

SUPPLEMENTAL PACKET

Planning Commission Memo

Meeting: December 3, 2018

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moore, City Administrator

Date: December 3, 2018

Re: Afton Creek Preserve Application for Final Plat - **Supplemental**

The following supplemental information is attached:

- Comments received from Randy Graham regarding the Final Plat
- Comments received from Mary McConnell regarding the Final Plat
- Comments received from Jim Rickard regarding the Final Plat
- A revised, expanded memo from the City Engineer providing a more detailed listing of the items reviewed and approved by the City Engineer
- A copy of the recorded public roadway easement through the 5550 Odell parcel
- A copy of a letter from US Bank regarding the financial capacity of Albert W. Carlson

Responses to Comments Received Regarding the Final Plat

Responses to Graham Comments

1. The existing barn is currently used for storage. All stored items will be removed following approval of the Final Plat. The Development Agreement can be revised to require that, once the stored items are removed, no use of the barn may be made until a building permit has been issued for a house on the parcel.
2. The screening plan is to be based on screening sightlines to new homes. The developer will work with the property owners to determine the locations that best provide the screening to new homes. This is difficult to do prior to the construction of the new homes. If the property owners have identified specific needs and locations for screening, they could be added to the landscaping plan.
3. Because the pole barn was existing prior to the requirement of the 100 foot setback, it is considered to be legally nonconforming and can remain on the parcel.
4. The developer will remove the fuel tank. The removal process (and the mitigation process if necessary), will need to meet all state requirements. This requirement will be added to the Development Agreement.
5. The developer will remove the portable toilet. If the portable toilet is a pit latrine, it will need to be abandoned according to Washington County Public Health requirements. This requirement will be added to the Development Agreement.
6.
 - a. Attached is the public roadway easement that was recorded on the 5550 Odell parcel.
 - b.

The Development Agreement requires that the developer or Home Owners Association (HOA) will be responsible for the long term maintenance of the 5550 Odell parcel. (see item 19.I) The parcel will be maintained similar to the two open space outlots. The parcel will not be a City Park. The Development Agreement and Final Development Plan will be revised to reflect this clarification.

Responses to McConnell Comments

1. The Minnesota Land Trust has indicated State Statute does not allow individuals to be parties to a conservation easement. (Please see the excerpt from the statute below.) The City Attorney has indicated that the statutory language appears to contradict the language of the PLCD ordinance, in which case the statute would supersede the ordinance. The City Attorney was unable to review the statute and provide a definitive opinion in time for the Planning Commission meeting. The Minnesota Land Trust has indicated the conservation easement will protect the land in perpetuity, regardless of any changes to adjacent parcels. The only thing that could result in a termination of the easement is if an event, such as a natural disaster, occurred that totally changed the character of the protected property and made continued use of the property in a manner consistent with the Conservation Purpose of the easement impossible or impractical.

Excerpt from Statute.

Minnesota Statute 84C.01 is the state statute that addresses conservation easements. Under that statute, the parties that are eligible to hold easements under Minnesota Law are:

- 1) a governmental body empowered to hold an interest in real property under the laws of this state or the United States; or
 - 2) a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.
2. Development Agreement
 - a. Street lights. The Council has directed that there shall be no street lights allowed in the development, and all references to street lights have been eliminated from the Development Agreement
 - b. The Development Agreement should require seeding as soon as is practicable in the spring of 2019.
 - c. Attached is a letter from US Bank regarding the financial capacity of Albert W. Carlson.
 - d. Additional language regarding the use restrictions could be added to the Development Agreement. However, once the Final Plat is recorded, ownership of the farm access parcel will be transferred. The developer will no longer have ownership at the time of development-related activities.
 - e. The City ordinances require a property owner who owns two adjacent lots, one of which does not meet size and/or width standards, to combine the two lots.
 3. The referenced Randy Graham comments are addressed above.

Responses to Rickard Comments

1. The guidance provided by staff to the Planning Commission regarding the review of the Final Plat reflected the advice received from the City's Planning Consultant concerning the Final Plat review

process. The list of items for review was to provide a focus for the review, rather than to restrict the review.

2. Addressed by response to McConnell Comment #1.
3. Addressed by response to Graham Comment #3 above.
4. Addressed by response to Graham comment #2 above
5. This comment will be reviewed with the City Attorney regarding how best to accomplish the intent of the comment.
6. Addressed by response to McConnell comment #2.a. above.
7. The total security amount for off-site improvements is \$327,600. Staff will review this amount with the City Engineer to ensure sufficient security is provided.

Ron Moore

From: Kopitzke, Kris <kris.kopitzke@abbott.com>
Sent: Monday, December 03, 2018 8:33 AM
To: Kathy Graham; Ron Moore
Cc: Graham, Randy
Subject: RE: Afton Park Preserve Final Plat Approval

Ron,
Can you include these for our information tonight? (Sorry, but our corporate email seems to have stripped out the pictures – Kathy, can you send those directly to Ron?)

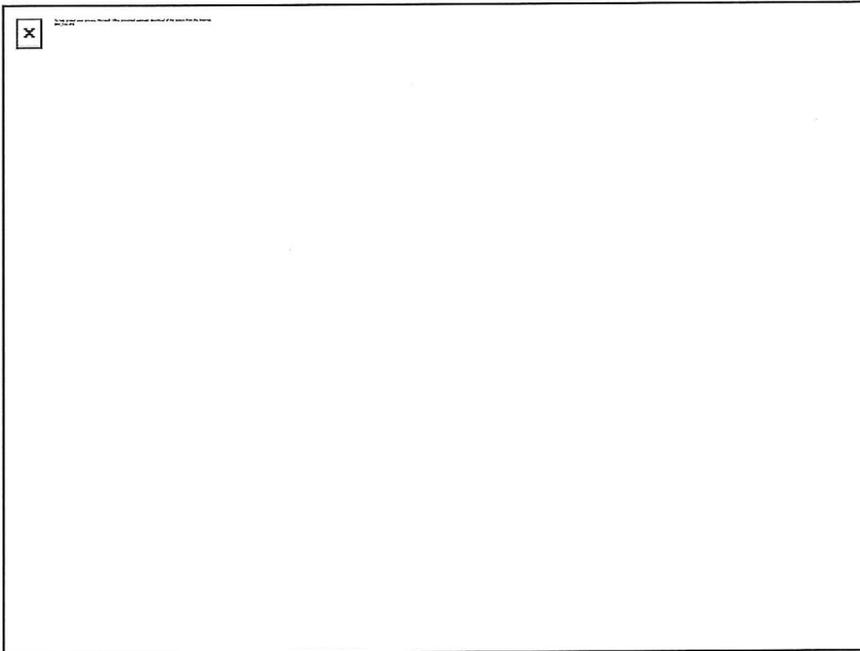
Kathy –We don't have a public comments period tonight, since the planning commission's role in approving the final plat is mainly to make sure it's consistent with everything agreed to in the preliminary plat. Thank you, however, for the comments. We do appreciate having extra eyes and feedback on this since it's a lot for the planning commission to go through and, of course, we aren't as intimately familiar with the property as the neighbors are.

Kris Kopitzke

From: Kathy Graham [mailto:inamahto@gmail.com]
Sent: Sunday, December 2, 2018 7:11 PM
To: Kopitzke, Kris <kris.kopitzke@abbott.com>
Cc: Graham, Randy <rakagra@gmail.com>
Subject: Afton Park Preserve Final Plat Approval

We are unsure whether comments from the public will be allowed at the PC meeting tomorrow evening. So we are sending these comments to you after reviewing the packet that was sent to PC members. We ask that you share these with other PC members.

1. Lot 4, Block 3 is the lot directly adjacent to our property. This lot contains Bob Schuster's old pole barn. A photo of barn taken from our property line is below. The developer apparently plans to keep the barn intact and in place. We understand that city ordinances dictate that no accessory buildings can exist on a lot without a primary structure. If this is so, shouldn't this discrepancy be addressed in the final agreement?

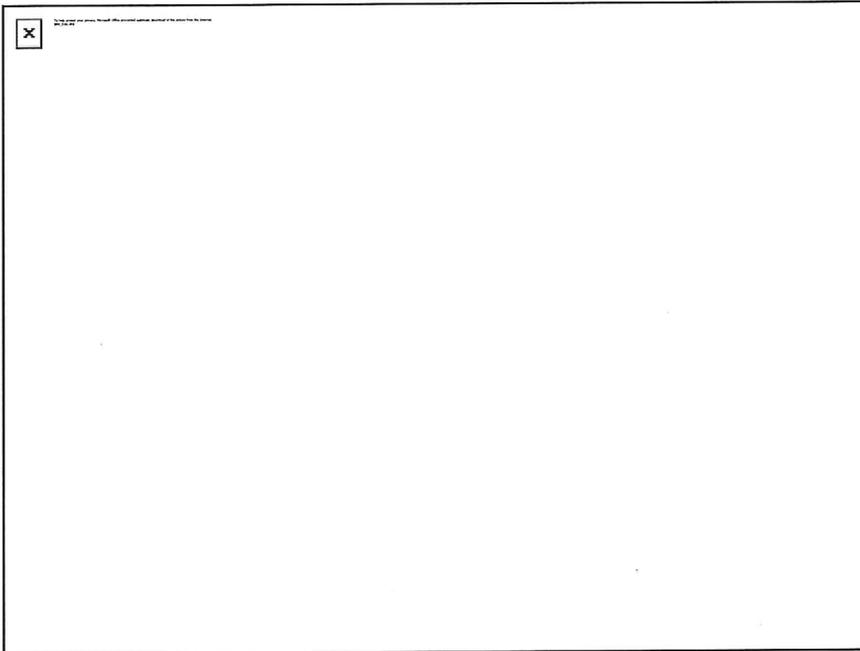


2. Item #15 in the proposed final agreement dictates a 100-foot setback on the lots adjacent to our property and the property of our neighbors. It also mandates "evergreen trees in locations that help screen sightlines to new homes." We are fine with the idea of building a vegetative wall and having the developer pay for it, but the current language is a bit nebulous. We would prefer to see specific details about the vegetative screen and the exact location, so we can have a fuller understanding of what we're getting.

3. The pole barn again. The proposed final agreement dictates a 100-foot setback. We would have to venture onto the property to get an exact measurement, but by standing at our property line and eyeballing the distance to the pole barn, we think it's ~88 feet. Thus, this building is not in compliance with the setback contained in the proposed final agreement.

4. The picture we've included of the pole barn also shows a fuel tank, which is located about 20 feet from our property line. It is one of two located on Lot 4, Block 3. Our understanding is that these tanks contained gasoline or diesel fuel. Do these need to be noted in any way? Is any sort of abatement procedure needed during or after their removal?

5. This structure, (below) which is located about ten feet from our property line appears to be a portable toilet, but our understanding is that there is a hole excavated under it that extends quite a bit below the soil surface, which would make it a pit latrine. Again, does this pit latrine need to be noted? And again, what sort of abatement procedure is required during or after its removal?



6. When the Preliminary Plat was approved in April the following two conditions were listed in the approved minutes regarding the lot at 5550 Odell.

2. The developer shall obtain and provide an easement providing access to Odell Avenue prior to the approval of the final plat.
3. The developer shall provide an acceptable method of ensuring adequate long term maintenance of the 5550 Odell Avenue parcel.

The 11/26 memo from Ron to the PC indicates that a right of way easement has been recorded but we didn't see any discussion of how the property will be maintained. The accompanying Preliminary Plat map labels the property as "Green Space - City Park". The Final Development Plan map has no designation for the property. So what is the plan for that lot?

Thank you for keeping these thoughts in mind as you review the materials regarding this final plat approval.

Kathy and Randy Graham
5912 Trading Post Trail

Ron Moore

From: Randy Graham <rakagra@gmail.com>
Sent: Monday, December 03, 2018 11:01 AM
To: kris.kopitzke@abbott.com
Cc: inamahto@gmail.com; Ron Moore
Subject: Re: Afton Park Preserve Final Plat Approval

Ron & Kris - Here are the photos that we referenced in our comments. If they don't make it thru the magical email wormhole, let me know & I can try resizing & resending. - Randy Graham



On Mon, Dec 3, 2018 at 8:33 AM Kopitzke, Kris <kris.kopitzke@abbott.com> wrote:

Ron,

Ron Moorse

From: Kopitzke, Kris <kris.kopitzke@abbott.com>
Sent: Monday, December 03, 2018 9:00 AM
To: Mary McConnell; Ron Moorse
Subject: RE: Carlson PLCD-FINAL Plat Approval

Ron – Can you include these comments for the PC meeting as well?
If there's a chance to get feedback from the City Attorney on #1, I'd appreciate that.

Mary – thanks for the comments. The plat application materials are a lot for the Planning Commission to go through and extra eyes are truly welcome.

As I understand it, our evaluation is constrained to ensuring the final plat is consistent with the preliminary plat and it's conditions. On first reading, I think your comments are consistent with ensuring we have good evidence those conditions can be met and that they are articulated correctly in the developer's agreement, so we'll see what the rest of the Commission thinks.

Thanks,
Kris Kopitzke

From: Mary McConnell [mailto:marymcconnell@comcast.net]
Sent: Sunday, December 2, 2018 5:03 PM
To: Kopitzke, Kris <kris.kopitzke@abbott.com>
Subject: Carlson PLCD-FINAL Plat Approval

Hi Kris: I am very sorry for these late comments. I submit them for your consideration at the PC tomorrow night.

1. Conservation Easement.

- a. The MN Land Trust did not include the properties that abut the PLCD as part of the conservation easement. This is so even though the PLCD ordinance requires that both the City and the properties abutting the PLCD shall be granted the conservation easement. See ordinance language below. This provision is included in many conservation easements as an additional protection so that the conservation easement can never be broken because it would involve the difficult task of getting not only the consent of the City but also surrounding properties. The Land Trust is taking the position that it can't work with surrounding properties being listed on the easement. This is in direct opposition to our ordinances. It is quite disappointing that a Land Trust would come into our community and dictate the terms of a conservation easement that is in opposition to ordinance provisions designed to protect the City and adjacent properties. Furthermore, the abutting properties do not need to be active participants in managing the easement but merely passive beneficiaries so it would be no problem for the Land Trust. The abutting properties are merely the last line of defense if there was ever an attempt to break the easement. As a point of reference, there are instances on record around the country where conservation easements have been broken by land trusts when conditions change.

12-2380. 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. If neither Minnesota Land Trust nor any comparable organization will accept the Conservation Easement the City of Afton, in its sole discretion, may upon a specific finding that no conservation organization will accept a Conservation Easement, waive such requirement. In the case of such waiver, the applicant(s) shall be required to extend the grant of a Conservation Easement to the owners of property that abuts all abutting property to the PLCD.

- b. Paragraph 2.7.e (page 9) suggests that a permanent fence will be installed around the entire perimeter of the conservation easement. Fences of this sort do not seem consistent with rural character. Also, they may restrict access to the public walking trails within the conservation easement.

2. Development Agreement.

- a. There are several provisions of this agreement that reference street lights and signs (paragraph 5, 18, etc). I also understand that streets lights have been asked for. The City should not allow street lights associated with the PLCD. This land was primarily agricultural and is surrounded by agricultural zoned land to the south and west. There are no street lights anywhere in the area and they are not consistent with the rural character.
- b. Paragraph 14 does not give the developer a timeline to begin the reseeded of the property by Prairie Restoration. That work should be done immediately this spring to prevent the establishment of non-native species. The existing land was previously farmed in row crops but has laid fallow this past year and has grown up in a number of non-native plants.
- c. Paragraph 5.a.7. The Guarantor is identified as the Albert W. Carlson Trust. As Guarantor, you are responsible for guaranteeing all the obligations in the agreement if the developer (J.P. Bush Homes) cannot perform. A trust is a separate entity limited by its assets. We have seen no information on whether there are sufficient assets in the trust that could support that obligation. The City should do its due diligence on this to ensure the City and its residents are protected. Given that Mr. Carlson has indicated to a number of people that Mr. Bush has no assets and Carlson is paying for everything, it is important for the City to ensure it is contracting with a party who can fulfill the obligations under the development agreement.
- d. Paragraph 12. This says the farm access road from Trading Post shall not be used as a construction thoroughfare or road for the development. This language should be clarified that it should not be used for any construction traffic related to the development. The existing language is too broad.
- e. Paragraph 12. The farm access road has been surveyed and shown to be proposed to be conveyed to Mary McConnell as agreed. However, it appears that the parcel is proposed to be joined to McConnell's existing parcel. McConnell would like the farm access road PID conveyed as a separate parcel and not joined to McConnell's property so that she can convey it to the Lewandowski/Dawson family if she moves before they do.

3. Randy Graham has a number of comments as well that he may have conveyed to you regarding setbacks on the property adjacent to his.

Thank you very much for your consideration.

To: Members of the Afton Planning Commission:

From: James and Nicole Rickard

5650 Odell Avenue South

Afton

Date: 3 December 2018

At tonight's meeting, you are being asked to review the Final Plat for the proposed Afton Creek PLCD project to verify it complies with the preliminary plat approved by the City Council. In preparation for that meeting, we ask that you consider the following points in your summary of findings and recommend that the final plat be rejected in its current form.

1. In the memo from the City Administrator, PC members are directed to review only specific pieces of the proposal. The PC should and has the responsibility to consider ALL aspects of the project to verify compliance with Afton ordinances and approved variances in providing its recommendation to the Council – not just those areas of the project listed by the City Administrator.

2. Contrary to the City Attorney's assessment, the draft Conservation Agreement with the Minnesota Land Trust DOES NOT MEET AFTON ORDINANCE 12 – 2380 SECTION E which is a critical protection to the neighbors who border the proposed PLCD:

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. If neither Minnesota Land Trust nor any comparable organization will accept the Conservation Easement the City of Afton, in its sole discretion, may upon a specific finding that no conservation organization will accept a Conservation Easement, waive such requirement. In the case of such waiver, the applicant(s) shall be required to extend the grant of a Conservation Easement to the owners of property that abuts all abutting property to the PLCD.

No variances have been approved which allow this requirement to be bypassed. No documentation is provided which shows assignment as Co-Holders to the residents that border the PLCD.

3. Non-conforming structure on Lot 4, block 3: the developer is proposing to maintain an existing structure (polebarn) on Lot 4, block 3 which violates the 100 foot setback identified in section 15 of the Developer's Agreement.

4. Tree borders are not properly shown on the final plat: Section 15 of the Developer's Agreement stipulates that site lines to new houses from neighbors on the existing shall be blocked with trees – effectively along the eastern and northeastern borders. Treeline coverage is only shown on part of the eastern border on the final plat.

5. The Development Agreement should clearly stipulate that the Agreement does NOT supercede Afton ordinances or variances expressly approved for this project by the Council and that all Afton ordinances related to PLCD and subdivisions must be applied in addition to conditions outlined in Developer's Agreement and conditions for approval of the PLCD.

6. No approval for street lighting: Section 18 of the Developer's Agreement identifies costs associated with street lighting. NO approval has been provided nor should be provided for installing street lighting in an AG zoned property.

7. Underestimated security requirements: Section 17 of the Developer's Agreement identify off-site roadway/construction improvement at \$250,000. This would include paving and necessary improvements for 60th Street from Trading Post Road to Neil Avenue. This estimate seems very low and therefore underestimates the security requirement for that portion of the project.



Memorandum

To: Ron Moore, City Administrator
From: Nick Guilliams, City Engineer
Date: December 3, 2018
Re: Afton Creek Preserve Final Plat
Plan Review Comments
WSB Project No. 010641-000

We have reviewed the resubmittal documents provided by Plowe Engineering, Inc. on 10/5/2018 for the Afton Creek Preserve Final Plat Submittal. Based on review of the documents, approval of the final plat is recommended subject to the following conditions:

Procedural Comments:

1. Prior to the start of any construction, permits may need to be obtained from the following agencies:
 - a. MPCA Construction General Permit
 - b. South Washington Watershed District
 - c. City of Afton Stormwater Management Permit
2. Provide a maintenance agreement to ensure that the permanent stormwater basins will be inspected and maintained long term. The agreement at a minimum shall include the following:
 - a. Who will conduct maintenance
 - b. Inspection frequency
 - c. Maintenance necessary to ensure effective performance
 - d. Maintenance intervals
 - e. Removal of settled materials
 - f. Maintenance of vegetation
3. Identify who will own and maintain the retaining walls.

Stormwater Management Comments:

1. Update the plans and HydroCAD models to match.
2. Provide erosion control blanket along Prairie Wind Drive from Station 7 to Station 12 and Station 34 to Station 35 based on profiles shown on sheets C3.1 to C3.4.
3. Rip rap quantities are not to MnDOT standards. For instance, there is a 24" pipe underneath Prairie Wind Drive that calls for 8 C.Y. CL IV rip-rap; however, MnDOT standard plate no. 3133D calls for 12.3 C.Y. CL IV. All locations of rip-rap should be verified and consistent with MnDOT standards.

Street Comments:

No comments. Final plat submittal meets all street design standards.

The following conditions of approval from the Afton Creek Preliminary Plat have been reviewed and are addressed with the most recent Final Plat submittal as described below:

1. (1.) Access and traffic related issues shall be subject to review and approval by the City Engineer.
 - o All access and traffic related issues have been reviewed and approved.
2. (4.) Street-related designs and specifications, including but not limited to right-of-way width, shall be subject to further comment and recommendation by the City Engineer to insure they meet Afton's standards.
 - o All street-related designs and specifications have been reviewed and approved.
3. (5.) The acceptability of the drainage and utility easement within Lot 4, Block 3 and related maintenance responsibilities shall be subject to further comment and recommendation by the City Engineer.
(13.) Easements for drainage and utilities shall be provided over individual lots as recommended by the City Engineer.
(21.) All drainage and utility easements shall be subject to review and approval of the City Engineer.
 - o All submitted drainage and utility easements have been reviewed and approved while maintenance agreements are required to be provided by the applicant for review and approval.
4. (11.) Wetland-related issues shall be subject to review and approval by the City Engineer.
 - o All wetland-related issues have been reviewed and approved.
5. (18.) All proposed right-of-way dedication and street construction plans are subject to review and approval of the City Engineer.
 - o All proposed right-of-way dedication and street construction plans provided have been reviewed and approved.
6. (20.) All grading, drainage and erosion control issues are subject to review and approval by the City Engineer and South Washington Watershed District.
 - o All grading, drainage and erosion control issues have been reviewed and approved except those outlined with the Stormwater Management comments provided above. Applicant will need to submit an approved permit from the South Washington Watershed District if required.
7. (40.) All bid documents received by the developer must be approved by the City's engineers prior to acceptance.
 - o Applicant is required to provide bid documents for review and approval when available prior to the start of construction.
8. (47.) 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.
 - o Estimated initial costs have been received, reviewed, and approved from the applicant. Applicant is required to provide a final cost estimate for review and approval when available prior to the start of construction.

Please let me know if you have any questions.

Receipt:# 416300

EAS \$46.00
CRV Not Required
Exempt from Tax

Return to:
ERECORDING PARTNERS
400 SECOND AVENUE
SOUTH

MINNEAPOLIS MN 55401

4177210



Certified Filed and/or recorded on:

11/30/2018 8:56 AM

4177210

**Office of the County Recorder
Washington County, Minnesota**

*Jennifer Wagenius, County Recorder
Kevin Corbid, Auditor Treasurer*

CORRECTIVE DECLARATION OF ROADWAY EASEMENT

THIS CORRECTIVE DECLARATION OF ROADWAY EASEMENT (“Declaration”), which supersedes the Declaration of Roadway Easement recorded on October 25, 2018, as Document Number 4173128 with the Washington County Recorder, is made on the date signed below by ALBERT W. CARLSON, AS TRUSTEE OF THE TRUST AGREEMENT OF ALBERT W. CARLSON, DATED FEBRUARY 17, 2010 (“Carlson”).

The following corrections are made to this Declaration:

1. The last sentence in Paragraph B is deleted.
2. Paragraph C is deleted in its entirety.
3. Paragraph 5 is deleted in its entirety.

RECITALS

A. Carlson is the fee owner of the real property located in Washington County, State of Minnesota, legally described as Lot 1, Block 2, ST. CROIX VALLEY ESTATES, according to the recorded plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota (the “Property”).

B. Carlson, or its assigns, shall undertake, at its own expense, to have a roadway constructed within the boundaries of the surveyed Easement described in Paragraph D below, which Easement shall be maintained by the City of Afton, or its assigns.

C. Carlson grants to the City of Afton, or its assigns, the permanent, non-exclusive, Easement legally described as the north 60.00 feet of the south 135.00 feet of Lot 1, Block 2, ST. CROIX VALLEY ESTATES, according to the plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota.

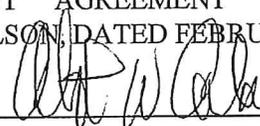
D. The Easement is depicted and crosses the real property described in Paragraph A above. The Survey depicting the easement is attached hereto as **Exhibit A** and made a part hereof.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties hereto, Carlson does hereby grant, quitclaim and convey to the City of Afton, its successors and assigns, a permanent easement, over and across a portion of the Property as further described in this Easement Agreement and pursuant to the terms and conditions set forth herein:

1. **Recitals.** The Recitals are hereby incorporated herein by reference.
2. **Grant and Creation of Roadway Easement.** Carlson hereby grants to the City of Afton a permanent, non-exclusive, Easement for ingress and egress, utility and construction, over, under and across that part of the Property legally described in Paragraph C above.
3. **Access to Easement Area.** The grant of the easement shall be for all purposes, including the construction, maintenance, operation, inspection, reconstruction, removal of utilities, and other purposes as may be required by Washington County and the City of Afton.
4. **Duration.** The provisions of this Agreement shall remain in full force and effect and are permanent in existence, commencing on the date this Agreement is recorded in the Office of the County Recorder of Washington County, Minnesota.
5. **Successors and Assigns.** This Declaration shall be binding upon and inure to the benefit of the party hereto and its successors and assigns.

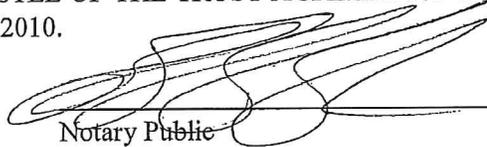
ALBERT W. CARLSON, AS TRUSTEE OF THE TRUST AGREEMENT OF ALBERT W. CARLSON, DATED FEBRUARY 17, 2010

Dated: 11/28/18

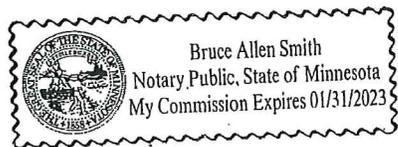
By: 
 Albert W. Carlson, Trustee

STATE OF MINNESOTA)
) ss.
 COUNTY OF Ramsey)

The foregoing instrument was acknowledged before me on Nov 28, 2018, by ALBERT W. CARLSON, AS TRUSTEE OF THE TRUST AGREEMENT OF ALBERT W. CARLSON, DATED FEBRUARY 17, 2010.


 Notary Public

This Instrument Was Drafted By:
 Joseph J. Dudley, Jr.
 Dudley and Smith, P.A.
 101 East Fifth Street, Suite 2602
 Saint Paul, MN 55101



Receipt:# 412695

EAS \$46.00
CRV Not Required
Exempt from Tax

Return to:
ERECORDING PARTNERS
400 SECOND AVENUE
SOUTH

MINNEAPOLIS MN 55401

4173128



Certified Filed and/or recorded on:

10/25/2018 10:11 AM

4173128

**Office of the County Recorder
Washington County, Minnesota**

*Jennifer Wagenius, County Recorder
Kevin Corbid, Auditor Treasurer*

DECLARATION OF ROADWAY EASEMENT

THIS DECLARATION OF ROADWAY EASEMENT (“Declaration”) is made on the date signed below by ALBERT W. CARLSON, AS TRUSTEE OF THE TRUST AGREEMENT OF ALBERT W. CARLSON, DATED FEBRUARY 17, 2010 (“Carlson”).

RECITALS

A. Carlson is the fee owner of the real property located in Washington County, State of Minnesota, legally described as Lot 1, Block 2, ST. CROIX VALLEY ESTATES, according to the recorded plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota (the “Property”).

B. Carlson, or its assigns, shall undertake, at its own expense, to have a roadway constructed within the boundaries of the surveyed Easement described in Paragraph D below, which Easement shall be maintained by Carlson, or its assigns. The temporary construction easement shall terminate 365 days from the date of execution hereof.

C. Carlson intends to develop certain property that will be benefitted by the Easement that will be part of a development known as the Afton Creek Preserve, a single family residential housing community and governed by the Afton Creek Preserve Homeowners Association (hereafter “Afton Creek”).

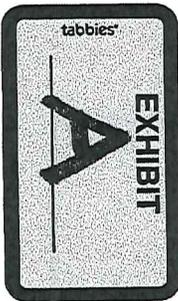
D. Carlson grants to the City of Afton, or its assigns, the permanent, non-exclusive, Easement legally described as the north 60.00 feet of the south 135.00 feet of Lot 1, Block 2, ST. CROIX VALLEY ESTATES, according to the plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota.

E. The Easement is depicted and crosses the real property described in Paragraph A above. The Survey depicting the easement is attached hereto as **Exhibit A** and made a part hereof.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties hereto, Carlson does hereby grant, quitclaim and convey to Afton Creek, its successors and assigns, a permanent easement, a temporary construction easement, over and across a portion of the Property as further described in this Easement Agreement and pursuant to the terms and conditions set forth herein:

1. **Recitals.** The Recitals are hereby incorporated herein by reference.
2. **Grant and Creation of Roadway Easement.** Carlson hereby declares a permanent, non-exclusive, Easement for ingress and egress, utility and construction, over, under

This Instrument Was Drafted By:
Joseph J. Dudley, Jr.
Dudley and Smith, P.A.
101 East Fifth Street, Suite 2602
Saint Paul, MN 55101



CERTIFICATE OF SURVEY

LOT 1, BLOCK 2, ST. CROIX VALLEY ESTATES,
SECTION 33, TOWNSHIP 28 NORTH, RANGE 20 WEST,
CITY OF AFTON, WASHINGTON COUNTY, MINNESOTA

PROPOSED EASEMENT SURVEY

PREPARED FOR :
ALBERT W. CARLSON
5550 Odell Avenue South
Afton, Minnesota 55001

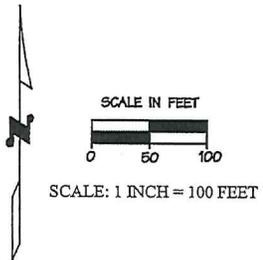
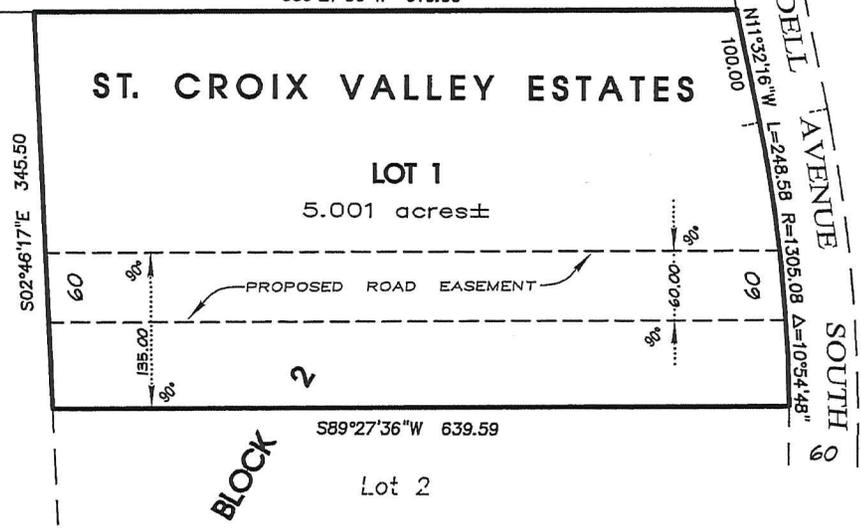
PID 33.028.20.31.0004

PROPOSED DESCRIPTION

An easement for public road purposes over, under and across the north 60.00 feet of the south 135.00 feet of Lot 1, Block 2, ST. CROIX VALLEY ESTATES, according to the plat thereof, on file and of record in the Office of the County Recorder, Washington County, Minnesota.

FORBES ADDITION

Lot 3, Block 1
S89°27'36"W 610.00



LEGEND

Orientation of the bearing system is based on the recorded plat of ST. CROIX VALLEY ESTATES.

Distances are in feet and decimals of a foot.

L= Length of curve.

R= Radius of curve.

Δ= Delta angle of curve.

Official copies of this map are crimp sealed.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Landmark Surveying Inc.

Milo B. Horak

August 15, 2018

Milo B. Horak Minnesota License No. 52577

Date

SURVEY PREPARED BY:
Landmark Surveying, Inc.
21070 Olinda Trail North - P.O. Box 65
Scandia, Minnesota 55073

Office number: 651-433-3421
Cell number: 651-755-5760
E-mail address: inthefield@frontiernet.net

Job Number 2016-64-easement lot 1

August 15, 2018



Twin Cities Business Banking
MAC N9141-020
670 McKnight Road North
St. Paul, MN 55119

April 10, 2018

RE: City of Afton Letter of Credit
Afton Creek Preserve

To whom it may concern:

Mr. Albert W. Carlson is a valued customer of Wells Fargo Bank, N.A. This letter is intended to document that Mr. Carlson has the wherewithal to secure a Letter of Credit in the amount of \$2,000,000. Further, our customer meets our qualifications as a borrower.

This letter is for discussion purposes only and should not be construed as a lending commitment on the part of Wells Fargo Bank, N.A. A commitment can only be made after completion of our underwriting process, management approval, and completion of documentation acceptable to counsel.

If you need any additional information or have any questions, please contact me at (651) 205-7138.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Holmlund".

Kyle Holmlund
Vice President
Wells Fargo Bank, N.A.