



PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY FEBRUARY 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. February 5, 2019 City Council Meeting Minutes (For Information Only)
4. **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.
 - b. Chapter 5, Section 510.05, Definitions and 530 Zoning District Provisions – Considering an amendment to the several definitions relating to permitted land uses in various districts and to consider amendment of permitted, accessory and conditional land uses in each district.
5. Open/Misc.
6. 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 ferrriers 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-footall

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, FEBRUARY 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, Betts and McCoy

ABSENT: None

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

VISITORS: Phil Saterbo, Christy Saterbo, Jim Ostvig, Anita Volkenant, Branden Lewis, Kathleen Blatz, Kati Johnston, Bob Volkenant, Patty Napier, Lynda Franklin, Karyn O'Brien

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

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

- a. Approval of City Council minutes From the January 15, 2019 Regular City Council Meeting.
- b. Approval of City Council minutes From the January 10, 2019 City Council Workshop.
- c. Approval of Accounts Payable; Checks Numbered 18571-18624.
- d. Approve Purchase of New 800 MHZ Radios in Accordance with Capital Improvement Plan.
- e. Annual Liquor License Renewals for:
 - i. Ox Yolk Inn
 - ii. Windsong Golf Club
 - iii. Pioneer Creek Golf Club
- f. **RESOLUTION 19-0205-01** - Authorizing City Membership in the 4M Fund.
- g. **RESOLUTION 19-0205-02** - Approving the Pay Equity Report for the City.
- h. Consideration of Approving Settlement Agreement Relating to the Property Located at 5835 Drake Drive.

Johnson said the two resolutions should be pulled for separate motions to be made for those items.

**Motion by McCoy, second by Grotting to approve items a.-e. and item h. from the Consent Agenda.
Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION
DECLARED CARRIED.**

Motion by Spencer, second by Grotting to approve RESOLUTION 19-0205-01 - Authorizing City Membership in the 4M Fund. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Motion by Spencer, second by Betts to RESOLUTION 19-0205-02 - Approving the Pay Equity Report for the City. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting
- Maple Plain Fire Department Retirement Celebration
- League of Minnesota Cities Experienced Officials Conference

Grotting attended the following meetings:

- Maple Plain Fire Department Retirement Celebration
- Sensible Land Use Coalition Real Estate Update

McCoy attended the following meetings: (whole month)

- Planning Commission Meeting/ 2040 Comp Plan
- City Council Workshop
- Maple Plain Fire Department Retirement Celebration
- Roger Myers funeral

Betts attended the following meetings:

- Police Commission Meeting
- League of Minnesota Cities Experienced Officials Conference

Johnson attended the following meetings:

- Planning Commission Meeting
- Conference Call on infrastructure financing with National League of Cities
- Orono Healthy Youth Meeting
- Community Action Partnership Hennepin County Board Meeting
- Land Use Advisory Committee Meeting
- Maple Plain Fire Department Retirement Celebration
- Representative McDonald and Senators Osmek and Representative Hertaus dinner
- Sensible Land Use Committee Meeting
- Roger Myers funeral
- League of Minnesota Cities Experienced Officials Conference
- Ribbon Cutting at Orono Activity Center
- Police Commission Meeting

Horner attended the following meetings:

- Planning Commission Meeting
- Met with Orono Westonka Soccer Club
- Met with Insurance Broker

Kaltsas attended the following meetings:

- None

7. Kati Johnston (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. **RESOLUTION 19-0205-03** – Considering approval of 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 taker 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. 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 cart way 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 proposed structure would essentially cover the existing outdoor arena.
3. One additional detached accessory building (approximately 4,000 sf) is proposed to be constructed on the south side of the property.
4. 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).
5. There are currently 3 full time and 3 part time employees.
6. 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.
7. The Applicant would have regular deliveries of shavings which typically come via a single-axel truck weekly or less.
8. There is a total of 3 ferrriers that come to the site to shoe the horses on a regular basis. This results in approximately one visit per week.
9. There would be regular weekly garbage service to the property.
10. 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.
11. Hay is delivered to the property once per month in the winter and once per every two months in the summer.
12. 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.
13. 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.

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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 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 existing and proposed building lighting will need to fully comply with the City's applicable light 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. 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 on whether the new CUP would expire if the property were sold or business transferred? It was noted that the City can no longer apply time limits to conditional use permits due to statutory rights of CUP holders. The City could consider changing how it processes CUP's for commercial riding stables in the future.

2. A question was asked relating to lighting and whether additional lighting was going to be added to the property. It was noted that the City has current standards in place and that all existing and proposed lighting would need to be brought into compliance with applicable standards. The applicant noted that they are not intended to add any additional site lighting to the premises.
3. A question was asked about artificial or amplified sounds. It was noted that the City has an ordinance which regulates sound. The applicant noted that they do not have any plans for amplified sound on the property.
4. A question was asked about the proposed detached accessory structure on the south side of the property and whether it could be moved to a different location and or screened. It was noted that the structure needed to be setback a minimum of 15 feet from the property line and the proposed structure is currently shown with a setback of approximately 100 feet.
5. A question was asked relating to signage. It was noted that the City has signage allowances for properties zoned agriculture and that any proposed signage would be required to meet applicable standards. Planning Commissioners discussed the request for a conditional use permit and asked questions of staff and the applicant. Commissioners commented on the new Manure Management Policy and how it delineates and provides direction on many of the concerns that are usually expressed during the review of commercial riding stables. Commissioners noted the historic use of the property as a commercial riding stable and that the proposed use is essentially a continuation of that use. Commissioners found that the application for a commercial riding stable met the criteria for granting a conditional use permit and recommended approval to the City Council with the findings and conditions stated within this report.

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

1. 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. All existing and proposed lighting shall be brought into compliance and fully meet applicable City lighting standards.
 - d. No more than 38 horses shall be boarded on the property.
 - e. The applicant and facility must operate in compliance with the City of Independence Manure Management Policy.
 - f. The hours of operation are: 7:00 am – 10:00 pm.
 - g. No parking shall be permitted on public roadways.

h. Two (2), one day, horse related events will be permitted per year and shall comply with the following provisions:

- o The horse related events shall occur during the permitted hours of operation.
- o No more than 50 participants shall be permitted at each event.

i. No renting of hack horses shall be permitted.

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

k. Must utilize appropriate management practices to control flies and odor.

3. No future expansion of the existing barn, proposed detached garage, proposed covered riding arena and proposed detached accessory structure shall be permitted on the property without the further review and approval by the City through the conditional use permit amendment process.

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

5. 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.

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

Motion by Spencer, second by Grotting to approve RESOLUTION 19-0205-03 – Considering approval of a conditional use permit allowing the following: i. A commercial riding stable. 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). Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

8. 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) RESOLUTION 19-0205-04 – Considering approval of a Conditional Use Permit to allow a new 159' tall telecommunications tower on the subject property.

Kaltsas said 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. 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.

1. 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 commercial property will likely be more advantageous than locating the tower on a residential 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 Verizon 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.

Betts asked what the size of the tower would be, and would it affect airplanes. Kaltsas said it would be 159 feet. Vose said they would have to comply with the FAA and noted lighting would be addressed.

Johnson asked if traffic would be a concern as far as maintaining this site. Kaltsas said it would be very limited based on other sites.

McCoy asked about the windmill already out by this site and the height of this in comparison. Kaltsas said this tower will sit lower but is taller so the difference will be about 40-50 feet.

Grotting noted Independence has a real internet connectivity problem and wondered if this tower would help in anyway. Kaltsas said it would increase data coverage but could not answer connectivity question. Grotting stated this new proposal was an updated design and asked if there was any merit to reforest around the tower. Kaltsas said anything to bolster the base would be better. Spencer asked if the screening to the West could be better. Spencer said the screening to the East would be a lesser concern as that is the commercial side, but the West would be more critical as it is a view residents would see and is a primary concern. Kaltsas said the proposed plan could be bolstered and improved. Grotting asked if there was a way to address aesthetics. Kaltsas said they could add a few more layers to the landscaping plan. McCoy asked if it could be moved more East to provide area for more berm to the West. O'Brien (with Verizon) said instead of moving the tower it would probably make more sense to provide more screening to the West.

Motion by Grotting, second by McCoy to table RESOLUTION 19-0205-04 – Considering approval of a Conditional Use Permit to allow a new 159' tall telecommunications tower with amended item 8 (a) referencing the 30' relocation and revising all site landscaping plans on the subject property located at 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001) until further review and edited content. Ayes: Spencer, Betts, Johnson, McCoy and Grotting.

Verbal agreement with the Applicant to allow if necessary to provide written notice of extension of time for action for RESOLUTION 19-0205-04.

Motion by Spencer, second by Betts to table RESOLUTION 19-0205-04 until the next meeting. Ayes: Spencer, Betts, Johnson, McCoy and Grotting.

9. Adoption of 2019 Fee Schedule.

a. RESOLUTION 19-0205-05

Motion by Spencer, second by McCoy to approve RESOLUTION 19-0205-05– Adoption of 2019 Fee Schedule. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

10. Consider Revocation of Conditional Use Permits No Longer in Use or Required Due to Rezoning or Not in Compliance with Applicable Conditions of Approval.

a. RESOLUTION 19-0205-06

Kaltsas noted the list includes those that do not want the CUP anymore as they are inactive or not applicable and those that have been revoked. Saterbo requested that his CUP for a dog kennel be moved from revoked to inactive.

Motion by Johnson, second by Spencer to approve RESOLUTION 19-0205-06 after deleting Phillip Saterbo's name from the list– Revocation of Conditional Use Permits No Longer in Use or Required Due to Rezoning or Not in Compliance with Applicable Conditions of Approval. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

11. Open/Misc.

Spencer thanked Staff for cleaning up the CUP list.

12. Adjourn.

Motion by Spencer, second by McCoy to adjourn at 8:10.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

DRAFT

City of Independence
Consideration to Amend City's Zoning Ordinance

To: Planning Commission
From: Mark Kaltsas, City Planner
Meeting Date: February 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.
- b. Chapter 5, Section 510.05, Definitions and 530 Zoning District Provisions – Considering an amendment to the several definitions relating to permitted land uses in various districts and to consider amendment of permitted, accessory and conditional land uses in each district.

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.

Zoning Ordinance Definitions and Allowable Land Use:

Based on issues that continue to surface relating to the City’s allowable uses in the Agriculture and Rural Residential zoning districts, Council has directed the Planning Commission to review several definitions and relating lands uses in the zoning ordinance. The City currently has two primary zoning districts; AG-Agriculture and RR-Rural Residential. The City has established the following permitted, accessory and conditional land uses within each district:

530.01. - Agricultural District established.

Subd. 1. *Purpose.* The agricultural district is established for the purpose of promoting continued farming of agricultural lands.

Subd. 2. *Permitted uses.* The following uses are permitted in the Agricultural District:

- (a) Agriculture and horticulture;
- (b) Feedlots and poultry facilities;
- (c) Farm drainage and irrigation systems;
- (d) Forestry;
- (e) Public recreation;
- (f) Single-family dwellings

Subd. 3. *Accessory uses.* The following accessory uses are permitted in the Agricultural District:

- (a) Private garages for single-family dwellings,
- (b) Home occupations operated in accordance with subsection 515.09 of this zoning code;
- (c) Fences;
- (d) Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:
- (e) Retail sales, on a seasonal basis of agricultural and horticultural products grown on the premises by a person who occupies the premises as a principal residence, provided that the applicant apply for and receive an administrative permit from the city prior to commencing any sales of products. All applications shall meet and comply with all of the following standards:
- (f) Aeration or decorative windmills provided the following performance standards are satisfied:

Subd. 4. *Conditional uses.* The following conditional uses may be permitted in the Agricultural District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

- (a) Accessory dwelling units;
- (b) Riding stables;
- (c) Bunkhouses;
- (d) Farrieries;
- (e) Detached agricultural storage buildings, barns, or other accessory structures that exceed the size limitations of subdivision 3(d) of this subsection;
- (f) Kennels;
- (g) Local government buildings;
- (h) Churches;

- (i) Cemeteries;
- (j) Extraction;
- (k) Essential services;
- (l) Temporary use of a mobile home or camper as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;
- (m) Wind energy conversion systems (WECS);
- (n) Commercial indoor storage in existing farm buildings, provided:
- (o) Guest houses and non-rental guest apartments;
- (p) Commercial golf courses;
- (q) Telecommunications towers approved pursuant to section 540 of this Code;
- (r) Forestry products processing, provided that:
 - (1) The operation of the conditional use must be on a lot that is being used as an occupied single-family dwelling;
 - (2) The lot upon which the conditional use is operated must be not less than ten acres in area;
 - (3) The area devoted to the conditional use, including buildings, parking, storage area, and all related uses may not exceed 15,000 square feet or 12 percent of the size of the lot, whichever is smaller, subject to existing accessory building standards.
- (s) Polo grounds.
- (t) Catering business, provided that:
 - (1) The business is subordinate to the principal use of the property as a residence;
 - (2) No materials, equipment or parts used in the business may be stored on the premises other than within the dwelling unit or accessory structure;
 - (3) No signs relating to the business may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning ordinance;
 - (4) No exterior alterations may be made to the dwelling unit to accommodate the business except those alterations customarily found with the dwelling units on lots of similar size within the district;
 - (5) No traffic shall be generated by the business beyond what is reasonable and normal for the area in which it is located;
 - (6) The hours and days during which the business is conducted on the premises is limited so as not to unreasonably interfere with the residential character of the surrounding areas;
 - (7) No over the counter retail sales may occur on-site.

The City has identified several land uses and associated definitions that have recently come into question. The question essentially pertains to the use of a property for a business that includes the permitted land use, but also includes a closely associated use of the property for off premise sales/service, etc. The City has historically permitted Agriculture, Horticulture and Forestry in both the AG and RR zoning districts. The definitions are as follows:

Subd. 3. "Agriculture." The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

- (a) *Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers.*
- (b) *Livestock as defined in subsection 510.05, subdivision 44.*
- (c) *Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.*

Subd. 34. "Forestry." The cultivation and management of forests or woods located on the premises, including: felling and trimming of timber; transportation of timber and timber logs, pulpwood, cordwood and similar products; sawing of logs into lumber and similar operations.

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.

Staff would like to discuss the permitted, accessory and conditional land uses within both the AG and RR zoning districts. In addition, staff would like to discuss the definitions of Agriculture, Horticulture and Forestry. In order to provide some framework around this discussion, staff offers the following considerations:

1. The City currently does not define any specific Interim Uses within any zoning district. Allowed interim uses should be provided for each district similar to permitted, accessory and conditional uses. Some of the land uses that the City often considers could be reassigned from a permitted or conditional use to an interim use. If this were to occur, the City should give consideration to whether or not the investment relating to the land use (i.e. commercial buildings for a riding stable) would be taken away if the use were to no longer be permitted.
2. The City should review all permitted, accessory and conditional uses and determine if there are now uses that should be reassigned (i.e. forestry as a permitted use in RR should maybe be an Interim Use or not permitted). Should any of the permitted uses be reassigned to conditional or interim uses and should any of the conditional uses be reassigned to permitted?
3. The City should clarify the intent of the Agriculture, Forestry and Horticulture. It has historically been interpreted by the City (since the ordinance amendment in 1993) that these land uses excluded boutique industry businesses that also had "offsite" operations. The City could continue to allow these uses in one or both of the zoning districts but enhance the definitions to specify that offsite operations are not permitted.
4. Staff reviewed several surrounding communities' ordinances to determine how or if this issue was being addressed in similar cities. One common thread in the cities of Minnetrista, Orono and Medina was the use of a wide-array of zoning districts. Independence essentially has two zoning districts AG-Agriculture and RR-Rural Residential. As a result of having more zoning districts, cities are able to more closely prescribe land uses that are compatible with surrounding and like properties. Independence could evaluate the existing zoning districts and possibly establish zoning overlay districts and or sub zones within the two districts.

It is not intended that Planning Commission will provide a recommendation relating to the information presented in this report at this meeting. Staff would like to begin a discussion relating to the issues that are outlined herein and obtain feedback from the Planning Commission. It is anticipated that any amendments to the zoning ordinance will require an iterative process that will take several meetings realize. Please review the list of permitted, accessory and conditional uses for both the AG and RR zoning district for discussion at the 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.

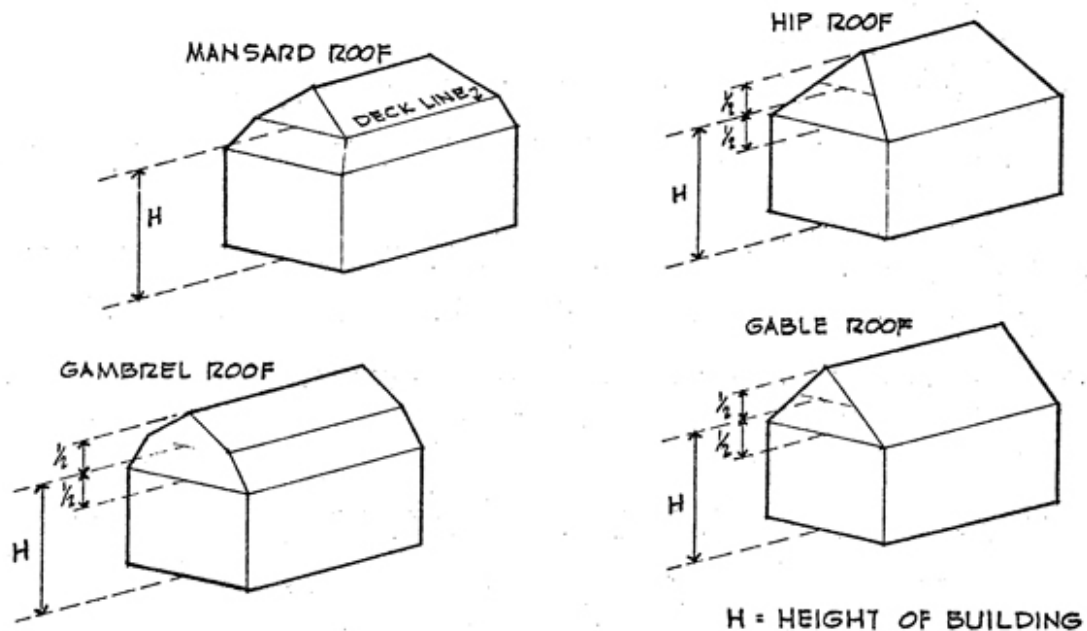
Staff has looked at the permitted heights of accessory structures from surrounding communities.

City Accessory Structure Comparison Table	
Jurisdiction	Height
Independence	height of principle structure
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).