

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: SAMANTHA PIERRET, ZONING ASSISTANT**  
**RE: CONDITIONAL USE PERMIT, KRIE**  
**DATE: DECEMBER 13, 2018**

**Background:**

Jerry and Carol Krie applied for a Conditional Use Permit to move in a structure onto a residential lot on Hemlock Drive in Cannon Falls. The permit was brought to the Council in July and August of 2018 after the Planning Commission held a public hearing and recommended approval of the application. After councilmember comments and discussion at the August meeting, it was determined that a more thorough site plan detailing drainage, excavation and retaining wall construction was needed for the City Engineer to approve the project. The Council tabled the application at the August 21, 2018 meeting until City Engineer approval could be obtained from the applicants.

In order to comply with Minnesota State Statute 15.99 regarding the time period allowed for approval of a conditional use permit, when no additional information was received, I contacted the applicants via mail and email in September of 2018. The applicants requested an extension for consideration of the permit until December 18, 2018. When no additional information had been received, I once again contacted the applicants via mail on November 28<sup>th</sup>.

In an email to the applicants on December 11, 2018 I clarified the consequences of permit denial versus permit withdrawal. Information regarding a site plan or communication to withdraw the permit was requested to be received by 4:30 p.m. December 12, 2018. No communication from the applicants was received by the established deadline.

Upon discussion with the City Attorney on December 13, 2018 it was determined that the requested information could be added as a condition upon permit approval instead of denying the application. With this in mind, a resolution for permit denial and permit approval with conditions has been prepared for the Council.

Findings of Fact regarding the possible denial of the Conditional Use Permit are found in Exhibit A attached to this document.

**Requested Council Action:** Staff is asking the Council for a discussion on the permit application and a vote to either deny the conditional use permit request from Jerry and Carol Krie to move in a structure on Hemlock Drive based upon the findings of fact found in Exhibit A. The alternative option is a vote to approve the conditional use permit request with the condition that a site plan detailing excavation, drainage and retaining wall construction be approved by the City Engineer prior to the start of construction.

**CITY OF CANNON FALLS  
GOODHUE COUNTY MINNESOTA**

**RESOLUTION NUMBER**

**DENIAL OF CONDITIONAL USE PERMIT FOR JERRY AND CAROL KRIE**

**WHEREAS**, Jerry and Carol Krie, owners of 31353 Hemlock Drive PID 52.720.0080 have made an application for a conditional use permit to allow the moving in of a structure onto residential property in the City of Cannon Falls; and

**WHEREAS**, the Planning Commission conducted a public hearing on August 13, 2018 to accept public testimony relating to the application; and

**WHEREAS**, the Planning Commission found that the proposed conditional use permit was reasonable with the condition that City Engineer approval be obtained prior to Council approval; and

**WHEREAS**, the Cannon Falls City Council tabled the conditional use permit application at their August 21, 2018 meeting to await City Engineer approval of drainage, excavation and retaining wall construction specifics; and

**WHEREAS**, the applicants agreed to an extension of the conditional use permit consideration period on September 20, 2018 to December 18, 2018; and

**WHEREAS**, the requested information was not received by the City Engineer or City Staff prior to December 12, 2018 an agreed upon date for receipt of information; and

**WHEREAS**, City staff recommends to the Cannon Falls City Council that the application for the conditional use permit be denied.

**NOW THEREFORE LET IT BE RESOLVED BY THE CITY COUNCIL OF CANNON FALLS, GOODHUE COUNTY, MINNESOTA**, that based upon the Findings of Fact in Exhibit A accompanying this resolution, which are hereby adopted by the City Council, that the conditional use permit be denied.

**ADOPTED** by the City Council of Cannon Falls this 18<sup>th</sup> day of December, 2018.

**SIGNED:**

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Lyman M. Robinson, Mayor

**ATTEST:**

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Lanell Endres, Interim City Administrator

## EXHIBIT A

### **Findings of Fact:**

1. Approval from the City Engineer regarding drainage and runoff was not received as is required in section 152.073(J) which states, “The site drainage system shall be subject to the review and approval of the City Engineer.” Because the applicants have not submitted updated site drainage, excavation and retaining wall construction plans the City Engineer was unable to determine if the drainage would cause problems for neighboring property owners.
2. The applicants agreed to an extension of consideration for their conditional use permit application until December 18, 2018. To comply with Minnesota State Statute 15.99 a decision must be made by the Council on or before the date that this extension expires.
3. Due to existing topography on the site staff and the city engineer have concerns about drainage on the site having adverse effects on neighboring properties.

**CITY OF CANNON FALLS  
GOODHUE COUNTY MINNESOTA**

**RESOLUTION NUMBER**

**CONDITIONAL USE PERMIT FOR JERRY AND CAROL KRIE HEMLOCK DRIVE**

**WHEREAS**, Jerry and Carol Krie have made an application for a Conditional Use Permit to allow a structure to be moved onto property on Hemlock Drive (PID 52.720.0080), a residential zoned district, in the City of Cannon Falls, Minnesota; and

**WHEREAS**, the Planning Commission conducted a public hearing on August 13, 2018 to accept public testimony relating to the application; and

**WHEREAS**, the Planning Commission found the moving in of a structure onto residentially zoned, vacant property on Hemlock Drive is reasonable; and

**WHEREAS**, the Planning Commission recommends to the Cannon Falls City Council that the application for the Conditional Use Permit be conditionally approved; and

**WHEREAS**, the Planning Commission recommends to the City of Cannon Falls City Council that a drainage and excavation plan be approved by the City Engineer prior to the start of construction and the application for a building permit per section 152.073(J) of the Cannon Falls Zoning Code.

**NOW THEREFORE LET IT BE RESOLVED BY THE CITY COUNCIL OF CANNON FALLS, GOODHUE COUNTY, MINNESOTA**, that based upon the findings of the Planning Commission which are hereby adopted by the City Council that the Conditional Use Permit be approved subject to compliance with all remaining requirements of the City of Cannon Falls Zoning Code Chapter 152, engineering requirements as specified and approved by the City Engineer and State of Minnesota Building Code requirements.

**ADOPTED** by the City Council of Cannon Falls this 18<sup>th</sup> day of December, 2018.

**SIGNED:**

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Lyman M. Robinson, Mayor

**ATTEST:**

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Lanell Endres, Interim City Administrator