

WAYZATA PLANNING COMMISSION

Meeting Agenda

Wayzata City Hall Community Room, 600 Rice Street

Monday, September 19, 2022

6:30 PM

HYBRID MEETING INFORMATION

[Click here to join Zoom Meeting](#)

[Meeting ID: 868 9484 7702 Passcode: 878651](#)

Members of the public may attend this Planning Commission meeting in person, provided they follow all City policies and protocols related to the pandemic.



Members of the public may watch and listen remotely by viewing the meeting on Channel 8, WCTV, and at the City's website at www.wayzata.org/WCTV.

Public comment during the Public Forum and/or Public Hearing portions of the meeting may be provided in person at the meeting, in advance, or by logging into the zoom call and raising your hand during the public hearing. **When your name is called in the meeting, you will be seen and heard in our Council Chambers and the cable channel.**

You will be asked to unmute and then you may begin your comment. All public comments must include your full name and address.

The City encourages comments or questions about items on the agenda and, when possible, requests that you submit them in advance by emailing PublicComment@wayzata.org, calling City staff at 952-404-5323, or mailing Wayzata City Hall at 600 Rice St E, Wayzata, MN 55391 (Attn: Public Comment).

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Consent Agenda**
 - a. Approval of Meeting Minutes of August 15, 2022
 - b. Approval of Planning Commission Report and Recommendation of Denial for Rear Yard Setback, Lot Coverage, and Impervious Surface Variances at 341 Ramsey Road
5. **Old Business Items**
 - a. Consider Approval of Zoning Text Amendments to Chapter 936 - Tree Preservation Ordinance
6. **Public Hearing Items**
 - a. Consider Approval of Zoning Ordinance Amendments for Chapters 902, 920, 937, 974, 975, and 975.5 to Address Mixed Use Buildings
7. **Other Items**
 - a. Review of Development Activities
 - b. Planning Commission Meeting Schedule
8. **Adjournment**

Upcoming Meetings:

City Council - September 26, 2022
Planning Commission - October 3, 2022

Members of the Planning Commission and some staff members may gather at the Wayzata Bar and Grill immediately after the meeting for a purely social event. All members of the public are welcome.



City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 4.a
TITLE: Approval of Meeting Minutes of August 15, 2022	
PREPARED BY: Valerie Quarles, Assistant Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

See attached Meeting Minutes of August 15, 2022.

ACTION REQUESTED:

Staff recommends approval of the attached regular meeting minutes of August 15, 2022.

ATTACHMENTS:

1. Meeting Minutes of August 15, 2022

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
AUGUST 15, 2022**

AGENDA ITEM 1. Call to Order

Chair Parkhill called the meeting to order at 6:30 p.m.

Chair Parkhill read a prepared statement related to meeting protocols and public participation.

AGENDA ITEM 2. Roll Call

Chair Parkhill asked Parks Planner Nick Kieser to take roll call.

Present at roll call were Commissioners: Douglas, Merriam, Parkhill, Stockton, Sorensen, Schwalbe, and Severson. Parks Planner Nick Kieser, Assistant Planner Valerie Quarles, and City Attorney David Schelzel were also present.

AGENDA ITEM 3. Approval of Agenda

Chair Parkhill asked for a motion to approve the agenda for the meeting.

Commissioner Merriam made a motion, seconded by Commissioner Douglas to approve the August 15, 2022 agenda as presented. The motion carried unanimously.

AGENDA ITEM 4. Consent Agenda

- a.) Approval of the August 1, 2022 Planning Commission Meeting Minutes
- b.) Approval of Planning Commission Report and Recommendation of Approval for Subdivision at 344 Ferndale Road North

Chair Parkhill read the items on the consent agenda and asked if any Commissioner wished to pull an item for further discussion.

Chair Parkhill asked for a motion to approve the Consent Agenda as presented.

Commissioner Merriam made a motion, seconded by Commissioner Severson to approve the Consent Agenda as presented. The motion carried unanimously.

AGENDA ITEM 5. Public Hearing Items

- a) Consider Development Application for Lot Coverage, Impervious Surface, Rear Yard Setback Variance at 341 Ramsey Road

1 Assistant Planner, Valerie Quarles, explained that this item is to discuss various variances needed
2 for an attached garage and porch addition at 341 Ramsey Road. She noted that the owners of the
3 property were Trisha and Robert Blake but were being represented this evening by T.J. Majdecki
4 of Murphy and Company Design. She reviewed the project location, the surrounding
5 neighborhood zoning and land use, the existing conditions, previous approvals from 2017, and
6 their previous application in April of 2022 when they had proposed a similar attached garage
7 expansion that would require four variances for side and rear setbacks, lot coverage, and
8 impervious surface. She noted that all of those metrics were a bit larger than what is being
9 presented today. She explained that the Planning Commission had unanimously recommended
10 denial of the previous application because they felt the side yard setback variance was
11 unreasonably large and felt it would negatively impact the neighbor to the west. She gave an
12 overview of the current application to expand the current garage from 2 stalls up to 4 stalls and re-
13 orient it to enter from the south, and noted that the applicant would like to add a porch on the east
14 side of the home and reconfigure the existing motor court access. She noted that the south side of
15 the parcel is considered the front yard because it is on Ramsey Road and the rear would be to the
16 north. She gave a brief overview of the site plans and reviewed details of the variance requests,
17 and the input received from the engineering and fire departments. She stated that one public
18 comment was received prior to the packet publication from a neighbor in support of the project,
19 and four comments have been received since then that were generally negative and focused on the
20 impact to the neighborhood. She reminded the Commission of the primary questions to be
21 considered when looking at this application.

22
23 Chair Parkhill asked if the Commission had any questions for Staff.

24
25 Commissioner Schwalbe asked about the patio and if it was being built on the existing porch space.

26
27 Planner Quarles stated that question will have to be asked of the applicant.

28
29 Commissioner Merriam asked if both properties were owned by the same person when the
30 subdivision was requested in 2017.

31
32 Planner Quarles stated that she was unsure but can try to find that information.

33
34 Commissioner Merriam asked if she knew what the lot coverage would have been at that time.

35
36 Planner Quarles stated that one of the interesting things about the 2017 approvals was a survey
37 and plat on record that shows the increase in lot coverage and impervious surface percentages, but
38 there were not specific requests associated with those and they did not specifically seek a variance
39 for those items. She stated that she could only find information on the lot size variance.

40
41 Commissioner Schwalbe asked if there were two homes on the original large lot and then they
42 split.

43
44 Planner Quarles referenced renderings on the screen that outlined the location of the original and
45 new lot line. She explained that it was not a single lot with both houses on it, but rather a shift in

1 the existing lot line. She stated that it has always been two lots, but they changed size in 2017,
2 and noted that there was always an undersized lot in play.

3
4 Commissioner Schwalbe asked if most of the issue in this situation had to do with the orientation
5 of the house to the road.

6
7 Planner Quarles stated that is part of the issue and noted that if the garage had been situated on the
8 south side of the house then a rear yard variance would not be needed, but there would likely still
9 be issues with the lot coverage and impervious surface requirements.

10
11 Commissioner Schwalbe stated that it looks like the back of the house where the patio would be is
12 the rear of the lot, if you don't take into consideration the road.

13
14 Planner Quarles agreed that is how it would be perceived, but the way the front, rear, and sides of
15 the lot are defined has to do with where the public roadway is located, which means the front of
16 the lot is actually the south side because that is the side that is just off of the road.

17
18 Commissioner Merriam stated that she thought there was language in the Code that talked about
19 when a property is non-conforming that it was not supposed to become more non-conforming and
20 asked if that language was still in the code.

21
22 Planner Quarles stated that the way it is set up is that if there is a non-conforming home, you can
23 maintain it and there are also some limited things that you can do without needing to go before the
24 Planning Commission or City Council. She noted that expanding the non-conformity is not
25 prohibited, but would require a variance, which is what is happening today.

26
27 Commissioner Severson noted that she liked how staff broke out the lot coverage and the
28 impervious surface with the code, the current situation, and the proposed application changes. She
29 asked if they could also do that for the setbacks. She noted that to address one of the questions
30 raised by Commissioner Schwalbe there is a note that indicates that they are turning a bowed
31 window into a porch.

32
33 Commissioner Douglas noted that the setback comparison information she was asking for could
34 be found on page 23 of the packet.

35
36 Commissioner Severson asked what the current setback for the garage would be and asked about
37 the planned changes to the driveway.

38
39 Planner Quarles stated that the current setback is at 14.3 feet and noted the driveway is exactly
40 what the applicant had asked for in April, but it jogs in a bit further because of the garage
41 placement. She stated that the plans are still to vacate the side portion that they currently pull into.

42
43 Chair Parkhill invited the applicant to address the Commission.

44
45 T.J. Majdecki, Murphy and Company Design, 811 Glenwood Avenue, Minneapolis, stated that
46 when they were here in April, they heard that reducing the side yard setback was one of the cruxes

1 of what they were asking for. He stated that they went back and redesigned the project in an effort
2 to get the side yard setback to a point where it could conform. He stated that the rear yard setback
3 is really just a continuation of where the existing house already sits and they are asking to basically
4 maintain it. He noted that one of the concerns from the neighbor to the west was the massing of
5 the garage and explained that they are not taking the second story addition all the way over the
6 totality of the four-car garage in order to keep the massing a bit lower. He stated that the requests
7 for variances for hard cover and lot coverage are basically set forth by the undersized nature of the
8 lot because the sale in 2017 created the non-conforming issue and they are just trying to work with
9 that as best as they can. He stated that everything said by the Commission back in April went
10 towards how they approached this redesign effort.

11
12 Chair Parkhill asked how much higher the roof line will be over the original garage than it is right
13 now and what the new roof line height would be that gets closer to the neighbor to the west.

14
15 Mr. Majdecki stated that the new roof line on the portion that does not have a second story addition
16 matches the existing ridgeline, but right now the house has a parapet wall at the end of the gable.
17 He stated that on the other portion where they are taking the second story space, they pulled the
18 ridgeline down as far as they could and it is only about 3 feet above the existing ridgeline. He
19 noted that the height is still well under what is allowed in the code.

20
21 Chair Parkhill asked if there would be a way to prove that the neighbor to the west cannot see the
22 ridgeline.

23
24 Mr. Majdecki noted that the neighbor would be seeing the garage as it exists right now. He stated
25 that it is moving closer to their house but it is not blocking any of their view. He noted that the
26 main house ridgeline continues all the way past the addition. He explained that they are only
27 raising the portion above the first two stall garage area and noted that even if they were not doing
28 the garage addition the neighbor would still be looking at the roofline of the main house.

29
30 Commissioner Merriam asked about the image on page 44 of the packet which shows the house,
31 as proposed. She stated that portion of the house that faces south looks like it will be two stories
32 as it makes the turn, but did not think it looks like it is currently two stories. She stated that
33 rendering also makes it look like the two story garage is every bit as tall as the other portion and
34 explained that, to her, it looks like that whole area as two stories.

35
36 Mr. Majdecki stated that the space that she is referencing already exists on the house and noted
37 that they are not touching the roofline of the main house at all. He stated that the eave could be
38 cut up higher, but the roofline will be just as it is today.

39
40 Commissioner Schwalbe suggested they look at the image on page 45 of the packet because it
41 gives a different view.

42
43 There being no additional questions from the Commission for the applicant, Chair Parkhill opened
44 the public hearing on the application at 7:08 pm.
45

1 Planner Kieser stated there were no people that called in to the meeting that have asked to speak
2 at the public hearing.

3
4 There being no one wishing to comment on the application, Chair Parkhill closed the public
5 hearing at 7:09 pm.

6
7 Chair Parkhill asked for the Commission to share their questions and feedback on the application.

8
9 Commissioner Severson asked if the move of the property line in 2017 came through the Planning
10 Commission and City Council.

11
12 Planner Quarles stated that the requests in 2017 included a lot size and a lot width variance
13 recognizing that the lot was about to become undersized as a result of the lot line shift. She stated
14 that there was question asked earlier tonight on whether the lots were owned by the same person
15 and the answer is that they were owned by the same person.

16
17 Commissioner Schwalbe stated that this request is quite a bit different than what was presented
18 this past spring. She stated that she feels the only way to get this to a point where no variances
19 were needed would be to move the entire house and face it the way they feel it should intuitively
20 be, which would put the front door being the front of the lot. She stated that she noticed when she
21 drove up to the house that the garage does look extremely small given the size of the home. She
22 stated that if this is approved the two gravel parking areas beside it would go away and explained
23 that the variance requests do not bother her much.

24
25 Commissioner Sorensen stated that he thinks the applicant has been responsive to the issues that
26 were raised last spring when they brought this plan forward. He stated that this is confusing and
27 complicated for a number of reasons, such as the orientation of the house and the lot size. He
28 stated that he thinks this request is reasonable and is a very minor change from the existing
29 condition.

30
31 Commissioner Douglas stated that she agreed and aesthetically she thinks the proposal will be an
32 improvement especially because it will eliminate the two gravel parking areas.

33
34 Commissioner Stockton stated that she feels a bit differently and noted that she is a bit on the fence
35 because this would approve an addition on top of something that is already non-conforming. She
36 stated that she appreciations that the applicant has taken into consideration some of the comments
37 and concerns from the request last spring, but she just has an issue with the concept of becoming
38 more non-conforming.

39
40 Commissioner Merriam stated that she is also having a difficult time with this request as well. She
41 stated that the request is definitely reasonable, but she agrees with Commissioner Stockton that
42 this would mean they are extending a non-conformity. She stated that she does not want to set a
43 precedent in this neighborhood of allowing things like this to happen. She stated that the neighbors
44 have expressed concerns about this variance altering the essential character of the neighborhood
45 and explained that she would have a hard time recommending approval of the application.

1 Commissioner Severson stated that she has the same concerns and that from the previous request,
2 she thought that they were taking advantage of most of their driveway being on a different
3 property. She stated that if the length of the driveway is added in, she believes the lot coverage
4 amount would actually increase. She stated that this is already non-conforming and she would
5 have a hard time approving going ahead with more than what is already there.

6
7 Chair Parkhill stated that he agrees that it is a reasonable request to be able to park their cars in an
8 existing garage and reorient it, but also feels that extending the non-conformity of the lot could set
9 a bad precedent.

10
11 Commissioner Schwalbe noted that this home was built in 1949 and at that time the City did not
12 have the same issues, which means when it was put there it was not a non-conforming lot.

13
14 Planner Quarles noted that she could not necessarily confirm that either way because she doesn't
15 know when some of the lot lines for properties around this property were drawn or what the
16 regulations were at the time.

17
18 Commissioner Schwalbe asked if there were many other non-conforming lots in the area that are
19 less than 80,000 square feet.

20
21 Parks Planner Kieser stated that there are a few in the area that are under the 80,000 square feet.
22 He noted that there is a mix in the area because there are quite a few that are quite a bit larger than
23 80,000 square feet.

24
25 Commissioner Schwalbe noted that she feels it is just hard to put today's restrictions on something
26 that was built in 1949 and make it so difficult to make it more livable.

27
28 Commissioner Stockton stated that she thinks the City needs to look at today's code, even for an
29 old house, because the rules are in place for protecting what they have today. She stated that where
30 it is now is already very close to lot lines and thinks protecting the land in terms of impervious
31 surface is really important. She stated that she doesn't think the Commission can presume that the
32 neighbors would rather look at cars or at a building. She stated that she feels that the Commission
33 has to take a look at the fact that this request is extending a non-conformity.

34
35 Commissioner Douglas stated that the proposal is to go from 12.7% to 14% and asked how many
36 square feet that would be.

37
38 Commissioner Sorensen stated that he believed it would be about 500 square feet.

39
40 Commissioner Douglas stated that it would be a very minor difference.

41
42 Commissioner Sorensen stated that he stands by his earlier statements and noted that if this request
43 was a significant change from the existing conditions, that would be something he would be very
44 concerned about, but feels the only real difference from the existing conditions is going from
45 12.7% to 14% for lot coverage and noted that the impervious surface will actually decrease. He
46 reiterated that he feels this is a reasonable request and is the result of a unique situation.

1
2 There being no further discussion, Chair Parkhill asked for a motion on the application.
3

4 Commissioner Severson made a motion, seconded by Commissioner Stockton, to direct staff to
5 prepare a draft Planning Commission Report and Recommendation with appropriate findings
6 reflecting a recommending denial of the Development Application for Lot Coverage, Impervious
7 Surface, Rear Yard Setback Variance at 341 Ramsey Road for review and adoption at the next
8 Planning Commission meeting. Parks Planner Kieser completed a roll call vote on the motion.
9 Upon a vote, the motion carried: 4 ayes, 3 nays (Schwalbe, Sorensen, Douglas).
10

11 **b) Consider Zoning Text Amendments to Chapter 936 – Tree Preservation**
12 **Ordinance**
13

14 Parks Planner Kieser gave an overview of the proposed text amendments to Chapter 936, the Tree
15 Preservation Ordinance. He noted that the other documents included in the packet are for reference
16 only and do not require a Planning Commission recommendation. He gave an overview of the
17 community input from the online survey and the two community meetings held in July and October
18 of 2021. He noted that this was also discussed at seven Zoning Study Task Force meetings and
19 was also discussed at two City Council Workshop meetings. He gave a brief overview of the
20 different between ‘significant’ and ‘heritage’ trees. He reviewed the proposed text amendments
21 to Chapter 936 and answered Commission questions.
22

23 Commissioner Stockton noted that there was a picture in the presentation of a tagged tree. She
24 explained that she would like to know who tags the trees and whether that meant it was tagged for
25 removal or because it was heritage.
26

27 Parks Planner Kieser stated that there is a provision being put into code that states that they need
28 to tag the trees that they are removing one week prior to removal of the tree.
29

30 Commissioner Stockton stated that she believes she had made the original suggestion regarding
31 tagging, however it was for the opposite reason and the tagged trees were heritage trees and would
32 not be removed. She stated that she was hoping that rather than having a forester follow up in 5
33 years to see what is left standing, that the City would be proactive in tagging heritage trees and
34 keep them in a registry.
35

36 Parks Planner Kieser stated that it can be difficult to tag trees on private property, but they could
37 look into that approach for public property. He noted that he has seen other communities have a
38 system where there is a sign up for people to recognize their own heritage trees.
39

40 Commissioner Stockton stated that she also felt that the proposed language made it penalty based
41 rather than incentive based. She stated that she thinks it is an excellent idea for the City to work
42 towards the qualifications of becoming a forester.
43

44 Parks Planner Kieser suggested that he return to his presentation before answering any other
45 Commission questions because his presentation may answer those questions.
46

1 Commissioner Merriam read aloud from page 58 where it stated 'heritage tree removal may occur
2 only when there is not a practical alternative'.
3

4 Parks Planner Kieser explained that this was not necessarily a 'requirement' and noted that the
5 review comes through the Planning Commission and the City Council. He stated that currently if
6 someone wanted to take down a heritage tree, the City would not even know about it if it is not
7 associated with a building permit or grading permit.
8

9 Commissioner Stockton stated that is why she thinks the City needs to tag the heritage trees.
10

11 Parks Planner Kieser stated that the tree removal permit will allow the City to know if those are
12 being removed.
13

14 Commissioner Stockton stated that she feels like the City wants to preserve the existing large
15 canopy tree structure, so the idea of replacing them with twice as much small brush does not excite
16 her. She stated that she has more of the British mindset to tag what they have and hold onto it for
17 as long as possible with whatever rules that can be put in place to ensure this. She stated that she
18 feels this has been skewed too much towards replacing and fining rather than protecting and
19 incentivizing.
20

21 Parks Planner Kieser stated that he has seen projects not take down heritage trees because of the
22 2:1 replacement ratio but has also seen projects take down many heritage trees without seeming to
23 be worried about it.
24

25 City Attorney Schelzel stated that the language quoted by Commissioner Merriam is not changing
26 or going away. He stated that the standard only applies when they are talking about subdivision,
27 public infrastructure, or construction of a single family home. He stated that what he seems to be
28 hearing from the Commission is that perhaps there is more of a desire to extend protections to
29 heritage trees or just cataloguing them and incentivizing against certain actions.
30

31 Commissioner Merriam asked if her understanding was correct that if a homeowner does not need
32 a design review or one of the categories he just listed, they could just decide they want a heritage
33 tree taken down and would just be able to get a tree removal permit.
34

35 Parks Planner Kieser stated that there would be no replacement calculations in that scenario.
36

37 Commissioner Sorensen stated that a tree removal permit would be required and there are
38 regulations if you make a change, but not if you are simply a homeowner that wants to take down
39 a tree.
40

41 Commissioner Severson asked if the tree removal permit could be denied.
42

43 Parks Planner Kieser stated that if it meets code, they can take it down and reminded the
44 Commission that much of this code is only for the projects listed. He noted that if someone wanted
45 to take down a tree on their site not associated with any of those projects, they can. He explained
46 that with a tree removal permit, the City will know the size and species of the trees that are

1 removed, so in the future if they come in seeking a building permit for another project, the City
2 will know how many tree inches were removed due to the proposed 'look-back' clause.

3
4 Commissioner Stockton stated that she also feels as though the accountability is wrong because it
5 is being put on the people who want to take down the trees, which does not make sense to her. She
6 stated that if the City is serious about protecting the heritage and significant trees, then they should
7 look at the idea of having a forester find a way to proactively account for them and tag them.

8
9 Commissioner Schwalbe asked if something has happened, such as wholesale taking down of trees,
10 and asked why the City was suddenly concerned about the canopy. She asked if creating a new
11 program with fees and permits was necessary.

12
13 Parks Planner Kieser stated that the City has gone through the year-long process of talking to the
14 community about this issue and explained that it all started because of some projects that people
15 were seeing around town with trees being removed and felt the replacement trees were not
16 satisfactory.

17
18 Commissioner Schwalbe asked why they were considering bringing the permitting process back.

19
20 Parks Planner Kieser stated that the permit itself goes to the 'look-back' clause and gave examples
21 of times when people removed trees and then came for a building permit a year later, so they would
22 end up not having any replacement requirements.

23
24 Commissioner Schwalbe asked if that situation has frequently arisen.

25
26 Parks Planner Kieser stated that it is hard to say because the City doesn't know when all the trees
27 were taken down. He stated that he knows that staff has had to spend a lot of time on the back end
28 of these situations where a heritage tree has been removed and the neighborhood is concerned
29 which is another thing the tree removal permit will help with. He continued with his presentation
30 information reviewing the proposed language changes. He reviewed a few of the changes
31 proposed for the reference sections in chapters 710, 519, fee-in-lieu policy, permit application, and
32 checklist. He explained that the overall goal is to protect, preserve, and enhance the natural
33 environment of the community.

34
35 Chair Parkhill asked if the Commission had any additional questions for Staff.

36
37 Commissioner Schwalbe stated that she is still left with the question of what brought all this on
38 and asked if the City was losing its canopy. She stated that she is all for increasing government
39 control in areas where she thinks it is needed and beneficial, but isn't sure that this is one of those
40 situations. She asked how much of this already overlaps with what is done when people come to
41 the City with a building project.

42
43 Parks Planner Kieser stated that a few of the changes, such as clear-cutting definition would apply
44 to many projects and thinks like the tree removal permit would apply to everybody. He stated that
45 the bulk of the code changes, especially when it comes to tree replacement requirements keep the
46 same percentages allowed.

1
2 Commissioner Schwalbe asked if staffs thought was this this would identify more trees that are
3 being removed that shouldn't be.
4

5 Parks Planner Kieser stated that he believes there are a few benefits that the City would be getting
6 and noted that, for example, the tree removal permit would cut down on staff time that is used to
7 handle complaints.
8

9 Commissioner Schwalbe asked if staff could compile the list of all the complaints that have come
10 in so the Commission could see if this was a needed change.
11

12 Commissioner Sorensen stated that he realizes that there has already been a lot of work up to this
13 stage and he wants to be respectful of that. He stated that he thinks the intent of this amendment
14 is good and he believes it is a definite improvement, but senses that there may be an issue of
15 balancing individual property rights with appropriate tree management from a municipality. He
16 asked about the 60% clear-cut issue.
17

18 Parks Planner Kieser explained that it is not 60% of the trees, but rather 60% of the tree inches.
19

20 Commissioner Sorensen asked about the provision for 20% similar species replacement and if
21 someone would be allowed to put in a hedge that was 40 feet long with the same species if that
22 would be allowed.
23

24 Parks Planner Kieser stated that he was not sure and would have to think about that situation a bit
25 more with the foresters. He explained that the thought behind this provisions was that arborists
26 have a rule for 20, 40, 60 and the thought was that if the City has 20% genus, then the goal is to
27 not spread any pathogens or diseases, but agreed that this may need more thought because the City
28 does get quite a few applications that have an arborvitae hedge.
29

30 Commissioner Sorensen stated that one of the other amendments was related to construction
31 protection and allowing the arborist over a 5 year period to determine if the tree was damaged by
32 construction. He stated that he can see why this may be a good idea, but can also see that there
33 may be some unintended consequences and gave the example of someone buying a home and
34 owning it for 2 years who would now be liable for the issue when they were not involved. He
35 stated that it brings to mind who would actually be liable for that issue in that situation because it
36 may be somewhat ambiguous and hard to determine.
37

38 Parks Planner Kieser stated that he has also had those same thoughts and concerns about what
39 happens when property changes hands. He noted that if there are escrow funds for a project, they
40 release those on a 3 year basis. He stated that they haven't specifically run into any issues with
41 that yet, but he could foresee that being an issue in the future.
42

43 Commissioner Sorensen stated that his final concern has already been discussed a bit with the tree
44 removal permit application. He stated that benefit appears to be that it is a way to track trees on
45 private property for the look-back clause and asked if there were any other benefits.
46

1 Parks Planner Kieser stated that the only benefit would be the complaint based issue and the time
2 staff has to spend on the back end of this type of situation.

3
4 City Attorney Schelzel stated that some of what he has heard from various discussions included
5 how it interfaces with licensing for tree removal companies as well. He stated that will also allow
6 for general education for residents about the regulations of tree removal. He noted that when the
7 Commission reviews the application they will determine what trees are being removed and whether
8 anything needs to be considered in terms of a tree preservation plan, fee-in-lieu, or replacement.

9
10 Commissioner Sorensen stated that if people are not going through any of these approvals and just
11 own their property, have the tree, fill out the application, they can still do whatever they want.

12
13 City Attorney Schelzel stated that they could not just 'do whatever they want', but they may be
14 able to take it down without paying a fee. He stated that they would have to apply for and receive
15 a permit to take down the tree without any repercussions.

16
17 Commissioner Sorensen stated that to him this is kind of an individual property rights kind of
18 issue. He stated that the City would be asking someone to do something on their property and it
19 will cost them money and noted that he may feel differently if the fee was \$25 rather than \$300.

20
21 City Attorney Schelzel noted that this was the same issue that the previous Council had wrestled
22 with.

23
24 Commissioner Sorensen stated that, overall, he understands the intent and feels it is a definite
25 improvement because he has seen a lot of abuse, but does have an issue with the individual property
26 rights question.

27
28 Commissioner Douglas asked if someone was taking down a tree because of ash borer if they
29 would have to pay the permit fee for a diseased tree.

30
31 Parks Planner Kieser stated that as the language is proposed, they would have to pay a permit fee
32 to take it down. He stated that it also helps because the City has to get the arborist out there to
33 confirm that it is diseased.

34
35 Commissioner Douglas noted that her neighborhood just had to take down two trees because they
36 were diseased.

37
38 Parks Planner Kieser stated that with the look-back clause people could simply say that they took
39 down the trees because they were diseased, but the City wouldn't know if that was accurate or not,
40 which is where the permit process would help.

41
42 Commissioner Douglas stated that she also served on the Zoning Task Force committee where she
43 has shared that she believes it will be very hard to communicate this information to the residents.
44 She stated that she thinks it is going to be very confusing and it cannot simply be put on the website.
45 She stated that there are many tree service companies that get permits in the City but noted that
46 she believed that there were a lot that work in the City and never get a permit. She asked if the

1 City would penalize them as well. She stated that there are just so many pieces to this code and
2 feels a bit like the City is 'double dipping' and, in her opinion, they may be overdoing it a bit. She
3 stated that she feels like it turns into the 'tree police'. She stated that she cares about trees, and
4 referenced her concern for Ferndale because of the sidewalk. She asked if the City would also
5 have to follow these guidelines and gave the example of the Panoway project along Lake Street.

6
7 Parks Planner Kieser stated that if it was a public infrastructure project, it would need to follow
8 these guidelines.

9
10 Commissioner Douglas stated that she is concerned about Panoway and the Depot Park. She stated
11 that if the City is doing projects, they have to be mindful of those things, even more than the
12 general public. She reiterated that she wants to protect trees but would like to find a fair way of
13 doing it without getting overly bureaucratic.

14
15 Commissioner Stockton stated that she understands that a lot of work has gone into this, but feels
16 it is very confusing and doesn't think they are quite to the finish line. She stated that Commissioner
17 Schwalbe had asked the question of whether this was really needed and how often there are issues,
18 but the answers has consistently been 'we don't know' because the City doesn't have a way to
19 count what has been taken down. She stated that it keeps bringing her back to the point that the
20 City should know where its heritage trees are. She stated that she feels like the direction of this
21 has slipped into managing complaints for trees that have already been taken down, and then five
22 years later, also after the fact. She stated that she doesn't feel that this protects the 80-100 year
23 old trees in this historic community. She stated that she feels like perhaps the conversation should
24 start more with what the primary goal is, for example, protecting trees and greenery in general, or
25 is it prioritizing the heritage trees. She stated that to her, these proposed amendments do not
26 prioritize the heritage trees, which she thought was the goal. She stated that she thinks the City
27 should know how many heritage trees it has and should be able to answer the question on how
28 many have been taken down. She noted that she understood Commissioner Sorensen's concern
29 regarding individual property rights, but she has lived in a country where this was possible. She
30 explained that when they bought their property, they saw which trees were tagged and knew that
31 those trees would have restrictions on taking them down. She stated that she does not really like
32 the idea of the five year construction idea for the reasons that Commissioner Sorensen stated nor
33 does she like the 20% species requirement, because it feels too restrictive. She stated that it also
34 feels like the property owner is getting more of the penalty when really more of the problems the
35 City sees come from redevelopment and reconstruction projects where the City doesn't know what
36 is taken down until it is. She explained that she wants to find a way to save the 80 year old trees.

37
38 Commissioner Merriam stated that she thinks preserving the trees in the City is a very good thing
39 for many reasons and thinks too many trees are being taken down haphazardly. She stated that she
40 thinks the City should do what it can. She stated that the idea of the five year construction issue
41 appears to be triggered by neighbors reporting something.

42
43 Parks Planner Kieser stated that was true and with the replacement requirements the escrow
44 account is released on a three year basis, so even after that time, the arborist would go out and
45 review the trees. He stated that it is most likely that after the 3 year mark that it would be complaint
46 based or they could proactively go out and take a look at them.

1
2 Commissioner Merriam asked if in the example of a diseased tree whether it would cost money to
3 get a permit when one of the City's goals is to remove diseased trees.
4

5 Parks Planner Kieser stated that as it is proposed right now, it would, but that is something that
6 could be looked at again. He stated that perhaps it could be something like 'the fee would not need
7 to be paid if it is found that the tree is dead, diseased, or dying'.
8

9 Commissioner Merriam stated that with regard to the 20% species requirement, she thinks it may
10 be difficult depending on the size of the lot. She stated that she also thought about the arbor vitae
11 hedges and asked what the measurement would be for hedges to be considered significant.
12

13 Parks Planner Kieser stated that for coniferous trees it would be 12 feet or greater in height.
14

15 Commissioner Merriam asked if someone felt their hedge wasn't looking too good and wanted to
16 put in a new one if they would be able to because they would not be putting in diversity.
17

18 Parks Planner Kieser explained that the 20% rule is only for the specific projects with a tree
19 preservation plan and would not be required if they weren't doing a project.
20

21 Commissioner Merriam stated that she feels the five trees a year can be excessive and thinks there
22 should be a minimum sized lot. She stated that she also thinks impervious surface should also be
23 considered because in some situations, 5 trees is a lot and in others it would not be.
24

25 Parks Planner Kieser stated that there are different ways this can be done and noted that he has
26 taken a look at what other communities have done with things like density of trees and lot size.
27 He stated that he can take another look at this to see if there are any other thoughts on how this
28 can be approached.
29

30 Commissioner Merriam stated that with regard to significant trees, there was fast growing and the
31 standard growth and it seemed to her that for fast growing, the 12 inches is significant where it is
32 only 6 inches with the standard growth. She stated that seems like a big difference and suggested
33 that perhaps it should be something like 9 inches for the fast growth trees.
34

35 Parks Planner Kieser stated that this was already in the code and was not proposed to be changed,
36 so they had not looked too closely at it. He stated that he can touch based with the City's arborist
37 to see if there was reasoning for this measurement.
38

39 Commissioner Severson noted that most of her points had been raised by other Commissioners.
40 She stated that coming back to the permit piece, she asked if someone can fight a permit and if it
41 would be part of the public record. She gave the example of finding out that her neighbor had filed
42 a permit, and asked if she could appeal it.
43

44 Parks Planner Kieser stated that the application would be public record, but thinks trying to appeal
45 it may create some legal issues. He stated that it may be similar to a building permit where people

1 can review it as part of the public record, but does not think there is a way, within the City itself,
2 to appeal a building permit or other permit similar to this proposal.

3
4 Commissioner Stockton asked if notice would have to be given to the surrounding neighbors.

5
6 Parks Planner Kieser stated that they did look into noticing and decided not to propose it in this
7 process.

8
9 Commissioner Severson stated that she understood the concept of wanting to track them but
10 wondered about the check and balance part of this situation.

11
12 City Attorney Schelzel explained that people would file an application for a permit which would
13 be reviewed and then staff would issue a permit if it was complete and complied with code. He
14 stated that would not be a discretionary process with a public hearing and explained that there
15 would not be a way to appeal the issuance of a tree permit in the City's code.

16
17
18 Commissioner Severson stated that most of her other points had already been made but noted that
19 people come to the City because there are mature trees, so she would be in favor of more
20 preservation of trees in a way that it's not overly hindering property rights. She stated that
21 regarding the 20% species requirements, on her property they just put in 15 or 20 new arbor vitae
22 in where they removed buckthorn and wondered if that would have been allowed under this new
23 code language.

24
25 Commissioner Douglas suggested that perhaps it could be changed to just deciduous trees.

26
27 Parks Planner Kieser stated that would certainly be an option.

28
29 Chair Parkhill thanked staff for all the work they have done on this project because he knows it
30 has been tough, especially because the Commission has raised about 20 more questions just
31 through tonight's discussion. He asked if there may be a way to take a partial step forward and
32 focus on saving the heritage trees as well as making it easier for people to get rid of the sick trees.
33 He stated that he realizes when there is a development, the rules that the City has had in place are
34 very good, so he didn't think he would want to change those. He stated that he thinks the City
35 underestimates the single family homeowner because they want the best for their property, for
36 example, big trees. He stated that to have all this regulations for 6 inch diameter trees seems like
37 it may be one step too far right now and not make all the red tape for staff and the arborist. He
38 reiterated that he felt there may be a little too much overreach with what has been presented.

39
40 City Attorney Schelzel stated that this is a public hearing that needs to be opened for possible
41 comments. He noted that because staff has received so much feedback on this draft, they may
42 consider directing staff to come back with an updated draft rather than a report and
43 recommendation in order to address some of the points discussed tonight.

44
45 There being no additional questions from the Commission for the staff, Chair Parkhill opened the
46 public hearing on the application at 8:47 pm.

1
2 Marilee Babcock, 337 Reno Street, thanked Parks Planner Kieser for the work he has put into this
3 proposed code amendment. She noted that she has seen a lot of the harming of the trees in her
4 neighborhood and gave examples of a project that had a hill with sugar maples that used herbicide
5 on it and took out all the ground cover that was in place and have just planted grass. She stated
6 that there were also two very large 150 year old oak trees which were driven over by the landscaper
7 a number of times. She stated that one of the trees has been removed and the other is currently
8 dying on LaSalle Street. She stated that to her, this is really a crime, because nobody is being held
9 responsible for those actions. She stated that she thinks the five year plan of going back and taking
10 a look at the trees is a good idea and that the developer is the one who needs to be responsible.
11 She stated that she felt the Commission needs to watch which developments they approve, such as
12 the new medical center, which was way too large and noted that the amount of trees that were
13 taken out in order to put in the parking lot were significant. She gave an example of a beautiful
14 sugar maple tree being taken down on Minnetonka just south of Rice in front of the new
15 townhomes. She stated that it was a beautiful tree that is now gone, which is unfortunate. She
16 stated that the developers need to be held responsible for these situations and not the homeowners.
17 She noted that for 936.03, rather than changing 'birds' to 'animals' she suggested that it be changed
18 to 'wildlife'. She stated that for 936.130 related to penalties she would hope that the damage fees
19 for the builders are significant so they don't just slide through and think their actions are no big
20 deal. She stated that she is in agreement with the comments made about the heritage trees and
21 does not believe there should be permits that allow them to be taken down. She stated that she
22 believes there needs to be some education for the general public on the importance of those trees
23 because they are trees for all the raptors which keep all of the mice and rodent population
24 decreased. She stated that the tree canopy also takes in many pollutants. She stated that the City
25 really needs to be sensitive to its heritage trees.

26
27 Parks Planner Kieser stated there were no people that called in to the meeting that have asked to
28 speak at the public hearing.

29
30 There being no additional comments on the application, Chair Parkhill closed the public hearing
31 at 8:55 pm.

32
33 Chair Parkhill asked for the Commission to share their questions and feedback on the application.

34
35 Chair Parkhill stated that he really appreciated the comments shared by Ms. Babcock and noted
36 that one thing she brought up that he had already been thinking about was the City's institutional
37 code which allows for an awful lot of concrete and coverage. He stated that is one of the risks, for
38 example, with the Blake School property, because it could be kept as one big parking lot. He asked
39 if perhaps one aspect to this would be to make some modifications to some of the codes related to
40 coverage ratios for institutional use to help protect trees.

41
42 Parks Planner Kieser stated that staff has taken notes on all the comments that they have received
43 tonight. He stated that he is expecting that there will be significant changes to the draft, so he
44 would recommend that the Commission direct staff to come back with an updated draft for further
45 review at a future meeting.

Commissioner Douglas asked what the fee would be for a situation where an ash tree needs to be removed, but it isn't being done because the people do not have the money. She stated that she thinks the City needs to be very careful with how it handles diseased trees with relation to the fees and fines because you don't want to penalize people when the City wants to get rid of the diseased trees.

City Attorney Schelzel stated that he feels staff has heard the Commission loud and clear on this issue and believes that they can look at creating a different fee for removal of a diseased tree.

Commissioner Douglas asked that they also take a look to see if there is some consideration that could be given in order to help with some of those costs in order to be mindful of all income levels.

Parks Planner Kieser noted that he has seen other communities have some sort of subsidy program in that situation.

Commissioner Merriam stated that they all want to preserve heritage trees but noted that she did not think they should end up ignoring significant trees in this process.

There being no further discussion, Chair Parkhill asked for a motion on the application.

Commissioner Douglas made a motion, seconded by Commissioner Severson, to direct staff to continue the work on the proposed Zoning Ordinance amendments to Chapter 936 and bring back and updated draft addressing the comments of the Planning Commission for review and consideration at the next Planning Commission meeting. The motion carried unanimously.

AGENDA ITEM 6. Other Items:

- a) Review of Development Activities
- b) Planning Commission Meeting Schedule

Parks Planner Kieser reminded the Commission that the September 7, 2022 Planning Commission meeting will be cancelled. He noted that there will be an Open House for the Klapprich Park playground on August 29, 2022 at 5:00 p.m.

AGENDA ITEM 7. Adjournment.

There being no further business on the agenda, Chair Parkhill asked for a motion to adjourn.

Commissioner Sorensen made a motion, seconded by Commissioner Stockton to adjourn the Planning Commission meeting. The motion carried unanimously.

The Planning Commission meeting was adjourned at 9:05 p.m.

Respectfully submitted,
Kayla Atkins Rokosz
TimeSaver Off Site Secretarial, Inc.



City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 4.b
TITLE: Approval of Planning Commission Report and Recommendation of Denial for Rear Yard Setback, Lot Coverage, and Impervious Surface Variances at 341 Ramsey Road	
PREPARED BY: Valerie Quarles, Assistant Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: November 19, 2022 (extended to 120 days)	

BACKGROUND:

Owners Trisha and Robert Blake, with applicant's representative T.J. Majdecki of Murphy and Co. Design, have submitted a development application for rear yard, lot coverage, and impervious surface variances at 341 Ramsey Road in order to expand an attached garage.

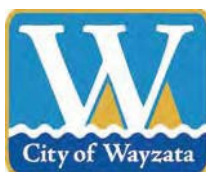
A public hearing was conducted at the Planning Commission meeting on August 15, 2022. The Planning Commission recommended (on a 4-3 vote) that staff prepare a Report and Recommendation of denial for review at the next Planning Commission meeting.

ACTION REQUESTED:

Staff recommends approval of the Planning Commission Report and Recommendation.

ATTACHMENTS:

1. 341 Ramsey Road - Planning Commission Report and Recommendation



WAYZATA PLANNING COMMISSION

September 19, 2022

REPORT AND RECOMMENDATION OF DENIAL OF REAR YARD SETBACK, LOT COVERAGE, AND IMPERVIOUS SURFACE VARIANCES AT 341 RAMSEY ROAD

DRAFT

SUMMARY OF RECOMMENDATION

1. Denial of Variances for Rear Yard Setback, Lot Coverage, and Impervious Surface
-

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Project. Trisha and Robert Blake (the “Applicant”) have submitted a development application requesting approval of three variances to support the expansion and re-orientation of an attached garage to a single family home at 341 Ramsey Road (the “Property”).
- 1.2 Application Requests. The Application includes the following three variance requests:
 - A. Variance – Rear Yard Setback. A variance of 35.7 feet less than the required minimum 50 feet rear yard setback in the R-1A District, for a rear (north) yard setback of 14.3 feet (“Rear Yard Setback Variance”).
 - B. Variance – Lot Coverage. A variance of an additional 4% to the lot coverage limit of 10% of a lot in the R-1A District, for lot coverage of 14% (the “Lot Coverage Variance”).
 - C. Variance – Impervious Surface. A variance of an additional 3.6% to the impervious surface limit of 20% of a lot in the R-1A District, for an impervious surface of 23.6% (the “Impervious Surface Variance”).

- 1.3 Property. The street address, property identification number and owner of the Property are:

Address	PID	Owner
341 Ramsey Road	12-117-23-12-0036	T J Blake & R J Blake Jr

- 1.4 Land Use. The Property is zoned R-1A Low Density Single Family Estate District and within the Shoreland Overlay District, and is guided Estate Single Family under the 2040 Wayzata Comprehensive Plan.
- 1.5 Neighborhood Notice; Notice and Public Hearing. The Applicant sent a letter about the Application to property owners located within 500 feet of the Property on August 3, 2022. Notice of the public hearing on the Application was published in the *Sun Sailor* on August 4, 2022, and mailed to all property owners located within 500 feet of the Property on August 2, 2022. The public hearing on the Application was held at the August 15, 2022 Planning Commission meeting.

Section 2. STANDARDS

- 2.1 Variance – Rear Yard Setback. Sec. 951.06.B(c) of the Zoning Ordinance requires a minimum rear yard setback of 50 feet for properties in the R-1A District. Section 905.01.C provides the criteria for granting a variance from the standards of the Zoning Ordinance. These criteria are:
- A. Variances shall only be permitted when they are:
 - (i) in harmony with the general purposes and intent of the Zoning Ordinance; and
 - (ii) consistent with the Comprehensive Plan.
 - B. Variances may be granted when the Applicant for the variance establishes that there are practical difficulties in complying with this Ordinance.
 - C. “Practical difficulties,” as used in connection with the granting of a variance, means that:
 - (i) the property owner’s proposal for the property is reasonable but not permitted by Zoning Ordinance;
 - (ii) the plight of the landowner is due to circumstances unique to the property, and not created by the landowner; and
 - (iii) the variance, if granted, will not alter the essential character of the locality.

- D. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
 - E. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14, when in harmony with this Ordinance.
 - F. The City Council shall not permit as a variance any use that is not allowed under this Ordinance for property in the zoning district where the affected person's land is located, except the City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling.
 - G. The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
 - H. An application for a variance shall set forth reasons that the variance is justified under the criteria of this section in order to make reasonable use of the land, structure or building.
- 2.2 Variance – Lot Coverage. Sec. 951.07.A of the Zoning Ordinance provides that lot coverage may not exceed ten percent of lot area for properties in the R-1A District. Section 905.01.C provides the criteria for granting a variance from the standards of the Zoning Ordinance. These criteria are listed in Sec. 2.1 of this Report.
- 2.3 Variance – Impervious Surface. Sec. 951.07.B of the Zoning Ordinance provides that impervious surfaces on a lot may not exceed 20 percent of the lot area for properties in the R-1A District. Section 905.01.C provides the criteria for granting a variance from the standards of the Zoning Ordinance. These criteria are listed in Sec. 2.1 of this Report.

Section 3. FINDINGS

Based on the Application materials, additional materials submitted by the Applicant, staff reports, public comment and information presented at the public hearing, and the standards of the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

- 3.1 Variance – Rear Yard Setback. The Rear Yard Setback Variance does not meet all of the standards for granting a variance under the Zoning Ordinance:
- A. The Rear Yard Setback Variance is not in harmony with the general purposes and intent of the Comprehensive Plan and Zoning Ordinance, which guide the Property towards Estate Single Family residential and Low Density Single

Family Estates that feature a greater proportion of open space relative to residences and accessory structures.

- B. The Applicant has not established that there are practical difficulties in complying with the setback of the R-1A Low Density Single Family Estate District, in that:
 - 1. The Applicant's proposal for the Property is unreasonable in that it expands a currently nonconforming structure, creating greater nonconformities than are reasonable for the Property and existing residential use; and
 - 2. The Rear Yard Setback Variance of 35.7 feet, if granted, will alter the essential character of the locality.
- C. The Application submitted by the Applicant does not set forth reasons that the Rear Yard Setback Variance is justified under the criteria of the Zoning Ordinance in order to make reasonable use of the land and buildings.

3.2 Variance – Lot Coverage. The Lot Coverage Variance does not meet all of the standards for granting a variance under the Zoning Ordinance:

- A. The Lot Coverage Variance is not in harmony with the general purposes and intent of the Comprehensive Plan and Zoning Ordinance, which guide the Property towards Estate Single Family residential and Low Density Single Family Estates that feature a greater proportion of open space relative to residences and accessory structures.
- B. The Applicant has not established that there are practical difficulties in complying with the lot coverage limits of the R-1A Low Density Single Family Estate District, in that:
 - 1. The Applicant's proposal for the Property is unreasonable in that the Property currently exceeds the maximum lot coverage limits and further lot coverage would be excessive; and
 - 2. The Lot Coverage Variance, if granted, will alter the essential character of the locality.
- C. The Application submitted by the Applicant does not set forth reasons that the Lot Coverage Variance is justified under the criteria of the Zoning Ordinance in order to make reasonable use of the land and buildings.

3.3 Variance – Impervious Surface. The Impervious Surface Variance does not meet all of the standards for granting a variance under the Zoning Ordinance:

- A. The Impervious Surface Variance is not in harmony with the general purposes and intent of the Comprehensive Plan and Zoning Ordinance, which guide the Property towards Estate Single Family residential and Low Density Single Family Estates that feature a greater proportion of open space and pervious areas relative to residences and accessory structures.
- B. The Applicant has not established that there are practical difficulties in complying with the impervious surface limits of the R-1A Low Density Single Family Estate District, in that:
 - 1. The Applicant's proposal for the Property is unreasonable in that the Property currently exceeds the impervious surface limits and further impervious surfaces would be excessive; and
 - 2. The plight of the Applicant is not due to circumstances unique to the Property and is created by the Applicant, in that the Applicant currently benefits from the existing driveway located on the adjacent parcel, thereby lowering their impervious surface total; and
 - 3. The Impervious Surface Variance, if granted, will alter the essential character of the locality.
- C. The Application submitted by the Applicant does not set forth reasons that the Impervious Surface Variance is justified under the criteria of the Zoning Ordinance in order to make reasonable use of the land and buildings.

Section 4. RECOMMENDATION

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **DENIAL** of the (i) Rear Yard Setback Variance; (ii) Lot Coverage Variance; and (iii) Impervious Surface Variance as requested in the Application.

Adopted by the Wayzata Planning Commission this 19th day of September 2022.

Attachments:

Attachment A: Legal Description of Property

Attachment A
Legal Description of Property

Address	341 Ramsey Rd, Wayzata MN 55391
PID	1211723120036
Legal Description	Lot 1, Block 1, Harrington Gates
Abstract or Torrens?	Torrens
Certificate No.	1510514



City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 5.a
TITLE: Consider Approval of Zoning Ordinance Amendments to Chapter 936 - Tree Preservation Ordinance	
PREPARED BY: Nick Kieser, Parks Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

Since the August 15 Planning Commission meeting, staff has incorporated updated proposed changes into the TPO which are highlighted in yellow and noted in the staff report.

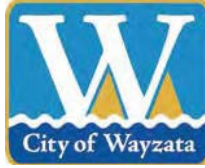
Staff has prepared a draft Planning Commission Report and Recommendation of Approval. If approved on September 19, the TPO is expected to be reviewed by the City Council on October 4, 2022.

ACTION REQUESTED:

Staff recommends approval of the Planning Commission Report and Recommendation of Approval.

ATTACHMENTS:

1. Draft PC Report and Recommendation, Staff Report, and Proposed Tree Preservation Ordinance Amendments



WAYZATA PLANNING COMMISSION

September 19, 2022

REPORT AND RECOMMENDATION OF APPROVAL OF ZONING ORDINANCE AMENDMENTS TO CHAPTER 936 (TREE PRESERVATION ORDINANCE)

DRAFT

SUMMARY OF RECOMMENDATION

Approval of Amendments to Chapter 936 of the Zoning Ordinance

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Zoning Ordinance Amendments (text). Based on community input and City Council direction, staff has proposed changes to the Tree Preservation Ordinance (TPO), Chapter 936 of the Zoning Ordinance, as part of a multi-year Zoning Study. The goals of the changes are to better protect, preserve, and enhance the City's tree canopy and natural environment. The proposed amendments to the Zoning Ordinance, as revised after feedback from the Planning Commission, are attached to this Report as Attachment A (the "Zoning Ordinance Amendments").
- 1.2 Notice and Public Hearing. Notice of the public hearing on the Zoning Ordinance Amendments was published in the *Sun Sailor* on August 5, 2022 and on the City's website. The public hearing on the Zoning Ordinance Amendments was held at the August 15, 2022 Planning Commission meeting.

Section 2. STANDARDS

- 2.1 Zoning Ordinance Amendments. City Council has the discretion and authority under state law and City Code to amend the City's Zoning Ordinance (Text or

Zoning Map). In considering a proposed amendment to the Zoning Ordinance under Sec. 903.02.F of the Zoning Ordinance, the Planning Commission and City Council must consider the possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:

- A. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
- B. The proposed use's conformity with present and future land uses of the area.
- C. The proposed use's conformity with all performance standards contained in the Zoning Ordinance (i.e., parking, loading, noise, etc.).
- D. The proposed use's effect on the area in which it is proposed.
- E. The proposed use's impact upon property value in the area in which it is proposed.
- F. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
- G. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.

Section 3. FINDINGS OF FACT

Based on the materials submitted by City Staff, the Staff report, comment and information presented at the public hearing, and the standards of the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

- 3.1 Zoning Ordinance Amendments. The Planning Commission has considered all of the factors of Sec. 903.02.F of the Zoning Ordinance and finds that the proposed Zoning Ordinance Amendments would not have any significant adverse effects, and would instead help to better protect, preserve, and enhance the City's tree canopy and natural environment. The Zoning Ordinance Amendments meet the applicable standards in that:

- A. The Zoning Ordinance Amendments would help implement the policies and provisions of the official City Comprehensive Plan that call for the following:
 - 1. Fostering charm in a community known for its small-town character.

2. Helping visitors and residents connect to places that evoke a sense of belonging, and a sense of nostalgia.
 3. Supporting vibrant City parks and City spaces to provide mental health benefits to residents, opportunities for physical activity, and bring the important nature connection to daily routines.
 4. Fostering a healthy, vibrant, and sustainable environment.
- B. The Zoning Ordinance Amendments would conform with the present and future land uses within the City as set forth in the City's Comprehensive Plan provisions noted above.
- C. The Zoning Ordinance Amendments would conform with all performance standards contained in the Zoning Ordinance, and improve the clarity of several standards related to the removal, replacement, planting and care of trees in the City, making such standards easier to understand and apply.
- D. By better protecting, preserving, and enhancing the City's tree canopy and natural environment, the Zoning Ordinance Amendments will have a positive aesthetic, economic, and environmental effect on all areas of the City, including residential, institutional, and commercial areas.
- E. By better protecting, preserving, and enhancing the City's tree canopy and natural environment, the Zoning Ordinance Amendments should have a positive effect on property values in the City.
- F. The Zoning Ordinance Amendments would not have any known detrimental effect on traffic.
- G. The Zoning Ordinance Amendments would not negatively impact existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity, and will help the City better regulate the removal, replacement, planting and care of trees in the City.

Section 4. RECOMMENDATION

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **APPROVAL** of the Zoning Ordinance Amendments.

Adopted by the Wayzata Planning Commission this 19th day of September 2022.

Attachments:

Attachment A: Zoning Ordinance Amendments



**Staff Report
Wayzata Planning Commission
September 19, 2022**

Project Name: Tree Preservation Ordinance
Request: Zoning Text Amendment
Applicant: City of Wayzata
Location of Request: City of Wayzata
Prepared by: Nick Kieser, Parks Planner

Development Application Introduction

Based on community input and Council direction, staff proposes text amendments to the Tree Preservation Ordinance (TPO) as part of a multi-year Zoning Study. The goal of these amendments to the TPO is to ensure protection, preservation, and enhancement of the natural environment of the community.

The main proposed changes are incorporated into the language of the TPO, but the changes also require the creation of a tree removal permit application, Tree Fee-in-Lieu Fund Policy, and a tree removal application checklist.

Project Location

The Tree Preservation Ordinance (TPO) is applicable to all properties within the City of Wayzata and not specific to any particular Zoning District. Applicability of the requirements outlined in the TPO are dependent on the proposed plans or activities for a property.

Application Requests

As part of the submitted development application, the applicant is requesting approval of the following items:

- A. Zoning Text Amendment (§ 936): Staff proposes amendments to Chapter 936 Tree Preservation Ordinance (TPO).

Proposed changes to Chapters 710 and 519 are also attached, but these Chapters are not in the Zoning Code so they do not require a public hearing and formal recommendation at the Planning Commission meeting.

Public Hearing Notice

Notice of the public hearing on the Application was published in the *Sun Sailor* on August 5, 2022.

Community Input

Community Meetings/Survey

Staff held community meetings on July 12, 2021 and October 28, 2021. A survey was also open to the public from August 26, 2021 to October 5, 2021, which garnered 69 responses. The following items were primary themes that came up in the community meetings and survey:

- The majority of survey participants noted there should be more restrictions on tree removal and that the environmental and aesthetics of trees are the main benefits
- The main goal of the review of the TPO should be to reduce tree removal
- Lake Street, Wayzata Blvd, and the central core neighborhood were listed as areas with a lack of a tree canopy
- Diversity of trees should be required to be planted
- Larger fines should be adopted when plans are not implemented as approved by the City
- Additional education efforts on the importance of trees should be pursued

Zoning Task Force (ZTF)

The ZTF discussed this item at the following meetings:

- May 10, 2021
- October 25, 2021
- November 22, 2021
- February 28, 2022
- March 28, 2022
- May 23, 2022
- July 25, 2022 (recommended approval)

On July 25, the Zoning Task Force recommended approval unanimously of the proposed amendments. Through many thorough discussions, the Task Force acknowledged that the proposed ordinance amendments are a compromise between strong community desires to protect the tree canopy, individual property rights, and the capacity of local government to manage enforcement.

Council Workshops

The City Council discussed the TPO on the November 16, 2021 and May 17, 2022 workshops. From the Council discussions, the following items were the top priorities:

- Protect Heritage trees
- Tree health after construction
- Ash tree/diseased tree plan
- Larger fines
- Detailed policy for fee-in-lieu funds

- Incorporate a tree removal permit
- Stay practical on staff resources to implement TPO with existing City budget
- Utilize existing staff members through further education and training to become a certified arborist
- Add diversity of tree requirement

Planning Commission Meeting

The Planning Commission reviewed the proposed changes to the TPO on August 15, 2022. Based on that discussion, staff noted that since there were various changes desired, staff would make the needed changes to the TPO to come back to the Planning Commission for further review.

Since the last Planning Commission review, the list below outlines the updated proposed changes to the TPO:

- Changed 5-year construction period to 3-year for residential properties. Kept the 5-year period for commercial/institutional properties. (936.08.C)
- Allowed the option to require escrow for Heritage trees that are proposed to be saved. (936.08.C)
- Changed tree removal markings to be clearly visible one week before removal (936.07.A.2)
- Added incentive for saving Heritage trees during a construction process (936.10.F)
- Required Heritage trees to be replaced at a 1:1 ratio if removed and not associated with the current list of projects (936.10.2.A and 936.06.C)
- Changed clear cutting rules for 200+ replacement inches for commercial properties and 100+ replacement inches for residential properties (936.02.B and 936.09)
- Changed genus requirement to only deciduous trees (936.10.B)
- Added that any dead, diseased, dying, or hazard tree is not required to pay the permit fee (936.05)

These specific changes are highlighted in yellow in the attached TPO in the agenda packet.

Proposed Changes

Based on the feedback received from the City Council, Zoning Task Force, community, and consultants, staff proposes the following updates to the TPO (§ 936) and staff work plans:

1. Create plan/schedule to review tree health 2-3 years after completion
2. Prioritize collecting escrow consistently as currently outlined in the Ordinance
3. Create a plan to review and enforce tree protection measurements

4. Require and enforce a Tree Removal Permit for any significant or heritage tree removal
5. Require and enforce tree tagging to show what trees are to be removed/saved
6. Update the City's list of recommended tree species to match Hennepin County's list
7. Add a formula for how many tree inches a coniferous tree accounts for
8. Allow developers to plant trees on adjacent sites when on-site options are exhausted
9. Allow for the possibility to plant smaller trees based on Arborist recommendation
10. Requirement that no more than 20% of one genus of trees can be planted on site
11. Research appropriate fine amounts for ordinance violations
12. Create clear-cutting regulations

Proposed Changes to § 710 and § 519:

The proposed changes to these Chapters are minimal. Chapter 710 has the most proposed changes that are mainly clarifying language changes that are focused on what the role of City Forester is. Additional language was added to 710 to incorporate Emerald Ash Borer and how to dispose of the infested trees.

The proposed changes in Chapters 710 and 519 do not require a public hearing. The Tree Removal Permit Application, Fee-in-Lieu Policy, and Tree Removal Permit Application Checklist were also attached to the packet for review, but do not require a public hearing or recommendation from the Planning Commission. The City Council will review and vote on these additional attached documents.

Staff Recommendation

Staff recommends approval of the Zoning Text Amendment for the proposed changes to Chapter 936 (Tree Preservation Ordinance). Staff believes that the proposed changes will help to protect, preserve, and enhance the natural environment of the community, specifically the tree canopy. The proposed changes will also improve the current enforcement of the TPO with better knowledge of staff resources and more efficient staff systems.

Standards of Planning Commission Review of Application Requests Primary Questions to Consider

- Does this text amendment fit with the City's 2040 Comprehensive Plan?
- Do the proposed changes conform to the present and future land uses of the area?
- Do the proposed changes help protect, preserve, and enhance the natural environment of the community?

Action Steps

After considering the items outlined in this report, holding the public hearing on the application, and discussing the requests of the Application, the Planning Commission can should direct staff to prepare a draft *Planning Commission Report and Recommendation for review and adoption at the next Planning Commission meeting*.

Attachments

- Proposed Language for Chapter 936 – Tree Preservation Ordinance
- Proposed Language for Chapter 710 – Maintenance and Removal of Trees (Authority and Duties of City Forester)
- Proposed Language for Chapter 519 – Tree Removal and Treatment
- Proposed Tree Fee-in-Lieu Policy
- Proposed Tree Removal Permit Application
- Proposed Tree Removal Permit Application Checklist

Applicable Code Provisions for Review

Staff has analyzed the facts provided by the applicant in comparison with the criteria for approval. While several criteria appear to be met, **staff has highlighted in bold** the criteria that may require additional discussion with the Planning Commission.

2040 Comprehensive Plan

Guiding Principles of the Comprehensive Plan

Charming

- **Fostering charm in a community known for its small-town character requires intentionality and purpose.** A stronger focus on design – sending developers back to the proverbial drawing table to bring a more tasteful proposal – is a check that would go a long way. City residents want to connect to the City’s shared spaces. City spaces can be plain, or they can be charming – it is just a question of thoughtfulness. **Visitors and residents connect to places that evoke a sense of belonging, and a sense of nostalgia.** Wayzata – by nature, as it is located on the shore of Lake Minnetonka – evokes these feelings. **The challenge for the City is to make charm an utmost priority not only in new developments but in every aspect of the City’s lifecycle.** Placing emphasis on the arts, for example, is something that allows passers-by and visitors to slow down and enjoy the City. Development should be small and intimate, creating room for “randomness.”

Vibrant Parks and City Spaces

- **Vibrant City parks and City spaces are essential to Wayzata’s future. Parks provide mental health benefits to residents, opportunities for physical activity, and bring the important nature connection to daily routines.** City spaces allow residents and visitors to come together, create a sense of belonging, and encourage walkability. Wayzata, through the upcoming robust Parks and Trails System Master Plan, can revive its park spaces and transform them into inter-generational centers with opportunities and spaces from young families to older generations. Connecting the parks and city spaces are also crucial for Wayzata’s vitality. While Wayzata has plenty of park land, some spaces feel forgotten. The Nature Center is the key example of a place that could be reinvented to further connect residents and visitors with nature, and provide opportunities for physical activity.
- Recreation opportunities can be further enhanced by improved Wayzata parks and recreation. The work currently being carried out through partnerships fostered by the Lake Effect Conservancy (with the YMCA, Wayzata Sailing School, Wayzata School District, Interfaith Outreach, and Science Museum of Minnesota) is a fantastic step in that direction, so the focus should be on enhancing those partnerships and centralizing them at the City level so as to enhance access and grow the number of programs offered.

Environmental Sustainability

- As a prosperous and renowned destination suburb, Wayzata has an opportunity to take the lead on sustainability goals and objectives. In the Vision Survey, 68 percent of respondents believe that Wayzata should ‘Aggressively pursue new sustainability actions and focus.’ The health of Lake Minnetonka’s ecosystem, a City free of visual and noise pollution, and **a City that cares about fostering a healthy, vibrant, and sustainable environment should be Wayzata’s priorities.** A process to streamline the permitting application of green energy sources such as residential solar systems and the encouragement of the use of green sources of energy in large developments was highlighted by stakeholders as a key step in achieving a more sustainable Wayzata. Wayzata could also reduce the number of City landscapes that have high consumption of water and instead opt for more sustainable options. The establishment and operation of a City of Wayzata commission on energy and environment creates an opportunity for Wayzata to determine its sustainability goals and take steps to achieve them. Stakeholders agreed on a balanced but progressive agenda in Wayzata’s sustainability efforts

Zoning Text Amendment (§936)

The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:

- 1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.**
- 2. The proposed use's conformity with present and future land uses of the area.**
3. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
4. The proposed use's effect on the area in which it is proposed.
5. The proposed use's impact upon property value in the area in which it is proposed.
6. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
- 7. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.**

CHAPTER 936 TREE PRESERVATION

936.01 Purpose and Intent.

The Wayzata City Council finds it is in the best interest of the City to protect, preserve, and enhance the natural environment of the ~~community~~ City, and to encourage a ~~resourceful and prudent~~ balanced approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the City has established the comprehensive tree preservation regulations ~~herein of this Chapter~~ to promote ~~the furtherance of~~ the following:

- A. Protection and preservation of the environment and natural beauty of the City;
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
- C. Evaluation of the impacts to trees and wooded areas resulting from development;
- D. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
- E. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear cutting during development; and
- F. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

936.02 Definitions.

For purposes of this section, the following definitions shall apply:

- A. **"City Forester"** means that person appointed as City Forester in Section 710.02~~(b)~~.
- B. **"Clear-Cutting"** means the total removal of trees on a property that is required to replace 200 tree inches or above for commercial properties and 100 tree inches or above for residential properties over a one year period or as determined by the City Forester. ~~The property~~
- C. **"Coniferous Tree"** means a woody plant bearing seeds and cones oftentimes, but not always, retaining foliage throughout the year.
- ~~DC.~~ **"Construction Area"** means any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.
- ~~ED.~~ **"Critical Root Zone"** means the area around a tree measured from the trunk of the tree with a radius that is equal to 1.5 feet for each one inch of DBH of the tree. For example, if a tree's DBH is ten inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).
- ~~FE.~~ **"Deciduous Tree"** means a woody plant which has a defined crown, and which loses leaves annually.
- ~~GF.~~ **"Diameter of Tree at Breast Height" or "DBH"** means the diameter of a tree as measured 4½ feet 54 inches above the ground. Trees that branch near or below 4½ feet from the ground will be measured at the narrowest point below 4½ feet. Trunks that originate from the ground shall be considered separate trees. ~~The City Forester shall have the final determination in the DBH calculation, if there is a question of how it is to be measured.~~

~~G. "Hardwood Deciduous Tree" means a Deciduous Tree recognized as hardwoods by the City Forester, including ironwood, catalpa, oak, maple (hard), walnut, ash, hickory, birch, black cherry, hackberry, locust and basswood.~~

~~HH.~~ **"Healthy Tree"** means a tree that is in the average or better condition and vitality for the area, as determined by the City Forester.

~~I.~~ **"Heritage Tree"** means a ~~Healthy Softwood Deciduous Rapid-Growth~~ Tree that is 30 inches or greater in DBH, a ~~Healthy Hardwood Deciduous Standard-Growth~~ Tree that is 25 inches or greater in DBH, or a Healthy Coniferous Tree that is 25 inches or greater in DBH.

~~J.~~ **"Landscape Architect"** means a person licensed by the State of Minnesota as a landscape architect.

~~KK.~~ **"Nursery Stock Dealer" or "Nursery Stock Grower"** means a person licensed by the State of Minnesota as a nursery stock dealer or a nursery stock grower.

~~LL.~~ **"Public Infrastructure"** means the construction or maintenance of:

1. Collector or arterial roads as defined by the City Transportation Plan;
2. Public recreational trails;
3. Stormwater infrastructure;
4. Installation or maintenance of trunk utility infrastructure as described in the Comprehensive Sewer or Water Plans; or
5. Any essential service or public improvement.

~~M.~~ **"Rapid-Growth Tree Species"** means a tree recognized as rapid-growth trees by the City Forester, including cottonwood, poplar/aspen, box elder, willow, silver maple, elm, mulberry, and ash.

~~NM.~~ **"Removal" or "Tree Removal"** means:

1. Manual, mechanical, chemical, or abiotic or biotic (fire, water, insects or inoculation) methods which results in the physical removal of a tree;
2. Grading impact, compaction, or other damage up to 40 percent of a tree's Critical Root Zone;
3. Excessive pruning that severely impacts the long term survivability of the tree; or
4. Any other impact to a tree that comprises the long term health or structural stability of a tree.

~~ON.~~ **"Significant Tree"** means a Healthy ~~Deciduous Hardwood Standard-Growth~~ Tree that is six inches or greater in DBH, a Healthy ~~Rapid-Growth Softwood Deciduous~~ Tree that is 12 inches or greater in DBH, or a Healthy Coniferous Tree that is 12 feet or greater in height or 12 inches or greater in DBH.

~~PO.~~ **"Site Plan"** means the site plan established and described in this Chapter.

~~P.~~ **"Softwood Deciduous Tree"** means a Deciduous Tree recognized as softwoods by the City Forester, including cottonwood, poplar/aspen, box elder, willow, silver maple and elm. ~~G. "Standard-Growth Tree Species" means a tree recognized as standard-growth trees by the City Forester.~~

~~Q.~~ **"Tree Inch(es)"** means the DBH of a tree or trees on the site.

~~QR.~~ **"Tree Preservation Plan"** means the tree preservation plan established and described in this Chapter.

~~SR.~~ **"Tree Preservation Zone"** means the tree preservation zone established and described in this Chapter.

~~T.~~ **"Tree Removal Permit"** means that a permit that is required for any site that removes a significant or heritage tree under this Chapter for tree removal.

936.03 Establishment of Tree Preservation Zone.

A Tree Preservation Zone is hereby established in order to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce stormwater runoff and the costs associated therewith and replenish ground water supplies; aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; provide shade and the significant environmental benefit of counteracting the so-called "heat-island" effect; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to construction or grading; protect and increase property values; conserve and enhance the City's physical and aesthetic environment; provide a haven for ~~birds~~, animals and flora to thrive; and generally protect and enhance the quality of life and the general welfare of the City.

The Tree Preservation Zone shall be applied to and superimposed upon all property within the City of Wayzata. The regulations and requirements imposed within the Tree Preservation Zone shall be in addition to the zoning districts within the existing and amended text and map of the Wayzata Zoning Ordinance, and the Floodplain, Shoreland, and Wetland regulations and requirements. In cases where there is a conflict between regulations applicable within such zones, the more restrictive requirements shall apply.

936.04 City Forester Role

~~The City Forester shall have the authority to make interpretations and final determinations on calculations, measurements, and interpretations under the language of this Chapter.~~

936.05 Permit for Tree Removal.

A Tree Removal Permit is required for any significant or heritage tree removal. A Tree Removal Permit for removal of trees that are determined by the City Forester to be dead, diseased, dying, or hazardous are required to submit a Tree Removal Permit, but ~~a~~ shall not be required to pay for the Permit fee. All the requirements listed in the Tree Preservation Ordinance shall be met with any Permit along with the requirements listed in the Permit itself. ~~The Tree Removal Permit can be found on the City's website or at City Hall.~~

~~Submittals for a Tree Removal Permit Application shall be as follows:~~

- ~~A. Tree Removal Permit Application~~
- ~~B. Tree Preservation Plan, if applicable, which is outlined in 936.07~~

~~The process for a Tree Removal Permit Application shall be as follows:~~

- ~~A. Submit Tree Removal Permit Application and other required submittals to city staff~~
- ~~B. City staff reviews the Application and determines if it is complete~~
- ~~C. Submit tree escrow payment to cover tree replacement, if applicable~~
- ~~D. Staff approves or denies the Tree Removal Permit~~
- ~~E. If approved, the Trees covered by the Permit can then be removed by the property owner or a licensed tree contractor under City Code Ch. 519~~

936.064 Applicability.

The ~~tree permit application and tree replacement requirements provisions~~ of this ~~Section-Chapter~~ shall apply to the following ~~types of land uses and activities~~:

- A. **Subdivision, Public Infrastructure, Construction of Single-Family Home.** The following tree removal thresholds apply to Subdivision applications, Public Infrastructure projects, and construction of a single-family home ~~on a vacant lot~~.

-
1. Heritage Trees. Heritage Trees are valued and special trees for the City of Wayzata due to their size and age. All possible measures must be taken to preserve Heritage Trees. Heritage Tree removal may occur only when there is not a practical alternative. There shall be a zero percent removal threshold of Heritage Trees, meaning every DBH inch of Heritage Tree removed requires full replacement in accordance with the standards within Section 936.1008, in addition to any other requirements hereunder.
 2. Significant Trees ~~Removal by Developers~~. Although the City encourages preservation of the maximum amount of trees possible, the City recognizes that a certain amount of Significant Trees removal is sometimes necessary during development. Accordingly, 25 percent (25%) of the existing DBH inches of Significant Trees can be removed pursuant to a Tree Preservation Plan without obligation of replacement. Any tree removal beyond 25 percent will require replacement in accordance with the standards of Section 936.1008.
 3. Public Infrastructure. The City Council may waive the tree replacement requirements of this Section for Public Infrastructure projects if the City Council makes a finding that the tree replacement requirements hereof would create an undue financial or other burden on the project, and the public benefits of the Public Infrastructure project outweigh the benefits of the required tree replacement hereof.
- B. **Land Disturbance Permits, Design Review, and Expansions to Single-Family Homes.** The following tree removal thresholds apply to projects that require a Land Disturbance Permit under City Code Section 409.05, projects that require Design Review under City Code Section 909.04.B, and expansions or additions to an existing single-family home:
1. Heritage Trees. Heritage Trees are valued and special trees for the City of Wayzata due to their size and age. All possible measures must be taken to preserve Heritage Trees. Heritage Tree removal may occur only when there is not a practical alternative. There shall be a zero percent removal threshold of Heritage Trees, meaning every DBH inch of Heritage Tree removed requires full replacement in accordance with the standards within Section 936.1008 in addition to any other requirements hereunder.
 2. Significant Trees ~~Removal~~. The City recognizes that additional tree removal may occur after the construction of new houses or commercial developments, or the expansion of existing homes or commercial developments, but to a lesser degree than the original development. Therefore, ten percent (10%) of the existing DBH inches of trees can be removed without obligation of replacement. Any removal beyond ten percent will require replacement in accordance with the standards within Section 936.1008.
- C. **Heritage Tree Removal.** Heritage trees that are removed from a property not associated with a project listed in 936.06.A and 936.06.B must be replaced at a ratio of one inch to one inch DBH removed.
- D. **Trees Exempt From Replacement Requirements.** The following types of trees shall not be included as part of the tally of tree removals for purposes of calculating replacement in accordance with the standards within Section 936.1008:
1. Dead, Diseased, Dying, or Hazard Trees as determined by the City Forester. ~~These trees need to~~ must be reviewed and confirmed by the City Forester prior to removal; or
 2. Trees that are transplanted from the site to another appropriate location within the City as approved by the City Forester; or
 3. Trees that were planted as part of a commercial business such as a tree farm or nursery; or

-
4. Trees that are structurally unstable and pose a risk to people or permanent structures, as deemed by a certified arborist with a Tree Risk Assessment Qualification and the City Forester.
 5. For any project not listed in 936.06.A or 936.06.B, there are no tree replacement requirements. A Tree Removal Permit is still required if removing a significant or heritage tree.

936.05 Process.

~~A. **Construction of or Expansion to Single-Family Homes and Land Disturbance Permits.** For construction of a single-family home, expansion to an existing single-family home, or a project that requires a Land Disturbance Permit, a Site Plan must be submitted to the City prior to any proposed tree removal. The Site Plan must include the following information:~~

- ~~1. Identify the Significant and Heritage Trees on the property.~~
- ~~2. Identify the Significant and Heritage Trees removed due to grading or construction.~~
- ~~3. Identify the Mandatory Protection measures in Section 936.06 that will be used to protect the preserved trees during grading or construction.~~
- ~~4. Comply with the City's tree replacement procedure and requirements set forth in this section.~~

~~The Site Plan must receive the approval of the City Forester. Any denial of a Site Plan by the City Forester may be appealed to the City Council.~~

~~B. **Subdivision, Public Infrastructure, and Design Review.** Unless otherwise determined by the City Council, the following process for preserving trees shall be required for Subdivision applications, Public Infrastructure projects, and projects that require Design Review:~~

- ~~1. Prepare a Tree Preservation Plan that is incorporated on the grading plan, which meets the requirements of Section 936.05.~~
- ~~2. Implement the Tree Preservation Plan prior to and during site development.~~
- ~~3. Submit a financial guarantee for compliance with the approved Tree Preservation Plan in accordance with Section 936.09.~~
- ~~4. Comply with the City's tree replacement procedure and requirements set forth in this section.~~
- ~~5. The Tree Preservation Plan must be certified by a Forester, Landscape Architect, Nursery Stock Dealer or a Nursery Stock Grower.~~

936.076 Tree Preservation Plan.

When a Tree Preservation Plan is required with a Tree Removal Permit, an applicant is responsible for implementing the approved Tree Preservation Plan prior to and during site grading and plan development. A Tree Preservation Plan is required for any land use approval or activity mentioned in Section 936.06. The Tree Preservation Plan will be reviewed by the City Forester and any other relevant City staff to assess the best overall tree design for the project involved, taking into account the preservation, renewal and health of Significant and Heritage Trees, and ways to enhance the efforts to mitigate damage to the trees on the property and the natural environment. The applicant is encouraged to meet with City staff prior to submission of a Subdivision application, Public Infrastructure project, or Design Review application to determine the placement of buildings, parking, driveways, streets, storage and other physical features which result in the fewest Significant and Heritage Trees being destroyed or damaged. The Tree Preservation Plan must include the following items:

- A. The name(s) and address(es) of property owners and applicants.

-
- B. Delineation of the buildings, structures, impervious surfaces, utilities, and other site improvements situated thereon or contemplated to be constructed thereon.
 - C. Delineation of all areas to be graded and limits of land disturbance, including the contouring of all areas to be graded.
 - D. Size, species, location and condition of all Significant and Heritage Trees located on the property as well as on adjacent properties where the Critical Root Zones of the trees are within the proposed Construction Area. The size of Deciduous Trees must be recorded in DBH and the size of Coniferous Trees must be recorded both in DBH and approximate height.
 - E. Identification of all Dead, Diseased, Dying and Hazard Trees.
 - F. The Critical Root Zone of all Significant and Heritage Trees proposed to be preserved.
 - G. Identification of all Significant and Heritage Trees proposed to be removed within the Construction Area.
 - H. Identification of all Significant and Heritage Trees on all individual lots. The Developer must submit a list of all lot and block numbers identifying those lots.
 - I. Measures to protect Heritage and Significant Trees as outlined in Section 936.06-8
 - J. Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements.
 - K. Total calculations for the amount of tree removal proposed with the allowed removal percentage and tree replacement calculations included.
 - K~~L~~. Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.

936.08-7 Tree Protection.

The following tree protection measures are required with any Tree Removal Permit:

- A. **Mandatory Protection.** Measures to protect Significant and Heritage Trees must include:
 - 1. Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the Critical Root Zone. Placement is also based on -the City Forester's discretion of Significant and Heritage Trees to be preserved on or adjacent to the property being developed.
 - 2. Trees proposed to be removed must be clearly tagged or otherwise marked on the site, in a non-permanent manner, as approved specified by the City Forester. Trees must be tagged or marketed at least one week before they are taken down removed appropriate
 - 23. Identification of any oak trees requiring pruning between April 1 and July 15; any oak trees so pruned are required to have any cut areas sealed with an appropriate, non-petroleum based tree wound sealant, such as shellac.
- B. **Discretionary Protection.** Measures to preserve or protect Significant and Heritage Trees which may be required by the City include, but are not limited to:
 - 1. Installation of retaining walls or tree wells to preserve trees by eliminating the filling or cutting of soil within Critical Root Zones of Significant and Heritage Trees on or adjacent to the lot being developed.
 - 2. Placement of utilities in common trenches outside of the Critical Root Zone of Significant and Heritage Trees, or use of tunneled installation.
 - 3. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.

4. Use of tree root aeration, fertilization, and irrigation systems when appropriate.
5. Transplanting of Significant Trees into a protected area for later moving into permanent location within the Construction Area.
6. Safety pruning for people working within the construction limits and for the trees involved.

C. **Construction Protection.** ~~The City Forester shall inspect trees on a project site three (3) years after construction has been completed to ensure the health of the trees on residential properties and five (5) years after construction has been completed for commercial or institutional properties. If the trees are determined to be in dead, dying, or in general poor health because of the construction on the site the same number of tree inches must be replaced on site.~~

~~The City Forester can may require additional escrow for Heritage trees that are proposed to be saved on a property undergoing construction if, in the judgment of the City Forester, such-~~ The applicable trees are Heritage trees that are in close proximity to a construction area or are in danger from construction in any way which includes Heritage trees located on public property.

936.09 Clear Cutting.

~~Clear Cutting, as defined in this Chapter, is prohibited on all properties, unless noted otherwise, in the City. the removal amounts to No clear cutting (60% tree removal) is allowed on any parcel without the approval of a variance based on Section 905 by the City Council. This requirement does not apply if the tree removal~~

936.1008 Tree Replacement.

A. **Tree Replacement Formula.** Replacement of removed or disturbed trees in excess of the percentage allowed by this section shall be according to the following ratios.

1. For any removal that exceeds the percentage of allowable removal of Significant Trees as set in Section 936.047, all Significant Trees shall be replaced at the ratio of one caliper inch per one inch of DBH removed.

2. All Heritage Trees must be replaced at the ratio of two caliper inches per one inch of DBH removed.

a. Heritage trees that are removed from a property not associated with a project listed in 936.06.A and 936.06.B must be replaced at a ratio of one inch to one inch DBH removed.

3. The coniferous tree height shall count towards the caliper inches for tree replacement or tree removal listed below:

a. 4-6 foot tall coniferous tree is equivalent to 2 caliper inches of tree replacement. For every two feet in additional tree height, one additional caliper inch is counted (i.e. a 15 foot coniferous tree = 7 caliper inches of replacement).

B. **Size, Types and Diversification of Replacement Trees.** ~~Unless an approved Tree Preservation Plan sets forth a different requirement, all replacement trees must be of a similar species to those that are removed. A Tree Replacement plan must include a diversity of tree species that are suitable for the property given soil conditions, hydrology, topography, and tree pathogens. No more than 20% of the trees planted can be of the same genus or as unless otherwise approved by the City Forester. If m~~ More than 20% of the same genus trees can be planted on the site, but any the tree inches of the same genus over 20% will shall not be included in the total tree inch replacement calculations. The recommended tree replacement species can be found on the Hennepin County Recommended Tree List. Replacement trees must be no less than the following sizes:

1. ~~Deciduous Trees shall be no less than 2½ caliper inches; and~~

2. ~~Coniferous Trees shall be no less than six feet in height.~~

~~5C. **Recommended Tree Replacement Species.** In order to encourage a diverse tree canopy in the City, the following list of tree species are recommended for planting as part of a tree replacement plan:~~

~~Arborvitae.~~

~~Black cherry.~~

~~Butternut.~~

~~Cedar.~~

~~Elm (disease resistant).~~

~~Fir.~~

~~Hackberry.~~

~~Hickory.~~

~~Hemlock.~~

~~Kentucky Coffee.~~

~~Linden/Basswood.~~

~~Maple (except Silver Maples).~~

~~Oak.~~

~~Pine.~~

~~Spruce (except Colorado Blue).~~

~~Tamarack.~~

~~Walnut.~~

D. **Prohibited Tree Replacement Species.** The tree replacement plan may not include any tree species included in the Minnesota Department of Natural Resources Terrestrial Invasive Species-Plants List.

E. **Tree Replacement Location.** The trees shall be located only on the project property. Staff and Council have the discretion to allow tree replacement on neighboring properties if the neighboring property owner agrees. The main reasons to allow tree replacement on neighboring properties is if tree replacement on the property site is impractical and to allow additional screening from the neighboring property. Planting trees on neighboring properties shall only be allowed if all the options for planting trees on the project site are exhausted.

F. **Tree Replacement Reduction.** Heritage trees that are protected and saved during a construction process, that otherwise had a significant probability of removal or loss based on the construction project, and that are healthy- after the construction process, all as determined by the City Forester, can may be used to reduce the total number of required tree replacement inches for the project associated with the construction as determined by the City Forester. TheSuch reduction -Heritage tree can only be incorporated if the tree saved had a significant probability of removal based on the construction project. Saving a Heritage tree in this manner will reduce the number of tree replacement inches byequate to the total DBH inches of the saved tree.

~~EG.~~ **Other Replacement Tree Requirements.** Choice of replacement trees species and location of the trees should also take into account the following information:

1. Soil Composition. Comparisons should be made between soil conditions and the ecology of the proposed species to make sure they are compatible. This is particularly important for the existing and proposed soil composition for the root balls of spaded and B&B trees.
2. Spatial Requirements. The potential height and crown spread of the proposed replacement trees should be known. Generally, half of the adult tree crown diameter is the amount of distance a tree should be planted from any aboveground objects.
3. Pathogen Problems. Appropriate replacement choices shall also consider insect and disease problems that may be common with particular species in the part of the state in which the City of Wayzata is located.

HF. Fee-In-Lieu of Tree Replacement or Replacement Trees Planted in Public Areas. The City recognizes that there may be instances where the total amount of tree replacement required under this section cannot occur on site. In those instances, the City may, at its option, accept a fee-in-lieu of tree replacement or allow the planting of replacement trees in public areas. Tree replacement is encouraged to happen on site as much as possible and fee in lieu-of-tree replacement should be used only when replacement on site is not feasible. The amount of fee-in-lieu of tree replacement will be determined annually by the City Council through the City fee schedule.

936.11 Past Tree Removal

If a property has removed trees on the subject property in the last two years then those tree inches removed shall incorporated into the tree removal/replacement calculations of the current Tree Removal Permit.

936.1209 Financial Guarantee.

- A. **Financial Guarantee.** The City may, at its option, withhold a certificate of occupancy or require cash escrow or a letter of credit satisfactory to the City in the amount of 110 percent of the value of the tree removal and/or replacement, securing the full performance of Tree Preservation Plan and the tree replacement plan. The amount of such security shall be calculated by the fee-in-lieu of tree replacement schedules. The financial security shall be sufficient to cover the costs of the tree removal and/or replacement trees planted, including any needed replacement of the trees over a three-year period.
- B. **Use of Financial Guarantee.** If the property owner does not implement the approved Tree Preservation Plan or Site Plan, including the tree replacement plan, in accordance with the City Council or City Forester approval, the City may use the financial guarantee to correct or complete the work.
- C. **Release of Financial Guarantee.** At least once annually, the City Forester shall review the financial securities, inspect the applicable trees, and release the financial securities as necessary. The financial security shall be released based on the following schedule:
 1. Upon installation of a healthy tree: 50 percent of the financial guarantee for that tree shall be released.
 2. First year inspection determining the installed tree is still healthy: 15 percent of the financial guarantee for that tree shall be released.
 3. Second year inspection determining the installed tree is still healthy: 15 percent of the financial guarantee for that tree shall be released.
 4. Third year inspection determining the installed tree is still healthy: 20 percent of the financial guarantee for that tree shall be released.

936.130 Penalties.

- A. **Intentional or Deliberate Damage.** It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any living tree, deciduous or coniferous, on private land within the limits of the City of Wayzata in violation of this ~~Section~~Chapter. Minn. Stats. § 561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for treble the amount of damages which may be assessed therefore. The City Forester and other City Staff ~~should~~ not make any claims related to the structural integrity of any tree, and any assessments made related to a tree may not be relied upon by the property owner.
- B. **Violation.** Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" shall be as defined in Minn. Stats. § 609.02, Subd. 3.

It shall also be a misdemeanor for any person to attempt to commit a misdemeanor or to cause, aid, assist, counsel or advise another to commit misdemeanor. Any person who commits a misdemeanor, upon conviction, shall be subject to the penalties therefore established by State Statute. Unless expressly provided otherwise, each act in violation of the City Code, including this Chapter, shall constitute a separate offense, and each and every day that such a violation occurs or continues shall constitute a separate offense.

- C. **Fine.** Under the discretion of City staff, any violation of this Section shall be required to pay a fine in accordance to the Fee Schedule.

CHAPTER 710 MAINTENANCE AND REMOVAL OF TREES AUTHORITY AND DUTIES OF CITY FORESTER

710.01. Purpose.

The Wayzata City Council has determined the preservation of trees growing on public and private property are necessary to maintain the general welfare of the public and has established regulations for the appropriate preservations of trees in Chapter 936 and is set forth more fully in Section 710.13 of this Chapter, and Section 801.36 of the Zoning Ordinance. In order to administer those regulations, and to maintain and enhance the quantity and quality of trees growing within the City, this Chapter is adopted to regulate the maintenance and removal of trees within the City of Wayzata by: (1) Defining-Define the duties and responsibilities of the City Forester as the agent administering and enforcing regulations relating to the planning, maintenance and removal of trees within the City of Wayzata; (2) Providing for the issuing of permits and/or licenses for any maintenance and/or removal of trees within the City of Wayzata; (3) Providing-Provide for the pruning and removal of trees on private property that endanger public safety; (34) Providing-Provide for standards and specifications of all policy concerning trees on public property; and (55) Providing-Provide for standards and specifications for care protection policy concerning trees within project construction limitsareas.

(Ord. 614 [5-27-1999])

710.02. Duties and Qualifications of the City Forester.

- A. Duties. The City Forester, as shall be appointed by the City Manager, for the purposes of this Chapter shall to identify diseased and hazardous trees that threaten the health and safety of the public and coordinate all activities of the City relating to the control and prevention of tree pathogens. It shall further be the duty of the City Forester and the City Manager and/or his/her designee to review identified and describe Heritage and Significant Trees in any proposed subdivision or development project and to assist planners, developers, and architects in the development of a tree preservation plan for each construction or development project.
- B. Qualifications of the City Forester. The qualifications of the City Forester shall be, ats a minimum, those qualifications prescribed for certified arborists by the International Society of Arboriculture, or such other appropriate qualifications as determined by the City Manager.

(Ord. 614 [5-27-1999])

710.03. Pathogen Control Program.

It is the intent of the City to conduct a program of plant pest control pursuant to the authority granted by Minn. Stat. §18.022. This Chapter provides full power and authority over all trees, plants and shrubs located within the street rights-of-way, parks and public places of the City; and to trees located on private property that constitute a hazard or threat as described herein; and trees that fall under the tree protection and preservation policy as regulations described in Section 710.17 of this Chapter elsewhere in City Code.

(Ord. 614 [5-27-1999])

710.04. Nuisances Declared.

The following things hereby are declared to be public nuisances whenever they may be found within the City:

-
- A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus (as defined by the Minnesota Department of Agriculture) or which harbors any of the elm bark beetles known by the Minnesota Department of Agriculture to transmit the disease.
- B. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed ~~or sprayed with an effective Dutch Elm insecticide,~~ or disposed of in a manner prescribed by the Commissioner of Agriculture.
- C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt disease fungus, as defined by the Minnesota Department of Agriculture.
- D. Any infected oak tree or part thereof, including logs, branches, stumps, firewood or other oak material unless all bark material is removed and disposed of in a manner prescribed by the Commissioner of Agriculture.
- E. Any ash ~~tree at risk of infestation~~ infested with the Emerald Ash Borer (EAB) as determined by the City Forester after considering Minnesota Department of Agriculture guidance.
- F. Any infested ash tree or part thereof, including logs, branches, stumps, firewood or other ash material unless all bark material is removed and disposed of in a manner prescribed by the Commissioner of Agriculture.
- GF. Any living or standing tree or shrub or part thereof infected to any degree by any organism to be controlled as set forth and described by the Commissioner of Agriculture.
- HG. Any dead, dying, decaying or living tree, shrub or parts thereof that interferes with the public use of any public thoroughfare or right-of-way.

It shall be unlawful for any person to permit any public nuisance as defined in this Section to remain on any property owned or controlled by him within the City. Such a nuisance shall be abated in the manner prescribed by this Chapter. Abatement shall be at the discretion of the City Forester in accordance with all State Law and City Code.

(Ord. 614 [5-27-1999])

710.05. Inspection and Investigation.

The City Forester shall inspect all premises and places within the City as often as practicable to determine whether any nuisances as described in this Chapter exist thereon. The Forester shall investigate all reported incidents of diseased trees within the City. The Forester or duly authorized representative(s) may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this Chapter. Except for cases of emergencies or the imminent threat of personal or property damage, the City shall notify the property owner at least five days prior to the inspection through certified mail to the address listed on the Hennepin County tax records. The inspection may occur after five days even if the certified letter is undeliverable or returned. The City Forester may, upon finding conditions indicating disease infestation is suspected and unconfirmed by a field diagnosis, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 710.08, or in the case of a positive field diagnosis, no action to remove infected -trees or wood shall be taken until positive diagnosis of the disease has been made.

(Ord. 614 [5-27-1999])

710.06. Abatement of Nuisances.

In abating the nuisances defined in Section 710.05, the City Forester shall cause the infected and/or infested tree or wood to be ~~sprayed~~, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible spread of the disease or insects. Such abatement shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

(Ord. 614 [5-27-1999])

710.07. Abatement Procedure.

Whenever the City Forester finds with reasonable certainty that an infestation defined in this Chapter exists in any tree or wood on any public or private property within the City, ~~he the City Forester~~ shall proceed to abate said nuisance as follows:

- A. If the City Forester finds that the danger of infestation of other trees is not imminent the Forester shall notify in writing the person(s) owning or controlling the property upon which the nuisance is located that the nuisance must be abated within 21 days from the date of the mailing. If no action to abate the nuisance is taken within this period the City Forester then shall make a written report of findings to the City Council. The Council shall take action to abate the nuisance, and it may proceed to recover the costs of such abatement as provided in Section 710.09-8
- B. If the City Forester finds that the danger of infestation of other trees is imminent the Forester shall notify in writing the person(s) owning or controlling the property upon which the nuisance is located that the nuisance must be abated within seven days from the date of the mailing, and shall report findings to the City Manager. If no action to abate the nuisance is taken within this period the Forester then shall make a written report of actions to the City Council, which may proceed to recover the costs of such abatement as provided in Section 710.09.
- C. If the City Forester finds that the danger of infestation of other trees is imminent the Forester shall notify in writing all persons owning or controlling property upon which is located trees in danger of becoming infested. Within this notice the City Forester shall state that action, if any, which should be taken to protect the trees in danger of becoming infested and the period within which such action must be taken. If no such action is taken within this period the City Forester then shall take appropriate action to protect these trees as an emergency measure and shall make a written report of this action to the City Council, which may proceed to recover the costs of such action as provided in Section 710.09-8

(Ord. 614 [5-27-1999])

710.08. Special Assessment Procedure.

Upon receipt of a report from the City Forester required by Section 710.078, subsections a. through c., the City Council may pass a resolution to provide for recovering the costs of abatement of a nuisance and/or for recovering the costs of protecting threatened trees by a special assessment procedure. Before such a resolution may be approved, the City Manager shall notify all affected property owners by mail that such a procedure is under consideration prior to the meeting thereon. This notice shall state the time and place of the meeting, the abatement action proposed to be taken or already taken, the estimated or actual cost of such abatement and the proposed basis of assessing such cost. At this meeting all affected property owners shall have the right to be heard with reference to the proposed assessments and assessment procedure. The Council thereafter by resolution may approve such special assessments for the purposes specified herein.

The City Forester shall keep a record of all abatement activities and all abatement costs for which special assessments are to be made or may be made, stating the description of the properties involved and the amounts chargeable to each property. On or before October 10th of each year the City Manager shall list the total unpaid charges for such abatement activities against each separate property to which they are attributable under this Chapter. The City Council then may spread the charges or any portion thereof against the property involved as a special assessment for certification to the Hennepin County Auditor and for collection the following year along with current taxes.

(Ord. 614 [5-27-1999])

710.9. Transporting Diseased Wood.

~~It shall be unlawful for any person to transport within the City any diseased wood without first having obtained a permit therefore from the Forester. The Forester may grant such a permit only when the purposes of this Chapter will be served thereby.~~ The transporting of diseased wood out of the City shall be governed by current State Statutes MDA quarantine notifications related to transportation of diseased and/or infested ~~infected~~ material and any other applicable State Statutes.

(Ord. 614 [5-27-1999])

710.10. Interference Prohibited.

It shall be unlawful for any person to prevent, delay or interfere with the City Forester or duly authorized representative(s) while they are engaged in the performance of duties imposed by this Chapter.

(Ord. 614 [5-27-1999])

710.11. License Required.

No person shall conduct as a business, the cutting, trimming, pruning, removal, spraying or other treatment of trees within the City without first having been issued a license therefore pursuant ~~Refer~~ to Chapter 519, Section .01 and Chapter 936. of the City Code.

(Ord. 614 [5-27-1999])

710.12. Intentional or Deliberate Damage.

It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any living tree, deciduous or coniferous, on private land within the limits of the City of Wayzata in violation of this Section. Minn. Stat. §561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for ~~treble~~ ~~triple~~ treble the amount of damages which may be assessed therefore. The City Forester and other City Staff ~~should~~ not make any claims related to the structural integrity of any tree, and any assessments made related to a tree may not be relied upon by the property owner.

(Ord. 614 [5-27-1999])

710.13. Violation.

Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" shall be as defined in Minn. Stat. §609.02, Subd. 3.

It shall also be a misdemeanor for any person to attempt to commit a misdemeanor or to cause, aid, assist, counsel or advise another to commit misdemeanor. Any person who commits a misdemeanor, upon conviction, shall be subject to the penalties therefore established by State Statute. Unless expressly provided otherwise, each act in violation of the City Code, including this Chapter, shall constitute a separate offense, and each and every day that such a violation occurs or continues shall constitute a separate offense.

(Ord. 614 [5-27-1999])

710.14. Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of the City Code, including this Chapter are severable, and if any phrase, clause, sentence, paragraph, or section of the City Code, including this Chapter, shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the City Code, including this Chapter.

(Ord. 614 [5-27-1999])

(7-21-81 Code; Chapter repealed and replaced by Ord. 574 [2-21-1995]; Ord. 588 [2-27-1997]; Chapter repealed and replaced by Ord. 614 [5-27-1999]; Ord. xxxx [xx-xx-2016])

CHAPTER 519 TREE REMOVAL AND TREATMENT

519.01 License Required.

No person shall conduct as a business, the cutting, trimming, pruning, removal, spraying or other treatment of trees within the City without first having been issued a license therefor [as provided in this Chapter](#).

519.02 License Fee.

The annual license fee which shall be charged for licenses issued under this Chapter shall be as established by City Council resolution.

(Ord. 449 [1-7-1986])

519.03 Surety Bond Required.

All persons licensed under this Chapter shall maintain and file with the City a bond in the amount and form approved by the City Manager payable to the City and executed by a surety company authorized to do business in the State of Minnesota. Said bond shall be drawn on a form furnished by the City and shall be conditioned to require that the licensee will in all respects well and faithfully perform all things undertaken by him for which a license is required hereunder, and it shall save the City, its property owners and residents harmless from all accidents and damages consequent thereto.

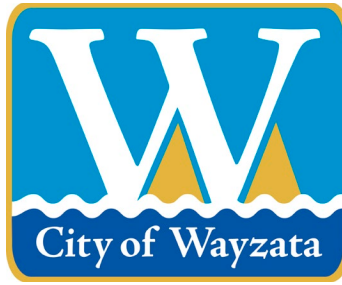
(7-21-81 Code; Ord. 449 [1-7-1985])

519.04 Required Insurance.

All persons licensed under this Chapter shall maintain and file with the City public liability insurance coverage covering all operations of the licensee with minimum bodily injury limits of \$100,000.00 per person and \$300,000.00 per occurrence and with minimum property damage limits of \$50,000.00 per occurrence. Said insurance shall include the City as an additional party insured and shall provide that the coverage may be cancelled only after ten days' written notice to the City. If a licensee's coverage is cancelled and not replaced with coverage meeting the requirements of this Section, said License immediately shall be suspended until said coverage is provided. All persons licensed under this Chapter also shall maintain and file with the City a Certificate of Worker's Compensation Insurance, as such coverage is required by State Statute.

519.05 Chemical Treatment Requirements.

All persons licensed under this Chapter who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the City evidence that the licensee or the employee of the licensee administering the treatment has been certified by the ~~Agronomy Division of the~~ Minnesota Department of Agriculture as a "commercial pesticide applicator." Said certification shall include the knowledge of tree disease chemical treatment.



City Council
Mayor Johanna Mouton
Jeff Buchanan
Cathy Iverson
Molly MacDonald
Alex Plechash

City Manager
Jeffrey Dahl

City of Wayzata Tree Replacement Fee-in-Lieu Fund Policy Proposed August 15, 2022

The fee-in-lieu funds received by the City for the purpose of tree replacement as required in §936.10.G shall be used in accordance with the policy outlined below. Any tree removal required to submit fee-in-lieu funds must also meet the requirements of the overall Tree Preservation Ordinance - §936.

Purpose and Intent:

The Wayzata City Council finds it is in the best interest of the City to protect, preserve, and enhance the natural environment of the City, and to encourage a balanced approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the City has established a comprehensive Tree Preservation Ordinance and this proposed Tree Replacement Fee-in-Lieu Fund Policy to promote the following:

- A. Protection and preservation of the environment and natural beauty of the City;
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
- C. Evaluation of the impacts to trees and wooded areas resulting from development;
- D. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
- E. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear cutting during development; and
- F. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

Fee-in-Lieu Funds:

The City recognizes that there may be instances where the total amount of tree replacement required under the Tree Preservation Ordinance cannot occur on site. In those instances, the City may, at its option, accept a fee-in-lieu of tree replacement or allow the planting of replacement trees in public areas. Tree replacement is encouraged to happen on site as much as possible and fee in lieu-of-tree replacement should be used only when replacement on site is not feasible. The amount of fee-in-lieu of tree replacement will be determined by the City Council and authorized by the City Fee Schedule.

Priorities for Funds:

If tree replacement cannot occur on site then the fee-in-lieu funds are collected by the City and held in an account restricted for the following eligible tree preservation activities. Eligible activities are listed in order of priority:

1. Planting of new trees on adjacent or nearby public properties or right-of-way
2. Maintenance or removal of trees on adjacent or nearby public properties or right-of-way
3. Planting or maintenance of trees on public property or right-of-way farther from the subject property and within the City of Wayzata
4. Planting or maintenance of plants/shrubbery on adjacent or nearby properties or right-of-way
5. Other similar activities that mitigate the impacts of tree removal on the subject property and fulfill the purpose and intent of the Wayzata Tree Preservation Ordinance, the Wayzata Comprehensive Plan, and this Policy, as determined by the City of Wayzata Public Works Director or his/her designee.



Tree Removal Permit Application

600 Rice Street East Wayzata, MN 55391

952-404-5300

permits@wayzata.org

2022 FEE:

\$58.00

Property Information			
SITE ADDRESS Wayzata, MN		Is this a new home? ☐ Yes ☐ No	
NAME OF BUSINESS (if applicable):			
Applicant Information			
Applicant: ☐ Licensed Tree Contractor ☐ Property Owner ☐ Tenant ☐ Other			DATE
APPLICANT NAME		PHONE NUMBER	
APPLICANT ADDRESS		CITY	STATE ZIP
TREE REMOVAL COMPANY NAME		STATE LICENSE #	
Send Approved Permit Via:			
☐ Emailed: _____ ☐ Mail or ☐ In Person			
Property Type:			
Residential ☐ Single-Family ☐ Two-Family ☐ Townhouse ☐ Multi-Family		Non-Residential ☐ Commercial ☐ Institutional ☐ Other: _____ ☐ Church ☐ Public	
Type of Project			
☐ Subdivision ☐ Home Addition ☐ New Single-Family Home ☐ No Associated Project ☐ Grading ☐ Other: _____ ☐ Design Review		Call Gopher State One before you dig. (651) 454-0002	
Project Information:			
Has a tree inventory of the site been completed?		☐ Yes ☐ No	
Have the tree replacment calculations been completed, if applicable?		☐ Yes ☐ No	
Are all the other requirements in the Tree Preservation Ordinance been met?		☐ Yes ☐ No	
Acknowledgment and Signature			
I hereby apply for a Tree Removal Permit and acknowledge that the information above is complete and accurate; that the work will be in conformance with the ordinances and codes of the City of Wayzata.			
Applicant Signature:		Date Signed:	
<i>By electronically signing (or typing) your name, you acknowledge that all information provided is true and correct.</i>			
OFFICE USE ONLY			
Staff Comment:			
Date Received:	Authorization to Issue: ☐ Approved ☐ Denied	Permit#	Permit Fee: _____ Escrow Required: _____
Address Verified: ☐ Yes ☐ No Future Inspection Needed ☐ Yes ☐ No		Date Issued:	
Zoning District:		Processed by:	
		Permit Sent Via:	
		Date:	

Tree Removal Permit Requirements

Under Wayzata City Code, a Tree Removal Permit is required for the removal of any tree that is over six inches in diameter measured at a height of 4.5 feet from the ground (§936.05). Overall, a Tree Removal Permit is required for any Significant or Heritage tree removal. All the requirements listed in the Tree Preservation Ordinance shall be met with any Permit along with the requirements listed in the Permit itself. The Tree Removal Permit can be found on the City's website or at City Hall.

Process:

1. Submit Tree Removal Permit Application and other required submittals to city staff
2. City staff reviews the Application and determines if it is complete
3. Submit tree escrow payment to cover tree replacement, if applicable (§936.12)
4. Staff approves or denies the Tree Removal Permit
5. If approved, the Trees covered by the Permit can then be removed by a tree removal business licensed under § 519.

Application Requirements:

- Tree Removal Permit Application
- Tree Preservation Plan if applicable. A Tree Preservation Plan is required for any project listed in §936.06. Mainly, if the tree removal is associated with a building permit, land disturbance permit, or a development application then a Plan is required. The list below are the required items to be in the Plan:
 - o The name(s) and address(es) of property owners and applicants.
 - o Delineation of the buildings, structures, impervious surfaces, utilities, and other site improvements on the property.
 - o Delineation of all areas on the property to be graded and limits of land disturbance, including the contouring of all areas to be graded.
 - o Size, species, location and condition of all Significant and Heritage Trees located on the property as well as on adjacent properties where the Critical Root Zones of the trees are within the proposed Construction Area. The size of Deciduous Trees must be recorded in DBH and the size of Coniferous Trees must be recorded both in DBH and approximate height.
 - o Identification of all Dead, Diseased, Dying and Hazard Trees.
 - o Identification of all Significant and Heritage Trees proposed to be removed within the Construction Area.

- Measures to protect Heritage and Significant Trees as outlined in §936.08.
 - Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements (§936.10).
 - Total calculations for the amount of tree removal proposed with the removal percentage allowed incorporated and the tree replacement calculations.
 - Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.
- Escrow amount (if applicable in §936.12).

Allowed Tree Removal:

- Property that is the subject of a subdivision, public infrastructure installation or improvement, or the construction of single-family homes are allowed to remove up to 25% of existing trees on the property before tree replacement is required (§936.06.A).
- Property that is the subject of land disturbance permits, design review, or expansions to single-family homes are allowed to remove up to 10% of existing trees on the property before tree replacement is required (§936.06.B).
- Heritage trees are an exception. Any heritage tree that is removed in connection with any of the land use approvals and activities listed above must be replaced at a 2:1 ratio (§936.10.A).
- Property that is not the subject of any of the land use approvals and activities listed above is not required to replace any trees, even heritage trees.

Required Calculations Template:

Total Significant Tree Inches On Site	DBH inches
Total Significant Tree Inches to be Removed	DBH inches
Percent of Significant Tree Inches to be Removed	Percentage
Allowed Tree Inches to be Removed before Replacement (10% or 25%)	DBH inches
Required Significant Tree Inches to be Replaced after Allowed Removal	DBH inches

Total Heritage Tree Inches to be Removed	DBH Inches
Required Heritage Tree Inches to be Replaced (2:1 ratio)	DBH Inches
Total Tree Inches Required to be Replaced	DBH
Total Tree Inches to be Planted	DBH
Total Remaining Tree Inches not Planted	DBH
Total Fee-in-Lieu to be Paid (\$160 per inch)	\$

Recommended Replacement Trees :

Permit holders are encouraged but not required to follow the recommendations listed in the Hennepin County list of recommended trees on the County website for new tree plantings found [here](#). No more than 20% of the trees planted can be of the same genus.



City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 6.a
TITLE: Consider Approval of Zoning Ordinance Amendments for Chapters 902, 920, 937, 974, 975, and 975.5 to Address Mixed Use Buildings	
PREPARED BY: Valerie Quarles, Assistant Planner, Eric Zweber, Planning Consultant	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

Changes to the City's residential, commercial, and institutional zoning districts were recently adopted by the City Council on June 21, 2022, after review by the Zoning Study Task Force and Planning Commission. Since that adoption, staff has come to realize that the mixed-use building regulations had been inadvertently removed from the newly updated C-1, C-1A, and C-1B zoning districts. Staff has initiated this Zoning Ordinance Text Amendment to add mixed-use building regulation back into the newly re-organized Zoning Ordinance, with the same regulations as the former version, which is similar to how mixed-use buildings are regulated currently within the C-4, C-4A, and C-4B zoning districts.

Staff has drafted a Planning Commission Report and Recommendation of Approval. If approved, it is anticipated that the City Council will review the amendments in October 2022.

ACTION REQUESTED:

Staff recommends approval of the Planning Commission Report and Recommendation of Approval.

ATTACHMENTS:

1. Planning Commission Staff Report
2. Planning Commission Report and Recommendation
3. Draft Code Language - Redlined Copy
4. Draft Code Language - Clean Copy
5. Zoning Map



Staff Report
Wayzata Planning Commission
September 19, 2022

Project Name: Zoning Ordinance Text Amendments for Mixed Use Buildings
Request: Zoning Ordinance Text Amendments
Applicant: City of Wayzata
Prepared by: Eric Zweber, Consulting Planner
Valerie Quarles, Assistant Planner

Introduction

Over the last three years, the Zoning Study Task Force, Planning Commission, City Council, and City staff have worked to update and improve the Zoning Ordinance language and regulations for the commercial, institutional, and residential zoning districts, and bring the Ordinance into better conformance with the 2040 Comp Plan. Changes to these districts were adopted in Ordinance 811 by the City Council on June 21, 2022. Since that adoption, staff has come to realize that the mixed-use building regulations had been inadvertently removed from the newly updated C-1, C-1A, and C-1B zoning districts. Staff has initiated this Zoning Ordinance Text Amendment to add mixed-use building regulation back into the newly re-organized Zoning Ordinance, with the same regulations as the former version, which is similar to how mixed-use buildings are regulated currently within the C-4, C-4A, and C-4B zoning districts.

Application Requests

This application requires approval of:

- A. Zoning Ordinance Text Amendments (§ 903.02.F): The City of Wayzata staff proposes to make amendments to the Zoning Ordinance related to the development of mixed-use buildings within the C-1, C-1A, and C-1B zoning districts.

Public Hearing Notice

Notice of the public hearing on the Application was published in the *Sun Sailor* on September 8, 2022.

Neighborhood Notification

The proposed Zoning Ordinance Text Amendments would apply to all properties zoned C-1, C-1A, and C-1B within the City and therefore does not require notification to a specific neighborhood.

Background

Previous to adoption of Ordinance 811, the C-1, C-1A, and C-1B zoning districts permitted mixed use buildings as follows (emphasis added):

“CHAPTER 974 - C-1A NEIGHBORHOOD OFFICE AND LIMITED COMMERCIAL DISTRICT

974.02 - Permitted Uses.

G. **Mixed use buildings** with a combination of residential and allowable retail, office and service use.”

“CHAPTER 975 - C-1 OFFICE AND LIMITED COMMERCIAL DISTRICT

975.02 - Permitted Uses.

J. **Mixed-use buildings** with upper story residential and ground floor office/service commercial use.”

“CHAPTER 975.5 - C-1B MIXED USE RESIDENTIAL DISTRICT

975.5.02 - Permitted Uses.

A. **Mixed use buildings** with no less than 60 percent of the building square footage (SF) comprising residential use, and the balance comprising of one or more of the following (or similar) type retail, office, or service use:

1. Art galleries or studios.
2. Commercial/professional offices.
3. Day care facilities serving 12 or fewer persons.
4. Florist shops.
5. Interior decorating studios.
6. Photographic studios.
7. Hobby Stores.
8. Variety, gift, boutique, or soft goods stores.
9. Wearing apparel stores”

The language referenced above was deleted within Ord. 811 and alternative language was not proposed nor adopted.

The Comprehensive Plan emphasizes the importance of mixed use nodes to the community, with the aim of strengthening a sense of community and promoting walkability. To that end, land use guidance for the majority of the parcels within the C-1, C-1A, and C-1B zoning districts is for Mixed-Use Commercial/Residential development. Most of these areas are located on or adjacent to Wayzata Boulevard and represent a majority of the employment locations outside of the Lake Street corridor.

Proposed Amendments

To return mixed-use building regulations to the C-1, C-1A, and C-1B, zoning districts, while maintaining the individuality of each zoning district where applicable, amendments are necessary to the following City Code Sections:

- 902.02 Definitions
- 937.02 Use Table
- 974.08 C-1A Special Limitations and Conditions
- 975.08 C-1 Special Limitations and Conditions
- 976.08 C-1B Special Limitations and Conditions

Additionally, staff would like to take this opportunity to amend the Off-Street Parking and Loading Ordinance (City code Section 920.11.A.4) which currently addresses net floor area calculations used for parking demand calculations. This will help clarify how parking is calculated in mixed-use buildings.

Section 920.02 Definitions

Currently (and also before the adoption of Ord. 811), there is no definition for mixed-use buildings. Staff proposes to create a new definition as follows:

902.02 “Mixed Use Building.” A building with multiple principal uses.

Section 937.02 Use Tables

As adopted within Ord. 811, the current uses allowed within the commercial districts are as follows:

	C-1A	C-1	C-1B	C-2	C-3	C-3A	C-4A	C-4	C-4B
Dwellings, Multiple Family							C	C	C
Dwellings, Multiple Family, Upper Story				P	P	P	P	P	P
Mixed-Use Buildings	P	P	P						

Staff would like to highlight a number of factors in the existing table.

1. There is no “Mixed-Use Buildings” use within the C-4A, C-4, and C-4B zoning districts while there are many existing buildings within those districts which are occupied by more than one use. Buildings with more than one use within the C-4A, C-4, and C-4B districts are regulated through the special limitations and conditions regulations within those zoning code chapters. Staff proposes in the table below to remove the “Mixed-Use Buildings” use from the use table below and add mixed-use building regulations within a new special limitations and conditions section within the C-1A, C-1, and C-1B zoning districts.

2. With adoption of Ord. 811, “Dwellings, Multiple Family, Upper Story” (also referred to as upper story multi-family residential) is allowed in all commercial districts except C-1A, C-1, and C-1B zoning districts. In the table below, staff proposes to add upper story multi-family residential uses back to the C-1A and C-1 zoning districts.
3. Due to the existing use of the buildings within the C-1B district, as well as their small lot areas and the small portion of the City that it occupies (the south side of Rice Street between Manitoba Avenue and Minnetonka Avenue), staff proposes to allow multiple family residential within the C-1B zoning district in order to keep existing multifamily buildings in conformance with code. New buildings in this district could be completely residential.

	<i>C-1A</i>	<i>C-1</i>	<i>C-1B</i>	<i>C-2</i>	<i>C-3</i>	<i>C-3A</i>	<i>C-4A</i>	<i>C-4</i>	<i>C-4B</i>
<i>Dwellings, Multiple Family</i>			<u>P</u>				C	C	C
<i>Dwellings, Multiple Family, Upper Stories</i>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	P
<i>Mixed-Use Buildings</i>	P	P	P						

Chapters 974, 975, and 975.5 C-1A, C-1, and C-1B Special Limitations and Conditions

Staff is proposing to regulate mixed-use buildings in the same way as the C-4A, C-4, and C-4B zoning districts. Each of the chapters for these districts has a “Special Limitations and Conditions” section to address regulations around mixed-use buildings. In the C-1A, C-1, and C-1B zoning districts, they are proposed to meet the intent of the mixed-use building regulations that existed within those districts prior to the adoption of Ord. 811, and differentiated as such.

Three medium-sized parcels, located on Wayzata Blvd, are designated C-1A. The stated purpose of the C-1A district is to provide areas for those office and service uses that provide limited contact with the public and may be mixed with residential use. The “Special Limitations and Conditions” section created for this district is proposed to include language that focuses on the first-floor composition of mixed use buildings. Because upper-story residential use is allowed in this district, but no purely residential buildings are allowed due to the district’s commercial focus, a minimum amount of commercial space must be defined. The proposed split, by square footage, is 80% non-residential space and 20% circulatory space, common area space, or shared amenity space. The new section also includes standard language from the C-4 zoning districts regarding how commercial tenant spaces interact with one another and how they are accessed from the exterior.

The C-1 district is comprised of a much broader range of parcel sizes and is distributed across a greater stretch of Wayzata, through primarily near Wayzata Blvd. The same

mixed-use regulations are proposed for C-1A and C-1. The zones are differentiated through their allowed uses, as well as lot coverage, floor area ratio, height, and lot area standards. For instance, C-1 does not allow retail, while C-1A does.

The C-1B district is localized to the north side of a single block, located between Manitoba Ave, Minnetonka Ave, and Rice St. The only standard proposed within “Special Limitations and Conditions” is a stipulation that mixed-use buildings must be at least 60% residential by square footage, which meets the intent of the original language as shown on Page 2.

The attached redlines show the full code amendments.

Section 920.11 Off-Street Parking and Loading Requirements: Calculating Spaces

Staff has observed that some mixed-use buildings can have more common areas to accommodate multiple tenants, such as recreation and activity spaces, when compared with single-use buildings. To allow some flexibility and practicality, staff is proposing to add the ability for the Zoning Administrator to allow up to a 20% floor area reduction if it is shown that the common areas in mixed-use buildings would not create an additional parking demand. Buildings with one principal use would continue to be subject to the standard 10% reduction. Developers of mixed-use buildings may also simply accept the 10% reduction without additional floor plan review.

Section 920.11.A.4. Floor Area. *The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined based on the Gross Floor Area minus ten percent, except as may be hereinafter modified.*

More than One Use. *Except for a shopping center, should a structure contain two or more types of uses, the Gross Floor Area of each use shall be calculated and a ten percent reduction shall be made for non-productive space. For mixed-use buildings, the reduction may be increased to up to 20% subject to review of a floor plan that demonstrates no additional impact on parking demand, as determined by the Zoning Administrator. The resulting net usable floor space figure shall be utilized to determine the off-street parking requirement.*

Standards of Planning Commission Review of Application Requests

A Zoning Ordinance Text Amendment request is a legislative review and decision, meaning that the Planning Commission acts like a legislative body and has wide discretion on whether to recommend approval or denial if it has a rational basis for its decision.

The Planning Commission should recommend approval of the Zoning Ordinance Text Amendment if the Commission determines that there are no substantial adverse effects of the amendment as outlined in City Code § 903.02.F.

Primary Question to Consider

- Is the zoning amendment consistent with the comprehensive plan?

Action Steps

After considering the items outlined in this report, holding the public hearing on the application, and discussing the requests of the Application, the Planning Commission should adopt or deny the attached *Planning Commission Report and Recommendation* for consideration at the next City Council meeting.

Attachments

Draft Planning Commission Report and Recommendation of Approval

Draft Code Language – Redlined Copy

Draft Code Language – Clean Copy

Zoning Map

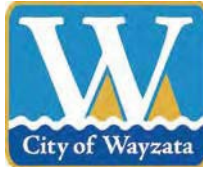
Applicable Code Provisions for Review

Staff has analyzed the facts provided by the applicant in comparison with the criteria for approval. While several criteria appear to be met, **staff has highlighted in bold** the criteria that may require additional discussion with the Planning Commission.

Zoning Amendment (903.02)

The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:

- 1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.**
2. The proposed use's conformity with present and future land uses of the area.
3. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
4. The proposed use's effect on the area in which it is proposed.
5. The proposed use's impact upon property value in the area in which it is proposed.
6. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
7. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.



WAYZATA PLANNING COMMISSION

September 19, 2022

REPORT AND RECOMMENDATION OF APPROVAL OF ZONING ORDINANCE AMENDMENTS

DRAFT

SUMMARY OF RECOMMENDATION

Approval* of Zoning Ordinance Amendments to better define and regulate mixed use buildings

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Zoning Ordinance Amendments (text). City planning staff has reviewed existing language of the Zoning Ordinance related to definitions and regulations of mixed use buildings, and recommends certain amendments to better define and regulate such buildings and uses, and to bring those aspects of the Zoning Ordinance more in line with the goals and guidance of the 2040 Comprehensive Plan. Draft amendments to the Zoning Ordinance (Part IX of City Code) have been prepared by City Staff and is attached to this Report as Attachment A (the "Zoning Ordinance Amendments").
- 1.2 Notice and Public Hearing. Notice of the public hearing on the Zoning Ordinance Amendment was published in the *Sun Sailor* on September 8, 2022 and on the City's website. The public hearing on the Zoning Ordinance Amendment was held at the September 19, 2022 Planning Commission meeting.

Section 2. STANDARDS

- 2.1 Zoning Ordinance Amendments. City Council has the discretion and authority under state law and City Code to amend the City's Zoning Ordinance (Text or

Zoning Map). In considering a proposed amendment to the Zoning Ordinance under Sec. 903.02.F of the Zoning Ordinance, the Planning Commission and City Council must consider the possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:

- A. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
- B. The proposed use's conformity with present and future land uses of the area.
- C. The proposed use's conformity with all performance standards contained in the Zoning Ordinance (i.e., parking, loading, noise, etc.).
- D. The proposed use's effect on the area in which it is proposed.
- E. The proposed use's impact upon property value in the area in which it is proposed.
- F. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
- G. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.

Section 3. FINDINGS OF FACT

Based on the materials submitted by City Staff, the Staff report, comment and information presented at the public hearing, and the standards of the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

- 3.1 Zoning Ordinance Amendments. The Planning Commission has considered all of the factors of Sec. 903.02.F of the Zoning Ordinance and finds that the proposed Zoning Ordinance Amendments would not have any adverse effects, and would better define and regulate mixed use buildings and uses, and to bring those aspects of the Zoning Ordinance more in line with the goals and guidance of the 2040 Comprehensive Plan. The Zoning Ordinance Amendments meet the applicable standards in that:
 - A. The Zoning Ordinance Amendments do not contravene any policies and provisions of the official City Comprehensive Plan, and would instead help implement them in a clearer manner.

- B. The Zoning Ordinance Amendments would conform with the present and future land uses within the City.
- C. The Zoning Ordinance Amendments would conform with all performance standards contained in the Zoning Ordinance, and improve the clarity of several standards, making them easier to understand and apply.
- D. The Zoning Ordinance Amendments would not have a negative effect on any areas of the City, including residential and commercial areas and areas where there is a mixture of uses.
- E. The Zoning Ordinance Amendments would not have any significant adverse effect overall on property values in the City.
- F. There would be no significant adverse effects on traffic generated by Zoning Ordinance Amendments.
- G. The Zoning Ordinance Amendments would not negatively impact existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.

Section 4. RECOMMENDATION

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **APPROVAL** of the Zoning Ordinance Amendments.

Adopted by the Wayzata Planning Commission this 19th day of September 2022.

Attachments:

Attachment A: Zoning Ordinance Amendment – Redlined Copy

Attachment B: Zoning Ordinance Amendment – Clean Copy

CHAPTER 902 – RULES AND REGULATIONS

902.02 – Definitions

“Mixed Use Building.” A building with multiple principal uses.

CHAPTER 920 – OFF-STREET PARKING AND LOADING

920.11 – Off-Street Parking and Loading Requirements

A. Calculating Space.

4. More than One Use. Except for a shopping center, should a structure contain two or more types of uses, the Gross Floor Area of each use shall be calculated and a ten percent reduction shall be made for non-productive space. For mixed-use buildings, the reduction may be increased to up to 20% subject to review of a floor plan that demonstrates no additional impact on parking demand, as determined by the Zoning Administrator. The resulting net usable floor space figure shall be utilized to determine the off-street parking requirement.

CHAPTER 937 – ZONING DISTRICTS AND USE TABLE AND PERFORMANCE STANDARDS

937.02 – Use Table

	C-1A	C-1	C-1B	C-2	C-3	C-3A	C-4A	C-4	C-4B
<i>Dwellings, Multiple Family</i>			<u>P</u>				C	C	C
<i>Dwellings, Multiple Family, Upper Storyies</i>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	P
<i>Mixed-Use Buildings</i>	P	P	P						

CHAPTER 974 – C-1A NEIGHBORHOOD OFFICE AND LIMITED COMMERCIAL DISTRICT

974.08 Special Limitations and Conditions.

- A. In a mixed use building, the first story must be at least 80% non-residential by that floor's Gross Floor Area. The remaining 20% or less is intended for

circulatory space, shared amenities for building users, or other common areas that are not intended to generate additional traffic.

- B. In a mixed use building, each business establishment shall be operated as a separate and distinct business entity. Each business establishment shall be physically separate from any other such establishment by solid walls, partitions or windows, although nothing in this paragraph is intended to prevent either common ownership or free pedestrian movement from one establishment to another through either an area commonly owned or leased by all adjoining establishments or through direct doorway connections. All business establishments shall be accessible from the exterior of the building in which they are located by either a direct door to the exterior or by direct access to a "common area" which in turn has adequate access to the exterior of the building without passing through another.

CHAPTER 975 – C-1 OFFICE AND LIMITED COMMERCIAL DISTRICT

975.08 Special Limitations and Conditions.

- A. In a mixed use building, the first story must be at least 80% non-residential by that floor's Gross Floor Area. The remaining 20% or less is intended for circulatory space, shared amenities for building users, or other common areas that are not intended to generate additional traffic.
- B. In a mixed use building, each business establishment shall be operated as a separate and distinct business entity. Each business establishment shall be physically separate from any other such establishment by solid walls, partitions or windows, although nothing in this paragraph is intended to prevent either common ownership or free pedestrian movement from one establishment to another through either an area commonly owned or leased by all adjoining establishments or through direct doorway connections. All business establishments shall be accessible from the exterior of the building in which they are located by either a direct door to the exterior or by direct access to a "common area".

CHAPTER 975.5 – C-1B MIXED USE RESIDENTIAL DISTRICT

975.05.08 Special Limitations and Conditions.

- A. Mixed use buildings must have no less than 60 percent of the building's Gross Floor Area comprising residential use.

CHAPTER 902 – RULES AND REGULATIONS

902.02 – Definitions

“Mixed Use Building.” A building with multiple principal uses.

CHAPTER 920 – OFF-STREET PARKING AND LOADING

920.11 – Off-Street Parking and Loading Requirements

A. Calculating Space.

4. More than One Use. Except for a shopping center, should a structure contain two or more types of uses, the Gross Floor Area of each use shall be calculated and a ten percent reduction shall be made for non-productive space. For mixed-use buildings, the reduction may be increased to up to 20% subject to review of a floor plan that demonstrates no additional impact on parking demand, as determined by the Zoning Administrator. The resulting net usable floor space figure shall be utilized to determine the off-street parking requirement.

CHAPTER 937 – ZONING DISTRICTS AND USE TABLE AND PERFORMANCE STANDARDS

937.02 – Use Table

	<i>C-1A</i>	<i>C-1</i>	<i>C-1B</i>	<i>C-2</i>	<i>C-3</i>	<i>C-3A</i>	<i>C-4A</i>	<i>C-4</i>	<i>C-4B</i>
<i>Dwellings, Multiple Family</i>			P				C	C	C
<i>Dwellings, Multiple Family, Upper Stories</i>	P	P	P	P	P	P	P	P	P

CHAPTER 974 – C-1A NEIGHBORHOOD OFFICE AND LIMITED COMMERCIAL DISTRICT

974.08 Special Limitations and Conditions.

- A. In a mixed use building, the first story must be at least 80% non-residential by that floor's Gross Floor Area. The remaining 20% or less is intended for circulatory space, shared amenities for building users, or other common areas that are not intended to generate additional traffic.

- B. In a mixed use building, each business establishment shall be operated as a separate and distinct business entity. Each business establishment shall be physically separate from any other such establishment by solid walls, partitions or windows, although nothing in this paragraph is intended to prevent either common ownership or free pedestrian movement from one establishment to another through either an area commonly owned or leased by all adjoining establishments or through direct doorway connections. All business establishments shall be accessible from the exterior of the building in which they are located by either a direct door to the exterior or by direct access to a "common area" which in turn has adequate access to the exterior of the building without passing through another.

CHAPTER 975 – C-1 OFFICE AND LIMITED COMMERCIAL DISTRICT

975.08 Special Limitations and Conditions.

- A. In a mixed use building, the first story must be at least 80% non-residential by that floor's Gross Floor Area. The remaining 20% or less is intended for circulatory space, shared amenities for building users, or other common areas that are not intended to generate additional traffic.
- B. In a mixed use building, each business establishment shall be operated as a separate and distinct business entity. Each business establishment shall be physically separate from any other such establishment by solid walls, partitions or windows, although nothing in this paragraph is intended to prevent either common ownership or free pedestrian movement from one establishment to another through either an area commonly owned or leased by all adjoining establishments or through direct doorway connections. All business establishments shall be accessible from the exterior of the building in which they are located by either a direct door to the exterior or by direct access to a "common area".

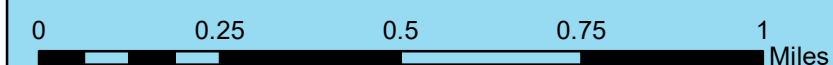
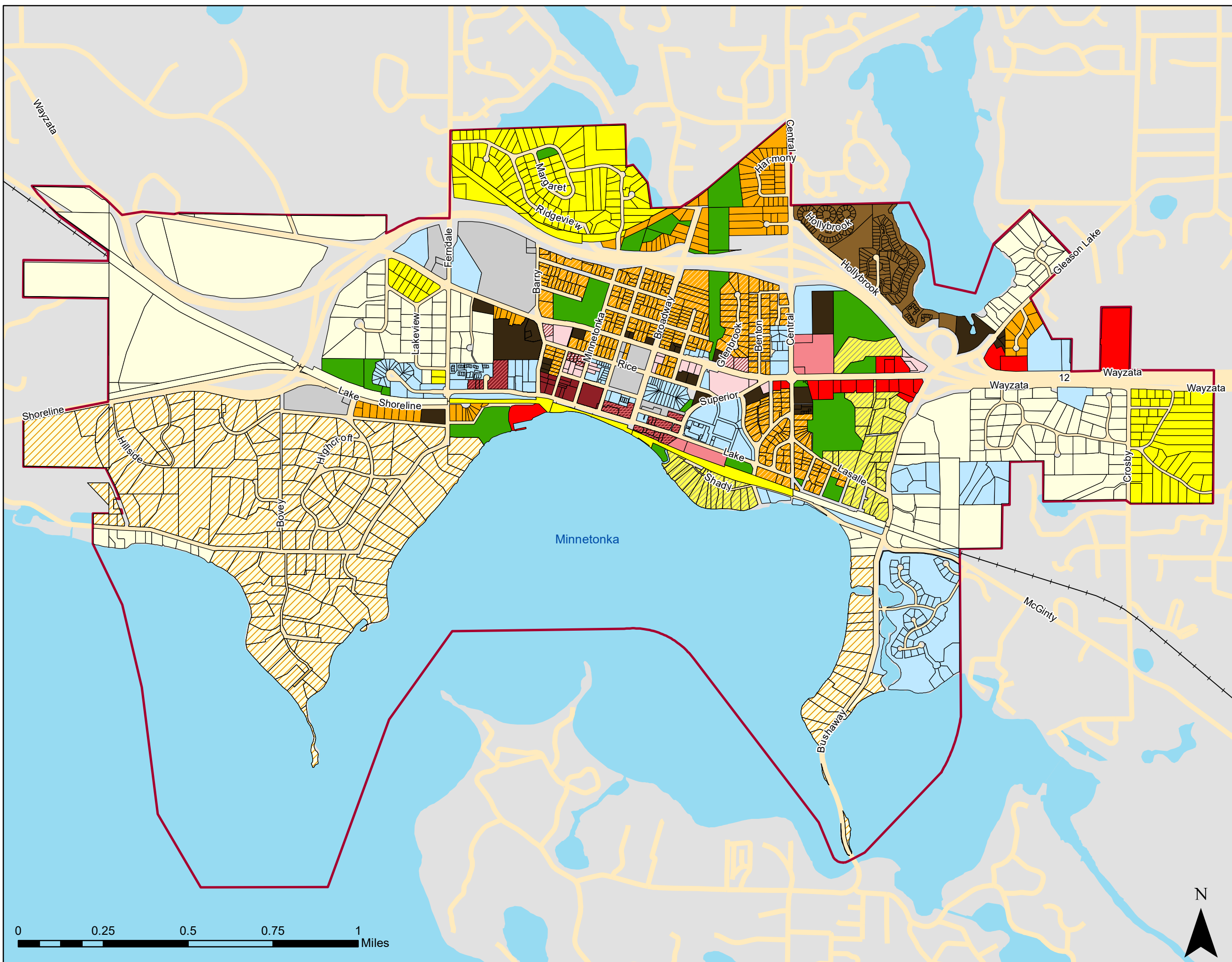
CHAPTER 975.5 – C-1B MIXED USE RESIDENTIAL DISTRICT

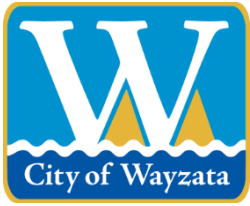
975.05.08 Special Limitations and Conditions.

- A. Mixed use buildings must have no less than 60 percent of the building's Gross Floor Area comprising residential use.

Zoning Designation

-  C-1 Office and Limited Commercial District
-  C-1A Neighborhood Office and Limited Commercial District
-  C-1B Mixed Use Residential
-  C-2 Shopping Center Business District
-  C-3 Service District
-  C-4 Central Business District
-  C-4A Limited Central Business District
-  C-4B Central Business District
-  INS Institutional
-  P Parks and Open Space
-  PUD Planned Unit Development
-  R-1 Low Density Single Family Residential District
-  R-1A Low Density Single Family Estate District
-  R-2 Medium Density Single Family Residential District
-  R-2A Single Family Residential District
-  R-3 Single and Two Family Residential District
-  R-3A Single and Two Family Residential District
-  R-4 Medium Density Multiple Residential District
-  R-5 Average Density Multiple Residential District





City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 7.a
TITLE: Review of Development Activities	
PREPARED BY: Valerie Quarles, Assistant Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

A verbal update will be provided at the meeting.

ACTION REQUESTED:

N/A

ATTACHMENTS:

None



City of Wayzata Planning Commission Agenda Report

MEETING DATE: September 19, 2022	AGENDA ITEM: 7.b
TITLE: Planning Commission Meeting Schedule	
PREPARED BY: Valerie Quarles, Assistant Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

The next Planning Commission meeting is on Monday, October 3, 2022. The 2022 City Meeting Calendar and Liaison Schedule are attached. A 2023 Calendar will be available later this fall.

ACTION REQUESTED:

N/A

ATTACHMENTS:

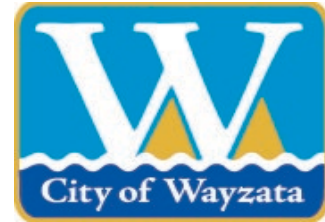
1. 2022 Wayzata City Calendar
2. 2022 Planning Commission Liaison Schedule

City of Wayzata

2022 Meeting Calendar

January 2022						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February 2022						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					



March 2022						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 2022						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 2022						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June 2022						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July 2022						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August 2022						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September 2022						
S	M	T	W	Th	F	S
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October 2022						
S	M	T	W	Th	F	S
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November 2022						
S	M	T	W	Th	F	S
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December 2022						
S	M	T	W	Th	F	S
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

- Energy & Environment 5:00 PM
- Planning Commission - 6:30 PM
- City Council - 7:00 PM
- Wayzata School Board
- Lake Minnetonka Conservation District (LMCD)
- Heritage Preservation Board (HPB) - 5:00 PM
- Housing & Redevelopment Authority (HRA) - 7:30 AM
- Parks & Trails Board - 6:00 PM
- Charter Commission - 9:00 AM
- Elections (see below)
- Night to Unite

Meeting dates and times are subject to change. Dates can be confirmed by calling City Hall.

Holiday Observed
City Offices Closed

Precinct Caucuses - Feb 1, 2022

Primary Election - August 9, 2022

General Election - November 8, 2022

Revised
9/29/2021

2022 Planning Commission Assignments at Council Meetings

	<u>Meeting Date</u>	<u>Commission Representative</u>
Tuesday	January 4, 2022	Ken Sorensen
Tuesday	January 18, 2022	Peggy Douglas
Tuesday	February 8, 2022	Laura Merriam
Tuesday	February 22, 2022	Jeffrey Parkhill
Tuesday	March 8, 2022	Bonnie Schwalbe
Tuesday	March 22, 2022	Jennifer Severson
Tuesday	April 5, 2022	Larissa Stockton
Tuesday	April 19, 2022	Ken Sorensen
Tuesday	May 3, 2022	Peggy Douglas
Tuesday	May 17, 2022	Laura Merriam
Tuesday	June 7, 2022	Jeffrey Parkhill
Tuesday	June 21, 2022	Bonnie Schwalbe
Tuesday	July 5, 2022	Jennifer Severson
Tuesday	July 19, 2022	Larissa Stockton
Wednesday	August 3, 2022	Ken Sorensen
Tuesday	August 16, 2022	Peggy Douglas
Tuesday	September 6, 2022	Laura Merriam
Tuesday	September 20, 2022	Jeffrey Parkhill
Tuesday	October 4, 2022	Bonnie Schwalbe
Tuesday	October 18, 2022	Jennifer Severson
Tuesday	November 1, 2022	Larissa Stockton
Tuesday	November 15, 2022	Ken Sorensen
Tuesday	December 6, 2022	Peggy Douglas
Tuesday	December 20, 2022	Laura Merriam