

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JUNE 19, 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, Thompson and Palmquist

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas

ABSENT: Chair Phillips

VISITORS: Mary Fehn, Jeff Roth, Ann and Bob Ibler, John Conlin, Anita Volkenant, Bobbi McCoy, Lynne Fisher, Cheryl and Jay Anderson, Lynda Franklin, Marilyn Hamilton, Don Hamilton, Dawn Mooney

3. APPROVAL OF MINUTES:

a. May 15, 2018 Planning Commission Meeting

b. June 5, 2018 City Council Meeting Minutes (For Information Only)

Motion by Thompson to approve the May 15th and June 5th Planning Minutes with the addition of 2040 Comprehensive Plan comments document, second by Palmquist. Ayes: Dumas, Gardner and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

4. PUBLIC HEARING: PTS Products, Inc. (Applicants/Owners) requests that the City consider the following action for the property located at 6511 US Highway 12 (PID No. 22-118-24-44-0011) in Independence, MN:

a. Site plan approval to allow the expansion of the existing commercial building located on the subject property.

b. A variance to allow the expansion of the existing building to be constructed of materials that do not meet the design requirements of the City's Commercial Light Industrial District.

The property is located on the south side of Highway 12 just west of the intersection of County Road 90 and Highway 12. The property has an existing commercial building and parking lot. There is a significant wetland on the south side of the property. The applicant is seeking site plan approval to allow the expansion of the existing building. The applicant moved their manufacturing business to Independence in 2015 to facilitate future growth. The business is nearing capacity in the current facility and the owner would like to expand the facility. The existing building is approximately 12,800 SF in overall size. The applicant is proposing to expand the building by another 12,800 SF for a total of 25,600 SF. The applicant has noted that the proposed expansion will require approximately 15 additional jobs. The subject property is zoned CLI – Commercial Light Industrial. Manufacturing is a permitted use within the CLI zoning district. New construction and expansion of existing buildings in the CLI zoning district requires the review and approval of the City. The extent of the review is based on the intensity of the proposed development along

with the ability of the proposed development to meet the requirements of the zoning ordinance (Sections 530.17 and 530.23).

The City has adopted site requirements for commercial development there are several provisions within the commercial standards that are applicable to the proposed building expansion.

530.23. - Building design requirements.

Subd. 1. *Standards established.* Building design standards are hereby established to ensure commercial and industrial buildings meet acceptable aesthetic standards.

Subd. 2. *Applicability.* The design standards in this section shall apply to the following:

- (a) All facades of new principal buildings;
- (b) All facades of new accessory buildings;
- (c) Remodeling of existing buildings that result in "refacing" more than one side of an existing building, or refacing of the wall oriented towards the nearest public road.
- (d) Additions to buildings that increase the gross floor area by more than 15 percent for commercial or retail buildings, or 25 percent for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials.

530.17. - Site development standards.

Subd. 3. *Setbacks.* All buildings and structures must meet or exceed the following setbacks:

- (a) Front yard setback: 100 feet from centerline of road.
- (b) Side yard setback: 20 feet from side lot line.
- (c) Rear yard setback: 20 feet from rear lot line.
- (d) Setback from boundary of agricultural or rural residential district: 100 feet.

The City has reviewed the plans as they relate to the standards provided in the zoning ordinance. The following items should be further considered by the Planning Commission:

1. Building Design – The City ordinance provides the following requirement for additions to commercial buildings:

a. Additions to buildings that increase the gross floor area by more than 15 percent for commercial or retail buildings, or 25 percent for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials.

b. Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial zoning district shall use the following materials on their exterior facades:

- (1) Brick;
- (2) Natural stone or stone veneers;
- (3) Decorative concrete block (color impregnated with a split faced, robbed, or textured surface);
- (4) Glass curtain wall panels;
- (5) Stucco or synthetic stucco;
- (6) Exterior insulation and finish systems (EIFS).

The proposed addition increases the gross floor area of the building by more than 15 percent (100 percent). The applicant has prepared several illustrative images which shows the proposed exterior elevations of the expansion. The primary material proposed is standing seam metal which is consistent with the majority of the existing building. There is a low split face block base that would be added to the base of the addition. The east facing façade of the existing building has a brick/stone finish. The applicant is asking the City to consider allowing the proposed addition to be constructed of materials similar to the existing building noting that the majority of the addition will be located behind the existing building. The applicant also noted that the existing building located to the east of this building is constructed of similar materials. In order for the City to consider approval of the expansion utilizing materials that match the existing building, a variance is required.

2. Parking Requirements - The applicant is proposing to construct new bituminous parking spaces and a loading area to serve the new addition. For wholesale and warehousing uses, the City requires: one space for each 2,000 square feet of gross floor area. The total building square footage is approximately 26,000 square feet and would therefore require 13 parking spaces. The existing site has approximately 30 parking spaces. The proposed parking lot expansion would add an additional 20 parking spaces for a total of 50 parking spaces. The number of parking spaces proposed combined with the existing would satisfy parking requirements for this site.

3. Setbacks – The City has the following setback requirements for buildings located in the CLI zoning district:

- a. Front yard setback: 100 feet from centerline of road.
- b. Side yard setback: 20 feet from side lot line.
- c. Rear yard setback: 20 feet from rear lot line.
- d. Setback from boundary of agricultural or rural residential district: 100 feet.

The proposed building expansion would meet all applicable setbacks. The closest setback would be from the west (side) property line. The proposed addition would be approximately 55 feet from the west (side) property line. There is one existing accessible parking space. One additional accessible parking space will be required. Staff will work with the applicant to locate the additional accessible space.

4. Landscaping - Landscaping is required for new construction within all requisite setback areas. Minimum landscape requirements in the protective buffer must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree) for each 40 feet of property line. The protective buffer must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in the protective buffer. The applicant has worked with the City to develop a landscape plan that meets the intent of the landscaping ordinance.

5. Storm Water Management – Storm water management is being reviewed by the City. The project does not appear to meet the one-half acre threshold for site improvements. The plan will need to comply with all applicable standards relating to storm water. The City does recognize that the prior to the water getting to the wetland area at the south end of the property.

6. Lot Coverage - The maximum impervious lot coverage in the CLI zoning district is thirty (30) percent. The overall site is 293,600 square feet. Thirty (30) percent of the total site area would

allow 88,000 square feet of impervious coverage. After construction of the proposed building addition and site improvements it is calculated that the total impervious surface area would be 61,300 square feet. The proposed addition and site improvements would be below the maximum coverage area.

7. Sanitary Sewer - There is an existing septic system located to the north of the building on the subject property. Staff has discussed the expansion of the building and how and if this will require additional septic capacity. The City will work with the applicant to ensure the proposed building expansion is accommodated by the existing system or expanded system. There is adequate space on site to expand the existing drain field.

In addition to the site plan review, 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)

Staff is seeking a recommendation from the Planning Commission relating to the site plan review and variance.

Should the Planning Commission make a positive recommendation, the following findings and conditions should be considered:

1. The proposed Site Plan approval and variance request meet all applicable conditions and restrictions stated in Chapter V, Section 520.25, Site Plan Approval Procedures and Chapter V, Section 520.19, Procedures on Variances, in the City of Independence Zoning Ordinance. Planning Commissioners reviewed the request and held a public hearing relating to the initial site plan review application. Commissioners noted that a variance was needed to allow the applicant to construct a building addition that matches the existing building. Commissioners recommended that the applicant make an application to the City for the required variance.

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Commercial Light Industrial District - CLI.
 - b. The character of the surrounding area is CLI.
 - c. The proposed variance to allow the expansion of the existing building on this property is in keeping with the City's comprehensive plan.
 - d. The applicant is proposing to locate the expansion to the rear of the existing building which will mitigate potential impacts from Highway 12.
 - e. The applicant is proposing to screen the existing building and expansion with new landscaping.
 - f. The buildings in the surrounding area are generally constructed of similar building materials.
 - g. The proposed building addition will meet all other requisite requirements for this property. The City will need to determine if the requested variances meet the requirements for granting a variance.
2. Site plan approval shall allow the expansion of the building in accordance with the approved site plan prepared by Wenck Associates and attached hereto as Exhibit B.
3. The total impervious surface coverage for this property will not exceed 30% of the total lot area.
4. Landscaping shall be installed and maintained in accordance with the approved landscape plan attached hereto as Exhibit C.
5. The variance will allow the expansion of the existing building to use exterior materials (matching steel panels) that exactly match the existing building.
6. The City finds the following existing conditions of the property support the request for a variance and are consistent with the criteria for granting a variance:
- a. The applicants are proposing to use the property in a manner consistent with the Commercial Light Industrial – CLI zoning district.
 - b. The character of the surrounding area is commercial or guided for commercial development.
 - c. The proposed expansion of the building is generally in keeping with the City's comprehensive plan.

- d. The additional landscaping will provide a buffer between the highway and the existing and proposed building.
- e. The variance will allow the expansion of the commercial business and number of employees on the property.
7. Any change in use shall be subject to the City review and approval. Additional parking requirements may be required to be added to the site plan approval should the building change uses.
8. No outdoor storage is permitted on the property.
9. The applicant shall comply with all applicable storm water requirements and obtain any additional storm water approvals if determined necessary.
10. Any new building or site lighting shall comply with the City's applicable standards. The applicant shall submit cut sheets to the City prior to obtaining building permit approval.
11. 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.
12. The Applicant shall pay for all costs associated with the City's review of the requested site plan and variance approval.
13. The resolution shall be recorded against the property.
14. The applicant shall pay all applicable fees associated with the City processing the application for site plan review and a variance.

Public Hearing Open

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

Public Hearing Closed

Palmquist noted this was more of a procedural formality.

Motion by Thompson for site plan approval to allow the expansion of the existing commercial building located on the subject property and a variance to allow the expansion of the existing building to be constructed of materials that do not meet the design requirements of the City's Commercial Light Industrial District for 6511 US Highway 12 (PID No. 22-118-24-44-0011) in Independence, MN, second by Palmquist. Ayes: Dumas, Thompson, Gardner, and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

5. **PUBLIC HEARING:** 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. A conditional use permit amendment to allow additional horses to be boarded in association with the existing commercial riding stable on the subject property.

Kaltsas said 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. Staff has reviewed the request and offers several discussion points for further consideration by the City. 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:

- a. 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. 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 measureable 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 Planning Commission will need to determine if staff is seeking a recommendation from the Planning Commission for the request for a conditional use permit amendment. Should the Planning Commission make a recommendation to approve the requested action, the following findings and conditions should be considered:

- a. 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.
- b. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.

- c. All conditions stated in **Resolution No. 16-1213-02** shall remain in force with the exception of condition (f) stipulating the number of horses.
- d. Approval of the conditional use permit amendment shall be subject to the following additional conditions:

1. No more than 60 horses shall be boarded on the property.
2. 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. The City shall cause for the applicant to review the soil conditions annually and prior to any manure application to the property.
3. 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.
4. 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. he requested conditional use permit amendment meets the criteria for granting a conditional use permit.

Thompson asked about severability across two properties and if one sold how would the CUP work. Kaltsas said the resolution would state that both PID numbers would be required to retain the CUP permissions. Gardner noted the Shriner's have a cement pad as part of their manure containment. Kaltsas said the there is a delineated edge which is essentially the water line. He said the maximum buffer width is 50 feet for highest quality water standard. Kuka said it was a federally managed pond and this location is well away from the pond. Gardner said the North parcel was in Ag Preserve. Kaltsas said this use would be acceptable within Ag Preserve designation.

Public Hearing Open

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

Public Hearing Closed

Motion by Palmquist to approve a conditional use permit amendment to allow additional horses to be boarded in association with the existing commercial riding stable on the subject property with the addition of "acceptable levels" added to item D (2) at 4405 County Road 92 N, Independence, MN (PID No.'s 04-118-24-24-0002 and 04-118-24-31-0001), second by Palmquist. Ayes: Dumas, Thompson, Gardner, and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

6. **PUBLIC HEARING:** Katie and Brian Roers (Applicant/Owner) request that the City consider the following action for the property located at 2914 Lindgren Lane (PID No. 13-118-24-24-0006) in Independence, MN:

- a. A variance to allow reduced side yard setback from the north property line to

allow the construction of a new home.

The City granted a variance for this property in 2014 allowing a 3-foot reduced side yard setback on both sides of the property. The variance granted allowed the proposed home at the time to be located 15 feet from each side property line rather than 18 feet as required. The applicant at the time decided not to move forward with building the new home and the property went back up for sale. The current applicants have purchased the property and discussed construction of a new home with the City. The City noted the previous approval and that any change in design would require approval of a new variance. In order for the closing to occur on the property, the City recently granted the new owner a driveway and utility easement across that portion of the City's property that currently serves the subject property. The subject property is considered a substandard lot of record in accordance with the City's Shoreland Ordinance Section 505.15.

505.15. Substandard lots. Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided: (b) the lot of record is in separate ownership from abutting lands, and can meet or exceed 60% of the lot area and setback requirements of this section; and (c) all requirements of section 705 of this code regarding individual sewage treatment systems are complied with. The subject property is located off of Lindgren Lane directly adjacent to the City's former community septic drain field property. There is currently an existing home (cabin on the property). The existing home on the property is not in good condition. The property supports a maximum home width of approximately 27 feet utilizing the required setbacks. The applicant is seeking an eight (8) foot variance from the north side yard setback to support a 34-foot-wide home. The setback on the south side is proposed to be approximately 19 feet. The applicant has prepared a general site plan which identifies the proposed home location as well as a future garage. The proposed home would be a two-story structure. The plan shows that the proposed home would not move towards the lake and would be located no closer than the existing home. This is different than the previous proposal which moved the house to within 60 feet of the shoreland. The proposed home would meet or exceed all other required setbacks as follows:

Front Yard Setback:

Required: 85 feet from centerline or 50 feet from the ROW (@ 60% = 30 feet from right of way)

Proposed: N/A

Side Yard Setback (North Side):

Required: 30 feet (@ 60% = 18 feet)

Provided: 10 feet Side Yard Setback (South Side):

Required: 30 feet (@ 60% = 18 feet)

Provided: 19 feet

Lakeshore Setback:

Required: 100 feet from Ordinary High Water Mark (@ 60% = 60 feet)

Proposed: ~80 feet

In addition to the setback requirements, properties located in the shoreland district can have a maximum impervious surface coverage of 25%. This property can have a maximum coverage of 3,933.75 square feet. The proposed house and impervious site improvements have a total impervious coverage area of 2,666 square feet or 16.94% (See survey for detailed breakdown). The proposed house and site improvements would not exceed the required maximum impervious coverage allowed under the Shoreland Ordinance.

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;

(b) 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 Rural Residential District. The applicant has attempted to locate the building in order to provide a viable access to the lake side of the property. The proposed home meets or exceeds all other applicable setbacks for property zoned Rural Residential and covered by the Shoreland Overlay District.

b. This property is one of the narrowest in this particular part of the City.

c. The character of the surrounding area is residential. The proposed single-family home is in keeping with the City's comprehensive plan.

The Planning Commission will need to determine if the requested variance meets the requirements for granting a variance. Several additional considerations that could be considered are as follows:

1. This lot was developed prior to the establishment of the setbacks in the current ordinance being adopted. The existing home is considerably smaller than those located on the surrounding properties.
2. Side yard setbacks vary considerably on the surrounding properties.

3. The new home will be connected to City sewer. The City has granted a new access and utility easement across that portion of the City's property currently used by the property for access. The applicant has also secured an easement from the property owner to the north to allow access to the property.

4. See comments from neighboring property below. Staff is seeking a recommendation from the Planning Commission for the requested Variance. Should the Planning Commission Recommend approval of the variance, the following findings and conditions should be considered:

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance. The total impervious surface coverage for this property will not exceed 25% of the total lot area.
2. The applicant shall submit a drainage plan to the City at the time of building permit application. The drainage plan will be reviewed by the City to ensure that the proposed improvements do not adversely impact any of the surrounding properties relating to grading and drainage.
2. The applicant shall pay for all costs associated with the City's review of the requested variance.
5. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.
6. The City Council Resolution shall be recorded with the County.

Public Hearing Open

Mary Fehn, 2930 Lindgren Lane, said she did have a conversation with Brian Roers and he told her they would take the financial responsibility of taking down the trees and that would open up the area to have more light.

Katie Roers (Owner/ Applicant)- said this would be a smaller structure at 1 ½ stories. They want to be able to have access to the lake.

Brian Roers (Owner/ Applicant)- said the goal is to maintain the separation while still having access to the lake.

Thompson clarified that the footprint being looked at included the garage and Kaltsas confirmed. Thompson said more definitive plans would be needed before a decision could be made as to whether approve or not. Kaltsas noted the new plans would meet the 60' setback. He said the total impervious surface was 3900 sq ft. The updated plan is a very similar footprint as the original. Kaltsas said the last version was a two story home and this one is a story and a half. Kaltsas said a variance would be tied to a specific footprint.

Fehn said this new version would limit the view from her house. Thompson asked if it could be moved more back to the middle. Gardner said it could be clear if there were no side lot demands.

John Conlin, 2906 Lindgren, said he would like to remain neutral and would like to see this work. Gardner asked about soil correction and Brian Roers stated it would take pilings to build with first

plan.

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

Public Hearing Closed

Thompson stated that at this point they would have to act on the proposal with the proposed changes. Kaltsas stated that if there were changes the survey would be updated and the new proposal would be provided to City Council. It is not typical but has been done. Thompson said based on the pad and the lake setback he is inclined to split the difference 15/ 15 from each property line. Dumas said he would be happy to go back 15 feet.

Fehn stated she was out of town when last one passed. Thompson noted a change like this does not need a re-notice.

Motion by Thompson to approve a variance to allow reduced side yard setbacks from the north and south property lines to allow the construction of a new home, amending the staff recommendations to include two additions.; point number 7 will divide the footprint so the setbacks are even on either side of the property lines and point 8 that the maximum height of the structure will be 1 ½ stories for the property located at 2914 Lindgren Lane (PID No. 13-118-24-24-0006) in Independence, MN. , second by Palmquist. Ayes: Dumas, Thompson, Gardner, and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

7. **PUBLIC HEARING:** 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. Rezoning of the subject property from AG- Agriculture to CLI- Commercial Light Industrial.
 - b. Site Plan Review for the proposed commercial use of the property.
 - c. Conditional Use Permit to allow boat service and repair on the subject property.

Kaltsas said 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.

The property is currently zoned A-Agriculture and guided by the Comprehensive Plan as Commercial Light Industrial. (see Comprehensive Plan and Zoning Map attached). This property is the only remaining property that lies north of City Hall which is guided for CLI but has not been rezoned. 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. 3. As stated in the Comprehensive Plan, rezoning the property will provide the City with additional commercial property which generally serves a broader purpose for attracting and retaining business in the City.

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. There is an existing tree line that surrounds the property that further screens the rear portion of the site. 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 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 conditional 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 Planning Commission:

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.
 - c. Boat service and repair will need to comply with
4. There is no change proposed to the existing outdoor storage and parking. 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.

7. No outdoor storage or parking associated with the commercial use of the property will be permitted outside of the fenced and screened storage areas.

8. Any additional commercial uses will be subject to all applicable ordinance requirements relating to CLI zoned property.

9. 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.

10. 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.

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. There can be no change to the existing outdoor storage and parking area limits or surfacing outside of routine maintenance.

4. No boats will be permitted and or displayed for public sale on any portion of the property.

5. No outdoor storage, boat servicing or parking associated with the commercial use of the property will be permitted outside of the fenced and screened storage areas.

6. Any additional commercial uses will be subject to all applicable ordinance requirements relating to CLI zoned property.

7. The applicant shall be required to install the proposed landscape screening on the street facing side (west) of the property using a combination of opaque 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.

8. 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).

9. 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.

10. The City will revoke the existing Conditional Use Permits on the subject property.

11. The Applicant shall pay for all costs associated with the City's review of the requested actions.

Palmquist noted there is no change to the outdoor storage and parking areas. He asked if it required anything other than a class 5 base. Kaltsas said it did require the class 5 base. Palmquist said he wanted to ensure the current applicant was treated the same as other applicants. He noted a main concern would be run off into Pioneer Creek. Kaltsas noted they were not changing or adding any outdoor areas.

Dumas asked why the concrete floor was not included in the CUP conditions. Kaltsas said it should be in the recommended conditions and if it is not will be put in and clarify where service may be performed.

Palmquist asked what the height the opaque fence would be. Kaltsas said they are proposing 6 feet. He said there would also be vegetative landscaping. Palmquist asked about the rear view from the East. Palmquist said it has been cleaned up but he has a clear view from his property. He said a fence would help but would not cover it all.

Open Public Hearing

Palmquist asked the applicants if they would be opposed to additional screening on the East side. The Fishers said they could plant more trees in that area.

Dumas asked if there was going to be more lighting added to the plan. Kaltsas said there was not more planned but anything added would have to meet lighting standards.

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

Public Hearing Closed

Thompson asked what happens once the zoning is changed if the CUP is approved. Kaltsas said the existing CUP would be revoked at the next City Council meeting.

Palmquist asked about additional screening conditions. Kaltsas said the standard for evergreens is 6 feet. He said the additional evergreens could be added on the North and East sides.

Motion by Thompson to approve (a) rezoning of the subject property from AG- Agriculture to CLI- Commercial Light Industrial, (b) site plan review for the proposed commercial use of the property and (c) Conditional Use Permit to allow boat service and repair on the subject property based on staff recommendations (1-11) with the addition (12) additional evergreen screening along the North and East property lines for 2020 County Road 90 (PID No. 23-118-24-23-0002) in Independence, MN; second by Palmquist. Ayes: Dumas, Thompson, Gardner, and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

8. **Public Hearing:** 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:

- a. Final Plat for a sixteen-lot residential subdivision to allow the subdivision of the property.

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 is in the process of preparing a draft development agreement for review by the applicant. This will be reviewed and considered by the City Council during their review of the Final Plat.
6. Storm water management has been reviewed by the City and several revisions have been asked of the applicant. Minnehaha Creek 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. A draft of the ordinance is being prepared and will be brought before the City Council for formal adoption following the requisite public hearing notification period.

The proposed subdivision is subject to the City's park dedication requirements. The park dedication is broken down as follows:

*Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5. The park dedication fee requirement for this development is anticipated to be \$55,125 (15 lots x \$3,500, plus 3.5 additional acres for Lot 5, Block 2 [\$2,625] = **\$55,125**).*

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.
 - d. 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.
- i. The Applicant shall consent to the establishment of the storm sewer improvement tax district 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.

3. 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.

Kaltsas stated there was one letter received from the owners of 438 County Road 110. They said they have invested time and resources in their kennel operation at their home and have been good neighbors. They are disappointed in the development as they enjoy the beautiful, rural setting as it is and operating their kennel.

Thompson asked what the standards were for turn lanes and was surprised there were not any for this multi-unit development. Kaltsas said the County regulates this and are developing a new policy. It was determined most traffic out would be northbound and not much southbound. The County has yet to act on the left turn lanes that they are in the process of memorializing. Kaltsas said the City did receive formal approval for this access point.

Open Public Hearing

Potter said neighbors are worried about their driveways but have nothing against the proposal.

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

Public Hearing Closed

Motion by Palmquist to approve the final plat for a sixteen-lot residential subdivision to allow the subdivision of the property per staff recommendations for the property at 1050 County Road 83 (PID No. 35-118-24-41-0001) in Independence, MN; second by Palmquist. Ayes: Dumas, Thompson, Gardner, and Palmquist. Nays: None. Absent: Phillips. Abstain. None. Motion Approved.

9. Open/ Misc.

10. Adjourn

Motion by Thompson, second by Dumas to adjourn at 9:35 p.m. Ayes: Gardner, Thompson, Palmquist and Dumas. Nays: None. Absent: Phillips. Abstain: None. Motion approved.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary