

**To: HONORABLE MAYOR AND CITY COUNCIL.**

**FROM: Dave Maroney, Director of Economic Development and Planning.**

**SUBJECT: Encroachment Agreement – 721 Main Street West.**

**DATE: October 1, 2014.**

**BACKGROUND.**

Duane and Judith Holt are in the process of selling their home located at 721 Main Street West. To facilitate the sale, the Holt's are seeking approval by the City Council of the accompanying *Encroachment Agreement*. The As-Built Survey (May 23, 2003) shows that the 10' x 10' shed located in the northeast portion of the property encroaches approximately two (2) feet onto the adjacent property that is owned by the City of Cannon Falls.

**REQUESTED COUNCIL ACTION.**

If the City Council sees no reason to deny the request, the *Encroachment Agreement* should be approved as presented.

**SAMUELSON SURVEYING INC.**

1103 West Main  
Cannon Falls, MN 55009

V. Richard Samuelson  
Registered Land Surveyor

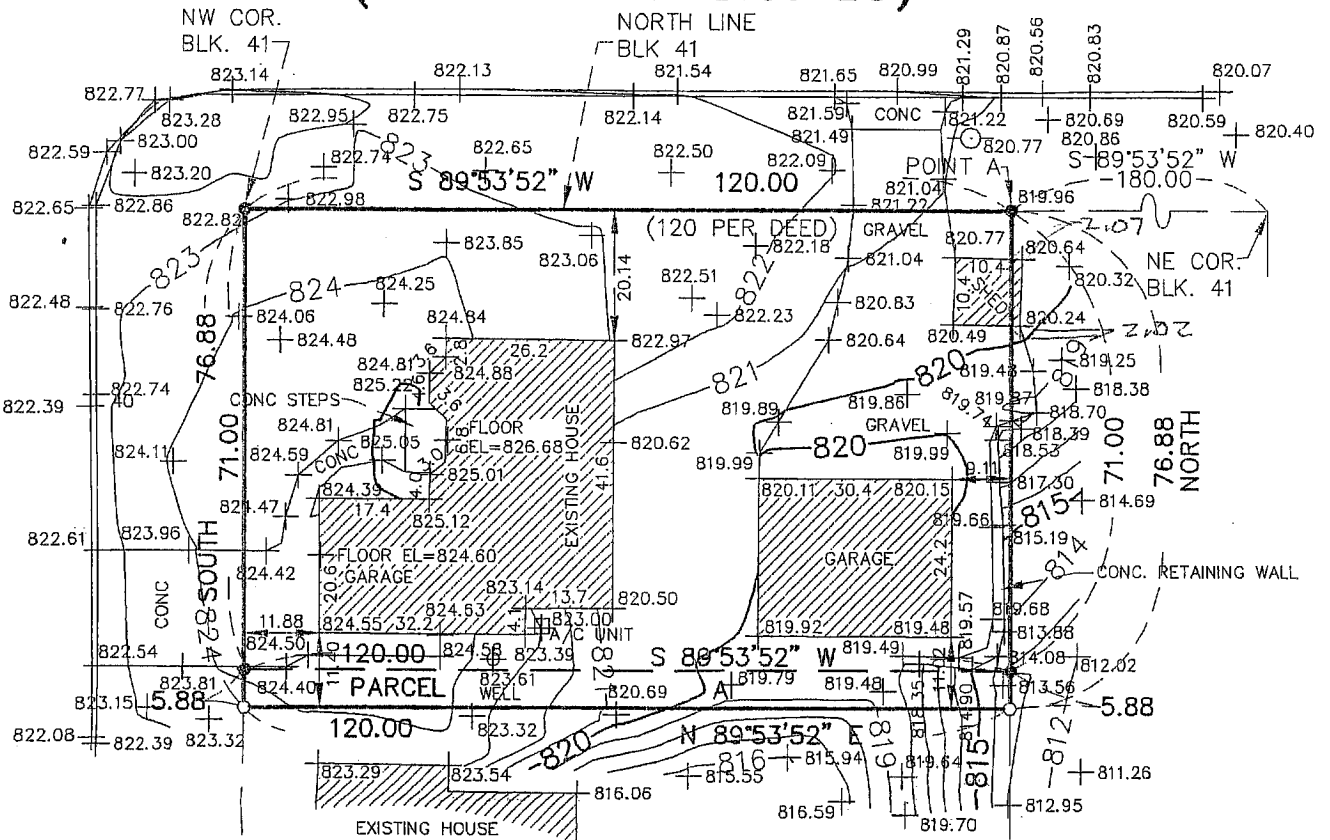


SURVEYOR'S CERTIFICATE

**MAIN STREET  
(STATE HWY. NO. 19)**

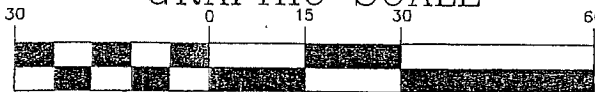
CENTERLINE

**EIGHTH STREET**



BENCHMARK: TOP NUT HYDRANT NW QUAD.  
EIGHT ST. AND PARK ST. EL=818.33

**GRAPHIC SCALE**



( IN FEET )  
1 inch = 30 ft.

- DENOTES SET IRON PIPE WITH PLASTIC CAP MARKED RLS 16998
- DENOTES FOUND IRON
- DENOTES POWER POLE
- 815 — DENOTES CONTOUR OF ELEVATION
- +815.00 DENOTES SPOT ELEVATION

**EXISTING LEGAL DESCRIPITON**

That part of the Block 41, CITY OF CANNON FALLS, according to the recorded plat thereof, Goodhue County, Minnesota, described as follows:

Beginning at a point on the north line of said Block 41 distant 180.00 feet west from the northeast corner of said Block 41; thence South 89 degrees 53 minutes 52 seconds West (assumed bearing) along the north line of said Block 41 a distance of 120.00 feet to the northwest corner of said Block 41; thence on a bearing of South along the west line of said Block 41 a distance of 71.00 feet; thence North 89 degrees 56 minutes 46 seconds East 120.00 feet to an intersection with with a line bearing South from said point of beginning; thence on a bearing of North 71.00 feet to the point of beginning.

**PROPOSED LEGAL DESCRIPITON PARCEL A**

That part of Block 41, CITY OF CANNON FALLS, according to the recorded plat thereof, Goodhue County, Minnesota described as follows:

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ENCROACHMENT AGREEMENT

AGREEMENT (“Agreement”) made this \_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF CANNON FALLS, a Minnesota municipal corporation (“City”), and DUANE H. HOLT AND JUDITH A. HOLT, husband and wife (“Landowners”).

RECITALS

A. Landowners are the fee owners of real property located at 721 Main Street West in the City of Cannon Falls, situated in Goodhue County, Minnesota, identified as PID 52.100.2630 and legally described on Exhibit “A” attached hereto (“Subject Property”):

B. Landowners’ shed encroaches on property owned by the City and legally described on Exhibit “B” attached hereto (“City Property”). Landowners seek permission from the City to encroach on the City Property.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS,  
THE PARTIES AGREE AS FOLLOWS:

1. The City hereby grants Landowners permission for the shed to encroach on the City Property.
2. Nothing in this Agreement shall be deemed an abandonment, vacation or waiver of the City interest in the City Property.

3. Landowners, for themselves, their heirs, successors and assigns, hereby agree to defend, indemnify and hold the City harmless from all costs and expenses, claims and liability, including attorney fees, relating to or arising out of the grant to Landowners of permission to encroach into the City property. Landowners further agree to indemnify and hold the City harmless from any damage caused to the Subject Property as a result of maintenance of the City property, including any damage to the residence on the Subject Property, caused in whole or part by the encroachment into the City property.

4. The City does not warrant title or guarantee the continuing right of Landowners to maintain the shed on the City Property.

5. The City may terminate this Agreement upon ninety (90) days written notice if the City determines it has a use for the City property and that the shed interferes with the use. Landowners may not replace the shed on the City property if it is damaged to more than fifty percent (50%) of its fair market value, as measured immediately prior to the damage.

6. This Agreement shall run with the land and shall be recorded against the title to the Subject Property.

*[The remainder of this page has been intentionally left blank.  
Signature pages follow.]*

CITY OF CANNON FALLS

By: \_\_\_\_\_  
Lyman M. Robinson, Mayor

By: \_\_\_\_\_  
Ronald S. Johnson, City Administrator

STATE OF MINNESOTA            )  
  )ss.  
COUNTY OF GOODHUE         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Lyman M. Robinson and Ronald S. Johnson, the Mayor and City Administrator, respectively, of the City of Cannon Falls, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
Notary Public

LANDOWNERS:

\_\_\_\_\_  
Duane H. Holt

\_\_\_\_\_  
Judith A. Holt

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF GOODHUE         )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Duane H. Holt and Judith A. Holt, husband and wife.

\_\_\_\_\_  
Notary Public

DRAFTED BY AND RETURN TO:  
CAMPBELL KNUTSON  
*Professional Association*  
317 Eagandale Office Center  
1380 Corporate Center Curve  
Eagan, MN 55121  
Telephone: 651-452-5000  
RNK

**EXHIBIT "A"**

Holt Property

That part of Block 41, CITY OF CANNON FALLS, according to the recorded plat thereof, Goodhue County, Minnesota, described as follows:

Beginning at a point on the north line of said Block 41 distant 180.00 feet west from the northeast corner of said Block 41; thence South 89 degrees 53 minutes 52 seconds West (assumed bearing) along the north line of said Block 41 a distance of 120.00 feet to the northwest corner of said Block 41; thence on a bearing of South along the west line of said Block 41 a distance of 71.00 feet; thence North 89 degrees 56 minutes 46 seconds East 120.00 feet to an intersection with a line bearing South from said point of beginning; thence on a bearing of North 71.00 feet to the point of beginning.

AND

That part of Block 41, CITY OF CANNON FALLS, according to the recorded plat thereof, Goodhue County, Minnesota, described as follows:

Commencing at a point on the north line of said Block 41 distant 180.00 feet west from the northeast corner of said Block 41, said point shall be hereinafter called point "A"; thence South 89 degrees 53 minutes 52 seconds West (assumed bearing) along the north line of said Block 41 a distance of 120.00 feet to the northwest corner of said Block 41; thence on a bearing of South along the west line of said Block 41 a distance of 71.00 feet to the point of beginning; thence continuing on a bearing of South along said west line 5.88 feet; thence North 89 degrees 53 minutes 52 seconds East 120.00 feet to the intersection with a line that bears South from said point "A"; thence on a bearing of North 5.88 feet; thence South 89 degrees 53 minutes 52 seconds West 120.00 feet to the point of beginning.

**EXHIBIT "B"**

City Property

That part of Block 41, CITY OF CANNON FALLS, according to the recorded plat thereof, Goodhue County, Minnesota, described as follows:

Commencing at the northeast corner of said Block 41; thence South 89 degrees 53 minutes 52 seconds West (assumed bearing) along the north line thereof 180.00 feet; thence on a bearing of south 6.47 feet to the point of beginning of the land to be described; thence continuing on a bearing of South 12.36 feet; thence South 88 degrees 44 minutes 16 seconds East 2.44 feet; thence North 1 degree 24 minutes 22 seconds East 12.36 feet; thence North 88 degrees 48 minutes 13 seconds West 2.75 feet to the point of beginning.