



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
November 10, 2020
7:00 P.M.

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

CALL TO ORDER

In light of the Governor’s Executive Order regarding social-distancing and restrictions on gatherings, the City of Birchwood Village City Council is conducting its November meeting using interactive web-based technology. Pursuant to Minnesota Statutes, Chapter 13D. 021 Subdivision 1(1) the City of Birchwood is declaring that, “an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic...”

The meeting will be conducted using the Zoom meeting platform and the details of that are directly below for participating. If you plan to attend it is suggested that you familiarize yourself with the technology in advance. If you plan to participate than you must either 1) send your name, topic you plan to speak on, and the phone number you will be calling from to City Hall by noon the day before the meeting; or 2) join the meeting no later than 6:45pm to coordinate with the Moderator.

The Moderator of the meeting shall be City Administrator Tobin Lay and all participants, except Council Members, shall have their microphones muted unless recognized by the Mayor. Public Forum shall be honored using this technology and the meeting will be broadcast via the Cable Commission like other meetings.

The City of Birchwood Village is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting:

<https://us02web.zoom.us/j/82592455875?pwd=ektiRkNMOFIDY3RRaEJRMnpaTmJuZz09>

Meeting ID: 825 9245 5875

Passcode: 384079

Phone: +1 312 626 6799

* Denotes items that have supporting documentation provided

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. Crime Alert – increase in auto theft. Please lock doors and windows* (p. 5)
- B. Canvass Board Mtg. – Thur. Nov. 12 at 5:00 pm at City Hall
- C. We are social, follow us on Facebook at @BirchwoodCityHall or Twitter at @CityofBirchwood

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report* (p. 7)
- B. 2020 Tree Inspection Report* (p. 9)
- C. SCC Update* (p. 10)
- D. Grotto Paving Update* (p. 11)

CITY BUSINESS – CONSENT AGENDA

- A. Approve Regular Meeting Minutes from August 18, 2020* (pp. 13-17)
- B. Approve Special Meeting Minutes from September 9, 2020* (pp. 19-20)
- C. Approve Regular Meeting Minutes from October 13, 2020* (pp. 21-26)
- D. Approve Treasurer’s Report* (pp. 27-39)
- E. Approve Second Reading and Adopt Ord. 2020-09-02* (pp. 41-42)
- F. Approve Adjustment to Deer Hunt Zone 2* (pp. 43-44)
- G. Approve Resolution 2020-33, Terminating Maintenance Agreement* (p. 45)
- H. Approve Snow Removal Contract* (pp. 47-56)
- I. Ratify Purchase of Ice Rink Boards* (p. 57)

CITY BUSINESS – REGULAR AGENDA

- A. Accept Councilmember Resignation / Appoint Interim Councilmember* (pp. 59-61)
 - a. Approve Resolution 2020-32
 - b. Appoint and Swear In Interim Councilmember
 - c. Announce Vacancy on the Planning Commission

Time Budget: 5 Minutes
- B. Sec. 617 Public Lake Tracts Amendments* (p. 63)
 - a. Table Public Hearing

Time Budget: 2 Minutes
- C. Variance Case No. 20-02-VB for 415 Wildwood Avenue* (pp. 65-104 & 183-186)
 - a. Council Deliberation
 - b. Approve Resolution 2020-36

Time Budget: 20 Minutes

* Denotes items that have supporting documentation provided

- D. Variance Case No. 20-04-VB for 251 Wildwood Avenue* (pp. 105-156 & 187-190)
 - a. Council Deliberation
 - b. Approve Resolution 2020-37

Time Budget: 20 Minutes
- E. City Engineer Report – CARES Act Projects* (pp. 191-193 & 182B)
 - a. Dellwood Lift Station Generator
 - b. Water Meter Radio Tower
 - c. Approve Resolution 2020-34, Approving Additional Cares Act Expenditures* (p. 182B)

Time Budget: 20 Minutes
- F. Administrator Search
 - a. Council Deliberation
 - b. Approve Resolution 2020-35* (pp. 195-196)

Time Budget: 10 Minutes
- G. Leaves Blown into Parks (known and unknown violators)
 - a. Council Deliberation and Direction

Time Budget: 20 Minutes
- H. 310 / 312 Wildwood Ave Property Cleanup* (pp. 157-169)
 - a. Council Deliberation and Approval

Time Budget: 10 Minutes
- I. 580 Hall Ave Trail (LaFoy)* (p. 171)
 - a. Council Deliberation and Approval

Time Budget: 5 Minutes
- J. First Reading Ord. 2020-11-01, Sec. 301.055 Permit Requirements* (pp. 173-175)
 - a. Council Deliberation and Approval
 - b. Order Public Hearing and Second Reading

Time Budget: 5 Minutes
- K. Elm Easement No Parking Sign* (p. 177)
 - a. Council Deliberation and Approval

Time Budget: 10 Minutes
- L. Council Member Reports:
 - a. Mayor Wingfield
 - i. Parks Management Oversight* (p. 179)

Time Budget: 5 Minutes
 - b. Councilmember LaFoy
 - i. Birch/Owl Street Stormwater Management

Time Budget: 10 Minutes
- M. City Administrator's Report
 - a. Ice Rink Plan* (pp. 181-182)

Time Budget: 5 Minutes

ADJOURN

CASE NO. 20-02-VB 415 WILDWOOD AVE

Staff Memo ----- p. 66
Planner Update ----- pp. 67-68
Requested Additional Materials ----- p. 69
Application ----- pp. 70-93
Planner Memo ----- pp. 94-97
City Codes ----- pp. 98-99
Sample Maintenance Agreement ----- pp. 100-102
Resolution No. 2020-36 ----- pp. 103-104
Variance Findings Form (blank) ----- pp. 183-186

CASE NO. 20-04-VB 251 WILDWOOD AVE

Staff Memo ----- p. 106
Application ----- pp. 107-140
Planner Memo ----- pp. 141-145
City Codes ----- p. 146
Public Comment ----- pp. 147-154
Resolution No. 2020-37 ----- pp. 155-156
Variance Findings Form (blank) ----- pp. 187-190

* Denotes items that have supporting documentation provided



Office of the Sheriff



Dan Starry
Sheriff

Brian R. Mueller
Chief Deputy

Commitment to Excellence

*****CRIME ALERT*****

The Washington County Sheriff's Office (WCSO) is proud to serve the citizens of Washington County and is committed to working together to make safer communities. Over the past several weeks, WCSO has taken a number of theft from vehicle and burglary reports in the cities of Mahtomedi, Birchwood Village, Willernie, Dellwood, Pine Springs, Grant and Hugo. The cities of Oakdale, Woodbury and White Bear Lake have also seen an increase number of theft incidents.

The Sheriff's Office is asking for your assistance in helping to prevent future break-ins and burglaries by practicing the following tips:

VEHICLE

- Lock all vehicle doors and do not leave valuable items in your vehicle
- Remove garage door openers if you have to leave your vehicle outside

RESIDENCE

- Close and lock all doors of your home
- Consider locking lower level windows of your home to prevent access
- Consider home security systems
- Consider leaving exterior lighting on at night or installing motion activated lighting
- Limit or trim large shrubbery around lower level windows of your home
- If going out of town for an extended period you may want to have your mail held & newspaper delivery stopped. Consider completing a residence Vacation Check request on line at www.wcso.info.
- Report any suspicious vehicles or people to WCSO so a deputy can respond to the area. Try to gather as much descriptive info as possible (clothing, age, gender, type of vehicle/color/plate info and direction of travel).

Looking out for one another in your community not only helps each other but it helps us when we are responding to your calls. You are our biggest asset in helping to prevent crime.

***Remember, many criminals are opportunist. Don't give them the opportunity to make you their victim.**

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Sheriff Report
DATE: November 5, 2020

Dear Mayor & City Council Members: Below is a reporting of law enforcement incidents and citations for October 2020:

Citations for: Birchwood 10/1/2020 To 10/31/2020

Agcy	Date	Citation Number	Badge	Officer Name	Citation Type	Block	Street Name	Str Sfx	Cross Street Name	Cross St Sfx	City	Literal Description	Statute
WCSO	10/9/2020	820019028302	WC133 92	J. Maloney	Citation	0	OAKRIDGE DR		CEDAR ST		Birchwood	DL-Drive After Revocation/DAR	171.24.2

Incident Summary Report PUBLIC



From:10/1/2020 12:00:00 AM To:10/31/2020 11:59:59 PM

WASHINGTON COUNTY SHERIFFS OFFICE

BIRCHWOOD VILLAGE - 23 Total Incidents

10/1/2020 5:31:00 PM	WC20044331	XX Birchwood Ln, BIRCHWOOD VILLAGE	THEFT
10/1/2020 5:59:23 PM	WC20044337	XX Oakridge Dr, BIRCHWOOD VILLAGE	FRAUD/SCAM
10/5/2020 5:31:56 PM	WC20044906	XXX Lake Ave, BIRCHWOOD VILLAGE	FOUND PROPERTY/ITEM
10/6/2020 7:33:36 AM	WC20044952	XXX Birchwood Ave, BIRCHWOOD VILLAGE	THEFT
10/7/2020 10:41:23 AM	WC20045112	XXX Wildwood Ave, BIRCHWOOD VILLAGE	NEIGHBOR DISPUTE
10/9/2020 10:29:00 AM	WC20045403	Birchwood Ave / Cedar St, BIRCHWOOD VILLAGE	TRAFFIC STOP
10/11/2020 9:19:20 AM	WC20045731	XXX Birchwood Ct, BIRCHWOOD VILLAGE	THEFT FROM MOTOR VEHICLE
10/11/2020 9:35:07 AM	WC20045735	XXX Birchwood Ct, BIRCHWOOD VILLAGE	VEHICLE TAMPERING
10/11/2020 10:53:41 AM	WC20045744	XXX Birchwood Ave, BIRCHWOOD VILLAGE	THEFT FROM MOTOR VEHICLE
10/11/2020 4:39:49 PM	WC20045800	XX Oakhill Ct, BIRCHWOOD VILLAGE	THEFT FROM MOTOR VEHICLE
10/12/2020 7:28:55 AM	WC20045878	XXX Wildwood Ave, BIRCHWOOD VILLAGE	PARKING COMPLAINT
10/12/2020 8:57:58 AM	WC20045889	XXX WILDWOOD AVE, BIRCHWOOD VILLAGE	CITIZEN/PUBLIC ASSIST
10/13/2020 10:39:38 AM	WC20046059	Hall Ave / Wildwood Ave, BIRCHWOOD VILLAGE	SUSPICIOUS PERSON/ACTIVITY
10/13/2020 12:27:16 PM	WC20046076	XXX Cedar St, BIRCHWOOD VILLAGE	WELFARE CHECK
10/17/2020 10:39:34 AM	WC20046704	Hall Ave / White Pine Ln, BIRCHWOOD VILLAGE	ANIMAL COMPLAINT
10/20/2020 8:41:43 PM	WC20047276	XXX Wildwood Ave, BIRCHWOOD VILLAGE	FIRE
10/25/2020 10:07:18 PM	WC20048040	XX Hall Ct, BIRCHWOOD VILLAGE	MEDICAL
10/25/2020 11:51:39 PM	WC20048057	XX OAKVIEW CT, BIRCHWOOD VILLAGE	ALARM-BUSINESS/RES/FIRE/MEDICAL/ETC
10/26/2020 8:56:58 AM	WC20048096	XXX Birchwood Ave, BIRCHWOOD VILLAGE	INCIDENT
10/26/2020 5:01:32 PM	WC20048167	XXX Wildwood Ave, BIRCHWOOD VILLAGE	PARKING COMPLAINT
10/27/2020 5:51:55 PM	WC20048310	XX Five Oaks Ln, BIRCHWOOD VILLAGE	PARK COMPLAINT
10/30/2020 5:15:22 AM	WC20048691	XX Oakridge Dr, BIRCHWOOD VILLAGE	MEDICAL
10/30/2020 2:05:11 PM	WC20048738	XXX - 341 Wildwood Ave, BIRCHWOOD VILLAGE	911 ABANDONED/HANGUP/OPEN LINE

ADMINISTRATIVE B TREE INSPECTION REPORT

2020 Tree report for the village of Birchwood

Village of Birchwood Diseased trees

- (1) Dutch Elm tree on the north west side of Elm beach easement.
- (1) Oak wilt tree on the corner of Birchwood ave and Jay st .

Residents trees with Disease

- (3) Oak wilt trees at 401 Birchwood ave.
- (1)Oak wilt tree at 624 Birchwood ave.

Residents trees that are Dangerous

419 Wildwood ave
400 Wildwood ave
268 Wildwood ave
300 Wildwood ave

Bur oak Blight

Bur oak blight has now spread all aver Birchwood. If we don't create a way to stop this in about ten years we will have lost most of our Bur oaks and White oaks. I think people with this problem need to start treating them or removing them asp.

Residents with Ash trees dying.

17 White Pine LN (11) has 11 trees with root root rotte.
194 Owel
509 Wildwood ave

City of Birchwood village tree branches hanging over roads Dangerous.

By 531 Hall
By 435 Hall
By 1 Hall
By 4 Hall
On cedar going East From Birchwood ave to Hall.
By village hall on the South side of the street.

I have now completed 2 tree inspections of Birchwood.
I will be doing all follow up on all trees listed here.

Tobin Lay

From: Randy LaFoy
Sent: Saturday, November 7, 2020 8:58 PM
To: Tobin Lay
Subject: Re: Nov 10 City Council Agenda Packet

Follow Up Flag: FollowUp
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

SCC Report: We are deep into negotiations/mediation with Comcast on a new contract. By next month, I hope to be able to present a contract for approval.

North St.Paul gave SCC a 'notice of withdrawal from SCC' effective January 1, 2021. If you recall, they withdrew last year but rescinded their withdrawal before it was effective.

I am sure I will be continuing as the SCC Secretary for 2021.

Randy LaFoy

MEMORANDUM



TO: Birchwood Village City Council
FROM: Mary Wingfield, Mayor
SUBJECT: Grotto Paving Update
DATE: November 6, 2020

For fellow council members.

Both Grotto street property owners were in agreement for paving Grotto for the price proposed. Payment has been made in full by each and paving is scheduled...hopefully it will be completed by the council meeting.

m

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
August 18th, 2020**

MINUTES

MEMBERS PRESENT: Mayor Mary Wingfield; Council Members: Randy LaFoy, Kevin Woolstencroft, Jonathan Fleck, & Jessi Aakre.

STAFF PRESENT: Tobin Lay, City Administrator; Alan Kantrud, City Attorney.

OTHERS PRESENT: Justin McCarthy, Terence O’Loughlin, Brad Konkler, Terry Longville, Wayne Sandberg, Trilby White, Rachel Broughton, Steve Ferry, Ryan Hankins, John Mazzitello, Stan Karwoski, Matt Duffy, Ben Creagh, Greg Brown, Debbie Harrod, Judy Duffy, Michael Brooks, Amy Hoffman, Lindsay Wynne

Mayor Wingfield called the regular meeting to order at 7:02pm and explained the reason for the meeting being conducted virtually via the Zoom platform as is permitted by Minnesota State Statute. The pledge of allegiance was recited.

AGENDA APPROVAL

Mayor Wingfield added two agenda items to the Regular Agenda

Councilmember LaFoy added two agenda items to the Regular Agenda

City Administrator Lay added two agenda items to the Regular Agenda, and also requested to table Regular Agenda Item H. Regular Agenda Item H was kept on the agenda as Agenda Item J.

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE AGENDA AS AMENDED. ROLL CALL VOTE: FLECK; AYE, WOOLSTENCROFT; AYE, AAKRE; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

OPEN PUBLIC FORUM

- A. Judy Duffy (505 Lake Avenue):** Addressed the Council on concerns of property dispute
- B. Matt Duffy (Attorney for 505 Lak Avenue Homeowners):** Stated intent to reserve right to speak on Regular Agenda Item B
- C. Trilby White (3 Oakridge Drive):** Addressed concern on planned subdivision at 176 Cedar Street and the need for a storm management study.
 - a.** Mayor and Council directed City Administrator Lay to provide a letter to the developer for need to follow City code and permitting requirements.
- D. Terry OLaughlin (27 Birchwood Lane):** Expressed desire for a Westbound one-way trail along Birchwood Lane for the Lake Links Trail.

ANNOUNCEMENTS

- A. Lost & Found:** An adult bicycle and child’s tricycle were found at Birch Beach. Also a set of keys.
- B. Mail theft alert:** don’t leave mail in mailboxes overnight; call 911 for suspicious activity.
- C. Mask & Social Distancing Reminders.**
- D. Toilet Efficiency Rebate (\$200).** See www.cityofbirchwood.com/events for details.

- E. We are social, follow us on Facebook/Twitter and/or register for the email listserv

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report

CONSENT AGENDA

- A. Approve Regular Meeting Minutes from June 9, 2020
- B. Approve Regular Meeting Minutes from July 14, 2020
- C. Approve Treasurer's Report
- D. Approve Schifsky's Crackfill Citywide - \$3500 (\$3000 estimate plus 15% contingency)
- E. Approve the 2020 City Tree Inspector Contract

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER FLECK TO APPROVE THE CONSENT AGENDA. ROLL CALL VOTE: LAFOY; AYE, FLECK; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, WINGFIELD; did not vote. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

- A. Lake Links Trail Update
 - a. Ramsey/Washington Counties South Shore Blvd Presentation
 - b. Q&A and Council Deliberation
 - i. Mayor, Council, & Public deliberated traffic options. Councilmember Fleck volunteered to become the elected official person-of-contact for further communication on the project and the impact on Birchwood Village.
- B. Kay Beach Update
 - a. Council Deliberation and Approval
 - i. **Mayor & Council:** Discussed need to remove shrubbery on Key Beach for public urination concern.
 - ii. **Mayor, Council, & City Attorney:** Discussed actions to take on resolving property concern at 505 Lake Avenue.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO STAY THE ENFORCEMENT OF THE ORDINARY HIGH WATER LINE SETBACK OF FENCE ORDER UNTIL PROPERTY OWNERSHIP IS TRANSFERRED. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

- C. Code Violation Procedure (Aakre)
 - a. Council Deliberation and Approval
 - i. **Mayor & Council:** Deliberated ideas for updating code enforcement procedure. Decision was made to schedule a workshop meeting for further development.
- D. CARES Act Funding
 - a. Council Deliberation and Approval
 - i. **Mayor Wingfield:** Informed Council of information received from St. Anthony Village financial liaison regarding CARES Act spending options on Lift Station and water meter upgrades
 - ii. **Councilmember LaFoy:** Expressed interest in spending a portion of CARES Act funds on iPads to be provided to Councilmembers for use during City Council meetings.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE CITY ENGINEER TO CREATE DESIGN BUILD BIDS FOR A STANDBY NATURAL GAS GENERATOR AT THE DELLWOOD LIFT STATION SIMILAR IN SCOPE TO WILDWOOD LIFT STATION. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

- E. Water Meter Upgrades Update (Fleck)
 - a. Council Deliberation and Approval

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE CITY ENGINEER TO ASSIST THE COUNCIL IN PRODUCING DESIGN BUILD BIDS FOR A RADIO TOWER THAT WOULD SERVICE WATER METER READING TO HELP REDUCE THE AMOUNT OF EXPOSURE TO WORKERS AND CONTRACTORS DURING COVID-19 CRISIS IN REGARD TO METER READING AND SUPPORT. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

- F. Council Salaries (Wingfield)
 - a. Council Deliberation and Approval
 - i. **Mayor & Council:** Deliberated potential increase to salaries for Mayor and Council. Agreed on proceeding with next steps to increase Councilmember salary to \$1,500 and Mayor salary to \$2,500.
 - ii. **City Attorney Kantrud:** Explained process for city staff to draft ordinance to be reviewed and potentially approved by Mayor and Council.

- G. Election Process Ownership
 - a. **Mayor Wingfield:** Offered idea to transfer ownership of administering elections to Washington County.
 - b. **City Administrator Lay:** Provided details on increased costs associated with transfer of election administration to Washington County.
 - c. **Mayor & Council:** Directed City Administrator Lay to work with Washington County to establish Joint Powers Agreement to be reviewed and potentially approved by the Council.

- H. Personnel Committee Update (LaFoy & Aakre)
 - a. Council Deliberation
 - i. **Mayor & Council:** Discussed proposed changes to the By-Laws of the Personnel Committee

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE AMENDED PERSONNEL COMMITTEE BYLAWS. ROLL CALL VOTE: AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

- ii. **Mayor & Council:** Discussed options for filling City Administrator vacancy. Stated the position will be posted for 7 days and interviews to follow.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE AMMENDED PERSONNEL DIRECTOR DUTIES DOCUMENT AND POLICY. ROLL CALL VOTE: FLECK; AYE, WOOLSTENCROFT; AYE, LAFOY; AYE, AAKRE; AYE, WINGFIELD; AYE. MOTION PASSED. (02:10:29)

- I. North Side of Iris St Rut
 - a. Council Deliberation and Approval

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE T.A. SCHIFSKY & SONS, INC. TO FIX THE RUT UP TO \$2,500.00. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

- J. 2021 Budget Proposal
 - a. Review and Discuss
 - i. **Mayor & Council:** Directed Administrator Lay to include the Washington County Elections Joint-Powers Agreement (JPA) fees in the budget and present budget and JPA in September.

- K. Council Member Reports
 - a. Councilmember LaFoy
 - i. Wildwood Ave debris
 - 1. **Mayor, Council, & City Attorney:** Discussed concern with 310 Wildwood Avenue gravel runoff and options for City to address the concern. Mayor and Council directed City Attorney to begin the process of civil proceedings.
 - ii. Traffic Calming Taskforce
 - 1. Approval of Committee Recommendation to add Justin McCarthy to the taskforce.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE APPOINTMENT OF JUSTIN MCCARTHY TO THE TRAFFIC CALMING TASKFORCE. ROLL CALL VOTE: AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

- L. City Administrator's Report
 - a. NYFS Council visit
 - i. **Mayor & Council:** Discussed and agreed to schedule the NYFS visit to the 1st regular city council meeting of 2021.
 - b. Lift Station #2 Insurance Update
 - i. **City Administrator Lay:** Updated Mayor & Council on different reimbursement options from the insurance provider. Mayor & Council agreed to proceed with replacing the corrosion and receive full reimbursement.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE BID FROM PULSE ELECTRIC. ROLL CALL VOTE: WOOLSTENCROFT; AYE, FLECK; AYE, AAKRE; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

- c. Schedule Sept. Variance Hearings
 - i. **Mayor & Council:** Chose September 9th 2020 as the tentative date for variance hearings.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO SCHEDULE A SPECIAL CITY COUNCIL MEETING FOR SEPTEMBER 9, 2020 AT

7:00PM. ROLL CALL VOTE: AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

d. Videographer Rate Increase

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE VIDEOGRAPHER RATE INCREASE. DISCUSSION: MAYOR WINGFIELD ADVOCATED FOR A HIGHER RATE THAN REQUESTED BY VIDEOGRAPHER AND DETAILED SOURCE OF FUNDING TO REIMBURSE THE CITY FOR THIS EXPENSE. MOTION WAS RETRACTED.

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE A VIDEOGRAPHER RATE INCREASE TO \$27.50 TO BE EFFECTIVE ON 08/18/2020. ROLL CALL VOTE: WOOLSTENCROFT; AYE, FLECK; AYE, AAKRE; AYE, LAFOY; AYE, WINGFIELD; DID NOT VOTE. MOTION PASSED.

e. 2040 Comp Plan Update

- i. **Mayor Wingfield:** Informed Council of changes and updates she recommended throughout.
- ii. **Council:** Deliberated and came to consensus on language changes to be implemented.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE CITY ADMINISTRATOR LAY TO SEND THE 2040 COMPREHENSIVE PLAN UPDATE TO APPROPRIATE AGENCIES FOR COMMENT AS REQUIRED. ROLL CALL VOTE: LAFOY; AYE, FLECK; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, WINGFIELD; DID NOT VOTE. MOTION PASSED.

f. Fishing on Key Beach

- i. **Mayor & Council:** Discussed concern over fishing on Kay Beach. Consensus was reached that fishing is allowed at each of the beaches, including Kay Beach.

g. CARES Act Funds

- i. **City Administrator Lay:** Informed Mayor & Council of need for device to make council chambers cameras compatible with video recording/streaming.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO AUTHORIZE PURCHASE OF REQUIRED DEVICE WITH USE OF CABLE COMMISSION FUNDS. ROLL CALL VOTE: WOOLSTENCROFT; AYE, LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADJOURN THE MEETING. ROLL CALL VOTE: WOOLSTENCROFT; AYE, FLECK; AYE, AAKRE; AYE, LAFOY; AYE, WINGFIELD; DID NOT VOTE. MOTION PASSED. MEETING ADJOURNED AT 10:10 PM.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

**CITY OF BIRCHWOOD VILLAGE
SPECIAL CITY COUNCIL MEETING
September 9th, 2020**

MINUTES

MEMBERS PRESENT: Mayor Mary Wingfield; Council Members: Randy LaFoy, Kevin Woolstencroft, & Jonathan Fleck. Absent: Councilmember Jessi Aakre.

MEMBERS ABSENT: Jessi Aakre

STAFF PRESENT: Tobin Lay, City Administrator; Alan Kantrud, City Attorney.

OTHERS PRESENT: Cathy Wandmacher (415 Wildwood Avenue), Rick & Janet Cristan (221 Wildwood Avenue)

Mayor Wingfield called the regular meeting to order at 7:03pm. **City Administrator Lay** explained the reason for the meeting being conducted virtually via the Zoom platform as is permitted by Minnesota State Statute. The pledge of allegiance was recited.

AGENDA APPROVAL

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE AGENDA. ROLL CALL VOTE: WOOLSTENCROFT; AYE, LAFOY; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

A. Variance Case No. 20-02-VB for 415 Wildwood Avenue

a. Council Deliberation and Approval

- i. **Administrator Lay:** Summarized variance request to City code 302.050. Property owner requesting variance due to stone patio that had been installed.
- ii. **City Attorney:** Advised that the Mayor & Council could declare the variance request incomplete and request it be completed before making a final decision.
- iii. **Mayor & Council:** Directed City Administrator Lay to inform property owner by mail of request to complete variance request and that a decision will be made upon said completion.

B. Variance Case No. 20-05-VB for 221 Wildwood Avenue

a. Council Deliberation and Approval

- i. **Administrator Lay:** Summarized property owner requesting a variance to the sideyard setback and also requesting the Mayor & Council declare the prevailing municipal street setback for this property to allow for a 20 foot setback as has been recommended by the planning commission.

- ii. **Rick Cristan (221 Wildwood Avenue):** Summarized steps taken to alter the property before coming to decision to apply for variance request and resolution of 5 non-conformities. Detailed constraints due to undersized lot.
- iii. **Dick Galena (217 Wildwood Avenue):** Clarified being the adjacent property owner and requested confirmation on variance being 4 feet, resulting in a 6-foot side setback. Expressed personal consent to both setback variance request and the municipal street setback of 20 feet.
- iv. **Mayor & Council:** Deliberated opinions on variance requests

MOTION WAS MADE BY COUNCILMEMBER FLECK TO DENY BOTH VARIANCE REQUESTS. MOTION WAS RESCINDED BY COUNCILMEMBER FLECK.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO DENY VARIANCE CASE NO. 20-05-VB DUE TO THE CONDITIONS RESULTING IN NEED FOR VARIANCE WERE CREATED BY THE DESIGN SOLUTION AND THAT STRICT ADHERENCE TO THE ORDINANCE IS POSSIBLE. ROLL CALL VOTE: LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO TABLE THE CONVERSATION OF A PREVAILING MUNICIPAL STREET SETBACK TO THE SPECIAL COUNCIL MEETING SCHEDULED FOR SEPTEMBER 16 2020 TO ALLOW TIME FOR FURTHER INVESTIGATION. ROLL CALL VOTE: LAFOY: NAY, WOOLSTENCROFT; AYE, FLECK; ABSTAIN, WINGFIELD; AYE. MOTION PASSED. (01:38:00)

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADJOURN THE MEETING. ROLL CALL VOTE: LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; ABSTAIN, WINGFIELD; AYE. MOTION PASSED. MEETING ADJOURNED AT 08:39 PM.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
October 13th, 2020**

MINUTES

MEMBERS PRESENT: Mayor Mary Wingfield; Council Members: Randy LaFoy, Kevin Woolstencroft, Jonathan Fleck, & Jessi Aakre.

STAFF PRESENT: Tobin Lay; City Administrator, Alan Kantrud; City Attorney, Steve Thatcher; City Engineer/Planner.

OTHERS PRESENT: Barton Winter, Brock Harmon, Jud Marshall, Cheryl Peterson, Brendan Keating, Jerene Rogers, Dick Galena, Steve Schad, Dan Christensen, Shelly Ross, Scott Noland, Ed Bertsch, Steve Wolgamot, Mark Foster, Ryan Hankins, Justin McCarthy, Scott Neilson, Bridget Nason, Paul Watt, Bob Goebel, Jeff Ledermann, Richard Brainerd, Joe Palen, David Drew, Michael McKenzie, Chris Rollinger, Mary Sue Simmons, David Heiden.

Mayor Wingfield called the regular meeting to order at 7:10pm. **City Administrator Lay** explained the reason for the meeting being conducted virtually via the Zoom platform as is permitted by Minnesota State Statute. The pledge of allegiance was recited.

AGENDA APPROVAL

Mayor Wingfield: Stated Regular Agenda items G – K may be postponed, except for Item I, due to expected length of meeting.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE AGENDA AS AMENDED. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; ABSTAIN, WINGFIELD; AYE. MOTION PASSED.

OPEN PUBLIC FORUM

- A. **Barton Winter:** Expressed concerns with tennis court due to recent updates.
- B. **Dick Galena:** Expressed concerns with proposed amendments to boat length by the Birchwood Dock Association.

ANNOUNCEMENTS

- A. 2020 Elections – Nov 3 at City Hall, 7:00am-8:00pm
- B. Fall Leaf Pickup – Mondays Oct 26th & Nov 9th – www.cityofbirchwood.com/events
- C. We are social, follow us on Facebook at @BirchwoodCityHall or Twitter at @CityofBirchwood

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report
- B. Traffic Calming Task Force Update

CONSENT AGENDA

- A. Approve Regular Meeting Minutes from August 18, 2020

- B. Approve Regular Meeting Minutes from September 8, 2020
- C. ~~Approve Special Meeting Minutes from September 9, 2020~~
- D. Approve Special Meeting Minutes from September 16, 2020
- E. Approve Resolution 2020-28, Suspending Sec. 609.020 Hunting
- F. Approve Pickleball Court Expenditures
- G. Approve Extension of Variance Case No. 20-02-VB for 415 Wildwood Avenue
- H. Approve Treasurer's Report

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE CONSENT AGENDA. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; ABSTAIN, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

A. Deer Management

a. Public Hearing Regarding Proposed Hunt Zone 2

- i. City Administrator Lay:** Explained specifics of proposed Zone 2 for hunting.
- ii. Mayor Wingfield:** Explained a desire from the public to not allow hunting of fawn. Recommended including all deer except fawns.
- iii. Scott Noland (DNR Wildlife Manager):** Explained potential impacts of possible restrictions to hunting.
- iv. Brendan Keating (121 Edgecumb Drive, Mahtomedi):** Expressed support for harvesting all types of deer.
- v. Steve Schad (130 Cedar Street, Birchwood):** Expressed concerns with approving a deer hunt.
- vi. Shelly Ross (10 Oakhill Court, Birchwood):** Expressed concerns with approving a deer hunt.
- vii. Ed Bertsch (412 Wedgewood Drive, Mahtomedi):** Expressed concern with approving a deer hunt and stated he did not want hunters to be on his property.
- viii. Paul Watt (454 Wedgewood Drive, Mahtomedi):** Expressed concern of coyote population increase.

b. Council Deliberation

- i. Mayors & Councils (Birchwood & Mahtomedi):** Discussed public input and weighed options for proceeding with proposed hunts.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE THE HUNTING OF DEER IN ZONE 2 FOR NOVEMBER 30TH – DECEMBER 1ST, 2020 LIMITED TO 10 DEER AND EXCLUDING FAWNS. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

B. Second Reading Ordinance 2020-09-02, Mayor and Council Compensation

a. Public Hearing

MAYOR WINGFIELD OPENED THE PUBLIC HEARING AT 08:15PM.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO CLOSE THE PUBLIC HEARING. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED (01:06:06)

b. Approve Second Reading and Adopt Ordinance 2020-09-02

C. Conditional Use Permit Request for 251 Wildwood Avenue

a. Council Deliberation and Approval

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE CONDITIONAL USE PERMIT REQUESTED FOR 251 WILDWOOD AVENUE WITH THE RECCOMENDATIONS FROM THE PLANNING COMMISSION. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

D. City Engineer Report – CARES Act Projects

a. Dellwood Lift Station Generator

i. City Engineer Thatcher: Recommended awarding contract to Kodiak Power Systems in the amount of \$10,155.00

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE CITY ENGINEER THATCHER TO PROCEED WITH AWARDING THE BID TO KODIAK POWER SYSTEMS FOR UP TO \$11,000.00 TO BE COMPLETED NO LATER THAN NOVEMBER 15TH, 2020. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

b. Water Meter Radio Tower

i. City Engineer Thatcher: Recommended awarding contract to Structural Tower Services to build 60 foot tower.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE CITY ENGINEER THATCHER TO PROCEED WITH INSTILLATION OF THE 60 FOOT TOWER THROUGH STRUCTURAL TOWER SERVICES NOT TO EXCEED THE AMOUNT OF \$19,000.00. ROLL CALL VOTE: AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE CITY ENGINEER THATCHER TO AWARD THE ELECTRICAL SERVICES CONTRACT TO SHORT STOP ELECTRIC IN AN AMOUNT NOT TO EXCEED \$4,500.00. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

c. Approve Resolution 2020-30, Approving Cares Act Projects

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE RESOLUTION 2020-30. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

E. Birchwood Dock Association (BDA) Dock Permit Application Review

- a. Review and approve BDA's annual dock permit application – authorize BDA to apply for dock permits

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE BIRCHWOOD DOCK ASSOCIATION'S APPLICATION. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

- b. Review and approve 2021 Dock Management Contract

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE CITY ADMINISTRATOR LAY AND MAYOR WINGFIELD TO SIGN THE 2021 DOCK MANAGEMENT CONTRACT WITH THE BIRCHWOOD DOCK ASSOCIATION. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

F. Subdivision Study Task Force

- a. Approve Resolution 2020-29, Creating Subdivision Study Task Force
b. Appoint Members

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO APPROVE RESOLUTION 2020-29 AND INCREASE THE TASK FORCE TO SIX MEMBERS. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; ABSTAIN. MOTION PASSED.

G. Signs

- a. Tennis/Pickleball Court Signs
i. Tabled
b. Lake Easement No Parking Signs
i. Tabled
c. Wildwood Park No Parking Signs
i. Tabled

H. Grotto Paving

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER FLECK TO AUTHORIZE MAYOR WINGFIELD AND CITY ATTORNEY KANTRUD TO NEGOTIATE WITH AND CREATE AN AGREEMENT WITH THREE PROPERTY OWNERS ON GROTTA TO PAY TOWARD PAVING

COSTS. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

I. 580 Hall Ave Trail

- a. Council Deliberation and Approval**
 - i. Tabled**

J. Administrator Search

- a. Council Deliberation and Selection**
 - i. Mayor & Council:** Deliberated on which of the two candidates the council wished to provide a contingent offer. The Mayor & Council reached a consensus to make a contingent offer to Alex Saxe.
 - ii. City Attorney Kantrud:** Advised the Mayor & Council of proper procedure to proceed with a contingent offer and assisted in the editing of Resolution 2020-31 for approval.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER FLECK TO APPROVE RESOLUTION 2020-31 UNDER THE TERMS AS PROVIDED WITH THE RATE OF PAY TO BE DETERMINED AND INCLUDED FOLLOWING A CLOSED MEETING. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

- iii. Mayor & Council:** Deliberated on holding remainder of meeting in a public versus closed session to draft the official offer and chose to hold the remainder of the meeting in public. The Mayor & Council then deliberated and reached a consensus on the content of the contingent offer to be provided to Alex Saxe.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE RESOLUTION 2020-31 AS AMENDED WITH SALARY INFORMATION WITH A DEADLINE OF ONE WEEK TO ACCEPT. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

K. Council Member Reports:

- a. Councilmember LaFoy**
 - i. SCC Update**
 - 1. Tabled**

L. City Administrator's Report

- a. Terminate 15 Birchwood Lane Paver Maintenance Agreement**
 - i. Tabled**
- b. Kayak Rack Update**
- c. Snow Removal Contract**

- i. **Mayor & Council:** Directed City Administrator Lay and City Attorney Kantrud to negotiate a contract to be reviewed and approved by the council at a later date.
- d. Ice Rink Plan
 - i. Tabled
- e. Offer to Purchase Land
 - i. **Mayor & Council:** Deliberated potential offer to purchase land from Husnik Homes. Directed City Attorney Kantrud to research options for the use of a portion of the land.

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER AAKRE TO ADJOURN THE MEETING. ROLL CALL VOTE: AAKRE; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED. MEETING ADJOURNED AT 10:01 PM.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

For the Period : 10/13/2020 To 11/7/2020

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$323,319.47	\$14,131.28	\$30,616.06	\$306,834.69
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Other Federal Programs	\$57,370.50	\$0.00	\$4,231.78	\$53,138.72
Comp Plan Grant	(\$4,040.00)	\$0.00	\$0.00	(\$4,040.00)
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$28,589.14	\$0.00	\$100.00	\$28,489.14
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
REIMBURSED CONTRACTED SERVICES	\$0.00	\$0.00	\$0.00	\$0.00
General Debt Service (Identify) (Inactive)	\$0.00	\$0.00	\$0.00	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab Debt	\$0.00	\$0.00	\$0.00	\$0.00
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
General Capital Projects	\$0.00	\$0.00	\$0.00	\$0.00
Municipal State Aid Streets - Construction (Inactive)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$79,245.31	\$0.00	\$0.00	\$79,245.31
Water	\$26,086.27	\$0.00	\$3,709.85	\$22,376.42
Sewer	\$114,489.77	\$0.00	\$9,220.26	\$105,269.51
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$625,100.46	\$14,131.28	\$47,877.95	\$591,353.79

**CONSENT D
TREASURER'S REPORT**

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
10/15/2020	WBL Conservation District	31167	Kay Beach Permit Fee - 2020	N	Water Resources	100-46101-437-	\$ 60.00
	Total For Check	31167					\$ 60.00
10/23/2020	Payroll Period Ending 10/23/2020	31168	Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,913.04
	Total For Check	31168					\$ 1,913.04
10/23/2020	Payroll Period Ending 10/23/2020	31169	Treasurer - Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 102.15
	Total For Check	31169					\$ 102.15
10/23/2020	PERA	EFT102320A*	Administrator - Retirement - Tobin Lay	N	Clerk - Treasurer	100-41401-121-	\$ 367.02
	Total For Check	EFT102320A					\$ 367.02
10/23/2020	PERA	EFT102320B*	Treasurer/Deputy Clerk - Retirement - Andy Gonyou	N	Clerk - Treasurer	100-41401-121-	\$ 16.67
	Total For Check	EFT102320B					\$ 16.67
10/26/2020	Lund, John	31170	Tree Inspection 2020	N	Tree Care	100-43104-314-	\$ 1,300.00
	Total For Check	31170					\$ 1,300.00
10/26/2020	WS & D Permit Service Inc.	31171*	Refund Permit Fee	N	MISCELLANEOUS	100-49001-810-	\$ 136.56
	Total For Check	31171					\$ 136.56
10/26/2020	Amazon	EFT102620A*	Office Supplies	N	Office Operations Supplies	100-41911-200-	\$ 87.90
	Total For Check	EFT102620A					\$ 87.90
10/27/2020	Amazon	EFT102720A*	Office Supplies	N	Office Operations Supplies	100-41911-200-	\$ 68.36
	Total For Check	EFT102720A					\$ 68.36
10/28/2020	MN Depart. Employment & Econ Dev	EFT102820A*	Unemployment Ins - 3rd Qtr 2020	N	OTHER GENERAL GOVERNMENT	100-41901-140-	\$ 176.41
	Total For Check	EFT102820A					\$ 176.41
10/30/2020	Payroll Period Ending 10/30/2020	31172	Maintenance - Jim Rydeen	N	Parks	100-45207-100-	\$ 754.68
	Total For Check	31172					\$ 754.68
10/30/2020	American Engineering Testing, Inc.	31173*	CARES Act Project - Water Tower	N	CARES Expenses (for Enterprise Funds)	203-49295-430-	\$ 3,000.00
	Total For Check	31173					\$ 3,000.00

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
10/30/2020	Toshiba Business Solutions	31174*	Maintenance - 10/09/2020 - 11/08/2020 printer	N	Office Operations Supplies	100-41911-230-	\$ 10.62
	Total For Check	31174					\$ 10.62
10/30/2020	TA Schifsky & Sons, Inc.	31175*	City Street Crack Filling	N	Streets and Road Mntnc	100-43101-314-	\$ 3,500.00
	Total For Check	31175					\$ 3,500.00
10/30/2020	Oakdale Rental	31176*	Trailer & Stump Grinder Rental	N	Tree Care	100-43104-314-	\$ 172.80
	Total For Check	31176					\$ 172.80
10/30/2020	AirFresh Industries, Inc.	31177*	Portable Restroom Rental - Oct 2020	N	Parks	100-45207-314-	\$ 81.25
	Total For Check	31177					\$ 81.25
10/30/2020	TSE, Inc. Work Account	31178*	Janitorial Services - Oct 2020	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
	Total For Check	31178					\$ 25.00
10/30/2020	USS Minnesota One MT LLC	31179*	Energy Charges - Sep 2020	N	General Government Buildings and Plant	100-41940-380-	\$ 100.11
		31179*			Sewer Utility	605-43190-380-	\$ 483.83
		31179*				605-43190-380-	\$ 266.94
	Total For Check	31179					\$ 850.88
10/30/2020	Leeves, Robert	31180*	Videographer - Oct 2020	N	Cable Eqpmt and Service	100-41950-314-	\$ 149.86
	Total For Check	31180					\$ 149.86
10/30/2020	Merrick Inc.	31181*	September Mailer	N	Newsletter	601-41960-350-	\$ 153.60
	Total For Check	31181					\$ 153.60
10/30/2020	Metropolitan Council - Env. Service	31182*	Wastewater Service - Nov 2020	N	Sewer Utility	605-43190-217-	\$ 4,948.50
	Total For Check	31182					\$ 4,948.50
10/30/2020	H.A. Kantrud, P.A.	31183*	Attorney Fees - Oct 2020	N	Legal Services	100-41601-300-	\$ 1,500.00
	Total For Check	31183					\$ 1,500.00
10/30/2020	City of White Bear Lake	31184*	Fire Services - Oct 2020	N	Water Utility	601-43180-314-	\$ 2,476.25
	Total For Check	31184					\$ 2,476.25
10/30/2020	Xcel Energy	EFT103020A*	Xcel Street Light Bill: 09.03.2020 - 10.02.2020	N	Street Lighting	100-43160-380-	\$ 1,207.44
	Total For Check	EFT103020A					\$ 1,207.44

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
10/30/2020	PERA	EFT103020B*	Maintenance - Retirement - Jim Rydeen	N	Parks	100-45207-121-	\$ 127.74
		Total For Check	EFT103020B				\$ 127.74
11/03/2020	Xcel Energy	EFT110320*	Xcel Gas Setup: Dellwood Generator	N	CARES Expenses (for Enterprise Funds)	203-49295-383-	\$ 982.20
		Total For Check	EFT110320				\$ 982.20
11/04/2020	Manship Plumbing & Heating Inc	31185*	Standby, Testing, & Locates - Oct 2020	N	Water Utility	601-43180-314-	\$ 600.00
		31185*				601-43180-314-	\$ 240.00
		31185*				601-43180-314-	\$ 240.00
		Total For Check	31185				\$ 1,080.00
11/04/2020	Press Publications	31186*	Legal Notice Publications - Oct 2020	N	Ordinances and Proceedings	100-41130-351-	\$ 52.92
		31186*				100-41130-351-	\$ 264.60
		Total For Check	31186				\$ 317.52
11/04/2020	BIRCH, INC.	31187*	Snow Removal Services - 10/20/2020	N	Ice and Snow Removal	100-43125-314-	\$ 637.00
		Total For Check	31187				\$ 637.00
11/04/2020	USS Minnesota One MT LLC	31188*	Energy Charges - Aug 2020	N	General Government Buildings and Plant	100-41940-380-	\$ 143.01
		31188*			Sewer Utility	605-43190-380-	\$ 691.19
		31188*				605-43190-380-	\$ 381.35
		Total For Check	31188				\$ 1,215.55
11/04/2020	Gopher State One Call	31189*	Billable Tickets (47) - Oct 2020	N	Utility Locates	605-42805-314-	\$ 63.45
		Total For Check	31189				\$ 63.45
11/04/2020	Greater White Bear Lake Community F	31190*	Excess Grant Funding Reimbursement	N	MISCELLANEOUS	210-49001-430-	\$ 100.00
		Total For Check	31190				\$ 100.00
11/04/2020	Pulse Electric, Inc.	31191*	Lift Station #2 Electrical Inspection	N	Wtr/Swr Emergency	605-43185-430-	\$ 1,185.00
		Total For Check	31191				\$ 1,185.00
11/04/2020	Velocity Drain Services, Inc.	31192*	L/S #1 Project. Sewer Line Televising	N	Unallocated Expenditures	605-49201-430-	\$ 1,200.00

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
		Total For Check	31192				\$ 1,200.00
11/04/2020	Tennis Sanitation, LLC	31193*	Recycling for Service Period: Sep - Oct 2020	N	Recycle	100-43300-314-	\$ 2,392.00
		Total For Check	31193				\$ 2,392.00
11/04/2020	Thatcher Engineering, Inc	31194*	City Engineering Services - Sep/Oct 2020 Projects	N	Engineer Service	100-41650-300-	\$ 2,380.00
		31194*				100-41650-300-	\$ 6,120.00
		Total For Check	31194				\$ 8,500.00
11/04/2020	Companion Animal Control LLC	31195	Animal Control Services - Oct 2020	N	Animal Control	100-41916-314-	\$ 80.00
		Total For Check	31195				\$ 80.00
11/04/2020	Menards - Oakdale	31196*	Parks Supplies & Kayak Rack Supplies	N	Parks	100-45207-400-	\$ 24.39
		31196*			MISCELLANEOUS	100-49001-430-	\$ 105.55
		Total For Check	31196				\$ 129.94
11/04/2020	Menards - Maplewood	31197*	Parks Supplies, Kayak Rack Supplies, & Ice Hockey Rink supplies	N	Parks	100-45207-400-	\$ 37.96
		31197*				100-45207-400-	\$ 28.71
		31197*				100-45207-400-	\$ 854.80
		31197*			MISCELLANEOUS	100-49001-430-	\$ 33.54
		Total For Check	31197				\$ 955.01
11/04/2020	Lay, Tobin	31198*	Reimbursement - Zoom account for Nov 2020 & General Election Expenses	N	Elections	100-41410-210-	\$ 73.76
		31198*				100-41410-210-	\$ 3.48
		31198*				100-41410-210-	\$ 36.02
		31198*				100-41410-210-	\$ 61.97
		31198*			Unallocated Expenditures	100-49201-430-	\$ 16.06
		Total For Check	31198				\$ 191.29
11/04/2020	Amazon	EFT110420A*	**CARES Act - Election PPE	N	CARES Expenses (for Enterprise Funds)	203-49295-430-	\$ 249.58
		Total For Check	EFT110420A				\$ 249.58
11/05/2020	Payroll Period Ending 10/31/2020	31202	Maintenance - Ron Koehnle	N	Parks	100-45207-100-	\$ 990.15

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
		Total For Check	31202				\$ 990.15
11/06/2020	Payroll Period Ending 11/06/2020	31199	Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,913.04
		Total For Check	31199				\$ 1,913.04
11/06/2020	Payroll Period Ending 11/06/2020	31200	Administrator - Insurance	N	Clerk - Treasurer	100-41401-100-	\$ 427.75
		Total For Check	31200				\$ 427.75
11/06/2020	Payroll Period Ending 11/06/2020	31201	Treasurer - Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 72.97
		Total For Check	31201				\$ 72.97
11/06/2020	IRS - US Treasury	EFT110620A	Federal Taxes - Q4 2020 - Oct Payment	N	Clerk - Treasurer	100-41401-100-	\$ 449.04
		EFT110620A				100-41401-100-	\$ 957.00
		EFT110620A				100-41401-100-	\$ 223.82
		Total For Check	EFT110620A				\$ 1,629.86
11/06/2020	PERA	EFT110620B*	Administrator - Retirement - Tobin Lay	N	Clerk - Treasurer	100-41401-121-	\$ 367.02
		Total For Check	EFT110620B				\$ 367.02
11/06/2020	PERA	EFT110620C*	Treasurer/Deputy Clerk - Retirement - Andy Gonyou	N	Clerk - Treasurer	100-41401-121-	\$ 11.89
		Total For Check	EFT110620C				\$ 11.89
Total For Selected Checks							\$ 47,877.95

Fund Name: All Funds

Date Range: 10/13/2020 To 11/07/2020

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-P</u>	<u>Total</u>
10/14/2020	JRG Custom Deck and Design, LLC	171734967*	Building Permit	(10/14/2020) -	N	Building Permits	100-32211-	\$ 422.06
								\$ 422.06
10/23/2020	Secord, Zoe T.	171734968*	Buidling Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 113.56
								\$ 113.56
10/23/2020	WS&D Permit Service, Inc.	171734969*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 273.12
								\$ 273.12
10/23/2020	Great Plains Millwork	171734970*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 128.25
								\$ 128.25
10/23/2020	WS&D Permit Service, Inc.	171734971*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 331.17
								\$ 331.17
10/23/2020	Barrier Exteriors, LLC.	171734972*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 404.25
								\$ 404.25
10/23/2020	Aquarius Water Conditioning	171734973*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 94.25
								\$ 94.25
10/23/2020	Buildtee Contracting Company, LLC.	171734974*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 156.86
								\$ 156.86
10/23/2020	Zawadski Homes	171734975*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 12,122.71
								\$ 12,122.71
10/23/2020	Hoffman Refrigeration and Heating	171734976*	Building Permit	(10/23/2020) -	N	Building Permits	100-32211-	\$ 85.05
								\$ 85.05
Total for Selected Receipts								\$ 14,131.28

As on 11/7/2020

Other Federal Programs

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Federal Grants - CARES	0.00	65,998.00	65,998.00
Total Acct 331	0.00	65,998.00	65,998.00
Total Revenues	0.00	65,998.00	65,998.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
CARES Expenses (for Enterprise Funds)			
Utility Services: Gas Utilities	0.00	982.20	(982.20)
Miscellaneous (431 through 499)	0.00	11,877.08	(11,877.08)
Total Acct 492	0.00	12,859.28	(12,859.28)
Total Disbursements	0.00	12,859.28	(12,859.28)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		0.00	
Total Receipts and Other Financing Sources		65,998.00	
Total Disbursements and Other Financing Uses		12,859.28	
Cash Balance as of 11/07/2020		53,138.72	

As on 11/7/2020

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Dock/Lift Permit Fee	0.00	17,250.00	17,250.00
Total Acct 322	0.00	17,250.00	17,250.00
Miscellaneous	0.00	1,450.00	1,450.00
Total Acct 361	0.00	1,450.00	1,450.00
Refund-Reimbursemnt-Dividend	0.00	265.96	265.96
Total Acct 362	0.00	265.96	265.96
Total Revenues	0.00	18,965.96	18,965.96
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Recreation			
Miscellaneous (431 through 499)	0.00	200.00	(200.00)
Total Acct 451	0.00	200.00	(200.00)
Parks			
Operating Supplies (211 through 219)	0.00	1,283.61	(1,283.61)
Repair and Maintenance Supplies (221 through 229)	0.00	100.00	(100.00)
Contracted Services	0.00	340.00	(340.00)
Miscellaneous (431 through 499)	0.00	7,993.25	(7,993.25)
Capital Outlay: Improvements Other Than Buildings	0.00	1,122.31	(1,122.31)
Total Acct 452	0.00	10,839.17	(10,839.17)
MISCELLANEOUS			
Miscellaneous (431 through 499)	0.00	100.00	(100.00)
Refunds and Reimbursements	0.00	1,892.44	(1,892.44)
Total Acct 490	0.00	1,992.44	(1,992.44)
Total Disbursements	0.00	13,031.61	(13,031.61)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		22,554.79	
Total Receipts and Other Financing Sources		18,965.96	
Total Disbursements and Other Financing Uses		13,031.61	
Cash Balance as of 11/07/2020		28,489.14	

As on 11/7/2020

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Sources:			
Transfers from other Funds	0.00	126,000.00	126,000.00
Total Acct 392	<u>0.00</u>	<u>126,000.00</u>	<u>126,000.00</u>
Total Other Financing Sources	<u>0.00</u>	<u>126,000.00</u>	<u>126,000.00</u>
Disbursements:			
MISCELLANEOUS			
Contracted Services	0.00	44,370.00	(44,370.00)
Total Acct 490	<u>0.00</u>	<u>44,370.00</u>	<u>(44,370.00)</u>
Unallocated Expenditures			
Miscellaneous (431 through 499)	0.00	2,618.60	(2,618.60)
Total Acct 492	<u>0.00</u>	<u>2,618.60</u>	<u>(2,618.60)</u>
Total Disbursements	<u>0.00</u>	<u>46,988.60</u>	<u>(46,988.60)</u>
Other Financing Uses:			
Transfer To Governmental Fund			
Interfund Transfers	0.00	66,000.00	(66,000.00)
Total Acct 493	<u>0.00</u>	<u>66,000.00</u>	<u>(66,000.00)</u>
Total Other Financing Uses	<u>0.00</u>	<u>66,000.00</u>	<u>(66,000.00)</u>
Beginning Cash Balance		66,233.91	
Total Receipts and Other Financing Sources		126,000.00	
Total Disbursements and Other Financing Uses		112,988.60	
Cash Balance as of 11/07/2020		79,245.31	

As on 11/7/2020

Water

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Fee	0.00	74,166.31	74,166.31
Penalty - Late Water/Sewer	0.00	141.30	141.30
State and Misc fees	0.00	1,786.08	1,786.08
Total Acct 341	0.00	76,093.69	76,093.69
Delinquent Water/Sewer Fees	0.00	2,625.05	2,625.05
Miscellaneous	0.00	18,801.67	18,801.67
Total Acct 361	0.00	21,426.72	21,426.72
Total Revenues	0.00	97,520.41	97,520.41
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Financial Administration			
Contracted Services	0.00	5,998.23	(5,998.23)
Total Acct 415	0.00	5,998.23	(5,998.23)
Office Operations Supplies			
Operating Supplies (211 through 219)	0.00	144.50	(144.50)
Newsletter			
Printing and Binding (351 through 359)	0.00	457.20	(457.20)
Total Acct 419	0.00	601.70	(601.70)
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	918.58	(918.58)
Contracted Services	0.00	74,765.37	(74,765.37)
Fees	0.00	2,580.00	(2,580.00)
Wtr/Swr Emergency			
Repair and Maintenance Supplies (221 through 229)	0.00	900.00	(900.00)
PROFESSIONAL SERVICES (301 through 319)	0.00	1,765.74	(1,765.74)
Contracted Services	0.00	11,502.08	(11,502.08)
Total Acct 431	0.00	92,431.77	(92,431.77)
MISCELLANEOUS			
Miscellaneous (431 through 499)	0.00	22,707.50	(22,707.50)
Total Acct 490	0.00	22,707.50	(22,707.50)
Unallocated Expenditures			
Miscellaneous (431 through 499)	0.00	2,720.95	(2,720.95)
Total Acct 492	0.00	2,720.95	(2,720.95)
Total Disbursements	0.00	124,460.15	(124,460.15)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		49,316.16	
Total Receipts and Other Financing Sources		97,520.41	
Total Disbursements and Other Financing Uses		124,460.15	
Cash Balance as of 11/07/2020		22,376.42	

As on 11/7/2020

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Building Permits	0.00	144.90	144.90
Total Acct 322	0.00	144.90	144.90
Penalty - Late Water/Sewer	0.00	178.71	178.71
Sewer Fee	0.00	103,793.60	103,793.60
Total Acct 341	0.00	103,972.31	103,972.31
Delinquent Water/Sewer Fees	0.00	6,276.43	6,276.43
Total Acct 361	0.00	6,276.43	6,276.43
MISCELLANEOUS REVENUES	0.00	41,405.90	41,405.90
Total Acct 362	0.00	41,405.90	41,405.90
Total Revenues	0.00	151,799.54	151,799.54
Other Financing Sources:			
Transfers from other Funds	0.00	56,710.43	56,710.43
Total Acct 392	0.00	56,710.43	56,710.43
Total Other Financing Sources	0.00	56,710.43	56,710.43
Disbursements:			
Postage/Postal Permits			
Refunds and Reimbursements	0.00	265.00	(265.00)
Total Acct 414	0.00	265.00	(265.00)
Engineer Service			
PROFESSIONAL SERVICES (301 through 319)	0.00	85.00	(85.00)
Total Acct 416	0.00	85.00	(85.00)
Office Operations Supplies			
OFFICE SUPPLIES (201 through 209)	0.00	316.80	(316.80)
Operating Supplies (211 through 219)	0.00	144.50	(144.50)
Total Acct 419	0.00	461.30	(461.30)
Utility Locates			
Contracted Services	0.00	456.35	(456.35)
Total Acct 428	0.00	456.35	(456.35)
Water Utility			
Contracted Services	0.00	360.00	(360.00)
Wtr/Swr Emergency			
Contracted Services	0.00	6,860.50	(6,860.50)
Miscellaneous (431 through 499)	0.00	1,185.00	(1,185.00)
Sewer Utility			
Sewer - Wastewater Charge	0.00	54,433.50	(54,433.50)
Contracted Services	0.00	56,089.62	(56,089.62)
Utility Services (381 through 389)	0.00	9,264.97	(9,264.97)
Utility Services: Gas Utilities	0.00	264.84	(264.84)
Miscellaneous (431 through 499)	0.00	6,803.78	(6,803.78)
Total Acct 431	0.00	135,262.21	(135,262.21)
Unallocated Expenditures			
Miscellaneous (431 through 499)	0.00	2,022.50	(2,022.50)
Total Acct 492	0.00	2,022.50	(2,022.50)
Total Disbursements	0.00	138,552.36	(138,552.36)

As on 11/7/2020

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Other Financing Uses:			
Transfer To Governmental Fund			
Interfund Transfers	0.00	50,000.00	(50,000.00)
Total Acct 493	<u>0.00</u>	<u>50,000.00</u>	<u>(50,000.00)</u>
Total Other Financing Uses	<u>0.00</u>	<u>50,000.00</u>	<u>(50,000.00)</u>
Beginning Cash Balance		85,311.90	
Total Receipts and Other Financing Sources		208,509.97	
Total Disbursements and Other Financing Uses		<u>188,552.36</u>	
Cash Balance as of 11/07/2020		105,269.51	

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Approve Second Reading and Adopt Ord. 2020-09-02
DATE: November 5, 2020

Dear Mayor and Council Members,

During the October 13, 2020 City Council meeting, the City Council did not motion or vote to approve the second reading and adoption of Ordinance 2020-09-02, to set the Mayor and Council Member salaries. The motion made and voted on was limited to closing the public hearing only.

As the second reading of the Ordinance did occur and it was the belief of Council Members that they were voting on a motion to approve the second reading and adoption of the Ordinance, I have placed the Ordinance in the consent agenda for the official approval and adoption by the City Council.

Request/Recommendation

Staff requests City Council approve the second reading of Ordinance 2020-09-02, which took place publically at the October 13, 2020 City Council meeting and adopt the same. Thanks!

Regards,
Tobin Lay

ORDINANCE 2020-09-02

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE TO ADOPT SECTION 806 INTO CITY CODE TO SET
AND REGULATE MAYOR AND CITY COUNCIL MEMBER COMPENSATION**

The City Council of the City of Birchwood Village hereby witnesseth that an ordinance to enact a new section of the Birchwood Village Code of Ordinances to set and regulate Mayor and City Council Member compensation:

THE COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE ORDAINS:

In General, **Chapter 806**, City of Birchwood Village, County of Washington, Minnesota, "Compensation" is herewith adopted into city code. Any and all previously adopted sections or ordinances which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

SECTION 806. COMPENSATION

806.010. MAYOR AND CITY COUNCIL MEMBER COMPENSATION. The salary of the Mayor is hereby fixed at twenty-five-hundred dollars (\$2,500.00) per year and the salary of each member of the City Council is hereby fixed at fifteen-hundred dollars (\$1,500.00) per year. The salaries established in this Section shall be in effect from and after January 1, 2021 and will remain in effect until amended in accordance with M.S. § 415.11.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 13th day of October, 2020

Mary Wingfield, Mayor

Attest:

Tobin Lay, City Administrator-Clerk

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Adjustment to Deer Hunt Zone 2
DATE: November 5, 2020

Dear Mayor and Council Members,

As we near the Nov. 30-Dec. 1 special archery deer hunt, several private property owners surrounding the approved hunt zone have given the City permission to include their property in the hunt. It is anticipated that approval from additional properties will be given up until the date of the hunt.

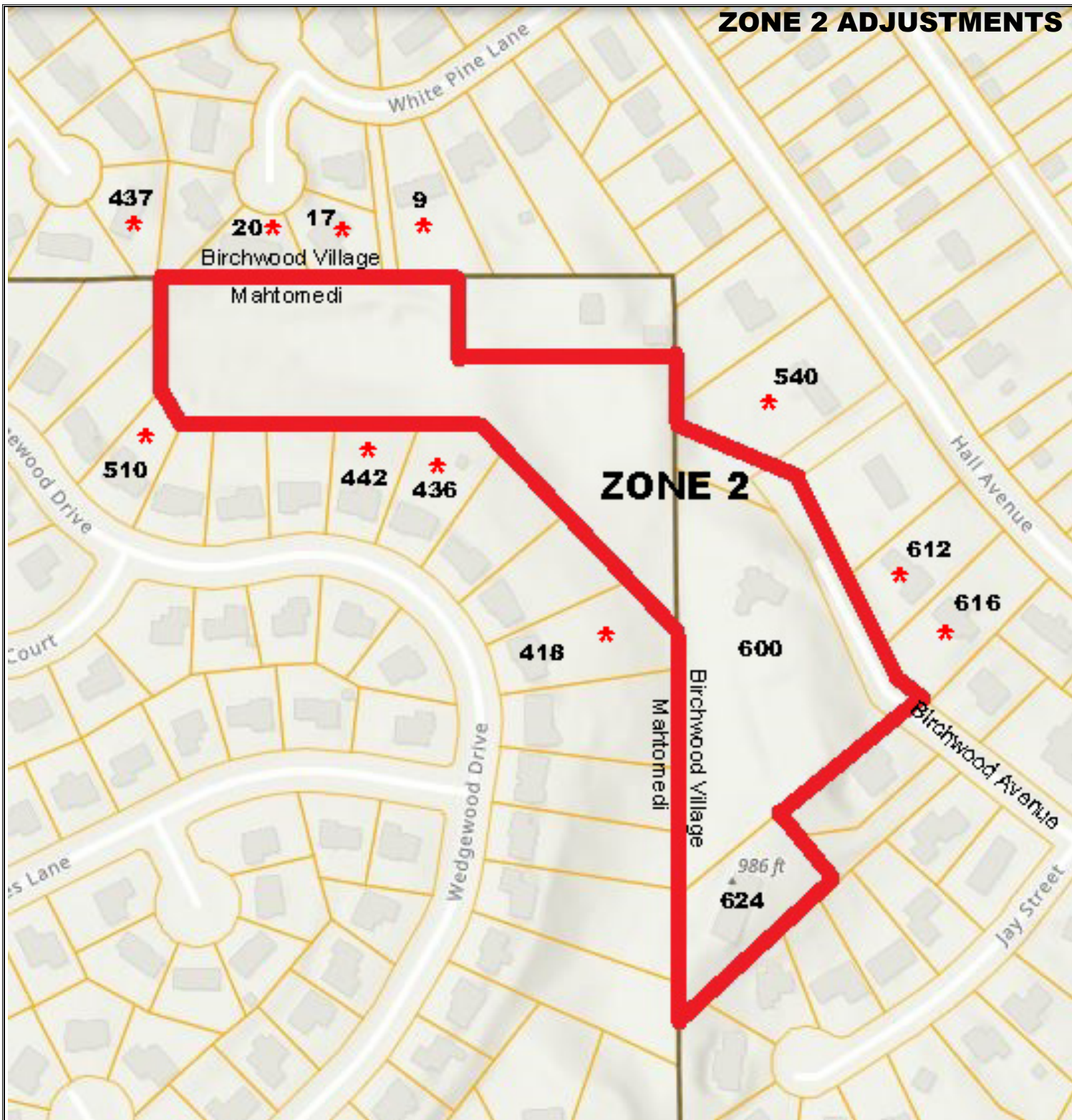
The enclosed map shows the approved hunt zone (everything within the red line) and those private properties where permission has been given to hunt, to date (*).

Request/Recommendation

Staff requests City Council approve the continued adjustment of the Zone 2 hunt zone up until the date of the hunt to include any private properties of owners who provide express permission to hunt on their property. Thanks!

Regards,
Tobin Lay

**CONSENT F
ZONE 2 ADJUSTMENTS**



**RESOLUTION 2020-33
TERMINATING AGREEMENT****CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA****A RESOLUTION TERMINATING PERMEABLE PAVEMENT
MAINTENANCE AGREEMENT**

WHEREAS, The City Council of The City of Birchwood Village entered an agreement with Kathy and Gregory Sherwood, property owners of 15 Birchwood Lane, on June 16, 2020; and

WHEREAS, The agreement required the construction and perpetual maintenance of a permeable paver system driveway to mitigate excessive impervious surface coverage of 15 Birchwood Lane; and

WHEREAS, The Sherwoods have now purchased 11 Birchwood Lane, which abuts 15 Birchwood Lane; and

WHEREAS, The Sherwoods intend to combine 11 Birchwood Lane and 15 Birchwood Lane into one property and to demolish the existing primary structure on 11 Birchwood Lane and existing detached garage on 15 Birchwood Lane; and

WHEREAS, The combination of these two lots with the demolitions will bring the impervious surface coverage of the combined lots at or below the maximum 25% stipulated in Sec. 302.050 of Birchwood City Code; and

WHEREAS, The Sherwoods have requested the City to terminate the June 16, 2020 agreement.

NOW THEREFORE, BE IT RESOLVED:

- 1) That the City Council of the City of Birchwood Village agrees to terminate the June 16, 2020 maintenance agreement between the City and the Sherwoods.
- 2) That the termination is contingent upon the:
 - a. Legal combination of 11 Birchwood Lane and 15 Birchwood Lane, recorded with Washington County, Minnesota; and
 - b. Impervious surface coverage of the combined lots is brought at or below 25%.
- 3) That the termination will become effective only upon evidence to the City Clerk of the same.

Passed by the City Council of The City of Birchwood Village, Minnesota this 10th day of November, 2020.

Attest:

Mary Wingfield, Mayor

Tobin Lay, City Administrator-Clerk

CONTRACT FOR SNOW REMOVAL SERVICES

This Contract, made and entered into this 10th day of November, 2020, by and between, the City of Birchwood (the City), a municipal corporation with offices at 207 Birchwood Avenue, Birchwood, MN 55110 and Birch, Inc. (the Contractor) who is in the business of providing commercial snow removal and is a business organized under the laws of the state of Minnesota with offices at, 3100 Spruce Street, Saint Paul, MN 55117.

WHEREAS, City needs to provide for the orderly salting sanding and snow removal for the areas of the City that it is responsible for, including the City Streets, City Hall and Parks parking lots and,

WHEREAS, Contractor is in the business of providing salting, sanding and snow removal and,

WHEREAS, the Parties desire to formalize their relationship by execution of this Contract;

NOW, THEREFORE, IT IS MUTUALLY AGREED BY THE PARTIES, as follows:

1. **Parties.** The Parties to this Contract are BIRCH INC. (hereinafter referred to as the “Contractor”), and CITY (hereinafter referred to as the “Client”).
2. **Recitals.** The above recitals are hereby incorporated into this Agreement by reference.
 - 2.1. **Term.** The term of this Contract is for one (1) year, from November 1, 2020 through April 30, 2020. This Contract may be extended an additional one (1) year term.
3. **Service Provisions.**
 - 3.1. **Snow Removal Services.** The Contractor shall provide Snow Removal services to ensure safe access to and from City streets and from the City Hall and Tighe-Schmitz Park parking lot(s). Contractor agrees to provide salt / sand mix to ensure the surface has been treated to guard against ice formation, performance of which is further indicated in Section 3.3 below. This contract does not include East County Line Road.
 - 3.2. **Subcontractors.** The Contractor shall determine if the services at the above sites shall be serviced by a subcontractor. All Subcontractors will carry the necessary licensure, bonding, and insurance requirements that will meet or exceed state, local, and contract requirements if applicable and any subcontractors engaged shall be subject to the approval of the Client at their sole discretion.
 - 3.3. **Scheduling.** The Contractor and Client agree that due to the unpredictable nature of weather patterns that the Client’s site(s) will be serviced within 2 hours of the snow event reaching 1” of accumulation that is not expected to melt within the next 4 hours for sidewalks and the following specific performance of service(s):

FULL PLOW: Full plow of city streets will begin after snowfall cessation on all snowfalls of 1" or more, plowing primary roads first (as highlighted on provided map attached as **Exhibit A**) followed by secondary roads with the goal of having a majority of all the snowplowing completed by 7:00AM or 6:00PM based on timing of snowfall cessation. A plow truck will stay within the City until all plowing is completed; or at additional request by the City of Birchwood Administrator. Contractor shall use best-efforts to plow within 1' of the edge of all plowable surfaces.

OPEN UP: Plowing of primary roads will begin prior to snowfall cessation when accumulation reaches 2". Plowing of secondary roads will begin prior to snowfall cessation when accumulation reaches 4", as time allows, while continuing to maintain safe passage of primary roads. Snowfalls reaching or exceeding open-up triggers, or snowfalls of extended duration, may result in continuous plowing and/or multiple plows of city streets until all streets have been cleared after snowfall cessation.

SALTING/PRE-TREATING: Primary streets, intersections, and other pre-determined areas will be pre-treated with either Salt Brine or Salt Brine with AMP Liquid de-icing enhancer depending on street and air temperatures. Liquid deicers will be applied at contracted hourly rates and supplied by contractor at a cost of \$.55 per gallon. Pre-treatment shall occur within the 36 hours prior to forecasted snowfalls.

SALTING/POST-TREATING: Primary streets and intersections will be treated, unless areas are melted due to pre-treating. Secondary streets will be treated as needed depending on road surface temperatures, air temperatures, snow compaction, etc. Post treatment may be applied as granular rock salt or liquid deicer depending on environmental conditions, application timing, and material availability. Salt or liquid deicer will be applied at contracted hourly rates and supplied by contractor at a cost of \$90 per ton of rock salt, or \$.55 per gallon for liquid deicer. Post-treatment shall occur upon completion of all full plows of 1" or more, and upon cessation of snowfalls of less than 1" as needed, depending on environmental and road surface conditions.

3.4. Specific Location Performance Criteria. Contractor shall plow and deposit all snow between Owl Street and the Elm Easement towards the boulevard/Park and not obstruct driveways or garages located on Wildwood Avenue.

3.5. Flagging. It is understood and agreed to that prior to first snow event Contractor will place plow markers for guidance along edges of pavement, obstacles and other obstructions that may be damaged once obscured by snow and potentially damaged during snow removal. The Client agrees to inspect all markings to ensure all necessary areas are noted and will hold harmless the contractor for any and all damages in unmarked areas. Said flagging in no way is accepted by Client as a waiver to claims for damages to property pursuant to Section 4 and any other remedies available to Client. Flags shall be removed by April 30th of any given year.

3.6. Parked Cars. Contractor is not responsible for clearing snow within 4' of parked cars. Return trips will be done upon request at an hourly rate.

3.7. Slippery/Hazardous Conditions. Client, nor anyone on client property can hold contractor liable for slip and fall claims due to slippery/hazardous conditions.

3.8. Fire Hydrants. Contractor shall not be responsible for clearing Fire Hydrants except as additional services if requested by Client.

3.9. Snow Removal Rates. The Contractor shall provide its services at the following rates:

PRICING STRUCTURE:

- Per Hour per piece of equipment
- Per gallon or ton of material used
- From 10/15/2020 to 4/30/2021, the services defined herein will be conducted by BIRCH Inc. at the following rates: See Attached **Exhibit B**.
- Snow and/or Ice Management will be billed to the Client by per event with the total hours and material (if required) included following completed services.

These rates shall be the total costs charged to the Client and shall include all costs of operation, maintenance, labor, fuel, overhead, profit, insurance, and any other cost incurred by the Contractor in performing services under this contract. Client also agrees that the service list is not all inclusive and services may need to be rendered from time to time that are not included in this agreement, Contractor agrees to have all uncovered services approved in advance that do not fall under this agreement. Rates for services outside the contract season dates shall be consistent with **Exhibit B**.

3.10. Efficient Performance. Given the variable rates that the Contractor charges for its different equipment, the Contractor shall provide its services and utilize its equipment in a manner that is the most efficient and cost effective available, such that the hourly charges to the Client are minimized. It is understood that all services are subject to availability and scheduling.

3.11. Materials. All material necessary for the satisfactory execution of the contract will be supplied and paid for by the contractor.

3.12. Weather Clarification & Reporting. Contractor subscribes to independent weather agencies for reference on forecasted events, timing, and accumulations, however weather patterns vary on timing and location. Accumulated snow will be measured on-site in multiple non-drifted areas to report average total accumulation.

3.13. Dangerous Conditions. Contractor has the right to suspend snow operations if MnDot (Minnesota Department of Transportation) closes freeways due to inclement conditions and work will resume once it is deemed safe to travel. During blizzard conditions, the contractor will use sole discretion to determine if conditions are deemed dangerous and will suspend services until safe.

3.14. Monitoring. Client will notify and request Contractor to return to Client's premises to preform additional services, including inspection for melt and freeze. Contractor

shall not be expected to service potentially dangerous conditions for which it has not been given reasonable notice. Client acknowledges Contractor is not engaged, nor does it accept engagement, as a continuing monitor to potentially dangerous or unsafe conditions which may arise by reason of thawing and refreezing of previously plowed, shoveled, or treated areas.

4. Contract Standards and Operation

- 4.1. Vehicles.** All vehicles utilized by the Contractor shall be kept in good working order, and shall not be allowed to stand in any street, parking lot, alley or other place longer than is reasonably necessary to provide the services herein. The Contractor shall be responsible to keep all vehicles used for services marked uniformly with the Contractor's name prominently displayed in letters of contrasting color on each side of each vehicle. All equipment shall meet all Federal, State, County, DOT, and Municipal regulations concerning snow removal vehicles used on public roads. Each vehicle shall be equipped with:
- All Occupational Safety and Health Act (OSHA) requirements regarding warning devices, including a revolving or flashing amber light.
 - Trucks hauling snow shall have side boards no higher than nine (9) feet.
 - A fire extinguisher.
- 4.2. Equipment Damage.** The Contractor shall be responsible for safekeeping of its equipment, including, but not limited to, fire damage, theft and graffiti to the equipment. This provision shall in no way limit the Contractor's right or ability to seek repayment for damages caused to its equipment from persons, other than the Client, who are responsible for the damages.
- 4.3. Customer Notice.** The Client shall be responsible for advising and monitoring individual clients and employees of Property regarding their duty to safeguard their personal property from damage, e.g., that client / employee property needs to be moved when required to allow for services.
- 4.4. Employee Safety.** The Contractor shall provide and maintain all safety accommodations for the use and protection of its employees as may be necessary to provide for their health and welfare.
- 4.5. Applicable Regulations.** The Contractor shall comply with all applicable ordinances of the City and with all laws and rules of the County, the State of Minnesota and its agencies relating to the removal of snow and ice, and application of sand and salt as applicable.
- 4.6. Licenses.** The Contractor shall maintain at all times all licenses required by state, county, and local government for the services, including proper licensing for all drivers/operators employed or contracted by the Contractor.

4.7. Communication. The Contractor shall establish and maintain an office with supervision and a telephone number for requesting call-outs and other needs on a 24/7 basis during winter months. The address and telephone number of such office shall be provided to the Client, and the Contractor shall promptly notify the Client in writing of any changes in either. The Contractor shall respond to all calls promptly and courteously. The Contractor will only accept calls from the City Administrator or their authorized representatives, all other calls and requests will be deemed unauthorized and directed back to the Client. Service updates will be delivered electronically following service of any kind. A representative of Contractor shall schedule and meet with the City Administrator or their authorized representatives at least monthly to review and discuss performance and/or complaints received during the season.

Email updates will be sent regarding snow and ice events affecting Client property (I.e. snow accumulations, completion notice, de-icing recommendations, etc.). Client will provide Contractor with necessary email contact information. Information pertaining to complaints, concerns, hazardous conditions, de-icing requests or additional services will be directed to BIRCH Account Representative from the Client. Contractor will be available 24/7 by phone and/or email and all correspondences will be returned or addressed promptly.

4.8. Contact Person. It is expected that the Client's primary contact with the Contractor shall occur via its pre-approved phone-tree as delivered to Client.

4.9. Damage to Property. The Contractor shall be responsible for all damage to Client's property such as buildings, posts, signs, fences, hydrants, water lines, sewer lines, storm sewers, manholes, lift stations, or other Client infrastructure, as well as damage to lawns, mailboxes, driveways, curbs, sidewalks or other property owned by Client or its residents, caused by equipment during operations by the negligent or careless driving or other misconduct of the Contractor. Contractor is not responsible for replacement nor repair of curbing, asphalt, nor any other hard surface that is previously deteriorated, cracked, or damaged. Normal wear during plowing to paved or concrete surfaces is not considered damage. Contractor is not responsible for damage caused by salt or ice melt products on any hard surface, turf, nor plants. Contractor will exercise extreme caution to minimize all landscape damage but cannot assume liability for damage to objects hidden under snow during regular operations nor while moving or blowing of snow piles. Contractor is not responsible for dead turf under snow piles, along edges of cleared areas nor any other areas unless physically damaged during regular operations. If Client feels Contractor damaged the property, Client needs to notify Contractor within 24 hours of when the damage occurred to mailboxes and within 7 days of snowmelt when the damage occurred to curbing and landscaping. Building repairs will be addressed as needed depending on severity. Damaged turf will be repaired in the Spring with black dirt and grass seed. Damaged landscape will be repaired as needed to return to pre-damaged condition. All damages reported after May 1st will not be considered for repair. Contractor will not pay any unauthorized damage repairs done by a third party.

5. Invoicing and Payment.

5.1. Invoicing. The Contractor shall invoice the Client for its services on a Monthly basis. The Contractor’s invoices shall be itemized and provide reasonable detail so to allow the Client to review the services provided and time expended by the Contractor.

5.2. Payments. Payment for contracted services will be due 45 days from date of invoice. 12% APR will be applied to all invoices not paid within 30 days. Any account 60 days past due may result in services being suspended until payments are made.

5.3. Surcharges. Contractor reserves the right to pass on any substantial increase in cost of supplies used to execute this contract such as, but not limited to fuel, salt and ice melt.

THIS SPACE INTENTIONALLY BLANK

6. Relationship of the Parties

6.1. Independent Contractor. The Contractor and its employees, agents or subcontractors shall be deemed an independent contractor for purposes of all services to be provided under this Contract. Nothing contained in this Contract is intended or should be construed as creating the relationship of co-partners or joint ventures. Unless otherwise agreed by the parties, the Contractor shall provide its own tools and equipment and shall select its own manner and method of performing its services. The Contractor and its employees, agents or subcontractors shall not be considered an employee of the Client for any purpose, and shall waive, release, and not be entitled to any of the benefits usually accorded regular employees, including but not limited to severance pay, health insurance benefits, PERA, unemployment benefits, retirement credits, worker’s compensation coverage, or any other rights or benefits that accrue to Client’s employees, if any.

7. Notice to parties. Notices required to be provided pursuant to this Contract shall be given by United States Mail to the following addresses, by personal service, or fax, or by e-mail if the parties agree:

To the Client:	To the Contractor:
City of Birchwood 207 Birchwood Avenue Birchwood, MN 55110	Birch, Inc. 3100 Spruce Street Saint Paul, MN 55117

8. Insurance. The Contractor shall maintain appropriate insurance coverage to cover its activities at all times while this Contract is in effect, in at least the following amounts:

- General liability: \$1,000,000/\$2,000,000
- Property: \$1,000,000/\$2,000,000
- Auto liability: \$1,000,000/\$2,000,000
- Worker's Comp: Per Statute or \$500,000 per injury, whichever is greater

Any lapse of insurance coverage shall be cause for the Client to immediately terminate the Contract. All policies evidencing insurance required by this paragraph shall insure the Contractor for any act or omission, including negligence of the Contractor or of the Contractor's employees or agents, in connection with the performance of the services herein, including claims arising out of the use of or operation of any vehicles used by the Contractor or the Contractor's employees or agents in performing the services.

9. Indemnity. The Contractor agrees to indemnify and hold harmless the Client, its agents, officers, and employees from any and all claims, causes of action, liabilities, losses, damages, costs, expenses including reasonable attorney's fees, suits, demands and judgments of any nature, because of bodily injury to, or death of, any person or persons and/or because of damages to property of the Contractor or others, including loss of use from any cause whatsoever, which may be asserted against the Client on account of any act or omission, including negligence of the Contractor or the Contractor's employees or agents, in connection with the Contractor's performance. The Contractor agrees to defend any action brought against the Client on any such matters, and to pay and satisfy any judgment entered thereon together with all costs and expenses incurred in connection therewith.

Client shall indemnify and hold harmless the Contractor of and from any and all claims, demands, actions, causes of action, damages, liabilities, including cost and attorney fees, arising out of by reason of the execution of the service provided to Client and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever character arising hereunder.

10. Transfer of Rights and Obligations. The Contractor shall not assign, transfer, or subcontract its obligations under this Contract without notice to and approval of the Client. Any attempt to assign or transfer this Contract in whole or in part without prior approval of the Client shall be grounds for immediate termination of the Contract.

11. Nondiscrimination. The Contractor agrees that during the term of this Contract, it will not within the State of Minnesota discriminate against any employee or applicant for employment because of race, color, creed, sex, national origin, or ancestry and will include a similar provision in all subcontract(s) entered into for the performance hereof. This paragraph is included in this Contract to comply with provisions of Minnesota Statutes § 181.59. Violation of this statute is a misdemeanor, and if violated, will permit the Client to cancel this Contract.

- 12. Costs and Attorneys Fees.** The prevailing party in any dispute arising out of this Contract shall be entitled to reimbursement of its costs and attorneys' fees in asserting or defending its rights hereunder against the non-prevailing party.
- 13. Merger, Amendment & Savings Clause.** It is understood and agreed that the entire Contract between the parties is contained herein and that this Contract supersedes all oral agreements, negotiations, and past practices between the parties relating to the subject matter. This Contract may be amended at any time by mutual agreement of the Client and the Contractor. Any amendments shall be in writing to be effective. If any section of this Contract is found to be invalid or not enforceable, the remainder of the Contract shall remain in force and binding.
- 14. Termination.** This Contract shall terminate upon the expiration of the term as provided in Paragraph 2 or upon 60 days written notice by either party. Upon termination of the Contract, the relationship shall end, except for the damage obligations of the parties under Paragraph 4, the indemnity obligations of the Contractor under paragraph 9. If the Contractor fails to perform any of the provisions of this Contract or so fails to administer the work as to endanger the performance of the Contract, this shall constitute default. Unless the Contractor's default is promptly remedied, the Client may, upon written notice, immediately cancel this Contract in its entirety. Failure on the Client's part to perform on the payment terms under paragraph 5 will constitute a default of contract on behalf of the Client and all services will immediately be terminated without further cause or consideration.
- 15. Governing Law.** The laws of Minnesota shall govern the interpretation and enforcement of this Contract. The parties consent to the jurisdiction and venue of the Washington County District Court for all disputes arising hereunder.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed as of the dates set forth below.

City of Birchwood, Client

By: _____
Mary Wingfield, City Mayor

Dated: _____

By: _____
Tobin Lay, City Administrator

Dated: _____

Birch, Inc., Contractor

Kris Birch, President

DATED: _____

EXHIBIT A

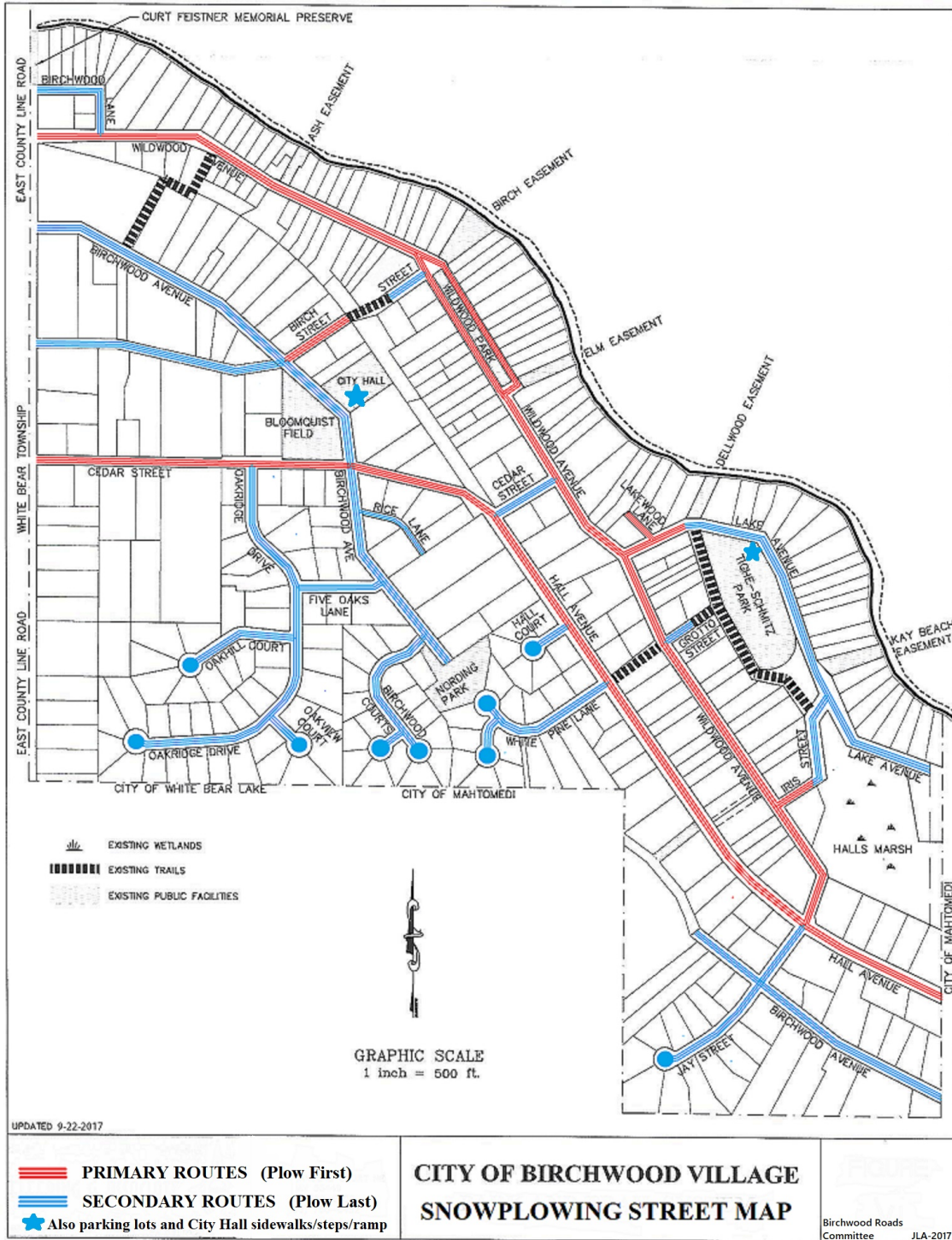


EXHIBIT B

Contract Rates:

Snowplowing:

- Hourly Truck Plowing Price per Hour \$100.00
- Hourly De-Icing Price per Occurrence \$100.00
- Bulk Rock Salt, per ton Price per Occurrence \$90.00
- Liquid Deicer, per gallon Price per Occurrence \$0.55

Hourly Rate Pricing | Additional Services:

- Skidsteer w/snow bucket or plow \$85.00 - \$125.00 per hour
- Skidsteer | Tractor w/blower \$145.00 per hour
- Front end loader w/3-yard bucket \$175.00 per hour
- Hand work (shoveling or snow-blowing) \$65.00 per hour
- Dump truck \$95.00 - \$150.00 per hour
- Dumping Fees Varies with sites and quantities

**Rates varies based on equipment size, HP, single/two speed, and attachment type and size.*

Snow Relocating: Hauling, relocating, blowing, moving snow piles is outside scope of work and will be done per request at a Time & Material Rate.

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ratify Purchase of Ice Rink Boards
DATE: November 5, 2020

Dear Council Members,

As you may remember, we were replacing several boards at the hockey rink before winter. The boards in worst shape are those vertical boards that form the curves. Jim and I had calculated a couple hundred dollars' worth of materials needed to replace the worst of the vertical boards. Most remaining boards are still in bad shape though. While shopping for supplies, Jim found a big order of the tongue and groove wood that we want in the clearance section. For \$750 we can replace all or most of those vertical boards – instead of a couple hundred that we'd planned on for a few.

The Mayor approved the purchase of the clearance materials. This is a great buy and makes the most economic sense. We will keep any existing boards on hand that are still in good condition as backup replacements.

Request/Recommendation

Staff requests City Council ratify the Mayor's approval of the purchase of boards for the ice rink. Thanks!

Regards,
Tobin Lay

**REGULAR A
COUNCILMEMBER RESIGNATION**

Tobin Lay

From: Jessi Aakre
Sent: Wednesday, November 4, 2020 9:28 AM
To: Tobin Lay
Subject: Letter of Resignation

Caution: This email originated outside our organization; please use caution.

Hi Tobin,

This is my official letter of resignation for City Council due to moving out of the area. I have enjoyed my time on the Council and appreciate everyone's support during my tenure! It has been an honor to represent Birchwood and I will miss the community.

Thanks,
Jessi

--
Jessi Aakre, MS, ATC

COUNCILMEMBER RESIGNATION

RESOLUTION 2020-32

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION ACCEPTING RESIGNATION
AND DECLARING A VACANCY**

WHEREAS, The City Council of The City of Birchwood Village has received the written resignation of Councilmember Jessi Aakre, effective on November 4, 2020.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA AS FOLLOWS:

1. The Council accepts Jessi Aakre’s resignation as described above.

The Council declares that a vacancy exists on Council effective on November 4, 2020.

Passed by the City Council of The City of Birchwood Village, Minnesota this 10th day of November, 2020.

Attest:

Mary Wingfield, Mayor

Tobin Lay, City Administrator-Clerk



OATH OF OFFICE

*State of Minnesota
County of Washington*

CITY OF BIRCHWOOD VILLAGE

*I, **MARK FOSTER**, do solemnly swear to support the Constitution of the United States, the Constitution of the State of Minnesota, and to discharge faithfully the duties of the office of **COUNCILMEMBER** of the City of Birchwood Village, Minnesota, to the best of my judgment and ability, so help me God.*

Signature

Subscribed and sworn to before me this 10th day of November, 2020.

*Tobin Lay
City Administrator-Clerk*

Tobin Lay

From: Birchwood Dock Association <birchwooddocks@gmail.com>
Sent: Monday, November 2, 2020 9:28 PM
To: Mary Wingfield
Cc: Tobin Lay
Subject: Birchwood Dock Association - Public Hearing on 11/10/2020

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Good evening Mayor Wingfield,

After discussion during the October 13th city council meeting, it became apparent that additional input is needed regarding the potential changes to Ordinances 617 and 804. Therefore, we would like to ask to cancel the public hearing on November 13th to allow for additional time to gather more input from easement neighbors, Birchwood Dock Association members, and the Birchwood public.

As the 2021 contract was approved on October 13th, and we do not expect any slip holder turnover for 2021, changes to 617 would not have an effect until the 2022 boating season. So, there is no rush for any changes to 617 without doing adequate research, information gathering, and general discussion of any changes.

I have CCed City Administrator Tobin Lay and forwarded identical emails to each city council person.

Thank you in advance,
-David Heiden
651-399-1436
Birchwood Docks Association President

**VARIANCE CASE
NO. 20-02-VB**

415 WILDWOOD AVENUE

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Variance Case No. 20-02-VB
DATE: November 5, 2020

Dear Mayor and Council Members,

The City has received the additional materials from Ms. Wandmacher that the Council requested at the September 9, 2020 City Council meeting (see enclosed). The City Engineer/Planner has reviewed the additional materials and found them to be satisfactory to your request (see enclosed email from Thatcher Engineering).

Procedural History

On August 27, 2020, the Planning Commission heard the variance request for 415 Wildwood Ave – 4 Commissioners approved the variance and 1 did not. Recommended conditions for the variance are as follows:

- Rain garden maintenance agreement that incorporates the applicant’s stated maintenance plan (included in the packet) and the requirements of Sec. 302.050.1.a-k
- Registered with Washington County & filed with Birchwood
- Per City Code 304.090, the variance shall become null and void if the project has not been completed or utilized within one year after the date it was granted, subject to petition for extension by the City Council.
- All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.
- Land alteration may not cause adverse impact upon abutting property.

On September 9, 2020, the City Council reviewed the variance request and found it to be incomplete. The Council requested the following additional materials:

- Include berm designs on the site plan for any planned berms.
- The proposed Stormwater Management Plan must be signed off by a professional engineer guaranteeing that the Plan will sufficiently manage the stormwater from the property.
- The signed proposed Stormwater Management Plan must be confirmed by the City Engineer/Planner.

On October 10, 2020, the City received the enclosed email from Ms. Wandmacher explaining the delay in obtaining the additional requested materials and requesting an extension (see enclosed).

Request/Recommendation

The applicant requests the City Council review the enclosed materials pertaining to variance request no. 20-02-VB for 415 Wildwood Avenue and approve her request. Thanks!

Regards,
Tobin Lay

Tobin Lay

From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Friday, November 6, 2020 11:39 AM
To: Tobin Lay
Subject: RE: 415 Wildwood Ave Variance

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Hi Tobin,

Thatcher Engineering (TEI) reviewed the Site Plan for the 415 Wildwood Ave variance. It is the opinion of TEI that the Site Plan meets the Councils request in the "incomplete letter 9.18.20".

The Site Plan includes the installation of two rain gardens.

TEI recommends that the City approve the variance.

Please let me know if you have any questions.

Our fee for this review is \$127.50.

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.

6201 Creek Valley Road
Edina, MN 55439
Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

From: Tobin Lay [mailto:Tobin.Lay@cityofbirchwood.com]
Sent: Thursday, November 05, 2020 11:49 AM
To: Steve Thatcher (sthatcher@thatcher-eng.com) <sthatcher@thatcher-eng.com>
Subject: FW: 415 Wildwood Ave Variance

Steve,

Will you please review the attached Site Plan for the 415 Wildwood Ave variance and let me know if it meets the Councils request (see attached "incomplete letter 9.18.20").

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403

fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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From: Cathryn Wandmacher <cwandmacher@hotmail.com>
Sent: Monday, November 2, 2020 5:01 PM
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Subject: 415 Wildwood Ave Variance

Caution: This email originated outside our organization; please use caution.

Tobin,

Here is the final drawing from the engineer. Please let me know if you need anything else.

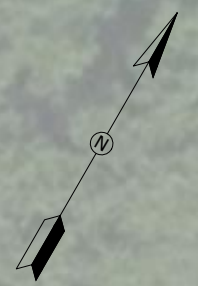
Cathy

Sent from [Mail](#) for Windows 10

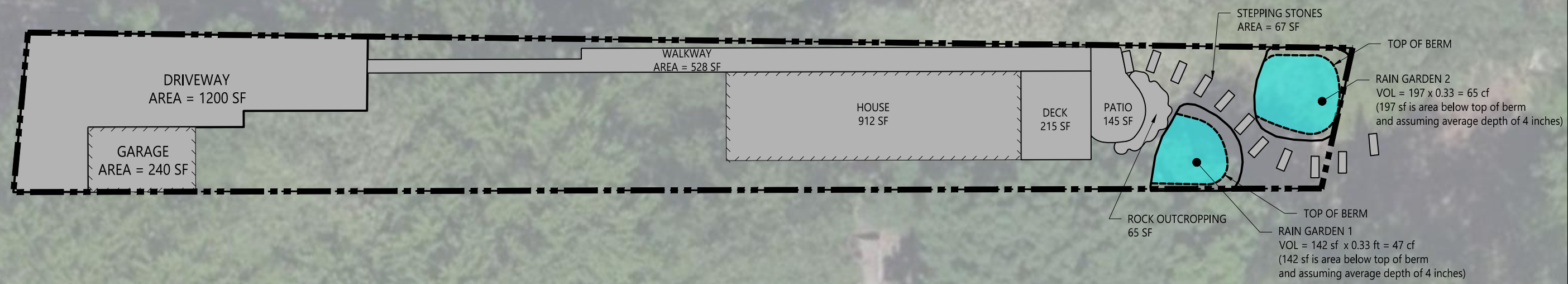
STORMWATER MANAGEMENT CALCULATIONS

Rainfall Data:
 100 year, 24 hour storm event
 NOAA Atlas 14

New Impervious	Rainfall Depth	Volume	Description
277 sf	7.26 in	168 cf	Total Volume of Runoff from New Impervious
		47 cf	Total Volume of Rain Garden 1
		63 cf	Total Volume Infiltrated by Rain Garden 1 in 24 hours ([142 sf x (0.32 in/hr/12in/ft)] x 24 hours/day = 92 cf)
		65 cf	Total Volume of Rain Garden 2
		87 cf	Total Volume Infiltrated by Rain Garden 2 in 24 hours ([197 sf x (0.32 in/hr/12in/ft)] x 24 hours/day = 127 cf)
		262 cf	Volume Provided > 168 cf Runoff from New Impervious



WILDWOOD AVENUE



IMPERVIOUS AREA CALCULATIONS			
EXISTING		PROPOSED	
DRIVEWAY	1,200 SF	DRIVEWAY	1,200 SF
GARAGE	240 SF	GARAGE	240 SF
WALKWAY	528 SF	WALKWAY	528 SF
HOUSE	912 SF	HOUSE	912 SF
DECK	215 SF	DECK	215 SF
		PATIO	145 SF
		ROCK OUTCROPPING	65 SF
		STEPPING STONES	67 SF
TOTAL	3,095 SF	TOTAL	3,372 SF
PERCENTAGE (3,095/6,678) = 46.3%		PERCENTAGE (3,372/6,678) = 50.5%	

NOTES
 All information on this document was field measured and recorded by hand. Boundary information was approximated utilizing Washington County tax maps and GIS. Surveying equipment was not used.

**REGULAR C
ADD. MATERIALS**

ANCHOR WALL ENGINEERING, LLC
 Donal J. Armstrong
 5959 BAKER ROAD, SUITE 390
 MINNETONKA, MN 55345-5996
 PHONE: (952) 933-8855

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

 Donal J. Armstrong, PE
 Date: 11/02/2020 Reg. No.: 23118

Scale: 1" = 20'

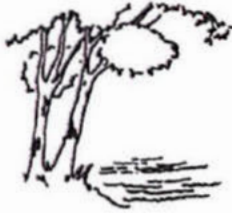
 VERIFY THAT THE BAR ABOVE IS 1". IF NOT, ADJUST THE SCALE ACCORDINGLY.

Proj. No:	AF 20 167	Reviewed By:	DJA
Date:	10/20/20	Drawn By:	PCC

STORMWATER MANAGEMENT PLAN – NEW PATIO ADDITION
 415 WILDWOOD AVENUE
 BIRCHWOOD, MN
 Cathy Wandmacher
 Birchwood, MN

REVISION DATES (SEE SHEET W1 FOR REVISION HISTORY):	TITLE PAGE/SITE PLAN	Sheet of	C1.0 1
---	----------------------	----------	--------

**REGULAR C
VARIANCE APPLICATION**



City of Birchwood Village
Petition for Variance Application

207 Birchwood Ave, Birchwood, MN 55110
Phone: 651-426-3403 Fax: 651-426-7747
Email: info@cityofbirchwood.com

FOR OFFICIAL USE ONLY

Application Received Date: _____ Amount Paid: \$ 300.00

Payment Type (Circle One): Cash / Check / Money Order / Credit Card

Check/Money Order # 10027

Application Complete? Yes No If no, date application was deemed complete: _____

Signature of City Planner: [Signature] Date: 7/28/20

Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.

1. Name of Applicant(s) Cathryn Wandmacher
Address 415 Wildwood Ave
City Birchwood State MN Zip Code 55110
Business Phone _____ Home Phone [REDACTED]

2. Address of Property Involved if different from above: _____

3. Name of Property Owner(s) if different from above and describe Applicant's interest in the property:

4. Specific Code Provision from which Variance is requested: 302.050

5. Describe in narrative form what the Applicant is proposing to do that requires a variance:
I have installed a stone patio with a boulder wall. I did not know I needed a permit to install

6. Type of Project:

- New Construction (empty lot)
- Addition
- Demolition
- Landscaping
- Repair or removal of nonconforming structure
- Other (describe) _____

7. Type of Structure Involved:

- Single Dwelling
- Garage
- Tennis Court
- Grading/Filling
- Other (describe) patio + boulder wall
- Double Dwelling
- Addition
- Pool

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what "Practical Difficulties" exist:

City code 302.050 - impervious surface -
Patio is built on clean fill, class 5, sand
+ stone. There is space between each stone
for drainage. Before it was just a hill with
leaves + weeds, there was nothing to help
with the runoff.

9. Describe any measures the Applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property:

I have consulted with a professional +
had plans drawn up for a rain garden that
will be bigger than the patio - I also have
put mulch on the slope.

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code? Yes No

If yes, explain: _____

13. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes No


If yes, please identify the regulations AND attach evidence demonstrating compliance:

14. Please provide the applicable information in the following Table:

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	6,761		
2. Maximum Impervious Surface (25% of item 1)			
3. Roof Surface	1026		
4. Sidewalks	95		
5. Driveways	750		
6. Other Impervious Surface	240	patio + boulder wall	
7. Total of Items 3-6	1895		
8. Percent Impervious Surface			

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

patio + boulder wall  164 x 156
 walkway 117 x 56

Criteria for Granting a Variance. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

Variances to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

SUBD. 1.

- A. Variances shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

NOTICE:

***The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

***The City will hold applicant responsible for any damage to public streets & roadways in the course of construction, landscape, excavating, filing and grading operations.**

***Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.**

Signature of Applicant: Callan A. W. Orzech Date: 6-10-20

415 Wildwood Ave, Saint Paul, MN 55110-1618, Washington County



MLS Beds 2	MLS Sq Ft 932	Lot Sq Ft 6,767	MLS Sale Price \$235,000
MLS Baths 1	Yr Built 1900	Type SFR	MLS Sale Date 09/26/2019

OWNER INFORMATION			
Owner Name	Wandmacher Cathryn A	Taxpayer ZIP+4	1618
Taxpayer Address	415 Wildwood Ave	Taxpayer Carrier Route	C024
Taxpayer City and State	White Bear Lake, MN	Owner Occupied	Yes
Taxpayer Zip	55110		

LOCATION INFORMATION			
Municipality	Birchwood	School District Name	White Bear Lake
Zip Code	55110	School District	0624
Carrier Route	C024	Section #	30
Census Tract	703.03	Township #	30
Subdivision	Lakewood Park 03	Range #	21
Lot	2	Quarter	NE
Block	6	Quarter-Quarter	SW

TAX INFORMATION			
PID#	3003021130082	Special Assessment	\$265
PID	3003021130082	Preliminary Tax Amount	\$2,256
% Improved	23%	Payable Tax Year	2020
Legal Description	SUBDIVISIONNAME LAKEWOOD P ARK 3RD DIVISION LOT 2 BLOCK 6 SUBDIVISIONCD 25442 PT BEIN G SLY 5FT SD LT 2 & N1/2 LT 3 EX C SLY 4FT THEREOF		

ASSESSMENT & TAX				
Assessment Year	2019 - Preliminary	2018	2017	2016
Estimated Mkt. Value - Total	\$215,500	\$169,900	\$152,500	\$150,200
Estimated Mkt. Value - Land	\$150,000	\$130,000	\$117,000	\$117,000
Estimated Mkt. Value - Building	\$65,500	\$39,900	\$35,500	\$33,200
Taxable Mkt. Value - Total	\$197,700	\$148,000	\$129,000	\$126,500
Taxable Mkt. Value - Land	\$137,600	\$113,200	\$99,000	\$98,500
Taxable Mkt. Value - Building	\$60,100	\$34,800	\$30,000	\$28,000
YOY Taxable Mkt. Value Chg (\$)	\$49,700	\$19,000	\$2,500	
YOY Taxable Mkt. Value Chg (%)	33.58%	14.73%	1.98%	
Payable Tax Year	Total Tax	Change (\$)	Change (%)	
2017	\$1,490			
2018	\$1,702	\$212	14.23%	
2019	\$1,656	-\$46	-2.7%	

CHARACTERISTICS			
Lot Acres	0.1554	Basement Type	Tax: Crawl MLS: Partial, Crawl Space, Drain Tiled, Drainage System
Lot Sq Ft	6,767	Garage Type	Detached Garage
Lot Frontage	23	Parking Type	Detached Frame Garage
Lot Depth	240	Garage Sq Ft	240
Land Use - County	Res 1 Unit	Garage Capacity	MLS: 1
Land Use - CoreLogic	SFR	No. Parking Spaces	MLS: 1
# of Buildings	1	Roof Shape	Gable/Hip
Stories	1	Roof Type	Gable
Levels	1	Roof Material	Asphalt Shingle

Nominal

Buyer Name	Swenson Eric L & Bauman Jaclyn	Owner Record	Owner Record
Buyer Name 2	Bauman Jaclyn		
Seller Name		Owner Record	Owner Record
Document Type	Deed (Reg)	Deed (Reg)	Deed (Reg)

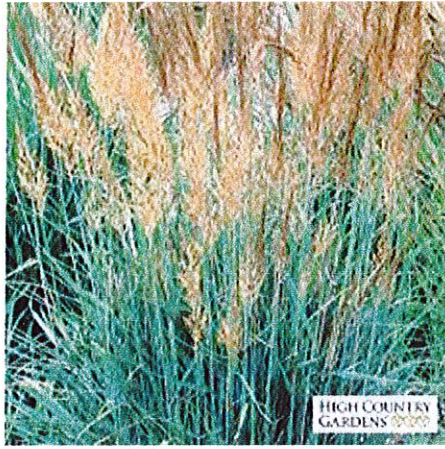
MORTGAGE HISTORY			
Mortgage Date	04/14/2020	11/19/2019	09/28/2018
Mortgage Amount	\$231,550	\$223,250	\$209,100
Mortgage Lender	Goldwater Bk Na	Goldwater Bk Na	Bell Bk
Borrower Name	Wandmacher Cathryn A	Wandmacher Cathryn A	Pehoski Anthony J
Borrower Name 2			Pehoski Julie A
Mortgage Type	Conventional	Conventional	Conventional

FORECLOSURE HISTORY	
Document Type	Lis Pendens
Foreclosure Filing Date	05/18/2017
Recording Date	05/18/2017
Original Doc Date	06/23/2015
Lien Type	Mtg
Buyer 1	Lutz Jeffrey A
Seller 1	Wells Fargo Bk Na
Title Company	Attorney Only



*Lot Dimensions are Estimated

Plants for Rain Garden



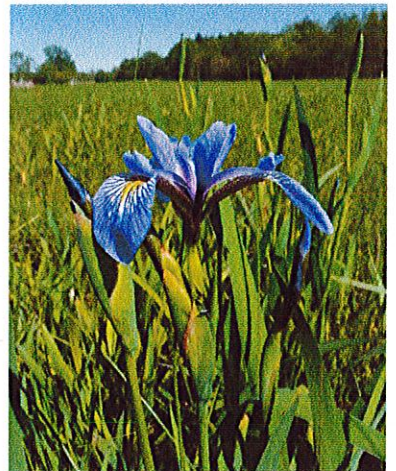
Indian Grass

Turtlehead



Yarrow Noblessa

Eupatorium Little Joe



Cornus Allenman's Compact

Astilbe Delft Lace

Blue Flag Iris

Karl Foerster Grass



Baptisia

Liatris

August 17, 2020

PLANT LIST FOR
Cathy Wandmacher
415 Wildwood Ave,
Birchwood, MN 55110

Phone: 651 276-3726

DESIGN BY:

ROSALIE TALLEN

RESIDENTIAL GARDENS LLC

243 WILDWOOD AVE, ST PAUL, MN 55110

651 426-1500

rvtallen@comcast.net

www.residentialgardens.net

Plants

Quantity	Botanical Name	Common Name	Size	Price
7	<i>Achillea ptarmica</i> 'Noblessa'	YARROW NOBLESSA	CG#1	\$55.93
8	<i>Astilbe chinensis</i> 'Delft Lace'	ASTILBE DELFT LACE	CG#1	\$119.92
3	<i>Baptisia australis</i>	BAPTISIA AUSTRALIS	CG#1	\$23.97
6	<i>Calamagrostis acutiflora</i> 'Karl Foerster'	REED GRASS KARL FOESTER	CG#1	\$47.94
6	<i>Chelone lyonii</i> 'Hot Lips'	TURTLEHEAD HOT LIPS	CG#1	\$53.94
5	<i>Cornus sericea</i> 'Allenman's Compact'	DOGWOOD ALLENMAN'S COMPACT	CG#2	\$99.95
6	<i>Eupatorium dubium</i> 'Little Joe'	EUPATORIUM LITTLE JOE	CG#1	\$65.94
12	<i>Iris versicolor</i>	IRIS BLUE FLAG	CG#1	\$119.88
9	<i>Liatris spicata</i>	DENSE BLAZING STAR	CG#1	\$71.91
7	<i>Sorghastrum nutans</i>	INDIAN GRASS	CG#1	\$55.93

	Total:	\$715.31
--	---------------	-----------------

- a. The patio that I had built is approximately 225 sq feet. It is made from stones with spacing between each stone for drainage. Under the stone is sand, class five and clean fill. I have enclosed pictures to show the spacing between stones to help with the drainage.

















- b. My house is on a gradual slope. Along the east and west sides of the house there are gully's that have been made so the rain will run between the homes and to the front hill. On the north side I have mounds that help absorb the runoff and direct it away from the house then directs it to the east and west sides. I will be installing a rain barrel on the east side of the house attached to the down spout from the gutters I have ordered Silt Sock Sediment and Erosion Control Management for Storm-Water Management, Drainage Protection. I will be placing sections on the hill to absorb the rain water.





I have enclosed the plans for a rain garden on the west side of the hill and a low berm on the east side to direct water into the rain garden.

- c. I spoke with Bryan Pyann, a watershed restoration specialist with Washington Conservation District. He suggested a raingarden at a 6" ponding depth. large enough to capture 225 sq ft of impervious surface, ponding 3-6" deep. He suggested at a 6" deep raingarden that is 40sq ft. If you want to pond at 3" and your soils do not drain well, then I would do 70 sq ft.
To see if the soil is good enough, he had me dig a hole where the raingarden will be. I made a hole 12" around and 18" deep. I was trying to mimic how the soils would drain after back to back rainfalls and saturated soils.....So... I filled it with water, and once it drained completely I filled it again right away. I jammed a stick in the sidewall of the hole to mark how high the water was filled to. I came back every hour for the next few hours and measured how far down the water drains. If it drained faster than 0.5 inches per hour, and it did so the placement of the raingarden should be perfect.
- d. I am going to hire someone to install the raingarden, so it is installed with the correct slope etc.
- e. N/A
- f. In order to get the boulders for the wall up the hill, ground cover did get disrupted. It was just leaves and weeds before. I planted hostas, ferns and other grasses to help absorb the runoff. I also put mulch on the hill. I did remove a tree that was dead, but the stump and roots remain.
- g.
- h.
- i. I will be planting more grasses and will split hostas and in the fall and place where there are open spaces so eventually the whole hill will be filled with plants.
- j. As soon as I get approval, I plan to put the rain garden in.
- k. I will register the variance with the county when completed and approved by the commission and the city.

h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.

I have enclosed the plans for putting 2 rain gardens on the slope of my hill. 230 and 170 sq feet. One on each side of my house capturing the runoff.

I. The stormwater management plan shall include the applicant's description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.

On each side of the house will direct the water flow into the gardens. I will dig the garden 6-9 in deep with gently sloping sides. Using the excavated soil to create a small berm on the downhill side. Below is the maintenance and upkeep of the gardens. If necessary I can I also purchase a rain barrel to attach to one of my downspouts.

j. The applicant shall include the maintenance plan and a maintenance schedule for the approved stormwater management practices with the required permit application.

Water weekly for 2 months until the plants are established. Keep up routine pruning, mulching and weeding. Inspect site following rainfall events. Add or replace vegetation in eroded areas. If certain plants are not doing well will research a replacement plant. Remove any accumulate sediment or debris.

Schedule:

Spring: New mulch, replace plants that may not have survived over winter

Summer: Weed, check after major rainfalls that water is being directed into the gardens and the debris is cleaned out to keep drainage appropriate.

Fall: Prune plants, mulch if needed, clean out and trim plants for winter

k. The variance shall not be valid unless the applicant properly records the variance at the property records at Washington County and a copy of the recording is properly returned to the City for verification. *Once the variance is approved will file for the proper permits.*

Measurements:

Lot size 6706.17

Roof surface 1172

Sidewalk 484.6

Driveway 857.14

Other impervious surface 305

Total line 3-6 (2818.74)

8/7/2020 10:29 AM

Cathy,

This is where my time cannot be used and I may have stretched it a bit in giving you some numbers initially. I am not allowed to provide design services for permit requirements. But I also do not want to leave you hanging for such a minor issue.

What I can say is this impervious area normally includes the rooftops, driveways, sidewalks, patios, and gravel surfaces. But some cities have different rules for what is considered impervious and what is not. I do not know the rules for your city, but these are the typical surfaces to include.

Your aerial photo that is available does not allow me to easily trace building footprints to get areas of each of these things (too many trees in the way). You will have to measure them manually, on the ground. I know your house is 912sq ft from the property records. Nothing else is measured.

FORMULA: Your total lot area is 6,768 sq ft (from the property records). Divide your impervious area by your total lot area. That will be your 'percent impervious' they are looking for. You will have to show the change from EXISTING to PROPOSED impervious (demonstrating what your new patio will add to the total)..... So add up all your EXISTING impervious areas (rooftops, driveways, sidewalks, patios, and gravel surfaces). Do not include your new patio in your EXISTING calculation. Once you have that number, the formula looks like this: Percent EXISTING Impervious Area = (EXISTING IMPERVIOUS AREA) / (TOTAL LOT AREA)

Percent PROPOSED Impervious Area = (PROPOSED IMPERVIOUS AREA) / (TOTAL LOT AREA)

Example (I am guessing at areas):

EXISTING IMPERVIOUS: House = 912sq ft, Garage = 400sq ft, Sidewalks and Driveway = 800sq ft ADD THEM UP = 2112

$2112/6768 = 31.2\%$ EXISTING Impervious area

Add in your proposed patio to the above numbers and divide that by 6768.

$2112+400 = 2512$

$2512/6768 = 37.1\%$ PROPOSED Impervious

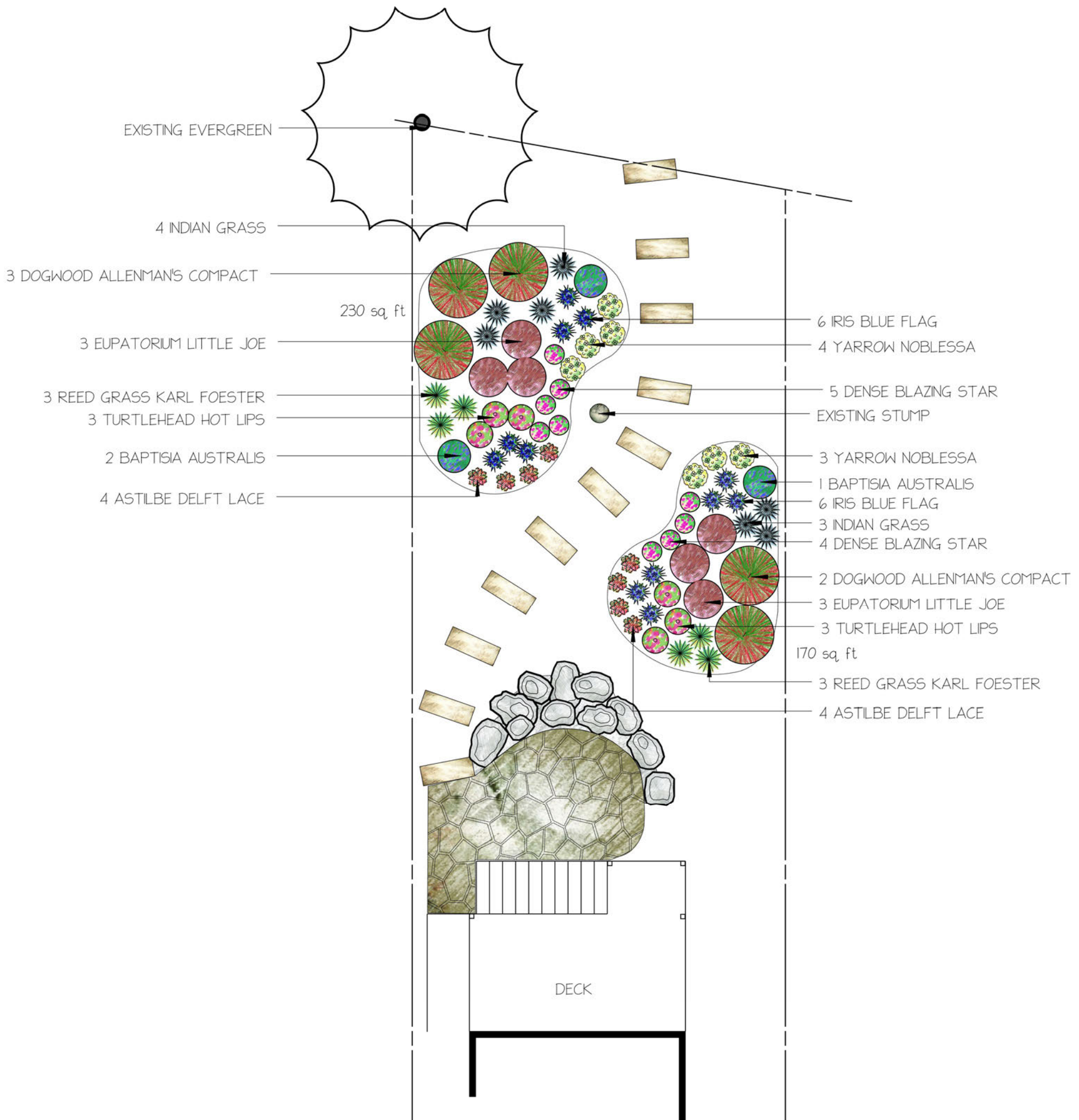
I know it feels like a lot for them to request of you. But it is for protecting the lake water quality. And I know it is a little unfair to request you have an engineer do this simple calculation for you. So hopefully this gets you closer. Once they tell you how much area you have to capture in a raingarden, get back to me. I will run that number real fast and give you a screen shot of the spreadsheet I used.

Sorry I can't help more. Good Luck.

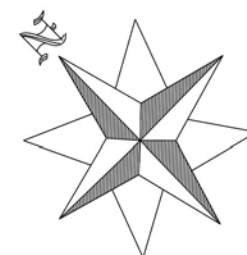
Bryan Pynn
Watershed Restoration Specialist

Washington Conservation District Cell: 612.695.4187 Office: 651.330.8220 ext 36

**REGULAR C
STORM MANAGEMENT PLAN**



WANDMACHER RESIDENCE		
415 WILDWOOD AVE BIRCHWOOD, MN 55110		
client:		
scale	date	revision
1" = 8'	6/8/20	
drawn by	checked by	drawing #
ROSALIE TALLEN	651 426-1500	



RESIDENTIAL GARDENS LLC
www.residentialgardens.net

**CITY OF BIRCHWOOD VILLAGE
MEMORANDUM**

TO: Birchwood Village Planning Commission

FROM: Thatcher Engineering, Inc.

DATE: July 28, 2020

APPLICANT: Cathryn Wandmacher, 415 Wildwood Avenue, Birchwood Village, MN

LOCATION: 415 Wildwood Avenue

REQUEST

Variance request #1: The Applicant is requesting a variance from City Code 302.050.

1. The applicant requests a variance from the requirement that states: "Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:"
2. The request is because the applicant installed a stone patio with builder wall and did not know a permit from the City of Birchwood Village is required. The patio was built on clean sand, class 5, sand and stone. There is space between each stone for drainage.

Prior to the installation of the patio with builder wall, this property did not conform to City Code 302.050 because the impervious surface coverage of the lot was 26.9%. If approved, this project will change the impervious surface coverage of the lot to 30.3%. The applicant worked with the Washington Conservation District to determine how to have the rain garden mitigate the increase of impervious surface. The application and documents submitted with the application show that the proposed rain garden will fully mitigate the increase of impervious surface.

SITE CHARACTERISTICS

The subject lot is 6,970 square feet in size according to the Washington County web site. The lot is a narrow (about 28.0 feet wide) and contains a single-family residence with an unattached garage for one car. The lot has steep slopes.

PRACTICAL DIFFICULTY

- 1) The lot is extremely narrow and long, leaving little yard to work with.
- 2) The lot has steep slopes and topography challenges.
- 3) The lot is an undersized lot based on City Code.

STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES

Minnesota State Statute 462.357 allows for a variance to be permitted only when:

- (1) The proposed use is in harmony with the general purposes and intent of the City's zoning ordinance;
- (2) The variance is consistent with the City's comprehensive plan; and,
- (3) The applicant establishes that there are practical difficulties in complying with the zoning ordinance.

Statutory criteria used to establish a practical difficulty include:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

CTY CODE REQUIREMENTS FOR PERMITTING VARIANCES

Sec 304.040 of the City Code states:

Variations to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

SUBD. 1.

- A. Variations shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i.** Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii.** The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii.** The granting of a variance will result in no increase in the amount of water draining from the property.

- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

ANALYSIS

The lot is an undersized lot with steep slopes and topography challenges. City Code 302.015 allows undersized lots to be utilized for single-family detached dwelling purposes provided the measurements of such area, width, or open space are at least 60% of that required.

REASONS FOR RECOMMENDING VARIANCE APPROVAL

Variance request #1:

1. The lot is an undersized lot with steep slopes and topography challenges.
2. This project would preserve the essential character of the locality.
3. The applicant will install a rain garden.

REASONS FOR RECOMMENDING VARIANCE DENIAL

Variance request #1:

1. A primary goal of the City of Birchwood Village's Zoning Ordinance is "to ensure that a non-conforming use is not intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code." The following could be argued:
 - a. That they are not in harmony with the general purposes and intent of the ordinance.
 - b. That the variances are not consistent with the comprehensive plan.
 - c. That the applicant for the variance has not established that there are practical difficulties in complying with the zoning ordinance.

CONDITIONS

If approved, a requested variance may be approved subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.

2. Per City Code 304.090, the variance shall become null and void if the project has not been completed or utilized within one year after the date it was granted, subject to petition for extension by the City Council.
3. Land alteration may not cause adverse impact upon abutting property.

302.050 IMPERVIOUS SURFACES.

1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:
 - a. The applicant shall submit a stormwater management plan for the site that analyzes the proposed development including the area(s) of impervious surfaces, direction of runoff, proposed best management practices to manage runoff, and stormwater retention that the best management practices will achieve.
 - b. The stormwater management plan shall include structures and/or best management practices for the mitigation of stormwater impacts on receiving waters in compliance with the City's Surface Water Management Plan, or as approved by the City Engineer, so that the site design includes stormwater management practices that control the stormwater runoff volumes, and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from impervious surfaces.
 - c. The applicant shall utilize the most recent version of the Minnesota MIDS (Minimum Impact Design Standards) Calculator (available on the Minnesota Pollution Control Agency's website), the U.S. Environmental Protection Agency's National Stormwater Calculator, or another similar stormwater design calculator approved by the city to complete the plan and show that the proposed stormwater management practices meet the required infiltration standard. The applicant shall submit the calculator results to the City with the stormwater management plan.
 - d. The applicant shall provide documentation that the proposed stormwater management methods meet the required standard, will be designed and installed consistent with the City's Surface Water Management Plan, NPDES stormwater standards, and the Minnesota Pollution Control Agency's Minnesota Stormwater Manual.
 - e. No pervious pavement system is permitted in the Shore Impact Zone. (The Shore Impact Zone is the land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback. The required structure setback from the OHWL in the City of Birchwood Village is 50 feet, and the Shore Impact Zone is 25 feet.)
 - f. Site design shall comply with the City's zoning code 302.055, and shall minimize changes in ground cover, loss of natural vegetation, and grade change as much as possible.
 - g. The base of installed infiltration structures or practices must be a minimum of three (3) feet above the established ground water table or the Ordinary High Water Level of White Bear Lake, whichever is higher.

- h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.
- i. The stormwater management plan shall include the applicant's description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.
- j. The applicant shall include the maintenance plan and a maintenance schedule for the approved stormwater management practices with the required permit application.
- k. The variance shall not be valid unless the applicant properly records the variance at the property records at Washington County and a copy of the recording is properly returned to the City for verification.

*****THIS IS A SAMPLE MAINTENANCE AGREEMENT THAT HAS BEEN USED BY THE CITY FOR PAVER SYSTEMS PREVIOUSLY. THIS IS NOT USABLE AS IS FOR AN AGREEMENT TO MAINTAIN A RAIN GARDEN. YOU MAY SELECT TERMS OF THIS AGREEMENT IN YOUR RECOMMENDATION TO THE CITY COUNCIL.*****

[Space Above this Line for Recording Office Use Only]

MAINTENANCE
AGREEMENT

This Permeable Pavement Maintenance Agreement, hereinafter referred to as the, "Agreement," dated this ____th day of _____, 2020, the, "effective date," by and between John and Danelle Hartman, Property Owners, hereinafter referred to as, "Grantors," and the City of Birchwood Village, hereinafter referred to as the, "City."

WITNESSETH

WHEREAS, the City is authorized and required to regulate and control the disposition of storm and surface waters within the City as set forth by City ordinances; and

WHEREAS, the Grantors are the owners of a certain tract or parcel of land more particularly described as: _____ (Parcel ID Number __ - __ - __ - __ - __), including all improvements thereon, as shown on documents duly recorded in the Washington County property records, commonly referred to as _____ Street, hereinafter referred to as the "Property."

WHEREAS, the Grantors wish to construct certain improvements on the Property which will alter existing storm and surface water flow conditions on the Property and adjacent lands; and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Grantors have agreed to build and maintain at their expense a storm and surface water management facility and system more particularly described as a permeable interlocking concrete pavement system ("System"). This System is shown on the plans titled: _____. The plans were prepared by: _____ and dated _____ (enclosed); and

WHEREAS, the City has reviewed and approved these plans, subject to the execution of this Agreement.

NOW, THEREFORE, in consideration of the benefit received by the Grantors and as a result of the City approval of its plans, the Grantors hereby covenant with the City as follows:

1. Grantors shall construct and perpetually maintain, at their sole expense, the above referenced System in strict accordance with said-plan approved by the City.
2. Grantors shall conduct in-service inspections, maintain and repair the System in accordance with the most current edition of the Interlocking Concrete Pavement Institute (ICPI) manual titled, Permeable Interlocking Concrete Pavements (currently in its third edition) to ensure that the System is properly maintained and continues to operate as designed and approved.
3. Grantors shall, on _____, and every ___ year anniversary thereafter for so long as the System is in operation, submit a letter to the City stating whether or not the System continues to operate as designed and approved. If the System does not continue to operate as designed and approved, the Grantors shall repair or replace the System within ninety (90) days and re-certify the repaired or replacement System with the City to ensure that the renewed System operates as it was designed and approved.
4. The City, its agents, employees and contractors shall have the perpetual right of ingress and egress over the Property and the right to inspect the System, at reasonable times and in a reasonable manner with 72 hours written notice, in order to ensure that the System is being properly maintained and continues to perform as designed and approved by the City.
5. The City shall notify Grantors in writing of any defects in the System within 30 days of any inspection it conducts and Grantors agree to correct any defects in the System within ninety (90) days of receipt of any such written notice per Paragraph 3 herein.
6. Grantors agree that if they fail to correct any such defects within ninety (90) days of receipt of written notice, or fail to maintain the System in accordance with applicable laws and regulations, or in the event of an emergency as determined by the City in its sole discretion, the City is authorized to enter the Property to make all repairs or perform all maintenance, construction or reconstruction the City deems necessary. The City shall invoice the Grantors for the cost of the work, both direct and indirect, and applicable penalties. If not paid, the City is authorized to assess the Property and said assessment shall be a lien against the Property and assigned to the County Assessor to be assessed to the property tax due of said Property and collected as ordinary taxes by the County and paid to the City.
7. Grantors shall indemnify, hold harmless and defend the City from and against any and all claims, demands, lawsuits, losses, damages and payments, including attorney's fees claimed or made against the City that are alleged or proven to result or arise from actions or inactions of the Grantors.

8. The commitments and requirements contained herein shall be considered covenants that run with the land. The Grantors, their successors, heirs or assigns, further agree that whenever the Property shall be sold or conveyed, they shall be subject to the commitments, agreements and provisions of this Agreement.

9. Grantors agree not to transfer or assign responsibility for complying with this Agreement.

10. The provisions of this Agreement shall be severable; if any clause, sentence or provision, or their applicability to Grantors, is held to be invalid by a Court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby.

11. This Agreement shall be recorded at the office of the Washington County Recorder, at the expense of Grantors.

12. In the event that the City shall determine, in its sole discretion, at any future time, that the System is no longer required, the City shall, at the request of Grantors, their heirs or assigns, execute a release of this Agreement, which the Grantors may record with Washington County, at their expense.

IN WITNESS WHEREOF, Grantors and the City have executed this Maintenance Agreement.

_____, Grantor

_____, Grantor

STATE OF MINNESOTA)
)SS.
COUNTY OF WASHINGTON)

Signed, sworn to, and acknowledged before me by _____, Grantors, this ____ day of _____, 20__.

Notary Public

RESOLUTION NO. 2020-36

**RESOLUTION APPROVING A VARIANCE FROM
THE CITY OF BIRCHWOOD VILLAGE ZONING CODE
FOR 415 WILDWOOD AVENUE**

WHEREAS, a proposal (20-02-VB) has been submitted by Cathryn Wandmacher to the City Council requesting a variance from the City of Birchwood Village at the following site:

ADDRESS: 415 Wildwood Avenue,

PARCEL: 30.030.21.13.0082

LEGAL DESCRIPTION: PT BEING SLY 5FT SD LT 2 & N1/2 LT 3 EXC SLY
4FT THEREOF SUBDIVISIONNAME LAKEWOOD PARK 3RD
DIVISION LOT 2 BLOCK 6 SUBDIVISIONCD 25442

WHEREAS, The applicant seeks a variance from the 25% max. impervious surface for a lot, per 302.050; and

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on July 30 and August 27, 2020; and

WHEREAS, the request was determined to be in harmony with the general purposes and intent of the ordinance; be consistent with the comprehensive plan; have special conditions or circumstances to the land, structure, or building; conditions were not created by the property owner's action or design solution; and

WHEREAS, the decision to grant the variance will result in no increase in the amount of water draining from the property; not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City; and was not made simply because there were no objections or because those who do not object outnumber those who do; and

WHEREAS, either reasonable use for the property was not found to exist under terms of the Zoning Code or if reasonable use of the property was found to exist, financial gain or loss by the property owner was not considered; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village after reviewing the proposal, that the City Council accepts and adopts the findings of the Planning Commission as previously explained.

FURTHER, BE IT RESOLVED, that the City Council of the City of Birchwood Village hereby approves the requested variance subject to the following conditions:

1. Applicant shall enter an agreement with the City to construct and maintain rain gardens that incorporates the applicant’s stated maintenance plan and the requirements of Sec. 302.050.1.a-k
2. All application materials, maps, drawings and descriptive information submitted with this application shall become part of this permit.
3. Per Section 304.090, the variance shall become null and void if the project has not been completed or utilized within one (1) year after the date it was granted, subject to petition for extension by the City Council.
4. Land alteration may not cause adverse impact upon or result in additional drainage onto abutting property.
5. Applicant shall record variance with Washington County and provide copy of recorded document to the City.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Mary Wingfield, Mayor

ATTEST:

Tobin Lay, City Administrator

Approval is contingent upon execution and return of this document to the City Administrator.
I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date

**VARIANCE CASE
NO. 20-04-VB**

251 WILDWOOD AVENUE

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Variance Case No. 20-04-VB
DATE: November 5, 2020

Dear Mayor and Council Members,

Enclosed is a variance request from Brock Harmon to install two (2) retaining walls at 251 Wildwood Ave. within the White Bear Lake Ordinary High Water Level setback. The purpose of the request is to construct flat areas large enough to store boat dock materials during the winter – currently difficult to do because of the slope of the property towards the lake. The original request once included the rip rap and steps that were approved by the City Council on October 13, 2020 as a Conditional Use Permit (C.U.P.) request.

Procedural History

On August 27, 2020, the Planning Commission heard the variance request for 251 Wildwood Ave. The Commissioners determined that the application was incomplete and requested:

- Full detailed shed plans (shed was later dropped from the request);
- Consideration of changing step material (later separated into a C.U.P. request); and
- Provide anchoring info. for the steps (also separated into the C.U.P. request).

In preparation of the September 24, 2020 Planning Commission meeting, the applicant submitted a C.U.P. request in addition to his variance request. The C.U.P. included the rip rap and step plans that were originally part of the variance request. The applicant revised the variance request, removing the request to build a shed and instead requesting only to construct retaining walls. The Planning Commission reviewed the two requests, approved the C.U.P. (later approved by the City Council on October 13, 2020) and recommended the applicant withdraw his variance request in lieu of a second C.U.P. request that would eliminate the retaining walls and request grading and vegetative plantings instead. The applicant withdrew his variance request accordingly.

Prior to the October 22, 2020 Planning Commission meeting, the applicant reconsidered his decision to submit a second C.U.P. and resubmitted his variance request for two (2) retaining walls. The Planning Commission heard the variance request and were unable to reach a consensus on a recommendation to the City Council. Two (2) Commissioners approved the variance request with conditions; two (2) denied the request outright, and one (1) was absent from the meeting. The conditions proposed by the two (2) Commissioners in favor of approving the request are as follows:

- Shall submit detailed drawings of proposed wall location
- Shall submit as built plans
- Shall submit detailed planting plan (count and location)
- Planting plan must have City Engineer approval
- Shall maintain wall and vegetation into perpetuity
- Terraced areas must remain pervious
- Remaining slopes must be established (grass/vegetation)
- Shall pay escrow deposit to ensure slopes are established
- Shall cause no harm to existing trees

Request/Recommendation

The applicant requests the City Council review the enclosed materials pertaining to variance request no. 20-04-VB for 251 Wildwood Avenue and approve his request. Thanks!

Tobin Lay
City Administrator-Clerk

**REGULAR D
VARIANCE APPLICATION**

* PLEASE SEE WORD DOC



City of Birchwood Village
Petition for Variance Application

207 Birchwood Ave, Birchwood, MN 55110
Phone: 651-426-3403 Fax: 651-426-7747
Email: info@cityofbirchwood.com

WITH ADDITIONAL DETAILS
AND SUPPORT. THANKS.

- Brock

FOR OFFICIAL USE ONLY

Application Received Date: 9/12/20 Amount Paid: \$ 300.00
 Payment Type (Circle One): Cash / Check / Money Order / Credit Card
 Check/Money Order # _____
 Application Complete? Yes No _____ If no, date application was deemed complete: _____
 Signature of City Planner: [Signature] Date: 9/17/20

* THIS IS REVISED PER
CHANGES MADE AFTER
AUGUST 2020 PLANNING
COMMISSION MEETING
WHICH REVIEW OF
THE VARIANCE WAS
TABLED.

Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.

1. Name of Applicant(s) BRUCK HARMON (SON OF TRUDE HARMON)
 Address 251 WILLOWD AVE
 City BIRCHWOOD State MN Zip Code 55110
 Business Phone _____ Home Phone _____

2. Address of Property Involved if different from above: SAME

3. Name of Property Owner(s) if different from above and describe Applicant's interest in the property: 5 GENERATIONS OF FAMILY OWNERSHIP. EARL TO ~~ACQUIRE~~ SAFELY USE 'HILL AREA' FOR DOCK MATERIALS. AS HIGH WATER LEVEL HAS IMPACTED USEABLE AREA.

4. Specific Code Provision from which Variance is requested: 302.020.2; 302.020.4.c; 302.020.5; 302.055.2.a.4; & 302.070.5

5. Describe in narrative form what the Applicant is proposing to do that requires a variance:
2 RETAINING WALLS TO CREATE FLAT AREAS OF SIZE NEEDED TO SAFELY STORE HEAVY DOCK MATERIALS. THESE RETAINING WALLS TO BE WITHIN 50' OHWL SETBACK FROM WBL.

SEE SUPPORTING DOCUMENTATION:

- SCALED SITE PLAN - PAGE A-1, UPPER PORTION OF DRAWING Page 1 of 4
- MANY ADDITIONAL SUPPORTING REFERENCES

6. Type of Project:

- New Construction (empty lot)
- Addition
- Demolition
- Landscaping -- 4' RETAINING WALLS
- Repair or removal of nonconforming structure
- Other (describe) _____

7. Type of Structure Involved:

- Single Dwelling
- Garage
- Tennis Court
- Grading/Filling -- RETAINING WALLS
- Other (describe) _____
- Double Dwelling
- Addition
- Pool

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what "Practical Difficulties" exist:

SUBDIVISION 1 - JUSTIFICATION - CONSISTENT WITH COMPREHENSIVE PLAN OF BIRCHWOOD TO PROMOTE SAFETY, BY CREATING FLAT SPACES ON TO HILL FOR SAFER STORAGE OF DOCK MATERIALS

SUBDIVISION 2 - PRACTICAL DIFFICULTIES

- DOCK MATERIALS NEED TO BE WITHIN 50' SETBACK FOR USE AND NEED TO BE STORED ON FLAT SURFACE AND REASONABLE HEIGHT FOR SAFETY.
- CLOSE LOCATION OF HILL TO SHORE CAUSING HARDSHIP FOR MANAGING DOCK MATERIALS ON SLOPE OF HILL.
- MINIMIZE LAND DISTURBANCE AND VISUAL IMPACT BY BUILDING INTO HILL AND EXPANDING NATURAL TERRACING ON HILLSIDE.

9. Describe any measures the Applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property:

• CREATE GRADE FLAT GROUND -- NATURAL VEGETATION WITHIN THE RETAINING WALLS PROMOTE WATER ABSORPTION AND REDUCE POTENTIAL EXISTING RUNOFF DUE TO STEEP BANK.

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

NONE - DOCK MATERIALS NEED TO BE KEPT WITHIN THE 50' CHWL SETBACK TO FACILITATE ANNUAL INSTALLATION + REMOVAL FROM/TO STORAGE

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code? Yes No

If yes, explain: _____

13. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes No

If yes, please identify the regulations AND attach evidence demonstrating compliance:

RCWD, MNDNR, WBLCD (SEE SUPPORTING DOCUMENTATION)

ALL IN COMPLIANCE

14. Please provide the applicable information in the following Table:

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	13,294.3	13,294.3	0
2. Maximum Impervious Surface (25% of item 1)	3323.6	3323.6	0
3. Roof Surface	CABIN 1017.7 GARAGE 329.9	CABIN 1017.7 GARAGE 329.9	0
4. Sidewalks	0	0	0
5. Driveways	0	0	0
6. Other Impervious Surface	0	RETAINING WALLS 66.0	66.0
7. Total of Items 3-6	1347.6	1413.6	66.0
8. Percent Impervious Surface	10.1%	10.6%	0.5%

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

SEE VARIANCE SECTION, PAGE E-4

SEE DIAGRAM SECTION PAGE A-12

SEE SUPPORTING DOCUMENTATION



Criteria for Granting a Variance. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

Variances to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

SUBD. 1.

- A. Variances shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that


- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

NOTICE:

***The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

***The City will hold applicant responsible for any damage to public property that occurs in the course of performing the activities of this permit.**

***Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved**

Signature of Applicant: 

Date: 9/3/2020

CONTENTS

PAGE

- A. DIAGRAMS
 - 1. PROJECT OVERVIEW DIAGRAM – OVERHEAD VIEWA-1
 - 2. PROJECT OVERVIEW DIAGRAM – ELEVATION VIEWA-2
 - 3. SHOWING SLOPE OF EXISTING BANK AND RETAINING WALL CONCEPTA-3
 - 4. SHOWING VINE CONCEPT FOR RETAINING WALL COVERAGE.....A-4
 - 5. SHOWING NEIGHBORING PROPERTIESA-5
 - 6. SHOWING BOUNDARY SURVEYA-6
 - 7. SHOWING LOT SIZE CALCULATIONA-7
 - 8. SHOWING CABIN SIZE CALCULATIONA-8
 - 9. SHOWING GARAGE SIZE CALCULATIONA-9
 - 10. SHOWING LOCATION OF PROPOSED RETAINING WALLS / ELEVATIONSA-10
 - 11. SHOWING PLOT PLANA-11

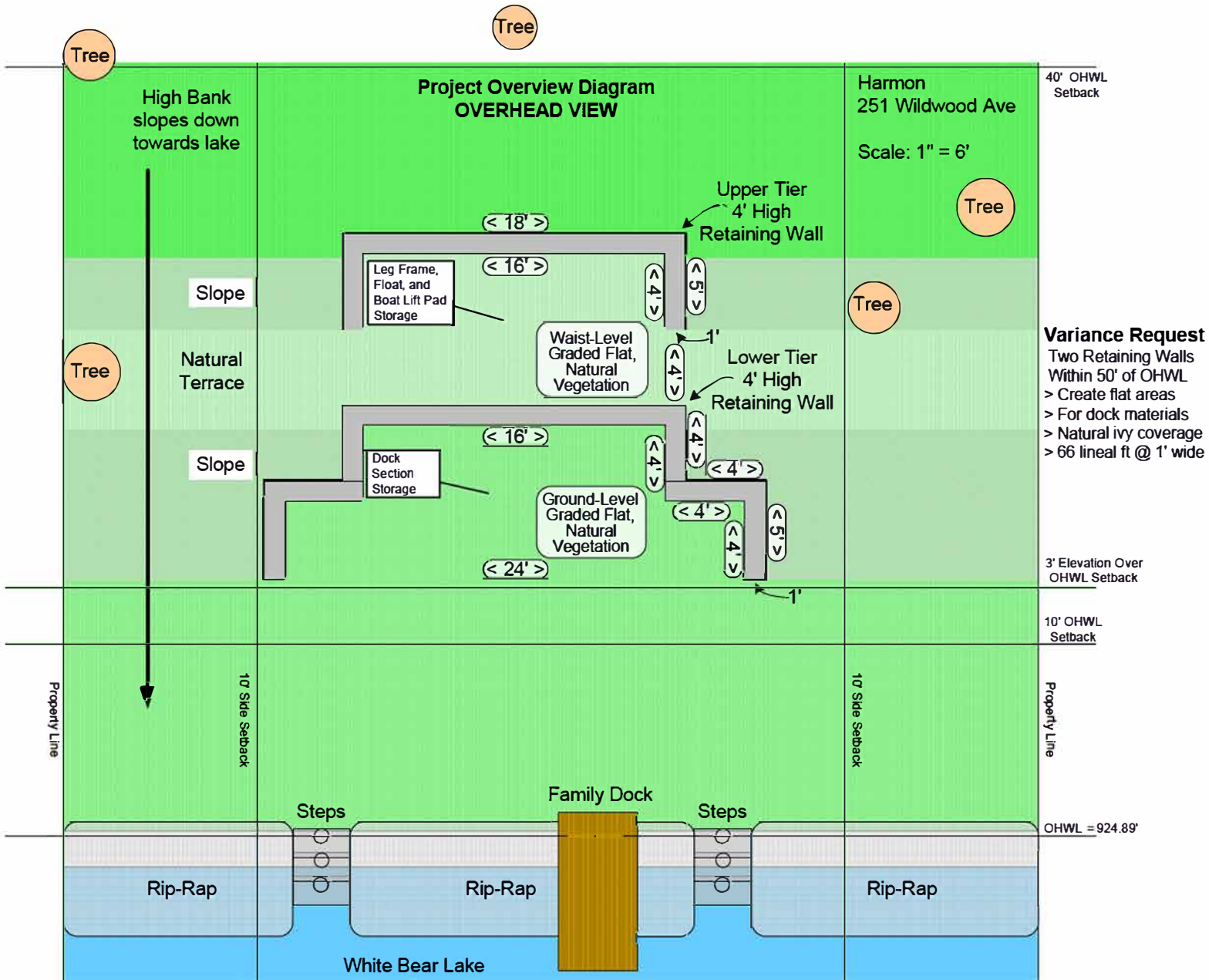
- B. REFERENCE EMAILS / CONTENTS
 - 1. 07/30/2020 - FROM TOBIN LAY (CITY ADMINISTRATOR)B-1
 - 2. 07/30/2020 - FROM STEVEN THATCHER (CITY ENGINEER)B-2
 - 3. JULY 2020 XCHG WITH RICE CREEK WATERSHED DISTRICT (RCWD)B-4
 - 4. JULY 2020 XCHG WITH MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MN DNR).....B-6
 - 5. JULY 2020 XCHG WITH WHITE BEAR LAKE CONSERVATION DISTRICT (WBLCD)B-11

- C. VARIANCE REQUEST – DETAILS
 - 1. APPLICANTS.....C-1
 - 2. ADDRESS OF PROPERTY IF DIFFERENT FROM ABOVEC-1
 - 3. APPLICANTS’ INTEREST IN THE PROPERTY.....C-1
 - 4. SPECIFIC CODE PROVISIONS FROM WHICH VARIANCE IS REQUESTEDC-1
 - 5. DESCRIPTION OF PROPOSAL THAT REQUIRES A VARIANCEC-1
 - 6. TYPE OF PROJECTC-1
 - 7. TYPE OF STRUCTURE INVOLVED.....C-2
 - 8. USING THE CRITERIA FROM THE CITY CODE FOR A VARIANCE, EXPLAIN WHY A VARIANCE IS JUSTIFIED IN THIS SITUATION AND DESCRIBE WHAT “PRACTICAL DIFFICULTIES” EXISTC-2
 - 9. DESCRIBE ANY MEASURES THE APPLICANT IS PROPOSING TO UNDERTAKE IF THE VARIANCE IS GRANTED, INCLUDING MEASURES TO DECREASE THE AMOUNT OF WATER DRAINING FROM THE PROPERTYC-2
 - 10. DESCRIBE ANY ALTERNATIVES THE APPLICANT CONSIDERED (IF ANY) THAT DO NOT REQUIRE A VARIANCEC-2
 - 11. CAN AN EMERGENCY VEHICLE (FIRE TRUCK OR AMBULANCE) ACCESS ALL STRUCTURES ON THE PROPERTY AFTER THE PROSED CHANGE?C-2
 - 12. DOES THE PROPOSED CHANGE BRING ANY OTHER NONCONFORMING USE INTO CONFORMITY WITH THEH CITY BUILDING CODE?C-2
 - 13. ARE THERE OTHER GOVERNMENTAL REGULATIONS THAT APPLY TO THE PROPOSED ACTION, INCLUDING REQUIREMENTS OF THE RICE CREEK WATERSHED DISTRICT?C-3
 - 14. PLEASE PROVIDE APPLICABLE INFORMATION IN THE FOLLOWING TABLEC-3
 - 15. PLEASE ATTACH THE FOLLOWINGC-4

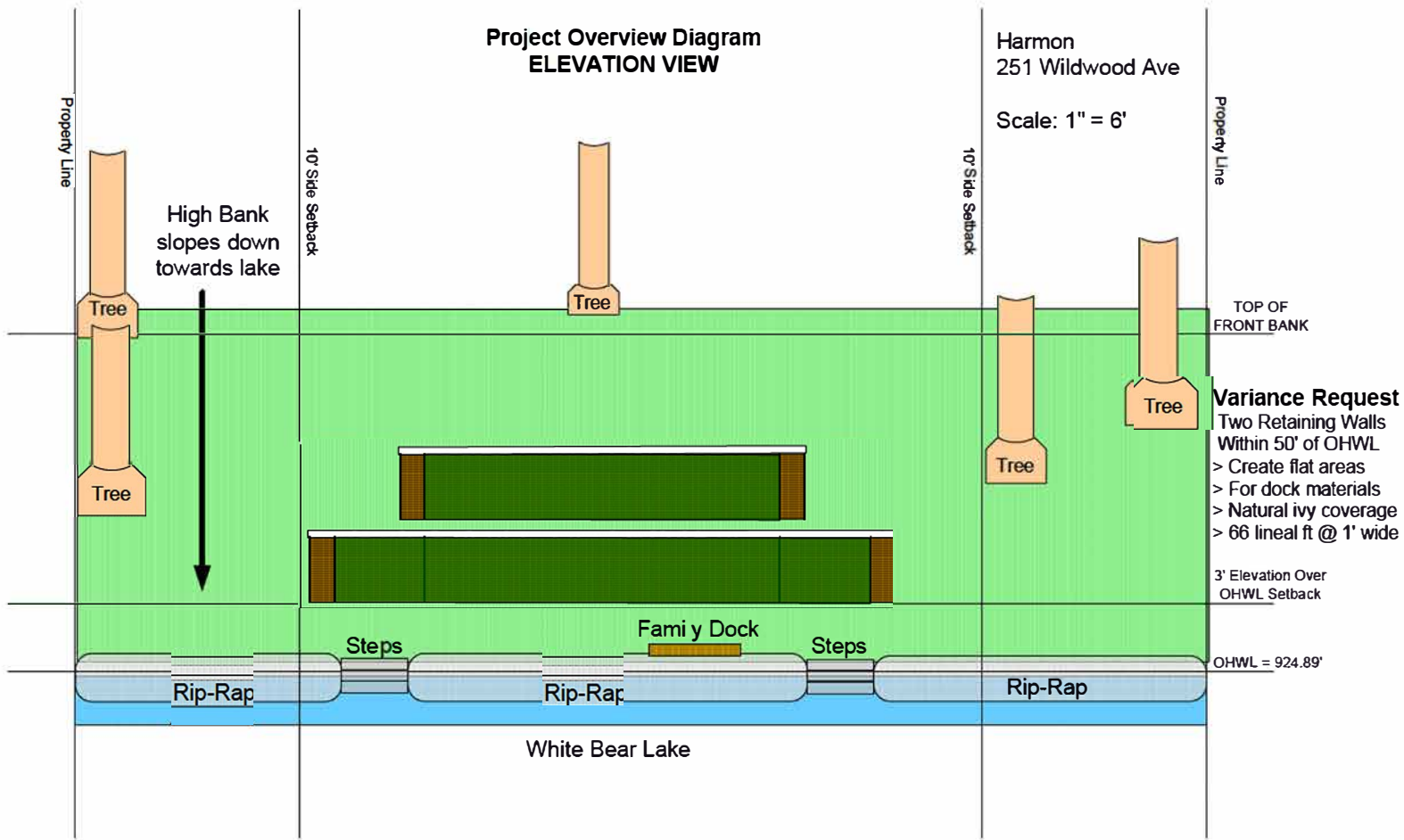
- D. CITY CODES
 - 1. PROJECT RELATED CITY CODESD-1

A. DIAGRAMS

1. PROJECT OVERVIEW DIAGRAM – OVERHEAD VIEW:



2. PROJECT OVERVIEW DIAGRAM – ELEVATION VIEW:



3. SHOWING SLOPE OF EXISTING BANK AND RETAINING WALL CONCEPT:

Slope of Existing Bank



Retaining Wall Concept



Forced Tall and Cantilevered Stacking



Modular Block Retaining Wall

- > Versa-Lok block units
- > Maximum 4' high, including top cap
- > ¾" Clear rock
 - >> For base material under blocks
 - >> Compact in 2" layers for maximum compaction
 - >> For drainage system behind retaining walls
- > Drainage system to also include:
 - >> 4" sock tile
 - >> 6" colored wall grates

**➔ Flat Ground within Retaining Walls
creates Safer Solution**

4. SHOWING VINE CONCEPT FOR RETAINING WALL COVERAGE:

Vine Concept for Retaining Wall Coverage

Englemann Ivy -- Parthenocissus quinquefolia 'var. englemannii'

Height: 40 feet [Prune as needed to stay on wall]

Spread: 24 inches

Sunlight: full sun / partial shade / full shade

Hardiness Zone: 2b [Can handle -50 degrees F]

Other Names: Woodbine, Virginia Creeper



Englemann Ivy in fall

Description:

A popular, tough and hardy vine for screening, excellent along fences and arbors, up the sides of houses or climbing trees; features large five-lobed leaves that turn red and purple in fall, small black berries; self-clinging, extremely adaptable

Ornamental Features

Englemann Ivy has dark green foliage which emerges brick red in spring. The large serrated palmate leaves turn an outstanding red in the fall. Neither the flowers nor the fruit are ornamentally significant.

Landscape Attributes

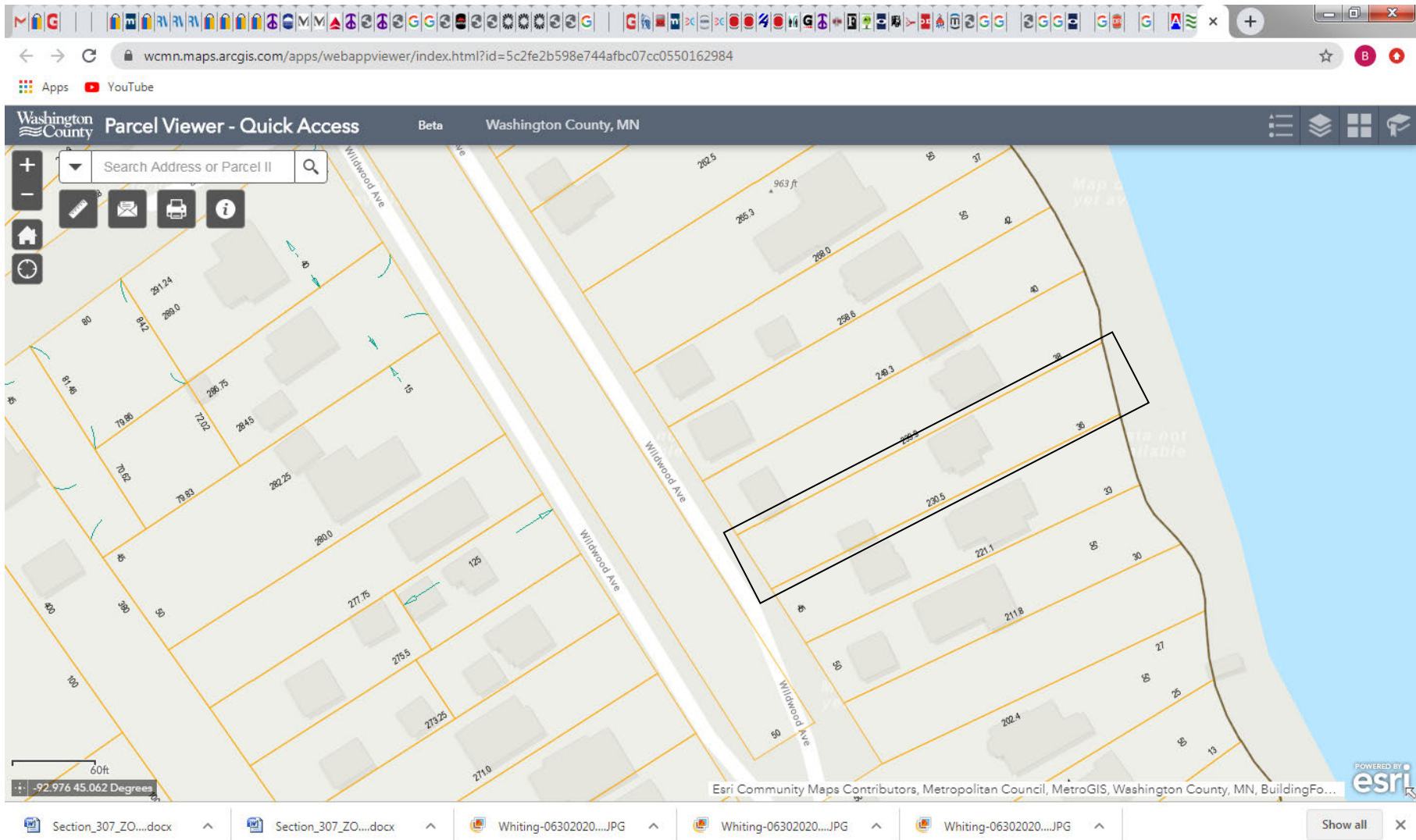
Englemann Ivy is a dense multi-stemmed deciduous woody vine with a twining and trailing habit of growth. Its relatively fine texture sets it apart from other landscape plants with less refined foliage.

This woody vine will require occasional maintenance and upkeep, and can be pruned at anytime. It is a good choice for attracting birds to your yard, but is not particularly attractive to deer who tend to leave it alone in favor of tastier treats. It has no significant negative characteristics.

Englemann Ivy will grow to be about 40 feet tall at maturity, with a spread of 24 inches. As a climbing vine, it tends to be leggy near the base and should be underplanted with low-growing facer plants. It should be planted near a fence, trellis or other landscape structure where it can be trained to grow upwards on it, or allowed to trail off a retaining wall or slope. It grows at a fast rate, and under ideal conditions can be expected to live for approximately 20 years.

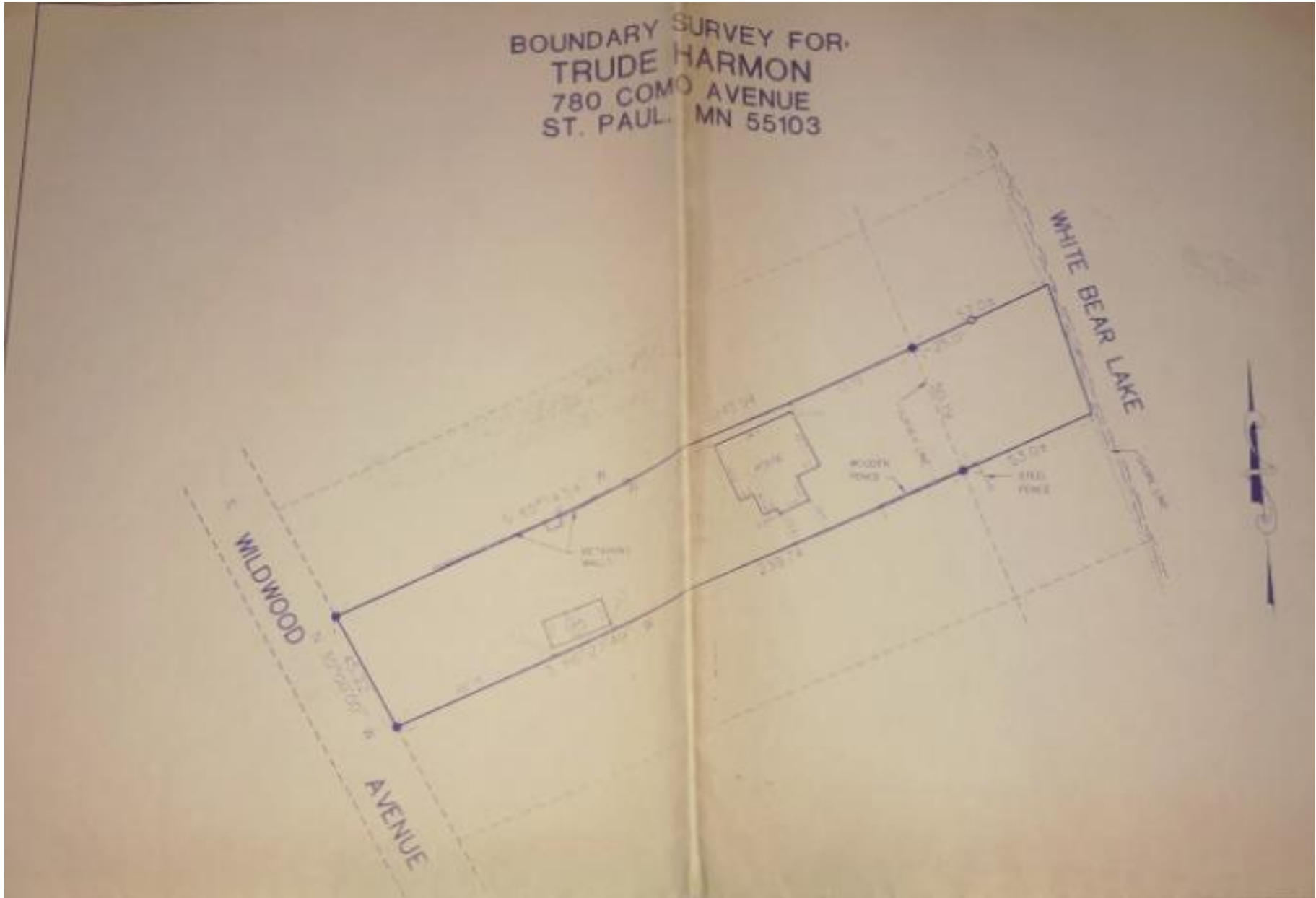
This woody vine performs well in both full sun and full shade. It is very adaptable to both dry and moist locations, and should do just fine under average home landscape conditions. It is not particular as to soil type or pH, and is able to handle environmental salt. This is a selection of a native North American species.

5. SHOWING NEIGHBORING PROPERTIES:



6. SHOWING BOUNDARY SURVEY:

Boundary Survey supports Washington County Online version used for calculations.



7. SHOWING LOT SIZE CALCULATION:

The screenshot displays a web browser window with the URL `wcmn.maps.arcgis.com/apps/webappviewer/index.html?id=5c2fe2b598e744afbc07cc0550162984`. The application is titled "Parcel Viewer - Quick Access" and is for "Washington County, MN". The main map shows a street grid with "Wildwood Ave" and several parcels. One parcel is highlighted in dark grey with a blue border. A "Measurement" window is open on the right, showing the result: "13,294.3 Sq Feet (US)". The window also includes a "Clear" button and a note: "Press CTRL to enable snapping". The bottom of the browser shows a taskbar with several open files: "Section_307_ZO....docx", "Whiting-06302020....JPG", and "Whiting-06302020....JPG". The Esri logo is visible in the bottom right corner of the map area.

8. SHOWING CABIN SIZE CALCULATION:

The screenshot displays a web browser window with the URL `wcmn.maps.arcgis.com/apps/webappviewer/index.html?id=5c2fe2b598e744afbc07cc0550162984`. The application is titled "Parcel Viewer - Quick Access" and is for "Washington County, MN". The main map area shows a parcel with a blue outline and a grey fill. The parcel's dimensions are labeled as 239.9, 230.5, and 221.1. A measurement popup window titled "Measurement" is open, showing a result of "1,017.7 Sq Feet (US)". The popup also includes a "Clear" button and a note "Press CTRL to enable snapping". The browser's taskbar at the bottom shows several open files, including "Section_307_ZO....docx" and "Whiting-06302020....JPG".

9. SHOWING GARAGE SIZE CALCULATION:

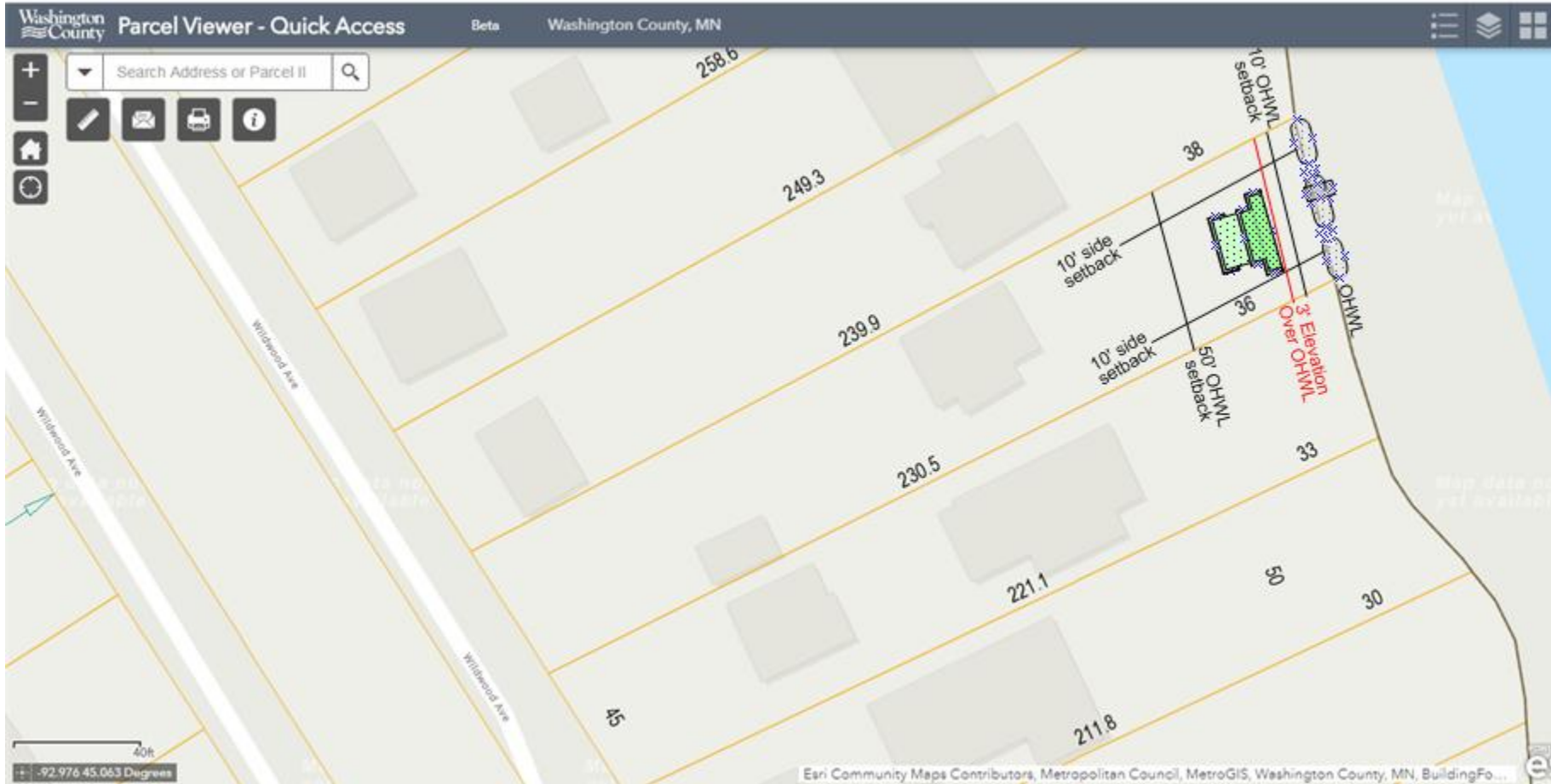
The screenshot displays a web browser window with the URL `wcmn.maps.arcgis.com/apps/webappviewer/index.html?id=5c2fe2b598e744afbc07cc0550162984`. The application is titled "Washington County Parcel Viewer - Quick Access" and is in "Beta" mode for "Washington County, MN". The interface includes a search bar, navigation tools, and a map showing a parcel with a blue outline. The parcel's dimensions are labeled as 239.9, 230.5, and 221.1 feet. A "Measurement" pop-up window is open, showing a result of "329.9 Sq Feet (US)" with a "Clear" button. The map also shows a scale bar for 20 feet and a coordinate of `-92.97745.062 Degrees`. The bottom of the browser shows several open tabs and a taskbar.

10. SHOWING LOCATION OF PROPOSED RETAINING WALLS WITH ELEVATIONS:



11. SHOWING PLOT PLAN:

- Shows existing structures and proposed project items and setbacks. Also shows existing structures on adjacent lots



B. REFERENCE EMAILS / CONTENTS

1. FROM TOBIN LAY (CITY ADMINISTRATOR)

**Contents of 7/30/2020 email from Tobin Lay (Birchwood City Administrator) to Brock Harmon:
[excerpt pertaining to this Variance Request]**

Please see the response below from the City Planner. Accordingly, you will need to file (first) for a Variance Request (see attached form). The Codes you'd be seeking a variance from are at least the following:

- 302.020.1, 2, 4.c – Setback requirements

Please complete and return to me the attached variance request form, \$300 check to the City (variance request fee – non-refundable), and supplemental documentation. Include:

- a site plan of your lot drawn to scale with existing and proposed structures on your lot, existing structures on your abutting neighbors' lots, along with setback measurements
- The legal description for your lot.
- Evidence that your plan is in compliance with RCWD, WBLCD, and DNR (include the email responses from them saying that they do not require a permit)

In order to be heard at the Aug 27th Planning Commission meeting, I'll need your completed packet no later than Aug 6th.

If the Planning Commission determines that your packet is complete, they will hear your request as planned – otherwise, they will specify what additional info they require and table the variance request until the additional info has been supplied.

After the Planning Commission reviews your request, it will be heard at the following City Council meeting. Those meetings are the 2nd Tue of each month.

If the City Council approves your request, then you would record the variance permit with the Washington County Recorder and return a copy of that recording to the City along with your Building Permit Application (attached). There will be no need for a Conditional Use Permit.

You can find all of the City Codes here: <https://www.cityofbirchwood.com/codes>
And all of the permit forms here: <https://www.cityofbirchwood.com/permits>

2. FROM STEVEN THATCHER (CITY PLANNER)

**Contents of 7/30/2020 email from Steven Thatcher (City Planner) to Tobin Lay (Birchwood City Administrator) regarding review of Harmon proposed Shoreline Reinforcement and Accessory Structure:
[excerpt pertaining to this Variance Request]**

Thatcher Engineering, Inc. (TEI) understands the applicant’s current plan (Plan) includes the following:

1. Construct a couple of approximately 4 foot high retaining walls (Walls) to manage off season dock equipment storage on the hill that sits between the cabin and the water.
 - i. The floor plan shows the following:
 1. Upper block retaining wall.
 2. Lower block retaining wall.
 - ii. Will be within the City Code’s 50 foot WBL setback.
2. Landscaping that slopes toward WBL.

The City Code states the following:

1. Section 300.020 DEFINITIONS. For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:
 - a. “53. Structure. Anything which is built, constructed or erected: an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner whether temporary or permanent in character including, but not limited to decks, buildings, cabins, manufactured homes, factories, sheds, screen porches, gazebos, platforms, shelters, pergolas, pools, whirlpools, detached garages, car ports, lean-tos, greenhouses, ice fishing houses, towers, and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, poles and other supporting facilities.”
2. Section 301.065 PROVISION FOR VARIANCES. “Where enforcement of the strict provisions of the Zoning Code would cause undue hardship a variance may be granted to allow deviation from the requirements, in accordance with Minnesota Statutes, Chapter 462. (See Section 304. VARIANCES AND APPEALS.)”
3. Section 301.070 CONDITIONAL USES. “Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. CONDITIONAL USE PERMITS. 1. A Conditional Use Permit shall be required for the following projects: a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.”
 - a. The note at end of Section 301.070 states: “NOTE: A separate Conditional Use Permit is not required for a land disturbance activity in conjunction with construction as part of a building permit as granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.”
4. Section 301.080 Zoning Permit. “If a Building or Conditional Use Permit is applied for and issued, the applicant is not required to apply for a Zoning Permit.
5. Section 302.020. STRUCTURE LOCATION REQUIREMENTS
 - a. 2. MINIMUM SETBACK REQUIREMENTS:

- i. The minimum setback requirement from the Ordinary High Water Level of White Bear Lake (WBL) to Fences, Driveways, Walkways and All Other Structures is 50 feet.
- b. 4. SETBACK REQUIREMENTS EXCEPTIONS.
 - i. “Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.”
6. Section 302.050 IMPERVIOUS SURFACES.
 - a. “1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:”
7. Section 302.070 CITY FENCE ORDINANCE.
 - a. “5. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building.”

TEI’s analysis is as follows:

1. A Variance application is required because of the following:
 - a. The Plan includes work and retaining walls within 50 feet of the Ordinary High Water Level of WBL.
 2. Additional information is needed from the applicant to determine whether or not:
 - a. The impervious surface coverage of the lot after construction meets City Code requirements which is that the impervious surface shall not exceed twenty-five (25) percent of the lot area.
-

3. JULY 2020 XCHG WITH RICE CREEK WATERSHED DISTRICT (RCWD)

Contents of July 2020 email exchange between Rice Creek Watershed District (RCWD) and Brock Harmon:

Brock Harmon [REDACTED]

Fri, Jul 10, 1:37 PM

to Kelsey, Nicholas, stephan@shorelinelandscaping.net

Hi Kelsey --

Thanks for your call today regarding my plans for 251 Wildwood Avenue, City of Birchwood Village, MN (on the south shore of WBL).

Per your request, I have attached the following:

- > Photo of rip-rap concept for shoreline (50' shoreline)
- > 'Floorplan' of retaining walls / shed
- > 3D Site-Drawing with cut-aways

I estimate the total surface area of the land that is disturbed to be about 600 square feet.

Please let me know if you have other questions/comments. I look forward to your team's response to my plans.

Thank you.

-- Brock

Brock Harmon
email: [REDACTED]
BJHarmon, Inc.

3 Attachments



Kelsey White

Tue, Jul 14,
7:15 PM

to me, stephan@shorelinelandscaping.net

Hello Brock,

Thank you for providing the details for the proposed rip rap, retaining wall, and shed Based on your description of the project on your property at 251 Wildwood Avenue in Birchwood Village, MN.

It appears that an area less than 10,000 ft² will be disturbed. Additionally, no wetland impacts or floodplain fill are proposed; therefore, a RCWD permit is not required.

Please note that this decision does not indemnify you from enforcement action if the scope of the project changes, or a violation of District Rules or other laws is found to have occurred as a result of this project. Please take care to ensure that no sediments are deposited down gradient of the site, and that any soils disturbed during construction are stabilized within 14 days of project completion. Permits may be required from other agencies including, but not limited to, the City of Birchwood Village and the Minnesota Department of Natural Resources.

Thank you,

Kelsey White
Permit Review Technician
Rice Creek Watershed District
4325 Pheasant Ridge Dr. NE, #611
Blaine, MN 55449-4539
Ph: 763-398-3084
kwhite@ricecreek.org

[Please consider following the RCWD on Facebook.](#)



Brock Harmon [REDACTED]

Tue, Jul 14,
8:38 PM

to Nicholas, Tobin, Kelsey, stephan@shorelinelandscaping.net

Hi Kelsey --

Thank you for your project review and feedback

- 1) Yes, the plan is for less than 10,000 sq ft to be disturbed, and there are no wetland impacts or floodplain fill proposed. Thank you for identifying that an RCWD permit is therefore not required.
- 2) The scope of the project is not expected to change. I will keep you informed if the scope were to change. .
- 3) I am including my contractor and the City of Birchwood Village in this email chain for their awareness of your feedback.
- 4) The MN DNR is supportive of the proposed rip-rap without an individual DNR permit. The other portion of the project is outside of their area of concern.
- 5) I am also in contact with the WBLCD. Upon hearing back from that group, I will contact the City of Birchwood Village with a summary of these findings to determine next steps with the City.

Thank you for your support!

-- Brock

Brock Harmon
email: [REDACTED]
BJHarmon, Inc.

4. JULY 2020 XCHG WITH MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MN DNR)

Contents of July 2020 email exchange between Minnesota Department of Natural Resources (MN DNR) and Brock Harmon:

Inquiry re: preserving White Bear Lake shoreline and enhancing property

Inbox



Brock Harmon [redacted] >

Thu, Jul 9, 2:41 PM

to MN-DNR

Hi --

My family has a cabin in the City of Birchwood Village on the south shore of WBL. With the rising water level (a good thing vs years past), my shoreline is eroding and I have less room for off-season dock equipment.

With a contractor, I have created a plan to reinforce the shoreline and to place a retaining wall / storage shed between the cabin and the shoreline. Tobin, the City Administrator for the City of Birchwood Village, instructed that I contact your group, the Rice Creek Watershed District, and the White Bear Lake Water Conservation District in advance of completing a permit request with Birchwood.

Please let me know my next steps for understanding your (MN-DNR) process to review my plan and determine actions to take.

You may reach me at:

Email: [redacted]

Phone: [redacted] (I am presently working from home, so please leave a voicemail if you cannot get through to me.)

Thank you very much!

-- Brock

Brock Harmon
email: [redacted]

BJHarmon, Inc.



MN_Info (DNR)

Sun, Jul 12,
12:07 PM

to me

Good Afternoon Brock,

Thank you for contacting the Minnesota DNR.

Your e-mail has been forwarded to our Hydrologist in your area to respond. Our staff are often out of the office for extended periods of time while they are doing field work. They may not be available to answer your question right away. If you have not heard from them within 48 hours (excluding weekends & holidays), please contact us again either via email or by calling 888-646-6367 M – F 8:00 am – 6:00 pm and on Saturday 8:00 am – 4:30 pm.

Have a nice day!

Carly

Information Consultant | Office of Communication & Outreach

Minnesota Department of Natural Resources

500 Lafayette Rd

St. Paul, MN, 55155

Phone: 888-646-6367

Email: Info.dnr@state.mn.us

From: Brock Harmon [mailto:]
Sent: Thursday, July 9, 2020 2:42 PM
To: MN_Info (DNR) <info.dnr@state.mn.us>
Subject: Inquiry re: preserving White Bear Lake shoreline and enhancing property

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.



Brock Harmon [REDACTED]

Mon, Jul 13,
7:49 AM

to MN_Info

Good morning Carly --

Thank you for your note. I look forward to connecting with the appropriate member of your staff to review my concerns and plans.

Thanks!

-- Brock

Brock Harmon

email: [REDACTED]

BJHarmon, Inc.



Gleason, John (DNR) <john.gleason@state.mn.us>

Mon, Jul 13,
9:46 AM

to me, MN_Info

Mr. Harmon:

Thank you for your inquiry. DNR regulates the lake, beginning at the Ordinary High Water level which for White Bear lake is 924.89 ft (datum MSL 1912.) So, any work at this elevation or below is subject to DNR regulation; above that elevation it is regulated by the City. (The watershed district rules may apply to areas both above and below the OHW). So If the retaining wall is above the OHW, then no DNR permit is required. The state rules regarding retaining walls make it difficult to get a DNR permit so I recommend it be placed above the OHW which sounds like the plan based on your description. If you do want to place it at or below the OHW, let me know and I can provide more information on requirements.

If you are considering riprap, here is a link to DNR brochure that describes the state rules and criteria in which no DNR permit is required. The primary prerequisite is that the shoreline must be actively eroding. https://files.dnr.state.mn.us/publications/waters/shoreline_alterations_riprap.pdf

There is a real-time lake level gage on White Bear Lake here https://www.dnr.state.mn.us/waters/csg/site_report.html?mode=getsitereport&site=82016700. The most current water level recording is 925.14 ft which is 0.25 ft above the OHW. So you or your contractor may find the gage information helpful in determining if the project location relative the OHW.

Regards,

Jack

John (Jack) Gleason

HARMON – 251 WILDWOOD AVENUE –VARIANCE REQUEST SUPPORT – OCTOBER, 2020

South District Hydrologist Supervisor | Central Region | Ecological and Water Resources

Minnesota Department of Natural Resources

1200 Warner Rd

St. Paul, MN 55106

Phone: 651-259-5753

Email: john.pleason@state.mn.us

From: Brock Harmon <[REDACTED]>
Sent: Thursday, July 9, 2020 2:42 PM
To: MN_Info (DNR) <info.dnr@state.mn.us>
Subject: Inquiry re: preserving White Bear Lake shoreline and enhancing property

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Hi --



Brock Harmon [REDACTED]

Mon, Jul 13,
10:43 AM

to Tobin, stephan@shorelinelandscaping.net, John, MN_Info

Hi John --

Thank you for your feedback.

- 1) The retaining wall is to be above the OHWL ==> therefore this is outside of DNR jurisdiction.
- 2) The shoreline is actively eroding. The plan is to use riprap (no retaining wall) to stabilize the shoreline.
 - > The documentation at the link you provided is helpful and is to be followed, so that no individual DNR permit is needed.

3) I am including my contractor and the City of Birchwood Village in this email chain for their awareness of your feedback.

Thank you!

-- Brock

Brock Harmon

email: [REDACTED]

BJHarmon, Inc.

5. JULY 2020 XCHG WITH WHITE BEAR LAKE CONSERVATION DISTRICT (WBLCD)

Contents of July 2020 email exchange between White Bear Lake Conservation District (WBLCD) and Brock Harmon:

Brock Harmon [REDACTED] >

Jul 15, 2020,
6:04 PM

to Scott, White

Hi Kim -- Thanks for the note to talk to Scott.

Hi Scott --

Regarding this project, I have contacted the DNR and also Rice Creek Watershed District. They have indicated that I do not need a permit from either of them.

DNR

- 1) Along the shoreline will be rip-rap (no retaining wall on the shoreline), per the DNR direction for installing rip-rap without an individual permit
- 2) The retaining wall / shed is up away from the water, so is not part of the DNR area of concern

RCWD

- 1) Only a small amount of land (~600 sq ft) is expected to be disturbed for the retaining wall / shed, and there are no wetland impacts or floodplain fill proposed.
- 2) Per the RCWD, a permit from them is therefore not required.

I am attaching three items that may help clarify my plan for your review:

- > Photo of rip-rap concept for shoreline (50' shoreline)
- > 'Floorplan' of retaining walls / shed
- > 3D Site-Drawing with cut-aways

I am attempting to work with the existing/natural rolling slope for locating the retaining walls and minimizing the amount of soil to move. The address = 251 Wildwood Ave in Birchwood.

Scott, please confirm your receipt of this email and let me know what further information you may need for the WBLCD review of this project plan.

Thank you!

-- Brock

email: [REDACTED]

phone: [REDACTED] [land-line, has answering machine if I am unable to get to the phone, no texting (sorry)]

Brock Harmon

email: [REDACTED]

BJHarmon, Inc.

3 Attachments



Scott Costello

Jul 15, 2020,
6:32 PM

to me, White

Hi Brock,

The WBLCD has no jurisdiction here. We cover only what can go in the water, like docks and boats. If you have clearance from the DNR and RCWD, you are good to go to Birchwood for whatever they require.

HARMON – 251 WILDWOOD AVENUE –VARIANCE REQUEST SUPPORT – OCTOBER, 2020

I have a friend who is installing riprap in the Snyder Bay Area of the lake, and he told me he did get a DNR permit. But if you asked them and they said you don't need one, go with that.

Be glad you don't live in the City of White Bear Lake—they have gotten very fussy about shoreline and retaining walls near the lake.

Good luck with your project!

Sent from Scott Costello's iPhone

On Jul 15, 2020, at 6:05 PM, Brock Harmon [REDACTED] > wrote:

<IMG_4640.jpeg>
<Harmon Floorplan 07102020.pdf>
<Harmon - Shed Design Pic 1_2.jpg>



Brock Harmon [REDACTED] >

Jul 15, 2020,
9:12 PM

to Tobin, stephan@shorelinelandscaping.net, Scott, White

Hi Scott --

Thank you very much for your review of my project and confirmation that WBLCD does not have jurisdiction on this project.

I am cc'ing Tobin at the City of Birchwood Village, along with my contractor, so that they are in the loop with your feedback too.

Thanks for your support!

-- Brock

Brock Harmon
email: [REDACTED]
BJHarmon, Inc.

C. VARIANCE REQUEST – DETAILS – REVISED FROM AUG 2020 DOC, AS PLAN HAS CHANGED

1. APPLICANTS:

- 1) Name: Brock Harmon (Son of Trude Harmon)
- 2) Address: 251 Wildwood Avenue, City of Birchwood Village, MN 55110
- 3) Home Phone (Brock) – [REDACTED]

2. ADDRESS OF PROPERTY IF DIFFERENT FROM ABOVE

- 1) SAME

3. APPLICANTS' INTEREST IN THE PROPERTY

- 1) Continuation of five generations of family ownership and use, since early 1900s
- 2) Goal to enable reasonable usage of 'hill area' for dock materials, as higher water levels have reduced or eliminated previously useable areas.
- 3) Goal to consolidate and improve functionality, safety and appearance of haphazard storage on hill that slopes down to WBL
- 4) Goal to enable full and reasonable enjoyment of lake property

4. SPECIFIC CODE PROVISIONS FROM WHICH VARIANCE IS REQUESTED:

- 1) ITEMS CAUSING VARIANCE REQUEST:
 1. The Plan includes retaining walls within 50 feet of the Ordinary High Water Level of WBL
- 2) LIST OF CITY CODES CONTAINING SPECIFIC PROVISIONS RELATED TO THE VARIANCE REQUEST:
[See City Codes section for details of all codes related to the Project itself]
 1. City Code 302.020 Section 4c.
 - a. Requesting a variance from the requirement that states: "Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls."

5. DESCRIPTION OF PROPOSAL THAT REQUIRES A VARIANCE:

- 1) **Retaining Wall** and graded flat ground to store heavy dock related materials.
 - a. Two 4' high retaining walls that follow the natural terracing of the land that is within the 50' setback from White Bear Lake.
 - b. Retaining Walls are to be located more than 10 feet from the OHWM.
 - c. Retaining Walls are to be located more than 3 feet elevation above OHWM.
 - d. Retaining Walls are to be set into hill, to minimize visual impact.
 - i. Top of Retaining Walls to be only marginally higher than the ground on the uphill side
 - e. Storage to include: Dock Sections, Dock Leg Frames, Boat Lift Pads, Floats
 - f. Provides for open space on shore for Boat Lift off-season storage
 - g. Designed to minimize runoff (see section 9)
 - h. Landscaping within an area that slopes towards WBL
 - i. WBL is not considered a wetland

6. TYPE OF PROJECT:

- 1) Landscaping – Addition of maximum 4’ high Retaining Walls

7. TYPE OF STRUCTURE INVOLVED:

- 1) Grading/Filling – Retaining Walls

8. USING THE CRITERIA FROM THE CITY CODE FOR A VARIANCE, EXPLAIN WHY A VARIANCE IS JUSTIFIED IN THIS SITUATION AND DESCRIBE WHAT “PRACTICAL DIFFICULTIES” EXIST:

- 1) Subdivision1 – Variance Justification for this Situation
 - a. Consistent with the Comprehensive Plan of the City of Birchwood to promote public health, safety and welfare, by creating flat spaces into hill for safer storage of heavy dock materials
- 2) Subdivision2 – Practical Difficulties that exist
 - a. Special Conditions or Circumstances exist which are peculiar to the land, structure or building involved
 - i. Close location of hill to shore causing hardship for managing dock materials on slope of hill.
 - b. Condition which results in the Variance Request is not created by the applicant’s action or design solution
 - i. Heavy dock materials need to be relatively close to the water (within the 50’ setback) and are unsafe when stacked very high and/or on sloped surfaces.
 - c. No increase in the amount of water draining from the property
 - i. Graded flat ground and natural vegetation within the retaining walls to promote water absorption and reduce potential existing runoff due to steep bank
 - ii. Retaining wall perimeter drain tile to direct water (that may assign a load to the wall) to the flat ground area below the retaining wall
 - d. Project would not impair an adequate supply of light and air to adjacent property, nor unreasonably diminish or impair established property values within the surrounding area, nor impair the public health, safety or welfare of the residents of the city.
 - i. This project is set into the hillside, to follow the natural terracing of the hill and minimize visual impact
 - ii. This change will increase safety and may raise property values through the reduction of haphazard storage of dock materials on the hillside today

9. DESCRIBE ANY MEASURES THE APPLICANT IS PROPOSING TO UNDERTAKE IF THE VARIANCE IS GRANTED, INCLUDING MEASURES TO DECREASE THE AMOUNT OF WATER DRAINING FROM THE PROPERTY:

- 1) Create graded flat ground -- natural vegetation within the retaining walls promote water absorption and reduce potential existing runoff due to steep bank.

10. DESCRIBE ANY ALTERNATIVES THE APPLICANT CONSIDERED (IF ANY) THAT DO NOT REQUIRE A VARIANCE:

- 1) None – The Dock materials need to be kept within the 50’ shoreline setback to facilitate annual installation and removal. As the (fortunate) water level of WBL has risen, there is less area available for Dock materials.

11. CAN AN EMERGENCY VEHICLE (FIRE TRUCK OR AMBULANCE) ACCESS ALL STRUCTURES ON THE PROPERTY AFTER THE PROSED CHANGE?:

- 1) YES.

12. DOES THE PROPOSED CHANGE BRING ANY OTHER NONCONFORMING USE INTO CONFORMITY WITH THEH CITY BUILDING CODE? IF YES, EXPLAIN:

- 1) NO.

13. ARE THERE OTHER GOVERNMENTAL REGULATIONS THAT APPLY TO THE PROPOSED ACTION, INCLUDING REQUIREMENTS OF THE RICE CREEK WATERSHED DISTRICT?

1) YES

IF YES, PLEASE IDENTIFY THE REGULATIONS AND ATTACH EVIDENCE DEMONSTRATING COMPLIANCE:

1) Rice Creek Watershed District (RCWD):

a. Regulation/Response Summary:

i. “It appears that an area less than 10,000 ft2 will be disturbed. Additionally, no wetland impacts or floodplain fill are proposed; therefore, **a RCWD permit is not required.**”

b. See Email chain for further detail if needed (below in Section C, Sub-Section 3)

2) Minnesota Department of Natural Resources (MN DNR):

a. Regulation/Response Summary:

i. “DNR regulates the lake, beginning at the Ordinary High Water level which for White Bear lake is 924.89 ft (datum MSL 1912.) So, any work at this elevation or below is subject to DNR regulation; above that elevation it is regulated by the City. (The watershed district rules may apply to areas both above and below the OHW). So **if the retaining wall is above the OHW, then no DNR permit is required.** The state rules regarding retaining walls make it difficult to get a DNR permit so I recommend it be placed above the OHW which sounds like the plan based on your description.”

ii. “If you are considering riprap, here is a link to DNR brochure that describes the state rules and criteria in which **no DNR permit is required.** The primary prerequisite is that the shoreline must be actively eroding. https://files.dnr.state.mn.us/publications/waters/shoreline_alterations_riprap.pdf”

b. See Email chain for further detail if needed (below in Section C, Sub-Section 4)

3) White Bear Lake Conservation District (WBLCD):

a. Regulation/Response Summary:

i. “**The WBLCD has no jurisdiction here.** We cover only what can go in the water, like docks and boats. If you have clearance from the DNR and RCWD, you are good to go to Birchwood for whatever they require.”

b. See Email chain for further detail if needed (below in Section C, Sub-Section 5)

14. PLEASE PROVIDE APPLICABLE INFORMATION IN THE FOLLOWING TABLE:

	EXISTING	PROPOSED	CHANGE
1) Total Square Footage of the Lot	13,294.3	13,294.3	0
2) Maximum Impervious Surface (25% of #1)	3,323.6	3,323.6	0
3) Roof Surface (sq ft)	Cabin 1,017.7 Garage 329.9	Cabin 1,017.7 Garage 329.9	0 0
4) Sidewalks	0	0	0
5) Driveways	0	0	0
6) Other Impervious Surface	0	Ret. Wall 66.0	66.0
7) Total of Items #3 - #6	1,347.6	1,413.6	66.0
8) Percent Impervious Surface	10.1%	10.6%	0.5%

[See Diagrams #1, #7, #8, #9 for sources of size calculations]

15. :PLEASE ATTACH THE FOLLOWING:

- 1) Legal Description of Property
 - a. Lot 10, Block 5, Lakewood Park First Division, Washington County, Minnesota
 - b. Parcel Number of Property: 30.030.21.21.0036
- 2) Plot Plan drawn to scale showing existing and proposed, new and changed structures on the lot
Also show existing structures on adjacent lots
 - a. See attached Diagram #11 on page A-11, based on County GIS website

D. CITY CODES

1. PROJECT RELATED CITY CODES:

1) PROJECT RELATED CITY CODE DETAILS:

[Section highlighted yellow is the Specific Code Provision related to the Variance Request itself]

1. **Section 300.020 DEFINITIONS.** For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:
 - a. “38. Ordinary High Water Level. An elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.”
 - b. “45. Setback. The minimum horizontal distance between a structure and an ordinary high water level, street, road or highway right-of-way or property line.”
 - c. “59. Wetland. An area where water stands near, at, or above the solid surface during a significant portion of most years, saturating the solid surface and supporting a predominantly aquatic form of vegetation. . . . White Bear Lake is not included as a "wetland" within this definition.”
2. **Section 301.065 PROVISION FOR VARIANCES.** “Where enforcement of the strict provisions of the Zoning Code would cause undue hardship a variance may be granted to allow deviation from the requirements, in accordance with Minnesota Statutes, Chapter 462. (See Section 304. VARIANCES AND APPEALS.)”
3. **Section 301.070 CONDITIONAL USES.** “Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. **CONDITIONAL USE PERMITS.** 1. A Conditional Use Permit shall be required for the following projects: a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.”
 - a. The note at end of Section 301.070 states: “NOTE: A separate Conditional Use Permit is not required for a land disturbance activity in conjunction with construction as part of a building permit as granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.”
4. **Section 301.080 ZONING PERMIT.** “If a Building or Conditional Use Permit is applied for and issued, the applicant is not required to apply for a Zoning Permit.
5. **Section 302.020. STRUCTURE LOCATION REQUIREMENTS**
 - a. **2. MINIMUM SETBACK REQUIREMENTS:**
 - i. The minimum setback requirement from the Ordinary High Water Level of White Bear Lake (WBL) to Fences, Driveways, Walkways and All Other Structures is 50 feet.
 - b. **4. SETBACK REQUIREMENTS EXCEPTIONS.**
 - i. “c. Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.”
 - c. **5. STRUCTURES IN WETLANDS.**
 - i. “No structures are allowed within any wetlands.”
6. **Section 302.050. IMPERVIOUS SURFACES**

- a. "1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance: "

7. Section 302.070. CITY FENCE ORDINANCE

- a. " 5. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building. "

**CITY OF BIRCHWOOD VILLAGE
MEMORANDUM
Variance Application**

TO: Birchwood Village Planning Commission

FROM: Thatcher Engineering, Inc.

DATE: September 17, 2020

APPLICANT: Brock Harmon (Trude Harmon's son), 251 Wildwood Avenue, Birchwood Village

REGARDING: Variance Application

LOCATION: 251 Wildwood Avenue

BACKGROUND

On September 12, 2020, the Applicant submitted a revised application dated September 3, 2020 to the City of Birchwood Village. The Applicant's original application was dated August 5, 2020.

REQUEST

Variance request #1: The Applicant is requesting a thirty-five (35) foot variance from Code Section 302.020.2 to install two (2) retaining walls.

1. The Applicant requests a variance from the requirement that states that "All Other Structures" must be setback as follows:
 - a. 50 feet from the ordinary high water level of White Bear Lake.

Variance request #2: The Applicant is requesting a thirty-five (35) foot variance from Code Section 302.020.4.c to install two (2) retaining walls.

1. The Applicant requests a variance from the requirement that states: "Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls."

Variance request #3: The Applicant is requesting a five (5) foot variance from Code Section 302.055.2.a.4 for the grading needed to install the east (lake side) retaining wall.

1. The Applicant requests a variance from the requirement that states: "No grading or filling shall be permitted within twenty (20) feet (measured horizontally) of the ordinary high water level of any lake, pond, or wetland."

Variance request #4: The Applicant is requesting a twenty (20) foot variance from Code Section 302.055.2.a.4 to install riprap.

1. The Applicant requests a variance from the requirement that states: "No grading or filling shall be permitted within twenty (20) feet (measured horizontally) of the ordinary high water level of any lake, pond, or wetland.

The purpose of this Variance Application is to seek approval to build two (2) retaining walls, install riprap, and conduct grading. The location is shown in the Applicant's 38 page supporting document dated September 2020.

CITY MAY REQUIRE ADDITIONAL INFORMATION

The City may require additional information from the Applicant as follows:

1. The City may require the petitioner to submit a certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage, and certifying other facts that in the opinion of the City are necessary for evaluation of the petition (Code Section 304.030).
2. Elevation contour lines may be required on the plot plan that is drawn to scale (Code Section 304.040.1.b).

SITE CHARACTERISTICS

The subject lot is 13,504 square feet in size according to the Washington County web site. The lot is approximately 235 feet deep and 50 feet wide and contains a single-family residence. The lot has access to White Bear Lake which has an ordinary high water level of 924.7 based on City Code.

PRACTICAL DIFFICULTY

- 1) Slope to the lake.
- 2) See application for additional information.

STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES

Minnesota State Statute 462.357 allows for a variance to be permitted only when:

- (1) The proposed use is in harmony with the general purposes and intent of the City's zoning ordinance;
- (2) The variance is consistent with the City's comprehensive plan; and,
- (3) The applicant establishes that there are practical difficulties in complying with the zoning ordinance.

Statutory criteria used to establish a practical difficulty include:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

CTY CODE REQUIREMENTS FOR PERMITTING VARIANCES

Code Section 304.040 states:

Variations to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variations so granted. A variance shall not be granted unless the following criteria are met:

SUBD. 1.

- A. Variations shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variations are consistent with the comprehensive plan.
- B. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i.** Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii.** The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii.** The granting of a variance will result in no increase in the amount of water draining from the property.
- iv.** Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v.** No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi.** Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

ANALYSIS

The lot has challenges because of the slope to the lake. It's unclear if the slope to the lake on this lot is steeper than the slope to the lake on other lots because a certificate by a registered professional land surveyor with elevation contour lines (the lines show slope to the lake) has not been provided by the Applicant.

Page A-4 of the Applicant's 38 page supporting document dated September 2020 states: "As recommended by Steve Thatcher, City Engineer, to meet city code for step anchor/piling."

1. Steve Thatcher, City Engineer, cannot make recommendations to property owners in the City because it would be a conflict of interest. However, it is the opinion of TEI that the proposed Helical Screw Piles and L-Brackets installed by an experienced contractor meet the requirements of City Code 302.080.2.f "Stairways shall be anchored and supported with pilings or footings."

The plan on page A-11 of the Applicant's 38 page supporting document dated September 2020 (attached) shows the retaining walls within the Code required minimum distance of 50 feet from the Ordinary High Water Level (OHWL).

1. This plan was used by Thatcher Engineering, Inc. (TEI) to determine that the distance from the 50 foot OHWL setback to the lake side of the east retaining wall is thirty-five (35) feet. Therefore, the Applicant's request is for a 35 foot variance from the Code requirement.

The same plan (page A-11) shows that grading is needed to install the east (lake side) retaining wall and that this grading is within the City Code required minimum distance for grading of 20 feet from the OHWL.

1. This plan was used by TEI to determine that the distance from the 20 foot OHWL setback to the grading is five (5) feet. Therefore, the Applicant's request is for a 5 foot variance from the City Code requirement.

REASONS FOR RECOMMENDING VARIANCE APPROVAL

Variance requests #1 to #4:

1. The lot has challenges because of the slope to the lake.
2. This project would preserve the essential character of the locality.

REASONS FOR RECOMMENDING VARIANCE DENIAL

Variance requests #1 to #4:

1. A primary goal of the City of Birchwood Village's Zoning Ordinance is "to ensure that a non-conforming use is not intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code." The following could be argued:

- a. That they are not in harmony with the general purposes and intent of the ordinance.
- b. That the variances are not consistent with the comprehensive plan.
- c. That the applicant for the variance has not established that there are practical difficulties in complying with the zoning ordinance.

CONDITIONS

If approved, a requested variance may be approved subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.
2. Per Code Section 304.090, the variance shall become null and void if the project has not been completed or utilized within one year after the date it was granted, subject to petition for extension by the City Council.
3. Land alteration may not cause adverse impact upon abutting property.

302.020. STRUCTURE LOCATION REQUIREMENTS

2. MINIMUM SETBACK REQUIREMENTS:

		<u>TYPE OF STRUCTURE</u>	
Lot line or		Driveways &	All Other
<u>Land Boundary</u>	<u>Fences</u>	<u>Walkways</u>	<u>Structures</u>
Ordinary High Water			
Level of White Bear			
Lake, Hall's Marsh,			
and other wetlands	50 ft.	50 ft.	50 ft.

4. SETBACK REQUIREMENTS EXCEPTIONS.

- c. **Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.**

5. **STRUCTURES IN WETLANDS. No structures are allowed within any wetlands.**

302.055. LAND DISTURBANCE ACTIVITY STANDARDS.

See Sections 301.070 and 306.030 for Conditional Use Permits for Land Disturbance Activities.

2. The following are Specific Standards:

a. Land Use Standards

- 4. **No grading or filling shall be permitted within twenty (20) feet (measured horizontally) of the ordinary high water level of any lake, pond, or wetland.**

302.070 CITY FENCE ORDINANCE.

- 5. **Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building.**

Tobin Lay

From: Ken Broen [REDACTED]
Sent: Friday, August 28, 2020 9:46 AM
To: BVInfoEmail
Subject: Case no. 20-02-VB - Variance Request for 251 Wildwood Ave
Attachments: Construction damage causes and remedies.docx

Caution: This email originated outside our organization; please use caution.

Birchwood Planning Commission
Variance request for property at 251 Wildwood Ave.
case no. 20-02-VB

Dear Planning Commission:

We have studied the variance request and drawings for the property at 251 Wildwood Ave specified in the August 11, 2020 letter from the planning commission and have a couple of concerns related to the variance request from 302.020.1,2 and 4c and Sec. 300.020.1. and 302.040.2.

1. Structure near the lake

The lots in this part of Birchwood are not very wide and as a result have an intimate connection and shared views of the lake. Placing a structure as requested will have a negative effect on our shared enjoyment of the lake, and adverse effect on the property values of the houses close by. Setting a precedence of allowing structures similar to the one requested will have the potential to diminish to overall charm of Birchwood.

2. Soil disturbance

The property at 251 Wildwood Ave, and those which are adjacent, have many very mature oak trees which have so far survived Oak Wilt. We are concerned that the damage to the root system of the trees immediately adjacent (within a few feet) to the proposed excavation will kill or weaken those trees resulting in a new infestation of Oak Wilt which will spread to the properties next door, and throughout the neighborhood. (please see the attached document from the Minnesota DNR - *Construction damage causes and remedies - Tree Planting and Care*) Implementing the suggestions to minimize this root damage would not be possible in this situation, since all this construction will be within the dripline of these heritage oak trees.

Thank you for allowing our concerns to be heard,

Ken Broen and Rosalie Tallen
243 Wildwood Ave.
Cell - [REDACTED]
Email - [REDACTED]

E-mails from this organization may contain privileged and/or confidential material and are for the sole use of the intended recipient. Use or distribution by an unintended recipient is prohibited and may be a violation of law. If you believe that you received this e-mail in error, please disregard the content of this e-mail and do not open any attached items. Please delete this e-mail and all attachments, including any copies thereof.

Construction damage causes and remedies - Tree Planting and Care

Any wound to the roots, stem or main branches of a tree, caused during construction, is considered construction damage. These wounds can occur during any building activities around trees that cover the soil, disturb the soil, or simply driving near the tree with heavy equipment. Construction damage can occur on projects as small as paving a patio.

Why are construction activities so hard on trees? Trees get into trouble when they become low on energy reserves, when their roots can't get enough oxygen or water or when more than 40% of their root system is lost. As you can see from the list above, most of the damage due to construction happens to the root system. Developing a site is seldom possible without hurting tree roots to some extent. Roots are one of the most vital parts of the tree. They are responsible for nutrient, oxygen and water uptake and anchoring the tree in the soil. In addition, energy rich chemicals are stored in the roots. Trees draw on these energy reserves to get them through emergencies like drought, defoliation, insect attack or construction damage.

Because of their location, roots are more easily wounded than you would think. Fifty percent of the root system is in the top one foot of soil and over 90% of the root system is in the top three feet. The root system extends well beyond the tree's dripline, often extending a distance equaling two to three times the tree's height. A single pass by a cement truck or dump truck can sever or crush the roots.

Diagnosis Conspicuous symptoms of construction damage may occur within weeks of the damage but are more likely to take years to appear. The long-term delay causes landowners to attribute losses to other causes or to remain unknown. Most of the time there is no obvious damage to the stem or the branches! Damage remains hidden under the soil in the root system.

Wilted or scorched leaves or needles and drooping branches are usually the first symptoms of construction damage. In deciduous trees, these symptoms may be followed by early fall coloration and premature leaf drop. Damaged conifers will drop excessive amounts of inner needles. In later years, there may be yellowed and dwarfed leaves, low leaf density, twig and branch die back. Other indicators might include massive branch die back, epicormic branches (suckering on the main stem), flowering out of season or production of an abnormally large amount of seed. These responses are defense mechanisms for ensuring species survival and often indicate that the individual tree is experiencing extreme stress and is near death.

Damage: causes and possible remedies The best way to avoid losing trees to construction damage is prevention. However, if the damage is already done, you may still have time to take some remedial actions.

Scraped trunks, broken branches and wilted leaves are symptoms that appear quickly. Small wounds to the trunks are not serious but may act as entry points for fungi which cause decay later on. Wounds exceeding 50% of the tree's diameter are serious. There may not be enough tissues left to conduct food down or water up and the tree will decline and may die. The strength of the stem may also be weakened. A tree with a stem wound destroying more than 50% of the wood diameter, is hazardous and should be cut down. Broken branches should be pruned back to their main branches using the proper pruning techniques. Painting wounds or pruning scars actually increases decay organism activity, so it isn't recommended except for oaks to prevent oak wilt disease infection in May and June.

Severed roots can be the result of lowering the grade, new construction or trenching. This type of damage has few remedies. Severing roots reduces water and nutrient uptake, eliminates stored energy and may compromise the stability of the tree. When the grade is lowered by more than two inches, vital feeder roots are eliminated, nutrient rich topsoil is removed and the remaining root system is severely wounded. If enough of the root system is destroyed or detached, the tree will die. As a general rule, 20% of the root system can be destroyed before the tree will show signs of injury. If 40% of the root system is lost, the tree will probably die. It should also be removed because it is hazardous.

For all types of digging operations, cleanly cut exposed or severed roots to promote rapid wound closure. Vibratory plows and chain trenchers leave cleaner cuts than bulldozers and backhoes. When working inside the dripline, use only hand tools. Instead of trenching, tunnel under the root system when it is necessary to work inside the dripline. Minimize the impact of root severing by avoiding construction during hot, dry weather, keeping trees well-watered before and after digging and covering exposed roots with soil or mulch as soon as possible.

Smothered roots have their oxygen supply cut off. The most common method of smothering roots is through changing the grade, that is, adding more topsoil or fill dirt to the existing contour of the area. This cuts off the water supply, too. For some tree species, like red oak, only a few inches of fill is enough to do serious damage. Roots can also be smothered by "temporary" piles of soil placed inside a tree's dripline or by pools of water impounded by construction activities.

If the tree is already showing symptoms of advanced decline, it probably cannot be saved. If it appears mostly healthy and there is more than ten inches of fill anywhere inside the dripline, restore the area to its original contour by removal of all the fill. Avoid soil compaction, only use hand tools to remove the last ten inches of fill.

Soil compaction is by far the most common way construction damage can harm and kill trees. Tree roots need crumbly, well-aerated soil to grow and to obtain oxygen, water and nutrients. Lacking good soil aeration, roots suffocate and tree health declines. Leaf wilt, early fall coloration, branch die back, overall decline and tree death are symptoms of soil compaction. Diagnosing compaction can be difficult because it can take quite a while for symptoms to appear; trees can die five years after the original damage.

Most soil compaction is caused by construction equipment. One pass by a heavy tractor or truck is all it takes. Compaction can also be caused by stockpiled building materials and excessive foot traffic. By controlling equipment traffic patterns, soil compaction can be prevented. Reroute traffic away from trees, put up protective fences and signs, mulch the equipment routes with several inches of wood chips and locate materials storage areas well away from the dripline of the trees you want to save.

Compaction can be partially alleviated by drilling a series of two inch diameter holes to a depth of 12 to 18 inches. Begin three feet from the trunk and continue drilling holes at two foot intervals in concentric rings around the tree and continue to at least the dripline. Each hole may be refilled with sand, peat moss or mulch. Don't recap the hole with a sod plug. There are other alternatives, such as soil injections of air or pressurized water, available from some professional tree care services.

Poisoned roots occur from improper handling, disposal or spills of materials used during construction. Chemical spill damage can be prevented by filling gas tanks, cleaning paint brushes and repairing equipment well outside the tree dripline. Debris and chemical waste should be hauled away, not burned or buried on the site. Cement trucks should never be rinsed out over root systems.

Exposure to new conditions occurs to the remaining trees when removing a large number of trees around them. Heavily wooded sites should be thinned gradually over a two to three-year period to reduce exposure shock.

Save groups of trees, rather than individuals. Tree crowns can act like sails with winds from new directions and if not securely anchored by the roots, the trees can topple over. Prune away branches that act like sails.

Prevention is the key

Nearly everyone recognizes the value of trees in providing shade, ornament and protection. All too frequently, the trees that make a site attractive are damaged or killed during construction by inadequate protection or carelessness. Sometimes it is possible to remedy the situation, but it is always better and more economical to prevent damage than to remedy it. Here is a short list of prevention activities to consider:

PLAN - Formulate a plan. Select which trees can be saved and which trees should be removed. Try to save islands of trees rather than individuals. Talk about your plans with contractors/workers. Make a map so plans are clear to everyone. Control traffic patterns by fencing off areas to be protected. Post signs that say "Off limits." Water trees regularly before, during and after construction activities. Visit the construction site and monitor for signs of tree damage.

TIMING - Cut trees down during the fall and winter because the "saved" trees are extremely vulnerable to wounding during the spring. Use chainsaws to fell trees near the trees you want to save. Avoid felling trees into the trees you want to save. Avoid pushing trees over with bulldozers because it rips up neighboring trees' roots. If you want to keep the wood for firewood (from elms, oaks, pines or birches), keep it covered tightly during the first growing season.

ROOTS - Avoid trenching inside the dripline by going around the tree rather than under it. Use tunneling rather than trenching inside the dripline. Use porous paving materials such as brick or flagstone rather than concrete or asphalt. **Don't raise the grade more than a few inches inside the dripline. Avoid lowering the grade more than two inches inside the dripline.** Never pile soil or construction materials inside the dripline, even temporarily. Don't limit root growth by "boxing" in an average sized tree.

AFTERWARDS - Monitor for damage and take remedial actions. Use proper pruning techniques to remove dead and dying branches. Don't wound trees by topping, tipping or pruning with flush cuts or stub cuts. Wait two years before fertilizing damaged trees, then use a low nitrogen product. It's a waste of time to paint tree wounds (except oaks in May and June). Water trees regularly.

Friday August 27, 2020

To: Planning commission and Birchwood Village Council

From: Marian Johnson, concerned resident at 237 Wildwood Ave.

Concerning: Request for variance to build a storage shed on the shore of the lake within the high water mark at 251 Wildwood Ave.

I strongly object to the building of any structure on the lakeshore that is closer than 50 feet. I have been here since 1955 and that has always been the rule. I have no wish to be looking at the back of a storage shed or building of any kind. This proposed shed would be within the site line of my front windows.

Granting this proposal would open the door for more requests and soon the shore would be lined not with well kept waterfronts, but with buildings. I have visited many lakes going to regattas and there are some that have allowed buildings on the waterfront and it results in an ugly view for residents and others enjoying the lake. We are all dealing with the high water at present, but it will be going back down as it has in the past.

With concern,
Marian Johnson,
237 Wildwood Ave.
Birchwood Village.



Tobin Lay

From: Peggy Witthaus [REDACTED] >
Sent: Thursday, August 27, 2020 3:36 PM
To: BVInfoEmail
Cc: Peggy Witthaus
Subject: COMMENTS: Variance Request for 251 Wildwood Ave
Attachments: Construction damage to trees and shrubs.docx

Caution: This email originated outside our organization; please use caution.

To: Birchwood Planning Commission
RE: Variance request for case no. 20-02-VB
Trude Harmon property at 251 Wildwood Ave

Dear Planning Commission:

This note is in response to the August 11, 2020 letter outlining four variance requests by the property owner at 251 Wildwood Avenue. We reviewed the request, variance paperwork and drawings for the project and have several concerns with the proposal.

Variance from Sec. 300.020.1. and 302.040.2

Proposed structure is too large, would impede neighboring views and would require land disturbance into the natural grade of the hill. The size departs significantly from current code. Given available property exists to the street side of the home, would recommend exploring other storage options on the property.

Variance from 302.020.1,2 and 4c

To my knowledge there have been no exceptions in many years to the WBL Ordinary High Water Level Setbacks. We are in complete agreement with the limitations outlined in the current code to maintain a 50' setback for structures / retaining walls. We have an obligation to protect the lake and maintain a buffer for runoff from the lawn and stormwater. In addition, there is a high potential for damage to mature trees / root structure if property owners are allowed to dig into this area, to accommodate a storage shed and retaining wall. (See attached document on construction damage to trees.) On a narrow lot this would be a challenge to mitigate tree damage and would negatively impact the root structure of large, mature trees on our property, as well.

Variance from Sec.302.080.2

We have no issue if new stairs are built at 48" width.

Respectfully,

Peggy and Craig Witthaus
259 Wildwood Avenue

--

Preventing construction damage to trees and shrubs

Wooded lots are an added value when selecting a site for building a home, just as mature trees add appeal to an already existing home. Homes that are constructed in the midst of trees take advantage of the aesthetic and environmental value of the property. The cost and care of preventing tree damage during construction protects those assets. Careful planning and preparation before construction begins may help to preserve and protect existing trees from unnecessary damage.

Trees vary in their ability to tolerate damage. Among **the most sensitive are red oak, white oak, and sugar maple**. These species will require more protection during construction. More tolerant trees include bur oak, silver maple, poplars, and willows. In general, younger trees are able to withstand the changes of construction better than larger, mature trees.

The key to tree preservation is protecting the root system from damage. **The roots of trees are concentrated in the top several inches of soil. They spread at least as far as the branches, often much further. Disturbing the soil around a tree will cause serious damage to the root system, resulting in decline or death of the tree. Excavation, grade changes, retaining walls, traffic, and material storage (including soil) can all damage roots.** Even when trees are protected from direct disturbance, building in a wooded area imposes many indirect changes in the environment. These changes result in increased stress on the trees.

BEFORE CONSTRUCTIONS BEGINS

Take a tree inventory. In order to choose the best location for a house, pavement, and utilities, the exact location and condition of each tree must be determined. In some cases, the foundation shape and position may have to be selected specifically to avoid certain key trees.

Draw the plan on paper. Confine the sidewalks, driveway, construction vehicle access, work areas, grade changes, and utility trenches into the smallest area possible. All trees with significant portions of their roots in the disturbed areas should be removed prior to construction. Unless the lot is very large, most of the trees in the front of the house may have to be removed.

Choose the right contractors. Before you build, work with the builder to prevent damage to valuable trees. Tree protection will require that work be restricted to certain areas of the property, which may constitute additional costs but could be worth the expense.

PROTECTION DURING CONSTRUCTION

Clearly mark the ‘root protection zones’ before construction begins. The root systems of all trees to be saved should be well protected. An area of soil around each tree should be fenced off and protected from all disturbances. **The protected root zone should include one foot of radius for each inch of trunk diameter. This circle of protection need not be exactly equal around the tree, but it should be positioned so that no disturbance will occur closer to the tree than one-half the radius of the circle.** Individual zones should be joined into a larger “conservation area” wherever possible.

Mulch the “root protection zones” with wood chips. Trees and heavy construction equipment do not mix. A single pass by a vehicle or piece of construction equipment can irreparably damage the soil and roots. Ask your contractor to keep heavy equipment away from trees. For times when temporary heavy traffic over a root system cannot be avoided, apply a heavy layer of mulch or gravel, which will minimize compaction but not prevent compaction entirely. Mulch also helps insulate the rooting environment from changes imposed by opening the forest canopy. [Learn more >](#)

Watering during dry periods is important, both during and after construction. Shallow tree roots are sensitive to drought stress. Mulch will help reduce evaporation, but watering will be required during periods of scarce rainfall. Water the entire root zone slowly until the upper 8-12 inches are thoroughly moist.

Occasionally, special techniques are warranted to preserve a tree. A temporary soil excavation, such as for a utility installation or repair, may result in significant root loss, but if the soil is replaced soon afterwards there is opportunity for recovery. Augering under tree root systems, rather than trenching through them, or installing special aeration systems at the original soil surface below fill soil, are costly, but can be the difference between saving and losing a tree. (See Watering Trees and Shrubs leaflet.)

WHAT TO DO IF CONSTRUCTION DAMAGES TREES

Symptoms of trees suffering from construction damage may appear the next growing season or may take two to three years to appear. When roots are damaged, the tree is not able to take up enough water and nutrients to feed all the branches. This results in dieback in the top of the tree and near the ends of the branches. Some trees develop yellowing foliage as a result of nutrient deficiencies. The tree's overall health and vigor are slowed, resulting in small or sparse foliage.

Prune the crown to compensate for stress. A tree with a damaged root system is not able to sustain all of its branches and leaves. Reducing the number of leaves and branches will counterbalance the changes imposed on the root environment. All trees should be pruned by a qualified arborist who can remove the dead wood and selectively thin the live branches without disfiguring the tree. Regular pruning may be required every 3-5 years. [learn more >](#)

Mulch with organic material, such as woodchips or shredded bark, to encourage fine roots, which absorb nutrients, water, and oxygen. Ideally, extend a three to four inch layer of mulch as far out from the tree as practical, keeping mulch away from the base of the tree.

Fertilizing mature trees is not usually recommended as long as growth is adequate and nutrient deficiencies are not evident. Mulch recycles nutrients naturally. Heavy fertilization may stimulate excessive growth in the top and could counteract pruning intended to reduce the crown size. [learn more](#)

Water. Even if no symptoms appear, give extra care to trees following construction. Water well during dry periods.

RESOLUTION NO. 2020-37

**RESOLUTION APPROVING A VARIANCE FROM
THE CITY OF BIRCHWOOD VILLAGE ZONING CODE
FOR 251 WILDWOOD AVENUE**

WHEREAS, a proposal (20-04-VB) has been submitted by Brock Harmon to the City Council requesting a variance from the City of Birchwood Village at the following site:

ADDRESS: 251 Wildwood Avenue,

PARCEL: 30.030.21.21.0036

LEGAL DESCRIPTION: SUBDIVISIONNAME LAKEWOOD PARK 1ST
DIVISION LOT 10 BLOCK 5 SUBDIVISIONCD 25440

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING:

1. A thirty-five (35) foot variance from the fifty (50) foot ordinary high water level setback requirement from White Bear Lake to install two (2) retaining walls, per 302.020.2, All Other Structures and 302.020.4.c, Retaining Wall Setbacks;
2. A variance from the requirement that states: “No structures are allowed within any wetlands,” per 302.020.5;
3. A five (5) foot variance from the twenty (20) foot grading setback from any lake, pond, or wetland, per 302.055.2.a.4;
4. A variance from the requirement that states: “Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building,” per 302.070.5; and

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on August 27, September 24, and October 22, 2020; and

WHEREAS, there was no consensus among the Planning Commissioners as to whether the applicant satisfied the Sec. 304.040 criteria for granting a variance; two (2) Commissioners in favor with conditions, two (2) against, and one (1) absent; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village after reviewing the proposal, that the City Council hereby approves the requested variance subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.
2. Per Section 304.090, the variance shall become null and void if the project has not been completed or utilized within one (1) year after the date it was granted, subject to petition for extension by the City Council.



CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue
Birchwood Village, MN 55110

Date: ~~September 24, 2019~~

To: Tobin Lay Birchwood Village City Administrator

From: Jack Kramer Building Official

Re, Enforcement Report for the James Simming property located 312 Wildwood Ave.

I inspected the property on September 24, 2019 and noted the deficiency's below.

1. Roof overhangs areas have not been repaired, additional damage to an overhang located on the east roof area occurred from a recent tree branch that fell, due to a recent storm. The tail ends of the rafters have been sheared off and damage has occurred to the sheathing and roof shingles. Water intrusion could not be detected.
2. Front & Side yard areas have miscellaneous stored items that need to be removed. Violation of City Code Section 615.
3. The property is heavily wooded and some of the trees or branches of the trees are showing signs of potential failure due to rot and or extensive wind damage. Further damage could occur to both of the houses located on the property.

The exterior condition of the house with the roof damage is poor. Improperly maintained.

If you have any further questions please feel free to contact me.

Respectfully submitted,

Jack Kramer

Building Official

Tobin Lay

From: JOHN T Kramer <INSPJACK@msn.com>
Sent: Thursday, November 5, 2020 5:08 PM
To: Tobin Lay
Cc: hugh kantrud
Subject: RE: 310-312 Wildwood Avenue

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Hi Tobin, I visited with one of the renters today and based on my inspection none of the items required for abatement have been addressed. The renter I spoke with indicated that she has a trash service ,but the other renter in the small house does not. The renter also indicated that the remaining trash near the dwelling is not hers and was on the property when she moved in two years ago.

I also noticed a travel trailer on the property,. I asked her who owned it and she indicated that was hers and she is converting it into an " Ice castle" as an ice fishing shelter. I also noticed several large slabs of granite near the front of the property. I asked her who brought that to the property and she indicated that the other renter brought to the property and sells it on line.

I asked the renter about a tree house that was constructed and visible from the road. The construction was of used wood and looks terrible. She indicated that she built it for her children ,without the permission of the owner, who apparently is ill with a failing heart.

It is very apparent the property owner is not in control of the property.

Jack Kramer

Building Official

From: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Sent: Tuesday, November 3, 2020 10:16 PM
To: 'H.A.Kantrud' <hakantrud@protonmail.com>
Cc: Jack Kramer (INSPJACK@msn.com) <INSPJACK@msn.com>
Subject: RE: 310-312 Wildwood Avenue

Thank you Alan. Jack, let me know how it goes. Thanks!

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747

**REGULAR H
ABATEMENT ORDER 1**

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Case Type: Abatement

Court File No.: C7-94-373
Judge: Schurrer (ret.)

City of Birchwood Village,

Petitioner,

v.

James A. Simning,

Respondent.

**PETITIONER CITY OF BIRCHWOOD'S
NOTICE OF NUISANCE AND DEMAND
FOR IMMEDIATE ABATEMENT**

TO: Respondent James A. Simning, 310 Wildwood, Birchwood, MN 55110.

PLEASE TAKE NOTICE that Petitioner City of Birchwood Village, pursuant to Minnesota Statutes §§ 463.16, 463.17 and 463.21, makes the following:

ORDER OF ABATEMENT

This **ORDER** is based on observations of municipal staff, complaints and police contact made at 310-312 Wildwood which include the accumulation of trash and rubbish and lack of refuse services. The principle structure (roof) is also in severe disrepair.

To **COMPLY with the ORDER** you must:

- 1) re-establish refuse-service to the address;
- 2) clean-up the property, generally, of debris and trash;
- 3) correct the deficiencies to the structure/roof.
- 4)


You are ORDERED to Comply within 14 days of the service of this Order.

Pursuant to the court's **permanent injunction** made against your properties, the City is authorized to enter and abate and assess fees and costs upon motion and proof of same.

A motion for summary enforcement of the order will be made to the district court of Washington County unless corrective action is taken, or unless an answer is filed within the time specified in section§ 463.18 of Minnesota Statutes.

H. A. KANTRUD, P.A.

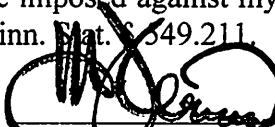
Dated: 23 July 17

By: 

H. Alan Kantrud (#028061)
P.O. Box 517
Willernie, MN 55090
Tel: (612) 743-4242
hakantrud@protonmail.com
Attorneys for Petitioner

ACKNOWLEDGEMENT

I hereby acknowledge that sanctions may be imposed against my law firm, its attorneys, or my client, under the circumstances set forth in Minn. Stat. § 549.211.



H. Alan Kantrud

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Case Type: Abatement

City of Birchwood Village,

Court File No.: C7-94-373

Judge: Schurrer (ret.)

Petitioner,

v.

**PETITIONER CITY OF BIRCHWOOD'S
NOTICE OF NUISANCE AND DEMAND
FOR IMMEDIATE ABATEMENT**

James A. Simning,

Respondent.

TO: Respondent James A. Simning, 310 Wildwood, Birchwood, MN 55110.

PLEASE TAKE NOTICE that Petitioner City of Birchwood Village, pursuant to Minnesota Statutes §§ 463.16, 463.17 and 463.21, makes the following:

ORDER OF ABATEMENT

This **ORDER** is based on observations of municipal staff, complaints and police contact made at 310-312 Wildwood which include the accumulation of trash and rubbish and lack of refuse service(s). The principle structure (roof) is also in severe disrepair. The driveway is also subsiding and is now the source of severe erosion and consequent deposition of dirt and gravel onto the City ROW and into its storm sewer system during and after rain events.

To **COMPLY** with the **ORDER** you must:

- 1) re-establish refuse-service to the address;
- 2) clean-up the property, generally, of debris and trash (including the boat lift);
- 3) correct the deficiencies to the structure/roof.
- 4) Stabilize the driveway surface and contain runoff.

You are ORDERED to Comply within 14 days of the service of this Order.

Pursuant to the court's **permanent injunction** made against your properties, the City is authorized to enter and abate and assess fees and costs upon motion and proof of same.

A motion for summary enforcement of the order will be made to the district court of Washington County unless corrective action is taken, or unless an answer is filed within the time specified in section § 463.18 of Minnesota Statutes.

H. A. KANTRUD, P.A.

Dated: 21 Sept 20

By: 

H. Alan Kantrud (#028061)
P.O. Box 517
Willernie, MN 55090
Tel: (612) 743-4242
hakantrud@protonmail.com
Attorneys for Petitioner

ACKNOWLEDGEMENT

I hereby acknowledge that sanctions may be imposed against my law firm, its attorneys, or my client, under the circumstances set forth in Minn. Stat. § 549.211.


H. Alan Kantrud

**REGULAR H
COURT ORDER**

LAW OFFICES OF
ECKBERG, LAMMERS, BRIGGS, WOLFF & VIERLING, P.L.L.P.
1835 NORTHWESTERN AVENUE
STILLWATER, MINNESOTA 55082

LYLE J. ECKBERG
JAMES F. LAMMERS
ROBERT G. BRIGGS
PAUL A. WOLFF
MARK J. VIERLING
GREGORY G. GALLER
KEVIN K. SHOEBERG
THOMAS J. WEIDNER
SUSAN D. OLSON

(612) 439-2878
FAX (612) 439-2923

September 18, 1995

Mr. Dave Eriksson, Mayor
4 Five Oaks Lane
White Bear Lake, MN 55110

Mr. Randy LaFoy
200 Wildwood Avenue
White Bear Lake, MN 55110

Mr. Ray Caturia
199 Wildwood Avenue
White Bear Lake, MN 55110

Ms. Mary Jane LaVigne
31 Birchwood Lane
White Bear Lake, MN 55110

Mr. Jerry Roeller
19 Birchwood Lane
White Bear Lake, MN 55110

In Re: City of Birchwood Village v. James A. Simning
Court File No.: C7-94-373

Dear Honorable Mayor and Council Members:

Enclosed please find an Order dated September 13, 1995, signed by Judge Schurrer of the Washington County District Court. Judge Schurrer has signed the Order as we requested with respect to the Simning properties. Mr. Simning now has until October 1, 1995, to have his properties cleaned up and in compliance with the Court's Order. If the property is not cleaned up in that time, we are authorized to go upon his property on October 2, 1995, to mark with florescent paint all of those items that we believe should be removed from the property. Mr. Simning would then have an additional ten (10) days to remove those items from the property. If they are not removed within ten (10) days, then the eleventh day we would be authorized to have our garbage hauler go upon the property and take all of those items and have them hauled away to be disposed of.

Please note that this Order also authorizes us to recover all of our costs if we have to go upon the property to mark items or to hire someone to haul them away. It would be my recommendation that on October 2, 1995, two (2) Council Members go onto Mr. Simning's property with the garbage hauler and mark the items that need to still be hauled away. This will make it easier for the garbage hauler to identify the materials to be hauled away, and give him some familiarity with the property and the problem. Additionally, if there are two (2) Council Members, then the two

September 18, 1995
Page 2

can reach some consensus as to which items need to be removed. I would also be willing to attend that day to help identify the items which should be removed, as I have over time developed some familiarity with both of the properties.

I would appreciate your letting me know how you would like to proceed on this.

Very truly yours,



Gregory G. Galler

GGG:dmr
Enclosure
c: Kathy Weber

File #
WASHINGTON COUNTY
DISTRICT COURT
SEP 15 1995
MARIE SCHLITS
COURT ADMINISTRATOR
TENTH JUDICIAL DISTRICT

STATE OF MINNESOTA
COUNTY OF WASHINGTON

IN DISTRICT COURT
TENTH JUDICIAL DISTRICT

Court File No.: C7-94-373

City of Birchwood Village, a
Minnesota municipality,

Plaintiff,

ORDER

vs.

James A. Simning,

Defendant.

THE ABOVE-ENTITLED MATTER came on before the undersigned Judge of District Court on the 4th day of August, 1995 at the Washington County Government Center, 14900 - 61st Street North, Stillwater, Minnesota. The case was set for a contempt motion hearing. Said motion was filed by the Plaintiff herein.

The Plaintiff was represented in Court by its City Attorney, Gregory G. Galler, Esq., Stillwater, Minnesota. The Defendant, James A. Simning, was personally present in Court.

It has been alleged by the Plaintiff that the Defendant has failed and/or refused to abide by Paragraph 2 of this Court's Order dated December 9, 1994. More specifically, said Order requiring the Defendant as follows:

"1. That Defendant is hereby ordered to make efforts to bring his property into fully compliance with the City ordinances and state statute enumerated above. All work shall be completed by May 15, 1995. Defendant shall take such steps as are necessary to remove the junk, rubbish, trash, and debris, including but not limited to the items enumerated in Paragraph Nos. 7 and 8 of this Court's Findings of Fact. In addition, Defendant shall completely remove or bring into compliance with all applicable building and safety codes, either state or city, both the front and rear decks

attached to the building located at 2 Park Avenue by May 15, 1995. Defendant shall allow the city building inspector upon said premises on May 15, 1995, to inspect the property to assure compliance with this Court's Order. Defendant is further permanently enjoined and restrained from again allowing his properties to violate any ordinances and statutes as enumerated herein."

NOW, THEREFORE, based upon all of the files, records and proceedings herein, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Defendant, James A. Simning, herein was personally served with a copy of the Order to Show Cause, Notice of Motion and Motion, and Affidavit of Gregory G. Galler on the 16th day of June, 1995. This Court has obtained personal jurisdiction over the Defendant for the purposes of this hearing.

2. The Court finds that the Defendant, James A. Simning, has without justifiable excuse failed and/or refused to abide by this Court's Order as referenced above.

3. This Court hereby finds the Defendant, James A. Simning, to be in civil constructive contempt of Court for his failure to abide by this Court's Order as specified above.

4. That according to this Court's inherent judicial authority to insure that its orders are followed, the Court grants the relief described herein. The Court believes that the relief described herein will be the least restrictive upon the Defendant's liberties as any other alternative remedy that is available.

NOW, THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Court enters the following:

ORDER

1. The Defendant is hereby ordered to bring his properties into full compliance with this Court's earlier Order within fifteen (15) days.

2. If the Defendant fails and/or refuses to comply with the time period specified in Paragraph 1, then and in that event, the City is hereby authorized and given full legal authority to go onto the Defendant's property at the end of the time period specified in Paragraph 1. At that time, the City shall mark with florescent spray-paint all items that the City believes should be removed from the property. The Defendant shall then have ten (10) days to either remove those items from the properties, place those items into a proper enclosure as is envisioned by the Ordinances and State Statutes at issue in the lawsuit, or petition this Court as to why those items should be allowed to remain as they are. Any petition by the Defendant to this Court must list with particularity exactly which items he wishes to have remain on the properties and why said items need not be removed from the properties.

3. If the Defendants have neither removed the items within the ten (10) days, moved the items to a proper enclosure, or petitioned this Court for relief, then and in that event, the City shall be authorized on the eleventh (11th) day to go upon the Defendant's properties and remove and discard all such marked items.

4. Should the City be required to go upon the Defendant's properties to mark, remove and/or discard items, all costs incurred by the City shall be summarized and submitted to this Court with a motion to assess those additional costs to the

Defendant's property taxes. Said itemized list shall also include any additional attorney's fees incurred. Said motion to assess the additional costs shall be filed with this Court as a non-dispositive motion pursuant to the terms of Rule 115 of the General Rules of Practice in the District Courts.

5. The City of Birchwood Village is hereby awarded its reasonable costs, disbursements and attorney's fees incurred with having to bring this motion for contempt. Said amount is set at Five Hundred Dollars (\$500.00). The Defendant shall pay this amount to the City no later than sixty (60) days from the date of this Order. If the Defendant has not fully paid said amount by that time, the City is hereby authorized to thereafter assess said amount to the property tax rolls for the Defendant's property according to normal procedures for assessments to the County Auditor's Office. Said assessment shall be due and payable within one (1) year at the statutorily prescribed interest rate of six percent (6%).

6. The Court Administrator of the Washington County District Court is hereby ordered and directed to mail a true and correct copy of this Order to both of the parties hereto. Said mailing shall constitute due and proper service of this Order for all purposes.


IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated:

Sept 13, 1995

BY THE COURT:



Gary R. Schurrer
Judge of District Court

Pursuant to Rule 58, Civil Rules of Procedure, I hereby certify that the above Order constitutes the judgment of this Court.

Dated:

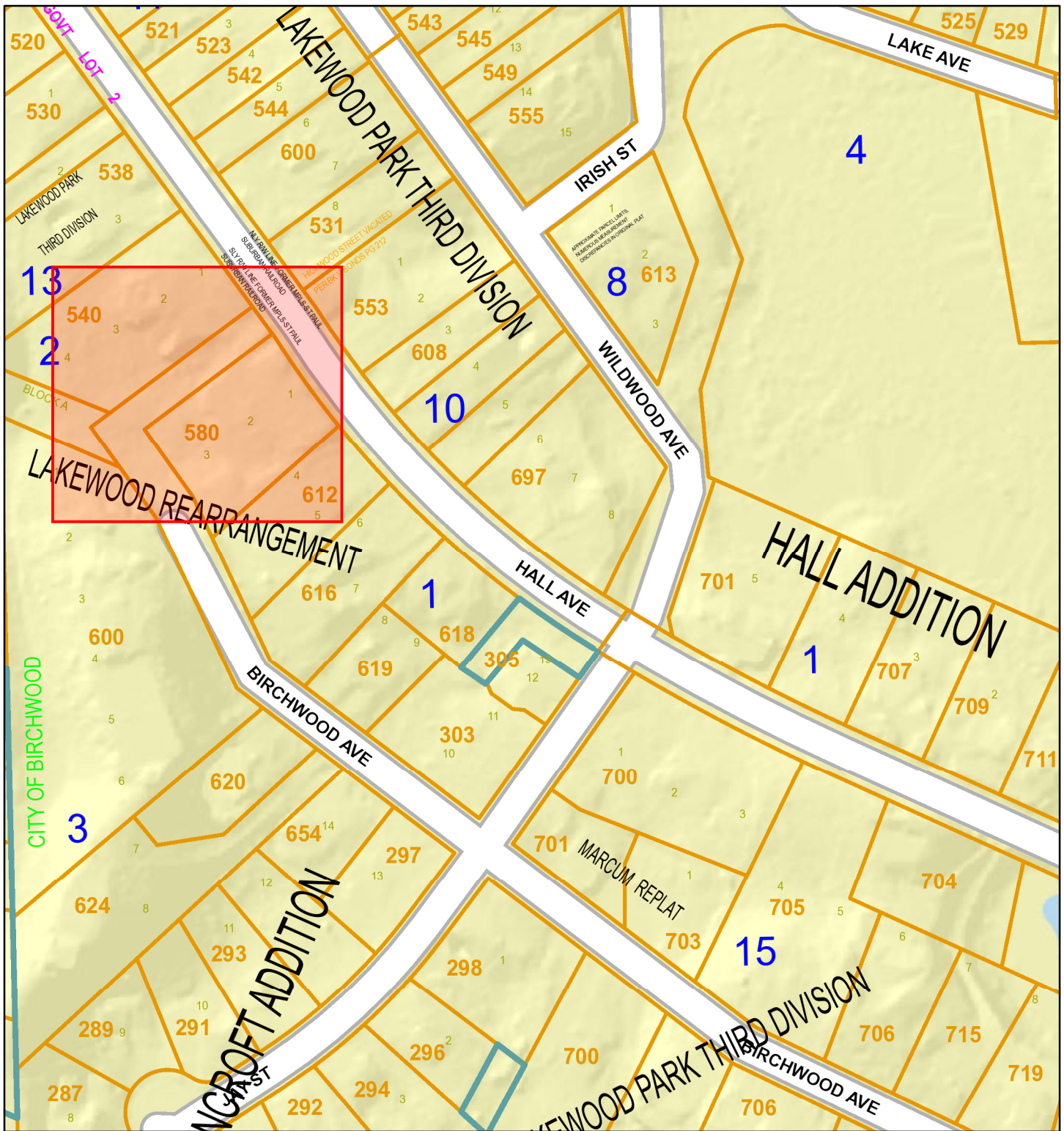
BY THE COURT:

MARIE SUNLITIS
COURT ADMINISTRATOR

By *James J. Minicelli*
Deputy

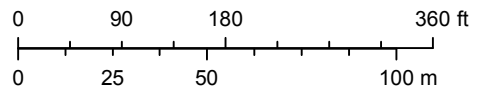
580 Hall Path

REGULAR I



October 10, 2020

1:2,000



Tobin Lay

From: JOHN T Kramer <INSPJACK@msn.com>
Sent: Sunday, October 11, 2020 3:59 PM
To: Tobin Lay
Subject: Certificate of Insurance / Automobile Coverage. Section 301.055 Permit Requirements item "B"

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Hi Tobin, Per our recent conversation regarding Automobile Insurance coverage it appears that a few issues have been noted.

Many of the large contractors that apply for permits which are related to siding & roofing do not provide automobile insurance, because all of the work is contracted to subcontractors.

I have noticed that many of the independent contractors who provide roofing & siding services do not carry the \$ 1,00,000.00 policy coverage. So they have walk away from the contracts with the homeowners.

I know that you are aware that I work for other communities and of none of those communities require automobile insurance. I question if this portion of the ordinance provides the City with any reasonable reason for the coverage.

I request the City Council review this requirement, as it may have an negative impact to some of the residents. This is based on resident conversations I have with them in the past months.

Thank you, for your attention to this matter.

Jack Kramer

Building Official

ORDINANCE 2020-11-01

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING PERMIT REQUIREMENTS
IN THE CITY ZONING CODE**

The City Council of the City of Birchwood Village hereby ordains that Chapter 301 (Zoning Code: General Provisions) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

SECTION 301. ZONING CODE: GENERAL PROVISIONS

301.055. PERMIT REQUIREMENTS. Unless otherwise specifically provided, the following are required for all activity in the City that requires a permit to be issued to conduct the activity:

1. **Certificate of insurance; coverage.** If the applicant is a licensed contractor or is using a licensed contractor in conjunction with a permit under this section they must furnish the city with a certificate of insurance evidencing the following required coverage:

A. Commercial general liability, including XCU (explosion, collapse and underground) coverage.

1. Bodily injury.

(i) \$1,000,000.00 each occurrence.

(ii) \$1,000,000.00 aggregate products and completed operations.

2. Property damage.

(i) \$1,000,000.00 each occurrence.

(ii) \$1,000,000.00 aggregate.

~~B. Comprehensive automobile liability (owned, nonowned, hired).~~

~~1. Bodily injury.~~

~~(i) \$1,000,000.00 each occurrence.~~

~~(ii) \$1,000,000.00 each accident.~~

~~2. Property damage. Property damage: \$1,000,000.00 each occurrence.~~

EB. The minimum insurance coverage must be maintained until six months after the project has been completed or, if a new dwelling is being constructed, a certificate of occupancy has been issued. The city must be named as an additional insured.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8th day of December, 2020

Mary Wingfield, Mayor

Attest:

Tobin Lay, City Administrator-Clerk

MEMORANDUM



TO: Birchwood Village City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Elm Easement No Parking Sign
DATE: November 5, 2020

Dear Mayor and Council Members,

The City has received a request to reinstall the “no parking” sign that was once posted at Elm Beach that was removed along with many other traffic signs in 2019. The parking rules are not consistent among the five (5) Public Lake Tracks – some allow parking and others do not.

Allowing parking at Elm Beach impedes the ingress/egress of a private detached garage abutting the public lake tract to the south. This public lake tract does offer one designated parking spot on its north side that does not impede and is not currently marked. *See the following photo for both.*



Request/Recommendation

Staff requests City Council:

- 1) Consider whether marking the designated parking spot at Elm Beach; and
- 2) Consider reposting the “no parking” sign for the remaining portion of Elm Beach

Thanks!

Regards,
Tobin Lay

MEMORANDUM



TO: Birchwood Village City Council
FROM: Mary Wingfield, Mayor
SUBJECT: Parks Management Oversight
DATE: November 6, 2020

To the council.

Maintaining our parks is a big job, and based on public comments, we have some lingering maintenance issues. (Eg park benches need paint, brush needs trimming (especially along roadsides), playground equipment needs cleaning, weeds need to be checked as well.)

We currently have three experienced maintenance workers. In the past, Tobin has provided considerable oversight to them. We have also assigned one council member to oversee park issues. I think this arrangement should be reviewed in light of our pending limited office staffing availability and the ability of our workers.

With those issues in mind, and the fact that taking care of our parks is a big job, our parks could probably be better served by delegating job responsibilities. Separating our parks into subgroups/districts with a worker assigned to that district is one possible solution. The assigned worker could take proactive action on matters that arise throughout the year. And the council member could oversee that district and assist the worker with special issues that come up over the course of the season.

Possible Districts:

Tighe-Schmitz, Dellwood and Kay beaches

Ash, Birch, Elm and Wildwood park

Bloomquist, Polly's park and the Village Hall.

I think we have an opportunity to deliver a better product more efficiently with some changes. Perhaps you have some other insights. Let's talk about this at our council meeting in January when we assign duties.

Thanks.

m

MEMORANDUM



TO: Birchwood Village City Council
 FROM: Tobin Lay, City Administrator
 SUBJECT: Ice Rink Plan
 DATE: November 5, 2020

Dear Mayor and Council Members,

I am seeking the Council's direction on the following Ice Rink topics for this winter:

COVID-19 Guidelines

As the Governor's pandemic restrictions are not yet lifted and the City has mandated restrictions for park use during the pandemic, I am requesting Council's direction for appropriate guidelines for the Ice Rink this winter.

Enclosed is an example policy being considered by Oak Park Heights. Mayor Wingfield offered the following suggestion: "I would keep it simple. Masks mandatory. Max capacity 4 people. 6 feet social separation"

Ice Rink Coating/Covering

The white paint coating at the Ice Rink has substantially faded. The dark pavement attracts the sunlight during the winter and causes the ice above to soften and melt. The idea was suggested in a previous City Council meeting that the City apply a temporary poly covering during the winter that is flooded otop. The Council tabled discussions of that suggestion for a later date. As we are quickly approaching the winter season, I am requesting the Council continue this discussion and direct staff accordingly.

Resident Barton Winter offered this feedback on the subject of using poly covering:

... Jon mentioned the use of White Poly to flood over. Who presented this as an option? I am totally against placing any sheeting on the surface of the hockey rink. You cannot have several sheets overlapping one another, it has to be one continuous sheet. I checked on this last season and this is more than a thousand dollars for the continuous sheet. It was also recommended that the sheet be cut once a layer of ice is established so that the edges do not protrude above the ice level. This essentially requires a new sheet for the next year. This placement of polysheet was tried about ten years ago and it ruined the ice for the whole season. If the sheet moves and doesn't allow the ice to freeze normally, you get voids. If it snows on the unstable or unfrozen flood you have bigger problems since you cannot shovel or place a CAT on the surface. We had voids all over the ice from that experiment. I suggest that you try that on the pleasure rink and see if you can get it to work....

Request/Recommendation

Staff requests City Council direct staff on:

- 1) Appropriate COVID-19 restrictions for the Ice Rink and warming house this winter; and
- 2) Whether to proceed with coating or covering the Ice Rink.

Thanks!

Regards,
 Tobin Lay

CITY OF OAK PARK HEIGHTS

2020 – 2021 Warming House / COVID-19 Policy.

To better facilitate COVID-19 safety protocols that are necessary to enable the opening of City Ice Rinks, the following policies are in effect for the City warming houses at Brekke Park and Cover Park until Further notice:

1. There shall be not more than ten (10) individuals occupying the warming house at any given time. (not including one rink attendant)
2. During the hours of warming house operation and when it is apparent to the Rink Attendant (if present) that the occupancy exceeds 10 persons; occupancy by all visitors shall be limited to not a time duration as reasonably necessary to put on skating / outdoor gear and /or to warm -up – but not exceeding 15 minutes. The Rink Attendant shall monitor and establish a reasonable rotation if necessary.
3. All staff and visitors to the park indoor shelters/warming houses must wear a face mask.
4. At all times proper six (6) foot social distancing shall remain in effect for all interior warming house areas including restrooms.
5. No one should enter the warming houses if they are feeling ill.
6. Park Shelters/ warming house common areas, high touch areas and restrooms will be cleaned and disinfected during each shift. Trash will be removed on a daily basis.
7. At-risk persons. All persons who are at risk of severe illness from COVID-19, as defined by Executive Order 20-55, are strongly urged to stay at home or in their place of residence and follow the provisions of Executive Order 20-55.

RESOLUTION 2020-34

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION APPROVING THE USE OF CARES ACT FUNDING FOR CERTAIN
EXPENDITURES RELATED TO COVID PANDEMIC MUNICIPAL PREPAREDNESS**

WHEREAS, The City of Birchwood has received \$66,000.00 of CARES Act funding as administered by the State of Minnesota through its office of management and budget (OMB) and,

WHEREAS, the City has identified additional expenditures that are eligible to be paid for with said CARES Act funding and,

WHEREAS, the City has identified the need for greater security and health-safety as it relates to in-person voting at the City's polling-place, to-wit its City Hall and has determined that additional protective equipment is needed to address those concerns and,

WHEREAS, the City has also identified the need to supplement the funding of and for additional law enforcement in order to support the Governor's Shelter-In-Place Order and distancing requirements and,

WHEREAS, the City Council determines that City Staff should proceed with these aforementioned expenditures immediately and make the proper reporting pursuant to the requirements associated with the CARES Act funding and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, after reviewing the particulars of the safety equipment expenses and additional allocation of resources to the Washington County Sheriff's Department, do hereby approve those expenses and,

FURTHER, BE IT RESOLVED THAT the City Council of the City of Birchwood Village hereby approves those additional uses of the CARES Act funding it has received for the aforementioned expenditures and directs Staff to report these expenditures to the State OMB as part of the City's obligations to the State in accepting and utilizing said CARES Act funds.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Resolution duly seconded and passed this 10th day of November, 2020.

ATTEST:

Mary Wingfield, Mayor

Tobin Lay, City Administrator



BIRCHWOOD VILLAGE
Variance Findings Form
415 WILDWOOD AVENUE

EACH OF THE FOLLOWING CRITERIA MUST BE SATISFIED TO APPROVE

#1: Is the request in harmony with the general purposes and intent of the ordinance?

The specific Ordinance states _____
 (state ordinance requirement), the purpose of which is to _____
 _____ (explain what the ordinance requirement is intended to prevent or protect).

The proposed variance is for: _____
 _____ (explain proposal and potential effects).

This variance is/is not in harmony with the purpose and intent of the specific Ordinance because: _____

 _____ (explain how the proposal is in harmony with or undermines the purpose of the ordinance).

#2: Would granting the variance be consistent with the comprehensive plan?

The Comprehensive Plan contains the following policies and goals regarding this request: _____

 _____ (list applicable policies, goals, and maps, including citations).

Granting the variance is/is not consistent with the comprehensive plan because: _____

 _____ (explain how; relate details of the request to specific policies, goals, and maps).

#3: Are there special conditions or circumstances that are peculiar to the land, structure, or building involved?

There are/are no circumstances unique to the property that would prevent compliance with the specific Ordinance because: _____

(describe any physical characteristics of the land that are unique to this property that prevent compliance with the ordinance requirement, and whether the applicant has demonstrated that no other reasonable alternative exists that would comply with the ordinance; explain what makes this property different from other properties to justify why this applicant should be able to deviate from the ordinance when others must comply).

#4: Were the special conditions or circumstances created by the applicant's action or design solution?

The conditions that resulted in the need for the variance **were/were not** created by the applicant **because:**

_____ (if there are special conditions or circumstances, describe whether they were created by some action of the applicant/property owner).

#5: Will granting a variance result in any increase in the amount of water draining from the property?

Granting the variance **will/will not** increase the amount of water that drains from the property **because:**

_____ (if granting the variance will increase the amount of water that drains from the property, explain how and how much it will increase).

#6: Will granting the variance impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City?

Granting the variance **will/will not** impair light and air to adjacent property, or diminish or impair property values in the area, or impair the public health, safety, or welfare of Birchwood residents **because:**

_____ (if granting the variance could be detrimental to neighbors or other Birchwood residents, explain how).

#7: A variance must not be granted *simply because there are no objections or because those who do not object outnumber those who do?*

Has this variance been granted only because of the number of objections to the request: Yes No

Explain: _____

_____ (If you believe that the decision has been determined simply because of the number of supporters or objections, explain how).

#8: Does reasonable use for the property exist under terms of the Zoning Code?

Reasonable use for the property **does/does not** exist under terms of the Zoning Code **because:** _____

_____ (Describe how the Zoning Code does or does not allow for reasonable use of the property. If reasonable use of the property *does* exist under terms of the Zoning Code, the applicant's financial gain or loss shall not be considered in your decision).

What is your decision? (Approve or Deny)

Remember - ALL criteria MUST be satisfied to approve.

If approved, what conditions will you impose? (Findings must support the conditions; explain the impacts of the proposed development and the conditions that address those impacts. Remember that findings must be directly related and proportional to the impacts created by the variance. Set specific timeframes and deadlines, and consider requiring the following to help ensure compliance with the conditions:

- *financial sureties to ensure that the required activities are completed within specified deadlines,*
- *as-built drawings and/or photos as proof of completion within the terms of the conditions, and/or*
- *long-term maintenance and operation agreements for stormwater best management practices and vegetation that must be protected or restored as a condition of approval, along with notices of restrictions recorded against properties to ensure that future property owners are aware of their responsibilities and don't unknowingly "undo" any conditions.)*



BIRCHWOOD VILLAGE
Variance Findings Form
251 WILDWOOD AVENUE

EACH OF THE FOLLOWING CRITERIA MUST BE SATISFIED TO APPROVE

#1: Is the request in harmony with the general purposes and intent of the ordinance?

The specific Ordinance states _____
 (state ordinance requirement), the purpose of which is to _____
 _____ (explain what the ordinance requirement is intended to prevent or protect).

The proposed variance is for: _____
 _____ (explain proposal and potential effects).

This variance is/is not in harmony with the purpose and intent of the specific Ordinance because: _____

 _____ (explain how the proposal is in harmony with or undermines the purpose of the ordinance).

#2: Would granting the variance be consistent with the comprehensive plan?

The Comprehensive Plan contains the following policies and goals regarding this request: _____

 _____ (list applicable policies, goals, and maps, including citations).

Granting the variance is/is not consistent with the comprehensive plan because: _____

 _____ (explain how; relate details of the request to specific policies, goals, and maps).

#3: Are there special conditions or circumstances that are peculiar to the land, structure, or building involved?

There are/are no circumstances unique to the property that would prevent compliance with the specific Ordinance because: _____

(describe any physical characteristics of the land that are unique to this property that prevent compliance with the ordinance requirement, and whether the applicant has demonstrated that no other reasonable alternative exists that would comply with the ordinance; explain what makes this property different from other properties to justify why this applicant should be able to deviate from the ordinance when others must comply).

#4: Were the special conditions or circumstances created by the applicant's action or design solution?

The conditions that resulted in the need for the variance **were/were not** created by the applicant **because:**

_____ (if there are special conditions or circumstances, describe whether they were created by some action of the applicant/property owner).

#5: Will granting a variance result in any increase in the amount of water draining from the property?

Granting the variance **will/will not** increase the amount of water that drains from the property **because:**

_____ (if granting the variance will increase the amount of water that drains from the property, explain how and how much it will increase).

#6: Will granting the variance impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City?

Granting the variance **will/will not** impair light and air to adjacent property, or diminish or impair property values in the area, or impair the public health, safety, or welfare of Birchwood residents **because:**

_____ (if granting the variance could be detrimental to neighbors or other Birchwood residents, explain how).

#7: A variance must not be granted *simply because there are no objections or because those who do not object outnumber those who do*

Has this variance been granted only because of the number of objections to the request: Yes No

Explain: _____

_____ (If you believe that the decision has been determined simply because of the number of supporters or objections, explain how).

#8: Does reasonable use for the property exist under terms of the Zoning Code?

Reasonable use for the property **does/does not** exist under terms of the Zoning Code **because:** _____

_____ (Describe how the Zoning Code does or does not allow for reasonable use of the property. If reasonable use of the property *does* exist under terms of the Zoning Code, the applicant's financial gain or loss shall not be considered in your decision).

What is your decision? (Approve or Deny)

Remember - ALL criteria MUST be satisfied to approve.

If approved, what conditions will you impose? (Findings must support the conditions; explain the impacts of the proposed development and the conditions that address those impacts. Remember that findings must be directly related and proportional to the impacts created by the variance. Set specific timeframes and deadlines, and consider requiring the following to help ensure compliance with the conditions:

- *financial sureties to ensure that the required activities are completed within specified deadlines,*
- *as-built drawings and/or photos as proof of completion within the terms of the conditions, and/or*
- *long-term maintenance and operation agreements for stormwater best management practices and vegetation that must be protected or restored as a condition of approval, along with notices of restrictions recorded against properties to ensure that future property owners are aware of their responsibilities and don't unknowingly "undo" any conditions.)*

Tobin Lay

From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Monday, November 9, 2020 11:40 AM
To: Tobin Lay
Subject: Birchwood Village Water Meter Tower and Dellwood LS #3 Emergency Generator - Update
Attachments: 2020-11-9 Water Meter Tower and Dellwood LS 3 - Estimated Cost Summary.pdf;
2020-11-9 Water Meter Tower and Dellwood LS 3 - Estimated Cost Summary.xlsx
Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Tobin,

Water Meter Tower

Background

1. On October 13, the City awarded the installation of the Tower to Structural Tower Services (STS) in the amount of \$18,230.00.

TEI Update

1. STS does not have an updated schedule because of supply chain disruptions.
2. The supply chain disruptions are due to circumstance beyond the control of STS including, but not limited to, the following:
 - a. Human resource shortages caused by Covid-19.
 - b. Hurricanes in the southern United States.
 - c. Fires in California.
 - d. High winds in Iowa.
 - e. High demand for structural steel has cause delays in obtaining steel for the Tower.
3. STS is working to resolve the supply chain disruptions.
4. The expected delivery is after November 15, but how long after is unknown at this time.

Electric Service to Water Meter Tower

Background

1. On October 13, the City awarded the installation of a new electric service (Alternative #2 - Connect Electricity to Tower Now) to Short Stop Electric (SSE) in the amount of \$4,005.00

TEI Update

1. SSE has completed the installation of the electrical conduit and pedestal.
2. SSE will complete the remaining small amount of work on or before Friday November 13.

Dellwood LS #3 Emergency Generator

Background

1. On September 8, the City awarded the work to furnish an emergency generator and automatic transfer switch (ATS) to Kodiak Power Systems (KPS) in the amount of \$16,136.80.
2. On October 13, the City awarded the work to install the generator and ATS to KPS in the amount of \$10,155.00.

TEI Update

1. The following was completed by KPS:
 - a. Soil correction work (Poor soil was removed from below the concrete pad and replaced with soil that will support the pad and generator).
 - b. Installed a concrete pad for the generator.
 - c. Installed three (3) bollards to protect the generator.
 - d. Moved one existing railroad track bollard to protect the generator.
2. KPS's updated schedule is for the generator to be delivered on November 20.
3. KPS could not meet the CARES ACT deadline of November 15 because of supply chain disruptions due to circumstance beyond the control of KPS including, but not limited to, the following:
 - a. Human resource shortages caused by Covid-19.
 - b. Hurricanes in the southern United States.
 - c. Fires in California.
 - d. High winds in Iowa.
 - e. Long wait for some parts used inside the generator.
4. An application to Xcel Energy for a natural gas service to the generator has been completed. Xcel Energy will install a new gas pipe from the existing gas pipe in the street to the generator and install a new gas meter near the generator. Xcel Energy will repair the bituminous street. No timetable has been set for Xcel's work.

Estimated Cost Summary

TEI prepared an updated estimated cost summary for the Water Meter Tower and Dellwood LS #3 Emergency Generator project dated November 9 (attached) for your review.

Please let me know if you have any questions. My cell is 612-867-7234.

Thanks,
Steve

Steven Thatcher, PE
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City of Birchwood Village, MN

Water Meter Tower and Dellwood LS #3 - Estimated Cost Summary

BY: Thatcher Engineering, Inc. (TEI)

11/9/2020

#	Description	Estimated Cost
1	Dellwood LS #3 Generator - Furnish by Kodiak Power Solutions (Kodiak)	\$16,136.80
2	Dellwood LS #3 Generator - Installation by Kodiak	\$10,155.00
3	Dellwood LS #3 Generator - Furnish and Install Three (3) Bollards by Kodiak	\$2,150.00
4	Dellwood LS #3 Generator - Move Existing Railroad Track Bollard by Kodiak	\$425.00
5	Dellwood LS #3 Generator - Natural Gas Service Installation Fee - Xcel Energy	\$982.20
6	Dellwood LS #3 Generator - Soil Borings by American Engineering Testing, Inc. (AET)	\$3,000.00
7	Dellwood LS #3 Generator - Soil Observation and test during construction by AET	\$388.10
8	Dellwood LS #3 Generator - Private Utility Locates for Soil Borings	\$250.00
9	Tower - Furnish and Install by Structural Tower Services	\$18,230.00
10	Tower - Electrical Service to Tower by Short Stop Electric	\$4,005.00
11	Tower - Xcel Energy - Electrical Service Installation Fee	\$0.00
12	Dellwood LS #3 Generator and Tower - Thatcher Engineering Through September 28, 2020	\$8,627.50
13	Dellwood LS #3 Generator and Tower - Thatcher Engineering and American Engineering Testing - Construction Administration, Observation and Material Testing	\$5,500.00
14	Tower - Federal Communications Commission (FCC) Permit Application and fees are included in the Price from Dakota Supply Group (DSG)	\$0.00
	Subtotal	\$69,849.60
15	If needed: Dellwood LS #3 Generator - White Bear Township - Portable Emergency Generator Rental during Instalation of Generator	\$500.00
16	If needed: Tower - Additional Soil Correction Work	\$500.00
	Total	\$70,849.60

Note 1: Fence around Tower to reduce the risk of people climbing the Tower is not included in the estimate.

Note 2: Turf Establishment is not included in the estimate.

RESOLUTION 2020-35

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**REVOKING THE HIRING AND APPOINTMENT OF ALEX SAXE AS CITY
ADMINISTRATOR-CLERK AND APPROVING THE HIRING AND APPOINTMENT
OF ANDY GONYOU AS INTERIM CITY ADMINISTRATOR-CLERK,
EFFECTIVE NOVEMBER 11, 2020.**

At a regular meeting of the City Council of the City of Birchwood Village held virtually using the Zoom meeting platform on Tuesday, November 10, 2020, with the following members present: Mayor Mary Wingfield, Council Members Jon Fleck, Mark Foster, Randy LaFoy, and Kevin Woolstencroft, and the following absent: none, the Birchwood Village City Council resolved:

WHEREAS, Alex Saxe did not accept his appointment as City Administrator-Clerk; and

WHEREAS, The City Council has already accepted the resignation of Tobin Lay, the current City Administrator-Clerk; and

WHEREAS, Hiring an Interim City Administrator-Clerk that can work directly with outgoing City Administrator-Clerk Tobin Lay will be beneficial for the continuity of city operations; and

WHEREAS, Current City Treasurer-Deputy Clerk Andy Gonyou agrees to serve as Interim City Administrator-Clerk for the City of Birchwood Village; and

WHEREAS, The Interim City Administrator-Clerk shall promptly commence to interact and work closely with Current City Administrator-Clerk Tobin Lay in order to ensure a smooth orientation and transition of duties; and

WHEREAS, The Interim City Administrator-Clerk shall have all powers and duties of the City Administrator-Clerk; and

WHEREAS, The City of Birchwood Village will compensate Andy Gonyou at a rate of pay of \$27.50/hour.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Birchwood Village hereby revokes the hiring and appointment of Alex Saxe as City Administrator-Clerk and approves the appointment of Andy Gonyou as Interim City Administrator-Clerk, effective November 11, 2020 and continuing up to one year from the passing of this Resolution.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 10th day of November, 2020.

Mary Wingfield, Mayor

ATTEST:

Tobin Lay, City Administrator-Clerk