

WAYZATA PLANNING COMMISSION
APPROVED MEETING MINUTES
MAY 1, 2017

AGENDA ITEM 1. Call to Order and Roll Call

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

Present at roll call were Commissioners: Young, Gruber, Gonzalez, Murray, Flannigan and Buchanan. Absent: Iverson. Director of Planning and Building Jeff Thomson and City Attorney David Schelzel were also present.

AGENDA ITEM 2. Approval of Agenda

Commissioner Murray made a motion, Seconded by Commissioner Flannigan, to approve the May 1, 2017 meeting agenda as presented. The motion carried unanimously.

AGENDA ITEM 3. Approval of Minutes

a.) April 17, 2017

Commissioner Gruber made a motion, Seconded by Commissioner Murray, to approve the April 17, 2017 meeting minutes as presented. The motion carried unanimously.

AGENDA ITEM 4. Public Hearing Items:

a.) Tree Ordinance Amendment

Director of Planning and Building Thomson stated in 2016, the City Council amended two parts of the City Code related to trees. The ordinances include a new section of the zoning ordinance pertaining to tree preservation and an amendment to the existing City Code as it relates to the City Forester and safety of trees on public and private property. After the City Council adopted the new ordinances, the Planning Commission expressed concerns about how the ordinance would apply to existing properties. The new ordinance would not restrict a property owner from removing trees on their property if they are not proposing any type of development, construction, or grading. The Planning Commission was concerned that a developer could purchase a property, remove trees prior to submitting a development application, and subsequently apply for a development application when the tree removal had already been completed. In this case, the trees already removed would not be subject to the tree preservation and replacement requirements. The Planning Commission passed a motion asking the City Council to address this situation. The City Council held a workshop to discuss the Planning Commission comments and directed staff to prepare an amendment to the ordinance which would add a look-back clause to the tree

1 preservation ordinance so that any trees removed within a certain time period prior to a
2 development application would be counted with any trees removed as part of the development
3 application. Proposed changes to Section 801.36 include: 1. the addition of a two year look back
4 clause for subdivision applications, construction or maintenance of public infrastructure, and
5 construction of single-family homes; 2. The addition a one year look back clause for expansions
6 to single family homes, land disturbance permits, and applications for design review; and 3.
7 Changes that are intended to clarify the regulations to make it easier for the City to administer the
8 ordinance. Changes to Chapter 710 of the City Code include adding a tree removal permit
9 requirement for the removal of any tree on public or private property to help track when trees are
10 removed from private property, and changes that clarify the regulations but do not change the
11 intent, purpose, or policies of the regulations in the existing ordinance.

12
13 Commissioner Buchanan asked why there were two different look back periods in the ordinances.

14
15 Mr. Thomson stated one time frame could be provided for all projects. The two different look
16 back periods proposed are based on the types of project and address the concerns of tree removal
17 done to circumvent the tree ordinance versus tree removal that is done but not to accommodate
18 future development.

19
20 Commissioner Gruber asked for clarification on land disturbance permits.

21
22 Mr. Thomson stated land disturbances would be anytime grading activity occurs on a property
23 beyond the set threshold of 5,000 square feet of area disturbance or 50 cubic yards of total volume
24 disturbance. These disturbances cannot be in a wetland or affect the floodplain.

25
26 City Attorney Schelzel asked Mr. Thomson to explain how the ordinances would apply to multi-
27 family and institutional uses.

28
29 Mr. Thomson stated those projects all require design review. Single-family homes and twin homes
30 are exempted from design standards. The design review projects were included in the one year
31 look clause back because these groupings already exist in how the ordinance applies today.

32
33 Commissioner Gruber asked if the Commission could provide additional language or changes
34 outside of the changes being presented.

35
36 Mr. Thomson stated the Commission could recommend changes.

37
38 Commissioner Gonzalez asked if there was a charge for private homeowners to get a tree removal
39 permit.

40
41 Mr. Thomson stated there has been a fee in the City's Fee Schedule, and the Council can change
42 this fee when they adopt the fee schedule every year.

43
44 Commissioner Gonzalez stated previously the City had a waiver for the fee if it were removed for
45 safety reasons.

46

1 Mr. Thomson stated this would still apply.

2
3 Commissioner Gonzalez asked what types of penalties were in place with this ordinance.

4
5 City Attorney Schelzel stated there are two parts of the tree ordinance; one in the Zoning Code and
6 the other in the City Code. Both of these have penalty provisions as part of the larger code.

7
8 Commissioner Flannigan asked why the tree permit requirement had been removed from the
9 Ordinance by the City Council.

10
11 Mr. Thomson stated the City Council had felt at the time that a homeowner should not have to get
12 a permit to remove a tree from their property. The recommended change of adding the permit
13 requirement back in was to provide a mechanism for the City to administer the look back clause
14 in the proposed ordinance changes, which would require a record of when trees are removed from
15 private property.

16
17 Vice Chair Young opened the public hearing at 7:27 p.m.

18
19 Robert Dachelet, 263 Bushaway Road, Wayzata, stated their property had a lot of invasive red
20 maple surface roots when they purchased it, and he had cut down several 1-inch and smaller trees.
21 He stated he had understood the City requirement to have 3" trees planted as replacements but the
22 proposed ordinance shows 2 ½" trees.

23
24 Mr. Thomson stated this minimum of 2 ½" replacement trees has not changed.

25
26 Mr. Dachelet stated a tree mitigation plan, a site plan and a tree replacement plan had been
27 approved for the Church at 2030 Wayzata Boulevard. The approved plans do not include enough
28 inches to replace what was removed according to the ordinance. He stated it would not be possible
29 to plant the required caliper inches on this particular property. He stated the Church would be
30 planting all of the trees that are included in the approved site plan.

31
32 There being no other person wishing to speak, Vice Chair Young closed the public hearing at 7:33
33 p.m.

34
35 Commissioner Buchanan expressed concerns about homeowners having to get a permit to remove
36 any tree on their property.

37
38 Commissioner Gruber asked if there had been a minimum size tree that would require a permit to
39 be removed.

40
41 Mr. Thomson stated the ordinance does state any tree. The Commission could consider changing
42 this to requiring a permit for the removal of trees that are 6" in diameter or greater.

43
44 Commissioner Gruber stated she would like to see people providing the City with explanations on
45 why they are cutting down trees because this may stop people from cutting down all of their trees.

46

1 Commissioner Flannigan asked Mr. Thomson to provide Mr. Dachelet with an answer to his
2 questions concerning the number of trees they are planting as part of an approved project.

3
4 City Attorney Schelzel stated staff would discuss the particulars of that project with the land owner
5 but the proposed ordinance changes are not retroactive to those projects that have already been
6 approved.

7
8 Commissioner Murray stated he would recommend the fee to remove a tree from a private property
9 should be minimal. He asked if there would be any credit for trees that a homeowner may plant
10 on their property.

11
12 Mr. Thomson stated the Commission could add a provision that states any replacement that has
13 occurred during the same time period as the removal can count towards the mitigation.

14
15 City Attorney Schelzel stated the permit requirement was added back into the ordinance because
16 without this, the City does not have a means of knowing when trees are removed from a property,
17 and this record would be necessary when administering the look back period.

18
19 Commissioner Flannigan stated the intent of the look back clause had been to protect significant
20 and heritage trees. He suggested the permit requirement for significant and heritage trees, and
21 only once the City Forester has determined that a permit is required.

22
23 Commissioner Gonzalez stated when she had a large tree removed from her property the permit
24 had been handled by the licensed tree removal company that she had hired for the project. She
25 asked if the ordinance could contain language that expanded who homeowners could hire for tree
26 removal. Currently the City only allows those companies that are licensed by the City. She
27 suggested expanding the language to include state licensed companies.

28
29 City Attorney Schelzel stated the fee and licensing requirements would be a policy question for
30 the City Council to discuss.

31
32 Commissioner Gruber stated requiring a permit for the removal of any tree is too broad. She would
33 support changing this requiring a permit for the removal of any significant or heritage tree or any
34 tree over an established size. She suggested including the following language in Section
35 801.36.1.A: "and preserve the environmental positives trees provide, including filtering out the air
36 pollution, shade, and civility of soil."

37
38 Mr. Thomson stated these items are included in Section 801.36.1.B.

39
40 Vice Chair Young stated he is not in support of including a look back clause in the ordinance. In
41 order to administer this clause, the City would have to require permitting for tree removal, and this
42 would create a burden on homeowners and developers. Larger developments already capture tree
43 removal through other means. The added burden on residents, developers, and staff is too great.
44 He does not believe a permitting process is warranted.

45

1 Commissioner Buchanan agreed with Vice Chair Young. He stated the solution is creating more
2 problems than the loophole problem it seeks to address, and the loophole may not in fact present
3 any problems.

4
5 Commissioner Murray stated it would be more challenging or onerous to enforce the look back
6 clause than the potential damage that could occur.

7
8 Commissioner Gonzalez asked if Commissioner Young objected to a look back clause for those
9 properties that may be single family properties now but then decide to subdivide the property after
10 they have clear cut it, or if he was objecting to requiring a homeowner obtaining a permit to remove
11 a tree on their property.

12
13 Vice Chair Young stated these are valid concerns but to address these concerns there would be a
14 permitting process required, and he does not feel that the burden on all property owners in the City
15 of putting a permitting process in place is justified to address those concerns.

16
17 Commissioner Murray stated he would agree with Vice Chair Young. Requiring a permit for
18 residents to remove a tree from their property would create more of a burden than the potential for
19 the few properties that remain in the City that can be subdivided to clear cut all the trees on the
20 property.

21
22 Commissioner Gonzalez stated the job of the City is to protect the residents, and clear cutting
23 properties would not in the best interest of the residents. The permitting process would not be
24 onerous, and she would support including a look back clause in the ordinances with a reasonable
25 minimum tree size.

26
27 Commissioner Flannigan stated the look back clause should be scaled back to include a specific
28 minimum size tree.

29
30 Commissioner Murray asked how the City would know if there were trees removed because of
31 damage.

32
33 Commissioner Gonzalez stated there would be a permit required to remove the damaged tree, but
34 the fee for the permit would be waived.

35
36 Vice Chair Young asked if the Commission had any concerns about the proposed "clean up"
37 language in the draft ordinances.

38
39 Commissioner Gonzalez stated the only concern she would have is the City requiring a City
40 licensed business to do work in the City. She suggested the Commission have a joint meeting with
41 the City Council to discuss the ordinances.

42
43 Mr. Thomson stated the City Council had provided clear direction to staff originally when they
44 removed the permitting process for homeowners, but they also asked staff to work with the
45 Commission on establishing a process to address the Commission's concerns about properties

1 being clear cut. Putting the permitting process back into the ordinance was staff's way of being
2 able to administer the look back clause.

3
4 Commission Gonzalez made a motion, seconded by Commissioner Gruber, to direct Staff to
5 prepare a Planning Commission Report and Recommendation recommending approval of the
6 Ordinance Amending Section 36 of the Wayzata Zoning Ordinance (Tree Preservation) and
7 Amending Wayzata City Code Chapter 710 (Planting, Maintenance, and Removal of Trees) as
8 presented, with the addition of language to the permit requirements for individual homeowners to
9 apply to the removal of trees 6 caliper inches or larger. The motion failed. 3 Ayes and 3 Nays
10 (Young, Murray, Buchanan).

11
12 Vice Chair Young asked if the consensus of the Commission was support for the "clean up"
13 language presented in the draft Report and Recommendation.

14
15 Commissioner Gonzalez suggested bringing this back when all Commissioners were present.

16
17 Commissioner Flannigan stated the look back was what the Commission was split on, and the
18 proposed draft should be forwarded to the City Council for their discussion and consideration.

19
20 City Attorney Schelzel stated the Commission could vote on the "clean up" language proposed
21 and the record would show that there was a vote on the draft recommendation with the look back
22 clause and permitting process. The City Council could then make the policy decisions on how
23 they would proceed.

24
25 Commissioner Murray made a motion, seconded by Commissioner Buchanan, to adopt the draft
26 Planning Commission Report and Recommendation recommending approval of the Ordinance
27 Amending Section 36 of the Wayzata Zoning Ordinance (Tree Preservation) and Amending
28 Wayzata City Code Chapter 710 (Planting, Maintenance, and Removal of Trees) as presented, but
29 striking all language in the amendments pertaining to the look-back clause and permitting process.
30 The motion passed. 4 Ayes and 2 Nays (Gruber and Gonzalez).

31
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33 **AGENDA ITEM 5. Old Business Items:**

34
35 **a.) None**

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38 **AGENDA ITEM 6. Other Items:**

39
40 **a.) Review of Development Activities**

41
42 Mr. Thomson stated the agenda for the next City Council meeting includes presentation of the
43 Centennial House Award, a review of the liquor license for the Landing Hotel, and the resolution
44 on the impervious surface variance at 128 Broadway Avenue. The City held the Strategic
45 Planning retreat and once the Strategic Plan document has been approved, this will be provided
46 to the Commission.

1
2 **b.) Next Meeting is May 15, 2017**
3
4

5 Commissioner Gruber stated she had received a call from a former member of the Heritage
6 Preservation Board, who expressed concerns about the Wayzata Blu project and its impact on
7 historic properties. She stated the City should be presenting the Heritage Preservation award more
8 often.
9

10 Commissioner Buchanan stated he was on the Heritage Preservation Board and could be a liaison
11 for the Commission.
12
13

14 **AGENDA ITEM 7. Adjournment.**
15

16 Commissioner Buchanan made a motion, seconded by Commissioner Murray, to adjourn the
17 meeting of the Planning Commission. The motion carried unanimously.
18

19 The Planning Commission meeting was adjourned at 8:25 p.m.
20

21 Respectfully submitted,
22

23 Tina Borg
24 *TimeSaver Off Site Secretarial, Inc.*