



PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY JUNE 16, 2020

7:30 PM Regular Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes:
 - a. April 21, 2020 Planning Commission Meeting
 - b. June 2, 2020 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Brett and Paige Broekema (Owner/Applicant) requests that the City consider the following actions for the property located at 6275 County Road 11, Independence, MN (PID No. 11-118-24-22-0002):
 - a. Rezoning from AG-Agriculture to RR-Rural Residential; and
 - b. A minor subdivision to allow a lot line rearrangement and two rural view lot subdivisions.
5. **PUBLIC HEARING (CONTINUED):** A proposed text amendment to the City of Independence Ordinances as follows:
 - a. 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.
6. Open/Misc.
7. Adjourn.

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, APRIL 21, 2020 – 7:30 P.M.

1. CALL TO ORDER

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

2. ROLL CALL

PRESENT: Commissioners Palmquist, Thompson, Volkenant, Dumas and Gardner
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner
ABSENT: None
VISITORS: 8 attendees in Zoom viewing audience

3. Approval of Minutes:

- a. February 18, 2020 Planning Commission Meeting
- b. April 7, 2020 City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the February 18, 2020 Planning Commission minutes, second by Palmquist. Ayes: Gardner, Thompson, Volkenant, Dumas and Palmquist. Nays: None. Absent: None. Motion Approved.

4. **PUBLIC HEARING:** Fred Pagenkopf Jr. (Owner/Applicant) requests that the City consider the following action for the properties located at and directly south of 2576 Valley Road, Independence, MN (PID No.s 15-118-24-32-0003 and 15-118-24-33-0001):
- a. A minor subdivision to allow a lot line rearrangement and two rural view lot subdivisions.

The property is located in between Valley and Pagenkopf Roads and just north of US Hwy 12. The north property has an existing home and several outbuildings and was the original farmstead. The south property has no existing structures and is comprised of significant wetlands, woodlands and upland acreage. The property has the following characteristics:

Property Information: 2576 Valley Road
Zoning: Agriculture
Comprehensive Plan: Agriculture
Acreage (BEFORE) - 2576 Valley Road:
55.99 acres (existing homesite)
PID No. 15-118-24-33-0001: 36.51 acres

Acreage (AFTER) -
Parcel 1: 41.10 acres
Parcel 2: 10.00 acres
Parcel 3: 32.60 acres
Parcel 4: 8.80 acres

The applicant approached the City about the possibility of subdividing the two subject properties and realizing the permitted rural view lots. The applicant would like to create the allowable rural view lots and also rearrange the property line between the two existing properties in a configuration believed to maximize the value of the new lots created. The applicant is proposing to create two (2) rural view lots in accordance with the provisions set forth in the City's Zoning Ordinance. The subject property has a total acreage of 92.5 acres. The Agriculture Zoning District prohibits the subdivision of property with two exceptions: rural view lot subdivisions and lot line rearrangements. The provisions in the Agriculture Zoning District also allow one (1) rural view lot for every 40 acres of land under the same ownership. Under the current zoning standards, the subject property has the ability to realize two (2) rural view lots for a total of four (4) lots across both properties. Rural view lots must have the following characteristics:

Lot size required - between 2.5 and 10 acres

Lot size proposed - Parcel 2 – 10.00 acres

Parcel 4 – 8.80 acres

Buildable Upland Required - 2.5 acres

Buildable Upland Proposed - Parcel 2 – ~7.5 acres

Parcel 4 – ~3.75 acres

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

Minimum lot frontage proposed – Parcel 1 - ~1,700 LF (Valley and Pagenkopf)

Parcel 2 – 464 LF

Parcel 3 – 316 LF

Parcel 4 – 1,130 LF

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

Ratio of lot frontage to lot depth proposed – Parcel 2 – ~1:1.5

Parcel 4 – ~2:1

In addition to the minimum size necessary to subdivide, the ordinance requires at least 2.5 acres of buildable upland, 300 LF of frontage on a right of way and no greater than a 1:4 ratio of lot frontage to lot depth for each rural view lot. Based on the proposed subdivision, both proposed rural view lots would meet all applicable setbacks. There is an existing home and several detached accessory buildings located on north property.

This home is accessed off of Valley Road. The existing homesite in the proposed after condition would be located on the newly created rural view lot (Parcel 2). The new lot would have 10 acres and all existing structures would meet applicable building setbacks. Parcels 1, 3 and 4 would be vacant properties with no existing structures in the after condition. The applicant is proposing to subdivide the property into lots that take advantage of the natural characteristics of the property. The lots being created keep the majority of the existing lot lines intact while adjusting where necessary to accommodate the proposed rural view lots and or to ensure compliance with requisite street frontage.

The City has not received an on-site septic report verifying that the proposed rural view lots can accommodate a primary and secondary on-site septic system. It is anticipated that the City will have this verification prior to City Council consideration of the application. The applicant will need to include the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.'s 1 and 2) for all 4 parcels. Lot 1 will have no rural view lot subdivision eligibilities following this subdivision. The newly created rural view lots (Parcels 2 and 4) will be required to pay the City's requisite Park Dedication fee. For this property the requirement is as follows: Lot 2 (10 acres) \$7,250, Lot 4 (8.8 acres) \$6,350. This fee will need to be paid prior to recording the subdivision.

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

The Planning Commission will need to determine if the proposed rural view lot subdivision and lot line rearrangement is in keeping with the requirements set forth by the City. The proposed subdivision of this property is intended to maximize the value in each of the lots being created while meeting all applicable criteria. The proposed lots being created generally align with the character of the surrounding properties and the intent of the City's Comprehensive Land Use Plan.

Staff is seeking a recommendation from the Planning Commission regarding the request for the rural view lot subdivisions and lot line rearrangement. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions:

1. The proposed rural view lot subdivision and lot line rearrangement meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. Approval of the rural view lot subdivision and lot line rearrangement is subject to the following:
 - a) The Applicant shall pay the park dedication fees in the amount of \$13,600, for the newly created Parcels 2 and 4, prior to the applicant receiving final approval to record the subdivision by the City.
 - b) The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
 - c) The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval. The Applicant shall execute and record the requisite drainage and utility and right of way easements with the county within six (6) months of approval.
 - e) Parcel 1 will have no remaining rural view lot eligibilities.

Thompson asked Kaltsas if the math still worked with the splitting and recombining of the lot. Kaltsas said there has to be 80 acres to qualify for two rural view lots and they are still above that threshold. Thompson said that made sense. Kaltsas said it makes sense to incorporate the orphan piece of the property on the north side. Kaltsas said it would require a drainage and utility easement, but it would not change the park dedication requirements.

Dumas asked if there was a lean-to between parcel 2 and 3 and if that was an issue. Kaltsas noted if there was one that it could not be on the new property line, but the other buildings could stay.

Motion to open the Public Hearing by Gardner, second by Palmquist.

Public Hearing Open

Steve Grotting, City Council member and resident (Drake Dr.) also owns Windsong Realty and said he represents the Pagenkopfs. Grotting said Kevin from an excavation company will be coming in next week after road restrictions are lifted to remove the lean-to on the property. Grotting noted the septic and well are in good condition but there will be a lot of other clean-up done on the property.

Motion to close the Public Hearing by Gardner, second by Palmquist

Public Hearing Closed

Motion by Dumas to approve a minor subdivision to allow a lot line rearrangement and two rural view lot subdivisions per Staff recommendations and additional verbiage on items (1) and (2) for the

properties located at and directly south of 2576 Valley Road, Independence, MN (PID No.s 15-118-24-32-0003 and 15-118-24-33-0001):second by Volkenant. Ayes: Gardner, Thompson, Volkenant, Dumas and Palmquist. Nays: None. Absent: None. Motion Approved.

5. **PUBLIC HEARING:** A proposed text amendment to the City of Independence Ordinances as follows:

- a. 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.

Kaltsas said 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 applies 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 definitions of Agriculture, Horticulture and Forestry.

In order to provide some framework around this discussion, staff offers the following considerations:

1. Staff has developed a draft use table for review and further discussion and consideration by the Planning Commission. The table identifies possible designations for the three uses being considered by the City. Reassigning uses to interim or conditional within certain zoning districts would provide a mechanism for the City to review any new use applications. The review of these land uses by the City would provide a way to ensure that there are clear conditions which mitigate potential impacts resulting from the proposed use.

2. The City could additionally look to limit the use of a property based on a minimum lot size or minimum useable area (i.e. agriculture permitted in AG zoning district with a minimum lot size of 2.5 acres).

3. Planning Commissioners reviewed the following definitions at the end of last year and provided direction to staff relating to potential changes. Staff has made several minor changes to the definitions below. More definition was added to the definition of products processing relating to the term "light". Staff reviewed the need to change the definition of "Commercial" Nursery and determined that the commercial is a commonly used term to describe a business that intends to make money in exchange for products or services.

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

(a) "field crops" including: shall mean barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers; and

(b) "livestock" shall be defined as provided in subsection 510.05, subdivision 44, and;

(c) "livestock products" including: shall mean milk, butter, cheese, eggs, meat, fur and, honey, or similar products involving only light, on-site processing; light processing shall consist of only products grown or generated on the premise.

Subd. 34. "Forestry." The cultivation and management of forests or woods located on the premises, including: the felling and trimming of timber; and associated light production such as cutting or sawing of timber into rough lumber, but not including the sale and transportation of finished lumber from the premises or the storing or stockpiling of such lumber. 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 and sale of fruits, vegetables, flowers, cultured sod, and nursery stock, including ornamental plants and trees., for the production of income. Such term shall not include the operation of a commercial nursery (wholesale or retail), landscaping business, tree trimming/removal business or similar enterprise.

The Planning Commission will take public comments relating to the proposed ordinance updates and provide feedback and direction to staff relating to the possible amendment. Based on the information presented and discussion held at the meeting, it is intended that a draft ordinance amendment will be prepared for consideration at the next meeting.

Gardner asked if there were any crops being grown in the City that are not listed in the definition. Volkenant said as properties get smaller there will be a change in crops. Dumas asked if that would fall under horticultural. Volkenant asked why a person would want to grow something they could not sell. Kaltsas noted striking it out does not preclude a resident from doing it but legally cleans up the ordinance and makes it less open. Volkenant said it takes away the freedom of the farmer to grow what is best for the soil type. Thompson said it has to be a balance of what is appropriate use for the City. There has to be a level of oversight rather than listing every crop that could possibly be grown. Volkenant said the state's definition is not as limiting. Gardner noted it would unworkable at a community level. There are many lots that are only two acres. Kaltsas noted maple syrup would be tied into the honey definition. Tapping into maple trees is allowed under the ordinance.

Volkenant said they need to look at redefining Ag, Horticulture and Forestry. Thompson said if they reengage looking at this then it needs to be noted that all ag zoning is not created equal. He noted we are listing what we cannot stop or what is permitted. Thompson said he is all for permitted lists but feels there needs to be more zoning districts. Volkenant asked if there could be a subsection under rural residential that outlined permitted use. Dumas said this is saying you could have pigs next to a residential lot but not grow strawberries there. Thompson said it is a balance of being able to review use of property. Dumas said horticulture had a pretty good list and beyond that there could be a review. Volkenant said that it shouldn't have to cost \$2000 to ask to do it. Thompson said the process needs to be simple, easy and not costly to an applicant. Volkenant said horticulture could be cleaned up to make more sense.

Motion by Volkenant to close the Public Hearing, second by Dumas.

6. Open/Misc.
7. Adjourn.

Motion by Thompson, second by Volkenant to adjourn at 9:20 p.m.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JUNE 2, 2020 –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. via zoom video call.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL

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

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose, Public Works Supervisor Bode

VISITORS: WHPS Chief Kroells

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

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

- a. Approval of City Council Minutes from the May 19, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19646-19670.

Johnson said the minutes should read 'south' instead of 'north' of Pagenkopf. Also, east of Valley Rd.

Motion by Betts, second by McCoy to approve the Consent Agenda with the noted changes on the May 19th minutes. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

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

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Special City Council Session

Grotting attended the following meetings:

- Special City Council Session

McCoy attended the following meetings:

- Special City Council Session

- Memorial Day Service

Betts attended the following meetings:

- Special City Council Session
- Endorsement Meeting

Johnson attended the following meetings:

(all meetings were via zoom)

- Endorsement Meeting
- Orono Virtual Scholarships Awards
- Metropolitan Council Meeting
- EENR Conference Call for National League of Cities
- Delano Memorial Day Celebration
- NLC Legislative Call
- Haven Homes Advisory Committee Meeting
- Senior Community Services Meeting

Horner attended the following meetings:

- Online Elections Training

Kaltsas attended the following meetings:

6. **LIQUOR LICENSE REIMBURSEMENT CONSIDERATION.**

Kaltsas said the City Council recently discussed the possibility of reimbursing a portion of the City's annual liquor license fees to our local businesses as a way to offset some of the lost sale opportunities associated with the COVID-19 pandemic and the State of Minnesota closing orders. The three (3) liquor licenses issued in the City are as follows:

- Ox Yoke Inn
License for: Off Sale, On Sale and Sunday License
Total Fee Paid \$5,800
- Pioneer Creek Golf LLC
License for: On Sale and Sunday License
Total Fee Paid \$5,700
- Windsong Farm Golf Club LLC
License for: Off Sale, On Sale and Sunday License
Total Fee Paid \$5,800

The City looked at offering a prorated reimbursement amount based on the time that the executive order was in place and restricting the establishments ability to operate. Rather than considering a prorated amount for each business, it is recommended that the City consider a flat rate that would be equal for all three businesses. A \$1,000 refund of fees would be close to the prorated amount and easy to redistribute to the businesses.

Staff is seeking City Council direction relating to the possibility of providing a liquor license refund to our local businesses.

Johnson stated he thought this would be a good idea as these establishments have had a rough time. Betts said it was a great idea and Spencer agreed.

Motion by Johnson, second by Betts to approve \$1,000 reimbursement to each 3 liquor establishments. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

7. PROCLAMATION HONORING HENNEPIN COUNTY NATURAL RESOURCES SPECIALIST DAVID THILL.

Johnson stated Thill's proclamation looked good.

Motion by Betts, second by McCoy to approve the Proclamation honoring Hennepin County Natural Resources Specialist David Thill. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

8. MISCELLANEOUS ADMINISTRATION UPDATES

Kaltsas noted through the grant award Horner applied for the City will receive 6 bike racks and 3 hand washing stations.

Kaltsas said at the next meeting the NLC Sewer Line insurance program will be discussed and up for approval.

Kaltsas said the street overlay program is set to being next week and there will be no custom shouldering. Johnson said he had a call from a resident on Brei Kessel who said he had not gotten a return call from the city about the overlay project. Bode stated he has spoken with the resident.

Kaltsas said Lake Independence is at a slow no wake according to the old level. DNR enforcement division now handles this. Medina has said nothing about this.

Kaltsas stated that Staff met with BKV architects again on the remodel and will get a few more ideas out to Council for exterior options.

Kaltsas said upcoming on Planning Commission Meetings will include looking at the zoning ordinance definitions again.

Kaltsas said the City will not be having any AB balloting.

Kaltsas noted that he and Gary attended a bi-weekly Hwy 12/92 realignment meeting. He said there is some movement on their end to take off the driveways as discussed. There is some legality on how they can spend their funds. Shared driveways.

Spencer asked about the Extratyme tower. Kaltsas noted they are working on footing design and have been tweaking the location. He said they should have it done within 24 hours. Kroells noted the civil unrest due to the recent events and said the police are here to protect and defend our community. He said the Lake Minnetonka regions together had 53 officers working, with 25-30 assigned to quick action response. He thanked public works for their cooperation. Kroells said they could not drive downtown over the weekend to take the arrested to jail, so they spent the night in Brooklyn Park's jail. He then talked about a defense attorney in Independence who is representing the officer, so there could be threats on his house and the police will be preparing for that and any other threats to safety. Kroells noted it is 17 major cities is where this rioting is occurring, and they are heavily funded. Grotting asked about security plans in the building renovation. Kroells stated having the gates will be good but glass buildings are always a concern.

9. OPEN/ MISC.

10. ADJOURN.

Motion by Spencer, second by Grotting to adjourn at 7:15 p.m. Ayes: Johnson, Betts, Grotting, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary