

CITY OF AFTON
APPROVED PLANNING COMMISSION MINUTES
March 7, 2016, 7:00 PM

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5 1. **CALL TO ORDER** – Chair Barbara Ronningen called the meeting to order at 7:00 p.m.
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7 2. **PLEDGE OF ALLEGIANCE** – was recited.
8

9 3. **ROLL CALL** – Present: Langan, Wroblewski, Kopitzke, Kilmer, Patten, Nelson, Doherty and Chair
10 Ronningen. Excused absence: Seeberger. **Quorum present.**
11

12 **ALSO IN ATTENDANCE** – Alternate Council Liaison Mayor Richard Bend, City Administrator Ron Moorese
13 and Deputy Clerk Kim Swanson Linner.
14

15 4. **APPROVAL OF AGENDA** –

16 **Motion/Second: Wroblewski/Nelson. To approve the February 1, 2016 Planning Commission agenda as**
17 **written. Motion carried 8-0-0.**
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19 5. **APPROVAL OF MINUTES** –

20 A. February 1, 2016 Planning Commission Meeting Minutes – Line 68, delete second sentence; Line 90,
21 delete the first two sentences; Line 105, change second sentence to read, “She stated that parking for a large
22 number of cars takes up a lot of space.” Line 196, replace “applied from” with “a result of actions by;” correct
23 typos on lines 223: “addressing” to “addressed” and “His” to “He;” on Line 240, delete capital T; and Line 270
24 add a space between “starts” and “on.”
25

26 **Motion/Second: Patten/Wroblewski. To approve the February 1, 2016 Planning Commission Meeting**
27 **minutes as amended. Motion carried 8-0-0.**
28

29 6. **REPORTS AND PRESENTATIONS** –

30 A. Ryan Garcia, Sector Rep from the Metropolitan Council – presented an overview of the Comprehensive
31 Plan update process to the Planning Commission and to the several council members present. The Comp Plan
32 update is due by December 31, 2018. In 2014 the Met Council issued its Regional System Plans; in 2015 the
33 System Statements were issued to cities. Now cities are in the “local process” and have available the Met
34 Council’s “Handbook Tools” to walk through every step and provide examples and mapping capabilities.
35 Basically, cities will be reconfirming the community’s vision for the city. Afton has a Diversified Rural
36 designation which has a density of no more than 4 per 40 acres or an average overall density of one per 10 acres.
37 The city must hold at least one (1) Public Hearing to hear input and comments from residents. Neighboring
38 communities, watershed districts and school districts are given a six-month review period prior to submitting the
39 Plan to the Met Council for review and approval. Met Council review will look for: 1) conformance to the
40 Regional System Plans and Statements; 2) consistency with policy plans; and, 3) compatibility with plans of
41 affected and adjacent jurisdictions. The two new areas the Met Council is asking cities to address in this update
42 are: 1) Resilience – key principles of sustainability and the environment, however, locally there are no
43 requirements to address at this time; and, 2) Economic Competitiveness – on a regional, national or even
44 international level – a niche filled as a benefit to residents.
45

46 7. **PUBLIC HEARINGS** –

47 A. Nature’s Trees/SavATree Conditional Use Permit application for a headquarters facility on the planned
48 5.9 acre parcel in the northeast corner of the property on Hudson Road with PID#06.028.20.24.0002 - Chair
49 Ronningen opened the Public Hearing at 7:43 p.m.

50 Administrator Moorese summarized SavATree’s plan to construct its Minneapolis/St. Paul headquarters
51 facility on a 5.9 acre site in the northeast corner of the property on Hudson Road with PID# 06.028.20.24.0002.
52 The subdivision to create the 5.9 acre parcel is to be recorded subsequent to the approval of the Conditional Use
53 Permit (CUP). The front portion of the proposed facility will be used for offices. The rear portion of the building

54 will be used for the storage and service of a fleet of trucks and equipment and the storage of supplies. Both the
55 office use and the storage use require a CUP. The CUP process allows the City to review the proposed uses and
56 place conditions on the uses to address any concerns regarding the impacts of the proposed uses. The
57 application indicated that the office portion of the facility will operate as a headquarters with professional
58 management, sales and administrative staff. The operation of the rear portion will involve professional field
59 personnel coming to the facility in the morning, being dispatched for the day to work on client properties, and
60 returning at the end of the day. Fueling of trucks and equipment will take place on-site, requiring bulk fuel
61 storage in outdoor tanks specifically designed for this purpose. There will be no chipping/processing of wood
62 debris on the site. The city received a letter from Mn/DOT regarding requirements and permitting related to
63 accessing Hudson Road by SavATree. The subdivision approval for the creation of the 5.9 acre SavATree parcel
64 included the dedication of a public road right-of-way adjacent to the northwest corner of the 5.9 acre parcel. The
65 subdivision approval included conditions related to the use of the public right-of-way lane adjacent to the
66 SavATree parcel for a driveway to serve the SavATree facility. The City Attorney is drafting an agreement that:
67 a. Grants a temporary license to allow a driveway to be constructed on the public right-of-way lane
68 adjacent to the SavATree parcel; and,
69 b. Provides that the City shall have no responsibility for the construction or maintenance of the driveway,
70 or the future construction of a public road.

71 The Valley Branch Watershed District (VBWD) has approved a permit for this use. The City Engineer is in the
72 process of reviewing the grading and drainage plan and preparing a report regarding the plan and had indicated
73 no significant concerns.

74 The representative for SavATree, Mike Pizzi, had no additional comments.

75 One public comment came at the end of the meeting. Al Leopold, 12230 8th Street S, asked to speak on this
76 use. He was against this use, as this portion of the Rural Residential zone was, as he stated, “shoved down their
77 throats” and rezoned to Industrial. He and neighbors moved to this area of Afton to be in a residential zone and
78 they are not happy with heightened industrial uses coming into their area.

79
80 **Motion/Second: Kilmer/Doherty. To close the Public Hearing at 7:46 p.m. Motion carried 8-0-0.**

81
82 **Commission Discussion**

83 Nelson suggested that since the Design Review Committee proposed a landscape buffer using different
84 species than those proposed by the applicant, the CUP conditions may need to restate that the 98 percent opacity
85 is required notwithstanding SavATree's use of the DRC's proposed species.

86 Moore indicated that 98 percent opacity is included in the variance, but that adding it here could be
87 considered.

88 Kopitzke responded that land requirements go with the variance, and that CUP requirements concern the
89 operation of the business.

90 Kopitzke wondered why the applicant stated no chipping or processing of wood debris will happen on site.

91 Moore indicated it is to limit noise in the Rural Residential area. It was pointed out that the applicants
92 voluntarily indicated there would be no chipping or processing of wood debris on site.

93 Several commissioners had concerns about the bulk fuel tanks and the safety measures in the event of a fuel
94 spill, as Afton residents would not want infiltration to their well water.

95 The applicant indicated that double-walled tanks are allowed, that there will be a six-foot chain link fence
96 around the entire site and another fence around just the tanks. They indicated that any spills would be contained,
97 that spills could not get out to the environment and that it is in no way tied into their septic system.

98 It was noted that the applicants would need fence permits from the city.
99

100 **Motion/Second: Doherty/Kilmer. To recommend approval to the City Council for the Nature's Trees
101 application for a Conditional Use Permit for its proposed facility at the planned 5.9 acre parcel in the
102 northeast corner of the property on Hudson Road with PID#06.028.20.24.0002, with conditions as listed.**

103
104 **Conditions**

- 105 1. All conditions of the June 16, 2015 approval of the subdivision to create the 5.9 acre parcel shall
106 be met and the subdivision shall be recorded before the proposed use can begin.
- 107 2. Easements as required by the City Engineer shall be granted.
- 108 3. Scenic easements shall be placed on all slopes greater than 18%.
- 109 4. The developer shall execute a scenic easement agreement.
- 110 5. The developer shall obtain a permit for constructing a driveway in the road right-of-way.
- 111 6. The City shall have no responsibility for the construction or maintenance of the driveway, or the
112 construction of a public road, and the developer shall enter into an agreement setting out the
113 developer's responsibilities related to the driveway and the public road.
- 114 7. The developer shall execute the public right-of-way agreement as drafted by the City Attorney
115 including providing that the City is under no obligation to improve the right-of-way.
- 116 8. The developer shall follow the requirements in the septic system permit issued by the Washington
117 County Public Health Department.
- 118 9. Grading plans shall be reviewed and approved by the City Engineer.
- 119 10. Any permits required by Mn/DOT shall be acquired and all requirements placed on the permits
120 shall be met.
- 121 11. A permit shall be obtained from the Valley Branch Watershed District, and all requirements of
122 that permit shall be met.
- 123 12. The grading plan shall be constructed according to plans approved by the City Engineer. Silt
124 fences or other types of erosion control shall be properly installed prior to construction; and shall
125 be maintained in good condition until the construction is complete.
- 126 13. There shall be no chipping/processing of wood debris on the site.
- 127 14. The floor drain system for the shop area shall meet applicable MPCA requirements.
- 128 15. Non-compliance with the conditions of this permit shall be considered a violation, and may result
129 in revocation of this permit.
- 130 16. Compliance with conditions of this permit shall be monitored on a periodic basis.
- 131 17. Construction shall begin within one year of the date of issuance of this permit or the permit shall
132 become null and void.
- 133 18. The applicant is to submit verification to the city that double-walled tanks are sufficient for this
134 use in this location.

135
136 **Motion carried 8-0-0.**

137
138 **8. NEW BUSINESS –**

139 A. Sec. 12-56 E and Conflicting Language Between the Comprehensive Plan and Zoning Ordinances –
140 Commissioner Nelson requested that the Planning Commission discuss how the City Code's Sec. 12-56 E
141 calls for a more restrictive regulation of any kind to prevail over a less restrictive regulation on the same issue,
142 and the implications that carries for Policy No. 15 in Housing and Land Use Policies of the Comprehensive
143 Plan, which states "Commercial uses will only be in the VHS Zoning District" which is more restrictive than 12-
144 134, which allows various accessory commercial uses outside the VHS. Nelson believed the city at times has
145 referred to Policy No. 15 as it is drafted in the Comp Plan, and at other times mitigated it by referring to intent
146 and "spirit." He proposed redrafting Policy No. 15, which he says failed to represent what we were allowing
147 even when it was drafted. Nelson also believes 12-56 E was designed to apply to issues such as those in the
148 SavATree applications, including an assertion that we have violated the variance statute, and an assertion that
149 we are ignoring 12-143 D by allowing omission of architectural facing where it should be required over steel
150 siding. He considered actions by the Council to be guidance to the PC, and questioned whether 12-56 E should
151 be revised or repealed, or ignored. Commissioner Nelson felt these discrepancies need to be addressed.

152
153 Commission Discussion

154 Commissioners agreed that the general rule is that land use ordinances need to be consistent with the
155 Comprehensive Plan. They discussed that the Comp Plan is not a “regulatory” document, it is a visionary and
156 guiding document for the city. Ordinances are meant to be the regulatory “law of the land.”

157 Several commissioners thought there have been recent conflicts in not enforcing the Comp Plan or the
158 ordinances as drafted.

159 It was questioned whether the definition of “commercial” may have changed over time. In 2008 the city
160 started allowing Bed & Breakfast uses accessory to the principal residence, as well as, home occupations outside
161 the VHS. They wondered if the initial definition of “commercial” was meant more for “retail” and all the traffic,
162 noise, etc. that that use entailed.

163 Ronningen suggested the city may need a definition of commercial.

164 It was agreed that the terminology between the Comp Plan and city ordinances need to be modified to match
165 what is currently being done, and when drafting policy, perhaps stating why it is being drafted the way that it is.

166 Commissioners commented that enforcement of the ordinances seems to be diminishing when the
167 applications come before the City Council, as evidenced by the recent variance which Council granted to
168 significantly reduce setback requirements adjacent to the Rural Residential zone for the SavATree facility.

169
170 **It was determined that this issue be kept in mind for the work on the Comp Plan update.**

171
172 **8. OLD BUSINESS -**

173 A. Tom and Clare Hoelderle application for an amendment to the zoning code to allow a commercial
174 wedding venue as a Conditional Use in the Rural Residential zoning district on lots 20 acres or greater as an
175 accessory use to a principal structure – Administrator Moorse summarized that Tom and Clare Hoelderle own
176 the property at 589 Manning Avenue, located in the Rural Residential (RR) District and are requesting an
177 ordinance amendment to allow a commercial wedding venue as a Conditional Use in the RR zone as an
178 accessory to the principal use, which is a residence. This application was continued from last month so that staff
179 could determine how many properties throughout Afton this ordinance amendment may apply to. Moorse
180 indicated that there are approximately 20 properties of 20 acres in the Rural Residential District. ~~half of which~~
181 He did not know how many have historical structures possible for this use.

182
183 Commission Discussion

184 Kopitzke and Kilmer felt this use can be seen as similar to a church in a Rural Residential zone, especially if
185 the number of events are limited to once per week.

186 It was noted that Bed & Breakfast uses are allowed in Rural Residential zoning.

187 Ronningen felt the magnitude of a wedding venue is much different than a Bed & Breakfast that might have
188 one or two cars per weekend.

189 Patten noted that only 11% of the petition signatures (in favor of the use) were actually Afton residents and
190 those residents were not located close to the venue.

191 Kopitzke felt this is a good use to allow in the Agriculture zoning districts, to preserve the rural
192 atmosphere; he just didn’t feel it would be a good neighbor in the Rural Residential district. Kopitzke, doing
193 research using Google, estimated that half of those properties have barns for this use.

194 Wroblewski stated that the Planning Commission identified Manning Avenue as having less of a rural
195 ambience due to the amount of traffic and noise it generates. She felt this parcel in the Rural Residential district
196 is unique in keeping the area intact, as it is located adjacent to the grandfathered boat storage use designated as
197 an Industrial zoning district. She felt a Conditional Use Permit may be able to include conditions for appropriate
198 landscape screening or limit parking to screened areas, so as not to impact residential neighbors.

199 Langan, having lived down the street from an illegally operating wedding venue, commented that wedding
200 venues turn neighborhoods into a “zoo.” He witnessed people wandering onto properties doing “indiscriminate
201 things.” They were loud and are definitely a money-maker, pulling in \$5,000 - \$9,000 a weekend.

202 Ronningen noted information about the Hoelderle’s rental cost for a recent wedding venue was \$2,800. She
203 stated that didn’t sound “subordinate” to a residential use; it seems as it is more of a primary use.

204 Doherty commented that when the Commission considered Agri-Tourism a few years ago she felt the
205 enthusiasm was based on preventing development from Woodbury into Afton. When the wedding venue was
206 first proposed in the Rural Residential district, her ear was tuned to the neighbors that objected to that kind of
207 use in the RR zone, as it was just not an expectation they had for that district.

208 Commissioners discussed what the city could do to enforce noise or violations.

209 Moore explained that neighbors can call the Sheriff's Deputies to tell the owner to turn down the music and
210 that Council can revoke a Conditional Use Permit if too many violations are occurring.

211
212 **Motion/Second: Ronningen/Langan. To recommend DENIAL to the City Council for an amendment to**
213 **the zoning code to allow a commercial wedding venue as an accessory use with a conditional use permit in**
214 **the Rural Residential zoning district on lots 20 acres or greater. Motion carried 5-3-0 (Wroblewski,**
215 **Kilmer, Nelson).**

216
217 **B. Draft City Council Minutes - Update on City Council Actions – Alternate Council Liaison Mayor Bend**
218 **reported on Council actions of the February meeting.**

219 It was noted that re-appointments of commissioners will occur at the March 15 City Council meeting and
220 the election of officers for the Planning Commission will take place at their April 4, 2016 meeting.

221 Commissioner Kilmer announced that, due to her upcoming retirement schedule, she is unable to continue
222 as a Planning Commissioner. Her term was set to expire and she will not be applying for re-appointment. She
223 was thanked for her thoughtful and dedicated service.

224
225 **10. ADJOURN –**

226
227 **Motion/Second: Wroblewski/Patten. To adjourn the meeting at 8:57 p.m. Motion carried 8-0-0.**

228
229 Respectfully submitted by:

230
231
232 _____
233 Kim Swanson Linner, Deputy Clerk

234
235 **To be approved on April 4, 2016 as (check one): Presented: _____ or Amended: X**