

**WAYZATA PLANNING COMMISSION
WORKSHOP MEETING MINUTES
SEPTEMBER 21, 2015**

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

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

Present at roll call were Commissioners: Vanderheyden, Gonzalez, Gruber, and Young. Absent and excused were: Commissioners Gnos, Ramy, and Iverson. Interim City Planner Eric Zweber from WSB Consulting, Management and Planning Intern Jason Peters, City Attorney David Schelzel, and City Manager Heidi Nelson were also present.

AGENDA ITEM 2. Workshop Items:

a. Approval of the August 17 Planning Commission and City Council Workshop Minutes

Commissioner Gruber made a motion, Seconded by Commissioner Gonzalez, to approve the August 17, 2015 Planning Commission and City Council Workshop meeting minutes as presented. The motion failed. 2-Ayes and 2-Abstain (Vanderheyden and Young).

b. Approval of the August 17 Planning Commission Regular Meeting Minutes

Commissioner Gruber made a motion, Seconded by Commissioner Gonzalez, to approve the August 17, 2015 Planning Commission Regular Workshop meeting minutes as presented. The motion failed. 2-Ayes and 2-Abstain (Vanderheyden and Young).

c. Tree Preservation Ordinance Discussion

Mr. Zweber reviewed the changes made to the new draft of the Zoning Code, Section 801.36 (Tree Preservation Ordinance) based on the discussions at the September 8, Planning Commission workshop. In addition to the amendment to the Zoning Code, Staff also reviewed and revised the existing tree regulations in Chapter 710 of City Code. He reviewed the revisions that correlate with the new draft of the Zoning Code and those that would be revisions to existing Chapter 710. He reviewed the differences in neighboring cities tree ordinances and presented a chart representing a summary of tree growth.

Commissioner Gonzalez expressed concerns over having a reasonable balance of trees on a property. She asked what would happen if a person is required to plant more than their parcel can accommodate.

Mr. Zweber stated there is a section of the draft Ordinance that specifies if replacement cannot occur on the site the person can either pay a fee or have the trees planted on public property.

1
2 City Attorney Schelzel explained according to the draft Ordinance, heritage trees can be removed
3 but they need to be replaced on a one to one caliper inch ratio. None of the ordinances
4 referenced prohibit landowners from removing trees altogether in connection with making
5 reasonable use of their property.

6
7 Chair Vanderheyden stated Chapter 710.06 of the draft Ordinance suggests City Staff can access
8 private property without notification and for any reason. He asked if this was found in other
9 ordinances as well.

10
11 City Attorney Schelzel stated Chapter 710.06 is part of the City's current Code and refers to trees
12 that are a nuisance or are considered dangerous. He clarified currently the City's Ordinance on
13 trees exists outside of the Zoning Code and was originally written as an extension of the City's
14 Nuisance Ordinance and tree preservation language was added later. The proposed approach is
15 that the tree preservation language would be removed from Chapter 710 and put into the City's
16 Zoning Code, and Chapter 710 would continue to contain language pertaining to a nuisance or
17 danger of trees.

18
19 Commissioner Gruber suggested adding language that the homeowner would be notified prior to
20 any entrance on private property. She asked if there were provisions or guidelines that spelled
21 out what would happen if a person or developer were to clear cut a parcel without notifying the
22 City.

23
24 City Attorney Schelzel stated the existing City Code does address this in Chapter 710. The City
25 has had to reference this in the past in order to fine an individual and use those funds to repair the
26 damage.

27
28 Commissioner Gonzalez stated the Ordinance should provide some way for exceptions to be
29 made for removal of trees for situations such as safety concerns without the added cost of
30 replacing these trees. She provided an example of removing several large trees from her yard
31 because there was a danger of them falling on her home and it cost a significant amount of
32 money to have them removed.

33
34 Mr. Zweber stated on page 7 of the Ordinance, Section 801.36.08.D, there is a listing of trees
35 that are exempt from replacement. The Planning Commission could choose to add an exemption
36 to this list to address specific situations such as safety concerns.

37
38 City Attorney Schelzel stated the trees in the example presented by Commission Gonzalez could
39 probably have been removed under the provisions on nuisance trees. He stated Staff would be
40 sure to include this situation in the Zoning Ordinance Section 801.36.08.D.

41
42 Commissioner Gonzalez stated the Ordinance also requires a City certified arborist be used. She
43 clarified this requirement is not easy to find in the Ordinance and should be made obvious along
44 with it being easy for people to find a list of approved arborists.

45

1 Chair Vanderheyden asked if the administration of the funds received in lieu of tree
2 planting/replacement was also included in the Ordinance.

3
4 Commissioner Gonzalez stated there is a State Statute that states any excise fees collected have
5 to be directly linked to the need created and these funds can only be used for that purpose.

6
7 Mr. Zweber stated Section 801.36.13 does start to address fees in lieu of planting trees. Staff and
8 City Attorney Schelzel will review this section and clarify what the funds could be used for.

9
10 Chair Vanderheyden asked how much public land was available in Wayzata to plant trees.

11
12 Ms. Nelson stated on an annual basis the City budgets money for tree replacement throughout the
13 City as part of the General Fund-Operating costs. The City can plant trees in parks, right-of-way
14 areas, and along the lake front. If a developer or land owner were unable to plant the required
15 number of trees on their parcel the City would be able to use these trees for their annual
16 replacement or in additional areas of the City for beautification.

17
18 City Attorney Schelzel stated from a legal stand point these fees should be treated similarly to
19 parkland dedication fees, where the City requires people to either dedicate land or pay a fee in
20 lieu of this. There should be a nexus between money paid by a property owner and what it will
21 be used for. His general recommendation would be that these funds be put into a separate fund
22 and be used to buy, plant, and maintain trees for the City.

23
24 Commissioner Gonzalez asked what the industry standard warranty was for trees.

25
26 Mr. Zweber stated the industry standard for trees purchased at a nursery is 1-year. At the last
27 meeting, the Planning Commission recommended extending this beyond 1-year.

28
29 Commissioner Gonzalez asked how this would be enforced.

30
31 Mr. Zweber stated Section 801.36.14 addressed the financial guarantee for a 3-year survival of
32 plantings. This provides an expectation that the developer or homeowner maintain the trees that
33 are planted.

34
35 Chair Vanderheyden expressed concerns about the added expense for a homeowner with the
36 extended guarantee time.

37
38 Commissioner Young stated this also results in a large amount of money being tied up for a
39 homeowner. This guarantee is more understandable in the context of a development.

40
41 City Attorney Schelzel asked if Section 801.36.14 was intended to apply to everyone, regardless
42 of the number of trees that were being replanted. He also asked how the financial guarantee
43 would work if there was not a need to issue a certificate of occupancy.

44
45 Mr. Zweber stated the intent had been to apply this to everyone but the Planning Commission
46 can provide other direction to Staff. He clarified it is difficult to hold a certificate of occupancy

1 and in most cases a fee is collected. The City's Building Official would recommend removing
2 this language for this section because trees are not in the building code.

3
4 Chair Vanderheyden stated in Section 801.36.01.D the word "minimal" should be removed. He
5 asked where the incentives referenced in Section 801.36.01.E could be found.

6
7 Mr. Zweber stated the incentive would be that a person would replace less if they were creative
8 and avoid removing trees where ever possible.

9
10 City Attorney Schelzel stated that purpose statements are provided at the beginning of
11 ordinances to lay out the rationale and basis for the City to use its power to implement the
12 ordinance, and do not generally impose anything. He stated the City is also trying to encourage
13 people to plant more trees by stating these as minimal standards in Section 802.36.01.D.

14
15 Chair Vanderheyden suggested changing the word "minimal" to "minimum" in Section
16 801.36.01.D.

17
18 Commissioner Gruber asked if it was the intent of the City to have a City Forester.

19
20 Ms. Nelson stated the City utilizes the services of Manuel Jordon as City Forester on a contract
21 basis. The City also has certified tree inspectors.

22
23 Chair Vanderheyden asked if the intent would be to combine Chapter 710 and Zoning Code
24 801.36.

25
26 City Attorney Schelzel clarified the present proposed changes are that 801.36 would be a new
27 section of the Zoning Code, Chapter 801, and this new section would have to do with tree
28 preservation. Chapter 710 would remain in City Code but its focus would be dealing with
29 nuisance and diseased trees.

30
31 Chair Vanderheyden stated the City had several people looking to develop single properties. He
32 suggested including this in the definition of Developer in Section 801.36.02.

33
34 Mr. Zweber asked what the difference would be between a developer and a homeowner in the
35 case of a single unit development because a homeowner could hire a contractor to build their
36 home.

37
38 City Attorney Schelzel asked if in Rosemount only developers had to comply with the tree
39 preservation code.

40
41 Mr. Zweber stated homeowners had to comply when they pulled a building or grading permit.

42
43 City Attorney Schelzel asked what rules applicable to larger developers would the City want to
44 apply to a single homeowner or someone who is developing only one unit.

45

1 Mr. Zweber stated the expectation of the developer was they are installing more than just the
2 house. Typically developers are doing public streets and utilities to service the area and a
3 homeowner or contractor would have these things in place already.

4
5 Chair Vanderheyden stated the definition does specify “by platting”. He asked if this would be
6 enough to differentiate a developer from a homeowner. He suggested the definition for Forester
7 in Section 801.36.02 be reconciled with the definition of Forester in other sections of the Zoning
8 Code and Ordinances. He asked if it was assumed that plats would follow the regular process of
9 Planning Commission review and recommendation prior to moving to the City Council for
10 approval in Section 801.36.04.A, the second sentence in the last paragraph. In this same
11 sentence the word “b” should read “be”. He asked if the last sentence in this section was
12 something that was specific to Rosemount and should be removed from the draft.

13
14 Mr. Zweber stated this was something that was specific to Rosemount and these references
15 would be removed prior to the Planning Commission’s final review.

16
17 Chair Vanderheyden stated in Section 801.36.08.A, the first line, he would recommend removing
18 the word “Wayzata” because these trees are not unique to Wayzata but they are unique.

19
20 Mr. Zweber stated this had been included in order to specify the definition was for Wayzata and
21 not all definitions of heritage trees are the same.

22
23 City Attorney Schelzel suggested covering why heritage trees are important to Wayzata in either
24 the purpose section or the definition sections.

25
26 Chair Vanderheyden stated he would prefer to call them “Wayzata Heritage Trees” because this
27 is a more significant term. He asked if the standard of 10% established in Section 801.36.08.C
28 was acceptable to the Commission. He stated he had been trying to reconcile this with the limits
29 in Chapter 710.

30
31 Commissioner Gonzalez stated in Section 801.36.08.C the term business owner is used and this
32 is not defined.

33
34 Chair Vanderheyden asked if this referred to commercial property owner.

35
36 Mr. Zweber stated this was the intent and it would be added to the definitions.

37
38 Chair Vanderheyden stated in Section 801.36.08.D, Staff should add language about storm
39 damaged trees or trees deemed unsafe by the City Arborist would be exempt from replacement.
40 He expressed concerns about the level of discretion afforded public projects in Section
41 801.36.08.D.4.

42
43 Mr. Zweber stated it is easier for local roads and utilities to be more creative in their designs to
44 work around trees. The City has already adopted the Transportation Plan and the Regional entity
45 has adopted the Regional Trail Corridor so these infrastructure components are set where as a

1 smaller sewer line in a local street may not be part of this plan and can be designed to
2 accommodate existing structures and trees.

3
4 Chair Vanderheyden asked how the Ordinance covered entities such as the Met Council deciding
5 to clear cut a mile long section in order to finish their project. He stated they should be held to
6 the same standard as a homeowner for replacing these trees.

7
8 Ms. Nelson stated they would need to check what authority a municipality would have with
9 another agency, which controls the infrastructure in the City's right-of-way.

10
11 City Attorney Schelzel stated he would investigate this further and provide additional feedback
12 for the Commission. He clarified as the language is now, it does not pose a legal problem but he
13 would want to look at the implications if it were removed or what language would be needed to
14 make the standards apply to entities such as the Met Council. He asked Mr. Zweber if there was
15 a difference between pruning a tree and removing a tree.

16
17 Mr. Zweber stated if the tree is being pruned to maintain it and it survives then there would be no
18 replacement but if it were to die because of the pruning or maintenance then it would need to be
19 replaced.

20
21 Commissioner Gonzalez asked if Section 801.36.09.B applies to both developers and
22 homeowners.

23
24 Mr. Zweber stated this would apply to both developers and homeowners and this would be
25 clarified in Section 801.36.09.B.

26
27 Chair Vanderheyden stated Section 801.36.10 differs significantly from Chapter 710. The City
28 Arborist recommended there should not be greater than 10% similarity among new plantings.

29
30 City Attorney Schelzel asked if the point was that the arborist recommends diversity.

31
32 Chair Vanderheyden stated previous discussion had been to not specify a percentage and there
33 was no distinction between conifers or deciduous hardwoods.

34
35 Mr. Zweber stated being more specific would make this requirement harder to implement on a
36 homeowner because they would be planting less trees than a developer.

37
38 Commissioner Gruber asked if the City Forester had reviewed the drafts.

39
40 Mr. Zweber stated the City Forester was currently reviewing the drafts and would have his
41 comments available at the next meeting.

42
43 Commissioner Young suggested language that the replacements be consistent with the
44 recommendations of the City Forester.

45
46 Commissioner Gruber agreed stating the City Forester is a City asset that should be utilized.

1
2 Commissioner Gonzalez stated in Section 801.36.10.A the Commission had previously discussed
3 a size of 2.5-inches instead of 3-inches as recommended by the City Forester because the 2.5-
4 inch trees survive better when replanted and after a couple of years there is no difference
5 between a 2.5-inch tree and a 3-inch tree.

6
7 Mr. Zweber stated he had reviewed recent site plans that had been approved and these included
8 planting 3-inch trees.

9
10 City Attorney Schelzel stated the City Forester would be able to provide input on Section
11 801.36.10, including the recommended size for replacement trees and reconciling this Section
12 with Chapter 710.

13
14 Chair Vanderheyden suggested the acceptable tree replacement species list in Section 801.36.11
15 and Chapter 710 be reconciled. In Section 801.36.12.C change the word "Rosemount" to
16 "Wayzata".

17
18 Commissioner Young stated if a replacement tree must come from the approved list and a
19 heritage tree must be replaced with the same species then there should be language that allows a
20 different species to be planted if the species of the removed tree is not on the approved
21 replacement tree list.

22
23 Mr. Zweber stated the language in Section 801.36.11 should allow for this: "the City may, at its
24 discretion, approve additional species if circumstances such as soil condition, hydrology,
25 topography, or recent tree disease warrant."

26
27 Commissioner Young expressed concerns that Chapter 710.05.e required the City Forester to
28 make a determination on ash trees tree prior to being removed and this requirement was included
29 with any other trees susceptible to disease such as Dutch Elm or Oak.

30
31 Mr. Zweber stated the intent of Chapter 710.05.e was the City would be looking for a policy
32 from the City Forester on what the course of action should be in preparation for Emerald Ash
33 Borer.

34
35 Ms. Nelson stated the City does have an EAB program that has been reviewed by the City
36 Council. If the City has inventoried the public ash trees and if there are ash trees in the public
37 areas that are not good quality they are targeted for replacement with other species. The City is
38 also treating some trees that would significantly impact the area if there lost. Once a tree is
39 infected with EAB it quickly becomes a nuisance so the City needs to have a plan on how to deal
40 with these diseased trees. The City has also done some education on what homeowners can do to
41 prevent EAB. Staff would work with the City Forester to assure the language in Chapter
42 710.02.e reflects the steps the City is taking.

43
44 City Attorney Schelzel stated Chapter 710.02 lists different types of nuisances that can be abated
45 but does not go into how to deal with these nuisances proactively.

46

1 Chair Vanderheyden stated in Chapter 710.08.a the Commission had discussed notices being sent
2 certified mail to ensure reasonable efforts are made to reach a homeowner. He expressed
3 concerns with Chapter 710.06 that the "City Forester or duly authorized representative may enter
4 upon private premises at any reasonable time for the purpose of carrying out any of the duties
5 assigned under this Chapter."
6

7 City Attorney Schelzel suggested the Commission add notification language to this section.
8

9 The Planning Commission would review the Tree Preservation Ordinance and Zoning Code
10 changes at the October 19, 2015 meeting.
11

12 **d. Alternative Energy Ordinance Discussion** 13

14 Mr. Peters stated the Planning Commission had been presented with examples of local
15 alternative energy ordinances and a power point presentation regarding the three types of energy
16 conservation systems most commonly addressed at their July 20 meeting. He reviewed
17 additional alternative energy ordinances from surrounding communities.
18

19 Chair Vanderheyden asked if an applicant could do anything if the City did not have an
20 Ordinance in place.
21

22 City Attorney Schelzel stated the City would reference those regulations that are on the books
23 when looking at requests.
24

25 Mr. Peters stated Staff is working on setting up time for the Commission to discuss these
26 alternative energy sources with experts in order to gain more knowledge.
27

28 Commissioner Young suggested also having someone provide information on best practices for
29 each of these energy sources so the Commission would have a base starting point when drafting
30 these ordinances.
31

32 Commissioner Gonzalez stated the Ordinances from Orono and Watertown would not apply to
33 Wayzata. She asked if there was additional information on community solar gardens and the
34 effect of wind energy turbines on wildlife.
35

36 Chair Vanderheyden asked about the size of the turbines that could be permitted in Wayzata
37 based on the average parcel size.
38

39 Mr. Peters stated Wayzata would more than likely be considering more of the building mounted
40 equipment.
41

42 Chair Vanderheyden stated he liked Maple Grove's resolve with geothermal and solar being
43 defined as permitted accessory uses whereas wind was a conditional use in all cases. He also
44 liked the restriction on sound in the Maple Grove Ordinance. He felt that light flicker protection
45 and vibration protection would also be good to include to protect the community.
46

1 Mr. Peters pointed out that Maple Grove does allow for larger turbines if there is a shared use.

2
3 Mr. Zweber stated another thing to consider and possible address with wind turbines would be
4 ice throw in the winter months. Ice collects on the turbine blades and can be thrown a distance
5 up to three times the length of the blade. This would mean this area should be cleared of
6 anything that could be damaged.

7
8 Chair Vanderheyden stated the Orono Ordinance had the best description and definition section.

9
10 Mr. Peters stated for the next steps he would work on setting time for experts to meet with the
11 Planning Commission to provide additional background and information as it pertains to
12 Wayzata.

13
14 Commissioner Gonzalez stated she would like to see a draft purpose statement and definitions
15 prepared for the Commission to begin reviewing.

16
17 Commissioner Gruber suggested having the experts present to the Commission on each
18 alternative energy source and the implications they would have in Wayzata prior to drafting a
19 purpose statement and definitions.

20
21 Commissioner Young agreed an overview of each energy source and a discussion on best
22 practices for a community the size of Wayzata would be beneficial in starting the process.

23
24
25 **AGENDA ITEM 3. Other Items:**

26
27 **a. Review of Development Activities**

28
29 Mr. Zweber stated the October 5 agenda would include three public hearings: the design review
30 of a medical office building at 1120 Wayzata Blvd. E., a garage variance request for 240
31 Manitoba, and the Telecom Ordinance. Other development activities included a City Council
32 work session on a proposal by the Beltz's family for the Gold Mine and Mail Center property.

33
34 Commissioner Gonzalez asked about Mr. Hoyt's property and the concept that had been
35 presented at a Council meeting.

36
37 Ms. Nelson stated there have been further discussions at the Staff level. The City's interest in
38 the concept would be the potential for the provision of public parking. The applicants have been
39 requested to provide additional information on the partners that would be involved in the
40 potential project and what the project would look like.

41
42 **b. Other Items**

43
44 Ms. Nelson stated the City has hired Jeff Thompson as the new Director of Building and
45 Planning. He will be starting with Wayzata October 15 and he will be attending the October 5
46 Planning Commission meeting to observe the process in Wayzata.

1
2 Commissioner Gonzalez stated she had attended the Council meeting discussing the concepts for
3 Mr. Hoyt's and adjacent property, and also the vote for the variance request for Mr. Gnos. This
4 variance request was approved at a subsequent Council meeting.
5

6
7 **AGENDA ITEM 4. Adjournment.**
8

9 There being no further business, Commissioner Gruber made a motion, seconded by
10 Commissioner Young, to adjourn the meeting. The motion passed unanimously.
11

12 The meeting was adjourned at 9:27 p.m.
13

14 Respectfully submitted,
15

16 Tina Borg

17 *TimeSaver Off Site Secretarial, Inc.*