



PLANNING COMMISSION MEETING AGENDA  
TUESDAY DECEMBER 10, 2024

**6:30 PM REGULAR MEETING**

1. Call to Order
2. Roll Call
3. Approval of Minutes:
  - a. November 19, 2024, Planning Commission Meeting Minutes.
  - b. November 19, 2024, City Council Meeting Minutes (For Information Only).
4. **PUBLIC HEARING** – Kim Jacobsen (Applicant/Owner) is requesting the following action for the property located at 5305 Sunset Ln. (PID No. 01-118-24-31-0004) in the City of Independence, MN.
  - a. A conditional use permit to allow an accessory dwelling unit (ADU) to be constructed on the property.
5. **PUBLIC HEARING** – Joel Loomis (Applicant/Owner) is requesting the following action for the property located at 2112 CSAH 92 N. (PID No. 21-118-24-23-0001) in the City of Independence, MN.
  - a. A conditional use permit to allow an accessory dwelling unit (ADU) to be located within the existing accessory structure on the property.
6. Open/Misc.
7. Adjourn.



MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY NOVEMBER 19, 2024

1. **Call to Order**

Pursuant to due call and notice thereof, a work session of the Independence Planning Commission was called to order by Chair Gardner at 7:30 PM.

2. **Roll Call**

**Present:** Gardner, Thompson, Tearse, Dumas

**Absent:** Volkenant

**Alternates:** Story, Usset

**Staff:** City Administrator Kaltsas, Simon

**Visitors:** See Sign in sheet.

3. **Approval of Minutes:**

- a. October 15, 2024, Planning Commission Meeting Minutes.
- b. October 29, 2024, City Council Meeting Minutes (For Information Only).

**Motion by Tearse, seconded by Dumas to approve the minutes. Ayes: Gardner, Thompson, Tearse, Dumas, Story, and Usset. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

4. **PUBLIC HEARING** – Amy Pelowski (Applicant) and Jeremiah Staples (Owner) are requesting the following action for the property located at 25 Game Farm Road (PID No. 33-118-24-44-0005) in the City of Independence, MN.

- a. A conditional use permit to allow a 500 SF ground mounted solar system that meets all applicable requirements of the City's Solar Energy System Ordinance.

***Property/Site Information:***

The property is located on the west side of Game Farm Road south of CSAH 6. The property has an existing home, a detached garage and detached accessory structure. The property is comprised of open and wooded areas. The property has the following characteristics:

**Property Information: 25 Game Farm Road**

**Zoning: Agriculture**

Comprehensive Plan: *Agriculture*  
Acreage: 3.83 acres

***Discussion:***

The applicant would like to add a ground mounted solar energy system to the property. In all zoning districts of the City, ground mounted solar systems are permitted as a conditional use permit (CUP). Ground mounted solar systems have the following requirements:

Subd. 5. Ground-mounted solar energy systems shall conform to the following standards:

- (a) Ground-mounted systems shall only be allowed on a parcel with an existing principal structure.
- (b) Ground-mounted systems shall be located only in rear or side yards.
- (c) Ground-mounted systems shall not be located in the Shoreland Overlay District.
- (d) Ground-mounted systems shall be wholly screened from view from the public right-of-way and adjacent residential structures. Methods for screening shall include berming, fencing, landscaping and/or combination thereof.
- (e) Ground-mounted systems shall be located on a parcel of at least 2.5 acres.
- (f) Ground-mounted systems shall have a maximum area of 500 SF.
- (g) Ground mounted systems shall be setback a minimum of 50 feet from all property lines.
- (h) The maximum height for any component of the system shall be 15 feet.
- (i) Ground-mounted systems shall be in compliance with any applicable local, state and federal regulatory standards, including building, electrical and plumbing codes.
- (j) Ground-mounted systems and their support structures shall be designed by a certified professional to meet applicable professional standards for the local soil and climate conditions.

The proposed ground mounted solar system would be located in the northwest corner of the property. The proposed solar energy system would be comprised of two separate ground mounted arrays. The total square footage of the two arrays would be approximately 450 SF (~7.5' x 30' x 2). This would be less than the 500 feet maximum SF permitted. The arrays would be setback 50 feet from the north (side) property line and 89 feet from the west (rear) property line. The required minimum setback from all property lines is 50 feet. The proposed ground mounted system would have a maximum height of 9 ½' feet to the top of the highest portion of the panels.

The City requires systems to be wholly screened from view of the public right of way and adjacent residential structures. There is a residential structure located to the northeast of the proposed location. The proximity of the proposed ground mounted system to that residence is ~200 feet. There is a considerable natural tree/vegetation line along the north property line separating the two properties. The neighboring property owner to the north has provided a letter of support for the proposed system.

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

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

The City has discussed the proposed ground mounted solar system with the applicant. The proposed ground mounted solar system appears to meet all applicable standards provided for in the zoning ordinance. The size of the system and its proximity to the surrounding property appears to adequately mitigate potential visual impacts. Given the location of the property on Game Farm Rd., the orientation of the proposed solar arrays and their relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit amendment.

***Neighbor Comments:***

The City received a letter of support from the owners of 66 Game Farm Rd. No other written or oral comments have been provided regarding the proposed conditional use permit.

***Recommendation:***

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

1. The proposed conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. A conditional use permit will allow a ground mounted solar system to be located on the subject property and in accordance with the approved site plan attached hereto as EXHIBIT B.
  - a. The ground mounted solar system shall be constructed in accordance with all applicable zoning code, building code and other applicable standards.
3. The applicant shall pay for all costs associated with the review and recording of the resolution granting approval of the conditional use permit.

Kaltsas reviewed the Request, Property/Site Information, Discussion, Neighbors Comments, and Recommendations from packet and opened questions up for Planning Commission members. Noting that another neighbor to the south of the property had also come in and both neighbors were in support. We recently updated the ordinance of Ground Mounted Solar systems/GMSS and the clarifying setbacks from property lines. Min setback of 50 ft from all property lines. NW corner of the property is where it would go. We noted that total sqft of 2 arrays is 450 sqft when added together. Height of proposed system is 9.5' to the top of the array. Wholly screened from view of the public right away and adjacent residential structures is required. There is an adjacent home, 200 ft away. There is a substantial tree line that separates them. Applicant did provide the city with supporting letters from both North and South properties. No issues presented from them. Meets requirements with the city.

Gardner, Story, and Kaltsas discussed the significant tree line around the house.

**Gardner opened Public Hearing.**

Jeremiah – You can't see it from the road, and neighbors can't see it.

Dumas – With the roof mounted and array, will you be doing your house?

Jeremiah – Not the whole house because we have electric car and heat, but it will not cover all of it.

**Motion by Thompson, second by Dumas to close Public Hearing.**

**Motion by Thompson, seconded by Tearse to recommend Conditional Use Permit for the ground mounted solar array at 25 Game Farm Rd for Amy Pelowski and subject to staff recommendations #1 - #3. Ayes: Gardner, Dumas, Thompson, Tearse, Story, and Usset. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

This will go to Council on December 3<sup>rd</sup>, 2024.

5. **PUBLIC HEARING** – Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the properties generally located at 18 Golf Walk and 550 CSAH 92 N. (PID No.s 32-118- 24-13-0001, 32-118-24-42-0001, 32-118-24-24-0001, 32-118-24-31-0002, 32-118-24-42-0030, 32-118-24-43-0002, 32-118-24-42-0031, 32-118-24-42-0029, 32-118-24-42-0025, 32-118-24-42-0036, 32-118-24-34-0001 and 32-118-24-31-0001) in the City of Independence, MN:
- a. A conditional use permit amendment to allow a modification to the vehicle parking area for the out-of-town member guest house and amendment to the approved conditions for use of the house in association with the private golf club.

***Property/Site Information:***

The subject property is located on the south side of County Road 6, just west of County Road 92. The property is a golf course. The properties have the following characteristics:

**Property Information** 18 Golf Walk

Zoning: *Agriculture*

Comprehensive Plan: *Public/Semi-Public*

***Discussion:***

Windsong Golf Club approached the City to discuss an amendment to the conditional use permit to alter conditions relating to the use of the Murphy Guest House. In 2012, the city permitted the construction of the Murphy House for use by national club members who travel into town to play Windsong. The conditions from the 2012 CUP amendment relating to the use of the Murphy House are as follows:

1. The following condition shall be added to the conditional use permit:
  - a. In addition to the 18-hole golf course and 29,000 square foot clubhouse, Windsong Farm Golf Club can construct one 5,350 square foot guest house with six sleeping rooms. Use of the guest house will be limited as follows:
    1. Use of the guest house shall be limited to members and their non-paying guests.
    2. The maximum length of stay for any individual shall be limited to three (3) consecutive nights.
    3. Access to the guest houses will be by golf cart only.
    4. Access to the existing club house, pro shop and guest house for emergency vehicles shall be maintained at all times.
    5. The guest house shall not be equipped with a full kitchen.
    6. No meals will be prepared in the guest house.

Windsong would like the city to consider an amendment that would modify two of the six

conditions as follows:

2. *The maximum length of stay for any individual shall be limited to three (3) consecutive nights from May 1<sup>st</sup> to October 31<sup>st</sup>. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1<sup>st</sup> to April 30<sup>th</sup>.*
3. *Access to the guest house will be by golf cart only from May 1<sup>st</sup> to October 31<sup>st</sup>. Access to the guest house is permitted by automobile from November 1<sup>st</sup> to April 30<sup>th</sup>. Parking of automobiles used to access the guest house from November 1<sup>st</sup> to April 30<sup>th</sup> shall be in the designated parking spaces only.*

The existing CUP currently limits the consecutive number of nights that a guest may stay in the guest house to three (3) nights. Windsong has noted that they have national members that would like to utilize the guest house during the off-season for social and business events at the golf club for periods longer than three (3) nights.

The existing CUP also limits access to the guest house via golf cart only. While this works well during the peak golf season, it creates some issues for use during the off-peak season. Windsong is proposing to construct eight (8) parking spaces adjacent to the guest house for use by automobiles during the off-peak season only.

The city reviewed the request with both West Hennepin Public Safety and Maple Plain Fire Department. It was noted that the proposed spaces would actually provide needed space for emergency vehicle parking if needed during peak season when automobiles would not be permitted. Windsong also noted that they would not be able to allow vehicles during the golf season as they could easily be hit by stray golf balls as well as conflict with golf cart traffic using the course.

In order to consider the requested amendments to the conditions, an amendment to the conditional is necessary.

520.09 Subd. 8. If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

Commercial golf courses are permitted as conditional uses in the AG - Agriculture zoning district. The golf club has a conditional use permit that was originally approved in 2001 and amended in 2012 and 2013, 2016, 2021, 2022 and 2023 and 2024. The CUP allows two golf courses, their associated club house/pro shop, guest house and parking north of CSAH 6. The initial Golf Course CUP was issued under 530.01, subd. 4(s) which makes "commercial golf course" a conditionally permitted use.

Any amendment to an existing CUP must meet the same requirements established for granting a new CUP. 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 find that requested amendments to the conditions relating to the use of the guest house are consistent with the conditional use allowing a commercial (private) golf club on the property. In addition, the City will need to determine if the proposed amendment to the CUP meets the requirements for granting a conditional use permit amendment.

There are several items that should be noted:

- The use of the guest house is limited to members of the golf club or their non-paying guests. The city has historically not had issues relating to the use of the guest house. Windsong does have national members that regularly travel to Independence to play the course and use the club amenities. Windsong would like to allow national members the option to utilize the guest house during the off-peak season for periods longer than three (3) consecutive nights. Due to weather conditions during the non-peak season, the club would also like to allow automobile access/parking to the guest house.

The Planning Commission will need to determine if the requested amendment to the conditional use permit meets all of the aforementioned conditions and restrictions.



***Neighbor Comments:***

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

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the request for an amendment to the conditional use permit. Should the Planning Commission make a recommendation to approve the requested action, the following findings and conditions should be considered:

1. The proposed conditional use permit amendment meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will continue to be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. All conditions of the original conditional use permit and all subsequent amendments shall remain in full force.
4. The following condition from the October 16, 2012 conditional use permit amendment shall be amended as follows:
  - In addition to the 18-hole golf course and 29,000 square foot clubhouse, Windsong Farm Golf Club can construct one 5,350 square foot guest house with six sleeping rooms. Use of the guest house will be limited as follows:
    1. Use of the guest house shall be limited to members and their non-paying guests.
    2. The maximum length of stay for any individual shall be limited to three (3) consecutive nights *from May 1st to October 31st. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1st to April 30th.*
    3. *from May 1st to October 31st. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1st to April 30th.*
    4. Access to the guest houses will be by golf cart only *May 1st to October 31st. Access to the guest house is permitted by automobile from November 1st to April 30th. Parking of automobiles used to access the guest house from November 1st to April 30th shall be in the designated parking spaces only.*
    5. Access to the existing club house, pro shop and guest house for emergency vehicles shall be maintained at all times.
    6. The guest house shall not be equipped with a full kitchen.

7. No meals will be prepared in the guest house.

5. The applicant shall pay for all costs associated with the review of the conditional use permit amendment application.

Kaltsas reviewed the Request, Property/Site Information, Discussion, Neighbors Comments, and Recommendations from packet and opened questions up for Planning Commission members.

Kaltsas – This request for the Windsong Gulf Course CUP amendment allows single member guest house to be located in the middle of the golf course. There were conditions placed on that guest home: How much sqft can be constructed, use of guest house, limited to members and guests. Windsong noted two conditions to see if they can be amended: consecutive nights guests can stay and its golf course access only. Because they have national members that come to stay, they'd like to extend stay to 14 nights from Nov. 1 – April 30<sup>th</sup> and access it by automobiles during winter months. It works fine during summer months, but winter months are harder. I talked to West Hennepin Public Safety and Maple Plain Fire Dept. about the request and if there were any concerns. Both public safety entities thought it would be a positive for the time period being asked. It would make access easier for them as well. Applicant wants to construct 7 or 8 car passes by the guest house. I talked to Applicants about how it will be monitored. You can't use it during summer months as automobiles will be hit by golf balls and thus conflicts. It would be regulated. The path is designed and constructed for emergency vehicle access as well. It doesn't impact any surrounding properties. It is isolated. It's been used for over 10 years and there were already limited incidences. No public comments made prior to tonight's meeting.

Tearse – Why was it only 3 nights?

Kaltsas – Council wanted to make sure it wasn't a living quarters for members only, no long-term stay. Typical length of stay for a hotel.

Thompson – Any concerns about it being plowed for emergency access?

Kaltsas – No, it has been used during winter months but accessed by golf carts only. It has been maintained. We require emergency access to be available at all times.

### **Gardner opened Public Hearing.**

Jon Dailing – Mark did a good job of explaining.

Gardner – Are you going to be expanding?

Dailing – No. I mean, we've all always been kind of steady, but it's just trying to accommodate.

Story – Who wants to stay there in the winter?

Dailing – We have a good number of national members that moved away and have no where to stay when they come back.

**Motion by Thompson, seconded by Gardner to close Public Hearing. 5-0**

**Motion by Thompson, seconded by Tearse to approve the request for amending Windsong Farm Golf Club's Conditional Use Permit at 18 Gulf Walk subject to staff recommendations #1 - #5. Ayes: Gardner, Dumas, Thompson, Tearse, Story, and Usset. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

This will go to Council on December 3<sup>rd</sup>, 2024.

6. Open/Misc.

Thompson – Planning Commission is very thoughtful of what's being brought up. My challenge at 1165 Co Rd 19. A single-family dwelling had been purchased and it now turned into a landfill or dump, business operation, and the mailbox is even now down. It's completing flying in the face of our ordinances. It's hard to correlate the two things. There are some existing properties that continue to be an issue. Feedback from the city?

Kaltsas – We do actively try to enforce our ordinances against properties that are in clear violation. This particular property unfortunately was purchased by someone that we spent 3.5 years in a civil lawsuit with trying to enforce our ordinances on the property directly adjacent, and we won that case and then they purchased this property. They have many violations – wetlands, septic system. We have gone after a few different issues. We continue going after properties that don't follow ordinances. We have actively criminal attorneys on about half dozen cases after taking internal pursuit of compliance. It takes a long time once you go to the lawsuits. We try to get a criminal conviction. And then, if that criminal conviction doesn't fix the problem, then to take it to a civil suit. We had gone the other route where we were trying to do civil, just knowing that the cost and the time is so extravagant. It's just it's extraordinary, really. And so we kind of are coming back to let's try to get after. Let's try to get a criminal conviction because we think it's gonna reduce the length of time that a civil case would take us to go through enforcement. So that's kind of our process. It's just it's taking time. We have had some success with criminal process on 2 different instances. we've gotten compliance, or we've gotten what I would call near compliance on some pretty bad cases that had lingered on for many years. But we still have another dozen or so really well-known violators in the city that are taking more time, more effort.

Thompson – Are there any tools or any resources that Independence isn't yet taking advantage of? Because you said criminal. And in some ways, I wonder if almost more than the use if there aren't times where there are criminal infractions like gross vehicle weight, parking violations, and things where we can start writing citations and tags versus this land use kind of quandary? Right?

Kaltsas – The criminal is that. Criminal is citation based. So, it's nuisance based. It's ordinance based and it's called criminal because it's in a violation of our ordinance. It's issued in a misdemeanor. So, we typically start with trying to use West Hennepin/WHPS to help us enforce our ordinances. We write a letter saying that we've identified an issue with your property. We know it's not in compliance, and we'd love to work with you to bring it into compliance. Can you get back to us and let us know that you'll be willing to work with it. We give them a timeframe. If that doesn't happen, we send another letter saying, "We haven't heard back from you. We want your property to be in compliance, but it's not. Here's the violations that you have, and if it's not

brought into compliance by this date we will proceed with issuing citations to try to help bring it into compliance.” Then we go to issuing citations, but even before that happens, I'll work with our police, and they'll usually contact the owner and try to go out, you know, with a badge and a gun and go, hey? “Can you help us? We don't want to write you a ticket, but we'll write you a ticket.” And if that doesn't work, then we go to that next step which is writing a ticket, and then getting our criminal attorney involved in the case to try to bring it to a prosecution. The problem is you don't see the ones that comply. The ones we know and talk about are the ones we need more resources.

Thompson – What can city residents do to help or augment the process?

Kaltsas – Tell the City staff about the problems and be willing to testify to that because that is what is needed. Some don't want that neighbor issue. But the more complaints we get on an issue, it heightens it. If we get more neighbors, that helps to escalate that.

I can't in all my cities, in all my experience, I mean, this is one of those issues. That's just if you have people that are kind of what I would call huh? Regular residents they don't want. They don't want to go to Hennepin County and deal with a fine in a court and a judge telling them right they clean it up. So, we get compliance on a lot of our issues by just saying, Hey, you're out of compliance. We'd like to work with you, can you? Can you work with us? But the ones that don't. It's really hard. I mean, it takes a lot of effort, a lot of resources, and a lot of time. And then the thing that the thing that struggles for us in the one that you're talking about. I have another one on County Road 6. So, we went through a whole process with that property on County Road 6 by mom is happy. We got decent cleanup on it. We went to court. They took the owner court, and 3 months later it's like they unloaded a episode of hoarders there. And we're like, “What happened?” And we have to start all over because the court got compliance. So now the judge is like good job. And then and then, 3 months later, all of a sudden, just boom. It blew up with stuff. They brought it all in. All this stuff came from nowhere, and now we're going. Wait! Now we gotta we gotta start over and our attorneys like, Yeah, send me. Send me your new letter. Send me your new pictures. Send me where their violations are, and it's like, Wait, this is ongoing. This is the same thing we just went through right. But it doesn't matter. We got to start over because they did. They did good right. This one, I mean, we can't take what we got on the adjacent property and apply it to that. It seems so logical like, hey? If you can't run the business on this property, you sure as Heck can't run on this one, but from a court standpoint, we got the order on the property behind it. We now have to go get another one on this property.  
(inaudible PC discussion)

7. Adjourn.

**Motion by Story, seconded by Thompson to adjourn.**

Meeting adjourned at 9:02 p.m.

Respectfully Submitted,  
Linda Johnson / Recording Secretary



CITY COUNCIL MEETING MINUTES  
TUESDAY NOVEMBER 19, 2024

**CITY COUNCIL MEETING TIME: 6:30 PM**

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 and Betts

Absent: Councilors McCoy and Grotting

Staff: Kaltsas, Simon

Visitors: Chief Kroells, Sergeant Ebling, Ali Howe, Aaron Howe, Jeremiah Staples and JB Lloyd

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. City Council Minutes from the October 15, 2024, Regular City Council Meeting.
- b. City Council Minutes from the October 29, 2024, Regular City Council Meeting.
- c. Approval of Accounts Payable (Batch #1; Checks Numbered 23207-23218 and Batch #2; Checks Numbered 23219-23239 and Batch #3; Checks Numbered 23240-23271).

**Motion by Spencer to approve consent agenda, seconded by Betts. Ayes: Johnson, Betts and Spencer, and. Nays: None. Absent: McCoy and Grotting Abstain: None.**

**MOTION DECLARED CARRIED. 3-0**

5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.

6. Reports of Boards and Committees by Council and Staff.

**Betts attended the following meetings:**

- Workshop
- County Offered Zoom meeting on how to handle conflict with residents.
- Hwy 12 Coalition

**Spencer attended the following meetings:**

- Maple Plain Fire Dept Quarterly Meeting

- Independence Museum visit
- Wright Hennepin Electric EV knowledge event
- Fall LICA Meeting
- LMCC

**Johnson attended the following meetings:**

- Commissioner Anderson Open House at Maple Plain Library
- Haven Homes Advisory Committee
- Election Judge
- Representative Robbins Party
- Gerry Fredin 90<sup>th</sup> Birthday party (previous building inspector in multiple cities)
- Orono High School Dr Steiner program/ceremony honor of veterans.
- Maple Plain Chamber of Commerce
- Maple Plain Fire Commission Meeting
- Orono School Board
- NW League Municipalities meeting in Loretto
- Hwy 12 Coalition
- Coral Houle (former Mayor of Bloomington) funeral
- Orono musical Anastasia
- Staff Meeting

7. West Hennepin Public Safety Monthly Report for October 2024 – Chief Gary Kroells.  
Through October – 3,855 incidents  
218 – Independence  
121 – Maple Plain

Introduced Sergeant Ebling – he promoted to Sergeant on November 1<sup>st</sup>, comes from vast knowledge, 10 years in Cottage Grove and a little over 8 years here in Independence.

View Santa is coming up, the first Saturday in December 12/7/24. For 44 years we have done this! Chance to meet our reserves, get a gift bag and food drive for local food Shelf. Starts at 3:30pm. Cookies, cider. Watch the sleigh. Last stop at Veteran's Park in Maple Plain at 4:45pm.

Congrats to Orono swimming state championship.

Johnson – dividing up responsibilities between the two sergeants.

Kroells – yes, we did that today. The goal is to (finally to 10<sup>th</sup> officer and full staff) 11<sup>th</sup> officer will start in a couple months once he is done with schooling at Hennepin Tech. 2 teams of 3. Going fairly well.

Johnson – congratulations Shawn! We seem to be getting a lot more mental health issues.

Kroells – we have had quite a few in my career. We are seeing more people expressing when they have a problem and seeking help. It is more common to report than it was 10 years ago. We are doing a good job with it and de-escalation. We have an embedded social worker when we have a mental health call that a social worker will follow up on after the call.

8. Ali Howe – Orono School Board Member Presentation of the Orono School District's New Strategic Plan.

Johnson – Thank you for representing our area on the Orono school board. Rather large group developing the new strategic plan. Sorry to hear you are retiring.

Ali – districts gratitude to Mayor Johnson for your service to the community for decades and continuing support. Strategic plan – district reviews every 5-7 years. We began in 2023 spring. We gathered input from students, staff, families, graduates, etc. over 1000 people shared their feedback. Assembly a team with diverse backgrounds and perspectives. In June 2024, the board approved SP. Desires for meeting the needs for all learners. Sense of belonging and connectedness, college preparedness, high involvement of parents. All community respondents said they would recommend Orono Schools. Our 3<sup>rd</sup> goal – connectedness, sense of belonging, strong relationships. Available for viewing on the Orono website. Majority of our students are involved in college level courses.

Johnson – PSEO 3% means they aren't at Orono at all?

Ali – part time they might be or virtually, not on campus. 84% of class enrolled in AP classes. Grades 9-12 to enroll. A significant number of families opt out of MCA which means they are reported not proficient. ACT 89% of students took this.

MCAs, ACT and OHS coursework (a or b).

Johnson – why do parents not want their kids to take the MCA?

Ali – its varied. They feel like its another requirement. It doesn't result in anything for the student. Word of mouth spreads and kids keep opting out.

Johnson – I show up to more than half of the board meetings. I appreciate this and learned something tonight. 30 people worked on this. The levy runs out in 2026?

Ali- yes, the board is trying to figure out how to proceed. No decision yet.

#### 9. 2025 City Wide Gravel Road Improvement Project:

Kaltsas – talked about this at workshops, city anticipating proceeding with a 2025 city wide gravel road improvement project. Long range plan for maintaining and upgrading our gravel road system. We came up with a 5-year capital improvement plan for our roads. A 2025 city wide – touch 17 miles of gravel roads within the city. We identified the roads that have the most need for overall improvements and put those in the first phase of the improvements. Then we have 5 more years to go through 100% of the roads by 2030. Gravel recapping, drain tile improvement, spot soil, stormwater, culvert replacements and also some ditch grading. Bring them up to a higher standard. Sustain the next period or time and reduce amount of time we dedicate to maintenance. Proposing the plans and specifications for the 2025 plan. Projected open house in early Feb, bids in end of February and start construction in March. We would need to publicly bid this project. It is anticipated by issuing debt next year - \$1.75M road project paid by the city. No assessments to residents. Through budgeting, remaining would be paid for by using general tax levy dollars. Individual funds that pay for that in our budget. This is the last piece we need to address.

Betts – this is a contract with this company.

Kaltsas – this is the city engineer preparing the plans for us. They have done a lot of base level work. We can publicly bid in Feb. Vose will review prior to execution.

Betts- did Vose review this?

Johnson – concern about the quality of the gravel. We do bidding in the first of the year on gravel, is that going to be checked out really well or any obligation to use the same gravel pit?

Kaltsas – we will be able to specify. Our bids annually does not specify what we do in this contract. We will ensure that the gravel meets specification of what we prepared.

MJ – the closeness of where we get it is getting further away.

MK – we have discussed what material is best, class 5 or granite, conbit? We have talked to other cities and townships to see what they have seen success with.

**Motion by Spencer to approve authorization to proceed with preparation of plans and specifications, seconded by Betts. Ayes: Johnson, Betts and Spencer, and. Nays: None. Absent: McCoy and Grotting Abstain: None.**

**MOTION DECLARED CARRIED. 3-0**

a. Authorization to Proceed with Preparation of Plans and Specifications.

10. Open/Misc.

11. Adjourn.

**Motion to adjourn at 7:17pm by Spencer seconded by Betts. Ayes: Johnson, Betts and Spencer, and. Nays: None. Absent: McCoy and Grotting Abstain: None.**

**MOTION DECLARED CARRIED. 3-0**

Respectfully Submitted,

Carrie Solien/Recording Secretary



■City of Independence

***Request for a Conditional Use Permit to Allow a Detached Accessory Dwelling Unit (ADU) on the Property Located at 5305 Sunset Lane***

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<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	December 10, 2024
<i>Applicant:</i>	Kim Jacobsen
<i>Owner:</i>	Kim Jacobsen
<i>Location:</i>	5305 Sunset Lane

***Request:***

Kim Jacobsen (Applicant/Owner) is requesting the following action for the property located at 5305 Sunset Ln. (PID No. 01-118-24-31-0004) in the City of Independence, MN.

- a. A conditional use permit to allow an accessory dwelling unit (ADU) to be constructed on the property.

***Property/Site Information:***

The property is located on the south and west side of Sunset Lane on Lake Sarah. The property is mostly wooded. The property has an existing home and three (3) detached accessory buildings.

Property Information: **5305 Sunset Lane**

*Zoning: RR-Rural Residential (S-Shoreland Overlay)*

*Comprehensive Plan: RR-Rural Residential*

*Acreage: 4.66 acres*



**Discussion:**

The applicant is seeking a conditional use permit to allow the construction of a new detached accessory dwelling unit (ADU) on the eastern side of the property. The applicant met with staff to review the requirements and discuss the proposed plans. Accessory dwelling units are a conditional use within the RR-Rural Residential zoning district.

In order to allow an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

*Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:*

- (a) Physically attached to or within a single-family dwelling unit or within a detached<sup>a</sup> accessory building that has a principal structure on the parcel; and*

**The applicant is proposing to construct an accessory dwelling unit within a portion of a new detached accessory structure. The proposed ADU is 1,199 SF and the remainder of the proposed accessory structure is 3,445 SF (two floors).**

- (b) *Subordinate in size to the single-family dwelling unit; and*

**The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit. The ADU would comprise only a portion of the proposed accessory structure which would be a multi-story building used for storage.**

- (c) *Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

**The proposed accessory dwelling unit would be separated from the single-family home as it is proposed to be located in a new detached accessory building.**

- (d) *Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

**The proposed accessory structure is existing and appears to be generally similar to the principal home on the property; however, there is not a close relationship between the two structures due to the distance between them.**

- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

**The principal structure has ~3,624 square feet of above ground space. The city allows 33% of 3,624 square feet which equals 1,195 square feet. The proposed ADU is 1,199 SF (the proposed ADU is within a few SF of the allowed square footage - confirmation of the main house may be required to support the proposed square footage). The applicant is proposing that the accessory dwelling unit would be constructed on the upper floor of the proposed detached accessory structure. It should be noted that the remaining square footage is proposed to be used as storage/garage/shop/mechanical room space.**

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

**The lot is 4.51 acres and the city allows 2% of the total SF to be used for detached accessory structures ( $196,455.60 \times .02\% = 3,929$  SF). The applicant is proposing to remove a shed and barn located on the property. The applicant has provided a calculation that shows a detached garage, bath house and cabin (all detached accessory structures) remaining on the property. The total square footage of all accessory structures is as follows:**

EXISTING BUILDINGS (from survey)

STRUCTURE	EX. S.F.	S.F. COUNT FOR ACC. BUILDING (FUTURE)
House (main level)	3,624 sf	0
Cabin (10 x 12)	120 sf	0
Bath house (6 x 14)	84 sf	0
D, Garage (20 x 22)	440 sf	440
Shed (14 x 20)	280	<del>280</del> Removed
Barn (25 x 40)	1,000 sf	<del>1,000</del> Removed
New Storage bldg..		<u>3,445 sf</u>
<b>TOTAL SF ACC. BLDGS</b>		<b>3,929 SF</b>

**As proposed, the total accessory structure square footage would be exceeded as the applicant is not including the 120 SF cabin and 84 SF bath house. These are considered accessory structures and are included in total calculations. The applicant can amend the plan to reduce the total square footage by 204 SF.**

- (g) *Has permanent provisions for cooking, living and sanitation; and*

**The proposed structure includes permanent provisions for cooking; living and sanitation (see attached depiction).**

- (h) *Has no more than 2 bedrooms; and*

**The proposed ADU has one bedroom.**

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

**The applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*

**The property is connected to the city's sanitary sewer system. The applicant has plans that would connect the proposed ADU to their existing private sewer line.**

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

**The city noted that this property could be subdivided in the future. The applicant located the building so that the property could be subdivided in the future and the existing residence and ADU could meet all applicable setbacks.**

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

### **The proposed accessory structure will meet all applicable building codes**

*<sup>a</sup> On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

*<sup>b</sup> The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The size of the subject property is unique to this area. Based on the proposed new detached accessory structure location, the property likely has the ability to be subdivided into two to three (2-3) lots if all applicable criteria could be satisfied. The location of the proposed accessory building and its proximity to the surrounding properties does mitigate potential impacts. The surrounding properties have limited visibility and or site lines to the existing property due to the elevation of the property and existing wooded area. The City will need to confirm that the accessory dwelling unit meets all applicable building codes and building regulations.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit.

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.



Consideration for the proposed conditional use permit should weigh the impact of having a detached accessory dwelling unit located on this property. The location of the proposed accessory dwelling unit and its compliance with all applicable setbacks appears to mitigate potential impacts resulting from the construction of the accessory dwelling unit. The City will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

- Should the Planning Commission consider an approval recommendation, the following conditions should be included:

- There are a few minor revisions that would be required should the Planning Commission recommend approval. The applicant would need to revise the plans to reduce the total square footage of all detached accessory structures on the property by 204 SF.
- The city noted that the principal structure supports 1,195 SF. The applicant is proposing 1,199 SF. The city will confirm the principal structure square footage and the ADU will need to be adjusted accordingly.
- The proposed detached accessory structure has the following setback requirements:

	<u>Required</u>	<u>Proposed</u>
Lake (OHWL):	60'	<b>~75' (will have surveyor confirm)</b>
Side:	15'	<b>184'</b>
Front (street):	(51' to CL or 30' to property line, whichever is greater) <b>59' to CL, 33.8' to PL</b>	

- The proposed ADU is being located in a manner that would allow the property to be subdivided in the future. Based on the proposed location, it does not appear that the applicant could locate another lot to the east of the proposed structure. This would likely limit the future development of the property to 2-3 lots that could meet frontage, lakeshore and the one-acre minimum requirements.
- The applicant has prepared an impervious surface calculation as this is a shoreland lot subject to the maximum impervious surface of 25%. The proposed total impervious surface including the proposed accessory building is approximately 6.5% (total will need to be revised to include bath house and cabin).
- The proposed ADU space and corresponding detached accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

### ***Neighbor Comments:***

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

**Recommendation:**

Staff is seeking a recommendation from the Planning Commission for the requested conditional use permit. Should the Planning Commission Recommend approval, the following findings and conditions should be considered:

1. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. Prior to City Council consideration of the conditional use permit, the applicant shall revise the plans as follows:
  - a. Total SF of all detached accessory structures including cabin and bath house must not exceed 3,929 SF.
  - b. The maximum square footage for an ADU must not exceed 33% of the principal structure square footage. City will confirm principal structure square footage.
  - c. Impervious surface calculation will need to be revised to include the cabin and bath house.
  - d. The proposed condition survey shall include the proposed setback from the OHWL.
3. The conditional use permit will allow an accessory dwelling unit to be located within the proposed detached accessory structure. The criteria for permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling not in compliance with the applicable criteria for the accessory dwelling unit will cause the conditional use permit to be revoked by the City.
4. The proposed ADU space and corresponding detached accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.
5. The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements already made to the dwelling unit that were not previously approved by the City and all new improvements.
6. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

**Attachments:**

1. Application
2. Site Survey (Existing)
3. Site Plan (Proposed)
4. Proposed Accessory Dwelling Unit Floor Plan
5. Proposed Accessory Dwelling Unit Elevations



**CITY OF  
INDEPENDENCE  
MINNESOTA**

Date Submitted: 11-07-2024

**Applicant Information**

Name: KIM R JACOBSEN

Address: 5305 SUNSET LN  
INDEPENDENCE,  
Minnesota 55357

Primary Phone: 763 479 3905

Email: krj@krjassociates.com

**Owner Information**

Name: KIM R JACOBSEN

Address: 5305 SUNSET LN  
INDEPENDENCE,  
Minnesota 55357

Primary Phone: 763 479 3905

Email: krj@krjassociates.com

Property Address:

PID:

Planning Application Type: Accessory Building Review

Description:

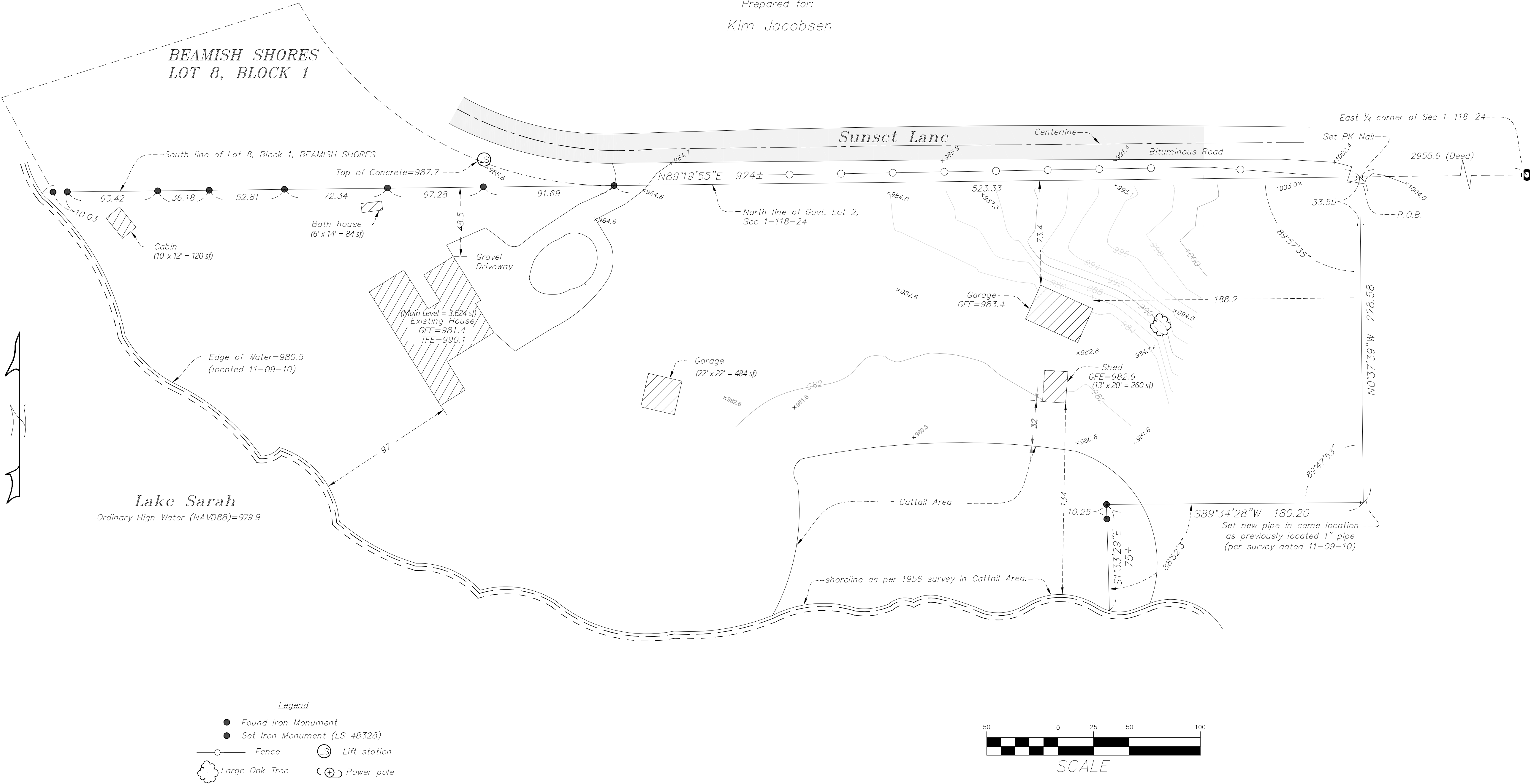
Supporting Documents: Site Survey (Existing Conditions), Site Survey (Proposed Conditions), Building Plans, Wetland Delineation, Preliminary/Final Plan

Signature:



Certificate of Survey

Prepared for:  
Kim Jacobsen



Legal Description (supplied by client)  
All that part of Government Lot 2 of Section 1, Township 118, North Range 24, West of the 5th Principal Meridian, described as follows: Beginning at a point on the North line of Government Lot 2, Section 1, Township 118, Range 24, 2955.6 feet West of the East Quarter corner of Section 1; thence South at right angles to said North line, 228 feet; thence deflecting right 90 degrees, 180 feet; thence deflecting left 90 degrees, 62 feet, more or less, to the Northerly shoreline of Lake Sarah; thence Westerly and Northerly along said shoreline to its intersection with the aforesaid North line of Government Lot 2; thence East along said North line to the point of beginning, according to the United States Government Survey thereof, Hennepin County, Minnesota.

Site Address:  
5305 Sunset Lane  
Independence, MN

Benchmark:  
Hennepin County control Point "SILO", located approx. 99 ft. NWly of the S 1/4 corner of Section 2-118-24  
Elevation (NAVD88) = 981.34

Elevations based in NAVD88  
Bearings based on Hennepin County Coordinate system

**SCHOBORG LAND SERVICES INC.**  
763-972-3221  
www.Schoborgland.com

I hereby certify that this certificate of survey 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.  
*Kelly L. Brouwer*  
Date: September 20, 2024 Registration No. 48328

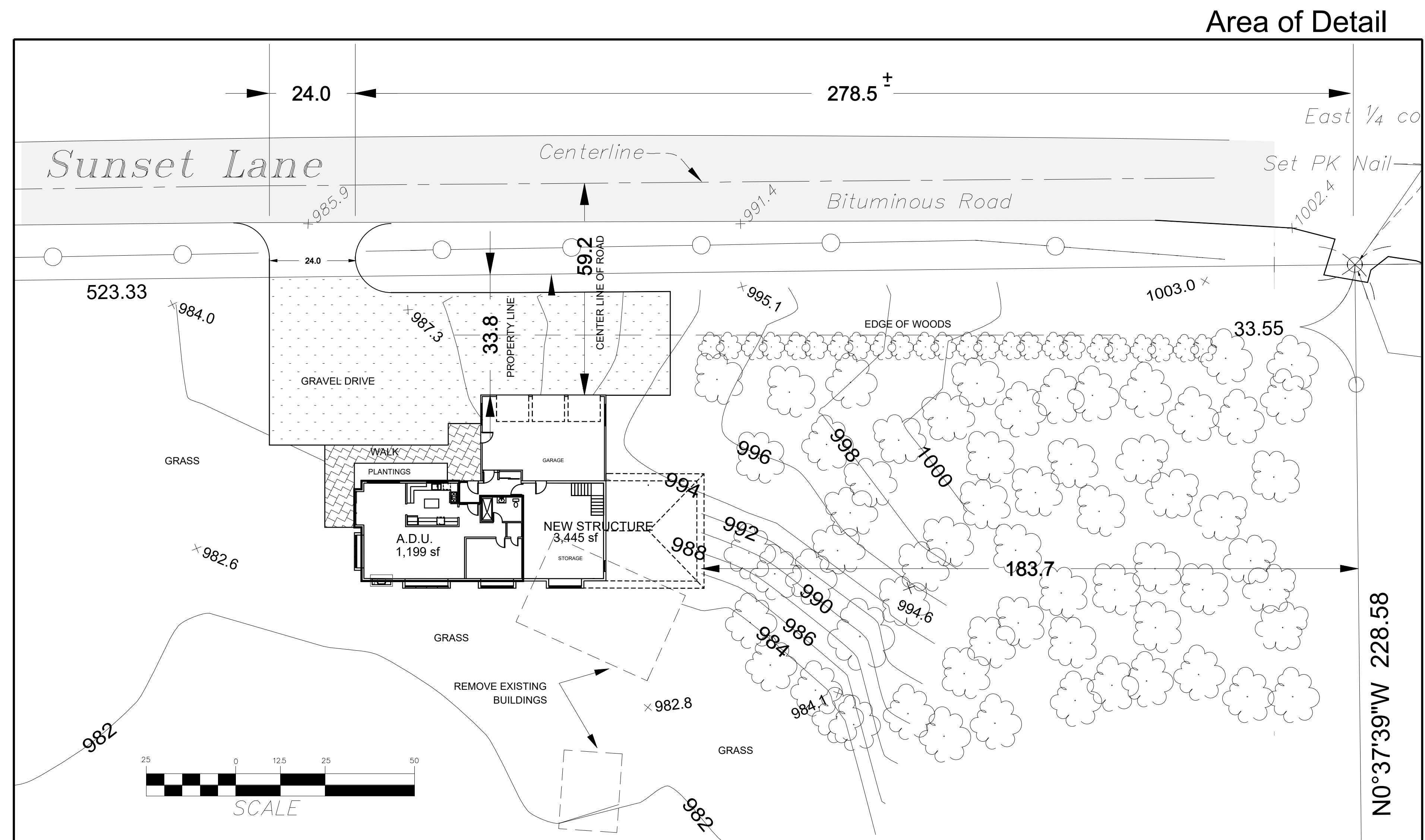
Job Number:	7240
Survey Date:	11/9/10, 8/14/24
Drawing Name:	Jacobsen-09-05-24.dwg
Drawn by:	SKH
Revisions:	

Note:  
NAVD88 to NGVD29 conversion is based on benchmark note in MN DNR lake water level report on Lake Sarah, Hennepin County.  
NAVD88 = NGVD29 + 0.41 ft

Accessory Building  
with A.D.U.  
Independence, MN 55357

JACOBSEN  
5305 Sunset Lane  
Independence, MN 55357  
November 4, 2024

EXISTING  
SITE SURVEY



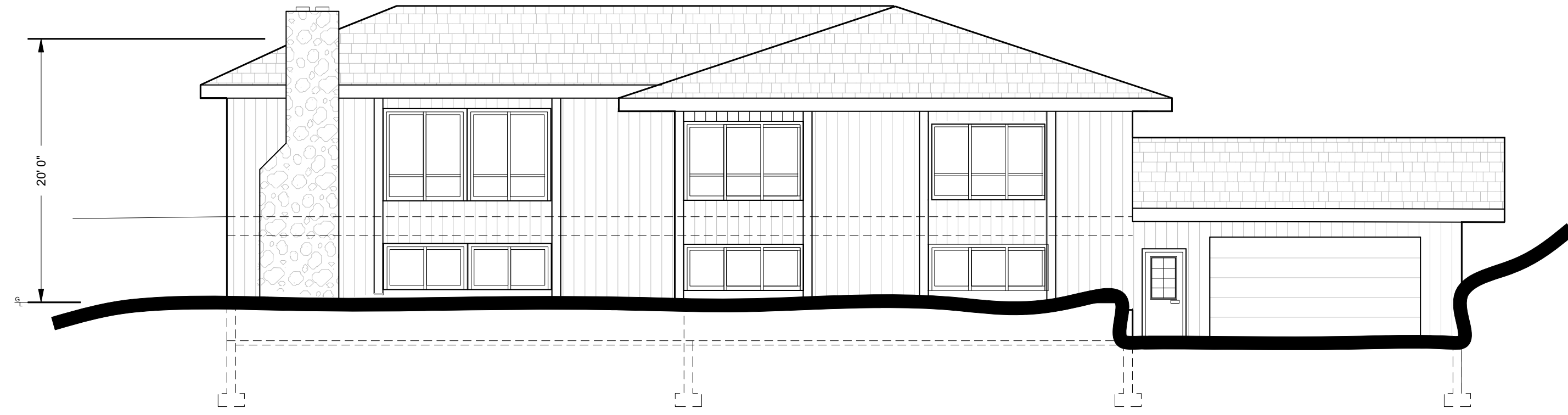
**PROJECT INFORMATION:** 5305 Sunset Lane

ZONING –	Rural Residential (Shoreland Overlay)
ACREAGE	4.66 Acres ( 202,990 sf)
FLOOD ZONE	0.15 Acres ( 653 sf)
BUILDABLE ACREAGE	4.51 Acres ( 195,456 sf)
ACC. BUILDINGS SF ALLOWED	2% OF 4.51. ACRES (3,929 sf)
IMPERVIOUS AREA	12,277 sf ( 6.3 %)
House / Driveway	3,624 sf
Detached Garage	440 sf
New Acc. Bldg. / Drive	8,213 sf

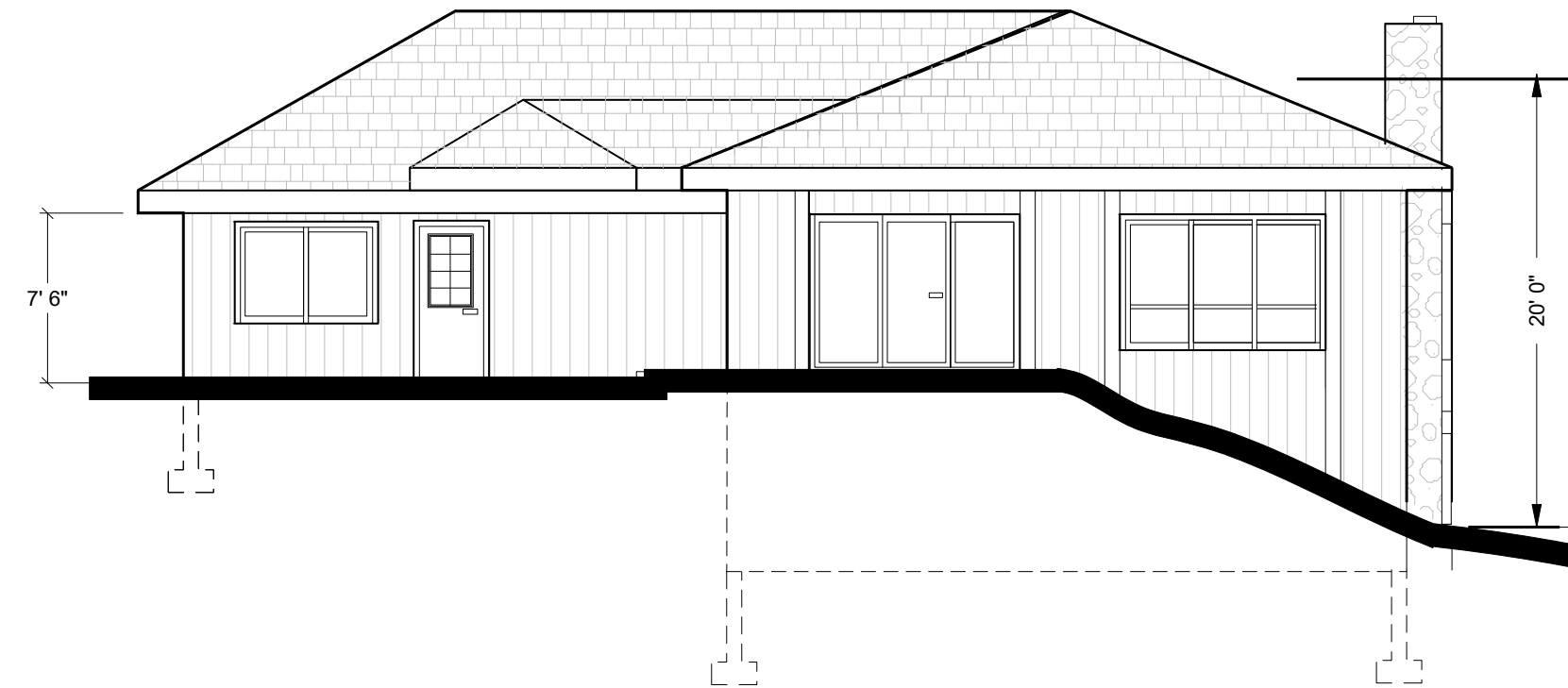
LAKE SARAH	
Ordinary High Water	979.90
50 yr floor plain	981.80
100 yr floor plain	981.20

ACC. BUILDING (new)	
Lowest Floor level	985.00
Upper Floor level	995.00

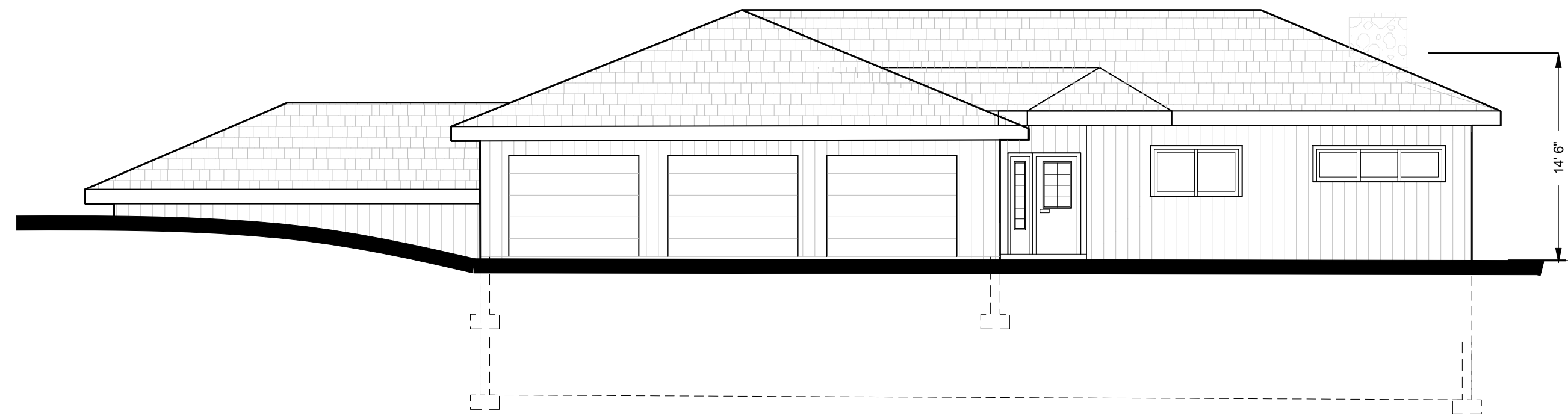
EXISTING BUILDINGS (from survey)		
STRUCTURE	EX. S.F.	S.F. COUNT FOR ACC. BUILDING (FUTURE)
House (main level)	3,624 sf	0
Cabin (10 x 12)	120 sf	0
Bath house (6 x 14)	84 sf	0
D, Garage (20 x 22)	440 sf	440
Shed (14 x 20)	280	<del>280</del> Removed
Barn (25 x 40)	1,000 sf	<del>1,000</del> Removed
New Storage bldg..		<u>3,445 sf</u>
<b>TOTAL SF ACC. BLDGS</b>		<b>3.929 SF</b>



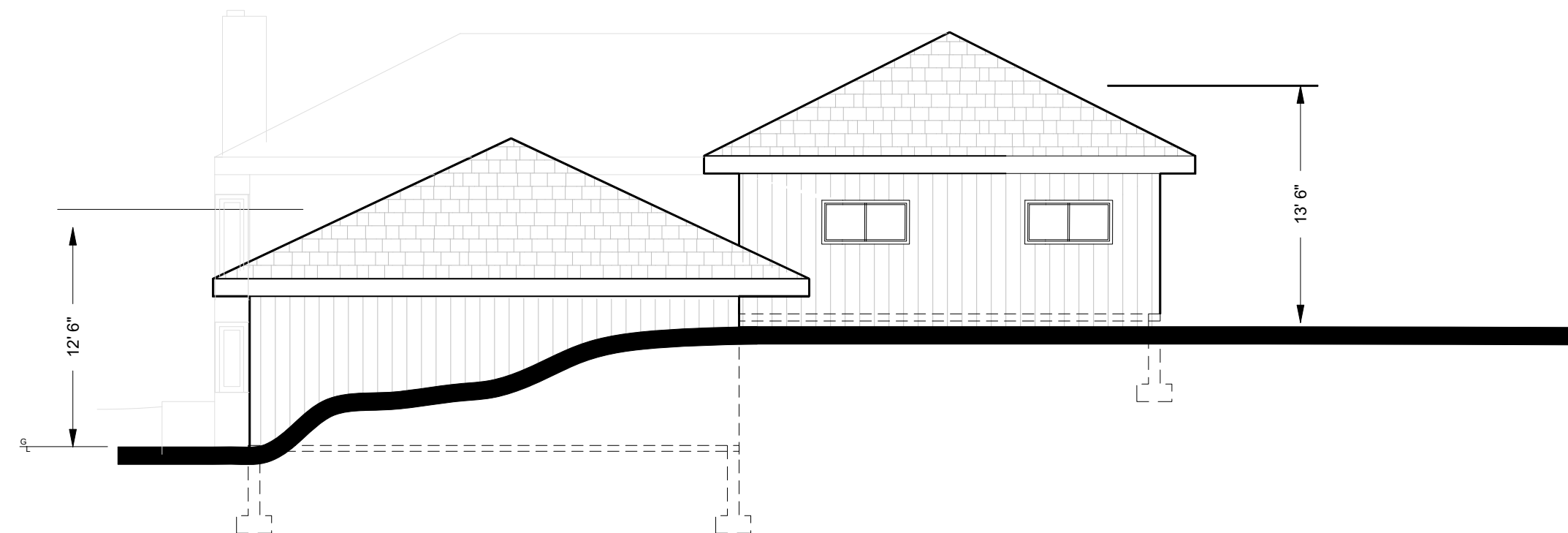
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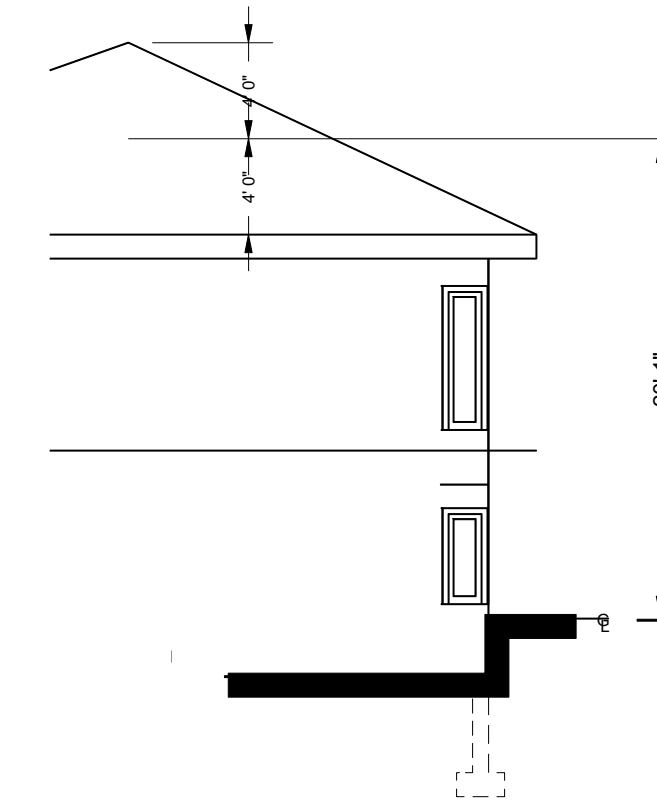
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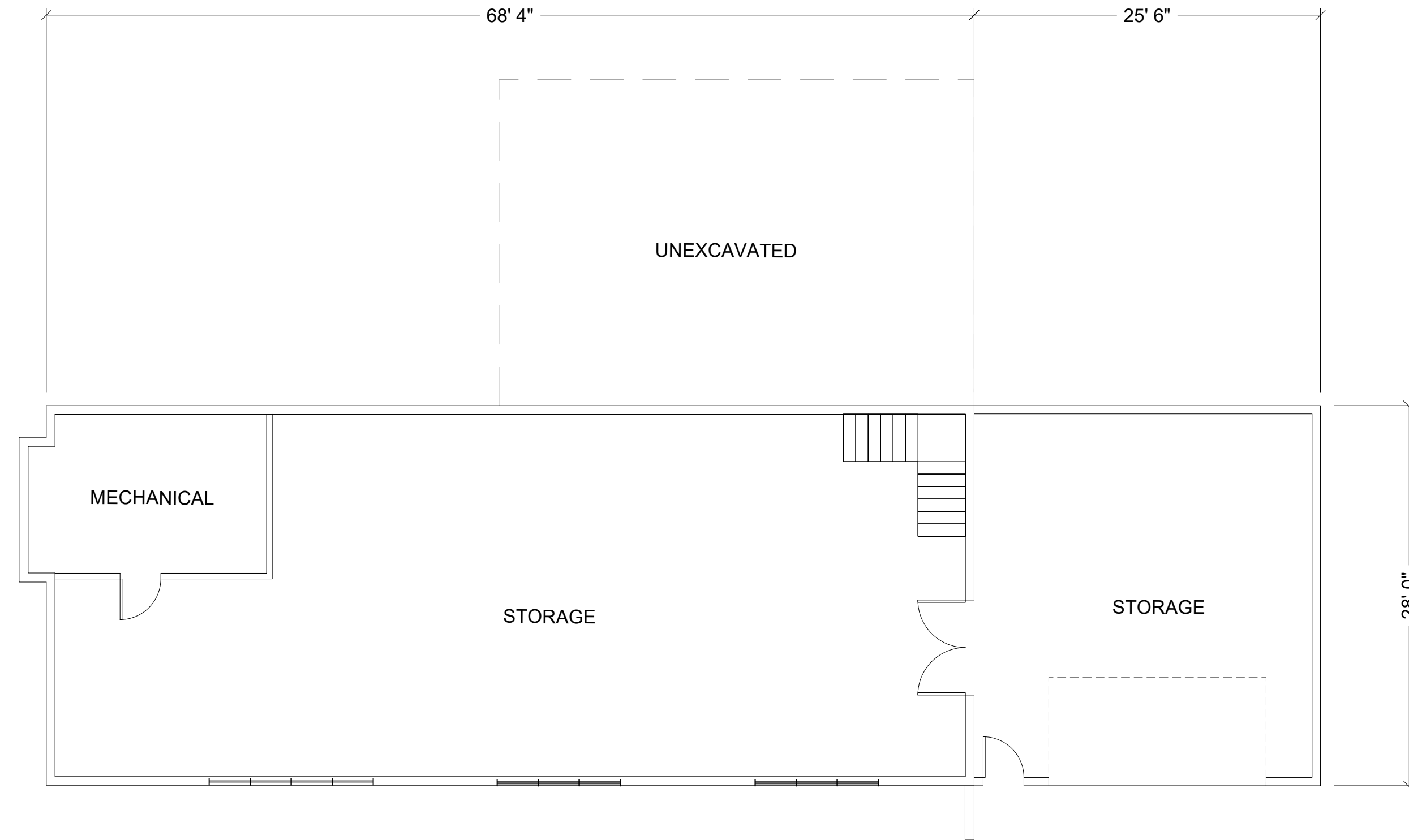
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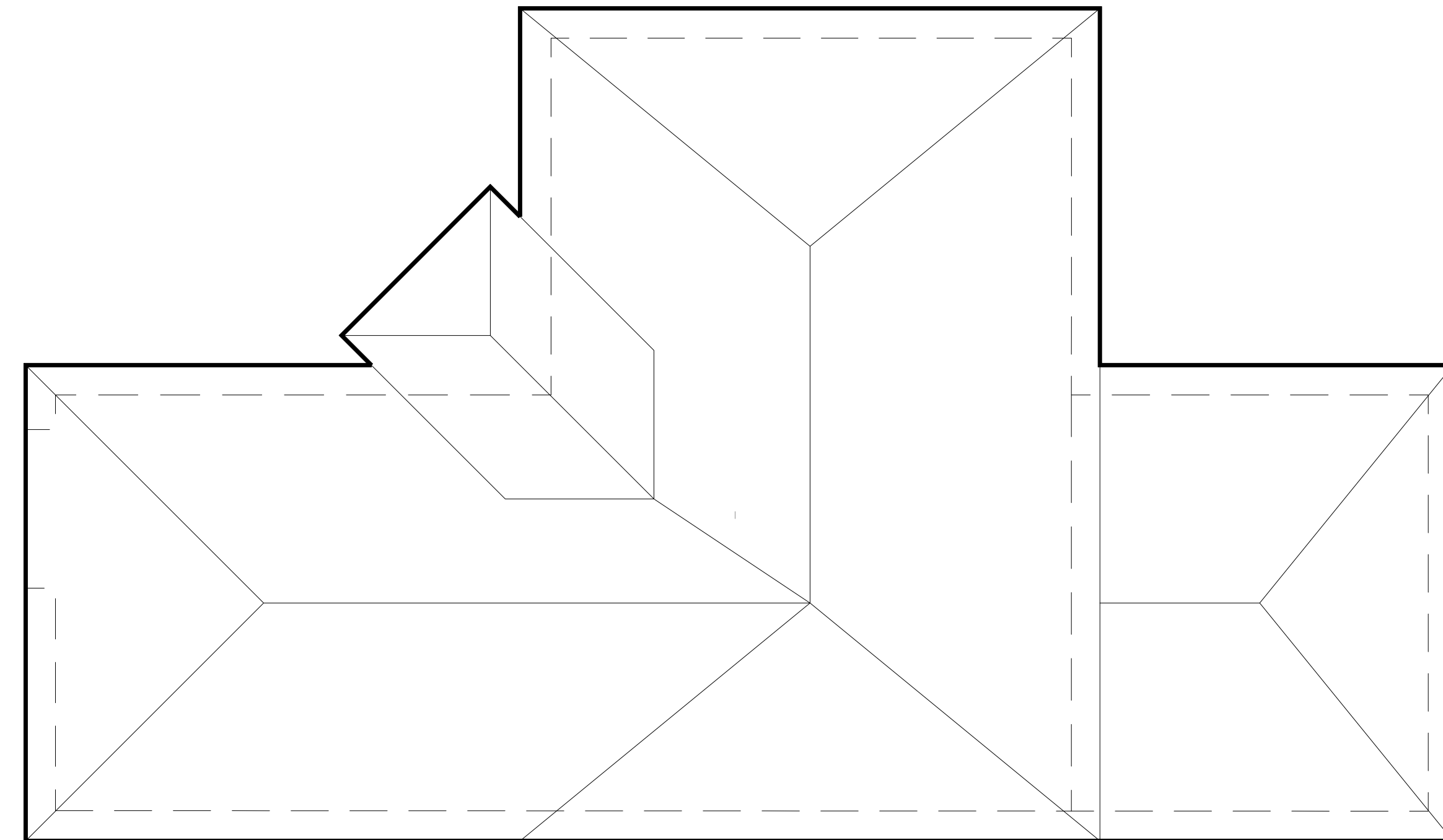


EXISTING HOUSE ROOF ELEV.

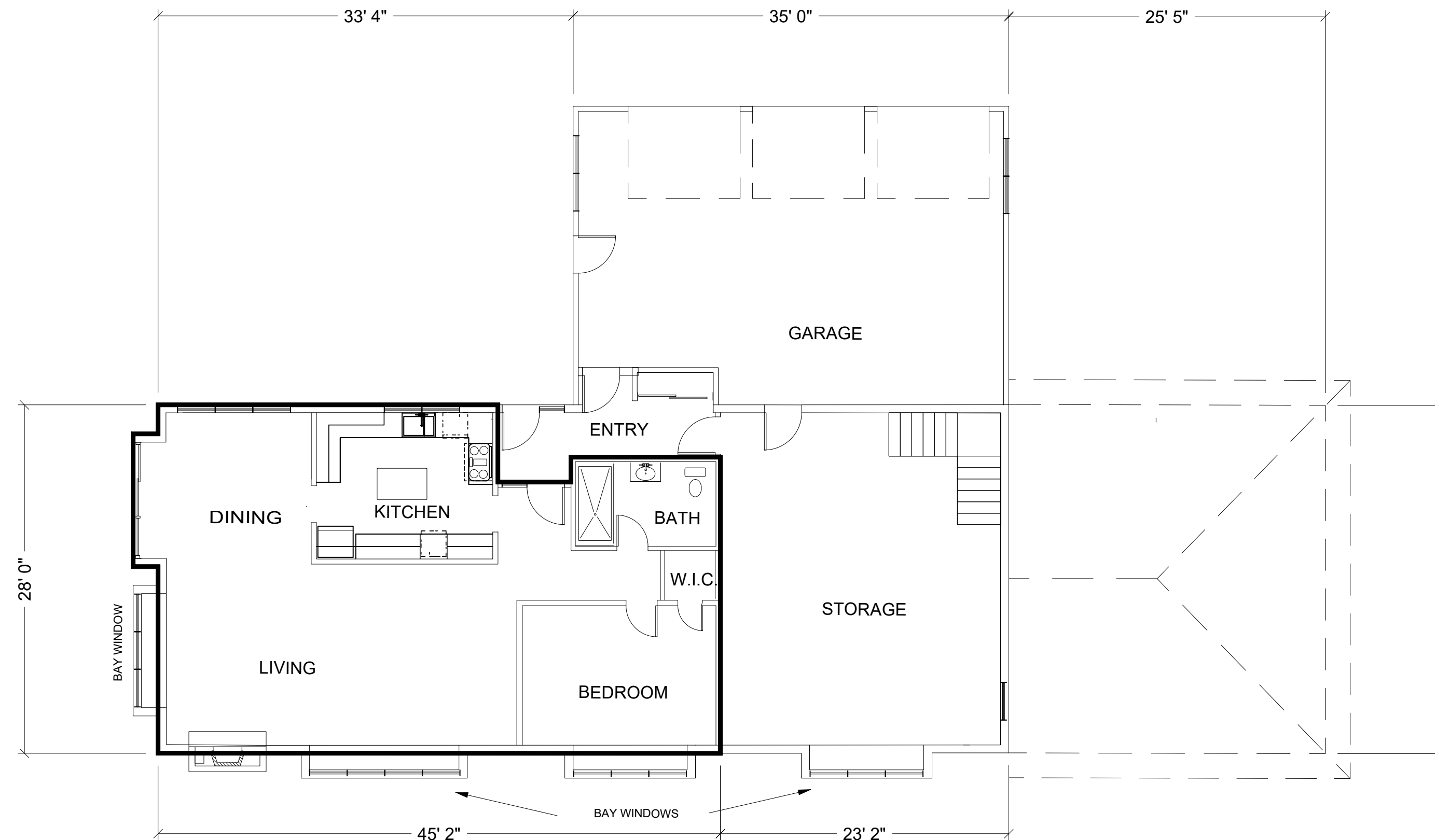


LOWER LEVEL PLAN

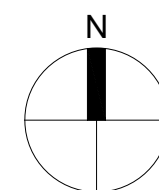
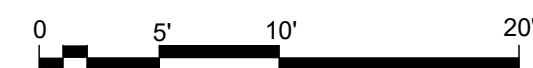
2,647 sf



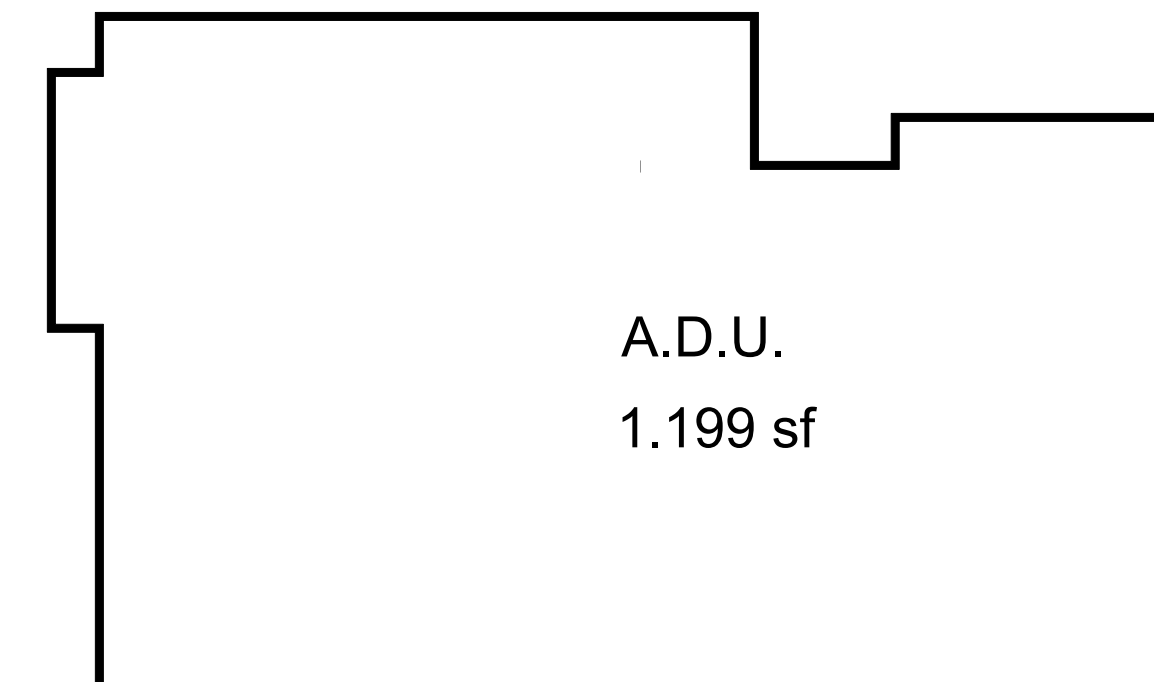
ROOF PLAN



## UPPER LEVEL PLAN



O.A. ACC. BUILDING 3,487 sf  
A.D.U. 1,199 sf



Accessory Building  
with A.D.U.  
Independence, MN 55357

JACOBSEN  
5305 Sunset Lane  
Independence, MN 55357  
November 4, 2024

FLOOR PLAN  
UPPER LEVEL

■City of Independence

***Request for a Conditional Use to Allow an Accessory Dwelling Unit to be Located  
Within an Existing Structure on the Property Located 2112 County Road 92 N.***

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<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	December 10, 2024
<i>Applicant:</i>	Joel Loomis
<i>Owner:</i>	Joel Loomis
<i>Location:</i>	2112 County Road 92 N.

***Request:***

Joel Loomis (Applicant/Owner) is requesting the following action for the property located at 2112 CSAH 92 N. (PID No. 21-118-24-23-0001) in the City of Independence, MN.

- a. A conditional use permit to allow an accessory dwelling unit (ADU) to be located within the existing accessory structure on the property.

***Property/Site Information:***

The property is located on the east side of County Road 92 N., south of Hwy 12. The property is mostly wooded with some wetlands to the east and west. The property has two principal structures and seven detached accessory structures.

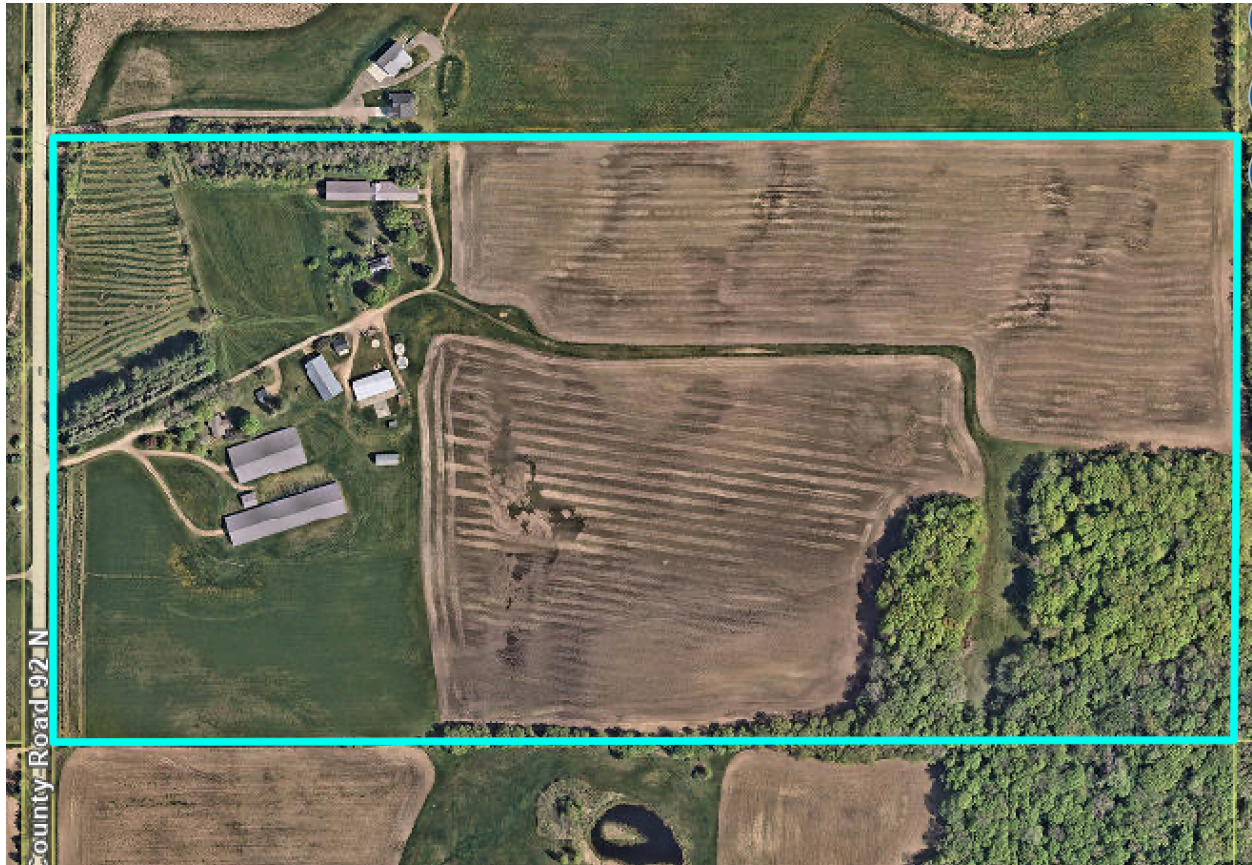
Property Information: **2112 CSAH 92 N.**

Zoning: *Agriculture*

Comprehensive Plan: *AG-Agriculture*

Acreage: *78.55 acres*





**Discussion:**

The applicant is in the process of planning for an addition and major renovation to the original farmhouse located on this property. The applicant has been discussing the project with the city and upon submittal of the building permit application for the renovation, it was noted that there are two principal homes located on the property. The two homes are considered lawful non-confirming as they were constructed prior to adoption of the current ordinance that limits the number of principal structures on the property to one (1). Lawful non-confirming uses and structures cannot be expanded, enlarged or changed. As a result, the city cannot approve the expansion of the existing farmhouse without bringing the property into conformance with applicable standards. This would require the removal of the second home or modifications to convert it into a detached accessory structure.

The applicant would like to keep the second home in tact as it is in good condition (note that they are currently living in the second home until renovation of the farmhouse is complete) on the property for guests and possible a parent or family member in the future. The city met with the applicant on the property and toured both the farmhouse and the second home. It was determined that the second home structure could potentially be modified to meet applicable ADU requirements. As a result, the applicant is now seeking a conditional use permit to allow an accessory dwelling unit (ADU) inside of a portion of the existing second home (which would then become classified as a detached accessory structure).

The city discussed the conversion of the existing space and reviewed the requirements relating to ADU's with the applicant. It was noted that the square footage of the entire structure (upper and lower) would

exceed the maximum allowable square footage for an accessory dwelling unit. The second home is a one level home with a small walkout lower level. The upper floor is comprised of 2 bedrooms, a kitchen, bathroom and living room and is 1,052 SF. The lower level (has less than 7-foot ceilings) has a bedroom, bathroom and living/storage area and mechanical room and is approximately 687 square feet.

The applicant would like to convert the upper level (main level) into an ADU. In order to make the conversion, they are proposing to install a door at the top of the stairs to separate the upper and lower levels. This would establish a clear separation between the ADU and storage/mechanical space in the downstairs.

Accessory dwelling units are a conditional use within the AG-Agriculture zoning district. In order to allow an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit and also the criteria for granting a variance. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

*Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:*

- (a) Physically attached to or within a single-family dwelling unit or within a detached<sup>a</sup> accessory building that has a principal structure on the parcel; and*

**The applicant is proposing to use the accessory dwelling unit located within the existing "detached accessory structure."**

- (b) Subordinate in size to the single-family dwelling unit; and*

**The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit. The proposed renovations to the existing farmhouse (principal structure) would bring the home to a total square footage of approximately 6,000 SF. The square footage would support the maximum size ADU of 1,200 SF. The proposed modifications to the second home would establish an approximate 1,052 SF ADU.**

- (c) Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

**The proposed accessory dwelling unit would be separated from the single-family home and would be located in a completely separate structure.**

- (d) Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

**The proposed accessory structure is completely separate and has no connection to the principal home on the property.**



- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

**The principal structure has ~6,000 square feet of above ground space. 33% of 6,000 square feet equals 1,980 square feet. The square footage would support the maximum size ADU of 1,200 SF. The proposed modifications to the second home would establish an approximate 1,052 SF ADU.**

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

**There is not a limitation on the total amount of accessory structure square footage for properties zoned Agriculture and greater than 10 acres. The maximum size for any individual accessory structure is 5,000 SF. The existing building is approximately 1,700 SF and therefore would comply with applicable standards.**

- (g) *Has permanent provisions for cooking, living and sanitation; and*

**The existing structure has permanent provisions for cooking; living and sanitation.**

- (h) *Has no more than 2 bedrooms; and*

**The existing structure has two bedrooms within the upper floor of the accessory dwelling unit.**

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

**The applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*

**The applicant would need to confirm septic compliance for the existing structure.**

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

**The detached accessory building is a conforming structure that is currently in existence.**

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

**The proposed accessory structure will meet all applicable building codes and may be required to obtain requisite after-the-fact permits.**

*<sup>a</sup> On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

*<sup>b</sup> The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The location of the existing accessory building and its proximity to the surrounding properties helps to mitigate potential impacts of allowing a portion of the structure to be used as an accessory dwelling unit. The City will need to confirm that the accessory dwelling unit meets all applicable building codes and building regulations.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit.

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 Planning Commission should consider the following issues as noted:

- The applicant is proposing to locate an ADU within the existing structure. The second home has been in existence on the property for many years. The applicant could meet the allowable ADU

square footage by limiting the “finished space” within the ADU and separating the lower level from the upper level. The remaining space does have a secondary exterior access to the lower level.

- Should the Planning Commission consider an approval recommendation, the following conditions should be included:
  - The proposed ADU space and corresponding detached accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.



**Neighbor Comments:**

The City has not received any comments.

**Recommendation:**

The Planning Commission is being asked to provide direction to the City Council relating to the requested CUP. Should the Planning Commission recommend approval of the requested actions, the following findings and conditions should be included:

1. The proposed Conditional Use Permit meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, and Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The conditional use permit is to allow an accessory dwelling unit to be located within the existing accessory structure on the property. The criteria for permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling not in compliance with the applicable criteria for the accessory dwelling unit will cause the conditional use permit to be revoked by the City.
3. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

**Attachments:** Application

Building Photos (to be sent separately)



**CITY OF  
INDEPENDENCE  
MINNESOTA**

Date Submitted: 11-19-2024

**Applicant Information**

Name: Joel Alan Loomis  
Address: 2112 CoRd 92 N  
Independence, Minnesota  
55359  
Primary Phone: 6129642303  
Email: Joelloomis@gmail.com

**Owner Information**

Name: Joel Alan Loomis  
Address: 2112 CoRd 92 N  
Independence, Minnesota  
55359  
Primary Phone: 6129642303  
Email: Joelloomis@gmail.com

Property Address:

PID:

Planning Application Type: Accessory Building Review

Description:

Supporting Documents: Preliminary/Final Plan

Signature: