



PLANNING COMMISSION AGENDA

June 27th, 2022
7:00 pm

Afton City Council Chambers
3033 St. Croix Trail
Afton, MN 55001

Please Note: This meeting will be held in-person, as well as remotely using the Zoom video conference application.

Instructions for Participating in the Meeting Remotely Via Zoom

Options for Joining the Zoom Meeting:

- RECOMMENDED: Use your computer, tablet or smart phone to join the meeting by logging on to <https://us02web.zoom.us/j/89972986235?pwd=M3lqNk5aRWlubmFWL1FhcTR5MkFCQT09>
- (Meeting ID: 899 7298 6235)
Passcode: 451725
- Dial-in Number (to call in to the meeting) +1 312 626 6799
When prompted, enter Meeting ID: 899 7298 6235

AGENDA

1. **CALL TO ORDER –**
2. **PLEDGE OF ALLEGIANCE –**
3. **ROLL CALL -**
 - a) Scott Patten
 - b) Sally Doherty
 - c) Kris Kopitzke (Chair)
 - d) Jim Langan
 - e) Roger Bowman
 - f) Justin Sykora
 - g) Christian Dawson
 - h) Doug Parker
 - i) Kuchen Hale
4. **APPROVAL OF AGENDA –**
5. **APPROVAL OF MINUTES –**
 - A. June 6, 2022 Meeting Minutes
6. **REPORTS AND PRESENTATIONS – None**
7. **PUBLIC HEARINGS – None**
8. **NEW BUSINESS – None**
9. **OLD BUSINESS -**
 - A. William Kaye Application for a Conditional Use Permit for an Amendment to the Kaye Hill Farm Planned Agricultural Unit Development Subdivision at 1754 Neal Avenue
 - B. Groundwater Protection
 - C. Update on City Council Actions – Council Highlights from the June 21, 2022 Council meeting - attached.
10. **ADJOURN –**

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

CITY OF AFTON
DRAFT PLANNING COMMISSION MINUTES
 June 6, 2022

The meeting was held in-person, with participation via Zoom also available.

1. **CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:02 PM.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL** – Present: Chair Kris Kopitzke, Roger Bowman, Doug Parker, Kuchen Hale, Justin Sykora, James Langan, Scott Patten, Sally Doherty, Christian Dawson. A quorum was present.
ALSO IN ATTENDANCE – City Administrator Ron Moore, City Clerk Julie Yoho (via Zoom), Council member Annie Perkins
4. **APPROVAL OF AGENDA** –
Motion/Second Parker/Bowman To approve the agenda for the June 6, 2022 Planning Commission meeting. Roll call: all aye, Passed 9-0.
5. **APPROVAL OF MINUTES** –
A. Motion/Second Parker/Kopitzke To approve the minutes of the May 2, 2022 Planning Commission meeting. Roll call: all aye, Passed 9-0.
6. **REPORTS AND PRESENTATIONS** – none
7. **PUBLIC HEARINGS** –
 A. Chad Fredkove application for Short Term Rental License at 13288 10th St
 Chair Kopitzke opened the public hearing at 7:05pm
 Administrator Moore provided information on the application which is for a conditional use permit for a short term home rental license at 13288 10th St. South. The conditional use permit is required because the license application is for a Type D license (dedicated short term rental). Type D means a dwelling unit that is offered to transient guests for a period of less than 30 consecutive days, where the property does not serve as a person's primary residence and which involves a non-hosted short term rental on a non-homesteaded property. Chad Fredkove, owner of property, was present for questions.
 No comments were received
Motion/Second Dougherty/Parker to close public hearing. Passed 9-0.
 Hearing closed at 7:07pm
 Parker asked about smoke detectors (all that are required are present)
 Chair Kopitzke stated the application meets all of the requirements
Motion/Second Sykora/Dougherty to recommend approval of the short term rental license at 13288 10th St S. Passed 9-0

 B. William Kaye application for Conditional Use Permit for an amendment to the Kaye Hill Farm PAUD at 1754 Neal Ave
 Chair Kopitzke opened the public hearing at 7:10pm
 Administrator Moore provided information on the application: William Kaye has submitted an application for a conditional use permit for an amendment to the Kaye Hill Farm Planned Agriculture Unit Development (PAUD) Subdivision that included the lot at 1754 Neal Avenue. The amendment is to enable an additional 5-acre lot to be created from the existing 13 acre lot at 1754 Neal Avenue. The existing 13 acre lot includes a vineyard in the northwest portion of the lot. The lot proposed to be created includes the existing vineyard on the property. The five acre lot is proposed to be an agricultural lot with an agricultural easement that requires the lot be used only for agricultural use and prohibits a dwelling unit from being constructed on the lot. The purpose of creating this agricultural lot is to enable the ownership of the vineyard to be transferred prior to the sale of the remainder of the lot that includes the existing house, so that the vineyard can be preserved.

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William Kay, applicant, was present for questions.
No comments were received
Motion/Second Patten/Parker to close public hearing. Passed 9-0
Hearing closed at 7:16 pm
Bowman asked if events would be held there (no)
Administrator Moose stated that this is subdivision application. If other uses occur, a CUP would be needed
Hale noted that this creates an ag unit that will stay an ag unit and that cannot be subdivided.
Chair Kopitzke stated that this creates a substandard lot.
Doherty stated that this is altering a planned unit development that was complicated to approve originally.
Perhaps we should not be changing that.
Bowman this takes it closer to the spirit of preservation.
Hale stated that this is a good thing, but need to be careful with language.
Parker asked if in the future, can lots be rejoined (with new PID)
Langan stated that we cannot an exception in this case if we rejected others in the past.
Sykora would prefer ordinance changes.
Doherty stated that with past requests we were concerned about future use.
Patten stated that in theory a person could buy this lot for other use.
William Kaye stated this creates a non-residential lot he intends to keep for 40 plus years.
Sykora stated that shared driveways require conservation easement.
Administrator Moose stated that this has an ag easement, could be held by the county.
Motion/Second Hale/Sykora to recommend approval of the William Kaye application for a Conditional Use Permit for an amendment to the Kaye Hill Farm Planned Agricultural Unit Development (PAUD) at 1754 Neal Avenue, with condition there be an agricultural easement.
Hale would like to check with original PAUD language be sure this is not in violation.
Doherty stated that this is revisiting a PAUD. There are private ways to solve this problem, and other land in Afton. She cannot support.
Patten agrees with Doherty. In addition this creates a lot that we've tried to avoid in the past.
Bowman agrees, but will vote yes since the city wants to preserve ag long term.
Parker stated that based on precedence and rules, he will vote no.
Chair Kopitzke stated that the city cannot dictate ag use forever.
Langan stated this is disrespectful to others in the past that we voted against. Noting is in perpetuity. It is a business that will be challenged. He will not support.
Motion Vote: 4 aye, 5 nay, motion fails.

C. Julie Kaemmer & Olivier Vrambout application for a Conditional Use permit for a nature center with a hiking and mountain biking trail system at 1754 Neal Ave
Chair Kopitzke opened the public hearing at 7:49 pm
Moose provided a summary of the application which is for a Conditional Use Permit for a nature center with a trail system for hiking and mountain biking at 2167 Oakgreen Avenue and Contiguous Parcels with PID#s 16.028.20.23.0001 and 16.028.20.23.0002, which is owned by their non-profit organization Localized LLC.
The total property size is approximately 60 acres.

A representative for applicants was present and provided a presentation of the project, showing trails, parking, etc.
Julie Ziedel, Afton resident, stated she is in favor of this project.
Marea Clarke, neighbor on Oakgreen, stated she is concerned about traffic on Oakgreen, nuisance of groups coming in, how would use limit be enforced, screening for property (lives across street) parking, cannot find this company on nonprofit list or registered charity list.
Chad Brookes, Valley Creek Trail. Had concerns. Stated that conservationist don't chop trees for trails, erosion concerns next to Valley Creek, a fence was installed along property edge and many trees were cut.
Steve & Maria Sanocki, Oakgreen, live across from this site. This is a quiet rural setting, did not expect this coming in next door. Increase in traffic, who will police, has there been a study for the protected watershed

108 and erosion, who will patrol the site. This is residential area. Are dogs allowed? Horses? Meeting area could
109 be party area or short term rental.

110 Tom Burrell, Valley Creek Trail. The south border trail is close to the creek (236'). Walking trail that exists
111 there now only 10' away. Property crosses the creek which allows access up & down the creek. Topography
112 is large ravines and steep slope.

113 Al Anderson, 2170 Oakgreen. Concerned because an existing garden is there and 4-6 cars are parked half on
114 the road, hard to drive past. Increase traffic (property to north has multiple gardens also) cul de sac at night
115 has been area of concern for people hanging out and drug use. Don't need another hiking trail in Afton since
116 we have Belwin. What happens if someone gets hurt in there.

117 Mike Schneider, Valley Creek, concerned about noise, how site will be monitored, Valley Creek protection,
118 delicate. Hunts his property doesn't want this to impede that.

119 Annie Perkins, River Rd, feels this is an asset that aligns with Afton values. Connects people to nature. They
120 are approaching the right way, feels it won't affect the creek. There are good examples to look at and studies.

121 Maria Sanocki stated the Oak Park Heights trail has a lot of erosion.

122 Tom Burell stated that many parks in area offer trails. The property the city and Belwin are working on is next
123 to this, need details on that before anything else happens here.

124 **Motion/Second Bowman/Sykora to close public hearing. Passed 9-0**

125 Hearing closed at 8:32 pm

126

127 Sykora will abstain from discussion

128 Doherty asked if this is privately owned (yes). Do they have nature center status (applied but never
129 completed).

130 Bowman stated that there used to be trails at Afton Alps. Erosion was a constant issue, need maintenance.

131 Perkins stated the trails were not built correctly there.

132 Dawson stated if built correctly, there are ways to manage erosion. Bikers are responsible for their own
133 safety. The trails here are already partially built.

134 Chair Kopitzke stated that by having land be used, it can be protected. Need to be sure it will be maintained.

135 Chair Kopitzke asked if this is open to the general public? (yes, under umbrella of the foundation).

136 Julie Kaemmer stated the gardeners on the site are planting for non profit; was not aware they were parking
137 on the road.

138 Langan asked how permits will be issued (online reservation and gate code) how to police (staff for open hrs)

139 Julie Kaemmer stated the added activity may help with trespassing.

140 Doherty asked for clarification on the proximity to Valley Creek.

141 Julia stated the fencing was put up, no intention of trail being close to creek, no access to creek.

142 Patten asked if the park committee review this first? (no) Has the watershed reviewed (VBWD walked trails
143 and indicated potential for project there for slopes). Is there conservation overlay here (yes)

144 Hale asked about soil impact (trail designed with that in mind). Would want watershed involved for creek
145 protection.

146 Parker walked the property, many steep slopes. Asked about motorized use (no), bathroom facilities (portable
147 will be expanded) events (not planned limit capacity) not currently being policed but public will know about
148 it.

149 Chair Kopitzke stated that Belwin has staff during day.

150 Parker asked about alcohol (no) definition of additional traffic. Can we revoke CJUP if problems arise.

151 Langan is the designer a licensed engineer in MN for assessing soil substrate. Has the city engineer looked at
152 (not yet) access hours and will there be someone there. Neighbor comments are opposed, have to consider the
153 neighborhood. Streets are not designed for traffic in this area. Without soil information on the property
154 impossible to determine erosion potential.

155 Dawson stated this trail designer has experience, one of the best trail builders.

156 Hale suggested an annual review by watershed.

157 Langan stated the problem in the past is how to remedy if an issue occurs. What is the enforcement.

158 Doherty suggested a condition of a time limit for the CUP, renewable upon review by city after 3 yrs.

Motion/Second Doherty / Hale to recommend approval of the Conditional Use Permit for a nature center with a hiking and mountain biking trail system at 1754 Neal Ave with and conditions listed plus additional eight as discussed.

1. The number of people allowed on the property at one time shall be limited to 25
2. The hours of operation shall be from sunrise to sunset, which are the same hours as for city parks.
3. The parking lot shall have sufficient spaces to accommodate the expected users.
4. Additional activities that would generate additional traffic and parking needs shall require an amended conditional use permit.
5. The trail system shall be monitored and maintained to minimize and repair erosion.

Additional Conditions of Approval

- Adopt an ordinance amendment to add a definition of Nature Center
- Prohibit the use of the trails by mountain bikes after a rainfall until the trails are dry
- Ensure adequate erosion control measures are in place, including a buffer area, to protect Valley Creek
- Provide a plan for managing the use of the property, including staffing during operating hours
- Require the conditional use permit to be renewed every three years
- Provide adequate off-street parking with a gravel surface, no lights, and screening of the vehicles from the road
- Portable restrooms shall be screened
- Hunting shall be prohibited
- Alcohol shall be prohibited
- Motorized vehicles shall be prohibited
- Overnight usage shall be prohibited
- The conditional use permit may be revoked due to lack of compliance with the conditions of approval

Motion Vote: 5 aye, 3 nay, 1 abstain (Sykora) Passed

D. Julie Kaemmer and Oliver Vrambout application for an ordinance amendment

Chair Kopitzke opened the public hearing at 9:54pm.

Administrator Moose provided a summary of the application. The zoning code does not currently include "Park" as an allowed use, even though there are several city parks and one regional park in Afton. The code also does not include a definition of "Park". When it was determined that the zoning code does not include the park use or a park definition, Julia and Olivier requested an ordinance amendment to add the park use.

No public comments

Motion/Second Patten/Hale to close public hearing. Passed 9-0.

Hearing closed at 9:57 pm

Chair Kopitzke noted that Belwin is an example of a private park.

Motion/Second Sykora /Kopitzke to recommend approval of the proposed ordinance amendment providing the definition of "park" passed 9-0.

8. NEW BUSINESS – None

9. OLD BUSINESS –

A. Groundwater protection

Bowman develop list of issues and work on it next month

- 210 A. Update on City Council actions
- 211 Council member Perkins provided a summary of the May 2, 2022 City Council meeting.
- 212

213 **10. ADJOURN**
214 **Motion/Second Patten/Parker To adjourn. Passed 9-0.**
215 Meeting adjourned at 10:11 pm.

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222 Respectfully submitted by:

223 _____
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225 Julie Yoho, City Clerk

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228 To be approved on June 27, 2022 as (check one): Presented: _____ or Amended: _____
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230

<p>City of Afton 3033 St. Croix Trl, P.O. Box 219 Afton, MN 55001</p>
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Planning Commission Memo

Meeting: June 27, 2022

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: June 22, 2022

Re: William Kaye Application for a Conditional Use Permit for an Amendment to the Kaye Hill Farm Planned Agriculture Unit Development (PAUD) Subdivision at 1754 Neal Avenue

The City Council has referred the William Kaye conditional use permit application back to the Planning Commission with additional information that was not available for the Planning Commission's initial review of the application. The application is for a conditional use permit for an amendment to the Kaye Hill Farm Planned Agriculture Unit Development (PAUD) Subdivision that included the lot at 1754 Neal Avenue. Attached is the plat of the PAUD subdivision that includes the 1754 Neal Avenue parcel as parcel 6.

A key goal of the PAUD subdivision ordinance was to preserve large parcels for agricultural use and protect them from residential development. The key element of the Kaye Hill Farm PAUD subdivision was that a 40 acre parcel was created and prohibited from further subdivision, which allowed a higher density of lots on the remaining land in the subdivision. To ensure no further subdivision of the 40 acre parcel, as well as no further subdivision of any of the lots that were a part of the PAUD subdivision, conservation easements were placed on each lot. The proposed amendment to the PAUD subdivision is to enable an additional 5-acre lot to be created from the existing 13 acre lot at 1754 Neal Avenue. The existing 13 acre lot includes a vineyard in the northwest portion of the lot. Please see the attached staff report memo from the June 6 Planning Commission meeting with further details of the application.

Planning Commission Discussion

The following is a brief summary of questions and concerns raised by the Planning Commission at its June 6 meeting

- No commercial events should be allowed on the property
- Does the original PAUD approval prohibit future subdivision of the lot?
- Would this cause problems regarding opening up other PAUD's and PLCD's (Preservation and Land Conservation Developments) for amendments?

Additional Information

Since the June 6 Planning Commission meeting, staff has obtained additional information regarding the PAUD subdivision approval and conditions. The following is a discussion regarding the additional information

Driveway Access

Cody Kaye has indicated that the owner of the property to the west of the subject property has agreed to allow him to acquire a driveway easement through his property to provide access to the proposed new lot. This eliminates the need

for a shared driveway and eliminates the need for a shared driveway easement. The zoning code allows a private driveway easement to provide access to an adjacent property.

Resolution of Approval of the Original PAUD and Conservation Easement

The resolution of approval and Sec. 12-2380 of the PAUD ordinance (see attached) both require a conservation easement on all lots that restricts the number of dwelling units to the number approved for the PAUD and the land cover and use approved by the City as part of the PAUD. The proposed amendment, because it does not create a lot that can be used for a dwelling unit, does not change the number of dwelling units and does not change the approved land cover and use.

The conservation easement requires that the lot not be further subdivided and that the number of residential dwellings on the lot shall not exceed one. The proposed amendment does not increase the number of residential dwellings, but it does create another lot. The language of the conservation easement did not anticipate an interest in preserving agricultural land by creating a non-residential parcel that could only be used for agricultural use. The conservation easement would need to be amended to allow an additional lot, with the condition that the lot cannot be used for a residential dwelling unit, but only for agricultural use.

The proposed amendment to the PAUD would require an amendment to the conservation easement that was placed on the property. This would require approval by both the City Council and Belwin – who is a co-holder of the conservation easement. While the City needs to be careful and cautious about opening up existing conservation easements, the subject conservation easement is on a single residential lot, rather than on a large area of protected open space, and has the main goals of prohibiting additional residential dwelling units and protecting the existing open space on the lot. The amendment would not allow an additional residential dwelling, but only agricultural uses.

The conservation easement has an amendment paragraph that allows an amendment to the easement if it does not negatively impair or threaten the topography of the easement area or cause erosion to flow to adjacent property, and if it does not affect the perpetual duration of the easement. An amendment to allow an agricultural lot on the flat portion of the property would not affect the topography or cause erosion.

While an amendment would require action by the Belwin Board of Directors, which will not be able to occur prior to the June 27 Planning Commission meeting, staff is in the process of discussing the amendment with the Belwin Executive Director and Board Chair and will provide an update regarding those discussions either prior to or at the June 27 Planning Commission meeting.

Impact on Other Existing PAUD Subdivisions and Current and Future PLCD Subdivisions

There are currently no other PAUD subdivisions and none will be developed because the PAUD subdivision ordinance has been replaced by a PLCD subdivision ordinance. There are currently two PLCD (Preservation and Land Conservation Development) subdivisions. In one, (Cedar Bluffs) all lots are substantially nonconforming to the 5-acre minimum lot size, so could not be further subdivided. In the other, (Afton Creek Preserve) all lots are at or near the minimum 5-acre lot size, so could not be subdivided to create a conforming lot. In addition, the proposed amendment to the PAUD would create a lot that can only be used for agricultural uses, and cannot be used for a residential dwelling. It would be rare that someone would want to amend a PLCD to create a lot that cannot be used for a residential dwelling.

Conditions of Approval

The following are suggested conditions to be placed on an approval of the application. The Council particularly requested that the Planning Commission discuss additional conditions that should be required if the application was to be approved.

1. The existing conservation easement on the property shall be amended to allow the creation of the additional lot, but shall continue to require the lot to be used only for agricultural use, shall prohibit a residential dwelling from being constructed on the lot, shall prohibit further subdivision of the lot, and shall be recorded on the property along with the recording of the subdivision.
2. The consent of Belwin shall be obtained for the amendment of the conservation easement.
3. The proposed 5-acre lot shall be accessed from Majestic Pines Trail using a private driveway easement through the property to the west.

Planning Commission Recommendation Requested

Motion regarding a recommendation regarding the William Kaye application for a Conditional Use Permit for an amendment to the Kaye Hill Farm Planned Agricultural Unit Development (PAUD) at 1754 Neal Avenue.

Set City Afton
PO Box 219
Afton, MN 55001

3567871



Office of the
County Recorder
Washington County, MN

Certified filed and/or recorded on:
2006/02/06 12:37:00 PM

3567871



Cindy Koemann
County Recorder

By: *Cindy Koemann*

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ENTERED IN TRANSFER RECORD
WASHINGTON COUNTY, MINNESOTA

2.206

MOLLY F. O'ROURKE, AUDITOR-TREASURER

BY *Rebecca [Signature]*

07-028-20-42-0003 DEPUTY

0004

07-028-20-43-0005

0001

07-028-20-44-0010 CONSERVATION EASEMENT

Kaye Hill Farm Subdivision

THIS CONSERVATION EASEMENT ("Easement") is entered into this 20th day of December, 2005, by and among the City of Afton, a body politic and corporate, organized under the laws of the State of Minnesota (hereinafter referred to as "City"), and Afton Tree Co., LLC, a Minnesota limited liability company (hereinafter referred to as "Owner").

WHEREAS, Owner is the fee simple owner of approximately acres of land which has been platted as Lots 1-4 and 6, Block 1, Kaye Hill Farm subdivision in the City pursuant to the City's PAUD Ordinance.

WHEREAS, the City's Code of Ordinances provides for a PAUD, which allows for a higher density of residential dwellings on lots within the permitted agricultural zoning district subject to a conservation easement providing for open space requirements (i.e. no lots shall be further subdivided).

NOW THEREFORE, in consideration of mutual covenants and promises contained herein, Owner and the City agree to the following terms and conditions: 1118

1. Easement. The Owner grants, conveys and warrants to, and the City accepts, a perpetual open space easement on Lots 1-4 and 6, Block 1, Kaye Hill Farm subdivision ("Open Space Easement Area"), which means that the lot shall not be further subdivided and residential dwellings on the lot shall not exceed one (1).

2. Notices. Any notice or other communication that any party wishes to or must give to another shall be in writing and either served personally or sent by first class mail, postage prepaid, to the following addresses or such other address as any party shall designate by written notice to the other.

If to Owner: The Afton Tree Company LLC
Attn: William Kaye
12637 15th Street South
Afton, MN 55001

[Signature]

If to the City: City of Afton
3033 St. Croix Trail South
P.O. Box 219
Afton, MN 55001
Attn: City Administrator

If to Belwin: Belwin
1660 Highway 100 South
Suite 426
Minneapolis, MN 55416

3. Governing Law and Construction. This Easement shall be governed by the laws of Minnesota.

4. Entire Agreement. This Easement and any attachments hereto set forth the entire agreement of the parties and supersedes all prior discussions or agreements, either oral or written.

5. Amendment. The parties may amend this Easement provided that such amendment: (i) shall not, in the City's reasonable determination, negatively impair or threaten the topography of the Open Space Easement Area or cause erosion to flow to adjacent property, (ii) shall not affect the perpetual duration of this Easement, and (iii) is approved first by the City and then consented to by Belwin, a Minnesota non-profit organization.

6. Inspection and Enforcement. Owner agrees that, upon receipt of 72 hours written notice, to provide access to enter upon the land parcels subject hereto to the City and Belwin representatives for the purpose of ensuring compliance with the terms of the easement granted herein. No right of entry to buildings or residences is conferred hereby. Owner and the City agree to grant Belwin the right to bring any actions it deems necessary to enforce the restrictions and terms of the easement granted herein in the event the City shall fail to do so; and the City agrees to pay for the costs and attorneys' fees incurred by Belwin in such actions whether or not Belwin is the prevailing party, such payment to be made currently as such costs are incurred by and invoiced to Belwin.

7. Binding Effect. The covenants, terms, conditions, and restrictions of this Easement shall run with the real property described herein and shall bind and inure to the benefit of the parties, their personal representatives, heirs, successors, assigns, and all others who exercise any right by or through them and shall run in perpetuity with the Open Space Easement Area.

OWNER

William Kaye

Afton Tree Co., LLC

By: WILLIAM KAYE

ITS: *Vice President*

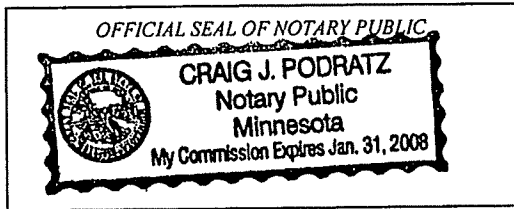
1/4/05

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this *4th* day of *January*, *2006*, 2005, before me, a Notary Public, within and for said County and State, personally appeared William Kaye, an officer of Afton Tree Co., LLC, to me personally known, who, being duly sworn, did say that that the foregoing instrument was signed on behalf of the Afton Tree Co., LLC, by authority of its Board of Directors and William Kaye acknowledged said instrument to be the free act and deed of said company.

Craig J. Podratz

SIGNATURE OF NOTARY PUBLIC



JK

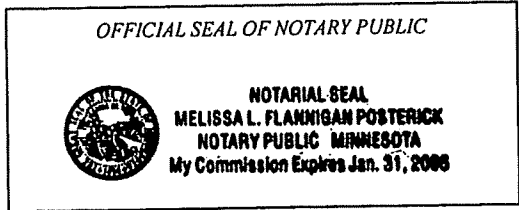
ACKNOWLEDGED BY BELWIN

Belwin
By: DAVID HARTWELL
ITS: President

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this 23rd day of January, 2005, before me, a Notary Public, within and for said County and State, personally appeared David Hartwell, an officer of Belwin, to me personally known, who, being duly sworn, acknowledged said instrument to be the free act and deed of said organization.

Melissa L. Flannigan Posterick
SIGNATURE OF NOTARY PUBLIC



DRAFTED BY:
David K. Snyder, Esq.
ECKBERG, LAMMERS, BRIGGS,
WOLFF & VIERLING, P.L.L.P.
1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878

DL

RESOLUTION 2004 - 5

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING FINAL PLAT AND FINAL DEVELOPMENT PLAN PAUD AND FINAL PLAT TO BE KNOWN AS KAYE HILL FARM SUBDIVIDING AN APPROXIMATELY 79 ACRE SITE ABUTTING 15TH STREET TO THE NORTH AND NEAL AVENUE TO THE EAST INTO 6 SINGLE FAMILY PARCELS.

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

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

WHEREAS, Afton Tree Farm LLC. have made application to the City for Final Development Plan PAUD and Final Plat subdividing an approximately 79 acre piece of land zoned Agricultural into eleven single family lots; and

WHEREAS, the proposed subdivision qualifies as a PAUD as defined in section 12-2371 of the Zoning Ordinance; and

WHEREAS, the City Council considered all of the comments, concerns and recommendations as described in the Planning Staff report, the neighboring property owners and the applicants at their regular meeting on January 5, 2004.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton hereby approves the Final Development Plan PAUD and Final Plat subdivision as requested by the applicant creating 6 single family parcels in a PAUD development to be known as Kaye Hill Farm, subject to the following conditions:

CONDITIONS:

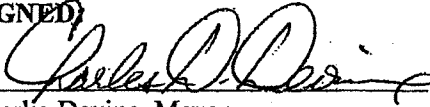
- a. Review and approval of the Valley Branch Watershed District.
- b. The final plat shall be revised to eliminate outlot A and add it to the right-of-way of the abutting cul-de-sac.
- c. The applicant must submit documentation of a conservation easement granted to the City of Afton and all of the owners of the lots that restrict the lots and parcels within the PAUD to the number of dwelling units approved per section 12-2380 (5) of the Zoning Ordinance.
- d. The applicant must submit documentation of 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 parcels to be created in the PAUD per section 12-2390 (6) of the Zoning Ordinance.

RESOLUTION 2003-

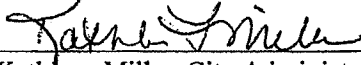
- e. A park dedication fee of \$29,000.62 dollars or \$5,800.12 per lot is to be paid at time of final plat approval.
- f. Lots 5 and 6 are to be deeded over to the Afton Tree Company, thereby resolved into the PAUD.
- g. Stormwater drainage and erosion control is subject to the review and approval of the City Engineer.
- h. Street name shall conform to the county uniform street naming and property numbering system per Section 12-1385 of the Subdivision Ordinance.
- i. Comments of other City Staff.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 20th DAY OF JANUARY 2004.

SIGNED


Charlie Devine, Mayor

ATTEST:


Kathleen Miller, City Administrator

Motion By: Meyer
Second By: Mucciacciaro
Mucciacciaro: yes
Meyer: yes
Noltz: no
Kollmer: no
Devine: yes

AFTON CODE

- (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.

LAND USE

- ★ (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.

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

Planning Commission Memo

Meeting: June 6, 2022

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: May 23, 2022

Re: William Kaye Application for a Conditional Use Permit for an Amendment to the Kaye Hill Farm Planned Agriculture Unit Development (PAUD) Subdivision at 1754 Neal Avenue

William Kaye has submitted an application for a conditional use permit for an amendment to the Kaye Hill Farm Planned Agriculture Unit Development (PAUD) Subdivision that included the lot at 1754 Neal Avenue. Attached is the plat of the PAUD subdivision that includes the 1754 Neal Avenue parcel as parcel 6. The amendment is to enable an additional 5-acre lot to be created from the existing 13 acre lot at 1754 Neal Avenue. The existing 13 acre lot includes a vineyard in the northwest portion of the lot.

The lot proposed to be created includes the existing vineyard on the property. The five acre lot is proposed to be an agricultural lot with an agricultural easement that requires the lot be used only for agricultural use and prohibits a dwelling unit from being constructed on the lot. The purpose of creating this agricultural lot is to enable the ownership of the vineyard to be transferred prior to the sale of the remainder of the lot that includes the existing house, so that the vineyard can be preserved. The proposed amendment is compatible with the City's agricultural land preservation effort and its strategy of placing agricultural easements on agricultural property to preserve the land for agricultural use.

The new 5-acre lot is not proposed to have frontage on Neal Avenue, and is proposed to be accessed using the driveway that serves the existing home at 1754 Neal Avenue for two reasons. First, the topography of the eastern portion of the existing lot is steep. The only location for a driveway to serve the lot is adjacent to the existing driveway that currently runs nearly to the east property line of the proposed lot, then curves to the south to serve the existing house. Rather than having two adjacent parallel driveways, it is proposed that the existing driveway become a shared driveway. While the proposed lot does not meet the 20 acre lot size necessary for a shared driveway subdivision that allows parcels without frontage on a public road, the proposal does ensure the lot will be preserved for agricultural uses, prohibited from having a residential use, and prohibited from being further subdivided.

Conditions of Approval

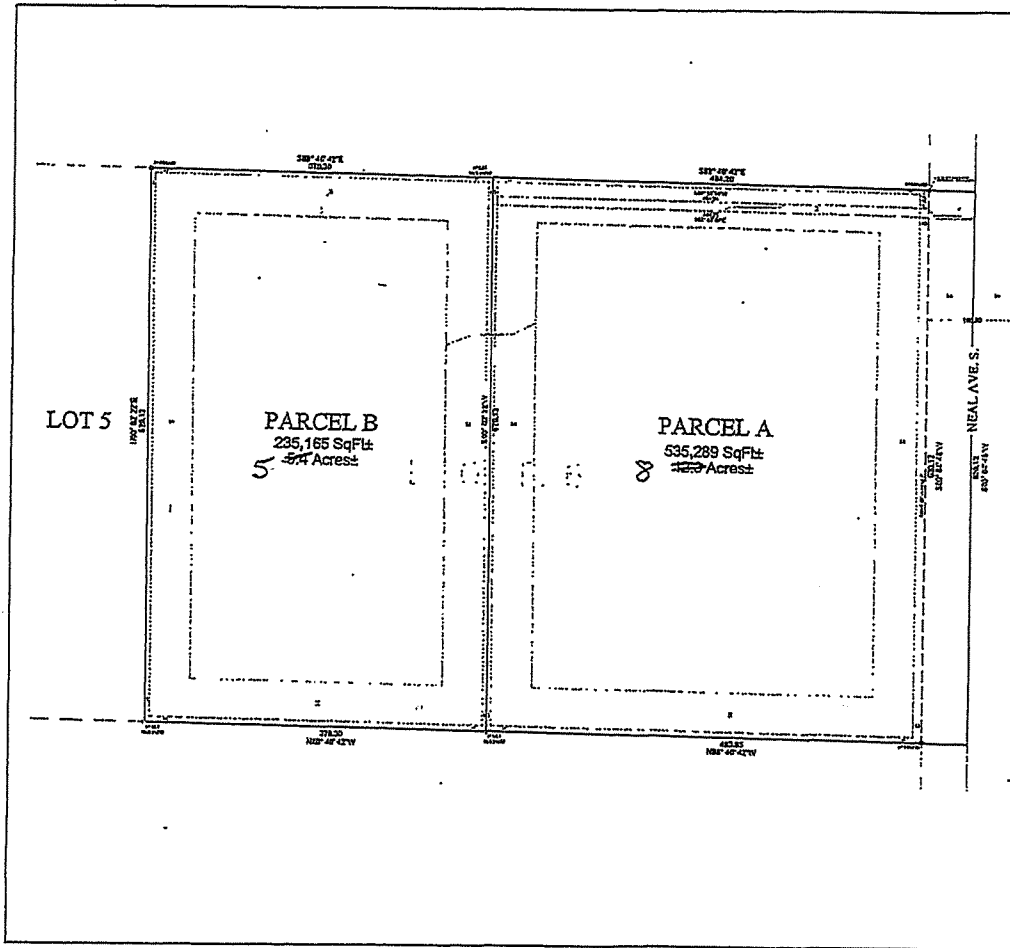
If the Planning Commission recommends approval of the application, the following are recommended conditions of approval. The Planning Commission may revise or add to the recommended conditions.

1. An agricultural easement that requires the lot to be used only for agricultural use, prohibits a dwelling unit from being constructed on the lot and prohibits further subdivision of the lot shall be recorded on the property prior to the recording of the subdivision.
2. The proposed new lot shall be accessed using the same driveway that currently serves the existing house on the 1754 Neal Avenue lot.
3. A multi-party shared driveway agreement that sets out how the shared driveway is to be maintained, repaired and improved; who is responsible for planning, coordinating and implementing the maintenance, repairs and improvements, and how the costs of maintenance, repairs and improvements are to be allocated among the owners of the lots served by the driveway; and that provides for a dispute resolution process that does not include the City, shall be subject to review

and approval by the City, and shall be recorded against the property of each party.

Planning Commission Recommendation Requested

Motion regarding a recommendation regarding the William Kaye application for a Conditional Use Permit for an amendment to the Kaye Hill Farm Planned Agricultural Unit Development (PAUD) at 1754 Neal Avenue.



EXISTING LEGAL DESCRIPTION
 Lot 4, of KAYHILL FARM, Washington County, Minnesota.

PROPOSED LEGAL DESCRIPTIONS

PARCEL A
 That part of Lot 4, except for West 379.30 feet thereof KAYE HILL FARM, Washington County, Minnesota, Subject to existing and utility easements, under and across the South, South and West 2 feet and the West 10 feet thereof.

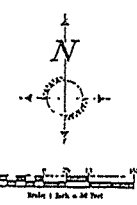
PARCEL B
 The West 379.30 feet of Lot 4, of KAYHILL FARM, Washington County, Minnesota, Subject to existing and utility easements, under and across the North East, North and West 1 feet thereof.

PROPOSED DRIVEWAY EASEMENT

As to that easement Dr. 442 copy prepared on at that part of Lot 4, of Lot 4, of Washington County, Minnesota, described in Subdiv. Commission as the North 30 feet of Lot 4 (Three Acres) 200 Acres 200 Acres 200 Acres 200 Acres, that part of the University Highway Easement of West 10 feet thereof, in the part of the University Highway Easement South along the West 10 feet of Parcel A and Parcel B, a distance of 110 feet thereon (West 10 feet of Parcel A and Parcel B) 242.25 feet, to the West line of said Parcel A; from West 10 feet of Parcel B 42 feet to the West line of Parcel A; from West 10 feet of Parcel A 42 feet to the West line of Parcel B; and to the point of beginning, all in Lot 4 of KAYHILL FARM, Washington County, Minnesota.

LEGEND

- * Iron Measurement Found
- * Iron Measurement Not Found



MINNESOTA PROFESSIONAL SURVEYORS & MAPPING SOCIETY

ASPS

MINNESOTA PROFESSIONAL SURVEYORS & MAPPING SOCIETY

STATE OF MINNESOTA

PROFESSIONAL SURVEYOR

NO. 100000

ISSUED

DATE

BY

FOR

PROJECT

LOT SPLIT

BILL KAYE
1754 NEAL AVE. S.

NO. 100000

ISSUED

DATE

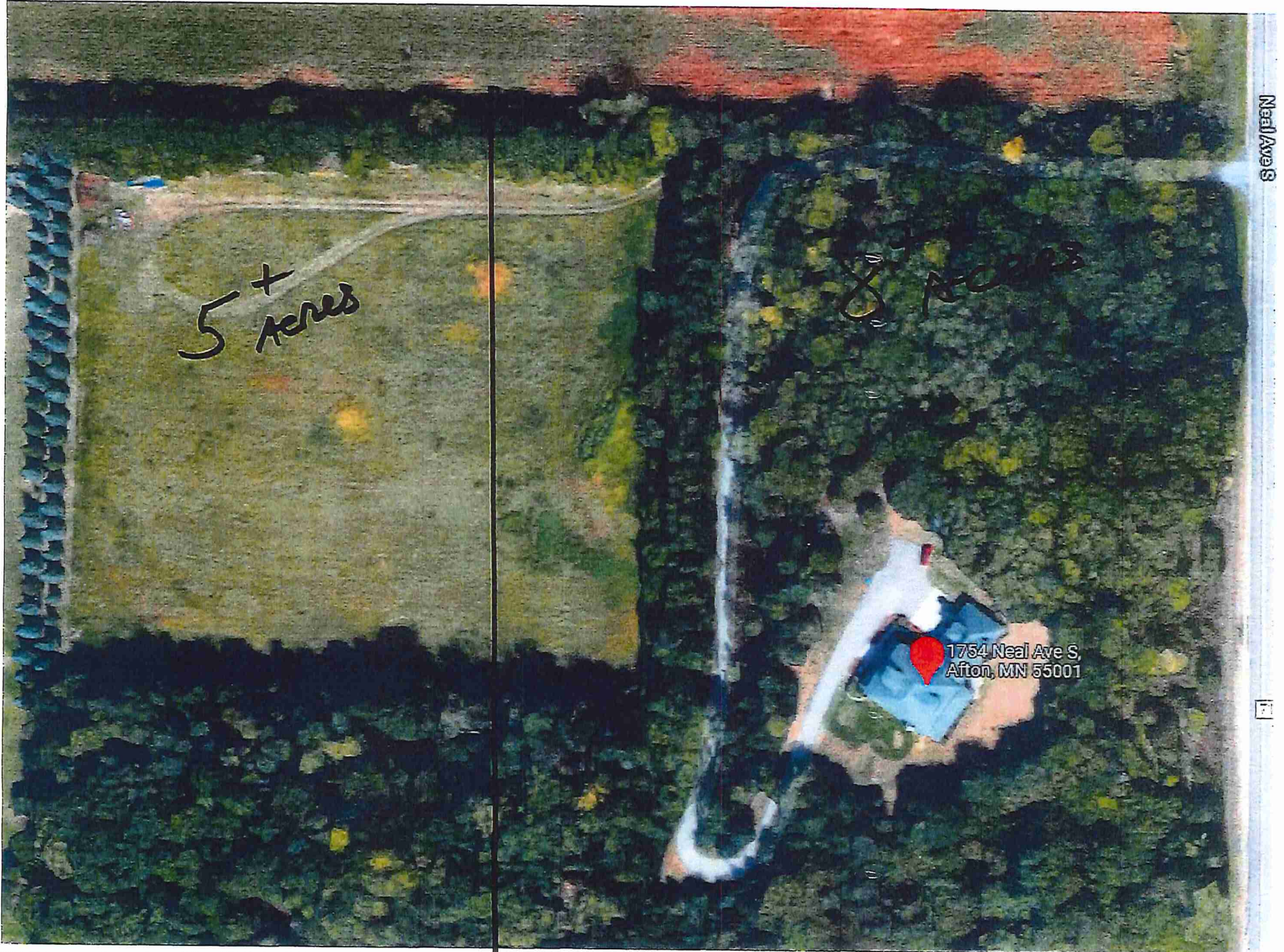
BY

FOR

PROJECT

LOT SPLIT

1



PRELIMINARY PLAT of **KAYE HILL FARM**

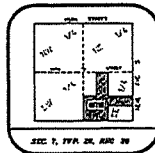
CONTACTS

ADJACENT
 NORTH: NEAL AVENUE SOUTH
 EAST: NEAL AVENUE SOUTH
 SOUTH: NEAL AVENUE SOUTH
 WEST: NEAL AVENUE SOUTH

ADJACENT
 NORTH: NEAL AVENUE SOUTH
 EAST: NEAL AVENUE SOUTH
 SOUTH: NEAL AVENUE SOUTH
 WEST: NEAL AVENUE SOUTH

LEGAL DESCRIPTION

The Eastern Quarter of the Eastern Quarter of Section 2, Township 28 N., Range 28 W., containing 160 Acres, more or less, situated in the County of ... State of ...



RETRACTED

Amount of land to be retracted and the portion of same

AREA TABLE

- LOT 1, 100.00 AC.
- LOT 2, 100.00 AC.
- LOT 3, 100.00 AC.
- LOT 4, 100.00 AC.
- LOT 5, 100.00 AC.
- LOT 6, 100.00 AC.
- LOT 7, 100.00 AC.
- LOT 8, 100.00 AC.
- LOT 9, 100.00 AC.
- LOT 10, 100.00 AC.
- LOT 11, 100.00 AC.
- LOT 12, 100.00 AC.
- LOT 13, 100.00 AC.
- LOT 14, 100.00 AC.
- LOT 15, 100.00 AC.
- LOT 16, 100.00 AC.

PROPERTY

Plotted and shown as follows

ELOPEMENT

Plotted and shown as follows

RETRACTED

Plotted and shown as follows

LEGEND

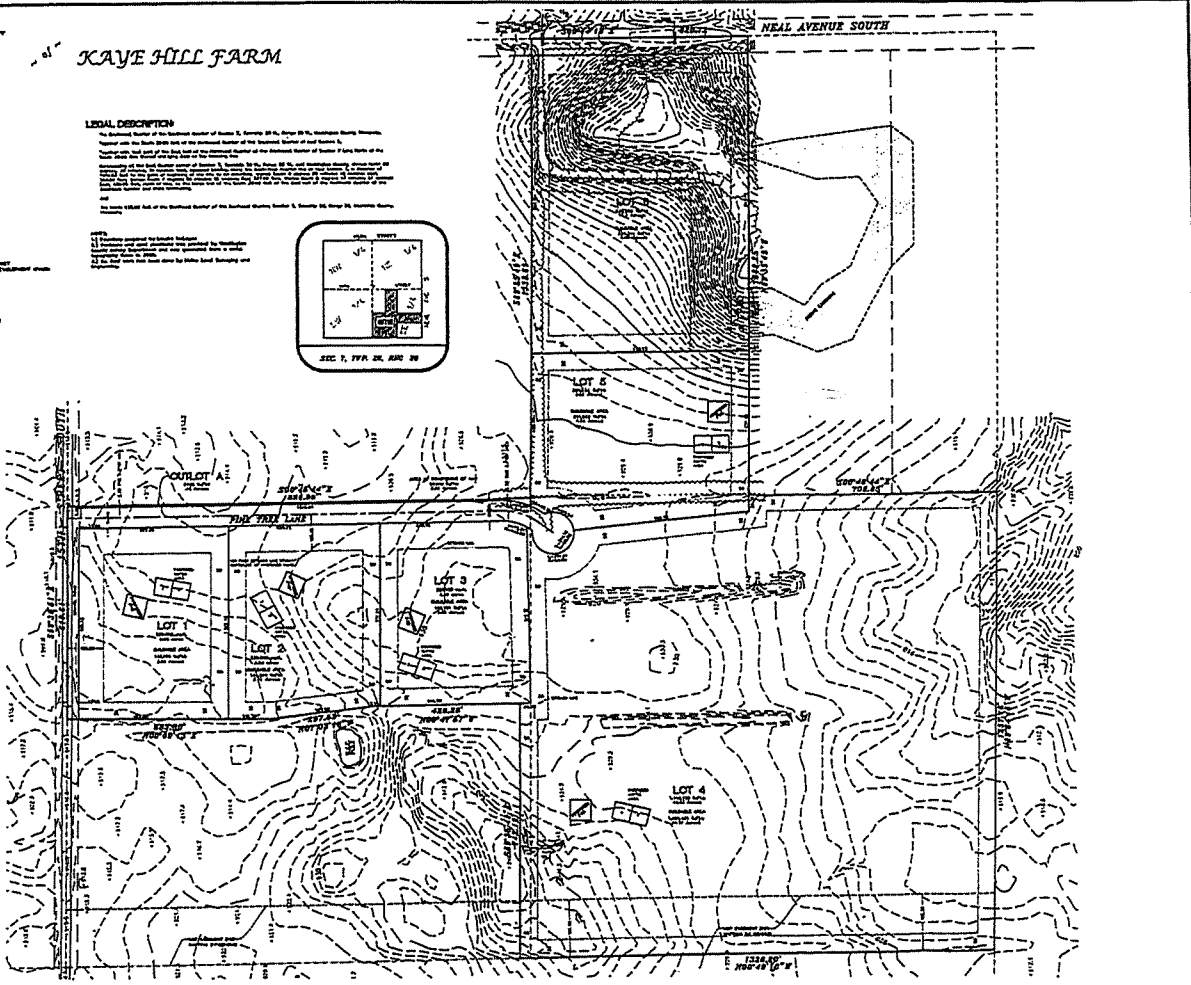
Showing the amount of land retracted and the portion of same



This plat was prepared by the undersigned, a duly licensed Surveyor in the State of ... and is a true and correct copy of the original plat on file in the office of the County Clerk of the County of ... State of ...

DATE: 11/20/2008

NO.	DESCRIPTION	DATE



222-35

CITY OF AFTON
CONDITIONAL USE PERMIT APPLICATION
(Reference Code Section 12-78; also see Section 12-134 Use Table)

Owner	Address	City	State	Zip	Phone
William Kaye	1754 NEAL AVE	AFTON	MN	55001	651-329-8578
Applicant (if different than owner)	Address	City	State	Zip	Phone
Same					
Project Address		AFTON	MN	55001	
Zoning Classification	Existing Use of Property	PID# or Legal Description			
	Vineyard				
Description of Request					
By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City. If work authorized by this Conditional Use Permit is not started within 12 months of the date issued , this CUP will EXPIRE and be INVALID.					
Signature of Owner/Applicant			Date		
William Kaye			5/3/22		
Email Address					
BK182 @ LUCKYMAIL.COM					
Make checks payable to City of Afton:					
FEES:		ESCROW DEPOSIT:		TOTAL: 200.00	
CUP	\$450	CUP Escrow	\$1,000	DATE PAID:	06/01/2022
Amended CUP	\$450	Amend CUP Escrow	\$1,000	CHECK #:	7355
City Engineer		Engineer Escrow		RECVD. BY:	[Signature]
Other		Other			
ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION					

[Handwritten notes]

From: Jeff Heegaard
Sent: Saturday, June 18, 2022 12:19 PM
Subject: I am writing in support of the CUP proposal for 1754 Neal Ave. S.

Dear Afton City Council Members,

Afton has a rare opportunity to begin to define our community as a place that embraces and supports new creative agriculture businesses. As such, I am writing to support the concept of the newly proposed Viticultural Area Proposal by Cody Kaye .

Afton has many unique land attributes that make it special. These unique land features associated with our St. Croix River make our community exceptionally well suited to viticulture. By embracing opportunities like this the council can encourage a type of agriculture that can bring community benefits far into the future.

Among it's many attributes viticulture has lower environmental impact than traditional crops and supports long-term property values. I believe it is in our community interest to encourage more vineyards in Afton and the St. Croix Valley.

I am fully aware that ordinances in Afton are sacrosanct and anything that challenges the status quo can be controversial, but I lean in favor of the council finding creative solutions and appropriate language that can support and encourage this type of agriculture.

Respectfully,

**Jeff Heegaard
: Afton Hills Drive South
Afton, MN 55001**

Ron Morse

City Administrator, Afton

Re: Cody Kaye request for zoning amendment

Dear Mr. Morse – Please read this to the City Council during the public comment period at the beginning of this weeks City Council meeting. Thank you.

Dear Mayor Palmquist and members of the Afton City Council:

Historically, small agriculture has been part of the rural landscape of Afton. At the Strawberry Festival on June 25 and 26, we will celebrate one of Minnesota's oldest small agriculture uses of the countryside: berry production in Afton.

Cody Kaye is proposing a creative way of making small agriculture a part of the rural landscape of Afton once again by proposing an AGRICULTURAL ONLY split of half of his parents ten-acre residential lot to include a separate five acre vineyard.

By adopting the Kaye proposal, Afton would be consistent with a value that most of us share - rural doesn't simply mean a large home on a lot too big to mow and too small to plow. Afton will be promoting sustainable agriculture while neighboring communities succumb to land yachts plowing through the countryside.

Thank you for your consideration.

Respectfully submitted,


Bob Dickie

. 35th Street

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

Planning Commission Memo

Meeting: June 27, 2022

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moore, City Administrator

Date: June 22, 2022

Re: Priority Groundwater Protection Items for the Planning Commission's Efforts

At the June 6, 2022 Planning Commission meeting, Chair Kopitzke requested that each Commission member bring to the June 27 Commission meeting a list of the groundwater protection items on which they would like the Commission to focus its efforts. The Commission can prioritize the items and select the priority item(s) to focus on first.

June 21, 2022 City Council Meeting Highlights

The Council:

- Approved a CUP for a Type D Short Term Rental License at 13288 10th Street South.
- Referred the application for a Conditional Use Permit for an Amendment to the Kaye Hill Farm Planned Agricultural Unit Development Subdivision at 1754 Neal Avenue back to the Planning Commission for review of additional information.
- Approved a Conditional Use Permit for a Nature Center with a hiking and mountain biking trail system at 2167 Oakgreen Avenue and Contiguous Parcels with PID#s 16.028.20.23.0001 and 16.028.20.23.0002
- Approved an ordinance amendment to add the Park use to the list of allowed uses, and to add a definition of “Park”
- Approved the installation of guardrails as part of the Valley Creek Trail Bridge Replacement Project
- Approved a Contract with MSA for Providing Planning Services