

PLANNING COMMISSION AGENDA

FEBRUARY 5, 2018

7:00 pm

- 1. CALL TO ORDER -**
- 2. PLEDGE OF ALLEGIANCE –**
- 3. ROLL CALL -**
 - Barbara Ronningen (Chair)
 - a) Sally Doherty
 - b) Kris Kopitzke
 - c) Mark Nelson
 - d) Lucia Wroblewski
 - e) Scott Patten
 - f) Jim Langan
 - g) Roger Bowman
- 4. APPROVAL OF AGENDA –**
- 5. APPROVAL OF MINUTES -**
 - A. January 8, 2018 Meeting Minutes –
- 6. REPORTS AND PRESENTATIONS – None**
- 7. PUBLIC HEARINGS –**
 - A. Updated Comprehensive Plan
 - B. Consideration of an interpretation question regarding whether a Preservation and Land Conservation Development (PLCD), as outlined in Article XII of the City’s Zoning Code, is a Planned Unit Development (PUD).
- 8. NEW BUSINESS – None**
- 9. OLD BUSINESS -**
 - A. Afton Creek Preserve PLCD Subdivision Application, including Rezoning, Preliminary Plat and Conditional Use Permit on 219 acres of land at 14220 60th Street and parcels with PID Numbers 33.028.20.33.0005, 33.028.20.33.0004, 33.028.20.32.0001, 32.028.20.41.0002, 32.028.20.42.0004, and 32.028.20.43.0001.
 - B. Update on City Council Actions – Council Highlights from the January 16, 2018 Council meeting - attached.
- 10. ADJOURN –**

-- This agenda is not exclusive. Other business may be discussed as deemed necessary. --

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

CITY OF AFTON
DRAFT PLANNING COMMISSION MINUTES
 January 8, 2017

- 1
- 2
- 3
- 4
- 5 **1. CALL TO ORDER** – Chair Barbara Ronningen called the meeting to order at 7:00 PM
- 6
- 7 **2. PLEDGE OF ALLEGIANCE** – was recited.
- 8
- 9 **3. ROLL CALL** – Present: Chair Barbara Ronningen, Sally Doherty, Kris Kopitzke, Lucia Wroblewski, Mark
 10 Nelson, Jim Langan (missed portion of meeting), Scott Patten, Roger Bowman A Quorum was present.
 11 **ALSO IN ATTENDANCE** – City Council member Joe Richter, City Administrator Ron Moore, City Clerk
 12 Julie Yoho
- 13
- 14 **4. APPROVAL OF AGENDA** – Add items 8a. “Attendance at January City Council meeting” 8 b. “Renewal of
 15 Terms”, 9a. Afton Creek Preserve
 16 **Motion/Second: Patten/Nelson To approve agenda of the January 8, 2018 Planning Commission**
 17 **Meeting as amended. Passed 7-0-0.**
- 18
- 19 **5. APPROVAL OF MINUTES** –
 20 A. November 29, 2017 Work Session Meeting minutes - **Motion/Second: Wroblewski/Patten To**
 21 **approve minutes of the November 29, 2017 Work Session. Passed 7-0-0**
 22 B. December 4, 2017 Meeting Minutes – **Motion/Second: Wroblewski/Patten To approve minutes of the**
 23 **December 4, 2017 meeting minutes with changes noted. Passed 6-0-1**
- 24
- 25 **6. REPORTS AND PRESENTATIONS** – none
- 26
- 27 **7. PUBLIC HEARINGS** – none
- 28
- 29 **8. NEW BUSINESS** –
 30 A. Attendance at January City Council meeting
 31 Wroblewski will attend
- 32
- 33 B. Renewal of Commissioner terms
 34 Administrator Moore will review terms and forward the information.
 35 Chair Ronningen noted that a representative from Ward 4 is needed.
- 36
- 37 C. Afton Creek Preserve
 38 **Motion/Second Ronningen/Patten To recommend to the City Council that the preliminary plat**
 39 **application for a PLCD for Afton Creek Preserve be denied. Alternatively applicant should be**
 40 **asked to withdraw his preliminary plat application with refund of any application fees not used by**
 41 **the city and resubmit an application with one proposed preliminary plat drawing that meets the**
 42 **City of Afton’s ordinances without the need for a rezoning or variances.**
- 43 **Findings:**
 44 1) **The application requires a variance for more than 9 lots on a cul-de-sac**
 45 2) **The application requires a variance to join a lot to the PLCD that has already been**
 46 **subdivided to its maximum density which is disallowed by the PLCD ordinance**
 47 3) **The question of rezoning a RR parcel so that it can be included in the PLCD has not been**
 48 **adequately addressed, but appears to be disallowed by the PLCD ordinance**
 49 4) **The application has been incomplete and still lacks complete slope data that has been**
 50 **requested**
 51 5) **The issue re: stormwater runoff has not been addressed adequately**
 52 6) **The traffic issue has not been studied adequately with a traffic study taking place during a**
 53 **holiday week and while there was construction in the area**

- 54 7) **The traffic study did not adequately address the safety impacts of traffic increases along the**
55 **Trading Post curve, the substandard road width along the Trading Post curve, the private**
56 **driveway in the tangent of the curve, or the increased traffic speed if the road were to be**
57 **paved**
- 58 8) **The traffic study did not adequately address the safety impacts traveling south on 60th Street**
59 **from the proposed access point related to traffic increases, curves, substandard road width,**
60 **inadequate sight lines, speed if the road were to be paved, or intersection quality at Oakgreen.**
- 61 9) **Currently, there are no less than 3 plans for this application. Applicant needs to submit one**
62 **final and complete plan to be considered.**
- 63 10) **Lot sizes and lot layout are questionable with at least one lot having a very odd shape.**
- 64 11) **The issue of the field access road off of Trading Post has not been addressed (potentially**
65 **leaving no purpose for the access road leading to its abandonment and regrowth in invasive**
66 **species)**
- 67 12) **The southern boundary of the shoreland district boundary is not shown on the preliminary**
68 **plat application maps**
- 69 13) **The question of whether the PLCD is a PUD within Afton ordinances requiring the removal**
70 **of shoreland district acreage from the PLCD has not be adequately addressed or reflected on**
71 **the preliminary plat application maps.**
- 72 14) **Access road setbacks from the Graham property need to be confirmed so that the setbacks**
73 **are fully adhered to and do not place an encumbrance on the Graham property in the future.**

74 **Discussion**

75 Chair Ronningen stated she would like to be very clear where the planning commission stands

76 Patten stated that this application has been extended willingly by the applicant, but continues to go on.

77 We've been clear wed like a plan with no variances.

78 Kopitzke stated this looks like what has been discussed, but we've never had had a motion

79 Wroblewski noted that the applicant keeps coming back with the same things & that she likes the idea of
80 starting with something new.

81 Doherty stated that the process is for the PC to give feedback on the preliminary plat. We could give written
82 feedback without denying. You're suggesting denying.

83 Chair Ronningen pointed out that the latest extension ends Feb 11.

84 Administrator Moorse stated that the applicant has extended 60 more days from Feb 11.

85 Chair Ronningen stated she tried to put all the problems with the project in writing. It would be best to start
86 from beginning and adhere to the ordinances.

87 Nelson asked if the title transfer question has been looked into?

88 Administrator Moorse replied that the documents he's seen relate to Ag Preserve

89 Wroblewski asked what fees are we looking at and how does that work to refund?

90 Administrator Moorse replied that there were 3 applications with fees and escrow deposit to cover review
91 costs. In past council could allow original to carry over to a new plan.

92 Patten stated that it is a simple ordinance, does not require negotiation, is black and white. Resubmit an
93 application that follows.

94 Chair Ronningen stated that the variances requests seem to be for economic purposes

95 Nelson pointed out that variances cannot be granted for only economic reasons, but can be based on others

96 Chair Ronningen stated that over 9 houses on a cul de sac seems to be only an economic benefit

97 Nelson stated that if there are other benefits, then they can be allowed

98 Doherty suggested having fewer findings and have label the more subjective ones "feedback". Number 7
99 – the engineers would not agree with that. The neighborhood had concerns but the engineers defend. Not
100 comfortable with that being a finding.

101 Council member Richter stated that the traffic study is very narrow and didn't look at the broader
102 community.

103 Kopitzke pointed out there is not enough consensus on the traffic issues. Vehicle counts over 24 hr. period
104 not much.

105 Doherty would like to rewrite item 7

106 Council member Richter pointed out that the vehicles are not just car trips, but buses, garbage etc.
107 Chair Ronningen stated that the traffic study left us wanting more
108 Patten asked whether the “odd shape lots” is a philosophy or written in ordinance?
109 Doherty answered that it is stated in ordinance language.
110 Bowman asked why “odd shape” is in findings?
111 Chair Ronningen answered because the lot shape was discussed numerous times and nothing changed.
112 Paten stated that we disagree the with traffic study because it was done over a holiday week. They stand by
113 what they’ve done but we believe it’s flawed due to timing.
114 Doherty commented that we are stuck because the applicant can do another study next week and the
115 community still won’t agree with or have confidence in.
116 Langan stated that you can pick and choose engineers. Studies can be very subjective. Really need a non-
117 engaged 3rd party.
118 Wroblewski commented that the study did not look at 60th or the broader impact
119 Doherty asked if we want concessions that make the neighborhood more comfortable?
120 Chair Ronningen replied that our job is to adhere to Afton’s Ordinances, the health & safety of Afton
121 residents. Not our job to make people comfortable.
122 **Ronningen/Patten amended language to replace findings 6,7 & 8 with:**
123 **6). The traffic issue has not been studied adequately with a traffic study taking place during a**
124 **holiday week and while there was road construction in the area. It did not address safety impacts of**
125 **traffic increases, substandard road width, private driveways or increased traffic speed if road were**
126 **to be paved.**
127 **Motion vote, passed 8-0-0.**

128
129 **9. OLD BUSINESS –**

130 A. Comprehensive Plan Update process

131 James Langan provided a presentation regarding groundwater & water supply protection.
132

133 The Comprehensive Plan was reviewed and edits noted. A public hearing will be held in February.
134

135 B. Update on City Council Actions

136 1. Council highlights from the December 19, 2017 Council meeting.

137 Council member Richter provided a summary from the meeting. The Council will hold a workshop on
138 January 9 to discuss the issue of PLCD v.s. PUD.
139

140 **10. ADJOURN**

141 **Motion/Second Wroblewski/Bowman “God yes”, to adjourn. Passed 8-0-0.**

142
143 Meeting adjourned at 9:45 pm
144
145
146
147

148 Respectfully submitted by:

149
150 _____
151 Julie Yoho, City Clerk
152

153
154 **To be approved on February 5, 2018 as (check one): Presented: _____ or Amended: _____**

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

Planning Commission Memo

Meeting: February 5, 2018

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorese, City Administrator

Date: January 30, 2018

Re: Updated Comprehensive Plan – **Public Hearing**

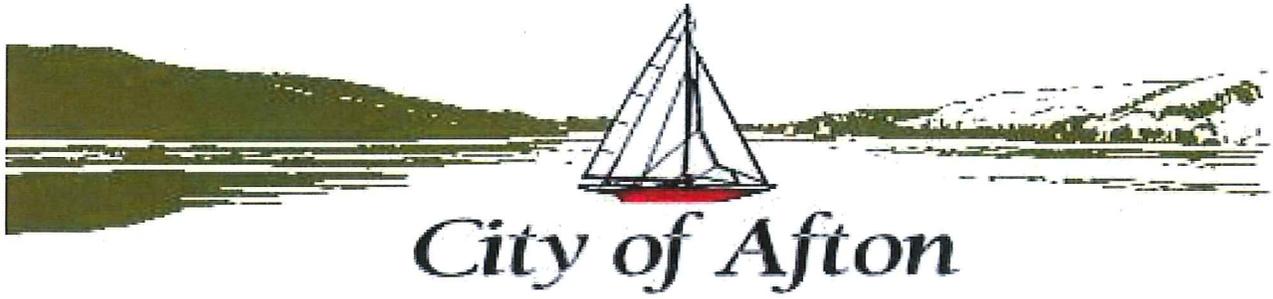
Every ten years, all cities in the Minneapolis/St. Paul Metropolitan Area are required to prepare an updated Comprehensive Plan. The Comprehensive Plan sets out the City's land use philosophy, policies and goals that reflect the long term vision for the community and are the foundation of the City's land use regulations. The Planning Commission has prepared the attached updated Comprehensive Plan for public review and comment. The updated Comprehensive Plan continues the philosophy and policies of the 2008 Comprehensive Plan, updates a number of goals to reflect the completion of goals established in the 2008 Comprehensive Plan, and reflects a number of edits to clarify and update information and language in the Plan.

Public Hearing

The public hearing is an opportunity for the public to ask questions and provide comments regarding the updated Comprehensive Plan.

Planning Commission Recommendation Requested:

Motion regarding a recommendation concerning the updated Comprehensive Plan



CITY OF AFTON
2018 COMPREHENSIVE PLAN

Working Draft 1/29/2018

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PREAMBLE

We, the residents of the City of Afton, Minnesota, in order to:
preserve our rural sanctuary amidst suburban sprawl;
preserve our agricultural heritage and land use;
preserve the character of our Old Village;
protect our groundwater and surface water from contamination;
protect our rolling hills from erosion;
provide for open spaces to be enjoyed by future generations; and
ensure a sound tax base and a sense of community
Do ordain and establish this 2018 Comprehensive Plan.

Philosophy

From the time this community was named with a river in mind and now a City on the Scenic St. Croix River, water has been *the* foremost concern of its residents. That concern has never been greater than today.

Some see urban development as excellent proof of a growing economy; we see urban development as a threat to the water we drink, the crops we grow, and the vistas we gaze upon. This preservation attitude is consistent with the long-term desires of our residents and promotes a healthy respect for the environment. As such, our ordinances do not forbid change; they require that change not harm the environment. As stewards of this land and all that is in it or on it, we can do no less. This City is different from other communities in the Metropolitan Area *and wants to stay that way.*

This City borders on another city that has a diametrically opposed philosophy about land use and urban expansion. This is one of the most significant challenges this City has ever faced. The adage in the real estate industry is that the three most important points in real estate are “location, location, and location.” The three most important points in the City of Afton are “groundwater, surface water, and groundwater recharge.” We drink this water, we fish these streams, we protect the environment for the flora and fauna with which we share the land.

In many respects, we regard agricultural and open space as the “highest and best use” of the land. We regard our position as a community trust to preserve, protect, and defend our lands and lifestyle from irreversible change. That is our right and the actions of other jurisdictions, including the Legislature and the Metropolitan Council, *should respect that vision of Afton to remain rural by choice.*

Introduction

*Flow gently, sweet Afton, among thy green braes,
Flow gently, I'll sing thee a song in thy praise;
My Mary's asleep by thy murmuring stream,
Flow gently, sweet Afton, disturb not her dream.*

When Robert Burns penned these words, he was describing his own idyllic rural sanctuary in southern Scotland. Half a century later, settlers of the St. Croix Valley would recognize the same spirit in the locale of the township and city they would name Afton.

Afton strives to remain true to the vision of a rural environment, a place neither purely agricultural, nor purely residential, but a blend of both. Located only fifteen miles from downtown St. Paul and bordering rapidly growing suburbs, Afton's unique status as a rural sanctuary is worth preserving.

This plan is divided into Sections as recommended by the Metropolitan Council: Inventory, Goals and Policies, and Implementation. The message of this plan and the story of Afton should be abundantly clear. This city is unique among communities in the Metropolitan Area and wants to stay that way. Afton's leaders are to look to the principles espoused within this plan for governing guidance as they define the ordinances that will preserve this place for current citizens and those to come. For definitions see Appendix A.

Vision Statement

The City of Afton began as a country village. The city's Old Village provides a business center and a rural village atmosphere typically only found far away from the conveniences of a metropolitan area. The Old Village is the cultural heart of the community, providing a town square and access to the river.

Afton is also a city of water. The St. Croix River and the creeks that flow through Afton shape the landscape and are a critical resource for the community. The quality of groundwater and surface water is essential to maintaining Afton's character. Wells and septic systems, rather than city water and sewers, govern every home's relationship to the land.

Afton is also a city of open fields. The farm fields of southwestern Afton represent the city's historical roots in agriculture and continue to be farmed in the face of development pressures on Afton's borders. Methods of preserving Afton's agrarian roots must be found if the city is to remain a rural sanctuary.

Afton is also a city of rolling hills. Water has carved these hills over thousands of years, but it is the impact of development which the city must protect against. Erosion and deforestation in these hills strip Afton of forests and vistas that are also an essential part of life in Afton.

Most importantly, Afton is a city of people. The community within this rural sanctuary gives meaning to the city's character. A sound tax base provides the community with the means to maintain roads, provide police and fire protection, and provide public facilities for the community.

*How lofty, sweet Afton, thy neighbouring hills,
Far mark'd with the courses of clear, winding rills
There daily I wander as noon rises high,
My flocks and my Mary's sweet cot in my eye.*

The rural sanctuary in southern Scotland that Robert Burns wrote of has long passed into history. But on the shores of the St. Croix River, the citizens of Afton established this plan to maintain the city's deep-seated historical vision. We are stewards of this land and all that is in it or on it, and our government has been granted a trust to preserve and protect our lands.

Public Involvement

In the past the City of Afton involved the general public in the assembling of plan updates. Since the revisions to this plan in 2018 are more limited, public involvement not been as extensive. City commissions were asked to review sections of the plan that pertained to their areas of expertise and pass that on to the Afton Planning Commission. Public hearings held in early 2018 provided the opportunity for citizens to comment on the revised plan.

Purpose

Afton's location within a major metropolitan area belies the rural atmosphere that greets commuters at its borders. Residents and visitors to Afton know they have arrived somewhere special. When Afton residents were asked what they like best about living in Afton, the three most prevalent responses all related to Afton's natural, rural character; each of them is crucial to making Afton a unique community:

1. Rural location and low population density;
2. Open space and dispersed pattern of development; and
3. Presence of active farms and agriculture.

Afton residents value rural location, low development density, open space, working farms, abundant wildlife, and historic "Old Village" Afton residents enjoy Afton's proximity to the St. Croix River, Belwin Conservancy, state and regional parks, the convenient location of the City to commercial centers, reasonable taxes, good schools, and our community identity (Community Survey: General Priorities – Appendix H).

The purpose of the Afton Comprehensive Plan is to perpetuate this character. It is to identify and capture those things that make Afton a unique and special place and protect them for current and future residents.

Citizens of Afton obtain their drinking water from the ground. It is essential, therefore, that thoughtful development planning be followed in order to protect this vital resource. Because groundwater and surface water are connected, it is just as essential to protect our streams and lakes.

The purpose of this plan is to:

1. Promote the health, safety and welfare of the City of Afton and its residents.
2. Provide for the preservation of our water resources through careful planning.
3. Preserve agriculture and open space.
4. Protect groundwater and natural resources.
5. Maintain historical character of the Old Village.
6. Ensure a safe and pleasant environment for residential, commercial, agricultural, industrial and public activities
7. Ensure a sound tax base, which will provide the resources needed to maintain our quality of life.

Historical Background

The early human inhabitants of the St. Croix Valley were Native Americans. In the early 1800's, Afton was settled by New Englanders who probably felt at home among Afton's tree covered hills and bluffs. The city retains that New England flavor with its natural beauty accented by narrow, winding roads and small, clapboard sided houses. Joseph Haskell, in 1839, planted three acres of corn and potatoes, built a farmhouse, and thus began the first farm in Minnesota. While communities north of Afton were building sawmills, the first flour mill in the state was built in Afton in 1843. A further indication of the importance of agriculture in Afton was the use of a steam-powered threshing machine in 1861.

The village of Afton was platted in 1855. The majority of the city's historical structures are located within the boundaries of the original village. The 1974 Afton Comprehensive Plan established the Village Historic Site District in recognition of the village's historical significance. The following sites are found within the boundaries of the Village Historic Site District: the Afton Theological Academy, the area's first educational academy built in 1867; the Village Hall (housing the Afton Historical Society), built in 1895 as the Congregational Church; the "Little Red House," built in 1859; the Afton House, built in 1867; and the Little Brick Schoolhouse, built in 1857.

The township of Afton, established in 1859 and named after the village, also has important historical structures and sites. Included among these are: the Bolles Mill Site, the first flour mill in Minnesota; the Bolles House, built in 1856 and the oldest frame house in the area; and, Haskell's Farm.

In 1971, the village and township incorporated to form the City of Afton. Afton is a large city geographically, approximately 25 square miles, but is sparsely populated. The eastern portion of the city contains the bluffs and tree covered hillsides that attracted the original settlers, while the western portion has rolling hills, and open farmland.

BACKGROUND INFORMATION

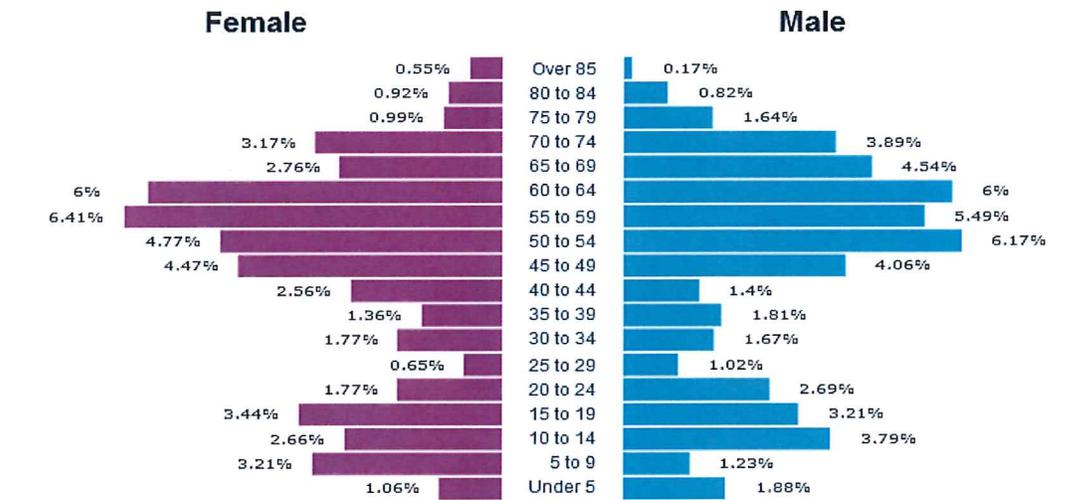
Afton has long been a desirable place to live. While being only minutes from St. Paul, Afton is a unique and special place due to the combination of its rural character, its scenic bluffs, and its location on a major wild and scenic river. The City has always approached land use management as a crucial component of its goal of protecting groundwater, the St. Croix River, and lakes and streams from the negative environmental impacts associated with urban development, which has set it apart.

Afton is and will remain a highly sought-after location. As surrounding areas have developed at typical suburban densities, Afton has remained steadfast in its low-density approach to development, in order to protect its environment and maintain its rural character. This contrast in development philosophy is visibly apparent as one enters Afton from the west. As these divergent development trends continue, Afton’s rural character will become even more in demand.

Migration & Turnover of Population

The population of Afton, as in all of the U.S., is aging. The median age in 1990 was 35.8, in 2000 42.2, and in 2010 a median age of 48.6. Since 1990, the number of people ages 20 to 34 declined from 432 in 1990 to 288 in 2010, 26 more than in 2000.

Population by Age & Gender in Afton
American Community Survey 2011 - 2015



The Aging of Afton’s population will continue in the coming decades. One of the results will be continuing turnover in residential property. As current residents decide to downsize their houses or adopt a lower maintenance lifestyle, many new homeowners will arrive from other cities. New residents will come for the same reasons current residents chose Afton: clean water, rural vistas, open spaces, and the St. Croix River. It is the responsibility of Afton’s residents and leaders to ensure that

new property owners come to share the values associated with Afton’s character. Preserving the rural character, beauty, and natural resources of Afton will be paramount for the future of the City.

This is an opportunity to be proactive in telling Afton’s story in a way that creates and manages the expectations of those who are considering developing or living in Afton, so that those who choose to develop or live in Afton are drawn here by the promise of the unique natural, open, rural character of the City vs. the urban development and services available in countless locations throughout the metro area.

Housing Values

The median housing value in Afton is significantly higher than both the median housing values of homes in Washington County and the State of Minnesota. This reflects the fact that Afton is a desirable place to live and that the demand for housing in the city is high.

Table 1 - Housing Values

	Afton	Washington County	Minnesota
Median value (2009 dollars)	397,100	243,600	186,200
Median monthly household costs with a mortgage payment	2,242	1,730	1,490
Median monthly rent	1,500	1,144	848

It is not clear what the future will bring in terms of housing values in Afton. Current trends statewide and nationwide suggest that housing values are rising and that demand is high. The desirability of housing in Afton is directly tied to the rural lifestyle and the connection to the natural environment that living in Afton provides. People value the low-density development pattern and willingly pay to secure that.

Conclusion

Afton has established a development pattern that residents value and is in high demand throughout the region. The challenge for Afton will be to continue to contain infrastructure costs, maintain a low demand for services, and incorporate new residents and their ideas in a way that focuses on the interests of all Afton residents and will maintain the current development pattern.

Demographic trends will significantly increase pressures to develop Afton. These trends in Afton are important to understand because they have evolved and increased in the years since the last update of the Comprehensive Plan. This Comprehensive Plan acknowledges these pressures and seeks to

address them by reinforcing the diversified rural development pattern in the City of Afton through its housing and land use goals, policies, and strategies.

For additional demographic information and sources, see Appendix B.

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ENVIRONMENTAL RESOURCES PLAN

Intent

Afton's environment is a fragile one. The citizens of Afton have a high regard for their environment and have made major efforts to preserve and protect it. Preservation of Afton's natural features has not been an easy task considering the fragile soils, steep slopes, drainage ways, vegetation, and lakes and streams that make up the city. These delicate features need protection through careful planning.

Afton will only permit low density development which is designed to preserve and protect the soils, wildlife, slopes, drainage ways, vegetation, lakes, streams and river that make up Afton's natural features. Preserving the health and safety of residents requires protecting Afton's environmentally sensitive areas, which preserves the aesthetic qualities of the landscape and protects the purity of the air and water.

The citizens of Afton have a high regard for their environment. Low density development based on the use of private wells and individual and cluster septic systems have provided Afton with unique and sustainable neighborhoods that are not only self-sufficient, but collectively have a relatively low environmental impact. While the city is only fifteen miles east of downtown St. Paul, there is a world of difference between Afton and the surrounding urban and suburban development. Citizens desire to keep the city open and rural, while still enjoying the benefits of being located close to a major metropolitan area.

Afton's natural features exist in gently rolling uplands cut by deep ravines, drainage ways, and streams that flow into the St. Croix River. This topography, while uniquely defining, presents distinct challenges, particularly with stormwater and agricultural runoff. Interspersed with environmentally sensitive areas including trout streams, a lake, bluffs, ravines, wetlands, steep slopes, floodplains and a river, low density development is an essential part of the lifestyle in Afton. The commitment to preservation is strong (Appendix H-2007 Community Survey: Groundwater, Farmland and Rural Character).

Afton plans to accommodate future development without compromising the assets that make the city an environmentally friendly area. In addition to those mentioned above, natural resources in need of preservation include viewsheds, soils, wildlife habitat, wildlife corridors, groundwater resources such as springs and aquifers, geologically significant topographic features, vegetation, and drainage areas.

Soils

In the soil survey issued by Washington County Soil Conservation District in April 1980, the soils in Afton have been reviewed and different soil types categorized as to their suitability to accommodate on-site sewage treatment systems and to support a rural atmosphere, farming, groundwater protection, wildlife habitat, and a biological diversity for its citizens, flora, and fauna (see Appendix I). It is an inventory of the soils found in the city and indicates, among other things, the type of soil, the slope

gradient, the suitability of the soils to support certain uses and the degree and kind of limitation of each soil type for certain uses.

The maps that accompany the soil survey are useful as a planning tool since one is able to determine those areas that present problems for development. While the soil map is reasonably accurate, it is still recognized that unmapped pockets of different soil types can exist within a designated soil boundary line. Therefore, the soil map does not eliminate the need for soil sampling and testing on each building site. The soil map indicates the areas of prime agricultural soils and additional farmland of statewide importance.

The different types of soil in Afton are directly attributed to glacial till. (Tester, J.R., Minnesota's natural Heritage, University of Minnesota press, 1995; chapter 1) and weathered limestone. Most of the Afton area includes soils overlaying bedrock having slow percolation rates, steep slopes, periodic flooding and seasonal high water tables, although there are some karst areas with rapid infiltration rates. In addition, there are some areas in Afton that have been mined. These geologic features have created deep ravines and drainage ways. Soil types associated with these features are generally unsuitable for development due to their instability, high erosion potential and low absorption rates. Development in these areas needs to be monitored to prevent further soil degradation.

While soils are a major factor in determining the importance of land for agricultural purposes, (Appendix I – Map 3), there are many other factors that influence whether a land is most suitable for agricultural uses. In Afton, the prime agricultural lands tend to be those areas most easily developed, having few topographic or environmental constraints. Yet, these areas provide some of the broadest expanses of non-fragmented open space in the city and are thus critical preservation areas.

Topography

Afton's steep slopes (Appendix I–Map 5) are a result of erosion by flowing water. It is vital to the community that these drainage ways be protected and maintained. It is essential that every attempt be made to limit the amount of additional stormwater and agricultural runoff that flows through these drainage ways. Afton currently protects all slopes with a grade over 18 percent and slopes with a grade over 12 percent are protected if the soils on such slopes are deemed fragile. Continued care must be taken when allowing development in the upland areas of the City.

Vegetation

The vegetative cover is an essential part of Afton's natural environment and should be protected. (Appendix I–Map 4). In an area where there is such dramatic topography, damage to the vegetative cover can result in such things as increased erosion and stormwater runoff, and danger of flooding and siltation, lessening of water quality, loss of landscape diversity, decreased land values, detriments to surrounding wildlife and ecosystem, and degradation of soil and air quality. The tree cover is predominant where there are steep slopes, areas not being farmed and along watercourses and drainage ways. The vegetative cover consists mainly of deciduous trees, with several areas of planted conifers.

Riparian Systems

The St. Croix River, a National Wild and Scenic River, is one of the most pristine large river ecosystems in the upper Midwest. In 2009, it was named one of the Ten Most Endangered Rivers in the United States by the organization American Rivers. It is shared and highly valued by two states, Minnesota and Wisconsin. Land use along the river is governed by the Departments of Natural Resources of both states, as well as the U.S. Park Service and local municipalities. In addition to local zoning regulations, all development must conform to the provisions of the Lower St. Croix Bluffland, Shoreland, and Floodplain Management Ordinances.

Parts of the City of Afton are included in three major drainage ways (Appendix I-Map 6): the Valley Branch Watershed District, the Middle St. Croix Water Management Organization and the South Washington Watershed District. Valley Creek, South Fork Valley Creek, Trout Brook and other major ravines and drainage ways are tributaries to the St. Croix River. Much of the surface water that flows from Afton into the St. Croix River goes through or near the Old Village. It is vitally important to the safety of the Old Village, and to the health and vitality of the St. Croix River, that these drainage ways be protected and stabilized and the amount of stormwater runoff through these drainage ways be kept to a minimum.

According to the 1996 National Water Quality Inventory, stormwater runoff is a leading source of water pollution. Stormwater runoff can harm surface waters such as rivers, lakes, and streams which in turn cause or contribute to non-compliance with water quality standards. Stormwater runoff can change natural hydrologic patterns, accelerate stream flows, destroy aquatic habitats, and elevate pollutant concentrations and loadings. Development substantially increases impervious surfaces thereby increasing runoff from city streets, driveways, parking lots, and sidewalks, on which pollutants from human activities settle.

Nutrients (phosphorus and nitrogen) and sediment enter the St. Croix and its tributaries from many different sources: wastewater treatment plants, urban stormwater, residential lawns, crop land, pastures, animal feeding operations, construction sites and natural sources. Common pollutants in runoff include pesticides, fertilizers, oils, metals, pathogens, salt, sediment, litter and other debris.

Groundwater

Afton must keep the groundwater in its natural condition, free from any degradation caused by human activities. All homes in Afton are currently served by private wells and septic systems Afton is currently outside of the metropolitan urban services area (MUSA) and has no intention of utilizing the Metropolitan Council's sewer and water services even if they become available. However, a large subsurface treatment system and gravity sanitary sewer collection system has been constructed to serve the existing residential and commercial properties for the Historic Village Sewage Treatment Service Area. It is of the utmost importance in order to maintain our rural residential and agricultural character, that we have ample supplies of clean drinking water throughout the city. In areas that have rapid infiltration or that have been mined, it is essential to monitor groundwater to prevent unfiltered septic effluent from damaging the aquifer.

Aggregate Resources

Afton contains limited mineral deposits, primarily sand and gravel. Minnesota Geological Survey indicates that much of Afton falls within area designated as “Afton Valley Fill”, which is described as:

Colluvial material which fills in lower-lying areas within the bedrock uplands in southeastern Washington County. We interpret most of these deposits to be thin and gravel-poor. 1
(Minnesota Geological Survey Information Circular 46.)

The circular also indicates that, “*In all likelihood, the majority of these deposits will not continue to be available for mining because of competing land-use pressures.*”

Of the areas in Afton that could potentially be utilized for aggregate extraction, most are either within existing, residential neighborhoods or encumbered by a permanent conservation easement. (For instance, lands within the Belwin Conservancy are unavailable for aggregate extraction.) The remaining areas are zoned primarily Industrial, which allows for extraction through a permitting process outlined in Chapter 12, Article X, of the Afton City Code.

Although not significant in size, there are several areas in the city that have been mined that are unsuitable for building unless it is established that they can meet all building requirements. Mining removes the topsoil and sub-soils that filter runoff and sewage system effluent. Systems installed in soils in areas previously mined may result in the effluent moving quickly and untreated through the coarse soils to the water table resulting in pollution of water wells. This is of even greater concern if the area is one of groundwater recharge. Areas of groundwater recharge are critical areas that have soil characteristics that are conducive to rapid percolation of water from the surface into the substrate and ultimately into the local water table and connected hydrologic systems (wetlands, lakes, aquifers, and rivers). Pollution of the groundwater supply would have a devastating financial and environmental effect on the community and its residents.

Energy

As a sparsely populated rural community, the City will encourage feasible methods of energy storage and conservation, and renewable forms of energy that are environmentally friendly, including wind, photovoltaic and geothermal.

The Metropolitan Land Planning Act (Minnesota Statutes 473.859, Subd. 2) requires that local comprehensive plans include an element for the protection and development of access to direct sunlight for solar energy systems. The City of Afton protects such access by requiring minimum lot sizes, abundant open space, yard setbacks, and maximum height of buildings for urban residents. Land uses should not preclude the possible use of solar energy systems. The City will review and revise, as necessary, the Zoning and Subdivision Ordinances to ensure the protection of solar access.

New subdivisions are required to be designed to accommodate extensive use of passive and active solar energy systems. New and modified structures are prohibited from blocking reasonable capture of Solar Resource within the buildable area of other parcels, including vacant lots.

Environmental Resources Goals, and Policies

The City of Afton establishes the following environmental resource goals:

1. Preserve a rural landscape and natural ecosystem.
2. Maintain the city's overall one housing unit per ten acres, which is Afton's definition of low density, to limit development's footprint upon the land by maintain the minimum acreage requirement.
3. Reduce nutrient loading to the St Croix River.
4. Improve and protect water quality in Kelle's Creek, Valley Creek, Lake Edith and the St. Croix River.
5. Protect supply of surface and groundwater.
 - a. Maintain springs, Lake Edith and Valley Creek at current surface elevation.
 - b. Maintain aquifers at levels supporting existing area wells.
6. Protect groundwater recharge areas from pollutants.
 - a. Prevent untreated wastewater and unfiltered stormwater runoff from entering the groundwater.
 - b. Develop a plan to reduce nutrients
7. Protect groundwater aquifers from contamination.
 - a. Provide for safe drinking water.
 - b. Prohibit mining and prevent contamination from previously mined areas
 - c. Continue a well monitoring program.
 - d. Encourage organic farming and gardening practices.
8. Maintain and enhance fish and wildlife habitats so as to retain or expand the current diversity of species.
 - a. Ensure the long term ecological stability of the riparian system
 - b. Restore the riparian forests that line the banks of Valley Creek
 - c. Provide for natural corridors throughout the City.
 - d. Explore creating effective wildlife corridors with neighboring communities
9. Preserve existing forests, woodlands and prairies and control invasive species
 - a. Plant diverse species of native trees
 - b. Control and eradicate noxious species.
 - c. Control and eradicate invasive species to facilitate agricultural operations
 - d. Prohibit clear cutting.
 - e. Encourage tree planting for erosion control, carbon sinks, water infiltration, and energy conservation.
10. Protect and preserve steep slopes and the land atop them from development
 - a. Preserve viewsheds
 - b. Prevent erosion

11. Protect soils from erosion, contamination and loss
 - a. Utilize best management practices in all development
 - b. Provide natural buffers to stabilize soils and contain run-off where possible
 - c. Encourage use of native grasses, flowering plants and shrubs.
12. Protect and preserve natural features unique to the City of Afton
 - a. Promote conservation and scenic easements
13. Reduce the use of fossil fuels for energy production by encouraging alternative options such as solar, wind and geothermal.
 - a. Reduce community wide use of non-renewable energy sources attempting to meet state-wide standards of 80% renewable by 2050.
14. Protect the night sky from light pollution
15. Anticipate changing climate demands on our environment
16. Promote wise land stewardship

The City of Afton establishes the following environmental resources policies:

1. Maintain the city's overall development density of no more than one dwelling unit per ten acres.
2. Use water quality protection practices such as reducing the use of phosphorus fertilizers and support protection efforts by state, county and federal agencies, as well as the Valley Creek Protection Initiative
3. Work with various agencies to develop a strategy for reasonable and achievable reduction of nutrient and sediment loading from wastewater treatment plants, Subsurface Sewage Treatment Systems (SSTS), stormwater, crop land, pastures, animal-based agricultural operations, construction sites and natural sources
4. Strive for the highest standard possible for Individual or Communal, or Large Subsurface Sewage Treatment System technology and advanced treatment of wastewater where that technology has been tested, proven reliable and approved by regulatory agencies
5. Work with the Wisconsin Department of Natural Resources (WDNR)), the Minnesota Department of Natural Resources(DNR), and the Minnesota Pollution Control Agency (MPCA) with support from the St. Croix River Water Resources Planning Team; an interagency planning team consisting of federal, state and local members to develop Total Maximum Daily Load requirements which will enhance the water resources in the St. Croix River Basin
6. Prohibit clear cutting.
7. Monitor and control land uses which contribute to erosion, pollution, and well contamination by enforcement of ordinances
8. Work with the various agencies involved with groundwater monitoring in regard to the east well-field area in the City of Woodbury
9. Continue to provide funding for a volunteer well-monitoring program
10. Study and consider ordinances to allow for economically sustainable, locally renewable and environmentally friendly means of energy production
 - a. The city will install renewable energy technology on city property
 - b. Establish ordinances and building codes requiring energy efficiency and encourage use of renewable energy sources.

11. Actively enforce all land use ordinances, including the various special overlay districts
12. Protect steep slopes, tree cover, wetlands and other fragile lands through conservation easements, scenic easements, and other available means.
13. Require setbacks from the crest of all slopes of 18% or greater, except in the Lower St. Croix Bluffland District where the slope is greater than 12%.
14. Utilize data from the Natural Resources Inventory when considering all land use applications.
15. Develop an Environmental Score Card for the City of Afton.
16. Discourage use of chemical pesticides.
17. Encourage use of organic landscape applications.
18. Encourage integrative pest management techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties.
19. Protect trout streams from temperature increases by actively enforcing Afton's restrictions on vegetative and topographic alterations in its shoreland district.

HOUSING AND LAND USE PLAN

The City's land use philosophy is an outgrowth of its focus on environmental protection and the resulting natural rural character of the City. The protection of groundwater is both essential to, and the result of, the City's low density development approach based on private wells and septic. The City's managed development philosophy is also based on limiting and managing stormwater run-off to protect the quality of the area's main natural and recreational resource, the St. Croix River.

In the Metropolitan Council's Thrive MSP 2040, Afton is designated as "Diversified Rural." The residents of the City of Afton have consistently supported the concept that Afton remain rural.

The residents of the City of Afton value the agricultural economy and rural character that an agricultural, environment provides. This Plan intends to preserve agricultural land for permanent agricultural use, and does not accept the belief held by some that agricultural use is merely a temporary use or that agricultural lands are merely a holding area for future residential or other development. Moreover, the community values agricultural land as open space in an increasingly urban environment, a sanctuary for a rural lifestyle that Afton residents have consistently desired to maintain.

Agricultural

After several years of work, and in conformance with the Metropolitan Council's prior Development Framework Plan, in the Comprehensive Plan of 1982, the City of Afton established an Agricultural Zone with a density of 3 dwelling units per quarter-quarter section (40 acres) of land and passed ordinances to enforce that policy. At that time, and continuously to the present, the residents of the City of Afton have valued the agricultural economy and rural character that an agricultural environment provides.

Agriculture plays an important role in preserving the balance of economic conditions in the Twin Cities Metropolitan area, but productive agricultural land is being lost to nonagricultural development. Once agricultural land is developed for nonagricultural residential, commercial or industrial use, it is forever lost to agricultural production.

In April 1980, the State of Minnesota enacted the Metropolitan Agricultural Preserves Act. This act provides a package of benefits designed to give farmers in the seven-county metropolitan area the assurance that they can continue their farm operations on an equal footing with other farmers in the state, without the pressures of urbanization. These benefits include:

1. Agricultural use valuation.
2. A limit on total tax rates so that they cannot exceed 105% of the statewide average in townships for all purposes.
3. Prohibition of special assessments for sewer and water.
4. Protection for normal farm practices -- a local government would be prohibited from enacting ordinances which inhibit normal farm practices unless they bear a direct relationship to the public health and safety.

5. Protection from eminent domain -- before Ag Preserve land can be acquired by eminent domain, it must be shown that there are no reasonable, cost-effective alternatives which would have less of a negative impact on Ag Preserves. The process of review is conducted by the Environmental Quality Board. A suspension of up to one year is possible, but it cannot permanently stop eminent domain (Minn. Stat. . 473H.01 – 473H.17).

In order to take advantage of these benefits, a farmer's land must be designated "agricultural" on the city's land use map and zoned at a density of no more than one dwelling unit per quarter-quarter section for residential development. In addition, the farmer must apply for and receive certification from the city stating that the property is eligible for "preserve" status. Once a farmer's land is designated a preserve, the land must remain in agricultural use indefinitely or for eight years after the landowner applies for an expiration of the preserve designation.

Agricultural Zoning District and Agricultural Preserves Overlay District

To address environmental concerns detailed within this plan and to maintain our overall one dwelling per 10 acres (1 per10) density, this plan creates an Agricultural Preserves Overlay District. With the Agricultural Preserves Overlay District, the Agricultural District is envisioned to allow for three development scenarios:

1. Agricultural Preserves Overlay District 1 dwelling unit per quarter-quarter section (approximately 40 acres)
2. Agricultural Zoning: 3 dwelling units per quarter-quarter section (approximately 40 acres)
3. Agricultural Zoning using a Preservation and Land Conservation Development on a minimum of 80 acres: 4 dwelling units per quarter-quarter section Land developed under this option would be subject to conservation easements, and subdividers would be required to set aside an extensive part of their property for continued farming or conservation. The City intends to provide more conservation-minded land use planning throughout this zone so as to coordinate and link the preservation areas for maximum benefit and minimal impact to the character of the community.

Note that, pursuant to the Agricultural Preserves Act, lands in the Agricultural Preserves Program would only be allowed a density of 1 unit per 40 acres on a specific, designated parcel. (Agricultural Preserves Overlay District).

Residential

According to the 2010 census estimates, there were a total of 1,143 residential housing units in Afton.

Table 2 – Residential Housing Units, 2010 Estimates

	Afton	Afton %	Washington County	Washington County %	MN	Minnesota %
Single-Family Detached	1,139	99.7%	66,590	68.1%	1,619,319	67.2%
Townhomes (single-family attached)	0		13,713	14.0%	175,908	7.3%
Duplex, triplex and quad	4	0.3%	2,841	2.9%	98,798	4.1%
Multifamily (5 units or more)	0		13,213	13.5%	433,746	18.0%
Manufactured Home	0		1,333	1.4%	79,520	3.3%
Other (Boat, RV, etc.)	0		59	0.1%	0	0.0%
Total Housing units	1,143		97,749		2,409,701	

The majority of the housing stock (99.7%) that existed in Afton in 2010 was single-unit detached, which is a higher proportion than either Washington County (68.1%) or the State of Minnesota as a whole (67.2%).

The predominance of older housing is a unique feature of Afton. Nearly a quarter of Afton’s current housing was built in the 1960’s and 15% of the housing stock was built prior to World War II. Homes in Afton hold their value and have appreciated much more quickly than homes across the county and state

The high land values in Afton have been an obstacle for those looking to locate affordable housing in the City. This is not likely to change in the near future.

The Rural Residential Zoning District provides for residential development on private wells and on-site sewage treatment systems, with the exception of the rural residential properties within the Historic Village Sewage Treatment Service Area as shown in Figure 5.. Each Rural Residential lot requiring a minimum of five acres, including 2.5 acres of contiguous buildable area. With the steep topography of a majority of the land in the rural residential zone, the average density attainable in this zone is expected to be about one unit per ten acres.

Old Village

The village of Afton is within the Village Historical Site zoning district, hereinafter referred to as the “Old Village,”_ located in sections 22 and 23 of Afton along the St. Croix River. The eastern boundary of the Old Village is established by the St. Croix River. It is bounded on the southern and western sides by steep slopes and river bluffs. The northern boundary is the intersection of St. Croix Trail South and Stagecoach Trail South. The Village Historical Site zoning district has two sub-districts, the Village Historical Site-Residential District and the Village Historical Site-Commercial District.

The only commercial zone of the city is located within the Old Village (VHS Zone) which has been certified as a Historic District. This area has been the traditional commercial focus for the city and for area visitors. The existing village atmosphere needs to be preserved while allowing a balanced and

complementary mix of residential, recreational, locally attractive commercial and tourist uses. Infrastructure improvements should be designed to eliminate environmental hazards and to sustain the long term viability of the commercial area.

Commercial uses in that portion of the Old Village zoned commercial are within the Lower St. Croix Bluffland and Shoreland Management District and thus allowed by Conditional Use Permit only.

The quaint character and charm of this rural village stands in stark contrast to the commercial development happening in neighboring communities. The mix of small businesses and residential properties provides a unique destination experience.

The Old Village has a special place in the history of Afton. The Old Village was platted in 1855 by R. Haskell, Joseph Haskell, H.L. Thomas, and C.S. Getchell. The plat is typical of land divisions of that time: 50 x 150-foot lots and 80-foot wide street rights-of-way designed in a grid pattern overlaying the natural topography and other physical limitations of the site.

Afton's Old Village offers unique opportunities to business owners and professionals. The Old Village has attracted a number of successful small businesses as well as professionals drawn both to the lifestyle and the natural environment. This mix of businesses fits with the residential development of the Village and, together, they reinforce the context that makes the Old Village such an important feature of the City of Afton. Because of the location and the natural constraints on development, most successful businesses in the Old Village have a focused market. The Old Village is not the place for a big box store but rather an ideal location for specialty shops, services, and as a destination place for tourists.

The Old Village was established on river flats subject to flooding from the St. Croix River. A significant portion of the Old Village lies within the 100-year floodplain and, over the years, there has been periodic flooding. The City of Afton has made substantial improvements to the levee that protects the Old Village to enable the levee to be certified by the Corps of Engineers.; continued maintenance of the levee to standards necessary for certification will be necessary to protect against future flooding and encourage reinvestment in existing properties. The physical features noted above, bluffs to the west and south, the St. Croix River to the east, naturally constrain expansion of the Old Village beyond its present limits.

St. Croix Trail is the main thoroughfare running through the Old Village. It is maintained by Washington County at county standards. The other improved streets in the Old Village are typical of a rural village. The driving surfaces are relatively narrow, causing slower traffic speeds, a safe pedestrian environment and the aesthetic of the Old Village. In 2017 the City of Afton and Washington County upgraded the stormwater management and improved all streets and sidewalks in the old village.

Old Village residences and businesses have been utilizing private wells and on-site sewage treatment systems. Small lot sizes leave limited room on each property for sewage treatment. The overall density

has created concerns over the total amount of sewage effluent being discharged into the ground in a limited area. This concern was heightened by the existing, high groundwater table, which leaves limited vertical space for soil treatment before effluent reaches the groundwater. Adding these concerns to the intermittent flooding, and geography, the Old Village has a small margin for error when it comes to properly treating sewage and therefore must carefully control remodeling and new construction. The City of Afton has taken steps to require periodic inspections of wastewater treatment systems within the Old Village. To mitigate these concerns, the City of Afton has installed a large subsurface treatment system (LSTS) and a sanitary sewer collection system to serve the Historic Village Sewage Treatment Service Area.

Many of the structures in the Old Village are of historical interest, which is a tremendous asset for the area. Unfortunately, some of these buildings are vacant or in disrepair. Where the historical value is not realized and the properties become blighted, it negatively impacts the entire community. A map showing structures and sites of historical value in the City of Afton is included in this plan (Appendix I-Map 8). The city intends to support renewal and reuse of these vacant buildings in order to continue to promote unique opportunities and the revival and survival of small businesses and professionals. Doing this will enhance the Old Village as a destination that attracts local residents and tourists.

Industrial

Approximately 239 acres of the City are zoned for light industrial use. The light industrial area is bounded by I-94 to the north, State Highway 95 to the west, and includes one 70 acre parcel directly abutting the south side of the Interstate Frontage Road and the east side of State Highway 95, as well as all property north of the Interstate Frontage Road between State Highway 95 to the city limits to the east. Light industry and storage related activities will continue to be allowed in the light industrial area under current zoning ordinances. Afton intends to maintain this area as a relatively low intensity transitional use between the interstate highway and the nearby residential zone. The light industrial area provides a location within the city for those uses that would be incompatible with the residential and agricultural districts.

Marine Services

The City has created a separate marine services zoning district to complement the river accesses and marinas and to permit storage and repair of boats and boat trailers by Conditional Use Permit. This District is generally confined to the area just north of the Old Village that was designated General Business and Light Industry in the Township of Afton before the Lower St. Croix River Bluffland and Shoreland Management Ordinance was adopted, and also includes a boat storage facility located on Manning Avenue just north of 8th Street.

State Park

Afton State Park is owned by the State of Minnesota, and is operated as part of the State Park System. The Park provides substantial open space and natural features, as well as recreational opportunities

for Afton residents and the general public. It is anticipated that the land will continue to be used in this way far into the future. The State Park consists of 793 acres.

Belwin Conservancy

The Belwin Conservancy - a non-profit conservation organization dedicated to the preservation, restoration, and appreciation of the natural world - owns 1,239 acres of preserved land in Afton. Belwin’s acreage is substantial and preserves and protects open space in the form of high value native habitats to include oak savanna and woodlands, tall grass prairie, wetland and fens. It is anticipated that this land will also continue to be conserved in this manner far into the future.

Table 3 - Acreages by Zoning District, City of Afton

Zoning District	Acres
Agricultural	7180
Rural Residential	7702
State Park	793
Industrial	289
VHS	176
Marine Service:	25

Housing and Land Use Goals, Policies and Strategies

The City of Afton establishes the following housing and land use goals:

1. Maintain the city's overall low density.
2. Preserve the rural character of Afton.
3. Encourage agricultural uses.
4. Maintain natural open spaces.
5. Promote wise land stewardship.
6. Maintain a low demand for public expenditures.
7. Avoid the need for extension of the metropolitan wastewater system into the City of Afton
 8. Resist development pressures and land speculation, which tend to create urban sprawl.
9. Ensure that development within the Old Village is sensitive to the natural environment that surrounds it.
10. Preserve and revive the rural village character of the Old Village and promote its use as an entry point for recreational activities in the area.
11. Maintain a mix of single-family residential structures and commercial structures containing niche businesses in the Old Village.
12. Provide for adequate parking in the Old Village
13. Encourage pedestrian-friendly sidewalks and lighting in the Old Village.

14. Promote relatively narrow driving surfaces and slower traffic speeds in the Old Village.
15. Improve access to and residents usage of the city docks and access to the St. Croix River as it relates to Main Street
16. Ensure that untreated wastewater and stormwater do not flow into the St. Croix River.

The City of Afton establishes the following housing and land use policies:

1. The overall development density of the City shall not exceed one unit per ten acres
2. The City shall not approve any requests to permit property then within the municipal boundaries of Afton to be annexed to any other municipality.
3. The City shall maintain the current densities for the following land use classifications:
 - a. Agricultural– 3 dwelling units per quarter-quarter section.
 - b. Preserve Agricultural Preserves - 0 or 1 dwelling unit per quarter-quarter section.
 - c. Agricultural with a Preservation and Land Conservation Development and a minimum of 80 acres– 4 dwelling units per quarter-quarter section
 - d. Rural Residential - 1 dwelling unit per 5 acres, with a minimum of 2.5 contiguous buildable acres
 - e. Old Village – 1 unit per 22,500 square feet *1 unit is considered one structure and may include one commercial unit, one residential unit or a combination commercial unit on the main floor with residential unit above.
4. The City shall maintain the current minimum lot sizes for newly created lots in each of the following land use classifications:
 - a. Agricultural – 5 acres with a minimum of 2.5 contiguous buildable acres.
 - b. Rural Residential – 5 acres with a minimum of 2.5 contiguous buildable acres.
 - c. Old Village – 22,500 square feet.
5. Provide for a mixture of land uses which maintains a rural environment and lifestyle and prevents the extension of the Metropolitan Council’s sewer systems, municipal water and sewer systems, and other urban services in the Agricultural and Rural Residential Zoning Districts.
6. Prohibit land uses which are inconsistent with the rural character of the Rural Residential Zoning District and which might place excessive demand on city services.
7. Prohibit rezoning of a parcel from Agricultural to Rural Residential unless, in addition to meeting other criteria, the parcel is more than 50% contiguous to a rural residential zoning district and such a rezoning would not result in development which is inconsistent with the generally rural character of the surrounding area.
8. Discourage residential development on lands suitable for agricultural use and adhere to planning practices that will allow farms to operate without external pressures.
9. Prohibit long and narrow lots and irregularly shaped lots except when deemed advisable in the Rural Residential Zoning District.
10. Restrict industrial uses to those which do not pose a threat to air or groundwater
11. Prohibit hazardous waste facilities within the city limits of Afton.
12. Restrict industrial development to those uses that do not generate large amounts of traffic, sewage, and can operate efficiently on an onsite standard drainfield approved by City ordinances.

13. Restrict industrial uses to those which would not create the need for metropolitan sewer, municipal water or sewer, or additional urban services.
14. . Retail, restaurants and other similar commercial uses are allowed as principle uses only in the VHS Zoning District. Multi-unit dwellings within the Old Village are prohibited as they are not in keeping with the context of the community. Accessory commercial uses may be allowed by ordinance in other zones.
15. Monitor and support municipal wastewater collection and treatment serving properties within the Old Village.
16. Encourage economic revitalization of the commercial portions of the Old Village.
17. Continue to allow mixed use structures in the Old Village as they are consistent with the current character of that area.
18. To ensure the preservation of the character of the historic district, current non-conforming uses that are rendered unusable may be restored to their prior use in accordance with state law.

The City of Afton will seek to implement the following land use strategies:

1. Prepare a plan establishing priority conservation areas within the Agricultural Preservation Overlay District. The plan should identify areas that are best-suited for continued agricultural production as well as linkages/wildlife corridors that should be established throughout the district.
2. Partner with the Minnesota Land Trust and other independent, non-profit organizations that serve as holding entities for conservation easements.
3. Study parking needs in the Old Village.
4. Develop and enforce requirements for construction and maintenance of sidewalks and lighting in the Old Village.
5. Develop a management plan for unimproved right-of-ways in the Old Village.
6. Incorporate design review standards (to be) created by the Design Review/Heritage Preservation Commission for future village construction.
7. Encourage the use of conservation or open space design subdivisions where the subdivision permanently preserves open space or agricultural land uses or creates transition zones with adjoining zones or jurisdictions.
8. Develop signage and pedestrian-friendly connections to the St Croix River
9. Protect Steamboat Park as a nature preserve and passive use area.

TRANSPORTATION PLAN

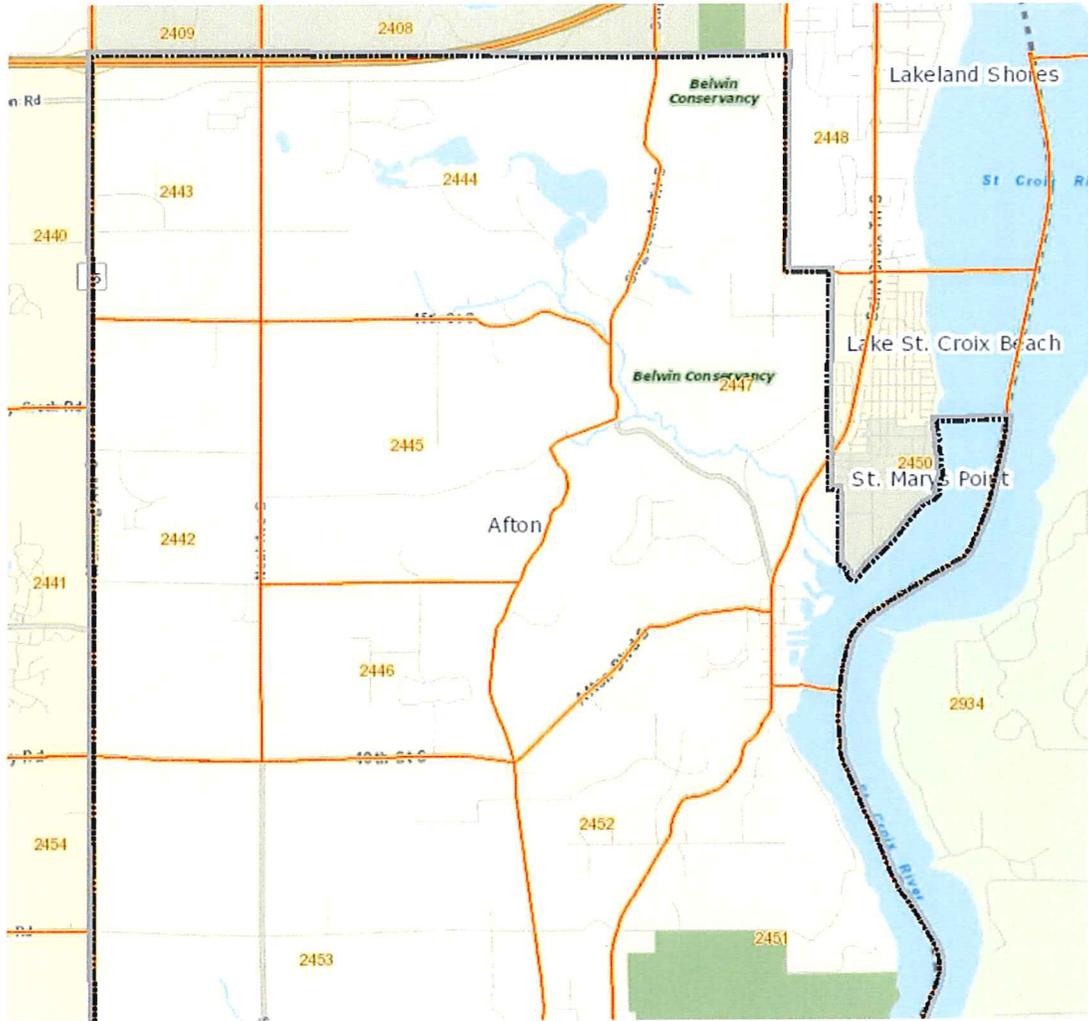
In 1855 the City of Afton consisted of a main street through the center of the village going north and south with short side streets extending up the sides of the bluffs. Today, Afton is served by an extensive network of federal, state, county and local roads.

The continued emphasis on low density, rural development pattern will not result in significantly more roads being added to the City of Afton. The projected household growth is estimated to be 12% over the next 20 years. There is a higher growth forecast for cities and towns adjacent to Afton. This higher adjacent growth forecast may bring more traffic to roads within the City.

Development of the road system over the past few decades has focused on the construction of new roads in cooperation with the developers of the subdivisions. The developer has been responsible for the construction of paved roadways and appropriate drainage to city standards and the city has assumed maintenance and ownership of these roadways one year after completion due to the low development density of the Agricultural Zoning District, road development has been deemed unnecessary and is prohibited within this zone.

Traffic Analysis Zones

Metropolitan Council Traffic Analysis Zones (TAZ) for Afton which were used to create the 2030 forecasted traffic volumes are detailed below. The projected growth for 2030 is 150 new homes and an increase in employment by 180.



Traffic Analysis Zones for Afton (TAZs)

Met Council TAZ	Population	Households	2014	
			Retail Employment	Non-Retail Employment
2442	224	81	3	8
2443	247	91	29	89
2444	338	119	2	74
2445	203	81	0	1
2446	203	77	1	11
2447	788	312	9	67
2450	1227	535	62	96

2451	263	104	0	5
2452	552	231	3	97
2453	555	201	0	100
TOTALS	4600	1832	109	548

2020				
Met Council TAZ	Population	Households	Retail Employment	Non-Retail Employment
2442	200	80	0	10
2443	250	100	20	100
2444	340	130	10	70
2445	230	90	0	0
2446	210	80	0	10
2447	810	330	20	8
2450	1260	560	40	180
2451	290	110	0	0
2452	590	230	20	80
2453	590	220	10	90
TOTALS	4770	1930	120	548

2030				
Met Council TAZ	Population	Households	Retail Employment	Non-Retail Employment
2442	210	80	0	10
2443	250	100	10	110
2444	350	140	10	70
2445	230	100	0	0
2446	220	90	0	10
2447	830	350	10	90
2450	1260	570	30	200
2451	290	120	10	5
2452	590	240	20	0
2453	630	250	10	90
TOTALS	4860	2040	100	585

2040				
Met Council TAZ	Population	Households	Retail Employment	Non-Retail Employment
2442	210	90	0	10
2443	250	100	10	110
2444	350	150	10	70
2445	230	100	0	0

2446	220	90	0	10
2447	830	360	10	100
2450	1280	570	20	210
2451	290	120	0	10
2452	590	250	10	100
2453	670	270	10	90
TOTALS	4920	2100	70	710

Roads and Highways

1. A combination of Federal, State, County, and local roads serve Afton as shown in the Existing Transportation System (Figure 3). Ideally, roads are designed to perform a designated function and are located to best serve the type of travel needed. The four functional classifications assigned by the Metropolitan Council that describe roads in Afton are Principal arterial;
2. Minor arterial (“A” Minor/”B” Minor);
3. Collector; and
4. Local.

Principal arterial routes are roadways intended to connect metropolitan areas, major industrial centers, etc. that are the highest traffic volume roadways such as interstate highways. Minor arterials connect urban service areas to cities and towns inside and outside the region. The emphasis of minor arterials is on mobility as opposed to access in the urban area. Collector roadways provide connections between neighborhoods and regional business centers. Local roads provide land access by connecting blocks and land parcels.

Interstate (I) 94 is a principal arterial along the northern border of the City. “A” minor arterial connectors within the City are Trunk Highway (TH) 95, Washington County Road (CR) 18, and CR 21 (from the village to Denmark Township). “B” minor arterial routes are CR 71 and CR 21 (from the village to the north). Collector routes include 15th Street South (from TH 95 east to Oakgreen Avenue South). All other roads in Afton are considered local.

The remaining unpaved roads in Afton were paved in 2005. As these and other roads age, maintenance expenses are expected to increase over the next decade. The city is committed to maintaining the transportation infrastructure of Afton in a timely manner. The city should plan for road improvements over the long term and facilitate budgets that include ongoing funding. When necessary, bonding may provide funding for unanticipated improvements, providing such bonding includes planning to return to on-going funding.

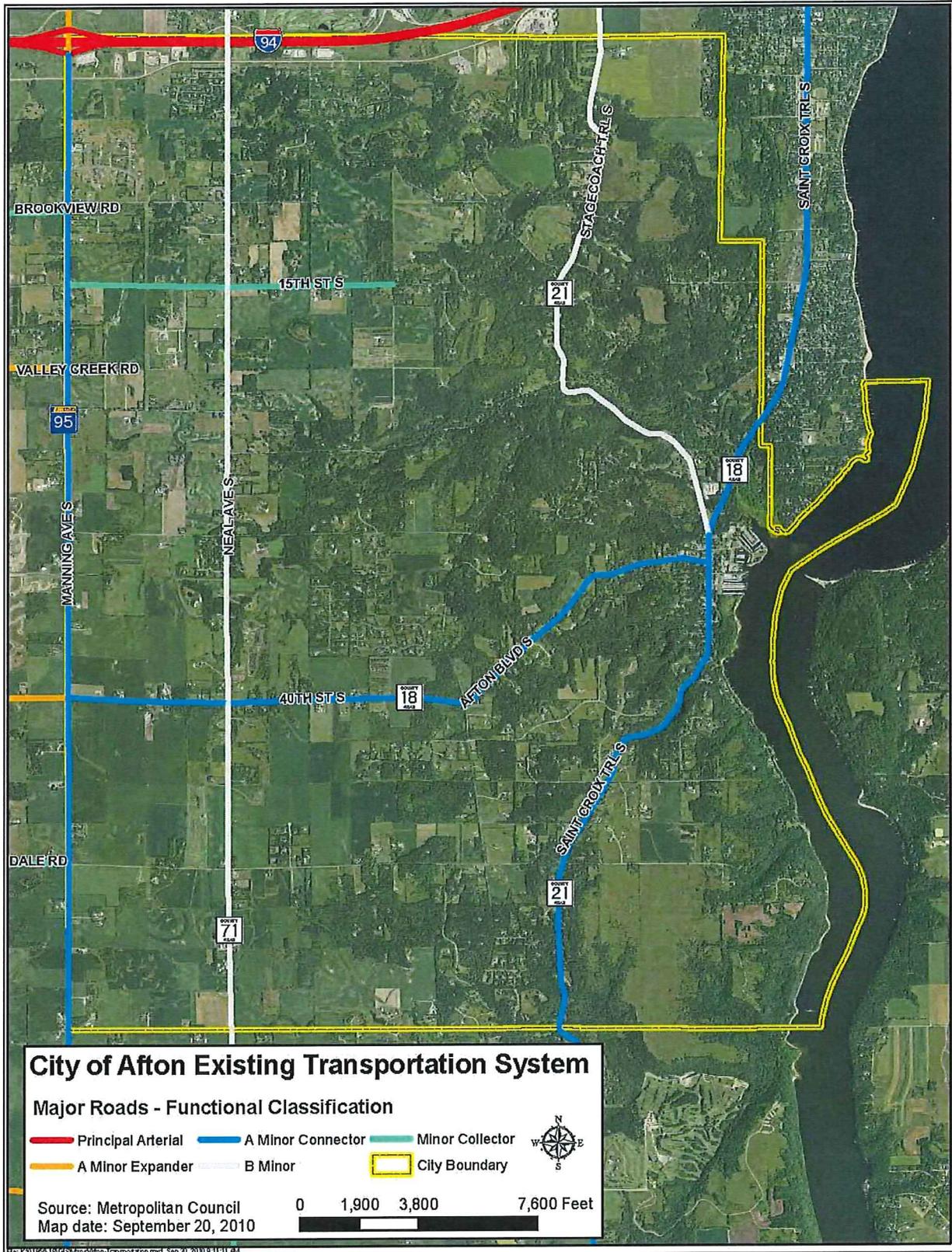


Figure 3 – City of Afton Existing Transportation System, Metropolitan Council

Safety

The City will construct new roadways and reconstruct roadways to meet City standards and increase safety and mobility.

Access Management

The City encourages the alignment of new access points with other existing access points, the provision of adequate spacing to separate and reduce conflicts, and the consideration of sight distance limitations. The City will use Washington County's access management requirements as a guide for design standards on local roadways.

Aviation

Afton does not have an airport or landing strip and will not allow any, public or private, due to the lack of central services, suitable land space, fragile soils, and noise pollution. Heliports are likewise prohibited. The City of Afton promotes the protection of airspace navigations and electronic communication. Current City ordinances prohibit any structures, including antennas and wind turbines, over 150 feet in height. Proposed, new structure construction will require a Conditional Use Permit where the applicant will be required to submit a "Notice of Proposed Construction or Alteration" to the Federal Aviation Administration (CFR – Part 77, Form 7460-1).

Transit

Afton is outside of the Metropolitan Transit Taxing District; there is no regular route transit service existing or planned in the City. There is a Park and Ride lot located at I-94 and St. Croix Trail. Washington County provides limited transit service for the elderly and disabled. The City is located in Market Area IV; service options for transit in Market Area IV include Transit Link, formerly called "dial-a-ride", volunteer driver programs, and ridesharing. The City, in conjunction with its neighboring St. Croix Valley communities and Washington County, may be an advocate for a light rail corridor along I-94 to the St. Croix River. As our population ages, our City may choose to explore the expansion of bus service into our community.

Non-motorized Transportation

While the City of Afton encourages non-motorized transportation, it is not practical as a primary mode of transport outside of the Old Village. However, with the paving of most of Afton's streets, the City has become a destination for the recreational bicyclist who enjoy the rolling hills, open spaces, and low traffic volumes within much of the community.

Transportation Goals, Policies, and Strategies

The City of Afton establishes the following transportation goals:

1. Ensure safe routes for motor vehicles, bicycles, and pedestrians.
2. Ensure that roadways are adequate for use by emergency vehicles.
3. Provide appropriate roadways for area businesses depending on their location in an industrial zone or within the historic Old Village.
4. Provide reliable access to roadways outside of the City of Afton.
5. Provide and maintain roadways and intersections by the most cost effective means possible.
6. Avoid disruption to the natural environment.
7. Promote safe, contemporaneous use of the roads by motorized and non-motorized traffic, as well as oversized and slow moving farm vehicles and implements.
8. Utilize appropriate design and construction techniques to avoid premature degradation of roads adjacent to waterways.
9. Encourage "Park and Ride" lots for commuters in areas adjoining major thoroughfares.
10. Require right-of-way dedication for existing easement roads and existing streets whenever land is subject to City Council approval.

The City of Afton establishes the following transportation policies:

1. Prohibit the construction of new streets in the agricultural district except where deemed necessary to allow a property owner to use the property in keeping with the agricultural zoning and to promote land conservation to the maximum extent.
2. Control the upgrading of existing roads and construction of new roads which would serve to encourage non-farm development in the agricultural zone.
3. .
4. Work with Washington County to restore the historic character of St. Croix Trail through the Old Village as a slow speed, small village street.
5. Prohibit airports, landing strips and heliports within Afton.
6. Update and implement a capital improvement program.

The City of Afton will seek to implement the following strategies:

1. Post speed limits, weight and parking restrictions on City streets, where appropriate.
2. Post share-the-road signs for bicyclists, equestrians and other uses, where appropriate.

GROUNDWATER AND SURFACE WATER PLAN

A copy of the City's Surface Water Management Plan is attached, as Appendix G.

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WASTEWATER AND SANITARY SEWER PLAN

Properly treating wastewater is a critical concern of the residents of Afton. There is a strong desire to ensure that wastewater is properly treated so as to limit the impact that development in Afton has on the natural environment. There is an equally strong desire to avoid the land use patterns that come with centralized collection and treatment of wastewater. Continued use of highly efficient and well maintained individual sewage treatment systems throughout the rest of the City will avoid public expenditures for central sewer and will prevent development at urban densities.

In 2013, the City completed a Facility Plan to evaluate various wastewater collection and treatment alternatives to replace current individual subsurface treatment systems (ISTS) within the Historical Village Sewage Treatment Service Area (HVSTSA). Included in the study were four alternatives: 1. Leave the system as is; 2. Conduct widespread ISTS replacement; 3. Implement a large subsurface treatment system (LSTS); or 4. Undergo regionalization. The Facility Plan concluded, after consideration of environmental, financial, and technical factors, that the preferred alternative for the city is the implementation of an LSTS system.

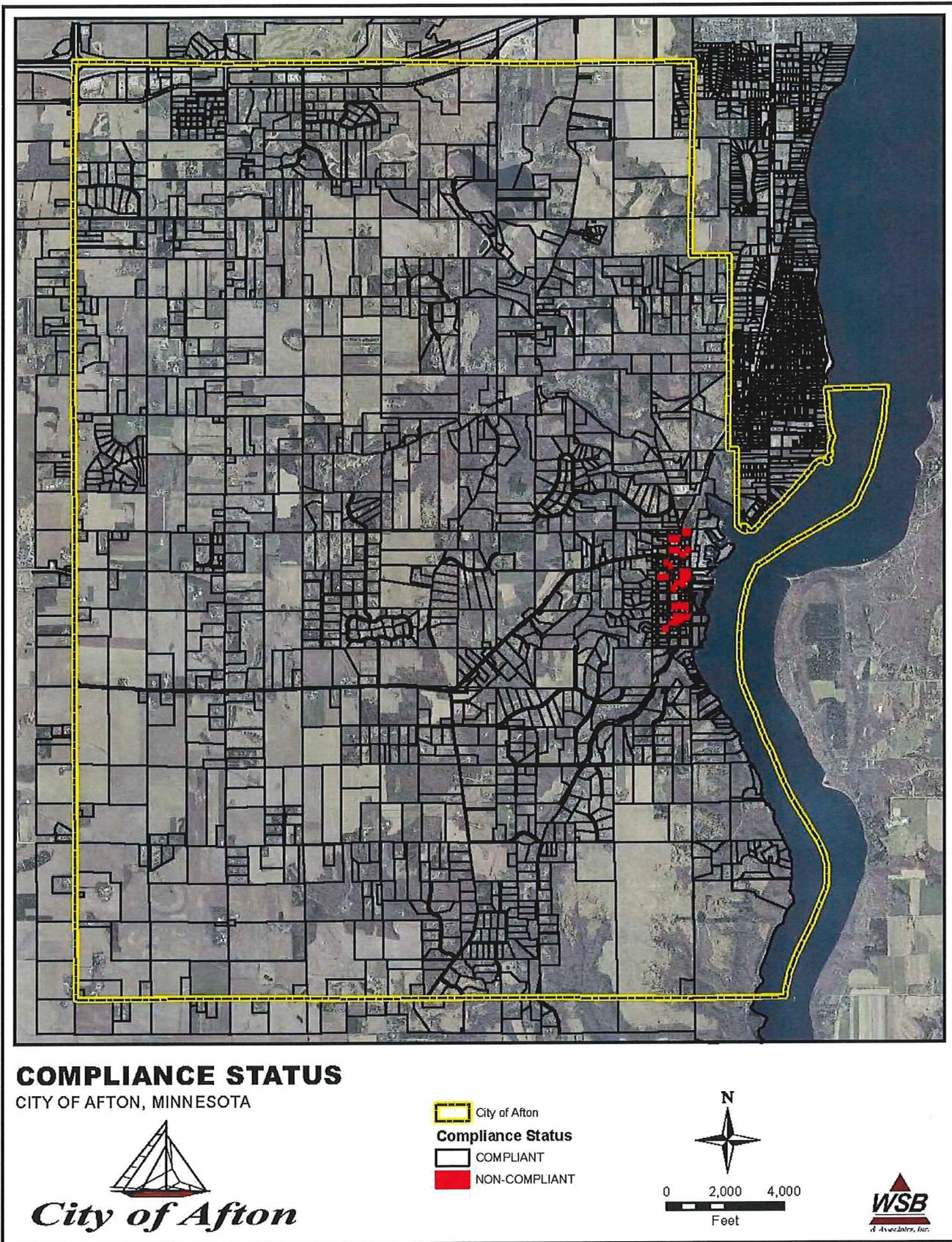
The Facility Plan has been reviewed and approved by the MPCA and the following information summarizes that plan in accordance with comprehensive planning requirements. The entire Facility Plan is included in Appendix M of this Comprehensive Plan.

Existing System

As of 2008, there were 1,119 individual, subsurface sewage treatment systems within the city limits. In addition, there is one community cluster system that serves eleven homes. A survey of the HVSTSA was completed, and the location of surveyed, non-compliant systems are shown in Figure 4. It was estimated that 52% of the existing systems were compliant and meeting setback requirements, with another 18% compliant but not meeting setback requirements.

The current reliance of ISTSs will require the City of Afton to be diligent in protecting residents' health, safety, and welfare. Development restrictions in place limit development in areas with unsuitable soils. Compared with other communities in Washington County, Afton has few soils with a slow percolation rate. Slow percolation rates usually indicate a heavy or tight clay soil which does not allow sewage effluent percolation. A significant area of these soils is in the southeast corner of Afton along the St. Croix River. Other small pockets of these soils occur along the many drainage ways within the City.

Figure 4. Parcels known to have non-compliant sewage treatment systems in the HVSTSA.



Steep slopes are predominant in Afton along the eastern half of the city. These steep slopes follow the major drainage ways. Currently, installation of an on-site sewage treatment system is prohibited on any slope exceeding 12%. Installation of septic systems on slopes over 12% may result in erosion, lateral seepage, and down-slope flow of effluent. The soils with a seasonal high water table or that are wet or subject to periodic flooding are also located along Afton's drainage ways. These soils are not suitable for septic systems since the effluent will either be dispersed into groundwater or will back up into the residence.

To further ensure the health and safety of Afton's residents, the City performs a thorough review of all ISTS designs and provides expert inspection for all installations. Afton has also implemented a maintenance program for existing systems, including an on-site, biennial mandatory inspection and the gradual upgrading of all substandard systems.

The installation, maintenance and inspection of all ISTSs and LSTSs are regulated by both the City of Afton and Washington County in accordance with Minnesota Rules Chapter 7080. An agreement is in place whereby Washington County provides individual sewage treatment system inspection services within the City (Appendix J – ISTS Inspection Services Agreement). As part of this agreement, the City of Afton has adopted Washington County's ordinance #179 by reference as Afton Ordinance 08-2010. The City has agreed to be consistent with, or more restrictive than, the county.

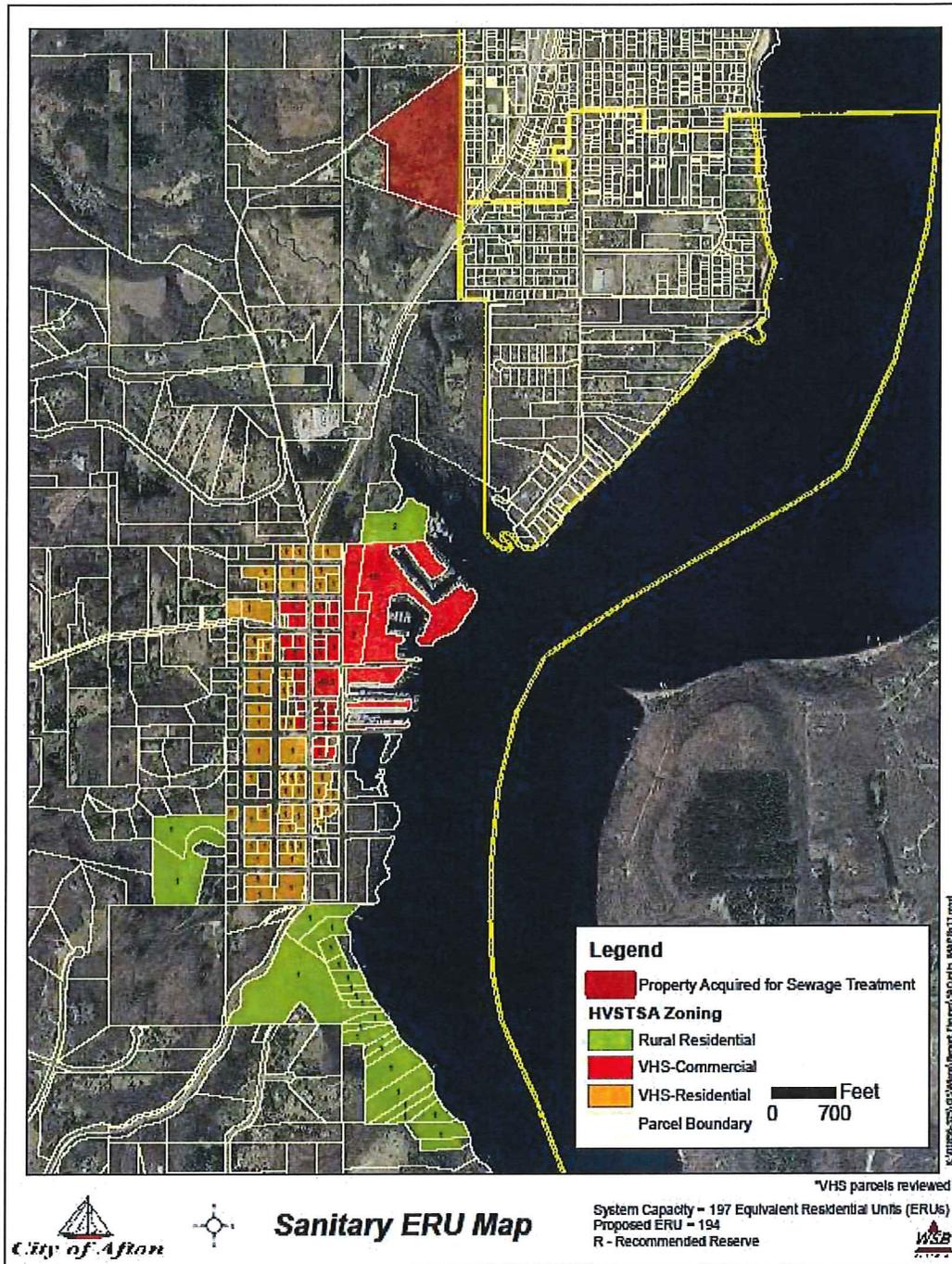
Existing ISTSs in the Historic Village Sewage Treatment Service Area will continue to provide wastewater treatment until the new system is operational - Because not all individuals will connect to the planned system, and others will be connected in stages, any residents remaining on ISTS systems will still be required to undergo biennial inspection.

Planned System Improvements and Projected Wastewater Flows

Due to the high flooding risk in Afton, as well as the non-compliant ISTSs serving residential dwellings and commercial establishments within the Historic Village Sewage Treatment Service Area, there is a need for sanitary sewer system improvements. The implementation of a LSTS will improve water quality and reduce noncompliant systems. The planned improvements will greatly reduce , health, and sanitation impacts to the City, residents, businesses, and general public.

There is a desire from the City of Afton, however, to prevent large-scale treatment systems that would allow for widespread commercial and industrial development. For this reason, the City implemented a LSTS with a capacity allowing a modest growth in residential and commercial flows only. The system estimates a population growth of 30 people (17%) in the Old Village over the next 20 years. In 2030, the system will serve an estimated 77 households and 22 commercial establishments. The following figure details the Historic Village Sewage Treatment Service Area to be served by the LSTS.

Figure 5. Current Zoning for parcels in the Historic Village Sewage Treatment Service Area.



The following table presents that sanitary sewer flows that will be generated within the Historic Village Sewage Treatment Service Area based on the land use designations as detailed in the city’s Facility Plan. The 2020 and 2030 flows are in accordance with the proposed system staging that is described in the following sections. As the LSTS will only accommodate modest growth, it is assumed that the design capacities will be reached by the year 2030.

Land-Use	2013 Flow (gpd)	2020 Flow (gpd)	2030 Flow (gpd)
Residential	0	9,272	18,544
Commercial	0	14,175	28,349
Inflow/Infiltration Allowance	0	2,000	4,000
Total Peak Flow	0	25,447	50,893

Table 5. Estimated sanitary sewer flows.

Collection System Improvements

The improvements include the construction of a gravity sanitary sewer system, lift stations, and forcemain to convey the residential and commercial wastewater flows generated within the Historic Village Sewage Treatment Service Area to the LSTS. Individual sewer services will be connected in 2017 & 2018 to the pipe sewer and extend to the homes and businesses to be served.

The trunk lines within Saint Croix Trail extend to a main lift station located adjacent to the Steam Boat Park parking area east of the intersection of Saint Croix Trail and Upper 34th Street. The main lift station will convey the wastewater to the LSTS north of the Historic Village Sewage Treatment Service Area. Two additional lift stations located along River Road have been reconstructed to convey wastewater to the collection system and ultimately the LSTS. The following figure details the sanitary sewer collections system improvements within the Historic Village Sewage Treatment Service Area (Figure 6).

Figure 6. Planned sewer system in the Historic Village Sewage Treatment Service Area.



Treatment System

The treatment system consists of communal septic tanks, an anoxic denitrification component, recirculation tank, recirculating gravel filter, and a dose tank sized to store and meter flows throughout the day to a seepage cell soil dispersal drainfield. A control building houses various valves and controls. It also serves as a location to store miscellaneous items pertinent to system operation and maintenance.

The treatment system is located north of town at an elevation of 720 to 730 feet above mean sea level. The treatment system is above the 500 year, 100 year, 50 year, and 10 year floodplain elevations of 695 ft, 691.5 ft, 690 ft, and 686.5 ft, respectively, and will be operable during the 25-year flood and protected during a 100-year flood event.

Inflow and Infiltration

Due to Afton's proximity to the St. Croix River, extra precautions are put in place to ensure the system can withstand flooding. These precautions limit inflow and infiltration in the system. Flood-tight castings are used along the collection system in the floodplain. The collection sanitary sewer will be made from PVC plastic with water-tight gaskets and HDPE including fused joints to keep water from entering the system. In addition, the collection system was pressure tested after construction, and the manholes include joints, rings, and castings that are wrapped to exclude water. The combination of these technologies will greatly reduce the potential for inflow and infiltration. Nonetheless, the system plans include an inflow and infiltration allowance of 4,000 gpd as required by the MPCA permit.

Staging

Residences and commercial establishments that have existing non-compliant septic systems will be required to connect to the system. The remaining users in the Historic Village Sewage Treatment Service Area will be required to hook up to the system within eight years of completion. The system will be fully connected prior to 2030, as outlined in the updated Sanitary Sewer Code for the City of Afton (Appendix G.)

Wastewater Goals, and Policies

The City of Afton establishes the following wastewater goals:

1. Reduce the volume of wastewater that is discharged to the soils of Afton.
2. Protect ground and surface waters to the greatest extent practicable by improving the quality of wastewater effluent.
3. Protect the groundwater from chemical or hazardous waste introduced from wastewater systems.

The City of Afton establishes the following wastewater policies:

1. Encourage the use of individual, highly efficient, wastewater treatment systems for all homes and businesses within Afton.
2. Restrict industrial uses to those which would not create the need for metropolitan sewer or additional urban services.
3. Educate all residents on the proper maintenance of a septic system.
4. Monitor and manage the upgrading of all substandard wastewater treatment systems and require the immediate upgrading or replacement of failing systems.

PARKS AND OPEN SPACES PLAN

Residents value the rural atmosphere of Afton. Five-acre minimum lot sizes outside of the Old Village with houses that do not dominate the views of the countryside, large non-buildable areas of the City, and a large amount of farmland create an open feel to the landscape *Open spaces, in and of themselves, are valuable to the residents of the City as preserves of nature and sanctuaries for flora and fauna.* An adequate area of properly managed parks and open spaces helps to protect and recharge surface and groundwater which is used by every resident of the city.

The preservation of open spaces, including land with steep slopes, woodlands, wetlands, scenic or environmentally sensitive areas, and agricultural land provides many benefits, including the protection of natural resources, the provision of wildlife habitat, and the preservation of the natural, rural countryside character of Afton. The preservation of these open spaces is of key importance to the City. The City will seek to accomplish this preservation through a number of means, including:

1. Parkland dedication;
2. Parkland acquisition;
3. Open space dedication incentives in land development regulations; and
4. Encouraging and supporting the long term continuation of agricultural uses.

Existing Parks and Open Space

The City of Afton, and Afton's natural, open, rural character, greatly benefit from the substantial amount of open space that has been preserved by other public and quasi-public organizations. These open space amenities include a State Park, Regional Parks and the Belwin Conservancy. In addition, the St. Croix River is a magnificent open space amenity, providing scenic and tranquil vistas, and a major recreational resource. Another significant element of Afton's open space is its scattered rural development, including large lots and large expanses of agricultural land. Rather than developing new parks, the focus of the City has been to protect and preserve the existing natural resources and open space amenities.

The City currently has a limited amount of City-owned open space and developed parks. The City of Afton has one park for active recreation, Town Square Park, and another for passive recreation, Steamboat Park, along the St. Croix River. Both parks are located in the Old Village.

Steamboat Park lies mostly in the floodplain. and is approximately thirty (30) acres in size. It serves as a sanctuary for many birds and various kinds of wildlife. It is one of the few locations on the lower St. Croix River that is not readily accessible for large boat traffic. Recreation is limited to passive recreation, such as picnicking, walking, swimming, bird and wildlife viewing.

Town Square Park is a more active site. The park provides space for basketball, baseball, picnicking, music concerts, skating and group activities. There is playground equipment, a band shell, and a picnic shelter in the park, as well as restroom facilities. Town Square Park is the focal point of many special events.

Over the course of many years, the City has acquired a number of other parcels throughout the city of Afton with the potential to develop into local parks. These public lands were acquired in conjunction with the approval of major subdivisions over the course of several decades and remain undeveloped. In all, there are 53.44 acres of designated park land available for public use.

Community and regional parks (Afton State Park, Lucy Winton Bell Athletic Fields, Lake Elmo Regional Park Reserve, St. Croix Bluffs Regional Park, and Cottage Grove Ravine Regional Park) also provide a variety of different types of recreation to Afton residents.

Rinta Community Garden was created in 2012. The city of Afton received a grant from the Lower St. Croix Valley Community Foundation. These funds were used to remove trees and shrubs on approximately 1 acre of dedicated park land. The garden area was plowed and tilled. There are 21 garden plots on the property as well as compost bins, a garden shed with rain barrels to catch runoff from the shed's roof. Gardeners are primarily from the Lower St. Croix Valley, although a few come from Woodbury, Oakdale and St. Paul.

Two biking/hiking trails pass through the City. One trail follows St. Croix Trail South and extends from the northern edge of the Old Village to Interstate 94. The other, Afton Bluffs Regional Trail, is designated along County Road 18 running east and west, and is not separated from the roadway.

The planned St. Croix Valley Regional Trail will parallel the St. Croix River, and will connect Point Douglas County Park, Carpenter Nature Center, St. Croix Bluffs Regional Park, Afton State Park and the proposed Afton Bluffs Regional Trail. The St. Croix Valley Regional Trail will be aligned parallel and in close proximity to the St. Croix River.

The City seeks to protect a number of significant natural features within its boundaries. These include Trout Brook, Valley Creek and its North Branch, Bissell's Mounds and Kelle's Coulee. Bissell's Mounds in particular are unique to Washington County and are a recognized landmark in the City. Other natural features that are determined to be either unique or geologically sensitive will be preserved as the property around them is developed.

Afton State Park is located south of Afton and a portion of the park (787 acres) is located within the City's boundaries. The park was authorized by legislation in 1969 and was opened to the public in 1982. The terrain of the park is defined by a glacial moraine cut by deep ravines running into the St. Croix River. To Afton's residents, the state park offers many recreational amenities, including: backpack camping, swimming, hiking, fishing, cross country skiing, a prairie landscape, bird watching, and animal sighting. Some of the animals the park offers a home to include hawks, bluebirds, meadowlarks, deer, fox, badgers, turkeys, thirteen-lined ground squirrels, and gray and fox squirrels. Afton State Park is also home to an array of natural vegetation. It contains a combination of oak savannah and woodlands. Park wildflowers include woodland ephemerals in the spring, butterfly weed and puccoons in the summer, and sunflowers and blazing star in the fall.

Belwin Conservancy also holds considerable land within Afton under a conservation easement with the Minnesota Land Trust. The Belwin land provides a substantial open space amenity for adjacent land uses, and makes a major contribution to the protection of natural resources, and to the City's rural countryside character.

Parks and Open Space Goals, Policies and Strategies

The City of Afton establishes the following parks and open space goals:

1. Acquire and Preserve adequate amounts of open space to maintain a rural atmosphere (Afton's 2012 Park Plan)
2. Obtain and maintain designated open spaces to provide for wildlife habitat and migration.
3. Reconnect Afton's historical linkages to the St. Croix River.
4. Provide expanded access to the City docks to all residents.
5. Provide safe areas to ride bicycles within the City.
6. Provide safe areas to ride horses within the City.
7. Provide pedestrian friendly means of enjoying Afton's scenic views, wildlife, and connections to the St. Croix River.
8. Preserve locally important water resources, natural and scenic features.
9. Periodically identify the recreational needs of Afton citizens and evaluate ways to meet them.
10. Consider using the Afton Bluffs Regional Trail to create an east-west connection from Afton's Old Village to the City of Woodbury.
11. Manage all City owned or controlled land to maintain or restore to naturally occurring species of plants and trees plus those necessary to anticipate climate change.
12. Manage all City owned or controlled land to prevent erosion to recharge groundwater and to increase carbon storage.

The City of Afton establishes the following parks and open space policies:

1. Preserve open spaces and natural resources for passive use and create non-motorized trails through direct purchase, subdivision, scenic and/or conservation easements and other means to include the seeking of grants and the use of matching funds when they are available, but not the use of eminent domain.
2. Maintain central community places.
3. Maintain safe environments for children to play and for the community to gather.
4. Maintain designated open spaces to provide for wildlife habitat and migration.
5. Work cooperatively with Washington County, the Belwin Conservancy, the Science Museum of Minnesota, and other -public and private entities to preserve sensitive lands and open space.
6. Develop a forestry plan all park and open space land to enhance water quality.
7. Develop a park plan for the five small parcels obtained by the City through park dedication.

The City of Afton establishes the following parks and open space strategies:

1. Develop signage and pedestrian friendly connections to the St. Croix River.
2. Protect Steamboat Park as a nature preserve and passive use area.
3. Develop a long term plan to obtain additional city owned land in areas identified as having unique environmental value, ecological significance or fragile geological attributes. Significant weight should be given to highly ranked areas identified on Afton's Natural Resources Inventory.
4. Develop a forestry plan to identify plant and tree species native to Afton and hardy in projected climate conditions.
5. Develop a long term plan to pay for acquisition and development of Afton's parks and open spaces.

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SOLID WASTE PLAN

Solid Waste Goals and Policy

The City of Afton establishes the following solid waste goals:

1. Manage waste in a manner that will protect the environment and public health
2. Manage waste to minimize land filling and incineration
 - a. Emphasize less waste generation
 - b. Increase waste reuse (composting) and source separating of recyclable materials.
3. Routinely report to residents results of recycling and waste reduction with total volumes and associated cost benefits.
4. Educate residents and businesses by sending consistent messages about the importance and value of waste management both economically and environmentally.
5. Evaluate the value and relative success of mandatory or voluntary participation

The City of Afton establishes the following solid waste policy:

1. Waste reduction and reuse of resources
2. Waste separation and recycling
3. Promote resource conservation and recovery
4. Promote composting of yard waste and food waste
5. Provide for trash hauling and recycling
6. Enforcement of illegal burning or dumping of trash
7. Routinely report to residents results of recycling and waste reduction efforts with total volumes and associated cost benefits
8. Explore avenues to encourage residents and businesses to reduce solid waste by providing educational material for best present and future practices.

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CITY GOVERNANCE PLAN

The City provides services consistent with those provided in small rural communities, including general street maintenance, parks and recreation facilities, police service, fire protection, building inspection services and general assistance at City Hall. These services have typically been managed from City Hall by a city administrator and small staff.

The City of Afton owns five public buildings located on three parcels of property. The Afton Village Hall, leased to the Afton Historical Society and City Garage are located on Lots 1, 2, and 3 of Block 8 in the Old Village. The Town Hall (leased) and Garage are located in the NW quarter of the SW quarter of Section 10, on Stagecoach Trail South. The City Hall and a new city garage located next to city hall is located on Lots 2, 3, 4, 5, and 6 of Block 11 of the Old Village. The City also owns docks that are leased to a private operator.

Police protection is provided through a contract with the Washington County Sheriff's Department. As the city grows the cost of police protection may increase, and the provision of these services should be a consideration as new developments are proposed. Fire, ambulance, and rescue services are provided by way of a joint powers agreement among the five Lower St. Croix Fire Protection District cities with a fire station located in Lake St. Croix Beach. There are no current plans to add additional public facilities.

City Governance Goals, Policies and Strategies

The City of Afton establishes the following public facilities goals:

1. Maintain a small and efficient government.
2. Properly maintain public facilities.
3. Encourage a “pay-as-you-go” approach to maintaining public facilities and infrastructure.
4. Public subsidy for development, in the form of tax breaks such as Tax Increment Financing, shall be discouraged by the City of Afton.

The City of Afton established the following public facilities policies:

1. The City of Afton will comply with all FAA and Met Council Aeronautic Safety Standards regarding the height of structures and any regulations that pertain to airspace safety and electronic interference over the City of Afton.
2. Comply with all state and federal mandates.
3. City property is to be leased at market value.
4. The City Code shall be properly maintained so that current version is annually provided to all elected and appointed officials.
5. Continue utilizing and updating the Capital Improvements Plan and long-range planning process for maintenance and improvement of roads and other municipal infrastructure

The City of Afton will seek to implement the following strategies:

1. Institute a budgeting process that annually takes a long-term examination of the City's finances.

SYSTEM STATEMENT COMPATIBILITY

The Metropolitan Council has issued a system statement for the City of Afton, which indicates specific issues that must be addressed by the Comprehensive Plan before the Plan is considered complete by the Metropolitan Council. The City of Afton seeks to comply with all aspects of the system statement and has done so as per the following:

1. **Population, Housing, and Employment Forecasts:** The Metropolitan Council (Met Council) provides population, housing and employment forecasts for the City of Afton until the year 2030. These are required to be part of the plan update and are cited in Appendix B - Demographics Information of the Comprehensive Plan.
2. **Density and Land Use Classification:** The Met Council classifies the geographic area that the city of Afton is located in as "diversified rural" and partially "agricultural". Diversified rural areas include a mix of large-lot residential and clustered housing with agricultural and other uses. Density in diversified rural areas must be no greater than 1 housing unit per 10 acres. Agricultural areas are planned and zoned by local communities to maintain agriculture as the primary long-term land use. The density of agricultural areas may not exceed 1 housing unit per 40 acres.

This plan identifies policies, in the Housing and Land Use Action Plan, that will maintain an overall development density within the parameters required in the system statement.

3. **Aviation Plan and Facilities:** The system statement requires that the City of Afton must include airspace protection in its comprehensive plan. The protection is for potential hazards to air navigation including electronic interference. Airspace protection should be included in local codes/ordinances to control height of structures, especially when conditional use permits would apply. The comprehensive plan should include policy/text on notification to the FAA as defined under code of federal regulations CFR-Part 77, using the FAA Form 7460-1 "notice of proposed construction or alteration."

There are no public or private airfield facilities within the City of Afton. Furthermore, public and private airfields and heliports are not allowed within the City of Afton. Language has been added to the Public Facilities Action Plan to reflect Afton's desire to follow all FAA and Met Council Aeronautics Safety Standards in regards to airspace safety in the City of Afton.

4. **Sewage Treatment:** The system statement requires that the City of Afton incorporate current MPCA regulations as part of a program for managing individual cluster, and large sewer systems

in the local comprehensive plan and implement the standards in issuing permits. An overview of Afton's management program must be included in the community's local comprehensive plan update.

Afton should include in the sewer element of its comprehensive plan the conditions under which private treatment plants would be allowed. The use of private wastewater treatment plants must be consistent and compatible with the long-term regional wastewater system plan.

Subsurface and cluster septic treatment systems are regulated by Afton City Code which adopted Washington County's septic ordinance by reference and by contract with Washington County to perform permitting and inspections (Appendix J).

5. **Watershed Management:** The system statement requires that a local surface water management plan should be prepared once a watershed plan for the area has been approved. The local surface water management plan must be submitted to both the water management organization(s) within whose watershed the community is located and to the Metropolitan Council for its review.

Afton is required to complete a local surface water management plan. The plan will be submitted to the Met Council for its review concurrent with the review by the watershed management organizations.

6. **Trail Connections:** The system statement indicates that a proposed regional trail following the St. Croix River (St. Croix River Regional Trail) and a planned trail (Afton Bluffs Trail) will be located within or traverse across the City of Afton. These trail alignments are acknowledged in the Parks and Recreation Action Plan.

IMPLEMENTATION PLAN

The City has adopted and does enforce the following ordinances, among others. The ordinances and official controls listed in this section will continue to be enforced in order to implement this Plan.

1. The Zoning Ordinance, as amended from time to time and incorporated by reference herein, implements the primary elements of this Plan by establishing the type, location, and intensity of uses throughout the city as prescribed by this Plan.
2. The Shoreland Management Ordinance, as amended from time to time and incorporated by reference herein, protects wetlands, water bodies and water courses throughout the City as prescribed by this Plan.
3. The Floodplain Ordinance, as amended from time to time and incorporated by reference herein, protects man-made development from floodwaters and the floodplain areas that carry and discharge regional floods by limiting development in those floodplains and floodways in the City as prescribed by this Plan.
4. The Sanitary Sewer Disposal Ordinance, as amended from time to time and incorporated by reference herein, governs the installation, inspection, and maintenance of septic systems as prescribed by this Plan. Further, the City issues septic system permits, inspects installation of all septic systems, reviews soil tests for subdivisions, issues building permits after the City has issued any required zoning use permit, and provides consultant planning services. The City is currently undergoing a Sanitary Sewer code revision to address changes in the Historic Village Sewage Treatment Service Area
5. The Subdivision Ordinance, as amended from time to time and incorporated by reference herein, regulates the division of all property as prescribed by this Plan.
6. The Mining Ordinance, as amended from time to time and incorporated by reference herein, establishes uniform performance standards for sand and gravel extraction and for land reclamation as prescribed by this Plan.
7. The Lower St. Croix River Bluffland and Shoreland Management Ordinance, as amended from time to time and incorporated by reference herein, protects the natural environment and aesthetics of this wild and scenic river as prescribed by this Plan.
8. The International Building Code, as amended from time to time and incorporated by reference herein, protects the safety, health and welfare of residents through regulating standards of construction.

In addition to these ordinances, the city utilizes and depends on the following agencies for reviews of proposed developments and advice on ordinance revisions:

1. Watershed and Water Management Organizations review all proposals within the watershed and recommend permit conditions for building within four different watershed districts within City limits.
2. Minnesota Department of Natural Resources reviews and approves all developments along the St. Croix River, other public water bodies and floodplains.
3. U.S. Army Corps of Engineers reviews and approves alterations of public water bodies.

4. Minnesota Pollution Control Agency reviews pollution problems.
5. Metropolitan Council reviews and approves the comprehensive development plan.
6. Lower St. Croix Valley Volunteer Fire Department recommends ordinances necessary to protect the health and safety of Afton residents, and comments on development proposals.
7. Washington County Soil and Water Conservation District reviews proposed projects and offers recommendations on slope, wetland, and fragile lands protection.
8. Minnesota Department of Transportation and Washington County Highway Department maintain and develop state and county roads.

In 1997, the City amended and recodified its ordinances to eliminate any inconsistencies and to assure conformance with the Comprehensive Plan. In addition to enforcing the existing ordinances that will implement this Plan, the city will update and revise pertinent ordinances in order to implement all of the policies contained in this Plan. As a general overview, it is the City's intent to amend the ordinances and policies in conformance with this plan within required timeframes.

While this plan contains much of the language, intent and purpose of the previous version of the City's Comprehensive Plan, it has been formatted quite differently. The plan is now organized into sections of background followed by topic specific goals. It is the intention of the City of Afton to work, over time, on developing policies and strategies for implementing these goals. When adopted, these would require an amendment to the plan, which would need to follow required procedures for making plan amendments.

Additionally, there are statements of policy or regulation contained in the 1998 version of the plan that were lost in the conversion to the new format, yet are significant and require additional ongoing discussion. It is not the intent of this plan update to modify the spirit and intent of the 1998 plan, but to provide a more clear vision and create a document that can be strongly implemented.

CAPITAL IMPROVEMENTS PROGRAM

The City has limited funding for capital improvements and seeks to minimize debt. As such, the City needs to correlate the tax base with the long-term capital needs of the community, including:

1. Re-pave, reconstruct and sealcoat streets
2. Repair bridges, streets and culverts as required.
3. Use Park Dedication Funds to upgrade existing facilities and to purchase land and/or easements to add to future park and trail infrastructure.
4. Resolve surface water erosion issues.

A detailed Capital Improvement Program (CIP outlining cost estimates, income sources, and payment schedules will be attached to this plan at a future date.) The CIP will be reviewed and revised annually. Sound financial planning will be utilized so as not to significantly increase the tax burden on individual property owners in fulfilling the capital improvement plan.

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List of Appendices

- Appendix A: Terms and Definitions
- Appendix B: Demographic Information
- Appendix C: Watershed District Information
- Appendix D: Resource References
- Appendix E: Soils Information
- Appendix F: Parks and Open Spaces
- Appendix G: Stormwater Management Plan
- Appendix H: Community Survey
- Appendix I: Maps
- Appendix J: Article IX. Sewage- Afton Code of Ordinances .
- Appendix K: Afton Flora and Fauna
- Appendix L: Public Involvement in Comprehensive Plan Process
- Appendix M: City of Afton Wastewater Collection and Treatment System Facility Plan

CITY OF AFTON 2018 COMPREHENSIVE PLAN

APPENDICES

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

Planning Commission Memo

Meeting: February 5, 2018

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorese, City Administrator

Date: January 30, 2018

Re: Consideration of an interpretation question regarding whether a Preservation and Land Conservation Development (PLCD), as outlined in Article XII of the City's Zoning Code, is a Planned Unit Development (PUD). – **Public Hearing**

Background

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

Use Interpretation Process

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

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

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

The City Attorney has indicated that there are a number of similarities between the PLCD and a PUD, but there are also differences that create sufficient ambiguity such that both an interpretation that a PLCD is a PUD and that a PLCD is not a PUD could be defended. The Planning Consultant has indicated that while the PLCD ordinance provides limited and specific flexibility in relation to development regulations, and requires variances for broader flexibility (requiring the demonstration of practical difficulty) a PUD provides broad flexibility in relation to development regulations and the flexibility is gained through a negotiated design

process, not through a variance process. Therefore, the PLCD as outlined in Article XII of the Zoning Code is not a PUD.

Both the City Attorney and the City's Planning Consultant will attend the Planning Commission meeting to provide their perspectives on the PLCD/PUD interpretation question. The Planning Commission will have an opportunity to ask questions of each of them to better understand their perspectives. It is important that the Planning Commission has a thorough understanding of the facts related to the PLCD ordinance and a Planned Unit Development as the basis for making a recommendation regarding whether the PLCD ordinance is a PUD. The discussion with the City Attorney and the Planning Consultant is an opportunity to clarify the facts related to the PLCD ordinance and a PUD.

Chronology of Afton Ordinances

In 2007, a number of moratoria were put in place regarding land use to prohibit new developments under the then-current ordinances until the current ordinances could be repealed and/or replaced by new ordinances. Ordinance 1-2007 established a moratorium on land use applications for Open Space Development and the issuance of permits for Conditional Use-Planned Unit Developments in the Agricultural and Rural Residential Districts. Ordinance 2-2007 established a moratorium on land use applications and the issuance of permits in the VHS-C District. In 2008, a number of the then-current ordinances were repealed and/or replaced by new ordinances. Three of those new ordinances that relate to the PLCD/PUD interpretation question are attached in chronological order.

1. Ordinance 01-2008 which put in place the Planned Agricultural Unit Development (PAUD) ordinance.
2. Ordinance 02-2008 which, among other amendments, eliminated the Planned Unit Development as an allowed use in the VHS-C zoning district (see pages 4 -10 of the ordinance)
3. Ordinance amendment 06-2008 amending the PAUD Ordinance to create the PLCD Ordinance

Correspondence from Citizens Concerned for Afton

The group Citizens Concerned for Afton and their attorney have provided several letters regarding the PLCD/PUD issue. Those letters are attached.

Public Hearing

The public hearing is an opportunity for the public to provide their comments regarding the use interpretation question.

Planning Commission Recommendation

The Planning Commission needs to provide a recommendation to the City Council regarding an interpretation as to whether the Preservation and Land Conservation Development, as outlined in Article XII of the Zoning Code, is or is not a Planned Unit Development.

Planning Commission Recommendation Requested:

Motion regarding a recommendation concerning an interpretation of whether a Preservation and Land Conservation Development (PLCD), as outlined in Article XII of the City's Zoning Code, is or is not a Planned Unit Development (PUD).

Frederic W. Knaak*
fknaak@klaw.us

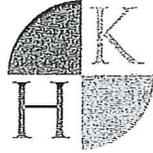
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HOLSTAD & KNAAK PLC

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November 30, 2017

Mr. Ron Moorse
Afton City Administrator
3033 St. Croix Trail South
Afton, MN 55001

RE: Legal Opinion re Afton Creek Preserve Subdivision

Dear Mr. Moorse:

In your correspondence of November 13, 2017, you raised a number of questions that have come up regarding a proposal from a developer to utilize the City's Preservation and Land Conservation Development section of the Afton City Code as the basis of a new residential development. You have requested a formal opinion regarding the following:

1. *The city's subdivision ordinance, in Sec. 12-1379 B., indicates "No variance may be granted which would allow more than nine lots to be created on a cul-de-sac street." Can the City Council approve a variance to allow more than nine lots on a cul-de-sac?*

Sec. 12-1379 B.

*B. A cul-de-sac street shall not exceed 1,320 feet in length and shall serve no more than nine lots. Every lot platted on a cul-de-sac street shall have frontage and access on the cul-de-sac street and shall be included in the nine lot limit. A variance may be granted on the length limitation only when it is clearly demonstrated that the length greater than 1,320 feet is necessary for reasons of unfavorable land topography. **No variance shall be granted which would allow more than nine lots to be created on a cul-de-sac street.***

Opinion: While it is not a little ironic that one of the provisions that would require a variance would be the prohibition against allowing variances, Minnesota law makes it clear that the City could, if it chose to, grant a variance to the requirements

of its subdivision ordinance.

Minn. Stat. Section 462.358, subd. 6, says:

"Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations."

Minnesota statutory law is controlling over the provisions of any local ordinance that conflicts with it in any way. Mangold Midwest Co. v. Village of Richfield, 274 Minn. 347, 143 N.W. 2d 813 (Minn. 1966); City of Birchwood Village v. Simes, 576 N.W. 2d 458 (Minn.App. 1998). In this instance, this would mean the prohibition against variances. Afton's Code does address the question of variances to its subdivision standards in Afton Code §12-1266, which would be the "regulations" referenced in the state statute. That ordinance provision provides:

Variances. 345 A. The City Council may grant a variance in any particular case where the subdivider can show that by reason of the unfavorable topography or other physical conditions the strict compliance to these regulations could cause practical difficulties. "Practical difficulties" as used in connection with the granting of a variance includes a three-factor test, all three of which must be met in order for a variance to be granted.

1. Reasonableness: The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
2. Uniqueness: The plight of the landowners is due to circumstances unique to the property not created by the landowner.
3. Essential Character: The variance, if granted, will not alter the essential character of the locality.

Any variance that is granted must go through this process and be based on these criteria. In this instance, this has raised a couple of additional issues.

An argument can be made, for example, that the "practical difficulties" required for the finding of a variance for this development were created by the developer and are not inherent to the land proposed for development.

This is a valid concern. At first blush, it would certainly appear that any hardship exists only because the applicant is asking for higher densities (or longer and more cul-de-sacs) than would otherwise be permitted and it is not something essential to development of

Mr. Ron Moorse
December 1, 2017
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any kind on the site, nor is it a pre-existing condition of the property. If the Council were to choose to do so, case law does exist that would serve as authority for turning down a development based on "self-imposed hardship" essentially caused by the developer (See: VanLandschoot v. City of Mendota Heights, 336 N.W.2d 503 (Minn. 1983))

But it would seem to beg the question of the purpose of the PLCD provision if an applicant created their own hardship by simply applying for a subdivision using that provision. An applicant can make an argument, which the Council *could* accept, that the large portion of the development dedicated to open space around the environmentally sensitive trout stream (in furtherance of city policy) limits the remaining land volume available for development in the parcel and creates the practical necessity for the variance requested, both as to density and the road configuration.

This interpretation is not compelled by the PLCD provision and such a determination would be in the discretion of the Council. Yet, it would appear an approval of such a request could meet the stated purpose of greater "flexibility" in the Preservation and Land Conservation Development, which is intended to:

"encourage a more creative and efficient development of land and its improvements.... than is possible under the more restrictive application of zoning requirements, while at the same time meeting the standard and purposes of the comprehensive plan and preserving the health, safety and welfare of the citizens of the City." Afton City Code§12-2373

A lawyer representing landowners in the City that are opposed to the development suggested in a letter to the planning commission that the greater flexibility provided for in the above language only applies to variances granted "under the more restrictive application of **zoning** requirements" and not to variances under the City's subdivision regulations. The idea in this argument is that while the allowed flexibility could be applied to such things as setbacks, it could not be applied to such things as cul-de-sac limitations.

While it is true that the code language expressly points to the issue of restrictive zoning requirements, there is nothing in that language that limits the encouragement of "more creative and efficient development of land and its improvements" solely to zoning matters. Judicial authority in Minnesota has made it clear that a city council has the same broad authority and discretion in granting or denying variances under the subdivision statute as it exercises under the zoning statute. (See: VanLandschoot, supra). The bottom line is that the City Council has the authority to allow variances to its subdivision procedures if it can find the existence of practical difficulties caused by the application of its own ordinances on a particular development.

2. Can a road serving a subdivision be constructed to provide access to the subdivision from an existing minor street? Specifically, can a loop road be constructed to Odell to serve the proposed Afton Creek Preserve PLCD subdivision?

Opinion. As a rule, there is nothing that would prohibit the access to a development by way of a pre-existing roadway proximate to the development. In this case, the issue of the use of Odell would center on an analysis of what hazards any increase in use caused by the development might have to the health, safety and welfare of the adjoining property owners and the City as a whole. Description of Odell as a "minor street" implies limitations on its capacity to handle added traffic volumes, possibly creating hazards. This requires a traffic analysis by the City engineer. If it can be demonstrated that the use of Odell creates a hazard to the public based upon these studies, it would not be appropriate to access the development by that route. Conversely, if such a traffic analysis determined there would be no meaningful decrease in public safety, Odell presumably could be used for that purpose.

3. Is there any local ordinance or State Statute that would prohibit the construction of a road through the 5-acre parcel fronting on Odell to serve the Afton Creek Preserve PLCD, particularly if a 60-foot-wide right-of-way is dedicated for the road and the remainder is dedicated as parkland?

Opinion. The use of an existing residential lot to provide access to adjoining property via a road easement is unusual, to say the least. Since roads are clearly allowed in residential areas, and in the RR zone (where it is located) in particular, the actual use would not be prohibited and, while the lot used would remain platted in the original development, there does not appear to be any authority that would prohibit the creation of an easement for this purpose. One issue that might be presented is whether, by creating, in effect, at least one corner lot in the adjoining lot or lots, the creation of a new road would restrict the use of those lots in any way because of road setbacks or similar restrictions. This could have the potential of creating a taking from those parcels of existing rights of use that might be compensable.

4. If the right-of-way for a loop road is put through the 5-acre parcel fronting on Odell, does this parcel need to be a part of the subdivision and a part of the PLCD? If so, does this parcel need to be rezoned, and is it being "joined" to the PLCD? Bob Kirmis has advised that, from a planning standpoint, the parcel needs to be part of the subdivision because access to the subdivision is proposed to run through it. But it is not part of the PLCD and does not need to be joined to the PLCD or rezoned from RR to Ag. The lot does not need to be part of the PLCD because it is not going to be used as a buildable lot in the PLCD, it is only going to be used as a road right-of-way and a park, and it will have no effect on the number of lots or the density of the PLCD. Both the road right-of-way and park uses are allowed in the Rural Residential zone.

Opinion. Your preliminary assessment of this issue is correct. Access by an adjoining roadway does not require the adjoining roadway to become part of the development **if it is a pre-existing roadway**. Mr. Kirmis would be correct if the existence of the access is to be created contemporaneously with the plat itself. The critical point is that the easement must be in place before final plat approval. If this is the case, there would be no reason to include it.

5. *The PLCD ordinance includes the following language:*

Sec. 12-2377. Coordination with subdivision regulations.

C. Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may not be joined to a PLCD.

Does this language prohibit the 5-acre parcel in the southeast corner of the PLCD from being included in the PLCD?

Opinion. Yes. While inclusion of the parcel would not affect the number of allowed lots or the permitted density of the proposed development, the language of the code clearly does not authorize the inclusion of a previously subdivided parcel if that was part of a subdivision at its permitted density. Its inclusion in the plat would require a variance.

6. *Is there any local ordinance or State Statute that prohibits a road from being located adjacent to an adjacent property, particularly if it would place an additional setback requirement on the adjacent property beyond the current setbacks on the property?*

Opinion. No. But, as noted above, it may create a situation where the City may be creating compensable damages for any reduction in property values as a result of adding new setback requirements to adjoining lots.

7. *Can the City approve a subdivision that has one or more irregularly-shaped lots? If so, does this approval require a variance?*

(Sec. 12-1387. Lot requirements.

A. *Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores unless topographic conditions necessitate a different arrangement.*

I. *All remnants of lots below minimum size remaining after subdividing of a larger tract must be added to adjacent lots.)*

Opinion. The answer to both questions, referencing the provision of the code you have provided with the question, is "yes."

Mr. Ron Moorse
December 1, 2017
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8. *Can the City approve a subdivision that requires variances?*

Opinion. For the reasons noted earlier, "yes."

In addition to these questions, in subsequent correspondence, you have raised an additional, significant concern:

9. *You forwarded to me correspondence from an attorney representing landowners near the development who has raised the specific question of whether this development runs afoul of the ordinance language of Afton Code § 12-363 which indicates a PUD is not allowed in a Shoreland Overlay District.*

Opinion. It is correct that a PUD (Planned Unit Development) is not allowed in the Shoreland Overlay District. A substantial amount of the land in the proposed development in this instance does, in fact, appear to be located within the Shoreland Overlay District.

The issue of whether a PUD can be allowed in a Shoreland Overlay District is covered under the Minnesota Rules governing the implementation of Shoreland Overlay restrictions. That Rule, MN Rule §6120.3200, subd. 3, provides:

PLANNED UNIT DEVELOPMENT. Scope of Planned Unit Development Provisions. Local Governments must consider incorporating, with approval of the commissioner, provisions into Shoreland management controls to allow planned unit developments.

The requirement of the state rule that cities consider incorporating PUD provisions in their Shoreland Overlay Ordinances would appear to directly contradict the strict prohibition of the City Code against such developments in the Shoreland Overlay District in Afton. The State Rule does not require the allowance of a PUD by the City, however, only that the consider incorporating such provisions.

Neither the Code, state statute, the rules or judicial opinions offer any direct guidance on whether the provisions of the Code related to PLCD developments are "PUDs" under the City Code. The term remains largely undefined in Minnesota law, although you correctly note, in Minnesota, it is usually described in terms of higher density developments in more urban environments.

The term "PUD" is widely used, however, in real estate and development.

"The Planned Unit Development (PUD) is a recent and innovative approach to land use development. Its parentage is a union of cluster zoning and

subdivision platting. The definition of a PUD which is most frequently encounter is:

'Planned unit development' means an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units.....the plan for which does not correspond in lot size, bulk or type of dwelling.....density, lot coverage and required open space to the regulations established in any one or more (zoning) districts created, from time to time, under the provisions of a municipal zoning ordinance enacted pursuant to the conventional zoning enabling act of the state." *Jurgensmeyer & Roberts, Land Use Planning and Development Regulation Law*, 2nd Ed., Thompson-West, §7.17, p.431, fn.2, citing U.S. Advisory Commission on Intergovernmental Relations.

The key elements in PUDs, as noted above, are the control of the entire area to be developed by a single owner in a single development utilizing a plan that would not be allowed under "standard" zoning requirements. This would seem to fit, in a general way, what is occurring in the current proposal. In a seminal case, the goals of planned unit developments were expressly listed by the Supreme Court of Oregon as, in part, "to achieve flexibility; ...to encourage developers to use a more creative approach in their development of land; to encourage a more efficient and more desirable use of open land...." Frankland v. City of Lake Oswego, 267 Or. 452, 577 P.2d 1042, 1047 (1973). This language almost directly parallels the stated purpose of the Afton PLCD Code provisions.

While the provisions of the Afton PLCD focusing on preservation of natural resources and undeveloped land appear quite unique in this region, these techniques are not new and appear to be gaining currency elsewhere.

"Cluster development and planned unit development are sometimes viewed as the same thing. It is more accurate to define cluster development as a device for grouping dwellings to increase dwelling densities on some portions of the development area in order to have other portions free of buildings. Many planned unit developments use cluster development as a technique but the planned unit development concept typically encompasses more. However, *the increasing popularity of conservation subdivisions, often called cluster subdivisions, and new urbanism inspired planned cluster developments, has blurred the lines between the two approaches and the two concepts increasingly overlap.*" *Jurgensmeyer & Roberts, supra*, at p. 433. (Emphasis added)

While the above authority is not definitive, it nevertheless is strongly suggestive that the various elements present in the PLCD provisions of the City Code are indicative of a

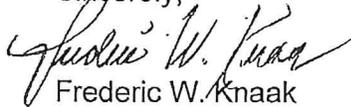
Mr. Ron Moorse
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Page 8

"PUD" within the meaning of the term as it is understood in the real estate development field. If so, this would prevent this development from occurring as a PLCD in that area.

In the end, however, this, too, is a matter within the City Council's powers to interpret the meaning and reach of the particular provisions of Shoreland Overlay District to various uses and underlying Code restrictions. As noted in Afton Code §12-364, "When an interpretation question arises about whether a specific land use fits within a given "use" category (under the Shoreland Overlay District), the interpretation shall be made by the City Council after a public hearing and a recommendation of the Planning Commission." It would appear that both the issue of the applicability of the Shoreland Overlay District restrictions to developments under the category of PLCD, as well as the State mandate to expand the use of PUDs in such districts, would both be matters for the Council to decide.

Please let me know if we can provide further clarification of these matters or if additional items need be reviewed prior to the Planning Commission and City Council actions on the proposed development.

Sincerely,



Frederic W. Knaak
Afton City Attorney



NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422
Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM

TO: Ron Moorse
FROM: Stephen Gritman
DATE: December 18, 2017
RE: Afton – Afton Creek PLCD – PLCD v. PUD
FILE NO:

Background

You have asked for clarification as to our contention that the PLCD District in Afton differs in substantive ways from PUD zoning. As part of this, members of the neighborhood surrounding the proposed Afton Creek project have, along with their attorney, contended that there is no substantive difference, and that by virtue of the City's prohibition of PUD in Shoreland areas, that the Afton Creek project cannot proceed as a PLCD.

In previous correspondence, I have contended that the City's PLCD district is not a PUD, for the following reasons (in summary):

- A PUD is characterized by a zoning process which promotes flexible design, with development standards that are negotiated as part of the PUD review and approval process, rather than set, uniform standards that apply to development within a specific zoning district.

This is contrasted with the PLCD, in that the PLCD incorporates specific development standards that are applicable to any development within the district. This is a characteristic of a zoning district, and not a PUD.

- A PUD incorporates this flexible design process as a part of the general review, with a series of approvals necessary to gain development permitting. There is no statutory or local ordinance process other than the PUD approval for a project to depart from a commonly applied standard. The City's consideration of PUD is whether it is consistent with the City's Comprehensive Plan goals.

In a PLCD, departures from the regulations in the district require consideration of variances, which require specific findings as laid out in Minnesota Statutes, including “practical difficulties” and that the use is, despite the need for variance, a “reasonable use”. This threshold is not required in PUD..

- I believe that the interpretation we provided as to what constitutes a PUD process is a common one, and provided a brief handful of examples that demonstrate this usage. I could supply many more, if necessary.

Neighborhood Comments

In subsequent correspondence, the neighbors and their attorney have raised new objections, and contend that our previous arguments are blunted by their additional information. In the material below, we support our position – and address the neighborhood’s arguments.

1. The neighbors suggest that the definition of PUD in the Minnesota Rules includes the PLCD approach. However, the definition states:

“Planned unit development” means a type of development characterized by a **unified site design for a number of dwelling units or dwelling sites on a parcel**, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, **density increases**, and a **mix of structure types and land uses**.

The PLCD does not require unified site design for “a number of dwellings...on a parcel...”, nor does it accommodate density increases or a mix of structures types and land uses. The PLCD, instead, requires 5-acre parcels exclusively for single family homes, one dwelling per lot, each of which would be sited and constructed based on the unique aspects of the individual lots on which they are located. No unified site design. No more than one dwelling per parcel. No density increase. The definition (which applies to PUDs in a Shoreland area) clearly does not describe the application of PLCD.

2. The neighborhood’s next contention is that the League of MN Cities definition also encompasses a PLCD. The League’s definition includes a comment that such development often includes increased density, which as we have noted, the PLCD does not. However, the neighborhood’s argument appears to be an error in logic. The League’s definition is sufficiently vague to potentially include all manner of development styles, and also is entitled “Planned Use [sic] Development or Cluster Development”. I might agree that the PLCD could be seen as a form of cluster development, but not a form of PUD.

Moreover, the neighborhood (through its attorney) suggests that a legal treatise should not be used as authority. While a legal treatise is not to be commonly used as authority (even though there are many cases where courts cite such

treatises), the vague definition taken from an "Information Memo" of a lobbying group carries even less weight. Nonetheless, the definition we cited previously was not intended as sole authority, but only to buttress the other cited examples as a common definition. Again, we could provide many more than share that definition.

3. The neighbors' letter suggests that the PLCD ordinance must constitute a PUD as it was only a cursory amendment from a previous ordinance that incorporated the PUD terminology. We would suggest that this says more about the previous ordinance's status as a true PUD than it says about the current PLCD, with the additional observation that eliminating the PUD language from the PLCD was an appropriate amendment, since it does not function as a PUD, at least as that term is commonly used.
4. The neighbors' letter takes issue with our previous suggestion that PLCD is distinguished from PUD because of the need for variances, and calls this a misreading of Afton's ordinances. In this, we are not "reading" Afton's ordinances. Instead, we are noting the common usage of PUD, and re-emphasizing the fact that PUD processes in almost every jurisdiction we are aware of negotiate standards without variance. Density, lot sizes, height, land use, all manner of standards are reviewed under the PUD umbrella as to whether they meet the intent of the community's Comprehensive Plan.

Without this PUD allowance, departure from zoning standards requires the processing of a variance for each instance of departure – a process which is specifically identified in state law, and for which the City is required to make specific findings to consider approval. The absence of the need for variance in PUD design is, in fact, a significant characteristic of PUD which distinguishes it from a typical zoning district.

5. The neighborhood suggests that the plain meaning of the ordinance, along with all other references, point to PLCD being a version of PUD. We disagree. Instead, there are several key aspects of PLCD which are clearly not PUD design, as PUD is understood in the industry, and as it is defined in most areas where it is commonly used. Indeed, Afton's removal of its PUD language from the zoning district that preceded the PLCD is actually further evidence that the City did not intend to create a PUD ordinance when it adopted the PLCD language.
6. The neighbor's attorney suggests that the City departs from the plain meaning of the ordinance. Again, we disagree. Instead, the neighborhood is attempting to impute a PUD where one does not exist, neither by ordinance definition nor by common industry practice.
7. The attorney suggests that PLCD must be a PUD, since nothing else in the ordinance "comes close". However much closer than other ordinance language the PLCD may be to PUD, that proximity does not make it so. The attorney's

suggestion is that since the term PUD comes up in the ordinance, it must exist somewhere in the City's zoning allowances. Instead, however, the City's prohibition to using PUD in Shoreland areas (to which the attorney refers in this objection) is a logical one, in that under the State's model Shoreland regulations, the possibility of PUD design is raised. It is entirely natural for the City to specify that it will not consider PUD design in the Shoreland areas, without making any implication that PUD design need be included elsewhere.

Cluster Development Ordinance

It is a fair question to ask if the PLCD ordinance is not a PUD, then what is it? In our opinion, it stands on its own as a discrete zoning district, with its own uses, standards, and requirements. It is a form of cluster zoning, in which development is restricted to limited locations, and other land features are preserved as open space. It is not uncommon to find that many cluster ordinances are regulated by a PUD process. However, it is not necessary.

Afton applies its cluster zoning under the PLCD by Conditional Use Permit. There is no reason that a City would have to incorporate cluster zoning by PUD, unless it wished to introduce an option for flexible standards and negotiated design goals. PUD is a process, not a district per se.

Similar Examples

As noted, we consider the Afton PLCD ordinance to be a cluster development ordinance, with a series of specific standards to which a developer must adhere to be considered for approval. This type of zoning is easily and commonly distinguished from PUD design. To illustrate this distinction, we note that there are a number of such "cluster development" ordinances in use in the Twin Cities area, and in communities that also employ PUD design as a separate ordinance section and process.

Two examples are provided, attached to this memorandum. First is Rogers, Minnesota. The Rogers ordinance includes a section relating to "Open Space Development", and a separate section relating to "Planned Unit Development". The OSD is a cluster development district similar in structure to Afton's PLCD, with the common components of separate zoning we have cited previously. The PUD section of Rogers' code is similar to those which we have discussed before – no specific standards, primarily a set of policies and procedures for designing and negotiating the details of a project as a PUD.

The second example is the Washington County ordinance, which applies to many of the rural township areas in and around Afton. The County ordinance is actually much closer to PUD than is the Afton PLCD, but the County has seen fit, nonetheless, to adopt both sets of regulations, since they do not have the same goal.

Sec. 125-227.- Open space development overlay district.

(a) *Purpose and intent.* The "OSD", open space development overlay district is established to encourage development of rural housing clusters that meet the following purposes:

- (1) Provide efficient use of the land while maintaining contiguous blocks of economically viable agricultural land, mature woodlands, and open space; and preserving historical features, scenic views, natural drainage systems and other desirable features of the natural environment.
- (2) Allow housing to be concentrated on sites that have low agricultural potential and/or high natural housing appeal.
- (3) Create neighborhoods with direct access to open space, distinct identities, and sense of community.
- (4) To encourage innovation and promote flexibility, economy, and creativity in residential development.
- (5) To provide commonly owned open space areas for passive and/or active recreational use by a variety of age and income groups.
- (6) To provide for diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
- (7) To preserve scenic views and elements of the community's rural character by minimizing views of new development from existing roads.

(b) *Definitions.*

- (1) *Community garden* means land which is cultivated by the residents of the development for the production of trees, vegetables, fruits, flowers, herbs, and grasses for the residents' use or to be sold directly to consumers through membership in the garden.
- (2) *Conservation easement* means an interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of property including the retention, protection, and maintenance of natural resources, open space, and agriculture.
- (3) *Cultural resource* means the historic and archeological characteristics of the land, including buildings, and landscapes, which provide information regarding the history of the community and its people.
- (4) *Historic building and structure* means a structure which has been identified by an historic resources survey or the state historic preservation office as having public value due to its notable architectural features relating to the cultural heritage of the community.
- (5) *Homeowners association* means a formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating, and maintaining the common open space and facilities.
- (6) *Neighborhood* means an area containing a contiguous group of residential lots where people live in close proximity to one another.

(c) *Applicability.* The OSD development standards are an alternative set of standards for residential development within the RE-5 district. The design standards contained in this section are not applicable in the shoreland overlay district.

The regulations of this Development Code are applicable only to open space developments approved after the effective date of the Development Code.

(d) *Application.*

- (1) A conditional use permit is required for an open space development in the RE-5 zone.
- (2) A conditional use permit application shall be filed, in writing, with the zoning administrator in accordance with section 125-34, conditional uses.
- (3) In addition to the criteria stated in section 125-34, the Planning Commission shall consider the following:
 - a. The open space development is designed to preserve open space and rural character while creating compact residential neighborhoods.
 - b. The open space development is designed in accordance with the standards of the Development Code.
 - c. The open space development supports the goals and policies of the Rogers Comprehensive Plan.
- (4) In addition to those submittal requirements stated in section 125-34, the following items shall be submitted as part of the conditional use permit application for open space development:
 - a. Resource inventory. The plan for an open space development shall include a resource inventory, to include the following, mapped at a scale of no less than one inch equals 100 feet:
 1. Topographic contours at ten-foot intervals, showing rock outcrops and slopes of more than 15 percent.
 2. Soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock, and suitability for wastewater disposal systems.
 3. Hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales, and drainage ways.
 4. Vegetation of site, according to general cover type (pasture, woodland, etc.), defining boundaries of woodland areas and stand-alone trees with a caliper of more than 18 inches. Vegetative types shall be classified as generally deciduous, coniferous, or mixed, and described by plant community, relative age, and condition.
 5. Current land use and land cover (cultivated areas, paved areas, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
 6. Visual resources, showing views onto the tract from surrounding roads and public areas, as well as views within the tract.
 7. Cultural resource: Brief description of historic character of buildings and structures, historically important landscapes, and archeological features.
 8. Context: General outlines of existing buildings, land, and natural features such as water bodies or wooded areas, roads, and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph.
 - b. Yield plan.
 1. The applicant shall submit a "yield plan" showing the maximum number of dwelling units that would be permitted given the minimum lot size and lot widths for a subdivision utilizing the underlying zoning and subdivision regulations. For the purposes of this requirement, the yield plan shall be arrived

by preparing a sketch plan subdivision of the property, accounting for known land features such as wetlands, roads, etc. The yield plan shall establish the maximum number of lots that may then be developed on a smaller area utilizing the open space development process in this section. The yield plan need not be engineered; however, it shall be drawn to scale and it shall identify all the major physical features on the parcel, taking into account the character of the land as closely as possible.

c. Concept subdivision plan.

1. One or more open space design plans meeting the intent of this chapter and including at least the following information shall be prepared:

- (i) Open space areas indicating which areas are to be protected.
- (ii) Boundaries of areas to be developed and proposed general street and lot layout.
- (iii) Number and type of housing units proposed.
- (iv) Areas proposed for stormwater management and on- or off-site sewage treatment.
- (v) Said plans shall be drawn at a scale of one inch equals 100 feet.

d. Phasing plan. Open space development may be phased in accordance with a unified development plan for the entire tract meeting the following requirements:

- 1. A phasing plan identifying the sequence of development showing approximate areas, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each.
- 2. The phasing plan shall be made a part of the conditional use permit and is effective for five years from the date of preliminary plat approval. If final plat approval is not received within five years, the permit shall become null and void.
- 3. Any common facilities, including golf courses, shall be constructed prior to the sale of any lots and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.
- 4. As part of the development agreement, a financial guarantee to ensure completion of the common facilities, trails, and landscaping shall be provided.

e. General location map.

f. Application procedure. Upon submittal of a complete application, the application shall be processed according to the zoning amendment, subdivision ordinance and conditional use permit processes. Approval of any open space development preliminary or final plat shall require a majority vote of the city council as prescribed by state law.

(e) *Uses.* The following uses are permitted within OSD developments. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by the City of Rogers Zoning and Subdivision Ordinances:

- (1) *Residential uses.*

- a. Single-family residential, detached.
- b. Bed and breakfast.
- c. Accessory apartment.

(2) *Open space.*

a. The following uses are allowed uses in the designated open space:

- 1. Conservation (i.e. woodland, meadow, prairie).
- 2. Agricultural, except feedlots.
- 3. Equestrian.
- 4. Recreational uses and associated parking intended mainly to serve residents of the development.
 - (i) Non-motorized trails (walking, skiing, cycling, horseback).
 - (ii) Picnic areas.
 - (iii) Community gardens.
 - (iv) Composting (for waste generated by residents of the development).
 - (v) Turf areas for informal play.
 - (vi) Common areas such as greens or squares.
 - (vii) Ball fields.
 - (viii) Playgrounds.
 - (ix) Courts (tennis, basketball, etc.).
 - (x) Swimming pools or beaches.
 - (xi) Common buildings.
- 5. Stormwater management facilities.
- 6. Sewage disposal systems.
- 7. Essential services—Utility substations.

b. The following uses are allowed in the designated open space with an additional conditional use permit:

- 1. Golf course.
- 2. Recreational uses available to the public, including:
 - (i) Ball fields.
 - (ii) Playgrounds.
 - (iii) Courts (tennis, basketball, etc.).
 - (iv) Swimming pools or beaches.
 - (v) Motorized trails.

(f) *Ownership and management of open space.*

(1) The designated open space and common facilities may be owned and managed by one or a combination of the following:

- a. Homeowners association, when the open space is also owned in equal, undivided interests by the individual building lots in the development.
- b. Non-profit organizations, where such organization is established and intended for the purpose of holding open land for purposes of conservation, preservation, or similar reasons.
- c. The city or another governmental body empowered to hold interest in real property (in accordance with Minn. Stats. §§ 84C.01—84C.05).

(g) *Open space.*

(1) The minimum open space required per section 125-226(l) of this chapter may be subject to a permanent conservation easement and used for the purposes as defined by the Development Code. The conservation easement shall be dedicated to the city, an acceptable land trustee, or other similar organization as approved by the city and as permitted by this chapter.

(2) The uses within the open space shall be accessible to the residents of the development in accordance with section 125-226(e) of this chapter. These uses may also be available to the general public providing a conditional use permit has been issued.

(3) A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the city.

(h) *Homeowners associations.* A homeowners association shall be established if the open space is owned by a homeowners association. Membership in the association is mandatory for all purchasers of homes in the development and their successors.

(1) A homeowner's association agreement, guaranteeing continuing maintenance, shall be submitted to the city as part of the data required for the conditional use permit. The homeowner's association documents or the declaration of covenants, conditions, and restrictions shall contain the following information:

- a. The legal description of the common lands or facilities.
- b. The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions.
- c. A mechanism for resolving disputes among the owners or association members.
- d. A mechanism to assess and enforce the common expenses for the land or facilities, including upkeep and maintenance expenses, real estate taxes, and insurance premiums.
- e. The conditions and timing of the transfer of ownership and control of land or facilities to the association or to common ownership.
- f. Any other matter the developer deems appropriate.
- g. The management of collector sewage treatment systems.

(i) *Density standards.*

(1) Minimum development size. To be eligible for open space development, the development must contain no less than 40 acres.

(2) Base density.

- a. Base density is determined by preparing the yield plan as described in this chapter, which includes a comparison of parent parcel size minus all unbuildable acreage, minimum lot size for OSD subdivisions in the applicable zoning district, open space and other requirements of the section.

(j) *Performance standards.*

(1) All structures shall be setback a minimum of 75 feet from unclassified water bodies.

(2) Residential lot requirements. Minimum lot sizes for OSD projects are described as follows:

- a. Minimum lot size/frontage.
 1. RE-5: 1.5 acres/150 feet (all lots must contain a minimum buildable land area of one acre).

- b. Principal building setbacks from:
 - 1. Front lot line: 50 feet
 - 2. Side lot line: 20 feet
 - 3. Rear lot line: 30 feet
- c. Accessory building setbacks from:
 - 1. Side lot line: 20 feet
 - 2. Rear lot line: 20 feet
- d. Maximum lot coverage: 25 percent
- e. Maximum building height: 35 feet
- f. Setback from collector.
 - Or higher classified street: 75 feet
- g. Depth to frontage ratio.
 - (Not to exceed): 3:1

h. All lots shall take access from interior local streets developed as part of the open space development, including lots with existing homes.

i. The plat shall be designed to maximize the number of lots with direct frontage on the open space land. Where fewer than half of the lots have such frontage, the developer shall provide additional space for trail development. The city may reject an open space design in which fewer than half of the lots within the plat do not have direct frontage. Frontage shall include those lots for which a local street separates lots from the open space.

j. Where practical, lots shall be oriented around or toward open space as a central focal point. This may be one or more of the following: A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural feature.

(k) Neighborhood siting standards.

- (1) Neighborhoods shall be located to minimize their impacts on the natural, scenic and cultural resources of the site.
- (2) Neighborhoods shall avoid encroaching on rare plant communities or endangered species identified in the Department of Natural Resources' County Biological Survey for Natural Communities and Rare Species.
- (3) Open space shall be concentrated in contiguous parcels as large and undivided as practical and to serve the open space purposes for which this district is designed. Fragmented open space design may serve as grounds for rejection of the proposed plat.
- (4) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels.
- (5) Neighborhoods should be sited to achieve the following goals, to the extent practical. In cases where impact on one or more of the following resources areas is unavoidable, the impact should be minimized through use of landscaping, topography, or other features:
 - a. Minimize disturbance to woodlands, hedgerows, mature trees or other significant vegetation;
 - b. Protect scenic views of open land from adjacent roads;

c. Protect existing historical buildings or incorporate them through adaptive reuse.

(6) More than one neighborhood may be developed if separated by a clear boundary comprised of a combination of two or more of the following elements: street pattern; marked topographical changes, drainageways, ponds, wetlands, streams, greenways and woodlands.

(7) Neighborhoods shall be separated from adjacent residential property by a clear boundary, with a minimum width of 300 feet, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainageways, ponds, wetlands, streams, greenways and woodlands.

(l) *Open space design.*

(1) Open space shall be designated as part of the development. The minimum required open space is based on a percentage of the gross acreage:

a. RE-5: 30 percent.

(2) The required open space shall not be remnants or small tracts, and shall insofar as possible be undivided. The required open space shall be restricted from further development, as specified in section 125-226(g).

(3) The following areas or structures may be located within the open space area and shall be counted toward overall open space percentage required:

a. Parking areas for access to and use of the open space.

b. Buildings or structures if they are accessory to the use of the open space.

(4) Road rights-of-way may not be located within the required open space area, and shall not be counted towards the required minimum open space.

(5) No more than 50 percent of the required open space may consist of unclassified water bodies, ponds, areas within the 100 year floodplain (or high water mark as documented by city, county or Hassan Township records), wetlands, or slopes of greater than 25 percent.

(6) Open space shall be suitable for recreational uses such as trails, play fields, or community gardens.

a. A pathway system connecting all parts of those open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.

b. That portion of the open space designated for the location of sewage treatment facilities shall not be included as part of this accessible open space.

(m) *Street standards.* Streets shall meet all requirements of the Rogers Subdivision Ordinance and engineering standards.

(n) *Sewage and water facilities.* Water for an OSD development shall be provided by individual on-site wells meeting the permit requirements of the Minnesota Department of Health.

All OSD developments shall be provided with adequate sewage treatment facilities meeting the standards of the city and county SSTS regulations and the permit requirements of the Minnesota Pollution Control Agency.

One primary and one alternative septic site must be identified on the site plan and preliminary plat for each building site.

(o) *Golf courses.*

- (1) The golf course shall be regulated by a development agreement that restricts any further development or subdivision of land and requires the land to be retained as open space use if a golf course is no longer used as a golf course.
- (2) The golf course shall be constructed prior to the sale of any residential lots.
- (3) A financial guarantee ensuring completion of the golf course in accordance with the approved plans and permits shall be submitted to the zoning administrator.

DIVISION 4. - PLANNED UNIT DEVELOPMENTS (PUDS)

Sec. 125-244. - Purpose.

The purpose of the planned unit development (PUD) district is to provide flexibility in the application of development code provisions to allow a more creative and effective approach to development which achieves the vision, goals, policies and land use guidance of the comprehensive plan. Use of PUDs is encouraged to:

- (1) Preserve desirable site characteristics and sensitive environmental features including open spaces, trees, steep slopes, wetlands, and historic or cultural resources;
- (2) Provide for appropriate transitions between different land uses and along significant corridors in the community;
- (3) Promote high quality design which is compatible with surrounding land uses, both existing and planned; and
- (4) Allow for the mixing of land uses when appropriate to provide a more efficient and effective use of land, open space and public facilities.

Sec. 125-245. - Minimum requirements for a planned unit development.

In order to apply for a planned unit development, the following are required:

- (1) Projects eligible for a PUD must have a minimum of 80 acres of land that abuts or is contiguous with all common lot lines being no less than 300 feet in length except as listed in subsection (2) of this section. Tracts of less than 80 acres may qualify if the applicant can demonstrate that there are unique features of the site which will be better preserved through the use of a PUD.
- (2) Projects west of County Road 13, North of Territorial Road, east of Willandale Road and south of County Highway 144 must have a minimum of 100,000 square feet of land area.
- (3) Public sewer and water must be immediately available or available through the extension of services as guided by the comprehensive plan and to be constructed as part of the planned unit development within the urban districts.
- (4) The developer shall have a property interest in the site which shall consist of a fee simple title, contract interest, an option to acquire a fee simple title within a specified time period, a leasehold interest in excess of 30 years, or a substantial interest in a joint venture agreement, real estate investment trust or other real estate syndication which has or can obtain a fee simple title, or a marketable title subject to encumbrances which will not substantially restrict its development. If the applicant does not own clear title to all properties within the project area, but has another interest as noted above, all fee title owners shall be required to sign the PUD application.

Sec. 125-246. - Criteria for approving a planned unit development.

The city council may approve a planned unit development in areas proposed to have public sewer and water services provided the proposed development is consistent with the comprehensive plan. In granting approval for a PUD, the city council shall consider how the proposed PUD will impact:

- (1) The health, safety, and general welfare of the occupants of the surrounding lands.
- (2) Existing and anticipated traffic conditions within the PUD and on adjacent streets and land.
- (3) Parks, schools, and other public facilities and utilities.
- (4) Natural resources, scenic views, and historic or cultural resources in the surrounding area.
- (5) The reasonable enjoyment of neighboring property.

Sec. 125-247. - Uses.

The uses within a planned unit development (PUD) are limited to those uses as identified within the future land use designation in the comprehensive plan.

Sec. 125-248. - Development standards.

- (a) The maximum density of the PUD shall not exceed the maximum density specified for the land use designation identified for the area in the comprehensive plan.
- (b) Where a proposed PUD is designated for more than one land use in the comprehensive plan, the city may require that the PUD include all the land uses so designated or such combination of the designated uses as deemed necessary to achieve the intent of the comprehensive plan.
- (c) Planned unit developments may be excluded from certain requirements of the development code. The various standards of the most closely related zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purposes of the PUD. The applicant shall demonstrate why departure from the standards is in the public interest.

Sec. 125-249. - Administration.

- (a) Prior to the issuance of any building permits for development within a PUD, applications for the following actions must be submitted, reviewed and approved by the city council:
 - (1) Master development plan.
 - (2) Rezoning to a planned unit development.
 - (3) Preliminary plat.
 - (4) Final plat for the entire or specific parts of the PUD. If the applicant requests, and at the discretion of the zoning administrator, the process of reviewing one or more of the applications identified above may be combined and processed concurrently for all or any portion of a planned unit development. Such combined procedure shall generally be reserved for smaller, single stage PUDs, or for any single stage of a multiple stage PUD.
- (b) In its discretion, the applicant may elect to process the planned unit development as a planned and staged development within the meaning of Minn. Stats. § 462.358, subd. 3c. In such instance, the land may be subdivided and developed in stages pursuant to a series of sequenced plans including a master development plan, preliminary plat, final development plan and final plat with outlots for future stages for the entire planned unit development area, the plans, terms and conditions of approval for which are documented in a planned unit development agreement. Thereafter, each stage may proceed through a re-platting procedure of the outlots with any changes or additional requirements, particularly pertaining to streets and utilities installation, documented in a separate development agreement for each stage.

(c) Planned unit developments which are planned in stages or phases may require periodic review of the project and progress. The cost of periodic review shall be the responsibility of the applicant and/or developer.

(d) Approval of a planned unit development shall constitute and have the effect of a rezoning of the approved area, and shall be so designated on the zoning map.

Sec. 125-250. - Concept plan review.

(a) *Submission of concept plan.* The applicant may, in its discretion, seek general guidance, not binding in any manner on the planning commission or city council, by submission of a planned unit development concept plan for informal consideration by the city.

(b) *Application submission.* Applications shall be filed with the zoning administrator and be accompanied by all fees. The applicant shall prepare and submit the required number of copies of a concept plan containing the following information:

(1) Location map showing the property in relation to the city as a whole and important elements, including major roadways, schools, public facilities, parks and commercial areas.

(2) Narrative description of the proposed planned unit development.

(3) Mapping showing existing conditions and current community plans for the property and 500 feet beyond including at a minimum the following:

- a. Existing comprehensive plan and zoning designations.
- b. Open space corridors, greenways and trail corridors identified on any approved long-range community plans.
- c. Present use and existing buildings and structures.
- d. Property boundaries, ownership and approximate dimensions.
- e. Hydrologic characteristics including surface water, floodplains, wetlands, natural swales and drainageways based on readily available mapping information. A wetland delineation is not required for concept review.
- f. Natural resource information including wooded areas, wetlands, steep slopes, and prime habitat areas based on readily available mapping information, such as the Hennepin County Natural Resource Inventory.
- g. Location of public utilities.

(4) Map showing the proposed development, including, as appropriate:

- a. Proposed land use patterns with a listing of uses, including descriptions of the anticipated housing types and densities. General "bubble" land use diagrams would be considered sufficient for concept review.
- b. Road and trail systems.
- c. Park and open space systems.
- d. Staging and timing of development.

(c) *Planning commission and city council action not required.* No formal action of the planning commission or city council is required. The comments of the planning commission and city council shall be for guidance only and not be considered binding on any future action taken when a formal planned unit development application is submitted. Applications for concept review shall be made to the city consistent with the required deadlines for land use applications. The city will hear the concept review at its first meeting following the planning commission meeting.

Sec. 125-251. - Master development plan review.

(a) *Purpose.* The master development plan provides the general plan for the proposed planned unit development including proposed land uses and their intensities; general development layout and design; and the timing and staging of various phases.

(b) *Application submission.* The application shall be filed with the zoning administrator and be accompanied by payment of all fees and escrow deposits. The application shall include the following information relating to the property, the developer and the proposed development, and may include such further information as the developer deems appropriate to the review of the proposed planned unit development. The applicant shall have the right to request an exemption from the zoning administrator from the requirement of submitting one or more of the items listed in this section. The applicant has the burden of demonstrating that the lack of information will not impair the ability of the planning commission or city council from making a decision. The granting of the exemption by the zoning administrator does not prevent the planning commission or city council from requesting the information during the review process. The zoning administrator also has the ability to require additional information as deemed necessary for the review of the planned unit development. Reports shall be spiral or three-ring looseleaf bound and submitted on 8½-inch by 11-inch or 11-inch by 17-inch size paper format. Larger maps shall be provided at a scale of at least one inch to 200 feet. The following items shall be required for master development plan review:

- (1) Location map showing the property in relation to the city as a whole and important elements, including major roadways, schools, public facilities, parks and commercial areas.
- (2) Existing conditions map showing the following for the property and all lands within 100 feet, unless determined by the zoning administrator that up to 500 feet is necessary:
 - a. Existing comprehensive plan and zoning designations.
 - b. Open space corridors, greenways and trail corridors identified on any approved long range community plans.
 - c. Present use including location of existing buildings and structures.
 - d. Property boundaries, ownership and dimensions.
 - e. Hydrologic characteristics including surface water, floodplains, wetlands, natural swales and drainageways.
 - f. Natural resource information including wooded areas, wetlands, steep slopes, and prime habitat areas.
 - g. Location of public utilities.
 - h. Contours, minimum two-foot intervals.
 - i. Easements on the property being developed.
- (3) Written narrative describing the proposed PUD, the market it is intended to serve and project magnitude, including, but not limited to, dwelling units per net acre for each residential land use; square footage by type for nonresidential land uses; and other data necessary for the calculation of traffic generation, parking requirements, and utility and recreation needs.
- (4) Land use plan showing the location and extent of acres devoted to each category of land use proposed. Narrative may accompany plan to provide additional detail.
- (5) Open space, parks and community facilities plan showing land dedicated or deed restricted for public or common use showing major trails, acreage and proposed use; location of all recreational facilities; location of all public buildings; and location of any existing historic, cultural or scenic buildings of areas to be preserved. The plan

should include dimensional information as available. Information shall be provided on how the areas are to be maintained.

(6) Grading and drainage plan.

(7) Street and utility plan.

(8) Parking plan for nonresidential areas including a tabular breakdown of parking requirements by use.

(9) Landscape plan.

(10) Signage plan.

(11) Lighting plan.

(12) Plan for timing and phasing of development.

(13) Typical floor elevations and/or building types to illustrate architectural character and intent.

(14) Outline of proposed covenants or other restrictions proposed for the regulation of the development.

(15) Conforming plan to current zoning district.

(c) Notice and hearing procedure.

(1) Notice and hearing procedures shall follow requirements listed in the zoning amendment section 125-32.

Sec. 125-252. - Rezoning request review.

(a) Requests to rezone to a PUD will only be considered concurrently with applications for a master development plan or once a master development plan has been approved by the city council.

(b) Rezoning to a planned unit development shall not be effective until a master development plan has been approved by the city council.

Sec. 125-253. - Preliminary plat review.

(a) Requests for a preliminary plat will only be considered concurrently with applications for a master development plan or once a master development plan has been approved by the city council.

(b) Procedures for requesting and reviewing the preliminary plat shall be as outlined in chapter 3 of the development code.

Sec. 125-254. - Reserved.

Sec. 125-255. - Final plat review.

(a) Requests for a final plat will only be considered concurrently with applications for a final development plan or once a final development plan has been approved by the city council.

(b) Procedures for requesting and reviewing the final plat shall be as outlined in chapter 3 of the development code.

Sec. 125-256. - Planned unit development—Method of amending.

(a) Minor changes in the location and heights of structures may be authorized by the zoning administrator if required by engineering or other circumstances which were not foreseen at the time the final development plan was approved.

(b) Major changes in the final development plan, including rearrangement of lots, blocks and building tracts; the enlargement or intensification of use; or changes to the provision of open space shall require a public hearing and the approval of the city council. The applicant shall apply for an amended planned unit development. All procedures shall apply as if a new master development plan is requested, including the need for a public hearing. Any such changes shall be recorded as amendments to the recorded copy of the planned unit development after city council approval.

Sec. 125-257. - Same—Method of revocation.

(a) Any existing, approved planned unit development shall be deemed to be revoked if the owner of the land governed by the PUD applies for and receives a rezoning with respect to said property prior to the time that there is any physical implementation of the matters covered by the previously approved planned unit development.

(b) The city may initiate the revocation of a planned unit development. This revocation includes the rezoning of the property to a zoning district consistent with the comprehensive plan. In considering the revocation, a public hearing must be held in compliance with public hearings required for zoning code amendments. Revocation may be initiated if any of the following occur:

(1) A final development plan and/or final plat is not requested within one year following approval of the master development plan by the city council, unless a petition for an extension has been granted by the city council. Such extension shall be requested in writing and filed with the zoning administrator 30 days prior to the expiration of the time limit. There shall be no charge for the filing of such petition. The request for extension shall state facts justifying the request.

(2) A final plat is not presented to the county recorder/registrar of title within 120 days after approval by the city council, unless a petition for an extension has been granted by the city council. Such extension shall be requested in writing and filed with the zoning administrator 30 days prior to the expiration of the 120-day time limit. There shall be no charge for the filing of such petition. The request for extension shall state facts justifying the request.

(3) If one year after approval of the final development plan was granted no construction has begun or use has not been established, unless a petition for an extension has been granted by the city council. Such extension shall be requested in writing and filed with the zoning administrator 30 days prior to the expiration. There shall be no charge for the filing of such petition. The request for extension shall state facts justifying the request.

Drainfields may be located partially or completely within open space areas provided that:

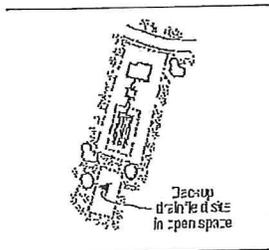
Ground cover of regularly mowed turf or meadows is maintained;

No agricultural activities are permitted within 50 feet of the drainfield area;

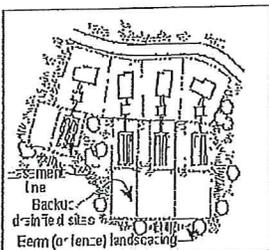
No trails or other recreational facilities are located in drainfield areas.

Alternative wastewater treatment and disposal systems that meet all MPCA permit requirements.

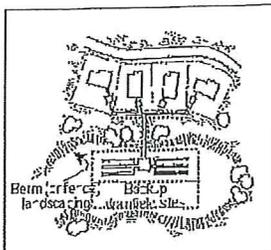
Sketch 6: Sewage Treatment Options



Drainfield on lot



Individual Drainfields in Open Space



Shared Drainfield in Open Space

7. Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection.

(6) Sewage and Water Facilities

Water for an OSD Development shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the Minnesota Department of Health. The use of shared or community wells is encouraged.

All OSD Developments shall be provided with adequate sewage treatment facilities meeting the standards of the County Individual Sewage Treatment Standards Regulations and the permit requirements of the Minnesota Pollution Control Agency.

(7) Golf Courses

(A) Golf courses located in the open space must comply with Chapter Two, Part 3, Section 2.12 of this Development Code.

(B) The golf course shall be regulated by a development agreement that restricts any further development or subdivision of land and requires the land to be retained as open space use if a golf course is no longer used as a golf course.

(C) The golf course shall be constructed prior to the sale of any residential lots.

(D) A financial guarantee ensuring completion of the golf course in accordance with the approved plans and permits shall be submitted to the Zoning Administrator.

SECTION 5. PLANNED UNIT DEVELOPMENT

The purpose of this section is to provide design flexibility in land development by incorporating design modifications as part of PUD conditional use permit. The modifications, if granted shall be fully consistent with the general intent and purpose of County Development Codes related to land use, subdivision and development. It is not the intent of this Section to increase the overall density or vary uses.

Planned Unit Development: All developments having two or more principal uses on a single parcel of land; and may include townhouses, multi-use structures, recreational uses, mixed residential and commercial type developments, commercial type developments and industrial type developments.

5.1 Uses

The uses within a planned unit development are limited to those uses permitted in the underlying zoning district.

5.2 Performance Standards

- (1) The maximum density of the Planned Unit Development shall not exceed the maximum density permitted in the underlying zoning districts.
- (2) The uses allowed within the PUD are restricted to those uses which are allowed in the underlying zoning district.
- (3) The impervious surface coverage shall not exceed the maximum lot coverage of the underlying zoning district.

5.3 Exclusion from Requirements

Planned Unit Developments may be excluded from certain requirements of the Development Codes relating to land use, subdivision and development, including the provisions of this Development Code, providing that:

- (1) A general development plan is approved by the Planning Advisory Commission
- (2) The Planning Advisory Commission finds that the proposed development is fully consistent with the purposes of this Development Code relating to land use, subdivision and development and that the development is in conformity to the Comprehensive Plan.
- (3) Adequate performance bonds or other security are given to the County to secure completion of the development as provided by the general development plan.
- (4) A Planned Unit Development permit is granted by the Planning Advisory Commission.

5.4 Administration

- (1) Application. Whenever a development requires approval for a planned unit development, a preliminary and final application shall be filed in writing with the Zoning Administrator. Applications shall be accompanied by the required application fee.

- (2) The applicant shall pay costs incurred by the Zoning Administrator for monitoring compliance with the conditions of the planned unit development.

5.5 Criteria for Granting a Planned Unit Development

- (1) The Planning Advisory Commission may grant a planned unit development in any district provided the proposed development complies with the standards and criteria stated in the Washington County Development Code and Subdivision Regulations and that said development is in harmony with the general intent of this Development Code and comprehensive plan.

- (2) In granting approval for a planned unit development, the Planning Advisory Commission shall consider:

- (A) The impact of the proposed use on the health, safety, and general welfare of the occupants of the surrounding lands;
- (B) Existing and anticipating traffic conditions including parking facilities on adjacent streets and land;
- (C) The effect of the proposed use on utility and school capacities;
- (D) The effect of the proposed use on property values and scenic views in the surrounding area;
- (E) The effect of the proposed use on the County's Comprehensive Plan;
- (F) The ability of the proposed use to meet the standards of the Development Code; and
- (G) That the proposed use(s) is (are) permitted in the underlying zoning district

If the Planning Advisory Commission determines that the proposed use will not be detrimental to the health, safety, or general welfare of the County, or that said use is in harmony with the general purpose and intent of the Development Code and Comprehensive Plan, the Planning Advisory Commission may approve such planned unit development.

5.6 Preliminary Review

Before applying for a planned unit development permit, the developer shall first apply for preliminary review of the proposed development. The application shall be accompanied by payment of a preliminary review fee. The application shall be filed with the Zoning Administrator. The application shall include the following information relating to the property, the developer and the proposed development, and may include such further information as the developer deems appropriate to preliminary review the proposed planned unit development. The Planning Advisory Commission may require additional information.

- (1) Reports shall be spiral or three-ring looseleaf bound and submitted on 8½" x 11" size paper, vertical format. The scale of the maps shall be at least 1" to 200'. Maps for sites less than fifty (50) acres shall be at least 1" to 100'.
- (2) A sketch plan shall be submitted showing the location of the site, size of the site, utilization of land adjacent to the site, existing buildings on the site, significant topographical and physical features of the site, proposed site, proposed general street layout and proposed general lot layout.
- (3) If the developer contemplates the retention of existing buildings or extension of facilities or utilities serving adjacent uses, these facts shall be documented.
- (4) The developer shall have a property interest in the site which shall consist of a fee simple title, or an option to acquire a fee simple title within a specified time period, or a leasehold interest in excess of thirty (30) years, or a substantial interest in a joint venture agreement, real estate investment trust or other real estate syndication which has or can obtain a fee simple title, or a marketable title subject to certain restraint which will not substantially restrict its development within a reasonable time. All mortgages including purchase money mortgages, all easements restricting land use, all liens and all judgments which may affect the site shall be documented.

The applicant shall supply proof of existing ownership consisting of an abstract of title, certified currently, a current Certificate of Title, or an attorney's title opinion based thereon, together with any unrecorded documents whereby the applicant acquired a legal or equitable property interest.

- (5) Notice and Hearing Procedure.

- (A) Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the Planning Advisory Commission and establish a time for hearing on the application. From the date the Zoning Administrator receives the application containing all required information, the Planning Advisory Commission has sixty (60) days to take action on the request or the request shall be deemed approved, provided, however, that the Zoning Administrator may extend this time line by providing written notice of the extension to the applicant before the end of the initial sixty (60) day period. This notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days. The deadline may also be extended as indicated in Minnesota Statute 15.99 Subd. 3.
- (B) Notice of the time, place and purpose of all public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the county at least 10 days before the hearing. Notice shall also be sent to the clerk of the applicable town board not less than ten (10) days in advance of the date of the public hearing. The notice shall state the purpose, time and place of the public hearing. Written notice shall also be given to the affected Board of Town Supervisors and the Municipal Council of any municipality within two (2) miles of the affected property.
- (C) Written notice shall be sent to all property owners of record within 500 feet of the affected property in incorporated areas.
- (D) In the case of conditional use permits, in unincorporated areas, notice shall be mailed to each of the owners of all property located within one-quarter (1/4) mile of the affected property, whichever would provide notice to the greatest number of owners.
- (E) In all other cases, including rezoning requests, in the unincorporated area notice shall be sent to owners of record within one-half (1/2) mile of the affected property.

- (F) Where required, no less than twenty (20) days prior to the public hearing, the Zoning Administrator shall send notice and copies of the applicant information to the Minnesota Department of Natural Resources for review and comment.
- (G) Defects in the notice shall not invalidate the proceedings provided a bona fide attempt to comply with the provisions of this Section has been made. A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.
- (6) Planning Commission Action. Within sixty (60) days after the first regular meeting after the application for a Preliminary Review has been submitted to the Zoning Administrator, the Planning Commission shall give preliminary review approval to the proposed plan, reject the proposed plan or request specific additional information. The Planning Commission shall also establish the process necessary for completion of a general development plan and shall notify the applicant of which alternative process or parts of the development plan process that will be applicable to his project. As soon as is reasonably practical, the Zoning Administrator shall inform the applicant of the action taken by the Planning Commission, in writing, accompanied by a copy of the resolution or minutes of the Planning Commission stating its reasons therefor. If additional information is requested, the Planning Commission shall accept or reject the Preliminary Review within thirty (30) days of such request. If the Preliminary Review is accepted, the developer may proceed to apply for a permit for a Planned Unit Development. Approval of the Preliminary Plan does not guarantee approval of the project.

5.7 Final Review

- (1) The applicant shall have secured preliminary review approval by the Planning Commission within the previous year.
- (2) The application shall be accompanied by development plans of the proposed planned unit development and supporting information as listed below as deemed necessary by the Zoning Administrator or by the Planning Advisory Commission.
- (A) The scale of maps submitted shall be at least 1" to 200'. Maps for sites less than fifty (50) acres shall be at least 1" to 100'. The number of maps and

reports to be submitted shall be specified by the Planning Commission, but shall not exceed twenty-five (25). All maps shall be reduced and included in the applicable reports. One (1) transparent Mylar copy of the final general development plans, should they be approved, shall be filed with the Planning Commission within sixty (60) days of such approval.

- (B) An environmental impact study may be required by State, Regional or Federal agencies or by the Planning Commission as regulated by Chapter One, Section 12.
- (C) A regional location component map shall be submitted showing the site and its interrelationship with the community. Said map shall include the location and distance in road miles to the following facilities servicing the site:
 1. Elementary School(s)
 2. Secondary School(s)
 3. Fire Department
 4. Police Station
 5. Arterial and Limited Access Highways
 6. Recreational Areas
 7. Shopping Areas
 8. Industrial Areas
 9. Public Transportation Routes, including non-vehicle trails and major transportation depots
 10. Churches and Public Buildings

The names of all property owners within five hundred (500) feet of the development site shall be shown on the map.

- (D) A land evaluation component which shall consist of a map or maps and accompanying report setting forth the natural limitations on land development, including slopes, drainage systems, vegetation, soil types, soil quality and how these limitations are incorporated in the development plan. Said land evaluation component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.
- (E) A land use component which shall consist of a map or maps and report setting forth the distribution, location and extent of the acres of land devoted to each category of land use proposed

as part of the general plan of development. Said land use component shall also contain a descriptive statement of objectives, principles and standards used in its formulation.

- (F) A **circulation component** which shall consist of a map or maps and report setting forth the general location, extent, and nature of all transportation facilities proposed as part of the general plan of development, all proposed points of inter-connecting access to existing transportation facilities and the present use and design capacities of existing transportation facilities. Proposed transportation facilities information shall include:

1. Location of paths or bikeways.
2. Location of major and local thoroughfares.
3. Location and definition of trash removal system.
4. Location and definition of industrial and commercial delivery areas and systems.
5. Identification by function of principal arterials, intermediate arterials, minor arterials, collector streets and local streets.
6. Location and function of one-way street systems, divided roads, left-turn lanes and such other matters as may be related to the provision for the circulation of traffic within the planned area.

The following information pertaining to parking areas shall be shown:

7. Paved areas for all parking compounds.
8. Landscaped areas contained within parking areas.
9. Service estimates which show the number of residential units or gross flow area and the number of parking spaces for each area.

This circulation component shall also contain a descriptive statement of objectives, principles and standards used in its formulation.

- (G) A **population component** which shall contain a report of the standards of population density and building intensity for the various proposed land uses, including estimates of future population, correlated with supporting data, and shall include but not be limited to dwelling (housing) units per

acre for the various residential uses proposed; and square footage by type for the various nonresidential facilities, including sufficient data to calculate traffic generation, parking requirements, water consumption, sewage needs and the necessary capacity of related utilities and services traditionally rendered by public or private organizations for a population of such size as is projected for the completed planned development. This report shall contain an analysis indicating the projected marketability of the development in respect to effective demand specifically relating the size to the community. Any public and/or subsidized housing shall be identified to include an explanation of the assistance program and the number of units affected. Said population component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.

(H) A services and facilities component which shall contain a map or maps setting forth the general location and extent of any and all existing and proposed systems for sewage, existing and proposed sewage flows, location of on-site sewage treatment systems and backup areas, domestic water supply and distribution, refuse disposal, drainage, local utilities and right-of-way easements, facilities and appurtenances necessary therefor. Said services and facilities component shall also contain a descriptive statement setting forth objectives, principles and standards used for its formulation, as well as a detailed statement describing the proposed ownership, method of operation and maintenance of each such service and facility.

(I) An open space and community facilities component map and report which shall show:

1. All land dedicated or deed restricted for public or common use showing major trails, acreage and proposed use.
2. Location of all play fields, tot-lots, tennis and handball courts, or other recreational facility indicating type and general area of concentrated use.
3. Location of all buildings intended for community, school, religious or institutional use indicating approximate building coverage in square feet.

4. Location of all existing buildings, historical areas or scenic areas to be preserved.

The report shall contain an explanation of how the common open space shall be maintained including an estimate of additional charges or costs to be paid by each housing unit. The method by which citizen participation is provided in the maintenance of these facilities shall be specified. All improvements to be placed as fixtures upon the land shall be described. A statement of conformance or lack thereof to the requirements of design ratios and common open space shall be included. Said open space and community facilities component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.

- (J) A **land coverage and drainage component map** or maps which shall include the location and square feet of all areas of the site to be covered by paving or building roofs, and the proportion of each as related to the total site, and the relation to each watershed existing on an off-site location prior to proposed development.

All areas of the site in which the natural vegetative cover will be altered shall be identified and the proportion by type of change shall be identified with the amount of area in acres and the proportion of each as related to the total site shall be indicated on the map legend.

A grading and drainage plan identifying the collection and retention and drainage of stormwater shall be submitted to the Watershed District and the Washington County Soil and Water Conservation District at the time of application. Erosion control structures must be in place before grading begins. On-site drainage shall be directed to a stormwater holding pond prior to leaving the site. Drainage and erosion control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows.

- (K) A **building quality component** which shall consist of a map or maps, schematic drawings and report showing locations of all buildings with floor elevations, typical building types to illustrate architectural intent and character, and the name,

address and certification of the architect approving the exhibit.

(L) A legal submissions component which consist of the following:

1. The articles of incorporation and bylaws for any homeowners association, condominium association or other form of nonprofit corporation to maintain or advise in the operation of any common space.
2. Any agreement by which an organization is to serve in the capacity of a trustee.
3. Typical deed or lease agreement specifying all rights and obligations including required fees to be paid to maintain common open space.
4. A signed statement establishing the rights of the County to substitute for the organization to maintain common open space and to collect the necessary funds.
5. Copies of all existing or proposed easements and covenants to permit other persons to utilize portions of land or to maintain facilities and/or utility service lines.
6. Copies of all existing or proposed agreements by which private roads shall be maintained, refuse collected, snow plowed and other supplementary services be provided.
7. Copies of all dedications, restrictions and covenants imposed upon the land including reservations in favor of any homeowners association.

(M) A construction order component which shall contain a map or maps setting forth the proposed chronological order of construction relating each proposed use and structure to the construction of the various services and facilities as may be required herein. Said component shall include estimated completion dates and shall specify the proposed order of request for utility release or other authority to occupy complete structures so as to provide a basis for determining the adequacy of the related services and facilities which would not require a variance under existing zoning. Said component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.

- (N) A **Subdivision Design** which shall comply with the provisions of the Washington County Subdivision Regulations.
- (O) A **financial impact component** which shall consist of a report demonstrating the additional taxes generated by the planned unit development for the community and the school district, the additional financial burden generated by the planned unit development on the school system, fire department, police department, road maintenance and other increased financial burden on the community. Said component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.
- (P) A **marketing component** which shall consist of a report demonstrating the economic feasibility of the planned unit development including a marketing survey of proposed residential and apartment units, the impact on existing property values, the impact on any other proposed real estates developments in the surrounding area, the amount of federal, state and local subsidy or loan programs utilized by the planned unit development and the impact of such governmental subsidy or loan programs being curtailed or eliminated.
- (Q) An **air pollution component** which shall consist of a map and report setting forth the location of all air pollution sources including areas of heavy traffic, parking lots, incinerators and smokestacks. The report shall include the amount of pollution expected from each source and the abatement procedures to be used to control such air pollution. Said component shall also contain a descriptive statement setting forth objectives, principles and standards used for its formulation.
- (R) The **general plan of development** may include as additional components: A Recreation Component, a Public Building Component, Noise Component, Lighting Component providing for consideration for administrative and public safety quarters, and such other components indicated by the nature of the particular proposed development.
- (3) **Referrals.** Upon receipt of all required information, the Zoning Administrator shall refer the same to the Planning

Commission and shall refer the applicable portions to the Fire Department, County Engineer and Building Official,

Washington County Soil and Water Conservation Service and such other public bodies, agencies and officials as may be interested or affected. Reports on those aspects of the proposed plan which concern such department or body must be filed with the Zoning Administrator within thirty (30) days of the referral thereof.

- (4) **Public Hearing.** Within the period of time the matter is under consideration, the Planning Commission shall hold a public hearing concerning the particular planned unit development application. At least ten (10) days notice of said meeting shall be given by the U.S. Mail to all property owners within five hundred (500) feet of the affected property or the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Municipal Council of any municipality within two (2) miles of the affected property. At least ten (10) days prior to such public hearing, a notice indicating the time, place and reason for such public hearing shall be published in the official newspaper of the County. Notice shall contain a legal description of the property described in the application. The failure of any property owner to receive notification or defect in such notification shall not invalidate the proceedings. Within the period of time the matter is under consideration by the Planning Commission, the applicant shall be allowed to make such amendments to his application, including any part of the general development plan or any applicable components thereof, as the Planning Commission shall request or permit.
- (5) **Action by the Planning Commission.** The planned unit development general development plans shall be placed on the agenda of the Planning Commission at its next regular meeting following the required public hearing. The Planning Commission shall take action on these plans within sixty (60) days after such meeting. If it shall determine by resolution that the proposed use will not be detrimental to the health, safety, morals or general welfare of the County and that said use is fully consistent with the purposes of the Development Codes relating to land use, subdivision and development, including the provisions of this Development Code and in conformity with the Comprehensive Plan, the Planning Commission may grant such approval. If it approves the plans, the Planning Commission may impose conditions, including time limits it considers necessary. Periodic review of the project and

the final permit may be required; the cost of periodic review shall be paid by the permittee. Each project approval shall be granted for a particular use and development, and not for a particular applicant.

A decision of the Planning Advisory Commission as it relates to a planned unit development shall not take effect for fifteen (15) days from the date the decision was made. During this fifteen (15) day period, an appeal of the decision may be made to the Washington County Board of Commissioners; if not appeal is made within this time period, the decision will take effect and be considered final.

5.8 Method of Amending a Planned Unit Development Permit

Any desired change involving structural alteration, enlargement or intensification of the use not specifically allowed by a particular planned unit development permit, or any request for a variance from the specific terms of a previously passed planned unit development permit, shall require that an application be filed for an amended permit and all procedures shall then apply as if a new permit was applied for.

5.9 Method of Cancellation of a Planned Unit Development Permit

Any existing approved planned unit development permit shall be deemed to be canceled if the owner of the land involved in the permit applies for and receives a rezoning with respect to said property prior to the time that there is any physical implementation of the matters covered by the previously approved planned unit development permit. In addition, an existing planned unit development permit shall be deemed to be automatically canceled in the event that a final plat, if the same is required in connection with the permit, is not filed as required by and in accordance with the terms of the County Subdivision Regulations within one hundred twenty (120) days following final approval of the planned unit development permit by the Planning Commission. The planned unit development permit shall expire and be considered null and void one (1) year after it has been issued if no construction has begun or if use has not been established. In all other situations, an existing planned unit development permit shall be canceled and revoked, short of expiring according to its own terms, only upon the event of the County acting in accordance with law and due process, taking some rezoning action which supersedes the planned unit development.

number of trips made in any one day, the number of passengers carried, the number and type of rolling stock deployed, compliance with insurance requirements, engineer qualifications and other information the Zoning Administrator may require. Fees for the annual report review shall be those established by the Board of County Commissioners.

- (I) Additional performance standards may be added to the conditional use permit if the Planning Advisory Commission finds that they are necessary to protect the public health, safety or welfare.
- (J) Liability insurance, in the minimum amount of \$1,000,000 per occurrence and \$1,000,000 aggregate shall be maintained as a requirement of the conditional use permit.

3.3 St Croix River Overlay District

Properties and uses within this district are regulated in accordance with Chapter Five of this Development Code.

3.4 Shoreland Overlay District

Properties and uses within this district are regulated in accordance with Chapter Six of this Development Code.

SECTION 4. OPEN SPACE DEVELOPMENT

4.1 Purpose and Scope

“OSD” Development is established to encourage development of rural housing clusters that meet the following purposes:

- (1) Provide efficient use of the land while maintaining contiguous blocks of economically viable agricultural land, mature woodlands, and open space, and preserving historical features, scenic views, natural drainage systems and other desirable features of the natural environment.
- (2) Allow housing to be concentrated on sites that have low agricultural potential and/or high natural housing appeal.
- (3) Create neighborhoods with direct access to open space, distinct identities and sense of community.

Sketch 1: Comparison



Conventional Subdivision



Open Space Design Development

OSD Development is designed to preserve open space and rural character while creating compact neighborhoods that have a strong visual and physical access to the open space. This method of development uses the size and shape of the open space as the central organizing element, rearranging the density on each parcel so that less land is cleared, graded, and turned into driveways, streets, lawns and houses.

- (4) To encourage innovation and promote flexibility, economy and creativity in residential development.
- (5) To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
- (6) To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
- (7) To preserve scenic views and elements of the County's rural character by minimizing views of new development from existing roads.

4.2 Definitions

- (1) Community Garden: Land which is cultivated by the residents of the development for the production of trees, vegetables, fruits, flowers, herbs and grasses for the residents' use or to be sold directly to consumers through membership in the garden.
- (2) Conservation Easement: An interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of property including the retention, protection and maintenance of natural resources, open space and agriculture.
- (3) Cultural Resource: The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of Washington County and its people.
- (4) Historic Building and Structure: A structure which has been identified by the Washington County History Network inventory or the State Historic Preservation Office as having public value due to their notable architectural features relating to the cultural heritage of the County.
- (5) Homeowners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.
- (6) Neighborhood: An area containing a contiguous group of residential lots where people live in close proximity to one another.

Open Space Development: A grouping of residential structures on smaller lots than allowed in the specific zoning district, leaving some land dedicated as open space.

OSD Development is permitted as a conditional use in the Agricultural (A-1, A-2, A-4), Residential (RR, SFE, RS), Conservancy (C), and Transition (TZ) zones

The design standards contained in this section are not applicable in the Shoreland Overlay District and the St. Croix River District.

The conditional use permit application must contain a resource inventory, yield plan, concept subdivision plan, phasing plan and general location map.

- (7) Open Space: Land used for agriculture, natural habitat pedestrian corridors and/or recreational purposes, that is undivided and permanently protected from future development.
- (8) Open Space Development: A grouping of residential structures on smaller lots than allowed in the specific zoning district, leaving some land dedicated as open space.
- (9) Perimeter Road: A road lying outside of and abutting the development parcel.
- (10) Plant Community: A grouping of plants with common environmental requirements living within the landscape, i.e., wetlands, grasslands, boreal forests.
- (11) Protective or Restrictive Covenant: A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
- (12) Resource Inventory: A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.

4.3 Applicability

The OSD Development standards are an alternative set of standards for residential development within the Agricultural (A-1, A-2, A-4), Residential (RR, SFE, RS), Conservancy (C), and Transition (TZ) zones. OSD Development shall be permitted with a conditional use permit within these districts. The design standards contained in this section are not applicable in the St. Croix River District and Shoreland Overlay Districts.

The regulations of this Development Code are applicable only to open space developments approved after the effective date of this Development Code.

4.4 Application

- (1) A conditional use permit is required for an open space design development in the Agricultural (A-1, A-2, A-4), Residential (RR, SFE, RS), Conservancy (C) and the Transition (TZ) zones.
- (2) A conditional use permit application shall be filed, in writing, with the Zoning Administrator in accordance with Chapter One, Section 9, Conditional Uses.

- (3) In addition to the criteria stated in Chapter One, Section 9.3 (2), the Planning Advisory Commission shall consider the following:
 - (A) The open space development is designed to preserve open space and the County's rural character while creating compact residential neighborhoods.
 - (B) The open space development is designed in accordance with the standards of this Development Code.
 - (C) The open space development supports the goals and policies of the County's Comprehensive Plan.
- (4) In addition to those submittal requirements stated in Chapter One, Section 9, the following items shall be submitted as part of the conditional use permit application for open space development:

Resource Inventory



Resources to assist with this inventory include the following:

Soil Conservation Service's Soil Survey for Washington County.

The Minnesota Geological Survey's Geological Atlas for Washington County.

The Department of Natural Resources' County Biological

(A) Resource Inventory

The plan for an Open Space Design Development shall include a resource inventory, to include the following, mapped at a scale of no less than one inch : 100 feet.

1. Topographic contours at 10-foot intervals, showing rock outcrops and slopes of more than 15 percent.
2. Soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock, and suitability for wastewater disposal systems.
3. Hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales and drainageways.
4. Vegetation of the site, according to general cover type (pasture, woodland, etc.), defining boundaries of woodland areas and stand-alone trees with a caliper of more than 18 inches. Vegetative types shall be classified as generally deciduous, coniferous or mixed and described by plant community, relative age and condition.

Survey Map for Natural Communities and Rare Species.

Washington County Surveyor's Aerial Photography.

5. Current land use and land cover (cultivated areas, paved areas, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
6. Visual resources, showing views onto the tract from surrounding roads and public areas, as well as views within the tract.
7. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archeological features.
8. Context: general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.

Yield Plan



(B) Yield Plan

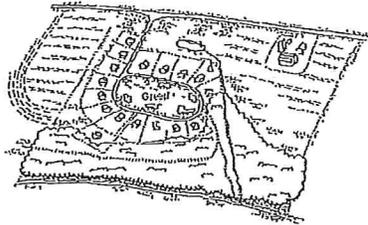
1. The applicant shall submit a "yield plan," showing the maximum number of dwelling units that would be permitted given the minimum lot size and lot widths for conventional subdivisions and other requirements of the Development Code and Subdivision Regulations. The yield plan need not be engineered; however, it shall be drawn to scale and it shall identify all the major physical features on the parcel.

The minimum lot areas and width for each zoning district are the following:

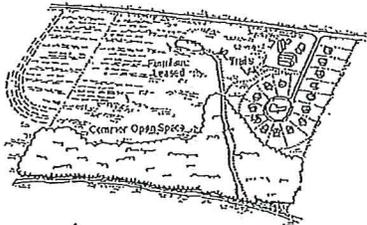
Zoning District	Minimum Lot Size (Acres)	Minimum Lot Width (Feet)
A-1	40	300
A-2	20	300
A-4	10	300
RR	5	300
SFE	2.5	160
TZ	10	300
RS	15,000 sq. ft.	100
C	20	300

Concept Subdivision Plan

Sketch 3B:
Concept Subdivision Plan 1
18 Lots (including Farmstead)
40 Acres
16 Lots + 2 Bonus Lots



Sketch 3C
Concept Subdivision Plan 2
18 Units
1 Farmstead - 2 Bonus Lots
40 Acres



Phasing Plan

(C) Concept Subdivision Plan

1. One or more open space design plans meeting the intent of this Chapter and including at least the following information:
 - (a) Open space areas indicating which areas are to be protected.
 - (b) Boundaries of areas to be developed and proposed general street and lot layout.
 - (c) Number and type of housing units proposed.
 - (d) Areas proposed for stormwater management and on- or off-site sewage treatment.
 - (e) Said plans shall be drawn at a scale of 1" = 100'.
2. For Open Space Developments in the Transition Zone a "build-out plan" showing the ultimate development of the entire parcel at urban densities is submitted as part of the concept subdivision plan.

(D) Phasing Plan

Open Space Design development may be phased in accordance with a unified development plan for the entire tract meeting the following requirements:

1. A phasing plan identifying the sequence of development showing approximate areas, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each.
2. The phasing plan shall be made a part of the conditional use permit and is effective for five (5) years from the date of preliminary plat approval. If final plat approval is not received within five (5)

years, the permit shall become null and void.

- 3. Any common facilities, including golf courses, shall be constructed prior to the sale of any lots and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.
- 4. As part of the development agreement, a financial guarantee to ensure completion of common facilities, trails and landscaping shall be provided.

General Location Map

(B) General Location Map

(5) Application Procedure. Upon submittal of a complete application, the application shall be processed according to the following:

- (A) Plat Commission. The application will be forwarded to the County Plat Commission for concept review of the proposed subdivision in accordance with the requirements of the Subdivision Regulations.
- (B) Planning Commission. After concept review by the Plat Commission, the application will be forwarded to the Planning Advisory Commission. The commission will review the application in accordance with the requirements of this Development Code.
- (C) Plat Commission. Once a conditional use permit is issued, the applicant will then be directed to submit a plat to the Plat Commission in accordance with the requirements of the Subdivision Regulations.

4.5 Uses

The following uses are permitted within OSD Developments. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by the Washington County Development Code.

A variety of residential uses are allowed in an OSD Development.

- (1) Residential. The following uses are allowed uses in the residential portion of the open space development.
 - (A) Single-family Detached

The open space may be used for both passive and active recreation uses, agriculture and may house services needed for the development. The open shall be accessible to residents of the subdivision.

A separate conditional use permit is required for some uses allowed in the open space because of their potential impact on the local community.

- (B) Multi-family Residential
- (C) Bed and Breakfast
- (D) Accessory Apartment
- (E) Community residence
- (2) Open Space.
 - (A) The following uses are allowed uses in the designated open space:
 1. Conservation (i.e., woodland, meadow, prairie)
 2. Agricultural
 3. Equestrian
 4. Recreational uses and associated parking.
 - (a) trails (walking, skiing, cycling, horseback riding, snowmobiling)
 - (b) picnic areas
 - (c) community gardens
 - (d) composting (for waste generated by residents of the development)
 - (e) turf areas for informal play
 - (f) common areas such as greens or squares
 - (g) ball fields
 - (h) playgrounds
 - (i) courts (tennis, basketball, etc.)
 - (j) swimming pools or beaches
 - (k) common buildings
 5. Stormwater Management Facilities
 6. Sewage Disposal Systems
 7. Essential Services–Utility Substation
 - (B) The following uses are allowed in the designated open space with an additional conditional use permit:
 1. Golf Course
 2. Recreational uses available to the public including:

- (a) ball fields
- (b) playgrounds
- (c) courts (tennis, basketball, etc)
- (d) swimming pools or beaches

4.6 Ownership & Management of Open Space

- (1) The designated open space and common facilities may be owned and managed by one or a combination of the following:
 - (A) Homeowners' Association
 - (B) Non-profit Organization
 - (C) The County or another governmental body empowered to hold interest in real property (in accordance with Minnesota Statutes Section 84C.01-.05)
 - (D) An individual who will use the land for open space purposes as provided by the permanent conservation restrictions.

The designated open space shall be subject to a conservation easement restricting its use and development.

4.7 Open Space

- (1) With the exception of Open Space Development in the Transition Zone (TZ), the minimum open space required per Section 4.6 (4) (A) shall be subject to a permanent conservation easement and used for the purposes as defined by this Development Code. The conservation easement shall be dedicated to an acceptable land trustee or other similar organization as approved by the County.
- (2) Permanent protection of the open space in the Transition Zone is not required because these lands are expected to become urban. Developments in the Transition Zone are subject to the following:
 - (A) A title declaration shall be provided stating future development could occur at urban densities when the local unit of government rezones the property.
 - (B) Lots oriented around central open space features, such as greens, squares, playgrounds and parkways, and that these features or 10% of the open space, whichever is greater, shall be permanently protected.

- (3) The uses within the open space shall be accessible to the residents of the development in accordance with 4.10 (4) (D). These uses may also be available to the general public providing the proper approvals are received.
- (4) A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the Zoning Administrator.

4.8 Homeowners' Associations

A Homeowners' Association shall be established if the open space is owned by a homeowner's association. Membership in the Association is mandatory for all purchasers of homes in the development and their successors.

A Homeowners' Association Agreement, guaranteeing continuing maintenance, shall be submitted to the County as part of the data required for the conditional use permit. The Homeowners' Association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

- (1) the legal description of the common lands or facilities;
- (2) the restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions;
- (3) a mechanism for resolving disputes among the owners or association members;
- (4) a mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.
- (5) the conditions and timing of the transfer of ownership and control of land or facilities to the Association or to common ownership;
- (6) any other matter the developer deems appropriate.
- (7) The Management of collector sewage treatment systems.

4.9 Density Standards

- (1) The number of density units for the parcel shall be determined in accordance with Chapter Two, Part 2, Section 1.
- (2) Base Density

To encourage open space development, this section provides a density bonus that allows developers to increase the density over what would be allowed in a conventional or lot averaging subdivision.

Assuming a tract size of 40 acres, using the maximum potential "OSD" density (yield plan), you get:

	Conventional Density	Base Density	Base & Density Points	Extra Units*
A-1	1	2	2.4	1
A-2	2	4	4.8	2
A-4	4	8	1.6	5
RR	8	10	12	4
SFE	16	18	21.6	5

**The number of extra units is the difference between the conventional density and the maximum density allowed with density bonuses.*

The percentage of single-family attached units is limited to encourage a mix of uses and to ensure that a large percentage of houses are similar to/compatible

(A) The number of density units determined in (1) above may be increased by using the percentage for the zoning district in which the parcel is located:

- 1. A-1 100%
- 2. A-2 100%
- 3. A-4 100%
- 4. RR 25%
- 5. SFE 12.5%
- 6. TZ 50%
- 7. RS (with public sewer) 10%
- 8. RS (without public sewer) 50%
- 9. C 0%

(B) Apply any bonus density, as specified in Section 4.9 (3).

(3) Density Points

The base density may be increased if the development complies with one or more of the following standards. Each standard provides a density increase of 5% over the base density. The maximum bonus permitted is 20%.

(A) Creating an endowment where the principal would generate sufficient annual interest to cover the conservation easement holder's yearly costs (taxes, insurance, maintenance, enforcement, etc.)

(B) Providing for access by the general public to trails, parks or other recreational facilities, excluding golf courses.

(C) Providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.

(D) Reusing historical buildings and structures, including those sites inventoried by the Washington County History Network and the State Historic Preservation Office. The Secretary of Interior's Standards for Rehabilitation shall apply.

4.10 Performance Standards

(1) General considerations

with surrounding single-family houses.

- (A) For single-family attached and multi-family structures, the maximum number of units per freestanding building is six.
- (B) The residential lot shall be large enough to accommodate a house and two car garage.
- (C) All structures shall be setback a minimum of 75 feet from unclassified waterbodies.
- (D) Multi-family structures shall be setback a minimum of 50 feet from the lot line of a lot designated for single family detached dwelling units.
- (E) A maximum of 40% of the residential dwelling units may be multi-family residential.

(2) Residential Lot Requirements.

(A) Minimum Lot Size

- 1. Septic on-site 32,670 sq. ft. (.75 acre)
- 2. Septic off-site 21,780 sq. ft (.5 acre)

(B) Principal Building Setbacks

- 1. Front lot line 30 feet
- 2. Side lot line 15 feet
- 3. Rear lot line 30 feet

(C) Accessory Building Setbacks

- 1. Side lot line 15 feet
- 2. Rear lot line 10 feet

(D) Maximum Lot Coverage 35%

(E) Maximum Building Height 35 feet

(F) All lots shall take access from interior local streets.

(G) Fifty percent of the lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.

(H) Lots shall be oriented around a central focal point. This may be one or more of the following:

- 1. A central green or square.

The "focal point" ensures that the central feature of the development is always either a natural feature or

“designed” open space such as a green or parkway.

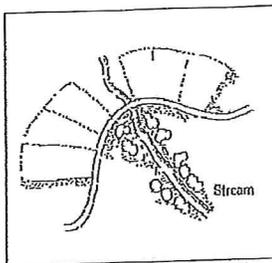
2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural feature.
3. A street designed with boulevards planted with shade trees and with a central “parkway” or median, at least 25 feet wide.

A neighborhood is a contiguous group of residential lots.

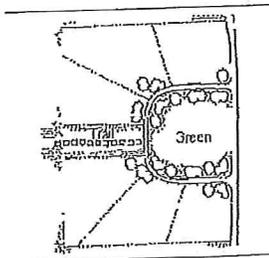
(3) Neighborhood Siting Standards

- (A) Neighborhoods shall be located to minimize their impacts on the natural, scenic and cultural resources of the site.
- (B) Neighborhoods shall avoid encroaching on rare plant communities or endangered species identified in the Department of Natural Resources' County Biological Survey for Natural Communities and Rare Species.
- (C) Fragmentation of open space shall be minimized.
- (D) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels.
- (E) Neighborhoods should be sited to achieve the following goals, to the extent practicable. In cases where impact on one or more of the following resource areas is unavoidable, the impact should be minimized through use of landscaping, topography, or other features.
 1. Avoid prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices;
 2. Minimize disturbance to woodlands, hedgerows, mature trees or other significant vegetation;
 3. Protect scenic views of open land from adjacent roads.
 4. Protect existing historic buildings or incorporate them through adaptive reuse.

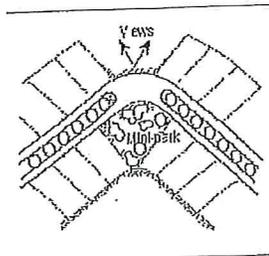
Sketch 4: Orientation



Orientation toward Physical Amenity



Orientation Toward Green



Orientation Toward Parkway

- (F) The maximum number of residential lots permitted in a neighborhood is 50.
- (G) More than one (1) neighborhood may be developed if separated by a clear boundary comprised of a combination of two or more of the following elements: street pattern, marked topographical changes, drainageways, ponds, wetlands, streams, greenways and woodlands.
- (H) Neighborhoods shall be separated from adjacent residential property by a clear boundary, with a minimum width of 300 feet, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainageways, ponds, wetlands, streams, greenways and woodlands.

(4) Open Space Design

- (A) Open space shall be designated as part of the development. The minimum required open space is based on a percentage of the gross acreage:

1.	A-1	60%
2.	A-2	60%
3.	A-4	60%
4.	RR	60%
5.	SFE	60%
6.	TZ	70%
7.	RS	30%
8.	C	75%
- (B) The required open space shall be undivided and restricted from further development, as specified in Section 4.7.
- (C) The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
 1. Parking areas for access to and use of the open space.
 2. privately-held buildings or structures unless they are accessory to the use of the open space.

The intent of these requirements is to ensure that residents can actively use or enjoy a reasonable proportion of the open space.

- (D) Road rights-of-way may not be located within the required open space area, and shall not be counted towards the required minimum open space.
- (E) No more than 50 percent of the required open space may consist of unclassified water bodies, ponds, areas within the 100 year floodplain (or high water mark as documented by County records), wetlands, or slopes of greater than 25 percent.
- (F) At least 25 percent of the open space shall be accessible to the residents of the development and shall be owned in common by all residents of the development.
 - 1. At least 25% of the "accessible" open space, shall be suitable for recreational uses such as trails, play fields, or community gardens.
 - 2. A pathway system connecting all parts of those open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.
 - 3. That portion of the open space designated for the location of sewage treatment facilities shall not be included as part of this accessible open space.

Roads shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds.

Street widths and alignments should be carefully scaled to neighborhood size.

(5) Street Standards

Neighborhood streets may take the form of a two-way street, a pair of one-way streets on either side of a landscaped median, or a one-way loop street around a small neighborhood green. Streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation:

(A) The applicant must demonstrate that access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.

(B) Streets shall have the following design standards:

1. Right-of-way widths. The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage, trails and walkways, utilities and snow storage. The minimum right-of-way shall be provided in accordance with the following:

Travel Lanes	ADT less than 250	ADT over 250
One-way roadway	30'	30'
Two-way roadway	50'	60'

2. Roadway widths for local roads shall be determined by the expected average daily traffic (ADT) and shall be within the following ranges:

Travel Lanes	ADT less than 100	ADT 100-250	ADT over 250
Two-way roadway	18'-24'	20'-24'	22'-24'
One-way roadway	11'-13'	11'-13'	11'-13'
(urban sections*)	13'	13'	13'
Shoulder width*	2'-4'	2'-4'	2'-4'

*For urban sections, measured from curb face to curb face

3. Additional Standards:

<p><i>Utilities will be placed underground; either parallel to the sidewalk or under the street.</i></p> <p><i>County ISTS Regulations will include standards for common systems: groundwater monitoring, pretreatment, system management, etc.</i></p> <p><i>Alternatives may include:</i></p> <p><i>Individual septic systems with drainfields located on the individual lot or in adjacent open space areas;</i></p> <p><i>Individual septic tanks with communal drainfields on individual lots or in open space areas.</i></p>	<ul style="list-style-type: none"> (a) Design Speed: Minimum 20 miles per hour (b) Vertical Curves: Minimum 50' (when grade difference less than 1%, no curve is needed) (c) Horizontal Curves: Minimum radius of 125' (d) Road Grades: Maximum grade 8% (e) Super-elevation: Maximum e = 0.04 feet/feet (f) Pavement Strength: 7 ton minimum (g) Clear Zones: Rural sections: 10' from edge of travel lane Urban sections: 2' from face of curb (h) Bridges: Width shall be traveled way plus 2' each side Design Loading for Structural Capacity HS-20 Sidewalk necessary to maintain pedestrian crossing (i) Cul-de-sacs: Minimum 30' radius <p>4. If determined necessary by the Zoning Administrator, shade trees shall be planted on both sides of the street at 50-foot intervals or placed in clusters at the same ratio</p> <p>5. Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns.</p> <p>6. Streets that serve as collectors, interconnecting subdivisions and other major traffic generators, shall be designed according to the County's standards for collector roads.</p>
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Drainfields may be located partially or completely within open space areas provided that:

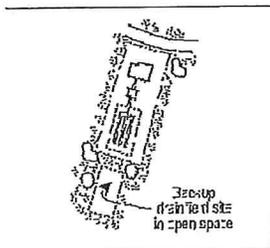
Ground cover of regularly mowed turf or meadows is maintained;

No agricultural activities are permitted within 50 feet of the drainfield area;

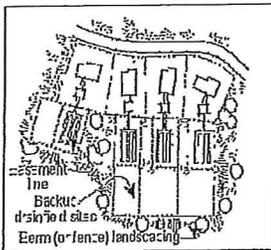
No trails or other recreational facilities are located in drainfield areas.

Alternative wastewater treatment and disposal systems that meet all MPCA permit requirements.

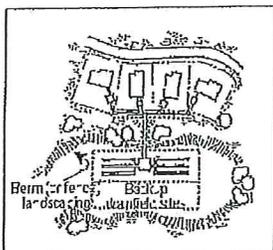
Sketch 6: Sewage Treatment Options



Drainfield on lot



Individual Drainfields in Open Space



Shared Drainfield in Open Space

7. Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection.

(6) Sewage and Water Facilities

Water for an OSD Development shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the Minnesota Department of Health. The use of shared or community wells is encouraged.

All OSD Developments shall be provided with adequate sewage treatment facilities meeting the standards of the County Individual Sewage Treatment Standards Regulations and the permit requirements of the Minnesota Pollution Control Agency.

(7) Golf Courses

(A) Golf courses located in the open space must comply with Chapter Two, Part 3, Section 2.12 of this Development Code.

(B) The golf course shall be regulated by a development agreement that restricts any further development or subdivision of land and requires the land to be retained as open space use if a golf course is no longer used as a golf course.

(C) The golf course shall be constructed prior to the sale of any residential lots.

(D) A financial guarantee ensuring completion of the golf course in accordance with the approved plans and permits shall be submitted to the Zoning Administrator.

SECTION 5. PLANNED UNIT DEVELOPMENT

ORDINANCE 01-2008

CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDMENT TO CHAPTER 12, ARTICLE 7: AN ORDINANCE ALLOWING OPEN SPACE DEVELOPMENTS WITHIN THE AGRICULTURAL AND RURAL RESIDENTIAL DISTRICTS WITH A CONDITIONAL USE PERMIT – PLANNED UNIT DEVELOPMENT (CUP-PUD) AND REPEALING INTERIM ORDINANCE 01-2007

THE CITY COUNCIL OF AFTON ORDAINS THE FOLLOWING AMENDMENTS TO CHAPTER 12 OF THE CITY CODE:

Article XII. Planned Agricultural Unit Development

Division 1. Generally

Sec. 12-2371.	Scope.
Sec. 12-2372.	General Provisions.
Sec. 12-2373.	Purpose.
Sec. 12-2374.	Permitted uses.
Sec. 12-2375.	General Standards for approval.
Sec. 12-2376.	Exceptions to Density, Frontage on a Public Street and Length of Cul de sac requirements.
Sec. 12-2377.	Coordination with subdivision regulations
Sec. 12-2378.	Pre-application meeting.
Sec. 12-2379.	General development plan.
Sec. 12-2380.	Final development plan
Sec. 12-2381.	Enforcement of development schedule
Sec. 12-2382.	Conveyance and maintenance of common open space.
Sec. 12-2383.	Standards for common and open space.
Sec. 12-2384.	Review and amendments.

ARTICLE XII. PLANNED AGRICULTURAL UNIT DEVELOPMENTS

Sec. 12-2371. Scope.

This article applies to Planned Agricultural Unit Developments in the Agricultural (AG) zoning district.

Sec. 12-2372. General provisions.

A PAUD is a tract of land that is developed as a unit under single or unified ownership or controls. A Planned Agricultural Unit Development may be allowed in the AG zoning district to preserve prime agricultural land, woodland, wildlife habitat, vistas, groundwater recharge areas, areas with sensitive soils or geological limitations and areas identified in the Comprehensive Plan. Uses not otherwise allowed in the zoning district are prohibited within a planned development unless specific provisions are made.

Sec. 12-2373. Purpose.

The purposes of this article are:

- (1) To permit subdivisions in the Agricultural Zoning District which require the construction of a new public street.
- (2) To encourage a more creative and efficient development of land and its improvements through the preservation of agricultural land, natural features and amenities than is possible under the more restrictive application of zoning requirements, while at the same time, meeting the standards and purposes of the comprehensive plan and preserving the health, safety, and welfare of the citizens of the city.
- (3) To ensure concentration of open space into more usable areas, to preserve the natural resources of the site and to preserve wildlife habitat and corridors.
- (4) To facilitate the economical provision of streets and public utilities.
- (5) To allow the transfer of development rights (density) within a subdivision in order to preserve agricultural land, open space, natural features and amenities.

Sec. 12-2374. Permitted uses.

The Permitted Uses are:

- (1) Those uses that are permitted in the underlying zoning district;
- (2) Subdivisions that require the construction of a new public street in the AG zoning district;

Sec.12-2375. General standards for approval.

A special use permit shall be required for all planned agricultural unit developments. The city may approve the planned unit development only if it finds that the development satisfies all of the following standards:

- (1) The planned agricultural unit development is consistent with the comprehensive plan of the city.
- (2) The planned agricultural unit development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities.
- (3) The planned agricultural unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- (4) The tract is, at least, a 30 acres in size unless the applicant can show that a PAUD of less acreage meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the city and that all of the following conditions exist:
 - (a) The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
 - (b) The proposal would benefit the area surrounding the project to a greater degree than development allowed within the underlying zoning district.

- (c) The proposal would provide land use and/or site design flexibility while enhancing site or building aesthetics to achieve an overall higher quality of development than would otherwise occur in the underlying zoning district.
- (d) The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.

Sec. 12-2376. Exceptions to Density, Frontage on a Public Street and Length of Cul de sac requirements:

- (1) The average density over the proposed PAUD shall not exceed the maximum density permitted in the underlying zoning district except that the property owner may be granted a bonus of one dwelling unit per forty contiguous acres preserved in the AG zoning district. All development rights from the preserved forties shall be transferred to the other participating parcel(s) unless the permitted number of lots for dwelling units cannot be platted on the remaining parcel(s), in which case a maximum of one dwelling unit may be permitted on the preserved 40-acre parcel.
- (2) The minimum requirement for frontage on an improved public street may be reduced, as long as the minimum lot width at the building setback line is maintained, to encourage and accommodate curvilinear streets that better preserve the rural character or other resources within the PAUD.
- (3) The maximum length of cul de sacs may be exceeded to accommodate curvilinear streets and other design elements that tend to preserve the rural character or other resources within the PAUD.

Sec. 12-2377. Coordination with subdivision regulations.

- (1) It is the intent of this article that subdivision review under Chapter 12 be carried out simultaneously with the review of a planned development under this article.
- (2) The plans required under this article must be submitted in a form that will satisfy the requirements of Chapter 12 for the preliminary and final plats.

Sec. 12-2378. Pre-application meeting.

Prior to the submission of any plan to the planning commission, the applicant shall meet with the city administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a special use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to seek the advice and assistance of the city staff to facilitate the review of the outline plan and preliminary plat.

Sec. 12-2379. General development plan.

- (1) An applicant shall make an application for a Special Use Permit following the procedural steps as set forth in Section 12-78.
- (2) In addition to the criteria and standards set forth in Sec. 12-78 of this article for the granting of special use permits, the following additional findings shall be made before the approval of the outline development plan:
 - (a) The proposed PAUD is in conformance with the comprehensive plan.

- (b) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
 - (c) Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
 - (d) The PAUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities that serve or are proposed to serve the district.
 - (e) The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- (3) The following exhibits shall be submitted to the city administrator by the proposed developer as a part of the application for a special use permit:
- (a) An explanation of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations.
 - (b) A statement of the present ownership of all the land included within the planned development and a list of property owners within five hundred (500) feet of the outer boundaries of the property.
 - (c) A general indication of the expected schedule of development including progressive phasing and time schedule.
 - (d) A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street right-of-ways, utilities, buildings and use for the property and for the area five hundred (500) feet beyond.
 - (e) Natural features, maps or maps of the property and area five hundred (500) feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil conditions.
 - (f) A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
 - (g) Full description as to how all necessary governmental services will be provided to the development.
 - (h) An engineering report presenting results of percolation tests and soil analysis of the site.
 - (i) Any additional information requested by the city administrator, planning commission and city council that might be required for clarification of the proposed project.
 - (j) Twenty-five (25) copies of all required information shall be submitted.
- (4) The applicant shall also submit a preliminary plat and all the necessary documentation as required under Chapter 12 for all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the special use permit and preliminary plat may be combined into one (1) hearing or may be held concurrently.

Sec. 12-2380. Final development plan.

- (1) Within ninety (90) days following the approval of the general development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file

with the city administrator a final development plan containing in final form the information required in the general development plan plus any changes recommended by the planning commission and the city council as a result of the public hearing. The applicant shall also submit a final plat for that entire portion to be platted.

- (2) The city administrator shall submit the final development plan and the final plat to the planning commission for review.
- (3) The final development plan and the final plat shall conform to the general development plan and preliminary plat plus any recommended changes by the planning commission or city council to the general development plan and preliminary plat.
- (4) The city council shall review the final development plan and final plat. If the final development plan is approved by the city council, the city administrator shall issue a special use permit to the applicant.
- (5) The applicant(s) shall grant a Conservation Easement to the City of Afton and all of the owners of the lots and parcels to be created in the PAUD which restricts the lots and parcels within the PAUD to the number of dwelling units approved for the PAUD and the land cover and use approved by the City of Afton as a part of this PAUD.
- (6) The applicant(s) shall grant a Conservation Easement to the City of Afton, the Minnesota Land Trust (or similar independent third party approved by the City of Afton) and all of the owners of the lots and parcels to be created in the PAUD which restricts the development rights on the preserved parcels on forty or more acres within the PAUD to the number of dwelling units approved for the preserved parcel and the land cover and use approved by the City of Afton as a part of this PAUD.

Sec. 12-2381. Enforcement of development schedule.

The construction and provisions of all of the common open spaces and public and recreational facilities that are shown on the final development plan must proceed at the same phase as the construction of dwelling units. At least once every six (6) months following the approval of the final development plan, the city administrator shall review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If he shall find that the rate of construction of dwelling units is greater than the rate at which common open space and public and recreational facilities have been constructed and provided, he shall forward this information to the city council, which may revoke the planned unit development permit.

Sec. 12-2382. Conveyance and maintenance of common open space.

- (1) All land shown on the final development plan as common open space must be conveyed to a homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowners association or similar organization subject to covenants to be approved by the city council which restrict the common open space to the uses specified on the final development plan and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

- (2) If a homeowners association is created, the applicant shall submit plans at the time of final plan of development and documents which explain:
 - (a) Ownership and membership requirements.
 - (b) Articles of incorporation and bylaws.
 - (c) Time at which the developer turns the association over to the homeowners.
 - (d) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

Sec. 12-2383. Standards for common or open space.

No open area may be approved as common open space under the provisions of this article unless it meets the following standards:

- (1) The location, shape, size, and character of the common open space must be suitable for the planned development.
- (2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- (3) Common open space must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

Sec. 12-2384. Review and amendments.

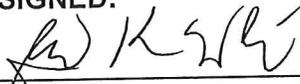
- (1) The city administrator shall review all PAUDs within the city at least once each year and shall make a report to the city council on the status of the development in each of the PAUD districts. If the city administrator finds that the development has not commenced within one (1) year after the original approval of the special use for the PAUD, the city administrator may recommend that the city council revoke the special use permit as set forth in Section 12-78 of this chapter. Prior to cancellation or revocation of this permit, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- (2) For additional phases of the PAUD, if within five (5) years the project has not progressed, the city administrator may recommend that the city council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PAUD, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- (3) Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
- (4) Approval of the planning commission and city council shall be required for other changes such as rearrangement of lots, blocks and building tracts. Those changes shall be consistent with the purpose and intent of the approved final development plan.

- (5) Any amendment to the PAUD shall require the same procedures as for the application for a special use permit as set forth in this chapter.
- (6) This Ordinance shall be in full force and effect from the date of the publication of this Ordinance. This Ordinance shall be repealed effective February 1, 2002 unless the City Council adopts an Ordinance prohibiting the re-subdivision of lots of less than ten acres that are platted in the Rural Residential Zoning District by that date.

This ordinance also repeals interim ordinance 01-2007, which had established a moratorium on land use applications for Open Space Developments and the issuance of permits for Conditional Uses – Planned Unit Developments in the Agricultural and Rural Residential land use districts.

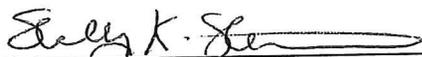
ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 9th DAY OF JANUARY, 2008.

SIGNED:



Julia K. Welter, Mayor

ATTEST:



Shelly K. Strauss, City Administrator

Motion By: Welter
Second By: Nolz
Mucciacciaro: No
Richter: Yes
Nolz: Yes
Nelson: No
Welter: Yes

ORDINANCE 02-2008

CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDMENT REPEALING ORDINANCE 46-2004, ORDINANCE 15-2004, ORDINANCE 2-2006 AND ORDINANCE 5-2006, REMOVING ALL CHANGES TO SECTIONS OF THE ZONING ORDINANCE REFERENCES IN THESE ORDINANCES AND REINSTATING PREVIOUS LANGUAGE AND REPEALING INTERIM ORDINANCE 02-2007 AND INTERIM ORDINANCE 04-2007

Reference Table for this Document

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THE CITY COUNCIL OF AFTON ORDAINS THE FOLLOWING AMENDMENTS TO CHAPTER 12 OF THE CITY CODE:

Organization 2-152.

The commission, when formed, shall elect from its members such officers as it may deem necessary. The commission shall have the power to designate and appoint from its members various committees. The commission shall make such bylaws as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this Article, which are not inconsistent with the laws of the city and the state. The commission shall make an annual report, containing a statement of its activities and plans to the City Council. The Heritage Preservation Commission shall also function as the design and review committee, of which the duties of the committee are specified in section 12-142 (g).

Sec. 12-55. Definitions

~~Sight Triangle~~ means a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the site distance of motorists entering or leaving the intersection.

Sec. 12-132, Subdivision (a)

VHS-C

- (6) Front yard setback for all structures measured from centerline (except for the VHS-C district which is measured from the lot line)

- a. Local Afton Roads 65 0*****
- b. State and County Hwys. 65 0*****

~~***** subject to all corner lots meeting an 80 foot sight triangle.~~

(11) Maximum site coverage by any structure and/or impervious surface

A	RR	VHS-R	VHS-C	I	MS
10% or 1/2A	10% or 1/2A	20% ^{10%^{^^}*} or 4,350 sf	20% ^{10%^{^^}*} or 4,350 sf		25% [^] 25%

~~^ The maximum site coverage and/or impervious surface in the VHS-R and VHS-C Districts may exceed 20 percent per conditional use permit approval and variance review from the DNR subject to the site not exceeding a maximum of 80 percent impervious surface and meeting the requirements of Section 12-132 (b)(12).~~

~~The maximum site coverage and/or impervious surface in the Industrial District may exceed 25 percent per conditional use permit approval subject to the site not exceeding a maximum of 65 percent and meeting the requirements of Section 12-132 (b)(12) and 12-132(e)(1-4). Any site with coverage and/or impervious surface in excess of 25 percent shall require an effective reduction of the impact of such impervious surface to the equivalent of 25 percent impervious surface site coverage through the use of Low Impact Design (LID) methods and the completion and acceptance by the City Engineer, Washington Conservation District (WCD) engineer, and Valley Branch Watershed Organization (VBWO) engineer of the Impervious Surface Worksheet, as set forth in the City of Afton Best Management Practice (BMP) and Storm-water Guide.~~

~~The maximum site coverage and/or impervious surface in the Agriculture or Residential District may exceed 10% per conditional use permit approval, for places of worship and facilities for institutionalized persons, provided the site does not exceed a maximum of 25% impervious surface and meeting the requirements of Section 12-132(b)(12) and 12-132(e)(1-4).~~

~~All uses, except for single family residences and agricultural uses and for any use within the VHS-R or VHS-C district, which require a Conditional Use Permit for approval must adhere to Section 12-132(e).~~

~~^^ The maximum site coverage and/or impervious surface in the VHS-C and VHS-R District may exceed 20 percent per conditional use permit approval provided the project can demonstrate to the City Engineer, WCD engineer, and Lower St. Croix Water Management Organization (LSCWMO) engineer through the use of green, volume control reduction and pervious technologies (e.g. pervious pavers and green roofs) that the result in the reduction of the impact of such impervious surface would be reduced to the equivalent of 20% impervious surface site coverage through the use of Low Impact Design (LID) methods and the completion and acceptance by the City Engineer, Washington Conservation District (WCD) engineer, and Lower St. Croix Water Management Organization engineer (LSCWMO) of the Impervious Surface Worksheet, as set forth in the City of Afton Best Management Practice (BMP) and Storm-water Guide. Provided the following conditions of this ordinance, along with the other~~

requirements of the Floodplain Regulations Chapter, the Lower St. Croix River Bluffland and Shoreland Management Chapter, and Section 12-142, and any and all other relevant sections of this chapter are met with the approval of the City Engineer, the WCD engineer, and LSCWMO engineer, a DNR variance to exceed the 20% maximum site coverage shall not be required by the DNR. However, the DNR shall be notified of any application in which there is change to the maximum site coverage no less than 20 days prior to a public hearing. Provided a variance to the DNR is not required Section 12-132(b)(12) shall be exempted.

* Should the City Engineer, LSCWMO or VBWO engineer, and WCD engineer certify the reduction of the impact of such impervious surface would be reduced to the equivalent of 20% impervious surface site coverage in the VHS-C and/or VHS-R District or 25% in the Industrial District, as well as meeting and/or exceeding all of the other remaining conditions as set forth in the City of Afton Best Practice (BMP) and Storm water Guide the applicant shall be exempted from having to secure a cash escrow deposit and/or irrevocable letter of credit as required in Section 12-132(e)(5).

Sec. 12-132, Subdivision (b)

(12) Site coverage (impervious surfaces) in the VHS-R, VHS-C, and Industrial Districts, and for places of worship and facilities for institutionalized persons shall be churches and institutional housing permitted by Conditional Use Permit in the RR zoning district may exceed their allotted maximum impervious surface allowance, also places of worship and facilities for institutionalized persons shall be allowed to go up to a maximum site coverage of 25% in the Agricultural and Residential Zoning District, with a Conditional Use Permit provided that:

- a. The applicant shall test the soils on the land in order to determine if the soils will support the structures and required on-site sewage treatment systems, parking areas, driveways and other proposed impervious surface. The test should also show if the proposed development does not pose any significant risk of erosion, groundwater contamination or surface water discharge in excess of standards used by the watershed district and the Washington Soil and Water Conservation District. In addition, whenever possible low impact development methods shall be used to mitigate any groundwater discharge; and
- b. The applicant will restrict its surface water runoff to predevelopment rates to be in conformance with the watershed district rules and regulations; and
- b. The applicant must submit for City staff review the rates and volumes discharging from the site calculated from the 2, 10, and 100 year storm events as well as the ten day 100 year snowmelt event for both pre-development and post-development conditions of the site; and
- c. The applicant will restrict its surface water runoff volumes to those volumes that would have been generated from the site had it been developed to have 10% of the parcel covered with impervious surfaces. That applicant shall prove that runoff equal to $\frac{3}{4}$ inch times the total impervious surface area minus $\frac{3}{4}$ inch times 10% of the impervious area shall infiltrate within 72 hours based on the infiltration rate of the soil. No infiltration basin shall be deeper than 2 feet. The bottom of all infiltration basins shall be a minimum of 2 feet above the seasonal high water table; and

- e. ~~The applicant will restrict its post-development surface water runoff from the site to predevelopment rates, and be in conformance with the watershed district rules and regulations; and~~
- d. ~~The applicant shall prove that runoff volume equal to 3/4 inch times the total impervious surface area minus 3/4 inch times 20 percent of the impervious area (25 percent of the impervious area for Industrial District and for Places of Worship and facilities for institutionalized persons in the Agricultural and Rural Residential Districts) shall infiltrate within 72 hours based on the infiltration rate of the soil. The bottom of all infiltration basins shall be a minimum of 2 feet above the seasonal high water table; and~~
- e. ~~The applicant may be directed by the City Administrator and/or City Council to have the a plan submitted o the Department of Natural Resources, the appropriate WMO, and County department for further review, prior to the city making a determination on the percentage of impervious surface allowed; and~~
- f. ~~For all properties within the Lower St. Croix River Bluffland and Shoreland Management District that exceed the DNR maximum allowed percentage of impervious surface (Reference Sec. 12-1636), a variance must be sought and forwarded to the DNR and a condition shall be in place that shall require annual monitoring by the applicant to ensure compliance with upkeep and maintenance of the facilities used to mitigate the effects of the impervious cover; and~~
- g. ~~Should the City Engineer determine that the maximum impervious surface coverage that the subject site can handle is less than the maximum allowed in the district per Section 12-132 (a)(11), the applicant shall not be allowed a variance to the extent of the maximum impervious coverage allowed, rather the applicant should submit alternative designs meeting the standards acceptable to the City; and~~
- h. ~~The City Administrator may require additional deposit via a letter of credit or performance bond; and~~
- i.d. ~~The development proposed by the applicant is in harmony with the goals of the Comprehensive Plan.~~
- j. ~~The maximum site coverage for places of worship and facilities for institutionalize persons in the Rural Residential and Agriculture District does not exceed 25 percent of the area of the parcel.~~

Sec. 12-134 Uses

	Agricultural (A)	Rural Residential (RR)	VHS- Residential (VHS-R)%	VHS- Commercial (VHS-C)	Industrial (I)	Marine Services (MS)
Two family Dwelling units	N	C	N	C	N	N
Planned Unit Development	N	N	N	C	N	N
Multiple family dwellings (six units or less, but no less than two)	N	N	N	C	N	N

Sec. 12-142. Village historic site, residential (VHS-R) and village historic site, commercial (VHS-C) zoning districts.

~~(A) Purpose. These districts are intended to recognize the unique and special land use qualities and problems of the old village, including small lot sizes and its proximity to the River. The purposes of these regulations are as follows:~~

~~(1) To assure that all uses, new development and construction, building and site rehabilitation, remodeling, property access, parking and pedestrian circulation are in conformity with the comprehensive plan;~~

~~(2) To develop and maintain these districts as an economic, social, and physical asset to the entire city;~~

~~(3) To recognize the unique and challenges of the old village not common to new commercial and residential areas;~~

~~(4) To promote the preservation and protection of the historic village, to enhancing the environmental quality of neighborhoods; and~~

~~(5) To provide an opportunity for all landowners and tenants to be aware of and comment upon all significant activities and development which may affect the well-being of the area.~~

~~(B) Permitted uses.~~

~~(1) As permitted by section 12-134; and~~

~~(C) Conditional uses.~~

~~(1) As permitted by section 12-134; and as regulated by the standards contained in section 12-78 and subsection (F) of this section.~~

~~(2) Multiple Family Dwellings provided that:~~

~~a. Building includes six (6) dwelling units or less without a PUD.~~

~~(D) Performance standards in the VHS-C District~~

~~(1) Performance standards~~

~~a. Parking~~

~~(1) The City Council, after receiving comments and recommendation from the Planning Commission, may exempt up to 50% of the off-street parking as required in section 12-196 of the Afton City Code provided the following:~~

~~(i) A public parking easement is placed over the remaining 50% of required off-street parking.~~

~~(2) The City Council, upon received comments and recommendation from the Planning Commission, may exempt additional required off-street parking provided the applicant pay a parking fee (per deficient parking stall) to be placed in a parking fund used by the City to construct future public parking. The parking deficiency fee shall be defined in the City's fee schedule and adopted by resolution.~~

~~b. Individual Septic Treatment Systems (ISTS Systems) and wastewater treatment systems:~~

~~(1) Any use which produces more than the flow of a single family house may not be permitted unless an approved system performance, partial soil based or advanced type of water conserving and/or wastewater pollution reduction system is installed to reduce the volume of flow to that of a single family house or a joint performance, partial soil based or advanced type of water conserving and/or waste water pollution reduction treatment system which meets and/or exceeds all applicable MPCA and Washington County Wastewater treatment rules and regulations, or whichever is the more restrictive is installed. Any CUP application in which the proposed use would require a joint treatment systems in the VHS district shall be reviewed and deemed acceptable by the Lower St. Croix Water Management Organization and Washington County Public Health prior to the application being accepted by the City.~~

~~(2) Washington County, and the City of Afton shall have the right to place additional conditions as part of the approval of any PUD to ensure the health, safety, and welfare needs of the community are met.~~

~~(3) All residential, commercial, and mixed uses shall comply with Chapter 12, Article 9 on Sewage in the Afton code of Ordinances.~~

~~(4) In addition to allowing utility easements on suitable city property, as far as practical, for existing buildings with failing septic systems, within the VHS District, the city shall also extend a~~

utility easement, if feasible, to allow for the replacement and/or expansion of a standard septic system into a joint performance, partial soil based or advanced type of wastewater treatment system or for an approved alternative wastewater treatment system which meets and/or exceeds all applicable MPCA and Washington County Wastewater treatment rules and regulations, or whichever is the more restrictive, is installed. (cross reference Section 12-83)

(5) ~~Substandard lots, which cannot support a standard septic system, may be determined to be buildable if an approved performance, partial soil based or advanced type of water conserving and/or wastewater pollution reducing system, which meets and/or exceeds all applicable MPCA and Washington County Wastewater treatment rules and regulations, or whichever is the more restrictive, is installed.~~

e. ~~Building Height, Density, maximum site coverage, number of buildings, and design standards.~~

(1) ~~Building Height~~

i. ~~No structure except those for public utilities and places of worship shall exceed height of 35 feet (see section 12-132(e)(1)(a)(b) and (c)).~~

(2) ~~Density and maximum site coverage~~

i. ~~The maximum site coverage and/or impervious surface in the VHS-C District, for any use or PUD may exceed the 20 percent maximum site coverage provided the applicant is able to demonstrate to the City Engineer, the Washington Conservation District engineer, and Lower St. Croix Water Management Organization engineer the LID calculations from the Impervious Surface Worksheet are deemed acceptable and the applicant is able to comply with all of the other relevant conditions, pertaining to exceeding the site coverage (impervious surface), in Section 12-132 of the Afton City Code.~~

(3) ~~Lot Size.~~

i. ~~An applicant shall follow the PUD requirements should the applicant propose two or more principal buildings on any (1) one lot (or contiguous lots under common ownership). All Planned Unit Developments are subject to the conditions of section 12-142(e).~~

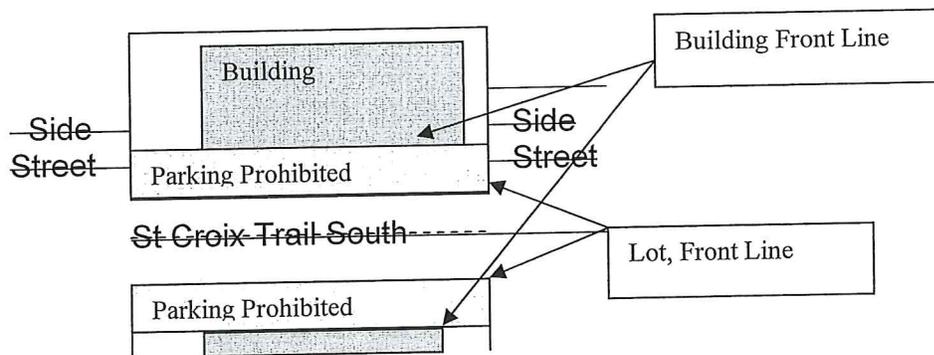
- ii. ~~An applicant proposing a mix of both residential and commercial uses shall apply for a PUD.~~

~~(4) Design Standards~~

- i. ~~No off-street parking or parking area shall be permitted within the front yard of any building fronting St. Croix Trail South in the VHS-C District. The length of the front yard shall be determined to be a line parallel to the closest point of the building facing St. Croix Trail and extending the entire length of the lot. (See Illustration 12A)~~

~~In the VHS-C District, driveway and parking ingress and egresses, along St. Croix Trail South, may be permitted within the front yard provided it meets the driveway access requirements of Section 12-84 of the Afton code.~~

Illustration A



~~(5) Uses:~~

- i. ~~Any development and/or building(s) which combine both residential and commercial uses shall constitute a PUD development.~~

~~(6) Substandard Lots~~

- i. ~~On substandard lots, meaning less than 22,500 square feet, multiple family and residential and commercial uses shall be allowed provided they follow the PUD requirements of section 12-142(e)(1), as well as all other applicable sections of this chapter.~~

~~(E) Planned Unit Developments are only permitted within the VHS-C District~~

~~(1) PUD requirements~~

- a. ~~Planned Unit Developments shall be process via a Conditional Use Permit as described in Section 12-78 of this Chapter.~~
- b. ~~The parking requirements of 12-196 and 12-142(d)(1)(a) shall apply to both primary and secondary uses.~~
- c. ~~The PUD shall comply with all of the minimum requirements of Section 12-132(a), (b), and (c) and Sec 12-142(d)(1)(c)(2) of the Afton City Code, with the exception of lots (or contiguous lots under common ownership) of less than 7,500 square feet may have a zero side yard setback.~~
- d. ~~If the proposed PUD cannot meet the requirements as outlined in Section 12-142(e)(1)(c) the project shall be scaled to the point of meeting the minimum requirements as outlined in this code of ordinances. The city shall have the right to deny any application should the PUD not meet the minimum requirements as outlined in this section.~~

~~(2) Additional PUD requirements~~

- a. ~~An explanation of the character of the planned development, along with a scaled site plan, including elevations of the proposal.~~
- b. ~~A statement of the present ownership of all land included within the planned development and a list of property owners within five hundred (500) feet of the outer boundaries of the property.~~
- c. ~~A general indication of the expected schedule of development including progressive phasing and time schedule.~~
- e. ~~A map giving the legal description of the property including approximate total square footage and indicating existing property lines and dimensions, ownership of all parcels, easements, street right-of-ways, utilities, buildings for the property and for the area five hundred feet beyond.~~
- f. ~~A plan to remedy traffic problems if requested by city staff, including, but not limited to, advise and direction from the City Engineer and/or Washington County Transportation.~~
- g. ~~A detailed map showing off-street parking and surrounding on-street parking, vehicular and pedestrian circulation and a count of all off-street parking and handicap parking stalls, including any parking exemption calculation as per Section 12-142(d)(1)(a).~~

- ~~h. A photometric plan illustrating the effects of light pollution both on-site and off-site adjacent to any other residential or PUD development with residential housing. All lighting shall comply with section 12-195 of the Afton City Code.~~
- ~~i. A development agreement addressing traffic, environmental, and easement concerns and issues.~~
- ~~j. Any additional information requested by the City Administrator, Planning Commission and City Council that might be required for clarification of the proposed project.~~
- ~~k. (25) copies of all required information shall be submitted at the time of application submittal.~~

~~(3) Requirements for the development agreement~~

- ~~a. If it is determined traffic improvements need to be made onto a city street the applicant shall be required to pay 100% for all necessary improvements, along with entering into a development agreement including providing the city with an escrow equal to 150% of the improvement during the duration of construction and following a (1) one year warranty period.~~

~~(F) Special Home Occupation (only permitted in the VHS-R District)~~

- ~~(1) Any home occupation which does not meet the specific requirements for a home occupation, as defined in Section 12-228 of the Afton Code of Ordinances shall require an interim use permit which shall be applied for, reviewed and terminated in accordance with the provisions of this Chapter. The application process for a Special Home Occupation shall follow the same minimum requirements as a conditional use permit (see Section 12-79(e)). A special home occupation shall also meet the following requirements:~~

- ~~a. Declaration of Conditions. The Planning Commission and City Council may impose such conditions on the granting of an interim use permit as may be necessary to carry out the purpose and provisions of this Section.~~
- ~~b. Effect of Permit. An interim use permit may be issued for a period of no greater than one (1) year. Prior to the one (1) year expiration notice the city must be made and approval must be granted to reissue the permit. After which a permit may be reissued at a maximum of five (5) year intervals. Notice of the~~

~~permit renewal application shall be provided to all property owners of land within five hundred (500') of the boundary of the property in question. The notice shall provide the date of consideration before the Planning Commission and indicate that parties may be heard to consider the application. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.~~

- ~~c. Renewal of Permits. An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered de novo without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.~~
- ~~d. Transferability. Administrative or interim use permits shall not run with the land and shall not be transferable.~~

~~(2) General Provisions~~

- ~~a. No special home occupation licenses shall be issued if the owner of the use does not reside within the principal dwelling and consider his/her place as their permanent place of residence.~~
- ~~b. Absolutely no business shall be transacted between the hours of 10 p.m. and 6 a.m.~~
- ~~c. No more than two signs shall be permitted. One nine (9) square foot wall sign may be permitted and one eight (8) square foot (either permanent or temporary) sign may be located within the front yard of the property.~~
- ~~d. Illuminated signs shall be prohibited in the VHS-R district~~

~~(3) A special home occupation permit is limited to the following uses:~~

- ~~i. Retail with less than 900 square feet of retail space~~
- ~~ii. Teaching with musical, dancing and other instruction of which the teaching must be conducted within the principal dwelling~~
- ~~iii. Photo/arts studio~~

- ~~iv. Barber Shop and Beauty Shop consisting of no more than two stations~~
- ~~v. Medical use consisting of no more than 3.0 FTE employees~~
- ~~vi. Office Use consisting of no more than 3.0 FTE employees~~
- ~~vii. Message consisting of no more than 3.0 FTE employees~~

~~(4) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where off-street parking facilities are necessary, the City Council shall maintain the right to establish the maximum number of off-street spaces required and increase or decrease that maximum number when and where changing conditions require additional review.~~

~~(G) Design Review~~

~~(1) Any application for any building shall undergo a separate review with the design review committee prior to its consideration at the planning commission. When reviewing an application the zoning administrator and the design review committee shall take into consideration:~~

- ~~(a) All work should be of a character and quality that maintains the distinguishing features of the building and the environment. The removal or alteration of distinctive architectural features should be avoided as should alterations that have no historical basis and which seek to create an earlier appearance. The restoration of altered original features, if documental, is encouraged.~~
- ~~(b) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.~~
- ~~(c) Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event of replacement, new materials should match the original in composition, design including consideration of proportion, texture and detail, color and overall appearance.~~
- ~~(d) New additions or alterations to structures should be constructed in such a manner that if such conditions or alternations were to be removed in the future, the form and integrity of the original structure would be unimpaired.~~
- ~~(e) The impact of alterations or additions on individual buildings as well as on the surrounding streetscape will be considered; major alterations to buildings which occupy a corner lot or are otherwise prominently sited should be avoided.~~
- ~~(f) New construction should be compatible with the historic and architectural character of the district~~

- ~~(g) The city design guidelines that are adopted by the city council as section 12-1621 et seq., provide additional guidance for design review.~~
- ~~(2) The zoning administrator may apply the guidelines in subsection (1) of this section and section 12-121 et seq., and, if the work is conforming, approve permits for the following types of work without convening the design review committee:~~
- ~~a. Reroofing~~
 - ~~b. Repair or replacement of porches, windows, siding, trim and doors if new materials match existing.~~
 - ~~c. Masonry finishing and chimney reconstruction~~
- ~~(3) The zoning administrator shall convene the design review committee for all types of work, including:~~
- ~~a. Roof alterations and skylights~~
 - ~~b. Alterations to the front or side elevations visible from the public street including alterations to windows, siding, and entries.~~
 - ~~c. Additions~~
 - ~~d. New construction including any accessory structures exceeding 25 square feet~~
 - ~~e. Demolition~~

~~(4) Exemptions~~

- ~~(a) Properties abutting Pennington Avenue and west of Pennington Avenue are exempt from the Design review standards of subsection (d) of this section and section 12-1621 et seq.~~

~~(H) Severability. In the event any section, subsection, clause, phrase, or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the City Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.~~

~~(a) Purpose. These districts are intended to recognize the unique and special environmental qualities and problems of the old village. The purposes of these regulations are as follows:~~

- ~~(1) To assure that all uses, new development and construction, building and site rehabilitation, remodeling, property access, parking and pedestrian circulation are in conformity with the comprehensive plan;~~
- ~~(2) To develop and maintain these districts as an economic, social, and physical asset to the entire city;~~
- ~~(3) To recognize the unique and special problems of the old village not common to new commercial and residential areas;~~

- (4) To provide an opportunity for all landowners and tenants to be aware of and comment upon all significant activities and development which may affect the well-being of the area; and
- (5) To promote the preservation and protection of historic structures to enhance the environmental quality of neighborhoods and to establish and improve property values.
- (b) Permitted uses. In addition to those uses permitted by section 12-134, the following uses shall be permitted: Interior remodeling, except those requiring structural alterations and those allowing a more intensive use of the structure.
- (c) Conditional uses. The following uses shall require a conditional use permit:
- (1) All public improvements;
 - (2) All signs;
 - (3) All new construction requiring a building permit and exceeding \$500.00 in assessed value as determined by the building official; and
 - (4) All exterior construction, alteration, remodeling or restoration of any structure or sign, except normal maintenance or repairs.
- (d) Standards for granting conditional use permits. A conditional use permit shall be issued by the zoning administrator if he determines the proposed use satisfies the following conditions and the conditions set forth in section 12-79:
- (1) All work should be of a character and quality that maintains the distinguishing features of the building and the environment. The removal or alteration of distinctive architectural features should be avoided as should alterations that have no historical basis and which seek to create an earlier appearance. The restoration of altered original features, if documentable, is encouraged.
 - (1) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (3) Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event of replacement, new materials should match the original in composition, design including consideration of proportion, texture and detail, color and overall appearance.
 - (4) New additions or alterations to structures should be constructed in such a manner that if such conditions or alterations were to be removed in the future, the form and integrity of the original structure would be unimpaired.
 - (5) The impact of alterations or additions on individual buildings as well as on the surrounding streetscape will be considered; major alterations to buildings which occupy a corner lot or are otherwise prominently sited should be avoided.
 - (6) New construction should be compatible with the historic and architectural character of the district.

(7) The city design guidelines that are adopted by the city council as section 12-1621 et seq., provide additional guidance for conditional use permit design review.

(e) Special uses.

(1) As permitted by section 12-134; and

(2) As regulated by the standards contained in section 12-78 and subsection (d) of this section.

(f) The design review committee.

(1) Established; members. ~~The design review committee appointed by the city council shall assist the zoning administrator in the conditional use design review process. The commission shall consist of five members, four of whom shall be appointed by the city council, and one member appointed by the Afton Historical Society. Any member appointed to serve on the design review committee shall have a demonstrated interest and/or expertise in historic preservation. At least two members must be professional in a field related to preservation (architecture, history, planning, design, construction, law, and so forth).~~ is a function of the Heritage Preservation Commission described in 2-152.

(2) Determination of level of review; minor work. The zoning administrator may apply the guidelines in subsection (d) of this section and section 12-1621 et seq., and, if the work is conforming, approve permits for the following types of work without convening the design review committee:

a. Reroofing.

b. Repair or replacement of porches, windows, siding, trim and doors if new materials match existing.

c. Masonry finishing and chimney reconstruction.

(3) Determination of level of review; major work. The zoning administrator shall convene the design review committee review of all other types of work, including:

a. Roof alterations and skylights.

b. Alterations to the front or side elevations visible from the public street including alterations to windows, siding, entries, and trim.

b. Additions.

c. New construction, including garages.

d. Demolition.

(g) Exemptions.

(1) Properties abutting Pennington Avenue and west of Pennington Avenue are exempt from subsection (d) of this section and section 12-1621 et seq.

(2) Residences constructed after 1940 and before January 1, 1995, shall be exempt from subsection (d) of this section and section 12-1621 et seq., unless the proposed work involves additions, the construction of new accessory buildings or demolition.

Sec. 12-196. Parking

~~(e) Reduction of number. Off-street parking spaces in the VHS-C District may be reduced in number provided they meet the conditions of Section 12-142(d)(1)(a).~~

(e) Reduction of number. Off-street parking spaces shall not be reduced in number unless such number exceeds the requirements set forth herein.

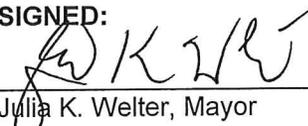
Sec. 12-637. Minimum district dimensional requirements., Subdivision (a)

	Rural	VHS
(9) Maximum total lot area covered by impervious surface	10% (1 ½ acre)	<u>10 percent or 4,350 sq. ft., whichever is greater 20%</u>

This ordinance also repeals interim ordinance 02-2007 and interim ordinance 04-2007, which had established a moratorium on land use applications and the issuance of permits within the VHS-C land use district.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 9th DAY OF JANUARY, 2008.

SIGNED:



Julia K. Welter, Mayor

ATTEST:



Shelly K. Strauss, City Administrator

Motion By: Welter
Second By: Richter
Mucciacciaro: No
Richter: Yes
Nolz: Yes
Nelson: No
Welter: Yes

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CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE TO AMEND CHAPTER 12, LAND USE, BY AMENDING SECTION 12-145
AND AMENDING ARTICLE XII, TO ALLOW PRESERVATION AND LAND CONSERVATION
DEVELOPMENTS IN THE AGRICULTURAL DISTRICT.

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

SECTION 1. Section 12-145 of the Afton Code of Ordinances is hereby amended to read as follows:

Sec. 12-145. Preservation and Land Conservation Development (PLCD) Planned Agricultural Unit Development (PAUD) Overlay District.

- (a) Purpose. To encourage a more creative and efficient development of land and its improvements through the preservation of agricultural land, natural features and amenities than is possible under the more restrictive application of zoning requirements, while at the same time, meeting the standards and purposes of the comprehensive plan and preserving the health, safety, and welfare of the citizens of the city, in the AG zoning district as provided in Article XII of Chapter 12.
- (b) Permitted uses. As permitted and regulated under Chapter 12.

SECTION 2. Article XII of the Code of Ordinances is hereby amended to read as follows:

ARTICLE XII. AFTON PRESERVATION AND LAND CONSERVATION DEVELOPMENTS
PLANNED AGRICULTURAL UNIT DEVELOPMENTS

Sec. 12-2371. Scope.

This article applies to Planned Agricultural Unit Development (PAUD) Preservation and Land Conservation Developments (PLCD) in the Agricultural (AG) zoning district.

Sec. 12-2372. General provisions.

A PAUD-PLCD is a tract of land that is developed as a unit under single or unified ownership or controls. A Planned Agricultural Unit Development Preservation and Land Conservation Development may be allowed in the AG zoning district to preserve prime agricultural land, woodland, wildlife habitat, vistas, groundwater recharge areas, areas with sensitive soils or geological limitations and areas identified in the Comprehensive Plan. Uses not otherwise allowed in the zoning district are prohibited within a planned development unless specifically permitted by provisions of this ordinance. ~~provisions are made.~~

Sec. 12-2373. Purpose.

The purposes of this article are:

- (1) To permit subdivisions in the Agricultural Zoning District which require the construction of a new public street.
- (2) To encourage a more creative and efficient development of land and its

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improvements through the preservation of agricultural land, natural features and amenities than is possible under the more restrictive application of zoning requirements, while at the same time, meeting the standards and purposes of the comprehensive plan and preserving the health, safety, and welfare of the citizens of the city.

- (3) To ~~ensure concentration of~~ preserve open space ~~into more usable areas~~, to preserve the natural resources of the site and to preserve wildlife habitat and corridors.
- (4) To facilitate the economical provision of streets and public utilities.
- (5) To allow the transfer of development rights (density) within a subdivision in order to preserve agricultural land, open space, natural features and amenities.

Sec. 12-2374. Permitted uses.

The Permitted Uses are:

- (1) Those uses that are permitted in the underlying zoning district;
- (2) Subdivisions that require the construction of a new public street in the AG zoning district;

Sec.12-2375. General standards for approval.

A conditional use permit shall be required for all ~~planned agricultural unit~~ preservation and land conservation developments. The city may approve the ~~planned unit~~ preservation and land conservation development only if it finds that the development satisfies all of the following standards:

- (1) The preservation and land conservation development is consistent with the comprehensive plan of the city.
- (2) The ~~planned agricultural unit~~ preservation and land conservation development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities.
- (3) The ~~planned agricultural unit~~ preservation and land conservation development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- (4) The tract is, ~~at least,~~ a minimum of 30 ~~eighty (80) contiguous acres in size unless the applicant can show that a PLCD of less acreage meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the city~~ and that all of the following conditions exist:
 - (a) The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
 - (b) The proposal would benefit the area surrounding the project to a greater degree than development allowed within the underlying zoning district.
 - (c) The proposal would provide land use and/or site design flexibility while enhancing site or building aesthetics to achieve an overall higher quality of development than would otherwise occur in the underlying zoning district.

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(d) The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site more effectively than would otherwise occur in the underlying zoning district.

(5) At least fifty (50) percent of the total tract is preserved as an undeveloped parcel.

Sec. 12-2376. Exceptions to Density, Frontage on a Public Street and Length of Cul de sac requirements:

- (1) The average density over the proposed PAUD PLCD shall not exceed the maximum density permitted in the underlying zoning district. ~~except that the property owner shall be granted a bonus of one dwelling unit per forty contiguous acres preserved in the AG zoning district. All development rights from the preserved forties shall be transferred to the other participating parcel(s) unless the permitted number of lots for dwelling units cannot be platted on the remaining parcel(s), in which case a maximum of one dwelling unit may be permitted on the preserved 40-acre parcel.~~
- (2) The minimum requirement for frontage on an improved public street may be reduced, as long as the minimum lot width at the building setback line is maintained, to encourage and accommodate curvilinear streets that better preserve the rural character or other resources within the PAUD PLCD.
- (3) The maximum length of cul de sacs may be exceeded to accommodate curvilinear streets and other design elements that tend to preserve the rural character or other resources within the PAUD PLCD.

Sec. 12-2377. Coordination with subdivision regulations.

- (1) It is the intent of this article that subdivision review under Chapter 12 be carried out simultaneously with the review of a planned development under this article.
- (2) The plans required under this article must be submitted in a form that will satisfy the requirements of Chapter 12 for the preliminary and final plats.
- (3) Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may not be joined to a PLCD.

Sec. 12-2378. Pre-application meeting.

Prior to the submission of any plan to the planning commission, the potential applicant is encouraged to meet with the city administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a conditional use permit and a preliminary plat. The potential applicant may submit a simple sketch plan at this stage for informal review and discussion. The potential applicant is urged to seek the advice and assistance of the city staff to facilitate the informal review of the outline plan and preliminary plat simple sketch plan. The pre-application meeting process is entirely optional for the potential applicant and does not constitute an application within the meaning of this section.

Sec. 12-2379. General development plan.

- (1) An applicant shall make an application for a Conditional Use Permit following the

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procedural steps as set forth in Section 12-78.

- (2) In addition to the criteria and standards set forth in Sec. 12-78 of this article for the granting of special conditional use permits, the following additional findings shall be made before the approval of the outline development plan:
 - (a) The proposed PAUD PLCD is in conformance with the comprehensive plan.
 - (b) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
 - (c) Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
 - (d) The PAUD PLCD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities that serve or are proposed to serve the district.
 - (e) The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- (3) The following exhibits shall be submitted to the city administrator by the proposed developer as a part of the application for a conditional use permit:
 - (a) An explanation of the character of the proposed preservation and land conservation development and the manner in which it has been planned to take advantage of the ~~planned development~~ preservation and land conservation development regulations.
 - (b) A statement of the present ownership of all the land included within the ~~planned~~ proposed preservation and land conservation development and a list of property owners within five hundred (500) feet of the outer boundaries of the property.
 - (c) A general indication of the expected schedule of development including progressive phasing and time schedule.
 - (d) A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street rights-of-way, utilities, buildings and use for the property and for the area five hundred (500) feet beyond.
 - (e) Natural features maps or maps of the property and area five hundred (500) feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil conditions.
 - (f) A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
 - (g) Full description as to how all necessary governmental services will be provided to the development.
 - (h) An engineering report presenting results of percolation tests and soil analysis of the site.
 - (i) Any additional information requested by the city administrator, planning commission and city council that might be required for clarification of the proposed project.
 - (j) Twenty-five (25) copies of all required information shall be submitted.
- (4) The applicant shall also submit a preliminary plat and all the necessary documentation as required under Chapter 12 for all or that portion of the project to

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be platted. For purposes of administrative simplification, the public hearings required for the conditional use permit and preliminary plat may be combined into one (1) hearing or may be held concurrently.

Sec. 12-2380. Final development plan.

- (1) Within ninety (90) days following the approval of the general development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the city administrator a final development plan containing in final form the information required in the general development plan plus any changes recommended by the planning commission and the city council as a result of the public hearing. The applicant shall also submit a final plat for that entire portion to be platted.
- (2) The city administrator shall submit the final development plan and the final plat to the planning commission for review.
- (3) The final development plan and the final plat shall conform to the general development plan and preliminary plat plus any recommended changes by the planning commission or city council to the general development plan and preliminary plat.
- (4) The city council shall review the final development plan and final plat. If the final development plan is approved by the city council, the city administrator shall issue a conditional use permit to the applicant.
- (5) 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 PAUD 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 PAUD PLCD and the land cover and use approved by the City of Afton as a part of this PAUD 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.

Sec. 12-2381. Enforcement of development schedule.

The construction and provisions of all of the common open spaces and public and recreational facilities that are shown on the final development plan must proceed at the same phase as the construction of dwelling units. At least once every six (6) months following the approval of the final development plan, the city administrator shall review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If he shall find that the rate of construction of dwelling units is greater than the rate at which common open space and public and recreational facilities have been constructed and provided, he shall forward this information to the city council, which may revoke the planned-unit-development PLCD permit.

Sec. 12-2382. Conveyance and maintenance of ~~common open space~~ undeveloped parcel.

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- (1) All land shown on the final development plan as ~~common open space~~ an undeveloped parcel must be conveyed to a homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The ~~common open space undeveloped parcel~~ must be conveyed to the homeowners association or similar organization subject to covenants to be approved by the city council which restrict the ~~common open space undeveloped parcel~~ to the uses specified on the final development plan and which provide for the maintenance of the ~~common open space undeveloped parcel~~ in a manner which assures its continuing use for its intended purpose.
- (2) If a homeowners association is created, the applicant shall submit plans at the time of final plan of development and documents which explain:
 - (a) Ownership and membership requirements.
 - (b) Articles of incorporation and bylaws.
 - (c) Time at which the developer turns the association over to the homeowners.
 - (d) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

Sec. 12-2383. Standards for ~~common or open space undeveloped parcel~~.

No open area may be approved as ~~common open space undeveloped parcel~~ under the provisions of this article unless it meets the following standards:

- (1) The location, shape, size, and character of the ~~common open space undeveloped parcel~~ must be suitable for the planned development.
- (2) ~~Common open space~~ The undeveloped parcel must be used for amenity or recreational purposes. The uses authorized for the ~~common open space undeveloped parcel~~ must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- (3) ~~Common open space~~ The undeveloped parcel must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the ~~common open space undeveloped parcel~~ must be appropriate to the uses which are authorized for the ~~common open space undeveloped parcel~~ and must conserve and enhance the amenities of the ~~common open space undeveloped parcel~~ having regard to its topography and unimproved condition.

Sec. 12-2384. Review and amendments.

- (1) The city administrator shall review all ~~PAUDs~~ PLCDs within the city at least once each year and shall make a report to the city council on the status of the development in each of the ~~PAUD~~ PLCD districts. If the city administrator finds that the development has not commenced within one (1) year after the original approval of the ~~special conditional use~~ for the ~~PAUD~~ PLCD, the city administrator may recommend that the city council revoke the conditional use permit as set forth in Section 12-78 of this chapter. Prior to cancellation or revocation of this permit, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- (2) For additional phases of the ~~PAUD~~ PLCD, if within ~~five (5)~~ two (2) years of completion of the prior phase, the project has not progressed, the city administrator may recommend that the city council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the ~~PAUD~~ PLCD, the ~~city council~~ Planning Commission shall hold a public hearing at which time all

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interested parties will be given an opportunity to be heard.

- (3) Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
- (4) Approval of the planning commission and city council shall be required for other changes such as rearrangement of lots, blocks and building tracts. Those changes shall be consistent with the purpose and intent of the approved final development plan.
- (5) Any amendment to the ~~PAUD~~ PLCD shall require the same procedures as for the application for a conditional use permit as set forth in this chapter.
- (6) This Ordinance shall be in full force and effect from the date of the publication of this Ordinance.

SECTION 3. This amendment shall be in full force and effective immediately following its passage and publication.

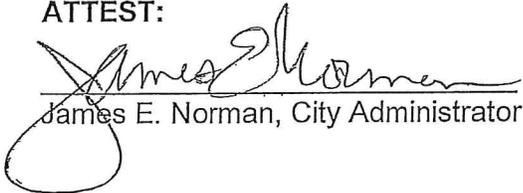
ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 15th DAY OF APRIL, 2008.

SIGNED:



Julia K. Welter, Mayor

ATTEST:



James E. Norman, City Administrator

Motion By: Richter
Second By: Welter
Mucciacciaro: No
Richter: Aye
Nolz: Aye
Nelson: No
Welter: Aye

January 5, 2018

To: Afton City Council

Ron Moorse, City Administrator

From: Citizens Concerned for Afton

RE: PUD/PLCD Discussion before City Council on January 9, 2018

This addresses some of the comments in a memo dated December 18, 2017 by the City Planner, Stephen Grittman. Mr. Grittman (Planner) responded to citizen correspondence, and correspondence from its attorney, (both attached) regarding whether a PLCD is a PUD within the meaning of the Afton City ordinances.

First, the Planner can provide all the paper he wants showing other city and county ordinances but the question is: *What does the Afton City ordinance show?* As the Planner knows, cities including Afton, have use tables that identify permitted uses and if a use is not listed, it is not permitted. The use table in the Afton shoreland ordinance says PUDs are prohibited at Sec. 12-363.B.1.I. That actually means something. The real and only question here is: What does the use table refer to where it says that a PUD is not a permitted use in the shoreland along a trout stream. The only thing it could be within the Afton ordinance is a PLCD. This is further supported by the redlined version of the ordinance showing the history of the change from a PAUD to a PLCD ordinance where essentially the only change was to replace the word PAUD with PLCD.

We will not address all the responses the Planner makes to the citizen memo because the attorney opinions of the City attorney (finding that it is "strongly suggestive" that a PLCD is a PUD) and the citizen's attorney carry far more weight when addressing a legal interpretation, but we will address some key assertions:

1. The Planner says the PUD definition in MN rules does not apply because there is no unified site design or density increases, etc. He is just plain wrong. In fact, the PLCD ordinance requires at 12-2375.A.2 that: "The preservation and land conservation development is an effective and unified treatment of the development possibilities on the project site and the development plan provides....(emphasis added). Furthermore, there is obviously a density increase when the underlying agricultural zoning would not allow the proposed 5-acre lots. Why would the developer be bothering with a PLCD if this were not the case?
2. Second, the citizen letter and its attorney's analysis, did not have to rely on secondary authority as the Planner did to support their view that a PLCD is a PUD. State law makes it clear as does the plain reading of our ordinance and its legislative history. But we find it interesting that the City Planner discounts the definition of a PUD that the Minnesota League of Cities provides as guidance to cities all over the state. The City planner dismisses the League as just a "lobbying group" that cannot be relied upon. Maybe the Planner is not aware that the League, through its insurance trust, actually defends cities in litigation on the interpretation of land use matters just like these.

Lastly, as a matter of City policy, we are concerned with the tone of the Planner's response to a citizen letter and the letter of its attorney. The tone is not of a professional providing its best advice to a City looking at both sides of an issue but instead the tone of an advocate for a cause. Given the past missteps in reading our ordinance by the Planner's firm and this recent advocacy, we are concerned whether the City is getting the best representation on these matters that are so important to the future of our City and its citizens.

December 15, 2017

Via U.S. Mail and Email (rmoose@ci.afton.mn.us)

Mayor Richard Bend and
Members of the City Council
City of Afton
3033 St Croix Trail S.
PO Box 219
Afton, MN 55001

Re: Afton Creek Preserve application
Our File No. 28697

Dear Mayor Bend and Council members:

I represent Citizens Concerned for Afton, and I am writing today to address a number of points in Mr. Moose's December 14 Council Action Memo regarding the proposed Afton Creek Preserve PLCD.

The first point I wish to address is the statement in the Memo that the interpretation of ordinance provisions is "within the Council's powers." With all due respect to Mr. Moose and the Council, this statement does not fully address where the ultimate power to interpret ordinances actually lies. It is certainly the case that, *in the first instance*, the authority to interpret ordinances rests with the Council or its designee. But that requires the City to apply its ordinances as they are written and resort to "interpretation" only when an ordinance is unclear or ambiguous. However, it is ultimately the courts that resolve disputed ordinance interpretations, and the Courts perform this function *de novo*, without giving any deference to a city council interpretation. See *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980) ("while issues of fact and legislative policy-making decisions should be left to the city's determination, subject only to the broad limits of the 'arbitrary and capricious' standard, the interpretation of an existing ordinance is a question of law for the court"). The City must therefore apply its ordinances as they are written, or risk reversal by the district court.

Here, the ordinance without question states that PUDs are not a permitted use in shoreland areas. The ordinance does not define the term PUD, but the only possible use it could be referring to is a PLCD; nothing else in the ordinance comes close. The law requires the City to give meaning to every word of an ordinance, see *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 291 (Minn. 2013), and the only way to do that here is to conclude that the term "PUD" in the use table in Sec. 12-363(B) refers to a PLCD. (It is also worth noting that the legislative history of the PLCD ordinance that is included with the Council Action Memo shows that the PLCD ordinance is largely just the old PUD ordinance with a name change.)

The second issue is the suggestion in the Council Action Memo that in the absence of a definition of PUD in the Afton City Code the City can rely on a definition from a general legal treatise that was provided in a November 30 letter from the City Attorney. Even if this matter could not be resolved based on an interpretation of the prohibition on PUDs in the use table in

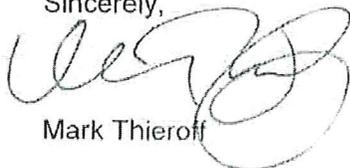
Sec. 12-363, reliance on a secondary source like a treatise would be inappropriate because the Minnesota state shoreland rules provide a definition of PUD that is binding on the City:

"Planned unit development" means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses.

Minn. R. 6120.2500, subp. 12. The proposed PLCD is plainly a planned unit development under this definition—it involves a unified site design for a number of dwelling units and a form of clustering to provide areas of common open space and increased density.

Finally, the Council Action Memo indicates that the City's planning consultant has suggested that a PLCD can be distinguished from a PUD based on the fact that a PLCD that does not comply with general zoning provisions requires separate variances, whereas such deviations can be approved as part of a PUD approval, without the need for variances. This argument should not even be considered for the reasons outlined above, because the prohibition of PUDs in the shoreland is plain on its face. In any event, nothing in the City Code supports the planner's argument, and fact that a PLCD applicant may need a subdivision variance does not take a PLCD outside of the definition of a PUD.

Sincerely,



Mark Thieroff

612.337.6102 | Direct
markthieroff@siegelbrill.com

December 18, 2017

TO: Ron Moore and Afton City Council
FROM: Citizens Concerned for Afton
RE: PUDs and PLCDs in the Afton Shoreland District

Thank you for the opportunity to provide comments on the above-referenced issue.

1. **Planned Unit Developments (PUDs) are Prohibited in the Afton Shoreland District**

- Afton's ordinance specifically prohibits Planned Unit Developments (PUDs) in its shoreland district at Sec. 12-363(B)1.I.
- Minn Rule 6120.3800, subpart 1 (attached) says local governments must consider the use of Planned Unit Developments (PUDs) in their shoreland districts
 - municipalities only have obligation to consider but have no obligation to allow PUDs in shoreland.
 - if they allow PUDs in shoreland, their ordinances must include all the restrictions, procedures, and information requirements set for the state law at Minn. Rule 6120.3800
- Cities can choose to be more protective of their shoreland and not encourage any development near or within their shorelines
- Afton made this choice by specifically prohibiting PUDs in the shoreland district as stated in 12-363(B)I.
- If Afton now wants to consider allowing PUDs in shoreland, it must follow the procedures set forth in state law to do so and amend its ordinance

2. **A PLCD is a type of PUD and is Prohibited in the Afton Shoreland District**

- No specific definition of a PLCD so next step is to look at the many legal definitions of PUD to see if a PLCD fits within it.
- City Attorney December 1, 2017 opinion on page 7-8 says his research "***strongly suggestive***" that PLCD is PUD as commonly understood in the real estate industry. He relies on a legal treatise to support this view.
- Minnesota law supports the same view without resorting to relying on a treatise but instead looking at the definition in state law. Minn. Rule defines PUD as: "*Planned unit development means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses.*" Minn. R. 6120.2500, subp. 12 (attached). The Afton PLCD is plainly a planned unit development under this definition-it involves a unified site design for a number of dwelling units and a form of clustering to provide areas of common open space and increased density.

- MN League of Cities defines PUD as *"A development of contiguous land area that contains developed clusters intermixed with green space or commercial or public development. Often the cluster development allows greater density than normally permitted in the development, in exchange for some other benefit such as green space or open space."* Mn League of Cities, Information Memo Zoning Guide for Cities, page 7 (attached). This definition also encompasses a PLCD.
- The history of adoption of the Afton PLCD ordinance is also important to consider. Afton's PUD ordinance was merely replaced by the PLCD ordinance almost verbatim.
 - The actual City resolution approving the PLCD ordinance (attached) shows the markup of the PUD ordinance. It clearly indicates that the word PLCD was merely substituted for the word PUD in the scope and general provisions indicating they are essentially interchangeable terms.
- Afton City Planner says because PLCD applicant may need subdivision variance that the PLCD can't be a PUD. There is absolutely no authority for that premise. The fact that a PLCD applicant may need a subdivision variance does not take a PLCD outside of the definition of a PUD.
 - Planner's attempt at 'interpreting' the PLCD ordinance beyond its plain meaning is yet another misreading of our ordinances and the law and an attempt to bend over backwards to maximize density in the PLCD.
- The City does not have authority to interpret ordinances beyond its plain meaning. Here PUDs are strictly prohibited in shoreland. Furthermore, the legal definitions in treatises, Minnesota law, and the MN League of Cities Zoning Guide *all* point to a PLCD being a type of PUD. Thus, a PLCD can not be included in the Afton Shoreland District.

Minnesota Administrative Rules

Authenticate

6120.3800 PLANNED UNIT DEVELOPMENT.

Subpart 1. Scope of planned unit development provisions. Local governments must consider incorporating, with approval of the commissioner, provisions into shoreland management controls to allow planned unit developments. The provisions may allow planned unit developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. During the period between adoption of parts 6120.2500 to 6120.3900 and adoption of local government official controls meeting the planned unit development standards in part 6120.3800, preliminary plans for each planned unit development must be reviewed for consistency with part 6120.3800 and approved by the commissioner before final local government approval.

Subp. 2. Land use district designation. If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:

- A. existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- B. physical and aesthetic impacts of increased density;
- C. suitability of lands for the planned unit development approach;
- D. level of current development in the area; and
- E. amounts and types of ownership of undeveloped lands.

Expansions to existing commercial planned unit developments involving up to six dwelling units or sites, unless the density determined under subpart 6, item A is exceeded, may be allowed as permitted uses under standards developed by local units of government. The date of effect of official controls adopted by each local government under this part must be the base date for determination of expansions. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this part.

Subp. 3. Information requirements. Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

- A. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours

RELEVANT LINKS:

Cities should strive for zoning that meets their goals as simply and efficiently as possible. Above all, a zoning ordinance should be a practical document that is as enforceable as possible.

Depending upon the individual needs of the city, a zoning ordinance also may contain provisions for the following:

- Mixed use or hybrid districts. Districts that do not neatly meet the traditional district categories of residential, commercial or industrial use, but may contain a blend of uses. For example, a "downtown mixed use district" that features a blend of commercial uses and multifamily residences.
- Planned Use Development (PUD) or cluster development: A development of contiguous land area that contains developed clusters intermixed with green space or commercial or public development. Often the cluster development allows greater density than normally permitted in the development, in exchange for some other benefit, such as green space or open space.
- Overlay district: A district developed to "overlay" one or more existing zoning districts that imposes additional zoning requirements. Overlay districts may be developed with a specific land area in mind or may be developed to "float" until anchored to a suitable development proposal. In some cities, overlay districts may be structured as conditional uses.

See the definition as PUD encompasses

5. Natural resource protection and flood plain provisions

Zoning in cities that contain certain natural resources, such as lakes and rivers, or that sit within a floodplain, also may contain the following:

- Floodplain requirements: Floodplain management ordinances are required by state law. Flood plain ordinances regulate the use of land in the floodplain to preserve the capacity of the floodplain to carry and discharge regional floods and minimize flood hazards.
- Wild and scenic rivers development requirements: Wild and Scenic Rivers development ordinances are required by state law for cities that have shoreland located within the Minnesota Wild and Scenic Rivers System. These ordinances must comply with state standards set by the Commissioner of Natural Resources.
- Shoreland development requirements: For cities that contain shore land, these zoning regulations control the use and development of its shorelands. City shore land regulations must be at least as restrictive as state standards and are subject to the review of the Commissioner of Natural Resources.

Minn. Stat. § 103F 121
Minn. R. 6120.5000
See MN DNR sample floodplain management ordinances.
See also MN DNR for more information and resources on floodplain management

Minn. Stat. § 103F 335

See also MN DNR website for more information on MN Wild and Scenic Rivers.

Minn. Stat. § 103F 221
Minn. R. 6120.2500 - 3900
See shoreland management ordinance, DNR Model
See also MN DNR website for more information and resources on shoreland management

Subp. 7b. **Industrial use.** "Industrial use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subp. 7c. **Intensive vegetation clearing.** "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subp. 8. **Lot.** "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Subp. 9. **Lot width.** "Lot width" means the shortest distance between lot lines measured at the midpoint of the building line.

Subp. 10. **Nonconformity.** "Nonconformity" means the same as that term is defined or described in Minnesota Statutes, chapter 394.

Subp. 11. **Ordinary high water level.** "Ordinary high water level" means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

§ Subp. 12. **Planned unit development.** "Planned unit development" means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Subp. 13. **Public waters.** "Public waters" means any waters as defined in Minnesota Statutes, section 103G.005, subdivisions 15 and 15a. However, no lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.3900.

ORDINANCE 06-2008

CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE TO AMEND CHAPTER 12, LAND USE, BY AMENDING SECTION 12-145
AND AMENDING ARTICLE XII, TO ALLOW PRESERVATION AND LAND CONSERVATION
DEVELOPMENTS IN THE AGRICULTURAL DISTRICT.

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

SECTION 1. Section 12-145 of the Afton Code of Ordinances is hereby amended to read as follows:

Sec. 12-145. Preservation and Land Conservation Development (PLCD) Planned Agricultural Unit Development (PAUD) Overlay District.

(a) Purpose. To encourage a more creative and efficient development of land and its improvements through the preservation of agricultural land, natural features and amenities than is possible under the more restrictive application of zoning requirements, while at the same time, meeting the standards and purposes of the comprehensive plan and preserving the health, safety, and welfare of the citizens of the city, in the AG-zoning-district as provided in Article XII of Chapter 12.

(b) Permitted uses. As permitted and regulated under Chapter 12.

SECTION 2. Article XII of the Code of Ordinances is hereby amended to read as follows:

ARTICLE XII. AFTON PRESERVATION AND LAND CONSERVATION DEVELOPMENTS
PLANNED AGRICULTURAL UNIT DEVELOPMENTS

Sec. 12-2371. Scope.

This article applies to Planned Agricultural Unit Development (PAUD) Preservation and Land Conservation Developments (PLCD) in the Agricultural (AG) zoning district.

Sec. 12-2372. General provisions.

A PAUD-PLCD is a tract of land that is developed as a unit under single or unified ownership or controls. A Planned Agricultural Unit Development Preservation and Land Conservation Development may be allowed in the AG zoning district to preserve prime agricultural land, woodland, wildlife habitat, vistas, groundwater recharge areas, areas with sensitive soils or geological limitations and areas identified in the Comprehensive Plan. Uses not otherwise allowed in the zoning district are prohibited within a planned development unless specifically permitted by provisions of this ordinance, provisions are made.

Sec. 12-2373. Purpose.

The purposes of this article are:

- (1) To permit subdivisions in the Agricultural Zoning District which require the construction of a new public street.
- (2) To encourage a more creative and efficient development of land and its

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

Planning Commission Memo

Meeting: February 5, 2018

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorese, City Administrator

Date: January 30, 2018

Re: Afton Creek Preserve PLCD Subdivision Application, including Rezoning, Preliminary Plat and Conditional Use Permit on 219 acres of land at 14220 60th Street and parcels with PID Numbers 33.028.20.33.0005, 33.028.20.33.0004, 33.028.20.32.0001, 32.028.20.41.0002, 32.028.20.42.0004, and 32.028.20.43.0001.

At the January 8 Planning Commission meeting, Chair Ronningen requested that the Afton Creek Preserve PLCD subdivision application be added to the meeting agenda and proposed a motion to deny the application, or alternatively to ask the applicant to withdraw his preliminary plat application with refund of any application fees not used by the city and resubmit an application with one proposed preliminary plat drawing that meets the City of Afton's ordinances without the need for a rezoning or variances. The motion and a set of findings on which the motion was based were provided to the Commission members for their review and discussion. After discussion by the Commission members and revisions to the proposed findings, the Planning Commission, on a vote of 8-0-0, approved the motion for denial or withdrawal of the Afton Creek Preserve PLCD subdivision preliminary plat application. The minutes of the Planning Commission meeting, which include the motion and findings, are included in the agenda packet.

The Planning Commission's recommendation was placed on the January 16 Council meeting for consideration by the City Council. The applicant, Joe Bush, provided the attached letter to the Council expressing concern that the consideration of an action regarding his application was added to the agenda and a recommendation was made by the Planning Commission without any notice to him or others who may have wanted to attend the meeting. The letter also referenced Sec. 2-146 of the City Code regarding Planning Commission agendas that requires that a written agenda including all items to be considered at a regular meeting of the Planning Commission is to be provided to the commission members, the City Council and the public no less than five days before each meeting. (please see the language below). Based on this ordinance language, the City Attorney recommended this item be referred back to the Planning Commission for a new action with proper notice. The Council then referred this item back to the Planning Commission for proper posting and consideration.

Sec. 2-146. Agendas. The city administrator shall cause all items to be considered at any regular meeting to be placed on a written agenda ten days before the regular meeting. The city administrator shall advise the chairperson of any matters the commission must consider by council directive, ordinance or statute and shall have prepared and mailed a written agenda of all meetings to all commission members, the city council and the public, no less than five days before each meeting.

Request from Applicant to Address Motion and Findings

Mr. Bush has requested an opportunity to address the Planning Commission's motion and findings and to update the Commission regarding the proposed preliminary plat with a revised design plan that is to be submitted for the Planning Commission's review at its March meeting. Mr. Bush will provide a letter regarding his request in advance of the Planning Commission meeting.

Planning Commission Consideration

The Planning Commission may want to move forward to take action regarding a recommendation on the application, or may not want to take action on the application at this time based on the preliminary plat with a revised design plan coming before the Commission in March.

Planning Commission Recommendation:

Motion regarding the Afton Creek Preserve PLCD Subdivision.



J.P. Bush

H O M E S

January 12-2018

City of Afton City Council Members

Property: 14220 60th St S Afton MN 55001
Will Carlson owned 218.6 Acres

Regarding: City Council Meeting Scheduled for 1-16-2018

Dear Mayor, Council members, City Staff.

Please read this letter with your information packet for the Tuesday Jan. 16th meeting. Or if needed please have Ron Moose read during the meeting as comments are allowed. Unfortunately, I will not be able to attend the Jan. 16th Meeting.

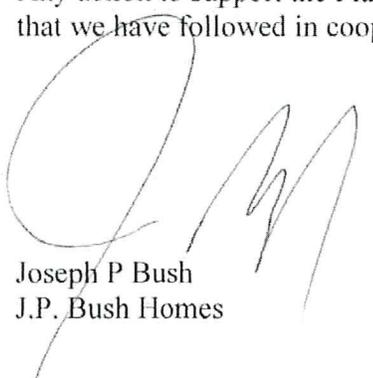
Yesterday I was informed an unscheduled Agenda item was added to the Planning Commission meeting held on Monday Jan 8th. Chair Barbara Ronningen injected a significantly impacting motion regarding Afton Creek Preserve. The motion was discussed and voted on with intentions of potential City Council actions on its Jan 16th Meeting.

1. First, I question the Rules of Procedure using the City Adopted (Revised Roberts Rules) and the written code Sec. 2-146. **Agendas** The city administrator shall cause all items to be considered at any regular meeting to be placed on a written agenda ten days before the regular meeting. The city administrator shall advise the chairperson of any matters the commission must consider by council directive, ordinance or statute and shall have prepared and mailed a written agenda of all meetings to all commission members, the city council and the public, no less than five days before each meeting.
2. In the event the City Council does not agree with my Procedure objection. I add additional information for consideration.
3. Without proper notice of such an involved motion, the planning commission did not read or study the affects of over one dozen items that the Chair presented in her motion. In addition: if proper notice was given to me (The Developer) questions by Planning Commission members could have been addressed.
4. Present at the Planning Commission meeting, Council Member Joe Richter the (Liaison). Not present, City Attorney, City Planner, or myself.
5. Due to the short notice of the added Agenda item, my schedule does not allow me to be in attendance for the Jan 16th City Council Meeting.

I ask the council to consider no formal action on the item being presented by the planning commission for Afton Creek Preserve. The reasons stated above, and the reason listed below are argument for consideration.

1. Randy Nelson will not be present for appropriate discussions and actions.
2. I will not be Present to defend or answer any of the 12 items.
3. On January 9th The Council voted 4-0 to have the PUD/PLCD issue follow proper procedure of Public hearing, Planning Commission review and City council vote in the upcoming February meetings.
4. I need to make it very clear that we (The Developer) have spent significant time and money to accommodate being flexible and sensitive to the process of our Plat submission. I have spoken to WSB, Ron Moore about the upcoming schedule and needed time frames for proper review of our revised Plat that is near completion. We plan to submit a fully revised set of Plat documents to the City and Staff for review and schedule for public hearing, Planning Commission review and City council vote for the month of March 2018.

Any action to support the Planning Commission recommendation is in direct contradiction to the process that we have followed in cooperation to properly develop this land.



Joseph P Bush
J.P. Bush Homes



J.P. Bush
H O M E S

January 31, 2018

Attention: City Council Meeting for February 5, 2018 regarding

Afton Creek Preserve
14220 60th St S Afton MN 55001

Dear Planning Commission Members,

I'm writing this letter to address several items listed below.

- 1) In past planning commission meetings, I have requested time to speak during the planning commission meeting as the Developer. With multiple restrictions and/or not given proper opportunities. I am asking for 6 minutes of uninterrupted time to address items related to the development that are very important. Prior to any motions for discussions related to Afton Creek Preserve Development during the meeting on February 5, 2018.
- 2) I would like to add the following written replies to the previously recorded motion by Barbara Ronningen at the planning commission meeting on January 8, 2018. The motion was 14 items in length. I would like to reply in order with a brief comment regarding the items.
 - 1) Our current application does not have more than 9 lots on a cul-de-sac.
 - 2) We do not currently have a lot that is being joined to the PLCD that is subdivided to its maximum density.
 - 3) The PLCD ordinance does allow the city council to allow rezoning of a rural residential parcel.
 - 4) The original application for the PLCD and the current updated application for the PLCD has and always has provided extensive and proper slope data and soil engineering reports that are in excess of 100 pages and have all the requirements listed in the ordinances.
 - 5) The original application and the current revised application have the proper storm water runoff calculation and engineering soil reports that far exceed the requirements for a preliminary plat.
 - 6) Our traffic study provided in our original application was not occurring during holiday time frames. In addition the study was on an area nearly a half mile from any road construction areas of any kind.
 - 7) The original provided traffic study along with the newly provided traffic study does take into consideration all aspects of the Trading Post curve and related sight lines for the speed traveled on the road and intersections provided.

- 8) The original application and the current application properly addresses the traffic at the Trading Post and 60th St location including private driveways and curves related to our entrance points.
- 9) Our current application is one set of complete plans with every portion of the code requirements needed for preliminary plat consideration.
- 10) Lot sizes and layouts are not questionable and are with in the code and ordinances in deciding the alleged odd shaped lot. As stated by the City Attorney off shaped lots are encouraged in a PLCD.
- 11) The field access road off of Trading Post has never been a part of our original application and is not part of the revised current application and will not be addressed until the application has been approved or denied.
- 12) Our current application has the proper shoreland districts delineated.
- 13) The PLCD and PUD issues are on the agenda for the February planning commission and city council as separate agenda items.
- 14) The road setbacks from the Graham property in our current application are in excess with out any interferences on the Graham property.

Conclusion

I would like to make it very clear that I need uninterrupted 6 minutes of time to be allowed for my comments and presentment of info as the applicant for this development that we have properly applied for and the city has accepted as a complete application.

Sincerely,
Joseph P Bush
J.P. Bush Homes _____

January 16, 2018 City Council Meeting Highlights

The Council:

- Heard a report from the St. Croix River Association
- Designated the official depository for 2018
- Designated the official newspaper for 2018
- Approved the regular meeting schedule for 2018
- Approved Change Order #8 for the Downtown Village Project
- Discussed the Afton Creek Preserve PLCD Subdivision Application
- Approved committee appointments for 2018
- Appointed Bake Baker to the NRGC for an additional term
- Designated City Attorney for 2018
- Designated City Engineer for 2018
- Designated official City signatories for 2018
- Approved pay voucher No. 9 from Geislinger and Sons for the Downtown Improvement Project