

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION MEETING  
TUESDAY JULY 19, 2022

**7:30 PM REGULAR MEETING**

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 Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset

STAFF: City Administrator Kaltsas and City Administrator Assistant Simon

ABSENT: None

VISITORS: See Sign-in Sheet

3. APPROVAL OF MINUTES:

a. June 21, 2022, Planning Commission Meeting

b. July 5, 2022, City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the June 21, 2022, Planning Commission minutes, second by Story. Ayes: Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved.**

4. TO BE TABLED TO AUGUST 16 - PUBLIC HEARING: Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the property generally located at and adjacent to 8590 County Road 92 N (PID No.s 32-118-24-23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004) in the City of Independence, MN:

a. Conditional use permit amendment to allow the development of a new 18-hole golf course and associated site improvements on the subject properties.

Kaltsas recommended tabling this until the August 16<sup>th</sup> Planning Commission meeting as they are working on a couple items – needing feedback from wetlands and it's taking longer than expected.

**Motion by Thompson to table CUP request, second by Volkenant. Ayes: Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved.**

5. **PUBLIC HEARING:** Charles Wiemerslage (Applicant) and Steve Bohl (Owner) requests that the City consider the following actions for the properties generally located at 2236 South Lake Shore Drive, Independence, MN (PID No's. 24-118-24-14-0005, 24-118-24-11-0009 and 24-118-24-11-0012):
- a. A comprehensive plan amendment to allow the subject property to be re-guided to a new residential zoning district with standards to be determined.
  - b. An ordinance amendment to allow planned unit developments as a conditional use in the Rural Residential Zoning District.
  - c. Rezoning of the property to Rural Residential.
  - d. A conditional use permit to allow a planned unit development.
  - e. A preliminary plat for the proposed subdivision of the property into 28 single-family lots with a minimum lot size of 1 acre.

***Request:***

Charles Wiemerslage and Steve Bohl – BohLand Development (Applicant) and Clifford L. Otten Trust (Owner) requests that the City consider the following actions for the properties generally located at 2236 South Lake Shore Drive, Independence, MN (PID No's. 24-118-24-14-0005, 24- 118-24-11-0009 and 24-118-24-11-0012):

- a. A comprehensive plan amendment to allow the subject property to be re-guided to a new residential zoning district with standards to be determined.
- b. An ordinance amendment to allow planned unit developments as a conditional use in the Rural Residential Zoning District.
- c. Rezoning of the property to Rural Residential.
- d. A conditional use permit to allow a planned unit development.
- e. A preliminary plat for the proposed subdivision of the property into 28 single-family lots with a minimum lot size of 1 acre.

***Property/Site Information:***

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.

**Property Information: 2236 South Lake Shore Drive**

Zoning: *Agriculture (S-Shoreland Overlay)*

Comprehensive Plan: *Rural Residential*

Acreage: *~48 acres*

***Discussion:***

The City has reviewed and considered several concept plans for this property dating back

to 2018. The initial concept plan submitted to the City was for a 96-unit subdivision. In 2020 a revised concept plan was submitted for a 28-unit subdivision. It was noted at that time that the City needed to finalize the Comprehensive Plan prior to considering any additional action on this property. The Comprehensive Plan is nearing completion and the City has received an application for a preliminary plat and associated actions relating to a new development on this property. Any consideration by the City relating to this application would be subject to finalization and approval of the City's 2040 Comprehensive and approval of a Comprehensive Plan Amendment to allow the development of this property.

### Comprehensive Plan

The City's adopted 2030 and Council Approved 2040 Plan (waiting for final Metropolitan Council approval) 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 if provided with City sewer. 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).

### Proposed Subdivision - Preliminary Plat

The applicant has prepared a preliminary plat and associated plans for review by the City. The City has reviewed the plans and provided detailed comments and feedback to the applicant. 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). 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 of the remaining land outside of the shoreland overlay area. The total number of lots that could be realized on this property utilizing the current zoning standards is estimated to be between 20-25.

The City reviewed the existing sewer system and met with the Metropolitan Council and the City of Medina relating to the possibility of developing this property. The relatively low density (less than 3 units per acre) of the proposed subdivision does present a challenge to gaining approval by the Metropolitan Council. Review of the City's sanitary sewer system identified the capacity to service the proposed subdivision. The City has identified several upgrades and system improvements that will 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 has limited ability to require off-site improvements due to the current restrictions relating to impact fees. The City has continued to discuss possible improvements to the intersection of CSAH 19 and Perkinsville Road with Hennepin County along with trying to identify additional funding sources.

The City completed a detailed review of the proposed development and provided detailed comments to the applicant (see attached letter) as follows:

1. 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 configuration is preferable due to the existing vegetation and slopes moving from south to north.
2. 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.
3. The proposed development would preserve a buffer and open space area along Perkinsville and South Lake Shore Drive. This area is proposed to be planted to help screen the proposed development from the surrounding properties. The applicant has noted that they are in the process of preparing a landscape plan for further consideration.
4. 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. The proposed plans have identified this area and show that a significant portion of this area can be preserved. It is noted that the applicant is willing to consider placing an easement over the portion of this area that can be preserved to ensure its long term protection.
5. A portion of the proposed property is located within 1,000 feet of Lake Independence and is therefore within the Shoreland Overlay District. This plan will be subject to the review of the Department of Natural Resources.
6. This plan will be subject to the review of the Pioneer Sarah Creek Watershed Commission.
7. The plan indicates all lots will be connected to City sewer. This property is

guided by the City's Comprehensive Plan for RR-Rural Residential and currently has 2 sewer connections. In order for the City to consider connection to the City sewer, a Comprehensive Plan Amendment will be required. In addition to the comprehensive plan amendment, the City's sanitary sewer is routed through the City of Medina and permitted through the Quad City Agreement. An amendment to that agreement will be necessary in order to serve this property with sewer.

8. Additional comments relating to potential lift station upgrades, grading, road construction and infrastructure will be provided in a separate letter from the City's engineer.
9. 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. Additional review relating to slopes, bluffs and general grading of the proposed riparian lots would be required if the develop moves forward.
10. It is noted that there is a 30-foot-wide strip of land that borders Lake Independence along Maple Drive. The proposed use of this land as a common HOA element with a dock and boat slips will need to be further discussed and reviewed by the City. The narrative provided indicates that there would be a dock and 4 boat slips that could be used by residents of the development during the day. During previous public comment and review of this development, there were concerns expressed related to the intensity of having additional boats and users in this area.
11. The City does not have applicable zoning for this type of sewer residential development. It is proposed that the City's Rural Residential zoning ordinance be amended to allow a Planned Unit Development (PUD) in the Rural Residential zoning district. The City will need to adopt physical lot standards associated with the PUD. If a PUD is adopted, it is recommended that the riparian lakeshore lots be required to comply with applicable shoreland district standards. The City is recommending the following additional lot standards:

Minimum lot size:	1 acre (43,560 SF)
Minimum lot width:	100 feet at right of way line
Front yard setback:	35 feet from right of way line
Side yard setback:	15 feet
Corner yard setback:	35 feet
Rear yard setback:	40 feet
Shoreland setback:	100 feet
Setback from lake:	100 feet from ordinary high mark

Setback from wetland: 10 ten feet from the outside edge of the required wetland buffer

The plans will need to be revised to clearly show the building setbacks. It is also recommended that a plan be prepared that shows a “typical” house plan for each lot to verify that the lots can accommodate a home site. A draft ordinance amendment as been drafted for review and consideration. The ordinance amendment and PUD requirements would be considered at the time of final plat.

12. It does not appear that there are any proposed HOA/Covenant restrictions relating to accessory structures. Please provide additional information relating to proposed thoughts on accessory structures. The City would propose developing a new accessory structure provision with the PUD similar to the following:

Accessory Structure Maximum Size: 1,000 square feet (combined attached garage and detached accessory structures).

Accessory Structure Setbacks:                      Front Yard – located to the rear of the principal structure.  
Side Yard –  
15 feet Rear  
Yard – 40 feet

13. The proposed plan indicates open space around the perimeter and includes Outlots A, B, C, D and E. Outlot D, which is centrally located is proposed to contain an HOA community amenity space. All Outlots will become the responsibility of the homeowner’s association established for this development. Documentation indicating the conveyance of this ownership and the maintenance responsibility has been provided to the City. The Outlots will be maintained as described in the HOA documents as mowed and managed landscape open areas.
14. The preliminary plat indicates a 66-foot-wide ROW and a 26-foot-wide road. The street construction plan indicates a 30-foot-wide street. Please revise the preliminary plat to match the construction drawings.
15. Lots 16 and 17, Block 1 are less than 1 acre in size and will need to be modified to meet the minimum lot size requirements.
16. There is an existing tree stand located on the property which is primarily along the ravine/drainage area. The City is concerned and desires that these areas are preserved and protected in the after condition of the

property. The City has shoreland alteration limitations specified in the shoreland ordinance (see attached).

17. Please indicate the top of bluff structure setbacks on the site plan.
18. Please label all drainage and utility easements on the preliminary plat. It appears that there should be extended onto Lots 14 and 15 and 6 and 7, Block 1.
19. A landscape plan is required. Please submit a landscape plan for review. The City will want to see buffering and screening along the entirety of the right of ways of South Lake Sarah and Perkinsville Roads and the rear yards of Lots 15-18, Block 1.
20. Park dedication will be required for this development. No dedication of open space was discussed during the concept plan review of this property. The proposed development does not include sidewalks or trails. The City had discussed a trail along Perkinsville at one time but understand that it may be challenging to extend the trail beyond this property without a designated connection point on CSAH 19. Cash in lieu of land will be required in accordance with the City's current park dedication fee of \$3,500 per lot (less than 4.99 acres). One park dedication credit will be given for the existing house proposed to remain. The park dedication fee requirement for this development is anticipated to be approximately \$94,500 (27 lots x \$3,500).
21. Please see the comments provided by the City's Water Resource Engineer, Shane Nelson, dated June 2, 2022, pertaining to water resources.

***Recommendation:***

The Planning Commission is being asked to consider the application for preliminary plat, subject to the approval of an ordinance amendment, conditional use permit, rezoning and comprehensive plan amendment with the following findings and conditions:

1. The proposed rezoning, conditional use permit, preliminary plat and comprehensive plan amendment meet all applicable conditions, criteria and restrictions stated in the City of Independence Ordinance.
2. City Council approval of the preliminary plat is subject to approval and completion of the following items:
  - a) Metropolitan Council approval of a Comprehensive Plan Amendment.
  - b) Review and adoption of an ordinance amendment to include planned unit developments as a conditional use in the RR-Rural Residential

zoning district.

- c) Rezoning of the property from AG-Agriculture to RR-Rural Residential.
  - d) Review and approval of a conditional use permit approving a planned unit development.
  - e) Approval of the Quad City Agreement (stipulates sewer connections through Medina) by the applicable cities that are a party to the agreement.
  - f) The Applicant shall address all engineering comments made by the City's Water Resource Engineer, Shane Nelson, dated June 2, 2022, pertaining to water resources.
  - g) The Applicant shall make all revisions requested in the staff report, Planning Commission and City Council.
  - h) The Applicant shall receive approval and comply with all applicable regulations and conditions prescribed by Pioneer Sarah Creek Watershed Management Organization.
  - i) The Applicant shall receive the approval of the Department of Natural Resources.
  - j) The Applicant shall enter into a development agreement with the City for this development.
  - k) The Applicant shall provide a letter of credit as established by the development agreement for all improvements associated with this development.
  - l) The Applicant shall provide the City with copies of the HOA agreement and covenants, including information related to the maintenance plantings and storm water easements.
  - m) The Applicant shall obtain all necessary City, County, PCA and other regulatory agency approval and permits prior to construction.
3. The Applicant shall pay for all costs associated with the City's review of the subdivision, rezoning, conditional use permit and preliminary plat and general plan.
  4. The Applicant shall submit the final plat to the City within 180 days of the preliminary plat approval.

Kaltsas- "Otten" property – allow subdivide into 28 lots known as Bridgevine subdivision. Located at Perkinsville Rd and South Lakeshore Dr. Applicant seeking several actions – historically concept plan. It has come before the city quite a few times with different plans. 2018 – 28-unit subdivision. Originally it was over 100 units, then 96-unit concept plan, now revised down to 28. RR zoned AG. Surrounded by sanitary sewer and Lake Independence. There has been a lot of calls and interest in this property. It is zoned AG, guided RR. Not sewer residential outside of those on the lakeshore. A plan amendment would have to be approved and adopted. It would be submitted to Met Council for approval. City doesn't allow for 1 acre lots outside of the lakeshore district. City would have to come up with an ordinance or change and ordinance.

Density in similar situations would be much less. Adopt a new zoning district and come up with a standard that is more for just this development. We would have to rezone from AG to something or in this case RR. Not permitted uses, conditional uses. Prelim plat to allow 28-unit subdivision. Any approval would be subject to these other items happening at a future date.

Emails have been sent to the city and planning commission. The city does not have the ability to prohibit marketing material for lots, developments, etc. There are no approvals, we need to go through public hearings and other steps as required to get approval. It is common for realtors to advertise lots/properties to gain interest. Several other entities would need to approve this and not just the city.

Two sanitary sewer stubs on the property. We would need to service 26 additional houses, so of the 28 total on this property, 27 new homes + the 1 existing. In city ordinances, property within 1000 lineal feet within shoreline and regulated overlay. We would need Met Council/MC approval to get city sewer for all the additional lots. Rural Residential/RR means 1:5 with the shoreline exception. The city has discussed the property with Met Council in the past, as it is right now, we have not done anything to regulate the property. Applicant is asking to regulate it as something to allow these units. MC requires density 3:1. We would have to offset density somewhere else. With projected sewer, in the 2030 plan, city had to guide a property S of Perkinsville and E of Budd at 4.7:1. It wasn't realistic and was a placeholder. In 2040 plan, except out Lindgren Ln. Projecting future we need to get density at 3:1 and this property would be included in this plan. Sewer Factors: IND doesn't have its own sewer. All sewer runs through Medina. Greenfield's runs through IND. Loretto negotiated to join to the Quad City agreement and will need to be amended. Medina is open to discussions.

When this came up with the 100+ unit, traffic impact was discussed. We did traffic impact analysis, there was minimum delay associated with this development. City talked with HC to look at intersection of 19 and Perkinsville about funding options to improve this intersection. HC funding west of the loop is harder to receive but we would aggressively pursue it. The city would have to cover 50% of improvements made which are cost prohibitive. Discussions re HC design will continue.

28 1-acre lots proposed. Access off Perkinsville Rd going N and S. Second access off of S Lakeshore going E and W. 1 cul-de-sac in the development. 2 pieces: non-riparian (non-lakeshore) lots and lakeshore lots. Stormwater through two ponds in outlots. All lots would have to be 1-acre. Shoreland lots would have to meet all shoreline overlay zoning district standards. Majority of those lots are 1.5-2.5 acre lots. Applicant would acquire an outlot of 35ft strip of land that would be replatted. Grading, natural resources were looked at. Ravine system goes down to Lake Indy a part of this property. Preservation of this ravine system – the orientation of the lots, plats to the S. It would allow for majority of the ravine to be protected. Put restrictive

easements on top of that to preserve it. We recommended Screening along S Lakeshore and Perkinsville Rd. We will be looking for more detail in the landscaping plans. Some enhanced screening already present.

We recommended some standards – min. lot size of 1 acre, width of 100ft, front yard 35, side yard 15ft, corner 35, rear 40, shoreline 100, wetlands 10ft. This gives a reduced side yard, front yard, maintaining rear.

Accessory structures need to be addressed. 1850sqft of accessory how it stands, that is excessive for these lots. Max access of 1000sqft including garage (detached or attached). Applicant is proposing curb and gutter to control stormwater. 30ft wide street is proposed and allows for parking on both sides and allows for fire access.

Community outlot D proposed/neighborhood park. Community access point on the 30ft wide strip of land going down to the lake. We need more direction and feedback. A day only dock for residents of this development. No overnight or storage.

Do we need to do any park dedication on this type of development? Maybe a sidewalk on Perkinsville with a connection into a park system. Park dedication estimate would go to city's park fund.

Thompson – asked for maps of the 1000 ft of overlay. Kaltsas – it takes into account lots 25-28. We have exhibits we have created but not included. Thompson – in the planned unit, the lot count isn't called out, is it because of our existing standards? Kaltsas – the lot count isn't relevant to the standards. 1 acre min on the 1000 ft. We are guessing until we get a proposal until we get a plan that meets all the standards. We don't cap density on shoreland. Thompson - how did we get to the 28 lots? Kaltsas - by current ordinance it is between 20-30 if I'm guessing.

Story – it will be city sewer, not city water. This doesn't meet the 3:1 density. Kaltsas – in low density, the goal is that the city is a 3:1. We asked Met Council not to penalize us with our city. The brown areas around Maple Plain are where we are looking at increased density. It is a balance with the larger density and lower density and as residents inquire.

## PUBLIC HEARING OPENED

Developer Steve Bohl – Merz property and Fieldstone Woods, we created neighborhoods in these areas and they have developed real nicely. This property is great and has city sewer. We needed to be creative with city sewer. 1-acre average lots. Water quality that will go into Lake Indy with curb and gutter proposal. Want to create a neighborhood park and a neighborhood again. We have images of post and beam, playground, fire pit showing a natural environment. Old landscape nursery. 250+ trees transplanted throughout the site. Luxury single family home neighborhood. Two comp neighborhoods (Hamilton Century Farms, S of MP & Deer Hill Preserve, Medina) – Market values between the two. The advantage is having the curb and gutter and really landscape the lots, san sewer. Submitted generic plan but our intention is to make it absolutely gorgeous. Preserving the ravine is agreed.

Thompson – HOAs are hard to run, a dock is for common use with restrictions, etc. What is the plan and enforcement? Bohl – knows how to structure the HOA docs, the outlot at the lake is an amenity to the lake as a passive use. Charles Cud, in Victoria, they had a pontoon, limited restrictions on age, online reservations, no public dock, etc. There are ways to monitor and manage it. Canoes and a pontoon dock would be adequate. There won't be a beach, just walking path. If one of the owner's wanted to bring their boat to Baker Park for a day, they'd be allowed too. Thompson – since the strip is removed from the development, it is a unique characteristic.

Bohl -it is part of the Otten property. There will be some sensitivity with residents near it. It will be a great amenity. Thompson – is it a legal lot of record? Kaltsas – no, the lot that adjoins it, it is part of it. You couldn't subdivide it into a lot of its own. Dumas – a party down by the docks don't impact the 28 lots, just the properties already there. Who would you call? Bohl – the HOA. We can make this as restricted as necessary by the residents. It should be a passive use. Volkenant – have you considered realigning the lot lines so the neighborhood park would be closer to the lake access but more controlled (Trillium Bay)? Bohl – preference is to keep the neighborhood centralized. The ravine on the W side is where we want to place the post and beam. It will keep people away from the lake a little more too. Gardner – Asked about sidewalks on the N side of Pagenkopf so it ties into the trail going to the dock down to Perkinsville. Bohl – We'd be willing to do a sidewalk along the W side. People do like them in neighborhoods. Volkenant – How do people in 8, 9 and 10 access the lakeshore with the ravine in their backyards? Bohl –There is a narrative that proposes a scenic overlay over the boundaries of the ravine. 10 does. Keep mature trees. Offer to 8 & 9 a walkway, a cool landscaping feature. The desirability of these lots is being at the end looking at the backdrop. Volkenant – What materials of bridges or widths are quantified? Bohl – no. Volkenant – What about owners cutting down the trees to get a better view of the lake? Bohl – We can restrict that in the HOA docs. Attorney included a 3 paragraph. MK- Our interest would be to protect those. Story – Asked about improvement about the sewer system in order for this development to occur. What are the costs of this? Kaltsas – We are waiting for this number. There is a lift station there now that is old, so we need to see what we need to upgrade and change to service this area. Thompson – Is that work done by the city and taken on by the dev? Kaltsas – yes. Likely fee based. Bohl – Reason for accessory buildings – architect approval, does not diminish value to the neighbor, appropriately landscaped, etc. Bohl – yellow house on the property – the grade behind this home cuts through lot 2 and 3. It's a natural drainage and poor. Curb and gutter design will have a better impact on this one and future stormwater management will be better.

Keith Becker – 4915 S Lakeshore – The comp plan has not been approved by Metcouncil? Kaltsas – no. There isn't room to put a path where the runoff and his driveway. What changed since Mayor Johnson said we don't do community docks. Who will be doing the enforcement with the dock? It will be Beckers and Crees family. He won't call HOA, but the Police. Please put it between 9 and 10. I'm opposed to day slips.

Tom Blanck – 5010 S Lakeshore Dr. – On behalf of water quality of Lake Ind, he is president of the LICA. There has been a lot of work on water quality on Lake Indy. New homes, sod, sprinkler systems will affect the water quality. Step the game up with quality. Thank you Mark for the traffic study 3 years ago, there wasn't observation of weekend traffic. The corner close to the lake, there are trucks pulling boats, trailers, campers, etc. It is really active and there are blind spots. Number of cyclists are increasing as well, and the corner is really dangerous with the boat traffic as well. Improve the safety in the areas as well as that corner. I'd love to include a sidewalk to the park too.

Randy Stinson – 2215 S Lakeshore - Right across the street from the development, top of hill. The neighborhood that is there compared to the houses being proposed should be a gated community. Fear of neighborhood changing dramatically. We are doubling the number of houses in that area. Increases noise. It is a quiet community now. Pollutants coming off of the yards and hard cover coming down to the lake. Our property values will go up if this goes through. 8 houses are retirees and the taxes are going to go up. He would like to see 2-acre minimum with more green space. There is a lot of wildlife there that we will lose. Agree with a sidewalk.

Martha McCaven McCabe– lives on Budd blue house N of ravine- Are we doing an environmental impact statement for this development? That should be looked into. This will affect the ravine in her yard.

Cynthia Durland - 5024 S Lakeshore – We closed public access on Budd when milfoil became a problem there. Why would we need to provide this for expensive lots?

Scott Learned – 2165 South Lakeshore Dr– Is the sewer line big enough? Kaltsas - It would accommodate this. It is a forced main. It has the capacity to do this development. Learned – If we do 27 wells, is there enough groundwater for everyone? Kaltsas – That is state regulated outside of the city’s regulation. Learned – Since we all currently have wells, we want to keep ours working.

**Motion by Story to close public hearing, seconded by Thompson. Ayes: Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved.**

Gardner – What do you need? Kaltsas - Recommendation to approve, deny or table. There are a lot of things that need to be worked out. The big issues were resolved but others need to get fleshed out. Rezoning occurs at final plat. Thompson – Some things we need to talk about: the common dock on the skinny lot, explore the topic. A community dock is a non-starter. Turn a lot by the lake into a park area with dock. That would be worthy of revisiting. Usset- 3:1 needs to be looked at and solved. Kaltsas- This piece would change our math incrementally. But they would balance out. Story – Too many of the items in our comp plans goes against this development. Thompson – Water quality, what can we do to for well density. Kaltsas – It is state regulated, so we would have to talk with the state and maybe Metcouncil for regional impact. We do not regulate wells ourselves. Thompson – Make that information available. Kaltsas - I’m happy to do that. It would need to meet all applicable standards. Gardner – Regarding high density. It’s not out in the 5 acres. This is not in the brown area. We’ve purposefully kept the brown off of this South of Perkinsville. Kaltsas – (1:49) We will need to write ordinances for other properties that are going to be sewerred in the city. Ind has had 3 zoning districts, but it may not be best. We have in our ordinance cluster development standards, which we’ve talked extensively about. The PUD would just be a similar tool to cluster development. Protection of natural resources is certainly we’d want to understand. Thompson – Landscaping plans (keeping the character and don’t cut everything down), accessory HOA standards, potentially are we wanting to limit accessory structure sizes? With some of these changes, I’m inclined to recommend this moving forward to Council. Kaltsas – Any conditions or revisions would have to be made prior to Council. Is this in prelim form or what provisions would need to be made? The formalities come back to you. We’d be agreeing to the 28 lots and other aspects before CC sees and you see at final plat. Now is the time you can add any recommendations to the plan.

Volkenant – The developer should also need to address the corner intersection & traffic. Thompson – We have relevant 1996 (“nothing to fix”) data. Gardner – Unless you want to pay for the traffic study.

Kaltsas – This goes beyond this development but needs to be worked on in general. Unlike most states who allow it, I wished MN allowed cities to take traffic impact fees but it’s not allowed.

Volkenant – Lot 27 & 28 intersection issue, (2:00) could you add a possible roundabout at the corner? A 3-entry roundabout.

**Thompson motioned that the property at 2236 South Lake Shore Drive to be known as Bridgevine, that the Planning Commission recommends approval of the proposal subject to staff recommendations 1 - 4 with the following recommendation to be altered: n) sidewalk be included that transverses the property in total, o) easement overlay be created to protect ravine, p) craft tree maintenance and easement standards to protect natural vegetation growing in the ravine, q) no dock**

**on outlot, path to outlot, or usage in common in the outlot, r) accessory building and HOA standards be combined with HOA recommendations around architecture and design criteria, Tearse seconded. Ayes: Volkenant, Gardner, Dumas, Tearse, & Thompson. Nays: Story and Usset. Absent: None. Abstain: None. Motion Approved.**

Those wanting to follow this item, please check with the city first to ensure whether this will be on the agenda for the August 2<sup>nd</sup> City Council meeting. Due to it also being the Night to Unite, the Council had approved moving the start time to 5pm so they could attend as many of the 19+ already scheduled gatherings.

6. **PUBLIC HEARING:** Patti Good (Applicant/Owner) requests that the City consider the following actions for the property located at 4986 South Lake Shore Drive, Independence, MN (PID No. 24-118-24-11-0001):

- a. A variance allowing a reduced setback from the OHWL permitting the construction of a screened deck to be constructed in place of the existing legal non-conforming deck on the subject property.

***Request:***

Patti Good (Applicant/Owner) requests that the City consider the following actions for the property located at 4986 South Lake Shore Drive, Independence, MN (PID No. 24-118-24-11- 0001):

- a. A variance allowing a reduced setback from the OHWL permitting the construction of a screened deck to be constructed in place of the existing legal non-conforming open deck on the subject property.

***Property/Site Information:***

The subject property is located at 4986 South Lake Shore Drive. The existing home is a legal non-conforming structure that does not meet all of the current setback requirements. There is an existing home and detached accessory structure on the subject property.

Property Information: 4986 South Lake

Shore Drive Zoning: *Rural Residential*

(*Shoreland Overlay*) Comprehensive Plan:

*Rural Residential*

Acreage: 1.0 acres (43,560 square feet)

Impervious Surface Maximum: 25% (10,890 square feet)

***Discussion:***

The applicant submitted a building permit application seeking approval to rebuild the

existing deck in its current location and to enclose a portion of the existing deck with a new screen porch. It was identified that the existing deck does not meet applicable setbacks from the OHWL and is considered a legal non-conforming structure. The City discussed the potential options (variance) with the applicant and noted that the existing deck can be rebuilt in its current location as long as no expansion or intensification of the deck occurs.

The applicant decided to move forward with an application for a variance from the OHWL to allow the existing deck to be reconstructed generally in its current location with a small expansion (69 SF) to allow a new stairway and a portion of the deck to be covered/screened. The City has historically considered variances for properties located in the Shoreland Overlay district that are substandard lots of record. The City currently allows an “administrative variance” from the requisite standards by acknowledging lots of record that were in existence prior to 1982. For these lots, the City allows all requisite setbacks to be reduced by 40% for substandard lots of record. In this particular situation, there is no location attached to the rear (lakeside) of the home that would accommodate any expansion or intensification.

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:*

- (a) such use is permitted in the zoning district;*
- (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.*

Setbacks for properties located in the shoreland ordinance are as follows:

Subd. 2. Lot standards.

	Unsewered Areas			Sewered Areas		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft	200 ft	200 ft	125 ft	100 ft	100 ft
Structure setback from ordinary high water mark	150 ft	100 ft	100 ft	150 ft	100 ft	100 ft
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft	75 ft	75 ft

**OHWL Setback:**

Required: 60 feet

Provided (Existing and Proposed): 38'

In addition to the setback requirements, properties located in the shoreland district can have a maximum impervious surface coverage of 25%. This property would be permitted to have a maximum impervious surface coverage of 10,890 square feet. The current property exceeds the allowable amount by 645 square feet. This is an existing condition that is considered to be legal non-conforming. The applicant has noted that they also own the adjacent vacant property and have calculated impervious surface coverage based on the total of both lots. The proposed deck would increase the impervious coverage on this property by 69 square feet. The applicant has prepared an analysis of the impervious surface area for this property. The existing and proposed impervious surface calculations are provided as follows:

**Existing Hardcover**

Lot Area	= 63,952 S.F.
House Area	= 1,678 S.F.
Structure Area	= 1,488 S.F.
Bituminous Area	= 5,804 S.F.
Deck Area	= 355 S.F.
Gravel Area	= 1,457 S.F.
Concrete Area	= 753 S.F.
Total Area	= 11,535 S.F.
Coverage	= 18.04 %

**Proposed Hardcover**

Lot Area	= 63,952 S.F.
House Area	= 1,678 S.F.
Structure Area	= 1,488 S.F.
Bituminous Area	= 5,804 S.F.
Deck Area	= 424 S.F.
Gravel Area	= 1,457 S.F.
Concrete Area	= 753 S.F.
Total Area	= 11,604 S.F.
Coverage	= 18.14 %

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. Each property in this area is non-conforming and typically requires relief from certain setbacks. The City will need to determine if the requested variance is unique to this property.
- c. The character of the surrounding area is residential. The proposed 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 neighboring property owner to the east has submitted a letter in support of the requested variance.
3. The proposed screen porch would be covering an area that has historically been used as a deck. The small addition that would be added to this deck would accommodate the relocation of the existing stairway. The overall structure would not be moving closer to the OHWL.
4. There is limited visibility to the portion of the deck that would be screened from adjacent properties due to the heavy tree coverage.

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 one written letter from the adjacent property owner to the east. Several residents have stopped in or called City Hall to obtain additional information relating to 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 variance will allow a deck and associated screen porch to be constructed in accordance with the approved plans attached hereto as Exhibit B. No portion of the deck shall be located closer than 38.27 feet from the OHWL of Lake Independence.
3. 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 home/ garage or impervious areas will be permitted without an additional variance request.
4. The Applicant shall pay for all costs associated with the City's review of the requested variance.

Kaltsas- variance to consider allowing a legal nonconforming structure. Screened deck in place of open deck. RR, 1 acre in size. They own two lots, one just to the S and W. A vacant lot. Possibility of resurfacing current deck but it is a legal non-conforming deck. Required setback is 60ft. They can be rebuilt in its entirety. They want to rebuild the deck but add a screened deck, push back the stairs. Grant variance to exception to shoreline setback. Deck was done prior to our current standards. Submitted a letter of support from adjacent property owner.

**PUBLIC HEARING OPENED**

Good- Our home was built in 1971, proximity on the lakeside is non-conforming. We want the same footprint but eliminate the stairway which was closer to the lake and having that a screened porch. The new edition

**PUBLIC HEARING CLOSED**

**Motioned by Story to approve the variance for the construction of a roof at 4986 South Lake Shore Drive with staff recommendation of 1-4, seconded by Thompson. Ayes: Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved.**

This will go to the August 2<sup>nd</sup> City Council at 5pm.

7. **PUBLIC HEARING:** Jeffrey Pitzenberger (Applicant/Owner) requests that the City consider the following actions for the property located at 4082 Woodhill Drive, Independence, MN (PID No. 01-118-24-34-0012):
- a. A variance to allow a detached accessory dwelling unit on a property that is less than 2.5 acres.
  - b. A conditional use permit to allow an accessory dwelling unit.

***Request:***

Jeffrey Pitzenberger (Applicant/Owner) requests that the City consider the following actions for the property located at 4082 Woodhill Drive, Independence, MN (PID No. 01-118-24-34-0012):

- a. A variance to allow a detached accessory dwelling unit on a property that is less than 2.5 acres.
- b. A conditional use permit to allow an accessory dwelling unit.

***Property/Site Information:***

The property is located at 4082 Woodhill Drive which is on the northeast corner of CSAH 11 and Woodhill Drive. The property has frontage on Lake Sarah and comprised of mostly upland with a wetland on the east side of the property. There are no existing structures located on the property.

Property Information: 4082 Woodhill Drive Zoning:  
*RR-Rural Residential (Shoreland Overlay)*  
Comprehensive Plan: *RR-Rural Residential Acreage:*  
*2.00 acres*

***Discussion:***

The applicant approached the City about the possibility of constructing a detached accessory dwelling unit on this property prior to acquiring the property. The property was recently platted as a part of the Lake Sarah Hill Subdivision. It was noted that the City's current ordinance does not allow detached accessory dwelling units (ADU's) on properties less than 2.5 acres. For properties less than 2.5 acres, ADU's are required to be attached to the principal structure.

The City considers allowing ADU's as a conditional use in the RR-Rrural Residential zoning district. The intent of the ordinance was to allow for "mother-in-law" type units to be located within the principal structure or within a detached accessory building. The applicant recently acquired this property and the property to the north and discussed regulations relating to ADU's for this property. The applicant is planning on constructing a principal residence on this property in 2022-2023 and would like the City to consider allowing a separate detached ADU to be constructed following/at the same time as construction of the principal structure.

The applicant has prepared plans for the development of the property which include both the principal and accessory dwelling units. The City has adopted standards requiring the ADU to be

proportional and subordinate to the principal structure. The proposed principal house and accessory dwelling unit have the following specifics:

**Main House:**

3316 SF 1<sup>st</sup> and 2<sup>nd</sup> Floors (33% \* 3316 = 1094 SF)

*Accessory Dwelling Unit:*

Allowed SF 1094  
SF allowed

Proposed SF  
1198 SF\* (Excludes attached garage)  
\*Applicant has noted that they can reduce the SF to meet the 1094 SF

Setbacks	Required	Proposed
Front Yard	85' from CL	100'
Side Yard	15'	20'
Rear Yard	100' from OHWL	200'+

The proposed accessory dwelling unit is comprised 2 bedrooms, 2 baths, kitchen, great room, dining room, mud room, mechanical and attached garage. In order for the City to consider a CUP for an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit and for an accessory dwelling unit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

*Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:*

- (a) *Physically attached to or within a single-family dwelling unit or within a detached<sup>a</sup> accessory building that has a principal structure on the parcel; and*

*The applicant is proposing to construct a detached accessory dwelling unit. As a result of the property being less than 2.5 acres, the applicant is seeking a variance to allow a detached structure.*

- (b) *Subordinate in size to the single-family dwelling unit; and*

*The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit.*

- (c) Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and

*The proposed accessory dwelling unit would be in a detached structure which is separated from the single-family home.*

- (d) Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and

*The proposed ADU has been designed to be architecturally similar to the proposed principal structure. Architecture and materials appear to be consistent with the existing home.*

- (e) The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and

*The principal structure is proposed to be 3,316 square feet of above ground living space not including the walkout basement. 33% of 3,316 square feet equals 1,094 square feet. The applicant has initially proposed a 1,198 SF detached accessory structure. The applicant has noted that they intend to reduce the overall size proposed to meet the allowable SF. It should be noted that the mechanical room can be excluded from the total calculation.*

- (f) Not in excess of the maximum square footage for accessory structures as permitted in this code; and

*The existing property is 2.5 acres in size and is limited to 1,850 square feet for the total square footage for all detached accessory structures. The proposed structure would fit within the allowable SF.*

- (g) Has permanent provisions for cooking, living and sanitation; and

*The applicant is proposing to construct permanent provisions for cooking; living and sanitation (see attached depiction).*

- (h) Has no more than 2 bedrooms; and

*The applicant is proposing to have two (2) bedrooms within the proposed accessory dwelling unit.*

- (i) Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and

*The owner of the property is proposing that the accessory dwelling unit will be occupied by his family.*

- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*

*The proposed accessory structure will be connected to the City sewer line that will also serve the principal residence.*

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

*The accessory structure does not impede the ability of the owner to subdivide the property in the future or utilize a secondary septic site.*

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

*The applicant will be required to obtain a building permit for all proposed improvements.*

*<sup>a</sup> On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

*<sup>b</sup> The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The applicant has discussed the proposed improvements to the property with the City. The applicant has submitted a site survey, sketch of the proposed building plans, elevations of the proposed principal residence and ADU and a site plan. The accessory dwelling unit will need to meet all applicable building codes and building regulations.

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 standards for granting a variance are also clearly delineated in the City's Zoning Ordinance as follows:

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011- 08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend, and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

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

1. The proposed ADU is located in the “front” yard of the property and will be visible from the Woodhill Drive and surrounding properties. The City will want to consider if there are any potential impacts to surrounding properties related to having a second structure located in the front yard.
2. The applicant could locate a detached accessory structure on this property and meet applicable setbacks (15 feet).
3. Given that this is an undeveloped property, the applicant could meet the ordinance by attaching the ADU to the principal structure.
4. The adjacent property to the south is larger than 2.5 acres and could accommodate a detached ADU. The properties to the north and across Woodhill to the west are not large enough to accommodate a detached ADU.

Ultimately the City will need to find that the criteria for granting a conditional use permit and the standards for granting a variance have been satisfied by the applicant. This property is 2 acres in size and is limited to an attached ADU in accordance with the City standards. Consideration for the proposed conditional use permit should weigh the impact of having a detached accessory dwelling unit located on this property. The proposed new home and ADU appear to be designed so that they are compatible and consistent.

Should the requested variance and CUP to allow an accessory dwelling unit be recommended for approval by the Planning Commission, it is suggested that the following conditions be noted by the City:

- The Conditional Use Permit will be subject to the applicant constructing the principal structure on the property and successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
- The ADU be reduced in size so that it is no greater than 1,094 SF.
- The ADU be constructed in accordance with the approved plans.

- The ADU will meet all applicable setbacks of the City's zoning ordinance

***Neighbor Comments:***

The City has not received any written comments regarding the proposed conditional use permit to allow an accessory dwelling unit.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the requested Conditional Use Permit with the following findings and conditions:

1. The proposed Conditional 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 Conditional Use Permit will be issued subject to the following items being completed:
  - a. The Conditional Use Permit will be subject to the applicant constructing the principal structure on the property and successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
  - b. The ADU be reduced in size so that it is no greater than 1,094 SF.
  - c. The ADU will be constructed in accordance with the approved plans.
  - d. The ADU will meet all applicable setbacks of the City's zoning ordinance.
3. Prior to the City Council placing the Conditional Use Permit into effect, the applicant shall provide the City with the following items:
4. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

CUP request and variance, possibility of constructing a new home plus an ADU. Recently subdivided. 1<sup>st</sup> and 2<sup>nd</sup> floors = 3,316 sq ft. They would reduce size if sent to approval. Architectural compatibility between the SFD and ADU. It will be used for family. Property is on city sewer, and we don't have any ADU on city sewer currently. CUP should not take away reasonable use from surrounding properties. Most have been located within primary structures, this is a detached structure. 2 properties near this property have detached ADU. The applicant would reduce ADU to 1094 sq ft. & revise grading survey before it goes to CC.

Thompson- The lot was created and subdivided in the last 18 months. The 2.5-acre requirement for the detached ADU ordinance was a longtime historical? Kaltsas- They were original provisions, 10 yrs old. Dumas – Doesn't it reduce the value of the property if you sell the property to someone and have 2 homes on the property? Kaltsas- The City ordinances limit who can live in/rent ADU to be only blood relatives. It is trickier as we do more of. This is the first time we have a standalone. We will have a restriction to not get CO to not build ADU without principle. We wouldn't permit this without the principle. Gardner – Doesn't

it restrict on the size of the main house's size? Kaltsas- You can't build an ADU without first having the principal home. Story- Let's hear about the hardships.

#### PUBLIC HEARING OPENED

Jeffrey Pitzenberger – We bought the property with our intention of building our dream home. Throughout the process we wanted to help our aging parents who live in a 1902-built home with 5 stories and so wanted to build an ADU for them. We're willing to reduce the size to the max size recommended by the city. It is heavily wooded so you wouldn't see it from Woodhill. Apologized for the builder drawing plans without understanding the 33% rule cap. They have no intention for asking for any other variances. Thompson – The city's ordinance says 2.5 acres. What is your hardship? Pitzenberger – Not being able to take care of our parents. Story – Can't it be an *attached* dwelling unit? Thompson – Everything has been known conditions. It was only purchased/divided recently. What is the hardship of your doing and not purely economic? That is what's needed to grant the variance. Story- Pointed to the previous request. Gardner – How hard would it be to attach it to your house? (hardship) Pitzenberger - We wouldn't oppose doing it, but our parents would lose their privacy. Gardner- So that is the hardship! They would lose their privacy. What would you do with this space after your parents are no longer using it? Pitzenberger – We'd use it as a remote-work office space for myself or my wife. Gardner- We're looking for something to anchor ourselves on. The privacy thing is interesting though.

#### PUBLIC HEARING CLOSED

An attached ADU means separate entrance thus avoiding 2 houses on 1 property, and it could have a breezeway. There are other properties that have a garage in between the attached ADU and principal structure. It has a CUP because it has a full bath and kitchen. Outbuilding style vs. attached. ADU 1850 sq ft – 2.5 acres going up. They could build their house, then the 1850 sq ft ADU, and work on moving them in. It doesn't make sense. Existing building impact and ADU (mancave requirements). 2 houses typically are rented and hard for the City to administer. 1 principal structure is most practical.

**Motion by Thompson to deny variance on a property less than 2.5 acres rendering an ADU not necessary at 4082 Woodhill Drive, Dumas seconded. Ayes: Volkenant, Dumas, Thompson, Story, & Usset. Nays: Tearse, Gardner. Absent: None. Abstain: None. Motion Denied.**

8. Open/Misc

9. Adjourn.

**Story motioned to adjourn, Thompson seconded, and meeting was adjourned at 10:16pm**