

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, APRIL 3, 2018 –7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: None

STAFF: City Administrator Kaltsas, City Administrative Assistant Horner, City Attorney Vose

VISITORS: Marilyn Hamilton, Don Hamilton, Anita Volkenant, Bobbi McCoy, Paul Otto

4. ****Consent Agenda****

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

- a. Approval of City Council minutes from the March 20, 2018 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 17875-17904.
- c. **RESOLUTION 18-0403-01** - Supporting Local Decision Making Authority.

Motion by Grotting, second by Betts to approve the Consent Agenda items. Ayes: Johnson, McCoy, Betts, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting
- Local Board of Appeal Meeting

Grotting attended the following meetings:

- Planning Commission Meeting
- Local Board of Appeal Meeting
- Sensible Land Use Committee Meeting

McCoy attended the following meetings:

- Planning Commission Meeting
- Local Board of Appeal Meeting

Betts attended the following meetings:

- Sensible Land Use Committee Meeting
- Local Board of Appeal Meeting
- Planning Commission Meeting

Johnson attended the following meetings:

- Planning Commission Meeting
- Sensible Land Use Committee Meeting
- League of Minnesota Cities Conference
- Senior Community Services Board Meeting
- Loretto Fire Department Retirement
- Delano School Board Meeting
- Local Board of Appeal Meeting

Horner attended the following meetings:

- Planning Commission Meeting
- Local Board of Appeal Meeting

Kaltsas attended the following meetings:

7. Robert and Janet Selstad (Applicants/Owners) request that the City consider the following action for the property located at 3525 Independence Road (PID No. 11-118-24-41-0003) in Independence, MN:

- a. **RESOLUTION 18-0403-02** – Considering a minor subdivision to allow a rural view lot to be subdivided from the subject property.

Kaltsas said the applicants previously subdivided the subject property by splitting off a 5-acre rural view lot (southeast corner) in the mid 2000's. The rural view lot was provided with a sewer stub in 2012 and has not yet been developed. The applicants would now like to split a second rural view lot off of the property. The proposed subdivision would create a new approximately 5-acre lot that would encompass the existing home and detached accessory buildings while leaving the larger "remainder" property for future development.

The City's zoning ordinance allows Agriculture property to realize one rural view lot for every 40 acres of property. The property was originally an 80-acre parcel. One rural view lot has already been subdivided off of the original parcel. That leaves one remaining parcel that can be realized on the remaining 75-acres.

The proposed subdivision would create a new lot that would allow for all applicable building setbacks to be met by the existing structures. The newly created lot would have approximately 3.5 acres of useable upland. The two existing detached accessory structures would remain on the newly created Parcel B along with the existing home. The 3.5 acres of useable upland would allow for a total square footage of detached accessory structures of 3,050 square feet (upland acreage of 3.5 x 2% = 3,050 SF). No additional detached accessory structures could be constructed on the new lot without modification to the existing structures.

The proposed lot would have road frontage of 400 LF.

The applicant has included the requisite drainage and utility easements as required by ordinance for Parcel B (Section 500.15, Subd.'s 1 and 2). Parcel A will likely be further subdivided in the future and at that time the City will capture the necessary drainage and utility easements.

The remaining Parcel A cannot be further subdivided under the current zoning of AG-Agriculture. This parcel is guided for RR-Rural Residential by the City's Comprehensive Plan. The property can be rezoned once the Agriculture Preserve status comes off in 2021. At that time the property can be further subdivided if the property owner is able to meet all applicable standards. Access to the remaining property may be limited due to the existence of wetlands and conservation easements on the property. The proposed lot line rearrangement will create a lot that is consistent with surrounding properties and the guided future designation. There does not appear to be any adverse effects on the surrounding or subject properties in the after condition as a result of this minor subdivision to permit a rural view lot.

The newly created Parcel B will be required to pay the City's requisite Park Dedication fee. For this property the requirement is \$4,010. This fee will need to be paid prior to recording the subdivision.

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

Commissioners asked for more information pertaining to the status of the existing septic system. Staff noted that the City would review the existing system. Commissioners also asked about the ability to access the remaining property once the proposed subdivision would be in place.

The easements significantly limit the use of the property that is covered by an easement. The ability to access the remaining property is limited in both the before and after conditions. Commissioners ultimately found the request for a minor subdivision to meet the requirements of the City's code and recommended approval to the City Council.

Planning Commissioners recommended approval to the City Council for the requested Minor Subdivision for a Rural View Lot with the following findings and conditions:

1. The proposed minor subdivision to allow a rural view lot meets all applicable criteria stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Ordinance.
2. City Council approval of the rural view lot subdivision is subject to the following:
 - a. The Applicant shall pay the park dedication fees in the amount of \$4,010 for the newly created Parcel B, prior to the City recording the subdivision.
 - b. The Applicant shall execute and record the requisite drainage and utility easements with the county within six (6) months of approval.
 - c. The remaining Parcel A will have no remaining rural view lot eligibilities.
3. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

4. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision

Grotting asked why it was not drawn out showing rural residential. Johnson said it seems that should have an easement for the present driveway to have access to the road. Spencer thanked Kaltsas for putting together the map stating he wanted to make sure the permanent easements were known.

Motion by Grotting, second by Spencer to approve RESOLUTION 18-0403-02 – Considering a minor subdivision to allow a rural view lot to be subdivided from the subject property noting the change in 2(b) to list Parcel A for the property located at 3525 Independence Road (PID No. 11-118-24-41-0003) in Independence, MN. Ayes: Johnson, McCoy, Betts, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

8. Michael and Carla Brandt and Kelly Jacobs (Applicants/Owners) request that the City consider the following action for the properties located at 2415 and 2465 County Road 92 N. (PID Nos. 17-118-24-44-0008 and 17-118-24-43-0007) in Independence, MN:
 - a. **RESOLUTION 18-0403-03** – Considering a minor subdivision to allow a lot line rearrangement which would permit the conveyance of approximately 15,000 SF from one property to the other.

The applicant is seeking a minor subdivision to allow a lot line rearrangement that would expand the 2415 County Road 92 N. property by approximately .31 acres (13,503.60 SF) and reduce the 2465 property by the same. The common property line would move approximately 60 feet to the east and "square off" the 2415 west property line. 2415 CSAH 92 N. is considered a legal non-conforming lot of record in the City that does not meet the current frontage requirements. 2465 CSAH 92 N. is considered a legal conforming lot of record. The properties share a common driveway which provides access to both properties from CSAH 92 N. In the before and after conditions both properties would meet all applicable structure setbacks. The proposed after condition would not create any non-conformities relating to setbacks, property size or road frontage minimums.

Staff has reviewed the request and offers the following information for consideration by the Planning Commission:

1. The lot line rearrangement does not appear to impact either property or create any new non-conformities.
2. The legal non-conforming/conforming status of each respective property does not change in the before or after conditions.
3. The lot line rearrangement would essentially "square off" the boundary of 2415 CSAH 92 N. which would provide the owner with consistent and straight property line.

Planning Commissioners reviewed the request and asked questions of the applicant and staff. Commissioners asked for confirmation pertaining to the driveway easement that serves the westerly property. Staff noted that a portion of the easement would no longer be necessary, but no change to the easement would be necessary as a result of the lot line rearrangement. Commissioners

found the request to meet the requirements of the City's code and recommended approval to the City Council.

Planning Commissioners recommended approval to the City Council of the requested minor subdivision to allow a lot line rearrangement with the following findings and conditions:

1. The proposed minor subdivision to allow a lot line rearrangement request meets all applicable conditions and restrictions stated Chapter V, Sections 500 and 510, Planning and Land Use Regulations and Zoning, in the City of Independence Zoning Ordinance.
2. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
3. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Motion by Spencer, second by Grotting to approve RESOLUTION 18-0403-03 – Considering a minor subdivision to allow a lot line rearrangement which would permit the conveyance of approximately 15,000 SF from one property to the other for the properties located at 2415 and 2465 County Road 92 N. (PID Nos. 17-118-24-44-0008 and 17-118-24-43-0007) in Independence, MN Ayes: Johnson, McCoy, Betts, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

9. Hamilton Bros. (Applicant/Owner) requests that the City consider the following actions for the property located at 385 County Road 110 N. (PID No. 35-118-24-41-0001) in Independence, MN: (Ray McCoy recused himself as he is a family member). (Mayor Johnson asked Council if there would be a conflict as he is a neighboring property and Council felt there was not a conflict).
 - a. **ORDINANCE 2018-01** – Considering rezoning of the property from AG-Agriculture to RR-Rural Residential; and
 - b. Consideration of a Preliminary Plat to allow the subdivision of the property.

Kaltsas stated following the Planning Commission Meeting in March, the City has met with Minnehaha Creek Watershed District (MCWD) and received additional comments from Hennepin County. Both the updated MCWD and Hennepin County comment letters are attached to this report. Based on comments provided and discussions had with both MCWD and Hennepin County, it was found that the preliminary plat can still be considered by the City Council. The comments provided appear to be able to be resolved prior to the City Council considering final plat. Several comments may result in minor modifications to the preliminary plat which would be typical between preliminary and final plat. There are several key considerations that should be noted and considered by the City Council:

1. Planning Commissioners recommended approval of the preliminary plat. Commissioners asked questions and provided comments to the applicant and City as follows:
 - a. Commissioners discussed the extension of Hamilton Hills Road to the southwest. Ultimately Commissioners found that the connection did not benefit either property due to the steep slopes and

“unnatural” connection between the two properties. Commissioners believed that the property to the southwest could be provided with two points of access coming from CSAH 110 N. and CSAH 26 in the future. Commissioners recommended that Hamilton Hills Road be converted to a full cul-de-sac with no connection to the adjoining property. Should the Council concur with the Planning Commission recommendation, Lot 12, Block 1 and Lots 4 and 5, Block 2 could be rearranged. The rearrangement of these lots would allow for a cleaner design of the proposed storm water ponding in this area.

- b. Commissioners discussed the Outlots and found that they could be considered by the City. It was noted that these Outlots could not be subdivided in the future without meeting all applicable criteria of the City at the time they are proposed to be subdivided. The Outlots would be privately owned by an adjoining property owner. It was noted that Outlots B, C and D would be difficult to develop at any point in the future due to the wetland and storm water pond coverage. Outlot A may possible by placed into a conservation easement by the owners.
- c. Commissioners asked if additional storm water treatment/storage would be required if any additional subdivision of the properties occurred in the future. It should be noted that any future subdivision would be subject to the full review and approval of the City which would likely include providing additional storm water provisions.
- d. Commissioners asked whether or not an HOA would be established for this development. It was noted that an HOA would be established to manage the storm water ponds. In addition, the City noted that a storm sewer improvement tax District would be established for this development.
- e. Commissioners discussed whether a possible easement could be provided to accommodate a future driveway connection to Lot 1, Block 1 (existing farmstead) should access be restricted from CSAH 110 N. The City noted that any connection would require a crossing of the existing wetlands and would be a considerable length. It was noted that a better connection would likely be to the property to the north in the future.
 - 2. Minnehaha Creek Watershed District noted that there may be a wetland located across Lots 4 and 5, Block 1. If this wetland is confirmed, Lots 4 and 5, Block 1 may need to be slightly rearranged to provide for access and the minimum upland acreage of 2.5. It is generally recognized that this rearrangement could occur before final plat consideration and is possible due to the amount of land surrounding the properties.
 - 3. Hennepin County commented on the access location of Robert Road on CSAH 110 N. The County is seeking additional sight visibility information from the applicant and noted that they may push to have the access moved north. Moving the road any further north would be difficult due to the location and significance of the wetlands located on proposed Outlot D. One measure to help mitigate any issues relating to the access spacing on CSAH 110 N. will be the requirement for both a left hand and right hand turn lane.

Staff is seeking direction and feedback from the City Council. An ordinance which would rezone the subject property from A-Agriculture to RR-Rural Residential is provided for consideration and can be considered by the City Council. Due to the issues identified and recommended by the Planning

Commission, staff has not provided a resolution for the preliminary plat and is recommending that following additional Council Direction, a resolution be brought back for final Council consideration.

The applicant is asking the City to consider rezoning and preliminary plat for a 17-lot subdivision of the subject property. In the fall of 2017, the City reviewed and provided feedback to the applicant relating to a concept plan for the subject property. The concept plan included the additional property to the north that is also owned by the applicant. The applicant is moving forward with only the southern property at this time. The concept plan reviewed by the City was designed under the City's cluster development provisions. Since that time, the applicant has revised the plan so that it meets all base rural residential standards and is no longer proposed as a cluster development. 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 indicates the potential locations of a proposed building pad for each lot. The proposed building pad is only conceptual but provides the City with evidence that the lots can accommodate a new home site. The size of the lots proposed will allow all applicable building setbacks to be met. The proposed lots meet all applicable criteria relating to the subdivision and zoning standards. The applicant has provided the City with the locations and borings for primary and secondary on-site septic systems for each lot. Based on the information provided by the applicant, the proposed development appears to meet the minimum criteria established for considering a preliminary plat on this property. The lots proposed appear to meet all applicable criteria relating to the subdivision and zoning standards. There are several additional considerations that should be noted by the City prior to approval of the rezoning and preliminary plat.

The City provided the applicant with an in-depth review of the proposed subdivision (See City Letter to the Applicant Dated March 9, 2018). The applicant has provided a response to the City's comments (See Applicant's Response Letter Dated March 15, 2018 – responses shown in red). Some of the City's initial review comments have been addressed by the applicant. Additional information pertaining to the storm water, wetlands, grading and infrastructure details will need to be further reviewed and revised prior to consideration of the Final Plat by the City. In addition, the City has discussed the plans with Hennepin County and Minnehaha Creek Watershed District (MCWD). Hennepin County and the watershed have provided the applicant with review comments relating to the development. The City identified several key issues during the review of the development that should be further considered by the City:

1. The applicant is proposing to provide access to the lots within this development via two different cul-de-sacs. Robert Road would end as shown on the plans and Hamilton Hills Road would be projected to extend southwest in the future. As a temporary measure, a cul-de-sac would be provided. The City has commented that this cul-de-sac and road should be fully constructed to the west property line to facilitate future development and comply with the applicable subdivision requirements noted in the review letter. The applicant is currently showing the cul-de-sac in a location short of the westerly property line. The City is seeking Planning Commission direction relating to the whether or not the cul-de-sac and road should be extended to the property line as the ordinance requires. The applicant is proposing to dedicate right of way to the property line and grade the road base during mass grading. The City has experienced issues in the past relating to similar circumstances. Once a property is

developed without a physical road, it is difficult to extend the road in the future.

2. Minnehaha Creek Watershed District has noted that the wetland delineation has not been formally approved and therefore the application submitted to MCWD is deemed incomplete at this time (see attached MCWD Comment Letter). The watershed noted that there could be a wetland located on Lots 5 and 6, Block 1 that is not shown on the wetland delineation. If this wetland is determined to be present on the property, the lot configuration would likely need to be revised to meet the minimum buildable area requirements and to allow access to the proposed home location on Lot 5. Field verification of this wetland cannot occur until the snow melts and the ground is clear. The City could proceed with a recommendation for approval subject to MCWD approval. This issue would need to be resolved prior to final plat consideration. The property does have the upland area to adjust lot lines if necessary to accommodate the watershed's concerns.
3. The City previously discussed the proposed Outlots as they related to a cluster development. Now that the proposed development is being designed using the base rural residential lot provisions, the Outlots do not need to be dedicated for public use. The applicant would still like to preserve the wetlands and trees within the proposed Outlots. The proposed Outlots would be privately owned by individual property owners in the development. The applicant has proposed to place a conservation easement across the Outlots to protect the existing natural resources. The City's Subdivision Ordinance does not allow Outlots; however, the City has historically permitted Outlots for the preservation of open space and natural resources. By placing a protective easement on the Outlots, the applicant would be memorializing the preservation of the land and eliminating the ability to develop the property in the future. This would generally meet the intent and historic use of Outlots in the City. Staff is seeking further discussion and direction relating to the proposed Outlots.
4. The total number of lots that could be developed on this property is 20. The applicant is proposing to develop 17 lots at this time. In the future the applicant has noted that they would like to potentially subdivide several of the proposed lots further to realize additional lots. Any additional subdivision of property within this development would need to meet all applicable criteria and could not exceed the maximum number permitted for the property (currently 20 lots). The City would want to further address this issue at the time of final plat.
5. Hennepin County has provided comments to the applicant pertaining to the proposed preliminary plat. The City is working through several issues with the developer and the County. At this time, the City has discussed not requiring a trail or park dedication in this development. The City has required that the applicant provide a road connection to the southwest to create an "internal" circulation route for future development.

The proposed subdivision is subject to the City's park dedication requirements. Based on the concept plan discussion, the City is not requesting a trail and or park to be dedicated in this development. Instead, the City will require the standard park dedication as cash in lieu of land. The park dedication is broken down as follows:

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

The existing farmstead property (Lot 1, Block 1) is not subject to park dedication fees. The park dedication fee requirement for this development is anticipated to be \$58,625 (16 lots x

\$3,500, plus 3.5 additional acres for Lot 5, Block 2 (\$2,625) = \$58,625).

Planning Commissioners recommended approval to the City Council for the request for Rezoning and Preliminary Plat with the following findings and conditions:

1. The proposed Rezoning and Preliminary Plat meet all applicable conditions and restrictions stated Chapter V, Planning and Land Use Regulations and Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council approval of the Rezoning and Preliminary Plat shall be subject to the following:
 - a. The Applicant shall address all comments and applicable requirements pertaining to the development, as requested in the City's review letter dated March 9, 2018.
 - b. The Applicant shall make all revisions requested in the staff report, by the Planning Commission and City Council.
 - c. The Applicant shall address all comments and applicable requirements pertaining to the water resources and as outlined in the water resources review letter from Hakanson Anderson Associates, dated March 6, 2018.
 - d. The Applicant shall address all comments and applicable requirements made in the City Engineer's review letter dated, March 8, 2018 (MSA).
 - e. The Applicant shall comply with all applicable regulations and conditions prescribed by Minnehaha Creek Watershed District and receive all applicable approvals.
 - f. The Applicant shall comply with all applicable regulations and conditions prescribed by Hennepin County and receive all applicable approvals.
 - g. The Applicant shall enter into a development agreement with the City for this development.
 - h. The Applicant shall provide a letter of credit as established by the development agreement for all public improvements associated with this development.
 - i. The Applicant shall provide the City with copies of the HOA agreement and covenants, including information related to the maintenance of the common driveway.
 - j. The Applicant shall obtain all necessary City, County, PCA and other regulatory agency approval and permits prior to construction.
3. The Applicant shall pay the park dedication fees in accordance with the terms defined in the Development Agreement.
4. The Applicant shall pay for all costs associated with the City's review of the rezoning and preliminary plat.

5. The Applicant shall submit the final plat to the City within ninety (90) days of the City Council approval of the Preliminary Plat.

Kaltsas said there are changes in how the properties connect. Outlot D has ponding so that is not usable. The outlots would not be managed by a homeowners association but rather individually owned and maintained. Outlot A has forest and wetlands so may be able to have a conservation easement. Kaltsas noted this property is very valuable to the watershed.

Johnson asked if there was any field tile. Hamilton said there was not but always a swale. Kaltsas noted that the last issue discussed with the Planning Commission was the extension of Hamilton Road. It was determined that it would be difficult to extend with the steep slopes and a cul-de-sac ultimately was recommended. Kaltsas said the preliminary plan shows the zoning going from Agriculture to Rural Residential. Johnson noted these are usually approved contingent on the watershed's plan and wondered if that would be received fairly soon. Kaltsas said the preliminary plat could be approved and then more details finalized after that as long as there was a good understanding of what those would look like. Betts noted it was not set in stone but rather minor changes could be made after the preliminary approved. Kaltsas said it is set in stone as long as the final plat is very similar. Vose stated it is common to have a bunch of conditions for the preliminary plat to be met before the final plat without changing the plat.

Johnson noted there are drainage issues and wondered where the flow of water will go. Kaltsas said they are still working on drainage. Betts said it looked good and was plotted well. Kaltsas noted any outlots are not sub-dividable. He said b, C, and D are wet but A is the larger parcel and forested. Johnson noted it may be better to wait on the ordinance until comfortable with the staff's execution of the Planning Commission's recommendations.

Motion by Spencer, second by Betts to table ORDINANCE 2018-01 – Considering rezoning of the property from AG-Agriculture to RR-Rural Residential; and Consideration of a Preliminary Plat to allow the subdivision for the property located at 385 County Road 110 N. (PID No. 35-118-24-41-0001) in Independence, MN Ayes: Johnson, Betts, Grotting and Spencer. Recused: McCoy. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Motion by Grotting, second by Johnson to direct staff to coordinate the Planning Commissions recommendations for ORDINANCE 2018-01 – Considering rezoning of the property from AG-Agriculture to RR-Rural Residential; and Consideration of a Preliminary Plat to allow the subdivision for the property located at 385 County Road 110 N. (PID No. 35-118-24-41-0001) in Independence, MN Ayes: Johnson, Betts, Grotting and Spencer. Recused: McCoy. Nays: None. Absent: None. MOTION DECLARED CARRIED.

10. Open/Misc.

11. Adjourn.

Motion by Spencer, second by Betts to adjourn at 8:38 p.m. Ayes: Johnson, Betts, Grotting and Spencer. Recused: McCoy. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary
