

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION MEETING
TUESDAY AUGUST 16, 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 8:15pm.

2. ROLL CALL:

PRESENT: Commissioners Dumas, Gardner, Thompson, Story-1st Alternate, Tearse, & Usset-2nd Alternate

STAFF: City Administrator Kaltsas and City Administrator Assistant Simon

ABSENT: Volkenant

VISITORS: See Sign-in Sheet

3. APPROVAL OF MINUTES:

a. July 19, 2022, Planning Commission Meeting

b. August 2, 2022, City Council Meeting Minutes (For Information Only)

Motion by Dumas to approve the July 19, 2022, Planning Commission minutes, second by Tearse. Ayes: Dumas, Gardner, Thompson, Story-1st Alternate, Tearse, & Usset-2nd Alternate. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.

4. **PUBLIC HEARING:** Russel Gilberg (Applicant) and David Vandeneinde (Owner) requests that the City consider the following action for the property located at 840 Wild Oak Trail, Independence, MN (PID No. 27-118-24-33-0003):

a. A conditional use permit to allow a ground mounted solar array on the subject property.

Request:

Russel Gilberg (Applicant) and David Vandeneinde (Owner) requests that the City consider the following action for the property located at 840 Wild Oak Trail, Independence, MN (PID No. 27-118-24-33-0003):

a. A conditional use permit to allow a ground mounted solar array on the subject property.

Property/Site Information:

The property is located at the end of Wild Oak Trail which is north of CSAH 6. The property has an existing home, a detached accessory structure. The property has the following characteristics:

Property Information: **840 Wild Oak Trail**

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: *3.66 acres*

Discussion:

The applicant is seeking approval to construct a ground mounted solar system on the subject property. Ground mounted solar systems require a conditional use permit in all zoning districts of the City. Ground mounted solar systems have the following requirements:

Subd. 5. Ground-mounted solar energy systems shall conform to the following standards:

- (a) Ground-mounted systems shall only be allowed on a parcel with an existing principal structure.*
- (b) Ground-mounted systems shall be located only in rear or side yards.*
- (c) Ground-mounted systems shall not be located in the Shoreland Overlay District.*
- (d) Ground-mounted systems shall be wholly screened from view from the public right-of-way and adjacent residential structures. Methods for screening shall include berming, fencing, landscaping and/or combination thereof.*
- (e) Ground-mounted systems shall be located on a parcel of at least 2.5 acres.*
- (f) Ground-mounted systems shall be setback 40 feet from the rear yards.*
- (g) Ground-mounted systems shall be setback 30 feet from the side yards.*
- (h) Ground-mounted systems shall have a maximum area of 500 SF.*
- (i) The maximum height for any component of the system shall be 15 feet.*
- (j) Ground-mounted systems shall be in compliance with any applicable local, state and federal regulatory standards, including building, electrical and plumbing codes.*
- (k) Ground-mounted systems and their support structures shall be designed by a certified professional to meet applicable professional standards for the local soil and climate conditions.*

The proposed ground mounted solar system would be located in the side yard to the east of the existing barn located in the northeast corner. The proposed solar system would be comprised of one ground mounted array. The total square footage of the two arrays would be 488 SF. This would be less than the 500 feet maximum SF permitted. The arrays would be setback approximately 38 feet from the north property line (side yard). The required setback is a minimum of 30 feet.

The proposed ground mounted system would be approximately 11 feet to the top of the highest portion of the panels (height is variable based on angle). The maximum height allowed for any component of the proposed system is 15 feet. The City requires systems to be wholly screened from view of the public right of way and adjacent residential structures. There are currently no residential structures located near the proposed location. The proximity of the proposed ground mounted system to the nearest residence and or public right of way is ~550 feet and is protected from view by existing vegetation or elevation. No screening is proposed along the north or east property lines. One additional consideration relating to screening is that the panels will be oriented to face south. This will help to mitigate glare and or other visual impacts to surrounding properties as there is a significant wooded area to the south of the subject property.

The applicant has also provided the City with an updated site plan and image of the solar system. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The City has discussed the proposed ground mounted solar system with the applicant. It was noted that the proposed ground mounted solar system would offset approximately 85% of the applicant's current power consumption. The applicant also stated that if the ordinance relating to ground mounted solar allows for more area in the future, he would encourage consideration for a provision that allows expansion of the

proposed system without additional review. The proposed ground mounted solar system appears to meet all applicable standards provided for in the zoning ordinance. The size of the system and its proximity to the surrounding property appears to adequately mitigate potential visual impacts. Given the location of the property at the end of Wild Oak Trail, the orientation of the proposed solar system and its relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit amendment.

Neighbor Comments:

The City has not received any written or oral comments regarding the proposed amendment to the conditional use permit.

Recommendation:

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

1. The proposed conditional use permit and amendment 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 allow a ground mounted solar system to be located on the subject property and in accordance with the approved site plan attached hereto as EXHIBIT A.
 - a. The ground mounted solar system shall be constructed in accordance with all applicable zoning code, building code and other applicable standards.
3. The applicant shall pay for all costs associated with the review and recording of the resolution granting approval of the conditional use permit.

Kaltsas – It meets the 500 sq ft maximum in the ordinance. Located on the end of Wild Oak Trail on NE side of the cul-de-sac. SFD and detached. 3.5 acres overall. All ground mounted solars are considered by CUP. It can be located in rear or side yards, 2.5 acres or greater. 30 ft from side yards, 15 ft in max height. 488 sq ft is proposed (less than what's permitted), 270 ft from rear property line and 30 ft from side yard. They meet setbacks. System height is 11ft. 35ft wide and 2 panels tall, mounted in an angled position. Closest residential structure is to the South but heavily wooded area. Very limited visibility from Wild Oak Trail and neighboring properties. There could be visibility in future developing properties but could be 1000 ft or more. CUP granted - any reasonable use impacted on surrounding properties? We picked 500 sq ft max based on info we had available, but it has changed and has not been considered with electric calls, pools etc. It would provide 60% of power. Applicant would encourage the city to make provisions to people that went through the CUP process that they don't have to pay to have their

sq ft increased in the future if the city changes the max area. Panels are getting more efficient, so it may not be needed.

Gardner- Can you tell us more about the kilowatt hours?

Applicant – Dave and Sandy Vandeneinde (840 Wild Oak Trail owners) - We own the rectangular property to the South, so it is 5.5 acres overall, two PIDs. We first started looking at placing solar on the house, it wasn't doable, placing it on the backside of the barn – not optimal, that's where we are at ground mounted. 480 sq ft was because they would like to meet current power consumption, solar degrades overtime, they will meet 85-90% consumption. I would love to add more panels but was told by the City that a variance would be needed to add more panels, so I'm working within the current constraints.

Gardner – How many kilowatts are you consuming a month?

Dave Vandeneinde, Applicant– There's no battery at this time. At any time, I can be drawing off the grid or producing for the cul-de-sac. The west property (owners, Steve and Connie Schmitt) – our barn is blocking view with the slope, North – drainage ditch and there are trees growing as natural barrier. All my north side on mine is 20 ft high shading, East is a horse pasture. Mound is between the septic mound and

Story- You have the perfect setup for blocking the view of the solar panels.

Butch – What is the cost of this 500 sq ft solar system?

Dave - \$27,355 inclusive of building permit and not inclusive of variance fees (\$1,250 & an additional \$750 deposit potential) today. So I've paid out \$2,000 to be here today. Plus there is a 26% fed tax credit if passed which is not factored in yet. I wouldn't do this without the federal tax credit. It would take 550 sq ft to cover all.

Motioned by Garner, seconded by Story to close public hearing.

Kaltsas – We started solar ordinance with legislation because it was metro area with a lot of grid capacity. We got a bunch of 40-acre solar site requests. We didn't want them. We looked at roof-mounted and ground-mounted, and ground-mounted could impact surrounding properties. We vetted that by making it all CUP. \$1250 is the cost for taking application, notice a paper, process application, write report for Planning Commission, write report for City Council, filing resolutions, and record all documents with county, etc. We don't make money and do review those costs. \$1,250 is standard for any planning action. We require \$750 deposit for any complicated fees and have to come back 3-4 times. Other cities may charge \$500 up front and then singly charge for everything on top of that. We think \$1,250 covers most.

Gardner – Is there a way to approve these without adding more fees to solar mounted?

(38) Kaltsas- We do have an Accessory Building Review Committee. Solar could be one of those things. We wanted to vet to be sure they're not impacting neighbors' houses.

Thompson – There is a difference in ground mount vs roof mount due to impact.

Dumas – If ordinance got changed and "\$750 was the number, etc.," if the ordinance changes, do people get assessed again?

Kaltsas – It would be an amendment to the CUP. Cities are not making this up. The state has steps we need to comply with, and we are more reasonable than a lot of cities.

Story – We could add that to the ADU committee, so we still have some control.

Kaltsas – We could add that and amend the ordinance. We are unique since most cities do not have the larger lots to allow for ground mounted. Going before the ?? can vet the process.
Thompson – It’s nearly impossible to write up an ordinance that covers every property in Independence. Every property is different.

Motion by Story, second by Thompson to approve CUP request for a ground mounted solar array at 840 Wild Oak Trail, Independence, MN (PID No. 27-118-24-33-0003). Ayes: Dumas, Gardner, Thompson, Story-1st Alternate, Tearse, & Usset-2nd Alternate. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.

It will go to the City Council on Sept. 6, 2022.

5. **PUBLIC HEARING:** John Peterson (Applicant) and Jean P & A Sterner Etal (Owner) requests that the City consider the following action for the properties generally located at 8910 US Hwy 12, Independence, MN (PID No’s. 07-118-24-41-0003 and 07-118-24-42-0004):

a. A minor subdivision to allow a lot line rearrangement which would adjust the line that separates the two properties.

Request:

John Peterson (Applicant) and Jean P & A Sterner Etal (Owner) requests that the City consider the following action for the properties generally located at 8910 US Hwy 12, Independence, MN (PID No’s. 07-118-24-41-0003 and 07-118-24-42-0004):

a. A minor subdivision to allow a lot line rearrangement which would adjust the line that separates the two properties and cleans up a property line discrepancy along the north property line.

Property/Site Information:

The subject property is located just west of Lake Haughey Road and North of Hwy 12. There are two principal structures located on the 8910 property along with several detached accessory structures. There are no structures on the westerly parcel (07-118-24-42-0004). The property has the following site characteristics:

Property Information: **8910 Highway 12**

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage (Before Parcel A - north): 38.70 Acreage (After Parcel A - north): 41.60

Acreage (Before Parcel A - south): 18.00 Acreage (After Parcel A - south): 18.00

Acreage (Before Parcel B - north): 42.95 Acreage (Before Parcel A - north): 40.19

Acreage (Before Parcel B - south): 14.39 Acreage (Before Parcel B - south): 14.39

Discussion:

The applicant is seeking a minor subdivision to adjust several lot lines and correct a property line discrepancy. The proposed lot line rearrangement would adjust the north/south property line that runs between the two subject properties. The line would move to the west north of the railroad tracks so that it aligns with the north/south line that runs south of the railroad tracks. In addition to this realignment, the applicant has noted that there is a piece of property to the north of the subject Parcel A that should be incorporated into the property. This can be seen on Hennepin County GIS. The applicant is proposing to adjust the north property line so that it incorporates the property that has historically been included within the fenced portion of the subject property.

The proposed lot line adjustments will add approximately 3 acres to the easterly property (Parcel A) and reduce the westerly property by the same. Both properties are under the control of the applicant’s family members and there is agreement relating to the proposed adjustment with the adjacent property owner to the north.

Summary:

The proposed lot line rearrangement is generally in keeping with the City’s zoning and subdivision regulations. The City reviewed the proposed subdivision and did not find any potential issues relating to the requested minor subdivision. No new lots are being created and both lots are conforming in both the before and after conditions. The City is not requesting any additional drainage and utility easements due to the minimal change and overall size of the subject parcels. The proposed minor subdivision appears to meet all of the applicable standards of the City’s zoning and subdivision ordinance.

Neighbor Comments:

The City has not received any written comments regarding the proposed minor subdivision.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested minor subdivision with the following findings:

1. The proposed minor subdivision for a lot line rearrangement meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of 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. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Kaltsas – A couple properties included and one to the north of the subject parcels. 2 structures on 8910 property. Both AG and guided by comp plan as AG. There is unclaimed property on the N

so could adjust the lines to take in some of the unclaimed property. 2 properties bisected by the railroad but same PID. Jog of N/S line added to Easterly lot and line up with the peoce S of the railroad. Push the line to the North. There is a small triangle to the far N and include this in the lot line rearrangement. 2 adjustments to the lot lines. There is nothing impacted or changed.

Dumas – If there is a lot line there that is platted aren't you moving the fence? Don't we have to take land from one to the other?

Kaltsas – There is unclaimed land so no.

Thompson – Why are we addressing only half of the unclaimed land?

Al Sterner (John's BIL) – We own the property to the West and my wife owns a share of the property on the East. His father only did the fence line on the South side, not the North. We don't care to extend it. It's all in the family and we are not moving the fence.

Thompson – Are we friends with Roberta Arendt?

Sterner – Legally the description is the fence line.

Kaltsas – It doesn't change her property at all. John has to go through a more legal process to clean this up. Legally we can't record this until this is cleaned up.

Gardner closed, Thompson seconded the public hearing.

Motion by Tarse, seconded by Thompson to approve minor subdivision lot line rearrangement at 8910 Wild Oak Lane. Ayes: Dumas, Gardner, Thompson, Story-1st Alternate, Tarse, & Usset-2nd Alternate. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.

It will go to the City Council on Sept. 6, 2022.

6. Open/Misc.

PC purposes will be filled with more applications. The golf course will likely be seen in September. Koch brothers will likely be coming with a smaller phase 1. Mills Fleet Farm is still calling. Feasibility level work for a municipal well is happening at the intersection which is needed for any development there. A concept plan for a 295,000 sq ft office retail/business park on the south side of Hwy 12 and Town Line Rd. was going to be heard.

7. Adjourn.

Motion carried by Story, seconded by Gardner to adjourn the meeting at 9:09 pm.

Respectfully Submitted,
Linda Johnson / Recording Secretary