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5 1. **CALL TO ORDER** – Chair Barbara Ronningen called the meeting to order at 7:00 PM

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7 2. **PLEDGE OF ALLEGIANCE** – was recited.

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9 3. **ROLL CALL** – Present: Chair Barbara Ronningen, Kris Kopitzke, Lucia Wroblewski, Mark Nelson, Jim
10 Langan, Scott Patten, Roger Bowman A Quorum was present. Absent was Sally Doherty (excused)
11 **ALSO IN ATTENDANCE** – City Council member Joe Richter, City Administrator Ron Moorse, City Clerk
12 Julie Yoho

13
14 4. **APPROVAL OF AGENDA** – add item C “Renewal of terms”.

15 **Motion/Second: Nelson/Patten To approve the agenda of the February 5, 2018 Planning Commission**
16 **Regular Meeting. Passed 7-0-0.**

17
18 5. **APPROVAL OF MINUTES** –

19 A. January 8, 2018 Meeting Minutes – Several changes were noted.

20 **Motion/Second: Wroblewski/Langan To accept the January 8, 2018 meeting minutes of the**
21 **Planning Commission Regular Meeting as amended. Passed 7-0-0.**

22
23 6. **REPORTS AND PRESENTATIONS** – none

24
25 7. **PUBLIC HEARINGS** –

26 A. Updated Comprehensive Plan

27 Chair Ronningen opened the Public hearing at 7:06 pm.

28 No comments were received from the public

29 **Motion/Second: Langan/Wroblewski To close the public hearing. Passed 7-0-0.**

30 Public Hearing closed at 7:07pm

31
32 **Discussion**

33 Patten commented that he is proud of everyone’s work on the Comprehensive Plan.

34 Council member Richter also thanked the Planning Commission members for all of their hard work.

35 Nelson stated that the commitment to reduce greenhouse gas emissions by 80% was going to be a huge
36 commitment. Ronningen provided correction noting that the clause in the Energy Section actually reads
37 "Reduce community wide use of non-renewable energy sources attempting to meet state-wide standards
38 of 80% renewable by 2050" and put emphasis on "attempting".

39 Nelson presented a graph of Xcel's electrical load and stated all the community solar gardens and farms
40 built so far total 450 MW and Xcel's nighttime load is 2700 MW which is untouched by the solar
41 farms/gardens because none of them do storage. Ronningen asked what is included in the graph and
42 Nelson responded Xcel MN WI ND and SD. Nelson questioned whether City would assume this or turn it
43 over to Xcel. Ronningen felt Xcel had assumed the commitment already. Nelson disagreed and referred to
44 MPCA bargraphs showing Transportation sector 39 Million tons of C02 equivalents, Agriculture 28 M,
45 Residential 9 M, and stated these three exceed Xcel's commitment for Electricity 56 M.

46 Nelson also presented a graph showing a reduction in US petroleum consumption from 17.5 million
47 barrels per day to 16.5 Mb/day which occurred from 1973 to 1984 when average efficiency of passenger
48 automobiles was improved from 14 miles per gallon to 27.2 mpg, a 93% improvement He stated the
49 graph shows the reduction lasted only until 2000. Nelson claims the population aspect of energy is being
50 overlooked and wonders how high US population will go. He gave as an example Germany with 82
51 million people in a territory the size of MN and WI which have 11 million. Nelson said he does not
52 oppose the energy commitment but wants to continue the discussion and suggested continuing the public
53 hearing to the March PC meeting. Ronningen responded the Comp Plan will be forwarded to the Council
54 and the public meeting would not be continued.

55
56
57 Patten stated that this is a statewide goal.

58 Langan stated that it could be seen as a goal or target. Doubt 30% will be attainable. Meets state criteria
59 for a goal
60 Kopitzke stated it is possible by 2050, at the local level
61 Planning Commission decided they are in favor of leaving the text as it is.
62

63 **Motion/Second Patten/Kopitzke To send the Comprehensive Plan on to the City Council for review.**
64 **Passed 7-0-0.**
65

- 66 **B.** Consideration of an interpretation question regarding whether a Preservation and Land Conservation
67 Development (PLCD) as outlined in Article XII of the City's Zoning Code, is a Planned Unit Development
68 (PUD)

69 Chair Ronningen opened the Public hearing opened at 7:32 pm.

70 Administrator Moorse provided the following information:

71 Background

72 The Shoreland Management Article of the City's Zoning Code (in Sec. 12-363) indicates that a Planned
73 Unit Development (PUD) is not allowed in the Shoreland Overlay District. This has raised the question of
74 whether the City's Preservation and Land Conservation Development (PLCD) ordinance (and the Proposed
75 Afton Creek Preserve PLCD subdivision) is a Planned Unit Development (PUD). The question involves
76 an interpretation as to whether a Preservation and Land Conservation Development, as outlined in Article
77 XII of the Zoning Code is or is not a PUD. The interpretation could have an impact on the Afton Creek
78 Preserve PLCD proposal.

79 Use Interpretation Process

80 Sec. 12-364 of the Zoning Code, which addresses questions regarding use, as well as questions regarding
81 the upgrading of inconsistent land use districts, requires that "When an interpretation question arises about
82 whether a specific land use fits within a given "use" category, the interpretation shall be made by the City
83 Council after a public hearing and a recommendation by the Planning Commission." Based on this
84 requirement, the Council referred the question regarding an interpretation of whether a PLCD is or is not a
85 PUD to the Planning Commission for a public hearing and a recommendation.

86 Correspondence from the City Attorney and the City's Planning Consultant

87 Both the City Attorney and the City's Planning Consultant have provided written correspondence regarding
88 the PLCD/PUD question. This correspondence is attached. The City Attorney's opinion is part of a letter
89 dated November 30, 2017 that addresses a number of items related to the Afton Creek Preserve PLCD
90 application. The Attorney's opinion regarding the PLCD/PUD is item number 9 on pages 6 to 8 of his
91 letter. The Planning Consultant's letter is dated December 18, 2017.

92 The City Attorney has indicated that there are a number of similarities between the PLCD and a PUD, but
93 there are also differences that create sufficient ambiguity such that both an interpretation that a PLCD is a
94 PUD and that a PLCD is not a PUD could be defended. The Planning Consultant has indicated that while
95 the PLCD ordinance provides limited and specific flexibility in relation to development regulations, and
96 requires variances for broader flexibility (requiring the demonstration of practical difficulty) a PUD
97 provides broad flexibility in relation to development regulations and the flexibility is gained through a
98 negotiated design process, not through a variance process. Therefore, the PLCD as outlined in Article XII
99 of the Zoning Code is not a PUD.

100
101 Christian Dawson, 5888 Trading Post Trail. Encourages the commission to take your time as this is setting
102 a big precedence. Would like to see less density in a sensitive area.

103 Perry Eggers, 13379 50th St, has been talking with people from Denmark township who are concerned about
104 the damage to the trout stream.

105 Chair Ronningen specified this is a public hearing on the PLCD / PUD discussion only, not on the project
106 Doug Parker, 4795 Trading Post Trail, history shows a change in terms. If intent was to replace the term,
107 this is an oversight. If the point is trying to protect the land, the intent should be the most conservative view.
108 Pam Belz, 14023 50th St S, would like to hear the perspectives from the attorney and planning consultant.
109

110 **Motion/Second Patten/Nelson to close public hearing. Passed 7-0-0**

111 Public Hearing closed at 7:41 pm

112 Discussion

113 Attorney Knaak provided a brief summary of his position. He pointed out that the definition of PUD
114 typically includes a mix of structure types and land uses. There is ambiguity in the Afton Ordinance. It
115 comes down to the intent of the language.

116 Planning Consultant Stephen Gritman explained that a PUD is typically characterized by mixed uses and
117 types of buildings, and is process or way of staging what kind of development will occur. A PUD is
118 designed to accommodate flexibility and doesn't refer to specific zoning. PLCD does refer to specific
119 zoning and doesn't get used the same way. If the intent is to exclude development from sensitive areas, that
120 should be written into code so it's not left for interpretation.

121 Council member Richter asked if Knaak could read a definition of PLCD from other communities

122 Attorney Knaak responded that Afton is the only community he's aware of that uses PLCD. Others use
123 mix of cluster housing, PUD, other terms term that require some sort of interpretation.

124 Kopitzke pointed out that Afton has never had a PUD (mixed use, high density development). After looking
125 at MN rules he found they all relate to high density.

126 Nelson stated that by definition a PLCD cannot exceed the density of the underlying zoning district.

127 Chair Ronningen stated that this discussion on PLCD / PUD is more definitional

128 Kopitzke stated that when PUD language was developed, the intent was an Afton version of redistributing
129 density.

130 Patten stated that PLCD is our version of a PUD. Fits with the comprehensive plan and our Ordinances;
131 one in the same to me. It is hard to believe we would create an ordinance where we wouldn't want to protect
132 water. Always have chosen the more restrictive.

133 Council member Richter stated that Ordinance 06-2008 which changed PAUD to PLCD shows the intent.

134 Chair Ronningen stated that the motivation behind original PAUD was to allow farmers to develop their
135 land and add a road, increase density to 4 per quarter quarter. Don't recall why name was changed. At that
136 time cluster and rural by design were becoming popular. We don't have mixed use development in Afton
137 so we would never have the traditional PUD.

138 Langan stated he thinks the terms are different but PLCD is our version of a PUD.

139 Wroblewski asked if council sees this as a PUD then what?

140 Chair Ronningen answered that the area in the shoreland district would have to be excluded from
141 development

142 Attorney Knaack stated that the problem is that it is not spelled out in ordinance, so there is no process.
143 You do have process for PUD. No procedural distinction. PUD prohibits development in the shoreland
144 overlay district.

145 Kopitzke stated that when the trout stream language was added (12.363) we were thinking about PUD, now
146 called a PLCD. That was the intent.

147 **Motion/Second Kopitzke / Bowman To Recommend to the City Council that the PLCD be considered
148 as Afton's idea of a PUD.**

149 **Findings:**

150 **1. Section 12-363 protects trout streams and prohibits PUDs**

151 **2. Planned Agricultural Unit Development PAUD was original verbiage**

152 **3. Afton does not allow mixed use development so that PUD criteria does not apply**

153 **4. Comprehensive plan emphasizes protection of water quality and waterways**

154 **5. Intent was more restrictions rather than fewer**

155 **6. Any development will affect trout stream temperature and quality**

156 **7. The PUD and PLCD are the same in Afton based on the nature of the original discussion of
157 the PAUD. The original and current intent was that these terms were interchangeable and
158 one in the same in the context of these ordinances.**

159

160 **Motion Vote, Passed 6-1-0 (Nelson nay)**

161

162 **8. NEW BUSINESS – none**

163
164 **9. OLD BUSINESS –**

165 A. Afton Creek Preserve PLCD Subdivision Application

166 Chair Ronningen reported that last month the Planning Commission voted to recommend the council deny
167 the application. The Council ignored the motion based on procedural issues.

168 Bowman stated that the reason for the Planning Commission is to preserve the Comprehensive Plan. This
169 development is contrary to preserving agricultural land for agricultural use. The citizens are opposed. The
170 Ag zone allows for lower property taxes to encourage agricultural use. We're supposed to protect the density
171 and protect the features of the land. The Statute says protect, not protect with exceptions.

172 Wroblewski was at the City Council meeting. A procedural error was made in adding the item to the agenda.
173 The Commission can vote again on what was discussed today.

174 Patten stated that now that we've defined "PLCD" and "PUD", we can send that recommendation to the City
175 Council.

176 Chair Ronningen stated that what was in that motion were items for the council to consider in this application.
177 Many are still valid even if they decide it's not a PUD. We want development to conform to our ordinances.

178 **Motion/Second Ronningen/Patten to reiterate the same motion from last month and resend to the City**
179 **Council. Motion as follows:**

180 **To recommend to the City Council that the preliminary plat application for a PLCD for Afton**
181 **Creek Preserve be denied. Alternatively applicant should be asked to withdraw his preliminary**
182 **plat application with refund of any application fees not used by the city and resubmit an**
183 **application with one proposed preliminary plat drawing that meets the City of Afton's ordinances**
184 **without the need for a rezoning or variances.**

185 **Findings:**

- 186 1) **The application requires a variance for more than 9 lots on a cul-de-sac**
- 187 2) **The application requires a variance to join a lot to the PLCD that has already been**
188 **subdivided to its maximum density which is disallowed by the PLCD ordinance**
- 189 3) **The question of rezoning a RR parcel so that it can be included in the PLCD has not been**
190 **adequately addressed, but appears to be disallowed by the PLCD ordinance**
- 191 4) **The application has been incomplete and still lacks complete slope data that has been**
192 **requested**
- 193 5) **The issue re: stormwater runoff has not been addressed adequately**
- 194 6) **The traffic issue has not been studied adequately with a traffic study taking place during a**
195 **holiday week and while there was construction in the area**

- 196 7) **The traffic study did not adequately address the safety impacts of traffic increases along the**
197 **Trading Post curve, the substandard road width along the Trading Post curve, the private**
198 **driveway in the tangent of the curve, or the increased traffic speed if the road were to be**
199 **paved**
- 200 8) **The traffic study did not adequately address the safety impacts traveling south on 60th Street**
201 **from the proposed access point related to traffic increases, curves, substandard road width,**
202 **inadequate sight lines, speed if the road were to be paved, or intersection quality at Oakgreen.**
- 203 9) **Currently, there are no less than 3 plans for this application. Applicant needs to submit one**
204 **final and complete plan to be considered.**
- 205 10) **Lot sizes and lot layout are questionable with at least one lot having a very odd shape.**
- 206 11) **The issue of the field access road off of Trading Post has not been addressed (potentially**
207 **leaving no purpose for the access road leading to its abandonment and regrowth in invasive**
208 **species)**
- 209 12) **The southern boundary of the shoreland district boundary is not shown on the preliminary**
210 **plat application maps**

- 211 **13) The question of whether the PLCD is a PUD within Afton ordinances requiring the removal**
212 **of shoreland district acreage from the PLCD has not be adequately addressed or reflected on**
213 **the preliminary plat application maps.**
214 **14) Access road setbacks from the Graham property need to be confirmed so that the setbacks**
215 **are fully adhered to and do not place an encumbrance on the Graham property in the future.**
216

217 Kopitzke stated that our role is to represent the public opinion and balance with the landowner’s rights.
218 We’ve gotten considerable input and this development does not meet our ordinances. The motion passed is
219 a summary of what we’ve heard.

220 Patten pointed out that at no point have we said were not for development. We have asked only to do it
221 within the rules with no variances.

222 Chair Ronningen agreed stating that the neighbors have never said no development; they just want it to
223 comply with city ordinances.

224 **Motion Vote, Passed 7-0-0.**

225
226 B. Update on City Council Actions

227 1. Council highlights from the January 16, 2018

228 Council member Richter provided a summary of the Council meeting.
229

230 C. Expiring terms

231 Several terms are expiring, notify Administrator Moorse if you want to renew.

232 Chair Ronningen read a letter to the Planning Commission regarding her resignation. This will be her last
233 meeting and she will not be attending the next council meeting.
234

235 **10. ADJOURN**

236 **Motion/Second Nelson/Wroblewski To adjourn. Passed 7-0-0**

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238 Meeting adjourned at 8:27pm.
239
240
241

242 Respectfully submitted by:

243
244 JY

245 Julie Yoho, City Clerk
246
247

248 **To be approved on March 5, 2018 as (check one): Presented: _____ or Amended: x**