

# Wayzata Planning Commission

## Meeting Agenda

Monday, October 3, 2016

Community Room,  
600 Rice Street East,  
Wayzata, Minnesota

- 7:00 p.m.**
- 1. Call to Order & Roll Call**
  - 2. Approval of Agenda**
  - 3. Approval of Minutes**
    - a. September 7, 2016 Planning Commission Meeting
  - 4. Old Business Items:**
    - a. Mill Street Parking Ramp – 725 Mill St E
      - Design Review
    - b. Pflaum Home – 630 Bushaway Rd
      - Variances and CUP
    - c. Enclave at Crossdale – 202-217 Byrondale Ave N
      - PUD Amendment
  - 5. Public Hearing Items:**
    - a. Floodplain Ordinance Amendment
  - 6. Other Items:**
    - a. Review of Development Activities
    - b. Next Meeting is October 17, 2016
  - 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**  
**SEPTEMBER 7, 2016**

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

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

Present at roll call were Commissioners: Young, Gruber, Gonzalez, Murray, Flannigan and Gnos. Absent and excused: Commissioner and Chair Iverson. Director of Planning and Building Jeff Thomson and City Attorney David Schelzel were also present.

**AGENDA ITEM 2. Approval of Agenda**

Commissioner Gonzalez made a motion, Seconded by Commissioner Murray to approve the September 7, 2016 meeting agenda as presented. The motion carried unanimously.

**AGENDA ITEM 3. Approval of Minutes**

Approval of August 1, 2016 Planning Commission Minutes

Commissioner Young made a motion, Seconded by Commission Murray to approve the August 1, 2016 Planning Commission Minutes as presented. The motion carried 5-eyes and 1-abstain (Gonzalez)

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

None.

**AGENDA ITEM 5. Public Hearing Items:**

**Frenchwood Third Addition – 250 and 270 Bushaway Rd  
PUD Concept and General Plan, PUD Rezoning, Subdivision**

Director of Planning and Building Thomson stated the applicant, Zev and Kristi Oman and Robert Bolling, have submitted a development application to subdivide the properties at 250 and 270 Bushaway Road as part of a new Planned Unit Development. The applicant is proposing to subdivide the two (2) existing lots into four (4) single-family lots. The two (2) existing homes would stay and two (2) new single-family homes would be constructed. The Planning Commission and City Council previously reviewed a development application for these properties that included the same four (4) lot subdivision, with lot width variances and a variance

1 from the subdivision ordinance to allow use of a private roadway for access to the lots. The  
2 Planning Commission adopted a Report and Recommendation of approval of that previous  
3 development application but the City Council vote fell short (three to two) of the required 4/5ths  
4 vote to approve a subdivision variance. The applicant has now applied for the same subdivision  
5 application as a Planned Unit Development, rather than an R-1 zone subdivision, as PUDs do not  
6 require variances for the lot widths and private roadway. Mr. Thomson reviewed the application  
7 requests including rezoning from R-1/Low Density Single-Family Residential District to  
8 PUD/Planned Unit Development, PUD Concept and General Plan of Development, and  
9 Concurrent Preliminary and Final Plat Subdivision.

10  
11 Commissioner Gonzalez clarified the PUD would not require 4/5 vote from the City Council for  
12 approval. Mr. Thomson indicated that was correct, and only a simple majority would be needed.

13  
14 Commissioner Young asked what objections the City Council had on the application.

15  
16 Mr. Thomson stated the Council had hesitation about granting variances for new development  
17 that does not meet the City's zoning and subdivision regulations. Mr. Thomson stated that the  
18 Council was also concerned about preservation of natural resources, and the PUD ordinance is a  
19 tool the City can use for site preservation.

20  
21 Vice Chair Gruber opened the public hearing at 7:11 p.m.

22  
23 There being no one wishing to address the Planning Commission on this application, Vice Chair  
24 Gruber closed the public hearing at 7:12 p.m.

25  
26 Commissioner Young stated he had supported the project as a subdivision but not as a PUD.

27  
28 Commissioner Gonzalez stated the application does meet the general standards of a PUD. One  
29 of the reasons the Commission had supported the application had been to preserve the trees and  
30 this is for the health, safety, and welfare of the community and residents. The Comp Plan guides  
31 this property for single-family homes and this is what is proposed.

32  
33 Commissioner Flannigan asked if the PUD required common space.

34  
35 Mr. Thomson stated a Park Dedication fee could be paid in lieu of providing park land.

36  
37 Commissioner Young stated based on Commissioner Gonzalez's comments he would support  
38 the PUD application.

39  
40 Commissioner Flannigan asked how the City monitors projects to ensure only those trees that  
41 were approved to be removed are removed.

42  
43 Mr. Thomson stated the tree preservation plan is reviewed with the building permit application.  
44 The Commission could review this now but there are no house plans for two (2) of the lots and  
45 this would make it difficult to know what trees would be removed. The City's new Tree  
46 Preservation Ordinance is in effect for construction on a vacant parcel. If a building permit

1 application meets all of the Zoning Ordinances, setbacks, and the requirements of the Tree  
2 Preservation Ordinance then it would be reviewed administratively. Given this is a PUD  
3 application, the City could choose to tie the application to specific plans as a condition of  
4 approval.

5  
6 Commissioner Gonzalez stated previous residential PUDs were required to present house plans,  
7 a Tree Preservation Plan, and a Landscape Plan to the City for review and approval, and she  
8 would recommend adding this as a condition of PUD approval.

9  
10 Mr. Thomson clarified the Commission could recommend a condition of approval that the future  
11 owners of the two (2) vacant lots that would be created must present house plans, Tree  
12 Preservation plan, and Mitigation Plans to the Commission and City Council for review and  
13 approval. He clarified that the Commission's and Council's purview would be restricted to a  
14 permit review, which would include apply the Zoning Ordinance requirements such as setbacks,  
15 height, lot coverage, and impervious surface.

16  
17 Commissioner Murray stated the Tree Ordinance does not have a look back provision, and the  
18 property owners could remove trees prior to making an application.

19  
20 City Attorney Schelzel stated the Tree Preservation Ordinance applies now to the current  
21 homeowners and properties because of the application being considered at this time. Future  
22 homeowners would be required to submit a Tree Preservation Plan based on the trees that are on  
23 the property today.

24  
25 Mr. Thomson stated the Subdivision Ordinance states the character of the home in a new  
26 subdivision must be consistent with the neighborhood. If the Council included a condition  
27 requiring the future owners to submit final house plans for review and approval by the Planning  
28 Commission and City Council, the review would not require a public hearing. He expressed  
29 concerns about regulating the designs of homes under this provisions, as this is not something  
30 that the Zoning Ordinance regulates and requires for single-family homes. The property has  
31 requested a subdivision, so the standards of the Subdivision Ordinance apply.

32  
33 Commissioner Young stated the application would come to the Commission for review if it did  
34 not meet the standards and required additional approvals, and he does not believe the  
35 Commission should have to review it if the application meets all the standards.

36  
37 Commissioner Gruber stated the City has made this request with other PUDs.

38  
39 Mr. Thomson explained the review of final house plans is typically done by City staff as part of  
40 the building permit application, and not by the Planning Commission and City Council.

41  
42 Commissioner Gonzalez stated the PUD allows the City to attach reasonable conditions and this  
43 has historically been a condition of all residential PUDs. This condition would allow people to  
44 see what is going on with the property.

45

1 Commissioner Young stated he agreed that the City would want to be sure that the tree  
2 preservation and landscape guidelines are adhered to, but it seems staff has the ability to ensure  
3 that the plans would conform with the PUD standards and guidelines. If the plans do not meet  
4 the ordinance standards, then the Commission and Council should review and approve the plans.  
5

6 Commissioner Murray stated the Commission would only be able to determine if the ordinance  
7 standards are met or not met, and they would not be able to make changes. He would prefer to  
8 utilize staff, Commission, and Council time differently.  
9

10 Commissioner Gonzalez made a motion, Seconded by Commissioner Gruber to adopt the Report  
11 and Recommendation of Approval of Planned Unit Development, PUD Rezoning, and  
12 Preliminary and Final Plat at 250 and 270 Bushaway Road with the addition of condition G: The  
13 future homeowners for the two (2) vacant lots are required to bring back to the Commission and  
14 City Council for review and approval of a Tree Preservation Plan, Landscape Plan, and house  
15 design. The motion carried 4-ayes and 2 nays (Young and Murray).  
16

17 Commissioner Flannigan suggested the Commission continue discussion at a work shop  
18 regarding the impacts on the City when requiring applications to be reviewed by the Commission  
19 and City Council when they can be approved at the staff level.  
20

21 **Beacon Five – 529 Indian Mound E**  
22 **PUD General Plan, Design Review**  
23

24 Mr. Thomson stated the Applicant, Beacon Five, LLC and R.E.C. Inc., is proposing to construct  
25 a 3-story building which includes five (5) residential condominium units and 600 square-foot of  
26 office space on the first floor. The project is proposed as a Planned Unit Development (PUD)  
27 and zoning designation, given the building design calls for only partial use of the ground floor  
28 for office/retail. He reviewed the application requests including a PUD General Plan of  
29 Development and Design Review. The City Council approved a PUD Concept Plan earlier this  
30 year for the project, and the applicant is now requesting review of the PUD General Plan of  
31 Development. The City Council's approval of the PUD Concept Plans included a variance from  
32 the height limit of 35-feet to 38.9-feet, with the condition the applicant make an effort to reduce  
33 the height of the building. The revised building reflected in the PUD General Plan would have a  
34 height of 38-feet, which is less than the building height previously approved. He explained the  
35 applicant was requesting 4 deviations from the Design Standards, including lack of an outdoor  
36 seating area, lack of a step back of the third floor as required in Section 801.09.5.1.A, a lighter,  
37 tan color roof, and the use of fiber cement board in excess of 10% on all facades and precast  
38 stone in excess of 10% on the south facade. He stated there are currently 13 significant trees and  
39 1 heritage tree on the site. The Landscape Plan provided by the Applicant shows that all of the  
40 existing trees would be removed and be replaced by 6 trees (18 caliper inches). This would be a  
41 deficit of 164" replacement inches required by the Tree Preservation Ordinance. Mr. Thomson  
42 asked the Commission to provide guidance on whether a Landscape Plan revision should be  
43 required, or if the Applicant could provide a fee-in-lieu of tree replacement as specified in the  
44 Tree Preservation Ordinance.  
45

1 Applicant's representative, Mr. Tim Whitten, Whitten Associates, Inc., 4159 Heatherton Place,  
2 Minnetonka, stated they were presenting the same plan that had been supported by most of the  
3 Planning Commission and City Council earlier this year. He explained they were requesting a  
4 deviation for the tan roof because they have found that a tan flat roof lasts longer. He explained  
5 the lot is narrow and there would not be room to locate a public bench along Indian Mound due  
6 to the location of the driveway and the incline of the property. He explained the exterior  
7 materials are the same as what had been previously approved. He stated they would work with  
8 staff to plant additional trees on the property and if there is not room on the property, they would  
9 pay cash-in-lieu.

10  
11 Commissioner Gonzalez asked why the Applicant was requesting a deviation from the third floor  
12 setback requirement.

13  
14 Mr. Whitten stated the building is stepping back 12-feet in portions and 3-4-feet in other  
15 locations. The way the regulation is written they can take an average, but there cannot be a  
16 setback less than 6-feet. The design is balanced with the proposed setbacks. The building is 22-  
17 feet from the property line and if the building were on the property line, he could see stepping  
18 back the third floor.

19  
20 Vice Chair Gruber opened the public hearing at 8:02 p.m.

21  
22 Mr. Roger Johnson, 560 Indian Mound St. Wayzata, expressed concerns about parking and  
23 traffic. He asked if there would be any street parking estimates because there would be visitors  
24 to the property.

25  
26 Mr. Whitten stated there were only 5-units in the building and they will each be provided with  
27 two (2) enclosed parking spaces. Guests would temporarily park in the street along with other  
28 people in the area.

29  
30 Mr. Charlie Krogness, 540 Indian Mound Street, Wayzata, stated he had concerns about parking  
31 for the offices that will be located in the building.

32  
33 Vice Chair Gruber closed the public hearing at 8:05 p.m.

34  
35 Mr. Thomson stated the City has a minimum parking requirement for developments, and the  
36 ordinance requirement is based on the type of development. The proposed project meets the  
37 City's requirement of 10 parking stalls for both the residential and office use. This calculation  
38 may not reflect the maximum parking that the project may have, and there could be times when  
39 there will be parking on the street.

40  
41 Vice Chair Gruber asked where the office parking would be located.

42  
43 Mr. Krogness stated if all of the parking is inside there would be a security risk.

1 Mr. Whitten stated the underground parking is for both the residential and office components of  
2 the project. There is a similar building in Wayzata, and Ron Clark Construction has been able to  
3 work out the security concerns.

4  
5 Commissioner Flannigan stated he would abstain from voting on this project due to a conflict of  
6 interest.

7  
8 Commissioner Gonzalez asked why the fiber cement board would be a better choice of material  
9 than those outlined in the Design Standards.

10  
11 Mr. Whitten stated the fiber cement board was being used for the cantilever windows, and this is  
12 a nice material to detail these spaces.

13  
14 Commissioner Young stated he supports the project but is concerned that tree preservation is so  
15 important that the Commission is requiring the previous PUD applicants to bring back plans for a  
16 site review to ensure there are no trees removed, and this applicant will only be required to  
17 provide cash-in-lieu of replacement trees for a substantial amount of the trees that are being  
18 removed rather than tree preservation. He felt these were contradicting points.

19  
20 Commissioner Gonzalez stated she did not support the project previously because of the number  
21 of trees that would be removed. The City has already approved this Concept PUD plan and as a  
22 Commissioner, her position is to follow what the Council has already decided. She still has  
23 concerns about the height of the building and the clear cutting of the property, but because the  
24 Council has already approved the project in concept, she will support this application.

25  
26 Commissioner Gruber stated the previous project is located in an area that has large groves of  
27 trees and this project does not have large amounts of trees. The Comp Plan established the  
28 Bushaway Road area as a place the City is working to protect the trees.

29  
30 City Attorney Schelzel explained the difference between a variance and a deviation from a  
31 Design Standard.

32  
33 Commissioner Young suggested the Commission review the Design Standards to see if there are  
34 changes and updates that could take place to reduce the amount of deviation requests the  
35 Planning Commission is reviewing.

36  
37 Commissioner Gonzalez asked where the building's mechanical equipment would be located.

38  
39 Mr. Whitten stated the mechanical equipment would be housed on site and not located on the  
40 roof.

41  
42 Commissioner Gruber expressed concerns about the parking for the office space and visitors to  
43 the site. She suggested bringing these concerns back to the City Council. She stated she would  
44 support the project.

45

1 Commissioner Gnos stated he would recommend additional landscaping where appropriate and  
2 cash-in-lieu to comply with the Tree Preservation Ordinance.  
3

4 Commissioner Gonzalez stated she supports the requested deviations from the Design Standards,  
5 and she would support the City's review of these standards to update them. The building is  
6 setback from the street, and this will soften the effect of the height of the building for pedestrian  
7 traffic. The proposed building setbacks do meet the intent of the Ordinance.  
8

9 Commissioner Young made a motion, Seconded by Commissioner Murray to direct staff to  
10 prepare a Planning Commission Report and Recommendation, with appropriate findings,  
11 reflecting a recommendation of approval on the Application for review and adoption at the next  
12 Planning Commission meeting. The motion carried 5-ayes and 1-abstain (Flannigan).  
13

#### 14 **Temporary Family Health Care Housing Opt-Out Ordinance**

15

16 Mr. Thomson stated the 2016 Legislature established a new system for issuing special land use  
17 permits for "temporary family health care dwellings" that applies to all cities and counties unless  
18 action is taken to opt out. This law reflects recent developments in short-term housing  
19 alternatives for mentally or physically impaired persons. Beginning on September 1, 2016, cities  
20 and counties must issue temporary dwelling permits for temporary family health care dwellings  
21 that meet the requirements outlined in the Statute. The Statute includes specific application  
22 procedures, as well as the placement, structural, inspection, notice, duration, and fee  
23 requirements. Among other requirements, the temporary family health care dwelling must be no  
24 more than 300 gross square feet, must be located on the property where the caregiver or relative  
25 resides, and must comply with all setback requirements. Cities may opt out of this new law by  
26 passing an Ordinance. By opting out of the Statute, the City may either enact its own unique  
27 regulations for temporary family health care dwellings, or the City would enforce its existing  
28 zoning ordinances to regulate the placement of these housing units. He clarified this type of  
29 temporary use is regulated through the City's current Ordinances.  
30

31 City Attorney Schelzel stated most Minnesota cities are opting out of this special land use law.  
32 The Commission is holding a public hearing on the matter because adopting an Ordinance to opt  
33 out would be an amendment to the City's Zoning Ordinance.  
34

35 Vice Chair Gruber opened the public hearing at 8:29 p.m.  
36

37 There being no one wishing to discuss this item Vice Chair Gruber closed the public hearing at  
38 8:30 p.m.  
39

40 Commissioner Gonzalez made a motion, Seconded by Commissioner Murray to approve the  
41 findings and adopt the Report and Recommendation of Approval of an Ordinance Opting-Out of  
42 the Requirements of Minnesota Statutes, Section 462.3593 and approve Ordinance #\_\_, as  
43 presented. The motion carried unanimously.  
44

#### 45 **Institutional Zoning District Amendment**

46

1 Mr. Thomson stated over the past several years, the City has been working on the development  
2 and design of a public parking ramp along Mill Street in downtown Wayzata. Most recently, the  
3 City has hired an architect and engineer to design the parking ramp. City Staff and the City's  
4 consultants have been working with the City Council and a Steering Committee that consists of  
5 two (2) Council members, a representative from the HRA, and two (2) community members.  
6 During the development of the ramp project, the City Council directed City staff to initiate the  
7 Zoning Ordinance amendments that are needed for construction of the parking ramp. Based on a  
8 review of the project and the existing zoning ordinance, City staff determined that the most  
9 appropriate alternative was to initiate an amendment to the Institutional Zoning District to  
10 expressly include public parking ramps as a permitted use in the Institutional District. He  
11 reviewed the proposed zoning standards for public parking structures including minimum lot  
12 size, height, and lot coverage. He outlined the specific changes recommended to Section 70 of  
13 the Zoning Code.

14  
15 Commissioner Gnos asked how the 40-foot height had been established since most of the City's  
16 height restrictions are 35 to 38-feet.

17  
18 Mr. Thomson stated the maximum height of 40-feet was already in the code for the Industrial  
19 District.

20  
21 City Attorney Schelzel stated staff had reviewed the City's Comprehensive Plan in light of the  
22 proposed parking ramp, and determined that no amendment was needed.

23  
24 Commissioner Flannigan asked if there were any architectural requirements associated with the  
25 parking ramp.

26  
27 Mr. Thomson stated the Design Standards would apply to the parking structure. Once the design  
28 is complete it would come to the Planning Commission for design review, and it would be  
29 subject to all the same standards as other projects in the City.

30  
31 Commissioner Young stated he would not support anything related to the parking ramp because  
32 he does not believe it is needed.

33  
34 Vice Chair Gruber opened the public hearing at 8:44 p.m.

35  
36 There being no one wishing to address the Commission on this item, Vice Chair Gruber closed  
37 the public hearing at 8:45 p.m.

38  
39 Vice Chair Gruber stated she is not sure that the City needs a parking ramp. She is abstaining  
40 from this vote.

41  
42 Commissioner Gonzalez stated the City Council makes policy, and they have determined that the  
43 City would be constructing a public parking ramp so she would support the Council's decision.

44  
45 Commissioner Gnos stated he believes that the construction of a ramp may not be needed but the  
46 City Council has voted to move forward.

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Commissioner Gonzalez made a motion, Seconded by Commissioner Flannigan to adopt the Planning Commission Report and Recommendation recommending amendments to Section 70 of the Industrial District of the Zoning Ordinance for public parking structures. The motion failed. 2 ayes, 1 nay (Young), and 3 abstain (Murray, Gnos, and Gruber).

City Attorney Schelzel stated the Commission could entertain another vote or leave the matter for City Council to act on.

Commissioner Flannigan stated the Commission should support the Council and taking action on this item was part of the Commission’s job.

**AGENDA ITEM 6. Other Items:**

Review of Development Activities

Mr. Thomson stated the next Planning Commission meeting is scheduled to include several development applications. Mr. Thomson reviewed the items considered at the last City Council meeting. The City Council held a workshop on the General Fund and Levy and the Tree Ordinance. The City had discussion on the Commission’s concerns with the Tree Ordinance and how it applies to existing homeowners. Staff would be adding a look back clause and bring the amendment to the Commission for consideration at a future meeting. The City Council approved the Broadway Place project.

Commissioner Gonzalez suggested adding discussions on the PUD Ordinance to a future Planning Commission workshop, and look at modifications including restrictions on height.

Commissioner Young asked what the procedure would be to make a change in the Design Standards related to roof color.

Mr. Thomson suggested putting together a 2017 Work Plan for the Planning Commission to address issues with the City’s Codes.

Next Meeting is scheduled for September 19, 2016.

**AGENDA ITEM 7. Adjournment.**

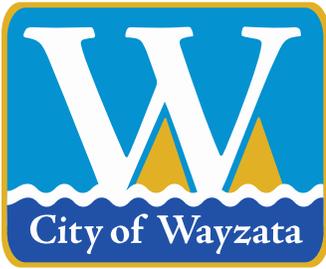
Commissioner Young made a motion, seconded by Commissioner Murray to adjourn the Planning Commission. The motion carried unanimously.

The Planning Commission meeting was adjourned at 9:57 p.m.

Respectfully submitted,

- 1 Tina Borg
- 2 TimeSaver Off Site Secretarial, Inc.

DRAFT



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

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**Mayor:**  
Ken Willcox

**City Council:**  
Bridget Anderson  
Johanna McCarthy  
Andrew Mullin  
Steven Tyacke

**City Manager:**  
Jeffrey Dahl

Date: September 30, 2016  
To: Planning Commission  
From: Jeff Thomson, Director of Planning and Building  
Subject: Mill Street Parking Ramp – 725 Mill St E

### **Application Information**

The City of Wayzata is proposing to construct a public parking ramp at 725 Mill Street E. The proposed parking ramp would consist of one level of parking at grade, with one level of structured parking above. The parking ramp and surface parking stalls along Mill Street would provide a total of 385 parking spaces. The proposed plans also include a partial roof over the second level as an add-on alternative to the plans. The development application requires Design Review with the following design deviation:

- Exterior building materials: The exterior materials of the proposed building would consist of brick, wood, concrete and metal. Brick and wood are permitted primary building materials. Concrete and metal are not allowable primary building materials, and would comprise 4% of the west elevation, 27% of the south elevation and 7% of the east elevation.

### **Planning Commission Review**

The Planning Commission reviewed the development application and held a public hearing at its meeting on September 19, 2016. There were four commissioners present at the meeting and a motion to direct staff to prepare a draft Report and Recommendation of approval did not pass, with two votes in favor and two votes opposed. The Planning Commission discussion at the meeting indicated that the majority of Commissioners present, if not unanimous, had positive feedback regarding the design of the parking ramp. There was also opposition expressed by some Commissioners regarding the City building any parking ramp at Mill Street, which resulted in the tie vote.

The Council discussed the matter at its last meeting, and while recognizing the opposition of some Commissioners to a parking ramp on Mill Street, the Council expressed concern that the Planning Commission was not providing it with any guidance or recommendation on the proposed design. The Council asked staff to remind the Commission of its limited but essential role of advising the Council on land use applications, and in this case, making findings and a recommendation on the specific item that is before them – the “design” of the ramp.

The Planning Commission has a vital role in the process of reviewing development applications that are made to the City, and is charged with (1) carefully reviewing each land

use request in a development application; (2) holding required public hearings; (3) applying the relevant standards of City Code; (4) making findings of facts related to those standards and the requests, and (5) adopting a report of those findings along with a recommendation for City Council. Section 10 of the Zoning Ordinance highlights that “[t]o the extent possible, the Planning Commission shall transmit recommendations to the City Council on all matters which it considers.”

At the Council’s direction, staff is bringing the matter of the “design” of the Mill Street parking ramp back to the Planning Commission for its review, and has included a draft Report & Recommendation on the design review and design deviation, which recommends approval of the design based on the design critique completed by staff. The City Council has asked that the Planning Commission fulfill its role in reviewing the development application by reviewing the design of the ramp only, and making findings on the design as to whether the project meets the City’s design standards.

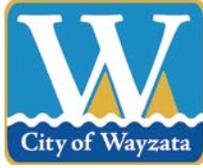
### **Action Steps**

If the Commission finds the design meets all of the Design Standards, including the standard for granting the requested deviation, the Commission should adopt the Report prepared by staff, which recommends approval of the design. If the Commission finds that some or all of the design should not be approved, based on the standards outlined in the zoning ordinance, it should make a finding as to which design elements do not meeting the zoning ordinance standards, and adopt by motion a report and recommendation of denial on those particular design elements.

In addition, staff would suggest that if the Planning Commission wishes to express a view on the parking ramp that does not have to do with the proposed design or the purview of the Commission, it do so in a separate motion. And if an individual member wishes to express his or her view, to do that on the record before or after the vote on the design, so that it is captured in the minutes of the meeting.

### **Attachments**

- September 19, 2016 Planning Report
- September 19, 2016 Planning Commission Presentation
- September 14, 2016 Design Critique
- October 3, 2016 Draft Planning Commission Report and Recommendation



**Planning Report  
Wayzata Planning Commission  
September 19, 2016**

**Project Name:** Mill Street Parking Ramp  
**Applicant** City of Wayzata  
**Addresses of Request:** 725 Mill St E  
**Prepared by:** Jeff Thomson, Director of Planning and Building

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**Development Application**

Introduction

The City of Wayzata is proposing to construct a public parking ramp at 725 Mill Street E. The proposed parking ramp would consist of one level of parking at grade, with one level of structured parking above. The parking ramp and surface parking stalls along Mill Street would provide a total of 385 parking spaces. The proposed plans also include a partial roof over the second level as an add-on alternative to the plans.

Property Information

The property is located along the north side of Mill Street:

*Map 1: Project Location*



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

Current zoning:	INS/Institutional
Comp plan designation:	Institutional/Public
Total site area:	1.79 acres

Application Requests

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

- A. Design Review: Construction of a new building requires design review by City Code Section 801.09.1.5.

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	Widsten Townhomes	PUD/Planned Unit Development	Medium Density Multiple Family
East	Wayzata Wine & Spirits, Bar & Grill	C-4B/Central Business District	Central Business District
South	Mill Street	City right-of-way	N/A
West	Broadway Avenue	City right-of-way	N/A

Public Hearing Notice

The public hearing notice was published in the *Wayzata Sun Sailor* on September 8, 2016. The public hearing notice was also mailed to all property owners located within 350 feet of the subject property on September 9, 2016.

**Background Information**

Over the past several years, the City has been working on the development and design of a public parking ramp along Mill Street in downtown Wayzata. In November 2015, the City Council directed staff to proceed with architectural and engineering services for a parking ramp in the Mill Street location. The motion made by the council included a grade plus two level parking ramp with direction for staff to explore design options to address scale and massing of the structure, as well as for a roof and amenities that would screen the parking ramp from a visual perspective as viewed from the neighborhood to the north.

In January 2016, the City Council hired HGA Architects with Walker Parking Consultants as a subcontractor, and appointed a steering committee to work through a pre-design process with HGA and Walker, and make recommendations to the City

Council on the design of the parking ramp. The steering committee consists of two council members, a representative from the HRA, and three community members. The pre-design process also included a public open house.

In April 2016, the City Council finalized the pre-design for the ramp and approved a contract with HGA to move into the final design of the ramp. The pre-design report included a preferred design of a grade plus one level parking ramp with approximately 390 parking stalls. The pre-design also included five options for the exterior design of the ramp, and four options for a roof. The roof options included: no roof, fabric roof, green roof, or a solar roof.

City staff, HGA, and the steering committee continued to meet to review, discuss, and further refine the design of the ramp through the schematic design process. In July 2016, the City Council accepted the schematic design of the parking ramp, and directed staff to move forward with a bid for the base ramp (grade plus one level) with an add-on alternative for a partial roof.

## **Analysis of Application**

### Proposed Parking Ramp

The proposed parking ramp would consist of one level of parking at grade and one level of structured parking above. The ramp would contain a total of 305 parking spaces, which includes 10 motorcycle parking stalls. The existing surface parking lot within Mill Street would be maintained and would contain 80 parking stalls, for a total parking count of 385 stalls.

Vehicle access to the lower level of the parking ramp would be from two entrances/exits along the south side of the ramp along Mill Street. Vehicle access to the upper level would be via a new curb-cut directly from Broadway Avenue. Both levels of the ramp consist of two bays of angled parking with a one-way circulation pattern. There would be no internal vehicular connection between the two parking levels. Pedestrian access would be provided adjacent to all vehicle entrances/exits. An additional pedestrian access would be provided mid-ramp to provide a connection to the existing walkway to Lake Street through the 701 Lake St building. A new raised walkway and crosswalk would be provided between the ramp and the walkway entrance.

The attached Design Critique provides additional information about the specific project elements.

### Plan Alternatives

The proposed plans include a roof as an add-on alternative to the base ramp. The proposed roof would cover half of the upper parking level. The architect has completed a study that determined a half roof would screen most of the upper level from the residential townhomes located behind the ramp on the bluff. Since the roof is included as a bid-alternate, the plans also include two additional alternatives that could be constructed if the City Council decides not to construct the roof. The first additional bid

alternate includes an enhanced landscaping plan along the north side of the parking ramp to provide year-round screening of the upper level. The second bid alternate is a portal structure that would be constructed over the vehicle entrance from Broadway to provide an enhanced building elevation from Broadway and to partially screen the upper level from the public street.

Zoning

The Property is currently zoned INS/Institutional. The City is in the process of amending the Institutional zoning district to provide zoning standards for public parking ramps. The following table outlines the draft zoning standards for the Institutional zoning district and the shoreland overlay district:

	INS Zoning	Shoreland Overlay District	Proposed Project
Minimum Site Area	1 acre	N/A	1.79 acres
Setbacks	North: 20 ft. East: 0 ft. South: 0 ft. West: 0 ft.	N/A	North: 22 ft. East: 20 ft. South: 0 ft. West: 0 ft.
Lot Coverage	60% max.	N/A	60%
Impervious Surface	N/A	25% 75% with stormwater management 100% with shoreland impact plan/CUP	66%

Design Review

The project is subject to the design standards for the bluff design district. A design review critique of the proposal is included as Attachment B. The following summarizes the items that do not meet the design standards, and would require a deviation from the standards:

- Exterior building materials: The exterior materials of the proposed building would consist of brick, wood, concrete and metal. Brick and wood are permitted primary building materials. Concrete and metal are not allowable primary building materials, and would comprise 4% of the west elevation, 27% of the south elevation and 7% of the east elevation.

Stormwater Management

Stormwater management for the site would be provided by an underground stormwater treatment structure. The drainage from the parking ramp and reconstructed parking lot would be directed to the underground stormwater chamber, which would provide treatment and volume control of the stormwater prior to being discharged in into the public storm sewer system.

## **Applicable Code Provisions for Review**

Design Standards City Code §801.09: The design standards set forth in Section 9 of the Wayzata City Zoning Ordinance are referred to collectively as the “Design Standards” or the “Standards”. The purpose of the Design Standards is to shape the City’s physical form and to promote the quality, character and compatibility of new development in the City. The Standards function to:

- A. To guide the expansion and renovation of existing structures and the construction of new buildings and parking, within the commercial districts of the City;
- B. To assist the City in reviewing development proposals;
- C. To improve the City’s public spaces including its streets, sidewalks, walkways, streetscape, and landscape treatments.

A deviation from any section of the Design Standards shall require a finding by the City Council (after considering the Planning Commission’s recommendation) that the negative impact of such deviation is outweighed by one or more of the following factors:

- A. The extent to which the project advances specific policies and provisions of the City’s Comprehensive Plan.
- B. The extent to which the deviation permits greater conformity with other Standards, policies behind the Standards, or with other Zoning Ordinance standards.
- C. The positive effect of the project on the area in which the project is proposed.
- D. The alleviation of an undue burden, taking into account current leasing, housing and commercial conditions.
- E. The accommodation of future possible uses contemplated by the Design Standards, the Zoning Ordinance or the Comprehensive Plan.
- F. A national, state or local historic designation.
- G. The project is the remodeling of an existing building which largely otherwise conforms to the Design Standards.

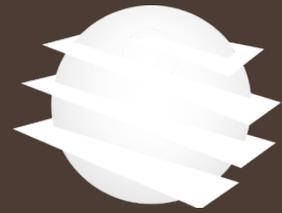
## **Action Steps**

After considering the items outlined in this report, the Planning Commission should direct staff to prepare a *Planning Commission Report and Recommendation*, with

appropriate findings, reflecting a recommendation on the application for review and adoption at the next Planning Commission meeting.

**Attachments**

- Attachment A: Proposed Plans
- Attachment B: Design Review Critique



**WALKER**  
PARKING CONSULTANTS

# CITY OF WAYZATA MILL STREET PARKING STRUCTURE

## Planning Commission Meeting

September 19, 2016

# Design Presentation

## Site Aerial



# Design Presentation

Schematic Design Options | May 2016 – September 2016

## CLADDING OPTIONS (18 May 2016)



Option A



Option B



Option C

## MATERIAL / COLOR OPTIONS (1 June 2016)



Buff Brick



Charcoal Brick



Red Brick

# Design Presentation

Schematic Design Options | May 2016 – September 2016

## ROOF OPTIONS (1 June 2016)



Base Ramp



Partial Trellis



Solar PV Array



Green Roof



Full Trellis



Ballasted Roof







# Design Presentation

## North Retaining Wall Section



# Design Presentation

## Southwest Aerial (Base Ramp)



# Design Presentation

## Mill Street West Entry (Base Ramp)



# Design Presentation

## Broadway Entry (Base Ramp)



# Design Presentation

## Southwest Aerial (With Roof)



# Design Presentation

## Mill Street West Entry (With Roof)



# Design Presentation

## Broadway Entry (With Roof)



# Exterior Materials

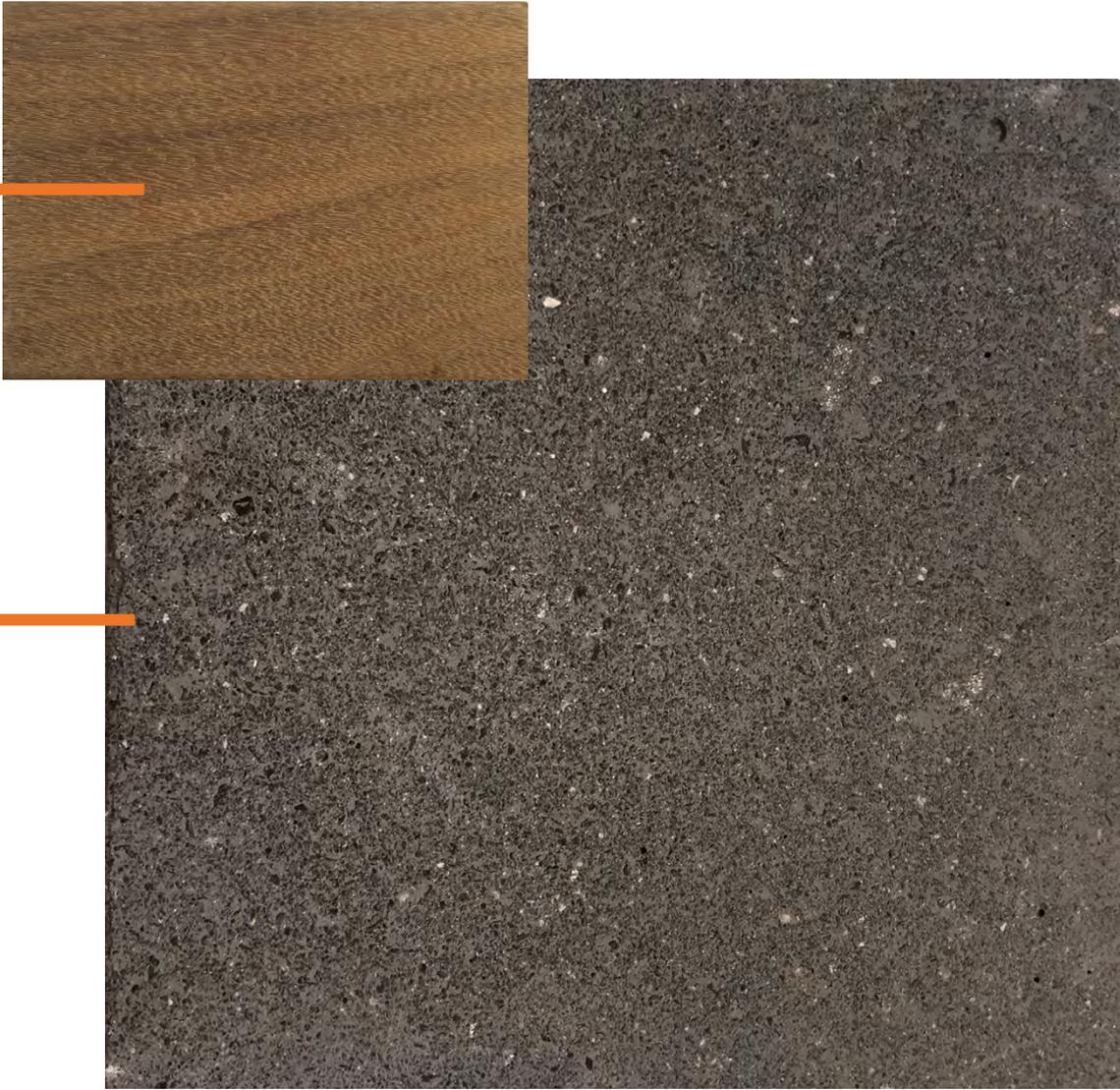
# Exterior Materials

Brick – Manganese Ironspot



# Exterior Materials

## Dark Precast Concrete & Ipe Wood



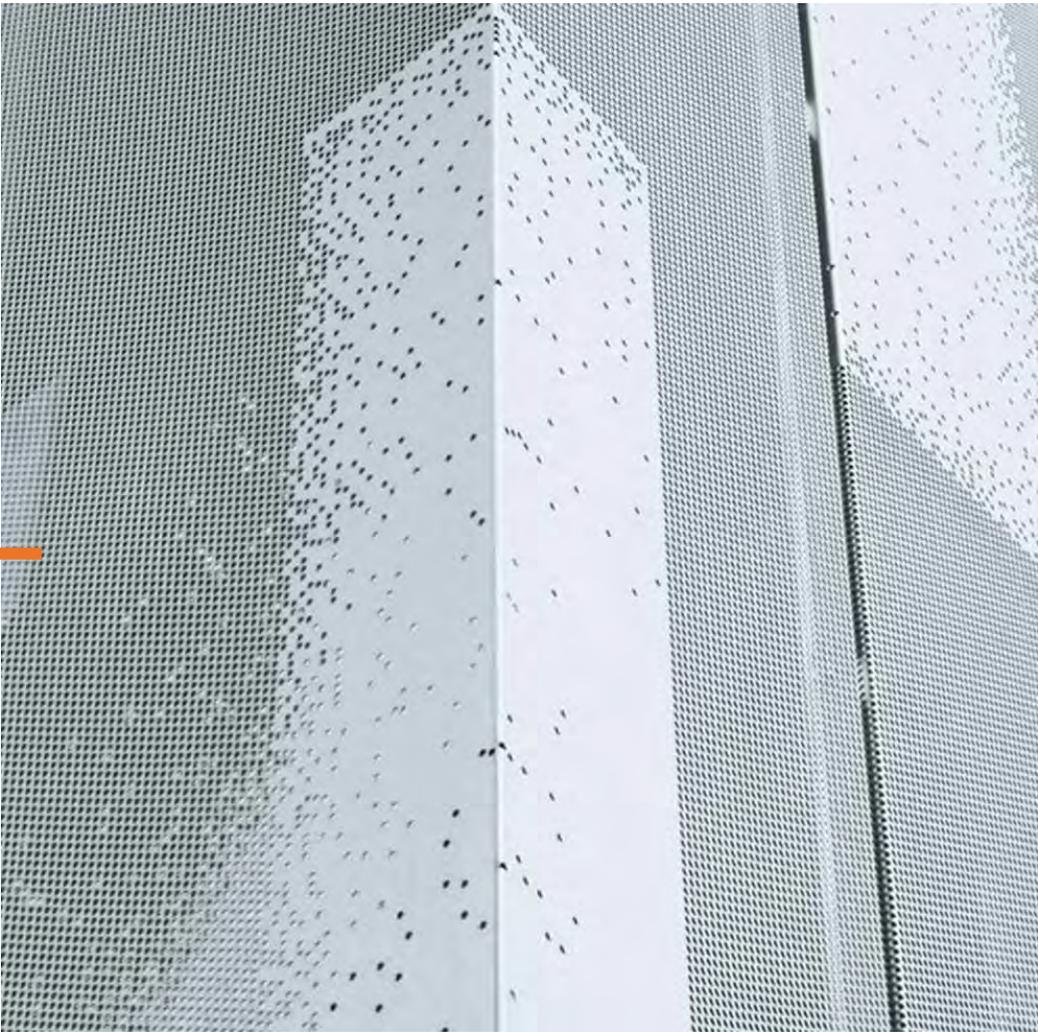
# Exterior Materials

## Light Precast Concrete



# Exterior Materials

## Perforated Metal



# Landscape Design

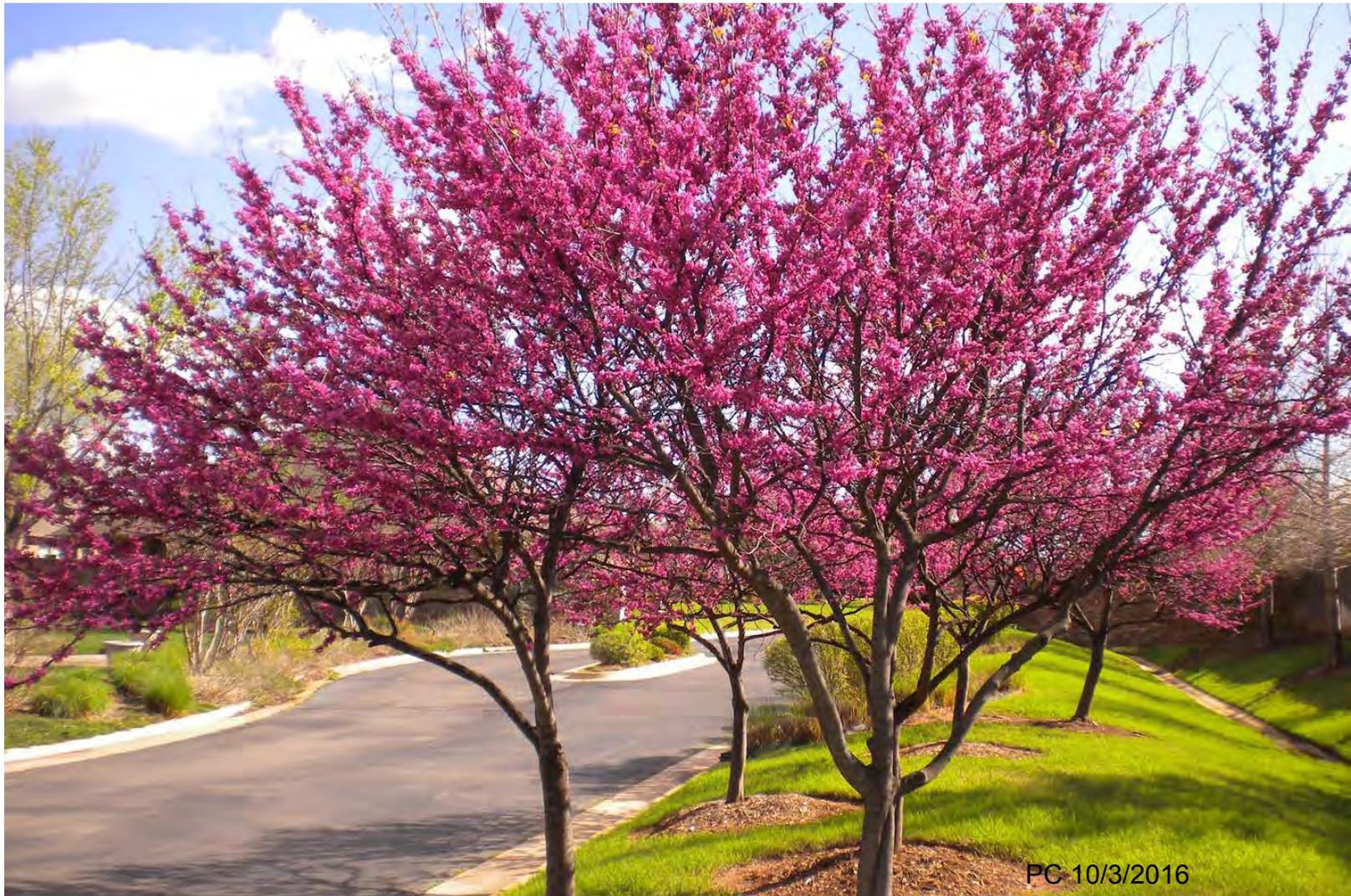
# Landscape Design

## Trees

*Freeman Maple*



*Eastern Redbud*



# Landscape Design

## Plantings (With Base Ramp)

*Aurea Compacta Hemlock*



*6-8' Tall*

*Maney Juniper*



*5' Tall*

*Dwarf Bush Honeysuckle*



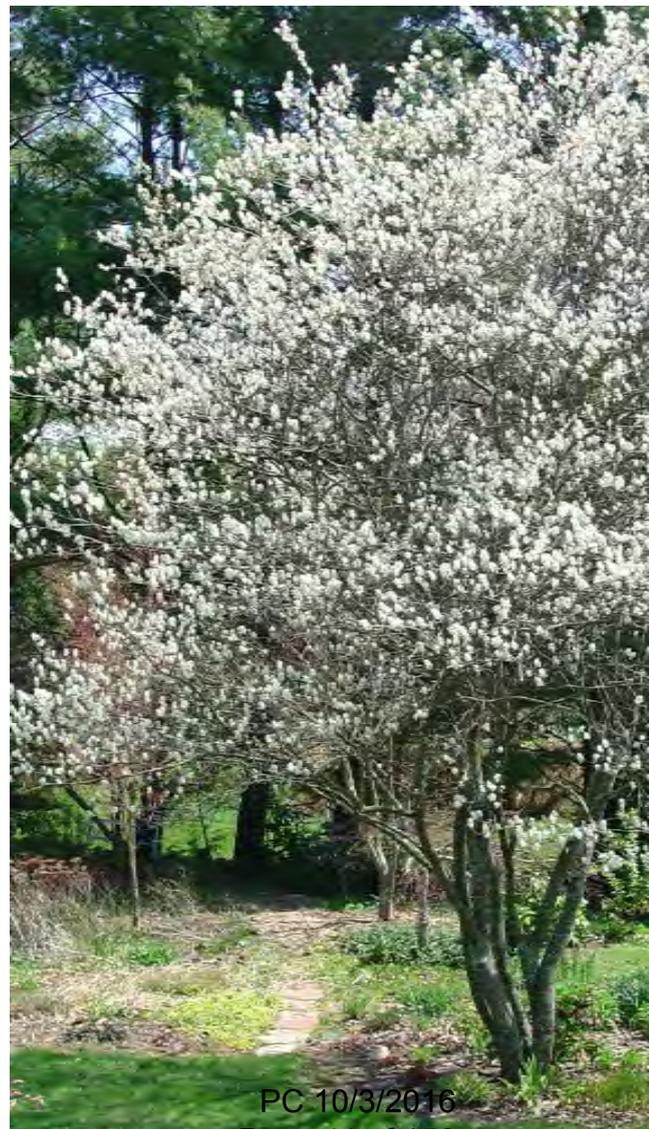
*3' Tall*

*Wichita Blue Juniper*



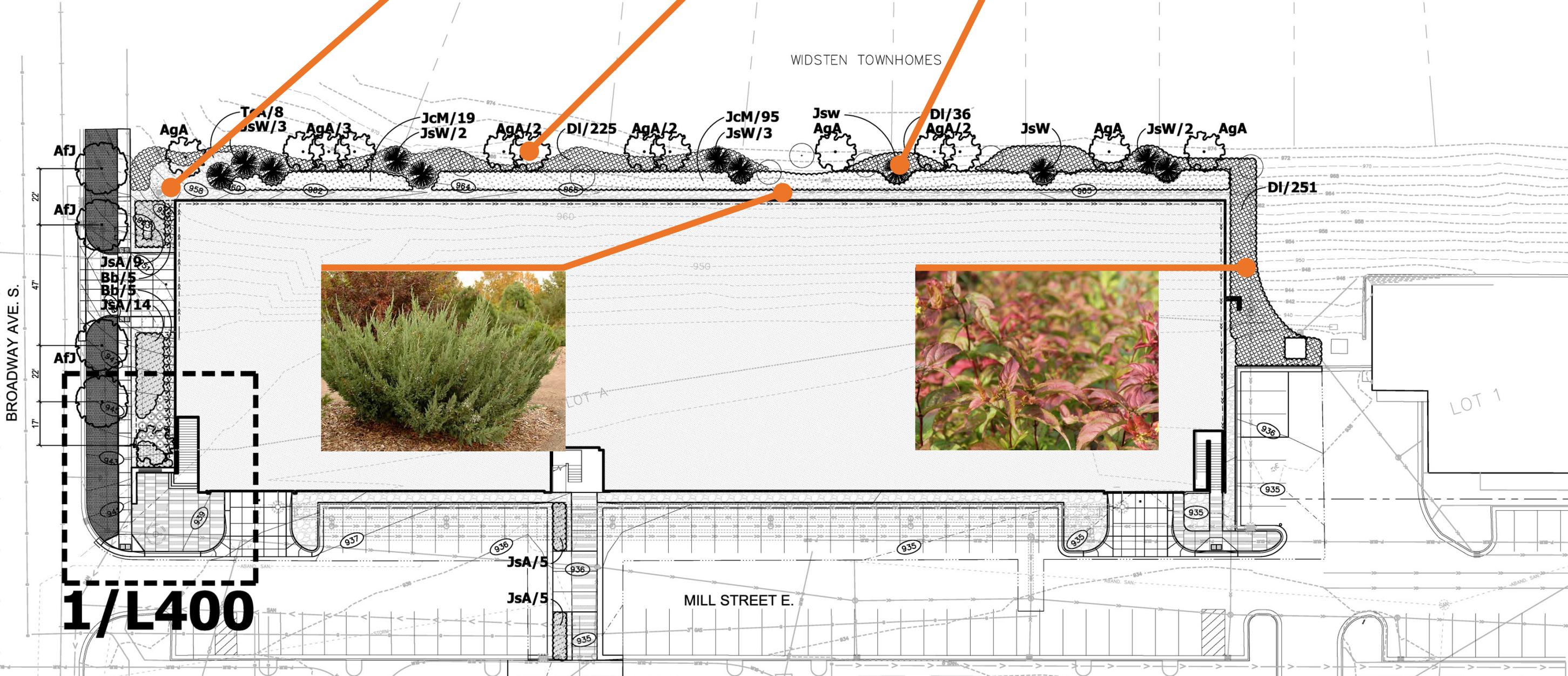
*12'-16' Tall*

*Autumn Brilliance Serviceberry*



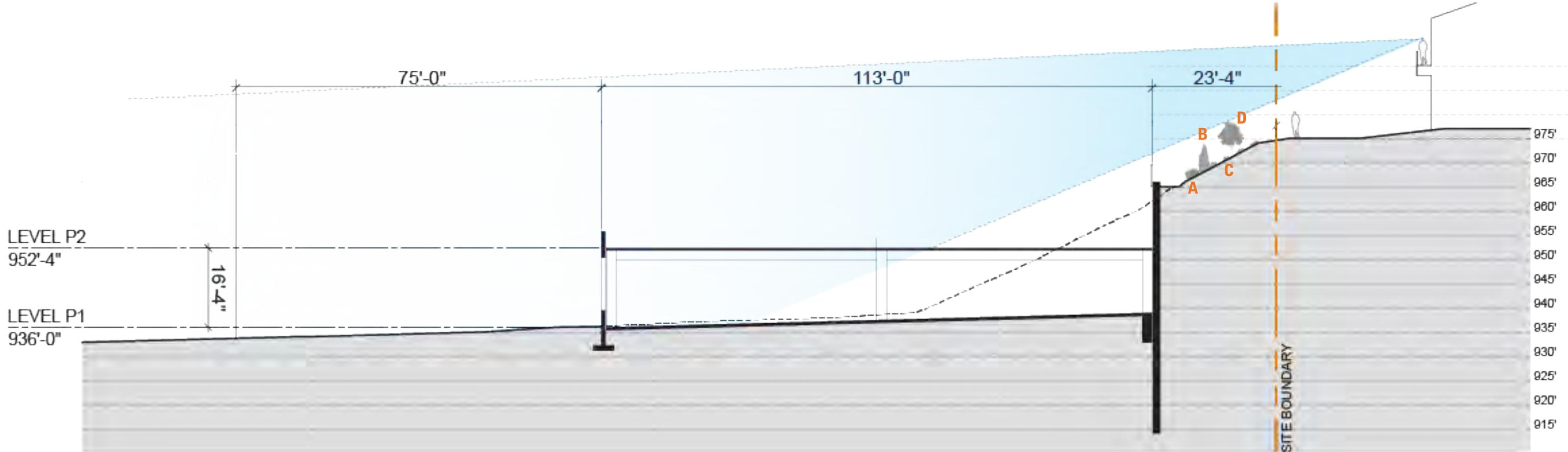
*15'-20' Tall*

# Landscape Design Overview (With Base Ramp)



# Landscape Design

## North Planting Heights – Initial Installation



**A|** Maney Juniper  
2' at planting



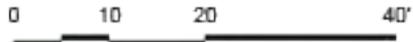
**B|** Wichita Blue Juniper  
6-8' at planting



**C|** Dwarf Bush Honeysuckle  
8-12" at planting



**D|** Autumn Brilliance Serviceberry  
6-8' at planting

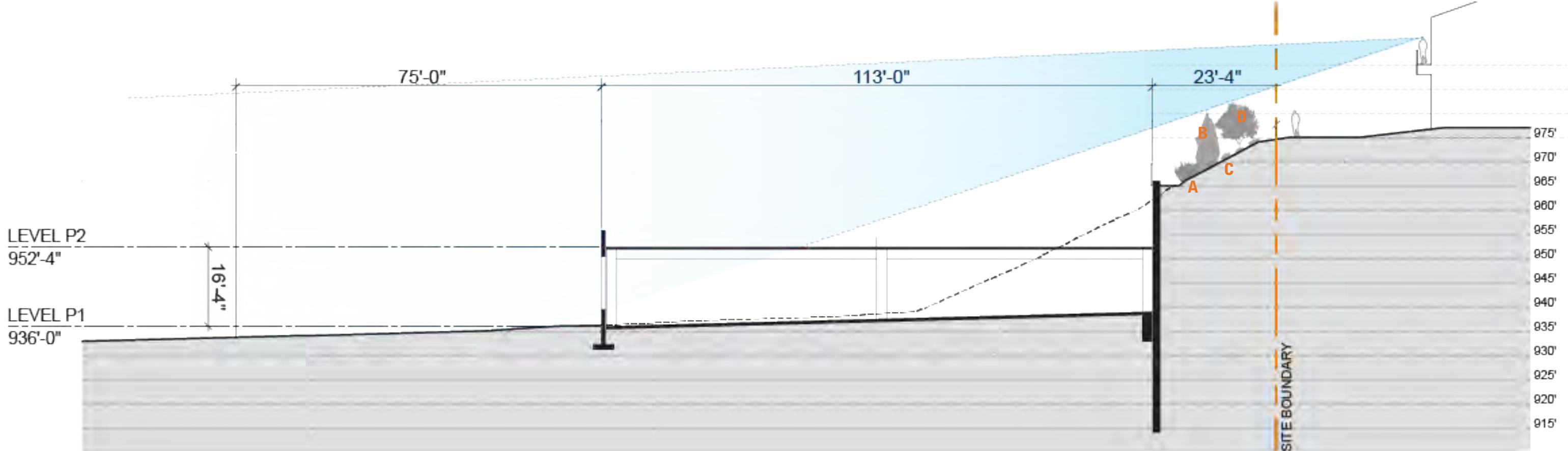


**BUILDING SECTION**



# Landscape Design

## North Planting Heights – 5-8 Years



**A|** Maney Juniper  
3-4' height



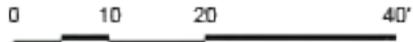
**B|** Wichita Blue Juniper  
10-12' height



**C|** Dwarf Bush Honeysuckle  
2'-3' height



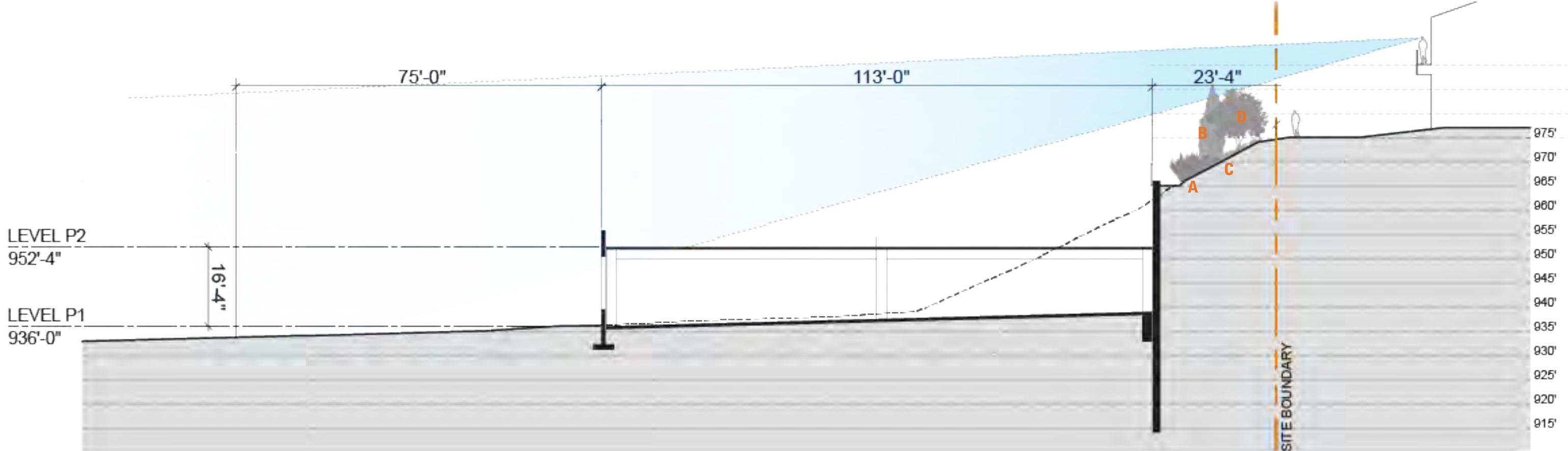
**D|** Autumn Brilliance Serviceberry  
12-15' height



**BUILDING SECTION**

# Landscape Design

## North Planting Heights – 15-20 Years



**A** Maney Juniper  
5' height



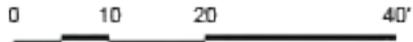
**B** Wichita Blue Juniper  
12'-16' height



**C** Dwarf Bush Honeysuckle  
3' height



**D** Autumn Brilliance Serviceberry  
15'-18' height



**BUILDING SECTION**



# Landscape Design

## Plantings (With Roof)

*Calgary Carpet Juniper*



*Blue Chip Juniper +  
Golden Carousel Barberry*



*Crimson Pygmy Barberry*



*Dwarf Bush Honeysuckle*



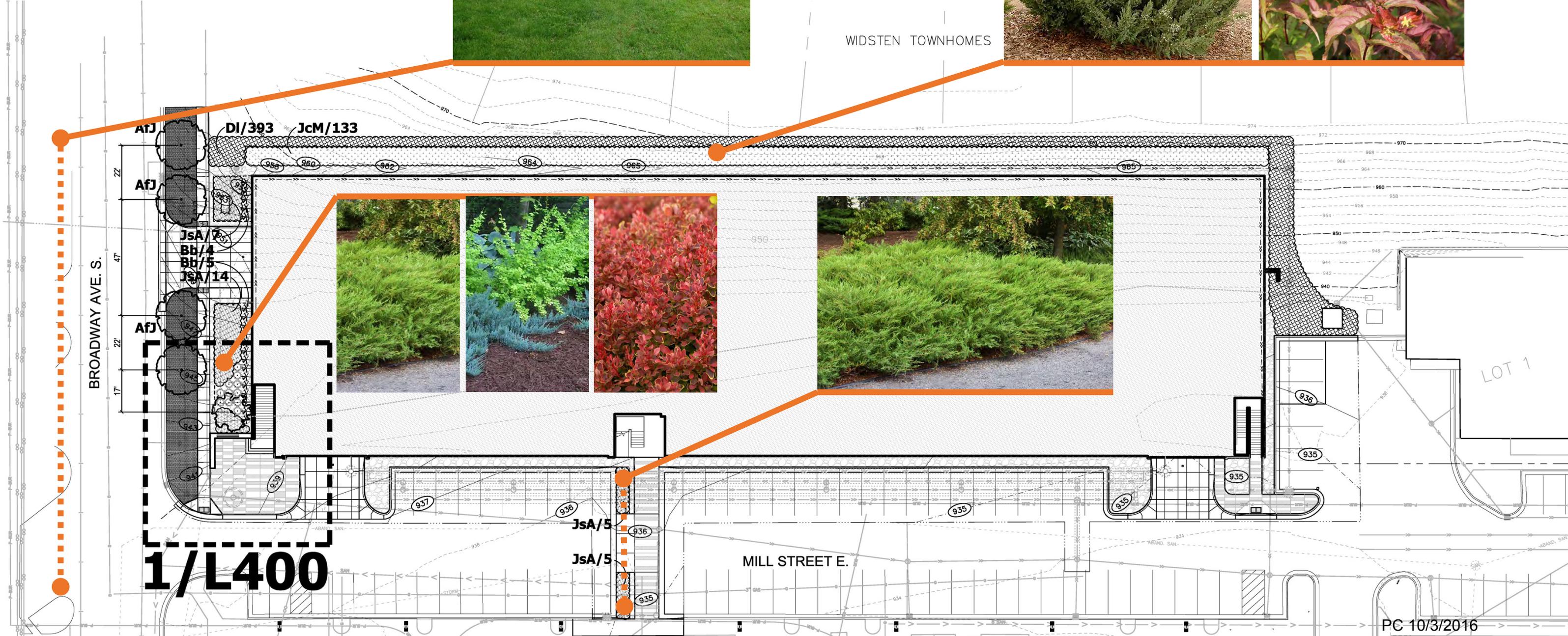
*Turf*



# Landscape Design Overview (With Roof)



WIDSTEN TOWNHOMES



**1/L400**

# Next Steps

# Next Steps

## Construction Schedule (Proposed)

- **September 30, 2016** Construction Documents Issued
- **October 2016** Bid + Contract Negotiation
- **November 2016** Construction Starts
- **May 2017** Occupancy

Thank You.

**Mill St Parking Ramp – 725 Mill St E**  
**Design Critique – Plans dated August 16, 2016**  
**September 14, 2016**

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<b>Building Recesses</b>	<b>Comments</b>	<b>Compliance</b>
<u>801.09.3.1.A – All Districts</u> Building facades shall be articulated through the use of pilasters and/or recesses that create visible shadow lines and dimensions especially on the street level	The proposed building utilizes recesses and changes in materials to break up the façade.	Yes
<u>801.09.3.1.B</u> Street level landscaped courtyards, outdoor seating areas and gathering areas shall be incorporated into building and site plan design.	The proposed plans include a courtyard at the Broadway Avenue and Mill Street intersection. The courtyard would include landscaping and outdoor seating.	Yes
<b>Building Width</b>	<b>Comments</b>	<b>Compliance</b>
<u>801.09.4.1 All Districts – New Buildings</u> In order to reduce the scale of longer façades and to eliminate the long horizontal expressions of buildings, divisions or breaks in materials shall be included and at least three of the following design strategies shall be incorporated into the design:  1. Window bays 2. Special treatment at entrances 3. Variations in roof lines or parapet detailing 4. Awnings 5. Building setbacks or articulation of the facade 6. Rhythm of elements	The Project incorporates the following items:  1. Special treatment at the entrances 2. Building setbacks or articulation of the façade. 3. Rhythm of elements	Yes

Upper Story Setbacks	Comments	Compliance
<p>801.09.5.1.A – All Districts – New Buildings</p> <p>Building height shall conform to the height of the applicable zoning district. Where three (3) story buildings are permitted, the third (3<sup>rd</sup>) story must be recessed from all façades fronting public right of ways at least a distance equal to the vertical distance of the 3<sup>rd</sup> story height from the second (2<sup>nd</sup>) floor footprint, or an average of ten (10) feet across the facade, but no portion of the 3<sup>rd</sup> story structure shall be closer than six (6) feet to the 2<sup>nd</sup> story façade. The 3<sup>rd</sup> story façade shall be designed with railings, pillars, dimensional windows, building recesses or other similar design techniques to break up the 3<sup>rd</sup> story façade.</p>	<p>The proposed parking ramp would conform to the height requirements of the Institutional zoning district. The proposed ramp does not include a third story.</p>	<p>Not Applicable</p>
<p>801.09.5.1.B – All Districts – New Buildings</p> <p>The façades fronting public right-of-ways of every two and three story building, longer than sixty (60) feet, must have a recessed second story of approximately twenty-five percent (25%) of the façade’s length, setting back a minimum of six (6) feet from the face of the first floor façade. The required third floor setback must follow the frontal plane of the second story setback.</p>	<p>The proposed building does not include traditional stories as it is a one-level parking structure with optional partial roof. The partial roof would only cover half of the upper level of the parking ramp, which would meet the intent of the step back requirements for the second floor.</p>	<p>Yes</p>
<p>801.09.5.1.C – All Districts – New Buildings</p> <p>Wintertime sun orientation, solar access, and views of Lake Minnetonka are significant issues within the Design Districts. Building height should not negatively and significantly impact neighboring properties.</p>	<p>The proposed parking ramp would comply with the building height requirements of the Institutional district and has been designed with consideration for solar access and views to Lake Minnetonka from surrounding properties.</p>	<p>Yes</p>

Roof Design	Comments	Compliance
<p><u>801.09.6.1 – All Districts</u>                      “Green” roofs, roof garden terraces, arbors and other similar structures are encouraged on roofs of building.</p>	<p>The optional roof is designed to accommodate a potential green roof in the future.</p>	<p>Yes</p>
<p><u>801.09.6.2.A – All Districts – Roof Materials</u>                      The roof material for all sloped roofs in all districts shall be slate, untreated copper, pre-finished metal, cedar shake or asphalt shingle in dark colors.</p> <p><u>801.09.6.2.B – All Districts – Roof Materials</u>                      The roof material for all flat roofs in all districts shall be treated synthetic membrane or other similar material in dark colors.</p>	<p>The optional roof would be flat with a treated synthetic membrane and a dark color ballast to improve the aesthetics of the roof as viewed from above.</p>	<p>Yes</p>
Screening of Rooftop Equipment	Comments	Compliance
<p><u>801.09.7.1 Lake Street and Bluff Districts</u>                      No mechanical equipment for a building may be located on the roof deck. All such mechanical equipment must be located within the interior of the structure.</p>	<p>There would be no roof-top mounted mechanical equipment on the parking ramp.</p>	<p>Yes</p>

Facade Transparency	Comments	Compliance
<p><u>801.09.8.4 – Bluff District</u>                      No less than thirty-five percent (35%) of ground level public façades for buildings containing commercial or office uses shall be transparent glass.</p> <p>Applications for design approval must include façade diagrams that contain calculations of glass and solid surfaces. Calculations of façade areas for multiple story building shall be measured from grade to the floor above.</p>	<p>The proposed building is a parking ramp that does not contain commercial or office uses.</p>	<p>Not Applicable</p>
<b>Ground Level Expression</b>	<b>Comments</b>	<b>Compliance</b>
<p><u>801.09.9.1 – All Districts</u>                      In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of at least three of the following elements:</p> <ol style="list-style-type: none"> <li>1. An intermediate cornice line</li> <li>2. A difference in building materials or detailing</li> <li>3. An offset in the façade</li> <li>4. An awning, trellis, or loggia</li> <li>5. Arcade</li> <li>6. Special window lintels</li> <li>7. Brick/stone corbels</li> </ol>	<p>The proposed building is a parking structure that does include multiple floors.</p>	<p>Not Applicable</p>
<b>Entries</b>	<b>Comments</b>	<b>Compliance</b>
<p><u>801.09.10.1 – All Districts</u>                      The front facade of all buildings shall be landscaped with window boxes or planters with seasonally appropriate plantings. The main entries shall face the primary street at sidewalk grade.</p>	<p>The front of the building along Broadway would be landscaped with annual plantings. The main entries of the parking ramp are located at sidewalk grade and face the public street.</p>	<p>Yes</p>

<b>Building Materials and Quality</b>	<b>Comments</b>	<b>Compliance</b>
<p><u>801.09.11.1.A – Primary Opaque Surfaces – All Districts</u>                      Other than the accent materials listed in 801.09.11.G, ninety percent (90%) of the non-glass surfaces of each elevation of the exterior building façade shall be composed of one or more of the following materials:</p> <ol style="list-style-type: none"> <li>1. Brick</li> <li>2. Stone</li> <li>3. Cast stone</li> <li>4. Factory finished and certified wood, including, but not limited to:                             <ol style="list-style-type: none"> <li>a. Wood shingles (cedar shingles six (6) inch maximum exposure)</li> <li>b. Lap-siding (six (6) inch maximum width)</li> </ol> </li> <li>5. Stucco</li> </ol>	<p>The primary building materials for the parking ramp include brick, wood, and concrete:</p> <p><b>West Elevation:</b>                      Brick: 96%                      Wood: 0%                      Concrete: 4%                      Metal: 0%</p> <p><b>South Elevation:</b>                      Brick: 44%                      Wood: 29%                      Concrete: 25%                      Metal: 2%</p> <p><b>East Elevation:</b>                      Brick: 78%                      Wood: 15%                      Concrete: 7%                      Metal: 0%</p>	<p>No. The proposed building includes concrete and metal as building materials, which are not included as allowable primary building materials. The proposed building materials require a deviation from the design standards.</p>
<p><u>801.09.11.1.B – Façade Coverage – All Districts</u>                      The primary opaque surface materials of all free standing buildings must be the same on all facades of the building.</p>	<p>The same building materials – brick, wood, concrete, and metal – are used on all sides of the building.</p>	<p>Yes</p>
<p><u>801.09.11.1.C – Type of Brick – All Districts</u>                      On all facades of a free-standing building where brick is used, full course modular, Roman, Norman or other standard size brick must be used.</p>	<p>This will be reviewed with the final building plans.</p>	<p>Yes</p>

<p><u>801.09.11.1.D – Façade Detail – All Districts</u>                  1. Brick and/or stone façades shall be well detailed and dimensionally designed in order to avoid fractional cuts and odd pieces. All outside brick corners must be full bricks (custom if necessary), with no mitering, forming continuous vertical joints.</p> <p>2. The narrow face of an exposed stone butt joint, at corners, must be a minimum dimension of two (2) inches. Mitered and quirked stone corners are also acceptable.</p>	<p>This will be reviewed with the final building plans.</p>	<p>Yes</p>
<p><u>801.09.11.1.E – Brick Joints – All Districts</u>                  1. The mortar for brick must be dark grey or in the color range of the brick. All joints must be concave or ‘v’ joint. No mortar may be used beyond the face of the brick.</p> <p>2. All brick walls must be built to avoid efflorescence</p>	<p>This will be reviewed with the final building plans.</p>	<p>Yes</p>
<p><u>801.09.11.1.F – Stone Joints – All Districts</u>                  Stone joints shall be no larger than one-fourth (1/4) inch.</p>	<p>Stone is not included as a building material.</p>	<p>Not Applicable.</p>

<p><u>801.09.11.1.G – Accent Materials – All Districts</u>                  Only the following materials may be used for lintels, sills, cornices, bases, and decorative accent trims, and must be no more than 10 percent (10%) of the non-glass surfaces of each elevation of the exterior building façade:</p> <ol style="list-style-type: none"> <li>1. Stone</li> <li>2. Cast stone</li> <li>3. Copper (untreated)</li> <li>4. Rock faced stone</li> <li>5. Aluminum or painted steel structural shapes</li> <li>6. Fiber cement board</li> <li>7. Premium grade wood trim with mitered outside corners. Examples of premium grade wood are cedar, redwood, and fir.</li> <li>8. EIFS</li> </ol>	<p>The proposed building consists of brick, wood, concrete and metal as described above in the primary building materials section.</p>	<p>No. As referenced above, the proposed building material require a deviation from the design standards.</p>
<p><u>801.09.11.1.H - Parapets, Flashing, Coping – All Districts</u></p> <ol style="list-style-type: none"> <li>1. Only the following materials may be used for parapets, flashing and coping:                         <ol style="list-style-type: none"> <li>a. copper (untreated)</li> <li>b. brick</li> <li>c. stone</li> <li>d. cast stone</li> <li>e. premium grade wood.</li> </ol> </li> <li>2. Pre-finished, painted .032 aluminum may only be used as a standard parapet coping with a maximum exposed edge of five (5) inches.</li> </ol>	<p>The top of the building wall would be comprised of brick.</p>	<p>Yes</p>

<p><u>801.09.11.1.I – Awnings – All Districts</u>                  1. Only the following types of awnings may be used:</p> <ul style="list-style-type: none"> <li>a. Fabric awnings of a heavy canvas in dark solid colors or other colors that are approved as part of the design review process</li> <li>b. Highly detailed, ornate metal in dark colors</li> <li>c. Glass awnings</li> </ul> <p>2. Backlit awnings are prohibited.</p> <p>3. Awnings with text or graphic material may be permitted but require approval via the sign permit process of the Zoning Ordinance.</p>	<p>The proposed parking ramp does not include awnings.</p>	<p>Not Applicable</p>
<p><u>801.09.11.1.J – Balconies – All Districts</u>                  Balconies shall be accessible and useable by persons. Fake or unusable balconies are prohibited. All balconies shall remain within the property line. Metal railings with members painted dark, or glass panels are permitted.</p>	<p>The proposed parking ramp does not include balconies.</p>	<p>Not Applicable</p>
<p><u>801.09.11.1.K – Glass – All Districts</u>                  Glass shall not be mirrored, reflective or darkened. Slight green, bronze and grey tints are acceptable. Spandrel glass shall not be counted as transparent glass for the purposes of calculations under the transparency requirements of Section 801.09.8 of the Standards, but may be used for detailing purposes. Environmentally appropriate glass, such as Low-emissivity glass, shall be used in all projects</p>	<p>The proposed parking ramp does not include any glass windows.</p>	<p>Not Applicable</p>

<p><b>801.09.11.1.L – Doors – All Districts</b>                  Unless there are building security concerns, main entry doors shall be primarily glass. If, for security reasons, a main entry door is not possible or practical, a main entry door must be well detailed. Appropriately designed wood doors may be utilized for retail and office buildings.</p>	<p>The proposed parking ramp does not include any exterior doors.</p>	<p>Not Applicable</p>
<p><b>Franchise Architecture</b></p>	<p><b>Comments</b></p>	<p><b>Compliance</b></p>
<p>801.09.12.1</p>		
<p>A. Typical or standardized franchise architecture (including building design that is the trade dress of, or identified with a particular chain, franchise or business and is repetitive in nature) is prohibited.</p> <p>B. Large, bold or bright signage, trade dress or logos must be altered and scaled down to meet the purpose of these standards as articulated herein, and must not be repeated on the facades of the principal structure more than once. All new, altered and/or proposed signage for buildings must be submitted for review under Section 801.09.18 by the Planning Commission at the time of Design Standards Review application</p>	<p>The proposed parking ramp is not franchise architecture.</p>	<p>Not Applicable</p>

Walkways	Comments	Compliance
<p>801.09.13.2 – Bluff District</p> <p>A. Continuous sidewalks at least five (5) feet in width shall be provided along all public street frontages. The sidewalk street grid shall be maintained and extended wherever possible.</p> <p>B. Where the sidewalk street grid is interrupted by steep slopes or other topographic variations, walkways or stairways shall be built to maintain pedestrian continuity.</p>	<p>There is an existing 5-foot wide sidewalk along Broadway Avenue that would be retained as part of the project.</p>	<p>Yes</p>

Landscaping	Comments	Compliance
<p><u>801.09.14.1 – All Districts</u></p> <p>A. Seasonal landscaping shall be used in all Design Districts, including use of window boxes, hanging flowers baskets, vines and/or other similar seasonal landscaping. If feasible, garden areas and ornamental trees shall be used at the street level.</p> <p>B. Window boxes, hanging baskets and planters with seasonally appropriate plantings shall be used around entries to buildings.</p> <p>C. Vines shall be used to cover walls with more than one hundred (100) square feet of uninterrupted surface area.</p> <p>D. Streetscaping shall include all of the following:</p> <ol style="list-style-type: none"> <li>1. Boulevard species trees, with at least three (3) caliper inches.</li> <li>2. Exposed aggregate sidewalks with brick accents</li> <li>3. Street lights</li> <li>4. Benches (if building length is 50 feet or greater), which utilize existing city bench designs.</li> <li>5. Flowers</li> </ol>	<p>The proposed landscape plan along Broadway includes perennial shrubs. In addition, boulevard trees that would be at least 3” in size would be planted between the street and the sidewalk, a bench is provided at the corner of Mill St and Broadway Ave, and lighting would be provided along the existing Broadway sidewalk.</p>	<p>Yes</p>
<p><u>801.09.14.3 – Bluff and Wayzata Blvd Districts</u></p> <p>Trees with a minimum of three (3) caliper inches shall be planted no more than twenty-six (26) feet apart within a landscaped boulevard.</p>	<p>The proposed landscape plan includes 3” trees along the street boulevard with adequate spacing.</p>	<p>Yes</p>

<b>Parking Lot Landscaping</b>	<b>Comments</b>	<b>Compliance</b>
<p>801.09.15.1 – All Districts                      A landscaped buffer strip at least five (5) feet wide shall be provided between all parking areas and the sidewalk or street. The buffer strip shall consist of shade trees appropriately spaced for the particular Design District, and a decorative metal fence, masonry wall or hedge. A solid wall or dense hedge shall be no less than three (3) feet and no more than four (4) feet in height.</p>	<p>The proposed plans include a landscape buffer that is more than 5 feet wide between the parking lot and Broadway Ave.</p>	<p>Not Applicable</p>
<b>Surface Parking</b>	<b>Comments</b>	<b>Compliance</b>
<p>801.09.16.1 – All Districts</p> <p>A. Off-street parking shall be located to the rear of buildings. When parking must be located in a side yard adjacent to the street, a landscaped buffer shall be provided in accordance with the Design Standards. The street frontage occupied by parking shall not exceed sixty (60) feet per property.</p> <p>B. Side-by-side parking lots creating a parking area frontage longer than sixty (60) feet are prohibited, except where a heavily landscaped buffer of at least twenty (20) feet wide completely separates both lots.</p> <p>C. Side yard parking shall not extend beyond the front yard setback of the primary building on the property.</p> <p>D. Front yard parking is prohibited.</p> <p>E. There shall be no corner parking.</p>	<p>The proposed parking ramp would not include any additional surface parking stalls. The existing surface parking stalls along Mill Street would be retained as they currently exist.</p>	<p>Not Applicable</p>

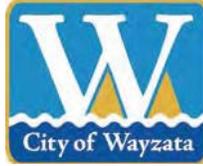
<p><u>801.09.16.2 – All Districts – Bicycle Parking</u>                  Commercial developments requiring more than twenty (20) parking spaces shall provide at least four (4) bicycle parking spaces in a convenient, visible, preferably sheltered location.</p>	<p>The proposed parking ramp is not a commercial development.</p>	<p>Not Applicable</p>

Parking Structures		
<p><b>801.09.17.1 – All Districts</b>                      Parking structures shall meet the following standards, along with all other applicable building code standards:</p> <p>A. The ground floor façade abutting any public street or walkway shall be architecturally compatible with surrounding commercial or office buildings.</p> <p>B. The parking structure shall be designed in such a way that sloped floors do not dominate the appearance of the façade.</p> <p>C. Windows or openings shall be similar to those of surrounding buildings.</p> <p>D. Vines and other significant landscaping shall be used to minimize the visual impact of the parking structure.</p>	<p>The proposed parking structure meets the design standards:</p> <p>A. The ground floor abutting the public street is consistent with the design character of a commercial building and is comprised of high grade building materials, including brick, wood, and metal.</p> <p>B. The parking structure does not include sloped floors.</p> <p>C. The south building elevation includes openings that are consistent with the pattern and size of windows within surrounding buildings along Mill Street.</p> <p>D. The proposed plans include extensive landscaping along all sides of the structure to minimize the visual impact on surrounding properties.</p>	<p>Yes</p>

Signs	Comments	Compliance
<p><u>801.09.18.1 – All Districts</u></p> <p>A. Compatibility</p> <ol style="list-style-type: none"> <li>1. Signs shall be architecturally compatible with the style, composition, materials, colors and details of the building, and with other signs on nearby buildings. Signs shall be an integral part of the building and site design.</li>   <li>2. A sign plan shall be developed for buildings which house more than one (1) business. Signs need not match, but shall be compatible with one another. Franchise or national chains must comply with these Sign Standards to create signs compatible with their context.</li>   <li>3. When illuminated signs are proposed, only the text and/or logo portion of the sign may be illuminated. Illuminated signs must be compatible with the location. Illumination of the sign to highlight architectural details is permitted. Fixtures shall be small, shielded, and directed towards the sign rather than toward the street, so as to minimize glare for pedestrians and adjacent properties.</li>   <li>4. Sign plans must be submitted for review as part of an Applicant for Design Approval. Proposed signs must also conform to the requirements of Section 801.27 of the Wayzata Zoning Ordinance.</li> </ol>	<p>The proposed parking ramp will include blue “P” parking signs to provide designated the parking ramp as public parking. The proposed signs comply with the City’s sign ordinance.</p>	<p>Yes</p>

<p><b>B. Sign Location</b></p> <ol style="list-style-type: none"> <li>1. Wall signs on a storefront-type building shall be placed between the first and second floors of a building.</li> <li>2. Wall or roof signs on buildings that are not storefront type buildings shall be placed where they do not obscure architectural features.</li> </ol>	<p>The wall signs would be located on the first floor of the parking structure and would not obscure architectural features.</p>	<p>Yes</p>
<p><b>C. Sign Material</b></p> <ol style="list-style-type: none"> <li>1. The material of which signs are constructed shall be consistent and compatible with the original construction materials and architectural style of the building façade on which the signs are affixed.</li> <li>2. Material, such as wood and metal, shall be used, as appropriate, for the sign location.</li> <li>3. Neon signs may only be used for windows.</li> </ol>	<p>The proposed signs and materials are consistent with the architecture of the parking ramp and the materials are appropriate for the location.</p>	<p>Yes</p>
<p><u>801.09.18.2 – Bluff District Permitted Signs</u></p> <p>C. Only the following types of signs are permitted in the Bluff District:</p> <ol style="list-style-type: none"> <li>1. Wall, awning or projecting signs (for storefront buildings at the street line)</li> <li>2. Free-standing, ground or monument signs (for buildings with front yards)</li> <li>3. Roof signs if located on pitched-roof buildings, below the peak of the roof</li> </ol>	<p>The proposed signs are wall signs.</p>	<p>Yes</p>

Parking Lot and Building Lighting	Comments	Compliance
<p><u>801.09.19.1 – All Districts</u></p> <p>A. Parking lot lighting shall be designed in such a way as to be in scale with its surroundings, and reduce glare.</p> <p>B. Cutoff fixtures shall be located below the mature height of trees located in parking lot islands so as to minimize ambient glow and light pollution.</p> <p>C. Pedestrian-scale lighting, not exceeding thirteen (13) feet in height, shall be located on walkways and adjacent to store entrances. All sidewalk lighting must be projected downwards. City light standard shall be followed for all public streets.</p> <p>D. Light posts shall be of a dark color.</p> <p>E. Lighting fixtures shall be compatible with the architecture of the building.</p> <p>F. Lights attached to buildings shall be screened by the building’s architectural features to eliminate glare to adjacent properties. All façade lighting must be projected downwards.</p> <p>G. All lighting fixtures shall comply with City Code Section 801.16.6 as it relates to glare.</p>	<p>The proposed plans include new pedestrian-scale lighting along the Broadway Ave sidewalk, and new parking lot lights within the existing surface parking stalls within Mill Street.</p> <p>The lighting plan for the upper level of the ramp would vary depending on whether or not a roof is constructed. If a partial roof is constructed on the parking ramp, the lighting for the second level would be located underneath the roof structure, on the south face of the roof, and on the south wall of the ramp. The lighting for the south parking bay would be down-cast, and would not create shine or glare onto adjacent properties.</p> <p>If the roof is not constructed, the second level of the ramp would be illuminated by light poles containing down-cast light fixtures.</p> <p>The lighting plan also includes a control system which would dim the parking ramp lighting during the overnight hours.</p> <p>A photometric plan is included with the plans. The plan indicates that there would be no spill of lighting on to adjacent residential properties to the north.</p>	<p>Yes</p>



## WAYZATA PLANNING COMMISSION

October 3, 2016

### REPORT AND RECOMMENDATION OF APPROVAL OF DESIGN OF MILL STREET PARKING RAMP

DRAFT

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#### SUMMARY OF RECOMMENDATION

1. **Approval** of Design (including requested deviation for exterior building materials) of Public Parking Structure at Mill Street

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#### REPORT AND RECOMMENDATION

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

- 1.1 General. The City of Wayzata (the "Applicant") has submitted an application (the "Application") for approval of the design of a new public parking ramp at 725 Mill Street E. (the "Parking Ramp" or the "Project"). The proposed Parking Ramp would consist of one level of parking at grade, with one level of structured parking above. The Parking Ramp and surface parking stalls along Mill Street would provide a total of 385 parking spaces. The proposed plans also include a partial roof over the second level as an add-on alternative to the plans.
- 1.2 Approval Request. The approval requested in the Application is for approval of the Parking Ramp design (the "Design") under the Zoning Ordinance's design standards for the Bluff Design District, including a deviation from the standards applicable to exterior building materials to allow for use of concrete and metal as primary building materials, comprising 4% of the west elevation, 27% of the south elevation and 7% of the east elevation (the "Deviations").
- 1.3 Property. The property identification numbers and owner of the Property involved in the proposed Application are as follows:

725 Mill Street E.	PID: 611722420083 PID: 611722420084	Wayzata HRA
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- 1.4 Notice and Public Hearing. Notice of a public hearing on the Proposed Amendments was published in the *Sun Sailor* on September 8, 2016. A copy of the notice was mailed to all property owners located with 350 feet of the Property on September 9, 2016. The required public hearing was held at the September 19, 2016 Planning Commission meeting.

## Section 2. STANDARDS

- 2.1 Design Standards. All new nonresidential building construction in the City must comply with the Design Standards found in Section 9 of the Zoning Ordinance. The Project falls within the Bluff Design District, and the relevant design standards applicable to the Project are outlined in the attached “Design Critique” (Attachment A). Deviations from the Design Standards may be permitted under Sec. 801.09.21 (with the exception of Section 7 of the Design Standards) if City Council (after considering the Planning Commission’s recommendation) makes a finding that the negative impact of such deviation is outweighed by one or more of the following factors:

1. The extent to which the project advances specific policies and provisions of the City’s Comprehensive Plan.
2. The extent to which the deviation permits greater conformity with other Standards, policies behind the Standards, or with other Zoning Ordinance standards.
3. The positive effect of the project on the area in which the project is proposed.
4. The alleviation of an undue burden, taking into account current leasing, housing and commercial conditions.
5. The accommodation of future possible uses contemplated by the Design Standards, the Zoning Ordinance or the Comprehensive Plan.
6. A national, state or local historic designation.
7. The project is the remodeling of an existing building which largely otherwise conforms to the Design Standards.

## Section 3. FINDINGS

- 3.1 Based on the planning report and information submitted by City Staff, the attached “Design Critique”, public comment and information presented at the

public hearing, and the standards of the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

The Project meets the applicable provisions of the Design Standards except for the Deviations. Any negative impacts of the Deviations are outweighed by one or more of the following factors:

1. The extent to which the Project advances specific policies and provisions of the City's Comprehensive Plan, as noted in the record, in particular the City's decisions to address long term parking and mobility needs of the City in the downtown area.
2. The extent to which the deviation permits greater conformity with other Standards, policies behind the Standards, or with other Zoning Ordinance standards, as noted in the record, including use of materials that are more sustainable, cost effective and appropriate for a public parking structure.
3. The positive effect of the Project on the area in which the Project is proposed, as detailed in the record.

#### **Section 4. RECOMMENDATION**

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **APPROVAL** of the Design of the Parking Ramp, including the requested Deviations, as set forth in the Application.

Adopted by the Wayzata Planning Commission this 3rd day of October 2016.

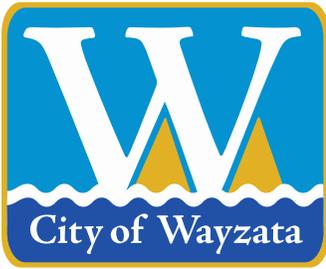
Voting In Favor:

Voting Against:

Abstaining:

ATTACHMENT A  
(the "Design Critique")

DRAFT



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

---

**Mayor:**  
Ken Willcox

**City Council:**  
Bridget Anderson  
Johanna McCarthy  
Andrew Mullin  
Steven Tyacke

**City Manager:**  
Jeffrey Dahl

Date: September 30, 2016  
To: Planning Commission  
From: Jeff Thomson, Director of Planning and Building  
Subject: Pflaum Home – 630 Bushaway Rd

### **Application Information**

The property owner, Peter Pflaum, is proposing to demolish the existing house and construct a new house on the property at 630 Bushaway Rd. The proposal requires multiple variances from the R-1A and shoreland district requirements, and a conditional use permit for the non-conforming lot size and width and proposed fence.

### **Planning Commission Review**

The Planning Commission reviewed the development application and held a public hearing at its meeting on September 19, 2016. After discussing the application, the Planning Commission asked the applicant to provide additional information regarding the justification for the requested variances, and to clarify the height of the stone wall that is being proposed in the front yard. After discussing the application, the Planning Commission directed staff to prepare a Planning Commission Report and Recommendation recommending approval of the development application.

### **Additional Information**

The development application submitted by the applicant included a written description and background for the variance request. The applicant's written narrative is attached.

The applicant has submitted revised plans for the proposed wall. The wall would be six feet in height with seven-foot tall columns.

### **Planning Commission Action**

City staff has drafted the attached Planning Commission Report and Recommendation. The Report and Recommendation recommends approval of the variances and conditional use permit for construction of a new home at 630 Bushaway Rd.

Staff recommends that the Planning Commission adopt the draft Planning Commission Report and Recommendation.

**Description of Request:**

VARIANCES AND/OR CONDITIONAL USE PERMITS AS  
REQUIRED TO REDEVELOP 630 BUSHAWAY ROAD,  
A SUBSTANTIALLY NON-CONFORMING LEGAL LOT OF  
RECORD, TO A REASONABLE LAND USE FOR A NEW  
SMALL RESIDENCE AND GARAGE.  
(SEE ATTACHED ADDITIONAL DESCRIPTION.)

Applicant may attach other letter sized materials.

**Additional Information:**

**Payment of Fees**

The undersigned acknowledges that before this request can be considered, all required information and fees (including all up front escrow deposits) must be paid to the City. If additional fees are required to cover costs incurred by the City, the City Manager has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees. Such expenses may include (but are not limited to) personnel costs, fees for consultants, legal assistance and other professionals, recording fees, along with other overhead costs. The amount of escrow is determined by the City of Wayzata fee schedule in effect at the time of the application submittal. A current fee schedule is attached to this application form.

The undersigned also acknowledges that it may be required to file, at his or her expense, appropriate resolutions, agreements or other documents evidencing approval of the application.

The undersigned agrees that the City may withhold the issuance of a building permit until all financial matters are resolved. If need be, the City reserves the right to pass outstanding balances from this application to Hennepin County to be assessed with next year's property taxes for the property involved as indicated on page one of this application and the Property Owner agrees to such assessment.

**Complete / Incomplete Applications**

Placement of any Application on City agendas is at the discretion of the City, including the time of consideration. An application will not be placed on any agenda until City staff has received the appropriate materials and financial matters are in order. The application approval time commences and an application is considered officially filed when City staff has received and examined the application and determined that the application is complete. The application shall be determined by City staff to be complete or incomplete within fifteen (15) business days following submittal of the application. When the application is deemed to be "complete" it shall be placed on the agenda of the

Description of Request:

THE EXISTING HOME IS DETERIORATED TO THE NEED FOR REPLACEMENT. THE PROPOSED HOME IS, FOR THE MOST PART, IN A SIMILAR LOCATION TO THE EXISTING, WITH A 2 CAR ATTACHED GARAGE AND 3 BEDROOM AT A SECOND FLOOR. APPEARANCE IS A 1/2 STORY TRADITIONAL COTTAGE.

THE SITE IS LEGALLY NON-CONFORMING IN ALMOST EVERYWAY POSSIBLE RELATIVE TO PRESENT DAY ZONING CONTROLS.

ZONING IS PRESENTLY "LOW DENSITY SINGLE FAMILY ESTATE DISTRICT." THIS REQUIRES A 2 ACRE MINIMUM SITE AREA. 630 BUSHAWAY SITE AREAS ARE:

20,769 SF. GROSS AREA OR 23.8% OF REQ.

13,269 SF, W/O ROAD & PATH OR 15.2% OF REQ.

10,144 SF R.O.W. TO 929.4 OR 11.6% OF REQ.

ALL PRACTICAL DIFFICULTIES WITH THIS SITE RELATE BACK TO ZONING CONDITIONS FOR A 2 ACRE ESTATE APPLIED TO A PROPERTY THAT IS 11.6% OF THE SIZE THAT THE APPLICABLE ZONING CONTROLS ARE BEING APPLIED TO.

SEE STAFF ANALYSIS FOR ALL VARIANCE & C.U.P. REQUEST NECESSARY.

**SHEET INDEX**

- 1 CERTIFICATE OF SURVEY
- A1 PROPOSED SITE PLAN
- A1.1 SITE PLAN - HARDCOVER CALC. METHOD 1
- A1.2 SITE PLAN - HARDCOVER CALC. METHOD 2
- A1.3 SITE PLAN - HARDCOVER CALC. METHOD 3
- A1.4 SITE PLAN - PROPOSED / EXISTING FOOTPRINTS - MAJOR DIMENSIONS
- A1.5 SITE PLAN - PROPOSED / EXISTING FOOTPRINTS - AREA COMPARISON
- A2 FOUNDATION & MAIN LEVEL FLOOR PLAN
- A3 UPPER LEVEL FLOOR PLAN & ROOF PLAN
- A4 EXTERIOR ELEVATIONS & BUILDING SCTN.
- A5 EXTERIOR ELEVATIONS & BUILDING SCTN.
- A6 BUILDING SECTION

**PROJECT TEAM**

ARCHITECT: SHARRATT DESIGN & CO. LLC

CONTACT: MIKE SHARRATT

**STRUCTURAL ENGINEER**

T.B.D.

**GENERAL CONTRACTOR**

T.B.D.

**ISSUED FOR**

ISSUE DATE	CHECK	MEETING SET	PROGRESS SET	REVIEW SET	STRUCTURAL COORD.	BID SET	PERMIT SET	REVISION	ADDENDUM	CONSTRUCTION SET
08 / 04 / 16	X									
08 / 08 / 16		X								
08 / 15 / 16			X							
08 / 18 / 16				X						
09 / 08 / 16				X						

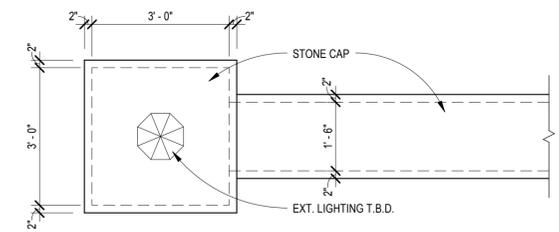
PROPOSED NEW CONSTRUCTION OF THE:

**PFLAUM HOME**

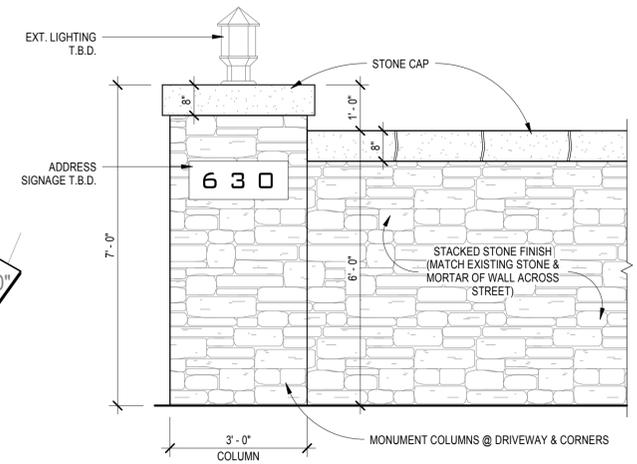
630 BUSHAWAY ROAD  
 WAYZATA, MN

SHEET **A1** NUMBER

**VARIANCE APPLICATION**



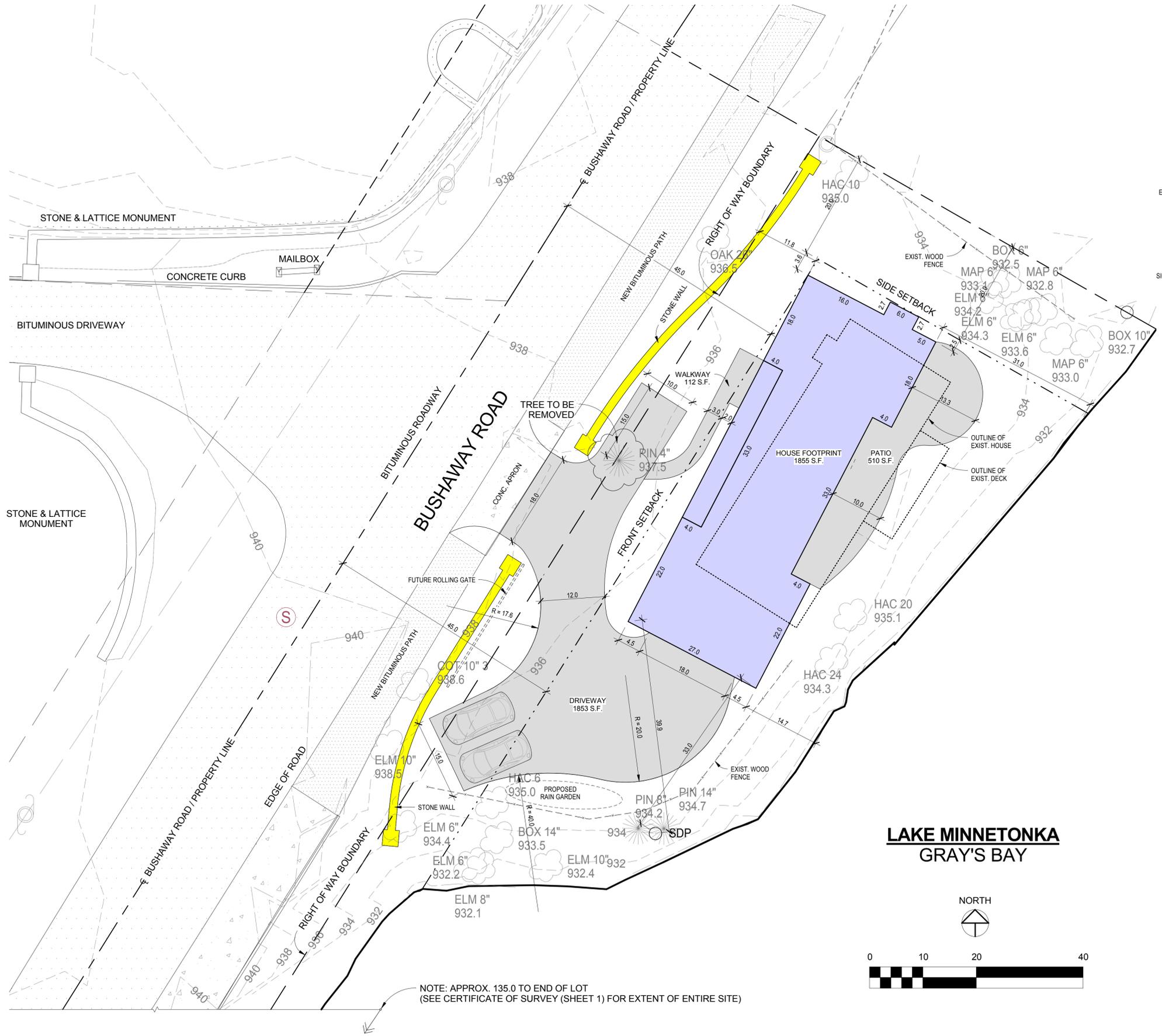
PLAN VIEW



ELEVATION VIEW

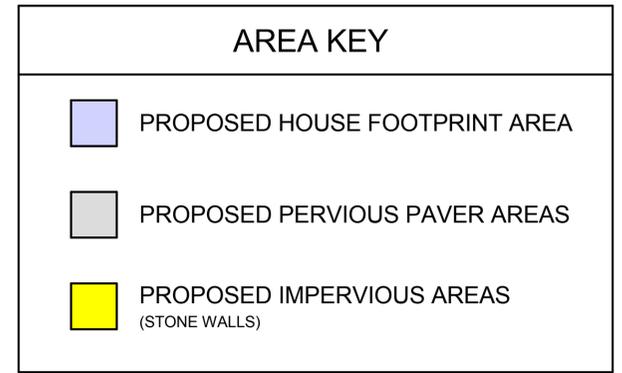
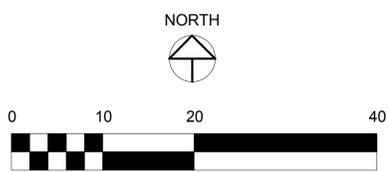
**PROPOSED STONE WALL DETAIL**

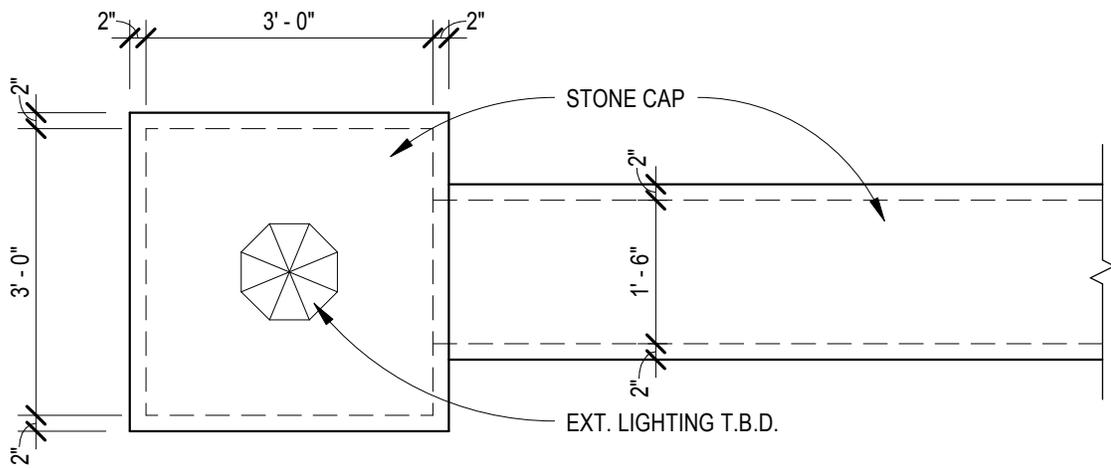
1/2" = 1'-0"



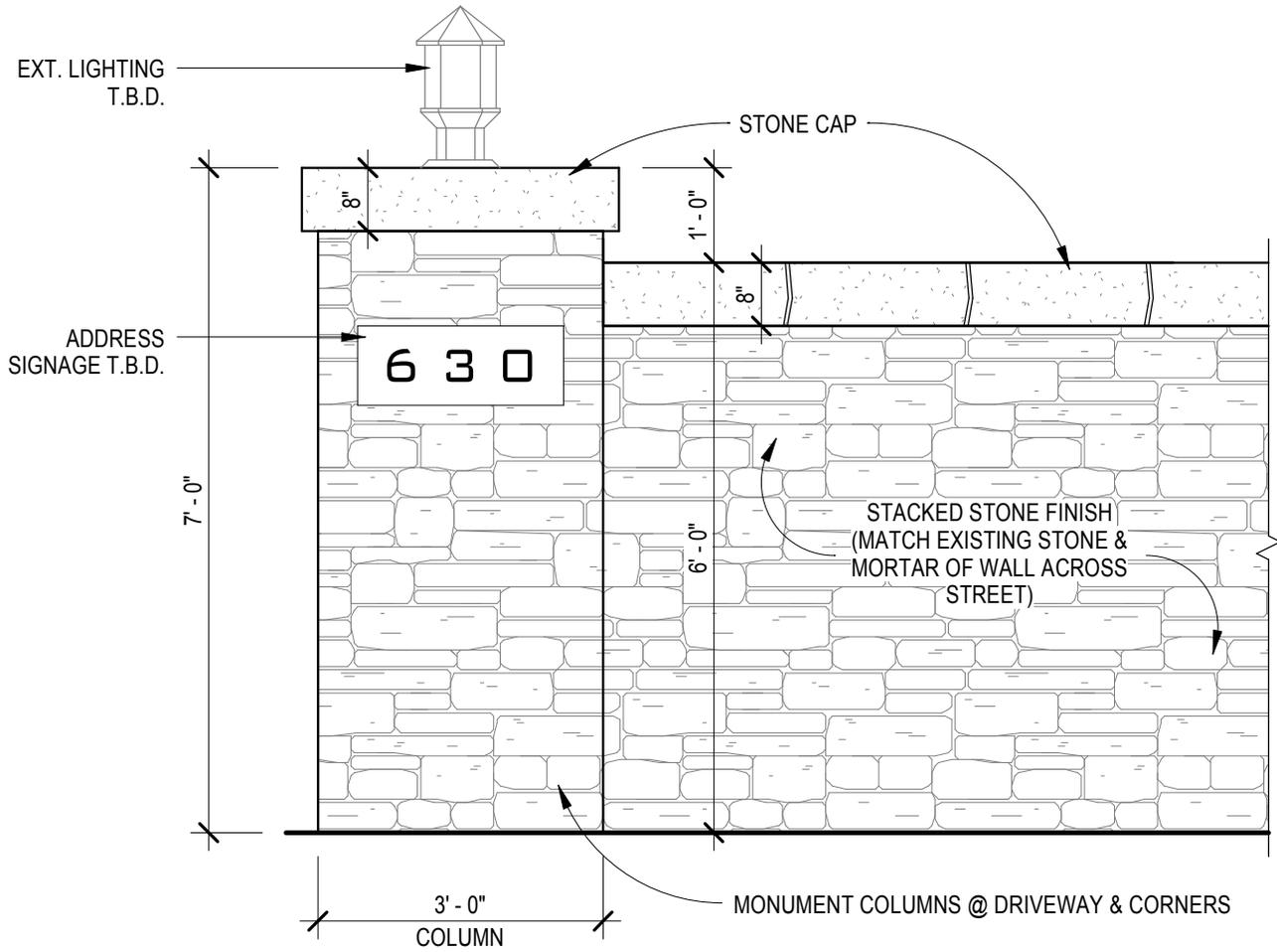
NOTE: APPROX. 135.0 TO END OF LOT (SEE CERTIFICATE OF SURVEY (SHEET 1) FOR EXTENT OF ENTIRE SITE)

**LAKE MINNETONKA GRAY'S BAY**





**PLAN VIEW**



**ELEVATION VIEW**

**PFLAUM - PROPOSED STONE WALL DETAIL**

1/2" = 1'-0"

**SHEET INDEX**

1	CERTIFICATE OF SURVEY
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**PROJECT TEAM**

ARCHITECT: SHARRATT DESIGN & CO. LLC

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**STRUCTURAL ENGINEER**

T.B.D.

**GENERAL CONTRACTOR**

T.B.D.

**ISSUED FOR**

ISSUE DATE	CHECK	MEETING SET	PROGRESS SET	REVIEW SET	STRUCTURAL COORD.	BID SET	PERMIT SET	REVISION	ADDENDUM	CONSTRUCTION SET
08 / 04 / 16	X									
08 / 08 / 16		X								
08 / 15 / 16			X							
08 / 18 / 16				X						
09 / 08 / 16				X						

PROPOSED NEW CONSTRUCTION OF THE:

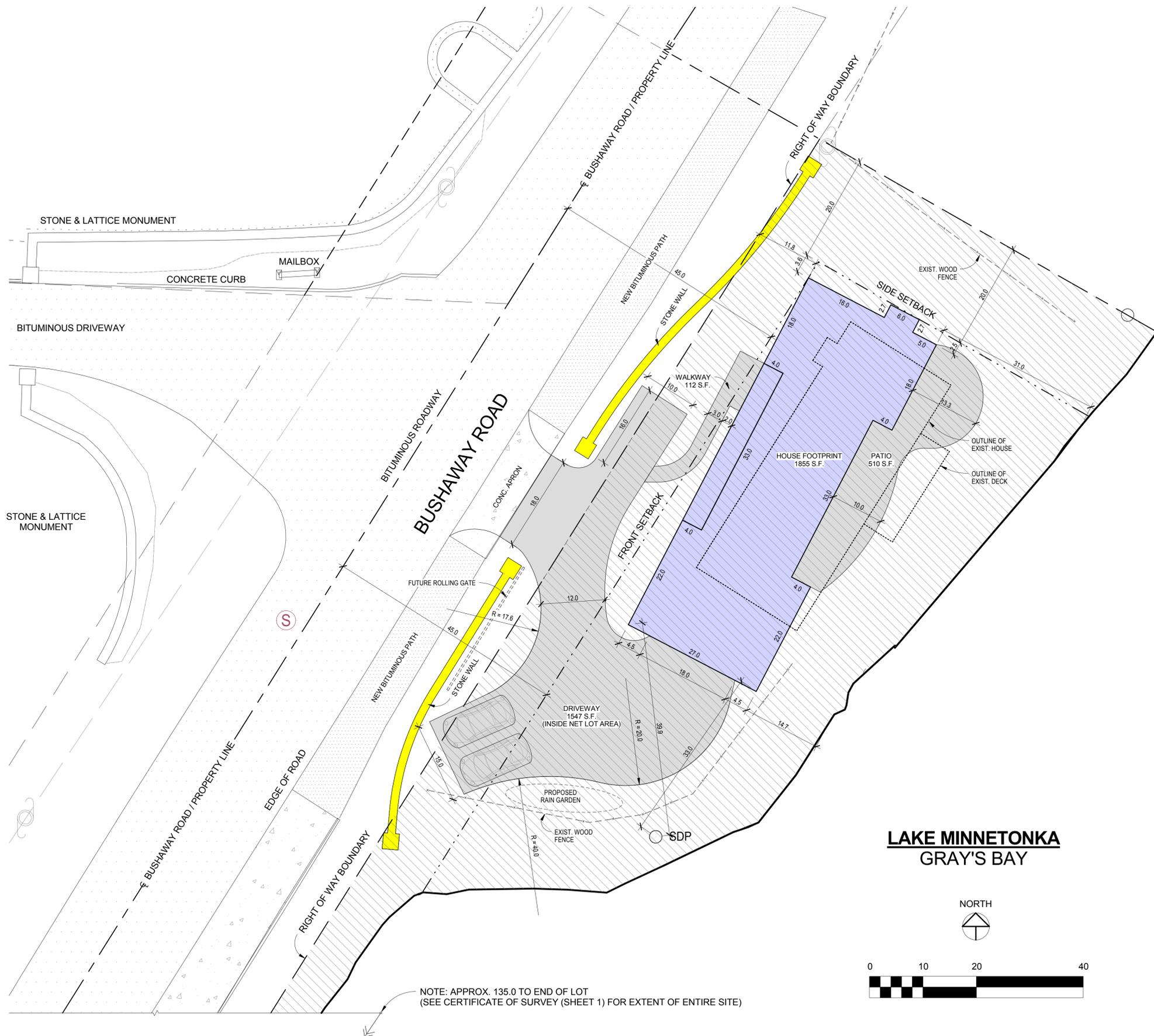
**PFLAUM HOME**

630 BUSHAWAY ROAD  
WAYZATA, MN

SHEET **A1.3** NUMBER

**VARIANCE APPLICATION**

LEGAL NOTICE  
 THESE DOCUMENTS SHALL NOT BE REPRODUCED OR REFERENCED WITHOUT THE WRITTEN CONSENT OF SHARRATT DESIGN & COMPANY, LLC  
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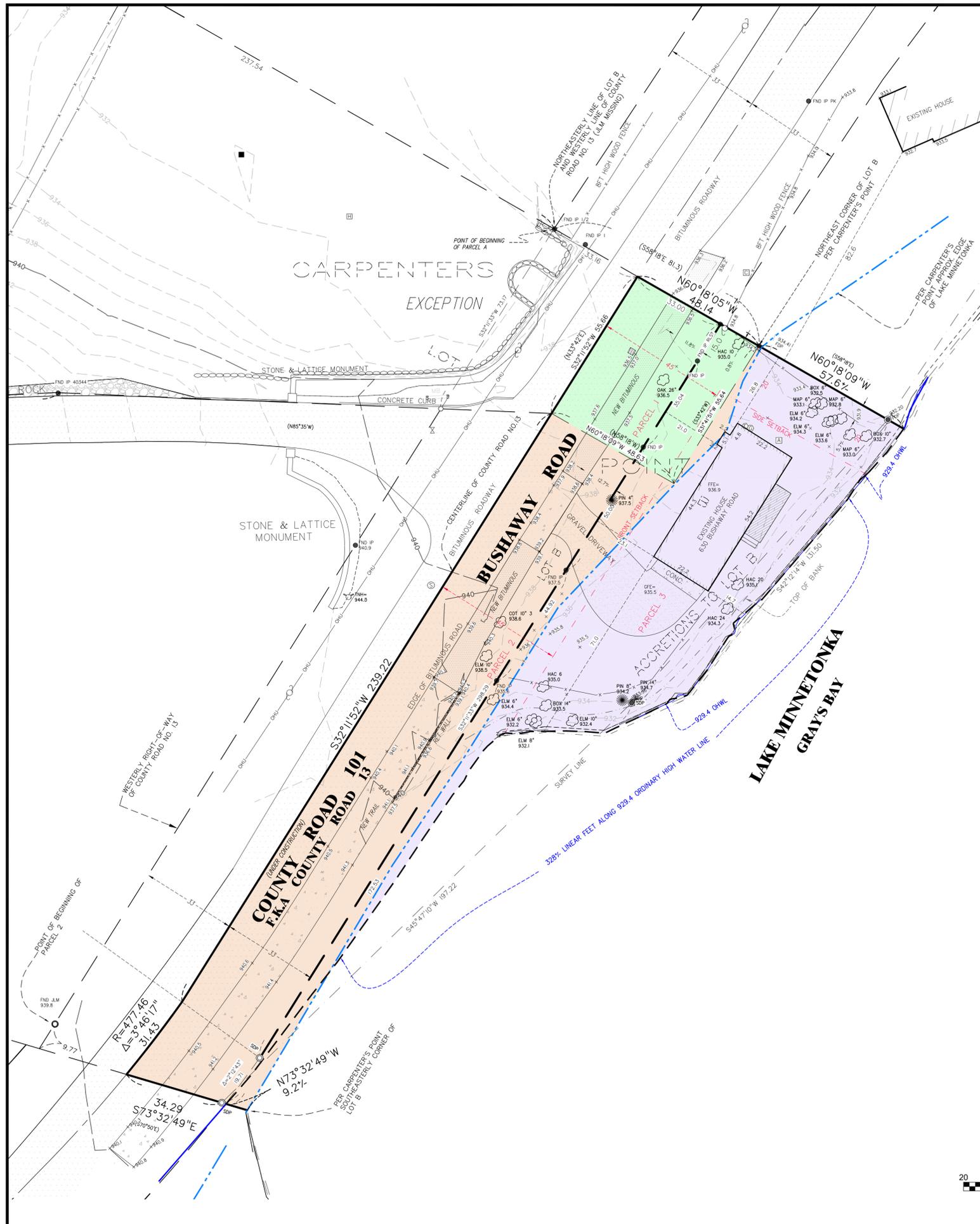


**AREA KEY**

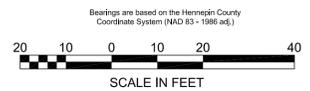
- PROPOSED HOUSE FOOTPRINT AREA
- PROPOSED PERVIOUS PAVER AREAS
- PROPOSED IMPERVIOUS AREAS (STONE WALLS)
- LOT AREA PER HARDCOVER CALC. (SEE CALCULATION METHOD BELOW)

**HARDCOVER CALCULATION**  
 METHOD 3 - NET LOT AREA  
 MEASURED TO EDGE OF RIGHT OF WAY

<b>LOT AREA</b>	<b>= 10,144 S.F.</b>	(GROSS LOT AREA)
HOUSE	= 1,855 S.F.	(50% OF EACH AREA TOTAL FOR USE OF PERVIOUS PAVERS)
PATIO	= 255 S.F.	
DRIVEWAY	= 774 S.F.	
WALKWAY	= 66 S.F.	
STONE WALL	= 50 S.F.	(PORTION LOCATED OUTSIDE OF R.O.W.)
<b>TOTAL IMPERV. AREA</b>	<b>= 3,000 S.F.</b>	
<b>COVERAGE PCT.</b>	<b>= 29.6 %</b>	(OF 13,269 S.F. TOTAL)



- ☀ TREE CONIFEROUS
  - ☀ TREE DECIDUOUS
- Tree Survey**  
 Box Elder - 6", 10", 14"  
 Cotton - 10", 10", 10"  
 Elm - 6", 6", 6", 6", 6", 8", 10", 10"  
 Maple - 6", 6", 6", 6"  
 Oak - 26"  
 Pine - 4", 8", 14"  
 Hackamore - 6", 10", 20", 24"



Project: **Certificate of Survey**

Project Location: **Wayzata, Minnesota**

Client: **Peter Pfium**  
 18070 Breezy Point Road  
 Wayzata, Minnesota  
 Phone: 612-849-6352

Consultant: **SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

**DESCRIPTION OF PROPERTY SURVEYED**

Parcel 1:  
 That part of Lot B, "Carpenter's Point, Hennepin County Minn.," described as follows: Beginning at a judicial monument at the point of intersection at the Northeastly line of Lot B Carpenter's Point, with the Westerly line of County Road Number 13 as now laid out and traveled across said Lot B; thence South 58 degrees 18 minutes East along the Northeastly line of said Lot B a distance of 81.3 feet to the Northeastly corner of said Lot B at the shore of Gray's Bay Lake Minnetonka; thence Southwesterly along the shore of Gray's Bay to a point South 33 degrees 42 minutes West 55.55 feet from the Northeastly line of said Lot B; thence North 58 degrees 18 minutes West on a line parallel with the Northeastly line of said Lot B to the center line of said County Road Number 13; thence North 85 degrees 35 minutes West 170.35 feet; thence South 89 degrees 20 minutes West 80.4 feet thence North 54 degrees 33 minutes West 405.9 feet more or less, to the shore of Wayzata Bay, Lake Minnetonka; thence in a Northerly direction along the shore of Wayzata Bay to the Northwestly corner of said Lot B; thence South 58 degrees 18 minutes East along the Northeastly line of said Lot B a distance of 22.6 feet, more or less to a judicial monument distant 454.4 feet Northwestly to the point of beginning; thence continuing South 58 degrees 18 minutes East along the Northeastly line of said Lot B a distance of 454.4 feet to the judicial monument set at said point of beginning; Except that part thereof lying Northwestly of the center line of said County Road Number 13.

Parcel 2:  
 That part of "Legal Description I", herein after defined, lying Southeastly of the center line of County Road No. 13:  
 "Legal Description I" is defined as follows:  
 That parts of Lots A and B, "Carpenter's Point, Hennepin County Minn.," described as follows: Beginning at a judicial monument at a point in the Westerly line of the public highway known as County Road Number 13, which point is 9.77 feet Northeastly along the Westerly line of said road from its intersection with the Southwestly line of Lot B in said "Carpenter's Point, Hennepin County Minn.," and which point of beginning is also 33 feet at right angles Northwestly from the center line of said County Road Number 13 as now laid out and traveled across said Lot B; thence Southwestly along the Westerly line of said road 9.77 feet to the Southwestly line of said Lot B; thence South 70 degrees 50 minutes East along the Southwestly line of said Lot B to the Southeastly corner of said Lot B at the shore of Gray's Bay, Lake Minnetonka; thence Northeastly along the shore of said Gray's Bay to a point South 33 degrees 42 minutes West 55.55 feet from the Northeastly line of said Lot B; thence North 58 degrees 18 minutes West on a line parallel with the Northeastly line of said Lot B to the center line of said County Road Number 13; thence North 85 degrees 35 minutes West 170.35 feet; thence South 89 degrees 20 minutes West 80.4 feet; thence North 54 degrees 33 minutes West 405.9 feet more or less, to the shore of Wayzata Bay, Lake Minnetonka; thence in a general Southerly direction along the shore of said Bay to the intersection of said shoreline with a line bearing North 72 degrees 57 minutes West from the point of beginning; thence South 72 degrees 57 minutes East 67 feet more or less to a judicial monument at that point; thence continuing South 72 degrees 57 minutes East 425 feet to the point of beginning.

Parcel 3:  
 All of the accretions to Lot B, "Carpenter's Point, Hennepin County Minn.," lying Southwestly of the Southeastly extension of the Northeastly line of said Lot B, Southeastly to the shore line of Gray's Bay, Lake Minnetonka, as shown on the plat "Carpenter's Point, Hennepin County Minn.," and Northwestly of the high water line of Gray's Bay, Lake Minnetonka, as said high water line is depicted on memorial plat Doc. No. 967814.  
 The Northeastly line of said Lot B is marked by Judicial Landmarks set pursuant to Torrens Case No. 4794; (as to Pars 1, 2, & 3) Subject to the restrictions created by deed dated December 2, 1930, recorded in Book 1235 of Deeds, page 428, but free of the right of forfeiture therein set forth; (as to Pars 3)

- GENERAL SURVEY NOTES**
- Site Address: 630 Bushaway Road, Wayzata, MN
  - This property is contained in Zone X, (area of areas outside the 1-percent annual chance floodplain, areas of 1% annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1% annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 1% annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones.) and Zone AE (Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. In most instances, base flood elevations derived from detailed analyses are shown at selected intervals within these zones.), per the National Flood Insurance Program, Flood Insurance Rate Map Community Panel No. 27053C0328E, dated September 2, 2004 as acquired from the Federal Emergency Management Agency Web Site.
  - The Land area: Gross- 20,769 Sq. Ft. - 0.477 Acres  
 ROW- 10,625 Sq. Ft. - 0.244 Acres  
 Net- 10,144 Sq. Ft. - 0.233 Acres
  - Elevations are based on MNDOT Geodetic Database Station Name: Roger MN053 which has an elevation of: 993.879 feet (NAVD88).
  - The current Zoning for the subject property is R-1A (Low Density Single Family Residential District) per the City of Wayzata's zoning map dated October 11, 2005. The setback, height, and floor space area restrictions for said zoning designation were obtained from City of Wayzata found on their web site on the date of May 22, 2014 and are as follows:  
**Principal Structure Setbacks** - Front 45 feet (Bushaway Road)  
 Side 20 feet  
 Rear 75 feet (Lake Side- From Ordinary High Water Line)  
 Height - 35 feet  
 Hardcover- 20 percent of lot area  
**Accessory Structure Setbacks** - Front 50 feet  
 Side 10 feet (Lake Side- From Ordinary High Water Line)  
 Rear 10 feet
- Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site.
- 6) We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property of which we are unaware.

**Quality Assurance:**

PIE:	Pemberton
Field Crew:	JJA, CMT
Drafter:	JML
Checked:	05-22-14
Review Date:	05-28-14

**Vicinity Map:**

**Revisions:**

6/16/2014	Additional topography on adjoining lots
7/8/2016	Tree Survey
8/17/2016	Added New Blotinous

**Signature:**

Dawn B. Pemberton, PLS  
 pemberton@sathre.com  
 Minnesota License No. 40344

**Existing Hardcover**  
 Lot area = 20,769 S.F.  
 Building area= 1,214 S.F.  
 Concrete area= 85 S.F.  
 Gravel area= 1,197 S.F.

**Total impervious area= 2,496 S.F.**

**Coverage from Gross Area = 12.0%**

**SURVEY LEGEND**

● CAST IRON MONUMENT	BITUMINOUS
☒ CATCH BASIN	CONCRETE
× GATE VALVE	ELC CONTOUR EXISTING
⊗ GUY WIRE	ELECTRIC UNDERGROUND
⊕ HYDRANT	FENCE
○ SURVEY MONUMENT SET	OHU-OVERHEAD UTILITY
▲ SURVEY MONUMENT FOUND	TEL TELEPHONE UNDERGROUND
● SURVEY CONTROL POINT	UTL UTILITY UNDERGROUND
⊖ POWER POLE	GUARD RAIL
⊙ SANITARY MANHOLE	⊙ GAS METER
972.5 GROUND ELEVATION	⊙ HAND HOLE
⊖ CABLE TV PEDESTAL	⊖ TELEPHONE PEDESTAL
⊖ ELECTRIC TRANSFORMER	⊖ UTILITY PEDESTAL
⊖ ELECTRIC METER	

**SHEET INDEX**

- A1 PROPOSED SITE PLAN
- A1.1 SITE PLAN - HARDCOVER CALC. METHOD 1
- A1.2 SITE PLAN - HARDCOVER CALC. METHOD 2
- A1.3 SITE PLAN - HARDCOVER CALC. METHOD 3
- A2 FOUNDATION & MAIN LEVEL FLOOR PLAN
- A3 UPPER LEVEL FLOOR PLAN & ROOF PLAN
- A4 EXTERIOR ELEVATIONS & BUILDING SECTION
- A5 EXTERIOR ELEVATIONS & BUILDING SECTION
- A6 BUILDING SECTION

**PROJECT TEAM**

ARCHITECT: SHARRATT DESIGN & CO. LLC

CONTACT: MIKE SHARRATT

STRUCTURAL ENGINEER

T.B.D.

GENERAL CONTRACTOR

T.B.D.

**ISSUED FOR**

ISSUE DATE	CHECK	MEETING SET	PROGRESS SET	REVIEW SET	STRUCTURAL COORD.	BID SET	PERMIT SET	REVISION	ADDENDUM	CONSTRUCTION SET
08 / 04 / 16	X									
08 / 08 / 16			X							
08 / 15 / 16				X						
08 / 18 / 16					X					

PROPOSED NEW CONSTRUCTION OF THE:

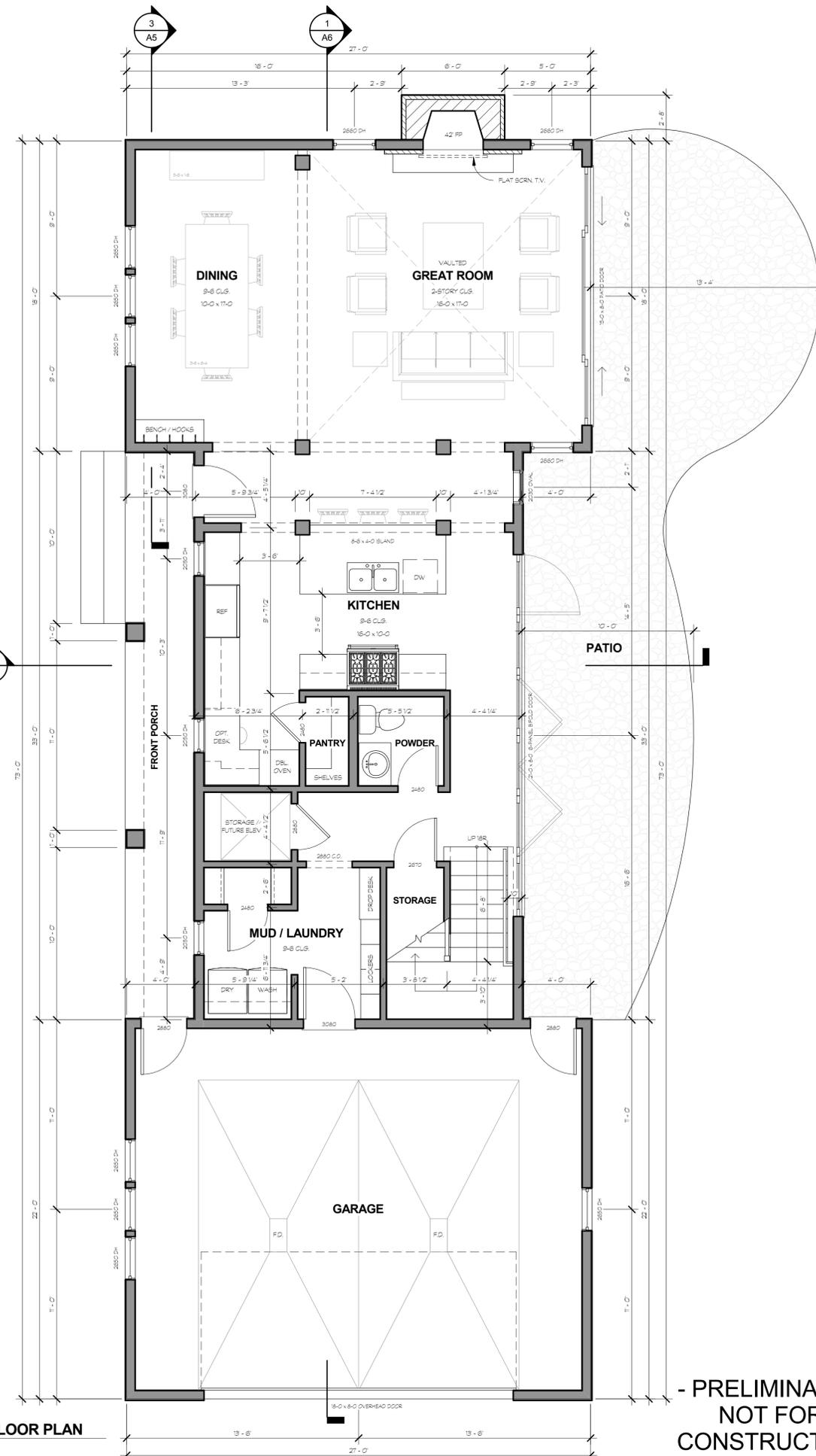
**PFLAUM HOME**

630 BUSHAWAY ROAD  
 WAYZATA, MN

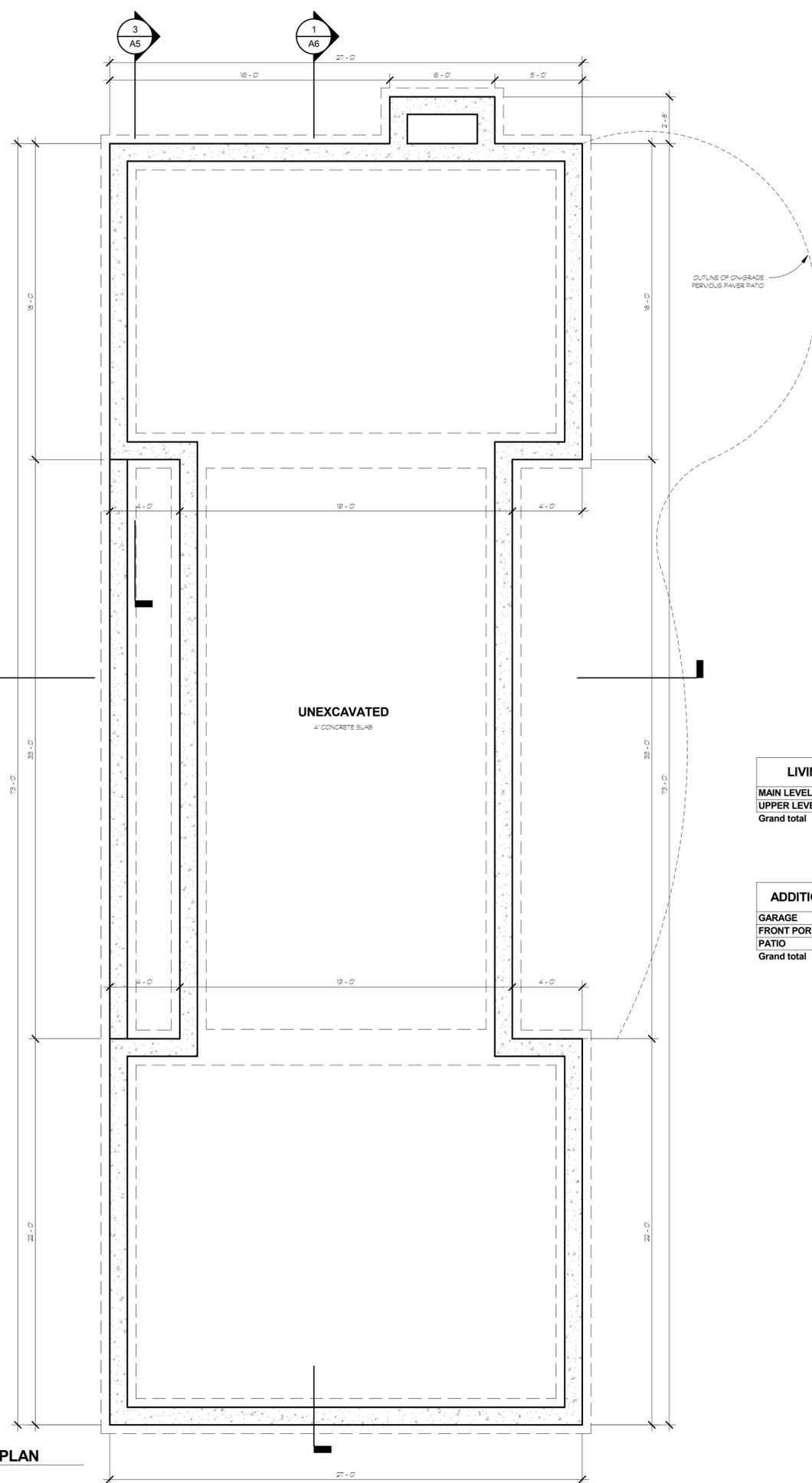
SHEET **A2** NUMBER

**- PRELIMINARY -  
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 CONSTRUCTION**

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**MAIN LEVEL FLOOR PLAN**  
 1/4" = 1'-0"



**FOUNDATION PLAN**  
 1/4" = 1'-0"

**LIVING SPACE**

MAIN LEVEL	1122 SF
UPPER LEVEL	1355 SF
Grand total	2476 SF

**ADDITIONAL SPACE**

GARAGE	585 SF
FRONT PORCH	132 SF
PATIO	509 SF
Grand total	1226 SF

**SHEET INDEX**

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ARCHITECT: SHARRATT DESIGN & CO. LLC

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08 / 15 / 16			X							
08 / 18 / 16				X						

PROPOSED NEW CONSTRUCTION OF THE:

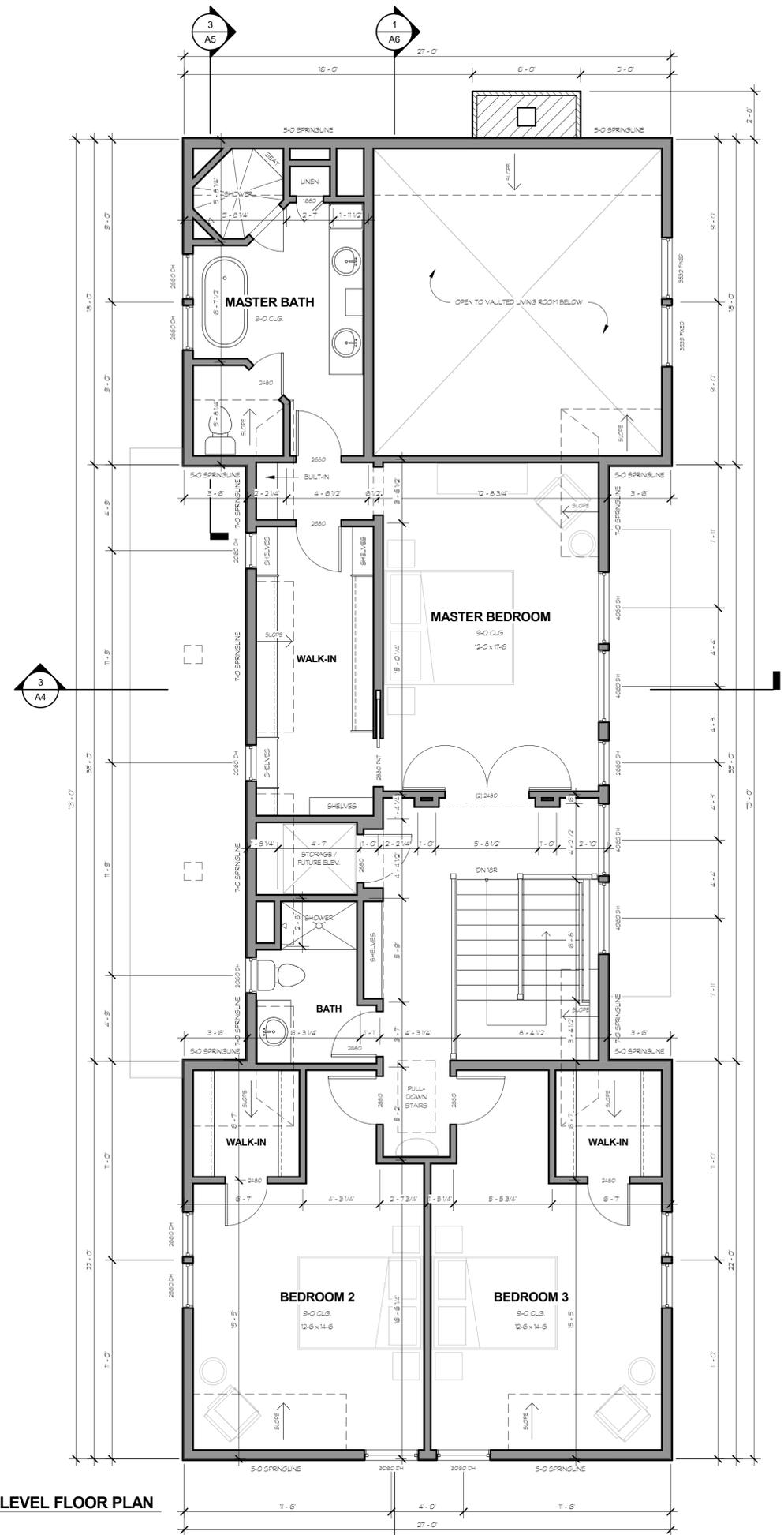
**PFLAUM HOME**

630 BUSHAWAY ROAD  
 WAYZATA, MN

SHEET **A3** NUMBER

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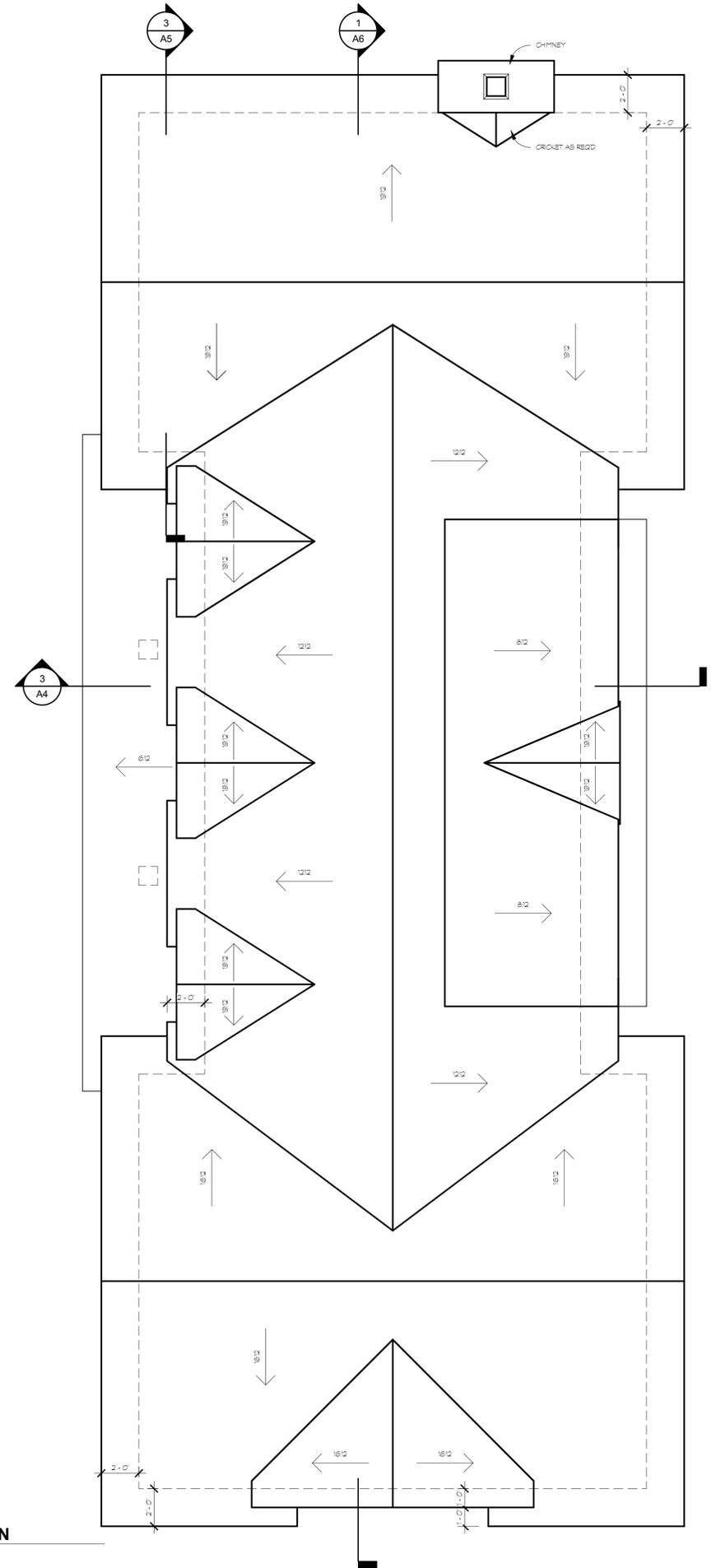
**LIVING SPACE**

MAIN LEVEL	1122 SF
UPPER LEVEL	1355 SF
Grand total	2476 SF

**ADDITIONAL SPACE**

GARAGE	585 SF
FRONT PORCH	132 SF
PATIO	509 SF
Grand total	1226 SF

**ROOF PLAN**  
 1/4" = 1'-0"



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A6	BUILDING SECTION

**PROJECT TEAM**

ARCHITECT: SHARRATT DESIGN & CO. LLC

CONTACT: MIKE SHARRATT

STRUCTURAL ENGINEER

T.B.D.

GENERAL CONTRACTOR

T.B.D.

**ISSUED FOR**

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08 / 04 / 16	X									
08 / 08 / 16			X							
08 / 15 / 16				X						
08 / 18 / 16					X					

PROPOSED NEW CONSTRUCTION OF THE:

**PFLAUM HOME**

630 BUSHAWAY ROAD  
WAYZATA, MN

SHEET **A4** NUMBER

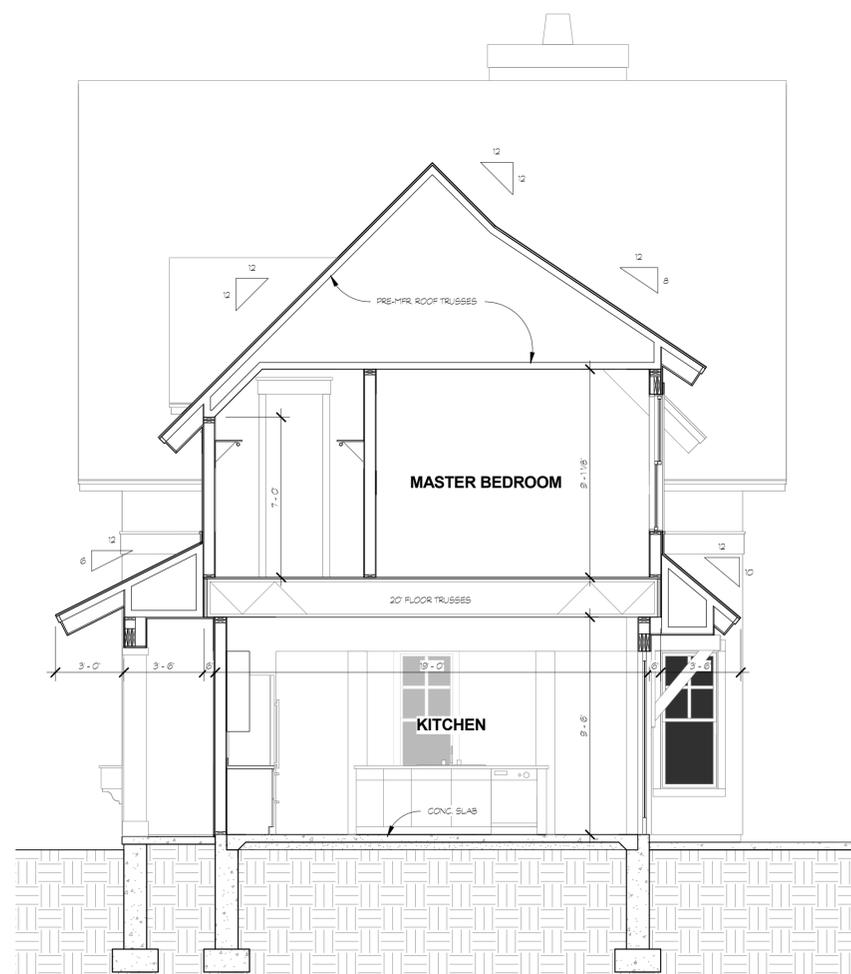
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CONSTRUCTION**



**1 FRONT ELEVATION**  
1/4" = 1'-0"



**2 LEFT ELEVATION**  
1/4" = 1'-0"



**3 BUILDING SECTION 1**  
1/4" = 1'-0"

**SHEET INDEX**

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**PROJECT TEAM**

ARCHITECT: SHARRATT DESIGN & CO. LLC

CONTACT: MIKE SHARRATT

STRUCTURAL ENGINEER

T.B.D.

GENERAL CONTRACTOR

T.B.D.

**ISSUED FOR**

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08 / 08 / 16			X							
08 / 15 / 16				X						
08 / 18 / 16					X					

PROPOSED NEW CONSTRUCTION OF THE:

**PFLAUM HOME**

630 BUSHAWAY ROAD  
 WAYZATA, MN

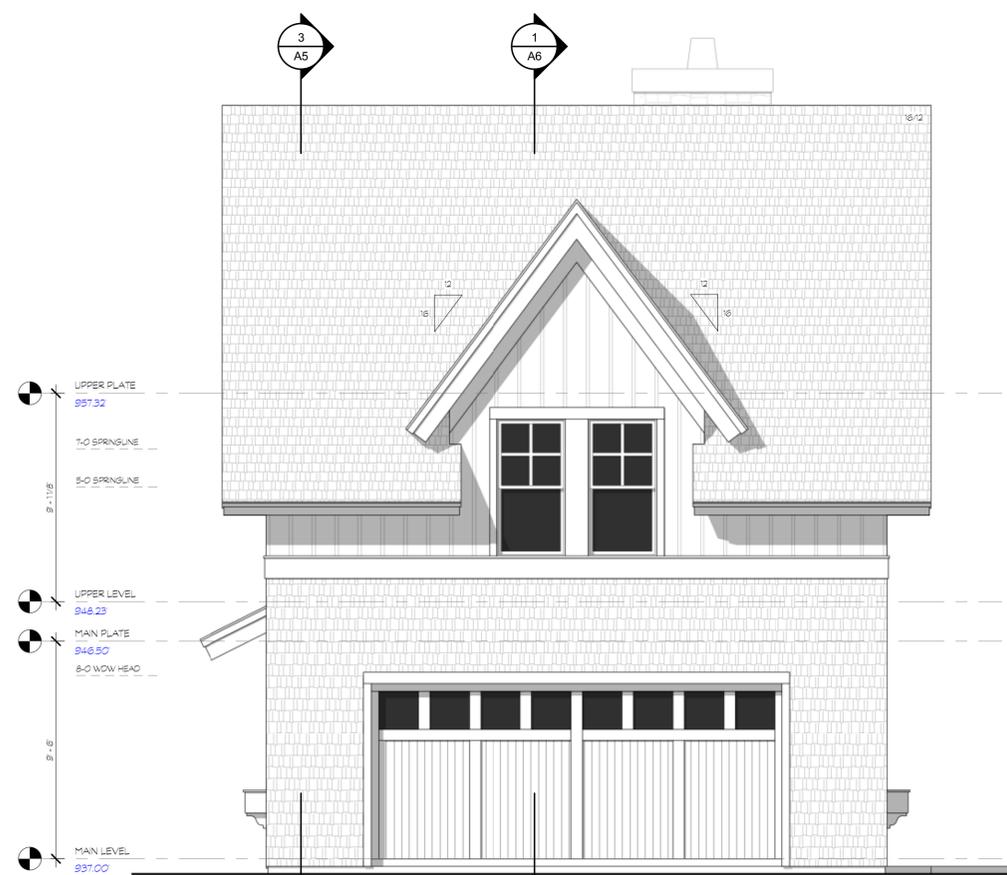
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**1 REAR ELEVATION**  
 A5 1/4" = 1'-0"

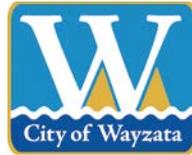


**2 RIGHT ELEVATION**  
 A5 1/4" = 1'-0"



**3 BUILDING SECTION 2**  
 A5 1/4" = 1'-0"





## WAYZATA PLANNING COMMISSION

October 3, 2016

### REPORT AND RECOMMENDATION OF APPROVAL OF VARIANCES AND CONDITIONAL USE PERMITS FOR A NEW RESIDENCE AT 630 BUSHAWAY ROAD

DRAFT

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#### SUMMARY OF RECOMMENDATION

Approval\* of Variances from the R-1A Zoning District standards  
Approval\* of Variance from the Shoreland Overlay District Setback standard  
Approval\* of Conditional Use Permit for Fence  
Approval\* of Conditional Use Permit for Non-conforming Lot size and width

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

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#### REPORT AND RECOMMENDATION

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

- 1.1 Project. Peter Pflaum (the “Applicant”) has submitted a development application (the “Application”) requesting zoning approvals to remove an existing non-conforming house and construct a new house (the “Project”) on the property at 630 Bushaway Road (the “Property”).
- 1.2 Application Requests. As part of the Application, the Applicant is requesting approval of the following:
- A. Variances from the R-1A zoning District Standards: The Project requires the following variances from the standards of the R-1A Zoning District (the “R-1A Variances”):
1. Front yard setback variance from 45 feet to 11.8 feet
  2. Rear yard setback variance from 50 feet to 14.7 feet
  3. Lot coverage variance from 10% to 18.2%
  4. Impervious surface variance from 20% to 29.6%

- B. Variances from the Shoreland Overlay District Setback Standard: The Project requires a setback variance to 14.7 feet from the 75 feet setback required in the Shoreland Overlay District. (the “Shoreland Variance”).
- C. Conditional Use Permit for Fence: The Project would include the construction of a six-foot tall stone wall with seven-foot tall columns along the front of the Property. Fences located in the front yard that are greater than 50 percent solid matter and exceed 42 inches in height require a conditional use permit. (the “Fence CUP”).
- D. Conditional Use Permit for Non-conforming Lot: The R-1A Zoning District includes a minimum lot size of 80,000 square feet and a minimum lot width of 200 feet. The existing lot on the Property has a non-conforming lot size of 10,144 square feet, and a non-conforming lot width of 158 feet. Approval of the construction of a single-family dwelling that does not meet the minimum lot area and width requirements may be permitted as a conditional use. (the “Non-conforming Lot CUP”).

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

630 Bushaway Rd	08-117-22-23-0008	Peter Pflaum
-----------------	-------------------	--------------

1.4 Land Use. The Property is located on the shore of Lake Minnetonka, between the Lake and Bushaway Road. The Property and adjacent properties are zoned R-1A/Low Density Single Family Estate District and guided Estate Single Family under the Wayzata Comprehensive Plan.

1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Wayzata Sun Sailor* on September 8, 2016. A copy of the notice was mailed to all property owners located with 350 feet of the Property on September 9, 2016. The public hearing on the Application was held at the September 19, 2016 Planning Commission meeting.

**Section 2. STANDARDS**

2.1 Variance Standards (Sec. 801.05.1.C). The criteria for granting a variance from the standards of the Zoning Ordinance 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. 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.
- 2.2 Shoreland Setback Variance (Sec. 801.91.20). Variances may be granted by the City Council in accordance with Section 801.05 of the Zoning Ordinance in extraordinary cases, but only when the proposed use is determined to be in the public interest. The following additional criteria shall apply within shoreland areas (some of which are superseded by applicable provisions of state law and City Code):
- A. Result in the placement of an artificial obstruction which shall restrict the passage of storm and flood water in such a manner as to increase the height of flooding, except obstructions approved by the U.S. Army Corps of Engineers in conjunction with sound floodplain management.
  - B. Result in incompatible land uses or which shall be detrimental to the protection of surface and ground water supplies.

- C. Be not in keeping with land use plans and planning objectives for the City of Wayzata or which shall increase or cause danger to life or property.
  - D. Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the City of Wayzata.
  - E. Shall constitute a hardship as defined in Section 801.05 of the Zoning Ordinance.
  - F. No permit or variance shall be issued unless the applicant has submitted a Shoreland Impact Plan as required and set forth in the Zoning Ordinance. In granting any variance, the City Council may attach such conditions as they deem necessary to insure compliance with the purpose and intent of this Section.
- 2.3 Fences Allowed by Conditional Use Permit (Sec. 801.18.F). Special fencing arrangements may be approved as a conditional use permit by the City. Fences allowed by conditional use permit include fences consisting of greater than fifty (50) percent solid matter in front of the rear building line up to the front property line and not exceeding a height of eight (8) feet. Standards for evaluating fence conditional use permits are as follows:
- A. The fence placement, height or design does not create a safety hazard with regard to, from or on a public street or roadway.
  - B. The fence placement, height or design does not create a safety problem or negatively affect adjoining properties or use.
  - C. The provisions of Section 801.04.2.F of the Zoning Ordinance are considered and satisfactorily met, which requires City Council to consider possible adverse effects of the proposed conditional use. Their 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 propose 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.
- 2.4 Non-conforming Lot CUP (Sec. 801.15.B.6.a). Legal non-conforming residential lots that are being redeveloped, where the measurements of such lot's area and width do not comply with subsection (B) (6) (a) (i) of Sec. 801.15 of the Zoning Ordinance, may be approved for the construction of a single family dwelling pursuant to a conditional use permit, subject to and regulated by Section 801.04 of the Zoning Ordinance for CUPs.

### 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 R-1A Variances. The R-1A Variances do not change the current single family residential use. The R-1A Variances requested are in harmony with the general purposes and intent of the Ordinance and are consistent with the Comprehensive Plan.
- A. The Property's legal nonconforming lot area and lot depth are substandard for the R-1A District, and narrowly positioned between a busy roadway and Lake Minnetonka, which create practical difficulties in complying with the R-1A zoning district requirements.
  - B. The R-1A Variances requested are reasonable, due to circumstances driven by the existing lot layout and a desire to preserve and significantly enhance the existing character of the Property, and if granted would not alter the essential character of the locality.
  - C. The practical difficulties necessitating the R-1A Variances are not economic in nature. The existing layout of the Property and a desire to preserve the character of the property are significant factors in the practical difficulty with meeting the ordinance requirements.
  - D. The proposed uses for the Property are permitted within the R-1A District.

- E. The conditions for granting approval of the R-1A Variances listed below in Section 4 of this Report should be considered by City Council.
  - F. The Applicant has provided the reasons that the R-1A Variances are justified under applicable criteria in order to make reasonable use of the land, structures and buildings on the Property.
- 3.2 Shoreland Setback Variance (Sec. 801.91.20). The following conditions are met for the setback requested in the Shoreland Variance (the "Setback"):
- A. The conditions of Section 801.05 of the Zoning Ordinance have been met as noted in Sec. 3.1 of this Report. The conditions of Section 801.91.20 of the Zoning Ordinance are also satisfactorily met:
    - 1. This is an extraordinary case and in the public interest, given the legal non-conforming lot on the edge of Lake Minnetonka at the entrance to the City of Wayzata from the South.
    - 2. The Setback will not adversely impact views of the shoreline or lake for adjacent neighboring principal structures.
    - 3. The Setback is based upon a specific need or circumstance which is unique to the Property in question and will not set a precedent which is contrary to the intent of the Zoning Ordinance.
    - 4. A shoreland impact plan has been submitted and approved as required and set forth in Section 801.91.19 of the Zoning Ordinance.
- 3.3 Fence CUP. The proposed fence (the "Fence") is of the type allowed by conditional use permit, and it meets the following standards:
- A. The Fence placement, height and design does not create a safety hazard with regard to, from or on a public street or roadway, including Bushaway Road.
  - B. The Fence placement, height and design does not create a safety problem or negatively affect adjoining properties or use, including the adjacent trail and residential properties.
  - C. The provisions of Section 801.04.2.F of the Zoning Ordinance are met, and the possible adverse effects of the proposed conditional use have been considered. The Fence CUP should be issued based on the following factors:
    - 1. The Fence does not contravene any specific policies or provisions of the official City Comprehensive Plan.

2. The Fence is compatible with present and future uses of the area, in which there are similar fences.
3. The Fence conforms with all performance standards contained herein (i.e., parking, loading, noise, etc.).
4. The Fence will not have a negative effect on the area in which it is proposed.
5. The Fence will not have a negative impact upon property values in the area in which it is installed.
6. The Fence will not generate any traffic.
7. The Fence will not have an impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

3.4 Non-conforming Lot CUP. The proposed construction and use of a single family dwelling on the Property (the "Proposed Use"), which is non-conforming in terms of lot size and width, 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.
2. The Proposed Use is compatible with present and future uses of the area, in which there are similar residential uses.
3. The Proposed Use conforms with all performance standards contained herein (i.e., parking, loading, noise, etc.) except those for which a variance or CUP is being requested.
4. The Proposed Use will not have a negative effect on the area in which it is proposed, as the residential use will remain unchanged.
5. The Proposed Use will not have a negative impact upon property values in the area and may have a positive impact given the significant investment on redevelopment and improvements to the Property.
6. The Proposed Use will not generate any traffic above the current residential use.

7. The Proposed Use will not have an impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

#### **Section 4. RECOMMENDATION**

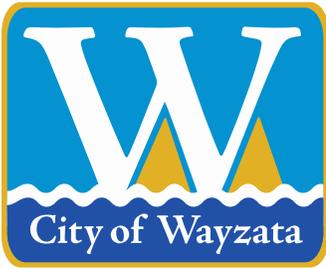
- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends approval of all requests of the Application listed in Section 1.2 of this Report, subject to the following conditions:
  - A. The Applicant must submit a proposed landscaping plan for review by City staff. The landscaping plan must meet the tree replacement requirements in City Code Section 801.36.8.
  - B. The Applicant must enter into a Stormwater Maintenance Agreement with the City that covers design, installation, maintenance, and inspection of all stormwater management systems approved as part of this Application, which must be recorded against the Property.
  - C. The City Engineer's approval must be secured for a grading plan, prior to any construction work on the Property so that land disruption is minimized.
  - D. The Applicant must secure all necessary building permits for construction, and all laws and regulations applicable to the Project.
  - E. All expenses of the City of Wayzata, including consultant, expert, legal, and planning incurred must be fully reimbursed by the Applicant.

Adopted by the Wayzata Planning Commission this 3rd day of October 2016.

Voting In Favor:

Voting Against:

Abstaining:



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

---

**Mayor:**  
Ken Willcox

**City Council:**  
Bridget Anderson  
Johanna McCarthy  
Andrew Mullin  
Steven Tyacke

**City Manager:**  
Jeffrey Dahl

Date: September 30, 2016  
To: Planning Commission  
From: Jeff Thomson, Director of Planning and Building  
Subject: Enclave at Crossdale – PUD Amendment

### **Application Information**

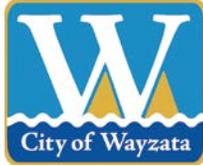
The property owner is proposing to amend the PUD concept and general plans for the Enclave at Crossdale development at 202 to 217 Byrondale Ave N. The proposed PUD amendment would remove a portion of the public trail which runs along the south side of the cul-de-sac and connects from Byrondale Ave to Central Ave.

### **Planning Commission Review**

The Planning Commission reviewed the development application and held a public hearing at its meeting on September 19, 2016. The Planning Commission discussion indicated varying opinions on whether the Commission should recommend approval of the PUD amendment. After discussing the application, the Planning Commission directed staff to prepare a Report and Recommendation recommending approval of the development application for consideration at its next meeting when additional commissioners would be present.

### **Planning Commission Action**

City staff has drafted the attached Planning Commission Report and Recommendation. The Report and Recommendation recommends approval of the PUD amendment for Enclave at Crossdale.



**Planning Report  
Wayzata Planning Commission  
September 19, 2016**

**Project Name:** Enclave at Crossdale  
**Applicant** Crossdale Development, LLC  
**Addresses of Request:** 202-217 Byrondale Ave North  
**Prepared by:** Jeff Thomson, Director of Planning and Building  
**“60 Day” Deadline:** October 14, 2016

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## **Development Application**

### Introduction

The property owner, Crossdale Development, LLC is proposing to amend the PUD concept and general plans for the Enclave at Crossdale development at 202 to 217 Byrondale Ave N. The proposed PUD amendment would remove a portion of the public trail which runs along the south side of the cul-de-sac and connects from Byrondale Ave to Central Ave.

### Property Information

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

Address	PID	Owner
202 Byrondale Ave N	06-117-22-14-0089	Wooddale Builders Inc
205 Byrondale Ave N	06-117-22-14-0090	Crossdale Development, LLC
208 Byrondale Ave N	06-117-22-14-0088	Crossdale Development, LLC
211 Byrondale Ave N	06-117-22-14-0091	Crossdale Development, LLC
214 Byrondale Ave N	06-117-22-14-0087	Crossdale Development, LLC
217 Byrondale Ave N	06-117-22-14-0092	Crossdale Development, LLC

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

Current zoning:	PUD/Planned Unit Development
Comp plan designation:	Low Density Single Family

### Project Location

The properties are located on Byrondale Avenue on the west side of Central Avenue.

Map 1: Project Location



Application Requests

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

- A. Amendment to the PUD Concept and General Plans: In 2014, the City Council approved the concurrent PUD concept and general plans for the Enclave at Crossdale Development. The PUD ordinance states that any alteration in a project for a PUD requires an amendment to the PUD. (City Code Section 801.33.9.A)

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	Single-family homes	R-3A/Single and Two Family Residential District	Low Density Single Family
East	Central Avenue	N/A	N/A
South	Single-family homes	PUD/Planned Unit Development	Low Density Single Family
West	Single-family homes	R-3A/Single and Two Family Residential District	Low Density Single Family

Public Hearing Notice

The public hearing notice was published in the *Wayzata Sun Sailor* on September 8, 2016. The public hearing notice was also mailed to all property owners located within 350 feet of the subject property on September 9, 2016.

## **Analysis of Application**

### Background Information

The City Council approved the PUD concept and general plans for the Enclave at Crossdale development, a six lot single-family residential subdivision, on December 2, 2014. The PUD plans include a public trail across the development that would provide a public, non-motorized trail connection from Wooddale Avenue to Central Avenue. The trail runs along the south side of Lot 5, around the south side of the private cul-de-sac on Lots 3 and 4, and along the south side of Lot 2.

### Proposed Plan

The applicant is proposing to an amendment to the PUD plans. The proposed amendment would retain the trail connection from Wooddale Avenue to the new private street. However, the proposed amendment would remove the public trail along the south side of the cul-de-sac and to Central Avenue.

### PUD Standards

The PUD ordinance requires common private or public open space and facilities and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD. The PUD ordinance allows for dedication to the public where a community-wide use is anticipated and the City Council agrees to accept the donation. The public trail was included in the PUD to satisfy the requirements of the PUD ordinance, and was accepted by the City Council in lieu of park dedication fees.

## **Applicable Code Provisions for Review**

### PUD Purpose (Section 801.33.1)

This Section is established to provide comprehensive procedures and standards designed to all greater flexibility in the development of neighborhoods and/or non-residential areas by incorporating design modifications as part of a PUD conditional use permit or a mixture of uses when applied to a PUD District. The PUD process, by allowing deviation from the strict provisions of this Ordinance related to setbacks, lot area, width and depth, yards, etc., is intended to encourage:

- A. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and placement of structures and by the conservation and more efficient use of land in such developments.
- B. Higher standards of site and building design through the use of trained and experienced land planners, architects, landscape architects, and engineers.

- C. More convenience in location and design of development and service facilities.
- D. The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.
- E. A creative use of land and related physical development which allows a phased and orderly development and use pattern.
- F. An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments.
- G. A development pattern in harmony with the objectives of the Wayzata Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principles.)
- H. A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.

PUD General Standards (Section 801.33.2.A): The PUD ordinance includes the following general standards pertaining to parks and open space:

1. In its review of any application under this Section, the City Council shall consider comments on the application of those persons appearing before the Council, the report and recommendations of the Planning Commission, the recommendations of the Design Review Board and any staff report on the application. The Council also shall evaluate the effects of the proposed project upon the health, safety and welfare of residents of the community and the surrounding area and shall evaluate the project's conformance with the overall intent and purpose of this Section. If the Council determines that the proposed project will not be detrimental to the health, safety and welfare of residents of the community and the surrounding area and that the project does conform with the overall intent and purpose of this Section, it may approve a PUD permit, although it shall not be required to do so.
3. Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.
5. Common Open Space. Common private or public open space and facilities at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and

enjoyment of the residents of the PUD shall be provided within the area of the PUD development.

6. Operating and Maintenance Requirements for PUD Common Open Space Facilities. Whenever common private or public open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common private or public open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council: (a) dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication; (b) landlord control, where only use by tenants is anticipated; or (c) Property Owners Association, provided all of the conditions of 801.33.2.A.6.c are met
  
7. Staging of Public and Common Open Space. When a PUD provides for common private or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

### **Action Steps**

After considering the items outlined in this report and the public hearing held at the meeting, the Planning Commission should direct staff to prepare a *Planning Commission Report and Recommendation*, with appropriate findings, reflecting a recommendation on the application for review and adoption at the next Planning Commission meeting.

### **Attachments**

- Attachment A: Applicant's Narrative
- Attachment B: Approved PUD Concept and General Plan
- Attachment C: Proposed PUD Concept and General Plan Amendment



August 9, 2016

Members of the Planning Commission  
City of Wayzata, MN

RE: Request for Amendment to Planned Unit Development (PUD) for the Enclave at Crossdale  
Crossdale Development, LLC

Dear Members of the Planning Commission,

In 2014, Crossdale Development, LLC received PUD approval of the Enclave at Crossdale to develop a six-lot subdivision off of Byrondale Avenue ("Byrondale") and Central Avenue ("Central"). The PUD included six lots, a private cul-de-sac and a small path/trail which was planned to connect Central with Wooddale east-to-west through the site (See Attached Exhibit A: Approved Site Plan). During the review process, the subject of the trail was regularly discussed, particularly as it related to the potential for 'cut-through' traffic. The adjacent neighborhood wanted to ensure that the trail would only promote pedestrian and bicycle traffic, and would predominantly be used by those in the surrounding neighborhoods. In response, we planned for a small, 4 ½-foot wide concrete path that would run along the southern property line of Lot 2 and Lot 5. In exchange for the trail and associated easement, the city waived park fees that would have been due for the three additional lots that were created in the development.

Since our site work is nearing completion and homes are under construction we are now faced with a few concerns regarding the approved trail plan. Earlier this spring we sat down with the city staff to communicate our concerns and brainstorm some potential solutions. Staff was very helpful in helping us think through the possible solutions, and communicated to us that any material changes to the trail (i.e. vacation, installation of a gate, relocation outside the easement, etc.) would require an amendment to the PUD. Armed with that information, we decided to explore every option that would not require an amendment, but eventually came up short in identifying a solution that would address all of our concerns. Ultimately we concluded that we believe our best option is to request an amendment to the PUD to i) vacate portions of the trail easement resulting in a reduced quantity of planned trail as shown on Exhibit 2; (ii) modify slightly the trail and easement location on Lot 5; and, (iii) in exchange, if permitted to vacate portions of the trail, pay the adjusted requisite park dedication fee in-lieu. In the supplemental narrative we have outlined our concerns supporting our request. We are hopeful that you will consider our application and work with us to resolve our concerns, resulting in what we think will be a better, and safer, development.

Thank you for your time and consideration and we look forward to discussing this application with you at an upcoming meeting.

Sincerely,

Susan H. Seeland

### **Concern #1: Safety of the Trail Connection on and through Lot #2**

Our most significant concern, and that which finally pushed us to apply for an amendment, is the safety of the trail connection from Lot 2 with the sidewalk on Central. We began the site development work in the spring of 2015 that included grading and setting the house pads. Once the final grade of the cul-de-sac was constructed, we stood on the site - and then stood on the sidewalk on Central – and for the first time we were genuinely concerned. What was not apparent when we were going through the planning and entitlement process was how much the grade would change from the cul-de-sac to the east, particularly where the trail connects with the sidewalk on Central from Lot 2. While we knew that the existing sidewalk on Central was literally on Central with only a curb separating the sidewalk from the road, what was less obvious from the plan was how the slope (or grade) would *feel*. If you were traveling by bike for example east from the private cul-de-sac on the trail it would be very difficult to make the turn onto the Central sidewalk, which is further complicated by the relatively small width of the sidewalk. If anyone overshoots it, by even a fraction, they would end up in the middle of road. Since the trail is in our development, the safety of anyone using the trail is our paramount concern, and especially for any child or teenager that may come barreling through the trail on their bike and not realize how sharp of a turn would be required to make it onto the Central sidewalk safely.

Over the past several months of site work we have brainstormed several ideas which could offer some mitigation to this issue. One of options considered was to install a ‘jog/offset’ in the fence and weave the trail through the opening. We concluded that this is not a viable option for two reasons 1) those unfamiliar with the trail are the most likely to try and speed through it, without knowing what’s on the other side, and 2) the jog creates a bit of an obstacle for the user, and could result in crashes and additional safety concerns. A second option we considered was installing stairs where the slope is most significant. However, we concluded that this option is equally as troubling since the stairs may not be immediately visible from the top of the cul-de-sac, and a biker may miss them altogether. The third option we considered, installing a gate, seems like the only solution that would guarantee to ‘interrupt’ travel (i.e. forces someone to get off their bike). While this may be a viable option – we are unsure whether this segment of the trail will even be used with regularity from the neighborhood. Since a pedestrian or biker would need to go to the stoplight at Central & Wayzata Blvd. to cross into the Lunds development it seems more likely that anyone on Byrondale, or in our neighborhood, would use the trail between Lots 4 and 5 to connect to Wooddale Avenue, which is more hospitable than the sidewalk on Central. Likewise, if someone is interested in going down to the Lake Street area they would likely use the same trail between Lot 4 and 5 and either head out near Walgreens, or would travel down Benton Avenue.

After evaluating the different options, and considering the likely routes a pedestrian or biker may use, we concluded that the we believe the safest option would be to simply remove this segment of the trail from Lot 2, and to close in the fence line.

### **Concern #2: Noise Mitigation**

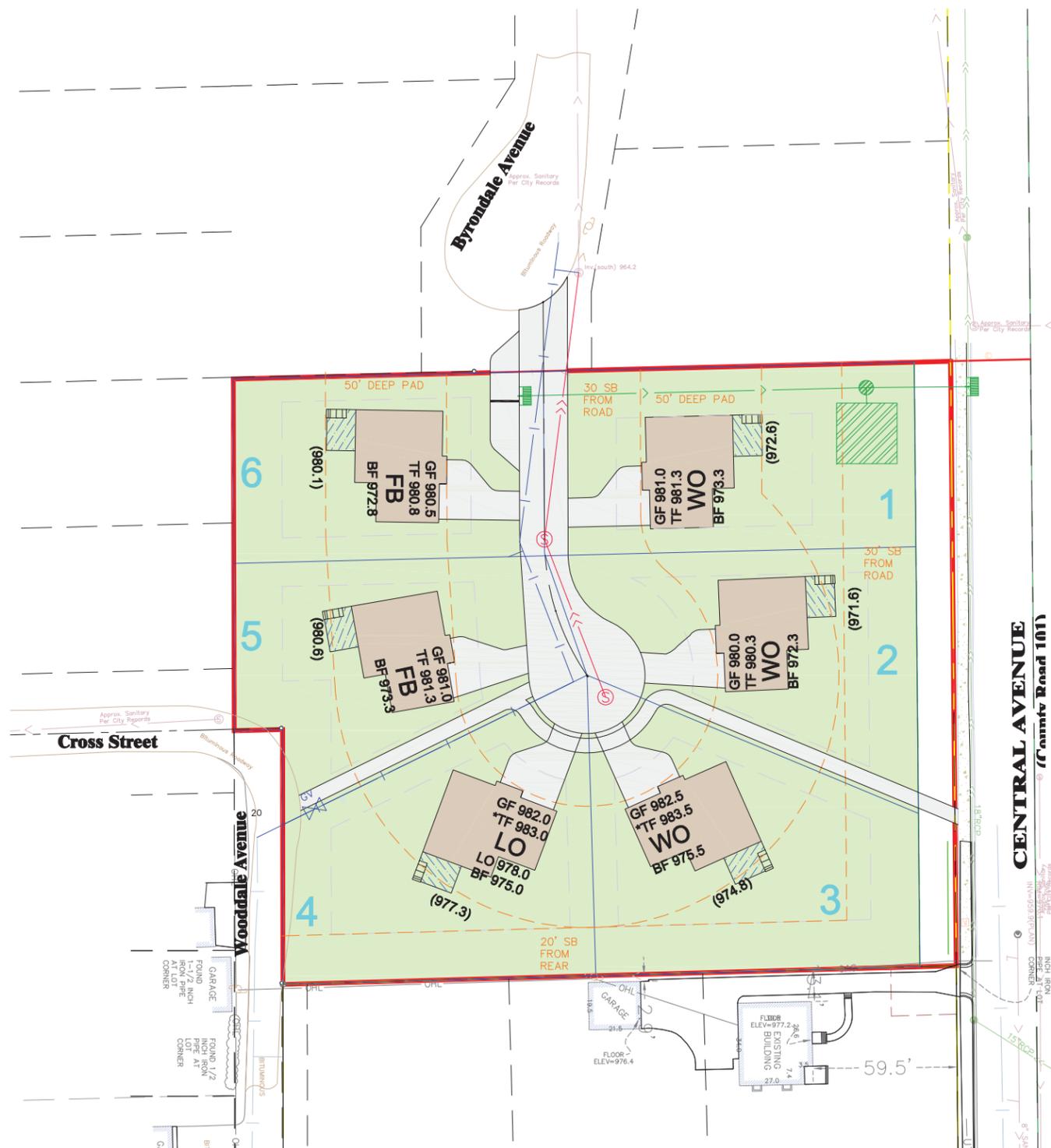
In addition to the safety concerns expressed above, we are also troubled by the somewhat unexpected sound affect that is created by such a large gap in the fence line along Central. During the review process we stated that our primary objective of installing the fence on the rear yards of Lot 1, 2, and 3 was to provide sound/noise mitigation to the future homeowners' backyards. While the majority of the fence is effective and has accomplished that goal, the large 15-foot gap where the trail corridor is planned has turned into a sound tunnel, almost amplifying the noise.

Not surprisingly this has become a concern to our builder who is currently constructing a home on Lot 3. We have discussed the various options above with him, and he, as well as prospective buyers, have all generally questioned whether this section of trail will be used regularly. While we agree that the trail connection to Wooddale between lots 4 and 5 will be used by the neighborhood, after observing current activity on the Central sidewalk, we are unconvinced that the segment on Lot 2 would be used. To achieve our sound mitigation objective, our first preference is to vacate the trail and its easement and allow for the current 'gap' in the fence to be closed. However, if vacating the trail is not an option, then as identified previously, we propose a gate be installed and the opening closed. This would also accomplish a significant reduction in noise pollution at the rear of Lots 2 and 3, with only intermittent noise created when the gate is opened by the trail users.

### **Concern #3: Coverage on Lot 5**

Finally, we agree that the trail between Lot 4 and 5 will be used and we believe this trail segment will be a good addition to the neighborhood. During the initial review process we were focused on coverage across the whole development, rather than on an individual lot basis since we did not have full architectural plans created for each lot. After the builder reviewed each lot, it became apparent that the coverage on Lot 5 is rather constrained because it is smaller and would be required to account for the trail in its entirety. While we would likely not have made this request separately, since we are working through the amendment process we thought it prudent to address this now before a buyer is working on plans for Lot 5. In an effort to help with the coverage requirements we would respectfully request approval to modify the location of the trail and the trail easement shifting it south so that half of the trail and trail easement would be located on Lot 4 and half would be located on Lot 5.

# Exhibit A: Approved PUD Site Plan



LOT STANDARDS	
R-3A - ZONING	MIN LOT AREA-9,000 SF
	MIN LOT DEPTH-100'
	MIN LOT WIDTH-60'
	MIN. FRONT YARD SETBACK = 20'
	MIN. SIDE YARD SETBACK = 10'
	MIN. REAR YARD SETBACK = 20'
EXISTING ZONING: R-3A	PROPOSED ZONING: R-3A
WETLAND BUFFER-30'	WETLAND SETBACK- N/A APPLICABLE

SHEET INDEX TABLE	
SHEET	Description
1	Title Sheet
2	Street Plan
3	Utility Plans
4	Grading Plan
5	Erosion Control Plan
6	Hardcover Calculations
7	Tree Survey
8	Preliminary Plat
9	Final Plat
10	ALTA Boundary Survey
L1	Landscape Plan

**CLIENT/DEVELOPER**  
 CROSSDALE DEVELOPMENT, LLC.  
 6851 Flying Cloud Dr.  
 Eden Prairie, MN 55344  
 Contact: Susan Seeland  
 T-612-991-1823

**SWANSON HASKAMP CONSULTING, LLC.**  
 Contact: Jennifer Haskamp  
 T-651-699-5899

**LAND SURVEYOR/CIVIL ENGINEER**  
 SATHRE-BERGQUIST INC.  
 150 S. Broadway Ave.  
 Wayzata, MN 55391  
 Contact 1: Dan Schmidt  
 Contact 2: Daniel Grannes  
 T-952-476-6000  
 F-952-476-0104

EXISTING UTILITIES SHOWN ARE SHOWN IN AN APPROXIMATE WAY ONLY. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ANY AND ALL EXISTING UTILITIES BEFORE COMMENCING WORK. HE AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES ARISING OUT OF HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL EXISTING UTILITIES.

DRAWING NAME	NO.	BY	DATE	REVISIONS
BASE	01	DSG	11-06-2014	NEW CONCEPT
DRAWN BY				
DSG				
CHECKED BY				
DLS				
DATE				
04/22/14				

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

*Daniel Schmidt*  
 Name, P.E.  
 Date: May 1, 2014 Lic. No. 26147

**SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

ENGINEERS SURVEYORS  
 DESIGNERS PLANNERS

CITY PROJECT NO.  
 ---

**WAYZATA, MINNESOTA**

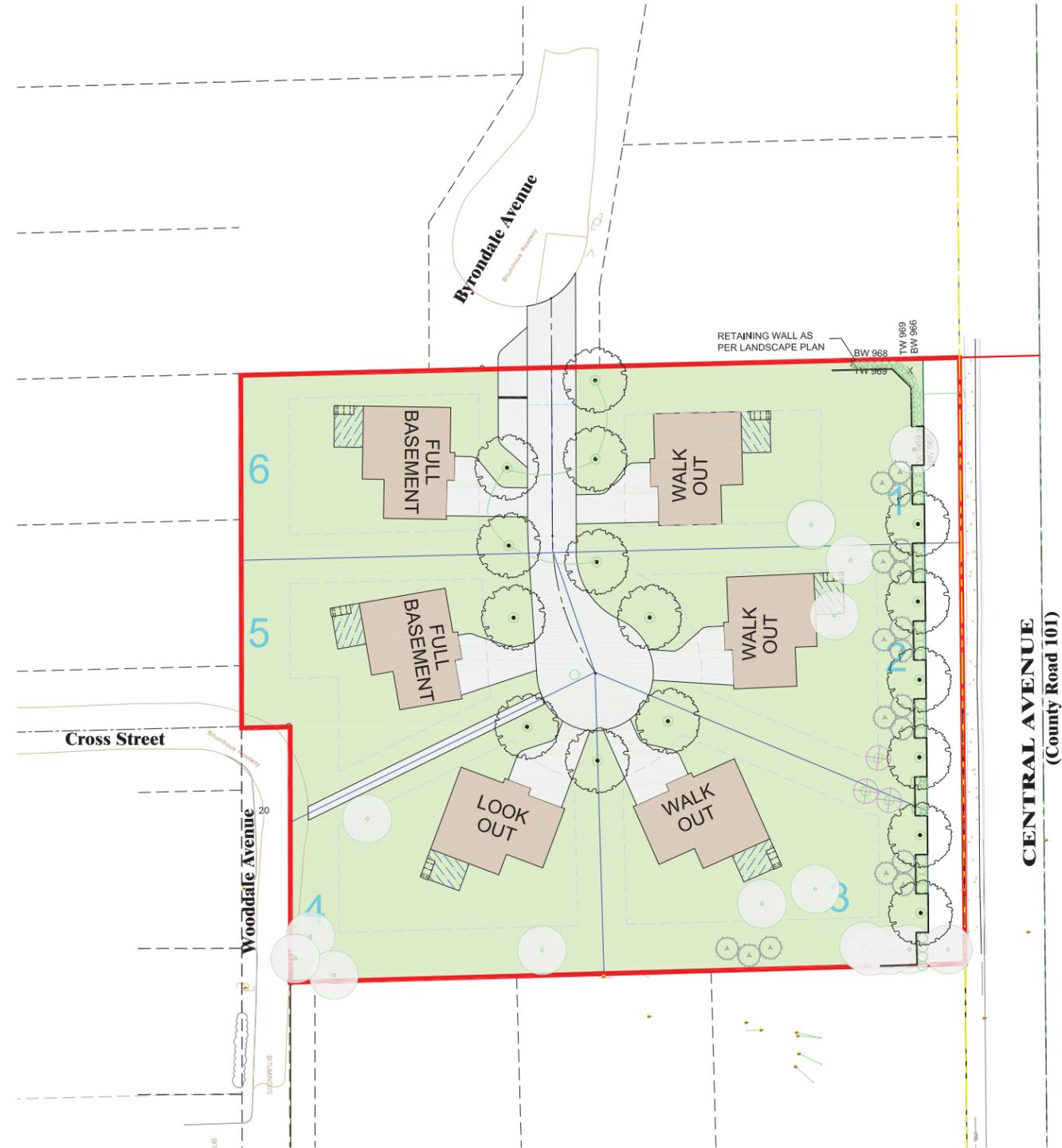
TITLE  
 ENCLAVE AT CROSSDALE  
 CROSSDALE DEVELOPMENT, LLC

PG 101/3/2016  
 Page 101 of 156

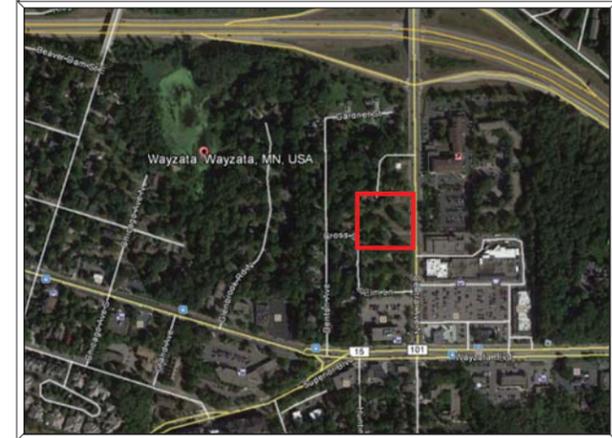
FILE NO.  
 7282-007

1  
 11

# Exhibit B: Proposed Revised Trail Plan



## VICINITY MAP



## LOT STANDARDS

R-3A - ZONING  
 MIN LOT AREA-9,000 SF  
 MIN LOT DEPTH-100'  
 MIN LOT WIDTH-60'  
 MIN. FRONT YARD SETBACK = 20'  
 MIN. SIDE YARD SETBACK = 10'  
 MIN. REAR YARD SETBACK = 20'

EXISTING ZONING: R-3A  
 PROPOSED ZONING: R-3A

WETLAND BUFFER-30'  
 WETLAND SETBACK- N/A APPLICABLE



## SHEET INDEX TABLE

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### CLIENT/DEVELOPER

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EXISTING UTILITIES SHOWN ARE SHOWN IN AN APPROXIMATE WAY ONLY. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ANY AND ALL EXISTING UTILITIES BEFORE COMMENCING WORK. HE AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES ARISING OUT OF HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL EXISTING UTILITIES.

DRAWING NAME	NO.	BY	DATE	REVISIONS
BASE	01	DSG	11-06-2014	NEW CONCEPT
DRAWN BY	02	DSG	11-13-2014	TRP UPDATE FOR POSSIBLY SAVED
DSG	03	DSG	03-23-2015	PRECON
CHECKED BY	04	DLS	06-05-2015	REVISED GRADING ON LOT 1
DLS	05	DLS	08-08-2016	REMOVED EAST HALF OF TRAIL
DATE				
04/22/14				

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

*Daniel L. Schmidt*  
 Daniel L. Schmidt, P.E.  
 Date: May 1, 2014 Lic. No. 26147

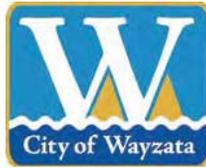


**SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

CITY PROJECT NO.  
 ---  
**WAYZATA, MINNESOTA**

TITLE  
**ENCLAVE AT CROSSDALE DEVELOPMENT**  
 PC-10/3/2016  
 Page 1 of 156

FILE NO.  
 7282-007  
**1**  
**11**



## WAYZATA PLANNING COMMISSION

October 3, 2016

### REPORT AND RECOMMENDATION OF APPROVAL WITH CONDITIONS FOR PUD AMENDMENT FOR 202-217 BYRONDALE AVE NORTH

#### SUMMARY OF RECOMMENDATIONS

1. Approval of Amendment to PUD *with conditions*
- 

#### REPORT

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

- 1.1 Project. Crossdale Development, LLC and Wooddale Builders, Inc. (collectively, the “Applicant”) has submitted an application (the “Application”) for approval of a Amendment to an existing Planned Unit Development (PUD) (the “PUD Amendment”) at 202-217 Byrondale Ave North (the “Property”) to remove a portion of the public trail which runs along the south side of the cul-de-sac and connects from Byrondale Ave to Central Ave as depicted on Attachment A attached hereto (the “Revised Trail”).

The City Council approved the PUD concept and general plans for the Enclave at Crossdale development, a six lot single-family residential subdivision, on December 2, 2014. The PUD plans include a public trail across the development that would provide a public, non-motorized trail connection from Wooddale Avenue to Central Avenue. The trail runs along the south side of Lot 5, around the south side of the private cul-de-sac on Lots 3 and 4, and along the south side of Lot 2. The proposed PUD Amendment would retain the trail connection from Wooddale Avenue to the new private street but remove the public trail along the south side of the cul-de-sac and to Central Avenue.

- 1.2 Application Requests. As part of the Application, the Applicant is requesting approval of the following items:

- A. Amendment to existing PUD under Section 801.33.9 to amend the previously approved concept and general plans to reflect the Revised Trail (the "PUD Amendment").

- 1.3 Legal Description. The address, property identification number and owner of the property included in the Application (the "Property") are:

202 Byrondale Ave N	06-117-22-14-0089	Wooddale Builders Inc
205 Byrondale Ave N	06-117-22-14-0090	Crossdale Development, LLC
208 Byrondale Ave N	06-117-22-14-0088	Crossdale Development, LLC
211 Byrondale Ave N	06-117-22-14-0091	Crossdale Development, LLC
214 Byrondale Ave N	06-117-22-14-0087	Crossdale Development, LLC
217 Byrondale Ave N	06-117-22-14-0092	Crossdale Development, LLC

- 1.4 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Wayzata Sun Sailor* on September 8, 2016. A copy of the notice was mailed to all property owners located within 350 feet of the Property on September 9, 2016. A public hearing on the Application was held at the September 19, 2016 Planning Commission Meeting.

## Section 2. STANDARDS

### 2.1 PUD Amendment.

- A. Process. Section 801.33.9 of the Zoning Ordinance provides that the same review procedure is followed by the Planning Commission and City Council for an amendment of a PUD permit as is followed for a new PUD. The affirmative majority vote (3 of 5) of the City Council is required for approval of an amendment of a PUD.
- B. Intent and Purpose of PUDs. Section 801.33 of the Zoning Ordinance provides for the establishment of Planned Unit Developments to allow greater flexibility in the development of neighborhoods and/or non residential areas by incorporating design modifications as part of a PUD conditional use permit or a mixture of uses when applied to a PUD District. The PUD process, by allowing deviation from the strict provisions of the Zoning Ordinance related to setbacks, lot area, width and depth, yards, etc., is intended to encourage:
1. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in

type, design, and placement of structures and by the conservation and more efficient use of land in such developments.

2. Higher standards of site and building design through the use of trained and experienced land planners, architects, landscape architects, and engineers.
  3. More convenience in location and design of development and service facilities.
  4. The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.
  5. A creative use of land and related physical development which allows a phased and orderly development and use pattern.
  6. An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments.
  7. A development pattern in harmony with the objectives of the Wayzata Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principles.)
  8. A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.
- C. General Standards. Section 801.33.2.A of the Zoning Ordinance sets forth the general standards for review of any PUD application. These are:
1. Health Safety and Welfare; Intent and Purpose of PUDs. In reviewing the PUD application, the Council shall consider comments on the application of those persons appearing before the Council, the report and recommendations of the Planning Commission, the recommendations on design and any staff report on the application. The Council also shall evaluate the effects of the proposed project upon the health, safety and welfare of residents of the community and the surrounding area and shall evaluate the project's conformance with the overall intent and purpose of Section 33 of the PUD Ordinance. If the Council determines that the proposed project will not be detrimental to the health, safety and welfare of residents of the community and the surrounding area and that the project does conform with the overall intent and purpose of Section 33 of the PUD Ordinance, it may approve the PUD, although it shall not be required to do so.

2. Ownership. Applicant/s must own all of the property to be included in the PUD.
3. Comprehensive Plan Consistency. The PUD project must be consistent with the City's Comprehensive Plan.
4. Sanitary Sewer Plan Consistency. The PUD project must be consistent with the City's Sanitary Sewer Plan.
5. Common Open Space. The PUD project must provide common private or public open space and facilities at least sufficient enough to meet the minimum requirements established in the Comprehensive Plan, and contain provisions to assure the continued operation and maintenance of such.
6. Operating and Maintenance Requirements. Whenever common private or public open space or service facilities are provided within a PUD, the PUD plan must contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common private or public open space and service facilities within a PUD must be placed under the ownership of one of the following, as approved by the City Council:  
(i) dedicated to the public, where a community-wide use is anticipated,  
(ii) Landlord control, where only tenant use is anticipated, or  
(iii) Property Owners Association, provided the conditions of 801.33.2.A.6.c are met.
7. Staging of Public and Common Open Space. When a PUD provides for common private or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
8. Density. The PUD project must meet the density standards agreed upon by the applicant and City, which must be consistent with the Comprehensive Plan.
9. Utilities. All utilities associated with the PUD must be installed underground and meet the utility connection requirements of Section 801.33.2.A.10.
10. Utility Connections. All utilities associated with proposed PUD must meet the utility connection requirements of Section 801.33.2.A.10.

11. Roadways. All roadways associated with the PUD must conform to the Design Standards and Wayzata Subdivision Regulations, unless otherwise approved by City Council.
12. Landscaping. All landscaping associated with the PUD must be according to a detailed plan approved by the City Council. In assessing the plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure and the overall scheme of the PUD plan.
13. Setbacks. The front, rear and side yard restrictions on the periphery of the Planned Unit Development site at a minimum shall be the same as imposed in the underlying districts, if a PUD conditional use permit, or the previous zoning district, if a PUD District. No building shall be located less than fifteen (15) feet from the back of the curb line along those roadways which are part of the internal street pattern. No building within the PUD project shall be nearer to another building than one-half (1/2) the sum of the building heights of the two (2) buildings. In PUD Districts for parcels that were zoned commercial prior to PUD and which exceed 13 acres, the allowable setbacks shall be as negotiated and agreed upon between the applicant and the City.
14. Height. The maximum building height to be considered within a PUD District shall be thirty five (35) feet and three (3) stories, whichever is lesser. There shall be no deviation from the height standards applied within the applicable zoning districts for PUD conditional use permits. In PUD Districts for parcels that were zoned commercial prior to PUD and which exceed 13 acres, the maximum allowable height and number of floors shall be as negotiated and agreed upon between the applicant and the City.

### 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 PUD Amendment.

- A. Health Safety and Welfare; Intent and Purpose of PUDs. The PUD Amendment (resulting in the "Amended PUD") conforms with the overall intent and purpose of a PUD as outlined in Section 33 of the Zoning Ordinance.
- B. Intent and Purpose of PUDs. The Amended PUD would encourage:

1. The conservation and more efficient use of land in the PUD.
  2. The preservation and enhancement of desirable site characteristics, including the natural topography along the Central Avenue side of the PUD and help prevent of soil erosion.
  3. A creative use of land and related physical development which allows a phased and orderly development and use pattern, in that the Revised Trail would be a better use of space within the PUD and would be safer for the residents of the PUD and surrounding areas.
  4. An efficient use of land resulting in smaller networks of walkways thereby lower development costs and public investments.
- C. General Standards. The Amended PUD, as presented, satisfies all of the fourteen (14) general standards listed in Section 801.233.2.A and in Section 2.1 of this Report.
1. Application Complete. The Application contains all of the information and materials required by or requested pursuant to Section 801.33.5.C.
  2. Ownership. All of the property to be included in the Amended PUD is owned by Applicant.
  3. Comprehensive Plan. The proposed Amended PUD conforms with the applicable guidance of, and is consistent with the goals of the Comprehensive Plan.
  4. Common Space. The Amended PUD would provide sufficient common private or public open space and facilities, and Applicant has agreed to pay a Parkland Dedication Fee in lieu of the public trail space that is being lost with the Revised Trail.
  5. Landscaping. Landscaping in the Amended PUD would be according to the original landscape plan approved by the City Council.
  6. Health, Safety, and Welfare. The Amended PUD would not have a negative effect on the welfare of residents of the community and the surrounding area, and the Revised Trial is being requested in part, due to the safety concerns of the original design, including the pitch of the portion of the trail eliminated, and issues with sightlines and stopping cues at the Central Avenue sidewalk.

#### Section 4. RECOMMENDATION

Based on the Findings of this Report, the Planning Commission recommends the following, subject to the conditions noted below:

- 4.1 PUD Amendment. The request for approval of the PUD Amendment, as set forth in the Application, be **APPROVED**, subject to the following conditions:
- A. The Applicant agree to an amendment to the existing development agreement, as amended, for the Property and PUD, (“Development Agreement Amendment”) binding it and all future owners of the Property, addressing matters related to the Project, in form and content acceptable to City Staff and the City Attorney, setting forth the approvals granted herein and all applicable conditions.
  - B. The Applicant records the Development Agreement Amendment with the appropriate officials at Hennepin County and provide the City with a recorded copy thereof.
  - B. The Applicant pay a Parkland Dedication Fee, per City Code, in lieu of the previously approved public trail space that is being lost with the Revised Trail.
  - D. The Applicant constructs the Project in accordance with the submitted plan set, as described in Attachment A.
  - E. All expenses of the City of Wayzata related to the review of the Application and Project, including consultant, expert, legal, and planning fees incurred, be fully reimbursed by the Applicant.

Adopted by the Wayzata Planning Commission this 3rd day of October 2016.

Voting In Favor:

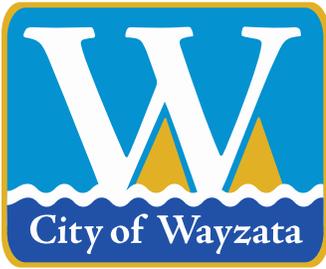
Voting Against:

Abstaining:

Attachment A

Applicant Plan

DRAFT



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

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**Mayor:**  
Ken Willcox

**City Council:**  
Bridget Anderson  
Johanna McCarthy  
Andrew Mullin  
Steven Tyacke

**City Manager:**  
Jeffrey Dahl

Date: September 30, 2016  
To: Planning Commission  
From: Jeff Thomson, Director of Planning and Building  
Subject: Floodplain Ordinance Amendment

### **Introduction**

On May 4, 2016, the Federal Emergency Management Agency (FEMA) issued a Letter of Final Determination (LFD) to the City. The LFD states that the Flood Insurance Rate Maps (FIRMs) for the City, as well as the Hennepin County Flood Insurance Study are complete and will become effective on November 4, 2016. The Flood Insurance Rate Maps and Flood Insurance Study updated the areas in the City that are subject to the City's floodplain regulations.

The Letter of Final Determination states that in order to continue the City's eligibility in the National Flood Insurance Program (NFIP), the City is required to adopt or show evidence of adoption of floodplain management regulations that meet the NFIP regulations by the effective date of the FIRMs. The National Flood Insurance Program allows property owners in the City to qualify for flood insurance through NFIP. City staff has drafted amendments to Section 801.02 (Rules and Regulations) and 801.93 (Floodplain Regulations) that are intended to meet the NFIP regulations (the "Proposed Amendments").

### **Proposed Ordinance Amendment**

The City's current floodplain regulations (Section 801.93) regulate land uses and development within floodplain areas. The land use requirements and development standards are largely unchanged in the draft ordinance, as the City's current ordinance meets most of the National Flood Insurance Program regulations. The following outlines the substantive changes to the floodplain ordinance:

- The purpose statements are updated to include (1) compliance with the National Flood Insurance Program and (2) to preserve the natural characteristics and functions of the watercourses and floodplains in the City.
- New map panels are adopted as the boundaries of the floodplain overlay district.
- Manufactured homes, manufactured home parks, and recreational vehicle parks or campgrounds would be prohibited in the floodplain.

- Construction activities that require an administrative floodplain use permit would be expanded to include:
  - Construction of a dam, fence, or on-site septic system
  - Relocation of alteration of a watercourse, including new or replacement culverts and bridges, unless the Minnesota DNR has approved a public water works permit.
  - Any other type of development not specifically mentioned in the ordinance
- Additional variance criteria would be added for any variance requests in the floodplain overlay district. The proposed variance criteria include reference to “exceptional hardship” even though the State variance statute includes a “practical difficulties” standard. FEMA requires the draft variance criteria verbatim in the Ordinance in order to meet the NFIP regulations.
- Additional provisions would be added which pertain to non-conformities in the floodplain district:
  - If the cumulative cost of improvements or additions to a non-conforming structure exceeds 50% of its market value, the entire structure would be subject to the floodplain ordinance requirements.
  - If a non-conforming use or use of a non-conforming structure is discontinued for more than one year, any future use must conform to the floodplain ordinance requirements.
  - If any non-conformity is substantially damaged, it may only be reconstructed in conformance with the floodplain ordinance requirements.
  - If any non-conforming use or structure experiences repetitive loss, it may only be reconstructed in conformance with the floodplain ordinance requirements.
  - Any substantial improvement to a non-conforming structure would be subject to the floodplain ordinance requirements.

### **Action Steps**

The Planning Commission should hold a public hearing on the draft ordinance, and review and consider the draft ordinance and draft Planning Commission Report and Recommendation.

### **Attachments**

- Current Floodplain Ordinance

- Draft Ordinance No. 764 amending City Code Sections 801.02 and 801.93
- Draft Definitions amendment
- Draft Floodplain Ordinance amendment
- Draft Planning Commission Report and Recommendation

## SECTION 93

### FLOODPLAIN REGULATIONS

#### Section 801.93:

<b>801.93.1:</b>	Statutory Authorization
<b>801.93.2:</b>	Findings of Fact
<b>801.93.3:</b>	Lands to Which Regulations Apply
<b>801.93.4:</b>	Inclusion of Official Zoning Map
<b>801.93.5:</b>	Regulatory Floodplain Elevation
<b>801.93.6:</b>	Interpretation
<b>801.93.7:</b>	Warning and Disclaimer of Liability
<b>801.93.8:</b>	Districts Established
<b>801.93.9:</b>	Floodway District Permitted Uses
<b>801.93.10:</b>	Floodway District Conditional Uses
<b>801.93.11:</b>	Standards for Floodway Conditional Uses
<b>801.93.12:</b>	Flood Fringe Permitted Uses
<b>801.93.13:</b>	Flood Fringe Conditional Uses
<b>801.93.14:</b>	Standards for Flood Fringe Uses
<b>801.93.15:</b>	General Floodplain District Permitted Uses
<b>801.93.16:</b>	General Floodplain District Conditional Uses
<b>801.93.17:</b>	Restrictions on Subdivisions
<b>801.93.18:</b>	Public Utilities
<b>801.93.19:</b>	Public Transportation Facilities
<b>801.93.20:</b>	Floodplain Use Permit
<b>801.93.21:</b>	Conditional Use Permit Processing
<b>801.93.22:</b>	Variances and Amendments
<b>801.93.23:</b>	Non-Conforming Uses
<b>801.93.24:</b>	Penalties for Violation
<b>801.93.25:</b>	Amendment of Zoning Map

#### **801.93.1: STATUTORY AUTHORIZATION:**

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

#### **801.93.2: FINDINGS OF FACT:**

- A. The flood hazard areas of the City of Wayzata are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affects the public health, safety and general welfare.
- B. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

**801.93.3: LANDS TO WHICH REGULATIONS APPLY:**

This Ordinance shall apply to all lands within the jurisdiction of the City shown on the official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe or General Floodplain Districts. The Floodplain Districts shall be applied to and superimposed as an overlay upon all districts as existing or amended by the text and map of this Ordinance. The regulations and requirements imposed by the Floodplain Districts shall be in addition to those established by all other districts of this Ordinance. Where the floodplain regulations and requirements conflict with the base zoning district, the more restrictive regulations will be applied. The Floodplain Districts shall be established based upon the specific information contained in the Flood Boundary, Floodway, and Flood Insurance Rate Maps and the Flood Insurance Study for the City of Wayzata. All aforementioned official road maps and documents are hereby adopted by reference and declared to be an integral part of this Ordinance.

**801.93.4: INCLUSION OF OFFICIAL ZONING MAP:**

The official Zoning Map of the City, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for the City prepared by the Federal Insurance Administration, dated May 1, 1979, and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps contained therein. The official Zoning Map shall be kept on file in the offices of the City Manager and the Zoning Administrator.

**801.93.5: REGULATORY FLOOD PROTECTION ELEVATION:**

The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

**801.93.6: INTERPRETATION:**

The boundaries of a zoning district shall be determined by scaling distances on the official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of any district as shown on the official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation based on elevations on the regional (100 year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

**801.93.7: WARNING AND DISCLAIMER OF LIABILITY:**

This Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Ordinance of any administrative decision lawfully made thereunder.

**801.93.8: DISTRICTS ESTABLISHED:**

The floodplain areas within the jurisdiction of this Ordinance are hereby divided into the following three districts:

- A Floodway District. The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.
- B. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Insurance Study.
- C. General Floodplain District. The General Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.
- D. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by Section 801.15.2 and Section 801.93.22.
- E. As-build elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect and specifically as stated in Section 801.93.20 of this Ordinance.

The boundaries of these districts shall be shown on the official Zoning Map adopted in Section 801.93.4 of this Ordinance. Within these districts all uses not allowed as permitted uses or permissible as conditional uses shall be prohibited.

**801.93.9: FLOODWAY DISTRICT PERMITTED USES:**

The following uses have a low flood damage potential and do not obstruct flood flows or increase flood elevations. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other code provision and provided they do not require structures, fill, obstructions, excavations, or storage of materials or equipment, and shall be subject to other more restrictive limitations which may be imposed by this Ordinance. The use must be permissible in the underlying zoning district. In addition, no use shall adversely affect the capacity of the channels, floodways or any tributary to a main stream, drainage ditch or any other drainage facility or system.

- A. Residential uses such as lawns, gardens, parking areas and play areas.
- B. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges, shooting preserves, target ranges, and single or multiple purpose recreational trails.
- C. Industrial-commercial uses such as loading areas and parking areas.

**801.93.10: FLOODWAY DISTRICT CONDITIONAL USES:**

The following open space uses require accessory structures (temporary or permanent), fill or storage of materials or equipment. These uses may be permitted in the Floodway District only after the issuance of a conditional use permit as provided in Sections 801.04, 801.93.20, and 801.93.21, and subject to other more restrictive limitations which may be imposed by this Ordinance. These uses are also subject to the provisions of Section 801.93.11 which applies to all floodway conditional uses.

- A. Structures accessory to open space uses listed in Section 801.93.9.
- B. Placement of fill.
- C. Extraction and storage of sand, gravel and other materials.

- D. Marinas, boat rentals, docks, piers, wharves and water control structures.
- E. Railroads, streets, bridges, utility transmission lines and pipelines.
- F. Storage yards for equipment, machinery or materials.
- G. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures.
- H. Other uses similar in nature to uses described in Sections 801.93.10 which are consistent with the provisions set out in Sections 801.01.1 and 801.93.9 through 801.93.11 of this Ordinance.

**801.93.11: STANDARDS FOR FLOODWAY CONDITIONAL USES:**

- A. All Uses. No structure (temporary or permanent), fill, (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use which, acting alone or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of a floodway, increases flood heights, or causes an increase in flood damages in the reach or affected reaches. In addition, all floodway conditional uses shall be subject to the following standards (Sections 801.93.11.B through 801.93.11.G).
- B. The Conditional Use shall be permissible in the underlying zoning district.
- C. Fill.
  - 1. Any fill deposited in a floodway shall be no more than the minimum amount necessary to conduct a conditional use listed in Section 801.93.10. Generally, fill shall be limited to what is needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters.
  - 2. Spoil from dredging or sand and gravel operations shall not be deposited in a floodway unless a long term site development plan is submitted which includes an erosion/sedimentation element.
  - 3. Fill, dredge spoil and all other similar materials shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.
  - 4. As an alternative, and consistent with Subsections immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the City Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available.
- D. Accessory structures (temporary or permanent) permitted as conditional uses by Section 801.93.10.A:
  - 1. Accessory structures shall not be designed for human habitation.
  - 2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
    - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
    - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
    - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
    - b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.
- E. Storage of Materials and Equipment.
1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
  2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.
- F. Structural Works for Flood Control. Levees, dikes, floodwalls, and community-wide structural works intended to remove area from the regulatory floodplain, shall not be constructed within the limits of the Floodway District. Other structural works for flood control, such as dams and channel enlargements, that will change the course, current, or cross section of a public protected water or wetland shall be subject to the provisions of Minnesota Statutes, Chapter 103G.
- G. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**801.93.12: FLOOD FRINGE PERMITTED USES:**

- The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other code provision or is a use not permitted in the underlying zoning district, and shall be subject to other more restrictive limitations which may be imposed by this Ordinance.
- A. Any use permitted in Section 801.93.9.
  - B. Accessory structures, provided they comply with the provisions of Section 801.93.11.D of this Ordinance.
  - C. Residences and other structures must be constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the regulatory flood protection elevation. The finished fill elevation shall be no lower than one (1) foot below the regulatory flood protection elevation and shall extend at such elevation at least fifteen (15) feet beyond the outside limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap, vegetative covering, or other acceptable method.

Residences constructed on fill shall be subject to the vehicular access requirements in Section 801.93.14.A.

- D. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 801.93.12.
- E. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- F. The provisions of Section 801.93.14 shall apply.

No use shall be permitted which will adversely affect the hydraulic capacity of the channels or floodways or any tributary to a main stream, any drainage ditch, or any other drainage facility or system where a floodway or other encroachment limit has not been specified on the official Zoning Map.

**801.93.13: FLOOD FRINGE CONDITIONAL USES:**

Any structure that is not elevated on fill or flood proofed in accordance with Section 801.93.12A-C or any use of land that does not comply with the standards in Section 801.93.12D-E shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 801.04, 801.93.13, and 801.93.21, and shall be subject to other more restrictive limitations which may be imposed by this Ordinance. The following other uses are permitted only upon application to the Zoning Administrator and the issuance of a conditional use permit as provided in Sections 801.04, 801.93.20, and 801.93.21, subject to the following provisions:

- A. Alternative Elevation Methods. Alternative elevation methods other than the use a fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
  - 1. Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - 2. Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
    - a. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves,

or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

- b. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- B. Basements. Basements, as defined by Section 801.02.2, shall be subject to the following:
1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 801.93.13.C.
- C. Non-Residential Structures. All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- D. Storage of Materials and Equipment:
1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.
- E. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/ sedimentation control plan must be submitted for those areas not regulated by the "S" Shoreland Overlay District. In those areas not regulated by the "S" Shoreland Overlay District, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Zoning Administrator. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- F. The provisions of Section 801.93.14 shall also apply.

**801.93.14: STANDARDS FOR FLOOD FRINGE USES:**

- A. Residential Uses. Residences that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation shall not be permitted, unless granted a variance by the Board of Adjustment. In granting a variance the Board shall specify limitations on the period of use or occupancy of the residence for

times of flooding and only after determining adequate flood warning time and legal emergency response procedures.

- B. Commercial Uses. Accessory land uses, such as yards, railroad tracks and parking lots, may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of a regional flood.
- C. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses, such as yards and parking lots, may be at lower elevations subject to requirements set out in Section 801.93.14.B above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- D. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- E. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official Zoning Map.

**801.93.15: GENERAL FLOODPLAIN DISTRICT PERMITTED USES:**

Permitted uses shall include those uses permitted by Section 801.93.9.

**801.93.16: GENERAL FLOODPLAIN DISTRICT CONDITIONAL USES:**

All other uses are conditional uses and are permitted only upon the issuance of a conditional permit as provided in Section 801.93.21. The General Floodplain District includes the entire floodplain and does not differentiate between those areas that are floodway and those areas that are flood fringe. Because of this, the City shall determine whether the proposed use is in the floodway or flood fringe using procedures established in Section 801.93.21. If it is determined that the use lies in the floodway, the provisions of Section 801.93.9 through 801.93.11 of this Ordinance shall apply. If it is determined that the proposed use lies in the flood fringe, the provisions of Sections 801.93.12 through 801.93.14 of this Ordinance shall apply.

**801.93.17: RESTRICTIONS ON SUBDIVISIONS:**

No land shall be subdivided which is held unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities and as regulated by Chapter 805 of the Wayzata Subdivision Regulations. All lots within the floodplain district shall contain a building site at or above the regulatory flood protection elevation.

All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

- A. Floodway/Flood Fringe Determinations in the General Floodplain District. In the General Floodplain District, applicants shall provide the information required in Section 801.93.21. The City Council shall evaluate the subdivision in accordance with procedures established in Section 801.93.21 and standards contained herein to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.
- B. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**801.93.18: PUBLIC UTILITIES:**

All public utilities and facilities, such as gas, electrical, sewer and water supply systems, to be located in a floodplain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

**801.93.19: PUBLIC TRANSPORTATION FACILITIES:**

Railroad tracks, roads and bridges to be located within the Floodway District shall comply with Sections 801.72.15.A and 801.72.15.B. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health, safety or welfare or where such facilities are essential to orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health, safety or welfare.

**801.93.20: FLOODPLAIN USE PERMIT:**

- A. Floodplain Use Permit Required. A floodplain use permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill, excavation of materials, or storage of materials and equipment within a floodplain.
- B. Application for Floodplain Use Permit. Application for a floodplain use permit shall be made in duplicate to the Zoning Administrator on forms furnished by him/her and shall include the following where applicable; plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the stream channel.

- C. State and Federal Permits. Prior to granting a floodplain use permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
- D. Certificate of Zoning Compliance for a New, Altered or Non-Conforming Use. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator, stating that the use of the building or land conforms to the requirements of this Section. Where a non-conforming use of structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the non-conforming structure or use differs from the provisions of this Ordinance.
- E. Construction and Use to be as Provided in Applications, Plans, Permits and Certificate of Zoning Compliance. Floodplain use permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance and be punishable as provided by Sections 801.08 and 801.93.24.
- F. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
- G. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the floodplain districts. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are flood proofed.

**801.93.21: CONDITIONAL USE PERMIT PROCESSING:**

- A. In addition to the procedures and requirements as set forth in this subsection, all conditional use permits should be processed according to Section 801.04.
- B. Procedures for evaluating proposed conditional uses within the General Floodplain District:
  - 1. Upon receipt of an application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the City for the determination of the regulatory flood protection elevation and whether or not the proposed use is within the floodway or flood fringe:
    - a. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
    - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location

and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

- c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
  2. One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations Parts 6120-5000 shall be followed in this expert evaluation. The designated engineer is strongly encouraged to discuss the proposed technical evaluation methodology with the responsible natural resources area hydrologist prior to completing the analysis and shall:
    - a. Estimate the peak discharge of the regional flood.
    - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over bank areas.
    - c. Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase of 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damage would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
  3. Based upon the technical evaluation of the designated engineer or expert, the City shall determine whether the proposed use is in the floodway or flood fringe and the regulatory flood protection elevation at the site and approve or deny the permit. The City, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources, or the Planning Commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the City shall process the permit application consistent with the applicable provisions of this Ordinance.
- C. Procedures to be Followed by the City Council/Planning Commission in Appeal of Conditional Use Permit Applications within all Floodplain Districts.
1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City for determining the suitability of the particular site for the proposed use:
    - a. Plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.
    - b. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  2. Transmit one copy of the information described in Subsection 1 to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and

velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

3. Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- D. Factors Upon Which the Decision of the City Council/Planning Commission Shall be Based. In passing upon conditional use applications, the City shall consider all relevant factors specified in this Ordinance, and
1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  2. The danger that materials may be swept onto other lands or downstream to the injury of others, or that may block bridges, culverts, or other hydraulic structures.
  3. The proposed water supply and sanitation systems, and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  4. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner.
  5. The importance of the services provided by the proposed facility to the community.
  6. The requirements of the facility for a waterfront location.
  7. The availability of alternative locations not subject to flooding for the proposed use.
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for the area.
  10. The safety of access to the property in time of flood for ordinary and emergency vehicles.
  11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
  12. Such other factors which are relevant to the purposes of this Ordinance.
- E. Time for Acting on Application. The City shall act on an application and render a written decision in the manner described in Section 801.04 of this Ordinance.
- F. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purposes of this Section, the City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
1. Modification of waste disposal and water supply facilities.
  2. Limitations on period of use, occupancy and operation.
  3. Imposition of operational controls, sureties and deed restrictions.

4. Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures.
5. Flood proofing measures, in accordance with the State Building Code and the provisions of this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**801.92.22: VARIANCES AND AMENDMENTS:**

- A. In addition to the procedures and requirements for variances and amendments as established in Sections 801.03 and 801.05 of this Ordinance, the Commissioner of Natural Resources shall be given at minimum a ten (10) day notice of any public hearing, and a review and written report must be obtained from the Minnesota Department of Natural Resources and any other governmental body of commission having jurisdiction for such changes, additions, or modifications affecting a "FP", Floodplain Overlay District. The Commissioner of Natural Resources shall be advised in writing of all decisions made regarding variances and amendments.
- B. No variance or amendment shall have the effect of allowing a prohibited use within an FP District, permit a lesser degree of flood protection than the established flood protection elevation, and/or permit standards lower than those required under applicable state law.
- C. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:
  1. The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance. Construction below the 100 year or regional flood level increases risks to life and property.
  2. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biannual report submitted to the Administrator of the National Flood Insurance Program.

**801.93.23: NONCONFORMING USES:**

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
  1. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 2 below.
  2. All nonconforming buildings, structures, uses and lots located within the City's floodway, flood fringe, or floodplain boundaries shall comply with the regulations contained in Section 801.15.

**801.93.24: PENALTIES FOR VIOLATION:**

- A. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall be penalized in accordance with Section 801.08.2.
- B. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  - 1. In responding to a suspected ordinance violation, the Zoning Administrator and City may utilize the full array of enforcement actions available to it and request the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.  
  
As soon as is reasonably possible, an ordinance violation shall be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

**801.93.25: AMENDMENT OF ZONING MAP:**

The floodplain designation on the official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that through other measures lands are adequately protected for the intended use.

All amendments to this Section, including amendments to the official Zoning Map, must be submitted to and must be approved by the Commissioner of Natural Resources prior to adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance, and said notice shall include a draft of the Ordinance amendment, or technical study under consideration. Changes in the official Zoning Map also shall require prior approval by the Federal Insurance Administration.

**CITY OF WAYZATA**  
**HENNEPIN COUNTY, MINNESOTA**  
**DRAFT ORDINANCE NO. 764**

**AN ORDINANCE AMENDING SECTION 2 (RULES AND REGULATIONS) AND SECTION 93 (FLOODPLAIN REGULATIONS) OF CITY CODE CHAPTER 801 (ZONING ORDINANCE) REGARDING THE CITY'S FLOODPLAIN REGULATIONS**

**THE CITY OF WAYZATA ORDAINS:**

**Section 1. Amendment to Ch. 801 of City Code.** Section 2 of Chapter 801 of the Wayzata City Code (Zoning Ordinance) is hereby amended as set forth in Exhibit A attached hereto (~~struck~~ text deleted; underlined text added).

**Section 2. Amendment to Ch. 801 of City Code.** Section 93 of Chapter 801 of the Wayzata City Code (Zoning Ordinance) is hereby amended to read in its entirety as set forth in Exhibit B attached hereto.

**Section 3. Findings.** The amendments made hereby are based upon the findings set forth in the Report and Recommendation of the Wayzata Planning Commission, dated October 3, 2016.

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

Adopted by the City Council this \_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Ken Willcox  
Mayor

ATTEST:

\_\_\_\_\_  
Jeffrey Dahl  
City Manager

First Reading:  
Second Reading:  
Publication:

**EXHIBIT A**

**Amendment of Ch. 801 Section 2 of City Code**

## SECTION 2

### RULES AND REGULATIONS

#### SECTION 801.02:

801.02.1: Rules of Word Construction

801.02.2: Definitions

#### 801.02.2: DEFINITIONS:

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

Flood Overlay District Related:

1. Base Flood Elevation: The elevation of the regional flood. The term base flood elevation is used in the flood insurance survey.
2. Basement: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
3. Development: Any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations, or storage of equipment or materials.
- ~~42.~~ Equal Degree of Encroachment: Method of determining the location of *encroachment lines so that the hydraulic capacity of floodplain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to floodplain encroachments.* floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- ~~3.~~ FEMA: Federal Emergency Management Agency.
- ~~54.~~ Flood: A temporary ~~rise in stream flow or stage that results in inundation of the areas adjacent to the channel.~~ increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- ~~65.~~ Flood Frequency: The ~~average~~ frequency, ~~statistically determined~~, for which it is expected that a specific flood stage or discharge may be equalled or exceeded.
- ~~76.~~ Flood Fringe: That portion of the ~~floodplain~~ Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City.

~~7. Flood Hazard Areas: The areas included in the floodway and flood fringe as indicated on the official Zoning Map and the Flood Insurance Study and Flood Insurance Rate Map which have been officially adopted by the City.~~

~~8. Flood Insurance Rate Map: The Flood Insurance Rate Map prepared by the Federal Insurance Administration for the City, dated June 11, 1982.~~

~~9. Flood Insurance Study: The Flood Insurance Study prepared for the City by the Federal Insurance Administration, dated June 11, 1982.~~

~~810. Floodplain: The areas adjoining a watercourse which has been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.~~

~~119. Floodproofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages~~

~~to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code.~~

~~120. Floodway: The bed of a wetland or lake and the channel of the a watercourse, and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or store the regional flood discharge.~~

~~11. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.~~

~~12. Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."~~

~~13. New Construction: Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.~~

~~134. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification/modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along a-cross, or projecting into any channel, watercourse, or regulatory floodplain-hazard—area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.~~

~~154. 100One Hundred -Year FloodFloodplain: A flood which is representative of large regional floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval as~~

determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study. Lands inundated by the regional flood.

165. Reach: A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by ~~the a~~ natural or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

17. Recreational Vehicle: A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

186. Regional Flood: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in ~~the a~~ Flood Insurance Study.

179. Regulatory Flood Protection Elevation: ~~An elevation point~~ not less than one (1) foot above the ~~water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study~~elevation of the regional flood plus any increase in flood heights ~~attributable~~elevation caused by ~~to~~ encroachments on the floodplain that result from designation of a floodway.

~~It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.~~

20. Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

21. Special Flood Hazard Area: A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

22. Start of Construction: Substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory

buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- ~~18~~23. Structure: Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, ~~travel trailers/recreational~~ vehicles not meeting the exemption criteria specified in Section 801.93 of this Ordinance, and other similar items.

24. Substantial Damage: Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

25. Substantial Improvement: Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

**EXHIBIT B**

**Amendment of Ch. 801 Section 93 of City Code**

## SECTION 93

### FLOODPLAIN OVERLAY DISTRICT (FP)

#### Section 801.93:

<b>801.93.1:</b>	Statutory Authorization
<b>801.93.2:</b>	Purpose
<b>801.93.3:</b>	General Provisions
<b>801.93.4:</b>	Districts Established
<b>801.93.5:</b>	Floodway District (FW)
<b>801.93.6:</b>	Flood Fringe District (FF0)
<b>801.93.7:</b>	General Floodplain District (GF)
<b>801.93.8:</b>	Subdivision Standards
<b>801.93.9:</b>	Public Utilities and Public Transportation Facilities
<b>801.93.10:</b>	Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles
<b>801.93.11:</b>	Floodplain Use Permits
<b>801.93.12:</b>	Variances
<b>801.93.13:</b>	Conditional Use Permits
<b>801.93.14:</b>	Non-Conformities
<b>801.93.15:</b>	Violations and Enforcement
<b>801.93.16:</b>	Amendments

#### **801.93.1: STATUTORY AUTHORIZATION**

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

#### **801.93.2: PURPOSE**

- A.** This Ordinance regulates development in the flood hazard areas of the City of Wayzata. The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affects the public health, safety and general welfare. It is the purpose of this Ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- B.** National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- C.** This Ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide

recreational opportunities, provide aesthetic benefits and enhance community and economic development.

**801.93.3: GENERAL PROVISIONS**

**A. Lands to Which Regulations Apply.** The Floodplain Overlay District shall apply to all lands within the jurisdiction of the City shown on the official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe or General Floodplain Districts. The Floodplain Overlay District shall be applied to and superimposed as an overlay upon all districts as existing or amended by the text and map of this Ordinance. The regulations and requirements imposed by the Floodplain Overlay District shall be in addition to those established by all other districts of this Ordinance. Where the floodplain regulations and requirements conflict with the base zoning district, the more restrictive regulations will be applied.

**B. Incorporation of Maps by Reference.** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the City Manager. Effective Flood Insurance Rate Map panels:

- |             |             |             |
|-------------|-------------|-------------|
| 27053C0306F | 27053C0308F | 27053C0326F |
| 27053C0307F | 27053C0309F | 27053C0328F |

**C. Regulatory Flood Protection Elevation.** The regulatory flood protection elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

**D. Interpretation.** The boundaries of a zoning district shall be determined by scaling distances on the Flood Insurance Rate Map.

1. Where interpretation is needed as to the exact location of the boundaries of any district, for example where a conflict exists between the floodplain limits illustrated on the official Zoning Map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
2. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.

**E. Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

- F. Warning and Disclaimer of Liability.** This Ordinance does not imply that areas outside the Floodplain Overlay District or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Ordinance of any administrative decision lawfully made thereunder.
- G. Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

#### **801.93.4: DISTRICTS ESTABLISHED**

- A. Districts.** The floodplain areas within the Floodplain Overlay District are hereby divided into the following three districts:
  - 1. **Floodway District:** The Floodway District shall include those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Section 801.93.3.B. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
  - 2. **Flood Fringe District:** The Flood Fringe District shall include those areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Section 801.93.3.B, but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
  - 3. **General Floodplain District:** The General Floodplain District shall include those areas within Zone A that do not have a delineated floodway as shown on the Flood Insurance Rate Map adopted in Section 801.93.3.B.
- B. Applicability:** Within the floodplain districts established in this Ordinance, the use, size, type and location of development must comply with the terms of this Ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in Sections 801.93.5, 801.93.6, and 801.93.7 are prohibited.

#### **801.93.5 FLOODWAY DISTRICT (FW)**

- A. Permitted Uses.** The following uses, subject to the standards set forth in Section 801.93.5.B, are permitted within the Floodway District, if the use is allowed in the underlying zoning district and any applicable overlay district:
  - 1. Residential lawns, gardens, parking areas and play areas

2. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges, shooting preserves, target ranges, and single or multiple purpose recreational trails
3. Industrial or commercial accessory uses such as loading areas and parking areas
4. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting
5. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit

**B. Floodway District Standards.** Permitted uses within the Floodway District must meet the following standards:

1. The use must have low flood damage potential.
2. The use must not obstruct flood flows or cause any increase in flood elevations.
3. The use must not include structures, fill, obstructions, excavations, or storage of materials or equipment.
4. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four (4) upon occurrence of the 1% chance or regional flood.

**C. Conditional Uses.** The following uses may be allowed as conditional uses in the Floodway District if the use is also allowed in the underlying zoning district and in any applicable overlay district, and the use meets the standards and procedures in Section 801.93.13.

1. Structures accessory to a permitted or conditional use in the Floodway District
2. Placement of fill
3. Extraction or storage of sand, gravel, and other materials
4. Marinas, boat rentals, docks, piers, wharves, and water control structures
5. Storage yards for equipment, machinery, or materials.
6. Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures

**D. Conditional Use Permit Standards for Uses in the Floodway District.** All conditional uses in the Floodway District must meet the conditional use permit procedures and standards in Sections 801.04 and 801.93.13, and must meet all of the following standards:

1. The use must not cause any increase in the stage of the 1% chance or regional flood, or cause an increase in flood damage in the reach or reaches affected.
2. All accessory structures must meet the following requirements:
  - a. Accessory structures must not be intended for human habitation
  - b. Accessory structures must have low flood damage potential
  - c. Accessory structures must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters.
  - d. Service utilities such as electrical and heating equipment within the structures must be elevated to or above the regulatory flood protection elevation or property flood-proofed.
  - e. Accessory structures must meet one of the following:
    - (1) The structure must be elevated on fill or structurally dry flood-proofed in accordance with the FP1 and FP2 flood-proofing classifications in the State Building Code. All flood-proofed structures must be adequately anchored to prevent flotation, collapse, or lateral movement, and designed to equalize hydrostatic flood forces on exterior walls.
    - (2) As an alternative, an accessory structure may be internally/wet flood-proofed to the FP3 or FP4 flood-proofing classifications in the State Building Code, provided that the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
      - (a) To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
      - (b) There must be openings on at least two sides of the structure, and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

3. All fill and storage of materials or equipment must meet the following requirements.
  - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected by vegetative cover, mulching, riprap, or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
  - c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
4. Flood control structures that will change the course, current, or cross section of protected wetlands or public water must meet the provisions of Minnesota Statutes, Section 103G.245.
5. A levee, dike, or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

**801.93.6: FLOOD FRINGE DISTRICT (FF)**

- A. Permitted Uses.** Permitted uses within the Flood Fringe District are those uses allowed in the underlying zoning districts that comply with the standards in Section 801.93.6.B.
- B. Standards for Flood Fringe District.**
  1. Permitted uses within the Flood Fringe District must meet all of the following requirements:
    - a. All structures, including accessory structures, must be constructed on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one (1) foot below the regulatory flood protection elevation, and the fill must extend at the same elevation at least fifteen (15) feet beyond the outside limits of any structure. All fill shall be properly compacted and the slopes shall be properly protected by riprap, vegetative covering, or other acceptable method.
    - b. The storage of any materials or equipment must be elevated on fill to the Regulatory Flood Protection Elevation.

c. The cumulative placement of fill or similar material on a parcel must not exceed one thousand (1,000) cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 801.93.6.B.1.a.

2. All uses within the Flood Fringe District must meet all of the following requirements:

a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

b. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal or plant life, is prohibited.

c. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning and emergency evacuation plan acceptable to the City Engineer.

d. Commercial Uses. Accessory land uses, such as yards, railroad tracks and parking lots, may be at elevations lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public shall be designed with a flood warning system that provides adequate time for evacuation if the area would inundate to a depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four (4) upon occurrence of a 1% chance or regional flood.

**C. Conditional Uses.** The following uses may be allowed as conditional uses in the Flood Fringe District, if they are also allowed in the underlying zoning district and any applicable overlay district. All conditional uses in the Flood Fringe District must meet the conditional use permit standards in Sections 801.04 and 801.93.13.

1. Any structure that is not elevated on fill in accordance with Section 801.93.6.B.1.a., if it meets the following requirements:

a. The use must comply with all Flood Fringe District standards in Section 801.93.6.B.2.

b. Basements, as defined by Section 801.02.2, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

(2) All areas of non-residential structures, including basements, may be located below the Regulatory Flood Protection Elevation provided the structure is flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the

FP1 or FP2 flood-proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP3 or FP4 classification shall not be permitted.

2. Storage of any material or equipment below the regulatory flood protection elevation, if it meets the following requirements:
  - a. The use must comply with all Flood Fringe District standards in Section 801.93.6.B.2.
  - b. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - c. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.
3. The cumulative placement of more than one thousand (1,000) cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation, provided the following requirements are met:
  - a. The use must comply with all Flood Fringe District standards in Section 801.93.6.B.2.
  - b. An erosion and sedimentation control plan is required which includes the following:
    - (1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
    - (2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Engineer.
    - (3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
4. Any structure that uses alternative methods to elevate a structure above the regulatory flood protection elevation other than through the use of fill, such as stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garage. The alternative elevation methods must meet the following requirements:

- a. The base or floor of an enclosed area shall be considered above-grade not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
- (1) Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - (2) Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
    - (a) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two automatic openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention.
    - (b) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

**801.93.7: GENERAL FLOODPLAIN DISTRICT (GF)**

- A. Permitted Uses.** Permitted uses within the General Floodplain District are the same as the permitted uses for the Floodway District as outlined in Section 801.93.5.A.
- B. Other Uses.** The General Floodplain District includes the entire Floodplain and does not differentiate between those areas that are in the Floodway District and those areas that are

in the Flood Fringe District. Because of this, the City shall determine whether the proposed use is in the Floodway District or Flood Fringe District using procedures established in Section 801.93.7.C. If it is determined that the use lies in the Floodway District, the provisions of Section 801.93.5 shall apply. If it is determined that the proposed use lies in the Flood Fringe District, the provisions of Section 801.93.6 shall apply.

**C. Procedures for Floodway and Flood Fringe Determinations.**

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Section 801.93.7.C.3 below.
3. The determination of floodway and flood fringe must include the following components, as applicable:
  - a. Estimate the peak discharge of the regional (1% chance) flood.
  - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
5. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Sections 801.93.5 and 801.93.6.

**801.93.8: SUBDIVISION STANDARDS**

**A. Subdivisions.** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply, or sewage treatment facilities. In addition to the requirements in Section 805, the following additional requirements apply to all subdivisions located in the Floodplain Overlay District:

1. All lots within a subdivision that are located within the Floodplain Overlay District must be able to contain a building site outside of the Floodway District and which is at or above the regulatory flood protection elevation.
2. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual acceptable to the City Engineer, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
3. For all subdivisions in the Floodplain Overlay District, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation, and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
4. In the General Floodplain District, applicants must provide the information required in Section 801.93.7.C to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries, and the regulatory flood protection elevation for the subdivision site.

**801.93.9: PUBLIC UTILITIES AND PUBLIC TRANSPORTATION FACILITIES**

- A. Public Utilities.** All public utilities and facilities, such as gas, electrical, sewer and water supply systems, to be located in a floodplain shall be flood proofed in accordance with the State Building Code or elevated to or above the regulatory flood protection elevation.
- B. On-site Water Supply and Sewage Treatment Systems.** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.
- C. Public Transportation Facilities.** Railroad tracks, roads and bridges to be located within the Floodway District shall comply with Section 801.93.5. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these transportation facilities would result in danger to the public health, safety or welfare or where such facilities are essential to orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health, safety or welfare.

**801.93.10 MANUFACTURED HOMES, MANUFACTURED HOME PARKS, AND RECREATIONAL VEHICLES**

- A. Manufactured Homes:** New manufactured homes, new manufactured home parks, and expansions to existing manufactured home parks are prohibited in any floodplain district.
- B. Recreational Vehicles:** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district.

**801.93.11: FLOODPLAIN USE PERMIT**

- A. Floodplain Use Permit Required.** A floodplain use permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the conducting the following activities within the Floodplain Overlay District:
  - 1. Erection, addition or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Ordinance.
  - 2. The use or change of use of a building, structure, or land
  - 3. The construction of a dam, fence, or on-site septic system
  - 4. Any changes to a non-conforming use, structure, or occupancy of land
  - 5. The repair of a structure that has been damaged by flood, fire, tornado, or any other source
  - 6. Placement of fill, excavation of materials, or storage of materials and equipment within a floodplain district
  - 7. Relocation or alteration of a watercourse, including new or replacement culverts and bridges, unless a public waters work permit has been applied for and approved by the Minnesota Department of Natural Resources.
  - 8. Any other type of development as defined in this Ordinance.
- B. Application for Floodplain Use Permit.** Application for a floodplain use permit shall be made to the Zoning Administrator on forms furnished by him or her, and shall include the following where applicable:
  - 1. A site plan showing all pertinent dimensions, existing and proposed buildings, structures, and significant natural features having an influence on the permit.
  - 2. Location of fill or storage of materials in relation to the stream channel.
  - 3. Copies of any required municipal, county, state or federal permits or approvals.

4. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- C. **Certificate of Zoning Compliance for a New, Altered or Non-Conforming Use.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator, stating that the use of the building or land conforms to the requirements of this Section.
- D. **Certification.** The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- E. **Record of First Floor Elevation.** The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- F. **Notifications for Watercourse Alterations.** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- G. **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.** As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

**801.93.12: VARIANCES**

- A. **Variance Applications.** An application for a variance to the provisions of the Floodplain Overlay District will be processed and reviewed in accordance with applicable State Statutes and Section 801.05.
- B. **Adherence to State Floodplain Management Standards.** A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by State law.
- C. **Additional Variance Criteria.** The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**D. Flood Insurance Notice.** The Zoning Administrator must notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the base or regional flood level increases risks to life and property.
3. Such notifications must be maintained with a record of all variance actions.

**E. Submittal of Hearing Notices to the Department of Natural Resources (DNR).** The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

**F. Submittal of Final Decisions to the DNR.** A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

**G. Record-Keeping.** The Zoning Administrator must maintain a record of all variance actions, including justification for their approval, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

#### **801.93.13: CONDITIONAL USE PERMITS**

**A. Review Process and Procedure.** An application for a conditional use permit under the provisions of this Ordinance will be processed and reviewed in accordance with Section 801.04.

**B. Factors Used in Decision-Making.** In reviewing conditional use permit applications, the City Council must consider all relevant factors specified in other Sections of this Ordinance, and the following factors in granting and imposing conditions on conditional use permits in the Floodplain Overlay District:

1. The potential danger to life and property due to increased flood heights or velocities caused by encroachments
2. The danger that materials may be swept onto other lands or downstream to the injury of others
3. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions
4. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner
5. The importance of the services to be provided by the proposed use to the community
6. The requirements of the facility for a waterfront location
7. The availability of viable alternative locations for the proposed use that are not subject to flooding
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future
9. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area
10. The safety of access to the property in times of flood for ordinary and emergency vehicles
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site

**C. Conditions Attached to Conditional Use Permits.** The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities
2. Limitations on period of use, occupancy, and operation
3. Imposition of operational controls, sureties, and deed restrictions
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures

5. Floodproofing measures, in accordance with the State Building Code and this Ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**D. Submittal of Hearing Notices to the Department of Natural Resources (DNR).** The Zoning Administrator must submit hearing notices for conditional use permit applications to the DNR sufficiently in advance to provide at least ten days notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

**E. Submittal of Final Decisions to the DNR.** A copy of all decisions granting conditional use permits must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

#### **801.93.14: NON-CONFORMITIES**

**A. Non-Conforming Uses, Structures, or Occupancies.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of the Floodplain Overlay District may be continued subject to the following conditions. Historic structures, as defined in Section 801.02.2 of this Ordinance, are subject to the provisions of Sections 801.93.14.A.1 through 801.93.14.A.6.

1. Expansion or enlargement of uses, structures, or occupancies within the Floodway District is prohibited.
2. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Sections 801.93.14.A.3 through 801.93.14.A.7 below.
3. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, it shall be considered substantial improvement, and the entire structure must meet the standards of Sections 801.93.5 or 801.93.6 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all labor.
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the property or structure must conform to this Ordinance. The City Assessor must notify the Zoning

Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

5. If any nonconformity is substantially damaged, as defined in Section 801.02.2, the nonconformity may not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 801.93.5 or 801.93.6 shall apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
6. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 801.02.2, it must not be reconstructed except in conformance with the provisions of this Ordinance.
7. Any substantial improvement, as defined in Section 801.02.2, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Sections 801.93.5 or 801.93.6 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

**801.93.15: VIOLATIONS AND ENFORCEMENT**

- A. Violations.** Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approvals of variances or conditional uses permits, shall be penalized in accordance with Section 801.08.
- B. Enforcement.** Violations of the provisions of this Ordinance will be investigated and resolved in accordance with the provisions of Section 801.08. In responding to a suspected Ordinance violation, the Zoning Administrator and City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures, or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- C. Other Lawful Action.** Nothing in this Ordinance restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Ordinance and will be prosecuted accordingly.

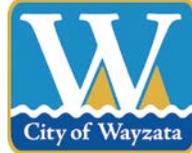
**801.93.16: AMENDMENTS**

- A. Ordinance Amendment.** All map revisions must meet the process, procedure, and standards of Section 801.03.
- B. Restrictions on Removal.** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be

permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

- C. Amendments Require DNR Approval.** All amendments to this Ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- D. Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency (FEMA) to the floodplain maps adopted in Section 801.93.3.B of this Ordinance.

DRAFT



## WAYZATA PLANNING COMMISSION

October 3, 2016

### REPORT AND RECOMMENDATION ON AN ORDINANCE AMENDING SECTION 2 (RULES AND REGULATIONS) AND SECTION 93 (FLOODPLAIN REGULATIONS) OF CITY CODE CHAPTER 801 (ZONING ORDINANCE) REGARDING THE CITY'S FLOODPLAIN REGULATIONS

DRAFT

#### RECOMMENDATION

APPROVAL of Amendments to Sections 801.02 and 801.93

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#### REPORT

##### Section 1. BACKGROUND

- 1.1 General. On May 4, 2016, the Federal Emergency Management Agency (FEMA) issued a Letter of Final Determination (LFD) to the City. The LFD states that the Flood Insurance Rate Maps (FIRMs) for the City, as well as the Hennepin County Flood Insurance Study are complete and will become effective on November 4, 2016. The LFD states that in order to continue the City's eligibility in the National Flood Insurance Program (NFIP), the City is required to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3 (d) of the NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRMs. The City of Wayzata has drafted amendments to Section 801.02 (Rules and Regulations) and 801.93 (Floodplain Regulations) that are intended to meet the NFIP regulations (the "Proposed Amendments").
- 1.2 Public Hearing. The Planning Commission held a public hearing on the Proposed Amendment on October 3, 2016. The Notice of Public Hearing was published in the *Sun Sailor* on September 22, 2016.

## **Section 2. LEGAL AUTHORITY AND STANDARDS**

- 2.1 City Council has the discretion and authority under state law and City Code to amend the City's Zoning Ordinance. Minn. Stat. Sec. 462.357; Wayzata City Code Section 801.03. A zoning ordinance amendment may be initiated by the governing body, the planning agency or by a property owner. Minn. Stat. Sec. 462.357, Subd. 4; City Code Section 801.03.
- 2.2 Under the City's Zoning Ordinance, the City Council acts on any proposed amendment upon receiving the report and recommendation of the Planning Commission. Sec. 801.03.2. In considering a proposed amendment to the Zoning Ordinance, the Planning Commission shall consider the possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:
1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
  2. The proposed use's conformity with present and future land uses of the area.
  3. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
  4. The proposed use's effect on the area in which it is proposed.
  5. The proposed use's impact upon property value in the area in which it is proposed.
  6. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
  7. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.

Wayzata City Code Section 801.03.2.F.

## **Section 3. Findings**

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

1. The Proposed Amendments are consistent with the City's Comprehensive Plan.
2. The Proposed Amendments would only allow uses that conform to present and future land uses in the City.
3. The Proposed Amendments would not allow uses that do not conform with the performance standards contained in the Zoning Ordinance, as amended hereby.
4. The Proposed Amendments would not allow uses that would have a negative impact on the areas in which they are proposed in that they would preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.
5. The Proposed Amendment will not have any direct impact upon property values in the City.
6. The Proposed Amendment will not allow any use that would have a negative impact on traffic generation in the City.
7. The Proposed Amendment will not allow a use that would negatively impact existing public services.

#### **Section 4. Recommendation**

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

Adopted by the Wayzata Planning Commission this 3rd day of October 2016.

Voting In Favor:

Voting Against:

Abstaining:

Attachment A

Proposed Amendments (Draft Ordinance No. 764)