

WAYZATA CITY COUNCIL MEETING AGENDA
Wayzata City Hall Community Room, 600 Rice Street
WEDNESDAY, November 4, 2015

4:00 PM Interview Interim City Manager Candidates and Discuss Recruitment Process

5:00 PM Dinner Available for Wayzata City Council - Conference Room

WORKSHOP TOPIC FOR DISCUSSION:

1. Review of Procurement Options for Mill Street Ramp (5:30 PM)

7:00 PM - CITY COUNCIL MEETING

ITEM	DESCRIPTION	PRESENTER	JM	AM	KW	BA	ST	VOTE	PAGE #
1	Roll Call								
2	Approve Agenda								
3	Public Forum - 15 Minutes (3 min/person)								
a.									
4	New Agenda Items (3 min/councilmember) - 1. Councilmember suggest item to add; 2. Must be seconded by another Councilmember; 3. Determine staff resources, scheduling & timeframe; 4. Discuss & vote to add to future agenda								
a.									
5	Consent Agenda								2
a.	Approval of: City Council Workshop Meeting Minutes of October 6, 2015 and October 20, 2015; and City Council Regular Meeting Minutes of October 20, 2015								
b.	Approval of Check Register								
c.	Approval of 2016 Liability Insurance Coverage Waiver Form								
6	New Business								
a.	Consider First Reading of Ordinance No. 756 - Telecommunications	Zweber							31
b.	Consider First Reading of Ordinance No. 757 - Tree Preservation	Zweber							101
c.	Consider Resolution No. 39-2015 240 Manitoba Avenue S. Variance	Zweber							144
d.	Consider Proposal from Forecast for Public Art for Public Art located in Circle A/Lake Street Roundabout and Review Draft Citywide Public Art Policy	Peters							168
e.	Consider Resolution No. 41-2015 Revoking the Rental Dwelling License of David Supplee	Nelson							176
7	City Manager's Report and Discussion Items								
8	Public Forum (as necessary)								
9	Adjournment								

Meeting Rules of Conduct:

Turn in white card for public forum and blue card for agenda item
Give name and address
Indicate if representing a group
Limit remarks to 3 minutes

Upcoming Meetings:

City Council - November 17 & December 1, 2015
Planning Commission - November 16 & December 7, 2015

WAYZATA CITY COUNCIL
DRAFT-WORKSHOP MEETING MINUTES
October 6, 2015

4:45 PM FORECAST PUBLIC ART WITH JACK BECKER

Mayor Willcox called the workshop meeting to order at 4:45 pm in the Community Room at Wayzata City Hall. Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Nelson, and Management/Planning Intern Peters.

Ms. Nelson explained the purpose of the workshop meeting is to discuss the process of creating a public art program to help guide the City when it is presented with public art project/opportunities. She stated that as part of the East Corridor Landscape Project (area of roundabout/East Lake Street), the City is currently presented with a potential public art project. She explained the project would be located in the Circle A/Lake Street roundabout.

Mr. Peters introduced Mr. Jack Becker with Forecast Public Art, a non-profit organization located in St. Paul, MN. Mr. Peters stated staff contacted Mr. Becker in an effort to discuss public art and the potential roundabout project.

Mr. Becker provided an overview of the scope of what public art can be, with the intention of being staged in the physical public domain, usually outside and physically accessible to all. Mr. Becker presented a PowerPoint presentation illustrating several public art applications.

Ms. Nelson stated that funding for the public art located in the roundabout would be supported by the Wayzata Rotary Club, and funds for the East Corridor Landscape Project from the Wayzata Bay Center redevelopment.

5:45 PM REVIEW SPECIAL EVENT PERMIT, POLICY & PROCESS

Mayor Willcox called the workshop meeting to order at 5:45 pm in the Community Room at Wayzata City Hall. Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Nelson, Director of Public Service Dudinsky, City Engineer/Assistant Director of Public Works Kelly, and Management/Planning Intern Peters.

Mr. Dudinsky reviewed a draft copy of a proposed 2016 special event (SE) permit instructions, fees and permit application form. Mr. Dudinsky reviewed the 2015 JJ Hill Days Event, including estimated time spent by Wayzata Public Works, Police and Fire Departments. Mr. Dudinsky also reviewed the approval process followed for the August 10, 2015 Camp Cambria Classic Concert Event.

The Council provided feedback and asked staff to bring back a revised draft to the City Council for final approval.

6:30 PM NEXT STEPS LAKE EFFECT: REVIEW COMMITTEES & BOARD STRUCTURES

Mayor Willcox called the workshop meeting to order at 6:30 pm in the Community Room at Wayzata City Hall. Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Nelson, City Engineer/Assistant Director of Public Works Kelly, Management/Planning Intern Peters, and City Consultant Mary deLaitre of Groundworks LLC.

Ms. deLaitre stated that integral to the success of the Lake Effect: Signature Project are the stakeholder committees, specifically the Technical and Steering Committees. She explained that these two committees will respond to the increasingly developed Lake Effect: Signature Project design iterations with suggestions, critiques and partnership/resource identification. Committee members will be asked to

1 provide information specific to their areas of expertise and be the primary conduit of information/act as
2 ambassadors between the organization and community they represent on the project team. Ms. deLaittre
3 recommended that the Technical Committee membership remain the same as the committee created for
4 the Lake Effect Framework. She provided a proposal for the Steering Committee members, which would
5 be composed of many of the same members that were on the Designer Selection Committee with Mayor
6 Willcox remaining on the Committee. The Council asked that three or four additional community
7 members be added to the Steering Committee. The Council directed staff to solicit names from each
8 member of the Council prior to this coming back to Council for appointment.
9

10 In addition, Ms. deLaittre suggested it may now be the time to begin discussions to create a Founding
11 Board for the Lake Effect Supportive Organization (internally called the Lake Effect Trust). The Council
12 asked that each member of the Council also suggest names for the Lake Effect Trust. Ms. deLaittre
13 recommended that Council Member Mullin be appointed as the Council Representative to the Trust.
14

15 The workshop meetings were adjourned at 6:55 pm.
16

17 Respectfully submitted,
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19
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21 Becky Malone
22 Deputy City Clerk

WAYZATA CITY COUNCIL
DRAFT-WORKSHOP MEETING MINUTES
October 20, 2015

5:30 PM REVIEW 1607 & 1613 HOLDRIDGE TERRACE SUBDIVISION CONCEPT PLAN

This workshop meeting was cancelled at the request of the applicant.

6:15 PM REVIEW MEYER BROS. REDEVELOPMENT CONCEPT PLAN

Mayor Willcox called the workshop meeting to order at 6:15 pm in the Community Room at Wayzata City Hall. Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Nelson, City Engineer/Assistant Director of Public Works Kelly, Director of Planning & Building Thomson, Interim City Planner Zweber, and Management/Planning Intern Peters.

Interim City Planner Zweber explained to the Council that Homestead Partners, a potential developer of the property located at 105 Lake Street E., had requested a workshop meeting with the City Council to discuss potential redevelopment options for the property. Mr. Zweber stated that Homestead Partners is proposing to redevelop the former Myers Bros. Dairy building site into a four story condominium building with a proposed 27 units. He stated the property is zoned C-4A which requires a mixed use building with a maximum of two stories.

Matt Hanish with Homestead Partners and Jeff Schoenwetter with JMS Custom Homes, both representing Meyer Place on Ferndale, reviewed a PowerPoint presentation illustrating their proposed redevelopment concept plan.

The Council discussed their concerns regarding the height, mass, limited commercial use on the first floor, traffic, benefit to the City of permitting a PUD, and the impacts to the surrounding properties. The Council recommended that the developer also meet with the neighborhood.

The workshop meeting was adjourned at 6:55 pm.

Respectfully submitted,

Becky Malone
Deputy City Clerk

WAYZATA CITY COUNCIL
DRAFT - MEETING MINUTES
October 20, 2015

AGENDA ITEM 1. Call to Order and Roll Call.

Mayor Willcox called the meeting to order at 7 p.m. Council Members present: Anderson, McCarthy, Mullin and Tyacke. Also present: City Manager Nelson, City Engineer/Assistant Director of Public Works Kelly, Interim Planner Zweber, and City Attorney Schelzel.

AGENDA ITEM 2. Approve Agenda.

Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the agenda, as presented. The motion carried 5/0.

Mr. Willcox reported Council met in Workshop prior to the City Council meeting and reviewed a redevelopment concept plan for the Meyer Brothers Dairy Site.

AGENDA ITEM 3. Public Forum – 15 Minutes (3 minutes per person).

a. Commissioner Jan Callison to Provide Annual Hennepin County Update

Ms. Jan Callison, Hennepin County Commissioner, gave brief update on the Bushaway Project and the youth sports grant process. Ms. Callison also gave an update on service demands, stating that caseloads are up 42% for Hennepin County, cash assistance is down 26%, SNAP clients are down 19%, and health care clients are up 38%. She reported the proposed property tax levy increase is 4.5% for 2016 with a median valued home in Wayzata receiving a 4.5% property tax increase.

b. Bushaway Road Update

Ms. Trudy Richter, representative for Shafer Consulting Company, reported the status of the Bushaway Road project. She gave an update on the railroad bridge, curbing on the causeway, and the Indian burial site.

The Council suggested asking Hamline University to give a report on what was found at the Indian burial site and how it was managed.

c. Introduction of Jeff Thomson, Director of Planning and Building

City Manager Nelson introduced Jeff Thomson, Director of Planning and Building.

d. Boy Scout Troop 283 Presentation

Mr. Scott McCullough, Senior Patrol Leader, announced that Troop 283 is celebrating their 100 year anniversary. He requested that November 15 be designated as Troop 283 Day and announced they will have a 100 year anniversary celebration on that day from 5:00 p.m. to 8:00 p.m. at Wayzata Community Church.

The Council thanked Mr. McCullough and Troop 283 for their work in the community.

e. The Gold Mine Antiques

Ms. Kim Anderson, Chair of the Heritage Preservation Board (HPB), gave a brief history of The Gold Mine Antiques located at 332 Broadway Avenue South, stating it is the oldest building left standing in Wayzata.

AGENDA ITEM 4. New Agenda Items.

None.

AGENDA ITEM 5. Consent Agenda.

Mrs. Anderson made a motion, seconded by Mr. Mullin, to approve the consent agenda:

- a. Approval of Joint Wayzata Planning Commission and City Council Workshop Meeting Minutes of August 17, 2015 and City Council Regular Meeting Minutes of October 5, 2015 and October 6, 2015
- b. Approval of Check Register
- c. Municipal licenses which received administrative approval (informational only)
- d. Police Activity Report
- e. Building Activity Report
- f. Consider Resolution No. 35-2015 Adopting Municipal Fees for 2016

The motion carried 5/0.

AGENDA ITEM 6. Public Hearing.**a. Public Hearing on Special Assessment Roll for Unpaid Delinquent Utility Bills and Consider Approval of Resolution No. 38-2015 to Approve Special Assessment Roll**

City Manager Nelson reported the total unpaid utility bills for 2015 is \$21,000.

The Council asked for clarification on the process for collecting. Ms. Nelson stated the amount owed is assessed to the property owner's taxes owed in 2016.

The Council asked if there could be a process for rental property owners to confirm they have paid their utility bills on time before rental licenses are issued. City Attorney Schelzel stated he would look into that option.

Mayor Willcox opened the public hearing at 7:51 p.m. There being no comment, Mayor Willcox closed the public hearing at 7:52 p.m.

Mr. Mullin made a motion, seconded by Mr. Tyacke, to Adopt Resolution No. 38-2015 Certifying to the County Auditor Assessments for Unpaid Delinquent Utility Bill Charges. The motion carried 5/0.

AGENDA ITEM 7. New Business.**a. Review DRAFT Term Sheet for Public/Private Partnership (P3) with Beltz for Mill Street Ramp/Commercial Corner and Consider Proceeding with the Entitlement Process for Mill Street Area**

City Manager Nelson reported the Beltz group is interested in pursuing an agreement with the City, but nothing formal has taken place yet. Staff is proposing to proceed with the entitlement process for the land in and around Mill Street by initiating the re-platting, re-zoning and Comp Plan amendment for the area north of Mill Street and east of Broadway to allow for the construction of the Mill Street ramp.

Ms. Stacie Kvilvang, Ehlers & Associates, reported on the draft terms and conditions for the public/private partnership with Beltz for the Mill Street ramp and commercial corner. The proposal is for the Beltz group to construct a parking ramp with Mill Street improvements on behalf of the City.

The Council asked what the cost savings are by doing this project with a public/private partnership. Ms. Kvilvang stated because a significant portion of this project is a public project, there may not be a significant amount saved.

The Council asked questions about the specifics of the ramp. Ms. Nelson stated if there is going to be a commercial corner, it requires the larger ramp. If the Council does not want the larger ramp, staff recommends not having the commercial corner.

The Council asked about a cost benefit analysis for a roof on the ramp with a wall or security fencing because of the neighborhoods adjacent to the parking ramp. The Council also asked about solar alternative energy for the ramp, a traffic study for one-way traffic on Mill Street, and the Wayzata Parking and Mobility Management District Ordinance. In reference to the District Ordinance, Ms. Kvilvang clarified the Beltz group would need to negotiate what the

1 lease is going to be for any leased parking stalls in the ramp as well as any operations and
2 management costs they would be responsible for, whether or not the City has a Parking District
3 Ordinance.

4 The Council asked if staff explored a public/private partnership model that required the
5 Beltz group to be responsible to operate and maintain of the ramp. Ms. Nelson stated it had not
6 been explored.

7 The Council asked if this was a TIFF eligible expense. Ms. Kvilvang stated they had not
8 explored that option, but it could be possible.

9 Ms. Nelson stated she sees the benefit of efficiencies in coordinating one construction
10 manager for all of these projects and could get the percentages for the Council's consideration.

11 The Council indicated it was open to exploring the public/private partnership because it
12 thought the project could be delivered more efficiently with more of the cost being pushed on to
13 the district and off the residents, but the facts presented prove to be inconsistent with this.

14 By request of the Council, Ms. Nelson clarified the difference between a construction
15 manager and a construction manager at risk.

16 Ms. Nelson stated she will continue in conversation with the Beltz group and discuss the
17 concerns and questions that were brought forth by the Council.

18 Mr. Schelzel stated to prepare for a variety of possibilities for the Mill Street Ramp, the
19 best scenario would be to combine the parcels through the platting process, approve a Comp Plan
20 amendment to guide the property to the contemplated use, and re-zone it to commercial.

21 Mr. Tyacke made a motion, seconded by Mr. Mullin, to proceed with the entitlement
22 process for the land in and around Mill Street by initiating the re-platting, re-zoning and Comp
23 Plan amendment for the area north of Mill Street and east of Broadway to allow for the
24 construction of the Mill Street Ramp. Upon roll call vote, with Messrs. Mullin, Willcox, and
25 Tyacke voting yes, and Mrs. McCarthy and Mrs. Anderson voting no, the motion carried 3/2.

26
27 The Council recessed at 8:49 p.m.

28
29 The Council reconvened at 9:02 p.m.

30
31 **b. Establish Committee and Board Structure, and Membership for Lake Effect Next**
32 **Steps**

33 Ms. Mary deLaittre, Lake Effect Project Coordinator, reported on the proposed Technical
34 Committee members and Steering Committee members for the Lake Effect: Signature Project and
35 the schedule of the meetings to take place from November through April. The first community
36 meeting is scheduled to be held on November 9, tentatively at the Depot.

37 The proposed Technical Committee members are: Renae Clark, Minnehaha Creek
38 Watershed District; Andrew Gillett, Hennepin County; Greg Nybeck, Lake Minnetonka
39 Conservation District; Jonathan Vlaming, Three Rivers Park District; pending for the DNR; and,
40 pending for the Met Council.

41 The proposed Steering Committee Members are: Dan Baasen, Board Chair, Lake
42 Minnetonka Conservation District and Senior VP Northland Securities; Janis Callison, Chair,
43 Hennepin County Board of Commissioners; Sherry Davis White (pending), President, Board of
44 Managers, Minnehaha Creek Watershed District; Holly Evans, Board Member, Wayzata Park and
45 Trails Board and Owner, Wai Nani; Tom Fisher, Director, Metropolitan Design Center College of
46 Design, University of Minnesota; Lynn Gruber, Planning Commissioner, Wayzata Planning
47 Commission and President, Summit Solutions; Susan Johnson, Community Leader; Jennifer
48 Munt, Council Member Metropolitan Council; John Nolan, Principal Nolan Properties Group;
49 David Osmek, State Representative; Keith Parker (or appointee) Regional Director, DNR; Sue
50 Sorrentino, Board Member, Wayzata Heritage Preservation Board and Wayzata Historical

1 Society; Boe Carlson, Superintendent, or Penny Steele, Commissioner Three Rivers Park District;
2 Kenneth Willcox, Mayor, City of Wayzata; BNSF and two citizen representatives, pending.

3 Mr. Mullin made a motion, seconded by Mr. Tyacke, to approve the Technical
4 Committee members and Steering Committee members for the Lake Effect: Signature Project and
5 the tentative meeting dates.

6 Mrs. Anderson requested her following statement be made a part of the record verbatim:
7 “I am going to vote against this because I do not feel that this is necessarily open enough or
8 contains enough members of the actual community within our Steering Committee. I think it
9 could have been structured in a little bit different way. All due respect to Mary and all the work
10 she has put in to it, but this Committee has been working hard to be open and transparent about
11 this process and the Lake Effect is supposedly the biggest thing that we are going to undertake
12 with the biggest price tags. I don’t see enough representation for our community to actually
13 speak and be part of the actual input and process, and so I have concerns and reservations around
14 that. I am not against the individuals that will be working on this, but for the structure and the
15 openness of representation of the actual community that lives here.”

16 The motion carried 4/1. (Anderson)

17
18 **c. Heritage Preservation Board Update on Request for Burial Mounds Plaque at City**
19 **Hall**

20 Ms. Sue Sorrentino, Heritage Preservation Board representative, reported on August 18, 2015 the
21 Heritage Preservation Board (HPB) received Council approval for the placement of a plaque for
22 the former burial mounds located at the City Hall campus site. She consulted with various
23 individuals regarding the plaque text, including several with the Native American Community,
24 and is requesting approval for the proposed revised text for the plaque.

25 The Council noted there are three different titles that referred to Native Americans. Ms.
26 Sorrentino said she will look into possibly only using one of those titles. The Council thanked
27 Ms. Sorrentino and the HPB for all of their research.

28 Mrs. Anderson made a motion, seconded by Mr. Tyacke, to approve the text on the Burial
29 Mound Plaque to be located at City Hall. The motion carried 5/0.

30
31 **d. Consider Approval of Transaction with MnDOT for Acquisition of Outlot and the**
32 **Subsequent Sale to Unitarian Universalist Church of Minnetonka – per Settlement**
33 **Agreement**

34 City Attorney Schelzel reported Minnesota Department of Transportation (MnDOT) has offered
35 to sell one of the two properties that the City is obligated to negotiate for under the City’s
36 settlement agreement with the Unitarian Universalist Church of Minnetonka (UUCM). UUCM
37 has indicated it will purchase the property that is being offered to the City by MnDOT for
38 \$211,279.20. Staff recommends approving the purchased agreement, subject to City Attorney
39 final approval, and directing staff to proceed with the purchase of the property from MnDOT
40 upon UUCM’s execution of the purchase agreement.

41 Mr. Schelzel noted they are still waiting for feedback from UUCM’s attorneys on the
42 purchase agreement and do not have the final form of the deeds from MnDOT.

43 The Council asked if this sale would completely satisfy all the obligations under the
44 previous settlement agreement. Mr. Schelzel stated it will satisfy the City’s obligations with
45 respect to this particular piece of property, but the settlement agreement also obligates the City to
46 negotiate for a parcel that is on the other side of the UUCM property.

47 The Council asked if it would be prudent to ask the Church to put the money in escrow.
48 Mr. Schelzel stated the purchase agreement was not structured that way because of the quick
49 timing of the sale and the unique context of the transactions and the terms of the settlement
50 agreement, which make the risks to the City of default by UUCM under the purchase agreement
51 very low.

Mrs. Anderson made a motion, seconded by Mr. Tyacke, to Adopt Resolution No. 40-2015 Approving Purchase and Sale of Property Pursuant to Settlement Agreement with Unitarian Universalist Church of Minnetonka, with the inclusion that the purchase agreement attached to the resolution is subject to final revisions that are acceptable to the City Attorney that do not make any material changes to the terms of the purchase agreement. The motion carried 5/0.

e. Ferndale Road Construction Project Update

City Engineer/Assistant Director of Public Works Kelly reported on the pace and staging of construction for the Ferndale Road and Bovey Road reconstruction project. After the project had started, CenterPoint Energy told the City of some facilities that had to be replaced, and this delayed the scheduled work. CenterPoint Energy's work is now done and the road construction project should be completed by October 30.

Mr. Kelly reported on the measures in place to ensure projects get done on time. Placing penalties on the contractor is the best way to get a project completed on time.

The Council stated the timing of the project was not the issue. It was the long amounts of time with no work being done and equipment parked where it should not have been. Mr. Kelly stated it may have appeared at times that no work was being done, but City staff was working behind the scenes trying to push the contractor to get on site to perform some type of work.

The Council stated there was a lack of information to the residents and suggested sending an email updating them on the project. Mr. Kelly said an email is sent weekly to the surrounding neighborhood, but only about 30 of the residents had requested to be on the email list.

The Council suggested a written form of the report that Mr. Kelly just gave be sent to the residents. It was also suggested that in the future the Council be made aware of email updates on projects so they can direct residents to participate in receiving the updates.

f. Consider Grant Applications for the 2016 Hennepin County Youth Sports Program

City Engineer/Assistant Director of Public Works Kelly reported on two proposed applications: one is for a sailboat for the Community Sailing School; and, one is for skating equipment at Klapprich Park. The applications have been reviewed by the Chair of the Parks and Trails Board and are consistent with the Lake Effect Design Framework. Staff is requesting that Council review the applications and provide direction to execute the agreement and submit the applications.

Mrs. Anderson requested the Parks and Trails Board review the applications to gain an understanding of what the process is for future requests. She also asked who the equipment was for and who was going to coordinate the use of it, since it is not the responsibility of the Parks and Trails Board.

Mr. Tyacke supported approval as this is benefitting a lot of kids.

Mr. Mullin summarized the process that took place for this request.

Mr. Kelly stated due to the approval process of grant applications, this equipment will not be available for this winter season.

Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve the Grant Applications for the 2016 Hennepin County Youth Sports Program with the guidance of the Parks and Trails Board. The motion carried 5/0.

AGENDA ITEM 8. City Manager's Report and Discussion Items.

a. City of Wayzata 2015 System Statement

Interim Planner Zweber reported on the City of Wayzata 2015 System Statement. This statement included an overview of each of the system plan updates and specific system changes that affect the community. The systems included are: 1) Transportation, including highways, aviation and transit; 2) Water Resources, including wastewater, surface water and water supply planning; and

1 3) Regional parks and trails. Mr. Zweber stated he has not identified any item that needs to be
2 appealed.

3 By request of the Council, Mr. Zweber defined affordable housing. He explained it is
4 based on the area median income, so it will be different between cities.
5

6 **b. Highway 12 Corridor Safety Coalition**

7 City Manager Nelson stated there will be meeting November 2 at 10:00 a.m. at the West
8 Hennepin Public Safety Department.
9

10 **c. Update on Board and Commission Vacancies**

11 City Manager Nelson reported there is one position open for the Housing and Redevelopment
12 Authority, two for Planning Commission, two for Heritage Preservation Board, five for Charter
13 Commission, one for Communications Board, and two for the Parks and Trails Board.
14

15 **d. Update on MCS Project**

16 City Engineer/Assistant Director of Public Works Kelly reported on the details of the MCS
17 project that will begin in January 2016 and be completed in December of 2016. It extends from
18 Orchard Road in Orono to the west side of Ferndale Road in Wayzata. This information will be
19 available on the website. There will be a meeting at Orono City Hall on November 5 at 6:30 p.m.
20

21 **e. Update on East Block of Presbyterian Homes Project**

22 City Engineer/Assistant Director of Public Works Kelly reported on the proposed tree removal
23 for this project.

24 The Council stated it does not recall that this many trees were to be removed. Mr. Kelly
25 stated it is consistent with the East Block plan approved by the Council.

26 Mrs. Anderson, Mr. Mullin, and Mrs. McCarthy agree that out of respect for the
27 neighborhood, it is important to save the buffer through the winter.

28 Mr. Tyacke suggested only removing the trees needed for construction and then
29 removing the wetland trees at a later date.
30

31 **AGENDA ITEM 8. Public Forum Continued (if necessary).**

32 There were no comments.
33

34 **AGENDA ITEM 9. Adjournment.**

35 Mr. Tyacke made a motion, seconded by Mrs. McCarthy to adjourn. There being no further
36 business, Mr. Willcox adjourned the meeting at 11:04 p.m.
37

38 Respectfully submitted,
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41

42 Becky Malone
43 Deputy City Clerk
44

45 Drafted by Shannon Schmidt
46 *TimeSaver Off Site Secretarial, Inc.*

***Check Detail Register©**

October 2015

			Check Amt	Invoice	Comment
10100 Anchor Bank					
Paid Chk#	100348	10/21/2015	ABSOLUTE MECHANICAL		
E 640-47000-404	Repairs/Maint - Machin/Equip		\$1,065.00	5509	STORE/BAR HVAC REPAIRS
E 640-48000-404	Repairs/Maint - Machin/Equip		\$1,065.00	5509	STORE/BAR HVAC REPAIRS
E 640-48000-404	Repairs/Maint - Machin/Equip		\$219.00	5516	STORE/BAR HVAC REPAIRS
E 640-47000-404	Repairs/Maint - Machin/Equip		\$219.00	5516	STORE/BAR HVAC REPAIRS
	Total ABSOLUTE MECHANICAL		\$2,568.00		
Paid Chk#	100349	10/21/2015	ARCTIC GLACIER INC.		
E 640-47000-254	Soft Drinks/Mix For Resale		\$83.80	378527103	ICE
E 640-47000-254	Soft Drinks/Mix For Resale		\$43.58	385528703	ICE
E 640-47000-254	Soft Drinks/Mix For Resale		\$82.77	460526408	ICE
	Total ARCTIC GLACIER INC.		\$210.15		
Paid Chk#	100350	10/21/2015	ARTISAN BEER COMPANY		
E 640-47000-253	Beer For Resale		\$277.50	3056703	BEER
E 640-47000-253	Beer For Resale		\$309.50	3058119	BEER
E 640-47000-253	Beer For Resale		\$64.00	3061026	BEER
	Total ARTISAN BEER COMPANY		\$651.00		
Paid Chk#	100351	10/21/2015	BAGY JO, INC.		
E 640-47000-499	Miscellaneous		\$26.00	DRV-15188	STORE UNIFORM SHIRTS
	Total BAGY JO, INC.		\$26.00		
Paid Chk#	100352	10/21/2015	BELLBOY BAR SUPPLY CORP.		
E 640-47000-251	Liquor For Resale		\$1,150.30	49912100	LIQUOR
E 640-47000-251	Liquor For Resale		\$64.25	50294300	LIQUOR
E 640-47000-251	Liquor For Resale		\$966.50	50304200	LIQUOR
E 640-47000-259	Freight		\$12.30	50304200	FREIGHT
E 640-47000-252	Wine For Resale		\$712.00	50406400	WINE
E 640-47000-259	Freight		\$7.75	50406400	FREIGHT
E 640-47000-259	Freight		\$13.44	50406500	FREIGHT
E 640-47000-251	Liquor For Resale		\$1,337.12	50406500	LIQUOR
E 640-47000-259	Freight		\$15.50	50524400	FREIGHT
E 640-47000-251	Liquor For Resale		\$1,890.75	50524400	LIQUOR
E 640-47000-256	MISC.MDSE.RESALE		\$360.71	6595000	CIGARS
E 640-47000-254	Soft Drinks/Mix For Resale		\$34.80	92700100	MISC.MDSE.
E 640-47000-259	Freight		\$4.42	92700100	FREIGHT
E 640-47000-210	Operating Supplies (GENERAL)		\$52.80	92700100	SUPPLIES
E 640-47000-254	Soft Drinks/Mix For Resale		\$32.75	92777300	MISC.MDSE.
E 640-47000-259	Freight		\$4.31	92777300	FREIGHT
E 640-47000-210	Operating Supplies (GENERAL)		\$30.80	92777300	SUPPLIES
E 640-47000-259	Freight		\$4.73	92813700	FREIGHT
E 640-47000-251	Liquor For Resale		\$98.00	92813700	LIQUOR
E 640-47000-210	Operating Supplies (GENERAL)		\$56.80	92813700	SUPPLIES
E 640-47000-210	Operating Supplies (GENERAL)		\$29.13	92855900	SUPPLIES
	Total BELLBOY BAR SUPPLY CORP.		\$6,879.16		
Paid Chk#	100353	10/21/2015	BERNICK'S WINE		
E 640-47000-254	Soft Drinks/Mix For Resale		\$20.80	251427	MISC.BEV.
E 640-47000-253	Beer For Resale		\$84.45	251428	BEER
	Total BERNICK'S WINE		\$105.25		
Paid Chk#	100354	10/21/2015	BERRY COFFEE COMPANY		
E 640-48000-254	Soft Drinks/Mix For Resale		\$102.95	M28031	COFFEE
	Total BERRY COFFEE COMPANY		\$102.95		
Paid Chk#	100355	10/21/2015	BETH, GERALD O		

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E 640-48000-341	General Promotions	\$175.00	10/27/15	BAR MUSIC 10/27/15
	Total BETH, GERALD O	\$175.00		
Paid Chk# 100356	10/21/2015	BOURGET IMPORTS		
E 640-47000-252	Wine For Resale	\$3,924.00	129351	WINE
E 640-47000-259	Freight	\$46.50	129351	FREIGHT
	Total BOURGET IMPORTS	\$3,970.50		
Paid Chk# 100357	10/21/2015	CINTAS CORPORATION		
E 640-48500-210	Operating Supplies (GENERAL)	\$96.78	5003767209	FIRST AID SUPPLIES
	Total CINTAS CORPORATION	\$96.78		
Paid Chk# 100358	10/21/2015	CLEAR RIVER BEVERAGE CO.		
E 640-47000-253	Beer For Resale	\$904.70	217398	BEER
	Total CLEAR RIVER BEVERAGE CO.	\$904.70		
Paid Chk# 100359	10/21/2015	COCA-COLA		
E 640-48000-254	Soft Drinks/Mix For Resale	\$1,300.96	0188609912	MISC.BEV.
E 640-47000-254	Soft Drinks/Mix For Resale	\$102.72	0188609913	MISC.BEV.
	Total COCA-COLA	\$1,403.68		
Paid Chk# 100360	10/21/2015	COZZINI BROS., INC.		
E 640-48500-415	Other Equipment Rentals	\$73.48	C2078993	KNIFE EXCHANGE
	Total COZZINI BROS., INC.	\$73.48		
Paid Chk# 100361	10/21/2015	CULLIGAN-METRO		
E 640-48500-404	Repairs/Maint - Machin/Equip	\$354.17	101X28232208	SUPPLIES & SERVICE
E 640-48500-210	Operating Supplies (GENERAL)	\$118.43	101X28232208	SUPPLIES & SERVICE
	Total CULLIGAN-METRO	\$472.60		
Paid Chk# 100362	10/21/2015	DAHLHEIMER DISTRIBUTING CO.		
E 640-47000-253	Beer For Resale	\$849.50	1171562	BEER
E 640-47000-253	Beer For Resale	\$417.45	1171585	BEER
E 640-48000-253	Beer For Resale	\$397.00	1174835	BEER
E 640-47000-253	Beer For Resale	\$538.35	1174854	BEER
E 640-48000-253	Beer For Resale	\$267.00	1174906	BEER
E 640-47000-253	Beer For Resale	\$387.50	1174963	BEER
E 640-48000-253	Beer For Resale	\$289.00	1174964	BEER
	Total DAHLHEIMER DISTRIBUTING CO.	\$3,145.80		
Paid Chk# 100363	10/21/2015	DAY DISTRIBUTING		
E 640-47000-253	Beer For Resale	\$894.85	820258	BEER
E 640-47000-253	Beer For Resale	\$1,693.95	821324	BEER
E 640-48000-253	Beer For Resale	\$415.00	822286	BEER
E 640-47000-253	Beer For Resale	\$2,828.09	822287	BEER
E 640-48000-253	Beer For Resale	\$810.00	823204	BEER
E 640-47000-253	Beer For Resale	\$1,838.65	823205	BEER
E 640-47000-253	Beer For Resale	\$230.00	823993	BEER
E 640-48000-253	Beer For Resale	\$753.00	824287	BEER
E 640-47000-253	Beer For Resale	\$793.09	824288	BEER
	Total DAY DISTRIBUTING	\$10,256.63		
Paid Chk# 100364	10/21/2015	DENNYS 5TH AVENUE BAKERY		
E 640-48500-255	FOODIngredients For Resale	\$91.56	576222	FOOD
E 640-48500-255	FOODIngredients For Resale	\$117.51	576370	FOOD
E 640-48500-255	FOODIngredients For Resale	\$110.04	576498	FOOD
E 640-48500-255	FOODIngredients For Resale	\$113.09	576714	FOOD
E 640-48500-255	FOODIngredients For Resale	\$129.96	577005	FOOD
E 640-48500-255	FOODIngredients For Resale	\$89.02	577329	FOOD

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E 640-48500-255	FOODIngredients For Resale	\$122.70	577472	FOOD
E 640-48500-255	FOODIngredients For Resale	\$61.00	577585	FOOD
E 640-48500-255	FOODIngredients For Resale	\$161.00	578040	FOOD
E 640-48500-255	FOODIngredients For Resale	\$100.44	578091	FOOD
E 640-48500-255	FOODIngredients For Resale	\$78.72	578422	FOOD
Total	DENNYS 5TH AVENUE BAKERY	\$1,175.04		
Paid Chk#	100365	10/21/2015	ENKI BREWING COMPANY	
E 640-48000-253	Beer For Resale	\$175.00	4560	BEER
Total	ENKI BREWING COMPANY	\$175.00		
Paid Chk#	100366	10/21/2015	FLAT EARTH BREWING COMPANY	
E 640-47000-253	Beer For Resale	\$126.00	13398	BEER
Total	FLAT EARTH BREWING COMPANY	\$126.00		
Paid Chk#	100367	10/21/2015	FOREMOST BUSINESS SYSTEMS INC.	
E 640-48000-210	Operating Supplies (GENERAL)	\$148.04	24077	POS SYSTEM CARDS
otal	FOREMOST BUSINESS SYSTEMS INC.	\$148.04		
Paid Chk#	100368	10/21/2015	G & K SERVICES	
E 640-48500-217	Uniforms	\$58.60	1013265073	UNIFORMS & SUPPLIES
E 640-48000-210	Operating Supplies (GENERAL)	\$73.94	1013333262	UNIFORMS & SUPPLIES
E 640-48500-217	Uniforms	\$64.81	1013333262	UNIFORMS & SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$54.09	1013333262	UNIFORMS & SUPPLIES
E 640-48500-217	Uniforms	\$71.64	1013344630	UNIFORMS & SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$65.07	1013344630	UNIFORMS & SUPPLIES
E 640-48000-210	Operating Supplies (GENERAL)	\$53.71	1013344630	UNIFORMS & SUPPLIES
Total	G & K SERVICES	\$441.86		
Paid Chk#	100369	10/21/2015	GRAINGER, INC.	
E 640-48000-401	Repairs/Maint Buildings	\$27.52	9758539036	SUPPLIES
E 640-48000-401	Repairs/Maint Buildings	\$72.00	9811416404	SUPPLIES
Total	GRAINGER, INC.	\$99.52		
Paid Chk#	100370	10/21/2015	GRAPE BEGINNINGS, INC.	
E 640-47000-252	Wine For Resale	\$336.00	187718	WINE
E 640-47000-259	Freight	\$2.25	187718	FREIGHT
E 640-47000-259	Freight	\$4.50	187982	FREIGHT
E 640-47000-252	Wine For Resale	\$284.00	187982	WINE
Total	GRAPE BEGINNINGS, INC.	\$626.75		
Paid Chk#	100371	10/21/2015	HOHENSTEINS INC.	
E 640-47000-253	Beer For Resale	\$443.50	787156	BEER
E 640-47000-253	Beer For Resale	\$99.00	787157	BEER
E 640-47000-253	Beer For Resale	\$490.00	789746	BEER
Total	HOHENSTEINS INC.	\$1,032.50		
Paid Chk#	100372	10/21/2015	JJ TAYLOR DISTRIBUTING OF MN	
E 640-48000-253	Beer For Resale	\$271.20	2407940	BEER
E 640-47000-253	Beer For Resale	\$1,630.75	2412740	BEER
E 640-47000-253	Beer For Resale	\$911.20	2412783	BEER
E 640-48000-253	Beer For Resale	\$410.05	2425467	BEER
E 640-48000-253	Beer For Resale	\$405.90	2425530	BEER
E 640-47000-253	Beer For Resale	\$765.85	2427622	BEER
E 640-47000-253	Beer For Resale	\$1,168.42	2427664	BEER
Total	JJ TAYLOR DISTRIBUTING OF MN	\$5,563.37		
Paid Chk#	100373	10/21/2015	JOHNSON BROS.-ST.PAUL	
E 640-47000-251	Liquor For Resale	\$3,828.41	5268930	LIQUOR

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E 640-47000-259	Freight	\$41.48	5268930	FREIGHT
E 640-47000-252	Wine For Resale	\$820.50	5268931	WINE
E 640-47000-259	Freight	\$15.86	5268931	FREIGHT
E 640-47000-259	Freight	\$2.44	5268932	FREIGHT
E 640-47000-251	Liquor For Resale	\$177.00	5268932	LIQUOR
E 640-47000-252	Wine For Resale	\$1,453.75	5268933	WINE
E 640-47000-259	Freight	\$34.16	5268933	FREIGHT
E 640-47000-252	Wine For Resale	\$2,880.00	5268934	WINE
E 640-47000-259	Freight	\$29.28	5268934	FREIGHT
E 640-48000-252	Wine For Resale	\$129.22	5270320	WINE
E 640-47000-251	Liquor For Resale	\$776.00	5270543	LIQUOR
E 640-47000-259	Freight	\$7.32	5270543	FREIGHT
E 640-47000-252	Wine For Resale	\$3,192.00	5270545	WINE
E 640-47000-259	Freight	\$52.46	5270545	FREIGHT
E 640-47000-259	Freight	\$35.38	5270546	FREIGHT
E 640-47000-251	Liquor For Resale	\$2,425.00	5270546	LIQUOR
E 640-47000-252	Wine For Resale	\$285.80	5274544	WINE
E 640-47000-259	Freight	\$6.10	5274544	FREIGHT
E 640-47000-251	Liquor For Resale	\$1,439.45	5274545	LIQUOR
E 640-47000-259	Freight	\$12.20	5274545	FREIGHT
E 640-47000-252	Wine For Resale	\$110.00	5274546	WINE
E 640-47000-254	Soft Drinks/Mix For Resale	\$32.25	5274546	MISC.MIX
E 640-47000-259	Freight	\$2.44	5274546	FREIGHT
E 640-47000-251	Liquor For Resale	\$221.50	5274547	LIQUOR
E 640-47000-259	Freight	\$4.88	5274547	FREIGHT
E 640-47000-252	Wine For Resale	\$2,310.00	5274548	WINE
E 640-47000-259	Freight	\$34.16	5274548	FREIGHT
E 640-47000-252	Wine For Resale	\$416.00	5275942	WINE
E 640-47000-259	Freight	\$6.10	5275942	FREIGHT
E 640-47000-259	Freight	\$1.22	5275943	FREIGHT
E 640-47000-254	Soft Drinks/Mix For Resale	\$36.00	5275943	MISC.MIX
E 640-47000-251	Liquor For Resale	\$196.25	5275944	LIQUOR
E 640-47000-259	Freight	\$2.44	5275944	FREIGHT
E 640-47000-251	Liquor For Resale	\$455.15	5280170	LIQUOR
E 640-47000-259	Freight	\$6.10	5280170	FREIGHT
E 640-47000-252	Wine For Resale	\$3,692.95	5280171	WINE
E 640-47000-259	Freight	\$69.54	5280171	FREIGHT
E 640-47000-259	Freight	\$3.66	5280172	FREIGHT
E 640-47000-251	Liquor For Resale	\$120.00	5281508	LIQUOR
E 640-47000-259	Freight	\$1.22	5281508	FREIGHT
E 640-47000-252	Wine For Resale	\$729.60	5281509	WINE
E 640-47000-259	Freight	\$10.98	5281509	FREIGHT
E 640-47000-251	Liquor For Resale	(\$1.02)	542866	LIQUOR
Total JOHNSON BROS.-ST.PAUL		\$26,105.23		
Paid Chk# 100374	10/21/2015	JORGENSEN, KURT		
E 640-48000-341	General Promotions	\$250.00	10/28/15	BAR MUSIC 10/28/15
Total JORGENSEN, KURT		\$250.00		
Paid Chk# 100375	10/21/2015	KARLSBURGER FOODS, INC.		
E 640-48500-255	FOODIngredients For Resale	\$240.75	000390647	FOOD
Total KARLSBURGER FOODS, INC.		\$240.75		
Paid Chk# 100376	10/21/2015	KREATZ, DAVID		
E 640-48500-130	Employer Paid Ins	\$275.32	OCT.2015	OCT.2015
Total KREATZ, DAVID		\$275.32		
Paid Chk# 100377	10/21/2015	LIBATION PROJECT		

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E 640-47000-259	Freight	\$1.50	1852	FREIGHT
E 640-47000-252	Wine For Resale	\$132.00	1852	WINE
E 640-47000-259	Freight	\$1.50	1917	FREIGHT
E 640-47000-252	Wine For Resale	\$280.00	1917	WINE
Total LIBATION PROJECT		\$415.00		
Paid Chk# 100378	10/21/2015	M.AMUNDSON LLP		
E 640-47000-256	MISC.MDSE.RESALE	\$776.29	204320	CIGARETTES
E 640-47000-256	MISC.MDSE.RESALE	\$779.61	204737	CIGARETTES
Total M.AMUNDSON LLP		\$1,555.90		
Paid Chk# 100379	10/21/2015	MARGRON SKOGLUND WINE IMPORTS		
E 640-47000-252	Wine For Resale	\$535.00	20018935	WINE
E 640-47000-259	Freight	\$5.00	20018935	FREIGHT
tal MARGRON SKOGLUND WINE IMPORTS		\$540.00		
Paid Chk# 100380	10/21/2015	NETWORK BUSINESS SUPPLIES		
E 640-48500-210	Operating Supplies (GENERAL)	\$660.56	00100381	SUPPLIES
Total NETWORK BUSINESS SUPPLIES		\$660.56		
Paid Chk# 100381	10/21/2015	NEW FRANCE WINE COMPANY		
E 640-47000-259	Freight	\$16.50	103786	FREIGHT
E 640-47000-252	Wine For Resale	\$1,112.00	103786	WINE
E 640-47000-252	Wine For Resale	\$240.00	103984	WINE
E 640-47000-259	Freight	\$3.00	103984	FREIGHT
Total NEW FRANCE WINE COMPANY		\$1,371.50		
Paid Chk# 100382	10/21/2015	NORTHWESTERN FRUIT COMPANY		
E 640-48500-255	FOODIngredients For Resale	(\$17.10)	821573	FOOD
E 640-48500-255	FOODIngredients For Resale	(\$8.70)	822974	FOOD
E 640-48500-255	FOODIngredients For Resale	(\$9.65)	823652	FOOD
E 640-48500-255	FOODIngredients For Resale	\$425.40	823708	FOOD
E 640-48500-255	FOODIngredients For Resale	\$627.25	823881	FOOD
E 640-48000-251	Liquor For Resale	\$46.15	824049	LIQUOR
E 640-48000-251	Liquor For Resale	(\$45.15)	824049	LIQUOR
E 640-48000-253	Beer For Resale	\$5.30	824049	BEER
E 640-48500-255	FOODIngredients For Resale	\$263.60	824049	FOOD
E 640-48500-255	FOODIngredients For Resale	\$135.70	824226	FOOD
E 640-48500-255	FOODIngredients For Resale	\$4.65	824269	FOOD
E 640-48500-255	FOODIngredients For Resale	\$368.45	824388	FOOD
E 640-48000-251	Liquor For Resale	\$66.25	824571	LIQUOR
E 640-48000-253	Beer For Resale	\$9.70	824571	BEER
E 640-48500-255	FOODIngredients For Resale	\$386.85	824571	FOOD
E 640-48000-251	Liquor For Resale	\$17.20	824743	LIQUOR
E 640-48000-251	Liquor For Resale	(\$21.40)	824743	LIQUOR
E 640-48000-255	FOODIngredients For Resale	\$151.25	824743	FOOD
Total NORTHWESTERN FRUIT COMPANY		\$2,405.75		
Paid Chk# 100383	10/21/2015	PARTY SAFARI		
E 640-47000-341	General Promotions	\$78.40	10/7/15	BE PINK SUPPLIES
Total PARTY SAFARI		\$78.40		
Paid Chk# 100384	10/21/2015	PAUSTIS & SONS		
E 640-48000-252	Wine For Resale	\$335.25	8517492	WINE
E 640-47000-259	Freight	\$13.75	8517493	FREIGHT
E 640-47000-252	Wine For Resale	\$1,059.00	8517493	WINE
E 640-47000-252	Wine For Resale	\$896.00	8518432	WINE
E 640-47000-259	Freight	\$11.25	8518432	FREIGHT

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E 640-47000-252	Wine For Resale	\$135.00	8518789	WINE
E 640-47000-252	Wine For Resale	(\$136.25)	8518796	WINE
E 640-48000-252	Wine For Resale	\$536.75	8519495	WINE
E 640-47000-259	Freight	\$5.25	8519497	FREIGHT
E 640-47000-252	Wine For Resale	\$424.00	8519497	WINE
Total PAUSTIS & SONS		\$3,280.00		
Paid Chk# 100385	10/21/2015 PEPSI -COLA			
E 640-47000-254	Soft Drinks/Mix For Resale	\$240.50	51736007	MISC.BEV.
Total PEPSI -COLA		\$240.50		
Paid Chk# 100386	10/21/2015 PHILLIPS WINES & SPIRITS			
E 640-47000-252	Wine For Resale	(\$89.22)	221515	WINE
E 640-47000-252	Wine For Resale	\$2,954.98	2858936	WINE
E 640-47000-259	Freight	\$34.78	2858936	FREIGHT
E 640-47000-259	Freight	\$39.04	2858937	FREIGHT
E 640-47000-251	Liquor For Resale	\$2,106.55	2858937	LIQUOR
E 640-47000-259	Freight	\$12.20	2862743	FREIGHT
E 640-47000-251	Liquor For Resale	\$1,703.90	2862743	LIQUOR
E 640-47000-252	Wine For Resale	\$905.85	2862744	WINE
E 640-47000-259	Freight	\$14.64	2862744	FREIGHT
E 640-47000-259	Freight	\$1.22	2864601	FREIGHT
E 640-47000-251	Liquor For Resale	\$96.50	2864601	LIQUOR
E 640-47000-251	Liquor For Resale	\$476.74	2866539	LIQUOR
E 640-47000-259	Freight	\$2.44	2866539	FREIGHT
E 640-47000-259	Freight	\$6.10	2866540	FREIGHT
E 640-47000-252	Wine For Resale	\$330.75	2866540	WINE
E 640-47000-259	Freight	\$1.22	2867515	FREIGHT
E 640-47000-252	Wine For Resale	\$96.00	2867515	WINE
Total PHILLIPS WINES & SPIRITS		\$8,693.69		
Paid Chk# 100387	10/21/2015 PLUNKETT S PEST CONTROL			
E 640-48000-409	Maint services & Improv	\$120.41	4348134	SERVICE
Total PLUNKETT S PEST CONTROL		\$120.41		
Paid Chk# 100388	10/21/2015 QUALITY SERVICE, INC.			
E 640-48500-404	Repairs/Maint - Machin/Equip	\$195.00	31055	OVEN REPAIRS
E 640-48500-404	Repairs/Maint - Machin/Equip	\$175.50	31127	BROILER REPAIRS
E 640-48000-404	Repairs/Maint - Machin/Equip	\$412.47	31131	COOLER REPAIRS
E 640-48000-404	Repairs/Maint - Machin/Equip	\$263.28	31134	BEER COOLER REPAIRS
Total QUALITY SERVICE, INC.		\$1,046.25		
Paid Chk# 100389	10/21/2015 ROOTSTOCK WINE COMPANY			
E 640-47000-252	Wine For Resale	\$216.00	15-1632	WINE
E 640-47000-259	Freight	\$1.50	15-1632	FREIGHT
Total ROOTSTOCK WINE COMPANY		\$217.50		
Paid Chk# 100390	10/21/2015 SAINT CROIX VINEYARDS			
E 640-47000-252	Wine For Resale	\$293.00	434	WINE
Total SAINT CROIX VINEYARDS		\$293.00		
Paid Chk# 100391	10/21/2015 SOUTHERN WINE & SPIRITS OF MN			
E 640-47000-252	Wine For Resale	\$4,400.00	1332226	WINE
E 640-47000-259	Freight	\$85.00	1332226	FREIGHT
E 640-47000-259	Freight	\$10.00	1332227	FREIGHT
E 640-47000-252	Wine For Resale	\$2,114.00	1332227	WINE
E 640-47000-251	Liquor For Resale	\$6,979.27	1332228	LIQUOR
E 640-47000-259	Freight	\$56.25	1332228	FREIGHT

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E 640-47000-252	Wine For Resale	\$2,586.00	1332229	WINE
E 640-47000-259	Freight	\$27.50	1332229	FREIGHT
E 640-47000-259	Freight	\$2.56	1334747	FREIGHT
E 640-47000-251	Liquor For Resale	\$450.00	1334747	LIQUOR
E 640-47000-259	Freight	\$1.28	1334748	FREIGHT
E 640-47000-252	Wine For Resale	\$2,600.00	1334749	WINE
E 640-47000-259	Freight	\$43.52	1334749	FREIGHT
E 640-47000-252	Wine For Resale	\$4,800.00	1334750	WINE
E 640-47000-259	Freight	\$87.04	1334750	FREIGHT
E 640-47000-252	Wine For Resale	\$958.00	1334751	WINE
E 640-47000-259	Freight	\$15.36	1334751	FREIGHT
E 640-47000-259	Freight	\$10.24	1334752	FREIGHT
E 640-47000-252	Wine For Resale	\$1,092.00	1334752	WINE
E 640-47000-252	Wine For Resale	\$2,200.00	1335409	WINE
E 640-47000-259	Freight	\$43.52	1335409	FREIGHT
E 640-47000-252	Wine For Resale	\$3,400.00	1335410	WINE
E 640-47000-259	Freight	\$37.12	1335410	FREIGHT
E 640-47000-251	Liquor For Resale	\$1,827.49	1337083	LIQUOR
E 640-47000-259	Freight	\$24.32	1337083	FREIGHT
E 640-47000-252	Wine For Resale	\$348.00	1337084	WINE
E 640-47000-259	Freight	\$8.96	1337084	FREIGHT
Total SOUTHERN WINE & SPIRITS OF MN		\$34,207.43		
Paid Chk# 100392	10/21/2015 STARY, MARK			
E 640-48000-341	General Promotions	\$300.00	10/29/15	BAR MUSIC 10/29/15
Total STARY, MARK		\$300.00		
Paid Chk# 100393	10/21/2015 STRATEGIC EQUIPMENT AND			
E 640-48000-342	Promotions - Food/Drinks	\$44.53	2508041	PROMO FOOD SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$364.30	2508041	KITCHEN SUPPLIES
E 640-48000-210	Operating Supplies (GENERAL)	\$288.16	2508041	BAR SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$638.31	2512354	KITCHEN SUPPLIES
E 640-48000-342	Promotions - Food/Drinks	\$43.16	2512354	PROMO FOOD SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$582.43	2516252	KITCHEN SUPPLIES
E 640-48000-342	Promotions - Food/Drinks	\$81.04	2516252	PROMO FOOD SUPPLIES
Total STRATEGIC EQUIPMENT AND		\$2,041.93		
Paid Chk# 100394	10/21/2015 SUNBURST CHEMICALS, INC.			
E 640-48500-415	Other Equipment Rentals	\$92.37	0007699	MACHINE LEASE
E 640-48000-210	Operating Supplies (GENERAL)	\$148.95	0353522	SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$613.46	0353522	SUPPLIES
E 640-48500-210	Operating Supplies (GENERAL)	\$419.12	0354236	SUPPLIES
Total SUNBURST CHEMICALS, INC.		\$1,273.90		
Paid Chk# 100395	10/21/2015 T.D. ANDERSON INC.			
E 640-48000-409	Maint services & Improv	\$115.00	745274	BEER LINES CLEANED
Total T.D. ANDERSON INC.		\$115.00		
Paid Chk# 100396	10/21/2015 THORPE DISTRIBUTING CO.			
E 640-47000-253	Beer For Resale	(\$24.00)	00701862	BEER
E 640-47000-253	Beer For Resale	(\$21.60)	00701883	BEER
E 640-47000-253	Beer For Resale	\$494.17	921066	BEER
E 640-47000-253	Beer For Resale	\$17.15	921097	BEER
E 640-47000-253	Beer For Resale	\$5,272.60	921098	BEER
E 640-47000-253	Beer For Resale	\$345.93	922413	BEER
E 640-48000-253	Beer For Resale	\$713.33	922423	BEER
E 640-48000-253	Beer For Resale	\$66.70	922424	BEER
E 640-47000-253	Beer For Resale	\$51.00	922499	BEER

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E 640-47000-253	Beer For Resale		\$19.50	922500	BEER
E 640-47000-253	Beer For Resale		\$655.30	922501	BEER
E 640-47000-253	Beer For Resale		\$1,257.74	923979	BEER
E 640-48000-253	Beer For Resale		\$580.00	925189	BEER
E 640-47000-253	Beer For Resale		\$218.67	925190	BEER
E 640-47000-253	Beer For Resale		\$38.05	925278	BEER
E 640-47000-253	Beer For Resale		\$114.45	925279	BEER
E 640-47000-253	Beer For Resale		\$1,118.20	925280	BEER
Total THORPE DISTRIBUTING CO.			\$10,917.19		
Paid Chk# 100397	10/21/2015	TKO WINES, INC.			
E 640-47000-252	Wine For Resale		\$1,539.60	2007	WINE
Total TKO WINES, INC.			\$1,539.60		
Paid Chk# 100398	10/21/2015	TOLL GAS & WELDING SUPPLY			
E 640-48000-210	Operating Supplies (GENERAL)		\$67.50	40034145	SUPPLIES
Total TOLL GAS & WELDING SUPPLY			\$67.50		
Paid Chk# 100399	10/21/2015	TRUE			
E 640-47000-254	Soft Drinks/Mix For Resale		\$1,299.28	143515	MISC.MDSE.RESALE
Total TRUE			\$1,299.28		
Paid Chk# 100400	10/21/2015	UPS STORE			
E 640-47000-340	Advertising		\$158.09		STORE SUPPLIES
E 101-43100-499	Miscellaneous		\$21.71	1898	SUPPLIES
E 640-47000-210	Operating Supplies (GENERAL)		\$50.63	2526	STORE BUS.CARDS
Total UPS STORE			\$230.43		
Paid Chk# 100401	10/21/2015	US FOODS			
E 640-48000-251	Liquor For Resale		\$23.70	3031209	LIQUOR
E 640-48500-255	FOODIngredients For Resale		\$3,359.17	3031209	FOOD
E 640-48500-210	Operating Supplies (GENERAL)		\$15.47	3031209	SUPPLIES
E 640-48000-342	Promotions - Food/Drinks		\$58.90	3031209	PROMO FOOD
E 640-48500-255	FOODIngredients For Resale		\$53.94	3047722	FOOD
E 640-48000-251	Liquor For Resale		\$21.54	3086864	LIQUOR
E 640-48000-342	Promotions - Food/Drinks		\$57.90	3086864	PROMO FOOD
E 640-48500-255	FOODIngredients For Resale		\$3,227.19	3086864	FOOD
E 640-48500-255	FOODIngredients For Resale		\$3,643.54	3128914	FOOD
E 640-48000-251	Liquor For Resale		\$57.03	3128914	LIQUOR
E 640-48500-210	Operating Supplies (GENERAL)		\$37.90	3128914	SUPPLIES
E 640-48000-342	Promotions - Food/Drinks		\$22.69	3128914	PROMO FOOD
E 640-48500-255	FOODIngredients For Resale		\$26.97	3153352	FOOD
E 640-48000-251	Liquor For Resale		\$47.78	3160584	LIQUOR
E 640-48000-341	General Promotions		\$31.16	3160584	PROMO FOOD
E 640-48500-210	Operating Supplies (GENERAL)		\$49.20	3160584	SUPPLIES
E 640-48500-255	FOODIngredients For Resale		\$2,312.25	3160584	FOOD
E 640-48000-342	Promotions - Food/Drinks		\$58.27	5855290	PROMO FOOD
E 640-48500-210	Operating Supplies (GENERAL)		\$15.57	5855290	SUPPLIES
E 640-48500-255	FOODIngredients For Resale		\$2,938.09	5855290	FOOD
E 640-48500-210	Operating Supplies (GENERAL)		\$294.89	5896628	SUPPLIES
E 640-48500-255	FOODIngredients For Resale		\$3,822.37	5896628	FOOD
E 640-48000-251	Liquor For Resale		\$161.22	5896628	LIQUOR
E 640-48000-342	Promotions - Food/Drinks		\$40.83	5896628	PROMO FOOD
Total US FOODS			\$20,377.57		
Paid Chk# 100402	10/21/2015	VINOCOPIA			
E 640-47000-252	Wine For Resale		\$288.00	0134031	WINE
E 640-47000-259	Freight		\$7.50	0134031	FREIGHT

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E 640-47000-251	Liquor For Resale	\$350.75	0134881	LIQUOR
E 640-47000-254	Soft Drinks/Mix For Resale	\$120.00	0134881	MISC.BEV.
E 640-47000-259	Freight	\$18.00	0134881	FREIGHT
E 640-47000-251	Liquor For Resale	\$184.04	0135298	LIQUOR
E 640-47000-259	Freight	\$2.50	0135298	FREIGHT
Total VINOCOPIA		\$970.79		
Paid Chk# 100403	10/21/2015 WILLIAMS, CRAIG			
E 640-48500-130	Employer Paid Ins	\$300.00	SEPT.2015	SEPT.2015
Total WILLIAMS, CRAIG		\$300.00		
Paid Chk# 100404	10/21/2015 WINE COMPANY			
E 640-47000-259	Freight	\$29.70	405507	FREIGHT
E 640-47000-252	Wine For Resale	\$1,887.33	405507	WINE
E 640-47000-259	Freight	\$13.20	406104	FREIGHT
E 640-47000-252	Wine For Resale	\$1,085.80	406104	WINE
E 640-47000-252	Wine For Resale	\$240.00	406792	WINE
E 640-47000-259	Freight	\$4.20	406792	FREIGHT
Total WINE COMPANY		\$3,260.23		
Paid Chk# 100405	10/21/2015 WINE MERCHANT			
E 640-47000-252	Wine For Resale	\$624.00	7048397	WINE
E 640-47000-259	Freight	\$2.44	7048397	FREIGHT
E 640-47000-259	Freight	\$30.50	7049123	FREIGHT
E 640-47000-252	Wine For Resale	\$4,530.00	7049123	WINE
E 640-48000-252	Wine For Resale	\$977.42	7049925	WINE
E 640-47000-252	Wine For Resale	\$2,120.00	7049982	WINE
E 640-47000-259	Freight	\$10.98	7049982	FREIGHT
E 640-47000-252	Wine For Resale	\$2,182.00	7050208	WINE
E 640-47000-259	Freight	\$10.98	7050208	FREIGHT
E 640-47000-259	Freight	\$5.30	7051036	FREIGHT
E 640-47000-252	Wine For Resale	\$693.50	7051036	WINE
E 640-47000-259	Freight	\$1.22	7051285	FREIGHT
E 640-47000-252	Wine For Resale	\$168.00	7051285	WINE
Total WINE MERCHANT		\$11,356.34		
Paid Chk# 100406	10/21/2015 WIRTZ BEVERAGE MN BEER			
E 640-47000-253	Beer For Resale	\$873.85	1090472533	BEER
E 640-47000-253	Beer For Resale	\$2,037.85	1090475829	BEER
E 640-47000-253	Beer For Resale	\$99.10	1090475830	BEER
E 640-47000-253	Beer For Resale	\$448.00	1090475861	BEER
E 640-48000-253	Beer For Resale	\$356.00	1090477471	BEER
E 640-47000-253	Beer For Resale	\$123.00	1090478141	BEER
E 640-47000-253	Beer For Resale	\$2,623.00	1090478142	BEER
E 640-48000-253	Beer For Resale	\$337.00	1090478520	BEER
Total WIRTZ BEVERAGE MN BEER		\$6,897.80		
Paid Chk# 100407	10/21/2015 WIRTZ BEVERAGE MN WINE & SPIRI			
E 640-47000-252	Wine For Resale	\$9,494.66	1080379248	WINE
E 640-47000-259	Freight	\$101.50	1080379248	FREIGHT
E 640-47000-251	Liquor For Resale	\$8,277.12	1080379249	LIQUOR
E 640-47000-251	Liquor For Resale	\$49.30	1080379249	FREIGHT
E 640-47000-251	Liquor For Resale	\$2,072.75	1080379250	LIQUOR
E 640-47000-259	Freight	\$36.25	1080379250	FREIGHT
E 640-47000-251	Liquor For Resale	\$247.50	1080381945	LIQUOR
E 640-47000-254	Soft Drinks/Mix For Resale	\$88.00	1080381945	MISC.MIX
E 640-47000-259	Freight	\$4.35	1080381945	FREIGHT
E 640-47000-259	Freight	\$8.70	1080381946	FREIGHT

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E 640-47000-252	Wine For Resale	\$588.16	1080381946	WINE
E 640-47000-259	Freight	\$35.76	1080381947	FREIGHT
E 640-47000-251	Liquor For Resale	\$3,951.39	1080381947	LIQUOR
E 640-47000-252	Wine For Resale	\$760.00	1080384703	WINE
E 640-47000-259	Freight	\$10.15	1080384703	FREIGHT
E 640-47000-259	Freight	\$35.16	1080384724	FREIGHT
E 640-47000-251	Liquor For Resale	\$3,476.49	1080384724	LIQUOR
E 640-47000-259	Freight	\$1.45	1080386031	FREIGHT
E 640-47000-251	Liquor For Resale	\$147.00	1080386031	LIQUOR
Total WIRTZ BEVERAGE MN WINE & SPIRI		\$29,385.69		
Paid Chk# 100408	10/21/2015	Z WINES USA LLC		
E 640-47000-252	Wine For Resale	\$132.00	16166	WINE
E 640-47000-259	Freight	\$2.50	16166	FREIGHT
E 640-47000-259	Freight	\$5.00	16217	FREIGHT
E 640-47000-252	Wine For Resale	\$148.00	16217	WINE
Total Z WINES USA LLC		\$287.50		
Paid Chk# 100409	10/22/2015	ACKERLEY, PAUL		
E 101-45200-241	Safety equip/testings	\$29.99	REIMB.	REIMB.FOR WORK BOOTS
E 620-40000-241	Safety equip/testings	\$30.00	REIMB.	REIMB.FOR WORK BOOTS
E 610-40000-241	Safety equip/testings	\$30.01	REIMB.	REIMB.FOR WORK BOOTS
E 101-43100-241	Safety equip/testings	\$29.99	REIMB.	REIMB.FOR WORK BOOTS
Total ACKERLEY, PAUL		\$119.99		
Paid Chk# 100410	10/22/2015	BABCOCK, MERRILY		
E 404-40000-499	Miscellaneous	\$42.76	REIMB.	PARKS & TRAILS BD - JJ HILL DAY EXPENSES
Total BABCOCK, MERRILY		\$42.76		
Paid Chk# 100411	10/22/2015	BANK OF AMERICA		
E 101-42200-499	Miscellaneous	\$218.12		FD MISC.
E 101-42200-434	Training and schools	\$1,050.00		FD TRAINING
Total BANK OF AMERICA		\$1,268.12		
Paid Chk# 100412	10/22/2015	BATTERIES PLUS		
E 620-40000-225	Repair & Maint - System	\$59.97	021-333478	BATTERIES
Total BATTERIES PLUS		\$59.97		
Paid Chk# 100413	10/22/2015	BEST & FLANAGAN		
E 101-41500-304	Legal Fees	\$45.00	454239	MOBILITIE
E 101-41500-304	Legal Fees	\$37.50	454297	DATA PRACTICE
G 101-20310	Escrow	\$1,371.65	454298	VERIZON ESCROW PROJECT
E 101-41500-304	Legal Fees	\$412.50	454300	LIQUOR LICENSES
G 101-20310	Escrow	\$375.00	454301	BREW WORKS ESCROW PROJECT
E 101-41500-304	Legal Fees	\$267.70	454302	UNITARIAN CHURCH
G 101-20310	Escrow	\$862.50	454314	700 LAKE ST.ESCROW PROJECT
G 101-20310	Escrow	\$75.00	454315	165/213 CENTRAL AVE.ESCROW PROJECT
E 101-41500-304	Legal Fees	\$75.00	454316	133 RIDGEVIEW DRIVE
E 101-41500-304	Legal Fees	\$487.50	454317	KADEE VS DIETRICH
E 101-41500-304	Legal Fees	\$1,350.00	454318	CONTRACT REVIEWS
E 101-41500-304	Legal Fees	\$402.40	454319	253/259 LAKE ST
E 101-41500-304	Legal Fees	\$1,462.50	454320	PLANNING COMM.MTGS.
E 101-41500-304	Legal Fees	\$3,582.00	454321	ORDINANCES
E 430-40000-304	Legal Fees	\$975.00	454322	440 FERNDAL
E 315-40000-304	Legal Fees	\$2,561.75	454323	PRES.HOMES TIF ADMIN.
E 101-41500-304	Legal Fees	\$1,387.50	454369	CITY COUNCIL
E 101-41500-304	Legal Fees	\$7,117.50	454444	BRAD HOYT PROPERTY TAX APPEAL
E 101-42400-304	Legal Fees	\$375.00	454445	CODE ENFORCEMENT

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Total BEST & FLANAGAN		\$23,223.00		
Paid Chk# 100414	10/22/2015	BIFFS, INC.		
E 101-45200-415	Other Equipment Rentals	\$62.50	W578286	SERVICE
E 101-45200-415	Other Equipment Rentals	\$46.88	W578287	SERVICE
Total BIFFS, INC.		\$109.38		
Paid Chk# 100415	10/22/2015	BRYAN ROCK PRODUCTS		
E 610-40000-225	Repair & Maint - System	\$215.34	10677	WATERMAIN REPAIR
Total BRYAN ROCK PRODUCTS		\$215.34		
Paid Chk# 100416	10/22/2015	CASH - ANCHOR BANK		
E 610-40000-322	Postage	\$3.34		PW PETT CASH REIMB.
E 610-40000-331	Mileage & Expense Account	\$43.68		PW PETT CASH REIMB.
Total CASH - ANCHOR BANK		\$47.02		
Paid Chk# 100417	10/22/2015	CINTAS CORPORATION		
E 101-41940-210	Operating Supplies (GENERAL)	\$31.25	8402446130	FIRST AID SUPPLIES
Total CINTAS CORPORATION		\$31.25		
Paid Chk# 100418	10/22/2015	COMMERCIAL ASPHALT CO.		
E 430-40000-309	Contractual Services	\$398.72	151015	ASPHALT
Total COMMERCIAL ASPHALT CO.		\$398.72		
Paid Chk# 100419	10/22/2015	CONSTRUCTION MIDWEST, INC.		
E 620-40000-240	Small Tools and Minor Equip	\$48.20	563779	TOOLS
E 610-40000-240	Small Tools and Minor Equip	\$50.00	563779	TOOLS
E 101-43100-240	Small Tools and Minor Equip	\$50.00	563779	TOOLS
Total CONSTRUCTION MIDWEST, INC.		\$148.20		
Paid Chk# 100420	10/22/2015	CULLIGAN-BOTTLED WATER		
E 101-42100-309	Contractual Services	\$14.22	1905664	SERVICE
Total CULLIGAN-BOTTLED WATER		\$14.22		
Paid Chk# 100421	10/22/2015	DELTA DENTAL OF MINNESOTA		
G 101-21717	Dental Insurance	\$1,612.95	6221490	DENTAL INS.
Total DELTA DENTAL OF MINNESOTA		\$1,612.95		
Paid Chk# 100422	10/22/2015	DIVERSIFIED ELECTRIC INC.		
E 404-40000-309	Contractual Services	\$12,270.00	1363	BUSHAWAY RD TRANSFORMER
Total DIVERSIFIED ELECTRIC INC.		\$12,270.00		
Paid Chk# 100423	10/22/2015	EHLERS		
E 401-40000-309	Contractual Services	\$525.00	68791	DOWNTOWN PARKING
Total EHLERS		\$525.00		
Paid Chk# 100424	10/22/2015	FASTENAL		
E 610-40000-225	Repair & Maint - System	\$11.55	MNPLY80407	PARTS
Total FASTENAL		\$11.55		
Paid Chk# 100425	10/22/2015	FORMS & SYSTEMS OF MINNESOTA		
E 101-42100-350	Printing & Publishing	\$58.55	144554	PD FORMS
Total FORMS & SYSTEMS OF MINNESOTA		\$58.55		
Paid Chk# 100426	10/22/2015	GARELICK STEEL CO.		
E 101-45200-210	Operating Supplies (GENERAL)	\$281.95	331724	SUPPLIES
E 101-43100-210	Operating Supplies (GENERAL)	\$164.00	331725	SUPPLIES
Total GARELICK STEEL CO.		\$445.95		

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Paid Chk#	100427	10/22/2015	GOLDEN VALLEY TCA A LLC	
G 630-20300	Deposits Payable	\$520.75	CVR REFUND	CVR REFUND
Total GOLDEN VALLEY TCA A LLC		\$520.75		
Paid Chk#	100428	10/22/2015	HATZ, KIM	
E 630-40000-331	Mileage & Expense Account	\$72.45	MILEAGE	MILEAGE
Total HATZ, KIM		\$72.45		
Paid Chk#	100429	10/22/2015	HAWKINS, INC	
E 610-40000-216	Chemicals and Chem Products	\$3,760.46	3778460	CHEMICALS
E 610-40000-216	Chemicals and Chem Products	\$415.00	3785366	CHEMICALS
E 610-40000-216	Chemicals and Chem Products	(\$521.84)	3785367	CHEMICALS
Total HAWKINS, INC		\$3,653.62		
Paid Chk#	100430	10/22/2015	HEIDER, NICK	
E 630-40000-331	Mileage & Expense Account	\$80.50	MILEAGE	MILEAGE
Total HEIDER, NICK		\$80.50		
Paid Chk#	100431	10/22/2015	HENN.CNTY.ACCTG.SERVICES	
E 101-42120-308	Prisoner Care	\$403.00	1000065317	PRISONER PROCESSING
E 101-42120-308	Prisoner Care	\$283.96	1000065465	PRISONER PROCESSING
Total HENN.CNTY.ACCTG.SERVICES		\$686.96		
Paid Chk#	100432	10/22/2015	HENN.CNTY.INFO.TECH.DEPT.	
E 101-42200-323	Radio Units	\$962.58	1000065540	RADIO CONNECTION
E 101-42100-323	Radio Units	\$839.56	1000065541	RADIO CONNECTION
Total HENN.CNTY.INFO.TECH.DEPT.		\$1,802.14		
Paid Chk#	100433	10/22/2015	HOLIDAY	
E 101-42100-212	Motor Fuels	\$34.93		PD FUEL
Total HOLIDAY		\$34.93		
Paid Chk#	100434	10/22/2015	IDEAL SERVICE, INC.	
E 610-40000-225	Repair & Maint - System	\$200.00	7549	VFD MAINT.ON WATER TREATMENT FACILITIES & SEWERLIFTS
E 620-40000-225	Repair & Maint - System	\$815.00	7549	VFD MAINT.ON WATER TREATMENT FACILITIES & SEWERLIFTS
Total IDEAL SERVICE, INC.		\$1,015.00		
Paid Chk#	100435	10/22/2015	IMO CONSULTING GROUP	
E 670-49100-303	Engineering Fees	\$1,839.80	256	DRAINAGE STUDY
Total IMO CONSULTING GROUP		\$1,839.80		
Paid Chk#	100436	10/22/2015	KD & COMPANY	
E 101-43100-229	Dirt, Sand and gravel	\$190.00	7946	CONCRETE & ASPHALT DISPOSAL
Total KD & COMPANY		\$190.00		
Paid Chk#	100437	10/22/2015	KEEPRS	
E 101-42100-217	Uniforms	\$157.98	289597	PD UNIFORMS
Total KEEPRS		\$157.98		
Paid Chk#	100438	10/22/2015	KENNETH N. POTTS, PA	
E 101-42120-304	Legal Fees	\$361.50	10/15/15	LEGAL SERVICES
Total KENNETH N. POTTS, PA		\$361.50		
Paid Chk#	100439	10/22/2015	LAKE RESTORATION INC.	
E 233-40000-309	Contractual Services	\$589.00	133805	WEED CONTROL
E 233-40000-309	Contractual Services	\$589.00	133806	WEED CONTROL
Total LAKE RESTORATION INC.		\$1,178.00		

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Paid Chk# 100440	10/22/2015 LEXUS			
G 630-20300	Deposits Payable	\$4,604.50	CVR REFUND	CVR REFUND
	Total LEXUS	\$4,604.50		
Paid Chk# 100441	10/22/2015 MAMA			
E 101-41910-331	Mileage & Expense Account	\$20.00	1848	MTG.LUNCHEON
	Total MAMA	\$20.00		
Paid Chk# 100442	10/22/2015 MANSFIELD OIL COMPANY			
E 101-49200-212	Motor Fuels	\$2,544.82	872620	FUEL
E 101-49200-212	Motor Fuels	\$1,000.95	872623	FUEL
	Total MANSFIELD OIL COMPANY	\$3,545.77		
Paid Chk# 100443	10/22/2015 MARCO			
E 101-41500-200	Office Supplies (GENERAL)	\$405.65	INV2868378	SUPPLIES
	Total MARCO	\$405.65		
Paid Chk# 100444	10/22/2015 MED COMPASS			
E 101-42200-241	Safety equip/testings	\$1,435.00	28026	FD EXAMS
	Total MED COMPASS	\$1,435.00		
Paid Chk# 100445	10/22/2015 MEDIACOM			
E 101-41940-321	Telephone	\$309.95		SERVICE
	Total MEDIACOM	\$309.95		
Paid Chk# 100446	10/22/2015 METRO ELEVATOR, INC.			
E 101-41940-401	Repairs/Maint Buildings	\$320.00	44449	MAINT.
	Total METRO ELEVATOR, INC.	\$320.00		
Paid Chk# 100447	10/22/2015 NORTH EMS EDUCATION			
E 101-42200-434	Training and schools	\$25.00	PSA787	FD TRAINING
	Total NORTH EMS EDUCATION	\$25.00		
Paid Chk# 100448	10/22/2015 OFFICE DEPOT			
E 101-43100-200	Office Supplies (GENERAL)	\$37.04	797064814001	SUPPLIES
E 610-40000-200	Office Supplies (GENERAL)	\$18.51	797064814001	SUPPLIES
E 101-45200-200	Office Supplies (GENERAL)	\$37.04	797064814001	SUPPLIES
E 620-40000-200	Office Supplies (GENERAL)	\$18.51	797064814001	SUPPLIES
E 101-41500-200	Office Supplies (GENERAL)	\$104.85	798779333001	SUPPLIES
E 101-42100-200	Office Supplies (GENERAL)	\$17.49	798779333001	SUPPLIES
	Total OFFICE DEPOT	\$233.44		
Paid Chk# 100449	10/22/2015 PLECHASH, ALEX			
E 101-42200-217	Uniforms	\$15.50	REIMB.	FD UNIFORM REPAIR
	Total PLECHASH, ALEX	\$15.50		
Paid Chk# 100450	10/22/2015 POPP TELECOM			
E 101-41940-321	Telephone	\$50.00	131036	PHONE REPAIRS
E 101-41940-321	Telephone	\$50.00	3357	PHONE REPAIRS
	Total POPP TELECOM	\$100.00		
Paid Chk# 100451	10/22/2015 PREMIER RESTAURANT EQUIPMENT			
E 233-40000-540	Equipment	\$8,494.77	27098	BEACH HOUSE GRILL EQUIP.
	Total PREMIER RESTAURANT EQUIPMENT	\$8,494.77		
Paid Chk# 100452	10/22/2015 RANDY S SANITATION			
E 650-47500-384	Refuse/Garbage Disposal	\$8,690.95		LABOR
E 650-47600-309	Contractual Services	\$3,916.80		RECYCLING
E 101-41940-386	Other Utilities	\$595.59		CH & PW SERVICE

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			Check Amt	Invoice	Comment
E 650-47500-386	Other Utilities		\$3,479.49		DISPOSAL
E 650-47500-384	Refuse/Garbage Disposal		\$994.29		DRIVE UP
E 650-47800-386	Other Utilities		\$46.80		ORGANICS DISPOSAL
E 650-47800-384	Refuse/Garbage Disposal		\$6,479.48		ORGANICS
E 650-47500-384	Refuse/Garbage Disposal		\$40.95		STICKERS
E 650-47500-384	Refuse/Garbage Disposal		\$1,373.84		KARTS
E 640-47000-384	Refuse/Garbage Disposal		\$150.00		STORE SERVICE
E 640-48000-384	Refuse/Garbage Disposal		\$337.03		BAR SERVICE
Total RANDY S SANITATION			\$26,105.22		
Paid Chk# 100453	10/22/2015	SIDEWALK SAVERS, LLC			
E 408-40000-402	Sidewalk Replacement		\$3,795.00	10040	SIDEWALK REPAIRS/REPLACEMENT
Total SIDEWALK SAVERS, LLC			\$3,795.00		
Paid Chk# 100454	10/22/2015	SIGNS NOW			
E 101-41910-499	Miscellaneous		\$33.50	28543	JEFF THOMSON NAME PLATES
Total SIGNS NOW			\$33.50		
Paid Chk# 100455	10/22/2015	SRF CONSULTING GROUP, INC.			
E 401-40000-309	Contractual Services		\$16,503.04	08866.00-5	DOWNTOWN PARKING
Total SRF CONSULTING GROUP, INC.			\$16,503.04		
Paid Chk# 100456	10/22/2015	STATE OF MINNESOTA			
E 101-42100-323	Radio Units		\$270.00	00000298816	PD RADIO CONNECTION
Total STATE OF MINNESOTA			\$270.00		
Paid Chk# 100457	10/22/2015	STREICHER S			
E 101-42100-217	Uniforms		\$74.99	I1172409	PD UNIFORMS
E 101-42100-217	Uniforms		\$74.99	I1175480	PD UNIFORMS
Total STREICHER S			\$149.98		
Paid Chk# 100458	10/22/2015	SYSTEM ONE CONTROL			
E 101-41940-404	Repairs/Maint - Machin/Equip		\$2,125.00	500062.03	ANNUAL PROGRAM CONTROL
Total SYSTEM ONE CONTROL			\$2,125.00		
Paid Chk# 100459	10/22/2015	TIME SAVER			
E 101-41100-302	Consultants		\$510.00	M21678	MTG.MINUTES
Total TIME SAVER			\$510.00		
Paid Chk# 100460	10/22/2015	UPS STORE			
E 101-41500-499	Miscellaneous		\$47.90	2516	PHOTO CONTEST SUPPLIES
E 101-41100-493	Volunteer program		\$61.20	2517	VOLUNTEER DINNER SUPPLIES
Total UPS STORE			\$109.10		
Paid Chk# 100461	10/22/2015	VANDERHEIDEN, ROBERT			
E 101-42100-331	Mileage & Expense Account		\$39.67	REIMB	MILEAGE
Total VANDERHEIDEN, ROBERT			\$39.67		
Paid Chk# 100462	10/22/2015	WAYZATA CHAMBER OF COMMERCE			
E 101-41500-331	Mileage & Expense Account		\$25.00	6790	PERSON OF THE YEAR LUNCHEON
E 101-41100-331	Mileage & Expense Account		\$75.00	6790	PERSON OF THE YEAR LUNCHEON
E 101-42100-331	Mileage & Expense Account		\$25.00	6790	PERSON OF THE YEAR LUNCHEON
E 101-42200-331	Mileage & Expense Account		\$25.00	6790	PERSON OF THE YEAR LUNCHEON
E 640-48000-341	General Promotions		\$9,084.00	JJ HILL 2015	JJ HILL DAY
Total WAYZATA CHAMBER OF COMMERCE			\$9,234.00		
Paid Chk# 100463	10/22/2015	WAYZATA ROTARY CLUB			
E 101-41500-331	Mileage & Expense Account		\$379.00	165	HEIDI NELSON MTG.MEALS

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			Check Amt	Invoice	Comment
Total WAYZATA ROTARY CLUB			\$379.00		
Paid Chk# 100464	10/22/2015	WSB & ASSOCIATES			
E 101-41910-302	Consultants		\$8,208.00	01204-400.2	PLANNING SERVICES
G 101-20310	Escrow		\$997.50	01204-410.2	1120 WAYZ.BLVD.ESCROW PROJECT
G 101-20310	Escrow		\$285.00	01204-420.2	133 RIDGEVIEW DRIVE ESCROW PROJECT
G 101-20310	Escrow		\$655.50	01204-430.1	240 MANITOBA ESCROW PROJECT
E 101-41910-302	Consultants		\$1,909.50	01204-440.1	TREE PRESERVATION ORDINANCE
E 101-41910-302	Consultants		\$1,026.00	01204-450.1	TELECOM.ORDINANCE
Total WSB & ASSOCIATES			\$13,081.50		
Paid Chk# 100465	10/29/2015	ABSOLUTE MECHANICAL			
E 101-41940-404	Repairs/Maint - Machin/Equip		\$1,652.00	5694	CITY HALL HVAC REPAIRS
Total ABSOLUTE MECHANICAL			\$1,652.00		
Paid Chk# 100466	10/29/2015	ALL TRAFFIC SOLUTIONS			
E 101-43100-220	Repair/Maint Supply (GENERAL)		\$1,020.00	SIN006754	SUPPLIES
Total ALL TRAFFIC SOLUTIONS			\$1,020.00		
Paid Chk# 100467	10/29/2015	ANCHOR SCIENTIFIC INC.			
E 620-40000-225	Repair & Maint - System		\$48.00	217852	LIFT STATIONS SUPPLIES
Total ANCHOR SCIENTIFIC INC.			\$48.00		
Paid Chk# 100468	10/29/2015	AT&T MOBILITY			
E 101-41940-321	Telephone		\$204.04	287250008232	CELL PHONES
Total AT&T MOBILITY			\$204.04		
Paid Chk# 100469	10/29/2015	AT&T MOBILITY			
E 101-41940-321	Telephone		\$331.88	287250190047	CELL PHONES
Total AT&T MOBILITY			\$331.88		
Paid Chk# 100470	10/29/2015	BETH, GERALD O			
E 640-48000-341	General Promotions		\$175.00	11/3/15	BAR MUSIC 11/3/15
Total BETH, GERALD O			\$175.00		
Paid Chk# 100471	10/29/2015	CEMSTONE PRODUCTS CO.			
E 101-45203-220	Repair/Maint Supply (GENERAL)		\$219.50	C1573594	CONCRETE PAD
Total CEMSTONE PRODUCTS CO.			\$219.50		
Paid Chk# 100472	10/29/2015	CUSTOM FIRE APPARATUS, INC.			
E 409-42200-550	Vehicles		\$82,000.00	0016568	FIRE TRUCK CHASSIS
Total CUSTOM FIRE APPARATUS, INC.			\$82,000.00		
Paid Chk# 100473	10/29/2015	EMERGENCY AUTOMOTIVE			
E 409-42100-550	Vehicles		\$1,702.35	24148	SQUAD SET UP
Total EMERGENCY AUTOMOTIVE			\$1,702.35		
Paid Chk# 100474	10/29/2015	EMERYS TREE SERVICE, INC.			
E 404-40000-309	Contractual Services		\$65.00	20332	TREE REMOVAL
Total EMERYS TREE SERVICE, INC.			\$65.00		
Paid Chk# 100475	10/29/2015	FIRE EQUIPMENT SPECIALTIES INC			
E 101-42200-217	Uniforms		\$340.84	8994	FD UNIFORMS
Total FIRE EQUIPMENT SPECIALTIES INC			\$340.84		
Paid Chk# 100476	10/29/2015	GRAFIX SHOPPE			
E 101-42100-404	Repairs/Maint - Machin/Equip		\$33.42	103539	SQUAD REPAIRS
Total GRAFIX SHOPPE			\$33.42		

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			Check Amt	Invoice	Comment
Paid Chk# 100477	10/29/2015	HD SUPPLY WATERWORKS, LTD			
E 610-40000-225	Repair & Maint - System		\$126.72	E678457	PARTS
E 610-40000-225	Repair & Maint - System		\$575.66	E678532	PARTS
E 620-40000-225	Repair & Maint - System		\$82.00	E678532	PARTS
Total	HD SUPPLY WATERWORKS, LTD		\$784.38		
Paid Chk# 100478	10/29/2015	HEITZ, CHRISTOPHER			
E 101-43100-331	Mileage & Expense Account		\$136.85	MILEAGE	MILEAGE REIMB.
Total	HEITZ, CHRISTOPHER		\$136.85		
Paid Chk# 100479	10/29/2015	INTEGRATED FIRE & SECURITY			
E 101-41940-404	Repairs/Maint - Machin/Equip		\$362.50	63511	FIRE ALARM REPAIRS
Total	INTEGRATED FIRE & SECURITY		\$362.50		
Paid Chk# 100480	10/29/2015	JONES, REBECCA			
E 101-45200-499	Miscellaneous		\$35.00	REIMB.	EMPLOYMENT AD - CRAIGS LIST
Total	JONES, REBECCA		\$35.00		
Paid Chk# 100481	10/29/2015	JORGENSEN, KURT			
E 640-48000-341	General Promotions		\$250.00	11/4/15	BAR MUSIC 11/4/15
Total	JORGENSEN, KURT		\$250.00		
Paid Chk# 100482	10/29/2015	KEEPRS			
E 101-42100-217	Uniforms		\$99.98	289597-01	PD UNIFORMS
Total	KEEPRS		\$99.98		
Paid Chk# 100483	10/29/2015	LAW ENFORCEMENT LABOR SERVICES			
G 101-21707	Police union dues		\$423.00	OCT.2015	PD UNION DUES - OCT.2015
al	LAW ENFORCEMENT LABOR SERVICES		\$423.00		
Paid Chk# 100484	10/29/2015	LEAGUE OF MN.CITIES			
E 101-41500-433	Dues, Licensing & Seminars		\$40.00	223163	TRAINING/MTG.REGISTRATIONS
E 101-41910-433	Dues, Licensing & Seminars		\$40.00	223163	TRAINING/MTG.REGISTRATIONS
Total	LEAGUE OF MN.CITIES		\$80.00		
Paid Chk# 100485	10/29/2015	MED COMPASS			
E 101-42200-241	Safety equip/testings		\$443.00	28106	FD EXAMS
Total	MED COMPASS		\$443.00		
Paid Chk# 100486	10/29/2015	MEDIACOM			
E 101-41940-321	Telephone		\$592.00		SERVICE
Total	MEDIACOM		\$592.00		
Paid Chk# 100487	10/29/2015	METRO SALES INC.			
E 101-41500-200	Office Supplies (GENERAL)		\$73.16	INV377547	SUPPLIES/TONER
Total	METRO SALES INC.		\$73.16		
Paid Chk# 100488	10/29/2015	MEYER, BORGMAN, JOHNSON			
E 101-42400-309	Contractual Services		\$740.00	15.627.0-2	BLDG.INSPECTION-PROMENADE
Total	MEYER, BORGMAN, JOHNSON		\$740.00		
Paid Chk# 100489	10/29/2015	MILLER, FRED			
E 235-40000-302	Consultants		\$1,525.00	111	WCTV
E 235-40000-302	Consultants		(\$5.00)	111	WCTV - SEPT.INVOICE
E 101-41500-306	Personnel Expense		\$200.00	111	OPEN ENROLLMENT MTG.
Total	MILLER, FRED		\$1,720.00		
Paid Chk# 100490	10/29/2015	MN BATTERY LLC			
E 101-45200-221	Equipment Parts		\$34.75	14925	PARTS

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October 2015

			Check Amt	Invoice	Comment
Total MN BATTERY LLC			\$34.75		
Paid Chk# 100491	10/29/2015	MN CHILD SUPPORT PAYMENT CENTE			
G 101-21710	County WH		\$264.00	0014613507	WITHHOLDING ORDERS
G 101-21710	County WH		\$235.00	0015104841	WITHHOLDING ORDERS
Total MN CHILD SUPPORT PAYMENT CENTE			\$499.00		
Paid Chk# 100492	10/29/2015	NAPA AUTO PARTS-WATERTOWN			
E 101-43100-210	Operating Supplies (GENERAL)		\$24.50	447051	SUPPLIES
E 101-45200-210	Operating Supplies (GENERAL)		\$24.50	447051	SUPPLIES
Total NAPA AUTO PARTS-WATERTOWN			\$49.00		
Paid Chk# 100493	10/29/2015	NORTHERN TOOL & EQUIPMENT			
E 610-40000-210	Operating Supplies (GENERAL)		\$17.49	4062020415	SUPPLIES
E 620-40000-210	Operating Supplies (GENERAL)		\$17.49	4062020415	SUPPLIES
E 101-45200-221	Equipment Parts		\$173.97	4062020416	SUPPLIES
Total NORTHERN TOOL & EQUIPMENT			\$208.95		
Paid Chk# 100494	10/29/2015	OFFICE DEPOT			
E 620-40000-225	Repair & Maint - System		\$500.00	798919333001	SUPPLIES
E 101-43100-210	Operating Supplies (GENERAL)		\$258.08	798919333001	SUPPLIES
E 101-41500-200	Office Supplies (GENERAL)		\$52.85	800097852001	SUPPLIES
Total OFFICE DEPOT			\$810.93		
Paid Chk# 100495	10/29/2015	PAKOR INC.			
E 630-40000-210	Operating Supplies (GENERAL)		\$255.55	8015121	MV SUPPLIES
Total PAKOR INC.			\$255.55		
Paid Chk# 100496	10/29/2015	POPP TELECOM			
E 610-40000-323	Radio Units		\$89.02		SERVICE
E 620-40000-323	Radio Units		\$32.50		SERVICE
E 640-48000-321	Telephone		\$100.00		SERVICE
E 101-42100-323	Radio Units		\$33.30		SERVICE
E 101-41940-321	Telephone		\$305.63		SERVICE
E 640-47000-321	Telephone		\$100.00		SERVICE
Total POPP TELECOM			\$660.45		
Paid Chk# 100497	10/29/2015	Q3 CONTRACTING			
E 430-40000-309	Contractual Services		\$9,332.80	RMN0573154	EASTMAN LANE
Total Q3 CONTRACTING			\$9,332.80		
Paid Chk# 100498	10/29/2015	RED DOT GARAGE, LLC			
E 640-48000-341	General Promotions		\$300.00	11/5/15	BAR MUSIC 11/5/15
Total RED DOT GARAGE, LLC			\$300.00		
Paid Chk# 100499	10/29/2015	RIGID HITCH INC.			
E 101-45200-221	Equipment Parts		\$35.27	1927696286	PARTS
Total RIGID HITCH INC.			\$35.27		
Paid Chk# 100500	10/29/2015	RISVOLD, MICHAEL			
E 101-42500-433	Dues, Licensing & Seminars		\$333.00	REIMB.	CONF.EXP.
E 101-42100-331	Mileage & Expense Account		\$70.00	REIMB.	CONF.EXP.
E 101-42100-499	Miscellaneous		\$1,112.80	REIMB.	CONF.EXP.
Total RISVOLD, MICHAEL			\$1,515.80		
Paid Chk# 100501	10/29/2015	SCHRADER S LAW ENFORCEMENT SUP			
E 101-42100-217	Uniforms		\$106.00	15-261	PD UNIFORM BADGE
Total SCHRADER S LAW ENFORCEMENT SUP			\$106.00		

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			Check Amt	Invoice	Comment
Paid Chk#	100502	10/29/2015	SHORT ELLIOTT HENDRICKSON INC.		
	G 101-20310	Escrow	\$1,468.36	305271	AT&T ESCROW PROJECT
	Total	SHORT ELLIOTT HENDRICKSON INC.	\$1,468.36		
Paid Chk#	100503	10/29/2015	SITEONE LANDSCAPE SUPPLY		
	E 101-43100-210	Operating Supplies (GENERAL)	\$42.60	73768907	EROSION CONTROL
	Total	SITEONE LANDSCAPE SUPPLY	\$42.60		
Paid Chk#	100504	10/29/2015	SPRINT		
	E 101-42100-323	Radio Units	\$122.24	134573312-16	PD SERVICE
	Total	SPRINT	\$122.24		
Paid Chk#	100505	10/29/2015	SPRINT		
	E 101-42200-323	Radio Units	\$325.49	523093316-16	FD SERVICE
	Total	SPRINT	\$325.49		
Paid Chk#	100506	10/29/2015	SQUEEGEE SQUAD		
	E 437-40000-401	Repairs/Maint Buildings	\$731.00	616387	LIBRARY WINDOWS CLEANED
	Total	SQUEEGEE SQUAD	\$731.00		
Paid Chk#	100507	10/29/2015	UPS STORE		
	E 233-40000-499	Miscellaneous	\$1,745.80	0265	LAKE EFFECT MAILING
	Total	UPS STORE	\$1,745.80		
Paid Chk#	100508	10/29/2015	VERIZON WIRELESS		
	E 101-42100-323	Radio Units	\$200.05	9753830533	PD SERVICE
	Total	VERIZON WIRELESS	\$200.05		
Paid Chk#	100509	10/29/2015	WSB & ASSOCIATES		
	E 430-40000-309	Contractual Services	\$3,044.00	01204-391.6	2015 STREETS
	Total	WSB & ASSOCIATES	\$3,044.00		
	10100	Anchor Bank	\$472,107.83		

Fund Summary

10100 Anchor Bank	
101 GENERAL FUND	\$62,618.06
233 LAKFRONT IMPROVE	\$11,418.57
235 CABLE TV	\$1,520.00
315 BIG WOODS	\$2,561.75
401 PERM IMPROVEMENT	\$17,028.04
404 PARK AND TRAIL CIP	\$12,377.76
408 GENERAL CIP	\$3,795.00
409 EQUIP REVOLVING	\$83,702.35
430 STREET CIP	\$13,750.52
437 LIBRARY/COMM.ROOM CIP	\$731.00
610 WATER FUND	\$5,034.94
620 SEWER FUND	\$1,651.67
630 MOTOR VEHICLE	\$5,533.75
640 LIQUOR	\$223,522.02
650 SOLID WASTE	\$25,022.60
670 STORMWATER	\$1,839.80
	\$472,107.83



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1734

Mayor:
Ken Willcox
City Council:
Bridget Anderson
Johanna McCarthy
Andrew Mullin
Steven Tyacke
City Manager:
Heidi Nelson

TO: Mayor Willcox and Councilmembers

FROM: Heidi Nelson, City Manager

DATE: October 27, 2015

RE: 2016 Liability Insurance Coverage Waiver Form (tort limits)

As part of the annual renewal process with the League of MN Cities for general liability insurance, the City is required to elect whether or not to waive the monetary liability limits a claimant would be able to recover. By not waiving this limit an individual claimant would be able to recover no more than \$500,000 and all claimants for a single occurrence would be limited to \$1,500,000. By waiving the statutory tort limits the insurer would not be able to use the tort limit as a defense. The increased exposure/liability coverage would increase the premium and the individual claimant could recover up to the limit of coverage purchased by the City.

Consistent with past proactive, staff recommends not waiving the statutory tort limits.



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LIABILITY COVERAGE – WAIVER FORM

LMCIT members purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage. Please return the completed form to your underwriter or email to pstech@lmc.org

This decision must be made by the member's governing body every year. You may also wish to discuss these issues with your attorney.

League of Minnesota Cities Insurance Trust (LMCIT) members that obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits apply regardless of whether the city purchases the optional excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$2,000,000 for a single occurrence. (Under this option, the tort cap liability limits are waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2 million.) The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

_____ selects liability coverage limits of \$_____ from the League of Minnesota Cities Insurance Trust (LMCIT).

Check one:

- ☐ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04.
- ☐ The member **WAIVES** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council/governing body meeting _____

Signature _____ Position _____



**Planning Report
Wayzata City Council
November 4, 2015**

File Case No:	PR 2015-15
Applicant:	City of Wayzata
Address of request:	N/A
PID number:	N/A
Prepared By:	Eric Zweber, Interim City Planner
Project Summary:	Repeal and replace the City of Wayzata relating to Telecommunications Antennas, Towers and Equipment. (City Code § 801.31)

PROJECT SUMMARY

Section 1. Ordinance Amendment

- 1.1. General. As part of the Telecommunications Study, the City Council and Planning Commission are updating the City's Telecommunications Ordinance in order to better regulate the location of new cellular towers and other equipment. This is in part because our current Communication Devices Ordinance (Section 31 of the Zoning Ordinance) does not contain much guidance on the subject.

At the March 3, 2015 council meeting, the City Council adopted a six month moratorium on new wireless communications facilities and towers pending the study and consideration of changes to the city's regulations and official controls. At the September 1, 2015 council meeting, the City Council allowed the moratorium to expire.

On August 17, the City Council and Planning Commission conducted a joint workshop to review the draft Telecommunications Ordinance which included testimony from the four major telecommunications providers. Based on that testimony, as well as the comment from Mayor Willcox regarding the ability to install antennas on existing buildings, a number of changes were made to the August 11 draft Ordinance.

On October 5, the Planning Commission conducted a public hearing for the Telecommunications Ordinance. Representatives from Verizon and AT&T provided testimony. Following the testimony, the Planning Commission provided direction on revisions to consider based on that testimony.

On October 19, the Planning Commission reviewed the revisions to the Ordinance based on direction from the October 5 meeting. Based on the findings within the Planning Commission Report and Recommendations (Attachment A), the Planning Commission recommended approval of the Ordinance without any additional changes.

The Ordinance is provided as Attachment B and a map of the locations where towers are allowed (shown in red) and the locations where antennas can be installed on or on top of a building (shown in mustard) is provided as Attachment C.

- 1.2 Public Hearing Notice. A Notice of Public Hearing regarding the repeal of Chapter 801 Section 31 "COMMUNICATION RECEPTION/TRANSMISSION DEVICES" and replacement of Chapter 801 Section 31 "COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL ACCESSORY COMMUNICATION DEVICES" was published in the Lakeshore Weekly on September 22, 2015.
- 1.3 October 5, 2015 Planning Commission Meeting Summary. The Planning Commission reviewed the Application and held a Public Hearing on October 5, 2015. The draft Minutes of the October 5, 2015 Planning Commission Meeting are provided as Attachment D. During the Public Hearing, representatives from Verizon and AT&T provided testimony. Additionally, Verizon had provided a memorandum from Moss & Barnett (Attachment E) dated October 1 that comments on four sections of the Ordinance and AT&T had provided twelve (12) comments in the form of a redline copy of the draft Ordinance. These comments and staff's responses are provided in the October 19 summary below.

After the conclusion of the Public Hearing, the Planning Commission discussed the comments raised by Verizon and AT&T. The Planning Commission made suggestions on which comments to address and which comments should not result in amendments to the draft Ordinance. The Planning Commission recommended that the Staff revise the Ordinance based on their suggestions and prepare a Report and Recommendations for the October 19 Planning Commission meeting.

- 1.4 October 19, 2015 Planning Commission Meeting Summary. AT&T revised their comments (Attachment F) before the October 19 Planning Commission meeting. Verizon did not provide any additional comments from their October 1 memorandum from Moss & Barnett. On October 19, the Planning Commission reviewed the draft Report and Recommendations and the draft Ordinance with

revisions made based on the October 5 review and discussion. The draft Minutes for the October 19 Planning Commission meeting is provided in Attachment G. The vender's comments and proposed revisions to the Ordinance are summarized below.

Verizon requested:

- That antennas be allowed to be installed on any building that is not a single family residence instead of limiting them to the C-1, C-3 and PUD districts. Staff advised against this revision because the PUD zoning allows the flexibility to request antennas in zoning districts that are not C-1 and C-3. The Ordinance has not been amended.
- That antennas be allowed to be constructed on all rooftop screening walls, not just "parapet" screening walls. A clarification was made to reference to allowing antennas to be mounted on all screening walls regulated in Section 801.09.7.2.
- That the ultimate use of a telecommunications facility cannot be foreseen by the first vender at the site and therefore a building that houses equipment for multiple vendors cannot be logically designed. Language was added that a vender's equipment building must be designed to be expanded in the future, but that the first vendor does not require to build additional space within their building for a future vender.
- That the limitations on hours of work and parking on the street be limited to only City owned sites. The hours of work limitation is maintained, but contractors are allowed to parking at the location of their equipment if there is a paved and screened parking area.

AT&T requested:

- That the definition of a tower be increased from a structure over 15 feet to a structure over 25 feet. This is key for installing antenna on public utility structures that are not towers within the right-of-way. The City Engineer stated that the light poles being installed on top of the stop lights at Bushaway Road and Wayzata Blvd are approaching 35 feet in height. The definition of a tower has been changed to 25 feet.
- That the Federal Regulations apply to the entire Ordinance and not be limited to only towers. The Ordinance has been revised to clarify that the Federal Regulations apply to all Telecommunication Facilities and is not limited to only towers.
- That antennas can be installed on all utility structures regardless of location. Staff recommended against this change because utility structures exist in places where residents enjoy peace and solitude such as park and backyards. The Ordinance has not been amended.

- That the standards for Underground Equipment Storage be eliminated. Staff recommended against this elimination because the Ordinance language already states that these regulations are only in effect if requirement is “commercially reasonable”. The Ordinance has not been amended.
- A similar comment to Verizon regarding equipment buildings for joint venders.
- That the timeline to correct non-compliant repairs be extended from 30 days to 60 days. Staff recommended against this change because a contractor should be required to correct their non-compliant work in a timely manner. The Ordinance has not been amended.
- That the requirement for installing antenna and equipment that has the least visual impact be eliminated because the equipment that provides the best service and/or coverage may not have the least visual impact. Staff revised the Ordinance to require a report that analyses service needs compared to visual impact and allows the City to conduct a third party review of the report. The City may require the lower visual impact technology if the third party report recommends that.
- That the removal timeline of obsolete equipment be increased from 30 days to 120 days. Unlikely the non-compliant repairs within the second bullets above, it would be likely that the vender does not have a contractor under contract and/or nearby. The Ordinance has been amended to allow 120 days for the removal of non-compliant equipment.

Following the review of the vender’s comment, the Planning Commission unanimously approve the Report and Recommendations include the Ordinance as staff recommended. No additional amendments were made.

Section 2. Summary of Issues

2.1 Zoning Analysis.

	Location	Height Limit
Towers	Wayzata Public Works Facility or Wayzata West Middle School.	150 Feet.
Antennas on Existing Buildings	C -1, C-3 and PUD zoning within 300 feet of Wayzata Blvd.	15 Feet above the rooftop screening wall.
Micro-sites	Existing public utility structure within a Right-of-Way.	15 Feet above the existing utility structure.
Residential Accessory Antennas	Any residential District.	Ground Mounted: 15 Feet Roof Mounted: 6.5 Feet beyond the roof peak.

Attachment C shows the location that the tower and antennas on existing building would be allowed.

2.2 Height of Antennas above Structures.

There are three places the draft Ordinance allows the telecommunication antennas to be mounted to extend up to fifteen (15) feet above the structure on which the antennas are mounted. Section 801.31.4(B)(iii)(a) allows antennas extend up to fifteen (15) feet above the utility structure that is mounted to. Section 801.31.4 (B)(iv)(e) antennas to extend up to fifteen (15) above the rooftop screening wall that the antenna is mounted to. Section 801.31.4(C)(i)(b) allows the antennas to extend up fifteen (15) above the highest point of the building it is attached to.

Staff requests that the City Council specifically acknowledges these sections of the Ordinance and that it is the intent of the City to allow these antennas to extend up to fifteen (15) above the structures that is mounted to. Pictures of various options to attach antennas to building are provide as Attachment H. This Ordinance provision is consistent with the regulations of the communities surrounding Wayzata (Attachment I), but it is also difficult to use stealth technology to have the antennas appear like the structure that it is mounted to when they are fifteen (15) above that structure.

Section 3. Action Steps.

After considering the items outlined in this Report, the City Council should pursue one of the following options as an action step:

1. Adopt the First Reading of Ordinance 756 included as Attachment B of this Report.
2. If the Council wishes to significantly modify the Ordinance, the Council should direct staff to prepare a revised Ordinance for review and adoption at the next Council meeting.

Attachments:

Attachment A: Planning Commission Report and Recommendation

Attachment B: Telecommunications Ordinance

Attachment C: Tower and Antenna Location Map

Attachment D: Draft October 5, 2015 Planning Commission Meeting Minutes

Attachment E: Verizon Memorandum dated October 1, 2015

Attachment F: AT&T Redlines of the Telecommunications Ordinance

Attachment G: Draft October 19, 2015 Planning Commission Meeting Minutes

Attachment H: Pictures of Building Mounted Antenna Options

Attachment I: Other Cities' Antenna on Building Regulations



WAYZATA PLANNING COMMISSION

October 19, 2014

REPORT AND RECOMMENDATION ON AN ORDINANCE AMENDING THE WAYZATA ZONING ORDINANCE TO ADD A NEW SECTION 31 ON COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL ACCESSORY COMMUNICATIONS DEVICES

RECOMMENDATION

APPROVE

REPORT

Section 1. BACKGROUND

- 1.1 General. The City has engaged in the study and development of a new ordinance to address commercial telecommunications facilities and residential accessory communication devices and uses in the City, and has held several Planning Commission and City Council workshops and forums on the matter, including with telecommunication service providers and citizens of Wayzata. Staff has reviewed regulatory frameworks and policy considerations, and has received the input of the City's telecommunication service providers and the City Attorney's office. Based on the foregoing, staff has prepared a draft ordinance attached to this Report as Attachment A which would be an amendment to the City's existing Zoning Ordinance (the "Proposed Amendment").
- 1.2 Public Hearing. The Planning Commission held a public hearing on the Proposed Amendment on October 5 and October 19, 2015. The Notice of Public Hearing was published in the *Lakeshore Weekly* on September 22, 2015.

Section 2. LEGAL AUTHORITY AND STANDARDS

- 2.1 City Council has the discretion and authority under state law and City Code to amend the City's Zoning Ordinance. Minn. Stat. Sec. 462.357; Wayzata City Code Section 801.03. A zoning ordinance amendment may be initiated by the governing body, the planning agency or by a property owner. Minn. Stat. Sec. 462.357, Subd. 4; City Code Section 801.03.
- 2.2 Under the City's Zoning Ordinance, the City Council acts on any proposed amendment upon receiving the report and recommendation of the Planning Commission. Sec. 801.03.2. In considering a proposed amendment to the Zoning Ordinance, the Planning Commission shall consider the 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 City Code Section 801.03.2.F.

Section 3. Findings

- 3.1 Based on the studies and reports of City Staff, and comments and information presented at the workshops and Public Hearing on the Application, the information provided by service providers and the City Attorney, the Planning Commission of the City of Wayzata makes the following findings with respect to the Proposed Amendment:

1. The Proposed Amendment would not allow a use that would contravene any specific policies and provisions of the official City Comprehensive Plan.
2. The Proposed Amendment would only allow uses that conform to present and future land uses in the City's business and commercial districts. All requests for Telecommunications Facilities would be reviewed and regulated through a Conditional Use Permit process.
3. The Proposed Amendment would not allow uses that do not conform with the performance standards contained in the Zoning Ordinance (parking, loading, noise, etc.).
4. The Proposed Amendment would not allow uses that would have a negative impact on the areas in which they are proposed in that the Proposed Amendment would reasonably regulate the use and location of telecommunications facilities, equipment and accessories within the limits of governing federal law.
5. The Proposed Amendment will not have any direct impact upon property values in the City.
6. The Proposed Amendment will not allow any use that would have a negative impact traffic generation in the City.
7. The Proposed Amendment will not allow a use that would negatively impact existing public services and facilities and would provide a framework for needed telecommunications services in the City.

Section 4. Recommendation

- 4.1 Proposed Amendment. Based on the Findings of this Report, the Planning Commission recommends approval of the Proposed Amendment, as set forth in Attachment A.

Adopted by the Wayzata Planning Commission this 19th day of October, 2015.

Chair, Planning Commission

Attachment A

Proposed Amendment (Draft Ordinance _____)

000043/204032/2235350_1

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA

ORDINANCE NO. 756

**AN ORDINANCE AMENDING SECTION 31 OF CHAPTER 801 OF THE WAYZATA
CITY CODE (ZONING ORDINANCE) ON TELECOMMUNICATIONS EQUIPMENT
AND USES**

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment to Ch. 801 of City Code. Section 31 of Chapter 801 of the Wayzata City Code (Zoning Ordinance) is hereby amended to read in its entirety as set forth in Exhibit A attached hereto.

Section 2. Findings. The amendments made hereby are based upon the findings set forth in the Report and Recommendation of the Wayzata Planning Commission, dated October 19, 2015.

Section 3. Effective Date. This Ordinance will become effective upon passage and publication.

Adopted by the City Council this ____ day of _____, 2015.

Ken Willcox
Mayor

ATTEST:

Heidi Nelson
City Manager

First Reading:
Second Reading:
Publication:

EXHBIT A

Amendment of Ch. 801 of City Code

000043/204032/2240711_1

SECTION 31
COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL
ACCESSORY COMMUNICATIONS DEVICES

Section 801.31:

- 801.31.1: Purpose and Intent
- 801.31.2: Definitions
- 801.31.3: Permit Required for Telecommunication Facilities
- 801.31.4: Building and Design Standards for Telecommunication Facilities
- 801.31.5: General Standards for Telecommunication Facilities
- 801.31.6: Applications for Telecommunication Facilities Permit
- 801.31.7: Review of Permit Applications
- 801.31.8: Appeals
- 801.31.9: Revocation of Permit
- 801.31.10: No Recourse Against the City
- 801.31.11: Indemnification
- 801.31.12: Severability
- 801.31.13: Residential Accessory Uses

1. Purpose and Intent.

The purpose of this section is to establish objective and balanced regulations for the siting, screening and operation of wireless telecommunication facilities and equipment in order to accommodate Wireless Communication systems within the City while minimizing any adverse impacts on the City's natural resources, aesthetics, public spaces, surrounding neighborhood property values, and the general health, safety and public welfare, all as allowed under applicable Federal law. This section recognizes that these wireless communication systems provide a valuable service to the public but that they are not a public utility. The specific purposes of this section are to:

- A. Specify allowed locations of commercial Telecommunication Facilities and Towers in the City;
- B. Protect residential, recreational and park areas from encroachment by commercial operations, including, but not limited to, Telecommunication Facilities and Towers;
- C. Minimize adverse visual impacts of Telecommunication Facilities and Towers through careful design, optimum siting, appropriate landscaping, innovative camouflaging techniques and stealth poles;
- D. Require, where possible, the co-location of Telecommunications Towers and Antennas support structures on Towers or existing structures as a primary option rather than construction of multiple single-use Towers;

- E. Require utilization of technological designs that either eliminate or reduce the need for erection of new Tower structures to support Telecommunications Facilities;
- F. Minimize potential damage to property caused by Telecommunication Facilities and Towers by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
- G. Ensure that Telecommunication Facilities and Towers are compatible with surrounding land uses;
- H. Provide development standards for Wireless Telecommunication Facilities that are consistent with the requirements of the Federal Telecommunications Act of 1996, as amended, or other applicable Federal, State and local laws, statutes, ordinances and regulations.

2. Definitions.

For the purposes of this section, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

- A. “**Accessory Equipment**” means the wires, cables, generators, air conditioning units, and other equipment or facilities that are used in conjunction with Telecommunication Facilities and Telecommunication Equipment
- B. “**Applicant**” means any person or entity who files an application for any permit or is party to any lease agreement required by this Ordinance for the construction, replacement, installation, or alteration of wireless communication facility or any component thereof.
- C. “**Antenna**” means any exterior transmitting or receiving device mounted on a Tower, Monopole, building, or other structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals. “Antenna” does not include a lightning rod.
- D. “**Antenna Support Structure**” means any new or existing Tower, building, water tower, or electric transmission tower carrying over 200 kilo volts of electricity that can be used for the location of Antennas without increasing the height or mass of the existing structure.
- E. “**Engineer**” means a radio, electrical, structural, or mechanical engineer licensed by the State of Minnesota.
- F. “**Equipment Shelter**” means an enclosed structure at the base of or near a Telecommunication Facility, Tower, or Antenna within which are housed, among other things, batteries, generators, air conditioning units, wireless communications or electrical

equipment, or other Accessory Equipment, which may be connected to the Telecommunications Facility, Tower or Antenna by cable.

G. **“Co-location”** means the sharing of structures by two or more wireless service providers on a single support structure or otherwise sharing a common location.

H. **“Monopole”** means a slender self-supporting Tower used to support Antennas and Accessory Equipment.

I. **“Permit Holder”** a person or entity who holds a permit issued pursuant to this Ordinance for a Telecommunications Facility.

J. **“Public Utility Structure”** means a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

K. **“Residential Accessory Communication Devices”** means any satellite dishes, television Antennas, radio Antennas, amateur (ham) radio Antennas, and similar communication transmission/reception devices and associated Accessory Equipment that are a permitted accessory use within a residential district.

L. **“Stealth Design”** means state-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include architecturally screening roof-mounted Antennas and Accessory Equipment; integrating Telecommunications Facilities into architectural elements; nestling Telecommunications Facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, minimizing the size and appearance of the Telecommunications Facilities; and designing Towers to appear other than as Towers, such as light poles, power poles, flag poles, and trees.

M. **“Telecommunications Equipment”** means Antennas, Accessory Equipment, or Towers.

N. **“Telecommunications Facilities”** means any facility or location maintained by a commercial enterprise where Telecommunications Equipment is located.

The following shall not be considered Telecommunication Facilities:

- i. Licensed amateur (ham) radio Antennas, regulated under subsection 801.31.13 below.
- ii. Television Antennas and satellite dish Antennas for reception within individual homes or businesses, regulated under subsection 801.31.13 below.
- iii. Temporary Telecommunication Facilities placed in service during an emergency declared by a government agency or for special events requiring wireless service capacity or coverage that is not available from existing Telecommunication Facilities.

O. **"Tower"** means any of the following: a ground or roof mounted pole; spire; free standing, self-supporting lattice or monopole structure; or combination thereof taller than twenty-five (25) feet, including but not limited to supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, meteorological device, or similar apparatus above grade (except amateur radio Antennas).

P. **"Wireless Communications"** means any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless Telecommunications services including, but not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), global system of mobile communication (GSM), paging and similar services that currently exist or may be developed.

3. Permit Required for Telecommunication Facilities.

In addition to any Conditional Use Permit that may be required below, prior to the construction or operation of a Telecommunications Facility, the owner and operator of the Telecommunications Facility must obtain a permit for the proposed Telecommunications Facility according to the provisions of this Ordinance, termed a "Telecommunication Facilities Permit".

4. Building and Design Standards and Allowed Locations for Telecommunications Facilities. All Telecommunications Facilities shall be constructed and maintained in accordance with the following standards:

A. Existing Telecommunication Facilities.

Existing Telecommunications Facilities located on or attached to existing structures, prior to the adoption of this Ordinance, are regulated by the provisions of the zoning district for each such parcel containing said structure. Once the leases for existing Telecommunication Facilities expire or are otherwise terminated, the owner of the Telecommunication Facilities shall apply for a Telecommunication Facilities Permit under this Ordinance and those existing Telecommunications Facilities shall be required to conform to all requirements of this Ordinance for new Telecommunication Facilities. The City may, among other remedies, require relocation of equipment, at the Telecommunication Facilities expense, to permitted areas under this Ordinance.

B. New Telecommunications Facilities.

- i. New Telecommunications Towers shall be located only on the following parcels owned and/or controlled by the City of Wayzata, unless applicant obtains a Conditional Use Permit as further described below (in addition to the Telecommunication Facilities Permit required under subsection 3

above), with the exact location on such parcels determined at the sole discretion of the Wayzata City Council:

<u>Property Name</u>	<u>Property Identification Number</u>
City of Wayzata Public Works Facility	01-117-23-22-0004
Wayzata West Middle School	06-117-22-22-0008

ii. Antennas shall be located on a new or replacement Tower at the locations permitted for Telecommunications Facilities only if the Applicant complies with the following requirements, in additions to the other requirements of this Ordinance:

a) The Applicant shall provide documentation and/or an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the Antennas is necessary to meet the coverage and capacity needs of its system. The Applicant shall provide a network map describing all of the Applicant's Telecommunications Facilities which provide any coverage within the City's limits. The analysis shall also show the Antennas would not cause interference with other existing or approved Telecommunications Equipment. The Applicant shall also pay the reasonable expenses of a radio or electrical engineer retained by the City, at the City's option, to review this analysis;

b) The new or replacement Telecommunications Facilities shall use as many Stealth Design techniques as reasonably possible and include non-proprietary information on stealth design technology. Economic considerations or hardships shall not be the sole justification for failing to provide Stealth Design techniques.

c) The new or replacement Tower and Antenna, including attachments other than lightning rods, shall not exceed 150 feet in height, measured from grade. The City Council may, but shall not be required to, increase this height up to 190 feet if the Council finds the increase in height would not have a significant visual impact, would not have a negative property value impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The City Council may waive this height limitation for a Tower and/or Antenna if used wholly or partially for essential public services, such as public safety.

iii. A new Antenna may be attached to an existing public utility structure within a right of way if:

a) The Antenna does not extend more than fifteen (15) feet above the top of the existing utility structure.

- b) The Antenna is no larger than three (3) cubic feet and has no individual surface larger than four (4) feet.
 - c) The Antenna extends outward from the utility structure no more than three (3) feet.
 - d) There is no ground mounted equipment so long as the existing public utility structure is available for the mounting of such equipment.
 - e) There is no interference with public safety communications or with the original use of the public utility structure.
 - f) The Applicant agrees that the Antenna must be removed and relocated, at Applicant's expense, if the road authority requires the removal and relocation of the public utility structure.
- iv. New Antenna may be attached to an existing building if:
- a) the Applicant provides an analysis prepared by a radio or electrical engineer demonstrating the proposed location is necessary to meet the coverage and capacity needs of Applicant's. The analysis shall show a network map describing all of the Applicant's Telecommunications Facilities providing coverage within the City's limits and confirm the proposed Antennas would not cause interference with other existing or approved Telecommunications Equipment. The Applicant shall also pay the reasonable expenses of an expert retained by the City, at the City's option, to review this analysis;
 - b) the new Antenna and the associated Accessory Equipment use as many Stealth Design techniques as reasonably possible. Economic considerations or hardships shall not be the sole justification for failing to provide Stealth Design techniques;
 - c) the building upon which the Antenna is to be located is located on a parcel of land zoned C – 1 Office and Limited Commercial District, C-3 Service District or PUD Planned Unit Development;
 - d) the building upon which the Antenna is to be located is within 300 feet of the Wayzata Blvd E right-of-way;
 - e) the Antenna is attached to the façade of the building or attached on or within rooftop screening wall (i.e. §801.09.7.2). A façade mounted Antenna shall not extend above the cornice line and a rooftop or screening wall mounted Antenna shall not extend more than fifteen (15) feet above

1 the screening wall. Façade and screening wall mounted Antenna shall as
2 closely as possible match the color of the underlying building material.
3

- 4 f) Accessory Equipment shall be housed within an existing structure or
5 within rooftop parapet screening walls whenever possible. If a new
6 equipment building is necessary, it shall be situated to the rear or side of
7 the principal use and shall be screened from view by landscaping where
8 appropriate. If a new equipment building is necessary, the building shall
9 be constructed of materials and color scheme compatible with the
10 principal building.

11
12 **C. Conditional Use Permits.**
13

- 14 i. Telecommunication Facilities may not be located on any sites other than
15 those that are designated in Section 801.31.4.B unless the Applicant first obtains a
16 Conditional Use Permit for the location. Such a Conditional Use Permit may be
17 approved provided all of the following are met:
18

- 19 a) The requirements of Section 801.04 have been considered and satisfactorily
20 met.
21
22 b) Antennas attached to an existing building do not extend more than fifteen
23 (15) feet above the highest point of the building.
24
25 c) The Applicant provides documentation and/or an analysis prepared by a
26 radio or electrical engineer demonstrating that the proposed location of the
27 Telecommunication Facility is necessary to meet the coverage and capacity
28 needs of its system. The documentation and/or analysis must also show the
29 Telecommunication Facilities would not cause interference with other
30 existing or approved Telecommunications Equipment. The Applicant shall
31 also provide a network map describing all of the Applicant's
32 Telecommunications Facilities which provide any coverage within the
33 City's limits. The Applicant must also pay the reasonable expenses of a
34 radio or electrical engineer retained by the City, at the City's option, to
35 review this analysis.
36
37 d) The new or replacement Telecommunications Facilities must use as many
38 Stealth Design techniques as reasonably possible. Economic considerations
39 alone are not justification for failing to provide Stealth Design techniques.
40
41 e) New or replacement Tower and/or Antennas must comply with the
42 provisions of Section 801.31.5 below.
43

- 44 ii. The City shall have the following priority ranking of land uses (as defined in
45 the City of Wayzata Comprehensive Plan) suitable for potential new or

1 replacement Telecommunication Facilities when considering a Conditional Use
2 Permit application, with (a) being the highest priority and (d) being the lowest
3 priority:

- 4 a) City Owned Property that is adjacent to highway rights of way and
5 not adjacent to or adjoining residential property.
- 6 b) Institutional/Public Property that is not adjacent to or adjoining
7 residential property.
- 8 c) Semi-Public/Private Property that is not adjacent to or adjoining
9 residential property.
- 10 d) Mixed Use Commercial or Service Commercial properties that are
11 not adjacent to or adjoining residential property.

12
13 If the proposed site is not the highest priority listed above, then a detailed
14 explanation shall be provided as to why a site of a higher priority was not
15 selected. The explanations shall include the reason or reasons why such a
16 Conditional Use Permit should be granted for the proposed site and a
17 description of the hardship that would be incurred by the Applicant if the permit
18 were not granted for the proposed site.

19
20 iii. CUPs for new or replacement Telecommunication Facilities shall be prohibited
21 in the following land use categories, as defined in the City of Wayzata
22 Comprehensive Plan:

- 23 a) Parcels guided and utilized for residential purposes, including single
24 family and multiple family.
- 25 b) Parcels guided and utilized for Park or Public Open Spaces
- 26 c) Parcels guided and utilized for Central Business District, Mixed Use
27 Residential, or Downtown Mixed Use District.

28
29 D. Eligible Facilities Request

30
31 Notwithstanding the above, nothing in this Section 4 shall be read to allow the City
32 to prohibit a Telecommunication Facilities Permit based solely upon a request by
33 the owner/operator for modification of an existing tower or base station that does
34 not substantially change the physical dimensions of such tower or base station and
35 is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and
36 47 C.F.R. Section 1.40001 (c), as the same may be amended.

37
38
39 5. **General Standards for Telecommunication Facilities.**

40
41 All Telecommunications Facilities must comply with the following standards (although
42 nothing in this Section 5 shall be read to allow the City to prohibit a Telecommunication
43 Facilities Permit based solely upon a request by the owner/operator for modification of an
44 existing tower or base station that does not substantially change the physical dimensions
45 of such tower or base station and is otherwise an "eligible facilities request" under 47

1 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended.)
2 :
3

4 A. **Vertical projection on Antenna support structures.** Antennas mounted on an
5 existing Antenna support structure shall not extend more than 15 feet above the
6 height of the structure to which they are attached. Wall or façade-mounted
7 Antennas shall not extend above the cornice line and shall be constructed of a
8 material or color that matches the exterior of the building.
9

10 B. **Horizontal projection.** Antennas shall not project out from the side of the existing
11 Antenna support structure, Tower or wall or facade by more than three feet.
12

13 C. **Fall Zone Analysis.** The Applicant must submit a fall zone analysis report
14 completed by a qualified and licensed engineer who shows the
15 Telecommunications Facilities do not pose a threat to general health, safety and
16 welfare of the City.
17

18 D. **Setbacks.** A new Tower shall meet the building setback that is established for the
19 district where it is to be located and the following additional standards:
20

21 i. The Tower shall be setback from all residential property lines at least one
22 (1) foot for each foot in height, but shall have a minimum setback of at least
23 one hundred (100) feet. The Tower setbacks may be increased by the City
24 Council dependent on the results of the engineered fall zone analysis report
25 submitted by the Applicant as part of the permit application.
26

27 ii. Towers and Telecommunications Facilities shall not encroach upon any
28 easements unless written permission is obtained from the underlying
29 property owner burdened by the easement and the beneficiary of the
30 easement.
31

32 iii. The required setbacks may be reduced or the location in relation to a public
33 street modified, at the sole discretion of the City Council, when the
34 Telecommunications Facility is integrated into an existing or proposed
35 structure such as a building, light or utility pole.
36

37 E. **Height.** The height of an Antenna and/or Tower shall be the minimum necessary
38 to meet the Applicant's coverage and capacity needs, as verified by an electrical
39 engineer or other appropriate professional. Any new or replacement Tower and
40 Antenna, including attachments other than lightning rods, shall not exceed 150 feet
41 in height, measured from grade. The City Council may, but shall not be required
42 to, increase this height up to 190 feet if the Council finds: (i) the increase in height
43 would not have a significant visual impact, (ii) would not have a negative property
44 value impact on surrounding properties because of proximity, topography or
45 screening by trees or buildings or (iii) would accommodate two or more users.
46

- 1 F. **Exterior surfaces.** Towers and Antennas shall be painted a non-contrasting color
2 consistent with the surrounding area such as: blue, gray, green, brown, or silver, or
3 have a galvanized finish to reduce visual impact. Metal Towers shall be constructed
4 of, or treated with, corrosion-resistant material.
5
- 6 G. **Underground Equipment Storage.** If commercially reasonable, Accessory
7 Equipment and/or equipment storage facilities shall be designed to be placed and
8 be built underground adjacent to the Telecommunications Facility. If such
9 underground placement is not commercially reasonable, then such Accessory
10 Equipment and/or equipment storage facility shall be allowed to be placed above-
11 ground, subject to the restrictions of this Ordinance, including, but not limited to
12 screening of existing equipment.
13
- 14 H. **Ground-mounted equipment.** If deemed commercially unreasonable for the
15 Accessory Equipment and/or equipment storage facilities to be located
16 underground, the ground-mounted Accessory Equipment and/or equipment storage
17 facilities shall be architecturally designed to blend in with the surrounding
18 environment, including the principal structure and/or shall be screened from view
19 by suitable vegetation, except where a design of non-vegetative screening better
20 reflects and compliments the character of the surrounding neighborhood. No more
21 than one Equipment Shelter or accessory building is permitted for each Tower.
22 Equipment Shelters or accessory buildings shall be designed to accommodate
23 additional space needed for the co-location of additional Antennas at the site. The
24 additional space must either be built within the first shelter/building or that
25 shelter/building must be designed to allow for future expansions and/or additions.
26 Design of the building or equipment cabinet, screening and landscaping are subject
27 to a site plan review by City Staff, Planning Commission, and City Council, and
28 any applicable Design Standards criteria under Section 801.09 of the Wayzata
29 Zoning Ordinance. The Applicant shall be responsible for maintaining the structure
30 in a high-quality condition. If the Applicant abandons or vacates the structure, it
31 shall be forfeited to the City or torn down by the Applicant at their expense, at the
32 discretion of the City Council.
33
- 34 I. **Construction.** Telecommunications Facilities shall be in compliance with all
35 buildings and electrical code requirements. All applicable federal, state and local
36 agency licenses and/or permits shall be obtained. A Tower shall be designed and
37 certified by a licensed structural engineer to be structurally sound and in
38 conformance with the building code. Structural design, mounting and installation
39 of the Telecommunications Facilities shall be in compliance with the
40 manufacturer's specifications. If, upon inspection, the City concludes that a Tower
41 or other portion of a Telecommunications Facility fails to comply with such codes
42 and standards and constitutes a danger to persons or property, then upon notice
43 being provided to the owner of the Telecommunication Facility or Tower, the
44 owner shall have thirty (30) days to bring such Tower or Telecommunication
45 Facility into compliance with such standards. Failure to bring such Tower or
46 Telecommunication Facility into compliance with such thirty-day period shall

1 constitute grounds for the removal of the Tower or Telecommunication Facility at
2 the owner's expense.

3
4 J. **Interference with Public Safety Telecommunications.** No Tower or
5 Telecommunications Facility shall interfere with public safety
6 Telecommunications. All Towers and Telecommunication Facilities shall comply
7 with FCC regulations and licensing requirements.

8
9 K. **Security Fencing and Screening.** Telecommunication Facilities and Towers shall
10 be enclosed by security fencing not less than the height of the equipment located
11 therein and shall also be equipped with an appropriate anti-climbing device.
12 Fencing within one hundred (100) feet of a residential or parking property shall be
13 constructed of a well-designed fence of wood or other environmentally sound
14 material, and be compatible with the surrounding character of the area. The
15 Telecommunication Facilities and Towers shall also include a landscape screen, at
16 least six (6) in height, around the perimeter of equipment area, as approved by the
17 City Council.

18
19 L. **Other Protections.** The City may require shields to protect from ice falling from
20 Towers, anti-climbing devices to prevent unauthorized persons from climbing
21 Towers, or other appurtenances necessary to protect life and property.

22
23 M. **Noise.** If the proposed Telecommunications Facility includes equipment that
24 causes significant sound levels, sound buffers may be required including but not
25 limited to, baffling, barriers, enclosures, walls and plantings. The Applicant shall
26 submit an acoustical analysis (measured to the property line) and report prepared
27 by a licensed and/or accredited sound engineer certifying that the noise to be
28 generated from the proposed Telecommunication Facility shall not impact adjacent
29 properties. Said report shall include, without limitation, a written description of all
30 noise generated by the Facility, including retractable monopole motors, Antenna
31 rotators, power generation, heating or air conditioning, and related equipment, and
32 shall include the estimated times, frequency, duration and decibel levels of the
33 noise. All equipment shall conform to Minnesota Pollution Control Agency decibel
34 standards.

35
36 N. **Sensitive Habitats.** No Telecommunication Facility shall be located in
37 environmentally sensitive habitats, including but not limited to wetlands,
38 shorelines, established animal habitats, conservation districts, and significant tree
39 groups, unless mitigation measures can be adopted which would reduce potential
40 impacts to levels of non-significance.

41
42 O. **Radio Frequency Emissions.** Telecommunications Facilities shall comply with
43 Federal Communication Commission standards for radio frequency emissions and
44 interference.
45

1 P. **Interference.** No Telecommunication Facility shall be permitted that causes
2 interference with commercial or private use and enjoyment of other legally
3 operating telecommunications devices including, but not limited to, radios,
4 televisions, personal computers, telephones, personal communications devices,
5 garage door openers, security systems, and other electronic equipment and devices
6 in violation of any Federal Communication Commission standards relating to radio
7 frequency interference. Unless otherwise prohibited by Federal Communication
8 Commission standards, an Applicant shall furnish a state registered engineer's
9 certification that no such interference shall occur, or identify what interference may
10 occur and how the Applicant shall mitigate any potential interference that may
11 occur.

12
13 Q. **Risk of Danger.** Telecommunications Facilities and Towers shall not pose a risk
14 of explosion, fire, or other danger due to its proximity to volatile, flammable,
15 explosive or hazardous materials. Telecommunication Facilities, Towers,
16 Antennas, and Accessory Equipment shall be subject to state and federal
17 regulations pertaining to non-ionizing radiation and other health hazards related to
18 such Facilities. If new, more restrictive standards are adopted, the Facilities shall
19 be made to comply or continued operations may be restricted by the City Council.
20 The cost of verification of compliance shall be borne by the Applicant.

21
22 R. **Maintenance.** All Telecommunication Facilities and Towers shall at all times (i)
23 be kept and maintained in good condition, order and repair so that the same shall
24 not menace or endanger the life or property of any person, and (ii) allow sufficient
25 access for service vehicles and personnel. Maintenance of equipment shall be
26 scheduled for between 7:00am-6:00pm, Monday through Friday, unless in case of
27 emergency or otherwise agreed to by the City. Service vehicles for equipment
28 maintenance shall be parked on city streets, unless paved and screened off-street is
29 available at the site. In the case of maintenance of Telecommunication Facilities
30 on the City Water Tower, service vehicles shall park on the service entrance of the
31 City Water Treatment Plant, whenever possible.

32
33 S. **Co-location opportunity.** The Applicant, the Tower owner, the landowner, and
34 their successors and assigns shall allow the shared use of the Tower if an additional
35 user agrees in writing to meet reasonable terms and conditions for shared use, shall
36 submit a dispute over the potential terms and conditions to binding arbitration, and
37 shall sign the Conditional Use Permit agreeing to these requirements. The City
38 Council may waive these co-location requirements if necessary to implement
39 stealth design.

- 40
41 i. All Telecommunications Facility providers shall cooperate with each other
42 in co-locating Telecommunication Facilities and shall exercise good faith
43 in co-locating with other licensed carriers and in the sharing of sites,
44 including the sharing of technical information necessary to evaluate the
45 feasibility of collocation. In the event a dispute arises as to a co-location
46 issue, the City may require a third-party technical study to evaluate the

feasibility of co-locating at the expense of each wireless telecommunications providers involved in the third-party study;

ii. All proposed new Towers shall be designed to accommodate both the Applicant's Antennas and Antennas for as many other licensed carriers as can be technically located thereon, but not less than one additional;

iii. All new Towers and Facilities owned by a telecommunications provider shall be made available for use by the owner or initial user thereof, together with as many other licensed carriers as can be technically located thereon, but not less than one additional;

iv. All proposed new Towers shall be designed to allow for future rearrangement of Antennas or Tower modifications, and to accept Antennas mounted at varying heights unless the City otherwise agrees in order to accommodate Stealth Design techniques;

T. **Successors and Assigns.** Any Permit or lease for a Telecommunications Facility shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, and assigns.

U. **External messages.** No advertising message or identification signs, other than warning or equipment information signs as legally required, shall be affixed to the Telecommunications Facilities.

V. **Lighting.** Telecommunications Facilities or Towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment. Any lighting or artificial illumination utilized shall be shielded and not cast glare onto adjacent properties. All lighting shall be measured to the property line.

W. **On-site employees.** There shall be no employees on the site at a Telecommunications Facility on a permanent basis. Occasional or temporary repair and service activities are allowed.

X. **Advances in Stealth Technology.** Whenever an applicant proposes to install and/or replace antennas or other telecommunications equipment, the Applicant shall submit a report describing all available technology for installation or replacement. The report shall include the purpose of equipment to be installed (expand coverage, expand capacity, expand bandwidth, etc.) and the performance specifications and physical dimensions of the equipment. The report conclusions must provide an analysis of performance versus visual impacts and/or stealth technology. The City retains the right to evaluate the reports analysis and perform a third party technical review at the applicants cost. The City shall have the ability

to require the stealth or lower visual profile equipment based on the third party technical recommendation.

Y. **Removal.** After one hundred twenty (120) days' notice from the City to the Permit Holder all Telecommunications Facilities, Antennas, or Towers shall be required to be removed at the Permit Holder's expense, if such improvement is found to be in violation of any portion of this Ordinance by the City and such violation is not cured within such thirty day time period. Obsolete or unused Telecommunications Facilities and all related equipment shall be removed within six (6) months after cessation of their use at the site, unless an exemption is granted by the City Council. Telecommunications Facilities and related equipment that have become hazardous shall be removed or made not hazardous within 30 days after written notice to the current Permit Holder and to any separate landowner, unless an exemption is granted by the City Council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications Facilities and all related equipment that are not removed within this time are declared to be public nuisances and may be removed by the City. The City may assess its costs of removal against the Property.

Z. **No Recourse Against the City.** Every permit shall provide that, without limiting such immunities as the City or other persons may have under applicable law, an Applicant/Permit Holder shall have no monetary recourse whatsoever against the City or its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or because of the enforcement or lack of enforcement of this Ordinance or the City's exercise of its authority pursuant to this Ordinance, a permit, a lease, or other applicable law, unless the same shall be caused by criminal acts or by willful gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

6. **Applications for Telecommunications Facilities Permit.**

Permit Application. An application for a permit for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station shall include information sufficient to demonstrate that the modification meets the standards set forth in 47 C.F.R. Section 1.40001.

For all other Telecommunications Facilities Permit applications, the following requirements apply. In addition to an Applicant's name, address, certificate of survey, grading and landscaping plans, and other such similar information, an application for a permit under this Section shall include the following:

A. A scaled site plan clearly indicating the location, type and height of the proposed Telecommunication Facility, Tower, or Antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access,

1 setbacks from property lines, elevation drawings of the proposed equipment and
2 any structures, topography, parking and any other information deemed by the City
3 Staff to be necessary to assess compliance with this Section.
4

5 B. A visual simulation of the proposed Telecommunication Facility Tower or
6 Antenna. Visual simulation shall consist of either a physical mock-up of the
7 Telecommunication Facility Tower or Antenna, balloon simulation, computer
8 simulation, photo simulation, or other similar simulation. In instances where the
9 proposed Telecommunications Facility Tower or Antenna is located near a
10 residential area, photo simulations shall be submitted of the proposed
11 Telecommunication Facility Tower or Antenna from the nearest residential
12 neighbors unless the owners of such residential property refuse to allow the
13 required photo to be taken.
14

15 C. A report from a qualified and licensed professional engineer which:
16 i. Demonstrates that the Telecommunication Facility, Tower, Antenna and/or
17 Accessory Equipment comply with the structural and electrical standards of
18 this Section.
19 ii. Describes the Tower height, if utilized.
20 iii. Documents the height above grade for all potential mounting positions for
21 co-locating Antennas and the minimum separation distance between
22 Antennas.
23 iv. Describes the Tower's capacity, if utilized, including the number and type
24 of Antennas it can accommodate.
25 v. A network map describing all of the Applicant's Telecommunications
26 Facilities which provide any coverage within the City's limits.
27 vi. Documents what steps the Applicant shall take to avoid interference with
28 established public safety Telecommunications.
29 vii. Includes an engineer's stamp and registration number.
30

31 D. A written statement acknowledging that failure to comply with this Section and the
32 conditions of permit approval shall result in the revocation of the permit and
33 removal of the Telecommunications Facility, Antenna, and/or Tower;
34

35 E. Documentation that the Applicant has applied for and/or obtained any licenses
36 and/or approvals that are required by federal and state agencies.
37

38 F. A written statement indicating that the expenses incurred by the City to review and
39 process the application, and to enforce the provisions of the permit shall be
40 reimbursed by the Applicant.
41

42 G. A written statement which requires the Applicant to utilize the procedures
43 established by the Federal Communications Commission to resolve any complaints
44 received relating to interference allegedly caused by the Telecommunications
45 Facility, Antenna, and/or Tower.
46

- 1 H. A written statement indicating that the Applicant shall cooperate in good faith and
2 fair dealing in co-locating Telecommunications Facilities, Antenna and/or Towers.
3
4 I. A written statement indicating that the Telecommunications Facility, Antenna,
5 and/or Tower shall be maintained in good and safe condition and its original
6 appearance and concealment, disguise or camouflage elements incorporated into
7 the design at the time of approval shall be preserved. Such maintenance shall
8 include, but not be limited to, painting, repair of equipment, and maintenance of
9 landscaping.
10
11 J. A written statement authorizing the City to conduct periodic inspections to
12 determine that the Telecommunications Equipment complies with the provisions of
13 this Section, any conditions of approval and all safety and building codes and
14 permits issued. This statement shall give the City the right to conduct such
15 inspections at any time upon a reasonable notice of five (5) business days to the
16 Applicant, and that all expenses related to such inspections shall be borne by the
17 Applicant.
18
19 K. A written statement indicating that the Applicant understands that
20 Telecommunications Facilities, Antennas, and/or Towers which have not been used
21 for six (6) months shall be deemed abandoned, and shall be removed pursuant to
22 this Section.
23
24 L. A written statement requiring the Applicant or current Permit Holder to notify the
25 City that the Telecommunications Facility, Antenna, and/or Tower continue to be
26 in operation. The notice of continuing operation shall be sent to the City Manager
27 annually by certified mail within the last two (2) weeks of the month of December.
28 The City shall provide written notice of failure to provide the required statement
29 with a requirement that such statement be provided within 14 days from the date of
30 such notice.
31

32 **7. Review of Permit Applications.**
33

34 The City shall process all applications for Telecommunication Facilities Permits in a timely
35 manner and in accordance with established procedures and City Code.
36

37 **8. Appeals.**
38

39 At any time within thirty (30) days after a written order, requirement, determination or final
40 decision has been made by the Zoning Administrator or other official interpreting or
41 applying this Section, except for actions taken in connection with prosecutions for
42 violations thereof, the Applicant or any other person affected by such action may appeal
43 the decision in accordance with the provisions of the Zoning Ordinance.
44

45 **9. Revocation of Permit.**
46

1 A material breach of any terms and conditions of a permit issued for a Telecommunication
2 Facility under this Section and the Zoning Ordinance may result in the revocation of the
3 permit by the City. Penalties for a violation of a permit or this Section may include fines
4 and removal of the Telecommunication Facility, Tower, or Antenna at the
5 Applicant's/Permit Holder's expense.
6

7 **10. No Recourse Against the City.**
8

9 Every application for and issued permit shall provide a written acknowledgement,
10 agreement and release from the Applicant and Permit Holder that, without limiting such
11 immunities as the City or other persons may have under applicable law, an Applicant and
12 Permit Holder shall have no monetary recourse whatsoever against the City or its elected
13 officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense
14 or damage arising out of any provision or requirement of this Ordinance or because of the
15 enforcement or lack of enforcement of this Ordinance or the City's exercise of or failure to
16 exercise its authority pursuant to this Ordinance, a permit, a lease, or other applicable law,
17 unless the same shall be caused by criminal acts or by gross negligence. Nothing herein
18 shall be construed as a waiver of sovereign immunity.
19

20
21 **11. Indemnification.**
22

23 Each permit issued pursuant to this Section shall have as a condition of the permit, a
24 requirement that the Applicant indemnify and hold harmless the City and its officers,
25 agents, and employees from actions or claims of any description brought on account of any
26 injury or damages sustained by any person or property resulting from the issuance of the
27 permit and conduct of the activities authorized under said permit.
28

29 **12. Severability.**
30

31 If any section, subsection, sentence, clause or phrase of this Section is for any reason held
32 to be invalid, such decision shall not affect the validity of the remaining portions of this
33 Section. The City Council hereby declares that it would have passed this Section and each
34 section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any
35 one or more sections, subsections, sentences, clauses, or phrases may be declared invalid.
36

37 **13. Residential Accessory Uses.**
38

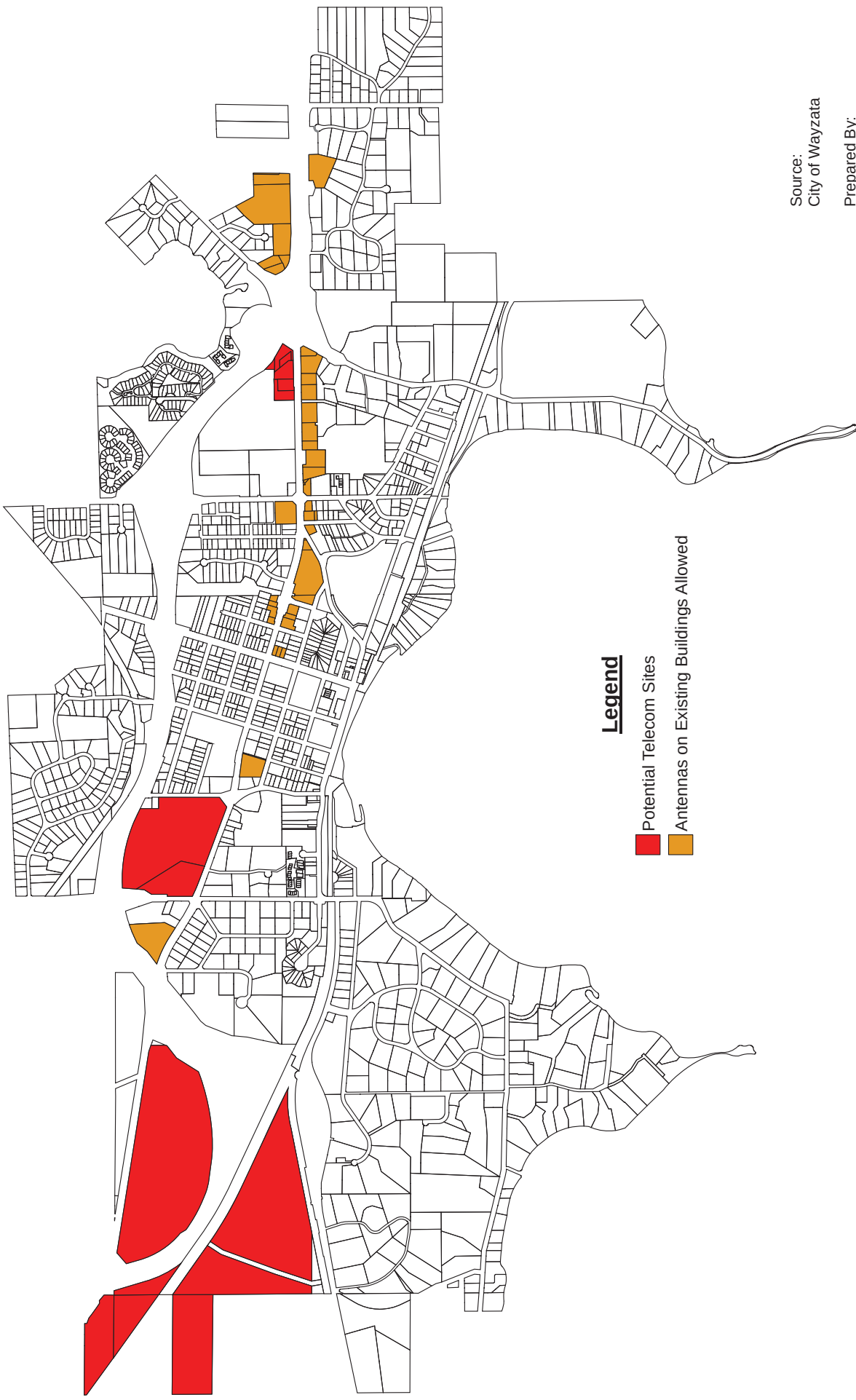
39 Residential Accessory Communication Devices are a permitted accessory use within
40 residential districts provided they meet the following conditions:
41

- 42 A. **Use.** They are for use by residents upon whose property the Residential Accessory
43 Communication Devices are located.
44

- 1 B. **Height.** A ground mounted Residential Accessory Communication Device height
2 shall not exceed fifteen (15) feet unless approved as a Conditional Use Permit by
3 the City Council.
4
- 5 C. **Yards.** The Residential Accessory Communication Device shall not be located
6 within the required front yard setback, a required side yard or any side yard abutting
7 a street. Communication devices shall be located five (5) feet or more from rear lot
8 lines and shall not be located within a utility easement.
9
- 10 D. **Roofs.** The Residential Accessory Communication Device may be placed on the
11 roof of any authorized structure on the premises. The height of the Residential
12 Accessory Communication Device shall not exceed six and one-half (6-1/2) feet
13 above the peak of the roof, unless approved by a Conditional Use Permit by the
14 City Council.
15
- 16 E. **Neighboring Property Impact.** In cases where no building permit is required, the
17 Residential Accessory Communication Device shall be so located that in the event
18 it falls, it shall not fall on adjoining property.
19
- 20 F. **Building Permits.** A building permit shall be required for the installation of any
21 Residential Accessory Communication Device which requires a Conditional Use
22 Permit, or for any device which has a structural surface exposure of greater than
23 nine (9) square feet. Building permit applications shall be accompanied by a site
24 plan and structural components data for the Residential Accessory Communication
25 Device, including details of anchoring. The Building Official shall approve the
26 plans before installation.
27
- 28 G. **Color/Content.** Residential Accessory Communication Devices shall be of a
29 neutral color and shall not be painted with scenes or contain letters or messages.
30
- 31 H. **Lightning Protection.** Each Residential Accessory Communication Device shall
32 be grounded to protect against natural lightning strikes in conformance with the
33 National Electrical Code as adopted by the City of Wayzata.
34
- 35 I. **Electrical Code.** Residential Accessory Communication Device electrical
36 equipment and connections shall be designed and installed in conformance with the
37 National Electrical Code as adopted by the City of Wayzata.
38
- 39 J. **Effective Date.** The provisions of this Section shall be applicable to all
40 communication reception/transmission devices erected after _____, 2015.
41 All such structures existing prior to this date shall be addressed as legal non-
42 conforming uses.
43
- 44 K. **Conditional Use Permit.** Residential Accessory Communication Devices not
45 qualifying as a permitted accessory use may be considered and approved through
46 conditional use standards established by Section 801.04 of this Ordinance.

1
2
3

000043-204032/2211839_2



Legend

- Potential Telecom Sites
- Antennas on Existing Buildings Allowed

Source:
City of Wayzata

Prepared By:
City of Wayzata Planning Department
10/05/2015
DRAFT



Telecom Site Land Use Review



**WAYZATA PLANNING COMMISSION
DRAFT MEETING MINUTES
OCTOBER 5, 2015**

c. Telecommunications Ordinance – City of Wayzata

i. Repeal existing City Code § 801.31 and replace it with draft Telecommunications Ordinance

Interim City Planner Zweber stated as part of the Telecommunications Study the City has engaged in, the City Council and Planning Commission have been working on updates to the City's Telecommunications Ordinance in order to better regulate the use and location of new cellular towers and other equipment. On August 17, the City Council and Planning Commission conducted a joint workshop to review a draft Ordinance, which included testimony from the City's four major telecommunications providers. Based on this workshop, a number of changes have been made to the August 11 draft Ordinance. He reviewed the proposed changes, comments from Verizon and AT&T, and provided a summary of other communities regulations for antennas mounted on existing buildings. He explained the City would need to repeal the existing Telecommunications Ordinance and then adopt the new Telecommunications Ordinance.

City Attorney Kaminski stated the main thing that the City Attorney's office has been concerned about in the recent round of revisions is the impact of a relatively recent change to the federal Telecommunication Statute that prohibits a city from denying a modification to an existing tower or base station. The telecommunication providers have been helpful in providing input to the drafting this Ordinance, and staff has incorporated their comments where they felt it was appropriate. Staff has let the telecommunication vendors know that the City understands it would have limited ability to deny modifications to existing equipment or towers if there is not a substantial change in the dimensions of the equipment. Within the last day, AT&T had provided input on where language to this effect could be placed in the draft Ordinance but the City Attorney's office has not had time to review this recommendation.

Mr. Zweber summarized that the issues the Commission should discuss and clarify are the Federal Regulations, and the vendor's interpretation versus the City Attorney's,s and how strong the language should be for common ground equipment.

Commissioner Gonzalez stated she had not been given adequate time to review the draft and the additional comments from Verizon and AT&T. She felt the Commission should have reviewed the draft at a workshop prior to holding the public hearing.

Chair Vanderheyden opened the public hearing at 9:19 p.m.

Mr. Jay Littlejohn, 150 South 5th Street, Minneapolis, Attorney for Verizon, stated Verizon is not prepared to make an application for any new equipment or facilities at this time, which allows the City additional time to review and prepare the new Ordinance. He stated the FCC has determined that network reliability is a primary public safety concern. Verizon's efforts have been to show the City how they can use stealth technologies, and he is concerned with some of the restrictions the City may be including in the Ordinance that would limit this use and require variances. He

would not recommend the use of Planned Unit Developments because this is extra work the City should not need to go through. The decision should be if the location is appropriate and the equipment screening is in character with the neighborhood. He explained the best time for maintenance to be done on the equipment is when there is less use, which would be nighttime/early morning hours. Requiring this maintenance to occur during business hours would create problems for users with service interruption. If there were a need to switch antennas, then this work would be done during the day.

Commissioner Gruber asked if the City Attorney had been able to review Verizon's concerns and questions in order to provide guidance to the Planning Commission.

City Attorney Kaminski stated most of the issues raised by Verizon could be discussed by the Commission but, in his view, these are policy decisions not legal issues.

Commissioner Gonzalez stated the reason for the restricted hours is because there is noise, lights, and other disturbances that disrupt the peace in neighborhoods. She asked how the City could accommodate the vendor's needs and those of the City.

Mr. Littlejohn stated once a site is built, it is operated remotely and they would only be at the site to make improvements or test the facility. They would not expect to have someone at these sites more than once a month and this does not generate a lot of traffic. The vehicles used are similar to the SUVs driven by residents. He stated the restrictions could be imposed under the right circumstances but may not be appropriate for businesses that do not want these improvements done when customers are on site.

City Attorney Kaminski suggested either restricting the hours of access on larger City owned sites, and building the hours into the approval for those areas that are sensitive, or the City could keep the language that restricts the hours for repairs and maintenance throughout the City.

Mr. Littlejohn suggested the City add language that the City may impose conditions for hours of operation for those areas that impact residents. The City could also impose the condition due to health, safety or welfare of the residents.

Commissioner Gruber stated the Commission should discuss when maintenance should be done in greater detail, and she is not comfortable sending this draft to the City Council without those discussions.

Ms. Amy Jacobs-Dresch, 2727 Patton Road, Roseville, stated due to the City's trees, it may be more feasible in some areas for antennas to be located on roof tops with screening versus on the side of the buildings.

Mr. Zweber explained that Staff and the vendors would be able to work out the language that references roof top parapets.

Valarie Bargeman, Director of External Legislative Affairs for AT&T, 901 Market Avenue, Minneapolis, explained underground cabinets are not easy to do in this area due to the space

needed. She explained that the hours for repairs and maintenance may not be something that can be easily controlled because these need to be done to keep the network working for the health and safety of the residents.

Chair Vanderheyden closed the public hearing at 9:39 p.m.

Commissioner Iverson stated the vendors have stated it would be acceptable to take an additional two (2) weeks to go through the draft prior to moving it forward to the City Council.

Mr. Zweber asked the Commission to provide direction to Staff on the outstanding items so that the changes could be incorporated in the proposed Ordinance prior to the next meeting.

Chair Vanderheyden stated Section 5.R references the time regulations for working on equipment. He stated he would be receptive to restricting the time only for City owned property.

Commissioner Gruber stated Staff had provided the phrase "or otherwise agreed to by the City". This allows the flexibility the vendors are looking for. She asked how practical this would be in emergencies.

Commissioner Gonzalez asked if Section 5.G. should be removed because underground equipment was not feasible in this area.

Mr. Zweber suggested removing Section G and leaving Section 5.H.

Chair Vanderheyden stated he would like to leave Section 5.G because this is something the City is striving for. There is no harm in having it in the Ordinance in the event these facilities become feasible in the future.

Commissioner Gruber asked if the intent was to have all the vendors in one facility.

Commissioner Iverson stated it is possible to have them separated by locked doors but all be under one roof.

Mr. Littlejohn stated this would turn a small facility into a relatively large facility. He stated it would not make sense to have someone overbuild a site to start with because this may be a location that is not appealing to other vendors. This would leave an overly large facility for one vendor. The intent is to have these facilities go unnoticed.

Chair Vanderheyden stated he would be in favor of expanding a nonconforming building if it meant expanding technology utilizing existing structures.

Mr. Zweber stated the Planned Unit Development Ordinance would address the possibility of including this technology and for those structures that do not currently have a PUD, they would have to convert to a PUD to make this accommodation. The C1 and C3 Districts would need to apply for a Conditional Use Permit.

City Attorney Schelzel stated the PUD is a flexible device in which the City may exercise a great deal discretion and set up the parameters for this kind of use. PUD amendments are not necessarily an onerous task because you would not have to go through every aspect of the PUD, only those aspects of the existing PUD where the amendment is needed.

Mr. Zweber clarified that roof top parapet walls is a defined term in the City's Ordinances and Design Standards, and this is intended to be setback from the façade of the building. Staff will work with the vendors on clarifying this language.

Commissioner Gonzalez stated the Design Standards limits the height of the screening walls. She asked what these walls would screen.

Mr. Zweber stated the screening would be for some of the height of the antenna and some of the ancillary equipment.

Mr. Zweber stated Verizon asked the definition of towers be amended to include only towers taller than 30-feet rather than taller than 15-feet in Section 2.O. Currently anything under 15-feet tall does not have to have a CUP under the proposed Ordinance. The request would mean that anything under 30-feet would not have to be located in the designated areas, and it would expand the amount of equipment that vendors can have. He stated he would work with City Engineer Kelley to look at the height of other equipment in the City, such as streetlights or telephone poles. This would provide a better visual reference for the Planning Commission.

Mr. Jason Hall, 7365 Kirkwood Court North, Maple Grove, representing AT&T, stated the reason AT&T suggested 30-feet because there are several communities in the 7-County Metro area that use 30-feet as the standard tower height. As a vendor and provider they are looking for as much flexibility as possible. He stated they would be flexible and work with Staff.

Mr. Zweber stated he would be reluctant to change Section 4.B.iii by removing "within a right-of-way". AT&T is requesting this be changed to allow a new antenna on any public utility structure anywhere. He recommended keeping the right-of-way language and adding other locations to allow flexibility but not allowing them anywhere.

Mr. Hall stated the reason AT&T redlined this language was because their internal legal counsel had stated that cities typically have structures in other areas such as conservation easements or other public areas that are not considered right-of-way.

Chair Vanderheyden stated Staff would look at this language to see if it could be expanded to accommodate other City owned locations.

Mr. Zweber stated Staff would review Section 4.C. and work with the vendors on this. The vendors are requesting to limit the use of noise dampening equipment to within 100-feet of residential areas in Section 5.M. He would not recommend limiting the use of this equipment to only residential areas.

Chair Vanderheyden stated an acoustical analysis should be required in all situations.

Mr. Zweber stated he would not recommend removing Section 5.X. He would recommend that the City look at the advances in technology for new antennas and not existing antennas.

Chair Vanderheyden agreed that the City should not require vendors to upgrade existing equipment whenever the City wants it done. But requiring the use of advances in technology for new antennas is a reasonable expectation. If the City aesthetically approves a tower today, they should allow the vendor to commercially improve this same tower tomorrow.

Mr. Zweber stated Staff would work with the vendors on language that would meet these goals.

Commissioner Gonzalez stated she would recommend leaving the language in Section 5.X as written.

Commissioner Young agreed with Chair Vanderheyden and this section is overreach by the City. He would recommend softening the language or remove the section completely. Being this restrictive could have a negative impact on the City where vendors do not want to improve coverage within the City.

Commissioner Gruber suggested keeping the section and changing the language so that the vendors are providing the City with information on advances in technology and educating the City.

Commissioner Gnos agreed that vendors would be commercially motivated to use equipment that is smaller, faster, and more advanced to provide better service to their customers.

Mr. Zweber recommended changing the language so that vendors provide a study on the new technologies, and why they would be installing any proposed equipment.

Commissioner Iverson asked how often vendors would have to provide the City with updates on the advances in technology.

Mr. Zweber stated as it is written, it would be the City that would review existing equipment with new technologies but this could be changed to apply to the replacement of existing equipment and new equipment.

Chair Vanderheyden stated it would be reasonable for the City to request information on the technology being used and what technology is available for replacement to existing equipment or new equipment.

Chair Vanderheyden stated the Commission would be agreeable to 120 days instead of 60 days in Section 5.Y.

Commissioner Gonzalez moved, Seconded by Commissioner Iverson to continued discussions on the Telecommunications Ordinance to a future meeting to allow Staff to make the recommended changes. The motion carried unanimously.

October 1, 2015

SENT VIA E-MAIL ONLY

Wayzata City Council and Planning Commission
Attn: David Dudinsky, Dir. of Public Service
City of Wayzata
299 Wayzata Blvd. W.
Wayzata, MN 55391

Re: Proposed Amendments to City of Wayzata Zoning Ordinance
Related to Commercial Telecommunications Facilities
Verizon Wireless Comments

To the Wayzata City Council and Planning Commission:

As we mentioned in our prior comments related to the proposed relocation of the Verizon Wireless facilities from the City of Wayzata water tower, more than 40% of adults in the United States have only a wireless telephone, with no traditional landline telephone service at all.¹ In the Midwest, 46.9% of adults live in households with no wired phone. (***See*** U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, ***Wireless Substitution: State-level Estimates from the National Health Interview Survey***, January–June 2014 (December, 2014) at Table 2, p. 7 ***available at*** <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201412.pdf>.)

The FCC considers enhanced reliability and resiliency of the wireless communications network a “major public safety priority” of the FCC due to the growing number of U.S. households that rely solely on wireless phones and because the great majority of 911 calls originate on wireless networks. ***See In the Matter of Improving the Resiliency of Mobile Wireless Communications Networks; Reliability and Continuity of Communications Network, Including Broadband Technologies***, FCC 13-125 at ¶18 (September 27, 2013)(“With an increasing percentage of 911 calls – already measured at 75 percent within the State of California – originating on wireless networks, the need for reliable wireless service during emergencies is a major public safety priority.”)

Recognizing this, many local zoning authorities now view their regulation of wireless infrastructure much differently from the way they did 10 or 20 years ago. Where cities once may have adopted a goal to preclude these facilities from residential areas, forward-thinking communities recognize that it would be irresponsible to do so now. Cellphones have become so commonplace that it is crucial for cities like Wayzata to adopt ordinances that encourage well-developed networks, so that these devices will work properly when they are needed most. This

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is especially important when someone must use their cellphone to call 9-1-1 from inside their own home or workplace.

After all, these devices only work when there are operational cell sites with antennas in relatively close proximity to the wireless caller. This need for proximity is even more important when someone needs to use their phone from inside of a building – perhaps even the basement of their own home. Because these systems operate at relatively low power, it is very difficult for the signals to penetrate the walls of buildings where callers may be. We all know this to be true; as we go into our basements and lower levels of our homes, it is more difficult to make a call, or to keep a call connected once it is made.

Although common when this service was new, cellphone use is no longer limited to our cars. Certainly, police, fire and public safety personnel still use their devices when on the scene or traveling to it. But smartphones are just as likely to be used by the average citizen – to check for storms while fishing or boating, to read e-mail between innings during a little league game or even to get directions to the next hockey game. The antennas need to be wherever the people are, and the City's ordinance should be drafted to make this possible, even in residential areas.

Stealth designs can be used in many locations. If the City prefers that these installations go largely unnoticed by casual observers, the amendments should be drafted to accommodate cell sites that are camouflaged – so called stealth designs. This type of construction technique can make it possible for a cell site to be integrated into a church, school or other, higher density residential (apartment) building. In addition to rooftop installations, these facilities can be camouflaged as steeples, bell towers, crosses, chimneys, parking lot light standards, or other structures that fit with the character of the preexisting land use. For locations on rooftops, it can be possible to install antennas behind RF-transparent screen walls, when the original building design can accommodate the structure and increased snow load, of course.

For this reason, cell sites – as a category of land use – should not be limited to areas that are only zoned C-1, C-3 or PUD (Office and Limited Commercial District, Service District or Planned Unit Development, respectively), as set forth in the current draft of the ordinance. (***See*** Section 801.31.4(B)(iv)(c), located on lines 6-8 of p.7 of the draft.) This is not to say that the City should allow cell sites on properties that are used for single family residences, or even low density, multifamily developments, such as twin homes. Therefore, Verizon Wireless recommends that the following provision be added to the end of Section 801.31.4(B)(iv)(c) be modified as follows:

- c) the building upon which the Antenna is to be located is not a single-family dwelling or twin home. ~~located on a parcel of land zoned C – 1 Office and Limited Commercial District, C-3 Service District or PUD Planned Unit Development~~

Since wireless facilities would still be subject to review under the City's Conditional Use Permit process, this revision would give flexibility, while still preserving land use control that the City has over all Conditional Use Permit applicants.

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For similar reasons, limiting the design of cell sites to the requirement that antennas be mounted on the façade or parapet of a building is not necessary. To accommodate this type of design, the provisions of Section 801.31.4(B)(iv)(e) should be modified as follows:

- e) the Antenna is attached to the façade of the building, or to the rooftop parapet screening wall or housed within rooftop screening walls whenever possible. A façade mounted Antenna shall not extend above the cornice line and a rooftop or parapet mounted Antenna shall not extend more than fifteen (15) feet above the parapet wall. Façade and parapet wall mounted Antenna, and all rooftop screening walls shall as closely as possible match the color of the underlying building material.

In fact, this ability to approve well-designed facilities is likely the best way that the City can ensure that its citizens will have the wireless service that they expect – and deserve – while still controlling development of the facilities. However, one of the provisions of the ordinance amendments has the potential of requiring buildings to be built that are much larger (perhaps 3 times larger) than they need to be. (***See*** Section 801.31.5(H).) That provision requires buildings or shelters to be built to accommodate multiple users. Depending on the existing use of a site, this might mean that a facility that could easily blend into the surroundings with a smaller structure might not blend so well if the structure is required to be larger.

To avoid this unintended consequence, Verizon Wireless suggests the following revisions to the second sentence of Section 801.31.5(H):

- H. Ground-mounted equipment.** If deemed ~~unfeasible by the City Council to be built~~commercially unreasonable for the Accessory Equipment and/or equipment storage facilities to be located underground, the ground-mounted Accessory Equipment ~~or buildings and/or equipment storage facilities~~ shall be architecturally designed to blend in with the surrounding environment, including the principal structure; and/or shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and compliments the character of the surrounding neighborhood. No more than one Equipment Shelter or accessory building is permitted for each user of a Tower. Equipment Shelters or accessory buildings shall may be designed to accommodate additional space needed for the co-location of additional Antennas at the site, if reasonably necessary given the current land uses at the site, the design of the facility, the land space available and the applicable Conditional Use criteria. Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review by City Staff, Planning Commission, and City Council, and any applicable Design Standards criteria under Section 801.09 of the Wayzata Zoning Ordinance. The Applicant shall be responsible for maintaining the structure in a high-quality condition. If the Applicant abandons or vacates the structure, it shall be forfeited to the City or torn down by the Applicant at their expense, at the discretion of the City Council.

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Some language only applies to City owned facilities. Finally, it seems apparent that Section 801.31.5(R) contains language that is leftover from the City's earlier ordinance, in which all cell sites were required to be on City property. That provision contains very specific limitations on access and maintenance of facilities (work only between 7:00 a.m. and 6 p.m. (except in cases of emergency), as well as parking of maintenance vehicles being on city streets wherever possible. However, the owner of a business may prefer that work be performed outside of business hours, and that vehicles be parked in the parking lot, for example.

These issues can be handled with the following, further revisions to Section 801.31.5(R):

R. Maintenance. All Telecommunication Facilities and Towers shall at all times (i) be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person, and (ii) allow sufficient access for service vehicles and personnel. On sites owned by the City, maintenance Maintenance of equipment shall be scheduled for between 7:00am-6:00pm, Monday through Friday, unless in case of emergency or otherwise agreed to by the City. Service vehicles for equipment maintenance shall be parked on city streets, whenever possible unless off-street parking is available at the site. In the case of maintenance of Telecommunication Facilities on the City Water Tower, service vehicles shall park on the service entrance of the City Water Treatment Plant, whenever possible.

Conclusion. We are truly grateful that the City of Wayzata is taking these steps to accommodate wireless services in the community, and we will be in attendance at the upcoming meetings answer questions related to the development of the Verizon Wireless infrastructure in general, and to address any other issues related to these proposed revisions.

If any reader of this letter has questions in the meantime, please do not hesitate to contact me as we continue to look forward to working with the City to maintain – and improve – Verizon Wireless service.

Sincerely,



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JDL/dmr

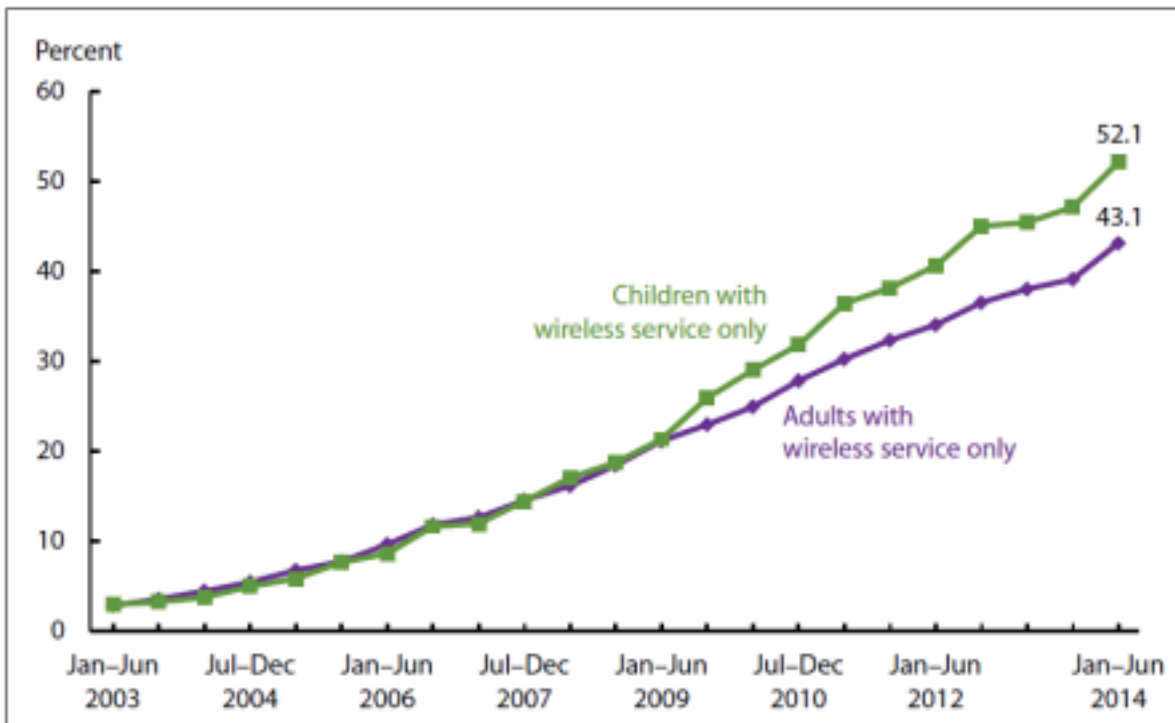
Enclosures

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cc: Cynthia Shuck, Verizon Wireless (via e-mail)
Scott Chamberlain (via e-mail)

¹ See U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Wireless Substitution: State-level Estimates from the National Health Interview Survey* January–June 2014 (December, 2014) at p. 1 *available at* <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201412.pdf>, wherein the following appears:

Figure. Percentages of adults and children living in households with only wireless telephone service: United States, 2003–2014



NOTE: Adults are aged 18 and over; children are under age 18.
DATA SOURCE: CDC/NCHS, National Health Interview Survey.

HENNEPIN COUNTY, MINNESOTA

DRAFT ORDINANCE NO. 756
COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL
ACCESSORY COMMUNICATION DEVICES

AN ORDINANCE AMENDING WAYZATA'S ZONING ORDINANCE
TO CONFORM WITH MINNESOTA STATUTE SECTION 462.357, SUBD. 2(b)

THE CITY OF WAYZATA ORDAINS:

1.1 In accordance with the Recommendation of the Wayzata Planning Commission dated _____, 2015, the City Council of the City of Wayzata, hereby repeals Chapter 801 Section 31 "COMMUNICATION RECEPTION/TRANSMISSION DEVICES" and replaces it with Chapter 801 Section 31 "COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL ACCESSORY COMMUNICATION DEVICES" as follows:

SECTION 31
COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL
ACCESSORY COMMUNICATIONS DEVICES

Section 801.31:

- 801.31.1: Purpose and Intent
- 801.31.2: Definitions
- 801.31.3: Permit Required for Telecommunication Facilities
- 801.31.4: Building and Design Standards for Telecommunication Facilities
- 801.31.5: General Standards for Telecommunication Facilities
- 801.31.6: Applications for Telecommunication Facilities Permit
- 801.31.7: Review of Permit Applications
- 801.31.8: Appeals
- 801.31.9: Revocation of Permit
- 801.31.10: No Recourse Against the City
- 801.31.11: Indemnification
- 801.31.12: Severability
- 801.31.13: Residential Accessory Uses

1. Purpose and Intent.

The purpose of this section is to establish objective and balanced regulations for the siting, screening and operation of wireless telecommunication facilities and equipment in order to accommodate Wireless Communication systems within the City while minimizing any adverse impacts on the City's natural resources, aesthetics, public public welfare, all as allowed under applicable Federal law. This section recognizes that these wireless communication systems provide a valuable service to the public but that they are not a public utility. The specific purposes of this section are to:

- A. Specify allowed locations of commercial Telecommunication Facilities and Towers in the City;

- B. Protect residential, recreational and park areas from encroachment by commercial operations, including, but not limited to, Telecommunication Facilities and Towers;
- C. Minimize adverse visual impacts of Telecommunication Facilities and Towers through careful design, optimum siting, appropriate landscaping, innovative ~~camouflaging~~ screening techniques and stealth poles;
- D. Require, where possible, the co-location of Telecommunications Towers and Antennas support structures on Towers or existing structures as a primary option rather than construction of multiple single-use Towers;
- E. Require utilization of technological designs that either eliminate or reduce the need for erection of new Tower structures to support Telecommunications Facilities;
- F. Minimize potential damage to property caused by Telecommunication Facilities and Towers by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
- G. Ensure that Telecommunication Facilities and Towers are compatible with surrounding land uses;
- H. Provide development standards for Wireless Telecommunication Facilities that are consistent with the requirements of the Federal Telecommunications Act of 1996, as amended, or other applicable Federal, State and local laws, statutes, ordinances and regulations.

2. Definitions.

For the purposes of this section, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

- A. **“Accessory Equipment”** means the wires, cables, generators, air conditioning units, and other equipment or facilities that are used in conjunction with Telecommunication Facilities and Telecommunication Equipment
- B. **“Applicant”** means any person or entity who files an application for any permit or is party to any lease agreement required by this Ordinance for the construction, replacement, installation, or alteration of wireless communication facility or any component thereof.
- C. **“Antenna”** means any exterior transmitting or receiving device mounted on a Tower, Monopole, building, or other structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals. “Antenna” does not include a lightning rod.

- D. **"Antenna Support Structure"** means any new or existing Tower, building, water tower, or electric transmission tower carrying over 200 kilo volts of electricity that can be used for the location of Antennas without increasing the height or mass of the existing structure.
- E. **"Engineer"** means a radio, electrical, structural, or mechanical engineer licensed by the State of Minnesota.
- F. **"Equipment Shelter"** means an enclosed structure at the base of or near a Telecommunication Facility, Tower, or Antenna within which are housed, among other things, batteries, generators, air conditioning units, wireless communications or electrical equipment, or other Accessory Equipment, which may be connected to the Telecommunications Facility, Tower or Antenna by cable.
- G. **"Co-location"** means the sharing of structures by two or more wireless service providers on a single support structure or otherwise sharing a common location.
- H. **"Monopole"** means a slender self-supporting Tower used to support Antennas and Accessory Equipment.
- I. **"Permit Holder"** a person or entity who holds a permit issued pursuant to this Ordinance for a Telecommunications Facility.
- J. **"Public Utility Structure"** means a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.
- K. **"Residential Accessory Communication Devices"** means any satellite dishes, television Antennas, radio Antennas, amateur (ham) radio Antennas, and similar communication transmission/reception devices and within a residential district.
- L. **"Stealth Design"** means state-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include architecturally screening roof-mounted Antennas and Accessory Equipment; integrating Telecommunications Facilities into architectural elements; nestling Telecommunications Facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, minimizing the size and appearance of the Telecommunications Facilities; and designing Towers to appear other than as Towers, such as light poles, power poles, flag poles, and trees.
- M. **"Telecommunications Equipment"** means Antennas, Accessory Equipment, or Towers.

- N. **"Telecommunications Facilities"** means any facility or location maintained by a commercial enterprise where Telecommunications Equipment is located.

The following shall not be considered Telecommunication Facilities:

- i. Licensed amateur (ham) radio Antennas, regulated under subsection 801.31.13 below.
- ii. Television Antennas and satellite dish Antennas for reception within individual homes or businesses, regulated under subsection 801.31.13 below.
- iii. Temporary Telecommunication Facilities placed in service during an emergency declared by a government agency or for special events requiring wireless service capacity or coverage that is not available from existing Telecommunication Facilities.

- O. **"Tower"** means any of the following: a ground or roof mounted pole; spire; free standing, self-supporting lattice or monopole structure; or combination thereof taller than ~~fifteen (15)~~ 25 thirty (30) feet, including but not limited to supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, meteorological device, or similar apparatus above grade (except amateur radio Antennas).

Comment [CU1]: AT&T would agree to 25 ft.

- P. **"Wireless Communications"** means any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless Telecommunications services including, but not limited to, cellular, personal communication services (PCS),

specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), global system of mobile communication (GSM), paging and similar services that currently exist or may be developed.

3. Permit Required for Telecommunication Facilities.

In addition to any Conditional Use Permit that may be required below, prior to the construction or operation of a Telecommunications Facility, the owner and operator of the Telecommunications Facility must obtain a permit for the proposed Telecommunications Facility according to the provisions of this Ordinance, termed a "Telecommunication Facilities Permit".

4. Buiding and Design Standards and Allowed Locations for Telecommunications Facilities.

All Telecommunications Facilities shall be constructed and maintained in accordance with the following standards:

A. Existing Telecommunication Facilities.

Existing Telecommunications Facilities located on or attached to existing structures, prior to the adoption of this Ordinance, are regulated by the provisions of the zoning district for each such parcel containing said structure. Once the leases for existing

Telecommunication Facilities expire or are otherwise terminated, the owner of the Telecommunication Facilities shall apply for a Telecommunication Facilities Permit under this Ordinance and those existing Telecommunications Facilities shall be required to conform to all requirements of this Ordinance for new Telecommunication Facilities. The City may, among other remedies, require relocation of equipment, at the Telecommunication Facilities expense, to permitted areas under this Ordinance. ~~Notwithstanding the above, nothing in this Section 4 shall be read to allow the City to prohibit a Telecommunication Facilities Permit based solely upon a request by the owner/operator for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended.~~

Comment [CU2]: AT&T proposes that this language section, as modified, be Moved to a new section 4(D) to make it clear that nothing in any portion of section 4 (including but not limited to subsection 4(A)) should be read to allow the City to deny a Telecommunication Facilities Permit requested by the owner/operator for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended.

B. New Telecommunications Facilities.

- i. New Telecommunications Towers shall be located only on the following parcels owned and/or controlled by the City of Wayzata, unless applicant obtains a Conditional Use Permit as further described below (in addition to the Telecommunication Facilities Permit required under subsection 3 above), with the exact location on such parcels determined at the sole discretion of the Wayzata City Council:

<u>Property Name</u>	<u>Property Identification Number</u>
City of Wayzata Public Works Facility	01-117-23-22-0004
Wayzata West Middle School	06-117-22-22-0008

- ii. Antennas shall be located on a new or replacement Tower at the locations permitted for Telecommunications Facilities only if the Applicant complies with the following requirements, in additions to the other requirements of this Ordinance:
 - a) The Applicant shall provide documentation and/or an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the Antennas is necessary to meet the coverage and capacity needs of its system. The Applicant shall provide a network map describing all of the Applicant's Telecommunications Facilities which provide any coverage within the City's limits. The analysis shall also show the Antennas would not cause interference with other existing or approved Telecommunications Equipment. The Applicant shall also pay the reasonable expenses of a radio or electrical engineer retained by the City, at the City's option, to review this analysis;
 - b) The new or replacement Telecommunications Facilities shall use as many Stealth Design techniques as reasonably possible and include non-proprietary information on stealth design technology. Economic considerations or hardships shall not be the sole justification for failing to provide Stealth Design techniques.

- c) The new or replacement Tower and Antenna, including attachments other than lightning rods, shall not exceed 150 feet in height, measured from grade. The City Council may, but shall not be required to, increase this height up to 190 feet if the Council finds the increase in height would not have a significant visual impact, would not have a negative property value impact on surrounding properties because of proximity, topography or screening by trees or buildings or would accommodate two or more users. The City Council may waive this height limitation for a Tower and/or Antenna if used wholly or partially for essential public services, such as public safety.

iii. A new Antenna may be attached to an existing public utility structure within a right of way if:

- a) The Antenna does not extend more than fifteen (15) feet above the top of the existing utility structure.
- b) The Antenna is no larger than three (3) cubic feet and has no individual surface larger than four (4) feet than three (3) feet.
- d) There is no ground mounted equipment so long as the existing public utility structure is available for the mounting of such equipment.
- e) There is no interference with public safety communications or with the original use of the public utility structure.
- f) The Applicant agrees that the Antenna must be removed and relocated, at Applicant's expense, if the road authority requires the removal and relocation of the public utility structure.

Comment [CU3]: There are examples in cities where public utility structures are not inside a right-of-way (ROW) and rather part of a utility easement or conservation easement or another form of ownership/leasehold, rather than ROW. That is why we request deleting the words "within a right of way"

iv. New Antenna may be attached to an existing building if:

- a) the Applicant provides an analysis prepared by a radio or electrical engineer demonstrating the proposed location is necessary to meet the coverage and capacity needs of Applicant's. The analysis shall show a network map describing all of the Applicant's Telecommunications Facilities providing coverage within the City's limits and confirm the proposed Antennas would not cause interference with other existing or approved Telecommunications Equipment. The Applicant shall also pay the reasonable expenses of an expert retained by the City, at the City's option, to review this analysis;
- b) the new Antenna and the associated Accessory Equipment use as many Stealth Design techniques as reasonably possible. Economic considerations or hardships shall not be the sole justification for failing to provide Stealth Design techniques;
- c) the building upon which the Antenna is to be located is located on a

parcel of land zoned C – 1 Office and Limited Commercial District, C-3 Service District or PUD Planned Unit Development;

- d) the building upon which the Antenna is to be located is within 300 feet of the Wayzata Blvd E right-of-way;
- e) the Antenna is attached to the façade of the building or to the rooftop parapet screening wall. A façade mounted Antenna shall not extend above the cornice line and a rooftop parapet mounted Antenna shall not extend more than fifteen (15) feet above the parapet wall. Façade and parapet wall mounted Antenna shall as closely as possible match the color of the underlying building
- f) Accessory Equipment shall be housed within an existing structure or within rooftop parapet screening walls whenever possible. If a new equipment building is necessary, it shall be situated to the rear or side of the principal use and shall be screened from view by landscaping where appropriate. If a new equipment building is necessary, the building shall be constructed of materials and color scheme compatible with the principal building.

C. Conditional Use Permits.

i. Telecommunication Facilities may not be located on any sites other than those that are designated in Section 801.31.4.B unless the Applicant first obtains a Conditional Use Permit for the location, provided that a Conditional Use Permit shall not be required for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended. Such a Conditional Use Permit may be approved provided all of the following are met:

- a) The requirements of Section 801.04 have been considered and satisfactorily met.
- b) Antennas attached to an existing building do not extend more than fifteen (15) feet above the highest point of the building.
- c) The Applicant provides documentation and/or an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the Telecommunication Facility is necessary to meet the coverage and capacity needs of its system. The documentation and/or analysis must also show the Telecommunication Facilities would not cause interference with other existing or approved Telecommunications Equipment. The Applicant shall also provide a network map describing all of the Applicant's Telecommunications Facilities which provide any coverage within the City's limits. The Applicant must also pay the reasonable expenses of a radio or electrical engineer retained by the City, at the City's option, to review this analysis.

Comment [CU4]: Because federal law requires that a local government approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station, a conditional use permit should not be required for such a request.

- d) The new or replacement Telecommunications Facilities must use as many Stealth Design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide Stealth Design techniques.
- e) New or replacement Tower and/or Antennas must comply with the provisions of Section 801.31.5 below.
- ii. The City shall have the following priority ranking of land uses (as defined in the City of Wayzata Comprehensive Plan) suitable for potential new or replacement Telecommunication Facilities when considering a Conditional Use Permit application, with (a) being the highest priority and (d) being the lowest priority:
 - a) City Owned Property that is adjacent to highway rights of way and not adjacent to or adjoining residential property.
 - b) Institutional/Public Property that is not adjacent to or adjoining residential property.
 - c) Semi-Public/Private Property that is not adjacent to or adjoining residential property.
 - d) Mixed Use Commercial or Service Commercial properties that are not adjacent to or adjoining residential property.

If the proposed site is not the highest priority listed above, then a detailed explanation shall be provided as to why a site of a higher priority was not selected. The explanations shall include the reason or reasons why such a Conditional Use Permit should be granted for the proposed site and a description of the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

- iii. CUPs for new or replacement Telecommunication Facilities shall be prohibited in the following land use categories, as defined in the City of Wayzata Comprehensive Plan:
 - a) Parcels guided and utilized for residential purposes, including single family and multiple family.
 - b) Parcels guided and utilized for Park or Public Open Spaces
 - c) Parcels guided and utilized for Central Business District, Mixed Use Residential, or Downtown Mixed Use District.

DC. Eligible Facilities Requests

Nothing in this Section 4 shall be read to allow the City to deny -a Telecommunication Facilities Permit requested by the owner/operator for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended.

Comment [CU5]: AT&T would insert new section here.

5. General Standards for Telecommunication Facilities.

All Telecommunications Facilities must comply with the following standards (although nothing in this Section 5 shall be read to allow the City to deny ~~prohibit~~ a

Telecommunication Facilities Permit ~~based solely upon a request~~ed by the owner/operator for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and is otherwise an "eligible facilities request" under 47 U.S.C. Section 1455 (a) and 47 C.F.R. Section 1.40001 (c), as the same may be amended.)—:

- A. **Vertical projection on Antenna support structures.** Antennas mounted on an existing Antenna support structure shall not extend more than 15 feet above the height of the structure to which they are attached. Wall or façade-mounted Antennas shall not extend above the cornice line and shall be constructed of a material or color that matches the exterior of the building.
- B. **Horizontal projection.** Antennas shall not project out from the side of the existing Antenna support structure, Tower or wall or facade by more than three feet.
- C. **Fall Zone Analysis.** The Applicant must submit a fall zone analysis report completed by a qualified and licensed engineer who shows the Telecommunications Facilities do not pose a threat to general health, safety and welfare of the City.
- D. **Setbacks.** A new Tower shall meet the building setback that is established for the district where it is to be located and the following additional standards:
 - i. The Tower shall be setback from all residential property lines at least one (1) foot for each foot in height, but shall have a minimum setback of at least one hundred (100) feet. The Tower setbacks may be increased by the City Council dependent on the results of the engineered fall zone analysis report submitted by the Applicant as part of the permit application.
 - ii. Towers and Telecommunications Facilities shall not encroach upon any easements unless written permission is obtained from the underlying property owner burdened by the easement and the beneficiary of the easement.
 - iii. The required setbacks may be reduced or the location in relation to a public street modified, at the sole discretion of the City Council, when the Telecommunications Facility is integrated into an existing or proposed structure such as a building, light or utility pole.
- E. **Height.** The height of an Antenna and/or Tower shall be the minimum necessary to meet the Applicant's coverage and capacity needs, as verified by an electrical engineer or other appropriate professional. Any new or replacement Tower and Antenna, including attachments other than lightning rods, shall not exceed 150 feet in height, measured from grade. The City Council may, but shall not be required to, increase this height up to 190 feet if the Council finds: (i) the increase in height would not have a significant visual impact, (ii) would not have a negative property value impact on surrounding

properties because of proximity, topography or screening by trees or buildings or (iii) would accommodate two or more users.

- F. **Exterior surfaces.** Towers and Antennas shall be painted a non- contrasting color consistent with the surrounding area such as: blue, gray, green, brown, or silver, or have a galvanized finish to reduce visual

impact. Metal Towers shall be constructed of, or treated with, corrosion-resistant material.

- G. ~~**Underground Equipment Storage.** If commercially reasonable, Accessory Equipment and/or equipment storage facilities shall be designed to be placed and be built underground adjacent to the Telecommunications Facility. If such underground placement is not commercially reasonable, then such Accessory Equipment and/or equipment storage facility shall be allowed to be placed above ground, subject to the restrictions of this Ordinance, including, but not limited to screening of existing equipment.~~

Comment [CU6]: Deleted per discussion at 10/5/15 Planning Commission meeting.

- H. **Ground-mounted equipment.** ~~If deemed commercially unreasonable for the Accessory Equipment and/or equipment storage facilities to be located underground, the ground-mounted~~ Accessory Equipment and/or equipment storage facilities shall be architecturally designed to blend in with the surrounding environment, including the principal structure and/or shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and compliments the character of the surrounding neighborhood. ~~No more than one Equipment Shelter or accessory building is permitted for each Tower. Equipment Shelters or accessory buildings shall be designed to accommodate additional space needed for the co-location of additional Antennas at the site.~~ Design of the building or equipment cabinet, screening and landscaping are subject to a site plan review by City Staff, Planning Commission, and City Council, and any applicable Design Standards criteria under Section 801.09 of the Wayzata Zoning Ordinance. The Applicant shall be responsible for maintaining the structure in a high-quality condition. If the Applicant abandons or vacates the structure, it shall be forfeited to the City or torn down by the Applicant at their expense, at the discretion of the City Council.

Comment [CU7]: AT&T continues to believe that this language should be deleted, as is it not practical and would not apply to most sites, as some sites can only hold one carrier if stealth pole is used. In addition, for some sites, there may be a need for separate equipment areas, as some carriers have different sized equipment than others. This provision is not found in the ordinances of other communities. It is preferable to use fencing and landscape and screen walls to hide and mitigate the equipment, as needed.

- I. **Construction.** Telecommunications Facilities shall be in compliance with all buildings and electrical code requirements. All applicable federal, state and local agency licenses and/or permits shall be obtained. A Tower shall be designed and certified by a licensed structural engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the Telecommunications Facilities shall be in compliance with the manufacturer's specifications. If, upon inspection, the City concludes that a Tower or other portion of a Telecommunications Facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Telecommunication Facility or Tower, the owner shall have ~~thirty (30)- sixty (60)~~ days to bring such Tower or Telecommunication Facility into compliance with such standards. Failure to

bring such Tower or Telecommunication Facility into compliance with such thirty-day period shall constitute grounds for the removal of the Tower or Telecommunication Facility at the owner's expense.

- J. **Interference with Public Safety Telecommunications.** No Tower or Telecommunications Facility shall interfere with public safety Telecommunications. All Towers and Telecommunication Facilities shall comply with FCC regulations and licensing requirements.
- K. **Security Fencing and Screening.** Telecommunication Facilities and Towers shall be enclosed by security fencing not less than the height of the equipment located therein and shall also be equipped with an appropriate anti-climbing device. Fencing within one hundred (100) feet of a residential or parking property shall be constructed of a well-designed fence of wood or other environmentally sound material, and be compatible with the surrounding character of the area. The Telecommunication Facilities and Towers shall also include a landscape screen, at least six (6) in height, around the perimeter of equipment area, as approved by the City Council.
- L. **Other Protections.** The City may require shields to protect from ice falling from Towers, anti-climbing devices to prevent unauthorized persons from climbing Towers, or other appurtenances necessary to protect life and property.
- M. **Noise.** If the proposed Telecommunications Facility includes equipment that causes significant sound levels, sound buffers may be required including but not limited to, baffling, barriers, enclosures, walls and plantings. The Applicant shall submit an acoustical analysis (measured to the property line) and report prepared by a licensed and/or accredited sound engineer certifying that the noise to be generated from the proposed Telecommunication Facility shall not impact adjacent properties. Said report shall include, without limitation, a written description of all noise generated by the Facility, including retractable monopole motors, Antenna rotators, power generation, heating or air conditioning, and related equipment, and shall include the estimated times, frequency, duration and decibel levels of the noise. All equipment shall conform to Minnesota Pollution Control Agency decibel standards.
- N. **Sensitive Habitats.** No Telecommunication Facility shall be located in environmentally sensitive habitats, including but not limited to wetlands, shorelines, established animal habitats, conservation districts, and significant tree groups, unless mitigation measures can be adopted which would reduce potential impacts to levels of non-significance.
- O. **Radio Frequency Emissions.** Telecommunications Facilities shall comply with Federal Communication Commission standards for radio frequency emissions and interference.
- P. **Interference.** No Telecommunication Facility shall be permitted that causes interference with commercial or private use and enjoyment of other legally operating telecommunications devices including, but not limited to, radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems, and other electronic

equipment and devices in violation of any Federal Communication Commission standards relating to radio frequency interference. Unless otherwise prohibited by Federal Communication Commission standards, an Applicant shall furnish a state registered engineer's certification that no such interference shall occur, or identify what interference may occur and how the Applicant shall mitigate any potential interference that may occur.

- Q. **Risk of Danger.** Telecommunications Facilities and Towers shall not pose a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive or hazardous materials. Telecommunication Facilities, Towers, Antennas, and Accessory Equipment shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such Facilities. If new, more restrictive standards are adopted, the Facilities shall be made to comply or continued operations may be restricted by the City Council. The cost of verification of compliance shall be borne by the Applicant.
- R. **Maintenance.** All Telecommunication Facilities and Towers shall at all times (i) be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person, and (ii) allow sufficient access for service vehicles and personnel. Maintenance of equipment shall be scheduled for between 7:00am-6:00pm, Monday through Friday, unless in case of emergency or otherwise agreed to by the City. Service vehicles for equipment maintenance shall be parked on city streets, whenever possible. In the case of maintenance of Telecommunication Facilities on the City Water Tower, service vehicles shall park on the service entrance of the City Water Treatment Plant, whenever possible.
- S. **Co-location opportunity.** The Applicant, the Tower owner, the landowner, and their successors and assigns shall allow the shared use of the Tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, shall submit a dispute over the potential terms and conditions to binding arbitration, and shall sign the Conditional Use Permit agreeing to these requirements. The City Council may waive these co-location requirements if necessary to implement stealth design.
- i. All Telecommunications Facility providers shall cooperate with each other in co-locating Telecommunication Facilities and shall exercise good faith in co-locating with other licensed carriers and in the sharing of sites, including the sharing of technical information necessary to evaluate the feasibility of collocation. In the event a dispute arises as to a co-location issue, the City may require a third-party technical study to evaluate the feasibility of co-locating at the expense of each wireless telecommunications providers involved in the third-party study;
 - ii. All proposed new Towers shall be designed to accommodate both the Applicant's Antennas and Antennas for as many other licensed carriers as can be technically located thereon, but not less than one additional;
 - iii. All new Towers and Facilities owned by a telecommunications provider

shall be made available for use by the owner or initial user thereof, together with as many other licensed carriers as can be technically located thereon, but not less than one additional;

- iv. All proposed new Towers shall be designed to allow for future rearrangement of Antennas or Tower modifications, and to accept Antennas mounted at varying heights unless the City otherwise agrees in order to accommodate Stealth Design techniques;

- T. **Successors and Assigns.** Any Permit or lease for a Telecommunications Facility shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, and assigns.
- U. **External messages.** No advertising message or identification signs, other than warning or equipment information signs as legally required, shall be affixed to the Telecommunications Facilities.
- V. **Lighting.** Telecommunications Facilities or Towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment. Any lighting or artificial illumination utilized shall be shielded and not cast glare onto adjacent properties. All lighting shall be measured to the property line.
- W. **On-site employees.** There shall be no employees on the site at a Telecommunications Facility on a permanent basis. Occasional or temporary repair and service activities are allowed.

~~X. **Advances in Technology.** All Applicants/Permit Holders shall use and apply any readily available advances in technology that lessen the negative aesthetic effects of Telecommunication Facilities and Towers to the residential communities within the City. The City may review existing structures and compare the visual impact with available technologies in the industry for the purpose of removal, relocation or alteration of these structures in keeping with the general intent of this Ordinance. Such removal, relocation or alteration may be required by the City pursuant to its zoning power and authority.~~

- Y. **Removal.** After ~~thirty (30) days'~~ one hundred and twentyeight days' notice from the City to the Permit Holder all Telecommunications Facilities, Antennas, or Towers shall be required to be removed at the Permit Holder's expense, if such improvement is found to be in violation of any portion of this Ordinance by the City and such violation is not cured within such thirty day time period. Obsolete or unused Telecommunications Facilities and all related equipment shall be removed within six (6) months after cessation of their use at the site, unless an exemption is granted by the City Council. Telecommunications Facilities and related equipment that have become hazardous shall be removed or made not hazardous within 30 days after ~~written~~ notice to the current Permit Holder and to any separate landowner, unless an exemption is granted by the City Council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and

Comment [CU8]: This provision should be deleted because it is contrary to federal law and is unenforceable. Local governments may not dictate the wireless technology used by a carrier (see New York SMSA Ltd. Partnership v. Town of Clarkstown, 603 F.Supp.2d 715 (S.D.N.Y. 2009), and it would be especially inappropriate to require use of standards and practices that are not even current industry standards. Technology is driven by the industry and market place and AT&T always strives to use the best and most updated technology at its sites.

Comment [CU9]: AT&T agrees to 120days, per discussion at 10/5/15 Planning Commission meeting.

to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications Facilities and all related equipment that are not removed within this time are declared to be public nuisances and may be removed by the City. The City may assess its costs of removal against the Property.

- Z. **No Recourse Against the City.** Every permit shall provide that, without limiting such immunities as the City or other persons may have under applicable law, an Applicant/Permit Holder shall have no monetary recourse whatsoever against the City or its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or because of the enforcement or lack of enforcement of this Ordinance or the City's exercise of its authority pursuant to this Ordinance, a permit, a lease, or other applicable law, unless the same shall be caused by criminal acts or by willful gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

6. Applications for Telecommunications Facilities Permit.

An application for a permit for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station shall include information sufficient to demonstrate that the modification meets the standards set forth in 47 C.F.R. Section 1.40001.

For all other Telecommunications Facilities Permit applications, the following requirements apply. Permit Application.

In addition to an Applicant's name, address, certificate of survey, grading and landscaping plans, and other such similar information, an application for a permit under this Section shall include the following:

- A. A scaled site plan clearly indicating the location, type and height of the proposed Telecommunication Facility, Tower, or Antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed equipment and any structures, topography, parking and any other information deemed by the City Staff to be necessary to assess compliance with this Section.
- B. A visual simulation of the proposed Telecommunication Facility Tower or Antenna. Visual simulation shall consist of either a physical mock-up of the Telecommunication Facility Tower or Antenna, balloon simulation, computer simulation, photo simulation, or other similar simulation. In instances where the proposed Telecommunications Facility Tower or Antenna is located near a residential area, photo simulations shall be submitted of the proposed Telecommunication Facility Tower or Antenna from the nearest residential neighbors unless the owners of such residential property refuse to allow the required photo to be taken.
- C. A report from a qualified and licensed professional engineer which:
 - i. Demonstrates that the Telecommunication Facility, Tower, Antenna

Comment [CU10]: This language should be added to ensure that the ordinance conforms with 47 C.F.R. 1.40001 (d), which provides that "[w]hen an applicant asserts in writing that a request for modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities."

- and/or Accessory Equipment comply with the structural and electrical standards of this Section.
- ii. Describes the Tower height, if utilized.
 - iii. Documents the height above grade for all potential mounting positions for co-locating Antennas and the minimum separation distance between Antennas.
 - iv. Describes the Tower's capacity, if utilized, including the number and type of Antennas it can accommodate.
 - v. A network map describing all of the Applicant's Telecommunications Facilities which provide any coverage within the City's limits.
 - vi. Documents what steps the Applicant shall take to avoid interference with established public safety Telecommunications.
 - vii. Includes an engineer's stamp and registration number.
- D. A written statement acknowledging that failure to comply with this Section and the conditions of permit approval shall result in the revocation of the permit and removal of the Telecommunications Facility, Antenna, and/or Tower;
- E. Documentation that the Applicant has applied for and/or obtained any licenses and/or approvals that are required by federal and state agencies.
- F. A written statement indicating that the expenses incurred by the City to review and process the application, and to enforce the provisions of the permit shall be reimbursed by the Applicant.
- G. A written statement which requires the Applicant to utilize the procedures established by the Federal Communications Commission to resolve any complaints received relating to interference allegedly caused by the Telecommunications Facility, Antenna, and/or Tower.
- H. A written statement indicating that the Applicant shall cooperate in good faith and fair dealing in co-locating Telecommunications Facilities, Antenna and/or Towers.
- I. A written statement indicating that the Telecommunications Facility, Antenna, and/or Tower shall be maintained in good and safe condition and its original appearance and concealment, disguise or camouflage elements incorporated into the design at the time of approval shall be preserved. Such maintenance shall include, but not be limited to, painting, repair of equipment, and maintenance of landscaping.
- J. A written statement authorizing the City to conduct periodic inspections to determine that the Telecommunications Equipment complies with the provisions of this Section, any conditions of approval and all safety and building codes and permits issued. This statement shall give the City the right to conduct such inspections at any time upon a reasonable notice of five (5) business days to the Applicant, and that all expenses related to such inspections shall be borne by the Applicant.
- K. A written statement indicating that the Applicant understands that

Telecommunications Facilities, Antennas, and/or Towers which have not been used for six (6) months shall be deemed abandoned, and shall be removed pursuant to this Section.

- L. A written statement requiring the Applicant or current Permit Holder to notify the City that the Telecommunications Facility, Antenna, and/or Tower continue to be in operation. The notice of continuing operation shall be sent to the City Manager annually by certified mail within the last two (2) weeks of the month of December. The City shall provide written notice of failure to provide the required statement with a requirement that such statement be provided within 14 days from the date of such notice.

7. Review of Permit Applications.

The City shall process all applications for Telecommunication Facilities Permits in a timely manner and in accordance with established procedures and City Code.

8. Appeals.

At any time within thirty (30) days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official interpreting or applying this Section, except for actions taken in connection with prosecutions for violations thereof, the Applicant or any other person affected by such action may appeal the decision in accordance with the provisions of the Zoning Ordinance.

9. Revocation of Permit.

A material breach of any terms and conditions of a permit issued for a Telecommunication Facility under this Section and the Zoning Ordinance may result in the revocation of the permit by the City. Penalties for a violation of a permit or this Section may include fines and removal of the Telecommunication Facility, Tower, or Antenna at the Applicant's/Permit Holder's expense.

10. No Recourse Against the City.

Every application for and issued permit shall provide a written acknowledgement, agreement and release from the Applicant and Permit Holder that, without limiting such immunities as the City or other persons may have under applicable law, an Applicant and Permit Holder shall have no monetary recourse whatsoever against the City or its elected officials, boards, commissions, agents, employees or volunteers for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or because of the enforcement or lack of enforcement of this Ordinance or the City's exercise of or failure to exercise its authority pursuant to this Ordinance, a permit, a lease, or other applicable law, unless the same shall be caused by criminal acts or by gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.

11. Indemnification.

Each permit issued pursuant to this Section shall have as a condition of the permit, a requirement that the Applicant indemnify and hold harmless the City and its officers,

agents, and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and conduct of the activities authorized under said permit.

12. Severability.

If any section, subsection, sentence, clause or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have passed this Section and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid.

13. Residential Accessory Uses.

Residential Accessory Communication Devices are a permitted accessory use within residential districts provided they meet the following conditions:

- A. **Use.** They are for use by residents upon whose property the Residential Accessory Communication Devices are located.
- B. **Height.** A ground mounted Residential Accessory Communication Device height shall not exceed fifteen (15) feet unless approved as a Conditional Use Permit by the City Council.
- C. **Yards.** The Residential Accessory Communication Device shall not be located within the required front yard setback, a required side yard or any side yard abutting a street. Communication devices shall be located five (5) feet or more from rear lot lines and shall not be located within a utility easement.
- D. **Roofs.** The Residential Accessory Communication Device may be placed on the roof of any authorized structure on the premises. The height of the Residential Accessory Communication Device shall not exceed six and one-half (6-1/2) feet above the peak of the roof, unless approved by a Conditional Use Permit by the City Council.
- E. **Neighboring Property Impact.** In cases where no building permit is required, the Residential Accessory Communication Device shall be so located that in the event it falls, it shall not fall on adjoining property.
- F. **Building Permits.** A building permit shall be required for the installation of any Residential Accessory Communication Device which requires a Conditional Use Permit, or for any device which has a structural surface exposure of greater than nine (9) square feet. Building permit applications shall be accompanied by a site plan and structural components data for the Residential Accessory Communication Device, including details of anchoring. The Building Official shall approve the plans before installation.
- G. **Color/Content.** Residential Accessory Communication Devices shall be of a neutral color and shall not be painted with scenes or contain letters or

messages.

- H. **Lightning Protection.** Each Residential Accessory Communication Device shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City of Wayzata.
- I. **Electrical Code.** Residential Accessory Communication Device electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the City of Wayzata.
- J. **Effective Date.** The provisions of this Section shall be applicable to all communication reception/transmission devices erected after _____, 2015. All such structures existing prior to this date shall be addressed as legal non-conforming uses.
- K. **Conditional Use Permit.** Residential Accessory Communication Devices not qualifying as a permitted accessory use may be considered and approved through conditional use standards established by Section 801.04 of this Ordinance.

1.2 This Ordinance shall become effective upon its passage and publication.

Adopted this ____ day of _____, 2015.

Mayor Ken Willcox

ATTEST:

City Manager Heidi Nelson

First Reading:
Second Reading:
Publication:

**WAYZATA PLANNING COMMISSION
DRAFT MEETING MINUTES
OCTOBER 19, 2015**

AGENDA ITEM 3. Regular Agenda Old Business:

b.) Telecommunications Ordinance – City of Wayzata

i) Repeal existing City Code §801.31 and replace with draft Telecommunications Ordinance

Mr. Zweber stated as part of the Telecommunications Study, the City Council and Planning Commission are updating the City's Telecommunications Ordinance in order to better regulate the location of new cellular towers and other equipment. At the March 3, 2015 meeting, the City Council adopted a 6-month moratorium on new wireless communication facilities and towers pending study and consideration of changes to the City's regulations and official controls. at the September 1 meeting the City Council allowed this moratorium to expire. On August 17, the City Council and Planning Commission conducted a joint workshop to review the draft Telecommunications Ordinance, which included testimony from the four (4) major telecommunications providers. On October 5, the Planning Commission reviewed the changes recommended at the August 17 meeting and conducted a public hearing for the Telecommunications Ordinance. Following the testimony, the Planning Commission provided direction on revisions to consider. To determine the new regulations for the antennas on buildings added since the August 11 draft, the Interim City Planner has reviewed a number of metropolitan cities' regulations for antennas mounted on existing buildings. He reviewed the summary of these regulations. He reviewed a map of the locations where towers are allowed and the locations where antennas could be installed on or on top of a building, the additional comments received from AT&T, a summary of issues, and the comments from Verizon and AT&T.

Chair Vanderheyden asked if the parapet wall would be at the maximum height for the district.

Mr. Zweber clarified there is a provision in the Ordinance that says parapet walls can be 5-feet above this. The antenna could ultimately be 20-feet above the roofline because the wall could be 5-feet above the maximum height for the district.

Chair Vanderheyden thanked the vendors for their help with working through the draft Ordinance and making recommendations.

Commissioner Iverson stated she would like to be on record that she is not comfortable with these antennas and facilities being located at schools.

Commissioner Gruber asked if there were provisions for exercising safety around residential and school areas.

Mr. Zweber stated this is covered in Section 5 of the Ordinance through the standards. He clarified the City can regulate those items that are not related to the performance of the telecommunications technology.

City Attorney Kaminski stated Section 5. I ensures that the facilities meet all of the building and electrical code requirements and this is safety issues for the City.

Commissioner Iverson stated the City could put all the safety measures in place but kids will be kids and she would not like to see them get hurt. She suggested possibly lighting the facility.

Mr. Zweber stated lighting the facility could be a nuisance for neighbors and may draw kids to it because it is screen and lit.

Chair Vanderheyden asked if there was a standard that could be applied to Section 5.H. for the shelter/building.

Mr. Zweber stated he had not asked the vendors for input on the additional language in Section 5.H but he would follow up with them.

Mr. Jay Littlejohn, representing Verizon Wireless, 150 South 5th Street, Minneapolis, stated the language presented makes sense but he would like to see flexibility built into this because the site may not accommodate expansion or additional equipment.

Mr. Zweber stated there would always be exceptions and this would be where a variance could be applied.

Commissioner Gruber made a motion, seconded by Commissioner Ramy, to approve the Planning Commission Report recommending approval to repeal Chapter 801 Section 31: Communication Reception/Transmission Devices and replace this with Chapter 801 Section 31: Commercial telecommunications Facilities and Residential Accessory Communications Devices as submitted. The motion carried unanimously.

Building mounted antenna options



Antennas mounted on top of a mechanical room



Roof mounted antennas



Antennas mounted to the façade of a building

Attachment C: Other Cities Telecommunication Antenna Regulations

St. Louis Park

Sec. 36-368. Communication towers and antennas.

(h) Building-Mounted Antennas.

- (1) Antennas attached to a building shall be no higher than 30 feet above the highest point of the building.
- (2) All building-mounted equipment shall be consistent with the architectural features of the building and be painted to match the color of the building exterior, roof or sky, whichever is most effective, as determined by the Zoning Administrator.

Rosemount

11-9-6: COMMERCIAL USE ANTENNA TOWERS AND COMMERCIAL ANTENNAS:

F. Antennas Mounted On Roofs, Walls And Existing Towers: The placement of wireless communication antennas on roofs, walls, and existing towers may be permitted on public, institutional, commercial or industrial buildings or facilities, with a building permit approved by the appropriate city staff. In addition to the submittal requirements required elsewhere in this code, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

1. A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this code.
2. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this code.
3. A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.
4. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.

Eagan

Sec. 11.70. - Performance Standards.

Subd. 26. Antennae, satellite dishes, wind energy conversion systems and towers.

B. *Building mounted antennae and satellite dishes.* Building mounted antennae and satellite dishes shall be permitted in all zoning districts of the city, subject to the following requirements:

1. The height of any building mounted antenna or satellite dish, including its support structure, shall not exceed 50 percent of the total building height or 15 feet above the highest point of the roof, whichever is less;

2. Accessory equipment associated with a building mounted antenna or satellite dish shall be located within the building or within a roof or ground enclosure which is constructed of materials and color scheme compatible with the principal building;
3. Building mounted satellite dishes located within any agricultural district (A), estate district (E), residential district (R-1, R-1S, R-2, R-3, and R-4), public facilities (PF) district, or planned development district, within the area designated solely for residential uses under a planned development agreement (PD) shall not be larger than one meter (39 inches) in diameter; and
4. Building mounted satellite dishes and antennae located within any agricultural district (A); estate district (E); residential district (R-1, R-1S, R-2, R-3, and R-4); public facilities district (PF); or planned development district within the area designated solely for residential uses under a planned development agreement (PD) shall not be used for commercial purposes.

Minnetonka

5. General Standards.

The following standards apply to all telecommunications facilities.

- a) Vertical projection on antenna support structures. Antennas mounted on an antenna support structure must not extend more than 15 feet above the height of the structure to which they are attached. Wall or facade-mounted antennas may not extend above the cornice line and must be constructed of a material or color that matches the exterior of the building.
- b) Horizontal projection. Antennas must not project out from the side of the antenna support structure or tower, unless it is physically impossible to locate the antennas within the structure or tower, in which case they must not project out by more than three feet by more than three feet.

Plymouth

SECTION 21175 – ANTENNAS

21175.07. PERSONAL WIRELESS SERVICE ANTENNAS:

Subd. 1. Residential District and Public/Institutional District Standards.

- (a) Antennas Located Upon An Existing Structure Or Existing Tower: Personal wireless service antennas located upon an existing structure or existing tower shall require the processing of an administrative permit and shall comply with the following standards:
 - (1) The applicant shall demonstrate by providing a coverage or capacity analysis prepared by a professional engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate wireless coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive zoning district.
 - (2) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and

switching equipment, it shall be situated in the rear or side yard of the principal use and shall be screened from view by landscaping where appropriate.

- (3) An administrative permit is issued in compliance with the provisions of Section 21025 of this Chapter.
- (4) The maximum height for antennas to be placed upon an existing structure (includes buildings and light standards) shall be regulated by Section 21115.02, Subd. 1 of this Chapter.
- (5) Antennas mounted upon an existing high voltage transmission tower shall not extend more than 20 feet above such high voltage transmission tower.
- (6) There is no maximum height limitation for antennas to be co-located upon an existing wireless communication tower, provided the height of such existing tower is not increased.

Subd. 2. Commercial or Business District Standards:

- (a) Antennas Located Upon An Existing Structure Or Existing Tower: Personal wireless service antennas located upon an existing structure or co-located on an existing tower shall require the processing of an administrative permit.
 - (1) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear or side yard of the principal use and shall be screened from view by landscaping where appropriate.
 - (2) An administrative permit is issued in compliance with the provisions of Section 21025 of this Chapter and the following standards.
 - a. Antennas mounted on public structures shall not extend more than fifteen (15) feet above the height of the structure to which they are attached.
 - b. Building-mounted antennas shall not extend more than ten (10) feet above the roof, and shall be set back at least five (5) feet from the roof edge.
 - c. Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - d. Antennas mounted upon an existing high voltage transmission tower shall not extend more than 20 feet above such high voltage transmission tower.
 - e. There is no maximum height limitation for antennas to be colocated upon an existing wireless communication tower, provided the height of such existing tower is not increased.

SECTION 21115 - GENERAL YARD, LOT AREA AND BUILDING REGULATIONS

21115.02. HEIGHT:

Subd. 1. The building height limits established in each zoning district shall not apply to the following list of items, except that no such structural element may exceed 50 feet in total height or exceed

the maximum allowable height of the building by more than 10 feet, whichever is greater, except by conditional use permit.

- (a) Antennas installed on an existing structure.

Eden Prairie

SECTION 11.06. TOWERS AND ANTENNAS.

Subd. 6. Exceptions. The provisions of Subds. 4 and 5 shall not apply to the following:

1. Water towers and poles supporting emergency warning devices to which are attached antennas.
2. Place of Worship sanctuaries, steeples and bell towers to which are attached antennas.
3. In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers for amateur radio communication that comply with other provisions of City Code Chapter 11 relating to towers.

Edina

Chapter 34 – TELECOMMUNICATIONS

ARTICLE II. - ANTENNAS AND TOWERS

Sec. 34-48. - General requirements

All antennas, dish antennas and towers, for which a permit is required, shall comply with the following requirements:

- (10) *Antennas attached to buildings.* Antennas which are attached to any facade of a building or structure shall as closely as possible match the color of the underlying building material.

Bloomington

SEC. 19.63. places of assembly.

- (a) **Standards** - Freestanding place of assembly uses and sites must comply with the following standards.

- (10) Bell towers, steeples, spires and similar structures must meet the following standards:

- (A) Height. The height of bell towers, steeples, spires and similar structures must not exceed 65 feet.
- (B) Location. Bell towers, steeples, spires and similar structures must be located at least 25 feet from a side or rear property line and at least 50 feet from a front property line or property line abutting a public street.
- (C) Antenna Mounting. When antennas are mounted on bell towers, steeples, spires or similar structures, the following standards apply:

- (i) **Design.** The structure must be designed to visually appear as a bell tower, steeple, spire or similar structure and not be identifiable as an antenna tower. To ensure that a bell tower, steeple, spire or similar structure that supports antennas is fully camouflaged and appears to be a planned architectural element rather than an antenna tower, the design of the bell tower, steeple, spire or similar structure must replicate the unique design features of the place of assembly principal building structure, must be constructed of materials and use colors that complement and effectively integrate it with the principal structure and must not be a replication of a similar structure that supports antennas at another site within the city. The number of bell towers, steeples, spires or similar structures on an individual site must be compatible with the design of the principal structure. If more than one bell tower, steeple, spire or similar structure is present on a site, each must be architecturally coordinated with the other and they must appear as planned design elements.
- (ii) **Antenna Visibility.** The antennas, cables and associated mounting devices must be screened or otherwise concealed from view.
- (iii) **Equipment.** The associated ground equipment must meet the setback requirements of the structure and must be fully screened by a wall or fence that is architecturally compatible with the principal structure.

SEC. 19.63.05. TOWERS.

- (l) **Antennas Mounted on Roofs, Walls, and Existing Towers.** The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Planning Manager, provided the antennas meet the requirements of this Code, after submittal of 1) a final site and building plan as specified by Section 21.501.01 of this Code, and 2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated. Antennas shall be mounted on the facade of the building or penthouse structure unless the Planning Manager or designee determines that another antenna mounting location decreases the visual impact of the antennas. All roof mounted equipment shall be screened from view in accordance with Section 19.52.01 of this Code.

SEC. 19.52.01. SCREENING OF ROOF-MOUNTED EQUIPMENT.

- (a) Roof-mounted mechanical equipment installed on buildings constructed within the City shall be screened from view. This requirement shall be deemed satisfied when all parts of the roof-mounted equipment are not visible from ground level observation or at any point on the property, adjacent property, or from adjacent streets.
- (b) Screening required by this Section shall comply with the following:
 - (1) The screening shall be permanently attached to the building and shall be capable of withstanding all load requirements as outlined in the State of Minnesota Building Code.
 - (2) The screening shall be constructed with materials that are architecturally compatible with the building. The use of wood, in whole or in part, as a screening material shall not be

considered as being architecturally compatible unless the building is constructed with a wood exterior.

(3) A parapet wall of sufficient height and as an integral part of the building shall be considered as approved screening.

(4) Reserved.

(5) All roof-top screening shall be kept in repair or in a proper state of preservation.

(6) Existing screening which requires major alteration or replacement shall meet the requirements of this Section.

Woodbury

DIVISION 4. - ANTENNAS AND TOWERS

Sec. 24-314. - Purpose and intent.

(h) When selecting freestanding sites, the following requirements shall be followed:

(1) Locations for wireless communication antennas as permitted uses.

Water towers.

Co-location on existing telecommunication monopoles or towers.

Roofs of buildings over three stories.

Sides of buildings over two stories.

Existing power or phone pole corridors.

Public streets and rights-of-way where attached to, or part of a public utility structure.

Sec. 24-319. - Construction requirements and area, setback and height restrictions.

(c) Antennas and towers shall not be erected in any zoning district in violation of the following restrictions:

(12) Wireless telephone antennas, where the antennas are located on an existing structure, provided that the antennas shall not extend more than 20 feet above the structure to which they are attached, whichever is less, shall be permitted used in all zoning districts in the city. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated five feet from the side or rear yard property line and shall be landscaped where appropriate.

Burnsville

Chapter 20 B-1 OFFICE BUSINESS DISTRICT

10-20-3: PERMITTED ACCESSORY USES:

Within any B-1 office business district, the following uses shall be permitted accessory uses:

Antennas mounted on an existing structure, not exceeding fifteen feet (15') above the highest point of the structure, as regulated by chapter 29 of this title.

10-20-4: CONDITIONAL USES:

Within any B-1 office business district, no structure or land shall be used for the following uses except by conditional use permit:

Antennas mounted on an existing structure, exceeding fifteen feet (15') above the highest point of the structure, as regulated by chapter 29 of this title.

Chapter 29 TOWERS AND ANTENNAS

10-29-9: DESIGN STANDARDS:

Proposed or modified towers and antennas shall meet the following requirements:

- (A) Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the city through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the federal aviation administration;

10-29-12: ANTENNA COLLOCATION REQUIREMENTS:

- (A) Requirements: In all zoning districts except the HOC district, the placement of personal wireless service antennas on roofs, walls, and existing towers may be approved by the city, with a building permit.
 - 1. In addition to the submittal requirements required elsewhere in this code, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
 - a. A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this code.
 - b. A building plan showing the construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this code.
 - c. Certification by a qualified and licensed professional engineer indicating the existing structure's or tower's ability to support the antennas.
 - 2. Antenna collocation requirements for HOC zoning districts are regulated by sections [10-22B-2](#) and [10-22B-4](#) of this title. (Ord. 1316, 4-8-2014)



**Planning Report
Wayzata City Council
November 4, 2015**

File Case No:	PR 2015-16
Applicant:	City of Wayzata
Address of request:	N/A
PID number:	N/A
Prepared By:	Eric Zweber, Interim City Planner
Project Summary:	Amend existing City Code Chapter 710 regarding the Planting, Maintenance and Removal of Trees and adding City Code § 801.36 regarding Tree Preservation

PROJECT SUMMARY

Section 1. Ordinance Amendment

- 1.1. General. One of the City's goals for 2015 is to adopt an Ordinance that protects old and important trees and requires replacement of trees removed. This Ordinance is called the Tree Preservation Ordinance. While creating the Tree Preservation Ordinance, the City has also reviewed an amendment to City Code Chapter 710 Planting, Maintenance and Removal of Trees to maintain the abatement procedure for diseased or hazardous tree while moving any tree preservation requirement to the new Section 801.36 within the Zoning Code.

During workshops on September 8 and September 21, the Planning Commission has reviewed the draft Tree Preservation Ordinance. A number of changes were recommended to the draft Ordinance to address local issues to Wayzata and a request was made for Manuel Jordan, the City's tree consultant, to review and make recommendations to the Ordinance. Both the changes based on Planning Commission workshop comments and the comments from Manuel Jordan are incorporated in the proposed Ordinance (Attachment A).

On October 19, the Planning Commission conducted a public hearing for the Tree Preservation Ordinance. The Planning Commission approved the Planning Commission Report and Recommendation (Attachment B) recommending

approval of the Tree Preservation. The discussion at the Planning Commission meeting is described in more detail below.

- 1.2 Tree Abatement versus Tree Preservation. The proposed Ordinance will separate tree regulations into two different Chapters: tree abatement will remain in Chapter 710 Maintenance and Removal of Trees and tree preservation will be moved into the Zoning Ordinance in Section 801.36 Tree Preservation. The simplest explanation for this separation is that the purpose of tree abatement is when the City would order a property owner to remove a tree (such as when it is a hazard) and the purpose of tree preservation is when a property owner wants to remove a healthy tree (often due to construction) and the City wants to either adjust the owner's plans to protect a Heritage Tree or require replacement for the lesser trees. Chapter 710 allows the City to use its police powers to protect its residents' health, safety and welfare to require removal of hazardous trees while the Zoning Ordinance allows the City to preserve or replace trees to implement the goals of the Comprehensive Plan.
- 1.3 Public Hearing Notice. A Notice of Public Hearing regarding the addition of Chapter 801 Section 36 "TREE PRESERVATION" was published in the Lakeshore Weekly on October 6, 2015.
- 1.4 October 19, 2015 Planning Commission Meeting Summary. The Planning Commission reviewed the Application and held a Public Hearing on October 19, 2015. The draft Planning Commission minutes are provided in Attachment C. Merrily Babcock testified that she is generally supportive of the proposed Ordinance and asked about how the Ordinance would have been implemented if it was in place for recent developments. Ms. Babcock asked if the Ordinance includes consideration for trees off the site of the development. Staff stated that the Tree Preservation Plan must include consideration for any off site tree in which the tree's Critical Root Zone is on the property being development. The Ordinance could require adjustments to the development to protect those trees' roots.

After the Public Hearing was closed, the Planning Commission discussed five elements of the Ordinance: who can be a City Forester; what agency provides guidance on the Emerald Ash Borer; ensuring that the Critical Root Zone has replaced the Drip Line of a tree; ensuring that staff is pro-active in inspecting and releasing financial securities after trees are installed; and the proper amount of tree replacement. These five issues are discussed in greater detail in Section 2 below. The Planning Commission approved a Report and Recommendations to approve Tree Preservation Ordinance with a criteria for who can be a City Forester; identifying an agency that provides the guidance for an Emerald Ash Borer investigation; that utilities must protect the Critical Root Zone when trenching; and a requirement for staff to review and release the financial securities on a timely manner on a 6-0 vote. Commissioner Gonzalez was absent. The tree replacement ratio was not changed.

- 1.5 Effective Date and Implementation of the Ordinance. The Ordinance will become effective the day of its publication in the newspaper. Once the Ordinance is in effect, any development requesting a grading permit would need to meet these standards. This means that developments that may have received a zoning approval (such as Design Review, a Conditional Use Permit or a Planned Unit Development) before the Ordinance's adoption would need to submit a tree preservation plan and meet the Ordinance requirement when they apply for their grading permit.

Section 2. Summary of Issues

- 2.1 Zoning Analysis. Both the Maintenance and Removal of Trees (Chapter 710) regulations and the Tree Preservation (Section 801.36) will apply to the entire City regardless of zoning district. Chapter 710 is a part of the overall City Code and Section 801.36 will become part of the Zoning Ordinance.

While the Tree Preservation applies to the entire City, it has different standards for land developers (individuals or companies that subdivide land) and homeowner or commercial property owners. The two standards apply because development has a greater impact on the surrounding land (through the installation of utilities and the creation of roads and stormwater infrastructure) than homeowner would if they were construct and addition or otherwise improve their property.

- 2.2 How the Ordinance Works. As stated above, the Tree Preservation Ordinance applies to the removal of any healthy tree that is not a hazard. The standards are broken into two categories: Developers and Residential or Commercial Property Owners. Developers are allowed a greater removal without replacement (25% of the total inches on site due to the expectation that mass grading would require more removal) but the developer's tree replacement plan needs to be approved by the City Council during the zoning approval. Property owners are allowed a lower removal allowance (10% because of development of the property has already removed a number of trees during mass development) but the property owner's tree replacement plan can be administratively approved by the City Forester.

The Ordinance divides trees into three categories: Heritage Trees (the largest and most special), Significant Trees (important but not Heritage) and all other trees. Heritage Trees must be avoided (preserved) if possible and if it must be removed, there is not removal allowance and the replacement ratio is twice that of Heritage Trees. Significant Trees do not need to be preserved and any removal over the allowance within the Ordinance will require replacement at half the rate of a Heritage Tree. All other trees (the smallest trees) may be removed without replacement. The table below describes the tree categories and there replacement requirement.

How are the Trees categorized?

Tree Category	Size of Tree	Removal without Replacement	Replacement Ratio	Size of Replacement Trees
Heritage Trees	Softwoods 30 Caliper Inches or Larger	None	2 Caliper Inch per 1 Caliper Inch Removed.	Minimum of 2.5 Inches Deciduous Trees or 6 Foot Tall Conifers.
	Hardwoods or Conifers 24 Inches or Larger			
Significant Trees	Hardwoods or Conifers between 6 and 24 Caliper Inches	25% of Total Caliper Inches for Developers; 10% for Home/Business Owners	1 Caliper Inch per 1 Caliper Inch Removed.	
	Softwoods between 12 and 30 Caliper Inches			
Non-Significant Trees	Hardwoods or Conifers less than 6 Caliper Inches	All	No Replacement Required.	
	Softwoods less than 12 Caliper Inches			

Dead, unhealthy or hazardous trees are exempt from the replacement requirements, as are trees that were part of a commercial business (nursery or tree farm), tree that are transplanted elsewhere or trees that are removed to install regional infrastructure identified in a City infrastructure plan.

- 2.3 City Forester. The Planning Commission required a criteria or certification for an individual being appointed as the City Forester. Currently, the City Manager can appoint anyone a City Forester. Upon consultation with Manuel Jordan, the City's tree consultant, the criteria has been added that the City Forester must be qualified to be a Certified Arborist by the International Society of Arboriculture.
- 2.4 Emerald Ash Borer Investigation. Section 710.05(e) describes the ability of the City Forester to declare an ash tree a nuisance. The Planning Commission felt uncomfortable leaving this determination solely to the Forester, particularly since the other nuisances cite some State agency for guidance. Since the Minnesota Department of Agriculture is in charge of the State's response to Emerald Ash Borer, staff has added the nuisance declaration must be based on the Department of Agriculture guidance.
- 2.5 Discretionary Protections for Utilities. At the Planning Commission review, Section 801.36.07(b) required utility companies to protect the Drip Line of a tree, while the Drip Line had been replaced with the Critical Root Zone in all other places in the Ordinance. This was simply an oversight by staff. The Critical Root Zone is preferred because the diameter of the zone increases as the tree grows, while the Drip Line does not grow much once a tree reaches maturity. This Section has been changed to the Critical Root Zone.
- 2.6 Financial Guarantee. Section 801.36.14 addresses the financial security that would need to be deposited with the City to ensure that the trees are replaced and healthy three years after they have been installed. The Ordinance that the Planning Commission reviewed did not have an affirmative requirement that staff

maintain and check these financial securities. The Ordinance has been amended to require that the Zoning Administrator review the financial securities at least once during the growing season and preform inspections and release the securities when warranted.

- 2.7 Tree Replacement Formula. The Planning Commission discussed the replacement ratio. The Planning Commission Chair observed that a homeowner removing one 30 inch cottonwood tree would require the planting of 24 trees (at 2.5 inches) or the payment of approximately \$6,000 in fee-in-lieu of replacement (based on the value of \$100 per inch of tree). Additionally, that homeowner would need to deposit \$6,000 with the City in addition to paying a nursery \$6,000 to deliver and install the trees. The majority of the Planning Commission stated that large trees (Heritage Trees) are important to the City and that this dollar value would require both developer and property owner to consider the financial obligation to removing important trees.

For reference, Edina and Minnetonka requires replacement at a ratio of 1 inch for each 1 inch removed; Plymouth requires replacement at a ratio of 1.25 inches for each 1 inch removed; and Rosemount requires replacement of 1 inch for each 1 inch of Heritage Tree removed and ½ inch for each 1 inch of Significant Tree of removal. It should be noted that Edina, Minnetonka and Plymouth allow a greater percentage of removal before replacement is required than the proposed Ordinance. The Planning Commission also reviewed Oakdale's Ordinance, but their replacement is based on the number of trees planted, not the total inches of the tree planted.

Section 3. Action Steps.

After considering the items outlined in this Report, the City Council should pursue one of the following options as an action step:

1. Adopt the First Reading of Ordinance 757 included as Attachment A of this Report.
2. If the Council wishes to significantly modify the Ordinance, the Council should direct staff to prepare a revised Ordinance for review and adoption at the next Council meeting.

Attachments:

Attachment A: Tree Preservation Ordinance

Attachment B: Planning Commission Report and Recommendation

Attachment C: Draft October 19 Planning Commission Meeting Minutes

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 757

**AN ORDINANCE AMENDING CHAPTER 710 (PLANTING, MAINTENANCE AND
REMOVAL OF TREES) OF THE WAYZATA CITY CODE, AND AMENDING
CHAPTER 801 (ZONING ORDINANCE) OF THE WAYZATA CITY CODE TO
INCLUDE NEW SECTION 36 ON TREE PRESERVATION**

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment to Ch. 710 of City Code. Chapter 710 of the Wayzata City Code (Planting, Maintenance and Removal of Trees) is hereby amended to read in its entirety as set forth in Exhibit A attached hereto (~~struck~~ text deleted; underlined text added).

Section 2. Amendment to Ch. 801 of City Code. Chapter 801 of the Wayzata City Code (Zoning Ordinance) is hereby amended to add a new Section 36, which shall read in its entirety as set forth in Exhibit B attached hereto.

Section 3. Findings. The amendments made hereby are based upon the findings set forth in the Report and Recommendation of the Wayzata Planning Commission, dated October 19, 2015.

Section 4. Effective Date. This Ordinance will become effective upon passage and publication.

Adopted by the City Council this ____ day of _____, 2015.

Ken Willcox
Mayor

ATTEST:

Heidi Nelson
City Manager

First Reading:
Second Reading:
Publication:

EXHBIT A

Amendment of Ch. 710 of City Code

CHAPTER 710

~~PLANTING,~~ MAINTENANCE AND REMOVAL OF TREES

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 is set forth more fully in Section 710.13 of this Chapter, and Section 801.36 of the Zoning Ordinance. In order to maintain and enhance the quantity and quality of trees growing within the City, this Chapter is adopted to regulate the ~~planting,~~ maintenance and removal of trees within the City of Wayzata by: (1) Defining the duties and responsibilities of the City Forester as the agent enforcing regulations relating to the planning, ~~planting,~~ 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 for the pruning and removal of trees on private property that endanger public safety; (4) Providing for standards and specifications of all policy concerning trees on public property; and ~~(5) Providing for standards and specifications of a care protection policy concerning trees in subdivision properties; and~~ (56) Providing for standards and specifications for care protection policy concerning trees within project construction limits.

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

710.02. Definitions. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

a. "Applicant" shall mean any person applying for any City permit or approval that would result in the construction or improvements on land within the City that contains Significant Trees.

b. "Forester" shall mean that person appointed as City Forester by the Wayzata City Manager and meets the qualifications of the International Society of Arboriculture.

~~c. "Preservation Plan" shall mean a plan which is prepared for a proposed development or redevelopment project by a Minnesota registered surveyor which sets forth the project area, locates proposed improvements and locates all Significant Trees located in the project area. It shall indicate which Significant Trees are to be preserved and which are to be removed as a result of the construction of the project. Significant Trees' diameters, heights (where applicable) and species shall be noted in the Preservation Plan.~~

~~cd.~~ "Code Enforcement Officer" shall mean the City Manager or designee.

~~de.~~ "Significant Trees" shall mean healthy trees (as determined by the City Forester) which are six (6) inches in diameter (DBH) for a hardwood deciduous trees, twelve (12) inches DBH or greater than ~~twelveeight~~ (128) feet in height for coniferous trees.

f. "Preservation" shall mean maintaining in its natural condition and location any tree.

g. "DBH" shall mean diameter of trees at breast height. It is that point 4½ feet (54 inches) above the ground at which the diameter of a tree shall be measured. Trees that branch near or below 4 ½ feet from the ground will be measured at the narrowest point below 4 ½ feet. Trunks that originate from the ground shall be considered separate trees. The City Forester shall have the final say in the DBH calculation if there is a question of how it is to be measured.

h. "Critical Root Zone" shall mean the minimum area around a tree that must remain undisturbed. The critical root radius is calculated by measuring the tree's diameter at breast height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree's DBH is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).

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

710.03. Duties and Qualifications of the Forester.

a. **Duties.** The Forester, as appointed by the City Manager, for the purposes of this Chapter shall 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/diseases.~~ -It shall further be the duty of the Forester and the City Manager and/or his/her designee to identify and describe 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 development project.

b. **Qualifications of the Forester.** The qualifications of the Forester shall be, as a minimum, those qualifications prescribed for certified arborists by the Minnesota Society of Arboriculture or by the Commissioner of Agriculture.

(Ord. ~~xxxx614~~ [5-27-1999])

710.04. Disease-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 policy as described in Section 710.17 of this Chapter.~~

(Ord. ~~xxxx614~~ [5-27-1999])

710.05. 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) ~~Ceratoeystis Ulmi (Buisman) Moreau~~ or which harbors any of the elm bark beetles known by the Minnesota Department of Agriculture to transmit the disease. ~~Scolytus Multistriatus (Eichh.) or Hylurgopinus Rufipes (Marsh).~~
- 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 ~~Ceratoeystis Fagacearum.~~
- 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 infestation of the Emerald Ash Borer (EAB) as determined by the City Forester after considering Minnesota Department of Agriculture guidance.
- fe. 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.
- gf. 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. ~~xxxx 614 [5-27-1999]~~)

710.06. 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. However, except for cases of emergencies or the imminent threat of personal or

property damage, the City shall first notify the property owner at least five (5) days prior to such entry by certified mail sent to the address of the property listed on the Hennepin County tax records. Such entry may occur after five (5) days even if the certified letter is undeliverable or returned. The City Forester ~~shall~~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. ~~xxxx614~~ [5-27-1999])

710.07. Abatement of Nuisances. In abating the nuisances defined in Section 710.05, the Forester shall cause the infected 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. 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])

710.08. Abatement Procedure. Whenever the 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 shall proceed to abate said nuisance as follows:

a. If the 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 ~~fifteen-twenty one~~ (21+5) days from the date of the mailing. If no action to abate the nuisance is taken within this period the 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.

b. If the 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 ~~five-seven~~ (75) 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 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 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 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.

(Ord. ~~xxx614~~ [5-27-1999])

710.09. Special Assessment Procedure. Upon receipt of a report from the Forester required by Section 710.08, 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 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])

710.10. 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 related to transportation of infected material.

(Ord. ~~xxx614~~ [5-27-1999])

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

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

710.12. 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. Refer to Chapter 519, Section .01 of the City Code.

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

~~**710.13. Establishment of Tree Preservation Zone.** A tree preservation zone is hereby established and applies to all property within the City of Wayzata in order to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water 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.~~

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

710.134. Application. The provisions of this Chapter shall apply to the entire Tree Preservation Zone as defined in City Code Section 801.36.03.

~~A tree preservation zone shall be applied to and superimposed upon all property contained herein existing or amended by the text and map of the Wayzata Zoning Ordinance. The regulations and requirements imposed by the Tree Preservation Zone shall be in addition to flood plain, shoreland and wetland regulations and requirements, and will all jointly apply to the property. If a conflict is created by the joint application of zones, the more restrictive requirements shall apply.~~

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

~~**710.15. Restrictions.** Within the Tree Preservation Zone, it shall be unlawful for any person or groups of persons to remove from privately owned land any tree or trees in excess of thirty two (32) inches diameter at breast height (DBH) per acre (43,560 square feet) in any twelve (12) month period without having first obtained a valid tree removal permit from the City. The removal rate for parcels which are less than one (1) acre or more than one (1) acre shall be mathematically proportionate (subject, however, to the maximum density of thirty two (32) inches diameter (DBH) for each acre). For example, up to sixteen (16) inches may be removed from a parcel which is one half (1/2) acre in size without a permit or up to sixty four (64) inches (but only up to thirty two (32) inches) diameter at breast height (DBH) for each acre) may be~~

removed from a parcel which is two (2) acres in size without a permit. The removal of dead, diseased or hazardous trees from privately owned land shall not require a tree removal permit.

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

710.146. Tree Removal Permit and Tree Preservation Plan.

~~a. — Any person with due authority desiring a permit to remove a tree must first obtain a permit for such, if needed under City Code Section 710.15, and if applicable, submit a tree preservation plan in accordance with City Code Section 801.36, as provided in Section 710.15 shall submit a written application to the Code Enforcement Officer. The application shall include the following information:~~

- ~~(1) — Name and address of applicant.~~
- ~~(2) — Status of the applicant with respect to the land.~~
- ~~(3) — Written consent of the owner of the land, if the applicant is not the owner.~~
- ~~(4) — Name of the person preparing any map, drawing or diagram submitted with the application.~~
- ~~(5) — Location of the property, including a street address or legal description.~~
- ~~(6) — Diagram of the parcel of land, specifically designating the area or areas of proposed tree removal and the existing and proposed use of such area.~~
- ~~(7) — Location of all proposed or existing structures, driveways or other hard surfaces on the site.~~
- ~~(8) — Location of all trees and identification of size (DBH) and species.~~
- ~~(9) — Designation of all diseased or damaged trees.~~
- ~~(10) — Designation of any tree(s) obstructing any roadway, pavement, walkway or utility.~~
- ~~(11) — Any proposed grade changes that might adversely affect or endanger any tree(s) on the site and plans to protect them.~~
- ~~(12) — Designation of trees to be removed and trees to be maintained.~~
- ~~(13) — Purpose of tree removal (construction, driveway, recreation area, patio, building addition etc.).~~
- ~~(14) — All materials to be planted as replacement trees, indicating size, species and method of planting.~~

~~b. — Upon receipt of the application, the Code Enforcement Officer may visit and inspect the site and adjoining lands. If it is determined that the plan set forth in the application outlined in this Section will minimize the loss of Significant Tree(s) and will destroy no more trees than are necessary to achieve a proposed development or purpose, and will comply with the Standards for Preservation of Trees in New Construction or Redevelopment of Property set forth in Section 710.17.a. and Section 710.17.e., the permit application may be approved. If the Code Enforcement Officer determines otherwise, the application shall be denied.~~

~~e. — The applicant may appeal the Code Enforcement Officer's decision by providing written notice to the City Council, with the City Council's decision to be made by the first City Council meeting to be held on or after 30 days of the written notice to the Council.~~

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

710.17. — Standards for Preservation of Trees in New Construction or Redevelopment.

~~a. — Owners, Contractors, Developers, Builders and Applicants shall exert their best good faith efforts, as outlined in the Development Agreement, to avoid damage to or the destruction of Significant Trees when designing, locating or grading for and building improvements. This requirement shall be set forth in any development agreement and construction contracts entered into regarding the project.~~

~~b. — The applicant shall submit a Preservation Plan if improvements are to be constructed on property containing Significant Trees. The Preservation Plan shall be submitted along with all other materials required for the permit. The Preservation Plan shall be officially filed when the Code Enforcement Officer has received and examined the application and determined that all required information has been submitted and that the application is complete. Following the determination of "completeness," the Preservation Plan shall be approved or denied by the Code Enforcement Officer within ten (10) business days unless the Preservation Plan is being submitted in conjunction with a land use application, in which case the City of Wayzata shall approve or deny the application within sixty (60) days from the date of its official submission unless notice of an extension is provided by the City or a time waiver is granted by the applicant.~~

~~e. — The Code Enforcement Officer's review of the Preservation Plan shall be based upon the following criteria:~~

~~(1) — The applicant's legal right to use the property.~~

- (2) — The Preservation Plan minimizes the loss of Significant Trees and will destroy no more trees than are necessary to achieve a proposed development or purpose.
- (3) — The ease with which the applicant can alter or revise a proposed improvement to accommodate existing trees.
- (4) — The density of trees in the area and the effect of tree removal on property values of the neighborhood and on other existing vegetation.
- (5) — Impact upon the urban and natural environment including:
- (a) — Whether tree removal would substantially alter the water table or affect the stabilization of ground and surface water.
 - (b) — Whether tree removal would create susceptibility to erosion and siltation.
 - (c) — Whether tree removal would cause substantial damage to the existing biological and ecological systems.
 - (d) — Whether tree removal would affect noise pollution by increasing source noise levels to such a degree that a public nuisance may be anticipated or a violation of noise control ordinances will occur.
 - (e) — Whether tree removal will affect air quality by significantly affecting the natural cleansing of the atmosphere by vegetation.
 - (f) — Whether tree removal will affect wildlife habitat by significantly reducing the habitat available for wildlife existence and reproduction or causing the migration of wildlife from adjacent or associated ecosystems.
 - (g) — Whether tree removal will increase the possibility of tree disease, wind damage and the loss of windbreak effect.
- (6) — The heightened desirability of preserving tree cover in densely developed or densely populated areas.
- (7) — The need for visual screening in transitional areas or relief from glare, blight, commercial or industrial ugliness or any other visual affront.
- (8) — Whether the removal of the tree(s) is for the purpose of thinning a heavily wooded area where seventy five (75) percent of the trees will still remain.

~~d. — If it is determined that the Preservation Plan complies with the criteria as set forth in part c. above, the Preservation Plan may be approved. If the Code Enforcement Officer determines otherwise, the Preservation Plan shall be denied.~~

~~e. — The applicant may appeal the Code Enforcement Officer's decision by providing written notice to the City Council, with the City Council's decision to be made by the first City Council meeting to be held on or after 30 days of the written notice to the Council.~~

~~f. — If a Preservation Plan is approved, a copy of that approved Preservation Plan shall be attached to any issued permit and a copy shall be retained at City offices.~~

~~g. — Prior to commencing construction of the improvements, applicant must implement some form of barricade such as snow fence or plastic fence, which is easily visible to a height of three feet (36") above ground to protect all trees to be preserved under the Preservation Plan. The barricade must incorporate 100% plus ten (10) feet of the tree(s) at the drip line or area to be preserved. No equipment or materials may be stored, parked, driven, moved or deposited within the area to be preserved. The positive protective measure such as fencing shall not be removed until all phases of construction have been completed and removal of protective measure has been approved by the Forester.~~

~~h. — Upon completion of grading and all construction, the Forester or Designee shall inspect the construction site for damage to trees that were to be preserved under the Preservation Plan. A report "Damage Report" shall be submitted to the Applicant as to any trees required to be preserved under the Preservation Plan which have been destroyed or severely damaged because of the grading or construction activity.~~

~~i. — If the damage report identifies destroyed or severely damaged trees which were required to be preserved under the Preservation Plan, the applicant will be required to pay to the City of Wayzata the sum of two hundred (200) dollars per diameter inch or such greater amount as may be determined by the City Council for each such destroyed or damaged tree. Alternately, the City Council may, at its discretion, agree to tree replanting equaling the total caliper inches lost, species and quality, in lieu of a fine, or in conjunction with a reduced fine. Any such agreement shall specify the replacement tree(s) species and diameter. Applicant shall have the right to appeal the damage, report conclusions and resulting fine or replanting requirements in the same manner as set forth in part c. above.~~

~~j. — A certificate of occupancy shall not be issued until a final inspection of the property by the Code Enforcement Officer demonstrates compliance with the Preservation Plan and until such time as all levied fines have been paid or Security, subject to approval of the City Manager, has been posted by the applicant to secure~~

performance. The Code Enforcement Officer may postpone the final inspection of the property if the Code Enforcement Officer determines that seasonal conditions prevent the determination of whether or not there has been compliance with the Preservation Plan. If the applicant appeals pursuant to part i. above, a Certificate of Occupancy may be issued prior to completion of the appeals process, so long as Security is posted.

k. — A tree will not be deemed to have been damaged under part h. above where the City verifies the applicant implements positive measures such as fencing, or other City approved methods, during the entire period of grading and construction and where there is no evidence of physical damage to the trees, including their root structure.

l. — The applicant's responsibility for the loss of trees on site subject to a Preservation Plan shall cease once the site grading and construction have been completed, the preservation has been verified, or any penalty fees have been paid or approved, replacement trees have been planted, and their growth has been well established for two (2) growing seasons. All monies collected pursuant to this Chapter shall be placed in the plant maintenance fund.

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

710.158. Intentional or Deliberate Damage (Maximum Allowable Tree Removal). In addition to the regulations under City Code Section 801.36, 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 any tree or trees in excess of thirty-two (32) inches diameter at breast height (DBH) per acre (43,560 square feet) in any twelve (12) month period without first having obtained a tree removal permit from the City as set forth in Section 710.146 of this Chapter. The removal rate for parcels which are less than one (1) acre or more than one (1) acre shall be mathematically proportionate (subject, however, to the maximum density of thirty-two (32) inches diameter (DBH) for each acre.) This shall pertain to manual, mechanical, chemical, abiotic or biotic (fire, water, insects or inoculation) methods of any kind. 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 the amount of damages which may be assessed therefore. The removal of dead, diseased or hazardous trees, once established and documented as such by the City Forester, from privately-owned land shall not require a tree removal permit under Section 710.14. The City Forester and other City Staff shall 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. xxxx 627 [2-6-2001])

710.169. Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Chapter, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Chapter. 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. ~~xxx 627 [2-6-2001]~~)

710.1720. 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. ~~xxx 627 [2-6-2001]~~)

(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. xxx [xx-xx-2015]~~)

EXHIBIT B

Amendment of Ch. 801 of City Code

000043/204032/2240685_1

CITY OF WAYZATA
ZONING ORDINANCE
CHAPTER 801
SECTION 36
TREE PRESERVATION

SECTION 36:

- 801.36.01: Purpose**
- 801.36.02: Definitions**
- 801.36.03: Establishment of Tree Preservation Zone**
- 801.36.04: Process**
- 801.36.05: Tree Preservation Plan**
- 801.36.06: Mandatory Protection**
- 801.36.07: Discretionary Protection**
- 801.36.08: Significant Tree Removal**
- 801.36.09: Tree Replacement Formula**
- 801.36.10: Size, Type and Diversification of Replacement Trees**
- 801.36.11: Acceptable Tree Replacement Species**
- 801.36.12: Other Replacement Tree Requirements**
- 801.36.13: Fee-in-Lieu of Tree Replacement or Replacement Trees Planted in Public Areas**
- 801.36.14: Financial Guarantee**

801.36.01 **Purpose.** 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 and to encourage a resourceful and prudent 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 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.

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

- a. “Canopy Of Tree” shall mean the horizontal extension of a tree's branches and foliage in all directions from its trunk and upper layer of green crown.
- b. “City Forester” shall mean that person appointed as City Forester by the Wayzata City Manager and meets the qualifications of the International Society of Arboriculture.
- c. “Coniferous Tree” shall mean a woody plant bearing seeds and cones oftentimes, but not always, retaining foliage throughout the year.
- d. “Construction Area” shall mean 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.
- e. “Critical Root Zone” shall mean the minimum area around a tree that must remain undisturbed. The critical root radius is calculated by measuring the tree’s DBH. For each

inch of tree DBH, 1.5 feet of root zone radius must be protected. For example, if a tree's DBH is 10 inches, then its critical root zone radius is 15 feet ($10 \times 1.5 = 15$).

f. "Deciduous Tree" shall mean a woody plant which has a defined crown, and which loses leaves annually.

g. "Developer" shall mean any person or entity who undertakes to improve or redevelop a parcel of land which involves creating one (1) or more dwelling units, or which requires a grading permit.

h. "Diameter of Tree at Breast Height or 'DBH'" shall mean tree diameters shall be measured at a point $4\frac{1}{2}$ feet (54 inches) above the ground at which the diameter of a tree shall be measured. Trees that branch near or below $4\frac{1}{2}$ feet from the ground will be measured at the narrowest point below $4\frac{1}{2}$ feet. Trunks that originate from the ground shall be considered separate trees. The City Forester shall have the final say in the DBH calculation if there is a question of how it is to be measured.

i. "Drip Line of a Tree" shall mean an imaginary vertical line which extends from the outermost branches of a canopy to the ground.

j. "City Forester" shall mean a person appointed as City Forester by the Wayzata City Manager and meets the qualifications of the Minnesota Association of Consulting Forester.

k. "Hardwood Deciduous Tree" shall mean a deciduous trees recognized as hardwoods by the City Forester; includes ironwood, catalpa, oak, maple (hard), walnut, ash, hickory, birch, black cherry, hackberry, locust and basswood.

l. "Healthy Tree" shall mean the average or better condition and vitality for area as may be determined by the forester or City Forester.

m. "Heritage Tree" shall mean a healthy softwood deciduous tree measuring equal to or greater than thirty inches (30") in DBH , a healthy hardwood deciduous tree measuring equal to or greater than twenty five inches (25") in DBH or a healthy coniferous evergreen tree greater than 25 inches (25") in DBH.

n. "Landscape Architect" shall mean a person licensed by the state of Minnesota as a landscape architect.

o. "New Development" shall mean a piece of property that is being platted for the

purpose of establishing urban residential use with two (2) or more dwelling units or is being improved by grading which requires a grading permit. This definition does not apply to public street/utility projects.

p. “Nursery Stock Dealer” or “Nursery Stock Grower” shall mean a person licensed by the state of Minnesota as a nursery stock dealer or a nursery stock grower.

q. “Property Owner” shall mean the owner of a buildable property who is constructing or expanding a dwelling or a commercial property on that property.

r. “Significant Tree” shall mean a healthy deciduous hardwood tree measuring a minimum of six (6) inches DBH, a healthy softwood deciduous tree measuring a minimum of twelve (12) inches DBH, or a healthy coniferous tree measuring a minimum of twelve feet (12') in height or twelve (12) inches DBH.

s. “Softwood Deciduous Tree” shall mean a deciduous trees recognized as softwoods by the City Forester; includes cottonwood, poplars/aspen, box elder, willow, silver maple and elm.

t. “Tree Preservation Zone” shall mean the tree preservation zone established and described in this Chapter.

801.36.03: Establishment of Tree Preservation Zone. A tree preservation zone is hereby established and applies to all property within the City of Wayzata in order to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water 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 contained herein existing or amended by the text and map of the Wayzata Zoning Ordinance. The regulations and requirements imposed within the Tree Preservation Zone shall be in addition to flood plain, 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.

801.36.04: Process.

a. For Developers: Unless otherwise determined by the City Council, the following process for preserving trees shall be required from a Developer:

- (1) Prepare a tree preservation plan which shall be incorporated on the grading plan.
- (2) Implement the tree preservation plan prior to and during site development.
- (3) Submit a performance bond or similar financial guarantee for compliance with the approved tree preservation plan.
- (4) Comply with the City's tree replacement procedure and requirements set forth in this section.

The tree preservation plan shall be submitted with preliminary plat plans or as part of the application for a grading permit. The tree preservation plan must be certified by a Forester, Landscape Architect, Nursery Stock Dealer or a Nursery Stock Grower retained by the developer.

The plat and grading plans will not be approved by the City without an approved tree preservation plan. In the case of plats, the tree preservation plan will be approved by the City Council. In the case of grading permit applications, the tree preservation plan must receive the approval of the City Forester. Any disapproval of a tree preservation plan may be appealed to the City Council.

b. For Residential And Commercial Property Owners: The following process for preserving trees shall be required from a residential or commercial property owner who is not a Developer prior to any proposed tree removal:

- (1) Identify the Significant Trees and Heritage Trees on the property.
- (2) Identify the Significant Trees and/or Heritage Trees removed due to grading or construction.
- (3) Identify the protection measures 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 tree preservation plan shall be submitted before any Healthy Tree is removed. The tree preservation plan may be prepared by the property owner, but must receive the approval of the City Forester prior to any tree removal on the property. Any disapproval of a tree preservation plan may be appealed to the City Council.

801.36.05: Tree Preservation Plan. Developers shall be responsible for implementing an approved tree preservation plan prior to and during site grading and plan development. Residential and Commercial property owners shall be responsible for implementing an approved tree replacement plan prior to any healthy tree removal. 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 Heritage and Significant Trees, and ways to enhance the efforts of the Developer to mitigate damage to the trees on the property and the natural environment. The Developer is encouraged to meet with City staff prior to submission of a preliminary plat application or prior to application for the grading permit, whichever is sooner, to determine the placement of buildings, parking, driveways, streets, storage and other physical features which result in the fewest Significant Trees being destroyed or damaged. The tree preservation plan shall include the following items:

- a. The name(s) and address(es) of property owners and/or Developers.
- b. Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
- c. Delineation of all areas to be graded and limits of land disturbance.
- d. Size, species, location and condition of all Heritage and Significant trees located within the area to be platted or the parcel of record as well as on adjacent tracts where their critical root zones are within the proposed construction limits.
- e. Identification of all Heritage and Significant Trees on all individual lots. (The Developer shall be required to submit a list of all lot and block numbers identifying those lots.)
- f. Measures to protect Heritage and Significant Trees.
- g. Identification of all Heritage and Significant Trees proposed to be removed within the construction area, including the contouring of all areas to be clear cut.
- h. Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement schedule.

- i. 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.

801.36.06: Mandatory Protection. Measures to protect Heritage and Significant Trees shall include:

- a. Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the critical root zone of Significant Trees to be preserved on or adjacent to the property being developed.
- b. Identification of any oak trees requiring pruning between April 1 and July 15; any oak trees so pruned shall be required to have any cut areas sealed with an appropriate, non-petroleum based tree wound sealant, such as shellac.

801.36.07: Discretionary Protection. Measures to preserve or protect significant trees, which may be required by the City, include, but are not limited to:

- a. Installation of retaining walls or tree wells to preserve trees by eliminating the filling or cutting of soil within critical root zones of Significant Trees on or adjacent to the lot being developed.
- b. Placement of utilities in common trenches outside of the Critical Root Zone of Significant Trees, or use of tunneled installation.
- c. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
- d. Use of tree root aeration, fertilization, and/or irrigation systems when appropriate.
- e. Transplanting of Significant Trees into a protected area for later moving into permanent sites within the construction area.
- f. Safety pruning for people working within the construction limits and for the trees involved.

801.36.08: Tree Removal.

- a. Heritage Trees: Heritage Trees are valued and special trees for the City of Wayzata due to their size and age. All possible measures shall be taken to preserve these trees. Heritage Tree removal may occur only when there is not a practical alternative, such as infrastructure of a regional nature. There shall be a zero percent (0%) removal threshold on Heritage Trees, meaning every DBH inch of Heritage Tree removed shall

require full replacement in accordance with the standards within subsection 801.36.09 in addition to any other requirements hereunder.

b. Significant Tree 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 and tree cover removal is sometimes required in connection with development. Accordingly, twenty-five percent (25%) of the existing DBH inches of trees can be removed during development by a Developer pursuant to a tree preservation plan without obligation of replacement. Any removal beyond twenty-five percent (25%) will require replacement in accordance with the standards of subsection 801.36.09.

c. Significant Tree Removal By Residential And Commercial Property Owners: The City recognizes that additional tree removal may occur after the construction of new houses or commercial property, or the expansion of existing homes or commercial property, but to a lesser degree than the original development. Therefore, ten percent (10%) of the existing DBH inches of trees can be removed during home or commercial property construction or redevelopment without obligation of replacement. Any removal beyond ten percent (10%) will require replacement in accordance with the standards within subsection 801.36.09.

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 subsection 801.36.09:

- (1) Dead, diseased, or dying trees as determined by the City Forester; or
- (2) Trees that are transplanted from the site to another appropriate area 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; or
- (5) Any tree needed to be removed to construct or maintain one of the following:

- (a) Collector or arterial roads as defined by the City Transportation Plan.
- (b) Regional recreational trails.
- (c) Stormwater infrastructure serving a regional drainage area.
- (d) Installation or maintenance of trunk utility infrastructure as described in the Comprehensive Sewer or Water Plans.

801.36.09: 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:

- a. For any removal that exceeds the percentage of allowable removal of significant trees as set in subsection 801.36.08, all Significant Trees shall be replaced at the ratio of one (1) caliper inch per one (1) caliper inch removed.
- b. All Heritage Trees shall be replaced at the ratio of two (2) caliper inch per one (1) caliper inch removed.

801.36.10: Size, Types and Diversification Of Replacement Trees. Unless an approved tree preservation plan sets forth a different requirement, all replacement trees required under subsection 801.36.09 shall be of a similar species to those that are removed, but also shall be a minimum of twenty five percent (25%) conifers and twenty five percent (25%) deciduous hardwoods. Required Heritage Tree replacement must be of the same species as the Heritage Tree removed. Replacement trees must be no less than the following sizes:

- a. Deciduous Trees shall be no less than two point five (2.5") caliper inches; and
- b. Coniferous Trees shall be no less than six feet (6') high.

801.36.11: Acceptable Tree Replacement Species. The following list of trees are acceptable for tree replacement species. The City Forester may approve additional species if circumstances such as soil conditions, hydrology, topography, or recent tree pathogens warrant.

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

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

- a. Soil Composition: Comparisons should be made between soil conditions and the ecology of the proposed species to make sure they are compatible.
- b. 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.
- c. 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.

801.36.13: 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 cannot occur on site. The amount of fee-in-lieu of tree replacement will be determined annually by the City Council through the City fee schedule.

801.36.14: Financial Guarantee. The City shall, at its option, withhold a certificate of occupancy or require cash, a letter of credit or a bond satisfactory to the City in the amount of

one hundred ten percent (110%) of the value of the landscaping and tree replacement, securing the full performance of tree preservation plan and the tree replacement schedule. 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 replacement trees planted, including any needed replacement of the trees over a three (3) year period.

At least once annually, the Zoning Administrator 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:

- a. Upon installation of a healthy tree: 50% of the financial guarantee for that tree shall be released.
- b. First year inspection determining the installed tree is still healthy: 15% of the financial guarantee for that tree shall be released.
- c. Second year inspection determining the installed tree is still healthy: 15% of the financial guarantee for that tree shall be released.
- d. Third year inspection determining the installed tree is still healthy: 20% of the financial guarantee for that tree shall be released.



WAYZATA PLANNING COMMISSION

October 19, 2014

REPORT AND RECOMMENDATION ON AN ORDINANCE AMENDING THE WAYZATA ZONING ORDINANCE TO ADD A NEW SECTION 36 ON TREE PRESERVATION AND AMENDING WAYZATA CITY CODE CHAPTER 710 ON PLANTING, MAINTENANCE AND REMOVAL OF TREES

RECOMMENDATION

APPROVE

REPORT

Section 1. BACKGROUND

- 1.1 General. The City has engaged in the study and implementation of a new ordinance to protect, preserve, and enhance the natural environment of the City and to encourage a resourceful and prudent approach to the development and alteration of wooded areas. The City has held several Planning Commission and City Council workshops and forums on the matter. Staff has reviewed regulatory frameworks and policy considerations, and has received the input of the City's Forester. Based on the foregoing, staff has prepared a draft ordinance attached to this Report as Attachment A which would be an amendment to the City's existing Zoning Ordinance and Chapter 710 of City Code (the "Proposed Amendment").
- 1.2 Public Hearing. The Planning Commission held a public hearing on the Proposed Amendment on October 19, 2015. The Notice of Public Hearing was published in the *Lakeshore Weekly* on October 6, 2015.

Section 2. LEGAL AUTHORITY AND STANDARDS

- 2.1 City Council has the discretion and authority under state law and City Code to amend the City's Zoning Ordinance. Minn. Stat. Sec. 462.357; Wayzata City Code Section 801.03. A zoning ordinance amendment may be initiated by the governing body, the planning agency or by a property owner. Minn. Stat. Sec. 462.357, Subd. 4; City Code Section 801.03.
- 2.2 Under the City's Zoning Ordinance, the City Council acts on any proposed amendment upon receiving the report and recommendation of the Planning Commission. Sec. 801.03.2. In considering a proposed amendment to the Zoning Ordinance, the Planning Commission shall consider the 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 City Code Section 801.03.2.F.

Section 3. Findings

- 3.1 Based on the studies and reports of City Staff, and comments and information presented at the workshops and Public Hearing on the Application, the information provided by the City Forester, the Planning Commission of the City of Wayzata makes the following findings with respect to the Proposed Amendment:

1. The Proposed Amendment would not allow a use that would contravene any specific policies and provisions of the official City Comprehensive Plan.
2. The Proposed Amendment would only allow uses that conform to present and future land uses in the City's business and commercial districts.
3. The Proposed Amendment would not allow uses that do not conform with the performance standards contained in the Zoning Ordinance (parking, loading, noise, etc.).
4. The Proposed Amendment would not allow uses that would have a negative impact on the areas in which they are proposed in that the Proposed Amendment would reasonably regulate and preserve the City's vital natural resources and the urban forest.
5. The Proposed Amendment will not negatively impact upon property values in the City.
6. The Proposed Amendment will not allow any use that would have a negative impact traffic generation in the City.
7. The Proposed Amendment will not allow a use that would negatively impact existing public services and facilities and would provide a framework for needed telecommunications services in the City.

Section 4. Recommendation

- 4.1 Proposed Amendment. Based on the Findings of this Report, the Planning Commission recommends approval of the Proposed Amendment, as set forth in Attachment A, subject to all of the following conditions:
- A. The definition of "City Forester" must include some accreditation.
 - B. Section 710.05(e) Emerald Ash Borer Nuisance investigations follow a state protocol.
 - C. Section 801.36.07(b) Discretionary Protections for Utilities require trenches outside the Critical Root Zone instead of the Drip Line of a tree.
 - D. Section 801.36.14 Financial Guarantee include a requirement that the City staff proactively monitor timeline for landscape inspections and the release of funds.

Adopted by the Wayzata Planning Commission this 19th day of October, 2015.

Chair, Planning Commission

Attachment A

Proposed Amendment

000043/204032/2235350_1

**WAYZATA PLANNING COMMISSION
DRAFT MEETING MINUTES
OCTOBER 19, 2015**

AGENDA ITEM 2. Regular Agenda Public Hearing Items:

a.) Tree Preservation Ordinance – City of Wayzata

- i) Amend existing City Code Chapter 710 regarding the Planting, Maintenance and Removal of trees and adding City Code § 801.36 regarding Tree Preservation**

Mr. Zweber stated one of the City's goals for 2015 is to adopt a Tree Preservation Ordinance. While creating the Tree Preservation Ordinance, the City has also reviewed an amendment to City Code Chapter 710 Planting, Maintenance, and Removal of Trees to maintain the abatement procedure for diseased or hazardous trees while moving any tree preservation requirements to the new Section 801.36 within the Zoning Code. The draft Tree Preservation Ordinance was reviewed during Planning Commission workshops held September 8 and September 21. He reviewed the changes based on the Planning Commission comments and comments from Manuel Jordan, the City's tree consultant. Both the Planting, Maintenance and Removal of Trees (Chapter 710) regulations and the Tree Preservation (Section 801.36) will apply to the entire City regardless of zoning district. The Tree Preservation Ordinance has different standards for land developers, individuals or companies that subdivide land, and homeowners or commercial property owners. These two standards apply because development has a greater impact on the surrounding land. He explained Staff recommends keeping the language pertaining to exemptions for trunk utilities in Section 801.36.08.D.

City Attorney Schelzel stated the Commission had asked if the proposed Tree Preservation Ordinance would apply to land owned or used by other governmental units, like Met Council, within the City. Minnesota cities are statutorily authorized to regulate the use of private and public property with their city, including specifically, trees, and those regulations apply to all land within the city, including land owned or used by other governmental bodies, unless such use or user has specific authority that overrides the local regulation. The City Attorney's office has identified no such authority that would allow Met Council or other governmental units to avoid the regulations of a new Wayzata Tree Preservation Ordinance. However, in the event there was a conflict between an exercise of Met Council's authority and the new ordinance, a balancing-of-public-interests test would be applied to determine whether the City ordinance may be imposed upon Met Council. Religious land use and Telecommunications have protections the City must be aware of.

Mr. Zweber stated Sections 710.13 and 710.14, are establishing the Tree Preservation Zone and its application. Before the final draft goes to the City Council for approval these two (2) Sections may be moved to the 801.36 Section of the Zoning Ordinance and removed from the City Code Chapter 710.

Commissioner Gruber stated she had reviewed the definition for City Forester used previously and noticed that the draft definition has dropped any academic requirements. She would like to see minimum requirements included in the definition.

City Attorney Schelzel stated this is a position appointed by the City Manager and as it is currently written, it would be up to the City Manager to use good judgment and find someone who is qualified, without being tied to a specific certification, qualification, or credential. As the industry requirements change this would allow the City Manager flexibility. If the City does specify a credential, the City would want to be sure to determine which credential they would want to require.

Chair Vanderheyden stated there is authority with the position of City Forester and he would like to see that this person have required education and qualifications.

Commissioner Gruber stated she would recommend a minimum education requirement for the City Forester. She recommended referencing the DNR or Department of Agriculture for what types of certifications they require.

Chair Vanderheyden recommended Chapter 710.05.e. read: "Any ash tree at risk of infestation of the Emerald Ash Borer (EAB) as determined by the City Forester" then add "in accordance with" and add some standard. Either the City needs to clarify the City Forester has the qualifications or the City Codes establish the qualifications. Section 801.36.02.g suggested changing "involves one (1) or more" to "involves creating one (1) or more". He suggested changing "the drip line" to "the critical root zone" in Section 801.36.07.B. He stated the ratios listed in Section 801.36.09 were higher than what the Commission had discussed previously. He questioned the practicality of the City being able to accommodate a 2:1 ratio for heritage trees and a 1:1 ratio for significant trees.

Commissioner Iverson asked if these ratios would be tough enough to encourage people not to remove the larger heritage and significant trees.

Commissioner Ramy stated there would be practical difficulty in being able to accommodate the replacement of heritage and significant trees at the ratios in the draft Ordinance.

Commissioner Iverson stated the life span of a tree should also be factored into the replacement.

Chair Vanderheyden pointed out the draft Ordinance also establishes a 3-year guarantee on the survival of replacement trees.

Commissioner Iverson stated the 3-year guarantee is important and should remain in the Ordinance.

Mr. Zweber stated Section 801.36.A. does require all possible measures be taken to preserve heritage trees and removal may occur only when there is not a practical alternative. The Commission would have the ability to require changes that would potentially preserve heritage trees as part of the approval of the landscape plan and tree removal.

Commissioner Iverson asked what provisions were in place to ensure developers looked at alternatives and provided adequate data for the Commission to consider when looking at potentially removing a heritage tree.

Mr. Zweber explained the Commission could require developers to look at alternatives. In his experience more often than not, when a developer reworks their plans to save a heritage tree there are more significant trees removed and these are replaced at half the ratio as heritage trees. The Ordinance provides the Commission with the ability to challenge developers and require them to provide additional information on why the removal of a heritage tree is required.

Commissioner Gnos asked if the City would have the flexibility to lower the replacement standards if there was an identified need.

Mr. Zweber stated the Ordinance is draft so the City can accept a combination of trees planted and fee in-lieu-of planting replacement trees.

Commissioner Iverson asked who would be responsible, within City Staff, to determine where the additional planting would go.

City Attorney Schelzel stated any fees collected in-lieu of planting replacement trees must be used for tree related purposes in the City. The City Forest and Public Works Staff would determine where these replacement plantings would go.

Commissioner Iverson asked if these funds could be used to replace those elms the City has lost due to disease.

City Attorney Schelzel stated the preferred approach would be for the City to use the funds that in as fee in-lieu of replacing trees for planting those replacement trees. This would have the effect of freeing up funds that the City has dedicated to planting trees for other purposes.

Chair Vanderheyden expressed concerns that if the City has a set amount they spend annually on tree replacement and they use the funds that have been received for tree replacement then the City would not be continuing its own replacement and the tree inventory within the City would not grow as intended by the fee in-lieu. The fee in-lieu is intended to be an incremental lift to what the City would normally do and not fund the normal course of business.

Mr. Zweber suggested the Commission specify in the motion that the funds received in-lieu of replacing trees cannot be used to fund the City's annual replacement and maintenance of trees. Budgets and Ordinances are separate and there is no way to put in an Ordinance a requirement of how the budget is set up.

City Attorney stated the request would be good governance and the Commission has made it a point of concern. Staff will continue to discuss this if the Ordinance is implemented.

Commissioner Iverson stated the Commission does not know what the species of the trees in landscape or tree preservation plans. She asked if there was a way to ask developers to include pictures of the trees they would be planting.

Mr. Zweber stated this could be included in Section 801.36.05.H if this is the direction of the Commission.

Commissioner Gnos suggested having pictures recommended not required.

Commissioner Gruber does not believe this is something the Commission should require developers to provide.

Chair Vanderheyden stated in Section 801.36.08.C change “construct” to “construction”.

Commissioner Iverson asked if the City was giving the developer too much leeway by allowing an additional 10% DBH to be removed during construction without an obligation to replace these. The developers should know before construction starts what trees would be removed if they were doing their due diligence.

Chair Vanderheyden stated Section 801.36.08.C applies to homeowners not developers.

Mr. Zweber clarified the intent of Section 801.36.08.C was for those homeowners or commercial businesses that were doing additions or remodeling. This activity typically happens years after the original development and the trees on the site have changed.

Commissioner Gruber asked who was keeping track of the math to know what 10% of the DBH would be for a property based on original approvals and accounting for changes.

Mr. Zweber stated they would need to provide a plan of what is on the site at the time of the construction and this would be compared to the original plans. There is no intention to record the changes for every parcel every year but rather a snapshot in time.

Chair Vanderheyden asked if the City Forester would be the person who would inspect the trees and verify they were still healthy during the 3-year guarantee period outlined in Section 801.36.14. The process is not clarified in the Ordinance.

Mr. Zweber stated it is not practice to bring the City Forester out to do the final site plan and review but rather the Building Official or Planner/Engineer who is looking at the site. If the Commission's intent is to require the City Forester this should be included.

Chair Vanderheyden asked for clarification on the process for people to receive their funds back.

Mr. Zweber stated City Staff would do this and this could be included in the Ordinance.

City Attorney Schelzel stated this would be a new Section in the Zoning Ordinance and the Zoning Administrator is responsible for carrying out the Zoning Code and making sure that it is working. Currently the City Manager holds this position in Wayzata and it would become his responsibility to ensure that the steps in the Financial Guarantee are carried out.

Chair Vanderheyden stated 3 years is a long time and he would like clarification that the City would be diligent in their performance with plus or minus 20-days of planting for residents to get their money back each year.

Chair Vanderheyden opened the public hearing at 8:06 p.m.

Ms. Merrily Babcock, 337 Reno Street, Wayzata, asked if the map referenced in Chapter 710.14 was the map on page 6.2 of the City's Comprehensive Plan.

Chair Vanderheyden stated the map would be the entire map of Wayzata not the map of where significant trees are located. The Ordinance would apply to the entire City.

Ms. Babcock asked if Section 710.17 contained any fines per DBH for unlawful removal of trees. She suggested changing "hardwoods" to "softwoods" in Section 801.36.02.s. She asked when a project was being presented to the Commission and all of the trees have been marked on the property if there was any information on the adjacent properties and what trees were located on these properties in the critical root zones. She asked if there were any ramifications for a developer to remove a significant or heritage tree that had been marked to be preserved and was then removed without City approval.

Chair Vanderheyden clarified Excel Energy, not the developer, had removed the tree referred to by Merrily. Xcel Energy did not need City approval at that time. This Ordinance does address other agencies and how the City can hold them accountable.

Ms. Babcock asked what the ramifications would be for developers who do not adhere to the preservation measures outlined in the Ordinance. She asked how the public would be informed of the new Tree Preservation Ordinance. The City will be losing 400 trees in the right-of-way due to Emerald Ash Borer and there are other areas of the City that have a concentration of a specific type of tree. If there are other diseases or infestations that affect these species then there would be large areas of the City that would not have mature trees.

Commissioner Iverson asked Ms. Babcock if the draft Ordinance would make developers more cautious about removing trees.

Ms. Babcock stated the City would need strong enforcement in place.

Chair Vanderheyden closed the public hearing at 8:18 p.m.

Chair Vanderheyden asked the Commission for input on the replacement ratios for heritage trees and significant trees.

Commissioner Gruber stated the Commission had not discussed intentional damage to trees as referenced in Chapter 710.16.

Mr. Zweber stated this Chapter refers to people maliciously damaging trees not removing them. Removal is addressed in Section 810.36.13. The City will be adopting a set dollar amount for every inch and this will be used to calculate the fee in-lieu amount.

City Attorney Schelzel stated the new section would be part of the City Code and any violation of City Code is a misdemeanor and can be prosecuted and/or enforced as such. The Code references the section of State law that references misdemeanors and this states you can fine someone up to \$1,000 for violation and/or jail time. The new tree Preservation Ordinance would set up for people to pay when they take down a tree and if they do not present a plan they would still have to pay these fees and potentially fines.

Commissioner Iverson asked how the City would protect themselves if the person/developer stated the tree had been diseased and the City did not have proof of this.

City Attorney Schelzel stated the Code outlines that the City Forester would have to make the determination that a tree was diseased prior to the tree being removed.

Chair Vanderheyden asked what the fines would be if trees are removed and the City does not have a plan and there are no records of the trees that were removed.

Mr. Zweber stated the City would find what evidence they could regarding the existence of the trees to verify size and species and then the fines would apply.

Commissioner Gruber asked why Chapter 710 and Section 801 were separate.

City Attorney Schelzel explained the tree preservation aspect of the Code should be included in the Zoning Code and the provisions that pertain to nuisance abatement are left in Chapter 710 as part of the general police power that is in the City Code.

Mr. Zweber explained Chapter 710 would be initiated by the City and outlines the City's rights for tree protection and Section 801.36 is initiated by a developer or resident that would like to make changes to a parcel. He stated 801.36.05 is the Tree Preservation Plan and outlines the items that a developer or homeowner would need to supply to the Planning Commission and City. Section 801.36.05.D also clarifies that trees on adjacent parcels where the critical root zone may be impacted must be platted.

Commissioner Gruber asked if City Forester Manuel had specified a reason for increasing the replacement ratios.

Mr. Zweber stated City Forester Manuel had increased these ratios based on his recollection of past Planning Commission discussions.

Commissioner Gnos asked if residents would be allowed to remove one (1) tree from their property without a permit.

Mr. Zweber stated Chapter 710.15 had allowed for residents to remove a portion of trees based on the lot size but this was removed. A homeowner can apply for a permit and remove 10% of the inches that exist.

Mr. Zweber recapped the items the Planning Commission had requested and he clarified the Commission would like to have a process established for applicants to receive their financial guarantee back through an administrative process rather than having the request initiated by the applicant but also is flexible enough for the applicant to make the request.

It was the consensus of the Planning Commission to accept the replacement ratios for heritage trees and significant trees as drafted.

Mr. Zweber stated the City has been working to notify residents that the City would be implementing a Tree Preservation Ordinance including notices in the Friday Update and the public hearing. Once it is adopted it can be included in the Newsletter.

Mr. Thomson stated the updated information would also be included on the website.

Commissioner Gruber made a motion, seconded by Commissioner Iverson, to accept the Planning Commission Report and Recommendation for amend existing City Code Chapter 710 regarding the Planting, Maintenance, and Removal of Trees and adding City Code §801.36 regarding Tree Preservation with the modifications outlined by the Planning Commission. The motion carried unanimously.



**Planning Report
Wayzata City Council
November 4, 2015**

File Case No:	PR 2015-14
Owner:	David Frey
Address of request:	240 Manitoba Ave S
PID number:	06-117-22-24-0029
Prepared By:	Eric Zweber, Interim City Planner
Project Summary:	The Application is for a Variance from the Twenty (20) Foot Rear Yard Setback requirement and the 30% Lot Coverage requirement for a residential structure in the C-1 Office and Limited Commercial District. (City Code § 801.19.5)

PROJECT SUMMARY

Section 1. Ordinance Amendment

- 1.1. General. David Frey (the "Owner" or "Applicant") has submitted a development application (the "Application") requesting approval to construct an approximately ten (10) feet wide by twenty four (24) feet long, two hundred twenty eight square foot (228 SF) second garage stall onto an existing attached garage (the "Project") at 240 Manitoba Ave S (the "Property"). The Application requests approval to encroach into the twenty (20) foot rear yard setback to a distance of 10.2 feet to allow for the location of the second garage stall in place of an existing driveway (the "Project"). Additionally, a lot coverage variance would be required to allow the lot coverage to exceed the 30% lot coverage requirement by 1.4%. The proposed site plan and building plans for the garage expansion are included as Attachment A to this Report.

The zoning request included in the Application is:

- A Variance from the Twenty (20) foot Rear Yard Setback for a residential structure within the C-1 District (Sections 801.19.5 and 801.56.6 B. 1. c.) to a distance of 10.2 feet (the "Setback Variance").
- A Variance from the 30% Lot Coverage for a residential structure in a C-1 District (Sections 801.19.5 and 801.56.7 A.) to increase the lot coverage to 31.4% (the "Lot Coverage Request").

1.2 Approval Requests. The Project includes two (2) approval requests associated with the Application:

A. *Variance for Rear Yard Setback*

The existing single stall, tuck-under garage is located on the southeast side of the house. The Applicant proposes to construct a second garage 9.58 feet wide by 24.13 feet deep, 230 SF garage addition on the southeast side of the garage to a distance of 10.2 ft from the rear property line. The request required approval of a Rear Yard Setback Variance from the twenty (20) feet side yard setback requirement for a residential structure within the C-1 Office and Limited Commercial District.

B. *Variance for Lot Coverage*

The existing lot coverage on the lot is 26.7% (1,308 SF building on a 4,891 SF lot), which under the 30% lot coverage allowed. The construction of the second garage stall addition would add 228 SF and raise the lot coverage to 31.4% (1,536 SF of building on a 4,891 SF lot), requiring a variance to 30% lot coverage standard.

1.3 Applicant's Narrative. The Applicant provided the following narrative describing their request:

I am requesting a Conditional Use Permit (since changed to a Variance) to reduce the side-yard setback requirements in order to add a second garage stall to my house. The house currently has a 1 stall garage and my wife and I would both like to be able to park ours cars in a garage.

The lot is zoned C-1, which allows for 10 foot setbacks around the property, but because a single-family residence is on the property, the R3 zoning applies. With the R3 zoning and a corner lot, the setback on the east side of the property where we would like to add a garage is 20 feet. The building is currently set back 19.7 feet from the lot line so decreasing the setback to 10 feet would put the east of 240 Manitoba Avenue in line with the east side of 230 Manitoba Avenue, just to the north and allow us to add 9.7 feet onto the existing garage and add another garage stall.

The garage addition is currently a paved, outdoor parking area so adding the garage would (not) impact the hardcover area currently on the lot.

Staff Note: The Conditional Use Permit Application was submitted on August 31. Staff provided Mr. Frey an Incomplete Letter on September 9 stating that this request is not a Conditional Use and that this request would need to be reviewed under a Variance Application. On September 9, the applicant re-submitted his request with a Variance Application.

1.4 Relevant Property Information.

Zoning:	C-1 Office and Limited Commercial District
Comp Plan:	Mixed Use Residential
Total lot size:	4,891 square feet (SF) or 0.11 acres

§801.19.5: Residential Standards in Non-Residential Districts:
Existing single family or two family residential uses within R-4, R-5, INS, C-1, C-2, C-3 and C-4 Districts also shall conform with R-3 District standards.

Map 1: Existing Property Aerial



1.5 Legal Description.

A copy of the legal description for the subject properties are on file and available for viewing at City Hall. The following properties are included in the project area of the Application:

240 Manitoba Ave S	06-117-22-24-0029	David Frey
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- 1.6 Public Hearing Notice. The Notice of Public Hearing was published in the Lakeshore Weekly on September 22, 2015. A copy of the Notice of Public Hearing was also mailed to all property owners located within 350 feet of the subject property on September 21, 2015.
- 1.7 October 5, 2015 Planning Commission Meeting Summary. The Planning Commission reviewed the Application and held a Public Hearing on October 5, 2015. Mr. Frey spoke about his current house with a one car tuck under garage and his desire to have both his and wife's cars parked indoors. He stated that there was no alternative to construct a second stall and comply with the zoning standards. There was no other testimony during the Public Hearing.

After closing the Public Hearing, the Planning Commissioners discussed that it is better to parking vehicles inside rather than outside, that being a corner lot placed limitations on the location of a second garage stall and that the C-1 standards for any use other than single family residential would allow for only a ten (10) foot setback. The building to the north and the building to the east were constructed with only a ten (10) foot setback. The Planning Commission directed staff to prepare a Report and Recommendations for approval of the Rear Yard and Lot Coverage Variance with a 7-0 unanimous vote.

- 1.8 October 19, 2015 Planning Commission Meeting Summary. The Planning Commission reviewed the Report and Recommendation to approve the Rear Yard and Lot Coverage Variance request. The Planning Commissioners commented that the Report conveyed their wish to approve the variance. The Planning Commission approve the Report and Recommendations without any revisions with a 6-0 vote. Commissioner Gonzalez was absent.

Section 2. Summary of Issues

- 2.1 Zoning Analysis. Adjacent property uses are:

Adjacent Property	Zoning	Uses
Northeast	C-1	Mixed Use
Southeast	C-1	Mixed Use
Southwest	C-4	Commercial
Northwest	R-3A	Single Family Residences

A comparison of the R-3 Standards and the proposed Project is as follows:

R-3 District	Code Standard	Proposed
Minimum Lot Area	9,000 square feet (SF)	4,891 SF
Minimum Lot Width	60 ft	60 ft
Minimum Lot Depth	100 ft	81.5 ft
Front Yard Setback (min.)	20 ft	17.2 ft

Side Yard Setback (Southwest)	20 ft	22.4 ft
Side Yard Setback (Northeast)	10 ft	4.9 ft
Rear Yard Setback (min.)	20 ft	19.68 ft (existing) 10.2 ft (proposed)
Lot Coverage	30%	26.7% (1,308 SF) existing 31.4 % (1,536 SF) proposed
Impervious Surface	35%	53.1% (3,847 SF) existing 53.1% (3,947 SF) proposed

Section 3. Applicable Review Criteria:

3.1 Zoning Ordinance Variance Standards. Section 801.05.1.C provides the criteria for reviewing variances from the Zoning Ordinance. The Variance requested in the Application is a Setback Variance. The variance review criteria are as follows (with Staff's comments included in *italics*):

- A. Variances shall only be permitted when they are:
- (i) in harmony with the general purposes and intent of this Ordinance; and
 - (ii) consistent with the Comprehensive Plan.

The Property is guided for Low Density Single Family residential use. The Application proposes to construct an expansion to an existing attached garage on the Property, encroach 9.6 ft into the required twenty (20) foot side yard setback and increase the lot coverage 1.4% beyond the 30% requirement. The Planning Commission Report and Recommendation makes the finding that the property is zoned C-1 and that the variances would not be required if the use of the property was non-residential. The Planning Commission found that the request is in harmony with the general purposes and intent of the Ordinance and are 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.

The Planning Commission Report and Recommendation makes the finding that property was created before the current zoning standards and that there is no opportunity to combine this property with any other to make it a compliant lot as the development to the north and the development to the east had. The Planning Commission found that this is a practical difficulty.

- 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 this 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.

The Planning Commission Report and Recommendations makes a finding that a second garage is a reasonable use of the property; that the non-conforming lot size and depth were not created by the landowner; and that second garage stall does not change 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.

The Planning Commission Report and Recommendations makes the finding that non-compliant lot size and depth are not economic considerations.

- 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.

Not applicable in this case, as the Applicant is not proposing earth sheltered construction.

- 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.

The Planning Commission Report and Recommendations makes the finding that the proposed addition to the existing garage of the existing single family detached house is a permitted use in the C-1 District provided that the development of the site meets the R-3 district standards.

- 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.

The Conditions from the Planning Commission Report and Recommendation are to secure a building permit for the project and pay all expenses related to issuing this 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.

The Planning Commission report and Recommendation makes a finding that Applicant has provided a narrative (included in Section 1.2 of this Report) to describe their reasons for requesting the Variance.

Section 4. Action Steps.

After considering the items outlined in this Report, the City Council should pursue one of the following options as an action step:

1. Adopt the draft approval Resolution No. 39-2015 included as Attachment D of this Report.
2. If the Council wishes to significantly modify the Resolution for approval, the Council should direct staff to prepare a revised Resolution for review and adoption at the next Council meeting.
3. If the Council wishes to pursue a denial motion, the Council should direct staff to prepare a revised Resolution reflecting the denial motion for review and adoption at the next Council meeting.

Attachments:

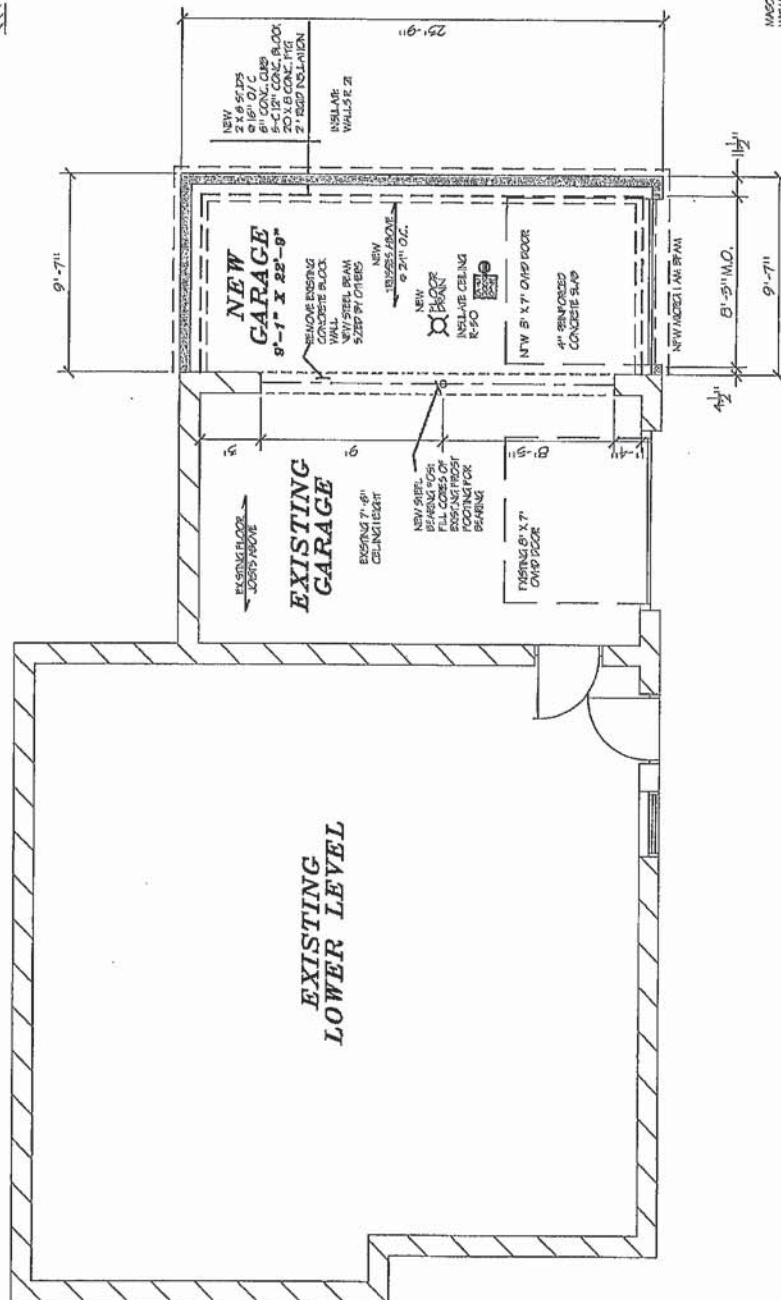
Attachment A: Submitted Plan Set:

- Existing Conditions Site Plan
- Proposed Site Plan
- Garage Remodel Plans

Attachment B: Draft October 5, 2015 Planning Commission Meeting Minutes

Attachment C: Planning Commission Report and Recommendations

Attachment D: Draft Resolution 39-2015



MASONRY CONTRACTOR TO VERIFY ALL DIMENSIONS WITH FIRST FLOOR FRAMING DIMENSIONS BEFORE CONSTRUCTION

8'-4 1/2" NEW PLASTER 11'12"11"

GARAGE ADDITION
PLAN

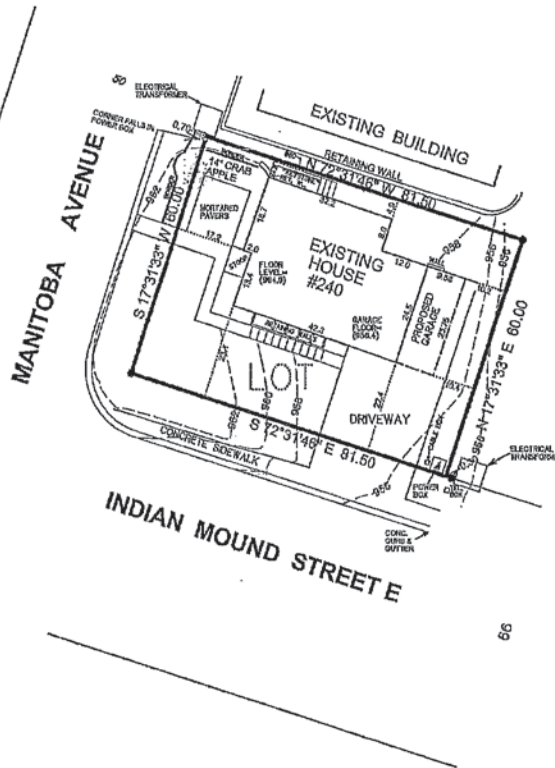
SCHE: 1/4"-1"
92 NEW SQ. FT.

REVISION: 6-20-16
SHEET 2 OF 5
PLAN NO. C1B47

FIELD NO. 58585, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634,

BUILDING SECTION
SCALE: 1/4"=1'
A 3

CERTIFICATE OF SURVEY FOR
DAVID FREY
 IN LOT 5, BLOCK 4, STEPHENS REARRANGEMENT
 OF BLOCKS 3 AND 4, TOWNSITE OF WAYZATA
 HENNEPIN COUNTY, MINNESOTA



LEGAL DESCRIPTION OF PREMISES:

The Southwesterly 60 feet of the Northwestern 81.5 feet of Lot 5, Block 4, "Stephen's Rearrangement of Blocks 3 and 4, Townsite of Wayzata."

• : denotes iron marker found

(908.3): denotes existing spot elevation, mean sea level datum

---917---: denotes existing contour line, mean sea level datum

Bearings shown are based upon an assumed datum.

This survey shows the boundaries and topography of the above described property, the location of an existing house and driveway, all other visible "hardcover", and the proposed location of a proposed garage thereon. It does not purport to show any other improvements or encroachments.

EXISTING HARDCOVER CALCULATIONS :

Lot area = 4891 sf

HOUSE = 1308 sf

STOOP = 32 sf

DRIVEWAY = 876 sf

WALK & STEPS = 379 sf

Total hardcover = 2595 Sq. ft.

2595 / 4891 x 100 = 53.06%

PROPOSED HARDCOVER :

Proposed garage = +228 sf

Removed driveway = -228 sf

No change in hardcover.

DATE	DESCRIPTION		GRONBERG AND ASSOCIATES, INC. CONSULTING ENGINEERS, LAND SURVEYORS, & SITE PLANNERS 445 NORTH WILLOW DRIVE LONG LAKE, MN. 55356 952-473-4141	I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  Mark S. Gronberg Minnesota Licensed Number 12755	SCALE 1"=20'
					DATE 7-22-15

**WAYZATA PLANNING COMMISSION
DRAFT MEETING MINUTES
OCTOBER 5, 2015**

b. 240 Manitoba Avenue S – David Frey

i. Rear Yard and Lot Coverage Variance for a Second Garage Stall

Interim City Planner Zweber stated David Frey has submitted a development application requesting approval to construct an approximately 10-foot wide by 24-foot long, 228-square foot second garage stall onto an existing garage. The application requests approval of a variance to encroach into the 20-foot rear yard setback to a distance of 10.2-feet to allow for the location of the second garage stall in place of an existing driveway. Additionally a lot coverage variance is requested to allow the lot coverage to exceed the 30% lot coverage requirement by 1.4%. He reviewed the Zoning Ordinances, zoning requests, and analysis.

Commissioner Gonzalez stated because this property is a corner lot, the owner is required to comply with the front yard setbacks on two sides rather than the standard front yard and side yard setbacks.

Applicant David Frey, 240 Manitoba Avenue South, Wayzata, explained he had worked to stay within the C-1 District setbacks because this is a residential use.

Chair Vanderheyden opened the public hearing at 8:42 p.m.

There being no one wishing to speak on the application, Chair Vanderheyden closed the public hearing at 8:43 p.m.

Chair Vanderheyden explained he would prefer to have a covered parking pad or garage instead of an exposed parking pad. He clarified the project would not increase the amount of impervious surface on the property.

Commissioner Gonzalez made a motion, seconded by Commissioner Young for the Planning Commission to direct Staff to prepare draft findings of fact based on discussions and a recommendation of approval of the variance from the 20-foot rear yard setback requirement and the variance for 30% lot coverage requirement for a residential structure in the C-1 Office and Limited Commercial District. The motion carried unanimously.



WAYZATA PLANNING COMMISSION

October 19, 2015

REPORT AND RECOMMENDATION ON APPLICATION FOR A REAR YARD SETBACK VARIANCE AND A LOT COVERAGE VARIANCE AT 240 MANITOBA AVENUE SOUTH

SUMMARY OF RECOMMENDATION

- Approval* of Rear Yard Setback and Lot Coverage Variances

** subject to certain conditions noted in Section 4 of this Report*

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Project. David Frey (the "Owner" or "Applicant") has submitted a development application (the "Application") requesting approval to construct an approximately ten (10) feet wide by twenty four (24) feet long, two hundred twenty eight square foot (228 SF) expansion to an existing attached garage (the "Project") at 240 Manitoba Ave S (the "Property"). The Application requests approval of a variance to encroach 9.8 feet into the twenty (20) foot rear yard setback and a variance to increase the lot coverage by 1.4% percent above the 30% lot coverage to allow for the construction of a second stall onto the existing single stall garage.
- 1.2 Application Request. As part of the Application, the Applicant is requesting approval of the following items:
 - A. A variance from the required twenty (20) foot Rear Yard Setback for a residential structure within the C-1 District (Sections 801.19.5, 801.75.2.J. and 801.56.6.B.1.c.) to allow encroachment of 9.8 ft into the setback (the "Setback Variance")
 - B. A variance from the required thirty (30%) percent Lot Coverage for a residential structure within the C-1 District (Sections 801.19.5, 801.75.2.J. and 801.56.7.A.) to allow the maximum lot coverage of 31.4% (the "Lot Coverage Variance").

- 1.3 Property. The property identification number and owner of the affected property (the "Property") are:

240 Manitoba Ave S	06-117-22-24-0029	David Frey
--------------------	-------------------	------------

- 1.4 Land Use. Uses to the north and the east are multiple story mixed use buildings, uses to the south are commercial and uses to the west are single family detached residential. The Property and adjacent properties to the north and east are zoned C-1, the properties to the south are zoned C-4 and the properties to the west are zoned R-3A.
- 1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Lakeshore Weekly* on September 22, 2015 and notices were mail to all properties within 350 feet of the Property on September 21, 2015. The required public hearing was held at the October 5, 2015 Planning Commission meeting.
- 1.6 Planning Commission Action. The Planning Commission reviewed the Application and held a Public Hearing on October 5, 2015. No individuals spoke at the Public Hearing. The Planning Commission voted seven (7) in favor and zero (0) opposed to direct staff to prepare a draft *Planning Commission Report and Recommendation* for approval of the Application.

Section 2. STANDARDS

- 2.1 Rear Yard Setback. The rear yard setback for a residential structure within the C-1 District is twenty (20) feet. Sections 801.19.5, 801.75.2.J. and 801.56.6.B.1.c.
- 2.2 Lot Coverage. The lot coverage maximum for a residential structure within the C-1 District is thirty (30%) percent. Sections 801.19.5, 801.75.2.J. and 801.56.7.A.
- 2.2 Zoning Ordinance Variance Standards. Section 801.05.1.C provides the criteria for reviewing variances from the standards of the Zoning Ordinance. The variance review criteria are as follows:
- 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 the 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.

Section 3. FINDINGS

Based on the Application materials, staff reports, public comment presented at the hearing, and Wayzata's Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact with respect to the Setback Variance and the Lot Coverage Variance:

3.1 Setback and Lot Coverage Variances.

- A. The Setback and Lot Coverage Variances requested in the Application do not change the current single family residential use. The property is zoned C-1 and the variances would not be needed in this zoning district if the use on the Property were non-residential. The Setback and Lot Coverage Variances requested are in harmony with the general purposes and intent of the Ordinance and are consistent with the Comprehensive Plan.

- B. The Property was platted before 1950. The lot size is non-conforming (54.3% of the requirement) and the lot depth is non-conforming (81.5% of the requirement). The property to the north and property to the east combined multiple non-conforming lots to create new conforming lots for development. The Manitoba Ave right-of-way is directly to the west and the Indian Mound East right-of-way is located directly to the south. The Applicant's Setback and Lot Coverage Variance requests are to address the practical difficulty that this lot is land locked and that there is not adjacent property to combine with to create a conforming lot.
- C. The Setback and Lot Coverage Variances requested are reasonable, due to circumstances driven by the existing lot layout, the non-conforming lot size of 54.3% of the minimum lot size requirement and the non-conforming lot depth of 81.5% of the minimum lot depth. If granted, the Setback and Lot Coverage Variances would not alter the essential character of the locality in that the height of the building would not change, no trees would be lost, the existing driveway access will remain the same, the total of all impervious surfaces would remain unaltered, and many residences in the neighborhood have two car garages.
- D. The practical difficulties necessitating the Setback and Lot Coverage Variances are not solely economic in nature. The existing lot size and dimensions on the Property are significant factors in the practical difficulty of meeting the Ordinance requirements.
- E. The proposed uses for the Property, including the attached garage, are permitted accessory uses within the C-1 District.
- F. The conditions for granting approval of the Setback and Lot Coverage Variances are listed below in Section 4 of this Resolution.
- G. The Applicant has provided the reasons that the Setback and Lot Coverage Variances are justified under the criteria of the Ordinance in order to make reasonable use of the land, structures and buildings on the Property.

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 Setback and Lot Coverage Variances as set forth in the Application (Attachment A), subject to all of the following conditions:
 - A. The Applicant must secure all necessary building permits for construction, and follow all laws and regulations applicable to the Project.

- B. All expenses of the City of Wayzata, including consultant, expert, legal, and planning incurred must be fully reimbursed by the Applicant.

Adopted by the Wayzata Planning Commission this 19th day of October 2015.

Chair, Planning Commission

Attachment A

Setback and Lot Coverage Variances as set forth in the Application

DRAFT RESOLUTION NO. 39-2015

**RESOLUTION APPROVING A REAR YARD SETBACK VARIANCE AND A LOT
COVERAGE VARIANCE AT 240 MANITOBA AVENUE SOUTH**

BE IT RESOLVED by the City Council of Wayzata, Minnesota as follows:

Section 1. BACKGROUND

1.1 Project. David Frey (the "Owner" or "Applicant") have submitted a development application (the "Application") requesting approval to construct an approximately ten (10) feet wide by twenty four (24) feet long, two hundred twenty eight square foot (228 SF) expansion to an existing attached garage (the "Project") at 240 Manitoba Ave S (the "Property"). The Application requests approval of a variance to encroach 9.8 feet into the twenty (20) foot rear yard setback and a variance to increase the lot coverage by 1.4% percent above the 30% lot coverage to allow for the construction of a second stall onto the existing single stall garage.

1.2 Application Request. As part of the Application, the Applicant is requesting approval of the following item:

- A. A variance from the required twenty (20) foot Rear Yard Setback for a residential structure within the C-1 District (Sections 801.19.5, 801.75.2.J. and 801.56.6.B.1.c.) to allow encroachment of 9.8 ft into the setback (the "Setback Variance")
- B. A variance from the required thirty (30%) percent Lot Coverage for a residential structure within the C-1 District (Sections 801.19.5, 801.75.2.J. and 801.56.7.A.) to allow the maximum lot coverage of 31.4%.

1.3 Property. The property identification number and owner of the affected property (the "Property") are:

240 Manitoba Ave S	06-117-22-24-0029	David Frey
--------------------	-------------------	------------

1.4 Land Use. Uses to the north and the east are multiple story mixed use buildings, uses to the south are commercial and uses to the west are single family detached residential. The Property and adjacent properties to the north and east are zoned C-1, the properties to the south are zoned C-4 and the properties to the west are zoned R-3A.

1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Lakeshore Weekly* on September 22, 2015 and notices were mail to all properties within 350 feet of the Property on September 21, 2015. The required public hearing was held at the October 5, 2015 Planning Commission meeting.

- 1.6 Planning Commission Action. The Planning Commission reviewed the Application and held a Public Hearing on October 5, 2015. No individuals spoke at the Public Hearing. The Planning Commission voted seven (7) in favor and zero (0) opposed to direct staff to prepare a draft *Planning Commission Report and Recommendation* for approval of the Application.

The Planning Commission reviewed the draft *Planning Commission Report and Recommendation* on October 19, 2015, where a motion to adopt the Report was approved on a ____ in favor and ____ opposed vote.

Section 2. STANDARDS

- 2.1 Rear Yard Setback. The rear yard setback for a residential structure within the C-1 District is twenty (20) feet. Sections 801.19.5, 801.75.2.J. and 801.56.6.B.1.c.
- 2.2 Lot Coverage. The lot coverage maximum for a residential structure within the C-1 District is thirty (30%) percent. Sections 801.19.5, 801.75.2.J. and 801.56.7.A.
- 2.2 Zoning Ordinance Variance Standards. Section 801.05.1.C provides the criteria for reviewing variances from the standards of the Zoning Ordinance. The variance review criteria are as follows:
- 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 the 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.

Section 3. FINDINGS

The City Council of the City of Wayzata hereby confirms and memorializes that the Setback Variance depicted in the Application meet the applicable requirements of Wayzata's Zoning Ordinance, based upon the following findings of fact made on the record (as well as all Application materials, staff reports, public comment presented at the hearing, and the Recommendation of the Planning Commission):

3.1 Variance.

- A. The Setback and Lot Coverage Variances requested in the Application does not change the current single family residential use. The property is zoned C-1 and the variance would not be needed in this zoning district if the use on this property were non-residential. The Setback and Lot Coverage Variances requested is in harmony with the general purposes and intent of the Ordinance and is consistent with the Comprehensive Plan.
- B. The property was platted before 1950. The lot size is non-conforming (54.3% of the requirement) and the lot depth is non-conforming (81.5% of the requirement). The property to the north and property to the east combined multiple non-conforming lots to create new conforming lots for development. The Manitoba Ave right-of-way is directly to the west and the Indian Mound East right-of-way is located directly to the south. The Applicant's Setback and Lot Coverage Variance requests are to address the practical difficulty that this lot is land locked and that there is not adjacent property to combine with to create a conforming lot.

- C. The Setback and Lot Coverage Variances requested is reasonable, due to circumstances driven by the existing lot layout, the non-conforming lot size of 54.3% of the minimum lot size requirement and the non-conforming lot depth of 81.5% of the minimum lot depth. If granted, the Setback and Lot Coverage Variance would not alter the essential character of the locality in that the height of the building would not change, no trees would be lost, the existing driveway access will remain the same, the total of all impervious surfaces would remain unaltered, and many residences in the neighborhood have two car garages.
- D. The practical difficulties necessitating the Setback and Lot Coverage Variances are not solely economic in nature. The existing lot size and dimensions on the Property is a significant factor in the practical difficulty with meeting the ordinance requirements.
- E. The proposed uses for the Property, including the attached garage, are permitted accessory uses within the C-1 District.
- F. The conditions for granting approval of the Setback and Lot Coverage Variances are listed below in Section 4 of this Resolution.
- G. The Applicant has provided the reasons that the Setback and Lot Coverage Variances are justified under the criteria of this section in order to make reasonable use of the land, structures and buildings on the Property.

Section 4. CITY COUNCIL ACTION

- 4.1 Based on the Findings of this Resolution, the request for approval of the Setback and Lot Coverage Variances as set forth in the Application (Attachment A), is hereby **APPROVED** subject to all of the following conditions (failure to comply with any one of these conditions shall result in the revocation of this approval):
 - A. The Applicant must secure all necessary building permits for construction, and follow all laws and regulations applicable to the Project.
 - B. All expenses of the City of Wayzata, including consultant, expert, legal, and planning incurred must be fully reimbursed by the Applicant.

Adopted by the Wayzata City Council this ____ day of November, 2015.

Mayor Ken Willcox

ATTEST:

City Manager Heidi Nelson

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

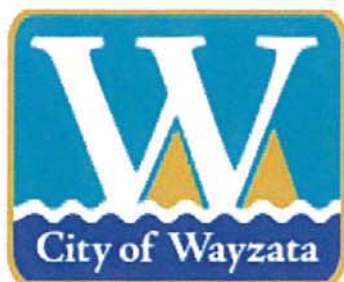
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Wayzata, Minnesota, at a duly authorized meeting held on _____, 2015.

Becky Malone, Deputy City Clerk
SEAL

Attachment A

Applicant Submittals



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1734

Mayor:
Ken Willcox

City Council:
Bridget Anderson
Johanna McCarthy
Andrew Mullin
Steven Taycke

City Manager:
Heidi Nelson

MEMORANDUM

DATE: October 28, 2015

TO: Mayor Willcox and Councilmembers

FROM: Jason Peters, Management/Planning Intern

RE: Review Consulting Services Scope from Forecast Public Art and
DRAFT Public Art Policy 2015 – 2016

Jack Becker, Forecast Public Art's Executive Director, gave a presentation at the October 6th workshop. His presentation focused on public art as a concept and how the City may approach public art when it is presented with projects or opportunities. The City is currently presented with a potential public art project as a part of the East Corridor Landscape Project. The public art project would be located in the Circle A/Lake Street Roundabout and will be supported by funds from the Wayzata Rotary Club and funds for the East Corridor Landscape Project from the Wayzata Bay Center Redevelopment. Forecast Public Art can assist the City in developing strategies, formulating the call for artists (RFPs), contracting with selected artists, overseeing design/construction projects and preparing documentation in regards to the Circle A/Lake Street Roundabout public art project. Staff is requesting approval to enter into a consulting contract with Forecast Public Art, based on the attached Consulting Services Scope.

Also, attached for your review is a draft of a Public Art Policy for the City of Wayzata. The City does not currently have a process, policy or procedure in place regards to public art. The purpose of this policy will be to help guide the City in the above referenced Circle A/Lake Street Roundabout project, as well as future public art projects. Staff is requesting your comments on the attached the Public Art Policy for 2015 - 2016.

Attachments:

Consulting Services Scope from Forecast Public Art
DRAFT Public Art Policy for 2015 – 2016



Forecast Public Art

Date: October 22, 2015

From: Jack Becker, Executive Director, Forecast Public Art

To: Jason Peters, Heidi Nelson, City of Wayzata, MN

Subject: Consulting Services Scope

Contact Name: Jack Becker, Executive Director, Forecast Public Art

Mailing Address: 2300 Myrtle. #160, St. Paul, MN 55114

Telephone: 651-641-1128 (ext 101)

Fax: 651-641-1983

E-mail: jack@ForecastPublicArt.org

Tax ID/ EIN: 41-1361351

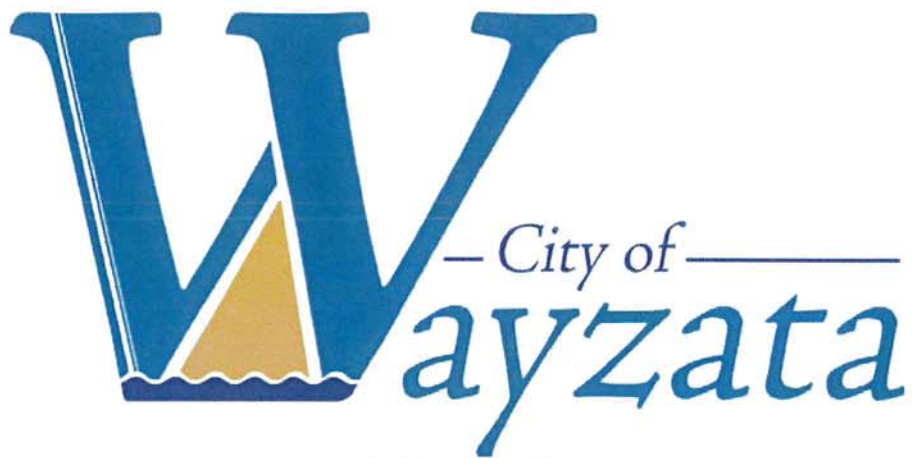
Hourly Fee: \$200 per hour

Total number of hours (not to exceed): 30

Total cost for fees: \$6,000

List of tasks and estimated hours:

1. Present to Project Committee an overview of public art and sculpture (including examples of roundabout sculptures) and discuss current trends and issues in the field of contemporary public art (2 hours, including prep time).
2. Obtain input from Committee members and key stakeholders and conduct research to learn about the site and community, its history and other contextual information (3 hours, including independent research).
3. Site review, location analysis, refine criteria for three projects at pre-determined sites (1 hours).
4. Draft project description for RFQ copy (4 hours, including obtaining feedback and editing final draft).
5. Research artists from Forecast's database and obtain recommendations for artists from others (2 hours).
6. Finalize RFQ copy, and send to list of ten invited candidates (2 hours).
7. Collect and sort submission materials; prepare Powerpoint and facilitate ranking by Committee at their second meeting (3 hours).
8. Communicate with three selected finalists and email rejection notices (1 hour).
9. Schedule Committee interviews with finalists (1 hour).
10. Facilitate interviews with finalists by Committee (3 hours) and complete selection.
11. Assist with follow up communications and contracting with selected artist or artist team (3 hours).
12. Assist as needed throughout the design development, fabrication, installation and promotional aspects of the projects (up to 4 hours).



Public Art Policy 2015 -2016

Created/updated: 2015

Revised:

**City of Wayzata
Public Art Policy 2015-2016**

Purpose and Intent.

The purpose of this Public Art Policy is to foster the city's Comprehensive Plan goal of addressing the community's desire to increase the city's public arts programs and policies. The intent of the Public Art Policy is to develop processes, policies and procedures that will:

1. Guide the city's approach to Public Art in new development or redevelopment;
2. Provide a mechanism for the inclusion of Public Art throughout the city;
3. Encourage the creation and enhancement of public spaces;
4. Enrich the city's public environment for its residents, business community, and visitors by providing a world class guest experience;
5. Insure that stakeholders in the community are given a forum share their perspectives, input, experience, and knowledge; and
6. Provide Public Art with the highest quality of aesthetic experience that has a "Home Town" feel and celebrates the proud history of the lake.

Public Art

Public Art is defined as works of craft or art in any medium that have been reviewed against adopted and standardized criteria, approved, and formally accepted for ownership by the city for installation in public locations, in or on publicly owned buildings, on publicly owned land, or in or on other locations leased or provided to the city through donation, easement or other means for a period of not less than five years duration. Public Art includes sculpture, murals, fountains, statues and any other form of two or three dimensional work in any medium appropriate for the location otherwise meeting the approval criteria. All art, sculpture or other works owned by the city acquired through any means or process and located in or on publicly owned or controlled buildings or land at the adoption of this policy are, by definition, Public Art as herein defined.

All proposed Public Art must comply with applicable statutes such as the Uniform Municipal Contracting Law, environmental laws, and disability/accessibility laws. In addition, all proposed Public Art must meet the following guidelines before being considered:

- I. The selected artist shall enter into a Personal Services contract with the city for the creation of the Public Art that shall include but not be limited to the following:
 - a. The Public Art is made of quality materials.
 - b. The Public Art is free of defects.
 - c. The Public Art is an original product of the artist's own creative efforts and do not infringe on any third party's copyrights or other intellectual property rights.
 - d. The complete work for the Public Art will be done in a timely and professional manner.
 - e. Public Art that is purchased, commissioned or accepted as a donation Public Art shall be the property of the City.

- f. The Public Art shall remain accessible to public viewing for as long as the city owns the Public Art.
 - g. The City retains the right to transfer Public Art from one city-owned site to another, as it deems necessary, to place the Public Art in storage, in another facility, or to make a temporary loan to another agency or organization.
 - h. Absolute ownership and control of the Public Art must pass to the City, including all drawings, proposals, sketches, and other conceptualizations of the Public Art. All intellectual property rights, including patents, copyrights and moral rights, must be assigned to the city. The applicant artist or donor shall waive all intellectual property rights, including moral rights, to the Public Art.
2. The city retains the right to deaccession the Public Art if it no longer desires to retain it as a component of the public art program.
 3. Donations will not be accepted where a condition of donations requires permanent exhibition.
 4. In the judgment of the majority of the Public Art Selection Committee and the city Council, the Public Art must be appropriate for display to the general public.
 5. Cost of on-going maintenance and repair anticipated throughout the lifespan of the Public Art must fall within normal city operation and maintenance budget allocations.
 6. Donations that require the city to pay installation, framing, restoration, maintenance or repair are not encouraged.
 7. Artist or provider may request a specific site. However, each placement will be evaluated based upon suitability of the Public Art for the site. The Public Art Selection Committee will make a recommendation to the City Council concerning an appropriate site the Public Art.
 8. If the proposal accepted by the city is a concept design for Public Art then the final product must match the approved concept design.

Process for Selection

Public Art may be acquired through limited competition, open competition, artist invitation, or direct purchase. The process for evaluating proposals is as follows:

1. Proposals for placement of Public Art must be made in writing to the city.
2. Public comment period announced whereby the city can obtain feedback from the community.
3. Evaluation by an advisory Public Art Selection Committee selected by the city Council.
4. Public Art Selection Committee shall make an advisory recommendation regarding the proposed Public Art to the City Council based upon the public comment and the Public Art Selection Committees' perspectives, input, experience, and knowledge.
5. Action by the City Council.

Public Review and Comment Period

Each Public Art proposal will be announced to the public at a regular City Council meeting and then made available for public review and comment for a minimum of thirty (30) days before the proposal is submitted to a City Council appointed Public Art Selection Committee.

Required Information for Public Art Proposal

The written Public Art proposal submitted to the city must include the following:

1. A photo or drawing of the Public Art.
2. Appraised value of the Public Art.
3. Description of materials used to create Public Art, including materials needed to display/secure the Public Art.
4. Dimensions of Public Art including appropriate base materials needed at the public site.
5. Description, including materials, dimensions, wording and location, of interpretive signage for the Public Art.
6. Statement regarding relationship to proposed site including aesthetic, cultural, or historic ties.
7. Statement of probable lifespan of the Public Art and annual maintenance needed to maintain Public Art integrity.
8. Statement as to whether the Public Art is unique or duplicates other work by the same artist.

Composition of the Public Art Selection Committee

Public Art Selection Committee will consist of a minimum of seven (7) members, as follows:

1. One (1) interested members of the community-at-large.
2. One (1) City Council member.
3. One (1) representative of the City's Parks and Trails Board.
4. One (1) representative of the City's Heritage Preservation Board.
5. One (1) representative of the City's Public Works Department.
6. One (1) member of the architect or design team, or of the non-public site owner, if applicable. If no architect, design team member, or non-public site owner is involved, a second arts professional will be appointed.
7. One (1) arts professional, if available. A qualified member and/or staff member of the Minnesota State Arts Board or Metropolitan Regional Arts Council, or Minnetonka Center for the Arts may serve in this capacity. Appointments will specifically exclude dealers, agents or representatives of artists applying or working before or with the panel.
8. Wayzata Historical Society Liaison: When the site under consideration is located within or near a locally or nationally designated historic property (or upon any individually designated city of listed property, the City Council will request the appointment of one (1) liaison from the Wayzata Historical Society to serve on the Public Art Selection Committee. The liaison shall be appointed by the Wayzata Historical Society Board.

Your note says Not sure you understand. I believe this is for a situation where the city would be providing public art for a private development. If it is public site, defaults to another arts professional. We could change to default to another citizen from the community at large.

Duties and Responsibility of the Public Art Selection Committee

The Public Art Selection Committee shall work within parameters established by the City Council including overall budget, site constraints, and program goals. The Public Art Selection Committee's duties may include the following:

1. Based on the established budget, develop a realistic project scope, and determine if the budget is sufficient to warrant advertising for artists locally, regionally or nationally.
2. Drafting, printing and distributing a Request for Proposal (RFP) plus any specific instructions relative to the chosen site. The RFP will provide a clear statement of project goals, a copy of the site plan, if applicable, and any other materials or considerations related to the project review.
3. Advertise for RFP using normal distribution methods, providing adequate time for artist response.
4. Review, evaluate, and discuss credentials, proposals and/or materials submitted by the artists.
5. Via majority vote, recommend the award of the commission or decide to further investigate any chosen finalists.
6. If further investigation of finalists is decided, draft a list of information and/or additional materials required. Conclude investigation as rapidly as possible, convene for further discussion and, via majority vote, recommend the award of the commission.
7. Inform the City Council in writing of the Public Art Selection Committee's advisory recommendation and citing reasons for their decision. If the Public Art Selection Committee cannot reach an agreement, the matter will be referred to the City Council.
8. The Public Art Selection Committee retains the right to make no recommendation if, in its opinion, there is insufficient merit among the submissions. If this occurs, the City Council will determine whether to recommend that the Public Art project be abandoned, begin a new selection process, or take some other course of action. In all cases the Public Art Selection Committee decision is an advisory recommendation, with final authority remaining with the City Council.

Criteria for Review

The Public Art Selection Committee will make a recommendation based upon the following criteria:

1. The proposed Public Art should be compared with the artists' best work and the best works in the city's collection. The acquisition should strengthen, rather than dilute the city's collection.
2. If the Public Art is to be erected outdoors, the physical condition of the Public Art should be considered in terms of durability in an outdoor setting. Any requirements for immediate or future conservation should be noted.
3. The Public Art must add interest and meaning to the public location in which it is placed.
4. The Public Art must be compatible in scale, material, form and content with its surrounding and form an overall relationship with the public location. Public Art must conform to any existing Master Plan for the site.
5. The Public Art must have social, cultural, historical and physical context to both the public location, both existing and planned.
6. The Public Art must have a "Home Town" feel and celebrate the proud history of the lake.
7. The city's overall collection shall strive for diversity in style, scale, media, and artists.
8. Public Art whose message is exclusively religious in nature will not be accepted.

9. Public Art whose message is exclusively political in nature will only be considered if the political message is of a historical context.

Deaccessioning Public Art

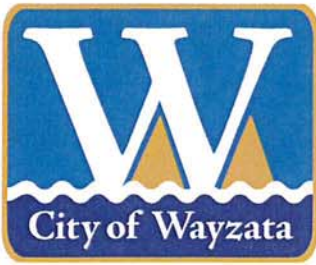
Deaccession is a procedure for the removal and disposal of Public Art from City ownership. The city shall remove and dispose of Public Art in its collection when it finds such action to be in the best interest of the public based upon the following:

1. As a means of improving the quality of the city's Public Art collection
 - a. The Public Art has no relevance to the collection or serves no exhibition function.
 - b. The Public Art has a duplicate in the collection.
 - c. The Public Art no longer meets the current standards for Public Arts.
2. Due to concerns for public safety when a Public Art becomes a hazard or a public liability.
3. The Public Art is in a seriously deteriorated condition.
4. Removal should not be based on current fashion or taste. Attention should be paid to maintaining a Public Art collection which forms a continuum of the city's "Home Town" feel.

Recommendations for removal shall be made to the City Council who will then make a recommendation based upon the public benefit of the action to the City Council for final approval.

Each request for removal will be announced to the public at a regular City Council meeting and then made available for public review and comment for a minimum of thirty (30) days before action is taken by the City Council.

Once approval for removal is granted, the Public Art shall be disposed of in accordance with Minnesota Statutes Chapter 471.



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1734

Mayor:
Ken Willcox

City Council:
Bridget Anderson
Johanna McCarthy
Andrew Mullin
Steven Tyacke

City Manager:
Heidi Nelson

MEMORANDUM

DATE: October 27, 2015

TO: Mayor and Members of the City Council

FROM: Tyson Jenkins, Building Inspector

CC: Heidi Nelson, City Manager

RE: Revocation of Rental Dwelling License of David Supplee for 503-505 Broadway Ave. N.

On April 7, 2015, the City of Wayzata issued a Rental Dwelling License to David Supplee ("Licensee") pursuant to Wayzata City Code Chapters 501 and 815. Exhibit A to this memo. The license was for the Licensee to engage in the business of leasing residential property located at 503-505 Broadway Ave N. Wayzata, MN (the "Property").

On September 8, 2015, the Minnesota Department of Revenue (the "Department") issued a Notice of License Revocation to the City of Wayzata regarding Licensee and the Property for failure of the Licensee to pay a tax debt. Exhibit B. Pursuant to Minnesota Statute Section 270C.72 subd. 1, the Department demanded that the City notify the Licensee that his Rental Dwelling License would be revoked if a tax clearance certificate was not received by the City within thirty (30) days.

On September 15, 2015, the City issued the Licensee a Notice of License Revocation for Debt regarding 503-505 Broadway Avenue N., as required by Minnesota Statute Section 270C.72 subd. 1. Exhibit C to this memo. At the expiration of the thirty (30) days I contacted the Department and confirmed that that the Licensee did not resolve the debt and that the Department did not issue a tax clearance certificate regarding the Licensee and the Rental Dwelling License. As of the date of this memorandum, the City has not received a tax clearance certificate from the Department regarding the Licensee and his Rental Dwelling License.

Minnesota Statute Section 270C.72 subd. 1 requires a licensing authority to revoke a license thirty (30) days after receipt of the Department Notice unless a tax clearance certificate is received. Under Wayzata City Code Section 501.09, the City is authorized to revoke any license issued under the City Code for the violation of any law applicable to the licensed business or activity.

It is the recommendation of the Building Inspector that the City Council adopt attached Resolution Revoking the Rental Dwelling License of David Supplee (Exhibit D) and authorize the issuance of the attached Notice of License Revocation for Debt (Exhibit E).

EXHIBIT A



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1779
(952) 404-5301

Name of Licensee	:	SUPPLEE, DAVID	No.: 2015-00090
		PO BOX 43	Date: 04/07/2015
		WAYZATA, MN 55391-1799	
Property Type	:	TRIPLEX	
Premise Address	:	503 BROADWAY AVE N	
		WAYZATA, MN 55391-	
License Period	:	4/2/2015 THRU 4/1/2016	

In accordance with provisions of the City of Wayzata Ordinance(s) the above-named licensee is granted the following license(s):

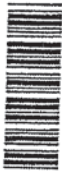
License Type : Rental Dwelling License

	Amount
Rental Dwelling License Fee	122.00
Total Fee Paid	122.00

This Certificate of License is hereby issued conditioned that said licensee shall comply with all the requirements set forth in the City code and the laws of the State of Minnesota.

A License issued under this Certificate may be suspended or revoked for violations thereof.

EXHIBIT B



MINNESOTA • REVENUE

September 8, 2015

ID: XXX-XX-7153

Letter ID: L1735700544

#BWBBMRR
#0000 0173 5700 5440#
Wayzata, City of
ATTN LICENSING DEPT
600 E RICE ST
WAYZATA MN 55391-1799

Notice of License Revocation for debt

You must revoke the following license for the Minnesota Department of Revenue:

Debtor Name:	DAVID SUPPLEE
Debtor ID:	XXX-XX-7153
License Holder:	Supplee, David
License Expiration Date:	April 1, 2016
License Type:	Rental Property
LicenseNumber:	2015-00090

Within 10 days, you must notify the license holder by certified mail of the potential revocation. Include a copy of this notice. On page 2, we listed what the license holder must do to receive clearance.

Within 30 days, you must revoke the license unless you receive a clearance certificate from us.

Contact information:

If you have questions, please contact our Collection Division.

By email: mdor.collection@state.mn.us

By mail: Minnesota Revenue
PO Box 64564
St. Paul, MN 55164-0564

By phone: 651-556-3003
1-800-657-3909 (toll-free)

By fax: 651-556-5116

STATE OF MINNESOTA
Commissioner of Revenue

by: 

What the license holder must do

Pay the amount due. Contact the Minnesota Department of Revenue to get the updated amount.

- **Pay electronically from a bank account.** Go to www.revenue.state.mn.us and enter **Payment Options** in the Search box. To pay by phone, call 1-800-570-3329.
- **Pay with a credit card or debit card.** Go to www.payMNTax.com or call 1-855-9-IPAY-MN. There is a convenience fee for this service.
- **Pay by check or money order.** Include the voucher we sent with your notice. If you do not have a voucher, contact the department.
- **Negotiate a payment plan.** Fees may apply.

Minnesota Department of Revenue Contact Information

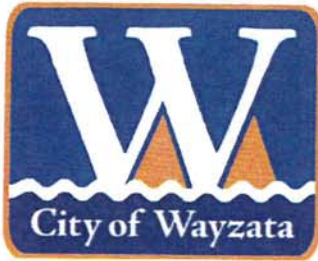
By email: mdor.collection@state.mn.us

By mail: Minnesota Revenue
PO Box 64564
St. Paul, MN 55164-0564

By phone: 651-556-3003
1-800-657-3909 (outside metro calling area)

By fax: 651-556-5116

EXHIBIT C



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1734

Mayor:
Ken Willcox

City Council:
Bridget Anderson
Johanna McCarthy
Andrew Mullin
Steven Tyacke

City Manager:
Heidi Nelson

9/15/2015

VIA CERTIFIED MAIL

David Supplee
505 Broadway Ave N
Wayzata, MN 55391

Re: 503-505 Broadway Ave N, Notice of License Revocation for Debt

Dear Mr. Supplee,

The City of Wayzata received the enclosed notice from the Minnesota Department of Revenue regarding the potential revocation of your City of Wayzata rental license for the above listed properties. Under state law, the City of Wayzata must revoke your city-issued license within 30 days of the City's receipt of the notice unless the City receives a clearance certificate from the Minnesota Department of Revenue allowing the City to discontinue revocation procedures. If this clearance certificate is not received by the City by October 13, 2015, your license will be revoked. Please review the enclosed notice from the Minnesota Department of Revenue and contact them directly to resolve this issue and ensure your rental license remains issued.

Sincerely,

Tyson Jenkins
Building Inspector
952-404-5313

Enclosure
cc: Wayzata City Attorney
2212937

EXHIBIT D

RESOLUTION NO. 41-2015

**RESOLUTION REVOKING THE RENTAL DWELLING LICENSE OF DAVID
SUPPLEE**

WHEREAS, David Supplee (**the "Licensee"**) was approved for a Rental Dwelling License (**the "License"**) for the property at 503-505 Broadway Avenue North, Wayzata, MN 55391 (**the "Property"**) on April 7, 2015, by the City of Wayzata (**the "City"**); and

WHEREAS, on or about September 8, 2015, the Minnesota Department of Revenue (**the "Department"**) issued the City a Notice of License Revocation for Debt regarding the Rental Dwelling License of Licensee pursuant to Minnesota Statutes Section 270C.72 subd. 1, wherein, the Department demanded that the City notify the Licensee that his Rental Dwelling License would be revoked if a tax clearance certificate was not received by the City within thirty (30) days; and

WHEREAS, the City issued the Licensee its Notice of License Revocation for Debt regarding 503-505 Broadway Avenue N. on September 15, 2015, as required by Minnesota Statute section 270C.72 subd. 1; and

WHEREAS, at the expiration of the thirty (30) days, the City confirmed with the Department that the Licensee did not resolve the debt and that the Department did not issue a tax clearance certificate within thirty days regarding the Licensee and the Rental Dwelling License; and

WHEREAS, the City is authorized under City Code Section 501.09 to revoke any license issued under the City Code for the violation of any law applicable to the licensed business or activity.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Wayzata, acting pursuant to City Code Sections 501.09 and Minnesota Statutes Section 270C.72 subd. 1, hereby revokes the Rental Dwelling License of Licensee.

Adopted this _____ day of November, 2015.

Mayor Ken Willcox

ATTEST:

City Manager Heidi Nelson

ACTION ON THIS RESOLUTION:

Motion for Adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution:

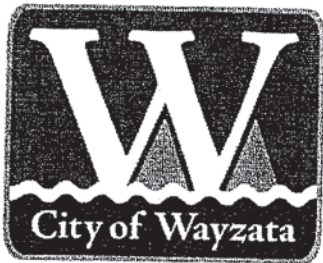
I hereby certify that the attached and foregoing is a true and correct copy of Resolution No. 41-2015 adopted by the City Council of the City of Wayzata, Minnesota, at a duly authorized meeting held on _____, 2015.

Deputy City Clerk Becky Malone

SEAL

000043/480049/2239582_1

EXHIBIT E



City of Wayzata
600 Rice Street
Wayzata, MN 55391-1734

Mayor:
Ken Willcox
City Council:
Bridget Anderson
Johanna McCarthy
Andrew Mullin
Steven Tyacke
City Manager:
Heidi Nelson

November X, 2015

Property owner and address:

David Supplee
505 Broadway Ave N
Wayzata, MN 55391

Description of property:

503-505 Broadway Ave N
Wayzata, MN
PID # 06-117-22-12-0019
Wayzata Revised

Re: 503-505 Broadway Ave N, Notice of License Revocation for Debt

Dear Mr. Supplee,

On September 15, 2015, the City of Wayzata issued you a Notice of License Revocation for Debt regarding the possible revocation of your rental license for the above listed property, as directed by the Minnesota Department of Revenue. As of the date of this letter, the City of Wayzata has not received a tax clearance certificate from the Minnesota Department of Revenue allowing the City to discontinue revocation procedures. Therefore, the City of Wayzata has revoked your rental license effective November X, 2015. Renting of this property must cease and the tenants must vacate the property within thirty (30) days.

Remedial Action

Contact the Minnesota Department of Revenue to resolve the collection of debt. Once a tax clearance certificate is received from the Department of Revenue, you may apply to the City of Wayzata for a new rental license.

Sincerely,

Tyson Jenkins
Building Inspector
952-404-5313

Enclosure
cc: Wayzata City Attorney
2237915