

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, OCTOBER 13, 2008 – 7:30 P.M.

1. CALL TO ORDER.

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

2. ROLL CALL.

PRESENT: Chair Spencer, Commissioners Crespo, Gardella, Gardner and Phillips
STAFF: Planner Lorsung, Attorney Vose, Water Resources Consultant Laabs, Administrative Assistant Scipioni, Comprehensive Plan Consultant Hagen
VISITORS: Visitor sign-in will be attached to meeting minutes.

3. APPROVAL OF SEPTEMBER 8, 2008 MEETING MINUTES.

Motion by Gardner, second by Gardella, to approve the minutes as written, with one correction to a typing error. MOTION DECLARED CARRIED.

Motion by Phillips, second by Gardella, to have the Commission adjourn the meeting at 9:30 p.m. Ayes: Crespo, Gardella, Gardner, Phillips. Abstention: Spencer. MOTION DECLARED CARRIED.

Spencer moved the Ryan Companies public hearing to the eight items on the agenda and moved the Northern Natural Gas and Comprehensive Plan public hearings up to the six and seventh items on the agenda respectively.

4. PUBLIC HEARING. ADOPTION OF NEW SECTION 505, MANAGEMENT OF SHORELAND AREAS, CREATED FOR THE PURPOSE OF MEETING REQUIREMENTS OF THE SHORELAND DEVELOPMENT ACT, MINNESOTA STATUTES, SECTIONS 103F.201 ET SEQ.

Spencer noted that the public hearing was a continuation of the public hearing held at the Sept. 8, 2008 Planning Commission meeting.

Laabs summarized the changes that had been made to the ordinance since the last meeting. She said she and Crespo worked together to create permitting standards for feedlots. She explained that less than five animal units does not require a permit, five to nine animal units requires an administrative permit and ten or more animal units requires a Conditional Use Permit. Laabs stated that the ordinance now also includes a definition of a feed lot.

Laabs stated that Fox Lake, which was originally included in the new Shoreland Ordinance at the City's request, was removed from the ordinance. She stated explained that the City had originally had concerns about development near Fox Lake, but the draft of the updated Comprehensive Plan does not call for higher density in the Fox Lake area.

Laabs stated that the staff removed water-oriented accessory structures, stairways, lifts and landings from the list of items that require a Conditional Use Permit. She explained that property owners will still have to meet provisions under the ordinance for those structures.

Phillips asked where the definition of a feedlot came from.

Laabs responded that the definition matches how feedlots are defined throughout the City Code.

Spencer confirmed with Laabs that the 150-foot setback from natural environment waters in unsewered areas was correct.

Public Hearing

LuAnn Brenno, resident, stated that she resented the Commission trying to end the meeting at 9:30 p.m. Brenno stated that the feedlot definition also comes from the Minnesota Pollution Control Agency. She stated that the definition should reference the PCA definition in case the PCA definition changes.

Brenno asked if an unnamed tributary in 507.07(b) was actually Sarah Creek.

Spencer responded that it is not Sarah Creek.

Laabs explained that the Department of Natural Resources did not require that Sarah Creek be included in the ordinance.

Crespo added that almost the entire creek is within Rebecca Park.

Brenno stated that sections 505.09 and 505.11(a) of the ordinance were inconsistent. She stated that the sections seemed to say two different things about Conditional Use Permits.

Laabs explained that the ordinance was written so that it emphasized that Conditional Use Permits are necessary for feedlots with 10 or more animal units. She stated that the language in 505.09 should read "less than 10" instead of "10 or more."

Brenno asked if the Conditional Use Permit for feedlots was something the DNR required. She asked if the City could avoid using Conditional Use Permits and use the PCA permitting process instead.

Laabs responded that the DNR does require a Conditional Use Permit for feedlots. She added that the City created the stipulations for smaller numbers of animal units as a way to help the residents.

Brenno stated that section 505.13 lists only rural residential and agricultural zoning districts. She noted that once the new Comprehensive Plan is adopted, the names of the zoning districts would change.

Spencer suggested deleting the last sentence in the section, which referenced zoning districts.

Brenno asked how the City created its lot standards.

Laabs responded that the lot standards in the new ordinance match the standards in the existing ordinance. She explained that some of the requirements for lot standards came from the DNR and some came from the City.

Brenno suggested that 505.13 Subd. 5(d) be split into two separate subsections, one on size and one on setbacks.

Brenno asked if there were different rules for stairways in commercially zoned areas. She stated that 505.13 Subd. 6(a) made it seem that way.

Spencer responded that the wording in that section of the ordinance came from the DNR.

Brenno suggested changing the wording of 505.23 Subd. 2(a) so that only intensive clearing of invasive species would require revegetation.

Brenno asked if the requirements for signs in the Shoreland Ordinance were consistent with City Code.

Lorsung responded that the more restrictive ordinance would be the one that the City uses within the Shoreland area.

Brenno stated that in 505.23 Subd. 4(a) and (b) it wasn't clear if there was a difference between the terms "roads" and "public roads."

Brenno stated that 505.23 Subd. 4(d) didn't seem to fit in with the section it was in. She suggested creating a separate section for it.

Brenno suggested replacing "zoning administrator" with "city staff" in 505.23 Subd. 5.

Brenno asked if the City already had an administrative permit process in place.

Lorsung responded that she didn't know of any administrative process currently in the City Code.

Brenno stated that section 505.29 seemed redundant and suggested removing it or putting it under enforcement. Brenno added that the language in section 505.33 seemed inconsistent.

Motion by Gardella, second by Gardner, to close the public hearing. All ayes.

Gardella asked if the Commissioners thought the feedlot definition should come from the PCA definition, or if the ordinance should have its own definition independent of the PCA definition.

Lorsung noted that the City Code cannot be less restrictive than the PCA regulations.

Crespo stated that with either definition, when the PCA changes its regulations, the City would have to change its Code to be in compliance.

The Commissioners agreed to leave the definition as it is in the draft ordinance.

Phillips stated that replacing "zoning administrator" with "city staff" in 505.23 Subd. 5 would make more sense.

Motion by Spencer, second by Gardella, to recommend repealing the current Shoreland Ordinance and approving a new Shoreland Ordinance with the following changes:

- **505.07(a) remove Fox Lake**
- **505.09 Permitted Uses. Permitted uses include uses allowed in the underlying zoning district as indicated on the official zoning map of the city, with the exception of feedlots with 10 or more animal units, which shall be treated as a conditional use as described in Section 505.11. Permitted structures must comply with shoreland zoning provisions pursuant to Section 505.13.**
- **505.11 (a) 2) grading of any property within the shoreland overly district which disturbs land less than 50% of the total area of the parcel; or 3) feedlots with less than 10 animal units. Animal units are defined in Section 510.05 Subd. 5 of this code.**
- **505.13 Zoning Provisions. Subdivision 1. General. The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. ~~Applicable zoning districts include Rural Residential (RR) and Agricultural (AG) as defined in sections 530.01 and 530.05 of this code.~~**
- **505.13 Subd. 5(d). set back a minimum of 10 feet from the ordinary high water level, (e) does not exceed 120 square feet in size and set back in accordance with provisions set forth in Section 200.05 of this code; and (f) must be constructed or screened to reduce visibility from public waters and(Subd (e) becomes Subd (f)**
- **505.23 Subd. 2(a) Intensive vegetation clearing within the shore impact zone and bluff impact zone shall not be allowed, with the exception of invasive species as defined by the Minnesota DNR, such as buckthorn. Following any intensive clearing of invasive species, revegetation with non-invasive species will be required.**
- **505.23 Subd. 4(a) Grading, filling and excavation necessary for the construction of structures, individual sewage treatment systems, private roads, or driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filling permit under this section 505, but shall be accomplished in accordance with the provisions of the city code, Section 508.21.**
- **505.23 Subd. 5 Steep Slopes No structure, individual sewage treatment system, road, driveway or other improvement may be constructed on a steep slope prior to evaluation by ~~the zoning administrator~~ appropriate city staff of the proposed improvement with respect to soil erosion and visibility from public waters. ~~The zoning administrator~~ City staff may require Best Management Practices to prevent soil erosion or to preserve existing vegetative screening.**
- **Staff will create an administrative process for issuing administrative feedlot permits.**
- **Staff will reword 505.33 to allow the City to take into consideration seasonal and weather requirements when considering variance requests.**

All present voted aye. MOTION DECLARED CARRIED.

5. PUBLIC HEARING. TOM GONYEA, JAMES & LYNDY FRANKLIN, 2825 COUNTY ROAD 90 (PID NO. 15-118-24-14-0002) AND 6475 FRANKLIN HILLS ROAD (PID NO. 15-118-24-11-0007) AND 6615 FRANKLIN HILLS ROAD (PID NO. 15-118-24-11-0001), REQUEST FOR A PRELIMINARY PLAT AND REZONING FROM AGRICULTURAL TO RURAL RESIDENTIAL.

Lorsung explained that there are two applications for the Commission to consider, one for the northern property (north plat) and one for the southern property (south plat). Lorsung stated that the north plat has five parcels, consisting of parcel of 40 acres that is zoning agricultural and four rural residential parcels. She noted that while the eastern part of the plat is guided rural residential, the zoning would need to be changed from agricultural to rural residential for 18.59 acres. Lorsung also stated that Franklin Hills Road, which services the proposed lots, would end in a temporary cul-de-sac.

Lorsung stated that the south plat is also guided rural residential, but needs an administrative zoning change to rural residential. Lorsung stated that the proposed road that would service the south plat would end with a permanent cul-de-sac.

Lorsung noted that per City Code, each lot must have at least 2.5 acres with two buildable septic sites.

Lorsung stated that staff required the applicant to provide a “ghost plat” for the 40 acres on the north plat that aren’t currently being subdivided. She said the ghost plat would help staff determine if there would be any issues with future development. Lorsung stated that the City had the applicant revise the south plat because of a loss of trees and because the County wanted the proposed road to access County Road 90 at a different location.

Lorsung noted that the City Engineer and Water Resource staff’s comments were included in the packet. She also noted that the Pioneer-Sarah Water Management Commission had not yet reviewed the plats, but did sent staff a preliminary email with regards to what it would be reviewing once a formal application was made.

Lorsung stated the City does not have any requirements for tree preservation, but the property owner could offer to include conservation easements in the plats.

Spencer stated that review by the Parks Commission should be added to the list of conditions.

Gardner asked how the land to the west of the proposed Olstad Drive would be serviced.

Lorsung responded that Franklin Hills Road would curve southward to service those future lots. She explained that the ghost plat included in the packets showed how the property to the west of Olstad Drive and Meadow ridge would be serviced.

Gonyea, the developer, asked if his company would be responsible to damage that occurred on properties to the south of the south plat if the corrugated plastic pipe that runs through the south plat were damaged.

Lorsung responded that the City Engineer could help answer that question.

Gonyea stated that he would prefer not to include conservation easements on the new lots. He stated that because wooded lots cost more money, typically the people who buy those lots do not cut down the trees, especially on larger lots.

Vose asked the applicant if he was planning on setting up a homeowners' association.

Gonyea responded that some type of an association seemed necessary because maintenance would be needed on the center islands of the culs-de-sac.

Vose asked the applicant if the homeowners' association would also help pay for public-like improvements, such as storm water areas.

Gonyea responded that he would work with the City when creating the homeowners' association.

Spencer asked Mr. Gonyea if he was satisfied with the recommendations.

Gonyea responded that he was fine with the recommendations in the staff report. He added that because of working with City staff, he believed he ended up with better plats and a better plan for the future.

Public Hearing

Mark Muhndahl, resident, stated that he was concerned with what seems like high density in the new plats. He stated that the parcels should be five acres, as was required when he developed his lot. He also stated concerns about the neighbors having notice about the project.

Fred Steiner, resident, asked if there was going to be a second public hearing on the proposed plats.

Spencer explained that the Planning Commission meeting is the forum for residents to give their comments to the City. He explained that after the Planning Commission meeting, the issue would be taken up by the City Council. He added that comments could still be sent to the City for distribution to the Council.

Vose noted that the Council is not legally required to hold a public hearing on the issue, as the Planning Commission was holding a public hearing. He suggested setting a deadline for written comments.

Spencer set a Nov. 6, 2008 deadline for sending written comments to the City.

Mary Magnuson, resident, stated that a 2.5-acre lot without city sewer and water seems too dense. She stated that she would like to see larger lots.

James Wehmann, resident, stated that he was surprised he didn't receive more information on the project. He added that it would have been nice to see the plan before the meeting. Wehmann asked for clarification on the lot sizes and what the Commission was considering.

Lorsung explained that on the north plat, there would be one 40-acre lot and four other lots ranging in size from 2.7 to 6 acres. She stated that on the south plat, there would be four lots of 6.1, 5.8, 3.5 and 2.8 acres. She explained that no property is less than 2.7 acres.

Wehmann asked what types of homes would be built on the lots.

Gonyea explained that the lot prices would range from \$200,000 to \$300,000 and be custom homes, built to the owners' specifications. Gonyea requested to have request go to the Council at its last meeting in October.

Spencer explained that the City would like the Parks Commission to see the plan at its Nov. 6 meeting and the Council would review it after.

Spencer closed the public hearing.

Gardella asked for an explanation of the public notice process.

Scipioni explained that at least two weeks before the public hearing, staff sends out notice to property owners within 500 feet. She stated that the notice looks similar to the Planning Commission agenda and that the relevant issue is highlighted for property owners. Scipioni explained that the notice also tells residents to call City Hall if they would like further information on the proposed projects.

Lorsung added that in the future, staff could send out a copy of the plat with the notices.

Spencer said that in the future, the Planning Commission could review the noticing process and make recommendations for changes to the City Council.

Motion by Gardella, second by Crespo, to recommend approval of a preliminary plat and rezoning from agricultural to rural residential for 6475 Franklin Hills Road and 6615 Franklin Hills Road, subject to the following conditions:

- 1. The applicant shall consider a conservation easement over portions of the dense tree cover on either plat.**
- 2. The applicant shall address comments and requirements of the water resources specialist.**
- 3. The applicant shall address comments and requirements of the engineer.**
- 4. The applicant shall apply for an application with the watershed district and complete a formal review.**
- 5. The applicant shall apply for easement vacation as a part of the final plat.**
- 6. The applicant shall complete a development agreement for all construction activities.**
- 7. The applicant shall provide a letter of credit for the improvements.**
- 8. The applicant shall provide the HOA agreement including information related to maintaining the plantings and storm water areas.**
- 9. The applicant shall obtain all necessary City, County, PCA and all other necessary permits prior to construction.**
- 10. The applicant shall pay for the park dedication fees.**
- 11. The applicant shall pay for all the expenses related to the review of the plats.**
- 12. The application shall be reviewed by the Parks Commission.**

All present voted aye. MOTION DECLARED CARRIED.

Motion by Gardella, second by Crespo, to recommend approval of a preliminary plat and rezoning from agricultural to rural residential for 2825 County Road 90, subject to the following conditions:

- 1. The applicant shall consider a conservation easement over portions of the dense tree cover on either plat.**
- 2. The applicant shall address comments and requirements of the water resources specialist.**

3. **The applicant shall address comments and requirements of the engineer.**
 4. **The applicant shall apply for an application with the watershed district and complete a formal review.**

 5. **The applicant shall apply for easement vacation as a part of the final plat.**
 6. **The applicant shall complete a development agreement for all construction activities.**
 7. **The applicant shall provide a letter of credit for the improvements.**
 8. **The applicant shall provide the HOA agreement including information related to maintaining the plantings and storm water areas.**
 9. **The applicant shall obtain all necessary City, County, PCA and all other necessary permits prior to construction.**
 10. **The applicant shall pay for the park dedication fees.**
 11. **The applicant shall pay for all the expenses related to the review of the plats.**
 12. **The application shall be reviewed by the Parks Commission.**
- All present voted aye. MOTION DECLARED CARRIED.**

6. PUBLIC HEARING. NORTHERN NATURAL GAS, 3850 COUNTY LINE ROAD (PID NO. 07-118-24-22-0006) AND 3810 COUNTY LINE ROAD (PID NO. 07-118-24-22-0002), REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT AN ABOVE-GROUND FACILITY FOR A NATURAL GAS PIPELINE.

Lorsung stated that the applicant is requesting a Conditional Use Permit to construct a “pig launcher,” which is an above-ground facility for monitoring pipes. She said the facility is subject to state and federal regulations. She added that applicant has said that the proposed pig launcher is not related to a larger pipeline project in the area.

Gardner asked where on the property the pig launcher would be located.

Lorsung responded that it would be near the church property.

Gardner asked if there would be any new access points along County Line Road.

Lorsung responded that there would be no new access points.

Phillips stated that he would like the facility to be screened from the road. He also asked if the facility would make noise.

Bill Moe, Northern Natural Gas, explained that the facility is an internal inspection tool. He stated that it was required by federal law to be put in place near the existing church. He stated that it would be white and would not make any noise, except while it was being constructed.

Spencer asked what type of a barrier was required around the facility.

Moe responded that a 6-foot, chain-link fence would surround the pig launcher.

The Commissioners requested that there be additional landscaping around the fence.

Moe responded that the landscaping could not interfere with the operation of the facility.

Spencer asked if the applicant would have any issues with a condition that required NNG to remove the facility if it was not in use.

Moe responded that if the pig launcher was not needed, NNG would not want the additional cost of maintaining it. He said that NNG would not be opposed to language requiring the removal of the facility if it wasn't in use.

Vose stated that NNG is of the opinion that the City's authority over the facility is somewhat limited. Vose stated that because Federal laws regulate safety and environmental impacts of the site, those issues are not within the City's authority. Vose explained that the City could review planning-related issues.

Moe stated NNG representative Bob Young would be available after the meeting to discuss the larger pipeline project in the area.

Public Hearing

Bill Weis, resident, stated that he is also a member of Life of Christ Church, which is adjacent to the proposed facility. He stated that he was concerned about how the facility might affect future expansion by the church. Weis added that he would like to see the facility screened from the road.

Lorsung explained that the applicant could not use trees as screening from the road because the trees would have to be placed in the right-of-way, which is not allowed.

Mr. Moe noted that NNG cannot plant trees over the pipeline.

Trent Braiedy, resident, expressed concerns about a vehicle hitting the pig launcher.

Lorsung stated that the launcher is about 35 feet away from the road.

Brenno, resident, asked if the City was amending an existing Conditional Use Permit or creating a new one.

Vose stated that it might make sense to create a new Conditional Use Permit for the pig launcher.

Spencer closed the public hearing.

Gardella and Phillips both expressed a need for more screening.

Leland Mann, NNG, stated that the location of the pipelines made it difficult for NNG to plant many trees.

Phillips suggested using a wooden fence in front of the chain-link fence.

Motion by Phillips, second by Gardner, to recommend approval of the Conditional Use Permit to construct an above-ground facility for a natural gas pipeline, subject to the following conditions:

- 1. The applicant shall provide to the city a maintenance schedule for the facility.**
- 2. The applicant shall provide to the city the color of the facility.**

3. **The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any future construction or activity on the land.**
 4. **The applicant shall pay all necessary fees for the review of this application.**
 5. **The Conditional Use Permit shall be reviewed annually.**

 6. **The applicant shall remove the facility if it becomes obsolete.**
 7. **The applicant shall screen the facility, using wooden screening or conifers on the south and west sides and conifers on the north and east sides.**
- All present voted aye. MOTION DECLARED CARRIED.**

Spencer revoked the previous motion to end the meeting at 9:30. He called for a recess at 9:27 pm.

Spencer reconvened the Independence Planning Commission meeting at 9:32 p.m.

7. PUBLIC HEARING. REVIEW THE PROPOSED CITY OF INDEPENDENCE COMPREHENSIVE PLAN FOR 2030.

Hagen stated that the Comp Plan draft before the Commission had been reviewed by the Comp Plan Task Force and did incorporate its comments. He stated that the revised Comp Plan is similar to the current Comp Plan, with about one-third of the city zoned rural residential (1 per 5) and the other two-thirds zoned rural reserve (1 per 40). Hagen explained that the new Comp Plan moves the line separating the two zoning districts about one-fourth of a mile west.

Hagen stated that after numerous meetings held over the past year, basic themes arose from residents' comments. He stated that residents like the rural atmosphere of Independence. He added that many residents would like to subdivide their properties to alleviate economic concerns.

Hagen stated that the new Comp Plan includes an urban residential district north of Maple Plain. He explained that the district would be six to 15 housing units per acre and would give residents more housing opportunities. He added that sewer and water services would probably be provide through the City of Maple Plain.

Lorsung noted that the new Comp Plan needed to include a definition for the urban residential district.

Spencer stated that on some of the maps in the Comp Plan, Lake Irene was mislabeled Lake Renee.

Gardella stated that the urban residential district went further north than he thought it would.

Hagen responded that the district is about 180 acres, of which 110 is usable for development.

Crespo asked how Hagen arrived at those 180 acres for the urban residential district.

Hagen responded that he didn't receive any indication as to what size the district should be. He stated that the issue was worth further discussion.

Crespo asked if the urban residential district would allow for multi-family housing.

Lorsung responded that a development with 15 units per acre would be a vertical building that would be much different than anything currently in Independence.

Gardella stated that the urban residential district seemed out of character with the rest of the City.

Lorsung stated that if the Comp Plan includes an urban residential district, it will also need to include a sewer staging plan for the district.

Spencer asked why the urban residential district was included in the Comp Plan.

Hagen responded that it would increase the number of housing options available to residents, especially seniors who would like to stay in the community.

Crespo asked if the district was being added to help meet the affordable housing goal discussed in the Comp Plan.

Hagen responded that the urban residential district would support that goal. He added that a sewer staging plan is already included in the Comp Plan on page 55.

Lorsung stated that the chart on page 55 was not a sewer staging plan.

Hagen responded that the staging plan in the Comp Plan would allow for more flexibility in where development first occurs.

Public Hearing

Brenno, resident, stated that she had problems with inconsistencies in the Comp Plan. She asked if ag preserve status is allowed in the rural residential area.

Lorsung also asked if the ag preserve property needed to be guided or just zoned as 1 lot per 40 acres in order to receive a tax benefit. She suggested guiding the property in the eastern part of the City as rural residential, but keeping its zoning as rural reserve. She asked if doing this would keep the property eligible for the ag preserve program.

Vose stated that he would have to look into the legality of the issue.

Spencer asked why a current use, such as ag preserve, is used on the new Comp Plan zoning map as a future use.

Hagen responded that historically the City's position has been to accommodate any property owners who would like to keep their property zoned for 1 lot per 40 acres in order to qualify for the ag preserve program.

Lorsung suggested creating a chapter that discusses property owners' rights for reguiding or rezoning after their properties come out of the ag preserve program.

Brenno asked why a shoreland management plan is in the Comp Plan, when the City already has a Shoreland Ordinance.

Hagen responded that it was in the current Comp Plan.

Lorsung stated that the shoreland management should be considered a zoning matter and is not appropriate to include in the Comp Plan.

Brenno asked for a source for the cover type's map on page 28 and suggested the source be included in the map.

Hagen responded that the source for the map was Hennepin County.

Brenno stated that on page 44, there is an inconsistency with rural view lots.

Hagen responded that the Comp Plan should read 1 lot per 40 acres.

Lorsung stated that the Comp Plan should also include a statement that a rural residential lot needs to be 2.5 buildable acres or have two septic sites.

Brenno stated that the policy for a master plan for the urban commercial district, written on page 46, wasn't being adhered to with regards to the Ryan Companies application.

Brenno stated that the goal to create internal trail systems, on page 47, is nice, but she doesn't think it will work. She added that she doesn't think the City is in a position to be able to maintain a system of trails.

Brenno stated that the first statement on page 48, under Public Safety Policies, was never discussed by the Task Force.

Hagen explained that the language in the Public Safety Policies section had been changed because of written comments that had been received.

Spencer suggested removing the first statement and replacing it with "The City will maintain adequate police protection."

Brenno stated that on page 51, number 12, is incorrect because outlots are currently prohibited.

Spencer responded that the word "outlots" should be "outlets."

Brenno suggested that on page 51, number 18 should be eliminated because it is redundant with number 16.

Spencer suggested combining the two.

Brenno stated that the table on page 55 is confusing.

Lorsung responded that the Met Council requires that table be included.

Brenno suggested creating a paragraph that would accompany the table and explain what it is for.

Lorsung stated that on page 59 the new commercial district, urban commercial, needed to be added. She noted that the land use designations in the written part of the Comp Plan and on the land use map don't match. Lorsung stated that the Comp Plan would need to include a chapter on sewer if the City is going to be introducing an urban service area.

James Wehmann, resident, stated that there are already too many homes and too few buyers. He expressed a concern that if more lots and homes are built, it would further decrease the property values of existing homes. He also suggested changing the zoning to one lot per 10 acres.

Spencer responded that the Task Force had already discussed that option.

Thomas Janas, resident, stated that by allowing only large lots, the City was becoming unaffordable for people ages 18 to 34. He added that only allowing the eastern third of the City would create residents who wouldn't want for the other two thirds of the City to ever develop. Janas stated that there are areas of higher density throughout the City, not just on the eastern third.

John Zeglin, resident, stated that because the City is making plans for 22 years in the future, it should consider what property taxes will be like in 22 years. He expressed a concern that property taxes would be too high for most people to be able to afford to live in the City. He added that the current draft Comp Plan does not reflect the consensus of Independence residents.

Harry Pool, resident, stated that the current Comp Plan draft was not created by residents, but by consultants. He stated that Greenfield and Minnetrista are changing their densities, but Independence is not. Pool added that seniors who own land in the City would like have the right to develop it. He stated that the City could be facing a lawsuit over the new Comp Plan.

Hagen explained that the Met Council plan for Independence is consistent with the current draft of the Comp Plan. He stated that cities must conform to Met Council guidelines and must receive final approval of their Comp Plans from the Met Council. He stated that the Met Council won't allow for a large expansion of the number of lots. Hagen added that State law required the City to comply with the Met Council's plans. He stated that Met Council would not approve a plan to rezone the entire city one lot per 10 acres.

Hagen stated that if the Council doesn't find the City's Comp Plan in compliance, the City could be taken to court.

Spencer suggested continuing the public hearing to the Nov. 10 meeting and discussing the urban commercial district.

Hagen explained that the new zoning district could have a range of different commercial uses.

Spencer asked if Hagen thought the Met Council would approve the district.

Hagen responded that he was not sure.

Brenno added that at a previous meeting, a Met Council representative was also unsure if the district would pass.

Vose discussed the scope of the Met Council's authority. He stated that the Met Council can't simply dictate what cities can and cannot do. He added that the Met Council does the planning of its systems and its concern is with how a city's plan would affect the Met Council's system plans.

Gardella asked for an update on the court case between the Met Council and the City of Lake Elmo.

Vose responded that the Met Council won the case and Lake Elmo had to modify its Comp Plan. He added that the Lake Elmo case was about a particular area in the City and a particular Met Council project, which is different than what Independence is currently discussing.

Barb Janas, resident, stated that a Met Council representative told her at one of the Comp Plan meetings that the Met Council wants to preserve a large part of the City until it is rezoned three lots per one acre and the entire area can be sewered. She added that the Met Council wants to put a wastewater treatment plan in the western part of the City.

Motion by Gardella, second by Phillips, to continue the public hearing to the Nov. 10, 2008 Planning Commission meeting. All present voted aye. MOTION DECLARED CARRIED.

8. PUBLIC HEARING. RYAN COMPANIES, ACE PROPERTIES LLC, ERVIN & BRIDGET SCHOENBORN, 9560 U.S. HIGHWAY 12 (PID NO. 07-118-24-33-0005) AND 9414 U.S. HIGHWAY 12 (PID NO. 07-118-24-33-0001), REQUEST FOR A COMPREHENSIVE PLAN AMENDMENT, RE-GUIDING FROM AGRICULTURAL TO COMMERCIAL.

Lorsung stated that the applicant is requesting a Comp Plan amendment to reguide 23 acres to commercial industrial. She explained that the parcel owned by the church is not part of the request. She said the question the Commission needed to answer was whether or not it would like to see commercial in that area. She stated that a request for comments was already sent to other communities and that a reguiding would require four affirmative votes from the Council.

Spencer asked if the area they Commission was discussing was only 23 acres and not the entire urban commercial district proposed in the new Comp Plan.

Lorsung responded that the applicant was only requesting the 23 acres north of Highway 12.

Crespo asked how much tax revenue would be created from a development on that site.

Spencer stated that the City is still negotiating tax sharing with the City of Delano.

Tony Barranco, Ryan Companies, stated that his company currently has two parcels under contract. He stated that similar development in other cities have created \$300,000 in property taxes, of which the City would receive about 30 percent, or \$100,000.

Vose stated that those numbers are consistent with other developments he's seen go in other cities.

Public Hearing

Paul Lohmenn, an attorney speaking on behalf of Colleen Demarais, stated that if the area is reguided, Demarais would like for her property to be reguided as well.

Brenno stated that she is opposed to the development. She said that the increased traffic, light pollution and noise would extend to the rest of the City. She expressed a concern that Ryan Companies was circumventing the Comp Plan process by trying to amend the old Comp Plan instead of helping develop the new Comp Plan. She also stated that the concessions the City might have to make to the City of Delano would mitigate any benefit the project might have.

Mike Zeglin, resident, said that the City should have more businesses in it. He stated that the project would bring jobs into the City.

Ruth Clark, resident, expressed a concern that the proposed rezoning would harm small businesses in Delano. She suggested putting this type of development on the east side of the City, where there is higher density.

Jean Peterson, resident, stated that she is against the proposal.

Ed Pluth, resident, stated that he is opposed to the proposal. He stated that traffic in the area is a major concern. He also stated that the project could harm Delano businesses and create more costs for the City.

Barranco stated that Ryan Companies would welcome the Demarais property as part of the proposal. He stated that Ryan Companies could not find any suitable parcels in the east side of the City. He added that there would not be a grocery store in the project. Barranco stated that larger retailers often create an area where smaller businesses are able to thrive. He added the Met Council seemed supportive of the project as long as a development between Independence and Delano could be created and the City complied with the rest of Met Council's plans. He added that the developer would be spending about \$1 million to improve the infrastructure in the area.

Spencer asked why Ryan Companies couldn't wait until the new Comp Plan is approved.

Barranco responded that it would delay the building process for the project. He added that traffic studies and other studies require time to prepare.

Dale VanderLinden, Delano resident, stated that he would want grocery in the project. He added that Independence should be adding commercial in the east/central area of the City. He suggested that the City add sewer and water in that area for developments.

Spencer closed the public hearing.

Spencer explained that the Commission would be charged with recommending approval or denial of the Comp Plan amendment. He stated that the Commission should not be discussing any particular development.

Crespo stated that he is opposed to the amendment for three reasons. First, he stated that people move to Independence to live near agriculture, not commercial. Second, he said that the increased tax revenues will probably not make a difference in residents' property taxes. He noted that Eden Prairie's property tax

rate isn't much different than the rate in Independence. Third, Crespo state that the timing of the request wasn't compatible with the current Comp Plan process.

Phillips said that he is also against amending the Comp Plan. He stated that he is concerned about entering into an agreement with the City of Delano.

Gardella stated that it is unwise not to look at how surrounding areas will be affected by the development. He stated that those affects had not been studied.

Motion by Crespo, second by Phillips, to recommend denial of the Comp Plan amendment. Ayes: Crespo, Gardella, Gardner, Phillips. Abstention: Spencer. MOTION DECLARED CARRIED.

9. OPEN/MISC.

Nothing was added to the agenda.

10. ADJOURN.

Motion by Gardella, second by Phillips, to adjourn the Planning Commission meeting at 11:20 p.m. All present voted aye. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni, Recording Secretary