

MINUTES OF A SPECIAL MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, OCTOBER 1, 2019 – 6:00 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 Gardner at 6:00 p.m.

2. ROLL CALL

PRESENT: Commissioners Dumas, Palmquist, Gardner and Volkenant
STAFF: City Administrator Kaltsas
ABSENT: Assistant to Administrator Horner, Commissioner Thompson
VISITORS: Bob Volkenant, City Attorney Vose

6. **(CONTINUED FROM AUGUST 20 AND SEPTEMBER 17, 2019 MEETINGS) PUBLIC HEARING:** Anita Volkenant (Applicant/Owner) requests that the City consider the following actions for the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006):

- a. An amendment to the existing interim use permit previously granted on the property.

Kaltsas said the City granted an interim use permit (IUP) in April of 2019 to allow the continued use of horticulture on the subject property. The IUP was approved subject to a settlement and stipulation agreement which further detailed the conditions of the IUP approval. One of the conditions related to the two hoop houses located on the property. The agreement included the following provisions relating to the hoop houses on the property:

There are currently two temporary hoop houses situated on the Property (the "Hoop Houses"). Volkenant and PVG agree that the Hoop Houses will be utilized for Horticultural Purposes, and the City consents to the continued use of the Hoop Houses on the Property for Horticultural Purposes. Volkenant and the City further agree as follows:

- (i) Volkenant shall be allowed to maintain the temporary plastic covering on the 30X1 00 Hoop House year-round.
- (ii) Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;
- (iii) Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
- (iv) Volkenant shall not install any additional temporary hoop house structures on the Property without prior City review and approval.

The current agreement requires the applicant to remove the temporary plastic covering from the 20 x 80 hoop house between the dates of July 1 and July 30. The applicant is now asking the City to consider allowing the temporary plastic covering to remain on the 20 X 80 hoop house year-round. There are several key considerations relating to the proposed amendment to the interim use permit that should be noted and further considered by the City.

1. The City regulates the total square footage of detached accessory structures on a property. The subject property would allow for a total of 3,306 SF (165,315 SF x 2%). The applicant currently has the following detached accessory structures on the property totaling 3,457 SF:

- a. Garage: 600 SF
- b. Garage #1: 270 SF
- c. Garage #2: 420 SF
- d. Barn & Lean-to: 881 SF
- e. Shed: 736 SF
- f. Lean-to: 550 SF

In addition, the applicant has the following hoop houses totaling 4,600 SF:

- a. Hoop House #1: 3,000 SF (300' x 100')
- b. Hoop House #2: 1,600 SF (20' x 80')

The total square footage of detached accessory structures on the property is 8,057 SF. This total is more than twice the allowable square footage of 3,306 SF. The square footage of detached accessory structure exceeds the allowable amount permitted on the property. All of the permanent detached buildings are existing and considered legal-non conforming.

The two hoop houses (greenhouses) on the property were constructed in the last 5 years without approval from the City. The applicant noted that they believe the structures to be temporary and considered agricultural buildings which would not require a building permit. The City does not differentiate between temporary and permanent structures in the zoning ordinance and the hoop houses are considered permanent accessory structures. City will need to find that it should permit more than double the allowable square footage on the property and the buildings are adequately mitigated so as to not take away from the reasonable use and enjoyment of the surrounding properties.

The City has criteria relating to interim use permits. One of the criteria of an interim use permit is that it meets the standards for granting a conditional use permit. The following criteria have been established for both an interim use permit and conditional use permit:

- 1. The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.
- 2. The date or event that will terminate the use can be identified with certainty.
- 3. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
- 4. The user agrees to any conditions that the city council deems appropriate for allowing the use.
- 5. The use meets the standards set forth in subsection 520.11 governing conditional use permits.

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 City will need to determine if the requested interim use permit amendment meets all of the aforementioned conditions and restrictions. Along with the initial IUP approval, the applicant did prepare a site plan which proposed screening of the property from Drake Drive. A copy of the site plan is attached to this report. Staff is seeking a recommendation from the Planning Commission pertaining to the request for an amendment to the interim use permit with the following findings and conditions:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The horticulture use of the property shall be subject to all conditions provided for and further detailed in the attached Exhibit A (Settlement and Stipulation Agreement) with the following amendment:
 - a. Volkenant shall be allowed to maintain the temporary plastic covering on the 30X1 00 Hoop House year-round.
 - b. Volkenant shall be allowed to maintain the temporary plastic covering on the 20 X 80 Hoop House year-round.
 - c. Between November 1 and December 1 of each calendar year, Volkenant shall be allowed to install the temporary plastic covering on the 20X80 Hoop House that is currently situated on the Property;
 - d. Between July 1 and July 30 of each calendar year, Volkenant shall remove the temporary plastic covering from the 20X80 Hoop House that is currently situated on the Property; and
3. The applicant shall pay for all costs associated with the City's review and processing of the requested amendment to the interim use permit.

Palmquist asked for clarification on if the settlement agreement could go away but the IUP would go forward. Vose said the agreement was to set out the terms and conditions but ultimately the City Council would determine final approval. This was due to the settlement agreement being defined before the Public Hearing on the IUP approval.

Motion by Dumas to open the Public Hearing, second by Palmquist.

Public Hearing Open

Bob Volkenant questioned the time spent on this and why it was back in front of the Commissioners. Kaltsas said the original IUP and settlement were approved with the conditions listed today so that was all approved as is with no change made to agreement. It has to amended through this process.

Anita Volkenant said as the owner of the property she would be open to any questions and reiterated that the Council passed the original agreement. She said the amendment request process was originally started

in June. Volkenant said the covering had to be removed in July and replaced in November with the original agreement. She said it was a waste as the plastic is not reusable and has to be discarded every year.

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

Public Hearing Closed

Motion by Palmquist to approve an amendment with conditions noted by report to the existing interim use permit previously granted on the property located at 5835 Drake Drive, Independence, MN (PID No. 26-118-24-43-0006); second by Dumas. Ayes: Gardner, Palmquist, Dumas. Recuse: Volkenant. Nays: None. Absent: Thompson. Abstain. None. Motion Approved.

7. Adjourn.

Motion by Gardner, second by Palmquist to adjourn at 6:14 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

DRAFT