



PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY MARCH 19, 2019

7:30 PM Regular Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes:
 - a. January 15, 2019 Planning Commission Meeting
 - b. March 5, 2019 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):
 - a. An interim use permit allowing the continued horticulture use of the existing property.
5. **PUBLIC HEARING:** A proposed text amendment to the City of Independence Ordinances as follows:
 - a. Chapter 5, Section 530.01, Subd. 3 Accessory Uses – Considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures.
6. Open/Misc.
7. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JANUARY 15, 2019 – 7:30 P.M.

1. Oath of Office – Robert Gardner

2. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by ??? at 7:30 p.m.

3. ROLL CALL

PRESENT: Commissioners Thompson, Gardner and Palmquist

STAFF: City Administrator Kaltsas, Administrative Assistant Horner

ABSENT: Chair Phillips, Commissioner Dumas

VISITORS: Kati Johnston, Michael & Sharon Glover, Karyn O'Brien, Garrett and Jane Sarkinen, Jim Ostvig, Carrie Fleisenhacker, Kathy & John Theissen, Clint & Nita Bergman, Ray Johnson, Oda Carlson, Roland Carlson, Harold Haavisto, Daryl and Carrie Froemming

4. APPROVAL OF MINUTES:

- a. December 18, 2018 Joint City Council/Planning Commission Meeting
- b. December 18, 2018 City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the December 18 Joint City Council and Planning Commission Minutes, second by Palmquist. Ayes: Thompson, Gardner and Palmquist. Nays: None. Absent: Dumas and Phillips. Abstain. None. Motion Approved.

5. **PUBLIC HEARING:** Kati Johnson (Applicant) and Kathleen Theissen (Owner) request that the City consider the following actions for the property located at 3035 Lake Sarah Road, Independence, MN (PID No. 16-118-24-11-0001):

- a. A conditional use permit allowing the following:
 - i. A commercial riding stable.
 - ii. An accessory building which is greater than 5,000 square feet.

Kaltsas said the Applicant approached the City about purchasing the subject property and continuing to operate the existing commercial riding stable. The existing horse farm was granted a conditional use in 1979 to operate a commercial riding stable for 38 horses on the subject property. One of the conditions attached to the CUP stated, "A permit is granted to the person & expires when the property is under new management or ownership". The City reviewed the conditions with the potential buyer and noted that the best way to proceed was to seek a new conditional use permit to operate the facility on the property. It was also noted that there was an existing bunkhouse historically used on the property for a care takers quarters that was not specifically permitted in the 1979 CUP approval. In addition to taking over operations of the existing commercial riding stable, the applicant noted that they would like to construct a covered (not enclosed) riding arena over the existing outdoor arena. A conditional use permit would be required as a result of the proposed structure being larger than 5,000 square feet. Commercial riding stables are a conditional use in the Agriculture zoning district. The subject property is zoned Agriculture. The City

generally allows 1 animal unit on the first two acres and then 1 additional animal unit for each additional acre of property. The existing CUP granted approval for 38 horses on the property based on the notion that they had approximately 39 gross acres. The subject property is comprised of approximately 39 acres including the cartway easement which provides access to this property and future access to the adjacent properties to the north and east. Of the 39 acres, approximately 36 acres is useable upland based on the national wetland inventory. Applying the City's typical standard, the site would accommodate 38 animals using the gross acreage or 35 animals using the upland acreage.

The City has historically required that the applicants maintain a manure management plan, maintain all applicable permits relating to the management of manure on the property and maintain 1/3 acre of open pasture per animal unit. In December 2018, City Council adopted a Manure Management Policy for the City. The policy provides regulations relating to the management of manure associated with commercial horse operations in the City. This property would be subject to the new Manure Management Policy. The subject property is wooded along the north property line and has a small wetland in the southwest corner. There are approximately 16 acres of open pasture without the removal of existing woodlands. The open pasture areas on this property in the existing condition would accommodate 48 horses using the City's standard of 1/3 acre per horse which is more than the number that would be permitted. The applicant noted that the horses are not dependent on pasture grazing as all horses are boarded inside the stall barn and receive hay and feed supplements.

The proposed commercial boarding stable would have the additional following characteristics:

NOTE: Applicants narrative attached to this report may have several discrepancies from the report. The information in this report is the most current information and should be considered.

1. The existing horse barn/indoor riding arena is generally one-story with a hay loft, 19,500 SF in size and has a total of 44 stalls.
2. The proposed covered riding arena would be 22,000 sf and would not be fully enclosed. The space would cover the existing outdoor arena.
3. There is an existing 1-bedroom bunkhouse in the existing detached garage. The applicant is proposing to raze the existing detached garage and construct a new garage and bunkhouse in the same location (exact location may be adjusted slightly to accommodate existing conditions).
4. There are currently 3 full time and 3 part time employees.
5. There are currently 38 horses on the subject property and the applicant is proposing to maintain a maximum of 38 horses boarded on the property at any time.
6. The Applicant would have regular deliveries of shavings which typically come via a single-axel truck weekly or less.
7. There is a total of 3 ferriers that come to the site to shoe the horses on a regular basis. This results in approximately one visit per week.
8. There would be regular weekly garbage service to the property.
9. Manure is proposed to be collected on-site and stored in a new concrete manure enclosure. The

manure would be hauled off-site on a monthly basis.

10. Hay is delivered to the property once per month in the winter and once per every two months in the summer.

11. The applicant noted that there are typically no more than 5-10 guests coming to the property at any given time and usually less. The current conditional use permit allows for no more than 2 events per year.

12. The Applicant has put together a sketch of the existing and proposed conditions.

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 visited the site and discussed the operation of the proposed commercial riding stable with the applicant. The following considerations should be noted by the City:

- This property has historically been operated as a commercial riding stable.
- The proposed continued use as a commercial riding stable generally fits into the character of the surrounding area and is in keeping with the City's Comprehensive Land Use Plan.
- Any new building constructed on this site will be subject applicable building codes,

applicable setbacks as well as to any additional approvals from the Pioneer Sarah Creek Watershed Management Commissions.

- All proposed building lighting will need to fully comply with applicable standards including being full cut-off type lighting. The City will work with the applicant to obtain the cut sheets and detailed plan for all proposed lighting. The City typically reviews building and site lighting during the building permit review process.
- The existing home on the property is served by an on-site septic system. The system was replaced in 2018 and is fully compliant. The system does accommodate the existing bunkhouse.
- The applicant shall fully comply with the City's recently adopted Manure Management Policy. This will include maintaining the prescribed buffer from the existing wetland located in the southwest corner of the property and constructing a new manure containment area.

Given the location of the property, the orientation of the buildings and their relationship to the surrounding properties and the existing use of the property as a commercial riding stable, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit to allow a commercial riding stable. Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit with the following findings and conditions:

The proposed conditional use permit requests meet all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Ordinances.

2. The conditional use permit will include the following conditions:

- a. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
- b. Any new signage shall comply with all applicable standards of the City's ordinance and require a sign permit.
- c. No more than 38 horses shall be boarded on the property.
- d. The applicant and facility must operate in compliance with the City of Independence Manure Management Policy.
- e. The hours of operation are: 7:00 am – 10:00 pm.
- f. No parking shall be permitted on public roadways. g. Two (2), one day, horse related events will be permitted per year and shall comply with the following provisions:
 - ☐ The horse related events shall occur during the permitted hours of operation.
 - ☐ No more than 50 participants shall be permitted at each event.
- h. No renting of hack horses shall be permitted.
- i. No riding on adjacent private land unless authorized by owners.
- j. Must utilize appropriate management practices to control flies and odor.

k. No riding on adjacent private land unless authorized by owners.

l. No future expansion of the barn or covered riding arena shall be permitted on the property without the further review and approval by the City through the conditional use permit amendment process.

3. The applicant shall pay for all costs associated with the review and recording of the resolution for a conditional use permit.

4. City Council approval of the conditional use permit is subject to the following:

a. If applicable, the applicant shall obtain all requisite approvals from the Pioneer Sarah Watershed Management Commission for the proposed site work and disturbance.

b. The applicant shall provide the City with information and details pertaining to any and all building and site lighting. All lighting will be required to comply with the City's applicable lighting standards.

5. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Palmquist asked if the existing detached garage were raised would the applicant have to come back? Kaltsas said it would be noted as part of site plan and as long as it was within reason they would not have to come back. It is typically defined within the site plan.

Thompson asked if the bunkhouse would be defined within the CUP so it could not be used as a rental. Kaltsas said that was correct and it could not be rented out.

Public Hearing Open

Jane Sarkinen asked if the CUP would expire if the property was sold and if any new signage, lighting and traffic stipulations would apply. Gardner noted things have changed since the original in 1979. A lot is determined by is it a nuisance or not. There was no sign or lighting ordinance back in 1979. Kaltsas said the City can no longer put a time frame on a CUP like could be done in the past. CUP's are now memorialized with the land.

Harold Haavisto asked if there was a limit on the size of an event and Kaltsas said if there were more than 49 people attending an event a large assembly permit would need to be approved.

Gary Sarkinen said he appreciated this process and wondered how big the detached garage would be and what the setbacks would be. Kaltsas noted it would not exceed 5000 square feet and the 15' setbacks would apply.

Motion by Thompson to close the Public Hearing, second by Palmquist.

Public Hearing Closed

Motion by Palmquist to approve a conditional use permit allowing the following: (i) A commercial riding stable and (ii) An accessory building which is greater than 5,000 square feet for the property located at 3035 Lake Sarah Road, Independence, MN (PID No. 16-118-24-11-0001) per staff recommendations; second by Thompson. Ayes: Gardner, Thompson, and Palmquist. Nays: None. Absent: Phillips and Dumas. Abstain. None. Motion Approved.

9. **PUBLIC HEARING:** Verizon Wireless (Applicant) and Wesley Bendickson (Owner) request that the City consider the following actions for the property located at 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001):

- a. A Conditional Use Permit to allow a new 159' tall telecommunications tower on the subject property.

The applicant made application to the City to construct a wireless telecommunications tower on the adjacent property (owned by the applicant) in 2015. At that time the City found that the proposed tower did not meet the criteria for granting approval due to the tower and associated base equipment not being adequately screened from the views of surrounding residential property. The Planning Commission recommended moving the tower further to the south on the adjacent property to aid in screening and reduce impacts on the surrounding properties. Ultimately, the application was withdrawn by the applicant and no further action was taken by the City. The applicant has now made a new application to the City seeking a conditional use permit and site plan approval to allow a new telecommunications tower and associated ground equipment to be located on the property that is essentially adjacent to the property previously considered by the City. The City has criteria relating to the location (setbacks), site improvements and landscaping for new telecommunications tower development.

The proposed tower is a monopole type structure proposed to be 159 feet in height (to the tip of the highest antenna, pole is 150'). The required setback from the property line is equal to the height of the tower. The maximum height allowed for a telecommunications tower is 185 feet. For a tower that is 159' tall, the tower may be located no closer than 159 feet from any property line. The proposed tower location meets the requisite setbacks from the nearest property line (see attached site plan). The applicant is proposing to construct a gravel access drive to the proposed site from the existing driveway that provides access to the 6705 Highway 12 property. The proposed location on the property is currently farmed. The applicant is proposing to provide ground mounted base equipment associated with the tower. The equipment would be located within a fenced area comprised of approximately 1350 SF. A free-standing generator would be located within this area and not inside of a building. This is a departure from the last plan presented to the City in which all equipment was located within a fully enclosed structure. The City has criteria that should be considered relating to telecommunications towers.

The criteria provided in the ordinance are as follows:

- (a) To regulate the location of telecommunication towers and facilities;*
- (b) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;*
- (c) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;*
- (d) To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;*
- (e) To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed,*

constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;

(f) To ensure that telecommunication towers and facilities are compatible with surrounding land uses; (g) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

There are several factors that should be considered relating to the conditional use permit and site plan approval. The following issues should be noted by the City:

1. The City requires that all towers and associated structures accessory to the tower must be of stealth design landscaped and or screened and blend into the surrounding environment.

“Stealth” means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.

Subd. 8. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet setback requirements that are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 11. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of comparable vertical structures in the vicinity of the proposed site.

The proposed tower is a monopole type tower with the low-profile antennas integrated with the tower rather than “hanging” off of the tower. This design appears to be different than other towers located in the City in that it is more streamlined. The ground mounted equipment is proposed to be located within a fenced area. The proposed fence is 10 feet in height and of an opaque composite fence design. The City will need to determine if the proposed tower is of a stealth type design. The City requires towers to be of stealth design and further defines stealth as “towers designed to appear other than a tower, such as light poles, power poles and trees”.

Staff is seeking additional direction from Planning Commissioners relating to the design of the tower.

2. The applicant has provided the City with verification of the need for the proposed tower (see attached letter and coverage map).

3. The City requires all towers to be able to accommodate colocation. The applicant has provided a letter from an engineer verifying that the proposed tower can accommodate additional antennas on this tower. In addition, the proposed tower elevations show the potential locations for colocation along with a lease area that appears to be suitable for accommodating additional providers.

4. The applicant is proposing to screen the ground mounted tower base equipment utilizing a 10-foottall

opaque fence and eleven (11) 6-foot-tall evergreen trees around the north and east sides of the proposed site. While the proposed fence and associated landscaping will provide a visual barrier from Highway 12 to the proposed ground mounted equipment, the proposed screening could be vastly improved by installing a more complex and complete landscape and berming plan. The City recommends that the applicant provide a combination of an earthen berm and a more diverse and dense landscape screening plan around the north, east and west sides of the proposed tower base. This plan would need to be revised and resubmitted to the City.

5. The applicant has provided the City with a lighting fixture cut sheet for the proposed building lighting. All lighting will need to comply with the City's lighting ordinance. The proposed light does not appear to meet the cut-off requirements of the City as the light source appears to angle outwards from the head. Staff will work with the applicant to specify a compliant light fixture. The location of the proposed lights are noted on the building plans.

6. The applicant has provided the City with a copy of relevant portions of a lease signed by the applicant and property owner(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed.

7. The City received correspondence from the Pioneer Sarah Creek Watershed Commission that is has reviewed and approved the proposed site improvements associated with the telecommunications tower. The proposed telecommunications tower and associated ground mounted equipment is similar to those located within the City. The proposed site improvements will help to screen the new equipment required to support the antennas on the tower. Landscaping will further mitigate the impacts of the proposed equipment and building. It should be noted that the adjacent properties to the north (across Highway 12) east, south and west are guided for Commercial/Light Industrial by the City's 2030 Comprehensive Plan and Draft 2040 Comprehensive Plan. The proposed location in an area of the City that is guided for commercial development appears to be less impactful than if located in or adjacent to an area that was guided for or zoned residential. The tower will likely be visible from residential properties to the west and possible to the east. The closest existing residential structure that is zoned and guided for residential is approximately 1,450 feet from the base of the tower. There is a rental residential property located on the adjacent property to the east.

The applicant has provided several photo simulations that attempt to demonstrate views of the tower from several adjacent vantage points. The photo simulations show both the existing and proposed conditions from the designated vantage points. Staff has reviewed the photo simulations and noted that the base screening and landscaping is shown in a fully mature form and is not representative of the screening at the time the tower would be constructed.

In the AG-Agriculture zoning district, telecommunication towers are permitted as a conditional use. Resulting traffic, noise, and other measurable impacts (other than the height of the tower) should not be incrementally amplified as a result of the proposed telecommunications tower and associated base site improvements. The Planning Commission will need to determine if the requested conditional use permit and site plan meet all of the aforementioned conditions and restrictions as well as the criteria for granting a conditional use permit and approving a wireless communications tower.

Staff is seeking a recommendation from the Planning Commission for the request for a conditional use permit and site plan approval. 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 and site plan review 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 conditional use permit will approve a monopole tower with a maximum height of 159 feet and the associated site improvements, ground mounted equipment and landscaping (as indicated on the approved site plan).
4. Prior to consideration by the City Council, the applicant shall complete the following items:
 - a. Completion of all comments and conditions made by the Planning Commission during their review of the Conditional Use Permit and Site Plan.
 - b. Revision to the landscape and screening plan to include an earthen berm and more divers and dense landscape screening plan.
5. The applicant shall pay for all fees associated with the City's processing and review of the Conditional Use Permit and Site Plan Review.

Palmquist asked how many towers were in the City today. Kaltsas stated there were four towers at Windsong, Delano Church, Pioneer Creek and Jacobs property. Kaltsas said the criteria has been updated since the time these were installed. Palmquist said the biggest concepts to be met are to limit the adverse visual impact and use of surrounding land taken into effect.

Open Public Hearing

Karyn O'Brien addressed the stealth code element saying this was a good design with the antennas having a low profile. She stated all the equipment would be stored internally. Thompson asked about the screening. O'Brien said there was not screening on the west side as it is so far back it is not visible. The South side would be screened.

Roland Carlson said this should be on City property and then all the residents would benefit from the income and then resident's property values wouldn't be affected. Kaltsas said Verizon looked at the City property but could not come to an agreeable contract with the City. O'Brien stated the City wanted more money that Verizon thought was reasonable and not as much ground space as well. Palmquist asked if Pioneer Park was looked at as a potential location. Kaltsas said that impacted to many residents so that is why the City Hall site was selected.

Kathleen Blatz, 7075 Highway 12, said she lives right next door and was here in 2015 when this was presented last time. She said people are tired of this issue and wonders if this is the best site for the City to allow the tower. Blatz said her viewpoint is that it is not the best location. She noted this was not discussed with the neighbors. Blatz felt there should be more an effort to work with concerned residents on this issue and she is concerned as she will have to look at this everyday out her front window. She felt it should be on a commercial industrial site. Palmquist said the proposal in 2015 was for a location further west. He noted this proposal is closer to his house and he will see it. Blatz said it is going in the right direction but

wonders if due diligence is being done. O'Brien said due diligence was done and this site works well as there is enough room. She said they will be able to meet code at this location and have greater coverage.

Jim Ostvig- 1575 County Road 90, said he will always see the tower from his place, but he is in favor of it, but his main concern is that if he needs to dial 911 he wants coverage and coverage out here currently is spotty.

Motion by Thompson to close the Public Hearing, second by Palmquist.

Public Hearing Closed

Thompson noted all the other towers were on private land and not public. He said compared to the other designs this one is dramatically different and much more stealth. He noted besides Windsong all the towers are relatively close to residential properties. He visited companies and asked about their coverage and all noted they do not have great coverage and it makes it difficult. Thompson thought the screening could be improved but overall feels this application satisfies the ordinance. Gardner said it is sad that they can't make everyone happy.

Palmquist said he feels conflicted and the Planning Commission is kind of in a box. He feels this proposal is vastly different from the prior proposal with being more stealth and the location is better. He felt the landscaping could be improved to the West. He noted he is impacted by this location but also by service coverage. Palmquist asked about lights. O'Brien said they follow FAA requirements and so far, it has been determined lighting is not needed.

Motion by Thompson to approve a Conditional Use Permit to allow a new 159' tall telecommunications tower on the property located at 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001) subject to movement either east and or/ height adjustments, improved screening/ landscaping and lighting requirements addressed as recommended by Staff; second by Palmquist. Ayes: Gardner, Thompson, and Palmquist. Nays: None. Absent: Phillips and Dumas. Abstain. None. Motion Approved.

10. Planning Updates:

- a. Ordinance Updates 2019
- b. Miscellaneous Planning Items

Kaltsas stated there will be ordinance updates coming forward addressing structure height and non-typical requests. He will put a list together with historical data and updates needed for clarification. Kaltsas said Highway 12 planning has an update for the County Road 90 intersection that was presented at the Open House. More complete information is expected in the coming months and it will be a round-about type intersection. County Road 92 will also be coming up and that is Hennepin County led.

11. Open/Misc.

12. Adjourn.

Motion by Thompson, second by Palmquist to adjourn at 9:27 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

City of Independence
Planning Commission Meeting Minutes
7:30 p.m., January 15, 2019

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, MARCH 5, 2019 –6:30 P.M.

1. CALL TO ORDER.

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

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: Councilor McCoy

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

VISITORS: Bendicksons, Karyn O'Brien

4. ****Consent Agenda****

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

- a. Approval of City Council minutes From the February 19, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18656-18691.

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

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

Johnson added consideration of writing a letter to the Highway 12 Safety Coalition regarding the death on Highway 12 over the weekend.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting

Grotting attended the following meetings:

- LMCC quarterly meeting

McCoy attended the following meetings: (whole month)

Betts attended the following meetings:

- None

Johnson attended the following meetings:

- Planning Commission Meeting
- Conference Call for National League of Cities
- Orono School Board Meeting
- Haven Homes Advisory Committee Meeting
- Haven Homes Facilities Meeting
- Hennepin County Community Action Partnership grant meeting
- Loretto Fire Department Quarterly Meeting
- Thank You note from Judy Johnson who will be our Representative on Met Council

Horner attended the following meetings:

- None

Kaltsas attended the following meetings:

- Fire Commission Meeting

7. Adoption of 2019 Fee Schedule Update No. 2 Pertaining to Vehicle Wight Restrictions Ordinance Update - **RESOLUTION 19-0305-01.**

Motion by Spencer, second by Betts to approve RESOLUTION 19-0305-01- Adoption of 2019 Fee Schedule Update No. 2 Pertaining to Vehicle Wight Restrictions Ordinance Update. Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

8. Verizon Wireless (Applicant) and Wesley Bendickson (Owner) request that the City consider the following actions for the property located adjacent to 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001):

RESOLUTION 19-0305-02 – Considering approval of a Conditional Use Permit and Site Plan Review to allow a new 159' tall telecommunications tower on the subject property.

Kaltsas said Verizon Wireless has submitted an updated landscape plan based on the discussion and direction of the City Council and Planning Commission. Staff has reviewed the plan and worked with the applicant to update and revise the plan to bring it into compliance with the Council recommendation. The proposed plan provides an earthen berm and layered landscaping that will provide a high level of screening of the base equipment. The landscaping proposed varies in height and type of plantings to provide a more complete and long-term screening and buffering of the tower base and associated equipment. The proposed landscaping and earthen berm are in addition to the proposed composite fence.

Verizon Wireless has submitted an application to the City asking for approval to construct a wireless telecommunications tower on the property adjacent to the property that was considered for a similar request in 2015. The subject property is owned by the same owner that owned the property considered in 2015. At that time the City found that the proposed tower did not meet the criteria for granting approval due to the tower and associated base equipment not being adequately screened from the views of surrounding residential property. The Planning Commission recommended approval of the tower subject to the applicant moving the tower further to the south (approximately 1,000 feet) on the adjacent property to aid in

screening and reduce impacts on the surrounding properties. Ultimately, the application was withdrawn by the applicant and no further action was taken by the City Council. The applicant has now made a new application to the City seeking a conditional use permit and site plan approval to allow a new telecommunications tower and associated ground equipment to be located on the property that is essentially adjacent to the property previously considered by the City. The City has criteria relating to the location (setbacks), site improvements and landscaping for new telecommunications tower development. The proposed tower is a monopole type structure proposed to be 159 feet in height (to the tip of the highest antenna, pole is 150'). The required setback from the property line is equal to the height of the tower. The maximum height allowed for a telecommunications tower is 185 feet. For a tower that is 159' tall, the tower may be located no closer than 159 feet from any property line. The proposed tower location meets the requisite setbacks from the nearest property line (see attached site plan). The applicant is proposing to construct a gravel access drive to the proposed site from the existing driveway that provides access to the 6705 Highway 12 property. The proposed location on the property is currently farmed. The applicant is proposing to provide ground mounted base equipment associated with the tower. The equipment would be located within a fenced area comprised of approximately 1350 SF. A free-standing generator would be located within this area and not inside of a building. This is a departure from the last plan presented to the City in which all equipment was located within a fully enclosed structure. In addition to the ground mounted equipment, a new electric transformer would need to be installed on the property. The City has criteria that should be considered relating to telecommunications towers. The criteria provided in the ordinance are as follows:

- (a) To regulate the location of telecommunication towers and facilities;*
- (b) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;*
- (c) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;*
- (d) To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;*
- (e) To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;*
- (f) To ensure that telecommunication towers and facilities are compatible with surrounding land uses;*
- (g) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.*

There are several factors that should be considered relating to the conditional use permit and site plan approval. The following issues should be noted by the City:

1. The City requires that all towers and associated structures accessory to the tower must be of stealth design, landscaped and or screened and blend into the surrounding environment.

"Stealth" means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.

Subd. 8. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet setback requirements that are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 11. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of comparable vertical structures in the vicinity of the proposed site.

1. The proposed tower is a monopole type tower with the low-profile antennas integrated with the tower rather than “hanging” off of the tower. This design appears to be different than other towers located in the City in that it is more streamlined. The ground mounted equipment is proposed to be located within a fenced area. The proposed fence is 10 feet in height and of an opaque composite fence design. The City will need to determine if the proposed tower is of a stealth type design. The City requires towers to be of stealth design and further defines stealth as “towers designed to appear other than a tower, such as light poles, power poles and trees”. Staff is seeking additional direction from Planning Commissioners relating to the design of the tower.
2. The proposed tower is located on a property that is currently zoned AG-Agriculture but guided by the City’s Comprehensive Plan as future CLI – Commercial/Light Industrial. Locating a tower on property. The location of the proposed tower on the subject site is largely a result of the setback requirement (towers must be setback a distance equal to or greater than the height of the tower). It was noted that this location in the middle of the subject property may hinder the future developability of the property and does not offer much ability to successfully screen the base of the tower. It was further noted that the tower could be moved further to the east (~30 feet without a variance and further with a variance) and south to allow future development and to better screen the tower from visibility. The applicant has stated that they would rather not move the proposed location of the tower.
3. The applicant has provided the City with verification of the need for the proposed tower (see attached letter and coverage map).
4. The City requires all towers to be able to accommodate colocation. The applicant has provided a letter from an engineer verifying that the proposed tower can accommodate additional antennas on this tower. In addition, the proposed tower elevations show the potential locations for colocation along with a lease area that appears to be suitable for accommodating additional providers.
5. The applicant is proposing to screen the ground mounted tower base equipment utilizing a 10-foottall, composite, opaque fence and eleven (11) 6-foot-tall evergreen trees around the north and east sides of the proposed site. While the proposed fence and associated landscaping will provide a visual barrier from Highway 12 to the proposed ground mounted equipment, the proposed screening could be vastly improved by installing a more complex and complete landscape and berming plan. The City recommends that the applicant provide a combination of an earthen berm and a more diverse and dense landscape screening plan around the north, east and west sides of the proposed tower base. This plan would need to be revised and resubmitted to the City. The City is anticipating that the applicant will resubmit a plan prior to City Council consideration but did

not have the plan at the time this report was prepared.

6. The applicant has provided the City with a lighting fixture cut sheet for the proposed building lighting. All lighting will need to comply with the City's lighting ordinance. The proposed light does not appear to meet the cut-off requirements of the City as the light source appears to angle outwards from the head. Staff will work with the applicant to specify a compliant light fixture. The location of the proposed lights are noted on the building plans.
7. The applicant has provided the City with a copy of relevant portions of a lease signed by the applicant and property owner(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed.
8. The City received correspondence from the Pioneer Sarah Creek Watershed Commission that is has reviewed and approved the proposed site improvements associated with the telecommunications tower. A request for a Conditional Use Permit must meet the requirements established for granting a Conditional Use Permit in the City's Zoning Ordinance. 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 proposed telecommunications tower and associated ground mounted equipment is similar to those located within the City. The proposed site improvements will help to screen the new equipment required to support the antennas on the tower. Landscaping will further mitigate the impacts of the proposed equipment and building. It should be noted that the adjacent properties to the north (across Highway 12)

east, south and west are guided for Commercial/Light Industrial by the City's 2030 Comprehensive Plan and Draft 2040 Comprehensive Plan. The proposed location in an area of the City that is guided for commercial development appears to be less impactful than if located in or adjacent to an area that was guided for or zoned residential. The tower will likely be visible from residential properties to the west and possible to the east. The closest existing residential structure that is zoned and guided for residential is approximately 1,450 feet from the base of the tower. There is a rental residential property located on the adjacent property to the east.

The applicant has provided several photo simulations that attempt to demonstrate views of the tower from several adjacent vantage points. The photo simulations show both the existing and proposed conditions from the designated vantage points. Staff has reviewed the photo simulations and noted that the base screening and landscaping is shown in a fully mature form and is not representative of the screening at the time the tower would be constructed.

In the AG-Agriculture zoning district, telecommunication towers are permitted as a conditional use. Resulting traffic, noise, and other measurable impacts (other than the height of the tower) should not be incrementally amplified as a result of the proposed telecommunications tower and associated base site improvements. The City will need to determine if the requested conditional use permit and site plan meet all of the aforementioned conditions and restrictions as well as the criteria for granting a conditional use permit and approving a wireless communications tower. The City received several comments pertaining to the proposed application at the public hearing. The following comments were provided to the City:

1. A question was asked regarding why the tower was not located on City property. It was noted that the City was working on a potential tower site on City property several years ago and was ultimately notified by Version that they were no longer going to pursue the City property...no reason was provided at that time. It was additionally noted that the City cannot prohibit towers on all other property but City property.
2. It was noted that the applicant did not reach out to any property owners regarding the proposed tower prior to notification of the public hearing being provided by the City.
3. A resident stated that they were concerned with the proposed location of the tower, the lack of screening and the visibility from their property. It was further stated that they did not believe that the proposed site was the best location within the City for a new wireless communications tower.
4. A resident stated that they were in favor of the tower and believed that the City needed to have another tower to improve service in the area.

Planning Commissioners discussed the request for a conditional use permit and asked questions of staff and the applicant. Commissioners commented that they had reviewed the location of the other towers in the area and their distance/relationship to surrounding residential properties. Commissioners noted that this tower appeared to have a better design aesthetic than the other towers in the area. Commissioners asked if the location of the tower on the property was going to be detrimental to the future development of the property. It was noted that the proposed location would likely impact future development in some manner. It was discussed whether or not the tower could be located closer to the east property line to aid in screening and to allow for the highest redevelopment potential of the property. The applicant has noted that they reviewed moving the tower and are not interested in moving the tower further east at this time. Commissioners asked if there was going to be a light on the top of the tower. The applicant noted that they would comply with the FCC regulation regarding lights. At this time, the tower is not proposed to have a light. Commissioners discussed the proposed screening and landscaping and recommended that the applicant work with the City to

develop a more robust and better screen utilizing an earthen berm and additional and more mature landscaping. Planning Commissioners found that the proposed tower met the criteria for granting a conditional use permit and recommended approval to the City Council with the conditions and findings stated within this report.

Recommendation:

Planning Commissioners recommended approval to the City Council of the request for a conditional use permit and site plan approval with the following findings and conditions:

1. The proposed conditional use permit and site plan review 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 conditional use permit will approve a monopole tower with a maximum height of 159 feet and the associated site improvements, ground mounted equipment and landscaping as indicated on the approved site plans and attached hereto as **Exhibit B**. The ground equipment and antennas shall be installed in accordance with the approved site plans and tower elevations.
4. The conditional use permit shall allow six (6) antennas to be located on the proposed tower.
5. Any expansion of the existing ground equipment, buildings or antenna will be subject to the City's review and an amendment to the conditional use permit.
6. The City can administratively approve replacement of existing antennas as long as the size and location are consistent with the existing equipment. Any expansion or increase to the size or area of the existing antennas or similar mounted transmission equipment, ground equipment, buildings or number of antennas will be subject to the City's review and require an amendment to the conditional use permit.
7. City Council approval of the Conditional Use Permit and Site Plan is subject to the Applicant completing the following items:
 - a. Completion of all comments and conditions made by the Planning Commission during their review of the Conditional Use Permit and Site Plan and including the following:
 - Revision to the landscape and screening plan to include an earthen berm and more diverse and dense landscape screening plan.
 - Moving the tower to the east ~30 feet to allow future development on the property.
8. The applicant shall pay for all fees associated with the City's processing and review of the Conditional Use Permit and Site Plan Review.

Johnson noted it is imperative that is whatever is planted need to thrive. Kaltsas said there would be some loss naturally, but the screening is ample, and they would be required to replace dying trees. Grotting asked if this screening plan was like other proposals. Kaltsas said this proposal was way more intense than anything the City has seen before and should provide an adequate buffer.

Motion by Spencer, second by Betts RESOLUTION 19-0305-02 – approving a Conditional Use Permit and Site Plan Review to allow a new 159' tall telecommunications tower on the subject property located adjacent to 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001): Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

8. Open/Misc.

Johnson asked if Council should prepare a letter for the Highway Coalition meeting this week regarding the death on Highway 12 this week. Kaltsas said he consulted with Kroells and the thought is a letter to

MnDOT that encourages the construction and safety of the Independence corridor as well as the rest of Highway 12. This is the only stretch of Highway 12 that has never been redone.

Motion by Spencer, second by Betts for Staff and WHPS to construct a letter addressing the Independence corridor per the Highway 12 reconstruction process for MnDOT. Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

9. Adjourn.

Motion by Grotting, second by Betts to adjourn at 7:00.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

City of Independence

Request for an Interim Use Permit for the Property located at 5835 Drake Drive

| | |
|----------------------|----------------------------|
| <i>To:</i> | Planning Commission |
| <i>From:</i> | Mark Kaltsas, City Planner |
| <i>Meeting Date:</i> | March 19, 2019 |
| <i>Applicant:</i> | Anita Volkenant |
| <i>Owner:</i> | Anita Volkenant |
| <i>Location:</i> | 5835 Drake Drive |

Request:

Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):

- a. An interim use permit allowing the continued horticulture use of the existing property.

Property/Site Information:

The property is located at 5835 Drake Drive which is on the south side of Drake Drive between County Road 83 and County Road 90. There is an existing home located on the property along with 5 detached permanent accessory structures and 2 detached temporary hoop houses. The property has the additional following characteristics.

Property Information: 5835 Drake Drive

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential*

Acreage: 3.8 acres

5835 Drake Drive: Aerial View



Discussion:

The City has been working with the applicant for several years to better understand the existing use of the property and how it conforms to permitted and accessory uses within the RR-Rural Residential zoning district. The applicant has stated that the use of the property is for horticulture, which is a permitted use in the RR zoning district. Horticulture is defined by the City as follows:

Subd. 42. "Horticulture." The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.

The applicant currently operates a business which grows and produces flowers and ornamental plants for the "production of income". The applicant has noted that the plants grown on the premise are integral to and the primary use of the business known as Pleasant View Gardens, Inc. In association with the horticulture use of the property, the applicant has equipment, materials and employees. The City has been working with the applicant to understand and to address several issues relating to the horticultural use of the property. The City believes that the use of the property is more intense than the historically interpreted allowed horticulture use of similar properties. As such, it was found to be in the best interest of the City to establish parameters relating to the existing and future use of the property for horticultural purposes. The

current zoning ordinance does not fully establish conditions or criteria relating to the horticultural use of a property.

The City and applicant have agreed that consideration of an interim use permit would be the clearest way to allow the continued horticultural use of the property while establishing requirements and stipulations on several elements of the use. The applicant and the City have developed a list of significant parameters and conditions in the form of a settlement and stipulation agreement. The agreement has been considered by the City Council and approved in an effort to establish key parameters and conditions that can be considered during the review of the interim use permit application. The approval of the settlement and stipulation agreement is subject to the applicant obtaining an interim use permit for the continued use of the property for horticultural use. The City is not obligated to approve the interim use permit and shall review the application and proposal based on the established criteria in the zoning ordinance.

There are several key considerations relating to the proposed interim use permit that should be noted and further considered by the City.

1. The applicant has stated that this property has historically been used for horticultural purposes similar to the current use of the property.
2. The City regulates the total square footage of detached accessory structures on a property. The subject property would allow for a total of 3,306 SF (165,315 SF x 2%). The applicant currently has the following detached accessory structures on the property totaling 3,457 SF:
 - a. Garage: 600 SF
 - b. Garage #1: 270 SF
 - c. Garage #2: 420 SF
 - d. Barn & Lean-to: 881 SF
 - e. Shed: 736 SF
 - f. Lean-to: 550 SF

In addition, the applicant has the following hoop houses totaling 4,600 SF:

- a. Hoop House #1: 3,000 SF (300' x 100')
- b. Hoop House #2: 1,600 SF (20' x 80')

The square footage of detached accessory structure exceeds the allowable amount permitted on the property. All of the permanent detached buildings are existing and considered legal-non-conforming. The applicant has constructed two hoop houses (greenhouses) on the property in the last 5 years without approval from the City. The applicant has noted that they believe the structures to be temporary and considered agricultural buildings which would not require a building permit. The City does differentiate between temporary and permanent structures and the hoop houses fit into the City's current definition of accessory structures. The applicant is proposing that one of the hoop houses will be taken down for a portion of the year (see detailed condition in Exhibit A attached hereto). As a condition of the approval, the applicant would not be permitted to

expand or add any additional detached accessory structures to the property without meet all applicable ordinances and obtaining the requisite approvals and permits.

3. The applicant has employees that are integral to the horticultural use of the property. The employees tend to and maintain the plants grown on the premise. The City and applicant have discussed that the employees being permitted on the premise will be limited to the growing season from March to November. The total number of employee vehicles is limited and further detailed on the attached Exhibit A.
4. The applicant has equipment associated with the horticultural use of the property that is used to maintain the plants, move material associated with growing and tending to the plants and vehicles associated with taking the plants off site for delivery and installation. The City has discussed limiting the vehicles and equipment permitted on the property. In addition, the City has discussed allowing equipment and vehicles to be stored on a nearby property located at 1030 County Road 83. This property is owned by a relative and has an existing conditional use permit allowing employee vehicle parking associated with a construction business. The City and applicant have discussed that the vehicles and equipment stored on the premise would need to be located in designated areas and reasonably screened from public view.
5. The applicant has materials associated with the horticultural use of the property. The City and applicant have discussed that the materials would need to be located in designated areas and reasonably screened from public view.
6. The applicant has prepared a site plan which further details the existing buildings, location of proposed parking, storage of materials and existing and proposed screening. The applicant is proposing to develop a more complete landscape screen along Drake Drive and the east and west property lines. In addition, the applicant is proposing to add additional screening to the north side of the hoop houses and outdoor materials storage areas (a copy of the proposed site and landscape plan is attached to this report).

The City has criteria relating to interim use permits. One of the criteria of an interim use permit is that it meets the standards for granting a conditional use permit. The following criteria have been established for both an interim use permit and conditional use permit:

1. *The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.*
2. *The date or event that will terminate the use can be identified with certainty.*
3. *Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.*
4. *The user agrees to any conditions that the city council deems appropriate for allowing the use.*
5. *The use meets the standards set forth in subsection 520.11 governing conditional use permits.*

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 determine if the requested interim use permit meets all of the aforementioned conditions and restrictions. The City has worked with the applicant to develop an agreeable set of conditions and parameters to limit, and where necessary, mitigate potential impacts relating to the horticultural use of the property. It should be noted again that horticulture is a permitted use in the Rural Residential zoning district. The interim use permit will provide the City with ability to establish measures and conditions to the use of the property in order to mitigate potential impacts. It should also be noted that the City Council has determined that the zoning ordinance will be updated to ensure clarity relating to the desired intent of permitting horticulture use of a property and to more fully provide regulations of the same. Staff and the Planning Commission have been directed to review the ordinance and develop an amendment for consideration in the near future.

Neighbor Comments:

The City has received one written letter relating to the proposed interim use permit.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the request for an interim use permit with the following findings and conditions:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The interim use permit will expire upon the conveyance of the property or the sale or cessation of the

- business (Pleasant View Gardens, Inc.), whichever occurs first.
3. The horticulture use of the property shall be subject to all conditions provided for and further detailed in the attached **Exhibit A**.
 4. The applicant shall pay for all costs associated with the City's review and processing of the requested interim use permit.

Attachments:

1. Application
2. Project Narrative
3. Exhibit A
4. Site and Landscape Plan



PLANNING APPLICATION

Case No. _____

Type of application

- ☐ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
- ☐ Rezoning ☐ Conditional Use Permit ☐ Variance ☐ Ordinance Amendment ☐ Subdivision
- ☐ Preliminary Development Plan ☒ Interim Use Permit ☐ Comprehensive Plan Amendment
- ☐ Final Development Plan ☐ Final Site & Building Plan ☐ Other _____

Site Location— Additional addresses on back and legal description attached

5835 Drake Drive, Independence, MN 55359

PID: 26-118-24-43-0006

Proposal -Full documentation must accompany application

See attached.

Applicant

Name: Anita M. Volkenant

Email: pleasantview@pleasantviewgarden.com

Address: 5835 Drake Drive, Independence, MN 55359

Phone: 612-978-3487

Additional phone/contact

Printed Name

Anita Volkenant

Signature

Anita Volkenant

Owner Information (if different from applicant)

Name

Email

Address

Phone

Additional phone/contact

Printed Name

Signature

Office Use Only

Date

2/12/2019

Application Amount

1,250

Check #

8754

Accepted By

[Signature]

Escrow Paid

750

Check #

8754

Date Accepted by Planner

City of Independence


The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others— all applications are reviewed on a case-by-case basis.

Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/ or if additional information is needed to adequately review the subject request. ***To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/ Administrator at least one week prior to submittal.*** Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2018 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land use application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are noted on the current fee schedule. By signing this form, the applicant recognizes that he/ she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: 

Date: 2-2-19

Owner Signature (if different): _____

Date: _____

Interim Use Permit Application

Applicant: Anita M. Volkenant, Owner of Pleasant View Gardens, Inc.
Property: 5835 Drake Drive, Independence, MN 55359
Proposed Use: Horticultural Purposes
Application Date: February 12, 2019

Application Narrative:

Enclosed is an Interim Use Permit Application related to the Pleasant View Gardens (PVG) property located at 5835 Drake Drive in the City of Independence, Minnesota. The Property has continuously been used for Horticultural Purposes, as defined by the City Code: the growing and production of organic fruits, vegetables, flowers, cultured sod and nursey stock, including ornamental plants and trees for the production of income. Pleasant View Gardens also offers horticultural services to residents off site. This Interim Use Permit Application is submitted to allow Applicant Volkenant, as well as her family members and heirs, to continue the horticultural use on the Property. Applicant Volkenant acknowledges and agrees to the following restrictions in connection with the Interim Use Permit Application:

- A. Consistent with applicable City Codes, PVG, Volkenant, her family members and heirs shall be allowed to continue to utilize the Property for Horticultural Purposes and related activities.
- B. In connection with Volkenant's and PVG's approved continuing use of the Property for Horticultural Purposes, Volkenant agrees not expand the current size of any of the existing permanent agricultural buildings that are currently situated on the Property without first complying with applicable City building code and ordinance procedures and requirements. Consistent with the requirements of applicable City building codes and ordinances, the City agrees that it will not unreasonably deny conforming requests by Volkenant.
- C. There are currently two temporary hoop houses situated on the Property (the "Hoop Houses"). Volkenant and PVG agree that the Hoop Houses will be utilized for Horticultural Purposes, and the City consents to the continued use of the Hoop Houses on the Property for Horticultural Purposes. Volkenant and the City further agree as follows:
 - (i) Volkenant shall be allowed to maintain the temporary plastic covering on the 30X100 Hoop House year-round.
 - (ii) Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;

- (iii) Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
 - (iv) Volkenant shall not install any additional temporary hoop house structures on the Property without prior City review and approval consistent with applicable City Codes and Ordinances.
- D. Between March and November of each calendar year, Volkenant shall be allowed to have PVG employees present on the Property in furtherance of PVG's horticultural related business activities. Primarily, the PVG employees will be present on the Property for the purpose of maintaining, protecting and watering the horticultural materials that are seasonally grown and maintained on the Property for the purpose of sale and the generation of income. Each of the foregoing PVG employees shall be allowed to park their personal vehicles on the Property while present at the Property. Excluding all of Volkenant's personal vehicles and vehicles owned by PVG, no more than six (6) PVG employee owned vehicles shall be parked on the Property at any one time. Volkenant agrees to make reasonable efforts to screen said vehicles from view from the public roadway. The City further agrees that all other PVG employee vehicles shall be allowed to park, and will be parked, at the 1030 County Road 83 Independence, Minnesota property (the "1030 Property") and said parking will not affect or relinquish the rights of the current owner's CUP.
- E. Volkenant shall be entitled and allowed to park all vehicles and trailers that she or PVG own on the Property. When parked or not in use, Volkenant will make reasonable efforts to screen said vehicles and trailers from view from the public roadway.
- F. Volkenant shall be entitled and allowed to store materials (i.e. compost, dirt and mulch) on the Property at the general locations depicted on the schematic attached hereto. Volkenant further agrees to make reasonable efforts to add additional screening to further screen said materials from view from the public roadway.
- G. Volkenant agrees to add additional reasonable screening in the general areas of the Property as depicted in the schematic attached hereto.
- H. Volkenant shall be entitled and allowed to continue to maintain the pile of rock that is currently situated on the Property for personal use.
- I. The bobcat located at the Property and owned by Volkenant shall be stored in one of the permanent out-buildings situated on the Property when not in use.
- J. Notwithstanding the foregoing, nothing in this Agreement shall be construed to limit Volkenant's rights to her continued lawful and personal use, enjoyment, maintenance and upkeep of the Property and the permanent buildings situated on the Property without undue interference.

- K. All of the permanent agricultural buildings and the continued existence and use thereof that were constructed and in agricultural use prior to the enactment of the current applicable City ordinance, shall be allowed as non-conforming pursuant to City ordinance Sections 510.05, Subd. 83 and 515.07.

The following materials are attached and included with the Application:

1. City of Independence Interim Use Permit Application Form
2. Site Plan of Pleasant View Gardens

16846177v2

Go gle Maps

5835 Drake Dr

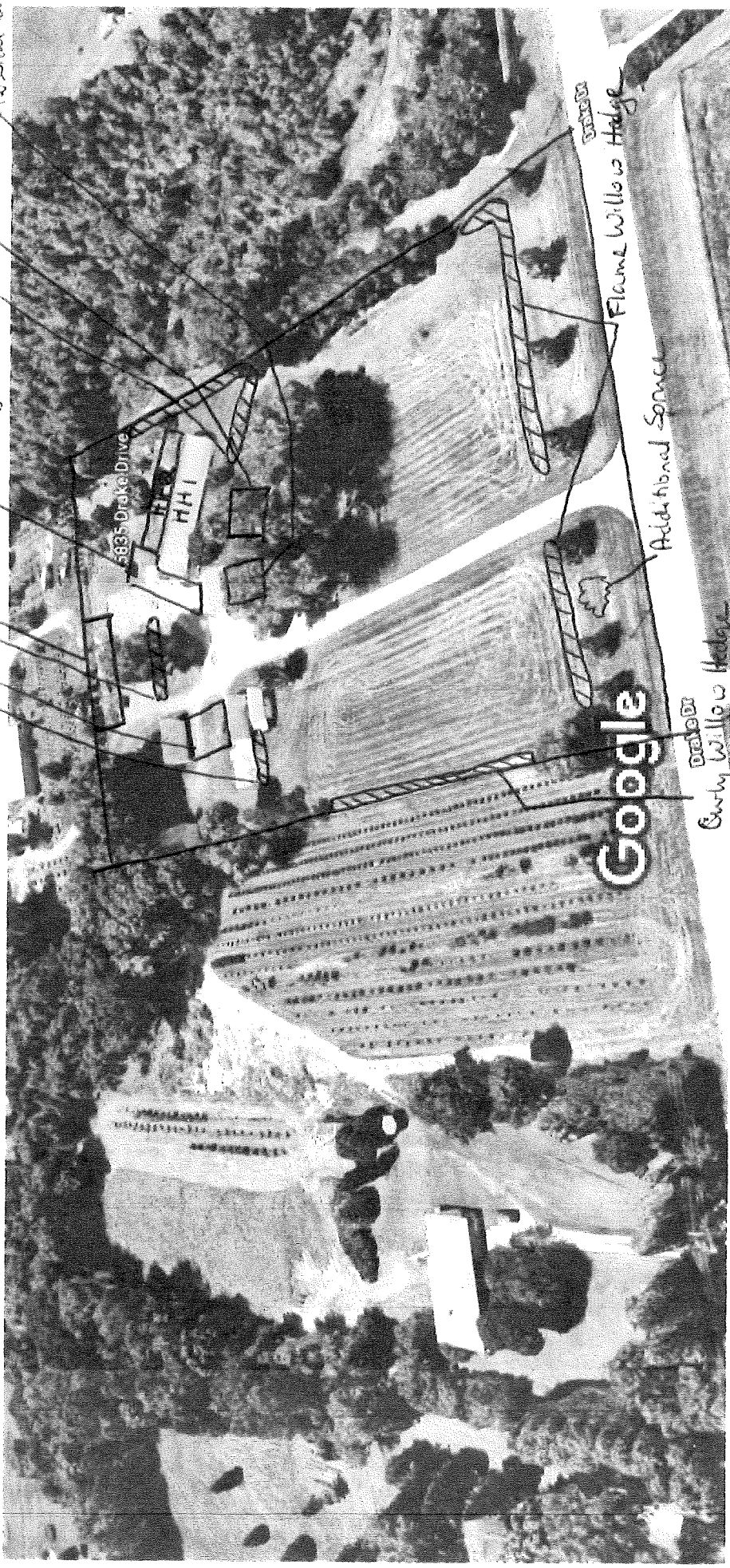
Juniper Hedge

Parking
Arbutus Hedge

Soil, Compost, Mulch
Parking

Red Twig Dogwood Hedge

Existing
House
Personal Parking



Imagery ©2018 Google, Map data ©2018 Google 50 ft

EXHIBIT A

- a. Consistent with applicable City Codes, PVG, Volkenant, her family members and heirs shall be allowed to continue to utilize the Property for Horticultural Purposes and related activities.
- b. In connection with Volkenant's and PVG's approved continuing use of the Property for Horticultural Purposes, Volkenant agrees not expand the current size of any of the existing permanent agricultural buildings that are currently situated on the Property without first complying with applicable City building code and ordinance procedures and requirements. Consistent with the requirements of applicable City building codes and ordinances, the City agrees that it will not unreasonably deny conforming requests by Volkenant.
- c. There are currently two temporary hoop houses situated on the Property (the "Hoop Houses"). Volkenant and PVG agree that the Hoop Houses will only be utilized for Horticultural Purposes, and the City consents to the continued use of the Hoop Houses on the Property for Horticultural Purposes. Volkenant and the City further agree as follows:
 - (i) Volkenant shall be allowed to maintain the temporary plastic covering on the 30X100 Hoop House year-round.
 - (ii) Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;
 - (iii) Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
 - (iv) Volkenant shall not install any additional temporary hoop house structures on the Property without prior City review and approval consistent with applicable City Codes and Ordinances.
- d. Between March and November of each calendar year, Volkenant shall be allowed to have PVG employees present on the Property in furtherance of PVG's horticultural related business activities. Primarily, the PVG employees will be present on the Property for the purpose of maintaining, protecting and watering the horticultural materials that are seasonally grown and maintained on the Property for the purpose of sale and the generation of income. Each of the foregoing PVG employees shall be allowed to park their personal vehicles on the Property while present at the Property. Excluding all of Volkenant's personal vehicles and vehicles owned by PVG, no more than six (6) PVG employee owned vehicles shall be parked on the Property at any one time. Volkenant agrees to make reasonable efforts to screen said vehicles from view from the public

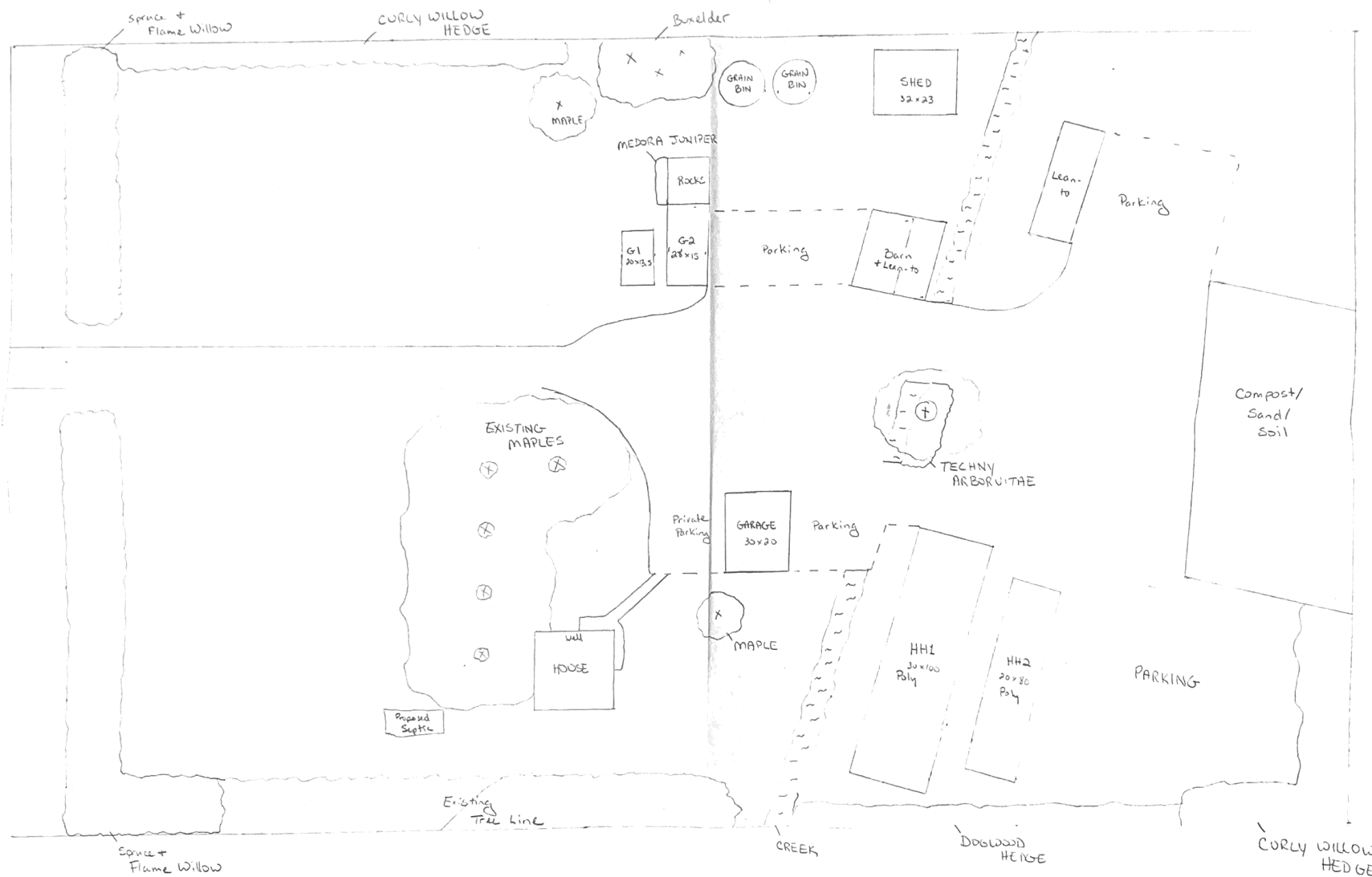
roadway. The City further agrees that all other PVG employee vehicles shall be allowed to park, and will be parked, at the 1030 County Road 83 Independence, Minnesota property (the "1030 Property").

- e. Volkenant shall be entitled and allowed to park all vehicles and trailers that she or PVG own on the Property. When parked or not in use, Volkenant will make reasonable efforts to screen said vehicles and trailers from view from the public roadway.
- f. Volkenant shall be entitled and allowed to store materials (i.e. compost, dirt and mulch) on the Property at the general locations depicted on the schematic attached hereto. Volkenant further agrees to make reasonable efforts to add additional screening to further screen said materials from view from the public roadway.
- g. Volkenant agrees to add additional reasonable screening in the general areas of the Property as depicted in the schematic attached hereto.
- h. Volkenant shall be entitled and allowed to continue to maintain the pile of rock that is currently situated on the Property for personal use.
- i. The bobcat located at the Property and owned by Volkenant shall be stored in one of the permanent out-buildings situated on the Property when not in use.
- j. Notwithstanding the foregoing, nothing in this Agreement shall be construed to limit Volkenant's rights to her continued lawful and personal use, enjoyment, maintenance and upkeep of the Property and the permanent buildings situated on the Property without undue interference.
- k. All of the permanent agricultural buildings and the continued existence and use thereof that were constructed and in agricultural use prior to the enactment of the current applicable City ordinance, shall be allowed as non-conforming pursuant to City ordinance Sections 510.05, Subd. 83 and 515.07.

← N

5835 DRAKE DR
MAPLE PLAIN MN 55359

1/4" = 5.5'



City of Independence
Consideration to Amend City's Zoning Ordinance

| | |
|----------------------|----------------------------|
| <i>To:</i> | Planning Commission |
| <i>From:</i> | Mark Kaltsas, City Planner |
| <i>Meeting Date:</i> | March 19, 2019 |

A proposed text amendment to the City of Independence Ordinances as follows:

- a. Chapter 5, Section 530.01, Subd. 3 Accessory Uses – Considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures.

UPDATE:

Accessory Structure Height

Staff has determined that it is possible to establish a “Review Committee” that would likely be comprised of several members of the Planning Commission and City Council to review requests for accessory structures that exceed the maximum height permitted in the zoning ordinance. Details of the “Committee” makeup are still be worked on by the City. If this route is pursued by the City, it is imperative that the City establish a clear set of standards that can be used by the committee to review a specific proposal at the “Committee” level and not require a variance. If it is determined by the “Committee” that a proposed accessory structure does not meet the criteria, a variance would be required. Staff offers the following initial criteria for consideration and discussion by the Planning Commission:

1. Accessory structure is located behind (to the rear of the principle structure). *Note: This may need to be defined or graphically illustrated in the ordinance.*
2. Accessory structure is separated by a minimum distance of 100 feet from the principle structure.
3. For lots that are less than 2.5 acres, accessory structure shall be setback a minimum of 50 feet from a side or rear property line.

It is not intended that Planning Commission will provide a recommendation relating to the information presented in this report at this meeting.

Original Discussion on Accessory Building Heights:

In 2013 the City updated the accessory structure ordinance to establish a more proportional relationship between the amount of detached accessory structure square footage allowed on a property and the size of the property. In practice, the new ordinance has worked well and there have been no variances granted relating to the size of a detached accessory structure since the amendment. One area of the ordinance that was changed at the same time was the maximum height permitted for detached accessory structures. The City has received concerns and comments from property owners relating to the maximum height permitted. The City has also granted two (2) variances relating to the maximum height of detached accessory structures. The general concern is that the maximum height permitted varies based on the height of the principal structure. If a resident has a single-level home, the maximum height of a detached accessory structure is limited to the single-level home height. This causes some issues for residents with larger properties that would like to have a larger detached accessory structure but have a single-level home.

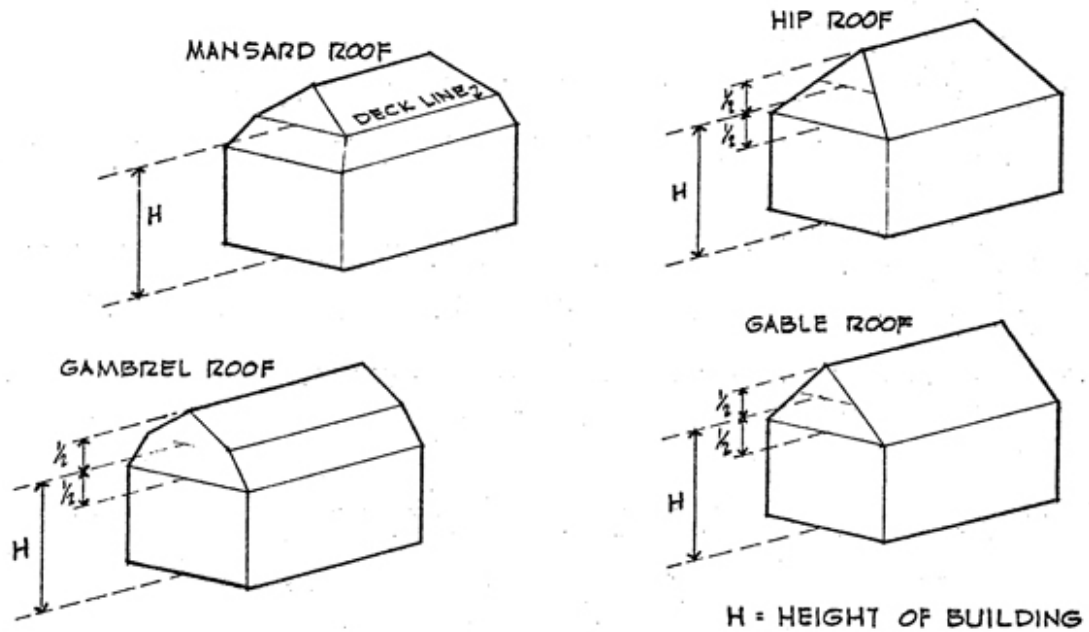
Staff has looked at the permitted heights of accessory structures from surrounding communities.

| City Accessory Structure Comparison Table | |
|---|-----------------------------------|
| Jurisdiction | Height |
| Independence | height of principle strcuture |
| Winsted | 1 story/16 feet |
| Delano | 20 feet or height of principal*** |
| Waconia | 20 feet*** |
| Minnetrista | height of principal structure |
| Mound | height of principal structure |
| Mayer | 17 feet |
| Maple Plain | 1 story/16 feet*** |
| Victoria | 24 feet/12 feet |
| Watertown | 12 feet |
| * Cannot be located in front yard | |
| ** Over 1,000 requires CUP | |
| *** Measured to Peak of roof | |

It should be noted that not all communities allow as large of a detached accessory structure as the City of Independence. Staff would like to further discuss the maximum permitted height of detached accessory structures with the Planning Commission.

The City's current ordinance states the following:

³ The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.



In application of the ordinance over the past 5 years, the City has consistently had requests for detached accessory structures that have heights (measured to the midpoint of the roof) in the 20-25-foot range. Many of the single-level homes measure closer to 17-20 feet in height measured to the midpoint of the roof. This typically leaves single-level property owners with an issue when considering building a detached accessory structure.

When the City considered the height in 2013, there was a general consensus that detached accessory structures should be proportional and subordinate to the principle structure on the property. In order to help achieve the subordinate relationship, the maximum height of the detached accessory structure was limited. Due to the wide array of property size, building architecture and other factors, many of the proposed detached accessory structures do not have a significant relationship with the principle structure.

Staff is seeking Planning Commission feedback and discussion on this issue and offers the following for further consideration:

1. The City could consider establishing a maximum height in lieu of the relationship with the principle structure. This could be a two-part maximum height that establishes a minimum permitted or the height of principle structure, whichever is greater (i.e. the maximum height permitted is 25 feet or the height of the principle structure, whichever is greater).
2. The City could consider establishing a single, maximum height for all detached accessory structures (i.e. the maximum height for all detached accessory structures is _____ feet).

3. The City could consider establishing a variable scale that is proportionate to the size of the property (i.e. the maximum height permitted for detached accessory structures on properties less than 2.5 acres is ____ feet, the maximum height permitted for detached accessory structures on properties greater than 2.5 acres, but less than 10 acres is ____ feet, the maximum height permitted for detached accessory structures on properties greater than 10 acres is ____ feet).