

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, FEBRUARY 21, 2023, 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), Dumas, Volkenant, Thompson, and Usset.

ABSENT: Story and Tearse.

STAFF: City Administrator Kaltsas.

VISITORS: See Sign-In Sheet

3. Approval of Minutes:

- a. November 15, 2022, Planning Commission Meeting Minutes.
- b. January 17, 2023, Planning Commission Meeting Minutes.
- c. February 9, 2022, City Council Meeting Minutes (For Information Only)

**Motion by Thompson, seconded by Gardner to approve the minutes.**

**Ayes: Gardner, Dumas, Volkenant, Thompson, and Usset. Nays: None. Absent: Story and Tearse. Abstain: None. Motion Approved. 5-0**

4. Continued from January 17, 2023, Meeting. William Stoddard (Applicant) and John Zeglin (Owner) requests that the City consider the following actions for the property located at 9285 US Hwy 12, Independence, MN (PID No. 18-118-24-21-0001):

- a. A comprehensive plan amendment to allow a portion of the property to be re-guided to the Urban Commercial - UC zoning district. A portion of the property is already guided Urban Commercial.
- b. Rezoning of a portion of the property from AG-Agriculture to UC-Urban Commercial.
- c. Conditional Use Permit to allow a planned unit commercial development on the subject property. The proposed development would include office warehouse and private garage condominium buildings.
- d. Site Plan Review to allow the proposed development.
- e. Preliminary Plat to allow the subdivision of the property into eight (8) residential lots and

associated lots to allow the proposed commercial development.

***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*

***UPDATE:***

The City reviewed the proposed development in January 2023 and provided feedback and comments to the developer and staff. Following the meeting, the City has worked with the developer to make revisions to the plans in order to address comments provided by the City and its consultants (see attached review letters and applicant responses attached to this report). In addition, the City has been working with MNDOT to identify an acceptable access plan. The City has also prepared the parameters for the PUD that would allow for the subject development. The following summary points detail the changes, outstanding comments and general considerations that should be noted by the Planning Commission:

- One of the primary issues that was identified during the initial review of this projects relates to the proposed access to the site. The City noted that it strongly discourages any commercial connection to Nelson Rd. To support this standing, the City noted that the site development standards contain the following prohibition:

**530.11. - Lot standards.**

Subd. 10. *Access streets.* Streets servicing a commercial-light industrial area must have direct access to a collector street or higher-capacity street. **No street servicing commercial-light industrial establishments may have access to local residential streets nor may business-oriented traffic be routed or directed to local residential streets.**

The City discussed the possibility of providing for a future frontage road across the property to provide for a future east/west connection to County Line Road. The applicant is agreeable to providing this future ROW and has revised the drawings to provide for this future access. The City met with MNDOT and offered that this future ROW would be acquired by the City and allow for a future frontage road. This would likely allow Nelson Road residents to access the future roundabout at County Line Road and Highway 12 without having to go onto Highway 12. Following additional review by MNDOT, they have agreed to allow the proposed right in/right out as a temporary access that would need to be removed at the time a frontage road can be constructed to County Line Rd. However, MNDOT also wants a full frontage road connection made to Nelson Road within the within the right of way shown on the revised plans. This is not in keeping with the City's ordinances and increases the

number of turning movements made from west bound Highway 12 onto Nelson Road (left turn off of Highway 12 onto Nelson Road from westbound Highway 12 lane). This turning movement is considered the most dangerous based on crash data.

Staff has asked to meet with MNDOT again relating to this issue noting the aforementioned points. Staff is seeking additional discussion from Planning Commission relating to the access issue. Staff has considered additional solutions should MNDOT not agree to allow the access as proposed. This would include looking at a one-way street option (westbound traffic only) that would allow a right turn only off of Nelson Road and into the commercial development.

- Based on the proposed revisions, the applicant has reduced the number of residential properties to seven from eight. This reduction will allow for the future frontage road right of way and eliminate the lot directly adjacent to Highway 12.
- The applicant has revised the plans to add additional detail to the proposed 10,000 SF commercial building. The City has reviewed the updated site plan related information and generally finds that it meets applicable standards. The City reviewed parking relating to the proposed commercial and made the following findings:
  - 1 space per 250 SF (10,600 -  $10.6 \times 4 = 43$  parking spaces)  
43 parking spaces required  
49 parking spaces provided
- The applicant has provided photometric and lighting plans for the proposed development. The lighting plans have been reviewed by the City and found to meet all applicable requirements. The lights proposed by the applicant are cut-off type fixtures that will have limited visibility outside of the proposed development. One exception is with the proposed commercial building. The City will want to see light poles within the proposed parking lot that will provide adequate light levels to the entire parking area.
- The applicant has provided architectural plans and building elevations for all buildings within the proposed development. The City notes that the architectural standards adopted for the Urban Commercial zoning district state the following:

Subd. 3. *Design standards.*

- (a) Height. The maximum height of all buildings must not exceed the lesser of 2½ stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.
- (b) Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial zoning district shall use the following materials on their exterior facades:
  - (1) Brick;
  - (2) Natural stone or stone veneers;

- (3) Decorative concrete block (color impregnated with a split faced, robbed, or textured surface;
  - (4) Glass curtain wall panels;
  - (5) Stucco or synthetic stucco;
  - (6) Exterior insulation and finish systems (EIFS).
- (c) All exterior vertical surfaces must be treated as a front and have an equally attractive or same fascia on all sides of the structure.
  - (d) Mechanical protrusions. All necessary mechanical protrusions visible to the exterior must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right-of-way. Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. The zoning administrator may determine that the equipment may be painted a neutral earth tone color, or color deemed similar by the zoning administrator or must be designed to be compatible with the architectural treatment of the principal building, which will satisfy the screening requirement. All mechanical protrusions must be highlighted on the site plan.

(Added, Ord. No. 2006-09)

Subd. 4. *New materials.* The city recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, an application to amend the zoning code text must be submitted per the requirements of city Code. In reviewing such an application to consider a new material to the list of allowed materials in subdivision 3(b), the city will consider the following:

- (a) Is the proposed material of sufficient quality to ensure on-going maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
- (b) Will the style, color, and appearance of the proposed product integrate with adjacent commercial/industrial properties and other materials currently allowed within the commercial/industrial zoning district;
- (c) Will the style, color, and appearance of the proposed product be acceptable in cases when visible from residential units on adjacent properties.

- The applicant is proposing to construct the buildings using primarily metal paneling (see illustrative elevation below). The City will request examples of the proposed materials. The proposed architecture is consistent throughout the development, utilizes significant amounts of glass and glazed surfaces and appears to meet the design intent of the ordinance. Staff will be seeking additional discussion and direction from Planning Commission relating to the proposed building materials and architecture.
- The applicant does not currently identify and mechanical equipment on the plans. All mechanical equipment will need to be shown and if proposed to be on the exterior of the building or roof, will need to be screened from view.
- A preliminary plat has now been submitted. The PP will need to be updated to reflect the City's standard 10' perimeter drainage and utility easements and provide all lot dimensions, easements and similar information.

- The City has reviewed the plans with the Delano Fire Chief. The applicant has provided an exhibit (attached to this report) which provides fire truck simulated turning movements which verify fire apparatus access. The City will want to further define no parking areas (using signage and striping) within the auto condo and commercial development areas. This will be further detailed as the project progresses.
- The applicant has provided an updated landscape plan for the proposed development. The plan provides a high level of landscaping around the commercial building, entrance drives and within the proposed lifestyle garage condos. The City does believe that additional landscaping screening may be warranted in several locations shown below.
- The City has prepared a draft of the Planned Development standards that would apply to the commercial development. It should be noted that the residential lots will be subject to the requirements of the AG-Agriculture physical and lot standards. The City will need to waive the minimum lot width for requirement for Lots 5, 6 and 7. The following Planned Development Standards would be incorporated in the Planned Development Agreement:

#### PLANNED DEVELOPMENT STANDARDS

(A) *Permitted uses.* Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the Planned Development under the conditions specified. No building or lot shall be devoted to any use other than a use permitted hereunder:

- (1) Any use not expressly permitted but consistent with the intent of the district which, by approval of the city council, shall be permitted except for eating and drinking establishments, coffee shops and similar food service businesses which shall not be permitted.
- (2) Office and retail sales.
- (3) Contractor and construction supply shops conducted wholly within an enclosed building, including but not limited to plumbing, HVAC, roofing and electrical with a principle building or office.
- (4) Light manufacturing, production, processing, assembly, fabricating, servicing and repairing of materials, goods or products with no outdoor storage.
- (5) Auto Condos in accordance with the following provisions:
  - i. Auto Condos shall be for the private storage and private leisure by the owner(s) of such space. No commercial activities shall be permitted in the auto condos, nor shall any auto condo be ever occupied for residential purposes and the following additional conditions shall apply:

- a) Individual signs shall not be permitted for any units within the development.
- b) No outdoor storage will be permitted.
- c) Parking shall be permitted only in the designated parking spaces.

(B) *Accessory uses.* None.

(C) *Conditional uses.* The following conditional uses may be permitted by action of the city council pursuant to subsections [520.09](#), [520.11](#) and [520.13](#):

- (1) Telecommunications towers approved pursuant to [section 540](#) of this Code;
- (2) Any other use determined by the city council to be similar in character to a permitted use, but potentially requiring special conditions to ensure compatibility.

(D) *Physical standards.*

- (1) Minimum Lot Size: per approved general plan
- (2) Minimum Lot Width: per approved general plan
- (3) Front Yard: 50 feet
- (4) Side Yard: 20 feet
- (5) Corner Side Yard: 20 feet
- (6) Rear Yard: 30 feet
- (7) Residential Properties: 40 feet
- (8) Agriculture Properties: 40 feet
- (9) Parking and Drive Aisle:
  - a. Front Yard: 15 feet
  - b. Side Yard: 5 feet
  - c. Rear Yard: 5 feet

***Discussion:***

The City reviewed a concept site plan in 2022 for this property and provided feedback to the applicant and staff. The applicant considered the feedback and direction and has now made a formal application to develop the subject property. The applicant has revised the proposed development to include eight (8) single-family lots along Nelson Road, 120-130 lifestyle auto condominiums and 10,600 SF of commercial/retail space. The proposed lifestyle auto condominiums would be developed to allow for vehicle storage and would include amenities associated with this type of product (i.e., loft, bathroom, etc.). The applicant and City would work to establish regulations to prohibit overnight stays and limit and define any larger events (i.e., auto show) that could occur on the property. It is acknowledged that the proposed lifestyle auto condominiums would produce less traffic, require fewer public resources, and provide more market valuation than the initial commercial/warehouse development. The facility would be secured, professionally managed, and generally concealed from Highway 12 and Nelson Road.

Approximately 10,600 SF of commercial retail is proposed by the applicant. This area would have Highway 12 frontage and visibility consistent with the City's Comprehensive Plan. The City has reviewed the initial site plan layout and is generally in agreement with the proposed layout. The City would require a more detailed site plan specifically for the proposed Lot 9 development. The plan will need to provide more detail relating to allowed and proposed uses, parking and drive aisle dimensions, landscaping and lighting. In addition, the City will want to consider how/if the site could or would accommodate retail sales such as a drive thru and restaurant. A more detailed parking analysis would need to be completed.

In order for the City to consider approval of the proposed plan, the following approvals and 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 indicated from AG-Agriculture 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/retail (10,600 SF on ~ 2.33 acres)
- Lifestyle auto condominiums (102 units on ~ 11.98 acres)
- Seven (7) Residential Lots (approximately 3.26 – 4.35 acres each)
- Frontage Road ROW (3.22 acres)

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 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 remain as 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 a right in/right out only onto Highway 12 with a future frontage road connection to the west that could connect to County Line Road (shown on site plan). MNDOT has reviewed the plan and provided formal comments to the City and applicant. MNDOT has commented that they would recommend access to this site be provided via a connection to Nelson Road or County Line Road rather than a right in/right out as proposed. As a result of the MNDOT review, access has not been finalized. The issue of access will need to be resolved prior to the City finalizing a decision relating to this application.

- The applicant has provided the City with a traffic study as requested. The study indicates that the proposed development would generate a total of 7 entering and 1 exiting trips during the morning traffic peak and 2 entering and 7 exiting during the afternoon traffic peak hour. A total of 68 trips per day would be generated by the proposed auto condos and commercial retail uses. This would equate to approximately 1 trip every 7 minutes during peak times and approximately 2 trips per hour throughout the remainder of the day (see table below). It is noted that the proposed right in/right out would allow access to the proposed development until such time as a frontage road could be constructed to connect to County Line Road. Staff is seeking direction relating to access and the overall proposal from the Planning Commission and City Council.
- Following discussion with Planning and Council, the applicant has revised the plans to include eight (8) residential lots along Nelson Rd. The proposed residential lots mirror the lots across Nelson Rd. to the east. Development of the west side of Nelson into residential lots that are similar to those in existence would provide additional buffering of the proposed commercial development. It is noted that the existing residential lots directly across and on the east side of Nelson Road from the subject property have approximately 200 LF of frontage. The City's current ordinance would require 250 LF of frontage for all lots greater than 3.49 acres. This would include Lots 1, 2 & 6-8. Lots 3-5 comply with the frontage requirements. The applicant could revise the plan to reduce the acreage of the proposed lots or increase the frontages to meet the specified requirements. The applicant is attempting to mirror the lots across the street; however, those lots are all less than 3.49 acres in size.
- The City noted in its initial review that the potential wetland impact associated with the development of driveways to serve the lots was a concern. The applicant has revised the plans to show the extent of the wetland impacts and is now proposing to utilize shared driveways for Lots 1&2, 3&4 and 6&7. Utilization of shared driveways would reduce the wetland impacts and the number of driveways located along Nelson Road.
- The applicant is proposing to provide on-site sewer (septic) and on-site water to serve the proposed development. The applicant has provided a report indicating how the development of on-site water would serve the fire suppression requirements for the proposed development. The City is continuing to evaluate and study 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. Should the proposed development move forward, the City will provide additional information



relating to a municipal well to Council for consideration.

- The applicant has completed a wetland delineation for the property. The City initially provided feedback to the applicant relating to the potential wetland impacts. The applicant is proposing to mitigate the impacted wetlands utilizing the purchase of wetland credits. Approximately 31.36 acres of the subject property is wetlands. The applicant is proposing to impact 2.48 acres of the total wetland area (> 8%). The potential wetland impacts would need to be reviewed and approved by the City. Further review of the wetland mitigation plan would occur following an initial City approval.
- Stormwater management has been proposed for the development. The City has completed an initial review of the stormwater management plan and provided high level comments to the applicant. The proposal includes 3 stormwater ponds that would accommodate stormwater generated from the commercial portion of the proposed development. The City will continue to work with the applicant and would anticipate a more detailed submittal and calculations relating to the stormwater plan should the project proceed to final plat.
- The applicant is proposing to preserve a large portion of the mature trees on the property (see gray area below).

The applicant has provided the City with a robust package of details and information relating to the proposed development. The proposed lifestyle auto condominium illustrations appear to utilize high quality building materials and a sophisticated design that is unique for this product in the metro area. There are many details that will need to be finalized prior to the City being able to formally act on the proposed site development and preliminary plat. Due to the significant number of pieces included in the proposed site development, staff would like additional direction and feedback relating to the overall proposal so that additional review and direction can be provided to the applicant. In particular, staff is seeking additional review and direction relating to the proposed land use, expansion of the UC – Urban Commercial zoning district, access to the property and the development of the residential properties on Nelson Road. It is anticipated that following discussion and additional direction, the City would be able to work with the applicant to finalize the preliminary plans and bring back additional information and any revisions recommended for further consideration. It is also anticipated that the City and applicant will have further discussions with MNDOT relating to their recommended access for this property.

***Recommendation:***

The applicant is seeking feedback from the Planning Commission pertaining to the proposed development.

The Applicant's request had been tabled after closing the public hearing at the last January 17, 2023, Planning Commission meeting. Tonight, Kaltsas went through the packet's 5-page UPDATE section and reviewed the Applicant's RESPONSES to his January 30, 2023, letter. It was noted that the Applicant reduced the number of residential lots to (7) allowing for a future frontage road right of way. The included updated architectural drawings also show more details on the building, parking layout, 49 parking spaces, landscaping, building finishings, nicer garage doors, elevations for all buildings, lighting, etc. Photometric plans meet the City's standards and show where they zero out-meaning no measurable light level for entirety of site. As the project progresses to the Final, details of the mechanicals' screening and the "No Parking" areas and street striping will be noted. The types of businesses allowed would have low traffic considering Hwy 12 currently does not have a frontage road.

When opening it up to questions, Kaltsas and Commissioners discussed the need to ensure that Planned Unit Development Standards' **Permitted Uses** would clearly express the intention to any potential business that only low traffic options are permitted now until such a time of safe road connection is built reflecting any future changes of Hwy 12 with a roundabout. Kaltsas stated that if it's not written, it is not permitted.

**Access:** The City's stance unless directed differently, we don't want a connection to Nelson Rd for the commercial piece as it's not designed or built for that amount of traffic. We are comfortable with the 7 lots connecting to it as it is consistent to our policy. MNDot would consider allowing a temporary interim RIRO/Right In Right Out access on to Hwy 12 to serve the commercial development. But the City asked the Developer to dedicate a full frontage road right of way connecting out to Nelson Rd. The Blue Outlot A shown/66 ft ROW allowing for a future frontage road connecting on the East side through to Nelson Rd on the West side. It would be only until the time Hwy 12 was reconstructed and re-engineered at County Line Road and Hwy 12- a roundabout which is currently a 5-yr plan item for MNDot. Nelson Road would not change until Hwy 12 was rebuilt and a full frontage road was built. MNDot loved the easement concept but still wants a connection and fix to all the potential illegal turns. Re: Concerns for making illegal rt hand turn vs an unprotected left-hand turn.) As an alternative in between, the Builder to make a private drive keeping the RIRO as a primary access but maybe having a 1-way or no-turn on Nelson Rd sign, so only able to come into the North piece of Nelson Rd. OR other Right-In-ONLY off Hwy 12 into Nelson from the West- Thus No West-bound movement. We could recommend as-is, as the City Attorney thought it was reasonable and we are not forced to grant a variance if we don't want access to a residential street from commercial development. These auto condo owners won't be wanting to drive their types of high-end cars on gravel roads which reduces traffic for Nelson Road residents.

**Zoning and lot sizes:** Commissioners discuss the uniqueness of what's here, but because RR lots don't extend pass Co Rd 90, and they co-exist nicely.

**Who pays?** Currently, it's undesignated. The City may pay or look to a MNDot partnership or further development. Previously it was State Bonding Bill and no funds came from the County. We would be passing that out. We are doing our job and participating with the Developer to move the ROW and future Hwy 12 roundabout.

We note individual items in staff report with additional items as the recommendations. After Council reviews, it'll return to Planning Commission for Final consideration.

**Motion by Thompson, seconded by Dumas to recommend approval to City Council for William Stoddard at 9285 Hwy 12 regarding the 5 portions (a-e) of this request subject to all staff recommendations with additional feedback provided from this meeting including Permitted Uses, Nelson Road connection, and Landscaping. Ayes: Gardner, Dumas, Volkenant, Thompson, and Usset. Nays: None. Absent: Story and Tearse. Abstain: None. Motion Approved. 5-0**

This will go to the next Council meeting on March 7<sup>th</sup>.

5. Open/Misc.

Kaltsas- Thank you for coming out in this snowstorm tonight. We have a lot going on right now and one or two for next month's meeting. We moved the next Planning Commission meeting from March 21<sup>st</sup> to March 28<sup>th</sup> to get Council quorum. Although building permitting has slowed down a bit, I am getting inquiries for sub-division-type questions as there are still people looking to develop. As an update, I'm closing in on a MetCouncil CompPlan approval with a few tweaks that you will see again once approved by them. It will set us up for growth for the next 7 years. We championed the MetCouncil's 2030 Growth Projections and felt they were realistic. When they came back with their 2040 Forecast, they had throttled everyone back based on regional changes to growth. We had asked them to keep our 2030 Projections, but they had denied that. They didn't think that we would grow.

6. Adjourn.

**Motion by Thompson, seconded Volkenant by to adjourn.**

Meeting adjourned at 8:30 p.m.

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Respectfully Submitted,  
Linda Johnson/ Recording Secretary