



Special Meeting Agenda
City of Mora Planning Commission
Monday, September 26, 2022
5:30 PM Mora City Hall

Mora City Hall
101 Lake Street S
Mora, MN 55051
Kanabec County,
Minnesota

City of Mora Code of Ordinances, Chapter 32: The role of the Planning Commission is to serve the City Council in an advisory capacity on matters relating to citizen requests for action, zoning changes and review, Comprehensive Plan reviews, capital improvement reviews, and other actions as deemed necessary to carry out the functions of a pro-active Planning Commission.

1. Call to Order

2. Roll Call:

Jake Mathison
Sheldon Shepard
Sara Treiber
Lance Strande
VACANT

3. Adopt Agenda

4. 706 Summit Lane Conditional Use Permit for Duplex in R-1

5. Adjournment

The next regular meeting is scheduled for **5:30 p.m. Wednesday, October 5, 2022.**



MEMORANDUM

TO: Planning Commission
 FROM: Kirsten Faurie, Community Development Director
 SUBJECT: Public Hearing - Conditional Use Permit to allow a *Duplex structure* to be located in the R-1 Single Family Residential District
 DATE: September 26, 2022

SUMMARY

The Planning Commission will consider a request for a Conditional Use Permit to allow a *duplex structure* to be located in the R-1 Single Family Residential District.

SITE & APPLICATION INFORMATION

Applicant:	Kelling Capital LLC
Property Owner:	Kelling Capital LLC
Location:	706 Summit Lane, Mora, MN, 55051
Current Zoning:	R-1 Single Family Residential District
Adjacent Zoning:	North: R-1 Single Family Residential District South: R-1 Single Family Residential District East: R-1 Single Family Residential District West: R-1 Single Family Residential District
Comp. Plan Designation:	Low Density Residential
Date Application Complete:	August 17, 2022
Public Hearing Conducted:	September 12, 2022
60-Day Review Period:	October 16, 2022

DISCUSSION

In February 2022, city staff initially sat down with a representative of Kelling Capital, LLC to discuss a potential project. Kelling Capital proposed construction of a duplex at 706 Summit Lane. At the time, staff informed Kelling Capital the proposed duplex was located in the R-3 Multiple Dwelling District. The R-3 district lists duplexes as a permitted use, therefore they would not need a conditional use permit to proceed. Kelling Capital proceeded with their project, purchased the property in April for \$22,000 and began site work on the lot. Kelling Capital requested a building permit which has not yet been issued.

In early August, staff re-examined the project and determined the lot was not in the R-3 district, but was actually in R-1 where construction of a duplex is allowed but only with a conditional use permit. Kelling Capital was contacted, informed of the issue and asked to pause their project and submit a CUP application.

On August 17, Kelling Capital LLC, applicant and property owner, applied for a Conditional Use Permit (CUP) to allow construction of a duplex to be located in the R-1 Single Family Residential District. The subject site is located at 706 Summit Lane.

The proposed project includes construction of a single-level, two-unit duplex structure with garages. The site is a 100-foot lot which is currently vacant. The lot is surrounded by single-family homes on all sides.

The proposed duplex has been reviewed by the city building official as well as the public works director; no concerns have been identified.

A public hearing notice was published in the September 1 and 8, 2022 editions of the *Kanabec County Times* and notices were mailed to all property owners within 350 feet of the subject property. Staff did not receive any written or verbal comments from the public after the CUP application was received. There were comments received in early August which first alerted staff to the need for a CUP. Those comments included concerns about additional traffic, the size and style of the structure.

The Planning Commission held a public hearing Sept. 12 and heard comments from the public. The Commission asked staff to research some questions which were asked during the hearing. In their research, staff found five examples of approved CUPs for duplex structures in R-1 (see the attached map).

FINDINGS

Zoning Code Section 150.036 (Conditional Uses), Subd. E (Standards) states that, "In considering an application for Conditional Use Permit, the Planning Commission shall make its recommendation upon the finding that the application complies with each of the standards set forth below and, where applicable, any conditional standards for specific uses set forth in the provisions of a specific zoning district." The city shall not grant a Conditional Use Permit without making certain findings. The criteria required for the granting of Conditional Use Permits are listed below with proposed findings for the Planning Commission's consideration.

- | | |
|-------------------|--|
| Criteria #1 | The use is consistent with the purposes and intent of the Zoning Code and the purposes and intent of the zoning district in which the applicant intends to locate the proposed use. |
| <i>Finding #1</i> | <i>The Zoning Code identifies the proposed construction of a duplex as a Conditional Use within the R-1 Single Family Residential District and the proposed use complies with all district regulations. Therefore, the proposed use is consistent with the intent of the Zoning Code and R-1 Single Family Residential District.</i> |
| Criteria #2 | The use is in keeping with the Comprehensive Plan and the policies thereof. |
| <i>Finding #2</i> | <i>The city's current Comprehensive Plan, adopted in 2021, encourages the development and maintenance of a broad variety of housing types to provide the full range of housing opportunities at different sizes, densities and price ranges. This housing goal encourages that city ordinances allow for flexibility in housing types and the design of neighborhoods so as to be responsive to the needs of current and future residents.</i> |
| Criteria #3 | The use will not cause undue traffic congestion or hazards. |
| <i>Finding #3</i> | <i>There is no evidence the proposed use would cause undue traffic congestion or hazards in the general area.</i> |
| Criteria #4 | The use will be adequately served by public utilities and all other necessary public facilities and services. |

Finding #4 The property is currently served by municipal water, sewer, and electric service; and, the property is adequately served by all other public services, including public streets and emergency services.

Criteria #5 The structure and the site shall have an appearance that will not have an adverse effect upon adjacent properties.

Finding #5 The proposed duplex is a single-level residential structure. There is no evidence to suggest that the appearance will have an adverse effect upon adjacent properties.

Criteria #6 The use will be sufficiently compatible by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

Finding #6 The proposed use is compatible with R-1 requirements for area, frontage and yard setbacks. There is no evidence to suggest the proposed use would cause depreciation in value of existing homes.

Criteria #7 The use will not jeopardize the public's health, safety or general welfare.

Finding #7 There is no evidence to suggest that the proposed use will jeopardize the public's health, safety or general welfare.

OPTIONS

1. Recommend approval of the Conditional Use Permit with conditions as presented or amended. Staff will need to extend the time period for final approval by the city council for 60 days in order to comply with Minnesota's 60-day rule.
2. Recommend denial of the Conditional Use Permit, providing specific reasons for the recommendation of denial for the written record.

STAFF RECOMMENDATION

Staff recommends approval

ACTION REQUESTED

Motion to approve Resolution No. PC2022-091 as presented or amended.

ATTACHMENTS

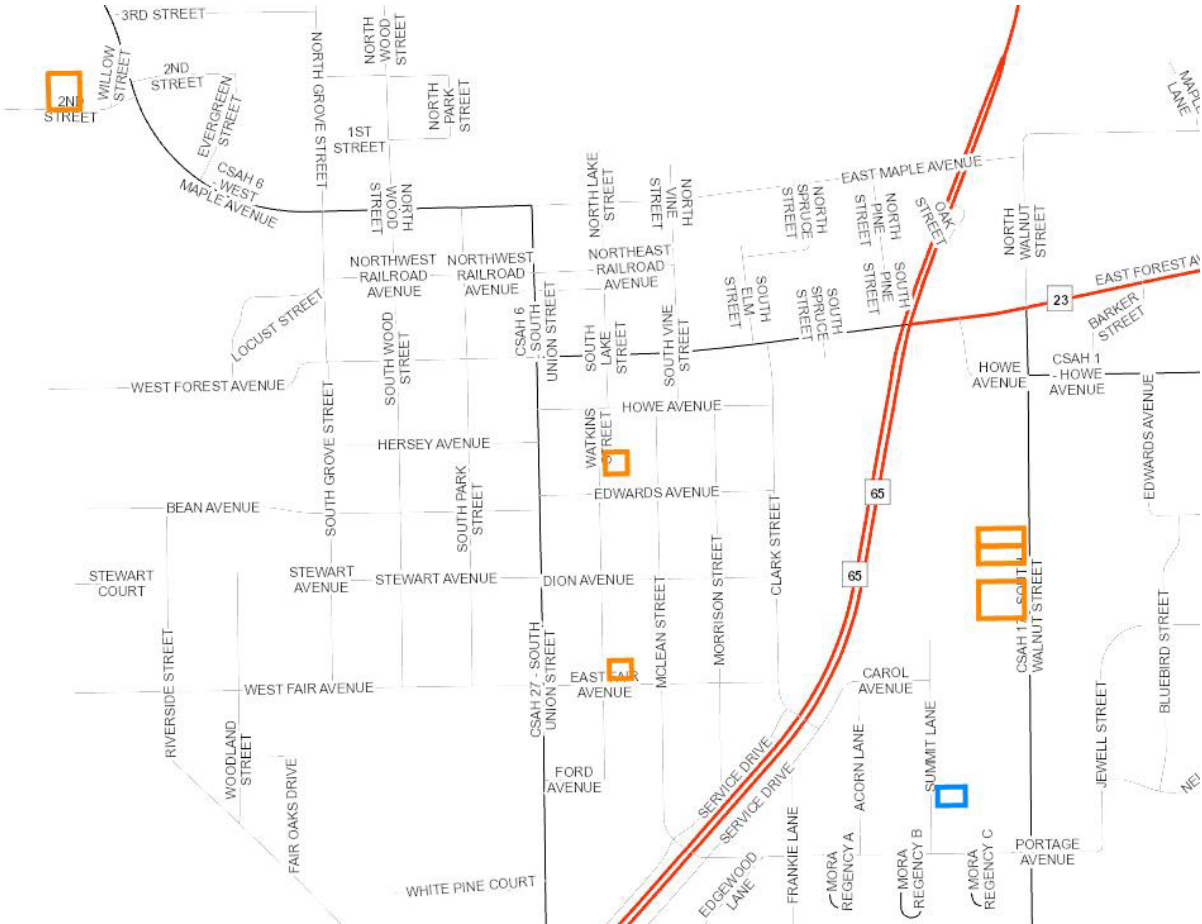
1. Map of other CUPs approved for duplex structures in R-1
2. Comments from city attorney
3. Site plan
4. Public Notice
5. Proposed Resolution No. PC2022-091

Examples of Approved CUPs for Duplex Structures

City staff found five examples of approved Conditional Use Permits to place a duplex structure in an R-1 District. It should be noted this is simply a list of CUPs which were approved – it does not mean a duplex currently exists at these locations.

1. June 28, 2000
501 Walnut St. S
2. June 24, 2002
409 Walnut St. S
403 Walnut St. S
3. Sept. 23, 2002
560 Watkins St.
4. June 23, 2003
approx. 307 Willow St.
5. March 22, 2004
330 Watkins St.

These properties are shown in orange on the map below; 706 Summit Lane is shown in blue:



From: [Joel Jamnik](#)
To: [Kirsten Faurie](#)
Cc: [Leah Koch](#)
Subject: Re: Zoning mistake
Date: Tuesday, September 13, 2022 3:45:49 PM
Attachments: [image001.png](#)
[image001.png](#)

Kirsten,

The short version is that the denial could be appealed to court and a judge could reverse the denial. I would never say a denial couldn't be based on something spectacularly and unusually bad that wasn't captured in the listed criteria, but i can't imagine that situation given the nature of the proposed use.

We should have a call to discuss this matter tomorrow or Thursday.

Joel J. Jamnik

CAMPBELL KNUTSON, P.A.

Grand Oak Office Center I

[860 Blue Gentian Road, Suite 290](#)

[Eagan, MN 55121](#)

[\(651\) 234-6219](#) • **Fax: [\(651\) 234-6237](#)**

jjamnik@ck-law.com • www.ck-law.com

On Sep 13, 2022, at 2:57 PM, Kirsten Faurie <k.faurie@cityofmora.com> wrote:

Good morning Joel and Leah:

I have a question from our Planning Commission: We have a request for a Conditional Use Permit for a duplex in R-1 (we previously asked about this issue where the city staff made an error; see emails below) . City Code states under 150.036 Conditional Uses:

(E) *Standards*. In considering an application for conditional use permit, the Planning Commission shall make its recommendation upon the finding that the application complies with each of the standards set forth below and, where applicable, any conditional standards for specific uses set forth in the provisions of a specific zoning district.

(1) The use is consistent with the purposes and intent of the Zoning Code and the purposes and intent of the zoning district in which the applicant intends to locate the proposed use.

(2) The use is in keeping with the Comprehensive Plan and the policies thereof.

(3) The use will not cause undue traffic congestion or hazards.

(4) The use will be adequately served by public utilities and all other necessary

public facilities and services.

(5) The structure and the site shall have an appearance that will not have an adverse effect upon adjacent properties.

(6) The use will be sufficiently compatible by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

(7) The use will not jeopardize the public's health, safety or general welfare.

The questions: What could be the legal ramifications (if any) of if the Conditional Use Permit application met these standards, yet was still denied by the planning commission or city? Is there an avenue to deny a CUP outside of whether or not it meets these criteria?

Kirsten Faurie
Community Development Director
City of Mora
101 Lake Street South | Mora, MN 55051-1588
Direct – 320.225.4807 | City Hall – 320.679.1511



<!--[if !vml]--> <!--[endif]-->

www.ci.mora.mn.us

From: Caleb Christenson
Sent: Tuesday, September 13, 2022 8:49 AM
To: Kirsten Faurie <k.faurie@cityofmora.com>
Subject: FW: Zoning mistake

From: Joel Jamnik [<mailto:JJamnik@ck-law.com>]
Sent: Monday, August 15, 2022 3:16 PM
To: Caleb Christenson <c.christenson@cityofmora.com>
Subject: RE: Zoning mistake

Well, don't get too far ahead of yourself on this one: a CUP is a use that is generally permitted if conditions are met, so the neighbors would have a high bar to successfully prevent the CUP if the PC and CC think the project is appropriate. And if the CUP is denied, there is little chance of a successful lawsuit against the City for the error, even with these facts. And the measure of damages is the difference between the duplex (two smaller sized units) v. a single family dwelling that would likely be larger and potentially of higher value/unit.

Joel

Joel J. Jamnik

Attorney

CAMPBELL KNUTSON, P.A.

Grand Oak Office Center I

860 Blue Gentian Road, Suite 290

Eagan, MN 55121

☎ (651) 234-6219 • Cell: (651) 470-0756

✉ jjamnik@ck-law.com • www.ck-law.com



From: Caleb Christenson <c.christenson@cityofmora.com>

Sent: Monday, August 15, 2022 2:43 PM

To: Joel Jamnik <JJamnik@ck-law.com>

Subject: Zoning mistake

Good afternoon Joel: We had a contractor buy a lot on contingents that they can build a duplex on it. The Zoning Official and I made a mistake and told the contractor that the area is zoned R-3 and it's a permitted use so they purchased the lot, applied for a building permit and started site prep. We caught the mistake this morning before the permit was issued but realized it's zoned R-1 single family district and requires a conditional use permit. We're wondering if the conditional use is denied, is it legal for the City of Mora to reimburse the contractor for the lot and expenses? If not, can you think of an alternative? We can't spot zone it and it sounds like the neighbors may contest the CUP.

Thank you

Caleb Christenson

Building Official

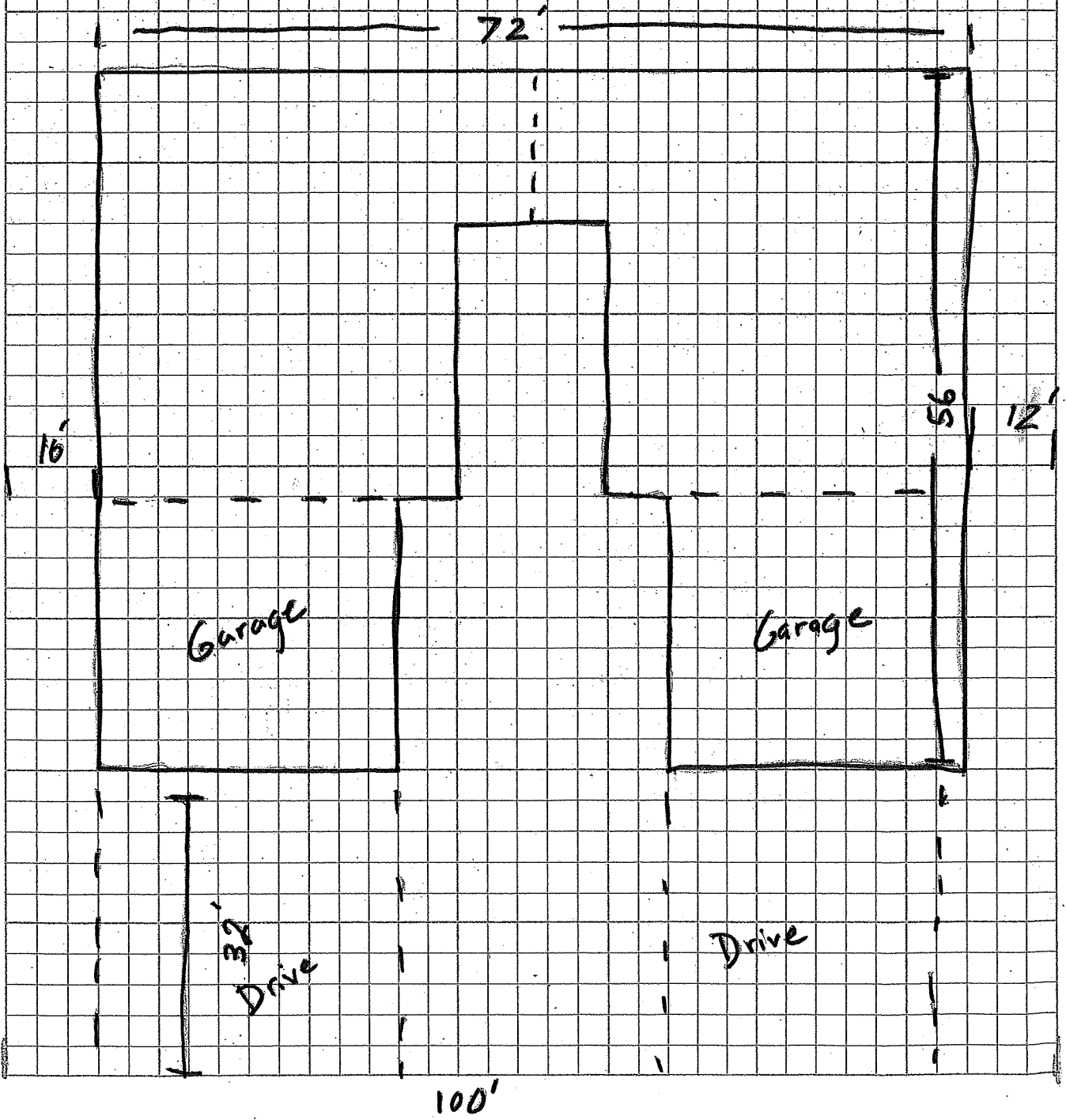
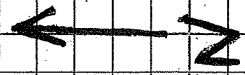
City of Mora | 101 Lake Street South | Mora, MN 55051-1588

Direct 320.225.4808 | Cell 320.674.0038 | City Hall 320.679.1511



www.ci.mora.mn.us

Site Plan



**CITY OF MORA, MN
PUBLIC NOTICE**

**NOTICE OF A PUBLIC HEARING TO CONSIDER AN APPLICATION FOR A
CONDITIONAL USE PERMIT TO ALLOW A *DUPLEX STRUCTURE* TO BE LOCATED IN THE R-1 SINGLE
FAMILY RESIDENTIAL DISTRICT AS REQUESTED BY KELLING CAPITAL LLC**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Mora, Minnesota, will conduct a Public Hearing at 5:30 p.m. or thereafter on Monday, September 12, 2022, at Mora City Hall located at 101 Lake Street S., Mora, MN 55051.

This public hearing is for the purpose of considering a request for a Conditional Use Permit to allow a *duplex structure* to be located at 706 Summit Lane. The proposed project includes construction of a single-story duplex structure on a 100-foot vacant lot. The subject site is located in the R-1 Single Family Residential District. The applicant and property owner is Kelling Capital LLC. The subject site is legally described as:

PID 22.05825.00

The South 30 feet of Lot Four (4), and the North 70 feet of Lot Five (5), Summit Addition to the Village of Mora, Kanabec County, Minnesota..

Any person may offer testimony, either orally at the meeting or by letter to the City of Mora Planning Commission, in support of or in opposition to the subject matter. Written testimony should be addressed to the City of Mora Planning Commission and sent to 101 Lake Street S., Mora, MN 55051 or k.faurie@cityofmora.com and received no later than Friday, Sept. 9, 2022. Questions about the proposed Conditional Use Permit should be directed to Kirsten Faurie at 320-225-4807 or k.faurie@cityofmora.com.

For the Mora Planning Commission

Kirsten Faurie
Community Development Director
City of Mora

Published in the Kanabec County Times Sept. 1, 8 2022

RESOLUTION NO. PC2022-091

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORA, MINNESOTA,
RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT ALLOWING A
DUPLEX TO BE LOCATED IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT
AS REQUESTED BY KELLING CAPITAL LLC**

WHEREAS, Kelling Capital LLC, applicant and property owner, submitted an application dated received August 17, 2022 and considered complete on August 17, 2022 for a Conditional Use Permit allowing a Duplex to be located in the R-1 Single Family Residential District; and

WHEREAS, the subject property is located at 706 Summit Lane, and

WHEREAS, the subject property is legally described as:

PID 22.05825.00

The South 30 feet of Lot Four (4), and the North 70 feet of Lot Five (5), Summit Addition to the Village of Mora, Kanabec County, Minnesota

WHEREAS, notice was provided and on August 26, 2022, the Planning Commission conducted a public hearing regarding this application, at which it heard from the Community Development Director and invited members of the public to comment; and

WHEREAS, the Planning Commission has made the following findings as required by Zoning Code §150.036 Conditional Uses, Subd. E Standards:

Criteria #1 The use is consistent with the purposes and intent of the Zoning Code and the purposes and intent of the zoning district in which the applicant intends to locate the proposed use.

Finding #1 The Zoning Code identifies the proposed construction of a duplex as a Conditional Use within the R-1 Single Family Residential District and the proposed use complies with all district regulations. Therefore, the proposed use is consistent with the intent of the Zoning Code and R-1 Single Family Residential District.

Criteria #2 The use is in keeping with the Comprehensive Plan and the policies thereof.

Finding #2 The city's current Comprehensive Plan, adopted in 2021, encourages the development and maintenance of a broad variety of housing types to provide the full range of housing opportunities at different sizes, densities and price ranges. This housing goal encourages that city ordinances allow for flexibility in housing types and the design of neighborhoods so as to be responsive to the needs of current and future residents.

Criteria #3 The use will not cause undue traffic congestion or hazards.

Finding #3 There is no evidence the proposed use would cause undue traffic congestion or hazards in the general area.

Criteria #4 The use will be adequately served by public utilities and all other necessary public facilities and services.

- Finding #4 The property is currently served by municipal water, sewer, and electric service; and, the property is adequately served by all other public services, including public streets and emergency services.*
- Criteria #5 The structure and the site shall have an appearance that will not have an adverse effect upon adjacent properties.
- Finding #5 The proposed duplex is a single-level residential structure. There is no evidence to suggest that the appearance will have an adverse effect upon adjacent properties.*
- Criteria #6 The use will be sufficiently compatible by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- Finding #6 The proposed use is compatible with R-1 requirements for area, frontage and yard setbacks. There is no evidence to suggest the proposed use would cause depreciation in value of existing homes.*
- Criteria #7 The use will not jeopardize the public's health, safety or general welfare.
- Finding #7 There is no evidence to suggest that the proposed use will jeopardize the public's health, safety or general welfare.*

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORA, MINNESOTA, AS FOLLOWS:

That the Planning Commission recommends approval of the Conditional Use Permit with the following conditions:

1. The *duplex* shall be installed in conformance with the site plan submitted August 17, 2022. Any major deviation, as determined by city staff, shall require further review and approval by the City Council.
2. The applicant and/or property owner shall
 - a. Install separate water services after initial line to isolate sides of the duplex
 - b. Use erosion/sediment control such as fences or logs during construction
 - c. Clean the road of sediment/mud and debris during all stages of construction
3. Issuance of a building permit is required prior to construction.
4. This Conditional Use Permit shall be utilized and all conditions shall be met within one year of recording or the Conditional Use Permit shall become null and void.

Adopted by the Planning Commission of the City of Mora, Minnesota, this 26th day of September, 2022.

Jake Mathison _____
 Sheldon Shepard _____
 Sara Treiber _____

Lance Strande _____
 (Vacant) _____

 Jake Mathison
 Chair

ATTEST:

 Kirsten Faurie
 Community Development Director