

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, SEPTEMBER 20, 2022, AT 7:30 PM

1. CALL TO ORDER

Pursuant to due call and notice thereof, a work session of the Independence Planning Commission was called to order by Chair Gardner at 7:30 p.m.

2. ROLL CALL:

PRESENT: Commissioners Volkenant, Gardner, Dumas, Tearse, Thompson, Story, & Usset
ABSENT: None.
STAFF: City Administrator Kaltsas
VISITORS: See Sign-In Sheet

3. APPROVAL OF MINUTES:

- a. August 16, 2022, Planning Commission Meeting
- b. September 6, 2022, City Council Meeting Minutes (For Information Only)

Motion by Gardner to approve the August 16, 2022, Planning Commission minutes, second by Tearse. Ayes: Gardner, Dumas, Tearse, Thompson, Story, & Usset. Nays: None. Absent: Volkenant. Abstain: None. Motion Approved.

Volkenant joined 5 minutes into the meeting.

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

Request:

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. A conditional use permit amendment to allow the development of a new 18-hole golf course and associated site improvements (private facility) on the subject properties.

Property/Site Information:

The subject properties are located on the north side of County Road 6, just west of County Road 92. The properties are comprised of rolling topography, ponds, wetlands and tree coverage. The properties have the following characteristics:

Property 32-118-24-13-0002

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 15.19 acres

Property 32-118-24-23-0001

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 69.91 acres

Property 32-118-24-12-0004

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 10.06 acres

Property 32-118-24-12-0003

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 10.75 acres

Property 32-118-24-22-0002

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 9.76 acres

Property 32-118-24-22-0003

Zoning: *Agriculture*
Comprehensive Plan: *Public/Semi-Public*
Acreage: 9.93 acres

Discussion:

The applicant is seeking an amendment to the existing conditional use permit to allow the use of their property located north of CSAH 6 for a new 18-hole golf course. Windsong has been working on a plan to develop the north side of this property for many years. The City reviewed and approved an amendment to allow this property to be developed as a practice facility and driving range in 2016. That plan never was brought to fruition. The applicant is now proposing to develop the property into a new 18-hole golf course that would become a second private course associated with the Windsong Golf Club. The proposed 18-hole course would include a starter house (1,400 SF) and a seasonal building for bathrooms (400 SF) and associated 92 stall parking area. The new course would be accessed via a new access driveway and parking area and also from the existing golf cart tunnel beneath CSAH 6. The existing overflow parking area would be removed, and the new parking areas would be constructed.

In order to consider the expansion of the golf course facility to the north side of CSAH 6, an amendment to the conditional is necessary.

520.09 Subd. 8. If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

Commercial golf courses are permitted as conditional uses in the AG - Agriculture zoning district. The golf club has a conditional use permit that was originally approved in 2001 and amended in 2012 and 2013, 2016 and 2021. The CUP allows a golf course and its associated

29,000 SF club house/pro shop, guest house and overflow parking north of CSAH 6. The initial Golf Course CUP was issued under 530.01, subd. 4(s) which makes "commercial golf course" a conditionally permitted use.

In addition to the CUP, the City reviewed an environmental assessment worksheet (EAW) that was required in order for agricultural land to be converted into a golf course. The EAW is in the process of being finalized and will be considered for approval at the same time as the CUP amendment by City Council. The findings and responses to comments made during the EAW process are attached to this report for information.

The applicant is proposing to mitigate visual impacts of the proposed golf course on the surrounding landscape by constructing 6-10-foot-tall berms along CSAH 6 in a similar fashion to the berms that screen the golf course on the south side of CSAH 6. The proposed facility is intended to serve the courses existing membership base and will be for the private use of the members.

Any amendment to an existing CUP must meet the same requirements established for granting a new CUP. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

- 1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
- 2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.*
- 4. Sufficient off-street parking and loading space will be provided to serve the proposed use.*
- 5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city 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 existing golf course is relatively secluded from the surrounding properties and County Roads. There are existing golf courses to the west and south of this property. Most impacts that would result from the use of the property would be mitigated by the remaining open space and proposed earthen berming. Golf courses are permitted as a conditional use in the Agriculture zoning district. The property is guided in the Comprehensive Plan as Public/Semi-Public. The use of the property as a golf course is consistent with the existing zoning. The City will need to determine if the new 18-hole course is consistent with the use of the overall property as a golf

course. In addition, the City will need to determine if the proposed amendment to the CUP meets the requirements for granting a conditional use permit.

The applicant is currently in the process of securing a wetland mitigation permit that will allow for approximately 0.5 acres of wetlands to be mitigated out of the approximately 46 acres of wetlands on the property (see image below). The City, Army Corps., and wetland TEP panel have completed an initial review of the proposed grading and wetland mitigation and has provided detailed comments to the applicant. The City will continue reviewing the grading, drainage and mitigation plans for the proposed practice facility expansion and all approvals will be subject to the City's review and approval.

Development of the new golf course will include light cut and fill over approximately 100 acres to shape the play areas as well as excavation of irrigation ponds. Approximately 170,000 cubic yards of cut and fill will be balanced on-site. Forty-one acres will be seeded with native fescue as soon as feasible after grading to stabilize the soil. Another 65 acres will be devoted to managed turfgrasses, which will be installed on a separate schedule. The fairways will be tilled to prevent compaction before turfgrass is installed. The greens will be built to United States Golf Association (USGA) standards. Approximately 10,000 cubic yards of sand and gravel will be needed to construct bunkers and install the soil profile for the greens. There will be two irrigation ponds created to provide irrigation to the course.

There are several additional considerations that should be noted:

1. The applicant is proposing to construct two buildings on the north course property (see attached building plans and elevations for full detail): a starter building (1,400 SF with restrooms, small pro shop area and covered porch), and a restroom building (400 SF). The buildings will be used only during the golf season. The building will be accessed only via golf carts from the club. A fire department/emergency vehicle access route will be required to serve the starter building. The City will work with the fire department and applicant to coordinate this detail.
2. The City will review the revised access drive and proposed change to the driveway location on CSAH 6 and coordinate the with Hennepin County. Any City approval will be subject to the review and approval of Hennepin County.
3. The applicant is designing a new septic system to accommodate the proposed building. The City will review any proposed sanitary service during building permit review.
4. The applicant is proposing to construct 92 new parking spaces to serve the new course and existing course. The City does not have a parking standard for golf clubs but would generally recommend 5-6 spaces per hole which would be consistent with the accepted "standard of practice". This would equate to 106 parking spaces required for the north course. The applicant has 137 parking spaces on the south side of CSAH 6. The total number of parking spaces on both the north and south sides is proposed to be 237 spaces. The total number would exceed the general standard of approximately 212 spaces. The total number of spaces is generally found to be adequate to serve the day-to-day use of the golf course. The applicant does have the ability to expand the parking areas on the north side of CSAH 6 should parking become an issue in the future.

The applicant is proposing to construct the parking spaces and drive aisles to serve the north course using crushed gravel. This would be a departure from the City's general bituminous

paving requirements for other types of development. The City does not have a specific standard for parking areas associated with golf courses and outside of the commercial zoning districts. The parking that is currently located on the north side is considered temporary or overflow parking and is crushed gravel. The proposed parking areas (or a portion of the proposed parking areas) would become permanent parking. Staff will be seeking direction relating to the proposed parking from the Planning Commission.

5. The parking lot will need to be illuminated for use in the spring and fall. There are existing lights that were installed by the applicant that were not approved by the City previously. The applicant is indicating several locations for parking lot lights in the proposed parking areas. It is recommended that the proposed lighting be consistent with the existing lighting located within the south parking lot and that the applicant prepare a photometric and provide cut sheets to the City verifying conformance with applicable lighting standards.
6. The applicant is proposing to establish a general perimeter buffer that is comprised of earthen berms and native grasses. The perimeter landscape treatment will mirror the treatment along CSAH 6 on the south side that currently screens the south course.
7. The applicant is working with the City relating to stormwater mitigation. The applicant will be required to meet all applicable stormwater requirements. The City is concerned about the water quality of Fox Lake and will ensure that the proposed plans accommodate the runoff in a responsible manner that meets all applicable requirements. If recommended for approval by the Planning Commission, the applicant will submit an application to Pioneer Sarah Creek Watershed Management Commission for review and approval.
8. The furthest west tee box for hole 9 may need to be adjusted so that grading is limited to the private property

In the existing zoning district, a commercial golf course is permitted as a conditional use. Resulting traffic, noise, and other measurable impacts should not be incrementally amplified as a result of the proposed new course expansion. The use of the facility will be limited to the existing members of the club and should therefore minimize the amount of new traffic or number of users at the golf course. The private nature of this facility that is not open to the public also helps to mitigate the potential impacts relating to the proposed course. The Planning Commission will need to determine if the requested amendment to the conditional use permit meets all of the aforementioned conditions and restrictions.

Neighbor Comments:

The City received a verbal question relating to the proposed golf course. No written comments have been received prior to the time this report was prepared.

Recommendation:

The Planning Commission is being asked to consider approval of the request for an amendment to the

conditional use permit. Should a positive recommendation be made, the following findings and conditions should be included:

1. The proposed conditional use permit amendment meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. This amendment will approve the use of a portion of the property to the north of CSAH 6, and further defined on the approved plans, for a new 18-hole golf course. All conditions of the initial conditional use permit and subsequent conditional use permit amendments shall remain in force. The following conditions should be added to the conditional use permit:
 - a. In addition to the 18-hole golf course, 29,000 square foot clubhouse and 5,350 square foot guest house with six sleeping rooms, Windsong Farm Golf Club can use the property north of CSAH 6 for a new 18-hole golf course with the following limitations:
 - 1) The golf course shall be no greater in area than that which is designated on the approved plans.
 - 2) Landscaping and berming along CSAH 6 and Copeland Road, as detailed on the proposed plans, shall be required to be installed.
 - 3) The applicant shall provide additional information relating to the proposed parking lot lighting. A photometric plan and lighting cut sheets shall be submitted to the City for review and approval.
 - 4) The fire department will be required to approve the proposed vehicle access to the proposed starter building. A designated and approved fire/emergency vehicle access shall be maintained into the site at all times.
 - 5) There shall be no artificial lighting of any portion of the golf course at any time.
 - 6) Any expansion of the golf course, additional buildings or expansion of the proposed buildings shall be subject to the review and approval of the City through an amendment to the conditional use permit.
4. Prior to the City granting a grading permit for the proposed 18-hole golf course expansion, the applicant shall complete the following items:
 - a. Revise the plans and provide information as requested by the City's water resource consultant Hakanson Anderson.
 - b. Receive all applicable agency approvals for the proposed wetland mitigation and grading and drainage associated with the improvements to this property.

5. Prior to the City granting a building permit for the proposed starter building, the applicant shall complete the following items:
 - c. Provide the City with a sanitary sewer plan for serving the proposed building.
 - d. Provide the City with cut sheets for any building lighting.
6. Pay all costs associated with the City's review of the applications.

Kaltsas reviewed packet pages 22-48 regarding a CUP amendment for these properties listed which are on the N of Cty Rd 6 and East of Copeland Rd adjacent to 8590 County Rd 92 N. In 2016 the City had approved a practice facility and range but now the Owner wants to have a 2nd 18-hole course for its members. The City had rezoned it for AG Public/Semi-Public in 2016. Kaltsas recapped the Discussion section and highlighted the 8 Considerations which followed. The EAW findings, which the CUP amendment requires, are included, and its comments regarding converting from AG to a golf course are minimal. It examined if further environmental studies are needed, and it is not. Since this is significantly changed from the 2016 variance for the practice facility, we noticed it, so this is a public hearing.

This continues to be a private course, but we likely will see some gulf carts going under the bridge or underpass when going to the main facility. The practice facility was for their current members, and the applicant intends it to serve their existing membership. The southside course is challenging and it's intended for a different style of play but to serve existing members. The Applicant shared this is proposed to be 1,200 yds shorter. (The podium microphone volume wasn't the same as the PC's & was hard to hear speaker.)

Parking – Players walk, but we're picturing that 20% might park near the course rather than taking cart over. Two weeks ago we had a big event, and the overflow lot can fill up. It's moving from Big Ten overflow to a daily maintenance. It needs to paved, lit, and look good. There's no lane now at that intersection going to the golf course. When it goes to the County, they'll take into effect whether it'll be a turn lane or roundabout. At this point it hasn't been recommended to have a turn lane. They're anticipating a 25-33% increase of golf rounds. They're not anticipating much car traffic traveling from the south to north side using the underpass. They currently have about 260 current members and anticipate a maximum increase of 30 members. Normal approach is taking the underpass. Go in, take the underpass. Tunnel could be used by all – pedestrians, car, or cart drivers. Whether it's paved or gravel, the stormwater standpoint is the same and are totally impervious. Although people pay to look at a golf course, berms help protect the golfers from Cty Rd 6 and any oncoming headlights. Parking spaces do face the road. Shrubbery and landscaping needs will be done well.

Motion by Gardner to open public hearing. None approached to comment. Motion to close by Dumas, second by Volkenant.

Story recommended to add a 7th condition recommendation– that the parking lot will be to city commercial standards with appropriate lighting to meet the City's ordinance.

Courses do not get permits from the City for big charity events. The approval for large assemblies and accommodating needs comfortably compared to for an example a horse farm is the permit need criteria. PGA events must coordinate with the City since that is massive. Big Ten events do get coordinated with WHPS for extra needs. If an issue becomes a hardship on the City or surrounding area, we are able to address that within this. Pavements, lights, light pollution, our ordinance zero glare, City code lighting

ordinances will be discussed with them, so the lights are not glaring, etc.

Motion by Thompson, seconded by Dumas to approve the CUP amendment for the 2nd 18-hole golf course and associated site improvements on the subject properties guided by staffs' recommendations 1-6 with the additional 7th being the paving of all parking lots to be constructed in the new course and appropriate standard lighting. Ayes: Gardner, Dumas, Volkenant, Tearse, and Thompson and Alternates: Story & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved.

The date it goes to Council may be October 18th, and Kaltsas will work with Windsong to coordinate it. Construction could begin as early as mid-October and potentially opening the new course in 2024.

5. **PUBLIC HEARING:** Don Hamilton (Owner/Applicant) requests that the City consider the following actions for the property located at 5687 County Road 6, Independence, MN (PID No. 35-118-24-11-0003):
- a. Rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan.
 - b. A minor subdivision to allow a rural view lot subdivision.
 - c. A variance to allow the maximum square footage of detached accessory structures to exceed the allowable maximum. The existing buildings associated with the original farm site are proposed to remain after the proposed subdivision.

Request:

Don Hamilton (Owner/Applicant) requests that the City consider the following actions for the property located at 5687 County Road 6, Independence, MN (PID No. 35-118-24-11-0003):

- a. Rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan.
- b. A minor subdivision to allow a rural view lot subdivision.

Property/Site Information:

The subject property is located at the southwest corner of County Road 6 and County Road 110. The property has an existing home and several detached accessory structures. The Luce Line Trail borders the property to the south. There are several small wetlands on the property and a portion of the property is actively farmed.

Property Information: 5687 County Road 6 (PID No. 35-118-24-11-0003)

Zoning:	<i>AG-Agriculture</i>
Comprehensive Plan:	<i>RR- Rural Residential</i>
Acreage: (Before)	11.54 acres
(After)	West Parcel 5.52 acres
	East Parcel 6.05 acres

Discussion:

The applicant approached the City about the possibility of splitting the existing lot into two lots. The City noted that the property is currently zoned AG-Agriculture and guided for RR-Rural Residential in the Comprehensive Plan. The City noted that the property would need to be rezoned to RR in order for the lot to be subdivided. Rezoning of the property to RR is consistent with the Comprehensive Plan.

The existing property is 11.54 acres in size including the right of way for County Roads 6 and 110. The City allows the subdivision of properties in the RR zoning district with a minimum of 7.6 acres. The City noted that there are several detached accessory buildings on the property in addition to the existing house. In the before condition, the property exceeds 10 acres in size and has no limitation on the square footage of detached accessory buildings. In the after condition, the existing property and buildings will need to conform with applicable regulations. For properties less than 10 acres in size, the City allows a maximum of 2% of the buildable upland area to be covered with detached accessory structures.

There are several factors to consider relating to proposed minor subdivision as follows:

- The applicant will need to provide the City with a primary and secondary septic site for both the east and west parcels prior to City Council consideration.
- The east and west properties will far exceed the requisite public road frontage requirements: (East Parcel – 922/191 LF) West Parcel (652 LF).
- The east parcel has an approved driveway connection off of CSAH 110 that is located just south of the Luce Line Trail. No access to the east parcel will be permitted unless approved by Hennepin County.
- The west parcel is proposed to be 5.52 acres and will continue to accommodate the existing detached accessory buildings. The City allows a maximum of 2% of the buildable upland to be covered with detached accessory buildings. The City calculated the total square footage of the existing buildings as follows:

Pole shed:	2,880 sq ft
Barn:	598 sq ft
Milk house:	390 sq ft
Garage:	624 sq ft
<u>Lean-to shed: TO BE REMOVED</u>	
TOTAL	4,492 sq ft

The property requires 5.15 upland acres to accommodate the existing detached building coverage. There is an estimated 0.37 (0.25 + 0.12) acres of wetlands on the proposed west parcel. The proposed 5.52-acre lot would provide sufficient land to accommodate the existing buildings and proposed parcel size.

- The proposed north/south lot line is not a perpendicular to CSAH 6 or CSAH 110 but does appear to provide for a reasonable subdivision point that aligns with the angled or triangular configuration of the existing property.
- The existing home and detached accessory structures meet all applicable building setbacks in the after condition.

The proposed minor subdivision to allow the subdivision of the property into two properties generally complies with applicable standards. There do not appear to be any adverse impacts resulting from the proposed subdivision.

Neighbor Comments:

The City has not received any comments at the time this report was prepared.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested minor subdivision to allow a lot line rearrangement. Should the Planning Commission Recommend approval, the following findings and conditions should be considered:

1. The proposed rezoning and minor subdivision request meet all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions and Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The applicant shall obtain all applicable permits from all regulatory authorities including Hennepin County and the watershed district.
3. The applicant will need to provide the City with verification of a primary and secondary septic site for both the east and west parcels prior to City Council consideration.
4. The applicant shall provide a revised exhibit indicating the requisite perimeter drainage and utility easements and legal descriptions. The applicant shall execute all documents to convey the easements to the City.
5. The applicant shall pay for all costs associated with the City's review and recording of the requested rezoning and minor subdivision.
6. The Applicant shall record the rezoning Ordinance, minor subdivision and City Council Resolution with the county within six (6) months of approval.

Kaltsas reviewed packet pages 49-53 regarding applicant's request for rezoning from AG-RR and a minor subdivision for this property which is on 5687 County Road 6, Independence (PID No. 35-118-24-11-0003).

Additionally, Park Dedication is required for the new smaller of the 2 lots and prepare that for the City Council consideration.

Motion by Gardner to open public hearing. None came to speak up.

Motion by Dumas, second by Volkenant to close public hearing.

Redrawing the line allows the buildings to remain legally with one being moved (conforming) or torn down. Question on building and grandfather of buildings from the City. If a legal non-conforming lot, it is allowed to exist. This is not a non-conforming lot thus a variance or removal is needed. They met the threshold or could have adjusted the line further. It's a math equation. Similar farms were Harry Pool and Donna Mae Johnson and they knocked it down. Taking a conforming lot to make it a non-conforming lot is not a practice. Original farmsteads maintaining 10-acres do not have a threshold then.

Gardner invited Don Hamilton to speak. Podium mic was very low impacting recording. Hamilton shared he wished he didn't have to take down a perfectly good building. If he wanted to build differently, it would mean a new proposal. Thompson reminded of the Variance requirements: a hardship not of your doing or for purely aesthetic or financial reasons. He agreed to move forward.

PC Variance Discussion:

Redrawing the line was to achieve what?

Kaltsas stated the redrawing the property lines was to allow the buildings to remain and be legal on the new The 2nd building must be moved or taken down in order to be conforming.

Thompson: That was the requestor's decision, right? They could've moved the line further east and kept it.

Kaltsas: The east parcel has a minimal 2.5 buildable. You can go down to that.

Motion by Thompson, second by Volkenant for the property at 5687 County Road 6, Independence (PID: 35-118-24-11-0003) to approve a minor subdivision and rezoning from AG/Agriculture to RR-Rural Residential subject to staff's recommendations #1-6 and adding #7 of the appropriate park dedication fees provide for City Council. Ayes: Gardner, Dumas, Volkenant, Tarse, and Thompson and Alternates: Story & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved. 5:0

Applicant clarified the math with Kaltsas and Planning Commission stating that he wants to sell the other parcel and that he will be moving to the east parcel.

6. **PUBLIC HEARING:** Nicholas Mozena (Applicant/Owner) requests that the City consider the following action for the property located at 1187 County Road 92 N., Independence, MN (PID No. 29-118-24-14-0003):
 - a. A variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location.

Request:

Nicholas Mozena (Applicant/Owner) requests that the City consider the following action for the property located at 1187 County Road 92 N., Independence, MN (PID No. 29-118-24-14-0003):

- a. A variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location.

Property/Site Information:

The subject property is located at 1187 County Road 92 N. There is an existing home and two (2) detached accessory structures located on the subject property.

Property Information: 1187 County Road 92 N.

Zoning: *AG-Agriculture* Comprehensive

Plan: *AG-Agriculture* Acreage: 4.58

acres

Discussion:

The applicant approached the City about the possibility of rebuilding the existing pole barn located on the property. During a routine review of the proposed building, the City identified that there was an existing shed located on the property that had not been permitted. The City notified the owner that it had not been permitted and it was determined that the shed was built prior to the current owners acquisition of the property. The City and owner discussed relocating the shed, applying for ABRC consideration to allow a reduced rear yard setback or to seek a variance to allow the shed to remain in its current location.

The existing shed is 16' x 9' (144 SF) in dimension and is located approximately 3 feet (at its closest point) to the west property line. The west property line in this location is considered the rear property line. All structures are required to be setback a minimum of 40 feet from the rear property line. The applicant is requesting that the City consider a variance that would allow the existing shed to remain in its current location. This would constitute a variance of approximately 37 feet from the applicable rear yard setback. The applicant has prepared a narrative with illustrations and pictures that further present their request for a variance (see attached).

The City did notify the property owner that they could seek relief from the rear yard setback requirement utilizing the ABRC process for consideration of reduced rear yard setback. The reason that this is possible is that the adjoining property (to the west) would be subject to a side yard setback of 15 feet from this shared property line. This condition is considered a possible condition for ABRC consideration of a reduced setback.

The applicant is seeking a variance from the rear and side yard setbacks to allow the proposed structure. The variances requested would allow the construction of a detached accessory structure to be located closer to the east and north property lines than permitted by the City. The applicant is proposing to setback the proposed structure 10'-0" from the east property line and 10'-0" from the north property line. The required rear yard setback is 40' and the required side yard setback is 15'.

Setbacks for AG-Agricultural Properties are as follows:

Side Yard Setback for Detached Accessory Structures:

Required: 15'-0"

Rear Yard Setback for Detached Accessory Structures:

Required: 40'-0"

Existing: (West): ~3'-0" (variance of 37'-0")

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/Agriculture use of the property is consistent with the AG Zoning District. The applicants are seeking a variance that exceeds the typical setback granted for properties in this area.
- b. The property backs up to a property that is operated as a commercial riding stable. The City recently adopted standards that would allow the City's ABRC to consider allowing relief of the rear yard setback to a minimum of 15' (see actual ordinance provision below). The applicant was provided with this information. The applicant has noted that there would be difficulty associated with moving the shed from both a logistic and geographic location standpoint. In order to meet the 15' setback that could be considered by the ABRC, the fence would need to be relocated and the shed would begin to encroach into the pool area, existing mature trees and septic mound on the property.
- c. The character of the surrounding area is rural. The existing detached accessory structure is well positioned on the property and appears to have minimal impacts on the surrounding property.
- d. There is a second detached accessory structure located to the north of the existing house that is in the process of being replaced. The overall size of the proposed structure will be 1,800 SF. The City allows a maximum of 2% of the total buildable upland to be utilized for detached accessory structures (3,990 SF). The existing and proposed detached accessory structures would be 1,944 SF which is less than the maximum permitted.

Public Comments:

The City has not received any written or verbal comments at the time this report was prepared.

Recommendation:

Staff is seeking a recommendation from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a variance, the following findings and conditions should be considered.

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
 - a. Use of the property for a garden style shed consistent with the Agriculture Zoning District.
 - b. The property abuts a commercial riding stable that has different setbacks along the shared property line.
 - c. The character of the surrounding area is rural. The proposed detached accessory structure is generally in keeping and consistent with the surrounding uses found in this part of the City.
 - d. Moving the shed to an alternate location will be difficult and there does not appear to be a suitable site that does not impact additional elements of the site within a similar proximity to the existing home.
3. The variance will permit a 37-foot reduction of the west rear yard setback to allow the existing detached accessory structure to remain on the site. Any modification changes or alteration to the structure that does not meet applicable setbacks in the future would require additional review and approval in the form of a variance.
4. The applicant shall pay for all costs associated with the review and consideration of the requested variance.

Kaltsas reviewed packet pages 54-64 regarding a variance for this property listed on 1187 County Road 92 N., Independence, MN (PID: 29-118-24-14-0003).

ABRC/Accessory Building Review Committee reviews structures for different neighbor setbacks to more easily assess these for multiple properties. This could be reviewed for the rear setback. Applicants felt because of the shed placement and other restrictions they wanted to leave the shed in its current location – a few feet off the west of the pool. It would've had a 40' rear setback, needing a 37' variance. See the details in the packet for their practical difficulties which the previous owner had not disclosed in this property's purchase. The Applicant has made other improvements and added a fence which complicates things further.

This was noticed and no responses were received. This is a public hearing, and the Applicant is present. Gardner said it was self-explanatory and opened the public hearing. Motion by Volkenant, second by Dumas to close public hearing.

These are circumstances beyond their control. They'd have to remove the fence if they wanted to westerly with the shed or remove the pool fence to go east or north and stay on the property. They're asking for a variance and no neighbors came forward to object. We have a zoning approval for fences, and the aerial photo had not been updated to show the fence. They inherited this situation. The well and septic locations impact the land and layout preventing it to be put into the field in the north. Gardner thought this seems

straight forward.

Motion by Thompson, second by Tarse for the property at 1187 County Road 92 N., Independence, MN (PID: 29-118-24-14-0003) to approve a variance for a rear yard setback reduction subject to staff's recommendations #1-4. Ayes: Gardner, Dumas, Volkenant, Tarse, and Thompson and Alternates: Story & Usset. Nays: None. Absent: None. Abstain: None. Motion Approved. 5:0

This will go to City Council on October 18th, 2022.

7. Concept Plan Submittal for the Property Located at 9285 Highway 12 (PID No. 18-118-24-21-0001). William Stoddard (Applicant) and John Zeglin (Owner) are asking the City to provide feedback relating to the proposed concept development of the subject property. The Applicant is proposing to develop the property into office warehouse, garage condominiums, and rural residential lots on the subject property.

Request:

William Stoddard (Applicant) and John Zeglin (Owner) are asking the City to provide feedback relating to the proposed concept development of the subject property. The Applicant is proposing to develop the property into office warehouse, garage condominiums and rural residential lots on the subject property.

Property/Site Information:

The property is located on the south side of Highway 12 and west side of Nelson Rd. The property has frontage on both roads and is comprised primarily of agriculture land, woodlands and wetlands. There is an existing home and several detached accessory structures on the subject property.

Property Information: 9285 Highway 12

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture/Urban Commercial*

Acreage: *~58 acres*

Discussion:

The applicant is asking the City to consider and provide feedback relating to a concept plan for the proposed development of the subject property. The City of Independence does not have a formal concept plan review/approval process, but typically permits a landowner and or applicant to submit conceptual plans before submitting a formal application. The City will review the concept plan and provide high level comments and feedback relating to the proposed development without formally considering the proposal. This informal process allows the property owner/applicant to receive feedback prior to determining whether to submit a formal proposal and application to the City.

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 re-guide a portion of the property (~16 acres) from AG- Agriculture to Urban Commercial.
2. Rezone that portion of the property to Urban Commercial.
3. Consider Site Plan Review.
4. Consider a Conditional Use Permit to allow a planned unit commercial development on the subject property.
5. Consider Preliminary Plat approval.
6. Consider Final Plat approval.

The following land uses are proposed by the applicant (plans attached):

- Commercial office/warehouse/business park (2 buildings – 100,000 SF each on ~17 acres)
- Individual garage condominiums (102 units on ~9 acres)
- Three (3) Residential Lots (approximately 4.5 acres each)

There are several key points of information that should be noted relating to the proposed development:

- The entire property is currently zoned AG-Agriculture.
- A portion of the property, approximately 12 acres on the west side (see area of property that appears in red – total property outline shown in blue), is guided by the City’s Comprehensive Land Use Plan for Urban Commercial.
- The applicant is asking the City to consider rezoning a larger portion of the property from AG-Agriculture to Urban Commercial (~16 acres).
- The remainder of the property (~28 acres) would not be rezoned and or change from AG- Agriculture.
- In order for the property to be rezoned, the City would first need to approve a Comprehensive Plan Amendment. A comprehensive plan amendment process would be subject to approval by the Metropolitan Council.
- The initial submittal considered access to Nelson Road and the applicant was notified that the City would not support any commercial access to Nelson Road. The plans submitted include two options for access: right in/right out only onto Highway 12 or a frontage road connection to the west connecting to County Line Road (shown on site plan). The City and MNDOT would need to review any proposed access to this site.
- The City noted that any development adjacent to residential should consider horizontal as well as vertical separation in the form of earthen berms and landscaping. The applicant has prepared a concept landscape plan.
- The applicant is proposing to provide on-site sewer (septic) and on-site water to

serve the proposed development. The City would need to further review any formal proposal relating to how the proposed development would be served with utilities.

- The City is looking at the possibility of establishing a municipal well/water service in the location of the Urban Commercial to serve commercial development on the north and south sides of Highway 12.
- The applicant has completed a wetland delineation for the property. Stormwater management would be required for any development of this property and would have to meet all applicable criteria.
- The applicant is proposing to preserve a large portion of the mature trees on the property. The City would review in more detail any proposed preservation or tree removal associated with the proposed development if it were to move forward.
- The applicant has prepared a narrative along with more visual information relating to the proposed development of the property.

Recommendation:

The applicant is seeking feedback from the Planning Commission and City Council pertaining to the concept plan for the development of this property. The City did mail a letter last week to the residents on Nelson Road notifying them of the concept plan submittal and noting that there is no public hearing associated with a concept plan submittal. 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.

(1:12) Kaltsas reviewed packet pages 65-98 regarding a Concept Plan Submittal for the Property Located at 9285 Highway 12 (PID: 18-118-24-21-0001). The Request, Property/Site Information, Discussion, and Recommendation sections are above.

This property has been for sale for about 15 years, and the City has been approached multiple times with a wide array of uses (ie. church, big box retail, high intensity industrial, multi-family residential, etc.). Whenever the City gets this type of concept that is a departure from the City's overarching comp plan and is a larger development by nature, we recommend making a concept plan approval allowing all to navigate any issues. The City doesn't have formal concept plan approval in our ordinances but doing so allows more touches and interaction providing all to gage any issues and how to mitigate them at a higher level. Once the formal application is made, it will begin a statutory review process timeline. The City can give feedback and ask questions but because it is a concept plan submittal, we will not act on anything tonight.

This corner was hot in the mid-2000's with big box proposals across the road, but most recently a new wave is looking at this corner and north of the other corner. This is guided for AG/Urban Commercial. The Applicant Bill Stoddard wants to discuss and get feedback prior to moving forward. Usually the Council is included in these. The idea that Nelson Rd could have access to this development was closed off. The Council would have zero interest to connect to Nelson Rd for commercial use.

9285 Hwy 12 is a 58-acre property West of Nelson and South of Hwy 12. It is zoned AG, but guided as AG and Urban Commercial. The City has considered a portion of this as Commercial and some to remain AG. In its current condition, it's bordered on the East by Nelson Rd and on the North by Hwy 12 Co Rd. There is an existing farmhouse and detached accessory structures with several wetlands, wooded areas in the middle, and pastureland on the NW. The Comp Plan shows it with blue dashed lines. The furthest west 12 acres is

guided as Urban Commercial, which is a placeholder in the 2030 Comp Plan that identified some potential commercial development. This Concept Plan would have 3 different land uses: asking the City to reguide a larger portion from AG to Urban Commercial (the darker red area on the western side), an additional 16 acres along Hwy 12 to Nelson (the lighter pink area on the south side) proposed to be reguided as Urban Commercial, and 28 acres (the green area) would remain AG. A stormwater pond would be in the AG. Three (4.5 acre lots) residential properties would mirror properties across the street and can remain AG. 2 – 100,000 sq ft office warehouse buildings on 17 acres. Office in the front along the Hwy 12 and warehouse in the back with parking and loading dock. The Western edge of property would be 100 units of garage condos and private garage space showcases.

This initial application showed access onto Nelson Rd. The City said that access to Nelson Rd would be a nonstarter and is not a safe access point for residential and adding commercial would not be supported. Two ways they proposed would be acquisition on the property to the West with an easement for a frontage road or Hwy 12 access with a right in right out, but they would have to discuss this with MNDot. It would limit the types of uses you could get with that access. There could be a roundabout at County Line but until then it would be hard. Applicant did complete a wetland delineation. There are a couple in the NE corner that would stay, underneath a building, and some in the trees. They would mitigate the wetlands where the buildings are but maintain the other 2 wetlands. They are proposing to leave the trees and preserve the woodland area. They would utilize on-site septic and well for water. There is a possibility for the City to possibly serve these areas with water at some point consolidating water system to serve the commercial area only. Delano offered the City to annex the property then they will serve that property. It shows a flex space where the possibility is to divide the space up depending on what people are asking for. Medina has the auto plex like the garage spaces proposed. We have had a lot of interest in the surrounding cities for these garage condos. The Planning Commission felt there was likely an opportunity to expand the commercial area but was concerned about the proximity to Nelson Rd residents. They discussed options of mirroring residential properties on the east with more on the west side that would buffer and back up to the commercial area essentially allowing a mirror residential development while maintaining some commercial a little west than proposed, but having additional separation of green space, berming, etc.

With that we don't go into a high-level analysis and our recommendation to the developer if they were to pursue this was not having any access to Nelson Rd outside of the residential nature of that road. It's not safe intersection at that point to introduce traffic to and we don't have an interest to push that. Ideally this would have the potential to be serviced off County Line Rd through a frontage which is a stop light intersection with the ability to accommodate commercial level of traffic potentially or maybe with some upgrades needed there. It's the place we'd anticipate rather than coming to the east. Those are the 2 high level review pieces. Is there an opportunity there that makes sense and serves the community and our plan well? We would recommend the developer would have a neighborhood meeting if it moved further down the road. The images provided were discussed. This proposal differs from others, and this garage condo concept is hot. People are actively looking for them. Garage condos are next to the City Hall and are pretty quiet. These for sale garages are personally outfitted. To see others, look at Medina's auto plex by Hennepin County Public Works or the City of Watertown's Business Park, and people are looking for them. Thompson – When this was put on the CompPlan, I thought sewer and water would come from Delano. I have a hard time thinking septic systems. Does Urban Commercial require sewer? Kaltsas- When we looked at Urban Commercial it was MetCouncil who commented on the 2030 Plan. The we had to certify that the City could serve that property with utilities which included onsite. We did a study to verify water and onsite water could serve that, and we continue discussing it with the City of Delano to see where they are at. Recently I'd discussed the intersection with Delano as a "big box" on the north side was approaching the City of Delano. Their response was that they'd provide utilities if we annexed the property. So that's a non-starter for the City. Long-term, there's a bit of value for the City's commercial land at a key intersection on a major transit corridor.

Is Urban Commercial a placeholder in the master plan?

Kaltsas- There's an ordinance saying it is a master planned with thresholds where we adopt appropriate use standards. Writing standards in a vacuum is hard. It's been on the books for 12 years and we haven't touched it. Without having it before me, I think it's a 10-acre minimum and some thresholds,

What's the difference between these 2 plans?

A frontage road, US and Hwy 12 and no access to the west, and then the first one stays clear of Nelson Rd. Right in, Right out is potentially viable. If a property owner is not interested,

Is the service semi-share responsibilities with the City of Delano. south of 12.

Applicant Bill Stoddard shared but the podium microphone didn't record as well as the Commissioners'. They'd met with some and have a bird's eye plan not talking down ...

Comp Plan balancing goals with neighbors and MNDot. Auto condos fit in that. Business Park with secondary access of County Line but we haven't discussed anything with that neighbor. Adding it to the north adds value. We have a legal 16 ft access. With MNDot. Cleaning that up where it makes sense to all.

City Services – We would love the City to put in water rather than the wells and across the street, however we can adequately serve with septic. Auto Condos work there as it's a low use. 2 cars are usually there. Covid made these more popular. If it gets to be smaller like a business unit, HOA documents would include restrictions. We want to balance your CompPlan with use high tax base. This is the concept stage and the meeting is the best to hear from everyone. Additionally, 2 larger business parks could be broken down into smaller ones and discuss more residential ones. From a service and access, we can make it all happen with engineering.

Thompson - MNDot access, right in, right out, east bound Hwy 12 lanes. No access from Hwy 12 if west bound, correct?

Stoddard- That's what MNDot preferred. Having an access in the middle of the property makes sense. Steering away from the biz park models. Asking for less with the buffing of the auto condos or current line. Thompson - Why would it change your use?

Stoddard- MNDot doesn't plan to change County Line to a round-about for 6 years.

Town Line Rd- Neighbors might desire to keep it AG for family members. If they want to leave some for Urban Commercial. Plus there's a couple of easements that MNDot has. The bus having an option for going to Hwy 12... we like the concept

Gardner - Have you considered building a frontage road work in there now?

() What's your commercial warehouses – is your intention to leave trees there on the corner?

Stoddard - There's a wetland in the darker part. Our intent to do some berming with trees and leave the wetland there.

Thompson – If friendly neighbors there have problems, could you scoot lots south of Lot 1?

Stoddard – Yes, and maybe even doing 8 lots matching across the street. Water and not having it be commercial. MNDot access is a part of the option. We want to work with the Nelson Road neighbors.

() I like that your lot 4.3-acre size lots. Gardner- And they're paying for the buffer.

Thompson - So you might just do 1 1,000 business park?

Stoddard - It's a perfect commercial zone we need more septic

() How much is guided for Urban Commercial?

Kaltsas - There's 30 acres on the north for it. The blue dash line slice has 12 acres (Urban) the rest AG similarly to what's across the street. It lines up on that section line. Target, Wal-Mart, Home Depot left the options for the North property. Recent conversations, big box or office warehouse might consider it. Some heavy industrial has a draw. You're serving daytime employees which reduces water use (no residential

laundry, showering, etc.). The City won't be the septic review. It'll be done by 3rd party.

Stoddard - Every car condo bathrooms are ruffed in with heated concrete floor and maybe a kitchenette. No overnight stays are in the HOAs.

Thompson – Would be there be quiet hours universally?

Kaltsas – Business or non-business, there are noise ordinances. The City has standard nuisance and certain hours.

Thompson - It's not 100 entities, it is one.

() - Amending the CompPlan as we see it or with MetCouncil.

Kaltsas - Water sewer might be after hoping over a growth area. Amending it by 16 acres isn't maybe something they were look at. The City has the ability to amend the CompPlan as we see fit from time to time. Amendment if considering something like this. The 30,000 ft view planning... you can't get into the nitty gritty. Over by the RR or the church. You can make sense of the Urban Commercial. The church will likely stay, so can we push it over?

Thompson - Is it fair to say the gateway function is what MNDot approves? Is it kind of speculative until you find out where the access is?

Stoddard - No. but the access is equally important with MNDot and the City. We will be contacting neighbors.

Kaltsas – We are not making any decision, and this is a learning time.

Gardner – You'll be meeting about the known issues and meeting with neighbors. You can get the water and sewer figured out. The City will give you the lots if it's approved. Right?

Kaltsas – There are 2 entitlements and then the rural. The buffer would be good and compatible land use option that can be commented on.

Gardner - We haven't looked at anything like these. I think they fit in where you've put them. When the economy changes, the draw might also.

Thompson – Story brought up rotating lots whether to match single homes or set back is what were' striving for on the east side. It looks like this adheres to that principle. Hwy 12 has been a beast all along. MNDot is the key decision maker here. We want to keep it safer. The right in right out is great and Id' love to force the roundabout as it's a perfect fit.

Kaltsas - With 92, 90, and now we're trying to get funding to finish it. In order to advance, we must have a plan in place. Let's get in line, The study and a few lane option concepts will be looked at with a Cty Line Rd roundabout. It's the most desirable fix. How do we find the funding? It'll likely be a 3-5+ yrs. This parcel would change its potential users. They do have the ability to turn with the recent improvements.

Gardner - The privately owned property would be key to get better access.

Kaltsas – We're not in the business of condemning properties for right of ways.

Gardner – We're concerned with the service drive in there for both lots.

Thompson – Municipal water means municipal grade well, that we outlay capital for and earn it back?

Kaltsas - Bond for it and access the benefit option or whatever for a revenue stream. Through other tax incentives maybe, but we would look at how that would work. It's guided already for commercial, so water is easily attainable than sewer treatment. A bigger well and pump would than meet the fire suppression need.

Thompson - It was be scaled for the other 45-acre Urban Commercial?

Kaltsas – Not for residential, but for Urban Commercial. Lots of cities will start with a well, not a fully treatment facility. They'll still need other filters. We would build it, operate it, and sell the water.

Thompson – Thank you very much for this. It was very well done.

8. Open/Misc.

Gardner- We might have to begin at 6pm if needed.

Thompson - Final plat –

Kaltsas – we're all working together and need Medina to sign up ultimately. Council approved final plat

if it'll move forward

Watershed is fine if technical boxes are met. How long does that approval take?

We're really close with MetCouncil. We purposefully pulled back on it to get something done. We're getting them to agree to about 90%.

Thompson – HN added historical overlays as far back as 1940. The NE corner of 6 and 83/110. Is wetland. Back then it was all tillable farmland.

Kaltsas – Lots was tiled too.

9. Adjourn

Motion by Thompson, second by Dumas to adjourn the meeting around 9:30pm.

Respectfully Submitted,
Linda Johnson/ Recording Secretary