

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, NOVEMBER 15, 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 Gardner (Chair), Story, Usset, & Dumas (online).

ABSENT: Volkenant, Thompson, and Tearse

STAFF: City Administrator Kaltsas

VISITORS: See Sign-In Sheet

3. APPROVAL OF MINUTES:

a. October 18, 2022, Planning Commission Meeting

b. November 1, 2022, City Council Meeting Minutes (For Information Only)

**Motion by Story to approve the October 18, 2022, Planning Commission minutes, seconded by Usset. Ayes: Gardner, Story, Usset, & Dumas (online). Nays: None. Absent: Volkenant, Thompson, and Tearse. Abstain: None. Motion Approved.**

4. **PUBLIC HEARING:** Ryan Nash (Applicant/Owner) is requesting the following action for the properties located at 2870 Lake Sarah Road (PID No's. 16-118-24-13-0003 and 16-118-24-42-0001) in the City of Independence, MN:

a. A minor subdivision to allow a lot combination that would create one parcel from the two existing parcels with a combined acreage of 5.4 acres.

***Request:***

Ryan Nash (Applicant/Owner) is requesting the following action for the properties located at 2870 Lake Sarah Rd. (PID No's. 16-118-24-13-0003 and 16-118-24-42-0001) in the City of Independence, MN:

a. A minor subdivision to allow a lot combination that would create one parcel from the two existing parcels with a combined acreage of 5.4 acres.

***Property/Site Information:***

There are two subject properties being considered. Both properties are located on the south side of Lake Sarah Rd., north of Highway 12 and north of the BNSF railroad. The applicant owns both properties and has an existing home and two detached accessory structures on the north

property. The north property has frontage on Lake Sarah Rd. and the south property has no public road frontage but does abut the BNSF railroad right of way. The property has the following site characteristics:

**Property Information: 2870 Lake Sarah Road**

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage (Before): *PID No. 16-118-24-13-0003 2 acres*

*PID No. 16-118-24-42-0001 3.4 acres*

Acreage (After): *5.4 acres*

***Discussion:***

The applicant approached the City about the possibility of adding onto the existing detached accessory building located on the north parcel. The City determined that the north property does not have enough area to support an expansion of the existing detached accessory structure. It was noted that the north and south properties could be combined to allow for the proposed building expansion.

The existing detached accessory structure is 1,200 square feet (30' x 40'). The applicant is proposing to add a 640 square foot addition to the north side of the building and a 400 square foot open addition to the south side. The total square footage of the existing structure, plus the proposed accessory structure expansion is 2,240. The City allows properties that are less than 2.5 acres to have a maximum square footage of 1,850. For properties greater than 2.5 acres, the City allows a maximum square footage of detached accessory structures based on a calculation of 2% of the buildable upland.

The north property is 2 acres, and the south property is 3.4 acres. It is estimated that there is 2.22 acres of wetlands on the south property. By combining the properties, the applicant would be able to realize approximately 2,770 square feet of detached accessory structures as follows:

Combined Property:	5.4 acres
<u>Wetland Acres:</u>	<u>2.14 acres</u>
Upland Acres:	3.18 acres
Buildable Upland:	138,521 SF
Allowed Accessory Structure:	2,770 SF
Proposed Accessory Structure SF:	2,240 SF

There are several items that should be noted by the City during consideration of the application:

1. The south lot does not have any public frontage.
2. The existing detached accessory building meets applicable building setbacks. The proposed expansion of the structure will meet all applicable setbacks in the after condition.
3. The requisite drainage and utility easements would need to be dedicated to the City. The applicant shall execute the necessary documents to convey the easements as determined necessary by the City.

The proposed subdivision to allow a lot combination appears to meet all applicable standards of the City's zoning and subdivision ordinance. The combined lot will fit into the surrounding area and have minimal impacts on the surrounding properties.

**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 subdivision allowing a lot combination 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 submit a separate exhibit showing the after conditions prior to City Council consideration of the minor subdivision.
3. The applicant shall dedicate the requisite drainage and utility easements to the City. The applicant shall execute the necessary documents to convey the easements as determined necessary by the City.
4. The applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
5. The applicant shall record the subdivision and City Council Resolution with Hennepin County within six (6) months of approval.
6. The applicant shall execute and record the requisite drainage and utility easements with Hennepin County within six (6) months of approval.

Kaltsas reviewed the Applicant's/Owner's request (pkt. pages 11-18) for a minor subdivision to allow a lot combination that would create one parcel from the two existing parcels with a combined acreage of 5.4 acres for the properties located at 2870 Lake Sarah Rd, Independence, MN (PID No's. 16-118-24-13-0003 and 16-118-24-42-0001). The applicant wants to expand his detached accessory structure (shed) but because his North lot is less than 2.5 acres, it is limited to the 2% buildable upland and thus the proposed addition's sqft puts it over the allowable 1,850 sq footage. He owns 2 lots and could combine them to then access his buildable upland.

For detached accessory structures, 2% buildable upland is allowed. Without doing a full wetland delineation for the allowance, we noted that he could expand existing detached accessory 1,200 SF (30' x 40') structure with the proposed 640 SF addition to the north side of the building and a 400 SF open addition to the south side. The proposed addition adds another 1,040 SF, so the total accessory structure is 2,240 SF. Properties less than 2.5 acres automatically get 1,850 SF (regardless of wetland) which exceeds than the 1,850 SF allowed. If lot is greater than 2.5 acres (which the AFTER would be 5.4 acres), the Buildable Upland is used, which would be 2.14 estimated Wetland acres, leaving 3.18 Upland acres and 2,770 SF Allowable Detached Accessory Structure.

The City noted several items: If the applicant wanted to do another building / expansion, the City would likely require a Wetland delineation, although the current buffer suffices for this project. The south lot does not have any public frontage and difficult to develop on its own. Combining the 2 properties would create a 5.4-acre parcel and is straight forward. No other jurisdictions (school district, watershed, etc.) seem to create a property line and they were just 2 separate parcels. The proposed survey shows required 10' drainage utility easements around the perimeter, and none are needed to vacate which is normal for subdivision or combining of properties.

Gardner opened Public Hearing. (No one present.)  
Motion by Story, seconded by Usset to close Public Hearing.

Gardner- Section 14 & 16 property line

Dumas- How many orphan parcels are there?

Kaltsas- Not many. Most are divided by a taxing jurisdiction change, usually by school district or municipal boundaries. When going into the plat, they can often be one but will have 2 PIDs. This isn't like that. It's in the same. This will be nice to clean up that issue.

Gardner – What about the lot width to length ratio? It's 165' wide.

Kaltsas – This will exceed lot width-length ratio, but it won't be an issue because we're taking 2 non-conforming lots. If creating a new lot, we'd create a variance waiver.

Gardner – What's the legal definition of a lean-to?

Kaltsas- We consider it to be structure. It's a permanently affixed structure, open or closed, with a roof and footings. Lean-tos often become sided and then enclosed. If one has a 10'x20' movable/non-permanent, open-sided horse shelters, these are not included in the allowable SF total.

Nash, applicant- (Not recorded at microphone) Kaltsas will change the report to clarify going forward. He had thought it was after the fact since it was in the permit applications.

Gardner – Combining the lots will fix the problems. Was the 2% upland changed in 2019?

Kaltsas- I think it might have been changed in 2012-2014. Making it wholly proportional fixed it. 1,600 SF before was the max size. Most got a bump to what was allowed, and we didn't take away anything from people. Our shed permitting has really risen.

**Motion by Story, second by Usset for applicant Ryan Nash regarding property at 2870 Lake Sarah Road, Independence Road (PID No's. 16-118-24-13-0003 and 16-118-24-42-0001) following staff's recommendations to allow adjoining of these properties. Ayes: Gardner, Story, Usset, & Dumas (online). Nays: None. Absent: Volkenant, Thompson, and Tearse. Abstain: None. Motion Approved. 4:0**

Kaltsas said that nothing had come to the City regarding this request. This will go on the December 6<sup>th</sup> City Council meeting. Other items will be the Business Park on Nelson Rd and another lot combination on Copeland Rd.

## 5. Open/Misc.

Upcoming City items:

- Because there have been properties being sold without septic compliance, the City is looking to change the ordinance to require having an escrow upon closing to help with that.
- Barndominiums: The City has been getting lots of barndominium requests, and we will bring this before the Planning Commission. So put on your barndominium hat when you go out around the

city because I think we will try to address it in January. A lot of people are buying land then coming in wanting to build a barn or outbuilding first without having a principal structure which isn't allowed. They ask about the principal structure requirements. Our ordinance states 30'x40' (1,200 SF) footing and a 720 SF minimum livable space, so they're proposing to build a 4,800 SF barn with a 720 SF apartment and then also want to build a house in the future.

- Accessory Dwelling Units (mother-in-law/MIL apartments) – I'm seeing these more and more. They are subordinate, but one came to us in concept as a 1,200 SF house with 2-car garage basically another house and that is not the true intention of the ordinance, but the ordinance doesn't really speak to that.

Gardner – They are not allowed to rent that though. It has to be for family.

Kaltsas – When building a nicer or as nice ADU as their house. This one also is out in front.

Dumas – Are they allowed to AirBnB those?

Kaltsas – No ordinance currently prohibits that, and we don't have short-term rental ordinances.

Dumas – All these people who build the ADU for the mother-in-law and then what's the chance that the next person will use it that way.

Kaltsas – That's the problem. The one on Drake happened, Pagenkopf and Becker. The one on Drake is a rental and not doing what's intended. I'm ok but want it to be consistent and not skirting the rules.

Story – I see people taking advantage of that. When one has a mother/MIL coming to live with someone but then goes to sell it to a buddy who's gonna rent it out for the next 10 years.

Gardner- There is language about it needing to be a blood relative occupying it.

Kaltsas – For the ADU there is. It has to be a blood relative or relative owner, but the problem is enforcement.

Usset – Does it apply to other property?

Kaltsas – It does. When it sells, it is hard to enforce. Shouse / Barn houses size should there be any proportionality between residential and barn sizes? ADU's - when they are in the front yard and barely subordinate or are in nice neighborhoods, where it looks out of place, it is getting away from the intent. We might want to talk about these and get on the same page.

Dumas – What about the ADU on the lake?

Kaltsas – They're building the house, but now came back asking "What is attached?" They want to attach it on the other side of a breezeway. Our ordinance is silent on the definitions. Building code requires a common wall. Most are fairly legit. We'll need to discuss %, placement, setback, proximity, lot size, etc. Some want to build another driveway and have 2 homes/lots, but this skirts the rule.

## 6. Adjourn

Motion by Story, seconded by Usset to adjourn the meeting at 8:00pm.

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Respectfully Submitted,  
Linda Johnson/ Recording Secretary