

PLANNING COMMISSION MEETING AGENDA REGULAR MEETING TUESDAY, NOVEMBER 21, 2017

## 7:30 PM Regular Meeting

- 1. Call to Order
- 2. Roll Call
- 3. Approval of Minutes:
  - a. October 17, 2017 Planning Commission Meeting
- 4. Ordinance Amendment Discussion
- 5. Conditional Use Permit CUP Inspection Update
- 6. Open/Misc.
- 7. Adjourn.

### MINUTES OF A REGULAR MEETING OF THE INDEPENDENCE PLANNING COMMISSION TUESDAY, OCTOBER 17 – 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 Chair Phillips at 7:30 p.m.

## 2. ROLL CALL

PRESENT:	Chair Phillips, Commissioners Gardner, Dumas and Palmquist	
STAFF:	City Administrative Assistant Horner, City Administrator Kaltsas	
ABSENT:	Commissioner Thompson	
VISITORS:	Lynda Franklin, Craig Kittleson, Sally Simpson, Jan Gardner, Tom Janas, Dawn Mooney	
	Ray Otto, Justin McCoy, Jennifer Kazin, Bobby McCoy	

- 3. Approval of minutes:
  - a. September 19, 2017 Planning Commission Meeting
  - b. October 3, 2017 City Council Meeting Minutes (For Information Only)

### Motion by Gardner, to approve the minutes of the September 19, 2017 Planning Commission Meeting with noted change. Ayes: Phillips, Gardner, and Palmquist. Nays: None. Absent: Thompson. Abstain: Dumas. Motion approved.

- 4. Marilyn Hamilton (Applicant) and Hamilton Bros. (Owners) request that the City consider the following action for the properties located at/adjacent to 385 County Road 110 N (PID No.s 35-118-24-41-0001 and 35-118-24-41-20002) in Independence, MN:
  - a. Concept plan review for the proposed subdivision of the subject properties.

Kaltsas said the applicant is asking the City to consider a concept plan for the proposed subdivision of the subject properties. 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 formal submittal of a preliminary plat. This property will ultimately require rezoning, conditional use permit, comprehensive plan amendment and a preliminary and final plat.

The applicant is proposing to develop the property as Cluster Development. Cluster Developments are permitted as a conditional use in the Rural Residential zoning district. The City has specific criteria relating to Cluster Developments which must be considered and adhered to by the development.

## Comprehensive Plan/Rezoning

Rezoning this property from AG-Agriculture to RR-Rural Residential is consistent with the City's 2030 Comprehensive Plan. The City's plan indicates the portion of the City that is guided for Rural Residential zoning. The subject property is located within that area guided for Rural Residential with the Agriculture Preserve overlay.

The applicant has prepared a concept plan for review by the City. The City has preliminarily reviewed this plan and provided some comments to the applicant. The applicant will likely seek final approval of the subdivision in several phases, which have not been finalized at this time.

As noted, the applicant is proposing to utilize the Cluster Development provisions rather than the standard subdivision criteria. The City allows Rural Residential property to subdivide based on the following table in the City's zoning ordinance.

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)

Area of Lot	Maximum Number
of Record	of Lots Permitted
7.5 acres or less	Öne
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.

Based on a traditional subdivision, this property could potentially yield a total of 39 lots (199 acres total, the first 47.5 acres yields 9 lots; the remaining 151.5 acres divided by 5 equals and additional 30 lots). In order for the City to consider approving a Cluster Development, the established criteria will need to be satisfied. The City has the following criteria pertaining to Cluster Developments.

Subd. 6. <u>Cluster development conditional use per</u>mit. 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) <u>Purpose</u>. 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) <u>Criteria</u>. 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 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 10% or other physical impediments;
- (7) Open space must be designated in the development as one or more out lots 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.

Cluster developments can assist in preserving the rural character of the community by keeping large areas of open space undeveloped and protecting natural site features and amenities. Lots in a Cluster Development are typically smaller than lots in a standard subdivision and grouped in a manner that maximizes the preservation of open space within a development. In order for a property owner to seek approval of the Cluster Development, the following key criteria must be met:

- 1. Property must be a minimum of 40 acres
- 2. 50% of the property must be preserved as open space.
- 3. 50% of the open space (50% of the 50%) must be useable upland.
- 4. All lots proposed in the development must be a minimum of 1.5 contiguous acres.
- 5. Maximum density of 1 unit per 4 acres.

The proposed development has the following characteristics:

- 1. Property Acreage 199 acres
- Open Space Required 99.5 acres Open Space Proposed – 99.5 acres
- Useable Open Space Required 47.8 acres Useable Open Space Proposed – 50.4 acres
- 4. Minimum Lot Size Proposed 1.5 acres
- 5. Proposed Density 1 unit per 7 acres

#### Additional Considerations:

The City has initially reviewed the concept site plan. In addition, the City has discussed the concept plan with Hennepin County. Hennepin County provided preliminary review comments relating to the development. The initial review of the subdivision contemplates a high-level review only of the proposed development. A detailed review of the storm water, grading and infrastructure details will be completed prior to consideration of the preliminary plat by the City. The City does not formally approve or deny a concept plan. The review will provide direction and comments to the applicant for their use during the preparation of a preliminary plat application. The following comments should be considered by the City:

- 1. The applicant is proposing to essentially develop two different cul-de-sacs. One that would provide access to the north property and one that would provide access to the south property. The City and County have both commented that the connection of the two cul-de-sacs would be preferred. A single access development with potentially 20 lots (south cul-de-sac) is not ideal and raises concerns relating to public safety (emergency vehicle access if the road is blocked). The City asked the applicant to look at opportunities to connect the two sides of the development. In reviewing a possible connection, the applicant has noted that a connecting road would inflict considerable damage to the natural resources that they are seeking to protect through the cluster development provisions. The applicants engineer prepared an exhibit that shows the grading limits of a connecting road. The extent of the grading is extensive due to the steep slopes. The grading would cause a significant loss of the existing Maple/Basswood forest located on the west side of the property. In addition, there is a wetland (extents of which have not been finalized) that would have to be mitigated in order to make the road connection. The City has not engaged the watershed district at this time, but would need to understand whether or not the substantial mitigation of the wetland would be considered. In addition to looking at the possibility of connecting the properties to the west, staff discussed the possibility of making the connection further to the east. This would have to be a future connection as the applicant does not have control of the properties in-between the two subject parcels. This connection may be possible, but would significantly impact the existing homes located on those properties. The City has also asked the applicant to consider a second connection that would go to the south and could possibly provide a secondary point of access (see below).
- 2. The north cul-de-sac could connect to the property to the south and ultimately connect back to CSAH 110 in the future. The applicant has provided the City with a conceptual "ghost plat" of the properties in-between the subject parcels. Staff is seeking discussion from the Planning Commission relating to the general road configuration.
- 3. Lot 11, Block 1 (north side) would have to access CSAH 110 N. This lot would be separated from the remaining development and direct access onto the County Road may not be permitted. The applicant has also noted that this lot could be dedicated to the City for a future park given its proximity to the Luce Line Trail. The City can further discuss whether or not a park at this location would be beneficial. In

addition, access to a park from CSAH 110 would also be difficult and may not be permitted.

- 4. Lot 10, Block 1 has frontage on the public right of way, but is not a traditionally configured lot. The applicant has noted that this lot is a highly desirable lot due to the proximity to the woods on the west side of the property. The City has initially commented on the configuration and believes that this lot may require additional review.
- 5. The applicant is showing how several of the larger lots in the development could be subdivided into smaller lots in the future and still meet all applicable requirements of the initial subdivision requirements. The City will need to further consider how this could occur in the future.
- 6. The applicant is showing a unique configuration of out lots on the proposed concept plan. The applicant would like to preserve the ownership and long-term maintenance of the out lots by having them owned by individual lot owners. The City will need to further review whether or not this ownership and organization is acceptable. In addition, further information detailing the intended management of the area will need to be provided by the applicant.
- 7. Hennepin County has offered the following comments pertaining to the development:
  - a. We recognize that the two proposed access driveway locations are acceptable. The northerly access appears to have no other options that would provide more preferable access spacing. The southerly access may have more preferable access spacing locations, such as aligning with Moline Rd, however due to the curve the sight distance would be worse.
  - b. We recommend making provisions for internal circulation should either/both properties in between these bookended subdivisions be redeveloped in the future. We certainly would be looking to combine accesses when/where available and believe that reasonable accommodations can be made now in order to provide for potential internal circulation in the future. Perhaps a 'ghost plat' of such future internal site connections would be mutually beneficial.
  - c. We suggest providing an internal trail connection for both subdivisions to connect to the Luce Line Trail. This could possibly be located within Outlot A? This would be safer and more direct for most residents than walking along CSAH 110. Also, might increase property values.
  - d. On the southerly development there appears to be a 60' sliver of land between lots 14 and 1,2 and 3. Is this providing for future internal street connection for development to the south?
  - e. Upon platting we will likely request 5' of row to accommodate future roadway enhancements. A north-south off-road trail along CSAH 110 may be very desirable in the future given the adjacency of the Luce Lone Trail. A

trail easement, preferably 10' wide along both properties on the inside of the 5' row dedication would be requested.

f. On the far southern end of the southerly development there is a sliver of land still in private ownership surrounded by roadway ROW remaining from the straightening of the roadway. We request this land be dedicated to the county.

## Park Dedication

The proposed subdivision is subject to the City's park dedication requirements. The applicant has noted that they would be interested in possibly dedicating land to the City for the purpose of a park. In addition, Hennepin County noted that they would like the City to consider requiring a trail easement along CSAH 110. Given the number of lots and the proximity to the Luce Line Trail, it may also be desirable for the City to consider requiring a trail that would connect both the north and south developments to the Luce Line Trail. Staff is seeking further discussion from the City relating to trails within this development. The City will need to further discuss the possibility of park dedication within this development. The standard park dedication requirement of \$3,500 per lot would otherwise be applicable.

Staff is seeking discussion and feedback from the Planning Commission relating to the concept plan review. No formal action is taken by the Planning Commission on the concept plan. Based on the comments and discussion, the applicant can choose to have the Council review the concept plan and or bring back a formal application for preliminary plat of the proposed subdivision.

Phillips said a problem appears to be with the circulation and the thru-put. He asked if the county based it on public safety issues. Kaltsas said public safety vehicles need to be able to come through. Kaltsas said the county would like to see a collector street through the middle of the development to eliminate the need for access to county streets.

Gardner asked what was on the left side of the lot. Kaltsas stated there was a large wetland and creek to the west of the property. He said it limits what can be developed to the west. Phillips asked if the applicant would need to set aside a lot to have a stub in order to comply with what the county is asking for.

Phillips stated he was troubled by lot #11 and how that would be accessible. Dumas asked about the space between the two lots. He noted there were significant grades.

Kaltsas said there are 16 lots on the south parcel and 11 on the north parcel. He said in the future there could be an additional four lots to the south. Dumas asked if the outlets would be attached to any particular property. Kaltsas said that could possibly be secured but would have to be looked at first. Phillips said he would have a problem with that, as it would be outside the spirit of the ordinance.

Phillips said he did not have an opinion on the park dedication at this time. He would wait until there was firm definition of how it would pertain to this proposal.

Gardner stated it was an odd width with the extra easement. Kaltsas noted it was where 110 used to be. Johnson said he thought when 110 was rebuilt they got additional easements all the way down.

Otto spoke on behalf of the applicants and said they were trying to work within the cluster. He said the property to the south is a steep slope. He noted lot #11 might have to be connected by a wide strip. Otto said the ghost lots noted are where the owners would like to eventually build.

Gardner asked if there were any ideas about the park dedication. Otto said he thought the Luce Line Trail donation would be great. Phillips asked about the comment that the south cluster would have a walking trail to the Luce Line. Otto said he did not how that would work but could be explored.

Dumas asked about storm water retention requirements. Otto said there would be storm water issues that would need to be addressed.

- 5. Comprehensive Plan 2040 Plan Preparation
  - a. Land Use Discussion (continued)
    - i. Review of Rural Residential/Agriculture Boundary
    - ii. Urban Residential

Kaltsas said these discussions drive a lot of other services in the City such as sewer and recycling. He said the 2030 plan addressed the division line between rural residential or agriculture. He said since the 2030 plan was developed the City has seen the development of 50 residential lots which averages about eight housing units per year. He said there are 30 undeveloped lots that have been platted. Kaltsas outlined buildable lots that are sub dividable within the City. He examined the larger parcels that could be developed. Kaltsas looked at lots being developed at the highest possible density to have a broad based picture. He estimated a ballpark of 600 lots being developable in known inventory.

Kazin asked about any possible commercial development to the west by Delano. Kaltsas said any development of that area would likely rely on Delano for sewer and water. He said there have been discussions with Delano but there is a disagreement between the two cities as to which one would get the tax dollars if it were developed. Kaltsas said Independence looked at the feasibility of providing our own treatment plant for the development of that area commercially and while it could be done it would end up being cost prohibitive. Kaltsas noted there was very little developable commercial land. Johnson said he would like to see consideration on the sewered areas.

Franklin asked when the plan has to be submitted. Kaltsas said it would be at this time in 2018. Franklin said the meetings happen when her husband has a conference so she wanted to know if it could be videotaped. She thought it could draw more people. Kazin said she identifies with Delano as her kids go to school there. She asked why there was not more commercial development. Gardner said there is not much demand for commercial development. He noted the limitations due to lack of sewer and water access. A lot of growth is determined by Met Council. Kaltsas said Independence is unique in that it is rural agriculture within the seven county metro. McCoy said that once the Jerde development is complete the City should try to see if Maple Plain would be willing to work with us on water and sewer. Spencer said the City needs to designate areas that we are serious about for planning.

- 6. Open/Misc.
- 7. Adjourn.

Motion by Gardner, second by Palmquist to adjourn at 9:25 p.m. Ayes: Phillips, Gardner, Dumas and Palmquist. Nays: None. Absent: Thompson. Abstain:None. Motion approved..

Respectfully Submitted,

Trish Bemmels/ Recording Secretary

# City of Independence

## Planning Commission Discussion – Zoning Ordinance Amendments for Accessory Structure Height and Temporary Structures

*To:* Planning Commission *From:* Mark Kaltsas, City Planner *Meeting Date:* November 21, 2017

## Request:

The Planning Commission prioritized zoning ordinance amendments in the beginning of 2017. The following is a prioritized list of ordinances that were discussed. As time permits, the Planning Commission has worked on updating the various ordinances.

## Prioritized Ordinance Update List:

1. Accessory Dwelling Units

- 2. Temporary Structures (No ordinance is currently in place)
- 3. Animal Units (Relating to how to calculate, and if useable upland on a property should be criteria which limits the total number permitted)
- 4. Fences (This item was one that was previously considered and not adopted)

In addition to this list, staff has identified an issue relating to the height of accessory structures that it would like to further discuss with the Planning Commission.

## Temporary Structures:

The current zoning ordinance does not have any provisions regulating temporary structures outside of a mention of commercial greenhouses. In working with other cities, staff has prepared a draft version of an ordinance which would complement the current accessory structure provisions. Key elements to consider relating to temporary structures are as follows:

- 1. Must obtain a building permit.
- 2. Can only be in place for a maximum of 180 days.
- 3. Must meet applicable building codes.

### XX. DRAFT TEMPORARY STRUCTURES.

(A) Only 1 temporary structure is permitted per property.

(B) Building permits are required annually for all temporary structures.

(C) Temporary structures are exempt from the material requirement for permanent accessory buildings.

(D) If permitted in the Commercial Light Industrial (CLI) zoning district, may only be used in association with principal use, and not for other activities that are not in support of business-related activities.

(E) Setbacks.

(1) Agriculture and Rural Residential zoning districts.

(a) Five feet from any property line and/or 10 feet from the principal dwelling or any permanent accessory building, or be constructed in a manner that meets a 1-hour fire rating per State Building Code.

(b) Properties with site constraints may locate a temporary structure within the property line setbacks provided written permission is obtained by the adjacent property owner(s) and submitted to the city, and provided the fire rating condition is satisfied.

(c) May not be located in front yard or in front of principal dwelling unit.

(2) Commercial Light Industrial zoning district.

(a) Ten feet from any property line and/or 20 feet from the principal dwelling or any permanent accessory building, or be constructed in a manner that meets a 1-hour fire rating per State Building Code.

(b) Properties with site constraints may locate a temporary structure within the property line setbacks provided written permission is obtained by the adjacent property owner(s) and submitted to the city, and provided the fire rating condition is satisfied.

(F) In addition to following all applicable sections of this code and State of Minnesota building codes, temporary structures must also meet the following criteria:

(1) Maximum use of 180 days annually from date of permit.

(2) Used for recreational vehicle or seasonal storage, or special event use.

(3) Be well maintained and in good condition as determined by the city Building Official.

(4) Maximum size of 250 square feet for agriculture and rural residential properties.

(5) Included in the total allowable square footage for all accessory buildings.

(G) Permanent use of temporary structures must meet all State Building Code requirements and the provisions of this section regarding permanent structures.

(H) Event tents on residential property for the purpose of private functions shall be exempt from this code. The exemption is limited to a maximum of 3 days.

(I) Administrative penalties.

(1) Any temporary structure must be removed in its entirety upon expiration of permit. If, after 180 days, said structure(s) remain(s), the city shall notify property owner(s) of the violation and issue a \$200 administrative penalty. The property owner shall have 7 days to comply with the notice. Failure to comply with the notice and pay the penalty imposed by this section, the city shall follow the procedures identified in \_\_\_\_\_\_. The city reserves the right to certify the unpaid administrative penalty(s) to property taxes.

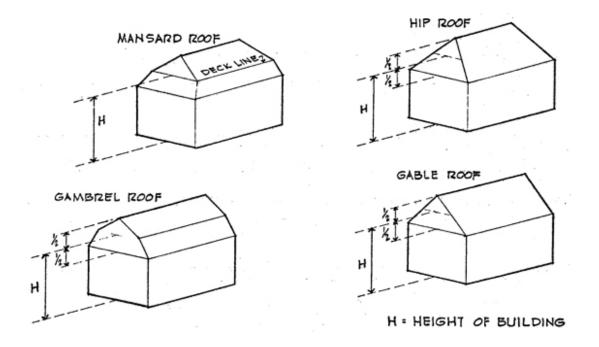
(2) Violation of an issued permit per the provisions of this section, may be grounds for denial of future permit applications.

Staff is seeking further direction and discussion from the Planning Commission pertaining to the possibility of adding temporary structure provisions to the zoning code. Based on the discussion and direction, more information would be prepared and a public hearing scheduled for formal consideration.

## Accessory Structure Height:

The current zoning ordinance limits accessory structure building height as follows:

<sup>3</sup> The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.



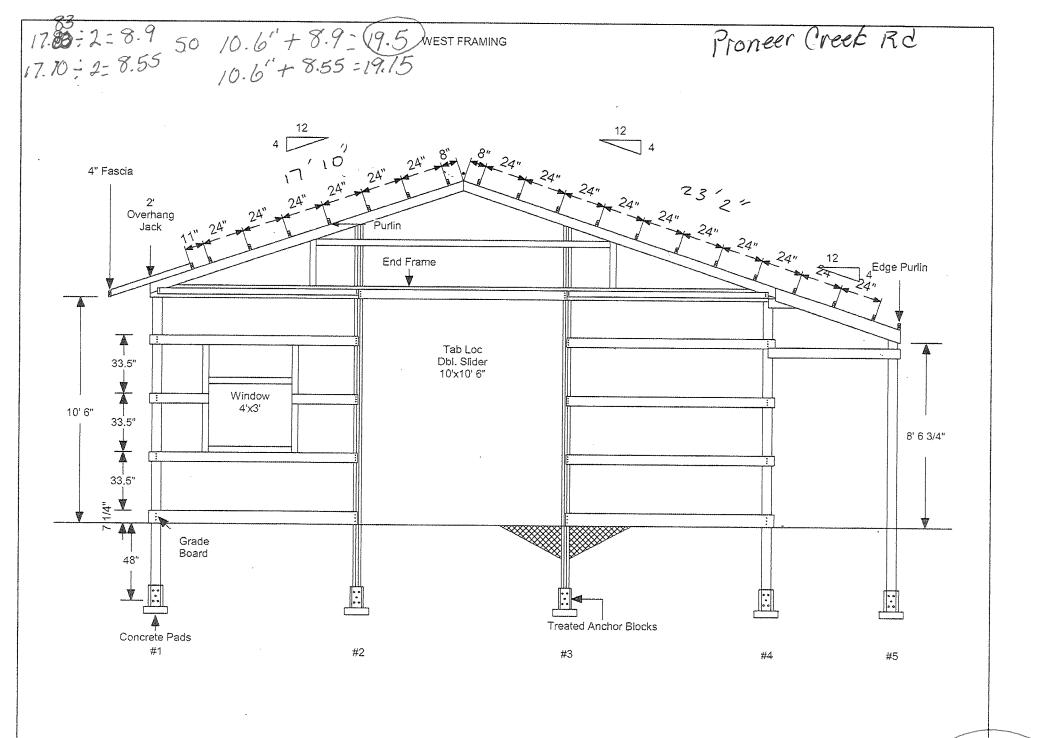
The City has granted two variances since the adoption of the updated standards in 2013. The City continues to receive requests from residents for accessory structures that exceed the height of the principle structure (single-level "rambler" style homes). The initial basis for the height restriction was to ensure that an accessory building height remains subordinate to the height of the principle structure in appearance. Given the wide array of property sizes, property conditions and other factors that impact the appearance of accessory buildings in relation to principal buildings, staff would like to ask Planning Commission if there would be consideration for amending this provision of the ordinance. Staff has not prepared any potential amended provisions at this time. Based on the discussion and direction of the Planning Commission, staff would bring back additional information for further consideration.

## Additional Considerations:

- 1. A typical detached accessory structure that is constructed in Independence has a sidewall height of 10-14 feet. With a 4/12 pitch on the roof, the measured height of the building is in the 20-24-foot height range (see attached building sections).
- 2. A typical single-level residential structure with a 6/12 roof and 9-foot side walls has a similar 20-24-foot height.
- 3. A detached accessory building with a roof pitch greater than 4/12 will struggle to meet the maximum height determined by a single-level principle structure.

Attachments: Building Cross Section Examples

Ordinance Discussion - Planning Commission



20.14 House

22 = 2= 11 11'+11= 22

236- CORd 92

