

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
MONDAY, MAY 13, 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, Gardner, Palmquist, Olson, and Thompson  
STAFF: City Planner Kaltsas, Administrative Asst. Nelson, and Councilor Spencer  
ABSENT: None  
VISITORS: Lynda Franklin, Dean Jablonsky, Jan Gardner, Todd & Laura Zaugg, Donald Baird, and Adam Young

3. OATH OF OFFICE – ROBERT GARDNER

Item tabled until next meeting.

4. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF MARCH 11, 2013

**Motion by Olson, seconded by Thompson, to approve the March 11, 2013 Planning Commission minutes with changes. Ayes: Phillips, Palmquist, Olson, Thompson, & Gardner. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

5. PUBLIC HEARING. A + D Properties, LLC (Applicant) and Donald Baird (Owner), 2076 County Road 90, (PID # 23-118-24-23-0001) requesting:

- A variance from the side yard setback to construct a commercial building closer than 100 feet from the Agriculture zoning district.

Kaltsas explained the applicant was seeking a set-back variance from the neighboring property to the South and site plan approval for the proposed commercial building. He stated they were also seeking a variance for the driveway to be installed without a curb and gutter.

Kaltsas explained the history of the property and that it was recently re-zoned Commercial Light Industrial. He stated the applicant's proposed new commercial building must first have staff approval the site plan. He explained that because they do not meet all the requirements and they are requesting variances for the setback and driveway it needs further review from the Planning Commission and City Council.

Kaltsas explained the property location, layout, and number of structures, including a non-conforming residential property. He stated the applicant is looking to construct a 6,000 square foot building on the

property; which has 10.23 acres, of that four (4) acres are upland. He stated the property has the required lineal frontage.

Kaltsas stated the existing septic system installed in 2010 would adequately serve the new commercial structure and the pre-existing residential structure. This new structure would be used as a fabrication shop and the lot as a place for leaf composting from the applicant's landscaping company. The proposed site plan addresses run-off concerns.

Kaltsas stated the setback from the property to the South is 100 feet due to that property still being zoned Agricultural; however, the property is guided commercial and will ultimately change to a commercially zoned property in the future. If it were zoned commercial, the setback would be 20 feet. The applicant's mother-in-law owns this property to the South, and the applicant will likely purchase the property in the future.

Kaltsas explained the variance is to allow a reduction of 79 foot for the side yard setback from the property to the South. The owner of the property to the South has submitted a letter of approval.

Kaltsas stated the Site Plan requirements are:

1. All new buildings must be constructed of approved materials. Approved materials are generally, brick, stone, decorative masonry block and similar materials.
2. Driveways and parking areas must be paved and defined by a concrete curb.
3. Adequate parking must be provided for all new uses.
4. New buildings and uses must be screened from adjacent residential zoning districts.
5. New buildings must meet minimum landscaping requirements. This includes one (1) 2.5 inch caliper shade tree or 6' ht. evergreen per 40 lineal feet of property line.

Kaltsas stated the site plans include approved building materials. He stated currently there are two (2) access points into the property now and with the addition of the new building the applicants are looking to add another driveway. They would then remove one of the current driveways to the North. The County has approved adding this new access; however, an access permit would still need to be granted. The City standard for a commercial driveway is required to be 25 feet wide and paved with 90 degree parking stalls. Applicant's proposed driveway is slightly more narrow without curb and gutter near the park area. The proposed parking space will have 3 parking stalls. He stated the property is naturally screened with trees from the adjacent properties; however, the staff recommends additional screening along County Road 90. He stated there would be a berm for the compost pile, which will provide additional screening.

Kaltsas stated more answers are needed in regards to the on-site storm water management permit. He stated the Watershed district and the applicants are still finalizing the details. He stated a grading and ground cover permit is required.

Kaltsas stated adding any additional new buildings would also require staff approval.

Palmquist asked about when a silt fence needs to be in place and what the terms of establishment are. Kaltsas stated the fence needs to be up through establishment. The grading and sediment erosion control permits are required. Gardner asked if seeding constitutes establishment and Kaltsas stated it does not.

Olson inquired about drainage of the compost pile. Kaltsas stated ultimately it all runs off to the wetland however, it would be infiltrated through the ground, and it would have a berm around it. He stated we are still looking into what is needed for a Stormwater Management Permit. The water resource consultant may have additional requirements. Kaltsas stated the City allows storage of organic materials. He stated the since the City Council will review this tomorrow conditions may be added to the approval.

## Public Hearing Open

Olson asked why they requested no curbing and gutter. Donald Baird, applicant, stated it makes snow removal difficult, and there is a lot of grass so there is no need to try to direct the run-off water.

Phillips asked Baird why his mother-in-law, the neighbor to the south, does not want to rezone now to commercial. Baird stated he was not exactly sure why, but he does not want to ruffle any feathers. He stated she is elderly and simply wants to keep things the same. Gardner stated if it were rezoned, there would be no need for a variance and no conditional use permit would be needed. Baird stated he would discuss it with her again as she already pays commercial property taxes.

Olson asked what kind of work would be done in the building. Baird stated they would sell steel production and fabrication. He stated they would also be doing welding.

Olson inquired about the parking size and Baird stated there would only be three (3) employees.

Phillips asked about access to the berm and Baird stated there is a driveway to access the area.

Dean Jablonsky, 6515 Hillstrom Road, if it is commercial or residential. Kaltsas explained it was Commercial Light Industrial. The home on the property is a legal non-conforming home.

Jablonsky asked when the any other commercial buildings would be built. Baird stated it would probably not happen for another five years. Jablonsky stated his main concern was screening from his home and from the park. He was ok with letting the other exception go through, but would like more screening. Baird stated he would be open to creating a berm and adding more trees to the front of the property.

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

Olson asked about berm requirement. Kaltsas stated there was not; however, he recommended a 3 to 1 slope.

Kaltsas stated the applicant has been working directly with the City building official. The building official has reviewed the plans and has no issues with them.

Thompson inquired about the curb and gutter. Kaltsas stated we do not have many examples of this in the City. It is more for directing storm water run-off; which makes the most sense on small commercial properties.

Phillips feels that we may need to review this ordinance to avoid issues in the future.

Palmquist inquired about the number of parking spots and if it was adequate if the property were sold. Kaltsas stated there is ample space along the North-side of the property to expand the parking lot if needed for roughly 10 more spots.

Kaltsas stated we should specify berm height and planting.

The Commissioners discussed adding a condition to install a six (6) foot berm to the Westside of the property along County Road 90. The berm would have a slope of 3 to 1 with six (6) foot high evergreen trees planted every 20 feet. This would be required upon the County's regulations approval.

Phillips requested adding a condition regarding the stormwater management permit as item number 11. Palmquist stated to add adhering to best management practices as it adheres to stormwater management as defined by the City and watershed.

**Motion by Palmquist, seconded by Thompson, to recommend approval of the requested action for the property at 2076 County Road 90, subject to the ten (10) conditions in the staff report along with an additional condition and clarification to item number 5:**

- **Item #5 – The berm on the West side of the property must be a minimum of six (6) feet per County site line requirements to the driveways. The berm is to be a 3 to 1 slope, planted with conifers 20 foot on center, meeting minimum requirements of the City ordinance, conifers six (6) foot or 2-1/2 inch of caliber size.**
- **Item #11 – Added Condition – Applicant should adhere to best management practice related to storm water management and any permit requirements as defined by the City and watershed district.**

Gardner asked if the Site Plan approval includes a variance for the driveway or if it should be a separate motion. Kaltsas stated it was included. Phillips added if approved the driveway would need to be at width of 25 feet, no variance. The two (2) variances would be 79 foot set-back from the south-side lot and a parking lot without curb and gutter.

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

**Motion by Gardner, seconded by Olson, to grant two variances based upon the report, 79 foot variance to allow a reduced setback from the South side lot and a parking lot without curb and gutter, for the property at 2076 County Road 90. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED APPROVED.**

Phillips requested Kaltsas add reviewing the curb and gutter ordinance to the next agenda.

6. PUBLIC HEARING. Todd and Laura Zaugg, Owner of the property located at 5585 Lake Sarah Heights Drive (PID No. 02-118-24-11-0015), is requesting:

- A conditional use permit to allow a Non-rental Guest Apartment on the subject property.

Kaltsas described the property location. The property has 1.34 acres and is zoned rural residential on Lake Sarah.

Kaltsas stated the City was notified there is an existing dwelling unit within the detached structure. The accessory dwelling unit is not permitted. He explained the City has provisions to permit a conditional uses that could be considered by the applicant. He stated under the City ordinance, an accessory dwelling unit ; which cannot exceed 33% of the above ground square footage of the principle structure or 1,200 square feet. In this case, the existing dwelling area in the accessory structure exceeds 1,200 square feet (1,472 square feet). In order to grant a conditional use permit (CUP) for an accessory dwelling unit (ADU), the applicant would need to request a variance from the maximum size permitted or would need to reduce the total square footage of the ADU.

He stated the City has two provision for a guest house, guest house and a non-rental guest apartment.

Kaltsas stated the applicant believes they meet the requirements for a non-rental guest apartment; which is defined as:

*"Non-rental guest apartment." An apartment within the principal residence structure or its garage on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal residence, including their full-time domestic employees or non-paying guests.*

Kaltsas stated historically the City has allowed Non-rental guest apartments if they do not include a kitchen. He stated kitchens distinguish a secondary dwelling unit from the primary dwelling.

Kaltsas explained the size and layout of the dwelling, 1,472 square feet located on the top floor of a three level garage. The space is comprised of a living space, office, kitchen, bathroom, and two bedrooms. Kaltsas explained the garage was permitted as a finished garage space with a bathroom and additional storage.

Kaltsas explained the building has been inspected by the City with an after-the-fact building inspection. A few corrections were noted and have now been corrected. So, the property does have a valid build permit now.

Kaltsas stated the property is not exceeding the impervious surface.

Kaltsas stated he is looking for recommendations to bring to City Council.

Kaltsas explained part of the issue is the principle structure's size does not allow them to have an accessory dwelling of that size. Plus, it exceeds the maximum size allowed. In addition, properties that are 2.5 acres or less are not allowed an accessory dwelling unit.

Phillips asked how we discovered this. Kaltsas stated an appraiser questioned the City about it.

### Open Public Hearing

Todd Zaugg, applicant at 5585 Lake Sarah Heights Drive, the structure was built in 2004 to 2005 their intention was to build the garage with a guest apartment. He stated he was unaware of any permit violation. He stated he tried to be as accommodating as possible. The building was a guest apartment that the extended family or friends use when they came to visit. The structure was built to look like the principle structure.

Thompson asked Zaugg if his intention was to build a garage with a guest house from the beginning. Zaugg stated it was. Thompson stated if that is true why does the permit state the structure is for a garage with storage and no bedrooms allowed. Zaugg stated there was a break down in understanding with the builder. Phillips asked if the builder then installed the kitchen. Zaugg stated he did.

Olson asked about the building inspection after completion. Kaltsas stated it was inspected and finalized as a garage with storage. Thompson asked Zaugg why was it have been inspected before the job was completed. Zaugg stated he did not call for the inspection, that was left up to the builder. He stated to the best of his knowledge he thought it was done.

Olson questioned how the plumbing and ductwork could have been installed and not noticed during the inspection or if they were completed after the inspection. Zaugg stated he did not recall exactly when the building was completed and when the final inspection was completed.

Palmquist described and asked about details inside the guest house portion of the building. Zaugg explained there are two bedrooms, three-quarter bathroom, living space, office, and kitchen.

Gardner asked if there was an after the fact inspection. Kaltsas stated there was. He said a double fee was applied and one item needed a correction; which was corrected.

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

The Commissioners discussed that the biggest issue for them is the structure has a kitchen. The presence of a kitchen means there is no distinction from the primary residence.

Thompson suggested the ordinance might need additional clarification to avoid this in the future.

Phillips stated the options here are deny, approve, or approve with conditions.

Palmquist asked if it we deny it, what does that mean and what are the outcomes? Kaltsas stated the council would review it and the uses of the property may need to be removed.

Kaltsas explained removing the kitchen would allow the option of getting a Condition Use Permit. He stated reducing the finished livable square footage could allow the option of a variance.

Phillips asked if there is any recourse to the builder. Kaltsas stated the attorney would need to review.

The Commissioners agreed they felt it could be approved with conditions. A variance could be granted, if it did not have a kitchen. If the guesthouse was 800 square feet or less the kitchen could stay. If it were larger, the kitchen would have to go based upon the City Ordinance.

Kaltsas stated Conditional Use Permits are subject to an annual inspection, which allows some monitoring.

**Motion by Gardner, seconded by Thompson, to allow a conditional use permit with 33% of the above ground square footage for the accessory dwelling unit will allow the kitchen to stay or if left as present layout the kitchen must be removed with a clear separation from other floors.**

Palmquist stated the Commissioners' role is to interpret the ordinance fairly, consistently, and apply it.

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

Zaugg asked for clarification about what removal of the kitchen means. Kaltsas clarified this would be remove of the cook top and oven.

7. 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.

Kaltsas explained it was previously discussed at other meetings and has been brought back for further clarification including height definition.

Kaltsas stated most cities around do not have an exact definition, but more of an interpretation. He stated the measurement could be taken from the street-side or curbside. The measurement would be from ceiling height to the peak of the building and then half that height would be the measureable height of the building.

Commissioners discussed what is street-side and how lakeside properties are taken into consideration.

Phillips clarified that footnote No. 3 in this report is the only difference between this report and what was previously discussed.

Olson stated he feels there should be more flexibility for lakeside properties. He explained the taller side of the building might be on the street-side.

Palmquist suggested adding a visual reference to the ordinance.

**Motion by Thompson, second by Olson to recommend approval of the ordinance as stated in the report with a graphic exhibit. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson; Nays; None; Absent: None. PUBLIC HEARING CLOSED.**

8. OPEN/MISC.

None

9. ADJOURN

**Motion by Phillips, seconded by Gardner, to adjourn the meeting at 9:50 p.m. Ayes: Phillips, Gardner Palmquist, Olson, and Thompson; Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully submitted

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Jolene M Nelson, Recording Secretary