

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
MONDAY, NOVEMBER 19, 2012 – 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, Councilor Spencer  
ABSENT: None  
VISITORS: Janet Weisberg, Mike Bloom, Lynda Franklin, Janice Gardner, Kate Orterstrom, and Brad Orterstrom

3. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF OCTOBER 8, 2012

**Motion by Gardner, seconded by Palmquist, to approve the October 8, 2012 Planning Commission minutes as amended. Ayes: Phillips, Gardner, Palmquist, Olson, Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

4. PUBLIC HEARING. Hold Your Horses, a Minnesota non-profit, requests that the City consider the following actions for the property located at 6824 County Road 6, (PID#'s 34-118-24-21-0003):

- a) A Conditional Use Permit (CUP) to allow an Animal Assisted Therapy (AAT) operation on subject property.

Kaltsas explained the location of applicant's property and stated Hold Your Horses was leasing the property. The owner of the property also signed the application requesting the Conditional Use Permit.

Kaltsas stated the applicant, Hold Your Horses, is a non-profit 501.c3 organization that provides equine assisted services to children with disabilities. The organization consists of three part time professional staff and three independent contractors, plus approximately 10 part-time volunteers. All staff are licensed and/or trained in their area of expertise. The organization currently has approximately six (6) horses on the property that are used for therapy.

Kaltsas stated the property consists of an indoor riding arena including an office and therapy room, a barn, main house and riding trails. Services are provided between the hours of 9 a.m. and 6 p.m. Monday through Friday. The organization typically serves three (3) to eight (8) clients per day, which includes some group and some one-on-one services. However, on occasion they do have other events on the property including: school field trips, community ed events, and there is an annual fundraiser. The annual fundraiser requires a large assembly permit, and it would not be part of the conditional use permit.

Kaltsas stated the property is somewhat secluded with substantial tree coverage and a long driveway. Currently there is ample daily parking with 10 to 12 defined spots. The property is accessed from County Road 6.

Kaltsas explained the applicant meets the City's Conditional Use Permit criteria.

In addition, the City requires that the following conditions are met in order to consider granting a conditional use permit for an AAT:

*Subd. 5. Animal assisted therapy operation. ATT may be permitted as a conditional use by action of the city council pursuant to subsections 520.09, 520.11 and 520.13 of the zoning ordinance, subject to the following additional conditions:*

*(a) The applicant shall provide proof of insurance in an amount and with such coverage as the city attorney deems reasonable, and shall thereafter maintain such insurance.*

*(b) The applicant shall provide proof of licensing or appropriate educational attainment and training in ATT for all therapists delivering services at the site. This requirement shall be continuing and the city may request such proof on a periodic basis for all therapists then delivering services.*

*(c) The applicant shall provide documentation and a site plan describing the AAT program(s) to be delivered. Such documentation shall include a description of the goal-directed process and criteria for evaluating the effectiveness of the program(s).*

*(d) The applicant shall identify all species of animals that will be present at the site and used in delivering AAT. No other species of animals shall be allowed with the city's approval.*

*(e) For parcels of less than ten acres, the maximum density of animal units is two acres for the first animal unit and one additional acres for each additional animal unit.*

*(f) Other than the delivery of AAT, no commercial or business activities may be conducted on the site except the production of agricultural products in de minimis amounts as a result of the delivery of AAT.*

*(g) The city may periodically inspect the site without notice.*

The applicant has provided documentation to the City verifying that the conditions for granting an AAT have been satisfied.

Kaltsas stated the applicant is proposing to utilize the existing barn, riding arena and pastures to provide therapy to their clients. As a result, the impact of the proposed operation on the surrounding properties should be consistent with the horse operations that occurred on the property prior to the use as an AAT, and he stated horses operations have been used on the property by previous owners.

Kaltsas explained the paved driveway and parking areas mitigates dust related to any additional trips to and from the site relating to the AAT. Kaltsas stated typically, there is just one car per client, so there is sufficient off-street parking for the daily use by the AAT and County Road 6 is equipped to handle the traffic.

The special events will be permitted under a large assembly permit; which ensures that there will be adequate parking, traffic controls and, if applicable, bathroom facilities.

Kaltsas stated there are onsite bathrooms in the barn and the septic system has been recently updated; which are adequate for the barn and home.

Kaltsas stated the Staff is seeking a recommendation from the Planning Commission to the City Council pertaining to the request for a Conditional Use Permit with the following findings and conditions:

1. The proposed Conditional Use Permit amendment request meets all applicable conditions and restrictions stated 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. Any modifications and/or additions to the structures on the property will be reviewed by the City's Building Official and will be subject to all applicable standards and requirements.
4. The additional use proposed should not cause an increase (beyond that of the existing horse farm) in noise or offensive odors, fumes, dust, or vibrations for the surrounding properties.
5. Hours of operation should be restricted to those proposed by the applicant (Monday through Friday 9 a.m. to 6 p.m. with the exception of special events (school, senior or community educational events).
6. The proposed AAT operation is permitted within the existing buildings. Any expansions, additions or other changes to the proposed site that expands the use of the AAT will require an amendment to the Conditional Use Permit.
7. The number of horses permitted on the property shall be limited to the number permitted by the City's zoning ordinance.

Kaltsas stated the city has not received any comments regarding the proposed conditional use permit.

### Open Public Hearing

Mike Bloom, of Minnetonka Beach, and Janet Weisberg, founder of Hold Your Horses, stated they were prepared to meet the requirements as presented and proposed in the staff report. They stated they appreciated the City's assistance and welcome any questions.

Gardner asked if they have done this any place else before. Weisberg stated she has not, but has worked with other organizations in the past.

Bloom stated Hold Your Horses has been in existence for six (6) years at the current location and stated they are there to formalize the existence within the City.

Phillips asked about their manure disposal. Weisberg stated they spread it on the property, and have an agreement to spread it on the neighbor's fields.

Gardner asked about the number of horses. Weisberg stated they have six (6) horses now, but the barn can hold up to seven (7) horses in the barn. Gardner then asked if there were any other animals they used for therapy. Weisberg stated they just use horses.

Kay Orterstrom, a neighbor of the property, stated she is a proponent of the organization and supports the business. She stated she has no problems with the organization. Her only concern was to verify that they did not have plans to increase the size of the structures. Kaltsas stated there would need to be an amendment to the Conditional Use Permit if they would like to expand; however, the Conditional Use Permit does not restrict the primary residence from expanding. Bloom stated there is nothing in the works to expand.

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

Gardner asked about the large assembly process and when it is required. Kaltsas stated that a permit is required for an assembly of 75 people or more and it is currently it reviewed by the City Council.

Thompson asked about the special events hours of operation and the variance between daily activity. Kaltsas stated there is a gap and no restrictions are listed because they do not know their schedule yet and it varies. Thompson then asked if there were any issues reported. Kaltsas stated the City is not aware of any issues. Phillips asked how late the latest events have lasted. Weisberg stated most of the group events are daytime events and the latest they have gone is 7:30PM. Palmquist stated if issues developed, the annual review of the permit could resolve it.

Palmquist stated he would like to see an additional requirement listing no other species of animals allowed for animal assisted therapy without City approval. Weisberg questioned if they would allow a dog to be as a therapy animal. Bloom stated they would not be running a kennel, but asking if they would allow a therapy dog brought to the property occasionally. The Commissioners agreed to add this condition. Kaltsas stated he would add it. Olson also stated it is not limited to six (6) horses, but limiting it to the City animal density ordinance.

**Motion by Gardner, seconded by Palmquist, to accept recommendations as written with the addition of the restricting animal species. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson. Nays: None. Absent: None. MOTION DECLARED APPROVED.**

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

- a) Chapter 5, Section 530, consideration to amend the total square footage permitted for detached agricultural storage buildings, barns, or other structures, accessory to an existing single family dwelling.
- b) Chapter 5, Section 525, Land Use Districts. Consideration for adding a new land use district, Public/Semi-Public, as guided in the Comprehensive Plan.

Kaltsas explained he was bringing this to the Planning Commission to look for direction and to have a discussion regarding these two (2) issues.

Item A

Kaltsas explained various times property owners have applied for Conditional Use Permits and gone to the Planning Commission due to the size of their requested accessory structure being larger than what the City permits. The Commissioners at the public hearings questioned whether that ordinance needed reviewing.

Kaltsas stated he analyzed and researched how the Cities ordinance was set-up. He stated it has been around 30+ years since the ordinance was created.

<i>(1) One acre or less</i>	<i>1,600 square feet</i>
<i>(2) Greater than one acre but less than two and one-half acres</i>	<i>1,850 square feet</i>
<i>(3) Two and one-half acres but less than five acres</i>	<i>2,100 square feet</i>
<i>(4) Five acres but less than ten acres</i>	<i>2,600 square feet</i>
<i>(5) Ten or more acres</i>	<i>No Requirement</i>

Kaltsas stated as a percentage of coverage on a property, the figures are below; which show the larger properties with a smaller percent of allowable coverage.

Percentage of lot coverage

- 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.

Kaltsas stated the amount of lot coverage permitted currently ranges from 3.7% to .66%; so, there is not much consistency in the breakdown of the requirements.

Kaltsas stated Independence is unique from many other cities due to the fact the City has very few small lots and the majority are larger lots. He listed examples of similar cities and their ordinances.

- Medina uses lot size measurements similar to Independence, but limits the number of allowable structures.
- Minnetrista limits the number of structures and requires any accessory structure over 1,000 square feet to apply for a Conditional Use Permit, which has more restrictive set-backs.
- Orono uses a lot size measurement similar to Independence, but has a provision that limits the size of the total accessory structures.

Kaltsas stated that the Planning Commission should give consideration to the following points; which were to:

1. Simplify the requirements so that all lots in the City or in a particular zoning district have a consistent standard. (i.e. develop a percentage of lot coverage provision versus the range method currently used – 2% of total lot area regardless of lot size).
2. Reduce the minimum lot area to qualify for unlimited accessory structure size from 10 acres to 5-7.5 acres (less than 10 acres but more than 5).
3. Establish a maximum impervious surface area requirement for lots that are less than 5-10 acres.
4. Set a maximum square footage for all accessory structures on a property.
5. Establish a maximum number of accessory structures on a property.
6. Differentiate between A-Agriculture and RR-Rural Residential
7. Establish a maximum accessory structure size for a minimum lot size (i.e. lots 1 acre or less can have a maximum accessory structure size of 1,000 SF).

Olson asked about percentage of lot coverage allowed by the City. Kaltsas stated the City does not have an ordinance limiting this, except in the the Shoreland Zoning District where lots are limited to a maximum impervious coverage of 25%.

Olson asked if there are other areas of the City that have smaller lots other than those near the lakes. Kaltsas pointed out a few areas.

Phillips stated we are not going to come to a conclusion tonight, so we will need to have another Public Hearing on this. Kaltsas stated he wanted to open it and continue it. Phillips stated he wanted to open one Public Hearing on both item A and B.

## Item B

Kaltsas explained while working with properties applying for Conditional Use Permits, it was noted that the City has a future land use category known as Public/Semi-Public without having a corresponding zoning district in the zoning ordinance, for example Windsong Golf Course. Staff would like to discuss the existing ordinance and potential changes with the Planning Commissioners in more detail prior to drafting a formal amendment.

Kaltsas stated the City's Comprehensive Land Use plan identifies a future category as Public/Semi-Public; which the Comprehensive Plan further defines the land use category as:

Public/Semi Public

*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. He stated that even though religious properties are guided Public/Semi-Public the City does not list them this way.

Kaltsas explained some options available at this point.

1. Do not take any immediate action – address the issue during the next Comprehensive Plan Amendment.
2. Establish a new Public/Semi-Public zoning district. This would require the City to prepare a new zoning ordinance that would provide a full set of parameters and requirements for the district.
3. Establish an overlay zoning district for Public/Semi-Public. This could potentially reduce the extent of a text amendment versus establishing a new zoning district.

Gardner asked how long until the next Comprehensive Plan. Kaltsas stated it's due in 2020, but the City will begin working on it in 2017.

Gardner asked if the City has had any issues with this categorization. Kaltsas stated most people do not know it really exists, but it was brought to the City's attention with Windsong's recent request.

Open Public Hearing

Phillips stated rather than closing we will keep it open and continue the public hearing until the next Planning Commission Meeting.

**Motion by Palmquist, second by Thompson to close the Public Hearing. Ayes: Phillips, Gardner, Palmquist, Olson and Thompson; Nays; None; Absent: None. MOTION DECLARED APPROVED.**

Regarding Item A

Thompson stated he likes Orono's maximum footprint per structure and a total maximum allowable structures.

Olson stated limiting the total number of structures could be problematic.

Palmquist stated for certain sized lots this might not make sense. Thompson suggested keeping it unlimited after 10 or more acres. Gardner stated the City has not had much trouble with structures on lot sizes larger than 10 acres.

Gardner stated his biggest objection is the expense of a Conditional Use Permit to allow for a minor deviation from the City's ordinance. He stated that liberalizing it is completely justifiable and sees no advantage to holding it down.

Phillips stated he liked Kaltsas' first suggestion. He likes percentages rather than structured bands.

Palmquist questioned if the percentage would be different based on the amount of wetlands on a property. Palmquist pointed out the amount of upland is important because a large structure could be built on a small area of upland, and the large building could become a nuisance to the neighbors. Phillips stated the maximum impervious surface could be defined similar to the septic code ordinance.

Thompson stated the percentage scenario would have a negative effect on small lots. He said allowing only 2% of a lot for an accessory structure would almost reduce the allowable structure by half.

Phillips suggested allowing a maximum structure size on small lots but a percentage on larger lots. The Commissioners agreed this could be a good solution.

Kaltsas stated many lake homes are first limited by the Shoreland Ordinance's impervious surface threshold way before the City's Accessory Structure's Ordinance.

Phillips stated he liked suggestion number 3 as well, regarding impervious surface. Olson asked if a gravel driveway was considered as impervious. Kaltsas stated the City does not count gravel as impervious; however, some watershed districts are considering gravel as impermeable.

Phillips stated on small lots the City should be enforcing water run-off control; which could be controlled with landscaping and rain gardens. Gardner asked is this not what the Watershed districts are supposed to do. Kaltsas stated they are not doing it on this small scale or individual level.

Olson asked about set-backs along creeks. Kaltsas stated only creeks designated in the Shoreland ordinance have a 300 feet set-back, Crow River, Pioneer Creek, Painter Creek, un-named tributary from Robina Lake, and an un-named tributary into Lake Sarah. Phillips stated he thinks it is important for everyone to manage his or her own run-off. He would prefer that the City take a pro-active rather than reactive approach.

Thompson recommended we take this information and more concretely develop an ordinance for additional discussion at the continued Public Hearing including developing a percentage and a maximum structure size for small lots.

Kaltsas asked the Commissioners if they wanted to limit the number of structures allowed on a lot. The Commissioners agreed they do not see why the City would want to limit the number of structures.

Kaltsas asked if the zoning should be a factor that would differentiate the accessory structures allowed. The Commissioners agreed that zoning should not factor in and provisions should be the same for all lots and vary only due to lot size.

The Commissioners agreed no more than 2.5% of the lot size seemed like an adequate number for lots smaller than 2.5 acres.

### Regarding Item B

Phillips stated he liked suggestion number 3 best. He was trouble by the Public/Semi-Public designation, but the City does not have any code to support that.

Thompson asked what the difference was between a zoning district and a zoning overlay district. Kaltsas stated one stands by itself and one adds an additional set of restrictions on top of the zoning district restrictions, example Shoreland district.

Phillips asked about churches being listed. Kaltsas stated he did not think there was a need to put them in and he is more an advocate of an overlay district. Currently churches are a Conditional Use in the agricultural and residential zoning districts. Phillips stated he would not even have churches included in the wording and Kaltsas agreed.

Thompson stated this means the overlay does not change the zoning, should the overlay need to be removed. The Commissioners agreed an overlay should be produced for the Public/Semi Public District, and they asked Kaltsas to present a recommendation at the continuation of the Public Hearing.

6. OPEN/MISC.

**Motion by Phillips, seconded by Thompson, to cancel the December Planning Commission Meeting and resume in January. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson; Nays: None. Absent: None. MOTION DECLARED CARRIED.**

7. ADJOURN

**Motion by Olson, seconded by Gardner, to adjourn the meeting at 8:50 p.m. Ayes: Phillips, Gardner, Palmquist, Olson, and Thompson; Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully submitted

---

Jolene M Nelson, Recording Secretary