



CITY COUNCIL MEETING AGENDA
REGULAR MEETING
TUESDAY APRIL 2, 2019

******PLEASE NOTE******

6:00 PM - LOCAL BOARD OF APPEALS AND EQUALIZATION MEETING

CITY COUNCIL MEETING TIME: 6:30 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. ****Consent Agenda****
All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.
 - a. Approval of City Council minutes From the March 19, 2019 Regular City Council Meeting.
 - b. Approval of Accounts Payable; Checks Numbered 18747-18771.
 - c. Agriculture Preserve Renewal Application - PID is PID 04-118-24-13-0002.
 - d. Approval of Dust Control and Gravel Quotations for 2019.
5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.
6. Reports of Boards and Committees by Council and Staff.
7. Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):
 - a. **RESOLUTION 19-0402-01** - Approving an interim use permit allowing the continued horticulture use of the existing property.
8. **PUBLIC HEARING** – Consider the Vacation of a Portion of East Lake Rebecca Road.

- a. **RESOLUTION NO. 19-0402-02** – Vacating a portion of the public right of way between CSAH 11 and the City of Greenfield.

9. Open/Misc.

10. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, MARCH 19, 2019 –6:30 P.M.

6:00 PM - Hennepin County Assessor David Thomsen – Present Preliminary Local Board of Appeals and Equalization Information in Preparation for April 2, 2019 Meeting

Thomsen outlined the valuations for Independence stating the following increases: residential 1.9%, lakeshore 2.4%, industrial 7.7%, agricultural 15.7% and commercial declined at -7.1%. The average for all properties in Independence was 1.45%. Productive land increased at 13%. Johnson asked if there were any AG sales. Thomsen said there were a couple, but they were not good comps. Thomsen said the meeting will take place April 2nd at 6:00 for appeals.

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, Grotting, McCoy and Betts

ABSENT: City Attorney Vose

STAFF: City Administrator Kaltsas, City Administrative Assistant Horner

VISITORS: Dave Thomsen, Melissa Potter, Lynda Franklin, John and Lisa Damian, Dudley Bartholow, Bob Volkenant, Brian Murdock, Rob Langer, Jill Langer, Karla Lopez, Romana Alacon, Francisco Lopez, Kelsey Brenton-Fitzgerald, Laurie Fitz, Bonnie Jacobs, Ben Jacobs, Denny Perrault, Mary Jacobs, Tim Jacobs, Richard Jacobs, Anita Volkenant, Tami Diehm, Saul Baumann, Cathy Schmidt, Khara Baumann

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

All items listed under the 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 March 5, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18692-18746.
- c. Agriculture Preserve Renewal Application - PID is 07-118-24-24-0001.

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Highway 12 Safety Coalition meeting
- Northwest League of Municipalities meeting
- Met with Mayor Julie Maas-Kusske

Grotting attended the following meetings:

- Highway 12 Safety Coalition meeting

McCoy attended the following meetings:

- Jessie Heitz mother's funeral
- Parade of Homes in Independence

Betts attended the following meetings:

- Highway 12 Safety Coalition

Johnson attended the following meetings:

- Orono Healthy Youth Committee Meeting
- Conference Call with National League of Cities
- Highway 12 Safety Coalition Meeting
- National League of Cities Conference March 9-13th
- Met with Senators and staff except Hagedorn
- Assisted with interviews for Water Resource Department with Hennepin County
- Attended Community Theatre Glass Menagerie production

Horner attended the following meetings:

- Met with Orono Westonka Soccer Association about using Pioneer Park

Kaltsas attended the following meetings:

7. Lake Minnetonka Communications Commission Presentation – Jim Lundberg, Operations Manager

Lundberg stated the LMCC was formed in 1984 as a joint power between cities to provide public access to government, educational and public information in a united format. There have been over 3 miles of build-out in 2016 and 3.1 miles are scheduled for 2019. The LMCC handles customer complaints with Mediacom and those complaints may be directed to him. The LMCC is funded through a franchise fee and a percentage of subscriber fees per month. Lundberg outlined some upcoming initiatives such as buying a new location truck and upgrading presentation hardware in member cities to create state-of-the-art systems.

Johnson asked about any federal legislation that may be downplaying the use of cable commissions. Lundberg said the FCC does have legislation in progress that if it would go through then the franchises would be affected. Lundberg said small cities generally feel commissions are the way to get the best bang for their buck. Johnson said if a letter of support was needed to please let the Council know. Grotting said they are looking to maximize all they can with Mediacom.

8. Director Gary Kroells, West Hennepin Public Safety:

Kroells thanked Lundberg for the role LMCC plays in helping WHPS get their message out to the community.

- a. Activity Report for the Month of February 2019.

for a complete detail activity report see the City Council packet materials

- b. Discuss and Consider the Joint Powers Agreement for the Lake Minnetonka SWAT Team - Joint Powers Agreement.
- c. **RESOLUTION 19-0319-03** - Considering Authorization for West Hennepin Public Safety to Enter Into the JPA.

Kroells stated WHPS joined other cities approximately 15 years ago to have a joint SWAT team that would work and train together. They average between 5-8 “high-risk” events per year between the cities. The League of Minnesota Cities did their loss control/ risk study in July and the SWAT team was brought to their attention. It was suggested that a joint powers agreement be entered formally in the best interest of all cities. The LMC will charge an insurance policy for that agreement and the police departments would absorb those costs.

Motion by Spencer, second by McCoy to approve RESOLUTION 19-0319-03 - Considering Authorization for West Hennepin Public Safety to Enter Into the JPA. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

9. Open/Misc.

10. Adjourn.

Motion by Betts, second by McCoy to adjourn at 7:24.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary



April 2, 2019

TO: Mayor and City Council
FROM: Larry Ende, Public Works Director
RE: Dust Control

My recommendation is:

Envirotech for dust control

Dust Control

Magnesium Chloride:

FOB

Envirotech	2018/\$0.869	2019/\$0.869
Quality Propane Inc.	2018/\$0.83	2019/No Bid
Northern Salt Inc.	2018/\$0.938	2019/No Bid



April 2, 2019

TO: Mayor and City Council
FROM: Larry Ende, Public Works Director
RE: Gravel bids

My recommendation is:

Class 5 Gravel –Hassen Sand and Gravel – FOB and Delivered
Recycled Conbit – Hassen Sand and Gravel – FOB and Delivered
Limestone Class 2 – Bryan Rock - FOB and Delivered

GRAVEL, CONBIT AND LIMESTONE BIDS

CLASS 5 GRAVEL	FOB		DELIVERED	
Hassen Sand and Gravel	2018/\$9.25	2019/\$9.25	2019/\$14.00	2018/\$14.00
Bryan Rock	No Bid	No Bid	No Bid	No Bid
Doboszinski	No Bid	No Bid	No Bid	No Bid

RECYCLED CONBIT	FOB		DELIVERED	
Hassen Sand and Gravel	2018/\$9.25	2019/\$9.25	2018/\$14.00	2019/\$14.00
Bryan Rock	No Bid	No Bid	No Bid	No Bid
Doboszinski	No Bid	No Bid	No Bid	No Bid

LIMESTONE CLASS 2	FOB		DELIVERED	
Hassen Sand and Gravel	No Bid	No Bid	No Bid	No Bid
Bryan Rock	2018/\$10.80	2019/\$10.80	2018/\$17.00	2019/\$17.40
Doboszinski	No Bid	No Bid	No Bid	No Bid

City of Independence

Request for an Interim Use Permit for the Property located at 5835 Drake Drive

<i>To:</i>	City Council
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	April 2, 2019
<i>Applicant:</i>	Anita Volkenant
<i>Owner:</i>	Anita Volkenant
<i>Location:</i>	5835 Drake Drive

Request:

Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):

- a. An interim use permit allowing the continued horticulture use of the existing property.

Property/Site Information:

The property is located at 5835 Drake Drive which is on the south side of Drake Drive between County Road 83 and County Road 90. There is an existing home located on the property along with 5 detached permanent accessory structures and 2 detached temporary hoop houses. The property has the additional following characteristics.

Property Information: 5835 Drake Drive

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential*

Acreage: 3.8 acres

5835 Drake Drive: Aerial View



Discussion:

The City has been working with the applicant for several years to better understand the existing use of the property and how it conforms to permitted and accessory uses within the RR-Rural Residential zoning district. The applicant has stated that the use of the property is for horticulture, which is a permitted use in the RR zoning district. Horticulture is defined by the City as follows:

Subd. 42. "Horticulture." The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.

The applicant currently operates a business which grows and produces flowers and ornamental plants for the "production of income". The applicant has noted that the plants grown on the premise are integral to and the primary use of the business known as Pleasant View Gardens, Inc. In association with the horticulture use of the property, the applicant has equipment, materials and employees. The City has been working with the applicant to understand and to address several issues relating to the horticultural use of the property. The City believes that the use of the property is more intense than the historically interpreted allowed horticulture use of similar properties. As such, it was found to be in the best interest of the City to establish parameters relating to the existing and future use of the property for horticultural purposes. The

current zoning ordinance does not fully establish conditions or criteria relating to the horticultural use of a property.

The City and applicant have agreed that consideration of an interim use permit would be the clearest way to allow the continued horticultural use of the property while establishing requirements and stipulations on several elements of the use. The applicant and the City have developed a list of significant parameters and conditions in the form of a settlement and stipulation agreement. The agreement has been considered by the City Council and approved in an effort to establish key parameters and conditions that can be considered during the review of the interim use permit application. The approval of the settlement and stipulation agreement is subject to the applicant obtaining an interim use permit for the continued use of the property for horticultural use. The City is not obligated to approve the interim use permit and shall review the application and proposal based on the established criteria in the zoning ordinance.

There are several key considerations relating to the proposed interim use permit that should be noted and further considered by the City.

1. The applicant has stated that this property has historically been used for horticultural purposes similar to the current use of the property.
2. The City regulates the total square footage of detached accessory structures on a property. The subject property would allow for a total of 3,306 SF (165,315 SF x 2%). The applicant currently has the following detached accessory structures on the property totaling 3,457 SF:
 - a. Garage: 600 SF
 - b. Garage #1: 270 SF
 - c. Garage #2: 420 SF
 - d. Barn & Lean-to: 881 SF
 - e. Shed: 736 SF
 - f. Lean-to: 550 SF

In addition, the applicant has the following hoop houses totaling 4,600 SF:

- a. Hoop House #1: 3,000 SF (300' x 100')
- b. Hoop House #2: 1,600 SF (20' x 80')

The square footage of detached accessory structure exceeds the allowable amount permitted on the property. All of the permanent detached buildings are existing and considered legal-non-conforming. The applicant has constructed two hoop houses (greenhouses) on the property in the last 5 years without approval from the City. The applicant has noted that they believe the structures to be temporary and considered agricultural buildings which would not require a building permit. The City does differentiate between temporary and permanent structures and the hoop houses fit into the City's current definition of accessory structures. The applicant is proposing that one of the hoop houses will be taken down for a portion of the year (see detailed condition in Exhibit A attached hereto). As a condition of the approval, the applicant would not be permitted to

expand or add any additional detached accessory structures to the property without meet all applicable ordinances and obtaining the requisite approvals and permits.

3. The applicant has employees that are integral to the horticultural use of the property. The employees tend to and maintain the plants grown on the premise. The City and applicant have discussed that the employees being permitted on the premise will be limited to the growing season from March to November. The total number of employee vehicles is limited and further detailed on the attached Exhibit A.
4. The applicant has equipment associated with the horticultural use of the property that is used to maintain the plants, move material associated with growing and tending to the plants and vehicles associated with taking the plants off site for delivery and installation. The City has discussed limiting the vehicles and equipment permitted on the property. In addition, the City has discussed allowing equipment and vehicles to be stored on a nearby property located at 1030 County Road 83. This property is owned by a relative and has an existing conditional use permit allowing employee vehicle parking associated with a construction business. The City and applicant have discussed that the vehicles and equipment stored on the premise would need to be located in designated areas and reasonably screened from public view.
5. The applicant has materials associated with the horticultural use of the property. The City and applicant have discussed that the materials would need to be located in designated areas and reasonably screened from public view.
6. The applicant has prepared a site plan which further details the existing buildings, location of proposed parking, storage of materials and existing and proposed screening. The applicant is proposing to develop a more complete landscape screen along Drake Drive and the east and west property lines. In addition, the applicant is proposing to add additional screening to the north side of the hoop houses and outdoor materials storage areas (a copy of the proposed site and landscape plan is attached to this report).

The City has criteria relating to interim use permits. One of the criteria of an interim use permit is that it meets the standards for granting a conditional use permit. The following criteria have been established for both an interim use permit and conditional use permit:

1. *The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.*
2. *The date or event that will terminate the use can be identified with certainty.*
3. *Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.*
4. *The user agrees to any conditions that the city council deems appropriate for allowing the use.*
5. *The use meets the standards set forth in subsection 520.11 governing conditional use permits.*

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

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

The City will need to determine if the requested interim use permit meets all of the aforementioned conditions and restrictions. The City has worked with the applicant to develop an agreeable set of conditions and parameters to limit, and where necessary, mitigate potential impacts relating to the horticultural use of the property. It should be noted again that horticulture is a permitted use in the Rural Residential zoning district. The interim use permit will provide the City with ability to establish measures and conditions to the use of the property in order to mitigate potential impacts. It should also be noted that the City Council has determined that the zoning ordinance will be updated to ensure clarity relating to the desired intent of permitting horticulture use of a property and to more fully provide regulations of the same. Staff and the Planning Commission have been directed to review the ordinance and develop an amendment for consideration in the near future.

Neighbor Comments:

The City received several written comments prior to the Planning Commission Meeting. Comments were also made during the public hearing.

Planning Commission Discussion:

Commissioners reviewed the proposed interim use permit and asked questions of staff and the applicant. Commissioners discussed how and if the City defines temporary structures versus permanent structures. It was noted that the City does not differentiate temporary versus permanent structures in the ordinance. Commissioners discussed the interim use permit provisions relating to cessation of the use. It was noted that the settlement agreement provides direction relating to the sunset of the IUP; however, the City can establish terms in the IUP that

further define the sunset provisions. It was generally agreed that the conveyance of the property or cessation of the business would cause the permit to end. Commissioners asked about the need to include a provision in the agreement about the rock pile on the property. Staff noted that this would generally be permitted if not a cause for other nuisance related issues. Ultimately Commissioners found that the criteria for granting an IUP were being satisfied and recommended approval to the City Council.

Recommendation:

The Planning Commission recommends approval of the request for an interim use permit with the following findings and conditions:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The interim use permit will expire upon the conveyance of the property or the sale or cessation of the business (Pleasant View Gardens, Inc.), whichever occurs first.
3. The horticulture use of the property shall be subject to all conditions provided for and further detailed in the **Settlement Agreement** attached hereto.
4. The applicant shall pay for all costs associated with the City's review and processing of the requested interim use permit.

Attachments:

1. Application
2. Project Narrative
3. Settlement Agreement
4. Site and Landscape Plan



RESOLUTION NO. 19-0402-01

A RESOLUTION GRANTING APPROVAL OF AN INTERIM USE PERMIT TO ALLOW THE CONTINUED HORTICULTURAL USE OF THE PROPERTY LOCATED AT 5835 DRAKE DRIVE

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

WHEREAS, the City adopted a comprehensive plan in 2010 to guide the development of the community; and

WHEREAS, the City has adopted a zoning ordinance and other official controls to assist in implementing the comprehensive plan; and

WHEREAS, Anita Volkenant (the “Applicant”) submitted a request for an Interim Use Permit to allow the continued horticultural use of the property located at 5835 Drake Drive (PID No. 26-118-24-43-0006) (the “Property”); and

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

WHEREAS, the approved site plan is further depicted on **Exhibit B** attached hereto; and

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

WHEREAS the requested Interim Use Permit meets all requirements, standards and specifications of the City of Independence zoning ordinance for RR-Rural Residential lots; and

WHEREAS the Planning Commission held a public hearing on March 19, 2019 to review the application for an Interim Use Permit, following mailed and published noticed as required by law; and

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

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by Anita Volkenant for an Interim Use Permit per the City's subdivision and zoning regulations with the following conditions:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The interim use permit will expire upon the conveyance of the property or the sale or cessation of the business (Pleasant View Gardens, Inc.), whichever occurs first.
3. The horticulture use of the property shall be subject to all conditions provided for and further detailed in the **Settlement Agreement** attached hereto.
4. The applicant shall pay for all costs associated with the City's review and processing of the requested interim use permit.
5. The City Council may revoke the interim use permit if the applicant violates any of the conditions set forth in the conditional use permit.

This resolution was adopted by the City Council of the City of Independence on this 2nd day of April 2019, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

EXHIBIT A
(Legal Description)

EXHIBIT B

(Approved Site Plan)



PLANNING APPLICATION

Case No. _____

Type of application

- ☐ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
- ☐ Rezoning ☐ Conditional Use Permit ☐ Variance ☐ Ordinance Amendment ☐ Subdivision
- ☐ Preliminary Development Plan ☒ Interim Use Permit ☐ Comprehensive Plan Amendment
- ☐ Final Development Plan ☐ Final Site & Building Plan ☐ Other _____

Site Location— Additional addresses on back and legal description attached

5835 Drake Drive, Independence, MN 55359

PID: 26-118-24-43-0006

Proposal -Full documentation must accompany application

See attached.

Applicant

Name: Anita M. Volkenant

Email: pleasantview@pleasantviewgarden.com

Address: 5835 Drake Drive, Independence, MN 55359

Phone: 612-978-3487

Additional phone/contact

Printed Name

Anita Volkenant

Signature

Anita Volkenant

Owner Information (if different from applicant)

Name

Email

Address

Phone

Additional phone/contact

Printed Name

Signature

Office Use Only

Date

2/12/2019

Application Amount

1,250

Check #

8754

Accepted By

[Signature]

Escrow Paid

750

Check #

8754

Date Accepted by Planner

2/12/2019

City of Independence


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

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

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2018 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land use application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are noted on the current fee schedule. By signing this form, the applicant recognizes that he/ she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

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

Applicant Signature: 

Date: 2-2-19

Owner Signature (if different): _____

Date: _____

Interim Use Permit Application

Applicant: Anita M. Volkenant, Owner of Pleasant View Gardens, Inc.
Property: 5835 Drake Drive, Independence, MN 55359
Proposed Use: Horticultural Purposes
Application Date: February 12, 2019

Application Narrative:

Enclosed is an Interim Use Permit Application related to the Pleasant View Gardens (PVG) property located at 5835 Drake Drive in the City of Independence, Minnesota. The Property has continuously been used for Horticultural Purposes, as defined by the City Code: the growing and production of organic fruits, vegetables, flowers, cultured sod and nursey stock, including ornamental plants and trees for the production of income. Pleasant View Gardens also offers horticultural services to residents off site. This Interim Use Permit Application is submitted to allow Applicant Volkenant, as well as her family members and heirs, to continue the horticultural use on the Property. Applicant Volkenant acknowledges and agrees to the following restrictions in connection with the Interim Use Permit Application:

- A. Consistent with applicable City Codes, PVG, Volkenant, her family members and heirs shall be allowed to continue to utilize the Property for Horticultural Purposes and related activities.
- B. In connection with Volkenant's and PVG's approved continuing use of the Property for Horticultural Purposes, Volkenant agrees not expand the current size of any of the existing permanent agricultural buildings that are currently situated on the Property without first complying with applicable City building code and ordinance procedures and requirements. Consistent with the requirements of applicable City building codes and ordinances, the City agrees that it will not unreasonably deny conforming requests by Volkenant.
- C. There are currently two temporary hoop houses situated on the Property (the "Hoop Houses"). Volkenant and PVG agree that the Hoop Houses will be utilized for Horticultural Purposes, and the City consents to the continued use of the Hoop Houses on the Property for Horticultural Purposes. Volkenant and the City further agree as follows:
 - (i) Volkenant shall be allowed to maintain the temporary plastic covering on the 30X100 Hoop House year-round.
 - (ii) Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;

- (iii) Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
 - (iv) Volkenant shall not install any additional temporary hoop house structures on the Property without prior City review and approval consistent with applicable City Codes and Ordinances.
- D. Between March and November of each calendar year, Volkenant shall be allowed to have PVG employees present on the Property in furtherance of PVG's horticultural related business activities. Primarily, the PVG employees will be present on the Property for the purpose of maintaining, protecting and watering the horticultural materials that are seasonally grown and maintained on the Property for the purpose of sale and the generation of income. Each of the foregoing PVG employees shall be allowed to park their personal vehicles on the Property while present at the Property. Excluding all of Volkenant's personal vehicles and vehicles owned by PVG, no more than six (6) PVG employee owned vehicles shall be parked on the Property at any one time. Volkenant agrees to make reasonable efforts to screen said vehicles from view from the public roadway. The City further agrees that all other PVG employee vehicles shall be allowed to park, and will be parked, at the 1030 County Road 83 Independence, Minnesota property (the "1030 Property") and said parking will not affect or relinquish the rights of the current owner's CUP.
- E. Volkenant shall be entitled and allowed to park all vehicles and trailers that she or PVG own on the Property. When parked or not in use, Volkenant will make reasonable efforts to screen said vehicles and trailers from view from the public roadway.
- F. Volkenant shall be entitled and allowed to store materials (i.e. compost, dirt and mulch) on the Property at the general locations depicted on the schematic attached hereto. Volkenant further agrees to make reasonable efforts to add additional screening to further screen said materials from view from the public roadway.
- G. Volkenant agrees to add additional reasonable screening in the general areas of the Property as depicted in the schematic attached hereto.
- H. Volkenant shall be entitled and allowed to continue to maintain the pile of rock that is currently situated on the Property for personal use.
- I. The bobcat located at the Property and owned by Volkenant shall be stored in one of the permanent out-buildings situated on the Property when not in use.
- J. Notwithstanding the foregoing, nothing in this Agreement shall be construed to limit Volkenant's rights to her continued lawful and personal use, enjoyment, maintenance and upkeep of the Property and the permanent buildings situated on the Property without undue interference.

- K. All of the permanent agricultural buildings and the continued existence and use thereof that were constructed and in agricultural use prior to the enactment of the current applicable City ordinance, shall be allowed as non-conforming pursuant to City ordinance Sections 510.05, Subd. 83 and 515.07.

The following materials are attached and included with the Application:

1. City of Independence Interim Use Permit Application Form
2. Site Plan of Pleasant View Gardens

16846177v2

Go gle Maps

5835 Drake Dr

Juniper Hedge

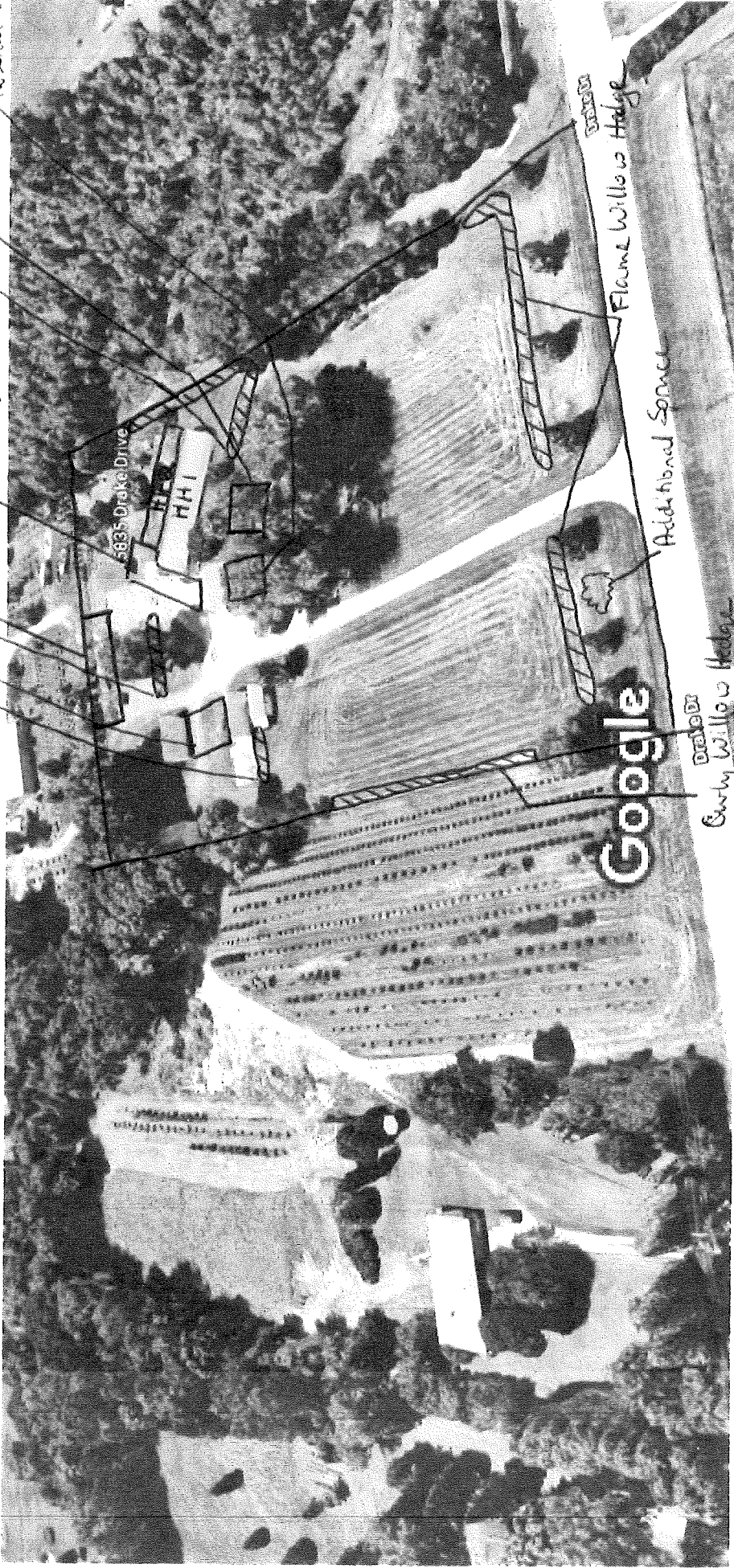
Parking
Arbutus Hedge

Soil, Compost, Mulch
Parking

Red Twig Dogwood Hedge

Existing
House

Personal Parking



Imagery ©2018 Google, Map data ©2018 Google 50 ft

EXHIBIT A

- a. Consistent with applicable City Codes, PVG, Volkenant, her family members and heirs shall be allowed to continue to utilize the Property for Horticultural Purposes and related activities.
- b. In connection with Volkenant's and PVG's approved continuing use of the Property for Horticultural Purposes, Volkenant agrees not expand the current size of any of the existing permanent agricultural buildings that are currently situated on the Property without first complying with applicable City building code and ordinance procedures and requirements. Consistent with the requirements of applicable City building codes and ordinances, the City agrees that it will not unreasonably deny conforming requests by Volkenant.
- c. There are currently two temporary hoop houses situated on the Property (the "Hoop Houses"). Volkenant and PVG agree that the Hoop Houses will only be utilized for Horticultural Purposes, and the City consents to the continued use of the Hoop Houses on the Property for Horticultural Purposes. Volkenant and the City further agree as follows:
 - (i) Volkenant shall be allowed to maintain the temporary plastic covering on the 30X100 Hoop House year-round.
 - (ii) Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;
 - (iii) Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
 - (iv) Volkenant shall not install any additional temporary hoop house structures on the Property without prior City review and approval consistent with applicable City Codes and Ordinances.
- d. Between March and November of each calendar year, Volkenant shall be allowed to have PVG employees present on the Property in furtherance of PVG's horticultural related business activities. Primarily, the PVG employees will be present on the Property for the purpose of maintaining, protecting and watering the horticultural materials that are seasonally grown and maintained on the Property for the purpose of sale and the generation of income. Each of the foregoing PVG employees shall be allowed to park their personal vehicles on the Property while present at the Property. Excluding all of Volkenant's personal vehicles and vehicles owned by PVG, no more than six (6) PVG employee owned vehicles shall be parked on the Property at any one time. Volkenant agrees to make reasonable efforts to screen said vehicles from view from the public

roadway. The City further agrees that all other PVG employee vehicles shall be allowed to park, and will be parked, at the 1030 County Road 83 Independence, Minnesota property (the "1030 Property").

- e. Volkenant shall be entitled and allowed to park all vehicles and trailers that she or PVG own on the Property. When parked or not in use, Volkenant will make reasonable efforts to screen said vehicles and trailers from view from the public roadway.
- f. Volkenant shall be entitled and allowed to store materials (i.e. compost, dirt and mulch) on the Property at the general locations depicted on the schematic attached hereto. Volkenant further agrees to make reasonable efforts to add additional screening to further screen said materials from view from the public roadway.
- g. Volkenant agrees to add additional reasonable screening in the general areas of the Property as depicted in the schematic attached hereto.
- h. Volkenant shall be entitled and allowed to continue to maintain the pile of rock that is currently situated on the Property for personal use.
- i. The bobcat located at the Property and owned by Volkenant shall be stored in one of the permanent out-buildings situated on the Property when not in use.
- j. Notwithstanding the foregoing, nothing in this Agreement shall be construed to limit Volkenant's rights to her continued lawful and personal use, enjoyment, maintenance and upkeep of the Property and the permanent buildings situated on the Property without undue interference.
- k. All of the permanent agricultural buildings and the continued existence and use thereof that were constructed and in agricultural use prior to the enactment of the current applicable City ordinance, shall be allowed as non-conforming pursuant to City ordinance Sections 510.05, Subd. 83 and 515.07.

← N

5835 DRAKE DR
MAPLE PLAIN MN 55359

1/4" = 5.5'

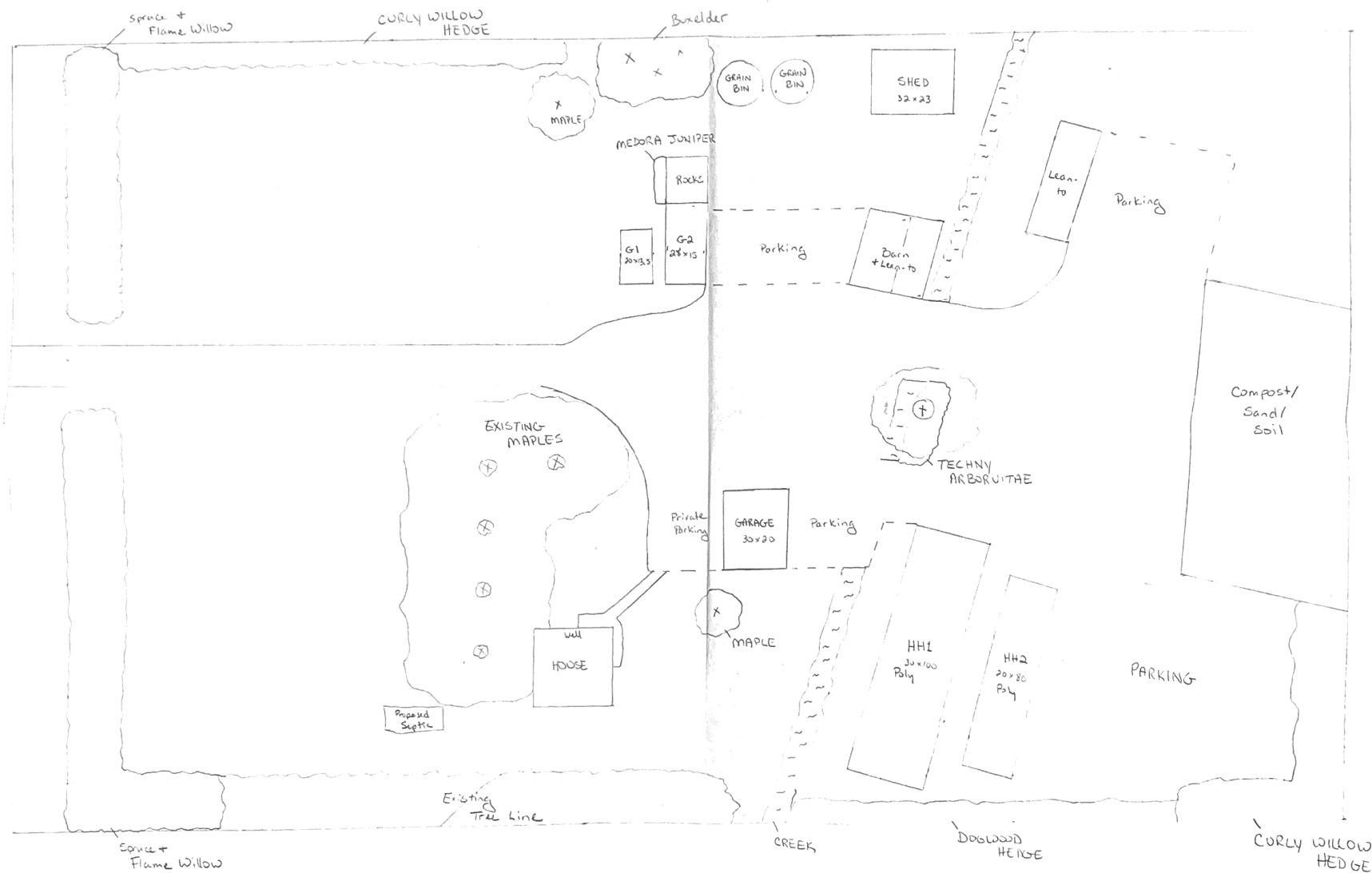


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- k. All of the permanent agricultural buildings and the continued existence and use thereof that were constructed and in agricultural use prior to the enactment of the current applicable City ordinance, shall be allowed as non-conforming pursuant to City ordinance Sections 510.05, Subd. 83 and 515.07.

City of Independence

Request to Vacate a Portion of the East Lake Rebecca Roadway Right of Way

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: April 2, 2019

Request:

The City and Three Rivers Park District have discussed the vacation of the portion of East Lake Rebecca Road that runs north of CSAH 11 in the City of Independence.

Right of Way to be Vacated

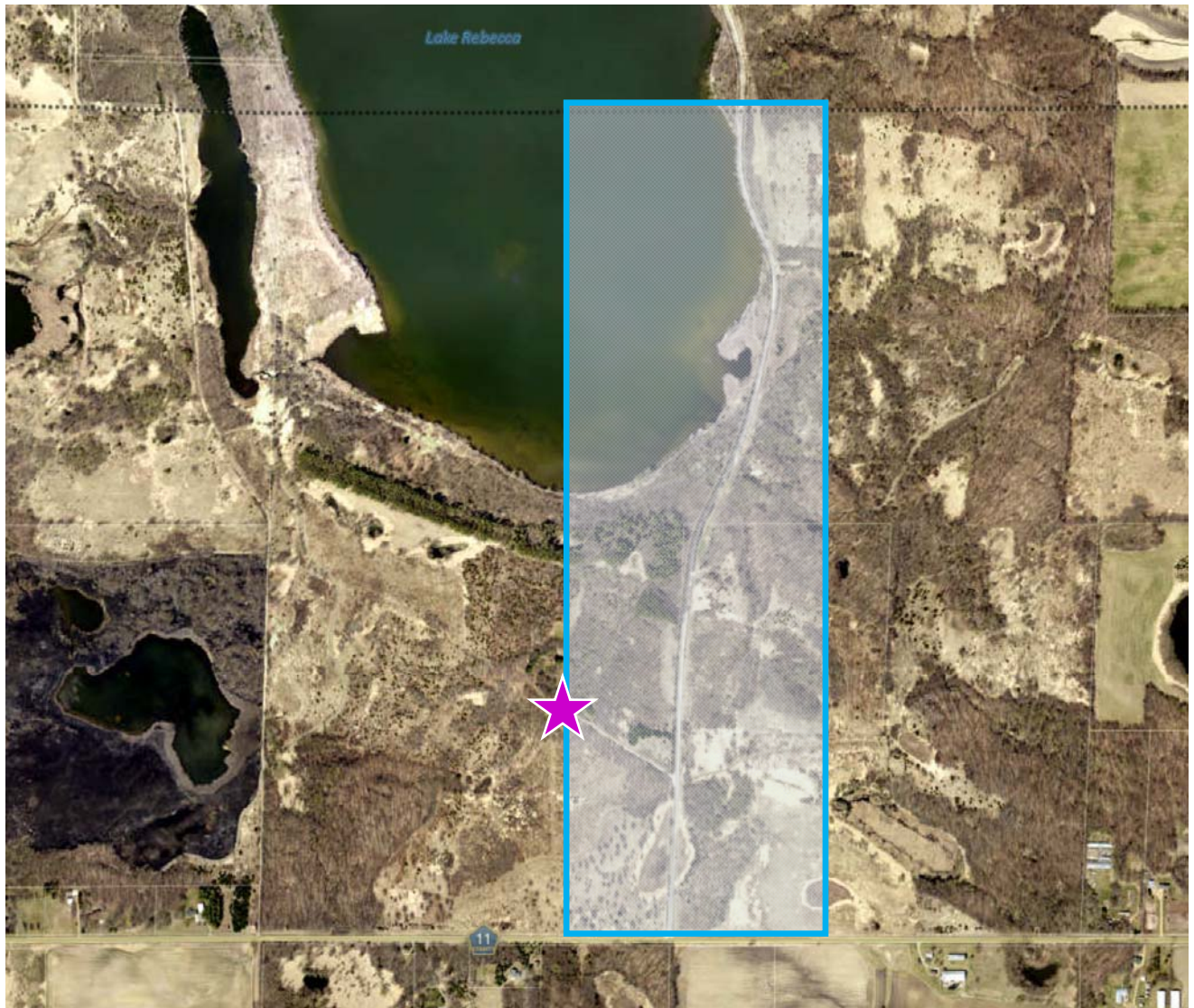
The Roadway commonly referred to as "East Lake Rebecca Road" which runs generally along the North-South Quarter Line of Section 5, Township 118, Range 24, and also along the Easterly shore of Lake Rebecca, all located within Section 5, Township 118, Range 24, Hennepin County, Minnesota.

The City has historically owned and maintained E. Lake Rebecca Road north of CSAH 11 to the Independence/Greenfield border in Lake Rebecca Park. Staff has noted that the road is in poor condition and no longer directly serves any residents of the City. Council directed staff to move forward with vacating the street and staff has been working with Three Rivers Park District relating to the vacation. Three Rivers has verified their interest in obtaining the right of way. It is anticipated that Three Rivers would maintain a secured access to the existing shelter (pink star on aerial below). Three Rivers has noted that they would reach out to Greenfield regarding the change.

Recommendation:

It is recommended that the City Council consider approval of the requested roadway vacation. Should the Council desire to approve the resolution vacating that portion of the right of way, the following findings should be made:

1. The proposed street vacation will benefit the public interest in accordance with Minnesota State Statute 412.851, VACATION OF STREETS.
2. After a resolution of vacation is adopted, the City shall prepare a notice of completion of the proceedings. The notice shall then be recorded with the county recorder.



Attachments:

1. RESOLUTION 19-0402-02



RESOLUTION NO. 19-0402-02

A RESOLUTION VACATING A PORTION OF EAST LAKE REBECCA ROAD RIGHT OF WAY UPON A PETITION OF A MAJORITY OF ABUTTING LANDOWNERS

THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, a petition signed by the majority of property owners abutting the roadway right of way of East Lake Rebecca Road in the City of Independence was received by the City; and

WHEREAS, the petition requested that the City Council, pursuant to Minnesota Statute §412.851, vacate (a portion of) the roadway easement legally described as:

Right of Way to be Vacated

The Roadway commonly referred to as "East Lake Rebecca Road" which runs generally along the North-South Quarter Line of Section 5, Township 118, Range 24, and also along the Easterly shore of Lake Rebecca, all located within Section 5, Township 118, Range 24, Hennepin County, Minnesota.

WHEREAS, the City reviewed and examined the signatures on said petition and determined that such signatures constituted a majority of the landowners abutting upon the (portion of) said roadway easement to be vacated; and

WHEREAS, a public hearing to consider the vacation of such street was held on the 2nd day of April 2019, before the Independence City Council after due published and posted notice had been given, as well as personal mailed notice to all affected property owners by the City and all interested and affected persons were given an opportunity to voice their concerns and be heard; and

WHEREAS, any person, corporation or public body owning or controlling easements contained upon the property vacated, reserves the right to continue maintaining the same or to enter upon such way or portion thereof vacated to maintain, repair, replace or otherwise attend thereto; and

WHEREAS, the Council in its discretion has determined that the vacation will benefit the public interest;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INDEPENDENCE, COUNTY OF HENNEPIN MINNESOTA, that such petition for vacation is hereby granted and the portion of said easement described above is hereby vacated:

BE IT FURTHER RESOLVED, that the Mayor and City Administrator are hereby authorized to sign all documents necessary to effectuate the intent of this resolution.

This resolution was adopted by the City Council of the City of Independence on this 2nd day of April 2019, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator