

City of Nowthen  
Planning & Zoning Commission Meeting  
February 23, 2021  
7:00 PM

Present: Dale Ames, Chairman  
Kelly Pearo  
Jeff Pilon, Council Liaison  
Harold Jorgensen, Vice Chairman  
Robert Schiller

Also Present: City Planner, Liz Stockman  
City Clerk, Lori Streich

**Meeting called to order by Chairman Ames at 7:00 PM.** Roll Call was taken and meeting policy was summarized for those present.

**Motion by Pearo; 2<sup>nd</sup> by Schiller to approve tonight's meeting agenda of February 23, 2021. All in favor. Motion Carried.**

**Motion by Ames; 2<sup>nd</sup> by Jorgensen to approve the Planning & Zoning Meeting Minutes of January 26, 2021. All in favor. Motion Carried.**

**PUBLIC HEARING – Cote Lot Reconfiguration and Flag Lot Conditional Use Permit** A REQUEST by Jim and Kristin Cote for property owned on 201<sup>st</sup> Avenue (PIDs 20-33-25-32-0002 and 20-33-25-33-0001), to reconfigure the 58.47 acre parcel to split off a 10-acre flag lot (Parcel A) and keep the remaining 48.47 acres as Parcel B. A CONDITIONAL USE PERMIT is required to allow access via a flag lot (33-foot strip of land) to Parcel A, under city Code Section 10-3-4.G.

Planner Stockman presented her Report. The Cote site is located just west of the City's Industrial Park, on 201<sup>st</sup> Ave, and has significant wetlands, mostly ditches, on the site. She pointed out the location of the lot lines, ditches, wetlands, and showed the proposed lot splits and flag lot access. The county is asking the broken culvert be replaced with a 36" culvert. The current request is consistent with the 2040 Comprehensive Plan for that area.

The primary consideration is the Conditional Use Permit for the Flag lot, requested because it does not have the required 150 feet of frontage on 201<sup>st</sup> Ave. It is a flag lot with a dead-end, owned strip. If it is a dead-end situation, the 33 ft width is acceptable. Planner recommendation is that this flag lot makes sense because if there is to be commercial to the south and east, we don't want streets connecting between commercial and residential areas. This dead-end is appropriate for this situation. If the Commission deems the request for the Flag Lot appropriate and access is attainable, then it would discuss timing for the other concerns. Stockman said that the access does not need to be built immediately, but the wetland delineation is good for five years, so they should complete it within that time frame. Anoka County has recommended that Easements be established over the ditch areas. The County doesn't have land use authority, that decision is left to the City Council. Comments from the City Engineer and the Technical Review Board agree that a 50-ft easement seems appropriate in this situation.

Applicant's main question was on timing – if the culvert that needs to be replaced can be done when the driveway is completed.

**Clerk verified mailings and postings were completed.**

**PZ Discussion:**

Stockman clarified for Ames that there was not an easement beside the Thompson property for a driveway. It was land owned by the Cotes, but a 33 ft. strip would be split off as part of the flag lot. Whomever buys the corner lot is going to own the access out to 201<sup>st</sup> Ave. as a requirement of our flag lot ordinance. The easements Stockman was referring to that the County was recommending would be new easements placed over the ditches. Pearo asked what the purpose was for the ditch easements, and Stockman explained that the County requested them for maintenance reasons, equipment access, and placement of materials removed from ditches. City Engineer and County are both recommending this.

Schiller and Pearo questioned why the County is requiring the applicant to replace the broken culvert on a county ditch and also requesting the easement. Previous owners did not size his culverts appropriately, so that is part of the problem. Jorgensen said the problem is that there is manganese in the ditches that quickly eats away the bottom of the culverts, and state law says that culverts are to be cleaned out every 20 years or the easement goes away. More discussion about the culverts, and applicants will comply with County wishes.

**PUBLIC COMMENTS:**

**Steve Ponto, 8769 201<sup>st</sup> Ave NW.**

Ponto asked if the zoning was limited to just one house on the 10 acre piece and one house on the 40 acre piece. Stockman responded that the land can be developed further in the future, but the applicant is not choosing to develop further at this time.

**Dennis Morphew, 20050 Tiger St NW**

Morphew property abuts up to Cote's property. The proposed driveway for Parcel B will create a problem for the water that drains from his field, flowing east. He asked to make note of this fact. Stockman said that the landowner would have to submit a grading plan for approval before construction can take place, and if a culvert is required by the City, it would probably just be a regular size. Vicki Morphew said that the whole neighborhood drains down through their yard and out into that field. If a new driveway doesn't continue to allow that to flow, the Morphew land will flood, as they have had serious drainage issues in the past. Morphew also wanted to make a note of the fact that in the current farm access driveway, there is a corner marker showing that he owns part of the land. Stockman said she would make note of it and investigate when a building permit comes through for that lot/driveway.

Additional comments submitted by email for the record:

**Dennis & Vicki Morphew, 20050 Tiger St NW**

Dennis and I attended the February 23 public hearing regarding the Cote Lot reconfiguration and flag lot conditional use permit. The focus of the meeting was on the flag lot (Parcel A) with minimal conversation regarding Parcel B. At the meeting we expressed our concern with the drainage from our property (20050 Tiger St NW) to Parcel B. When asked if we would be notified when the driveway to Parcel B is installed to make sure drainage from our property is considered, I believe we were told no and in return we asked that our concerns be documented and be seriously taken into consideration. Thank you and I look forward to hearing from you prior to the March 9<sup>th</sup> City Council meeting.  
Vicki Morphew

## **Public Hearing Closed**

### **PZ Decision:**

Stockman said Condition 1 regarding screening could be removed since these properties are quite a distance from each other. Commission agreed. Discussion about Condition 5, concerning ditch easements recommended. Stockman said that ditch easements would be mandatory if it were a plat subdivision, but this is a minor subdivision, and our ordinance is not clear on what can and cannot be waived. If the 40 acres would be developed in the future, an easement could be put in place at that time. The ditch culvert under discussion is critical to the drainage for the commercial park, so the City would want to keep it open. The culvert is crushed on one end, contributing to flooding in the commercial park currently. The easement would be in place for perpetual maintenance by the city or the county. Ames suggested following Stockman's recommendations to state the easement as 20 feet on either side, to meet the buffer recommendations also.

Stockman recommends waiving Park & Trail dedication requirements (not increasing number of lots) and paving/curbing requirements. City Engineer recommends moving the primary and secondary septic sites on Parcel A further from the property line, knowing that there could be a future street there.

**Ames made the motion to approve the Cote Lot Reconfiguration and Flag Lot Conditional Use Permit, eliminating CUP Condition 1 and changing CUP Condition 5 to be 20 feet on either side of the wetland, and waive the Lot Split/Reconfiguration Park & Trail dedication and paving/curbing requirements. Schiller 2<sup>nd</sup>. All in favor.**

**PUBLIC HEARING: Leistico Preliminary/Final Plat and Conditional Use Permit for Deferral of Street Paving Requirements** - A PRELIMINARY and FINAL PLAT by the Leistico Estate (PID 09-33-25-34-0002, 09-33-25-34-0003, and 09-33-25-33-0008) at 21413 Nowthen Blvd to subdivide three (3) existing lots into four (4) buildable parcels and two (2) outlots for the purpose of distributing land among family members and separate the farmstead from the balance of land. A CONDITIONAL USE PERMIT is required to allow deferral of street paving requirements under City Code Section 10-3-3.C.

Planner Stockman presented her Report. The Leistico family estate is splitting up. The existing home along the road belonged to the parents, and there was some mining done years ago that created some ponding. Dennis Leistico and Gene Leistico both own homes adjacent to or within the plat. Dennis will acquire Outlot A, and Gene will acquire Lot 1, Block 3. The farmstead on Lot 1, Block 1 will be sold and Lot 2, Block 1 is a new lot being created for Dennis' son. Lot 1, Block 2 and Outlot B will be owned by Gene Leistico and will allow for his children to potentially build within the plat at a later date. The Plat positively eliminates an existing flag lot through the reconfiguration of land within the plat.

The Deferral Request would allow them to defer paving of streets until further development, in accordance with the City's new Ordinance allowing this. There are several building being removed. This is fairly straightforward. Final Plat follows the same lot lines as the Preliminary Plat. Recommendation is to approve the Preliminary and Final Plat, with the deferral of street paving requirements.

Applicant, Gary Leistico (Trustee) commended Planner Stockman for her presentation. Family members present: Brother Dennis, Brother Gene, and Nephew Corey. The gist of this is to allow both of his brothers to build houses for their families without having to build up the road to final road

specifications. No intentions beyond this, but if there is any future development, the land owners will come back to the City Council for approval. This primarily meets his parents wishes, as they asked that his two brothers get the property they want on their side of the road, allowing their children to build homes.

**Clerk verified that mailings and postings were completed.**

**PZ Discussion:**

Ames was pleased to see the family involved and getting what they want from the family land. No other discussion.

**Public Comments – None**

**PZ Decision:**

The only condition needing a decision was Condition 12 regarding accessory buildings. In order to meet City Code requirements without going through a variance process, one of the structures will need to be removed. TPC recommends removing the 1220 sq ft. shed. Gary Leistico said they are aware of that situation and are not intending to pursue a variance at this time. However, they would request the language to remain as it is, allowing them flexibility in the future if they choose other options.

Gary Leistico wanted to state for the record that as an attorney, he works with a lot of different people. City Planner, Liz Stockman, is Good Government, and he appreciates all her efforts on their behalf.

**Pearo made the motion to adopt the Findings of Fact and Recommendations as written; 2<sup>nd</sup> by Jorgensen. All in favor. Motion Carried.**

**8:00 PM – PUBLIC HEARING, Carr’s Tree Service –** A REQUEST by Carr’s Tree Service for property owned at 19477 St. Francis Boulevard (PID 25-33-25-24-0011) for development of a portion of the 5.39 acre site. The property is zoned C-1, Commercial, which permits landscaping and service-oriented businesses and involves the following applications:

- a. An INTERIM USE PERMIT to allow outdoor storage of work vehicles, materials and equipment (City Cod Section 11-3-8.D) associated with this tree trimming company, including piles of logs, brush and wood chips.
- b. An INTERIM USE PERMIT to allow areas where heavy equipment is utilized to be surfaced with gravel in accordance with Section 11-6-2.K.2.c.
- c. A VARIANCE from City Code Section 11-6-2.K requiring hard surfacing for driveways and parking areas for all commercial/industrial uses.
- d. A VARIANCE from City Code Section 11-3-8.D.4 to allow the outdoor storage area to be surfaced with gravel.

Planner Stockman presented her Report. Current landowner Trustee, Mary McCallum, was present at the meeting. The site is tucked into the south end of our commercial district on Hwy 47. The Pipeline cuts through the property and there are 4 wetlands and lots of trees, making some challenges to the property. The property to the south of this is also commercial, but the current ordinance requires a buffer from existing residences or uses also. Stockman was recommending the driveway coming in was

paved, but the back area could be gravel. No building is being proposed. The site would be gated, and would be only for employees and not residents or others. This site is zoned C-1 Commercial, and if a standard commercial development were being proposed on this site up to 70% of the site would be allowed to be impervious surfaces. She considers this application as an Interim Use – not the highest and best use of the site.

**PZ DISCUSSION** about the 100 ft. bufferyard variance. Pearo pointed out that this lot is only 300 ft wide, and to require a 100 ft. buffer would create a problem for the large vehicles, parking, turning around, especially with the lowland. Stockman agreed that the 100 ft buffer is excessive on this site. The applicant is trying to keep his gravel area to 1 acre or less, so that he doesn't need to provide stormwater ponding. Applicant should make application for a bufferyard variance

Applicant will provide a grading plan for approval. The parking lot could be reconfigured in his revised site plan, showing turning radius for the trucks graphically and avoidance of the 100 ft buffer on the south side. Applicant should bring the plan to the City Council for approval at a new Public Hearing.

Ames was concerned about diseased trees coming into the county. Discussion about size of piles, and length of time piles remain on site.

Recommended requiring paving driveway, equal distance on both sides of the gate, with gate placement as shown on plan, to a distance of approx. 130 ft from property line.

Replace Condition #11 with a minimum width of 16 ft for the driveway as shown on the plans.

Any logs, brush, vehicles, machinery or equipment is to be removed upon vacation of the site.

**PUBLIC COMMENTS** – Marie McCallum thinks it is a good use of the site.

#### **PUBLIC HEARING CLOSED**

#### **PZ DECISION:**

Recommended Changes:

- Minimum 16' driveway width as shown on the plan
- Make application for a buffer yard variance
- New Public Hearing at the City Council Meeting
- Maximum of 1 acre gravel area, or must meet stormwater ponding requirements
- Gate as shown on the plan, with pavement 130' from property line
- Provide a revised site plan showing avoidance to the extent possible of the 100' bufferyard on the south side and show the turning radius and approximate pile locations
- Logs, brush, woodchips, any vehicles, machinery or equipment is removed upon vacation from the site

**Pearo made a motion to approve all the above recommended changes with the Findings and Recommendations as they are written, provided those changes are added, and it should be brought to the City Council at a new Public Hearing for final approval. Schiller 2<sup>nd</sup>. All in favor. Motion Carried.**

**PUBLIC HEARING, Phase two and Three Brand Name Storage** – A CONDITIONAL USE PERMIT & SITE PLAN by Josh Peterson for property owned at 8335/8359 Viking Boulevard to allow multiple buildings on a single parcel, and for a MINOR SUBDIVISION (lot line reconfiguration) to allow Phases Two and Three of the Name Brand Storage Facility (PIDs# 20-33-25-43-0012, 20-33-25-43-0013) to be developed on existing industrial land. A VARIANCE is required to allow a six (6) foot side yard setback to the house on Parcel B to allow for Phase 2 Construction. Pending construction of Phase 3, the farm house and all outbuildings will be removed.

**\*Part of this was continued from the January meeting. Revised plans were not submitted in time for review prior to the February meeting.**

#### **PUBLIC HEARING OPENED**

**Motion by Jorgensen to continue this meeting to the March meeting; 2<sup>nd</sup> by Schiller.**

Pilon asked if this application was on the 60 day clock or was just an incomplete application. Stockman will verify.

Jorgensen asked how many storage unit facilities Nowthen was going to allow. He doesn't think we should let it go until we have a whole city center full of rental units. Most cities have a limit on how many can be built within their cities. Stockman disagreed because when a property is zoned Industrial, a city cannot designate what it wants there if it is in the Ordinance as a permitted or conditional use. The City cannot turn him away if he meets the requirements. Jorgensen disagreed, as Coon Rapids has a moratorium on storage units. It's all in the legal notices. Discussion about storage facility demand/clientele, tax revenue generated, "bedroom community" difficulties with generating tax revenue to maintain services. **Jorgensen made a motion to have City Council have staff investigate storage units moratoriums; 2<sup>nd</sup> by Ames. Jorgensen, Ames, Schiller voted Aye; Pearo voted Nay. Motion passed 3-1.**

#### **Planning & Zoning Commission Policy**

Chairman Ames pointed out the Policy and wanted to make sure that all members have read over and understand the Planning Commission Policy. He has read it many times, and picks up things every time he looks at it. Ames asked that the clerk take a roll call vote to verify that each member has read over and are familiar with the Policy. Pilon clarified that for tonight's purposes, the Commission is to review and approve the changes that City Council is proposing.

Commission reviewed the new policy, and Council Liaison Pilon pointed out the proposed Council changes.

Clarification of Section 7 change regarding maintaining quorum: wording changed to state that the meeting and discussion of items may continue if a quorum is lost, but no voting on a decision can take place until the quorum is regained.

Clarification of Section 10 Clarification of Section 10 - Order of Business and Regular Proceedings: During a public hearing, if someone wishes to speak, they will be allowed to speak. If a resident has a concern to bring to the attention of the Council, it would be taken to the Council, and the Council would

then assign it back to the Commission if they choose. Open Floor Items would be limited to the Council meetings and not part of the Commission agenda.

Clarification of Section 11.E – Change from six (6) calendar days to six (6) business days, thus allowing more time for the members to have the information to review before the meeting. The final version did not state “business days,” but had the language as “calendar days.” Stockman said that changing to business days makes it challenging and placed a hardship on staff getting the information from applicants and getting the packet out earlier.

Clarification of Section 15 – 1) Members serve three (3) year terms, with one-third (1/3) being appointed each January; and members must be residents of the City throughout their term. Ames pointed out that this was the policy when the Commission had nine (9) members. Concern about Commission members being “dumped” after their three-year term is up. Pilon said that members are not being dumped, but that the intention is to provide overlapping terms for members. Recommended changing wording to say: “Members shall serve three (3) year staggering terms...” No term limits specified.

2) Recommend changing language to “Members shall be residents of the City throughout their appointed term.”

Ames pointed out that the Council voted in December, 2020, to change the Commission from a seven (7) member body to a five (5) member body. In January, 2021, the Council voted to go back to what it was previously, a seven (7) member body. The language stating that the Chairman and Vice-Chairman would be voted on by the Commission and not just by the City Council has been removed.

Clarification of Section 16-10.C – Removed “secretarial duties” and added “Administrative duties.” Item 16-10.C.8 – City Staff will confirm member attendance, and verify ahead of time that quorum will be met.

Clarification of Section 20 – Change from Code of Conduct to Compensation. Compensation was never part of this policy, so the change was made to include that in this policy.

Nothing changed in the Code of Conduct, Section 21, except that when this is approved, each Commission member will sign off that he/she has read and agrees with the Code of Conduct.

Schiller recommended that there be something added that when a Commission seat is vacated for some reason, City Staff be immediately allowed to advertise for applications. Pilon said that is being discussed in Council meetings as part of the application and hiring process. Another option is to have trained alternates that are available to step in when a seat is vacated. Discussion about notifying residents of Commission openings, interviewing applicants, selection and training of Commission members.

Ames recommended that the League of MN Planning Commission training be available to all members. Pilon said the Council is discussing providing training for all current and new members. It is important to be sure that decisions are based on the Comprehensive Plan and City Ordinances to avoid lawsuits against the City.

Ames reiterated the commendation for Planner Stockman by Gary Leistico. Planner Stockman has done a phenomenal job for the City of Nowthen and the Commission. Without her, the Commission would really be hurting, because we need her expertise.

**UPCOMING PROJECTS:**

Volunteers of America - Pilon had a meeting Feb 23, 2021 with VOA, the sheriff, and Commissioner Blake; a video of the recent riots that is redacted is available and he has requested it. Stockman has seen the video (from body and dash cams) and said it wasn't that helpful, in her opinion. DHS (Heather & Paula), said they won't have anything public until mid to late March. The CUP is on hold until possibly April. No productive meetings taking place at this time. Stockman asked what could possibly take four (4) months. Pilon requested of DHS that Stockman's packet of information be included in DHS meetings, and they requested the packet. Stockman got the information that she included in her packet from DHS. VOA has a new attorney (same company) that appears to be more attentive to the city's concerns.


CST is a company that sells all the stuff available outside of a gas station (wiper fluid, salt, etc.) They are working through an application for Marie McCallum's industrial land north of the crematorium.

Dryden Minor lot split – building a new house.

**Motion to adjourn by Pearo; 2<sup>nd</sup> by Schiller. Meeting adjourned at 9:45 PM.**

Respectfully submitted,

  
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Lori Streich, City Clerk/Treasurer

  
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Dale Ames, Chairman