

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, MARCH 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. ROLL CALL

PRESENT: Commissioners Dumas, Gardner and Palmquist  
STAFF: City Administrative Assistant Horner, City Administrator Kaltsas  
ABSENT: Chair Phillips, Commissioner Thompson  
VISITORS: Lynda Franklin, Dawn Mooney, Mike Brandt, Don Hamilton, Bobbi McCoy, Marilyn Hamilton, Paul Otto, Randy Stinson

3. APPROVAL OF MINUTES:

- a. February 20, 2018 Planning Commission Meeting
- b. March 3, 2018 City Council Meeting Minutes (For Information Only)

**Motion by Palmquist, to approve the February 20 and March 3 planning minutes, second by Dumas. Ayes: Dumas, Gardner, and Palmquist. Nays: None. Absent: Thompson, Phillips. Abstain. None. Motion Approved.**

4. **PUBLIC HEARING:** Robert and Janet Selstad (Applicants/Owners) request that the City consider the following action for the property located at 3525 Independence Road (PID No. 11-118-24-41-0003) in Independence, MN:
  - a. A minor subdivision to allow a rural view lot to be subdivided off from the subject property.

Kaltsas stated the property is located along the west side of Independence Road. There is an existing home and farm buildings located on the existing 76-acre parcel. The City's zoning ordinance allows Agriculture property to realize one rural view lot for every 40 acres of property. The property was originally an 80-acre parcel. One rural view lot has already been subdivided off the original parcel. That leaves one remaining parcel that can be realized on the remaining 75-acres.

The proposed subdivision would create a new lot that would allow all applicable building setbacks to be met by the existing structures. The newly created lot would have approximately 3.5 acres of usable upland. The two existing detached accessory structures would remain on the newly created Parcel B along with the existing home. The 3.5 acres of usable upland would allow for a total square footage of detached accessory structures of 3,050 square feet (upland acreage of 3.5 x 2% = 3,050 SF). No additional detached accessory structures could be constructed on the new lot without modification to the existing structures. The proposed lot would have road frontage of 400 LF. There will be a park dedication fee of \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5 acres.

Staff is seeking a recommendation from the Planning Commission for the requested Minor

Subdivision for a Rural View Lot with the following findings:

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

Palmquist asked if there were any issues relating to septic or setbacks with the proposal. Kaltsas said they meet all applicable setbacks with the proposed structures. He said the existing septic would also be approved.

Public Hearing Open

No comments.

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

Public Hearing Closed

Gardner asked if future development would have wetland issues. Kaltsas noted there is significant wetland areas on the property and it would be unique as far as development. Gardner noted there was not any wetland delineation in the proposal. Kaltsas said there is wetland delineation but it is 10 years old. Gardner said it looks straightforward as proposed and Dumas asked if there was room for a second septic site. Kaltsas said there is reasonable room for a second septic.

**Motion by Palmquist to approve a minor subdivision to allow a rural view lot to be subdivided off from the subject property located at 3525 Independence Road (PID No. 11-118-24-41-0003) subject to the conditions in the staff report, second by Dumas. Ayes: Dumas, Gardner, and Palmquist. Nays: None. Absent: Thompson, Phillips. Abstain. None. Motion Approved.**

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

Kaltsas noted the properties are located on the west side of CSAH 92 N., approximately ½ mile south

of TH 12. Both properties have an existing residence. The applicant is seeking a minor subdivision to allow a lot line rearrangement that would expand the 2415 County Road 92 N. property by approximately .31 acres (13,503.60 SF) and reduce the 2465 property by the same. The common property line would move approximately 60 feet to the east and “square off” the 2415 west property line.

The properties share a common driveway, which provides access to both properties off CSAH 92 N. In the before and after conditions both properties would meet all applicable structure setbacks. The proposed after condition would not create any non-conformity relating to setbacks, property size or road frontage minimums.

Gardner asked if there would be an issue with the easement and the new driveway. Kaltsas said it would not be an issue.

Public Hearing Open

No comments.

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

Public Hearing Closed

**Motion by Palmquist to approve a minor subdivision to allow a lot line rearrangement which would permit the conveyance of approximately 15,000 SF from one property to the other for the properties located at 2415 and 2465 County Road 92 N. (PID Nos. 17-118-24-44-0008 and 17-118-24-43-0007) subject to the conditions in the staff report, second by Dumas. Ayes: Dumas, Gardner, and Palmquist. Nays: None. Absent: Thompson, Phillips. Abstain. None. Motion Approved.**

6. **PUBLIC HEARING:** Hamilton Bros. (Applicant/Owner) requests that the City consider the following actions for the property located at 1050 County Road 83 (PID No. 35-118-24-41- 0001) in Independence, MN:
  - a. Rezoning of the property from AG-Agriculture to RR-Rural Residential; and
  - b. Preliminary Plat to allow the subdivision of the property.

Kaltsas said the applicant is asking the City to consider rezoning and preliminary plat for a 17-lot subdivision of the subject property. The applicant is moving forward with only the southern property at this time. The concept plan reviewed by the City was designed under the City’s cluster development provisions. Since that time, the applicant has revised the plan so that it meets all base rural residential standards and is no longer proposed as a cluster development.

The applicant indicates the potential locations of a proposed building plan for each lot. The size of the lots will allow applicable building setbacks to be met. The applicant has provided the City with the locations and borings for primary and secondary on-site septic systems for each lot. The applicant is proposing to provide access to the lots within this development via two different cul-de-sacs. Robert Road would end as shown on the plans and Hamilton Hills Road would be projected to extend southwest in the future. As a temporary measure, a cul-de-sac would be provided.

Minnehaha Creek Watershed District has noted that the wetland delineation has not been formally approved and therefore the application submitted to MCWD is deemed incomplete at this time. The watershed noted that there could be a wetland located on Lots 5 and 6, Block 1 that is not shown on the wetland delineation.

The City's subdivision ordinance does not allow Out lots; however, the City has historically permitted Out lots for the preservation of open space and natural resources.

The total number of lots that could be developed on this property is 20. The applicant is proposing to develop 17 at this time. In the future, the applicant has noted that they would like to potentially subdivide several of the proposed lots further to realize additional lots. Any additional subdivision of property within this development would need to meet all applicable criteria and could not exceed the maximum number permitted for the property (currently 20 lots). The City would want to further address this issue at the time of the final plat.

Hennepin County has provided comments to the applicant pertaining to the proposed preliminary plat. The City is working through several issues with the developer and the County. At this time, the City has discussed not requiring a trail or park dedication in this development. The City has required that the applicant provide a road connection to the southwest to create an "internal" circulation route for future development.

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

Dumas asked about the point of connection to 110 and how that would affect traffic. He asked if that would be an appropriate place to connect considering the hill and curve. Dumas asked if the existing Hamilton residence would have a spot to have a driveway easement run along the lot. Palmquist asked about the access as well and the lane configuration with 110. He thought the plat did not provide for any future right-of-way as submitted. Palmquist noted putting in a cul-de-sac with the intention of having a road connect through would likely have push back from future homeowners. He asked who pays for the Hamilton Hills roads extensions. Palmquist said with primary and secondary septic systems in the cul-de-sac it seems tight to him.

Dumas asked how the out lot ownership would work in that if the land were sold would those lots go with it. Kaltsas said those lots would be privately owned. Dumas asked if it would include a specific "no build" agreement. Kaltsas said he believed the intent would be to have the out lots attached to the lot that sold. Kaltsas noted that out lot (D) has very limited building capacity. Dumas noted out lots (BC & D) have limited potential and no frontage.

Gardner asked if this concept would involve a homeowner's association agreement. Kaltsas said that has not been determined yet but there would be a storm water maintenance agreement. Palmquist asked if there was preference of out lot ownership. Kaltsas noted there was no usability and is a unique situation whereas most developers would come in and want to max the 20 lots. He said it was not wholly like a cluster development, as they want to maintain private ownership. Palmquist asked how the storm water maintenance would be funded if there was not a homeowners association. Kaltsas said it would be similar to the Serenity Hills development and a special taxing district would be created in the event the City would have to go in and maintain the storm water area.

Dumas asked about the strict grade issues and if it was feasible to put septic systems on a steep hill as presented. Kaltsas said he wants to involve a septic designer as those lots may not all need to be mounds.

### Public Hearing Open

Don Hamilton said the out lots are each connected to a property owned by a Hamilton sibling. He said the lots would remain extensions of their lots. Dumas asked what would happen if any of those lots were sold and would the out lots go with the property. Hamilton said at that point they would connect the affected out

lot to another sibling's property. He said four grandchildren are buying lots that connect to these out lots.

Palmquist asked if there was a vision for homeowner's association agreement. Hamilton said not as far as the development but there would be a tax by the City for the ponds. Palmquist said he understood the skepticism on a homeowners association but he thought it could have some benefits especially when new people move in that are not family members.

Paul Otto, Otto and Associates, noted this was a unique property, which makes his job a little more difficult. He said the cul-de-sac and the future road would involve a right-of-way to benefit the City. The steep slopes will present some challenges as well as the slopes on the neighboring property. Gardner asked if it would be possible to do a modified cul-de-sac. Otto said that is probably what will have to be done. Otto noted the 10 feet of slope on the north side of the pond. He said the water would be collecting in a berm collecting in the back yards and would be piped down to the wetland. Otto said they would work with the Watershed District for any changes that need to be made with the cul-de-sac. He said septic placement might be moved as well. Otto said a conservation easement allows natural areas to have natural filtration and the Watershed requirement would be to move storm water. Otto said the best access spot would be at the bottom of the hill.

Gardner asked what the watershed issues were with the information on hand as of today. Otto said the bottom line is if the development is not approved than it is not happening. Kaltsas said the biggest issue he could imagine would be the county coming back to the road and where it would connect. He said there is time before this goes to City Council to meet with the watershed.

Gardner said they have to understand that a newer homeowner may not want to change the cul-de-sac. Otto said the best work around would be to have road go through but that is not the vision of the owners. Kaltsas noted the city would take the right-of-way. He said the better connections would be to the north considering a long-term vision.

Lynda Franklin said she looked back at a resolution in 2015 that states when all lots are sold the out lots become part of the homeowners association. Franklin asked why the out lots were not being included in the park dedication fees. Kaltsas said the concept in the report does not include the calculations of the out lots in the park dedication equation. The equation is figured with the platted, buildable lots included only. Kaltsas said there is not a specific model to follow. The park dedication fee is collected for any new buildable lot. Franklin wanted it confirmed that out lots were not included in park dedication fees. Gardner said that was correct until they were built on.

Marilyn Hamilton addressed the question of what would happen in 20 or 30 years down the road. She said currently that the 5<sup>th</sup> generation is living on the property. She said there are children and great grandchildren that are planning to live there so she cannot imagine it will run out of Hamilton's for a very long time.

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

#### Public Hearing Closed

Kaltsas noted the property would be rezoned from Ag to Rural Residential to allow for the subdivision. The preliminary plat is for 17 lots. This would be granting a land use criteria but tweaks may be made between the time of the preliminary and final plat. They would need to come back with a final plat and development agreement. Park dedication fees, storm water tax district and final plans would all come at this point in the process. He noted this preliminary plat still has to go to Council.

Palmquist said he is generally in favor of development of the property but feels there is some tweaking that needs to be done by Staff and property owners. He noted consultant's comments and wonders if

there is enough latitude in the gray area to make changes before final plat.

Kaltsas said staff tries to vet out all of the issues before it is brought to the Planning Commission. He said there were not any big game changers in the comments so it was close enough to bring in for preliminary tonight. He noted some of the issues are relying on the Planning Commissioners recommendations this evening. Gardner asked if Kaltsas thought the watershed problems could be solved by the April 3 City Council meeting. Kaltsas said he should know more on that by Wednesday and have better direction on how to proceed with watershed information. He said the wetland could not be 100% resolved.

Palmquist said there are many unanswered questions and gray areas. He noted approval would have to be on the condition of City and consultant comments being addressed. Kaltsas noted the City makes any approvals subject to the County's approval. Palmquist said he would be more comfortable if staff would flush out the issues. Gardner agreed there was a lot of gray area. Kaltsas agreed the cul-de-sac needed to be addressed and the City would want it on an end or all the way through for plowing.

Dumas asked if there was a City requirement to connect the southwest corner to the Hamilton property. Kaltsas the City does have an ordinance addressing road access and design per development.

Palmquist said the storm water maintenance agreement could be set up so the homeowners are responsible but if the worst-case scenario happens and it is not maintained then the City has the ability to go in and take care of it. How would the City access those out lots? Kaltsas said the City would have drainage and utility easements that would allow access as well. Palmquist asked if there was some compelling reason to bring that road through to the west. Kaltsas said from a planning standpoint so properties are not being isolated at a single access point. Kaltsas said it is up to the City if we want to promote interconnectivity and there is an element of public safety involved with having multiple points of access. Dumas noted the County has not weighed in. McCoy stated the city has never had a public safety issue with cul-de-sac developments and feels a cul-de-sac is safer. He noted this design keeps the natural resources intact.

Palmquist asked Kaltsas if he felt that it was appropriate to go ahead and approve the preliminary plat tonight per the work that still needs to be done making sure all outstanding issues are covered. Kaltsas said he felt it was close enough to go to Council and the issue with the County on the driveway location would need to be approved prior to that meeting. He noted he would also be following up on the watershed issue. He noted the connectivity is a higher-level policy issue. He said it is not a grading issue but rather a policy issue.

**Motion by Palmquist to approve rezoning of the property from AG-Agriculture to RR-Rural Residential; and Preliminary Plat to allow the subdivision of the property located at 1050 County Road 83 (PID No. 35-118-24-41- 0001) subject to the conditions in the staff report, outstanding issues being addressed and cul-de-sac and right-of-way as defined, second by Dumas. Ayes: Dumas, Gardner, and Palmquist. Nays: None. Absent: Thompson, Phillips. Abstain. None. Motion Approved.**

7. Open/ Misc

8. Adjourn.

**Motion by Palmquist, second by Dumas to adjourn at 9:51 p.m. Ayes: Gardner, Palmquist, Dumas. Nays: None. Absent: Phillips and Thompson. Abstain: None. Motion approved.**

Respectfully Submitted,

DRAFT