated documents with Hennepin County within six (6) months of City Council approval.

There was discussion. Kaltsas reiterated all 4 lots would be connected to city sewer, so they'd pay the connection fee and all sewer related fees. There would be 4 park dedication fees to total \$14,000 and an escrow would be required. Kaltsas spoke to Hakanson regarding filling of wetland/buffer. Lot 3 has a wetland that crosses the lake frontage. Planning suggested we provide a letter of notice to future buyers. The only way to cross lot 3 wetland is to build a bridge. Around the pond it's very narrow and buffer would need to be maintained. Johnson said very important for this to be recorded/noted. This is above the OHW.

Donavan DesMarais affirmed Marks accurate explanation. He asked what is unique to this lot? Kaltsas said it's above the OHW is above so there's no impact permitted. DesMarais asked about snowmobiling in this area. Kaltsas said there are no

snowmobile restrictions. Spencer said restricted to filling or mowing. As long as there's a boardwalk they're fine. Grotting-is this a disclosure requirement for lot 3? Kaltsas confirmed it was.

Jerry Wise was present and asked what if any restrictions there are on the use of the shed once it's closed? He still has a lot of stuff in there. Also, it's being used for weekly AA meetings. Donovan gave us the okay to continue using it. Spencer said we wouldn't proactively allow illegal use of this.

Spencer agreed with the \$5,000 escrow and confirmed it is refundable. Would like a time-frame on this. Maybe 1-2 years to make this in conformance?

**Motion by Spencer, second by Johnson to approve RESOLUTION 21-0706-03: Considering approval of Preliminary and Final Plat for a proposed subdivision of the subject property to create four (4) new lots (3 would have lakeshore on Lake Sarah). Ayes: Johnson, Spencer, Grotting and Betts. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

10. Nathan and Molly Kirkpatrick (Applicants/Owners) are requesting the following action for the property located at 2485 County Road 90 (PID No. 15-118-24-44-0003) in the City of Independence, MN:

- a. **RESOLUTION 21-0706-04:** Considering approval of a variance to allow a reduced side yard setback to add a screen porch to the south side of the existing home on the subject property.

Nathan and Molly Kirkpatrick (Applicants/Owners) are requesting the following action:

- a. A variance from the side yard setback to add a screen porch to the south side of the existing home on the subject property.

***Property/Site Information:***

The subject property is located at 2485 County Road 90. The property is on the west side of County Road 90 and just north of the intersection of County Road 90 and Pagenkopf Road. There is an existing home on the subject property.

Property Information: 2485 County Road 90

Zoning: *Rural Residential*

Comprehensive Plan:

*Rural Residential Acreage:*

1.01 acres (43,995 square feet)

***Discussion:***

The applicant is seeking approval to construct a screen porch on the south side of the existing home. The applicant approached the City about the potential to encroach into the side yard setback along the south property line. The existing home is currently located approximately 31 feet off of the south property line. The City requires a side yard setback of 30 feet for properties zoned RR-Rural Residential. The proposed screen porch addition would encroach into the side yard setback approximately 19.5 feet. The house is not perfectly parallel to the south property line and the subsequent variance would allow a 20-

foot encroachment.

The resulting variance to the side yard setback would be 20 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: 143 feet from  
centerline

Rear Yard Setback:

Required: 40 feet  
Existing: 136 feet

Side Yard Setback (South

Side): Required: 30  
feet  
Existing: 31 feet

**Proposed: 10 feet (variance of 20 feet)**

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

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

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

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

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

*Subd. 3. The City Council shall not grant a variance to permit a use that is not*

*allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

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

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent with the Rural Residential District.
- b. 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 screen porch addition is generally in keeping with the residential uses on properties in the surrounding area.

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

1. Staff discussed alternative options for locating the screen porch in compliance with applicable setbacks with the applicant. The applicant noted that the general interior configuration of the home would best support the proposed porch location. The proposed porch also is in line with the west (rear) of the existing home. The applicant has provided additional information relating to the existing conditions that are relevant to the variance request. The applicant recently began construction on a new inground swimming pool to the rear of the house. The potential location of the swimming pool was limited due to the existing septic mound, main power line and existing trees (see attached diagram prepared by applicant).
2. The applicant could locate a detached accessory structure on this property in the general location of the proposed screen porch and meet applicable setbacks (15 feet).
3. The adjacent property to the south is located approximately 19' from the shared property line.
4. The applicant discussed the encroachment with the neighboring property owner and they have provided a letter in support of the requested variance.

Ultimately the City will need to find that the criteria for granting a variance have been met by the applicant. The lots in this area are somewhat smaller (1 acre versus 2.5) than the typical rural residential property in the City. The existing home was located against the south property line setback. Due to the configuration of the house on the property and the interior layout there are some limitations to add this type of addition without impacting function of the existing structure/use. The setback of the proposed screen porch from County Road 90 and the natural screening and buffering that exists between this and the surrounding properties appear to help mitigate the potential



impacts.

***Planning Commission Discussion:***

Commissioners reviewed the request and asked questions of staff and the applicant. Commissioners discussed in detail the reason for needing a variance and asked why the proposed screen porch could not be located in the rear yard versus the side yard. Commissioners discussed the pool and it was confirmed that construction was under way with the pool and that could no longer be moved. The applicant noted that there are several other restrictions in the yard that caused the pool to be located in the current location. Commissioners discussed that there were several layers of information that when combined and considered together, could meet the criteria for granting a variance. Commissioners recommended approval of the requested variance with the findings and conditions noted herein.

***Public Comments:***

The City has received written correspondence from the adjacent property owner in support of the requested variance (see attached).

***Recommendation:***

The Planning Commission recommended approval of the request for a variance with the following findings and conditions.

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
  - a. Residential use of the property is consistent with the Rural Residential District. The applicant is seeking a variance to allow a screen porch addition to be added onto the existing home.
  - b. The alignment of the proposed porch with the rear of the home and the proposed building architecture and exterior finishes appears to mitigate some of the potential impacts resulting from the addition.
  - c. The location of the septic mound, existing trees, power line and utilizes and interior layout of the home all combine to necessitate the requested variance.
  - d. The character of the surrounding area is residential. The proposed screen porch addition and would be in keeping and consistent with the surrounding uses found in this neighborhood.
3. The variance will permit a 20-foot reduction (from 30 feet to 10 feet) to the south side yard setback to allow the proposed screen porch to be added onto 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.

Spencer mentioned Planning Commission did a great job and agrees with them as to why this just can't be omitted. Kaltsas said Planning wants to revisit how variances are laid out, such as the criteria used.

It was confirmed the original house was built in 1962 and Betts noted that alone could be a hardship because he had nothing to do with this size. Nathan Kirkpatrick came on and assured that he would maintain the character of the neighborhood. Johnson said we appreciate the extra comments provided to staff today because helpful. Spencer agreed their remodel looks beautiful. Grotting commented on number of breaches that have happened in the area, and trying to find the hardship, other than the layering.

**Motion by Betts, second by Grotting to approve RESOLUTION 21-0706-04: Considering approval of a variance to allow a reduced side yard setback to add a screen porch to the south side of the existing home on the subject property. Ayes: Johnson, Spencer, Grotting and Betts. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

#### 11.City Council Pay Discussion

Betts said she felt we need to be commensurate with other cities. This would have to be done prior to the City election in November. Johnson suggested some Councilmembers in other cities get reimbursed for every single meeting and conference. Betts said there is a lot of time preparing for each City, and would like to see the Administrator coming up with a formula so we're viewed as employees. Spencer mentioned other commissioned residents' such as Joe Baker with PSCWMC and the Planning Commissioners. Just a way to tell them thank you. Spencer suggested a voter question on the City ballot, and Johnson said he'd like to keep it more low-key. Grotting suggested a public hearing. Kaltsas said Cities' Councils make these decisions. Johnson said years ago we changed the mayor term from 2 years to 4 years. Spencer suggested we have the Administrator budget for it. Kaltsas said he'd check to see if we needed to have a special resolution to do this.

**Motion by Spencer, second by Betts to allow the City Administrator to budget for a pay increase for the Councilmembers and other appointees. Ayes: Johnson, Spencer, Grotting and Betts. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

Johnson mentioned to Council the state small cities road fund was only approved for 1 year again. Senator Osmek will attend our next Council meeting.

**Motion by Betts, second by Spencer to adjourn at 8:53 p.m. Ayes: Johnson, Grotting, McCoy, Betts, and Spencer. Nays: None. Absent: None. None. Abstain. None. MOTION DECLARED CARRIED.**

Respectfully Submitted,  
Beth Horner/ Recording Secretary

DRAFT

## City of Independence

### ***Request for a Variance to Allow a Reduced Front and Side Yard Setback for the Property Located at 5233 Lake Sarah Heights Drive***

---

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	July 20, 2021
<i>Applicant:</i>	Richard Wood
<i>Owner:</i>	Richard Wood
<i>Location:</i>	5233 Lake Sarah Heights Drive

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

Richard Wood (Applicant/Owner) is requesting the following actions for the property located at 5233 Lake Sarah Heights Drive (PID No. 01-118-24-24-0023) in the City of Independence, MN:

- a. A variance to allow a reduced front yard setback related to the construction of a new home on the subject property.

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

The subject property is located at 5233 Lake Sarah Heights Drive which is on the west side of the road Just after the intersection of Lake Sarah Heights and Sunset Lane. The property is comprised of approximately 1.55 acres. The property is located on the Lake Sarah channel and has a large wetland on the west side of the property. The property generally slopes towards the lake.

Property Information: **5233 Lake Sarah Heights Drive**  
Zoning: *Rural Residential (Shoreland Overlay)*  
Comprehensive Plan: *Rural Residential*  
Acreage: 1.55 acres  
Impervious Surface Maximum: 25%

5233 Lake Sarah Heights Drive (blue outline)



***Discussion:***

The applicant approached the City about the possibility of developing this lot earlier this year. One of the key considerations relating to this property and the property to the south is the existing wetlands located adjacent to the channel. The applicant had the property delineated and determined the buildable area (see attached). Following approval of the delineation, the applicant moved forward with the preparation of a new home plan for the property.

The initial plans for this property included a single-family home and detached accessory building. Prior to submitting the plans for a building permit, the applicant informed the City that they would like to construct the detached accessory structure first and prior to construction of the single-family home. The City notified the applicant that a principal structure was required prior to construction of an accessory structure. The applicant asked if they could construct the detached accessory structure as a principal structure and then later convert the building to a detached accessory structure and build the principal structure. The City does not have any provisions that would expressly prohibit a detached accessory building to be used as a principal structure if it could meet all provisions of the building code for a principal structure.

**515.12. Minimum size for residential dwellings.**

*All residential dwellings must be a minimum of 24 feet in width and 30 feet in length and must contain a minimum of 720 square feet of habitable floor space. Length and width must be measured from the outside of the exterior siding or fascia and habitable floor space must be measured from the inside of the interior wall surface. Interior partitions must not be considered.*

The applicant is proposing to construct the building to meet the applicable standards for a residential dwelling. If they chose to construct the single-family home at a later date, the structure would need to be modified (removal of the stove and specific bedrooms – ADU could be applied for at a later date if they wanted to keep some of the living spaces). The change in the proposed construction sequencing did cause some confusion and does require different building setbacks (principal structure versus accessory structure).

The existing property is a lot of record. The City's shoreland ordinance states:

**505.15. Substandard lots.**

*Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:*

- (a) Such use is permitted in the zoning district;*
- (b) The lot of record is in separate ownership from abutting lands, and can meet or exceed 60 percent of the lot area and setback requirements of this section; and*
- (c) All requirements of section 705 of this Code regarding individual sewage treatment systems are complied with.*

This lot is considered a substandard lot and would be allowed to take advantage of the administrative variance which permits a 40% (need to meet 60%) reduction in the established setbacks. Setbacks in the shoreland overlay district have two parts. The initial setbacks are regulated by the underlying zoning (in this case RR-Rural Residential). The shoreland overlay provides a second layer of setback standards that generally pertain to the shoreland setbacks.

The requisite (and applicable for this issue) building setbacks for this property are as follows:

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

The applicant had reached out to the City to verify the building setbacks and was provided with the respective sections of the ordinance. It was noted that the allowable building setbacks could meet 60% of the required setbacks due to the status of the lot as a substandard lot established before 12/1/1982. The applicant and their surveyor applied the 60% exception to the building setbacks. The 60% provision would allow the following setbacks:



Permitted:

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

As Constructed:

Front Yard: 50.1 ft from centerline  
Side Yard: 18.1 feet

When applying the setbacks, they did not take into account the provision that states, “whichever is greater” and used the lessor of the two relating to the front yard setback. In this case, there is a delta of 9.2 feet between the two measurements. The City issued a building permit to construct the building and noted that the setback was greater than what was shown on the plans. As a result of a personal medical issue, the City’s building official was not available to inspect the property on the day the footing was approved, and a substitute inspector reviewed the footings. No measurements were taken on site, and the inspection resulted in approval of the footings. The applicant poured the foundation approximately 9.2 feet closer to the property line than permitted.

The City was notified by a neighboring property owner that the foundation appeared to be too close to the road and the City inspected the foundation. It was determined that the foundation did not meet the applicable setbacks and a stop work was issued on the property. The City and applicant reviewed the issue and discussed possible solutions for moving the project forward.

It should be noted that a city employee cannot (either by mistake or purposely) change the ordinance and or issue an administrative variance to any ordinance provisions.

The applicant chose to move forward with a variance application seeking approval to allow a 9.2-foot variance from the required front yard setback.

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. The applicant is proposing to use the property in a manner consistent with the Rural Residential District.
- b. The applicant has noted that the slope behind the existing foundation is steep and would require significant fill to move the structure further away from the property line. In order to construct the existing foundation, additional fill was required. The property historically drops off towards the lake.
- c. The character of the surrounding area is residential. The applicant is proposing to construct a principal structure which is not wholly consistent with the surrounding properties. The initial building would look and feel more like an accessory structure than a principal structure.
- d. The structure would need to be moved 9.9 feet to the west to meet the applicable building setbacks (30 feet from the property line, currently 20.1 feet from the property line).
- e. The properties that surround this property generally comply with applicable front yard setbacks. It can be seen from aerial photographs, and it is otherwise known that many lake properties do not fully comply with all applicable zoning requirements.

The City noted that the structure should not have been permitted in the location that is proposed and that the building inspector should have measured the setback and identified the issue prior to approving the foundation. The Planning Commission will need to determine if the requested variance meet the requirements for granting a variance.

***Neighbor Comments:***

No written correspondence has been provided to the City. The City did receive a verbal comment relating to the closeness of the structure to the road.

***Recommendation:***



Staff is seeking a recommendation from the Planning Commission for the requested Variances with the following findings and conditions:

1. The proposed variance 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 requested variances will allow the construction of the proposed principal structure in accordance with the existing foundation and associated building plans (approved plans only - plans will become an exhibit of the resolution). The variances will allow a 9.9' reduction in the requisite setback as follows:
  - a. Front Yard: 20.1-foot setback
3. The Applicant shall pay for all costs associated with the City's review of the requested variance.
4. Any future improvements or expansion of the structure will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.

**Attachments:**

1. Property Pictures
2. Building Plans
3. Site Survey



**CITY OF  
INDEPENDENCE  
MINNESOTA**

**Applicant Information**

Name: Richard Worsley Wood

Address: 5233 Lake Sarah Heights  
Dr  
Independence, Minnesota  
55357

Primary Phone: 6122145668

Email: rwwood100@gmai.com

**Owner Information**

Name: Richard Worsley Wood

Address: 5233 Lake Sarah Heights  
Dr  
Independence, Minnesota  
55357

Primary Phone: 6122145668

Email: rwwood100@gmai.com

Property Address:

PID:

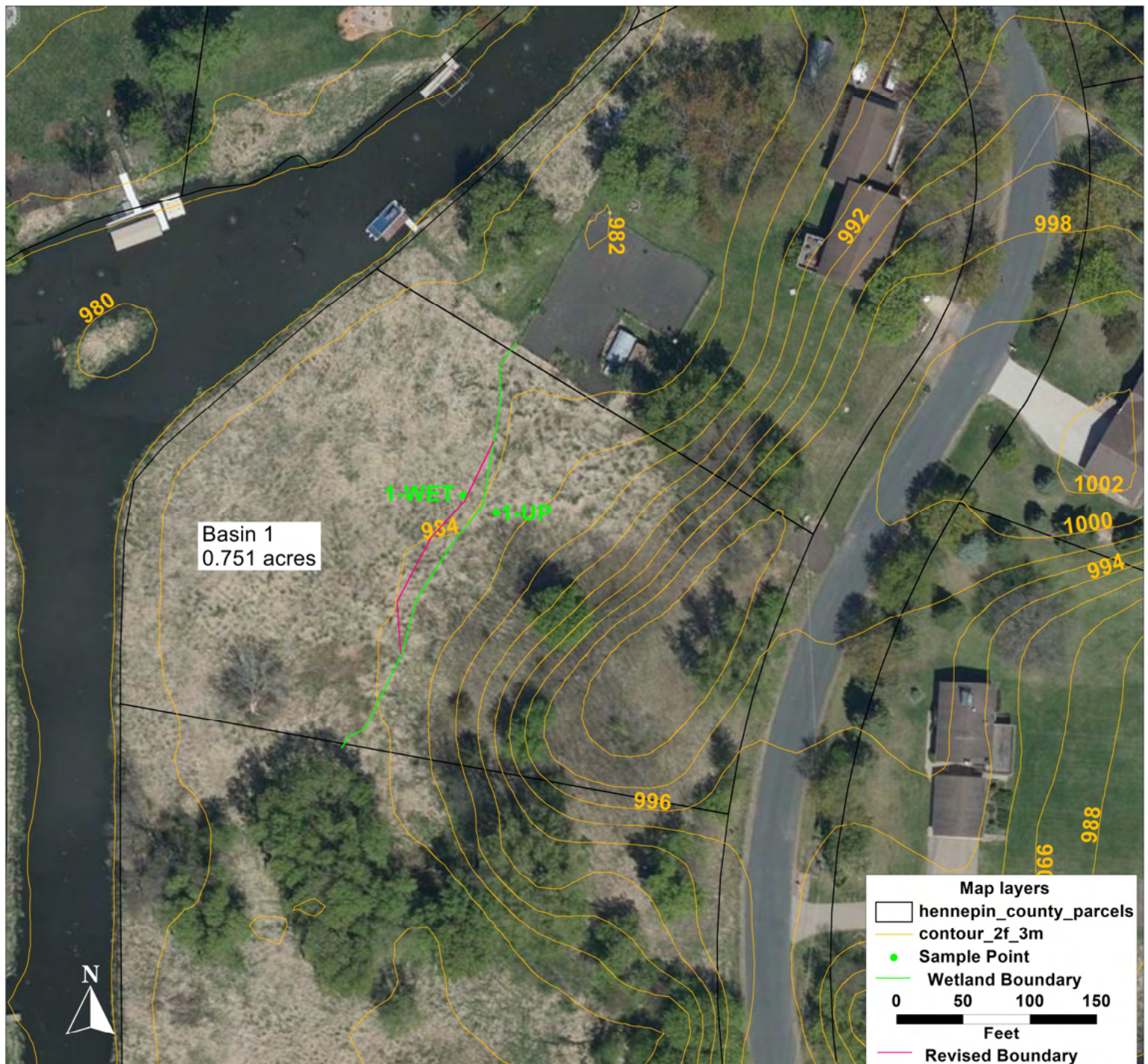
Planning Application Type: Variance

Description:

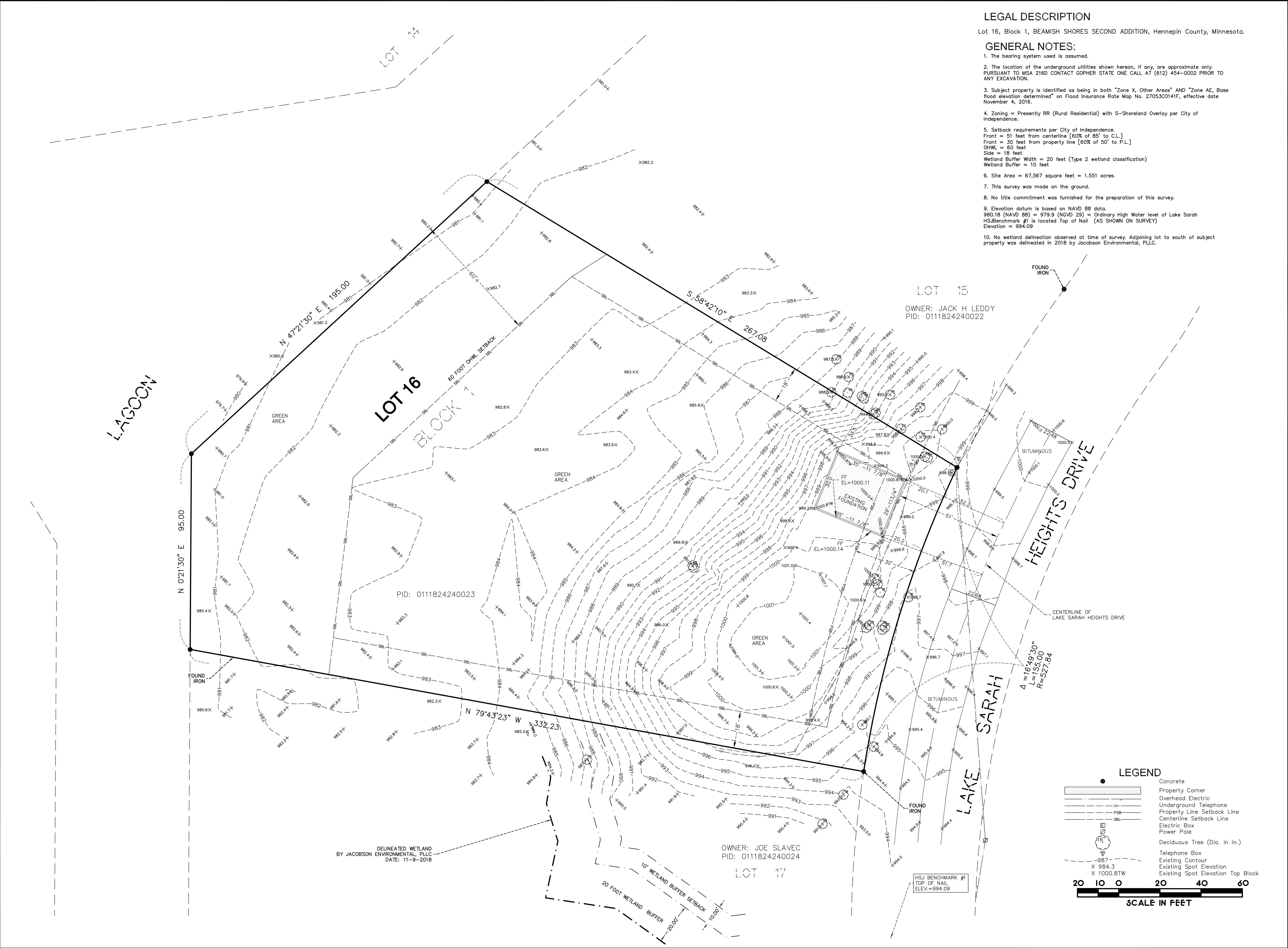
Supporting Documents: Site Survey (Existing Conditions), Site Survey (Proposed Conditions), Building Plans, Construction Plans, Wetland Delineation, Preliminary/Final Plan

Signature:

Figure 5 Delineation Map - Revised





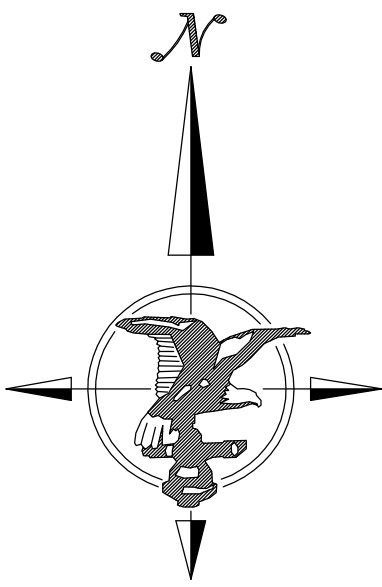


LEGAL DESCRIPTION

Lot 16, Block 1, BEAMISH SHORES SECOND ADDITION, Hennepin County, Minnesota.

GENERAL NOTES:

1. The bearing system used is assumed.
2. The location of the underground utilities shown hereon, if any, are approximate only. PURSUANT TO MSA 216D CONTACT GOPHER STATE ONE CALL AT (612) 454-0002 PRIOR TO ANY EXCAVATION.
3. Subject property is identified as being in both "Zone X, Other Areas" AND "Zone AE, Base flood elevation determined" on Flood Insurance Rate Map No. 27053C0141F, effective date November 4, 2016.
4. Zoning = Presently RR (Rural Residential) with S-Shoreland Overlay per City of Independence.
5. Setback requirements per City of Independence.  
Front = 51 feet from centerline [60% of 85' to C.L.]  
Front = 30 feet from property line [60% of 50' to P.L.]  
OHWL = 60 feet  
Side = 18 feet  
Wetland Buffer Width = 20 feet (Type 2 wetland classification)  
Wetland Buffer = 10 feet
6. Site Area = 67,567 square feet = 1.551 acres.
7. This survey was made on the ground.
8. No title commitment was furnished for the preparation of this survey.
9. Elevation datum is based on NAVD 88 data.  
980.18 (NAVD 88) = 979.9 (NGVD 29) = Ordinary High Water level of Lake Sarah  
HSJ Benchmark #1 is located Top of Nail (AS SHOWN ON SURVEY)  
Elevation = 984.09
10. No wetland delineation observed at time of survey. Adjoining lot to south of subject property was delineated in 2018 by Jacobson Environmental, PLLC.



SCALE: 1 INCH = 20 FEET

REVISIONS

Date:	

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

Thomas E. Hodorf, L.S.  
Minnesota Reg. No. 23677

Date: July 13, 2021

AS-BUILT

SURVEY

For:

RICHARD WOOD

SITE:

5233 SARAH HEIGHTS DRIVE

INDEPENDENCE, MINNESOTA

HENNEPIN COUNTY

HARRY S. JOHNSON CO., INC.  
LAND SURVEYORS

9063 Lyndale Avenue South  
Bloomington, MN. 55437  
Tele. 952-884-5341 Fax 952-884-5344

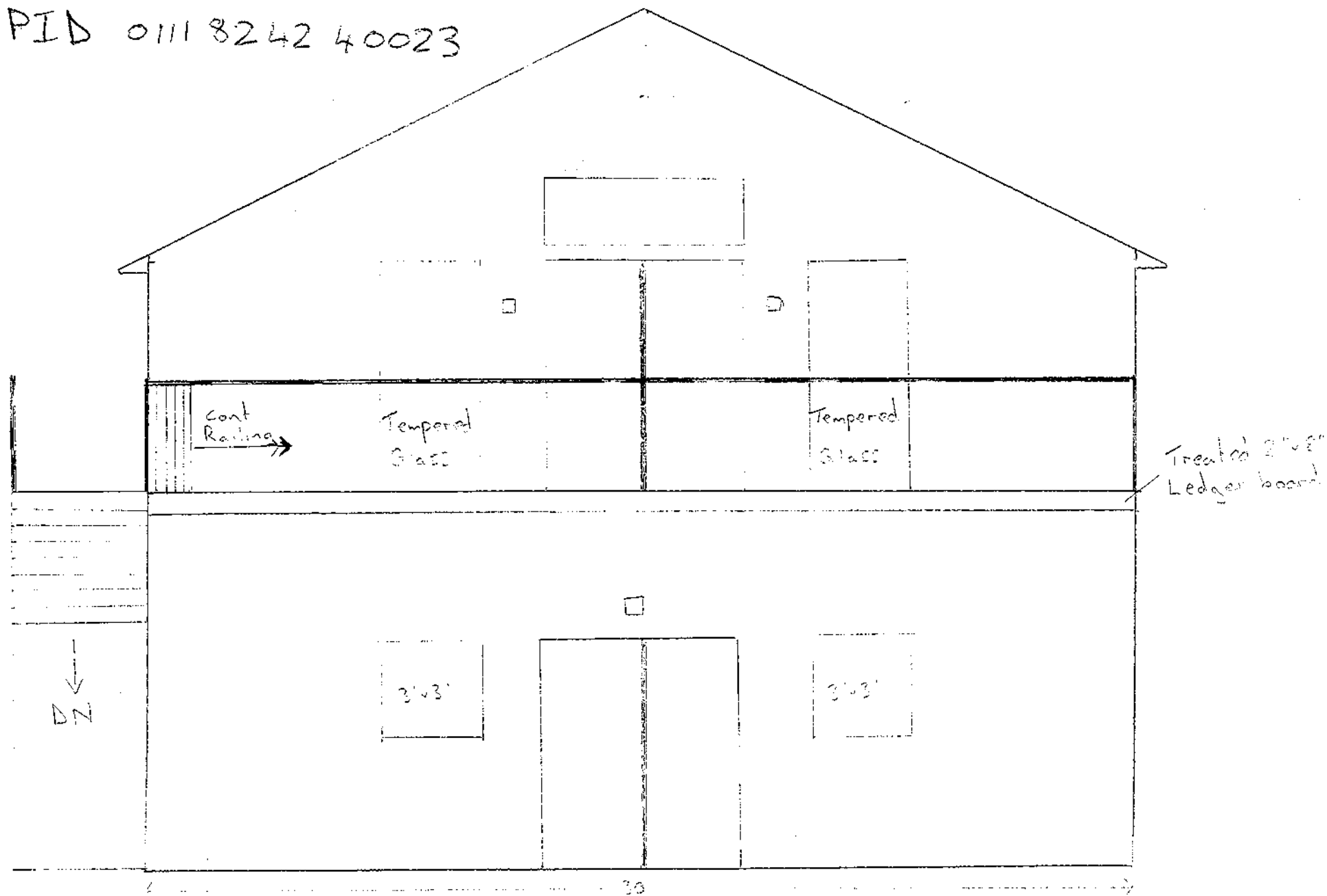
www.hsjsurveyors.com

Book 660	File No. 1-3-10506
Page 54	W.O. Number 2021203.01
CAD Technician CT	
Sheet No.	1 OF 1



Richard Wood 612 214 5668  
52xx Lake Sarah Heights Dr  
Encl Floor plan

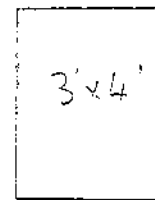
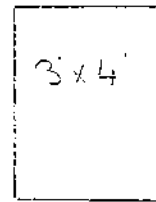
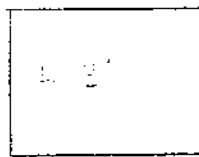
PID 0111824240023



East Elevation

Engineered Roof Trusses "Scissor"  
2' x 2' x 12' x 12'

Architectural  
asphalt shingles



Double 2' x 6' LVL  
headers

LP SmartSide  
Siding

16' x 30' Engineered Floor Trusses

2' x 30'  
Deck  
Forma  
2 x 8 Treated

Double 2' x 6' LVL  
headers

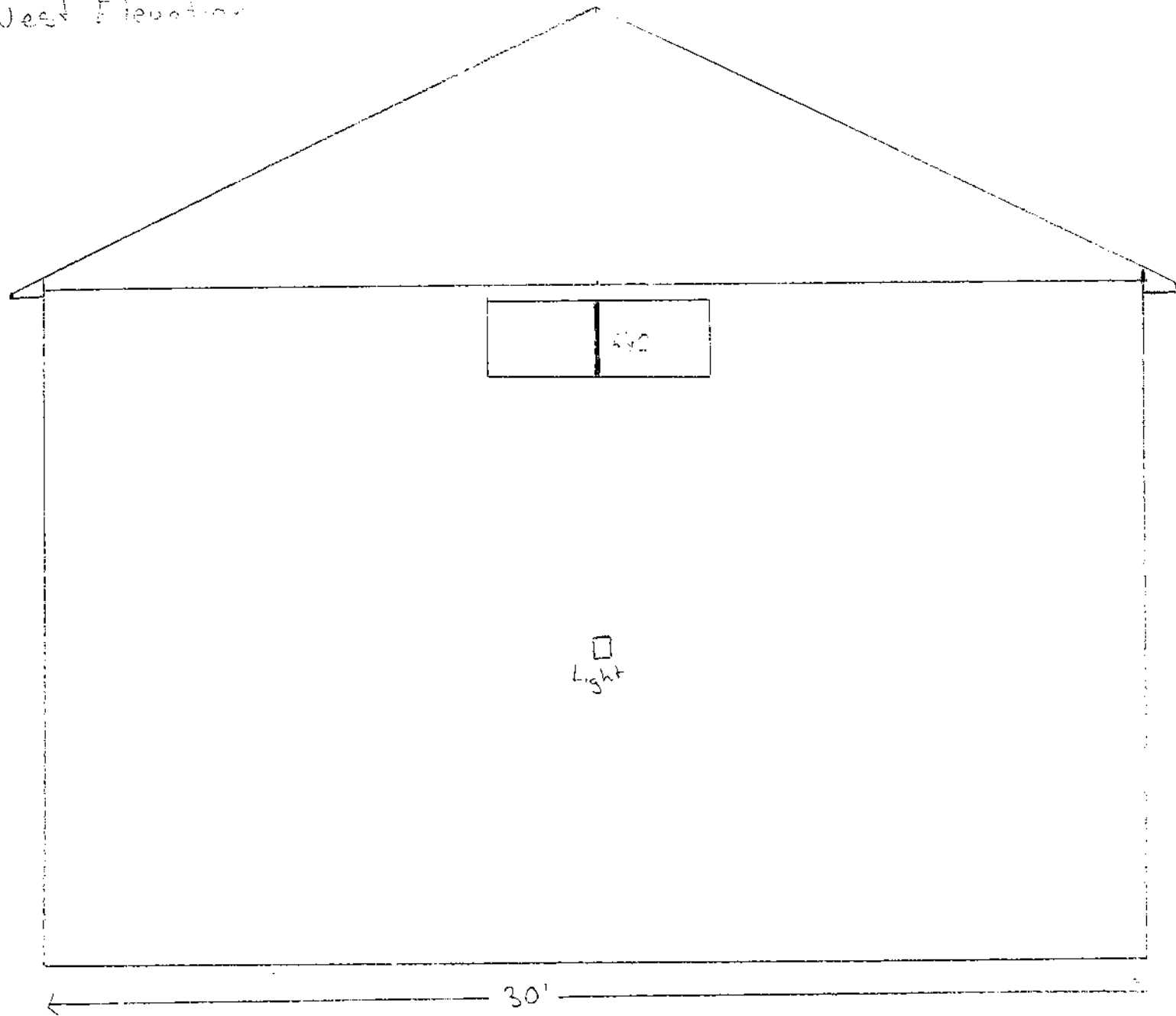
Double 2' x 6' LVL  
headers

10'

12'

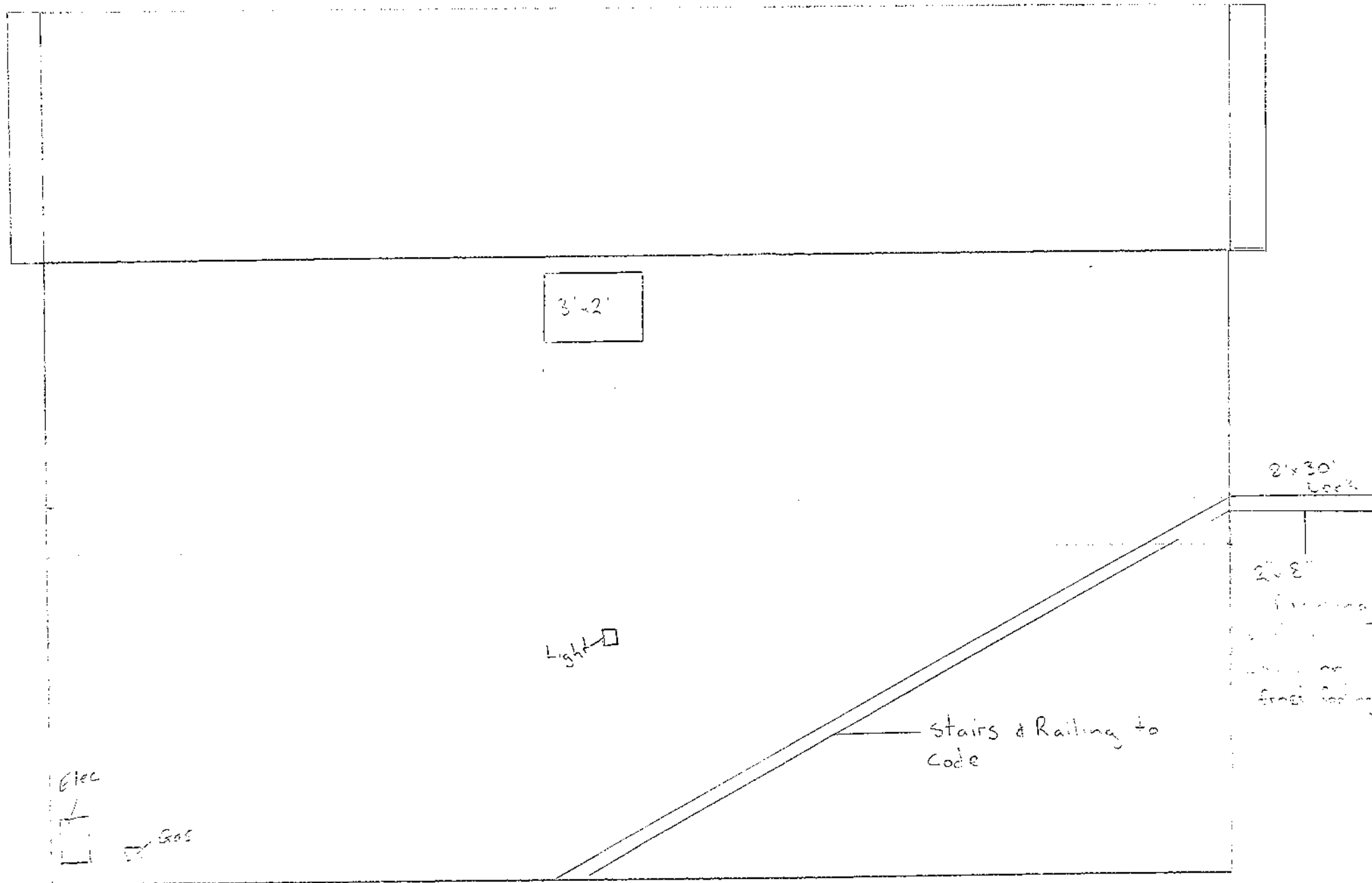
12'

West Elevation



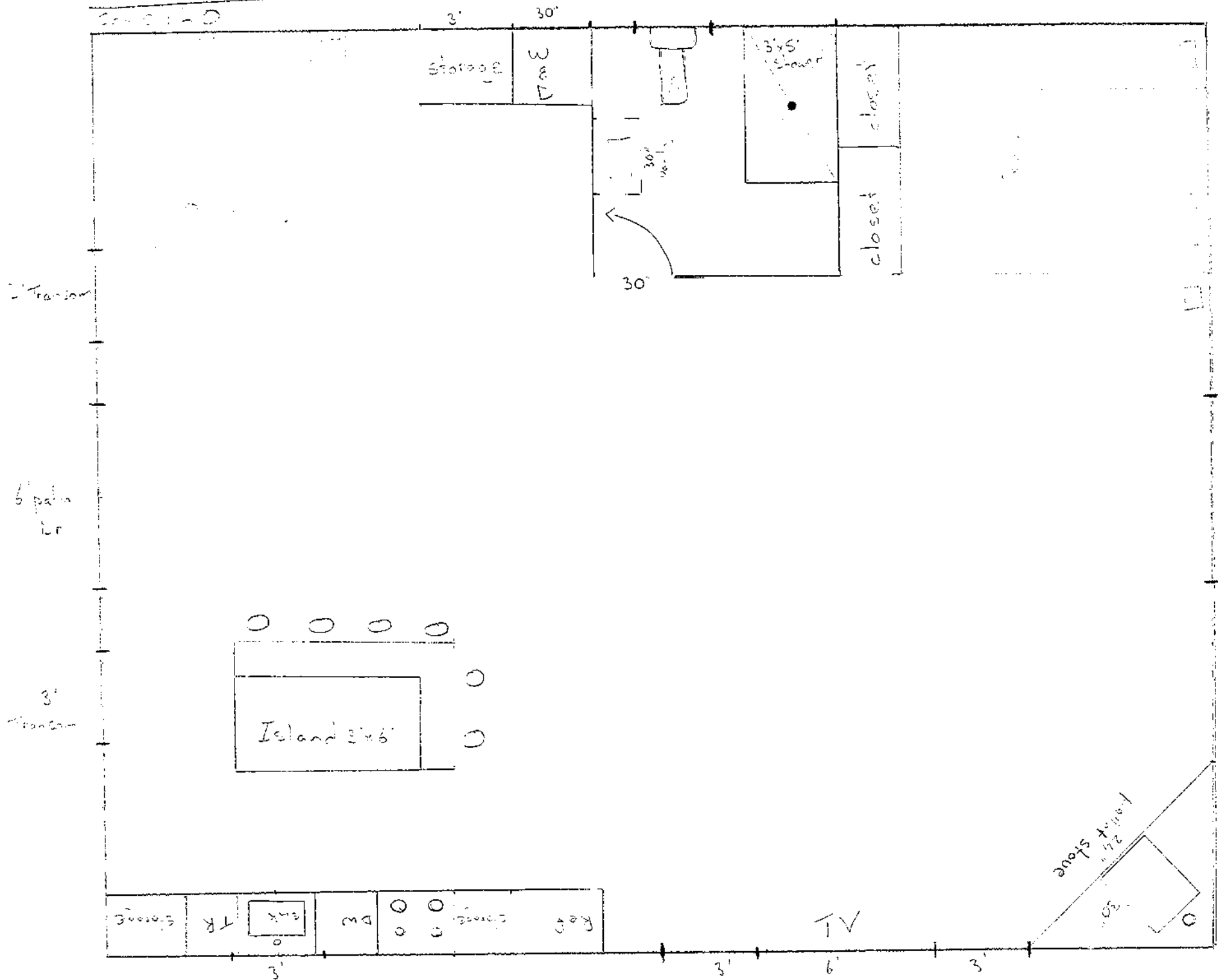


# North Elevation



1st Floor Plan

2nd Floor



# Garage Floor Plan

Scale: 40

Gas

4" Sewer

H<sub>2</sub>O

1 in floor ho.

phone line

Mechanical Rm

5' x 5' x 5'

30'

Drain

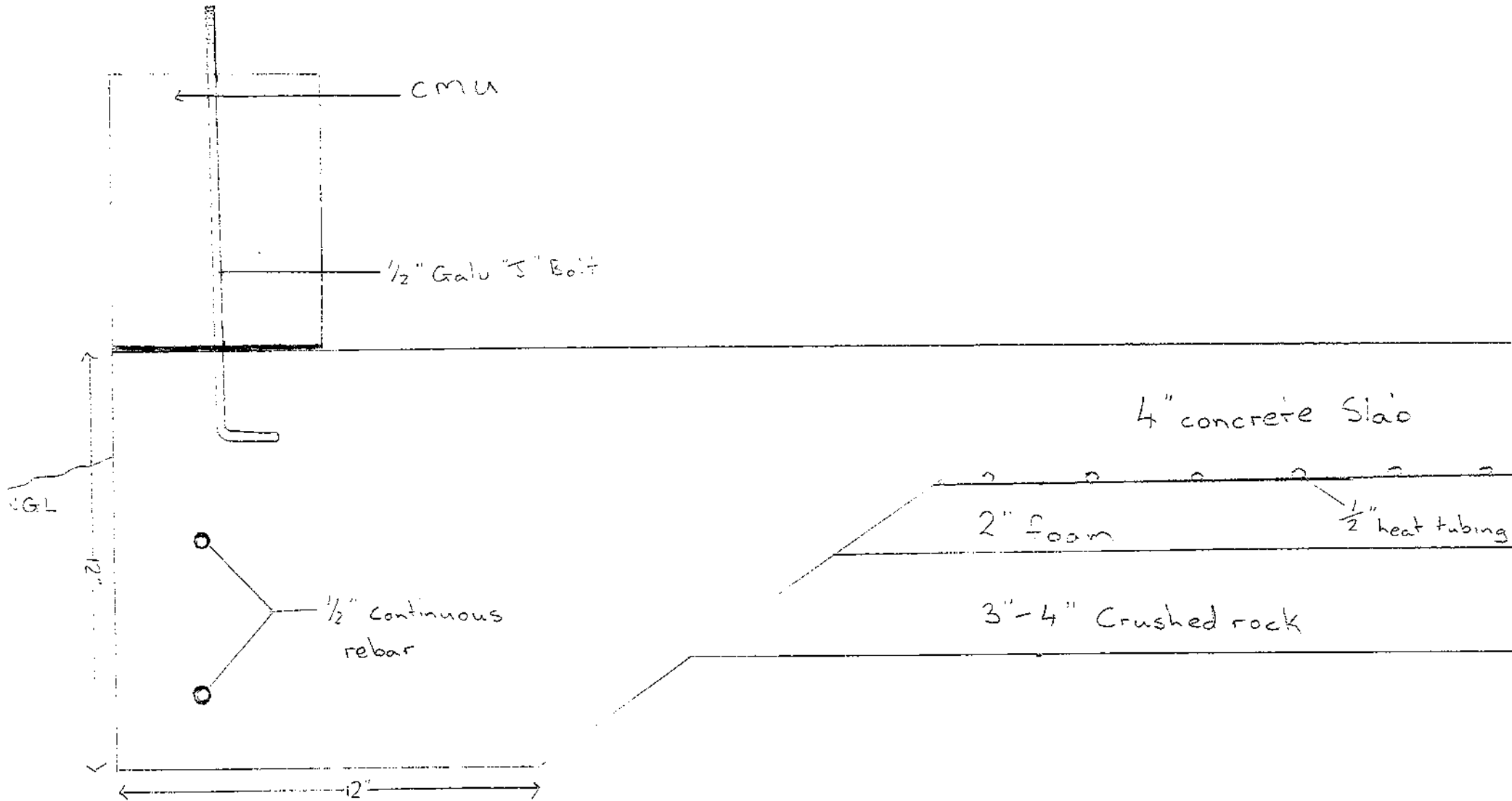
16 x 2 Door

9 x 2 Door

← 36' →

6" sleeve in concrete for 4" sewer pipe

# Slab Detail



## Construction Details

- windows: Andersen 100 Series
- roof trusses are supplied & approved by truss company  
2500000 trusses 6/12 ext 4/12 int @ 2' c/c
- floor trusses supplied & approved by truss company  
16" → 20" @ 16" c/c (will verify once have permit, supplier won't release info.)
- all int & ext framing is 2x4 SPT 18" c/c
- insulation in walls to be 3" closed cell spray foam
- full insulation R-21 between floor joist
- Blower insulation in attic ± 12" with vapor barrier
- Ext sheathing 7/16" OSB
- Roof sheathing 1/2" OSB
- Siding to be LP Smartside board & batten
- all sheetrock 1/2"
- stairs 7" rise, 10" run & railing to code
- Pellet Stove: Comfortbilt HP22 2800sq ft EPA certified
- CO<sub>2</sub> & Smoke alarm installed/hardwired
- hot water heater or tankless (TBB)
- garage stud length 104 5/8", lining area 84" studs
- mid point 2 1/2" = 22.52'
- Deck: 8x30' with 4' wide stairs, 2"x8" Treated Framing with 5/4" cedar tone  
into 11" c/c SPT across front 42" deep 12" Ø







City of Independence  
Concept Plan Review for a Proposed 34 Unit  
Cluster Subdivision on the Subject Properties Generally Located  
at 5865 Kochs Crossing

---

<i>To:</i>	City Council
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	July 20, 2021
<i>Applicant:</i>	Tom Koch
<i>Owner:</i>	William P Koch Et Al Trustees
<i>Location:</i>	2236 South Lake Shore Drive

***Request:***

Tom Koch (Applicant) is requesting that the City consider the following review/discussion for the property generally located at 5865 Kochs Crossing (PID No.s 111-118-24-12-0004, 111-118-24-13-0003, 111-118-24-12-0002, 111-118-24-13-0002, 111-118-24-42-0002) in Independence, MN:

- a. Concept plan review relating to the proposed subdivision of the subject property. The concept plan proposes 34 single-family residential lots.

***Property/Site Information:***

The overall property is comprised of 5 individual properties that located on the north and south sides of Kochs Crossing in-between County Road 90 and Independence Road. The property also touches Brei Kessel Road on the south. There is an existing home and a series of detached accessory buildings located across several of the properties. The properties are comprised primarily of agriculture land and wetlands.

Property Information: **5865 Kochs Crossing**

Zoning: *Agriculture*

Comprehensive Plan: *Rural Residential*

Acreage: *~141 acres*

5865 Kochs Crossing Aerial



**Discussion:**

The applicant approached the City on several occasions over the last several years to discuss potential rezoning and redevelopment of the subject property. The applicant has now submitted a concept plan for a 34-unit subdivision that would be developed across the 5 subject properties. Staff discussed several aspects of the proposed subdivision with the property owner and the owners' representatives. 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 formal applications for the development of the property.

The City has discussed the potential 34 lot subdivision with the applicant. A more detailed account of the comments and discussion is provided later in this report.

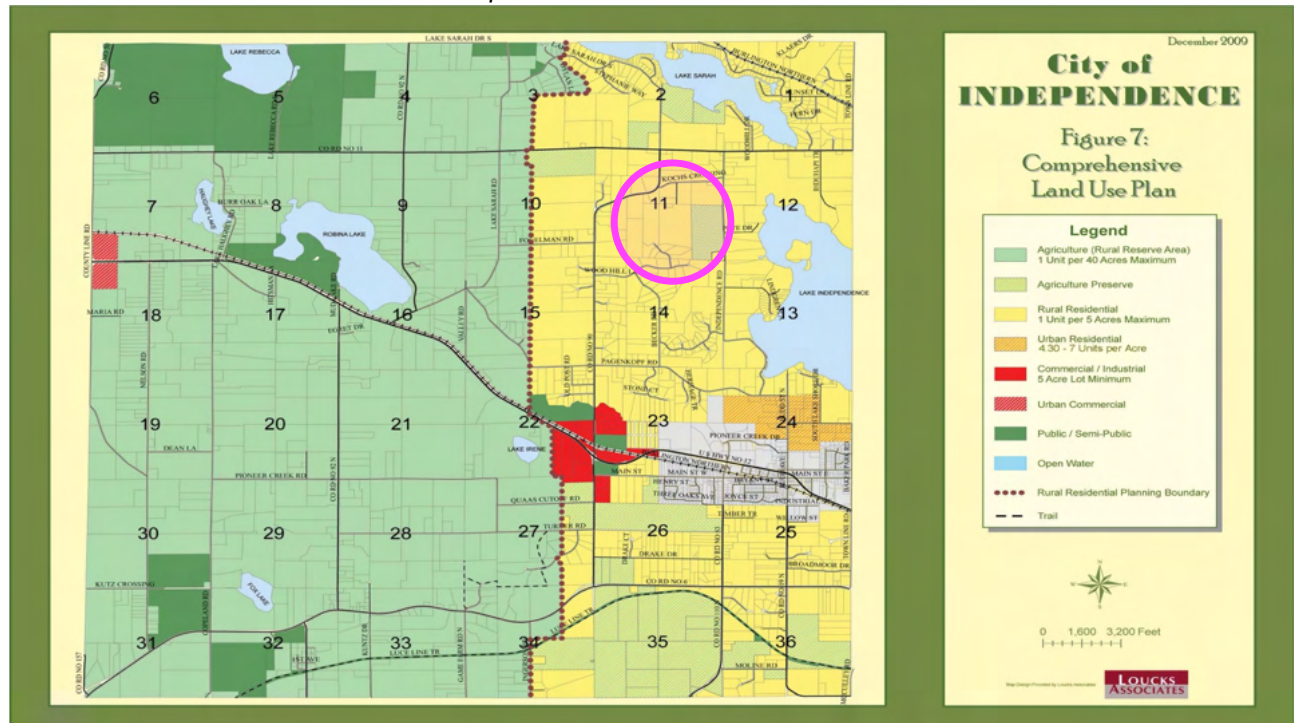
In order for the City to ultimately consider approval of a plan similar to the proposed concept plan, the following steps would be required:

1. Rezone the property to Rural Residential.
2. Consider a Conditional Use Permit to allow the proposed Cluster Subdivision.
3. Consider Preliminary Plat approval.
4. Consider Final Plat approval.

### Comprehensive Plan/Rezoning

The City's adopted 2030 and proposed 2040 plan identify this property as Rural Residential. The rural residential designation allows for a general development density of 1 unit per 5 acres.

### *2030 Comprehensive Land Use Plan*

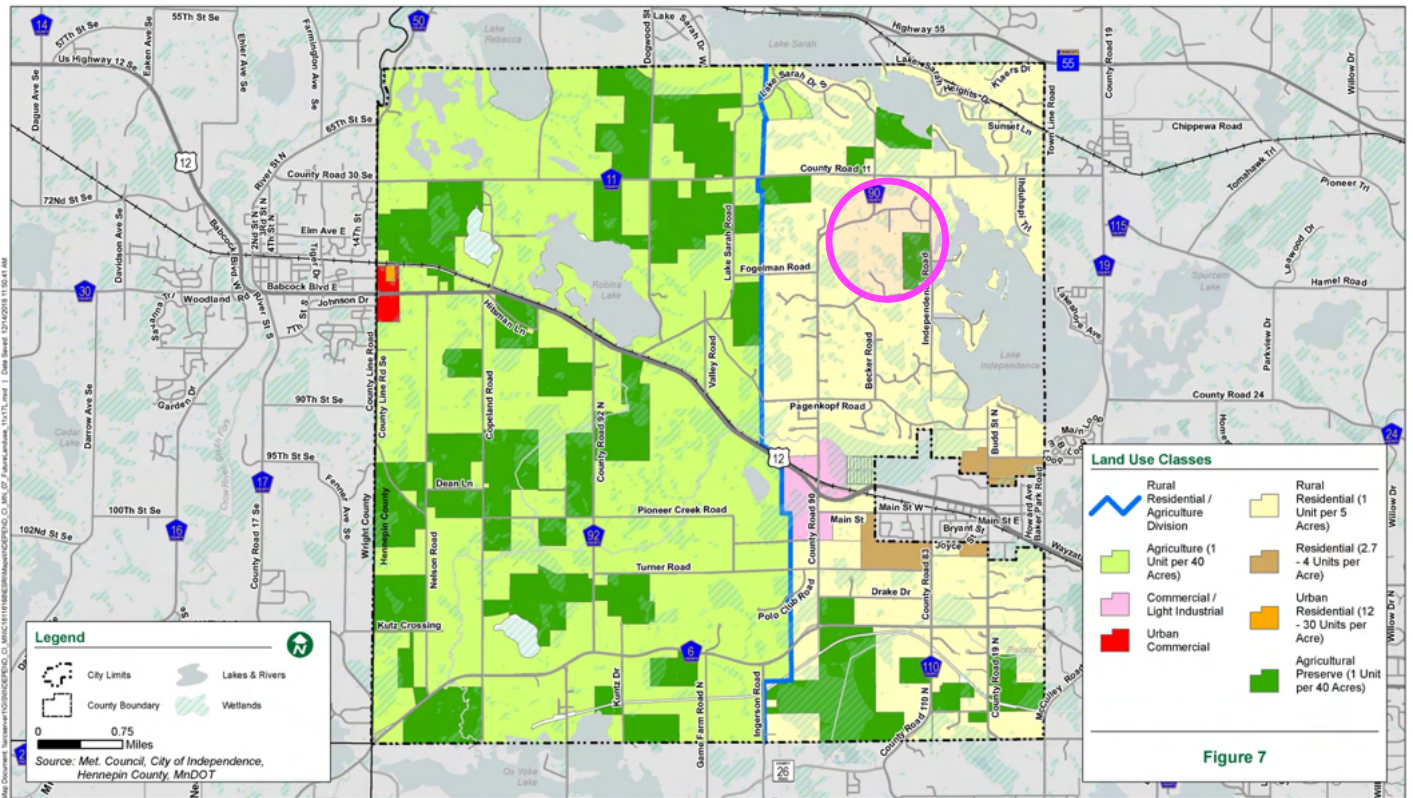


## DRAFT 2040 Comprehensive Land Use Plan



**2040 Comprehensive Plan**  
Independence, MN

**Future Land Use**  
December 2018



### Proposed Subdivision Concept Plan

The applicant has prepared a concept plan for review by the City. The initially reviewed the plan to determine the number of lots that could be realized based on the total property acreage.

***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)***

#### **Area of Lot of Record**

**7.5 acres or less**  
**7.6 through 12.5 acres**  
**12.6 through 17.5 acres**  
**17.6 through 22.5 acres**  
**22.6 through 27.5 acres**  
**27.6 through 32.5 acres**  
**32.6 through 37.5 acres**

#### **Maximum Number of Lots Permitted**

**One**  
**Two**  
**Three**  
**Four**  
**Five**  
**Six**  
**Seven**

**37.6 through 42.5 acres**  
**42.6 through 47.5 acres**

**Eight**  
**Nine, plus one addn. lot for every five**  
**addn. acres of land.**

Total Area: 141.35 acres  
141.35 – 47.5 acres = 93.85/5 = 18 lots, plus 9 lots for the initial 47.5 acres.  
**27 Lots**

The applicant is proposing to utilize the cluster subdivision standards. The cluster subdivision standards are as follows:

Subd. 4. *Cluster development conditional use permit.* Cluster development is a conditional use in the Rural Residential District, subject to the provisions of subsections 520.09, 520.11 and 520.13 of this Code.

(Amended, Ord. No. 2010-01)

- (a) *Purpose.* The purpose of the cluster development conditional use permit is to promote the creative and efficient use of land. The provisions of this subdivision are intended to:
  - (1) Protect natural features in common open space.
  - (2) Improve the arrangement of structures, facilities and amenities on a site.
  - (3) Preserve the rural character of the community.
- (b) *Criteria.* A cluster development is a residential development in which a number of single-family dwelling units are grouped on smaller lots than in conventional developments, while the remainder of the tract is preserved as open space. If the following standards are complied with, density of one unit per four acres is permitted.
  - (1) The development parcel must be 40 or more acres in size;
  - (2) A minimum of 50 percent of the development must be preserved as open space, recreational space or agricultural use;
  - (3) A minimum of 50 percent of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100-year floodplain elevation are not considered to be useable for the purpose of this subsection;
  - (4) Woodland, wetlands and topography must be preserved in a natural state, with modification allowed when no reasonable alternative exists; or, if the site lacks unique features such as woodlands and wetlands, the site must be designed and constructed in such a manner that residential building sites are integrated into a created natural environment including reforestation, wetlands enhancement, and vegetative screening of structures;
  - (5) The preliminary plat must show a primary and secondary individual sewage treatment site for each dwelling unit and must be supported with soil test reports indicating the adequacy of each proposed location, provided that shared treatment systems within a development may be acceptable if the plat identifies two or more suitable sites for the shared system and the city council approves the proposal;
  - (6) Lots within the development must have a minimum lot size of 1.5 contiguous buildable acres. Buildable acreage must not be separated by streams, wetlands, slopes in excess of ten percent or other physical impediments;

- (7) Open space must be designated in the development as one or more outlots and must be owned either by a homeowners' association consisting of the owners of all of the residential lots in the development or by the owners of the residential lots, as tenants in common;
- (8) The developer must record against the development a declaration of covenants that places responsibility for management of the open space in a homeowners association and provides for the assessment of management costs to the association members;
- (9) All utilities must be placed underground;
- (10) All residential streets within the cluster development must be paved with a bituminous surface according to the city street standards in effect at the time of the development;
- (11) A development agreement must be entered into with the city.

Based on the cluster development standards, the applicant is proposing to develop the property in accordance with applicable provisions. The applicant is asking the City to provide feedback relating to the cluster development criteria and specifically, the 50% open space requirement. The City has historically calculated the 50% open space and subsequent 50% useable open space using the gross site acreage. The applicant is asking the City for direction relating to using the net acreage (gross acreage minus proposed right of way for new City streets) when calculating the open space and useable open space requirements. The ordinance using the following language:

*A minimum of 50 percent of the development must be preserved as open space, recreational space or agricultural use;*

*A minimum of 50 percent of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100-year floodplain elevation are not considered to be useable for the purpose of this subsection;*

The total area of the proposed roads is approximately 9 acres. If the ~9 acres was subtracted out of the total, the resulting developable land would increase by approximately 4.5 acres. Staff is seeking additional discussion and direction relating to this issue from the City.

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, traffic impacts 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 proposed plan proposes to realign Koch's Crossing at the point of intersection with CSAH 90. The City generally believes that this realignment would benefit the access point due to the existing location other curve of CSAH 90. Hennepin County will ultimately need to approve the relocation of Koch's Crossing.
2. Koch's Crossing will be fully upgraded and will tie into the eastern half that was recently upgraded as a part of the Serenity Hills subdivision. The applicant is proposing to locate lots along the realigned Koch's Crossing. This would be consistent with the Serenity Hills subdivision.



3. A new north south road and cul-de-sac is proposed to provide access to a large portion of the property. The road is proposed to connect to Brei Kessel Road to the south. This connection would be supported by the City and would allow the development to have two points of access.
4. The proposed concept plan shows a number of lots that appear to have wetland and wetland buffers encroachments onto the private lots. The City would recommend that wetlands and wetland buffers are removed from the private lots to prevent future limitations on the useable lot area. More detail will ultimately need to be provided to understand how this would impact the layout of the proposed lots.
5. The proposed layout shows that those lots with direct shoreland would be developed so that the homes could be located at the top of the existing slope. This is preferable to previous layouts where the proposed building pads were located closer to the lakeshore which would have likely had significant impacts to the existing topography and vegetation.
6. Several of the proposed lots have significant slopes across the majority of the property. The City will want to look at the potential building pad and grading for all lots (i.e. Lots 4 & 5, Block 2).
7. A primary and secondary septic site would need to be verified on all proposed lots.
8. A wetland delineation will need to be completed.
9. The developer has noted that they would likely phase the construction of the development going from the north to the south. Phasing of the development would be considered at the time of Preliminary Plat.
10. The City and Watershed have standards relating to storm water management and water quality. The City would work to ensure that any development of this property would meet all applicable standards relating to storm water management and water quality. The proposed plans indicate several large outlots that would likely be utilized for stormwater.
11. The proposed concept subdivision would be subject to the City's Park dedication requirements. No park land dedication is shown on the concept plans. It is anticipated that the proposed useable open space would be fully accessible to the development and there appears to be good connectivity to all of the proposed open space. The City should provide feedback relating to possible park dedication on the subject property. The standard park dedication requirement of \$3,500 ( $\$3,500 \times 34 = \$119,000$ ) per lot would otherwise be applicable to all newly developed lots.

***Recommendation:***

The applicant is seeking feedback from the City pertaining to the concept plan for a 34-lot cluster development. No formal action can be taken by the City on the concept plan. There are many steps that will need to be taken for any development of this property to occur.

***Attachments:***

1. Application
2. Concept Site Plan



**CITY OF  
INDEPENDENCE  
MINNESOTA**

**Applicant Information**

Name: Tom Koch

Address: 10509 Shelter Grv  
EDEN PRAIRIE,  
Minnesota 55347-4859

Primary Phone: 9529131056

Email: tkoch58@yahoo.com

**Owner Information**

Name: Tom Koch

Address: 10509 Shelter Grv  
EDEN PRAIRIE,  
Minnesota 55347-4859

Primary Phone: 9529131056

Email: tkoch58@yahoo.com

Property Address:

PID:

Planning Application Type: Other

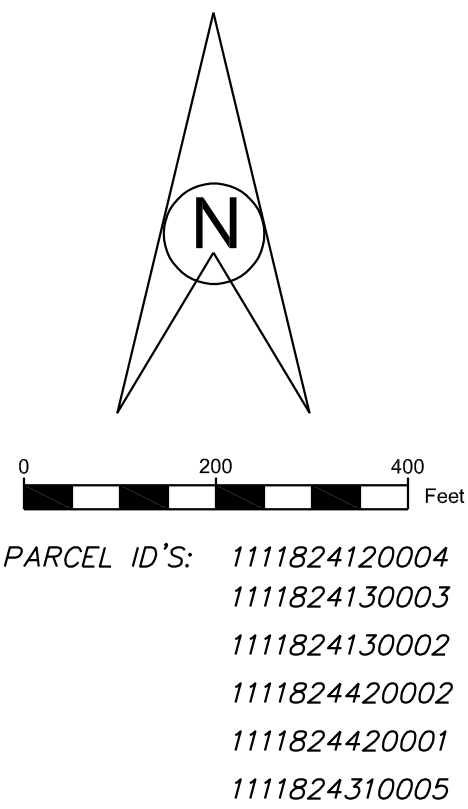
Description:

Supporting Documents: Preliminary/Final Plan

Signature:

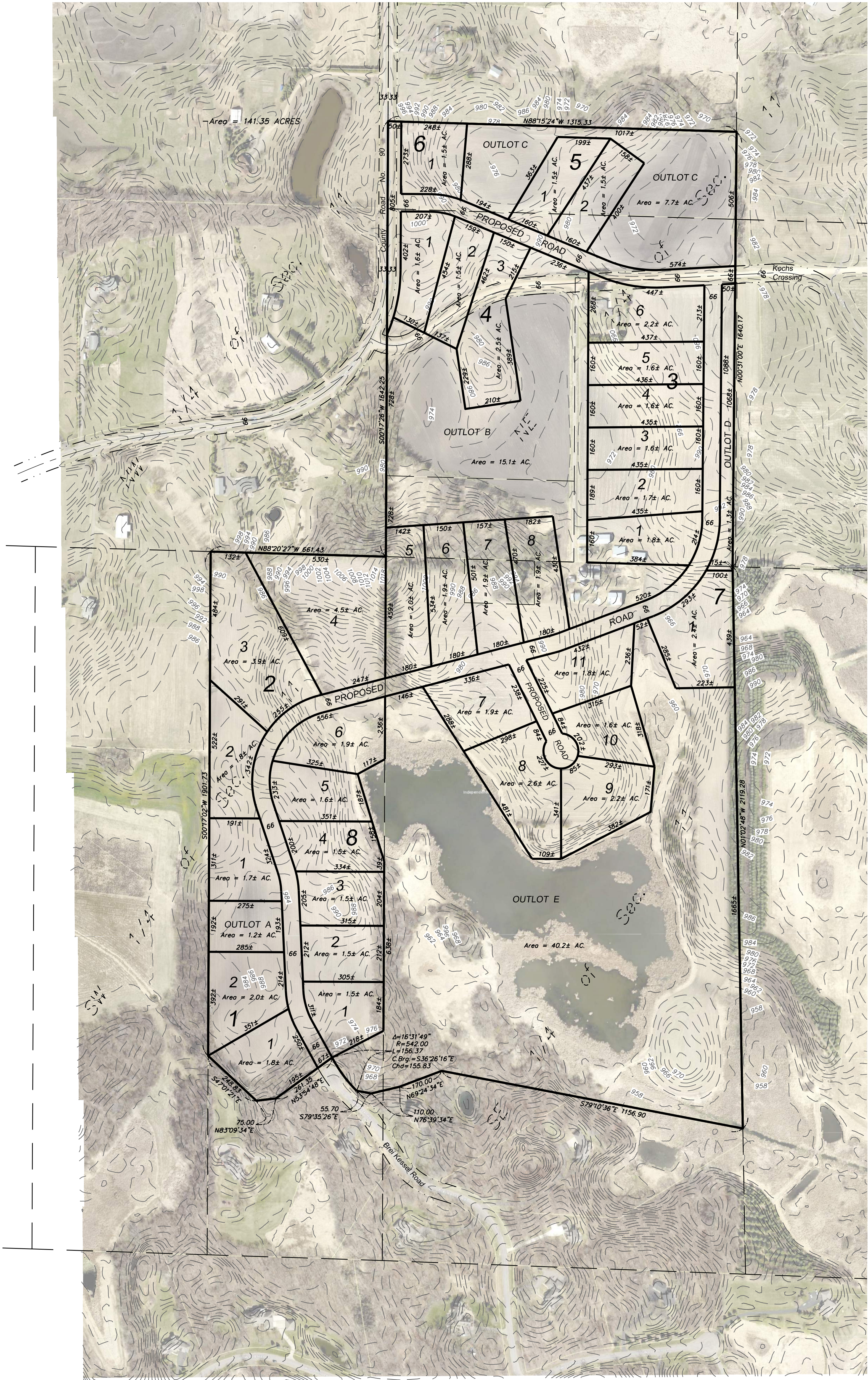
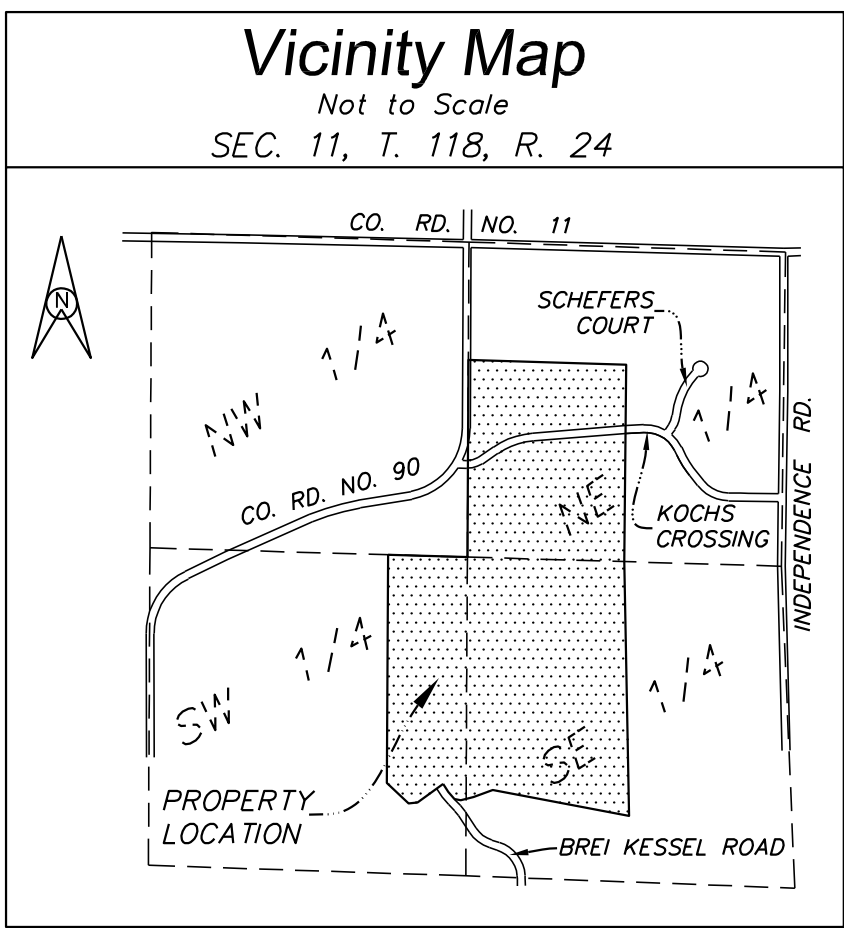


Concept Plan



TOTAL AREA = 141.35 ACRES  
AREA LESS EXISTING AND PROPOSED RIGHT OF WAY = 130.12 ACRES  
PROPOSED LOTS = 34 LOTS  
MINIMUM LOT AREA = 1.5 ACRES  
OPEN SPACE REQUIRED = AREA LESS RIGHT OF WAY ÷ 2  
= 65.1 ACRES (50.0%)  
OPEN SPACE PROVIDED = 65.5 ACRES (50.3%)  
USABLE OPEN SPACE REQUIRED = 32.5 ACRES (50.0%)  
USABLE OPEN SPACE PROVIDED = 44.7 ACRES (68.7%)

LEGEND  
988 denotes Existing Lidar Contour per MN DNR



Concept Plan on part of the E. 1/2 and part of the SW 1/4 of Section 11, Township 118, Range 24, Hennepin County, Minnesota.

Revised:

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

Paul E. Otto  
License #40062 Date: 6-16-21

Requested By:

Tom Koch

Date: 5-24-18

Drawn By: T.J.B.

Scale: 1"=200'

Checked By: P.E.O.



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. 18-0199