

State of Minnesota
County of Rice

CITY OF FARIBAULT

RESOLUTION #2021-066

APPROVE A CONDITIONAL USE PERMIT TO ALLOW CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE AT 20905 CANBY AVENUE

WHEREAS, Blake Matejcek (the Applicant) on behalf of Paul T. Matejcek (the Owner), requests approval of a conditional use permit to allow the construction of a single-family residence on the property commonly known as 20905 Canby Avenue and legally described in Exhibit 1 of this Resolution (the subject property); and

WHEREAS, in conjunction with the Applicant's request for the above referenced conditional use permit, the Applicant also requests (in a separate application) rezoning the subject property from C-2, Highway Commercial to TUD, Transitional Urban Development; and

WHEREAS, the City's Unified Development Ordinance allows a single-family residence on property in the TUD zoning district with the issuance of a conditional use permit, but the Unified Development Ordinance requires that a single-family residence in the C-2 zoning district be associated with a business on the property; and

WHEREAS, the City's approval of the Applicant's request for a conditional use permit to construct a single-family residence on the subject property is contingent on the City's approval of the Applicant's request to rezone the subject property to TUD, Transitional Urban Development; and

WHEREAS, the City's Development Review Committee reviewed the Applicant's conditional use permit request and did not object to the City

approving the request, provided that the subject property is rezoned to TUD, Transitional Urban Development; and

WHEREAS, City Staff reviewed the Applicant's conditional use permit request, prepared a report to the Planning Commission, and made a recommendation to approve the Applicant's conditional use permit request; and

WHEREAS, the Planning Commission, on April 5, 2021, following proper notice, held a public hearing regarding the Applicant's request, and following the said public hearing recommended that the City Council conditionally approve the Applicant's conditional use permit request based on the following findings as required by Chapter 2, Article 7, Section 2-300 of the City's Unified Development Ordinance:

- 1. Finding: The conditional use will not be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare.**

Expanded Finding: The proposed single-family residence will be on a partially developed 13.6-acre parcel. The proposed residence will not be detrimental to the public or surrounding property owners.

- 2. Finding: The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.**

Expanded Finding: The proposed single-family residence will not adversely affect surrounding properties, nor will it prevent the subject property from redeveloping for commercial or industrial use once development occurs to the east of the subject property.

- 3. Finding: The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area.**

Expanded Finding: The proposed single-family residence is in character with the surrounding rural uses. Over time, the

property to the east (and the subject property) may develop with commercial and industrial uses.

4. Finding: The conditional use will not impose hazards or disturbing influences on neighboring properties.

Expanded Finding: The proposed single-family residence is a low-intensity use that will not impose hazards or disturb neighboring properties. The existing surrounding uses are agricultural. The proposed single-family residence will have a compliant septic system until the property can be reasonably and logically served by City sewer and water.

5. Finding: The conditional use will not substantially diminish the value of neighboring properties.

Expanded Finding: The proposed single-family residence will not diminish the value of the neighboring properties. The existing surrounding uses are agricultural uses that will not be affected by the proposed single-family residence. Furthermore, the proposed residence will not substantially diminish the value of the property to the east if that area develops with commercial or industrial uses.

6. Finding: The site is served adequately by essential public facilities and services, including utilities, access roads, drainage, police and fire protection, and schools, or will be served adequately as a result of improvements proposed as part of the conditional use.

Expanded Finding: The subject property is adequately served by police and fire protection, schools, and roads. The proposed single-family residence will be served by onsite septic and well.

7. Finding: Development and operation of the conditional use will not create additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.

Expanded Finding: The Owner will be responsible for all costs associated with the proposed single-family residence.

- 8. Finding: Adequate measures have been or will be taken to minimize traffic congestion in the public streets and to provide for adequate on-site circulation or traffic.**

Expanded Finding: The proposed single-family residence will not have a significant impact on traffic. The residence will be accessed from an existing paved driveway off of Canby Avenue.

- 9. Finding: The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of importance to the community.**

Expanded Finding: There are no known significant natural, scenic, or historical features that will be affected by the proposed single-family residence.

- 10. Finding: The conditional use is consistent with the applicable policies and recommendations of the City's Land Use Plan or other adopted land use studies.**

Expanded Finding: The City's Journey to 2040 Comprehensive Plan guides the subject property for commercial/industrial uses. The proposed single-family residential use will not prevent the property from transitioning to commercial or industrial use once the area is served by City sewer, water, and streets.

- 11. Finding: The conditional use, in all other respects, conforms to the applicable regulations of the district in which it is located.**

Expanded Finding: The proposed single-family residence will be constructed consistent with the applicable City ordinances and the applicable building codes; and

WHEREAS, at a public meeting on April 13, 2021, the City Council considered the Applicant's request and concurred with the recommendation and written findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Faribault as follows:

Section 1. Approval of Conditional Use Permit. The City Council hereby approves the Applicant's request for issuance of a conditional use permit to construct a single-family residence on the subject property subject to the conditions of approval described in Section 2 and Section 3 of this Resolution.

Section 2. Conditions Attached to the Approval of the Conditional Use Permit. Approval of this conditional use permit is conditioned on the following:

1. Construction on the proposed single-family residence shall not occur before the issuance of all required permits, including, but not limited to, a zoning certificate of compliance, a building permit, and all necessary permissions for the septic system and well.
2. The City shall not issue a building permit for the proposed single-family residence until the publication of Ordinance 2021-2 Rezone 20905 Canby Avenue from C-2, Highway Commercial to TUD, Transitional Urban Development.

Section 3. Additional Conditions Attached to the Approval of this Conditional Use Permit. Approval of this conditional use permit is also conditioned on the following:

1. A failure by the City to take action with respect to any violation of any condition, covenant, or term of this permit shall not be deemed a waiver of such condition, covenant, or term, or any subsequent violation of the same, or any other condition, covenant, or term.
2. The City may inspect the property at all reasonable times to ensure compliance with the conditions of the conditional use permit.
3. This conditional use permit is subject to the requirements of the Faribault Code of Ordinances. The Owner is required to comply with all applicable federal, state, and local laws, rules, and ordinances and to obtain such other permissions and permits as may be required.
4. The violation of any terms or conditions of the conditional

use permit, including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in the City's revocation of this conditional use permit. The City shall give the Owner written notice of any violation and reasonable time, as determined by the City, to cure the violation before the City's revocation of this conditional use permit may occur.

5. This conditional use permit and the conditions imposed on it are binding on the parties, their successors, and assigns, shall run with the property, and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership. The Owner's obligations under this permit shall also be the obligations of any subsequent Owners or assigns of the property.
6. Use of the subject property for the uses allowed by this conditional use permit shall be deemed acceptance of, and agreement to, the terms of and conditions of the conditional use permit without qualification, limitation, or reservation.
7. If substantial development or construction related to this conditional use permit has not occurred within one (1) year of the date of the approval of this conditional use permit, then the City shall consider this conditional use permit void unless a petition for a time extension has been granted by the City Council. Such an extension request shall be submitted in writing at least thirty (30) days before the expiration of the conditional use permit. The request shall state facts showing a good faith effort to complete the work permitted under the original approval.
8. If the use permitted by this conditional use permit is discontinued for one (1) year or longer, or if the use has been changed to a permitted use or any other conditional use, then this conditional use permit shall be deemed abandoned, and the use shall be brought into conformance with the Faribault Code of Ordinances.

Section 4. Authorized Actions of the City. The City Council hereby authorizes and directs the Mayor, City Administrator, City Staff, and the City's Consultants to take any additional steps and actions necessary or

convenient to accomplish the intent of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its passage and upon publication of Ordinance 2021-2 Rezone 20905 Canby Avenue from C-2, Highway Commercial to TUD, Transitional Urban Development.

Date Adopted: April 13, 2021

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

EXHIBIT 1
LEGAL DESCRIPTION OF SUBJECT PROPERTY

PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 35, TOWNSHIP 110 NORTH, RANGE 21 WEST OF THE FIFTH PRINCIPAL MERIDIAN, RICE COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER (SW1/4) OF SOUTHWEST QUARTER (SW1/4); THENCE EASTERLY, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW1/4) (FOR PURPOSES OF THIS DESCRIPTION BEARING OF SAID SOUTH LINE IS ASSUMED NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST), A DISTANCE OF 530.84 FEET; THENCE NORTH 0 DEGREES 28 MINUTES 19 SECONDS EAST, 1283.57 FEET TO A POINT IN THE CENTER LINE OF MINNESOTA TRUNK HIGHWAY 60; THENCE SOUTH 58 DEGREES 29 MINUTES 35 SECONDS WEST, ALONG SAID CENTER LINE OF HIGHWAY 60, A DISTANCE OF 219.53 FEET TO THE BEGINNING OF A TANGENTIAL CURVE; THENCE SOUTHWESTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY (CURVE DATA: RADIUS EQUALS 5729.58 FEET; DELTA ANGLE EQUALS 4 DEGREES 09 MINUTES 38 SECONDS; CHORD BEARING AND DISTANCE EQUAL SOUTH 56 DEGREES 24 MINUTES 47 SECONDS WEST, 415.96 FEET), AN ARC DISTANCE OF 416.05 FEET TO A POINT IN THE WEST LINE OF SAID SOUTHWEST QUARTER (SW1/4); THENCE SOUTH 0 DEGREES 28 MINUTES 19 SECONDS WEST, ALONG SAID WEST LINE 938.72 FEET TO SAID POINT OF BEGINNING; SUBJECT TO A TOWNSHIP ROAD OVER THE WESTERLY SIDE AND SUBJECT TO SAID HIGHWAY 60 OVER THE NORTHWESTERLY SIDE OF THE HEREIN DESCRIBED PARCEL; CONTAINING 13.602 ACRES, MORE OR LESS, INCLUDING SAID ROAD AND HIGHWAY RIGHTS OF WAY, AND CONTAINING 11.511 ACRES, MORE OR LESS, EXCLUDING SAID ROAD AND HIGHWAY RIGHTS OF WAY.