



PLANNING COMMISSION MEETING AGENDA  
REGULAR MEETING  
TUESDAY, JULY 17, 2018

**7:30 PM Regular Meeting**

1. Call to Order
2. Roll Call
3. Approval of Minutes:
  - a. May 15, 2018 Planning Commission Meeting (Revised Per Comments)
  - b. June 19, 2018 Planning Commission Meeting
  - c. June 19, 2018 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Nate Pribyl (Applicant/Owner) requests that the City consider the following action for the property located at 5405 Lake Sarah Heights Dr. (PID No. 01-118-24-23-0011) in Independence, MN:
  - a. A variance for reduced setbacks to allow the reconstruction and enlargement of the existing legal, non-conforming shed located on the subject property.
5. Open/Misc.
6. Adjourn.

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, MAY 15, 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: Chair Phillips, Commissioners Dumas, Gardner, Thompson and Palmquist  
STAFF: City Administrative Assistant Horner, City Administrator Kaltsas  
ABSENT: None  
VISITORS: Jan Gardner, Lynda Franklin, Patti and Denny Good, Peggy Pouliot, Wayne Johnson, Staci Mushitz, Tyler Hess, Keith Becker, Pat Johnson, Mark Johnson, Brad and Margaret Kietg, Ben Severtson, Paul Soberg, Britt K-Spears, Kelly Dillion, Scott Ficek, Amanda Ficek, Gene Pierson, Lisa Crees, Steve Crees, Sean Keating, Mark Logren, Nick Reynolds, Diane Appelhof, Randy Stinson, Mike McLaughlin, Jeff Peterson, Lisa Phillips, Don Learned, Sarah Learned, Josh and Toni Schafer, Barbara and Monsen Zadeh, Rob Leonard

3. APPROVAL OF MINUTES:

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

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

4. Amanda Ficek (Applicant/Owner) requests that the City consider the following action for the property located at 7888 County Road 6 (PID No. 33-118-24-20-0028) in Independence, MN:
  - a. An amendment to the existing conditional use permit which will better reflect the current business use of the property.

Kaltsas said the applicant is seeking an amendment to the existing conditional use permit to align with the current use of the property. The original CUP was granted in 1971 and was updated in 2010 to include the ability to sell baked goods on the premise. Ownership of the property has changed since the last amendment to the CUP was granted in 2010. The current owner of the property has continued to operate a business in keeping with the general provisions of the original CUP. It was noted by the City that the business has evolved and that the CUP should be updated to more closely align with the current use of the property. In addition, the owners have acquired the adjacent property to the east (7876 County Road 6). The original conditional use permit allowed the following use:

*“A small wood-working shop for repairing wooden antiques, creating antique reproductions, wood carvings, etc., and merchandising of the same.”*

The current business is comprised of a small gift shop creating, repairing and selling furniture, gift items, clothing, and other handmade, repurposed or antique pieces. The applicant also holds public classes to demonstrate and teach repurposing and repairing of items as well as sell paint products used by public for repainting furniture and cabinets at their homes.

The applicant would also like to have approval in the conditional use permit to annually hold one (1) multi-day event where additional vendors in tents are placed in the rear of the property for selling their merchandise. During the multi-day event, food provided by licensed vendors will be offered for sale and live music will be performed during daylight hours. This would be the only regularly scheduled outdoor event held on the property.

The applicant has noted that the regular hours of operation are as follows:

Wednesday, 6-9pm

Thursday, 10am-6pm

Friday, 10am-6pm

Saturday, 10am-6pm

Sunday, 12-5pm (open once per month on the 2nd week)

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 from pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of

the City of Independence.

9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The existing business on this property generates retail customers on a daily basis. The language of the conditional use permit should be updated to remove “small wood-working shop” and add language relating to the current use, parking and proposed annual outdoor event. The outdoor event has been approved as a large assembly permit by the City over the last two years. The proposed conditional use of the property will continue to remain an accessory use to the principal use of the property as a single-family residential home. As the proposed amendment relates to the criteria for granting a CUP, the following items should be noted:

The applicant has prepared an off-street parking plan to show how the property can accommodate regular retail customer parking on site. The City’s zoning ordinance stipulates parking requirements relating to retail space is that a site should provide for 1 parking space per 250 SF of floor area. The useable portion of the retail sales area is approximately 3,000 SF. Using the formula for parking, the site would require approximately 12 parking spaces. The applicant’s site plan shows that the site has the space to park 15-25 cars on the subject property on a daily basis. The applicant has also noted that the rear yard area could accommodate additional parking of approximately 20 spaces. Staff generally concurs with the estimated parking quantity, which would exceed the number of parking spaces required by ordinance. The City has not experienced an issue with parking relating to the daily retail sales operation on the property.

The annual event has posed problems relating to traffic and parking. The event has raised concerns from West Hennepin Public Safety and the City. The applicant would like to include the event as a part of the conditional use permit. The City has historically allowed certain large events as a condition of the CUP along with a requirement for annual notification to the City and surrounding residents. Parking and traffic control are the biggest issues relating to this annual event. The City would recommend that parking associated with the conditional use of this property not be permitted on County Road 6 and County Road 92. The applicant has laid out parking for 70 vehicles on the two properties (the adjacent property does not have a conditional use permit) for vendors, plus 5 handicap spaces for customers. The applicant has noted that they are negotiating with the landowner across the street at 7875 County Road 6 for use of their land for the annual event. The applicant has estimated that the property across the street can accommodate approximately 200 additional vehicles for the annual event. This property combined with the two owned by the applicant would provide approximately 270 parking spaces for the annual event. This number would generally accommodate the demand created by the annual event and would allow for the elimination of parking on County Roads 6 and 92.

The proposed amendment is somewhat of a “house cleaning” item in that the general use of the property by the applicant is close to what has historically been permitted on the property. The amendment should not allow or cause any discernable increase in the amount of noise, offensive odors, fumes dust, or vibrations for the surrounding properties.

The proposed amendment is generally consistent with the existing use of the property. The annual event and continued use of the property for retail sales will need to be closely monitored by the City to ensure that traffic or access on County Road 6 remains safe and that adequate parking is maintained and provided on the property on a daily basis. Staff has prepared additional conditions that could be considered by the Planning Commission to amend the existing CUP.

Staff is seeking a recommendation from the Planning Commission for the requested amendment to the conditional use permit with the following findings and conditions:

1. 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.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. The conditional use permit shall be amended to remove all existing conditions and replace them with the following conditions:
  - a. A retail gift shop will be permitted within the principle structure for the purpose of creating, repairing and selling furniture, gift items, clothing, paint products used for repainting furniture and cabinets, and other handmade, repurposed or antique pieces.
  - b. Within the principle structure and in association with the retail gift shop, public classes will be permitted to demonstrate and teach repurposing and repairing of items. The number of participants shall not exceed the permitted occupancy of the space within the principle structure where the classes occur.
  - c. One (1) multi-day (maximum of 5 consecutive days) event shall be permitted which will allow in addition to the retail sales within the principle structure, vendors in tents that are placed in the rear yard of the property for selling vendor merchandise.
    - i. In association with the one (1) annual event permitted on the property, the following additional conditions shall apply:
      1. During the multi-day event, food provided by licensed vendors can be offered for sale.
      2. Live music will be permitted to be performed during daylight hours only and in accordance with applicable noise ordinances.
      3. Parking will be permitted on the adjacent property located at 7876 County Road 6 with the property owners consent.
      4. Parking will be permitted on the property located at 7875 County Road 6 with the property owners consent.
      5. The property owner will be required to provide traffic control as prescribed and approved
      6. No parking shall be permitted on City owned public streets without the approval of West Hennepin Public Safety. Additional measures may be required by the City relating to posting and signage of permitted parking areas.

7. The owner shall annually notify the City, in writing, thirty-days prior to the first date of the annual event. In addition to the City, the owner shall annually notify all property owners within 350 feet, in writing, thirty days prior to the annual event.
- d. No parking shall be permitted on County Road 6 and County Road 92 at any time.
- e. The applicant shall maintain a minimum of 12 parking spaces for retail customers.
- f. Hours of operation permitted shall be as follows; however, a change in the hours of operation can be administratively approved by the City as long as the proposed change does not allow operation of the business outside of the hours of 7:00 am and 9:00 pm on weekdays and 8:00 am and 6:00 pm on weekends and holidays.
4. The applicant shall pay all costs associated with the review and processing of the conditional use permit amendment application.
5. The resolution shall be recorded against the property.

Gardner asked if there had been any complaints. Kaltsas said the only complaints are about the traffic congestion and safety due to that congestion. Thompson asked how the event would be permitted each year. Kaltsas said they have had to notify the City and surrounding property owners prior to the event each year. Kaltsas said without securing parking then the event would not be permitted. Palmquist asked if it would be a large assembly permit versus a CUP. Phillips asked if the permit includes the cost of WHPS services. Kaltsas stated it did not.

#### Public Hearing Open

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

#### Public Hearing Closed

Phillips said he lives near this business and the parking is concern as far as public safety. Thompson agreed that the event should be reviewed every year to deal with any changes in circumstances. Kaltsas said it would difficult to anticipate all the issues. He noted a large assembly permit every year would probably be the safest way to go. Phillips asked how the CUP would memorialize the condition of needing to have a large assembly permit for the multi-day event each year. Gardner asked if County Road 6 could be safer. Kaltsas said a dedicated crossing point could make it safer.

**Motion by Thompson to adopt the recommendations of staff of items 1-5, striking item 3 “c” relating to the multi-day event to be replaced with directives that a large assembly permit will be required yearly to the existing conditional use permit which will better reflect the current business use of the property located at 7888 County Road 6 (PID No. 33-118-24-20-0028) in Independence, MN, second by Gardner. Ayes: Dumas, Thompson, Phillips, Gardner, and Palmquist. Nays: None. Absent: None. Abstain. None. Motion Approved.**

5. **PUBLIC HEARING:** Aaron and Peggy Pouliot (Applicant/Owner) requests that the City consider the following action for the property located at 7388 County Road 11 (PID No.

04-118-24-43-0002) in Independence, MN:

- a. A minor subdivision to allow a lot line rearrangement which would add approximately 10 acres from the adjacent property the subject property.

Kaltsas said the applicant is seeking a minor subdivision to allow a lot line rearrangement to increase the size of the 7388 County Road 11 property and decrease the size of the parcel located at the corner of Count Road 11 and County Road 92. The 7388 County Road 11 property would be increased from approximately 10 acres to 20 acres and the parcel located at the corner of Count Road 11 and County Road 92 would be decreased from 68 acres to 58 acres.

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

1. Subdivisions are not permitted in the AG-Agriculture zoning district with the exception of rural view lots, lot combinations or lot line rearrangements. The proposed minor subdivision to allow a lot line rearrangement meets applicable criteria.
2. The lot line rearrangement will not have any impacts on the existing buildings located on 7388 County Road 11 relating to setbacks. All buildings located on the 7388 County Road 11 property meet applicable setbacks in the before and after conditions.
3. Both parcels in the before and after conditions have adequate frontages and would meet applicable lot width to lot depth ratios (7388 would have a lot width to depth ration of approximately 1:2 in the after condition).
4. The unassigned address parcel located at the corner of County Road 11 and County Road 92 could potentially be subdivided in the future as it remains larger than 40 acres and this lot combination would not result in the addition of a new building eligibility.
5. The City has historically asked for additional County Road right of way to be dedicated when properties are subdivided. The additional right of way easement that has been requested is 17 feet wide. This subdivision is not creating any new lots or driveway accesses. This is somewhat different than if the applicants were creating a new parcel. Staff is seeking feedback from the Planning Commission relating to whether or not the City should seek additional County right of way when a property owner is not creating a new parcel.
6. There do not appear to be any adverse results of the proposed minor subdivision to permit a lot line rearrangement.

Phillips noted this effort was not to create new lots but rather arrange the lot line differently. Thompson asked what the significance of the additional right-of-way would be. Kaltsas noted this one would not be utilizing that as there is not an additional lot.

Public Hearing Open

**Motion by Gardner to close the Public Hearing, second by Phillips.**

Public Hearing Closed

**Motion by Thompson to approve a minor subdivision to allow a lot line rearrangement which would add approximately 10 acres from the adjacent property to the property located at 7388 County Road 11 (PID No. 04-118-24-43-0002) in Independence, MN; second by Gardner. Ayes: Dumas, Thompson, Phillips, Gardner, and Palmquist. Nays: None. Absent: None. Abstain. None. Motion Approved.**

6. **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.

Kaltsas said 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;

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. Staff is seeking direction from the Planning Commission relating to the proposed building design.

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. The
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 City discussed landscaping with the applicant and recommended that landscaping be added to the north and east property lines. A landscape plan has not been submitted to the City; however, the requisite landscaping could be added to the site plan. Staff is seeking further direction from the Planning Commission relating to the requisite landscaping and where the City should require landscaping. The City does not have a recent history relating to the application of the landscape standards for a building expansion project. Staff recommends that a condition be added to the site plan approval which requires submittal and approval of a landscape plan.
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 runoff from the impervious surface is directed to the south and there is a significant infiltration area 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 30 percent. The overall site is 293,600 square feet. 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.

Kaltsas said Staff is seeking direction from the Planning Commission pertaining to the aforementioned three (3) items. Based on direction from the Planning Commission, additional conditions may be required to be added to the recommendation.

Phillips asked if the design would require a variance. Kaltsas said if the Planning Commission felt it was a departure from the zoning ordinance than it could require a variance. Kaltsas said the retail front is different.

#### Open Public Hearing

Stacey Mushitz, Franklin Hills Road, asked how this would impact traffic as it is already a dangerous intersection.

**Motion by Thompson to close the Public Hearing, second by Phillips.**

#### Public Hearing Closed

Kaltsas noted in 2020 there will be a roundabout installed with the highway 12 project. This business will be getting a dedicated turn lane when that is installed.

Palmquist asked about the truck pad and wanted to know if the length of the truck there would block cars. Kaltsas said the bays should line up with the drive isles.

Gardner asked about landscaping. Kaltsas said the focus could be on the north elevation and east elevation leaving room for 2.5 " caliper trees.

**Motion by Palmquist for site plan approval to allow the expansion of the existing commercial building located at the subject property at 6511 US Highway 12 (PID No. 22-118-24-44-0011) in Independence, MN subject to the recommendations of staff and variance approval for building materials; second by Gardner. Ayes: Dumas, Thompson, Phillips, Gardner, and Palmquist. Nays: None. Absent: None. Abstain. None. Motion Approved.**

7. **Concept Plan Review**: OP Fund 5, LP (Applicant) and Clifford L. Otten Trust (Owner) request that the City consider the following action for the property located at 2236 South Lake Shore Dr. (PID No. 24-118-24-11-0012) in Independence, MN:

- a. Concept plan review relating to the proposed subdivision of the subject property. The concept plan proposes 96 single-family sewerer residential lots.

Phillips outlined the purpose of the discussion and noted that this was not a public hearing. He said he would like to allow public comments to identify areas of concern not already submitted by residents. Kaltsas stated any plans for development have to align with the Comprehensive Plan. He said the plan could be amended. Kaltsas said the City has been working with the applicant as the Comprehensive Plan is under review as well.

Kaltsas said the applicant is asking the City to consider and provide feedback relating to a 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 applications for rezoning and preliminary plat. 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 sewerer 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 sewerer density. 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

#### Comprehensive Plan Rezoning

The City is in the process of updating the Comprehensive Plan from the 2030 plan to the 2040 plan. The City's 2030 plan identifies 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 applicant and owner are asking the City to consider reguiding this property in the 2040 Comprehensive Plan to allow the property to be developed at a different density than what was considered by the 2030 Comprehensive Plan. The applicant/owner noted that the property is currently served by the existing sewer which runs along two sides of the property (South Lake Shore and Perkinsville Road). The City is in the process of reviewing and developing the 2040 Comprehensive Plan. 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. The City has discussed the potential subdivision of this property with the owner and applicant for the past 12-18 months. Following the initial request made by the owner and applicant, the City identified several key considerations that would need to be further investigated prior to the applicant moving forward with any consideration by the City. 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 19 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.

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 reached out to the City of Maple Plain relating to the potential to servicing this property with water services. It was determined that Maple Plain has capacity within their water system to provide water to the subject property.

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.

2. The proposed concept plan indicates five lots with riparian access (frontage) 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 shore line on Lake Independence. The applicant is proposing five lots along the shoreland that meet the requisite shoreland overlay requirements. Additional review relating to slopes, bluffs and general grading of the proposed riparian lots would be required if the develop moves forward.
3. Staff noted that lots within the 1,000-foot shoreland overlay should generally be larger than those lots located outside of the shoreland overlay. The minimum lot width for lots located within the shoreland overlay is 100 linear feet. The applicant has revised the concept plan to reflect the 100- foot lot width. Direction relating to the lot size for proposed lots within the 1,000-foot shoreland overlay should be provided by the City.
4. The applicant is proposing two different size lots outside of the shoreland overlay boundary. There are thirty-six proposed 65-foot-wide lots. There are nineteen proposed 55-foot-wide lots. The applicant has indicated that the 55-foot-wide lots could possibly accommodate “villa” style association-maintained lots. These lots would generally be targeted towards a 55 plus home buyer. The City would want to further discuss and review lot widths, home styles and general lot standards for the proposed lots within this development.
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.

The surrounding area has a mixture of lot types, sizes and densities. The City guided the land south of Perkinsville Road for Urban Residential in the 2030 Comprehensive Plan. The Urban Residential designation allows a minimum

density of 4.3 units per acre. This property could be redeveloped at any time to the higher density. The proposed development has a net density of approximately 2.0-2.5 units per acre. 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 .75 units per acre. The City should provide general direction relating to lot size, product type and minimum lot standards for this property. It should be noted that the number of lots, minimum lot size, subdivision design and layout will be further reviewed and likely modified should the applicant proceed with additional applications.

6. Many questions have been raised relating to the potential development impacts on Lake Independence water quality. The concept level plan does not provide information or details pertaining to storm water management associated with the subject development. 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.
7. 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.
8. The plan identifies five (5) riparian lots and a potential common lot that would have access to Lake Independence. The City should seek clarification from the applicant relating to a potential common lake access and provide direction as to whether the City would consider a common access.
9. 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. Given the number of properties proposed to be developed in the concept subdivision, it may be desirable for the City to consider some park development on this property. In addition, 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.

***Recommendation:***

Staff is seeking discussion and feedback from the Planning Commission relating to the concept plan review. No formal action can be taken by the Planning Commission on the concept plan. There are many steps that will need to be taken for any development of this property to occur. Should the City determine that this property be developed utilizing sanitary sewer does not in and of itself obligate the City to prescribe a minimum density, lot size or housing type on this

property. The City would need to balance any decision relating to the density development of this property with an offset density development in another portion of the City. Based on the comments and discussion, the applicant can choose to have the Council review the concept plan.

Phillips asked if Lake Independence has an impairment designation as it has had in the past. Kaltsas confirmed the impairment designation and noted the standards for water quality would still have to be met. Kaltsas drew attention to the ravine for the Planning Commissioners to pay attention to as the development is researched. Phillips asked where the ravine would fit in on the plan. Kaltsas said it would be between lots 9 and 10.

Thompson asked for clarification on the “Urban Residential” classification. Kaltsas said we have standard in our zoning ordinance that describe that zoning designation. Kaltsas said there was discussion that if any area was to be developed with services it would be around the Maple Plain border. There was a lot of discussion with Met Council and the Lindgren Lane area. Urban Residential is designated as 4.3 units per acre. Phillips said that the lake being impaired prompted the City to want to provide sewer to those homes on the lake which in turn prompts Met Council to require a certain density to be met.

Phillips said he had a huge problem with a common lakeshore lot. He said it would be hard to do in this bay and would be very harmful to this prime area for habitat. Phillips said a ravine would be pretty traumatic to scrape over as well.

Gardner asked what would happen if someone came in and wanted 10 five-acre lots. Kaltsas said that could be done under the current zoning and increment guidance.

Phillips invited residents to make two-minute comments.

Ben Schmidt (Excelsior Group) introduced himself and stated he worked for the applicant. He noted this is a concept plan and has items that need flushing out. Schmidt said the 96 lots are in an area that was originally platted to have an access lake lot. He said there would be an access lot for only five of the lake lots and the other five lake lots would have their own docks. Schmidt said there would be no other access for the remaining lots in the development. He said they fully intend to address neighbor’s concerns and that they have already help one neighborhood meeting to do so.

Mark Kroskin, 6000 Providence Curve and President Providence Association, said he contacted 18 residents and they would like to see this developed as Rural Residential. He asked if anyone has looked at the pollution this large of development would have on the land. Traffic is also a concern for many residents with everyone emptying out onto County Road 6 and Highway 12 specifically.

Stacy Mushitz, Franklin Hills, asked what the pros of this project would be and how the decision is made to proceed.

Kelly Dillion, 2976 Dylan Lane, asked how this development would meet the Met Council’s threshold for new affordable housing requirements. Kaltsas said these home would be above that threshold.

Rob Leonard, South Lakeshore Drive, said he has a problem with the comment that the sewer will “likely” be able to handle this. He said the citizens of Independence do not want a development like this as reflected in the summary results of the 2030 Comp Plan Survey.



8. Open/ Misc

9. Adjourn.

**Motion by Gardner, second by Palmquist to adjourn at 9:54 p.m. Ayes: Gardner, Phillips, Thompson, Palmquist and Dumas. Nays: None. Absent: None. Abstain: None. Motion approved.**

Respectfully Submitted,

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Trish Bemmels/ Recording Secretary

DRAFT

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

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, JUNE 19, 2018 –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.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

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

ABSENT: City Attorney Vose

STAFF: City Administrator Kaltsas, Administrative Assistant Horner

VISITORS: Bob Volkenant, Bonnie Kuka, Mike Kuka

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 June 5, 2018 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18044-18077.

**Motion by McCoy, second by Spencer to approve the Consent Agenda items. Ayes: Johnson, Grotting, Betts, McCoy and Spencer. Nays: None. Absent: 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:**

- Wright County Planning Commission Meeting

**Grotting attended the following meetings:**

- LMCC Meeting

**McCoy attended the following meetings:**

- Orono High School Graduation

**Betts attended the following meetings:**

- West Hennepin Chamber of Commerce Meeting

**Johnson attended the following meetings:**

- Highway 12/ County Road 92 Design Committee Meeting
- National League of Cities Event phone calls
- Highway 55 Open House
- Orono High School Graduation
- Orono Teachers' Retirement Breakfast
- National League of Cities Interview
- West Hennepin Chamber of Commerce Meeting
- Guest Speaker at Fox and Hounds Meeting
- Northwest League Meeting
- Toured the new Bell Museum in St. Paul

**Horner attended the following meetings:**

- West Hennepin Chamber of Commerce Meeting
- Met with LMC Insurance Agent

**Kaltsas attended the following meetings:**

7. 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. **RESOLUTION 18-0619-01** - Consideration of site plan approval and a variance to allow the expansion of the existing commercial building located on the subject property. The expansion of the building will be permitted to be comprised of the same building materials as the existing building.

Kaltsas said 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. be considered:

**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.

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 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).*

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.

***Planning Commission Discussion:***

Planning Commissioners reviewed the request and held a public hearing relating to the application. Commissioners generally agreed that the variance to allow the applicant to construct a building addition that matches the existing building should be granted. Commissioners noted that landscaping should be provided in accordance with the landscape plan. Commissioners recommended approval of the request for site plan review and a variance.

***Neighbor Comments:***

The City has not received any written or verbal comments regarding the proposed site plan review.

***Recommendation:***

The Planning Commission recommended approval of the requested site plan review and variance with the following findings and conditions:

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.
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.

**Motion by Grotting, second by McCoy to approve RESOLUTION 18-0619-01 - Consideration of site plan approval and a variance to allow the expansion of the existing commercial building located on the subject property. The expansion of the building will be permitted to be comprised of the same building materials as the existing building for the property located at 6511 US Highway 12 (PID No. 22-118-24-44-0011). Ayes: Johnson, Grotting, Betts McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

8. Approval of the 2017 Financial Audit.

a. Fourth Quarter Financial Report

**Motion by Betts, second by Spencer to approve to approve the 2017 Financial Audit. Ayes: Johnson, Grotting, Betts McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

9. Open/Misc.

10. Adjourn.

**Motion by Spencer, second by McCoy to adjourn at 6:51 p.m. Ayes: Johnson, McCoy, Grotting, Betts and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully Submitted,  
Trish Gronstal/ Recording Secretary

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## City of Independence

### ***Request for a Variance from the Front Yard and Lakeshore Setbacks to Allow an Accessory Structure on the Property Located at 5405 Lake Sarah Heights Drive***

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<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	July 17, 2018
<i>Applicant:</i>	Nate Pribyl
<i>Owner:</i>	Nate Pribyl
<i>Location:</i>	5405 Lake Sarah Heights Drive

#### ***Request:***

Nate Pribyl (Applicant/Owner) requests that the City consider the following action for the property located at 5405 Lake Sarah Heights Dr. (PID No. 01-118-24-23-0011) in Independence, MN:

- a. A variance for reduced setbacks to allow the reconstruction and enlargement of the existing legal, non-conforming shed located on the subject property.

#### ***Property/Site Information:***

The subject property is located at 5405 Lake Sarah Heights Drive. The property is located along the northeast shore of Lake Sarah and on the west side of Lake Sarah Heights Drive. There is an existing home and detached accessory structure located on the subject property.

Property Information: 5405 Lake Sarah Heights Drive  
Zoning: *Rural Residential (Shoreland Overlay)*  
Comprehensive Plan: *Rural Residential*  
Acreage: 0.60 acres (25,987 square feet)  
Impervious Surface Maximum: 25% (6,496.75 square feet)

5405 Lake Sarah Heights Drive (blue line)



***Discussion:***

The applicant experienced damage to their home and accessory building during a storm last year and determined that the existing detached accessory structure on the property needed significant repair. The applicant razed the existing structure and reconstructed the existing shed without a permit from the City stating that they were unaware that it was required to replace the existing accessory structure. The City notified the applicant this year that the new accessory structure needed to be permitted and also did not meet applicable setbacks.

The previous detached accessory structure was considered a legal non-conforming structure as it did not meet applicable setbacks from the lakeshore and side yard setback line. The applicant could have reconstructed the previous structure in total as long as it was not expanded in any direction. The applicant slightly expanded the size of the previous structure and also moved the structure further away from the side property line and lake shore. The previous structure was 12' x 14' (168 SF) and the new structure is 13' x 17' (221 SF). The previous structure was located less than 1 foot (actual dimension not known) from the side property line and approximately 50 feet from the Ordinary High Water Level (OHWL) of Lake Sarah. The new shed is located 23 inches (at its closest point) from the property line and 51 feet from the OHWL of Lake Sarah.



The new detached accessory structure has the following setbacks:

Side Yard Setback for Detached Accessory Structures:

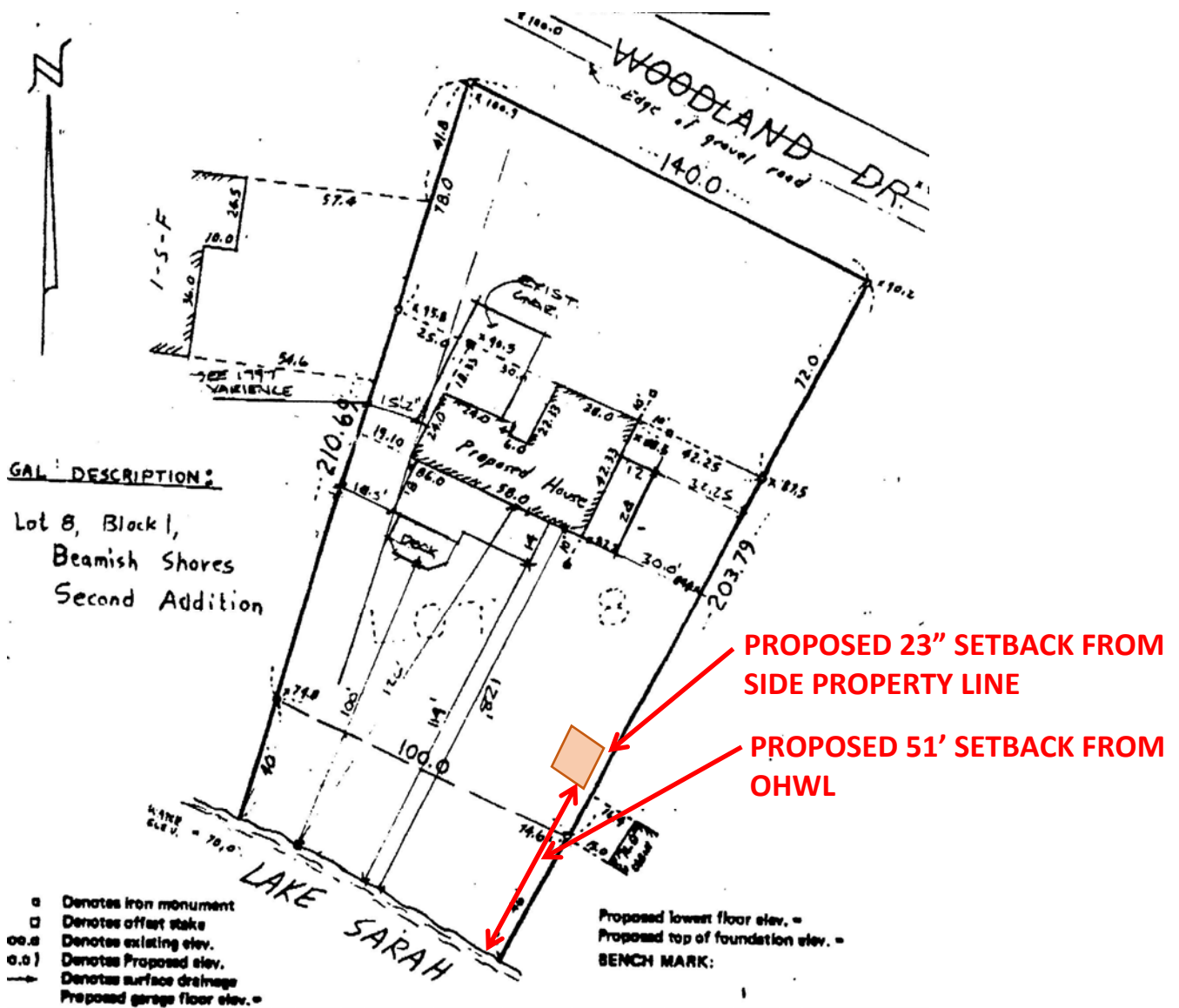
Required: 9 feet from the property line

Proposed: 23 inches from the property line

Shoreland Setback:

Required: 60 feet from the OHWL

Proposed: 51 feet from the OHWL





The City can consider granting an after the fact variance for the new shed if it finds that it meets all applicable criteria of the zoning 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;*
- (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)*

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent with the Rural Residential District. The applicants are seeking a variance that is generally consistent with similar variances granted for properties in this area.
- b. Many of the properties in this area have setbacks from the side yard or lakeshore property lines that do not meet the required setbacks.
- c. The character of the surrounding area is residential. The proposed detached accessory structure associated with a single-family home is in keeping with the City's comprehensive plan.

There are several additional items that could be considered by the City:

1. Many of the surrounding properties have been granted relief from the requisite setback requirements due to the small size of the properties, unique lot layouts resulting from the historic nature of the structures on the properties and the change in nature of the homes from seasonal to permanent.
2. The maximum amount of impervious surface coverage permitted in this property is 25% of the total area or 6,496.75 square feet. The new shed is slightly larger than the previous shed but still fits within the total allowed impervious surface coverage. Impervious surface coverage for this property is calculated as follows:

House:	4,535 SF
Driveway:	1,383 SF
Deck:	252 SF
<u>Shed:</u>	<u>221 SF</u>
Proposed:	6,391 SF
Permitted	6,496.75 SF

3. The adjacent property to the southeast has an existing shed that is located closer to the property line and OHWL than the subject structure. In this area of the City, there are many structures that are located closer to the property lines than required.
4. The new shed, while larger, is located further from the side yard property line and further from the OHWL than the previous structure. The applicant could have reconstructed the existing shed in the previous location in accordance with the legal non-conforming structure provisions.
5. The City would allow a water oriented accessory structure to be located no closer than 9 feet from the side yard property line and 10 feet from the OHWL. This structure could possibly qualify as a water oriented accessory structure; however, the maximum height of a water oriented accessory structure is 10 feet. This structure is approximately 12 feet in height and would be too tall. The properties on both sides of this property have an existing water oriented accessory structure.
6. The neighboring property owners that are on both sides of the subject property have submitted letters to the City stating that they do not have any issues with the new shed.
7. The shed is fairly well screened by existing trees and vegetation that further mitigate potential impacts of the shed.

Ultimately the City will need to find that the aforementioned criteria for granting a variance have been met by the applicant.

***Public Comments:***

The City received two letters from the neighboring property owners located at 5425 and 5401 Lake Sarah Heights Drive supporting the requested variance.

***Recommendation:***

Staff is seeking a recommendation or direction from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a 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.
2. The City finds that the criteria for granting a variance have been met by the applicant and specially that:
  - a. The requested variance is consistent with the historic use of the property and fits into the character of the surrounding property.
  - b. The neighboring properties have similarly located accessory structures that mitigate the impacts of the proposed shed.
  - c. The previous shed could have been reconstructed in the current location.
3. The requested variances will allow the proposed detached accessory structure in accordance with the approved plans only (plans will become an exhibit of the resolution). The variances granted shall be as follows:
  - a. Ordinary High Water Level: 51 feet
  - b. Side Yard: 1 foot, 11 inches
4. 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. No expansion of the detached accessory structure or impervious surface area will be permitted without additional review and approval from the City.
6. The City Council Resolution shall be recorded with the County.

***Attachments:***

1. Application
2. Site Plan/Survey
3. Shed Plan
4. Letters from Adjacent Property Owner
5. Pictures from Applicant

## City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others—all applications are viewed on a case-by-case basis.

- ☐ Appeal

☐ Comprehensive Plan Amendment

☐ Concept Plan

☐ Conditional Use Permit

☐ Residential  
☐ Commercial/Light Industrial  
☐ Telecommunications  
☐ Agriculture  
☐ Home Occupation  
☐ Non-Conforming Use  
☐ Guest/Bunk House  
☐ Institutional  
☐ CUP Amendment

☐ Extension Request

☐ Final Plat

☐ Interim Use Permit

☐ Lot Consolidation

☐ Minor Subdivision (Survey)

☐ Lot Subdivision  
☐ Lot Combination  
☐ Lot Line Rearrangement

☐ Moving Buildings

☐ Preliminary Plat

☐ Rezoning

☐ Site Plan Review (Commercial)

☐ Vacation

☒ Variance

☐ Subdivision Regulations  
☒ Zoning  
☐ Road Frontage

☐ Zoning Text Amendment

*\*Please check all that apply*

**Request:** DUE TO STORM DAMAGE  
OUR PREVIOUS SEED WAS IN  
NEED OF REPAIRS. I  
TORE IT DOWN & RECONSTRUCTED  
A NEW ONE SAME DISTANCE  
FROM THE LAKE & FURTHER  
FROM THE PROPERTY LINE.  
I WAS UNAWARE I NEEDED CITY  
**Site Address or Property Identification Number(s):** APPROX  
5405 LAKE SARAH HEIGHT DR  
INDEPENDENCE MO 65357

NOTE: Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/or if additional information is needed to adequately review the subject request. *To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/Administrator at least one week prior to submittal.* Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

### Office Use Only

2000.00  
Application Amount

Escrow Paid

Date Accepted by Planner

City Planner

5-24-18  
Date

4032  
Application Check #

T-B  
Escrow Check #

Accepted By

**\*\*\*Note:** All parties with a fee interest in the real estate must sign this application before the City will review for consideration!

**Applicant Information:**

**Owner Information (if different than applicant)**

Name: NATE TRIBYE

Name: \_\_\_\_\_

Address: 5405 LAKE SARAH HUNTER DR

Address: \_\_\_\_\_

City, State, Zip: 55357

City, State, Zip: \_\_\_\_\_

Phone: 651 247 7604

Phone: \_\_\_\_\_

Email: NATEPRIBYE@GMAIL.COM

Email: \_\_\_\_\_

Signature: 

Signature: \_\_\_\_\_

**Checklist:** Please review the checklist that goes with the request(s) as all materials in the checklist unless waived by the City.

**Review Deadline and Timeline:** All applications must be received by the deadline according to the schedule attached hereto. Failure to submit by the date shown will result in a delay in the scheduling of the application review by Planning Commission and City Council.

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***Application for Planning Consideration Fee Statement***

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The City of Independence has set forth a fee schedule for the year 2014 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are shown at the bottom of this form. By signing this form, the applicant recognizes that he/she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: 

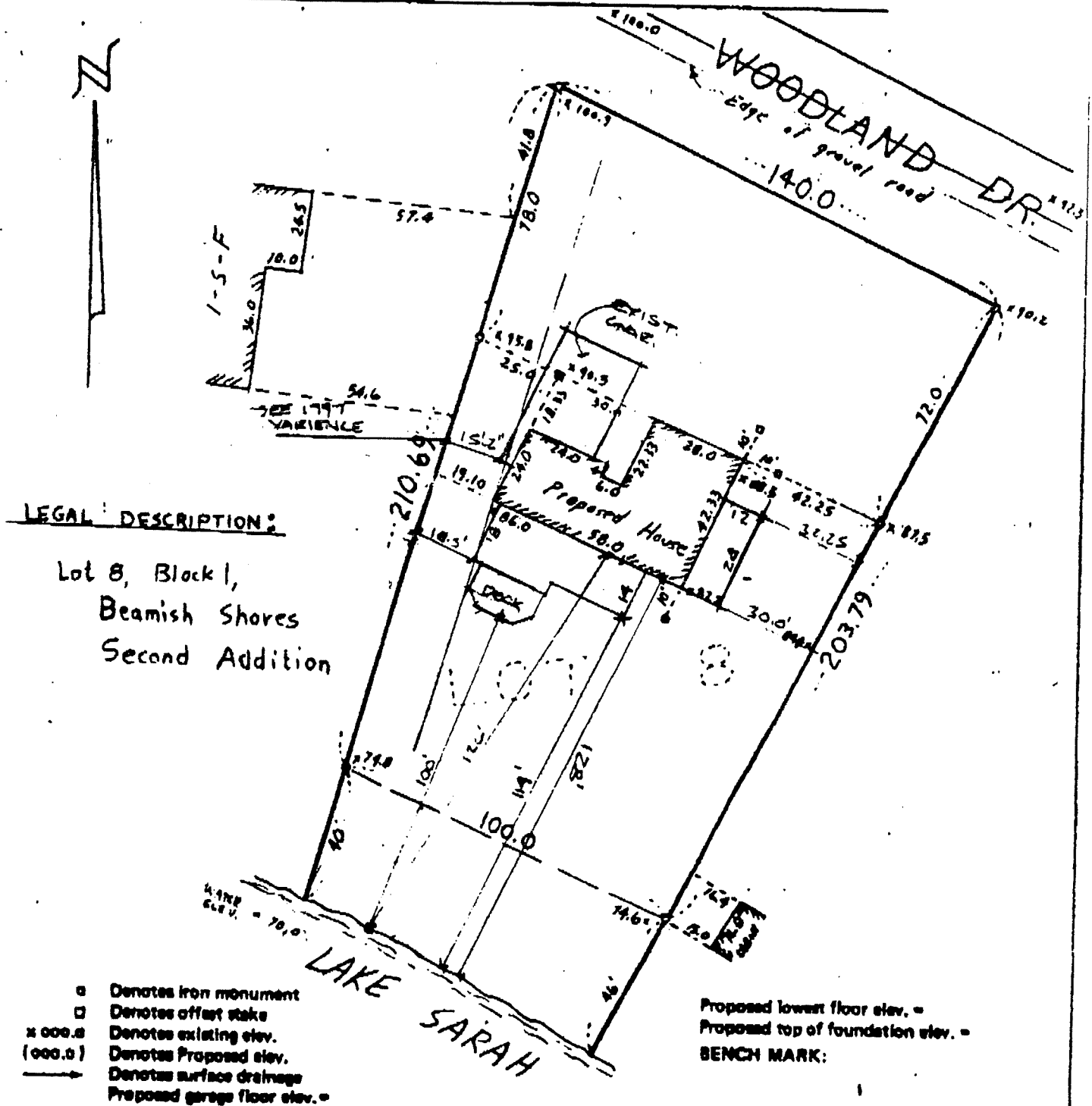
Date: 5/27/18

Owner Signature (if different): \_\_\_\_\_

Date: \_\_\_\_\_

# CERTIFICATE OF SURVEY

FOR: **GARY WERTZ**



**DEMARS - GABRIEL  
 LAND SURVEYORS, INC.**

3030 Harbor Lane No.  
 Plymouth MN 55441  
 Phone: (612) 888-0808

I hereby certify that this is a true and correct representation of a survey of the boundaries of the above described land and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

As surveyed by me this 4th day of Oct, 19 11

Gary Wertz  
 Minn. Reg. No. 5066

File No.  
1171-A

Book - Page  
19 - 67

Scale  
1" = 40'

**Lawrence M. Peszek  
5401 Lake Sarah Heights Drive  
Independence, MN 55357  
(612) 669-1319**

July 10, 2016

To: City of Independence

Re: Nate and Courtney Pribyl Shed

Nate and Courtney's home incurred extensive damage from the summer 2017 storm. There was also damage to their garden shed located on the east side of their property, adjacent to my property.

Prior to construction Nate spoke to me about the new shed, and we also talked about the previous and proposed setback from the property line. My wife (Donna) and I had no problem with the plan Nate proposed.

I have happily observed that the new shed is in fact set back further from the property line than the previous structure (more than a foot further west). I believe it is also slightly further from the lake than the previous structure.

In summary we have no issue with the location and size of the new shed. Please feel free to contact me if you need any further input.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Peszek", with a stylized flourish at the end.

Larry Peszek

To: City of Independence  
From: Tim Martell  
Regarding: Nate and Courtney Pribyl Shed

Nate had spoken to me about the shed project in early March. He told me he had some obvious storm damage from the June 2017 storm. He shared with me his plans to rebuild the structure with some modifications. My wife and I have no problem with the shed reconstruction.

Please feel free to contact me if you need anything further.

Tim Martell  
612-558-9424  
5425 Lake Sarah Heights Drive





TORO.

STIHL

RM 820





Old shed  
position



