Gilmanton Township/City of Foley Joint Planning Board –AGENDA February 6, 2024 – 6:45PM Gilmanton Town Hall

- 1. Approve the agenda.
- 2. Appointment of Officers Even Year Per Agreement
 - Chair Must be Township Representative
 - Vice-Chair Must be City Representative
 - Secretary Zoning Administrator Sarah Brunn
- 3. Approve Joint Planning Board Minutes.
 - January 3, 2023.
- 4. Discussion on Variance Application of David Henry.
 - Requesting variance for lot width & total size.
 - •
 - •
- 5. Other Business
 - Approve location of new city welcome sign County Rd 66 & Hwy 23
- 6. Next Meeting Date
 - •
- 7. Adjourn

Current Joint Planning Board Members:

Scott Baron (Township), Jeff Gondeck (City), Doug Lezer (Township), Gary Swanson (City)

Joint Planning Board Minutes January 3, 2023 – 6:45 pm Gilmanton Town Hall

Members Present: Scott Baron (Township), Jeff Gondeck (City), Doug Lezer (Township), Gary Swanson (City)

Members Absent: None

Others Present: Jim & Deanna Truehart (Northern Hollow Winery), Amanda Outhoudt (BEP)

The meeting was called to order by Doug Lezer @ 6:45pm.

Motion by Gondeck, seconded by Swanson to approve the agenda. Motion carried.

The board elected new officers:

Gondeck was nominated for Chair by Swason, seconded by Lezer – motion carried. Lezer was nominated for Vice-Chair by Baron, seconded by Gondeck – motion carried. Motion by Gondeck, seconded by Swanson to approve Sarah Brunn as Secretary.

Motion by Swanson seconded by Lezer to approve the minutes of December 6, 2022. Motion carried.

Public Hearing - Northern Hollow Winery - CUP/PUD for Winery located in A-1 District.

The board discussed a number of items related to the winery site plan and application. These included lighting, grape growing activities/plans, building elevations and positioning on the lot, parking, noise and special events. A public hearing comment in support of project received from Bill & Sandy Stevens, Amanda Outhoudt, and Jim & Deanna Truhart. MnDOT also contacted Sarah Brunn and indicated no concerns with the site plan. Motion by Swanson, seconded by Lezer to approve the conditional use permit and planned unit development agreement as presented with the following conditions:

- 1. Outstanding Staff Comments Be Included.
 - i. Engineering recommend contingency upon approval for City Engineer to sign off.
 - ii. Well Location Needs approval by MN Dept. of Health.
 - iii. Recommend execution of a development agreement.
 - iv. Other Conditions
 - 1. Recommend clean up with 48 hours for any special event.
 - 2. Any special event is determined beyond the normal capacity of the facilities. Will be
 - added to PUD/CUP.

Staff indicated they will make the revisions/adds to the agreements and then coordinate signing of the documents.

Other Business

The next meeting will be determined when an action item is received.

Motion to adjourn the meeting by Swanson seconded by Baron. Motion carried.

Submitted by: Sarah Brunn, Zoning Administrator (Foley City Administrator)

Ceilmonton TPB City of Foley Variance Application

6774 Highway 25 NE, Foley, MN 56329 Street Location of Property: See attached Exhibit Legal Description of Property: **Current Zoning of Property:** B-1 B-1 Proposed Zoning: Minimum Lot Width and Area variance Type of Request: *** (Attach narrative describing details of project scope) *** David Henry Property Owner: 320-290-9880 Phone PO Box 46 Address Fax Motley, MN 56466 Email Same as above Applicant: Name Phone Address Fax Email Type of Request & Fee Amount: Rezoning/Amendment \$250,00 Preliminary Plat \$500,00 Conditional Use Permit \$250,00 Final Plat \$ X Variance \$250.00 Annexation \$400.00 + Planned Unit Development \$250.00 Site Plan Review/Other **Total Fees Paid** Has a request been made previously on this property? ☐ Yes ☒ No Explain: _ This application must be completed in full, be typewritten or clearly printed, and must be accompanied by all information, supporting documents and plans as required by applicable City Ordinance provisions. A determination of completeness of the application shall be made within ten business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant. This is to certify that I am making application for the described action by the City and that I am responsible for all City requirements with regard to this request. This application should be processed in my name and I am the party whom the City should contact regarding any matter pertaining to this application. I have attached a copy of proof of ownership (either copy of Owner's Duplicate Certificate of Title, Abstract of Title or purchase agreement), or I am the authorized person to make this application and the fee owner has also signed this application. □ Supporting Documents Attached Application Filed: □ Appropriate Fees Paid Date Fees Paid: ☐ Review by City Staff Staff Initials: ☐ Completed Application Accepted Date Application Accepted: Signature of Applicant

Signature of Fee Owner

City of Foley Variance Supplementary Application

Please use this form to explain how your variance request meets the requirements for a variance.

(1) Describe how will the variance demonstrates harmony with the general purposes and intent of the zoning ordinance.

The subject property and existing uses are consistent with the zoning ordinance.
Approval of the requested variance would serve local residents and promote
commercial establishments as indicated for the intent of the B-1 Business District.

(2) Describe how the variance is consistent with the Comprehensive Plan.

The subject property and existing uses are consistent with the designation for uses and plans for the area.

(3) Demonstrate the "practical difficulties" in complying with the zoning ordinance. *

1. How is the proposed use a reasonable manner not permitted by the zoning ordinance?

The minimum lot width and depth requirements of the zoning ordinance for the Orderly Annexation area do not allow for a reasonable subdivision and use of the subject property while keeping the water supply well and parking areas on the respective sides of the proposed subdividing line.

2. Demonstrate the plight of the landowner is due to circumstances unique to the property not created by the landowner.

With the property being located in the Orderly Annexation area, the current B-4 zoning does not allow the flexibility to subdivide the property in a reasonable manner that other zoning districts may allow. Also, the uncontrollable impacts of the Covid19 pandemic changed market demands and use of the subject property, which were not originally intended to ever be subdivided. As a result, water supply wells, parking, etc. are in locations that do not meet current minimum lot requirements.

3. Demonstrate, if granted, how the variance will <u>not</u> alter the essential character of the neighborhood.

The subject property was used for commercial activity and is intended to be used for commercial activity if the variance is granted, so it will not alter the essential character of the neighborhood. Rather, it will preserve the essential character of the neighborhood.

*Economic considerations alone do not constitute practical difficulties.

Narrative Describing Details of the Project Scope:

The purpose of this request is to receive a variance to the minimum Lot Width and Depth standards outlined in the B-4 zoning ordinance in order to reasonably subdivide the subject property into one separate parcel for the event/banquet center and one separate parcel for the auction hall. Due to circumstances outside the control of the landowner, there is a need to split apart these two parts of the subject property. Some features like water supply wells, parking, etc. are located in areas that will not allow the property to be split while meeting said width and depth standards. We feel that the proposed layout is the most reasonable and natural way to subdivide the property while being as close to the minimum standards as possible.

ArcGIS Web Map



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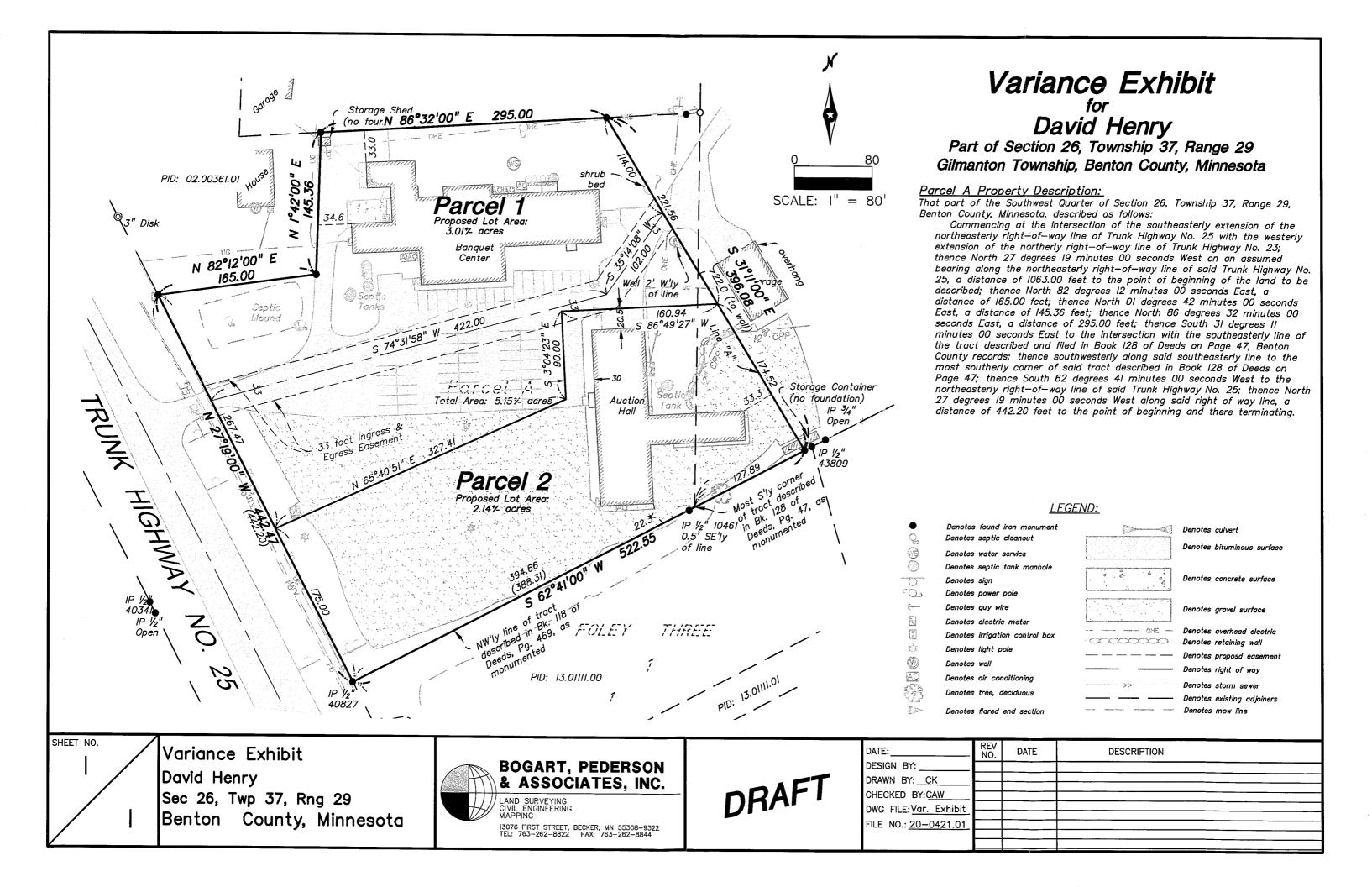
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BENTON COUNTY DEPARTMENT OF DEVELOPMENT SEWAGE TREATMENT SYSTEM INSPECTION SHEET / "CERTIFICATE OF

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City of Foley <u>Variance</u> <u>Findings & Order</u>

nce Red	quested:
1.	Does the variance demonstrate harmony with the general purposes and intent of the zoning ordinance?
	Yes No C Why or why not:
2.	Is the proposed variance consistent with the city comprehensive plan? Yes □ No □
	Why or why not:
3.	Is the proposed use a reasonable manner not permitted by the zoning ordinance? Yes □ No □
	Why or why not:
4.	Is the plight of the landowner due to circumstances unique to the property not created by the landowner?
	Yes

	5.	Granting the variance will not alter the essential character of the neighborhood?				
		Yes No 🗆				
		Why or why not:				
	6.	Are the "practical difficulties" more than economic?				
,		Yes 🗆 No 🗖				
		Why or why not:				
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IF AL	LL OF	THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING A VARIANCE HAVE BEEN MET. Facts supporting the answer to each question above are hereby certified to be the Findings.				
		. as a cupporting the unions to each question above are neleby certified to be the Findings.				
		THE FOLEY BLANDING COMMISSION TO SHARE				
		THE FOLEY PLANNING COMMISSION RECOMMENDS THE VARIANCE: Approved □ Not Approved □				
		Approved □ Not Approved □				
Date		Chair, Foley Planning Commission				
		Hearing: Time:				
Result	ts:					

		THE FOLEY CITY COUNCIL DETERMINES THE VARIANCE:				
		Approved □ Not Approved □				
÷	The fo	llowing conditions to be imposed on the property to insure compliance and to protect adjacent properties and				
		olic interest:				
	······					
						
						
Date		Mayor				

DEVELOPMENT AGREEMENT

(Henry Property)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made effective ______, 2024, ("Effective Date") between the Gilmanton Joint Planning Board, a joint planning board established between the City of Foley and Gilmanton Township under the laws of Minnesota (the "Board") and Foley Locker, Inc. d/b/a Grand Champion Meats, a Minnesota corporation ("Developer"), and David Henry, <a single adult> ("Henry") (collectively the "Parties").

RECITALS:

- A. Developer intends to purchase the real property legally described in **Exhibit A** attached hereto (the "**Development Property**").
- B. The Development Property is located in the Gilmanton Orderly Annexation Area (the "OAA") B-1 Zoning District, which requires a minimum lot width of 200 feet.
- C. The Development Property is currently owned by Henry.
- D. Henry has submitted a variance application to allow for a subdivision of the Development Property to allow for a lot width smaller than 200 feet.
- E. The Developer is in support of the variance application, as the Developer wishes to expand its business onto the Development Property, although there are currently no formal plans for expansion.
- F. The Board has approved the variance application on the condition that the Parties execute this Agreement and ensure compliance with its terms. The approved variance application (the "Variance"), which includes a depiction of the subdivision of the Development Property (the "Site Plan"), is attached as Exhibit B.

- G. As part of the Agreement, the Board requires that Developer enter into this Agreement to assure the completion of certain improvements.
- H. This Agreement shall be recorded in the Benton County Recorder's Office.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as follows:

- 1. <u>RECITALS INCORPORATED</u>. The Recitals above are incorporated as if fully set forth herein.
- 2. <u>REPRESENTATIONS OF HENRY</u>. Developer represents and warrants to the Board:
 - a. Henry is the owner of the Development Property and has the authority to enter into this Agreement;
 - b. Henry has disclosed to the Board all lienholders or other parties in interest which should be joined in this Agreement and that no other person or entity, other than Developer, shall have an interest in the Development Property prior and superior to this Agreement;
 - c. The Site Plan for the Development Property, other than the Variance, complies with all Township, City, County, State, and Federal laws and regulations, including, but not limited to, OAA zoning ordinances; and
 - d. An Environmental Assessment Worksheet is not required for the development of the Development Property.

3. REPRESENTATIONS OF DEVELOPER.

- a. Developer intends to purchase the Development Property.
- b. Developer agrees to the terms of this Agreement.
- 4. <u>ZONING</u>. The Development Property is in the B-1 Zoning District of the OAA and is subject to Benton County's B-1 zoning ordinance, other than the Variance.

5. EASEMENT DEDICATION.

- a. Developer and Henry shall dedicate to the City of Foley all necessary easements for <utilities, roads, and sidewalks>.
- b. Developer and Henry shall dedicate all necessary private easements to ensure appropriate ingress and egress for neighboring properties.

- 6. <u>IMPROVEMENTS</u>. The Developer agrees to construct the following ("Improvements"):
 - a. <ROADS. Developer, at Developer's sole expense, agrees to construct and dedicate all roads necessary for the development of the Development Property as provided below. The Board shall not accept the dedication of any Improvements until inspected and approved by the City of Foley's Engineer (the "City Engineer").>
 - b. SEWER AND WATER. Developer, at Developer's sole expense, agrees to install and dedicate all water, sanitary sewer, and storm sewer improvements necessary for the development of the Development Property as provided below. The City shall not accept the dedication of any Improvements until inspected and approved by the City Engineer.
 - i. Developer, at its sole cost and expense, shall construct sewer and water lines and dedicate such main lines to the City.
 - 1. Until connection < how will Development Property operate/maintenance of private lines>.
 - 2. Developer shall connect the sewer and water lines to the City's main line within <time period>.
 - c. UNDERGROUND UTILITIES REQUIRED. Developer agrees that all utilities within the Development Property will be installed underground, including without limitations, electrical, telephone, cable television and natural gas. All such work shall be completed at the Developer's sole expense.
- 7. <u>ASSESSMENT</u>. Developer agrees to the assessment of <\$\$\$> (the "Assessment") for connection to city utilities. Developer hereby waives any and all procedural and substantive objections to the city utilities and the levying of the Assessment against the Development Property, including any claims that the assessment exceeds the benefits. Developer acknowledges that the Board will proceed with the installation of city utilities at such time as it determines, in its sole discretion, that it is practicable, that this waiver is valid regardless of the timing of the project and hereby waives any challenge as to the timeliness of the project if Developer does not install the required Improvements by <date>.
- 9. <a href="

sedimentation and holding ponds, water lines, curb and gutter, pavement, and street signage, as shown on **Exhibit C** ("Road"), built to applicable city, county, and state standards. Developer shall submit the plans and specifications to the City Engineer for approval before commencing construction, and all construction must be constructed in accordance with the approved plans and specifications, as amended or edited by the City Engineer. Developer will construct and pay all costs of the Road.

Once the Road is built and completed to the acceptance and standards of the City, upon recommendation of the City Engineer, the Developer shall dedicate the Road and any water and sewer mains, and storm sewer to the City. The City shall not be responsible for the Road, water, and sewer mains, or storm sewer until the City has affirmatively approved the construction and installation of the same. Developer will provide any and all necessary easements and/or dedications to ensure that the City has the ability to construct, maintain, repair, replace, or modify the sewer and water mains, storm sewers, and drainage systems located on the Development Property.>

10. COSTS.

- a. CITY/BOARD COSTS. The Developer shall pay all costs incurred by it or the Board, including, but not limited to, legal, planning, engineering, and inspection expenses, in connection with the development, approval, and acceptance of the zoning, annexation, and permitting of the Development Property, review of construction plans and documents, the preparation of this Agreement, as well as other required agreements, and all costs and expenses incurred by the City in monitoring and inspecting the construction of the Improvements or Road for any phase of the development.
- b. DAMAGE DURING CONSTRUCTION. Developer understands and acknowledges that it is responsible for all damage to streets, sidewalks, curbs, gutters, and storm sewers that results from development activity on the Development Property. In the event the Board determines, in its sole discretion, that repairs must be made, the Developer will be given ten days' written notice. If the Developer fails to make the repairs within the ten-day time period, the Board may: a) withhold all approvals related to the Development Property; b) make the necessary repairs, the cost of which Developer agrees to reimburse to the Board; or c) draw upon Developer's security posted with the City to affect the repairs in the manner it deems expedient.
- c. ENFORCEMENT. Developer shall reimburse the City and Board for costs incurred in the enforcement of this Agreement, including reasonable engineering and reasonable attorneys' fees.
- d. TIME OF PAYMENT. Developer shall pay in full all bills submitted by the Board for obligations incurred under this Agreement within thirty days of submission to Developer. Bills not paid within thirty days shall accrue interest at

a rate of one and one-half percent (1.5%) per month. Failure to remit payment within thirty days shall constitute a default of this Agreement.

- 11. <u>COMMENCEMENT.</u> Construction of Improvements on the Development Property shall begin on <<u>Date</u>>.
- 12. INDEMNIFICATION. The Board, its officers, agents, employees, and representatives shall not be liable or responsible in any manner to the Developer, contractor or subcontractors, materialmen, laborers, or to any other person or persons whomsoever, for any claims, demands, damages, actions, or causes of action of any kind or character whatsoever arising out of or by reason of the execution of this Agreement; any and all work which is the Developer's obligation to perform pursuant to this Development Agreement; the grant by the Board of any approval related to the Development Property, including, but not limited to, approval of any plans and the preliminary or final plats for the Development Property; the failure by Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Development Agreement; the failure by the Developer to pay contractors, subcontractors, laborers, or materialmen; the failure by Developer to pay for materials; the failure by Developer to obtain necessary permits and authorization to construct the work described in this Development Agreement; or the Board's exercise of any of its rights in the event of a default by Developer. Developer further agrees to indemnify, defend, and hold the Board, its officers, engineers. agents and employees harmless from all such claims, demands, damages, actions, or causes of action, and all costs, disbursements, and expenses resulting from such claims, including attorneys' fees.

13. MISCELLANEOUS.

- a. DEFAULT AND REMEDIES. If Developer fails in any way to perform or observe any covenant, condition, or obligation contained in this Agreement or any other agreement between Developer and the Board relating to the Development Property, Developer agrees that the Board may do any, all, or any combination of the following: (i) halt all further approvals regarding platting, zoning, or issuance of building permits or occupancy permits relating to the Development Property; (ii) seek injunctive relief; (iii) terminate this Agreement and all of the obligations contained herein without terminating Developer's obligation to reimburse the Board for costs it has incurred with regard to this Agreement or the Development Property; (iv) suspend any work or improvement on the Development Property by issuing a stop work order; and (v) take any other action at law or in equity which may be available to the Board.
- b. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. If any agreement contained in this Agreement is breached by the Developer and thereafter waived in writing by the Board, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breaches hereunder. All waivers by the Board must be in writing to be effective.

- c. NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the Board shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board to exercise any remedy reserved to the Board, it shall not be necessary to give notice. Third parties shall have no recourse against the Board under this Agreement.
- d. ASSIGNMENT. This Agreement may not be assigned by Developer except upon obtaining the express written consent of the City. This Agreement shall run with the Development Property and will be binding on and enforceable by and against the parties, their successors, legal representatives and assigns.
- e. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.
- f. GOVERNED BY MINNESOTA LAW. This Agreement shall be interpreted under the laws of the State of Minnesota and any court action related to this Agreement shall be venued in Benton County District Court unless another venue is agreed to by both the City and Developer. In the event any provision or part of this Agreement is determined to be void or unenforceable, the remainder of the Agreement shall remain in effect.
- g. LEGAL REPRESENTATION. Rinke Noonan Law Firm represents the Board with regard to this Agreement. Developer is hereby advised to seek independent legal advice prior to execution of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

[Signature pages to follow.]

GILMANTON JOINT PLANNING BOARD

	By
	ATTEST:
	By
STATE OF MINNESOTA) OF SS COUNTY OF BENTON)	
On this day of County, personally appeared <>, who, being by r Minnesota municipal corporation, and that this is corporation by authority of its Board's and acknowledged of said corporation.	astrument was signed on behalf of said
	Notary Public
STATE OF MINNESOTA)) SS COUNTY OF KANDIYOHI)	
On this day of County, personally appeared <>, who, being by r Minnesota municipal corporation, and that this in corporation by authority of its Board and acknow deed of said corporation.	strument was signed on behalf of said
	Notary Public

FOLEY LOCKER, INC. D/B/A GRAND CHAMPION MEATS

	By
	Its
STATE OF MINNESOTA)	
) SS	
COUNTY OF	
On this day of	2024 1 6
County personally appeared	, 2024, before me, a Notary Public for this
County, personally appeared	, who, being by me duly sworn, did say
hat he/she isis of Foley Locke	r, Inc. d/b/a Grand Champion Meats.
Application of the Control of the Co	
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	Notary Public
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DAVID	HENRY	

STATE OF MINNESOTA)
COUNTY OF) SS _)
On this day of County, personally appeared Day	, 2024, before me, a Notary Public for this id Henry, <a adult.="" single="">
	Notary Public

THIS INSTRUMENT DRAFTED BY:

Rinke Noonan (ASH/mjr) 1015 W. St. Germain St., Suite 300 P.O. Box 1497 St. Cloud, MN 56302-1497 (320) 251-6700 File No. 00679-0108

EXHIBIT A

(Legal Description of Development Property)

<insert legal description>

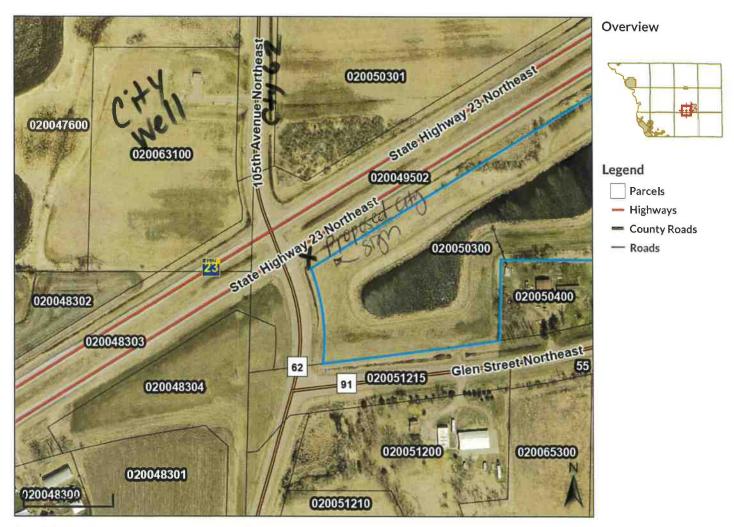


EXHIBIT B

(Site Plan)



Beacon Benton County, MN



Parcel ID Sec/Twp/Rng 020050300

34-037-029

Property Address 10631 GLEN ST NE

FOLEY

Alternate ID n/a

Class

253 - BED AND BREAKFAST

Acreage

15.11

Owner Address WILLIAM G STEVENS & SANDRA K STEVENS

10849 GLEN ST NE FOLEY, MN 56329

District

Brief Tax Description

GILMANTON TOWNSHIP

Sect-34 Twp-037 Range-029 15.11 AC PART OF SW1/4 NW1/4 & NW1/4 & W1/2 SE1/4 NW1/4 & NE1/4 SW1/4 LYING SLY OF MN HWY 23 MNDOT R/W PLAT 05-35 AND LYING SLY OF N 754.90 FT OF S1/2 NW1/4 AND LYING ELY OF PARCEL 1 OF MNDOT R/W PLAT 05-34 LYING NLY OF THE NLY R-O-W OF GLEN STREET NE (F/K/A MN HWY 23) AND LYING WLY OF FOLL LINE COMM AT THE INTERSECTION OF THE W LINE OF W1/2 SE1/4 NW1/4 WITH S LINE OF N 754.90 FT TH ELY 66.32 FT TO POB TH SLY 669.81 FT TO CENTERLINE OF GLEN STREET NE AND THERE TERM LESS S 42 FT OF W 335 FT OF E 555 FT OF SW1/4 NW1/4 & LESS PART OF W 335 FT OF E 555 FT OF NW1/4 SW1/4 LYING N OF NLY LINE OF GLEN STREET NE (F/K/A OLD HWY 23)

(Note: Not to be used on legal documents)

Date created: 1/23/2024 Last Data Uploaded: 1/23/2024 9:04:04 AM



