

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, MARCH 11, 2013 – 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, Palmquist, Olson, and Thompson
STAFF: City Planner Kaltsas, Administrative Asst. Nelson, and Councilor Spencer
ABSENT: Commissioner Gardner
VISITORS: Dudley Bartholow, Bente Bartholow Larsen, Doug Heyvaert,

3. OATH OF OFFICE – ROBERT GARDNER

Gardner was absent. Item tabled until next meeting.

4. SELECTION OF CHAIR AND CO-CHAIR FOR THE COMMISSION 2013

Motion by Palmquist, seconded by Olson, to nominate Phillips to continue as Chairman. Accepted by Phillips.

Motion by Palmquist, seconded by Thompson, to nominate Olson to continue as Co-Chair. Accepted by Olson.

Ayes: Phillips, Palmquist, Olson, Thompson. Nays: None. Absent: Gardner. MOTION DECLARED CARRIED. Offices will stay as assigned.

5. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF JANUARY 14, 2013

Motion by Olson, seconded by Palmquist, to approve the January 14, 2013 Planning Commission minutes with changes. Ayes: Phillips, Palmquist, Olson, Thompson. Nays: None. Absent: Gardner. MOTION DECLARED CARRIED.

6. PUBLIC HEARING. Dudley Bartholow, Owner of the property located at 4804 Perkinsville Road, (PID # 24-118-24-14-0012) requesting:

- a) A Conditional Use Permit (CUP) to allow for commercial storage in the existing farm building located on the property.

Kaltsas explained the applicant was requesting a Conditional Use Permit to allow indoor commercial storage in an existing farm building. He described the property's location, size, and the long and narrow layout. The property also borders the City of Medina. He stated the property is zoned agriculture and guided rural residential. In this district, commercial indoor storage is only allowed with a Conditional Use Permit and only in existing accessory structures.

Plus, the ordinance states it must meet the following criteria.

1. the applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit,
2. the building is located on property that is owner-occupied; and
3. the applicant establishes that the structure cannot be economically used for agricultural purposes.

Kaltsas explained the home on this property was donated to the City and was used for emergency services exercises. The Fire Department burned down the home, and the owner will be rebuilding a new home on the property in the spring. So, the property will be owner occupied.

Kaltsas explained the location of the previous home on the property and that the property shares a driveway with a neighboring property. He stated the accessory structure is set in front near the road with its own driveway.

Kaltsas stated the accessory structure was built in the 1970's and has been in continued use by the previous owner. It is no longer in used for agricultural purposes due to the size restraints of the property.

Kaltsas stated the criteria for granting a Conditional Use Permit have also been met. These criteria include: protecting and preserving the health, safety, and welfare and general ability of the surrounding properties. The accessory building has recently been renovated. The buildings location is somewhat screen by a wooded area on three sides.

Kaltsas stated there are two other properties on Perkinsville Road that also have a Conditional Use Permit.

Kaltsas stated the City is looking for recommendation for the approval of a Conditional Use Permit by the Planning Commission with the following conditions.

1. Any modifications to the structure or intensification of the use will be reviewed by the City and will be subject to all applicable standards and requirements.
2. The use of this building will need to conform to all applicable standards in the A- Agriculture zoning district.
3. The proposed building is not intended to be used for business purposes outside of the commercial indoor storage.
4. No signage shall be permitted on the property advertising the building.
5. There should be no outdoor storage permitted on the property.
6. The additional uses proposed should not create an increase (beyond that of the existing farm operations) in noise or offensive odors, fumes dust, or vibrations for the surrounding properties.
7. Hours of operation, specifically, the hours that the applicant schedules the drop-off and pick-up of boats and vehicles should be limited to between 9:00 am and 6:00pm, seven days a week and shall not unreasonably impact the use or enjoyment of the surrounding properties.

Kaltsas stated the owner of the property also met with neighbors and submitted to the City a petition, signed by neighbors, favoring the proposed use.

Open Public Hearing

Bartholow, the owner of the property, stated the previous owner operated his own business out of the building. The building has previously been used for commercial purposes. He stated the structure is 3,200 sq feet and is more than he needs. He stated he would like to rent out a portion of the building. The location provides easy access with little disturbance. The structures sidewall heights and ramp size would limit the size of vehicles that could access the building.

Olson asked if the hours of operation would cause an issue for some businesses. Kaltsas stated it could possibly, but abiding by the hours is more of an enforcement thing. Phillips stated if the neighbors had an issue they could bring it to the City's attention and Conditional Use Permits are reviewed annually.

Thompson asked if there were any currently a Conditional Use Permit on the property. Kaltsas explained the previous owner did not have a Conditional Use Permit. The previous owner operated a honey business, which is considered agricultural. And, the City was never made aware of the owner operating any business there.

Bartholow stated he was planning on listing all the City's conditions required for a Conditional Use Permit in all leases. He stated any received complaints would result in the termination of the lease.

Palmquist requested adding that all these conditions must be required in the lease as a condition of the Conditional Use Permit. Bartholow said he agreed, and he wants to be a good respectful neighbor.

Motion by Olson, second by Thompson to close the Public Hearing. Ayes: Phillips, Palmquist, Olson, and Thompson; Nays; None; Absent: Gardner. PUBLIC HEARING CLOSED.

Thompson questioned about any concerns regarding hazardous material leaking in to any wetlands. Phillips stated the building location is near the road and could quickly be mitigated. Kaltsas stated outdoor storage is prohibited and the structure has recently been renovated; which also offers some protection.

Phillips stated the property is technically not owner occupied now. Kaltsas stated a contingency could be added stating at the first annual review of the property would be owner occupied as the owners are planning on building this summer.

Kaltsas stated this use prohibits business operations use. It is only to be used for indoor storage.

Motion by Palmquist, seconded by Olson, to recommend approval for the request of a Conditional Use Permit to allow for commercial indoor storage in the existing farm building at 4804 Perkinsville Road, subject to the nine (9) conditions in the staff report along with the two (2) additional conditions:

- 1. Conditions of the CUP be added to any lease agreement for use of the building.**
- 2. Upon the first annual review of the CUP the owner occupied condition is met.**

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

The City Council will review this on March 19th.

7. PUBLIC HEARING. Doug Hayvaert, Owner of the property located at 860 Kuntz Drive (PID No. 28-118-24-34-0001), is requesting the following action from the City:

- a) A minor subdivision to permit a rural view lot to be subdivided from the subject property.

Kaltsas explained the properties locations and the current sizes of the properties. He stated the existing property has no structures and is comprised of agricultural land and tree coverage. The subdivision would create a second buildable lot on this property.

In the current condition the property is 43.66 acres and the after condition would make the North parcel 35.13 acres and the South parcel 8.53 acres.

Kaltsas stated the applicant is proposing to subdivide the property to create one (1) rural view lot. The City's ordinance allows for one (1) rural view lot for every 40 acres of land under the same ownership, creating a total of two (2) buildable lots. He stated the two lots meet the City's criteria for a rural view lot, 8.63 acres, frontage 325.57 LF, lot frontage to depth 1:4, and 6.5 acres of useable upland. The tree line creates a natural brake from the proposed South parcel. A wetland is located on the Western side of

the property and any structures built upon that lot would need to abide by all set-back requirement. The applicants submitted a report verifying there are two locations that accommodate an on-site septic system. Kaltsas stated that the Southern parcel would need to construct a new driveway off Kuntz Drive.

Kaltsas stated the newly created parcel would be required to pay a park dedication fee.

Kaltsas stated that Kuntz Drive is technically a cart-way, as it is only 33'. He explained it would be a good time for the City to take a 33' easement for a future Right-of-Way. He stated the lots on the West side of the road are much smaller and an easement would be more difficult to obtain.

Kaltsas stated the rural view lot meets all the City's criteria and the City has not received any comments regarding the subdivision. The City has outlined the criteria in the staff report.

Palmquist asked if the City envisions extending the road. Kaltsas stated currently there are no plans to connect the roads. This area is currently guided and zoned for agriculture and not rural residential.

Kaltsas explained during a subdivision process is the time to acquire an easement. He brought up the option to discuss to see if it is relevant to do now since the it lies West of the developing area.

Palmquist inquired about the width of the easement requested. Kaltsas explained the current road is 33' and the easement could be 33' on the South parcel to get to the standard 66' City roadway.

Open Public Hearing

Hayvaert, owner of the property, explained he always felt the tree line created a nice natural place to divide the lot. Phillips stated he agreed.

Motion by Olson, second by Palmquist to close the Public Hearing. Ayes: Phillips, Palmquist, Olson, and Thompson; Nays; None; Absent: Gardner. PUBLIC HEARING CLOSED.

Phillips stated he thought it was very straightforward except for the 33' easement. But, he stated he felt this was the time to do it. Thompson asked if there was space for a building in front of the wetland. Kaltsas stated they could not build there, so an easement would not have much effect on the applicant's building options.

The Commissioners all agreed it would be best to obtain the easement now.

Motion by Olson, seconded by Palmquist, to approve the subdivision request as outlined in the staff report with the addition of adding a 33' easement on the South lot.

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

Kaltsas stated City Council will review this item on March 19th.

8. PUBLIC HEARING. Proposed text amendments to the City of Independence Ordinances as follows:

- Chapter 5, Section 530, consideration to amend the total square footage permitted for detached agricultural storage building, barns, or other structures, accessory to an existing single-family dwelling.

- Chapter 5, Section 525 Land Use Districts, Consideration for adding a new land use district, Public/Semi-Public, as guided in the Comprehensive Plan.

Phillips requested one Public Hearing for both items.

Kaltsas explained both these items were discussed at the November meeting, but has been brought back with further details.

Kaltsas stated the City is looking for more consistency in the ordinance. The City ordinance lists ranges of allowable accessory structures depending upon the lot size. He stated because of this, the City has received several applications for Conditional Use Permits seeking relief from the ordinance.

Kaltsas stated the items discussed were to maintain a threshold for a minimum lot size with no limitation on the amount of accessory structures. He stated the consensus seemed to be 10 acres or more for this.

Kaltsas also stated one way to create consistency was to base allowable accessory structures on a flat percentage of a lot. He also reiterated that at the last meeting, it was discuss continuing treating rural residential and agricultural lots equally, rather than restricting them based on zoning. Kaltsas stated another way to look at it is to the percentage of a lots buildable area and excluding wetlands when considering allowable accessory structures.

The existing ordinance states:

- 1 acre lot = 43,560 sf. A 1,600 sf detached building would cover 3.7% of the total area.
- 2.49 acre lot = 108,464 sf. A 1,850 sf detached building would cover 1.7% of the total area.
- 2.5 acre lot = 108,900 sf. A 2,100 sf detached building would cover 1.9% of the total area.
- 4.99 acre lot = 217,364 sf. A 2,100 sf detached building would cover 1% of the total area.
- 5 acre lot = 217,800 sf. A 2,600 sf detached building would cover 1.2% of the total area.
- 9 acre lot = 392,040 sf. A 2,600 sf detached building would cover .66% of the total area.

Over 10 acres there is no requirements, maximum number or size limitations.

Kaltsas explained the percent of coverage is broken down for each bracket. The coverage ability percentage is significantly different for the one (1) acre versus the nine (9) acres, creating an inconsistency. One recommendation is to work on a percentage basis and 2% seemed to be a good consistent number as discussed. Another thing previously discussed was to establish a minimum lot size and maximum structure size for the smaller lots. A straight percentage made it unreasonable for the smaller lots. Another option was to apply the 2% to entire lot or just the buildable area. The maximum lot size was also discussed.

Kaltsas pointed out aerial photo examples for perspective. He discussed the impervious coverage and non-buildable wetland area in the examples.

Kaltsas stated what is being proposed is based upon the summary of what was discussed in November's meeting.

1. Establishes a minimum accessory building size for all lots regardless of size. Two and one-half acres appears to be the "break even" point where 2% percent becomes more advantageous than the base allotment of 1,850 square feet.
2. Directly relates the allowable building size to a consistent percentage of lot area. This establishes an equitable method for determining accessory structure size and eliminates the existing "range of lot area" penalty.
3. Provides for a minimum allowable accessory structure size so that no lot in the City will have less available accessory structure limitations after adoption of the proposed text amendment.
4. Maintains that lots greater than 10 acres will continue to have no limitations.
5. Requires that the percentage of lot area is based on buildable upland.

6. Establishes a maximum impervious surface coverage provision of 25% that cannot be exceeded regardless of lot size. This provision could potentially limit the allowable accessory structure size for small lots.

Currently, the City has an impervious surface provision for lots only covered under the Shoreland Overlay. 1000 LF from the ordinary high water level from any of our lakes or 300 LF from any identified streams or creeks. Properties within these areas are limited in the total impervious surface to 25%. He explained most of the smaller lots; which are near the lakes, will be throttled back from building anything larger than 1,850 because they will be covered under the Shoreland Overlay.

Proposed Provision

<u>Lot Area</u>	<u>Maximum Ace. Structure</u>	<u>Percentage of Coverage</u>
1 acre lot = 43,560 sf.	1,850 sf (1 ,600)	4.2% of the total area (3.7%)
2.49 acre lot = 108,464 sf.	2,169 sf (1 ,850)	2% of the total area (1.7%)
2.5 acre lot = 108,900 sf.	2,178 sf (2,100)	2% of the total area (1.9%)
4.99 acre lot= 217,364 sf.	4,347 sf (2, 1 00)	2% of the total area (1.0%)
5 acre lot = 21 7,800 sf.	4,356 sf (2,600)	2% of the total area (1.2%)
9 acre lot = 392,040 sf.	7,840 sf (2,600)	2% of the total area (.66%)

The discussion comes down to:

- Is the City are happy with these numbers?
- Does the City put a restriction on impervious surface?
- Does the City include all land or just buildable land?

Phillips stated they would discuss now and then vote on both amendments at the end.

Palmquist and Phillips both agreed they like adding that only buildable land would be taken into consideration. Palmquist stated he also likes that 25% maximum surface building area. Plus, he likes the 2% restriction number. He stated his only concern is restricting height especially on the smaller properties.

Phillips also agreed he feels the height should be taken into consideration. Kaltsas stated currently the height restriction is limited to 35 ft or two and a half stories.

Thompson asked if the 25% impervious figure considers buildable land. Kaltsas stated it did not.

Thompson stated he would like to see 25% impervious maximum or the 2% restriction on buildable upland. He asked what the goal of this would be.

Kaltsas stated the upland provision only applies because of concerns for adequate room for an on-site septic system.

Palmquist asked if it is difficult for the City to determine wetland delineation. Kaltsas stated yes it can be.

Olson asked if wetlands within a lot could recalculate the lot classification. Kaltsas stated the City may want to change the ordinance to add an impervious surface provision for upland.

Kaltsas stated most City ordinances a more black and white. He said many are concerned with the number of structures.

Kaltsas stated the Conditional Use Permit applications tend to affect more of the five (5) to 10 acre lots.

Phillips inquired about the height restriction. Palmquist stated 35ft feels too tall for an accessory structure. He stated he would like to see a lower height limit on smaller lots. Olson stated his fear was roof pitches may start to change when limiting the height.

Phillips stated we should start to discuss the second change to Chapter 5, Section 525.

Kaltsas explained the discussion was in regards to adding a new land use district.

Kaltsas stated the Planning Commissioners directed staff to prepare draft language that would establish a zoning overlay district for Public / Semi-Public. Staff has prepared draft language that can be further considered by the Planning Commission. The proposed language would essentially establish a "place holder" that would tie together the City's zoning ordinance and Comprehensive Land Use Plan. The draft language was written so as to not conflict with underlying zoning or unknowingly restrict uses permitted on the underlying land. Given the nature of the land that is designated as Public/Semi-Public, it is recommended that the City consider including the word Recreational rather than Semi-Public in the name of the overlay district.

The current definition for Public/Semi Public is such:

This planned land use category includes institutional facilities used for religious, governmental, educational, social and health care purposes as well as land used for parks, recreation, open space, utilities and railway.

Kaltsas stated there are approximately 3,272 acres of land guided for Public/Semi-Public in the City.

Kaltsas stated three (3) scenarios were previously discussed and the Commission's idea was to address it now and look at why the Comprehensive Plan has this. Later the City can further define it with an ordinance limitation in more definition. He stated he tried to avoid ordinance stipulations at this time. An overlay district may work better to simply identify the spaces.

Staff offers the following draft language for consideration for discussion:

Section 5XX- Public/Recreational Overlay District

5XX.01. Public/Recreational Overlay District - purpose and authorization. The city recognizes the benefits to the public health, safety and general welfare of encouraging and protecting open space, natural resources, lakes, streams, recreational areas and public facilities. This overlay district is intended to identify and ultimately preserve selected open space, natural resources and recreational lands. This overlay zone will support the future preservation of parks, natural resources, recreational areas and public facilities. This overlay district directly corresponds to the City's Comprehensive Land Use Plan.

5XX.02. Designation of the public/recreational overlay district. The Public/Recreational Overlay District shall include all land designated as Public/Semi-Public on Figure 7 in the City of Independence official Comprehensive Land Use Plan. The Public/Recreational Overlay District shall be shown on the official zoning map of the City.

Kaltsas stated change the Public/Semi Public to Public/Recreational would help to eliminate issues where properties are private.

Kaltsas stated there is a statutory requirement stating the zoning ordinance and the comprehensive plan must be compatible. The guided land must have a classification or a corresponding element of the zoning ordinance. He stated adding meaningful provision on the land would add restricts for landowner and could limit their abilities. Further discussions can happen when the Comprehensive Plan is re-done in five years. This change now would simply address the inconsistencies in generalized language to and it's recognized there is land that needs to be preserved for certain purposes, as stated in the Comprehensive Plan.

Palmquist asked what ultimately preserved means. Kaltsas stated the goal is to preserve the land long term.

Phillips explained difficulties involved when the last Comprehensive Plan was written. He stated the ultimately preserve meaning is an issue. Palmquist stated the term was ambiguous and it needs definition.

Phillips stated he wants to make sure the City is not limiting any property owner's rights. Kaltsas stated the problem is this is a contradicting objective, defining it but not limiting rights. Phillips explained residents of Independence feel very strongly about this.

Councilor Spencer stated other Cities, like Eden Prairie, have run into situations like this; which have cause big issues.

Thompson asked if this issue was addressed when the Comprehensive Plan was developed. Phillips stated the only way the Comprehensive Plan went through was by using a 20 year old Park Plan. Spencer stated many things were further defined in the Plan, but at this time, we are simply looking for a placeholder for the land. He stated the City doesn't want it to be so specific that limits land use or changes property rights. Phillips agreed and feels this statement is beyond what is needed. Kaltsas stated the term ultimately preserved could be removed as it is simply a goal to preserve the space. Phillips and Palmquist both feel that ultimately preserved needs to be removed because it identifies the property.

Olson asked if the goal could be listed as a percentage of the City. Phillips stated at this time we don't need to be that specific. We just need a placeholder.

Kaltsas stated this change is intended to not be specific or limit anyone's rights.

Open Public Hearing

Bartholow stated when it comes to height for an accessory structure an RV would only need a 14-foot door.

Spencer stated the City needs to think about the total amount of buildable land when determining allowable accessory structures even on 10 acres or more.

Motion by Olson, second by Thompson to close the Public Hearing. Ayes: Phillips, Palmquist, Olson, and Thompson; Nays; None; Absent: Gardner. PUBLIC HEARING CLOSED.

Thompson stated regarding the square footage accessory structures he likes the impervious surface rule of 25% for all properties even those outside of the Shoreland Overlay. Therefore, in no instance shall the total impervious surface area of any lot exceed 25%

Palmquist stated he would like to add that for lots less than 2.5 acres there be a maximum height allowance of 25'. Olson stated there can be very tastefully construction done that exceeds this height. He stated a structure built into a hill could potentially exceed the height restriction. Kaltsas stated the average height is used to calculate height for a building built in a hill.

Phillips stated at least these changes are improving the ordinance. Palmquist stated these changes also eliminate ambiguity.

Spencer asked if a structure could exceed a height limit with a Conditional Permit or if that would require a Variance. Kaltsas stated actually a Variance would be needed.

Olson's concern with limiting heights is that it would incentivize flatter roofs. Spencer stated the City's maximum structure height of 35' is driven by the City's fire trucks abilities. Thompson questioned if it made sense to add in an exact height restriction now since there is already a standard restriction; which and the City hasn't had issues with this. Spencer added an option may be to add that the accessory structure cannot exceed the principle structure's height. Phillips agreed this would be a good idea. Palmquist stated the reason he would like to see a height restriction because he does not want to see an obtuse structures added.

Olson stated he also liked the option of the accessory structure's height not to exceed the principle structure's height.

Kaltsas stated the City does not define exactly how structure heights are measured, but some cities do define it.

Phillips stated he doesn't want to table this item and would like to come to a conclusion.

The Commissioners were debating about adding a height restriction and determining how that is measured.

Kaltsas stated another footnote could be added, with a definition, listing the maximum height of an accessory structure based on the principle structure. He stated he would work out on the exact language.

Spencer stated since this is so close to being resolved he would like to see these items brought back after Kaltsas has a chance to get the exact language and definitions down. Phillips agreed he would keep this items open until the next meeting.

It was the consensus of the Commissioners to keep this item open and table it until the next Planning Commission meeting.

Phillips stated if the term "ultimately preserve" is removed from the definition we could vote on this. Kaltsas stated he would remove it and have the City attorney review it before bring it to the City Council.

Motion by Thompson, seconded by Palmquist, to adopt the text in the staff report as written with the removal of the sentence starting with "This overlay district is intended to identify and ultimately preserve selected open space, natural resources and recreational lands.

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

9. OPEN/MISC.

None

10. ADJOURN

Motion by Olson, seconded by Thompson, to adjourn the meeting at 9:10 p.m. Ayes: Phillips, Palmquist, Olson, and Thompson; Nays: None. Absent: Gardner. MOTION DECLARED CARRIED.

Respectfully submitted

Jolene M Nelson, Recording Secretary