MINUTES OF A MEETING OF THE INDEPENDENCE PLANNING COMMISSION MARCH 15, 2022 – 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 Gardner, Dumas, Volkenant (virtual), Thompson (virtual) and Alternate

Story

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

ABSENT: None

VISITORS: Marty Chelstrom

3. APPROVAL OF MINUTES:

a. March 15, 2022, Planning Commission Meeting

b. April 5, 2022, City Council Meeting Minutes (For Information Only)

Motion by Gardner to approve the March 15, 2022 Planning Commission minutes, second by Dumas. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.

4. PUBLIC HEARING: Jeffrey Arendt (Applicant/Owner) is requesting that the City consider the following action for the property located at 1665 Copeland Road (PID No. 19-118-24-44-0004) in Independence, MN:

c. A conditional use permit to allow a detached accessory structure that is larger than 5,000 SF. The applicant is proposing to construct a new private indoor riding arena.

Request:

Jeffrey Arendt (Applicant/Owner) is requesting that the City consider the following action for the property located at 1665 Copeland Road (PID No. 19-118-24-44-0004) in Independence, MN:

a. A conditional use permit to allow a detached accessory structure that is larger than 5,000 SF. The applicant is proposing to construct a new private indoor riding arena.

Property/Site Information:

The property is located on the west side of Copeland Road and south of Dean Lane. The property has an existing home and two additional detached accessory structures. The property is primarily comprised of tillable acreage and a wooded area in the southeast corner The property has the following characteristics:

Property Information: 1665 Copeland Road

Zoning: *Agriculture* Comprehensive Plan: *Agriculture* Acreage: 65.05 acres

Discussion:

The applicant approached the City with plans to add an indoor riding arena onto the existing barn located on the subject property. It was noted that the proposed 21,000 square foot addition that would be connected to the existing structure would exceed the maximum square footage permitted of 5,000 without a conditional use permit. The existing barn is approximately 7,800 SF. The applicant would like the City to consider granting a conditional use permit to allow the proposed 21,000 SF building addition to be added to the property.

All accessory structures greater than 5,000 square feet require a conditional use permit

530.01 Agricultural District established.

Subd. 3. Accessory uses.

- (d) Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:
 - 3. The maximum square footage of any individual accessory building or structure shall be 5,000 square feet.

The proposed indoor riding arena is 21,000 square feet in size (100' x 210'). There is an existing ~7,800 square foot detached accessory structure already on the property. The proposed addition would be connected to the existing building via an enclosed breezeway. For properties greater than 10 acres, there is no maximum total allowable detached accessory structure square footage limitations. The proposed building would be used solely for the applicant's personal use and own horses. There would be no commercial use or commercial boarding of horses allowed within the proposed accessory structure. The proposed detached accessory structure would be constructed using materials and colors that would correspond with the existing accessory structure.

The applicant has provided the City with a site survey, floor plan and building elevations of the proposed building.

The proposed site and buildings have the following characteristics:

Site Area: 65.05 acres

Required Setbacks:

Front Yard: 85 feet from centerline Side Yard: 30 feet principal structure

15 feet accessory structure

Rear Yard: 40 feet

Proposed Setbacks:

Front Yard: 190 feet from CL of Copeland Road Side Yard: N/A - far exceeds requirements Rear Yard: N/A - far exceeds requirements

The proposed detached accessory structure would meet all applicable building setbacks.

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 proposed detached accessory structure with the applicant. The conditional use permit would allow an accessory structure larger than 5,000 SF. The City is being asked to determine whether or not the proposed accessory structure larger than 5,000 SF would meet the criteria for granting a conditional use permit.

Additional Notes/Considerations:

The applicant is proposing to construct an indoor riding arena for their own personal use.

The applicants live on the subject property. The applicant has not submitted any information pertaining to building lighting. All building lighting will need to comply with the City's lighting standards. The City typically reviews building lighting during the building permit review process. No additional building screening is proposed given the proximity of all structures on adjacent properties combined with the existing vegetation and general screening provided by the placement of the building. The location and size of this property and the character of the surrounding properties aids in mitigating any potential impacts of the proposed arena.

The applicant has prepared a site plan, grading plan and building plans for the proposed site improvements.

The following conditions should be considered:

- 1. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
- 2. 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.
- 3. No commercial use of the proposed detached accessory structure shall be permitted.
- 4. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.

Neighbor Comments:

The City has not received any written or oral comments regarding the proposed conditional use permit.

Recommendation:

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit with the following findings and conditions:

- 1. The proposed conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
- 2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
- 3. 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.
- 4. No commercial use of the proposed detached accessory structure shall be permitted.

- 5. No future expansion of the detached accessory structure shall be permitted without the further review and approval by the City through the conditional use permit amendment process.
- 6. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Kaltsas explained that this property is South of Dean Lane, West of Copeland Road. It is primarily tillable acreage and zoned Agricultural. The property is 65 acres overall. The detached accessory building would require a CUP if they exceed 5,000sqft in overall size. The applicant currently has an existing AG building, but would like to add an indoor riding area on the building. The existing building is 7,800sqft now but with the addition it would be around 21,000sqft. The city adopted a provision 10 years ago relating to accessory buildings greater than 5000 for surrounding property owners. These have the potential to impact surrounding properties. For properties over 10 acres in size, we have no maximum size limitations, but 5,000sqft per individual building. The connectivity between buildings, site for roads, setbacks all meet our requirements. The closest setback is the front yard setback which far exceeds that setback. The wooded area and over size of the property at 65 acres makes this a good site for this riding arena. There are similar properties with these buildings in the area. If the building is constructed, we look at lighting and the overhead door needs to comply with applicable standards. We would look at that at the time of the building permit. They will re-side the entire building, so it all matches. He said if someone wanted to purchase and board horses, they could come in to go through the CUP steps.

Open public hearing

Gardner asked Jeff what he wants to do with the building. Jeff Arendt said he has been there since 1994 and he wants to ride his horses. He got back into it a couple years ago and just wants to enjoy it.

Tearse said it's great. It looks great. He asked what the waste disposal requirements are. Kaltsas said there is a plan in place to make sure it is taken care of. Frozen application is not permitted in the city.

Motion by Tearse to approve the CUP to allow a detached accessory structure larger than 5,000sqft, second by Gardner. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.

- 5. PUBLIC HEARING: Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the property generally located at and adjacent to 8590 County Road 92 N (PID No.s 32-118-24-23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004) in the City of Independence, MN:
 - d. Review of an EAW (Environmental Assessment Worksheet) associated with the proposed development of a new 18-hole golf course on the subject properties. The EAW is required as a result of the conversion of the property from agriculture to a new land use.

Request:

Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the property generally located at and adjacent to 8590 County Road 92 N (PID No.s 32-118-24-23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004) in the City of Independence, MN:

a. Review of an EAW (Environmental Assessment Worksheet) associated with the proposed development of a new 18-hole golf course on the subject properties. The EAW is required as a result of the conversion of the property from agriculture to a new land use.

Property/Site Information:

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

Property Information: (PID No.s 32-118-24-23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004))

Zoning: *Agriculture*

Comprehensive Plan: Agriculture

Acreage: ~125 total acreage of six (6) properties

Discussion:

The applicant approached the City about the possibility of constructing an 18-hole private golf course on the subject properties. The properties are currently owned by the same ownership group that also owns Windsong Farm Golf Club. The City initially reviewed the request to determine if an environmental review was required by Minnesota statute. There are certain land use conversions that trigger a mandatory environmental review. In this case, it was determined that the conversion of more than 80 acres of agriculture land to a golf course initiated a mandatory environmental assessment worksheet (EAW). The purpose of the EAW is to consider information about a project that may have the potential for significant environmental impacts.

The EAW – Environmental Assessment Worksheet – document is designed to provide a brief analysis and overview of the potential environmental impacts for a specific project and to help the RGU determine whether further environmental review is necessary. The EAW is not meant to approve or disapprove a project, but is simply a source of information to guide other approvals and permitting decisions

An EAW review is initiated and administered by the City or what is referred to as the responsible government unit (RGU). The EAW is not approved or denied, but rather allows the City as well as other agencies to review the proposed land conversion to determine if/what environmental impacts could occur as a result of the change in use. This process does not alter or circumvent the City's other processes and required approvals. Golf Courses are a conditional use in the AG- Agriculture zoning district and any proposed new golf course will require the review and approval of the City. Full details of the proposed golf course, grading, structures, parking, etc.

have not been provided and will be reviewed at the time of a submittal for a conditional use permit.

The City is not obligated to hold a public hearing on the EAW but felt that it would provide constituents an opportunity to provide any comments or ask questions relating to the conversion of the property to a golf course and any potential environmental impacts associated with that conversion. There will also be a public hearing and more formal review of the actual golf course at the time a conditional use permit application is submitted to the City to consider approval of the golf course and associated improvements.

The City's engineer has reviewed the EAW and provided several comments to the applicant relating to the application. The next step in this process will be for the City to submit the EAW to the Minnesota Environmental Quality Board (EQB). The Environmental Quality Board is made up of 9 agency heads and 8 citizen members. The EQB will formally review and comment on the application submitted and allow for additional public input pertaining to the proposed change in land use.

Recommendation:

No action is required at this time. The City is providing the public with an opportunity to provide comments and ask questions relating to the EAW specifically for the subject properties.

Kaltsas explained that the existing zoning is AG. This would be a conversion of more than 80 acres of AG to golf course. Once you hit those 80 acres it's a mandatory regulatory worksheet. They used much of this for parking and have utilized this property as an 18-hole golf course. Once this assessment is completed and there are no further actions required, the golf course could come forward with their course plans. It would require a CUP amendment to include the North acreage. Water resources and civil engineering has reviewed this. There is quite a bit of wetlands on this property and they are working to see what the strategies are to mitigate. Jon is here tonight to represent Windsong.

Tearse asked if there is another golf course there now. Kaltsas said that there is the Pioneer Creek Golf Course on Copeland Road.

Story asked if there are any other concerns, or anything regarding irrigation.

Jon said for irrigation they will use groundwater and wells. It won't come out of Fox Lake. Dumas asked if that is covered in here. Kaltsas said that is something that will be fully looked at. Dumas asked about the fertilization. Jon said it is less fertilization. The dark green part on the map is prairie grass. There is no irrigation or fertilizer.

Jeff Arendt asked about a plan for overflow parking. Jon said it is just moved East of the existing tunnel.

Closed public hearing

Kaltsas said there is no formal action required, it is to hear from the public.

<u>6. PUBLIC HEARING:</u> Derek Onischuk (Applicant/Owner) is requesting that the City consider the following action for the property located at 190 County Road 92 N. (PID No. 32-118-24-44-0003) in Independence, MN:

e. A variance for a reduced side yard setback to allow the construction of an addition to the existing home located on the property.

Request:

Derek Onischuk (Applicant/Owner) is requesting that the City consider the following action for the property located at 190 County Road 92 N. (PID No. 32-118-24-44-0003) in Independence, MN:

a. A variance for a reduced side yard setback to allow the construction of an addition to the existing home located on the property.

Property/Site Information:

The subject property is located at 190 County Road 92 N. The property is on the east side of County Road 92 N., south of County Road 6 and just south of the Luce Line Trail. There is an existing home on the subject property.

Property Information: 190 County Road 92 N.

Zoning: AG - AgricultureComprehensive Plan: AG - Agriculture Acreage: 11.25 *acres*

Discussion:

The applicant is seeking approval to construct a four-season porch on the north side of the existing home. The applicant approached the City about the potential to encroach into the side yard setback along the north property line. The existing home is currently located approximately 30 feet off of the north property line. The City requires a side yard setback of 30 feet for properties zoned AG-Agriculture. The proposed four-season porch addition would encroach into the side yard setback approximately 22 feet with a remaining building setback of 8 feet from the property line.

The resulting variance to the side yard setback would be 22 feet. The required setbacks for properties zoned AG-Agriculture are as follows:

Front Yard Setback:

Required: 85 feet from centerline or 51 feet from the ROW Existing: ~200 from front property line

Rear Yard Setback:

Required: 40 feet Existing: ±775 feet

Side Yard Setback (South

Side): Required: 30

feet

Existing: +395 feet

Side Yard Setback (North

Side): Required: 30

feet

Existing: 30 feet

Proposed: 8 feet (variance of 22 feet)

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

520.21. <u>Standards for granting variances</u>. Subdivision1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

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

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

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

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

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

Consideration of the criteria for granting a variance:

a. Residential use of the property is consistent with the AG-Agriculture District.

- b. The character of the surrounding area is residential. The proposed screen porch addition is generally in keeping with the residential uses on properties in the surrounding area.
- c. The property is located south of the Luce Line Trail. There is a sliver of private property located north of the subject property; however, it is likely not buildable as there would be no way to locate a structure on the portion of property directly north due to requisite setbacks. The area north of the existing structure is wooded and generally screened from the view of any surrounding structures.
- d. The applicant is noting that the interior configuration of the existing home better accommodates the expansion of a four-season porch to the south as proposed.

There are several additional items that could be considered by the City:

- 1. Staff discussed alternative options for locating the screen porch in compliance with applicable setbacks with the applicant. The applicant noted that the general interior configuration of the home would best support the proposed porch location.
- 2. The applicant could locate a detached accessory structure on this property in the general location of the proposed screen porch up to the requisite setbacks (15 feet).

Ultimately the City will need to find that the criteria for granting a variance have been met by the applicant. The existing home is located against the south property line setback with no room to expand to the north. Due to the configuration of the house on the property and the interior layout there are some limitations to add this type of addition without impacting function of the existing structure/use. The setback of the proposed porch from County Road 92 N. and the natural screening and buffering that exists between this and the surrounding properties appear to help mitigate the potential impacts.

Public Comments:

The City has not received any written or verbal correspondence at the time this report was prepared.

Recommendation:

Staff is seeking a recommendation or direction from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a variance, the following findings and conditions should be considered.

- 1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
- 2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Residential use of the property is consistent with the AG-Agriculture District. The applicant is seeking a variance to allow a four-season porch addition to be added onto the existing home.
 - b. The alignment of the proposed porch with the rear of the home and the proposed building architecture and exterior finishes appears to mitigate some of the potential impacts resulting from the addition.
 - c. The character of the surrounding area is agriculture. The proposed fourseason porch addition and would be in keeping and consistent with the surrounding uses found in this area of the City.
- 3. The variance will permit a 22-foot reduction (from 30 feet to 8 feet) to the north side yard setback to allow the proposed four-season porch to be added onto the existing structure as depicted on the site plan and building plans attached hereto as Exhibit A. Any modification changes or alteration to the structure that does not meet applicable setbacks in the future would require additional review and approval in the form of a variance.

Kaltsas explained that the applicant is planning to build a 4-season porch. The property is located on the East side of 92, South of Luce Line in the Ox Yoke area. It is zoned as AG and is approximately 11.25 acres. The property is behind another property that has a driveway access that leads back to it. The house is on the very North side of the parcel near the property line. Applicant asked about constructing the 4-season porch on the North side of the house since this is the best location. It will impact the setbacks. It currently has a setback of exactly 30 feet. They would need the variance to allow reduced side yard setback which would encroach the set back by 22 feet. This would be a 22 ft variance leaving it 8ft from the North property line. The property directly North is unbuildable in the location it would impact. On the East side of the house, there is a mound system so they would have limitations if they tried to do it that way and other side of the house is where the garage is. It makes sense why they are looking for that particular location. A detached accessory building can be up to 15 ft from a side yard setback. That doesn't get to 8ft, but it makes sense. This is a hardship since the existing house is up against the property line, the location of the septic system, and the overall house layout.

The property that it touches at the corner did not respond to the public hearing notice.

Mrs. Onischuk said they bought the house 4 years ago with the intention of something being there, but it never got developed from previous owners. She doesn't know who the landowners are that own the property to the North.

Motion by Tearse to approve the variance to allow a reduced side yard setback to allow a 4-season porch, second by Dumas. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.

- 7. <u>PUBLIC HEARING:</u> Hennepin County (Applicant) is requesting the following minor subdivision relating to the Highway 12/County Road 92 improvement project in Independence, MN:
 - a. 2510 County Road 92 N. (PID No. 16-118-24-33-0003)

Request:

Hennepin County (Applicant) is requesting the following minor subdivisions relating to the Highway 12/County Road 92 improvement project in Independence, MN:

a. 2510 County Road 92 N. (PID No. 16-118-24-33-0003)

Property/Site Information:

The subject property is generally located at the intersection of County Road 92 N. and Highway 12. The property has the following site characteristics:

Property Information: 2510 County Road 92 N.

Zoning: *Agriculture*

Comprehensive Plan: Agriculture

Discussion:

Hennepin County has been working on the acquisition of properties associated with the Highway 12/CSAH 92 realignment and overpass project. The properties have now been acquired by the County, but a formal approval of the actual subdivision is still required by the City. The City reviewed and approved a number of properties in the fall of 2021. There was one additional property that was identified that was left out of the previous approvals and is required to be formally approved by the City. The subdivision is unique in that the property being broken off will be used for right of way (combined with the existing right of way) for the state highway or county road. No new property is being created as a result of the requested subdivision.

A portion of parcel at 2510 County Road 92 N. was acquired in fee through condemnation as part of the safety improvements at County Road 92 where it intersections with U.S. Highway 12. MnDOT requires that property that abuts their highways be acquired in fee. Hennepin County did the acquisition, Independence is also a partner in the project.

The City has reviewed the requested subdivision and found it to be in keeping with the reviewed property acquisitions necessary to construct the new road improvements. The detail of the subdivision is provided on the attached survey.

Other Considerations:

- 1. The City does not have an administrative or other process for considering the subdivision of property. All subdivisions are required to go through the requisite process.
- 2. No new parcels are being created as a result of the proposed subdivisions.
- 3. No new non-conformities are being created as a result of the proposed subdivision. The frontage requirements, applicable setbacks and minimum lot sizes are not being compromised in the after condition as a result of the proposed subdivisions.

Summary:

The requested minor subdivision of the subject property does not appear to create any adverse conditions in the after condition. The proposed subdivision appears to meet all of the applicable standards of the City's zoning and subdivision ordinance.

Neighbor Comments:

The City has not received any written or verbal comments regarding the proposed subdivisions.

Recommendation:

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

- The proposed Minor Subdivision meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning and Subdivision Ordinance.
- 2. City Council approval of the Minor Subdivision is subject to the following:
 - a. The Applicant shall address all comments and applicable requirements pertaining to the proposed subdivisions which includes the following:

- Prepare the requisite documents and legal descriptions needed to record all documents with Hennepin County.
- 3. The Applicant shall execute all applicable documents to allow recording of the minor subdivision within six months from the date of the City Council approval.

Kaltsas said that Hennepin County acquired properties during this road construction project for Highway 12 and 92. It is zoned AG. Hennepin County is requesting a subdivision of the property that is unbuildable. Property is set, they took eminent domain. This should be the last one but there could be more. This is straightforward.

Open public hearing Close public hearing

Motion by Story to approve the minor subdivision, second by Volkenant. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.

7. Open/Misc.	
8. Adjourn.	
Adjourned at 8:27 p.m.	

Amber Simon / Recording Secretary