

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
MONDAY, NOVEMBER 18, 2019 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, McCoy and Grotting

ABSENT: Councilor Spencer

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

VISITORS: Ben Schmidt, Tracey Rust, Curt Walter, Marty Howes, Randy Stinson, Tom Blanck

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the October 15, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19196-19270.
- c. 3rd Quarter Financial Report – For Council Information.
- d. Orono Baseball Association – Temporary Gambling Permit.
- e. 2020 Contract for Accounting Services – Abdo Eick & Meyers.
- f. **RESOLUTION 19-1118-01**- Designating City Hall as the Polling Place for the 2020 Elections.
- g. Notice to Initiate Expiration of Agricultural Preserve Status for the Properties Identified by PID No.s 15-118-24-32-0003 and 15-118-24-33-0001.
- h. Approval by City Council to not waive the monetary limits on Tort Liability.
- i. **RESOLUTION 19-1118-02** – Certifying Delinquent Sewer Service Charges.

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

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Pioneer Sarah Creek Watershed Meeting (PSCWMC)
- LICA meeting
- LSIA meeting
- Brennan Slipka Eagle Board Review
- Highway 12 Safety Coalition Meeting
- League of Minnesota Cities Meeting
- Election Canvass Certification

- Planning Commission Meeting

Grotting attended the following meetings:

- Planning Commission Meeting
- Ag Preserve policy with Pagenkopf's
- Representative Dean Phillips meeting and tour
- Highway 12 Safety Coalition meeting
- League of Minnesota Cities Meeting
- Election Canvass Certification
- LMCC quarterly meeting
- Met with Mediacom regarding broadband

McCoy attended the following meetings:

- Haven Homes Advisory Board Meeting
- Highway 12 Safety Coalition Meeting
- Election Canvass Certification
- League of Minnesota Cities meeting
- Orono School play Wizard of Oz

Betts attended the following meetings:

- Highway 12 Coalition Meeting
- Election Canvass Certification
- West Hennepin Chamber of Commerce Meeting

Johnson attended the following meetings:

- Highway 12 Corridor Meeting
- Highway 12 Tour with Representative Dean Phillips
- Census Conference Call
- Regional Conference of Mayors Meeting
- LSIA Annual Meeting
- Retirement Event for Jeanne Cook from Orono Foundation
- Orono School Board Meeting
- Sensible Land Use Committee Meeting
- Community Action Partnership Hennepin County Board Meeting
- CASSIA Fundraiser Event
- Delano School Board Meeting
- Highway 55 Corridor Executive Committee Meeting
- Orono High School Choir Concert
- West Hennepin Chamber of Commerce Meeting
- Northwest League of Minnesota Cities Meeting
- Election Canvass Certification
- League of Metro Cities Meeting
- Planning Commission Meeting

Horner attended the following meetings:

- Election Judge Training

- Ag Preserve meeting with Pagenkop's
- Election
- BKV Architect Meeting
- West Hennepin Chamber of Commerce Meeting

Kaltsas attended the following meetings:

- Met with League of Minnesota Cities Deputy Director

Noted Hakanson Anderson will be out in the community measuring pond outfalls.

7. AT&T (Applicant) requests that the City consider the following action for the property located at 3310 County Line Road, Independence, MN (PID No. 07-118-24-33-0004):

- a. RESOLUTION NO. 19-1118-03 – considering a conditional use permit amendment to allow the colocation of new cellular antennas on the existing wireless tower located on the subject property and a variance to allow a second accessory structure on the property and the reduction of the requisite 40-foot rear yard setback.

Kaltsas said the applicant is seeking an amendment to the existing conditional use permit, site plan approval and variance to allow new antennas and to be located on the existing telecommunications tower and a new accessory structure to be located at the base of the tower. There is an existing Conditional Use Permit which was granted by the City in 2001 approving the site plan to allow the tower to be installed. In 2013, the City approved an amendment to allow Verizon Wireless to locate new antennas and accessory equipment building on the property. In 2014, the City granted approval to AT&T to allow the colocation and site plan for new antennas on the existing tower. AT&T did not install the antennas that were approved. The applicant is again proposing to install new antennas on the existing tower as well as locate the associated equipment at the base of the tower. Given the proposed improvements, an amendment to the conditional use permit is required.

520.09 Subd. 8. If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

The City has criteria relating to the location (setbacks), site improvements and landscaping for new telecommunications tower development. In this case, the tower already has a conditional use permit. The location and setbacks for the existing tower were approved by the initial conditional use permit. There are several factors that should be considered relating to the site plan approval and variance:

1. The applicant is proposing to install new base equipment that is located within a fenced area at the base of the tower. The equipment would be located within a steel cabinet and the generator would be mounted to a pad on the ground, but otherwise not enclosed. The previous proposal (2014 and approved by the City) proposed to locate the equipment within a prefabricated equipment shelter similar to that used by Verizon on this site. Verizon Wireless has an approximate 300 SF equipment shelter which houses all of the requisite base equipment and a generator already on the property. Staff would like direction from the City relating to whether or not all of the proposed equipment and

generator should be located in a prefabricated building similar to that Verizon already has on the property? In either case, the proposed cabinet is considered an accessory structure that would count as a second accessory structure on the property.

2. The applicant is proposing to remove some of the existing landscaping and add additional landscaping to the site. The location of the proposed equipment does not currently impact any of the surrounding properties. In the future, the subject property and adjacent property to the east could be redeveloped. The applicant has updated the landscape plan to reflect the recommendation made by staff and the Planning Commission.
3. The City will need to grant a variance from the rear property line to allow the location of the equipment cabinet within the requisite 40-foot setback. The applicant is noting the proposed equipment cabinet would be located 9'-7" from the rear property line. The location of the existing tower would likely not allow for any structure to meet the requisite setback. The City granted a similar variance in 2013 to allow the Verizon structure to be located within the requisite 40-foot setback.
4. Commissioners recommended that the proposed generator be removed from the site or enclosed in a sound mitigating enclosure. The applicant has revised the plans to now show the generator being enclosed in a level 2 sound enclosure (see generator cut sheet attached to this report).
5. The plans show that the proposed enclosure will have an exterior light. The applicant has provided the City with a cut sheet of the proposed light that does not meet applicable standards. The applicant will need to provide a revised plan and cut sheet with an approved light fixture. The fixture cannot have any portion of the light source visible from a height of 4 feet. In order to achieve this standard, the proposed light will have to be oriented parallel to the ground and be a full cut-off type fixture.
6. The plans show the at the proposed equipment area will be enclosed by a chain link fence. The height of the proposed fence is 6 feet with an additional 1 foot barbed wire section. It appears that the proposed fence will tie into the existing fence already located on the property.
7. The proposed new antennas would be located below the height of the existing Verizon antennas. The Verizon antennas are located at a height of 181 feet. The proposed AT&T antennas would be located at a height of 172 feet.

The City can grant a variance if it determines that it meets the criteria for granting a variance as established by ordinance. The criteria for granting a variance are as follows:

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) Any amendment to an existing CUP must meet the same requirements established for granting a new 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 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 existing tower has a conditional use permit. The new antennas will be located just below those approved for Verizon Wireless. The proposed equipment cabinet and generator are not consistent with the existing enclosed equipment shelter used by Verizon on this site. Enclosing the proposed ground equipment and generator inside of a building would be consistent with the plans approved for the Verizon Wireless equipment shelter. Landscaping will further mitigate the impacts of the proposed equipment shelter. It should be noted that the existing and adjacent properties to the south, east and north are guided for Urban Commercial by the City's 2030 Comprehensive Plan.

In the existing zoning district, telecommunication towers are permitted as a conditional use. Resulting traffic, noise, and other measurable impacts should not be incrementally amplified as a result of the proposed new antennas and associated base site improvements. The City will need to determine if the requested amendment to the conditional use permit, site plan and variance meet all of the aforementioned conditions and restrictions.

The Planning Commission recommended approval of the request for an amendment to the conditional use permit, site plan approval and variance with the following findings and conditions:

1. The proposed conditional use permit amendment, site plan review and variance meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. This amendment approves new antennas, site improvements (as indicated on the approved site plan, attached hereto) and associated base equipment.
4. The proposed generator shall be enclosed in a level 2 sound enclosure as proposed and shown on the approved plan set.
5. Prior to consideration by the City Council, the applicant shall provide the City with the following items:
 - a. Cut sheets and updated plan set showing the proposed lighting. All lighting shall be required to meet applicable City requirements.
6. The applicant shall pay for all costs associated with the City's review and processing of the requested amendment to the conditional use permit and site plan review.
7. The City Council may revoke the conditional use permit if the applicant violates any of the conditions set forth in the conditional use permit.

Betts asked about the generator and Kaltsas said it was a back-up and would not be running all the time. McCoy asked if it was a diesel generator and Woelter (AT&T) said it was natural gas which is quieter.

Motion by McCoy, second by Betts to approve RESOLUTION NO. 19-1118-03 – considering a conditional use permit amendment to allow the colocation of new cellular antennas on the existing wireless tower located on the subject property, a variance to allow a second accessory structure on the property, the reduction of the requisite 40-foot rear yard setback, and to include the requirement that the generator is gas for the property located at 3310 County Line Road, Independence, MN (PID No. 07-118-24-33-0004): Ayes: Johnson, Grotting, Betts and McCoy. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.

8. John Hilbelink (Applicant/Owner) requests that the City consider the following action for the properties located at 5062 Perkinsville Road, Independence, MN (PID No.s 24-118-24-13-0005 and 24-118-24-13-0006):
 - a. **RESOLUTION NO. 19-1118-04** – Considering approval of a minor subdivision to allow a lot line rearrangement to move the existing line between the properties. The rearrangement would create “equal” properties on Perkinsville Road.

Kaltsas said the applicant is seeking a minor subdivision to allow a lot line rearrangement that would expand the 5062 Perkinsville Road property by approximately 1.65 acres and reduce the property identified by PID No. 24-18-24-13-0006 by the same. The applicant owns both of the subject properties. The common property line that is currently located to the north of the 5062 property would be “straightened” to create to equal properties.

Both properties are considered to be legal non-conforming lots of record. Both properties have approximately 165 feet of frontage on a public right of way. The minimum frontage required by ordinance is 200 LF for the smaller parcel and 250 LF for the larger parcel. In addition, detached accessory structures

are not permitted on a property without a principal structure (residence). In the before and after conditions both properties would meet all applicable structure setbacks. The proposed after condition would not create any new non-conformities relating to setbacks, property size or road frontage minimums.

The applicant is in the process of updating the existing septic system that serves the eastern parcel (existing residence). In reviewing the possible locations for a new septic system, it was identified that the best location would be located on the adjoining property. Even though both properties are under the same ownership, the City notified the Applicant that a permanent easement would need to be provided and recorded across the adjoining property if the septic site was going to be located on the adjacent property. Based on this discussion, the Applicant is seeking a minor subdivision to rearrange the property lines to accommodate a new septic site on the same property as the existing residence.

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

1. The lot line rearrangement would create two equal lots that are in keeping with the general configuration and size of the adjacent lots.
2. No new non-conformities would be created, and the legal non-conforming/conforming status of each respective property does not change in the before or after conditions.
3. There is an existing detached accessory structure located on the western parcel that is proposed to remain in the after condition. While the non-conforming condition of the property is not being intensified as a result of the minor subdivision, staff is seeking direction from the Planning Commission and City Council pertaining to this non-conformity.
4. The City did suggest that the Applicant consider connecting the existing home to the City's sanitary sewer line located at the intersection of South Lake Shore Drive and Perkinsville Road. The Applicant did review this possibility and decided to move forward with replacing the existing on-site septic system. There are several challenges to connecting at the closest location due to the pipe being a force main.
5. The Applicant would be providing the City with the requisite perimeter drainage and utility easements for both properties.
6. The proposed Tract A is a buildable lot of record in both the before and after conditions.

The Planning Commission recommended approval of 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. City Council approval of the requested minor subdivision shall be subject to the Applicant providing and executing the requisite drainage and utility easements.
4. The Applicant shall record the subdivision, easements and City Council Resolution with the county within six (6) months of approval.

Motion by McCoy, second by Grotting to approve RESOLUTION NO. 19-1118-04 for a minor subdivision to allow a lot line rearrangement to move the existing line between the properties. The rearrangement would create "equal" properties on Perkinsville Road (PID No.s 24-118-24-13-0005 and

**24-118-24-13-0006): Ayes: Johnson, Grotting, Betts and McCoy. Nays: None. Absent: Spencer.
MOTION DECLARED CARRIED.**

9. Concept plan and provide informal feedback relating to the proposed subdivision of the property located at 2236 South Lakeshore Drive. The proposed subdivision would create 28 single-family lots which includes the existing residence.

Kaltsas said the applicant originally came forward to the City in May of 2018 with a concept plan for a 96-unit subdivision. The applicant has now submitted a new concept plan for a 28-unit subdivision based on the discussion and direction provided to the applicant by the City during the process. The applicant is now asking the City to again consider and provide feedback relating to a new concept plan for the proposed subdivision of the subject properties. A concept plan allows the City the opportunity to initially review the proposed subdivision and provide feedback and comments to the applicant prior to the submittal of any formal applications for the development of the property.

The City has discussed the potential subdivision and current 28-unit development with the applicant. In addition, upon receipt of the current submittal, the City sent a letter to surrounding residents offering an opportunity for them to individually meet with the City to discuss the plan and provide feedback and general comments relating to the subject property and its development. A more detailed account of the comments and discussion is provided later in this report.

In order for the City to ultimately consider approval of a plan similar to the proposed concept plan, the following steps would be required:

1. Amend the Comprehensive Plan.
 - a. This would change the guided land use from RR-Rural Residential to something that allows a sewer density that would be more than 1 unit per 5 acres.
2. Prepare and adopt an ordinance amendment which would allow for the new land use designation of sewer density on the portion of the property outside of the S-Shoreland Overlay District. The City would develop the standards for the new zoning district. Standards would include minimum lot size, minimum building setbacks, design standards, minimum home square footage, accessory structure standards and setbacks, landscaping requirements and all other similar and related standards pertaining to development within the zoning district.
3. Rezone the property to the new zoning district.
4. Consider Preliminary Plat approval.
5. Consider Final Plat approval.

Comprehensive Plan/Rezoning

The City's adopted 2030 and proposed 2040 plan identify this property as Rural Residential with limited sewer service. The rural residential designation allows for a general development density of 1 unit per 5 acres. The portion of the property that is located within the Shoreland Overlay zoning district could potentially be developed in accordance with the requisite shoreland standards. These standards generally allow for property within the shoreland overlay (1,000 feet from the OHWL) to be developed as one (1) acre lots. The City has noted that the property is currently served by the existing sanitary sewer which runs along two sides of the property (South Lake Shore and Perkinsville Road). The City has stated that an amendment to the Comprehensive Plan will need to occur after final approval of the 2040 Comprehensive

Plan. This plan is still in the process of being reviewed and approved. The City will ultimately need to determine how this parcel is guided moving forward.

The applicant has prepared a concept plan for review by the City. The City has preliminarily reviewed this plan and provided initial comments and feedback to the applicant. One of the initial questions asked by the City was how many lots could be developed on the property based on the current guidance of the property. The current guided designation would allow this property to be rezoned to Rural Residential with a portion of the property falling under the S-Shoreland Overlay (all property within 1,000 feet of the OHWL of Lake Independence). In order to determine the actual number of lots permitted under current zoning, a property layout would need to be prepared. There are approximately 26 acres located within the area governed by the S-Shoreland Overlay. The number of lots that this area would yield is likely between 18-22 lots given the lakeshore, existing topography and configuration of the property covered by the overlay district. For the remaining 22 acres the number of lots that could be developed would be governed by the Rural Residential standards shown below. 22 acres could yield 4-5 lots depending on the exact acreage remaining land. The total number of lots that could be realized on this property utilizing the current zoning standards is estimated to be between 20-30. The City identified the need to determine if there was potential and physical sewer capacity to accommodate a development of this type. In addition, the City noted that traffic on County Road 29 and Perkinsville Road should be further evaluated to understand potential development impacts.

The City conceptually reviewed the existing sewer system and met with the Metropolitan Council relating to the possibility of developing this property. The Metropolitan Council noted that there is a limited regional system capacity until 2020 when upgrades to the regional lift station (LS 63) will be online. It was generally acknowledged by the Metropolitan Council that property was included in their future sewered area and was also included in the Metropolitan Urban Service Area (MUSA) in the City's 2030 Comprehensive Plan. The relatively low density (less than 3 units per acre) of the proposed subdivision could present a challenge to gaining approval by the Metropolitan Council and will need to be further evaluated should the project move forward. Review of the City's sanitary sewer system identified the potential capacity to service the proposed subdivision. Some upgrades and or system improvements would likely be necessary for this development to occur.

The City also completed a traffic analysis pertaining to the potential impacts of the development of the property based on a 96-unit development. Generally, the traffic analysis found that there was capacity on CSAH 29 and Perkinsville Road to accommodate development of this parcel. Any development of this property would have potential traffic impacts to Perkinsville Road and County Road 29. The City will have to further evaluate the potential traffic impacts should the development of this property move forward. The initial review of the subdivision contemplates a high-level review only of the proposed concept development plan. A detailed review of the storm water, grading, traffic impacts and infrastructure details will be completed prior to consideration of any future applications. The City does not formally approve or deny a concept plan. The concept plan review will provide direction and comments to the applicant for their use during the preparation of future applications. The following comments should be considered by the City:

1. The initial plan reviewed by the City identified lots that would have direct access onto South Lake Shore Drive. The City noted that access to any development should occur via an internal access road that comes off of Perkinsville Road. The applicant revised the concept plan to show lots with access only from a new internal loop road. The City noted that a development of this size would need to have two points of access into the development and a second road connection onto South Lake Shore is proposed.
2. The proposed concept plan indicates six lots with riparian access (frontage or access) on Lake

Independence. Any lot directly abutting the lake would need to comply with applicable shoreland overlay standards. The shoreland overlay requires a minimum lot size of 1 acre and a minimum shoreland lot width of 100 linear feet. The subject property has approximately 700 linear feet of shoreline on Lake Independence. One of the proposed lots would have a narrow 30-foot-wide access. Additional review relating to slopes, bluffs and general grading of the proposed riparian lots would be required if the develop moves forward.

3. The proposed layout shows that those lots with direct shoreland would be developed so that the homes could be located at the top of the existing slope. This is preferable to previous layouts where the proposed building pads were located closer to the lakeshore which would have likely had significant impacts to the existing topography and vegetation.

4. All of the proposed lots (it is understood that one is labeled at .99) would be a minimum of 1 acre in size and connected to City sanitary sewer.

5. The City initiated and completed a traffic study relating specifically to this concept development plan (see attached traffic study). The traffic study looked at the potential impacts of an approximate 100-unit development on the intersection of Perkinsville Road and County Road 19.

The study considered the development of this property into typical single-family homes. Traffic counts were taken on County Road 19 and Perkinsville Road to establish some baseline traffic data. It should be noted that the study only considered the impacts of the development of the subject property and not any future development/redevelopment of the surrounding area. The primary focus looked at the impacts during peak am and peak pm traffic hours. The study found that that peak hour traffic impacts would be minimal based on the level of service currently identified at the intersection. It was indicated in the study that the level of service at the key intersection would be no less than a “B” in the fully developed condition. The City would want to further investigate the impacts of this development on the surrounding areas should further consideration be sought by the applicant. One point that should be noted is that the study considered all of the proposed lots to be typical single-family homes. Should the City consider a “senior villa” type product, the potential number of peak am, and pm trips would likely decrease.

6. The surrounding area has a mixture of lot types, sizes and densities. A quick analysis of the approximately 21 surrounding (abutting) properties indicates that the average lot size is close to 1.5 acres with the smallest property being 0.2 acres. The nearby properties located on Lake Independence (within 1,000 feet of the subject property) also range in size with the average lots size being approximately 0.5 acres. The approximate net density of the abutting properties is approximately .75 units per acre.

7. The proposed development would preserve a buffer and open space area along Perkinsville and South Lake Shore Drive. This area could be bermed and planted to help screen the proposed development from the surrounding properties. More development of this area/berming/planting would be needed if this development were to move forward.

8. The City and Watershed have standards relating to storm water management and water quality.

The City would work to ensure that any development of this property would meet all applicable standards relating to storm water management and water quality. Due to the unique nature of this property and the fact that the applicant is asking the City to consider allowing for reduced lot standards for a portion of the property, increased or enhanced water quality management of the stormwater associated with this development could be requested. The subject property has a significant natural feature that consists of a wooded “ravine” that runs from west to southeast through the northern portion of the property. This natural feature should be further defined and potentially preserved by any development of this property. The proposed concept subdivision would be subject to the City’s park dedication requirements. No park land dedication is shown on the concept plans. The City should provide feedback relating to possible park dedication on the subject property. The City may want to incorporate a trail and or sidewalk within the development and to the east to provide access to Baker Park. Discussion relating to park dedication should be provided by the City. The standard park dedication requirement of \$3,500 per lot would otherwise be applicable to all newly developed lots. As noted earlier in this report, the

City met or talked with approximately 10 neighboring property owners in more detail about the proposed development. These meetings provided a great deal of insight, concerns and recommendations relating to the development of this property. The following summary of the comments and discussions is provided for consideration by the Planning Commission and City Council.

There may have been additional comments or questions asked during the meetings that is not summarized below and was unintentionally not included.

Stormwater:

1. There is a general concern expressed by many of the residents pertaining to stormwater quality and runoff from the existing property and any future development. Lake Independence is currently an impaired water body. Any development of the property should be carefully reviewed to ensure that water quality is improved.
 - a. It was noted that there is a significant amount of water that runs off of the property to the west and also directly off the property into the lake on the north in several areas.

Traffic:

2. There is a general concern expressed by many of the residents pertaining to increased traffic on both South Lake Shore and Perkinsville Road.
 - a. Many comments were made relating to the speed of vehicles traveling on Perkinsville Road and that there are limited site lines to the west when turning onto or off of South Lake Shore.
 - b. Many comments were provided relating to the poor visibility and difficulty with turning onto or off of CSAH 29 from/onto Perkinsville.

Density/Layout/Lakeshore:

3. Questions were asked relating to why the City would consider allowing an increased number of units on the property rather than what is permitted by the current zoning ordinance. There was some discussion that this property is somewhat unique due to the fact that sanitary sewer borders two sides of the property and its proximity to the lake. The City has generally found that it is beneficial to require the development of sewered lots within close proximity to lakes.
 - a. Several comments were made relating to the character of the surrounding properties and that the proposed lots were generally smaller than the properties on Perkinsville and a part of South Lake Shore that is directly adjacent.
 - b. Concerns were expressed relating to the two lots that directly adjoin South Lake Shore and whether or not they could be eliminated and or moved so that there is a continual buffer along the entire South Lake Shore frontage. A general comment was made that the proposed development has 2-5 more lots than what would be acceptable.
 - d. Many comments were provided relating to the desire to minimize the number of potential docks on Lake Independence. It was asked if multiple docks could be installed on the Lake and whether or not any of the lakeshore properties would have common access. It was noted that the City did not regulate the number of docks, but that the intent of the current design would be to have no common access lots.

Natural Resource Preservation:

4. Comments were made regarding the existing vegetation and topographical features of the site and how/if they would be preserved. It was noted that the City does not have specific tree preservation requirements, but clear cutting of properties is not permitted. The City also discussed the possibility of including other measures that could preserve trees, slopes, ravines, etc. within the development.
5. There were comments made relating to the existing nursery trees located on the property and whether or not some could be preserved.

Sanitary Sewer:

6. Questions were asked regarding any potential impacts or costs to the City or residents relating to additional connections being added to the sanitary sewer. It was noted that the City would likely require an update to the existing lift station located on the property to accommodate the proposed development.

Recommendation:

The applicant is seeking feedback from the City Council pertaining to the concept plan for a 28-lot development. No formal action can be taken by the City on the concept plan. There are many steps that will need to be taken for any development of this property to occur. The adoption of the 2040 Comprehensive Plan will likely not be completed until Spring of 2020.

Betts said this was better plan. Kaltsas noted the average lot size is over an acre. He noted water quality and storm water management is important and being stressed by the City. Betts asked about neighbor reaction and Kaltsas said letters were sent to the 30 homeowners in close proximity. Kaltsas said there are reservations with changes and a lot of concern about traffic on Perkinsville. Johnson noted Kaltsas did a good job meeting with residents and addressing concerns. McCoy said he liked they have not put 20 lots in the shoreland overlay. He also liked that there are no driveways coming out on Perkinsville. Grotting asked what the land was in the southeast corner. Kaltsas said it will be an out lot. Grotting said this plan is a wonderful compromise.

Ben Schmidt (Excelsior Group) said he anticipates a homeowner's association with rules and regulations. Betts asked if there would be one garbage collection service. Schmidt said there would just be one. Betts said lawn and snow service should be the same thing. Grotting said he imagines kids would want to peddle over to Baker Park and the design needs some pedestrian traffic ways. Kaltsas said they could discuss pedestrian traffic.

10. A proposed text amendment to the City of Independence Ordinances as follows:

- a. **ORDINANCE NO. 2019-03 (Summary Ordinance 2019-03)** - Chapter 5, Section 530.01, Subd. 3 Accessory Uses – Considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures.

Kaltsas said Staff has determined that it is possible to establish a "Review Committee" that would likely be comprised of several members of the Planning Commission and City Council to review requests for accessory structures that exceed the maximum height permitted in the zoning ordinance. Details of the "Committee" makeup will be considered and approved by Council and will likely include 2 Planning Commissioners and 1 Council Member. The intent would be that the "Committee" would meet once a month if needed. The cost of an application would be nominal, and no public hearing would be conducted. The actual fee would be incorporated into the City's fee schedule. Staff has been working with the City's attorney to develop an ordinance for consideration by the Planning Commission and the City Council.

The proposed ordinance considers establishment of several specific criteria which must be satisfied prior to consideration by the "Committee". If a proposal meets the criteria, the "Committee" will have the ability to review and approve an increased building height or if not approved recommend that the applicant apply for a variance. Any application that does not meet the initial criteria would have the option of applying for a variance.

Planning Commissioners have reviewed the proposed ordinance language and provided feedback and direction on several occasions. Planning Commissioners recommended approval of the

ordinance with a few minor changes that have now been incorporated into the proposed ordinance. to review the proposed draft language and provide discussion and feedback at the meeting. The draft ordinance is attached for review and consideration by the City Council. Should the Council adopt the ordinance, staff will amend the fee schedule and prepare a new application that corresponds to the ordinance. In 2013 the City updated the accessory structure ordinance to establish a more proportional relationship between the amount of detached accessory structure square footage allowed on a property and the size of the property. In practice, the new ordinance has worked well and there have been no variances granted relating to the size of a detached accessory structure since the amendment. One area of the ordinance that was changed at the same time was the maximum height permitted for detached accessory structures.

The City has received concerns and comments from property owners relating to the maximum height permitted. The City has also granted two (2) variances relating to the maximum height of detached accessory structures. The general concern is that the maximum height permitted varies based on the height of the principal structure. If a resident has a single-level home, the maximum height of a detached accessory structure is limited to the single-level home height. This causes some issues for residents with larger properties that would like to have a larger detached accessory structure but have a single level home. Staff has looked at the permitted heights of accessory structures from surrounding communities. It should be noted that not all communities allow as large of a detached accessory structure as the City of Independence. Staff would like to further discuss the maximum permitted height of detached accessory structures with the Planning Commission.

The City's current ordinance states the following:

The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10 In application of the ordinance over the past 5 years, the City has consistently had requests for detached accessory structures that have heights (measured to the midpoint of the roof) in the 20- 25-foot range. Many of the single-level homes measure closer to 17-20 feet in height measured to the midpoint of the roof. This typically leaves single-level property owners with an issue when considering building a detached accessory structure. When the City considered the height in 2013, there was a general consensus that detached accessory structures should be proportional and subordinate to the principle structure on the property. In order to help achieve the subordinate relationship, the maximum height of the detached accessory structure was limited. Due to the wide array of property size, building architecture and other factors, many of the proposed detached accessory structures do not have a significant relationship with the principle structure.

Johnson said if we don't do something, we are forcing people to do something that is not good. Kaltsas said there would be a new committee not commission.

Motion by Betts, second by Grotting to approve ORDINANCE NO. 2019-03 and the Summary Ordinance 2019-03 - Chapter 5, Section 530.01, Subd. 3 Accessory Uses – Considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures. Ayes: Johnson, Grotting, Betts and McCoy. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.

11. Open/Misc.

12. Adjourn.

Motion by Grotting, second by Betts to adjourn at 8:12 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary