

**WAYZATA CITY COUNCIL
MEETING MINUTES
March 7, 2017**

AGENDA ITEM 1. Call to Order.

Mayor Willcox called the meeting to order at 7:00 p.m.

AGENDA ITEM 2. Pledge of Allegiance.

AGENDA ITEM 3. Roll Call.

Council Members present: Koch, McCarthy, Tyacke, and Plechash. Also present: City Manager Dahl, City Attorney Schelzel, Public Services Director Dudinsky, City Engineer Kelly, and Director of Planning and Building Thomson.

AGENDA ITEM 4. Approve Agenda.

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

AGENDA ITEM 5. Public Forum.

a. Lake Effect Update

Lake Effect Executive Director Kathy Coward reported the newly appointed Conservancy Chair is Joann Birkholz. They have moved into new offices, and have held two board meetings. They have created a preliminary campaign plan, with a fundraising goal of \$1,000,000, and 100 percent of the Board members have pledged to the campaign. The next task will be to build a campaign cabinet and select a Chair. She meets with City staff twice a month to discuss public funding, the Environmental Assessment Worksheet (EAW) project details, and City staff attends Lake Effect Board meetings. The Board is especially focused on communications. They are in the process of developing both a marketing and communications plan for the capital campaign and improving the marketing brochures and other communication tools.

Ms. Coward asked the Council and audience if they understand the scope and value of the project. It includes three parks and a boardwalk. The parks include the Historic Depot, the Eco Park, and the Urban Park, which are all connected by the boardwalk.

Mr. Tyacke inquired if the EAW is flexible enough to raise funds annually, or do funds need to be raised for the entire project. Ms. Coward responded the EAW process will be finished by June. The impact of the process is on the design and the \$1,000,000 will be to allow the Civitas designer to move forward.

City Manager Dahl stated the EAW process has shown that most of the project is interlinked and based on funding, they are limited to three phases: 1) Design; 2) Boardwalk and Eco Park area along the lake; and, 3) Lake Street pop-up park.

Ms. McCarthy inquired if there is anything the Council should be considering during their strategic planning session as it relates to the Lake Effect Project. Ms. Coward stated they want the support of everyone and anything the Council can do to raise awareness is helpful. In the future, the City may want to discuss what happens to the Conservancy when it is all over.

b. Heritage Preservation Board Annual Report

Kim Anderson, Chair of the Heritage Preservation Board (HPB), presented the 2016 HPB Annual Report and goals for 2016. She highlighted activities of 2016, which include a new logo, the Unitarian Universalist Church of Minnetonka's (UUCM) Centennial Celebration, UUCM's sale to Bluewater Theater group, presentation of the Centennial House and Mayor's Best Preserved Awards, participation in James J. Hill Days, and highlighted houses slated to be torn down. Other HPB work includes Heritage Landmark plaques, historic Bushaway Road fence, media coverage

1 and partnerships, Public Art Selection Committee, and continued collaboration with Wayzata
 2 Historical Society. She thanked outgoing Board members for their work and reported on goals for
 3 2017.

4 Mr. Tyacke inquired about the relocation of the Wise House. Ms. Anderson stated the
 5 house is used privately, but the owners are willing to open it up. The process has been suggested
 6 for other historic buildings in town, but may not be realistic with other properties.

7 Mr. Koch thanked Ms. Anderson for her work and inquired where the registry of historic
 8 buildings is located. Ms. Anderson commented they hope to have it on their website soon.

9 Mr. Plechash inquired about the historic Bushaway fence. Ms. Anderson stated it is a
 10 wrought iron fence that was part of the property where the Stonecrest Development is now. City
 11 Engineer Kelly stated the fence was removed and the replacement of it has gotten lost as the
 12 property has changed owners. They are trying to determine where it is and if it is salvageable.

13 Mr. Willcox inquired about the differences between the Wayzata Historical Society and
 14 the HPB. Ms. Anderson responded the work of the Historical Society is often broader than the HPB
 15 and focuses on structures, sites, and the history of what no longer remains. The HPB is focused
 16 primarily on structures and sites that still remain.

17 Mr. Willcox inquired if they are doing anything with the historical preservation easements.
 18 Ms. Anderson commented there is only one home in Wayzata that has a historical preservation
 19 easement on it, along with the Depot. They would like to have more, but it is up the property owner
 20 to make that decision, not the HPB.

21 Ms. McCarthy inquired if Council should discuss the challenges the HPB faces in getting
 22 to the homes being torn down. Mr. Dahl suggested the HPB discuss it at their next meeting and
 23 get back to the Council.

24 The Council thanked Ms. Anderson for her leadership and work.

25 **AGENDA ITEM 6. New Agenda Items.**

26 Mr. Plechash requested the Council discuss Sunday liquor sales, which was recently approved by
 27 the State Legislature. The Council agreed.

28 **AGENDA ITEM 7. Consent Agenda.**

29 Mr. Tyacke referred to the Municipal Licenses and inquired about McCormick's request for a three-
 30 day permit request. Director of Public Service Dudinsky stated the event will be Friday through
 31 Sunday, and this is the fourth year they have held it.

32 Mr. Tyacke inquired about the patio on the south side of the Bellecour addition. City
 33 Manager Dahl stated if they were to service alcohol on the patio, they would have to go through a
 34 CUP process. They have decided to keep the south patio areas as breakfast/pastry areas of service
 35 and no alcohol would be served.

36 Mr. Tyacke made a motion, seconded by Mr. Koch, to approve the following Consent
 37 Agenda:

- 38 a. Approval of City Council Regular Meeting Minutes of February 21, 2017
- 39 b. Approval of Check Register
- 40 c. Mediacom Quarterly Customer Service Report
- 41 d. Approval of Municipal Licenses
- 42 e. Approval of Resolution No. 08-2017 Accepting Donation by Coors Brewing Company via
- 43 Workhouse Worldwide LLC
- 44 f. Approval of Resolution No. 11-2017 Support Condominium, Townhouse and Cooperative
- 45 Construction

46 The motion carried 5/0.

AGENDA ITEM 8. Public Hearings.

a. Consider On-Sale Intoxicating Liquor License and Sunday On-Sale Intoxicating Liquor License for Bellecour LLC DBA "Bellecour" at 739 Lake Street

City Manager Dahl reported the applicant has applied for an on-sale and Sunday on-sale intoxicating liquor licenses. The licensed premises will include a first-floor indoor restaurant, and an outdoor patio on the north side of the building, but not on the area on the south side of the building. The background investigation has been completed and approved by the police department.

Gavin Kaysen, Chef and Owner of Bellecour, commented they are excited to be part of the community and have hired 75 people to work in the restaurant. He thanked the community for their support look forward to opening.

Mrs. McCarthy inquired if he has worked with staff in directing traffic. Mr. Kaysen stated all the events are less than 100 people and he has talked with City staff about parking.

Mr. Kaysen stated they plan to open on March 15. There will be a private event on March 10, a media-only event on March 11, a friends and family event on March 12 and 13, an opening party on March 14, and the official opening on March 15.

Mr. Willcox opened the public hearing at 7:58 p.m. There being no input, Mr. Willcox closed the public hearing at 7:59 p.m.

Mr. Tyacke made a motion, seconded by Mr. Plechash, to approve an On-Sale Intoxicating Liquor License and Sunday On-Sale Intoxicating Liquor License for Bellecour LLC DBA "Bellecour" at 739 Lake Street. The motion carried 5/0.

b. Consider Ordinance No. 768 Vacating City Right of Way and Public Utility Easements Adjacent to 1430 and 1350 LaSalle Street

Director of Planning and Building Thomson reported the applicants, Jeff Callinan and Jack Amdal, have submitted a letter requesting the City vacate portions of Elliot Street, Shore Street, and Minnetonka Boulevard street right of way adjacent to their respective properties located at 1350 and 1430 LaSalle Street.

Mr. Thomson explained how the right of way would be adjoined to the existing property and recorded with Hennepin County. Existing drainage and utility easements would be vacated and new ones would be established. It has been reviewed by staff and determined that street construction is impractical due to the wetlands and topography within the right of way, as well as the railroad tracks that are located along the south side of the property. The vacation would reduce the City's liability and there may be an increased lot size and taxable market value.

Mrs. McCarthy inquired if the area has ever been used for vehicle or foot traffic. Mr. Thomson confirmed it is not an actual street, only outlined as such during early platting.

Mr. Plechash requested confirmation on the following: 1) There are no plans or uses for this property; 2) There have been no objections voiced; 3) It would reduce the City's maintenance requirement; and 4) It would possibly increase tax revenue to the City. Mr. Thomson confirmed the statements to be true.

Mr. Koch inquired if there are other road to nowhere easements in town. Mr. Kelly stated there are very few. Mr. Thomson stated they have worked closely with City Attorney Schelzel to follow the appropriate process with this application because it does not happen very often.

Mr. Willcox inquired about the benefit to the owner. Mr. Thomson explain the 1430 property has a nonconforming setback that would be met if the request is approved. The properties do not meet the minimum width requirements for future subdivision.

Mr. Willcox opened the public hearing at 8:08 p.m. There being no input, Mr. Willcox closed the public hearing at 8:09 p.m.

Mr. Tyacke inquired if it is typical the land owners not pay the City anything for their increased land. Mr. Thomson stated it was designated as right of way, and the City never paid for it. Mr. Schelzel commented sometimes when certain easements are vacated the City has received compensation, but not in a situation like this.

1 Mr. Plechash made a motion, seconded by Mrs. McCarthy, to approve the first reading of
2 Ordinance No. 768 Vacating Certain City Right of Way and Public Utility Easements Adjacent to
3 1430 and 1350 LaSalle Street. The motion carried 5/0.

4
5 The Council recessed at 8:11 p.m. and reconvened at 8:17 p.m.

6
7 **AGENDA ITEM 9. New Business.**

8 **a. Consider Resolution No. 10-2017 Approving CUP and Variance and Bid Award for**
9 **Construction of Telecommunications Monopole Tower at Wayzata West Middle**
10 **School at 149 Barry Avenue North**

11 Director of Public Service Dudinsky reported on the background of this application. After the
12 completion of a feasibility study and meetings with the school, the location of the monopole at
13 the Wayzata West Middle School site was determined and the FCC approved the location. After
14 the first Planning Commission meeting they learned that the area was improperly surveyed and
15 the location of the monopole was southeast of the correct location. The Planning Commission
16 held another public hearing with the correct location.

17 Mr. Dudinsky reported they did not intend to require a variance, but he was unaware of
18 the telecommunication ordinance setback required. Due to the sequence of events, he was unable
19 to move the monopole and additional 25 feet to meet the setback requirement. The pole will be
20 designed to have a breakaway at 100 feet.

21 Mr. Dudinsky reported the relocation estimate was over \$600,000. After the feasibility
22 study, they learned the elevation of the carrier platforms had three sectors lower down the
23 monopoles thus reducing the load significantly. This allowed the use of a more cost-effective pole
24 and foundation design, and a low bid in the amount of \$312,441.

25 Director of Planning and Building Thomson reported the Planning Commission reviewed
26 the development application and recommended denial. They expressed concern with the land use
27 conflicts between the tower and the school as well as the neighborhood.

28 Mrs. McCarthy confirmed the supplemental packet given to Council in addition to the
29 meeting packet will be part of the record. Mr. Dudinsky concurred.

30 Mrs. McCarthy stated between two renderings provided, the B-4 location of the
31 monopole appear to be more to the west in one. Mr. Dudinsky stated the official approval of the
32 monopole site is at the B-4 boring and about a month after the location was chosen, the telecom
33 ordinance was adopted. At that time, he did not realize the setback requirements had changed.

34 Mrs. McCarthy commented this was the desirable site and the north Broadway site was a
35 secondary location that was approved by the tenants. Other areas were explored, but this ended up
36 being the most viable.

37 Mr. Dudinsky stated the middle school provides a macro site without needing two sites
38 and it is the preference for the existing tenants. The north Broadway site was not studied because
39 the middle school site was accepted. The school district has other schools that lease land for
40 telecommunications equipment. The school provided an existing site land lease agreement to the
41 City to be used as a template for this site.

42 Mr. Plechash commented the move was prompted by citizens along Gardner Street and is
43 being moved to a location that has concerned citizens. Mr. Dudinsky explained there were
44 continual significant upgrades to the old technology which required a lot of construction traffic at
45 the water tower site. As time has gone on, the impacts of the construction activity have become
46 more significant. A petition signed by over 500 residents was submitted to the City in September
47 2014 that stated there was construction activity taking place in the public park and should be
48 somewhere else. After extensive study and searching for a solution, they determined it needed to
49 be moved.

50 Mr. Plechash inquired about the construction and upgrade traffic at the new location. Mr.
51 Dudinsky stated it will not be the same as with the existing site. The water tower was not

1 designed for telecommunications and large equipment was required for upgrades. The monopole
2 power is designed for telecommunications and they will be able to use smaller equipment, like
3 hand/rope pulleys.

4 Mr. Plechash stated the southern access route seems to be problematic with truck
5 traveling through the school parking lot. Mr. Dudinsky stated the lease agreement agreed upon by
6 the school district states the tenants must give 24-hour notice before they come on the site,
7 register in the school when they are on site, and they cannot come within 45 minutes of
8 loading/unloading of the buses.

9 Mr. Plechash requested explanation on the variance requirement to meet the FAA
10 standards due to the height of the monopole. Mr. Dudinsky explained if the monopole is less than
11 200 feet, it does not require a beacon. With the AT&T antennas on top, the tower is at 199 feet.

12 Mr. Thomson advised the telecommunications ordinance has established a maximum
13 height of 190 feet on the tower and the Council can approve a height higher than that if the tower
14 is at least partially used for public services. Since the tenants provide E911 services, it allows the
15 Council to increase the height. Mr. Dudinsky stated the City will also have an antenna on the
16 tower.

17 Mr. Koch inquired what it would take to move the tower the 25 feet to eliminate the
18 variance request. Mr. Dudinsky stated the four tenants would have to recalculate to determine if
19 their signals still worked. If they moved more than 15 feet, they would have to go through the due
20 diligence study again that would take two to four months and up to \$15,000. The school district
21 would support moving the tower, but it would delay construction. The agreement with the school
22 district has the construction being done during the summer, and this would push it into the school
23 year. To move even 25 feet, an additional soil boring would need to be done. This would cost up
24 to \$2,000 and take two to three weeks.

25 Mr. Tyacke inquired about the timing of the feasibility study and the telecommunications
26 ordinance, and if the ordinance references where a tower can be built. Mr. Dudinsky stated they
27 had to choose a location before doing the feasibility study and that is what prompted them to
28 choose the B-4 location. The public works site and the middle school site were the only two
29 acceptable sites allowed by the ordinance. However, because the public works site is so far west,
30 it would require an additional tower on the east end to extend the signal.

31 Mr. Tyacke inquired about the setback requirements with the ordinance and why 195 feet
32 is not needed for the monopole tower. Mr. Dudinsky responded once they realized they did not
33 meet the requirement, they opted to modify the monopole and design it to break in the middle. He
34 is unsure if the steel cables in the middle would affect the break zone.

35 Mr. Plechash inquired about the placement and coverage of tenant's equipment on the
36 monopole. Mr. Dudinsky stated the tenants requested the order on the water tower be duplicated
37 on the new monopole. AT&T is on the top, Verizon is on the bottom, and the other two are in the
38 middle.

39 Mr. Willcox inquired about the ground equipment and if it will change at the new site.
40 Mr. Dudinsky explained it will be less intrusive. Cabinets are now being used instead of
41 buildings. The telecommunication ordinance allows for only one building on that site. Within the
42 fenced area on the site, there is enough room for cabinetry for 5 tenants.

43 Mr. Willcox inquired about the proposed screening and if any noise will come from the
44 area. Mr. Dudinsky responded the driveway will be aggregate and the decision for screening has
45 been left up to the school. The cabinetry is small and due to the location of the tower, noise
46 should not be heard by neighboring residents.

47 Mrs. McCarthy commented she has heard concerns from residents regarding trimming
48 and thinning of trees. Mr. Dudinsky stated he is unaware of any trees being trimmed. The
49 surveyors may have done some trimming in order to determine property lines or it could be the
50 right of way crew that does tree trimming this time of year. There will not be any changes to the
51 buffer on Barry Avenue related to this project.

1 Mrs. McCarthy inquired about the cost and impact to the timeline of moving the
2 monopole to avoid the variance. Mr. Dudinsky responded it could cost up to \$20,000 and delay
3 the project two to four months. There are some variables to consider, but it is not impossible. The
4 school gave a verbal indication they would support moving the monopole 25 feet. However, any
5 placement that would encumber the ball field would not be supported.

6 City Manager Dahl noted that the email the Council received from Andrew Mullin will
7 be part of the record. The reason Mr. Dudinsky provided a detailed history of the project was to
8 show how decisions have been made over the last ten years on this project, as well as to show
9 how and why they came to the decision of the middle school site.

10 Karen Walker, 315 Barry Avenue North, commented her concerns are reflected in her
11 correspondences that are included in the meeting packet. These concerns are moving the tower
12 from one neighborhood to another, moving the tower out of the park environment onto the school
13 field where kids and families play, expending significant taxpayer money, and affecting property
14 values of Barry Avenue residents. She disagrees with the property value of her home listed in the
15 packet and invited the Council to visit her home to see the negative impact the view of the
16 monopole would have on her property. She had a realtor confirm that property values would be
17 substantially affected in a negative manner and requested the Council reject the proposal.

18 Andrew Mullin, 215 Chicago Avenue North, commented it took him several years to
19 agree that the tower needed to be moved. A lot of money has been spent to get to this point and
20 the fine details matter. He suggested they move the tower the 25 feet to avoid a variance, provide
21 screening for the neighbors, and create an access road along the freeway.

22 Joe Madson, 344 Gardner Street East, expressed concern with industrial blight and safety
23 to their neighborhood.

24 Katie Cullinan, 216 Barry Avenue North, commented the tower is an eyesore. She is a
25 teacher and expressed concern with safety as there are always middle school students around the
26 school and in the field.

27 Shane Cullinan, 216 Barry Avenue North, commented it could be a hazard to the eagles
28 nesting at the school, the tower is an eyesore, it is a big expense, and kids outside could climb on
29 the structure. He inquired if there will be environmentally friendly fluid running through the
30 machines, and if the site will create noise. He suggested putting a tower on City Hall so that the
31 City could benefit from the revenue.

32 Mr. Dudinsky commented the climbing pegs on the monopole are removed up to 30 feet
33 and the equipment on the ground is secured and locked.

34 Cathy Carlson, 226 Minnetonka Avenue North, commented she was a teacher in
35 Minneapolis. They had equipment on the school and they did not have any problems with it.
36 When they started the petition, they wanted the public works site, but now know that is not a
37 possibility. This site provides a buffer and trees, and is better than where it is right now. All the
38 fine details do need to be looked at, but she encouraged the Council to move it from the water
39 tower to this site.

40 Lucy Bruntjen, 402 Gardner Street, commented most of the public documents point to
41 eyesore, noise and traffic and the ordinance can deal with these issues. Her concern is with the
42 location and footprint. She agrees the tower should be moved to avoid a variance. With the
43 current site, she has debris falling on her property and on the park, and the tower is too deep in
44 the park. It is good the current proposed location is not in the middle of the school property, but
45 she still has concerns with access to the tower. She agrees the access road should run parallel to
46 the freeway so that kids do not have to cross it.

47 Mr. Tyacke commented he appreciated the thoroughness of the Planning Commission.
48 The emphasis is to get the tower off the water tower and out of the park. This site is what works
49 best and contributes to public safety in the community. He favors the middle school site since the
50 public works site requires a second tower on the east side of town. That would mean twice the
51 cost and similar issues in the neighborhoods on the east side of town. He expressed concern with

1 requesting a variance for the safety features that were legislated into the ordinance. He would like
2 more information about moving the tower 50 to 100 feet to the west.

3 Mrs. McCarthy stated they are limited in locations and there is no industrial location
4 option in the City. In other cities, cell phone equipment is not located in parks. It is up to the
5 Council to make sure there is adequate screening and protection from the noise. She does not
6 support moving the tower 25 feet at the cost of \$20,000 unless there is clear information that
7 shows it causes danger to adjacent property. It will be difficult to get Mn/DOT to agree to an
8 access road off their highway. Staff has done an excellent job scouting out the appropriate
9 location given all the challenges. She supports moving forward with the existing proposed
10 location if they can provide all appropriate protections in terms of site, sound, and access by kids
11 to the general location.

12 Mr. Plechash commented he understands why the tower needed to move. The proposed
13 new location is not ideal for anyone, but something must be done. Access through the parking lot
14 is still an issue and expressed concern with real estate values to neighboring residents. He does
15 not see the fall zone variance as a big issue, but is surprised the school is okay with the proposed
16 location. He is conflicted, but understands it is needed and will support the application.

17 Mr. Koch commented this is not a perfect solution, but one may not exist in Wayzata. He
18 has issues with the setback and potential reduction in property value. He supports moving the
19 tower 15 feet and trusts the school's opinion with the access road. It is clear something needs to
20 be done and this is the best solution available.

21 Mr. Willcox stated this project has taken ten years because there are no good solutions.
22 Many sites have been looked at and none of them are ideal. He does not see that they are trading
23 one neighborhood for another. They are moving it out of a City park because people in general do
24 not feel it is appropriate to have a tower there. They are moving from a site in someone's front
25 yard to another area that is buffered from homes with a dense wooded area. Property values area a
26 concern, but believes the impact will be minimal. He would like to see it moved farther to the
27 west, and was initially concerned with the access through the school property. The school has
28 indicated they were okay with the placement of the tower and the access requirements. He does
29 not support spending \$20,000 to move the location 25 feet. The monopole is the best solution,
30 this site is the location available, and he supports the application.

31 Mrs. McCarthy made a motion, seconded by Mr. Koch, to adopt Resolution No. 10-2017
32 Approving Conditional Use Permit and Variance for Telecommunications Tower at 149 Barry
33 Avenue North, subject to contacting the vendors to see if moving the monopole affects the signal.

34 Mr. Tyacke stated it would be worth the time to study the impact of moving the tower 25
35 feet to the west and relocating the access road along the fence.

36 Mr. Dudinsky stated in discussions with the school regarding revenues from the land
37 lease, if there are issues with the access road, they are willing to fence it as well as the ball field.
38 They have 15 feet of variance that can be used in case of error and he advised they could go west
39 10 feet without going through the whole process again, assuming they did not run into bad
40 circumstances.

41 Mr. Plechash agreed \$20,000 is not a lot to move the monopole and it would solve the
42 problem of having to get a variance. He also agrees alternate access method should be looked at.
43 However, if these few tweaks postpone this project a year, he would not support them.

44 Mrs. McCarthy commented other options have already been looked at regarding the
45 access road. Getting approval from Mn/DOT will more than likely delay this more than 30 days
46 and it will probably have to be rebid. If it were delayed more than 30 days, she would not be in
47 favor of it. She would support moving the tower 10 feet if it worked for the venders and meant no
48 additional delays.

49 Mr. Dudinsky commented he does not know if moving the monopole 25 feet will affect
50 coverage for the tenants and he does not know if they can get that information back in 30 days.

1 Mr. Koch inquired if it reasonable to ask the tenants what the effect will be if they move
 2 it ten feet. Mr. Dudinsky stated since the permit allowed moving it 15 feet in case of issues
 3 suggests that it is probably not an issue.

4 Mr. Willcox clarified if staff finds out the monopole cannot be moved, the approval
 5 would stand that the monopole remain at the current location.

6 Upon roll call vote, with Koch, Tyacke, McCarthy, Plechash, and Willcox voting yes, the
 7 motion carried 5/0.

8 Mr. Plechash made a motion, seconded by Mrs. McCarthy, to approve the low bid of
 9 \$312,441 provided by Structural Tower Services for the telecommunications monopole tower at
 10 Wayzata West Middle School. The motion carried 5/0.

11
 12 **b. Consider Resolution No. 09-2017 Denying Preliminary Plat Subdivision and**
 13 **Variances at 350 Gardner Street East**

14 Director of Planning and Building Thomson reported the applicant, Bohland Homes, submitted a
 15 development application to subdivide the property at 350 Gardner Street East into three single-
 16 family residential lots. The existing house would be demolished, and three new homes would be
 17 constructed with access from a private street. The application includes a preliminary plat
 18 subdivision, variance from the subdivision ordinance to allow access by a private street, and
 19 variance from the zoning ordinance impervious surface requirements. The Planning Commission
 20 recommends denial of this application.

21 Mr. Thomson provided more detail on the proposed private street. The property currently
 22 has a private driveway from the end of Gardner Street that is shared with the adjacent property at
 23 344 Gardner Street East, which by definition is considered a private street. The applicant is
 24 proposing to extend the private street to serve the three lots, which requires a variance from the
 25 City's subdivision ordinance. This street would need to be paved, a minimum of 16 feet in width,
 26 and include a turnaround option.

27 Mr. Thomson reported on the tree ordinance requirements. The proposed plans result in
 28 removal of 66 percent of the inches of significant trees. This would require the applicant to plant
 29 93 inches of trees as mitigation. City Arborist Manual Jordan confirmed the tree ordinance and
 30 provided recommendations.

31 Mr. Thomson reported on drainage and grading, and impervious surface. The proposed
 32 plan includes 573 cubic yards of fill, which amounts to 35-45 truckloads. Since the private street
 33 is located on the private property, that area is considered part of the impervious surface and a
 34 variance is being requested.

35 Mr. Plechash inquired why Gardner Street has not been completed and extended farther
 36 to the east. City Engineer Kelly responded due to the topography and soil conditions, there would
 37 be challenges to building a road.

38 Mrs. McCarthy inquired how the amount of additional fill needed is determined as it
 39 relates to soil quality. Mr. Kelly responded the developer would do soil borings for the home and
 40 road, and fill requirements could be determined before excavation begins.

41 Mrs. McCarthy requested more information on the land north of the private street. Mr.
 42 Kelly stated it contains significant transitions from low to high and has been a natural area with
 43 little stormwater improvements. There is a house located north and west of the right of way.

44 Mr. Tyacke inquired if there have been any applications to vacate Gardner Street from
 45 the surrounding properties. Mr. Kelly responded he did not know of any.

46 Mr. Tyacke inquired if the private road is required to be a hard surface. Mr. Kelly stated
 47 it does need to be a hard surface. A pervious paver would be considered a hard surface, but would
 48 function as a stormwater management technique. According to the current ordinance, it would not
 49 change the impact to the hard cover requirement. However, there have been instances where
 50 property owners have applied to the watershed district and they have received a reduction in

1 impervious surface by using pervious pavers. With this application, the only area with the ability
2 to receive credit is in the Shoreland Overlay District, and this area falls outside of that.

3 Mr. Thomson explained the 16-foot width of the private street is required by the fire
4 access requirements, and they may also have street material requirements due to the weight of the
5 trucks. While a cul-de-sac is not required, a turnaround for fire trucks is. They are proposing a
6 grass pave turnaround that could be used for trucks, but the Fire Marshall has expressed concern
7 with this.

8 Mr. Plechash inquired if a variance would be required if it was a regular street. Mr.
9 Thomson responded no. Mr. Plechash pointed out three properties to the south that are the same
10 size as what is being proposed, and inquired they needed a variance. He stated if the street was
11 not a private street and was finished through, none of the variances would be needed. Mr.
12 Thomson stated he does not know if the properties to the south needed variances, but suspects
13 they did not need a variance. If the street was located in the right of way, it would not count
14 towards the hard surface.

15 Mr. Willcox inquired about runoff concerns. Mr. Kelly reported staff would prefer the
16 runoff structure remain in place so there are not any adverse drainage issues. Mr. Willcox
17 inquired why the private driveway needs to be extended. Mr. Kelly explained it is being
18 requested by the applicant, but there are other solutions.

19 Steve Bohl, 550 Far Hill Road, commented they are looking for ideal sites for single
20 family homes. The legal intent for this site shows three lots. The topography is challenging and
21 not practical to create an extension of the public street. The intent with the proposed private street
22 extension is to limit the impact to the trees and topography to the north. It also provides an
23 opportunity to improve utilities on the private street and accommodate for public safety as well. A
24 private street variance is a more practical approach to providing access to the lots. The third lot
25 will be a tuck-under single family home and if they changed the homes from three car garages to
26 two car garages, they would meet the hard surface requirements.

27 Mr. Tyacke inquired why there are not three lots there now. Mr. Bohl stated it was
28 originally platted as three lots and he guesses when the original homeowner had all the lots, they
29 probably combined them so they were not taxed on three lots. Mr. Thomson confirmed the lot
30 consolidation was done for tax purposes.

31 Mr. Tyacke inquired how the private road would be managed. Mr. Bohl stated the
32 maintenance and management of it would be the responsibility of the homeowners.

33 Mr. Koch inquired if the landscaping plan adds trees in the buffer for the sound and sight
34 of Highway 12. Mr. Bohl confirmed they intend to remove the damaged trees and replace them
35 with trees that have long-term growth and short-term benefit for screening. He believes they can
36 replace the trees and make it better than what is out there. He pointed out a few significant trees
37 he believes can be saved.

38 Mrs. McCarthy inquired about the location of the retaining wall. Mr. Bohl pointed out the
39 location and stated it will be four feet high. The retaining wall supporting the private street would
40 be a maximum of six feet, and there are practical ways to keep people from driving off the edge.

41 Mrs. McCarthy inquired how they are addressing the water runoff with the impervious
42 surface variance. Mr. Bohl stated the existing conditions on the site are not good and the area is
43 eroding. By placing the homes on the site and managing the water through it and into a catch
44 basin, it provides a much better plan for managing stormwater than what is currently there.

45 Mrs. McCarthy inquired about sanitary sewer. Mr. Kelly stated each house would have its
46 own lift station, like the current house there now.

47 Mrs. McCarthy referred to a tree on the adjacent property, and inquired how they protect
48 it from damage. Mr. Thomson commented arborist requested more information on how the tree
49 was going to be preserved and he will review the plan to make sure it is sufficient. Mr. Bohl
50 stated they will do an auger deck post for the area closest to that tree to prevent additional
51 disruption.

1 Mr. Plechash inquired how they could adjust the impervious surface. Mr. Bohl stated they
2 would have to go from three-car garages to two-car garages and slightly adjust the foot prints of
3 the homes. The impervious surface calculations include the fire truck turnaround. There is a fire
4 hydrant close to the homes, sprinklers are required in the homes, and due to the size of the lots, he
5 feels the turnaround requirement is excessive.

6 Mr. Willcox expressed concern with the neighbor to the west and the addition of homes.
7 Mr. Bohl stated the responsibility of the private street will be on the three new homes. It is up to
8 the westerly neighbor if they want to participate in that.

9 Mr. Willcox inquired if they had looked at building two homes instead of three. Mr. Bohl
10 stated if it was split into two parcels, they are still eliminating three to five significant trees and
11 only saving one or two.

12 Mr. Willcox stated they could have a private street with a PUD. Mr. Bohl stated a PUD
13 may be been simpler, but he believes this proposal meets all the variance standards.

14 Mr. Tyacke inquired how he plans to address all the issues the lawyer for the property to
15 the west provided. Mr. Bohl explained they will provide protection during construction through
16 fencing. They will repair any damage done to the driveway, remove the existing structure
17 carefully, and improve stormwater management. The private road will be the same width as many
18 others in the City. There will be some disruption during the installation of the new private road
19 and hauling soil. With the soil, they expect to spend two weeks working on the grade to make it
20 acceptable. The construction of the three homes will take about a year. He does not intend to
21 impose more than four feet on to the neighbor's driveway, and this will be repaved with the new
22 road.

23 Mr. Kelly stated the utility installation is an extension of what is already there and would
24 take less than a week. Depending on weather, the road could take two days to two weeks to
25 complete an access would be maintained during construction.

26 Mr. Willcox inquired if the design of the house is going to make it look too crowded. Mr.
27 Bohl stated the homes are intentionally more modest in the footprint.

28 Joe Madson, 344 Gardner Street East, commented he feels strongly that the subdivision
29 and construction of three homes is not consistent with the subdivision code and Comprehensive
30 Plan. The topography is tricky and that is why the lots are larger. There are issues with soil
31 quality and the hauling of 35-45 truckloads of dirt is significant alteration of the land. There have
32 been other subdivisions denied for much less fill and excavation. The length of the retaining wall,
33 removal of trees along the right of way, and runoff are also concerning.

34 Elissa Madson, 344 Gardner Street East, commented it is not common to have a shared
35 driveway or private street. In Wayzata, most private driveways only serve two homes, but this
36 would serve four homes. Private streets are a lot of work for homeowners to maintain. If this is
37 approved, there would be eight garbage cans in front of her yard every trash and recycling day,
38 and the road would service nine new garage stalls. This would cause an increase in traffic and
39 adversely affect the existing neighborhood. This proposal violates Preliminary Plat Criteria Nos.
40 2, 4, 5, 6, and 12. She highlighted tree No. 25, which is classified as a heritage tree, and stated the
41 proposed home on Lot 1 will be 12 ½ feet from this tree. She had three tree specialists look at this
42 tree and proposed construction, and they all agreed the tree would not survive. The cost to
43 remove the tree if it were not to survive would range from \$3,000 to \$7,000. They would support
44 an application from this developer that takes the scope of the natural topography into greater
45 consideration.

46 Lucy Bruntjen, 402 Gardner Street, commented the existing properties are oversized and
47 nonconforming due to the extreme terrain in the area. She expressed concern with negative
48 effects to a natural area with significant maple trees, and the scale, pattern, and character of the
49 neighborhood. The comprehensive plan had deemed this area too steep and the soil too unsuitable
50 to build on. She expressed concern with an oak tree and maple trees slated for removal. There is

1 an amazing amount of wildlife in the area and subdivision of the lots is too altering to the ecology
2 and natural topography of the neighborhood.

3 Cathy Carlson, 226 Minnetonka Avenue North, commented the trees replanted in the
4 buffer will take a long time to grow, the proposed number of houses do not protect the charm of
5 Wayzata, and the cutting into of the hill and retaining wall would be steep.

6 Merrily Babcock, 337 Reno Street, commented she is concerned with the grading and
7 drainage and how it affects the low-lying property; the excessive fill and how it will affect the
8 existing trees; the density of the development; and, the removal of valuable heritage trees.

9 Mr. Tyacke commented Mr. Bohl builds quality homes and has offered some creative
10 solutions. Three homes on the site feels overcrowded, the land is not suitable for this type of
11 development, and he agrees with the findings of the Planning Commission. He does not agree
12 with the removal of trees in the buffer, the amount of fill and grading needed, the smaller size of
13 the lots, and the private street. He supports the Planning Commission's recommendations for
14 denial of this application.

15 Mrs. McCarthy expressed concern with the number of trees removed, the slope, the
16 amount of fill, the smaller lot sizes, and the impact to the neighbors to the west. She supports the
17 recommendation for denial as it does not meet Preliminary Plat Criteria Nos. 2 through 7 and 12,
18 Subdivision Variance Criteria Nos. 1 through 5, and Zoning Ordinance standards.

19 Mr. Plechash commented subdivision is not an issue because it was previously
20 subdivided, the impervious surface issues could be fixed with minor changes, the landscaping
21 plan would improve the neighborhood, and the water and drainage issues were addressed. The
22 plan would improve the neighborhood and City. The residents have valid concerns and the issue
23 of the private drive remains a concern. There may be a way to come back with a plan that would
24 work, but it currently does not comply. He supports denial of this application.

25 Mr. Koch commented he understands the concerns regarding the number of trees
26 removed and the complexities of a shared driveway. While the private driveway does not comply,
27 the reasons for it are justified. The developer has done a good job attempting to maintain the
28 existing buffer. Construction nuisance is temporary, amount of fill will improve the site
29 conditions and is within the allowable amount, and while the number of trees lost is unfortunate,
30 the developer will comply with appropriate replacement outlined in the tree ordinance. The
31 division of three lots is in conformance with the characteristics of the neighborhood, and the three
32 homes would enhance the value of the other homes in the area. He does not support denial of this
33 application.

34 Mr. Willcox complimented the developer for all the good work he has done in Wayzata.
35 The number of proposed lots is within the character of the neighborhood and it does add single
36 family homes in Wayzata. The proposed homes look like too much is being put onto the lots. The
37 variances could be worked out through with a PUD, but the hardship is having three houses, not
38 the topography. Mr. Willcox felt the applicant is asking for the maximum use of the property and
39 it is too much. The imposition of the private road and management of it make this an unsuitable
40 subdivision. He supports denial of this application.

41 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to adopt Resolution No. 09-
42 2017 Denying Preliminary Plat subdivision and variances at 350 Gardner Street East. Upon roll
43 call vote, with Tyacke, Willcox, McCarthy, and Plechash voting yes, and Koch voting no, the
44 motion carried 4/1.

45 **AGENDA ITEM 10. City Manager's Report and Discussion.**

46 **a. Miscellaneous**

- 47 • City Manager Dahl advised they will be at the Capitol on Thursday morning to testify for
- 48 a TIF amendment.
- 49 • The City is meeting with a retail group to possibly have the Farmer's Market moved to
- 50 the municipal lot.
- 51

- The State of the City will take place on Wednesday, March 15 from 11:30 a.m. to 1:00 p.m. at Wayzata County Club. Tickets are available on the Chamber's website.

AGENDA ITEM 11. Public Forum (as necessary).

None.

AGENDA ITEM 12. Adjournment.

Mrs. McCarthy made a motion, seconded by Mr. Plechash to adjourn. There being no further business, Mayor Willcox adjourned the meeting at 12:03 a.m.

Respectfully submitted,

Becky Malone 03-21-2017

Becky Malone
Deputy City Clerk-

Drafted by Shannon Schmidt
TimeSaver Off Site Secretarial, Inc.