



# Wayzata Planning Commission

## Meeting Agenda

Monday, February 27, 2017

Community Room  
600 Rice Street East  
Wayzata, Minnesota 55391

- 7:00 p.m.**
- 1. Call to Order & Roll Call**
  - 2. Approval of Agenda**
  - 3. Approval of Minutes**
    - a. February 6, 2017
  - 4. Public Hearing Items:**
    - a. Telecommunications Tower – 149 Barry Ave N  
Conditional Use Permit, Variance
  - 5. Old Business Items:**
    - a. Gardner Place – 350 Gardner St E  
Preliminary Plat Subdivision, Variances
  - 6. Other Items:**
    - a. Review of Development Activities
    - b. Next Meeting is March 6, 2017
  - 7. Adjournment**

NOTES:

<sup>1</sup> 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**  
**DRAFT MEETING MINUTES**  
**February 6, 2017**

**AGENDA ITEM 1. Call to Order and Roll Call**

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

Present at roll call were Commissioners: Gruber, Gonzalez, Iverson, Flannigan and Buchanan.  
Absent: Commissioners: Young and Murray. Director of Planning and Building Jeff Thomson  
City Engineer Mike Kelley, Director of Public Services Dave Dudinsky, and City Attorney  
David Schelzel were also present.

**AGENDA ITEM 2. Approval of Agenda**

Commissioner Gonzalez made a motion, Seconded by Commissioner Flannigan, to approve the  
February 6, 2017 meeting agenda as presented. The motion carried unanimously.

**AGENDA ITEM 3. Approval of Minutes**

**a.) Approval of January 4, 2017 Planning Commission Minutes**

Commissioner Gruber made a motion, Seconded by Commissioner Buchanan, to approve the  
January 4, 2017 Planning Commission Minutes as presented. The motion carried unanimously.

**b.) Approval of January 18, 2017 Planning Commission Minutes**

Commissioner Gonzalez made a motion, Seconded by Commissioner Gruber, to approve the  
January 18, 2017 Planning Commission Minutes as presented. The motion carried unanimously.

**AGENDA ITEM 4. Old Business Items:**

**a.) Wayzata Blu – 259, 269 and 275 Lake Street E and 339 Barry Avenue**

**i. Rezoning, PUD Concept Plan**

Director of Planning and Building Thomson stated the applicant, Gatehouse Properties, has  
submitted a development application to develop properties located at 259, 269, and 275 Lake  
Street E and 339 Barry Avenue S. The project includes demolition of the existing commercial  
buildings and construction of a three-story mixed use building consisting of ground level office  
and 17 residential condominiums. The development application includes request for approval of  
rezoning from C-4A to PUD/Planned Unit Development and PUD concept plan of development.  
The Planning Commission reviewed the development application and held a public hearing at its

1 meeting on January 18, 2017. Since the last Planning Commission meeting, the applicant  
2 provided updated information on the prices for the condominiums, and conveyed that it is open  
3 to including flexibility in the PUD to allow retail uses on the ground floor of the building. At the  
4 January 18<sup>th</sup> meeting, the Planning Commission directed staff to prepare a Planning Commission  
5 Report and Recommendation for approval of the development application.

6  
7 Commissioner Gonzalez asked if the Planning Commission Report should include references to  
8 the additional information from the applicant's email to the City on design detail.

9  
10 Mr. Thomson stated he discussed this with the City Attorney and it had been determined this  
11 design detail for the construction of the building, and any related conditions of approval, could  
12 be included when the Planning Commission and City Council review the PUD general plan of  
13 development and design review that will be necessary for the next stage of project approvals.

14  
15 Commissioner Gruber asked if there would be common open space as required by the PUD  
16 ordinance.

17  
18 Mr. Thomson stated there has not been a specific proposal for this particular PUD standard, and  
19 it would need to be addressed as part of the general plan review.

20  
21 Commissioner Gonzalez stated she would like to have additional information when the general  
22 plans are submitted regarding the private agreement for parking between the 259 Lake St E  
23 property and the Boatworks property across the street, so that the Planning Commission can  
24 understand how it would impact what the City would be able to approve.

25  
26 Commissioner Gruber stated she is disappointed that there are no units that are moderately  
27 priced.

28  
29 Commissioner Gonzalez made a motion, Seconded by Commissioner Buchanan to approve the  
30 Planning Commission Report and Recommendation, recommending approval of the PUD  
31 Rezoning and PUD Concept Plan of Development for New Three-Story Mixed-Use  
32 Development at 259, 269, and 275 Lake Street E and 339 Barry Avenue S, as drafted by staff.

33  
34 Chair Iverson stated she was glad the applicant would be willing to look at including retail.

35  
36 The motion was called to a vote. The motion carried unanimously.

37  
38  
39 **AGENDA ITEM 5. Public Hearing Items:**

40  
41 **a.) Gardner Place – 350 Gardner Street E**

42 **i. Preliminary Plat Subdivision, Variances**

43  
44 Director of Planning and Building Thomson stated the applicant, Bohland Homes, has submitted  
45 a development application to subdivide the property at 350 Gardner Street E into three single-  
46 family residential lots. The existing house would be demolished and three new homes would be

1 constructed with access from a private street. As part of the submitted development application,  
2 the applicant is requesting approval of the preliminary plat subdivision, a variance from the  
3 Subdivision Ordinance to allow use of a private street, and a variance from the Zoning Ordinance  
4 to exceed the maximum impervious surface standard for each lot. The Planning Commission  
5 held a public hearing and previously reviewed the development application at its meeting on July  
6 16, 2016. At that meeting, the Planning Commission requested the applicant provide an updated  
7 tree inventory that includes trees located on adjacent properties and trees located in the Gardner  
8 Street right of way, the amount of fill associated with the proposed grading plan, lot coverage  
9 and impervious surface information, a tree preservation plan, and a storm water management  
10 plan. Mr. Thomson noted that the applicant has submitted revised plans for the project which  
11 includes the additional information requested by the Planning Commission and for which a new  
12 public hearing is required. Mr. Thomson explained that each of the new homes would need to  
13 meet the fire code requirements. The fire code typically requires a 20-foot wide fire access lane  
14 unless additional measures are taken to address fire safety. The applicant has stated that each of  
15 the new homes would have a fire sprinkler system and based on this, the City's fire marshal has  
16 determined that the private street serving the new homes would need to be a minimum of 16-feet  
17 in width and provide a turnaround at the end. The applicant is proposing to widen the existing  
18 driveway to 16-feet in width in order to meet this requirement. The proposed plans also include  
19 a 50-foot turnaround between lots 2 and 3 that would be constructed of a grass paver system.  
20 The fire marshal has stated that the turnaround would need to be paved. Staff has requested the  
21 City Forrester review the tree preservation plan and tree inventory and provide feedback on what  
22 trees in the right of way would be impacted.

23  
24 Commissioner Flannigan asked how many truckloads of fill would be brought to and from the  
25 site.

26  
27 Mr. Kelly stated 575 yards is what is the minimum projected for the project, and each truckload  
28 is about 12-15 yards. The total number of trucks is estimated to be 50-60 trucks. There will be  
29 additional activity with the reconstruction of the street.

30  
31 Commissioner Gruber asked why so much fill would be required.

32  
33 Mr. Kelly explained as the proposed access road goes east, the applicant is proposing to fill the  
34 roadway to level it, so there would be a less steep driveway for the last lot. The proposed  
35 retaining wall would be a minimum of 3-feet and a maximum of 6-feet. He also explained the  
36 water and sewer would be relocated from its current location because the existing water line  
37 crosses the corner of the adjacent property.

38  
39 Commissioner Gonzalez asked whether the proposed private street would overlap onto the  
40 adjacent lot.

41  
42 Mr. Kelly stated the street, as shown in the Applicant's plans, is off the neighbor's property and  
43 is located fully in the right of way until it reaches the Applicant's property.

44  
45 Chair Iverson stated map 6.5 of the Comprehensive Plan for 2030 looks at soil quality, and this  
46 particular site shows poor quality with severe limitations, and map 6.3 of the Comp Plan

1 (topographic map) shows that the property exceeds the 12% slope. She stated that it seemed  
2 there would be a large amount of fill coming from Lot 3. She asked where this would be going.  
3

4 Mr. Kelly stated from the information he has, the applicant is proposing a retaining wall along  
5 the east property line. They would be reusing as much of the excavated material on site as  
6 possible. The existing house is located where the soil quality map shows the soil as poor quality  
7 with severe limitations.  
8

9 Commissioner Flannigan asked if the proposed private road was factored into the impervious  
10 surface for the properties and if not, why the proposed impervious surface coverage was so high.  
11

12 Mr. Thomson stated the private street does count as impervious surface on each of the individual  
13 lots because the street is located on the lots, not within the right of way.  
14

15 Commissioner Gonzalez asked if the hardcover calculations would increase if the turnaround  
16 between Lot 2 and Lot 3 were paved as required by the fire marshal.  
17

18 Mr. Thomson stated the impervious surface coverage would increase for those lots if the  
19 turnaround was paved.  
20

21 Applicant's representative, Mr. Steve Bohl, 550 Far Hill Road, Wayzata, stated they are working  
22 to comply with all of the City and Fire codes and regulations with the exception of the private  
23 road. He stated the homes would have fire sprinklers, and there is a fire hydrant on the corner of  
24 Lot 1. He stated he has hired a certified arborist to review the tree inventory of the site. He  
25 stated the original intent for this property had been three lots, and it is legally described as Lots  
26 2, 3, and 4. The uniqueness of the properties' grade does present some challenges. He clarified  
27 the hardcover variance they were requesting was from 3% to 6%. They could reduce the  
28 hardcover by limiting the garage size on each lot to a two-car garage size. In his opinion, they  
29 are presenting the best option for accessing the three lots. Lot 3 does present topographical  
30 challenges. He stated the retaining wall along the east side would have a maximum height of 4-  
31 feet. He stated he would be willing to apply for a Planned Unit Development (PUD) if the  
32 Planning Commission preferred this as a way to incorporate the private street, instead of the  
33 variance. He stated the reason they pulled the street out of the right of way was because of the  
34 topography of the right of way and the trees that are located in the right of way. Moving the road  
35 off the property and into the right of way would disturb the area more, and would impact more  
36 trees. He stated there are other examples of private streets for this type of development within  
37 the City.  
38

39 Chair Iverson asked if the applicant had tried to work with the neighbors to use part of the  
40 existing driveway.  
41

42 Mr. Bohl stated they were planning to go as close to the existing driveway as possible. He stated  
43 the City could consider a 26-foot wide public street in the right of way, but he does not believe  
44 this is the best access for this property.  
45

46 Commissioner Gonzalez asked how far from the east property line the house would be on Lot 3.

1  
2 Mr. Bohl stated it would meet the setbacks. The retaining wall would be located on the edge of  
3 the property line and the house would be setback 10-feet from that.  
4

5 Commissioner Gonzalez stated that excavating this close to the property line would impact the  
6 trees on the adjacent property.  
7

8 Mr. Bohl stated there was one tree on the adjacent property that would be impacted.  
9

10 Commissioner Flannigan stated that the existing canopy of trees would be completely removed  
11 with the way the houses are situated on the proposed lots, and this would impact the  
12 neighborhood.  
13

14 Mr. Bohl stated that the tree calculations include the removal of trees in the right of way. The  
15 number of trees being removed from the property is 7.  
16

17 Commissioner Flannigan stated he would estimate the applicant would make 4-5 times more  
18 money if he were to build 3 homes versus 1 home.  
19

20 Mr. Bohl stated it was not the Planning Commission's place to make those determinations. He  
21 stated he bought this particular property because he believes it is ideal for 3 single-family homes.  
22

23 Commissioner Flannigan asked if removing 60% of the significant trees is consistent with the  
24 statement in the Application that "for the most part, the overall site has few trees inside the  
25 property lines..."  
26

27 Mr. Bohl clarified the number of trees being removed does include those in the City right of way,  
28 and these are not located on the property.  
29

30 Commissioner Flannigan asked if the practical difficulties were because of the road or because  
31 the applicant wanted to subdivide the property.  
32

33 Mr. Bohl stated if they were to put one home on the property they would still be removing 6  
34 trees.  
35

36 Commissioner Buchanan asked what amount of the trees being removed would be considered  
37 desirable trees.  
38

39 Applicant's consultant, Mr. Steve Nicholson, 2275 Hyland Parkway, St. Paul, certified forester  
40 and arborist, stated the best trees are up the hill from the existing home, and these will be  
41 preserved under the proposed plan. There will be a couple of the nicer trees removed. Most of  
42 the lesser quality trees are located in the City's right of way. The basement for the home on Lot  
43 3 would not be as close to the tree on the lot-line but there would be some impact to the root  
44 system. Even so, there is a fair chance of saving this tree.  
45

1 Commissioner Gonzalez asked what measures could be taken to prevent damage to the trees on  
2 the neighbor's property.

3  
4 Mr. Nicholson stated most communities require a fencing system that would prevent heavy  
5 equipment from working near the root zone. He stated it would not be necessary to remove all of  
6 the root system in the eastern side of the tree in order to put in the foundation and basement for  
7 the home on Lot 3.

8  
9 Chair Iverson opened the public hearing at 8:14 p.m.

10  
11 Mr. Joseph Madson, 344 Gardner Street E, stated his property is directly west of the project and  
12 would be significantly impacted. He pointed out that the current lot is consistent with the  
13 adjacent lots. He asked if the right of way work to the north of his property would be considered  
14 an encroachment, an easement, or a vacation of this land.

15  
16 Mr. Kelly stated it would be considered an encroachment in the public right of way, and it would  
17 require an agreement between the City and the developer for the maintenance of their portion of  
18 the improvements. This agreement would carry with the properties.

19  
20 Mr. Madson stated this land is not fully developed because of the topography and soil. He stated  
21 the Comprehensive Plan states "Much of the remaining privately owned parcels are impacted by  
22 wetlands and steep sloped, which will limit the amount of development that is allowed on those  
23 parcels." He stated there are smaller lots 7-blocks away but in this neighborhood the lots are  
24 larger with one home. He stated prosed Lot 3 has a slope of 12% and the soil is not good. Any  
25 grading done in this area will have an impact on the surrounding area. He expressed concerns  
26 about the number of trucks that would be using his private driveway to construct the private  
27 street. He stated the subdivision provisions specifically stated unsuitable property as "soil and  
28 rock formations with server limitations for development, server erosion potential, steep  
29 topography, inadequate water supply or sewage removal capabilities ...". He stated there are 3  
30 trees that are in the right of way that are currently provide screening for his property and these  
31 would be removed as part of the private road construction. He explained his property does  
32 receive significant screening and noise reduction from the existing trees and removing these  
33 would impact this. He also expressed concerns about the water runoff and where this would go.

34  
35 Ms. Alyssa Madson, 344 Gardner Street E, stated the proposed drainage plan is different than  
36 what currently exists and would significantly alter where the water is draining. The proposal is  
37 moving the drains from Lot 3 further to the west into Lot 1 and this is closer to the housing pad  
38 at 345 Gardner Street. She stated in the north plat of Wayzata there are only 5 shared driveways  
39 and adding a private street in this neighborhood would not be in keeping with the neighborhood  
40 because shared driveways are not common in this neighborhood. She has shared a driveway  
41 with one other person for the last 4-years and understands why the City has strong language in  
42 the subdivision ordinance against private streets. She expressed concerns about two more homes  
43 using a portion of their private driveway. The additional homes would also significantly increase  
44 the traffic in front of her home and she has young children. She feels this additional traffic  
45 threatens their safety. She stated the private road would also make their home less desirable if  
46 they decide to sell the property. She stated the street variance violates the City's preliminary plat

1 criteria because the proposed subdivision would depreciate the value of neighboring properties,  
2 and the proposed subdivision is not accommodated with existing public services, primarily  
3 related to transportation and utility services. She expressed concerns about the heritage tree that  
4 is on her property but adjacent to the project. The proposed corner of the home for Lot 1 is 12-  
5 feet 5-inches from the trunk of this tree. She talked with three different tree experts, and all three  
6 stated that the tree would not survive. They each stated the tree may last as long as five years,  
7 but it would eventually need to be removed and the cost to have it removed would be more than  
8 \$7,000. She stated the City Council had recently denied a project on Holdridge Road due to the  
9 significant slope of the property and the amount of fill that would be required.

10  
11 Ms. Lucy Bruntjen, 402 Gardner Street, stated that this is a uniquely quiet and woodsy  
12 neighborhood. If this project were located on the other side of the hill the City of Wayzata  
13 would not allow this type of character changing, land altering project. She stated there would be  
14 a safety concern with the additional traffic three new homes would bring. She stated three new  
15 homes would be too much for the neighborhood, and the removal of all the trees would greatly  
16 impact the character of the neighborhood.

17  
18 Ms. Marilee Babcock, 337 Reno Street, expressed concerns about the number of trees that would  
19 be removed. She stated one of the trees marked to be preserved is a boxelder tree but they are  
20 removing a large sugar maple and two large oak trees. She pointed out that these trees filter  
21 pollutants, and new trees will not be as effective. She stated that fill cannot be put in around the  
22 trees because this will kill these trees.

23  
24 Ms. Celia Threlkeld, 353 Park Street E, stated she would like to see the best use of the property,  
25 and for it to be fair and right. She stated the Hennepin County maps had showed this property as  
26 three 60-foot lots. She knew when she bought her property that it would be possible to have  
27 three homes behind hers, and anyone who purchased a home in that neighborhood should have  
28 known as well. The privacy that they have enjoyed is not enough to criticize the project because  
29 this parcel was going to be three lots. Adding these new homes will be an improvement to this  
30 street and neighborhood. She stated Mr. Bohn is a reputable developer and would make the  
31 project beautiful and make sure the drainage is properly taken care of. She pointed out that if the  
32 developer decided to extend the public street at 26-feet wide this would create more hard surface  
33 and reduce the need for a hard surface variance on the properties than the smaller private street  
34 they are currently proposing.

35  
36 Mr. Madson asked if the encroachment would be temporary or permanent.

37  
38 Mr. Thomson stated there is a section of the City's code that addresses three types of  
39 encroachments. Permanent encroachments are projections of structures themselves from private  
40 property into the right of way, which does not apply to the development application.

41  
42 Mr. Madson stated temporary encroachments are advertising signs, landscape planters or other  
43 items that would be temporary in nature, and an awning would refer to any awning or structural  
44 support that projects over the public right of way. He stated the code states permanent  
45 encroachments can only be granted to property in the C-4 zoning district. He asked if this  
46 request would be added to the application.

1  
2 Mr. Thomson stated there was a letter and email included in the packet and request for it to be  
3 read into the record.  
4

5 Chair Iverson read the letter from Linda Lyndon, 350 Gardner Street E for the record:

6 I understand that development and change is a natural progression in life but I would  
7 wonder if you give permission to the property at 350 Gardner to be subdivided into three  
8 lots for single family homes are you technically saying yes to the plans that are already  
9 presented at the July 6, 2016 Planning Commission meeting, which the neighbors stated  
10 had many detrimental issues. I would appreciate anyone voting on this to look at the  
11 property being developed and the properties neighbor to fully understand what is asked of  
12 you. I don't feel the plans tell the whole story. It presently has one house there for a  
13 reason. You are dealing with the hill, driveway issues, and the destruction of natural tree  
14 lines in the City right of way that is very important to our neighborhood. I was told that  
15 the City never gives away property. If you allow a retaining wall to be built on the City  
16 right of way you are giving away the City property that will affect my property and  
17 neighbors to the east. I am also very concerned about the drainage that would be directed  
18 to my property. We have owned the property since 1970 and have never had a water  
19 issue in our home or yard. Presently the water is directed to the lowest are of our yard,  
20 which has worked perfectly. I see no reason for someone's development to harm my  
21 property or any of my neighbors. After reading the 48 page Subdivision Ordinance,  
22 Chapter 805 of the City Code, last amended 9/20/2007, it was nice to see that we have  
23 many rules to protect our neighborhoods. I expect that our leaders will uphold every one  
24 of them. Thank you for your time and thoughtful consideration of what is before you.  
25

26 Chair Iverson read the email from Laurent and Madeline Frecon, 238 Barry Avenue N for the  
27 record:

28 Regarding the Gardner project and our previous email, my wife and I wanted to clarify  
29 that our primary concern is the traffic created during construction and how to migrate the  
30 disruption. However, if those involved can come to an agreement, we think the  
31 improvements to the lots would benefit the neighborhood and surrounding home values.  
32

33 There being no one further wishing to speak, Chair Iverson closed the public hearing at 9:02 p.m.  
34

35 Commissioner Gonzalez suggested the Commission review the application and the subdivision  
36 variance criteria.  
37

38 Commissioner Gruber stated the issues that have been pointed out include drainage, the creation  
39 of a bigger private street, retaining walls, and the amount of fill, the steep slopes, tree removal,  
40 and the increase in hard surface. There are zoning and subdivision standards that are in  
41 opposition to this request. Mr. Bohl stated he had purchased the property for economic reasons.  
42 This is a beautiful lot, and he could create a beautiful home on this lot. Based on the variance  
43 criteria, this application does not meet any of those conditions. The Comp Plan shows this site  
44 as having poor soil and severe limitations for development. She stated the proposed project does  
45 not meet the preliminary plat criteria as well. There are enough legal standards that supports not  
46 subdividing this property, and she would not support this subdivision of this property.

1  
2 Commissioner Flannigan stated there is currently one lot. There was a decision made in the  
3 1970s for tax purposes to combine the 3 lots into one. The letter provided to the property owner  
4 at the time of the requested lot combination pointed out there may be problems subdividing the  
5 property in the future. There are 14 different hurdles and obstacles that the developer will have  
6 to address and resolve. He stated the applicant does not meet the Preliminary Plat criteria  
7 (Section 805.14.E0 items, 3, 4, 5, 6, 7, 11, and 12, and in the Subdivision Variance criteria  
8 (805.60) items 1, 2, 3, 4, and 5. He would not support this application at this time.  
9

10 Commissioner Buchanan stated there is a degree of interpretation involved in applying the  
11 criteria, and it is speculative to assume that the neighboring property values would depreciate.  
12 He stated the Commission can make recommendations.  
13

14 Commissioner Gonzalez stated the code clearly states that a private street shall not be allowed in  
15 a subdivision except as a Planned Unit Development (PUD). The variance criteria state that the  
16 applicant has to show an undue hardship as part of the requirements for a variance. The  
17 applicant has not met the requirements of the variance criteria, and the Commission should not  
18 recommend approval of the variance for the private street. The applicant can build a home on  
19 the existing lot that would not require a variance. The applicant created the undue hardship. The  
20 City did suggest the applicant consider a 2-lot subdivision. The applicant is also requesting a  
21 variance for the hardcover, and this request is being driven by the private street, which is being  
22 driven by the applicant's desire to have 3 homes on this property. She stated she could not  
23 support the variance requests. The Commission's job is to ensure the application meets the  
24 requirements of the City's Codes and Regulations.  
25

26 Mr. Thomson clarified if the applicant built one home on the property, a variance from the  
27 Subdivision Ordinance would not be required for the private street because the property would  
28 not be subdivided, but the fire code would still apply.  
29

30 Chair Iverson stated she agreed that the application did not meet the variance requirements or the  
31 preliminary plat criteria. She is concerned with the topography impacts and the removal of the  
32 heritage trees on the property. She stated more information is needed pertaining to the soil  
33 quality and how this will affect the retaining walls. She would recommend denial at this time.  
34

35 Commissioner Gonzalez made a motion, Seconded by Commissioner Flannigan, to direct staff to  
36 prepare a draft Planning Commission Report and Recommendation with appropriate findings  
37 recommending denial of the Subdivision at 350 Gardner Street, the variance request for a private  
38 street, and the variance request for the increased hard surface coverage. The motion carried 4-  
39 ayes and 1 nay (Buchanan).  
40

41 Ms. Threlkeld asked for clarification on the fire access requirements for a single home.  
42

43 Mr. Thomson stated that any new construction in the City would have to meet the City's fire  
44 code including access requirements. He noted that a draft Report and Recommendation on the  
45 Application will be in front of the Commission at their February 27 meeting.  
46

1 The Planning Commission recessed at 9:27 p.m.

2  
3 The Planning Commission reconvened at 9:38 p.m.

4  
5 **b.) Telecommunications Tower – 149 Barry Avenue N**  
6 **i. Conditional Use Permit, Variances**  
7

8 Director of Planning and Building Thomson stated SEH, on behalf of the City of Wayzata, has  
9 submitted a development application to construct a commercial telecommunications tower on the  
10 Wayzata West Middle School property at 149 Barry Avenue N. The proposal requires a  
11 conditional use permit (CUP), and setback variance. The ordinance states that a  
12 telecommunications tower must be set back from all residential properties at least 1-foot for each  
13 foot in height. Based on the proposed height, the tower is required to be at least 195-feet from  
14 the adjacent residential properties to the east. The tower would be set back approximately 150-  
15 feet and this requires a variance. He stated that the variance for the accessory structures that is  
16 discussed in the staff report is no longer needed, as the City is agreeable to including terms in the  
17 lease with individual tenants that would not allow more than one accessory building. Therefore,  
18 the variance for the accessory buildings is no longer required.

19  
20 Commissioner Gonzalez asked if a variance would be required for the height of the tower  
21 because the code allows for 190-feet and the applicant is requesting 195-feet.

22  
23 Mr. Thomson stated the tower is 195-feet, and the code states the City can increase the height to  
24 190-feet if the Council finds the increase in height would not have a significant visual impact,  
25 would not have a negative property value impact on surrounding properties because of  
26 proximity, topography, or screening by trees or buildings, or would accommodate two or more  
27 uses. In addition, the City may waive this height limitation for a telecommunications tower if  
28 used wholly or partially for essential public services, such as public safety.

29  
30 City consultant, Mr. Dale Romsos, Short Elliot Hendrickson Inc. (SEH), 3535 Vadnais Center  
31 Drive, St. Paul, stated the application is based on a feasibility study that was completed in 2016.  
32 This report is in part a culmination of investigative work as directed by the City of Wayzata  
33 following extensive staff and Tenant input regarding telecommunications infrastructure to meet  
34 the future needs of the City and the present tower occupants. He reviewed the fallout area of the  
35 tower and the design of the tower.

36  
37 Commissioner Gruber asked if the baseball diamond was inside the fall zone area.

38  
39 Mr. Romsos clarified the pole is designed to break into two smaller section in order to decrease  
40 the fallout area.

41  
42 Mr. Dudinsky, stated they had made every effort to keep the tower as far from the diamond fields  
43 as possible.

44  
45 Commissioner Flannigan asked how much of the tower residents on Barry Avenue and Gardner  
46 Street would see.

1  
2 Mr. Romsos stated if the trees are 40-feet then they would see about 150-feet of the tower.  
3

4 Commissioner Flannigan asked why this was not being proposed at the Public Works facility.  
5

6 Mr. Dudinsky stated they had been studying possible relocations of the City's telecom tower  
7 since 2008, including different screening options and underground equipment at the current site.  
8 It had been determined that if a tower were located at Public Works, it would mandate at least  
9 one more tower be built at the other end of town to meet coverage needs. He explained the  
10 reason they were requesting 195-feet in height was because AT&T would need this height to  
11 maintain the height they currently have at the water tower. He stated the mass of this tower is  
12 less than the water tower and will not have to be painted.  
13

14 Commissioner Flannigan asked what the noise level would be.  
15

16 Mr. Dudinsky stated some noise would be generated from the ground building because some of  
17 the equipment it houses needs to be in a climate-controlled environment. There will be air  
18 conditioners and heating units that run in that facility. There have been complaints in the past  
19 related to this kind of activity, but this tower will be located further from residential properties  
20 and the new equipment has changed to be quieter than the older equipment. He explained the  
21 location at the school provided two access points, and the residents had stated a preference for  
22 access to be from Wayzata Blvd.  
23

24 Chair Iverson asked about the safety of the kids at the school.  
25

26 Mr. Dudinsky stated there is an access driveway that will be used to access the site. Unless there  
27 is an emergency, there will not be access to the telecommunications site by tenants during the  
28 times when students are arriving or leaving the school. This is a controlled site and the tenants  
29 have to give the school 24-hour notice that they will be on site. He stated the construction of the  
30 tower and related facilities would take place during the 3-months of summer break.  
31

32 Commissioner Buchanan asked how close the homes on Barry Avenue were to the tower site.  
33

34 Mr. Dudinsky stated the closest home would be 160-feet and the home owners are aware of the  
35 project.  
36

37 Chair Iverson opened the public hearing at 10:06 p.m.  
38

39 Ms. Katie Cullinan, 216 Barry Avenue N, asked the Commission to consider public safety. The  
40 tower is designed to break when it falls but this field is always busy. She stated there are soccer  
41 fields located underneath the tower location.  
42

43 Mr. Dudinsky stated the tower would be to the east of the soccer fields.  
44

1 Ms. Cullinan stated there are still people and children in the area. She expressed concerns about  
2 the eyesore this would create for the neighboring residents. She does not feel that two access  
3 points are safe.

4  
5 Ms. Naomi Bovee, 910 Brockton Lane, Plymouth, asked why the City would need another tower  
6 if these are already located on the water tower.

7  
8 Mr. Dudinsky stated the equipment that is on the water tower would be relocated to the proposed  
9 site, and the water tower decommissioned as a cell tower site.

10  
11 Ms. Bovee asked where the next tower would be. She does not understand the purpose of these  
12 towers. She asked how many watts the tower was.

13  
14 Mr. Dudinsky stated all the information Ms. Bovee was asking for could be found in the  
15 feasibility report commissioned by the City for the project. There will be metering devices  
16 available to ensure that there are no hazards to residents. All the different carriers have different  
17 equipment and towers. This would be the macro tower or the main communications tower for  
18 the City of Wayzata. By relocating close to the existing location, there should not be a  
19 disturbance in coverage. He stated he would be able to meet with Ms. Bovee to answer  
20 additional questions.

21  
22 There being no one further wishing to speak, Chair Iverson closed the public hearing at 10:18  
23 p.m.

24  
25 Commissioner Gonzalez asked what the practical difficulties were that a variance should be  
26 granted.

27  
28 Mr. Thomson stated the site programming is the main practical difficulty because there is not  
29 another location on the property where the tower could be located where the soil is suitable for  
30 construction, and where the location would not impact existing outdoor facilities for the school. .

31  
32 Commissioner Flannigan stated he appreciated there was a lot of time and expense on planning  
33 for this particular tower, but this is only moving a problem from one side of Gardner St. to the  
34 other side of Gardner. The prospect of looking at a 195-foot cell tower feels like it would  
35 devalue the residential properties. He stated the Public Works facility would be a better option  
36 even though there would have to be a secondary tower constructed. He stated this should be  
37 looked at further. He does not believe this is in the best interest for the residents in the area or  
38 the students and employees at the school.

39  
40 Commissioner Gonzalez asked if the City had to provide or allow a site under Federal law.

41  
42 Mr. Dudinsky stated this was correct.

43  
44 Chair Iverson stated she agrees with Commissioner Flannigan, and she is not comfortable with  
45 this being located at a school.

1 Mr. Dudinsky stated the school district does have towers located at other schools.

2  
3 Commissioner Gonzalez stated the City has made a policy decision and chosen the site that they  
4 would like to have this tower located. She asked how much input the Commission would have  
5 on this location.

6  
7 City Attorney Schelzel stated the question before the Commission is not about the best location  
8 for a new tower but if the Commission would recommend approval of the CUP and the setback  
9 variance for this particular location based on the telecommunications ordinance.

10  
11 Commissioner Gonzalez asked if there would be any lighting on the tower.

12  
13 Mr. Dudinsky stated lighting is required if the tower is over 200-feet in height.

14  
15 Commissioner Buchanan stated he appreciates the school safety concerns, but the school has  
16 weighed in on this and they have signed off on it. Towers do blend in overtime, and the  
17 neighbors that are directly behind it have not expressed concerns. This is the most appropriate  
18 place based on the information provided and the function. He would support the application and  
19 the variance request.

20  
21 Commissioner Gonzalez stated the application does meet the requirements of the Conditional  
22 Use Permit, and she would support granting a CUP. The land lease agreement does have hours  
23 of servicing operations established. She stated the City has met the requirements of the variance  
24 ordinance, and she would also support the variance request.

25  
26 Commissioner Gruber stated she would agree with Commissioner Gonzalez and support the  
27 application. The school has approved the location and set the hours of operation they felt would  
28 be acceptable.

29  
30 Commissioner Gonzalez made a motion, Seconded by Commissioner Gruber, to direct staff to  
31 prepare a draft Planning Commissioner Report and Recommendation with appropriate findings  
32 recommending approval of the CUP for the Telecommunications Tower at 149 Barry Avenue N  
33 and approval of the setback variance.

34  
35 Chair Iverson stated this does meet all of the criteria, but she is not in favor of the location. She  
36 would vote to recommend approval of the application because it does meet all of the code  
37 requirements.

38  
39 Commissioner Flannigan stated when this is brought to the City Council for approval, residents  
40 can express that this is not an appropriate place for a 195-foot tower.

41  
42 The motion was called to a vote. The motion carried 4 ayes and 1 nay (Flannigan).

43  
44  
45 **AGENDA ITEM 6. Other Items:**

1           **a.) Review of Development Activities**

2  
3 Director of Planning and Building Thomson stated there were currently no new development  
4 applications being reviewed by the City. The February 27 regular meeting agenda would include  
5 review and adoption of the Report and Recommendation for the Gardner Place application and  
6 the Telecommunications Tower application.  
7

8           **b.) Next Meeting is February 27, 2017**

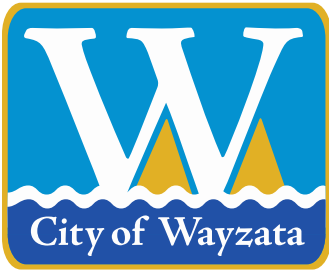
9  
10  
11 **AGENDA ITEM 7. Adjournment.**

12  
13 Commissioner Gonzalez made a motion, seconded by Commissioner Flannigan, to adjourn the  
14 meeting of the Planning Commission. The motion carried unanimously.  
15

16 The Planning Commission meeting was adjourned at 10:37 p.m.  
17

18 Respectfully submitted,

19  
20 Tina Borg  
21 *TimeSaver Off Site Secretarial, Inc.*



## City of Wayzata

600 Rice Street  
Wayzata, MN 55391-1734

---

### Mayor:

Ken Willcox

### City Council:

Dan Koch  
Johanna McCarthy  
Alex Plechash  
Steven Tyacke

### City Manager:

Jeffrey Dahl

Date: February 24, 2017

To: Planning Commission

From: Jeff Thomson, Director of Planning and Building

Subject: Telecommunications Tower – 149 Barry Ave N

### Application Information

SEH, on behalf of the City of Wayzata, has submitted a development application to construct a commercial telecommunications tower on the Wayzata West Middle School property at 149 Barry Ave N. The proposal requires a conditional use permit and a variance

### Planning Commission Review

The Planning Commission held a public hearing and reviewed the development application at its meeting on February 6, 2017. At the meeting, the Commission voted four in favor and one opposed to direct staff to prepare a report and recommendation for approval of the development application

Since the Planning Commission meeting, the City's consultant identified an error on the plans that were reviewed by the Planning Commission. The proposed telecommunications tower would be located 48 feet further to the north and west from where the tower was shown on the previous plans. The actual tower location is correctly shown on the updated attached plans.

Due to the discrepancy in the application, City staff has republished a public hearing for the February 27th Planning Commission Meeting. In addition, the staff report for the project has been updated based on the updated plans.

### Additional Information

The City received one additional public comment regarding the development application, which is included in the updated attachments.

### Planning Commission Action

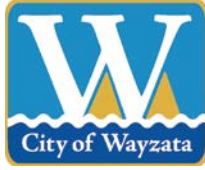
City staff has drafted the attached Planning Commission Report and Recommendation, which recommends approval of the development application.

### Attachments

Updated Staff Report

Updated Attachments

Draft Planning Commission Report and Recommendation



**Staff Report  
Wayzata Planning Commission  
February 27, 2017**

**Project Name:** Telecommunications Tower  
**Applicant** Short Elliot Henrickson (SEH), City of Wayzata  
**Addresses of Request:** 149 Barry Ave N  
**Prepared by:** Jeff Thomson, Director of Planning and Building  
**“60 Day” Deadline:** April 15, 2017

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**Development Application**

Introduction

SEH, on behalf of the City of Wayzata, has submitted a development application to construct a commercial telecommunications tower on the Wayzata West Middle School property at 149 Barry Ave N. The proposal requires a conditional use permit and a variance.

Property Information

The property identification number and owner of the property are as follows:

| Address         | PID               | Owner                   |
|-----------------|-------------------|-------------------------|
| 149 Barry Ave N | 06-117-22-22-0008 | School District No. 284 |

The current zoning and comprehensive plan land use designation for the property are as follows:

|                        |                      |
|------------------------|----------------------|
| Current zoning:        | INS/Institutional    |
| Comp Plan designation: | Institutional/Public |
| Overlay districts:     | None                 |

Project Location

The property is the Wayzata West Middle School located on northwest corner of the Wayzata Blvd and Barry Ave S intersection:

*Map 1: Project Location*



Adjacent Land Uses.

The following table outlines the uses, zoning, and comprehensive plan land use designations for adjacent properties:

| Direction | Adjacent Use                        | Zoning                                                             | Comp Plan Land Use Designation   |
|-----------|-------------------------------------|--------------------------------------------------------------------|----------------------------------|
| North     | Highway 12<br>Single-family homes   | N/A<br>R-2/Medium Density<br>Single Family<br>Residential District | N/A<br>Low Density Single Family |
| East      | Barry Ave N<br>Single-family homes  | N/A<br>R-3A/Single and Two<br>Family Residential<br>District       | N/A<br>Low Density Single Family |
| South     | Wayzata Blvd<br>Single-family homes | N/A<br>R-3/ Single and Two<br>Family Residential<br>District       | N/A<br>Low Density Single Family |
| West      | Wayzata Community<br>Church         | PUD/Planned Unit<br>Development                                    | Institutional/Public             |

Application Requests

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

- A. Conditional Use Permit: New telecommunications towers require a conditional use permit by City Code Section 801.31.4.B.

- B. Setback Variance: The ordinance states that a telecommunications tower must be set back from all residential properties at least one foot for each foot in height, but not less than 100 feet. Based on the proposed height, the tower is required to be at least 195 feet from the adjacent residential properties to the east. The proposed tower would be set back 171 feet from the residential properties, which requires a variance.

#### Public Hearing Notice

The public hearing notice was published in the *Lakeshore Weekly News* on January 26, 2017. The public hearing notice was also mailed to all property owners located within 350 feet of the subject property on January 27, 2017 and February 16, 2017.

#### **Project Overview**

The City is proposing to construct a new commercial telecommunications tower on the Wayzata West Middle School Property. The City currently has leases with four cellular providers that are located on the City's water tower at Klapprich Park. The City Council's strategic plan includes a strategic priority of relocating the telecommunications equipment from the water tower to another location. Over the past several years, the City has been reviewing options for relocating the cellular providers to a dedicated tower that the City would construct. The priority site for the tower is the Wayzata West Middle School, based on analysis from SEH and feedback from the cellular providers. The City has an agreement with the Wayzata School District to construct the proposed tower behind the tennis courts on the northeast portion of the school property.

The project includes construction of a 195-foot tall telecommunications tower, perimeter fencing to screen and secure the ground equipment, new underground utility connections, and an access drive. Access to the tower and ground equipment for both construction and ongoing maintenance would be via Wayzata Blvd through the school's existing parking lot. The scope of the City's project includes construction of the tower. The future tenants of the tower would be responsible for construction of the ground equipment within an accessory building and the adding antennas and associated equipment on the tower.

#### Telecommunications Ordinance

In 2015, the Planning Commission reviewed and the City Council adopted a new section of the zoning ordinance which pertains to all commercial telecommunications facilities in the City. In summary, the City's ordinance allows new telecommunications towers on only two properties in the City – the Wayzata West Middle School and Wayzata Public Works facility on Wayzata Blvd. All other telecommunications equipment may only be located on existing buildings or structures, with priority given to buildings located within 300 feet of Wayzata Blvd. In addition, the ordinance allows for "micro cell" sites to be located on existing utility structures within the City's right-of-way. The micro sites are "repeater" locations that support the capacity and coverage of larger existing telecommunications facilities located on nearby buildings or towers.

**Tower Height**

The telecommunications ordinance states that telecommunications tower shall not exceed 150 feet in height. The ordinance states that the City Council may 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 uses. In addition, the City Council may waive this height limitation for a telecommunications tower if used wholly or partially for essential public services, such as public safety.

The applicant is requesting the tower height be increased to 195 feet based on the public safety services provided by the cellular providers that would be located on the tower. The carrier's federal license requires that the carrier provide E-911 service, which is used by local public safety agencies. The additional height would allow for up to five antenna locations, which would allow for additional cellular carriers and public service antenna.

**Stealth Design**

The ordinance states that a telecommunications tower must use as many stealth design techniques as reasonably possible. Economic considerations or hardship shall not be the sole justification for failing to provide stealth design techniques. 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 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.

**Action Steps**

Adopt the attached Planning Commission Report and Recommendation, which recommends approval of conditional use permit and variance for telecommunications tower at 149 Barry Ave N.

**Attachments**

Applicant's Letters  
Feasibility Study Report  
Proposed Plans  
Public Comments

### **Applicable Code Provisions for Review**

Conditional Use Permits (801.04.2.F): The Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:

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

General Standards for Telecommunication Facilities (801.31.5) All Telecommunications Facilities must comply with the following standards (although nothing in this Section 5 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.) :

- 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, Telecommunications 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 that shows the

Telecommunications Facilities do not pose a threat to general health, safety and welfare of the City.

- D. **Setbacks.** Telecommunications Facilities shall meet the building setback that is established for the zoning district where it is to be located, and the following additional standards:
1. A Telecommunications Tower shall be set back 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.
  2. Towers and Telecommunications Equipment 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.
  3. 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 Equipment 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 Telecommunications 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: (1) the increase in height would not have a significant visual impact, (2) would not have a negative property value impact on surrounding properties because of proximity, topography or screening by trees or buildings or (3) 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. **Ground-mounted equipment.** 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. The additional space must either be built within the first shelter/building or that shelter/building must be designed to allow for future expansions and/or additions. Design of the building or equipment cabinet, screening, and landscaping are subject to 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.

- H. **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 Telecommunications 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) 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.
- I. **Interference with Public Safety Telecommunications.** No Telecommunications Tower or Telecommunications Facility shall interfere with public safety Telecommunications. All Towers and Telecommunication Facilities shall comply with FCC regulations and licensing requirements.
- J. **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.

- K. **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.
- L. **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.
- M. **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.
- N. **Radio Frequency Emissions.** Telecommunications Facilities shall comply with Federal Communication Commission standards for radio frequency emissions and interference.
- O. **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.

- P. **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.
- Q. **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, unless paved and screened off-street 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.
- R. **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.
1. 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;
  2. All proposed new Telecommunications 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;

3. All new Telecommunications Facilities and Towers 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;
  4. All proposed new Telecommunications 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;
- S. **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.
- T. **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.
- U. **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.
- V. **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.
- W. **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.

- X. **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.
- Y. **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.

Variance Standards (Section 801.05.1C): The conditions governing considerations of variance requests:

1. 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.
2. Variances may be granted when the Applicant for the variance establishes that there are practical difficulties in complying with this Ordinance.
3. "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.
- 4. 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.
- 5. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14, when in harmony with this Ordinance.
- 6. 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.
- 7. 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.
- 8. 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.



December 9, 2016

RE: City of Wayzata, Minnesota  
Telecommunications Tower at Wayzata  
West Middle School  
SEH No. WAYZA 139566 14.00

Mr. Dave Dudinsky  
Director of Public Service  
City of Wayzata  
299 Wayzata Blvd. West  
Wayzata, MN 55391

Dear Dave:

In accordance with requirements of the City of Wayzata's Conditional Use Permitting under Section 31 paragraph 6 – Applications for Telecommunications Facilities, item 3.g, Short Elliott Hendrickson Inc. (SEH) is submitting this letter specific to the tower design criteria.

In development of the construction documents for the above referenced project, SEH will follow standard TIA/EIA-222-G (Class II) for the design, fabrication and installation of this tower (or latest revision at the time of contract).

The loading criteria will be based on the installation of five carriers (Tenants), with one identified as future, as directed by the City. Carrier as-builts from their latest installation (Gardner water tower) will be used for the minimum baseline loading capacity for the tower. (Reference attached)

Should further clarification and or information be required please contact Dale Romsos at 612.325.9995.

Sincerely,

Michael Hemstad, PE  
Minnesota License number 19165

dmk  
Attachment  
c: Dale Romsos – SEH Saint Paul  
Daniel J. Zienty – SEH Saint Paul

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Building a Better World  
for All of Us®

January 11, 2017

RE: City of Wayzata, Minnesota  
Telecommunications Tower at Wayzata  
West Middle School  
SEH No. WAYZA 139566 14.00

Mr. Dave Dudinsky  
Director of Public Service  
City of Wayzata  
299 Wayzata Blvd. West  
Wayzata, MN 55391

Dear Dave:

SEH is requesting council to allow the increase in height for 190 to 195 based on carrier needs to provide cellular coverage and E-911 service. The request is based on criteria with in the City ordinance that allows for consideration based on public safety needs. The communication tower is being designed to accommodate multiple wireless telecommunication carriers that have federally regulated licenses. Part of these license requirements require the carrier to have E-911 service technology. This service becomes a local public safety service. The additional height will also allow for more vertical room on the tower for additional carriers and public service antenna.

Should further clarification and or information be required please contact Dale Romsos at 612.325.9995.

Sincerely,

Dale Romsos  
Project Manager

dmk

Attachment

c: Dale Romsos – SEH Saint Paul  
Daniel J. Zienty – SEH Saint Paul

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# Feasibility Study Report

## Wayzata Middle School Communication Tower

### City of Wayzata, Minnesota

SEH No. WAYZA 134285 4.00

October 4, 2016



Building a Better World  
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Engineers | Architects | Planners | Scientists

PC 2/23/2017

Page 31 of 78



October 4, 2016

RE: Wayzata Middle School Communication Tower  
Feasibility Study Report  
City of Wayzata, Minnesota  
SEH No. WAYZA 134285

Mr. David Dudinsky  
Director of Public Service  
City of Wayzata  
299 Wayzata Blvd. West  
Wayzata, MN 55391

Dear Dave:

We are pleased to present to you the Wayzata Middle School Feasibility Study for the City of Wayzata. This report is intended to provide a detailed summation of investigation and preliminary activities in support of the development of this location for the construction of a new communication tower. The purpose of which is to provide a continuance of wireless communication services to the City of Wayzata.

Its origins are based on the longstanding desire of the City, and more specifically, area residence of Bell Courts with unobstructed use of the facilities. As indicated by the City, concerned over time has risen over Tenant access, noise and general aesthetics with both the site and the Gardner Street water tower. However, communication services provided at this site are necessary for the betterment and continued growth of the community at large.

This report is in part a culmination of investigative work as directed by the City of Wayzata following extensive staff and Tenant input regarding telecommunications infrastructure to meet the future needs of the City and the present tower occupants. This work included assessment of the present facility, followed by engagement with City staff, Wayzata School District, and commercial Tenants to assess present and future needs. This resulted in the investigation into the recommended site at the Wayzata Middle School.

As a result of the work completed, we have developed a recommendation for City consideration of the above site for construction of the new monopole facility. This recommendation serves to improve and update existing telecommunications system operations and efficiency. Cost estimates to aid in the consideration of the presented recommendation are also presented in this report.

We appreciate the assistance we received from Wayzata City staff in sharing their perspectives related to the further development of the proposed project. We further appreciate the assistance provided by the present facility Tenants. The input, knowledge, and experience with respect to the study was invaluable toward the development of its construction parameters.

It is our pleasure to assist the City of Wayzata with this project, and we look forward to discussing the contents of this report with you and or presenting it to Council. If you have any questions regarding this report, please contact me at 612.325.9995.

Sincerely,

Principal | Project Manager

dmk

s:\uzlw\wayza\134285\1-gen\14-corr\draft\_final report 092316\_wayzata middle school communication tower feasibility study dr 100616.docx

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 3535 Vadnais Center Drive, St. Paul, MN 55110-5196  
SEH is 100% employee-owned | [sehinc.com](http://sehinc.com) | 651.490.2000 | 800.325.2055 | 888.908.8166 fax

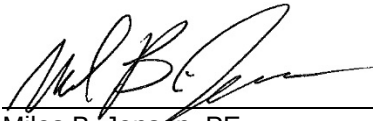
PC 2/23/2017  
Page 32 of 78

Wayzata Middle School Communication Tower  
Feasibility Study Report  
City of Wayzata, Minnesota

SEH No. WAYZA 134285

October 4, 2016

I hereby certify that this report was prepared by me or under my direct supervision,  
and that I am a duly Licensed Professional Engineer under the laws of the State of  
Minnesota.



Miles B. Jensen, PE  
Regional Practice Center Leader

Date: October 4, 2016

Lic. No.: 19869

Reviewed By: Dale Romsos

Date: October 4, 2016

Short Elliott Hendrickson Inc.  
3535 Vadnais Center Drive  
St. Paul, MN 55110-5196  
651.490.2000

# Executive Summary

## Wayzata Middle School Communications Tower

The City of Wayzata currently provides wireless communications service coverage for the downtown area via the Gardner Street Water Tower located at 403 Gardner Street. Supporting Tenant ground equipment is housed within the confines of the Telecommunications compound located in Gardner Park. In recent years this site has been at issue with residents concerned with its location in a general use park, continuous access by the tenants for equipment maintenance and upgrades, and aesthetics. These concerns have led to previous studies by Short Elliott Hendrickson Inc. (SEH®), centering on both equipment site upgraders and complete facility relocation, with initial discussions beginning during the design of the new Water Treatment plant in 2008.

Since then the City with SEH has worked with the residing Tenants in re-designing their installations to the water tower during recent technology upgrades. This has included the removal of the AT&T lattice towers at the catwalk, installing attachment brackets for cable routing along the inside face of the support columns and requiring the use of manufactured white coaxial cables, and installing a new roof handrail system to better distribute the placement of mounted equipment. All for the purpose of providing better aesthetics. However, the above improvements did nothing to address resident concerns regarding Tenant site access, aesthetic regarding the equipment compound, or noise related to compressor operation (equipment cooling). At this time many of the Tenant leases are up for renewal which presented an opportunity for a more serious discussion regarding Tenant relocation.

As stated above, the Gardner Street Water Tower serves the City of Wayzata, in part, as a communication transmission tower for commercial Tenants, as well as the City of Wayzata Public Works specific to its SCADA system. Current revenues generated by the City of Wayzata from commercial Tenants are over \$300,000 annually, based on current lease information provided by the City, thus representing a relevant revenue stream.

On March 31, 2015, the City of Wayzata authorized SEH to provide an aerial assessment of multiple City sites for their consideration as future sites for telecommunications. Consideration for the tower site selection was based on a set criteria provided by the City with an emphasis on aesthetics. Other determining criteria was the need to maintain an equivalency in customer service that would equate equally to the coverage presently provided at the existing Gardner Street site. Further, the new facility would need to allow for future expansion and upgrades in Tenant technology. Sites under initial consideration were:

- Public Works Facility (299 Wayzata Blvd. West)
- Wayzata Middle School (149 Barry Avenue N)
- South Frontage Road (Lift Station #21)

These sites were assessed by an Unmanned Aerial Vehicle (UAV), or drone, with the purpose of simulating actual conditions in real-time as it relates to Tenant line-of-site as associated with radio frequency (RF) propagation used to determine signal coverage. The resulting information was then presented in a meeting to the Tenants by the City (April 24, 2015) for their input in determining the final location. Based on the review of information provided by the City of Wayzata and follow up responses from the represented Tenants, those being: AT&T, Sprint, T-Mobile, and Verizon, the Wayzata Middle School was selected. As directed by the City, SEH proceeded with the investigation into the feasibility of constructing a new communication tower.

## Executive Summary (Continued)

As there are a number of design variations for tower construction; which include Lattice, guyed, monopoles, and specialty (Architecturally design), based on cost and aesthetics the City requested that the direction of the study center on a monopole. In addition to aforementioned criteria, this design has a smaller footprint and would accommodate the existing carriers as well as expansion and or consideration of technology upgrades. Initial costs for construction are estimated at \$827,000.

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# Feasibility Study Report

## Wayzata Middle School Communication Tower

Prepared for City of Wayzata

### 1.0 Introduction

#### 1.1 Project Background

Since the beginning of pager and cellular service, water storage facilities have been sought out by the communications industry as a choice location for siting its equipment. This is due in part to their elevation, and in many cases, proximity to user density. They can reduce the overall site construction costs for the tenant. In turn this has benefited cities with good service and a new source of revenue. Over time City Telecommunication ordinances were developed to prioritize the location of Tenants onto City properties for the purpose of developing a basis for additional revenue, but just as important, reduce/control what was being seen as a blight of self-supporting towers. This too would create facility issues as water storage towers, already questionable aesthetically with neighborhood residents, were becoming more obtrusive with the addition of attached Tenant equipment and associated ground equipment.

Over the years each of these issues has been accentuated for the City of Wayzata, and most specifically residents directly adjacent to Bell Courts. The addition of further Tenants and Tenant upgrades, due to changes in both technology and use, had translated into a greater and more frequent need for site access. The need for access and the visual changes to the tower would have the greatest effect on residences along Gardner Street East and Minnetonka Avenue North. Of additional concern to area residents was the noise generated from the cycling of the air conditioning compressor units used to reduce heat generation from equipment operation.

Initial discussions between area residents and the City centered on modifications to the ground equipment compound, beginning during design of the new water treatment plant in 2008. A study was requested by the City and completed by SEH, but was not moved forward due to estimated project costs on the options presented and construction of the treatment plant. Options presented were as follows:

**Table 1**  
**Telecommunications Site Improvements**

| Option | Description                                                                               | Estimated Cost | Time Line to Completion | Final Compound Removal Date |
|--------|-------------------------------------------------------------------------------------------|----------------|-------------------------|-----------------------------|
| 1      | Removal of the existing fence, adding a berm and vegetation                               | \$61,500       | Spring of 2015          |                             |
| 2A     | Create inset compound and make temporary improvements to the existing compound            | \$176,400      | Summer of 2017          | 2021                        |
| 2B     | 2B – Construct a walled compound and make temporary improvements to the existing compound | \$242,600      | Summer of 2017          | 2021                        |
| 2C     | Construct an underground compound and temporarily improve the existing compound           | \$478,800      | Summer of 2017          | 2021                        |

Please see Appendix A.

The issue was brought forward again in 2012, and a Telecommunications Rehabilitation Options Report was presented to Council by SEH. This time consideration focus was on site relocation and estimated associated costs.

Since then the City and SEH have worked collectively to confront, as best as possible, issues directly related to Tenant installations on the tower. As upgrades were brought forward, SEH worked with their engineers to address equipment clutter by creating a roof handrail system and relocating AT&T from their lattice towers. Coaxial cables were replaced by fiber hybrid cables and routed onto new bracketing attached to the inside face of the support columns. Cables were installed with manufactured white jacketing (as required by the City), or white tape. Though this may have helped aesthetically, it was not enough, and could not alleviate continuing issues such as site access, compressor noise, and overall compound visibility.

In 2015, siting the renewal period for a number of its leases, the City determined that the timing was right to entertain discussions with its Tenants the question of relocation. The discussions were preempted by the completion of a siting study, the purpose of which was to provide an aerial assessment of multiple City sites for their consideration as future sites. These sites included:

- Public Works Facility (299 Wayzata Blvd. West)
- Wayzata Middle School (149 Barry Avenue North)
- South Frontage Road (Lift Station #21)

These sites were assessed to simulate actual conditions as related to Tenant requirements for line-of-site as associated with radio frequency (RF) propagation used to determine signal coverage. The results of the assessment were presented to the Tenants at a meeting held April 24, 2015. At the conclusion of the meeting, Tenants, including AT&T, Sprint, T-Mobile, and Verizon, were requested to independently review the report and provide their own assessment of the proposed sites to determine which would provide coverage similar to the existing Gardner Street water tower. The consensus of the Tenants was the Wayzata Middle

School. The results of the survey and input from City staff were supported by City Council. At their direction SEH was contracted to proceed with the investigation into the feasibility of constructing a new communication tower at the site.

## 2.0 Tower Selection

Consideration for the tower selection was based on a set criteria with an emphasis on aesthetics as a driving factor for the project. Other determining criteria related to the towers need to maintain an equivalency in customer service that would equate to equal coverage by the current carriers as compared to the existing Gardner Street site. Furthermore, the new facility would need to consider expansion or upgrades in technology that may be required by each carrier from time to time.

It was determined early in the project through meetings with City staff that the design criteria should be reduced to consideration of a monopole in lieu of a lattice, or guyed style tower. A monopole would provide the least obtrusive design, require the smallest footprint, and could be the most cost-effective option for construction.

In a previous phase of the project, SEH investigated three sites as identified by the City for consideration. These sites included the following:

- Public Works Facility (299 Wayzata Blvd. West)
- Wayzata Middle School (149 Barry Avenue N)
- South Frontage Road (Lift Station #21)

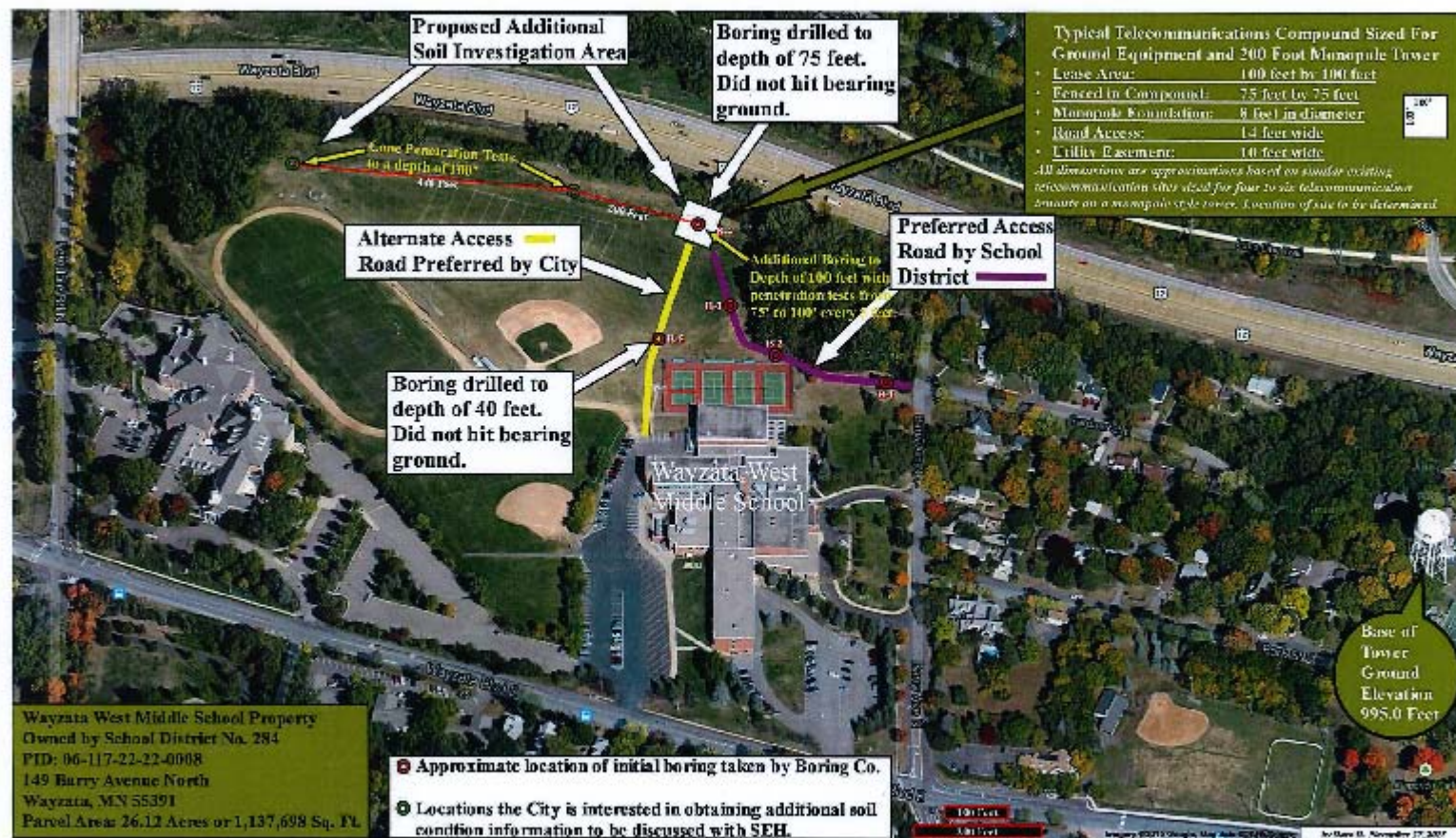
On March 31, 2015, SEH was contracted for performance of a video fly-over using an Unmanned Aerial Vehicle (UAV), or drone, at each of the sites. The purpose of which was to simulate actual conditions in real-time of vertical elevations at 10 ft. intervals to identify line-of-site issues associated with radio frequency (RF) propagation. RF propagation studies would be used by the carriers in determining signal coverage. It further simulated the current radiation or RAD centers of the carriers. The findings from this report were shared at a joint meeting commenced on April 24, 2015, attended by the City, SEH representatives, and current Tenant representatives. As identified in the SEH memorandum presented to the City of Wayzata dated June 17, 2015, based on review of the information provided inclusive of the City of Wayzata, the Tenant (carrier) meeting and follow up responses, it was the opinion of SEH that the Middle School site be considered as the site for construction of a new tower and future relocation of carrier equipment. (Please see Appendix B)

Initiation of the feasibility study began with a meeting between the City, SEH and representatives of the Wayzata School District No.284. The purpose of the meeting was to provide the school with a proposed project overview. This included discussion of the Following:

- Tower structure and compound
- Proposed location and footprint on its property
- Proposed points of access
- School site safety concerns
- Lines of communication and means of access (study related)

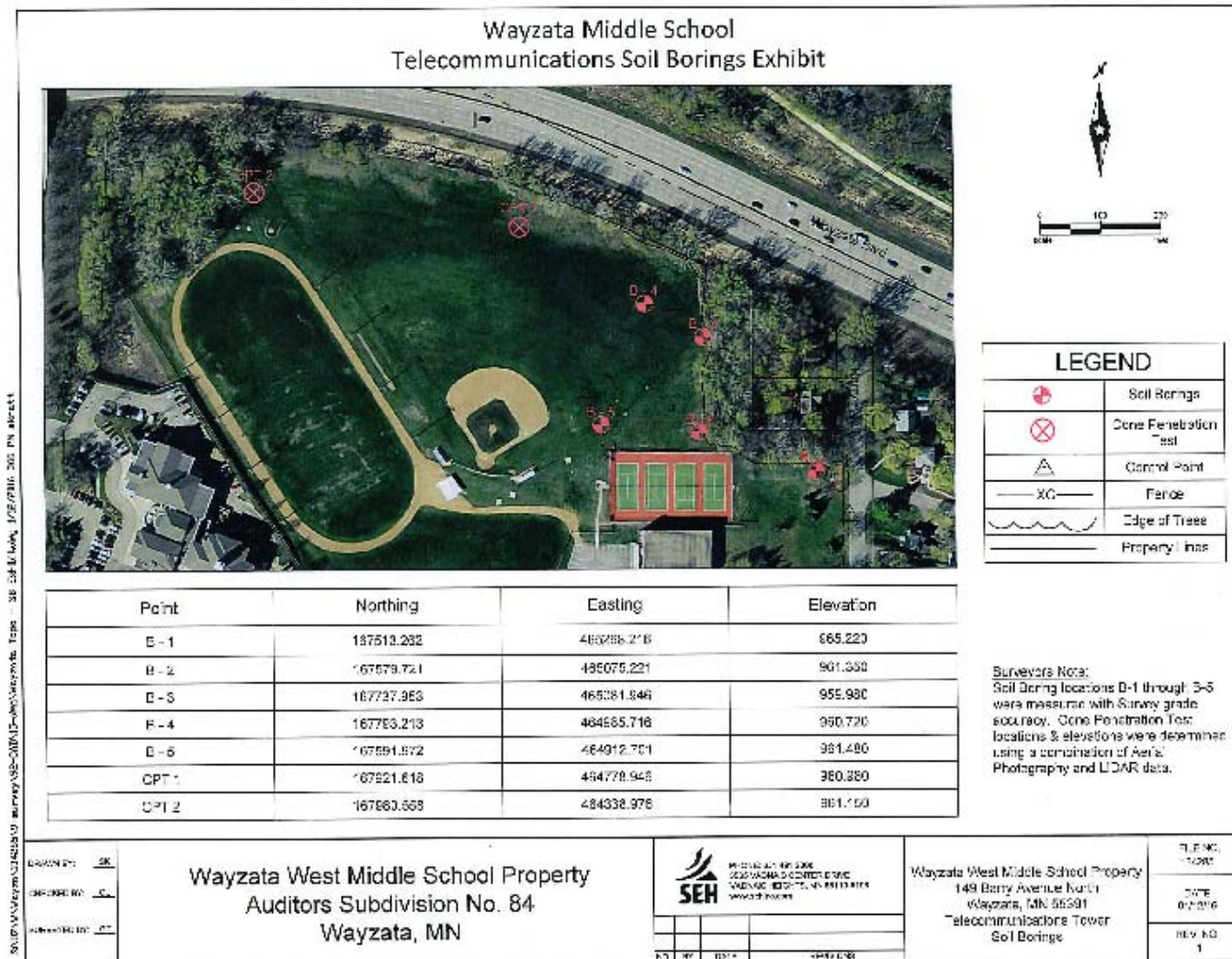
Specific to the tower, discussion focused on the approximate height, lease area requirements, fenced in compound and points of access. Identified were locations off Wayzata Blvd. E, through the schools parking lot, and Barry Avenue N.

Figure 1 – Wayzata Middle School Site Map



Initiation of the field investigation commenced with staking to identify the proposed locations for soil borings to be used to confirm the feasibility of the middle school location for both the tower and the access road. Utility locates were coordinated by SEH. This information would be further used to determine the availability/proximity with respect to the proposed compound location.

Figure 2 – Wayzata Middle School Boring Log



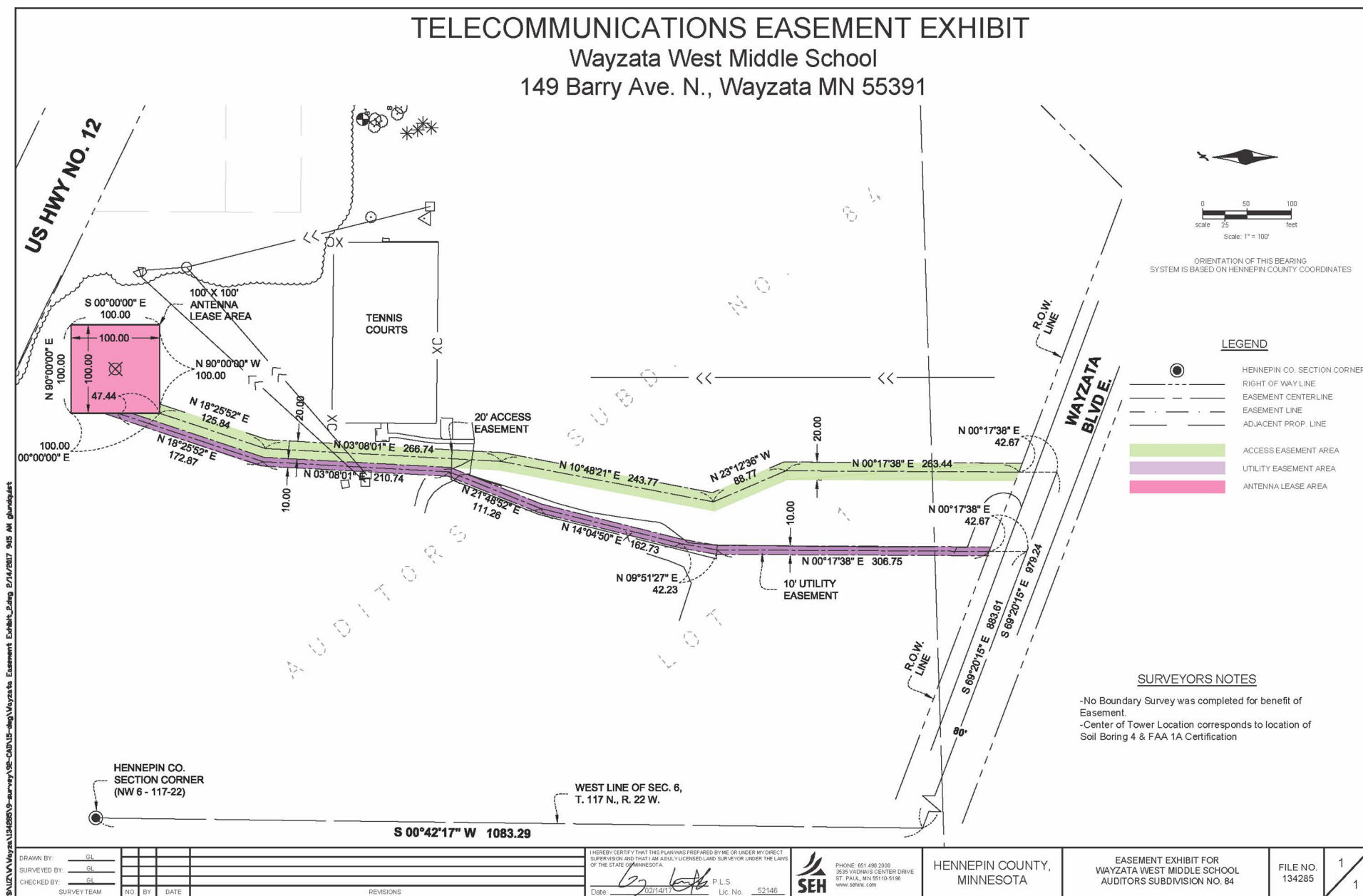
Soil boring locations, as identified in the SEH survey discussion above, were completed by Braun Intertec on October 16, 2015. The results included in that report dated February 4, 2016, identified near surface existence of peat and silty sand, and groundwater at depths between 5 ft. and 12.5 ft. Hard, sandy-lean clay was encountered at approximately 70 feet, with poorly graded sand identified at the bottom of the boring.

On December 4, 2016, additional testing was performed due to poorer than expected soil conditions. This included the investigation of two more sites using SPT borings and cone penetrometer testing (CPT). The results, inclusive of the additional testing as outlined in the report, and stated in the SEH memorandum dated December 15, 2015, state that competent soils were located at boring B-4, and appear to be most favorable for foundation construction. The summation of the report confirms the feasibility of the proposed tower at the selected Wayzata Middle School location. (Please see Appendix C)

Next was consideration of site access. Two routes were initially considered to the tower, the first along the tree line in the northeast corner of the school property and accessible from Barry Street. The second proposed access was from the school parking lot and cutting through the school grounds. Though soils were identified per the soils report as questionable, area residents had expressed that the City consider the second proposed access point through the school to minimize any additional traffic on Barry Street; which is the recommendation of this report.

# Site Easement-Monopole Location at Boring B-4 (Correctly Surveyed)

## Telecommunications Easement Exhibit



A complete site survey and legal description was completed by SEH following confirmation of recommendations for the site, as provided in the soils report, site regulatory clearance, and completion of a property agreement between the Wayzata School District and the City of Wayzata. (Please see Appendix D) Additionally, a property report was requested by SEH on behalf of the City of Wayzata from Land Title. The applicant being Independent School District No.284 for the property identified as 149 Barry Avenue North, Wayzata, Minnesota 55391. (Please see Appendix E)

### **3.0 Campus Safety Concerns**

Safety issues relating to the proposed selected site evolved around access and radio frequency (RF).

Based on the request for proposed access through the school parking lot, school concerns focused on timing as related to both daily project work and work in general. Limitation to driveway access includes 45 minutes prior to the start of school and 30 minutes after dismissal to allow for busses dropping off and picking up students. Additionally, the school expressed a preference for major work to take place while school is in session, while staff is available to better monitor site access and work progress. Specific to notification, the school had requested the following:

- 48 hour notification – General work
- 24 hour notification – Emergency access

During the meeting between school officials, the City, and SEH, the question was brought up about maintaining safety while activities are occurring at the adjacent fields. The consensus was that field activities were far enough away from the proposed site. Site safety would be maintained by incorporating permanent fencing around the perimeter of carrier equipment in the project design. Temporary fencing would be required and installed to segregate the work zone during periods of construction and or upgrading.

Specific to concerns regarding RF, the following recommendations were made at the above referenced meeting:

- A radio frequency meter would be purchased by the City as part of the project, and kept at the Middle school to be made available to parents/residents upon request
- As an enhancement for the purpose of providing basic information regarding RF safety to the general public, educational materials incorporating FCC regulatory requirements could be developed and provided for the school and distributed on a per requested basis.

### **4.0 Regulatory Due Diligence**

With consideration by the City in constructing a new communications tower, it was the responsibility of the City to complete regulatory due diligence associated with the property under consideration. Should the City move forward with the project; the information obtained will be required by each carrier as part of their documentation package as they proceed in the relocation of their equipment to the new facility. As per the project scope, SEH has completed the following:

The 1A Certification was completed directly by SEH and included a survey identifying the proposed horizontal coordinates for the center of the tower, both Latitude (NAD 83) 44 degrees 58 minutes 37.06 seconds North, and Longitude (NAD 83) 93 degrees 31 minutes

07.06 seconds West. Vertical data was based on an assumed tower height of 199 ft. above ground level (AGL). (Please see Appendix F)

Based on an air space analysis performed on 10/5/16, the coordinates for the proposed tower as outlined in the 1A Survey proved to be out of tolerance in the FAA Notice Criteria Tool. The FAA requested that this structure be filed. SEH initiated the FAA filing on 10/04/16, and forecast completion within ninety (90) days. (Please see Appendix F)

Both the Phase 1 Environmental Site Assessment (ESA) and National Environmental Policy Act (NEPA) were completed by Impact 7G, Inc. of Johnston, Iowa.

We have provided a spreadsheet (See Table 2 below) identifying the results on each of these regulatory segments. As stated in the attachment specific to the Environmental Site Assessment and within their Executive Summary, based on the data gathered, there is no further investigation warranted for the property at this time. Though two non-scope ASTM considerations were included, due to the absence of structures on the property, the risk of Asbestos Containing Materials (ACM) and Lead-Based Paint (LBP) exposure is minimal. (Please see Appendix G)

**Table 2**  
**Project Summary**

| Report Component           | Sec. | REC <sup>1</sup> | CREC <sup>2</sup> | HREC <sup>3</sup> | De Min <sup>4</sup> | Non-ASTM | Further Action | Comments |
|----------------------------|------|------------------|-------------------|-------------------|---------------------|----------|----------------|----------|
| Current Property Use       | 1.0  |                  |                   |                   |                     |          | NO             |          |
| Adjacent Properties        | 3.3  |                  |                   |                   |                     |          | NO             |          |
| Historical Review          | 5.3  |                  |                   |                   |                     |          | NO             |          |
| Previous Reports           | 4.7  |                  |                   |                   |                     |          | NO             |          |
| User Provided Information  | 4.0  |                  |                   |                   |                     |          | NO             |          |
| Regulatory Database Review | 5.0  |                  |                   |                   |                     |          | NO             |          |
| Site Reconnaissance:       | 6.0  |                  |                   |                   |                     |          | NO             |          |
| • Hazardous Materials      |      |                  |                   |                   |                     |          | NO             |          |
| • Petroleum Materials      |      |                  |                   |                   |                     |          | NO             |          |
| Vapor Encroachment Screen  | 7.0  |                  |                   |                   |                     |          | NO             |          |
| Interviews                 | 8.0  |                  |                   |                   |                     |          | NO             |          |
| ASTM Non-Scope:            | 13.0 |                  |                   |                   |                     |          | NO             |          |
| • Lead Based Paint         |      |                  |                   |                   |                     | X        | NO             |          |
| • Asbestos                 |      |                  |                   |                   |                     | X        | NO             |          |

<sup>1</sup> Recognized Environmental Condition – See Definition in Executive Summary

<sup>2</sup> Controlled Recognized Environmental Condition – See Definition in Executive Summary

<sup>3</sup> Historical Recognized Environmental Condition – See Definition in Executive Summary

<sup>4</sup> De Minimis Condition – See Definition in Executive Summary

The NEPA investigation was finalized upon the completion of the Tower Construction Notification System (TCNS), as provided with the aforementioned spreadsheet. To date one (1) tribe (Crow Creek Sioux) has granted conditional approval based on the requirement of having their own monitor on the site during construction at the City's expense. Upon project approval by the City and confirmation of an approved construction schedule, SEH will

communicate with the tribe to coordinate site monitoring and determine estimated fees, which are anticipated to be a few thousand dollars.

**Table 3**  
**NEPA Checklist**

| Site #: N/A                                                                                                                                                 | Site Name: Wayzata Middle School                                                          | Site Address: Wayzata, MN 55391        |           |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|----------------------------------------|-----------|----|
| FCC Category                                                                                                                                                | Fed/State Agencies                                                                        | Summary of Negative Impacts            | Check Box |    |
|                                                                                                                                                             |                                                                                           |                                        | Yes       | No |
| 1. Will the facility be located in an officially designated wilderness area?                                                                                | National Park Service, Bureau of Land Management, National Wilderness Preservation System |                                        |           | X  |
| 2. Will the facility be located in an officially designated wildlife preserve?                                                                              | U.S. Dept of Interior – Fish & Wildlife (USFWS)                                           |                                        |           | X  |
| 3. Will the facility affect listed or proposed threatened or endangered species or designated critical habitat?                                             | USFWS                                                                                     |                                        |           | X  |
| 4. Will the facility affect districts, sites, buildings, structures or objects listed, or eligible for listing on the National Register of Historic Places? | State Historic Preservation Office                                                        |                                        |           | X  |
| 5. Will the facility affect Indian Religious sites:                                                                                                         | U.S. Dept of Interior – National Park Service                                             | See Tribal Summary Table in Appendix D |           | X* |
| 6. Will the facility be located in a Flood Plain?                                                                                                           | Federal Emergency Management Agency                                                       |                                        |           | X  |
| 7. Will the facility construction involve significant change in surface features?                                                                           | National Wetlands Inventory – US Fish and Wildlife Services                               |                                        |           | X  |
| 8. Will the antenna towers and/or supporting structure be equipped with High Intensity White Lights                                                         | Federal Aviation Administration                                                           | Client responsibility                  |           | X  |
| 9. Will the facility result in human exposure to radiation in excess of the applicable safety standards?                                                    | Federal Communications Commission                                                         | Client responsibility                  |           | X  |

*\*The Crow Creek Sioux Tribe requests a Tribal Monitor to be present during construction at this site.*

## 4.1 Conclusion

In conclusion, the proposed project facility does not appear to significantly affect any of the FCC Special Interest items; therefore, no further investigation is warranted at this time.

Figure 4 – TCNS Log

| Tribe Name                                    | 1st Notification Completion | 2nd Notification Completion | 3rd Notification Completion | 4th Notification Forecast | Tribal Survey Completion | Ethnographic Report Completion | Tribal Response/ Approval Forecast | Tribal Response/ Approval Received | Tribal Comments                                                                                         |
|-----------------------------------------------|-----------------------------|-----------------------------|-----------------------------|---------------------------|--------------------------|--------------------------------|------------------------------------|------------------------------------|---------------------------------------------------------------------------------------------------------|
| Crow Creek Sioux                              | 3/18/2016                   |                             |                             |                           | 6/15/2016                |                                |                                    | 7/6/2016                           | Approved, but Tribal Monitor required to be onsite during construction at City's expense. Fees Assessed |
| Fort Peck                                     | 3/18/2016                   |                             |                             |                           |                          | 6/2/2016                       |                                    | 7/6/2016                           | Fees Assessed                                                                                           |
| Northern Arapaho                              | 3/18/2016                   |                             |                             |                           |                          | 6/2/2016                       |                                    | 7/5/2016                           | Fees Assessed                                                                                           |
| Omaha                                         | 3/18/2016                   | 5/22/2016                   | 6/22/2016                   |                           |                          |                                |                                    | 6/29/2016                          | Fees Assessed                                                                                           |
| Wyandotte                                     | 3/18/2016                   | 5/22/2016                   | 6/22/2016                   | 7/22/2016                 |                          |                                | 8/5/2016                           |                                    |                                                                                                         |
| Yankton                                       | 3/18/2016                   |                             |                             |                           | 6/15/2016                |                                | 8/5/2016                           |                                    |                                                                                                         |
| Chippewa Cree                                 | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Crow Tribe                                    | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Fort Belknap Indian Community                 | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Keweenaw Bay Indian Community                 | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Lac du Flambeau                               | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Lac Vieux Desert Band of Lk Superior Chippewa | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Lower Sioux Community of Minnesota            | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Menominee                                     | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Northern Cheyenne                             | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Ottawa                                        | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Ponka                                         | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Red Cliff                                     | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Santee Sioux                                  | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Sisseton- Wahpeton Oyate                      | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Spirit Lake Nation                            | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Turtle Mountain Band                          | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |
| Upper Sioux Community of Minnesota            | 3/18/2016                   |                             |                             |                           |                          |                                |                                    | 5/27/2016                          | Fees Assessed                                                                                           |

## 5.0 Financial Cost Assessment

As discussed above, recommendations for the new tower have been narrowed to a monopole design for reasons of aesthetics, functionality, and cost. As part of the study scope, SEH has reached out to two qualified area contractors for estimated project costs based on the proposed project parameters. (Please see Appendix H) The Estimated costs are shown in Table 3 below:

**Table 4**  
**Estimated Costs**

| Contractor                       | Estimated Construction Cost |
|----------------------------------|-----------------------------|
| Vertical Limit Construction, LLC | \$624,177.46                |
| Vinco Inc.                       | \$451,200.00                |

A breakdown of these costs was provided in the February 15, 2016, letter provided by SEH and is provided as an attachment to this report. (Please see Appendix H) A revised project estimate was requested to be inclusive of associated costs for the decommissioning of the Gardner Street site, information that was not part of the original contractor estimates, but is included in Table 4 below:

**Table 5**  
**Telecommunications Tower Feasibility Study Relocation Cost Estimate**

| Item #      | Description                                                | Wayzata Middle School Monopole |
|-------------|------------------------------------------------------------|--------------------------------|
| <b>1.0</b>  | <b>PREPARE NEW SITE</b>                                    |                                |
| 1.1         | Detailed Bid Specifications & Construction Documents       | \$ 30,000                      |
| 1.2         | Clear and Grade Compound and Tower Locations               | \$ 55,000                      |
| 1.3         | Access Drive                                               | \$ 30,000                      |
| 1.4         | Utility Right of Way Improvements                          | \$ 46,000                      |
| 1.5         | Tower Structure w/Foundation (installed)                   | \$ 350,000                     |
| 1.6         | Ice Bridge to Compound w/Spurs to Tenants                  | \$ 15,000                      |
| 1.7         | Equipment Shelter Compound: Aggregate, Gate, Fence.        | \$ 65,000                      |
| 1.8         | Site Grounding System                                      | \$ 15,000                      |
| 1.9         | New Electrical Service                                     | \$ 78,000                      |
| 1.10        | City Project Mgmt (Admin, Legal & Coordination)/Inspection | \$ 35,015                      |
| 1.11        | Subtotal                                                   | \$ 719,015                     |
| 1.12        | Contingency 15% construction cost                          | \$ 107,852                     |
| <b>1.13</b> | <b>New Site – Estimated Project Cost:</b>                  | <b>\$ 826,867</b>              |
|             |                                                            |                                |
| <b>2.0</b>  | <b>RELOCATE / ADD TENANTS (at Tenant Expense)</b>          |                                |
| <b>2.1</b>  | <b>City related PM / Coordination / Legal</b>              | <b>\$ 15,000</b>               |
|             |                                                            |                                |
| <b>3.0</b>  | <b>DECOMMISSION AND CLEAN UP @ GARDNER SITE</b>            |                                |
| 3.1         | Remove Chain Link Fence                                    | \$ 2,000                       |
| 3.2         | Remove Cables and Ice Bridges                              | \$ 3,000                       |
| 3.3         | Remove all Brush and Aggregate                             | \$ 3,000                       |

|            |                                                                      |                  |
|------------|----------------------------------------------------------------------|------------------|
| 3.4        | Grade and Sod site                                                   | \$ 5,000         |
| 3.5        | Project PM and Construction Admin.                                   | \$ 2,000         |
| 3.6        | Subtotal                                                             | \$ 15,000        |
| 3.7        | Contingency                                                          | <b>\$ 1000</b>   |
| <b>3.8</b> | <b>Gardner Site Clean Up – Estimated Project Cost (City Expense)</b> | <b>\$ 16,000</b> |

#### Assumptions/Qualifications

1. Tower material pricing assumptions listed below:
  - a. 195' monopole
  - b. 5 antenna platforms with handrail kit, 12'face, no antenna pipes
  - c. Loading:
    - 5 carriers each with (12) antennas and (12) 1-5/8 coax lines
    - Structure Class II, Exposure Category C, Topography Category 1
2. Tower foundation pricing based on 9' diameter by 57'-6" depth caisson.
  - a. 9' diameter, 57'-6" length
  - b. Slurry water disposed of on site
  - c. Spoils removed from site
3. Soils information from geotechnical report furnished by SEH Engineer.
4. Access road – 12' wide, 690' long, ground stabilization fabric, 6" aggregate surfacing
5. Tower compound – 75' by 75', ground stabilization fabric, 6" aggregate surfacing
6. Fencing – 6' standard chain link, driven posts (no concrete)
7. Electric – 6-gang multi-meter fed with (6) 500 MCM conductors. Utility transformer located within 10' of metering equipment.
8. Fiber/Telco – not included.
9. Grounding – standard system, #2 solid, tinned conductor and 5/8" by 10' long ground rods.
10. Pricing does not include any carrier work.
11. All work completed in "no frost" conditions.

With respect to engineering, SEH proposes a fee of \$65,015 inclusive of design and specification development, bidding, construction administration, and construction observation. Upon completion of the feasibility study, SEH will provide the City of Wayzata with a final estimate based on the City's review and any final changes to the overall project scope. Our submission will include a comprehensive breakdown of tasks associated with our scope of work and corresponding fee.

## 6.0 Project Schedule

The table below outlines a tentative project schedule that gives consideration to forthcoming lease renewals by the carriers and the request by Wayzata Middle Schools to complete construction prior to the start of the 2017 -2018 school year.

**Table 6**  
**Project Schedule**

| Activity                                               | Date                                                 |
|--------------------------------------------------------|------------------------------------------------------|
| <b>Engineering Phase</b>                               |                                                      |
| Engineering Awarded                                    | November 1, 2016                                     |
| Project Initiation Meeting                             | Week of November 1, 2016                             |
| Development – Plans/Specifications                     | November 2, 2016                                     |
| Tenant Meeting                                         | December 8, 2016                                     |
| Review by City Staff                                   | December 15, 2016                                    |
| Final Plans/Specifications                             | January 9, 2017                                      |
| <b>Bid Phase</b>                                       |                                                      |
| Project Approval by Council                            | January 17, 2017                                     |
| Ad for Bid                                             | January 23, 2016 - Depending on Publishing Date Req. |
| Pre Bid Meeting                                        | February 9, 2017                                     |
| Contractor Qualification Assessment                    | February 16, 2017                                    |
| Bid Opening                                            | February 23, 2017                                    |
| Council Award                                          | March 7, 2017                                        |
| Contracts to Contractor                                | March 14, 2017                                       |
| <b>Construction Phase</b>                              |                                                      |
| Submittal Review                                       | April 7, 2017                                        |
| Preconstruction Meeting                                | May 30, 2017                                         |
| Site Mobilization/ Foundation Development              | June 6, 2017                                         |
| Tower Erection/Site Utilities/Tenant Ground Equipment  | July 6, 2017                                         |
| Access Road Development and Final Landscaping          | August 5, 2017                                       |
| Begin - Tenant Monopole Installations                  | September 4, 2017                                    |
| Substantial Completion - Tenant Monopole Installations | October 6, 2017                                      |

*Note: The above represents estimated dates*

It has been identified by the City that due to the project type the City will need to go through the conditional use permitting (CUP) process, taking approximately 60 days to complete. It is our understanding that it is the City's intent to proceed with this process in tandem with other activities as outlined in the above schedule, with completion prior to contractor award.

## 7.0 Feasibility and Recommendation

As discussed in the introduction, water storage facilities have been utilized by Tenants for their height and location from the beginning. However, over the years the sheer number of Tenants and their equipment necessary to provide needed services for voice, data and streaming would ultimately create facility issues. The City of Wayzata neighborhood residence have become increasingly disturbed by equipment noise, continuous Tenant access, and the obtrusiveness of both the equipment compound and the Gardner Street water tower itself.

The City views telecommunication services as an important asset to the existing and future growth of the City. Based on considerations for location design parameters, cost, construction

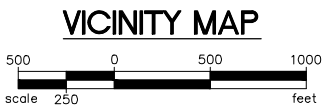
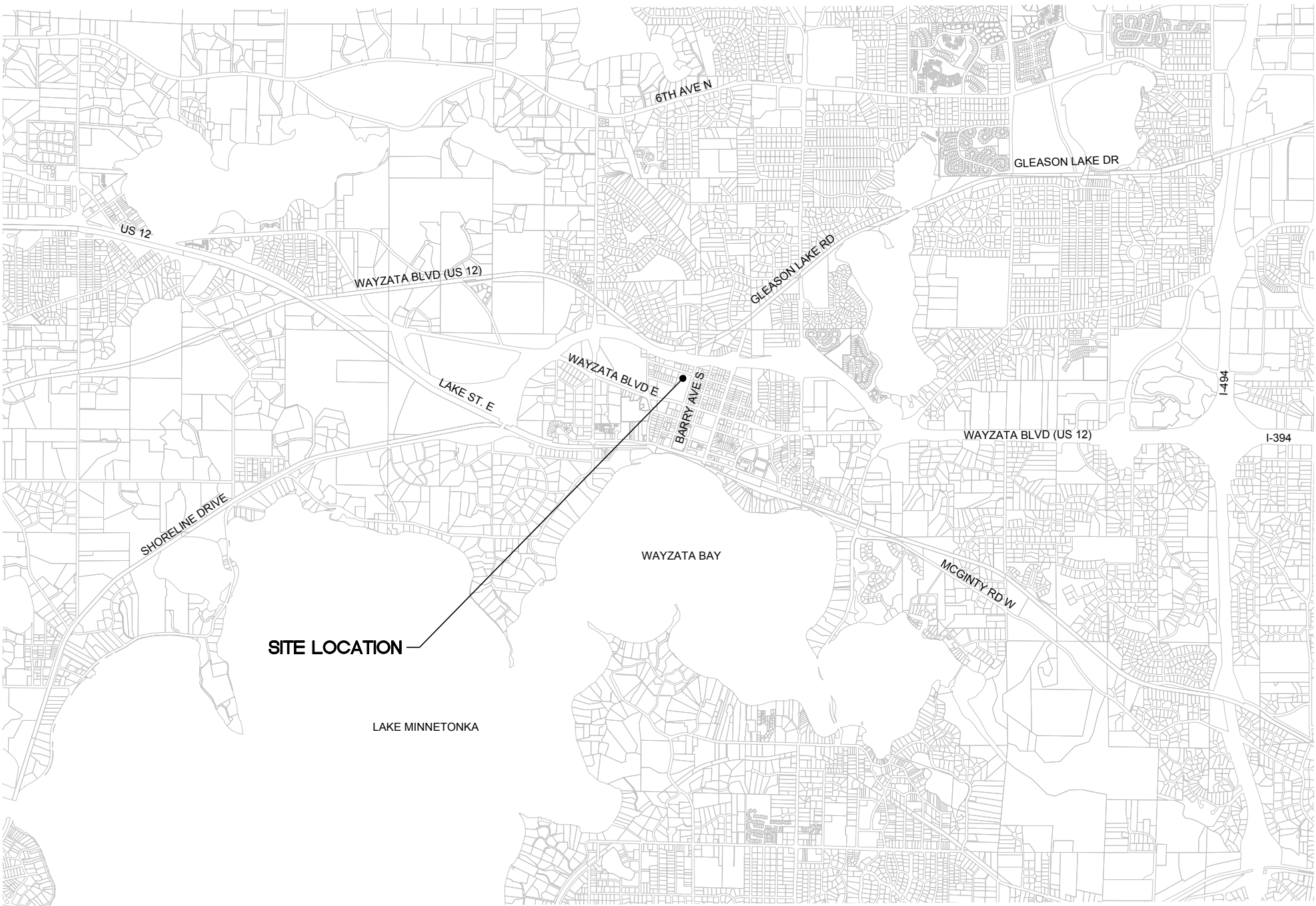
scheduling, Tenant disruptions (service) and/or site reestablishment, and overall aesthetics, SEH recommends consideration by the City for new tower construction at the Wayzata Middle School site. We believe it is the option that most completely satisfies the criteria set by the City of Wayzata and that of the Tenants for providing continued telecommunications service today and for the future to the benefit of both area businesses and its residents.

dmk

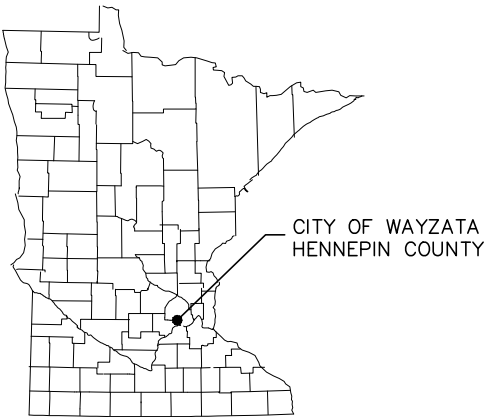


RAD CENTER "A", AT&T, 190'  
RAD CENTER "B", FUTURE, 180'  
RAD CENTER "C", SPRINT, 160'  
RAD CENTER "D", T-MOBILE, 150'  
RAD CENTER "A", VERIZON, 140'

# WAYZATA MIDDLE SCHOOL TELECOMMUNICATIONS TOWER FOR THE CITY OF WAYZATA, MINNESOTA CITY PROJECT NO. COM-2017-01



## PROJECT LOCATION



## INDEX

| SHEET NO. | DESCRIPTION                        |
|-----------|------------------------------------|
| G1        | TITLE SHEET                        |
| C1        | EXISTING CONDITIONS & REMOVAL PLAN |
| C2        | SITE PLAN & GRADING                |
| C3        | FENCING AND MONOPOLE DETAIL        |

THIS PLAN CONTAINS 4 SHEETS.

NOTE:  
THE SUBSURFACE UTILITY QUALITY INFORMATION IN THIS PLAN IS LEVEL D.  
THIS UTILITY QUALITY LEVEL WAS DETERMINED ACCORDING TO THE  
GUIDELINES OF CI/ASCE 38-02 ENTITLED "STANDARD GUIDELINES FOR THE  
COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."  
  
THE CONTRACTOR SHALL CALL THE GOPHER STATE ONE CALL SYSTEM AT  
811 BEFORE COMMENCING EXCAVATION.



PC 2/23/2017  
Page 55 of 78

3535 VADNAS CENTER DR  
ST PAUL, MN 55110  
PHONE: 612.325.2000  
FAX: 612.325.2155  
WWW.SEHINC.COM

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Chad E. Setterholm*  
CHAD E. SETTERHOLM, P.E.  
DATE: 12/20/2016 REGISTRATION NO.: 40913

WAYZATA MIDDLE SCHOOL  
TELECOMMUNICATION TOWER  
CITY OF WAYZATA, MINNESOTA

| MARK | DATE | DESCRIPTION | REVISIONS |
|------|------|-------------|-----------|
|------|------|-------------|-----------|

SEH FILE NO.: W-WAYZATA139566  
PROJECT NO.: 01/23/2017  
ISSUE DATE: 01/23/2017  
DESIGNED BY: CES  
DRAWN BY: JRB

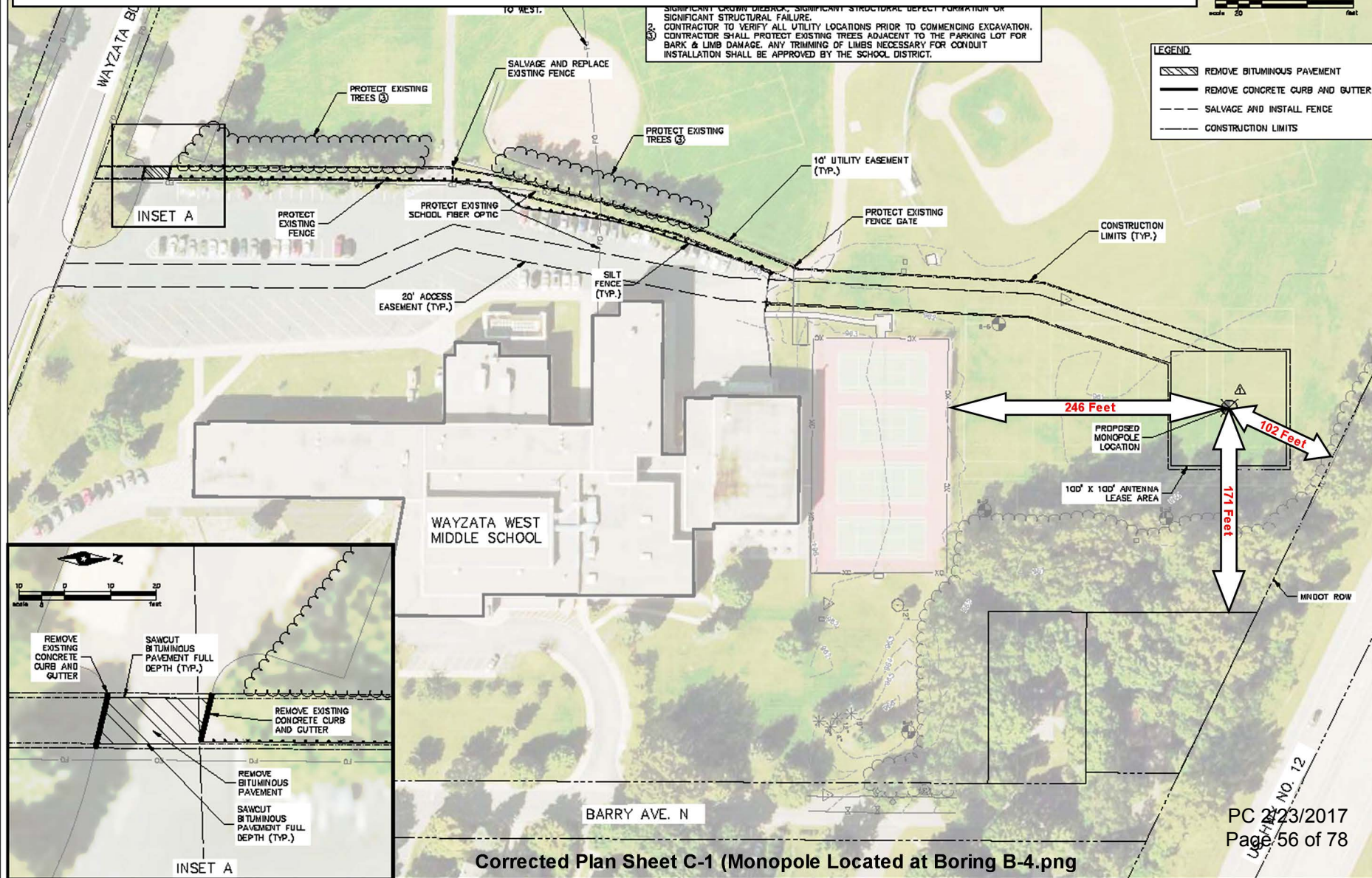
SHEET TITLE  
TITLE SHEET

SHEET  
G1

# Corrected Plan Sheet C-1 (Monopole Located at Boring B-4)



- LEGEND**
- REMOVE BITUMINOUS PAVEMENT
  - REMOVE CONCRETE CURB AND GUTTER
  - SALVAGE AND INSTALL FENCE
  - CONSTRUCTION LIMITS



Corrected Plan Sheet C-1 (Monopole Located at Boring B-4.png)

PC 2/23/2017  
Page 56 of 78

\\UTW\Wayzata\30608\5-Plan-deg\51-drawings\10-Call\conf\fig\plan\30608\_RTD\WLS.dwg 2/15/2017 11:10 AM jbergman



SEH ENGINEERING & ARCHITECTURE, INC.  
10000 W. WAYZATA BLVD., SUITE 200  
WAYZATA, MN 55391  
PHONE: 763.439.4400  
FAX: 763.439.4401  
WWW.SEH-USA.COM

WAYZATA MIDDLE SCHOOL  
TELECOMMUNICATION TOWER  
CITY OF WAYZATA, MINNESOTA

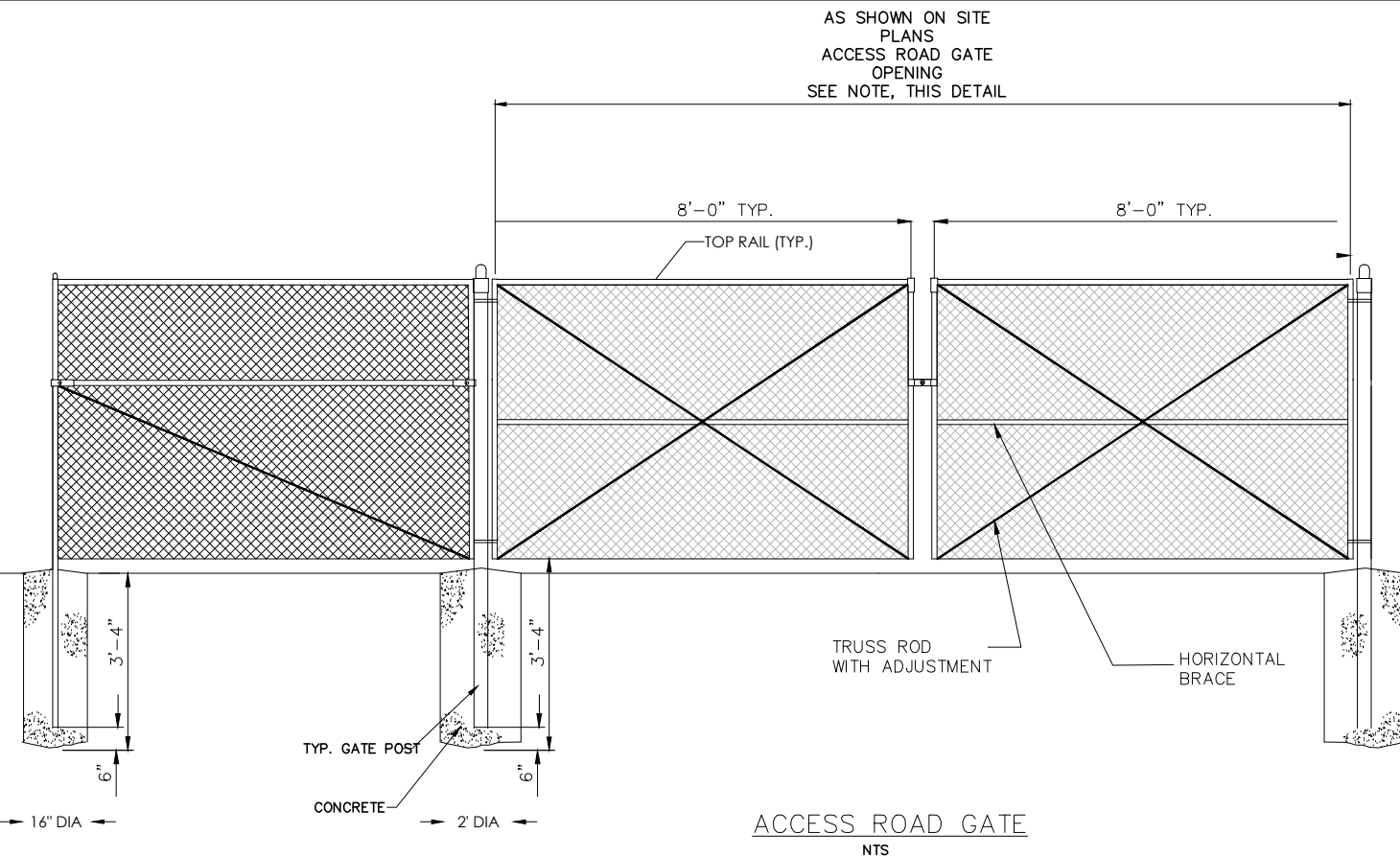
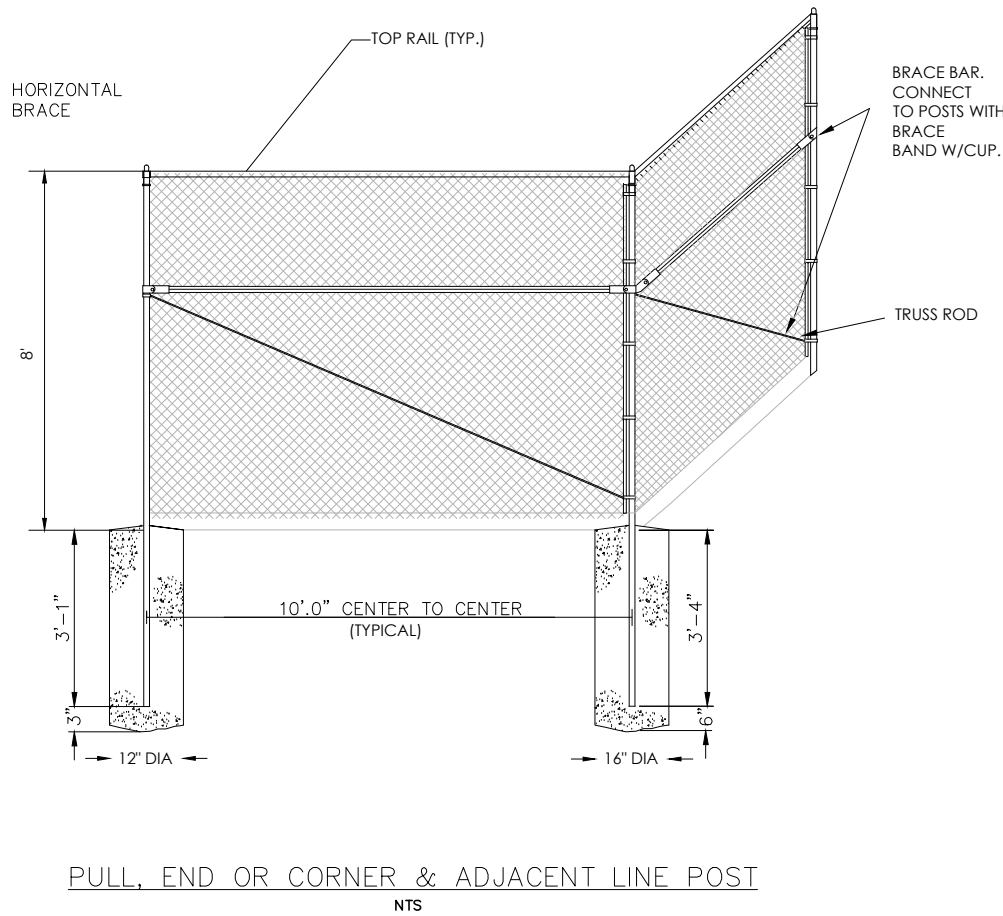
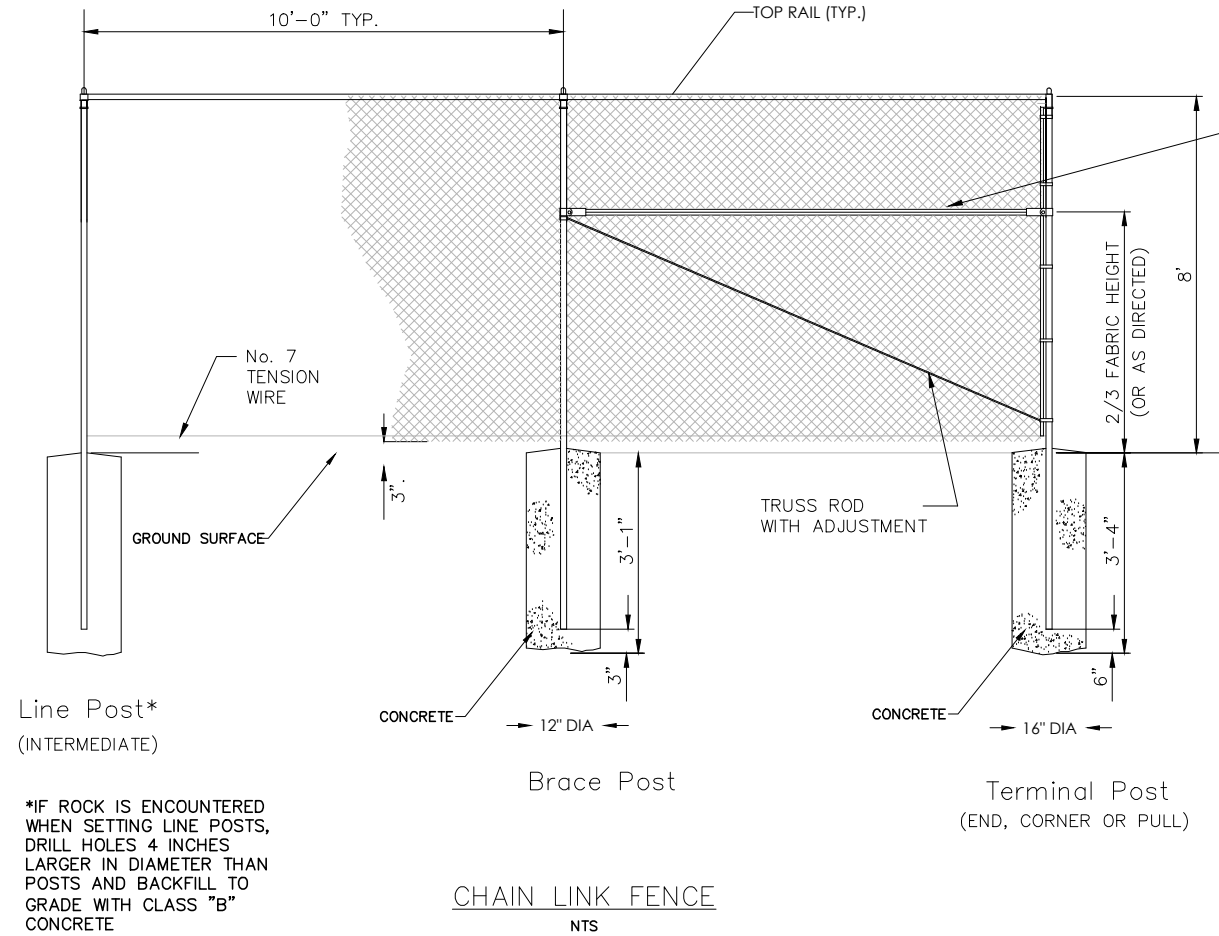
02/15/2017 ADDENDUM #1  
LOCATION OF MONOPOLE  
MONO LINE 40'  
DATE: 02/15/2017  
DRAWN BY: JJB  
REVISIONS

SEH FILE NO. W-WAYZATA30608  
DATE: 02/15/2017  
DESIGNED BY: CES  
DRAWN BY: JJB

SHEET TITLE  
EXISTING CONDITIONS &  
REMOVAL PLAN

SHEET  
C1

S:\UZ\W\Wayza\139566\5-final-dsgn\51-drawings\10-Civil\cad\dwg\planshts\WA139566\_Details.dwg 1/12/2017 4:40 PM jbergerson



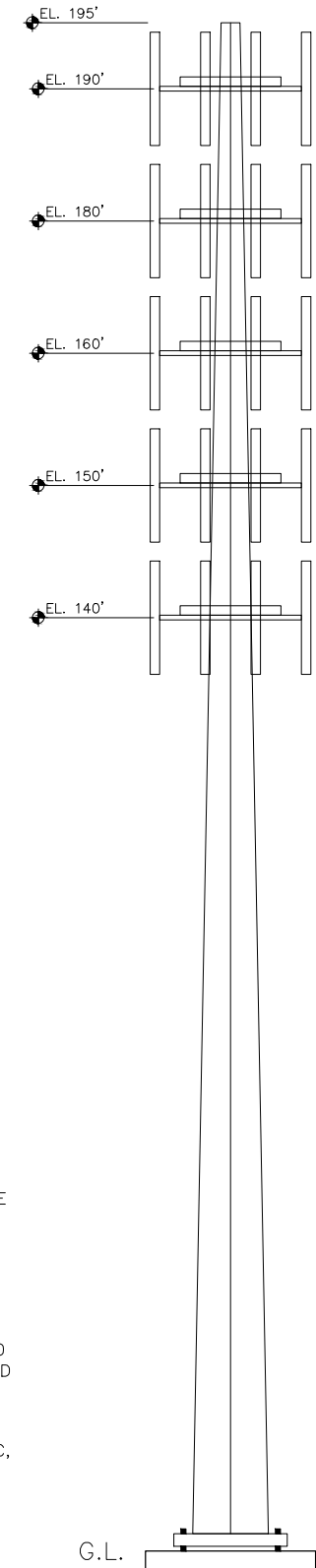
#### FENCE NOTES:

1. PROVIDE LATCHING DEVICES TO HOLD GATES IN OPEN POSITION.
2. IF ROCK IS ENCOUNTERED WHEN SETTING LINE POSTS, DRILL HOLES 4 INCHES LARGER IN DIAMETER THAN POSTS & BACKFILL TO GRADE WITH CLASS "B" CONCRETE.
3. ARCHITECTURAL GRADE FENCING PER SPECIFICATIONS.
4. TOP RAIL SHALL BE INSTALLED ON ALL FENCING & GATES.

NOTE: PROVIDE LATCHING DEVICES TO HOLD GATES IN OPEN POSITION,

#### MONOPOLE NOTES:

1. ANTENNA FEED LINES RUN INSIDE POLE.
2. ALL DIMENSIONS ARE ABOVE GROUND LEVEL, UNLESS OTHERWISE SPECIFIED.
3. WEIGHTS SHOWN ARE ESTIMATES. FINAL WEIGHTS MAY VARY.
4. THE MONOPOLE WAS DESIGNED FOR A BASIC WIND SPEED OF 90 MPH WITH 0" OF RADIAL ICE, AND 50 MPH WITH 1" OF RADIAL ICE, IN ACCORDANCE WITH ANSI/TIA-222-G, STRUCTURAL CLASS II, EXPOSURE CATEGORY C, TOPOGRAPHIC CATEGORY 1.
5. FULL HEIGHT STEP BOLTS.



COMMUNICATION MONOPOLE PROFILE

PC 2/23/2017  
Page 57 of 78

WAYZATA MIDDLE SCHOOL  
TELECOMMUNICATION TOWER  
CITY OF WAYZATA, MINNESOTA

MARK DATE DESCRIPTION  
REVISIONS

SEH FILE NO. W-WAYZAT139566  
PROJECT NO. 01/23/2017  
ISSUE DATE  
DESIGNED BY: CES  
DRAWN BY: JRB

SHEET TITLE  
FENCING AND  
MONOPOLE DETAIL

SHEET

C3

SEH

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
CHAD E. SETTERHOLM, P.E.  
DATE 12/20/2016 REGISTRATION NO. 40913

3535 VADNAS CENTER DR  
ST PAUL, MN 55110  
PHONE: 612.442.1000  
FAX: 612.442.1155  
WWW.SEHINC.COM

## Jeff Thomson

---

**From:** Laurent Frecon [REDACTED]  
**Sent:** Monday, February 06, 2017 12:36 PM  
**To:** Jeff Thomson  
**Subject:** Cell Tower Site

Hi Jeff,

My wife and I do not see the benefit in moving the site to the proposed location and are opposed to it. There is substantial cost (build and revenue loss) and one of the primary concerns of moving the tower was the fact that it is located in a park. We see more children/residents utilizing the field of the West Middle School during all times/seasons than we ever do around the current cell site. We feel that moving the tower to the proposed site is a not only a step backwards for residents but also for students.

If the tower does get approved, we echo our neighbors' concerns about the access road on Barry Ave and prefer the access road through the Middle School parking lot, which we understand to be the current proposal.

Sincerely,  
Laurent and Madeline Frecon  
238 Barry Ave N

February 17, 2017

Ken Wilcox  
Wayzata City Council  
Planning Commission  
600 Rice Street  
Wayzata, MN 55391

Re: Relocation of Cell Tower

Dear Ken, City Council members and planning commission

I am writing today as a concerned resident. By way of introduction, my name is Karen Walker and I live at 315 Barry Ave N, directly adjacent to the proposed site for the relocated cell tower. You may recall that I have written previously regarding my serious concerns over the proposed site. (See attached Letters dated 11-1-15 and 2-29-16). The 2015 letter was entered into public record by Mayor Wilcox 11-4-17. Despite my repeated attempts to voice my concerns to City Council and City Staff on the impact the proposed site will have on my property, it appears that there has been little adjustment to the proposal to move the cell tower. Thus, I am writing yet again.

It is my understanding that the original objective of moving the cell tower was to address the impact the current tower has on the residents of Wayzata, in particular a few residents on Gardner Street. I appreciate that the City has expended significant tax payer dollars to research and investigate all possible options for a new location and that there are no perfect solutions. However, given the stated objective, the proposed site must be eliminated from consideration. It is truly without logic and unacceptable to move the cell tower 1294 feet at considerable expense to tax payers to ultimately place it directly adjacent to other residents who will be equally impacted by this nuisance.

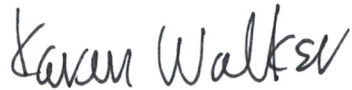
If City Council approves the proposal it will have failed in what it set out to accomplish and failed the citizens of Wayzata. If approved, City Council will have:

- Placed the considerations of some citizens above the rights of others and directly pit Wayzata neighbors against each other;
- Expended significant tax payer dollars and yet failed to accomplish the goal of eliminating the impact of the tower on its residents; and
- Drastically impacted the property value of several smaller homes despite its assertions that it seeks to protect the small home inventory in Wayzata.

If you are questioning the true impact the proposed site will have on me and the value of my property, I invite you to come to my home and see for yourself. Mr. Dudinsky has placed a cone at the heart of the proposed site, which stands out like a beacon from my deck. All you need to do is envision an access road with numerous service trucks servicing the tower on what is reported to be a daily basis and a 5 foot plus high fence around the cone to appreciate that the proposed site is untenable. It will either drastically reduce the value of my home or, even worse, render it unsaleable.

I have reached out to Andy Brehm and other Barry Ave N residents. They share my serious concerns regarding the impact this relocation would have on their property. If the city continues to proceed with the proposed site, I will seek all legal remedies available to me. I fully expect the City to compensate me for the lost value to my home should the tower be relocated to the proposed site. I am not in a financial position to have my retirement income stolen by the city of Wayzata.

I strongly encourage you to go back to the drawing board and evaluate other less impactful options for relocation of the cell tower.

A handwritten signature in black ink that reads "Karen Walker". The signature is written in a cursive, flowing style.

Karen Walker  
315 Barry Ave. N  
Wayzata, MN 55391

November 1, 2015

Ken Wilcox (Mayor)  
Wayzata City Council  
600 Rice Street  
Wayzata, MN 55391

Re: Relocation of Cell Tower

Dear Ken and City Council Members,

As a means of introduction I am Karen Walker, I live at 315 Barry Ave. N. I am writing to share to my significant concerns regarding the logic of the potential relocation of the cell tower:

1. Moving the tower from one neighborhood to another like neighborhood a mere 1294 ft. away
2. Moving out of a park environment on to the school athletic field including the tennis courts

As a point of information the green space next to my home is often used as a park experience by Wayzata residents: (example)

- a. activities with family and friends (Frisbee, football, catch)
- b. exercising and playing with pets,
- c. practicing Golf swings.

This truly is one of the last green spaces left in Wayzata

3. Moving the equipment would be at a significant cost: Is the end result worth the cost?

On a personal note I purchased my home not only to live in Wayzata but as an investment toward my retirement goals. As a conscience resident I have worked thoughtfully to improve and maintain my home to realize that investment goal. Throughout the years I have incurred some significant changes. Low income housing was built next door. Not with standing they are nice people it is expensive and hard work to maintain a home. I have dealt with toilets and abandoned vehicles left in the drive. After a fair amount of time I contacted the city to help correct the problem. The freeway was added changing the noise factor greatly with no noise reduction plan scheduled for now or in the near future. Finally with the purposed relocation of the cell tower to my back yard and the access road on two sides of my property the city will have rendered my home virtually a none saleable property. The goal of realizing retirement income from my home has been completely negated. It goes without saying this is a frightening concern.

It is my fervent hope that you and the City council will give this matter more careful thought with the intent of finding a less invasive and destructive location.

In advance thank you for your consideration,

Karen Walker  
315 Barry Ave N.  
Wayzata, MN 55391

February 29, 2016

Ken Wilcox (Mayor)  
Wayzata City Council  
600 Rice Street  
Wayzata, MN 55391

Re: Relocation of Cell Tower

Dear Ken and City Council Members,

My concerns continue to mount as I watch and note the documentation released to the public regarding the relocation of the cell tower.

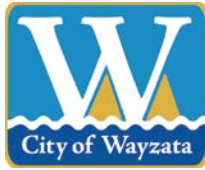
A brief recap of my concerns:

- Pitting one neighborhood against the importance of another like neighborhood. (1294 ft. apart)
- Excessive and growing cost to the community
- Negative financial impact on my property and other Barry Ave. N. residents

My hope is that a completely different site is found that addresses the above stated concerns. However, if after aggressive searching this is the only choice; please move the access road and cell tower as far west as possible to at least lessen the negative impact on Barry residents.

Again thank you for your thoughtful consideration,

Karen Walker  
315 Barry Ave. N  
Wayzata, MN 55391



## WAYZATA PLANNING COMMISSION

February 27, 2017

### REPORT AND RECOMMENDATION OF APPROVAL OF CONDITIONAL USE PERMIT AND VARIANCE FOR TELECOMMUNICATIONS TOWER AT 149 BARRY AVE N

**DRAFT**

---

#### **SUMMARY OF RECOMMENDATION**

Approval\* of Conditional Use Permit for Telecommunications Tower  
Approval\* of Variance from the Zoning Ordinance standards for setback

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

---

#### **REPORT AND RECOMMENDATION**

##### **Section 1. BACKGROUND**

- 1.1 Project. SEH, on behalf of the City of Wayzata, (the “Applicant”) has submitted a development application (the “Application”) for a new City-owned commercial telecommunications tower (the “Project” or “Telecom Tower”) on the Wayzata West Middle School property at 149 Barry Ave N (the “Property”). The City has entered into a long-term agreement with the owner of the Property that would allow the City to construct and maintain the Telecom Tower on the Property. The proposal requires a conditional use permit and variance.
- 1.2 Application Requests. As part of the Application, the Applicant is requesting approval of the following:
- A. Conditional Use Permit for New Telecommunication Tower. The Project requires a conditional use permit for a 195 foot telecommunications tower (the “Telecom Tower CUP”).
  - B. Setback Variance. The Project requires a variance for the proposed 150 foot setback from the adjacent residential neighborhood (the “Setback Variance”).

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

|                 |                   |                         |
|-----------------|-------------------|-------------------------|
| 149 Barry Ave N | 06-117-22-22-0008 | School District No. 284 |
|-----------------|-------------------|-------------------------|

- 1.4 Land Use. The Property is the location of the Wayzata West Middle School and related athletic and recreational fields, and is adjacent to Highway 12, residential neighborhoods and the Wayzata Community Church. The Property is zoned INS/Institutional and guided Institutional/Public under the Wayzata Comprehensive Plan.
- 1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Lakeshore Weekly News* on January 26, 2017. A copy of the notice was mailed to all property owners located with 350 feet of the Property on January 27, 2017 and February 16, 2017. The public hearing on the Application was held at the February 6, 2017 and February 27, 2017 Planning Commission meetings.

## Section 2. STANDARDS

- 2.1 Standards for Telecommunications Towers. Telecommunications towers, facilities and equipment are regulated under Section 31 of the Wayzata Zoning Ordinance (the "Telecom Ordinance"; defined terms in the Telecom Ordinance are used in this Report). Applicable standards include:
- A. Location. Telecommunications Towers may be located only on certain parcels owned and/or controlled by the City of Wayzata. Section 801.31.4.B(1).
- B. Height. The height of an Antenna and/or Telecommunications 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. The height of a Telecommunication Tower and Antenna may not exceed 150 feet, measured from grade. However, the City Council may increase this height up to 190 feet if the Council finds the increase in height (1) would not have a significant visual impact, (2) would not have a negative property value impact on surrounding properties because of proximity, topography or screening by trees or buildings or (3) would accommodate two or more users. In addition, the City Council may waive this height limitation for a Telecommunications Tower and/or Antenna if used wholly or partially for essential public services, such as public safety. Sections 801.31.4.B(1)a. and 5.E.
- C. Stealth Design. The Telecommunications Tower 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. Section 801.31.4.A(1)b.

- D. Setbacks. Telecommunications Facilities must meet the building setback that is established for the zoning district where it is to be located. In addition, a Telecommunications Tower must be set back 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. Section 801.31.5.D.

- 2.2 Conditional Use Permit for Telecommunications Facilities. New Telecommunications Equipment may be located on a Telecommunications Tower which has an approved Conditional Use Permit. Section 801.31.4.B. Such Conditional Use Permit requires compliance with all of the provisions of the Telecom Ordinance and the provisions of Section 801.04.2.F of the Zoning Ordinance, which requires City Council to consider possible adverse effects of the proposed conditional use. Council's 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 compatibility with present and future 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 values in the area in which it is developed.
6. Traffic generated by the proposed use is 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.

- 2.3 Variance. The applicable criteria for granting a variance from the standards of the Zoning Ordinance under Sec. 801.05.1.C. are:

- A. Variances shall only be permitted when they are:

- (i) in harmony with the general purposes and intent of the Zoning Ordinance; and
  - (ii) consistent with the Comprehensive Plan.
- B. Variances may be granted when the Applicant for the variance establishes that there are practical difficulties in complying with the Zoning 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. The City Council shall not permit as a variance any use that is not allowed under the Zoning 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.
- F. 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 public hearing, and Wayzata's Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

- 3.1 Standards for Telecommunications Towers. The proposed Telecom Tower meets all of the standards of Section 31 of the Telecom Ordinance, and the standards for the requested Telecom Tower CUP and Setback Variance as detailed in this Report.
  - A. Location. The Telecom Tower would be located on a parcel controlled by the City of Wayzata pursuant to a long term lease with the owner of the Property.
  - B. Height. The proposed 195 foot height of the Telecom Tower is the minimum necessary to meet the Applicant's coverage and capacity needs, as verified in studies conducted by Applicant and the contemplated service provider-

tenants of the Telecom Tower. The increase in height above 150 feet (1) would not have a significant visual impact, (2) would not have a negative property value impact on surrounding properties because of its distance from such properties, and the topography and screening by trees and buildings, and in any event (3) would accommodate two or more users. In addition, the Telecom Tower will be partially utilized for essential public services, including the E-911 public safety service.

- C. Stealth Design. Given the limited number of possible locations, the characteristics of the Property, and multi-user purpose of the Telecom Tower, the Telecom Tower uses all reasonably possible stealth design technology. The Telecom Tower will be nestled into the surrounding landscape, at the edge of the Property, so that the topography and trees on the Property reduces its visibility. It will be located in the limited area of the City that is permitted and practically usable for such a Telecommunications Tower, and on a part of the Property, that will result in the least amount of visibility to the public.
- 3.2 Telecom Tower CUP. The proposed construction and use of the Telecom Tower on the Property (the "Proposed Use") would meet the criteria for a conditional use permit, subject to and regulated by Section 801.04 of the Zoning Ordinance for CUPs.
1. The Proposed Use complies with the specific policies or provisions of the official City Comprehensive Plan which guides the property for institutional uses.
  2. The Proposed Use is compatible with present and future uses of the area, which include other institutional uses and proximity to a major transportation corridor. In addition, the Wayzata school district has similar Telecommunications Facilities at other properties in the district.
  3. The Proposed Use conforms with all applicable performance standards contained in the Zoning Ordinance (i.e., parking, loading, noise, etc.) except that for which a variance is being requested.
  4. The Proposed Use will not have a significant negative effect on the area in which it is proposed, as the use will be confined to the edge of the Property and otherwise meet the standards of the Telecom Ordinance and the Zoning Ordinance.
  5. The Proposed Use will not have a significant negative impact upon property values in the area.
  6. The Proposed Use will not generate significant traffic above the current use.

7. The Proposed Use will not have a negative impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity. As noted above, the Wayzata school district has similar Telecommunications Facilities at other properties in the district.

3.3 Setback Variance. The Setback Variance is not a use variance in that does not change the current permitted institutional uses for the Property. The Setback Variance requested is in harmony with the general purposes and intent of the Zoning Ordinance and consistent with the Comprehensive Plan.

- A. The soil conditions, playing fields, school building and grounds, access points, highway proximity, topography and parameters required for adequate provision of telecom services in the City create practical difficulties in complying with the setback requirements.
- B. The Setback Variance requested is reasonable, due to circumstances noted above, and if granted would not alter the essential character of the locality.
- C. The practical difficulties necessitating the Setback Variance are not economic in nature. The existing layout, elevations and characteristics of soils of the Property are significant factors in the practical difficulty with meeting the Zoning Ordinance requirements.
- D. The proposed use for the Property is permitted within the INS/Institutional District.
- E. The conditions for granting approval of the Setback Variance listed below in Section 4 of this Report should be considered by City Council.
- F. The Applicant has provided the reasons that the Setback Variance is justified under applicable criteria 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 all requests of the Application listed in Section 1.2 of this Report, subject to the following conditions:

- A. All future Telecommunications Equipment and Facilities on the Property and the Telecom Tower must comply with all relevant provisions of the Telecommunications Ordinance.

- B. The Applicant must secure all necessary building and other permits for construction, and all laws and regulations applicable to the Project.

Adopted by the Wayzata Planning Commission this 27th day of February 2017.

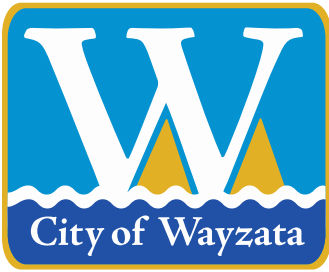
Voting In Favor:

Voting Against:

Abstaining:

Absent:

DRAFT



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

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**Mayor:**  
Ken Willcox

**City Council:**  
Dan Koch  
Johanna McCarthy  
Alex Plechash  
Steven Tyacke

**City Manager:**  
Jeffrey Dahl

Date: February 24, 2017

To: Planning Commission

From: Jeff Thomson, Director of Planning and Building

Subject: Gardner Place – 350 Gardner Street E

### **Application Information**

The applicant, Bohland Homes, has submitted a development application to subdivide the property at 350 Gardner St E into three single-family residential lots. The existing house would be demolished, and three new homes would be constructed with access from a private street. The development application includes preliminary plat subdivision, variance from the subdivision ordinance to allow use of a private street, and variance from the zoning ordinance impervious surface requirements.

### **Planning Commission Review**

The Planning Commission held a public hearing and reviewed the development application at its meeting on February 6, 2017. At the meeting, the Planning Commission voted four in favor and one opposed to direct staff to prepare a report and recommendation for denial of the development application.

### **Additional Information**

Since the Planning Commission meeting, the City's consulting arborist, Manuel Jordan, has reviewed the tree inventory and tree plans submitted by the applicant. The following is a summary of the consultant's comments:

#### Tree Inventory

The tree inventory is mostly accurate. There are minor changes needed, including one tree that is misidentified as a boxelder, and a tree on an adjacent property that is not included in the inventory. The City's arborist agrees that the trees within the right of way that are identified as dead, diseased, dying, or hazardous are accurate, and that these trees would be excluded from the mitigation requirements by the City's tree preservation ordinance.

#### Tree Removal

The City's arborist confirmed that there would be additional trees removed or significantly impacted by construction beyond what is shown on the proposed plans. There is one additional tree that would be removed on the property, and several additional trees that would be removed within the City's right of way than what is indicated on the plans.

#### Landscaping Plan

The City's arborist recommends changing some of the species included on the landscape plan

given the site conditions which include lack of light, tight site conditions, and ensuring the preservation of existing trees. In particular, the arborist recommends the black hill spruce, autumn blaze maples, and techny arborvitae be replaced with more site appropriate species.

#### Tree Preservation

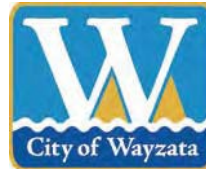
In addition, the arborist recommends that the tree plan include the tree preservation techniques that would be used to ensure the preservation of trees as shown, which should include how the retaining walls would be constructed to minimize impacts to the trees.

#### **Planning Commission Action**

City staff has drafted the attached Planning Commission Report and Recommendation, which recommends denial of the development application.

#### **Attachments**

Draft Planning Commission Report and Recommendation



## WAYZATA PLANNING COMMISSION

February 27, 2017

### REPORT AND RECOMMENDATION OF DENIAL OF PROPOSED PRELIMINARY PLAT SUBDIVISION AND VARIANCES AT 350 GARDNER ST E

DRAFT

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#### SUMMARY OF RECOMMENDATION

1. Denial of Preliminary Plat subdividing existing lot into three lots
2. Denial of Variance for Private Street
3. Denial of Variance for Impervious Surface

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#### REPORT AND RECOMMENDATION

##### Section 1. BACKGROUND

- 1.1 Project. Bohland Homes (the "Applicant") has submitted a development application (the "Application") to subdivide the property at 350 Gardner St E into three single-family residential lots. The existing house would be demolished, and three new homes would be constructed with access from a private street.
- 1.2 Property. The address, property identification number and owner of the parcel comprising the subject property (the "Property") are:

|                  |                   |                     |
|------------------|-------------------|---------------------|
| 350 Gardner St E | 06-117-22-21-0027 | Bohland Homes, Inc. |
|------------------|-------------------|---------------------|

- 1.3 Application Requests. The Applicant is requesting approval of the following:
  - A. Preliminary Plat Subdivision. Preliminary Plat to subdivide the Property into three lots.
  - B. Private Street Variance. A variance from the Subdivision Ordinance prohibition of private streets to allow use of a private roadway to

access the newly created lots on the Property.

- C. Impervious Surface Variance. A variance from the Zoning Ordinance's 35% impervious surface coverage limit in the R-3A zoning district for the proposed lots which would have impervious surface coverage ranging from 38.2 to 41.1%.

- 1.4 Land Use Designations. The Property is zoned and guided as follows:

|                     |                                                 |
|---------------------|-------------------------------------------------|
| Zoning:             | R-3A/Single and Two Family Residential District |
| Comprehensive Plan: | Low Density Single Family                       |

- 1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Lakeshore Weekly News* on January 26, 2017. A copy of the notice was mailed to all property owners located with 350 feet of the Property on January 13, 2017. A public hearing on the Application was held at the February 6, 2017 Planning Commission meeting.

## Section 2. STANDARDS

- 2.1 Subdivision / Preliminary Plat. Before any subdivision plat shall be recorded or be of any validity, it shall be referred to the City Planning Commission and approved by the City Council as having fulfilled the requirements of the City's Subdivision Ordinance, Ch. 805 of City Code. In reviewing subdivision plats, the Planning Commission shall consider possible adverse effects of the preliminary plat. Its judgment shall be based upon, but not limited to, the following factors found in Section 805.14.E:

1. The proposed subdivision or lot combination shall be consistent with the Wayzata Comprehensive Plan.
2. Building pads that result from a subdivision or lot combination shall preserve sensitive areas such as lakes, streams, wetlands, wildlife habitat, trees and vegetation, scenic points, historical locations, or similar community assets.
3. Building pads that result from subdivision or lot combination shall be selected and located with respect to natural topography to minimize filing or grading.
4. Existing stands of significant trees shall be retained where possible. Building pads that result from a subdivision or lot combination shall be sensitively integrated into existing trees.
5. The creation of a lot or lots shall not adversely impact the scale, pattern or character of the City, its neighborhoods, or its commercial areas.

6. The design of a lot, the building pad, and the site layout shall respond to and be reflective of the surrounding lots and neighborhood character.
7. The lot size that results from a subdivision or lot combination shall not be dissimilar from adjacent lots or lots found in the surrounding neighborhood or commercial area.
8. The architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of a building proposed on a lot to be divided or combined shall be similar to the characteristics and quality of existing development in the City, a neighborhood or commercial area.
9. The design, scale and massing of buildings proposed on a subdivided or combined lot shall be subject to the architectural guidelines and criteria for the Downtown Architectural District, Commercial and Institutional Architectural Districts, and Residential Architectural Districts and the Design Review Board/City Council review process outline in Section 9 of the Wayzata Zoning Ordinance.
10. The proposed lot layout and building pads shall conform with all performance standards contained herein.
11. The proposed subdivision or lot combination shall not tend to or actually depreciate the values of neighboring properties in the area in which the subdivision or lot combination is proposed.
12. The proposed subdivision or lot combination shall be accommodated with existing public services, primarily related to transportation and utility systems, and will not overburden the City's service capacity.

2.2 Private Street Variance. Section 805.27.K. of the Subdivision Ordinance prohibits private streets except in the case of planned unit developments, and requires that all streets in a new subdivision be dedicated for public use. Section 805.60 of the Subdivision Ordinance provides the standards and criteria for reviewing variances from the standards of the Subdivision Ordinance, which are as follows:

- A. The City Council may approve a variance from the minimum standards of the Subdivision Ordinance (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed

subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the City Council finds:

1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of the Subdivision Ordinance would deprive the applicant of the reasonable use of his land.
2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which property is situated.
3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
4. Hardship relating to economic difficulties shall not be considered for the purpose of granting a variance.
5. That the hardship is not a result of an action or actions by the owner, applicant, developer or any agent thereof.

A variance from the provisions of the Subdivision Ordinance requires an affirmative four-fifths (4/5) vote of the full City Council. Section 805.60.B.14.

2.3 Impervious Surface Variance. Sec. 801.55.7.A of the Zoning Ordinance establishes a maximum impervious surface coverage of a lot in the R-3A zoning district of 35% of the lot area. Sec. 801.05.1.C of the Zoning Ordinance provides the following standards and criteria for reviewing variances from the standards of the Zoning Ordinance:

- 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 the Zoning 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 the Zoning Ordinance.
- F. The City Council shall not permit as a variance any use that is not allowed under the Zoning 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, additional materials submitted by the Applicant, staff reports, public comment and information presented at the public hearings, and the standards of the Wayzata Subdivision and Zoning Ordinances, the Planning Commission of the City of Wayzata makes the following findings of fact:

#### 3.1 Preliminary / Final Plat.

- 1. The proposed Subdivision is inconsistent with the Wayzata Comprehensive Plan's objectives and policies related to natural and community resources in that the Subdivision does not support healthy tree coverage, and the Subdivision does not preserve and protect existing stands of mature trees on public and private property.
- 2. The building pads that result from the Subdivision will not preserve the sensitive areas on the Property, including trees and vegetation that provide a major sound, visual and emissions buffer for the surrounding properties and the neighborhood from the significant traffic on Highway 12.
- 3. The building pads that result from the Subdivision have not been selected and located with respect to natural topography, nor minimize filling or grading, in that major grading, filling and soil correction will need to be completed for the project, given the steep slopes, difficult access, and poor soils of the Property.

4. Existing stands of significant trees on the Property and the adjacent right of way will be lost that make up an important buffer as noted in the record. The building pads resulting from the Subdivision are not sensitively integrated into existing trees.
5. The Subdivision will adversely impact the scale, pattern and character of the surrounding neighborhood, with the loss of trees and vegetation, and natural topography.
6. The design of the lots, the building pads, and the site layout does not respond to nor is it reflective of the surrounding lots and neighborhood character.
8. The proposed lot layouts and building pads do not conform with all of the performance standards contained in the Subdivision Ordinance in that two variances are requested.

### 3.2 Private Street Variance.

1. The Private Street Variance is contingent upon approval of the proposed Subdivision, which for reasons noted in this Report, should be denied.
2. The strict application of the provisions of the Subdivision Ordinance would not deprive the Applicant of the reasonable use of the Property.
3. Granting of the Private Street Variance and allowing the proposed Subdivision and project to proceed would be detrimental to public safety and welfare, and injurious to other property in the territory in which Property is situated, as noted in the record.

### 3.3 Impervious Surface Variance.

- A. The Impervious Surface Variance is contingent upon approval of the proposed Subdivision, which for reasons noted in this Report, should be denied.
- B. The Applicant has not established that there are practical difficulties in complying with the impervious surface limits of the Zoning Ordinance.
  1. The plight of the landowner of the Property is due to the size of the proposed building pads and other impervious surfaces related to the proposed homes.
  2. The Impervious Surface Variance and associated Subdivision, if granted, would alter the essential character of the locality and not preserve it as noted in this Report.

- C. Economic considerations are a significant reason for the Impervious Surface Variance in that a reasonable reduction in the size of the proposed homes and related impervious surfaces would obviate the need for the variance.

#### Section 4. RECOMMENDATION

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **DENIAL** of the Preliminary Plat Subdivision, Private Street Variance and Impervious Surface Variance requested in the Application.

Adopted by the Wayzata Planning Commission this 27<sup>th</sup> day of February 2017.

Voting In Favor:  
Voting Against:  
Abstaining:  
Absent: