

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, NOVEMBER 15, 2016, –7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Protem Spencer at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Protem Spencer led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Councilors Spencer, Betts, and Grotting

ABSENT: Mayor Johnson, McCoy, City Attorney Bob Vose

STAFF: City Planner & City Administrator Mark Kaltsas, City Administrative Assistant Horner,

VISITORS: George & Linda Becker, Sally & Jerry Simpson, Brian Benson, Lynda Franklin

4. \*\*\*\*Consent Agenda\*\*\*\*

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes from the October 25, 2016 City Council Meeting.
- b. Approval of Accounts Payable; Checks numbered 16614-16647.
  - For Information - Checks numbered 16600-16613 and 16648-16653 are Payroll Checks.

**Motion by Grotting, second by Betts to approve the Consent Agenda. Ayes: Spencer, Grotting, and Betts. Nays: None. Absent: Johnson, McCoy. MOTION DECLARED CARRIED.**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

**Grotting attended the following meetings:**

- City Council Workshop

**Betts attended the following meetings:**

- SLUC
- Pioneer Sarah Creek Watershed Community Conversation
- Highway 12 Coalition
- Planning Commission
- West Hennepin Chamber of Commerce
- City Council Workshop
- Police Commission

**Spencer attended the following meetings:**

- Hennepin County 2040 Comp Plan Policy
- City Council Workshop
- Pioneer Sarah Creek Watershed Community Conversation
- Highway 12 Safety Coalition
- Planning Commission

**Horner attended the following meetings:**

- Election
- Jim with LMCC

**Kaltsas attended the following meetings:**

7. **REOPEN PUBLIC HEARING:** George and Linda Becker (Applicants/Owners) request that the City consider the following actions for the property located at 4635 Lake Sarah Road, Independence, MN (PID No. 03-118-24-22-0002):

- a. **RESOLUTION NO. 16-1115-01** – Considering approval of a variance to allow the subdivision of property in the AG-Agriculture zoning district; and
- b. A minor subdivision to allow the subdivision of the subject parcel into two (2) lots.

Kaltsas reintroduced this request from an earlier meeting in August. The Planning Commissioners provided feedback to the applicant that the requested variance and subdivision appeared to meet the requirements for granting a variance and allowing a subdivision. The City

does not allow the subdivision of property zoned Agriculture with the exception of lot line rearrangements and rural view lot splits. The City would have to consider granting a variance from the zoning ordinance to allow the subdivision of this property. The overall property does not meet the minimum 40 acre requirement to realize a rural view lot subdivision. The parcel is located just outside of the area guided for rural residential development. Granting a variance is the only option for a subdivision of this property.

**Property Information: 4675 Lake Sarah Drive**

Zoning: *Agriculture*

Comprehensive Plan: *Agriculture*

Acreage: (BEFORE) *32.49 acres*

Acreage: (AFTER) 16.49 acres – West Parcel  
16.00 acres – East Parcel

Staff reviewed other parcels in the City to try to determine if there were any that would have a similar situation. The only other parcel discovered with a similar condition (where the property crosses over a right of way) is the parcel directly north of the subject parcel. This parcel is owned by Three Rivers Park District.

Should the parcel be subdivided, the newly created and existing remaining parcel would not be completely out of character with the surrounding parcels. The parcel to the east side of Lake Sarah Road backs up to the City's park on the east side and to the Three Rivers parcel on the north side. The parcel to the south is approximately 10 acres in size and has an existing home. On the west side of Lake Sarah Road the properties range in size from more than 40 acres to less than 5 acres.

At the time this report was prepared, the City had received preliminary comments from Three Rivers Park District regarding the proposed subdivision. The Park District was supportive of the subdivision and is interested in possibly seeking a similar action for their property to the north. The Park District also noted that they have a regional trail "search" corridor along County Road

11 and Lake Sarah Road which would extend north towards Lake Sarah and then into Lake Rebecca Park. The City of Independence did not include the search corridor in the Comprehensive Plan because the City did not have the ability to fully study and vet the possible corridor (see map below and larger map attached). The Park District asked if the City would retain a future trail easement as a part of the required subdivision. Historically, the City has retained additional County/City right of way where known improvements were

proposed. In this case, it should be noted that the City did not support the trail search corridor in the 2030 Comp Plan. There has also not been an approved alignment for a trail along Lake Sarah Road.

Betts asked if there were any trails to link this into.

Kaltsas said now we'd be guessing-there are no trails. The Planning Commission meeting suggested Tamarack Park, but at this point we're not in a position to potentially unfairly set the stage as to where that trail would go. With right of ways, it's possible to acquire a trail corridor. Betts mentioned this could be in lieu of a park dedication fee which would be a lesser fee to the land owner.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not create a situation that is not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

*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.*

Public Hearing Open:

Public Hearing Closed:

Betts mentioned the request has been covered and is a good plan. Grotting asked if we recently split the small homestead, and Kaltsas said they recently wanted a lot line rearrangement to make the one acre and five acre lot instead.

**Motion by Betts, second by Grotting to approve RESOLUTION NO. 16-1115-01- Considering approval of a variance to allow the subdivision of property in the AG-Agriculture zoning district. Ayes: Spencer, Betts and Grotting. Nays: None. Absent: Johnson and McCoy. MOTION DECLARED CARRIED.**

8. **PUBLIC HEARING:** Lisa Dayton (Applicant/Owner) requests that the City consider the following actions for the property located at 8415 Hitsman Lane (PID No. 17-118-24-31-0004) in Independence, MN:

- a. **RESOLUTION NO. 16-1115-02** – Considering approval A minor subdivision to permit the creation of a rural view lot.

The property is located south of US HWY 12 and south of Hitsman Lane. The property is accessed via a 33 foot wide private driveway which extends south from Hitsman Lane. The property has an existing home and several outbuildings. The property is comprised of significant wetlands and upland acreage. The property has the following characteristics:

Property Information: 8415 Hitsman Lane

Zoning: *Agriculture*

Comprehensive Plan:

*Agriculture Acreage*

(BEFORE): *58.92 acres*

*Acreage (AFTER): North Parcel – 10.00 acres*

*South Parcel – 48.92 acres*

The applicant is proposing to subdivide the property in order to create a rural view lot. The applicant is proposing to create one (1) rural view lot in accordance with the provisions set forth in the City's Zoning Ordinance. The subject property has a total acreage of 58.92 acres. The provisions in the Agriculture Zoning District allow one (1) rural view lot for every 40 acres of land under the same ownership. Under the current zoning standards, the subject property has the ability to realize one (1) rural view lot for a total of two (2) lots on this property.

Rural view lots must have the following characteristics:

**Lot size required** - between 2.5 and 10 acres

**Lot size proposed** – North Parcel – 10.00 acres

**Minimum lot frontage required** – 300 LF (for property between 5-10 acres)

**Minimum lot frontage proposed** – North Parcel – 300 LF

**Ratio of lot frontage to lot depth required** - no more than 1:4

**Ratio of lot frontage to lot depth proposed** – Parcel A - ~1:5 (300:1500)

In addition to the minimum size necessary to subdivide, the ordinance requires a minimum of 2.5 acres of buildable upland, 300 LF of frontage on a right of way and no greater than a 1:4 ratio of lot frontage to lot depth for each rural view lot. Based on the proposed subdivision, the rural

view lot would have approximately 5 acres of useable upland and 300 LF of frontage on the 33 foot wide easement.

The existing property is accessed via a 33 foot wide parcel that connects to Hitsman Lane. It appears that this parcel was historically established as a cart way. As proposed both lots do not meet the minimum public right of way frontage requirements of the City's ordinance. The City can grant a waiver to the frontage requirements if the criteria established in the City's ordinance are met. The configuration proposes to utilize the common driveway provision of the City's zoning ordinance. The City allows common driveways to be utilized for up to three lots if all criteria established in the ordinance are satisfied.

The proposed lot depth to lot frontage ratio for the rural view lot would be ~1:5. This lot width to lot depth ration exceeds the maximum range but creates a "clean" lot line. Moving the line to adjust for the lot depth would create an irregular parcel behind the proposed rural view lot. Moving the line to the south to provide more lot width would create a lot that is greater than 10 acres.

The proposed subdivision would produce a 10 acre rural view lot. The proposed property would be "in line" with the property to the west and north. The proposed North Parcel would accommodate a new building pad given its overall size, topography and proposed dimensions. Any development on the property would need to meet all applicable setbacks including those from wetlands. The City received an on-site septic report verifying that the proposed rural view lot can accommodate a primary and secondary on-site septic system. The applicant will need to include the requisite drainage and utility easements as required by ordinance (Section 500.15, Subd.'s 1 and 2) for both the existing and proposed parcel.

The newly created North Parcel will be required to pay the City's requisite Park Dedication fee. For this property the requirement is \$7,250. This fee will need to be paid prior to recording the subdivision.

*Park dedication fee of \$3,500 per lot up to 4.99  
acres, plus \$750 per acre for each acre  
over 5 acres*

The City had comments from a neighboring property owner. The neighboring property owner stopped into City Hall to review the plans. The neighboring owner asked questions pertaining to the subdivision and wanted to understand the proposed subdivision in relation to their respective property. The neighboring owner generally supported the proposed subdivision. At the public hearing the neighboring property owner to the west commented on the proposed subdivision and offered his support of the subdivision. The City also confirmed that the existing wetlands could not be altered or built upon.

Commissioners discussed the proposed subdivision. Commissioners considered whether or not to recommend altering the proposed parcel configuration to conform to the lot depth to lot width requirements by shortening and widening the proposed new parcel. Commissioners noted that requiring the applicant to conform to the lot depth to lot width ratio would create an awkward “gap” on the remaining property. Planning Commissioners discussed the condition of the septic system on the existing property and recommended that the City include a condition requiring the applicant to verify the location and ability of the remainder property to provide an alternative septic site. Commissioners ultimately recommended approving the proposed subdivision utilizing the initial configuration.

Betts asked if we’ve checked with our attorney regarding the right of way so nobody would be cut off. Kaltsas said we’d ensure that’d be done. Grotting said we’d take 66’ from either side of the road, and Kaltsas said 33’ on top of that. Betts asked if the road is substantial for fire trucks etc... and Kaltsas ensured it’s an old road and has been fine. Spencer talked about the septic system, and Kaltsas said we’d require availability. If it doesn’t sell, there isn’t a trigger mechanism although we could add one. Kaltsas said Satek is comfortable with the sale.

Public Hearing Open:

Public Hearing Closed:

Grotting asked if there’s concern about 1 property owner cutting off another, and Kaltsas said no, the easement rights would be transferred to the property. It’s a legitimate easement.

**Motion by Spencer, second by Grotting to approve RESOLUTION 16-1115-02-Considering approval of a minor subdivision to permit the creation of a rural view lot. Ayes: Spencer, Betts, and Grotting. Nays: None. Absent: Johnson and McCoy. MOTION DECLARED CARRIED.**

9. **PUBLIC HEARING:** B. Benson Group (Applicant) and Joyce Larson (Owner) request that the City consider the following actions for the property located at 1160 County Road 19 N, Independence, MN (PID No. 25-118-24-42-0001):
  - a. **ORDINANCE 2016-08** – Which will rezone the property from Ag-Agriculture to RR-Rural Residential.



- b. **RESOLUTION NO. 16-1115-03** – Considering approval of the preliminary and final plat for a four (4) 4 lot subdivision.

The property is located on the east side of County Road 19 N. and just south of Willow Street. There is an existing home and several accessory structures located on the property. The house is accessed via a gravel driveway off of County Road 19 N. The property is a combination of rolling hills, tillable acreage and wetlands. The property has the following characteristics:

Property Information: 1160 County Road 19 N.

Zoning: *Agriculture*

Comprehensive Plan: *Rural Residential*

Acreage: *19.83 acres*

The Planning Commission reviewed the same request for this subdivision in September of 2015. The Commission held a public hearing and ultimately recommended approval of the proposed subdivision. Following the Planning Commission review, the applicant ran into issues with the watershed district review of the property. The final wetland delineation identified an additional wetland on the property and caused the road to need to shift to the south. Following discussions with the watershed district last fall and earlier this year, the applicant decided to withdraw their application. The applicant has now worked through the watershed issues and has made a new application seeking Rezoning, Preliminary and Final Plat approval for a four (4) lot subdivision to be known as Settlers Prairie Subdivision. The proposed subdivision would split the existing 20 acre parcel into four lots. There is an existing home located on the west edge of the property just off of County Road 19 N. The existing home would remain in the after condition and be located on one of the four lots.

The property is currently zoned Ag – Agriculture and is guided by the City's Comprehensive Plan as a RR- Rural Residential property (See Map – Green = Agriculture, Yellow = Rural Residential).

Rezoning this property is consistent with the City's 2030 Comprehensive Plan. Rezoning of this property is also consistent with the zoning of the property to the south and west. There are three subdivisions that surround this property which are similar in nature to that which is proposed.

The City allows the subdivision of property in the rural residential zoning district if it can be shown to meet all applicable criteria of the ordinance. The City's applicable standards are further defined as follows:

*Subd. 3. Density. Lots of record in the rural residential district may be divided or subdivided into the following maximum number of lots, said maximum number to include the lot for any existing dwelling unit or other principal use: (Amended, Ord. 2010-01)*

<u>Area of Lot of Record</u>	<u>Maximum Number of Lots Permitted</u>
7.5 acres or less	One
7.6 through 12.5 acres	Two
12.6 through 17.5 acres	Three
<b>17.6 through 22.5 acres</b>	<b>Four</b>
22.6 through 27.5 acres	Five
27.6 through 32.5 acres	Six
32.6 through 37.5 acres	Seven
37.6 through 42.5 acres	Eight
42.6 through 47.5 acres	Nine, plus one addn. lot for every five addn. acres of land.

*A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of 10% or other physical impediments.*

*<sup>b</sup> A waiver to permit lots with reduced frontage on a public right-of-way, neck lots or lots with no frontage on a public right-of-way but with frontage on a common driveway may be considered and granted or not granted. If granted, evidence must be provided that all standards established and defined in Section 510.05, Subdivision 20 of this zoning code are met: (Amended, Ord. 2010-06)*

A more detailed breakdown of the proposed individual lots is as follows:

Block 1	Area	Upland Acreage	Frontage	Lot Frontage to Lot Depth
Lot 1	3.56 acres	2.51 acres	575/456 LF	1:1
Lot 2	5.43 acres	2.91 acres	473 LF	1:1
Lot 3	3.48 acres	3.48 acres	122 LF	1:1
Lot 4	5.08 acres	3.26 acres	990 LF	2:1

The applicant is proposing to provide access into the property by developing a new public cul-de-sac off of County Road 19 into the middle of the subject property. The road is proposed to meet all applicable City standards for road and right of way width. The new road would follow the north property line into the site. The driveway which provides access to the existing home would be relocated such that it connects to the new cul-de-sac and no longer connects to County Road 19 N. There are several existing accessory buildings that would be rem configuration of the proposed lots

and potential building sites appears to take into account the location of the existing wetlands, primary and secondary septic locations and existing topography. The applicant indicates the potential locations of a proposed building pad for each lot. The proposed building pad is conceptual only, but provides the City with evidence that the lots can accommodate a new home site. The applicant has submitted information to the City verifying the ability of each lot to accommodate a primary and secondary septic system. The applicant may need to revise the proposed secondary or alternative location to ensure that it meets the applicable setbacks from a wetland. The size of the lots proposed will allow all applicable building setbacks to be met. The proposed lots appear to meet all applicable criteria relating to the subdivision and zoning standards.

The applicant is proposing to construct a storm water conveyance system to accommodate the runoff resulting from the construction of the public street. The conveyance system includes a two bay filtration basin system to be located within a drainage and utility easement across Lot 2. In addition, the applicant is proposing to install a small filtration basin on Lot 3 to aid in the runoff from the proposed lot. This was one of the concerns raised at the public hearing last year. The City has reviewed the conveyances system and noted several conditions that should be included with any approval (see attached memorandum from Hakanson Anderson, dated October 10, 2016).

The City sent the proposed subdivision to Hennepin County for their review of the proposed road access onto County Road 19 N. Hennepin County found the proposed road access location to be acceptable; however, required that the existing driveway servicing the home be relocated to connect to the new road.

The City has completed a review of the proposed grading plan (see attached memorandum from MSA Professionals, dated October 13, 2016). The City has received revised plans based on the comments provided by the City's engineer and is finalizing the review. There did not appear to be any comments that would prohibit the development of the property or cause for the design to be substantially changed. The individual lots will be required to apply for and be granted a grading permit at the time of building permit application. At that time the City will review the individual lot grading.

The City has received several questions and comments from adjacent property owners both verbally and at the public hearing. Adjacent property owners had questions relating to the stormwater runoff from the proposed subdivision. Neighboring property owners wanted to ensure that the stormwater runoff would not cause an increase or change to the water on their respective properties. Kaltsas met with her, and she talked with Minnehaha Creek Watershed also. She feels the pond was put in incorrectly, and Kaltsas agrees. Grotting asked if the new subdivision would affect the runoff, Kaltsas said it meets criteria for watershed management.

Kaltsas said the Planning Commission recommended approval of the rezoning Preliminary and Final plats. First an Ordinance would need to be passed for rezoning, then the Resolution. A final development agreement would come back to the City Council for approval, which Kaltsas expects by the next meeting.

**Motion by Betts, second by Grotting to approve ORDINANCE 2016-08 to rezone the property from Ag-Agriculture to RR-Rural Residential. Ayes: Spencer, Betts, and Grotting. Nays: None. Absent: Johnson and McCoy. MOTION DECLARED CARRIED.**

**Motion by Grotting, second by Betts to approve RESOLUTION 16-1115-02-Considering approval of the preliminary and final plat for a four (4) lot subdivision. Ayes: Spencer, Betts, and Grotting. Nays: None. Absent: Johnson and McCoy. MOTION DECLARED CARRIED.**

**Motion by Betts, second by Grotting to adjourn at 8:20 p.m. Ayes: Spencer, Betts, and Grotting. Nays: None. Absent: Johnson and McCoy. MOTION DECLARED CARRIED.**

