



MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY NOVEMBER 19, 2024

1. **Call to Order**

Pursuant to due call and notice thereof, a work session of the Independence Planning Commission was called to order by Chair Gardner at 7:30 PM.

2. **Roll Call**

**Present:** Gardner, Thompson, Tearse, Dumas

**Absent:** Volkenant

**Alternates:** Story, Usset

**Staff:** City Administrator Kaltsas, Simon

**Visitors:** See Sign in sheet.

3. **Approval of Minutes:**

- a. October 15, 2024, Planning Commission Meeting Minutes.
- b. October 29, 2024, City Council Meeting Minutes (For Information Only).

**Motion by Tearse, seconded by Dumas to approve the minutes. Ayes: Gardner, Thompson, Tearse, Dumas, and Story. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

4. **PUBLIC HEARING** – Amy Pelowski (Applicant) and Jeremiah Staples (Owner) are requesting the following action for the property located at 25 Game Farm Road (PID No. 33-118-24-44-0005) in the City of Independence, MN.

- a. A conditional use permit to allow a 500 SF ground mounted solar system that meets all applicable requirements of the City's Solar Energy System Ordinance.

***Property/Site Information:***

The property is located on the west side of Game Farm Road south of CSAH 6. The property has an existing home, a detached garage and detached accessory structure. The property is comprised of open and wooded areas. The property has the following characteristics:

**Property Information: 25 Game Farm Road**

**Zoning: Agriculture**

Comprehensive Plan: *Agriculture*  
Acreage: 3.83 acres

***Discussion:***

The applicant would like to add a ground mounted solar energy system to the property. In all zoning districts of the City, ground mounted solar systems are permitted as a conditional use permit (CUP). Ground mounted solar systems have the following requirements:

Subd. 5. Ground-mounted solar energy systems shall conform to the following standards:

- (a) Ground-mounted systems shall only be allowed on a parcel with an existing principal structure.
- (b) Ground-mounted systems shall be located only in rear or side yards.
- (c) Ground-mounted systems shall not be located in the Shoreland Overlay District.
- (d) Ground-mounted systems shall be wholly screened from view from the public right-of-way and adjacent residential structures. Methods for screening shall include berming, fencing, landscaping and/or combination thereof.
- (e) Ground-mounted systems shall be located on a parcel of at least 2.5 acres.
- (f) Ground-mounted systems shall have a maximum area of 500 SF.
- (g) Ground mounted systems shall be setback a minimum of 50 feet from all property lines.
- (h) The maximum height for any component of the system shall be 15 feet.
- (i) Ground-mounted systems shall be in compliance with any applicable local, state and federal regulatory standards, including building, electrical and plumbing codes.
- (j) Ground-mounted systems and their support structures shall be designed by a certified professional to meet applicable professional standards for the local soil and climate conditions.

The proposed ground mounted solar system would be located in the northwest corner of the property. The proposed solar energy system would be comprised of two separate ground mounted arrays. The total square footage of the two arrays would be approximately 450 SF (~7.5' x 30' x 2). This would be less than the 500 feet maximum SF permitted. The arrays would be setback 50 feet from the north (side) property line and 89 feet from the west (rear) property line. The required minimum setback from all property lines is 50 feet. The proposed ground mounted system would have a maximum height of 9 ½' feet to the top of the highest portion of the panels.

The City requires systems to be wholly screened from view of the public right of way and adjacent residential structures. There is a residential structure located to the northeast of the proposed location. The proximity of the proposed ground mounted system to that residence is ~200 feet. There is a considerable natural tree/vegetation line along the north property line separating the two properties. The neighboring property owner to the north has provided a letter of support for the proposed system.

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.

The City has discussed the proposed ground mounted solar system with the applicant. The proposed ground mounted solar system appears to meet all applicable standards provided for in the zoning ordinance. The size of the system and its proximity to the surrounding property appears to adequately mitigate potential visual impacts. Given the location of the property on Game Farm Rd., the orientation of the proposed solar arrays and their relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit amendment.

***Neighbor Comments:***

The City received a letter of support from the owners of 66 Game Farm Rd. No other written or oral comments have been provided regarding the proposed conditional use permit.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit 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. A conditional use permit will allow a ground mounted solar system to be located on the subject property and in accordance with the approved site plan attached hereto as EXHIBIT B.
  - a. The ground mounted solar system shall be constructed in accordance with all applicable zoning code, building code and other applicable standards.
3. The applicant shall pay for all costs associated with the review and recording of the resolution granting approval of the conditional use permit.

Kaltsas reviewed the Request, Property/Site Information, Discussion, Neighbors Comments, and Recommendations from packet and opened questions up for Planning Commission members. Noting that another neighbor to the south of the property had also come in and both neighbors were in support. We recently updated the ordinance of Ground Mounted Solar systems/GMSS and the clarifying setbacks from property lines. Min setback of 50 ft from all property lines. NW corner of the property is where it would go. We noted that total sqft of 2 arrays is 450 sqft when added together. Height of proposed system is 9.5' to the top of the array. Wholly screened from view of the public right away and adjacent residential structures is required. There is an adjacent home, 200 ft away. There is a substantial tree line that separates them. Applicant did provide the city with supporting letters from both North and South properties. No issues presented from them. Meets requirements with the city.

Gardner, Story, and Kaltsas discussed the significant tree line around the house.

**Gardner opened Public Hearing.**

Jeremiah – You can't see it from the road, and neighbors can't see it.

Dumas – With the roof mounted and array, will you be doing your house?

Jeremiah – Not the whole house because we have electric car and heat, but it will not cover all of it.

**Motion by Thompson, second by Dumas to close Public Hearing.**

**Motion by Thompson, seconded by Tearse to recommend Conditional Use Permit for the ground mounted solar array at 25 Game Farm Rd for Amy Pelowski and subject to staff recommendations #1 - #3. Ayes: Gardner, Dumas, Thompson, Tearse, and Story.**

**Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

This will go to Council on December 3<sup>rd</sup>, 2024.

5. **PUBLIC HEARING** – Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the properties generally located at 18 Golf Walk and 550 CSAH 92 N. (PID No.s 32-118- 24-13-0001, 32-118-24-42-0001, 32-118-24-24-0001, 32-118-24-31-0002, 32-118-24-42-0030, 32-118-24-43-0002, 32-118-24-42-0031, 32-118-24-42-0029, 32-118-24-42-0025, 32-118-24-42-0036, 32-118-24-34-0001 and 32-118-24-31-0001) in the City of Independence, MN:
- a. A conditional use permit amendment to allow a modification to the vehicle parking area for the out-of-town member guest house and amendment to the approved conditions for use of the house in association with the private golf club.

***Property/Site Information:***

The subject property is located on the south side of County Road 6, just west of County Road 92. The property is a golf course. The properties have the following characteristics:

**Property Information**18 Golf Walk

Zoning: *Agriculture*

Comprehensive Plan: *Public/Semi-Public*

***Discussion:***

Windsong Golf Club approached the City to discuss an amendment to the conditional use permit to alter conditions relating to the use of the Murphy Guest House. In 2012, the city permitted the construction of the Murphy House for use by national club members who travel into town to play Windsong. The conditions from the 2012 CUP amendment relating to the use of the Murphy House are as follows:

1. The following condition shall be added to the conditional use permit:
  - a. In addition to the 18-hole golf course and 29,000 square foot clubhouse, Windsong Farm Golf Club can construct one 5,350 square foot guest house with six sleeping rooms. Use of the guest house will be limited as follows:
    1. Use of the guest house shall be limited to members and their non-paying guests.
    2. The maximum length of stay for any individual shall be limited to three (3) consecutive nights.
    3. Access to the guest houses will be by golf cart only.
    4. Access to the existing club house, pro shop and guest house for emergency vehicles shall be maintained at all times.
    5. The guest house shall not be equipped with a full kitchen.
    6. No meals will be prepared in the guest house.

Windsong would like the city to consider an amendment that would modify two of the six

conditions as follows:

2. *The maximum length of stay for any individual shall be limited to three (3) consecutive nights from May 1<sup>st</sup> to October 31<sup>st</sup>. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1<sup>st</sup> to April 30<sup>th</sup>.*
3. *Access to the guest house will be by golf cart only from May 1<sup>st</sup> to October 31<sup>st</sup>. Access to the guest house is permitted by automobile from November 1<sup>st</sup> to April 30<sup>th</sup>. Parking of automobiles used to access the guest house from November 1<sup>st</sup> to April 30<sup>th</sup> shall be in the designated parking spaces only.*

The existing CUP currently limits the consecutive number of nights that a guest may stay in the guest house to three (3) nights. Windsong has noted that they have national members that would like to utilize the guest house during the off-season for social and business events at the golf club for periods longer than three (3) nights.

The existing CUP also limits access to the guest house via golf cart only. While this works well during the peak golf season, it creates some issues for use during the off-peak season. Windsong is proposing to construct eight (8) parking spaces adjacent to the guest house for use by automobiles during the off-peak season only.

The city reviewed the request with both West Hennepin Public Safety and Maple Plain Fire Department. It was noted that the proposed spaces would actually provide needed space for emergency vehicle parking if needed during peak season when automobiles would not be permitted. Windsong also noted that they would not be able to allow vehicles during the golf season as they could easily be hit by stray golf balls as well as conflict with golf cart traffic using the course.

In order to consider the requested amendments to the conditions, an amendment to the conditional is necessary.

520.09 Subd. 8. If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

Commercial golf courses are permitted as conditional uses in the AG - Agriculture zoning district. The golf club has a conditional use permit that was originally approved in 2001 and amended in 2012 and 2013, 2016, 2021, 2022 and 2023 and 2024. The CUP allows two golf courses, their associated club house/pro shop, guest house and parking north of CSAH 6. The initial Golf Course CUP was issued under 530.01, subd. 4(s) which makes "commercial golf course" a conditionally permitted use.

Any amendment to an existing CUP must meet the same requirements established for granting a new CUP. 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.*

The City will need to find that requested amendments to the conditions relating to the use of the guest house are consistent with the conditional use allowing a commercial (private) golf club on the property. In addition, the City will need to determine if the proposed amendment to the CUP meets the requirements for granting a conditional use permit amendment.

There are several items that should be noted:

- The use of the guest house is limited to members of the golf club or their non-paying guests. The city has historically not had issues relating to the use of the guest house. Windsong does have national members that regularly travel to Independence to play the course and use the club amenities. Windsong would like to allow national members the option to utilize the guest house during the off-peak season for periods longer than three (3) consecutive nights. Due to weather conditions during the non-peak season, the club would also like to allow automobile access/parking to the guest house.

The Planning Commission will need to determine if the requested amendment to the conditional use permit meets all of the aforementioned conditions and restrictions.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed amendment to the conditional use permit.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the request for an amendment to the conditional use permit. Should the Planning Commission make a recommendation to approve the requested action, the following findings and conditions should be considered:

1. The proposed conditional use permit amendment meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will continue to be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. All conditions of the original conditional use permit and all subsequent amendments shall remain in full force.
4. The following condition from the October 16, 2012 conditional use permit amendment shall be amended as follows:
  - In addition to the 18-hole golf course and 29,000 square foot clubhouse, Windsong Farm Golf Club can construct one 5,350 square foot guest house with six sleeping rooms. Use of the guest house will be limited as follows:
    1. Use of the guest house shall be limited to members and their non-paying guests.
    2. The maximum length of stay for any individual shall be limited to three (3) consecutive nights *from May 1st to October 31st. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1st to April 30th.*
    3. *from May 1st to October 31st. The maximum length of stay for any individual shall be limited to fourteen (14) consecutive nights from November 1st to April 30th.*
    4. Access to the guest houses will be by golf cart only *May 1st to October 31st. Access to the guest house is permitted by automobile from November 1st to April 30th. Parking of automobiles used to access the guest house from November 1st to April 30th shall be in the designated parking spaces only.*
    5. Access to the existing club house, pro shop and guest house for emergency vehicles shall be maintained at all times.
    6. The guest house shall not be equipped with a full kitchen.



7. No meals will be prepared in the guest house.

5. The applicant shall pay for all costs associated with the review of the conditional use permit amendment application.

Kaltsas reviewed the Request, Property/Site Information, Discussion, Neighbors Comments, and Recommendations from packet and opened questions up for Planning Commission members.

Kaltsas – This request for the Windsong Gulf Course CUP amendment allows single member guest house to be located in the middle of the golf course. There were conditions placed on that guest home: How much sqft can be constructed, use of guest house, limited to members and guests. Windsong noted two conditions to see if they can be amended: consecutive nights guests can stay and its golf course access only. Because they have national members that come to stay, they'd like to extend stay to 14 nights from Nov. 1 – April 30<sup>th</sup> and access it by automobiles during winter months. It works fine during summer months, but winter months are harder. I talked to West Hennepin Public Safety and Maple Plain Fire Dept. about the request and if there were any concerns. Both public safety entities thought it would be a positive for the time period being asked. It would make access easier for them as well. Applicant wants to construct 7 or 8 car passes by the guest house. I talked to Applicants about how it will be monitored. You can't use it during summer months as automobiles will be hit by golf balls and thus conflicts. It would be regulated. The path is designed and constructed for emergency vehicle access as well. It doesn't impact any surrounding properties. It is isolated. It's been used for over 10 years and there were already limited incidences. No public comments made prior to tonight's meeting.

Tearse – Why was it only 3 nights?

Kaltsas – Council wanted to make sure it wasn't a living quarters for members only, no long-term stay. Typical length of stay for a hotel.

Thompson – Any concerns about it being plowed for emergency access?

Kaltsas – No, it has been used during winter months but accessed by golf carts only. It has been maintained. We require emergency access to be available at all times.

### **Gardner opened Public Hearing.**

Jon Dailing – Mark did a good job of explaining.

Gardner – Are you going to be expanding?

Dailing – No. I mean, we've all always been kind of steady, but it's just trying to accommodate.

Story – Who wants to stay there in the winter?

Dailing – We have a good number of national members that moved away and have no where to stay when they come back.

**Motion by Thompson, seconded by Gardner to close Public Hearing. 5-0**

**Motion by Thompson, seconded by Tearse to approve the request for amending Windsong Farm Golf Club's Conditional Use Permit at 18 Gulf Walk subject to staff recommendations #1 - #5. Ayes: Gardner, Dumas, Thompson, Tearse, and Story. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved. 5-0**

This will go to Council on December 3<sup>rd</sup>, 2024.

6. Open/Misc.

Thompson – Planning Commission is very thoughtful of what's being brought up. My challenge at 1165 Co Rd 19. A single-family dwelling had been purchased and it now turned into a landfill or dump, business operation, and the mailbox is even now down. It's completing flying in the face of our ordinances. It's hard to correlate the two things. There are some existing properties that continue to be an issue. Feedback from the city?

Kaltsas – We do actively try to enforce our ordinances against properties that are in clear violation. This particular property unfortunately was purchased by someone that we spent 3.5 years in a civil lawsuit with trying to enforce our ordinances on the property directly adjacent, and we won that case and then they purchased this property. They have many violations – wetlands, septic system. We have gone after a few different issues. We continue going after properties that don't follow ordinances. We have actively criminal attorneys on about half dozen cases after taking internal pursuit of compliance. It takes a long time once you go to the lawsuits. We try to get a criminal conviction. And then, if that criminal conviction doesn't fix the problem, then to take it to a civil suit. We had gone the other route where we were trying to do civil, just knowing that the cost and the time is so extravagant. It's just it's extraordinary, really. And so we kind of are coming back to let's try to get after. Let's try to get a criminal conviction because we think it's gonna reduce the length of time that a civil case would take us to go through enforcement. So that's kind of our process. It's just it's taking time. We have had some success with criminal process on 2 different instances. we've gotten compliance, or we've gotten what I would call near compliance on some pretty bad cases that had lingered on for many years. But we still have another dozen or so really well-known violators in the city that are taking more time, more effort.

Thompson – Are there any tools or any resources that Independence isn't yet taking advantage of? Because you said criminal. And in some ways, I wonder if almost more than the use if there aren't times where there are criminal infractions like gross vehicle weight, parking violations, and things where we can start writing citations and tags versus this land use kind of quandary? Right?

Kaltsas – The criminal is that. Criminal is citation based. So, it's nuisance based. It's ordinance based and it's called criminal because it's in a violation of our ordinance. It's issued in a misdemeanor. So, we typically start with trying to use West Hennepin/WHPS to help us enforce our ordinances. We write a letter saying that we've identified an issue with your property. We know it's not in compliance, and we'd love to work with you to bring it into compliance. Can you get back to us and let us know that you'll be willing to work with it. We give them a timeframe. If that doesn't happen, we send another letter saying, "We haven't heard back from you. We want your property to be in compliance, but it's not. Here's the violations that you have, and if it's not

brought into compliance by this date we will proceed with issuing citations to try to help bring it into compliance.” Then we go to issuing citations, but even before that happens, I’ll work with our police, and they’ll usually contact the owner and try to go out, you know, with a badge and a gun and go, hey? “Can you help us? We don’t want to write you a ticket, but we’ll write you a ticket.” And if that doesn’t work, then we go to that next step which is writing a ticket, and then getting our criminal attorney involved in the case to try to bring it to a prosecution. The problem is you don’t see the ones that comply. The ones we know and talk about are the ones we need more resources.

Thompson – What can city residents do to help or augment the process?

Kaltsas – Tell the City staff about the problems and be willing to testify to that because that is what is needed. Some don’t want that neighbor issue. But the more complaints we get on an issue, it heightens it. If we get more neighbors, that helps to escalate that.

I can’t in all my cities, in all my experience, I mean, this is one of those issues. That’s just if you have people that are kind of what I would call huh? Regular residents they don’t want. They don’t want to go to Hennepin County and deal with a fine in a court and a judge telling them right they clean it up. So, we get compliance on a lot of our issues by just saying, Hey, you’re out of compliance. We’d like to work with you, can you? Can you work with us? But the ones that don’t. It’s really hard. I mean, it takes a lot of effort, a lot of resources, and a lot of time. And then the thing that the thing that struggles for us in the one that you’re talking about. I have another one on County Road 6. So, we went through a whole process with that property on County Road 6 by mom is happy. We got decent cleanup on it. We went to court. They took the owner court, and 3 months later it’s like they unloaded a episode of hoarders there. And we’re like, “What happened?” And we have to start all over because the court got compliance. So now the judge is like good job. And then and then, 3 months later, all of a sudden, just boom. It blew up with stuff. They brought it all in. All this stuff came from nowhere, and now we’re going. Wait! Now we gotta we gotta start over and our attorneys like, Yeah, send me. Send me your new letter. Send me your new pictures. Send me where their violations are, and it’s like, Wait, this is ongoing. This is the same thing we just went through right. But it doesn’t matter. We got to start over because they did. They did good right. This one, I mean, we can’t take what we got on the adjacent property and apply it to that. It seems so logical like, hey? If you can’t run the business on this property, you sure as Heck can’t run on this one, but from a court standpoint, we got the order on the property behind it. We now have to go get another one on this property. (inaudible PC discussion)

7. Adjourn.

**Motion by Story, seconded by Thompson to adjourn.**

Meeting adjourned at 9:02 p.m.

Respectfully Submitted,  
Linda Johnson / Recording Secretary