

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, JANUARY 12, 2015 – 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 Phillips at 7:30 p.m.

2. ROLL CALL

PRESENT: Chair Phillips and Commissioners Gardner, Olson and Thompson
STAFF: City Planner Kaltsas, Councilmember Fisher, and Deputy Clerk Nelson
ABSENT: Commissioner Palmquist
VISITORS: Lynn Betts, Jan Gardner, Lance Gyllenblad, Dawn Mooney, Chris Cady, Brenda & Denny Geffre, Lynda Franklin, Becky & Matt Bunkers, Ron Maas, Justin Vucinovich, Heather Lutz, John Smith, Carla Smith, Sara Collison, and Brad Spencer

3. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF DECEMBER 8, 2014

Motion by Gardner, seconded by Thompson, to approve the December 8, 2014 Planning Commission minutes. Ayes: Phillips, Gardner, and Thompson. Nays: None. Absent: Palmquist. Abstain: Olson. MOTION DECLARED CARRIED.

4. PUBLIC HEARING: Justin Vucinovich (Applicant) requests that the City consider the following actions for the property located at 5960 Pagenkopf Road, Independence, MN (PID No. 14-118-24-43-0002):

- a. Rezoning from Ag-Agriculture to RR-Rural Residential.
- b. Preliminary Plat to allow a (3) three lot subdivision.
- c. Final Plat to allow a (3) three lot subdivision.

Kaltsas described the property and the request. It is zoned agriculture, but is guided by the Comp Plan as Rural Residential. The property is approximately 20 acres and has an existing home with multiple detached structures. There are substantial wetlands on the east side of the property as well as wetland on the west side of the property. The proposal is to subdivide the 20 acres into three lots.

Kaltsas stated the City requires a minimum of 7.6 acres to subdivide in a rural residential zone. For this property, the City would allow up to a 4-lot subdivision. However, the lot area, buildable upland, lot frontage, and lot depth would be reviewed. Buildable land must be 2.5 acres, allow for two onsite septic systems, and be contiguous and not separated.

Kaltsas stated the applicant's most recent survey lists:

- Lot 1 with 7.25 acres, with 6 acres of upland
- Lot 2 with 5.02 acres, with 3.08 acres of upland
- Lot 3 with 6.93 acres, with 2.5 acres of upland

Kaltsas stated the City will require wetland delineation but would be done after the winter. He stated the lots to depth ratios are 1:1 and 1:4.

Kaltsas explained the City could grant a waiver to permit lots that do have reduced minimum road frontage if additional criteria are met. The proposal is for a common drive, which is allowed for up to three lots. If granted, he stated there are five standards that need to be met. Kaltsas stated a public street might not service many, if any more lots, so there would be no need for an extension of this road. Road locations would also be limited due to the wetlands. The applicant would need to supply covenants, which assigns maintenance responsibility for the parcels granted access. He explained that the proposal is for a 30' wide easement access that would run along the south property line of lot 1 off Pagenkopf and then north to access lots 2 and 3. This would be accessed by the current driveway.

Kaltsas explained the proposed development does not trigger the City's stormwater management because there is not enough of an increase in new impervious surface with construction of a private driveway. Pioneer Sarah Creek Watershed district has been given this application; however, they have not yet acted on it. Stormwater management would be for new improvements. He stated a gravel driveway could possibly require some best practices stormwater procedures. A grading permit would be required for each lot.

Kaltsas stated a park dedication is required: Lot 1 – no fee for existing lot, Lot 2 and 3 would pay \$4250 each, based on the acreage, for a total of \$8500.

Kaltsas stated the City has not received any other comments from the public. The City is seeking recommendations from the Planning Commission. He noted the applicant would be required to submit a final plat, developer's agreement, covenants, and any other required documents to the City.

Olson inquired about the wetland area as seen in the photos. Kaltsas described the noted septic areas and wetlands. He stated septic borings were completed. The Commissioners all discussed the layout of the land. Kaltsas stated the engineer's survey, is believed to be slightly off on the wetland location, so the City is using the water resources consultant recommendations. He stated there is a clear transition where the field is farmed and not farmed. They discussed that there is plenty of room for improvements on the property. Kaltsas stated wetland delineation would be a requirement with the final plat.

Gardner inquired about driveway access off Pagenkopf through the neighbor's property. Kaltsas stated he could not find records of an easement access. The city also inquired with the neighbors regarding access to the property, but nothing is documented about the most western access on Pagenkopf. Gardner suggested shifting property lines to include the road access.

Public Hearing Open

Lynn Betts, 6050 Pagenkopf Road, stated she is a neighboring property across from Becker Road. She has no problem with these plans. She stated last summer was a wet year and this is not normal. She stated last summer's rainfall could have affected some of the reports.

Motion by Gardner, seconded by Olson, to close the Public Hearing.

Public Hearing Closed

Gardner stated the plan is for fewer lots than what would be allowed, at four lots. He feels it is a sensible use of the land. Thompson agreed. He liked the idea of cleaning up any easement issues. Kaltsas stated we could add this as a condition, to verify or execute a driveway easement.

Gardner suggested changing the condition for item 2F, to state a condition of the frontage waiver is that the HOA needs to address.

Phillips clarified this request is for a final plat, but we can only do a preliminary plat, as there is no wetland delineation.

Gardner inquired about a building permit, which can be done for Lot 1 right now, but not for Lots 2 and 3.

The Commissioners discussed the wetland delineation, which is required for a final plan. Kaltsas stated the City's water resources consultant believes the engineers recording are within 10 to 15 of the designated area. He stated field delineation would need to be completed in the spring.

Motion by Gardner, seconded by Thompson, to recommend approval to rezone the property 5960 Pagenkopf Road, Independence, MN (PID No. 14-118-24-43-0002), and the preliminary plat to allow a three lot subdivision with the recommended changes to item 2 F and the addition of item 6 regarding clarifying an easement. Ayes: Phillips, Gardner, Olson, and Thompson. Nays: None. Absent: Palmquist. MOTION DECLARED CARRIED.

The City Council will review this on Tuesday January 13th.

5. PUBLIC HEARING: Nick Geffre and Brenda and Denny Geffre (Applicants/Owners) request that the City consider the following actions for the property located at 5860 Drake Drive, Independence, MN (PID No. 26-118-24-42-0004):

- a. An Interim Use Permit to allow two (2) dwellings on the subject property for a period of three years.

Kaltsas described the lot, zoning, and acreage. He explained the request, which is a request to continue to rent the home in the back of this property as it has been done for many years. The property has a principle home and a secondary structure that is a manufactured home, originally brought to the properties in the early 1980's. This back home was initially used as a "mother-in-laws" home for a previous owner's mother. The understanding was that once the second home is no longer needed, this home would be removed. However, the City has no recorded documentation of this agreement.

Kaltsas explained the City's zoning ordinance does not allow a second rental home on a property to be rented to anyone other than family with or without a Conditional Use Permit. He stated when the property was listed for sale, the City was notified that there were renters in both homes on the property under the previous owners. The new owners were notified the home in the back of the property could not be rented if the principal structure was occupied.

Kaltsas stated the City does allow guest homes, but guest homes are defined as such: A separate building constructed on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal building or their non-paying guests, and consisting only of one or more sleeping rooms with or without bathrooms. He explained this property has a home in the back that is a fully livable structure with a kitchen and bathroom. The new owners are requesting an Interim Use Permit to continue to rent the back home and in time renovate or replace the primary home in the front. The current tenants in the back home plan to be there no more than 3 years and after that time they plan to move. An IUP allows use outside of what is allowed in a zoning district. Interim Use Permit criteria states:

1. The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.
2. The date or event that will terminate the use can be identified with certainty.
3. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
4. The user agrees to any conditions that the city council deems appropriate for allowing the use.
5. The use meets the standards set forth in subsection 520.11 governing conditional use permits.

Kaltsas explained a date of certainty or ending of an IUP are required. In this case, the expiration would be 12/31/17. This would include if a property was sold or if tenants moved out, as it does not transfer on to a new owner or tenant.

Kaltsas stated other conditions could be removal of the second driveway for the home in the back; so the access to the second home can only be accessed by the primary home's driveway. He stated another thing that could be required would be to remove the kitchen from the home in the back making it a guesthouse. These things could help prevent anyone in the future from using the home as a rental home.

Kaltsas stated residents have express concern about this, and it was discussed several months ago at a City Council meeting during an open forum. The City Council stated they would not take any action.

Thompson questioned if the property had been sold in the past with a second home. Kaltsas stated this is the second sale of the home since the two homes have been in place. He stated roughly three years ago, the previous owner purchased the property as an investment property and rented out both homes. The applicants purchased it last fall with the intention of having their son live in the front home and rent out the back home.

Public Hearing Open

Denny and Brenda Geffre, owner and applicant 5860 Drake Drive, stated they purchased the property with their son, with the intention of having him live in the front home and rent the back home. However, they discovered this was not allowed by the City. He stated they found that the front home is not worth much and they plan to tear it down. The tenants in the back home have lived there for eight years, and they are interested in living there for three more years. One of the tenants has a health issue.

Denny Geffre stated they are reviewing their option and may not occupy the front home. They have been working at cleaning up the property and doing some landscaping. He stated they have a three-year plan for the property which includes working on the curb appeal with cleaning it up, painting the front home, landscaping, cleaning up trash, and eventually tearing down the front home when the tenants move out of the back home. He stated they would plan to move the second driveway, so it is no longer on the property line. The three years would give them some financial flexibility, justify the expense, and help in planning for a new home. Their son may occupy the front home while they work on the property.47:15

Thompson asked the applicant if the front home was in tear down condition, is your son still considering occupying it. Denny Geffre stated the foundation has some cracks, so it wouldn't be worth trying to fix up into a nice looking home. He stated the home is livable, but it is just a small one bedroom home.

Brenda Geffre explained the current renter's status and explained one of the renters has cancer. She stated her son planned to move into the front home, but has not yet done this because they wanted to abide by the City Code. At this point, they had their son move in with them and allowed the current renter to stay in the back home.

Matt Bunkers, 5888 Drake Drive, stated they live next door to this property, and he is in opposition of allowing this permit. He feels the request is to assist them financially and by approving this, it sets precedence for other rental properties. He stated the permit would better allow them to renovate and flip the home.

Bunkers stated the provisions he is in opposition to include:

- a. Expiring the term length being too long,
 - b. Expiring term should include listed for sales, or sold.
 - c. One or more of the current tenants moves out
- a. Bunkers discussed the driveway being five feet on his property line, so he would like the driveway and the mailbox removed before three years.

Gardner inquired how long he has lived next door. Bunkers stated five years, and at that time, there were renters in the back home, with original owners in the front home.

Ron Maas, 5925 Drake Drive, gave some history on the property. He stated the back home was brought to the property for the original owner's mother, and they had approval from the City. The home was supposed to be removed if the mother died or if she moved out. He explained when the road was redone 10 years ago; the City stated the back home needed to be removed. He stated he does not have a problem giving them a three-year permit, but there has to be an end date. He stated the home should have been removed 10 years ago, so it is time do something about it and make it compliant.

Maas stated the tenants in the back house have been great and they keep to themselves; however, last year the front house was rented as well and those tenants were awful.

Thompson asked the Geffres' if there was a lease for the tenants in the back home. Brenda Geffre has stated there was no lease, so it is month-to-month. She stated when they purchased the property they considered having their son live in the back home.

Motion by Thompson, seconded by Gardner, to close the Public Hearing.

Public Hearing Closed

Thompson asked about documentation and the history of the property. Kaltsas stated the City looked at the file, but documentation and the approval of the second house could not be found in the City Council minutes. He stated we could further look into this around the time the properties were assessed for the new road. Kaltsas stated the home initially was moved there in the early 1980's.

Thompson stated this is a difficult situation, and the property has had two new owners since the original agreement. The City allows you to occupy both homes if you are family and owners not allowed to rent either home. He is hesitant to approve. If the renters stay the front home should remain unoccupied.

Gardner asked about any other complaints. Kaltsas stated he was unaware of any other complaints, other than the people who spoke here. He stated WHPS has been contacted but he has not spoken to them yet.

Philips inquired about what was said at last fall's City Council meeting regarding this property. Kaltsas stated it was mostly in regards to the home selling and if the City needed to notify the new owners about the second home. The Bunkers brought their concerns to the City's attention. The purchase took place on September 3rd. Brenda Bunkers stated when they purchased the property; they knew it had been rented and that it was not in compliance. She stated she did not read the rules. Kaltsas stated upon a sale of a property a seller is obligated to disclose this to a buyer, if they ask. Thompson stated with a month-to-month renter, he feels three years is too long. Olson stated the long-term objective is to tear down the front home, but the delay is waiting until the current renters leave, as well as, an economic delay. Olson does not want to set precedence. Kaltsas stated there are some properties with two homes; however, it is not permitted. The City does not discover some of these until someone brings it to staff's attention.

The subdivision last month was for two homes on a property. Kaltsas stated the City has granted some CUP for guest homes. He stated this property is unique because the size of the lot, it has two full homes with driveways and mailboxes. It has been expanded from how the original use was intended. Phillips stated this use is simply not permitted. Gardner stated that is the problem with the guesthouses morphing into non-guest homes. He stated the options seem to be to tear down or do not occupy the front home. He commented about the driveway location onto the neighbor's property, but this is not the main issue.

Phillips stated the listed criteria in #1 and #5 are not a good fit. He stated that he does not feel they have the grounds to issue an interim use permit. Thompson questioned it fitting into zoning regulations. Kaltsas stated it is keeping within the residential nature of the zoning district. He stated item #5 refers to reasonable use and enjoyment of a property.

The Commissions felt this was done on purpose, but they discussed compromising to a shorter term. Phillips also thinks we need to address the neighbors' concerns with the driveway and mailbox. Thompson stated physical changes are not needed, rather the use of property needs to change. Currently, the property is compliant by having the front home vacant. Kaltsas stated if the IUP is denied we do not need to deal with the driveway issue. It then becomes a neighbor-to-neighbor issue. He stated if an approval is granted we would add conditions, such as correcting a driveway.

Phillips stated he was thinking a six-month IUP would be enough time for all parties to decide what they want to do. He sees issuing this is more out of an act of compassion.

Motion by Gardner, seconded by Olson, to recommend approval of an Interim Use Permit for up to 1 year.

Both Phillips and Thompson felt this is too long. The motion was then amended.

Amended Motion by Thompson, seconded by Gardner, to recommend approval of an Interim Use Permit with an expiration date of June 30, 2015 or if the property is sold, or if the current tenants of the back house move out.

The Commissioners discussed this would not include issues with the driveway or mailbox. Olson questioned about allowing the kitchen. Kaltsas stated it could be left there. The Commissioners discussed the stipulations, as written in the report, keeping an expiration date, ownership, and tenants, but not including additional items 1 and 2.

Ayes: Phillips, Gardner, Olson, and Thompson. Nays: None. Absent: Palmquist. MOTION DECLARED CARRIED.

The City Council will review the application on Tuesdays, January 13, 2015.

6. PUBLIC HEARING: A proposed text amendment to the City of Independence Ordinances as follows:

- b. Chapter 5, Section 540 – Zoning: Telecommunications Towers and Facilities; consideration to amend the number and square footage permitted for accessory buildings associated with a telecommunications tower.

Kaltsas explained this was presented at the last meeting. It was not noted on the agenda as a Public Hearing. He stated so this was brought back to this meeting. This is an amendment to the Ordinance for telecommunication towers in the City. The City wants to promote co-location on the towers. The City received several requests last year and the City's Ordinance does not allow multiple accessory buildings to be located on a property. The amendment would allow for multiple structures, so the providers equipment could be stored inside of a building.

Public Hearing Open

None.

Motion by Gardner, seconded by Thompson, to close the Public Hearing.

Public Hearing Closed

Gardner stated is what the Planning Commission had in mind.

Motion by Olson, seconded by Gardner, to recommend approval to amendment Chapter 5, Section 540 – Zoning: Telecommunications Towers and Facilities; consideration to amend the number and square footage permitted for accessory buildings associated with a telecommunications tower. Ayes: Phillips, Gardner, Olson, and Thompson. Nays: None. Absent: Palmquist. MOTION DECLARED CARRIED.

7. OPEN/MISC.

None

8. ADJOURN.

Motion by Olson, seconded by Gardner, to adjourn the meeting at 8:48 p.m. Ayes: Phillips, Gardner, Olson, and Thompson. Nays: None. Absent: Palmquist. MOTION DECLARED CARRIED.

Jolene M Nelson, Recording Secretary