

MINUTES OF A SPECIAL MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, OCTOBER 15, 2019 – 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 Gardner at 7:30 p.m.

2. ROLL CALL

PRESENT: Commissioners Palmquist, Thompson, Dumas, Gardner and Volkenant  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
ABSENT: Assistant to Administrator Horner  
VISITORS: John Quinlivan, Thomas Blanck, Dudley Bartholow, Lynae and John Olson, Tracey Rust, Steve Crees, Dave and Brenda Cox, Dan Larson, Don Learned, Annie and Bob Ibler, Randy Stinson, Scott Learned, Linda Learned, Tom and Brenda Brenck, Doug McDonald, Steve Crees, Larry and Marcy Johnson, Perry Good

3. Election of Officers

Nominations for Chair and Vice Chair due to vacant position.

**Motion by Dumas to appoint Gardner as Chair and Palmquist as Vice Chair of the Planning Commission; second by Volkenant. Ayes: Gardner, Palmquist, Dumas, Thompson and Volkenant. Nays: None. Absent: None. Abstain. None. Motion Approved.**

4. Approval of Minutes:

- a. July 16, 2019 Planning Commission Meeting
- b. August 20, 2019 Planning Commission Meeting
- c. September 17, 2019 Planning Commission Meeting
- d. October 1, 2019 Planning Commission Meeting
- e. October 1, 2019 City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the July 16, 2019 Planning Commission minutes as amended; second by Volkenant. Ayes: Gardner, Thompson, Dumas and Volkenant. Nays: None. Absent: None. Abstain. Palmquist. None. Motion Approved.**

**Motion by Volkenant to approve the August 20, 2019 Planning Commission minutes as amended; second by Thompson. Ayes: Gardner, Thompson, Dumas and Volkenant. Nays: None. Absent: None. Abstain. Palmquist. None. Motion Approved.**

**Motion by Volkenant to approve the September 17, 2019 Planning Commission minutes; second by Dumas. Ayes: Gardner, Thompson, Dumas and Volkenant. Nays: None. Absent: None. Abstain. Palmquist. None. Motion Approved.**

**Motion by Palmquist to approve the October 1, 2019 Planning Commission minutes; second by Dumas. Ayes: Gardner, Palmquist, Dumas and Volkenant. Nays: None. Absent: None. Abstain. Thompson. None. Motion Approved.**

5. **PUBLIC HEARING:** John Hilbelink (Applicant/Owner) requests that the City consider the following action for the properties located at 5062 Perkinsville Road, Independence, MN (PID No.s 24-118-24-13-0005 and 24-118-24-13-0006):

- a. A minor subdivision to allow a lot line rearrangement to move the existing line between the properties. The rearrangement would create “equal” properties on Perkinsville Road.

Kaltsas said the applicant is seeking a minor subdivision to allow a lot line rearrangement that would expand the 5062 Perkinsville Road property by approximately 1.65 acres and reduce the property identified by PID No. 24- 118-24-13-0006 by the same. The applicant owns both of the subject properties. The common property line that is currently located to the north of the 5062 property would be “straightened” to create to equal properties. Both properties are considered to be legal non-conforming lots of record. Both properties have approximately 165 feet of frontage on a public right of way. The minimum frontage required by ordinance is 200 LF for the smaller parcel and 250 LF for the larger parcel. In addition, detached accessory structures are not permitted on a property without a principal structure (residence). In the before and after conditions both properties would meet all applicable structure setbacks.

The proposed after condition would not create any new non-conformities relating to setbacks, property size or road frontage minimums. The applicant is in the process of updating the existing septic system that serves the eastern parcel (existing residence). In reviewing the possible locations for a new septic system, it was identified that the best location would be located on the adjoining property. Even though both properties are under the same ownership, the City notified the Applicant that a permanent easement would need to be provided and recorded across the adjoining property if the septic site was going to be located on the adjacent property. Based on this discussion, the Applicant is seeking a minor subdivision to rearrange the property lines to accommodate a new septic site on the same property as the existing residence.

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

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

Staff is seeking a recommendation from the Planning Commission for the requested minor subdivision to allow a lot line rearrangement with the following findings and conditions:

1. The proposed minor subdivision to allow a lot line rearrangement request meets all applicable conditions and restrictions stated Chapter V, Sections 500 and 510, Planning and Land Use Regulations and Zoning, in the City of Independence Zoning Ordinance.
2. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
3. City Council approval of the requested minor subdivision shall be subject to the Applicant providing and executing the requisite drainage and utility easements.
4. The Applicant shall record the subdivision, easements and City Council Resolution with the county within six (6) months of approval.

Dumas asked if a storage structure could be put on the property. Kaltsas said it would need a principle structure to qualify and that would be a house.

### **Open Public Hearing**

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

### **Public Hearing Closed**

Gardner said it seemed straightforward and did not have any changes that would be regretted. Palmquist said the status of the structure being non-conforming is not significant.

**Motion by Thompson to approve a minor subdivision to allow a lot line rearrangement to move the existing line between the properties located at 5062 Perkinsville Road, Independence, MN (PID No.s 24-118-24-13-0005 and 24-118-24-13-0006); second by Dumas. Ayes: Gardner, Thompson, Volkenant, Palmquist, and Dumas. Nays: None. Absent: None. Abstain. None. Motion Approved.**

6. **CONCEPT PLAN REVIEW:** The City will discuss the concept plan and provide informal feedback relating to the proposed subdivision of the property located at 2236 South Lakeshore Drive. The proposed subdivision would create 28 single-family lots which includes the existing residence.

Kaltsas said the property is located on the north side of Perkinsville Road and in-between South Lake Shore Drive and County Road 19. The property has frontage on Lake Independence and is comprised primarily of agriculture land. There are two homes on the subject property along with several detached accessory buildings. The property is comprised of densely wooded areas, wetlands and tillable acreage. The applicant originally came forward to the City in May of 2018 with a concept plan for a 96-unit subdivision. The applicant has now submitted a new concept plan for a 28-unit subdivision based on the discussion and direction provided to the applicant by the City during the process. The applicant is now asking the City to again consider and provide feedback relating to a new concept plan for the proposed subdivision of the subject properties. A concept plan allows the City the opportunity to initially review the proposed subdivision and provide feedback and comments to the applicant prior to the submittal of any formal applications for the development of the property.

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

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

#### Comprehensive Plan/Rezoning:

The City's adopted 2030 and proposed 2040 plan identify this property as Rural Residential with limited sewer service. The rural residential designation allows for a general development density of 1 unit per 5 acres. The portion of the property that is located within the Shoreland Overlay zoning district could potentially be developed in accordance with the requisite shoreland standards. These standards generally allow for property within the shoreland overlay (1,000 feet from the OHWL) to be developed as one (1) acre lots. The City has noted that the property is currently served by the existing sanitary sewer which runs along two sides of the property (South Lake Shore and Perkinsville Road). The City has stated that an amendment to the Comprehensive Plan will need to occur after final approval of the 2040 Comprehensive Plan. This plan is still in the process of being reviewed and approved. The City will ultimately need to determine how this parcel is guided moving forward. The applicant has prepared a concept plan for review by the City. The City has preliminarily reviewed this plan and provided initial comments and feedback to the applicant. One of the initial questions asked by the City was how many lots could be developed on the property based on the current guidance of the property.

The current guided designation would allow this property to be rezoned to Rural Residential with a portion of the property falling under the S-Shoreland Overlay (all property within 1,000 feet of the OHWL of Lake Independence). In order to determine the actual number of lots permitted under current zoning, a property layout would need to be prepared. There are approximately 26 acres located within the area governed by the S-Shoreland Overlay. The number of lots that this area would yield is likely between 18-22 lots given the lakeshore, existing topography and configuration of the property covered by the overlay district. For the remaining 22 acres the number of lots that could be developed would be governed by the Rural Residential standards shown below. 22 acres could yield 4-5 lots depending on the exact acreage remaining land. The total number of lots that could be realized on this property utilizing the current zoning standards is estimated to be between 20-30. The City identified the need to determine if there was potential and physical sewer capacity to accommodate a development of this type. In addition, the City noted that traffic on County Road 29 and Perkinsville Road should be further evaluated to understand potential development impacts. The City conceptually reviewed the existing sewer system and met with the Metropolitan Council relating to the possibility of developing this property. The Metropolitan Council noted that there is a limited regional system capacity until 2020 when upgrades to the regional lift station (LS 63) will be

online. It was generally acknowledged by the Metropolitan Council that property was included in their future sewer area and was also included in the Metropolitan Urban Service Area (MUSA) in the City's 2030 Comprehensive Plan. The relatively low density (less than 3 units per acre) of the proposed subdivision could present a challenge to gaining approval by the Metropolitan Council and will need to be further evaluated should the project move forward. Review of the City's sanitary sewer system identified the potential capacity to service the proposed subdivision. Some upgrades and or system improvements would likely be necessary for this development to occur.

The City also completed a traffic analysis pertaining to the potential impacts of the development of the property based on a 96-unit development. Generally, the traffic analysis found that there was capacity on CSAH 29 and Perkinsville Road to accommodate development of this parcel. Any development of this property would have potential traffic impacts to Perkinsville Road and County Road 29. The City will have to further evaluate the potential traffic impacts should the development of this property move forward. The initial review of the subdivision contemplates a high-level review only of the proposed concept development plan. A detailed review of the storm water, grading, traffic impacts and infrastructure details will be completed prior to consideration of any future applications.

The City does not formally approve or deny a concept plan. The concept plan review will provide direction and comments to the applicant for their use during the preparation of future applications. The following comments should be considered by the City:

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

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

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

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

5. The City initiated and completed a traffic study relating specifically to this concept development plan (see attached traffic study). The traffic study looked at the potential impacts of an approximate 100-unit development on the intersection of Perkinsville Road and County Road 19. The study considered the development of this property into typical single-family homes. Traffic counts were taken on County Road 19 and Perkinsville Road to establish some baseline traffic data. It should be noted that the study only

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

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

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

8. The City and Watershed have standards relating to storm water management and water quality. The City would work to ensure that any development of this property would meet all applicable standards relating to storm water management and water quality. Due to the unique nature of this property and the fact that the applicant is asking the City to consider allowing for reduced lot standards for a portion of the property, increased or enhanced water quality management of the stormwater associated with this development could be requested.

9. 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.

10. The proposed concept subdivision would be subject to the City’s park dedication requirements. No park land dedication is shown on the concept plans. The City should provide feedback relating to possible park dedication on the subject property. The City may want to incorporate a trail and or sidewalk within the development and to the east to provide access to Baker Park. Discussion relating to park dedication should be provided by the City. The standard park dedication requirement of \$3,500 per lot would otherwise be applicable to all newly developed lots. As noted earlier in this report, the City met or talked with approximately 10 neighboring property owners in more detail about the proposed development. These meetings provided a great deal of insight, concerns and recommendations relating to the development of this property. The following summary of the comments and discussions is provided for consideration by the Planning Commission and City Council. There may have been additional comments or questions asked during the meetings that is not summarized below and was unintentionally not included.

#### Stormwater:

1. There is a general concern expressed by many of the residents pertaining to stormwater quality and runoff from the existing property and any future development. Lake Independence is currently an impaired water body. Any development of the property should be carefully reviewed to ensure that water quality is improved.

- a. It was noted that there is a significant amount of water that runs off of the property to the west and also directly off the property into the lake on the north in several areas.

Traffic:

2. There is a general concern expressed by many of the residents pertaining to increased traffic on both South Lake Shore and Perkinsville Road.

- a. Many comments were made relating to the speed of vehicles traveling on Perkinsville Road and that there are limited sight lines to the west when turning onto or off of South Lake Shore.

- b. Many comments were provided relating to the poor visibility and difficulty with turning onto or off of CSAH 29 from/onto Perkinsville.

Density/Layout/Lakeshore:

3. Questions were asked relating to why the City would consider allowing an increased number of units on the property rather than what is permitted by the current zoning ordinance. There was some discussion that this property is somewhat unique due to the fact that sanitary sewer borders two sides of the property and its proximity to the lake. The City has generally found that it is beneficial to require the development of sewered lots within close proximity to lakes.

- a. Several comments were made relating to the character of the surrounding properties and that the proposed lots were generally smaller than the properties on Perkinsville and a part of South Lake Shore that is directly adjacent.

- b. Concerns were expressed relating to the two lots that directly adjoin South Lake Shore and whether or not they could be eliminated and or moved so that there is a continual buffer along the entire South Lake Shore frontage.

- c. A general comment was made that the proposed development has 2-5 more lots than what would be acceptable.

- d. Many comments were provided relating to the desire to minimize the number of potential docks on Lake Independence. It was asked if multiple docks could be installed on the Lake and whether or not any of the lakeshore properties would have common access. It was noted that the City did not regulate the number of docks, but that the intent of the current design would be to have no common access lots.

Natural Resource Preservation:

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

5. There were comments made relating to the existing nursery trees located on the property and whether or not some could be preserved.

Sanitary Sewer:

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

Recommendation:

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

Palmquist asked about the NW corner of the original concept and the dash lines that run parallel. Kaltsas said they reflect an older plat of the property and no longer exist.

Thompson addressed the upgrades to the lift station. Is the 3 units per acre a Council target. Kaltsas said it relates to an overall community density per Met Council requirements. Thompson asked how the sequencing would proceed as far as if sewer would have to be approved prior or do, we assume it will be approved. Kaltsas said it is a combination of steps. He said first it is formally applied for and then we go to Met Council and ask them to amend agreement. Thompson said basic math is 22 acres (lots) and Kaltsas said this would yield 20-30 if it was sewered.

Gardner asked if the stormwater basins were all on their own out lots. Kaltsas said there are no rules about basins on out lots, but we work with applicants to get them on out lots. He noted there is an easement to get to the lift station already. Gardner asked if it would all go out to Perkinsville. Kaltsas said the forced main runs to south on S. Lakeshore and then gravity to the other pipe.

Palmquist asked if the applicant provides the stormwater management solution as that is a major concern from residents. Kaltsas said that the applicant can be asked for this and it would be similar to the development at Serenity Hills as far as the process. He noted a tributary was identified in that development that was in a degraded state. Kaltsas said we worked with the applicant and the watershed to improve this and protect water quality. Gardner said the stormwater plan has not been fully wrung out yet and there could be more or less ponds.

Volkenant asked who did the traffic study. Kaltsas said the City hired an engineer through the escrow money provided to do the formal study. Gardner noted the traffic study was in the last packet.

### **Gardner opened an informal Public Hearing**

Doug McDonald, 4976 South Lakeshore, asked about the purpose of the lakeshore overlay. Kaltsas stated it is required but the DNR and was updated around 2008 or 2009. The purpose is to regulate development. McDonald said he thought they should keep following the 2040 Concept Plan and not accommodate something like this or why have the plan.

Tom Blanck, 5010 South Lakeshore Drive, asked about access to Lakeshore Drive and if there was a way to avoid it. He noted dump trucks and other equipment will have an impact on the infrastructure and wondered if the wear and tear would be addressed in the development agreement. Kaltsas said typically there would be an analysis of the existing infrastructure and if that was compromised in anyway that would be repaired through the development agreement. Blanck also addressed his concerns about the steep hill within the development, pedestrians, bikers and related safety issues. He also reiterated Palmquist's



concern about traffic at Perkinsville and County Road 19. He wondered if sidewalks or walkways could be a part of this project.

George Frazier, 5110 South Lakeshore, said regarding the Comp Plan he feels that the lake water has gotten worse over the last 30 years that he has lived in the area. He said the storm water basins do not work and he encourages everyone to stick to the Comp Plan, so the lake is usable.

Randy Stinson, 2215 South Lakeshore, said with 6 ½ acres of this stormwater basin that would decrease the lot sizes. He is also concerned about traffic and noted the growth of Protolabs and the amount of traffic on Perkinsville.

### **Gardner closed the Public Hearing**

Kaltsas noted the applicant was present for questions and the next steps would be to go to Council with feedback per the applicant.

Ben Schmidt, Excelsior Group (representing applicant/ developer), said the Comp Plan guide outlines medium density for this area. He noted they are working to please the City, Met Council and neighbors. They have ongoing input with the watershed and the water quality will be better. Schmidt said the lake lots would each have a dock but there would be no community docks. Schmidt said the goal of the applicant is to be respectful of neighbors and natural resources. Palmquist said he respectfully suggests that the applicant hears the concerns of residents and does not make it adversarial to neighbors.

Thompson asked if the Perkinsville traffic concerns may be moved forward independent of this process as it is a real challenge. As far as this development he said this was a much more thoughtful plan than the original 96 lot plan.

Volkenant asked the applicant about the properties current condition and run-off versus when it is developed and how that would be cleaner. Schmidt said right now the run-off from the property goes into the lake with no control whatsoever. The proposed plan would provide filtering of the water that sits in the storm water basins. Volkenant said there would be more fertilizer with more homes so how would they mitigate that. She asked if this would be run past the DNR. Schmidt said filter strips can be required of homeowners on lakeshore lots. Volkenant asked about the water running into the ravine. Schmidt said typically they would have that run back into the basins. He noted they will work with all stakeholders as far as water quality including Three Rivers Park District.

7. **PUBLIC HEARING:** A proposed text amendment to the City of Independence Ordinances as follows:

- a. Chapter 5, Section 530.01, Subd. 3 Accessory Uses – Considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures.

Kaltsas said staff has determined that it is possible to establish a “Review Committee” that would likely be comprised of several members of the Planning Commission and City Council to review requests for accessory structures that exceed the maximum height permitted in the zoning ordinance. Details of the “Committee” makeup will be considered and approved by Council and will likely include 2 Planning Commissioners and 1 Council Member. The intent would be that the “Committee” would meet once a month if needed. The cost of an application would be nominal, and no public hearing would be conducted.

Staff has been working with the City's attorney to develop a draft ordinance for consideration by the Planning Commission. The draft considers establishment of several specific criteria which must be satisfied prior to consideration by the "Committee". If a proposal meets the criteria, the "Committee" will have the ability to review and approve an increased building height or if not approved recommend that the applicant apply for a variance. Any application that does not meet the initial criteria would have the option of applying for a variance.

Staff would like Planning Commissioners to review the proposed draft language and provide discussion and feedback at the meeting. The base criteria can be adjusted and or amended as directed. Staff offers the following initial criteria for consideration and discussion by the Planning Commission:

An accessory structure may exceed the height of the principle structure if the accessory structure meets all applicable criteria of the Section and the following conditions are met:

- (1) Building plans containing any proposed accessory structure with a height exceeding that of the principle structure must be submitted to the City in advance of work to confirm compliance with this Section.
- (2) The City Council may establish an Accessory Building Height Review Committee to review building plans submitted for any proposed accessory structure with a height exceeding that of the principle structure to ensure compliance with the following:
  - a. On properties that are 2.5 acres or less, the proposed accessory structure must be located to the rear of the principle structure.
  - b. The proposed accessory structure must be detached and separated by a minimum distance of 75 feet from the principle structure.
  - c. The proposed accessory structure must meet the principle structure setbacks from all property lines.
  - d. All abutting property owners have consented to the proposed accessory structure on forms provided by the City.

It is not intended that Planning Commission will provide a recommendation relating to the information presented in this report at this meeting.

#### Original Discussion on Accessory Building Heights:

In 2013 the City updated the accessory structure ordinance to establish a more proportional relationship between the amount of detached accessory structure square footage allowed on a property and the size of the property. In practice, the new ordinance has worked well and there have been no variances granted relating to the size of a detached accessory structure since the amendment. One area of the ordinance that was changed at the same time was the maximum height permitted for detached accessory structures.

The City has received concerns and comments from property owners relating to the maximum height permitted. The City has also granted two (2) variances relating to the maximum height of detached accessory structures. The general concern is that the maximum height permitted varies based on the height of the principal structure. If a resident has a single-level home, the maximum height of a detached accessory structure is limited to the single-level home height. This causes some issues for residents with larger properties that would like to have a larger detached accessory structure but have a single level home.

Staff has looked at the permitted heights of accessory structures from surrounding communities. It should be noted that not all communities allow as large of a detached accessory structure as the City of Independence. Staff would like to further discuss the maximum permitted height of detached accessory structures with the Planning Commission.

The City's current ordinance states the following:

The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10. In application of the ordinance over the past 5 years, the City has consistently had requests for detached accessory structures that have heights (measured to the midpoint of the roof) in the 20-25-foot range. Many of the single-level homes measure closer to 17-20 feet in height measured to the midpoint of the roof. This typically leaves single-level property owners with an issue when considering building a detached accessory structure.

When the City considered the height in 2013, there was a general consensus that detached accessory structures should be proportional and subordinate to the principle structure on the property. In order to help achieve the subordinate relationship, the maximum height of the detached accessory structure was limited. Due to the wide array of property size, building architecture and other factors, many of the proposed detached accessory structures do not have a significant relationship with the principle structure.

An accessory structure may exceed the height of the principle structure if the accessory structure meets all applicable criteria of the Section and the following conditions are met:

- (1) Building plans containing any proposed accessory structure with a height exceeding that of the principle structure must be submitted to the City in advance of work to confirm compliance with this Section. (2) The City Council may establish an Accessory Building Height Review Committee to review building plans submitted for any proposed accessory structure with a height exceeding that of the principle structure to ensure compliance with the following:
  - a. On properties that are 2.5 acres or less, the proposed accessory structure must be located to the rear of the principle structure.
  - b. The proposed accessory structure must be detached and separated by a minimum distance of 75 feet from the principle structure.
  - c. The proposed accessory structure must meet the principle structure setbacks from all property lines.
- (2) Retail sales, on a seasonal basis of agricultural and horticultural products grown on the premises by a person who occupies the premises as a principal residence, provided that the applicant apply for and receive an administrative permit from the city prior to commencing any sales of products.

All applications shall meet and comply with all of the following standards:

- (1) Adequate off-street parking is provided for the number of persons reasonably anticipated to be on the site at any one time;
- (2) The hours of operation must be limited so as not to unreasonably interfere with the character of the surrounding area and the neighboring property owners' peaceful enjoyment of their properties;
- (3) The following signs may be permitted: one permanent on-site sign of no greater than 32 square feet in area per surface and having no greater than two surfaces, two temporary off-site signs of no greater than eight square feet in a per surface and having no greater than two surfaces, two temporary off-site signs of

no greater than eight square feet in area per surface and having no greater than two surfaces and such other signs as city may reasonably determine to not interfere with public safety or the character of the surrounding area;

- (4) Any new accessory structure constructed for the purpose of such sales and any adjacent parking area must satisfy those requirements as to setback, size, appearance and screening as the city may reasonably determine for purposes of protecting public safety and the character of the surrounding area;
- (5) Greenhouses may not be artificially lit between the between the hours of 9:00 p.m. and 7:00 a.m. unless shielded so as to prevent any light from escaping in any direction;
- (6) Such requirements, including application of dust control materials and grading of roadways, as the city reasonably determine are necessary in order to minimize the impact of any increase in traffic on city roadways as a result of such sales being conducted on the premises;
- (7) All applicable federal, state and local statutes, ordinances, codes and regulations, including, but without limitation, all applicable health and safety regulations, must be complied with.

Aeration or decorative windmills provided the following performance standards are satisfied:

- (1) Permit required. A building permit shall be required for the construction of a recreational or aeration windmill.
- (2) Minimum lot size requirement. Lot must be 5 acres in total area or larger.
- (3) Setback requirements. The windmill must be setback from all property lines and residential structures, ten feet plus the height of the windmill.
- (4) Height restrictions. The maximum height of the windmill, as measured to the top of the highest point of the structure or blade) must not exceed the height of the principal structure or 35 feet, whichever is less.
- (5) Stability. The windmill shall be installed to withstand a wind force of 90 miles per hour.
- (6) The function of the windmill can only be used for the purpose of water aeration or decoration and not for any other on or off-site use; including the generation of electric power, either for use or sale.
- (7) No more than one windmill shall be permitted per property.
- (8) Windmills less than ten feet in height shall not require a permit.

Subd. 4.

Conditional uses. The following conditional uses may be permitted in the Agricultural District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

- (a) Accessory dwelling units;
- (b) Riding stables;
- (c) Bunkhouses;
- (d) Farrieries;
- (e) Detached agricultural storage buildings, barns, or other accessory structures that exceed the size limitations of subdivision 3(d) of this subsection;
- (f) Kennels;
- (g) Local government buildings;
- (h) Churches;
- (i) Cemeteries;
- (j) Extraction;
- (k) Essential services;
- (l) Temporary use of a mobile home or camper as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;
- (m) Wind energy conversion systems (WECS);
- (n) Commercial indoor storage in existing farm buildings, provided:

- (1) The applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit;
- (2) The building is located on property that is owner-occupied; and
- (3) The applicant establishes that the structure cannot be economically used for agricultural purposes.

(o) Guest houses and non-rental guest apartments;

(p) Commercial golf courses;

(q) Telecommunications towers approved pursuant to section 540 of this Code;

(r) Forestry products processing, provided that:

- (1) The operation of the conditional use must be on a lot that is being used as an occupied single-family dwelling;
- (2) The lot upon which the conditional use is operated must be not less than ten acres in area;
- (3) The area devoted to the conditional use, including buildings, parking, storage area, and all related uses may not exceed 15,000 square feet or 12 percent of the size of the lot, whichever is smaller, subject to existing accessory building standards.

(s) Polo grounds.

(t) Catering business, provided that:

- (1) The business is subordinate to the principal use of the property as a residence;
- (2) No materials, equipment or parts used in the business may be stored on the premises other than within the dwelling unit or accessory structure;
- (3) No signs relating to the business may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09 subdivision 2 of this zoning ordinance;
- (4) No exterior alterations may be made to the dwelling unit to accommodate the business except those alterations customarily found with the dwelling units on lots of similar size within the district;
- (5) No traffic shall be generated by the business beyond what is reasonable and normal for the area in which it is located;
- (6) The hours and days during which the business is conducted on the premises is limited so as not to unreasonably interfere with the residential character of the surrounding areas;
- (7) No over the counter retail sales may occur on-site.

(u) New wireless support structures for small wireless facilities.

Subd. 5.

Animal assisted therapy operation. AAT may be permitted as a conditional use by action of the city council pursuant to subsections 520.09, 520.11 and 520.13 of the zoning ordinance, subject to the following additional conditions:

- (a) The applicant shall provide proof of insurance in an amount and with such coverage as the city attorney deems reasonable and shall thereafter maintain such insurance.
- (b) The applicant shall provide proof of licensing or appropriate educational attainment and training in AAT for all therapists delivering services at the site. This requirement shall be continuing, and the city may request such proof on a periodic basis for all therapists then delivering services.
- (c) The applicant shall provide documentation and a site plan describing the AAT program(s) to be delivered. Such documentation shall include a description of the goal directed process and criteria for evaluating the effectiveness of the program(s).

- (d) The applicant shall identify all species of animals that will be present at the site and used in delivering AAT. No other species of animals shall be allowed with the city's approval.
- (e) For parcels of less than ten acres, the maximum density of animal units is two acres for the first animal unit and one additional acre for each additional animal unit.
- (f) Other than the delivery of AAT, no commercial or business activities may be conducted on the site except the production of agricultural products in de minimis amounts as a result of the delivery of AAT.
- (g) The city may periodically inspect the site without notice. 530.05. - Rural Residential District established.

Subd. 1. Established. The Rural Residential District is established for the purpose of providing for residential development affording enjoyment of the rural life style.

Subd. 2. Permitted uses. The following uses are permitted in the Rural Residential District:

- (a) Single-family dwellings;
- (b) Commercial agriculture;
- (c) Public recreation;
- (d) Horticulture;
- (e) Forestry.

Subd. 3. Accessory uses. The following accessory uses are permitted in the Rural Residential District:

- (a) Private fences, gardening and landscaping;
- (b) Recreation equipment;
- (c) Home occupations operated in accordance with subsection 515.09 of this zoning code;
- (d) Non-commercial greenhouses;
- (e) Private garage, additional storage buildings, barns or other structures, accessory to an existing single-family dwelling and subject to the following criteria:
  1. No accessory building or structure shall be constructed on any residential lot prior to the time of construction of the principal building to which it is accessory.
  2. Accessory buildings or structures of 120 square feet or less are exempt from the total square footage.
  3. The total square footage of all accessory structures on an individual property shall not exceed the following standards: Building size shall be calculated by determining the footprint of the building. Percentage of lot area shall be based on the buildable land. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments. In no instance shall the total impervious surface area of any lot exceed 25 percent. The height of an accessory structure shall not exceed the height of the principle structure, except as provided in footnote. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, section 510.05, subdivision 10.64 4.

An accessory structure may exceed the height of the principle structure if the accessory structure meets all applicable criteria of the Section and the following conditions are met:

- (1) Building plans containing any proposed accessory structure with a height exceeding that of the principle structure must be submitted to the City in advance of work to confirm compliance with this Section.
- (2) The City Council may establish an Accessory Building Height Review Committee to review building plans submitted for any proposed accessory structure with a height exceeding that of the principle structure to ensure compliance with the following:

- a. On properties that are 2.5 acres or less, the proposed accessory structure must be located to the rear of the principle structure.
- b. The proposed accessory structure must be detached and separated by a minimum distance of 75 feet from the principle structure.
- c. The proposed accessory structure must meet the principle structure setbacks from all property lines.

Subd. 4.

Conditional uses. The following conditional uses may be permitted in the Rural Residential District by action of the city council pursuant to subsections 520.09, 520.11, and 520.13 of this Code:

- (a) Cluster development meeting the standards of subdivision 6 of this section;
- (b) Kennels;
- (c) Nurseries;
- (d) Commercial recreation;
- (e) Local government buildings;
- (f) Churches;
- (g) Cemeteries;
- (h) Essential services;
- (i) Temporary use of a mobile home as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;
- (j) Guest houses and non-rental guest apartments;
- (k) Telecommunications towers approved pursuant to section 540 of this Code; and
- (l) New wireless support structures for small wireless facilities.

Kaltsas said this is an effort to try and get away from a one-size-fits-all requirement. Palmquist stated he likes the of getting the abutting property consent and would like to see that added back into the ordinance.

Thompson asked if these conditions have to be met every time. Kaltsas said the criteria have to be met or it gets kicked back to having to get a variance. Kaltsas said the committee can review it and decide they do not like it even if all the criteria have been met. Palmquist asked if the 2.5-acre threshold means the property can be put anywhere. Kaltsas said it is a threshold but where doesn't have much impact. If they get to 10 acres, they can build whatever they want. The 2.5 is just a threshold. Thompson asked how defined this will be. Kaltsas said it would be well-defined and consents provided etc. Palmquist said this is a good step in the right direction. He said it would be nice to add a condition that gives the committee an out, so they don't create additional hardships for adjacent properties and keep within the character of the community.

Volkenant asked if the four points are interchangeable how many of the most recent variances would fit this mold. Kaltsas said all of the variances granted would meet the criteria. Gardner asked who would decide if they go before the committee. Kaltsas said if the four boxes are checked they go before the committee. He said there were some in the past that we should not have sent away as they made sense. He noted this will be a unique set-up and it is does not work or we need to tweak than we can. It will allow people to go through a quicker process. Kaltsas stated it would be a mix of people we already have on Council and Planning.

### **Public Hearing Open**

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

### **Public Hearing Closed**

**Motion by Thompson to move forward with a proposed text amendment with revisions noted to the City of Independence Ordinances Chapter 5, Section 530.01, Subd. 3 Accessory Uses – considering an amendment to the maximum height of an accessory structure. The City will discuss increasing the permitted height of detached accessory structures; second by Palmquist. Ayes: Gardner, Thompson, Volkenant, Palmquist, and Dumas. Nays: None. Absent: None. Abstain. None. Motion Approved.**

8. Open/Misc.

9. Adjourn.

**Motion by Thompson, second by Palmquist to adjourn at 9:35 p.m.**

Respectfully Submitted,  
Trish Gronstal/ Recording Secretary