



## **PLANNING COMMISSION AGENDA**

---

**September 9, 2019**

**7:00 pm**

- 1. CALL TO ORDER -**
- 2. PLEDGE OF ALLEGIANCE –**
- 3. ROLL CALL -**
  - a) Scott Patten
  - b) Sally Doherty
  - c) Kris Kopitzke (Chair)
  - d) Jim Langan
  - e) Roger Bowman
  - f) Justin Sykora
  - g) Christian Dawson
  - h) Doug Parker
  - i) Kuchen Hale
- 4. APPROVAL OF AGENDA –**
- 5. APPROVAL OF MINUTES –**
  - A. August 5, 2019 Meeting Minutes
- 6. REPORTS AND PRESENTATIONS – None**
- 7. PUBLIC HEARINGS –**
  - A. James Koktavy Variance Application at 16508 Swede Hill Drive
- 8. NEW BUSINESS – None**
- 9. OLD BUSINESS -**
  - A. Review and Clarification of Elements of the PLCD Ordinance Language
  - B. Update on City Council Actions – Council Highlights from the August 20, 2019 Council meeting - attached.
- 10. ADJOURN –**

**A quorum of the City Council or Other Commissions may be present to receive information.**

CITY OF AFTON  
**DRAFT PLANNING COMMISSION MINUTES**  
August 5, 2019

- 1
- 2
- 3
- 4
- 5 **1. CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:00 PM
- 6
- 7 **2. PLEDGE OF ALLEGIANCE** – was recited.
- 8
- 9 **3. ROLL CALL** – Present: Chair Kris Kopitzke, Christian Dawson, Kuchen Hale, James Langan, Roger  
10 Bowman, Doug Parker. A Quorum was present. Absent were Sally Doherty, Scott Patten, & Justin Sykora  
11 (all excused).  
12 **ALSO IN ATTENDANCE** – Council member Wroblewski, City Administrator Ron Moore
- 13
- 14 **4. APPROVAL OF AGENDA** –  
15 **Motion/Second Bowman/Parker To approve the Agenda of the August 5, 2019 Planning Commission**  
16 **meeting. Passed 6-0.**
- 17
- 18 **5. APPROVAL OF MINUTES** –  
19 **A. July 1, 2019**  
20 **Motion/Second Parker/Kopitzke To approve the minutes of the July 1, 2019 Planning Commission**  
21 **meeting. Passed 6-0**  
22  
23 **B. July 8, 2019**  
24 **Motion/Second Bowman/Parker to approve minutes of the July 8, 2019 Planning Commission meeting.**  
25 **Passed 4-0-2 9 (Hale, Parker abstain)**
- 26
- 27 **6. REPORTS AND PRESENTATIONS** - None
- 28
- 29 **7. PUBLIC HEARINGS** –  
30 **A. Kathy & David Boisjoli Application for Application for an Ordinance Amendment Regarding a Private**  
31 **Riding Stable with Equine-Assisted Mental Health Therapy and an Application for a Conditional Use Permit**  
32 **for Equine-Assisted Mental Health Therapy at a Private Riding Stable at 15489 45th Street**  
33  
34 Chair Kopitzke opened the Public Hearing at 7:06 pm  
35 Administrator Moore provided a summary of the application and the direction from the city council.  
36 Krista Dorgan, Neighbor of border property, stated she is supportive of the business.  
37 No other comments were received.  
38 **Motion/Second Hale/Dawson to close public hearing. Passed 6-0**  
39 Public Hearing closed at 7:10 pm  
40 Hale asked why the restriction is for only mental health therapy?  
41 Kopitzke stated he also would like it to be broader, such as home based licensed professional.  
42 Parker expressed concern about changing the ordinance, buyers should research prior to purchasing property  
43 rather than coming in later to change.  
44 Kopitzke noted the difference between a variance request and broader approach of ordinance change.  
45 Hale stated this language is so specific, would prefer broader definition.  
46 Moore recommended keeping the equine assisted language since it is a private stable; therapy can be broader  
47 Bowman also likes broadening the language. There are certifications and licenses required.  
48 Dawson stated that if licensed by the state board, there is minimum training required, we do not need to define.  
49 Langan asked if this can be done without an ordinance change?  
50 Moore replied that we have a home occupation ordinance that allows a therapy office in-home, in principal  
51 structure – this happens outside or in stable.  
52 Langan stated that people have workshops in outbuildings. If property were zoned AG the use would fit.  
53 Bowman replied that was discussed last time; can't rezone because not contiguous to other AG properties,  
54 would be spot zoning.  
55 Kopitzke stated this is a home occupied business with a riding stable. Sticking point is business in principal  
56 structure language.

57 Dawson stated we are just adding on to the list of acceptable uses.  
58 Hale stated we can address in the CUP.  
59 Bowman stated that boarding opens up to commercial use not allowed in RR.  
60 Langan stated that therapy sounds commercial.  
61 Hale stated that the use aligns with AG.  
62 Langan stated we don't want to encourage future abuse with what we set up. Feels like spot zoning.  
63 Hale stated that there is a CUP; take each application as it comes.  
64 Parker agreed with Langan's opinion.

65  
66 **Motion/Second Bowman/Kopitzke to recommend approval of the ordinance amendment to change**  
67 **permitted use in the Rural Residential zone to allow a private riding stable with equine-assisted therapy**  
68 **with the following language: "The private riding stable shall be owned and operated by a professional**  
69 **licensed by a Board of the State of MN in the appropriate sub-specialty." Passed 5-1 (Parker Nay).**

70  
71 **Motion/Second Bowman/Hale to recommend approval of the Conditional Use Permit with the following**  
72 **changes: replace "certified by the" to "permitted to practice"; condition #2 add "riding stable and**  
73 **pasture". Passed 5-1 (Parker nay).**

74  
75 **8. NEW BUSINESS – none**

76  
77 **9. OLD BUSINESS –**

78 **A. Review & clarification of elements of PLCD ordinance language**

79 Administrator Moose will prepare a draft of changes for feedback

80 Shared driveways

81 Kopitzke stated that if we allow shared driveways we should require a maintenance agreement so that issues  
82 don't come to the city.

83 Parker asked which method allows for more control by the city? PLCD or shared driveway?

84 Moose replied that PLCD lots are a minimum 5 acres and 50% space is protected. Shared driveway would allow  
85 larger lots without the large open space being preserved.

86 Hale stated that they can provide access to lots and keep large open tracts, keeps development off the road.

87 Parker stated that the city council could allow development at a future point, PLCD makes it tougher.

88 Dawson stated there could be a stipulation of an easement that has to be multi-party held.

89 Langan stated that eventually these driveways could develop into roads, need language to limit.

90 Bowman stated there should be a maximum number allowed per driveway.

91 Parker stated there is a safety issue of multiple homes on a narrow long driveway for fire and emergency services.

92 Hale & Kopitzke both agreed that a maintenance agreement approved by the city as part of CUP process should  
93 be required.

94 Kopitzke stated there should be a limit on the number of homes.

95 Hale stated it is another option/complementary to PLCD.

96 Kopitzke summarized the following key points: maintenance agreement, multi-party legal way to prevent further  
97 sub-division, limit number of residences, park donation requirement, and minimum width depending on  
98 residence numbers.

99  
100 **B. Update on City Council actions**

101 Council member Wroblewski provided a summary of the July City Council meeting.

102  
103 **10. ADJOURN**

104 **Motion/Second Parker/Dawson To adjourn. Passed 6-0.**

105  
106 Meeting adjourned at 8:35 p.m.  
107  
108

109  
110  
111  
112  
113  
114  
115  
116  
117  
118

Respectfully submitted by:

\_\_\_\_\_  
Julie Yoho, City Clerk

To be approved on September 9, 2019 as (check one): Presented: \_\_\_\_\_ or Amended: \_\_\_\_\_

DRAFT

**City of Afton**  
**3033 St. Croix Trl, P.O. Box 219**  
**Afton, MN 55001**

# Planning Commission Memo

## Meeting: September 9, 2019

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: September 3, 2019

Re: James Koltavy Variance Application at 16508 Swede Hill Drive

### Attachments:

- Subject property location map
- Aerial photo with topography
- Variance Questionnaire
- Prior Variance Application Materials

James Koltavy has applied for a variance to allow a 1920 sq. ft. accessory building at 16508 Swede Hill Drive to be located 45 feet from the centerline of Swede Hill Drive vs. the required 105 feet. The property is located within the Lower St. Croix River Bluffland and Shoreland Management Overlay District, which does not allow structures in areas with slopes of 12% or greater. The accessory building is also proposed to be located 50 feet from the bluffline vs. the required 100 feet, which does not require a variance but does require the accessory building to be visually inconspicuous from the river during leaf-on conditions and requires a scenic easement to be granted over the area from the proposed building line closest to the river to the east property line.

The applicant has explored other location options for the accessory building. Due to steep slopes, there is not another location that accommodates the proposed building.

Both the topography of the property and the shape and location of Swede Hill Drive are causing the need for the variance. The western portion of the lot has slopes of 12% and greater, and the eastern portion of the lot has slopes of 12% or greater. In addition, to avoid a very steeply sloped area to the south, Swede Hill Drive curves sharply to the north at the Koltavy property. The road extends into the center of what would have been a rectangular lot without the sharp curve of the road. This leaves the property with limited buildable area.

### Prior Variance Application Approvals

Previous owners applied for similar variances in 2002 and 2004 that involved a 1,000 sq. ft. accessory building. The variances were approved, but each time the accessory building was not built and the variances expired. Materials related to the previous variance applications are attached.

### Department of Natural Resources Comments

Attached is an email from Jenifer Sorensen, DNR East Metro Hydrologist, indicating that if there is no change in the natural appearance of the shoreline, slope and bluffline and the structure is visually inconspicuous in summer months as viewed from the river, and an easement is acquired, then the proposal meets the requirements for the exception to locate the building 50 feet from the bluffline.

### **Findings**

The following are recommended findings. The Planning Commission may revise or add findings.

1. The subject property is a five-acre parcel located within the Lower St. Croix River Bluffland and Shoreland Management Overlay District
2. The subject property is located in the Rural Residential zone, as are the surrounding properties.

3. The property has steep slopes on the western portion of the lot and east of the house.
4. The parcel has an irregular shape, due to the sharp curve of Swede Hill Drive, which further restricts the buildable area.
5. The maximum accessory building size allowed on the property is 2,000 sq. ft.

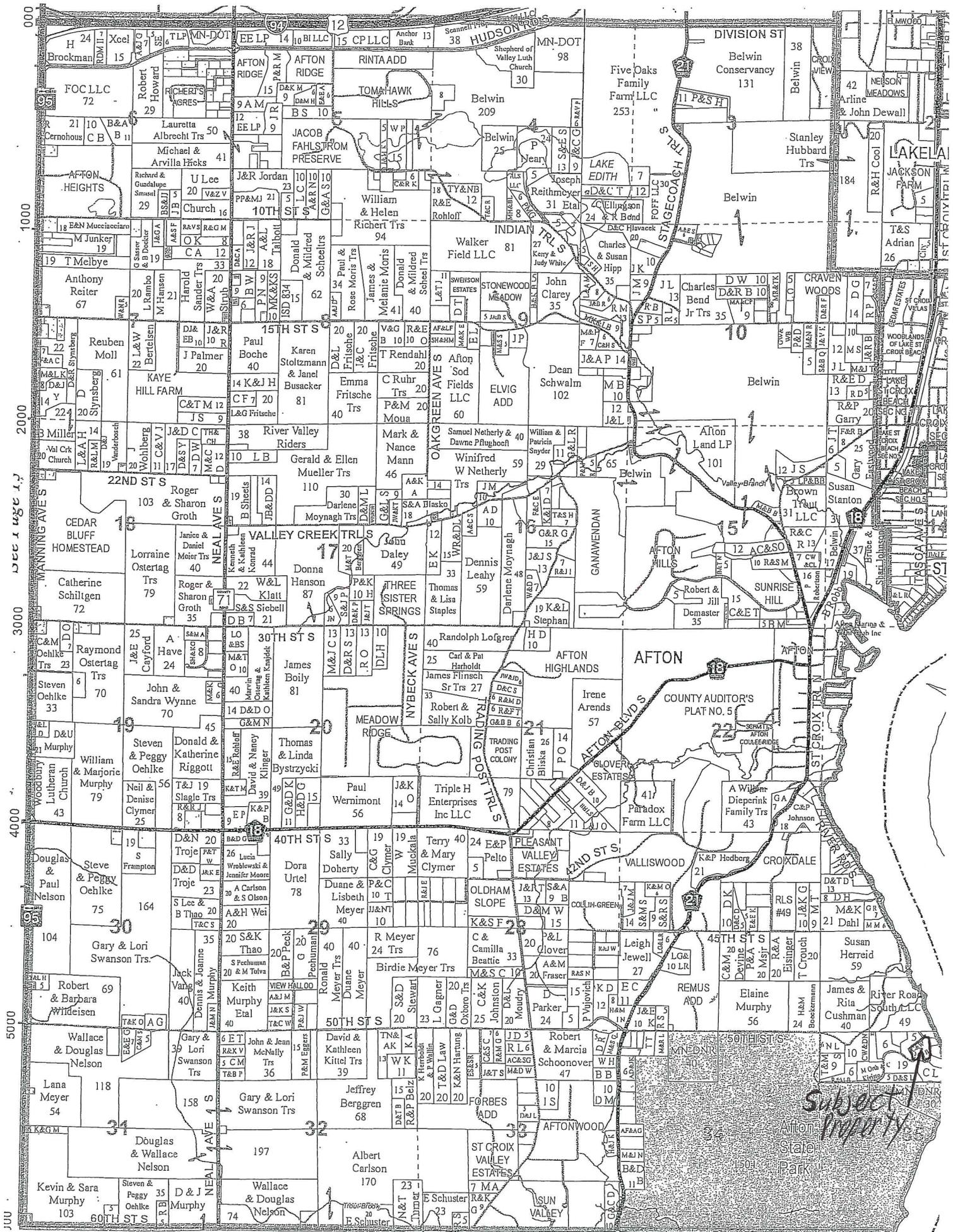
**Conditions**

If the Planning Commission recommends approval of the variance application, it is recommended that the following conditions be placed on the approval, as well as additional conditions the Planning Commission may include.

1. The accessory building shall be located as shown on the aerial photo site plan.
2. There shall be no vegetation removal.
3. The accessory building shall be visually inconspicuous from the river during leaf-on conditions.
4. The natural appearance of the shoreline, slope, and bluffline shall be preserved, and the applicant shall agree to donate a scenic easement to the state and maintain the scenic easement in an undisturbed condition and appearance. Such scenic easement shall specify that on all land lying from the proposed building line closest to the river, or property line closest to the river, or such lesser area subject to the easement as may be accepted by the commissioner, no destruction, cutting, trimming, or removal of trees, shrubs, bushes, or plants, and no topographic changes of the natural landscape by excavation, drainage, filling, dumping or any other means shall occur without a written authorization from the commissioner of natural resources.
5. The color of the structure including the roof and trim shall be of earth tone color.

**Planning Commission Recommendation Requested:**

Motion regarding a recommendation concerning the James Koltavy variance application at 16508 Swede Hill Drive, including findings, and conditions if applicable.



Subject Property  
Afton State Park

000  
1000  
2000  
3000  
4000  
5000

H 24 Xcel  
FOCLLC 72  
Brockman  
Robert Howard  
Lauretta Albrecht Trs  
Michael & Arvilla Hicks  
Richard & Guadalupe Simond  
U Lee  
J&R Jordan  
William & Helen Richard Trs  
Walker Field LLC  
John Clarey  
Charles & Susan Hipp  
Charles Bend Jr Trs  
CRAVEN WOODS  
JL M  
D G  
R&E D  
R D P  
R&P  
Garry  
Susan Stanton  
Brown  
L P & B  
R C  
R 13  
7 CW  
17  
16  
19  
18  
15  
14  
13  
12  
11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1  
0

Applicant(s): JAMES KOKTAVY  
 Phone: 651 398 8889  
 Mailing Address: 16508 Swede Hill dr S  
 Property Address for variance: SAME

Variance request description: approval of variance to the road  
set back for an accessory building

City Ordinance Section number(s), that variance is requested for: 12-132

Answer the following questions to the best of your ability - based on the criteria found in section 12-77 of Afton's Code (Land Use, Appeals and Variances). Completing this questionnaire will help the Planning Commission and the City of Afton evaluate your application in light of the requirements of Afton's Variance Ordinance. It does not guarantee that your variance request will be approved. If needed use a separate page.

Background: This questionnaire is designed to help you and the City of Afton determine whether a variance should be granted. Please consult with the City Administrator who can help you with your variance application and explain the Variance Ordinance to you. The City Administrator will work with you to ensure that the variance you request is the minimum variance required to provide the same rights commonly enjoyed by other properties in the same zoning district. Because of special provisions for certain types of construction, the City Administrator will also determine whether the property is in the Flood Plain District. There are also special provisions for earth-sheltered construction.

**Criteria #1** *The requested use, must be a reasonable use in order to receive a variance. Applicant - Please explain why the proposed use which requires a variance is a reasonable use for this property?*

Accessory building of 1920 sq feet on a 5 acre  
Property is reasonable

**Criteria #2** *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the property owner, since enactment of this Ordinance, have had no control. Applicant - What exceptional or extraordinary circumstances related to the property do not apply generally to other properties in the same zone or vicinity? Extraordinary circumstances would include lot size, irregular lot shape or topography. Are there other circumstances over which you, as the property owner, have no control?*

Explain? The topography of the lot is limiting.  
The roadway and lot shape does not allow  
many options. The road protrudes into the center  
of the lot.

**Criteria #3** That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

**Applicant** - How does the literal interpretation of the provisions of the Afton ordinance (from which you are requesting a variance) deprive you of rights commonly enjoyed by other properties in the same zoning district? Explain: OTHER 5 ACRE PARCEL ALLOW 2000 SQ FT  
ACCESSORY BUILDINGS

**Criteria #4** The special conditions or circumstances do not result from actions of the applicant.

**Applicant** - How did these exceptional circumstances related to the property come about? Did actions by you create these circumstances? Explain: LAND TOPOGRAPHY

**Criteria #5** That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.

**Applicant** - Will the granting of the requested variance confer on you, the applicant, any special privilege that is denied by this ordinance to owners of other lands, structures, or buildings in the same zoning district? Explain: ACCESSORY BUILDINGS OF 1920 SQ FT ARE  
ALLOWED ON 5 ACRE PARCELS

**Criteria #6** The variance requested is the minimum variance which would alleviate the hardship.

**Applicant** - Is the variance you are requesting the minimum variance which would alleviate the practical difficulty or hardship for your property? Explain: IT IS THE MINIMUM VARIANCE  
TO ALLOW THE STORAGE OF MY BOAT IN AN ACCESSORY  
BUILDING

**Criteria #7** The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone. **Applicant (Optional)** - Will the variance be materially detrimental to the purposes of this Ordinance, or to property in the same zone? How would the use of the property, if allowed by the variance, affect other properties in the vicinity?

Explain: THE VARIANCE WOULD NOT BE DETRIMENTAL TO  
OTHERS.

**Criteria #8** Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance. **Applicant** - Is the requested variance for economic reasons?

Explain: NO

**Criteria #9** In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law. **Applicant (optional), PC** - Is the property in a Flood Plain District?  Yes  No

**Criteria #10** Variances shall be granted for earth-sheltered construction by state statutes when in harmony with this Ordinance. **Applicant** - Is the variance for earth-sheltered construction?  Yes  No

**ADDITIONAL CRITERIA THAT MAY BE CONSIDERED BY THE PLANNING COMMISSION (PC) AND/OR CITY COUNCIL(CC)- Applicant responses to criteria #11 and criteria #12 are optional.**

**Criteria #11** *Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance.* **Applicant (Optional), PC** - Is the requested variance in harmony with the Afton ordinances and code? How will this variance if granted (and the proposed use of the property allowed) affect the essential character of the area?

Explain: Accessory buildings are common and allowed

**Criteria #12** *Variances shall only be permitted when they are in harmony with the general purposes and intent of the Afton Comprehensive Plan.* **Applicant (Optional), PC** - Is the requested variance in harmony with the Afton comprehensive plan?

Explain: yes

## Ron Moore

---

**From:** Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>  
**Sent:** Tuesday, September 03, 2019 4:17 PM  
**To:** Ron Moore  
**Subject:** RE: Variance Application Hearing Notice

Ron –

I've taken a look at the language for this exception to the minimum structure setback standard from the bluff that in the City's Lower St. Croix ordinance. Below is the equivalent language in the MN state Riverway rules (6105.0380 Subpart 5 B (1)):

B. Exceptions to the minimum setbacks:

(1) In rural districts, structure setback from a bluffline may be reduced up to a minimum of 40 feet when it can be demonstrated that no change in the natural appearance of the shoreline, slope, and bluffline will occur and the structure will be visually inconspicuous in summer months as viewed from the river. In reviewing the proposed building site, the local authority, in cooperation with an agent of the commissioner of natural resources, may determine that the structure setback can be varied to within the 40-to-100-foot range from a bluffline if the natural appearance of the shoreline, slope, and bluffline is preserved, and if the applicant agrees to donate a scenic easement to the state. Such scenic easement shall specify that on all land lying from the proposed building line to the river, or property line closest to the river, no destruction, cutting, trimming, or removal of trees, shrubs, bushes, or plants, and no topographic changes of the natural landscape by excavation, drainage, filling, dumping, or any other means shall occur without a written authorization from the commissioner of natural resources.

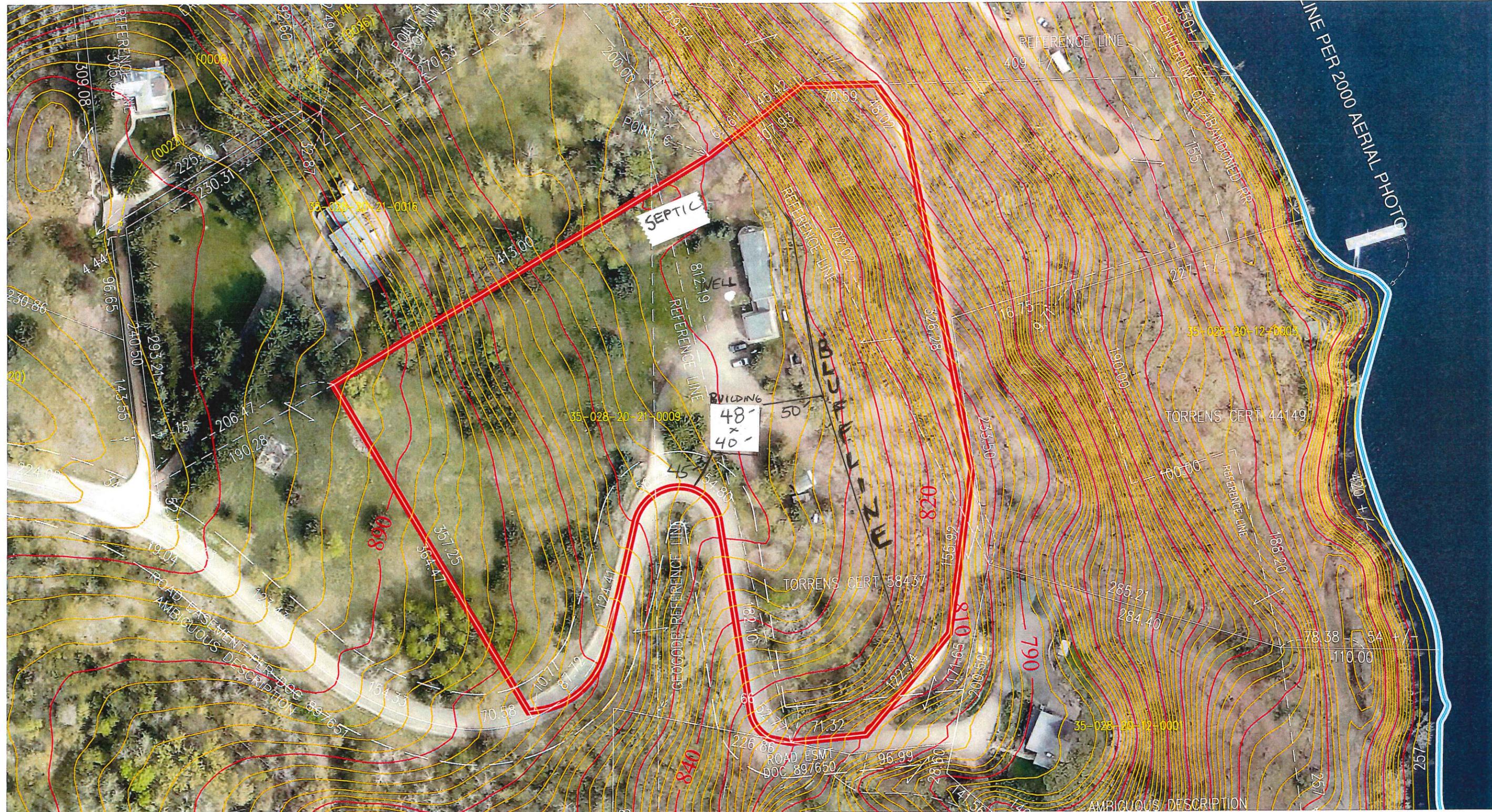
DNR's Comments:

- The exception allows that no variance is required if the listed criteria are met. If there is no change in the natural appearance of the shoreline, slope and bluffline and the structure is visually inconspicuous in summer months as viewed from the river, and an easement is acquired, then this exception is met.
- Please contact Whitney DeLong, DNR Lands and Minerals Conservation Easement and Monitoring and Support Analyst (6512595704; [whitney.delong@state.mn.us](mailto:whitney.delong@state.mn.us)) to discuss DNR's involvement with the easement process.

Thanks for the opportunity to review this Riverway land use application –

Jen

Jenifer Sorensen  
East Metro Area Hydrologist (Ramsey and Washington Counties)  
Division of Ecological and Water Resources  
Minnesota Department of Natural Resources  
1200 Warner Road  
St Paul, MN 55106  
Phone: 651-259-5754  
Email: [jenifer.sorensen@state.mn.us](mailto:jenifer.sorensen@state.mn.us)



**Washington County**

PUBLIC WORKS DEPARTMENT  
SURVEY DIVISION  
11660 Myron Road North  
Stillwater, Minnesota 55082  
(651) 430-4300  
publicworks@co.washington.mn.us  
www.co.washington.mn.us/surveyor

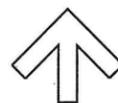
**CONTOUR LEGEND**

- 10 FOOT INTERVAL CONTOUR
- 2 FOOT INTERVAL CONTOUR

Contours are provided courtesy of the Minnesota Department of Natural Resources (DNR). The Minnesota DNR makes no representation or warranties, express or implied, with respect to the reuse of data provided herewith, regardless of its format or the means of transmission. There is no guarantee or representation to the user as to the accuracy, currency, suitability, or reliability of this data for any purpose. The user accepts the data 'as is', and assumes all risks associated with its use. The Minnesota DNR assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.

**LEGEND**

- DNR PROTECTED WATERS
- DNR PROTECTED WETLAND
- DNR PROTECTED WATERCOURSE
- MUNICIPAL BOUNDARY
- PARK BOUNDARY



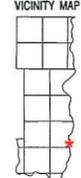
**NORTH**

SCALE: 1 inch = 90 feet

**SECTION-TOWNSHIP-RANGE INDEX**

2702820	2602820	2502820
3402820	<b>3502820</b>	3602820
0302720	0202720	

**COUNTY VICINITY MAP**



**SECTION VICINITY MAP**

22	21	12	11
NW	*	NE	
23	24	13	14
32	31	42	41
SW		SE	
33	34	43	44

PROPERTY IDENTIFICATION NUMBER FORMAT (GEOCODE)  
SECTION TOWNSHIP RANGE QUARTER SPECIFIC  
NUMBER NUMBER NUMBER QUARTER PARCEL  
## ### ## ## ###  
(0001) = LAST FOUR DIGITS OF PROPERTY IDENTIFICATION NUMBER

THIS DRAWING IS THE RESULT OF A COMPILATION AND REPRODUCTION OF LAND RECORDS AS THEY APPEAR IN VARIOUS WASHINGTON COUNTY OFFICES. WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES.

PROPERTY LINES AS SHOWN ARE FOR REFERENCE PURPOSES AND MAY NOT REPRESENT ACTUAL LOCATIONS.

MAP LAST UPDATED: May 13, 2019

NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE

DATE OF CONTOURS: November, 2011 DATE OF PHOTOGRAPHY: April, 2017



**NORTHWEST ASSOCIATED CONSULTANTS, INC.**

5775 Wayzata Boulevard, Suite 565, St. Louis Park, MN 55416  
Telephone: 952.595.9836 Facsimile: 952.595.9837 planners@nacplanning.com

*Tel: 763-231-2555  
Golden Valley*

**MEMORANDUM**

**TO:** Afton Planning Commission / City Council  
**FROM:** John Glomski  
**DATE:** 15 March 2004  
14 April 2004  
**RE:** Afton - Vujovich; Variances and Exception  
**NAC FILE:** 280.02 - 04.09

**BACKGROUND**

The applicant, Robin Ganser, in cooperation with property owner Peter and Jill Vujovich, is requesting two variances and an exception to the City's ordinance for the purpose of replacing an existing roof, adding a small addition, and building a new accessory structure. The subject site is located at 16506 Swede Hill Drive, is zoned Rural Residential and is also subject to the Lower St. Croix River Bluffland and Shoreland requirements.

The applicant presented the same application and was approved for two variances and an exception in December of 2002. Section 12-77 (h) of the zoning ordinance limits the time period for implementing an approved variance to one year of the date the variance was issued. As such, the proposed request must be reapplied for and is subject to any applicable amendments to the City's ordinance since its previous approval and any other conditions the City deems necessary to insure compliance with the terms of the variance.

*The planning commission recommended approval of the proposed variances and exception by a 7-0 vote subject to the conditions within this report. Although staff originally thought that the lateral expansion was allowed as an exception as opposed to a variance, upon discussion with the planning commission and further review of the ordinance, it was decided that a variance was necessary for the lateral extension. The report and conditions have been revised to reflect this decision.*

**Exhibits:**

- A. Site Location Map
- B. Existing Site Plan
- C. Proposed Site Plan
- D. River Elevation
- E. Elevation and Floor Plans
- F. January 2003 letter from DNR

**ANALYSIS**

The subject site consists of an existing nonconforming single family home and an existing nonconforming accessory structure. The single family home was built in 1968, prior to the current zoning regulations. Section 12-637 (a) (5) requires a 100 foot building setback from the bluffline for rural areas located within the Lower St. Croix River Bluffland. According to the submitted plans, the eastern most portion of the site appears to be located directly over the bluffline making the entire structure a "substandard" structure.

The applicant is proposing a 16 foot lateral extension on the north end of the home to construct a screened in porch. The proposed porch will be setback approximately nine feet from the bluffline. Section 12-580 prohibits any extension, enlargement, or alteration of existing substandard structures without meeting the bluffline setback requirement.

Section 12-580 describes exceptions to the setback standards for substandard structures. Section 12-580 (c) (2) allows for a lateral expansion or improvement (parallel to the river or bluff) when the improvement is in compliance with the dimensional standards of the zoning ordinance. As the proposed lateral expansion itself does not meet the bluffline setback requirement, it does not meet the exception requirements and must therefore be granted a variance. It was determined a little over a year ago that a variance for the lateral expansion was reasonable request as the expansion does not increase the nonconformity, meets all other setback requirements, will not alter the essential character of what currently exists and will be visibly inconspicuous in the summer months.

Currently the single family home includes a poorly designed flat and leaky roof. The roof has sagged over the years under the weight of the rain and snow and mold has grown within the walls of the home. The applicant is proposing to install a 4/12 pitched roof, with conventional asphalt shingles of a natural color over the existing flat roof. The roof will increase the height of the home by 4 feet 6 inches to an overall height of approximately 24 feet. Section 12-637 limits the maximum height of structures in the lower St. Croix Bluffland District to 35 feet.

Section 12-57 (c) allows nonconforming structures to be maintained without being altered or improved beyond normal maintenance. Section 12-580 (c) (4) prohibits raising the roofline of a substandard structure. As such, the change in roof type and in particular the increase in height in such a vital area requires approval of a variance.

The proposed hip roof style, as opposed to a gabled roof, along with the minimal 4/12 roof pitch, will help make the change in roof style less noticeable. It was determined by the planning commission and city council at the previous variance discussions that the changes to the roof will be visually inconspicuous from the river. The minimal 4/12 roof pitch is the least amount of variance needed to serve the purpose of ensuring the water will not leak into the home.

The applicant is also requesting approval of an exception allowed in Section 12-637 (d) (1) for a bluffline setback reduction in order to remove and then replace the existing 250 square foot barn with a new accessory structure. The existing barn is located approximately 40 feet from the bluffline. The applicant is proposing to construct the new accessory structure 50 feet from the bluffline. The exception allows the bluffline setback of structures to be reduced from 100 feet to a minimum of 40 feet, contingent upon:

- No change in the natural appearance of the bluffline.
- The structure being visually inconspicuous in the summer months.
- The applicant designating and recording a scenic easement.

It was determined by both the Planning Commission and City Council at the previous hearings that the current barn is not visible from the river and the additional ten feet will help make the newly constructed accessory structure equally inconspicuous. It should also be noted that the subject site is 4.6 acres in area and Section 12-187 limits the number of accessory structures on rural lots less than five acres to one not exceeding 1,000 square feet.

*7.5 acres.. (ACTUAL  
= 5.02)*

#### RECOMMENDATION

The applicant is proposing the same project in which was approved a little over a year ago. Planning Staff concurs with the previous findings of the planning commission and city council and recommends approval of the variances and exception subject to the following conditions:

#### ALTERNATIVE ACTIONS

1. Motion to approve the request for:

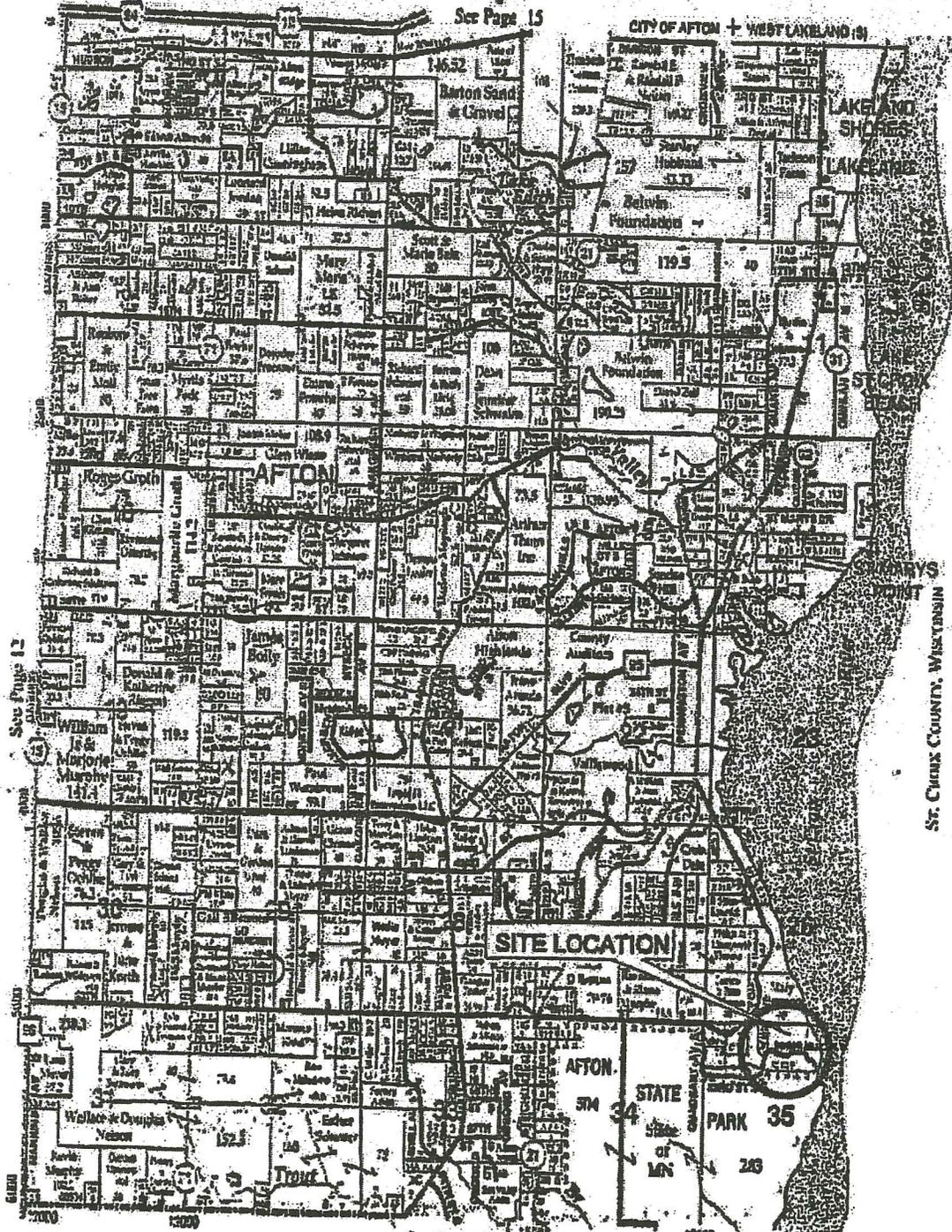
- A variance allowing the construction of a 4/12 pitched hip roof, thereby raising the roofline elevation four feet six inches.
- An variance allowing the lateral improvement of a substandard structure.
- An exception allowing the bluffline setback on a new building to be reduced from 100 feet to no less than 40 feet.

Based on a finding that granting the variances and exception will allow the applicants reasonable use of their property while still complying with the spirit and intent of the ordinance, subject to the following conditions:

1. Plans detailing adequate screening that insures the new barn will remain visually inconspicuous from the river are provided and reviewed by City Staff before the variance is issued.
  2. The new accessory structure is not to exceed 1,000 square feet in area.
  3. Review and certification is obtained from the DNR.
  4. A legal description of a scenic easement covering the area between the house and easternmost property line be submitted and recorded at the Washington County Recorder's office.
  5. The variance is to be recorded at the Washington County Recorder's Office.
  6. Building/roof plans indicating a maximum roof pitch not to exceed 4/12 are provided.
  7. The color of the structures including the roof and trim shall be of summer vegetation or earth tone color.
  8. The soils near the bluff are reviewed by the Washington Soil and Water Conservation District.
  9. Comments from other City Staff.
- 
2. Motion to deny the request for variance based on a finding that the applicants have reasonable use of their property and no hardship has been shown.
  3. Motion to table the request for further study.
- pc. David Enstrom, City Administrator  
Robin Ganser, Applicant

# CITY OF AFTON AND WEST LAKE LAND TOWNSHIP (S)

T.28N. - R.20W.



See Page 11

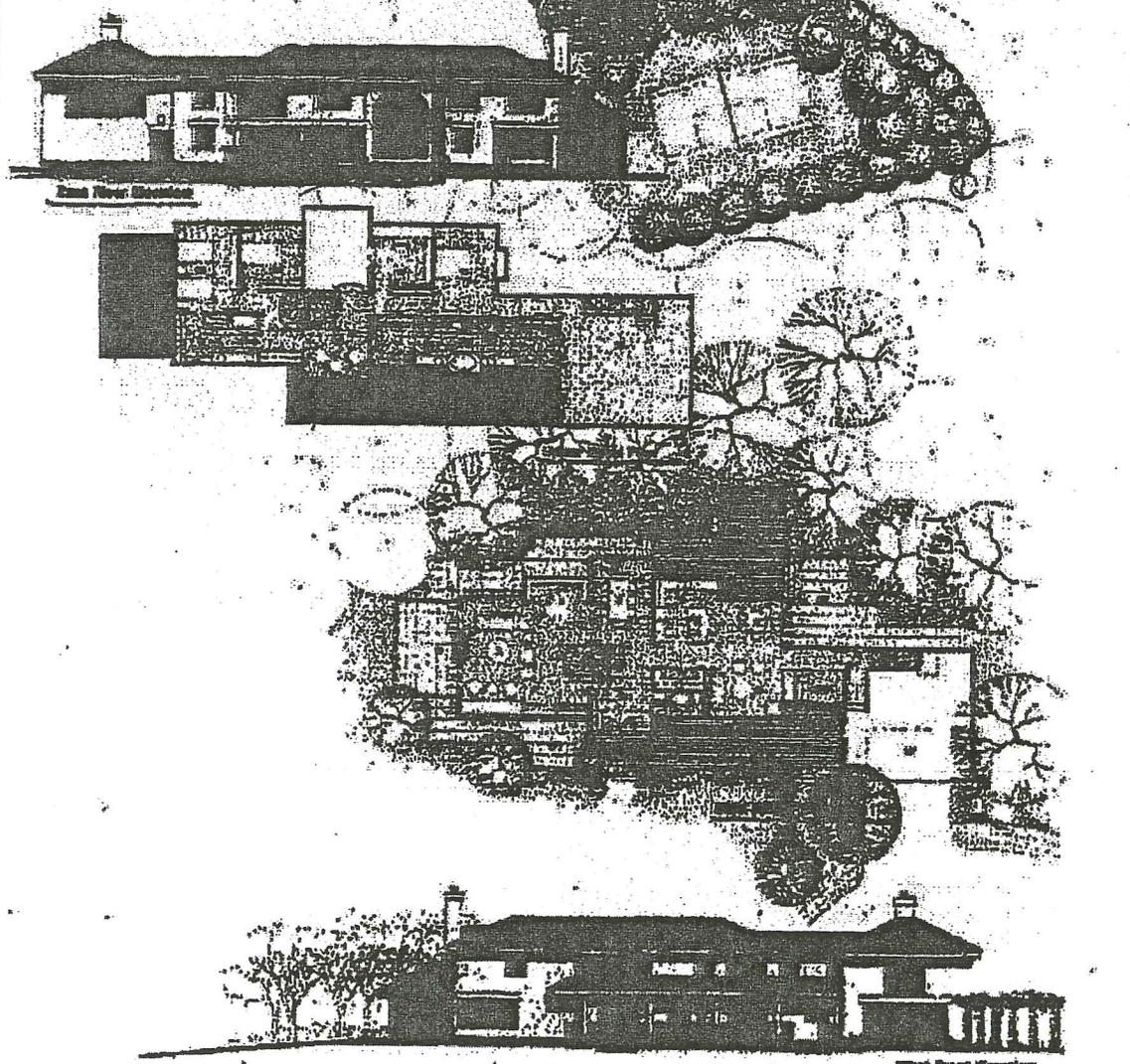
## EXHIBIT A

SCREENING FROM RIVER

STRUCTURE W/ PROPOSED ADD'N

← NORTH

PROPOSED ACCESSORY BLDG



West Point Division

**EXHIBIT E**



Minnesota Department of Natural Resources  
DNR Waters, 500 Lafayette Road, St. Paul, MN 55155-4032  
Telephone: (651) 296-4800 Fax: (651) 296-0445

RECEIVED  
JAN 30 2003

January 29, 2003

Mr. Tom Troien  
City of Afton  
PO Box 219  
Afton, Minnesota 55001

RE: Peter Vujovich Bluffline Variance Request

Dear Mr. Troien:

The Department of Natural Resources has reviewed the information we received on January 14, 2003, relative to the bluffline variance requests. Mr. Vujovich is proposing to construct a screened porch lateral addition approximately 9' from the bluffline and to raise the roofline 4'6" to add a pitched roof to correct leakage problems.

After careful consideration of the issues, the Department of Natural Resources hereby conditionally certifies the lateral addition and roof raising as complying with the intent of the National Wild and Scenic Rivers Act, the federal and state Lower St. Croix River Acts, the Master Plan adopted thereunder, and Minnesota Rules, Parts 6105.0351 to 6105.0550. Conditions 1, 2 and 4-7 of the City's approval dated December 17, 2002 are also required as part of the certification:

1. The applicant shall maintain vegetative screening so as to make the entire structure visually inconspicuous in summer months as viewed from the river. No cutting of vegetation without a vegetative cutting permit shall be allowed.
2. The entire structure shall be painted an earthtone color, including trim.
3. The DNR is not interested in the donation of a scenic easement for this property. We would prefer a conservation easement that could be recorded on the title along with the variance.

We greatly appreciate your cooperation in complying with the intent and administration of the Wild and Scenic Rivers Act. If you have any questions, please contact Molly Shodeen (651-772-7910) at the Central Region's Waters office for assistance.

Sincerely,

  
John Linc Stine, Administrator  
Water Management Section

cc: Peter Vujovich  
Steve Johnson, Waters  
Molly Shodeen, Area Hydrologist

DNR Information: 651-296-6157 • 1-888-646-6367 • 1

An Equal Opportunity Employer  
Who Values Diversity



**RESOLUTION 2004**

**CITY OF AFTON  
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION APPROVING VARIANCES FROM SECTIONS 12-580(B) AND 12-580(C)(4) AND THE EXCEPTION IN SECTION 12-637(D)(1) TO PERMIT A LATERAL EXTENSION ON THE NORTH END OF THE HOME FACING THE RIVER, TO RAISE THE ROOFLINE ON A SUBSTANDARD STRUCTURE AND TO DEMOLISH AN EXISTING BARN AND REPLACE IT WITH A NEW ACCESSORY BUILDING NOT TO EXCEED 1000 SQUARE FEET ON THE PROPERTY OWNED BY PETER VUJOVICH AND LOCATED AT 16508 SWEDE HILL DRIVE IN THE CITY OF AFTON**

**WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and

**WHEREAS,** Peter and Jill Vujovich applied to the City of Afton for variances from the requirement of Sections 12-580(b) and 12-580(c)(4) and the exception in Section 12-637(d)(1) of the zoning ordinance to permit a lateral extension on the north end of the home facing the river, to raise the roofline on a substandard structure and to permit the owner of the property of 16508 Swede Hill Drive to demolish the existing barn and replace it with a new accessory building not to exceed 1000 square feet; and

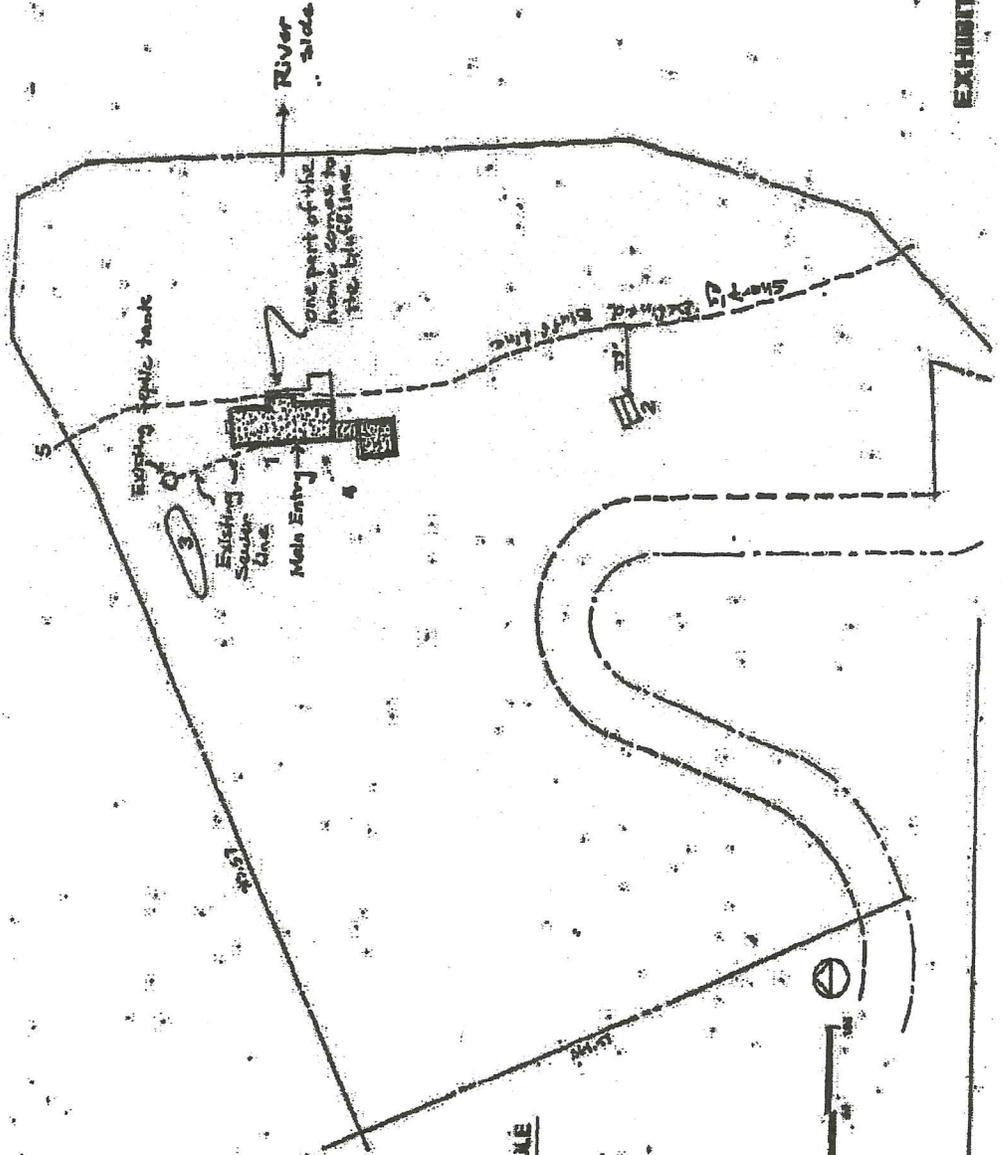
**WHEREAS,** the Planning Commission held a Public Hearing on April 5, 2004 and unanimously (7-0) recommended approval of the variance, subject to the conditions listed in the planners March 15, 2004 report; and

**WHEREAS,** the City Council considered all of the comments, concerns and recommendations of the Planning Commission, the neighboring property owners and the applicants at their regular meeting on April 20, 2004;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Afton hereby grants variances from Sections 12-580(b) and 12-580(c)(4) and the exception in Section 12-637(d)(1) of the zoning ordinance to permit a lateral extension on the north end of the home facing the river, to raise the roofline on a substandard structure and to permit the owner of the property at 16508 Swede Hill Drive to demolish the existing barn and replace it with a new accessory building not to exceed 1000 square feet; subject to the following Conditions:



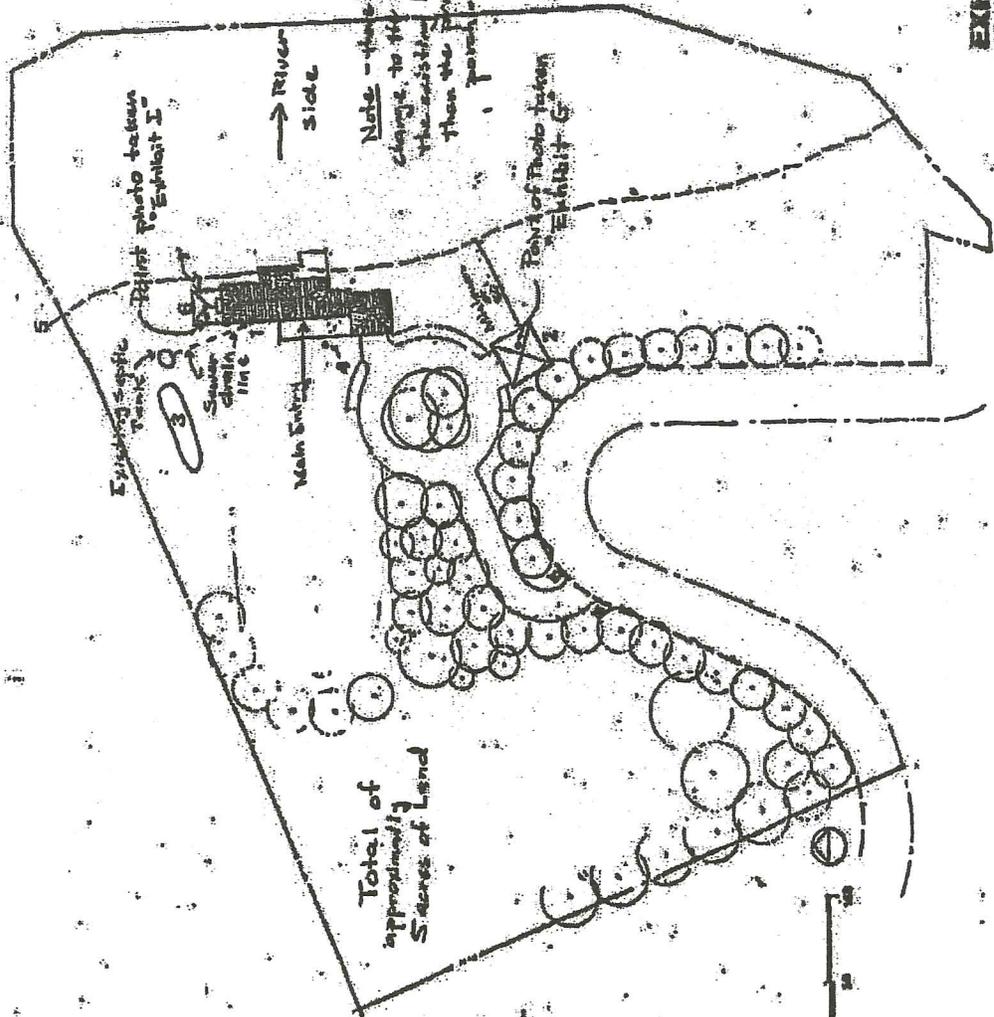
EXHIBIT B



**SCHEDULE**

- 1. Existing House
- 2. Existing Cars
- 3. Existing Driveway
- 4. Existing Walk
- 5. Buff Line

Existing Site



**SCHEDULE**

- 1. Renclosed House
- 2. Barn Replacement
- 3. Existing Driveway
- 4. Existing Well
- 5. Staff Line
- 6. New Screen Porch
- 7. Add/Attach Roof

**Proposed Site Plan**

**City of Afton**  
**3033 St. Croix Trl, P.O. Box 219**  
**Afton, MN 55001**

# Planning Commission Memo

## Meeting: Sept. 9, 2019

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: September 3, 2019

Re: Review and Clarification of Elements of the Preservation and Land Conservation Development (PLCD) Ordinance

### Review of Preservation and Land Conservation Development (PLCD) Ordinance Elements

During the review of the Afton Creek Preserve PLCD subdivision application, a number of elements of the PLCD ordinance were found to be unclear and in need of clarification and/or revision. The City Council referred these ordinance elements to the Planning Commission for review and recommendations. The Planning Commission reviewed three groups of PLCD ordinance elements over the past several months. The following is an outline of the three groups of ordinance elements and an outline of the results of the Planning Commission's review. The minutes of the meetings at which the PLCD ordinance was discussed are also attached for the Commission members' reference.

### Three Groups of Ordinance Elements

#### Review Group 1 – Administrative Elements and Cul de Sac Issues

- A. Clarify that the open space outlots in a PLCD are allowed to be created as outlots
- B. Clarify that a PLCD requires a Conditional Use Permit rather than an Administrative Permit
- C. Clarify the maximum density allowed in a PLCD
  1. Clarify how to determine density when a portion of a qtr-qtr section extends beyond the PLCD
- D. Clarify the definition of cul de sac
- E. Clarify the maximum cul de sac length
- F. Clarify the number of lots allowed on a cul de sac

#### Review Group 2 – Cul de Sac Issues (continued), Conservation Easement and Prohibition of Further Subdivision of PLCD lots

- A. Clarify Cul de Sac issues
- B. Clarify the purpose and language of the conservation easement requirements in view of the statutory limitation on holders of conservation easements
- C. Discuss approaches to prohibit further subdivision of PLCD lots

#### Review Group 3 – Clarification of Ordinance Language Elements and Shared Driveways

- A. Parcels previously subdivided to their maximum density may not be joined to a PLCD
- B. The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- C. Should a lot in an existing subdivision that has been previously subdivided to its maximum density be allowed to be used to provide access to a PLCD?
- D. Shared Driveways

## Planning Commission Discussion and Recommendations

- A. The Planning Commission agreed with the clarification that the open space outlots in a PLCD are allowed to be created as outlots. The Commission also agreed that the ordinance language that currently prohibits outlots on cul de sacs should be revised to indicate outlots are prohibited unless the outlot is under a conservation easement.
- B. The Planning Commission agreed with the clarification/correction that a PLCD requires a Conditional Use Permit rather than an Administrative Permit
- C. The Planning Commission discussed that, although the Comprehensive Plan, under the housing and land use policies, specifically indicates that with a PLCD the maximum density is 4 units per qtr-qtr section, this language is not found anywhere in the zoning code. The zoning code indicates 3 lots per qtr-qtr section and a property owner needs a minimum of 30 acres in a qtr-qtr section to independently subdivide to create an additional lot. The Commission agreed the zoning code should be revised to include the language allowing a maximum of 4 lots per qtr-qtr section for a PLCD, but a developer cannot independently include a portion of a qtr-qtr section in a PLCD unless the developer owns a minimum of 30 acres in the qtr-qtr section. Otherwise, all property owners in a qtr-qtr section are required to make application for and sign an approved plat.
- D. The Planning Commission agreed that the current definition of cul de sac is reasonable and sufficient and should be retained. The Commission also agreed that cross references to the cul-de sac language should be added to the PLCD language.  
The definition of cul de sac is as follows:  
*Sec. 12-1256 Definitions*  
*Cul-de-sac means a street or portion of a street with one vehicular entrance/outlet leading directly to a through street, and having one turnaround at a single termination.*
- E. The Planning Commission agreed that the current maximum of nine lots on a cul de sac is reasonable and acceptable and should be retained. The Planning Commission agreed that, while the maximum length of a cul de sac may be exceeded within a PLCD, this language does not specifically allow a proportional addition to the number of lots on a longer cul de sac. A number of comments were made regarding the number of lots on a cul de sac within a PLCD. One comment was that this language could give the city council the opportunity to be flexible. Another was that limiting the number of lots on a cul de sac could result in unintended consequences, such as the use of a loop road placed through the open space parcel or connected to an existing subdivision.
- F. The Planning Commission discussed methods of prohibiting the future further subdivision of the lots in a PLCD. As required by the conditions of approval of the Afton Creek PLCD, the Home Owners Association (HOA) restrictive covenants prohibit the subdivision of lots without the prior approval of the HOA Board, the approval of the owners in the Association at an Association meeting, and the approval of any government agencies having jurisdiction over the property. If, at some point in the future, the City would change its ordinances to allow smaller lots, any subdivision would still require approval of the HOA Board and the owners in the Association. The Planning Commission agreed that similar language should be added to the PLCD ordinance.

The Planning Commission approved the following ordinance language changes:

Sec. 12-2380. Final development plan.

E. The applicant(s) shall grant a Conservation Easement which shall run with the land in perpetuity to the City of Afton, ~~all of the owners of the lots and parcels to be created in the PLCD, all land owners of property within Afton abutting the PLCD~~ and the Minnesota Land Trust (or similar independent third party approved by the City of Afton), which restricts the lots and parcels, as well as the development rights on the undeveloped parcel(s), within the PLCD to the number of dwelling units approved for the PLCD and the land cover and use approved by the City of Afton as a part of this PLCD. The Land Trust shall review and approve the HOA covenants”. “The MN Land Trust (or similar independent third party approved by the City of Afton) shall provide a written statement that they will agree to the conservation easement over the land prior to final PLCD approval.”

The Planning Commission agreed that additional language should be added to the PLCD ordinance to clarify and strengthen the language regarding the conservation easement. The ordinance language should include more thorough language regarding the constraints on the use of the open space parcels. The conservation easement also needs to be specific vs. vague regarding what is allowed on the open space parcel. The Planning Commission discussed the need to provide a definition of the open space natural area in the PLCD ordinance, including the types of constraints to be placed on the open space parcel. Language from the Conservation Easement document regarding constraints on the use of the open space parcel could be included in the PLCD ordinance.

- G. The general consensus of the Planning Commission was that a parcel subdivided to its maximum density may be used in a PLCD but cannot be used in the calculation of density or in meeting the open space requirement, but only if it helps to accomplish conservation design goals.

The Planning Commission approved the following recommendation:

“Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may be included in a PLCD but may not be included in density calculations or land preservation minimum requirements. Such parcel may be included in the PLCD if it allows for the best conservation design for the PLCD as determined by the City.”

#### H. Additional Performance Standards

The Commission reviewed the list of conditions in Resolution 2018-59, to determine if some should be included as performance standards in the PLCD ordinance. The following were recommended to be added as performance standards:

- Pre-development seeding with a prairie grass/wildflower mix shall be provided on all lots and on the open space parcels.
- The Developer shall enter into a Developer’s Agreement with the City regarding the installation of required improvements, and shall provide financial guarantees as required in Sections 12-1471 to 12-1476 of the subdivision ordinance.
- The homeowner’s association restrictive covenants shall contain a provision that in the event the homeowner’s association becomes insolvent or ceases operating control shall at its option be transferred to the city of Afton or another method of succession shall be dictated by the City.
- The homeowner’s association documents shall contain a waiver of assessment appeal running in favor of the city.
- The provision in the homeowner’s association restrictive covenants allowing changes in lots upon the vote of 2/3 of the residents shall be changed to comply with Afton’s requirements.
- The public walking paths shall be added to the Final Development Plan.

- The city of Afton shall be a named insured on the homeowner association insurance policy and the policy shall cover those risks identified by the city, including but not limited to coverage for personal injuries and any other losses occurring as a result of the public use of the walking trails on the conservation area.
- The homeowner's association shall be required to indemnify and hold the city of Afton harmless from all losses incurred as a result of the public's use of the conservation area walking trails.
- Covenant amendment provisions in the homeowner's restrictive covenants permitting changes after a certain number of years have passed shall be amended to remove the current conflict with restrictions on future subdivision of PLCD lots and other provisions of Afton's ordinances.
- Residential lots shall be subject to restrictive covenants in favor of the other lot owners in the development and the City of Afton requiring that 60% of each lot remain planted in natural prairie, forbs, shrubs and trees, and appropriate language shall be inserted in the homeowners association documents to ensure enforcement of the maintenance of the lots in accordance with these requirements.
- The final plat application shall include estimated initial costs including but not limited to grading, surface water controls and roads and also a final cost estimate, both of which shall be subject to approval by the city's engineers.
- No final plat approval shall occur until both the development contract and the tri-party agreement between the developer, the city and the Minnesota Land Trust has been executed by all parties.
- All new streets shall be named in accordance with the Washington County street naming conventions.

#### I. Shared driveways

The Planning Commission discussed allowing a shared driveway as an alternative to a PLCD to enable a subdivision to serve two or three very large lots, with the condition that a conservation easement be placed on the lots to preserve the open space and natural features and prevent future subdivision of the lots. The Commission agreed the shared driveway concept could be another method of facilitating large lot development under the following conditions:

- a maintenance agreement is required for the driveway
- a multi-party legal way to prevent further sub-division is required
- the number of lots allowed on a shared driveway is limited
- a park dedication is required
- a minimum driveway width is required based on the number of lots to be served.

Planning Commission Recommendation Requested

**Motion regarding recommendations to be forwarded to the Council regarding the PLCD ordinance.**

206 Bowman suggested a CUP could be granted on a case by case basis to exceed requirements  
207 Parker asked if allowed, where does it end?  
208 Moorse stated that other cities will put a limit on, such as percent of total.  
209 Doherty asked if other stakeholders have a definition (State? DNR? Watershed?)  
210 Moorse will gather other city ordinances  
211 Doherty stated that we should gather more facts  
212 Bowman stated that we need a measurable definition for permeable  
213 Sykora stated he would like feedback and information  
214 **Bowman withdraw motion (Sykora accepted) Motion Withdrawn**  
215 Research and come back next month  
216

217 B. Election of Officers

218 Tabled until April  
219

220 10. OLD BUSINESS –

221 A. Review and clarification of elements of the PLCD ordinance language

222 Group 1 elements

223 a. Clarify that open space outlots in a PLCD are allowed to be created as outlots

224 Language in PLCD ordinance varies from the outlot language for cul de sacs.

225 Bowman asked why no cul-de-sac outlots? Moorse replied that had to do with future development concerns  
226 on the cul-de-sac.

227 Recommend clarifying to read to “Allow unless the outlot is under conservation easement”  
228

229 b. Clarify that a PLCD requires a CUP rather than an Administrative Permit

230 All agreed to change language to “CUP” (appears to be a typo)  
231

232 c. Clarify maximum density allowed in a PLCD

233 3 per quarter-quarter section or 4 per quarter-quarter

234 Sykora stated it should be total of property, not by quarter-quarter as it can take away from neighboring  
235 property.

236 Doherty stated the zoning ordinance doesn’t mention quarter-quarter; also question on how to count

237 Parker stated it should be based around what is buildable, and what exists

238 Doherty stated it cannot be solved tonight; but everyone should think through language options  
239

240 Elements d,e, and f will be looked at next month  
241

242 B. Update on City Council actions

243 Council member Wroblewski provided a summary of the February City Council meeting.  
244

245 11. ADJOURN

246 **Motion/Second Sykora/Dawson To adjourn. Passed 5-0**  
247

248 Meeting adjourned at 9:30 PM  
249  
250  
251

252 Respectfully submitted by:

253  
254 JY

255 Julie Yoho, City Clerk  
256  
257

108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159

**B. Review & clarification of elements of PLCD ordinance language**

c. Clarify the maximum density allowed in a PLCD

1) Clarify how to determine density when a portion of a qtr-qtr section extends beyond the PLCD

Kopitzke stated that the intent of the languages was to protect people there, not make it first-come, first-served.

Parker stated that dividable land should not be determined just by size; land that is not buildable shouldn't count

Moorse stated it could be left at 4 lots per qtr-qtr and require the neighbors to work with each other

Sykora stated that the qtr-qtr language could encourage a developer to purchase a larger tract and result in more protected land.

Sykora stated it will become more difficult to work with qtr-qtr sections over time. Go by total amount of land.

Dawson stated that the comprehensive plan says we discourage land prospecting, this language does that.

Kopitzke stated that the PLCD is a way to conserve land and way for landowners to sell land.

Bowman suggested if a development was to deprive other owners in the qtr-qtr their right to subdivide in the future, then the application could require a signature from others

d. Clarify definition of a cul de sac

Discussion was held on why the language is unclear and what needs to be clarified

Bowman stated that any road that is the only egress from an area can only serve 9 homes.

Parker suggested language to clarify prohibiting cul de sacs branching from cul de sacs

Bowman asked about the separation of driveways in a PLCD? (Moorse replied that in the Ag zone it is 300').

It was decided the current language is sufficient

e. Clarify maximum cul de sac length

Length is variable in a PLCD, there will be cases where it can be lengthened under PLCD language

Langan suggested stating a cul de sac can't exceed 1320' without a certain amount of property (large minimum)

Kopitzke suggested adding cross references in the PLCD language.

Langan suggested adding terms that imply intent.

f. Clarify the number of lots allowed on a cul de sac

Kopitzke stated that this version of the language gave the city council the opportunity to be flexible.

Moorse stated the general language limiting to 9 lots applies to PLCD and everywhere.

Mayor Palmquist stated that a PLCD is an exception.

PLCD can only occur in Ag

The concept of having loop roads as an unintended consequence needs to be considered.

Sykora noted it is very site specific.

C. Pervious Pavers

**Motion/Second Sykora/Bowman to table item "pervious pavers" until next meeting. Passed 6-0.**

D. Planning Commission Dinner gathering

It was decided Bowman will grill and others will bring items for potluck. Plan for 18 people. Start at 6:00, May 6.

E. Update on City Council actions

Mayor Palmquist provided a summary of the March city council meeting. He noted that the river crested at 688.48'.

1. **CALL TO ORDER** – Chair Kris Kopitzke called the meeting to order at 7:00 PM
2. **PLEDGE OF ALLEGIANCE** – was recited.
3. **Oath of Office** – Kuchen Hale
4. **ROLL CALL** – Present: Kris Kopitzke, Sally Doherty, Christian Dawson, Doug Parker, Roger Bowman, Justin Sykora, Kuchen Hale. A Quorum was present. Absent were Scott Patten & Scott Langan (excused).  
**ALSO IN ATTENDANCE** – Mayor Palmquist, City Administrator Ron Moose
5. **APPROVAL OF AGENDA** –  
**Motion/Second Hale/Doherty To approve the agenda for the May 6, 2019 Planning Commission meeting. Passed 6-0.**
6. **APPROVAL OF MINUTES** –
  - A. February 4, 2019  
**Motion/Second Bowman/Sykora To approve the minutes of the February 4, 2019 Planning Commission meeting. Passed 4-0-3 (Doherty, Hale, Dawson abstain due to absence).**
  - B. April 1, 2019  
**Motion/Second Parker/Kopitzke To approve the minutes of the April 1, 2019 Planning Commission meeting. Passed 5-0-2 (Doherty, Hale abstain due to absence).**
7. **REPORTS AND PRESENTATIONS** - None
8. **PUBLIC HEARINGS** – none
9. **NEW BUSINESS** – none
  - A. City of Lake St Croix Beach Draft 2040 Comprehensive plan  
Discussion was held over septic and well systems, ground and surface water management, municipal sewer system.  
Comments: maintain low density development along border, concerns about water quality/would like to see the updated implementation plan for water management, address exploration of city sewer, desire to have a collective effort on water issues, land density and monitoring of existing septic systems.  
**Motion/Second Kopitzke/Hale to recommend providing comments listed above to the city council regarding the City of Lake St Croix Beach draft 2040 Comprehensive plan. Passed 7-0-0.**
10. **OLD BUSINESS** –
  - A. Election of Officers - Secretary  
**Motion/Second Dawson/Doherty To nominate Doug Parker for Secretary. Passed 6-0-1 (Parker abstain).**
  - B. **Review & clarification of elements of PLCD ordinance language**
    - a. Discuss approaches to prohibit further subdivision of PLCD lots.  
Sykora asked what happens if the HOA dissolves over time? Language is needed.  
Administrator Moose stated that the responsibilities go back to the city and city can assess for maintenance expenses.  
Sykora asked if HOA dissolves do the majority of owners take place of the HOA?  
Doherty recommended changing language to read “and/or” any government having jurisdiction.  
Dawson stated approval should be required of all people in the PLCD and abutting landowners.  
Hale stated it has to stay within the PLCD, not abutting properties.  
Moose stated there are limitations on a city empowering abutting properties to have control.

56 Doherty asked why are there particular constraints on these parcels and groups if changes occur in  
57 future?

58 Bowman stated that a PLCD development was an exception to agriculture, not zoned RR.

59 Hale stated if the HOA dissolves, falls under city jurisdiction.

60 Dawson stated that a PLCD is allowed in areas they typically can't be in due to the conservation benefit.

61 If it is developed more, it loses the conservation element and restriction of further development.

62 Doherty stated that if changes occur in the future in Afton's density; the ordinance could be changed

63 Kopitzke stated that the language like this is already in the ordinance, question is if there should be  
64 more.

65 Sykora asked about the intent

66 Hale stated the reason to allow the higher density is to have contiguous open space.

67 Moose stated that if density were to change, the Met council would have to approve, likely regional  
68 sewer. Would take time.

69 Dawson stated that in the event of HOA disbandment, the city could hire someone to run, the  
70 management company would follow covenants.

71

72 b. Clarify the purpose and language of the conservation easement requirements

73 Doherty stated that neighbors shouldn't have control over other properties.

74 Bowman stated that the purpose was to protect values.

75 Kopitzke not enough incentive for developer to try.

76 Hale would like it to include language that the MN Land Trust has to agree to be involved.

77 **Motion/Second Doherty/Hale to change language to read:**

78 **Sec. 12-2380. Final development plan.**

79 **E. The applicant(s) shall grant a Conservation Easement which shall run with the land in**  
80 **perpetuity to the City of Afton, all of the owners of the lots and parcels to be created in the**  
81 **PLCD, all land owners of property within Afton abutting the PLCD and the Minnesota Land**  
82 **Trust (or similar independent third party approved by the City of Afton), which restricts the**  
83 **lots and parcels, as well as the development rights on the undeveloped parcel(s), within the**  
84 **PLCD to the number of dwelling units approved for the PLCD and the land cover and use**  
85 **approved by the City of Afton as a part of this PLCD.**

86 Moose stated that the MN Land Trust needs to approve of the HOA covenants.

87 **Hale friendly amendment (accepted) to include language "MN Land review and approve the**  
88 **HOA covenants".**

89 **Motion vote: Passed 7-0.**

90

91 **Motion/Vote Hale/Dawson Add language that "The MN Land Trust (or similar independent**  
92 **third party approved by the City of Afton) provide written statement that they will agree to the**  
93 **conservation easement over the land prior to final PLCD approval." Passed 7-0.**

94

95 c. constraints on open space parcel

96 Dawson questioned what is definition of developable land to get credit for density?

97 Kopitzke asked about use of open space - are trails are allowed? Ag? Soccer field?

98 Hale stated that we need to see what MN Land Trust rules are before adding any language

99 Sykora stated we need to define natural area and have it spelled out in easement language

100 Bowman stated it has to be appropriate use for that particular piece of land. How is use enforced?

101 Kopitzke would like a copy of conservation easement for review next month.

102 Sykora define open space (next month).

103

104 C. Pervious Pavers

105 Sykora asked what is the benefit unless water is captured and treated? It is good to slow down flow  
106 but doesn't treat problem. Function of design and maintenance.

59 Hale asked what the thoughts were when original was written. (Moose replied nothing specific, land use  
60 violation).  
61 Doherty stated that the reason doesn't matter for not conforming. Suggested adding new fees \$500/month non  
62 compliance.  
63 Sykora suggested adding item "g" "If non-compliant, property subject to penalty according to city fee schedule.  
64 If ground conditions do not allow for work, owner is allowed 60 days to begin when conditions improve. Both  
65 to be determined by city." 60 days could start when road restrictions are lifted.  
66 Bowman suggest fee be significant. \$500 for every 30 days.

67  
68 Section 2

69 Addresses ISTS in the time of flooding

70 Hale asked about the duration of flooding, who determines? (WA County)

71 Moose stated that the language during flooding is broader than just the downtown area.

72 Hale what are residents to do

73 Doherty stated that this language allows the city or county to deal with systems in event of situation due to  
74 flooding. Recommends leaving as written.

75 Bowman recommended deleting last portion of last sentence "~~such that wastewater may be released into the~~  
76 ~~flood waters.~~

77  
78 Section 3

79 Gives authority to city to inspect to see if anyone has connected sump pump to sewer system.

80 Doherty recommended leaving the text as-is.

81  
82 **Motion/Second Hale/Sykora To approve comments above and send recommendations to the City**  
83 **Council. Passed 6-0.**

84  
85  
86 **8. NEW BUSINESS – none**

87  
88  
89 **9. OLD BUSINESS –**

90 **A. Review & clarification of elements of PLCD ordinance language**

91 Parker stated there isn't much ability to enforce if the HOA doesn't follow through

92 Sykora stated that the city would take over

93 Hale recommended supplementing the language "vegetation" with language "to use native species"

94  
95 Item a Parcels previously subdivided to their maximum density may not be joined to a PLCD.

96 This is regarding adjacent parcels already developed

97 Hale stated there is no transfer of density rights in calculation of PLCD requirements

98  
99 Item b. regarding allowing access though an existing lot

100 Dawson stated the current language allows flexibility. Changing the statement changes the intent. Allowing  
101 road in platted subdivision opens Afton up for developers. Current language allows for decision.

102 Doherty stated the language doesn't say that roads are allowed or disallowed, lets the planning commission  
103 and city council decide.

104  
105 Item 1C. Coordination with subdivision regulations

106 Bowman suggested "not included in any way"

107 Hale suggested "may be joined, but do not transfer density"

108 Sykora stated the current PLCD preserved many acres. Afton is moving toward more development

109 **Motion/Second Sykora/Doherty move to recommend changes to the ordinance as follows:**



160 Kathy stated there are licenses for equine assisted physco-therapy (2 governing organizations) and a license  
161 administered by state board for licensed mental health professionals.  
162 Key terms: Private use, owner and resident of home, licensed health care professional, animal use  
163 Bowman recommended adding to list of allowed uses  
164 Parker expressed concern over future requests  
165 Moorese recommended the tie to riding stable as there are minimum acreage requirements.  
166 Doherty recommended telling the City Council the direction the PC is going and request a month to develop  
167 the language.

168 **Motion/Second Kopitzke/Doherty move to recommend that City Council look at the stable use as private**  
169 **with a CUP specific to therapy operated out of the home; maintaining rural character.**

170 **Doherty offered friendly amendment to extend another month to develop language and would like**  
171 **feedback from the council before next meeting. (Accepted)**

172 **Motion vote: Passed 6-0.**

173  
174 **Motion/Second Doherty/Bowman move to deny CUP application because there is no ordinance to support**  
175 **it at this time. Fees will be reapplied toward a new CUP that will match ordinance language change that**  
176 **may be proposed. Passed 6-0.**

177  
178 Applicants returned regarding 7b with a question regarding the ordinance language requiring 25' setback to  
179 house. Language states either screening is required, or the building needs to be within 25', not both.

180 Sykora recommended the City Council be informed.

181 Applicant was asked to provide the distance and have screening plan for the City Council

182

183 **8. NEW BUSINESS – none**

184

185 **9. OLD BUSINESS –**

186 **A. Review & clarification of elements of PLCD ordinance language**

187 Kopitzke asked for summary of the joining discussion: parcels can be joined but cannot be counted in  
188 increased density, may be included in PLCD if it improves design goals. Also cannot be used to meet open  
189 space requirements.

190 Doherty feels the loose ends were tightened up and language clarified.

191 Sykora stated there wasn't anything guiding them to say no or yes last time, now there is better way to make  
192 a decision.

193 Doherty noted that it is unlikely that a perfect parcel will surface

194 Dawson stated the language is "may be included" to allow for option. More useful and clear.

195

196 The commission reviewed the list of conditions in Resolution 2018-59, specifically items in bold to  
197 determine if they should be included in all PLCD language. The majority were kept, with a few changes.  
198 The list is attached.

199 Bowman & Parker expressed concerns over enforcement

200

201 **Motion/Second Bowman/Parker to include item #36 regarding requirement that 60% of each lot be**  
202 **planted in natural vegetation. Passed 4-2 (Doherty & Kopitzke Nay)**

203

204 **B. Update on City Council actions**

205 Council member Wroblewski provided a summary of the June City Council meeting.

206

207 **11. ADJOURN**

208 **Motion/Second Sykora/Doherty To adjourn. Passed 6-0.**

209

210 Meeting adjourned at 9:45 p.m.

211

## August 20, 2019 City Council Meeting Highlights

### ***The Council:***

- Approved the Kathy and David Boisjoli Application for an Ordinance Amendment Regarding a Private Riding Stable with Equine-Assisted Therapy and an Application for a Conditional Use Permit for Equine-Assisted Therapy at a Private Riding Stable at 15489 45th Street
- Approved the preparation of plans and specifications and advertisement for bids for the 2020 Road Improvement Project
- Approved the 2018 Audited Financial Statements
- Approved the price quotes from MEECO and the Afton Marina for the City Docks Rehabilitation Project
- Approved Flood Levee Erosion Repair and Revegetation at a cost not to exceed \$33,000, most or all of the cost to be reimbursed by the Federal Emergency Management Agency.
- Approved signs in Steamboat Park indicating no camping and no fires