

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JULY 10, 2018 –6:30 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 6:30 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 and McCoy

ABSENT: Steve Grotting

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

VISITORS: Kaci Fisher, Mike Kuka, Bonnie Kuka, Lynne Fisher, Anita Volkenant, Jay Fischer, Lynda Franklin, Don Hamilton, Marilyn Hamilton, Bobbi McCoy

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 June 19, 2018 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18078-18128. Check Number 18105 was voided.
- c. Approve the Release of the Security Associated with the Public Improvements in the Serenity Hills Subdivision.
- d. Approval of the Large Assembly Permit and Associated Minnesota Lawful Gambling Exempt Permit for Twin Cities Polo Club Annual Polo Classic Event to be Held August 3-5, 2018.
- e. Approval of the Large Assembly Permit for the Running of the Bays Race Event to be Held September 8, 2018.
- f. Approval of Election Judges for the November 2018 Elections.

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

- City Council Workshop
- Wright County Commissioner Meeting
- Judge at the Lake Sarah Boat Parade

Grotting attended the following meetings:

McCoy attended the following meetings:

- Planning Commission Meeting
- City Council Workshop
- Police versus Fire Department Softball Game
- Delano Fourth of July Parade

Betts attended the following meetings:

- League of Minnesota Cities Convention
- City Council Workshop
- Police versus Fire Department Softball Game
- Fire Commission Meeting

Johnson attended the following meetings:

- Planning Commission Meeting
- League of Minnesota Cities Conference
- City Council Workshop
- National League of Cities Planning Meetings with Staff
- Fire Commission Meeting

Horner attended the following meetings:

- Planning Commission Meeting
- City Council Workshop

Kaltsas attended the following meetings:

7. Director Gary Kroells, West Hennepin Public Safety - Activity Report for the Months of April and May 2018.

for a complete report see the City Council packet

Kroells stated WHPS handled a year to date total of 2,346 incident complaints. 1,352 in Independence and 851 in Maple Plain. Kroells also talked about the backups occurring on Highway 12 due to the detour of Highway 55 through Highway 12. He is going to work with MnDOT on another possible workaround as the congestion is quite bad through the commute hours.

8. Annual Opportunity for Public to Comment on MS4 Permit.

Kaci Fisher with Hakanson Anderson stated that this is an opportunity to comment on the MS4 Stormwater Permit and no official public hearing is required.

What is an MS4?

- A municipal separate storm sewer system is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, etc.) that is also:
 - owned or operated by a public entity (which can include cities, townships, counties, military bases, hospitals, prison complexes, highway departments, universities, etc.) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage districts, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
 - designed or used for collecting or conveying stormwater;
 - which is not a combined sewer; and
 - which is not part of a publicly owned treatment works.

Fisher said the MS4 General Permit is designed to reduce the amount of sediment and pollution that enters surface and ground water from storm sewer systems to the maximum extent practicable. Stormwater discharges associated with MS4s are subject to regulation under the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS). Through the MS4 General Permit, the system owner or operator is required to develop a stormwater pollution prevention program (SWPPP) that incorporates best management practices (BMPs) applicable to their MS4.

Motion by Spencer, second by Betts to thank Kaci Fisher for her work and to close the public comments. Ayes: Johnson, Betts McCoy and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

9. Consideration of Approval of the Cooperative Water Resources Agreement Relating to the Baker Park Ravin Project.
 - a. Cooperative Water Resources Agreement – Baker Park

Vose said the City was presented with the details of a multi-agency ravine stabilization project earlier this year that would help to improve water quality in Lake Independence. Independence, Medina, the Park District, and the Commission recognize that intergovernmental cooperation in achieving the phosphorus watershed load reductions called for in the Lake Independence TMDL to improve water quality in Lake Independence is in the mutual interest of the Parties, the citizens of Hennepin County, and the metropolitan area. The City would enter into the Agreement to facilitate the improvement of Lake Independence water quality through the implementation of the Baker Campground Ravine Stabilization project. The City of independence would be responsible for up to \$10,500 of the total project cost which represents approximately 23% of the total. The total cost of the project is equally split between the four aforementioned entities, with the remaining balance coming from grant funds. The City's share of the funding would come from the Pioneer Sarah Creek budget annually levied by the City.

Council is being asked to consider approving the Cooperative Agreement and authorize the Mayor and Administrator to execute the agreement on behalf of the City. *for the full agreement refer to the City Council packet*

Motion by Spencer, second by McCoy to approve the Cooperative Water Resources Agreement Relating to the Baker Park Ravin Project. Ayes: Johnson, Betts McCoy and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

10. Mike Kuka (Applicant/Owner) requests that the City consider the following actions for the properties located at 4405 County Road 92 N, Independence, MN (PID No.s 04-118-24-24-0002 and 04-118-24-31-0001):

- a. **RESOLUTION 18-0710-01** – Considering approval of a conditional use permit amendment to allow additional horses to be boarded in association with the existing commercial riding stable on the subject property.

Vose stated the City approved a conditional use permit (CUP) for the subject properties in 2016 to allow a commercial riding stable. The conditional use permit granted allowed a total of 25 horses to be boarded on the property. The applicant is seeking a conditional use permit amendment to allow an additional 35 horses to be boarded on the properties (total of 60 horses). A commercial riding stable is further defined in the City's ordinance as follows: *Subd. 69. "Riding stable, commercial." Stables, barns, and facilities for the keeping and riding of horses, both indoor and outdoor, operated as a livery or boarding stable, or other commercial recreational use.* The commercial riding stable currently permitted allows the boarding of horses as well as hosting a limited number of additional equestrian related events within the facility.

The applicant is requesting permission to board up to 60 horses on the subject properties. The two properties are comprised of a total of approximately 97 acres. The City allows one (1) animal unit for the first 2 acres and one (1) additional animal unit for each additional acre. Based on gross acreage, the property would allow a total of 96 animal units (1 horse equals one animal unit) on the properties. The City has recently reviewed commercial boarding stables with an additional filter which looks at the total upland acreage (versus gross acreage) of a property when determining animal unit count. Of the approximately 97 acres, staff has calculated that approximately 19 acres is wetland/drainage way and an additional 2 acres is covered with existing buildings and or parking areas. Based on this calculation, there are approximately 76 upland acres which would allow a total of 75 animal units.

There are many recommended acreage standards for the management of horses on a given property. The City has historically required that a commercial stable maintain 1/3 acre of useable pasture area per animal unit. To accommodate the 60 total horses, the applicant would need to maintain 20 acres of pasture area and 61 gross acres. The applicant has provided the City with a plan that indicates the location of the proposed boarding pastures. The applicant is not proposing to pasture all of the horses boarded on this property in the pasture areas. The 25 horses that were permitted with the initial CUP will continue to be stabled in the existing barn and allowed to pasture within the existing pastures located to the north of the existing indoor riding arena.

Ultimately, proper pasture and manure management is critical for maintaining and sustaining the land and managing the potential impacts of manure runoff. Utilizing the proper pasture and manure management plans, it is possible that this property could accommodate the number of additional animal units being requested by the applicant. The applicant is currently managing manure by spreading it on the subject property. The City has recently required similar facilities to regularly test soil conditions to ensure that manure can be spread on the subject property. The condition considered on past approvals is as follows:

1. The applicant shall be required to test the soil in the existing pasture areas prior to land application of the manure. If the soil has a high in-situ phosphorous concentration which exceeds the phosphorous uptake from the vegetation, the applicant would not be permitted to land apply the manure until such

time as the phosphorus levels decrease. The number and location of the soil samples will be determined by the City.

2. There is an existing wetland located on the property. The applicant is proposing to fence the pasture areas so that there is no access to the wetland from the pasture areas. The City will want to consider requiring a minimum vegetative buffer distance from all wetlands. Staff recommends that the City require a 50-foot vegetative buffer be maintained around the existing wetland and drainage areas. This does not appear to be an issue based on the proposed pastures but would memorialize the buffer requirement to ensure changes in the pasture areas will not compromise water quality.

3. All other aspects and conditions of the existing conditional use permit would remain. The applicant has operated the facility for the past two years and the City has not identified or been made aware of any issues relating to the existing operation. The applicant has worked with the City to mitigate impacts of the commercial stable on the surrounding properties. The geographic location of this facility aids in its ability to mitigate potential impacts. The property has been developed to accommodate a significant amount of traffic due to the regular use of the indoor riding area. Commercial riding stables are permitted as conditional uses in the Agriculture zoning district. In order for the City to consider approval of an amendment to the conditional use permit request it must find that it meets the criteria established within the zoning ordinance. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

- 1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
- 2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.*
- 4. Sufficient off-street parking and loading space will be provided to serve the proposed use.*
- 5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.*
- 6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.*
- 7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.*
- 8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.*
- 9. The proposed use will not stimulate growth incompatible with prevailing density standards.*

The subject property is located directly south of the Shrine Horse Facility which operates as a commercial riding stable. The relative size of the property, its access to County Road 92 and geographic seclusion help to mitigate potential issues related to operation of the proposed facility. The City is not aware of any additional complaints or concerns relating to the operation of the commercial riding stable on this property.

The proposed conditional use permit amendment to allow additional horses is generally consistent with the Agricultural nature of the property and surrounding land uses. The applicant believes that resulting traffic, noise, and other measurable impacts should not be incrementally amplified as a result of the increased number of horses due to the existing and historic use of the property. The City will need to determine if the requested conditional use permit amendment meets the criteria for granting a conditional use permit. Planning Commissioners discussed the requested CUP Amendment and asked questions of staff and the applicants. Commissioners asked if the CUP would no longer be conforming if one of the properties was sold. Staff noted that the CUP would be applied to both properties. Should the property be sold in the future, the CUP would no longer meet the conditions or would need to be amended. Commissioners asked about the Ag Preserve status of the property. It was noted that the property is currently in Ag Preserve. Commissioners discussed the origin of the 50-foot buffer requirement and it was noted that this represents the largest possible setback from wetland boundaries and was therefore determined to be appropriate for this application. Commissioners asked about spreading manure on-site versus hauling it off-site. Staff noted that the soil would be tested based on the same standard applied to the Shrine Horse farm to the north and then a determination would be made relating to the suitability of spreading the manure on-site or hauling it off-site. Commissioners recommended adding an additional sentence to the resolution that would clarify this point. Commissioners ultimately recommended approval of the CUP amendment to the City Council.

The Planning Commission recommended approval of the request for a conditional use permit amendment to the City Council. Should the City Council approve the requested action, the following findings and conditions should be considered:

1. The proposed Conditional Use Permit Amendment request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. All conditions stated in **RESOLUTION No. 16-1213-02** shall remain in force with the exception of condition (f) stipulating the number of horses.
4. Approval of the conditional use permit amendment shall be subject to the following additional conditions being added to the conditional use permit:
 - a) No more than 60 horses shall be boarded on the property.
 - b) The applicant shall be required to test the soil in the existing pasture areas prior to land application of the manure. If the soil has a high in-situ phosphorous concentration which exceeds the phosphorous uptake from the vegetation, the applicant would not be permitted to land apply the manure until such time as the phosphorus levels decrease to a level found to be acceptable by the City. The number and location of the soil samples will be determined by the City. The City shall cause for the applicant to review the soil conditions annually and prior to any manure application to the property.
 - b) The applicant shall maintain a minimum 50-foot vegetative buffer between the existing wetland and any pasture areas. Animals shall not be permitted in the buffer areas.
 - c) The applicant shall manage the fenced pastures areas so that a minimum of 70 percent vegetative cover is maintained on the during the growing season.

5. The applicant shall pay for all costs associate with the City’s review and processing of the conditional use permit amendment and recording of the resolution.
6. The Resolution shall be recorded against the property.

Johnson asked how 70% vegetative cover is determined and Kaltsas said it is by transecting an area and determining if conditions were appropriate from that sample. Betts asked if the applicant was ready for more horses. Kuka said the fences would have to be put in and explained this was mostly for their daughters horses which would be boarded on and off at different times.

Motion by Spencer, second by McCoy to approve RESOLUTION 18-0710-01- a conditional use permit amendment to allow additional horses to be boarded in association with the existing commercial riding stable on for the properties located at 4405 County Road 92 N, Independence, MN (PID No.s 04-118-24-24-0002 and 04-118-24-31-0001). Ayes: Johnson, Betts McCoy and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

11. Fish and Son Properties (Applicant/Owner) request that the City consider the following action for the property located at 2020 County Road 90 (PID No. 23-118-24-23-0002) in Independence, MN:
 - a. **ORDINANCE 2018-02** - Rezoning the subject property from AG-Agriculture to CLI-Commercial Light Industrial.
 - b. **RESOLUTION 18-0710-03** – Considering approval of site plan review for the proposed commercial use of the property and a conditional use permit to allow boat service and repair on the subject property.

The applicants recently purchased the subject property. The existing home is not occupied by the owners and is rented out as a residence. There is an existing conditional use permit on the property that was granted in 1972 and allowed a commercial trucking business to exist on the property. While the existing CUP allows the use of the property for storing and maintaining equipment for a trucking and construction business inside the existing buildings, it does not allow the use of the property for any other purposes. The applicants would like to use the property for uses permitted in the Commercial Light Industrial – CLI zoning district, including the storage and potentially servicing of boats. There are several factors to consider relating to rezoning a property. The City’s ordinance has established criteria for consideration in granting a zoning amendment.

520.07. Criteria on zoning amendments. Subdivision 1. The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments.

Subd. 2. Zoning amendments must conform to the Independence city comprehensive plan.

Subd. 3. The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment.

Subd. 4. The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts.

Subd. 5. The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned.

Subd. 6. The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

As it relates to meeting the criteria for granting a zoning map amendment, the following information can be considered:

Subd. 2. The proposed rezoning is consistent with the comprehensive plan.

Subd. 4. The property has historically been used as a commercial property. The neighboring properties to the north and south are currently used for commercial purposes. There is a substantial wetland that separates the existing property from the residential properties to the north.

Subd. 5. The property is currently zoned agriculture. The use of property as an agriculture operation is somewhat restricted due to the limited amount of tillable acreage. The city has identified that this property will be better suited for commercial activities. Subd. 6. The City will need to determine that the rezoning of the property has public merit that reach beyond the interests of the property owner.

The applicants have indicated that they will expand the use of the property if it is rezoned. All future uses will be subject to meeting all applicable standards set forth in the City's zoning ordinance. All new construction or expansion of use will require the applicant to submit a site plan review application. The application will be reviewed by the City and may be forwarded to the Planning Commission and City Council depending on the scope and compliance of the proposed improvements. There are several other factors that should be noted and considered by the City. The minimum lot size in the CLI district is 2.5 acres. The subject property is a little over 5 acres with approximately 2.8 acres of upland. The minimum lot frontage for properties in the CLI district is 200 LF. The subject property has approximately 222 LF of frontage. There is an existing house on the property. Residential is not a permitted use in the CLI district. The use of the property for residential and the existing house will be "grandfathered in" and become a permitted nonconforming use after the rezoning. The use and structure will be subject to all criteria relating to non-conforming uses. The septic system that serves this home was found to be non-compliant and is in the process of being replaced. The applicant has also been working with the City to provide sewer service to the larger existing accessory structure.

The rezoning from A-Agriculture to CLI-Commercial-Light Industrial does not appear to impact the subject property as it relates to the current lot standards in the City's zoning ordinance. The proposed rezoning does not appear to create a property that is inconsistent with the surrounding properties. Given the historical use of the property and the existing physical separation between this property and any surrounding residential properties, there does not appear to be any substantial adverse effects on the surrounding or subject properties in the after condition as a result of this rezoning. The rezoning of this property would be subject to the City revoking the existing Conditional Use Permit.

SITE PLAN:

A change in use within the CLI zoning district typically triggers site plan review by the City. The applicant is not proposing to expand any of the existing buildings at this time. The applicant is planning on using the property and buildings for indoor and outdoor boat storage and possibly boat service and repair. Indoor boat storage would be permitted on the property if it meets all applicable requirements. Outdoor boat storage is permitted if properly screened in accordance with applicable standards provided in the zoning ordinance. Boat repair and service is a conditional use within the CLI zoning district as it is similar to automobile service and repair.

Subd. 8. Storage and display. All storage, display, service, repair, or processing must be conducted wholly within an enclosed building or behind an opaque fence or wall not less than six feet high, provided that materials stored shall not exceed the height of the fence. Outdoor storage is permitted only in conjunction with a principal building on the same property.

The applicant has prepared a proposed site plan which identifies the location of the existing buildings, driveway, existing house and proposed outdoor storage area. The plan further depicts the location of a proposed opaque fence, landscaping and gate. The applicant has worked with the City to define the outdoor storage areas, as well as to provide screening around the perimeter of the storage areas. The City has reviewed the plans as they relate to the site plan review standards provided in the zoning ordinance. In addition, the City has criteria for granting a conditional use permit. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

As it relates to both site plan review and the conditional use permit, the following items should be further considered by the City:

1. The applicant is not proposing to expand or renovate the existing buildings on the property. The existing CUP allows for the commercial use of the larger building for a trucking business.
2. The proposed use of indoor and outdoor boat storage is permitted within the CLI zoning district.
3. The requested CUP for boat service and repair is consistent with other boat storage facilities in the CLI zoning district. The City will require that the portion of the building used for boat service and repair have a concrete floor with requisite waste traps as required by the building code. In addition, the boat service and repair area within the building may need to be separated from other portions of the building in accordance with

applicable building codes.

a. Staff has reviewed the building codes with the applicant and noted that all uses in the building will need to be reviewed by an architect and given a prescribed occupancy rating. Based on that rating, additional improvements may be required.

b. Boat service and repair will need to comply with

4. There is no change proposed to the existing outdoor storage and parking areas. The applicant has already cleaned up a portion of rear storage area remaining from the previous owner.
5. The applicant has provided the City with a structural analysis of the buildings verifying that they can meet current snow loads. This is a basic requirement for being able to use the buildings for commercial uses. No boats will be permitted and or displayed for public sale on any portion of the property.
6. No outdoor storage or parking associated with the commercial use of the property will be permitted outside of the fenced and screened storage areas.
7. Any additional commercial uses will be subject to all applicable ordinance requirements relating to CLI zoned property.
8. The applicant is proposing to screen the street facing side of the property using a combination of fencing and landscaping. The City generally requires screening to be placed at a spacing of 1 tree per 40 linear feet. The applicant is showing 6 evergreen trees which would meet this requirement. The minimum tree size is 6' ht.
9. Fencing and screening will be required to be installed prior to any outdoor storage being permitted on the property.

The City staff has met with the applicant on several occasions to discuss the proposed rezoning, site plan review and conditional use permit for boat service and repair. The rezoning of this property is consistent with the comprehensive plan. The existing residential home on the property will become a legal non-conforming structure once rezoned. This condition previously existed on the property to the north. The residential home was eventually razed. This property has been used as a commercial property since the early 1970's. The use of the property for boat storage is permitted in the CLI zoning district. The applicant is proposing to screen the outdoor storage which will likely be perceived as an improvement to the existing and historic use of the property. Boat service and repair within the existing building is generally consistent with other boat storage and service facilities in the City. In addition, the property to the south has an automobile service and repair business. The City's other design, paving and landscaping standards would apply to new construction or expansion of the existing buildings. The City will need to find that the criteria for granting a conditional use permit have been met by the applicant.

Neighbor Comments:

The City has received a written comment from a commercial property owner located at CSAH 90 and Highway 12. The concern relates to the City requiring the same standards for this building as those imposed on their building relating to the servicing of boats. The City has noted that concrete floors and waste traps will be required for those portions of the buildings where boat service and repair would occur.

Planning Commissioners discussed the application and asked questions of staff and the applicants. Commissioners asked for clarification relating to the rezoning and comprehensive plan. It was noted that this is the only property remaining north of Highway 12 and east of CSAH 90 that has not been rezoned. Commissioners asked about the surface requirements and existing conditions of the outdoor storage area as shown on the site plan. Staff stated that the area to be used for outdoor storage is currently surfaced with class 5 and that the City would include a condition requiring all outdoor storage areas to be surfaced with a minimum of class 5 base. Commissioners asked for more information relating to the requirements for a service bay within the existing building. It was noted that any portion of the building used for servicing boats would need to meet all applicable building code requirements, have a concrete floor and flammable waste trap. Commissioners discussed the screening of the outdoor storage area. Commissioners noted that the eastern portion of the site can be seen from the residential properties to the northeast during the winter months. Commissioners asked about the height of the fence and the requirements for screening. Planning Commissioners recommended that the City work with the property owners to add some additional evergreen landscaping to the northeast property line. Ultimately Planning Commissioners recommended approval of the request for rezoning, site plan review and a conditional use permit to allow boat servicing.

The Planning Commission recommended approval to the City Council of the request for a zoning map amendment, site plan review and a conditional use permit to allow boat service and repair. Should the City Council approve the application, the following findings and conditions should be included.

1. The proposed rezoning, site plan review and conditional use permit meet all applicable criteria stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. The proposed land use and zoning will be in conformance with the City of Independence Comprehensive Plan and the City of Independence Zoning Ordinance.
3. The Conditional Use Permit shall have the following conditions:
 - a) There can be no change to the existing outdoor storage and parking area limits or surfacing outside of routine maintenance.
 - b) No boats will be permitted and or displayed for public sale on any portion of the property.
 - c) No outdoor storage or parking associated with the commercial use of the property will be permitted outside of the fenced and screened storage areas.
 - d) No boat servicing shall occur outside of the designated and approved service bays wholly within the existing building. Any portion of the building used for servicing boats will need to meet all applicable building code requirements, make building permit application and receive a certificate of occupancy verifying all applicable building codes have been satisfied, have a concrete floor and flammable waste trap.
 - e) Any additional commercial uses will be subject to all applicable ordinance requirements relating to CLI zoned property.
 - f) The applicant shall be required to install the proposed landscape screening in accordance with the approved landscape plan attached hereto as **EXHIBIT B**. The City requires screening to be placed at a spacing of 1 tree per 40 linear feet. The minimum tree size is 6' ht. or 2" cal.

g) Fencing and screening will be required to be installed in accordance with the proposed site plan prior to any outdoor storage being permitted on the property (see attached Exhibit B).

4. 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.
5. The City will revoke the existing Conditional Use Permits pertaining to the subject property.
6. The Applicant shall pay for all costs associated with the City's review of the requested actions.
7. **RESOLUTION 18-0710-03** shall be recorded against the property.

Fisher stated the landscaper told them evergreens would not grow in the soil where they wanted to have them planted. Kaltsas stated the Council could state whether they would need to alter the soil by putting in berms to make it viable for the evergreens. Betts asked if the Fieldstone neighborhood would be able to see the boats. McCoy noted the Fieldstone neighborhood sits higher. Johnson stated it defeats the purpose to trim trees that are on the property already to plant new ones. Kaltsas said summer has 100% coverage currently with the trees currently on the property. McCoy said boxelders could come down in a strong wind and then it is a process to replant. Spencer said it is important to keep the requirements here consistent with other boat storage businesses. Fisher said they would replant trees if needed.

Motion by Betts, second by McCoy to approve ORDINANCE 2018-02 - Rezoning from AG-Agriculture to CLI- Commercial Light Industrial the property at 2020 County Road 90 (PID No. 23-118-24-23-0002) in Independence, MN. Ayes: Johnson, Betts McCoy and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

Motion by Spencer, second by Betts to approve RESOLUTION 18-0710-03 –for commercial use of the property and a conditional use permit to allow boat service and repair with modifications noted on 4. G. for the property at 2020 County Road 90 (PID No. 23-118-24-23-0002) in Independence, MN. Ayes: Johnson, Betts McCoy and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

12. Hamilton Bros. (Applicant/Owner) requests that the City consider the following action for the property located at 1050 County Road 83 (PID No. 35-118-24-41-0001) in Independence, MN: Councilmember McCoy recused himself on this issue.
 - a. **RESOLUTION 18-0710-04** – Considering approval of a final plat for a sixteen-lot residential subdivision to allow the subdivision of the property.
 - b. **ORDINANCE 2018-03** – Considering approval of the Hamilton Century Farm Storm Sewer Improvement Tax District.

Kaltsas said the City approved the rezoning and preliminary plat for the proposed subdivision in April, 2018. The applicant is now asking the City to consider final plat for the 17-lot subdivision of the subject property. The applicant has finalized the wetland delineation as well as prepared final storm water, grading, street and utility plans for the proposed subdivision. The final plat is consistent with the preliminary plat and is considered a formality to ensure that all proper securities and agreements are completed. Since the approval of the preliminary plat, the following items should be noted as a part of the City's consideration of the application:

1. The applicant revised the plan based on the Planning Commission's recommendation to remove the road connection to the southern property. Hamilton Hills road has been shortened to improve grading and provide a better storm water solution along the southern property line.
2. The applicant has finalized the wetland delineation and confirmed that there was not a delineated wetland across Lots 5 and 6.
3. The City Council approved the preliminary plat based on the notion that Hamilton Bros., Inc. will retain ownership of the Outlots.
4. The applicant worked with Hennepin County pertaining to the access into this property. Hennepin County has now approved the application for access to the County Road. The County is going to require a south bound right turn lane into the development no north bound left turn lane is warranted at this time and will not be required as a part of this development.
5. The City has completed a full review of the proposed final plat and has been working with the applicant to make all necessary corrections. The City has prepared a development agreement for approval by the City Council.
6. Storm water management has been reviewed by the City and several revisions have been asked of the applicant. Minnehaha Creek Watershed District has reviewed the Final Plat application and is still working with the applicant to resolve several conditions. The City will incorporate any outstanding issues into the final plat conditions of approval.
7. In addition to requiring the long-term maintenance of the storm water conveyance system by the homeowner's association (HOA), the City will establish a storm sewer improvement tax district for this development. The City is permitted to establish a storm sewer improvement tax district to acquire, construct, reconstruct, extend, maintain and otherwise improve storm sewer systems and related facilities within the District and to levy a tax on all taxable property within the District to finance such activities. The district boundary would directly correspond with the extents of this development and would provide the City with the ability to maintain the system in the future if the HOA is no longer solvent. The City can establish this district by ordinance following a public hearing on the matter.

The ordinance has been prepared for formal adoption following the requisite public hearing to be held at the Council Meeting. Staff is seeking a recommendation from the Planning Commission pertaining to the request for Final Plat approval. Should the Planning Commission recommend approval of the Final Plat, the following findings and conditions should be included:

1. The proposed Final Plat meets 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 Final 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 letters from Hakanson Anderson Associates, dated March 6, 2018 and June 15, 2018.
- c. The Applicant shall address all comments and applicable requirements made in the City Engineer's review letters dated, March 8 and June 15, 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.
- h. The Applicant shall consent to the establishment of the storm sewer improvement tax district.
- i. The Applicant shall enter into a storm water maintenance agreement pertaining to the required storm water ponds to be located on the property.
- j. The Applicant shall provide the City with copies of the HOA agreement and covenants.
- l. 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 Final Plat.
5. The Applicant shall record the Final Plat within ninety (90) days of the City Council approval of the Final Plat.

Betts asked why the park dedication fee was different. Kaltsas said the first one was based on a preliminary plan and the exact sizes were not finalized. He noted this is the 3rd revision.

Kaltsas explained the storm water taxing district and why this is now a condition in developments. Vose said it gives the City the authority to impose tax if the City ever had to take the maintenance of the sewer/storm facilities in the future. Kaltsas asked Vose to elaborate on the latitude within acquiring this property to go out and build improvements. Vose said adopting this ordinance does mean that the City may "take" this property without a formal acquisition process. The ordinance does not in itself mean the City can go out and take the property for free. McCoy said he has concerns with the wording of the Ordinance specifically a problem with "acquire". Vose said the wording could be changed to acquire by eminent domain or deed. It could specifically state that this Ordinance does not give the City the right to take the

property. Betts asked if there would be inspections to make sure the ponds are being properly maintained. Kaltsas said ponds are inspected according to state statute. Vose noted the parameters of the development agreement and contract for maintenance. He said if they fail to maintain the system according to the formal recording system set forth than the City has to give written notice of the breach of contract. Only then can the City step in and start to do maintenance. Betts noted taxing doesn't occur until a breach occurs. Kaltsas said Council could delay action on the Ordinance and Resolution by just approving the final plat tonight. Betts said it is important the language is clear. Vose said the changes could be made and brought to the meeting next week.

Motion by Johnson, second by Spencer to move RESOLUTION 18-0710-04 – Considering approval of a final plat for a sixteen-lot residential subdivision to allow the subdivision of 1050 County Road 83 (PID No. 35-118-24-41-0001) in Independence, MN . Ayes: Johnson, Betts and Spencer. Nays: None. Absent: Grotting. Recuse: McCoy. MOTION DECLARED CARRIED.

Motion by Johnson, second by Spencer to table ORDINANCE 2018-03 – Considering approval of the Hamilton Century Farm Storm Sewer Improvement Tax District at the property located at 1050 County Road 83 (PID No. 35-118-24-41-0001) in Independence, MN . Ayes: Johnson, Betts and Spencer. Nays: None. Absent: Grotting. Recuse: McCoy. MOTION DECLARED CARRIED.

13. Open/Misc.

14. Adjourn.

Motion by Betts, second by Spencer to adjourn at 8:50 p.m. Ayes: Johnson, McCoy, Betts and Spencer. Nays: None. Absent: Grotting. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary
