

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JANUARY 5, 2020 –6:30 P.M.
(Virtual Meeting/ All Attendees)

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL (Note: all noted present were “virtually” present

PRESENT: Mayor Johnson, Councilors Spencer, Betts, McCoy and Grotting

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose

VISITORS: Jessica and Tom Healy

3. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the December 15, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Batch #1 Checks Numbered 20144-20162 and Batch #2 Checks Numbered 20163-20179.
- c. 4th Qtr. Building Permit Report – For Information.

Motion by Betts, second by Spencer to approve the Consent Agenda. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

4. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- None

Grotting attended the following meetings:

- Planning Commission Meeting

McCoy attended the following meetings:

- View Santa Event

Betts attended the following meetings:

- None

Johnson attended the following meetings:

- Police Commission Meeting

Horner attended the following meetings:

- None

Kaltsas attended the following meetings:

- Bi-weekly meeting on County Road 92 and Highway 12 projects
- Police Commission Meeting

6. Annual City Council Appointments.

- a. **RESOLUTION 21-0105-01** - Annual Council Appointments.

Spencer said Joe Baker will continue his work with the watershed. Grotting noted he would like to give up his position at some point on the LMCC. Kaltsas said Mediacom is focused on getting customers live on County Road 6 line.

Motion by McCoy, second by Spencer to approve RESOLUTION 21-0105-01 - Annual Council Appointments. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

7. Jessica Healy (Applicant/Owner) requests that the City consider the following action for the property located at 498 Kuntz Drive (PID No. 33-118-24-24-0008) in Independence, MN:

- a. **RESOLUTION 21-0105-02** – Considering a conditional use permit to allow an accessory dwelling unit on the subject property.

Kaltsas said the property is located at 498 Kuntz Drive which is generally located at the southeast corner of CSAH 6 and Kuntz Drive. The property is comprised of mostly upland with a wetland on the east side of the property. There are two existing accessory structures located on the property. The principal structure had been previously taken down due to the poor condition. The City allows accessory dwelling units (ADU) as a conditional use in the AG-Agriculture zoning district.

The intent of the ordinance was to allow for “mother-in-law” type units to be located within the principal structure or within a detached accessory building. The applicant recently acquired this property and the property to the north and discussed regulations relating to ADUs for this property. The applicant is planning on constructing a principal residence on this property in 2021 and would like the City to consider allowing a separate detached ADU.

This property historically had an existing residence that was located inside of the loop driveway (near the existing well). The home was removed between 2016-2018. There is an existing Quonset building and barn located on the property. The applicant has prepared plans for the development of the property which include both the principal and accessory dwelling units. The City has adopted standards requiring the ADU to be proportional and subordinate to the principal structure. The proposed principal house and accessory

dwelling unit have the following specifics: The proposed accessory dwelling unit is comprised of a combined bedroom, kitchen and living area with a bathroom and laundry. In order for the City to consider a CUP for an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit and for an accessory dwelling unit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is: (a) Physically attached to or within a single-family dwelling unit or within a detached accessory building that has a principal structure on the parcel; and

The applicant is proposing to construct a detached accessory dwelling unit.

(b) Subordinate in size to the single-family dwelling unit; and

The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit.

(c) Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and

The proposed accessory dwelling unit would be in a detached structure which is separated from the single-family home.

(d) Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and

The proposed ADU has been designed to be architecturally similar to the proposed principal structure. Architecture and materials appear to be consistent with the existing home.

(e) The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and

The principal structure is proposed to be 1,479 square feet of above ground living space not including the basement. 33% of 1,479 square feet equals 488 square feet. The applicant is proposing to construct a 480 square foot accessory dwelling unit. The proposed square footage would be approximately equal to the total permitted maximum amount of square feet permitted for this property.

(f) Not in excess of the maximum square footage for accessory structures as permitted in this code; and

The existing property is 10 acres in size and therefore does not have a limitation on the total square footage for detached accessory structures. For context, the existing Quonset is 3,200 SF and the existing barn is 1,500 SF.

(g) Has permanent provisions for cooking, living and sanitation; and

The applicant is proposing to construct permanent provisions for cooking; living and sanitation (see attached depiction). (h) Has no more than 2 bedrooms; and

The applicant is proposing to have one bedroom within the accessory dwelling unit.

(i) Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and

The owner of the property is proposing that the accessory dwelling unit will be occupied by her family.

(j) Uses the existing on-site septic system or an approved holding tank; and

The proposed accessory structure will be connected to the new septic system that also serves the principal residence.

(k) Respectful of the future subdivision of the property and the primary and secondary septic sites.

The City may require a sketch of the proposed future subdivision of a property; and

The accessory structure does not impede the ability of the owner to subdivide the property in the future or utilize a secondary septic site.

(l) In compliance with the adopted building code relating to all aspects of the dwelling unit.

The applicant will be required to obtain a building permit for all proposed improvements.

a On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.

b The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.

The applicant has discussed the proposed improvements to the property with the City. The applicant has submitted a site survey, sketch of the proposed building plans, elevations of the proposed principal residence and ADU and a site plan. The accessory dwelling unit will need to meet all applicable building codes and building regulations.

As proposed, the accessory dwelling unit appears to meet all applicable criteria established in the zoning ordinance for granting a conditional use permit for an accessory dwelling unit. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The proposed new home and ADU appear to be designed so that they are compatible and consistent. The size of the property, the proximity to surrounding properties and the general geographic location within the City will help to mitigate any impacts of having an ADU. Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The proposed new home and ADU appear to be designed so that they are compatible and consistent. The size of the property, the proximity to surrounding properties and the general geographic location within the City will help to mitigate any impacts of having an ADU. Should the CUP to allow an accessory dwelling unit be recommended for approval by the Planning Commission, it is suggested that the following conditions be noted by the City:

The Conditional Use Permit will be subject to the applicant constructing the principal structure on the property and successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit. The ADU will be constructed in accordance with the approved plans. The ADU will meet all applicable setbacks of the City's zoning ordinance.

The Planning Commission reviewed the request and asked questions of the applicant and staff. Commissioners questioned if the City could permit an ADU without having an existing principal structure on the property noting that the principal structure had been razed. Commissioners discussed the potential sequencing of construction and asked the applicant about the need to construct both structures simultaneously. The applicant noted that the cost and efficiency of constructing both together was considerable and stated that they understood the requirement to have a principal structure on the property.

Staff noted that it is not uncommon for buyers to seek approval of a "master plan" for a property prior to commencing construction. This allows them the ability to know for certain that they can construct the accessory structure. Commissioners also asked staff if the proposed accessory structure could be constructed without the ADU classification? Staff noted that the structure itself would be permitted as an accessory structure as long as it did not have a bedroom or stove. Commissioners ultimately found that the requirements for granting a CUP for the ADU. Commissioners asked staff to have the City Attorney draft a condition that addressed the sequencing of construction and the need for the principal structure to be granted occupancy prior to the ADU.

The Planning Commission recommended approval of the requested Conditional Use Permit to the City Council with the following findings and conditions:

1. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The Conditional Use Permit will be issued subject to the following items being completed:
 - A. The Conditional Use Permit allowing the Accessory Dwelling Unit is subject to the applicant's construction of, and permitted occupancy in, a principal structure on the property. No certificate of occupancy for the Accessory Dwelling Unit will be issued, and no occupancy of such Unit will be allowed, until the applicant obtains a certificate of occupancy for the principal structure.
 - B. The ADU will require the issuance of a building permit from the City and be constructed in accordance with the approved plans.
 - C. The ADU will meet all applicable setbacks of the City's zoning ordinance.

3. Prior to the City Council placing the Conditional Use Permit into effect, the applicant shall provide the City with the following items:

A. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

Johnson asked if there was a minimum lot size in the Ag district and Kaltsas said the minimum was 2.5 acres. Johnson noted the accessory unit would not be occupied before the main dwelling unit.

Healy's said they were excited to move to Independence.

Motion by Spencer, second by McCoy to approve RESOLUTION 21-0105-02 – for a conditional use permit to allow an accessory dwelling unit on the subject property located at 498 Kuntz Drive (PID No. 33-118-24-24-0008) in Independence, MN: Ayes: Johnson, Spencer, McCoy and Betts. Nays: None. Absent: None. Abstain. Grotting. MOTION DECLARED CARRIED.

8. OPEN/MISC.

9. ADJOURN.

Motion by Betts, second by Grotting to adjourn at 7:05 p.m. Ayes: Johnson, Grotting, McCoy, Betts and Spencer. Nays: None. Absent: None. None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary