



City of Nowthen
PLANNING & ZONING COMMISSION MEETING
TUESDAY, FEBRUARY 22, 2022
A G E N D A
7 PM

Called to Order

- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight's meeting agenda of February 22, 2022.
- Approve/Amend meeting minutes of November 23, 2021.
- Approve/amend meeting minutes of January 25, 2022.

1. **7:00 PM:**
Review of Planning and Zoning Commission Policy on Commission Structure, Meeting Order and General Procedure
2. **7:30 PM:**
Presentation: The Basics of Planning
3. **8:30 PM:**
Discussion for Informative Purposes:
Weichert Property Temporary Habitation Permit & Code Enforcement
4. **8:45 PM:**
Review Draft Ordinance 2022-xx
Architectural Standards for Commercial and Industrial Uses

Upcoming Projects at March Meeting:

- Possible CUP for multiple uses on single commercial parcel, IUP for outdoor storage
- ?

Motion to Adjourn

CITY OF NOWTHEN
MARCH 2022

**PLANNING AND ZONING COMMISSION POLICY ON COMMISSION STRUCTURE,
MEETING ORDER AND GENERAL PROCEDURE**

SECTION 1. PURPOSE

The purpose of this Planning and Zoning Commission policy is to provide a set of operating procedures for the Planning and Zoning Commission and to facilitate adherence to the established code of conduct as referenced in Section 21 of this policy.

SECTION 2. PLAN OF WORK

Upon the appointment and organization of the Planning and Zoning Commission, the Commission, subject to council approval, shall exercise its powers and duties given by Minnesota Statutes 462.351 through 462.364 and conferred upon by Chapters 10 and 11 of the City Code and the performance of its duties. Subject to council approval, the plan may be revised from time to time.

SECTION 3. ANNUAL REVIEW

This policy shall be reviewed annually and as needed by the Planning and Zoning Commission, and any changes or amendments agreed to by a majority vote of the Commission shall be recommended to the City Council for adoption. In addition, the City Council may review this policy and adopt amendments as needed.

SECTION 4. ANNUAL MEETINGS

The annual meeting of the Planning and Zoning Commission shall be the first regular meeting of each year. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as shall be scheduled by the Planning and Zoning Commission.

SECTION 5. REGULAR MEETINGS

Regular meetings of the Planning and Zoning Commission shall be held in the City Hall or other Officially Noticed location at 7:00 PM on the 4th Tuesday of each month or as publicly noted at the city offices or websites. At such meetings, the Commission may consider all matters properly brought before the Commission. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting, or by the Chairperson or the City Council. Any regular meeting falling upon a holiday shall be held on a date agreed upon by committee members at the same time and place.

SECTION 6. SPECIAL MEETINGS

Special meetings of the Planning and Zoning Commission may be called by the Chairperson or Vice-Chairperson or City Council who shall designate the time, place, and purpose of the meeting. Notice of special meetings must conform to the State Open Meeting Law. Written notice thereof shall be given to all members at the same time as notice of the special meeting except in the case of an emergency.

SECTION 7. QUORUM

For any meeting to be called to order, a quorum (one over half) of appointed members must be present(See Appendix 1)A quorum must be kept during the entire meeting for action to be taken on any matter before the Commission.

SECTION 8. MEETINGS AND THE OPEN MEETING LAW

In accordance with the Minnesota Open Meeting Law (Minnesota Statute Chapter 13D), all official meetings of the Planning and Zoning Commission shall be open to the public. An "official" Planning and Zoning Commission meeting is any gathering, or simultaneous communication (via email, telephone or otherwise), between a quorum of Commission members for the purpose of considering the public business of the Planning and Zoning Commission. Informal gatherings and communications such as site visits and conference telephone calls, therefore, may constitute an official meeting. The Planning and Zoning Commission may exclude the public from its meeting only in certain very limited cases identified in the Open Meeting Law. (See Appendix 1)

SECTION 9. VOTING AND RECOMMENDATIONS

At all meetings of the Planning and Zoning Commission, each member attending, except for the City Council non-voting ex -officio liaison member, shall be entitled to cast one vote on matters before the Planning and Zoning Commission. In the event that any member shall have a conflict of interest, as determined by the City Attorney, concerning a matter then before the Commission, he/she shall disclose his/her interest and disqualify him/herself from voting upon the matter, and the secretary shall so record in the minutes that no vote was cast by such member. The affirmative vote of most members in attendance shall be necessary for the adoption of any resolution or other voting matter. The results of any vote shall be recorded, listing the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion).

All recommendations shall be sent to the City Council by means of written reports, minutes and Findings and Fact, and shall include the record of the division of votes on each recommendation.

SECTION 10. REGULAR PROCEEDINGS

At any regular meeting of the Planning and Zoning Commission, shall observe the following order of business:

- A. The pledge of allegiance
- B. Roll call
- C. Meeting policy read
- D. Approval/Amend Meeting Agenda
- E. Approve/Amend Meeting Minutes of the Preceding Meeting(s)
- F. Public Hearings
- G. Other Business
- H. Old/New Business (if applicable)
- I. Adjournment

The order of business may be varied by the City Staff or presiding officer, but no public hearings shall commence at an earlier time than specified in the notice of hearing.

- (A) The following procedures will normally be observed for matters before the Planning and Zoning Commission, except for public hearings which follow the procedures detailed in Section 14; however, they may be rearranged by the City Staff or the Chairperson for individual items if necessary for the expeditious conduct of business:
 - 1. Staff presents report and makes recommendation (if any).
 - 2. Applicant provides a report
 - 3. The Planning and Zoning Commission members may ask questions regarding the staff presentation and report (if any).
 - 4. Public's opportunity for comment.
 - 5. Applicant makes rebuttal of any points not previously covered (if any).
 - 6. Planning and Zoning Commission asks any questions it may have of all parties and then acts or defers the vote to a date certain.
- (B) Each formal action of the Planning and Zoning Commission required by law, rules, regulations, or policy shall be embodied in a formal vote duly entered in full upon the Minute Book after an affirmative vote as provided in Section 5 hereof and need be accompanied by written findings of facts, whereas originals are filed at the City offices.
- (C) Unless agreed to by a majority vote of the Planning and Zoning Commission members in attendance at the meeting, no new agenda item shall be taken up after 9:15 p.m.

SECTION 11. AGENDA AND DEADLINE FOR AGENDA

- (A) **Purpose.** The agenda of a Planning and Zoning Commission meeting serves two important functions: 1). It focuses Planning and Zoning Commission deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and 2). It serves as the public's guide to what will be considered at the meeting, how the

matter be dealt with, who will participate in the discussion, and when public comment may be made. The agenda should be prepared to best achieve these functions.

- (B) **Deadlines.** The agenda shall be prepared by City Staff and closed for additional agenda items by the end of the day on the first Tuesday of each month. The Commission members and City Councilmembers will receive copies of the public hearing notice including those noticed at the same time they are received by the public.. Development site signs shall be erected at the same time.
- (C) **Submissions.** Any Planning and Zoning Commission member can place an item on the agenda by requesting the City Staff responsible for agenda preparation no later than the first Tuesday of the month prior to the meeting. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.
- (D) **Agenda Additions During Regular Meetings.** Additional items may be added or removed from the agenda at a Planning and Zoning Commission meeting subject to approval by a majority vote of the members present and voting. The additional agenda items may be discussed, but no action may be taken if any member objects.
1. If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a hardship variance from Subdivision or Zoning Ordinance standards), or involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), the Commission may add the item to the agenda only for purposes of referring it to the staff or a Commission committee, or scheduling it for consideration at a later meeting (as appropriate). **The Commission may not discuss the substance of the matter or take any action on the item except at an open meeting where the item, the RCA and supporting documents are included as part of the distributed agenda and all timeframes and process have been completed.**
- (E) **Delivery of Agenda Packet to Members.** At least six calendar days before the meeting, the City Staff shall provide each Commission member a paper and/or electronic meeting agenda packet including all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).
- (F) **Order and Form of the Agenda.** The agenda organization shall conform to Section 10 above. In addition, the agenda shall organize matters to be addressed at the meeting to best promote opportunities for effective public input and the timely and efficient performance of Planning and Zoning Commission responsibilities. Items of business likely to attract the attendance of many interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should be placed early on the agenda to minimize the time citizens must wait for consideration of the item.

SECTION 12. MINUTES

- (A) **Purpose.** The minutes of the Planning and Zoning Commission's meetings represent the official record of the Commission's deliberations and actions. As such, they record the Planning and Zoning Commission's vote on actions and the reasons for the vote.

The minutes also communicate background on the Planning and Zoning Commission's recommendations to the City Council, provide perspective on issues, and provide a historical record of Commission proceedings. Furthermore, state law requires the Commission to keep full and accurate minutes of all official meetings, and requires that those minutes be retained permanently and be available for public inspection by any person requesting.

- (B) **Duties of Staff Preparing Minutes.** City Staff shall prepare minutes of all Planning and Zoning Commission meetings. The minutes shall state:

1. Which members were present and absent by name. Members arriving late or leaving early shall be so noted.
2. A summary of staff and committee reports and recommendations, applicants' presentations, public comments, and the Planning and Zoning Commission's discussion on each item.
3. The content of each principal motion before the Planning and Zoning Commission, the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion). If the motion called for or recommended adoption of an ordinance or resolution, or the acceptance of a report, the official copies of such documents will be maintained in the files located at the city offices.

SECTION 13. RULES OF PROCEDURE FOR PLANNING AND ZONING COMMISSION MEETINGS

All meetings of the Planning and Zoning Commission shall be conducted in accordance with the Minnesota Mayors Association Rules of Order. (See Appendix 2)

SECTION 14. PUBLIC HEARINGS

- (A) A public hearing is a noticed, official meeting, the express and limited purpose of which is to provide an equitable opportunity for the public to address matters before the Planning and Zoning Commission.
- (B) For certain matters considered by the Planning and Zoning Commission, a requirement that the Planning and Zoning Commission conduct a public hearing is prescribed by State Statute, the City's Code of Ordinances or by City Policy. The Planning and Zoning Commission, however, may elect to conduct a public hearing, although not specifically required, if the Planning and Zoning Commission

determines such action is advisable due to the unique nature of the matter. . In all such instances the Planning and Zoning Commission will consider the precedence created by such action.

- (C) The Planning and Zoning Commission may neither deliberate nor take a vote during a public hearing but may ask questions of anyone present.
- (D) The Planning and Zoning Commission, upon resuming their regular meeting after the closure of the public hearing, may act upon the matter discussed at the public hearing.

(E) Conduct of Persons Before the Planning and Zoning Commission

1. During all public hearings required by State law or ordinance, members of the public shall be given reasonable opportunity to speak. To promote meeting efficiency, the Chair may discourage duplicative testimony and may place reasonable but equal time limits on the amount of time that individuals must speak. Comments should be addressed to the item before the Planning and Zoning Commission. Where a comment is irrelevant, inflammatory, disruptive, or prejudicial, the Chair may instruct the Planning and Zoning Commission to “disregard” the comment, which nevertheless remains in the public record.
2. During all regular and special meetings of the Planning and Zoning Commission, the public may be present but shall remain silent unless specifically invited by the Chair to provide comment.
3. During all proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with reasonable rights of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the Chair as “out-of-order” and the offending person directed to remain silent. Once, having been so directed, if a person persists in disruptive conduct, the Chair may order the person to leave the Planning and Zoning Commission meeting or hearing. Where the person fails to comply with an order to leave, the Chair may then call upon civil authority to physically remove the individual from the chamber for the duration of the hearing or deliberation on that item.
4. The Chairperson of the Planning and Zoning Commission may impose additional limits or rules upon members of the public as permitted by Section 16.

(F) Additional Rules of Procedure for Public Hearings

1. **Public Hearing Format.** Public hearings shall be conducted in the following manner:
 - (a) The presiding officer calls the public hearing to order and declares the time of opening.
 - (b) It is the intent of the Planning and Zoning Commission to open all public hearings at the predetermined and published time. From a practical

standpoint, not all hearings can be opened at their designated time. The presiding officer may delay the start of a hearing until the business at hand is acted upon, in any manner, by the Planning and Zoning Commission. However, in no circumstances can a hearing be opened prior to the predetermined and published time.

- (c) The presiding officer shall read, from the hearing notice, the details on the hearing sufficient to provide the public a general understanding of the purpose and procedures for the hearing, and the fact that the hearing is their exclusive or primary opportunity to provide input to the city on the subject.
- (d) Staff and/or a consultant make a presentation or report on the subject matter for the hearing.
- (e) The applicant (if any) may make a presentation or report on the subject matter for the hearing.
- (f) The presiding officer asks Planning and Zoning Commission members if they have questions of the staff, consultant, or applicant, if any.
- (g) The presiding officer announces that input will be received from the citizens, requesting that each speaker provide a name and address, noting any applicable time limits for comment from individual members of the public, any other applicable rules and explaining the procedure for enforcement of such rules.
- (h) After members of the public have spoken the presiding officer requests one of the following:
 - i. Close the public hearing, or
 - ii. Continue a public hearing. If the Planning and Zoning Commission votes to continue the hearing, the presiding officer shall, in consultation with City Staff, select and announce a time and date certain for the continued public hearing. No additional publication or notice requirements are needed if a hearing is continued to a later date. However, no public hearing may be continued more than once without renote and publishing the time, date, and location of the hearing.
- (i) The Planning and Zoning Commission addresses the subject matter through deliberation, questions to citizens and staff, and reactions and statement of position on the subject.
- (j) If the public hearing is closed, the Planning and Zoning Commission may act on the application before them. The Commission may formulate a recommendation which outlines the parameters under which an approval would be granted. The reasons and conditions shall be stated in the motion or resolution for approval or denial. Continuation of an action may occur in

the event insufficient information is present to decide. The Planning and Zoning Commission shall delineate the missing information before continuing the item.

SECTION 15. OFFICERS AND MEMBERS

The officers of the Planning and Zoning Commission shall consist of a Chairperson, a Vice-Chairperson. In the absence of the Chair and Vice-Chair, the remaining members shall elect a Temporary Chair for that respective meeting.

- A.
 - 1. Members shall serve three (3) year overlapping terms with one-third (1/3) being appointed each January.
- B. Members shall be residents of the City throughout the term of their term.
- C. 3. Except in extenuating circumstances, members shall attend and participate in at least eighty (80%) of the Planning and Zoning Committee meetings each year to remain eligible for reappointment.
- D. 4. Members shall advise city staff at least 24 hours in advance of a scheduled Planning and Zoning Commission Meeting if they are unable to attend.

SECTION 16. DUTIES OF OFFICERS

The Chair is a voting member of the Planning and Zoning Commission and may make motions. In addition, the duties, and powers of the officers of the Planning and Zoning Commission shall be as follows:

- (A) Chairperson
 - 1. To preside at all meetings of the Commission.
 - 2. To call special meetings of the Planning and Zoning Commission in accordance with these bylaws.
 - 3. To sign documents of the Commission.
 - 4. To see that all actions of the Commission are properly taken.
 - 5. To cancel or postpone any regularly scheduled meetings.
 - 6. To invoke a reasonable time limit for speakers during any public hearing in the interest of maintaining focus and the effective use of time.
 - 7. To provide for the selection of one or two spokespersons to represent groups of persons with common interests during public meetings and hearings.

8. To order an end to disorderly conduct and direct law enforcement to remove disorderly persons from Planning and Zoning Commission meetings or hearings.
9. To schedule a second official public hearing, meeting, or other continued meeting if a meeting or public hearing cannot be concluded by a reasonable hour in the judgment of the Chairperson.
10. The presiding officer has the responsibility to facilitate discussion by the Planning and Zoning Commission. This may occur in a variety of ways, including:
 - a. Interpret and apply rules of procedure.
 - b. Decide whether motions are properly made.
 - c. Decide whether motions are in order.
 - d. Decide whether questions of special privilege ought to be granted.
 - e. Decide when to recognize speakers.
 - f. Call for motions or recommend motions.
 - g. Expel disorderly persons from the meeting.
 - h. Enforce speaking procedures.

(B) Vice-Chairperson

During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.

(C) Administrative duties to be delegated to City Staff.

1. To give or serve all notices required by law or by these Bylaws.
2. To prepare the agenda for all meetings of the Commission.
3. To be custodian of Commission records.
4. To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
5. To handle funds allocated to the Commission in accordance with its directives, the law and city regulations.
6. To take the minutes of all meetings of the Commission for typing and filing into the appropriate minute book by City Staff.
7. To sign official documents of the Commission and other duties as required.

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SECTION 17. VACANCIES

If a vacancy occurs among the members of this Planning and Zoning Commission by reason of death, resignation, disability or otherwise, notice shall be given to the City Clerk and Chairperson by the affected member. City staff shall then advise City Council of the opening and upon Council approval, follow the guidelines for filling the vacancy.

SECTION 18. AMENDMENTS

This policy on rules of procedure may be amended at any meeting of the Planning and Zoning Commission if notice of said proposed amendment is given to each member in

writing at least six (6) calendar days prior to said meeting. All amendments are subject to City Council review and approval before they take effect.

SECTION 19. COMMITTEES

- A. The Chair may appoint ad hoc committees unless the Commission or City Council shall otherwise direct. The Chair shall be an additional voting member of all committees. The Chair may appoint a Planning and Zoning Commission member to chair each ad hoc committee.
- B. Committees shall normally consist of not more than three Planning and Zoning Commissioners including the Chair..
- C. Most of the members of any committee shall constitute a quorum of such committee. If a quorum is not present at a meeting, the members present may prepare reports and submit them to the Planning and Zoning Commission on behalf of the committee, in which case the report shall name the committee members who prepared it.
- D. Nothing in the foregoing shall be construed as waiving the ability of the Commission at any time to increase or curtail the duties of any committee and/or to direct or control its actions.

SECTION 20. COMPENSATION

Each Commission member shall receive \$20.00 for each regularly scheduled or special meeting.

SECTION 21. CODE OF CONDUCT

The Planning Commission shall adhere to the Code of Conduct as follows:

A. Purpose

To establish a code of conduct and associated remedies that Commission members agree to abide by in carrying out their duties as appointed officials. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate Commission expectations, behavior and interactions with each other, city staff, citizens and all other groups encountered because of city business, so as to efficiently and effectively develop and carry out the mission, vision, goals and established policies of the city.

B. Roles/Responsibilities

- 1. **Meetings** – The chairperson presides over meetings of the Planning and Zoning Commission. Speakers, including Commission members, do not speak until recognized by the chairperson.

2. **Fiduciary Responsibilities** - – Recognizing that service to our citizens must be our primary concern; Commission members shall work for the common good of the people of Nowthen and not for any private or personal interest. Commission members will treat all persons, claims and transactions in a fair and equitable manner.
3. **Preparation** – Commission members are expected to be prepared for Commission meetings and work sessions including becoming familiar with all distributed materials, visiting the sites, and preparing questions and observations to share at the meeting.
4. **Agenda Preparation** – The city clerk directs preparation of draft meeting agendas. The final agenda is determined by the city clerk prior to the meeting. At the Commission meeting, agenda items may be added or deleted by Commission members through a majority vote.
5. **Knowledge** – Members are expected to be familiar with this policy, the city zoning ordinance and comprehensive plan.

C. **Conduct of Members**

1. **Staff Direction** – The Commission is only a recommending body and shall only make a recommendation to the city council to direct staff, contract employees and consultants. The mayor and city council members then may direct city staff, contract employees and consultants only through the city clerk, as determined by majority vote.
2. **Respect for Staff Time** – If a Commission member is utilizing an inordinate amount of staff time, the city clerk is required to bring this to the attention of the city council for resolution.
3. **Interactions** – Commission members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the city council, boards, Commissions, committees, staff, or the public.
4. **Respect for Process** – Commission member duties shall be performed in accordance with the processes and rules of order established by the city council.
5. **Use of Public Resources** – Public resources not available to the public (e.g., city staff time, equipment, supplies or facilities) shall not be used by Commission members for private, personal, or political purposes.
6. **Advocacy** – To the best of their ability, Commission members shall speak with one voice in representing the official policies and positions of the Commission. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Commission or the city.
7. **Improper Influence** – Commission members shall refrain from using their position to improperly influence the deliberations or decisions of city staff, boards, CommissionCommission, or committees.
8. **Positive Work Environment** – Commission members shall support a positive, efficient, and effective environment for residents, businesses, and city employees.
9. **Steward of City Funds** – When the end of a Commission member's service on the Planning and Zoning has been determined by means of not being reappointed or resignation, that Commission member shall not subject the city to unnecessary trainings and mileage.

D. Communication

1. **Sharing of Information** – It is the responsibility of Commission members to publicly share information with all other Commission members that they have received from sources outside of the public decision-making process, which pertains to a topic under consideration. Whenever possible, new information or data obtained by Commission members, pertinent to a topic being discussed, will be distributed through the city staff to the Commission members. Upon reviewing the “new information” the Commission may adopt a motion to postpone further consideration of the information until all members have had time to review and interpret this new information.
2. **Focused Discussions** – Commission members shall work to keep discussions and debates focused on the item under discussion without introducing extraneous or irrelevant information.
3. **Request for Information-** All Commission members shall receive the same information at the same time when deemed ready for distribution by staff. If a Commission member requests information in advance of others on the Commission, the matter shall be resolved by most of the Commission.
4. **Coordination with City Staff** – City staff should be involved when Commission members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff appropriately informed.
5. **Citizen Questions** – Commission members should refer questions and concerns from citizens to the city clerk or appropriate department director. City staff should report back to the city council on the resolution of the referral.
6. **Confidential Information** – Commission members shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the city. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.
7. **Notice of Attendance** – If any Commission member has knowledge or reason to believe that there will be a large or emotional attendance at an upcoming Commission meeting or work session, they have an obligation to inform the city clerk as soon as they become aware of the potential situation.

E. Implementation

1. **Orientation** – This Code of Conduct shall be included in the regular orientations for new Commission members.
2. **Compliance and Enforcement** – Commission members themselves have the primary responsibility to assure that the code of conduct is understood and followed and that the public can continue to have full confidence in the integrity of the Nowthen city government.

F. Remedies

It is the responsibility of the CCommission members to police its members. When inappropriate behaviors are observed, the chair and Mayor are to meet with the member. Based upon the findings from the meeting, Commissionif inappropriate behavior is

observed, the City Council will discuss the behavior at a City Council work session. By direction of the City Council, it will be determined whether:

1. A letter is sent to the offending CCommission member stating that they have been found operating outside the established code of conduct, requesting them to correct the behavior identified as inappropriate; or
2. The CCommission member is formally sanctioned or removed from the CCommission by resolution at a City Council meeting.

ADOPTED this 9th day of March 2022

Mayor

ATTEST:

Interim City Administrator

APPENDIX 1

City Clerk

From: Robert Ruppe <bob@couriruppe.com>
Sent: Friday, January 28, 2022 1:18 PM
To: City Clerk
Subject: City of Nowthen; SOME QUESTIONS FROM THE PLANNING AND ZONING COMMITTEE

Frank,

Here are my answers to your questions regarding the City Planning Commission:

1. **According to the city code the commission is a seven-member body. A quorum of a seven-member body is four. So, four may conduct a meeting. For a vote to prevail requires three of four. If five show up it is three votes to prevail. If six, then four votes. Do we have those all right. Some issues require a super majority. For seven a super majority is five or six? For four it is three. For five it is four. Are these iterations correct?**

Yes, I believe that your iterations are correct. However, I am not aware of any issues that may come before the Planning Commission that may require a super majority.

2. **The policy provides that the commission may meet in closed session. I know there are situations for city council can, is that also true for Planning Commissions?**

Planning Commission meetings are governed by the same statutes as regular City Council meetings. Under the Minnesota Open Meeting Law, Minn. Stat. § 13D.01, with only a few exceptions, all Planning Commission meetings or gatherings must be open to the public. With regard to the Planning Commission meeting in closed session, the Commission would be able to close a meeting in the same manner and for the same reasons as the City Council.

Meetings that **MUST** be closed pursuant to Minn. Stat. § 13D.05, subd. 2 are meetings that discuss:

- Alleged victims or mandated reporters of criminal sexual conduct, domestic violence, or maltreatment
- Active criminal investigations
- Law Enforcement officer misconduct
- Not public education data
- Not public health/medical/welfare/mental health data
- Preliminary consideration of allegations or charges against employee, but the meeting must be open at employee's request

Meetings that **MAY** be closed pursuant to Minn. Stat. § 13D.05, subd. 3 are meetings that discuss:

- Meetings closed as permitted by the attorney-client privilege
- Labor negotiations
- Employee performance evaluations, but the meeting must be open at employee's request
- Certain property transactions (asking price for property, review of confidential appraisals, develop offers or counteroffers)
- Certain security matters

Given the above lists, the only reason that I believe that the Planning Commission might have a reason to go into closed session is to discuss certain property transactions being contemplated by the City.

3. **Must a planning commissioner or city council member be at least eighteen years old?**

With regard to a Planning Commission member, Minn. Stat. § 462.354 does not specify any minimum age or residency requirements for planning commission members. However, under this statute the planning commission must be created by city ordinance or charter provision. As such, the terms of the City's ordinance establishing the Planning Commission would control. If the City's Ordinance does not require any specific minimum age requirement, then a Planning Commission member may be under 18 years of age.

With regard to City Council members, the Minnesota Constitution and state statutes set the qualifications for elective office. To hold elective city office, individuals must be qualified city voters, at least 21 years of age on the date of taking office, U.S. citizens, and residents of the city for at least 30 days before the election. See Minn. Stat. § 204B.06. An individual who has been convicted of a felony under either state or federal law cannot hold elective office in Minnesota unless the individual's civil rights have been restored. Minn. Stat. § 201.014.

I hope this answers your questions. If not, please call.

Robert T. Ruppe
Couri & Ruppe, P.L.L.P.
P.O. Box 369
705 Central Avenue East
St. Michael, MN 55376
(763) 497-1930 Office
(612) 210-8679 Cell
(763) 497-2599 Fax

From: City Clerk <CityClerk@nowthenmn.net>
Date: Friday, January 28, 2022 at 12:05 PM
To: Bob Ruppe <bob@couriruppe.com>
Subject: SOME QUESTIONS FROM THE PLANNING AND ZONING COMMITTEE

At their January 25,2022 Meeting the planning and zoning commission reviewed their policy.

There were a few questions we could not answer and so we are referring them to you.

1. According to the city code the commission is a seven-member body. A quorum of a seven-member body is four. So, four may conduct a meeting. For a vote to prevail requires three of four. If five show up it is three votes to prevail.. If six, then four votes. Do we have those all right. Some issues require a super majority. For seven a super majority is five or six? For four it is three. For five it is four. Are these iterations correct?
2. The policy provides that the commission may meet in closed session. I know there are situations for city council can, is that also true for Planning Commissions?
3. Must a planning commissioner or city council member be at least eighteen years old?

Hopefully, that is everything.

Thanks!



BASICS OF PLANNING

Bob Ruppe, City Attorney
Liz Stockman, City Planner

1

BUILDING BLOCKS OF CITY PLANNING



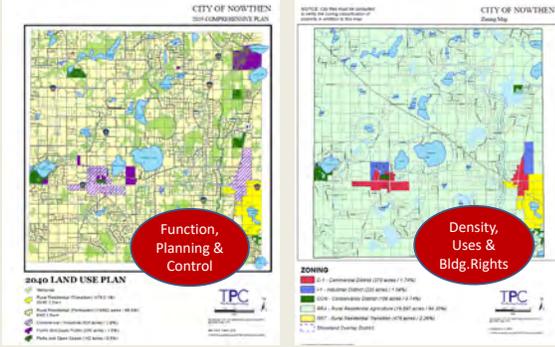
2

COMPREHENSIVE PLAN

- ❖ The Comprehensive Plan is the GUIDE for the City which is updated every 10 years
- ❖ Local communities coordinate their comprehensive plans with the Met Council's regional plans to achieve efficient growth and meet the needs of their residents.
 - Community Perspectives
 - Land Use & Development Policies
 - Natural Resources, Open Space, Parks & Trails
 - Transportation & Infrastructure
 - Community Facilities
 - Economic Development
 - Housing & Neighborhood Component
 - Implementation

3

❖ The City's Zoning Map is based on the 2040 Land Use Plan....can't have one without the other.



4

CITY CODE

- ❖ City Codes are all ordinances adopted by the City Council, including any building codes, fire or life safety codes, development codes and zoning ordinances, as same may be amended from time to time.
- Chapter 1 Administration
 - Chapter 2 Committees/Commissions
 - Chapter 3 Health & Safety
 - Chapter 4 Transportation & Infrastructure
 - Chapter 5 Public Property & Infrastructure
 - Chapter 6 Licenses
 - Chapter 9 Building Regulations
 - Chapter 10 SUBDIVISION
 - Chapter 11 ZONING

5



6



7

DO NOT ADVOCATE!

- When processing a zoning application, you cannot advocate a position until all information has been submitted.
- Do not declare a position on the issue before the item is properly before your commission/council.
- Do not sign petitions or campaign in favor or against an issue that is the subject of a zoning application.
- Courts will invalidate a decision if a member has declared a position before record is complete.

8

THE 60-DAY RULE

- ❖ Minn. Stat. § 15.99 requires written requests relating to zoning, septic systems and/or the expansion of MUSA to be approved or denied within 60 days from the date of application.
 - A failure to deny a request within the time frame is an automatic approval of the request. But only to the extent that the town, city or county has authority to grant such request.
 - The municipality can show that it met the time requirement if it can document that its decision was sent within 60 days after receipt of the written application.
 - *City staff will make sure that the 60-day rule is followed.*

9

THE RECORD

❖ **The Open Meeting Law:**

- All meetings considering request must be open under the Open Meeting Law
 - The Open Meeting Law applies to City Council, Planning Commission and Board of Adjustment meetings.
 - Presence of a quorum of a body discussing public business constitutes a "meeting" under the Open Meeting Law.
 - Informal site visits, where a quorum of the body is present, can result in Open Meeting Law violations. Give notice of such visits.

10

THE RECORD

• **Procedural Due Process:**

- Under state and federal law the right to due process means the right to notice and an opportunity to be heard.
- The right to procedural due process does not normally include the right to cross examine witnesses.
- The right to procedural due process can be analogized to a right to a fundamentally fair process.

11

THE RECORD

• **Conduct of the Public Hearing:**

- Remember that every application considered and denied could become a lawsuit.
- At the hearing allow an applicant to inspect documents, present evidence, and fully present the case.
 - Establish rules of procedure as necessary to maintain control of the hearing, provide for appropriate public input under the circumstances, and keep the length of hearings reasonable.

12

THE RECORD

- **Conduct of the Hearing:**
 - The applicant has the burden to present evidence to show he or she meets the requirements of the ordinance for the permit required.
 - Make a record of the basis for denial or approval.
 - Make all pertinent documents part of record of the proceedings.
 - Listen to public sentiment and opposition, but do not let it drive your decision. Respond appropriately to facts presented.
 - Any exhibits (documents, photographs) presented should be made a part of the record.
 - Do not stretch the terms of your ordinance to justify the granting or denial of a permit.
 - Record the public hearing!

13

THE RECORD

- ❖ **Findings of Fact/the Decision:**
 - Findings of fact are necessary as part of a permit denial or approval.
 - Findings of fact should constitute an exercise of application of the record evidence to the standards set forth in the ordinance.
 - Findings of fact should use the applicable decisional standards.
 - Findings of Fact need to be contemporaneous with the decision and must be based on the record.
 - Findings prepared within a reasonable amount of time from the zoning decision and based on reasons given when motion was approved are OK if a full record exists.

14

THE RECORD

- **Making the Record:**
 - In almost all cases, an adequate record precludes the applicant from introducing new data during an appeal of the municipality's decision.
 - During judicial review, a court will review the "record", and determine whether the decision of the Council was reasonable in light of record evidence.
 - Tape record or video the public hearing so that a permanent verbatim record of the proceedings is available if the issue goes to court.

15

THE RECORD

• **Importance of the Record:**

- The standard of judicial review in all zoning matters is whether the zoning authority’s action was reasonable (is the decision reasonably supported by the evidence in the record?)
- Great deference is given to the decisions of municipalities in zoning matters, such that the role of the judiciary is limited and sparingly invoked. Court will not substitute its judgment for that of the municipality.
- If the record is not good, the Court will likely allow the record to be supplemented with testimony at a trial. This will get ugly—depositions, discovery, GREAT EXPENSE!

16

CONFLICTS OF INTEREST

❖ **Common Law Conflict of Interest**

- Direct Pecuniary Interest Prohibited. Under common law, a public official is disqualified from voting on a matter if the official has a “direct” financial interest in the outcome of the matter.
 - Purpose. The purpose of this rule is to ensure that a decision will not be an arbitrary reflection of an official’s own financial interests.

17

CONFLICTS OF INTEREST

❖ **Common Law Conflict of Interest.**

- Curing a Common Law Conflict.
 - A common law conflict of interest may be cured by abstaining from the vote.
- Validity of Action. An action taken may be valid if the vote of the disqualified official did not affect the outcome of the decision.
- ❖ Even when a conflict of interest does not exist, the “appearance” of a conflict has the potential to tarnish the decision-making process.

18

Variations

19

What is a Variance?

- Official permission to use your property in a way otherwise prohibited by the zoning ordinance.
- Most common with setback issues—not enough room to set the house back from the road, property line or the lake.
- Landowner must apply for and receive a variance from the City after a public hearing.

20

Current Legal Standard

- The variance may be granted if:
 - There are “practical difficulties” in complying with the zoning ordinance.
 - The variance will not alter the essential character of the locality.
 - Circumstances unique to the property not caused by the landowner or his predecessor.
- Also requires that the variance be:
 - In harmony with the general purposes and intent of the zoning ordinance.
 - Consistent with Comprehensive Plan.

21

What are “Practical Difficulties”?

- Defined in statute as the “property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.”
- No guidance as to what is a “reasonable manner.”

22

- Likely means at least one of the following:
 - Proposed use is similar to existing uses in the neighborhood.
 - Proposed use is permitted in other zoning districts elsewhere in the town.
 - Has few, if any, adverse impacts on other properties.
- Courts will have to decide just what this means.

23

Conditions

- City can also put conditions on the variance, but they must be “directly related to” and “roughly proportionate” to the impact created by the variance.



24

Conditional Use Permits "CUP"

25

What is a Conditional Use Permit (CUP)?

- Permitted use, provided applicant meets the qualifications and conditions imposed by ordinance and City Council.
- Allows greater control over uses that may conflict with neighboring properties or generate traffic, noise, or other problems.

26

- Once granted, it runs with the land and can stay forever as long as conditions are not violated—no set termination date.
- Can be revoked after a hearing if conditions are violated.
- Once issued, conditions cannot be modified except with the agreement of the property owner.

27

Processing a CUP Application

- The applicant must meet all general conditions contained in the CUP section of the Town’s zoning ordinance.
- The applicant must meet all specific conditions contained in the zoning district which authorizes the CUP.

28

Imposing Conditions

- City can impose conditions in the CUP permit.
- Conditions must be related to the impacts created by the proposed CUP.
- Cannot require that a legal non-conforming use be terminated—that is a taking requiring compensation.
- City does not need the applicant’s consent to impose a condition.

29

Quasi-Judicial Hearing

- Planning Commission/City Council sits in a quasi-judicial capacity when processing a CUP.
- Must determine whether applicant meets the criteria contained in the ordinance.
- If criteria met, CUP must be issued, but can contain conditions imposed by City.
- Decision must be based on the facts in the record.

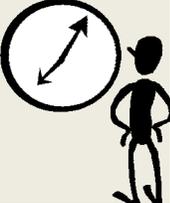
30

Interim Use Permits "IUP"

31

What is an Interim Use Permit (IUP)?

- Very similar to a CUP, except that it is issued for a limited period of time.
- Can end on a date certain or an event. Examples:
 - IUP for a gravel pit may permit extraction of 50,000 cubic yards before it terminates.



32

- Examples (Continued)
 - IUP for a second home on a property to care for elderly parents may terminate when parents no longer live in the second home.
 - IUP for farmers' market expires on November 15, 2020.
- May be renewed upon expiration with the same or new conditions as determined by the City Council.

33

Caution!

- Minnesota Statutes require that the user agree to the conditions imposed on the applicant in granting the IUP.
- The law is unclear as to what happens if the applicant disagrees with conditions imposed by the zoning authority.

34

Why use an IUP?

- Allows for more control over potentially conflicting uses.
- Allows a use now that may not be appropriate at that location in the future.
- Gives the Town a chance to impose additional conditions if conflicts arise.
- Maximizes the productivity of property by allowing temporary uses that would otherwise not be allowed as a CUP.



35

How do you implement an IUP?

- Establish an IUP section in your zoning ordinance, similar to the existing CUP general conditions section.
- Review each zoning district to see what permitted and conditional uses should be changed to IUPs.
- Define the IUP uses within each zoning district and set out any specific conditions.

36

How do you administer an IUP?

- They are treated very similar to CUPs.
- Applicant needs to apply for an IUP.
- Must hold a public hearing after due notice.
- Need findings of fact to approve or deny.
- Decision can be appealed to District Court.
- Final approval should be recorded at County Recorder's office.
- Copies of IUPs should be kept in a separate book so that they can be reviewed to make sure they do not last longer than allowed.



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THANK YOU!

QUESTIONS?

38

COURI & RUPPE, P.L.L.P

Michael C. Couri*
Robert T. Ruppe**

Attorneys at law
705 Central Avenue East
PO Box 369
St. Michael, MN 55376-0369
(763) 497-1930
(763) 497-2599 (FAX)
www.couriruppe.com

**Also Licensed in Illinois*

***Also Licensed in California*

February 8, 2022

VIA CERTIFIED MAIL AND REGULAR MAIL

Brian Weichelt
5270 189th Avenue NW
Nowthen, Minnesota 55303

Re: City of Nowthen; Notice of Violation

Dear Mr. Weichelt:

This office represents the City of Nowthen. As you are aware from previous correspondence with the City, living in a camper or motor home is prohibited under the City Code except in an approved manufactured home park. Specifically, Section 11-4-4 states in relevant part:

1. Restricted Use/Location: Except as referenced in Section 11-4-7, Temporary Habitation, mobile homes are restricted to manufactured home parks which comply with all applicable State, County, and City regulations and ordinances.

Further, the City requires that single family dwelling units in the RRA and RRT Zoning Districts comply with the development standards as outlined in Section 11-4-13 of the City Code. The camper on your property does not meet any of these legal requirements.

It has recently been brought to my attention that you have applied for a Temporary Habitation Permit ("Permit") to allow you to occupy a thirty-two (32) foot camper while the renovations are in process on the existing single-family residence on your property located at 5270 189th Avenue NW, Nowthen, Minnesota, PID No. 36-33-25-21-0002. Such a Permit with conditions is allowed pursuant to Section 11-4-7 of the City Code. City staff is recommending that the City Council approve of the enclosed Permit at its next meeting on March 8, 2022 contingent upon you signing the Permit, abiding by its terms and providing the required \$2,500 cash escrow. Please provide the City with a signed copy of the enclosed Permit and cash escrow by February 22, 2022.

Please note that failure to comply may result in this matter being referred to the Anoka County District Court for criminal prosecution. Any person convicted of such violations shall be

Brian Weichelt
February 8, 2022
Page 2

guilty of a misdemeanor, which is punishable by a maximum of \$1,000.00 and/or 90 days in the Anoka County jail. The City further has the option of enforcing its rights by issuing citations and cash penalties pursuant to Section 5 of the City Code (Administrative Enforcement) and/or bringing an enforcement action against you in Anoka County District Court. Furthermore, any costs incurred by the City as a result of enforcing its City Code under any of these three options, may be assessed against your property and turned over the County Auditor for collection on your property taxes pursuant to Minn. Stat. §§ 415.01 and 366.012. These costs may include service fees, attorney's fees and court costs, if necessary.

Please feel free to contact Liz Stockman, City Planner and Zoning Administrator, if you have any questions regarding this matter. Ms. Stockman can be contacted at (651) 303-3670.

Sincerely,



Robert T. Ruppe
Couri & Ruppe, P.L.L.P.

Enclosure

Cc: Liz Stockman (via email)
City of Nowthen (via email)
Kurt Glaser (via email)

STATE OF MINNESOTA
COUNTY OF ANOKA

CITY OF NOWTHEN
CITY COUNCIL FINDINGS & DECISION APPROVING
Temporary Habitation Permit

WHEREAS, **Brian Weichelt**, hereinafter the "Property Owner", has made application for a building permit to perform major renovations to the single-family residence on his property located at **5270 189th Avenue NW** in the **City of Nowthen**, hereinafter the "Subject Property"; and

WHEREAS, the legal description of the Subject Property is: THAT PRT OF NE1/4 OF NW1/4 OF SEC 36 TWP 33 RGE 25 DESC AS FOL: COM AT NW COR OF SD 1/4 1/4, TH S 1 DEG 02 MIN 27 SEC E ALG W LINE OF SD 1/4 1/4 34 FT, TH N 89 DEG 31 MIN 17 SEC E PRL/W N LINE THEREOF 820.94 FT, TH S 2 DEG 10 MIN 01 SEC E 710.09 FT TO POB, TH N 89 DEG 31 MIN 17 SEC E PRL/W SD N LINE 126.09 FT, TH S 1 DEG 08 MIN 16 SEC E PRL/W E LINE OF SD 1/4 1/4 576.62 FT TO S LINE OF SD 1/4 1/4, TH S 89 DEG 42 MIN 13 SEC W ALG SD S LINE 378.16 FT, TH N 1 DEG 08 MIN 16 SEC W PRL/W SD E LINE 575.42 FT, TH N 89 DEG 31 MIN 17 SEC E PRL/W SD N LINE 252.06 FT TO POB, SUBJ TO EASE OF REC

WHEREAS, the Parcel ID for the 4.99 acre property is **36-33-25-21-0002**; and

WHEREAS, the Subject Property presently contains a shed and access to electricity, a septic system and a well; and

WHEREAS, the Subject Property contains a partially-completed, framed residential structure for which building permits have been paid and the building plans are attached for reference; and

WHEREAS, Property Owner is seeking permission for a Temporary Habitation Permit ("Permit") to allow him to occupy a thirty-two (32) foot camper while the renovations are in process on the existing single-family residence on the Subject Property; and

WHEREAS, the wastewater from the camper is being emptied into the Subject Property's septic tank(s) via the blue plastic container as shown in the attached photos and the septic system shall be pumped as necessary; and

WHEREAS, residing in accessory buildings, mobile homes, recreational vehicles, or partially completed houses is prohibited by the Nowthen City Code except for a temporary period of time and only by City Council action; and

WHEREAS, Nowthen's City Code Section 11-4-7 allows the owner of any unimproved parcel of land to place or cause to be placed, a mobile home for temporary use as a dwelling unit on their property by securing authorization from the City Council via a Temporary Habitation Permit.

BE IT THEREFORE RESOLVED, based on the foregoing information and applicable ordinance, the Nowthen City Council hereby **APPROVES the requested Temporary Habitation Permit** for a period of one hundred eighty (180) days subject to the following conditions:

1. Property Owner shall secure a building permit from the City Building Official for the renovation work on the single-family residence on the Subject Property.
 - a. Prior to issuance of a Certificate of Occupancy for the single-family residence, the Property Owner shall provide documentation by a licensed septic system inspector that the existing system is in compliance with MN Statutes 7080 Parts 1100 to 2550, or
 - b. A building permit and septic system design for a new system shall be submitted for review and approval by the City's Building Official.
2. Property Owner shall post a cash security deposit in the amount of \$2,500 with the City Clerk to guarantee compliance with the terms of this Permit pursuant to terms of Sections 11-4-7 C and E of the Nowthen City Code.
3. Property Owner may place a thirty-two (32) foot camper on the Subject Property for the purpose of temporary habitation and its use is subject to the terms and conditions of this Permit and applicable law.
4. When this Permit is no longer valid, this camper may not be used for habitation and must be removed from the Subject Property at Property Owner's sole expense and all exterior storage shall be in compliance with the Nowthen City Code.
5. During the duration of this Permit, Property Owner shall have the Subject Property's septic system pumped as needed or as ordered by the Building Official, through a company that has the required pumping licensures and certifications.
6. During the duration of this Permit and for a period of sixty (60) days after expiration, cancelation, or invalidation of this Permit or any extension of thereof, the Property Owner hereby grants the City, its agents, employees, officers, and contractors the right to enter onto the Subject Property without notice and without the necessity of obtaining a warrant, to perform any and all inspections and work deemed appropriate by the City under the terms of this Permit set forth below:
 - A. Inspection of the Subject Property and any dwellings, buildings, structures, or vehicles thereon, to insurance compliance with the terms of this Permit and applicable law.
 - B. To remove the Camper and any personal property contained therein from the Subject Property after the expiration, cancellation, or invalidation of this Permit. Property Owner shall bear this cost of removal.
 - C. Property Owner hereby specifically waives any notice requirements contained in Minnesota Statutes.
7. This Permit shall terminate upon the occurrence of one of these events:

- A. On **August 8, 2022** or the issuance of a Certificate of Occupancy for the single-family residence on the Subject Property.
 - B. Upon completion, expiration or cancellation of the building permit for the single-family residence on the Subject Property.
 - C. If Property Owner sells or otherwise conveys or assigns any of their right, title or interest in the Subject Property.
 - D. Non-compliance with the conditions set forth in this Permit and/or as specified in the Nowthen City Code Section 11-4-7 (Temporary Habitation).
8. Upon a finding by the Building Official of substantial progress, the City Council may grant an extension of the Permit, pursuant to the same or amended conditions, for up to an additional ninety (90) days, but in no case shall the Permit be valid after **November 6, 2022**.
9. Should the Camper remain on the Subject Property upon the termination of the Permit, the City in its sole discretion, is authorized to remove the Camper and any personal property contained therein from the Subject Property without compensation to the Property Owner.
10. If requested by the City, Property Owner shall leave the Subject Property while the City or its contractors remove the Camper and shall not interfere with the City's implementation of this Permit.
11. Property Owner shall be responsible for all costs and fees incurred by the City for costs incurred in the drafting, execution, administration or enforcement of this Permit including, but not limited to, removing the Camper and otherwise bringing the Subject Property into compliance with the Nowthen City Code in the sole discretion of the City. If the cash escrow on deposit be insufficient to cover the City's expenses, Property Owner agrees that upon being billed by the City, Property Owner shall pay within thirty (30) days of the mailing of said billing, the invoiced amount. Should Property Owner fail to timely pay the amount invoiced, Property Owner agrees to allow the City without notice or hearing, assess/certify the amounts owed against the Subject Property to be collected in the same manner as ad valorem property taxes upon such terms as City may deem reasonable.
12. Property Owner agrees that the City may special assess any and all unpaid costs incurred by the City in abating the violation referenced above pursuant to any applicable Minnesota law. Should the City assess Property Owner's Property for the abatement costs, Property Owner, it's successor or assigns, agrees not to contest or appeal such assessment and waives all statutory rights of appeal under Minnesota Statutes, including Minnesota Statutes Chapter 429, Minnesota Statutes Chapter 663, Minnesota Statutes § 366.012 or any other applicable statute to the extent of the costs incurred by the City under the terms of this Permit. Any assessment shall bear interest at a rate of six percent (6%) per annum.
13. Property Owner agrees to waive any and all claims whatsoever against the City and its governing City Council, agents, employees, contractors, and representatives as a result of the abatement work performed under this Permit including but not limited to any claims for a taking under either the state or federal constitutions or under Section 1983 of Title 42 of the U.S. Code. Further, the Property Owner shall hold the City, its governing City Council, agents, employees, contractors, and representatives harmless from any and all claims made by Property Owner or third parties for damages sustained or costs incurred as a result of the work performed by the City under the terms of this Permit. The Property Owner shall

indemnify the City and its officers and employees for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including attorney's fees.

14. To the extent allowed by applicable law, Property Owner shall hold the City, its supervisors, officers, agents, contractors, representatives and employees harmless from any and all claims made by Property Owner and third parties for damages sustained or costs incurred as a result of the City's exercising its rights under the terms of this Permit. To the extent allowed by applicable law, Property Owner shall indemnify the City, its supervisors, officers, agents, contractors, representatives and employees for all reasonable costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorney's fees.
15. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to the City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.
16. Once the Camper currently existing on the Property has been removed from the Subject Property either by Property Owner or the City pursuant to the terms of this Permit, it shall not be parked on the Subject Property except in compliance with the Nowthen City Code. Further, Property Owner shall be permanently enjoined from maintaining the Camper on the Subject Property in violation of the City Code.
17. Should Property Owner violate any of the terms of this Permit, the Property Owner shall pay all professional fees incurred by the City as a result of City's efforts to enforce the terms of this Permit against Property Owner. Said fees include attorney's fees and any other professional fees incurred by the City in attempting to enforce the terms of this Permit.

I agree to the above Temporary Habitation Permit terms and conditions this ____ day of _____ 2022.

PROPERTY OWNER

Brian Weichelt

ADOPTED by the City Council of the City of Nowthen this 8th day of March 2022.

CITY OF NOWTHEN

Mayor Jeff Pilon

Attest: _____
Interim City Administrator Frank Boyles

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Jeff Pilon, Mayor, and Frank Boyles, Interim City Administrator, of the City of Nowthen, Anoka County Minnesota, pursuant to the authority granted by its City Council.

NOTARY PUBLIC

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Brian Weichert.

NOTARY PUBLIC

Drafted by:
City of Nowthen
8188 199th Ave NW
Nowthen, MN 55330

CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA

ORDINANCE NO. 2022-02

AN ORDINANCE AMENDING SECTIONS 11-2, 11-5 AND 11-6 OF THE NOWTHEN CITY CODE TO DEFINE MORE DETAILED ARCHITECTURAL STANDARDS AND SITE DESIGN FOR COMMERCIAL AND INDUSTRIAL USES.

The City Council for the City of Nowthen hereby ordains:

SECTION 1. City Code Section 11-2, is hereby amended to add the following:

Definitions:

Integral Color: Integral color is a blended oxide pigment available in dry and liquid form that's combined with concrete in a ready-mix truck and placed on-site for a rich, fade-resistant finished product.

Parapet: A low protective wall along the edge of a roof, bridge, or balcony.

SECTION 2. City Code Section 11-5, is hereby amended to read as follows:

SECTION 5
BUILDING TYPE AND CONSTRUCTION

Section:

- 11-5-1 Purpose
- 11-5-2 General Provisions
- 11-5-3 Exterior Building Finishes

11-5-1: PURPOSE: Buildings in all zoning districts shall maintain a high standard ~~of for exterior architecture to ensure a high quality of development~~architectural and aesthetic compatibility ~~and land use compatibility with surrounding area properties.~~ ~~that~~ All buildings shall contribute positively to community image in regard to design, architectural style, material quality, visual aesthetics, permanence and stability ~~and to prevent use of materials that are unsightly, deteriorate rapidly, contribute to depreciation of area property values, or cause urban blight.~~

11-5-2: GENERAL PROVISIONS:

- A. General Design Concept: Building and/or project designs shall utilize materials, colors, or details to meet the intent of these architectural standards.
- B. Design Elements: Projects may be required to utilize building ornamentation features, including, but not limited to: columns, arches, parapets, cornices, friezes, canopies, moldings, dentils, corbels, quoins, rustication, vaults, domes, and cupolas.
- C. Corporate Identity: The intent and purpose of these architectural standards supersede corporate identity designs; when a corporate identity design does not meet the intent and purpose of the architectural standards, the corporate identity design shall be limited to the area immediately adjacent to the main entry but shall otherwise be consistent with the intent of this Section.
- D. All commercial and industrial uses shall coordinate site and built elements into a unified design including architecture, parking lots, pedestrian/bike access, environment, utilities and signage.

11-5-3: EXTERIOR BUILDING FINISHES:

- A. **Materials.** For the purpose of this subsection, allowed building materials shall be divided into categories as follows:
 - 1. Grade A:
 - a. Brick or custom masonry units (CMU) having a brick-like appearance.
 - b. Natural or artificial stone.
 - c. Glass.
 - 2. Grade B:
 - a. Integral color specialty concrete block such as textured, burnished block or rock faced block.
 - b. Integral color architecturally precast concrete panels having an exposed aggregate, light sandblast, acid etch, form liner, tooled, natural stone veneer, brick face and/or cast stone type finish.
 - c. Masonry stucco.
 - d. Ceramic.

- e. Exterior insulation and finish system (EIFS).
 - f. Opaque panels.
 - g. Ornamental metal.
 - h. Fiber-cement exterior siding.
3. Grade C:
- a. Integral color smooth as cast concrete block.
 - b. Integral color smooth scored concrete block.
 - c. Integral color smooth as cast concrete panels.
 - d. Integral color architecturally precast concrete panels having a smooth as cast finish.
 - e. Glass block.
 - f. Wood, [natural or composite](#), -provided that the surfaces are finished for exterior use or the wood is of proven durability for exterior use, such as cedar, redwood or cypress.
4. Grade D:
- a. Steel, aluminum.
5. Grade E:
- a. Vinyl.
- B. Steel Or Aluminum Buildings: Except in association with farms as defined by this Chapter, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel shall be permitted in any zoning district.
1. Roofs on non-residential buildings (clear coat or painted), provided:
- a. A standing seam design is used with hidden fasteners,
 - b. Special precautions shall be exercised when using Galvalume in certain situations; as noted by the manufacturer, contact with the following products should be avoided:

- i. Contact with concrete, masonry or other highly alkaline products.
 - ii. Contact with copper, lead or moisture-wicking building materials.
 - iii. Animal confinement areas with high-ammonia content.
 - c. The roof pitch does not exceed 3/12 for clear coat, bare-look finishes.
 - d. Roof pitches greater than 3/12 must have a painted finish.
2. Walls on non-residential buildings incorporating steel or aluminum shall be required to have a painted finish. (Ordinance 2019-02, Adopted July 9, 2019)

C. **Exterior Material Colors – Commercial & Industrial Uses:**

1. For the primary or principal color scheme over ninety percent (90%) of any building, commercial and industrial uses shall utilize exterior material colors which are primarily earth tones, neutral or muted colors which shall blend with or complement the surrounding area environment and landscape.

Stark white may not be utilized as the primary color?

2. Up to three (3) accent colors may be used to complement the overall architecture and provide visual variety to commercial/industrial buildings, but shall not include neon colors or reflective materials unless specifically approved by the City Council when associated with a logo or brand.

3. Color accent considerations may include contrasting colors, color enhancement and tonal variations of entries, partial walls, awnings, window/door trim, shutters, porches/balconies, columns, banding, signs, or other design details, but in no case shall such coloring exceed ten percent (10%) of each wall area.

4. Integral Color: For the purpose of this Section, exterior finish materials requiring integral color shall not include natural (concrete) gray.

D. Foundations: Building foundations not exceeding one foot (1') and other such portions of a building's facade below the elevation of the first floor need not comply with the requirements for the primary facade treatment or materials.

E. Exceptions: Garage doors, pedestrian doors, window/door trim, flashing and other accent items and the like ~~trim~~, shall not constitute required materials that make up the exterior finish of a building for the purposes of this section, but shall be considered color accents if not consistent with the structure's primary colors.

F. **-Residential Uses:**

1. The primary exterior building finish for residential uses shall consist of grade A, B, C, D, and/or E materials.

G. **Commercial, Office & Institutional Uses & C-1 Zoning Districts:** The exterior of buildings within commercial districts shall include a variation in building materials and forms to be distributed throughout the facade and coordinated into the design of the structure to create an architecturally balanced appearance and shall comply with the following requirements:

1. The primary exterior building finish shall consist of grade A, B, and/or C materials except that the exterior building finish for any side facing a collector or arterial street shall be composed of at least sixty five percent (65%) grade A materials and not more than thirty five percent (35%) grade B or grade C materials only.
2. All sides of the principal and accessory structures are to have essentially the same or coordinated harmonious exterior finish treatment.

H. **Industrial, Warehouse, Manufacturing & I-1 Zoning -Districts:**

1. The primary exterior building finish shall consist of grade A, B, C, and/or D materials.
2. Steel or aluminum curtain wall panels (nonstructural, non-load bearing) shall be allowed within industrial districts provided that:
 - a. The panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
 - b. The building shall be required to be faced with grade A, B, C or D material on wall surfaces abutting public rights of way, a nonindustrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

I. [-Architectural Standards and the Development Review Process: It is the City's intent to establish guidelines for improving the site and architectural design of commercial/industrial areas throughout the City. These guidelines may be interpreted with some flexibility in their application to specific projects as not all design criteria may be appropriate for each project. In some circumstances, a guideline may be relaxed in order to accomplish another, more important guideline.](#)

The overall objective is to ensure that the intent and spirit of the design guidelines are followed. The ultimate goal of the development review process is to attain the best possible design.

J. Commercial Architectural Standards:

1. Pole style buildings constructed with steel or aluminum siding shall be prohibited.
2. Structures must create a visual interest that is consistent with the community's identity and character.
3. Structures shall contain at least one visually significant entrance visible from the adjacent public street which incorporates peaked roof forms, arches, canopies, parapets, glassed vestibules, tower elements or other vertical features.
4. Commercial buildings which have ground floor facades that face public streets shall contain windows, entry areas, awnings/overhangs, or other architectural elements which are inviting to and at a scale consistent with pedestrian use.
5. Multiple commercial buildings or uses shall be grouped on larger sites and coordinated among separate sites to create a city center feel and stimulate pedestrian activity.
6. Windows should be generously used and have a large significant appearance in the elevation design.
7. Buildings shall have consistent use of the same materials on all elevations.
8. Visual and physical links shall be established between commercial buildings through site planning/amenities, architecture, common exterior spaces, pedestrian connections/walkways and landscaping.
9. A single, large, dominant building mass shall be avoided to the extent feasible. Specifically, horizontal masses shall not exceed a height to width ratio of 1:3 without substantial variation in massing that includes a change in height, projecting or recessed elements, wall articulation (wall plane projections, bays, offsets, or reveals), windows and ornamentation to mitigate their scale.
10. Landscaping and screening shall be utilized to buffer large spanses of wall space without doors or windows in locations adjacent to public street rights-of-way, City-owned land, parks/trails and areas adjacent to residential land uses or those areas guided/zoned for future residential uses.

K. Industrial Architectural Standards:

1. The character, style, materials and scale of buildings should be compatible with adjacent land uses and buildings.
2. A single, large, dominant building mass shall be avoided to the extent feasible. Specifically, horizontal masses shall not exceed a height to width ratio of 1:5 without substantial variation in massing that includes a change in height and projecting or recessed elements.
3. Façades must be designed to reduce the mass/scale and uniform monolithic appearance of large unadorned walls. Façades must provide through the use of detail and scale, an architectural rhythm through changes in roof lines, texture or trim.
4. The relationship between the office and warehouse/manufacturing portions of a building shall be unified; the office portion shall not be the only portion to contain Grade A and B materials.
5. Building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.
6. Large spans of wall space may not face public streets and shall incorporate design features to provide some architectural interest.
7. Building roofs should be designed to reduce the overall mass of a structure and harmonize with surrounding development. Parapet walls and roof systems shall be designed to conceal all roof-mounted mechanical equipment from view to adjacent properties and public rights-of-way. The use of varied roof lines is encouraged. Permitted roof styles include gable, hipped, shed or gambrel roofs. Flat roofs are permitted if sufficiently disguised through the use of parapet walls.



L. Other Requirements:

1. Back of Parapets: The back of parapets that are visible shall be finished with materials and colors compatible with the front of the parapet.
2. Exposed Roof Materials: Exposed roof materials shall be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.
3. Screening of Building Equipment and Utilities. ~~Contrasting Colors: Use of contrasting colors for building elements such as cloth or metal awnings, trim, banding, walls, entries or any portion of the overall building shall be minimized, but in no case shall such coloring exceed ten percent (10%) of each wall area.~~
 - i. All building equipment and utilities, including but not limited to HVAC systems, gas services, electric services, and phone/internet services shall be screened from view of street rights-of-way and all adjacent properties whether ground-mounted or roof-top mounted.
 - ii. Electronic surveillance equipment and alarm hardware shall be as invisible and unobtrusive as possible.
 - iii. Required screening of refuse and recycling containers, parking and loading areas shall be regulated by Section 11-4-17.

JM. Expansions:

1. Remodeling or maintenance of existing buildings that do not increase the floor area of the existing structure shall be regulated by Section 11-4-1 (non-conforming uses/structures) of this Chapter.
2. Additions of less than fifty percent (50%) of the floor area of the existing building may use the same or higher-grade materials as the existing structure.
3. Not more than one (1) exterior wall designed for removal to allow future building expansion may be allowed to use Ggrade D materials notwithstanding other applicable provisions of this section provided that the wall does not face a public street.

KN. Exceptions: Exceptions to the provisions of this Section may be granted as a conditional use subject to the following criteria:

1. The use is an essential service as defined by this Chapter; or

2. The applicant shall have the burden of demonstrating that:
 - a. The proposed building maintains the quality in design and materials intended by this Chapter.
 - b. The proposed building design and materials are compatible and in harmony with other structures within the district.
 - c. The justification for deviation from the requirements of this Section shall not be based on economic considerations.

SECTION 3. City Code Section 11-6-2, Parking, is hereby amended as follows:

E. Lot Design:

1. Commercial properties shall have a minimum of fifty (50) percent of all required parking spaces located in side or rear yards except when street access or a difficult site configuration necessitates a front yard location.
- ~~4.2.~~ Reciprocal access between adjacent commercial/industrial projects shall be required where properties front on limited access roadways and where local street access or frontage roads do not exist/cannot be established in accordance with the City's Comprehensive Plan.
- ~~2.3.~~ Except in the case of single-family dwellings, parking areas and their aisles shall be developed in compliance with the standards on the following parking lot dimension table.

SECTION 4. This Ordinance shall be effective immediately upon its passage and publication.

Passed and adopted this ____th day of _____ 202~~1~~2 by the City Council of the City of Nowthen.

Jeff Pilon, Mayor

ATTEST:

City Clerk