

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, APRIL 14, 2014 – 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, Palmquist, Olson, and Thompson
STAFF: City Planner Kaltsas and Administrative Assistant Nelson, City Councilor Fisher
ABSENT: None
VISITORS: Lynda Franklin, Jan Gardner, Steve Schmitz, Cody & Katie Johnson, Marty Howes, Kevin Farnum, Becky O'Brien, John Conlin, Ben Duran, Joe Slavec, and Grant Johnson

3. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF MARCH 10, 2014

Motion by Gardner, seconded by Palmquist, to approve the March 10, 2014 Planning Commission minutes. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

APPROVAL OF AGENDA

Thompson Requested adding a discussion about the process of relaying information. Item to be added under Open/Miscellaneous, Item No. 7.

Motion by Olson, seconded by Gardner, to approve the amended agenda with an addition to Item No 7. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

4. PUBLIC HEARING - AT&T/SAC WIRELESS (APPLICANT) AND DELANO UNITED METHODIST CHURCH (OWNER) REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 3310 COUNTY LINE ROAD (PID NO. 07-118-24-33-0004):

- a. A Conditional Use Permit to allow new antennas on the existing telecommunications tower.
- b. A Variance to allow more than one accessory building per tower.

Kaltsas explained the item and reminded the Commissioners of the (Conditional Use Permit) CUP approved in December for Verizon Wireless on this same tower. The site had an existing CUP, issued in 2001, but until recently did not have a cellular carrier/user until Verizon came along in 2013. Verizon added new antenna, equipment, and an equipment building.

Kaltsas stated this amendment would include adding a second cellular carrier with new antenna, a variance to allow more than one equipment structure, and site plan approval. He discussed that the Commissioners wanted to work on the City's Ordinance regarding equipment shelters, knowing this could be an issue in the future. The City's Ordinance is set-up to accommodate multiple users, but limits the building structures to one 300 square foot structure.

Kaltsas stated the property is zoned and guided Agricultural and is 6.89 acres. The property includes a church and parking lot. The existing tower is located in the southeast corner. He explained the property borders a lot that is guided in the Comp Plan as an Urban Commercial zoned lot.

Kaltsas explained an amendment to an existing CUP is essentially the same criteria as granting a new a CUP. He stated when issuing a CUP they take into consideration health, safety, welfare, and enjoyment and reasonable use of the surrounding properties and that the proposed use does not take away from that ability from the surrounding properties. He explained with site plan approval criteria needs to be met, setbacks, landscaping, screening, compatibility to the surrounding area, and lighting are all reviewed.

Kaltsas explain the applicant would utilize the existing driveway but add a 275 square foot equipment shelter to the north side of the tower. Verizon's building is to the south of the tower. Equipment and a generator would be stored in the building. He stated site improvement would include fencing and landscaping similar to Verizon's landscaping.

Kaltsas stated the Variance is needed due to the City's ordinance of allowing only one 300 square foot structure, which Verizon already built and uses. He stated the City would rather have the equipment stored inside a structure rather than left out in the open. The shelter would also minimize noise from the generator.

Kaltsas stated the landscape screening would be required. He stated the applicant's proposed plan includes removing one deciduous tree and adding five evergreen trees to the Northside of the structure. He explained when Verizon came in their site plan requirement included added 16 new evergreen shrubs and three deciduous trees. Kaltsas stated he would recommend requiring additional landscaping to increasing screening, possibly eight evergreens and three deciduous trees.

Kaltsas stated he did not see any site lighting noted on the plan. He stated if they intend on the lighting the structure, exterior lighting must be the style that only shines down.

Kaltsas stated the CUP Amendment meeting the City's Ordinance requirements. He stated the Commissioners' need to determine if the Variance meets the criteria for granting a Variance and if other conditions need to be made in terms of the site plan.

Kaltsas stated the city has not yet received any comments relating to this.

Thompson stated to fully understand what the site is going to look like you would need to take this drawing in conjunction with Verizon's drawing. Kaltsas agreed it does not show screening or landscaping to the south and east.

Palmquist inquired if the tower would allow more than two carriers and if there will be more requests in the future. Kaltsas stated we do not know nor do we know the max load allowable on the tower. He stated we required approval from a structural engineer that the tower can support two carriers. He stated the height of the antennas usefulness diminishes as height is reduced, but this is a tall tower. Palmquist

inquired if each user would need a shelter or if the shelters could be shared. Kaltsas stated in some instances they do share but most prefer not to share. Palmquist asked if any of the other towers in Independence have multiple carriers. Kaltsas stated the other towers are all single use with one structure or set of equipment. This is a nice site on a border between two communities. He stated if a third carrier was interested the site layout is getting tighter in regards to access and equipment location.

Public Hear Open

Ben Duran with FAC Wireless, representing AT&T, stated the lighting is depicted within their report. The lights would be motion censored near the building and shine downward. Kaltsas stated he will still require the cut sheet for the lighting.

Gardner asked Duran about the future of co-location and the possibility of three buildings on this site. Duran stated the industry is driven by customer need and that determines a company's next step. Carriers looked at the financial benefit and find what is going to give them the best return. Duran explained signals are bounced from tower to tower and more rural areas towers are located further apart. He stated this tower is tall, and it could accommodate a third carrier but the structural integrity would need to be reviewed. The tower could be upgraded if further support was needed for a third carrier.

Marty Howes, 433 Elm Ave E, Delano, stated he is on the Board of Trustees at the church. He stated he helps manage property and reports to the administrative Council of the Church. Most member of church consist of residents that live within eight miles of the church. He stated he attended the meeting in support of AT&T being added as a second carrier to the tower. He stated the Church feels the tower is a real blessing. It earns the church a steady rental income and allows them to give back to the community. The church asks that the variance and amendment is granted to AT&T.

Close Public Hearing

Motion by Gardner, seconded by Palmquist, to close the Public Hearing. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Phillips stated he wasn't surprised by this request. He urged staff to amend the City Ordinance before the City receives another tower application.

Motion by Olson, seconded by Palmquist, to approve as recommended the proposed Conditional Use Permit, the Variance, and Site Plan.

Gardner discussed the landscaping as noted in the recommendations, and requested adding the lighting compliance to the recommendations.

The Commissioners discussed a request to change this ordinance. Kaltsas stated the plan was to discuss it tonight, but was pushed back due to the applications we are discussing tonight. He stated it would be discussed soon at a future meeting.

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

5. PUBLIC HEARING - CODY AND KATHRYN JOHNSON (APPLICANTS) REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTION FOR THE PROPERTY LOCATED AT 4540 SHADY BEACH CIRCLE (PID NO. 02-118-24-21-0010):

- a. A Variance to allow a reduction in the required setback from the Ordinary High Water Level (OHWL) of Lake Sarah.

Kaltsas explained the request. The applicants are looking to construct on new home on this existing lot. The property is .68 acres, and is zoned and guided Rural Residential with a Shoreland Overlay. The property is considered a substandard lot of record. The lot is permitted, but there is a provision on setback requirements, only 60% of the requirement. He described the lots unique location including the lakeshore that wraps around two sides of the property. Kaltsas explained due to the lakeshore locations and the current setbacks greatly reduces the buildable area. He stated the maximum width is 25 feet on the southern side down to 15 feet on the northern side.

Kaltsas explained the applicant is proposing an 18-foot setback; which meet the overlay setback of 18 feet. The applicant is proposing a 92.5-foot setback from the lakeshore on the northside; which meets the overlay setback of 60 feet from the OHWL. The applicant is proposing a 34.1-foot setback from the lakeshore on the eastside; which does not meet the overlay setback of 60 feet from the OHWL, and this is why they need a variance of 25.9 feet.

Kaltsas explained the applicant discussed this with City staff and they were encouraged to locate and design a home that would best meet the setbacks with reasonable use. He explained the applicant submitted plans for a longer skinny home.

Kaltsas explained the applicant is proposing a 17.5% impervious surface coverage, and the maximum allowable coverage is 25%.

Kaltsas explained the criteria for granting a variance and this lot meets those. He stated the City's Ordinance cannot always accommodate all the unique characteristics of lakeshore properties.

Kaltsas stated the proposed home fits into the character of the surrounding neighborhood standard. He stated this lot was developed prior to the current setbacks. Some neighboring properties are set even closer to the lakeshore than the proposed home. He stated this home would not have a basement it would be built on pilings and connected to the City's Sewer.

No comments were received prior to the Public Hearing.

Olson asked the lake's high water level. Thompson pointed out FEMA's high water elevation of 981 feet. Kaltsas stated the home would be built up four feet from the grade.

Public Hearing Open

Cody Johnson, applicant – 11215 49th Ave N, Plymouth, MN 55442, stated the garage would be at an elevation of 983.5 feet and the living quarters would be at the 985 and 986 foot elevation. He stated in their research the highest watermark they could find was listed at 982.5 feet. The garage floor would be a foot higher than this highest watermark.

Johnson does not currently own the lot. He discovered over the last 10 years the lake drainage has changed.

Gardner confirmed with Johnson the purpose of the porch, which brings you down to the yard. Johnson wants to keep this porch or at least a portion of the porch for access and architectural appeal, even though he knows this brings him closer to the shore.

Joe Slavec, neighbor - 4520 Shady Beach Cir, stated at the water's highest level, it surrounded his home and even onto the driveway. He stated the reason the lake drains as well as it does, is because a few residents' help clean-out the outlet every year. He cautions what will happen when no one volunteers to clean the outlet.

Slavec felt that 34 feet from the shore was too close. He read an article dealing with variances from the Shoreland Master's Program.

Slavec stated he was opposed to this variance request for multiple reasons. He stated he felt this type of home did not fit in with the character of the neighborhood. He feared this would affect the waterfowl and wildlife along his northside lakeshore, and he has purposely kept this undeveloped.

Slavec stated this is the first he has heard about it and has not had a chance to talk with any of his neighbors about it. He stated he understands hardships and variances, but when looking to bend the rules for a new purchase of a property he is not in favor. His home was built in 1940, and he agrees that it never should have been built that close to the lake.

Thompson inquired what the set-back was to Slavec's home. Slavec guessed it was probably 40 feet.

Public Hearing Closed

Motion by Gardner, seconded by Thompson, to close the Public Hearing. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Thompson stated he drove through the neighborhood and noted there are similar style homes in the neighborhood. He stated there were other properties as close to the lake, as the proposed home, and some even closer to the lake. He appreciated the discussion of the elevation and feels that elevating the home is important. He stated the distance measurement is not as compelling as understanding the elevation. He inquired if insurance will be an issue for the applicant. Johnson stated the insurance is not a problem.

Gardner stated he feels that it is odd that they are saving the 18 foot setback on one side and they could shift the home over with a variance. Phillips agrees with this thought. The Commissioners agreed some lots only have a 10 foot side yard setbacks. Thompson stating shifting the structure may only gain a few inches in elevation.

Palmquist inquired if there have been many variances like this granted in the City. Kaltsas stated there have been roughly a dozen around the lakes since 2000. These unique properties variances were due to the properties being reasonably unusable without a variance.

Phillips inquired about offering input to make this acceptable. Kaltsas stated he works with the applicants to try to find the best solution. This may involve having a home custom designed. The applicants were looking to abide by as much setback requirements as possible and only needing one variance.

Kaltsas stated the neighboring property to the northwest is sold, but only has one lakeshore setback to meet and is a bit wider.

Phillips primary concern is the setback to the water. Olson inquired about shifting the home over giving a 10-foot setback for the sideyard. This would give a 40-foot setback from the lake. Phillips questioned if this is even a buildable lot. Olson stated there is a history of approving similar variances requests. Kaltsas stated it is a lot of record, so it is buildable. Thompson stated that this proposed home's location is not unusual to the homes on the lake.

Thompson stated there are new and better water management policies than what existed previously 50 years ago. The home would be connected to the City Sewer. Palmquist inquired if staff was concerned about impacts to Lake Sarah due to this proposed structure. Kaltsas stated they are pulling back further from the lake than required; which somewhat offsets the setback to the lakeshore on the other side. Kaltsas stated residential development around the lakes has impact to the lakes, but this maybe even less than what the agricultural impact was to the lakes.

Motion by Thompson, seconded by Olson, to approve as recommended a Variance to allow a reduction in the required setback from the Ordinary High Water Level (OHWL) of Lake Sarah the written in the report.

Thompson stated as long as staff is comfortable with the recommendations.

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

6. PUBLIC HEARING - RYAN NESLUND (APPLICANT) REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTION FOR THE PROPERTY LOCATED AT 2914 LINDGREN LANE (PID NO.13-118-24-24-0006):

- a. A Variance to allow a reduction in the required side yard setback.

Kaltsas described the request from the applicant for a side yard setback. The driveway access through an easement across the City owned property. The property does not have direct street frontage. The property is .36 acres and zoned Rural Residential. The property is a lot of record, so it is buildable.

Kaltsas stated the property does have an existing structure on it. He stated the applicant is proposing to tearing it down and build a new home. The proposed home would not have a basement. The lot supports a maximum home width of 27 feet. The applicant is seeking a variance from both side yard setbacks for a home width of 32 feet. He stated the applicant is requesting 15.8 foot side yard setbacks, for a 2.2 foot side yard setback from the northside and southside neighboring lots. He stated they are proposing to setback the home 60 feet as required from the lake. The proposal meets fits within the impervious surface regulations at 21%.

Kaltsas stated this lot is one of the narrowest lots in the neighborhood. The proposed home would be connected to the City sewer. If approved the applicant would need to enter into a formal easement request with the City for driveway access and sewer.

Thompson inquired if there is a formal easement to the property to the South. Kaltsas stated there is an easement and a slight amendment is needed to include his sewer, which was done last year. Kaltsas explained the owner to the North submitted a letter to the City supporting this variance.

Public Hearing Open

John Conlin, neighbor – 2906 Lindgren Lane, stated he welcomed the applicant's proposed home and supports the 2.2 foot variance side yard variances. He stated he was opposed to it for quite some time, but he has spoken to the applicant, and now Conlin feels this could be a nice change and addition to the neighborhood.

Motion by Gardner, seconded by Olson, to close the Public Hearing. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Public Hearing Closed

Palmquist inquired about the patio. Kaltsas stated it was at grade with no structure. Phillips inquired if the patio was impervious. Kaltsas state it was impervious, but the proposal does meet the impervious restrictions. Phillips stated he wants to avoid running water toward the lake.

Olson inquired about the grade of the home. Kaltsas stated the proposed home would be at an elevation of 961 feet and sit 2 feet above the high water mark.

Conlin stated the lots elevation is low, but with the lake's outlet clean out project this make help. Kaltsas stated they do verify elevation, but this is more of a building code issue.

Motion by Gardner, seconded by Olson, to approve the a Variance to allow a reduction in the required side yard setback for 2914 Lindgren Lane as written in the report.

Phillips stated he would like to see the patio be constructed as an impermeable surface. Palmquist questioned if there was anything in the ordinance for this request and is this fair. The Commissioners agreed with Palmquist.

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

6. OPEN/MISC.

The Commissioners discussed how they are receiving information and Commission Packets. They requested that staff email the information if it cannot be received at least 72 hours in advance. Kaltsas explained that often times he receives last minute requests. He stated he does his best to the final information in the Commissioners' Packets. He stated sometime the applicants do make last minute changes. Kaltsas, Nelson, and the Commissioners all agreed that an email could be sent to the Commissioners with all the information on the Friday before a meeting. The packets will still be given to the Police Department to be delivered, but at least the Commissioners will have a chance to review the information earlier electronically.

7. ADJOURN

Motion by Gardner, seconded by Phillips, to adjourn the meeting at 8:30 p.m. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully submitted

Jolene M Nelson, Recording Secretary