

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
August 18, 2014**

AGENDA ITEM 1. Call to Order, Roll Call and Approval of Minutes.

Chair Gonzalez called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Vanderheyden, Pearson, Gonzalez, Gnos, Ramy, Tyacke, and Iverson. City Planner Gadow was also present.

Chair Gonzalez stated the minutes to be reviewed are from August 4, 2014.

Commissioner Ramy made a motion, Seconded by Commissioner Pearson, to approve the August 4, 2014 minutes as presented. The motion carried 6-ayes; 1-abstain (Tyacke)

AGENDA ITEM 2. WORKSHOP ITEMS:

a. Tree Ordinance Discussion

City Planner Gadow stated the current draft of the Tree Ordinance includes additions and suggestions from the March Planning Commission meeting including a focus on education as a component, shifting definitions to make them clear, and suggestions from Manuel Jordan. A section on noxious trees was added and the tree replacement policy was clarified including the type and amount of trees that need to be replaced. Also included in the current draft are requirements for developers to have trees staked and marked during development with a pre-construction and post construction inspection done by the City Forester or Consultant. The City Attorney has reviewed the draft and his comments have been incorporated. Before the public hearing the City will have Mr. Jordan review the Ordinance and attend the Planning Commission meeting to answer any additional questions and provide input.

Commissioner Vanderheyden suggested going through the document section by section.

Commissioner Tyacke stated the Ordinance talks about the enforcement powers of the City Forester. He stated the last meeting Commissioner Iverson asked how the City verifies the number of trees removed does not exceed the number approved and City Planner Gadow responded that the Parks Department issues a permit and they inspect the site once the cutting has occurred. If the Building Inspector notices any tree impacts this is reported to the Parks Department and they work with the applicant. He asked if this was different from past practice.

City Planner Gadow stated the Parks Department and the Building Inspector provide a check for each other. It was not meant to be stated this is the process but rather there is another set of eyes that look at it. The purpose of the changes in this draft are to clearly spell out what the process is, so applicants, the Planning Commission, and the City Council know on the front end what the City's expectations.

1 Commissioner Tyacke clarified the enforcement would be under the City Forester.

2
3 City Planner Gadow stated this was correct, whether the person is a staff member or a consultant
4 hired by the City to act in that or any capacity.

5
6 Merrily Borg Babcock, 337 Reno Street, complimented everyone on the current draft ordinance.
7 She expressed concerns with Section 701.16: Significant trees shall be replaced with 3-inches of
8 new tree diameter for every 6-inches of diameter that is removed. If the City only replaces half
9 of the diameter breast high (dbh) removed then there would be a significant amount of trees lost
10 in the City. The City would be losing several trees to emerald ash borer in the future and the
11 current draft ordinance only requires half of this amount to be replaced. Trees are not just for
12 visual beauty but also air and water quality control, reducing pollutants and increasing property
13 value. The Walgreen's property is concerning and asked the Planning Commission to reconsider
14 701.16 and have the replacement ratio be for every 1-inch removed there would be 1-inch
15 replanted. If the property is not large enough to allow this replacement the City has a number of
16 parks that could use the additional trees or put funds aside for replacement.

17
18 Chair Gonzalez asked if Ms. Borg Babcock was suggesting the City consider the number of trees
19 that are lost or the caliper inches that were removed.

20
21 Ms. Borg Babcock stated she was referring to the caliper inches. She pointed out the maximum
22 value the ordinance has for a tree being removed and not replaced is \$5,000. There are trees in
23 the City that are worth more than this amount. She stated the Planning Commission needs to be
24 aware of the size and type of trees that were being removed and not just the total number of
25 caliper inches.

26
27 Commissioner Tyacke stated Section 710.17: Standards for Preserving Trees in New
28 Construction and Redevelopment, subsection h, requires a replacement rate of 2:1 if trees that
29 were marked for preservation were destroyed or severely damaged.

30
31 City Planner Gadow clarified this section refers to trees that are damaged during construction
32 and Ms. Borg Babcock is referencing tree replacement for trees that were approved to be
33 removed.

34
35 Chair Gonzalez stated there is also mention of payment in lieu of tree replacement in Section
36 710.16.f.vii. She asked how the Planning Commission felt with people taking down large trees
37 and replacing them with much smaller trees and also be required to pay into the tree replacement
38 fund.

39
40 Commissioner Ramy stated Mr. Jordan had stated that smaller trees would do better when
41 transplanted than larger trees.

42
43 Commissioner Vanderheyden stated a 1-inch tree and a 3-inch tree would be the same size after
44 3-years.

45

1 Chair Gonzalez asked if the number of required trees could not be planted on the site if a
2 payment could be received for the replacement fund.

3
4 City Planner Gadow stated if the Planning Commission wants a one to one or two to one
5 replacement then Staff would look at the legal ramifications and also if other communities have a
6 one to one ratio. Most of the communities he reviewed had a half to one ratio. He did not see
7 any communities that had a two to one replacement policy. The City may not be able to require
8 more to be planted than what was removed.

9
10 Commissioner Iverson stated she would support a one to one replacement ratio in developments.

11
12 It was the consensus of the Planning Commission to direct Staff to look into a one to one
13 replacement ratio prior to holding a public hearing.

14
15 Commissioner Iverson asked the Planning Commission if they should review the maximum
16 replacement value of \$5,000. Some of the City's older trees are close to this value and she is
17 concerned people may be willing to pay the fee just to remove a tree. She did not feel the
18 penalty was severe enough given the wealth in the community.

19
20 Chair Gonzalez clarified the money would be put in a fund to put trees in other areas of the City
21 so the Ordinance was achieving its purpose.

22
23 Commissioner Iverson stated she would like more research done to determine if a \$5,000 penalty
24 would be enough incentive to residents to preserve trees, if this would be enough to replace those
25 trees if they were removed, and what the average age of the trees were in Wayzata.

26
27 Chair Gonzalez stated the \$5,000 penalty only applies to new construction or development when
28 a tree that was to be preserved is damaged not the removal of trees that are approved.

29
30 City Planner Gadow stated the Ordinance is trying to make a distinction between private
31 property owners who want to remove a couple of trees and versus a development project where
32 the City has affirmative approval because those have development agreements. This allows
33 private owners to remove a tree for a project.

34
35 Chair Gonzalez stated Section 710.15.xii applies to any person including a company that a
36 resident may hire. She asked if a plan outlining all the trees on the property that would be
37 removed and maintained would be required even if only one (1) or two (2) trees would be
38 removed.

39
40 City Planner Gadow stated there had not been a clear decision at the March meeting because the
41 Planning Commission was split on all work requiring a permit and following that process and
42 others wanted a baseline of tree coverage for the property so that it could be referenced for future
43 tree removal requests.

44
45 Commissioner Tyacke stated the most egregious violations are those situations where a permit
46 has been issued to remove a set amount of trees, these trees are marked, and then there are more

1 trees cut down. This would be what happened with the Walgreens project. This would be the
2 situation the City wants to penalize and this is not included. He had thought Section 710.17
3 covered this but he would like to see something added for wrongfully cutting down trees.

4
5 City Planner Gadow stated Staff would work on determining the best way to add this in
6 situations that included preservation plans. He suggested either to add similar language as
7 710.17 to Section 710.15 or to move the information from the inspection and damage to a
8 separate section so it would be inclusive across the Ordinance. Staff would work with the City
9 Attorney on this.

10
11 Commissioner Iverson asked how to incorporate language in the development agreement that
12 clearly spells out penalties if the preservation plan is not followed. She would like to see this
13 spelled out clearly for developers.

14
15 City Planner Gadow stated they could add an acknowledgement the developer would sign saying
16 they received the ordinance and understand the penalties for removing trees not approved.

17
18 Chair Gonzalez stated this would not be necessary. A condition of approval is following the
19 landscape plan and preservation plan that was submitted. This is included in the development
20 agreement.

21
22 Ms. Borg Babcock stated when she had been on the Planning Commission there had been a
23 project that removed a large sugar maple that should have been preserved.

24
25 City Planner Gadow explained the tree Ms. Borg Babcock is referring to was not removed by the
26 applicant. Xcel Energy had removed this tree for underground utilities. The current draft
27 ordinance does include utility work.

28
29 Commissioner Iverson stated the current process is not working.

30
31 Chair Gonzalez stated there was nothing wrong with the law, the problem is enforcement.

32
33 Commissioner Iverson stated enforcement needed to have strong language.

34
35 Commissioner Gadow suggested adding a separate section in the development agreement that
36 calls out the landscaping and tree preservation ordinances.

37
38 Commissioner Vanderheyden stated in Section 710.01.a. the word "all" be removed.

39
40 Chair Gonzalez suggested in Section 710.01.a.v. adding the phrase "and/or development." In
41 Section 710.01.b.iv., she suggested using the word "streets" rather than "roads" because streets
42 are defined in the City's codes and to change "drives" to "driveways."

43
44 Commissioner Vanderheyden stated according to the City Tax Assessor trees do not increase
45 property values and he would suggested removing this from Section 710.02.viii. He also stated
46 Section 710.02.viii and 710.02.ix are similar in intent and asked if they could be combined.

1
2 Commissioner Iverson disagreed with Commissioner Vanderheyden. She suggested Staff talk to
3 real estate agents about the increase in property value trees provide.
4

5 Commissioner Vanderheyden stated the City Tax Assessor was hired by the City and he had
6 rendered his opinion that trees do not increase property value. Since was paid by the City to
7 render his opinion the City should take it under advisement.
8

9 After discussion it was the consensus of the Planning Commission to take out the phrase
10 “increases property value” from Section 710.02.viii.
11

12 Commissioner Ramy requested clarification regarding Section 710.02.vii.
13

14 City Planner Gadow stated this language was from another community or research. The
15 additional trees prepare the soil to be reestablished with vegetation and ground cover and the
16 tree’s root system provides erosion control.
17

18 Commissioner Tyacke suggested adding the word “on” in front of “any land” in Section
19 710.04.b. the second line.
20

21 Commissioner Vanderheyden asked if the term “high priority tree” was used in other areas of the
22 ordinance or code outside of Section 710.04.g.
23

24 City Planner Gadow stated Staff would need to look into this.
25

26 Chair Gonzalez suggested changing this to significant tree.
27

28 Commissioner Iverson asked if the City had a list of significant trees.
29

30 City Planner Gadow stated the City does not maintain a list but rather defaults to the DNR
31 regarding species but the City does encourage native plantings. There have been concerns that
32 maintaining a list would not cover all the species.
33

34 Commissioner Ramy asked if a tree could be significant based on location, growth
35 characteristics, or other such criteria.
36

37 City Planner Gadow stated the City would have a better position basing the requirement on
38 scientific measurements. He suggested removing Section 710.04.g.iv. because it is subjective.
39

40 Commissioner Vanderheyden stated significant tree is adequately defined and he would agree
41 with removing this section. He expressed concerns about residents removing trees without
42 getting a permit in the “dark of night.” He asked if there was a catch for this.
43

44 City Planner Gadow suggested including this with the items that would be pulled from Section
45 710.17 that would be similar and create a new section about damages that would then apply to
46 everyone.

1
2 Commissioner Vanderheyden stated residents have the right to cut down up to 32-inches per acre
3 without a permit according to the draft ordinance and in order to trip the misdemeanor the
4 ordinance would need to be violated. He agreed with clarifying “in the dark of night” scenarios
5 and adding this to a new section.
6

7 Commissioner Iverson suggested having an education plan for letting residence know they
8 would need a permit.
9

10 Commissioner Vanderheyden stated he would prefer changing from 6-inch diameter to 8-inch
11 diameter in the definition for significant trees in 710.01.m, especially if the replacement ratio
12 would change to a one to one ratio.
13

14 Commissioner Iverson stated she would prefer to maintain higher standards.
15

16 After discussion it was the consensus of the Planning Commission to leave the definition of
17 significant tree in Section 710.01.m at 6-inches.
18

19 Commissioner Vanderheyden asked if the City was boxing itself in with Section 710.05.b in case
20 the City Manager did not have someone with the qualification to appoint and there was a need.
21 He stated the City would need to be sure they could enforce the ordinance so he recommended
22 removing the phrase “with the required qualifications.”
23

24 Chair Gonzalez suggested changing the phrase to “a qualified person.”
25

26 Commissioner Pearson asked if certified Arborists were difficult to find. He suggested if this
27 was not a position in-house then the City should look at hiring a Consultant when needed.
28

29 City Planner Gadow stated the City has struggled with this but they should have access to a
30 certified Arborist in order to enforce the ordinance.
31

32 After discussion, it was the consensus of the Planning Commission to leave the language as
33 printed in the draft ordinance.
34

35 Commissioner Vanderheyden suggested referencing either the DNR or a specific document in
36 Section 710.07.v. He asked if a tree was obviously diseased if a forester would have to send in a
37 sample and wait for positive results prior to having a tree removed.
38

39 City Planner Gadow stated a positive test result should be obtained prior to removing a tree
40 because there have been cases of false positives.
41

42 Chair Gonzalez suggested changing “Commissioner of Agriculture” to “appropriate State
43 agency.”
44

45 Commissioner Tyacke stated Sections 710.09.b.i, 710.09.b.ii, and 710.09.b.iii are consistent.
46

1 Commissioner Vanderheyden agreed and suggested Staff review these sections and make it clear
2 who is takes action and the latitude of the Forester.

3
4 City Planner Gadow explained Staff would review these sections with the City Attorney and
5 verify consistency.

6
7 Chair Gonzalez suggested in Section 710.10.a. the fifth sentence change “mail” to “certified
8 mail” to be consistent.

9
10 Commissioner Vanderheyden stated in Section 710.11 a space needs to be added between the
11 word “within” and “the” in the second sentence and he suggested changing the last line to
12 “governed by then current State Statutes.”

13
14 Commissioner Pearson suggested “applicable State Statutes.”

15
16 Commissioner Iverson asked if language should be added to Section 710.14.b that trees may be
17 added to the list.

18
19 City Planner Gadow suggested adding “additional noxious trees as identified by the City.”

20
21 Chair Gonzalez suggested changing to “including but not limited to...”

22
23 Commissioner Vanderheyden asked if all trees had to be surveyed in Section 710.15.a.viii.

24
25 Chair Gonzalez stated she would agree that all trees on the property should be surveyed for
26 commercial developments.

27
28 City Planner Gadow stated if a single-family residence is removing trees they would go through
29 the permit process but zoning or development would need to have a tree preservation plan and
30 this is a different set of requirements. Section 710.15.a.vi asks for a diagram of land designating
31 the area of the proposed tree removal so it may not be necessary to have all the trees on the
32 property identified.

33
34 Chair Gonzalez stated Section 710.15.a.xii. states that all trees be marked either for removal or
35 preservation. This may be difficult for both the Planning Commission and those removing trees
36 to know which is which if every tree is marked.

37
38 City Planner Gadow stated this could be clarified in the ordinance. He suggested adding “when
39 determined by the City Forester” to Section 710.15.a.viii. for the permit process not the
40 preservation plan.

41
42 Commissioner Iverson asked what type of survey would be required.

43
44 Commissioner Gnos asked if the City was requesting a certified surveyor do a full property
45 survey of all the trees on a parcel.

46

1 Commissioner Vanderheyden stated it would be best to leave some discretion to the City forester
2 but he is hesitant to do this.

3
4 City Planner Gadow stated Staff would flag this topic for further discussion.

5
6 After additional discussion it was the consensus of the Planning Commission to direct Staff to
7 work with the City Attorney regarding Section 710.15.a.viii.

8
9 Commissioner Vanderheyden stated in Section 710.15.b Staff should use either “may” or “shall”
10 and he would suggest, “may.” He asked for clarification on the timing in Section 710.15.c. and
11 if this should be done at a Council meeting within 45-days but not necessarily the first meeting
12 in that time period.

13
14 Chair Gonzalez asked what a biological system was as referenced in Section 710.15.d.iv.c.

15
16 City Planner Gadow stated Staff would research this and report back to the Planning
17 Commission.

18
19 Commissioner Vanderheyden suggested changing the word “propose” to “proposed” in Section
20 710.15.d.ii. He asked if the forester should be evaluating tree removal based on property values
21 of a neighborhood as stated in Section 710.15.d.iii. He stated this would not be the role of a
22 forester.

23
24 Commissioner Iverson stated the forester could speak to the density of trees in a neighborhood
25 and the affect the proposed tree removal would have on that but no in regards to the property
26 values.

27
28 After further discussion is was the consensus of the Planning Commission to remove “on
29 property values of the neighborhood and on other existing vegetation” in Section 710.15.d.iii.

30
31 Commissioner Vanderheyden stated he did not believe the removal of trees would substantially
32 alter the water table as suggested in Section 710.15.d.iv.a but any tree removal would create
33 susceptibility to erosion in Section 710.15.d.iv.b. He asked if the items in Section 710.15.d to
34 710.15.g would be considered part of a forester’s job.

35
36 Commissioner Iverson asked if a forester would have knowledge about the effect tree removal
37 would have on the water table. She suggested reviewing a job description for a forester.

38
39 City Planner Gadow suggested removing these items from this section and adding them as
40 criteria the applicant must use when developing a preservation plan so they are using these
41 principles as a guide when putting the preservation plan together. This way the forester would
42 not have to do a review they may not be qualified to do.

43
44 After additional discussion it was the consensus of the Planning Commission to remove subset
45 items d, e, f, and g from Section 710.15 and add them as guidelines for developers to follow
46 when preparing a preservation plan.

1
2 Commissioner Tyacke suggested changing the word “may” to “shall” in the second line of
3 Section 710.15.f.

4
5 After additional discussion it was the consensus of the Planning Commission that Section
6 710.15.f should be changed to “If the City Council determines the preservation plan complies
7 with the criteria then the plan shall be approved.”

8
9 Commissioner Vanderheyden asked for clarification on Section 710.15.d.viii.

10
11 City Planner Gadow stated this was from another ordinance and Staff would do additional
12 research on this topic and clarify the purpose of thinning.

13
14 Commissioner Gonzalez suggested expanding the option of payment in lieu of tree replacement
15 to include residents.

16
17 Commissioner Vanderheyden asked for clarification regarding Section 710.15.vi.a. City Planner
18 Gadow stated Staff would discuss this section with the forester.

19
20 Commissioner Vanderheyden stated Section 710.15.f.vii.c. requires a certified nursery be used.
21 He asked how the City would know if this had been done.

22
23 City Planner Gadow stated Staff would work with the City Attorney regarding this point.

24
25 Commissioner Iverson asked if the Planning Commission would change the replacement ratio to
26 a one to one ratio as suggested by Ms. Borg Babcock. City Planner Gadow stated Staff would do
27 additional research regarding this for the next discussion.

28
29 Commissioner Tyacke asked if the minimum surety amount of \$1000 in Section 710.16.f.viii
30 was per tree. City Planner Gadow stated this minimum amount was per lot or project but it could
31 be changed.

32
33 Commissioner Iverson asked the penalties in 710.17 would apply if the developer removed a tree
34 then said it was diseased in order to avoid the penalties.

35
36 Chair Gonzalez stated if a tree is diseased the City Forester needs to take a sample and a test
37 result must be received prior to a diseased tree being removed.

38
39 City Planner Gadow stated Staff would review the draft to be sure this was included.

40
41 Chair Gonzalez suggested adding language such as “trees not identified for removal on the tree
42 preservation plan shall not be removed without the written approval of the City Forester.”

43
44 Commissioner Vanderheyden asked if Section 710.17.f was referring to silt fencing because this
45 material is not 3-feet.

46

1 City Planner Gadow explained the reference was to fencing around the trees that are to be
2 protected and should be more than the standard silt fencing.

3
4 Commissioner Vanderheyden stated in Section 710.17.k, the tree planting fund should be
5 defined.

6
7 **AGENDA ITEM 3. Other Items.**

8
9 **a. Review of Development Activities**

10 City Planner Gadow stated Staff was working on a 3-lot subdivision and this may be presented at
11 the next Planning Commission meeting but if it is not ready for the first meeting in September
12 that meeting may be cancelled.

13
14 Commissioner Pearson reviewed the Planning Commission items that had been discussed by the
15 City Council including the tabling of the taproom/microbrewery.

16
17 Commissioner Ramy reviewed the discussions at the last Heritage Preservation Board meeting
18 including the potential for a booth at James J. Hill Day's and the trapper's cabin.

19
20 Commissioner Tyacke stated he would attend the next evening Heritage Preservation Board
21 meeting.

22
23 **b. Other Items**

24 There were no other items.

25
26 **AGENDA ITEM 4. Adjournment.**

27
28 There being no further business, Commissioner Vanderheyden made a motion, seconded by
29 Commissioner Tyacke, to adjourn the meeting. The motion passed unanimously.

30
31 The meeting was adjourned at 8:57 p.m.

32
33 Respectfully submitted,

34
35 Tina Borg

36 *TimeSaver Off Site Secretarial, Inc.*