City of Afton

PLANNING COMMISSION AGENDA

December 2, 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. November 4, 2019 Meeting Minutes

6. **REPORTS AND PRESENTATIONS** – None

7. **PUBLIC HEARINGS** – None

8. **NEW BUSINESS –**
   A. Draft Short Term Residential Rentals Ordinance

9. **OLD BUSINESS -**
   A. Draft PLCD Ordinance Amendment
   B. Update on City Council Actions – Council Highlights from the November 19, 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
November 4, 2019

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

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

3. **ROLL CALL** – Present: Chair Kris Kopitzke, Scott Patten, Sally Doherty, Roger Bowman, James Langan Christian Dawson. Absent were Kuchen Hale, Justin Sykora, Doug Parker (all excused).
ALSO IN ATTENDANCE – Council member Wroblewski, City Administrator Ron Moorse

4. **APPROVAL OF AGENDA** –
Motion/Second Doherty/Bowman To approve the Agenda of the November 4, 2019 Planning Commission meeting. Passed 6-0.

5. **APPROVAL OF MINUTES** –
A. September 9, 2019
Motion/Second Kopitzke/Bowman to approve minutes of September 9, 2019. Passed 4-0-2 (Patten, Langan abstain)

6. **REPORTS AND PRESENTATIONS** - None

7. **PUBLIC HEARINGS** – None

8. **NEW BUSINESS** –
A. Draft PLCD Ordinance Amendment
Administrator Moorse explained the process: At its October 14 work session the City Council 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.
Discussion was held on several of the items the Council added including:
- Revision regarding the definition of outlots
- Option of obtaining a release from the other property owner in a quarter-quarter
- Adding an EAW requirement (recommend cross-referencing in zoning codes)
- Park dedication language

Kopitzke stated that the vegetation requirements prohibit pasture land on private lots.
Bowman asked about the city having ability to stop development if agreement is violated? (Moorse replied it is in developer's agreement). Bowman asked if it should be in ordinance.
Langan asked about city's responsibility to evaluate a complaint and remedy.
Bowman recommended adding language "developer agreement shall include enforcement process for conditions under which stop work can be ordered" or similar. Check with attorney for language.
It was recommended that enforcement language be added to the ordinance in addition to the developer's agreement.
Langan would like complete language before having the public hearing. Enforcement language should be part of PLCD ordinance. Penalty guidelines for non-compliance are needed.
It was decided to develop enforcement language prior to holding a public hearing on the ordinance.

9. **OLD BUSINESS** –
A. Update on City Council actions
Council member Wroblewski provided a summary of the October City Council meeting.

10. **ADJOURN**
Motion/Second Patten/Bowman to adjourn. Passed 5-0.

Meeting adjourned at 8:26 PM.

Respectfully submitted by:

_____
Julie Yoho, City Clerk

To be approved on December 2, 2019 as (check one): Presented: _____ or Amended: _____

DRAFT

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

Planning Commission Memo

Meeting: December 2, 2019

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: November 26, 2019

Re: Draft Short Term Residential Rentals Ordinance

The short term rental of homes is becoming more popular and more prevalent. As short term rentals become more prevalent, the possibility of negative impacts on neighboring residential properties increases, as does the possibility of environmental impacts, such as over loading septic systems not designed for the volume of tenants. The Council, at its October 21 work session, discussed the growing popularity of residential short term rentals, and options regarding possible regulation of short term rentals. Short term rentals are defined as 30 days or less. Khayree Duckett, of the St. Paul Area Association of Realtors, attended the work session and offered to provide information and assistance regarding the development of an ordinance regarding short term rentals. Staff then met with Khayree to discuss the key elements of a short term rental ordinance for Afton, and Khayree developed a draft ordinance for Afton (see attached).

Planning Commission Feedback and Public Hearing

The Council reviewed the draft ordinance and discussed the elements of the ordinance, whether an ordinance is needed and how the ordinance would be enforced. The Council then referred the draft ordinance to the Planning Commission for review and comment and then for a public hearing in February. The public hearing will be publicized in the City Newsletter and on the City's Facebook page, in an effort to obtain feedback from residents regarding the need for short term rental regulations and the type of regulations needed.

The key elements of the draft ordinance are as follows:

- Short term rentals can occur only on homesteaded property
- Short term rentals can occur only in the principal structure.
- Septic system must be certified as compliant and as having sufficient capacity
- Establish a maximum occupancy for short term rentals.
- The short term rental use requires a license or registration

Planning Commission Feedback Requested

Motion regarding feedback concerning the draft short term rentals ordinance.

Sec. 12-232. Short-Term Rentals

A. *Scope*. This section applies to all short-term rentals in the City of Afton.

B. *Purpose*. The City of Afton has adopted this ordinance for the purpose of allowing short-term rentals consistent with rural residential or agricultural zone uses.

C. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where expressly defined in another section, article or the context clearly indicates a different meaning.

Certificate of Septic System Compliance. A certificate that was issued on a new septic system installed within the past five years or a copy of a compliance inspection which was performed within the past three years.
City. City of Afton.
Dwelling. A principal structure that contains one dwelling unit, intended or designated to be used, rented, leased, let or hired out to be occupied for living purposes.
Dwelling Unit. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
Owner. Any person who, alone or with others, has title or interest in any building, property, dwelling, dwelling unit or portion thereof, with or without accompanying actual possession thereof, including any person who as tenant, agent, executor, administrator, trustee, or guardian of an estate has charge, care, control of any -dwelling or dwelling unit.
Person. Any individual, firm, corporation, association, governmental entity, or partnership and its agents or assigns.
Short-term rental. A dwelling unit, or a portion of a dwelling unit, rented for a period of less than thirty (30) days. No more than one (1) rental of a short-term rental dwelling unit or portion thereof shall be permitted per day. Use of a short-term rental dwelling unit for any commercial or social events is prohibited.

D. *License prohibited for non-homestead status property.* No person shall allow any non-homestead status short-term rental dwelling unit to be occupied or let or offered to let to another for occupancy, or charge or rent, with the exception of a short term rental dwelling unit located in the VHS-C zoning district.

E. *Short-term rental license required.* No person shall allow any short-term rental dwelling unit to be occupied or let or offered to let to another for occupancy, or charge, or rent unless the owner has obtained a valid short-term rental license under the terms of this section.

F. *Short-term rental license application.* Application for the issuance or renewal of a short-term rental license must include a valid copy of a certificate of septic system compliance and any information deemed necessary by the zoning administrator and may be obtained through any readily available means, written or electronic, as deemed appropriate and expeditious by the zoning administrator.

G. *License issuance & renewal.* The initial short-term rental license shall expire one year from the date the license is issued. Subsequent renewals shall not be for a period of more than three years.

1. Licenses shall be issued exclusively for principal structures with one dwelling unit, with the exception of a duplex with a valid conditional use permit, which has two dwelling units.
2. Licenses shall not be issued for occupancy by more than 6 persons, unless the applicant provides documentation that the septic system is sized for additional occupancy.

H. *License denial, cancellation, or revocation*. Application for a short-term rental license may be denied, canceled or revoked upon notice and the provision of an opportunity for hearing for good cause, including the violation of, or noncompliance with, any license requirement or standard, or any applicable law, statute or ordinance.

I. *Inspections.* Any property licensed under this section shall be subject to lawful inspection by the zoning administrator and the zoning administrator's authorized representatives upon a schedule determined by the zoning administrator or upon complaint.

J. *License transfer prohibited.* Short-term rental licenses are non-transferable.

K. *Severability.* If any portion of this section is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the section, and such determination shall not affect the validity of the remainder of the section.

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

Planning Commission Memo

Meeting: December 2, 2019

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: November 26, 2019

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

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The Planning Commission, at its November 4 meeting, identified two recommended changes/additions as outlined below. These have been added to the ordinance amendment.

1. Where the ordinance amendment has added language referencing the requirement for an Environmental Worksheet, the ordinance language should reference the state rules that set out the credentials required for the preparation of the EAW.
2. Retain the language confirming that park dedication is required for a PLCD, but add language that allows the City to waive all or a portion of the park dedication requirement if the Council finds that the waiver is in the City's interest.

The Council, at its November 19 meeting, added one item of additional language to Sec. 12-2375 A.3 regarding the protection of and connection to significant natural features.

The revised ordinance amendment, reflecting the Planning Commission's recommendations and the Council's additional language is attached.

<u>Recommendations to Strengthen Enforcement</u>
The Planning Commission also recommended adding and strengthening the enforcement teeth in the Developer's Agreement.

a. The Developer's Agreement should have two levels of enforcement protocols
    i. Conditions under which an immediate cease and desist order may be issued
    ii. Conditions under which a default may be declared, and related enforcement actions.

The Planning Commission's recommendations regarding enforcement and the Developer' Agreement do not specifically require revisions to the PLCD ordinance. Staff has discussed the Planning Commission's enforcement recommendations with the City Attorney. While the City has the authority to issue an immediate cease and desist order (stop work order) specifically in relation to the building code, the City does not have general authority to issue immediate cease and desist orders. A general cease and desist order requires due process that includes the opportunity to appeal the order and the opportunity to address the violation or failure to comply with City requirements.

The Commission also recommended clarification regarding the enforcement tools and protocols that are currently available in the zoning code and through other means to enable enforcement action regarding CUP violations, PLCD violations, Developer's Agreement violations and miscellaneous failure to comply with City requirements or allowing violations to continue; and, if needed, add language in the zoning code to support enforcement of the requirements of CUP's and enforcement of Developer's Agreements. Staff is in the process of reviewing the zoning code to identify enforcement tools that are currently available, surveying other cities to identify the enforcement tools they use, and obtaining advice from the City Attorney regarding enforcement tools.

Planning Commission Recommendation Requested

Motion regarding finalizing the draft PLCD ordinance amendment for a public hearing.

ORDINANCE 05-2019

CITY OF AFTON

WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTIONS 12-89, 12-1256 AND 12-1379 AND ARTICLE XII OF THE CITY CODE RELATED TO PRESERVATION AND LAND CONSERVATION DEVELOPMENTS, CUL-DE-SAC STREETS AND ENVIRONMENTAL ASSESSMENT WORKSHEETS

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. 12-89 Environmental Assessment Worksheets (EAW) and Environmental Impact Statements (EIS)

G. Prior to or together with any application for a permit or other form of approval for an activity, the proposer shall prepare an EAW of the action's environmental effects, reasonable alternatives to the project and measures for mitigating the adverse environmental effects. Blank EAW forms will be available from the Zoning Administrator and the City Clerk. The proposer shall submit the completed EAW to the Zoning Administrator. The Zoning Administrator shall review the EAW and determine the adequacy of the document. The Zoning Administrator shall use the standards of the state's environmental review program rules in its determination of adequacy. If the Zoning Administrator determines the document is inadequate, he shall return the document to the proposer to correct the inadequacies.

1. The preparation of an EAW must be done by a consultant with the credentials required by Minnesota Statutes and/or Minnesota Administrative Rules and the consultant must be approved by the City. The consultant shall meet with the Zoning Administrator and the City's Engineering consultant prior to the preparation of the EAW to confirm the credentials of the consultant and to identify the key elements of the EAW as it relates to the specific proposed project and the key information to be provided in the EAW.

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. **This includes working with the City regarding the layout of the open space parcel to protect sensitive natural resources and natural features and to make connections with adjacent open space with significant natural features.**
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. The City may waive all or a portion of the park dedication requirement if the City finds that the waiver is in the City's interest.**

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 it**s** 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.

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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:

November 19, 2019 City Council Meeting Highlights

The Council:

- Approved Pay Voucher No. 3 to Great Northern Landscapes for the Downtown Village Project.
- Approved the Cooperative Agreement with Washington County for maintenance of street improvements.
- Denied the request from Tom Gasser regarding the placement of the retaining wall and rain gardens.
- Reviewed the Short Term Rentals draft Ordinance.
- Approved a rate increase for Highland Sanitation for 2020.
- Designated Shepherd of the Valley as the Polling location for 2020 elections.