



MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JULY 18, 2023, AT 7:30 PM

1. Call to Order

2. Roll Call

PRESENT: Commissioners Thompson, Tearse, Volkenant; Alternates: Story and Usset

ABSENT: Gardner and Dumas

STAFF: City Administrator Kaltsas, Administrative Services Director Simon.

VISITORS: See Sign-In Sheet

3. Approval of Minutes:

a. June 27, 2023, Planning Commission Meeting Minutes.

b. June 27, 2023, City Council Meeting Minutes (For Information Only)

*Minutes tabled until next meeting

4. **PUBLIC HEARING:** 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. Rezoning of a portion of the property (~28 acres) from AG-Agriculture to UC-Urban Commercial, consistent with the approved Comprehensive Plan. The city recently approved a preliminary plat, site plan review for a commercial development.

b. Final Plat for the proposed subdivision consistent with the approved preliminary plat.

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 *ban Commercial*

Acreage: ~58 acres

The City approved preliminary plat, site plan review, conditional use permit and comprehensive plan amendment earlier this year. The applicant has applied for final plat and rezoning. There were several outstanding items that needed to be resolved prior to further consideration by the City.

- One of the issues that was identified during the initial review of this project relates to the proposed access to the site. The City Council was clear that no commercial connection to Nelson Rd. would be permitted without a full connection to County Line Road. The City noted that this was fully supported by the adopted site development standards which 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.

To address the current and future access issues associated with the development of this property, the City requested that the developer provide right of way for a frontage road across the property to provide for a future east/west connection to County Line Road. The applicant has provided the requisite ROW. Following a series of meetings with MNDOT, they have now agreed to allow a right in/right out access to the property along with the dedication of the future frontage road right of way. The dedication of the frontage road right of way would preserve the ability of the City to connect Nelson Road to the planned roundabout at County Line Road and Highway 12 without having to access Highway 12. The initial development of this property would solely be accessed via a right in/right out off of Highway 12 as shown on the plans.

- 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 final plat is being revised to accommodate the requisite D&U easements. The City has reviewed the remainder of the plat and found it to be consistent with the approved preliminary plat. The revised final plat will need to be revised prior to any City Council consideration of the proposed project.

- The Comprehensive Plan has been approved by the Metropolitan Council. The property has now been guided in accordance with the preliminary approval and can be rezoned so that it is consistent with the Comprehensive Plan (see attached land use plan). The property will be rezoned in accordance with the attached map. The rezoning will change ~28 acres from AG-Agriculture to UC-Urban Commercial. Note that the previous Comprehensive Plan guided 12 acres for Urban Commercial and the new amended Comprehensive Plan guides an additional 16 acres for Urban Commercial.

Following discussion with Planning and Council, the applicant has revised the plans to

include seven (7) 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. Approval of the residential lots would be accomplished via the Planned Development for the entire property. This property is unique in that it is guided for both Urban Commercial and Agriculture. This is a condition that only applies to this property in the City. The Planning Commission and City Council found that the additional residential lots considered for this property would be warranted and justified in order to provide a "known" buffer and separation between the existing residential properties on Nelson Road and the proposed urban commercial development on the west side of Nelson Road. The City believes that this residential lot buffer would protect the remainder of the property (residential lots) from being further developed in the future and would establish a reasonable and intended transition between zoning districts.

- 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.
- 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 a full review of the stormwater management plan and provided detailed 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 to revise the plans in accordance with the comments. The stormwater plans will need to be revised prior to any City Council consideration of the proposed project.
- The applicant is proposing to preserve a large portion of the mature trees on the property

The City reviewed the final plat and requested rezoning and finds it consistent with the preliminary plat and now approved 2040 Comprehensive Plan. 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 several revisions that will need to be finalized prior to the City being able to formally act on the proposed final plat and rezoning.

Recommendation:

The Planning Commission is being asked to consider approval of the final plat and rezoning of a portion of the property. Should the Planning Commission recommend approval to the City Council, the following findings and conditions should be included:

1. The proposed Rezoning and Final Plat meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council approval of the Rezoning and Final Plat will be subject to the following:
 - a. The Applicant shall make all revisions required and as noted within this report, by the Planning Commission and City Council. The revisions include but are not limited to the following:
 - i. Revise the final plat to address all applicable comments and to provide for all requisite easements.
 - ii. Revise the landscape plans as requested and noted in the staff report.
 - iii. Revise the building plans to indicate mechanical equipment locations and if applicable, proposed screening of all equipment.
 - iv. Provide the City with all reports and certifications relating to the proposed septic fields as shown on the plans.
 - v. Revise the plans to address all Fire Department comments and requirements.
 - b. The Applicant shall address all comments and applicable requirements pertaining to the water resources and engineering as outlined in the respective review letters from Hakanson Anderson Associates.
 - c. The Applicant shall make all recommended and required revisions and receive final approval for all proposed and regulated improvements from MNDOT.
 - d. The Applicant shall comply with all applicable regulations and conditions prescribed by Pioneer Sarah Creek Watershed Management Commission.
 - e. The Applicant shall enter into a development agreement with the City for this development.

- f. The Applicant shall provide a letter of credit as established by the development agreement for all public improvements associated with this development.
 - g. The Applicant shall dedicate the future frontage road right of way as depicted on the final plat.
 - h. The Applicant shall provide the City with copies of the final lifestyle garage condominium covenants, including information related to the maintenance of the common private roads.
 - i. The Applicant shall provide the City with a shared driveway and maintenance agreement and requisite easements for those proposed residential lots with a shared driveway condition.
 - j. The Applicant shall obtain all necessary City, County, PCA and other regulatory agency approval and permits prior to construction.
 - k. The Applicant shall pay the park dedication fees in accordance with the terms defined in the Development Agreement.
3. The Applicant shall pay for all costs associated with the City's review of the rezoning, final plat and conditional use permit.
 4. The Applicant shall enter into a Planned Development Agreement with the City. The Planned Development Agreement will stipulate all standards associated with the planned development and will be considered for adoption concurrently with the final plat.
 5. The Applicant shall record the final plat with Hennepin County within one hundred and eighty (180) days of the City Council approval of the Final Plat.

Kaltsas – Rezoning request and final plat application. Rezoning is a public hearing the final plat is not a public hearing; it is just an action item.

Rezoning of a portion of the property from AG to UC. Property is approx. 58 acres overall. Zoned AG, guided by the city's comprehensive plan as both AG and UC. City approved prelim plat, site plan review and CUP and comp plan amendment that would facilitate development of this property as proposed. Following approvals, continue to talk to MnDOT to see what their approval would be for development. Comp plan approval. Needed approval from Met council. Comp plan was approved by Met Council.

MnDOT did take formal action on approval and approved plan as proposed by applicant with RIRO with no access to Nelson Rd. Applicant is asking for rezoning from AG to UC now consistent with now comp plan of the city. We do have ability to amend comprehensive plan by going through the process. Rezoning to match what Met Council approved. Final plat – granting land use rights for a particular property. More detailed review of final construction plans. If final plat is consistent with prelim plat, we would consider approval. We would have to find something not compatible or not consistent to deny.

Property is located at intersection of US Hwy 12 and Nelson Rd. Existing farmhouse and detached accessory buildings. There is also a large wetland complex and then a wooded

area located in the center of the property. Also, some tillable acreage around the east and north and west sides of the property.

Rezone 28 acres to UC of the overall parcel. The comp plan for 2030 identified 12 acres be rezoned from AG to UC so they are asking for additional 16 acres be considered. This property is unique where a zoning boundary is proposed to divide zoning. Most of the properties for zoning follows property lines in Independence but it is not uncommon in general. 28 acres from AG to UC. What would have Comp plan shows 28 acres as UC and rest would be AG. Met council reviewed and approved this plan. The city designated N and S side of 12 as UC. UC was a land use classification the city adopted in 2030 plan.

This corner had a relationship and some kind of connectivity to Delano commercial and what this corner could ultimately realize. The city has had a bunch of land use proposals. south side was proposed as Tuffy's, churches, Target, Fleet Farm, Menards, Wal-Mart, apartment buildings, affordable housing, Home Depot, etc. Commercial nature of this property. City has proposed no commercial development with 12 and 90. A lot of pressure on this intersection. If there were utilities available, this would be developed a long time ago.

A part of the rezoning to keep commercial away from Nelson, it would be converted to similar residential lots to prohibit eastward expansion of commercial development from that property. AG does allow certain land uses occur. Church and church with school is allowed. Preliminary plat was approved, final plat is the same. 7 residential lots, 10,000sqft commercial building and lifestyle garage condos.

Commercial would be along US Hwy 12, condos behind that and residential along Nelson Road. Access on US Hwy 12 and Nelson Rd. MnDOT tried to force commercial connection to Nelson Rd with no connection on US Hwy 12. City held firm and got MnDOT to agree to RIRO with no access to Nelson. To protect, the city obtained a ROW a frontage rd. in the future for connection from Nelson Rd to County Line Rd with Nelson having no access to US Hwy 12. County Line Rd would have an improved intersection at County Line and US Hwy 12. Slated as roundabout in 2028. MnDOT has agreed with a RIRO off US Hwy 12 without the connection.

Privately owned, maintained by association, individual condos, nonbusiness, no business use permitted would be a condition of approval. Large garage with ability to finish off loft space. Commercial building is 10,000sqft with same look and characteristics. It would be retail and retail office use. Detailed photometric plan and lighting. Applicant provided a detailed plan for photometric and lighting. This would meet cities requirements for lighting. Cut off fixtures. Light levels need to be below readable level.

Story – what does retail look like?

Kaltsas – glass front and ability to have glass doors, certain business would be permitted. It is only 10000sq ft. It isn't a huge building. Something like small business shop, office or retail front. Retail oriented businesses.

Story – outdoor storage allowed?

Kaltsas – no outdoor storage is permitted

Story – after rezoning would follow property lines once residential and UC is separate.

Kaltsas – Property would be subdivided, and, in that subdivision, zoning would follow proposed property lines. Boundary line for the residential property would be boundary line for the zoning district. UC would be to the West and AG would maintain to the right of the dividing line.

Story – landscape plan off block 9 from residential lots?

Kaltsas – Yes, we approved landscape plan in previous site plan. Additional screening requested along out lot A frontage and out lot B on the backside and screening along US Hwy 12 up to retail portion of the lots.

PUBLIC HEARING OPENED

You talked about the pressure to develop with stores, more commercial, I don't understand high pressure for commercial. Why are we caring about that? On that map, the red area was also up to County Line Rd., right?

Kaltsas – this map shows what is being requested for zoning. Zoning is done today. The city is being asked to rezone this portion of this property to UC. The comprehensive plan land use map that was adopted by the city what future land use would be for a property for future land use plan that would extend to County Line Rd for guided 2040 plan. The city contemplated a lot of people asking about this property and proposal for this property and N side of 12.

Story – That is the guided proposal. Zoning requests come in at the time of development or change. We have to allow reasonable use of the land and at least look at the proposal and talk with them about that.

Usset – how many years ago the first commercial use came in?

Kaltsas – this property has been on the market for 10 + years. Prior to 2007 there have been requests for development proposals. I don't recall the dates of the requests for consideration.

Kathy Pluth – been here for 36 years. I'm having problems with the houses. The fact you are giving them 7 houses. I thought they were only allotted 2 houses. Everyone else only allotted 2 houses. Why 7 and not 2? I think it is too many houses and 2 is fine.

Sue Ross – Regarding residential lots. To me I feel like it's setting a precedence. Tonight, you are saying there is pressure to have it commercial which I still would like that answered and I don't understand why. I hope you can go back and say why. Why putting 7 lots there to match the other side, that is opening up Independence to that code in my opinion. If that is what the city and the people want that would be one thing but doing it for 1 person, I don't know how that would be considered.

Story– Want to make sure everybody understands that the hearing tonight is just about rezoning for UC. Your question about the houses when we had the preliminary plat

discussion as well as the and the public hearing was approved many months ago, tonight is the rezoning to UC. This is an entire site development that is reviewed, not just the residential. Based on feedback from the public as well as discussion from the Planning Commission and City Council. The overall feedback landed on the look on Nelson Rd matching East side/West side to be the best solution for this property

Jim Merchant – curious if the lots will affect asphalt on Nelson Rd.

Story – we haven't addressed anything around Nelson R other than MnDOT approved the approved the RIRO. We didn't want to pave it so there was no increased traffic.

Mary Patterson – We were all at the last meeting. It didn't matter that we were at that meeting. We are all against this moving forward. We are against the rezoning to the UC. We really want it to be beneficial for us for the road and for the safety. How can you take a piece of land and have most of it be wetlands and put all of this on there and not change that? Did they do an EAW?

Kaltsas - they did not. It was not required. They did a full wetland delineation on the property to determine what was wetlands and what wasn't.

Mary Patterson – a lot of the comments was that we will do this as it gets approved. We are told we don't have a say. We want you to hear our voice. We want it to be safe when we are driving out to Hwy 12 and we don't want wetlands to be destroyed or septic to be a cess pool. What happens when my well is used up. We want our voices heard.

Nancy Jordan – lives right across but on the South side of the project. It isn't about matching, because I have lived across that property for 45 years. There are sandhill cranes, turkeys, coyotes, fox, deer, etc. We are changing that and not dividing it into 1-2 properties instead of 7. The spirit was to maintain its natural and AG essence and I don't see that.

Tom Janis – I see this more of an issue of property rights. I think it's a great deal that they are being able to do what they want to do with their property. When people say everyone in the room that is not quite right.

Kathy Pluth – is it possible for this to change tonight with a discussion? Is this a done deal?

Story – there is a public hearing on rezoning from AG to UC. That is what this meeting is about. The preliminary plat was approved. You have a lot of say in electing city officials and public hearings.

Jackie Young – why can you not make changes to a prelim plat before final plat approval? It is done all the time in other cities. This should be based on public input. Are you writing this all down and making changes before final plat approval?

Story – the parts of the plan that were reviewed and subject to public hearing have been approved and approved by the city council. We take and listen to all your feedback all the feedback about roads, land use. Several months ago, we approved a prelim plat based on public input. We can't go from 8 lots to 1. This is a rezoning public hearing. Our job here tonight is around a public hearing for the zoning.

Jackie Young – Are you telling me are you refusing to make any changes to prelim plat before final plat approval.

Story – The planning commission can recommend, and city council can approve whatever they want based on feedback, based on changes. I appreciate your feedback and the goal of this public hearing is to listen to public broadly and make our best recommendation to City Council.

Jackie Young – Can you show us the access road from the commercial to Nelson Rd?

Story – There is no road, there is an out lot that is being reserved in case of future need because of the closure of Nelson Rd and just becoming a RIRO so that you would have the ability to exit your property from the West.

Mark Patterson – I was able to go to the 1st meeting. None of the car condos are going to be residential. Commercial will have bathrooms and running water. Will garages have running water if it's not business or living area. Why would you have water in these?

Story – in other instances the uses have bathrooms, hangouts, etc.

George Ross – If you can rezone these lots down to 3.5 acre lots, then we all want the same thing.

Christina – lots going in across with ditch grains. Will you redirect our water.

Story – the wetlands have been marked off and will be undisturbed.

Jim Merchant – if you look at the zoning issue, what does that do to the 7 lots.

Story – The comp plan has been approved by city council and Met Council. It would just be approving to match the plans.

Pam – drainage is a huge issue. I found that within our ordinances it says that long lots are prohibited. It seems that these violate.

Kaltsas – we are doing this under a PUD. There was discussion during prelim plat to increase lot width to match ordinance or to match with lots across the street. The decision was to match to remain consistent.

Liz Potter – I think you mentioned that outlot a is a future potential plan to alleviate problems for Nelson Rd. In the case we may need it.

Kaltsas – the city requested that the developer dedicate this to the city so that it could be developed in the future if the city chooses to.

Liz – that road won't exist right now.

Kaltsas – the city pushed for MnDOT to do more work on US Hwy 12. They did the overpass at County Rd 92 and County Rd 90. We did \$1m study and plan. It was a proposed plan. Nelson have RIRO, 12 to have a barrier. Church RIRO. Roundabout at Lake Haughey. There was discussion as a frontage road. MnDOT wouldn't put that on the plan. We asked the developer what they would give back to the city to allow a frontage to County Line Road with future plans to hopefully get the property through. The property owner to the west was not willing to sell that land and the city was not willing to condemn that from that property owner.

Dave Potter – We would have the longest continuous access to this. I was opposed to this at first. We have to look at this at what is the best option.

John Zeglin – I am the seller. We owned the property for over 40 years. Parents bought it as an investment. Buying property on 12 posed a large challenge. If anyone wants to ask questions. About 20 years ago we tried to sell. Mills fleet farm, big box stores.

Delano wouldn't allow water. The development had to change to work with what we had.

The 7 lots were supposed to be commercial, and I would have got more money. When the lots came up and I thought it was a great idea. The developer listened to what people were saying and to hurt the residential area. I pay taxes twice a year and I wish I was a mile or two west. We are paying premium taxes because we have preserved out city. If we are developing, this is the perfect spot. Developer has done everything he could to work with everyone and what works for him as well. Art Ahlstrom's place, we have 3-acre lot, where did those 3 acres lots come from.

Bill Stoddard – developer/applicant: the reason we haven't had a neighborhood meeting is because we wanted more direction from MnDOT. The commercial aspect would be HOA maintained. The rear of residential, we have restrictions that you cannot cut down trees to keep that buffer. MnDOT future plans are roundabout at County Line Rd and the corner has gas easements now. They would be dealing with the landowner and would acquire that land anyway.

Dave – looking for safety

Mike Zeglin – traffic is an issue. Anyone living on Nelson Road can hop on County Line Road. The dirt road wouldn't be an issue if it regarded safety. There are ways to make it work.

Motion by Usset, seconded by Tearse to close the public hearing

Usset – is there any other property in Independence like this where it is split by AG on 2040 comp plan.

Kaltsas – east side by maple plain that is split for housing.

Usset – there are only 2 properties with the split. How do you think about this when there is zoning on both sides. Owners have tried selling this for years. This is a tough property.

Story – its only split for a few months until property lines are established.

Anita Volkenant – how many lots are zoned AG under 10 or 5 acres.

Kaltsas – probably over 100? We allow down to 2.5 on a density transfer.

AV – should we do RR or AG?

Kaltsas – the PUD warrants this kind of density transfer. The 7 residential lots were a good buffer.

Anita Volkenant – as other lots are turned to UC, there would be the opportunity to turn them as well?

Story – we will probably have more conversation and expand RR

Motion by Tearse, seconded by Usset to approve Rezoning of a portion of the property (~28 acres) from AG-Agriculture to UC-Urban Commercial and to approve Final Plat for the proposed subdivision consistent with the approved preliminary plat. Ayes: Thompson, Tearse, Volkenant. Story and Usset. Nays: None. Absent: Gardner and Dumas. Abstain. None. MOTION DECLARED CARRIED. 5-0

5. Open/Misc.

6. Adjourn.

Motion by Story, seconded by Usset to adjourn at 9:33pm

Meeting adjourned.

Respectfully Submitted,
Carrie Solien, Recording Secretary