

CITY OF AFTON

**APPROVED PLANNING COMMISSION MINUTES**

*(Meeting rescheduled from July 1 due to lack of quorum) July 8, 2019*

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5 **1. CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:00 PM

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7 **2. PLEDGE OF ALLEGIANCE** – was recited.

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9 **3. ROLL CALL** – Present: Chair Kris Kopitzke, Sally Doherty, Christian Dawson, Justin Sykora, Roger  
10 Bowman, Doug Parker. A Quorum was present. Absent were Scott Patten, James Langan, & Kuchen Hale  
11 (all excused).

12 **ALSO IN ATTENDANCE** – Council member Wroblewski, City Administrator Ron Moore

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14 **4. APPROVAL OF AGENDA** –

15 **Motion/Second Parker/Dawson To approve the Agenda of the July 8, 2019 Planning Commission**  
16 **meeting. Passed 6-0.**

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18 **5. APPROVAL OF MINUTES** –

19 A. June 3, 2019

20 **Motion/Second Bowman/Sykora To approve the minutes of the June 3, 2019 Planning Commission**  
21 **meeting. Passed 5-0-1. (Kopitzke abstain due to absence)**

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23 **6. REPORTS AND PRESENTATIONS** - None

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25 **7. PUBLIC HEARINGS** –

26 A. Kerry White Application for Minor Subdivision at 1132 Indian Trail

27 Chair Kopitzke opened the Public hearing at 7:05 PM

28 Administrator Moore provided an overview of the application:

29 Kerry and Judy White have applied for a minor subdivision at 1132 Indian Trail to subdivide the existing 27.4  
30 acre parcel into two lots. The existing 27.4-acre lot has an existing house and compliant septic system. The  
31 property is zoned Rural Residential, and the adjacent properties to the north, east and south are zoned Rural  
32 Residential. The property to the west is zoned Agricultural. The proposed parcel A is proposed to be  
33 accessed via an existing farm access driveway that is to be upgraded in a way that meets the property owner's  
34 needs and City regulations.

35 No comments were received from the public

36 **Motion/Second Sykora/Parker to close public hearing. Passed 6-0.**

37 Public hearing closed at 7:10 pm.

38 Discussion

39 Bowman asked about Rural Residential rules for driveway setback? (10') entrance looks tight next to slope  
40 area. Also concerned over oddly shaped lot.

41 Doherty agrees about the oddly shaped lot. (owner wanted to divide the parcel equally between fields and  
42 woods, include tree stand area on one lot).

43 Parker & Kopitzke agreed about the oddly shaped lot.

44 **Motion/Second Sykora/Doherty move to recommend approval with findings and conditions listed along**  
45 **with additional condition that the lot line be changed in the back.**

46 **Findings**

- 47 **1. The subject property is located in the Rural Residential zone, as are the properties**  
48 **to the north, east and south. The property to the west is zoned Agricultural.**  
49 **2. The Rural Residential zone allows residential use with five-acre minimum lot size.**  
50 **3. The subdivision meets subdivision requirements**

51  
52 **Conditions**

- 53 **1. Easements as required by the City Engineer shall be granted**  
54 **2. All drainage and utility easements shall be subject to the review and approval of**  
55 **the City Engineer.**

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3. All grading, drainage and erosion control issues shall be subject to review and approval by the City Engineer, and by the Valley Branch Watershed District if they meet permit thresholds.
  4. Scenic easements shall be placed on all slopes greater than 18%
  5. The applicant shall execute a scenic easement agreement and shall record the scenic easement concurrent with the subdivision
  6. A public road right-of-way easement shall be dedicated over the area within 30 feet of the centerline of Indian Trail.
  7. Park dedication requirements shall be satisfied prior to recording of the subdivision, in accordance with Section 12-1270 of the Subdivision Ordinance
  8. A permit for individual septic system to serve a new home on the additional parcel shall be obtained from the Washington County Public Health Department at the time of application for building permit for the home, and all requirements of the septic permit shall be met.
  9. The driveway to serve Parcel A shall comply with Section 12-84 of the Zoning Ordinance and be subject to review and approval by the City Engineer.

73 Discussion

74 Kopitzke asked if lot line is changed are they required to come back to PC? (no)

75 Kopitzke stated that another option is to put that area into a conservation easement.

76 Moorse stated that they could extend the scenic easement.

77 Bowman stated that our approach is to not allow oddly shaped lots. Trying not to continue problem.

78 Sykora stated he could amend motion to require either a lot line change or amend the scenic easement.

79 Bowman stated that it sets precedent for the future.

80 Doherty does not support amending the motion. Make a note to city council that the scenario was discussed.

81 **Motion vote:**

82 **Vote passed 5-1 (Kopitzke nay)**

83  
84 **B.** Rebecca Enos application for a variance at 15234 Afton Hills Dr

85 Chair Kopitzke opened the Public hearing at 7:26 p.m.

86 Administrator Moorse provided a summary of the application:

87 Rebecca Enos has applied for a variance to construct a 30 ft. by 26 ft. accessory building closer to the front lot line of the property than the existing house at 15234 Afton Hills Court.

88  
89 No public comments were received

90 **Motion/Second Parker/Doherty To close public hearing. Passed 6-0.**

91 Public Hearing closed at 7:31p.m.

92 Discussion

93 Bowman recommended the screening be maintained when the older existing trees die.

94 Kopitzke stated that this is a unique lot, no other location to place it.

95 Sykora asked about secondary (or third) septic location, does it need to be identified before approval?

96 Moorse if site of garage is only other potential septic site, we can ask owners and provide info to council

97 Doherty asked about distance from house to garage? 2 variances are needed, one for the location in front of house, one if further than 25' away from house. Since the distance is not specified, would want it to be a condition.

98 Bowman would enhance screening

99 Sykora would like to encourage natural plantings such as cedar, native shrubs.

100 Parker provide screening all year

101 **Motion/Second Bowman/Parker recommend approval with findings and conditions listed with additional conditions that the garage be located within 25' of home, and screening enhanced to include native species that provide year round screening.**

102 Findings

- 108           **1. The subject property is located in the Rural Residential zone, as are the**  
109           **surrounding properties.**  
110           **2. The property is a substandard parcel, due to the lot size of 2.4 acres vs. the required**  
111           **minimum lot size of 5 acres.**  
112           **3. The parcel is a corner lot with frontage on both Afton Hills Court and Afton Hills**  
113           **Drive.**  
114           **4. There is not sufficient space to build to the north or west of the house. A location to**  
115           **the east of the house would take out many trees and would require the construction**  
116           **of an additional driveway running across the front yard of the property.**

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118           **Conditions**

- 119           **1. The garage shall be located and constructed according to the surveys and plans**  
120           **submitted with the variance application, subject to revisions as required or**  
121           **approved by the City.**  
122           **2. Vegetation removal shall be minimized**

123           **Vote: Passed 6-0.**

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125           **C. Kathy & David Boisjoli Application for ordinance amendment**

126           Chair Kopitzke opened the Public Hearing at 7:50pm.

127           Administrator Moore provided a summary:

128           Private riding stables are allowed as a conditional use in the Agricultural and Rural Residential zoning districts,  
129           and commercial riding stables are allowed as a conditional use in the Agricultural zoning district, but not in the  
130           Rural Residential zoning district. Until recently, Kathy Boisjoli and two other therapists had been providing  
131           equine-assisted therapy by renting a stable at a farm in Woodbury. Each therapist had horses that were boarded  
132           at the farm and used for the equine-assisted therapy. When the owner of the farm decided not to renew the  
133           lease, the Boisjolis purchased a 20-acre farm with a stable at 15489 45<sup>th</sup> Street with the plan to board the horses  
134           and continue the equine-assisted therapy in Afton. Because the property at 15489 45<sup>th</sup> street is zoned Rural  
135           Residential, a commercial riding stable is not allowed.

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137           No public comments were received

138           **Motion/Second Doherty/Bowman to close public hearing. Passed 6-0**

139           Hearing closed at 7:58 pm

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141           Discussion

142           Sykora asked why 9 horses? (based on acreage and animal units)

143           Moore stated that regarding the ordinance amendment, the property is in RR, want to keep small riding stable.

144           Bowman suggested changing language to include therapy with private stable

145           Moore boarding of others makes it commercial.

146           Dawson recommended including specific language with "therapy"

147           Doherty stated that the ordinance change allows commercial use; what if next applicant's commercial use isn't  
148           as agreeable?

149           Bowman what are limitations on business in RR? (business can be run from home, but not one that uses an  
150           accessory building.)

151           Parker asked what if rezoned to AG? Would solve the problem

152           Doherty replied it would be "spot zoning" as adjacent properties are RR.

153           Parker asked about duration of CUP? (goes with the property)

154           Kathy Boisjoli, Applicant; stated that the most traffic would be 3 cars per hour. Have to be licensed equine  
155           physco-therapist.

156           Doherty asked about septic (2 on property - one for house, one for barn)

157           Doherty recommended focus on private use

158           Bowman stated that we allow business that reflect the rural nature of community. In the CUP limitations can  
159           be placed as animal based therapy (licensed by state) or animal/equine assisted certified therapy.

160 Kathy stated there are licenses for equine assisted physco-therapy (2 governing organizations) and a license  
161 administered by state board for licensed mental health professionals.  
162 Key terms: Private use, owner and resident of home, licensed health care professional, animal use  
163 Bowman recommended adding to list of allowed uses  
164 Parker expressed concern over future requests  
165 Moorse recommended the tie to riding stable as there are minimum acreage requirements.  
166 Doherty recommended telling the City Council the direction the PC is going and request a month to develop  
167 the language.  
168 **Motion/Second Kopitzke/Doherty move to recommend that City Council look at the stable use as private**  
169 **with a CUP specific to therapy operated out of the home; maintaining rural character.**  
170 **Doherty offered friendly amendment to extend another month to develop language and would like**  
171 **feedback from the council before next meeting. (Accepted)**  
172 **Motion vote: Passed 6-0.**

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174 **Motion/Second Doherty/Bowman move to deny CUP application because there is no ordinance to support**  
175 **it at this time. Fees will be reapplied toward a new CUP that will match ordinance language change that**  
176 **may be proposed. Passed 6-0.**

177  
178 Applicants returned regarding 7b with a question regarding the ordinance language requiring 25' setback to  
179 house. Language states either screening is required, or the building needs to be within 25', not both.  
180 Sykora recommended the City Council be informed.  
181 Applicant was asked to provide the distance and have screening plan for the City Council

182  
183 **8. NEW BUSINESS – none**

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185 **9. OLD BUSINESS –**

186 **A. Review & clarification of elements of PLCD ordinance language**  
187 Kopitzke asked for summary of the joining discussion: parcels can be joined but cannot be counted in  
188 increased density, may be included in PLCD if it improves design goals. Also cannot be used to meet open  
189 space requirements.  
190 Doherty feels the loose ends were tightened up and language clarified.  
191 Sykora stated there wasn't anything guiding them to say no or yes last time, now there is better way to make  
192 a decision.  
193 Doherty noted that it is unlikely that a perfect parcel will surface  
194 Dawson stated the language is "may be included" to allow for option. More useful and clear.

195  
196 The commission reviewed the list of conditions in Resolution 2018-59, specifically items in bold to  
197 determine if they should be included in all PLCD language. The majority were kept, with a few changes.  
198 The list is attached.  
199 Bowman & Parker expressed concerns over enforcement

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201 **Motion/Second Bowman/Parker to include item #36 regarding requirement that 60% of each lot be**  
202 **planted in natural vegetation. Passed 4-2 (Doherty & Kopitzke Nay)**

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204 **B. Update on City Council actions**  
205 Council member Wroblewski provided a summary of the June City Council meeting.

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207 **11. ADJOURN**

208 **Motion/Second Sykora/Doherty To adjourn. Passed 6-0.**

209 Meeting adjourned at 9:45 p.m.  
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Afton Planning Commission  
Meeting Minutes **APPROVED**  
July 8, 2019

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Respectfully submitted by:

    JY      
Julie Yoho, City Clerk

To be approved on August 5, 2019 as (check one): Presented:     X     or Amended:           

DRAFT

**RESOLUTION 2018 - 59**

CITY OF AFTON  
COUNTY OF WASHINGTON, MINNESOTA

**A RESOLUTION APPROVING THE FINAL PLAT FOR J.P. HOMES, INC. "AFTON CREEK PRESERVE"**

**WHEREAS, J.P. Bush Homes, Inc.** has made application for approval of a final plat to subdivide 18 lots from 218 acres for a Preservation and Land Conservation Development subdivision to be known as Afton Creek Preserve; and,

**WHEREAS,** based upon review of the application and evidence received, the Afton City Council now makes the following findings of fact:

- A. The legal description of the property is attached as Exhibit A.
- B. The 2008 Afton Comprehensive Plan allows Preservation and Land Conservation Development subdivisions in the Agricultural District.
- C. The property is zoned Ag, Agricultural District, which allows Preservation and Land Conservation Developments with a Conditional Use Permit and single family dwellings as a permitted use.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Afton that based on the foregoing information and applicable ordinances, the request is hereby **APPROVED** and is subject to the following conditions:

1. Access and traffic related issues shall be subject to review and approval by the City Engineer.
2. The developer shall obtain and provide an easement providing access to Odell Avenue prior to the approval of the final plat.
3. The developer shall provide an acceptable method of ensuring adequate long term maintenance of the 5550 Odell Avenue parcel.
4. Street-related designs and specifications, including but not limited to right-of-way width, shall be subject to review and approval by the City Engineer to insure they meet Afton's standards.
5. The acceptability of the drainage and utility easement within Lot 4, Block 3 and related maintenance responsibilities shall be subject to review and approval by the City Engineer.
6. **In accordance with the submitted seeding restoration plan, pre-development seeding with a prairie grass/wildflower mix shall be provided on all lots and on the open space parcels. Maintenance responsibilities associated with the restoration seeded areas shall also be addressed by the applicant (to the satisfaction of the City).**
7. Wetland-related issues shall be subject to review and approval by the City Engineer.
8. The proposed 20-foot wide access easement width between Lots 5 and 6, Block 2 shall be determined acceptable to the City Engineer and/or Fire Chief.
9. Easements for drainage and utilities shall be provided over individual lots as recommended by the City Engineer.
10. Review of proposed septic designs and final septic permits shall be received from Washington County prior to building permit approval.
11. The applicant shall pave 60<sup>th</sup> Street from Trading Post Trail to Neal Avenue.
12. The farm access shall be prohibited as a construction thoroughfare or road during development of the PLCD and redeployed to the benefit of the neighborhood.
13. All proposed right-of-way dedication and street construction plans are subject to review and approval

Commented [JY(C1)]: Keep this item with change

- 275 of the City Engineer.  
276  
277 14. Driveways accessing the proposed lots shall comply with Section 12-84 of the Zoning Ordinance.  
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279 15. All grading, drainage and erosion control issues are subject to review and approval by the City  
280 Engineer and South Washington Watershed District.  
281 21. All drainage and utility easements shall be subject to review and approval of the City Engineer.  
282 22. Park dedication requirements shall be satisfied at the time of final plat approval.  
283 **23. The Developer shall enter into a Developer's Agreement with the City regarding the installation**  
284 **of required improvements, and shall provide financial guarantees as required in Sections 12-**  
285 **1471 to 12-1476 of the subdivision ordinance.**  
286 24. The developer shall grant a conservation easement over the required open space parcels to the  
287 Minnesota Land Trust, the provisions of which shall be approved by both the City and the Minnesota  
288 Land Trust.  
289 **25. The homeowner's association restrictive covenants shall contain a provision that in the event**  
290 **the homeowner's association becomes insolvent or ceases operating control shall at its option be**  
291 **transferred to the city of Afton or another method of succession shall be dictated by the City.**  
292 **26. The homeowner's association documents shall contain a waiver of assessment appeal running in**  
293 **favor of the city.**  
294 27. The provision in the homeowner's association restrictive covenants require any changes in lots  
295 require city approval ~~allowing changes in lots upon the vote of 2/3 of the residents shall be changed to~~  
296 comply with Afton's requirements.  
297 **28. The public walking paths shall be added to the Final Development Plan.**  
298 **29. The city of Afton shall be a named insured on the homeowner association insurance policy,**  
299 **provide a certificate of insurance to the City, and the policy shall cover those risks identified by**  
300 **the city, including but not limited to coverage for personal injuries and any other losses**  
301 **occurring as a result of the public use of the walking trails on the conservation area.**  
302 **30. The homeowner's association shall be required to indemnify and hold the city of Afton**  
303 **harmless from all losses incurred as a result of the public's use of the conservation area walking**  
304 **trails.**  
305 **31. Covenant amendment provisions in the homeowner's restrictive covenants permitting changes**  
306 **after a certain number of years have passed shall be amended to remove the current conflict**  
307 **with restrictions on future subdivision of PLCD lots and other provisions of Afton's ordinances.**  
308 32. Architectural controls shall be removed from the homeowner's association restrictive covenants.  
309 33. Prairie Restoration shall be the vendor planting the conservation easement and the initial planting of  
310 all residential lots with a seed mix matching the one submitted with the preliminary plat application.  
311 34. Provisions on setbacks shall be removed from the homeowner's restrictive covenants and Afton's  
312 restrictions shall control.  
313 35. The provisions restricting certain pets shall be removed from the homeowner's restrictive covenants;  
314 Afton's ordinances shall control pets.  
315 **36. Residential lots shall be subject to restrictive covenants in favor of the other lot owners in the**  
316 **development and the City of Afton requiring that 60% of each lot remain planted in natural**  
317 **prairie, forbs, shrubs and trees, and appropriate language shall be inserted in the homeowners**  
318 **association documents to ensure enforcement of the maintenance of the lots in accordance with**  
319 **these requirements.**  
320 37. All bid documents received by the developer must be approved by the City's engineers prior to  
321 acceptance.  
322 38. No work shall commence until the final plat has been approved.  
323 39. The letter of credit securing performance shall include amounts necessary to pay the city's engineers  
for on-site monitoring, review of plans and specifications and intermediate and final certifications of  
completion required prior to all final releases.

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- 324 40. All fund releases shall be based on completion of plans and specifications and sign-off by the city's  
325 engineers.
- 326 41. The final release of funds shall not occur until all improvements in the development, including  
327 construction of homes and accessory structures on all lots, has occurred.
- 328 42. The development agreement shall be personally guaranteed by Albert W. Carlson in a form  
329 acceptable to the city.
- 330 43. Costs of completion shall be calculated based on an assumed annual 4%, year over year, with  
331 provision for a 10-year build-out.
- 332 **44. The final plat application shall include estimated initial costs including but not limited to**  
333 **grading, surface water controls and roads and also a final cost estimate, both of which shall be**  
334 **subject to approval by the city's engineers.**
- 335 **45. No final plat approval shall occur until both the development contract and the tri-party**  
336 **agreement between the developer, the city and the Minnesota Land Trust or other equivalent**  
337 **organization approved by the city, has been executed by all parties.**
- 338 46. Plat improvements and off-site improvements shall be separately secured by separate letters of credit.
- 339 47. Albert W. Carlson will at his expense install a 60' road access to the development through the lot at  
340 5550 Odell Avenue. Included will be the removal of existing structures, erosion control management,  
341 complete road installation, boulevard/tree landscape. Similarly, Albert W. Carlson, at his expense,  
342 will install bituminous improvements on 60<sup>th</sup> Street as determined necessary by the City Council.
- 343 48. Albert W. Carlson will provide proof of his funding capabilities to the City of Afton. Funding for the  
344 City's security of development completion and any release of funds must be approved by City staff,  
345 consultants and City Council.
- 346 49. Lots 1,2,3,4 Block 2, abutting the Turner Rhode Horse Farm, will have a 100 foot setback instead of  
347 the required 50 foot setback. Will Carlson will install evergreen trees and prairie grass as a screening  
348 buffer within the 100 foot setback area. Tree height will be a minimum of 12 feet with proper  
349 spacing for screening.
- 350 50. Lot 13 Block 2 and lots 1,2,3, 4 Block 3 that are abutting the Graham, Dawson/Lewandowski,  
351 McConnell, Rickard, Mettler, Dickes and Forbes properties will also have an increased setback of 100  
352 feet. Albert W. Carlson will also provide evergreen trees in locations that help screen sightlines to  
353 new homes.
- 354 51. Albert W. Carlson has 2.5 acres of land abutting the Turner Rhode Horse Farm that are not being  
355 used in the development site requirements or lots. He shall offer either an easement for use of this  
356 land or the sale of this land for \$1.00 to the Turner Rhode Horse Farm owners.
- 357 52. Albert W. Carlson will transfer ownership of the farm access road at no cost to either or both  
358 Dawson/Lewandowski and McConnell, the abutting property owners.
- 359 53. No construction related traffic to be allowed on Odell.
- 360 54. Tree border to be provided to block farm access road from the development on eastern boundary.
- 361 55. Tree border to be provided along eastern boundary of the development abutting existing properties.
- 362 56. The Home Owners Association (HOA) plan and documents to be reviewed and approved by the city  
363 attorney.
- 364 57. The Home Owners Association shall develop a stormwater pond maintenance plan for eastern  
365 boundary.
- 366 58. A minimum of a 48 hour notice shall be provided to the Turner Rhode Horse Farm in advance of  
367 controlled burns for the maintenance of the prairie grass, and the burning shall be done only when the  
368 prevailing winds will carry all or most of the smoke away from the Horse Farm.
- 369 59. City to review and approve a tree/vegetation plan for the 100 foot setback area abutting the Turner  
370 Rhode Horse Farm, and no tree removals shall be allowed in this area without the approval of the  
371 City.
- 372 60. The developer/HOA shall be responsible for on-going maintenance of the 5550 Odell parcel.

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61. The boundaries of the new lots adjacent to the open space outlots shall be marked by fencing, at minimum at the property corners, as approved by both the City and the Minnesota Land Trust, to enable a visual demarcation of the property boundaries to prevent encroachments into the conservation easement area.
62. A Letter of Credit, in a form and amount acceptable to the City and the City Engineer, shall be provided to ensure sufficient financial security for the completion of the development.
- 63. All new streets shall be named in accordance with the Washington County street naming conventions.**

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