



PLANNING COMMISSION AGENDA

November 4, 2019

7:00 pm

- 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. September 9, 2019 Meeting Minutes
- 6. REPORTS AND PRESENTATIONS – None**
- 7. PUBLIC HEARINGS – None**
- 8. NEW BUSINESS –**
 - A. Draft PLCD Ordinance Amendment
- 9. OLD BUSINESS -**
 - A. Update on City Council Actions – Council Highlights from the October 15, 2019 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
 September 9, 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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9 2. **PLEDGE OF ALLEGIANCE** – was recited.
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11 3. **ROLL CALL** – Present: Chair Kris Kopitzke, Kuchen Hale, Roger Bowman, Sally Doherty & Justin Sykora.
12 Absent were Scott Patten (not excused), Christian Dawson, James Langan, Doug Parker (all excused).
13 **ALSO IN ATTENDANCE** – Council member Wroblewski, City Administrator Ron Moore
14
15 4. **APPROVAL OF AGENDA** –
16 **Motion/Second Hale/Doherty To approve the Agenda of the September 9, 2019 Planning Commission**
17 **meeting. Passed 5-0.**
18
19 5. **APPROVAL OF MINUTES** –
20 A. August 5, 2019
21 **Motion/Second Bowman/Sykora To approve the minutes of the August 5, 2019 Planning Commission**
22 **meeting, noting Patten as unexcused. Passed 4-0-1 (Doherty abstain)**
23
24 6. **REPORTS AND PRESENTATIONS** - None
25
26 7. **PUBLIC HEARINGS** –
27 A. James Koptavy Variance application at 16508 Swede Hill Dr
28 Chair Kopitzke opened the public hearing at 7:05 PM
29 Administrator Moore provided a summary of the application which is to allow an accessory building to be
30 located 45 feet from the centerline of Swede Hill Dr.
31 No comments were received from the public
32 **Motion/Second Doherty/Sykora to close public hearing. Passed 5-0.**
33 Hearing closed at 7:10 PM
34 Discussion
35 Doherty stated that this looks like the best location. There should be a variance for building in front of house
36 also, along with setback from center line.
37 Bowman asked about height of building? (same as main house, roofline will match, 18-20’).
38 Kopitzke asked about previous building on site (small shed, still there approximately 16 x 10 or less)
39 Sykora would encourage including a gutter system to avoid water runoff from roof going to bluffline.
40
41 **Motion/Second Kopitzke/Hale To recommend approval of variance request with along with**
42 **recommending a variance to allow building to be placed in front of house as per Afton code Sec. 12-187g.**
43 **Include additional findings: road curves significantly into lot; prior recommended approval from city;**
44 **approval has been received from DNR for bluffline and easement; minimal impact on neighbors and**
45 **community; meets requirements for location near bluff.**
46 **Findings**
47 1. The subject property is a five-acre parcel located within the Lower St. Croix River Bluffland
48 and Shoreland Management Overlay District
49 2. The subject property is located in the Rural Residential zone, as are the surrounding
50 properties.
51 3. The property has steep slopes on the western portion of the lot and east of the house.
52 4. The parcel has an irregular shape, due to the sharp curve of Swede Hill Drive, which further
53 restricts the buildable area.
54 5. The maximum accessory building size allowed on the property is 2,000 sq. ft.
55 **Conditions**
1. The accessory building shall be located as shown on the aerial photo site plan.
2. There shall be no vegetation removal.

- 56 3. The accessory building shall be visually inconspicuous from the river during leaf-on
57 conditions.
58 4. The natural appearance of the shoreline, slope, and bluffline shall be preserved, and the
59 applicant shall agree to donate a scenic easement to the state and maintain the scenic
60 easement in an undisturbed condition and appearance. Such scenic easement shall specify
61 that on all land lying from the proposed building line closest to the river, or property line
62 closest to the river, or such lesser area subject to the easement as may be accepted by the
63 commissioner, no destruction, cutting, trimming, or removal of trees, shrubs, bushes, or
64 plants, and no topographic changes of the natural landscape by excavation, drainage, filling,
65 dumping or any other means shall occur without a written authorization from the
66 commissioner of natural resources.
67 5. The color of the structure including the roof and trim shall be of earth tone color.

68 **Motion Vote: Passed 5-0**

69
70 **8. NEW BUSINESS** – none

71
72 **9. OLD BUSINESS** –

73 A. Review & clarification of elements of PLCD ordinance language

74 Administrator Moorse provided information on the Washington county land and water legacy program

75 Bowman asked about enforcement and question of what can be done if violation of conditions occur

76 Discussion was held on the process and it was decided that the commission would like feedback from council
77 before an ordinance change is drafted.

78 Discussion was also held over shared driveways and the conservation easement requirement. Concern was
79 expressed over who would want to hold a small easement.

80 Language was reviewed to be sent to city council for direction.

81
82 B. Update on City Council actions

83 Council member Wroblewski provided a summary of the August City Council meeting.

84
85 **10. ADJOURN**

86 **Motion/Second Doherty/Hale To adjourn. Passed .5-0**

87
88 Meeting adjourned at 8:49 PM

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91
92 Respectfully submitted by:

93
94 _____
95 Julie Yoho, City Clerk

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97
98 **To be approved on November 4, 2019 as (check one): Presented: _____ or Amended: _____**

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

Planning Commission Memo

Meeting: November 4, 2019

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: October 29, 2019

Re: Draft Preservation and Land Conservation Development (PLCD) Ordinance Amendment

The City Council, at its October 14 work session, reviewed and discussed the Planning Commission's recommendations regarding revisions to the PLCD ordinance. The Council was supportive of the Planning Commission's recommended revisions, and added a small number of its own revisions. At its October 15 regular meeting, the Council directed staff to draft an ordinance amendment reflecting the Planning Commission's recommended revisions and the Council's additional revisions. Attached is a draft ordinance amendment that reflects the Council's direction. Also attached is the staff report provided to the City Council regarding the Planning Commission's recommendations. Staff is requesting the Planning Commission to review the draft ordinance amendment and provide feedback prior to finalizing the ordinance amendment for a public hearing. The following is an outline of revisions in addition to the Planning Commission's recommendations.

Revisions Regarding Outlots in Subdivisions Having Cul-de-Sac Streets

The ordinance amendment includes the clarification that, while outlots are not permitted in subdivisions having cul-de-sac streets, the undeveloped parcel required by a PLCD is allowed to be an outlot. This clarification was accomplished by revising the PLCD ordinance (Sec. 2383), by revising the definition of "Outlot" (Sec. 12-1256) and by revising the code section regarding cul-de-sac streets (Sec. 12-1279).

The language prohibiting outlots on cul-de-sac streets was deleted from the definition of outlot for two reasons. First, the City's planning consultant has advised that definitions in a zoning code should define a term, they should not include regulations regarding that term. The regulations should be placed in the proper section of the body of the zoning code. Second, the clarification language regarding allowing the undeveloped parcel in a PLCD to be an outlot was added in Sec. 12-1379. Cul-de-Sac Streets and Sec. 12-2383 of the PLCD ordinance.

Density and Quarter-Quarter Sections

The ordinance amendment clarifies the requirements regarding the inclusion of a portion of a quarter-quarter section in a PLCD. The Council directed that, in addition to the Commission's recommended language, the option of obtaining a release from the other property owner(s) in a quarter-quarter section could be used instead of requiring the other property owner(s) to be co-applicants on the plat.

Adding EAW Requirement to PLCD ordinance

Sec. 12-89 of the zoning code requires a mandatory Environmental Assessment Worksheet (EAW) in the case of "Actions resulting in the permanent conversion of 80 or more acres of agricultural, forest, or naturally vegetated land to a more intensive, developed land use." To ensure awareness of this requirement, the ordinance amendment includes this requirement in Sec. 12-2375 paragraph D.

Clarification of Park Dedication Requirement.

Sec. 12-2377 D., of the ordinance amendment clarifies that the park dedication requirements shall be in addition to and not in lieu of the preservation of at least fifty (50) percent of the total tract as an undeveloped parcel. There was some discussion by the Council regarding providing some flexibility regarding the park dedication requirements, if it would benefit the City, such as limiting density, etc.

Planning Commission Feedback Requested

Motion regarding feedback concerning the draft PLCD ordinance amendment.

ORDINANCE 05-2019

CITY OF AFTON

WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTIONS 12-1256 AND 12-1379 AND ARTICLE XII OF THE CITY CODE RELATED TO PRESERVATION AND LAND CONSERVATION DEVELOPMENTS AND CUL-DE-SAC STREETS

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

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language and deleting the ~~strike-through~~ language.

Sec. 12-1256 Definitions

Outlot means a lot remnant or any parcel of land included in a plat, which may be used as open space. Such outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of zoning and subdivision ordinances or otherwise unsuitable for development and therefore not usable as a building site. ~~When an outlot is created, the City shall require a development agreement. Outlots are not permitted in subdivisions having cul-de-sac streets.~~

Sec. 12-1379. Cul-de-sac streets.

- A. The City Council may permit cul-de-sac streets, after Planning Commission review, by reason of unfavorable land forms or the irregular shape of the land from which the subdivision is being made and a normal street pattern cannot be established. The City Council may also permit cul-de-sac streets to minimize the impacts of the subdivision or proposed street on existing neighborhoods. These impacts may include increased traffic volume or speed, privacy or security of existing neighborhoods and preservation of natural resources or features.
- B. A cul-de-sac street shall not exceed 1,320 feet in length and shall serve no more than nine lots. Every lot platted on a cul-de-sac street shall have frontage and access on the cul-de-sac street and shall be included in the nine lot limit. A variance may be granted on the length limitation only when it is clearly demonstrated that the length greater than 1,320 feet is necessary for reasons of unfavorable land topography. No variance shall be granted which would allow more than nine lots to be created on a cul-de-sac street.
- C. When future development of adjacent parcels will allow for extension of a temporary cul-de-sac street or conversion thereof to a through street, the City Council may require that right-of-way shall be dedicated to the plat boundary. No outlots shall be created **for this purpose**.
- D. **Outlots are not permitted in subdivisions having cul-de-sac streets, with the exception of the undeveloped parcel required by a PLCD that is made subject to a conservation easement.**
- E. **Reference Sec. 12-1256. Definitions for the definition of a cul-de-sac street.**

ARTICLE XII. PRESERVATION AND LAND CONSERVATION DEVELOPMENTS.⁴⁵³

Sec. 12-2371. Scope.

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

Sec. 12-2372. General provisions.

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

Sec. 12-2373. Purpose.

The purposes of this article are:

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

Sec. 12-2374. Permitted uses.

The Permitted Uses are:

- A. Those uses that are permitted in the underlying zoning district;
- B. Subdivisions that require the construction of a new public street in the AG zoning district;

Sec. 12-2375. General standards for approval.

- A. A Conditional Use Permit shall be required for all preservation and land conservation developments. The City may approve the preservation and land conservation development only if it finds that the development satisfies all of the following standards:
 1. The preservation and land conservation development is consistent with the comprehensive plan of the City.
 2. The preservation and land conservation development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities.
 3. The preservation and land conservation development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
 4. **Pre-development seeding with a prairie grass/wildflower mix shall be provided on all lots and on the undeveloped parcel.**
 5. **The Developer shall enter into a Developer's Agreement with the City regarding the installation of required improvements, and shall provide financial guarantees as required in Sections 12-1471 to 12-1476 of the subdivision ordinance.**
 6. **The homeowner's association restrictive covenants shall contain a provision that in the event the homeowner's association becomes insolvent or ceases operating control shall at its option be transferred to the City of Afton or another method of succession shall be dictated by the City.**
 7. **The homeowner's association documents shall contain a waiver of assessment appeal running in favor of the City of Afton.**
 8. **Any provisions in the homeowner's association restrictive covenants allowing changes in lots shall**

- be in compliance with Afton's requirements.
9. Any covenant amendment provisions in the homeowner's restrictive covenants permitting changes after a certain number of years have passed shall be in compliance with restrictions on future subdivision of PLCD lots and other provisions of Afton's ordinances.
 10. Any public walking paths shall be included in the Final Development Plan.
 11. The City of Afton shall be a named insured on the homeowner association insurance policy and the policy shall cover those risks identified by the city, including but not limited to coverage for personal injuries and any other losses occurring as a result of the public use of the walking trails on the conservation area.
 12. The homeowner's association shall be required to indemnify and hold the City of Afton harmless from all losses incurred as a result of the public's use of the conservation area walking trails.
 13. Residential lots shall be subject to restrictive covenants in favor of the other lot owners in the development and the City of Afton requiring that 60% of each lot remain planted in natural prairie, forbs, shrubs and trees, and appropriate language shall be inserted in the homeowners association documents to ensure enforcement of the maintenance of the lots in accordance with these requirements.
 14. The final plat application shall include estimated initial costs including but not limited to grading, surface water controls and roads and also a final cost estimate, both of which shall be subject to approval by the City's engineers.
 15. No final plat approval shall occur until both the Developer's Agreement and the tri-party conservation easement agreement between the developer, the City of Afton and the Minnesota Land Trust has been executed by all parties.
 16. All new streets shall be named in accordance with the Washington County street naming conventions.
- B. The tract is a minimum of eighty (80) contiguous acres in size and that all of the following conditions exist:
1. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
 2. The proposal would benefit the area surrounding the project to a greater degree than development allowed within the underlying zoning district.
 3. The proposal would provide land use and/or site design flexibility while enhancing site or building aesthetics to achieve an overall higher quality of development than would otherwise occur in the underlying zoning district.
 4. The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site more effectively than would otherwise occur in the underlying zoning district.
- C. At least fifty (50) percent of the total tract is preserved as an undeveloped parcel.
- D. A mandatory Environmental Assessment Worksheet is required to be filed with the City.

Sec. 12-2376. Density, Frontage on a Public Street and Length of Cul-de-sac requirements.⁴⁵⁴

- A. The average density over the proposed PLCD shall not exceed the maximum density permitted in the underlying zoning district. Although a PLCD allows a maximum of 4 lots per qtr-qtr section, a developer cannot independently include a portion of a qtr-qtr section in a PLCD unless the developer owns a minimum of 30 acres in the qtr-qtr section. Otherwise, either all property owners in a qtr-qtr section are required to make application for and sign an approved plat, or the developer is required to obtain and record a release from the other owner(s) allowing the subdivision of the developer's portion of the quarter-quarter section.
- B. The maximum length of cul-de-sacs may be exceeded to accommodate curvilinear streets and other design elements that tend to preserve the rural character or other resources within the PLCD. This language does not allow a proportional addition to the number of lots allowed on a longer cul-de-sac.
- C. Reference Sec. 12-1256. Definitions for the definition of a cul-de-sac street.

Sec. 12-2377. Coordination with subdivision regulations.

- A. It is the intent of this article that subdivision review under Chapter 12 be carried out simultaneously with the review of a planned development under this article.
- B. The plans required under this article must be submitted in a form that will satisfy the requirements of Chapter 12 for the preliminary and final plats.
- C. Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density ~~may not be joined to a PLCD.~~ **may be included in a PLCD but may not be included in density calculations or land preservation minimum requirements. Such parcels may be included in the PLCD if they allow for the best conservation design for the PLCD as determined by the City.**
- D. **Park dedication requirements shall be in addition to and not in lieu of the preservation of at least fifty (50) percent of the total tract as an undeveloped parcel.**

Sec. 12-2378. Pre-application meeting.

Prior to the submission of any plan to the Planning Commission, the potential applicant is encouraged to meet with the City Administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for an **Conditional Use Permit** ~~Administrative Permit~~ and a preliminary plat. The potential applicant may submit a simple sketch plan at this stage for informal review and discussion. The potential applicant is urged to seek the advice and assistance of the City staff to facilitate the informal review of the simple sketch plan. The pre-application meeting process is entirely optional for the potential applicant and does not constitute an application within the meaning of this section.

Sec. 12-2379. General development plan.

- A. An applicant shall make an application for an **Conditional Use Permit** ~~Administrative Permit~~ following the procedural steps as set forth in Section 12-78.
- B. In addition to the criteria and standards set forth in Sec. 12-78 of this article for the granting of **Conditional Use Permits** ~~Administrative Permits~~, the following additional findings shall be made before the approval of the outline development plan:
 - 1. The proposed PLCD is in conformance with the comprehensive plan.
 - 2. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
 - 3. Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
 - 4. The PLCD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities that serve or are proposed to serve the district.
 - 5. The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- C. The following exhibits shall be submitted to the City Administrator by the proposed developer as a part of the application for a **Conditional Use Permit** ~~Administrative Permit~~:
 - 1. An explanation of the character of the proposed preservation and land conservation development and the manner in which it has been planned to take advantage of the preservation and land conservation development regulations.
 - 2. A statement of the present ownership of all the land included within the proposed preservation and land conservation development and a list of property owners within five hundred (500) feet of the outer boundaries of the property.
 - 3. A general indication of the expected schedule of development including progressive phasing and time schedule.

4. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street rights-of-way, utilities, buildings and use for the property and for the area five hundred (500) feet beyond.
 5. 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.
 6. A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
 7. Full description as to how all necessary governmental services will be provided to the development.
 8. An engineering report presenting results of percolation tests and soil analysis of the site.
 9. Any additional information requested by the City Administrator, Planning Commission and City Council that might be required for clarification of the proposed project.
 10. Twenty-five (25) copies of all required information, as well as an electronic copy, shall be submitted.
- D. 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 Conditional Use Permit ~~Administrative Permit~~ and preliminary plat may be combined into one (1) hearing or may be held concurrently.

Sec. 12-2380. Final development plan.

- A. 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.
- B. The City Administrator shall submit the final development plan and the final plat to the Planning Commission for review.
- C. 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.
- D. The City Council shall review the final development plan and final plat. If the final development plan is approved by the City Council, the City Administrator shall issue a Conditional Use Permit to the applicant.
- E. The applicant(s) shall grant a Conservation Easement which shall run with the land in perpetuity to the City of Afton, ~~all of the owners of the lots and parcels to be created in the PLCD, all land owners of property within Afton abutting the PLCD and the Minnesota Land Trust (or similar independent third party approved by the City of Afton), which restricts the lots and parcels, as well as the development rights on the undeveloped parcel within the PLCD to the number of dwelling units approved for the PLCD and the land cover and use approved by the City of Afton as a part of this PLCD. If neither Minnesota Land Trust nor any comparable organization will accept the Conservation Easement the City of Afton, in its sole discretion, may upon a specific finding that no conservation organization will accept a Conservation Easement, waive such requirement. In the case of such waiver, the applicant(s) shall be required to extend the grant of a Conservation Easement to the owners of property that abuts all abutting property to the PLCD.~~
 1. The Conservation Easement shall include the following elements
 - a. the identification of the natural, scenic and open space qualities of the protected property that are to be protected as "conservation values"
 - b. a description of the conservation purpose of the easement
 - c. a listing of specific restrictions on the use of the property
 - d. habitat management according to a Habitat Management Plan.
 2. The Minnesota Land Trust (or similar independent third party approved by the City of Afton) shall review and approve the HOA covenants as they relate to the undeveloped parcel and shall provide a written statement that they will agree to the conservation easement over the land prior to final PLCD approval.

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 PLCD permit.

Sec. 12-2382. Conveyance and maintenance of undeveloped parcel.

- A. All land shown on the final development plan as an undeveloped parcel must be conveyed to a homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The undeveloped parcel must be conveyed to the homeowners association or similar organization subject to covenants to be approved by the City Council which restrict the undeveloped parcel to the uses specified on the final development plan and which provide for the maintenance of the undeveloped parcel in a manner which assures its continuing use for its intended purpose. **The undeveloped parcel shall also be subject to a conservation easement as described in Sec. 12-2380, paragraph E.**
- B. If a homeowners association is created, the applicant shall submit plans at the time of final plan of development and documents which explain:
 1. Ownership and membership requirements.
 2. Articles of incorporation and bylaws.
 3. Time at which the developer turns the association over to the homeowners.
 4. Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

Sec. 12-2383. Standards for undeveloped parcel.

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

- A. The location, shape, size, and character of the undeveloped parcel must be suitable for the planned development.
- B. The undeveloped parcel must be used for amenity or recreational purposes. The uses authorized for the undeveloped parcel must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- C. The undeveloped parcel must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the undeveloped parcel must be appropriate to the uses which are authorized for the undeveloped parcel and must conserve and enhance the amenities of the undeveloped parcel having regard to its topography and unimproved condition.
- D. **Outlots are not permitted in subdivisions having cul-de-sac streets, with the exception of the undeveloped parcel required by a PLCD that is made subject to a conservation easement.**

Sec. 12-2384. Review and amendments.

- A. The City Administrator shall review all PLCDs within the City at least once each year and shall make a report to the City Council on the status of the development in each of the PLCD districts. If the City Administrator finds that the development has not commenced within one (1) year after the original approval of the conditional use for the PLCD, the City Administrator may recommend that the City Council revoke the

Conditional Use Permit ~~Administrative Permit~~ as set forth in Section 12-78 of this chapter. Prior to cancellation or revocation of this permit, the City Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

- B. For additional phases of the PLCD, if within two (2) years of completion of the prior phase, the project has not progressed, the City Administrator may recommend that the City Council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PLCD, the Planning Commission shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- C. Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
- D. Approval of the Planning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts. Those changes shall be consistent with the purpose and intent of the approved final development plan.
- E. Any amendment to the PLCD shall require the same procedures as for the application for a Conditional Use Permit ~~Administrative Permit~~ as set forth in this chapter.
- F. This Ordinance shall be in full force and effect from the date of the publication of this Ordinance.

⁴⁵² Ord. 97-55, 6/18/02, Ord 04-2009, 5/19/2009

⁴⁵³ Ord 06-2008, 4/15/2008; Ord 02-2014, 5/20/2014

⁴⁵⁴ Ord 02-2014, 5/20/2014

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS ____ DAY OF ____, 2019.

SIGNED:

Bill Palmquist, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:

Second by:

Perkins:

Wroblewski:

Ross:

Nelson:

Palmquist:

Meeting Date October 14, 2019

Council Memo

To: Mayor Palmquist and City Council Members

From: Ron Moore, City Administrator

Date: October 2, 2019

Re: Review and Clarification of Elements of the Preservation and Land Conservation Development (PLCD) Ordinance

Review of Preservation and Land Conservation Development (PLCD) Ordinance Elements

Planning Commission Review

During the review of the Afton Creek Preserve PLCD subdivision application, a number of elements of the PLCD ordinance were found to be unclear and in need of clarification and/or revision. The City Council referred these ordinance elements to the Planning Commission for review and recommendations. The Planning Commission reviewed the PLCD ordinance elements over the past several months. Provided below is an outline of the results of the Planning Commission's review of the PLCD ordinance elements. The Planning Commission's recommendations are shown in bold. Additional recommendations from staff are shown in bold italics.

City Council Feedback

Prior to preparing an amendment to the PLCD ordinance that reflects the Planning Commission's recommended clarifications, additions and revisions, the Planning Commission is requesting feedback from the Council regarding the Commission's recommendations, including any items the Council disagrees with, and any items the Council wants to add.

Planning Commission Discussion and Recommendations

A. Outlots prohibited unless they are subject to a conservation easement

The Planning Commission agreed with the clarification that the open space outlots in a PLCD are allowed to be created as outlots. **The Commission also agreed that the ordinance language that currently prohibits outlots on cul de sacs should be revised to indicate outlots are prohibited unless the outlot is under a conservation easement.**

B. A PLCD Requires a Conditional Use Permit

The Planning Commission agreed with the clarification/correction that a PLCD requires a Conditional Use Permit rather than an Administrative Permit

C. Maximum of 4 lots per Quarter-Quarter Section for a PLCD

The Planning Commission discussed that, although the Comprehensive Plan, under the housing and land use policies, specifically indicates that with a PLCD the maximum density is 4 units per qtr-qtr section, this language is not found anywhere in the zoning code. The zoning code indicates 3 lots per qtr-qtr section and a property owner needs a minimum of 30 acres in a qtr-qtr section to independently subdivide to create an additional lot. **The Commission agreed the zoning code should be revised to include the language allowing a maximum of 4 lots per qtr-qtr section for a PLCD, but a developer cannot independently include a portion of a qtr-qtr section in a PLCD unless the developer owns a minimum of 30 acres in the**

qtr-qtr section. Otherwise, all property owners in a qtr-qtr section are required to make application for and sign an approved plat.

D. Retain current definition of cul-de-sac

The Planning Commission agreed that the current definition of cul de sac is reasonable and sufficient and should be retained. The Commission also agreed that cross references to the cul-de sac language should be added to the PLCD language.

The definition of cul de sac is as follows:

Sec. 12-1256 Definitions

Cul-de-sac means a street or portion of a street with one vehicular entrance/outlet leading directly to a through street, and having one turnaround at a single termination.

E. Retain current maximum of nine lots on a cul de sac

The Planning Commission agreed that the current maximum of nine lots on a cul de sac is reasonable and acceptable and should be retained. The Planning Commission agreed that, while the maximum length of a cul de sac may be exceeded within a PLCD, this language does not specifically allow, and should not allow, a proportional addition to the number of lots on a longer cul de sac. As part of the Commission's discussion, there was a comment suggesting that limiting the number of lots on a cul de sac could limit flexibility and result in unintended consequences, such as the use of a loop road placed through the open space parcel or connecting to an existing subdivision.

F. Importance of limiting the future further subdivision of the lots in a PLCD

The Planning Commission discussed methods of prohibiting the future further subdivision of the lots in a PLCD. **As required by the conditions of approval of the Afton Creek PLCD, the Home Owners Association (HOA) restrictive covenants prohibit the subdivision of lots without the prior approval of the HOA Board, the approval of the owners in the Association at an Association meeting, and the approval of any government agencies having jurisdiction over the property. If, at some point in the future, the City would change its ordinances to allow smaller lots, any subdivision would still require approval of the HOA Board and the owners in the Association. The Planning Commission agreed that language similar to the HOA covenants language should be added to the PLCD ordinance. It was also suggested that the language should require that a supermajority of the owners in the HOA would be needed for approval of further subdividing the lots. The Commission also requested that additional efforts be made to identify additional methods of preventing the future subdivision of the PLCD lots. The Commission raised the question of whether the Minnesota Land Trust could be given veto authority over any HOA covenant changes that would allow the subdivision of the PLCD lots.**

G. Conservation Easement

1. The Planning Commission approved the following ordinance language changes to clarify the conservation easement language, to conform the language to statutory limitations regarding the holders of conservation easements, and to clarify the Land Trust's role:

Sec. 12-2380. Final development plan.

E. The applicant(s) shall grant a Conservation Easement which shall run with the land in perpetuity to the City of Afton, all of the owners of the lots and parcels to be created in the PLCD, all land owners of property within Afton abutting the PLCD and the Minnesota Land Trust (or similar independent third party approved by the City of Afton), which restricts the lots and parcels, as well as the development rights on the undeveloped parcel(s), within the PLCD to the number of dwelling units approved for the PLCD and the land cover and use approved by the City of Afton as a part of this PLCD. The Land Trust shall review and approve the HOA covenants". "The MN Land Trust (or

similar independent third party approved by the City of Afton) shall provide a written statement that they will agree to the conservation easement over the land prior to final PLCD approval.”

2. The Planning Commission agreed that additional language should be added to the PLCD ordinance to clarify and strengthen the language regarding the conservation easement. The ordinance language should include more thorough language regarding the constraints on the use of the open space parcels. The conservation easement also needs to be specific vs. vague regarding what is allowed on the open space parcel. The Planning Commission discussed the need to provide a definition of the open space natural area in the PLCD ordinance, including the types of constraints to be placed on the open space parcel.

Language from the Conservation Easement document regarding the constraints on the use of the open space parcel could be included in the PLCD ordinance. *This language includes an identification of the natural, scenic and open space qualities of the protected property that are to be protected as “conservation values”, a description of the conservation purpose of the easement, a listing of specific restrictions on the use of the property, and habitat management according to a Habitat Management Plan.* (This language is attached for the Council’s reference.)

The Conservation Easement references a Habitat Management Plan that is provided by the Land Trust to provide recommendations for the ecological restoration or enhancement of associated wildlife habitat on the open space parcel(s). This plan is intended to be the basis for a working partnership between the land owner and the Land Trust.

The PLCD ordinance should include the following requirements:

- *the identification of conservation values for the protected property*
- *a description of the conservation purpose of the easement*
- *a listing of restrictions on the use of the property*
- *habitat management according to a Habitat Management Plan.*

H. Use of a parcel subdivided to its maximum density

The general consensus of the Planning Commission was that a parcel subdivided to its maximum density may be used in a PLCD but cannot be used in the calculation of density or in meeting the open space requirement, but only if it helps to accomplish conservation design goals. Based on this general consensus, the Planning Commission approved the following recommendation:

“Parcels which contain their maximum permitted density or have been previously subdivided to their permitted density may be included in a PLCD but may not be included in density calculations or land preservation minimum requirements. Such parcel may be included in the PLCD if it allows for the best conservation design for the PLCD as determined by the City.”

I. Additional Performance Standards

The Commission reviewed the list of conditions in Resolution 2018-59, to determine if some should be included as performance standards in the PLCD ordinance. The following were recommended to be added as performance standards:

- Pre-development seeding with a prairie grass/wildflower mix shall be provided on all lots and on the open space parcels.
- The Developer shall enter into a Developer’s Agreement with the City regarding the installation of required improvements, and shall provide financial guarantees as required in Sections 12-1471 to 12-1476 of the subdivision ordinance.

- The homeowner's association restrictive covenants shall contain a provision that in the event the homeowner's association becomes insolvent or ceases operating control shall at its option be transferred to the city of Afton or another method of succession shall be dictated by the City.
- The homeowner's association documents shall contain a waiver of assessment appeal running in favor of the city.
- The provision in the homeowner's association restrictive covenants allowing changes in lots upon the vote of 2/3 of the residents shall be changed to comply with Afton's requirements.
- The public walking paths shall be added to the Final Development Plan.
- The city of Afton shall be a named insured on the homeowner association insurance policy and the policy shall cover those risks identified by the city, including but not limited to coverage for personal injuries and any other losses occurring as a result of the public use of the walking trails on the conservation area.
- The homeowner's association shall be required to indemnify and hold the city of Afton harmless from all losses incurred as a result of the public's use of the conservation area walking trails.
- Covenant amendment provisions in the homeowner's restrictive covenants permitting changes after a certain number of years have passed shall be amended to remove the current conflict with restrictions on future subdivision of PLCD lots and other provisions of Afton's ordinances.
- Residential lots shall be subject to restrictive covenants in favor of the other lot owners in the development and the City of Afton requiring that 60% of each lot remain planted in natural prairie, forbs, shrubs and trees, and appropriate language shall be inserted in the homeowners association documents to ensure enforcement of the maintenance of the lots in accordance with these requirements.
- The final plat application shall include estimated initial costs including but not limited to grading, surface water controls and roads and also a final cost estimate, both of which shall be subject to approval by the city's engineers.
- No final plat approval shall occur until both the development contract and the tri-party agreement between the developer, the city and the Minnesota Land Trust has been executed by all parties.
- All new streets shall be named in accordance with the Washington County street naming conventions.

J. Park Dedication

While not provided by staff to the Planning Commission as an issue to be reviewed, the Council may want to further clarify that the normal park dedication requirement must be met regardless of the requirement to preserve 50% of the land as open space, and regardless of whether the general public has access to the open space.

K. Shared driveways

The Planning Commission discussed allowing a shared driveway as an alternative to a PLCD to enable a subdivision to serve two or three very large lots, with the condition that a conservation easement be placed on the lots to preserve the open space and natural features and prevent future subdivision of the lots.

The Commission agreed the shared driveway concept could be another method of facilitating large lot development under the following conditions:

- **a maintenance agreement is required for the driveway**
- **a multi-party legal way to prevent further sub-division is required**
 - **Washington County does hold conservation easements on land with high priority natural resources. They may be open to holding conservation easements related to large lot subdivisions**
- **the number of lots allowed on a shared driveway is limited**
- **a park dedication is required**
- **a minimum driveway width is required based on the number of lots to be served.**

October 15, 2019 City Council Meeting Highlights

The Council:

- Approved payment of Pay Voucher No. 22 to Geislinger & Sons for the Downtown Village Improvement Project.
- Approved a proposal from Capra Utilities to install a gravity waste line stub for two properties on River Road.
- Approved an application for a Simple Subdivision from Belwin Conservancy at 947 Indian Trail.
- Approved base road improvements on 60th St between Trading Post Trail and Neal, and between Neal and Manning.
- Approved final payment to CenturyLink for the High Speed Internet project.
- Approved contract with Companion Animal Control and Otter Lake Animal Care Center for animal control and impound services.
- Approved removal of a tree on Mount Hope Road.