



Wayzata Planning Commission

Meeting Agenda

Monday, December 21, 2015

Community Room,
600 Rice Street East,
Wayzata, Minnesota

- 7:00 p.m.**
- 1. Call to Order and Roll Call, and Approval of Minutes**
 - a. Approval of the November 2nd Planning Commission Minutes
 - b. Approval of the November 16th Planning Commission Minutes
 - 2. Regular Agenda Public Hearing Items:**
 - a. 324 Bushaway Road – Anton and Lindy Vincent
 - i. Fence height variance
 - 3. Regular Agenda Old Business Items:**
 - a. None
 - 4. Other Items:**
 - a. Review of Development Activities
 - b. Other items
 - 5. Adjournment**

NOTES:

¹ Time(s) are estimated and provided for informational purposes only.

² Members of the Planning Commission and some staff may gather at the Wayzata Bar and Grill immediately after the meeting for a purely social event. All members of the public are welcome.

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
NOVEMBER 2, 2015**

AGENDA ITEM 1. Call to Order and Roll Call, and Approval of Minutes

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

Present at roll call were Commissioners: Iverson, Gonazalez (7:05 p.m.), Ramy, Gnos, Young, and Gruber. Absent and excused: Commissioner Vanderheyden. Director of Planning and Building Jeff Thomson, Interim City Planner Eric Zweber (AICP), and Management and Planning Intern Jason Peters were also present.

a.) Approval of the October 5, 2015 Planning Commission Meeting Minutes

Commissioner Gruber made a motion, Seconded by Commissioner Ramy, to approve the minutes of the October 5, 2015 Planning Commission Workshop meeting as presented. The motion carried unanimously.

AGENDA ITEM 2. Regular Agenda Old Business Items:

a.) 1120 Wayzata Blvd. E – Davis Group

i) Design Review

Director Thomson stated the Planning Commission had reviewed a development application for 1120 Wayzata Boulevard East at its October 5, 2015 meeting. Mr. Thomson reviewed the Planning Report from the October 5 meeting, and noted that the Planning Commission had requested additional information from the Applicant at that meeting regarding the site and building design. Mr. Thomson reviewed the Applicant's subsequently submitted revised plans and additional information, as well as comments from Staff on parking and traffic analysis, setback requirements for the west property line, the design standard deviations, and tree preservation analysis. He clarified when the project for the property to the east was approved, a Conditional Use Permit (CUP) was included for shared parking with the subject property. He stated there had been a traffic study done in 2006 for the property to the east. At that time, there were discussions regarding access on Wayzata Boulevard, and one of the changes recommended at that time for the east parcel was to remove the westerly access from Wayzata Boulevard East. This access would have been on the property currently being reviewed. He pointed out the proposed occupants for the east property in 2006 had a higher parking requirement and generated more trips than the current uses occupying the building. He stated the majority of the trees that would be removed as part of the present project were in the west and south section of the property, and this was to accommodate the larger size of the parking lot.

Vice Chair Iverson asked where the canopies on the building were that would be removed.

1
2 Mr. Thomson stated they are located on the four corners of the building.
3

4 Mr. Mark Davis, Davis Group, 2487 Crown Hill Road, Minnetonka, stated they would not want
5 to remove the metal clad elements they have on the building. He stated that the project has met
6 the six (6) design requirements without including the canopy, and that the metal awnings they are
7 proposing would look better than a fabric canopy.
8

9 Commissioner Gonzalez joined the meeting at 7:05 p.m.
10

11 Commissioner Gruber asked why Staff was recommending removing the metal awnings.
12

13 Mr. Thomson clarified Staff's interpretation is based on the design standards of the Zoning
14 Ordinance. If these elements of the proposed building are classified as awnings, there are
15 material requirements that must be met under the design standards, and metal is not one of the
16 allowed materials in the design standards for awnings. He noted that these elements of the
17 building are not being included as one of the design elements for the façade treatment
18 requirements, so the Commission could make the determination that these design elements are
19 not awnings, but rather façade elements and thus acceptable, and include this in their findings.
20

21 Commissioner Ramy asked what the dimensions were for the overhang.
22

23 Mr. Patrick Giordana, BDH and Young, 7001 France Avenue S., stated the canopy elements on
24 the west side have a projection of 18-inches. The eastern corner projects about 4-feet. This is to
25 protect clients as they enter the facility and also identify this as the main entry point.
26

27 Commissioner Gonzalez asked if there would be any danger of snow and ice falling off the metal
28 canopy in the winter months.
29

30 Mr. Giordana stated the roof is flat and the water and runoff would be taken internally then
31 dumped out appropriately. This will also prevent ice buildup on the sidewalk.
32

33 Commissioner Gonzalez stated the design standards state the door on the main street should be
34 enlarged. She asked if this would be done.
35

36 Mr. Giordana stated they would make the door on Wayzata Boulevard a double door to meet this
37 requirement.
38

39 Vice Chair Iverson asked if the Applicant would consider heating this area of the sidewalk.
40

41 Mr. Giordana stated the roof and overhang would eliminate the condensation and potential for ice
42 buildup.
43

1 Commissioner Gonzalez asked if the City Engineer had reviewed the storm water management
2 plan. The plans show that there were no changes but when there is redevelopment this is an
3 opportunity to make improvements.

4
5 Mr. Thomson stated there had been additional modeling with the storm water management and
6 the City Engineer had reviewed this. There are some mitigation methods proposed prior to the
7 water reaching the wetlands. The proposed plans would meet the City's storm water
8 management requirements.

9
10 Commissioner Ramy stated he liked the awning design element proposed by the Applicant.

11
12 Commissioner Young stated the awnings are more of a design element than an awning and the
13 building design would suffer aesthetically if it were removed. He also agreed that having a
14 second entry point on Wayzata Boulevard would be a good idea.

15
16 It was the consensus of the Planning Commission that the metal overhangs should not be
17 considered true awnings, but rather façade design elements and noted as such in the findings of
18 the final Report and Recommendation.

19
20 Commissioner Young stated based on the plan and the number of physicians on staff currently,
21 there would be enough parking on the site. He asked how the City would ensure that the shared
22 parking would still be in effect if there were additional needs in the future.

23
24 Mr. Thomson stated the draft Planning Commission Report and Recommendation includes a
25 condition for a cross parking agreement between the two (2) properties which would be filed on
26 the property. If the properties were sold in the future, this agreement would continue to be
27 followed for the properties.

28
29 Commissioner Ramy asked how the bank customers would be routed.

30
31 Mr. Giordana stated they had made adjustments to the previous site plan proposal. They reduced
32 the amount of parking of the project site to make the traffic flow better, and this is why a cross
33 parking agreement would be needed.

34
35 Vice Chair Iverson stated the City Engineer expressed concerns on how the proposed perforated
36 pipe would affect the retaining wall and what affect the grading would have on this retaining
37 wall. She stated she would like clarification on what will happen with this retaining wall. She
38 would also like to know what the impacts would be on the apartment complex and what would
39 be done to ensure they feel safe once the trees are removed.

40
41 Mr. Thomson stated he had discussed these items with the City Engineer. He noted that the
42 current plans include more detail, including elevations, on the location of the pipe in relation to
43 the retaining wall, and there is enough distance between the base of the wall and the pipe.

44

1 Vice Chair Iverson stated if the Application were to move forward, she would like to have more
2 detailed information on the sewer, water, and mitigation pipe locations and what is required in
3 Schedule 40.

4
5 Mr. Thomson clarified the pipe is 10-feet below the retaining wall and is 10-inches in diameter.

6
7 Vice Chair Iverson stated she would like to have the details of Schedule 40 included with the
8 Application if it moves forward.

9
10 Commissioner Gonzalez stated if the Application moves forward, all of the City Engineer's
11 concerns should be addressed for the Council to consider.

12
13 Commissioner Gonzalez stated one of the goals of the City was to have shade trees and
14 boulevard trees planted, and the trees proposed would not be considered boulevard trees. The
15 Park and Trails Board is also trying to have developers plant a greater diversity of native trees.
16 She asked the Applicant to consider the types of trees that would be planted on the property. She
17 recommended the City review the design standards and reconcile them with the tree replacement
18 information with the City's proposed Tree Preservation Ordinance.

19
20 Vice Chair Iverson stated the City and Minnehaha Creek Watershed require a minimum of 6-
21 inches of topsoil, and note 1 on the Landscaping Plan states they are using 4-inches. She stated
22 this should be changed and a minimum of 6-inches should be required. She stated she would like
23 to see more information prior to making a recommendation to the City Council.

24
25 Mr. Thomson stated the draft recommendation would be presented to the Planning Commission
26 for approval prior to going to the City Council, and the draft would include the additional
27 information requested by the Commission.

28
29 Commissioner Gonzalez asked if the City had received any feedback from neighboring residents
30 on the Project.

31
32 Mr. Thomson stated the City has heard from two (2) residents. One expressed concerns about
33 the amount of trees being removed and one requested a Commission packet with the Application.

34
35 Commissioner Gnos asked if the Applicant was replacing an adequate amount of trees based on
36 the City's proposed Tree Preservation Ordinance.

37
38 Commissioner Gonzalez stated the Tree Preservation Ordinance has not been approved by the
39 City Council so it is not in effect at this time.

40
41 Vice Chair Iverson stated the City may need to approve having work done at night for the
42 installation of a water connection. She stated there is no information on the impacts this would
43 have on the residents including what the hours would be, the sound levels, and the light, and
44 information on exactly what work would be performed on night. She would like this information
45 included as conditions of approval.

1
2 Vice Chair opened the public hearing at 7:49 p.m.
3

4 Ms. Sarah Rockswold, 208 Central Avenue South, Wayzata, asked if some of the trees could be
5 saved if there was more shared parking between the two (2) properties. She would also like to
6 see some of the larger trees that are visible from inside the building saved because these are
7 relaxing to patients. She also expressed concerns about noise levels at night during construction.
8

9 Ms. Nancy Forstrom, expressed concerns about the number of trees that would be removed.
10

11 Mr. Davis stated there are 33 significant trees on the west side of the property that would not be
12 removed.
13

14 Vice Chair Iverson closed the public hearing at 7:54 p.m.
15

16 Mr. Thomson clarified that the additional information and conditions the Planning Commission
17 would like included in the PC Report and Recommendation of approval would include: detailed
18 resolutions to the comments and concerns of the City Engineer, specifications on the water
19 service, the top soil depth on the Landscape Plan, and the work hours for the utility connections.
20

21 Vice Chair Iverson added she would like to see the requirement of 3-inch trees along Wayzata
22 Boulevard as a condition.
23

24 Mr. Thomson stated other conditions included a double door for the second main entrance and
25 approving the metal awning structure proposed.
26

27 Commissioner Gonzalez added a condition that a cross parking easement be recorded against the
28 properties.
29

30 Commissioner Gonzalez made a motion, Seconded by Commissioner Young, to direct Staff to
31 prepare a Planning Commission Report and Recommendation, with the findings and conditions
32 as noted, reflecting a recommendation of approval on the Application for review and adoption at
33 the next Planning Commission meeting.
34

35 Commissioner Gruber asked if the Developer could consider looking at adding trees in the
36 parking lot.
37

38 Mr. Davis stated there are trees incorporated in the parking lot.
39

40 Vice Chair Iverson stated the residents are also requesting additional tree be planted toward the
41 back of the property to provide additional screening.
42

43 Mr. Ramy asked if Mr. Davis would consider adding a short wall to block headlights along the
44 back of the parking lot.
45

1 Mr. Davis stated he would look into this.

2
3 The motion was called to a vote. The motion carried 5 ayes; 1 nay (Iverson).

4
5
6 **AGENDA ITEM 3. Workshop Items:**

7
8 **a.) Alternative Energy Ordinance discussion with presentation by Brian Ross**

9
10 Mr. Brian Ross, Senior Program Director for Great Plains Institute for Sustainable Development
11 (GPI) made a PowerPoint presentation outlining Renewable Energy Local Government Tool Kit
12 for Wind Energy including comprehensive plans, development regulations, and administration
13 and programs, and wind energy ordinance standards. He reviewed the model Ordinance for the
14 State of Minnesota, which is currently under revision. He discussed renewable energy best
15 practices including policies, development regulations, and the administration and programs in the
16 community. He noted that the Comprehensive Plan format should include existing conditions,
17 desired conditions, and the actions to move the City to the desired conditions and local energy
18 resources should be addressed in all three of these components. He discussed the solar and wind
19 land use conflicts and nuisances.

20
21 Commissioner Gonzalez asked what kind of wind energy would make sense for a community
22 such as Wayzata, which is 4-square miles and fully developed.

23
24 Mr. Ross stated the simplest way to answer would be to ask where the City would allow a 100-
25 foot tower to be constructed. If there is no where then the answer would be there would be no
26 opportunity for wind energy development in the community. He explained the reasons for
27 identifying the location of wind and solar resources in the City in order to determine the most
28 practical locations for these structures to be. If there is no resource available in the City, then
29 there is a justification for the City to restrict these structures. Wind resources are identifiable and
30 measurable, and the City's decisions should be based on the value as a renewable energy source
31 versus the potential nuisances of this type of development. When developing wind energy
32 zoning, the City should distinguish between types of wind energy applications and wind
33 resources, define necessary permits, identify wind resource standards, establish setbacks and
34 dimensional standards, establish safety and nuisance standards, establish design standards, and
35 minimize impacts to infrastructure.

36
37 Commissioner Gruber asked if there were provisions that provided for the protection of birds and
38 other wildlife.

39
40 Mr. Ross stated this is something they do not have to worry about with a distributed wind system
41 but it is with a wind farm. The potential risks to birds and wildlife would be restricted to the
42 areas around wind farms.

43
44 Commissioner Gonzalez asked if there were restrictions to keep turbines out of migratory bird
45 paths.

1
2 Mr. Ross stated the Minnesota DNR does review the placement with every wind farm in
3 Minnesota. There is no prohibition in Minnesota for placement in a flyway but developers are
4 required to provide an environmental review and the DNR is involved with this.

5
6 Mr. Peters stated one of the City Council members had asked if it would be possible to put a
7 wind turbine on a cellular tower.

8
9 Mr. Ross stated there are some designs that are made to go on existing towers. These are small
10 and use some alternative energy turbine and do not usually function well. Cellular towers are not
11 designed to accommodate large turbines and turbine manufactures have specifications for the
12 type of tower these units can be attached to.

13
14 Commissioner Gruber asked if GPI was working with other groups to provide some
15 standardization on these types of ordinances.

16
17 Mr. Ross stated GPI does work with several organizations and he does present best practices
18 based on a variety of viewpoints.

19
20 Commissioner Young stated he would like to have a similar presentation on solar energy. He
21 stated the City would need to determine if there are any areas within the City that would have a
22 wind resource because this would determine if the City develops site-specific ordinances or
23 citywide Ordinances.

24
25
26 **AGENDA ITEM 4. Other Items:**

27
28 **a.) Review of Development Activities**

29
30 Mr. Thomson stated on October 20th, the City Council had a workshop to review a proposal for
31 the Meyers Brothers property, and the Council appointed the Lake Effect and Technical and
32 Steering Committees for the next phase. On November 4, the City Council will have its first
33 discussion on the Telecommunications Ordinance and the Tree Preservation Ordinance.

34
35 **b.) Other Items**

36
37 Commissioner Gonzalez stated one of the conditions of approval for the development occurring
38 across from the Post Office was the protection of the park to the north, and they have excavated
39 up to the property line and trimmed limbs off of trees along the property line. She does not
40 believe this tree will survive. She asked what mechanism the City had to enforce this condition
41 of approval especially since this tree is on a neighboring property.

42
43 Mr. Thomson stated he would look into this.

44
45

AGENDA ITEM 5. Adjournment.

There being no further business, Commissioner Ramy made a motion, seconded Gnos by Commissioner, to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 9:07 p.m.

Respectfully submitted,

Tina Borg

TimeSaver Off Site Secretarial, Inc.

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
NOVEMBER 16, 2015**

AGENDA ITEM 1. Call to Order and Roll Call, and Approval of Minutes

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

Present at roll call were Commissioners: Vanderheyden, Gonazalez, Ramy, Gnos, and Gruber. Absent and excused: Commissioners Young and Iverson. Director of Planning and Building Jeff Thomson, and Management and Planning Intern Jason Peters were also present.

a.) Approval of the October 19, 2015 Planning Commission Meeting Minutes

Commissioner Gonzalez made a motion, Seconded by Commissioner Gnos, to approve the October 19, 2015 Planning Commission Meeting Minutes as presented. The motion carried 4-ayes, 1-abstain (Gonzalez)

AGENDA ITEM 2. Regular Public Hearing Items

a.) None.

AGENDA ITEM 3. Regular Agenda Old Business Items:

**a.) 1120 Wayzata Blvd. E – Davis Group
i) Design Review**

Director Thomson stated the Planning Commission had reviewed a development application for 1120 Wayzata Boulevard East at its October 5 and November 2 meetings, and had directed staff to prepare a draft Planning Commission Report and Recommendation of approval of the application at its next meeting. Mr. Thomson reviewed the Planning Report from the October 5 meeting and noted that the Planning Commission had requested additional information from the Applicant at that time. Staff has discussed the comments by the City Engineer and several of these had been addressed with the revised plans that were reviewed by the Planning Commission on November 2. Mr. Thomson reviewed the City Engineer's comments pertaining to top soil depth, utility specifications, permit requirements, and final plan details, and noted that the draft Planning Commission Report includes a recommendation that the following conditions be included on any approval: that the final plans receive written approval from the City Engineer, the Applicant provide a double door entrance on the north side of the building along Wayzata Boulevard, the Applicant provide 3-inch deciduous trees along Wayzata Boulevard, in lieu of the 1.5-inch Japanese Lilacs shown on the plans, and the Applicant provide a cross parking agreement with 1200 Wayzata Boulevard E.

Chair Vanderheyden asked if the garbage would be located on the neighboring property and if access to this would need to be included in the cross parking easement agreement.

1
2 Mr. Thomson stated the garbage was shared between the two facilities and could be included in
3 the cross parking easement agreement.

4
5 Commissioner Gruber asked where the two 50-square-foot tenant signs would be located.

6
7 Mr. Thomson stated there are two signs shown on the plans along the top of the north elevation
8 of the building, and a monument sign would be east of the main door at grade level. These signs
9 do comply with the City's sign ordinance.

10
11 Commissioner Gonazalez made a motion, seconded by Commissioner Ramy to adopt the
12 Planning Commission Report and Recommendation with Conditions recommending approval of
13 the project design at 1120 Wayzata Boulevard East, as presented by Staff. The motion carried
14 unanimously.

15
16 **AGENDA ITEM 4. Other Items:**

17
18 **a.) Review of Development Activities**

19
20 Mr. Thomson stated the City Council would be interviewing for open City commission and
21 board positions, including two vacancies on the Planning Commission on November 17. The
22 City Council will also be reviewing a Public Art Policy, and finalizing the programming and pre-
23 design for the Mill Street Parking Ramp. Mr. Thomson shared that on Monday, November 9th,
24 the Project Design Team for the Signature Project had been in Wayzata, and they held the first
25 Steering and Technical Committees meeting and the first Community Meeting. The next
26 meetings would be December 8 for the Steering and Technical Committees and January 12 for
27 the next Community Meeting. He noted that the 2016 Planning Commission meeting schedule is
28 now available. There were a couple of dates changed based on holidays and elections. The
29 Volunteer Recognition Dinner would be held on November 19.

30
31 **b.) Other Items**

32
33 Commissioner Gonzalez stated the City Council at its last meeting had approved the variance
34 application at 240 Manitoba Avenue Indian Mound, and directed Staff to rewrite parts of the Tree
35 Preservation Ordinance to make it less restrictive in the tree species and other requirements.
36 The Council also reviewed the Telecommunications Ordinance, and felt the draft presented was
37 too restrictive because it did not allow cell towers in the central business district.

38
39 **AGENDA ITEM 5. Adjournment.**

40
41 There being no further business, Commissioner Gruber made a motion, seconded Gnos by
42 Commissioner, to adjourn the meeting. The motion passed unanimously.

43
44 The meeting was adjourned at 7:23 p.m.

45
46 Respectfully submitted,

1

2 Tina Borg, *TimeSaver Off Site Secretarial, Inc.*



Planning Report
December 21, 2015
Wayzata Planning Commission Meeting

File Case No: PR 2015-09
Owner: Anton and Lindy Vincent
Address of request: 324 Bushaway Road
PID number: 05-117-22-34-0023
Prepared By: Jeff Thomson, Director of Planning and Building
Project Summary: Application for a variance to allow a five (5) foot tall fence along the Bushaway Road front yard of the property at 324 Bushaway Road (City Code § 801.18.1.E.2)

Introduction

Bob Carlson with Jyland Homes (the “Applicant”) and Anton and Lindy Vincent (the “Owner”) have submitted a development application requesting a variance to construct a five (5) foot tall fence in the front yard of the property (the “Application”) at 324 Bushaway Road (the “Property”). A written narrative and plans submitted by the Applicant and Owner are provided as Attachment A.

Background Information

In August 2015, the City issued a building permit for construction of an outdoor swimming pool on the Property, which is located in the rear yard. The City Code regarding swimming pools (Section 810) requires protective fencing around the entire perimeter of an outdoor swimming pool for safety and security purposes. The fence enclosing a pool must be a minimum of five (5) feet in height. The fence must be non-climbable, and any openings or breaks in the fence must contain self-closing and self-latching gates. The swimming pool on the Property is currently enclosed with a five (5) foot tall fence that meets the City’s swimming pool enclosure requirements. The existing fence also meets the zoning requirements for fences.

Proposal

The Applicant and Owner are proposing to relocate a portion of the existing fence. The westerly segment of the existing fence does not extend beyond the front corner of the garage. The Applicant and Owner are proposing to move the westerly segment of the fence further to the west and closer to Bushaway Road. The new fence would match the existing fence, which is black aluminum with vertical pickets. The revised location, however, would not meet the City's zoning ordinance requirements, which are separate from the City's swimming pool requirements.

The City's fence requirements state that any fence located in front of the primary structure must not exceed 42 inches in height, and must not consist of more than 50 percent solid matter. The proposed fence would meet the solid material requirement, as it is less than 50 percent opaque. However, in order to meet the swimming pool enclosure requirement, the fence would be five (5) feet in height, which exceeds the 42-inch height requirement in the zoning ordinance. The Applicant and Owner have requested a variance from the fence height requirement from 42 inches (3 ½ feet) to five (5) feet.

Stonecrest Development

During the review of the Stonecrest development in 2012, the Planning Commission and City Council discussed the preservation of a fence along Bushaway Road. The City Council Resolution approving the project included the following condition:

The Applicant is requested to use best efforts to protect the existing fence and the Trapper's Cabin on the Property during construction, and consider dedicating the Trapper's Cabin to a third party, such as the Wayzata Historical Society or City of Wayzata, with consideration of the goals and missions of said parties, for its relocation and continued preservation.

As the Planning Commission is aware, the Trapper's Cabin was preserved and moved to Shaver Park. The Applicant has submitted an email that indicates during construction, the iron fence material was salvaged, but the masonry support posts were unable to be preserved. The Applicant states that the iron fence is in serious disrepair and it is not feasible to reinstall the fence.

The Applicant has provided the letter and photos of the old fence as an update for the Planning Commission and City Council, which are included as Attachment B. No formal action is required from the Planning Commission or City Council on this matter.

Supporting Information

Map 1: Existing Property Aerial



Relevant Property Information.

Zoning:	R-1/Low Density Single Family Residential District
Comp Plan:	Bushaway Conservation District
Total lot size:	86,405 square feet or 1.98 acres

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:

324 Bushaway Rd	05-117-22-34-0023	Anton and Lindy Vincent
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Public Noticing Requirements.

Zoning Ordinance Section 801.05 requires the Planning Commission to hold a public hearing on the Application. The Notice of Public Hearing was published in the Lakeshore Weekly on December 8, 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 December 10, 2015.

Adjacent Uses.

Adjacent Property	Zoning	Uses
North	R-1	Single-family home
East	R-1	Single-family home
South	R-1	Single-family home
West	R-2A	Single-family home

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.
- 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 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.
- 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.

Action Steps

After considering the items outlined in this Report, the Planning Commission should pursue one of the following as an action step:

1. Adopt the draft *Planning Commission Report and Recommendation* included as Attachment C, which recommends approval of the Application based on the findings and subject to the conditions outlined in Sections 3 and 4, respectively.
2. If the Planning Commission wishes to significantly modify the draft *Planning Commission Report and Recommendation*, the Planning Commission should direct staff to prepare a revised draft for review and adoption at the next Planning Commission meeting.
3. If the Planning Commission wishes to pursue a denial recommendation, the Planning Commission should direct staff to prepare a draft *Planning Commission Report and Recommendation* which recommends denial of the Application for review and adoption at the next Planning Commission meeting.

Attachments:

Attachment A: Narrative and Plans

- Applicant's narrative
- Proposed site plan
- Fence photo

Attachment B: Old Fence Information

- Email from Applicant
- Photos

Attachment C: Draft Planning Commission Report and Recommendation

Applicant's Narrative

10.26.15

City of Wayzata
600 Rice Street
Wayzata, MN 55391

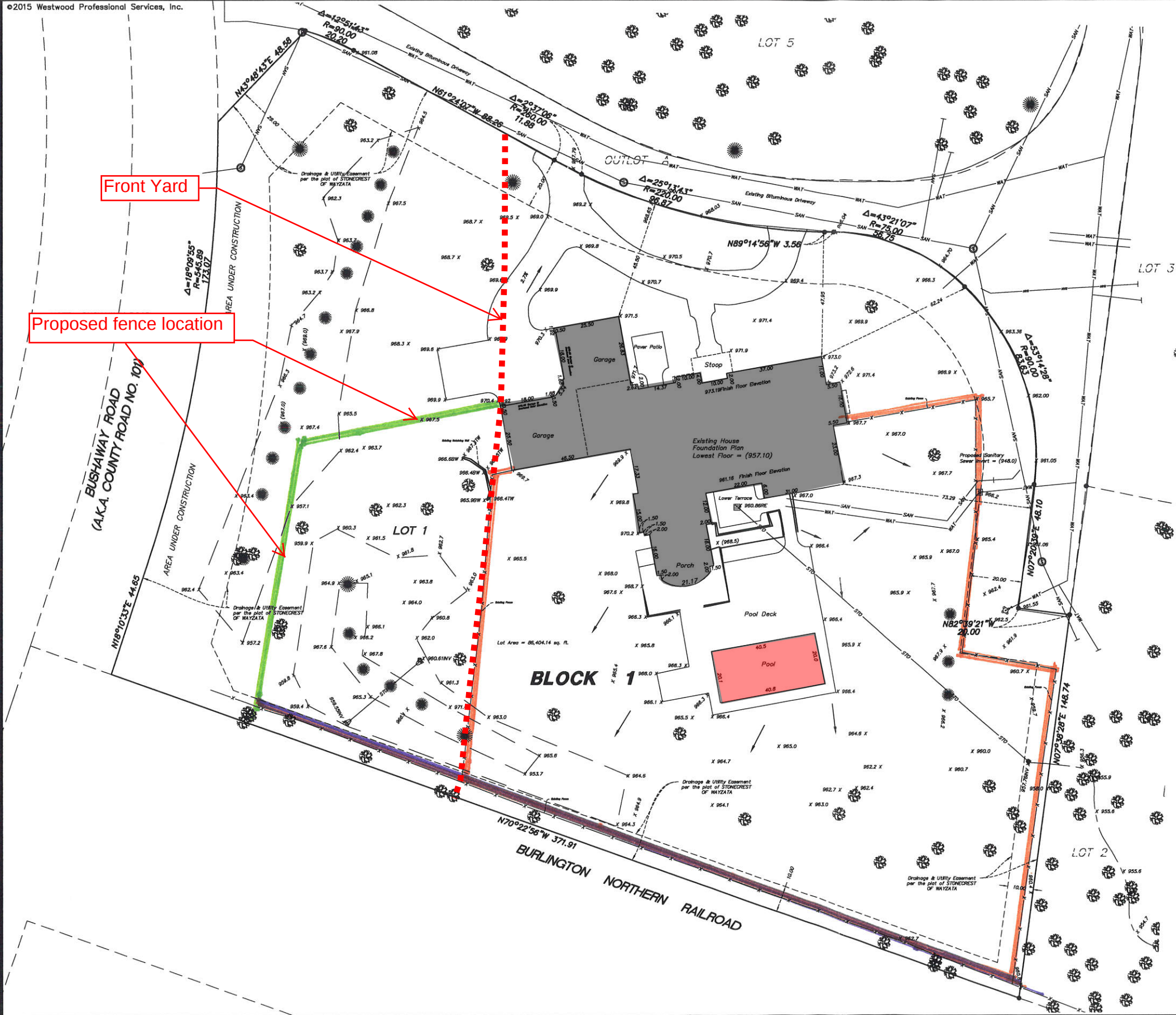
RE: Fence Variance Request- 324 Bushaway Road, Wayzata

Planning Commission,

The Owner is requesting a variance to the fence ordinance based on the hardship of the property being located adjacent to County Road 101, and having two front yard setbacks. The home has a pool in the rear yard requiring a five foot enclosed safety fence. The fence is black aluminum with vertical pickets, as shown on attached photo. The property is two acres with the westerly boundary adjoining County Road 101. The current fence is highlighted in orange, with the requested new location shown in green on the attached survey. The new fence location will offer more security from the new public trail along County Road 101, and allow the property owner to have full access to the rear yard for family activity, rather than splitting the usable yard with the fence in the current location. This variance will have no adverse impact to any other property owners in the development.

Respectfully,

Bob Carlson, property owner representative



LEGAL DESCRIPTION:

Lot 1, Block 1, STONECREST OF WAYZATA according to the recorded plat thereof, Hennepin County, Minnesota.

Address 324 Bushaway Road

Garage Floor = (970.48) (at overhead door) = 970.49
 Top of Foundation Wall (at front door) = (972.20)
 Top of Foundation Wall (at garage) = (970.81)
 First Floor = (973.00) = 973.19
 Guest Room Floor = (962.10)
 Basement Floor = (961.10) = 961.16
 Sport Court Floor = (957.10)

Lot Area = 86,404.14 sq. ft.
 House & Stoop = 6,508 sq. ft.
 Driveway & Paver Patio = 3,681 sq. ft.
 Pool Deck & Lower Terrace = 2,884 sq. ft.
 Impervious Area = 13,073 sq. ft. = 15.1% of total Lot area
 Note - Impervious area does not include pool or retaining walls

NOTE

BUILDING DIMENSIONS DO NOT REFLECT BRICK FACING

CURB & CUTTER AND UTILITIES ARE EXISTING

BUILDER TO VERIFY SANITARY SEWER SERVICE ELEVATION AND CONFIRM IT WILL WORK WITH THE BASEMENT ELEVATION PRIOR TO CONSTRUCTION

● Denotes iron monument found
 ○ Denotes iron monument set
 Bearings based on assumed datum.

x (1000.00) Denotes proposed elevation
 x 1000.00 Denotes existing elevation
 — Denotes surface drainage

I hereby certify that this survey 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.

Craig W. Morse 09/21/15
 Craig W. Morse, R.L.S. Date
 License No. 23021

LEGEND

- | | |
|------------------------------|-----------------|
| ☐ CABLE TV BOX | ☐ TELEPHONE BOX |
| ☐ GAS METER | ☐ GATE VALVE |
| ☐ STREET LITE | ☐ HYDRANT |
| ☐ ELECTRIC BOX | ☐ WATER METER |
| ☐ ELECTRIC METER | ☐ CURB STOP BOX |
| ☐ SANITARY MANHOLE | — SAN |
| ☐ SEWER CLEANOUT | — STO |
| ☐ CATCH BASIN | — WAT |
| ☐ STORM MANHOLE | — X |
| ☐ TELEPHONE MANHOLE | — FENCE LINE |
| ☐ CONIFEROUS TREE | |
| ☐ DECIDUOUS TREE | |
| ☐ DENOTES TREE TO BE REMOVED | |



0005226@B01L01.dwg

Date: 09/21/15 Sheet: 1 OF 1

**Stonecrest
 of Wayzata**

Wayzata, Minnesota

Grading Asbuilt



Westwood Professional Services, Inc.
 7699 Anagram Drive
 Eden Prairie, MN 55344
 PHONE 952-937-5150
 FAX 952-937-5822
 TOLL FREE 1-888-937-5150
 www.westwoodps.com

Revisions:

No.	Description	By	Date

Drawn: JAG
 Checked: CWM
 Design: BTW
 Record Drawing by/date:

Prepared for:

Jyland Construction Management Co.

201 East Lake Street
 Wayzata, Minnesota, 55391

Existing and Proposed
Fence Material



Jeff Thomson

From: Bob Carlson <bob@jyland.com>
Sent: Tuesday, December 08, 2015 2:44 PM
To: Jeff Thomson
Cc: Anton Vincent; 'Lindy Vincent'
Subject: FW: 324 Bushaway Road fence variance request

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Development Applications

[Re sent with corrected email address](#)

From: Bob Carlson
Sent: Tuesday, December 8, 2015 2:29 PM
To: 'jthomson@wayzata.org'
Cc: Anton Vincent; 'Lindy Vincent'
Subject: 324 Bushaway Road fence variance request

Jeffrey,

Along with the fence variance request, I would like to discuss the portion of original perimeter fence that was located on this property and removed by the developer of the subdivision. Only portions of the iron fence are remaining on the property and have not been moved. The fence is beyond repair and is not feasible to reinstall. The masonry portion of the fence was not saved from the original removal. Jyland was the builder of the new residence and spaded many mature trees on the perimeter of the lot for privacy. I am requesting the property owner has no obligations with the removed fence.

Best regards,
Bob

Bob Carlson
612.850.4001
bob@jyland.com

Jyland Construction Management Co.
201 East Lake Street Wayzata, MN 55391
jyland.com

Old Fence Photos









WAYZATA PLANNING COMMISSION

December 21, 2015

DRAFT REPORT AND RECOMMENDATION ON APPLICATION FOR A FENCE HEIGHT VARIANCE AT 324 BUSHAWAY ROAD

SUMMARY OF RECOMMENDATION

- Approval* of Height Variance

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

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 **Project.** Bob Carlson with Jyland Homes (the “Applicant”) and Anton and Lindy Vincent (the “Owner”) have submitted a development application requesting a variance to construct a five (5) foot tall fence in the front yard of the property (the “Application”) at 324 Bushaway Road (the “Property”).
- 1.2 **Application Request.** As part of the Application, the Applicant and Owner are requesting approval of the following items:
- A. A variance from the maximum fence height of 42 inches for a fence located in front of the primary structure (City Code Section 801.18.1.E.2) to construct a fence in front of the house that is five (5) feet in height (the “Height Variance”).
- 1.3 **Property.** The property identification number and owner of the affected property (the “Property”) are:

324 Bushaway Rd	05-117-22-34-0023	Anton and Lindy Vincent
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- 1.4 **Land Use.** All uses on adjacent properties are single-family homes. The properties to the north, east, and south are zoned R-1/Low Density Single Family

Residential District, and the property to the west is zoned R-2A/Single Family Residential District.

- 1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Lakeshore Weekly* on December 8, 2015 and notices were mailed to all properties within 350 feet of the Property on December 10, 2015. The required public hearing was held at the December 21, 2015 Planning Commission meeting.
- 1.6 Planning Commission Action. The Planning Commission reviewed the Application and held a Public Hearing on December 21, 2015. The Planning Commission voted ____ in favor and ____ opposed to Adopt the Planning Commission Report and Recommendation.

Section 2. STANDARDS

- 2.1 Fence Height Requirement. Fences not exceeding forty-two (42) inches in height and consisting of no more than fifty (50) percent solid matter may be permitted in front of the front building line as established by the primary structure on the lot. Section 801.18.1.E.2
- 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 Height Variance:

3.1 Setback and Lot Coverage Variances.

- A. The Height Variance requested in the Application does not change the current single family residential use. The Height Variance requested is in harmony with the general purposes and intent of the Ordinance and are consistent with the Comprehensive Plan.
- B. There is a practical difficulty in complying with the fence height requirement, as outlined in Section C below.
- C. The Height Variance is reasonable due to the configuration of the lot. The front property line, as defined by City Code, is the west property line along Bushaway Road. However, due to a shared private driveway with the properties to the north and east, the access to the property is from the private driveway, and the house faces the private driveway, and not Bushaway Road. Therefore the practical front yard is the north side of the house, and the west side of the property along Bushaway Road functions as the side yard, not the front yard. The lot configuration is unique to the property and was not created by the landowner.

In addition, the Height Variance would not adversely impact the essential character of the locality. The fence would not obstruct views from surrounding properties. The properties immediately to the north and south

of the property also do not face Bushaway Road. Therefore, the fence would not be visually located in the front yard of the Property or adjacent properties.

- D. The practical difficulties necessitating the Height Variance are not solely economic in nature. The existing lot configuration of the Property is a significant factor in the practical difficulty of meeting the Ordinance requirements.
- E. The Height Variance is not requested for earth sheltered construction.
- F. A fence is permitted within the R-1 zoning district that the Property is located in.
- G. The conditions for granting approval of the Height Variance are listed below in Section 4 of this Resolution.
- H. The Applicant has provided the reasons that the Height Variance is 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 Height Variance 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 21st day of December 2015.

Chair, Planning Commission

Attachment A

Height Variance as set forth in the Application