



AGENDA

Greenwood City Council Meeting

Wednesday, December 6, 2017
20225 Cottagewood Road, Deephaven, MN 55331

Hearing devices are available from the recording technician.

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: 11-01-17 City Council Worksession & Regular Meeting Minutes
 - B. Approve: 11-02-17 Assessor Worksession Minutes
 - C. Approve: October Cash Summary Report
 - D. Approve: October Certificates of Deposit Report
 - E. Approve: November Verifieds, Check Register, Electronic Fund Transfers
 - F. Approve: December Payroll Register
 - G. Approve: 2018 Licenses
- 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. None
- 7:20pm 5. PUBLIC HEARING
- A. Truth in Taxation Hearing: Opportunity to Speak Regarding 2018 City Levy & Budget
(Note: April 2017 was the opportunity to speak regarding property valuations for taxes payable in 2018)
- 7:25pm 6. ACTION RELATED TO PUBLIC HEARING
- A. Consider: Res 27-17 Final 2018 Tax Levy and Res 28-17 Final 2018 Budget
- 7:30pm 7. PLANNING, ZONING & SUBDIVISION ITEMS
- A. Consider: Res 25-17 & Res 29-17 Findings for Variance Application, Laura & Lloyd Ness, 5500 Maple Heights Rd
 - B. Consider Res 30-17, Findings for Variance Application, David & Kimberly Barry, 21550 Excelsior Blvd.
 - C. 2nd Reading: Ord 272, Amending Code Section 630 Regarding Right-of-Ways and Small Wireless Facilities & Res 26-17, Summary of Ord 272 for Publication
 - D. Consider: Sending Potential Lot-Size Ordinance to Planning Commission for Public Hearing and Recommendation
- 7:50pm 8. UNFINISHED BUSINESS
- A. Consider: Amendments to St. Alban's Bay Lake Improvement District Joint Cooperation Agreement
- 7:55pm 9. NEW BUSINESS
- A. Consider: Potential Replacement of Sewage Pump Station
 - B. Consider: 2017 Budget Line Item Adjustments and Fund Transfers
 - C. Discuss: Planning Review Concept
 - D. Discuss: Aquatic Invasive Species Prevention
- 8:30pm 10. OTHER BUSINESS
- A. None
- 8:30pm 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
- 8:50pm 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.

Council Action: Required. Possible motion ...

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

MINUTES

Greenwood City Council Worksession and Regular Meeting

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



Worksession

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the worksession to order at 6:05pm.

Members Present: Mayor Kind; Councilmembers Bill Cook (arrived at 6:10pm), Kristi Conrad, Tom Fletcher, and Bob Quam

Members Absent: None

Staff Members Present: None

Motion by Kind to approve the worksession agenda. Second by Fletcher. Motion passed 4-0.

2. DISCUSS CITY PROCESSES

The council discussed the processes used by the St. Alban's Bay Lake Improvement District, Planning Commission, as well as the processes for contacting the police chief, fire chief, city attorney, and city engineer. Councilman Cook and Mayor Kind will research concepts for streamlining the Planning Commission process and report back to the city council.

3. ADJOURN WORKSESSION

Motion by Kind to adjourn the worksession at 6:52pm. Second by Quam. Motion passed 5-0.

Regular Meeting

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the meeting to order at 7:05pm.

Members Present: Mayor Kind; Councilmembers Bill Cook, Kristi Conrad (left at 9:05pm), Tom Fletcher, and Bob Quam

Members Absent: None

Staff Members Present: City Zoning Administrator Dale Cooney

Motion by Kind to approve the agenda. Second by Quam. Motion passed 5-0.

2. CONSENT AGENDA

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

Motion by Kind to approve the consent agenda items. Second by Cook. Motion passed 5-0.

3. MATTERS FROM THE FLOOR

A. None

4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS

A. Chief Mike Meehan: Quarterly Police Update

No council action taken. View report at LMCC-TV.org.

- B. Announcement: Worksession with Assessor, 4pm 11-02-17
No council action taken. View announcement at LMCC-TV.org.

5. PUBLIC HEARINGS

- A. None

6. ACTION RELATED TO PUBLIC HEARINGS

- A. None

7. PLANNING & ZONING ITEMS

- A. Consider: Res 25-17 Findings for Variance Application, Laura & Lloyd Ness, 5500 Maple Heights Rd

Motion by Fletcher that the city council (1) adopts resolution 25-17 approving variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road, with revisions as discussed and removal of the deck enclosure denial language; and (2) directs staff to draft written findings to be formally approved at the December 6 city council meeting. Second by Cook. Motion passed 5-0.

Motion by Kind that city council (1) approves the variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road for an enclosed deck as presented and based on the following findings:

- (a) The setback variance is in harmony with the purpose and intent of the setback requirements in the ordinance, which are to provide adequate space for public safety access and adequate air and light to adjacent properties;**
- (b) The variance is consistent with the comprehensive plan in that a an enclosed porch is a reasonable use for a residential lakeshore property and the variance is supported by neighboring property owners;**
- (c) The uniquely shaped property and constraints of the original home design were not created by the current property owner;**
- (d) Granting the variances will not ...**
 - alter the essential character of the area;**
 - impair an adequate supply of light and air to adjacent properties;**
 - unreasonably increase the congestion in the public street;**
 - increase the danger of fire or endanger the public safety;**
 - unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of the ordinance; and**

(2) directs staff to draft written findings to be formally approved at the December 6 city council meeting. Second by Cook. Motion passed 3-2 with Fletcher and Conrad voting nay.

- 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

Motion by Fletcher that 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; (2) directs that the revised ordinance be sent to the attorney for review; and (3) directs that the ordinance be placed on the December council agenda for a 2nd reading. Second by Quam. Motion passed 5-0.

- C. Consider: Sending Potential Lot-Size Ordinance to Planning Commission for Public Hearing and Recommendation

Motion by Cook to continue this topic to the December 6 council meeting. Second by Fletcher. Motion passed 5-0.

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

Brian Malo, 5070 Greenwood Circle, noted that he can hear engine braking from his house on the other side of St. Alban's Bay, but wondered if signage would make any difference.

No new council action taken. Councilman Fletcher and Mayor Kind will continue to work with MnDOT to install "Vehicle Noise Laws Enforced" sign in the Hwy 7 right-of-way and to evaluate the timing of the light at Christmas Lake Rd & Hwy 7 intersection.

9. NEW BUSINESS

- A. Discuss: Capital Improvement Plan for City Docks

No council action taken. The council will discuss further as part of the budget process in August 2018.

- B. Consider: Amendments to St. Alban's Bay Lake Improvement District Joint Cooperation Agreement

Motion by Fletcher that the city council (1) directs that the revised Joint Cooperation Agreement III be sent to the SABLID secretary for distribution to the SABLID board for review at their next meeting; and (2) directs that the revised Joint Cooperation Agreement III be placed on the December 6 council agenda for action. Second by Cook. Motion passed 5-0.

- C. Consider: Potential Letter to DNR in Support of SABLID Using Lower Cost Treatment

No council action taken.

10. OTHER BUSINESS

- A. None

11. COUNCIL REPORTS

- A. Conrad: Planning Commission

No report, since planning commission items were discussed during the meeting. Councilwoman Conrad left the meeting at this time.

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

Motion by Kind to authorize Councilman Cook to engage public works to clean up park in an amount not to exceed \$4000. Second by Quam. Motion passed 4-0.

The consensus of the council was to consider replacing a sewage pump station at the December council 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 9:17pm. Second by Cook. Motion passed 4-0.

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 for 1 year, and on DVD at the city office (permanent archive).

MINUTES

Greenwood City Council

Worksession with Assessors

Wednesday, November 2, 2017

20225 Cottagewood Road, Deephaven, MN 55331



Worksession

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the worksession to order at 4:02pm.

Members Present: Mayor Kind; Councilmembers Bill Cook, Tom Fletcher, Bob Quam

Members Absent: Councilwoman Kristi Conrad

Others Present: County Assessor Jim Atchison

Motion by Cook to approve the worksession agenda. Second by Quam. Motion passed 4-0.

2. DISCUSSION: Regarding Truth in Taxation Materials and Fall Sales Ratio Study

County Assessor Jim Atchison gave 3 sample copies of the Truth in Taxation mailing to Mayor Kind. He also distributed copies of the Hennepin County Property Tax Comparison documents showing the percent of change for property taxes (county, school, city, etc) paid in 2017 to what is proposed for 2018 for residential, apartments, and commercial properties in Greenwood. Out of approximately 350 residential properties in Greenwood, 94 will see a tax decrease of -4.9%-0%, 63 will see a .1%-4.9% increase, 49 will see a 15%-19% increase.

Mr. Atchison also distributed a version of the Hennepin County Property Tax Comparison document that showed the 2017 to 2018 property tax change in terms of dollar amounts. 67 residential properties will see a property tax increase of \$900+, 34 will see a decrease of -\$150-\$299.99, 34 will see a 0% change up to a decrease of -\$149.99.

Proposed Levies & Taxes notices will be mailed to property owners and live on hennipin.us on November 13, 2017. The notices for assessment year 2017 payable 2018 will be brown in color. Last year's notices for assessment year 2016 payable 2017 were green in color.

Mr. Atchison also distributed sales study documents showing that Greenwood had 8 sales during the past year. The median sales ratio was 91.3% – which means the assessed value was 91.3% of what the properties actually sold for. Mr. Atchison said the goal is 95%, so it indicates that Greenwood's 2018 spring assessment valuations for taxes payable 2019 will increase by approximately 4% on average. Most of the sales were off-lake properties, so Mr. Atchison anticipates the increase will primarily affect off-lake properties with on-lake property values staying relatively flat.

Neighboring cities had the following ratios: Excelsior 86.7%, Deephaven 89.4%, Tonka Bay 90.2%, Shorewood 91.7%. So their 2018 spring assessment valuations for taxes payable 2019 will increase as well.

3. ADJOURNMENT

Motion by Cook to adjourn the meeting at 4:45pm. Second by Fletcher. Motion passed 4-0.

This document is intended to meet statutory requirements for city council meeting minutes.

GREENWOOD CERTIFICATES OF DEPOSIT

Report Date: 10/31/17

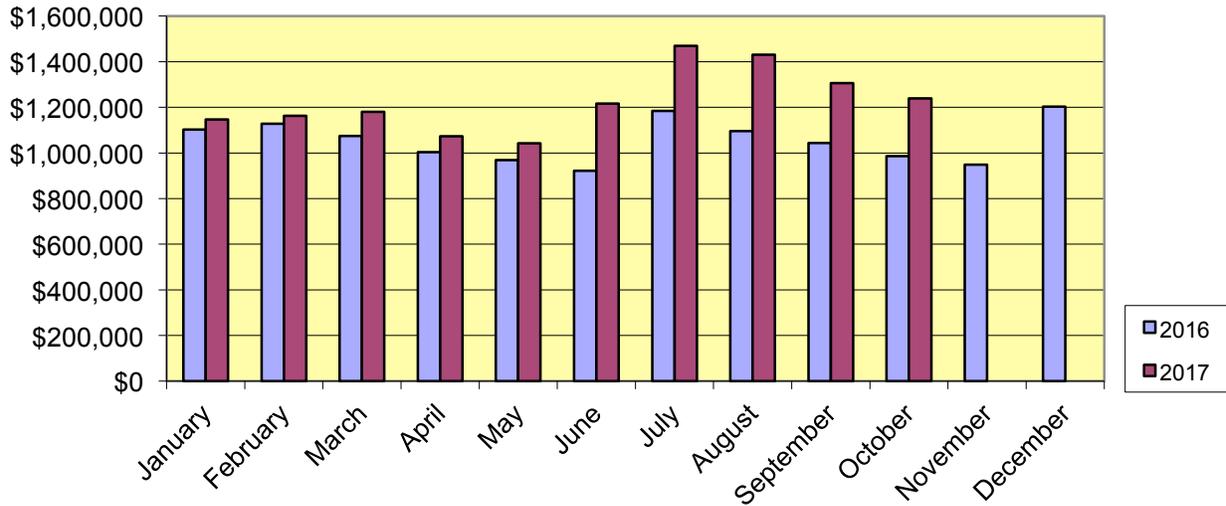
Acct #	Bank	Date	Term	Maturity	Rate	Amount
101-10409	Bridgewater Bank	12/01/16	15 month	03/01/18	1.00%	\$ 81,746.32
101-10412	Bridgewater Bank	01/06/17	15 month	04/06/18	1.00%	\$ 80,599.84
10110410	Bridgewater Bank	03/06/17	15 month	06/06/18	1.00%	\$ 80,403.79
10110407	Bridgewater Bank	04/06/17	15 month	07/06/18	1.00%	\$ 80,401.60
10110408	Bridgewater Bank	08/11/17	13 month	09/11/18	1.00%	\$ 60,755.08
101-10413	Bridgewater Bank	06/12/17	15 month	09/12/18	1.00%	\$ 62,541.23
101-10414	Bridgewater Bank	08/25/17	15 month	11/25/18	1.00%	\$ 81,703.82
101-10411	Bridgewater Bank	10/08/17	15 month	01/09/18	1.00%	\$ 62,435.81
TOTAL						\$ 590,587.49

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.

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	\$1,238,961	-\$67,534	\$252,510
November	\$948,462	\$1,238,961	-\$1,238,961	-\$948,462
December	\$1,203,625	\$1,203,625	\$0	-\$1,203,625

Alerus Bank Checking	\$14,044
Bridgewater Bank Checking	\$46,545
Alerus Bank Money Market	\$575,614
Bridgewater Bank Money Market	\$12,171
Bridgewater Bank CD's	\$590,587
	\$1,238,961

ALLOCATION BY FUND

General Fund	\$310,583
Special Project Fund	\$114,522
General Fund Designated for Parks	\$16,756
Bridge Capital Project Fund	\$164,813
Road Improvement Fund	\$192,617
Stormwater Fund	\$28,696
Sewer Enterprise Fund	\$324,599
Marina Enterprise Fund	\$86,375
	\$1,238,961

Check Issue Date(s): 11/01/2017 - 11/30/2017

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
11/17	11/15/2017	12894	51	BOLTON & MENK, INC.	101-20100	35,014.00
11/17	11/15/2017	12895	9	CITY OF DEEPHAVEN	101-20100	6,666.09
11/17	11/15/2017	12896	315	DOCK & LIFT INC.	605-20100	1,500.00
11/17	11/15/2017	12897	822	ECM PUBLISHERS INC	101-20100	52.88
11/17	11/15/2017	12898	68	GOPHER STATE ONE CALL	602-20100	35.10
11/17	11/15/2017	12899	3	KELLY LAW OFFICES	101-20100	343.75
11/17	11/15/2017	12900	850	KENNEDY, GRAVEN, CHARTERED	101-20100	165.00
11/17	11/15/2017	12901	886	KENNETH N. POTTS, P.A.	101-20100	400.00
11/17	11/15/2017	12902	99	LAKE MTKA CONSERVATION DISTRIC	605-20100	342.50
11/17	11/15/2017	12903	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,592.38
11/17	11/15/2017	12904	764	OMANN BROTHERS PAVING	404-20100	236,351.81
11/17	11/15/2017	12905	867	RANDY'S ENVIRONMENTAL SERVICES	101-20100	1,628.25
11/17	11/15/2017	12906	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	15,855.65
11/17	11/15/2017	12907	145	XCEL ENERGY	101-20100	634.25
Totals:						<u>301,581.66</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
BOLTON & MENK, INC.					
51	BOLTON & MENK, INC.	0206397	2017 MISC ENGINEERING	07/31/2017	60.00
		0209970	2017 DEVELOPMENT REVIEW	10/31/2017	300.00
		0209972	2017 MISC DRAINAGE	10/31/2017	578.00
		0209977	2017 MISC ENGINEERING	10/31/2017	60.00
		0209978	2017 SEWER IMPROVEMENTS	10/31/2017	890.00
		0209980	2017 STREET IMPROVEMENTS	10/31/2017	25,806.00
		0209981	GRWD/COVINGTON IMPROVEMENTS	10/31/2017	6,762.00
		0209983	GRWD/ST ALBANS BRIDGE PLANNING	10/31/2017	558.00
	Total BOLTON & MENK, INC.				<u>35,014.00</u>
CITY OF DEEPHAVEN					
9	CITY OF DEEPHAVEN	NOV 2017	RENT & EQUIPMENT	11/01/2017	487.45
			Postage		54.80
			COPIES		68.80
			SEWER		761.60
			BIKE PATH		95.20
			WEED/TREE/MOWING		666.40
			PARK MAINTENANCE		190.40
			STORM SEWERS		190.40
			Clerk Services		3,266.64
			ZONING		884.40
	Total CITY OF DEEPHAVEN				<u>6,666.09</u>
DOCK & LIFT INC.					
315	DOCK & LIFT INC.	31231	REMOVE FLOATING DOCK	10/19/2017	1,500.00
	Total DOCK & LIFT INC.				<u>1,500.00</u>
ECM PUBLISHERS INC					
822	ECM PUBLISHERS INC	543976	LEGAL NOTICE	11/02/2017	52.88
	Total ECM PUBLISHERS INC				<u>52.88</u>
GOPHER STATE ONE CALL					
68	GOPHER STATE ONE CALL	7100413	Gopher State calls	10/31/2017	35.10
	Total GOPHER STATE ONE CALL				<u>35.10</u>
KELLY LAW OFFICES					
3	KELLY LAW OFFICES	X574	GENERAL LEGAL	10/19/2017	343.75
	Total KELLY LAW OFFICES				<u>343.75</u>
KENNEDY, GRAVEN, CHARTERED					
850	KENNEDY, GRAVEN, CHARTERED	09 30 17	LEGAL SERVICES	09/30/2017	165.00
	Total KENNEDY, GRAVEN, CHARTERED				<u>165.00</u>
KENNETH N. POTTS, P.A.					
886	KENNETH N. POTTS, P.A.	10 31 17	LEGAL SVCS	10/31/2017	400.00
	Total KENNETH N. POTTS, P.A.				<u>400.00</u>
LAKE MTKA CONSERVATION DISTRICT					
99	LAKE MTKA CONSERVATION DI	11 08 17	2018 MULTIPLE DOCK LICENSE	11/08/2017	342.50

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total LAKE MTKA CONSERVATION DISTRIC				<u>342.50</u>
METRO COUNCIL ENVIRO SERVICES					
105	METRO COUNCIL ENVIRO SERV	0001073785	Monthly wastewater Charge	11/06/2017	<u>2,592.38</u>
	Total METRO COUNCIL ENVIRO SERVICES				<u>2,592.38</u>
OMANN BROTHERS PAVING					
764	OMANN BROTHERS PAVING	10 17 17	2017 ST/DRNG - STREETS	10/17/2017	188,884.56
			2017 ST/DRNG - STORM		7,196.25
			2017 ST/DRNG - PARK		<u>40,271.00</u>
	Total OMANN BROTHERS PAVING				<u>236,351.81</u>
RANDY'S ENVIRONMENTAL SERVICES					
867	RANDY'S ENVIRONMENTAL SEF	OCT 2017	RECYCLING SERVICES	10/19/2017	<u>1,628.25</u>
	Total RANDY'S ENVIRONMENTAL SERVICES				<u>1,628.25</u>
SO LAKE MINNETONKA POLICE DEPT					
38	SO LAKE MINNETONKA POLICE	10 19 17	HNPNTY PROCESS FEES - AUG	10/19/2017	75.00
		11 08 17	HNPNTY PROCESS FEES - OCT	11/08/2017	378.76
		3RD QTR 2017	COURT OVERTIME	10/17/2017	205.89
		NOV 2017	2017 OPERATING BUDGET	11/01/2017	<u>15,196.00</u>
	Total SO LAKE MINNETONKA POLICE DEPT				<u>15,855.65</u>
XCEL ENERGY					
145	XCEL ENERGY	10 25 17	SIREN	10/25/2017	3.72
			4925 MEADVILLE STREET *		8.61
			LIFT STATION #1		37.71
			LIFT STATION #2		51.30
			LIFT STATION #3		35.24
			LIFT STATION #4		34.21
			LIFT STATION #6		74.21
			Street Lights *		380.64
			Sleepy Hollow Road *		<u>8.61</u>
	Total XCEL ENERGY				<u>634.25</u>

Total Paid: 301,581.66

Total Unpaid: -Grand Total: 301,581.66

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
12/01/17	PC	12/01/17	12011701	CONRAD, KRISTI	39		001-10100	277.05
12/01/17	PC	12/01/17	12011702	COOK, WILLIAM B.	37		001-10100	277.05
12/01/17	PC	12/01/17	12011703	Fletcher, Thomas M	33		001-10100	177.05
12/01/17	PC	12/01/17	12011704	Kind, Debra J.	34		001-10100	415.57
12/01/17	PC	12/01/17	12011705	Quam, Robert	32		001-10100	277.05
Grand Totals:								<u>1,423.77</u>



Agenda Number: 2G

Agenda Date: 12-06-17

Prepared by Dana Young

Agenda Item: 2018 Licenses

Summary: 12-31-17 is the deadline for applications and fees for 2018 licenses that require council approval. While the city has already received the vast majority of all of the applications and fees at this time, it is recommended that the council approve the licenses listed in the motion below contingent upon the city receiving applications and fees by the deadline. This is the same procedure that has been followed in the past.

Council Action: Required. Suggested motion ...

I move the council approves 2018 licenses for the entities listed below contingent upon the city receiving applications and fees by 12-31-17:

Commercial Marinas	Bean's Greenwood Marina Excelsior Bay Harbor Kreslins' Marina
Gas Station	Minnoco
Rental Permits	David Colwell, 21830 Byron Circle Terry & Jill Nagel, 21885 Byron Circle Lake Bechtell, 5100 Curve Street Mark & Jean Lewry, 21690 Fairview Street David Rubenstein, 21885 Fairview Street Andrew Althsuser, 5200 Greenwood Circle John Klinkner, 5205 Greenwood Circle Jim Norman, 5370 Manor Road Juliann Schultz, 5470 Manor Road Patty Loftus, 5165 Meadville Street Keith Wilcock, 21260 Minnetonka Blvd Thomas Smith, 5135 West Street
Tobacco	Minnoco
Trash Haulers	Aspen Waste Blackowiak Disposal Randy's Environmental Services Republic Services Waste Management



Agenda Number: **5A&6A**

Agenda Date: 12-06-17

Prepared by Deb Kind

Agenda Item: Truth in Taxation Hearing, Res 27-17 Approving Final Levy for Taxes Payable in 2017, and Res 28-17 Approving Final 2018 Budget

Summary: Attached is a copy of the "final" draft of the 2018 budget, which includes the tax levy amount of \$637,879 (shaded gray at the top of page 1). This amount represents a -0.18% change from last year's levy and is the amount included on the attached resolution 27-17 for approving the final tax levy for taxes payable in 2018. Also attached is resolution 28-17 for approving the 2018 general fund budget amount of \$766,184. This amount represents a -2.18% change from last year's budget.

The tax levy and budget are the result of council discussions at worksessions and council meetings in August and September. The preliminary tax levy of \$637,879 was approved at the September council meeting. Other than changing the title from "preliminary" to "final," no changes have been made to the budget since the preliminary tax levy was approved. In accordance with state law, the council may make changes to the budget at the December council meeting, but the levy amount cannot increase from the preliminary levy amount.

The council is NOT required to take action on the below fund budgets. However, since the 2011 budget process, the below fund budgets have been included on the budget spreadsheet for the council's reference and for the public to view.

- A. Sewer Enterprise Fund
- B. Stormwater Special Revenue Fund
- C. Park Special Revenue Fund
- D. Marina Enterprise Fund
- E. Bridge Capital Project Fund
- F. Special Project Fund
- G. Road Improvement Fund

5A – Truth in Taxation Hearing: This is an opportunity for the public to speak regarding the 2018 city levy and budget.

Note: April 2017 was the opportunity for the public to speak regarding property valuations for taxes payable in 2018.

Council action is required to open and close the public hearing ...

1. I move the city council opens the Truth in Taxation public hearing.
2. I move the city council closes the Truth in Taxation public hearing.

6A – Council Action: Required. Suggested motions ...

1. I move the council (1) adopts resolution 27-17 approving the 2018 tax levy in the amount of \$637,879 to be collected in 2018 and directs the city clerk to send the information to Hennepin County; and (2) adopts resolution 29-17 approving the 2018 general fund budget in the amount of \$766,184
2. Other motion ???

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget
GENERAL FUND REVENUE									
1	TAXES								
2	101-31010 General Property Tax	629,947	627,636	642,490	7,937	638,999	637,879	-0.18%	
3	101-31020 General Property Tax - Delinquent	4,640	7,235	0	0	0	0	#DIV/0!	
4	101-31040 Fiscal Disparities	3,526	3,262	3,262	0	3,500	3,200	-8.57%	
5	101-31800 Surcharge Revenue	112	70	0	15	0	0	#DIV/0!	
6	101-31910 Penalties	0	39	0	35	0	0	#DIV/0!	
7		638,226	638,241	645,752	7,987	642,499	641,079	-0.22%	83.67%
8	LICENSES & PERMITS								
9	101-32110 Liquor & Cigarette Licenses	10,050	10,550	10,050	0	10,050	10,550	4.98%	
10	101-32180 Other Business Licenses / Permits (Rental, Commercial Marina, Garbage Hauler, Tree Contractor, Etc)	5,320	4,375	4,000	750	4,500	4,500	0.00%	
11	101-32210 Building Permits	67,562	45,241	45,000	14,085	46,000	30,000	-34.78%	
12	101-32211 Electric Permits	4,065	2,907	5,000	2,358	4,000	4,000	0.00%	
13	101-32240 Animal Licenses	525	410	450	475	500	500	0.00%	
14		87,522	63,483	64,500	17,668	65,050	49,550	-23.83%	6.47%
15	INTERGOVERNMENT REVENUE								
16	101-33402 Homestead Credit (Market Value Credit)	0	0	0	0	0	0	#DIV/0!	
17	101-33423 Other Grants / Aids (Recycle Grant, Small Cities Assistance, Etc.)	19,000	4,215	2,500	0	3,000	0	-100.00%	
18	101-33610 County Aid to Municipalities (CAM Road Aid)	1,800	1,750	0	0	1,500	1,700	13.33%	
19		20,800	5,965	2,500	0	4,500	1,700	-62.22%	0.22%
20	PUBLIC CHARGES FOR SERVICES								
21	101-34103 Zoning & Subdivisions (Variances, Conditional Use Permits, Etc.)	11,058	6,300	6,000	3,100	6,000	6,000	0.00%	
22	101-34207 False Alarm Fee	0	0	0	0	0	0	#DIV/0!	
23	101-34304 Load Limit Fees	12,524	4,959	6,000	2,472	6,000	5,000	-16.67%	
24	101-34409 Recycling Fees (2018: Raise recycling fee from \$14 to \$16 to cover cost of service)	19,063	17,286	17,000	8,309	17,825	20,332	14.06%	
25		42,645	28,545	29,000	13,881	29,825	31,332	5.05%	4.09%
26	FINES, FORFEITURES & PENALTIES								
27	101-35101 Court Fines	6,132	8,569	6,000	2,343	6,000	6,000	0.00%	0.78%
28									
29	INVESTMENT & MISCELLANEOUS INCOME								
30	101-36102 Investment Income	5,196	5,076	5,000	3,559	6,000	7,000	16.67%	
31	101-36230 Misc. Income: Parking Permits, Civil Citations, Etc. (2017 includes Southshore Center Payout)	716	397	500	27,075	500	500	0.00%	
32		5,912	5,472	5,500	30,634	6,500	7,500	15.38%	0.98%
33	OTHER FINANCING SOURCES								
34	101-39201 Interfund Operating Transfer: From Marina Fund	12,500	12,500	12,500	0	12,500	12,500	0.00%	
35	101-39200 Administration Expense Reimbursement: 10% of Marina Revenue	3,470	3,600	3,600	0	3,730	3,860	3.49%	
36	101-39202 Administrative Expense Reimbursement: 10% of Sewer Revenue	10,090	10,090	10,090	0	10,090	10,090	0.00%	
37	101-39203 Administrative Expense Reimbursement: 10% of Stormwater Revenue	2,302	2,573	2,573	0	2,573	2,573	0.00%	
38		28,362	28,763	28,763	0	28,893	29,023	0.45%	3.79%
39									
40	Total Revenue	829,600	779,038	782,015	72,514	783,268	766,184	-2.18%	

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget
GENERAL FUND EXPENSES									
41	COUNCIL & PLANNING COMMISSION								
42	101-41100-103	Council Salaries	13,200	13,200	13,200	9,900	19,800	19,978	0.90%
43	101-41100-122	FICA Contributions (6.2%)	818	818	818	614	1,228	1,239	0.90%
44	101-41100-123	Medicare Contributions (1.45%)	191	191	191	144	287	290	0.90%
45	101-41100-371	Training / Conference Registration	90	0	1,200	0	1,000	1,000	0.00%
46	101-41100-372	Meals / Lodging	142	165	150	179	175	175	0.00%
47	101-41100-433	Misc. (Dues, Subscriptions, Supplies, Etc.)	93	129	100	0	100	100	0.00%
48			14,535	14,503	15,660	10,836	22,590	22,782	0.85%
49	ELECTIONS								
50	101-41200-103	Election Salaries (Part-Time Election Judge Salaries \$9 per hour)	0	1,670	1,900	0	0	1,670	#DIV/0!
51	101-41200-214	Operational Support - Forms (Ballots, Voter Reg. Rosters)	0	265	50	0	0	265	#DIV/0!
52	101-41200-319	Equipment Maintenance (County Agreement, \$187.50 x 2 Voting Machines, \$160 for Automark)	0	1,069	700	0	0	1,069	#DIV/0!
53	101-41200-372	Meals / Lodging (Election Judge Meals & Snacks)	0	300	885	0	0	300	#DIV/0!
54	101-41200-439	Misc. (Supplies, Postage, Public Notices, Etc.)	0	332	450	0	0	332	#DIV/0!
55			0	3,635	3,985	0	0	3,635	#DIV/0!
56	ADMINISTRATION								
57	101-41400-201	Office Supplies	117	109	150	0	150	150	0.00%
58	101-41400-202	Duplicating (Council Packets, Code Book Pages, Etc.)	1,979	2,186	1,800	780	1,800	1,800	0.00%
59	101-41400-204	Stationary, Forms, Printing	818	1,661	1,000	88	1,000	1,000	0.00%
60	101-41400-309	Professional Services - Other (ISP, Website, Email)	0	800	600	0	600	600	0.00%
61	101-41400-310	Clerk's Contract with Deeaphaven	35,634	37,492	36,785	17,150	40,464	41,678	3.00%
62	101-41400-311	Office Rent & Equipment (2017-2020 \$487.45 per month)	5,849	5,849	5,849	2,437	5,849	5,849	0.00%
63	101-41400-313	Professional Services (Civic Accounting)	2,076	2,120	2,100	1,084	2,163	2,163	0.00%
64	101-41400-322	Postage	1,099	1,180	800	396	800	800	0.00%
65	101-41400-351	Newspaper Legal Notices	1,257	1,438	800	447	900	900	0.00%
67	101-41400-439	Misc. (Equipment, Dog Tags, Meadville Launch Stickers \$425, Etc.)	681	756	725	540	725	725	0.00%
68			49,510	53,591	50,609	22,922	54,451	55,665	2.23%
69	ASSESSOR								
70	101-41500-309	Assessor - Hennepin County (\$19,000 for 2018-2020 budgets)	17,000	23,740	18,000	8,667	13,000	19,000	46.15%
71	101-41500-439	Assessor - Other (Public Notices, Processing, Tax Rolls)	272	903	400	310	600	600	0.00%
72			17,272	24,644	18,400	8,976	13,600	19,600	44.12%
73	LEGAL SERVICES								
74	101-41600-304	Legal Services - General	16,355	11,814	12,000	3,443	10,000	10,000	0.00%
75	101-41600-308	Legal Services - Prosecution	3,996	2,427	4,000	3,564	4,000	4,000	0.00%
76	101-41600-309	Legal Services - Litigation	2,166	7,877	0	422	2,000	2,000	0.00%
77			22,516	22,118	16,000	7,430	16,000	16,000	0.00%

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget
78	AUDITING								
79	101-41700-301 Auditing (\$9,800 for full audit, \$6000 cash audit, \$1000 for state auditor filing requirements)	9,600	9,600	9,600	9,700	9,700	2,000	-79.38%	
80		9,600	9,600	9,600	9,700	9,700	2,000	-79.38%	0.26%
81	GENERAL GOVERNMENT TOTAL	113,434	128,091	114,254	59,864	116,341	119,682	2.87%	15.62%
82									
83	LAW ENFORCEMENT								
84	101-42100-310 Law Enforcement - Contract	187,037	192,895	192,895	91,176	182,361	191,201	4.85%	
85	101-42100-311 Police Side Building Facility (Based on Total Tax Capacity on County Website in July)	46,320	43,920	46,115	21,829	43,658	46,030	5.43%	
86	101-42100-439 Police Safety - Other (Jail, Court Overtime, Etc.)	497	1,139	2,500	420	2,500	2,500	0.00%	
87		233,854	237,954	241,510	113,425	228,519	239,731	4.91%	31.29%
88	FIRE								
89	101-42200-309 Fire Protection - Operations (2015 actual includes \$2382 from 2014 excess reserves)	67,092	73,859	73,859	37,345	74,689	79,930	7.02%	
90	101-42200-311 Fire Side Building Facility	56,878	57,983	57,983	27,543	55,087	61,405	11.47%	
91		123,970	131,842	131,842	64,888	129,776	141,335	8.91%	18.45%
92	PUBLIC SAFETY TOTAL	357,823	369,795	373,352	178,313	358,295	381,066	6.36%	49.74%
93									
94	ZONING								
95	101-42400-308 Zoning Administration	10,222	6,524	4,000	2,174	7,000	7,000	0.00%	
96	101-42400-309 Public Notices	1,191	2,902	2,000	288	2,000	2,000	0.00%	
97	101-42400-310 Building Inspections (69% of Building & Electrical Permits)	49,509	32,012	34,500	3,639	34,500	23,460	-32.00%	
98	101-42400-438 Misc. (County Recording Fees, State Bldg. Surcharge, etc.)	0	0	0	0	0	0	#DIV/0!	
99	ZONING TOTAL	60,922	41,438	40,500	6,101	43,500	32,460	-25.38%	4.24%
100									
101	ENGINEERING								
102	101-42600-303 Engineering Fees - Misc.	4,930	1,333	3,000	987	3,000	2,000	-33.33%	
103		4,930	1,333	3,000	987	3,000	2,000	-33.33%	0.26%
104	UTILITIES & ROADS								
105	101-43100-381 S&R - Utility Services - Elec (Includes Siren Electric)	4,827	5,150	5,000	2,081	5,000	5,000	0.00%	
106	101-43100-409 Other - Road Repair & Maintenance (Public Works Repairs)	6,607	2,209	4,500	762	5,000	4,000	-20.00%	
107		11,434	7,359	9,500	2,843	10,000	9,000	-10.00%	1.17%
108	MAJOR ROAD IMPROVEMENTS								
109	101-43200-229 Major Road Improvements - Construction	89,725	0	0	0	0	0	#DIV/0!	
109	101-43200-303 Major Road Improvements - Engineering	37,656	0	0	0	0	0	#DIV/0!	
110	101-43200-500 Transfer to Road Improvement Fund (Deephaven's 2017 road costs were 9% of budget)	10,000	134,000	134,000	134,000	134,000	124,000	-7.46%	
111		137,380	134,000	134,000	134,000	134,000	124,000	-7.46%	16.18%

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget
112	PUBLIC WORKS								
113	101-43900-226 Signs	754	5,069	2,500	479	1,500	1,500	0.00%	
114	101-43900-312 Snow Plowing	7,773	9,674	20,000	6,673	20,000	15,000	-25.00%	
115	101-43900-313 Trees, Weeds, Mowing	19,626	15,748	12,000	1,398	13,000	16,000	23.08%	
116	101-43900-314 Park & Tennis Court Maintenance	3,516	7,186	1,000	1,102	2,000	3,500	75.00%	
117	101-43900-315 Trail Snow Plowing (LRT and Tar Paths)	1,128	1,219	2,100	0	2,100	2,000	-4.76%	
118		32,798	38,896	37,600	9,652	38,600	38,000	-1.55%	4.96%
119	ROADS & PUBLIC WORKS TOTAL	186,542	181,588	184,100	147,482	185,600	173,000	-6.79%	22.58%
120									
121	MISC. EXPENSES								
122	101-49000-310 Recycling Contract (\$20,650 through August 31, 2018)	21,167	19,539	20,650	8,141	20,650	20,650	0.00%	
123	101-49000-311 Spring Clean-Up Day	3,238	4,429	3,300	4,671	4,500	4,500	0.00%	
124	101-49000-369 League of Minnesota Cities Insurance Trust / Liability & Property	3,233	2,069	2,500	0	3,300	3,300	0.00%	
125	101-49000-370 League of Minnesota Cities Insurance Trust / Workers Comp	157	193	150	0	160	160	0.00%	
126	101-49000-433 Misc. Expenses	0	0	100	0	100	100	0.00%	
127	101-49000-434 Southshore Community Center	0	0	1,200	0	0	0	#DIV/0!	
128	101-49000-435 League of Minnesota Cities	833	872	800	0	824	850	3.16%	
129	101-49000-436 Lake Minnetonka Conservation District (\$6,816 in 2018)	6,560	6,009	6,009	3,149	6,298	6,816	8.22%	
129	101-49000-437 July 4th Fireworks & Parade (\$1500 Chamber of Commerce, \$100 parade)	1,627	1,583	1,600	1,500	1,700	1,600	-5.88%	
130	MISC. TOTAL	36,815	34,694	36,309	17,462	37,532	37,976	1.18%	4.96%
131									
132	Subtotal	755,537	755,607	748,515	409,221	741,268	744,184	0.39%	
133									
134	CONTINGENCY & FUND TRANSFERS								
135	101-49000-439 Contingency	0	11,025	13,500	0	22,000	12,000	-45.45%	
135	101-49000-500 Transfer to Bridge Fund	30,000	20,000	20,000	0	20,000	10,000	-50.00%	
136	101-49000-720 General Fund Transfer Out	0	0	0	0	0	0	#DIV/0!	
137	CONTINGENCY & BRIDGE FUND TRANSFER TOTAL	30,000	31,025	33,500	0	42,000	22,000	-47.62%	2.87%
138									
139	Total Expenses	785,537	786,632	782,015	409,221	783,268	766,184	-2.18%	
140									
141	GENERAL FUND CASH BALANCE (Goal: 35%-50% of Operating Expenditures)	536,488	544,365						
	<i>Audited Percent of Operating Expenditures</i>	66.70%	78.40%						

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget	
142	SEWER ENTERPRISE FUND <i>This fund may be used for any city purpose. Goal: \$400,000.</i>									
143	602-34401	REVENUE: Sewer Use Charges (\$65 per quarter)	97,015	96,163	100,899	47,702	100,899	100,899	0.00%	
144	602-34402	REVENUE: Late Charges & Penalties	492	330	0	115	0	0	#DIV/0!	
145	602-34403	REVENUE: Delinquent Sewer Payments Received	1,019	855	0	0	0	0	#DIV/0!	
146	602-34404	REVENUE: Delinquent Sewer Late Fees Received	40	0	0	0	0	0	#DIV/0!	
147	602-34408	REVENUE: Permit Fees	675	375	0	200	0	0	#DIV/0!	
148	602-36220	REVENUE: Other Income (SAC charges)	0	2,485	0	0	0	0		
149	602-38100	REVENUE: Grant Revenue	0	25,097	0	0	0	0	#DIV/0!	
150	602-37100	REVENUE: Excelsior Blvd. Watermain Project (Contributions for Study, Assessment Pre-Payments)	0	0	0	0	0	0	#DIV/0!	
151	602-36100	REVENUE: Special Assessments (Excelsior Blvd Watermain Assessment Payments)	12,894	11,865	0	6,523	0	0	#DIV/0!	
152	602-43200-303	EXPENSE: Engineering Sewer	10,820	19,406	10,000	3,061	10,000	10,000	0.00%	
153	602-43200-309	EXPENSE: Met Council	36,395	51,011	45,000	19,128	45,000	45,000	0.00%	
154	602-43200-310	EXPENSE: Public Works Sewer	6,636	9,969	6,000	1,999	6,000	6,000	0.00%	
155	602-43200-381	EXPENSE: Utility Services - Electric	2,538	1,907	2,500	1,045	2,500	2,500	0.00%	
156	602-43200-404	EXPENSE: Repair & Maintenance	13,376	10,542	12,000	5,079	12,000	12,000	0.00%	
157	602-43200-410	EXPENSE: Excelsior Blvd. Watermain Project (Hennepin County Special Assessment Annual Fee)	125,801	390	0	388	0	0	#DIV/0!	
158	602-43200-439	EXPENSE: Misc. (Gopher State One Call, Forms, Printing, Insurance, etc.)	858	750	900	220	900	900	0.00%	
159	602-43200-530	EXPENSE: Capital Outlay (I&I Projects)	0	57,600	14,000	0	14,000	14,000	0.00%	
160	602-43200-720	INTERFUND TRANSFER OUT: To General Fund (10% of budgeted sewer revenue for adm. costs)	10,090	30,090	10,090	0	10,090	10,090	0.00%	
161		Net Total	-94,377	-44,495	409	23,621	409	409	0.00%	
162		SEWER ENTERPRISE FUND CASH BALANCE (Audited)	348,785	303,767						
162	STORMWATER SPECIAL REVENUE FUND <i>This fund may be used for any city purpose.</i>									
163	502-34401	REVENUE: Stormwater Use Charges (\$19 per quarter)	22,578	24,542	25,729	12,480	25,729	25,729	0.00%	
164	502-34403	REVENUE: Delinquent Stormwater Payments Received	0		0	0	0	0	#DIV/0!	
164	502-34404	REVENUE: Delinquent Stormwater Late Fees Received	0		0	0	0	0	#DIV/0!	
165	502-34405	INTERFUND TRANSFER IN	0	20,000	0	0	0	0	#DIV/0!	
166	502-43200-303	EXPENSE: Engineering Stormwater	10,595	9,458	6,700	258	6,700	3,500	-47.76%	
167	502-43200-310	EXPENSE: Public Works Stormwater	4,385	3,120	0	95	0	0	#DIV/0!	
168	502-43200-319	EXPENSE: Equipment and Maintenance	9,880	0	0	0	0	0	#DIV/0!	
169	502-43200-409	EXPENSE: Street Sweeping	2,612	2,371	3,000	2,362	2,700	2,700	0.00%	
170	502-43200-439	EXPENSE: Misc. (EPA Fee, Etc.)	216	211	250	172	250	250	0.00%	
171	502-43200-530	EXPENSE: Capital Outlay	0	0	0	0	0	0	#DIV/0!	
173	502-43200-720	ADMINISTRATIVE EXPENSE: To General Fund (10% of budgeted stormwater rev. for adm. costs)	2,302	2,573	2,573	0	2,573	2,573	0.00%	
174		Net Total	-7,413	26,809	13,206	9,593	13,506	16,706	23.69%	
175		STORMWATER SPECIAL REVENUE FUND CASH BALANCE (Audited)	443	27,975						

2018 Greenwood FINAL Budget

		2015 Actual	2016 Actual	2016 Budget	2017 June YTD	2017 Budget	2018 Budget	% Change	% Total Budget
180	PARK SPECIAL REVENUE FUND <i>This is a dedicated fund for park "acquisitions" only. Cannot be used for maintenance.</i>								
181	401-36230	REVENUE: Park Dedication Fees	0	0	0	0	0	#DIV/0!	
182	401-45000-000	EXPENSE: Park Improvements	0	5,000	0	0	0	#DIV/0!	
183		Net Total	0	-5,000	0	0	0	#DIV/0!	
184		PARK FUND CASH BALANCE (Audited)	27,055	22,055					
185	MARINA ENTERPRISE FUND <i>This fund may be used for any city purpose. Goal: \$55,000 Tonka Dock; \$65,000 Permanent Dock; \$120,000 Floating Dock.</i>								
186	605-36201	REVENUE: Slip Fees (\$1450 x 26 boats, \$300 x 2 sailboats, \$50 x 6 canoes)	34,050	35,400	36,000	36,700	37,300	38,600	3.49%
187	605-45100-309	EXPENSE: Professional Services (Dock In and Out, Weed Removal)	3,000	6,590	3,500	1,500	3,500	7,000	100.00%
188	605-45100-310	EXPENSE: Public Works	179	878	500	0	500	500	0.00%
189	605-45100-439	EXPENSE: Misc. (LMCD Multi-Dock License \$350, SABLID / AIS \$2500 in 2017, Insurance \$873)	5,889	5,677	6,223	2,500	3,723	3,723	0.00%
190	605-45100-590	EXPENSE: Capital Outlay	0	0	0	0	0	0	#DIV/0!
191	605-49300-720	OPERATING TRANSFER: To General Fund	12,500	12,500	12,500	0	12,500	12,500	0.00%
192	605-49300-721	ADMINISTRATIVE EXPENSE: To General Fund (10% of budgeted marina revenue for adm. costs)	3,470	3,600	3,600	0	3,730	3,860	3.49%
193		Net Total	9,012	6,155	9,677	32,700	13,347	11,017	-17.46%
194		MARINA ENTERPRISE FUND CASH BALANCE (Audited)	51,320	57,475					
195	BRIDGE CAPITAL PROJECT FUND <i>This fund was created in 2010. The funds may be used for any city purpose. Goal: \$200,000</i>								
196	403-39200	REVENUE: Transfer from General Fund	30,000	20,000	20,000	0	20,000	10,000	-50.00%
197	403-45100-303	EXPENSE: Engineering	1,290	75	2,000	733	4,000	4,000	0.00%
198	403-45100-304	EXPENSE: Legal Services	0	0	2,000	0	2,000	0	-100.00%
199	403-45100-530	EXPENSE: Capital Outlay	0	0	0	0	0	0	#DIV/0!
200		Net Total	28,710	19,925	16,000	-733	14,000	6,000	-57.14%
201		BRIDGE CAPITAL PROJECT FUND CASH BALANCE (Audited)	147,173	167,098					
202	SPECIAL PROJECT FUND <i>This fund was created in 2013.</i>								
203	301-36103	REVENUE: Greenwood Park Stormwater Project	0	0	0	207,755	0	0	#DIV/0!
204	301-47000-603	EXPENSE: Greenwood Park Stormwater Project (Engineering, Etc)	0	1,173	0	20,325	0	0	#DIV/0!
205		Net Total	0	-1,173	0	187,430	0	0	#DIV/0!
206		SPECIAL PROJECT FUND CASH BALANCE (Audited)	0	0					
207	ROAD IMPROVEMENT FUND <i>This fund was created in 2014. The funds may be used for any city purpose. Goal: \$_____ for Minnetonka Blvd rehabilitation project.</i>								
208	404-36230	REVENUE: Transfers from General Fund and other revenue sources	10,000	144,000	134,000	134,000	134,000	124,000	-7.46%
209	404-36231	REVENUE: Misc. Revenue (Conduit Financing Revenue, Etc.)	0	0	0	0	0	0	#DIV/0!
210	404-45100-100	EXPENSE: Capital Outlay	0	107,073	75,000	0	75,000	75,000	0.00%
211	404-45100-303	EXPENSE: Engineering Expenses, Public Notices, Etc.	0	39,452	20,000	6,623	20,000	20,000	0.00%
212		Net Total	10,000	-2,525	39,000	127,377	39,000	29,000	-25.64%
213		ROAD IMPROVEMENT FUND CASH BALANCE (Audited)	50,000	109,425					
214		Total Cash Balance (audited)	1,161,264	1,203,625					



**City of Greenwood
Resolution 27-17**

A RESOLUTION APPROVING THE 2017 TAX LEVY, COLLECTIBLE IN 2018

BE IT RESOLVED by the city council of the city of Greenwood that the following sum of money be levied for the current year, collectible in 2018, upon taxable property in the city of Greenwood, Minnesota for general fund activities:

TOTAL LEVY: \$637,879

The city clerk is hereby instructed to transmit a certified copy of this resolution to the county auditor of Hennepin County Minnesota.

ADOPTED by the city council of Greenwood, Minnesota this 6th day of December, 2017.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk



**City of Greenwood
Resolution 28-17**

A RESOLUTION APPROVING THE 2018 CITY BUDGET

WHEREAS, the city council of the city of Greenwood has reviewed the 2018 city budget and determined that the proposed expenditures and revenues adequately address the needs of the city and the residents it serves,

WHEREAS, the public had the opportunity to comment on the 2018 city budget at the December 6, 2017 city council meeting.

NOW, THEREFORE BE IT RESOLVED by the city council of the city of Greenwood, that the 2018 general fund budget in the amount of **\$766,184** is hereby approved.

ADOPTED by the city council of Greenwood, Minnesota this 6th day of December, 2017.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk



Agenda Number: **7A**

Agenda Date: **12-06-17**

Prepared by *Deb Kind*

Agenda Item: Res 25-17 & Res 29-17 Findings for Variance Application, Laura & Lloyd Ness, 5500 Maple Heights Rd

Summary: The city council approved the following motions at the 11-01-17 meeting ...

Motion by Fletcher that the city council (1) adopts resolution 25-17 approving variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road, with revisions as discussed and removal of the deck enclosure denial language; and (2) directs staff to draft written findings to be formally approved at the December 6 city council meeting. Second by Cook. Motion passed 5-0.

Motion by Kind that city council (1) approves the variance requests of Laura and Lloyd Ness, 5500 Maple Heights Road for an enclosed deck as presented and based on the following findings:

- (a) **The setback variance is in harmony with the purpose and intent of the setback requirements in the ordinance, which are to provide adequate space for public safety access and adequate air and light to adjacent properties;**
- (b) **The variance is consistent with the comprehensive plan in that a an enclosed porch is a reasonable use for a residential lakeshore property and the variance is supported by neighboring property owners;**
- (c) **The uniquely shaped property and constraints of the original home design were not created by the current property owner;**
- (d) **Granting the variances will not ...**
 - **alter the essential character of the area;**
 - **impair an adequate supply of light and air to adjacent properties;**
 - **unreasonably increase the congestion in the public street;**
 - **increase the danger of fire or endanger the public safety;**
 - **unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of the ordinance; and**

(2) directs staff to draft written findings to be formally approved at the December 6 city council meeting. Second by Cook. Motion passed 3-2 with Fletcher and Conrad voting nay.

Council Action: At the 12-06-17 city council meeting, the city council will formally adopt the resolutions with the findings. Suggested motions ...

1. I move the city council adopts resolution 25-17 laying out the findings of fact **APPROVING** the variance requests for a **deck that encroaches into the north and south side yard setbacks and exceeds the maximum permitted impervious area for the property**. 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 adopts resolution 29-17 laying out the findings of fact **APPROVING** the variance request for an **enclosed porch that encroaches into the south side yard setback**. 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.

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).

RESOLUTION NO 25-17

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

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.

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 that encroaches 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%.
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. At its meeting of November 1, 2017 the City Council determined that the applicant’s request to connect the proposed lakeside deck to the house was not an unreasonable request. However, the applicant did not demonstrate that the requested variances were necessary to meet their request. Specifically the applicant could

reasonably connect the existing decks to the proposed deck with a new 4 foot wide deck passage, which would eliminate the need for a setback variance on the north side of the property and reduce the required setback variance on the south side of the property to a 1.8 foot encroachment into the 10 foot side yard setback at the lakeside of the existing south side deck, which would gradually move away from the setback line as the deck connecting area went west to the lakeside. The additional hardcover from the second connected deck option should be roughly offset by removing the 79 sf stone patio near the shore and limiting the depth of the new deck to 12 feet.

7. At its meeting of November 1, 2017 the City Council determined that the property has existing 35.03% hardcover. A 2002 variance request showed 27.9% hardcover. There is no record of the City Council approving the 512 square foot of rock on plastic on the north side of the house, which is 3.3% of the property area or the 79 square foot stone patio near shore, which is .5% of the property area.
8. Based on the foregoing, the city council determined that 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 is approved for a new south deck encroachment of 1.8 feet only with a gradual angled reduction as shown on the attached plan and no new north side deck encroachment. The approval with its associated hardcover increase is conditioned on removing the impervious 512 square feet of rock on plastic on the north side of the house, removing the 79 square feet of stone patio near the shore, and limiting the depth of the deck between the front of the house and the lake to 12 feet. The variance request as approved then:
 - (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.

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 variance from section 1140.10 Subd. 2(c) to construct a deck that encroaches 1.8 feet into the minimum required south side yard setback and no feet into the minimum required north side yard setback feet should be **APPROVED**.

The approval is conditioned on the applicant removing the impervious 512 square feet of rock on plastic on the north side of the house, removing the 79 square feet of stone patio near the shore of the property, and limiting the depth of the deck between the front of the house and the lake to 12 feet.

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 variance from section 1140.10 Subd. 2(c) to construct a deck that encroaches 1.8 feet into the minimum required south side yard setback and no feet into the minimum required north side yard setback feet is **APPROVED**.

The approval is conditioned on the applicant removing the impervious 512 square feet of rock on plastic on the north side of the house, removing the 79 square feet of stone patio near the shore of the property, and limiting the depth of the deck between the front of the house and the lake to 12 feet.

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

RESOLUTION NO 29-17

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

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 to add an enclosed porch that encroaches into the south side yard setback.

Laura and Lloyd Ness, applicants, are 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 section 1120.15 in conjunction with the addition of an enclosed porch that encroaches into the south side yard setback; 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 an enclosed porch, which is considered part of the principal structure, that encroaches 11 feet, 2 inches into the south side yard setback. Section 1120.15 of the city code requires a principal structure setback of 15 feet and the applicants are proposing a setback of 3 feet, 10 inches.

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, on a 3-1 vote, recommended the council deny the request of Laura and Lloyd Ness to vary from city code Section 1120.15 in order to encroach into the side yard setback for the 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 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
 - a. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

- 6. Based on the foregoing, the city council determined that the variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6 because:

- (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 a small enclosed porch is a reasonable use for a lakeshore property and the enclosed porch maintains the footprint of the existing deck.
- (d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property is a narrow lot and the house is currently situated 3 feet, 10 inches off of the lot line. Improving the house is difficult without creating south side yard encroachments.
- (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. The adjacent lots are also narrow and built close to the property lines. The small porch will be a minor change in the context of the locality and the impacted neighbor to the south.
- (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.

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 1120.15 and therefore a variance from section 1120.15 to construct an enclosed porch that encroaches 11 feet, 2 inches into the minimum required south side yard setback should be **APPROVED**.

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 variance from section 1120.15 to construct an enclosed porch that encroaches 11 feet, 2 inches into the minimum required south side yard setback is **APPROVED**.

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.

3 AYES 2 NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk



Agenda Number: **7B**

Agenda Date: **12-06-17**

Prepared by Dale Cooney

Agenda Item: Consider Res 30-17, Findings for Variance Application, David & Kimberly Barry, 21550 Excelsior Blvd.

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 11-02-17. The planning commission held a public hearing at their 11-15-17, 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: The planning commission determined that the ordinance language did not permit a variance to exchange landscape-related impervious for structural-related impervious, and therefore their motion to recommend approval included the allowance of additional impervious area on the property to accommodate the expanded structural footprint. Motion by Bechtell to recommend approval the request as proposed with a corresponding increase in total impervious surface area for the new structural-related impervious surfaces. Motion was seconded by Steingas. Motion carried 6-0.

Key Dates:

Application complete:	October 18, 2017
Notice of Public Hearing published:	November 2, 2017
Planning Commission Public Hearing:	November 15, 2017
City Council Consideration:	December 6, 2017
60-Day Deadline:	December 17, 2017
120-Day Deadline:	February 15, 2018

Council Action: The city council must take action by 12-17-17 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 30-17 laying out the findings of fact **APPROVING** the variance requests of David and Kimberly Barry to encroach 13 feet, 4 inches from the minimum required lake yard setback for the proposed garage addition, encroach 30 inches into the minimum required front and lake yard setback for the garage eaves, to increase the total impervious area on the property by 138 square feet for the property at 21550 Excelsior Boulevard, as proposed. 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 directs staff to draft **FINDINGS FOR DENIAL** of the variance requests of David and Kimberly Barry, 21550 Excelsior Boulevard, to be considered at the January 3 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.
3. 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 David and Kimberly Barry, 21550 Excelsior Boulevard, 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: **7B**

Agenda Date: 12-06-17

STAFF REPORT

Prepared by Dale Cooney

Agenda Item: Consider variance requests of David and Kimberly Barry, property owners, to encroach into the lake yard and front yard setbacks and to expand structural-related impervious areas in order to attach a currently detached garage to the principal structure and expand the existing nonconforming garage at 21550 Excelsior Boulevard.

Summary: David and Kimberly Barry, property owners at 21550 Excelsior Boulevard, are requesting variances in order to attach a currently detached garage to the principal structure, and to expand an existing nonconforming garage. The height of the nonconforming garage is also increasing in order to accommodate living space above.

The north and south sides of the property face a channel that is considered part of Lake Minnetonka and require a 50 foot lake yard setback. The property is currently at 42.3% impervious surface area. No expansion of impervious area is proposed, but areas of at-grade hardcover are proposed to be converted to structural hardcover.

Setbacks: Section 1120.15 of the Greenwood Zoning Code requires a 50 foot lake yard setback and a 30 foot front yard setback. As proposed, the garage addition would be a further encroachment into the lake yard setback. Additionally, the overall height of the nonconforming garage is increasing. Applicants are proposing a 36 foot 8 inch setback from the lake yard for the garage and are **seeking a variance of 13 feet, 4 inches from the lake yard setback**. The garage currently encroaches into the lake yard setback and approximately half of the proposed garage expansion would encroach into the setback. The property does not have a basement, and the living space above the garage would be in order to allow for a rec room.

Applicants are proposing garage eave overhangs of 5 feet. Section 1140.20(5)(D) of the Greenwood Zoning Code limits eave encroachments to 30 inches. **Applicants are seeking a variance of 30 inches from the maximum permitted eave encroachment.**

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 is currently at 42.3% impervious. While no expansion of impervious surface area is proposed, the proposal does convert areas of at grade impervious into structural impervious.

Section 1176.07.05 (Subd. 4) of the zoning code addresses impervious surface policies and conditions and states, *“Variance applicants with total impervious surface coverage in excess of 30% 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 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.”*

It further states that *“Legal and illegal nonconforming landscape-related impervious surfaces cannot be exchanged for an increase in structural-related impervious surfaces to obtain a variance from impervious surface requirements”* and also that *“Driveways may be exchanged for structural impervious surface. Future driveway expansion must comply with the provisions set forth in subdivision 1 of this section.”*

A portion of the proposed structural expansion (154 sf) is over an existing driveway and may be exchanged for structural impervious area. The remainder of the structural expansion (138 sf) is proposed to be exchanged for pavers and landscaping plastic. Per code, landscape-related impervious surfaces cannot be exchanged for an increase in structural-related impervious surfaces, and **applicants are seeking a variance to exchange 138 square feet of landscape-related impervious surfaces for an increase in structural-related impervious surfaces**. Regardless of the surface that it is replacing, staff feels that connecting the detached garage to the house is an easy and welcome improvement that helps bring the home up to modern standards.

The existing home was constructed in 1985, but it is unclear what hardcover was in place prior to the 1992 ordinance requirements. (Recent iterations of the city code allowed the issuance of a CUP for hardcover up to 40%.) Records indicate that the impervious surface area on the property was 46% as early as 2005, and it appears that the applicants

have reduced the impervious area slightly since they acquired the property. In 2012, a variance was granted to connect the garage to the house, and the 46% hardcover on the property was reviewed by the city council at that time.

The applicants are proposing to increase the intensity of the use by converting landscape-related impervious to structural-related impervious, and in staff's opinion there should be some concessions to impervious areas for this intensification. At minimum, the plastic landscaping sheeting should be removed, which would reduce the impervious surface area on the property to 37%. The city council should determine if such an exchange is legal under current code language.

Building Volume: The allowable building volume for the property is 78,864 cubic feet. Proposed building volume for the property with all proposed improvements would be less than 58,900 cubic feet.

Other Items: Builder for the applicant has included Exhibit B, stating it permitted the construction of the house without a variance in 1977. While the request was approved, it does not appear the dwelling was built. A similar request for a house was submitted in 1984, which is the house that currently exists on the property. Regardless of prior decisions, the law that is in effect is the law that exists today, and the actions taken in 1977 or 1984 do not allow for expanding a legal nonconforming use without city council approval.

Staff Recommendation:

Staff recommends approval with conditions of the variance requests of David and Kimberly Barry to encroach 13 feet, 4 inches from the minimum required lake yard setback for the proposed garage addition, to encroach 30 inches into the minimum required front and lake yard setback for the garage eaves, and for a variance to exchange 138 square feet of landscape-related impervious surfaces for structural-related impervious surfaces for the proposed improvements for the property at 21550 Excelsior Boulevard, as presented.

The approval is conditioned that the areas shown on the survey as "Landscaping w/Plastic" have the plastic removed and replaced with water permeable landscape fabric.

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

- a) The variance, if granted, will be in harmony and keeping with the spirit and intent of the zoning ordinance because the purpose of the ordinance is to promote the wise use and development of the shoreland of public waters that exist within the boundaries of the city, the proposal is a modest intensification of a property with a limited area to place a conforming footprint.
- b) The variance, if granted, will be consistent with the comprehensive plan which encourages, through reasonable accommodation, the maintenance and improvement of older homes consistent with our 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: it maintains the single family nature of the property at a scope and scale consistent with the zoning standards.
- d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because: the property is bordered on two sides by a channel that is considered part of Lake Minnetonka (one channel which is not navigable) and which severely limits the conforming buildable area on the property. Additionally, the excess impervious surface area on the property is a condition that predated the applicant's acquisition of the property.
- e) The variance, if granted, will not alter the essential character of the locality, because: the proposed expansion would remain consistent with the scope and scale of the surrounding properties.
- f) The variance, if granted, will not:
 - i. Impair an adequate supply of light and air to adjacent property;
 - ii. Unreasonably increase the congestion in the public street;
 - iii. Increase the danger of fire or endanger the public safety; or
 - iv. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

Key Dates:

~~Application complete: _____ October 18, 2017~~
~~Notice of Public Hearing published: _____ November 2, 2017~~
~~Planning Commission Public Hearing: _____ November 15, 2017~~
City Council Consideration: December 6, 2017
60-Day Deadline: December 17, 2017
120-Day Deadline: February 15, 2018

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).

LEGAL DESCRIPTION:

That part of Tract G of Registered Land Survey No. 593, Hennepin County Minnesota, lying Northerly of a line running from a point on the Easterly line thereof distant 70.00 feet Northerly measured along the Easterly line from the southeasterly corner thereof to the point of intersection of the Westerly line of said Tract G with the North line of the South 94.71 feet of Tract I in said Registered Land Survey No. 593; also that part of Tract H in said Registered Land Survey No. 593 lying Westerly of a line running at right angles from the Southerly line thereof at a point distant 9.94 feet Easterly from the Southwesterly corner thereof and that part of Lot A, Partridge Heights, Hennepin County, Minnesota, lying Westerly of a line running Southerly at right angles from the Southerly line of Tract H in said Registered Land Survey No. 593, at a point 9.94 feet Easterly from the Southwesterly corner of said Tract H.

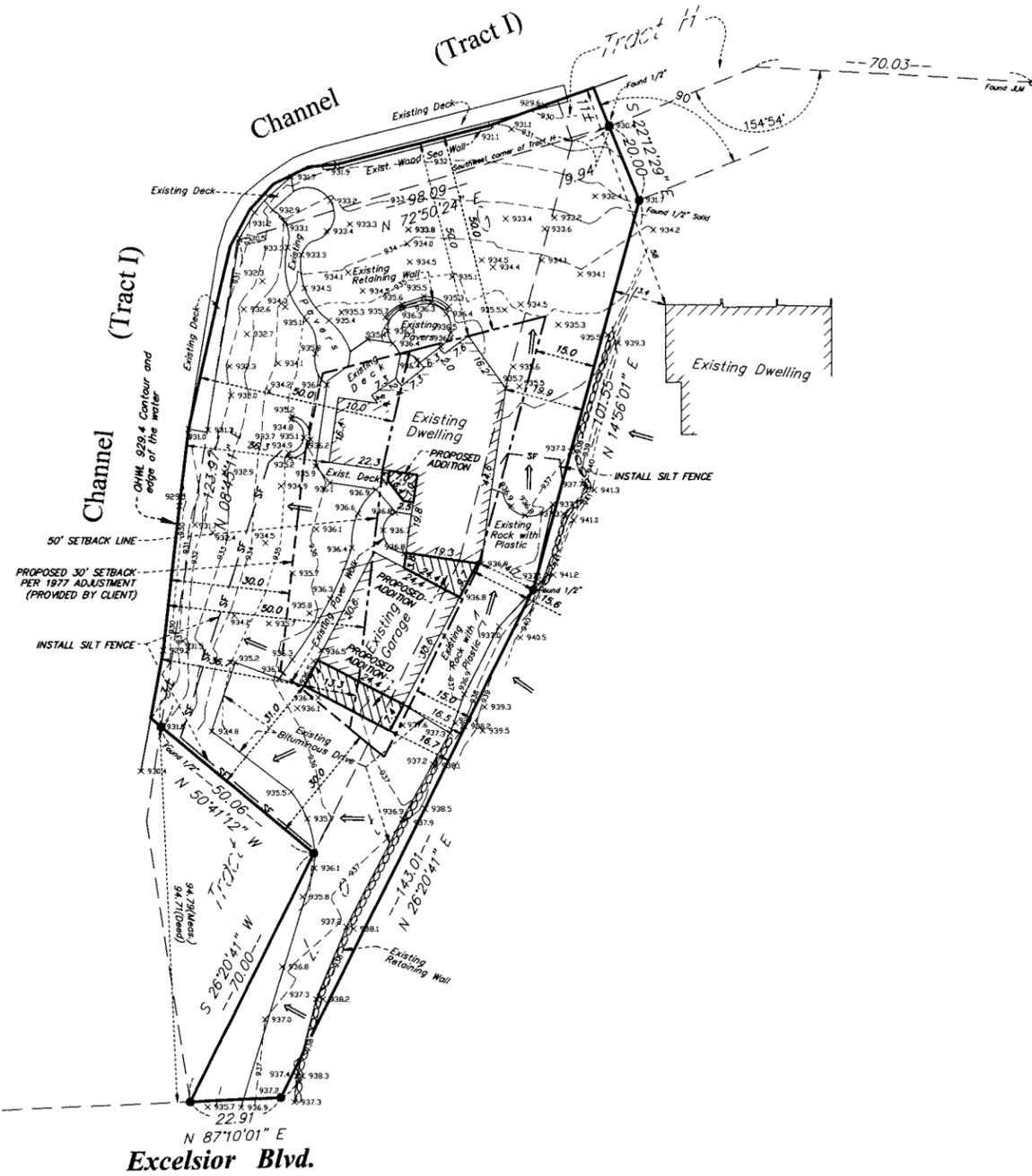
Total Area = 16,932 square feet or 0.388 acres (measured to OHWL)

SCOPE OF WORK & LIMITATIONS:

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.
- While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
- While we show the building setback lines per the City of Greenwood web site, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you use this survey to design anything for this site. Additional setback information provided by client.

STANDARD SYMBOLS & CONVENTIONS:

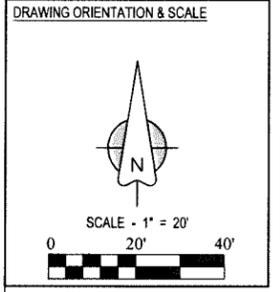
● " Denotes iron survey marker, set, unless otherwise noted.



17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Thomas M. Bloom
Thomas M. Bloom
42379
LICENSE NO.
OCTOBER 20, 2017
DATE



CLIENT NAME / JOB ADDRESS

**SHARRATT
DESIGN**
21550 EXCELSIOR
BOULEVARD
GREENWOOD, MN

DATE	REVISION DESCRIPTION

DATE SURVEYED: OCTOBER 19, 2017

DATE DRAFTED: OCTOBER 20, 2017

SHEET TITLE
**PROPOSED
SURVEY**

DRAWING NUMBER
171190 JR

SHEET SIZE **22 X 34**

SHEET NUMBER
S1

LEGEND

EXISTING CONTOUR	--- 935 ---
EXISTING SPOT ELEVATION	X 935.5
DRAINAGE ARROW - FLOW	⇒
SILT FENCE/BIO ROLL	— SF —

NOTE: NO TREES WILL BE DISTURBED

EXISTING HARDCOVER		PROPOSED HARDCOVER	
House	1,461 Sq. Ft.	House	1,461 Sq. Ft.
Existing Decks	658 Sq. Ft.	House Addition (Entry)	39 Sq. Ft.
Landscaping w/ Plastic	827 Sq. Ft.	Existing Decks	619 Sq. Ft.
Bituminous Driveway	2,395 Sq. Ft.	Landscaping w/ Plastic	791 Sq. Ft.
Garage	748 Sq. Ft.	Bituminous Driveway	2,241 Sq. Ft.
Paver Surfaces	973 Sq. Ft.	Garage	748 Sq. Ft.
Ret. Walls	99 Sq. Ft.	Garage Addition/Connect	292 Sq. Ft.
TOTAL EXISTING HARDCOVER	7,161 Sq. Ft.	Paver Surfaces	871 Sq. Ft.
AREA OF LOT TO OHW	16,932 Sq. Ft.	Ret. Walls	99 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	42.3%	TOTAL PROPOSED HARDCOVER	7,161 Sq. Ft.
		AREA OF LOT TO OHW	16,932 Sq. Ft.
		PERCENTAGE OF HARDCOVER TO LOT	42.3%

LEGAL DESCRIPTION:

That part of Tract G of Registered Land Survey No. 593, Hennepin County Minnesota, lying Northerly of a line running from a point on the Easterly line thereof distant 70.00 feet Northerly measured along the Easterly line from the southeasterly corner thereof to the point of intersection of the Westerly line of said Tract G with the North line of the South 94.71 feet of Tract I in said Registered Land Survey No. 593; also that part of Tract H in said Registered Land Survey No. 593 lying Westerly of a line running at right angles from the Southerly line thereof at a point distant 9.94 feet Easterly from the Southwesterly corner thereof and that part of Lot A, Partridge Heights, Hennepin County, Minnesota, lying Westerly of a line running Southerly at right angles from the Southerly line of Tract H in said Registered Land Survey No. 593, at a point 9.94 feet Easterly from the Southwesterly corner of said Tract H.

SCOPE OF WORK & LIMITATIONS:

1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
5. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
6. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, set, unless otherwise noted.

17917 Highway 7
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Thomas M. Bloom

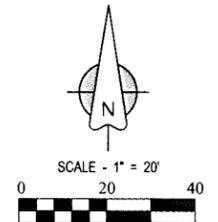
Thomas M. Bloom
42379

LICENSE NO.

OCTOBER 19, 2017

DATE:

DRAWING ORIENTATION & SCALE



CLIENT NAME / JOB ADDRESS

**SHARRATT
DESIGN**
21550 EXCELSIOR
BOULEVARD
GREENWOOD, MN

DATE	REVISION DESCRIPTION

DATE SURVEYED: OCTOBER 19, 2017

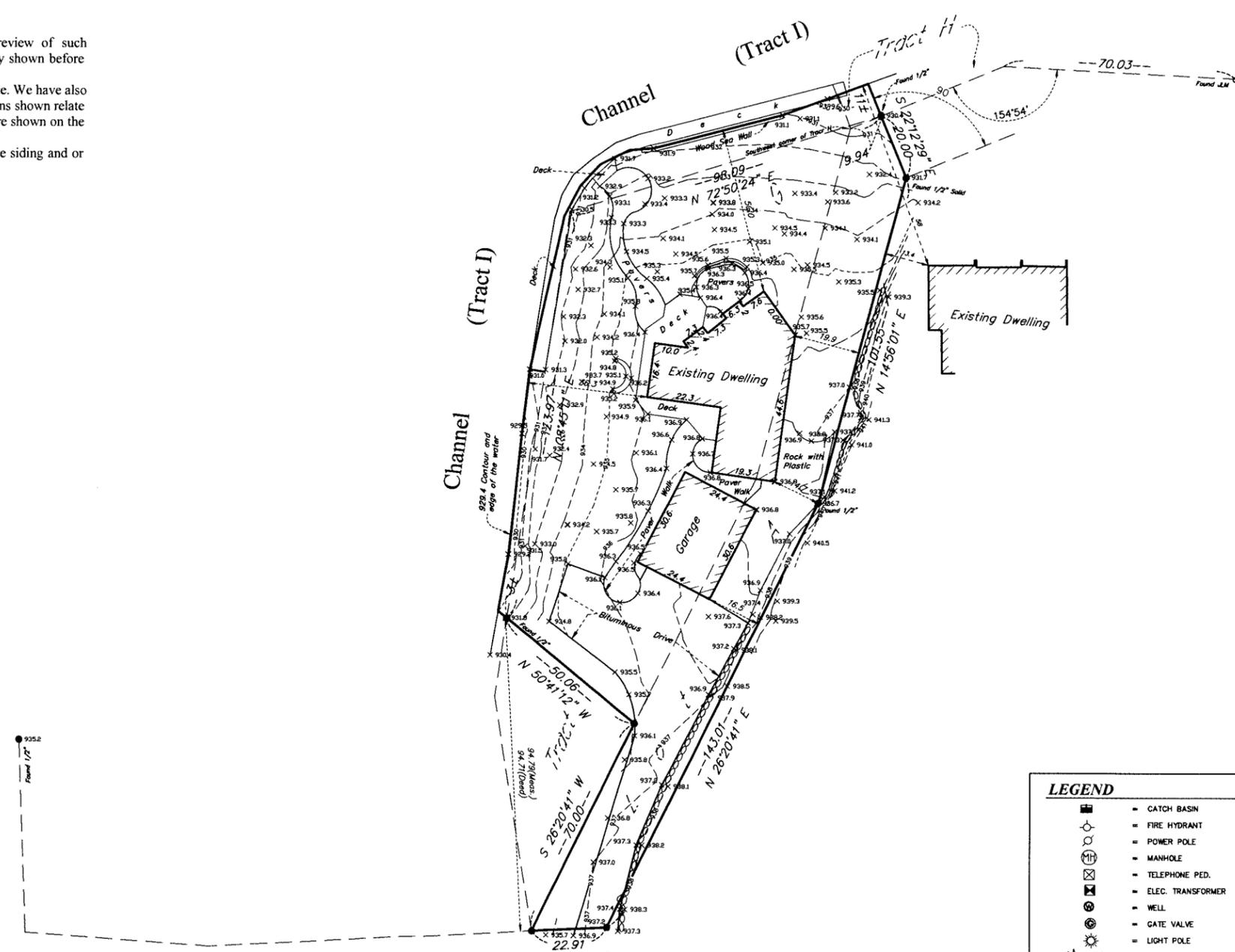
DATE DRAFTED: OCTOBER 19, 2017

SHEET TITLE
EXISTING
CONDITIONS
SURVEY

DRAWING NUMBER
171190 TB

SHEET SIZE 22 X 34

SHEET NUMBER
S2



LEGEND

	= CATCH BASIN
	= FIRE HYDRANT
	= POWER POLE
	= MANHOLE
	= TELEPHONE PED.
	= ELEC. TRANSFORMER
	= WELL
	= GATE VALVE
	= LIGHT POLE
	= TREE
	= FENCE LINE
	= SANITARY SEWER LINE
	= WATER LINE
	= GAS LINE
	= STORM DRAIN LINE
	= OVERHEAD UTILITY LINE
	= CONCRETE SURFACE

EXISTING HARDCOVER

House	1,461 Sq. Ft.
Existing Decks	658 Sq. Ft.
Landscaping w/ Plastic	827 Sq. Ft.
Bituminous Driveway	2,395 Sq. Ft.
Garage	748 Sq. Ft.
Paver Surfaces	973 Sq. Ft.
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TOTAL EXISTING HARDCOVER	7,161 Sq. Ft.
AREA OF LOT TO OHW	16,932 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	42.3%

SHEET INDEX

50-1	CERTIFICATE OF SURVEY
50-2	EXISTING CONDITIONS SURVEY
A1	ARCHITECTURAL SITE PLAN
A2	FOUNDATION & MAIN LEVEL FLOOR PLAN
A3	UPPER LEVEL FLOOR PLAN & ROOF PLAN
A4	EXTERIOR ELEVATIONS & BRACKET DETAILS
A5	EXTERIOR ELEVATIONS
A6	BUILDING SECTIONS
A7	TYP. WALL SECTION, STAIR SECTION & TRIM DETAILS
E1	ELECTRICAL / LIGHTING PLANS
S1	STRUCTURAL NOTES & PLAN
S2	UPPER LEVEL & ROOF FRAMING
S3	STRUCTURAL DETAILS

NEW SPACE SQUARE FOOTAGE	
GARAGE	917 SF
ENTRY	39 SF
MUD RM & MECHANICAL	123 SF
UPPER LEVEL LIVING AREA	908 SF
Grand total	1987 SF

PROJECT TEAM

ARCHITECT
SHARRATT DESIGN & COMPANY
464 SECOND STREET SUITE 100
EXCELSIOR, MN 55331
CONTACT: MIKE SHARRATT (952-470-9750)

STRUCTURAL ENGINEER
WENZEL ENGINEERING, INC.
10000 MORGAN AVENUE SOUTH
BLOOMINGTON, MN 55431
CONTACT: ETHAN BELL (952-888-6516)

GENERAL CONTRACTOR
NARR CONSTRUCTION, INC.
BOX 5007
HOPKINS, MN 55343
CONTACT: GREG NARR (952-938-8781)

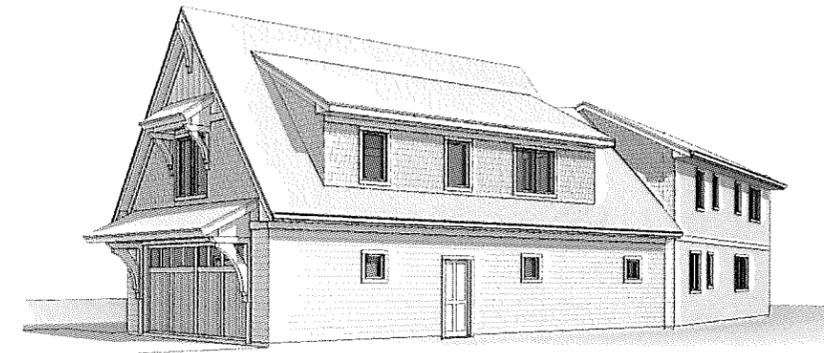
ISSUED FOR

ISSUE DATE	CHECK	MEETING SET	PROGRESS SET	STRUCTURAL COORD	ESTIMATE SET	VARIANCE APP.	ADDENDUM	CONSTRUCTION SET
04 / 17 / 17		X						
04 / 20 / 17		X	X	X				
05 / 30 / 17		X	X	X				
06 / 23 / 17		X						
06 / 27 / 17		X						
08 / 01 / 17		X						
08 / 15 / 17		X						
09 / 22 / 17		X	X					
09 / 26 / 17		X	X					
09 / 27 / 17		X			X			
10 / 18 / 17						X		

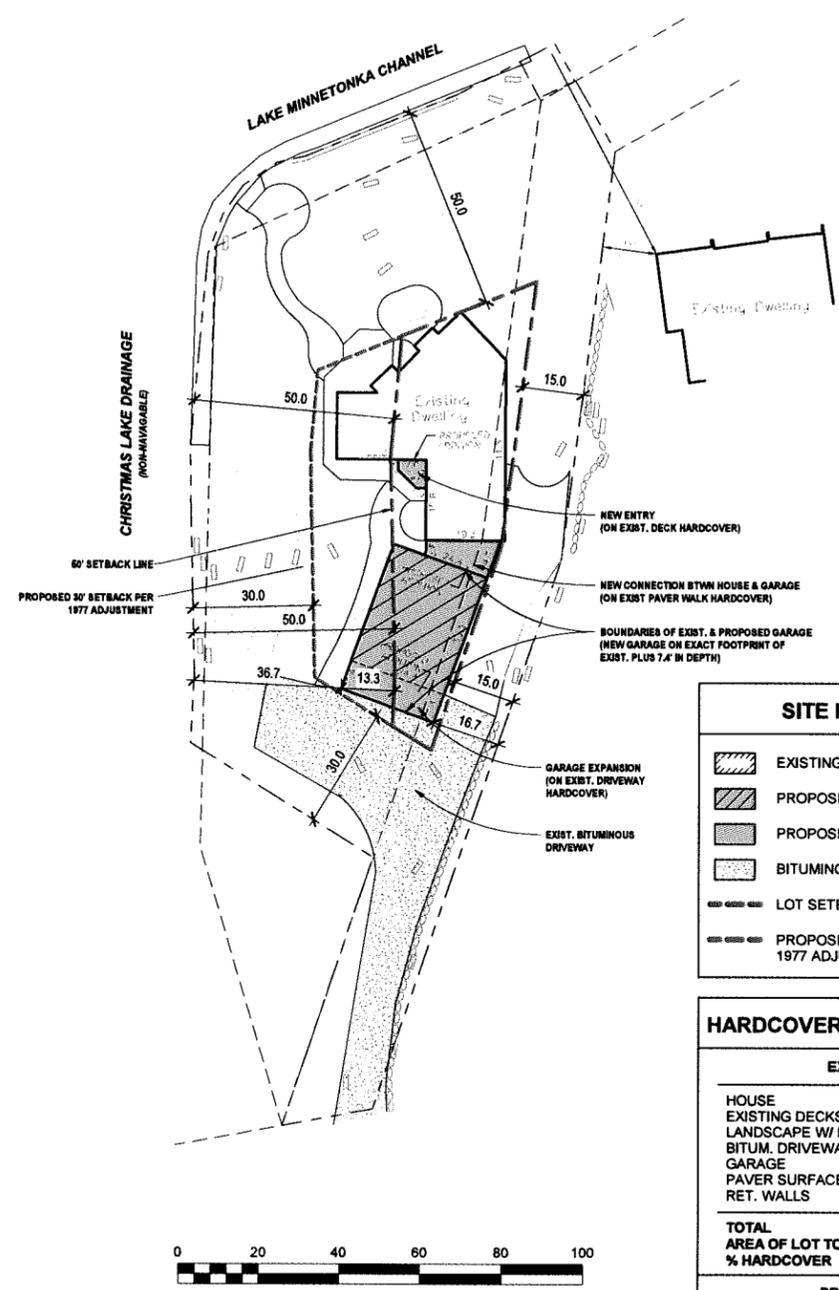
PROPOSED REMODEL OF THE
BARRY HOME
2550 EXCELSIOR BLVD
GREENWOOD, MN



SOUTHWEST PERSPECTIVE



SOUTHEAST PERSPECTIVE



SITE PLAN KEY

[Hatched Box]	EXISTING BUILDING
[Diagonal Lines]	PROPOSED RECONSTRUCTION
[Solid Grey]	PROPOSED NEW CONSTRUCTION
[Dotted]	BITUMINOUS DRIVEWAY
[Dashed Line]	LOT SETBACKS
[Dash-dot Line]	PROPOSED SETBACK PER 1977 ADJUSTMENT

HARDCOVER CALCULATIONS

EXISTING	
HOUSE	1,461 S.F.
EXISTING DECKS	658 S.F.
LANDSCAPE W/ PLASTIC	827 S.F.
BITUM. DRIVEWAY	2,395 S.F.
GARAGE	748 S.F.
PAVER SURFACES	973 S.F.
RET. WALLS	99 S.F.
TOTAL	7,161 S.F.
AREA OF LOT TO O.H.W.	16,932 S.F.
% HARDCOVER	42.3 %

PROPOSED	
HOUSE	1,461 S.F.
HOUSE ADD. (ENTRY)	39 S.F.
EXISTING DECKS	619 S.F.
LANDSCAPE W/ PLASTIC	791 S.F.
BITUM. DRIVEWAY	2,241 S.F.
GARAGE	748 S.F.
GARAGE ADD. / CONNECT.	292 S.F.
PAVER SURFACES	871 S.F.
RET. WALLS	99 S.F.
TOTAL	7,161 S.F.
AREA OF LOT TO O.H.W.	16,932 S.F.
% HARDCOVER	42.3 %

VOLUME CALCULATIONS

EXISTING	≈ 42,200 C.F.
PROPOSED	≈ 58,900 C.F.
TOTAL ALLOWABLE	= 78,864 C.F.

FOR LOTS GREATER THAN 15,000 SQUARE FEET IN AREA, TOTAL ALLOWABLE VOLUME MUST BE NO GREATER THAN 75,000 CUBIC FEET PLUS A VOLUME OF CUBIC FEET EQUAL TO A FIGURE 2X LOT AREA MINUS 15,000 SQUARE FEET.

GENERAL NOTES

- THESE DRAWINGS MAKE UP THE ARCHITECTURAL SET OF THE CONTRACT DOCUMENTS. GENERAL CONTRACTOR IS RESPONSIBLE FOR PROVIDING ANY ADDITIONAL DETAILS REQUIRED FOR CONSTRUCTION.
- WARRANTIES SHALL BE IN ACCORDANCE WITH STATE MINIMUM STANDARDS. REGISTERED BUILDER PROGRAMS AND/OR PRODUCT WARRANTIES TO BE PROVIDED BY PRODUCT MANUFACTURERS. LIABILITY AND WORKERS COMPENSATION CERTIFICATE OF INSURANCE WILL BE REQUIRED FROM ALL SUBCONTRACTORS.
- GENERAL CONTRACTOR AND ALL SUBCONTRACTORS SHALL VERIFY AND COORDINATE ALL CONDITIONS AND DIMENSIONS PRIOR TO WORK. GENERAL CONTRACTOR TO CONTACT Gopher ONE TO VERIFY LOCATIONS OF ALL UNDERGROUND ELECTRICAL UTILITIES, SEWER, CABLE, GAS, ETC. PRIOR TO COMMENCING WORK. IMMEDIATELY REPORT AND/OR REVIEW ALL QUESTIONS, DISCREPANCIES AND CONDITIONS WITH THE OWNER/ARCHITECT PRIOR TO PROCEEDING WITH WORK.
- ALL CONSTRUCTION AND/OR MATERIALS AS INDICATED SHALL BE AT OR ABOVE INDUSTRY STANDARDS FOR SIMILAR CUSTOM RESIDENTIAL CONSTRUCTION.
- ALL CONSTRUCTION WORK SHALL CONFORM TO ALL APPLICABLE CODES.
- ALL SURVEY DATA, SOIL DATA, MECHANICAL, ELECTRICAL, AND STRUCTURAL ENGINEERING OF SYSTEMS, SIZES, AND LAYOUTS INCLUDING TRUSS FRAMING AND ORDER DESIGN SHALL BE BY THE RESPECTIVE SUBCONTRACTOR AND/OR SUPPLIER OF THOSE SYSTEMS OR BY OTHER NECESSARY CONSULTANTS AND SHALL BE COORDINATED BY THE GENERAL CONTRACTOR. INFORMATION SHOWN IN REGARD TO THESE CONCERNS IS ONLY DIAGRAMMATIC AND IS INTENDED TO PROVIDE AN INDICATION OF THE DESIGN INTENT ONLY. USE OF CONSULTANT DATA BY SOG DOES NOT IMPER NOR ENDORSE THE ACCURACY OF THE DATA. EACH CONSULTANT AND CONTRACTOR SHALL BE RESPONSIBLE FOR CORRECTNESS AND ACCURACY OF DATA SUPPLIED BY THE RESPECTIVE CONSULTANT AND/OR CONTRACTOR.
- GENERAL CONTRACTOR SHALL COORDINATE AND SITE THE BUILDING PER THE RECENT LEGAL SURVEY. GENERAL CONTRACTOR SHALL NOTIFY OWNER/ARCHITECT ENGINEER OF ANY DISCOVERED DISCREPANCIES PRIOR TO ANY SITE WORK. DESIGN OR TOPOGRAPHY SHOWN DESPITE DESIGN INTENT ONLY. FINAL GRADING AND SITE DRAINAGE IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR AND LANDSCAPER. SOIL LANDSCAPER TO COORDINATE SARDINS AND DRAINAGE WITH NEIGHBORING PROPERTIES, LEGAL SURVEY, AND APPLICABLE CODES.
- GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR SHOWING AND BRACING AND FOR ALL TEMPORARY FACILITIES AND SERVICES INCLUDING BUT NOT LIMITED TO POWER, WATER, TELEPHONE, FAX, SANITATION FACILITIES, SITE SAFETY, AND FIRE FIGHTING EQUIPMENT.
- GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR ALL REQUIRED EROSION CONTROL MEASURES AND ANY SPECIFIC ENVIRONMENTAL IMPACT ISSUES ARISING FROM CONSTRUCTION ON THE SITE.
- GENERAL CONTRACTOR SHALL MAINTAIN THE SITE IN FIRST-CLASS CONDITION DURING THE PROJECT. ALL WASTE AND DEBRIS SHALL PROPERLY BE REMOVED. CONSIDERATION SHALL BE GIVEN TO MATERIAL STORAGE ON THE SITE AND ITS IMPACT ON ADJACENT NEIGHBORS.
- GENERAL CONTRACTOR SHALL PROVIDE FINAL CLEANING OF ALL INTERIOR AND EXTERIOR SURFACES. ALL TRANSPARENT MATERIALS AND GLOSSY SURFACES ARE TO BE LEFT IN A POLISHED CONDITION. REMOVE ALL LABELS THAT ARE NOT INTENDED TO REMAIN AS PERMANENT INSTALLATION INFORMATION.
- GENERAL CONTRACTOR SHALL PROVIDE INSTRUCTIONS TO THE OWNER PERTAINING TO OPERATION AND MAINTENANCE OF MECHANICAL AND ELECTRICAL EQUIPMENT. AT COMPLETION OF CONSTRUCTION, COMPILe AND FORWARD TO THE OWNER ALL MAINTENANCE AND OPERATIONS DATA AND WARRANTIES IN THE FORM OF A WELL-ORGANIZED OWNER'S NOTEBOOK.
- ROOF TRUSS SYSTEM DESIGN TO BE PROVIDED BY TRUSS SUPPLIER. TRUSS SUPPLIER TO COORDINATE FINAL TRUSS SOLUTION WITH PROJECT STRUCTURAL ENGINEER. TRUSS SUPPLIER TO COORDINATE TRUSS DESIGN WITH ENERGY-EFFICIENCY REQUIREMENTS.
- ALL WINDOW DESIGNATIONS ARE FOR MARVIN WINDOWS. CONTRACTOR MAY PROVIDE AN ALTERNATE FOR OTHER WINDOW MANUFACTURERS INCLUDING LOWE'S. SUPPLIER TO SUBMIT WINDOW SCHEDULE TO GENERAL CONTRACTOR AND OWNER FOR REVIEW AND APPROVAL PRIOR TO PLACING WINDOW ORDER. GENERAL CONTRACTOR TO CONFIRM TRIM-PREPARED GLASS LOCATIONS, SIZES AND VENT WINDOW REQUIREMENTS, JITE PATTERNS, WINDOW SIZES, WINDOW OPERATION, JAMB SIZES, EXTENSION, JAMB ETC. W/ OWNER PRIOR TO WINDOW ORDER. WINDOWS ARE TO BE PRE-FINISHED METAL CLAD WINDOWS WITH DOUBLE-PANE, LOW-E INSULATED GLASS, AND SIMULATED DIVIDED LITES WITH SPACER BARS. SEE EXTERIOR ELEVATIONS FOR PLANT LOCATIONS. PRE-FINISHED COLOR AND FINISH ARE FINISH AS SELECTED BY OWNER. ALTERNATE MANUFACTURERS WINDOWS SHALL BE SIMILAR IN SIZE AND SPECIFICATION TO THOSE INDICATED ON THE PLAN. WINDOW MANUFACTURER SHALL SUBMIT SHOP DRAWINGS OF WINDOWS AND DOORS FOR REVIEW BY GENERAL CONTRACTOR AND OWNER PRIOR TO PURCHASE.

- CABINET DRAWINGS SHOWN HERE ARE NOT CABINET SHOP DRAWINGS, BUT DEPICT DESIGN INTENT ONLY. CABINET MANUFACTURER TO COORDINATE FINAL CABINET DESIGN WITH OWNER PREFERENCES. AS-BUILT DIMENSIONS WITH FIELD CHANGES MADE DURING CONSTRUCTION. FINAL MILLWORK PROFILES, FINAL COUNTERTOP THICKNESSES AND DESIGNS AND FINAL APPLIANCE AND FIXTURE SELECTIONS. CABINET MAKER TO VERIFY END PANEL DESIGN AND CABINET CLEARANCES WITH OWNER PRIOR TO CABINET FABRICATION. CABINET MAKER TO MEET WITH OWNER TO DISCUSS AND VERIFY ALL DRAWING AND CABINET DIMENSIONS AND USES, INCLUDING PULL-OUT LOCATIONS, LAMP SUSAN LOCATIONS, COST IMPLICATIONS, HARDWARE TYPES AND QUALITY, AND ANY OTHER SUBMISSIONS THE CABINET MAKER OR OWNER MAY HAVE FOR IMPROVING CABINETRY EFFICIENCY AND EASE OF USE.
- SUBCONTRACTORS TO REFER TO OWNER-APPROVED CABINET SHOP DRAWINGS PRIOR TO ROUGH FRAMING FOR CABINETS/ BUILDINGS. REPORT ANY DISCREPANCIES TO S.O./CABINET MAKER PRIOR TO PROCEEDING WITH WORK.
- GENERAL CONTRACTOR TO COORDINATE OWNER'S REVIEW AND APPROVAL OF SAMPLES OF ALL INTERIOR AND EXTERIOR FINISH MATERIALS, INCLUDING PROFILES, SIZES, SPECIES, MORTAR AND GROUT COLORS, JOINT SIZES, FINISHES, AND COLORS PRIOR TO ORDERING OF SAME. SAMPLES TO BE PROVIDED ON-SITE WHEN OWNER DEEMS NECESSARY, AND V-SIZES LARGE ENOUGH TO SEE IN THE FINAL SPACES (E.G. 4"X4" WALL PAINT SAMPLES, AND STAINED AND FINISHED 3"X3" WOOD FLOOR SAMPLES). S.O. TO COORDINATE OWNER REVIEW AND APPROVAL OF FULL-SIZE MOCKUPS OF ALL INTERIOR AND EXTERIOR (CABINETS, TRIM, NEWELS, AND WALLS) PRIOR TO CONTRACTOR ORDERING OF SAME (ON-SITE WHEN OWNER DEEMS NECESSARY). OWNER TO REVIEW AND APPROVE FULL-SIZE MOCKUPS OF ALL STONE ON-SITE, INCLUDING STONE SIZE & SPECIES, MORTAR JOINT SIZE, MORTAR COLOR, STONE STACKING, CAP SPECIES, AND SIZE. STONE SAMPLES TO BE DISPLAYED ALONGSIDE RELEVANT INTERIOR AND EXTERIOR FINISH MATERIALS AS REQUIRED FOR FINAL COLOR PALLET COORDINATION. S.O. TO COORDINATE OWNERS TO INTERCEPT SELECTIONS AND TO VERIFY THAT NATURAL STONE GLASS THAT OWNER SELECTS ARE PROPERLY STORED AND USED IN THE FINAL PROJECT.
- DIMENSIONS LOCATING EXTERIOR WALLS ARE TO THE EXTERIOR FACE OF STUC AND/OR FACE OF FOUNDATION WALLS. L.V.O. DIMENSIONS LOCATING INTERIOR WALLS ARE TO CENTERLINE OF STUC. L.V.O. DIMENSIONS LOCATING DOORS AND WINDOWS ARE TO CENTERLINE OF OPENING. L.V.O. SEE DIMENSION KEYS ON ARCHITECTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
- ALL EXTERIOR WALLS SHALL BE 2X6 AS PER BUILDING SECTIONS. L.V.O. ALL BEARING WALLS, PLUMBING WALLS, AND WALLS WITH POCKET DOORS TO BE 2X6 CONSTRUCTION. L.V.O. ALL OTHER WALLS TO BE 2X4 OR 2X6 CONSTRUCTION TO THICKNESSES SHOWN ON ARCHITECTURAL AND STRUCTURAL DRAWINGS. L.V.O. HEADERS SHALL BE SIZED PER STRUCTURAL PLANS, OR COORDINATED WITH STRUCTURAL ENGINEER. BLOCKING AS REQUIRED FOR CABINETS, BATH, AND KITCHEN HARDWARE AND ACCESSORIES, HANDRAILS, ETC. VERIFY WITH S.O. PRIOR TO FRAMING.
- PROVIDE ACOUSTIC INSULATION AND PARTITIONS PER ARCHITECTURAL DRAWINGS. CONTRACTOR TO VERIFY ADDITIONAL ACOUSTIC INSULATION, CEILING ACOUSTIC INSULATION, AND ACOUSTIC PARTITION LOCATIONS IN THE OWNER PRIOR TO VAPOR BARRIER & DRYWALL INSTALLATION. ACOUSTIC CONSIDERATION TO BE GIVEN TO HVAC DUCT LAYOUTS AND PLUMBING LOCATIONS, AND ACOUSTIC DAMPENING TO BE PROVIDED TO HVAC SYSTEM AND PLUMBING WASTE STACKS (VERIFY CABINET LOCATIONS WITH OWNER) AS REQUIRED TO MINIMIZE SOUND TRANSMISSION.
- PLUMBING ROUGH-IN DIMENSIONS ARE PROVIDED FOR REFERENCE ONLY. ALL PLUMBING DIMENSIONS ARE TO BE COORDINATED BY THE GENERAL CONTRACTOR WITH SPECIFIC FIXTURE SELECTIONS AND FINAL CABINET DESIGN. ALL FLOOR DRAINS CONNECTED TO SANITARY SEWER TO HAVE BACK-FLOW PREVENTERS INSTALLED.
- MECHANICAL EQUIPMENT CONTROL LOCATIONS TO BE VERIFIED WITH OWNER PRIOR TO INSTALLATION. SEE DRAWINGS FOR PROPOSED LOCATIONS. MAKE-UP AIR TO BE PROVIDED AS PER B.C. AND ANY OTHER APPLICABLE CODES. SUPPLY AND RETURN REGISTER COVERS TO BE APPROVED BY OWNER. ASSUME FINISH WOOD VENTS TO MATCH FLOOR SPECIES & FINISH FOR BD. WHERE AFFECTED BY MECHANICAL DUCTS AND EQUIPMENT, CEILING HEIGHTS AND SOFFIT SIZES AND LOCATIONS TO BE APPROVED BY OWNER PRIOR TO INSTALLATION OF HVAC DUCTS AND EQUIPMENT.

SHEET INDEX

- SU-1 CERTIFICATE OF SURVEY
- SU-2 EXISTING CONDITIONS SURVEY
- A1 ARCHITECTURAL SITE PLAN
- A2 FOUNDATION & MAIN LEVEL FLOOR PLAN
- A3 UPPER LEVEL FLOOR PLAN & ROOF PLAN DETAILS
- A4 EXTERIOR ELEVATIONS & BRACKET DETAILS
- A5 EXTERIOR ELEVATIONS
- A6 BUILDING SECTIONS
- A7 TYP. WALL SECTION, STAIR SECTION & TRIM DETAILS
- E1 ELECTRICAL / LIGHTING PLANS
- S1 STRUCTURAL NOTES & FDN. PLAN
- S2 UPPER LEVEL & ROOF FRAMING
- S3 STRUCTURAL DETAILS

NEW SPACE SQUARE FOOTAGE	
GARAGE	917 SF
ENTRY	39 SF
MUD RM & MECHANICAL	123 SF
UPPER LEVEL LIVING AREA	908 SF
Grand total	1987 SF

PROJECT TEAM

ARCHITECT

SHARRATT DESIGN & COMPANY
464 SECOND STREET SUITE 100
EXCELSIOR, MN 55331
CONTACT: MIKE SHARRATT (952-470-9750)

STRUCTURAL ENGINEER

WENZEL ENGINEERING, INC.
10100 MORGAN AVENUE SOUTH
BLOOMINGTON, MN 55431
CONTACT: ETHAN BELL (952-868-6516)

GENERAL CONTRACTOR

NARR CONSTRUCTION, INC.
BOX 5007
HOPKINS, MN 55343
CONTACT: GREG NARR (952-938-8781)

ISSUED FOR

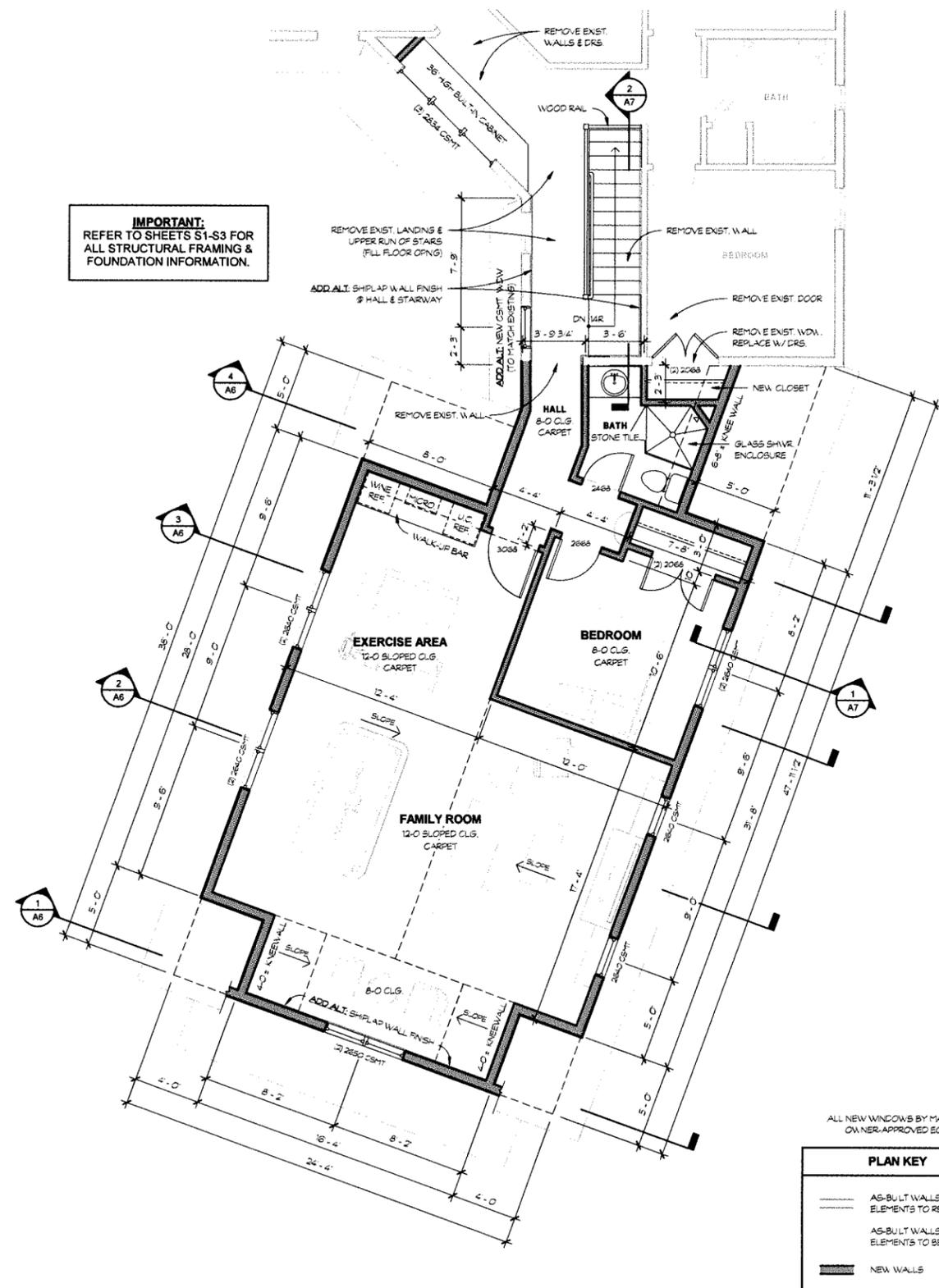
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08 / 15 / 17		X							
09 / 22 / 17		X	X	X					
09 / 26 / 17		X	X	X					
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10 / 18 / 17								X	

PROPOSED REMODEL OF THE

BARRY HOME

2550 EXCELSIOR BLVD
GREENWOOD, MN

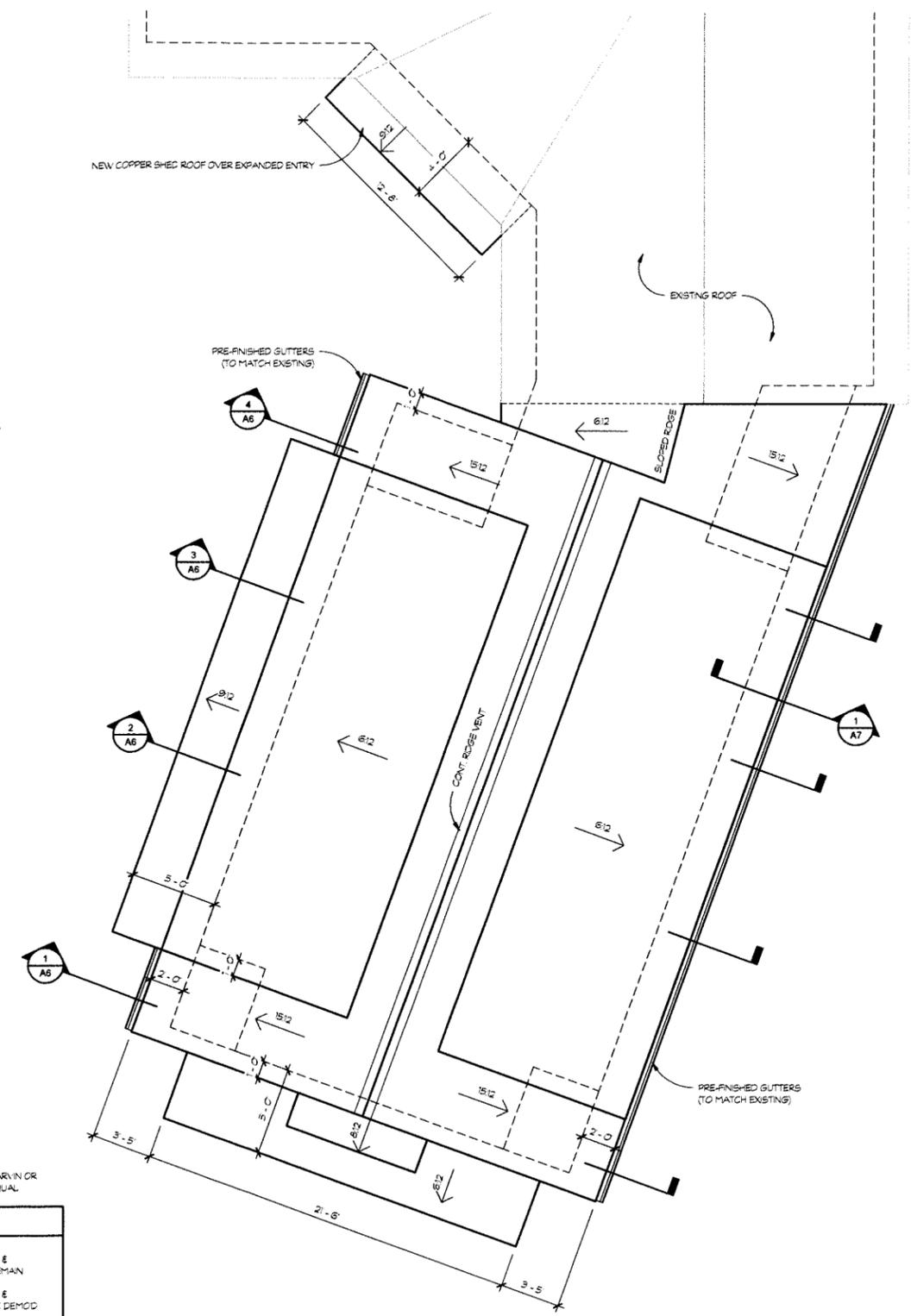
SHEET **A3** NUMBER



IMPORTANT:
REFER TO SHEETS S1-S3 FOR ALL STRUCTURAL FRAMING & FOUNDATION INFORMATION.

ALL NEW WINDOWS BY MARVIN OR OWNER-APPROVED EQUAL.

PLAN KEY	
---	AS-BUILT WALLS & ELEMENTS TO REMAIN
- - -	AS-BUILT WALLS & ELEMENTS TO BE DEMOD
---	NEW WALLS



UPPER LEVEL FLOOR PLAN
1/4" = 1'-0"

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



- VARIANCE APPLICATION -

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SHEET INDEX

- SJ-1 CERTIFICATE OF SURVEY
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PROJECT TEAM

ARCHITECT

SHARRATT DESIGN & COMPANY
464 SECOND STREET SUITE 100
EXCELSIOR MN 55331
CONTACT: MIKE SHARRATT (952-470-9750)

STRUCTURAL ENGINEER

WENZEL ENGINEERING, INC.
1000 MORGAN AVENUE SOUTH
BLOOMINGTON MN 55431
CONTACT: ETHAN BELL (952-888-6516)

GENERAL CONTRACTOR

NARR CONSTRUCTION, INC.
BOX 5007
HOPKINS MN 55343
CONTACT: GREG NARR (952-930-6781)

ISSUED FOR

ISSUE DATE	CHECK	MEETING SET	PROGRESS SET	STRUCTURAL COORD	ESTIMATE SET	PERMIT SET	VARIANCE APP.	ADDENDUM	CONSTRUCTION SET
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06 / 23 / 17		X	X	X	X	X			
06 / 27 / 17		X	X	X	X	X			
08 / 01 / 17		X	X	X	X	X			
08 / 15 / 17		X	X	X	X	X			
09 / 22 / 17		X	X	X	X	X			
09 / 26 / 17		X	X	X	X	X			
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10 / 18 / 17		X	X	X	X	X	X	X	

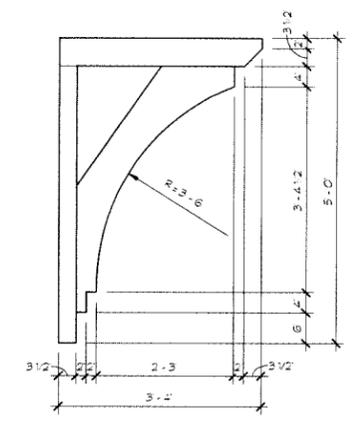
PROPOSED REMODEL OF THE

BARRY HOME

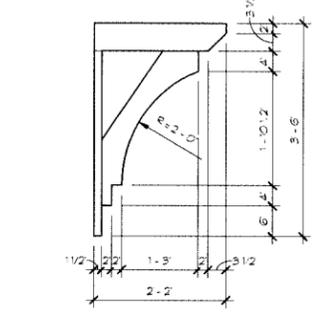
2550 EXCELSIOR BLVD
GREENWOOD MN

SHEET **A4** NUMBER

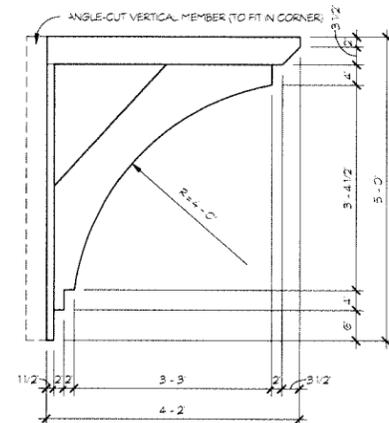
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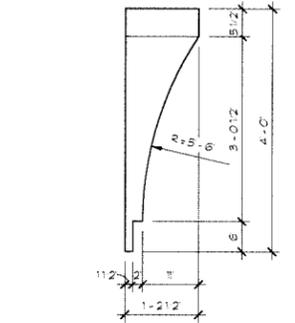
1 BRACKET DETAIL 1
A4 3/4" = 1'-0"



2 BRACKET DETAIL 2
A4 3/4" = 1'-0"

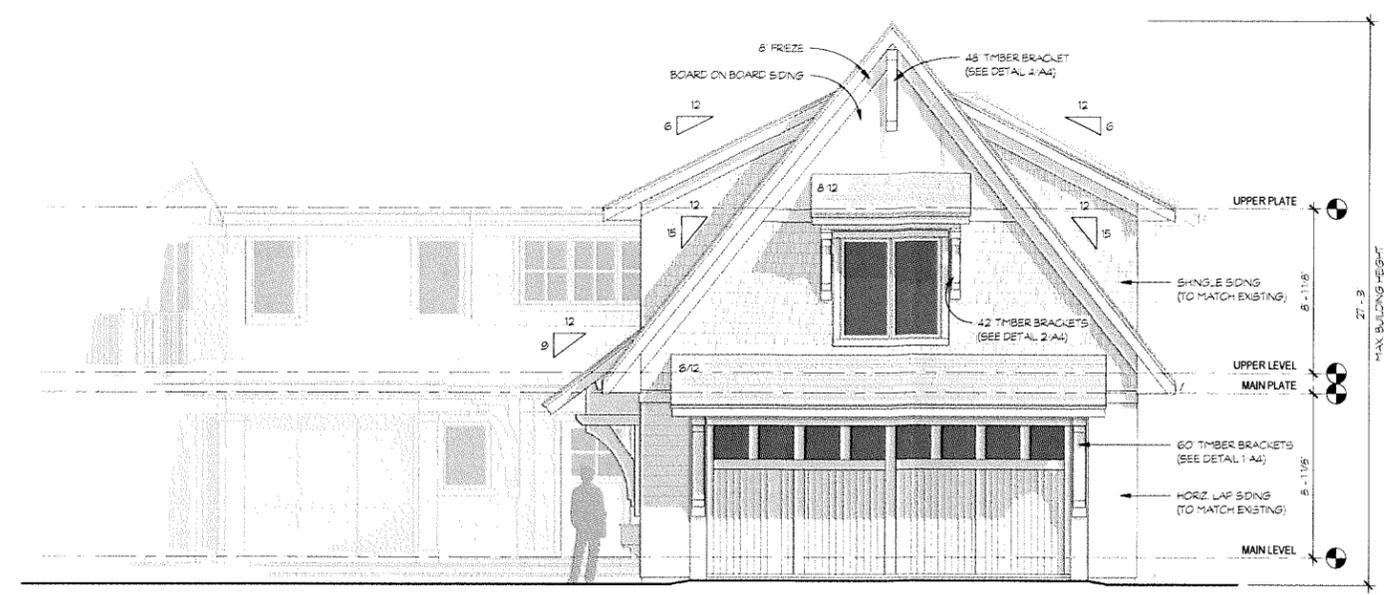


3 BRACKET DETAIL 3
A4 3/4" = 1'-0"

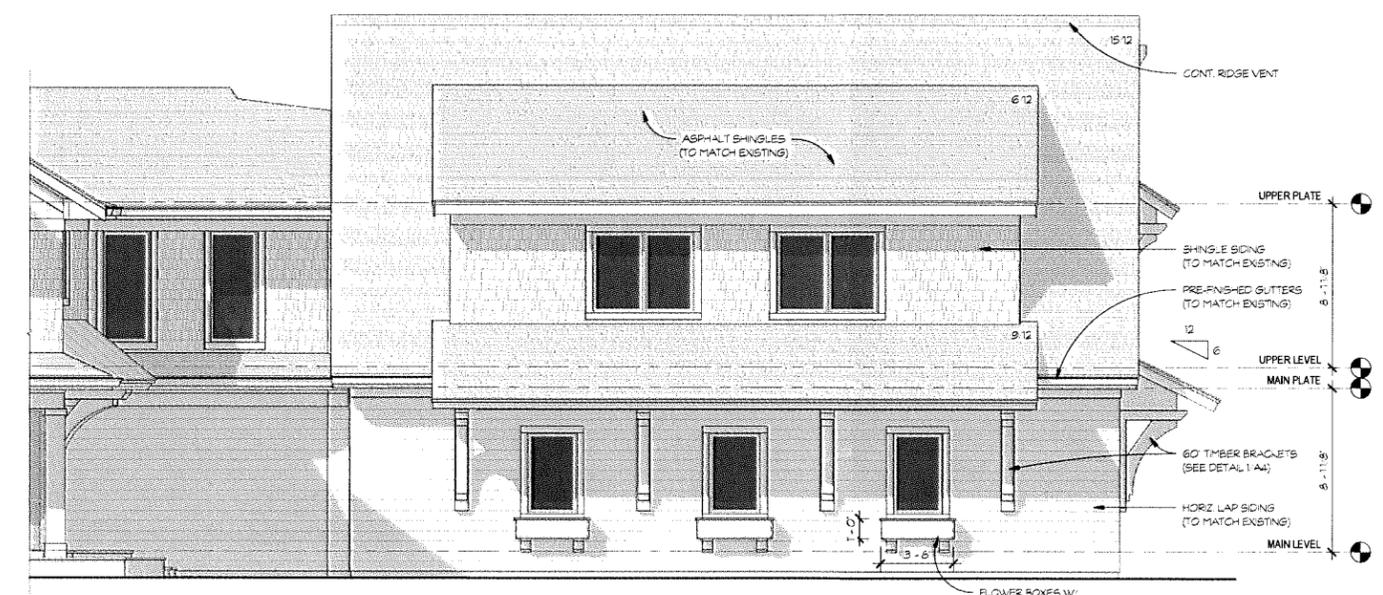


4 BRACKET DETAIL 4
A4 3/4" = 1'-0"

- VARIANCE APPLICATION -



SOUTH GARAGE ELEVATION
1/4" = 1'-0"



WEST GARAGE ELEVATION
1/4" = 1'-0"



EAST GARAGE ELEVATION
1/4" = 1'-0"

SHEET INDEX

- S-1 CERTIFICATE OF SURVEY
- SUR2 EXISTING CONDITIONS SURVEY
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ARCHITECT

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464 SECOND STREET SUITE 100
EXCELSIOR MN 55331
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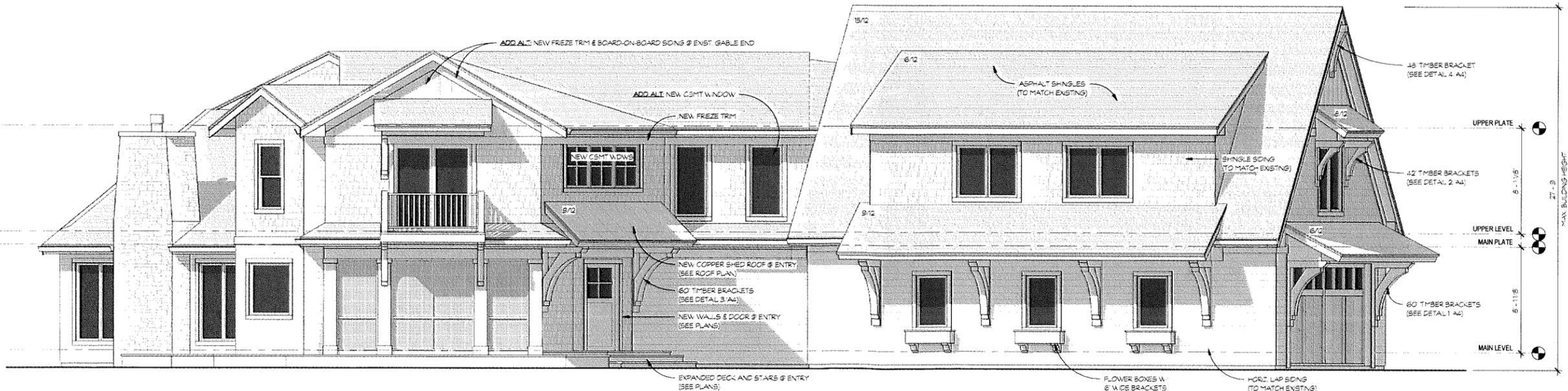
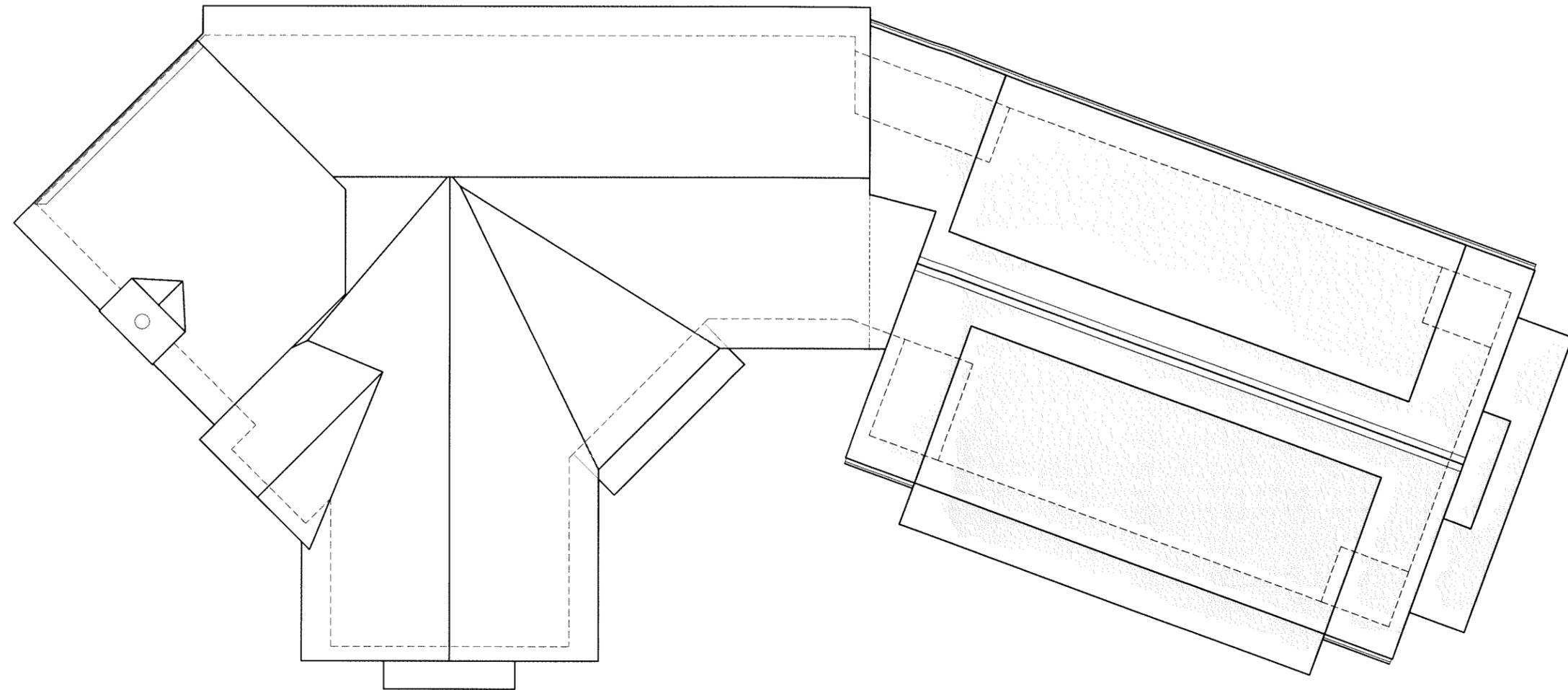
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06 / 27 / 17			X						
08 / 01 / 17		X							
08 / 15 / 17			X						
09 / 22 / 17			X	X					
09 / 26 / 17			X	X					
09 / 27 / 17						X			
10 / 18 / 17							X		

PROPOSED REMODEL OF THE

BARRY HOME

2550 EXCELSIOR BLVD
GREENWOOD MN

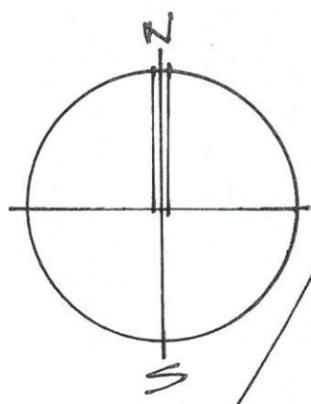
SHEET **A5** NUMBER



WEST ELEVATION - FULL
1/4" = 1'-0"

- VARIANCE APPLICATION -

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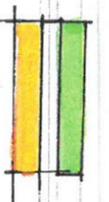


PARCEL ID: 3511723120032

1 inch = 50' SCALE

Comments: *BARRY HOME*
SETBACK STUDY
SDC, 10/11/2017

- 30' SETBACK FROM CHW: CONFORMING. = 10
- 50' SETBACK FROM CHW: CONFORMING. = 3
- INSIDE 30' SETBACK IN NON-NAVIGABLE WATER = 2
- INSIDE 50' SETBACK FROM CHW.





Variance Application

Person completing form: Property Owner Builder / Architect

If you prefer to complete this form electronically, it is available at www.greenwoodmn.com.

Date application submitted	10 / 18 / 17
Date application complete (office use only)	
Property address	21550 Excelsior Blvd Greenwood, MN 55331
Property identification number (PID)	3511723120032
Property owner's current mailing address	21550 Excelsior Blvd Greenwood, MN 55331
Names of all property owners	David M & Kimberly A Barry
Cell phone and email of property owner(s)	612-749-1785 (cell) dbarry@lewisbolt.com (email)
Name of builder / architect (if any)	Mike Sharratt (architect)
Company name of builder / architect	Sharratt Design & Co.
Cell phone and email of builder / architect	612-518-9008 (cell) 952-470-9750 (office)
Company address	464 Second St Suite 100 Excelsior, MN 55331
Present use of property	Residential - single family
Property acreage	0.39 acres (16,932 sq. ft.)
Existing variances or conditional use permits	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – please attach a copy
Request is for	<input type="checkbox"/> New Construction <input checked="" type="checkbox"/> Addition <input checked="" type="checkbox"/> Remodel <input checked="" type="checkbox"/> Replace
The variance(s) are being requested to (e.g. build a garden shed)	Rebuild & expand existing garage and attach it to existing house.

Requested variance(s):

	Required*	Proposed	Difference
<input type="checkbox"/> Side Yard (feet)			
<input type="checkbox"/> Front Yard (feet)			
<input type="checkbox"/> Rear Yard (feet)			
<input checked="" type="checkbox"/> Lake Setback (feet)	50'	36.7'	13.3
<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 type="checkbox"/> Hardcover (percentage)			
<input type="checkbox"/> Other:			

* 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) 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:

- that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- 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: Since in previous times, this structure was allowed to be built, remodeled, and added onto by the City of Greenwood with different requirements, it is reasonable that the proposed design is utilizing those given rights and privileges in exactly the same manner. Also, please be aware that 10 out of 13 homes in the immediate area are, and have been, permitted to be at least as non-conforming or substantially more so (see Exhibit 'A').</p>
<p>Is the variance consistent with the comprehensive plan?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: In accordance with the city's Comprehensive Plan, the proposed design will modernize and improve an existing home while maintaining the character of the neighborhood. The plan calls for a single-family R-1A use as is proposed.</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: The proposed design includes an expanded garage that would be built on the same footprint as the existing garage, with 7.5' of depth added at the south / front end. This re-build of the garage will occur over existing hardcover (bituminous driveway). An enclosed connection between the new garage and existing house will occur over existing hardcover (brick walkway). The re-build will also incorporate a long-term foundation system which the existing structure does not have.</p>
<p>Are there unique circumstances to the property not created by the landowner?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: A 30' setback along the west "channel" side of the lot and an 8' setback along the east side of the lot were established in 1977, which allowed for the construction of the existing house and detached garage (see Exhibit 'B'). The existing house and detached garage do not conform with the new channel setback requirement of 50' being imposed.</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: The proposed design will maintain and enhance the character of the neighborhood with a 1-1/2 story addition.</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 proposed design will not impair the supply of light and air, views, or sight lines from any adjacent property.</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: The proposed design will not change the "residential - single family" usage of the property and will not increase congestion in the public 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: The proposed design will be built in accordance with all applicable codes and will not increase the danger of fire or endanger the public safety.</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: The proposed design will improve this property and enhance property values within the neighborhood as a result of the proposed work and quality of that work.</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.

Neighbor #1 Address: 21500 EXCELSIOR BLVD GREENWOOD, MN	
Signature: <i>Greg Colvin</i>	Date: 10-19-17
Print Name: Greg Colvin	

Neighbor #2 Address: 3 MACLYNN ROAD EXCELSIOR, MN	
Signature: <i>Nina Giovanelli</i>	Date: 10-19-17
Print Name: Nina Giovanelli	

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>Kimberly Zany</i>	Date: 10-19-17
---------------------------------	----------------

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>Kimberly Zany</i>	Date: 10-19-17
---------------------------------	----------------

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

For Office Use Only	Fee Paid: <input type="checkbox"/> Cash <input type="checkbox"/> Check #:	Amount \$
----------------------------	---	-----------

Permit #	FORM #5 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.

Property Owner(s)	David M. & Kimberly A. Barry
Property Address	21550 Excelsior Blvd Greenwood, MN 55331

Person completing this form: Property Owner Builder / Architect

Per code section 1140.18 (view at 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.

The "above grade building volume" calculation for the property is:	58,900 CF
---	------------------

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		Date: 10 / 31 / 17
Print Name	MICHAEL SHARRATT	

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: 10 / 31 / 17
Print Name		

Form Updated 10-27-14

Note: Maximum allowable volume for this site of 16,932 S.F is = **78,864 C.F.**
(determined from lot size calculation #3 above).

Permit #	FORM #12 Return this document to City Hall
Receipt #	



Shoreland Management Worksheet

If you prefer to complete this form electronically, it is available at www.greenwoodmn.com.

Property Owner(s)	David M. & Kimberly A. Barry
Property Address	21550 Excelsior Blvd Greenwood, MN 55331

Person completing this form: Property Owner Builder / Architect

Per the Construction Site Management ordinance (section 305.00 subd 2b) a Shoreland Management Worksheet is required for building projects \$10,000+. Per section 1176.03, subd. 3 & 10, a Shoreland Compliance Review is required for all properties within 1,000 feet of the Ordinary High Water Level of Lake Minnetonka (all properties in the city). **Fee: \$200. Collected on Form #1.**

The proposed project includes the following (check all that apply):

- Repair
- Improve
- Change or alter use of land
- Change size or shape of lot
- Erect a structure
- Expand impervious surface
- Install or maintain water line
- Install or maintain sewer line
- Grade or fill
- Remove vegetation
- Trim vegetation

Current lot size (square feet)	16,932 SF
Proposed lot size (square feet)	16,932 SF
Dimensions of proposed structure(s)	24'-4" x 38'-0" 16'-4" x 10'-0" 7'-0" x 7'-0"
Total square footage of proposed structure(s)	1079 SF
Percent of existing hardcover	42.3% (see survey)
Total hardcover including proposed hardcover	42.3%
Amount of fill to be added (cubic yards)	0
Amount of soil to be removed (cubic yards)	< 10 cubic yards (for 50 LF of frost depth foundation)
Type and area of vegetation to be removed	None

The undersigned hereby certifies that the above information is true and correct to the best of his / her knowledge.

Signature		Date: 10 / 31 / 17
Print Name	MICHAEL SHARPATT	

Form Updated 10-27-14

Dale Cooney

From: Greg Colvin <gpcolvin@msn.com>
Sent: Wednesday, November 08, 2017 9:10 AM
To: Dale Cooney
Subject: Re: 21550 Excelsior Variance Request

Dale,

I would like to make a comment regarding the variance for the Barry garage addition that is in being considered. We are in favor of this variance. The structure will provide additional storage and beautify the area.

Thank you, Greg and Jill Colvin

From: Dale Cooney <dalec@mediacombb.net>
Sent: Wednesday, November 8, 2017 9:05 AM
To: gpcolvin@msn.com
Subject: 21550 Excelsior Variance Request

Mr. Colvin,

Please e-mail me any comments you might have about this variance request.

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

Dale Cooney

From: teri haugland <teri@terihaugland.com>
Sent: Sunday, November 05, 2017 4:09 PM
To: dalec@mediacombb.net
Subject: Variance request for 21550 Excelsior Blvd

Dear Mr. Cooney,

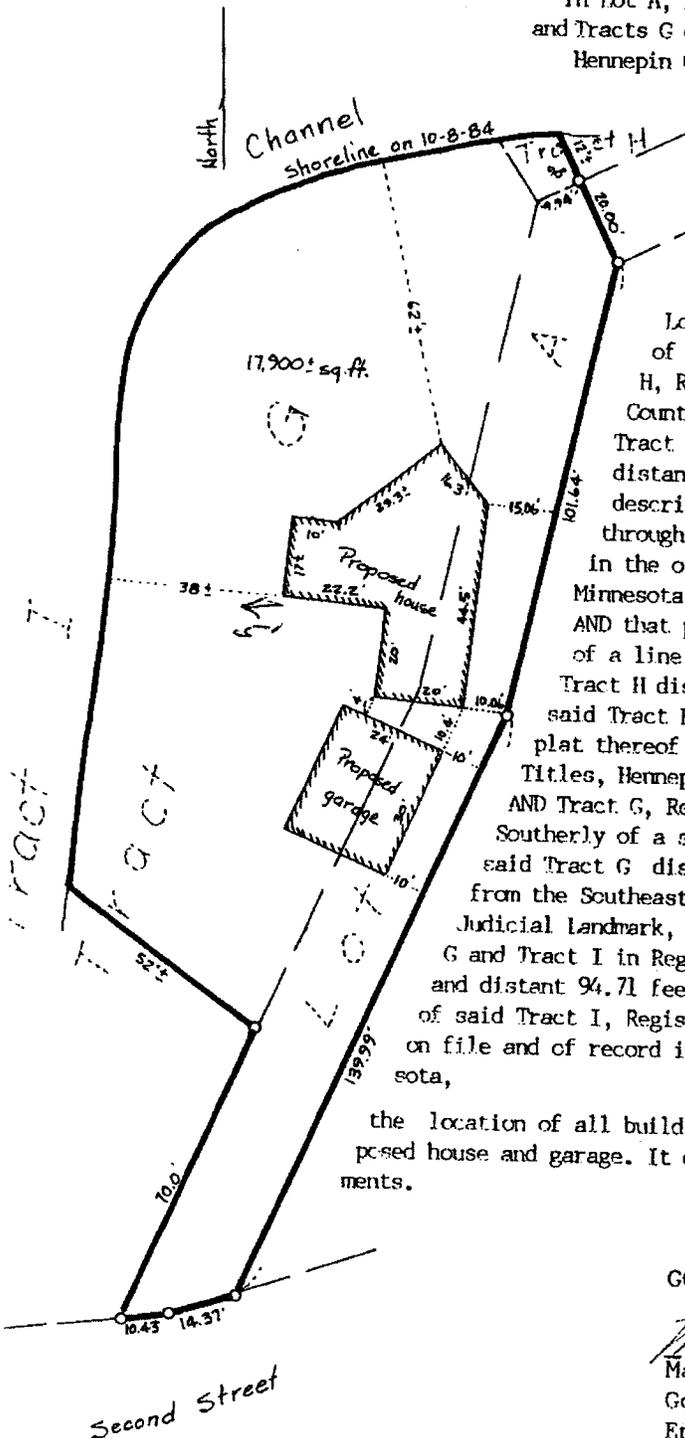
We are writing to express our support of the proposed project at the Barry house located at 21550 Excelsior Blvd. We have reviewed their proposal and find that it will enhance their property and the neighborhood, with no impact on the nearby properties. We recognize that the Barrys are good stewards of the lake and that their project will not compromise it, if the variance is granted.

We appreciate the diligence with which our elected officials protect our community by enforcement of ordinances. In this case, we believe this variance will have no negative impact. We fully support the granting of the variance to the lake yard setback requirement for this project.

Please forward our comments to the members of the Planning Commission and City Council.

Respectfully,
Teri Haugland
Winston Yonan
4 MacLynn Rd.
Excelsior
612-232-8354

Certificate of Survey
 for Tingewood, Inc.
 in Lot A, Partridge Heights,
 and Tracts G & H, R. L. S. No. 593
 Hennepin County, Minnesota



I hereby certify that this is a true and correct representation of a survey of the boundaries of the following described property:

Lot A, Partridge Heights, except that part thereof lying Easterly of a line described as commencing at the Southwest corner of Tract H, Registered Land Survey No. 593, files of the Registrar of Titles, County of Hennepin; thence Easterly along the Southerly line of said Tract H (said line also being the Northerly line of said Lot A) a distance of 9.94 feet to the point of beginning of the line to be described; thence deflecting to the right 90 degrees and running through said Lot A, according to the plat thereof on file and of record in the office of the Registrar of Deeds, in and for Hennepin County, Minnesota.

AND that part of Tract H, Registered Land Survey No. 593 lying Westerly of a line drawn at right angles from a point on the Southerly line of said Tract H distant 9.94 feet Northeasterly from the Southwesterly corner of said Tract H to the most Northerly line of said Tract H, according to the plat thereof now on file and of record in the office of the Registrar of Titles, Hennepin County, Minnesota,

AND Tract G, Registered Land Survey No. 593 except that part thereof lying Southerly of a straight line running from a point on the Easterly line of said Tract G distant 70 feet Northerly, measured along said Easterly line, from the Southeastery corner of said Tract G, which corner is marked by a Judicial Landmark, to the point of intersection of the line dividing said Tract G and Tract I in Registered Land Survey No. 593, and a line running parallel with and distant 94.71 feet Northerly, measured right angles, from the Southerly line of said Tract I, Registered Land Survey No. 593, according to the plat thereof now on file and of record in the office of Registrar of Titles, Hennepin County, Minnesota,

the location of all buildings, if any, thereon, and the proposed location of a proposed house and garage. It does not purport to show any other improvements or encroachments.

GORDON R. COFFIN CO., INC.

Mark S. Gronberg
 Mark S. Gronberg Reg. No. 12755
 Gordon R. Coffin Reg. No. 6064
 Engineers and Land Surveyors
 Long Lake, Minnesota

Scale: 1 inch = 40 feet
 Date: October 8, 1984
 o : Iron marker

CITY OF GREENWOOD BOARD OF ADJUSTMENT

November 6, 1984

Chairman Bloom convened a continued Public Hearing to consider the request of Tingewood Construction Company to construct a home at 21550 Excelsior Boulevard with variance of the lot size to 17,900 square feet, noting the house has been moved five feet to the west eliminating the need for a sideyard setback on the east.

Members present: Sheldon Bloom, James Hillis and Keith Stuessi.

Adrian Johnson stated a report from a soil engineer indicates the lot is buildable and there would not be a problem in making it suitable for a home. He would propose a retaining wall of 6 x 6 treated posts every six feet around the curve, the back fill from the house being placed against the wall.

Dennis Saari, representing the City Engineer, stated the Watershed District would require rip rap. Discussion followed with comments that rip rap would reduce the width of the channel.

Mr. Robert Earle, 21500 Excelsior Boulevard, indicated he is agreement with the changes in the location of the house.

All interested parties having been given an opportunity to be heard, the Public Hearing was closed.

It was moved by Stuessi, seconded by Hillis, to approve the variance of the lot size to 17,900 square feet, approve the construction as submitted with the provision that the building does not have any variances and with the provision the shore line construction meet the requirements of the Department of Natural Resource and/or the Minnehaha Creek Watershed District, as needed. Stuessi, Hillis and Bloom voted aye. Motion carried.

Meeting adjourned.

MINUTES
CITY OF GREENWOOD
BOARD OF ADJUSTMENT
OCTOBER 2, 1984

The Board of Adjustment meeting was called to order by Chairman Sheldon Bloom at 7:42 PM. Members Present: Sheldon Bloom, Keith Stuessi, and Alternate Hugh Anderson. Absent: James Hillis arriving at 7:59 PM.

PUBLIC HEARING - Tingewood Construction Co., 21550 Excelsior Blvd.

The purpose of the Public Hearing was to consider the request of Tingewood Construction Co. to construct a home at 21550 Excelsior Blvd. with variances as follows: 7' on the east property line, 8' on the northwest property line, 18' on the west property line, and 18,000 sq. ft. lot size.

Mr. Adrian Johnson of Tingewood Const. Co., presented the proposed plan and explained that the variances were necessary due to the narrow lot and Lake Minnetonka on two sides of lot.

Robert and Carolyn Earl, neighbors on the east wish to see the exact placement of the home before variances are granted.

There was also some concern with the effects the construction would make on the Channel.

Sheldon Bloom suggested that due to the number of variances requested and the concern of the neighbors, all parties should meet at the lot to discuss problems.

It was moved by Stuessi, seconded by Anderson, to table the matter until the November meeting after all parties met at the lot. Motion carried unanimously.

PUBLIC HEARING - Walter Ahlm, 5145 Curve St.

The purpose of the Public Hearing was to consider the request of Walter Ahlm to move an existing house at 5145 Curve St. forward on the lot and build an attached garage. Both house and garage to be in variance of the street side yard set back of 35 feet.

Mr. Ahlm presented his plan explaining the reason for moving the house was to build a garage and be closer to the lake.

Neighbors, Mr. Luce and Mr. Rice were present and were in favor of the variance being granted. There were no persons objecting.

It was moved by Anderson, seconded by Stuessi, to approve the variance contingent upon Mr. Luce's written approval of the final placement of the house. Motion carried unanimously.

The Board of Adjustment Meeting adjourned at 8:10 PM.

Patricia A. Peterson



PLANNING COMMISSION MEMO Variance Request

Agenda Item: Consider Variance Requests, David and Kim Barry, 21550 Excelsior Boulevard

Summary: David and Kim Barry are requesting a variance to connect an existing detached garage to their principal structure which would encroach into the required lake yard setback along the east side yard and exceed the maximum permitted impervious surface.

The applicant proposes to lift the detached garage off the existing slab and place a full frost footing under the existing footprint and extend it to the home and replace the garage on that footprint and construct their addition to the home. The proposed garage and addition complies with the required thirty foot front, fifteen foot west side and fifty foot lake yard setbacks and with the twenty-eight foot structure height requirement.

Proposed Home	Front Yard	East Side Yard*	West Side Yard	Lake Yard (North)	Structure Height	Impervious Surface	Structure Volume
Required/Permitted	30'	50'	15'	50'	28' - Eaves	30%	71,364 cu. ft.
Existing	49'	42'	14'-9"	100'	Unknown	46%	Unknown
Proposed	49'	42'	16'	98'	16' - Overall	46%	37,832 cu. ft.

*Lake Yard Setback

The survey submitted by the applicant indicates the existing impervious surface on the property is approximately 46%. The applicant indicates the proposed connection to the home would be constructed over existing impervious surface area and would not increase the existing percentage. The minimum lot area for the zoning district in which the lot is located is 15,000 square feet. The applicant has a lot area of 16,932 square feet.

- **Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is seeking a variance to exceed the maximum permitted impervious surface area by 16%.**

The shoreline of the lake wraps around the east and north side of the lot. This creates a lake yard setback along both yards.

- **Section 1120:15 of the Zoning Ordinance requires a minimum lake yard setback of fifty feet. The applicant proposes a lake yard setback of four-two feet for the proposed garage foundation. The proposal requires a variance of eight feet of the required lake yard setback.**

The applicant is proposing to lift the existing garage which is built on a slab and put a full frost footing so the proposed addition can be connected to the principal structure which has a frost footing. The existing detached garage encroaches eight feet into the required lake setback along the east property line, the proposal would maintain this encroachment.

The applicant is expanding the total volume of structure area on the property. Based on the applicant's lot area, the permitted structure volume for the property is 71,364 cubic feet. The existing above grade structure area is unknown, the proposed above grade structure area is 77,832 cubic feet. The proposal complies with the ordinance requirement.

Copies of the application materials are attached for the planning commission's reference. Notice of the public hearing was published in the Sun-Sailor newspaper on November 1, 2012. The planning commission will hold the public hearing at the November 21, 2012 meeting. The planning commission will consider public comment, applicant's comments, application materials, and staff report when making a recommendation to the city council. The planning commission **must** address city code section 1155.20, subd. 5 practical difficulty standards as well as conditions in the motion (see the potential motions below).

RESOLUTION NO. 03-13

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

APPROVING

IN RE: The Application of David and Kim Barry for Variances to Section 1120:15 (lake yard setback), and 1176:04 (impervious surface) pursuant to section 1145 et. Seq. to permit installation of frost footings beneath an existing garage allowing for attachment to the house.

WHEREAS, David and Kim Barry are the owners of property commonly known as 21550 Excelsior Blvd., Greenwood, Minnesota 55331 (PID No. 3511723120032) and

WHEREAS, application was made for variance to Section 1120:15 and 1176:04 so as to permit installation of frost footings beneath an existing garage allowing for attachment to the house; 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 November 21, 2012; 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 applicant and the comments of 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 21550 Excelsior Blvd., Greenwood, Minnesota 55331 (PID No. 3511723120032) is a single family lot of record located within the R-1A Single Family Residential District.
2. The applicant proposes to install frost footings beneath an existing

garage allowing for attachment to the house. The existing garage encroaches into the minimum required west side yard setback eight (8) feet and the property exceeds the maximum permitted impervious surface by 16%.

3. Section 1120:15 of the Zoning Ordinance requires a minimum lake yard setback of fifty feet. The applicant proposes a west lake yard setback of forty-two (42) feet. The proposal requires a variance of eight (8) feet.
4. Once footings are installed under the garage it will then be attached to the house by way of an addition. The planned linking addition is code compliant in terms of yard set backs. It will be built upon existing impervious surface so no additional hardcover will be added.
5. Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The planned construction while not adding impervious surface, it does need a variance for the continued excess impervious surface area of 16%.
6. The applicant advises that the reason for the footings under the garage is to allow connection of the garage to the house.
7. The accessory garage is an existing non-conforming use under section 1145 and as such may be continued in place indefinitely. However any change to an existing non-conforming use mandates a variance under section 1145.
8. In support of the variance the Applicant advises (1) that the variance to maintain/rebuild the garage is a reasonable use of the property as it improves the usability of the property and provides better security; (2) that the plight of the landowner is due to the placement of an existing garage whose legal non-conformity (lake set back) will remain unchanged; (3) that the variance if granted will not modify the appearance or character of the existing home. The property will be used in the same manner as the majority of adjacent properties and the proposed rebuild will not significantly change the established use of the property.
9. The Planning Commission discussed the proposed plan and recommended approval.
10. Section 1155.10, Subd. 4, 5 & 6 provide:

“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. Additional Requirements for Grants of Variance Requests. The board, in considering all requests for a variance, shall determine that the proposed 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.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.”

11. Section 1145.00. Nonconformities, provides:

(a) Except as otherwise provided by law, *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,* unless:

(1) the nonconformity or occupancy is discontinued for a period of more than 1 year; or
 (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the city may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. *The city may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.* This subdivision does not prohibit the city from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(Emphasis added)

12. Based on the foregoing, the City council determined that (1) the variance, for the garage footings, if granted, would be in keeping with the spirit and intent of the Zoning Code because there will be no material change; (2) that the property owner proposes to use the property in a manner not permitted by the zoning ordinance, but which is a reasonable use for a residential property of this dimension and location; (3) the plight of the owner, (eight foot encroachment onto lake yard by existing legal non-conforming accessory structure), is due to circumstances unique to the property as built and not created by the landowner; (4) the variance, if granted, will not alter the essential character of the locality as the existing character of the lot will be maintained.
13. The variances to Section 1120.15 (lake yard setbacks) and Section 1145:00 Non-Conforming use, being appropriate, the grant of a variance to exceed the maximum permitted impervious surface area by 16%, due to creation of no added impervious service, is appropriate and should be granted.
14. The following conditions should be imposed on any variance grant:
 - A. The project must be completed according to the specifications and design requirements in the submitted plans.
 - B. A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may issue or the project commence.
19. Subject to the stated conditions, the variance, if granted, will be in harmony with the purpose and intent of the zoning ordinance and may be granted.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, The City Council acting as the Board of Appeals makes the following Conclusions of Law:

1. The applicant has made an adequate demonstration of facts meeting the standards of Section 1155.10 and 1145.00 necessary for the grant of the following variances to Sections 1120.15, and 1176.04:
 - A. A variance to section 1120.15 permitting a lake yard encroachment of eight (8) feet into the required west lake yard setback should be granted; and
 - B. A variance to section 1176.04 permitting impervious surfacing to exceed the maximum permitted impervious surface area of 30% by

16% percent for installation footings for the existing garage as presented should be granted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments:

That the application of David and Kim Barry for variances to Greenwood Ordinance Code Sections 1120:15 and 1176.04, are granted as follows:

- A. A variance to section 1120:15 permitting a lake yard encroachment of eight (8) feet into the required west lake yard setback should be granted; and
- B. A variance to section 1176.04 permitting impervious surfacing to exceed the maximum permitted impervious surface area of 30% by 16% percent for installation footings for the existing garage as presented should be granted;

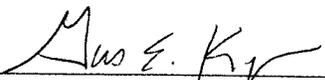
on the following conditions:

1. The project must be completed according to the specifications and design requirements in the submitted plans.
2. A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may issue or the project commence.

PASSED THIS 2nd DAY OF JANUARY, 2013 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

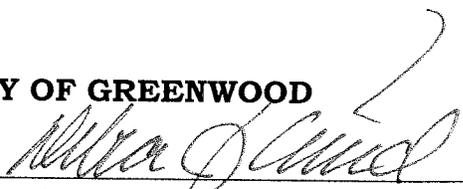
5 Ayes, 0 Nays

ATTEST:



Gus E. Karpas, City Clerk

CITY OF GREENWOOD

By 

Debra J. Kind, Mayor

CITY OF GREENWOOD

Board of Adjustment Meeting - December 6, 1977

Joseph D. Zwak, Chairman, called to order the Public Hearing of the City of Greenwood Board of Adjustment. V. Cafarella was absent; J. Hillis had not as yet arrived. Members Zwak and Bloom were present. Frank Brixius acted as alternate to V. Cafarella.

Mr. Clarence Bros was asked to come forward and present his petition. He explained that he wished to consolidate fragments of several parcels of land, in accordance with the language of the Greenwood platting Ordinance, into one buildable lot: further, if that is granted, he has drawn up plans for a building, which would be in keeping with the quality of the neighborhood. Members examined a Survey map of the property, as well as the plan for a proposed dwelling. Mr. Bros presented written approval of all 5 members of the MacLynn Rd. Association, who own the channel and of Mr. Robert Earle, who has adjoining property. Mr. Bros was petitioning also for a variance from the required lot size of 20,000 sq. ft. to 18,000 sq. ft., variances from 50 ft. to 30 ft. and from 50 ft to 40 ft. with regard to setback from the channel, and a variance from 10 ft. to 8 ft. for the distance of the detached garage from the sideyard.

Mr. Brixius asked how this lot size compared with other lots in the MacLynn Rd. development. Mr. Bros replied that his own lot is 16,000 sq. ft. and that he believes that most of the others are under 20,000 sq. ft. After discussion, it was decided that there was not a requirement of a 50 ft. setback from the lagoon, as there would be from the lake.

Mr. Dick Krider and Mr. Tony Zigniego, Excelsior residents, who own property at #1 and #3 MacLynn Rd. respectively, were present at the meeting to inspect the plans, as they had not previously seen them. Mr. Zigniego owns a triangle of property adjoining Mr. Bros' proposed lot, over which Mr. Bros has retained a 12 ft. easement. Mr. Zigniego questioned the designation of the channel as backwater since it is runoff from Christmas Lake. He is also concerned for the preservation of trees on the easement.

Mr. Zwak stated that he did not believe that the easement (840 sq. ft.) could be considered part of the 18,000 sq. ft. since it was owned by somebody else.

There was no one speaking in opposition to granting the requests.

J. Zwak moved approval of the petitions of Mr. Bros for consolidation of tracts of land into one buildable lot, approval of a variance to 8 ft. from 10 ft. of the sideyard setback of the garage, as well as a lot size variance to 17,160 sq. ft. (excluding easement), in accordance with the site plan presented by C. Bros, subject to retention of the easement. S. Bloom seconded the motion. The motion carried unanimously and was moved over to Council with recommendation for approval.

The Board of Adjustment hearing was adjourned.

Respectfully submitted,

Irene Chanin

Irene Chanin.

EXHIBIT 'B'

RESOLUTION NO 30-17

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

In Re: Application of David and Kimberly Barry for the property at 21550 Excelsior Boulevard for a variance from Greenwood ordinance code sections 1120.15, 1140.20(5)(D), and 1176.04 (Subd. 3(3)(a)) in conjunction with the attachment of a currently detached garage to the principal structure and the expansion of the existing nonconforming garage.

David and Kimberly Barry, applicants, are the owners of property commonly known as 21550 Excelsior Boulevard, Greenwood, Minnesota 55331 (PID No. 35-117-23-12-0032) being real property in Hennepin County Minnesota and legally described as follows:

That part of Tract G of Registered Land Survey No. 593, Hennepin County Minnesota, lying Northerly of a line running from a point on the Easterly line thereof distant 70.00 feet Northerly measured along the Easterly line from the southeasterly corner thereof to the point of intersection of the Westerly line of said Tract G with the North line of the South 94.71 feet of Tract I in said Registered Land Survey No. 593; also that part of Tract H in said Registered Land Survey No. 593 lying Westerly of a line running at right angles from the Southerly line thereof at a point distant 9.94 feet Easterly from the Southwesterly corner thereof and that part of Lot A, Partridge Heights, Hennepin County, Minnesota, lying Westerly of a line running Southerly at right angles from the Southerly line of Tract H in said Registered Land Survey No. 593, at a point 9.94 feet Easterly from the Southwesterly corner of said Tract H.

WHEREAS, application was made for variance to zoning code sections 1120.15, 1140.20(5)(D), and 1176.04 (Subd. 3(3)(a)) in conjunction with the attachment of a currently detached garage to the principal structure and the expansion the existing nonconforming garage; 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 November 15, 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 21550 Excelsior Boulevard, Greenwood, Minnesota 55331 (PID No. 35-117-23-12-0032) is a single-family lot of record located within the R-1A district.

The applicants propose attaching the existing house to the existing garage, to be built over existing landscape-related impervious 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 is currently at 42.3% impervious. While no expansion of impervious surface area is proposed, the proposal does convert areas of at grade impervious into structural impervious. Section 1176.07.05 (Subd. 4) does not permit exchanging nonconforming landscape-related impervious surfaces for an increase in structural-related impervious surfaces. **Applicants are seeking a variance to expand 138 square feet of structural-related impervious surfaces.**

2. The applicants propose the expansion of a nonconforming garage that encroaches into the lake yard setback. Section 1120.15 of the city code requires a lake yard setback of 50 feet and the applicants are proposing a setback of 36 feet, 8 inches. **Applicants are seeking a variance of 13 feet, 4 inches from the lake yard setback.**
3. Applicants are proposing a garage eave overhang of 5 feet. Section 1140.20(5)(D) of the Greenwood Zoning Code limits eave encroachments to 30 inches. **Applicants are seeking a variance of 30 inches from the maximum permitted eave encroachment.**

4. 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."

5. The applicants assert that the proposed variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6.

6. The planning commission, on a 6-0 vote, recommended the council approve the request of David and Kimberly Barry to vary from city code sections 1120.15, 1140.20(5)(D), and 1176.04 (Subd. 3(3)(a)) to encroach into the lake yard setback, exceed the maximum permitted eave encroachment, and to expand structural-related impervious surfaces in order to attach a currently detached garage to the principal structure and the expand the existing nonconforming garage, as proposed, for the property at 21550 Excelsior Boulevard, Greenwood, Minnesota 55331.

- (a) The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance because the purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the setback standards in order to complete an otherwise zoning code compliant addition that would not be possible due to the small buildable area on the property created by multiple lake yard setbacks.
- (b) The variance will be consistent with the comprehensive plan's guiding use for the subject property in the applicable zoning because of the character of the proposed use is consistent with the applicable zoning.
- (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 it maintains the single family nature of the property at a scope and scale consistent with the zoning standards. The proposal is a modest expansion of existing conditions.
- (d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property has multiple lake yard setbacks limiting the ability to build without encroaching. The garage is an existing nonconformity, and any expansion would also expand the encroachment.
- (e) The variance will not alter the essential character of the locality, because the proposed expansion would remain consistent with the scope and scale of the surrounding properties.
- (f) The variance will not:
 - i. Impair an adequate supply of light and air to adjacent property;
 - ii. Unreasonably increase the congestion in the public street;
 - iii. Increase the danger of fire or endanger the public safety; or
 - iv. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

The recommendation is conditioned that:

- (a) The project must be completed according to the specifications and design requirements in the submitted plans.
- (b) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

7. Based on the foregoing, the city council determined that the variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6.

And the city council has determined that the following conditions should be imposed on any variance grant:

- (a) The project must be completed according to the specifications and design requirements in the submitted plans.
- (b) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

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 granting of variances from sections 1120.15, 1140.20(5)(D), and 1176.04 (Subd. 3(3)(a)) and therefore variances from: section 1120.15 to encroach into the lake yard setback by 13 feet, 4 inches; section 1140.20(5)(D) to exceed the maximum permitted eave encroachment by 30 inches; and section 1176.04 (Subd. 3(3)(a)) to expand 138 square feet of structural-related impervious surfaces in order to attach a currently detached garage to the principal structure and expand the existing nonconforming garage should be **APPROVED**.

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 David and Kimberly Barry for the property at 21550 Excelsior Boulevard, Greenwood, Minnesota 55331 for variances from: section 1120.15 to encroach into the lake yard setback by 13 feet, 4 inches; section 1140.20(5)(D) to exceed the maximum permitted eave encroachment by 30 inches; and section 1176.07.05 (Subd. 4) to exchange 138 square feet of landscape-related impervious surfaces for structural-related impervious surfaces in order to attach a currently detached garage to the principal structure and expand the existing nonconforming garage is **APPROVED** subject to the following conditions:

- (a) The project must be completed according to the specifications and design requirements in the submitted plans.
- (b) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

PASSED this 6th day of December, 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



Agenda Number: **7C**

Agenda Date: **12-06-17**

Prepared by *Deb Kind*

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 city council approved the below motion at the 11-01-17 meeting ...

Motion by Fletcher that 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; (2) directs that the revised ordinance be sent to the attorney for review; and (3) directs that the ordinance be placed on the December council agenda for a 2nd reading. Second by Quam. Motion passed 5-0.

The amended ordinance was reviewed by attorney Bob Vose. Bob is Greenwood's alternate attorney and he also serves as the attorney for the Lake Minnetonka Communications Commission. Attached is his memo with comments. Also attached is the 11-22-17 update of the ordinance that incorporates Bob's comments.

Timeline:

- ~~10-18-17 Planning Commission holds a public hearing for the ordinance.~~
- ~~11-01-17 City council approved 1st reading of the ordinance.~~
- 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 2nd 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) approves resolution 26-17 a summary of ordinance 272 for publication; and (3) directs that resolution 26-17 be submitted to the Sun-Sailor for publication.
2. 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.

From: "Vose, Robert J." <rvose@Kennedy-Graven.com>
Subject: RE: Your Review Needed
Date: November 15, 2017 at 11:20:17 AM CST
To: 'Debra Kind' <dkind100@gmail.com>
Cc: "Short, Jean M." <jshort@Kennedy-Graven.com>

Mayor,
Looks great.

Regarding the permit fee referenced in Section 630.05 B., it's fine to set that by ordinance (Ch. 5) but note that the amount is limited by state law. It's limited to an amount meant to cover the City's ROW "management costs." The proposed ordinance includes a definition for "management costs":

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)

A few cities have done studies to try to nail these costs down, but most haven't and there really isn't a scientific way to set this fee. The point is that it needs to be somehow tied to the City's actual costs for ROW management.

The new language in Section 630.05, Subd. 3(b) regarding a possible height limit of 25 feet is not specifically contemplated by the new law but, as we've discussed, I still think it's defensible. I would, however, recommend saying such limitation would be set "in the applicable conditional use permit..." rather than just referring to the "applicable permit." Similarly, I recommend adding a reference to the applicable conditional use permit in Subds. 3(g) and (h) as well.

Finally, in Sections 3, 4, and 5 you add small cell as a conditional use in various districts using the phrase: "**Small wireless facility and wireless support structure.**" That's fine as long as you understand that the City's power to require a CUP in residential areas applies only to installation of a new wireless support structure and does not apply to a small wireless facility if it's being installed on an existing utility or light pole. That is, you can only require a CUP for a new pole. You can require a small wireless permit, but not a CUP, for a new small cell installation on an existing pole. I don't think the language needs to be changed as long as you are prepared to interpret it this way if challenged by a wireless provider.

Please let me know if there are questions.
Thank you

Bob Vose
Kennedy & Graven
470 US Bank Plaza
200 S. 6th Street
Minneapolis, MN 55402
(p) 612.337.9275
(f) 612.337.9310
(c) 612.481.3210

**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 ordinance and set forth in chapter 5.

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 in an amount set forth in chapter 5 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 30-day 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. The permit fee shall be determined by the city council and set forth in chapter 5. **NOTE: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.**

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 limited to 25 feet or the height of existing adjacent utility poles (whichever is less) in single-family residential zones or on right-of-way adjacent to single-family residential zones in the applicable **conditional use** 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.
- (g) A small wireless facility exceeding 8 cubic feet in total rectangular volume at the largest dimensions shall have visual screening in single-family residential zones or right-of-way adjacent to single-family residential zones.
The visual screening shall be approved by the city council in the applicable conditional use permit.
- (h) A small wireless facility and its screening shall not interfere with the view from single-family properties or the view of lakes, ponds, and wetlands.

- (i) A small wireless facility and screening shall be properly maintained so as to not become unsightly or hazardous and painted in a color approved in the permit by the city council **in the applicable conditional use permit.**

(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 of 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. **NOTE: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.**

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 with the actual costs to be determined and paid or refunded on completion of the project.

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 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) ~~New installations of small wireless facility support structures. 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. ~~New installations of small wireless facility support structures. 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. ~~New installations of small wireless facility support structures. 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:			
Delay Penalty	630.03	\$200 per day	
Excavation, Obstruction, or Small Wireless Facility Permit	630.04 630.06 630.09	\$250 in addition to a certificate of insurance for at least \$2 million 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 30-day notice to the	Paid with permit application.

		city of cancellation or material modification of the policy. If the city restores the right-of-way, the permittee shall pay the estimated costs as part of the permit application fee with the actual costs to be determined and paid or refunded on completion of the project. NOTE: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.
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: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.

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, “New installations of small wireless support structures” 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: **7D**

Agenda Date: **12-06-17**

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 07-19-17 draft of the ordinance 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.~~
- 12-06-17 The city council will consider sending the ordinance to the planning commission for a public hearing and recommendation.
- 12-07-17 Deadline for submitting public hearing notice to newspapers.
- 12-11-17 Public hearing notice published in Finance & Commerce to meet 10-day notice requirement.
- 12-14-17 Public hearing notice published in Sun-Sailor.
- 12-20-17 Planning commission holds public hearing and makes a recommendation to the city council.
- 01-03-17 City council considers 1st reading of the ordinance (may make revisions / may waive 2nd reading).
- 01-04-17 If the 2nd reading is waived, the ordinance is submitted to the Sun-Sailor for publication.
- 01-11-17 If the 2nd reading is waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).
- 02-07-18 City council considers 2nd reading of the ordinance (may make revisions).
- 02-08-18 The ordinance is submitted to the Sun-Sailor for publication.
- 02-15-18 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 12-20-17 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 after subdivision (see subdivision section 600)	15,000 sq ft 20,000 sq ft	75 ft street frontage for off-shore lots. 75 ft lake frontage for lakeshore lots.	150 ft
Minimum sizes for remaining lot when a portion is accreted onto a neighboring lot (see simple subdivision section 600.07)	15,000 sq ft	75 ft	150 ft
Minimum sizes for existing 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	7.5 ft plus 0.1 foot for each foot of lot width up to 7.5 ft ** (8 ft min)	30 ft for lots with area of 15,000 sq ft + Lot size 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 + 15,000 minus lot size x .001 + 30% for lots less than 15,000sf ****
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: 12-06-17

Prepared by Deb Kind

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

Summary: The city council approved the below motion at the 11-01-17 meeting ...

Motion by Fletcher that the city council (1) directs that the revised Joint Cooperation Agreement III [dated 10-22-17] be sent to the St. Alban's Bay Lake Improvement District secretary for distribution to the SABLID board for review at their next meeting; and (2) directs that the revised Joint Cooperation Agreement III be placed on the December 6 council agenda for action. Second by Cook. Motion passed 5-0.

The 10-22-17 draft of the JCA is attached. At the 12-06-17 city council meeting, SABLID board representatives Councilman Fletcher and Councilman Bill Cook will report on the JCA discussion from the 11-20-17 SABLID board meeting.

Council Action: None required. Suggested motion ...

1. 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 approved 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.
2. Do nothing or other motion ???



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

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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: 9A

Agenda Date: 12-06-17

Prepared by Deb Kind

Agenda Item: Consider: Potential Replacement of Sewage Pump Station

Summary: At the 11-01-17 meeting, Councilman Cook shared a report regarding the status of a sewage pump station. The consensus of the council was to place this topic on the 12-06-17 agenda for potential action. Councilman Cook will present a verbal update at the 12-06-17 council meeting.

Council Action: None required. Suggested motions ...

1. I move the Greenwood city council (1) authorizes the public works committee (Councilman Bill Cook and Councilman Bob Quam) to work with the city engineer to secure bids to replace the sewage pump station located at _____; and (2) directs that the bids be included on the 01-03-18 agenda for consideration.
2. I move the Greenwood city council (1) authorizes the public works committee (Councilman Bill Cook and Councilman Bob Quam) to work with the city engineer to replace the sewage pump station located at _____ in an amount not to exceed \$_____.
3. Do nothing or other motion ???



Agenda Item: Consider 2017 Budget Line Item Adjustments and Fund Transfers

Summary: Each December, the council considers budget line item adjustments and fund transfers. Based on the auditor’s recommendation, the council needs to ensure the total actual expenses do not exceed the total budgeted expenses for the current year. If changes are made to the expense side of the budget, changes need to be made to the revenue side to keep the budget balanced. As of October **2017**, actual expenses are on track for being consistent with budgeted expenses, so no motion is recommended to make budget line item adjustments. The budgeted Road Fund transfer was made earlier in the year, so a Road Fund transfer is not included in the suggested motion for fund transfers. Below are motions for the council’s consideration.

Council Action: Suggested motions ...

1. I move the council approves the following budgeted 2017 fund transfers:

- a. **\$3,730** from 605-49300-721 Marina Fund Transfer Out to 101-39200 General Fund for Administrative Expense Reimbursement
- b. **\$12,500** from 605-49300-720 Marina Fund Transfer to 101-39201 General Fund
- c. **\$10,090** from 602-43200-720 Sewer Fund Transfer Out to 101-39202 General Fund for Administrative Expense Reimbursement
- d. **\$2,573** from 502-43200-720 Stormwater Fund Transfer Out to 101-39203 General Fund for Administrative Expense Reimbursement
- e. **\$20,000** from 101-49000-500 General Fund Bridge Transfer to 403-39200 Bridge Fund

I further move the council approves the following **2017** fund transfer to “repay” the Sewer Fund:

- f. **\$20,000** from 502-43200-720 Stormwater Interfund Transfer Out to 602-34405 (new number) Sewer Fund Interfund Transfer In

2. If the council desires to make budget line item adjustments, here is the motion format ...

I move the council approves the following line item adjustments to the **2017** budget EXPENSES:

General Fund Code Number	Line Item Title	Original 2017 Budget Amount	12-06-17 Amount	CHANGE
TOTAL				

AND the following line item adjustments to the **2017** budget REVENUES:

General Fund Code Number	Line Item Title	Original 2017 Budget Amount	12-06-14 Amount	CHANGE
TOTAL				

3. Other motions ???



Agenda Number: **9C**

Agenda Date: **12-06-17**

Prepared by *Deb Kind*

Agenda Item: Planning Review Concept

Summary: In response to concerns raised Councilman Bill Cook during the 11-01-17 worksession, the Greenwood city council authorized Councilman Cook and Mayor Kind to research planning review alternatives and come back to the city council with a recommendation. After consulting with the city attorney, city zoning administrator, and members of the planning commission, Cook and Kind recommend the below concept for the city council's consideration. Note: The below concept has been revised per the city attorney's attached memo.

PLANNING REVIEW CONCEPT

1. Dissolve the planning commission.
2. Appoint the city council as the planning body that will conduct its reviews and hold public hearings at Board of Adjustments & Appeals (BAA) meetings at 5:30pm immediately preceding regular city council meetings.
3. Appoint 2-3 individuals as planning advisers that attend BAA meeting and participate in the conversation at the dais, but do not vote.
4. The planning advisers cannot meet as a group, but as individuals they can gather information from the zoning administrator and the applicant and visit the site prior to the meeting. The city attorney recommends further research regarding how the open meeting law would apply to advisers.
5. The planning advisers each will make individual recommendations to the city council at the BAA meeting.
6. The zoning administrator will continue to make a staff recommendation.
7. The zoning administrator will continue to prepare minutes of the BAA meeting as he currently does for planning commission meetings.
8. The BAA meeting and public hearing will not be on camera.
9. Final discussion and votes will be made during the regular city council meeting that is on camera. Council action may be to direct the applicant to make revisions to their plan, and / or to direct staff to draft findings for approval or denial to be considered at the following month's BAA and / or regular council meeting.

PROS

- A. Streamlines the variance and conditional use application processes. Applicants and interested members of the public only need to present their case to the decision-making body (city council), rather than present their case to the planning commission first and then to the city council.
- B. If the council wants the applicant to make tweaks to their plan, the council can review the tweaks at the BAA meeting the following month and still comply with the 60-day deadline for action.
- C. Council packets are posted online 10 days in advance, so the public would have the opportunity to review all of the documents and come prepared to the BAA meeting.
- D. Eliminates the time crunch problem for the zoning administrator to prepare council packet materials two days after planning commission meetings. Note: If a change is not made, the zoning administrator cannot commit to the 2-day turnaround for council packet materials on an ongoing basis which would mean a month delay in council action for variances and CUPs.
- E. Keeps the casual off-camera setting to encourage conversation and public hearing participation.
- F. Keeps the "pipeline" for training potential future council members.

CONS

- (a) If there are 2-3 complex items on the same BAA agenda, the BAA meeting could delay the start of the regular council meeting.
- (b) Other cons ???

Council Action: If the city council desires to move forward with the concept, a 4/5ths approval is required. Potential motions ...

1. I move the city council (1) directs that an ordinance implementing the Board of Adjustments & Appeals meeting / planning adviser concept be included on the 01-03-18 agenda for a first reading; and (2) directs the city attorney to conduct further research regarding how the open meeting law would apply to planning advisers.
2. Do nothing or other motion ???

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MEMORANDUM

TO: Mayor Kind and City Council Members, City of Greenwood
FROM: Mark W. Kelly, Greenwood City Attorney
DATE: November 20, 2017
RE: Planning Review Concept

Planning Review Concept

It is proposed that the Planning Commission be dissolved and the City Council assume the role of Municipal Planning Body. In particular, by Ordinance, the City would:

Appoint the City Council as the municipal planning body. It would conduct Variance/CUP application reviews and hold required public hearings at meetings called expressly for that purpose, and held in the hours preceding the regular City Council Meetings. A 2-3 person Planning Advisory Board would be appointed to attend the council Variance/CUP hearings and participate in the discussion at the dias. That panel would not vote. The Planning Review meetings and public hearing thereon would not be on camera. At the review hearings, questions would be posed by Council Members and the applicant would be allowed to present their rationale for the grant of a Variance/CUP. No council action would be taken at these meetings. At a subsequent regular City Council meeting, discussion between Council Members would be had and action taken.

Municipal Planning

A municipality may create a planning agency other than the City Council. It may be a Planning Commission or a Planning Department, but there is no statutory requirement that the City actually create such. In Greenwood, the Planning Commission serves as an advisory panel which conducts the requisite public hearings on Variance/CUP applications. The Minutes of their meeting advise and recommend action to the Council. Final decisions are left to the City Council, acting as the Board of Appeals and Adjustments, and are taken at a regular City Council meeting.

If Greenwood abolishes the Planning Commission, the duties performed by the Commission body will fall to the City Council. The Council will need to conduct the public hearing and application review. The loss, or lack of time between meetings of Planning Commission and City Council may become an issue. The applicant may need time to revise or re-consider their applications. Also, resolutions of approval or denial, setting forth findings and conclusions of law, must be prepared.

Abolition of Planning Commission

The City Council, having created the Planning Commission by ordinance, has legal authority to abolish it by a two-thirds vote (4 out of 5 members) of all members of the governing body (Mn. Stat. §462.354, Subd. 1).

Code revisions required, if Planning Review Concept is pursued.

Chapter 2 of the Greenwood Code, Section 220, articulates the Planning Commission's duties and process. Under the proposal, Section 220 will be repealed. A new Ordinance will be adopted articulating the duties of the City Council as Board of Adjustments and Appeals. Chapter 11, Zoning Codes, Section 1150 (Conditional Use Permits), Section 1155 (Variances), and Section 1160 (Rezoning), will need to be amended accordingly.

Use of 2-3 person Advisory Panel

The proposal anticipates a 2-3 person "Planning Advisory Board" to attend, sit at dias, and participate in discussion at the dias, but not vote. Its purpose would be to advise the council, but would have no authority to vote or take

action. I recommend this “board”/group not be named a “Planning Advisory Board” as doing so suggests it is the official “municipal planning body” authorized under statute. Instead, the City Council should appoint individual advisors to the City Council, whose background and education allow them to contribute to an informed review of Variances and CUPs. These individual advisors/appointees will express individual opinion, but not act as a separate board. Further research is needed on the application of the open meeting law to advisors so appointed.

Regular and Special Meetings

Annually, the City adopts a schedule of 12 “regular” City Council Meetings. Because the City cannot anticipate when variance requests, etc., may need to be processed, and to avoid the complexity and noticing of special council meetings, the City should establish a schedule of 12 monthly Board of Adjustments and Appeals (BAA) meetings, but at an earlier hour of regular meeting dates. In months where there is no Variance/CUP applications BAA meetings may be canceled.

Discussion and Action at Board of Adjustments and Appeals

So that all variance/CUP actions are on camera, it is appropriate that the Board of Adjustments and Appeals procedure, be defined to provide questions that may be posed by Council Members *and* advisors. The applicant may respond, and discussion with the applicant may be had. Final debate between the Council Members, and vote on motions approving or denying an application shall be reserved for the regular City Council Meetings.



Agenda Number: 9D

Agenda Date: 12-06-17

Prepared by Deb Kind

Agenda Item: Discuss Aquatic Invasive Species Prevention

Summary: Councilman Fletcher requested that this topic be included on the council agenda. He will give a verbal presentation at the 12-06-17 council meeting.

Council Action: Council action may be taken but is not required.



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.

Council Action: None required.

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
Default Home Page	6651	58.32%
Agendas, Minutes, Meeting Packets	781	6.85%
RFPs & Bids	408	3.58%
Welcome to Greenwood	377	3.31%
City Departments	316	2.77%
Planning Commission	265	2.32%
Mayor & City Council	169	1.48%
Forms, Permits, Licenses	169	1.48%
Assessments & Taxes	144	1.26%
Code Book of Ordinances	143	1.25%
Public Safety Alerts	126	1.1%
Garbage & Recycling	109	0.96%
Elections, Voting	101	0.89%
Agendas, Minutes, Meetings	98	0.86%
St. Alban's Bay Lake Improvement District	97	0.85%
Comp Plan & Maps	87	0.76%
Photo Gallery	85	0.75%
Budget & Finances	77	0.68%
Toilet Drain Guide	75	0.66%
Meetings on TV	69	0.61%
Spring Clean-Up Day	67	0.59%
Meetings	63	0.55%
Parks, Trails & Watercraft Amenities	58	0.51%
Smoke Testing	56	0.49%
	52	0.46%

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.

Well Water		
Lake Minnetonka	46	0.4%
Watercraft Spaces	45	0.39%
Tour de Tonka	43	0.38%
Emergency Preparedness	42	0.37%
Links	42	0.37%
Email Sign-Up	41	0.36%
City Newsletters	40	0.35%
Community Surveys	39	0.34%
Finances, Taxes, Assessments	36	0.32%
Sewer, Stormwater, Water, Garbage, Recycling	35	0.31%
Habitat 500 Bike Ride	35	0.31%
Search Results	34	0.3%
Old Log Events	33	0.29%
July 4th	31	0.27%
Luck O' the Lake	30	0.26%
Coyotes & Animal Services	30	0.26%
Recreation, Amenities	29	0.25%
Tree Contractors	29	0.25%
Fire Department	28	0.25%
Road Closures & Detours	23	0.2%
News, Events	21	0.18%
Library Events	15	0.13%
SABLID Email Sign-Up	10	0.09%
Unsubscribe	4	0.04%
TOTAL	11404	100%

Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	1892	43.77%
City Departments	269	6.22%
Agendas, Minutes, Meeting Packets	226	5.23%
Welcome to Greenwood	205	4.74%
Mayor & City Council	122	2.82%
Planning Commission	94	2.17%
Forms, Permits, Licenses	79	1.83%
Code Book of Ordinances	73	1.69%
Assessments & Taxes	72	1.67%
St. Alban's Bay Lake Improvement District	68	1.57%
Garbage & Recycling	66	1.53%
Comp Plan & Maps	66	1.53%
Public Safety Alerts	65	1.5%
Elections, Voting	63	1.46%
Agendas, Minutes, Meetings	53	1.23%
Photo Gallery	50	1.16%
Meetings on TV	49	1.13%
Budget & Finances	48	1.11%
Meetings	47	1.09%
Toilet Drain Guide	42	0.97%
Spring Clean-Up Day	40	0.93%
Lake Minnetonka	36	0.83%
Parks, Trails & Watercraft Amenities	36	0.83%
Community Surveys	35	0.81%
Watercraft Spaces	32	0.74%
Smoke Testing	30	0.69%
RFPs & Bids	30	0.69%
Links	28	0.65%
Sewer, Stormwater, Water, Garbage, Recycling	27	0.62%
Old Log Events	26	0.6%

Coyotes & Animal Services	26	0.6%
Finances, Taxes, Assessments	25	0.58%
Recreation, Amenities	23	0.53%
Emergency Preparedness	23	0.53%
Tree Contractors	23	0.53%
Email Sign-Up	22	0.51%
Fire Department	22	0.51%
Habitat 500 Bike Ride	22	0.51%
July 4th	21	0.49%
Search Results	20	0.46%
Tour de Tonka	20	0.46%
City Newsletters	20	0.46%
Well Water	19	0.44%
Road Closures & Detours	18	0.42%
Luck O' the Lake	18	0.42%
News, Events	16	0.37%
Library Events	9	0.21%
SABLID Email Sign-Up	4	0.09%
Unsubscribe	3	0.07%
TOTAL	4323	100%

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.

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, NOVEMBER 15, 2017
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 6:58 p.m.

Members Present: Chairman Pat Lucking, Commissioners Lake Bechtell, Jennifer Gallagher, Doug Reeder, Fiona Sayer, and David Steingas (alternate)

Others Present: Council Liaison Kristi Conrad and Zoning Administrator Dale Cooney

Absent: None

2. MINUTES – October 18, 2017

Commissioner Bechtell moved to approve the minutes of October 18, 2017 as written. Commissioner Gallagher seconded the motion. Motion carried 5-0.

3. PUBLIC HEARINGS

3a. Consider variance requests of David and Kimberly Barry, property owners, to encroach into the lake yard and front yard setbacks and convert landscape-related impervious to structural-related impervious in order to attach a currently detached garage to the principal structure and expand the existing nonconforming garage at 21550 Excelsior Boulevard.

Chairman Lucking introduced the agenda item.

Mike Sharratt, architect for the applicants, said that he has provided an aerial photograph that shows both a 30 foot and 50 foot setback in the neighborhood. He said that 10 out of 13 houses are in violation of the 50 foot setback, while 3 were in violation of a 30 foot setback. He said that this home does not have a basement or a rec room, and that the expansion of the garage would enable a rec room over the garage. He said that they are not expanding hardcover and that they are well under on the volume calculations.

Reeder said that this was nearly the same variance request as in 2012. Kimberly Barry, applicant, said that they did not complete that addition at the time since it was too expensive.

Conrad asked about the channel near the house. Steingas said that it goes under State Highway 7 and connects with Christmas Lake.

Gallagher asked if the proposed changes would create difficulty turning around in the driveway. David Barry said that they have more than enough room in the driveway.

Sharratt noted that the channel noted by the 50 foot setback is non-navigable. Lucking said that the setback was changed to 50 feet when Greenwood adopted its shoreland management ordinance.

Conrad asked if, the way the ordinance is written, we can even allow a variance to exchange landscape related impervious for structural-related impervious.

Lucking said that, based on the way the code was written, the planning commission could not grant a variance of that type. Steingas said that we could give the applicants a variance for expanded hardcover, of which the new would be structural impervious. Steingas said that it was a minor expansion.

Cooney said that he calculated 138 square feet of additional structural impervious. He asked if we would include conditions about removing additional impervious areas. Lucking said that he did not

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, NOVEMBER 15, 2017
7:00 P.M.**

believe we could make that condition, but would instead have to ask the applicants if they would be willing to do that.

Conrad said that this is an instance where, with the best of intentions, the way the code is written undermines a reduction in impervious area.

Motion by Bechtell to approve the request as proposed with a 138 square foot increase in total impervious area for the new structural-related impervious surfaces. Motion was seconded by Steingas. Motion carried 5-0.

4. OTHER BUSINESS

5. LIAISON REPORT

Conrad presented the liaison report. She said that the city is working on an updated small wireless ordinance. She said that the residential zoning is still a work in progress and that Councilmembers Cook and Fletcher are getting additional data.

Conrad said that the variance requests for 5500 Maple Heights Road passed, including the enclosed porch which passed on a 3-2 vote. Cooney said that the resolution for the deck was similar to what the planning commission had considered with a reduced width connection to the main deck area. He said that the lower deck was also reduced in size, but that the city council did not demand that there be no net gain in structural impervious.

Steingas said that he blames the builder for the mistake with the porch and that they should know better than to expand anything within three feet of a lot line. Cooney said that he did not think the 3-2 vote was an attempt to remedy the past mistake, but that vote was more about the porch in context with the neighboring house. Conrad agreed that it was not an attempt to remedy the mistake.

6. ADJOURN

Motion by Reeder to adjourn the meeting. Steingas seconded the motion. Motion carried 6-0. The meeting was adjourned at 7:40 p.m.

Respectively Submitted,
Dale Cooney - Zoning Administrator