

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, FEBRUARY 20, 2018 – 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 Commissioner Gardner at 7:30 p.m.

2. OATH OF REAPPOINTED COMMISSIONERS

Horner swore in Thompson and Phillips 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: Commissioners Dumas, Gardner and Palmquist

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas

ABSENT: Chair Phillips, Commissioner Thompson

VISITORS: Bob Volkenant, Dudley Bartholow, Anita Volkenant, Craig Olson, Lynda Franklin, Craig Kupfer, Tammi Adams, Larry Johnson, Mary Johnson, Mark Johnson, Pat Johnson, Pat Maxwell, William Maxwell, Mark Perman, Kara Beck, Tyler Hess, Bertaloni Family, Scott Learned, Vicki and Dan Larson, Nate and Jessica Bjergan, John Conlin, Keith Becker, Sandra Lahtinen, Jeff Lahtinen, Sally Simpson, Bob Ibler, Onalee Lyndborg, Larry Lindberg, Brad Kieley, Bob Leonard, Leisa Fredrickson, Lora Bloomquist, Brady Wright, Tom and Jan Mote, Eleana Bann, Ben Severtson, Jeff Bann, John Geelan, Scott Larson, Brenda Cox, Barbara and Mohsen Zadeh, Dawn Mooney

5. APPROVAL OF MINUTES:

- a. January 16, 2018 Planning Commission Meeting
- b. February 5, 2018 City Council Meeting Minutes (For Information Only)

Motion will be at next month's meeting due to no quorum.

4. **PUBLIC HEARING:** Art Ahlstrom (Applicant/Owner) requests that the City consider the following action for the property located at 9065 US Highway 12 (PID No. 18-118-24-12-0016) in Independence, MN:

- a. A conditional use permit to allow commercial indoor storage on the subject property.
- b. A variance to allow commercial indoor storage to occur on the subject property:
 - i. Within newly constructed buildings.
 - ii. Not owner occupied.

This property historically had a conditional use permit to allow a nursery, trucking, excavation and dirt pulverizing operation. The original CUP was granted in 1993. In 2015, the City revoked the conditional use permit following a citywide review of existing permits that were no longer in use. It was recently discovered that the conditional use permit granted in 1993

was only placed on a contiguous property to the 9085 Highway 12 property and not on the subject property itself. When the City revoked the CUP in 2015, it revoked the CUP for the adjoining property located on Nelson Road. The City does not have any viable recourse to go back and “correct” this issue as it granted and revoked the CUP in accordance with applicable processes and statutes.

This leaves the property owner with a property that had historically operated as a commercial business under what was believed to be a valid conditional use permit. The City Council has discussed this issue with the applicant and recommended that the applicant seek consideration for a new conditional use permit for uses that are conditional in the Agriculture zoning district. The applicant is now seeking consideration from the City to allow commercial boat storage on the subject property. The applicant is also seeking a variance from several provisions of the ordinance pertaining to commercial indoor storage. The applicant would like the City to allow both outdoor and indoor storage within the existing buildings and on a predefined portion of the existing property. The applicant would additionally like the City to permit additional buildings to be permitted on the property and an exception to the requirement that the property be owner occupied. The City’s zoning ordinance currently permits commercial indoor storage on properties zoned Agriculture as a conditional use with the following requirements:

- (n) commercial indoor storage in existing farm buildings, provided:
 - (1) the applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit;
 - (2) the building is located on property that is owner-occupied; and
 - (3) the applicant establishes that the structure cannot be economically used for agricultural purposes.

The applicant has prepared a proposed site plan that shows that existing buildings and the area that would be utilized for outdoor storage/new buildings. The applicant is proposing to define an approximate 11-acre area that would be permitted for the commercial boat storage. The remaining acreage would not be permitted to be used as a part of the commercial operation.

The Planning Commission will need to consider if the request meets the criteria for granting a conditional use permit and the criteria for granting a variance from the provisions of the zoning ordinance.

Conditional Use Permit (CUP)

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 purposes 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 from 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.

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)

520.22. 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)

- (a) The applicant is asking for the following approvals:

- Approval to construct up to 60,000 additional square feet of commercial indoor storage on the subject property. The applicant is not proposing to construct any additional indoor storage at this time but would like approval to be able to construct the amount in the future. The City would condition any approval on the applicant meeting all applicable standards including storm water for any additional structures on the property.
- Approval to use the existing buildings for indoor commercial storage.
- Approval to use the predefined area for outdoor commercial storage. The City would require any outdoor storage to be screened from adjacent residential views. Screening would be in accordance with all applicable City standards and be in place prior to or concurrently with any outdoor storage. Outdoor storage would be permitted only on those areas that have an approved surface (gravel or pavement). The area to accommodate outdoor storage would need to be reviewed and approved by the City prior to any outdoor storage being permitted. The outdoor storage area shall conform to all other applicable criteria.
- Approval to permit commercial storage on the subject property without having an owner occupant.

The property has five existing detached accessory structures and one existing residence. The applicant has historically used some of the detached accessory structures for commercial indoor storage. The historic use of the property for a landscape nursery was done across the entire 37-acre parcel. Limiting the area that could be used for any type of commercial use would help to mitigate impacts to the surrounding properties.

Consideration of the criteria for granting a conditional use permit and variance:

- a. The property was historically used for a commercial operation. The proposed use is arguably less intense than the commercial storage due to the limitation on the area that would be included in the The property is located along Highway 12 and there is a cluster of similar commercial type uses in the general vicinity. The properties located directly west of the subject property are residential. Limiting the area of commercial use to the land directly adjacent to Highway 12 should mitigate additional impacts from the commercial storage.
- b. The property had a perceived historic conditional use permit. This factor combined with the location along Highway 12 and large amount of existing buildings make

this property unique and could be consider as a finding for granting the variance.

- c. Due to the seasonal nature of commercial indoor/outdoor storage, the traffic generated from the proposed use should be less than the historic use of the property as a nursery and trucking operation.
- d. The City will ultimately need to determine of the criteria for granting a conditional use permit and variance are being satisfied.

Staff is seeking a recommendation from the Planning Commission for the requested conditional use permit and variance. Should the Planning Commission make a positive recommendation to the City Council, the following findings and conditions should be included:

- 1. The proposed conditional use permit and variance meets all applicable criteria stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
- 2. The historic use of the property for a commercial nursery combined with the large number and area of the existing buildings and location along Highway 12 are unique to the subject property.
- 3. The variance will allow the following provisions of the conditional use permit:
 - a. The property does not need to be owner occupied.
 - b. New buildings will be permitted for commercial indoor storage in accordance with the conditions of the conditional use permit.
 - c. Outdoor storage will be permitted in accordance with the conditions of the conditional use permit.
- 4. The conditional use permit will have the following conditions:

Approval to construct up to 60,000 additional square feet of commercial indoor storage on the subject property. Any future building shall be reviewed and permitted by the City and meet all applicable standards including storm water requirements.

- a. Approval to use the existing buildings for indoor commercial storage.
- b. Approval to use the predefined area (as shown and further defined on the approved site plan) for outdoor commercial storage.
- c. Any outdoor storage shall be screened from adjacent residential views. Screening shall be in accordance with all applicable City standards and be in place prior to or concurrently with any outdoor storage.
- d. Outdoor storage will be permitted only on those areas that have an approved surface (gravel or pavement). The area to accommodate outdoor storage shall be reviewed and approved by the City prior to any outdoor storage being permitted. The outdoor storage area shall conform to all other applicable criteria and standards.
- e. Outdoor and indoor storage shall be limited to boats and classic vehicles only.
- f. No storage or commercial use shall be permitted on any other portion of the

property not included in the predefined area.

Dumas asked if the rest of the property would be classified as AG and Kaltsas said it would. Palmquist noted the storage was going to be for boats and classic cars only. He wondered how "classic" was going to be determined. Kaltsas said the definition could be refined for the resolution and the point was to differentiate from normal automobile storage.

Palmquist asked if the hours of operation were defined and how lighting would be addressed. Kaltsas stated lighting would have to meet code and the hours could be determined and defined. Kaltsas noted a conditional use permit does not mean full commercial use of an entire property but rather a defined parameter.

Dumas asked how the City would view screening if there were a building on site. Kaltsas said they look at opaque screening first and then landscaping. Kaltsas stated they have about 10,000 sq ft of building they are using and would have to meet all runoff storm water requirements.

Public Hearing Open

Ona Lyndborg, 2995 Copeland asked how many boats would be allowed in the outside storage area. Gardner said the number is not limited. Kaltsas also stated the number is not limited but rather the area and screening and lighting would have to be in accordance with ordinances.

Motion by Palmquist to close the Public Hearing, second by Dumas.

Public Hearing Closed

Palmquist asked Kaltsas what the expectation is that a conditional use has an owner occupant on the property. Kaltsas said the history is to give some economic viability to existing property owners. He noted each application is reviewed independently and information would be included in the findings on the resolution.

Dumas asked if lighting would be shielded to prevent glare. Kaltsas said shielding is a requirement.

Motion by Palmquist, to approve a conditional use permit to allow commercial indoor storage and variance to allow commercial storage subject to the findings on the staff report and amending item "F" to include ATV's, RV's, campers and snowmobiles, lighting, hours of operation and screening to be defined on the subject property located at 9065 US Highway 12 (PID No. 18-118-24-12-0016) in Independence, MN:, second by Dumas. Ayes: Gardner, Palmquist, Dumas. Nays: None. Absent: Phillips and Thompson. Abstain: None. Motion approved.

5. **PUBLIC HEARING:** Bryan Johnson and Hilltop Farm, Inc (Applicants/Owners) request that the City consider the following action for the properties located at 6576 Turner Road and 1235 County Road 90 (PID No.s 27-118-24-14-0005 and 27-118-24-14-0004) in Independence, MN:
 - a. A lot line rearrangement, which would move the existing lot line between the two properties. The rearrangement would add acreage to the 6576 Turner Road property and reduce the acreage of the 1235 County Road 90 property.

The applicant is seeking a minor subdivision to allow a lot line rearrangement to increase the size of the Turner Road property and decrease the size of the CSAH 90 property. The Turner Road property would be increased from approximately 5 acres to 20 acres and the CSAH 90 property would be decreased from 35 acres to 20 acres.

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

1. The lot line rearrangement will not have any impacts on the existing buildings relating to setbacks. The CSAH 90 property has an existing home that does not meet applicable front yard setbacks and is considered legal non-conforming. There would be no change in status in the after condition.
2. Both parcels in the before and after conditions have adequate frontages and would meet applicable lot width to lot depth ratios.
3. Both properties are guided for rural residential and could be further subdivided if rezoned by the property owners.
4. There do not appear to be any adverse results of the proposed minor subdivision to permit a lot line rearrangement.

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.

Gardner asked who would own the properties. Kaltsas said the ownership remains the same on each parcel. He said Bryan Johnson owns the property at 6576 Turner Road and Hilltop Farms would maintain ownership of 1235 County Road 90.

Public Hearing Open

Motion by Palmquist to close the Public Hearing, second by Dumas.

Public Hearing Closed

Palmquist stated it was a straightforward and reasonable request. Gardner asked why staff could not handle this request administratively. Kaltsas said the City does not have any administrative subdivision provisions.

Motion by Palmquist, to approve a lot line rearrangement which would move the existing lot line between the two properties located at 6576 Turner Road and 1235 County Road 90 (PID No.s 27-118-24-14-0005 and 27-118-24-14-0004) in Independence, MN;,second by Dumas. Ayes: Gardner, Palmquist, Dumas. Nays: None. Absent: Phillips and Thompson. Abstain: None. Motion approved.

6. Comprehensive Plan - 2040 Plan Preparation

- a. Transportation Discussion
 - i. CSAH 90/92 Intersection Improvements
- b. Review of Rural Residential/Agriculture Boundary
- c. Sewered Service Areas
- d. Parks/Trail Plan

Kaltsas said discussion today was to get some direction from the Planning Commission on a few items relating to the 2040 Comp Plan. He noted this was not a public open house but there would be one coming up soon that the public would be able to provide commentary as part of the process.

Kaltsas said since the 2030 plan until present the City has experienced little growth with numbers being much smaller than predicted due in part to the recession. Kaltsas said the City has growth potential in the urban residential and rural residential areas. Since the 2030 Comp Plan was adopted in 2010, the City has realized 50 new houses based on permits granted. Kaltsas said there were a few years where there were relatively few permits granted. He said there has been some uptick in permits but generally, the numbers remain the same with about eight new housing units per year. Kaltsas said the City currently has 30 undeveloped residential lots that are products of land subdivisions since 2010. He noted this does not include vacant land that is not part of subdivisions.

The City has approximately 604 developable lots in the Rural Residential area and approximately 525 developable lots in the urban residential areas. Kaltsas said developable lots are determined by a calculation that includes one unit per 5 acres for rural residential and urban residential has potential for 4.5 -7 units per acre. He noted these are estimates only. Guided agriculture has a density of one unit per 40 acres.

Kaltsas said 2040 estimates are for approximately 1,720 households up from the status of 1,389. The City would have to permit 17 new homes per year to meet the increased number.

Kaltsas said the City has focused on preserving the rural reserve on the west side and looked at developing areas around Maple Plain and the lakes that are sewerred. Met Council has designated potential sewer expansion areas so the City looks at those areas for potential growth. The 2040 land use plan is a base plan within the total 2040 Comp Plan. Kaltsas said Staff is looking for further direction on how to guide certain areas. Areas have been identified that may be potential for redesignation moving from rural residential to a low density single family housing area at 3 units per acre. Met Council bases their estimates on net density for sewer and not acreage.

Kaltsas noted the City is looking at revisions of 2 intersections; highway 12 and Co Rd 90 and Highway 12 and Co Rd 92. Plans are expected within the next 30 days from MnDOT and Hennepin County. Different controls are being considered for the intersections such as a round a bout at 12 and 90 and a realignment at 12 and 92.

Kaltsas stated staff is looking for feedback from the Planning Commission to address some of these key land use elements for the comprehensive plan so the next meeting could be an opportunity to have a public open house forum where the public would provide commentary and input.

Gardner noted the 2030 plan was based on the housing boom and wanted to know if the City came close to that projection. Kaltsas said the City did not get anywhere close to the 2030 projected numbers. Gardner asked how realistic the 2040 projections would be. Kaltsas said it would take an average of 17 new units per year and the City does not historically have many new developments to meet that number, however, recently there are some proposals for more housing. He noted the 2040 projection is less than the 2030 projection.

Dumas asked what the open house process would be and how the comments from today would be incorporated into that meeting. Kaltsas said we would be looking at opportunities and comments as well as what constraints exist. Public comments are brought back to the Planning Commission. There would also be a Public Hearing before the final plan is adopted. Kaltsas noted the City of Independence is unique in relying on state and county transportation without many collector roads. He said having no City water and limited sewer makes us rely on adjacent communities. Kaltsas noted the 2030 plan looked at the Otten property as the City had failing septic systems on Lindgren Lane, which needed a long-term solution, and the Met Council had the City reguide other portions of the City so the net density sewer properties within Independence would be no greater than three units per 1 acre. The Otten property had nothing to do with that calculation.

Craig Olson, 5112 South Lakeshore Drive, asked when that area was zoned urban residential. Kaltsas stated it was in the 2030 Comprehensive Plan and the Lindgren Lane sewer was put in in 2010 or 2011. He said the residents did not know about the Lindgren Lane sewer until after the fact. He asked if there are more proposals than Otten to be re-guided and he would encourage not re-guiding the purple zoned areas on the map.

Gardner asked what effect the re-guide would have on a current homeowner in the area if he sold to someone else. Kaltsas said the property would have to be rezoned and be able to connect to services. Palmquist said he was encouraged by the large turnout and asked how best the residents could be heard through future planning. Kaltsas said the City hosted a community survey and a public open house will be the next step. The Planning Commission would discuss the Open House findings and other factors and then a formal Public Hearing would be held. Kaltsas noted there are a timeline of events posted online and encouraged residents to sign up for an active list of notifications. The public open house is potentially going to be scheduled in March or April. The Public Hearing would then be happening in June or July before formal adoption of the Comp Plan.

Mark Krosken, President of the Providence by the Lake Homeowners Association, said his group moved here for the school system and thought the school system should be contacted and included in the process. People also want the open space and larger homes on large lots.

Homeowner- asked when did we decide Independence would grow? Gardner noted that the City is trying to manage the growth within the requirements of Met Council.

Kaltsas noted the school districts actively updates their growth based on cities plans. He has had conversations with the Orono demographers for the last 6-7 years as they plan for growth.

Krosken said there are studies that with increased density comes increased crime. He wants to maintain the safety in the community. He said Burnsville has been decimated by growth and people cannot move out of there fast enough.

Kaltsas explained the area around Maple Plain is looking at being developed as it already has services available in order to meet Met Council requirements. Gardner stated it was not set what will be done but Met Council does have ratio scenarios that have to be considered in the development of the final plan. He noted the Otten area is a transitional zone and one of the most obvious places that would fit with the Met Council's requirements. Gardner stated there

is no formal application so there is nothing formal in process at this point. He noted tonight was the first he had heard of this concern.

Homeowner- stated he wanted to commend the City for planning future open house events around the 2040 Comp Plan. He said the most recent survey conducted by the City showed that residents are not looking for growth and are opposed to high-density developments. He wants public input to be heard by City Council and the Planning Commission. Gardner noted it is hard to get people to show up to Comp Plan meetings even though they are well advertised.

John Conlin, read the City's description from the City website outlining the charming rural characteristics. He noted high-density developments would have a negative effect on the City's lakes.

Dudley Bartholow, 4804 Perkinsville Road, said he lives on the east side of the Otten property and feels a high-density development would have a lot of runoff into the lake. He said it is a big mistake to put in a development like this.

Craig Olson- stated the developer (Excelsior Group) told him the City of Independence really wanted this development on the Otten Property. Olson stated he and a handful of residents had a meeting with the developer.

Homeowner- asked about the intersection at Budd Avenue and Highway 12 intersection. Kaltsas said Maple Plain has had discussions with MnDOT about that intersection. Kroells stated MnDOT has spent 6-7 million on improvements of different intersections. Kaltsas said Maple Plain is looking at this as part of their comprehensive plan as well.

7. Adjourn.

Motion by Dumas, second by Palmquist to adjourn at 9:40 p.m. Ayes: Gardner, Palmquist, Dumas. Nays: None. Absent: Phillips and Thompson. Abstain: None. Motion approved.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary