

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
AUGUST 10, 2021 – 5:00 P.M.
(In-Person for Commissioners and staff, Virtual for Residents)

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 5:00 p.m.

2. ROLL CALL

PRESENT: Commissioners Gardner, Thompson, Palmquist, Volkenant (arrived late). Sworn in alternates, Story and Tearse

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

ABSENT: Dumas

VISITORS: Richard and Kelly Wood, Dan Johnson, Tim Koch, Tom Koch, Paul Otto, Brad Spencer

3. Approval of Minutes:

- a. May 18, 2021 Planning Commission Meeting Minutes
- b. June 15, 2021 Planning Commission Meeting Minutes

Motion by Thompson to approve the May 18, 2021 Planning Commission minutes, second by Palmquist. Ayes: Gardner, Thompson and Palmquist. Nays: None. Absent: Volkenant, Dumas Abstain: None. Motion Approved.

Motion by Palmquist to approve the June 15, 2021 Planning Commission minutes, second by Thompson. Ayes: Gardner, Thompson and Palmquist. Nays: None. Absent: Volkenant. Dumas Abstain: None. Motion Approved.

4. **PUBLIC HEARING:** Richard Wood (Applicant/Owner) is requesting the following actions for the property located at 5233 Lake Sarah Heights Drive (PID No. 01-118-24-24-0023) in the City of Independence, MN:

- a. A variance to allow a reduced front yard setback related to the construction of a new home on the subject property.

Property/Site Information:

The subject property is located at 5233 Lake Sarah Heights Drive which is on the west side of the road Just after the intersection of Lake Sarah Heights and Sunset Lane. The property is comprised of approximately 1.55 acres. The property is located on the Lake Sarah channel and has a large wetland on the west side of the property. The property generally slopes towards the lake.

Property Information: 5233 Lake Sarah Heights Drive Zoning: Rural

Residential (Shoreland Overlay)
Comprehensive Plan: *Rural*
Residential
Acreage: 1.55 acres
Impervious Surface Maximum: 25%

Discussion:

The applicant approached the City about the possibility of developing this lot earlier this year. One of the key considerations relating to this property and the property to the south is the existing wetlands located adjacent to the channel. The applicant had the property delineated and determined the buildable area (see attached). Following approval of the delineation, the applicant moved forward with the preparation of a new home plan for the property.

The initial plans for this property included a single-family home and detached accessory building. Prior to submitting the plans for a building permit, the applicant informed the City that they would like to construct the detached accessory structure first and prior to construction of the single-family home. The City notified the applicant that a principal structure was required prior to construction of an accessory structure. The applicant asked if they could construct the detached accessory structure as a principal structure and then later convert the building to a detached accessory structure and build the principal structure. The City does not have any provisions that would expressly prohibit a detached accessory building to be used as a principal structure if it could meet all provisions of the building code for a principal structure.

515.12. Minimum size for residential dwellings.

All residential dwellings must be a minimum of 24 feet in width and 30 feet in length and must contain a minimum of 720 square feet of habitable floor space. Length and width must be measured from the outside of the exterior siding or fascia and habitable floor space must be measured from the inside of the interior wall surface. Interior partitions must not be considered.

The applicant is proposing to construct the building to meet the applicable standards for a residential dwelling. If they chose to construct the single-family home at a later date, the structure would need to be modified (removal of the stove and specific bedrooms – ADU could be applied for at a later date if they wanted to keep some of the living spaces). The change in the proposed construction sequencing did cause some confusion and does require different building setbacks (principal structure versus accessory structure).

The existing property is a lot of record. The City’s shoreland ordinance states:

505.15. Substandard lots.

Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:

- (a) Such use is permitted in the zoning district;*
- (b) The lot of record is in separate ownership from abutting lands, and can meet or*

exceed 60 percent of the lot area and setback requirements of this section; and

- (c) All requirements of section 705 of this Code regarding individual sewage treatment systems are complied with.*

This lot is considered a substandard lot and would be allowed to take advantage of the administrative variance which permits a 40% (need to meet 60%) reduction in the established setbacks. Setbacks in the shoreland overlay district have two parts. The initial setbacks are regulated by the underlying zoning (in this case RR-Rural Residential). The shoreland overlay provides a second layer of setback standards that generally pertain to the shoreland setbacks.

The requisite (and applicable for this issue) building setbacks for this property are as follows:

Front Yard Required: 85 ft from centerline or 50 ft. from right-of-way, whichever is greater
Side Yard Required: 30 feet

The applicant had reached out to the City to verify the building setbacks and was provided with the respective sections of the ordinance. It was noted that the allowable building setbacks could meet 60% of the required setbacks due to the status of the lot as a substandard lot established before 12/1/1982. The applicant and their surveyor applied the 60% exception to the building setbacks. The 60% provision would allow the following setbacks:

Permitted:

Front Yard Required: 51 ft from centerline or 30 ft. from right-of-way,
whichever is greater Side Yard Required: 18 feet

As Constructed:

Front Yard: 50.1 ft from centerline
Side Yard: 18.1 feet

When applying the setbacks, they did not take into account the provision that states, “whichever is greater” and used the lessor of the two relating to the front yard setback. In this case, there is a delta of 9.2 feet between the two measurements. The City issued a building permit to construct the building and noted that the setback was greater than what was shown on the plans. As a result of a personal medical issue, the City’s building official was not available to inspect the property on the day the footing was approved, and a substitute inspector reviewed the footings. No measurements were taken on site, and the inspection resulted in approval of the footings. The applicant poured the foundation approximately 9.2 feet closer to the property line than permitted.

The City was notified by a neighboring property owner that the foundation appeared to be too close to the road and the City inspected the foundation. It was determined that the foundation did not meet the applicable setbacks and a stop work was issued on the property. The City and applicant reviewed the issue and discussed possible solutions for moving the project forward.

It should be noted that a city employee cannot (either by mistake or purposely) change the ordinance and or issue an administrative variance to any ordinance provisions.

The applicant chose to move forward with a variance application seeking approval to allow a 9.2-foot variance from the required front yard setback.

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

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

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

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

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

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

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Rural Residential District.
- b. The applicant has noted that the slope behind the existing foundation is steep and would require significant fill to move the structure further away from the property line. In order to construct the existing foundation, additional fill was required. The property historically drops off towards the lake.
- c. The character of the surrounding area is residential. The applicant is proposing to construct a principal structure which is not wholly consistent with the surrounding properties. The initial building would look and feel more like an accessory structure than a principal structure.

- d. The structure would need to be moved 9.9 feet to the west to meet the applicable building setbacks (30 feet from the property line, currently 20.1 feet from the property line).
- e. The properties that surround this property generally comply with applicable front yard setbacks. It can be seen from aerial photographs, and it is otherwise known that many lake properties do not fully comply with all applicable zoning requirements.

The City noted that the structure should not have been permitted in the location that is proposed and that the substitute building inspector should have measured the setback and identified the issue prior to approving the foundation. The Planning Commission will need to determine if the requested variance meet the requirements for granting a variance.

Neighbor Comments:

No written correspondence has been provided to the City. The City did receive a verbal comment relating to the closeness of the structure to the road.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested Variances with the following findings and conditions:

- 1. The proposed variance 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 requested variances will allow the construction of the proposed principal structure in accordance with the existing foundation and associated building plans (approved plans only - plans will become an exhibit of the resolution). The variances will allow a 9.9' reduction in the requisite setback as follows:
 - a. Front Yard: 20.1-foot setback
- 3. The Applicant shall pay for all costs associated with the City's review of the requested variance.
- 4. Any future improvements or expansion of the structure will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.

Kaltsas explains that prior to applicant submitting plans for approval they changed from single family home to a detached garage with living space that met minimum requirements of a residential structure for the City. The change did impact side detached accessory building vs. principle structure. The city and applicant reviewed and approved the permit for the detached structure to become the principle structure on this property. The applicant then moved forward with starting instruction on this structure.

The structure setbacks from the city's right-of-way are something that came into questions after the city approved the initial footing inspection. The setback did not meet the requirements. The applicant was then given the options of

- a.) apply for a variance to approve the reduced front yard setback
- b.) to move the structure to the required setbacks.

Lots built prior to December 1, 1982 can be developed as a new building site. They are given an administrative variance from the city's setbacks for new construction. If they can meet 60% of the setback requirements of this section, they can use the altered setbacks for where to build a setback on the property.

Kaltsas explains that the key issue is that the front yard setback requirements states a structure needs to be 85' from the center line or 50' from the right of way, whichever is greater. The applicant took 60% of the 85' from the center line and used that as the applicable setback where 50' of the right-of-way is the greater of the two and because of that the 60% would be applied to the 50' of the right-of-way and that would be 30' from the property line rather than 51' from the center line. The footings that were poured are too close to the front yard setback. They would need a variance of 9.2 ft in order to allow the existing slab to remain in place and to build the principle structure on this property.

However, applicant notes there is a significant slope that goes from the property down towards the wetlands and the lake. Bringing in additional fill would be costly and cause a burden on the landowner to move the structure away from the property line. The property historically dropped off towards the lake.

Gardner asks if the property is slab on grade and if the slab is thickened or has footings. He states that these characteristics speak to the difficulty of moving it.

Thompson asks what the acceptable setbacks on an accessory structure are. Kaltsas states that they the same front yard setbacks. Thompson noted that there were many people notified of this request in such a dense area and asked if there was any other feedback or questions from the residents on this issue. Horner and Kaltsas state that there was not any negative feedback from the surrounding residents on this setback issue.

Gardner asks if the city is liable for any of this and Kaltsas states that we are not the city's attorney and it falls back on the homeowner.

Story asks if it is possible to move the structure further West. Gardner clarified that because of the slope, this would not be reasonable. He discusses the problematic issues of having to move the structure. He also states variances should not be issued due to economic hardship, however they have not received any "nasty" letters and it is not messing up anyone's life.

Volkenant asks if there has been any other lots in the area that have had to apply for a variance due to ecological reasons? Kaltsas states that there have been other lots that could not comply with the ordinance and still have a reasonable building pad put on them. This lot also has more buildable land above the wetland than perceived.

Public Hearing Opened

Dan Johnson, Richard Wood's uncle and a licensed civil engineer and a previous land surveyor in training. He states that the survey did not show wetlands on the property, but it did show wetlands on the property to

the South. They questioned the wetland and hired a delineator to indicate where the wetlands were. Johnson questions the front yard city setback requirements since most setbacks are from the property line rather than the center line. He states that the city codes do not mention 60%. In the building application the setback is 60% of the 85' from centerline or 60% of the 50' from right-of-way and does not state "whichever is great." Then Johnson states that the references were removed from the city website after this was brought to the City's attention. The family was planning on living in the garage as the house was being built. Johnson states that Wood followed the rules and the surveyor made an error. The surveyor provided a letter stating the correct information and Mark Kaltsas signed this letter.

Richard and Kelly Wood then discuss issues with the wetlands and setbacks. They state that they filled out the permit application on 5/20 and the information about setbacks was not listed on the application. The application was then signed on 6/16 for a 51' setback, they poured the slab on 6/19 and were issued a stop work order on 6/21. A city council member and city official came to the site on 6/24 and gave the options of moving the slab or applying for a variance. Moving the slab further West on the property would jeopardize the foundation since it is on a 45 degree slope. He believes he did his due diligence in applying for this variance, getting neighboring homeowner's approval and submitting information.

David Dvorak, a neighbor to Wood, states that Woods did everything they were supposed to do.

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

Public Hearing Closed

Thompson asks what the "red stamp" is.

Kaltsas explains that the permit issued to him by the city contains a "red stamp" of approval. The building inspector noted on the plan that there is a 51' setback. The callout is 51' setback. The inspector states that the 51' setback is from the property line for shoreline lots. However, centerline setbacks are common in rural areas due to a lot of property lines are centerlines. Thompson states that the ordinance is fine, but complicated due to shoreline. There isn't specific opposition due to the locality and the character of the neighborhood.

Story asks if Wood came in with plans from the start, would they have considered their plans because of the drop off. Gardner replies that there would have been a problem from the start because of the slope and he is in favor of leaving the structure where it is now because of the slope. There would have been a tremendous building issue if they moved it any further back.

Palmquist states that there was a permit issue. The disconnect is that there was an application made, the permit was issued, 3 days later the slab was poured. If it was poured in the location of the permit, the applicant did not make a mistake here.

Thompson says he wants to be thoughtful that they are not characterizing any potential error for the city. He states there isn't a requirement to check an applicant's work and we don't provide legal interpretations of code. The neighbors have signed off and wide notifications were given about the variance.

Motion made by Thompson to approve a variance to allow a reduced front yard setback, second by Volkenant. Ayes: Gardner, Thompson, Volkenant and Palmquist. Nays: None. Absent: Dumas. Abstain: None. Motion Approved.

5. **PUBLIC HEARING:** Tom Koch (Applicant) is requesting that the City consider the following review/discussion for the property generally located at 5865 Kochs Crossing (PID No.s 11-118-24-12-0004, 11-118-24-13-0003, 11-118-24-12-0002, 11-118-24-13-0002, 11-118-24-42-0002) in Independence, MN:
- a. Concept plan review relating to the proposed subdivision of the subject property. The concept plan proposes 34 single-family residential lots.

Property/Site Information:

The overall property is comprised of 5 individual properties that are located on the north and south sides of Kochs Crossing in-between County Road 90 and Independence Road. The property also touches Brei Kessel Road on the south. There is an existing home and a series of detached accessory buildings located across several of the properties. The properties are comprised primarily of agriculture land and wetlands.

Property Information: 5865 Kochs Crossing
Zoning: *Agriculture*
Comprehensive Plan: *Rural Residential*
Acreage: ~141 acres

Discussion:

The applicant approached the City on several occasions over the last several years to discuss potential rezoning and redevelopment of the subject property. The applicant has now submitted a concept plan for a 34-unit subdivision that would be developed across the 5 subject properties. Staff discussed several aspects of the proposed subdivision with the property owner and the owners' representatives. A concept plan allows the City the opportunity to initially review the proposed subdivision and provide feedback and comments to the applicant prior to the submittal of any formal applications for the development of the property.

The City has discussed the potential 34 lot subdivision with the applicant. A more detailed account of the comments and discussion is provided later in this report.

In order for the City to ultimately consider approval of a plan similar to the proposed concept plan, the following steps would be required:

1. Rezone the property to Rural Residential.
2. Consider a Conditional Use Permit to allow the proposed Cluster Subdivision.
3. Consider Preliminary Plat approval.
4. Consider Final Plat approval.

Comprehensive Plan/Rezoning

The City's adopted 2030 and proposed 2040 plan identify this property as Rural Residential. The rural residential designation allows for a general development density of 1 unit per 5 acres.

Proposed Subdivision Concept Plan

The applicant has prepared a concept plan for review by the City. The initially reviewed the plan to determine the number of lots that could be realized based on the total property acreage.

Subd. 3. Density. Lots of record in the rural residential district may be divided or subdivided into the following maximum number of lots, said maximum number to include the lot for any existing dwelling unit or other principal use: (Amended, Ord. 2010-01)

<u>Area of Lot of Record</u>	<u>Maximum Number of Lots Permitted</u>
7.5 acres or less	One
7.6 through 12.5 acres	Two
12.6 through 17.5 acres	Three
17.6 through 22.5 acres	Four
22.6 through 27.5 acres	Five
27.6 through 32.5 acres	Six
32.6 through 37.5 acres	Seven
37.6 through 42.5 acres	Eight
42.6 through 47.5 acres	Nine, plus one addn. lot for every five addn. acres of land.

Total Area: 141.35 acres
141.35 – 47.5 acres = 93.85/5 = 18 lots, plus 9 lots for the initial 47.5 acres.
27 Lots

The applicant is proposing to utilize the cluster subdivision standards. The cluster subdivision standards are as follows:

Subd. 4. *Cluster development conditional use permit.* Cluster development is a conditional use in the Rural Residential District, subject to the provisions of subsections 520.09, 520.11 and 520.13 of this Code.

(Amended, Ord. No. 2010-01)

- (a) *Purpose.* The purpose of the cluster development conditional use permit is to promote the creative and efficient use of land. The provisions of this subdivision are intended to:
 - (1) Protect natural features in common open space.
 - (2) Improve the arrangement of structures, facilities and amenities on a site.
 - (3) Preserve the rural character of the community.
- (b) *Criteria.* A cluster development is a residential development in which a number of single-family dwelling units are grouped on smaller lots than in conventional developments, while the remainder of the tract is preserved as open space. If the following standards are complied with, density of one unit per four acres is permitted.

- (1) The development parcel must be 40 or more acres in size;
- (2) A minimum of 50 percent of the development must be preserved as open space, recreational space or agricultural use;
- (3) A minimum of 50 percent of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100-year floodplain elevation are not considered to be useable for the purpose of this subsection;
- (4) Woodland, wetlands and topography must be preserved in a natural state, with modification allowed when no reasonable alternative exists; or, if the site lacks unique features such as woodlands and wetlands, the site must be designed and constructed in such a manner that residential building sites are integrated into a created natural environment including reforestation, wetlands enhancement, and vegetative screening of structures;
- (5) The preliminary plat must show a primary and secondary individual sewage treatment site for each dwelling unit and must be supported with soil test reports indicating the adequacy of each proposed location, provided that shared treatment systems within a development may be acceptable if the plat identifies two or more suitable sites for the shared system and the city council approves the proposal;
- (6) Lots within the development must have a minimum lot size of 1.5 contiguous buildable acres. Buildable acreage must not be separated by streams, wetlands, slopes in excess of ten percent or other physical impediments;
- (7) Open space must be designated in the development as one or more outlots and must be owned either by a homeowners' association consisting of the owners of all of the residential lots in the development or by the owners of the residential lots, as tenants in common;
- (8) The developer must record against the development a declaration of covenants that places responsibility for management of the open space in a homeowners association and provides for the assessment of management costs to the association members;
- (9) All utilities must be placed underground;
- (10) All residential streets within the cluster development must be paved with a bituminous surface according to the city street standards in effect at the time of the development;
- (11) A development agreement must be entered into with the city.

Based on the cluster development standards, the applicant is proposing to develop the property in accordance with applicable provisions. The applicant is asking the City to provide feedback relating to the cluster development criteria and specifically, the 50% open space requirement. The City has historically calculated the 50% open space and subsequent 50% useable open space using the gross site acreage. The applicant is asking the City for direction relating to using the net acreage (gross acreage minus proposed right of way for new City streets) when calculating the open space and useable open space requirements. The ordinance using the following language:

A minimum of 50 percent of the development must be preserved as open space, recreational space or agricultural use;

A minimum of 50 percent of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100-year floodplain elevation are not considered to be useable for the purpose of this subsection;

The total area of the proposed roads is approximately 9 acres. If the ~9 acres was subtracted out of the total, the resulting developable land would increase by approximately 4.5 acres. Staff is seeking additional discussion and direction relating to this issue from the City.

The initial review of the subdivision contemplates a high-level review only of the proposed concept development plan. A detailed review of the storm water, grading, traffic impacts and infrastructure details will be completed prior to consideration of any future applications. The City does not formally approve or deny a concept plan. The concept plan review will provide direction and comments to the applicant for their use during the preparation of future applications. The following comments should be considered by the City:

1. The proposed plan proposes to realign Koch's Crossing at the point of intersection with CSAH 90. The City generally believes that this realignment would benefit the access point due to the existing location other curve of CSAH 90. Hennepin County will ultimately need to approve the relocation of Koch's Crossing.
2. Koch's Crossing will be fully upgraded and will tie into the eastern half that was recently upgraded as a part of the Serenity Hills subdivision. The applicant is proposing to locate lots along the realigned Koch's Crossing. This would be consistent with the Serenity Hills subdivision.
3. A new north south road and cul-de-sac is proposed to provide access to a large portion of the property. The road is proposed to connect to Brei Kessel Road to the south. This connection would be supported by the City and would allow the development to have two points of access.
4. The proposed concept plan shows a number of lots that appear to have wetland and wetland buffers encroachments onto the private lots. The City would recommend that wetlands and wetland buffers are removed from the private lots to prevent future limitations on the useable lot area. More detail will ultimately need to be provided to understand how this would impact the layout of the proposed lots.
5. The proposed layout shows that those lots with direct shoreland would be developed so that the homes could be located at the top of the existing slope. This is preferable to previous layouts where the proposed building pads were located closer to the lakeshore which would have likely had significant impacts to the existing topography and vegetation.
6. Several of the proposed lots have significant slopes across the majority of the property. The City will want to look at the potential building pad and grading for all lots (i.e. Lots 4 & 5, Block 2).
7. A primary and secondary septic site would need to be verified on all proposed lots.
8. A wetland delineation will need to be completed.
9. The developer has noted that they would likely phase the construction of the development going from the north to the south. Phasing of the development would be considered at the time of Preliminary Plat.

10. The City and Watershed have standards relating to storm water management and water quality. The City would work to ensure that any development of this property would meet all applicable standards relating to storm water management and water quality. The proposed plans indicate several large outlots that would likely be utilized for stormwater.
11. The proposed concept subdivision would be subject to the City's Park dedication requirements. No park land dedication is shown on the concept plans. It is anticipated that the proposed useable open space would be fully accessible to the development and there appears to be good connectivity to all of the proposed open space. The City should provide feedback relating to possible park dedication on the subject property. The standard park dedication requirement of \$3,500 ($\$3,500 \times 34 = \$119,000$) per lot would otherwise be applicable to all newly developed lots.

Recommendation:

The applicant is seeking feedback from the City pertaining to the concept plan for a 34-lot cluster development. No formal action can be taken by the City on the concept plan. There are many steps that will need to be taken for any development of this property to occur.

Kaltsas explains the concept plan for a 34 unit cluster subdivision of their properties.

The subdivision is comprised of 5 acre properties. The 140 acre property is zoned agricultural and contains wetlands. Kaltsas explains that they would need to rezone the property from agricultural to rural residential and get a conditional use to allow a cluster subdivision. Code would allow 1 unit per 5 acres. It is a total of 34 lots. The density of this would be 9 lots plus 1 for 5 additional lots. Cluster development provision would allow bonus density if there is a certain amount of open space. The first being a minimum of 50% of development maintained for open space and the 2nd provision requires a minimum of that 50% of preserved open space must be usable. The total area of proposed development would allow 50% of the land to be preserved and 50% would be developed. The applicant is proposing 44.7 acres of useful open space.

The applicant is also proposing to use Kochs Xing to serve the development off County Rd 90 to connect to the East side of the property. A suggestion was made to move the access point to the North and tying it back into the East at Kochs Xing. Hennepin County noted challenges with sight lining, but it is better than the existing location on the curve. Realignment of Kochs Xing would allow a layout that provides maximum use of sight and the city sees that as a benefit to improving the entirety of Kochs Xing between Independence Road and County Road 90. They are also proposing a new road South of Kochs Xing which would provide access to the series of 6 lots on the west side of the road and back through to Brei Kessel. Kaltsas notes that some of the wetlands are showing up in a few private lots. Also noted are that some lots have significant slopes. A question of the grading impacts and how to grade a pad into those lots come into mind. Wetland delineation would need to be done as well as primary and secondary septic would need to be verified for all sights in the development. It is possible to do a phase approach from the north to the south of the property. Stormwater would need to be reviewed by city and there is no proposed park areas yet, but there are some open spaces that could be dedicated for parks.

Gardner asks what the purpose of out lot A is. Kaltsas states that it will be used for stormwater.

Palmquist states that the applicant should pay attention to the criteria for the cluster area. He suggests using some of the open space for the community rather than just this development.

Story asks about depth to width ratio in the city ordinances, specifically lot 5. Kaltsas says 4:1, cluster development areas are allowed 1.6 acres. Story also asks if there have been any comments on this development from Brei Kessel road residents that are affected by these changes. Kaltsas says these are not public hearings so it is up to the developer if they want to meet with the residents beforehand. Brei Kessel will be notified if this passes.

Thompson asked if there is an option to be connected to city sewer. Kaltsas said this development would not get MetCouncil approval to extend and reconnect Sewer from Independence Rd of this size; therefore these 34 homes would not get city sewer.

Thompson and Kaltsas discuss the meaning of open space. There is a clear description of what is not open space, but the description of usable space is unclear. It is open for interpretation.

Thompson suggests that they start this development in stages so they can only go so far before having to connect.

Gardner asks what are the negatives of the outlots. Kaltsas says it is variable depending on the situation. Sometimes these are association maintained and sometimes they are homeowner maintained. Story asks if they are proposing an association. It seems unclear if there is going to be an association or not.

Story asks what the anticipated timing is on working through this process. Gardner responds that this is being farmed at the moment. Tarse makes mention of the increased density and number of people that would be living in this area and Gardner responds that it is a benefit for this side of the city.

Palmquist mentioned that he likes the Kochs Xing road and 90 shifting to the North.

Koch asks that the road right-of-way be subtracted from the farm acreage and divided by two. The final open space equals the real estate of the lots and would set the stage for future developments in the area. Story says there is no clear answer to that. To be fair it is not open space it is 0.5 open space. They will need to deliberate on it in a public hearing.

Koch asks if they move forward with the plan assuming approval, what sort of expense would they incur to subtract a few lots. They would start with phasing in the first 11 lots by Kochs Xing, but looking for advice on which direction to start.

Thompson asks if the open space requirements change if they develop in stages versus developing it all at the same time. Kaltsas says there needs to be some reassurance that the future developments will be there. The CUP cluster gets more complicated in a way to assure the city that they will get the appropriate open space.

Thompson asks if starting at Brei Kessel makes more sense because it would be the biggest hurdle to break into the existing neighborhood.

Paul Otto asks if they could provide a phasing preliminary plat for the whole development to lock in the developer and city plans, however outlot A was a little low, possibly a drainage area for wetland or stormwater so it would not be a buildable lot. Otto mentions that there are areas that may need changing as they start developing due to unforeseen issues such as the wetlands. Selstads is not likely a good area to run a road for a cut through. He also suggests phasing development in 3 or 4 lots at a time. He says they are pretty preliminary at this point.

Gardner states that they have done all they can do and Otto and Kaltsas will discuss this further.

Motion by Thompson, second by Palmquist to adjourn at 7:20 p.m.

Respectfully Submitted,

Amber Simon / Recording Secretary