

CITY OF AFTON
APPROVED PLANNING COMMISSION MINUTES
August 6, 2018

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- 4
- 5 1. **CALL TO ORDER** – Chair Kris Kopitzke called the meeting to order at 7:00 PM
- 6
- 7 2. **PLEDGE OF ALLEGIANCE** – was recited.
- 8
- 9 3. **ROLL CALL** – Present: Chair Kris Kopitzke, Roger Bowman, James Langan, Mark Nelson, Annie Perkins,
10 Scott Patten. A Quorum was present. Absent were Lucia Wroblewski, Sally Doherty, Justin Sykora, (all
11 excused).
12 **ALSO IN ATTENDANCE** – City Council member Joe Richter, City Administrator Ron Moorse, City Clerk
13 Julie Yoho
- 14
- 15 4. **APPROVAL OF AGENDA** – Motion/Second Patten/Nelson To approve agenda. Passed 6-0
- 16
- 17 5. **APPROVAL OF MINUTES** –
18 A. June 4, 2018
19 Motion/Second Bowman/Langan To approve minutes of June 4, 2018 with change noted. Passed 5-
20 0-1 (Patten abstain due to absence)
21
22 B. July 9, 2018
23 Motion/Second Patten/Nelson To approve minutes of July 9, 2018 with changes noted. Passed 4-0-
24 4 (Bowman & Langan abstain due to absence)
25
- 26 6. **REPORTS AND PRESENTATIONS** – none
- 27
- 28 7. **PUBLIC HEARINGS** –
29 A. River Valley Riders
30 Chair Kopitzke opened the public hearing at 7:08.
31 Moorse provided the following summary:
32 In 2009, the River Valley Riders obtained approval of a Conditional Use Permit (CUP) for an outdoor riding
33 arena for therapeutic riding and carriage driving for people with special needs at 2007 Neal Avenue. The
34 outdoor riding arena was the first stage of a much larger master plan for an indoor riding arena and related
35 indoor spaces. River Valley Riders has now applied for an amended CUP to allow the second phase of their
36 riding arena master plan to proceed. The second phase is the construction of an indoor riding arena to extend
37 the number of months per year during which it can provide therapeutic riding and carriage driving for people
38 with special needs. This second phase of the master plan does not include related indoor spaces such as
39 offices, a public viewing area or a restroom. These spaces will be constructed in a third phase of the master
40 plan
41
42 Cheryl Holdt, River Valley Riders; Summarized their application. This phase is for the indoor arena. The next
43 phase will include the office and restrooms. They are meeting with the Valley Branch Watershed later this
44 week.
45
46 No other comments were received
47
48 Public hearing closed at 7:15 pm
49
50 Patten asked where the porta potty is located. (On west side of outdoor arena. Plan to move one closer to indoor
51 arena after construction with canopy)
52 Bowman asked about the next phase timing (Phase 3 is 2-3 yrs. out)
53 Patten asked about parking (gravel, sufficient space. No increase in amount of people on the property at any
54 one time, but will extend the season - less than 30 people total, 1-6 riders with support staff.)
55 Patten asked about lighting (indoor will have lighting, existing in parking lot and outdoor)

56 Patten asked about the color (earth tones)
57 Langan asked if clients can ride off property (no)

58
59 **Motion/Second Bowman/Perkins To recommend approval of the River Valley Riders Amended CUP**
60 **application with findings and conditions listed.**

61 **Findings**

62 **The following is a recommended set of findings.**

- 63 **1. In 2009, a CUP was approved for the subject property for an outdoor riding arena as the**
64 **first phase of a master plan that included an indoor riding arena**
- 65 **2. River Valley Riders has applied for an amended CUP to construct an indoor riding arena**
- 66 **3. The subject property is zoned AG which allows an indoor riding arena with a conditional**
67 **use permit**
- 68 **4. As part of the outdoor riding arena construction, the bulk of the drainage infrastructure for**
69 **both the outdoor riding arena and the indoor riding arena was installed**
- 70 **5. The outdoor riding arena operates with a portable restroom. The indoor riding arena will**
71 **serve the same clients as the outdoor riding arena.**
- 72 **6. The City's Building Official has indicated the continued use of the portable restroom on an**
73 **interim basis is allowed with approval by the Washington County Public Health**
74 **Department.**

75 **Conditions**

76 **The following is a recommended set of conditions.**

- 77 **1. The property owner shall obtain approval from the Washington County Public Health Department**
78 **for continued use of the portable restroom for the indoor riding arena use.**
- 79 **2. A permit shall be obtained from the Valley Branch Watershed District (VBWD), and all**
80 **requirements of that permit shall be met**
- 81 **3. Grading and drainage improvements shall be constructed according to final plans approved by the**
82 **VBWD. Silt fences or other types of erosion control shall be properly installed prior to**
83 **construction; and shall be maintained in good condition until the construction is complete.**
- 84 **4. Any additional lighting shall be subject to review and approval by the City Engineer and City**
85 **Administrator.**
- 86 **5. Non-compliance with the conditions of this permit shall be considered a violation, and may result in**
87 **revocation of this permit.**
- 88 **6. Construction shall begin within one year of the date of issuance of this permit or the**
89 **permit shall become null and void.**

90
91 **Passed 6-0**

92
93 **B. Steve and Jennifer Knuth / Nathan Landucci, Landucci Homes Variance Application**
94 **Chair Kopitzke opened the public hearing at 7:23pm**

95
96 Administrator Moorse provided the following summary:
97 Steve and Jennifer Knuth/Nathan Landucci, Landucci Homes have applied for a variance to allow the 40-
98 acre property on the north side of Valley Creek Trail, approximately 1300 feet east of Neal Avenue, with
99 Property Identification Numbers 17.028.20.24.0001 and 17.028.20.24.0002, to be accessed via a
100 driveway from Neal Avenue through a private easement across an adjacent parcel to the north to serve a
101 proposed house on the property. Nathan Landucci, Landucci Homes, currently owns 120 acres of land in
102 several adjacent parcels north of Valley Creek Trail and East of Neal Avenue, including the two subject
103 parcels totaling 40 acres. Steve and Jennifer Knuth are interested in purchasing the two parcels totaling
104 40 acres on the north side of Valley Creek Trail, approximately 1300 feet east of Neal Avenue, for a
105 home site. Due to steep topography and the location of a tributary to Valley Creek on the parcels, the
106 southern portions of the parcels are not buildable. The Knuth's would like to build a house on the north
107 side of the tributary. They propose to access the property from Neal Avenue via a driveway constructed

108 on a private easement through an adjacent parcel to the north. The length of the driveway would be
109 approximately 2,800 feet. The property would be given a Neal Avenue address to facilitate public safety
110 access.
111
112 Todd Erickson, civil engineer for the applicant; Stated the easement is 66' wide. Plan to grade within
113 easement to meet standards. Drainage and culverts will be needed also. Plan meets DNR and watershed
114 requirements. Cul-de-sac at end of easement/gravel and also at house for turnaround space.
115 Jim Cox, Neal Ave, across from entrance. Concern over equipment parking and staging for building along
116 Neal. Traffic on Neal moves fast. Would like more information on proposed development.
117 Todd Erickson stated the parcel would have open space along the easement. Land to the east could have 9
118 lots.
119 Bowman asked if we approve this is it preliminary approval for a development? (no)
120 Cox asked if the access could be off Valley Creek with a small bridge as the water there is seasonal.
121 Monica Taylor, 12999 22nd St. Asked to discuss the concerns of 9 more houses in future. That is the
122 concern. Neal has nonstop traffic currently. When clearing the land, the equipment was parked in front of
123 her house.
124 Donna Dalton 13258 Valley Creek Trail, west of parcel. Stated that seasonal runoff comes from all the
125 farmland in the area. High nitrogen in their water, had to install filters. Critical to control. This will possibly
126 become a road with impervious surface. Need to consider future runoff if development happens. Also who
127 would be assessed for private driveway and public road?
128 Moose answered that the developer would cover costs, long term maintenance city responsibility.
129 Ken Conrad, owns land to south. Driveway will abut. If changed to public street is there change in taxes or
130 upkeep?
131 Moose replied if it is a public road the city maintains. If adjacent, you would have a double frontage lot.
132 Unsure if County assessor will change.
133 Conrad asked why can't the driveway be moved north? Also concerned about master plan.
134 General discussion was held over whether or not the future development should be discussed now during
135 the public hearing as the public notice did not reference it. Council member Richter pointed out that the
136 applicant references future development in the information for this application. Langan noted that the
137 application specifically references converting to a public road so does merit discussion.
138 Jennifer Backes, 2333 Neal. Concerned about runoff with the large valley there.
139 Erickson stated there will be culverts in that area to address runoff. The easement has to align with 22nd and
140 be adjacent as this is where the farm road is. Equipment can be staged elsewhere.
141
142 No other comments were received
143
144 **Motion/Second Patten/Bowman To close public hearing. Passed 6-0-0.**
145 Public hearing closed at 8:02 pm.
146
147 Discussion
148 Kopitzke asked if the proposed PLCD was in the public notice (no, just in the application)
149 Patten stated we always look at future plans, if known.
150 Kopitzke asked about the alternative - to bridge the waterway to the south
151 Langan stated he feels the driveway could be anywhere, it's here for convenience. He asked if
152 the DNR denied a bridge. Erickson replied the DNR would allow at narrowest point, clear span of 80'.
153 They are utilizing an old farm road at this location
154 Perkins stated she is uncomfortable with the unknowns. Intrusive for 1 home that doesn't exist and owner
155 doesn't own yet. The variance is on plight of the landowner.
156 Patten asked if there is a copy of the topo map? How far does farm road go back? (Meanders thru property)
157 Patten asked about the slope (8% within easement)
158 Kopitzke stated in the old aerial photos, water could be seen in the creek
159 Patten stated if falls under shoreland (yes)

160 Patten asked how much of 40 acres will remain farmland. (haven't decided)
161 Nelson asked how many culverts will be along the driveway (3, the width of the driveway).
162 Nelson asked why 66 wide? (for construction)
163 Nelson stated he is unsure why they need so much width. (for future)
164 Perkins potential runoff controls? (silt fence, bio logs, erosion blanket)
165 Perkins stated that the topography here is sensitive. Changing the land should be done in a way to improve
166 things, not negatively impact. Could they go across the tributary with a variance? (possibly). Perkins stated
167 that it seems like a lot for one home. The width, impact to other homeowners. Doesn't fit description of
168 plight of landowner for a variance.
169 Langan asked about the west side of Neal - there are homes that cross the tributary, were they built with
170 variance?
171 Moose replied it was before the ordinance regarding driveways in shoreland zones.
172 Kopitzke stated that one condition of doing a variance is to do as little as possible.
173 Moose noted that this is in a DNR protected waterway, if you build a bridge here it sets precedent as there
174 are many locations in Afton that are similar. The DNR leaves it up to the city to decide if a crossing will be
175 allowed. Then DNR and VCWD rules and regulations will apply to design.
176

177 **Motion/Second Bowman/Kopitzke To recommend the City Council grant a variance for 33' wide**
178 **driveway easement at northern portion of the 66' shown as the existing farm road; with condition**
179 **that this is not a preliminary PLCD approval; and improvement will be made to current runoff**
180 **conditions.**

181 Administrator Moose noted the maximum width for a driveway is 22'. How wide is easement v.s.
182 construction easement?

183 Conrad proposed 33' width to allow for drainage and pondage and temporary construction.

184 Moose recommended stating width of driveway easement, width of construction easement

185 **Bowman amend 33' to 22' wide on north side of proposed access with construction easement of 33'.**
186 **(Kopitzke second)**

187 Perkins stated that the variance language doesn't cover self-created circumstances by purchasing a property
188 that doesn't have access off a public road.

189 Administrator Moose stated the city attorney said the tributary crossing the property creates a unique
190 circumstance.

191 Perkins stated the creek has always been there, it's pre-existing. No one lives there yet. No access without
192 a variance.

193 **Motion Conditions**

194 **1. The subject parcel shall be given a Neal Avenue address to facilitate public safety access**

195 **2. A turnaround, meeting the requirements of Sec 12-84 E, shall be provided at the end of the**
196 **driveway to enable public safety vehicles to turn around to exit the property**

197 **3. The two subject parcels totaling 40 acres shall be combined**

198 **4. A driveway permit is required and the driveway shall meet all driveway standards and shall be**
199 **subject to review and approval by the City.**

200 **Four additional conditions:**

201 **5. Easement width not to exceed 22' on the north side of access**

202 **6. A construction easement granted as needed**

203 **7. This is not pre-approval for a PLCD**

204 **8. Construction must improve current runoff conditions**

205
206 **Motion Vote, 3-3. Split decision, Planning Commission doesn't recommend.**
207

208
209 C. Ordinance Amendment to allow Swimming Pool auto covers as alternative to a fence enclosure
210 Chair Kopitzke Opened the public hearing at 8:52 pm

211 Administrator Moose provided the following summary:

212 The City Code currently requires a fence enclosing a pool to prevent entry to the pool accidentally or
213 without proper supervision. Several residents have recently inquired about using an auto cover as an
214 alternative to a fence enclosure. While aesthetics and the difficulty of working a fence into existing patio
215 and backyard layouts are some primary reasons, the quality auto covers also provide a high level of safety
216 and security.

217 An auto cover is attached to the pool to fully cover the pool to prevent entry. Auto covers are not rigid,
218 but can support the weight of several adults. The proposed ordinance language requires the auto cover to
219 be able to support a minimum of 500 pounds. Auto covers can open and close electronically, and can be
220 connected to a key pad so that they can only be opened with a code. The ordinance language also
221 requires the auto cover to meet the American Society for Testing and Materials (ASTM) Standard F1346-
222 91 for auto covers and to be UL listed.

223 Approximately 60 cities and counties in the metro area now allow auto covers as an alternative to fence
224 enclosures for pools.

225 Because the fence requirement for pools is in the zoning code, a change to allow auto covers requires an
226 ordinance amendment with a public hearing. The Council has referred an ordinance amendment
227 regarding pool auto covers to the Planning Commission for a public hearing and a recommendation. The
228 ordinance amendment is attached. Also attached are ordinances from the Cities of Scandia and Inver
229 Grove Heights that allow pool auto covers as an alternative to fence enclosures for swimming pools.

230
231 Brian Warden 42nd St S, Stated he is considering a pool and would like the option to have an auto cover rather
232 than a fence. Seals off the pool rather than the deck.

233
234 No other comments were received

235
236 **Motion/Second Patten / Nelson To close the public hearing. Passed 6-0-0.**

237
238 Public hearing closed at 8:58 pm

239
240 Patten stated that he likes the concept
241 Kopitzke stated that a fence keeps animals and other people out; however he can see the merit of this.
242 Perkins stated that the homeowner has to remember to close the cover.
243 Warden stated that it is in the owner's best interest to keep it closed to reduce chemical use and evaporation
244 Langan stated that he has researched these covers. Insurance rates are higher, more accidents occur. They are
245 not sold as a safety barrier, sold as heat retention and evaporative barrier. That says something about liability.
246 The covers are often left open. Large municipalities are not approving. Should run through attorney to look at
247 liability. Opposed to.

248 Kopitzke asked about details in the ordinance language.

249 Langan stated he is concerned about relaxing the ordinance

250 Patten stated that the new ordinance language is stronger on fencing

251 Langan stated he concerned about liability and would like the city attorney to review.

252 Patten recommended adding "auto cover" language to item 13.

253 Perkins stated she is not comfortable eliminating fence requirement

254
255 **Motion/Second Patten/Perkins To continue the item discussion to the next planning commission meeting**
256 **when more members are present. And get legal opinion from attorney and information from city**
257 **engineer. Passed 5-0. (Bowman left meeting prior to discussion)**

258
259 **8. NEW BUSINESS - none**

260
261 **9. OLD BUSINESS –**

262 A. Update on City Council Actions

263 1. Council highlights from the July 17, 2018 City Council meeting

264 Council member Richter provided a summary of the Council meeting.

265

266 **10. ADJOURN**

267 **Motion/Second Nelson/Langan To adjourn. Passed 6-0-0.**

268

269 Meeting adjourned at 9:24 pm.

270

271

272

273 Respectfully submitted by:

274

275 JY

276 Julie Yoho, City Clerk

277

278

279 **To be approved on September 10, 2018 as (check one): Presented: _____ or Amended: X**