



MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY MAY 21, 2024

**7:30 PM REGULAR MEETING**

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 Thompson at 7:30 PM.

2. **Roll Call**

Present: Gardner, Thompson, Tearse, Dumas, Story, Usset

Staff: Kaltsas, Simon

Absent: Volkenant,

Visitors: See Sign in sheet

3. **Approval of Minutes:**

a. April 16, 2024, Planning Commission Meeting Minutes.

b. May 7, 2024, City Council Meeting Minutes (For Information Only).

**Motion by Thompson, seconded by Tearse to accept the minutes as written.**

**Ayes:** Gardner, Thompson, Tearse, Dumas, Story and Usset.

**Nays:** None.

**Absent:** Volkenant,

**Abstain:** None.

**Motion Approved.** 5-0

4. **PUBLIC HEARING (Continued):** Mosiah Willis (Applicant) and Jared Haley (Owner) is requesting the following action for the property located at 2485 Independence Rd. (PID No. 13-118-24-33-0001) in the City of Independence, MN:

a. A variance to allow the existing detached accessory structure to be used as an accessory dwelling unit which will exceeds the maximum size of an accessory dwelling unit permitted; and

b. A conditional use permit to allow an accessory dwelling unit to be located in the existing detached accessory structure.

***Property/Site Information:***

The property is located on the west side of Independence Road and north of Pagenkopf Road. The property is mostly wooded with some wetlands to the east and west. The property has an existing home and two detached accessory buildings.

Property Information: **2485 Independence Road**

Zoning: *Agriculture*

Comprehensive Plan: *RR-Rural Residential*

Acreage: *15 acres*

***Discussion:***

The applicant is seeking a conditional use permit to allow an accessory dwelling unit (ADU) inside of a portion of the most westerly existing detached accessory structure on the property. The upper floor (the structure has a finished upper level and garage and storage on the lower level) of the existing detached accessory structure had previously been converted into finished space without obtaining the requisite permits for its conversion. The applicant approached the city about the possibility of using the upper floor of the structure for the purpose of housing an adult family member on the subject property. The city discussed the conversion of the existing space and reviewed the requirements relating to ADU's with the applicant. It was noted that the existing square footage of the upper floor exceeds the allowable square footage for an accessory dwelling unit based on the square footage of the existing principal structure on the property.

The applicant proposed to only finish a portion of the upper floor of the existing structure and leave a portion as unfinished space (finish 877 SF of the total 1,232 SF). The remaining space was proposed to be used for "storage". The city reviewed the application at the April 16, 2024, Planning Commission Meeting and discussed the requested ADU. Commissioners noted that the unfinished space would be difficult for the city to administer and created a generally unusable area within the structure. Commissioners recommended that in this instance, a variance to allow an ADU that exceeded the allowable SF may be a more reasonable solution.

Accessory dwelling units are a conditional use within the AG-Agriculture zoning district. In order to allow an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit and also the criteria for granting a variance. 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 use the accessory dwelling unit located within the**

**existing detached accessory structure.**

*(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. The existing structure is a two-story structure with a storage space on the first (lower) level.**

*(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 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 accessory structure is existing and appears to be generally similar to the principal home on the property.*

*(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.*

**The principal structure has ~2,658 square feet of above ground space not including the basement (1,727 SF main floor, 958 SF upper floor). 33% of 2,658 square feet equals 877 square feet. The existing detached accessory structure is 44 x 28 feet (outside dimensions) or 1,232 SF. The applicant is proposing that the accessory dwelling unit would be constructed on the upper floor and would be 1,232 SF. Staff has reviewed the plans and notes that the proposed SF exceeds the permitted 877 SF; however, the applicant is seeking a variance to allow the additional square footage.**

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

**There is not a limitation on the total amount of accessory structure square footage for properties zoned Agriculture and greater than 10 acres. The maximum size for any individual accessory structure is 5,000 SF. The existing building is approximately 1,232 SF (28 x 44) and therefore would comply with applicable standards.**

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

**The existing structure has permanent provisions for cooking; living and sanitation (see attached depiction).**

*(h) Has no more than 2 bedrooms; and*

**The existing structure has 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 applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

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

**The applicant would need to confirm septic compliance for the existing structure.**

*(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 detached accessory building is a conforming structure that is currently in existence.**

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

**The proposed accessory structure will meet all applicable building codes and may be required to obtain requisite after-the-fact permits.**

*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 location of the existing accessory building and its proximity to the surrounding properties helps to mitigate potential impacts of allowing a portion of the structure to be used as an accessory dwelling unit. The surrounding properties have limited visibility and or site lines to the existing property due to the large wetland surrounding the property and Lake Independence to the east. The City will need to confirm that the accessory dwelling unit meets all applicable building codes and building regulations. The applicant will be required to apply for and receive all applicable and requisite building permits/after-the-fact permits.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit.

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.
- 2485 Independence Road CUP/Variance Request Page 6
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 applicant is seeking a variance in addition to the CUP. The City's ordinance has established criteria for consideration in granting a variance.

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend, and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent allowable uses within the AG-Agriculture Zoning District.
- b. The applicant is applying for a CUP to allow and accessory dwelling unit within the existing detached accessory building. The proposed ADU would meet all other applicable requirements of the CUP criteria. The existing building was legally constructed on the property and could be used for living space without a kitchen and bedrooms.
- c. The character of the surrounding area is residential. The detached accessory building is existing and generally consistent with other properties in the area that also have detached accessory structures. There are no proposed changes to the exterior dimensions or character of the existing building.

Consideration for the proposed conditional use permit and associated variance should weigh the impact of having an accessory dwelling unit located on this property. The location of the proposed accessory dwelling unit and its compliance with all applicable setbacks appears to mitigate most potential impacts resulting from the use of the existing detached structure as an accessory dwelling unit. The city will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit and variance.

The Planning Commission should consider the following issues as noted:

- The applicant is proposing to locate an ADU within the existing detached accessory structure. The size of the detached accessory structure is larger than the allowable square footage for an ADU on this property. The applicant could meet the allowable ADU square footage by limiting the “finished space” within the ADU. The remaining space does not have a secondary access and could easily be converted into additional ADU space and or blurs the line between the proposed storage and finished ADU.
- Should the Planning Commission consider an approval recommendation, the following conditions should be included:

The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements already made to the dwelling unit that were not previously approved by the City, and all new improvements.

The proposed ADU space and corresponding detached accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

***Neighbor Comments:***

The City has not received any comments.

***Recommendation:***

The Planning Commission is being asked to provide direction to the City Council relating to the requested CUP and Variance. Should the Planning Commission recommend approval of the requested actions, the following findings and conditions should be included:

- a) The proposed Conditional Use Permit and variance meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, and Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
- b) The city finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:

- a) Residential use of the property is consistent with the AG-Agriculture District. The applicant is seeking a variance to allow an ADU to be located within the existing detached accessory structure on the property.
  - b) The location of the existing detached accessory structure aids in mitigating many of the potential impacts resulting from the use of the existing detached accessory structure as an ADU.
  - c) The character of the surrounding area is rural residential/agriculture. The proposed use of the existing accessory structure as an ADU would be in keeping and consistent with the surrounding uses found in this portion of the city.
3. The variance will permit the proposed ADU to be constructed in accordance with the approved plans attached hereto as Exhibit A. The maximum square footage of the ADU shall be 1,232 SF which represents a 355 SF variance. Any modification, alterations or expansion of the existing structure and corresponding ADU will require additional review and approval in the form of a conditional use permit amendment.
- a) The conditional use permit is to allow an accessory dwelling unit to be located within the existing permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling not in compliance with the applicable criteria for the accessory dwelling unit will cause the conditional use permit to be revoked by the City.
  - b) The conditional use permit will be issued subject to the following items being completed:
    - o The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements already made to the dwelling unit that were not previously approved by the City and all new improvements.
  - c) Applicant shall pay for all costs associated with the City's review of the requested conditional use permit and variance.

PUBLIC HEARING OPEN

PUBLIC HEARING CLOSED

Kaltsas – now a variance. Came before the city at the last meeting. With discussion that occurred, rather than a CUP to keep as a storage space, a variance would be better. Application is now CUP to allow ADU to be constructed within existing detached structure and allowing ADU of the top floor. Total structure of 1,232sqft. We noted last month that based on size of principle structure, up to 877sqft. In order to build out entirety they would need a variance in total square footage. Applicant met all other criteria for CUP and ADU with exception of that finished square footage. There is already an existing detached building, applicant proposed subtracting and closing off area in pink. We have consideration for granting CUP and variance. Accessory structure was there prior to current owners. The hardship would be to close off or cut off a couple hundred square feet and saying it's not associated with the ADU it would be storage or



something like that. Character of building and how it is set up still fits into the area. No exterior or dimensional changes. They would take it down to the studs and redo it with permits since no permits were pulled prior. The extent of the variance 355 square feet to allow the ADU to be a total of 1232 square feet.

Story – any changes?

Kaltsas – no. exactly what we discussed.

**Motion by Thompson, seconded by Tearse to recommending approval of the variance of and CUP to allow for the construction of the ADU to be 1232 square feet in overall size**

**Ayes:** Gardner, Thompson, Tearse, Dumas, Story and Usset.

**Nays:** None.

**Absent:** Volkenant,

**Abstain:** None.

**Motion Approved. 5-0**

5. **PUBLIC HEARING** - Nathan Mendiola (Applicant) and Pam and Andy Krominga (Owners) are requesting the following action for the property located at 3585 William Way (PID No. 11-118-24-42-0004) in the City of Independence, MN.

- a. A conditional use permit to allow an accessory dwelling unit to be located within the proposed new home.

*Property/Site Information:*

The property is located within the new Koch Farm Sanctuary Development on the west side of Independence Road and north of Pagenkopf Road.

Property Information: 3585 William Way

Zoning: RR-Rural Residential

Comprehensive Plan: RR-Rural Residential

Acreage: 2.17 acres

***Discussion:***

The applicant is proposing to construct a new home within the Koch Farm Sanctuary Development. As a part of the new home construction, the applicant is seeking a conditional use permit to allow an accessory dwelling unit (ADU) inside of a portion of the proposed principal structure. The proposed ADU would be for a family member of the owners. The city discussed the request and noted that the attached ADU is possible but would require a conditional use permit. The applicant is proposing to construct a 726 SF ADU on the first floor of the proposed home. The ADU would be located behind the garage and would connect internally to the principal home via an internal doorway.

Accessory dwelling units are a conditional use within the RR-Rural Residential zoning district. In order to allow an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit. 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 proposed ADU is attached to/within the principal structure.**

(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. The new home is a two-story structure and the proposed ADU meets applicable size requirements.**

(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 separated from the single-family home by a wall and doors.**

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

**The proposed ADU is attached to/within the principal structure and fully compatible.**

(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 has t of above ground space not including the basement and proposed ADU. 33% of 4,455 square feet equals 1,470 square feet. The applicant is proposing that the accessory dwelling unit would be 726 SF which is less than the maximum permitted and therefore meets applicable requirements.**

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

**The proposed ADU is attached to/within the principal structure.**

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

**The proposed ADU has permanent provisions for cooking; living and sanitation (see attached depiction).**

(h) Has no more than 2 bedrooms; and

**The proposed ADU has 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 applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

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

**The applicant has confirmed septic compliance for the proposed home and ADU.**

(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 proposed ADU is attached to/within the principal structure.**

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

**The proposed accessory structure will meet all applicable building codes.**

- 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 is proposing to integrate the ADU into the proposed new home so that it is wholly contained within the structure within no external distinction or identifiable components. The resulting architecture, appearance from surrounding properties and general use would be consistent with a residential property.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit.

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 and associated variance should weigh the impact of having an accessory dwelling unit located within the proposed principal home. The location of the proposed accessory dwelling unit within the structure and its full integration with architecture, interior and exterior layout appear to mitigate potential impacts resulting from the proposed ADU. The City will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

- Should the Planning Commission consider an approval recommendation, the following conditions should be included:
  - The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements.
  - The proposed ADU cannot be expanded or enlarged without the review and approval of the City. Any expansion of the ADU will require an amendment to the conditional use permit following all applicable procedures.

***Neighbor Comments:***

The City has not received any comments.

***Recommendation:***

The Planning Commission is being asked to provide direction to the City Council relating to the requested CUP. Should the Planning Commission recommend approval of the requested action, the following findings and conditions should be included:

1. The proposed Conditional Use Permit 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:
  - The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements.
  - The proposed ADU cannot be expanded or enlarged without the review and approval of the City. Any expansion of the ADU will require an amendment to the conditional use permit following all applicable procedures.
3. Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

Kaltsas – request for CUP for ADU. New property in the Kochs farm sanctuary development, Rural Residential, guided Rural Residential. Over 2 acres in area. Recently approved area. Within new home they would like a ADU for a family member to live in the home. Has to be attached for under 2.5 acres. We issued a building permit. The CUP takes that ADU being a separate living unit. 726 square feet behind garage connected internally. Sits behind garage and is unnoticeable given the layout. Needs to be physically attached or within. Subordinate in size. 4, 455sqft. Separated from primary. Fully integrated. 1 bedroom with a kitchen and bath. Limited to owner occupants. Uses onsite septic tank or approved holding tank. Building permit has been reviewed and approved for meeting building codes. Applicant has the benefit of building this in from the start instead of adding later on. Subject to obtaining building permit for the ADU specifically and cannot be changed with dimensions without an amendment to ADU.

PUBLIC HEARING OPEN

PUBLIC HEARING CLOSED

Thompson – do development agreements or neighborhood covenants have anything to say about ADUs.

Kaltsas – no for dev. Agreements unless we specified. We do have provisions like Bridgevine but not necessary for ADU internally. If development had covenants, they would have to enforce it. We wouldn't look at those from our perspectives.

**Motion by Thompson, seconded by Dumas to recommending approval of the CUP for ADU incorporated into the structure subject to staff recommendations 1-3.**

**Ayes:** Gardner, Thompson, Tearse, Dumas, Story and Usset.

**Nays:** None.

**Absent:** Volkenant,

**Abstain:** None.

**Motion Approved. 5-0**

6. **PUBLIC HEARING** - Karen Ann Malinak (Applicant/Owner) is requesting the following action for the property located at 2510 County Road 92 (PID No. 16-118-24-33-0003) in the City of Independence, MN.
- a. A conditional use permit to allow a dog kennel on the subject property.

***Property/Site Information:***

The property is located south of Highway 12 and on the west side of County Road 92 near Cardinal Way. The property has pasture, woodlands and a substantial wetland along the east property line. The property has the following characteristics:

**Property Information: 2510 County Road 92**

Zoning: *Agriculture* Comprehensive

Plan: *Agriculture* Acreage:

***Discussion:***

The applicant is seeking a Conditional Use Permit to allow a dog kennel on the subject property. A kennel is defined as follows:

"Kennel." Any structure or premises on which four or more dogs over six months of age are kept.

The applicants recently purchased and moved into the subject home. The applicant would like to board up to 10 dogs within the existing principal home located on the property. The applicant would keep the dogs inside of the home and allow them to go outside within the existing fenced area located to the east of the house. The dogs would primarily stay within the walk out basement inside the home.

The applicant has stated that customers would drop off or pick up dogs during regular "business hours" 8:00 AM – 6:00 PM. Typical clients would be dropping off dogs for an extended period and the applicant is not intending this to be a "day care" type facility. The applicant would be the primary care provider for the dogs and there would be no other employees of the kennel.

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 from 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 conditional use is consistent with the comprehensive plan of the City of
  9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The city has issued conditional use permits for similar kennels. Kennels often have issues relating to noise due to dogs barking. The owner has run a kennel in another city previously and acknowledged noise as an issue that she would actively manage. The owner has proposed to add wooden panels to the fencing located along the front (west facing) façade of the house to block visibility to anyone coming to the house or driving by as a way to mitigate barking.

As the proposed Conditional Use Permit relates to the criteria for granting a CUP, the following items should be noted:

- The number of dogs permitted on the property shall be limited to 10.
- Sanitary waste created by the operation of the proposed facility shall not create any offensive odors and be handled in a manner that complies with all applicable city, state and federal regulations.
- The applicant is not proposing to use any portion of the existing detached accessory building for the kennel. The use of the detached accessory structure for any part of the kennel operations should be prohibited.
- The dogs will be permitted within the principal structure and fenced area noted on the attached exhibit. Dogs to be kenneled will not be permitted outside of the designated areas.
- The additional uses proposed should not create an increase (beyond that of the existing horse farm) in noise or offensive odors, fumes dust, or vibrations for the surrounding properties.
- Given the limitation on the number of dogs to be kenneled, traffic associated with the operation and use should be minimal.
- Hours of operation, specifically, the hours the dogs can be outside would not be initially restricted.

The Planning Commission will need to review the request and determine that all criteria for granting a conditional use permit have been satisfied by the applicant. Based on the discussion and public hearing it may be necessary to consider additional conditions if recommended for approval.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed conditional use permit. The applicants have discussed the proposed CUP with some of the surrounding property owners.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the request for a Conditional Use Permit. Should Planning Commission recommend approval of the request, the following findings and conditions should be considered:

1. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The number of dogs permitted on the property at any time shall be limited to 10.
3. Sanitary waste created by the operation of the proposed facility shall not create any offensive odors and be handled in a manner that complies with all applicable city, state and federal regulations.
4. The applicant is not proposing to use any portion of the existing detached accessory building for the use of the detached accessory structure for any part of the kennel operations should be prohibited.
5. The dogs will be permitted within the principal structure and fenced area only as noted on the attached exhibit. Dogs to be kenneled will not permitted outside of the designated areas.
6. The proposed kennel should not create an increase (beyond that of the existing horse farm) in noise or offensive odors, fumes dust, or vibrations for the surrounding properties.
7. Given the limitation on the number of dogs to be kenneled, traffic associated with the operation and use should be minimal.
8. Hours of operation, specifically, the hours that the dogs can be outside would not be initially restricted. Should the city determine that the hours need to be restricted, the applicant will agree to comply with restricted hours as determined by the city.
9. There shall be no employees other than property owner and family staffing this kennel at any time on the property.



10. The proposed kennel is permitted as shown on the approved site plan. Any expansions, additions or other changes to the proposed site plan will require an amendment to the Conditional Use Permit

Kaltsas – CUP to allow a kennel at 2510 County Road 92. South of Hwy 12 near cardinal way. Currently AG, guided AG, 23 acres in overall area. Seeking dog kennel 4+ dogs. Recently purchased and moved into their home. Board up to 10 dogs including their own. Do that within the home, not outside. Go outside in the fenced area for bathroom's. Customers would drop off during regular business hours. Typical clients are extended stays, not a daycare. No employees of the kennel. City has permitted CUP for kennels. Noise and barking was an issue in the past. Owner noted they had run a kennel in another city and will limit noise. Will put up panels on the fence to the North of the house so dogs cannot see out and less building. Dogs will be in the pasture area or inside the house only. Number of dogs limited to 10, odors limited, no portion of detached accessory. Limited to just SFD. Designated area only for the dogs. They are talking about 10 dogs but they already own a few dogs already. Longer term stays, less traffic because of extended stay. Hours of operation would not be restricted. We could do annual reviews to see how it is going and review the CUP and conditions associated with it. I did have a conversation with the neighbor, wondered if the city could consider an interim use to not extend to future potential owners.

Dumas – neighbors within 350ft. What is the criteria for noise?

Kaltsas – barking can be a nuisance. We have that in our ordinance. If you are disrupting general enjoyment, we could fine that. Congregation of animals could be tricky. The owners intent is to have clients with dogs they know and dogs that get along.

Thompson – is there anything about the animal count that crosses it over to the CUP nature.

Kaltsas – yes, you can have 4 dogs of your own. IT is a CUP over that for a kennel.

Tearse – what about puppies

Kaltsas – as long as you get rid of them before 6 months of age its fine. We had another one on Nelson Rd a couple years ago and that was denied because it was a breeding facility.

Story – what's the acreage

Kaltsas – 23 acres

Duams – plenty of space. Interim vs CUP. This would be something that there wouldn't be a kennel there when this person moves.

Thompson – can we pivot to interim vs CUP

Story – is there any downside to iup?

Kaltsas – no, it might make the most sense. IT is most advantages to the city to do an IUP. You can't have a memorialized kennel to be sold with the property. We lose control with ownership.

PUBLIC HEARING OPEN

Karen Malinak – owner of the property. I started boarding 9 years ago in Minnetonka, moved to Greenfield. I tried to apply for this property before taking possession but the person we bought from would not allow that. We have strict rules to control the barking. When we know someone is coming we bring the dogs inside where they can't see. I try to be a good neighbor. We have letters from our past neighbors saying they didn't know we had dogs because we don't let them bark.

Gardner – does the IUP and CUP change anything at all?

Malinak – no.

Gardner – selling a kennel and goat business?

Malinak – I'd like it as a package but I can't guarantee that.

#### PUBLIC HEARING CLOSED

Thompson – what is the city's plan to for additional investment for taking action where necessary and checking in on all of these CUPs and maybe adding 3, 4 or more.

Kaltsas – if we were doing 3 or 4 a month, we need to look at having too many. We do have an inordinate amount and part of the amnesty program. We have about 70 CUPs throughout the city. Because of our staffing, we inspect those on a bi-annual basis instead of annual because it takes 3-4 month by the time of first notice to actual inspection. CUPS allow us to be in the know of monitoring that use. They are positive for us to follow through to see if they are meeting those. We usually take 2 or 3 each year because of no longer being used or violations. Right now there isn't a concern in the quantity we are talking about, but not right now.

Thompson – this CUP seems like a good idea for IUP to not pass on to future owners since it is not requiring build outs or other space. It says 10 dogs. Is there any metric for how many dogs per square feet, etc.

Kaltsas – no. We don't. With the acreage they have, 10 seemed like a good number for a max.

We have had that discussion with the breeder for 10 acres for 12 animals. They had other spaces that were not big enough. We have odors, dust, fumes, etc, if that became a feed lot or was over run, that could be in our conditions to have that addressed.

Thompson – commercial driveway?

Kaltsas – no this is not a lot of traffic.

#### **Motion by Thompson, seconded by Tearse to recommend approval Interim Use Permit for dog kennel for the property located at 2510 County Road 92 (PID No. 16-118-24-33-0003) in the City of Independence, MN.**

**Ayes:** Gardner, Thompson, Tearse, Dumas, Story and Usset.

**Nays:** None.

**Absent:** Volkenant

**Abstain:** None.

**Motion Approved. 5-0**

7. **PUBLIC HEARING** – Blue Valley Farm LLC (Applicant/Owner) is requesting the following action for the property located at 7550 Turner Road (PID No. 28-118-24-13-0005) in the City of Independence, MN.
- a. A conditional use permit amendment to allow an outdoor riding arena to be added to the subject property as a part of the commercial horse boarding facility on the subject property.

***Property/Site Information:***

The property is located west of County Road 92 on the north side of Turner Road. The property has an existing home, large barn/indoor riding arena, pasture and wetlands along the north property line. The property has the following characteristics:

**Property Information: 7550 Turner Road**

Zoning: *Agriculture* Comprehensive

Plan: *Agriculture* Acreage:

***Discussion:***

The subject property has had a conditional use permit to operate a commercial riding stable since its issuance in 2008 (copy of approval resolution attached to this report). In the fall of 2023, the applicant constructed an outdoor riding arena in the southeast corner of the property in an area that had previously been pasture. The work was done without a permit and upon learning of the work, the city issued a stop work order on the project. The city notified the property owner that an outdoor riding arena would be an expansion of the conditional use and require consideration by the city. In addition, the city noted that a grading permit would be required as grading activities may have impacted existing wetlands.

The city's wetland specialist further reviewed the wetland issue. It was ultimately determined in December of 2023 by a technical advisory panel that no violation or wetlands impact had occurred on the property. The city outlined the process for applying for a conditional use permit amendment and the applicant worked on providing the necessary documentation.

The owner is asking the city to consider an amendment to the existing conditional use permit to add the (now constructed) outdoor riding arena (after the fact). Commercial riding stables are a conditional use in the agriculture zoning district. The subject property is zoned Agriculture. Any expansion of a conditional use permit requires an amendment. Outdoor riding arenas are common facilities associated with many of the city's commercial or private riding stables. The city typically reviews all expansions of conditional use permits to determine if the expanded use meets the initial criteria for granting a conditional use permit. The city has review considerations for planning commission consideration:

- The constructed outdoor riding arena is 100' x 200'
- The owner brought in approximately 5,000 CY of soil to level the area.

- The owner provided the city with an “as built” grading and drainage plan. The city’s engineer reviewed the plan and noted that if all improvements were completed, the proposed grading and drainage would meet applicable grading/drainage requirements. It should be noted that the drain tile has not been installed and finished grading has not been completed at this time. Additional work would need to be done by the owner’s contractor if approved by the city.
- No outdoor lighting for the arena or use outside of permitted hours of operation is proposed (7:00 AM – 9:00 PM daily).
- The owner has indicated a willingness to continue a landscape screen to replace/continue the existing coniferous tree line along their southern property line. Should the city recommend approval, additional detail could be required relating to a possible screen or enhanced planting.
- The city notes that the location of the outdoor arena is 30’ from both the east and south property lines. The location is directly north of the existing residence located at 7526 Turner Road.

The City has visited the site and discussed the operation of the proposed commercial riding stable with the applicant. The applicant noted that they currently have 19 horses (including a donkey) on the property.

There are 7 total clients of the farm that own the 19 horses. It was noted that they provide lessons within the outdoor area 4-5 times per week. The owner also noted that they no longer ride on the south side of the arena along the south property line to get to the bridal trail located around the property perimeter.

The area where the arena is located was historically fenced and used for pasture, training and riding in association with the riding stable. The owner also noted that this area was occasionally used for jumping and related riding/training. The property previously sloped from south to north.

The criteria for granting an amendment to the conditional use permit are clearly delineated in the City’s Zoning Ordinance. The criteria for a conditional use permit amendment are the same as for the initial issuance of the conditional use permit. The criteria are as follows (Section 520.11 subd. 1, a-i):

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 from 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 conditional use is consistent with the comprehensive plan of the City of
9. The proposed use will not stimulate growth incompatible with prevailing density standard

The city also reviewed the conditions of the original CUP and whether or not the property was in compliance. The use of the facility appears to be in compliance with applicable conditions of the original conditional use permit with one exception. One condition noted by the city and may need to be addressed separately if confirmed to be in violation of the requisite conditions.

Condition 3). *That no employees of the business reside at the residence.*

The Planning Commission will need to review the requested amendment, information provided and determine whether or not the criteria for granting a conditional use permit amendment have been satisfied by the applicant.

***Neighbor Comments:***

The city was also contacted by the adjacent property owner located at 7526 Turner Road. He is concerned with several issues relating to the proposed amendment including, but not limited to:

- The adjacent owner is concerned with the drainage and its impact on the condition of his property along the south property line. There is a concern noted that the drainage has caused water to pond on his property.
- The adjacent owner is concerned with the increase in activity and intensification of the use in proximity to his property.
- The adjacent owner noted that the sand base becomes a dust bowl and impacts his use and enjoyment of his property.
- The adjacent owner noted that they ground carpet and mixed it with the sand in the riding arena.
- The adjacent owner is concerned with the location of the outdoor arena in proximity to his property and the impact that has to reasonable use and enjoyment.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission pertaining to the request for an amendment to the conditional use permit. Should the Planning Commission make a favorable recommendation to the City Council, the following findings and conditions should be included:

1. The proposed amendment to the conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions and Chapter V, Section 510, Zoning, in the City of Independence Ordinances.
2. City Council consideration of the conditional use permit amendment shall be subject to the following:
  - a. The applicant shall revise the plans in accordance with all comments made by Planning Commissioners.
  - b. The applicant shall revise the plans to accommodate all comments made by the City Engineer.
  - c. The city shall co e original conditional use permit are in full compliance.
3. The conditional use permit will be amended to allow an outdoor riding arena. The outdoor riding arena shall be constructed in accordance with the approved site and grading plans. All
4. All conditions of the original conditional use permit issued on September 8, 2008, by RESOLUTION No. 08-0908-02, shall remain in effect.
5. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Kaltsas – amendment to CUP to allow and outdoor riding arena. Applicant owner to allow the addition of an outdoor riding arena that is in place. West of 90, north side of Turner Road. Property zoned AG, Guided by the city’s plan as AG, 23 acres in overall. Granted CUP in 2008 for commercial riding stable. Fall of 2023 began construction of riding arena without a permit. Did grading work, brought in 5000 cu of dirt. Raised grade 5-6ft. City was notified work was being done. Put a stop work. Notified they need a grading permit and an amendment of CUP. Outdoor riding arena is a facility which is part of the CUP. One of the initial issues identified, concern of wetland that was filled because of fill and dirt. Specialists did go out and do some tests and it was determined no violation or wetland impact was made. After the fact for consideration. Any expansion of CUP requires an amendment. Outdoor riding arenas are common, in this case, they did not have this when the CUP was approved. The area that was constructed is 100x200ft. Owner did provide an as built grading and drainage plan. Drain tile has not been installed and finished grading has not been completed. No outdoor lighting is proposed or used. 7am-9pm business hours. Owners willing to do a landscape screening between this and property to the south. General location is 30ft from east and south property lines. Directly north of 7536 residents. When we visited, they have 19 horses, 20 allowable horses with CUP. 7 clients own these. Provide lessons 4-5 per week. No longer ride on the south side of arena. No employees reside at the residence – not satisfied. Comments provided by 7536 Turner – he has concerns with the construction of the facility. Satisfaction by applicant or mitigated by applicant use of the property and in full compliance with those criteria.

Story – is the applicant seeking to amend #3.

Kaltsas – no.

Story – is that a good housekeeping item?

Thompson – we don't know why.

Kaltsas – I couldn't find context on why you would need to be an owner occupant. Most of our commercial stables are not owner occupied. They have other means for caretaker or guesthouses. This may need to be dealt with separately.

Thompson – one of the concerns is the fill. Does city have standards to type of fill?

Kaltsas – yes if you were bringing in concrete fill or railroad ties. There are carpet grinds that were ground into the sand. I would have to do more research on that. We may need to talk about it more.

Dumas – is there any restrictions at all that you have to operate the business.

Kaltsas – it's not renting the business, it's just that the owner doesn't live there. Fairly common. Commercial stables are the nature of the business where someone else operates it.

Thompson – what are these guided

Kaltsas – this is guided AG for both.

## PUBLIC HEARING OPEN

Jeanne Hoene – owner

Ty Hoene

Rachel Wolf - Renter

Jenny Harris – lives at the residence

Jeanne – purchased in Oct 2021, prior was a horse farm. We are on a road with other horse farms and outdoor arenas. Past two summers we set up jumps and tried to ride. They excavated that area from the barn. It never got corrected from then, wavy and 2 horses went lame. We looked for a plan to build an outdoor arena. Proximity to barn and driveway for safety purposes and we could get in with Emergency vehicles easy. We have a lot of shifts. This was the one area that was a safe flat surface. We wanted to address the water flow issues. Nature spring from north part of his property and turner road along eastern edge of fence line. We have been mitigating that area. We didn't get permit at first, I didn't know I needed a formal permit if I wasn't building a structure.

Thompson – how many trucks is that?

Neil with precision grading – I already supplied with a grading permit. We have the as-built. I have trucking tickets. Most of that is handled with general contractors. I can't explain why it didn't get done. 2500 yards of material with after the fact grading permit.

Jenny – the company we bought from – does help with dust mitigation.

Jeanne – part of the maintenance. We have 7 clients – never more than 2 riders on the area at once. We want a safe environment. Horses need to get used to outdoor space. WE wanted to correct the water flow to the neighbor's place.

Thompson – the point of the CUP is to control the usage. We would have had this discussion beforehand to give a drainage plan or placement, etc. Now we are talking about removing all the soil and having you put it somewhere else. We didn't have this discussion before. This all would have come out. This is a difficult position to put us in.

Rachel Wolf – When we were talking about that location, proximity to the driveway. When we talked about the front, it is not safe, more water mitigation issues.

Dumas – looking at grading area, it seemed like a cost issue. It would have taken more fill.

Wolf – some of that came from the polo club. The racket from horse trailers.

Thompson – did you discuss this with your neighbor?

Jeanne – no. We would like to redo the shield.

Usset – how frequently would this be watered?

Wolf – as much as needed.

Gardner – more trees and screening?

Jeanne – offered to mitigate the water into the bridal area.

Neil – proposed main drain tile and French drain tile and bring it up to edge of his property.

Jeanne – of his 5 complaints, 4 of them involve finishing the project.

Tom Bren – no issues with the people at the property. Lived here since 1996. This evolved without no discussion and now we have 100x200 sandbox in immediate view of our backyard. The previous owner moved in 2006/2008. They didn't plant those trees; they have been there. No trees there because they died in the wet areas. The fact that they don't live on the property is a violation. Is that a major concern, no. They knew going through the CUP, it doesn't follow the rules. Do it and ask for forgiveness later. Huge eye sore. It impacts how we enjoy our property. No consideration for us. The fill could have been a cut and fill. I am a builder; I have been doing this since 11. I know the processes for applying for a permit.

Thompson – did you engage with the CUP process.

Bren – no. I built the home for the previous owners. This process is completely wrong. My opinion is that it was intentional. We should get a chance to speak about it and where to put it and get feedback. They did not reach out to us. They used to walk their horses up through our yards to get to an adjacent property. I am a previous horse owner, I like horses.

Thompson – what's your reaction to the drainage plan when completed alleviated condition.

Bren – I have owned my area and there was no issue before. They attempted to make a drainage swail around. It has become a pond. It doesn't drain. The issue is that they put it there without permission and the solution is to put a drain tile. There is more of an issue than that. The carpet material – I don't know regulation, but this area drains into PSC and seems like there should be a permit with watershed for permitting and regulation.

Thompson – can you characterize it – were they back there before vs what's there now?

Bren – when you take that same group of people and move them right there vs across the yard.

Thompson – the only thing subject to review here is the ring.

Bren – they took all of the training out in the pasture and put it all on the arena. The wetland was a drainage area the entire time I have lived there. If it was drain tiled it wouldn't be wet.

Thompson – how many 5-acre properties on Turner

Kaltsas – there is another 5 to the East and a 10-acre SE

Thompson – both parties are right. It is a no-win situation for the city because it is entirely possible that this is the outcome we would have gotten to and we would have felt different about or we could have gone down a different path.

Dumas – there are other locations. Being in the contracting business there is zero possibility that the contractor didn't know that a permit was required.

Thompson – I agree but I will say a neighbor should be calling after quite a few truck loads. The fact that it got to this point is unimaginable.

Story – how many cubic yards are required



Kaltsas – 100.

Dumas – what is the disturbance size?

Kaltsas – they fell under the threshold.

Thompson – can city provide and context similar in scale with a CUP.

Kaltsas – after the fact permits. I'd have to go back and look. Cities enforce their rules. The grading would have to be looked at separately.

Thompson – if they peeled 6 in off and planted grass again, it would be right back to

Kaltsas – we would have approved grading most likely.

Usset – they could have put fence there within the bounds. The issue at hand with the CUP is the surface with the grading.

Thompson – how do we say in good faith the answer we would have come to? How would that PH have gone?

Kaltsas – if you looked at it, the proximity to the property, it is close. If it was further away it would have been different. It is where it is not screened. If you looked at the whole site and front site wasn't good, behind the house there isn't room, behind barn you would have to move paddocks. Is there mitigation from a drainage standpoint?

Thompson – shifting to the left, reusing some of the work, ordering them to double trees with offsets, compromise.

Dumas – when I looked at the original cup, 3 of the 5 have been violated. If this had come before the commission, we would have come up with a different plan, not where it is. Where it is today, it would not have ended up.

Gardner – is there any wetland in moving it now

Kaltsas – I think it was below the 946. There was a borrow area that they pulled out of that area. There is upland on that site.

Neil – if you move it to the west, it gets in the middle of that pasture where there is a drainage from west to east. That will impact that area and the water that comes from the south side of property.

Thompson – rather than being landscape designers, what's the question before us. Not amending the CUP. Can we take our feedback and get a new plan and represent that for possible approval by moving it. Its unfinished, it is worse than it was before right now but its unfinished. It has to move, be better for drainage, visual, etc.

Story – we put a lot of weight on not affecting our eligibles. To what extent with sharing a horse farm.

Dumas – I would maybe agree with that and the house wasn't there first.

Thompson – everything has been fine until now with the horse farm. Do we need a motion to ask for a resubmittal, do we table it?

**Thompson motion to table this and directing Blue Valley Farm to reapproach planning with a plan that reflects guidance and feedback heard tonight including screening, mitigating water and moving arena. Seconded by Dumas.**

**Ayes:** Gardner, Thompson, Tearse, Dumas, Story and Usset.

**Nays:** None.

**Absent:** Volkenant

**Abstain:** None.

**Motion Approved 5-0**

8. **PUBLIC HEARING** – Jon and Patricia Malecek (Applicant/Owner) are requesting the following action for the property located at 1215 Copeland Road (PID No. 30-118-24-14-0002) in the City of Independence, MN.

a. A rural view lot subdivision to divide a 7.37-acre parcel from the subject property.

***Property/Site Information:***

The subject property is bounded on two sides by public roads (Copeland on the east and Nelson on the west). It is located north of CSAH 6. There is an existing home several detached accessory structures on the property. The property is primarily agriculture with some tree coverage and Pioneer Creek bisects the property from north to south. The property has the following site characteristics:

**Property Information: 1215 Copeland Road**

Zoning: Agriculture  
Comprehensive Plan: Agriculture  
Acreage (Before): 64.82 acres  
Acreage (After): Tract A - 7.37 acres  
Parcel B – 57.45 acres

***Discussion:***

The applicant approached the city about the possibility of subdividing the property and to create a rural view lot. The applicant is proposing to create one (1) rural view lot in accordance with the provisions set forth in the City’s Zoning Ordinance. The subject property has a total acreage of 64.82 acres. The provisions in the Agriculture Zoning District allow one (1) rural view lot for every 40 acres of land under the same ownership. Under the current zoning standards, the subject property has the ability to realize one (1) rural view lot for a total of two (2) lots on this property.

Rural view lots must have the following characteristics:

**Lot size required** - between 2.5 and 10 acres

**Lot size proposed** – Tract A – 7.37 acres

**Minimum lot frontage required** – 300 LF (for property between 5-10 acres)

**Minimum lot frontage proposed** – Parcel A – 438 LF

**Ratio of lot frontage to lot depth required** - no more than 1:4

**Ratio of lot frontage to lot depth proposed** – Parcel A - ~1:2 (438:735)

In addition to the minimum size necessary to subdivide, the ordinance requires a minimum of 2.5 acres of buildable upland, 300 LF of frontage on a right of way and no greater than a 1:4 ratio of lot frontage to lot depth for each rural view lot. Based on the proposed subdivision, the rural view lot would have 7.37 acres of useable upland and 438 LF of frontage on Nelson Road. The proposed lot depth to lot frontage ratio for the rural view lot would be ~1:2.

The proposed newly created property would be “in line” with the property to the north and located primarily along Nelson Road. The proposed Tract A would accommodate a new building pad given its overall size, topography and proposed dimensions. Any development on the property would need to meet all applicable setbacks. The City received an on-site septic report verifying that the proposed rural view lot can accommodate a primary and secondary on-site septic system. Access to the property would be from Nelson Road. The applicant has included the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.’s 1 and 2) for the proposed parcel.

The remaining 57.45 acres would continue to be a conforming lot of record. The existing home and detached accessory structures meet all applicable setbacks in the after condition. It should be noted that there are no remaining rural view lot eligibilities associated with Tract B in the after condition.

The newly created Tract A will be required to pay the City’s requisite Park Dedication fee. For this property the requirement is \$5,277.50. This fee will need to be paid prior to recording the subdivision.

*Park dedication fee of \$3,500 per lot up to 4.99 acres,  
plus \$750 per acre for each acre over 5 acres*

**Summary:**

The proposed subdivision appears to meet all of the applicable standards of the City’s zoning and subdivision ordinance. The lot being created will fit into the surrounding area and have minimal impacts on the surrounding properties.

**Neighbor Comments:**

The city has not received any written comments regarding the proposed subdivision to permit a rural view lot.

**Recommendation:**

Staff is seeking a recommendation from the Planning Commission for the requested Minor Subdivision. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions should be included:

1. The proposed minor subdivision for a rural view lot meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. The Applicant shall pay the park dedication fees in the amount of \$5,277.50, for the newly created Tract A, prior to the applicant receiving final approval to record the subdivision by the City.
3. The Applicant shall pay for all costs associated with the City's review of the requested subdivision.
4. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.
5. The Applicant shall execute and record the requisite drainage and utility easements with the county within six (6) months of approval.
6. The remaining Tract B will have no remaining rural view lot eligibilities.

Kaltsas – bounded by two roads, Copeland and Nelson. Existing home and tree coverage. Zoned AG and guided AG. Every 40 acres you have the ability to realize one rural view lot. This can have 2. Rural must be between 2.5-10 acres. Meeting all requirements. 2.5 acres of buildable upland and all of it is. In line with property North of it. Access to Nelson rd. Primary and secondary septic sites are provided. Existing home would be a conforming lot of record. They would not be creating any nonconformities. The newly created would be required to pay park dedication fees. Lot would fit into the surrounding properties. No comments from public.

OPEN PUBLIC HEARING

CLOSED PUBLIC HEARING

**Motion by Story, seconded by Tearse to approve a rural view lot subdivision to divide a 7.37-acre parcel from the** for the property located at 1215 Copeland Road (PID No. 30-118-24-14-0002) in the City of Independence, MN.

**Ayes:** Dumas, Volkenant, Gardner, Tearse and Usset

**Nays:** None. Absent: Thompson

**Abstain:** None.

**Motion Approved. 5-0**

9. **PUBLIC HEARING** – Katy Swanson on behalf of Crown Castle (Applicant/Owner) is requesting the following action for the property located at 8590 County Road 6 (PID No. 32-118-24-23-0001) in the City of Independence, MN.

- a. A conditional use permit amendment to allow two additional antennas to be mounted on the existing structure located at the base of the existing cellular tower on the subject property.

***Property/Site Information:***

The property is located on the north side of County Road 6, just east of Copeland Road. The property is surrounded by the new Windsong Golf Course. The property has the following characteristics:

Property Information for 8590 County Road 6

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: 69.91 Acres

***Discussion:***

The applicant is seeking an amendment to the existing conditional use permit to allow the installation of two (2) new satellite dishes to be located on the existing accessory structure located at the base of the existing tower. The tower and accessory structure were approved as a conditional use permit in 1997 (see attached). Any modification that increases the number of antennas is subject to a conditional use permit amendment.

*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.*

The applicant is proposing to locate 2 new 15” antennas on the existing accessory building. The antennas would be mounted to the roof of the structure (see elevation below). The city regulates the tower, accessory structure and all associated cabling, transmission devices, generators, etc. associated with cellular telecommunications towers. The city allows replacement, minor modifications and similar changes to be made to cellular towers and their equipment with administrative and building permit review and approval. Any increase in size, number or type of antennas, expansion of buildings, location of generators or similar equipment generally prompts an amendment to the conditional use permit to ensure compliance with all conditions and to better track and manage tower development.

The city has recently worked with one of the other carriers on this tower scape screening around the base so that it was in compliance with approved conditions.

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:

- a) *The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
- b) *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.*
- c) *Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.*
- d) *Sufficient off-street parking and loading space will be provided to serve the proposed use.*
- e) *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.*
- f) *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.*
- g) *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.*
- h) *The proposed condition use is consistent with the comprehensive plan of the City of Independence.*
- i) *The proposed use will not stimulate growth incompatible with prevailing density standards.*

The existing tower has a conditional use permit and is currently in compliance. The location of the tower and its proximity to any residential or commercial structure generally mitigates potential impacts resulting from the proposed additional antennas. The low height of the antennas also aids in their mitigation. The Planning Commission will need to determine if the requested additional 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 actions, the following findings and conditions should be considered:

1. The proposed conditional use permit amendment, site plan review and variance meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.

2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.

3. This amendment approves 2 new antennas to be located on the roof of the existing equipment shelter and in accordance with the approved plans.

4. The Conditional Use Permit Amendment shall include the following conditions:

a. The conditional use permit shall be reviewed annually by the City.

b. This amendment approves two (2) new antennas to be located on the roof of the existing equipment shelter.

c. The antennas shall be installed in accordance with the approved plans and elevations attached hereto as EXHIBIT B.

d. The City can administratively approve any replacement of existing antennas. Any expansion or increase to the size of the existing ground equipment, buildings or number of antennae will be subject to the City's review and an amendment to the conditional use permit.

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

Kaltsas – their plans and what they say can be very different.

**Motion by Tarse, seconded by Story to approve a conditional use permit amendment to allow two additional antennas to be mounted on the existing structure located at the base of the existing cellular tower** for the property located at 8590 County Road 6 (PID No. 32-118-24-23-0001) in the City of Independence, MN.

**Ayes: Dumas, Volkenant, Gardner, Tarse and Usset**

**Nays:** None. **Absent:** Thompson

**Abstain:** None.

**Motion Approved. 5-0**

10. Open/Misc.

11. Adjourn.

**Motion by Thompson, seconded by Tearse to ajourn the Planning Commission Meeting at 9:41pm.**

**Ayes: Dumas, Volkenant, Gardner, Tearse and Usset**

**Nays: None. Absent: Thompson**

**Abstain: None.**

**Motion Approved. 5-0**