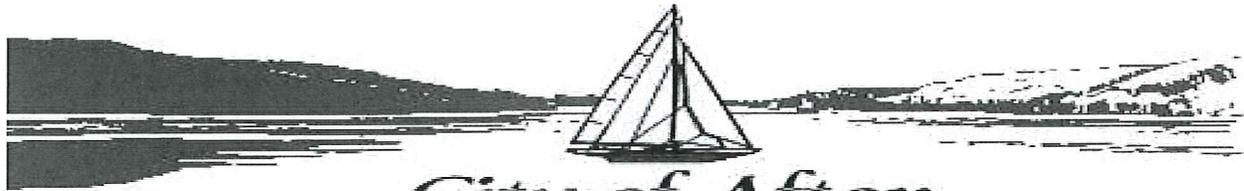


# **SUPPLEMENTAL PACKET**



# *City of Afton*

## **Natural Resources and Groundwater Committee (NRGC)**

### **Agenda**

**Tuesday, February 7, 2017**

**5:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Approval of Minutes**
  - A. Meeting Minutes from January 3, 2017
- 5. Business**
  - A. Election of New Committee Chair
  - B. Revised Will Carlson Sketch Plan Application for a Preservation and Land Conservation Development (PLCD) Subdivision of 218 acres on 60<sup>th</sup> Street West of Trading Post Trail
  - C. Development of a Template for the Committee's Review of Future Major Subdivisions and Particularly PLCD's
  - D. New Agreement between the State of MN and the USDA for Water Quality
  - E. 1983 Septic Upgrade Program
  - F. Well Testing Update
  - G. Update on Council and Planning Commission Business – Council Member Palmquist
  - H. Natural Resources and Groundwater Management Organizations Updates
- 6. Adjourn**

## Natural Resources Groundwater Committee

Afton City Hall

12/06/16

### Members in attendance:

Keith Hoffman

Susan Winsor

Jill Chezik

Jack Homer

Richard Bend

Mark Have

Perry Eggers

May Bend

Annie Perkins

Any additional items to add to agenda? – Yes, Susan requested to add topic of St. Croix Watershed Master Stewards Program. Jack moved to add to agenda; all approved.

Jack moved to approve October 19 minutes; Jill seconded. All approved.

Minutes from November 1. Mark moved to approve; Keith seconded. All approved.

### Business:

- a. **St. Croix Watershed Master Stewards Program:** Susan. Two openings now, they had two drop outs so some openings. Mission is to get more “boots on the ground” to improve water quality in river. Equated to an Eagle Scout program, or Master Gardner program. Once a month for one year. Full day meetings. Mark suggested we put it in the newsletter but first meeting is December 9.
- b. **Well testing:** nitrate report. Keith – 60 samplings returned out of 90 registered. Need to review data and compare to previous, lots to look at to identify trends via geography. Mark – judging but well depths, likely 85% in Prairie Duchene. Mark drafted a summary for the newsletter. He read it to the committee. Conclusion is most is good quality drinking water in Afton. Only two were over the suggested limit of 10 mm/L for nitrates, due to located near agriculture. Jack suggested we should add language that we’ll test again in the spring if they missed this test sample. City of Afton encourages residences to test their well. May suggested offering a color indicated map, versus just spreadsheet.
- c. Don’t throw away unused test kits, they’ll still be good to use in future. Susan asked if any value to test for phosphorus. Mark thought not necessary due to place a high priority on that right now. Maybe consider it for future, but doesn’t think a priority. Richard said previous DNR clan discussed phosphorus, and concluded we have good buffers around here that naturally filters runoff prior to entering streams and river.
- d. Susan asked about specific reduction language relative to nutrient loading by **20% (Total Max Daily Load)** as found in the “Environmental Resources Plan”. This language has been discussed; the goals posted are vague as there is no stated baseline. Also, if our numbers are already low, do we still need to aim for a 20% reduction? TMDL is a standard set for all communities to

achieve to prevent adverse impact on the St. Croix. Language needs to be more specific if it's to be addressed. Random "reduce by 20%" when no current baseline exists, makes it impossible to measure improvement (reduction). Measurements are and/or have been taken where surface water is – Metcalf, Lake Edith, Valley Creek, Kells creek etc. The watershed is working on this. The City is not, and no point to duplicate those efforts. Perhaps language aiming to educate, could be entered into the comp plan. May suggested a tax incentive to those homeowners choosing to avoid pesticide use. Those possess some risk with constituents. Annie suggested using "pet friendly lawn" signs. Pollinator friendly lawn. "I love the St. Croix River more than perfectly green grass", etc. Ron drafting language for a strategy around this idea. This committee will continue to work on this policy/language/project for further development of idea, then ultimately to present to the Planning Committee in hopes to secure recommendation to City Council for inclusion to Comp Plan.

- e. Susan asked about protocol for farmers who have not followed proper guidelines for "spreading of biosolids".
- f. Council and Planning commission business: Richard.
  - a. Nature Center project tabled – they lack solid plans at this time.
  - b. Need a public hearing, need a consistent language regarding unexcused absences of committee member, the Council can request they be removed. Give notice to Chair if cannot make a committee meeting.
  - c. Sub development - 1093 Neal. Richard met with DNR, MN Land Trust, and land owner. Plan for PLCD on 60<sup>th</sup> Street. 100 acres with a conservation easement on it. Wayne Osterling from MN Land Trust is interested in holding a conservation easement. We (NRGW committee members) should be thinking about this early. We should quickly become familiar with existing PCD Ordinance. (Planned Conservation Development). We have the ability to take 7 or 10% on 200 acres. We need to begin weighing in on this decision if we'd prefer to leverage the land dedication fee.
  - d. Planning commission doesn't know what a wildlife corridor is. We need to educate, so we can ultimately help preserve them. The trout stream located along the south side of this proposed development could likely be identified as a wildlife corridor.

g.

## Carlson PLCD feedback from Susan Winsor, NRGW committee

### **Concerns:**

**\*Fragility:** A large share of proposed lots lie in Conservancy Overlay District (see Sec. 12-137) and Shoreland Management Areas. Afton Sec 12-137 says “...*the Conservancy overlay district’s purpose is to manage areas unsuitable for development due to wet soils, steep slopes, ..unique areas of natural and biological characteristics...scenic views and other physical features of unique natural and biological characteristics in need of proper land use management. Such areas shall include the following:*

*\*Elements of local hydrologic system in need of protection and preservation.”* (My concerns are the steep slopes and the trout stream).

**\*Water quality:** Lake St. Croix (St Croix River) is listed on the Federal Impaired Waters List for excess phosphorus. (See <https://www.pca.state.mn.us/sites/default/files/wq-iw6-04e.pdf>). The Mn PCA calls for a 27% reduction in phosphorus contributions (loading). The steep slopes on the Eastern and Southern part of the Carlson proposed PLCD parcels are a concern because sediment (from erosion) carries phosphorus, which creates algae blooms beyond certain thresholds (stream and St. Croix River both a concern.) Stream erosion carrying phosphorus does not support a 27% reduction in St. Croix River phosphorus loading. Also, the trout stream is already impaired. (see PCA Assessment unit 82-0001-00). The section has a PCA TMDL plan for nutrient/eutrophication biological indicators.

*\*Sec. 12:46: 5. “Lake or stream frontage lots. All lots having frontage on a water body or lying within a Shoreland Management Area (part of this development) shall be subject to the regulations of the Shoreland Management ordinance, Article III of this chapter.” ...”All structures shall be set back a minimum of 20 ft. from the crest of all slopes exceeding 18% as determined by Zoning Administrator.:*

*...Sec 12-1329 B. “Any plat proposed in a Shoreland Management District must have approval of the MN DNR...and the watershed district.”*

\*Carlson lots 1, 2, 3’s drainage is to the North, toward the trout stream. This trout stream is not only ecologically valuable in and of itself, but feeding into the St. Croix River to the East, a nationally designated Wild and Scenic River and does not currently meet federal water quality standards. The Minnesota PCA designates Lake St. Croix and the river to its south (that includes the part East of this development) as impaired.

Table 49 of the PCA report below finds that the trout brook (see unnamed) exceed federal *e. coli* standards and is PCA-designated as “Outstanding Resource Value Water,” connoting high recreational and scenic value. (See <https://www.pca.state.mn.us/sites/default/files/wq-s6-48i.pdf>)(two unnamed creeks).

South Washington Watershed District (SWWD), the local watershed, says in its 2016 management plan: “*Excess nutrients in stormwater overwhelmingly drive water quality degradation in the SWWD. The source of those nutrients in SWWD is erosion.*”

-- SWWD Management Plan, page 10

Reference: <http://www.co.chisago.mn.us/DocumentCenter/View/4314>

Afton code 12:216 and 217 re slopes.

\*Under LAND USE (Afton code), section D. *“Within the Lower St. Croix River Bluffland and Shoreland Management District, no slopes of 12% or greater shall be disturbed (Section 12-70s).”*

**Recommendations:**

Superimpose the Conservancy Overlay District and the Shoreland District on this plat in order to fine tune these recommendations below, in order to reduce erosion and stream/river contamination:

\*Remove Lots 1, 2, and 3 due to concerns about erosion into trout stream and river nutrient contamination. These appear to lie in the Conservancy Overlay District, and in part, in the Shoreland District.

\*Convert Southwest corner of plat, South of stream, to Afton parkland as parkland dedication fee. Append any land that exceeds the 7.5% of land value stipulation to the Open Space Conservation Easement.

\*Lots 4 & 5: Add parts with slopes above 13% to the 10-acre adjacent Open Space immediately to the West, and the remainder comprises one lot instead of two, if eligible per Afton zoning laws. These appear to lie in the Conservancy Overlay District, and in part, in the Shoreland District.

\*Lots 9 and 10: Append to adjacent Open Space Conservation Easement for reasons of slopes above 13% grade.

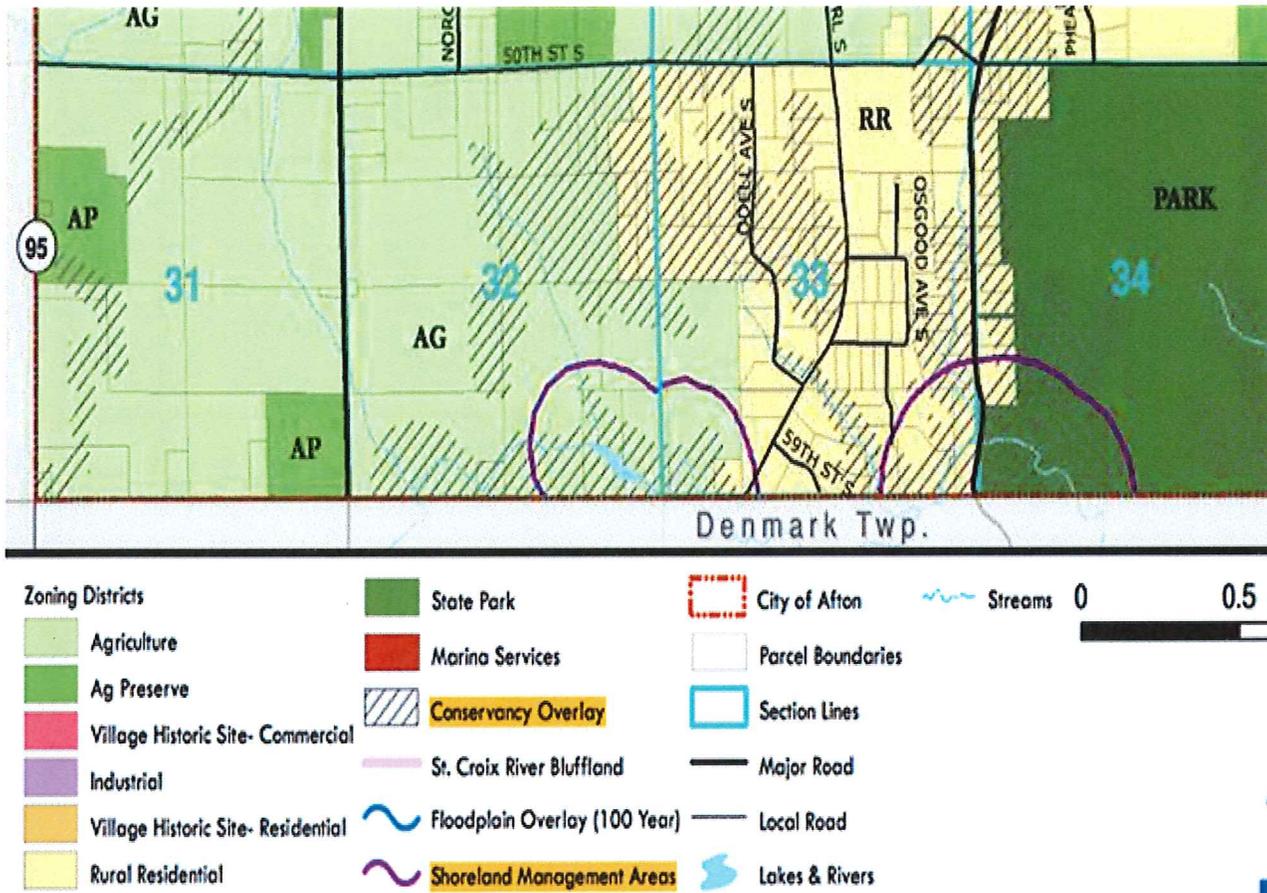
\*Lots 14, 15 and 16: Add those lot portions with slopes exceeding 13% to the adjacent Open Space to the North. Remaining portion comprises one lot, or whatever the remaining less steep landscape represents.

\*Run plat past local watershed and Minn. DNR (Shoreland District part of it) for feedback on lot placement relative to slopes and trout stream.

\*The revised plat map, after doing the above, is subject to review by MN DNR per Afton code pertaining to Shoreland Management District (Sec 12-1329) and relevant watershed district, especially relevant to concerns about erosion, slopes and trout stream integrity.

## Ron Moore

**From:** Susan Winsor <susanwinsor@mac.com>  
**Sent:** Monday, February 06, 2017 5:41 PM  
**To:** Ron Moore  
**Subject:** for public record, Dec NRGW meeting



Map prepared October 2010 1000 Friends of Minnesota TRC

Data Sources: City of Afton, Metropolitan Council, MN DNR, MN DOT, Washington County

Susan Winsor  
[SusanWinsor@mac.com](mailto:SusanWinsor@mac.com)  
651 491 4759

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Will Carlson Sketch Plan for a Preservation and Land Conservation Development Subdivision for 2018 acres of Land Located on 60<sup>th</sup> Street West of Trading Post Trail.

Feedback submitted by Annie Perkins, member Natural Resources and Groundwater Committee Member

1.3.2017

- Background/relevant context: per *Afton Natural Resources Inventory Final Report 2001* (pg. II-2) the PLCD, encompassing L28 and L29 of said report (see attached "Land Unit map"), has landscape rankings as follows:
  - **Ecological Ranking** - moderate /moderate
  - **Wildlife Habitat Rank** - moderate/moderate
  - **Rare Features Potential** - high(L28) /moderate (L29). Noteworthy Features:
    - L28 - "Interesting landscape with group of bedrock knobs containing prairie remnants. Moderate quality northern hardwood forest and mesic oak forest. This landscape unit encompasses the headwaters of trout Brook."
    - L29 - "Large area of moderate quality mesic oak forests. Good opportunity to engage local residents in stewardship activities."
    - **NOTE:** *criteria for a "high" ranking of Rare Features Potential is as follows: Documented endangered species and/or natural communities within site boundaries. Criteria for a "moderate" ranking of Rare Features Potential is as follows: Documented endangered species and/or natural communities adjacent to site -high potential for endangered species to be present on site due to good quality habitat (pg. IV-3).*
  - Review Table II.2 Major Management Issues - L28 and L29 have majority level of concern ranked at top two levels (medium and high). Report back with plan to address these sensitivities.
  - Review Table II.3.Stewardship Strategies outlined for L28 and L29. Report back with plan addressing these stewardship strategies.
  - L28 is listed under Table II-4 Priority Resource under "Key Natural Resources Management Recommendations" due to its ranking of highest quality/most unique landscape units within the City. Recommended action is as follows:
    - Headwaters of Trout Brook 1. Group of bedrock knobs contains prairie remnants that offer good restoration potential. Further survey should be conducted to determine management approach. 2. Evaluate headwaters pond (flood retention pond) to determine thermal impacts to brown trout survival/reproduction. If significant thermal impacts are shown to exist, work with landowner to remove structure, restore seepage wetlands and reestablish thermal/hydrologic regime to Trout Brook.
    - Provide the City with plan addressing above stated concerns.
- For reasons stated above, an Environmental Impact study of the proposed development needs to be conducted with the above report in mind, to help identify areas of concern (potential negative impact to Trout Brook and regionally significant ecological areas - terrestrial and wetlands). Additional considerations of existing steep slopes to be addressed as well. It is recommended that said impact study be conducted by reputable third party and presented to NRGW committee for review.
- Inherently, a PLCD is designed to "preserve natural resources of the site and to preserve wildlife habitat and corridors". With that in mind, all southern lots currently impede this directive.

Furthermore, a Conditional Use Permit will be required for PLCD; the CUP will be issued only if the PLCD abides by the Comprehensive Plan as well as provides for the preservation of the land's unique natural amenities (see Afton Natural Resource Inventory Final Report). Therefore, the shifting of lots, to adhere to existing PLCD language, is advised.

- Possible alternate plan options, in consideration of Afton's Natural Resources Inventory Report detailed above, as well as consideration of agreed upon Environmental Impact study, would be to extend the access road, moving the Cul de sac further west, shifting lots to northern edge of property (eliminating northern most east/west conservation sliver), and relocating Lots 1, 2, 3, 4 and 5 to the northwest section of property. The "Open Space Conservation Easement" would then shift south, abutting 60th Street. The proposed 10 acre Open Space located to the east of the Exception section, would then likely increase to 20 acres (replacing current Lots 4 and 5) and abut the access road.
  1. This alternative proposal addresses above stated concerns thereby avoiding disturbance to sensitive areas around the Trout Brook headwaters.
  2. Additionally, the preservation of land immediately adjacent to Trout Brook is imperative in ensuring adherence to Afton's Comprehensive Plan.
  3. Lastly, retaining access to Trout Brook allows for potential stewardship strategies involving the engagement of local residents as recommended in Afton Natural Resources Inventory Report as well as in Afton's Comprehensive Plan.
- Furthermore, this alternate proposal addresses Agricultural Zoning using a PLCD which states: "The City intends to provide more intensive 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." pg. 22, 2008 Amended Comprehensive Plan.
- Finally, the current PLCD lacks consideration for the City's Park Dedication ordinance. Leveraging this requirement in accordance to the language outlined in the ordinance, assigns land area in addition to and not in lieu of already designated conservation easement. Additionally, dedication of land under said ordinance aligns with the intent of Afton's Environmental Resources Plan as outlined in the City's Comprehensive Plan. Per its language, and the calculation of land value, the land dedication could likely equate to that of one existing 5 acre lot. The parcel of land, meeting this requirement, dedicated to the City, should strategically fit into the larger plan for preservation of Afton's natural resources. Therefore, it's recommended that this parcel be accessible from 60th and abut the Open Space Conservation Easement.

West Lakeland twp.

Denmark twp.

Afton

Afton State Park

18

20

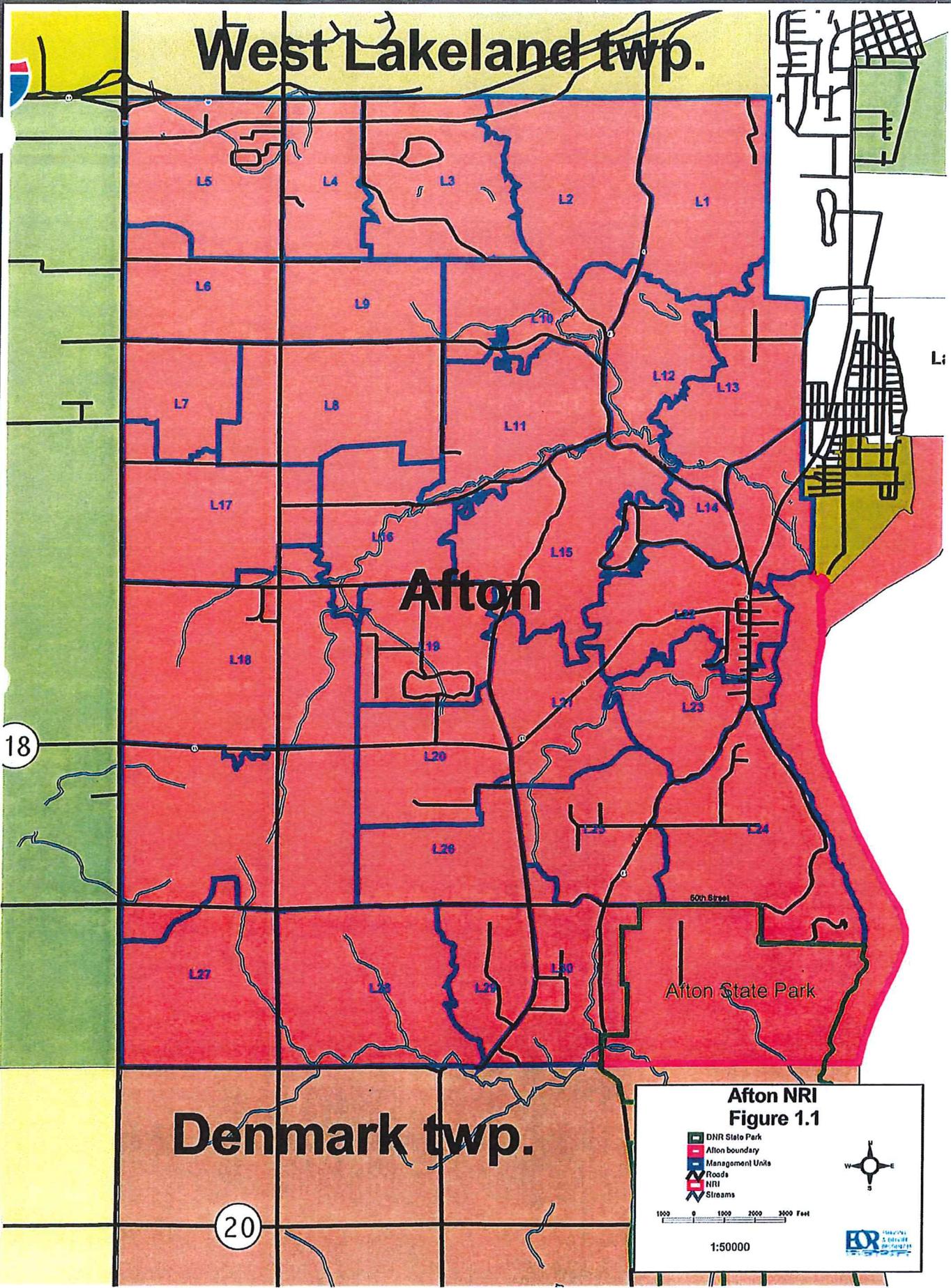
Afton NRI  
Figure 1.1

- DNR State Park
- Afton boundary
- Management Units
- Roads
- NRI
- Streams



1000 0 1000 2000 3000 Feet

1:50000



To: City Council Members  
Planning Commission Members  
Committee Members  
City Administrator  
City of Afton, MN

From: Neighbors of Proposed Carlson 60<sup>th</sup> Street PLCD (See list below) (Neighbors)

RE: Carlson Proposed PLCD on 60<sup>th</sup> Street West of Trading Post Trail -Sketch Plan dated January 17, 2017 (Carlson 60<sup>th</sup> Street PLCD or PLCD)

Date: February 3, 2017

### SUMMARY

On behalf of the Neighbors of the proposed Carlson 60<sup>th</sup> Street PLCD, we request the City of Afton reject the latest PLCD proposal shown on the sketch dated January 17, 2017. The proposed development fails to comply with existing Afton ordinances and the City's Comprehensive Plan and presents unacceptable environmental and safety risks.

First, the developer should not be allowed to burden an existing neighborhood for his own economic interest particularly when he has alternatives. The PLCD road access point on 60<sup>th</sup> street is poorly designed and a road safety study is key to ensuring appropriate safety standards are met at this site. A better access would be farther west on 60<sup>th</sup> where it straightens out; access could be from PLCD Lot 1 or 2. To protect existing neighborhoods, any construction access to the PLCD should be from and to Neal Avenue from a 60<sup>th</sup> Street access and shall be prohibited in local neighborhoods. Also, the closeness of the proposed road right of way to the eastern property line of PLCD Lot 20 creates a burden on the adjacent landowner parcel that would thereafter be subject to more stringent setback and other requirements than currently exists on this parcel. Further, the proposed 60<sup>th</sup> Street access point, would create a non-conforming PLCD Lot 3 in violation of City ordinances once the road right of way is created.

Second, the PLCD as proposed would have unacceptable adverse effects on the environment and adjacent properties which have not been addressed. While the plan may meet basic acreage guidelines for a PLCD, all land is not created equal. Most of the PLCD is in the Afton Shoreland and Conservation Overlay District. The site is unique being adjacent to Trout Brook and the tributaries of Trout Brook, a DNR-proposed designated trout stream. The PLCD site contains many steep slopes and highly erodible soils and portions are not developable at all. Erosion and storm water drainage from the PLCD acreage is an existing problem for existing adjacent homeowners and Trout Brook itself has been severely impaired by erosion. In addition, most of the PLCD is located in an area rated "High" for its rare features potential in the Afton Natural Resources Inventory. Given the unique and sensitive features of this parcel, the developer has proposed too many lots of insufficient size. A developer is not guaranteed the

maximum densities potentially allowed under the ordinance based on acreage. He has the burden to show the particular land in question is suitable for the proposed densities and he can not do so.

Lastly, City ordinances require an EAW be prepared for this project. It is essential this work be completed before the project undergoes further review in order for the City to be fully informed about the impacts of the project. The reported Atrazine spill on the northern portion of the PLCD parcel should be addressed as part of any environmental review.

#### **DETAILED LEGAL OBJECTIONS AND MINIMUM CONDITIONS FOR APPROVAL**

1. Criteria #3 for approval of a PLCD in Sec. 12-2375 requires "The 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". Paragraph B.1 of Sec.12-2379 requires that "The proposed PLCD is in conformance with the comprehensive plan." Paragraph B 2 of Sec. 12-2379 further requires that "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." Paragraph B.4 of Sec. 12-2379 requires that "The 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." Sec. 12-198 (item 2) requires traffic generated shall be controlled so as to prevent traffic hazards.
  - Without modifications, alignment of the PLCD road access point on 60th street would present hazards due to existing sight line restrictions and reduced right of way on 60th Street near the intersection of Trading Post. In addition, 60th Street is currently gravel and subject to continual erosion around this access point. Preliminary calculations indicate that the PLCD would add 200 car trips per day to a road already inadequate. Further study is necessary to analyze and impose mitigation measures to address safety issues at the PLCD road access point. A better access point would be located farther west where 60<sup>th</sup> Street straightens out; access could be from PLCD Lot 1 or 2.
  - The location of the proposed roadway thru 14260 60<sup>th</sup> Street is located on or very near the eastern property line of PLCD Lot 20. Location of a roadway at this location would place additional setback and vegetation control requirements on the adjacent property owner to the east, Randy and Kathy Graham. These additional encumbrances on the Graham property would amount to a public taking unless the road is repositioned.
  - **NOTE:** The previous sketch plan dated December 19, 2016 showed a second access point through a lot at 5550 Odell Avenue South that has been abandoned in favor of a culdesac and the single access point at 60<sup>th</sup> Street. The fire department has said the culdesac is adequate for its use. There has been some discussion about retaining the Odell access for emergency use. The Odell access is inappropriate for primary or emergency access because it does not comply with the City ordinances and because of safety and environmental concerns. See Attachment A for a detailed discussion.
2. Sec. 12-217 requires "No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or water bodies. "

- Stormwater from portions of the PLCD flows south and east onto adjacent properties including the Dickes property, the Rickard property at 5650 Odell Avenue South and eventually into a tributary to Trout Brook located on the southern part of the Hall property at 5730 Trading Post Trail. Trout Brook and this tributary are proposed by the Minnesota Department of Natural Resources (DNR) as designated trout stream. See Notice of Intent To Adopt Expedited Rules published in the State Register on 22 Aug 2016 (41 SR 203). Trout Brook is an important public resource and its revitalization is a high priority for the DNR and local government as evidenced by the numerous applications for grants for stream restoration work submitted to the Lessard Sams Outdoor Heritage Council and Clean Water Fund.
  - PLCD Lots 15, 16, 17, 18, 19, and 20 abut or are adjacent to existing lots/homes on the eastern boundary of the PLCD. Drainage from these PLCD lots flows towards these existing homes. Stormwater runoff from the Carlson property is currently a problem for these existing homes during heavy rain events with large amounts of water flowing from the Carlson property through these adjacent properties. The addition of more impervious surface and turf associated with the PLCD will exacerbate the existing drainage problem and is not addressed with on-site containment as required in Sec. 12.217 and 12.409.
3. Sec. 12-2377, paragraph C, states “Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may not be joined to a PLCD”.
    - The former Schuster homestead located on a 5-acre lot at 14220 60<sup>th</sup> Street is zoned as RR per the Afton 2010 Zoning map (on City of Afton website) and is currently at maximum permitted density and may not be joined within the boundaries of the PLCD as proposed.
  4. Construction of proposed access roadway will create a non-conforming lot inconsistent with Afton ordinances.
    - Construction of an access roadway through the existing 5-acre RR property at 14220 60<sup>th</sup> Street (PLCD Lot 3) would result in creation of a non-conforming lot as setback requirements for the existing house which is expected to remain and accessory building would not be met. In addition, the lot size would be non-conforming with City ordinances after the construction of the road right of way.
  5. Paragraph ( C ) (12) of Sec. 12-89 requires an Environmental Assessment Worksheet (EAW) for “Actions resulting in the permanent conversion of 80 or more acres of agricultural, forest, or naturally vegetated land to a more intensive, developed land use.”
    - A mandatory EAW and related public hearing is required for the proposed PLCD and has not yet been completed.
  6. Sec. 12-2377 requires the PLCD be developed in coordination with subdivision regulations. Sec. 12-501 of the subdivision ordinances requires that “each lot created through subdivision, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, ...”

- Maps included in the Afton Comprehensive plan show the soils in the area are unsuitable for septic systems. In addition, soils in the area are identified as highly erodible, steep topography is located throughout the site and much of the property drains towards Trout Brook and its adjacent wetlands.
7. Part of the proposed development site is contained within the Conservation Overlay District and designated Shoreland Management Area as identified on the Afton Zoning Map. Chapter 12, Article III of the Afton ordinances identify specific development requirements for designated shoreland areas.
    - The developer has not provided adequate information or consideration of the shoreland management and conservation overlay requirements.
  8. Sec. 12.1251 acknowledges that much of the land in the southwest part of Afton is agricultural and that the Comprehensive Plan goal is to maintain the rural nature of this area and encourage the continued farming or productive farmland. In this regard, the PLCD is inconsistent with the Comprehensive Plan because it converts existing productive farmland to housing.
  9. In addition, the PLCD's proposed density is too high and fails to meet the requirements of Sec. 12-2375.B.2. Portions of the land identified in the PLCD Open Space Conservation easement have slopes in excess of building requirements and could not be developed into housing in accordance with City Ordinance. The developer is taking credit for this undevelopable land to achieve maximum densities in the remaining developable land. Thus, the PLCD does not meet the requirements of Sec.12-2375.B.2 because the proposal would not "benefit the area surrounding the project to a greater degree than development allowed within the underlying zoning district." A developer should not be allowed to count land that is currently undevelopable as part of the acreage necessary to meet the density requirement of the PLCD including the 50 percent conservation easement. To do otherwise delivers a net density gain to the developer over what is allowed in the ordinance because he gets credit for land he would not be able to develop anyway so he can maximize the density on his remaining acreage. This is a net loss to the City and would overall increase the density of development in the City inconsistent with the Comprehensive Plan. For example, suppose a developer owns a 100-acre property, 50-acres of which is lake/wetland that is clearly undevelopable and would remain so under City ordinances. Should he be able to use this 50-acre lake as part of his Conservation Easement space requirement under the PLCD ordinance so he can maximize density on his remaining developable acres? This does not "benefit the area surrounding the project". In fact, it is a net loss in terms of open space for the surrounding area and the overall City in violation of Sec. 12.2375.B.2.
  10. The project site is located in a highly sensitive area of Afton. It is located in Landscape Unit 28 identified in the Afton Natural Resources Inventory dated June 2001 (NRI) by Emmons & Oliver. This Landscape Unit is ranked as "High" for rare features potential. The site is also located in an area with many steep slopes, many in excess of 18 percent. It is also adjacent to Trout Brook and wetlands adjacent to Trout Brook, a DNR protected water identified as a candidate for stream restoration for a trout fishery. Several newly added lots along 60<sup>th</sup> Street since the original application for rezoning, directly abut the wetlands adjacent to Trout Brook. Given the unique nature of this property, the proposed density of the site is unsuitable for twenty 5-acre lots as detailed in the PLCD sketch and inconsistent with Afton's Comprehensive Plan.

11. It has been reported that there was an accidental spill of large amounts of the herbicide Atrazine on or around the northeast section of the PLCD in the early 2000s. This release was not reported to state or local government. Releases of Atrazine into soil and groundwater is regulated by the state of Minnesota and may require cleanup and/or monitoring if in excess of health risk limits (HRL) established in state law. The US Environmental Protection Agency has also established maximum contaminant level (MCL) standards for Atrazine in drinking water and levels in excess of federal standards may require cleanup and/or monitoring. See MN Department of Agriculture, Human Health Assessment: Atrazine, Report for the Minnesota Department of Agriculture's Pesticide Registration Review, December 2009.

### **Minimum Conditions for Approval**

Based on the above concerns, the Neighbors object to the PLCD as proposed and suggest the following requirements, at a minimum, be imposed as conditions for approval:

1. Realign road access to the PLCD from 60<sup>th</sup> street farther away from the eastern edge of the PLCD property line and closer to the western portion of current PLCD Lot 3 and 4. Relocation of the access road farther west along 60<sup>th</sup> where it straightens out should be strongly considered from a safety standpoint. Access onto 60<sup>th</sup> could be from PLCD Lots 1 or 2.
2. A road safety study shall be completed at developer's expense by an engineering consultant acceptable to the City to evaluate alignment, sightlines, roadway width, traffic counts, road surface conditions, traffic speed, and safety mitigation measures such as a stop sign, safety signage or any other corrective measures that may be recommended.
3. Developer should pay for paving of 60<sup>th</sup> Street to encourage traffic flows along 60<sup>th</sup> to the west. Paving of roadway shall include adequate protections to address runoff to the adjacent stream via settling ponds, etc. This paving would also address a current City inequity in that residents along 60<sup>th</sup> Street have been paying City taxes related to the paving of roads for years yet 60<sup>th</sup> Street is the only street in the City that has not been paved.
4. All construction traffic access to the PLCD shall be routed from and to 60th Street from Neal Avenue. No construction traffic shall be routed on Trading Post Trail or Odell Avenue South. The existing unpermitted 16.5 foot farm access driveway owned by Will Carlson and located between two existing homes with ingress/egress onto Trading Post just north of 5888 Trading Post shall NOT be used for any construction activities related to the PLCD. Should the owner of the access driveway be interested in selling it, right of first refusal shall be granted to the two existing property owners adjacent to the access driveway. Pricing shall be at fair market prices set by an independent land appraiser.
5. The house currently located at 14220 60<sup>th</sup> should be removed or relocated so as to not create a non-conforming lot vis a vis setback and lot size with installation of the access roadway through the property.
6. The proposed lot sizes of the PLCD should be increased and number of lots decreased to decrease density and minimize environmental impacts to this highly sensitive area of Afton for consistency with the Afton Comprehensive Plan and PLCD requirements.
7. An Environmental Assessment Worksheet shall be prepared by the City as the Responsible Governmental Unit at the expense of the developer before approval of this project.

8. In lieu of the park dedication fee, the City shall take acreage located in the currently identified 9.7-acre Open Space Conservation Easement (OSCE) that currently abuts PLCD Lots 3, 4, and 5 to provide public access to this section of Trout Brook. This area contains some of the most scenic parts of Trout Brook and has high value to the public for passive use open space.
9. The City should also consider taking PLCD Lot 2 in lieu of part of the park dedication fee. The developer should build a parking area at this location and a public access way on the western portion of this Lot with a pedestrian bridge/boardwalk across the wetlands adjacent to Trout Brook to provide access to the OSCE just north of this site.
10. A study shall be conducted, and mitigation plan executed as necessary, to address the adverse impact of surface water runoff toward the NE branch of Trout Brook originating from the area of PLCD lots 15, 16, 17, 18, 19 and 20.
11. Require stream bed and riparian area rehabilitation paid for by the developer consistent with the Trout Brook Management Plan dated May, 2009, as updated, to mitigate the adverse effects of a development adjacent to Trout Brook and the headwaters of Trout Brook.
12. The City shall require monitoring (City project manager chosen by City and expenses reimbursed by developer) during construction to insure all City conditions are met. Right of access to the PLCD shall be provided to adjoining property owners during construction, subject to appropriate safety limits, so that adjoining property owners can communicate their observations to the City about project compliance.
13. The owner/developer shall cleanup the brush/debris from the ravine adjacent to Trout Brook in the area of PLCD lot 4 and install soil stabilization along the slopes of the ravine.
14. No old growth tree removal should be allowed including but not limited to that which may exist on PLCD lots 4, 14, 15, and 16.
15. Development conditions shall require on site containment of all surface run-off from PLCD lots (15, 16 17, 18, 19, 20) that flows easterly towards adjacent lots on Odell Avenue South.
16. Restrictive covenants shall be placed on PLCD lots limiting size of turfed, mowed lawns.
17. Restrictive covenants shall be placed on all PLCD lots requiring that non-turf areas be planted in native vegetation and left unmowed in a natural state and any fencing be consistent with the open space nature of the PLCD in terms of size and location.
18. Restrictive covenants shall be placed on all lots preventing future subdivision of the 5 acre residential lots.
19. Restrictive covenants shall be placed in the PLCD on the use of 4 wheelers, dirt bikes and snowmobiles.
20. Development conditions shall require planting of native trees on the home sites.
21. Development conditions shall require that during all construction periods and until all homesites are sold and developed, the land shall be covered with a native grass cover crop to minimize exposed soils.
22. A soil conservation plan shall be required per Sec. 12-216. A drainage plan shall also be required in conformance with City ordinances.
23. The City Council shall require an Environmental Impact Statement for the PLCD per Sec. 12-89 given the potential for significant adverse environmental effects because of its proximity to Trout Brook and its tributaries and areas of "High rare features potential", the presence of significant old growth woodland areas, and significant slopes and highly erodible soils.
24. The project site is located in Landscape Unit 18 of the Afton NRI. It is ranked "High" for rare features potential. Given this ranking, a detailed survey of this Landscape Unit should be conducted at the

- developer's expense by an environmental consultant acceptable to the City prior to any approvals to ensure rare features are protected. The survey should update the findings in the 2001 Afton NRI.
25. Soil and groundwater testing for Atrazine should be conducted on the subject property and cleanup/monitoring required if it is present in excess of state or federal standards.

Jim and Nicole Rickard

Mary P. McConnell and Patrick Leahy

Kathy and Randy Graham

Christian and Teresa Dawson

Franz and Carol Hall

Doug and Joy Forbes

William and Jan Dickes

George and Julie Kinney

Wendy and Mike McBain

Kevin and Vicki Slaikeu

Neil Rademacher

Ed Stanek and Sue Rich

## Attachment A—Odell Road Access

**NOTE: The existing sketch plan dated January 17, 2017 has removed the previously proposed PLCD access at 5550 Odell in favor of a cul-de-sac and one access at 60<sup>th</sup> Street. The fire department has noted this change is adequate for its access. There has been some discussion about retaining the Odell access for emergency purposes. This Odell access is not appropriate for a primary or emergency access as discussed below. Further, while a fire department may like to have as many access points as possible, this needs to be balanced with other needs. If a fire department always had a second access to every cul-de-sac, there would be secondary roads running through lots in every subdivision.**

The construction of a road from Odell west through an existing residential property at 5550 Odell to access the PLCD would cause an undue adverse impact and an excessive burden on the local road, Odell Avenue, because of the disruption to the existing adjacent neighborhood from traffic and drainage concerns. An access to the PLCD from Odell would slice through an existing neighborhood by pushing a 60 foot right of way road through an existing 5-acre lot/home with frontage on Odell. Preliminary estimates indicate the proposed PLCD will add 200 auto trips per day onto access streets. Even if this road were used for emergency purposes only, it would impose drainage and taking concerns as well as be in violation of several City Ordinance provisions as discussed below.

1. The location of the roadway thru 5550 Odell was planned to be located on or near the southern property line of that property with a 60 foot right of way. Location of a roadway at this location would place additional setback and vegetation control requirements on the adjacent property owner to the south, William Dickes, as this property would be a corner lot and be subject to comply with Sec. 12-198 and 12-132 subsection (a)(6) when the landowner wants to develop his property. These additional encumbrances on the Dickes property would amount to a public taking.
2. The homes along Odell Avenue were part of a subdivision approved by the Afton City Council many years ago with Odell serving as a local street to provide access to the homeowners whose properties abut Odell. A primary or emergency access through a lot at 5550 Odell would change the nature of Odell from a local street to a collector street as defined Sec. 12-55 pg. 21 for access to 20 additional homes whose properties do not abut Odell. A developer should not be allowed to negatively change the character of an existing subdivision/neighborhood or nature of the road of an existing subdivision just to serve his economic interests particularly when he has other access alternatives.
3. Sec. 12-217 requires “No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or water bodies.
  - The road connecting thru to Odell does not contain adequate controls for drainage and would lead to additional run-off due to significant increases in impervious surfaces. This runoff will flow south onto adjacent properties including the Dickes property, the Rickard property at 5650 Odell Avenue South and eventually into a tributary to Trout Brook located on the southern part of the Hall property at 5730 Trading Post Trail. Trout Brook and this tributary are proposed by the Minnesota Department of Natural Resources (DNR) as designated trout stream. See Notice of Intent To Adopt Expedited Rules published in the State Register on 22 Aug 2016 (41 SR 203). Trout Brook is an important public resource and its revitalization is a

high priority for the DNR and local government as evidenced by the numerous applications for grants for stream restoration work submitted to the Lessard Sams Outdoor Heritage Council and Clean Water Fund.

- Lots 16, 17, 18, 19, and 20 of the proposed PLCD abut existing lots/homes on the eastern boundary of the PLCD. Drainage from these PLCD lots and PLCD Lot 15 flows towards these existing homes. Stormwater runoff from the Carlson property is currently a problem for these existing homes during heavy rain events with large amounts of water flowing from the Carlson property through these adjacent properties. The addition of more impervious surface associated with a primary or emergency access at 5550 Odell would exacerbate the drainage problem.

4. Sec. 12-198 requires traffic generated shall be controlled so as to prevent (item 2)...traffic hazards. Alignment of road intersections on Odell would present safety hazards due to existing sight line hazards.

5. Sec. 12-2377, paragraph C, states "Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may not be joined to a PLCD". The property located at 5550 Odell is a 5-acre lot zoned RR and is currently at maximum density. As a required primary or emergency access road it would be joined to the PLCD in violation of the above Ordinance.

6. Construction of a primary or emergency access at 5550 Odell would create a non-conforming lot inconsistent with Afton ordinances. The existing home is proposed to remain on the lot with the road right of way to be located to the south of the home. The road right of way would create a non-conforming rural residential lot because of inadequate size after subtracting the road right of way and inadequate road frontage on Odell. If the existing home were to be realigned to face the new road, this would also create a non-conforming lot because of inadequate lot depth.