

# AGENDA

## Greenwood City Council Meeting

Wednesday, November 1, 2017  
20225 Cottagewood Road, Deephaven, MN 55331

*Hearing devices are available from the recording technician.*



### Worksession

*In accordance with open meeting laws, the worksession is open to the public for viewing, but there will be no opportunity for public participation.*

- 6:00pm 1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA
- 6:00pm 3. DISCUSS CITY PROCESSES
- 6:55pm 4. ADJOURNMENT

**Regular Meeting** *The public is invited to speak when items come up on the agenda (comments are limited to 3 minutes). The public may speak regarding other items during Matters from the Floor (see below).*

- 7:00pm 1. CALL TO ORDER | ROLL CALL | APPROVE MEETING AGENDA
- 7:00pm 2. CONSENT AGENDA
  - Consent Agenda items are considered to be routine and are approved through one motion with no discussion by the city council. Council members may remove any Consent Agenda item for discussion and separate consideration under Other Business.*
  - A. Approve: 10-04-17 City Council Meeting Minutes
  - B. Approve: September Cash Summary Report
  - C. Approve: September Certificates of Deposit Report
  - D. Approve: October Verifieds, Check Register, Electronic Fund Transfers
  - E. Approve: November Payroll Register
  - F. Approve: Res 23-17, St. Alban's Bay Lake Improvement District 2018 Budget, Tax Levy, and Assessment Roll
  - G. Approve: Res 24-17, Designating 2018 Polling Location
  - H. Approve: 2018 Liquor License Application
- 7:05pm 3. MATTERS FROM THE FLOOR
  - This is an opportunity for the public to address the council regarding matters not on the agenda. Comments are limited to 3 minutes. Typically, the council will not take action on items presented at this time, but will refer items to staff for review, action, and / or recommendation for future council action.*
- 7:10pm 4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS
  - A. Chief Mike Meehan: Quarterly Police Update
- 7:20pm 5. PUBLIC HEARING
  - A. None
- 7:20pm 6. ACTION RELATED TO PUBLIC HEARING
  - A. None
- 7:20pm 7. PLANNING, ZONING & SUBDIVISION ITEMS
  - A. Consider: Res 25-17 Findings for Variance Application, Laura & Lloyd Ness, 5500 Maple Heights Rd
  - B. 1st Reading: Ord 272, Amending Code Section 630 Regarding Right-of-Ways and Small Wireless Facilities & Res 26-17, Summary of Ord 272 for Publication
  - C. Consider: Sending Potential Lot-Size Ordinance to Planning Commission for Public Hearing and Recommendation
- 7:45pm 8. UNFINISHED BUSINESS
  - A. Update: Requests to MnDOT for Installation of Engine-Braking Signs on Westbound Hwy 7 & Changing Timing of the Christmas Lake Rd Traffic Signal
- 7:55pm 9. NEW BUSINESS
  - A. Discuss: Capital Improvement Plan for City Docks
  - B. Consider: Amendments to St. Alban's Bay Lake Improvement District Joint Cooperation Agreement
  - C. Consider: Potential Letter to DNR in Support of SABLID Using Lower Cost Treatment
- 8:05pm 10. OTHER BUSINESS
  - A. None
- 8:05pm 11. COUNCIL REPORTS
  - A. Conrad: Planning Commission
  - B. Cook: Lake Minnetonka Conservation District, Public Works Committee
  - C. Fletcher: Lake Minnetonka Communications Commission, Fire, Administrative Committee
  - D. Kind: Police, Administrative Committee, Mayors' Meetings, Website
  - E. Quam: Minnetonka Community Education, Public Works Committee
- 8:20pm 12. ADJOURNMENT



**Agenda Item:** Consent Agenda

**Summary:** The consent agenda items are considered to be routine and are approved through one motion with no discussion by the city council. Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business on the agenda.

The consent agenda items are included in the hard copy of the full council packet and in the electronic version of the packet available at [www.greenwoodmn.com](http://www.greenwoodmn.com).

**Council Action:** Required. Possible motion ...

1. I move the council approves the consent agenda items as presented.

# MINUTES

## Greenwood City Council Meeting

Wednesday, October 4, 2017

20225 Cottagewood Road, Deephaven, MN 55331



### 1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the meeting to order at 7:03pm.

Members Present: Mayor Kind; Councilmembers Kristi Conrad, Tom Fletcher, and Bob Quam

Members Absent: Councilman Bill Cook

Staff Members Present: City Engineer Dave Martini

**Motion by Kind to approve the agenda with the addition of item 4B “City Engineer Report Regarding Road and Park Projects.” Second by Quam. Motion passed 4-0.**

### 2. CONSENT AGENDA

A. Approve: 09-06-17 City Council Worksession & Regular Meeting Minutes

B. Approve: August Cash Summary Report

C. Approve: August Certificates of Deposit Report

D. Approve: September Verifieds, Check Register, Electronic Fund Transfers

E. Approve: October Payroll Register

**Fletcher requested item C be moved to item 10A for further discussion. Motion by Kind to approve the consent agenda items A, B, D, and E. Second by Fletcher. Motion passed 4-0.**

### 3. MATTERS FROM THE FLOOR

A. None

### 4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS

A. Prosecutor Ken Potts: Annual Prosecution Update

**Motion by Fletcher to approve the resolution that authorizes the mayor and city clerk to sign joint powers agreements with the state of Minnesota on behalf of the prosecuting attorney.**

*View presentation at LMCC-TV.org.*

B. City Engineer Dave Martini: Report Regarding Road and Park Projects

**The city council consensus is to wait until spring to determine how drainage on Meadville Street and the crushed granite paths at the park are working. View report at LMCC-TV.org.**

### 5. PUBLIC HEARINGS

A. Public Hearing: Delinquent Sewer, Stormwater, and Recycling Charges

**Motion by Fletcher that the council opens the public hearing regarding delinquent sewer, stormwater, and recycling charges. Second by Quam. Motion passed 4-0.**

No one spoke during the public hearing.

**Motion by Fletcher that the council closes the public hearing regarding delinquent sewer, stormwater, and recycling charges. Second by Quam. Motion passed 4-0.**

### 6. ACTION RELATED TO PUBLIC HEARINGS

A. Consider: Res 20-17, Delinquent Sewer, Stormwater, and Recycling Charges

**Motion by Fletcher that the council approves resolution 20-17 and the assessment roll for delinquent sewer, stormwater, and recycling charges. Second by Conrad. Motion passed 4-0.**

### 7. PLANNING & ZONING ITEMS

A. None

8. UNFINISHED BUSINESS

- A. 1st Reading: Ord 272, Amending Code Section 630 Regarding Right-of-Ways and Small Wireless Facilities & Res 21-17, Summary of Ord 272 for Publication

**Since the ordinance includes sections of the zoning code, the city council directed that the ordinance be sent to the planning commission for a public hearing and recommendation as soon as possible.**

9. NEW BUSINESS

- A. Discuss: Potential Installation of Engine-Braking Signs on Westbound Hwy 7

**Motion by Fletcher that the city council authorizes Mayor Kind and Councilman Fletcher to proceed with contacting MnDOT representatives to request "No Engine Braking" signage for westbound Hwy 7 in Greenwood on behalf of the Greenwood city council. Second by Conrad. Motion passed 4-0.**

- B. Discuss: Potential Change of the Timing of the Christmas Lake Rd Traffic Signal

**Motion by Fletcher that the city council authorizes Mayor Kind and Councilman Fletcher to proceed with contacting MnDOT representatives to request changes to the timing of the traffic signal light located at the intersection of Christmas Lake Road and Hwy 7. Second by Conrad. Motion passed 4-0.**

- C. 1st Reading: Ord 273, Updating Chapter 5 Fees

**Motion by Fletcher that the city council (1) approves the 1st reading of ordinance 273 amending chapter 5 fees as written; (2) waives the 2nd reading; and (3) directs the ordinance be sent to the Sun-Sailor for publication. Second by Quam. Motion passed 4-0.**

- D. Consider: Res 22-17, MCES Grant Application for Sanitary Sewer Improvement Work

**Motion by Quam that the city council adopts the resolution 22-17 approving MCES grant application for sanitary sewer improvement work. Second by Conrad. Motion passed 4-0.**

10. OTHER BUSINESS

- A. Item 2C from Consent Agenda: Approve August Certificates of Deposit Report

**Motion by Fletcher that the city council approves the August Certificates of Deposit Report and increases the maximum combined balance for Certificates of Deposit from \$600,000 to \$700,000. Second by Kind. Motion passed 4-0.**

11. COUNCIL REPORTS

- A. Conrad: Planning Commission

**No report, since the planning commission did not meet in September. Councilwoman Conrad left the meeting at this time.**

- B. Cook: Lake Minnetonka Conservation District, Public Works Committee

**No report, since Councilman Cook was not at the meeting.**

- C. Fletcher: Lake Minnetonka Communications Commission, Fire, Administrative Committee

**No council action taken. View discussion at LMCC-TV.org.**

- D. Kind: Police, Administrative Committee, Mayors' Meetings, Website

**No council action taken. View discussion at LMCC-TV.org.**

- E. Quam: Minnetonka Community Education, Public Works Committee

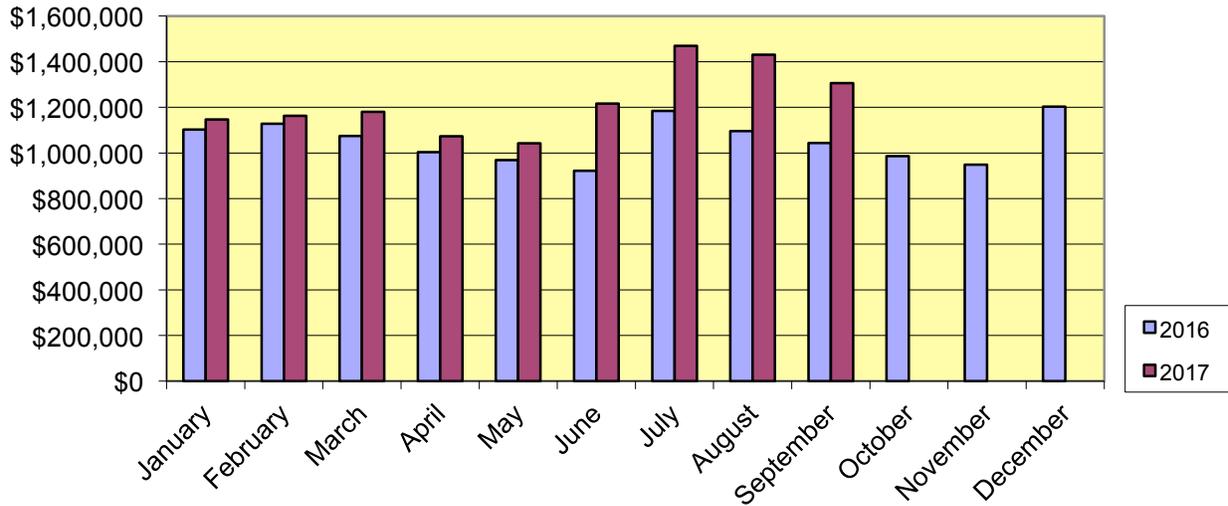
**No council action taken. View discussion at LMCC-TV.org.**

12. ADJOURNMENT

**Motion by Kind to adjourn the meeting at 7:59pm. Second by Quam. Motion passed 3-0.**

*This document is intended to meet statutory requirements for city council meeting minutes. A video recording was made of the meeting, which provides a verbatim account of what transpired. The video recording is available for viewing on LMCC TV channel 8 for 1 month, at [www.lmcc-tv.org](http://www.lmcc-tv.org) for 1 year, and on DVD at the city office (permanent archive).*

### City of Greenwood Monthly Cash Summary



Month	2016	2017	Variance with Prior Month	Variance with Prior Year
January	\$1,103,197	\$1,146,895	-\$56,730	\$43,698
February	\$1,128,257	\$1,162,355	\$15,460	\$34,098
March	\$1,074,726	\$1,180,149	\$17,794	\$105,423
April	\$1,003,064	\$1,073,772	-\$106,377	\$70,708
May	\$968,814	\$1,042,937	-\$30,835	\$74,123
June	\$922,082	\$1,216,488	\$173,551	\$294,406
July	\$1,184,900	\$1,469,592	\$253,104	\$284,692
August	\$1,095,742	\$1,430,595	-\$38,997	\$334,853
September	\$1,044,116	\$1,306,495	-\$124,100	\$262,379
October	\$986,451		-\$1,306,495	-\$986,451
November	\$948,462		\$0	-\$948,462
December	\$1,203,625		\$0	-\$1,203,625

Alerus Bank Checking	\$9,953
Bridgewater Bank Checking	\$46,381
Alerus Bank Money Market	\$648,089
Bridgewater Bank Money Market	\$12,165
Bridgewater Bank CD's	\$589,907
	<b>\$1,306,495</b>

#### **ALLOCATION BY FUND**

General Fund	\$370,978
Special Project Fund	\$119,852
General Fund Designated for Parks	\$16,756
Bridge Capital Project Fund	\$164,893
Road Improvement Fund	\$207,359
Stormwater Fund	\$23,746
Sewer Enterprise Fund	\$315,086
Marina Enterprise Fund	\$87,825
	<b>\$1,306,495</b>

## GREENWOOD CERTIFICATES OF DEPOSIT

Report Date: 9/30/17

Acct #	Bank	Date	Term	Maturity	Rate	Amount
101-10411	Bridgewater Bank	09/08/16	13 month	10/08/17	1.00%	\$ 62,224.28
101-10409	Bridgewater Bank	12/01/16	15 month	03/01/18	1.00%	\$ 81,746.32
101-10412	Bridgewater Bank	01/06/17	15 month	04/06/18	1.00%	\$ 80,397.20
10110410	Bridgewater Bank	03/06/17	15 month	06/06/18	1.00%	\$ 80,404.28
10110407	Bridgewater Bank	04/06/17	15 month	07/06/18	1.00%	\$ 80,199.45
10110408	Bridgewater Bank	08/11/17	13 month	09/11/18	1.00%	\$ 60,653.71
101-10413	Bridgewater Bank	06/12/17	15 month	09/12/18	1.00%	\$ 62,578.30
101-10414	Bridgewater Bank	08/25/17	15 month	11/25/18	1.00%	\$ 81,703.82
<b>TOTAL</b>						<b>\$ 589,907.36</b>

*CITY COUNCIL POLICY: 09-03-14 Motion by Roy to authorize the administrative committee to open CDs with a maximum initial maturity of 25 months with a combined maximum total CD balance of \$500,000 at Alerus Bank or Bridgewater Bank. Second by Cook. Motion passed 5-0.*

*11-02-16 Motion by Fletcher that the city council authorizes an increase from \$500,000 to \$600,000 for the city's maximum balance of certificate of deposit. Second by Roy. Motion passed 5-0.*

*10-04-17 Motion by Fletcher that the city council approves the August Certificates of Deposit Report and increases the maximum combined balance for Certificates of Deposit from \$600,000 to \$700,000. Second by Kind. Motion passed 4-0.*

Check Issue Date(s): 10/01/2017 - 10/31/2017

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
10/17	10/03/2017	12875	216	QUALITY FLOW SYSTEMS INC	602-20100	417.00
10/17	10/18/2017	12876	808	ADVANTAGE SIGNS & GRAPHICS INC	101-20100	63.85
10/17	10/18/2017	12877	51	BOLTON & MENK, INC.	101-20100	20,925.50
10/17	10/18/2017	12878	762	CATALYST GRAPHICS INC	101-20100	85.00
10/17	10/18/2017	12879	9	CITY OF DEEPHAVEN	101-20100	13,350.34
10/17	10/18/2017	12880	594	CITY OF EXCELSIOR	602-20100	3,549.26
10/17	10/18/2017	12881	889	DIVE GUYS	605-20100	1,450.00
10/17	10/18/2017	12882	822	ECM PUBLISHERS INC	101-20100	376.01
10/17	10/18/2017	12883	52	EXCELSIOR FIRE DISTRICT	101-20100	32,443.92
10/17	10/18/2017	12884	819	FINANCE & COMMERCE INC	101-20100	25.10
10/17	10/18/2017	12885	68	GOPHER STATE ONE CALL	602-20100	43.20
10/17	10/18/2017	12886	850	KENNEDY, GRAVEN, CHARTERED	101-20100	412.50
10/17	10/18/2017	12887	886	KENNETH N. POTTS, P.A.	101-20100	400.00
10/17	10/18/2017	12888	255	LMC INSURANCE TRUST	101-20100	4,613.00
10/17	10/18/2017	12889	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,592.38
10/17	10/18/2017	12890	689	Mission Communications LLC	602-20100	1,737.00
10/17	10/18/2017	12891	867	RANDY'S ENVIRONMENTAL SERVICES	101-20100	1,628.25
10/17	10/18/2017	12892	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	26,110.50
10/17	10/18/2017	12893	145	XCEL ENERGY	602-20100	655.68

Totals: 110,878.49

Dated: \_\_\_\_\_

Mayor: \_\_\_\_\_

City Council: \_\_\_\_\_

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City Recorder: \_\_\_\_\_

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
<b>ADVANTAGE SIGNS &amp; GRAPHICS INC</b>					
808	ADVANTAGE SIGNS & GRAPHIC	00032459	SIGNS	10/13/2017	63.85
Total ADVANTAGE SIGNS & GRAPHICS INC					63.85
<b>BOLTON &amp; MENK, INC.</b>					
51	BOLTON & MENK, INC.	0208677	2017 MISC ENGINEERING	09/28/2017	120.00
		0208678	2017 SEWER IMPROVEMENTS	09/28/2017	654.00
		0208686	2017 STREET IMPROVEMENTS	09/28/2017	14,741.50
		0208687	GRWD/COVINGTON IMPROVEMENTS	09/28/2017	5,330.00
		0208688	GRWD/ST ALBANS BRIDGE PLANNING	09/28/2017	80.00
Total BOLTON & MENK, INC.					20,925.50
<b>CATALYST GRAPHICS INC</b>					
762	CATALYST GRAPHICS INC	18978	CITY NEWSLETTER	09/21/2017	85.00
Total CATALYST GRAPHICS INC					85.00
<b>CITY OF DEEPHAVEN</b>					
9	CITY OF DEEPHAVEN	OCT 2017	RENT & EQUIPMENT	10/01/2017	487.45
			Postage		161.46
			COPIES		158.10
			SEWER		285.60
			WEED/TREE/MOWING		1,523.20
			STORM SEWERS		95.20
			Clerk Services		3,266.64
			ZONING		285.59
			3RD QTR BLDG PERMITS		7,087.10
Total CITY OF DEEPHAVEN					13,350.34
<b>CITY OF EXCELSIOR</b>					
594	CITY OF EXCELSIOR	00201529	4TH QTR UNMETERED WASTE WTR	10/03/2017	3,549.26
Total CITY OF EXCELSIOR					3,549.26
<b>DIVE GUYS</b>					
889	DIVE GUYS	#4289	AQUATIC WEED REMOVAL	10/16/2017	1,450.00
Total DIVE GUYS					1,450.00
<b>ECM PUBLISHERS INC</b>					
822	ECM PUBLISHERS INC	531265	LEGAL NOTICE	09/21/2017	129.25
		535586	LEGAL NOTICE	10/05/2017	52.88
		537688	LEGAL NOTICE	10/12/2017	47.00
		537689	LEGAL NOTICE	10/12/2017	146.88
Total ECM PUBLISHERS INC					376.01
<b>EXCELSIOR FIRE DISTRICT</b>					
52	EXCELSIOR FIRE DISTRICT	QTR 4 2017	4th Qtr. Operations	10/15/2017	18,672.29
			4th Qtr. Buildings		13,771.63
Total EXCELSIOR FIRE DISTRICT					32,443.92
<b>FINANCE &amp; COMMERCE INC</b>					
819	FINANCE & COMMERCE INC	743479385	PUBLIC HEARING	10/09/2017	25.10

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total FINANCE & COMMERCE INC				25.10
<b>GOPHER STATE ONE CALL</b>					
68	GOPHER STATE ONE CALL	7090412	Gopher State calls	09/30/2017	43.20
	Total GOPHER STATE ONE CALL				43.20
<b>KENNEDY, GRAVEN, CHARTERED</b>					
850	KENNEDY, GRAVEN, CHARTERED	08 31 17	LEGAL SERVICES	08/31/2017	412.50
	Total KENNEDY, GRAVEN, CHARTERED				412.50
<b>KENNETH N. POTTS, P.A.</b>					
886	KENNETH N. POTTS, P.A.	09 30 17	LEGAL SVCS	09/30/2017	400.00
	Total KENNETH N. POTTS, P.A.				400.00
<b>LMC INSURANCE TRUST</b>					
255	LMC INSURANCE TRUST	10 10 17	Municipality Insurance	10/10/2017	4,613.00
	Total LMC INSURANCE TRUST				4,613.00
<b>METRO COUNCIL ENVIRO SERVICES</b>					
105	METRO COUNCIL ENVIRO SERV	0001072819	Monthly wastewater Charge	10/05/2017	2,592.38
	Total METRO COUNCIL ENVIRO SERVICES				2,592.38
<b>Mission Communications LLC</b>					
689	Mission Communications LLC	1011316	Annual Service Package	10/04/2017	1,737.00
	Total Mission Communications LLC				1,737.00
<b>QUALITY FLOW SYSTEMS INC</b>					
216	QUALITY FLOW SYSTEMS INC	34032	LIFT STN REPAIR	08/31/2017	417.00
	Total QUALITY FLOW SYSTEMS INC				417.00
<b>RANDY'S ENVIRONMENTAL SERVICES</b>					
867	RANDY'S ENVIRONMENTAL SEF	SEPT 2017	RECYCLING SERVICES	09/19/2017	1,628.25
	Total RANDY'S ENVIRONMENTAL SERVICES				1,628.25
<b>SO LAKE MINNETONKA POLICE DEPT</b>					
38	SO LAKE MINNETONKA POLICE	OCT 2017	4th Quarter Lease	10/01/2017	10,914.50
		OCTOBER 2017	2017 OPERATING BUDGET EXP	10/01/2017	15,196.00
	Total SO LAKE MINNETONKA POLICE DEPT				26,110.50
<b>XCEL ENERGY</b>					
145	XCEL ENERGY	SEPT 2017	Sleepy Hollow Road *	09/21/2017	8.77
			SIREN		4.02
			4925 MEADVILLE STREET *		8.74
			LIFT STATION #1		36.29
			LIFT STATION #2		58.28
			LIFT STATION #3		33.15
			LIFT STATION #4		38.05
			LIFT STATION #6		81.06
			Street Lights *		387.32

<u>Vendor</u>	<u>Vendor Name</u>	<u>Invoice No</u>	<u>Description</u>	<u>Inv Date</u>	<u>Net Inv Amt</u>
	Total XCEL ENERGY				<u>655.68</u>

Total Paid: 110,878.49

Total Unpaid: -

Grand Total: 110,878.49

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Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
11/01/17	PC	11/01/17	11011701	CONRAD, KRISTI	39		001-10100	277.05
11/01/17	PC	11/01/17	11011702	COOK, WILLIAM B.	37		001-10100	277.05
11/01/17	PC	11/01/17	11011703	Fletcher, Thomas M	33		001-10100	177.05
11/01/17	PC	11/01/17	11011704	Kind, Debra J.	34		001-10100	415.57
11/01/17	PC	11/01/17	11011705	Quam, Robert	32		001-10100	277.05
Grand Totals:								<u>1,423.77</u>



**Agenda Number: 2F**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** St. Alban's Bay Improvement District 2018 Tax Levy, Budget, and Assessment Roll (Resolution 23-17)

**Summary:** At the annual meeting on 10-10-17, the St. Alban's Bay Lake Improvement District board and district property owners present at the meeting approved the 2018 budget and tax levy. Per the Joint Cooperation Agreement, the cities of Excelsior and Greenwood are required to approve the budget and levy. The JCA allows either Excelsior or Greenwood to reduce the levy by up to 25%.

The county also requires the city to approve the assessment roll for certification to the county. Copies of the assessment roll and the resolution authorizing certification are attached.

**Council Action:** Required. Consent agenda motion ...

I move that the Greenwood city council (1) accepts the St. Alban's Bay Lake Improvement District (SABLID) board and property owner's recommendation and approves the 2018 budget and levy as presented; (2) approves the following levy amounts: \$75 for channel properties and association members, \$100 for condominiums (the Villas), \$150 for homes with less than 100 feet of shoreline, \$220 for homes with 100 feet or more of shoreline, \$400 for marinas with less than 10 slips, \$800 for marinas with 11 to 20 slips, \$1200 for marinas with 21 or more slips; (3) approves resolution 23-17 which includes the assessment roll and authorization for the city clerk to certify the assessment roll to the county; and (4) directs the city clerk to email a copy of this motion and a copy of resolution 23-17 to the SABLID secretary.



**City of Greenwood  
Resolution 23-17**

**A RESOLUTION APPROVING THE ST. ALBAN'S BAY LAKE IMPROVEMENT DISTRICT  
BUDGET, LEVY & ASSESSMENT ROLL FOR 2018**

**WHEREAS**, the St Alban's Bay Lake Improvement District has caused a notice to be published fixing the time and place of its October 10, 2017 Annual Meeting to approve the 2018 budget, levy, and assessment roll for the Lake Improvement District, more specifically described in the "Notice of Annual Meeting" published September 21, 2017 in the Sun-Sailor publication; and

**WHEREAS**, notice of said meeting has been given to all property owners whose property is to be assessed, by publication thereof in the manner required by law; and

**WHEREAS**, all persons have had an opportunity to be heard in connection with said manner.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA:**

1. That the assessment roll, as prepared by the St. Alban's Bay Lake Improvement District secretary, is hereby approved, and the assessments therein contained are hereby determined to be the special assessments for the services herein included.
2. That said assessments are found to be properly assessed upon the properties so served.
3. That the city clerk is hereby directed to certify such assessment to the county auditor for collection and remittance to the city treasurer in the same manner as assessments for local improvements.

**ADOPTED** by the city council of Greenwood, Minnesota this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_AYES \_\_\_NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana H. Young, City Clerk

**ST ALBANS BAY LAKE IMPROVEMENT DISTRICT (SAB-LID) FINANCIAL HISTORY**

	10/10/17      WDS										
SOURCE OF FUNDS	2010	2011	2012	2013	2014	2015	2016	2017 PROPOSED	2017 ACTUAL TO DATE	2018 PROPOSED BUDGET	ALTERNATIVE BUDGET
<b>CARRYOVER</b>		\$ 2,326	\$ 15,991	\$ 29,031	\$ 25,133	\$ 35,106	\$ 19,273	\$ 23,655	\$ 23,655	\$ 13,521	\$ 13,521
<b>Tax Receipts</b>		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,094	\$ 24,188	\$ 24,701	\$ 24,700	\$ 24,700
<b>Contributions</b>	\$ 2,326	\$ 66,694	\$ 17,147	\$ 26,414	\$ 12,650	\$ 16,293	\$ -	\$ -	\$ -	\$ -	\$ -
<b>DNR Grant</b>		\$ 8,250	\$ -	\$ 3,724	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Cities</b>		\$ 2,500	\$ 2,000	\$ 7,500	\$ 2,500	\$ 5,000	\$ 5,000	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500
<b>Total Funds</b>	\$ 2,326	\$ 79,770	\$ 35,138	\$ 66,669	\$ 40,283	\$ 56,399	\$ 36,367	\$ 50,343	\$ 50,856	\$ 40,721	\$ 40,721
<b>EXPENSES</b>											
<b>Treatment</b>		\$ 58,167	\$ -	\$ 36,412	\$ -	\$ 32,564	\$ -				
<b>Other</b>			\$ 55			\$ 338	\$ 90				
<b>LMA Management</b>	\$ 5,606	\$ 5,627	\$ 5,124	\$ 2,077	\$ 1,100	\$ -	\$ -				
<b>Refunds</b>		\$ 425	\$ -	\$ -	\$ -	\$ -	\$ -				
<b>Greenwood/Postage</b>				\$ 3,100	\$ -	\$ -	\$ -				
<b>PLM</b>							\$ 2,410	\$ 2,808	\$ 2,500	\$ 2,500	\$ 2,500
Delineation							\$ 7,653	\$ 7,852	\$ 14,891	\$ 20,300	\$ 3,300
CLP Treatment							\$ -	\$ 22,332	\$ 16,516	\$ 8,500	\$ 8,500
EWM Treatment											
Pt Intercept					\$ 2,552	\$ 2,390	\$ 2,382	\$ 2,390	\$ 2,390	\$ 2,390	\$ 2,390
<b>Total Treatment</b>							\$ 12,453	\$ 35,374	\$ 36,297	\$ 33,690	\$ 16,690
<b>League of MN Cities Policy</b>							\$ -	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000
<b>Office Expenses</b>							\$ 169	\$ 259	\$ 38	\$ 100	\$ 100
<b>Total Expenses</b>	\$ 63,773	\$ 6,107	\$ 41,536	\$ 5,177	\$ 36,554	\$ 12,712	\$ 36,633	\$ 37,335	\$ 37,335	\$ 34,790	\$ 17,790
<b>NET CARRYOVER</b>	\$ 15,997	\$ 29,031	\$ 25,133	\$ 35,106	\$ 19,845	\$ 23,655	\$ 13,710	\$ 13,521	\$ 13,521	\$ 5,931	\$ 22,931

Deposit 4/28/16 from LMA Funds:  
 \$19,273,39  
 Deposit 5/26/16  
 \$ 5,000      Greenwood

	A	B	C	D	E	F	G	H	
1	Munic Code 19	<b>Special Assessment Certification Rolls</b>							
2		City of Greenwood							
3		20225 Cottagewood Road			St. Alban Bay Lake Improvement District				
4		Deephaven, MN. 55331						Levy # 19525	
5	Levy No.	PID No.	House #	Street	Unit #	Total Principal	Amortized Installment	Misc.	
6	19525	2611723340055	21750	BYRON CIR		220.00	0	0	
7	19525	2611723340056	21800	BYRON CIR		220.00	0	0	
8	19525	2611723340012	21825	BYRON CIR		220.00	0	0	
9	19525	2611723340057	21830	BYRON CIR		150.00	0	0	
10	19525	2611723340016	21845	BYRON CIR		150.00	0	0	
11	19525	2611723340017	21860	BYRON CIR		150.00	0	0	
12	19525	2611723340031	21885	BYRON CIR		150.00	0	0	
13	19525	2611723340030	21895	BYRON CIR		150.00	0	0	
14	19525	2611723340006	21925	BYRON CIR		150.00	0	0	
15	19525	2611723440070	20840	CHANNEL DR		75.00	0	0	
16	19525	2611723440023	20845	CHANNEL DR		75.00	0	0	
17	19525	2611723440022	20885	CHANNEL DR		75.00	0	0	
18	19525	2611723440002	20890	CHANNEL DR		75.00	0	0	
19	19525	2611723440060	20895	CHANNEL DR		75.00	0	0	
20	19525	2611723440047	20896	CHANNEL DR		75.00	0	0	
21	19525	2611723440025	20965	CHANNEL DR		220.00	0	0	
22	19525	2611723440036	20975	CHANNEL DR		150.00	0	0	
23	19525	2611723440037	20985	CHANNEL DR		220.00	0	0	
24	19525	2611723310016	5120	CURVE ST		150.00	0	0	
25	19525	2611723310017	5130	CURVE ST		150.00	0	0	
26	19525	2611723310037	5140	CURVE ST		150.00	0	0	
27	19525	2611723420042	5145	CURVE ST		150.00	0	0	
28	19525	2611723420043	5155	CURVE ST		220.00	0	0	
29	19525	3511723110024	21080	EXCELSIOR BLVD		150.00	0	0	
30	19525	3511723110058	21100	EXCELSIOR BLVD		150.00	0	0	
31	19525	3511723110059	21120	EXCELSIOR BLVD		150.00	0	0	
32	19525	3511723110023	21150	EXCELSIOR BLVD		150.00	0	0	
33	19525	3511723110022	21170	EXCELSIOR BLVD		150.00	0	0	
34	19525	3511723110021	21190	EXCELSIOR BLVD		150.00	0	0	
35	19525	3511723120003	21210	EXCELSIOR BLVD		220.00	0	0	
36	19525	3511723120004	21230	EXCELSIOR BLVD		150.00	0	0	
37	19525	3511723120005	21250	EXCELSIOR BLVD		150.00	0	0	
38	19525	3511723120006	21270	EXCELSIOR BLVD		150.00	0	0	
39	19525	3511723120007	21290	EXCELSIOR BLVD		150.00	0	0	
40	19525	3511723120008	21320	EXCELSIOR BLVD		150.00	0	0	
41	19525	3511723120009	21350	EXCELSIOR BLVD		220.00	0	0	
42	19525	3511723120035	21380	EXCELSIOR BLVD		150.00	0	0	

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3	20225 Cottagewood Road			St. Alban Bay Lake Improvement District				
4	Deephaven, MN. 55331							Levy # 19525
5	Levy No.	PID No.	House #	Street	Unit #	Total Principal	Amortized Installment	Misc.
43	19525	3511723120036	21420	EXCELSIOR BLVD		150.00	0	0
44	19525	3511723120033	21450	EXCELSIOR BLVD		150.00	0	0
45	19525	3511723120034	21470	EXCELSIOR BLVD		220.00	0	0
46	19525	3511723120013	21500	EXCELSIOR BLVD		75.00	0	0
47	19525	3511723120032	21550	EXCELSIOR BLVD		75.00	0	0
48	19525	2611723420053	5085	GREENWOOD CIR		220.00	0	0
49	19525	2611723420002	5105	GREENWOOD CIR		150.00	0	0
50	19525	2611723420076	5115	GREENWOOD CIR		150.00	0	0
51	19525	2611723420034	5125	GREENWOOD CIR		150.00	0	0
52	19525	2611723420035	5135	GREENWOOD CIR		150.00	0	0
53	19525	2611723420036	5145	GREENWOOD CIR		150.00	0	0
54	19525	2611723420037	5155	GREENWOOD CIR		150.00	0	0
55	19525	2611723420038	5165	GREENWOOD CIR		150.00	0	0
56	19525	2611723420039	5175	GREENWOOD CIR		220.00	0	0
57	19525	2611723420040	5185	GREENWOOD CIR		150.00	0	0
58	19525	2611723420041	5195	GREENWOOD CIR		150.00	0	0
59	19525	2611723420045	5040	KINGS COURT		75.00	0	0
60	19525	2611723420047	5050	KINGS COURT		75.00	0	0
61	19525	3511723210025	6	MACLYNN RD		220.00	0	0
62	19525	3511723120031	8	MACLYNN RD		220.00	0	0
63	19525	3511723120030	10	MACLYNN RD		220.00	0	0
64	19525	3511723120026	12	MACLYNN RD		220.00	0	0
65	19525	3511723120025	14	MACLYNN RD		220.00	0	0
66	19525	2611723410055	5110	MANOR RD		150.00	0	0
67	19525	2611723440024	5330	MANOR RD		75.00	0	0
68	19525	2611723440021	5350	MANOR RD		75.00	0	0
69	19525	2611723440020	5370	MANOR RD		75.00	0	0
70	19525	2611723440046	5470	MANOR RD		75.00	0	0
71	19525	2611723440066	5490	MANOR RD		75.00	0	0
72	19525	2611723440053	5470	MAPLE HEIGHTS RD		150.00	0	0
73	19525	2611723440058	5475	MAPLE HEIGHTS RD		150.00	0	0
74	19525	2611723440007	5480	MAPLE HEIGHTS RD		220.00	0	0
75	19525	3511723110089	5490	MAPLE HEIGHTS RD		150.00	0	0
76	19525	3511723110090	5500	MAPLE HEIGHTS RD		150.00	0	0
77	19525	3511723110061	5510	MAPLE HEIGHTS RD		150.00	0	0
78	19525	3511723110028	5520	MAPLE HEIGHTS RD		150.00	0	0
79	19525	3511723110029	5530	MAPLE HEIGHTS RD		150.00	0	0

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4		Deephaven, MN. 55331						Levy # 19525	
5	Levy No.	PID No.	House #	Street	Unit #	Total Principal	Amortized Installment	Misc.	
80	19525	3511723110093	5540	MAPLE HEIGHTS RD		220.00	0	0	
81	19525	3511723110092	5560	MAPLE HEIGHTS RD		220.00	0	0	
82	19525	3511723120001	5570	MAPLE HEIGHTS RD		220.00	0	0	
83	19525	3511723110096	5580	MAPLE HEIGHTS RD		150.00	0	0	
84	19525	3511723110037	5600	MAPLE HEIGHTS RD		150.00	0	0	
85	19525	2611723340022	21793	MINNETONKA BLVD		220.00	0	0	
86	19525	2611723340026	21795	MINNETONKA BLVD		150.00	0	0	
87	19525	2611723340013	21945	MINNETONKA BLVD		1,200.00	0	0	
88	19525	2611723340034	21955	MINNETONKA BLVD	1	100.00	0	0	
89	19525	2611723340035	21955	MINNETONKA BLVD	2	100.00	0	0	
90	19525	2611723340036	21955	MINNETONKA BLVD	3	100.00	0	0	
91	19525	2611723340037	21955	MINNETONKA BLVD	4	100.00	0	0	
92	19525	2611723340038	21955	MINNETONKA BLVD	5	100.00	0	0	
93	19525	2611723340039	21955	MINNETONKA BLVD	6	100.00	0	0	
94	19525	2611723340040	21955	MINNETONKA BLVD	7	100.00	0	0	
95	19525	2611723340041	21955	MINNETONKA BLVD	8	100.00	0	0	
96	19525	2611723340042	21955	MINNETONKA BLVD	9	100.00	0	0	
97	19525	2611723340043	21955	MINNETONKA BLVD	10	100.00	0	0	
98	19525	2611723340045	21957	MINNETONKA BLVD	11	100.00	0	0	
99	19525	2611723340046	21957	MINNETONKA BLVD	12	100.00	0	0	
100	19525	2611723340047	21957	MINNETONKA BLVD	13	100.00	0	0	
101	19525	2611723340048	21957	MINNETONKA BLVD	14	100.00	0	0	
102	19525	2611723340049	21957	MINNETONKA BLVD	15	100.00	0	0	
103	19525	2611723340050	21957	MINNETONKA BLVD	16	100.00	0	0	
104	19525	2611723340051	21957	MINNETONKA BLVD	17	100.00	0	0	
105	19525	2611723340052	21957	MINNETONKA BLVD	18	100.00	0	0	
106	19525	2611723340053	21957	MINNETONKA BLVD	19	100.00	0	0	
107	19525	2611723340054	21957	MINNETONKA BLVD	20	100.00	0	0	
108	19525	2611723340008	21965	MINNETONKA BLVD		400.00	0	0	
109	19525	2611723440065	20915	OAK LA		75.00	0	0	
110	19525	2611723440061	20920	OAK LA		75.00	0	0	
111	19525	2611723440064	20925	OAK LA		75.00	0	0	
112	19525	2611723440059	20940	OAK LA		75.00	0	0	
113	19525	2611723440003	20960	OAK LA		150.00	0	0	
114	19525	2611723440063	21035	OAK LA		75.00	0	0	
115	19525	2611723440062	21045	OAK LA		75.00	0	0	
116	19525	2611723440048	21050	OAK LA		220.00	0	0	

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3	20225 Cottagewood Road			St. Alban Bay Lake Improvement District					
4	Deephaven, MN. 55331							Levy # 19525	
5	Levy No.	PID No.	House #	Street	Unit #	Total Principal	Amortized Installment	Misc.	
117	19525	2611723440051	21020	OAK LA S		220.00	0	0	
118	19525	2611723420049	5160	QUEENS CIR		75.00	0	0	
119	19525	2611723420050	5165	QUEENS CIR		75.00	0	0	
120	19525	2611723420052	5175	QUEENS CIR		150.00	0	0	
121	19525	2611723410048	4940	ST ALBANS BAY RD		150.00	0	0	
122	19525	2611723410049	4950	ST ALBANS BAY RD		150.00	0	0	
123	19525	2611723410005	5120	ST ALBANS BAY RD		150.00	0	0	
124	19525	2611723410004	5140	ST ALBANS BAY RD		150.00	0	0	
125	19525	2611723410001	5180	ST ALBANS BAY RD		150.00	0	0	
126	19525	2611723410003	5190	ST ALBANS BAY RD		150.00	0	0	
127	19525	2611723440044	20860	ST ALBANS GREEN		75.00	0	0	
128	19525	2611723440042	20870	ST ALBANS GREEN		150.00	0	0	
129	19525	2611723440041	20880	ST ALBANS GREEN		150.00	0	0	
130	19525	2611723440040	20890	ST ALBANS GREEN		220.00	0	0	
131	19525	2611723440039	20900	ST ALBANS GREEN		150.00	0	0	
132	19525	2611723410058	5105	WEEKS RD		150.00	0	0	
133	19525	2611723410036	5115	WEEKS RD		150.00	0	0	
134	19525	2611723410010	5125	WEEKS RD		220.00	0	0	
135	19525	2611723410029	5135	WEEKS RD		220.00	0	0	
136	19525	2611723410028	5145	WEEKS RD		220.00	0	0	
137	19525	2611723410009	5155	WEEKS RD		220.00	0	0	
138	19525	2611723310011	5110	WEST ST		220.00	0	0	
139	19525	2611723310012	5120	WEST ST		150.00	0	0	
140	19525	2611723310013	5125	WEST ST		150.00	0	0	
141	19525	2611723310014	5135	WEST ST		150.00	0	0	
142						<b>20,930.00</b>			



**City of Greenwood  
Resolution 24-17**

**A RESOLUTION DESIGNATING THE POLLING PLACE FOR THE PRECINCT WITHIN THE CITY OF GREENWOOD**

**WHEREAS**, Minnesota State Statute section 204B.16, subdivision 1 requires the governing body of each municipality to designate by ordinance or resolution a polling place for each election precinct by December 31 of each year.

**NOW THEREFORE BE IT RESOLVED** that the city council of the city of Greenwood, county of Hennepin, and state of Minnesota hereby designates the following polling place for precinct 1 within the city of Greenwood:

**PRECINCT 1**

**Old Log Theatre, 5175 Meadville St, Greenwood, MN 55331**

**ADOPTED** by the city council of Greenwood, Minnesota this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_ AYES \_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana H. Young, City Clerk



**Agenda Number: 2H**

**Agenda Date: 11-01-17**

*Prepared by Dana Young*

**Agenda Item:** 2018 Liquor License

**Summary:** Mayette Enterprises LLC (Old Log Theatre / Cast & Cru Restaurant) is requesting approval from the Greenwood city council for the renewal of their 2018 Liquor License. This would include both their On-Sale and Sunday Liquor License. Mayette Enterprises has submitted all required applications and fees to the city clerk. Once approval has been granted by the Greenwood city council, their application is submitted to the Minnesota Department of Public Safety for their review and approval.

**Council Action:** Required. Consent agenda motion ...

I move the council approves the 2018 On-Sale and Sunday Liquor License for Mayette Enterprises, LLC.



**Agenda Number: 4A**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** Quarterly Police Update

**Summary:** Per the city council's request, a representative from the South Lake Minnetonka Police Department attends Greenwood council meetings on a quarterly basis to give the council a brief update regarding police activities in the city and South Lake area. This also is an opportunity for the council to have a discussion with a SLMPD representative regarding police issues and concerns. Quarterly police updates are presented at the February, May, August, and November council meetings.

**Council Action:** None required.



Agenda Number: **7A**

Agenda Date: 11-01-17

Prepared by Dale Cooney

**Agenda Item:** Consider: Res 25-17, Findings for Variance Request, Laura and Lloyd Ness, 5500 Maple Heights Road.

**Summary:** Copies of the application materials and staff report are attached reference. Notice of the public hearing was published in the Sun-Sailor newspaper on 10-05-17. The planning commission held a public hearing at their 10-18-17, meeting. The planning commission considered public comment, applicant's comments, application materials, and staff reports when making their recommendation (see planning commission action below). The city council **must** address the practical difficulty standards outlined in city code section 1155.10.

**Planning Commission Action:** Motion by Commissioner Bechtell to recommend approval of the deck portion of the variance request to encroach into the side yard setbacks as proposed, conditioned that there be no increase in structural impervious area for the property. Motion was seconded by Steingas. Motion carried 4-0.

Motion by Commissioner Reeder to deny the covered screened porch portion of the variance request to encroach into the side yard setback, as proposed. Motion was seconded by Steingas. Motion carried 3-1 with Bechtell voting against.

**Key Dates:**

Application complete:	September 20, 2017
Notice of Public Hearing published:	October 5, 2017
Planning Commission Public Hearing:	October 18, 2017
City Council Consideration:	November 1, 2017
60-Day Deadline:	November 19, 2017
120-Day Deadline:	January 18, 2018

**Council Action:** The city council must take action by 11-19-17 unless the council decides to exercise the city's option to take another 60 days to consider the request. Suggested motions ...

1. I move the city council adopts resolution 25-17 laying out the findings of fact (1) **APPROVING** the deck portion of the variance request to encroach into the side yard setbacks as proposed, conditioned that there be no increase in structural impervious area for the property; and (2) **DENYING** the covered screened porch portion of the variance request to encroach into the side yard setback, as proposed for the variance application of Laura and Lloyd Ness, 5500 Maple Heights Road, as written. I further move that the council directs the city clerk to mail a copy of the findings to the applicant and the DNR, and place an Affidavit of Mailing for each of the mailings in the property file.
2. I move the city council (1) **APPROVES** the variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road, based on the following findings: \_\_\_\_\_; (2) directs staff to draft written findings to be formally approved at the December 6 city council meeting; and (3) directs staff to mail a copy of the findings to the applicant and the DNR, and place an Affidavit of Mailing for each of the mailings in the property file.
3. I move the city council directs staff to draft **FINDINGS FOR DENIAL** of the variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road, to be considered at the December 6 city council meeting. I further move the city council directs city staff to exercise the city's option to take 60 additional days to process the variance application by mailing written notice and placing an Affidavit of Mailing in the property file.
4. I move the city council directs city staff to exercise the city's option to take 60 additional days to process the variance application of Laura and Lloyd Ness, 5500 Maple Heights Road, by mailing written notice and placing an Affidavit of Mailing in the property file. The written notice shall state the reason for the extension is: \_\_\_\_\_.

*Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).*



Agenda Number: **7A**

Agenda Date: 11-01-17

## STAFF REPORT

Prepared by Dale Cooney

**Agenda Item:** Consider variance request of Laura and Lloyd Ness to expand a deck and add an enclosed porch that would encroach into the north and south side yard setbacks and exceed the maximum allowable impervious area at 5500 Maple Heights Road.

**Summary:** Laura and Lloyd Ness, property owners at 5500 Maple Heights Road, are requesting a variance to expand a deck and build an enclosed porch that would encroach into the side yard setbacks. The property has two small existing decks that encroach into the side yard setbacks. Applicant is proposing to build a wrap-around deck for the main level that would tie in the existing non-conforming decks to a larger deck area. Additionally, applicants are proposing to enclose one of the existing non-conforming decks to make an enclosed porch area. Both adjoining neighbors have submitted letters of support for the project as proposed.

No variance is required to construct the main level deck in the areas directly over the existing lower level deck. However, expanding the deck beyond that footprint expands impervious areas and requires a variance.

The existing house and deck configuration were approved via a variance in 2002. (See attachments.) The decks are considered legal nonconformities and state statute allows nonconformities to be continued through repair, replacement, restoration, maintenance, improvement, but not including expansion. Variances are required for the enclosed porch and portions of the deck expansion.

Section 1140.10 Subd. 2c of the Greenwood Zoning Code regulates accessory structures. Decks are considered *secondary accessory structures* and are required to be setback 10 feet from the side yard. As proposed, the south side yard setback would be 3 feet, 10 inches and the north side yard setback would be 8 feet. **Applicants are seeking a variance of 6 feet, 2 inches from the south side yard setback and 2 feet from the north side yard setback for the proposed deck expansion.**

Converting an existing deck area to an enclosed porch would make it part of the principal structure and increase the required side yard setback from 10 feet to 15 feet, per Section 1120.15. This area of the deck is currently 3 feet, 10 inches from the south property line, and **the applicants are seeking a variance of 11 feet, 2 inches from the south side yard setback for the proposed enclosed porch.**

**Impervious Surface Area:** Section 1176.04 Subd. 3(3)(a) limits the maximum impervious area for all residential properties to 30% as a percentage of lot area. The survey submitted for the request shows the property at 35.03% impervious without the proposed deck expansion. The proposed deck expansion would add 130 square feet of additional impervious area to the property bringing the proposed impervious area, per the survey, to 35.83%

Due to encroachments from the adjacent roadway and driveway, the actual impervious area on the property is not fully captured by the survey. There are a number of methods that could be used to calculate existing hardscape on the property. But, when it is all said and done, this portion of the variance is simply a request for an additional 130 square feet of impervious area.

**Building Volume:** The allowable building volume for the property is 75,880 cubic feet. Proposed building volume for the property for all proposed improvements would be less than 60,000 cubic feet.

**Construction Started on the Enclosed Porch:** Staff discussed the need for a variance for the deck with the contractors via phone. Staff suggested that the interior remodel portion of the project could move forward while the variance request was heard. Unfortunately, a building permit for the enclosed porch area was submitted and issued, and construction on this area was started. (See attachments.) Staff discussed the issue with the contractor and the property owner, and a Stop Work Order was issued for this portion of the project.

**Discussion:** Regarding the deck expansion to the north, the approximate increased encroachment is 8 square feet. In the opinion of staff, the minor encroachment of this deck area, coupled with the curved lot line and the fact that the expansion is adjacent to a driveway are enough to justify this expansion.

Replacing those areas that have rock over plastic with landscape fabric would reduce the impervious area on the property. In staff's opinion, approving 72 square feet of deck while reducing impervious area by 512 square feet would be a reasonable approach to both reducing hardcover and acknowledging the practical difficulty for the property.

Regarding the deck and enclosed porch expansion to the south: the proposed deck expansion would add an encroachment area of approximately 33 square feet, while the entire 142 square feet of the proposed enclosed porch would now be within the required setbacks. Due to the narrow south side setback, staff has difficulty justifying both the increased massing of the enclosed porch and the increased encroachment of the deck area. The addition of these amenities would compound the already nonconforming footprint for this portion of the property. The property has three existing decks and, with this project, will be adding a significant expansion of deck area to the property.

**Staff Recommendation for Variance Request:**

Staff recommends denial of the requests of Laura and Lloyd Ness for variances to encroach 11 feet, 2 inches into the south side yard setback for the proposed enclosed porch, and to encroach 6 feet, 2 inches into the south side yard setback for the proposed deck expansion, as presented.

Staff findings, based on the variance practical difficulty standards found in city code section 1155.10:

- (a) The variance(s), if granted, will NOT be in harmony and keeping with the spirit and intent of the zoning ordinance since the intent of the zoning district is to provide a use zone for low-density single-family dwellings that will be exclusive of other types of use for the purpose of creating a quality semi-estate district, since the expansion of the deck and enclosed porch further undermine the low-density nature of the zoning.
- (b) The variance, if granted, will be NOT consistent with the comprehensive plan's guiding use for the subject property in that the allowing the variance in such close proximity to the property line is not a reasonable accommodation for the maintenance and modernization of the residential housing stock.
- (c) Though the property owner's proposed *manner of use* of the property is not permitted by the zoning ordinance without a variance, the proposed *manner of use* is NOT reasonable because the encroachment is into the side yard property line is quite severe and compounds the existing nonconforming encroachments already on the property.
- (d) The plight of the landowner-applicant is NOT due to circumstances unique to the property and are created by the landowner since, while the narrow side yard setback is an existing condition, the enclosure of an enclosed porch and the expansion of a wrap-around deck—on a property that already is host to three existing decks—is a design choice made by the applicant where other less intrusive options exist.
- (e) The variance, if granted, will not alter the essential character of the locality since the proposal is of a scope and scale comparable to other properties within the community.
- (f) The variance, if granted, will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Unreasonably increase the congestion in the public street;
  - c. Increase the danger of fire or endanger the public safety; or
  - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

Staff recommends approval with conditions of the request of Laura and Lloyd Ness for a variance to encroach 2 feet into the north side yard setback for the proposed deck expansion at 5500 Maple Heights Road as presented.

The recommendation is conditioned that:

- A. The deck expansion does not exceed 72 square feet beyond the existing lower level deck footprint as shown per the submitted plans.
- B. The areas shown on the survey as "rock over plastic" have the plastic removed and replaced with water-permeable landscape fabric.

Staff findings, based on the variance practical difficulty standards found in city code section 1155.10:

- (a) The variance(s), if granted, will be in harmony and keeping with the spirit and intent of the zoning ordinance since the intent of the zoning district is to provide a use zone for low-density single-family dwellings that will be exclusive of other types of use for the purpose of creating a quality semi-estate district, and the proposal is consistent with that intent.
- (b) The variance, if granted, will be consistent with the comprehensive plan's guiding use for the subject property in that the comprehensive plan, through reasonable accommodation, encourages the maintenance and improvement of older homes consistent with the city's variance procedures.
- (c) Though the property owner's proposed *manner of use* of the property is not permitted by the zoning ordinance without a variance, the proposed *manner of use* is reasonable because the encroachment is minor (approximately 8 square feet), and is separated from the adjacent home on the property by a driveway. The proposal also attempts to work with the existing property lines by directing the deck away from the converging lot line.
- (d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property bows inward toward the house, greatly reducing the side yard setback.
- (e) The variance, if granted, will not alter the essential character of the locality since the proposal is of a scope and scale comparable to other properties within the community.
- (f) The variance, if granted, will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Unreasonably increase the congestion in the public street;
  - c. Increase the danger of fire or endanger the public safety; or
  - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.



RESOLUTION NO 25-17

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA  
ACTING AS THE BOARD OF APPEALS & ADJUSTMENTS

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**In Re: Application of Laura and Lloyd Ness for the property at 5500 Maple Heights Road for a variance from Greenwood ordinance code sections 1120.15, 1140.10 Subd. 2(c), and 1176.04 Subd. 3(3)(a) to add a deck that encroaches into the north and south side yard setbacks and exceeds the maximum permitted impervious area for the property; and to add an enclosed porch that encroaches into the south side yard setback.**

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Laura and Lloyd Ness, applicants, is the owner of property commonly known as 5500 Maple Heights Road, Greenwood, Minnesota 55331 (PID No. 35-117-23-11-0090) being real property in Hennepin County Minnesota and legally described as follows:

Lot 2, Maple Heights and the Southerly half of that part of that private road lying between Lots C and 2, Maple Heights, which lies South of a line beginning on a point 6 feet north of the Northwest corner of said Lot 2, Maple Heights; thence East in a straight line to the first point 8 feet distant from said private roads Northerly border; thence Easterly in a line parallel to and 8 feet East distant from said Northerly border to the East end of said private road which is the West end of Crestside Avenue.

**WHEREAS**, application was made for variance to zoning code sections 1120.15, 1140.10 Subd. 2c, and 1176.04 Subd. 3(3)(a) in conjunction with the addition of a deck and an enclosed porch that encroach into the side yard setbacks, and exceed the maximum permitted impervious area for the property; and

**WHEREAS**, notice of a public hearing was published, notice given to neighboring property owners, and a public hearing was held before the planning commission to consider the application; and

**WHEREAS**, public comment was taken at the public hearing before the planning commission on October 18, 2017; and

**WHEREAS**, the city council of the city of Greenwood has received the staff report, the recommendation of the planning commission, and considered the application, the comments of the applicants, and the comments of the public.

**NOW, THEREFORE**, the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments does hereby make the following:

### FINDINGS OF FACT

1. That the real property located at 5500 Maple Heights Road, Greenwood, Minnesota 55331 (PID No. 35-117-23-11-0090) is a single-family lot of record located within the R-1A district.
2. The applicants propose the addition of deck, which is defined as a secondary accessory structure, that encroaches 6 feet, 2 inches into the south side yard setback and 2 feet into the north side yard setback, exceeds the maximum permitted impervious surface area by 5.87%. The applicants also propose the addition of an enclosed porch, which is considered part of the principal structure, that encroaches 11 feet, 2 inches into the south side yard setback.

3. Greenwood ordinance section 1155.10, subd 4, 5 & 6 states:

“Subd. 4. Practical Difficulties Standard. “Practical difficulties,” as used in connection with the granting of a variance, means:

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

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

- (a) Is the variance in harmony with the purposes and intent of the ordinance?
- (b) Is the variance consistent with the comprehensive plan?
- (c) Does the proposal put property to use in a reasonable manner?
- (d) Are there unique circumstances to the property not created by the landowner?
- (e) Will the variance, if granted, alter the essential character of the locality?

Subd. 6. Practical Difficulties Considerations. When determining reasonable manner or essential character, the board will consider, but will not be limited to, the following:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.”

4. The applicants assert that the proposed variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6.
5. The planning commission discussed the requests of Laura and Lloyd Ness and on a 4-0 vote recommended the council approve the deck portion of the request to vary from city code Section 1140.10 Subd. 2(c) to encroach into the north and south side yard setbacks, as proposed for the property at 5500 Maple Heights Road, Greenwood, Minnesota 55331.

And conditioned that:

1. there be no increase in structural impervious area.

The proposal meets the practical difficulties standards outlined in section 1155.10(4) in that:

- (a) The variance(s), if granted, will be in harmony and keeping with the spirit and intent of the zoning ordinance since the intent of the zoning district is to provide a use zone for low-density single-family dwellings that will be exclusive of other types of use for the purpose of creating a quality semi-estate district, and the proposal is consistent with that intent.
- (b) The variance, if granted, will be consistent with the comprehensive plan’s guiding use for the subject property in that the comprehensive plan, through reasonable accommodation, encourages the maintenance and improvement of older homes consistent with the city’s variance procedures.
- (c) Though the property owner's proposed *manner of use* of the property is not permitted by the zoning ordinance without a variance, the proposed *manner of use* is reasonable because the secondary accessory structure encroachments: do not expand impervious area; gradually move away from the setback line to minimize encroachments; do not encroach any further than existing encroachments; and are separated from the adjacent homes on the property by a driveway.
- (d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property bows inward toward the house, greatly reducing the side yard setback. Additionally, the sunken living room of the house creates a condition that access to the proposed main level deck is not practical unless the existing side yard decks are utilized for access.
- (e) The variance, if granted, will not alter the essential character of the locality since the proposal is of a scope and scale comparable to other properties within the community.
- (f) The variance, if granted, will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Unreasonably increase the congestion in the public street;
  - c. Increase the danger of fire or endanger the public safety; or
  - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

6. The planning commission, on a 3-1 vote, recommended the council deny the request of Laura and Lloyd Ness to encroach into the side yard setback to vary from city code Section 1120.15 for enclosed porch, as proposed for the property at 5500 Maple Heights Road, Greenwood, Minnesota 55331.

The proposal does NOT meet the practical difficulties standards outlined in section 1155.10(4) in that:

- (a) The variance, if granted, will NOT be in harmony and keeping with the spirit and intent of the zoning ordinance since the intent of the zoning district is to provide a use zone for low-density single-family dwellings that will be exclusive of other types of use for the purpose of creating a quality semi-estate district, since the expansion of the enclosed porch further undermines the low-density nature of the zoning.
- (b) The variance, if granted, will be NOT consistent with the comprehensive plan's guiding use for the subject property in that the allowing expansion of the principal structure such close proximity to the property line is not a reasonable accommodation for the maintenance and modernization of the residential housing stock.
- (c) Though the property owner's proposed *manner of use* of the property is not permitted by the zoning ordinance without a variance, the proposed *manner of use* is NOT reasonable because the encroachment is into the side yard property line is quite severe and compounds the existing nonconforming principal structure encroachments already on the property.
- (d) The plight of the landowner-applicant is NOT due to circumstances unique to the property and are created by the landowner since, while the narrow side yard setback is an existing condition, the enclosure of a screened porch is a design choice made by the applicant where other less intrusive options exist.
- (e) The variance, if granted, will not alter the essential character of the locality since the proposal is of a scope and scale comparable to other properties within the community.
- (f) The variance, if granted, will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Unreasonably increase the congestion in the public street;
  - c. Increase the danger of fire or endanger the public safety; or
  - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

7. Based on the foregoing, the city council determined that:

- A. The request to vary from city code Section 1140.10 Subd. 2(c) to encroach into the side yard setbacks for the proposed deck, which is defined as a secondary accessory structure:
  - (a) Does comply with the practical difficulties standards in ordinance section 1155.10, subd 4, 5, & 6.
  - (b) Is in harmony and keeping with the spirit and intent of the zoning ordinance.
- B. The request to vary from city code Section 1120.15 to encroach into the side yard setback for the enclosed porch, which is considered part of the principal structure:
  - (a) Does NOT comply with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6.
  - (b) Is NOT in harmony and keeping with the spirit and intent of the zoning ordinance since the since the expansion of the enclosed porch further undermines the low-density nature of the zoning.

## CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the city council acting as the Board of Appeals & Adjustments makes the following conclusions of law:

The applicant has made an adequate demonstration of facts meeting the standards of section 1155.10 necessary for the grant of a variance from Section 1140.10 Subd. 2(c) and therefore:

- A. A variance from section 1140.10 Subd. 2(c) to construct a deck that encroaches 6 feet, 2 inches into the minimum required south side yard setback and 2 feet into the minimum required north side yard setback feet should be **APPROVED**.

1. The approval is conditioned that there be no increase in structural impervious area for the property.

The applicants have NOT made an adequate demonstration of facts meeting the standards of section 1155.10 necessary for the grant of a variance from Section 1120.15 and therefore:

- B. A variance to section 1120.15 of the ordinance to encroach 11 feet, 2 inches into the minimum required side yard setback of the property at 5500 Maple Heights Road should be **DENIED**.

**NOW, THEREFORE, BE IT RESOLVED** by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments:

That the application of Laura and Lloyd Ness for the property at 5500 Maple Heights Road, Greenwood, Minnesota 55331 for:

- A. A variance from section 1140.10 Subd. 2(c) to construct a deck that encroaches 6 feet, 2 inches into the minimum required south side yard setback and 2 feet into the minimum required north side yard setback feet is **APPROVED**.

1. The approval is conditioned that there be no increase in structural impervious area for the property.

- B. A variance to section 1120.15 of the ordinance to encroach 11 feet, 2 inches into the minimum required side yard setback of the property at 5500 Maple Heights Road is **DENIED**.

**PASSED** this 1st day of November, 2017 by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments for the city of Greenwood, Minnesota.

\_\_\_ AYES \_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana Young, City Clerk

# Variance Application



Person completing form:  Property Owner  Builder / Architect  
 If you prefer to complete this form electronically, it is available at [www.greenwoodmn.com](http://www.greenwoodmn.com).

Date application submitted	9-18-17
Date application complete (office use only)	
Property address	5500 Maple Heights Rd
Property identification number (PID)	
Property owner's current mailing address	5500 Maple Heights Rd
Names of all property owners	Laura & Lloyd Ness
Cell phone and email of property owner(s)	651-983-0648
Name of builder / architect (if any)	Ispiri
Company name of builder / architect	Ispiri
Cell phone and email of builder / architect	Jamie Anderson - 651-325-1875
Company address	7779 Afton Rd, Woodbury, MN 55125
Present use of property	Home
Property acreage	
Existing variances or conditional use permits	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes – please attach a copy <i>on file - City of Greenwood</i>
Request is for	<input type="checkbox"/> New Construction <input checked="" type="checkbox"/> Addition <input checked="" type="checkbox"/> Remodel <input type="checkbox"/> Replace
The variance(s) are being requested to (e.g. build a garden shed)	Building a deck over the existing deck and connecting the decks together Incremental hardcover of 150 SF and set-back approval on current deck turning in to a screened in porch

## Requested variance(s):

		Required*	Proposed	Difference
<input checked="" type="checkbox"/>	Side Yard (feet)			
<input type="checkbox"/>	Front Yard (feet)			
<input type="checkbox"/>	Rear Yard (feet)			
<input type="checkbox"/>	Lake Setback (feet)			
<input type="checkbox"/>	Building Height (feet)			
<input type="checkbox"/>	Structure Height (feet)			
<input type="checkbox"/>	Wetland Setback (feet)			
<input type="checkbox"/>	Bluff Setback (feet)			
<input type="checkbox"/>	Maximum Above Grade Building Volume (cubic feet)			
<input checked="" type="checkbox"/>	Hardcover (percentage)	30%	38.996%	8.996%
<input type="checkbox"/>	Other:			

*See drawing (and variance) on file*

*no incremental side yard from current variance*

*approved current variance = 38%*

\* See page 2 of the CUP & Variance Checklist document for the requirements for various zoning districts.

## Making your case for the grant of a variance

Per state law and city code section 1155 (view at city hall or at [www.greenwoodmn.com](http://www.greenwoodmn.com)) any persons may request variances from the literal provisions of the zoning ordinance, shoreland management district ordinance, wetland ordinance, and other applicable zoning regulations in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration. A variance shall only be permitted when it is in harmony with the purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone shall not constitute practical difficulties.

"Practical difficulties," as used in connection with the granting of a variance, means:

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

**Establishing a "practical difficulty"**

Please respond to each of the following questions. If you are unable to establish a "practical difficulty," please consider alternatives to your construction plans that may remove the need for a variance.

<p>Is the variance in harmony with the purposes and intent of the ordinance?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                  Please explain: The decks exist today - we are only asking to connect them (above ground - 2<sup>nd</sup> level). If we are unable to connect the two decks, it would require additional funding to knock out the current to make another door and require us to walk thru the main living area to access it                  Additionally, the one deck becomes a screened porch versus a deck - so no change impactin gthe neighbor..</p>
<p>Is the variance consistent with the comprehensive plan?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                  Please explain: We are not expanding the footprint of the home or the area - only connecting the spaces and making the space more useful..</p>
<p>Does the proposal put the property to use in a reasonable manner?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                  Please explain: As noted above, if we are unable to get the "wings" that attach the decks together, we will have to knock out more existing walls / windows in order to put in a door.</p>
<p>Are there unique circumstances to the property not created by the landowner?</p>	<p><input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain:  <i>Lot shape and easements - see letter.</i></p>
<p>Will the variance alter the essential character of the locality?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain: There is no additional space that the home is using as a result of the deck connectors.</p>
<p>Will the variance impair an adequate supply of light and air to adjacent property?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain: The deck is already in place and is only being covered.</p>
<p>Will the variance unreasonably increase the congestion in the public street?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain: There is no impact to the street.</p>
<p>Will the variance increase the danger of fire or endanger the public safety?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain: There is no impact.</p>
<p>Will the variance unreasonably diminish or impair established property values within the neighborhood?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                  Please explain: It will actually increase the value of the home as it makes the best use of the space.</p>

**Adjacent property owners' acknowledgement:** It is not required by ordinance, but applicants are highly encouraged to review plans with adjacent property owners and secure signatures in this section. Attach another page if there are more than 2 adjacent neighbors.

The undersigned acknowledges that we have reviewed the plans for the proposed improvements or proposed use of the property listed on page 1 of this document. We understand that by signing this acknowledgement, that we NOT being asked to declare approval or disapproval of the proposal, but merely are confirming for the city council that we aware of the plans and that we understand that the proposed project requires city council approval.

<b>Neighbor #1 Address:</b>	
Signature:	Date:
Print Name:	

<b>Neighbor #2 Address:</b>	
Signature:	Date:
Print Name:	

**The undersigned contacted the following regulatory bodies and will seek approvals if required:**

(1) Lake Minnetonka Conservation District 952.745.0789 (2) Minnehaha Creek Watershed District 952.471.0590

**Applicant's acknowledgement and signature(s):** The undersigned hereby submits this application for the described action by the city and is responsible for complying with all city requirements with regard to this request. This application should be processed in my name, and I am the party whom the city should contact about this application. The applicant certifies that the information supplied is true and correct to the best of their knowledge. The undersigned also acknowledges that before this request can be considered and / or approved, all required information and fees must be paid to the city, and if additional fees are required to cover costs incurred by the city, the city has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees. An incomplete application will delay processing and may necessitate rescheduling the review timeframe. The application timeline commences once an application is considered complete when all required information and fees are submitted to the city. The applicant recognizes that they are solely responsible for submitting a complete application and that upon failure to do so, recognizes city staff has no alternative but to reject the application until it is complete or to recommend denial regardless of its potential merit. A determination of completeness of the application shall be made within 10 business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant with in 10 business days of application. I am the authorized person to make this application and the fee owner has also signed this application.

Signature: <i>Laura Allen</i>	Date: <i>9-17-17</i>
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**Property owner's acknowledgement and signature:** The undersigned is the fee title owner of the page 1 described property. I acknowledge and agree to this application and further authorize reasonable entry onto the property by city staff, consultants, agents, planning commission members, and city council members for purposes of investigation and verification of this request.

Signature: <i>Laura Allen and Winess</i>	Date: <i>9-17-17</i>
--	----------------------

Note: If the property owner is different than the applicant, signatures from the both the applicant and the property owner are required.

Variance Fee (nonrefundable)	<b>\$400</b>
Shoreland Management Review Fee (nonrefundable)	<b>\$200</b>
<b>Total Amount Due (make check payable to the City of Greenwood)</b>	<b>\$600</b>

<b>For Office Use Only</b>	Fee Paid: <input type="checkbox"/> Cash <input type="checkbox"/> Check #:	Amount \$
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Permit #	<b>FORM #5</b> Return this document to City Hall
Receipt #	

# Building Volume Compliance Form

If you prefer to complete this form electronically, it is available at [www.greenwoodmn.com](http://www.greenwoodmn.com).

Property Owner(s)	LAURA L NESS & LLOYD W NESS
Property Address	5500 MAPLE HEIGHTS ROAD

Person completing this form:  Property Owner  Builder / Architect

Per code section 1140.18 (view at [www.greenwoodmn.com](http://www.greenwoodmn.com) or at city hall), no lot in the residential zones of the city may be host to principal and accessory buildings and structures whose above grade building volume (expressed in cubic feet) is greater than the following maximums:

- (1) Lots of 7500 square feet or less in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 6 times the lot area.
  - (2) Lots between 7500 square feet and 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 42,000 cubic feet plus a volume of cubic feet equal to a figure 4 times (lot area minus 7500 square feet).
  - (3) Lots greater than 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 75,000 cubic feet plus a volume of cubic feet equal to a figure 2 times (lot area minus 15,000 square feet).
- Exclusions. All space above unroofed structures such as decks, patios, and wholly in-ground, at grade, pools with no exposed sides shall be excluded from the calculation of building volume.
  - Inclusions. Enclosed or unenclosed porches or porticos shall be included in the total volume of the building.
  - Building Perimeter Grade means the average of all elevation measurements taken off the finished grade or surface of the ground, sidewalk or paving around the perimeter of a building or structure at (a) points 5 feet distant and perpendicular to the building perimeter commencing at the most northerly corner thereof and thence clockwise at similarly situated points every 10 feet around the building perimeter, (b) the point of highest grade within 5 feet of the building perimeter and (c) the point of lowest grade within 5 feet of the building perimeter.

**Exemption for small projects:** The proposed improvements involve an area equal to 20% or less of the first floor of the principal structure, therefore I request the city zoning administrator waive the requirement to submit the additional survey requirements and the "above grade building volume" calculation.

<b>The "above grade building volume" calculation for the property is:</b>	<b>56,396</b>
---	---------------

**Sworn Statement:** The undersigned hereby submits this "sworn statement" that the "above grade building volume" calculation is prepared in conformance with the provisions of code section 1140.18. In the event of inaccuracies, misstatements, incomplete information, or errors in the application and/or supporting materials, the city may issue stop work orders, or delay action on applications pending receipt of corrected or additional information. The undersigned assumes all risk of loss or expenses caused by any such deficiency, delay, or structural changes required to cause the structure to come into code compliance.

Signature	<i>Adam Bender</i>	Date: 10/10/2017
Print Name	ADAM BENDER, ISPIRI, LLC	

**As-Built Construction Statement (to be signed prior to a certificate of occupancy being issued):** The undersigned hereby submits this "sworn statement" and the attached as-built plans verifying the "above grade building volume" of the structure conforms to code section 1140.18.

Signature		Date:
Print Name		

Form Updated 10-27-14

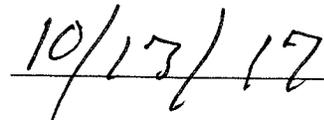
**Variance Request**

Ness  
5500 Maple Heights Road  
Greenwood, MN

We are in support of the side-yard and hard scape variance requests requested by Laura & Lloyd Ness at the property at 5500 Maple Heights Rd, Greenwood, MN.



Mark & Donna Knight  
5510 Maple Heights Rd  
Greenwood, MN 55331



Date

952-474-8718  
Home

Admitting Department  
800 E. 28th Street - MR 11106  
Minneapolis, MN 55407-3799  
DIRECT 612-863-4227  
FAX 612-863-3142

allinahealth.org

I wanted  
to let you  
know I  
support the  
Ness's request  
for a deck &  
screened in  
porch. Can you  
give me to  
The Planning  
Commission tonight.

Thanks.  
Marietta Jacobsen  
5530 Maple Hgts  
Pd →

**RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.**

**GENERAL COMMENTS ON REQUEST:**

REGARDING THE NESS PROJECT AT 5500 MAPLE HEIGHTS RD

I DON'T HAVE ISSUES

FRANK PRECOPIO

5520 MAPLE HEIGHTS RD

~~XXXXXXXXXX~~

**SPECIFIC ISSUES or CONCERNS:**

NONE

Name: F PRECOPIO

Address: 5520 MAPLE HEIGHTS RD

**Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.**

## **Dale Cooney**

---

**From:** Dale Cooney <dalec@mediacombb.net>  
**Sent:** Tuesday, September 26, 2017 4:52 PM  
**To:** 'Laura Ness'; 'ssample@ispiri.com'  
**Subject:** 5500 Maple Height deck variance

Laura and Scott,

I spoke with Laura and left Scott a message about this, but the screened porch deck enclosure is part of the variance request and work should not proceed. I believe that this was a complete miscommunication as I believed that we had discussed only moving ahead with interior remodeling work.

Since the deck is within the setback, and the enclosure expands the height and volume of the deck, it is considered an expansion of a nonconformity and a variance is required.

I know that this is time and money and inconvenience, but proceeding with the screen porch enclosure could result in the additional costs for removal should the variance not be approved.

I will be out of the office over the next two days, but feel free to contact me on my cell phone at 612-790-9932.

Sincerely,

Dale

### **Dale Cooney**

Zoning Coordinator  
Deephaven • Greenwood • Woodland

20225 Cottagewood Road  
Deephaven, MN 55331

Direct: 952.358.9938  
Main: 952.474.4755  
Fax: 952.474.1274

Permit # <b>217026</b>	FORM #1 Return this document to City Hall
Receipt # <b>1475</b>	



# Building Permit Application

If you prefer to complete this form electronically, it is available at [www.greenwoodmn.com](http://www.greenwoodmn.com).

Person completing this form:  Property Owner  Builder / Architect

Date application submitted	9/12/2017
Date application complete (office use only)	
Property address	5500 MAPLE HEIGHTS ROAD
Property identification number (PID)	35-117-23-11-0090
Property owner's current mailing address	5500 MAPLE HEIGHTS ROAD
Names of all property owners	LLOYD W. & LAURA L. NESS
Cell phone and email of property owner(s)	LAURA 651-983-0648 LAURA.NESS@COMCAST.NET
Name of builder / architect (if any)	
Company name of builder / architect	ISPIRI, LLC
Cell phone and email of builder / architect	SCOTT SAMPLE SSAMPLE@ISPIRI.COM 612-889-8828
Company address	7779 AFTON ROAD, WOODBURY, MN 55125
Company license number	BC627402
Lead abatement number and expiration date	NAT-20349-2

- Site Type:**  Residential  Commercial  
**Nature of Work:**  New Const  Addition  Remodel  Repair  Reroof  Reside  Deck  Demo  Move  
**Plans Submitted:**  Yes  No  
**Survey Submitted:**  Yes  No  
**Basement:**  Full  Partial  Crawl Space  Slab  Does Not Apply  
**Garage:**  Attached  Detached  Does Not Apply  
**Remove Old Shingles:**  Yes  No  Does Not Apply

etc 9/12/17

Description of Work	KITCHEN & MISC INTERIOR REMODEL; CONVERSION OF EXIST. DECK TO SCREEN RM.				
Project Square Feet	Basement:	1st Floor:	2nd Floor:	Garage:	Overall:
Height					
Stories					
Type of Construction	S.F.R.				
Reroof	Square Feet of Material:		Weight of Material:		
Reside	Square Feet of Material:		Type of Siding:		

ESTIMATED TOTAL VALUE OF JOB (including plumbing, heating, electrical)

**\$ 92,200**

**SPECIAL NOTES:**

**THIS APPLICATION BECOMES A "PERMIT" WHEN THE PERMIT NUMBER IS ISSUED (TOP LEFT OF FORM).**

**ALL PERMITS EXPIRE ONE YEAR FROM DATE OF ISSUE.**

**SEPARATE PERMITS ARE REQUIRED FOR PLUMBING, HEATING, ELECTRICAL, AND SEWER.**

**PER BUILDING CODE SECTION R315.3, CARBON MONOXIDE DETECTORS MUST BE PLACED WITHIN 10 FT OF ALL BEDROOMS. THIS APPLIES TO ALL PERMITS.**

Building Permit Fee	\$	944.75
Plan Check Fee	\$	614.09
State Surcharge	\$	46.10
Sewer Access Charge (SAC)	\$	—
Occupancy Certificate	\$	—
Contractor Surcharge	\$	5.00
<b>1ST SECTION TOTAL</b>	<b>\$</b>	<b>1609.94</b>
Load Limit Fee (20% of building permit fee for projects over \$20,000)	\$	188.95
Parking Permit (\$250 if street parking is needed)	\$	—
Shoreland Compliance Fee (\$200)	\$	—
Tree Permit (\$250 if applicable)	\$	—
<b>2ND SECTION TOTAL</b>	<b>\$</b>	<b>188.95</b>

The undersigned hereby makes this application for a Building Permit.

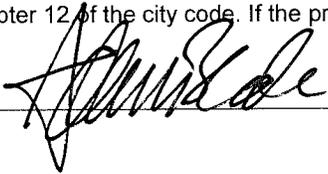
The undersigned hereby acknowledges the following: The property owner(s) listed on the previous page are the sole fee title owner(s) of the above described property; the information provided on this application and submitted documents are true, complete and accurate; the planned work, when authorized by permit, will be in conformance with the ordinances and codes of the city of Greenwood and Minnesota state building codes; the planned work will not start before a permit is issued; if the application is approved, the work will be in accordance with the application documents; the undersigned authorize photographs of the property and reasonable entry onto the property by city staff, consultants, agents, planning commission members, and city council members; the undersigned further acknowledge that the below data practices advisory and notice have been read.

**Data practices advisory for applications that include building plans:** You may be required to submit building plans with your permit application. If you do not submit building plans when they are required, you will not obtain the permit. If you submit building plans with your application, please check the appropriate boxes below.

- The main building plans are copyrighted. Plans may be viewed, but not photocopied by the public.
- The main building plans are not copyrighted. Plans will be available to anyone to view or photocopy.
- Separate plans labeled "security information non-public" have been submitted. Main building plans shall not contain security information. Separate plans that contain security information will be provided only to government officials who have a need to review them.

**Notice:** After the issuance of the permit the authorized work must begin within 180 days. If work has not begun within 180 days or work is suspended or abandoned for a period of 180 days, the permit will expire and a new permit must be obtained for one half the amount of a new permit fee. The building exterior must be completed within 180 days or the city may proceed with the administrative citation process outlined in chapter 12 of the city code. If the project is not completed within 1 year, the permit will expire unless extended by a city council resolution.

Applicant's Signature



<b>FOR OFFICE USE ONLY</b>			
Building Permit Fees	Building 101-32210: <u>1563.84</u>	STSC 101-20805: <u>44.26</u>	SCRC 101-31800: <u>1.84</u>
	Fee Paid <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Check # <u>17123</u>		
Greenwood Fees	LL 101-34304: <u>188.95</u>	PP 101-36230: <u>—</u>	SC 101-34103: <u>—</u>
	TP 101-34103: <u>—</u>	Fee Paid <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Check # <u>17123</u>	

City of Greenwood  
City Council Meeting  
Deephaven Council Chambers  
20225 Cottagewood Road  
March 6, 2002  
7:30 p.m.

5

well all winter long. Citizens have been plowing out and starting up cars besides donating items, money, time and effort. We will acknowledge them in June.

6. **UNFINISHED BUSINESS**

- A. Variance Request: Louis Colson, 5500 Maple Heights Road, (R-1A, 20,0000) a variance request to construct an one and one half story within the required side yard setback, in accordance with Section 1155 of the City Code.  
A discussion followed whether a three stall garage would fit into this neighborhood. Mr. Colson's neighbor, Mr. Knight approved of the plan as shown. Councilmember Bowers-Stead made a motion to approve the variance. Councilmember Canning seconded the motion.  
Motion passed 5-0 Ayes: Mayor Albrecht, Councilmembers Altstatt, Bowers-Stead, Canning and Sagal
- B. Second Reading of Ordinance to amend the Zoning code in matters of side yard set backs, height requirements and definition of accessory structures and definition of structures in general; establishment of preliminary administration review process fees.  
Councilmember Bowers-Stead said that the Council had given the Planning Commission direction on changes to the Ordinance. Mayor Albrecht said that the Planning Commission recommended to Council to pass the Ordinance. Councilmember Bowers-Stead wants it in the record that she opposes this amendment because there was no follow through with the changes suggested to the Planning Commission.  
Councilmember Sagal moved to approve the ordinance.  
Councilmember Altstatt seconded the motion.  
Motion passed 4-1 Ayes: Mayor Albrecht, Councilmembers Altstatt, Canning and Sagal  
Nay: Councilmember Bowers-Stead
- C. Second Reading of Ordinance amending Section 600 et seq. in the matter of minimum lot size and simple Subdivision approval process.  
Councilmember Bowers-Stead wanted her concerns stated in the record, the points raised are as follows: In anticipation of Greenwoods on the Lake and Knapp Oaks, the City of Greenwood changed platting requirements to 20,000 square feet. She asked the Mayor if he would be voting on this ordinance as his property is for sale and could benefit from lowering the requirements to 15,000 square feet.

RESOLUTION NO. 29-02

RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF GREENWOOD, MINNESOTA ACTING AS THE  
BOARD OF APPEALS AND ADJUSTMENTS

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**IN RE:** The Application of Louis Colson for a Variance to Permit:

1. Side yard setback adjustments to construct a gable roof including ½ story on non-conforming structure.
  2. Side yard setback adjustments to construct an addition connecting existing garage to existing home.
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- 

**WHEREAS**, Louis Colson, owner of real property at 5500 Maple Heights Road, Greenwood, Minnesota 55331 (PID No. 35-117-23-11-0090) has made application for variances to permit the expansion of an existing home the construction of a gable roof including ½ story addition and the connection of an existing garage to the home; and

**WHEREAS**, notice of public hearing was published, notice given to neighboring property owners, and a public hearing held before the Planning Commission to consider the application; and

**WHEREAS**, public comment was taken at the public hearing before the Planning Commission on January 16, 2002; and

**WHEREAS**, the City Council has received the staff report, the report of the Planning Commission, and considered the application and the comments of the applicant and the public.

**NOW, THEREFORE**, the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments does hereby make the following:

**FINDINGS OF FACT**

1. That the real property located at 5500 Maple Heights Road, Greenwood, Minnesota 55331 (PID No. 35-117-23-11-0090) is a single lot of record located within the R1-A single family residential district subject to side yard setbacks of 15 feet, front yard setback of 30 feet and lake yard setback of 50 feet (1120:15).
2. That the applicant proposes to build an addition to connect the existing detached garage to the existing home, widening the garage by approximately 8 feet. The applicant also proposes to replace a flat roof with a gable roof including ½ story

addition on the existing home.

3. The existing house has a northerly side yard setback of 13.5 feet and a southerly side yard setback of 4 feet. The proposed ½ story would be added on top of the existing side walls and have side yard setbacks of 13.5 and 4 feet respectively.
4. The addition to be built between the existing house and garage would have a resulting side yard on the south of 5.8 feet (requiring a variance of 9.2 feet); the side yard would be code compliant on the north.
5. Presently, the property has 27.9% hardcover. After construction and removal of existing hardcover, the applicant proposed 27.5% of hardcover.
6. The lot is 12,260 square feet which is less than the 15,000 square foot minimum for this district.
7. The new construction is planned to be within the maximum permitted height of 28 feet.
8. The applicant advises his intent is to add a second story loft floor on the house by replacing the flat roof with a gable design, attach garage to house and upgrade electric, plumbing, insulation, all to code.
9. Applicant advises the reasons for the request are: “fix up house to make livable and to code and make three bedroom house.”
10. The applicant advises the following unusual conditions unique to the property preventing compliance with zoning code: “Desire to build on existing foundation and garage floor.”
11. Applicant describes undue hardship or practical difficulty resulting from strict enforcement of the code to be: “existing one bedroom home does not meet electrical, mechanical, energy, plumbing, or structural codes. The home is not safe. We wish to build a three bedroom home with attached garage on existing foundation.”
12. Applicant describes the effect of proposed work on neighboring properties and neighborhood in general to be: “We should not affect them in any way. We want to blend in their neighborhood.”
13. At the presentation before the Planning Commission, the applicant acknowledged that the physical condition of the property was poor and that the garage had not been properly constructed.
14. At the first hearing, the Planning Commission expressed concern that the proposed

full story addition would pose a potential fire hazard due to proximity of the structure to the neighboring property on the south and that the variance if granted would adversely effect the available light and air enjoyed by the home to the south of the subject property.

15. The applicant then revised his proposal (to the present gable roof/loft arrangement). The Planning Commission then voted to recommend approval of the variances requested.
16. The Board of Appeals and Adjustments is authorized by City Code to vary the applicable minimum yard requirements and bulk regulations (Section 1155, et seq).
17. That a variance may be granted where strict enforcement of the ordinance in question would cause undue hardship because of circumstances unique to individual property under consideration.
18. "Undue Hardship" means:
  - A. That the property in question cannot be put to a reasonable use if used under conditions allowed by the official control in question;
  - B. That the plight of a landowner is due to circumstances unique to the property and not created by the landowner; and
  - C. The variance, if granted, will not alter the essential character of the locality.
19. The applicant has demonstrated that the property in question cannot be put to a reasonable use if used under the conditions allowed by the official control in question, to-wit: the flat roof of the existing structure is not serviceable in Minnesota winters and the gabled roof is necessary; the garage remodel is reasonable given the pre-existing placement of the house.
20. The applicant has demonstrated that the plight of the applicant is due to circumstances unique to the property and not created by the landowner, to-wit: this is an existing structure non-conforming in its placement on the lot, the need for sound roofing is not elective; the lack of other expansion opportunities supports the garage addition.
21. The applicant has demonstrated that the proposed gable roof addition and connection between the garage and main house will not alter the essential character of the locality as same will not encroach on light and air enjoyed by the neighboring property nor alter the essential character of the locality.

CONCLUSIONS OF LAW

Variance

1. The variance to Greenwood Ordinance Code Section 1120:15 to permit a side yard setback of 4 feet on the south and 13.5 feet on the north (in conjunction with a proposed gable roof including 1/2 story loft addition) and 7 feet on the south (in conjunction with the garage addition) should be granted for the reasons setforth in the Finding of Fact above.

NOW, THEREFORE, be it resolved by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments.

1. That a variance to Section 1120:15 to permit construction of a gable roof including 1/2 story addition to an existing house by reducing required side yard setback from 15 feet to 4 feet and expansion between house and garage resulting in a 7 foot side yard is in conformance with the above Findings of Fact and Conclusions of law *approved.*

PASSED THIS 6<sup>th</sup> DAY OF March, 2002 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

5 Ayes, 0 Nays

**CITY OF GREENWOOD**

ATTEST:

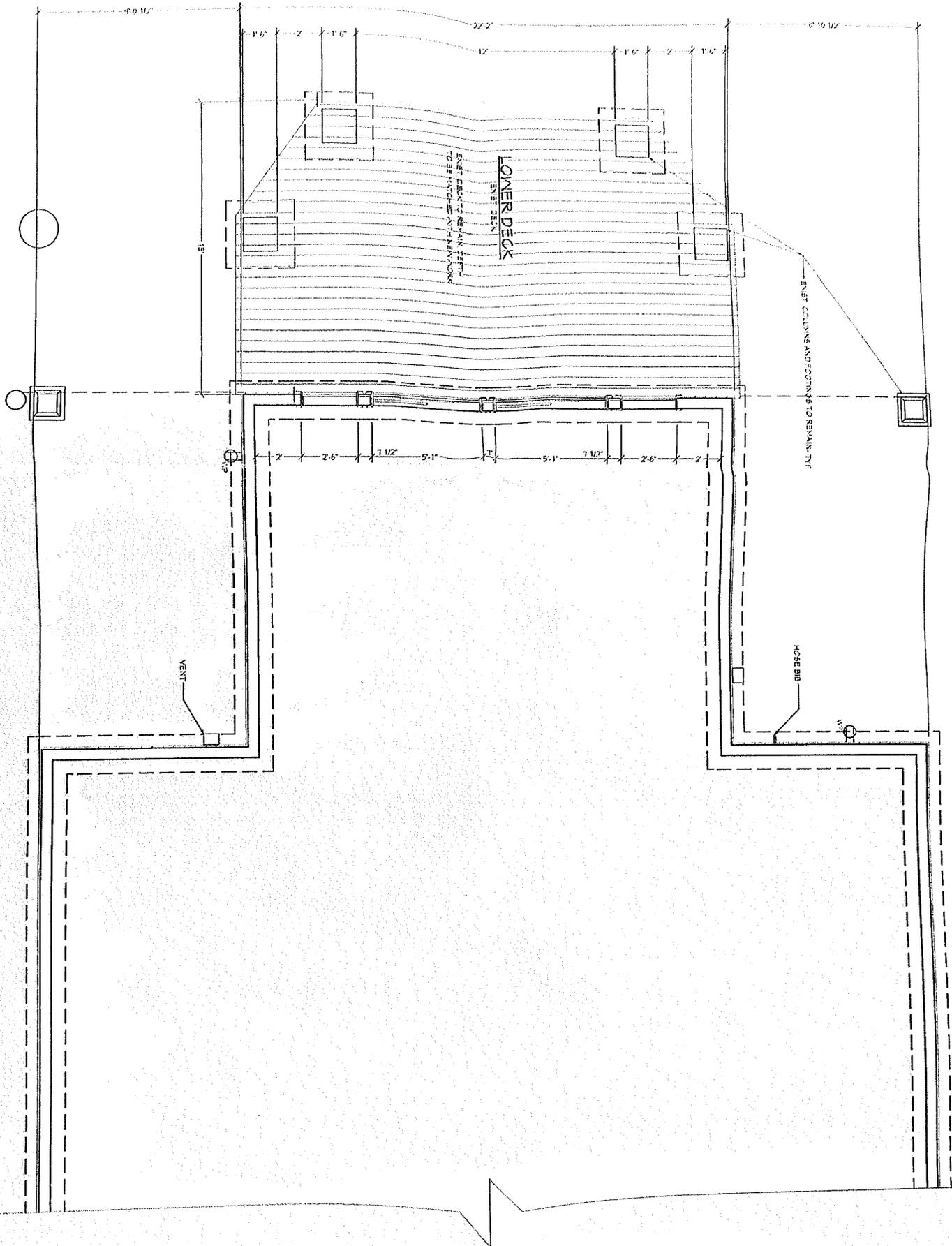
By   
Alan M. Albrecht, Mayor

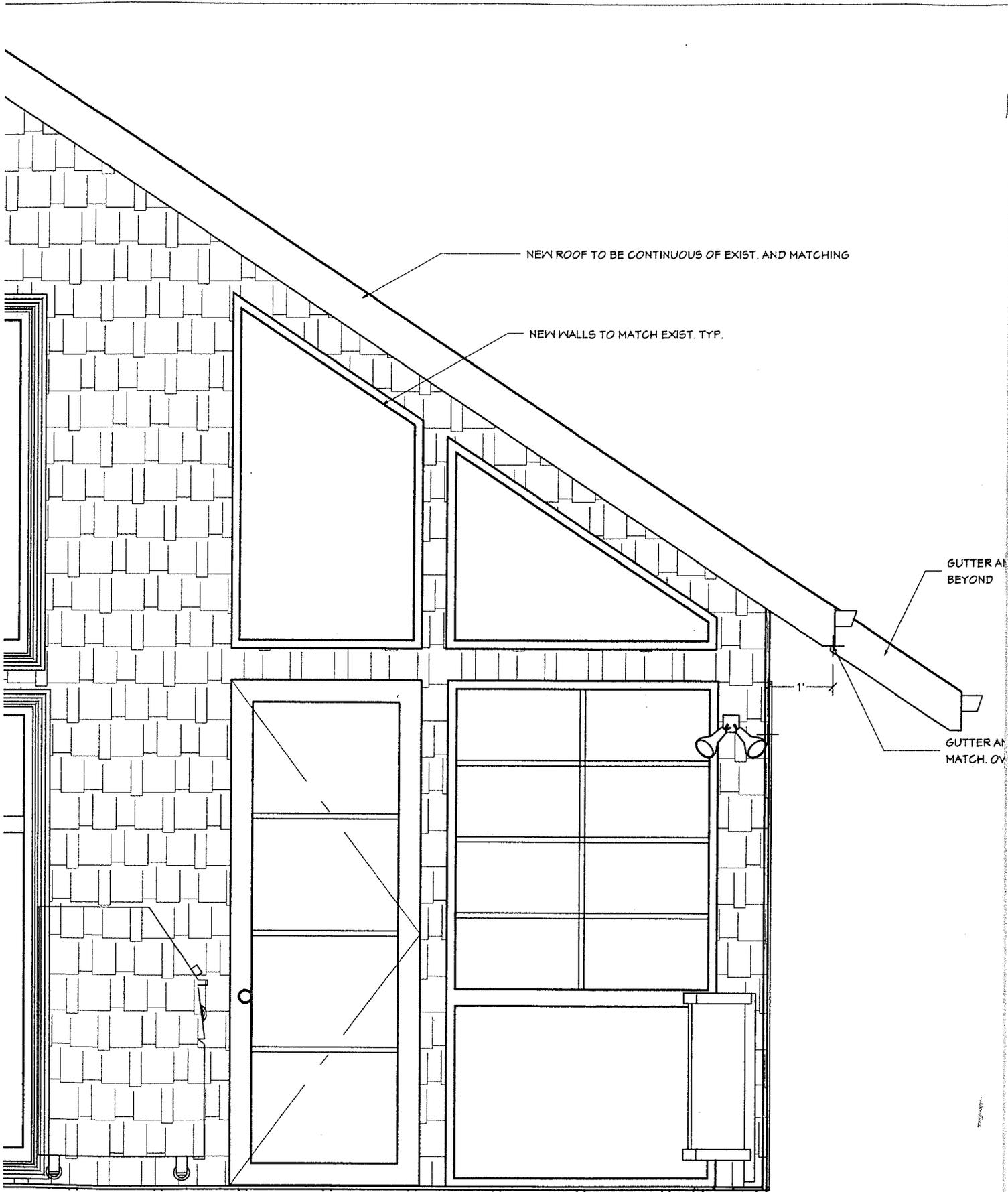
  
Nancy Kelm, Clerk/Administrator

1\RESOLU colson gable



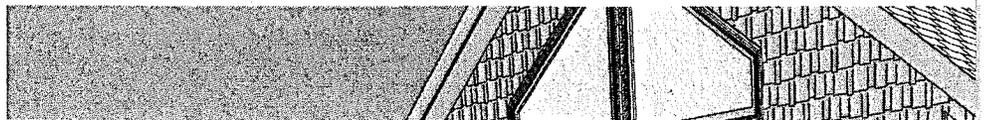
1 AS-BUILT LOWER LEVEL  
SCALE: 1/8" = 1'-0"

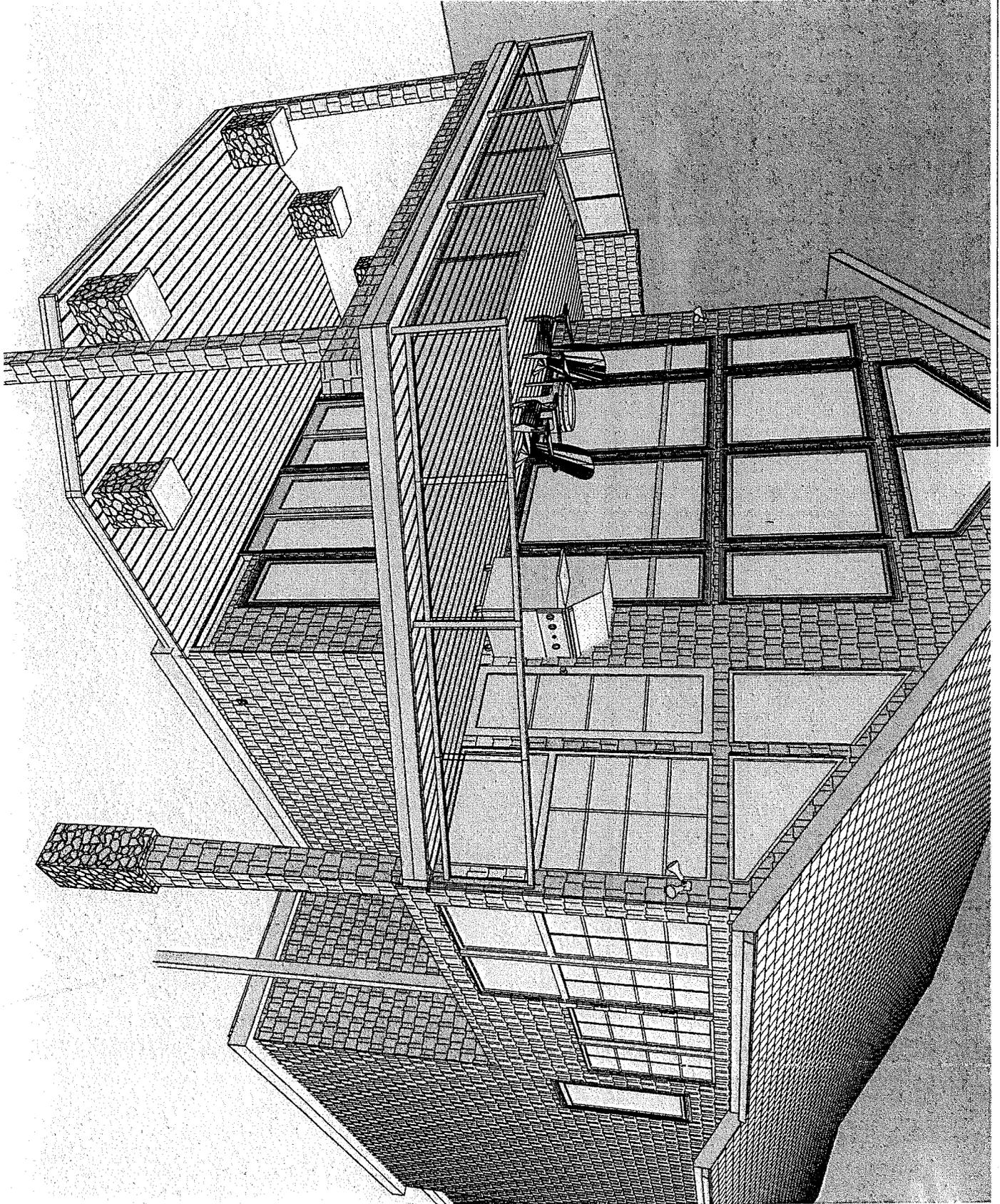




EXTERIOR ELEVATION @ NEW PORCH

SCALE: 1/2" = 1'-0"





To: City Council, Greenwood MN

From: Laura & Lloyd Ness  
5500 Maple Heights Rd  
Greenwood, MN 55331

October 23, 2017

Re: Variance Request for 5500 Maple Heights Rd, Greenwood, MN 55331  
PID #35-117-23-11-0090

Dear Greenwood City Council,

In September of this year, we embarked on a remodeling project that included the following items:

- Kitchen remodel (all new cabinets and appliances)
- Turing one of our upper-level existing decks into a porch
- The addition of an upper level deck above our current existing lower level deck. This includes adding some additional small wing decks to connect the two side existing decks (one of which will be a porch)

At the time that our builder requested the permit for the work above, they were told that we would need a hardcover and side-yard setback variance for the deck wings / connectors. They were asked to resubmit the permit request for the work that did not require the variance approval. Given that the porch work was only converting existing space, the permit and plans were submitted and approved for the work in the kitchen and the porch (see exhibit A).

We were informed by Dale Cooney, after work had started on both areas, that the porch would also need to be included in our variance request. Dale, who has been extremely helpful in this process, informed me that I did not need to submit a new variance request and that he would update it to include the porch work but that we needed to stop work on the porch until it was approved. Unfortunately, the framing and roof work on this porch had already been started at the time we received notification that we needed to stop work. As a result, if this part of the work is not approved, we will be forced to tear-down this work to put the existing deck back the way it was.

It should be noted that we have received approval from all of our neighbors that would be impacted by the porch and deck work. And in fact, they prefer that we make the current deck in to a porch as it will provide them with more privacy as when we are out on this deck, they can hear us and smell the food that we are grilling. I believe it is in the best interest of everyone to approve the design as planned given the following:

1. Neighbors - As noted above, neighbors approve and want the changes we are requesting. We have worked the plan such that we are minimizing any hardscape and side-yard variances by angling the connector decks away from the property line and making them as small as possible, without compromising the design.
2. Neighborhood - Design as planned is aesthetically pleasing – providing symmetry to the house and to the neighborhood (see pictures on next page).
3. City – We recognize that the work we are doing will increase the value of the property and thereby raise the taxes on the property – increasing the revenue to the City. Having to make any design modifications to reduce the decks will cost us more money but will not provide any increase in home value and may actually decrease the value given the poor design.

The following information provides you a little more background on the work we are looking to accomplish, which was also provided to the Zoning Committee (with updated information from the new survey):

**Current Situation:**

- As it sits today, our property consists of two small side decks on the upper level of the home with a lower level deck off the basement level (walkout). See photos below:



The current set-up of the side decks already have a side-yard set-back variance that was approved in 2002. We are not requesting to encroach any further on the side-back but are needing to extend the length of the setback variance that would trail away from the property line (instead of going straight out) lessening the impact of the side-yard variance we are requesting. Below is a rendering of the proposed deck as it would look once completed:





2. The only other way to access the new main deck on the 2<sup>nd</sup> level without the wings/connectors would be to knock out the back wall of windows and make a door to the deck. This, however would be a safety hazard as that room is a sunken room and would then require a step up to get to the deck to keep it at the same height and aesthetically pleasing and aligned with the other decks. This would also increase the costs of the project by \$20K and waste materials that are perfectly good.
3. The other deck on the north side is off of the master bedroom so it makes no sense to use that as the access to the upper level new deck as guest would have to cut through the bedroom to access it. This would decrease the home's value.
4. Our hardcover calculations, as shown above, will not be exceeding the already approved hardcover percentage, given that the retaining walls were counted in the calculations. And as noted, we are willing to change the rock on plastic such that it actually reduces our overall hardcover space.
5. The request we are making will truly not impact the impervious surfaces given that they are on the 2<sup>nd</sup> story and will allow water to drain through.
6. We are close to retirement and are making the modifications to the home for our future when and if we are unable to manage the stairs we will have the ability to live out of the main level of this home (I have already had one knee replacement and am awaiting a second to one level living is important).
7. The porch we are requesting is extremely narrow / small (9x16) and once completed will only fit two chairs and a small side table. Our primary purpose of this space is a place to be outside but not in the sun (I have had skin cancer already) and away from the mosquitos, to read the paper and drink our coffee. It is not an extravagant space but practical. The porch roof was inset in order to minimize the side-yard variance that is already in place ( see Exhibit B).

Please keep in mind that we see this as our "forever home" and are using high quality materials to enhance the property's value and look of the home and have investigated many alternatives to try and avoid having to request a variance. We feel that we have made the appropriate sacrifices by making these wings/connectors as small as possible and by keeping the porch and the upper-level deck the same size as it is today (and the same size as the lower-deck) in order to minimize the impacts to the zoning requirements.

We appreciate your consideration and respectfully request for approval for the attached variances. We are happy to tour/show any of the Council Members the property inside and outside to walk you through these plans.

Sincerely,

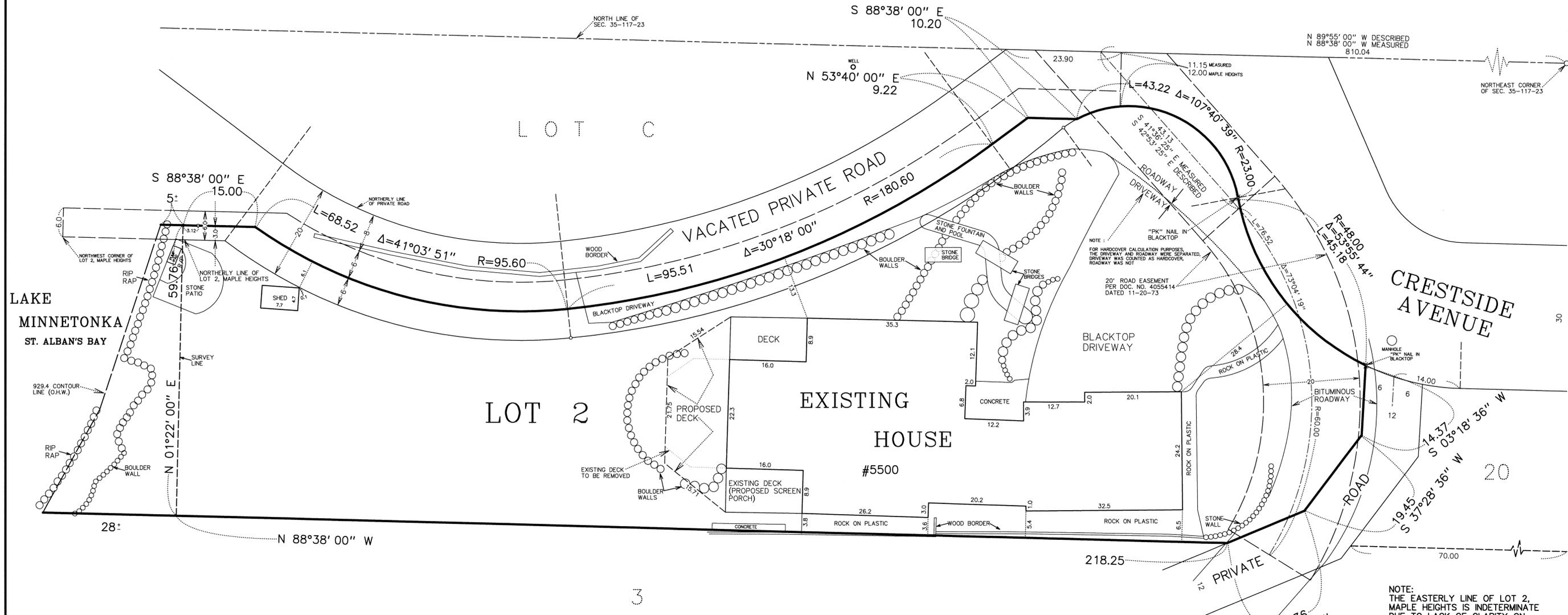
Laura & Lloyd Ness



**Exhibit B** – Roof of porch (current deck) does not extend out as far as the current house roof



CERTIFICATE OF SURVEY FOR  
**LAURA NESS**  
 OF LOT 2, MAPLE HEIGHTS & PART OF ADJACENT VACATED STREET  
 HENNEPIN COUNTY, MINNESOTA



**LEGAL DESCRIPTION OF PREMISES :**

Lot 2, Maple Heights and the Southerly half of that part of that private road lying between Lots C and 2, Maple Heights, which lies South of a line beginning on a point 6 feet north of the Northwest corner of said Lot 2, Maple Heights; thence East in a straight line to the first point 8 feet distant from said private roads Northerly border; thence Easterly in a line parallel to and 8 feet East distant from said Northerly border to the East end of said private road which is the West end of Crestside Avenue.

o : denotes iron marker  
 Bearings shown are based upon an assumed datum.

This survey shows the boundaries of the above described property, the location of an existing house, garage, and shed, and the location of all visible "hardcover" thereon. It does not purport to show any other improvements or encroachments.

**EXISTING HARDCOVER :**

Lot area = 15,440 Sq. ft.  
 Existing house = 2688 sf  
 Decks (2 at 142 sf each) = 284 sf  
 Concrete at front door = 97 sf  
 Existing shed = 36 sf  
 Blacktop driveway = 1208 sf  
 Stone patio near shore = 124 sf  
 Existing deck, lakeside of house = 265 sf  
 Stone fountain & pool = 81 sf (minus area under bridges)  
 Stone bridges = 72 sf  
 Rock on plastic = 512 sf  
 Concrete southwest of house = 21 sf  
 Wood walls/borders = 20 sf

Total hardcover = 5408 Sq. ft.  
 5408 / 15,440 x 100 = 35.03%

**PROPOSED HARDCOVER :**

Existing deck removed = -265 sf  
 Proposed deck added = +395 sf  
 Net gain = +130 sf  
 130 + 5408 = 5538 Sq. ft.  
 5538 / 15,440 x 100 = 35.87%

DATE	REVISIONS

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

*Mark S. Gronberg*  
 Mark S. Gronberg Minnesota License Number 12755



**GRONBERG & ASSOCIATES, INC.**  
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS  
 445 NORTH WILLOW DRIVE, LONG LAKE, MN 55356  
 952-473-4141

SCALE  
 1"=10'  
 DATE  
 10-11-17  
 JOB NO.  
 17-366



Agenda Number: **7B**

Agenda Date: 11-01-17

Prepared by Deb Kind and Dale Cooney

**Agenda Item:** Ord 272, Amending Code Section 630 Regarding Right-of-Ways and Small Wireless Facilities & Res 26-17, Summary of Ord 272 for Publication

**Summary:** The wireless industry is seeking to deploy small wireless facilities in public rights-of-way (ROW) on light poles, telephone poles, etc. The industry is seeking to pass model state legislation across the country. Approximately 20 states have introduced such legislation. In Minnesota, after extensive negotiations primarily over changes requested by the League of Minnesota Cities (LMC), the negotiated language represents the best preservation of local control for Minnesota cities that could be obtained and is superior to laws passed elsewhere. The new law went into effect on 05-30-17. For more details, see the attached memo from Lake Minnetonka Communications Commission attorney Bob Vose who also serves as the alternate city attorney for Greenwood.

To accommodate the new small wireless law, Greenwood needs to:

1. Amend the ROW ordinance to include basic provisions to regulate ROW per a model "short-form" ordinance provided by Bob Vose.
2. Amend the short-form ROW ordinance to include provisions specific to the installation of wireless facilities on existing poles or similar facilities, and addressing the potential installation of new wireless support structures per model language provided by Bob Vose.
3. Amend the zoning ordinance or code to make small wireless a conditional use in ROW.
4. Preparation of a template agreement governing attachment of wireless facilities to municipal poles or other infrastructure in the ROW. It is anticipated that the LMC will seek to make a model agreement available.

The attached ordinance 272 addresses items 1-3 above. The ordinance has been reviewed and approved by Bob Vose. Item 4 will wait until a template agreement is available from the LMC.

**Planning Commission Action:** The planning commission held a public hearing at their October 18, 2017 meeting and, on a 4-0 vote, recommended approval of ordinance 272 as written.

**Timeline:**

~~10-18-17 Planning Commission holds a public hearing for the ordinance.~~

11-01-17 City council considers 1st reading of the ordinance (may make revisions).

11-02-17 If the 2nd reading is waived, the ordinance is submitted to the Sun-Sailor for publication.

11-09-17 If the 2nd reading is waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).

12-06-17 City council considers 2nd reading of the ordinance (may make revisions).

12-07-17 The ordinance is submitted to the Sun-Sailor for publication.

12-14-17 The ordinance is published in the Sun-Sailor (goes into effect on this date).

**Council Action:** Potential motions ...

1. I move the city council (1) approves the first reading of ordinance 272 amending the city's right-of-way ordinance section 630 to regulate public rights-of-way and to provide for the issuance and regulation of right-of-way permits as written / as amended; (2) waives the second reading; (3) approves resolution 26-17 a summary of ordinance 272 for publication; and (4) directs that resolution 26-17 be submitted to the Sun-Sailor for publication.
2. I move the city council (1) approves the first reading of ordinance 272 amending the city's right-of-way ordinance section 630 to regulate public rights-of-way and to provide for the issuance and regulation of right-of-way permits as amended; and (2) directs that the ordinance be placed on the December council agenda for a 2nd reading.
3. Do nothing (maintain current ordinance) or other motion ???

*Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. The 2nd reading may be waived by a unanimous vote of city council members present at the meeting. In order to publish an ordinance by title and summary the ordinance must be approved by a 4/5ths vote. Ordinances go into effect once they are published in the city's official newspaper. The planning commission must review and make a recommendation to the city council regarding any changes to the zoning code chapter 11. A public hearing, typically held by the planning commission, also is required for changes to chapter 11.*



Offices in 470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis MN 55402  
Saint Paul (612) 337-9300 telephone  
(612) 337-9310 fax  
St. Cloud www.kennedy-graven.com  
Affirmative Action Equal Opportunity Employer

**MEMORANDUM**

**TO:** Clients  
**FROM:** Bob Vose  
**DATE:** June 2, 2017  
**RE:** Small Cell Legislation

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The wireless industry is seeking to deploy “small cell” wireless facilities in public rights-of-way (ROW). To that end, the industry is seeking to pass model state legislation across the country. Approximately 20 states have introduced such legislation, and at least 7 midwestern states have enacted new laws as a result of these efforts.

In Minnesota, the largest wireless providers, AT&T, Verizon, and Sprint, aggressively lobbied for the model legislation this session. The Minnesota League of Cities strongly opposed the initial bill and, at various times, it appeared “dead.” In recent weeks, however, legislators convened negotiations between wireless providers, cities, municipal utilities, and the cable industry. After extensive negotiations primarily over changes requested by the League, the League took a neutral position on the final language. The League believes that the negotiated language represents the best preservation of local control for Minnesota cities that could, in light of legislative realities, be obtained and is superior to laws passed elsewhere. We assisted the League during the session.

The small cell language was ultimately included in the Jobs Bill-- Senate File 1456. The Governor signed SF1456 and other budget bills on May 30<sup>th</sup>. The House and Senate had each narrowly passed companion bills as stand-alone legislation, but the small cell language presumably found its way into the Jobs Bill to guard against a veto. With a few exceptions, the law became effective immediately.

This summarizes the most significant provisions in SF1456 regarding small wireless deployment:

**1. Wireless Governed by Minnesota ROW Law**

- Under prior law, “telecommunications right-of-way users,” a defined term, and other traditional users of the ROW are statutorily entitled to access and install facilities in the ROW. Such rights are subject to reasonable regulations and conditions imposed

by the local government unit (LGU). LGUs are required to enact ROW ordinances to implement this authority.

Prior law did not, however, cover or grant ROW access to wireless providers or facilities. SF1456 addresses this by amending the term “telecommunications right-of-way user” to include persons deploying facilities to provide “wireless service,” a newly defined term. This and other changes made by SF1456 generally entitle wireless providers to use ROW.

- Wireless providers may deploy a “small wireless facility” or a “wireless support structure” in the ROW. These are both newly defined terms.
  - In order to be “small,” the proposed deployment must meet statutorily-limited size requirements- each antenna must be no more than six cubic feet, and all associated equipment, excluding certain types of equipment (back-up generator, for example), must either be concealed or less than 28 cubic feet.
  - In order to be an authorized support structure, any proposed new pole cannot exceed the lesser of 50 feet or 10 feet above an existing pole that is being replaced unless the LGU allows a greater height.
- LGUs may deny permits for new small cell facilities or wireless support structures based on reasonable health, welfare and safety concerns.
- One of the wireless industry’s primary goals was to require that poles or similar structures owned by the LGU in the ROW (light poles, for example) be made available for the attachment of small wireless facilities. The industry’s model bill actually proposed redefining the ROW to include essentially all LGU infrastructure.

SF1456, however, does not make LGU-improvements in the ROW a part of the ROW available for private use. The law instead expressly allows an LGU to determine whether a particular pole or other structure in the ROW was designed to support proposed wireless equipment or is capable of doing so. The LGU may deny a wireless provider access to a particular facility based on this determination or other public health, safety or welfare concerns.

- An LGU may also condition a permit on health, welfare and safety concerns, on “reasonable accommodations for decorative wireless support structures or signs,” or upon “any reasonable restocking, replacement, or relocation requirements” for a new wireless support structure in the ROW.
- LGUs may also impose separation requirements (distance minimums) between new poles or other wireless support structures.
- Municipal electric utility poles and facilities are exempt from the bill. About 125 cities have municipal utilities.

## 2. Zoning

- Another primary industry goal was to require that small wireless facilities be made a permitted use in all ROWs regardless of the underlying zoning district in which the ROW is located.

SF1456 makes small wireless facilities and associated wireless support structures a permitted use in all ROWs, but LGUs may make such facilities or structures a special or conditional use in ROW located “in a district or area zoned for single-family residential use or within a historic district.”

- LGUs are prohibited from adopting a moratorium on the processing and issuance of small wireless facility permits. This provision is effective immediately except that it becomes effective on January 1, 2018 for any LGU that had not enacted a ROW ordinance as of May 18, 2017.

## 3. Application Process

- LGUs may require permits for placement of new wireless structures or collocation of small wireless facilities in the ROW. It is unclear whether this is in lieu of or in addition to the ROW permit already required by most existing ROW ordinances.
- An LGU has 90 days to issue or deny a permit. SF1456 indicates that failure to timely act results in the permit being “deemed approved” and “the permit is automatically issued.” The deadline can be extended for 30 days if:
  - the LGU receives applications for 30 or more sites within a 7 day period, or:
  - the application is incomplete and the LGU delineates the missing information within 30 days of receipt.

Written notice of any extension must be provided to the applicant.

- Applicants may file up to 15 permit applications simultaneously as long as the requested sites are within a 2 mile radius, consist of substantially similar equipment, and are to be placed on similar structures. LGUs may approve or deny applications individually or collectively.
- A denial must be in writing and state the basis for denial. The LGU must notify the applicant in writing within 3 business days of the decision. The applicant may cure the deficiencies noted and reapply. If such re-application is made within 30 days of denial no additional fee may be imposed and a further decision must be made within 30 days of receipt.

- LGUs may not require wireless providers to supply information provided in an earlier application for a small wireless facility if such info is specifically referenced in the current application. LGUs also may not require information “not reasonably necessary to review a permit application for compliance with generally applicable and reasonable health, safety, and welfare regulations” or demonstrate compliance with applicable FCC regulations “governing radio frequency exposure,” or otherwise demonstrate compliance with the new law.

#### **4. Rent and Fees**

- The wireless industry’s most important goal was to obtain the right to use LGU-owned facilities in the ROW in exchange for no or minimal rent.

SF 1456 allows the imposition of rent of up to \$150 annually, plus \$25 for maintenance, for each site. Additional fees may be imposed if the wireless provider uses LGU-purchased electricity rather than separately metering. This payment arrangement would presumably be reflected in an attachment agreement governing the provider’s attachments to the LGU’s facilities.

- LGUs remain entitled to recover ROW management costs, a defined term, from wireless providers using the ROW via permit fees. However, SF1456 indicates that “unreasonable fees of a third-party contractor” cannot be recovered. Such fees include “any third-party contractor fee tied to or based upon customer counts, access lines, revenue generated by the telecommunications right-of-way user, or revenue generated for a local government unit.”

#### **5. NO PUC Rules or Dispute Resolution**

- The PUC has promulgated rules governing underground installation of telecommunications and other utility infrastructure in the ROW. The PUC is authorized to administratively adjudicate disputes arising out of an LGU’s interpretation or application of these rules.

SF1456 does not explicitly authorize the PUC to promulgate new rules regarding installation of wireless facilities in the ROW including, particularly, how attachments to LGU facilities must be made. Thus, the PUC will presumably not have any adjudicative role regarding wireless installations in ROW.

- LGUs are authorized to require separate agreements with wireless providers governing attachments to the LGU’s poles or other facilities. SF1456 provides:

No later than six months after the effective date of this act or three months after receiving a small wireless facility permit application from a wireless service provider, a local government unit that has elected to set forth terms and conditions of collocation in a standard small wireless facility collocation agreement shall develop and make available an agreement that complies with

the requirements of this section and section 237.162. A standard small wireless facility collocation agreement shall be substantially complete....

### **Conclusion**

The work our clients will need to do to accommodate the new small cell wireless law depends to a large extent on each municipality's ROW ordinance, zoning provisions, ROW application process, and standard practices. However, it is apparent that a number of steps will need to be taken. These likely include:

1. Amendment of the ROW ordinance to include provisions specific to the installation of wireless facilities on existing poles or similar facilities, and addressing the potential installation of new "wireless support structures;" i.e. poles. Some clients may wish to address wireless deployment in the ROW via a new ordinance that is separate from the existing ROW ordinance.

Whether implemented by amending an existing ROW ordinance or adopting a new, separate ordinance, the application process requirements noted above will need to be incorporated.

2. Amendment of the zoning ordinance or code to make small wireless a permitted use in all ROW but, potentially, a conditional use in ROW located in residential zones.
3. Preparation of a template agreement governing attachment of wireless facilities to municipal poles or other infrastructure in the ROW. We anticipate that the League will seek to make a model agreement available. Our office may assist with that work. The rent and the maintenance fee requirements will be addressed in this template agreement.

Of course, preparation of a "substantially complete" template agreement governing attachments to municipal infrastructure will be difficult for municipalities that have a variety of facilities in the ROW. The template agreement may need to contemplate different attachment requirements depending on the nature of the particular facility to which a wireless provider seeks to attach its equipment.

Please contact me with questions.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA  
AMENDING GREENWOOD ORDINANCE CODE SECTION 630 TO ADMINISTER AND REGULATE PUBLIC RIGHTS-  
OF-WAY AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1205 Definitions is amended to add the following definitions:

“Collocate or Collocation means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit. (NOTE: MINN. STAT. § 237.162, SUBD. 10; GREENWOOD ROW SECTION 630)

Facility means any tangible asset associated with the provision of utility service that is or will be located in the public right-of-way. (ROW 630)

Management Costs means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to section 630 of this code book. (ROW 630)

Public Right-of-Way or Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, cartway, bicycle lane, or public sidewalk which the city maintains or otherwise has an interest, and other easements dedicated to the public or to use for utility service. The public right-of-way does not include the airwaves with regard to nonwire telecommunications or broadcast services. (ROW 630)

Restoration or Restore means the process by which an excavated public right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before excavation. (ROW 630)

Small Wireless Facility means a wireless facility that meets both of the following qualifications:

- (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or could fit within such an enclosure; and
- (ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

(NOTE: MINN. STAT. § 237.162, SUBD. 11; GREENWOOD ROW SECTION 630)

Telecommunications right-of-way user means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service. (ROW 630)

Utility Service includes: (1) services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions 4 and 6; (2) services of a telecommunications right-of-way user, including the transporting of voice or data information; (3) services provided by a cable communications system as defined in Minnesota Statutes, chapter 238; (4) natural gas or electric energy or telecommunications services provided by a local government unit; (5) services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and (6) water, sewer, steam, cooling, or heating services. (ROW 630)

Utility Pole means a pole that is used in whole or in part to facilitate telecommunications or electric service.

(NOTE: MINN. STAT. § 237.162, SUBD. 12; GREENWOOD ROW SECTION 630)

Wireless Facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna. (NOTE: MINN. STAT. § 237.162, SUBD. 13; GREENWOOD ROW SECTION 630)

Wireless Service means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service. (ROW 630)

Wireless Support Structure means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city. (NOTE: MINN. STAT. § 237.162, SUBD. 16; GREENWOOD ROW SECTION 630)”

## SECTION 2.

Greenwood ordinance code section 630 Public Right-of-Ways is hereby repealed in its entirety and replaced with the following new section 630 to read as follows:

### “SECTION 630. PUBLIC RIGHT-OF-WAYS.

#### **Section 630.01. Election to Manage the Public Right-of-Ways.**

In accordance with Minnesota Statutes, section 237.163 subdivision 2(b), the city hereby elects to manage right-of-ways within its jurisdiction. This section shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Session Laws, Chapter 94 amending the Act and the other laws governing applicable rights of the city and users of the right-of-way.

#### **Section 630.02. Definitions.**

Except as provided in the definitions section 1205 of the code, the definitions in Minnesota Rules 7819.0100 are hereby adopted by reference and are incorporated into this ordinance as if set out in full.

#### **Section 630.03. Permit Requirement.**

Subd. 1. Permit Required. Except as otherwise provided herein, no person may obstruct or perform work in any right-of-way, or install or place facilities in any right-of-way, without first having obtained the appropriate permit from the city.

- (a) *Excavation Permit*. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
- (b) *Obstruction Permit*. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
- (c) *Small Wireless Facility Permit*. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

(NOTE: MINN. STAT. § 237.163, SUBD. 13)

Subd. 2. Permit Extensions. No person may obstruct or perform work in the right-of-way beyond the date specified in a permit unless a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000, subpart 3, the city may impose a delay penalty for unreasonable delays in work conducted in the right-of-way. The city council shall establish the amount of the delay penalty from time to time by resolution.

Subd. 4. Permit Display. Permits issued under this section shall be conspicuously displayed or otherwise available for inspection at all times at the indicated work site.

### **Section 630.04. Permit Applications.**

A permit application shall contain the following:

- A. A completed application form, including all required plans or drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following:
- (1) The applicant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
  - (2) A certificate of insurance naming the city as an additional insured, verifying that the applicant is insured against claims for personal injury, death, or property damages associated with work in the right-of-way, and requiring thirty (30) days notice to the city of cancellation or material modification of the policy.
  - (3) If the applicant is a corporation, a copy of the certificate required to be filed under Minnesota Statutes, section 300.06 as recorded and certified to by the Secretary of State.
  - (4) A copy of the applicant's certificate of authority from the Minnesota Public Utilities Commission, or other authorization or approval from the applicable state or federal agency to lawfully operate, to the extent such authority is required by law to have such authorization or approval from said commission or other state or federal agency.
- B. Payment of a Permit Fee covering the city's administrative and management costs and any associated costs of any right-of-way restoration that the city will complete.

### **Section 630.05. Permit Denial & Conditions.**

Subd. 1. Denial of Permit. The city may deny a permit if a completed application is not filed, if the requirements and conditions of this ordinance are not met, or if the city determines that the denial is necessary to protect the health, safety, and welfare or to protect the right-of-way and its current use.

Subd. 2. Conditions. The city may impose reasonable conditions upon the issuance of the permit to protect the health, safety and welfare or to protect the right-of-way and its current use.

Subd. 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

- (a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- (b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- (c) No wireless facility may extend more than 10 feet above its wireless support structure.
- (d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- (e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

(NOTE: MINN. STAT. § 237.163, SUBD. 3B)

Subd. 4. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of fees set forth in chapter 5.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement

between the city and applicant.

(NOTE: MINN. STAT. § 237.163, SUBD. 6G)

### **Section 630.055. Action on Small Wireless Facility Permit Applications.**

Subd. 1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

- (a) are located within a two-mile radius;
- (b) consist of substantially similar equipment; and
- (c) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- (a) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- (b) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
- (c) The city and a small wireless facility applicant agree in writing to toll the review period.

(NOTE: MINN. STAT. § 237.163, SUBD. 3C)

### **Section 630.06. Permit Fees.**

The city council may establish an appropriate permit fee schedule that will be available to the public and set forth in chapter 5 of the code. Unless otherwise agreed to in a franchise, right-of-way permit fees are separate from and in addition to franchise fees imposed on a right-of-way user.

Subd. 1. Excavation Permit Fee. The city shall impose an excavation permit fee in an amount sufficient to recover: management costs; degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The city shall impose an obstruction permit fee in an amount sufficient to recover management costs.

Subd. 3. Small Wireless Facility Permit Fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover: management costs, and; city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

### **Section 630.07. Work Standards.**

All work performed in the right-of-way shall be done in conformance with Minnesota Rules, part 7819.1100, or applicable local requirements.

### **Section 630.08. Right-of-Way Restoration by Permittee.**

Unless otherwise provided in a permit, the permittee shall promptly and fully restore the right-of-way to a condition equivalent to that prior to its work. The permittee shall complete restoration according to Minnesota Rules, part 7819.1100, or such standards as may be specified by the city. If the pavement settles, the permittee shall pay to the city all costs associated with correcting the problem within 30 days of billing. Upon the city's request, the permittee shall post a construction performance bond in accordance with the provisions of Minnesota Rules, part 7819.3000. If the permittee fails to restore the right-of-way as required, the city may exercise its rights under the construction performance bond.

### **Section 630.09. Right-of-Way Restoration by the City.**

The city may choose to restore the right-of-way itself. If the city restores the right-of-way, the permittee shall pay the estimated costs thereof as part of the permit application fee.

### **Section 630.10. Inspection.**

Subd. 1. Notice of Completion. The permittee shall notify the city in writing when the work under a permit is completed.

Subd. 2. Site Inspection. City personnel and others authorized by law may inspect the work-site at any time during or upon completion of the work. At any time, the city may order immediate cessation of work that poses a threat to the life, health, safety or well being of the public.

### **Section 630.11. Work Done Without a Permit.**

Subd. 1. Non-Emergencies. Except in an emergency, any person who obstructs or performs work in a right-of-way without the necessary permit must immediately obtain a permit and pay double the normal permit fee as a penalty.

Subd. 2. Emergency Situations. Any person with facilities in the right-of-way shall immediately notify the city of any emergency in relation to its facilities. Such person may take whatever actions are necessary to respond to the emergency. Such person shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements in this ordinance as soon as is feasible.

### **Section 630.12. Revocation or Denial of Permit.**

Subd. 1. Revocation of a Permit. The city may revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. The permittee's failure to timely respond or implement the approved plan shall be cause for immediate revocation of the permit.

Subd. 2. Denial of a Permit. The city may deny a permit for failure to meet the requirements and conditions of this section 630 or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Subd. 3. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within 3 business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

(NOTE: MINN. STAT. § 237.163, SUBDS. 4(C) AND 5(F)).

### **Section 630.13. Mapping Data.**

Each permittee shall provide mapping information required by the city, including the following:

- A. the location and approximate depth of all facilities, with the location based on:
  - (1) coordinates derived in accordance with the GIS coordinate system being used by the city; or
  - (2) if specifically authorized by the city, based on offsets from property lines, distances from the centerline of the public right-of-way, and curb lines.
- B. the type and size of the facility;
- C. the location of all aboveground facilities;
- D. the location any facilities that have been abandoned; and
- E. a legend explaining symbols, characters, abbreviations, scale, and other data shown on the map.

### **Section 630.14. Location of Facilities.**

Subd. 1 Underground. Except as explicitly permitted by the city, all new or replacement facilities must be installed and maintained underground.

Subd. 2. Additional Requirements. The city may impose additional restrictions on the location, size, design and appearance of any facilities to-be located in the right-of-way. The city may assign specific corridors or locations within the right-of-way for each type of facility to-be located in the right-of-way. Permits issued by the city may designate the proper corridor or location for the facility at issue.

Subd. 3. Prohibited Installations. The city may prohibit the installation or placement of additional facilities within the right-of-way if necessary to protect health, safety, and welfare, or protect the right-of-way and its current use. In making such decision, the city shall be guided primarily by considerations of the public interest, the condition of the right-of-way, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects.

### **Section 630.15. Relocation of Facilities.**

Upon the city's written request, a person with facilities in the right-of-way shall promptly and at its own expense permanently remove and relocate its facilities as necessary to prevent interference in connection with a public project, such as a road improvement, or as the city may deem necessary to further public health or safety.

### **Section 630.16. Right-of-Way Vacation.**

If the city vacates a right-of-way that contains the facilities of a permittee, the permittee's rights in the vacated right-of-way are governed by Minnesota Rules, part 7819.3200.

### **Section 630.17. Indemnification & Liability.**

By applying for and accepting a permit under this ordinance, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules, part 7819.1250.

### **Section 630.18. Abandoned Facilities.**

Any person who has abandoned facilities in any right-of-way shall promptly remove them if necessary to accommodate other right-of-way repair, excavation, or construction.

### **Section 630.19. Appeal.**

A right-of-way user that: (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed upon written request by the city council at its next regular meeting. A decision affirming the denial, revocation, or fee imposition will be writing and supported by written findings.

### **Section 630.20. Reservation of Regulatory and Police Powers.**

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

### **Section 630.21. Permit for Private Use of Publicly Owned Right-of-Way.**

Subd. 1. Purpose. The public welfare requires that the public right-of-ways within the city, including highways, roads, streets and alleys, be reserved for public purposes. Public use of the full width of the right-of-ways is necessary to public safety and the proper and efficient maintenance of the right-of-ways. However, it is recognized that limited private use or encroachment onto the right-of-ways is not necessarily inconsistent with public use. It is the purpose of this ordinance to provide for lawful incidental private use of publicly owned right-of-ways not inconsistent with public use.

Subd. 2. Permit Required. The right to use publicly owned right-of-ways within the city for any private use or purpose other than the primary purpose of public travel, whether such use constitutes substantial or incidental use, may be acquired only through permit granted pursuant to this ordinance. Any private property located within or encroaching upon publicly owned right-of-ways, which has not been authorized in accordance with this ordinance, shall be unlawful and subject to removal. The permit fee shall be determined by the city council and set forth in chapter 5 of this code book.

Subd. 3. Application. Any person may apply to the city council for a permit to keep or maintain private property within a publicly owned right-of-way. The application shall be in writing and must describe with specificity the private property and right-of-way involved, and the nature and extent of the requested encroachment. The city council may grant the permit if it is determined that the use applied for is incidental and not inconsistent with safe and efficient public use. However, no permit will be issued until the applicant has agreed in writing to waive any right to recover from the city for damage occurring to the property located within the right-of-way which may result from the performance of the city or its agents of its public duties required by law.

Subd. 4. Revocation. The city reserves the right to revoke any permit granted under this section as may be required by the public interest.

(SECTION 630 AMENDED OCT 2017 BY ORD 272)"

### **SECTION 3.**

Greenwood ordinance code section 1120.05 R-1A Permitted Uses subd. 4 is amended to read as follows:

"Subd. 4. Conditional Uses.

- (a) Public utilities including such items as electrical distribution station or any such similar structure located above ground.
- (b) Permanent in-ground swimming pools and spas for the use and convenience of the resident and their guests.
- (c) Tennis courts, sport courts.
- (d) Signs as regulated in section 1140 et seq.
- (e) Churches, chapels, synagogues, temples, and similar religious buildings.
- (f) **Small wireless facility and wireless support structure.**
- (g) **Uses mandated in state statutes as conditional uses.”**

**SECTION 4.**

Greenwood ordinance code section 1130.05 C-1 Permitted Uses subd. 3 is amended to read as follows:

“Subd. 3. Conditional Uses:

- a. Food and dry goods retail sales and service.
- b. Hotel, motel, or apartment hotel.
- c. Mortuaries.
- d. Music studios.
- e. Photographic studios.
- f. Interior decorating studios.
- g. Day nurseries or centers provided that they meet the requirements of the State of Minnesota Department of Public Welfare Standards Rule #3 for group day care of pre-school and school age children.
- h. **Small wireless facility and wireless support structure.**
- i. **Uses mandated in state statutes as conditional uses.”**

**SECTION 5.**

Greenwood ordinance code section 1135.05 C-2 Permitted Uses subd. 3 is amended to read as follows:

“Subd. 3. Conditional Principal Uses:

- A. Retail uses that are marina or water related;
- B. Multi-family residential uses (including the platting of condominiums within multi-family buildings with a minimum of not less than 1,500 square feet per residential unit subject to performance standards set forth at section 1135.00 et seq. and section 1140.00 et seq.);
- C. Restaurants (as defined at section 1135.35, subdivision 5);
- D. Multiple permitted principal or conditional principal uses, other than multi-family, on a single tax parcel; and
- E. **Small wireless facility and wireless support structure;**
- F. **Uses mandated in state statutes as conditional uses.”**

**SECTION 6.**

Greenwood ordinance code chapter 5 section 510 fee schedule is amended to add the following fees:

“

Type of License, Permit, or Fee	Section	Fee	Conditions & Terms
Right-of-Way Fees:			
Excavation Permit	630.06	\$250	Paid with permit application.
Obstruction Permit	630.06	\$250	Paid with permit application.
Small Wireless Facility Permit	630.06	\$250	Paid with permit application.
Small Wireless Collocation Agreement Fees	630.05	(a) Up to \$150 per year for rent to collocate on the city structure. (b) \$25 per year for maintenance associated with the collocation. (c) A monthly fee for electrical service as follows: \$73 per radio node less than or equal to 100 maximum watts; \$182 per radio node over 100 maximum watts; or the actual costs of electricity, if the actual cost exceed the foregoing. NOTE: AMOUNTS ARE ESTABLISHED BY MN STATE STATUTE 237.163	

”

**SECTION 7.**

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_ AYES \_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana H. Young, City Clerk

CITY OF GREENWOOD

Debra J. Kind, Mayor

Attest: Dana H. Young, City Clerk

First reading: \_\_\_\_\_, 2017

Second reading: \_\_\_\_\_, 2017

Publication: \_\_\_\_\_, 2017



**City of Greenwood  
Resolution 26-17**

**A RESOLUTION APPROVING PUBLICATION OF ORDINANCE NUMBER 272 BY TITLE AND SUMMARY**

**WHEREAS**, on \_\_\_\_\_, 2017 the city council of the city of Greenwood adopted “Ordinance 272 Amending Greenwood Ordinance Code Section 630 Regarding Right-of-Ways.”

**WHEREAS**, the city council has prepared a summary of ordinance 272 as follows:

1. The purpose of this ordinance is to protect and safeguard the health, safety, and welfare of the public by regulating public right-of-ways (ROW) in accordance with Minnesota law.
2. The ordinance applies to excavations, obstructions, and small wireless facilities located in city ROW.
3. The ordinance addresses permit requirements, application requirements, permit denial and conditions, permit fees, work standards, ROW restoration requirements, inspection details, work done without a permit, revocation or denial of a permit, mapping data, location of facilities, relocation of facilities, right of way vacation, indemnification and liability, abandoned facilities, appeal, reservation of regulatory and police powers, permit for private use of publicly owned ROW.
4. The ordinance adds, “Small wireless facility and wireless support structure” and “Uses mandated in state statutes as conditional uses” as permitted conditional uses in all zoning districts.
5. The ordinance establishes fees for ROW excavation permit, ROW obstruction permit, ROW small wireless facility permit, and ROW small wireless collocation agreement.

**NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD:**

1. The city council finds that the above title and summary of ordinance 272 clearly informs the public of intent and effect of the ordinance.
2. The city clerk is directed to publish ordinance 272 by title and summary, pursuant to Minnesota statutes, section 412.191, subdivision 4.
3. A full copy of the ordinance is available at the Greenwood city office, 20225 Cottagewood Road, Deephaven, MN 55331.

**ADOPTED** by the city council of the city of Greenwood, Minnesota this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_ AYES    \_\_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana H. Young, City Clerk

CITY OF GREENWOOD  
Debra J. Kind, Mayor  
Attest: Dana H. Young, City Clerk  
First reading: \_\_\_\_\_, 2017  
Second reading: \_\_\_\_\_, 2017  
Publication: \_\_\_\_\_, 2017



Agenda Number: **7C**

Agenda Date: 11-01-17

Prepared by Deb Kind

**Agenda Item:** Consider: Sending Lot Size Ordinance to Planning Commission for Public Hearing and Recommendation

**Summary:** Since November 2016, the city council has been working on the concept of an ordinance that regulates properties based on the size of the lot instead of lot location. The intent is to reduce the severity and number of variance requests in addition to setting reasonable expectations for owners and potential owners of smaller lots. The latest draft of the ordinance based on the 06-07-17 council discussion is attached. At the 08-02-17 city council meeting, the council directed Councilman Cook and Councilman Fletcher to review how the proposed ordinance would affect real-life properties and report back to the city council. Below is the updated timeline for the ordinance.

**Updated Timeline:**

- ~~11-02-16 The city council reviewed the first draft of the ordinance.~~
- ~~12-07-16 The city council reviewed a revised draft of the ordinance and directed that further revisions be made.~~
- ~~01-04-17 The city council reviewed a revised draft of the ordinance and directed that further revisions be made~~
- ~~02-01-17 The city council reviewed a revised draft of the ordinance and directed that further revisions be made~~
- ~~02-15-17 The planning commission reviewed the draft ordinance and expressed general support for the concept.~~
- ~~04-19-17 The city council and planning commission discussed potential changes to the ordinance at a joint worksession.~~
- ~~05-03-17 The city council held a worksession with the city attorney and city zoning administrator.~~
- ~~06-07-17 The city council reviewed a revised draft of the ordinance and directed that further revisions be made~~
- ~~08-02-17 The city council reviewed a revised draft of the ordinance and directed Councilman Cook and Fletcher to review how the proposed ordinance would affect real-life properties.~~
- 11-01-17 The city council will consider sending the ordinance to the planning commission for a public hearing and recommendation.
- 11-02-17 Deadline for submitting public hearing notice to newspapers.
- 11-06-17 Public hearing notice published in Finance & Commerce to meet 10-day notice requirement.
- 11-09-17 Public hearing notice published in Sun-Sailor.
- 11-15-17 Planning commission holds public hearing and makes a recommendation to the city council.
- 12-06-17 City council considers 1st reading of the ordinance (may make revisions / may waive 2nd reading).
- 12-07-17 If the 2nd reading is waived, the ordinance is submitted to the Sun-Sailor for publication.
- 12-14-17 If the 2nd reading is waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).
- 01-03-18 City council considers 2nd reading of the ordinance (may make revisions).
- 01-04-18 The ordinance is submitted to the Sun-Sailor for publication.
- 01-11-18 The ordinance is published in the Sun-Sailor (goes into effect on this date).

**Council Action:** No action required. Potential motions ...

1. I move the city council directs the planning commission to hold a public hearing at their 11-15-17 meeting and make a recommendation regarding the latest draft of the lot size ordinance.
2. Do nothing or other motion ???

*Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. The 2nd reading may be waived by a unanimous vote of city council members present at the meeting. In order to publish an ordinance by title and summary the ordinance must be approved by a 4/5ths vote. Ordinances go into effect once they are published in the city's official newspaper. The planning commission must review and make a recommendation to the city council regarding any changes to the zoning code chapter 11. A public hearing, typically held by the planning commission, also is required for changes to chapter 11.*

Blue = New text added to the clean copy discussed at the 6/7/17 worksession.  
~~Red Strikethrough~~ = Text deleted from the clean copy discussed at the 6/7/17 worksession.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA  
AMENDING GREENWOOD ORDINANCE ZONING CODE CHAPTER 11 TO SIMPLIFY  
AND REGULATE BASED ON LOT SIZE**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code sections 1115.00 through 1125.25 are amended to read as follows:

**“Section 1115.00. Zoning Districts.**

Subd. 1. Establishment of Districts. For the purpose of this ordinance, the city is divided into the following districts:

- R-1 Single-Family Residential District
- C-1 Office and Institutional District
- C-2 Lake Recreation District

Subd. 2. Zoning Map. The boundaries of the districts established by this ordinance are delineated on the zoning map; said map and all notations, references, and data shown thereon are hereby adopted and made part of this ordinance and will be on permanent file, and for public inspection, in the city office of the zoning administrator. It shall be the responsibility of the zoning administrator and staff to maintain said map, and amendments thereto shall be recorded thereon within 30 days after official publication of amendments.

Subd. 3. District Boundaries. The boundaries between districts are, unless otherwise indicated, either the centerlines of streets, alleys, or railroad rights-of-way, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street and a district boundary line runs parallel to the street at a distance therefrom equivalent to the number of feet stated unless otherwise indicated.

(INSERT NEW MAP SHOWING ALL PREVIOUS R-1A, R-1B, R-1C,  
AND R-2 PROPERTIES IN THE NEW R-1 ZONING DISTRICT)

**SECTION 1120. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

**Section 1120.00. Purpose.**

The intent of this district is to provide a zone for single-family dwellings for the purpose of creating a ~~quality~~ residential community with regulations based on lot size.

**Section 1120.01. Development History & Community Character**

The city of Greenwood was originally developed early in the 20th century with a number of small lots with and without lakeshore to provide seasonal homes sites. These lots were intended to be developed with small homes and cabins to enhance the lake experience. As time passed, these seasonal properties were replaced by permanent homes, many with larger dimensions. This development pattern led to a number of unique lot shapes (e.g. small lots, flag lots, and long narrow lots) that do not easily fit into numeric standards. ~~The variance process in section 1155 is used to address unique lots and balance the property owner's wants with the community's needs. Considerations include but are not limited to the following: impact on environment, topography, steep slopes, vegetation, lakes, ponds, streams, and susceptibility to erosion and sedimentation.~~

The character of the initial development provided a natural setting on the lake or near the lake to allow property owners and others to enjoy the lake setting. Numeric requirements for lake yard setbacks and impervious surface percentages were established, in part, to maintain open spaces around the lake and to maintain the character and setting of the original development.

On December 1, 1992, the city adopted the shoreland management district ordinance (section 1176) to comply with Minnesota state law to protect the waters of Lake Minnetonka. The entire city is located within the shoreland management district.

## **Section 1120.02. Public Health, Safety & Welfare**

Setbacks are established to provide important separation between adjacent structures, between structures and streets, and between structures and lakeshore. Reasons for setbacks include, but are not limited to: (1) Prevention of overhanging eaves and other above-ground encroachments onto adjacent properties. (2) To provide space for drainage requirements. (3) To provide adequate access to structures for fire and police inspections and protection. (4) To provide adequate sight lines for vehicles and pedestrians on streets. (5) To protect water quality. (6) To maintain the character of the community.

## **Section 1120.03. Existing Development Rights**

Existing lots with existing structures may have “grandfathered rights” that supersede those requirements listed in this zoning ordinance. The existing impervious surface percentages under this code, setback dimensions, lot dimensions, building height dimensions, and volume may be accepted as “grandfathered,” but variances may be required to document these conditions when new construction or new additions are desired on these properties.

## **Section 1120.05. R-1 Permitted Uses.**

No building shall be used or shall hereafter be erected, altered or converted in any manner, except as provided in section 1120 et seq. Permitted uses shall be:

### Subd. 1. Principal Uses.

- (a) Single-family detached dwellings (excluding the leasing or renting of rooms).
- (b) Open area, parks and playgrounds owned and operated by a public agency, or by a home association for a subdivision or neighborhood.
- (c) Residential subdivisions, including streets, lighting, sanitary sewer service, and water service.
- (d) Uses mandated in state statutes as permitted uses.

### Subd. 2. Primary Accessory Uses.

- (a) Private detached garages.
- (b) Tool house, sheds, and similar storage areas for domestic supplies.
- (c) Commonly accepted municipal playground equipment, and park shelter buildings.
- (d) Boat docks.
- (d) Home occupations as regulated by section 480.
- (e) Signs as regulated in section 1140 et seq.

### Subd. 3. Secondary Accessory Uses.

- (a) Off-street parking, driveways, parking pads.
- (b) Play structures, swing sets.
- (c) Patios, decks, slabs, sidewalks.
- (d) Air conditioners, generators.
- (e) Fire pits, outdoor fireplaces, outdoor kitchens for the use and convenience of the resident and their guests.
- (f) Freestanding swimming pools, hot tubs, spas for the use and convenience of the resident and their guests.
- (g) Pergolas, arbors, trellises.

### Subd. 4. Conditional Uses.

- (a) Public utilities including such items as electrical distribution station or any such similar structure located above ground.
- (b) Permanent in-ground swimming pools and spas for the use and convenience of the resident and their guests.
- (c) Tennis courts, sport courts.
- (d) Signs as regulated in section 1140 et seq.
- (e) Churches, chapels, synagogues, temples, and similar religious buildings.
- (f) Uses mandated in state statutes as conditional uses.
- (g) Theater with attached restaurant as regulated under section 1123 et seq and specifically limited to the common use of Hennepin County PID numbers 26-117-23-31-0028, 26-117-23-31-0036, and 26-117-23-34-0001.

**Section 1120.10. R-1 Lot Dimensions.**

The following required lot area, width, and depth regulations shall be considered as minimum standards for lot dimensions:

	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth
Minimum sizes for lots <b>after subdivision</b> (see subdivision section 600)	<del>15,000 sq ft</del> 20,000 sq ft	75 ft <del>street frontage for off-shore lots.</del> 75 ft lake frontage for lakeshore lots.	150 ft
Minimum sizes for remaining lot when a portion is <b>accreted</b> onto a neighboring lot (see simple subdivision section 600.07)	15,000 sq ft	75 ft	150 ft
Minimum sizes for <b>existing</b> lots of record for building a single-family home (see section 1120.22)	6750 sq ft	40 ft at the building line	No minimum lot depth

**Section 1120.15. R-1 Setbacks & Impervious Surfaces.**

The following shall be considered as setback and impervious surface standards:

	Front* Yard Setback	Side Yard Setback	Exterior Side Yard Setback (Corner Lot)*	Rear Yard Setback	Lake Yard Setback	Impervious Surface Coverage
Single-Family Principal Structure	30 ft 15 ft for properties with a lake yard	<del>7.5 ft plus</del> 0.1 foot for each foot of lot width <del>up to 7.5 ft</del> ** (8 ft min)	30 ft for lots with area of 15,000 sq ft + Lot <del>size</del> area x .002 for lots less than 15,000 sq ft *** (16ft min)	30 ft 15 ft for properties with a lake yard	50 ft	30% for lots with area of 15,000 sq ft + <del>15,000 minus lot size x .001 + 30%</del> for lots less than <del>15,000sf</del> ****
Accessory Structures	See section 1140.10 for Accessory Structures and Uses (primary and secondary) Setbacks and General Regulations					For lots less than 15,000 sq ft, the impervious surface coverage is the total lot area x .001 subtracted from 43 ****

\* If the property abuts two public right-of-ways (corner lots), the city zoning administrator will determine which yard is the front yard and which yard is the exterior side yard. For properties with a lake yard, the front yard typically is the yard with the driveway.

\*\* For example, the minimum side yard setback for a lot that is 80 ft ~~50ft~~ wide at the building would be 8 ft ~~12.5ft~~:  
 $80 \times .1 = 8 \text{ ft}$   ~~$50 \times 0.1 = 5 + 7.5 = 12.5$~~   
 If the lot narrows along the building side, the side yard setbacks would adjust accordingly. For example, a side yard setback could be 10 ft at the front corner of the house and 8 ft at the back corner of the house.

\*\*\* For example, the minimum exterior side yard setback for a 10,700 sq ft lot would be 21.4 ft:  $10,700 \times .002 = 21.4$

\*\*\*\* For example, the maximum hardcover for a 10,700 sq ft lot would be ~~32.3%~~ ~~34.3%~~:  $10,700 \times .001 = 10.7$  and  $43 - 10.7 = 32.3$   ~~$(15,000 - 10,700 = 4,300) \times .001 = 4.3\% + 30\% = 34.3\%$~~

## Section 1120.20. R-1 Building Standards.

Subd. 1. Principal structures (new construction or new additions) in the district shall:

- (a) Not exceed 28 ft in building height and 42 ft in structure height.
- (b) Not have a wall height that exceeds double the setback distance within 15 ft of the side property line.  
For example, the maximum wall height for a principal structure located 8 ft from the property line is 16 ft.
- (c) Have a minimum width of 25 ft.
- (d) Have a minimum footprint area of 1,450 sq ft including the attached or detached garage square footage.
- (e) Have an attached or detached 2-car garage and a hard-surfaced (see section 1140.46) driveway to the public street.
- (g) Meet all current standards of city building codes and appendices.

Subd. 2. Properties that require variances from setback and / or impervious surface requirements in order to meet the building standards listed in subdivision 1 above may qualify for the “practical difficulty” standard for the consideration of variances (see section 1155).

Subd. 3. Primary accessory structures (new construction or new additions) in the district shall:

- (a) be limited to 1 private garage, and 1 tool house shed or similar storage building per principal structure;
- (b) not exceed 15 feet in building height;
- (c) have a maximum combined main floor space of all primary accessory structures on the lot of 1,000 square feet or 60% of the total at-grade, main floor square footage of the principal structure including attached garage square footage – whichever is less;
- (d) meet all current standards of city building codes and appendices.

## Section 1120.22. R-1 Lots of Record.

Subd. 1. A “lot of record” is a lot filed in the office of the Hennepin county register of deeds on or before December 1, 1992.

Subd. 2. A lot of record shall be allowed as a single-family residential building site, provided:

1. The lot is 6750 sq. ft. or greater;
2. The lot width at the building line is 40 ft. or greater;
3. The lot is in separate ownership from abutting lots; and
4. ~~The lot is able to be connected to a public sewer.~~ The lot has access to a public sewer.

Subd. 3. Any vacant lot of record that is less than 15,000 sq. ft. and abuts another lot (vacant or with a habitable residential dwelling) that is under the same ownership must be combined with the abutting lot and must not be considered as a separate parcel for the purposes of sale or development.

Subd. 4. Abutting lots of record that are ~~less than 15,000 sq. ft. and are~~ under a common ownership ~~must may be able to~~ be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership, ~~each habitable dwelling is maintained~~, and the lots are connected to a public sewer.

Subd. 5. A portion of land may be accreted from a lot of record and combined with a second abutting lot of record as long as the remainder of the first lot is 15,000 sq. ft. or greater and the property remains otherwise zoning code compliant. See simple subdivision section 600.07.

## Section 1120.25. R-1 General Regulations.

Additional requirements for the R-1 district are set forth in section 1140 et seq. of this ordinance.

# SECTION 1123. REGULATIONS FOR THEATER WITH ATTACHED RESTAURANT

## Section 1123.00. Purpose.

The purpose of this section is to establish regulations that allow the continuing operation of an established theater with attached restaurant in the manner it has been used historically heretofore and providing for possible enlargement of facilities and / or intensification of established uses by conditional use permit first obtained in a manner that is compatible with the surrounding residential community and provides flexibility to address changing business conditions.

**Section 1123.15. Setbacks and Hardcover for Theater with Attached Restaurant.**

Land Use	Front Yard (Southerly Yard - Parking Lot)	Side Yard (Easterly Yard - Trail)	Exterior Side Yard (Westerly Yard)	Rear Yard (Northerly Yard - Pond)	Hardcover
Theater with Attached Restaurant	180 feet	15 feet	50 feet	Per Watershed Rules	Not more than 30% of lot area shall be occupied by buildings and / or impervious surfacing
Theater with Attached Restaurant <u>Primary</u> Accessory Structures	180 feet	10 feet	35 feet	Per Watershed Rules	
Theater with Attached Restaurant <u>Secondary</u> Accessory Structures	See section 1140.10 subd. 2C for Setbacks and General Regulations for Secondary Accessory Structures and Uses				

**Section 1123.25. Lawful Use or Occupation of the Land or Premises Commonly Known as The Old Log Theater (Theater with Attached Restaurant), 5185 Meadville Street, Greenwood, Minnesota, (Hennepin County PID Nos. 26-117-23-31-0028, 26-117-23-31-0036, and 26-117-23-34-0001), Existing at the Time of the Adoption of this Control.**

Subd. 1. Findings. After review and investigation, the city adopted resolution 31-13 which sets forth findings on the established use and manner to which the “Theater with Attached Restaurant” property commonly known as the Old Log Theater, 5185 Meadville Street, Greenwood, Minnesota, (Hennepin County PID numbers 26-117-23-31-0028, 26-117-23-31-0036, and 26-117-23-34-0001), has historically been put. Said resolution is intended to serve as the factual basis for the terms and conditions of conditional use regulation under section 1123 et seq. related thereto.

Subd. 2. Authorized Use. The following enumeration of business practices, excerpted from resolution 31-13, describes the manner to which use of the Old Log Theater (described in subd. 1, above), may, as of the adoption of this control (12-04-13), be put:

- (a) Public business hours for theater performances, on-site food service, ticketing, and the business office shall be between 8am and 11pm. Special events may be between 8am and 12midnight.
- (b) Liquor service shall comply with the city’s liquor ordinances (section 820).
- (c) With the exception of noise-creating activities, there are no restrictions on hours for supporting activities necessary to the Old Log’s operations, including: office, scene shop, cleaning, and food preparation.
- (d) Noise-producing activities such as building, landscaping, and scenery construction, shall be limited to between 8am and 8pm, Monday-Saturday.
- (e) General deliveries, garbage collection, and food service truck deliveries shall be limited to between 8am and 8pm.
- (f) In addition to live theater performances, the Old Log may host special events (e.g. concerts, weddings, and private / public events) on the Old Log campus as desired. However, the parking lot shall not be employed for purposes other than parking. Noise related to special events shall be managed so as not to adversely impact neighboring residential properties. Special event revenue is estimated to be 25% of total annual revenue.
- (g) The Old Log’s kitchen, dining room, and bar may offer service to the public independent of theater performances during the public business hours stated in (a) above.
- (h) Box lunches may be consumed on the grounds.
- (i) Parking of all vehicles, including buses, shall be on site 95% of the need. Buses shall be turned off while parked and may idle 10 minutes prior to boarding passengers. Except in cold weather buses may idle more frequently as needed.
- (j) Outdoor events shall not employ amplified music.

**Section 1123.30. Events Necessitating a Conditional Use Permit Be Obtained Relative to Section 1120.05 Subd 4(g), Theater with Attached Restaurant.**

Subd. 1. Conditional Use Permit Required. Subject to the rights granted property owners under Minnesota statute 462.357 Subd.1e (a), which provides, in part, that “any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion,” any one or more the following events related to the “Theater with Attached Restaurant” property commonly known as the Old Log Theater, 5185 Meadville Street, Greenwood, Minnesota, (Hennepin County PID numbers 26-117-23-31-0028, 26-117-23-31-0036, and 26-117-23-34-0001) shall require a conditional use permit be first obtained:

- (A) Request for a building permit or zoning approval for physical expansion of any existing building or the addition of impervious surface to said property beyond what existed as of the adoption of this control.
- (B) Any change to the manner of use of said property as authorized in section 1123.25, subd. 2.

**Section 1123.35. Minimum Building Requirements for Permitted Conditional Uses Under Section 1120.05 Subd 4(g), Theater with Attached Restaurant.**

Subd. 1. Conditional permitted principal structures and associated accessory structures authorized under section 1120.05 subd 4(g) shall, in addition to other restrictions of this ordinance and any other applicable ordinances of the city, meet the following standards:

- (1) Principal buildings structures shall be limited to 1 in number and shall not exceed 28 feet in building height or more than 42 feet in structure height and shall be built in conformance with this code and current applicable building code.
- (2) Accessory buildings / structures shall be limited to 4 in number plus 1 gazebo and individually shall not be greater than 15 feet in building height or more than 28 feet in structure height. In no event shall the accessory buildings combined exceed 60% of the total at grade, main floor square footage of the principal theater building / structure,
- (3) Subject to variance, under the practical difficulties standard, all additions to the principal theater building and supporting accessory buildings / structures shall be constructed of the same materials or higher quality materials and shall reasonably conform to the architecture of the buildings in existence as of the adoption of this control (12-04-13).
- (4) All exterior finishes on any building shall be any single one or combination of the following:
  - a. Face brick,
  - b. Natural stone,
  - c. Wood which meets appropriate fire codes and has been reviewed by the planning commission and approved by the city council,
  - d. Any other exterior finish that has been reviewed by the planning commission and approved by the city council, In no event shall precast concrete units, including those with surfaces that have been integrally treated with an applied decorative material or texture be employed for exterior finishes, provided that in no event shall proposed exterior finishes matching an existing building be deemed unacceptable.
- (5) Architectural Compatibility. Building structure, design, and exterior finish materials, including exterior remodeling projects, are subject to review by the planning commission and the city council for acceptability of proposed materials, architectural compatibility with the residential R-1 district and its established past historic use, and to determine whether the proposal is in keeping with the predominately residential character of the surrounding neighborhoods, local public amenities, and the city in general. Building appearance will be considered from a 360° perspective.

**Section 1123.40. Regulation and Imposition of Conditions on Permitted Conditional Uses Authorized Under Section 1120.05 Subd 4(g), Theater with Attached Restaurant.**

Subd. 1. Permitted Conditions. In addition to the conditions related to public health, safety, and welfare that the council may impose on conditional uses under section 1150, in considering and issuing or amending a conditional use permit for a "Theater with Attached Restaurant" under section 1120.05 subd 4(g) the council may impose conditions related to the use of the buildings and structures and operation of any the business operated upon the property including, but not limited to, any of the following:

- A. Odor regulation and management
- B. Noise limits and management
- C. Limits on operational hours
- D. Traffic management and control
- E. Outdoor lighting
- F. Employee parking
- G. Delivery routes and service vehicles including service times and weight restrictions
- H. Refuse collection and related issues including service times and weight restrictions
- I. Carry-out food service
- J. Catering service
- K. Repair and maintenance of public roads burdened by theater related traffic
- L. Alcohol
- M. Outdoor events
- N. Number, size, and location of buildings and accessory structures."

SECTION 2.

Greenwood ordinance code section 1145.00 nonconformities paragraphs (d) through (h) and (j) are deleted in their entirety.

SECTION 3.

Greenwood ordinance code section 1176.04 subd. 3 is amended to read as follows:

“Subd. 3. Minimum Lot Size, Width, Building Height, and Impervious Coverage.

(1) *Dimensions.* All single lots created after December 1992 must meet or exceed the following dimensions:

	Riparian and Non-Riparian Lots	Office District	Lake Recreation District
	R-1	C-1	C-2
Lot Area (sq. ft.) abutting water and not abutting water	15,000	10,000	10,000
Lot Width at building line (ft.)	75	75	75
Building Setback from OHWL (ft.)	50	50	50
Maximum Building Height	28	35	30*

\* The 30-foot building height limit within the C-2 lake recreation district is subject to the following exception: The maximum building height for multi-family residential structures of 8 units or greater may exceed 30 feet but shall not be greater than 32 feet for structures with gabled roofs of not less than 5/12; pitch; all other roof / building design or uses within the C-2 district shall not exceed 30 feet in height. See section 1102 for definition of “building height.”

(2) *Exceptions to Setbacks.* Setback requirements from the ordinary high water level shall not apply to authorized secondary accessory structures, boathouses, and docks.

(3) *Impervious Coverage.*

- a) Impervious surface coverage in all residential districts as expressed as a percentage of the lot area, shall not exceed the standards set forth on the table in section 1120.15.
- b) Impervious surface coverage in all commercial districts, expressed as a percent of the lot area, shall not exceed 30%, provided that because of the additional hardcover required for typical commercial developments, the maximum impervious surface in commercial districts may be increased to a maximum of 75% with a conditional use permit first obtained under sections 1150 and 1176.07 of this code, supported by an applicant prepared stormwater management plan meeting the approval of the city engineer. The city engineer, planning commission, and / or city council ~~may~~ will require an applicant to implement stormwater management practices deemed necessary to control and minimize or control stormwater and off site runoff, including but not limited to, rain gardens, holding ponds, reductions in proposed impervious surfaces, and other accepted stormwater management techniques and methods.”

SECTION 4.

Greenwood ordinance code section 1176.04 subd. 10 is amended to read as follows:

“Subd. 10. Lots of Record. See section 1120.22.”

SECTION 5.

Greenwood ordinance code section 1176.07.05 subd. 4 (1) is amended to read as follows:

“Subd. 4. Impervious Surface Policies and Conditions.

- 1. Variance applicants with total impervious surface coverage in excess of the percentage shown on the table in section 1120.15 shall have the burden of proof to establish that the excess is a *legal* nonconforming use by showing evidence that the excess was in existence prior to the adoption of the Shoreland Management Ordinance (December 1992), or by showing the excess was subsequently approved by the city. If no such evidence exists, the city council may require the property owner to reduce impervious surfaces as a condition of variance approval.”

SECTION 6.

Greenwood ordinance code section 1102 Definitions is amended to revise or add the following definitions:

Structure Height means ~~the sum total of building height and the vertical height above the roofline of all structures.~~ the vertical distance between the building perimeter grade and the highest projection of the structure (e.g. roof peak, chimney, etc)."

Wall Height is the vertical height measured from the building perimeter grade for the applicable side of the structure to the top of the vertical wall."

SECTION 7.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_ AYES \_\_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Dana H. Young, City Clerk

First reading: \_\_\_\_\_, 2017  
Second reading: \_\_\_\_\_, 2017  
Publication: \_\_\_\_\_, 2017



**Agenda Number: 8A**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** Requests to MnDOT for Installation of Engine-Braking Signs on Westbound Hwy 7 & Changing Timing of the Christmas Lake Rd Traffic Signal

**Summary:** In response to concerns raised by an Excelsior Blvd resident, the Greenwood city council approved an ordinance on 09-06-17 to prohibit engine-braking in the city.

In response to concerns raised by Excelsior residents, Excelsior City Manager Kristi Luger contacted Mayor Kind to see if the Greenwood city council has done anything to address the timing of the traffic signal light at Christmas Lake Road to get on eastbound Hwy 7. An unofficial observation of the intersection is that it takes about 5 minutes between light changes and the light is so short that it is difficult for more than 5 vehicles to make a left turn onto Hwy 7. It is worse if there are pedestrians using the crosswalk or there is traffic crossing Hwy 7 from the Shorewood side.

At the 10-04-17 meeting, the city council authorized Councilman Fletcher and Mayor Kind to contact the Minnesota Department of Transportation to request that MnDOT post "No Engine-Braking" signage along Hwy 7 in Greenwood and adjust the timing of the Christmas Lake Road traffic signal. Attached is the letter sent to Andrew Lutaya at MnDOT. Mr Lutaya confirmed that he received the letter. As of the council packet deadline, there is nothing new to report from Mr. Lutaya. Fletcher and Kind will update the council at the 11-01-17 meeting.

**Council Action:** None required.



October 9, 2017

Minnesota Department of Transportation  
Attn: Andrew Lutaya, P.E.  
West Area Engineer  
MnDOT - Metro

SENT VIA EMAIL  
andrew.lutaya@state.mn.us

**Re: Engine-Braking Signage and Timing of Christmas Lake Traffic Signal in Greenwood**

Dear Mr. Lutaya,

To address concerns raised by residents who live on Excelsior Blvd where it parallels closely to Highway 7 in Greenwood, our city council recently approved an ordinance to prohibit engine braking in the city. To inform truckers, we respectfully request that MnDOT install "No Engine Braking" signage along westbound Highway 7 in Greenwood. According to Chief Falls of Minnetrista, their engine-braking complaints have reduced since MnDOT installed signs along Highway 7. We understand that signage will not stop all engine braking, but we hope the signage will help reduce the amount of engine braking in the city.

In addition, over the years the city has received complaints regarding the timing of the light at the intersection of Christmas Lake Road and Highway 7. We also were recently contacted by Excelsior City Manager Kristi Luger who has received complaints regarding the timing of the light from Excelsior residents. The current cycle between green lights for vehicles waiting on Christmas Lake Road is very long, and when the light does turn green, only a few cars are able to cross or make left turns onto Highway 7. We respectfully request that MnDOT adjust the timing of the light to reduce the amount of time between cycles and to allow more cars from Christmas Lake Road to cross or turn onto Highway 7 during their light cycle.

The Greenwood city council authorized Councilman Tom Fletcher and me to contact MnDOT regarding these issues. You may contact Tom at [tfletcher@aexcom.com](mailto:tfletcher@aexcom.com) or 952.224.5550. You may contact me at 612.718.6753 or [dkind100@gmail.com](mailto:dkind100@gmail.com).

Sincerely,

A handwritten signature in black ink that reads "Debra J. Kind". The signature is written in a cursive, flowing style.

Mayor Debra J. Kind  
and the Greenwood City Council



**Agenda Number: 9A**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** Capital Improvement Plan for City Docks

**Summary:** During budget workession discussions, the council directed that Councilman Cook review the city dock replacement alternatives and come back to the city council with a recommendation for a dock type and capital improvement plan to ensure funds are in place when dock replacement is needed. Councilman Cook will present an update at the 11-01-17 city council meeting.

**Council Action:** None required.



**Agenda Number: 9B**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** Amendments to St. Alban's Bay Lake Improvement District Joint Cooperation Agreement

**Summary:** Per MN Statute 13B.501 (see highlighted text on page 6 of the attached file), "at the annual meeting the district property owners present shall ... approve the budget for the fiscal year; approve or disapprove proposed projects by the SABLID having a cost to the district in excess of \$5000 ..."

In addition, "Each year the board of directors shall prepare and file a report of the financial conditions of the district, the status of all projects in the district, the business transacted by the district, other matters affecting the interests of the district, and a discussion of the directors' intentions for the succeeding years. Copies of the report shall be transmitted to the county board, city councils within the district, the commissioner of natural resources, and the Pollution Control Agency by four months after the annual meeting."

The attached redlined Joint Cooperation Agreement includes the above changes in addition to other changes per the discussion at the SABLID Annual Meeting held on 10-10-17.

**Council Action:** None required. Suggested motion ...

I move the Greenwood city council approves the St. Alban's Bay Joint Cooperation Agreement III dated 10-22-17 and (1) directs that a copy of the document be sent to the SABLID secretary for distribution to the SABLID board; and (2) directs that a copy of the document be sent to the Excelsior city council for their approval.

Do nothing or other motion ???

## LAKE IMPROVEMENT DISTRICTS

### 103B.501 LAKE IMPROVEMENT DISTRICTS.

Sections [103B.501](#) to [103B.581](#) may be cited as the "Lake Improvement District Law."

**History:** [1990 c 391 art 2 s 30](#)

### 103B.505 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections [103B.505](#) to [103B.581](#).

Subd. 2. **Board.** "Board" means county board.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 4. **District.** "District" means a lake improvement district.

Subd. 5. **Joint county authority.** "Joint county authority" means a joint county authority formed by county boards under section [103B.525](#).

Subd. 6. **Property owner.** "Property owner" means the owner of real property within the district or the buyer under contract for deed of property in the district.

**History:** [1990 c 391 art 2 s 31](#)

### 103B.511 ADMINISTRATION BY COMMISSIONER.

Subdivision 1. **Purpose.** (a) To preserve and protect the lakes of the state and to increase and enhance the use and enjoyment of the lakes it is in the public interest that a statewide lake improvement program is established to: preserve the natural character of lakes and their shoreland environment where feasible and practical; improve the quality of water in lakes; provide for reasonable assurance of water quantity in lakes, where feasible and practicable; and to assure protection of the lakes from the detrimental effects of human activities and certain natural processes. The commissioner shall coordinate and supervise a local-state program for the establishment of lake improvement districts by counties for lakes located within their boundaries, based on state guidelines and rules and compatible with all state, regional, and local plans where the plans exist.

(b) In administration of this program, the commissioner of natural resources shall consult with and obtain advice from other state agencies on the aspects of the program over which the agencies have specific legislative authority, including the Department of Health and the Pollution Control Agency.

Subd. 2. **Rules.** The commissioner shall adopt permanent rules to provide guidelines, criteria, and standards for the establishment of lake improvement districts by counties.

**History:** [1990 c 391 art 2 s 32](#); [1995 c 233 art 2 s 56](#)

### 103B.515 INITIATION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. **Resolution of intent.** The county board may initiate the establishment of a lake improvement district in a portion of the county under this section. The board must adopt a resolution declaring the intent of the board to establish a lake improvement district. The resolution must:

- (1) specify the boundaries of the district, which shall be encouraged to be as consistent as practical with natural hydrologic boundaries;
- (2) prescribe the water and related land resource management programs to be undertaken in the district;
- (3) state how the programs will be financed;
- (4) designate the county officer or agency that will be responsible for supervising the programs; and
- (5) set a date for a hearing on the resolution.

Subd. 2. **Notice to town board.** The county board shall, at least 30 days before making an order establishing a lake improvement district, send the town board of a town wholly or partially within the boundaries of the proposed district a copy of the resolution and encourage the town board to respond to the proposed creation of the district.

Subd. 3. **Hearing.** The county board must hold a public hearing on whether a lake improvement district should be established. Before the date set for the hearing, any interested person may file objections to the

formation of the district with the county auditor. At the hearing, any interested person may offer objections, criticisms, or suggestions about the necessity of the proposed district and how the person's property will be benefited or affected by the establishment of the district.

**Subd. 4. Establishment.** (a) The county board may establish a lake improvement district, by order, after making findings, if the board determines that the:

(1) proposed district is necessary or that the public welfare will be promoted by the establishment of the district;

(2) property to be included in the district will be benefited by establishing the district; and

(3) formation of the district will not cause or contribute to long-range environmental pollution.

(b) The order establishing the district must state the board's findings and specify or prescribe the items contained in subdivision 1, clauses (1) to (4).

**History:** 1990 c 391 art 2 s 33

### **103B.521 INITIATION BY PETITION AND ESTABLISHMENT BY COUNTY BOARD.**

**Subdivision 1. Petition.** (a) A lake improvement district may be initiated by a petition to the county board. The petition must state:

(1) the name of the proposed lake improvement district;

(2) the necessity of the proposed district to promote public health or public welfare;

(3) the benefits to property from the establishment of the lake improvement district;

(4) the boundaries of the proposed district which shall be encouraged to be as consistent as possible with natural hydrologic boundaries;

(5) a map of the proposed district;

(6) the number, from five to nine, of directors proposed for the district; and

(7) a request for establishing the district as proposed.

(b) A petition must be signed by a majority of the property owners within the proposed lake improvement district described in the petition. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

(c) The petition must be filed with the county auditor and addressed to the board, requesting the board to establish a lake improvement district to develop and provide a program of water and related land resources management.

(d) The county board shall, at least 30 days before it acts on a petition, send the town board of a town wholly or partially within the boundaries of a proposed district a copy of the petition submitted under this subdivision and encourage the town board to respond to the proposed creation of the district.

**Subd. 2. Hearing.** After receiving the petition, the county auditor must verify the signatures and notify the county board. Within 30 days after being notified of the petition, the county board must hold a public hearing on whether the requested lake improvement district should be established.

**Subd. 3. Establishment.** Within 30 days after holding the public hearing, the county board shall, by order, establish or deny the establishment of the petitioned lake improvement district. An order establishing a district must conform to section 103B.535 and may modify the petition relating to the district's boundaries, functions, financing, or organization.

**History:** 1990 c 391 art 2 s 34; 2003 c 91 s 1

### **103B.525 ESTABLISHMENT OF DISTRICT IN MORE THAN ONE COUNTY.**

Where the natural hydrologic boundaries of a proposed district extend into more than one county, the county boards of the counties affected may form a joint county authority and establish and maintain a lake improvement district jointly or cooperatively as provided in section 471.59. The district may be initiated by the joint county authority in the same manner as by a county board under section 103B.515 by petition to the affected county boards.

**History:** 1990 c 391 art 2 s 35

**103B.531 CREATION BY COMMISSIONER OF NATURAL RESOURCES.**

Subdivision 1. **Petition to commissioner.** If the county board of one or more of the counties affected has disapproved a petition for creation of a lake improvement district for an area, a petition for creation of a lake improvement district containing information required by section [103B.521, subdivision 1](#), may be submitted to the commissioner of natural resources.

Subd. 2. **Determination to hold hearing.** Upon receipt of the petition by the commissioner and verification of the signatures on the petition by the county, the commissioner may, within 30 days following verification, hold a public hearing at the expense of the county board on the question of whether the requested lake improvement district shall be established. The commissioner, in determining whether to hold a public hearing, shall examine all facts relating to the petition, including the reasons why the petition was disapproved by the county.

Subd. 3. **Approval or denial of petition.** (a) If a hearing is not to be held, within 30 days following the receipt of verification by the county, or within 30 days following the holding of a hearing, the commissioner shall, by order, approve or disapprove the establishment of the requested lake improvement district.

(b) If the commissioner determines that the establishment of the lake improvement district as requested in the petition would be for the public welfare and public interest, and that the purposes of section [103B.511, subdivision 1](#), would be served by the establishment of a lake improvement district, the commissioner shall by order approve the establishment of the lake improvement district. If the commissioner does not approve the establishment of the district, the commissioner shall by order disapprove the establishment.

(c) An order approving creation may contain modifications of the area's boundaries, functions, financing, or organization from what was stated in the petition.

**History:** [1990 c 391 art 2 s 36](#)

**103B.535 ORDER ESTABLISHING DISTRICT.**

An order establishing a district must state the:

- (1) name of the district;
- (2) boundaries of the district, which are encouraged to be as consistent as practical with natural hydrologic boundaries;
- (3) water and related land resources management programs and services to be undertaken;
- (4) manner of financing programs and services; and
- (5) number, qualifications, terms of office, and method of election, removal, and filling of vacancies of the board of directors, including a method for property owners not present at the annual meeting to participate in the election of the district board.

**History:** [1990 c 391 art 2 s 37](#); [2000 c 396 s 1](#)

**103B.541 PUBLICATION AND EFFECTIVE DATE.**

Subdivision 1. **Publication of establishment order.** If a lake improvement district is established, the county board, or joint county authority issuing the order establishing the district, shall publish the order once in the official newspapers of counties where the district is located and file the order with the secretary of state, the Pollution Control Agency, and the commissioner of natural resources.

Subd. 2. **Effective date.** Establishment of the lake improvement district is effective 30 days after publication or at a later date, if specified in the establishment order.

**History:** [1990 c 391 art 2 s 38](#)

**103B.545 REFERENDUM ON ESTABLISHMENT.**

Subdivision 1. **Petition.** Twenty-six percent of the property owners within the lake improvement district proposed by the board or a joint county authority on its own initiative under section [103B.515](#), by petition under section [103B.521](#), or by the commissioner under section [103B.531](#), may petition for a referendum on establishing the district before the effective date of its establishment. After receiving the petition, the county board, joint county authority, or commissioner that proposed establishing the district must issue an order staying the establishment until a referendum vote is taken of all qualified voters and property owners within the proposed lake improvement district.

**Subd. 2. Election.** The county board or joint county authority shall conduct a special election in July or August after receiving the referendum petition. The special election must be held within the proposed lake improvement district. The county auditor shall administer the special election.

**Subd. 3. Question submitted to voters.** The question to be submitted and voted upon by the qualified voters and property owners within the proposed lake improvement district must be stated substantially as follows:

"Should a lake improvement district be established to provide (description of intended water and related land resources improvements) and financed by (description of revenue sources)?"

**Subd. 4. Certification of vote and establishment.** The county auditor must certify the vote on the question submitted. If a majority of those voting on the question favor establishing the proposed lake improvement district, the stay on establishing the district is lifted. If a majority of those voting on the question do not favor establishing the proposed lake improvement district, the establishment is denied.

**History:** 1990 c 391 art 2 s 39; 2000 c 396 s 2

### 103B.551 BOARD OF DIRECTORS.

**Subdivision 1. Membership.** After a lake improvement district is established, the county board, joint county authority, or commissioner that established the district shall appoint persons to serve as an initial board of directors for the district. Subsequent board members must be elected by persons owning property in the district at the annual meeting of the district. The number, qualifications, terms of office, and method of election, removal, and filling of vacancies of directors shall be as provided in the order creating the board of directors. The initial and all subsequent boards of directors must include persons owning property within the district, and a majority of the directors must be residents of the district.

**Subd. 2. Compensation.** The directors shall serve with compensation as determined by the property owners at the annual meeting and may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

**Subd. 3. Powers.** County boards, joint county authorities, statutory and home rule cities, and towns may, by order, delegate the powers in this section to the board of directors of a district to be exercised within the district. Programs and services undertaken must be consistent with the statewide water and related land resources plan prepared by the commissioner of natural resources and with regional water and related land resources plans. A body of water may not be improved by using authority granted under this section unless the public has access to some portion of the shoreline. County boards, joint county authorities, statutory and home rule cities, and towns may delegate their authority to a district board of directors to:

(1) acquire by gift or purchase an existing dam or control works that affects the level of waters in the district;

(2) construct and operate water control structures that are approved by the commissioner of natural resources under section 103G.245;

(3) undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 103G.245;

(4) acquire property, equipment, or other facilities, by gift or purchase to improve navigation;

(5) contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 103C and 103D;

(6) undertake research to determine the condition and development of the body of water and the water entering it and to transmit the results of the studies to the Pollution Control Agency and other interested authorities;

(7) develop and implement a comprehensive plan to eliminate water pollution;

(8) conduct a program of water improvement and conservation;

(9) construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws;

(10) receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;

(11) make cooperative agreements with the United States or state government or other counties or cities to effectuate water and related land resource programs;

(12) maintain public beaches, public docks, and other public facilities for access to the body of water;

(13) provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district; and

(14) regulate water surface use as provided in sections [86B.205](#), [103G.605](#), and [103G.621](#).

**History:** [1990 c 391 art 2 s 40](#); [1996 c 385 art 2 s 7](#); [2000 c 396 s 3](#)

#### **103B.555 FINANCING.**

Subdivision 1. **Revenue.** The county board or joint county authority may undertake projects of improvement consistent with purposes of the district. To finance projects and services of the district, the county board or joint county authority may, only after seeking other sources of funding:

(1) assess the costs of the projects upon benefited property within the district in the manner provided under chapter 429;

(2) impose service charges on the users of lake improvement district services within the district;

(3) issue obligations as provided in section [429.091](#);

(4) levy an ad valorem tax solely on property within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the district; or

(5) impose or issue any combination of service charges, special assessments, obligations, and taxes.

Subd. 2. **Tax additional to other levies.** A tax under subdivision 1 may be in addition to amounts levied on all taxable property in the county for the same or similar purposes.

Subd. 3. **Budgeting for operations.** The county board or county boards forming the joint county authority shall include appropriate provisions in their budget for the operation of a lake improvement district.

Subd. 4. **District obligations.** The district, with approval of the county board or joint county authority, expressed in a resolution identifying each specific improvement to which the approval applies, may exercise the powers of a city under chapter 429 and section [444.075](#), including, but not limited to:

(1) the levy of special assessments;

(2) the imposition of rates and charges; and

(3) the issuance of bonds

to finance improvements that the district may undertake.

**History:** [1990 c 391 art 2 s 41](#); [2000 c 396 s 4](#); [2001 c 214 s 1](#)

#### **103B.561 VOTING BY JOINT COUNTY BOARDS.**

If a lake improvement district has been established by order of the commissioner of natural resources under section [103B.531](#), voting by county boards on joint actions of the lake improvement district shall be based on proportional representation for each county according to the proportion of the population of the lake improvement district residing within each county and not on the basis of one vote per county or one vote per county board member unless each county or each board member represents substantially the same number of persons residing within the lake improvement district.

**History:** [1990 c 391 art 2 s 42](#)

#### **103B.565 ENFORCEMENT OF ORDINANCES.**

If a lake improvement district has been established by joint county action under section [103B.525](#) or order of the commissioner of natural resources under section [103B.531](#), ordinances and regulations adopted by joint action of the affected county boards may be enforced in any part of the lake improvement district by personnel of any of the affected counties.

**History:** [1990 c 391 art 2 s 43](#)

#### **103B.571 ANNUAL MEETING OF DISTRICT.**

Subdivision 1. **Time.** A district must have an annual meeting. The first annual meeting shall be scheduled during the month of July or August and be held annually in that period unless changed by vote of the previous annual meeting.

Subd. 2. **Notice.** The annual meeting shall be preceded by two weeks' published notice and written notice mailed at least ten days in advance of the meeting to the county board or joint county authority, town boards and statutory and home rule charter cities wholly or partially within the district, the Pollution Control Agency, commissioner of natural resources, and if there is a proposed project by the district having a cost in excess of \$5,000, all property owners within the assessment area.

Subd. 3. **Agenda.** (a) At the annual meeting the district property owners present shall:

- (1) elect one or more directors to fill any midterm vacancies in the board of directors;
- (2) approve a budget for the fiscal year;
- (3) approve or disapprove proposed projects by the district having a cost to the district in excess of \$5,000; and
- (4) take up and consider other business that comes before them.

(b) At the annual meeting all district property owners, including absent members as provided in the order establishing the district, shall elect one or more directors for board positions with expiring terms.

Subd. 4. **Annual report.** Each year the board of directors shall prepare and file a report of the financial conditions of the district, the status of all projects in the district, the business transacted by the district, other matters affecting the interests of the district, and a discussion of the directors' intentions for the succeeding years. Copies of the report shall be transmitted to the county board or joint county authority, town boards and city councils of statutory and home rule charter cities wholly or partially within the district, the commissioner of natural resources, and the Pollution Control Agency by four months after the annual meeting.

**History:** 1990 c 391 art 2 s 44; 2000 c 396 s 5

#### **103B.575 EXPANSION OF BOUNDARIES OF A LAKE IMPROVEMENT DISTRICT.**

The boundary of a district may be enlarged by complying with the procedures to establish a district under sections 103B.511 to 103B.541.

**History:** 1990 c 391 art 2 s 45

#### **103B.581 TERMINATION.**

Subdivision 1. **Petition.** Termination of a district may be initiated by petition requesting the termination of the district. The petition must be signed by a majority of the property owners in a district within 30 days after receiving a petition. The county board or joint county authority must set a time and place for a hearing on terminating the district.

Subd. 2. **Findings and order.** If the board or joint county authority determines that the existence of the district is no longer in the public welfare or public interest and it is not needed to accomplish the purpose of the Lake Improvement District Law, the board or joint county authority shall make the findings and terminate the district by order. On filing a certified copy of the findings and order with the secretary of state, Pollution Control Agency, and commissioner of natural resources the district is terminated and ceases to be a political subdivision of the state.

Subd. 3. **Termination of financing.** If a district is terminated under subdivision 2, additional water and related land resource management programs may not be undertaken with money raised by a special tax within the district, and additional special water and related land resource management taxes may not be levied within the district. If money raised by past special tax levies within the district has been exhausted, further operation and maintenance of existing programs may be financed by appropriations from the general revenue fund of an affected county.

**History:** 1990 c 391 art 2 s 46; 1999 c 86 art 1 s 18; 2003 c 91 s 2



## ST. ALBAN'S BAY LAKE IMPROVEMENT DISTRICT JOINT COOPERATION AGREEMENT III

This agreement amends, restates, and supersedes that certain St. Alban's Bay Lake Improvement District Joint Cooperation Agreement II adopted in 2016. This agreement is made and entered into by and between the city of Excelsior, State of Minnesota (hereinafter referred to as "Excelsior"), 335 Third Street, Excelsior, MN 55331 and the city of Greenwood, State of Minnesota, (hereinafter referred to as "Greenwood"), 20225 Cottagewood Road, Deephaven, MN 55331.

### RECITALS

Excelsior and Greenwood agree that it is desirable and in the interest of their communities that a Lake Improvement District be established for the management and control of Aquatic Invasive Species in St. Alban's Bay, Lake Minnetonka, together with all powers intended thereto.

To that end, Excelsior and Greenwood, each a governmental unit of the State of Minnesota, hereby enter into this Joint Cooperation Agreement pursuant to Minnesota Statutes §471.59.

### I. PURPOSE

The general purpose of this agreement is to establish a Lake Improvement District authorized under Minnesota Statutes §103B.501 et seq and §459.20 to manage Aquatic Invasive Species in St Alban's Bay, Lake Minnetonka, and to otherwise monitor the water resource.

### II. NAME

The organization established by this agreement shall be known as the "St. Alban's Bay Lake Improvement District."

### III. DEFINITIONS

As used herein, these terms shall mean as follows:

Section 1. "Lake Improvement District (LID)" means St. Alban's Bay Lake Improvement District as otherwise authorized by the Lake Improvement District law, Minn. Stat. §103B.501 to §103B.581, the organization created pursuant to this agreement.

Section 2. "Director" means a person appointed to the Board by either Excelsior or Greenwood, or a person elected to serve on the Board by affirmative vote of a majority of the Property Owners present and entitled to vote or appearing by mailed ballot at the Annual Meeting.

Section 3. "Member" means a city which enters into this agreement.

Section 4. "Program" shall mean the various water resource management programs and services undertaken from time to time by LID.

Section 5. "Property Owners" mean the owner or owners of various real estate parcels identified by Hennepin County PID number located within the official boundaries of the LID as illustrated on the official map of the LID, attached hereto as Exhibit A.

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Section 6. “District” shall mean all of the real estate parcels located within the official boundaries of LID, as illustrated and defined on the official map of the LID (See Exhibit “A” attached).

Section 7. “Board” means the governing political body of the LID comprised of Directors appointed by the cities of Excelsior and/or Greenwood or persons elected to membership on the Board as provided herein. The management of the LID shall be vested in the Board.

Section 8. “Annual Meeting” means a meeting of the Board and Property Owners, called by the Board and so designated, held in September at which the action items set forth at Article VII, Section 2 and Article IX, Section 1 shall be acted upon.

Section 9. “Official Office” means the physical office space designated and maintained by the Board at which the LID shall receive US Mail, the LID’s designated agent for the receipt of Legal Process shall office, and the Secretary and the Fiduciary Agent shall maintain the official records and conduct LID business.

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#### IV. MEMBERS

Section 1. Members. The Member Cities entering into this Joint Cooperation Agreement are the city of Excelsior and the city of Greenwood, Minnesota.

Section 2. Fiduciary Agent. The Chair and Treasurer shall be the Fiduciary Agent charged with the day-to-day management of the LID’s financial affairs including custodial possession of the LID’s books and accounts and shall be authorized to receive, hold, and disburse LID funds and shall also be authorized to accept Service of Legal Process on behalf of the LID. The LID’s books and accounts shall be kept at the Greenwood offices. A statement of duties of the Fiduciary Agent may be adopted by mutual agreement of the Excelsior and Greenwood City Councils.

#### V. DIRECTORS

Section 1. Number. The LID shall have seven Directors and two Ex-Officio Directors, one each appointed by the cities of Excelsior and Greenwood. With the exception of matters addressing the approval of the budget and financial expenditures, the Ex-Officio Directors shall have an advisory role but no vote on matters presented to the Board.

Section 2. Term. At the Annual Meeting of the LID, Director seats A1, A2 & A3 shall be elected to 2-year terms in even years and Director seats B1, B2, B3 & B4 shall be elected to 2-year terms in odd years. Vacant seats shall be filled at the next Annual Meeting.

Section 3. Director Candidacy Slate. Annually, Property Owners desiring to stand for election to the Board as a Director shall file with the Secretary of the LID, (or the Secretary’s designee for receipt of said filings) or the LID Designated Agent at the Official Office, on or before the close of business at the Official Office on the First Tuesday in June, a “Declaration of Candidacy for Director.” A Property Owner who so files shall be added to the slate of Director Candidates to be submitted to a vote at the following Annual Meeting of the Board.

Section 4. Compensation. Directors shall serve without compensation from the LID or the member cities. In the absence of a written contract previously approved by the Board, the LID shall not honor claims, invoices, statements, or requests for reimbursements for labor submitted or services rendered by a Director, a Property Owner, or LID volunteer rising from or incidental to LID’s activities, programs and actions.

#### VI. OFFICERS

Section 1. Annual Election. The Officers of the LID shall consist of a Chair, a Vice Chair, a Secretary, and a Treasurer. They shall be elected for one-year terms by the Board at the Annual Meeting.

Section 2. Chair and Vice Chair. The Chair shall preside at all meetings of the Board or the Property Owners and Directors. The Chair shall perform all duties typically incident to the Office of a Chief Executive Officer of a municipal political body and shall perform such other duties as may be prescribed by action of the Board, this Joint Cooperation Agreement, or law. The Chair shall select Sub-Committee Chairs and may recommend to the Board Sub-Committee appointments thereto. The Vice Chair shall act as Chair in the absence of the Chair.

Section 3. Secretary. The Secretary shall be responsible for keeping a record of all the proceedings of the LID and the giving of notice of regular and special meetings. The Secretary shall be responsible for the preparation of Board minutes and shall keep the LID minutes and records at the Greenwood office. The Secretary may delegate the duties of preparing Minutes to a third party, including outside private contract service provider subject to the approval of the Board.

Section 4. Treasurer. The Treasurer shall perform the duties of a Fiduciary Agent and shall be custodian of the LID's funds, pay its bills, keep financial records, and generally manage funds received, and oversee their disbursement and the LID's financial affairs. LID funds shall be kept on deposit in financial institutions or invested as approved by the Board of Directors in the same manner and practice demanded of a municipal corporation under State law. The LID checkbook shall be kept at the Greenwood office. The Fiduciary Agent shall cause a quarterly financial report to be made to the Board, which shall be included in public records of the LID and in the minutes of the Board meetings.

Section 5. Authorized Expenditures. All checks drawn upon the LID bank account shall require two signatures, Those having signature authority will be the Chair, the Treasurer, and the Secretary.

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## VII. MEETINGS

Section 1. Bylaws. The Board shall adopt bylaws governing its procedures including the time, place, notice for and frequency of a set of fixed regular meetings, procedure for calling special meetings, and other procedural meeting related matters. The Board may amend the bylaws from time to time.

Section 2. Annual Meeting. The Board shall call an Annual Meeting of Property owners to be held once each year in September. At the Annual Meeting the Board shall submit a Slate of Director Candidates to Property Owners for a vote. The affirmative vote of the majority of the Property Owners with voting rights present and entitled to vote, including absentee ballots of same physically received by the LID by 2 PM on the date of the Annual Meeting, shall be the act of the Property Owners and shall be binding on the Board. The top vote getters for the open Director seats shall be elected. At the Annual Meeting, the Board also shall elect Officers to be seated immediately.

At the Annual Meeting the Board and LID Property Owners present shall:

- (a) elect one or more directors to fill any midterm vacancies in the board of directors;
- (b) approve a budget and levy for the next calendar year as per section IX Financial Matters;
- (c) approve or disapprove proposed LID programs, projects and expenditures having a cost to the district in excess of \$5,000; and
- (d) take up and consider other business that comes before them.

At the Annual Meeting, the Board may elect to submit to a vote of the Property Owners present at the meeting such other matters as it deems appropriate. Provided the vote of the Property Owners directs or approves a lawful LID action otherwise authorized under this Agreement, the vote of the Property Owners shall be binding on the Board.

Section 3. Annual Meeting Notice. The Annual Meeting shall be preceded by two weeks published notice in the legal newspapers of the Member Cities, shall be posted on the public notice board of the Member Cities, and written notice shall be mailed at least ten days in advance of the meeting to the Member Cities, the Pollution Control Agency, Commissioner of Natural Resources, and to all Property Owners of record on the Hennepin County Property Tax Information website within the LID assessment area.

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## VIII. POWERS, RIGHTS, AND DUTIES OF LID

The LID shall have the following powers, rights, and duties:

Section 1. Primary Purpose. The "primary purpose" of the LID is to prepare a Lake Vegetation Management Plan and programs to control Aquatic Invasive Species in St. Alban's Bay, Lake Minnetonka, including, but not limited to, Eurasian Water Milfoil and Curley-leaf Pond Weed and, as needed, to monitor vegetation, wildlife, water quality, and use of St. Alban's Bay to preserve St. Alban's Bay as a natural water resource.

Section 2. Specific Powers. The following specific statutory powers permitted the LID pursuant to Minn. Stat. §103B.551, Subd. 3 are hereby granted to the Board; the power to:

- 1) Acquire property, equipment, or other facilities by gift, lease, or purchase to implement the primary purpose.
- 2) Contract with governmental agencies as needed and appropriate to the implementation of the primary purpose.
- 3) Conduct a program(s) of AIS control and elimination in conformance with the primary purpose, water improvement and conservation, as more particularly described on attached Exhibit B.

Enumerated powers under Minn. Stat. §103B.551, Subd. 3, not set forth above are not granted to the LID.

Section 3. Gifts / Grants. The LID may accept gifts, apply for and use grants and enter into agreements in connection therewith and it may hold, use and dispose of money or property received as a gift or grant in accordance with the terms hereof.

Section 4. Contracts. The LID may enter into any contracts deemed necessary to carry out its powers and duties. All contracts shall be let and purchases shall be made in accordance with the legal requirements applicable to contracts and purchases by statutory cities of Minnesota.

Section 5. Property. The LID may purchase, lease, or acquire personal property and sell, assign, and transfer personal property upon an affirmative majority vote of the Board, but may not purchase, transfer or convey real property without the approval of 2/3 of a quorum of the Board, and a 2/3 vote of Property Owners voting in person or by absentee ballot at the Annual Meeting as provided herein, and the approval of both Member City Councils.

Section 6. Consultants. The LID may retain consultants to carry out its primary purpose and manage its affairs and administrative duties.

Section 7. Designation of Official Office and Designated Agent. The Board shall at all times maintain an Official Office of the LID and an appointed Designated Agent for receipt of Service of Legal Process. In the Event the Board has failed to so act, the City Clerk of either Greenwood or Excelsior shall be the LID Designated Agent.

Section 8. Annual Report. Each year the LID Board shall prepare and file a report of the financial conditions of the LID, the status of all projects in the LID, the business transacted by the LID, other matters affecting the interests of the LID, and a discussion of the LID Board's intentions for the succeeding years. Copies of the report shall be transmitted to the Hennepin County Board, Excelsior and Greenwood city councils, the commissioner of natural resources, and the Pollution Control Agency by four months after the annual meeting.

Section 9. Other Actions. The LID may exercise any other power necessary and incidental to the implementation of its powers and duties in implementation of the LID's primary purpose.

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## IX. FINANCIAL MATTERS

Section 1. Annual Budget and Levy. The Board shall prepare and present a budget and proposed levy for the following calendar year at its Annual Meeting. The proposed levy information shall include the recommended method to assess properties in the LID. The proposed budget and levy must be approved, or amended and approved, by a majority of the votes of all LID property owners in attendance at the Annual Meeting. The Budget and Levy approved at the Annual Meeting must in turn also be mutually approved by both Member City Councils by October 31. The Member City Councils may not increase the proposed levy approved at the Annual Meeting. Either or both City Councils may reduce the levy by up to 25% in which case the LID levy shall be the lowest levy approved by a Member City Council.

Section 2. LID Funding. The LID shall be funded from approved property tax levies and other available revenues from grants, gifts, or the like. The LID shall not be funded by dues, license or use fees, or similar charges unless mutually approved by the Member Cities.

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The public financing of projects and services of the LID may be made by the following methods:

- a. Assessing the costs of projects upon benefitted properties within the District in the manner provided under Minn. Stat. Chapter 429;
- b. Levy of an ad valorem tax solely on property within the LID, to be appropriated and expended solely on projects of special benefit to the LID.

In accordance with Minn. Stat. §103B.555, Subd. 4, the LID, with the approval of the City Councils of the cities of Excelsior and Greenwood as expressed by resolution identifying each specific improvement to which approval applies may exercise the powers of a city under Chapter 429 in Section 444.075, including but not limited to:

- a. The levy of special assessments; and
- b. The imposition of rates and charges mutually approved by the Member Cities.

#### **X. WITHDRAWAL AND DISSOLUTION**

Section 1. Notice of Withdrawal. A Member City may withdraw from the LID by filing a written notice of withdrawal with the LID by October 1 of any year. Such withdrawal shall be effective as of December 31 of that calendar year and membership shall continue until the effective date. A notice of withdrawal may be rescinded by a Member City prior to the effective date. If one Member City elects to withdraw, the LID will then dissolve on December 31 of that calendar year.

Section 2. Distribution of Assets. Upon dissolution, the remaining assets of the LID, after payment of all obligations, shall be distributed among the Member Cities in proportion to the number of LID real estate parcels identified by Hennepin County PID number located in each, or in such other way as those Member Cities may agree.

#### **XI. MEDIATION OF DISPUTES**

Section 1. Mediation. Any controversy arising out of or relation to this agreement including but not limited to the withdrawal by a Member City and dissolution shall be mediated by a qualified mediator prior to initiation of any litigation.

Section 2. Selection of Mediator. The mediator may be an individual mutually selected by the parties to the issue in controversy. If the parties are unable to agree upon a mediator, the League of Minnesota Cities shall make the selection.

#### **XII. LIABILITY**

Section 1. Indemnification. The LID shall indemnify, defend and hold harmless the Member Cities and their Officers, elected officials, Directors, employees, and volunteers, from and against all claims, damages, losses, and expenses, arising out of the acts or omissions of the LID in carrying out this agreement. To the fullest extent permitted by law, actions by the Member Cities under this agreement are intended to be and shall be construed as a “cooperative activity” and the LID shall be deemed a “single governmental unit” for the purposes of liability as set forth in Minnesota Statutes, Section 471.59, Subd. 1a(a). Each Member City expressly declines responsibility for the acts or omissions of the other Member City. This agreement does not constitute a waiver of the limitations of liability set forth in Minnesota Statutes, Section 466.04.

Section 2. Insurance. The LID shall procure and maintain liability and bond insurance coverage with reasonable limits covering its Officers, Directors, Member Cities’ elected officials, employees, and volunteers. The LID may purchase additional insurance coverage in amounts and on such terms as it may determine from time to time. The LID shall provide Member Cities with copies of its certificate(s) of insurance upon request.

#### **XIII. MISCELANEOUS**

Section 1. Execution of Agreement. Each Member City Council shall approve and execute a copy of this agreement in accordance with applicable law.

Section 2. Effective Date. This agreement shall become effective upon adoption by both Member City Councils and approval from the Minnesota Department of Natural Resources.

Section 3. Amendment. Any proposed amendment to this agreement must be approved by both Member City Councils.

Section 4. Duration. This agreement shall continue in effect for an indefinite term, until dissolution in accordance with the terms of this agreement.

IN WITNESS WHEREOF, acting by authority of City Council approval the undersigned authorized agents of Excelsior and Greenwood, hereby enter into this St. Alban's Bay Lake Improvement District Joint Cooperation Agreement III.

EXECUTED as of \_\_\_\_\_, ~~2017~~.

CITY OF GREENWOOD, MINNESOTA

By \_\_\_\_\_  
Name Debra J. Kind, Mayor

Attest \_\_\_\_\_  
Name Dana H. Young, City Clerk

Debra Kind 10/12/2017 9:02 AM  
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EXECUTED as of \_\_\_\_\_, ~~2017~~.

CITY OF EXCELSIOR, MINNESOTA

By \_\_\_\_\_  
Name Mark W. Gaylord, Mayor

Attest \_\_\_\_\_  
Name Kristi Luger, City Manager

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**Agenda Number: 9C**

**Agenda Date: 11-01-17**

*Prepared by Deb Kind*

**Agenda Item:** Potential Letter to DNR in Support of SABLID Using Lower Cost Treatment

**Summary:** At the St. Alban's Bay Lake Improvement District's Annual Meeting held on 10-10-17, the SABLID Board discussed a new lower-cost treatment for aquatic invasive species that needs to be approved by the Minnesota Department of Natural Resources before it can be implemented. The SABLID Board expressed a desire for the Greenwood and Excelsior city councils to consider writing letters of support for approving the lower-cost treatment. At the 11-01-17 council meeting, Councilman Fletcher will present a verbal report regarding details of the treatment.

**Council Action:** None required. Suggested motion ...

I move the Greenwood city council authorizes the mayor to write a letter on behalf of the Greenwood city council to the Minnesota Department of Natural Resources in support of using lower-cost treatment for aquatic invasive species; (2) directs that a copy of the letter be sent to the St. Alban's Bay Lake Improvement District's secretary for distribution to the SABLID Board; and (3) directs that a copy of the letter be sent to the Excelsior city manager for distribution to the Excelsior city council.

Do nothing or other motion ???



Agenda Number: **11A-E**

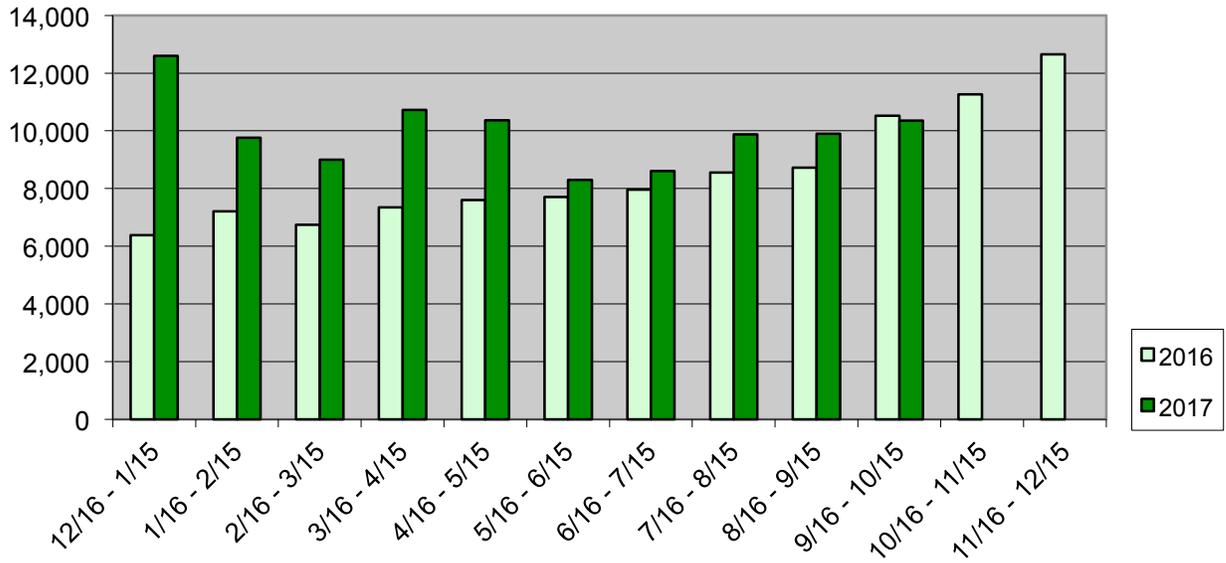
**Agenda Item:** Council Reports

**Summary:** This is an opportunity for each council member to present updates and get input regarding various council assignments and projects.

Related documents are included in the hard copy of the full council packet and in the electronic version of the packet available at [www.greenwoodmn.com](http://www.greenwoodmn.com).

**Council Action:** None required.

City of Greenwood  
Website Total Hits



Month	2016	2017	Variance with Prior Month	Variance with Prior Year	Bulk Email List
12/16 - 1/15	6,382	12,599	-48	6,217	161
1/16 - 2/15	7,209	9,758	-2,841	2,549	160
2/16 - 3/15	6,741	8,996	-762	2,255	163
3/16 - 4/15	7,351	10,728	1,732	3,377	163
4/16 - 5/15	7,603	10,366	-362	2,763	165
5/16 - 6/15	7,711	8,301	-2,065	590	164
6/16 - 7/15	7,962	8,604	303	642	165
7/16 - 8/15	8,555	9,873	1,269	1,318	165
8/16 - 9/15	8,719	9,901	28	1,182	165
9/16 - 10/15	10,528	10,357	456	-171	170
10/16 - 11/15	11,261	-	-10,357	-11,261	-
11/16 - 12/15	12,647	-	0	-12,647	-
<b>AVERAGE</b>	<b>8,556</b>	<b>9,948</b>			

**POPULATION:** 702  
**EMAIL ADDRESSES % OF POPULATION:** 24.22%

Population source: [www.metrocouncil.org](http://www.metrocouncil.org), Data & Maps, Download Data, Population and Household Estimates  
 Population figure updated: 03-31-17

## Site Statistics

Use this reporting tool to see your site statistics for your public site for this month or the previous month. Statistics for the Administration (or "admin") side of your site are not included in this report. Additionally, visits you make to your own site while administering it are not included in these statistics. All data collected before the previous month has been purged from our system and is not available for use; therefore, we recommend printing this report each month for your records.

The first report - Page Views by Section - shows total page views for each section. The second report - Unique Visitors by Section - shows the total page views for each section without the return visitors (showing only views from unique IP addresses). For example, if you browse to a page today, and then browse to that same page tomorrow, your viewing of that page would only be counted once in the unique (second) report.

Each report lists sections in page view order (highest number of page views first) and only lists sections that have had traffic within the reporting period. It does not list those sections without traffic.

**Begin Date**

**End Date**

**Report Name**

### Page Views by Section

Section	Page Views	Percent of Total
<a href="#">Default Home Page</a>	6283	60.66%
<a href="#">Agendas, Minutes, Meeting Packets</a>	592	5.72%
<a href="#">Welcome to Greenwood</a>	426	4.11%
<a href="#">RFPs &amp; Bids</a>	416	4.02%
<a href="#">City Departments</a>	320	3.09%
<a href="#">Planning Commission</a>	193	1.86%
<a href="#">Mayor &amp; City Council</a>	142	1.37%
<a href="#">Code Book of Ordinances</a>	136	1.31%
<a href="#">Assessments &amp; Taxes</a>	132	1.27%
<a href="#">Forms, Permits, Licenses</a>	115	1.11%
<a href="#">Garbage &amp; Recycling</a>	79	0.76%
<a href="#">Public Safety Alerts</a>	77	0.74%
<a href="#">Comp Plan &amp; Maps</a>	75	0.72%
<a href="#">St. Alban's Bay Lake Improvement District</a>	75	0.72%
<a href="#">Spring Clean-Up Day</a>	69	0.67%
<a href="#">Meetings on TV</a>	63	0.61%
<a href="#">Photo Gallery</a>	63	0.61%
<a href="#">Elections, Voting</a>	61	0.59%
<a href="#">Budget &amp; Finances</a>	60	0.58%
<a href="#">Agendas, Minutes, Meetings</a>	60	0.58%
<a href="#">Meetings</a>	54	0.52%
<a href="#">Toilet Drain Guide</a>	50	0.48%
<a href="#">Tour de Tonka</a>	44	0.42%
<a href="#">Old Log Events</a>	44	0.42%
	43	0.42%

### Quick Tips

The reports offered in your Site Statistics tool only track activity on the public side of your site.

In each report, a section named "Default" and a section named "Home" may appear.

A page view gets attributed to "Default" when a visitor to your site types your URL into his or her Web browser. In most cases, the "Default" section is your Home Page.

A page view gets attributed to "Home" each time a visitor clicks the "Home" button on your Web site.

In the Page View (Default) report, only sections with Web traffic are reported and they are listed in page view order.

In the Page View by Section report, sections are listed in the order they appear in the navigation menu and are reported regardless of their traffic level.

In the Referrers report, it is important to remember that your own site acts like a referrer. So, don't be surprised if you see your own Web address(es) listed -- this tracks the number of times people went from one part of your site to another.

<a href="#">Email Sign-Up</a>		
<a href="#">Parks, Trails &amp; Watercraft Amenities</a>	41	0.4%
<a href="#">Community Surveys</a>	41	0.4%
<a href="#">Habitat 500 Bike Ride</a>	39	0.38%
<a href="#">Watercraft Spaces</a>	39	0.38%
<a href="#">Sewer, Stormwater, Water, Garbage, Recycling</a>	38	0.37%
<a href="#">Lake Minnetonka</a>	37	0.36%
<a href="#">Links</a>	36	0.35%
<a href="#">Emergency Preparedness</a>	34	0.33%
<a href="#">July 4th</a>	34	0.33%
<a href="#">City Newsletters</a>	33	0.32%
<a href="#">Fire Department</a>	32	0.31%
<a href="#">Tree Contractors</a>	31	0.3%
<a href="#">Coyotes &amp; Animal Services</a>	30	0.29%
<a href="#">Finances, Taxes, Assessments</a>	29	0.28%
<a href="#">Recreation, Amenities</a>	29	0.28%
<a href="#">Smoke Testing</a>	29	0.28%
<a href="#">Road Closures &amp; Detours</a>	26	0.25%
<a href="#">Well Water</a>	26	0.25%
<a href="#">News, Events</a>	25	0.24%
<a href="#">Search Results</a>	22	0.21%
<a href="#">Luck O' the Lake</a>	16	0.15%
<a href="#">Library Events</a>	14	0.14%
<a href="#">Unsubscribe</a>	4	0.04%
<b>TOTAL</b>	<b>10357</b>	<b>100%</b>

## Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	2129	47.7%
City Departments	267	5.98%
Welcome to Greenwood	230	5.15%
Agendas, Minutes, Meeting Packets	205	4.59%
Mayor & City Council	97	2.17%
Planning Commission	80	1.79%
Assessments & Taxes	79	1.77%
Code Book of Ordinances	77	1.73%
Forms, Permits, Licenses	65	1.46%
Comp Plan & Maps	56	1.25%
Public Safety Alerts	56	1.25%
St. Alban's Bay Lake Improvement District	55	1.23%
Photo Gallery	52	1.17%
Spring Clean-Up Day	51	1.14%
Garbage & Recycling	48	1.08%
Elections, Voting	47	1.05%
Meetings on TV	44	0.99%
Agendas, Minutes, Meetings	42	0.94%
Meetings	40	0.9%
Toilet Drain Guide	40	0.9%
Old Log Events	37	0.83%
Budget & Finances	36	0.81%
Community Surveys	34	0.76%
Lake Minnetonka	34	0.76%
Parks, Trails & Watercraft Amenities	34	0.76%
Watercraft Spaces	32	0.72%
RFPs & Bids	31	0.69%
Links	31	0.69%
Sewer, Stormwater, Water, Garbage, Recycling	28	0.63%
Habitat 500 Bike Ride	28	0.63%
Tree Contractors	28	0.63%

Email Sign-Up	28	0.63%
City Newsletters	27	0.6%
Fire Department	26	0.58%
Emergency Preparedness	26	0.58%
Tour de Tonka	25	0.56%
Recreation, Amenities	25	0.56%
Coyotes & Animal Services	23	0.52%
Smoke Testing	23	0.52%
News, Events	22	0.49%
July 4th	22	0.49%
Road Closures & Detours	22	0.49%
Finances, Taxes, Assessments	21	0.47%
Well Water	18	0.4%
Luck O' the Lake	14	0.31%
Library Events	13	0.29%
Search Results	13	0.29%
Unsubscribe	2	0.04%
<b>TOTAL</b>	<b>4463</b>	<b>100%</b>

Generate Download File (.csv) for the current report:

**Done**



Agenda Number: **FYI**

**Agenda Item:** FYI Items in Council Packet

**Summary:** The attached items are included in the council packet for the council's information (FYI) only. FYI items typically include planning commission minutes and other items of interest to the council. When the agenda is approved at the beginning of the meeting, any council member may request to move an FYI item to the regular agenda for further discussion. Moved items will be placed under Other Business on the agenda.

**Council Action:** No council action is needed for FYI items.



October 5, 2017

Elliot Jones  
5045 Kings Court  
Greenwood, MN 55331

**Re: Request for a Skate Park**

Dear Elliot,

Excelsior Mayor Mark Gaylord sent me a copy of the letter you sent to the city of Excelsior requesting a skate park in Excelsior. The Excelsior city council discussed your letter at their October 2, 2017 meeting and decided that your suggestion for skate park location was not logistically feasible.

Since you are a resident of the city of Greenwood, Mayor Gaylord thought I would be interested in reading your letter. I included a copy of your letter in the October 4, 2017 Greenwood city council packet. As a result, the Greenwood city council asked me to write this letter to you. If you have a skate park location that you would like to suggest within the city of Greenwood, we invite you to attend a Greenwood city council meeting to present your idea. City council meetings are held at 7pm on the first Wednesday of every month.

Sincerely,

A handwritten signature in black ink that reads "Debra J. Kind". The signature is written in a cursive style.

Mayor Debra J. Kind  
and the Greenwood City Council

**GREENWOOD PLANNING COMMISSION  
WEDNESDAY, OCTOBER 17, 2017  
7:00 P.M.**

**1. CALL TO ORDER/ROLL CALL**

Commissioner Reeder called the meeting to order at 7:00 p.m.

Members Present: Commissioners Lake Bechtell, Jennifer Gallagher, Doug Reeder, and David Steingas

Others Present: City Attorney Mark Kelly and Zoning Administrator Dale Cooney

Absent: Chairman Pat Lucking, Commissioner Fiona Sayer, and Council Liaison Kristi Conrad

**2. MINUTES – May 17, 2017**

Commissioner Steingas moved to approve the minutes of April 18, 2017 as written. Commissioner Reeder seconded the motion. Motion carried 5-0.

**3. PUBLIC HEARINGS**

**3a. Consider variance request of Laura and Lloyd Ness to expand a deck and build a screened porch that would encroach into the north and south side yard setbacks and exceed the maximum allowable impervious area at 5500 Maple Heights Road**

Commissioner Reeder introduced the agenda item.

Cooney presented the staff report. He said that Laura and Lloyd Ness, property owners at 5500 Maple Heights Road, are requesting a variance to expand a deck and build an enclosed porch that would encroach into the side yard setbacks. He said that the property has two small existing decks that encroach into the side yard setbacks. Cooney said that the applicant is proposing to build a wrap-around deck for the main level that would tie in the existing non-conforming decks to a larger deck area. Cooney noted that the applicants are also proposing to enclose one of the existing non-conforming decks to make an enclosed porch area.

Cooney said that construction work had already begun on the enclosed porch. He said he discussed the need for a variance for the deck with the contractors via phone. In that conversation, he suggested that the interior remodel portion of the project could move forward while the variance request was heard. Cooney said that a building permit for the enclosed porch area was submitted and mistakenly issued, and construction on this area was started. Cooney said that he discussed the issue with the contractor and the property owner, and that a Stop Work Order had been issued for this portion of the project.

Cooney said that the applicant had provided letters of support of the project from both adjacent neighbors. He said that the applicant had also submitted an updated survey.

Reeder said that the house was given a variance in 2002 to exceed the impervious area and encroach into the setbacks. Bechtell said that is was a typical Greenwood property in that it is very unique.

Commissioner Reeder opened the public hearing.

Laura Ness, applicant, said that it is an odd shaped lot and they already have the issue of the side yard variance. She said that the decks are angled inward to have as little impact on the setbacks as possible. She said that the roofline for the porch is inset from the side yard. She said that the mosquitos are horrible and that the screening and the windows will help minimize impacts for the neighbors. Ness stated that there is hardscape that encroaches on their property. She said the small decks are necessary for the wrap around deck since they would have to cut a hole in

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the sunken living room otherwise. She said that the north deck goes through the master bedroom, and the south deck has access through the living room. She said that the neighbors are supportive of the request. She said that she is investing in the house and that this is her forever house.

Reeder asked if the porch could go over the lakeside portion of the deck. Cooney said yes they could. Ness said that this would ruin the view since this side of the house is all windows on that side.

Reeder asked about construction starting on the porch. Ness said that the contractor didn't think that the porch was off limits since the deck already existed and would not expand hardscape. Ness said that, since the deck was being converted to interior space, the contractor interpreted it as part of the interior remodel.

Bechtell said that the city made a mistake and that because of the circumstances he is supportive.

Gallagher said that it is important to be aware of precedent for future owners.

Steingas said that he visited the site and that he has worked in construction. He said that his biggest concern is hardcover, since the property is already over hardcover. He said that he has no problem with the enclosed porch since it is already over a deck and the property is under volume. Steingas asked about lowering the deck to have access directly through the living room without adding the wrap around.

Cooney asked about the removal of 512 square feet of plastic to offset some of this impervious expansion. Steingas said that this kind of landscaping tends to return on a property and it is not as permanent as removing a structure.

Reeder said that he has a serious issue with the porch and has less of an issue with the deck. He said that the screened porch is an expansion of the house, which requires more of a variance than the deck received in the first place. He said the porch has windows and it is essentially part of the house. He said that he has less of an issue with the deck encroachments in order to allow reasonable access to the front portion of the deck.

Steingas said that there is not a hardship and that houses get bigger and bigger. He said that there has to be some give and take for the expansion.

Cooney asked if Reeder would be more supportive of a more basic screened porch. Reeder said that it would be too easy to further enclose that area.

Cooney asked if Steingas would be supportive if driveway area were removed. Steingas said that he would rather see a portion of the deck removed.

Reeder said that he thinks this house has gotten all of the variances it should get.

Several different design scenarios were proposed by the planning commissioners with input from the applicant to provide access but also to reduce areas of deck encroachment.

City Attorney Kelly said that while there was miscommunication on the building permit, an error or omission by a city official cannot change the law. He said that the city should not grant variances based on mistakes by staff. He said that walking through the statutory test for a variance is the best way to come to a decision on a matter.

Ness said that she appreciates the input on the various design scenarios. She said that she does not want to knock down walls since the construction is already costing more than she expected.

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Cooney suggested that, instead of proposing a specific design solution, a recommendation could be made to approve the request for the deck encroachments with the condition that there be no increase in the structural impervious area on the property. Cooney said that the applicants could make the design trade-offs that most suited their needs.

Motion by Bechtell to recommend approval of the deck portion of the variance request to encroach into the side yard setbacks as proposed, conditioned that there be no increase in structural impervious area for the property. Motion is based on the findings that the plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property bows inward toward the house, greatly reducing the side yard setback on the north side, and that the south side deck expansion is the only practical way to provide access on to the lakeside portion of the deck. Motion was seconded by Steingas. Motion carried 4-0.

Bechtell said that he was supportive of the enclosed porch proposal as is. Gallagher said that the enclosed porch requires a bigger setback than the previously approved deck.

Motion by Reeder to deny the enclosed porch portion of the variance request to encroach into the side yard setbacks. Motion is based on the findings that the plight of the landowner-applicant is NOT due to circumstances unique to the property and are created by the landowner since the enclosure of a screened porch is a design choice made by the applicant where other less intrusive options exist, and that the side yard encroachment is not reasonable since it would be an addition to the footprint of the house. Motion was seconded by Steingas. Motion carried 3-1 with Bechtell voting against.

**3b. Public Hearing of Ord 272, Amending Code Sections 630, 510, 1120, 1205, and 1130 Regarding Right-of-Ways and Small Wireless Facilities**

Commissioner Reeder introduced the agenda item and opened the public hearing. Hearing no public comments, Commissioner Reeder closed the public hearing.

Motion by Steingas to recommend approval of Ordinance 272 as written. Motion was seconded by Bechtell. Motion carried 4-0.

**4. OTHER BUSINESS**

**5. LIAISON REPORT**

No liaison report was presented.

**6. ADJOURN**

Motion by Bechtell to adjourn the meeting. Steingas seconded the motion. Motion carried 4-0. The meeting was adjourned at 8:18 p.m.

Respectively Submitted,  
Dale Cooney - Zoning Administrator