

**WAYZATA PLANNING COMMISSION
WORKSHOP MEETING MINUTES
March 3, 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: Gonzalez, Vanderheyden, Gnos, Ramy Jr., Tyacke, Pearson, and Iverson. City Planner Gadow and Council Member Anderson were also present.

AGENDA ITEM 2. Workshop Items:

a. Tree Ordinance Discussion

City Planner Gadow stated the Planning Commission and Staff had been working on the tree preservation ordinance for the last couple of months. The goal is to have the ordinance go through the process over the next few months. He explained the version being presented at this time was updated since the December 16, 2013 meeting. He stated Mr. Manuel Jordan from Heritage Shade Tree Consultants had been present at the December meeting and would be brought back to a future meeting to further discuss the tree ordinance and his experience with working with other cities on their tree ordinances. Staff would also continue working on some of the legal questions pertaining to the ordinances with the City Attorney and bring this analysis to the Planning Commission at a future meeting. The goal for this meeting would be to review the ordinance for the new Planning Commissioners, highlight the changes that have been made and have additional input prior to the final draft being put together for public comment and then final adoption. He pointed out there are some areas in this draft that Staff is currently working on.

City Planner Gadow stated page 1 is the Purpose, Authority, and Applicability of the ordinance. This is a separation of the legal standards in which the City is enforcing and a policy level discussion covering why tree preservation is important in the community. Section 710.02 is the policies section and is more difficult to quantify. These are policy level reasons why the City would adopt a more substantial and restrictive ordinance. The legal ordinance language is contained on the first page. These items are included at the beginning of the ordinance so that those reviewing the ordinance will know and understand why the City is doing what it is. Page 2 of the draft ordinance, Section 710.01.c was added to outline how this ordinance would apply in the community. The current ordinance states there is a tree overlay over the whole city but this subsection is more specific about what the tree ordinance covers and the events that would trigger the tree ordinance.

City Planner Gadow stated Section 710.03 is the definitions, including several new definitions based on previous discussions. There had been discussion at the previous meeting with Mr. Jordan about drip line versus critical root zone. The example contained in the draft is from the City of Minnetonka's tree ordinance. This can be included and then strike the drip line if the Planning Commission feels the critical root zone is more important. Staff will follow up with

1 Mr. Jordan regarding this topic. There is a new definition for the term “native woody
2 vegetation”. This was referenced in other areas of the ordinance but had not been accurately
3 defined previously. Staff determined it was best to tie this definition to the Department of
4 Natural Resources Field Guide for Native Plants definition. This way the City would not have to
5 list all the trees that are allowed or prohibited because something could be missed and there will
6 be changes over time and the City would have to continually update the Ordinance.

7
8 City Planner Gadow stated Section 710.03.i defines pathogens. There are not a lot of ordinances
9 that include this definition so it was difficult to find.

10
11 City Planner Gadow stated on page 4, Section 710.03.m defines what the City considers to be a
12 tree. The Planning Commission could decide to include a definition that links back to the
13 Department of Natural Resources and specific State Statute or alternatively following the City of
14 Greenwood’s example and define a coniferous/evergreen tree and a deciduous tree. Staff is
15 requesting additional direction from the Planning Commission on what their goal is in defining
16 what a tree is because this will help in determining what direction to go with the definition.
17 Based on previous discussions, Staff believes the definitions established by the City of
18 Greenwood would be the direction the Planning Commission would prefer.

19
20 Chair Gonzalez asked to pole the Planning Commission at this time regarding the definition of a
21 tree and to have the Commissioners review pages 1-3. She asked if there were any questions
22 regarding the information on page 1.

23
24 Commissioner Tyacke asked what the purpose was in regulating this area. He asked if there had
25 been problems in the City previously.

26
27 City Planner Gadow stated the ordinance as it is written today was written in a different time
28 period. There has been a lot of residential and commercial development in the community over
29 the last couple of decades and this has resulted in tree loss due to construction. It has been
30 identified by the Planning Commission that the ordinance as it is written does not do enough to
31 provide protections from a community level, rather than an individual property owner level, for
32 trees that provide a benefit for the whole community. These discussions are to improve the
33 ordinance in areas that are not well defined or don’t exist, like the inclusion of a tree replacement
34 policy. Many communities have, as part of a development project, a certain number of trees can
35 be taken down but in order to do this these must be replaced by an established ratio. The City’s
36 current ordinance does not include this and this has been a major issue when the City gets new
37 development projects including both public and private.

38
39 Commissioner Iverson stated Section 710.01.a.ii states “Providing for the issuing of permits
40 and/or licenses for any maintenance and/or removal of trees within the City of Wayzata”. She
41 asked if maintenance needed to be defined.

42
43 City Planner Gadow stated Staff would look into this. Maintenance could be tree trimming, tree
44 pruning, or treatment for diseased trees.

45

1 Commissioner Iverson asked that maintenance be narrowed down so people have a clear
2 understanding of what maintenance means.

3
4 Commissioner Iverson stated the City of Bloomington's ordinance, Section 18.01 states "The
5 City Council finds that these preservation regulations help to establish a balance between an
6 individual's right to develop his/her property and the needs of the community to protect the
7 natural environment." She asked if this was something the City would want to also include in
8 their ordinance. This is nice content when talking about purpose.

9
10 Chair Gonzalez clarified Commissioner Iverson would like this included at the very beginning of
11 the ordinance.

12
13 Commissioner Iverson stated that was correct.

14
15 City Planner Gadow stated this would be included in Section 710.01.a.

16
17 Commissioner Iverson stated Section 710.01.b.iv states "Require the clustering of buildings or
18 relocation of roads, drives, buildings, utilities or storm water facilities when this would preserve
19 protected trees." She asked if the City had a thorough list of protected trees and if this was
20 something that needed to be established by area or zone. She asked if the Planning Commission
21 felt this should be better defined.

22
23 Commissioner Iverson stated the other areas she felt the Planning Commission should have
24 further discussion were in specifying grading limits and granting variances. These areas are
25 vague in this ordinance.

26
27 City Gadow stated in response to the variance question, this would be a situation like a single-
28 family residential project that would normally have requirements that a 26-foot wide road go
29 through but a variance was granted to allow for a narrower street in order to preserve several
30 trees.

31
32 Commissioner Iverson asked the Planning Commission if this needed to be defined more.

33
34 City Planner Gadow stated this would not need to be defined further because variances are a
35 case-by-case basis and would go through the City's established variance process.

36
37 Commissioner Pearson asked if replacement of trees was included in one of the purposes or if
38 this was picked up later in the ordinance.

39
40 City Planner Gadow stated there was an entire section later in the ordinance pertaining to tree
41 replacement.

42
43 Commissioner Vanderheyden suggested Section 710.01.a.i include advocacy and promotion as
44 well as enforcement.

45

1 City Planner Gadow stated the Planning Commission had previously discussed education. He
2 suggested education as it pertains best practices for tree protection, tree location, and tree
3 diseases.

4
5 Commissioner Vanderheyden stated the inclusion of a positive role like education would be
6 good.

7
8 Chair Gonzalez stated the wording in Sections 710.01.a.iv, 710.01.a.v, and 710.01.a.vi is
9 confusing and wordy. She asked if there was an easier way to write this.

10
11 City Planner Gadow stated he would review these sections and work on the wording to make it
12 clearer.

13
14 Merrily Borg Babcock, 337 Reno Street, asked the Planning Commission to reconsider the name
15 of the ordinance and instead of having it read, "planting, maintenance, and removal of trees" to
16 instead have it read "tree preservation, care and maintenance" so that it is more positive.

17
18 Chair Gonzalez stated this was worth considering. She asked if anyone had comments on page 2
19 of the draft ordinance.

20
21 Commissioner Iverson asked if the comments made would be looked at and discussed at the end
22 or if they would be discussed page by page as a team.

23
24 City Planner Gadow stated it is up to the Planning Commission how they would like to handle
25 this. One-way would be to allow staff to review all the areas that have been updated and then
26 discuss the ordinance or it can be done page by page. The comments made so far have been
27 written down and the next version would either contain the changes or notations that something
28 was brought up at the meeting regarding a particular point or more research needs to be done.

29
30 Commissioner Pearson suggested allowing City Planner Gadow to review the entire document
31 and the changes so the Planning Commission can see how the sections fit together.

32
33 City Planner Gadow stated he would continue reviewing the high level changes and then the
34 Planning Commission could return to page 2 to continue discussing specific changes they would
35 like to see. City Planner Gadow continued with Section 710.03 and the duties of the City
36 Forrester. The Planning Commission had discussed adding a section for education and this was
37 added towards the end of Section 710.03.a.

38
39 City Planner Gadow stated the changes suggested by Mr. Jordan were included on page 5 of the
40 draft ordinance and pertained to diseased trees and the removal of scientific names.

41
42 City Planner Gadow stated the Planning Commission had discussions regarding a private
43 landowner and public nuisance trees. Section 710.06 and 710.07 outline the inspection, analysis,
44 and abatement procedure for these situations. He stated a question had been raised concerning
45 who was responsible for paying for the analysis and State Statute dictates that the property
46 owner bears the cost of any analysis that is done by the State for public nuisance. Under the

1 abatement procedure the Planning Commission had requested that all communication be done
2 through certified mail and to expand the time line the City could abate a nuisance property from
3 15 days to 30 days. These changes have been incorporated.

4
5 City Planner Gadow stated on page 7, the Planning Commission had requested Section 710.07 be
6 collapsed with the previous Section 710.06 and combine them into one category and outline the
7 process and procedure for abatement.

8
9 City Planner Gadow stated Section 710.10 is an addition and clarifies a license is needed for tree
10 maintenance companies and conducting business without a City license will result in fines.

11
12 City Planner Gadow stated changes in Section 710.13 included the moved “the establishment of
13 a tree preservation zone” to the beginning part of the ordinance because this is more of a policy
14 level reason for establishing this ordinance.

15
16 City Planner Gadow stated Mr. Jordan had recommended the City not reference a tree in
17 absolute claims as to healthy or diseased.

18
19 City Planner Gadow stated on page 10 reviews if the City Forester denies a permit it must be
20 done in writing so there is a record of the denial and provides protection to the City.

21
22 City Planner Gadow stated Staff has had a difficult time quantifying numbers for Section
23 710.14.c.iv. He suggested leaving this section as it is currently with the understanding that there
24 is subjectivity included.

25
26 Chair Gonzalez stated the City of Greenwood has a different standard for the watershed district
27 versus a water bluff area. She suggested the City look into something similar to this.

28
29 City Planner Gadow stated Staff could look into this.

30
31 City Planner Gadow stated Section 710.14.d needed additional work. The Planning Commission
32 had discussed using a sliding scale for significant trees versus high value trees in a preservation
33 plan. Staff is working to provide a better explanation for this and it would be presented as part
34 of the next draft.

35
36 City Planner Gadow stated the City Forester had recommended limitations on the types of trees
37 that could be used as replacements so that not all the trees are the same. This recommendation
38 was incorporated in Section 710.14.d.vi.

39
40 City Planner Gadow explained the Planning Commission had discussed using the word “may”
41 verses “shall” in Section 710.15. Based on those discussions the word “shall” has been used. If
42 a plan meets the criteria than it shall be approved and if it does not then it shall be denied in
43 writing. Staff will review this with the City Attorney.

44
45 City Planner Gadow stated the Planning Commission had also discussed if there were a violation
46 to the ordinance, who would be responsible. This is under Section 710.17 and Staff is doing

1 additional work on this area. In reviewing other communities there is language that includes
2 both the property owner and/or any agent that works for the property owner.

3
4 Chair Gonzalez suggested the definition of tree should be moved up in the definitions because
5 high priority trees and significant trees are defined first.

6
7 City Planner Gadow explained the definitions section is alphabetical and this is a standard
8 format.

9
10 Chair Gonzalez asked if a high priority and significant tree both needed to be defined if these are
11 not mentioned in the rest of the ordinance. She stated in Section 710.14.c.i. only mentions
12 significant tree. There is no reference to high priority trees. She asked if these should be
13 included together or if one term could be eliminated.

14
15 City Planner Gadow stated he would review the ordinance and determine where it would be
16 appropriate to add the term “high priority tree” or “significant tree”.

17
18 Commissioner Iverson stated she had also highlighted the definitions for high priority tree and
19 significant tree. She suggested under Section 710.2 Establishment of Tree Preservation Zone
20 adding “provide a buffer between conflicting land uses” and “energy conservation through wind
21 breakers and shading” and in bullet 10 adding “providing habitat for wildlife”. These are
22 included in other communities’ ordinances.

23
24 Commissioner Ramy suggested provide a buffer between differing land uses rather than
25 conflicting land uses.

26
27 Commissioner Iverson agreed with this change.

28
29 It was the consensus of the Planning Commission to accept the following changes: Section 710.2
30 add a bullet: “provide a buffer between different land uses”, add a bullet: “energy conservation
31 through wind breakers and shading”, and bullet 10 add “providing habitat for wildlife”.

32
33 Chair Gonzalez asked if multi-family building should be added to Section 710.1.c.iii. She stated
34 the design standards do include multi-family buildings.

35
36 City Planner Gadow stated this could be added.

37
38 It was the consensus of the Planning Commission to add “multi-family buildings” to Section
39 710.1.c.iii.

40
41 Commissioner Ramy suggested changing bullet 10 in Section 710.2 to read: “Provide an
42 environment for birds, animals and flora to thrive;”

43
44 Commissioner Vanderheyden stated environment was more accurate than habitat.

45

1 It was the consensus of the Planning Commission to change Section 710.2 bullet 10 to read:
2 "Provide an environment for birds, animals, and flora to thrive."
3

4 Chair Gonzalez stated City Planner Gadow has a question for the Planning Commission on
5 Section 710.03.c.
6

7 City Planner Gadow explained this was a note to himself to be sure that there is consistency in
8 where the diameter is measured throughout the ordinance.
9

10 Commissioner Vanderheyden clarified the Planning Commission had discussed what the
11 standard would be with Mr. Jordan but he was not sure what that was.
12

13 City Planner Gadow stated he believed the standard to be 54-inches but he would confirm this.
14

15 Commissioner Vanderheyden stated he preferred the critical root zone for Section 710.03.d. He
16 asked City Planner Gadow to confirm this was an industry standard prior to approving this
17 section. He pointed out that the ordinance does reference critical root zone at another point and
18 he would like to be sure these are reconciled.
19

20 Commissioner Vanderheyden clarified all the conditions in Section 710.03.f.iii would have to be
21 met in order to be considered a high priority tree. He pointed out this says 8-inch diameter, two
22 lines above that it is 15-inches, and there is another location that references 10-inches. He asked
23 if this was something that should be reconciles.
24

25 City Planner Gadow stated this is how the City trying to differentiate between a sapling and a
26 tree, which is 4-inches or greater, a significant tree is 6-inches or greater, and a high priority tree
27 that is in a group of trees are 8-inches or greater. He stated Staff would review the ordinance to
28 be sure all the measurements are consistent.
29

30 Chair Gonzalez asked if the ordinance would continue to reference both significant trees and
31 high priority trees.
32

33 City Planner Gadow stated from a policy standpoint the purpose of the high priority tree is for
34 situations like road projects that include several trees that individually may not measure to be
35 high priority trees but a collection or grouping of them makes them significant by virtue of the
36 number that there are. He stated including the high priority section was important. He clarified
37 Staff would go through the ordinance to be sure the distinction between high priority and
38 significant tree are clear.
39

40 Commissioner Vanderheyden stated this does not reconcile with other areas of the ordinance that
41 reference 2000-square feet areas.
42

43 City Planner Gadow stated these references may need to be removed or changed and Staff would
44 review the ordinance for this.
45

1 Commissioner Iverson suggested in Section 710.03.f.iii to use the number “8” versus spelling it
2 out in order to be consistent.

3
4 Chair Gonzalez stated the City of Greenwood ordinance, page 2, subdivision 3 references “Shore
5 Impact Zone” and “Bluff Impact Zone.” She asked if this was something the City should
6 consider including in their ordinance.

7
8 Commissioner Tyacke asked if this was something covered by the DNR.

9
10 City Planner Gadow stated this section does not read clearly because there is another section
11 later in the ordinance that discusses prohibitions in these areas. It is not clear if a person cannot
12 cut any trees or only if there is a CUP. If the City decided to include this then the City’s shore
13 land overlay district.

14
15 Chair Gonzalez stated she was aware the definitions were in alphabetical order but she would
16 still like to see the definition of tree be first followed by significant and high priority. She
17 pointed out the last paragraph on page 33 references significant trees but this is not defined until
18 further down. She also recommended adding “and/or high priority trees”.

19
20 Chair Gonzalez stated Commissioner Iverson had pointed out Section 710.03.f. She asked if the
21 City had a requirement that trees could not be within so many feet of the right-of-way.

22
23 City Planner Gadow stated the City did not have any regulations about planting trees near the
24 right-of-way.

25
26 Chair Gonzalez stated there is a place she drives by on a regular basis that has several trees right
27 along the road and this interferes with the sight lines.

28
29 City Planner Gadow stated when the City did landscaping two (2) summers ago, the City did
30 plant in the right-of-way. The City did have to approve this prior to the planting and pay a
31 significant permit fee.

32
33 Chair Gonzalez stated this was a situation of trees planted right along the road. She stated since
34 the ordinance references protecting the health and safety of the community, they need to provide
35 something allowing for the sight lines to be clear.

36
37 Commissioner Iverson stated this could become an enforcement issue then if someone is not
38 keeping up his or her yard.

39
40 Chair Gonzalez clarified she was referencing large evergreens and other trees by mailboxes that
41 make it difficult to see traffic while driving.

42
43 Chair Gonzalez asked if the Planning Commission approved the definition of a tree.

44

1 Commissioner Tyacke stated the City of Greenwood had the concept of noxious trees included in
2 their ordinance. He asked if the City encouraged the removal of these types of vegetation or how
3 the ordinance dealt with this.

4
5 City Planner Gadow stated it is encouraged that these types of trees be removed and it does not
6 count towards the amount of trees that can be removed. Section 710 does not specifically
7 address noxious trees. He stated Staff would look into this.

8
9 Commissioner Iverson stated Greenwood also included box elder trees as a noxious tree. She
10 pointed out if box elder trees were included in noxious trees and did not count towards the
11 number of trees that could be removed then there would be no trees in her neighborhood and this
12 concerns her. She stated she realizes that people consider them dirty and ugly but they provide a
13 lot of coverage.

14
15 Commissioner Tyacke stated he was more concerned about buckthorn and would like to see
16 something included in the ordinance.

17
18 Commissioner Iverson recommended the City proceed with caution if this is included and be
19 sure to understand the repercussions that it may have.

20
21 Chair Gonzalez stated in Section 18.06.b of the City of Bloomington ordinance, it states "In
22 general, trees shall not be planted in public street rights-of-way, or in the clear view triangle at
23 corners. Any person wishing to plant in such areas must first secure a permit from the City
24 Forester." She restated that she is not talking about trees that shade the sidewalk but those that
25 obstruct the view of a driver. She encouraged the Planning Commission to consider adding
26 similar language to the Wayzata ordinance.

27
28 City Planner Gadow stated he would look into this and bring it back to the Planning Commission
29 for consideration.

30
31 Commissioner Vanderheyden stated Section 710.03.l references significant trees as those with a
32 6-inch diameter or larger. Greenwood divides their definitions into 10-inch and 14-inch. Other
33 examples are 8-inches and 10-inches. Greenwood also measures the trunk at 48-inches.

34
35 Commissioner Ramy stated he leans away from the definition of tree that is used but does like
36 the definition that the City of Greenwood uses. He stated it is aggressive to include a perennial
37 in the definition of a tree.

38
39 Commissioner Vanderheyden stated he would agree and also like the definitions used by the City
40 of Greenwood.

41
42 Commissioner Pearson agreed with the definitions provided by the City of Greenwood as well.

43
44 City Planner Gadow stated Staff would remove the State Statute definitions and use the same
45 definitions as Greenwood.

46

1 Commissioner Vanderheyden asked if there were any comments from the Planning Commission
2 regarding "DBH", 6-inches, and 8-inches as measurements.

3
4 Chair Gonzalez requested Merrily Borg Babcock, who is a member of the Parks and Trails
5 Board to come forward.

6
7 Commissioner Vanderheyden asked Ms. Borg Babcock if a 6-inch diameter for a significant tree
8 was too restrictive compared to other communities.

9
10 Ms. Borg Babcock recommended City Planner Gadow check with State and County replacement
11 requirements because she believed the 6-inches was brought up due to the County's Bushaway
12 Road project that will measure a tree as small as 6-inches and replace a tree as small as 6-inches
13 verses 8-inches. Then nothing smaller than 8-inches would be replaced.

14
15 Ms. Gnos recommended moving the definitions for significant tree and high priority tree under
16 the definition of tree.

17
18 Chair Gonzalez stated this would be her preference.

19
20 City Planner Gadow stated he would consider it but his preference would be to leave the
21 definitions alphabetically since this is the standard.

22
23 Commissioner Tyacke stated he would not agree with definitions having subsections and bullets
24 otherwise this would create confusion.

25
26 Chair Gonzalez pointed out the definition for high priority tree contains bullet points.

27
28 Commissioner Tyacke stated the bullet points under High Priority Tree are not defined terms and
29 there are no defined terms within defined terms.

30
31 Commissioner Gnos stated he would lean more towards the more simplistic and not over
32 engineer the document and leave the definitions as alphabetically.

33
34 City Planner Gadow stated if there was a concern about ease of reading then they could do
35 something like Minnetonka and take the bullet points of the ordinance and put it into a "mini-
36 brochure". The City currently has something like this and it would be updated once the
37 ordinance is updated. This would be a better place to include high priority trees and significant
38 trees under the definition of trees.

39
40 Commissioner Vanderheyden stated this draft ordinance denotes a tree at 4-inches diameter, a
41 significant tree at 6-inches diameter, and a high priority tree at 8-inches diameter. He asked if
42 the County would replace a tree if it is defined in the ordinance versus just replacing significant
43 trees.

44

1 Council Member Anderson stated according to the County a tree is a tree and she did not believe
2 they had looked at significant tree in their definition. She recommended City Planner Gadow get
3 additional clarification regarding this point.

4
5 Commissioner Vanderheyden stated in Section 710.05 he would like the word “things” replaced
6 with a more appropriate term.

7
8 City Planner Gadow suggested using the word “items” at this time.

9
10 Commissioner Ramy stated the Commissioner of Agriculture is referenced several times
11 throughout the ordinance. He asked if there were guidelines that have been set forth for the
12 Commissioner of Agriculture to follow pertaining to tree preservation.

13
14 City Planner Gadow stated he did not know at this time.

15
16 Commissioner Iverson suggested there might be a different title that should be referenced.

17
18 Chair Gonzalez asked if the Planning Commission would want to change this to something more
19 generic.

20
21 Commissioner Ramy stated the Commissioner of Agriculture is too generic already.

22
23 City Planner Gadow stated at the State level you would not want to get any more specific than a
24 title. He suggested changing these references to the Commissions of Natural Resources and
25 Agriculture.

26
27 Commissioner Ramy asked why the City would not be covered under the regular DNR
28 regulations.

29
30 City Planner Gadow stated if someone had a fruit tree the Department of Agriculture not the
31 DNR would cover this.

32
33 Commissioner Pearson pointed out there were to Sections labeled 710.07. He asked if
34 everything after the first 710.07 would be moved down one section number.

35
36 City Planner Gadow stated this would be fixed in the next draft. All the cross references and
37 links will also be updated.

38
39 Commissioner Tyacke stated Section 710.07.b.iii states “all persons owning or controlling
40 property”. He asked if the term “persons” was defined somewhere to include corporations,
41 homeowners associations, trusts, and other similar types of organizations that are owners of
42 property but not persons.

43
44 City Planner Gadow stated this was not specified and should be added.

45

1 Commissioner Vanderheyden stated Section 710.06 states “The City Forester shall, upon finding
2 conditions indicating disease infestation, immediately send appropriate specimens or samples to
3 the Commissioner of Agriculture.” This cost will be the homeowner’s responsibility. He asked
4 if the samples would be sent in for analysis even if the disease were apparent.

5
6 City Planner Gadow stated all samples would be sent in because disease is not always obvious.
7 He pointed out a prevention program may not be needed if a disease has not actually been
8 confirmed to exist in the community. Based on conversations with Staff, Commissioners, and
9 the City Forester samples would be taken and sent in only when it was believed to be diseased.

10
11 Chair Gonzalez stated there was language pertaining to cost on page 40, Section 710.14 of the
12 draft ordinance. She suggested adding similar language to Section 710.06.

13
14 Commissioner Vanderheyden stated he does not entirely agree with Section 710.06 that every
15 sample is sent in for analysis based on the opinion of the City.

16
17 Chair Gonzalez asked who should bare the cost.

18
19 City Planner Gadow stated the City did not have flexibility on the subject of cost because this is
20 defined in State Statute.

21
22 Commissioner Vanderheyden clarified he did not question the homeowner baring the cost of the
23 testing but rather the mandatory manner in which it was required based on the opinion of the
24 City Forester.

25
26 Commissioner Iverson asked how other communities had addressed the subject of diseased or
27 infested trees.

28
29 City Planner Gadow stated this was not covered in other ordinances.

30
31 Commissioner Iverson stated there may instances that a tree has had a large number of aphids or
32 bugs that cause the leaves not to develop properly causing it to look infected. She suggested
33 Staff do additional research regarding Section 710.06.

34
35 Commissioner Vanderheyden stated he does not agree when the government decides when to
36 spend an individual’s money. This is something that needs to be balanced with the care that the
37 City is trying to establish with the policy.

38
39 City Planner Gadow stated he would check wit the League of Minnesota Cities to see if they had
40 any guidance regarding the topic.

41
42 Commissioner Tyacke asked what type of documentation would be needed to have a tree
43 destroyed.

44
45 Chair Gonzalez clarified the balance was between the property owner who may be stuck with a
46 bill for testing a tree that appears to be infected versus the protection of the greater community

1 and those trees that may get infected if nothing is done about the one that appeared to be infected
2 in the first place. She suggested Staff look into this further.

3
4 Chair Gonzalez stated Section 710.06 stated samples are set to the Commissioner of Agriculture.
5 She asked if the State had other departments that would be better suited to this.

6
7 Commissioner Iverson asked if the University of Minnesota did any testing.

8
9 City Planner Gadow stated the extension services may but in this particular case it would be
10 advised to go to the State for testing.

11
12 Chair Gonzalez asked if the State does testing.

13
14 City Planner Gadow stated this is how it is under State Statute.

15
16 Commissioner Vanderheyden stated the first Section 710.07.b.i includes the language of
17 notifying the homeowner via certified mail. He asked a certified letter would be sent in a case
18 where the Forester talked to the homeowner about the removal of a tree and the homeowner
19 agreed.

20
21 City Planner Gadow stated a certified letter would still be sent in order to document the
22 conversation and the agreement.

23
24 Commissioner Vanderheyden stated Section 710.07.b.iii is very similar to 710.07.ii.

25
26 City Planner Gadow stated Staff would review this to determine what the difference may be and
27 if these can be combined.

28
29 Chair Gonzalez stated Section 710.08 references diseased wood. She asked if the word
30 “diseased wood ” should be changed to “pathogen harboring wood” or “infected wood” in order
31 to be consistent throughout the ordinance

32
33 City Planner Gadow stated the Section would need to be renamed to “transporting pathogen
34 harboring wood (diseased wood)”.

35
36 Commissioner Iverson stated Section 710.12 references restrictions. She asked if thresholds
37 needed to be removed. In some of the other City ordinances they are called thresholds.

38
39 City Planner Gadow clarified Commissioner Iverson would like Section 710.12 renamed to
40 Removal Thresholds.

41
42 Commissioner Vanderheyden stated Section 710.10 states “shall result in fines”. He suggested
43 changing this to “may result in fines” otherwise it indicates 100% enforcement.

44
45 Chair Gonzalez stated there was another place that stated any violation of City Ordinance is a
46 misdemeanor and it could result in jail.

1
2 City Planner Gadow pointed out these were two (2) separate things. There is the violation of
3 doing work without a license, which is covered in this section, and the other is the removal of
4 trees that were on a preservation plan. He suggested keeping the two (2) different sections.

5
6 Chair Gonzalez stated she preferred “may result in fines” better. She asked if the fines were
7 listed in Chapter 519.

8
9 City Gadow stated they are listed in annual licenses and fees section. The fines for removal of
10 trees would not be listed here because this is something that may potentially be taken to court
11 and the fines would be different.

12
13 Commissioner Vanderheyden stated Section 710.11 should be part of the tree preservation zone
14 section. He recommended moving it back to this position.

15
16 It was the consensus of the Planning Commission to recommend moving Section 710.11 to the
17 tree preservation zone section.

18
19 Commissioner Ramy stated Section 710.12.a “(43,560 square feet)” should be changed to
20 “(43,450 square feet)”.

21
22 Commissioner Vanderheyden asked if Section 710.12.a is referring to the definition of a tree or
23 any tree.

24
25 City Planner Gadow stated only those trees that meet the definition of a tree and are greater than
26 4-inches in diameter would count towards the 32-inch threshold.

27
28 Commissioner Vanderheyden suggested the word tree be capitalized because they are using a
29 defined term as the reference.

30
31 City Planner Gadow stated the word tree should be capitalized throughout the document since
32 the term had been defined.

33
34 Commissioner Tyacke asked what was meant by the phrase “The City Forester and other City
35 Staff shall not make any absolute claims of the structural integrity of any tree.”

36
37 City Planner Gadow explained this was a recommendation from Mr. Jordan. He had stated in
38 the arborist profession, because of liability issues, they do not want to make a claim during an
39 inspection if a tree is structurally sound or not.

40
41 Commissioner Tyacke asked if they could provide an opinion.

42
43 City Planner Gadow stated they could provide an opinion but could not provide any absolutes
44 about the structure of a tree.

45
46 Ms. Borg Babcock asked if buckthorn was considered a tree.

1
2 City Planner Gadow stated there would be a separate section that references noxious trees. This
3 could be limited to buckthorn to take into consideration Commissioner Iverson's comments.
4

5 Ms. Borg Babcock stated honeysuckle is also an invasive shrub that could be included in this
6 category.
7

8 City Planner Gadow clarified noxious trees would be included in the definitions section and also
9 include in another area that noxious trees do not count towards allowable removal totals.
10

11 Commissioner Vanderheyden asked for clarification regarding Section 710.13.a.vii and
12 710.13.a.viii. He asked if a survey of the entire property would be required for the removal of
13 one (1) tree or if a hand drawn document would be sufficient. Even hand drawn documents
14 would not contain all the trees that are on a property. In the context of building a house and a pad
15 will be put in and several trees will be removed this would be applicable.
16

17 Commissioner Iverson agreed with Commissioner Vanderheyden.
18

19 City Planner Gadow stated a site survey is not required.
20

21 Commissioner Vanderheyden stated it does state that location and identification of size and
22 species of all trees on a parcel and in larger parcels this is very difficult to
23

24 Chair Gonzalez stated according to Section 710.13.vi it is referencing only the trees proposed to
25 be removed.
26

27 City Gadow recommended adding language that clarifies only the trees proposed to be removed
28 should be included in the diagram. He clarified this is for existing single-family properties that
29 are removing a tree or up to 32-inches in a year not a development or subdivision.
30 Developments or subdivisions would require a survey as part of the formal development review.
31

32 Commissioner Iverson expressed concerns about showing only those trees being removed
33 because there would be no reference pertaining to remaining trees.
34

35 Commissioner Vanderheyden asked where in the policy there would be protection against a
36 homeowner who has one (1) large tree on their parcel. According to the ordinance they have the
37 right to remove that tree. He asked if this could be precluded in the ordinance somewhere.
38

39 Chair Gonzalez stated under restrictions that a permit is not required to remove a diseased or
40 dead tree on a private property. She explained that there should be a reason if someone is
41 removing a tree.
42

43 Commissioner Vanderheyden clarified a permit would only be needed if the property owner was
44 going outside the 32-inch limit. He stated he liked the language referencing affected area
45 because requiring the location of all trees on the property is excessive.
46

1 Commissioner Iverson stated the City of Excelsior requires the location of all significant trees.
2 She explained there needed to be some protection in place so that all the trees on a property
3 cannot be removed. She recommended Staff do additional research and see what other cities
4 require.

5
6 Commissioner Vanderheyden stated he had gone through this in Plymouth and the survey work
7 was an expense that was not needed to file for a permit.

8
9 Commissioner Iverson suggested this item remain open and Staff do additional research on what
10 other cities require and have this information brought to a future meeting.

11
12 Chair Gonzalez asked if high-risk trees needed to be included in definitions.

13
14 It was the consensus of the Planning Commission to include the definition of high-risk tree in
15 Section 710.03.

16
17 Commissioner Ramy asked if the words “may be approved” should be changed to “shall be
18 approved” in Section 710.14.b.

19
20 It was the consensus of the Planning Commission to change the language to “shall be approved”
21 in Section 710.14.b.

22
23 Chair Gonzalez stated in Section 710.14 the phrase “and/or high priority trees” after significant
24 trees.

25
26 City Planner Gadow stated Staff would include this change.

27
28 Commissioner Vanderheyden asked if the phrase “Significant Trees shall be replaced with three
29 (3) inches (NTD) of tree for each six (6) inches in diameter (NTD)” should be changed to
30 “Significant Trees shall be replaced with three (3) inches (NTD) of tree for each six (6) inches in
31 diameter (dbh) in Section 710.14.d.ii.

32
33 City Planner Gadow stated Staff would make this change.

34
35 Commissioner Vanderheyden stated Section 710.14.d.ii states “All replacement deciduous trees
36 shall be at a minimum three (3) caliper inches” and the City Forester was not an advocate for
37 requiring a 3-inch tree because after a couple of years a 1.5-inch tree will be the same size and 3-
38 inch trees are harder to transplant.

39
40 Chair Gonzalez pointed out that the replacement does not meet the definition of a tree thus the
41 City is requiring the replacement of a tree with a non-tree. She asked if the Planning
42 Commission wanted to require 3-inch replacements or reduce it to a smaller amount.

43
44 Commissioner Vanderheyden stated City Planner Gadow would be working on a sliding matrix
45 for replacement and this could be included in this discussion.

46

1 Commissioner Iverson stated some communities have this broken down by species. She agreed
2 that additional research would be required for this. She recommended that the research include
3 breaking it down by species.

4
5 Commissioner Iverson suggested looking at the City of Bloomington and the language they use
6 for critical root zone. She stated she did not believe there was enough language in the draft
7 ordinance to protect this area.

8
9 Commissioner Vanderheyden asked what the City of Bloomington used as a definition.

10
11 Commissioner Iverson stated there was quite a bit of language under tree preservation standards.
12 They talk about it being protected from direct and indirect root damage and trunk and crown
13 distribution.

14
15 It was the consensus of the Planning Commission to direct Staff to do additional research on
16 definitions for critical root zone.

17
18 Commissioner Iverson stated Bloomington also includes “there shall be no change to the grade
19 within the critical root zone of any significant tree to be preserved.” She stated she would like to
20 see this added to the draft ordinance.

21
22 Commissioner Vanderheyden stated the City of Bloomington defines the critical root zone as 1-
23 foot per inch and the draft ordinance is 1.5-foot per inch, which is a higher standard so the
24 protected area would be larger.

25
26 Commissioner Vanderheyden pointed out that a project would have to be 10 trees or greater in
27 order to meet the requirements in Section 710.14.d.vi. He suggested a developmental threshold
28 of 20 trees or larger.

29
30 Commissioner Tyacke stated this was a valid point.

31
32 Chair Gonzalez suggested Staff look into this recommendation.

33
34 Chair Gonzalez stated Section 710.14.d.vi.a states “Replacement trees shall be species which are
35 indigenous to the area, and species similar to those lost or removed.” She pointed out that some
36 of the trees that were removed might not have been indigenous. She asked for clarification on
37 what the ordinance was requiring. She would like to see language that is less vague included in
38 this section.

39
40 Commissioner Vanderheyden stated it is difficult to reconcile the first and second sentence in
41 this section. He stated he liked the language “encouraged”.

42
43 City Planner Gadow asked if the Planning Commission would like the first sentence in Section
44 710.14.d.vi.a to read “Replacement trees are encouraged to be species which are indigenous to
45 the area.” and remove “and species similar to those lost or removed”. The second sentence

1 would contain language similar to a development threshold such as “if the number of trees being
2 replaced is 20 or greater then no more than 10% can be of the same species.”

3
4 Commissioner Iverson stated she liked the language of replacement with similar species.

5
6 Commissioner Tyacke suggested the language “the replacement trees wherever possible will be
7 replaced with a species that is indigenous or similar to those lost or removed.”

8
9 It was the consensus of the Planning Commission to direct staff to incorporate this language
10 proposed by Commissioner Pearson.

11
12 Commissioner Tyacke expressed concerns about Section 710.14.d.vii. The language “there is
13 insufficient opportunity within the development to replace trees lost or anticipated to be lost as a
14 result of the development” provides too much leeway to ask the City Council for the right to pay
15 for trees rather than plant them.

16
17 City Planner Gadow stated this does not bind the City Council to approving the request.

18
19 Commissioner Tyacke stated that if a development contains a requirement that trees be replaced
20 then the developer should be bound to this and not be allowed to request to make a payment in
21 lieu of planting these trees.

22
23 City Planner Gadow stated if the planting of trees is a condition of approval then the developer is
24 bound to that. Prior to approval the developer could make a request to make a payment in lieu of
25 planting trees.

26
27 Chair Gonzalez stated this is similar to the park dedication fees. She pointed out the fees for
28 park dedication fees were established by State Statute. She expressed concerns that collecting
29 fees in lieu of planting trees may have other legal ramifications. She suggested this be reviewed
30 with the City Attorney.

31
32 Commissioner Tyacke stated the language could be changed to “should the applicant determine
33 at the time of the development application”.

34
35 Chair Gonzalez stated the City Council should be the ones to determine if the development can
36 accommodate the number of trees required as replacements or if a payment in lieu of the
37 plantings is appropriate.

38
39 Commissioner Iverson stated the City should have more control over making this determination
40 not the applicant.

41
42 Commissioner Tyacke stated the way it is written it is very subjective.

43
44 Commissioner Vanderheyden agreed with Chair Gonzalez and he would like the language “The
45 City shall designate such funds within a dedicated fund to provide for the care and replacement
46 of shade trees within the City of Wayzata.” to more explicit in what the funds would be used for.

1 These particular funds are being collected for planting trees and he would not like to see them
2 used to replace trees on Lake Street for example but rather for adding tree capacity.

3
4 Commissioner Iverson stated the language “insufficient opportunities” should be removed.
5 Developers are aware what the property looks like prior to purchasing the property.

6
7 Chair Gonzalez recommended Staff review the language of the park dedication fees.

8
9 Commissioner Iverson stated she would not like to see the City provide a buyout to developers.

10
11 Chair Gonzalez pointed out there may be situations that it will be necessary simply because there
12 is no room for the number of trees that will be required to replace what was removed.

13
14 Commissioner Iverson stated the language needs to be reviewed because those developers with
15 deep pockets will just go for the buyout.

16
17 Commissioner Vanderheyden recommended replacing the word “applicant” with “Staff” leaving
18 the remaining language in place.

19
20 City Planner Gadow stated it could be Staff or the City Forester and they would make a
21 recommendation to the City Council and they would have the ultimate authority to either accept
22 the recommendation or deny it.

23
24 Chair Gonzalez asked if the ordinance should consider the number of caliper inches lost rather
25 than the number of trees lost when determining the amount to be replaced.

26
27 City Planner Gadow stated that the way the draft ordinance is currently written there is a
28 replacement ratio established in Section 710.14.d.ii.

29
30 Ms. Borg Babcock asked what the Planning Commission’s reasoning was for using the
31 replacement ratio that allows for the replacement of 6-inches with 3-inches, noting that by not
32 replacing the amount removed equally, the City is then losing canopy.

33
34 City Planner Gadow stated he did not believe the City could require more inches to be planted
35 than what was removed.

36
37 Ms. Borg Babcock stated the replacement could be a 1:1 ratio rather than a 2:1 ratio.

38
39 Chair Gonzalez pointed out that a 3-inch tree will grow and there may not be enough room for 2
40 3-inch trees to mature on the property.

41
42 Ms. Borg Babcock stated the additional trees could be added to a City park.

43
44 Commissioner Vanderheyden stated Section 710.15.f states “The barricade must incorporate
45 100% plus ten (10) feet of the tree(s) at the drip line or area to be preserved”. He asked that
46 Staff review this figure to be sure it is in line with the critical root zone definition.

1
2 Commissioner Vanderheyden stated Section 710.15.i states "A certificate of occupancy shall not
3 be issued until a final inspection of the property by the City Forester demonstrates compliance
4 with the Preservation Plan and until such time as all levied fines have been paid or Security,
5 subject to approval of the City Manager, has been posted by the applicant to secure
6 performance." He asked what the security would be and it should be defined.

7
8 Commissioner Iverson stated this is generally a percentage of the buildout.

9
10 Commissioner Tyacke clarified a definition for security would be added.

11
12 City Planner Gadow stated this would be added and also a section on security.

13
14 Commissioner Iverson asked if this would include interest.

15
16 City Planner Gadow stated interest is not usually included but Staff will review this section.

17
18 Ms. Borg Babcock stated Section 710.15.h the draft ordinance states, "The City may also impose
19 a financial penalty equal to \$500.00 for each inch of dbh or foot of height removed, not to
20 exceed \$5000 for each tree." She stated if the tree has already been removed then the "dbh" will
21 not be known.

22
23 City Planner Gadow explained this was for an applicant who has submitted a preservation plan
24 with all the trees that will be removed and saved on it. If they remove trees that they had
25 previously stated would be preserved then a fine may be imposed.

26
27 Ms. Borg Babcock asked if there were any ramification for the tree that was behind the post
28 office that was supposed to have been saved and it was not.

29
30 City Planner Gadow stated this tree removal had been an issue with Excel not the developer and
31 he would have to look into this.

32
33 Commissioner Vanderheyden stated Section 710.15.k states "All monies collected pursuant to
34 this Chapter shall be placed in a tree maintenance and replacement fund." He stated this should
35 be reconciled with the definition of the fund and how it will be used.

36
37 Commissioner Iverson pointed out there is not a specific section pertaining to reforestation for
38 the City like the City of Bloomington has.

39
40 Chair Gonzalez stated the City Council would need to provide some direction to the Planning
41 Commission.

42
43 City Planner Gadow stated the next steps would be to have the City Attorney review the draft
44 and the changes proposed by the Planning Commission and then have City Forester Jordan
45 attend a Planning Commission meeting to review the next draft and answer any additional
46 questions.

Commissioner Iverson stated a lot of this came about due to Council Member Amdal suggesting the City have a tree preservation plan. She stated it would be good for the women attending to provide some policy language and direction as well for the forestation plan.

AGENDA ITEM 3. Other Items

a. Review of Development Activities

City Planner Gadow stated the City does not have any applications pending at this time. The tree preservation ordinance will be brought back to the Planning Commission as early as possible.

b. Other Items

Chair Gonzalez stated there had been two (2) Council meetings and she had attended one (1) meeting. At this meeting, the Walgreens and Anchor Bank projects were considered, tabled, and would be brought back to the next meeting

Commissioner Ramy stated he attended the following meeting and he did not have the notes at this time.

City Planner Gadow stated at the last City Council meeting, the street vacation of Elm Lane was discussed. The City Council decided to approve the easement with property owner agreeing to provide an easement option for the City to reactivate a public road based on established triggers.

Chair Gonzalez stated the City Council had pushed the developer to really come up with a design that was worthy of Wayzata and the Planning Commission should have pushed more.

AGENDA ITEM 4. Adjournment.

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

The meeting was adjourned at 9:13 p.m.

Respectfully submitted,

Tina Borg

Recording Secretary

TimeSaver Off Site Secretarial, Inc.