

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JANUARY 16 – 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. OATH OF REAPPOINTED COMMISSIONERS

Thompson and Phillips were sworn in by Horner for reappointment as Planning Commissioners.

3. ELECTION OF CHAIR AND VICE CHAIR

Motion by Gardner, to approve the same Chair and Vice Chair appointments as in 2017 second by Palmquist. Ayes: Phillips, Gardner, Palmquist and Thompson. Nays: None. Absent: Dumas. Abstain. None. Motion Approved.

4. ROLL CALL

PRESENT: Chair Phillips, Commissioners Gardner, Thompson and Palmquist
STAFF: City Administrative Assistant Horner, City Administrator Kaltsas
ABSENT: Commissioner Dumas
VISITORS: Lynda Franklin

5. APPROVAL OF MINUTES:

- a. November 21, 2017 Planning Commission Meeting
- b. December 5, 2017 City Council Meeting Minutes (For Information Only)

Motion by Gardner, to approve the November 21, 2017 planning minutes, second by Thompson. Ayes: Phillips, Gardner, Palmquist and Thompson. Nays: None. Absent: Dumas. Abstain. None. Motion Approved.

4. **PUBLIC HEARING:** William and Sara Liska (Applicants/Owner) request that the City consider the following action for the property located at 6926 Pagenkopf Road (PID No. 15-118-24-31-0001) in Independence, MN:

- a. A variance to allow a reduced front yard setback for the construction of a new home.

Kaltsas said the subject property is located at 6926 Pagenkopf Road. The house is on the north side of Pagenkopf Road and east of Valley Road. The property is comprised of 4.78 acres. The property has a mix of upland with mature trees and lower wetland to the north.

The applicant currently lives in the existing home on the subject property. The applicant contacted the City several months ago pertaining to the possibility of razing the existing home and constructing a new home on the subject property. The applicant would like to locate the

new home in the same general location of the existing house. The existing home does not meet the applicable front yard setback from Pagenkopf Road. The applicant is proposing to maintain a similar front yard setback to the existing home. There are several existing conditions of the property that potentially restrict the ability to locate the new home on the property in a manner that meets the requisite front yard setback. There are three existing detached accessory buildings located on the property that are going to remain. A new septic field was recently installed on the property and there are a handful of existing mature trees surrounding the existing home.

The existing conditions of the property and proximity of the existing buildings and septic field, limit the available locations for a new home to be constructed on the property. The septic system was recently installed is fully compliant and will allow the construction of the proposed home. The request made to the City includes the following proposed setback from the front yards. Kaltsas said there are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

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

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

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

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

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

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

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Agriculture District. The property is wooded and positioned in a way that would reduce the impact of the proposed setback reduction.
- b. The character of the surrounding area is rural residential/agriculture.
- c. The proposed variance to allow a new residential structure on this property is in keeping with the City's comprehensive plan.
- d. The applicant is proposing to locate the new home in the same general location of the existing home and no closer to the Pagenkopf Road.
- e. The existing buildings will remain on the property and limit the ability of a new home to be "pushed back" on the subject property.
- f. There are several large existing mature trees that will be saved on the property. The location of these trees and the proximity of the trees to the existing buildings could limit the potential location of a new home.
- g. The homes on either side of this property meet the requisite front yard setback. Due to the distance between the homes and the existing vegetation, there does not appear to be a "relationship" between the home on this property and the surrounding properties.
- h. The proposed home will meet all other requisite setbacks for this property.
- i. The Planning Commission will need to determine if the requested variances meet the requirements for granting a variance.

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

1. The proposed Variance meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The requested variances will allow the construction of the new home in accordance with the approved plans only (plans will become an exhibit of the resolution). The variances shall be as follows:
 - a. Front Yard: 26.9 feet
3. The Applicant shall pay for all costs associated with the City's review of the requested variance.
4. Any future improvements or expansion of the new home will need to be in compliance with all applicable standards relating to the Agriculture zoning district.

Thompson asked about upland acreage. Kaltsas said there was about two acres. Thompson asked if there was a city process as far as updating the septic field. Kaltsas said there was a review process and this was a permitted septic system.

Gardner asked about setbacks. Kaltsas stated the home was built prior to the current setbacks in place. Phillips asked if other homes on Pagenkopf or nearby had the same characteristics. Kaltsas said in his analysis all of the other applicable homes they do comply and none had this specific condition.

Liska noted the original part of his home was built in 1928 and the surrounding homes had been built in the 1970's.

Public Hearing Open

Motion by Gardner to close the Public Hearing, second by Thompson.

Public Hearing Closed

Gardner noted there were some huge trees that would have to be cut down. Palmquist said he was in support of the variance and sees it as no harm no foul as far as no life safety issues, no curve, etc. Thompson agreed with Palmquist.

Motion by Gardner, to approve a variance to allow a reduced front yard setback for the construction of a new home for the property located at 6926 Pagenkopf Road (PID No. 15-118-24-31-0001) in Independence, MN:., second by Palmquist. Ayes: Gardner, Palmquist, Thompson and Phillips. Nays: None. Absent: Dumas. Abstain: None. Motion approved.

5. **PUBLIC HEARING:** Thomas and Kristen Blanck (Applicant) and Reed Palo Representative of Owner (Owner) request that the City consider the following action for the properties located at 5010 S. Lakeshore Dr. and 4986 S. Lakeshore Dr. (PID No.s 24-118-24-12-0006 and 24-118-24-12-0007) in Independence, MN:
 - a. A lot line rearrangement which would move the existing lot line between the two properties.

Kaltsas said the applicant is seeking a minor subdivision to allow a lot line rearrangement that would expand the 5010 property by approximately 1,914 SF and reduce the 4986 property by the same. The southern property line would move approximately 27 feet to the south and run parallel to the existing property. The additional acreage will provide the owner of the 5010 property the use of the area just to the south of the existing detached garage.

Both lots are considered legal non-conforming lots of record in the City. The minimum lot size for Shoreland properties is one acre. The existing detached garage on the 5010 property does not currently meet applicable setbacks in the before or after conditions. The after condition does provide additional setback for the detached garage. The 4986 property does not have any structures. The owner of the 4986 property also owns the property to the east with an existing home.

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 additional non-conformities.
2. The legal non-conforming status of both properties does not change in the before or after conditions.
3. The setbacks of the existing structures on the 5010 property do not become conforming in the after condition; however, they are arguably made better.
4. The existing home on the 5010 property is connected to City sewer.
5. The 4986 property can connect to the sewer if developed in the future.

Kaltsas said staff is seeking a recommendation from the Planning Commission for 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.

Phillips asked if there was any discussion around garage expansion. Kaltsas said it would likely be a variance if there were going to do that in the future. Thompson noted that regardless of where the lot line moved any items for building or changes would have to come before the Planning Commission anyway.

Public Hearing Open

Gardner asked the applicant why they were applying for the variance. Blanck stated it followed the natural flow of the lot and this would clean it up.

Motion by Thompson to close the Public Hearing, second by Gardner.

Public Hearing Closed

Motion by Palmquist, to approve a lot line rearrangement which would move the existing lot line between the two properties located at 5010 S. Lakeshore Dr. and 4986 S. Lakeshore Dr. (PID No.s 24-118-24-12-0006 and 24-118-24-12-0007) in Independence, MN: ,second by Gardner. Ayes: Gardner, Palmquist, Thompson and Phillips. Nays: None. Absent: Dumas. Abstain: None. Motion approved.

6. **PUBLIC HEARING:** Bellissimo Farms, LLC (Applicant/Owner) requests that the City consider the following action for the property located at 7220 Turner Road (PID No. 28-118-24-14-0006) in Independence, MN:

- a. A conditional use permit to allow a commercial riding stable on the subject property.

Kaltsas said the property is located on the north side of Turner Road between CSAH 90 and CSAH 92. The property is comprised of an existing home, barn and several additional detached accessory structures. The property has pasture areas, paddocks and a small wetland.

The applicant currently has an existing home with large barn and indoor riding arena on the subject property. The applicant uses the property as a private horse farm for their own horses. Several months ago, the applicant inquired about the possibility of boarding several horses on the property in addition to their own. The applicant is now asking the City to consider granting a conditional use permit for a commercial riding stable that would allow the boarding of 4 horses on the property in addition to the owner's horses. The horses to be boarded would be housed inside the existing stable located on the property.

The existing horse barn has seven (7) heated stalls. The applicant is proposing to have no more than 3 boarders with four collective horses boarded on the property at any time. Access to the property for the boarders would be permitted only between the hours of 9:00 am and 9:00 pm daily. There will continue to be deliveries for shavings and feed brought to the property on an as needed basis. Manure is currently contained on the property and spread as needed on the pasture areas. The applicant does not believe that the additional 4 horses would change the number or frequency of deliveries to the property or frequency or operation of the manure spreading.

In addition to the general boarding and riding of the horses on the property, the applicant is seeking approval to host up to four (4) riding clinics on the property. The clinics would be limited to no more than 10 participants and would provide additional education, safety and training to horse enthusiasts. The clinics would be held within the hours of operation of the facility.

Commercial riding stables are a conditional use in the Agriculture zoning district. The subject property is zoned Agriculture. The City generally allows 1 animal unit on the first two acres and then 1 additional animal unit for each additional acre of property. The subject property is comprised of approximately 21.46 acres. Of the 21 acres, approximately 19 acres is useable upland. Applying the City's typical standard, the site would accommodate 20 animals using the gross acreage or 18 animals using the upland acreage. The City has historically required that the applicants maintain a manure management plan, maintain all applicable permits relating to the management of manure on this property and maintain 1/3 acre of open space per animal unit. The 7 total horses proposed by the applicant would fit within the allowable number of animal units on the property.

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 City has visited the site and discussed the operation of the proposed commercial riding stable with the applicant. Given the location of the property off of Turner Road, the orientation of the buildings and their relationship to the surrounding properties, the relatively small number of horses in relation to the properties size and the existing use of the property as a private horse facility, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit to allow a commercial riding stable.

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit with the following findings and conditions:

1. The proposed conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will include the following conditions:
 - a) The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
 - b) Any new signage shall comply with all applicable standards of the City's ordinance.
 - c) No more than 7 horses shall be boarded on the property.
 - d) The applicant and facility must operate in compliance with manure management permit from MPCA. A copy of the valid MPCA permit is to be attached to and become a part of the conditional use permit.
 - e) A minimum of 1/3 acre or green covered open space, excluding wetland, is required within the horse facility, for each horse allowed by this permit. Grass shall be maintained and be the primary groundcover in all pasture areas.

- f) The hours of operation are: summer 9:00 am – 10:00 pm.
- g) Four (4) horse training clinics will be permitted per year and shall comply with the following provisions:
 - The horse clinics shall occur during the permitted hours of operation.
 - No more than 10 participants shall be permitted at each clinic.
- h) No renting of hack horses.
- i) No riding on adjacent private land unless authorized by owners.
- j) No parking on public roads.
- k) Utilize appropriate management practices to control flies and odor.
- l) No future expansion of the barn and riding arena shall be permitted on the property without the further review and approval by the City through the conditional use permit amendment process.

The applicant shall pay for all costs associated with the review and recording of the resolution.

Thompson asked and Kaltsas confirmed that the hours would be 9 a.m.- 9 p.m. year round not the summer hours noted. Thompson asked if there would have to be a manure management plan if it was a private operation. Kaltsas said they would still need a management plan. Gardner asked if there could be a caveat added as to where they could spread the manure. Kaltsas said it just had to be spread so there is no run-off into wetlands. Phillips asked where the last owners spread the manure. The applicant was not sure and Kaltsas said an exhibit could be included to dictate where to spread it going forward.

Thompson asked how the clinics would be set up. The applicant said it would be one-day clinics.

Public Hearing Open

Palmquist stated he was not overly concerned about the training clinics but it may make sense to put a limit on them such as 3 days per clinic. The applicant agreed.

Motion by Thompson to close the Public Hearing, second by Gardner.

Public Hearing Closed

Motion by Gardner, to approve a conditional use permit with the modifications to (f), (g) and (m) as noted to allow a commercial riding stable on the subject property of Bellissimo Farms, LLC (Applicant/Owner) located at 7220 Turner Road (PID No. 28-118-24-14-0006) in Independence, MN:, second by Palmquist. Ayes: Gardner, Palmquist, Thompson and Phillips. Nays: None. Absent: Dumas. Abstain: None. Motion approved.

4. Open/Misc.

Kaltsas stated the next Comprehensive Plan meeting would be held Tuesday, February 19, 2018 at 7:30 p.m.

5. Adjourn.

Motion by Gardner, second by Palmquist to adjourn at 8:15 p.m. Ayes: Phillips, Gardner, Palmquist and Thompson. Nays: None. Absent: Dumas. Abstain: None. Motion approved.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary

DRAFT