

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY AUGUST 10, 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, Palmquist, Olson and Thompson
STAFF: City Planner Kaltsas
ABSENT: None
VISITORS: John Bauman

3. Approval of Minutes from the August 10, 2015 Planning Commission Meeting.

Motion by Olson to approve with minor revisions, second by Thompson. Ayes: Olson, Palmquist and Thompson. Nays: None. Motion approved.

4. PUBLIC HEARING: John Bauman (Applicant/Owner) requests that the City consider the following actions for the property located at 5836 County Road 6, Independence, MN (PID No. 26-118-24-43-0005):

- a. An amendment to the existing conditional use permit to allow a personal accessory structure to be constructed on the subject property.

Kaltsas stated the property is located on the north side of County Road 6, just west of County Road 83. He said the property has an existing home and large barn. Kaltsas noted the property is zoned Rural Residential and is 4.79 acres.

Kaltsas noted that the City originally granted a conditional use permit in 1988 to allow a landscape business to operate on the subject property. The conditions of the conditional use permit define the business and mention one building to be constructed on the property to enclose the landscape materials. That building was constructed on the property prior to 1991.

Kaltsas said the applicant would now like to construct a new accessory storage building that would be used for personal storage and not associated with the business located on the property. The City noted that due to the existing conditional use of the property, an additional accessory building would be considered an expansion of the use. Any expansion or change in the use of the property would require an amendment to the conditional use. If the property was not being used for the existing business, the applicant could utilize the existing building for personal storage. The City would amend the conditions approved as a part of the conditional use permit to include this building and stipulate that the use of this building would not be allowed for the business.

Kaltsas said the total amount of accessory structure square footage permitted on this property is 4,173. There is an existing detached accessory structure that is 2,400 square feet in size. The applicant is proposing to construct a new 1,440 square foot building. Kaltsas said the total square footage of accessory structures would equal 3,840. He said that would leave approximately 333 square feet for any future accessory structures on this property.

Kaltsas outlined the current conditions placed on the existing CUP as follows:

EXISTING CUP CONDITIONS

1. No sales of any product whatever shall be permitted on or from the subject property except landscaping products installed by and through the applicants landscaping business;
2. No advertising signs shall be permitted;
3. The hours of operation shall not exceed the period from 7:00 am to 10:00 pm., Monday through Friday of each week;
4. Any lighting installed on the property shall be shielded to avoid light spillage onto adjacent property, and all lighting shall be extinguished no later than 10:00 pm. Daily;
5. No equipment, other than equipment necessary for the applicants landscaping business, shall be stored on the property and such equipment shall be housed in a building which shall be completed on or before January 1, 1991;
6. No more than six employees shall use the site as their principal place of employment

Kaltsas outlined the criteria for granting a conditional use permit as delineated by the City's Zoning Ordinance (Section 521.11 subd. 1, a-i). Kaltsas the added/amended conditions to the current CUP would be:

ADDED/AMENDED CONDITIONS

1. The 1,440 square foot detached accessory structure constructed in 2015 is for the personal use of the occupant of the principal structure.
2. There shall be no use of the accessory structure for storage or operation associated with the landscape business.

Kaltsas said the surrounding neighbors were notified per requirements and there were no comments received relating to the request prior to this evenings meeting.

Kaltsas stated Staff is seeking a recommendation from the Planning Commission pertaining to the request for an amendment to the conditional use permit with the following findings and conditions:

1. The proposed conditional use permit amendment request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. All conditions approved with the initial conditional use permit shall remain in effect.
4. The 1,440 square foot detached accessory structure constructed in 2015 is for the personal use of the occupant of the principal structure.
5. There shall be no use of the accessory structure for storage or operation associated with the landscape business.

Kaltsas asked if there were comments or questions.

Thompson asked if this was being looked at because there could be a potential use for business purposed. Kaltsas said we need to ensure it is not used for business. He said this is the cleanest way to regulate a proposal such as this. Kaltsas said if it were attached to the house, it would be a different situation.

Olson asked if this could be considered a temporary structure. Kaltsas said a temporary structure is typically something that is moveable. He said the City does not formally define temporary structures.

Phillips opened the Public Hearing.

Public Hearing Open

Bauman (Applicant) spoke and stated that Kaltsas was accurate in his description. He said his first inclination was to add onto his house but that proved difficult, as he would have had to cut down a big oak tree. Bauman said it was going to be located in area that does not lend itself to business use.

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

Public Hearing Closed

Motion by Palmquist for approval of amendment to the existing CUP per the conditions outlined in the staff report for the property located at 5836 County Road 6, second by Gardner. Ayes: Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. Motion declared carried.

5. Proposed text amendments to the City of Independence Ordinances as follows:

- Chapter 5, Sections 510 and 530;
- a. Establishment of a Zoning Permit for Fences and restriction on height and types of permitted fences.
- b. Addition of new setback definition and provision relating to corner lots for accessory structures.

Kaltsas outlined the ordinance amendments being considered:

- a. **Discuss amending accessory structure ordinance to include fence provisions.** Staff has identified that the City does not currently have any requirements limiting or guiding the placement, height or materials allowed for fencing within the City. Staff is seeking direction from the Planning Commission pertaining to this issue.
- b. **Discuss amending accessory structure ordinance to increase side yard setbacks on corner lots.** Planning Commissioners made note of this item at a previous Commission Meeting. The City does not currently have any restrictions on locating accessory structures in corner side yards.

Kaltsas said the language is intended to provide a framework for discussion. He said the City does not currently have any provisions pertaining to fences. Fence height, location and materials are not regulated in the zoning ordinance. Kaltsas looked at surrounding similar communities for commonalities to draft consistent language. He said many Cities' maintain a 6-foot high regulation.

Kaltsas said the City needs to look at whether they want to permit fencing or choose not to regulate it. He said a zoning permit would provide the City with a way to administer the ordinance. Kaltsas said many communities have handouts available that state they do not require a permit for fencing but rather they state types of materials permitted. Kaltsas noted that chain link with slates, barbed wire; standing seam metal and similar materials are often prohibited. He said when a fence is built over property lines that becomes a civil matter.

Kaltsas said the second item that comes into play is the location of the fence. He said fences are often limited to the rear and side yards on residential properties. He said many times setbacks are needed to be able to maintain a fence and those need to be specified.

Kaltsas discussed the draft fence ordinance proposed language:

Fencing General Requirements. Fencing in all districts shall conform to the following:

- a. A zoning permit is required for all fences within the City. A building permit is required for fences greater than 7 feet in height.
- b. All in-ground swimming pools must be fenced in accordance with applicable building codes. A pool cannot be filled until a fence that meets requirements is completed and approved.
- c. No fence may be located within any public rights-of-way.
- d. Easements – Public and Private.
 - (a). Utility and Drainage Easement. Fences may be constructed within public and private utility and drainage easements provided that:
 1. The fence and its design are subject to the approval of the City.
 2. The fence shall not impede existing drainage patterns.
 3. Removal of the fence or a portion thereof for the purpose of utilizing the easement shall be at the property owner's expense.
 4. The property owner may be required to obtain the consent of the utility, which has facilities within an existing easement.
- e. No existing fence in violation of this subdivision will be allowed to be replaced or rebuilt. Should an existing fence be replaced or rebuilt, it must come under the regulation of this subdivision.

Fencing conformity. Fencing in all districts shall conform to the following:

Design.

- a. The side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

- b. Every fence shall be constructed in a professional and substantial manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used.
- c. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.
- d. All fencing shall be constructing straight, true, and plum.

Materials.

- a. Any fence, which is dangerous to the public safety or general welfare and health, is a public nuisance and the city may commence proceedings for the abatement thereof. Materials such as standing seam metal, snow fencing and other similar types of non-standard fencing, as determined by the zoning administrator, shall not be allowed as permanent fencing.
- b. The use of slats of any kind is prohibited in or upon chain link fences.

Maintenance.

- a. Fences in all districts shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically acceptable condition.
- b. Fences must be constructed so that the side containing the framing supports and crosspieces face the interior of the owner's lot.
- c. Fences of all types must be maintained and of sturdy construction throughout the length of the fenced area. If in disrepair, or damaged, the fence must be repaired or removed.

Temporary fencing.

- a. All snow-stop fencing may be used from November 1 to April 1 on private property. Temporary fencing shall not be installed in the right-of-way.
- b. No permit shall be required for temporary fencing.

Residential and agricultural districts.

- a. Setback and design.
- b. Fences must be located entirely upon the private property of the person constructing the fence where they are constructed and must be set back from all property boundaries at a distance necessary to allow for maintenance of the fence as provided within this ordinance. A fence may be allowed to be located up to the property line, but still entirely upon the property of the person constructing the fence, with the written permission of all adjacent property owners. Property corner irons must be located, exposed, and verified at the time of final inspection, unless deemed unnecessary by the City Administrator.
- c. No fence shall exceed six feet in height and in the case of grade separation, the height shall be determined based on measurement from the average point between the highest and lowest grade.

- d. Fencing located in a front yard or in front of the principal dwelling in residential districts may not exceed 4 feet in height. A corner property, or property abutting two city streets, shall be determined to have two front yards.
- e. No fence shall be erected on a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic.
- f. Fences around dog kennels not exceeding 50 square feet in size, fences around garbage cans, and garden fences located in the interior of the lot will not require fence permits but shall adhere to the other regulations of this subdivision.

Residential fences height exceptions.

- a. Fences for sport courts may be up to eight feet in height with ten-foot setback.

Commercial Light Industrial Districts. Fences not exceeding 7 feet in height are permitted within the limits of any side or rear yard.

Thompson asked if going forward the guidelines are imposing maintenance on fences already in existence. Kaltsas said if there are instances of a nuisance fence or a poorly maintained fence the ordinance would allow us to act on that but most existing fences would fall under the maintenance guidelines. He said the biggest issue that comes up is making sure people know where their property lines are. He also noted the example of the person who wanted to put up a 10-foot fence and we had no restriction to enforce against that fence.

Palmquist asked about item (b) in the general category; he wanted to know if a retractable or self-latching pool cover was acceptable in lieu of a fence. Kaltsas stated it was. Palmquist asked about the maintenance on a split-rail fence or material that aged naturally and if that was acceptable. Palmquist said his last comment would be on the Ag District item (e) with the thought that the approval could come from the City Engineer in regards to safety and placement on a curved property. Kaltsas thought that would be a fair provision to add.

Thompson asked if anyone ever gets into addressing lot sizes or different aesthetics. Kaltsas said lakeshore lots are looked at as different from other lots in many communities. He said lakeshore lots have a sight visibility factor and not wanting to block that from others. Kaltsas said they could look at breaking out lakeshore lots.

Gardner stated that there have not been many historic major problems with fences. Kaltsas said there have been many concerns but we have not regulated it, as it really is a civil issue. He said this language helps us help others and lets us regulate the extremes.

Phillips asked if anyone requires a survey. Kaltsas said they have to locate their property irons or have a survey done.

Thompson asked about costs with going with the zoning permit route versus the handout route. Kaltsas said it is generally nominal but that there is an inspection part as well. Kaltsas said currently the price range to locate the corners (not a survey) runs about \$400-\$500.

Olson asked for clarification on design (d) and how slope provisions are determined. Kaltsas said if the ground rolls, the question becomes where to measure the top of the fence. He said if there is a severe slope, they take the average. Phillips asked about decorative items on the top of the fence in relation to measuring height. Kaltsas said that is included as part of the height of the fence.

Kaltsas stated the goal of tonight is to have a discussion. He thought he would go back and add more to the shore land piece and then the Commission would have a second reading.

Kaltsas discussed the accessory/ corner yard setback piece. He noted the corner yard setback needed to be added. Thompson said this one is straightforward enough that they could go straight into discussion. He asked if the front yard could be defined as a yard bounded by any road. Olson asked if there were smaller lots on the lake that have different setbacks on each side. Kaltsas said lake lots ideally would have the same setbacks. Thompson said corner lots could be defined as everything included to the road line. Phillips asked if Kaltsas would find some examples before they wrote up the final language. Kaltsas said he would work on a better definition to describe a lot corner in further detail. Thompson asked if there was anything else other than a road that would trigger a corner yard. He asked if they would be missing anything if they stated roadway and gave examples of trail, bike path, lake channel, etc. Kaltsas said an example is a section of a Turner that is a cart way and is unimproved. He noted that was a right-of-way but there was not a physical road there.

Phillips said the most elegant solution would be to add a footnote and definition.

6. Open/ Misc.

Palmquist asked about the event center memo that was drafted and passed to Council. He wanted to know if there was any discussion on it or follow-through as of yet. Kaltsas said they accepted the memo but there was no further direction for staff so we are back to status quo.

Palmquist asked about the Conditional Use enforcement issue and what Council had done with that. Kaltsas said Council directed Staff to decide how to enforce that which happened at the time of the Administration change. He said that CUP's have been discussed by staff to be added to the same process as the building permits for review.

Gardner noted that the windmill ordinance passed and asked what the sewage treatment items pertained to, as they were not discussed with the Planning Commission. Kaltsas said sewage was updated to get in line with state requirements. It was mainly a needed technical update for the manual. He noted the mid-tier was added and the updates brought the ordinance into alignment with the county.

Motion by Olson, second by Palmquist to adjourn the meeting at 8:30 p.m. Ayes: Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. Motion declared carried.

Respectfully Submitted,

Trish Bemmels, Recording Secretary