

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, MAY 5, 2020 –6:30 P.M.

Continuation -BOARD OF REVIEW AND APPEAL- MINUTES

1. RECONVENE

Pursuant to due call and notice thereof, an appeal meeting of the Independence City Council/ Board of Review was reconvened by Mayor Johnson at 6:30 p.m. via Zoom video call.

Thomsen addressed the three appeals. He said the first one (Coleman) was ok for approval. There were no comments from Council.

Motion by McCoy, second by Spencer to approve the recommended change for 315 County Rd 92N – PID 32-118-24-42-0047. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

2465 County Road 92N – PID 17-118-24-44-0009 Owner Jacob & Karyne Hewett

The owners purchased this property in June 2018 for \$699,900. They are concerned with the market value increase from \$688,000 to \$694,000. I looked at sales in the area and recommend no change in value. This property owner may be attending the meeting.

Karyne Hewett said they purchased the property in 2018 at a value of \$699,900. She said this year is at \$694,00. Hewett feels it is should be lower as it is in the Delano school district not Orono. She feels it is too high at the appraised value.

Johnson noted the average home went up 4.3% in Independence regardless of the school district. Thomsen noted everything is based on the market and it is an average and it was 4% this time. Spencer noted this property was being increased at least than 1%. Johnson said 2008 was the highest values and now it has been leveling out more over the years. He advised going before the Hennepin County Board of Appeals which is the next step in the process. Potter said once every year the value is reassessed by analyzing area sales. She said the value will change every year in the State of Minnesota. Betts said she felt it was a fair value.

Motion by Spencer, second by Betts to approve the recommended valuation set by the assessor at \$694,00 for 2465 County Road 92N – PID 17-118-24-44-0009. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

6000 Providence Curve – PID 14-118-24-42-0008 Owner Mark & Lisa Kroskin

Thomsen said Mr. Kroskin is questioning his value increase from \$687,000 to \$720,000. After verifying characteristics and comparing his property to other sales in the area, I recommend a market value reduction from \$720,000 to \$696,000. This property owner did not attend/ speak at this meeting.

Motion by Spencer, second by McCoy to approve the recommended valuation set by the assessor at \$696,00 for 6000 Providence Curve – PID 14-118-24-42-000. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Grotting, second by Betts to adjourn the Board of Appeals meeting at 6:59 p.m. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

2. 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 7:00 p.m.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Grotting, McCoy and Spencer

ABSENT: None

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

VISITORS: Hennepin County Appraisers Mel Potter and Dave Thomsen, Chief Kroells

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 April 16, 2020 Special City Council Meeting.
- b. Approval of City Council Minutes from the April 21, 2020 Regular City Council Meeting.
- c. Approval of Accounts Payable; Checks Numbered 19600-19627.
- d. Approval of an Agriculture Preserve Renewal Application for Randal and Colleen Klaers (PID No.s 02-118-24-41-0001 and 02-118-24-42-0003).
- e. Approval and Award of Annual Dust Control and Gravel Contracts.
- f. First Quarter Building Permit Summary – For Information.

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

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

Johnson added grant for parks through Active Living Healthy Community.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting
- Calls from residents regarding Jorgensen development
- Accessory Structure Committee Meeting

Grotting attended the following meetings:

- Planning Commission Meeting
- Calls from residents regarding Jorgensen development
- Xtratyme Meeting

McCoy attended the following meetings:

- Planning Commission Meeting
- Calls from residents regarding Jorgensen development

Betts attended the following meetings:

- Planning Commission Meeting
- Calls from residents regarding Jorgensen development
- Police Commission Meeting

Johnson attended the following meetings:

- Planning Commission Meeting
- Two Calls with Congressman Phillips
- Work Session with Chief Kroells and Administrator Kaltsas on Highway 12/92 project
- Webinar for National League of Cities
- Senior Community Services Committee Finance Meeting
- Minnesota Prayer Breakfast Virtual Meeting
- Police Commission Meeting
- Metro Cities Meeting
- Hennepin Counties Healthy Communities Webinar

Horner attended the following meetings:

- Planning Commission Meeting
- Accessory Structure Committee Meeting
- Active Living Healthy Community Meeting

Kaltsas attended the following meetings:

7. Darryl Jorgenson (Applicant) and Mary Jorgenson (Owner) request that the City consider the following action for the property located at 4594 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0029):
 - a. **RESOLUTION 20-0505-01:** Considering a minor subdivision to allow a lot split of to create two properties.
 - b. **RESOLUTION 20-0505-02:** Considering approval of a Preliminary Plat for the subdivision to be known as Shady Beach.

Kaltsas said the subject property is located on Lake Sarah and at the end of Shady Beach Circle. There is an existing home and accessory garage and accessory shed located on the property. The property also has an existing pond and bituminous trail. The parcel is currently separated by the right of way of Shady Beach Circle. The property has the following site characteristics:

Property Information: 4594 Shady Beach Circle
Zoning: Rural Residential (Shoreland Overlay)
Comprehensive Plan: Rural Residential
Acreage: (BEFORE) 4.18 acres
Acreage: (AFTER)
Parcel A – 1.82 acres
Parcel B – 2.47
Platted Lots:
Lot 1, Block 1 – 1.0 acres
Lot 2, Block 1 – 1.4 acres

The applicants approached the City about the possibility of subdividing their property into a total of four (4) lots. The property is zoned RR-Rural Residential and is governed by the S-Shoreland Overlay District. The property is currently bisected by the Shady Beach Circle right of way. Historically, the southern portion of the property was a part of the overall campground that existed on the property prior to the current residential developing occurring. Within the S Shoreland Overlay zoning district, the City allows the subdivision of properties connected to City sewer into lots with a minimum size of one acre. The City has historically allowed lots that are within 1,000 feet from the OWHL and connected to sewer to be subdivided as long as they meet all other applicable criteria.

The applicant initially requested that the City consider a subdivision of the property into four lots, one of which would have captured the existing home that is located across the street and on Lake Sarah. In order for the City to consider approval of the four lots, a variance to allow a lot that is less than one acre in size would have been required for the existing home. Initially, an application was submitted to the City for the Preliminary Plat and Variance and was considered by the Planning Commission in February. Since that time, the applicant has been considering alternative scenarios that would eliminate the need for the variance and allow the existing detached garage that is located across the cul-de-sac from their home to remain on the property.

The applicant is now proposing an alternative submittal that would achieve a very similar result without the need for the variance. The alternative request would first require a minor subdivision to split the existing property into two parcels (Parcels A and B). Parcel A would have the existing lake home and detached accessory garage across the street. Parcel B would subsequently be platted into two new buildable lots. The total number of new lots created by the proposed subdivision would be two.

The revised plan would establish two new lots that meet all applicable requirements and allow the existing home and adjoining property to continue to meet all applicable requirements. The existing home is connected to City sewer. There is one sanitary sewer stub that connects to Lot 1, Block 1 that can likely be used for a new home. One additional sanitary sewer connection would be required to serve Lot 2, Block 1. The new lots as proposed would have the following detail:

Parcel Area Frontage
Lot Frontage to Lot Depth

Parcel A 1.82 acres
102.50 LF 1:1.5
Block 2 Area Frontage
Lot Frontage to Lot Depth
Lot 1 1.0 acres

235 LF ~1:1
Lot 2 1.4 acres
261 LF ~1:1

The City requires the following setbacks/lots standards for lots zoned RR-Rural Residential and in the S-Shoreland:

Side Yard Setback: 30 feet
Front Yard Setback: 85 feet from the centerline of road
Rear Yard Setback: 40 feet
Wetland Buffer Setback: 10 feet
Maximum Impervious Coverage: 25%

The City has reviewed the proposed minor subdivision and subsequent preliminary plat and offers the following comments and notes for further consideration: The Planning Commission considered a similar request at February meeting and public hearing. The revised plans eliminate the need for a variance and removes one lot from the plat. The elimination of the need for a variance and the removal of one lot is partially in response to comments made at the public hearing and by the Planning Commission.

1. Council is being asked to consider approval of this alternative without the variance and additional lot.
2. The applicant is proposing to connect Lots 1 and 2, Block 1 to the existing sewer line running along Shady Beach Circle. There is one existing sewer stub that will serve Lot 1. Lot 2 will require a new service stub. In order to make the connection, it will be necessary to cut into the existing bituminous street. The two new proposed lots would be subject to applicable sewer fees. The sewer assessment of \$9,550 per lot is applicable to Lot 2, Block 1. Parcel A is currently connected to City sewer and was previously assessed for the sewer connection.
3. The proposed home on Lot 1, Block 1 would be a slab on grade home with no basement. This is a result of the high-water table, existing grades and adjacent pond elevation. Lot 2, Block 1 is shown as a walk out basement that utilizes the natural grade of the lot.
4. The City has reviewed the proposed grading and has minor comments pertaining to the proposed driveway culverts, grading and swales. The City is working with the applicant to revise the construction plans and address all comments provided. The City will continue to work with the applicant to revise the grading plan prior to City Council approval of the final plat.
5. The City has reviewed the stormwater plans and provided comments to the applicant. A few of the key issues that still need to be addressed are as follows:
 - a. A wetland delineation for the property will need to be completed.
 - b. The existing culvert that runs beneath Shady Beach Circle will need to be inspected.
 - c. Additional stormwater details and calculations will need to be provided for further review.
 - d. The plat will need to be revised to accommodate an overland flow easement between the pond and the existing culvert that runs beneath Shady Beach Circle.
6. There is an existing accessory shed located on the proposed Lot 1, Block 1. The shed does not meet applicable setbacks and will need to be removed. The applicant is asking the City to allow the shed to remain on the property until such time as a building permit is pulled to construct a new home. The City could add a condition to the Final Plat resolution to require the structure to be removed prior to issuance of a certificate of occupancy for a new home on the property.
7. The applicant will be required to enter into a Development Agreement with the City and submit and received approval for a final plat at a future meeting. The Agreement will stipulate maintenance of the

existing pond, park dedication fees, sewer connection fees, public improvement conditions and requisite security.

8. Lots 1 and 2, Block 1 will be subject to applicable park dedication fees. The current park dedication fee is \$3,500 per lot for all property up to 5 acres in size.

The proposed minor subdivision will split the property into two lots. The proposed preliminary plat with split Parcel B into two new lots. The two lots created along with the existing Parcel A would meet all applicable criteria of the City's zoning and subdivision ordinance. If recommended for approval, the City will work with the applicant to revise the construction plans to address all advised comments prior to Council consideration of the Final Plat.

Planning Commissioners discussed the requested preliminary plat and variance. At the time of review, Commissioners primarily asked questions pertaining to the requested variance and potential issues of non-conformity that would be created for the existing home. Commissioners also discussed the existing detached accessory structures on the property and whether or not they should remain in the after condition. Commissioners ultimately recommended approval of the variance and preliminary plat to the City Council.

The Planning Commission recommended approval of the requested variance and preliminary plat with the following findings and conditions. Council is being asked to consider approval of the proposed minor subdivision to create Parcels A and B and then approval of the Preliminary Plat of Shady Beach Park with the conditions noted below and found within the attached resolutions.

1. The proposed minor subdivision and preliminary plat request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.
2. The Applicant shall address all comments made within this report, recommended by the Planning Commission and required by the City's Engineer review of the subdivision.
3. The City shall add a condition to the final plat approval that allows the detached accessory structure on Lot 1, Block 1 to be removed prior to issuance of a certificate of occupancy for a new home on the property.
4. The Applicant shall enter into a Development Agreement with the City.
5. The Applicant shall pay for all costs associated with the City's review of the requested variance, minor subdivision and preliminary plat.
6. The Applicant shall submit final plat application within 90 days of the City Council approval of the preliminary plat.

Johnson asked if the owners agree with everyone described and in agreement. Darryl Jorgensen said the description was accurate and he agreed. Johnson asked if Council had any other requests on the item. Spencer wanted to make sure the second condition was described correctly. Kaltsas confirmed that it was the correct description. Spencer stated the smaller structure was a bathhouse for the campground originally. Betts noted the house was on one side of the road with the garage on the other side of the road. She asked what would prevent them building a house later on the property. Kaltsas said they would have that right but would have to come back for a variance.

Spencer said many of the concerns from residents were around the variance and now that that has been eliminated, he felt the issue had been addressed.

Motion by Grotting, second by McCoy to approve RESOLUTION 20-0505-01: Considering a minor subdivision to allow a lot split to create two properties. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by McCoy, second by Spencer to approve RESOLUTION 20-0505-02: Considering approval of a Preliminary Plat for the subdivision to be known as Shady Beach. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Vose reiterated title work would be needed for the final approval and was stating this for the benefit of the applicant.

8. Consideration of Approving Lease Agreement and Associated Terms for Wireless Communications Tower on City Hall Property.

Kaltsas said the City has been in discussions with Xtratyme Technologies, Inc. about the possibility of expanding high speed data coverage to the City Hall/WHPS building and also a high percentage of properties within the City. Xtratyme believes that they can wirelessly serve residents within the City by installing a new wireless communications tower on the City Hall property. The tower would initially receive a data signal from their existing tower located in Franklin Township. The new tower would eventually be back fed with high speed fiber that currently exists along Highway 12. The City would allow Xtratyme to construct a 170' tall tower on the City Hall property. Once complete, the tower would become the property of the City and owned by Independence. The City can approve the construction of wireless communications towers located on City property and serving the City.

The City has negotiated the following terms with Xtratyme:

1. A new 170' tower with requisite guy wires will be constructed on the City Hall property.
2. The City will pay \$5,000 dollars to Xtratyme which will offset a portion of the cost of the new tower.
3. The City will be required to provide an electric service to the base of the tower.
4. The City will take over ownership of the tower once finished and accepted.
5. The City will lease a space on the tower to Xtratyme for their wireless equipment for a period of 15 years.
6. Xtratyme will provide high speed internet service to the City at a minimum speed of 300 mbs download and upload for the duration of the lease period at no cost to the City.
7. The proposed tower will be generally located in the location shown on the attached exhibit.

The City's Attorney has drafted a lease agreement and tower construction and sale agreement for consideration by the City Council. City Council is asked to consider approval of the Tower Construction and Sale Agreement and Lease Agreement. If approved, the Council will be permitting the construction of the new 170' wireless communications tower on the City Hall property.

Johnson asked how big of area it would cover for service. Kaltsas said there are not specific areas and it really comes down to line of sight. They have identified the need for towers without having to obtain a CUP and this tower would help with that roll-out. Grotting asked if there was a health concern at all with the RF signals for homeowners. Vose said RF radiation has been studied extensively and the federal government preempts local government with regulations. Cities do not have any authority regulating the health impact. Vose noted it would have to be much higher levels to have an impact and take an extraordinary set of circumstances to have a health concern.

Johnson asked what percentage of the City have internet issues. Kaltsas said this service could be accessed by any resident and within the City there are close to 2/3 of the properties that are not served by in ground cables and even if they do have access, their speeds are not good at all. Kaltsas noted once approved it could move fairly quickly to installation.

Motion by Spencer, second by McCoy to approve Lease Agreement and Associated Terms for Wireless Communications Tower on City Hall Property per Staff recommendations. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

9. Consideration of Granting a Temporary Easement to MNDOT for Construction of the Highway 12/CSAH 90 Road Improvements on Property Owned by the City (PID No. 23-118-24-33-0014).

Kaltsas said MNDOT is in the process of finalizing plans for the proposed Highway 12/CSAH 90 roundabout project. As a part of the plans, MNDOT has identified the limits of construction and property impacts. The City owns a small strip of property directly adjacent to the BNSF railroad and near the old City Hall/Museum Property MNDOT would like the City to grant a temporary easement to facilitate construction of the improvements. The easement is approximately 1,130 SF in size. MNDOT is asking the City to grant the easement for zero cost. Staff has reviewed the proposed construction plans and easement and believes that there would be little to no public impact if the easement is granted.

Motion by Johnson, second by Betts to approve a Temporary Easement to MNDOT for Construction of the Highway 12/CSAH 90 Road Improvements on Property Owned by the City (PID No. 23-118-24-33-0014). Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

10. OPEN/ MISC.

Horner said there are mini-grants available up to \$10,000 that could be used for hand washing stations, benches and bike racks etc. Betts said it was a good idea and would be appreciated by residents. Johnson noted it needed to be done by Friday and was not a matching grant.

Motion by Grotting, second by Betts to approve application by Staff for a mini grant for Active Living Healthy Communities partnership for park items. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

11. ADJOURN.

Motion by Spencer, second by McCoy to adjourn at 8:13 p.m. Ayes: Johnson, Betts, Grotting, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary