

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
SPECIAL MEETING
DECEMBER 21, 2021 – 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 Thompson at 7:30 p.m.

2. ROLL CALL

PRESENT: Commissioners Thompson, Gardner, Dumas, Volkenant. Alternate Tearse

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

ABSENT: Story, Palmquist

VISITORS: Marty Chelstrom, The Dotens, Charlie Johnson, Adam Young (virtual), Mayor Marvin Johnson, Council Member Steve Grotting, Tom Koch, Paul Otto (called in), Lynda Franklin (virtual)

3. Approval of Minutes:

a. November 16, 2021, Planning Commission Meeting

b. December 7, 2021, City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the November 16, 2021 Planning Commission minutes, second by Volkenant. Ayes: Thompson, Gardner, Dumas, Volkenant. Alternate, Tearse. Nays: None. Absent: Story. Abstain: None. Motion Approved.

4. **PUBLIC HEARING (Tabled):** Charlie Johnson and Hard Knocks LLC (Applicant/Owner) is requesting the following actions for the property located at 1470 County Road 90 (PID No. 26-118-24-22-0008) in the City of Independence, MN.

a. A commercial conditional use permit to allow an increase in the total allowable impervious surface coverage above 30%.

b. A variance to allow a new building to be constructed using steel siding which does not meet the applicable design standards of the CLI-Commercial Light Industrial zoning district.

c. A variance to allow a reduced rear yard setback for the proposed accessory building.

d. Site plan review to construct a new detached accessory structure and outdoor storage on the property.

Request:

Charlie Johnson and Hard Knocks LLC (Applicant/Owner) is requesting the following actions for the property located at 1470 County Road 90 (PID No. 26-118-24-22-0008) in the City of Independence, MN.

1. A commercial conditional use permit to allow an increase in the total allowable impervious surface coverage above 30%.
2. A variance to allow a new building to be constructed using steel siding which does not meet the applicable design standards of the CLI-Commercial Light Industrial zoning district.
3. A variance to allow a reduced rear yard setback .
4. Site plan review to construct a new detached accessory structure and outdoor storage on the property.

Property/Site Information:

The property is located on the east side of County Road 90 just south of the intersection of County Road 90 and Main Street. The property has an existing commercial building and parking lot. The property has the following characteristics:

Property Information: 1470 County Road 90
Zoning: CLI - Commercial Light Industrial Comprehensive Plan:
Commercial Light Industrial Acreage:
4.77 acres

UPDATE:

Following consideration by the Planning Commission at the last meeting, the applicant has revised the site plan and building plans for further consideration. The revised site plan now includes an 8-foot-tall berm along a portion of the north and east property lines and associated evergreen landscaping. The applicant is also proposing to install evergreen trees along the east side of the proposed building where a berm cannot be realized due to the proposed stormwater infiltration area.

The applicant has also provided an updated building plan. The updated plan proposes a stone wainscoting and also a board and batten steel siding on the west side of the building. The north, south and east sides are proposed to have more typical corrugated steel panels. There are several considerations that should be noted by the Planning Commission:

- The applicant has provided a link to the proposed board and batten steel siding and noted that it has a different look and feel than standard corrugated metal siding.
- The proposed landscaping plan now provides 24 evergreen trees. In the initial report, it was estimated that approximately 22 trees would be required to screen the proposed building.

- The City completed a review of the proposed stormwater management plan and has several comments that will need to be reviewed and additional information submitted to address the comments. It was generally found that the site and proposed mitigation areas can accommodate the proposed improvements, but the infiltration areas may need to be modified to function as filtration basins.

Staff is seeking additional direction from the Planning Commission relating to the proposed site plan review, variance and conditional use permit based on the revised site plan and building elevations.

Discussion:

The applicant is seeking site plan approval to allow a detached accessory building to be constructed on the subject property. The proposed accessory structure is 11,200 SF (140' x 80') and would be used for storage by the property owner. The building would be located to the east side (rear) of the existing commercial building on the property. In order for the City to consider allowing the development of a detached accessory building, there are several processes and additional requests that would have to be considered as follows:

- All expansion and or new construction on CLI – Commercial Light Industrial properties require site plan review and approval by the City. The proposed accessory building and associated improvements initiate the requirement for site plan review and approval.
- The applicant is proposing to construct the new detached accessory building with steel siding that does not meet the applicable design standards for buildings in the CLI – Commercial Light Industrial zoning district. The applicant is seeking a variance to allow the construction of an accessory building not meeting the applicable design standards.
- The existing site currently exceeds the maximum allowable impervious surface coverage (30%). The applicant is proposing to increase the impervious surface coverage by approximately 10% in the proposed condition. The maximum allowable impervious surface coverage for commercial properties can be increased to a maximum of 75% as a conditional use permit.

Subd. 7. Lot coverage. Impervious lot coverage shall not exceed 30 percent of the lot area. Lot coverage of up to 75 percent may be allowed by conditional use permit provided stormwater run-off and surface drainage is no greater than pre-development rates for one-, ten- and 100- year storm events. Stormwater treatment ponding is required for all developments.

The subject property is zoned CLI – Commercial Light Industrial. Storage and warehousing is a permitted use within the district. New construction and expansion of existing buildings in the CLI zoning district requires the review and approval of the City. The extent of the review is based on the intensity of the proposed development along with the ability of the proposed development to meet the requirements of the zoning ordinance (Sections 530.17 and 530.23).

The City has adopted site requirements for commercial development and there are

several provisions within the commercial standards that are applicable to the proposed building expansion.

530.23. - Building design requirements.

Subd. 1. *Standards established.* Building design standards are hereby established to ensure commercial and industrial buildings meet acceptable aesthetic standards.

Subd. 2. *Applicability.* The design standards in this section shall apply to the following:

- (a) All facades of new principal buildings;
- (b) All facades of new accessory buildings;
- (c) Remodeling of existing buildings that result in "refacing" more than one side of an existing building or refacing of the wall oriented towards the nearest public road.
- (d) Additions to buildings that increase the gross floor area by more than 15 percent for commercial or retail buildings, or 25 percent for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials.

530.17. - Site development standards.

Subd. 3. *Setbacks.* All buildings and structures must meet or exceed the following setbacks:

- (a) Front yard setback: 100 feet from centerline of road.
- (b) Side yard setback: 20 feet from side lotline.
- (c) Rear yard setback: 20 feet from rear lotline.
- (d) Setback from boundary of agricultural or rural residential district: 100 feet.

The City has reviewed the plans as they relate to the standards provided in the zoning ordinance. The following items should be further considered by the Planning Commission:

1. Building Design – The City ordinance states that accessory structures in the CLI zoning district shall conform to the design standards noted in the CLI section of the zoning ordinance (530.23). For this reason, accessory structures are treated the same as principal buildings.
 - a. Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial zoning district shall use the following materials on their exterior facades:
 - (1) Brick;
 - (2) Natural stone or stone veneers;
 - (3) Decorative concrete block (color impregnated with a split faced, robbed, or textured surface;
 - (4) Glass curtain wall panels;
 - (5) Stucco or synthetic stucco;
 - (6) Exterior insulation and finish systems (EIFS).

The applicant has prepared building elevations which show the proposed exterior of the new building. The primary material proposed is standing seam metal which is not consistent with the existing principal building. The principal building is constructed of

pre-formed concrete panels. The applicant is asking the City to consider allowing the proposed accessory building to be constructed of materials similar to the existing building noting that the majority of the addition will be located behind the existing building. In order for the City to consider approval of the accessory building utilizing materials that match the existing building, a variance is required.

The applicant is proposing new building mounted lighting as depicted on the building elevations. The City will need to confirm that the proposed lighting meets the applicable standards. The applicant will need to submit lighting cut sheets and a photometric plan with a revised submittal.

2. Site Design and Parking Requirements - The applicant is proposing to construct a bituminous driveway to access the proposed building off of the existing parking lot.

For wholesale and warehousing uses, the City requires: one parking space for each 2,000 square feet of gross floor area. For industry and manufacturing, the City requires: one space for every 350 square feet. The total existing building square footage is approximately 29,000 square feet. The City does not have an exact breakdown of the interior uses but has considered a breakdown of 50% wholesale and warehousing and 50% industry and manufacturing (14,500/14,500). This would equate to 8 parking spaces for wholesale and warehousing and 41 spaces for industry and manufacturing (total of 49 spaces). The existing site has 92 parking spaces. The proposed new building would add 11,200 square feet of warehouse space and require an additional 6 parking spaces for a total of 55 spaces. The number of existing parking spaces would satisfy parking requirements for this site even with the proposed new accessory storage building.

3. Setbacks – The City has the following setback requirements for buildings located in the CLI zoning district:
- a. Front yard setback: 100 feet from centerline of road.
 - b. Side yard setback: 20 feet from side lotline.
 - c. Rear yard setback: 40 feet from rear lotline.
 - d. Setback from boundary of agricultural or rural residential district: 100 feet.

The proposed new accessory storage building does not meet all applicable setbacks. The proposed setbacks are as follows:

- a. Front yard setback: N/A
- b. Side yard setback: 20 feet from side lotline.
- c. Rear yard setback: 40 feet from rear lotline.
- d. **Setback from boundary of agricultural or rural residential district: 40 feet.**

The applicant is seeking a variance from the setback from a boundary of an AG/RR zoning district. The property to the east is zoned RR-Rural Residential. The requisite setback is 100 feet. The requested variance is to allow a 60 foot reduction in the setback to 40 feet. In an effort to mitigate the potential impacts, the applicant is proposing to provide a proposed berm and landscape screen.

4. Landscaping/Screening – The applicant has provided a landscape plan for the proposed accessory building. The City has the following standards relating to screening and landscaping of commercial properties:

Subd. 5. Landscape standards.

- (a) Setback areas must be landscaped and maintained as a protective buffer and may not be used for parking, internal driveways, off-street loading, storage; nor may any structure or building be placed thereon, other than a fence.*
- (b) Minimum landscape requirements in the protective buffer must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree) for each 40 feet of property line. The protective buffer must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in the protective buffer.*
- (c) Minimum landscape requirements for each curbed island must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree). The curbed island must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in a curbed island.*
- (d) When a commercial or industrial development is located adjacent to any "R" zone, an eight-foot opaque fence or wall must be erected to provide screening of the commercial or industrial use.*

Subd. 6. Lot screening. All commercial-light industrial uses must be screened from adjacent residential properties with berms, fencing, hedges, or other landscape materials. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to provide an effective visual barrier during all seasons. Height of plantings shall be measured at the time of installation.

There is limited landscaping on the existing site. The proposed landscaping is comprised of an earthen berm and 12 evergreen trees in the northeast corner of the property. The size of the trees would need to be further defined by the applicant. The City requires a minimum of 1 tree per 40 lineal feet of property line. The City looked at the eastern perimeter of the property (north, south and east property lines up to the eastern edge of the building) which is approximately 875 LF (see below). If the City took that measurement divided by 40, 22 trees would be required to be planted. The property to the south is zoned commercial and the properties to the east and north are zoned RR-Rural Residential.

The City requires a minimum of 6' ht. evergreen trees. In addition to landscaping, the City requires properties adjacent to residential zoning districts to be screened with an 8-foot opaque fence. No fencing is currently proposed by the applicant. The City will need to provide additional direction relating to the proposed landscaping/screening and whether or not it meets the intent of the landscaping/screening requirements provided in the ordinance.

5. Storm Water Management –The applicant is asking the City to consider additional impervious surface on the property. As a result, the applicant has provided a proposed stormwater management plan that includes three infiltration/retention basins. The City is in the process of completing a review of the proposed stormwater management plans. The plan will need to comply with all applicable standards relating to storm water.

6. Lot Coverage - The maximum impervious lot coverage in the CLI zoning district is thirty (30) percent. The overall site is 217,797 square feet. Thirty (30) percent of the total site area would allow 65,339 square feet of impervious coverage. The total existing impervious surface area today is 101,404 square feet or 46.6% impervious coverage. The proposed new building and associated site improvements would add an additional 20,707 square feet of impervious surface for a total of 122,111 square feet or 56.1%. This total exceeds the maximum coverage area permitted.

Subd. 7. Lot coverage. Impervious lot coverage shall not exceed 30 percent of the lot area. Lot coverage of up to 75 percent may be allowed by conditional use permit provided stormwater run-off and surface drainage is no greater than pre-development rates for one-, ten- and 100-year storm events. Stormwater treatment ponding is required for all developments.

The applicant is proposing to establish three infiltration/retention basins that would offset the additional impervious surface proposed. The City would need to find that the impacts of the additional impervious surface is adequately being mitigated by the applicant.

In addition to the site plan review, 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 Commercial Light Industrial District - CLI.
- b. The applicant is proposing to locate the new building to the rear of the existing building which will help to mitigate potential impacts from County Road 90. The neighboring residential property to the east has a similar steel sided pole barn.
- c. The applicant can screen the proposed building with new landscaping and berming to further mitigate any visual impacts from the surrounding properties.
- d. The proposed building addition will meet all other requisite requirements for this property.

The applicant would like to construct a new accessory building for the purpose of storing equipment inside on the property. The applicant currently utilizes approximately 4,000 SF inside of the existing building and has 5 employees. The applicant anticipates that this building would eventually be heated and could house additional office/shop space for their business. The City has had discussions relating to the use of steel siding on buildings constructed in the CLI zoning district. This site is somewhat different than the other properties that we have considered in that this building abuts residential properties on two sides. The proposed accessory building will require a variance from the building materials requirements, setback requirements and impervious surface requirements. The City will need to provide direction relating to the proposed building and requested actions. The City could provide direction and or have additional discussion relating to all three actions and whether or not additional mitigation measures could be used to reduce impacts on surrounding properties.

Neighbor Comments:

The City has not received any written or verbal comments regarding the proposed site plan review.

Recommendation:

Staff is seeking a recommendation from the Planning Commission relating to the site plan review, a variance and conditional use permit. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions should be considered:

1. The proposed site plan approval, variance and conditional use permit request meet all applicable conditions and restrictions stated in Chapter V, Section 520.25, Site Plan Approval Procedures and Chapter V, Section 520.19, Procedures on Variances, in the City of Independence Zoning Ordinance.

2. Site plan approval shall allow the construction of the new detached storage building in accordance with the approved site plan and attached hereto as Exhibit B.
3. The total impervious surface coverage for this property will not exceed 56.1% of the total lot area.
4. Landscaping shall be installed and maintained in accordance with the concept landscape plan. The applicant shall prepare a more detailed landscape plan prior to consideration by the City Council. The plan shall provide more detail relating to the type and size of the proposed trees.
5. The variance will allow the construction of a new building using exterior materials (steel panels) in accordance with the approved building elevations attached hereto as Exhibit C.
6. The setback variance will allow the proposed accessory building to have a reduced setback of 60 LF so that the required setback would be 40 LF from the rear property line.
7. The City finds the following existing conditions of the property support the request for a variance and are consistent with the criteria for granting a variance:
 - a. The applicants are proposing to use the property in a manner consistent with the Commercial Light Industrial – CLI zoning district.
 - b. The additional landscaping will provide a buffer between the existing residential properties and the proposed accessory building.
 - c. The variance will allow the expansion of a commercial business in the City's CLI zoning district. The City's approval of the requested applications will be beneficial in supporting its local businesses and protecting valuable jobs within the City.
8. Any change in use shall be subject to the City review and approval.
9. No outdoor storage is permitted on the property.
10. The applicant shall comply with all applicable storm water requirements and obtain any additional storm water approvals if determined necessary.
11. Any new building or site lighting shall comply with the City's applicable standards. The applicant shall submit cut sheets and a photometric plan to the City prior to obtaining building permit approval.
12. Any future development or improvements made to this property will need to be in compliance with all applicable standards relating to the Commercial-Light Industrial zoning district.
13. The Applicant shall pay for all costs associated with the City's review of the requested site plan, variance and conditional use permit approval.

14. The resolution shall be recorded against the property.
15. The applicant shall pay all applicable fees associated with the City processing the application for site plan review, variance and conditional use permit.

Kaltsas explained this a CUP for a variance for unauthorized building materials. The applicant has provided updated landscaping plans. He has provided an 8' tall berm including stone wainscoting and bord & batten steel siding. There was a public hearing held at the last meeting, so this is just for further review.

Thompson asked if there was a re-notice for this. Kaltsas said that because there was a public hearing held at the last meeting with notifications, that has been satisfied. Thompson asked if there were any other changes outside of the materials used and landscaping. Kaltsas said it is the same size shed and same setbacks. Gardner asked if this is the las commercial strip. Kaltsas said there is one more South of this property. Gardner asked how big of a pocket the commercial zoning is going to turn into in this area. Kaltsas said the land on the West is all fill, so it will not be able to get septic there. Thompson asked if they should make a condition of the variance and specific materials used. Kaltsas said yes. Thompson said it seems to fulfill the spirit of what the commission is going for. Tearse said he agrees. Dumas said he liked the screening.

Motion by Volkenant to approve Charlie Johnson and HardKnocks LLC with the changes proposed, with the exception of the infiltration system, second by Thompson. Ayes: Thompson, Gardner, Dumas, Volkenant. Alternate, Tearse. Nays: None. Absent: Story. Abstain: None. Motion Approved.

5. **PUBLIC HEARING:** Adam Young / I & K LLC (Applicant/Owner) are requesting the following actions for the property located at 2076 County Road 90 (PID No. 23-118-24-23-0001) in the City of Independence, MN:
 - a. A variance to allow a new building to be constructed using steel siding which does not meet the applicable design standards of the CLI-Commercial Light Industrial zoning district.
 - b. Site plan review to construct a new detached accessory structure and outdoor storage on the property.

Property/Site Information:

The subject property is located along the east side of County Road 90 just north of US Hwy 12. There is an existing home and two (2) detached accessory structures located on the property.

There is an existing wetland that borders the entire east side of the property. The property has the following site characteristics:

Property Information: 2076 County Road 90 (PID No. No. 23-118-24-23-0001)

Existing Zoning: CLI-Commercial-Light Industrial

Comprehensive Plan: CLI-Commercial-Light

UPDATE:

The applicant has revised the site plan and building plans based on discussion by the Planning Commission at a previous meeting. The revised plans show an area on the west side of the proposed new building and existing building that would be paved (bituminous). To the east of the existing and proposed building, the applicant is proposing to cut out several interior planting areas and use a recycled concrete as surfacing for this area. The applicant is proposing to include the employee parking (9-spaces) to the east side of the proposed new building.

The applicant has also revised the building plans to show a brick wainscot along the western facing side of the proposed building. The remaining facades of the proposed and existing building are proposed to be sided with typical post frame steel panels. There are several considerations that should be noted by the Planning Commission:

- Hennepin County has confirmed that they would allow a second access to the south that does not exceed 22' in width.
- The total impervious surface of this property is approximately 71,000 SF/16% of total site area. Maximum allowed for property within the CLI zoning district is 30%.
- The outdoor storage area is located on the east side of the site. There is limited visibility to this area from the surrounding property due to the extensive wetlands on the east and north side of the property. Typically, the City would require outdoor storage areas to be screened using a combination of fencing and landscaping.
- The proposed building meets applicable setbacks.
- A landscape plan has not been submitted to the City by the applicant. There are several areas that would typically require screening and planting:
 - New buildings and uses must be screened from adjacent residential zoning districts. The property to the north and east is zoned residential.
 - New buildings must meet minimum landscaping requirements. This includes one (1) 2.5-inch caliper shade tree or 6' ht. evergreen per 40 lineal feet of property line. There is some existing landscaping (approximately 6 evergreen trees) along the west property line (CSAH 90).
- No stormwater analysis has been provided for this site. A portion of the area that is proposed to be resurfaced is already covered in a gravel surface. The increased area is being evaluated to determine if additional stormwater mitigation measures will be required.
- There are nine (9) designated employee parking spaces shown on the plan and located

on the east side of the building. The applicant has noted that the proposed employee parking spaces will accommodate their current parking need.

Staff is seeking additional direction from the Planning Commission relating to the proposed site plan review and variance based on the revised site plan and building elevations.

Discussion:

The applicant approached the City about the possibility of adding an additional building to the subject property. The applicant currently operates a landscape business on the property. There are two existing buildings located on the property. The property was rezoned from A- Agricultural to CLI-Commercial/Light Industrial in 2013. At that time the City considered and approved a new building to be constructed on the property. That building and associated site improvements were never constructed. The applicant would like the City to again consider allowing the construction of a new building on the property. The proposed building does not meet all applicable requirements pertaining to the exterior building materials for new buildings in the CLI zoning district.

The applicant is proposing to locate the new building along the south property line in an effort to utilize the high side of the property. The City's zoning ordinance has the following setback requirements for properties zoned CLI-Commercial Light Industrial:

Subd. 3. Setbacks. All buildings and structures must meet or exceed the following setbacks:

- | | |
|---|---|
| <i>(a) Front yard setback</i> | <i>100 feet from centerline of road</i> |
| <i>(b) Side yard setback</i> | <i>20 feet from side lot line</i> |
| <i>(c) Rear yard setback</i> | <i>20 feet from rear lot line</i> |
| <i>(d) Setback from boundary of agricultural
100 feet or rural residential district</i> | |

The applicant is proposing to construct a 5,760 SF commercial building. The proposed building would meet applicable building setbacks for CLI properties.

Front Yard: 131' from CL
Side Yard: 21' from south
property line Rear Yard: N/A

The proposed building would be used for equipment storage. The building would have garage doors on the west and north sides to provide access into the building. The building is proposed to be sided with steel and would have a steel roof. The existing building on the property is comprised of steel siding and predates the City's current architectural standards for CLI properties.

New construction and expansion of existing buildings in the CLI zoning district requires the review and approval of the City. The extent of the review is based on the intensity of the proposed development along with the ability of the proposed development to meet the requirements of the zoning ordinance (Sections 530.17 and 530.23).

The City has adopted site requirements for commercial development there are several provisions within the commercial standards that are applicable to the proposed building.

530.23. - Building design requirements.

Subd. 1. Standards established. Building design standards are hereby established to ensure commercial and industrial buildings meet acceptable aesthetic standards.

Subd. 2. Applicability. The design standards in this section shall apply to the following:

- (a) All facades of new principal buildings;
- (b) All facades of new accessory buildings;
- (c) Remodeling of existing buildings that result in "refacing" more than one side of an existing building or refacing of the wall oriented towards the nearest public road.
- (d) Additions to buildings that increase the gross floor area by more than 15 percent for commercial or retail buildings, or 25 percent for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials.
 - a. Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial zoning district shall use the following materials on their exterior facades:
 - (1) Brick;
 - (2) Natural stone or stone veneers;
 - (3) Decorative concrete block (color impregnated with a split faced, robbed, or textured surface);
 - (4) Glass curtain wall panels;
 - (5) Stucco or synthetic stucco;
 - (6) Exterior insulation and finish systems (EIFS).

The proposed building would not meet the applicable building materials standards established by the City. The applicant has prepared several illustrative images which shows the proposed exterior elevations of the building. The City has discussed the building material requirement with the applicant and provided examples of local buildings that meet all applicable requirements. Due to the cost of complying with the building material requirements, the applicant is requesting a variance to allow the construction of the building as proposed. The applicant also noted that the existing building located on the site is constructed of similar materials. The applicant would also like the City to consider allowing the existing building to be resided with new steel to match the proposed building. The applicant has noted that the existing building is in need of being resided due to the condition of the existing steel.

The issue of building materials has come up several times in the last few years. The City allowed PTS Products to add onto the existing building using steel siding to match the existing siding. The City has had a handful of similar inquiries relating to both principal and accessory buildings that would be constructed in the CLI zoning district. The City has had the architectural materials standards in place since 2006. It is anticipated that the City will

consider similar commercial building requests in the near future based on current applications. Staff would like to have a discussion and obtain direction relating to building material requirements for properties located within the CLI zoning district. There are several considerations that could be considered for this discussion:

- Could the City consider different material and architectural requirements for front or public facing building facades?
- Could the City consider accessory buildings different than principal buildings?
- The City has both compliant and non-compliant buildings located on property that is zoned CLI within the City.

In order for the City to consider approval of a new building that does not meet the applicable architecture material standards, a variance is required.

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 applicants are proposing to use the property in a manner generally deemed to be consistent with the Commercial Light Industrial district. The applicants have located the building to meet the side yard setbacks for Commercial Light Industrial property.
- b. The character of the surrounding area is a commercial. The adjacent property has buildings that are constructed out of steel.

Site plan requirements are summarized as follows:

1. All new buildings must be constructed of approved materials. Approved materials are generally, brick, stone, decorative masonry block and similar materials.
2. Driveways and parking areas must be paved and defined by a concrete curb.
3. Adequate parking must be provided for all new uses.
4. New buildings and uses must be screened from adjacent residential zoning districts.
5. New buildings must meet minimum landscaping requirements. This includes one (1) 2.5 inch caliper shade tree or 6' ht. evergreen per 40 lineal feet of property line.

The proposed building and associated site improvements have been reviewed in additional detail.

- (1) The applicant is proposing to pave both existing access points into the site. The northern access point is the primary access; however, the applicant has approval to utilize the southern access driveway for the new building from Hennepin County. Both access points will need to meet the City's requirements for drive aisle width. The plan currently shows a narrower drive aisle than required. The applicant will need to revise the plans so that the proposed drive aisles are a minimum of 25 feet.
- (2) It should be noted that the City requires bituminous pavement and concrete curb and gutter for all commercial developments. The City previously granted a variance for this property to not require concrete curb and gutter when a similar site plan review was considered in 2013. The applicant has noted that they would like to leave the existing gravel parking and loading areas in place and pave just the entrance driveways along with three parking spaces (see image below). This site is somewhat unique in that there is an existing building and site improvements that do not meet all applicable criteria of the City. The City will want to consider to what extent the site should be brought into compliance with applicable standards.
- (3) The City has identified an employee parking need that exceeds the three proposed spaces. The applicant did not provide employee information to the City, but it has been identified that there are approximately 10-12 employee vehicles on site during normal business hours. Staff is seeking the direction of the Planning Commission relating to the proposed pavement, parking spaces and lack of curb and gutter.
- (4) The applicant will be required to submit a grading plan to the City detailing the proposed site improvements and building elevations. The City will want to review the grading plan to ensure that drainage from the bituminous pavement and proposed building does not impact the adjacent property and is mitigated prior to running into the

adjacent wetland.

- (5) The applicant had previously installed a berm and landscape screening along the County Road 90 right of way (see image provided in this report). There is an existing evergreen tree row located along the south property line. Staff is seeking additional direction from the Planning Commission relating to the adequacy of the existing landscaping berm and plantings.
- (6) The total impervious surface coverage for this property cannot exceed 30% of the total lot area. The lot is 445,628 SF. The total impervious surface coverage in the proposed condition is 43,008 SF. The proposed existing and proposed improvements would comprise approximately 10% impervious surface coverage.

Neighbor Comments:

There have been no other written or verbal comments provided to the City.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the request for a Variance and Site Plan Approval with the following findings and conditions:

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 proposed Site Plan approval request meets all applicable conditions and restrictions stated in Chapter V, Section 520.25, Site Plan Approval Procedures, in the City of Independence Zoning Ordinance.
3. Any change in use shall be subject to the City review and approval. Additional parking requirements may be required to be added to the site plan approval should the building change uses.
4. The applicant shall submit a site grading and construction plan and receive City approval prior to issuance of a building permit for the proposed improvements. The plan shall indicate the dimensions of the parking and driveway areas. The proposed dimensions shall meet the minimum ordinance requirements.
5. The variance will allow the construction of a new building using exterior materials (matching steel panels) that match the existing building and in accordance with the approved building elevations attached hereto as Exhibit C. The existing building will be permitted to be resided used matching steel panels.
6. The City finds the following existing conditions of the property support the request for a variance and are consistent with the criteria for granting a variance:
 - a. The applicants are proposing to use the property in a manner consistent with the Commercial Light Industrial – CLI zoning district.

- b. The character of the surrounding area is commercial or guided for commercial development.
7. The Applicant shall pay for all costs associated with the City's review of the requested variance and site plan approval.
8. Any future development or improvements made to this property will need to be in compliance with all applicable standards relating to the Commercial-Light Industrial zoning district.

Kaltsas explained that this is a request for a variance to allow for steel siding and site plan review of a new building site. The property is CLI and 10 acres in overall size. There are two detached structures on the site currently. The applicant approached the city a few months ago, it was reviewed and it was tabled with suggestions to improve the materials used.

The proposed building would be on the South side of the site with 2 bituminous driveways. Planning commission thought there needed to be more concrete and more screening and employee parking. The revised site plan includes increased bituminous driveways, additional landscape areas and recycled concrete. Along the front facing side would be bituminous paving with wainscotting. There would be wainscotting on the sides as well. They do have existing landscaping. On the south side it has a heavy evergreen screening. The wetland is expansive between the subject property and the Stone Court area. Impervious surface area is not an issue on this site.

This was re-noticed and Adam Young was present virtually.

Thompson asked if one of the driveways is going away. Kaltsas said the Northern driveway would be closed off and there would be one single one and one more on the South side. Thompson said there is no stormwater plan and no landscaping plan submitted. Kaltsas said the stormwater doesn't trigger additional storm water management. He did suggest a buffer to redirect some of the stormwater and to review those plans. Dumas asked who reviews that. He said that concrete is a replacement for limestone and is imperviable. He asked what the enhancements are. Where is the wainscotting being added from previous review. Kaltsas said it is just on the west facing end of the building.

Thompson said that the stonework does wrap around the corner and the west facing side is 90% garage door area. Thompson said maybe there should be windows added to the garage doors to upgrade it since that is what most people will see. Kaltsas said we are setting a precedent. He asked if the board and batten should be an acceptable material to the ordinance. Kaltsas pointed out that the last project they reviewed was an accessory building, not the primary building. He said they could start to differentiate. This one is bigger and is 2 pole barns. Dumas said that they should require better screening on this plan. Kaltsas mentioned that the applicant was looking to upgrade the other accessory building as well and asked the planning commission to keep that in mind when choosing the material for the buildings.

PUBLIC HEARING OPENED

Adam Young asked if they had any questions for him. Thompson said that the board and batten is an upgrade, screening is important, storm water review and infiltration. He asked what the feedback was. Adam said that he sent Kaltsas a plan showing a stucco look along with the brick

wainscotting. It is a very secluded area so screening doesn't seem necessary. Dmas asked how far the houses are away. Volkenant said discussing the Schoning property, which was more than a block away, he couldn't see anything. Kaltsas said it is about 1,000 feet from Stone Court. Thomson recapped the brick wainscotting, stucco, infiltration pond, connected driveway, crushed concrete, site plan all came with good feedback. If Adam is willing to go along with this. Adam said yes. Gardner asked if the water could runoff into the pond. Kaltsas said a lot of the surface is gravel. He would also like to clarify color, confirm the brand and make of stucco and bring it to Council, best management practice for water runoff. Adam said it would be dark grey/light grey and match the stucco to the color. Kaltsas said there is a landscaped buffer and berm on the property already. He can work with the applicant on the small evergreens in the front of the lot. Dumas asked if there are a lot of trees around the creek. Adam said yes. Volkenant said it is so wet back there would not grow.

PUBLIC HEARING CLOSED

Thompson said if we want to move forward tonight we will have to review water management, infiltration, improved west facing façade with wainscotting.

Motion by Thompson to grant site plan review and variance new and existing buildings will be allowed with upgraded façade and adding water management, second by Volkenant. Ayes: Thompson, Gardner, Dumas, Volkenant. Alternate, Tearse. Nays: None. Absent: Story. Abstain: None. Motion Approved.

6. PUBLIC HEARING: Zoning Ordinance Amendment Consideration.

- a. Subdivision Standards – Rural Residential Cluster Development Standards.
- b. Consider an amendment to Section 530.05 Rural Residential District established., Subd. 3. *Density* and Section 530.05 Rural Residential District established., Subd. 4. *Cluster development conditional use permit*.

Request:

Subdivision Standards – Rural Residential Cluster Development Standards

- Consider an amendment to Section 530.05 Rural Residential District established., Subd. 3. *Density* and Section 530.05 Rural Residential District established., Subd. 4. *Cluster development conditional use permit*.

The amendment will consider clarifying the table for determining density calculations as well as the way that open space is calculated for cluster developments.

Following consideration and discussion relating to several recent subdivisions, City Council directed the Planning Commission to review and consider possible changes to a few key standards. The Planning Commission reviewed the ordinances and discussed possible amendments at their last meeting. The following proposed language changes are presented for further consideration:

1. **Section 530.05 Rural Residential District established., Subd. 4. Cluster development conditional use permit:** The current Cluster Development standard requires two calculations to be made to determine overall density of a development. 50% of the “development” must be preserved as open space and 50% of the open space preserved open space must be useable. The ordinance does not fully detail how the initial 50% of the “development” should be calculated. Planning Commission recommended that the City consider clarifying that the calculation be taken with the exception of State, County and Existing City right of way. New streets that would be required to serve the proposed lots would not be excluded from the calculation.
 - a. In addition to the density calculation, Planning Commissioners discussed the minimum lot width for lots developed under the cluster development provisions. Commissioners recommended a minimum of 150 feet.
 - b. One additional point of clarification has been brought to the City’s attention and pertains to the provision in the ordinance designating steep slopes. The cluster development standards (b, 6.) designates slopes in excess of 10% as “steep”. The City defines steep slopes in the Shoreland Overlay section of the ordinance (505.05, subd. 33) as slopes having an average of 12% or greater. Staff is seeking direction from the Planning Commission relating to the question of steep slopes and whether or not the City should make it consistent with other areas of the ordinance?

2. **Section 530.05 Rural Residential District established., Subd. 3. Density:** Similar to the issue noted above, the City has been asked to consider changes to the current density table. The City has had a density table that equates a range of acreage to a prescribed number of potential lots that can be realized on a property. The table goes up to 47.5 acres at which point you get one additional lot for each 5 acres of property. The question raised challenges the method for calculating the additional units if there is more acreage than 47.5 acres. The Planning Commission recommended keeping the density “bonus” and then going to a straight calculation for each additional 5 acres of property.
 - a. **Ownership of the Outlots created within a development.** There has been questions and discussion historically about the ownership, allowable use and maintenance of the Outlots and open space created in cluster developments. Commissioners recommended that the City enter into an agreement with the developer designating the City’s ability to assess the property owners in the development for maintenance of the Outlot should the HOA not maintain them to an acceptable level. The current ordinance language has been amended to clarify this point.

Cluster Developments:

Subd. 6. 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.

- (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% of the gross acreage of the subject property, excluding right of way dedicated for State, County and Existing City Roads, development must be preserved as open space, recreational space or agricultural use;
- (3) A minimum of 50% of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100 year flood plain 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 12% or other physical impediments;
- (7) Lots within the development must have a minimum of 150 feet of frontage on a on an improved public road or street, except lots fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage.

RENUMBER REMAINING

- (8) 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;
- (9) 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 and memorialized in an agreement with the City;
- (10) All utilities must be placed underground;
- (11) 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;
- (12) A development agreement must be entered into with the city.

Rural Residential Developments:

530.07. Physical standards.

Subd. 1. Construction. All construction in the Rural Residential District must meet the following physical standards:

- (a) Minimum lot area (Added, Ord. No. 2010-01):^a 2.50 acres buildable land.
- (b) Minimum lot frontage on an improved public road or street:

Lot Area	Minimum Frontage
2.50—3.49 acres	^b 200 feet
3.50—4.99 acres	^b 250 feet
5.00—10.00 acres	^b 300 feet

^a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten twelve percent or other physical impediments.

SUBD. 2 Remains

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
<u>7.6 acres and more</u>	<u>One additional lot for every five additional acres.</u>
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.

Planning Commission Consideration/Action:

Staff is seeking direction and a recommendation from the Planning Commission relating to the proposed ordinance amendments. Should the amendments be recommended for approval to the City Council, staff will prepare the requisite ordinances.

Kaltsas explained that this item has been discussed in previous meetings on the standards for subdivisions. We have had a couple property owners questioning the ordinance standards and after being asked for the city to review these standards, we will review. He stated that there is a question on how the gross acreage is calculated for the purpose of cluster development density. They must

have 50% open space preserved and 50% of that open space must be useable. Does the open space include new streets that would be platted in the development or if they could be excluded? Historically the City had interpreted taking out state, county, or city ROW. The direction from PC was that the newly ROW was not to be excluded. Also, the minimum lot width of lots developed in a cluster development was brought to question. Serentiy Hills had an exception. He asked if we still want a 200' lot width or do we want a narrower lot size. Commissioners were comfortable with the number of 150'. Lastly, steep slopes are set at 10% and shoreland is 12%. He asked if we should make this consistent. In the Comp Plan, steep slopes are referring to erosion. If you get greater than 12% range, you can start to see erosion during peak events. It is an environmental concern. Tom Koch and Otto suggested that the City doesn't worry about steep slopes anymore since we have better tools and techniques now. RR standards for straight subdivision the density table is 1:5 for RR but they get a bonus in the table up to 42.6 acres. After 42.6 acres there is a penalty. He asked if they should leave the bonus but take away the penalty.

PUBLIC HEARING OPENED

Paul Otto asked what the purpose of slopes is? He said that 10% seems really conservative and hard to meet in the city of Independence. It makes it difficult for walkout homes. He doesn't want to see sites so cramped. Slopes are more necessary along the lakeshores, but in farmland it doesn't seem necessary. He said that 150' frontage is nice, but it can hinder them on a building site. There could be a smaller neck to get to a bigger buildable pad area and what is the best spot to build on a property. Gardner asked how many cities around us have a max slope of 10-15% range. He said the only city he knows of that has slopes is Medina.

Marty Chelstrom on Brei Kessel said that Providence has a minimum of 200' frontage and what the driving force is to reduce this. This sets a precedent. Gardner said they don't want to condense the lots, but to make cul-de-sacs work, you have to scoot them back. Thompson said this doesn't change the minimum lot size just the dimensions. All that is changing is the shape of the lot, but the square footage remains the same. Marty said he liked that Providence had 200'. Marty said there was no public hearing notice for this planning meeting. Kaltsas said that these are recorded and are live for viewing.

Marty asked about 25% buildable lots for cluster space. What determines what is usable? Kaltsas said it is preservation of space that is not a pond, lake or wetland. It is usable for the residents of the neighborhood. If you take away wetland of an owner's land, you have less buildable space. It is to preserve open space. Kaltsas explained that there is a finger that goes out on the East side of the pond, that would be a buildable area in a regular city. That would really disrupt people's views if something was built there. Gardner asked if Marty is suspicious of trading wetland for buildable lots. Marty said not really. He just wants to maintain character in the expansive frontages.

Thompson said that 200x300 standard versus 150x400. Kaltsas asked do you like more space in the front or more space in the back? Marty said it is more aesthetic to have a larger frontage than larger lot behind the house. He said he has a lot of signatures that prefer to not increase density. Thompson said we are already on the naughty list for density and hitting targets. We are still at the outer bounds at what kind of density levels we can have.

Tom Koch has the property at Koch's Crossing. He said if we adopt the 200' lot frontage, it's so difficult to do these lots we want. They can't have a cluster with 200'. The slopes make it very difficult for us as well. It would have to go to 15-20%. Our lots are rectangular and now Otto is

having to try to make them trapezoid or odd shaped lots. He suggested the slope should be between 15-20%. Marty said he has no opinion on grading.

PUBLIC HEARING CLOSED

Gardner said the individual things that we need to discuss are excluding the ROW to just get into the ordinance. They just need clarification. #7 is new. Thompson said we can talk about the 150' and it seems appropriate. Dumas said he agreed. Dumas said that regarding slopes, it adds a lot to lots and the slopes he has at his house are greater than the 10%. It limits the walkouts for basements. We can address the erosion to provide adequate erosion control. Thompson asked about leaving the shoreland district alone and remove the slope requirement from the rest of the language. Are there still checkpoints regarding building permits/wetland permits to allow building areas. Kaltsas said this is most likely a relic for farmland and septic sites and ag land would not be an issue. Thompson said you couldn't create a new lot. Kaltsas said you can't have a lot that is separated by slopes that are greater than 12%. You have to have 1.5 contiguous buildable. Paul Otto is trying to hit this. He has to jog a lot line around to pull more land in to get to the 1.5/ Lot lines are hard to draw to jog around the contiguous lots. It disrupts the lot lines.

Gardner said he has been in the excavating all his life and this is the first he has ever heard of this. If this has much negativity, it is useless except shoreland. It should be taken out of the RR standards.

Thompson said the density table is the next issue. Kaltsas said 7.6 is the threshold. Its 7.6 + 5. Thompson said the first line should be less than 7.5 acres, lots permitted equals one and 7.6 or more.

Gardner brings up the memorializing HOA. Kaltsas said there is a sunset on HOAs. Unless it is active it goes away. Thompson said there was good public feedback on how we incorporate public access and park dedication and how does it relate to cluster development. Gardner recommends a topic of HOAs in the near future. Cluster out-lots are always a good discussion on who maintains.

Marty said lot frontages desire to connect cluster with neighborhood that is different than mine. This impacts us in a lot of ways. Koch's will affect the Brei Kessel lots negatively. Gardner said when Bill Koch was in here wanting to capitalize on his lot, he was wondering how to connect through.

Motion by Thompson for zoning for section 530 for additions and deletions. Slopes be deleted, minimum lot frontage marker A delete regarding slopes as well as Subd. 3 changing record of lot table to read less than 7.6 acres, second by Dumas. Ayes: Thompson, Gardner, Dumas, Volkenant. Alternate, Tearse. Nays: None. Absent: Story. Abstain: None. Motion Approved.

Thompson said to clarify, the others would remain as written.

7. Open/Misc.

Dumas noted that in the previous minutes, it has Dumas as listed as absent.

8. Adjourn.

Motion by Thompson, second by Volkenant to adjourn at 9:24 p.m.

Respectfully Submitted,

Amber Simon / Recording Secretary