

**PLANNING COMMISSION MEETING  
AGENDA  
CITY OF WHITE BEAR LAKE, MINNESOTA**

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The City of White Bear Lake Planning Commission will hold its regular monthly meeting on Monday, November 25, 2019, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61.

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1. Call to order and roll call.
2. Approval of the November 25, 2019 agenda.
3. Approval of the October 28, 2019 Planning Commission meeting minutes.
4. **CASE ITEMS:**  
**Unless continued, all cases will go to the City Council meeting on Tuesday, December 10, 2019. Items B and C require two readings and will also be heard at the City Council meeting on Tuesday, January 14, 2019.**
  - A. **Case No. 19-11-V:** A request by **Richard Farrell** for a 1'4" variance from the 2-foot maximum width for an eave, per Code Section 1302.040, Subd.4.a.1, in order to allow the roof overhang to encroach into the required setback at the property located at 4763 Lake Avenue.
  - B. **Case No. 19-9-Z:** A **City-Initiated** text amendment to Zoning Code Section 1303.230, Subd.5.c "Stairways, Lifts, and Landings" to clarify that only one stairway down to a waterbody is permitted per property.
  - C. **Case No. 19-10-Z:** A **City-Initiated** text amendment to Zoning Code Section at Section 1303.230, Subd.7 "Shoreland Alterations" to create parameters for the use of riprap and reiterate the limitation that retaining walls not exceed four (4) feet in height.
5. **DISCUSSION ITEMS:**
  - A. City Council Meeting Summary from November 12, 2019.
  - B. Park Advisory Commission Meeting Minutes from September 19, 2019.
6. **ADJOURNMENT**

Next Regular City Council Meeting ..... December 10, 2019  
Next Regular Planning Commission Meeting.....January 27, 2019

**MINUTES  
PLANNING COMMISSION MEETING  
CITY OF WHITE BEAR LAKE  
OCTOBER 28, 2019**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, October 28, 2019, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Ken Baltzer.

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

MEMBERS PRESENT: Ken Baltzer, Jim Berry, Mary Alice Divine, Mark Lynch, and Peter Reis.

MEMBERS EXCUSED: Erich Reinhardt.

MEMBERS UNEXCUSED: None.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator, and Ashton Miller, Planning Technician.

OTHERS PRESENT: Ron Folgor, Donovan Kostron, Heidi Holste, Dave Keller, Anthony & Jennifer Lightfoot, Wendy Lulavy, Ryan Eckdahl, Eric Bacon, Jon Skoog, Dave Chapman, Jerry Dressen, Beth Hill, Karl Johnson, Stacie Moore, Doug Hill, Ben Haster, Dave Haster, B.F. Myers, Dale Grambush, Dave Larrive, Gary Schulz, and Howard Lee.

**2. APPROVAL OF THE OCTOBER 28, 2019 AGENDA:**

Member Lynch moved for approval of the agenda, adding elections for chair and vice chair under discussion as item 5.C. Member Reis seconded the motion, and the agenda was approved (5-0).

**3. APPROVAL OF THE SEPTEMBER 30, 2019 PLANNING COMMISSION MEETING MINUTES:**

Member Lynch moved for approval of the minutes. Member Berry seconded the motion, and the minutes were approved (5-0).

**4. CASE ITEMS:**

A. **Case No. 19-2-LS:** A request by the **Lightfoot and Larrive Families** for a recombination subdivision to convey 4,206 square feet of land from 4701 Bald Eagle Avenue to 1985 Birch Lake Avenue, per Code Section 1407.040.

Miller discussed the case. Staff recommended approval of the request.

Member Lynch commented on how great it is that neighbors can work together.

Anthony Lightfoot, applicant, 1985 Birch Lake, he and his family are grateful to their neighbors for offering them the opportunity to expand their property. With grandma and ice cream so close to the house, they are happy they will be able to stay in the neighborhood.

Member Reis moved to recommend approval of Case No. 19-2-LS. Member Lynch seconded the motion. The motion passed by a vote of 5-0.

- B. **Case No. 19-9-V:** A request by **Bruggeman Builders LLC** for a five foot variance from the 15 foot side yard setback requirement, per Code Section 1303.080, Subd.5.c.2.b, in order to build a triplex 10 feet from the west property line on the portion of the property located north of County Road D at 2687 County Road D.

Kane discussed the case. Staff recommended approval with a number of conditions laid out in the staff report.

In response to a question from Member Divine regarding driveways, Kane reported that each unit will have a separate twenty foot wide driveway accessing County Road D.

Member Reis asked how the wetland boundary is determined. Kane explained it is the Ordinary High Water Level (OHWL).

Member Lynch wondered if anything could be built on the property to the west. Kane stated that easements prohibit development of the area.

Member Baltzer opened the public hearing.

Gary Schultz, 3151 Hidden Lake Pointe Drive, he commented that the site is just a little piece of land with not enough room for a quad or a triplex. The setback requirements are there to protect surrounding neighbors. He has been told that the triplex will reduce home values by possibly 20 thousand dollars, which will hurt him significantly. He is not opposed to a duplex on the site, but higher density homes are west of the lake, not on the east. He asked the Planning Commission to deny the variance.

Dave Chapman, 3149 Hidden Lake Pointe Drive, he stated that one of the fundamental assumptions that staff bases their recommendation of approval on is that the neighbors will not be affected. Their homes will lose value. He thought when the property was rezoned, a fifteen-foot setback was guaranteed. Kane replied that monetary value is not the only aspect staff looks at when determining effect on neighbors. She added that by right four to six multiple family units would be allowed here, and a fifteen foot setback was only for anything larger than a duplex.

Chapman conveyed that there are probably over one hundred trees greater than four inches that will be lost with the construction of this building. He bought his townhome for the view. This will have an adverse effect on the surrounding properties in terms of money and greenery.

Member Lynch clarified that the variance request was on the west and asked if fifteen feet would be required if it was denied. Kane confirmed fifteen feet is the setback for triplexes, but the applicant could build a duplex, which only requires a ten-foot setback.

Paul Bruggeman, applicant, he suggested that the density of his project is probably less than at the neighboring Hidden Lake Pointe and that those townhomes only exist because variances were granted for the side and rear yards. He is preserving the space by maintaining a fifteen-foot

setback on the east side. He does not know why a triplex would reduce home values and thinks this project will benefit the neighborhood.

Member Baltzer closed the public hearing.

Member Divine stated that she does not like the garage doors across the front. She wondered how far the building is from the curb and if there will be landscaping. Kane explained that side loading is not an option because of the width of the lot and that there will be landscaping based on the number of trees that will need to be replaced.

Member Berry asked if the Hidden Lake Pointe development was granted variances. Kane gave a history of the Planned Unit Development that was approved in 2001 and included flexibility from the code for rear and side yard setbacks.

Member Reis questioned what condition four regarding tree preservation entails. Kane explained that tree preservation requirements are very specific, so staff does not have discretion in the review. She provided the commissioners with the required replacement values.

Member Lynch asked how far back the trees will be removed. Kane pointed on a map roughly how far back the building will be and confirmed that the construction will not clear-cut all the trees on the property. Member Lynch added that he originally thought the proposed construction was going to be a lot denser than a triplex. He indicated that he is leaning towards voting for approval of the variance.

Member Baltzer remarked that the property does not belong to the townhomes, so they cannot dictate the development that occurs on it. He noted that if the association wanted it to stay the same, they should have bought the land. He agrees with Member Lynch that there could be a lot more on this property.

Member Lynch moved to recommend approval of Case No. 19-9-V. Member Reis seconded the motion. The motion passed by a vote of 4-1. Member Berry opposed.

- C. **Case No. 19-6-Z & 19-5-CUP:** A request by **Lotus Recovery** for a text amendment to Code Section 1302.140, "Day Care and Group Care Facilities" to allow a Group Care Facility with more than six, but not more than sixteen individuals, as a Conditional Use in residential zoning districts, and a Conditional Use Permit, per the amended code, to operate a 16-bed residential treatment center for chemically dependent individuals at the property located at 3561 White Bear Avenue.

Crosby discussed the case. Staff recommended approval of the text amendment and approval of the conditional use permit with a number of conditions laid out in the staff report. She noted that a condition will be added between now and the City Council meeting that the fence needs to be replaced.

Member Divine asked who would enforce the rules and if there is a state agency that has oversight of treatment centers. Crosby replied that the Department of Human Services (DHS) regulates group homes, but does not enforce local regulations. A number of staff members will be in charge of enforcing the conditions.

Member Divine sought clarification on whether the text amendment and conditional use permit are together. Crosby explained that because the rezoning requires two readings, the conditional use permit will have to wait another month to be heard by the City Council.

Member Berry commented that when the residence was being used in 2013, there were issues with vehicle overcrowding. He asked if the residents would be allowed vehicles. The road has one way in, one way out access, which will increase congestion. He also wondered why sixteen was the chosen number of people for the text amendment and if it is solely based on economies of scale. Crosby confirmed that only staff and visitors, not residents, will have vehicles on site.

Member Lynch asked for a definition of major collector roads and if the reported calls at the other treatment centers are only police. Crosby could not provide an exact definition for road classifications, but offered to find a map of the road designations and that the call count included police, fire and EMS.

Member Lynch followed up with the question of whether staff would separate out police calls. Crosby confirmed they would and read the definition for which calls would count towards the three-strike rental license policy. Member Lynch then asked about overflow parking. Crosby replied that, as proposed, the parking is sufficient, but staff is trying to foresee issues and find alternatives if parking becomes problematic.

Member Lynch noted that he had questions he hoped the applicants would address relating to resident travel and the nature of voluntary admittance to the program.

Member Baltzer opened the public hearing.

Ryan Eckdahl and Eric Bacon, applicants, Lotus Recovery, they expressed appreciation for staff's and the Planning Commission's time. Eckdahl described how they have founded or launched eight agencies in relation to this population. They are working to respond to misconceptions surrounding addiction. He stated that residents will be voluntary, be qualified for residential treatment and have no sexual offenses. The organization will conduct a background check on all potential residents and will reserve the right to deny people. There will be 24-hour supervision of the facility and transportation will be provided for all activities that occur outside of the home. No one, resident or visitor, can enter or exit without first talking to staff. Eckdahl commented that everyone is on a journey to bring freedom to themselves. It is in their interest to continue and move out of this facility.

Bacon reiterated that there will be no mandated clientele. He broke down the daily routine stating that the clinical hours will be from 9 am to 5 pm, dinner from 5 to 6 pm, activities from 6 to 8 pm, quiet time from 8 to 9 pm and then down time at 10:30 pm. He assured that in response to neighbor concerns, loud noises in the back yard would not be permitted.

Bacon noted that they have reached out to other residential treatment centers to see how their communities have been affected. They reported minimal issues. He cited that four to five hundred thousand people in Minnesota have been affected by addiction and Lotus Recovery is just trying to help.

Member Lynch asked what kind of addiction they will treat and how long the program will be. Bacon stated that treatment will be for both alcohol and drugs and that it will be a 90-day program or whenever the resident opts to leave.

John Skoog, 3695 County Road 11, Independence, stated that he has worked with Lotus Recovery in the past and they are great and make the process easy with their communication skills. This epidemic needs to be addressed and this population needs someone to speak up for them, which is why he supports the request.

Heidi Holste, Executive Director of Northeast Residence, 2539 County Road E East, she explained that her organization is the current owner of the property, but due to changes in state legislation, they can no longer use the property for their program. The organization has operated twenty-nine programs, many of which are in White Bear Lake. She described how they used to operate a day program for nine individuals in the proposed recovery center. She stated that when they ran the program, parking was often an issue because parents were dropping off and picking up at the same time of day, which is not the case for Lotus Recovery. She also admitted that the garage was used for storage rather than parking.

Holste commented on the size of the house and that she is very pleased that someone has come forward since her organization cannot use the property. She expressed concern about the policy on number of police calls, as she would not want to tell staff to limit the number of phone calls. Things happens and sometimes the police are required to come. Finally, she stated that she knows a number of people who have benefitted from treatment programs, which are in short supply, so she supports the proposal.

Doug Hill, 3564 Jerry Street, he stated that the applicants paint a rosy picture of treatment, when in reality, it is not a good place. In his experience, residential treatment centers are a place of drug deals, prostitution, assault and fighting. These places are not safe. He stated that he will not be able to continue living in his home with his son if the treatment center is allowed.

Beth Hill, 3564 Jerry Street, expressed concern that there will be parties in the backyard, and that the residents will gather to smoke, which is unacceptable for her family. The fence will not be enough to keep people from looking into her house. She does not think a treatment center should be in a residential area. She provided a copy of a petition from surrounding neighbors that are all against the proposed recovery center. She indicated they would have collected more signatures if they had more time.

Karl Johnson, 3550 Jerry Street, spoke on how this house is three times bigger than anything else in the neighborhood. It has been snowballing due to the number of conditional use permits and variances the City Council has granted over the years. Because of this, the building has a limited use. He asked if the conditional use permit would go away if the text amendment were denied. Member Baltzer confirmed that was true.

Don Kostron, representing his mother at 3576 Jerry Street, pointed out that there is a liquor store right next door. He finds sixteen to be a lot of people for one home. He described how the recovery center residents are going to want to leave the property, which means they will be walking around the neighborhood. This facility will bring more people, traffic, and foot traffic to the area. Even if the center is run perfectly, the impression of the center will have a negative impact on the neighborhood.

Wendy Lulavy, 2000 County Road E, owner, she described that she is empathetic, but there are many issues that come with this clientele. People falter and she does not want to dangle the liquor store in front of the residents. There is currently a large vacant space in the shopping center, and the treatment center will impact her ability to find someone willing to lease it. She stated that parking has always been an issue and that the shopping center has not and will not allow overflow parking from the house. The spaces are there for her customers and they need to be used in that capacity. She is concerned about safety and believes that residential neighborhoods are not the appropriate place for treatment centers.

Howard Lee, 3551 White Bear Avenue, has lived in his home since 1971. He explained that a lot of people on the block have lived in their homes for many years and are getting older. He had a number of questions about the program, including what the recovery program entailed, what is meant by the term voluntary, what mental state the residents would be in when they entered the program, what the reasoning was for the increase from nine to sixteen residents, if it would be all men, whether they would be local, and how the staff would be comprised. He is concerned with safety, thinks that fights will break out, and that traffic will be an issue since it is on a busy road. The treatment center does not fit in the neighborhood.

Ron Folgor, representing mother-in-law, 3563 Jerry Street, who has lived in her home since 1947. He referenced a statistic that sixty percent of all drug addicts fail thirty days after treatment. He does not want addicts around his mother-in-law and is concerned that they may break into the neighboring homes for drugs. The treatment facility will lower the property values in the neighborhood. He stated that voluntary is basically mandated by the court when the judge offers a choice between jail and treatment. He wondered if profits were the motivation for the number of beds and felt that the owners would be the only ones benefitting from this.

Dale Grambush, 2415 Gisella Boulevard, he is concerned whenever the city puts a text amendment with a request tied to a property. He thinks that the text amendment is a big change. He does not like the idea of changing the code for one property, since there are not many homes in the city with the number of bedrooms that would be required for sixteen residents. He stated that he does not think the parking standards are sufficient. The text amendment should include parking requirements for group care facilities, so there is a standard for all proposals.

Grambush mentioned the one-mile standard for similar residences. He stated that, based on the wording of the proposed text amendment, because there is another chemical dependency facility within one mile of the property, this facility would not be allowed. He explained that realtors would probably report that this facility would limit the pool of buyers, which will lower property values. He thinks the text amendment will alter the character of the city.

Dave Haster, 3558 Jerry Street, noted that his neighbors made valid points. He thinks the Planning Commission will be doing a great disservice to the neighborhood and to the people in the facility who will experience overcrowding if they recommend approval the request.

Member Baltzer requested that the applicants answer some of the Planning Commissioners questions.

Member Divine asked the applicants if they are for or nonprofit and what their history is with recovery. They are for-profit, so they pay taxes. Bacon stated he has over 20 years of experience

with this population working in different treatment centers, is a licensed counselor, and has worked with the State of Minnesota reviewing other treatment programs. Eckdahl explained that he cofounded a program in Hennepin County and founded one in Ramsey County working with the homeless population.

Member Divine asked where they anticipate most of their residents will come from and whether they would have access to cell phones once admitted to the program. Bacon replied that they would most likely be referrals from Ramsey County Chemical Health Department or other social service agency and that cell phones would not be allowed.

Member Berry asked how many facilities of this size the applicants have owned or operated in the past. Eckdahl responded that they only have the sixteen person outpatient facility in Saint Paul.

Member Reis asked if residents would be allowed to go for a walk in the neighborhood. Bacon explained that staff would bring them to a park and they would always be supervised. Member Reis then asked if residents leave without supervision, do they exit the program. Bacon confirmed that is the policy.

Member Lynch asked about the process of recovery. Bacon replied that recovery is getting back to a healthy state of being, free of drugs and alcohol. The center will provide education on addiction, therapy, and relapse prevention. He posited that there will always be troubled people, regardless of the treatment center being there or not. There are over 50 residential treatment centers in Minnesota. The proximity of the liquor store should not affect where the treatment center is allowed, because an alcoholic is going to drink if they want, regardless of location.

Eckdahl added that the program will not utilize a single model; rather it will be tailored to the individual.

Member Lynch asked if they believe they will be at full capacity all of the time and what the staff make up would be. Bacon suggested that ten residents would probably be the average and that they would have a nurse and two mental health professionals available for the residents.

Member Lynch then asked how guest parking would be handled since there are only six parking stalls for staff and if residents would be allowed to walk to the convenience store. Eckdahl replied that guests will be required to pre-register, so they can track the number of people coming. He acknowledged that they may need to decline visitors on any given day and schedule them for the next available visitation time. Bacon added that residents would be driven to the store if they needed, but not allowed to walk there.

Howard Lee asked how conditions will be monitored besides looking at the police and fire calls. Member Baltzer explained that the workers at the treatment center would be in charge 24 hours of the day.

Member Baltzer closed the public hearing.

Member Baltzer asked which parts of the house the applicants are proposing to remodel and if there are windows in each of the bedrooms. Crosby replied that they are adding one bedroom and a bathroom and the building official would have noted if there were not enough windows.



Member Lynch suggested that the text amendment and conditional use permit should be separate. He thinks people should be given the chance to be in the forty percent success rate and is more worried about the people who are not in recovery yet. He does not know if this is the right location for a treatment center and thinks the text amendment could use reworking.

Member Divine stated this is a difficult discussion since we all want recovery. She has looked at the building, and she is not sure if that is the right use of the property. She thinks sixteen people is too many. She would not want to be in the neighborhood with sixteen people in a recovery house.

Member Berry prefaced that he respects what the applicants are doing, as he has personal experience surrounding addiction with family. He has found that the smaller centers seem to work better for addiction. He does not support the text amendment. He thinks it will negatively affect too many areas of the city and agrees sixteen people is too many.

Member Reis commented that he is concerned with the proposed number of people. He thinks sixteen people may be too many, but he does not know what the number should be. Facilities like this are needed, but not in a solely residential area. White Bear Avenue is busy, so is a good buffer, but he would feel better if the proposal was for a halfway house where people have already completed treatment.

Member Lynch remarked that he would like to send the text amendment back to staff to do more research.

Member Reis moved to recommend disapproval of Case No. 19-6-Z & 19-5-CUP. Member Divine seconded the motion. The motion passed by a vote of 5-0.

- D. **Case No. 19-7-Z: A City-initiated** text amendment to Sign Code Section 1202.040, Subd.2, to allow Drive-Thru Signs to utilize dynamic display style sign faces.

Kane discussed the case. Staff recommended approval of the text amendment.

Member Divine asked how this would affect the downtown business district. Kane replied that menu boards are specifically prohibited in the B-5: Central Business District.

Member Berry asked why the signs do not have to meet the dynamic display criteria regarding resolution. Kane replied that it is a different technology. The signs do not use the large pixels, rather they will be LED.

Member Lynch asked if animation would be allowed. Kane answered no, they will only change once per day for the breakfast and dinner menus.

Member Baltzer opened the public hearing.

Dale Grambush, Downtown Business Group, he noted that when the group looked at trying to install dynamic display, they were not allowed to use 100 percent of the space of the sign. He questioned why static space is required and asked if all monument signs could be held to the same standard as menu boards. Kane described how the downtown area sign is meant to promote sales,

while menu boards are meant to give detailed information about nutrition and pricing. The City will be looking at allowing offsite signs in the future.

Member Baltzer closed the public hearing.

Member Lynch moved to recommend approval of Case No. 19-7-Z. Member Reis seconded the motion. The motion passed by a vote of 5-0.

**5. DISCUSSION ITEMS:**

**A.** City Council Meeting Minutes of October 8, 2019.

No discussion

**B.** Park Advisory Commission Meeting Minutes of August 15, 2019.

No discussion

**C.** Election of Chair and Vice-Chair.

Member Reis moved to nominate Ken Baltzer as chair, seconded by Member Lynch. Member Baltzer accepted the nomination and the vote was unanimous. Member Berry moved to nominate Mary Alice Divine as vice-chair, seconded by Member Reis. Member Divine accepted the nomination and the vote was unanimous.

**6. ADJOURNMENT:**

Member Reis moved to adjourn, seconded by Member Lynch. The motion passed unanimously (5-0), and the October 28, 2019 Planning Commission meeting was adjourned at 9:30 p.m.



City of White Bear Lake  
COMMUNITY DEVELOPMENT  
DEPARTMENT

## MEMORANDUM

**TO:** The Planning Commission

**FROM:** Samantha Crosby, Planning & Zoning Coordinator

**DATE:** November 20, 2019 for the November 25, 2019 Planning Commission Meeting

**SUBJECT:** Richard Farrell, 4763 Lake Avenue - Case No. 19-11-V

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### **REQUEST**

The applicant, Richard Farrell, is requesting approval of a 1 foot 4 inch variance from the 2-foot maximum width for an eave overhang encroaching into a setback. See applicant's narrative.

### **SITE CHARACTERISTICS**

The property fronts on three streets: Lake Avenue, 4<sup>th</sup> Street and Johnson Avenue. The lot is over an acre in size due to the significant amount of riparian rights on the other side of Lake Avenue.

### **ZONING**

The subject site is zoned R-2 - Single Family-Residential and lies within the Shoreland Overlay District of White Bear Lake. The properties to the north and south are zoned the same. The property across Johnson to the west is zoned R-4 - Single and Two-Family Residential.

### **BACKGROUND**

According to Ramsey County, the property was platted in 1914. Earlier this year, the applicant acquired the property and received two setback variances to build the home that is currently under construction: a 25 foot variance from the 40 foot rear yard setback, and a 7.2 foot variance from the 35 foot setback from a side abutting a public right-of-way, in order to locate the house 15 feet from the north property line and 27.83 feet from the west property line. At that time, the project team was not far enough along in the design process to have renderings drawn to scale and the renderings did not identify the size of the eave overhangs.

The non-compliant element was discovered during the building permit process. In order to keep the project on schedule, staff approved a building permit with 2-foot wide eaves to meet code. The permit was issued in compliance with code and the project is under construction. If the requested variance is approved, the building plans will be amended accordingly. If the requested variance not approved, the eaves will remain 2 feet wide all the way around the house as required by the current permit.

**ANALYSIS**

The roof overhang is 2 feet 6 inches wide and the “decorative outriggers” (exposed roof beams) stick out 10 inches past the eave, for a total width of 3 feet 4 inches. As the applicant points out in the request narrative, both the wider roof overhang and the outriggers are for aesthetic purposes only. Building setback variances were granted, however, the residence is still a significant distance from the property lines. Therefore, staff does not have any objections to the increased size. The applicant had indicated early in the design process that the style of the home was Craftsman Bungalow and wide eaves with exposed rafters is quite typical of this style, so the lack of information during the previous variance process was not with deceitful or misleading intent.

**SUMMARY / DISCRETION**

The City has a high level of discretion when approving or denying a variance because the burden of proof is on the applicant to show that they meet the standards of the ordinance. If the proposal is deemed reasonable (meaning that it does not have an adverse effect on neighboring properties, it is consistent with the comprehensive plan, and it is harmony with the intent of the zoning code) then the criteria have been met.

**RECOMMENDATION**

If the home were within 5 feet of the property lines staff would not likely be recommending approval of the requested variance. However, in this instance, the significant setbacks provide ample space for decorative elements without impact to neighboring properties. Consequently, staff recommends approval of the variance subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. The applicant shall verify the property lines and have the property pins exposed at the time of inspection.
4. The approved building permit shall be revised accordingly prior to construction of the roof.

**Attachments:**

1. Draft Resolution of Approval
2. Location/Zoning Map
3. Applicant's Narrative & Graphics.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION GRANTING AN EAVE WIDTH VARIANCE  
FOR 4763 LAKE AVENUE  
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, a proposal (19-11-V) has been submitted by Richard Farrell to the City Council requesting approval of a variance from the Zoning Code of the City of White Bear Lake for the following location:

**LOCATION:** 4763 Lake Avenue North

**LEGAL DESCRIPTION:** Lot 8, Fitzpatrick's Addition to White Bear; Lot 6, Block 47, White Bear, except the North 60 feet thereof; and All that part of adjoining Lake Avenue and Government Lot 2 and Fourth Street, and the accretions thereto, lying between the Southeasterly extension of the East line of said Lot 8 and the Southerly extension of the West line of said Lot 6. (PID #133022320007)

**WHEREAS, THE APPLICANT SEEKS THE FOLLOWING:** A 1-foot 4-inch variance from the 2-foot maximum width for an eave overhang into a setback, per Code Section 1302.040, Subd.4.a.1, in order to have 3-foot 4-inch eaves all the way around the home; and

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on November 25, 2019; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance 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 Code.
2. The variance is a reasonable use of the land or building and the variance is the minimum required to accomplish this purpose.
3. Because the eaves are still a significant distance from the property lines or any other structure, the variance will be in harmony with the general purpose and intent of the City Code.

- 4. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 5. The non-conforming uses of neighboring lands, structures, or buildings in the same district are not the sole grounds for issuance of the variance.

**FURTHER, BE IT RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

- 1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
- 2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
- 3. The applicant shall verify the property lines and have the property pins exposed at the time of inspection.
- 4. The approved building permit shall be amended accordingly prior to the construction of the roof.

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

Ayes:  
Nays:  
Passed:

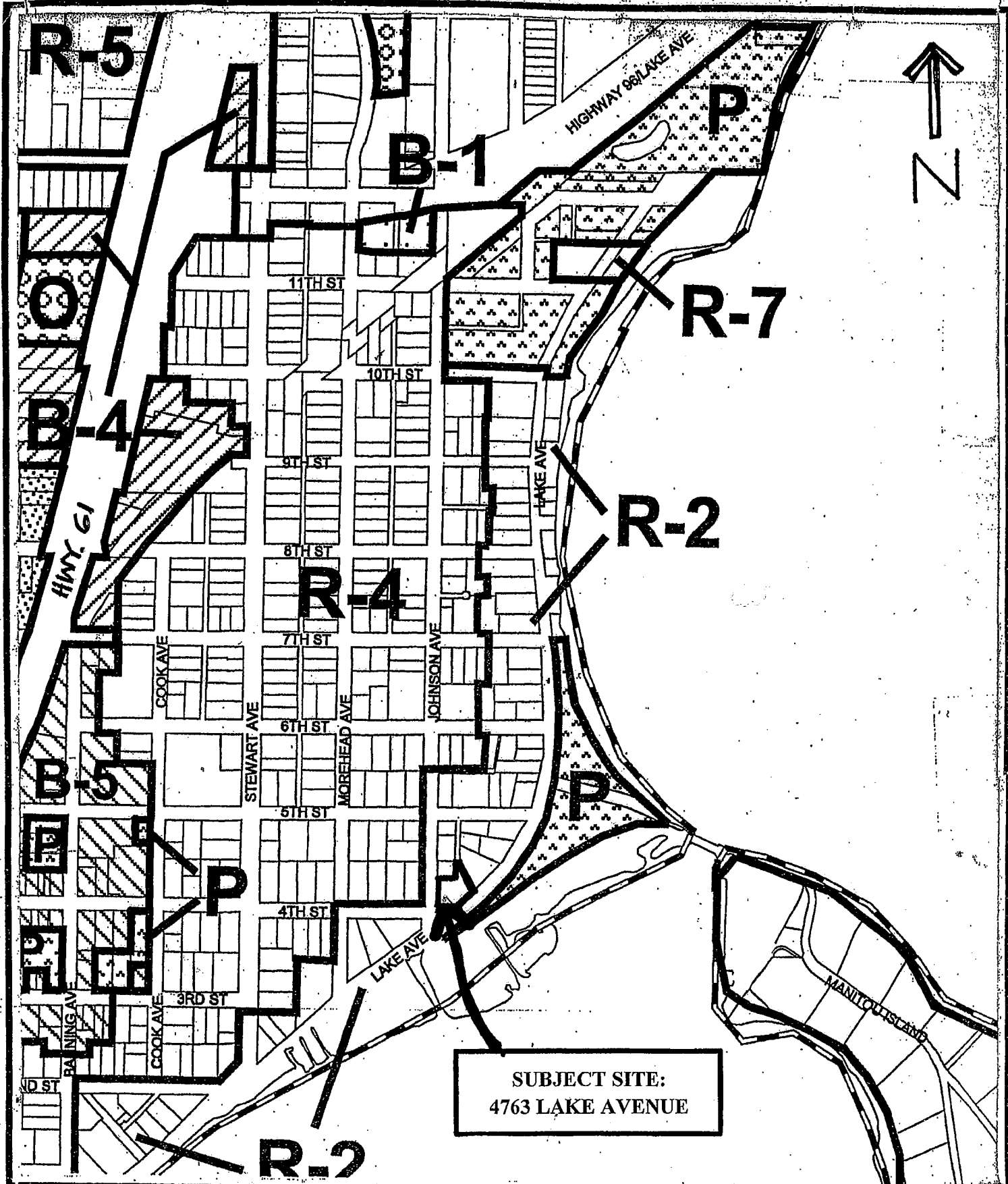
\_\_\_\_\_  
Jo Emerson, Mayor

**ATTEST:**

\_\_\_\_\_  
Kara Coustry, City Clerk

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

\_\_\_\_\_  
Richard Farrell Date



**SUBJECT SITE:**  
4763 LAKE AVENUE

City of  
White Bear Lake  
Planning and Zoning Office  
(612)-429-8561

CASE NO. : 19-11-V  
CASE NAME : Farrell  
DATE : Nov. 25, 2019



BLUE-PENCIL COLLECTIVE

Date: October 14, 2019

Project Title: Farrell Residence

Site Address: 4763 Lake Avenue, White Bear Lake MN 55110

Architectural Firm: BLUE-PENCIL COLLECTIVE  
Address: 226 Myrtle Street East, Stillwater MN 55082

Owner/General Contractor: Richard Farrell  
Address: 1185 N. BIRCH LAKE BLVD WHITE BEAR LAKE, MN 55110  
612-578-8988 rich.farrell@nextturn.com

In reference to The Farrell Residence project, the following is the Narrative for the Land Use and Variance Application dated 10/14/2019.

To Whom It May Concern:

The allowable roof overhang encroachment into setbacks is 2'-0" per code.

Please consider a variance of 1'-4" [worst case scenario] encroachment into the setback in THREE (3) locations as shown on the Site Plan document dated 10/14/2019.

The roof and overhang style is reflective of the early 1900's Greene and Greene Craftsman Bungalow style. The residence roof overhang is 2'-6"; Six Inches 6" more than a 2'-0" traditional roof overhang. This minor detail provides additional sun and rain protection, as well as shadow, interest and depth for the overall structure. The proposed detail is extremely important to complete the design and beauty to the Lake Avenue frontage. Please see the elevations for character and roof detailing.

The exposed 'decorative outrigger' [roof beams] are also important to the overall aesthetic and are an additional 10" past the 2'-6" wide eave for a maximum length of 3'-4".

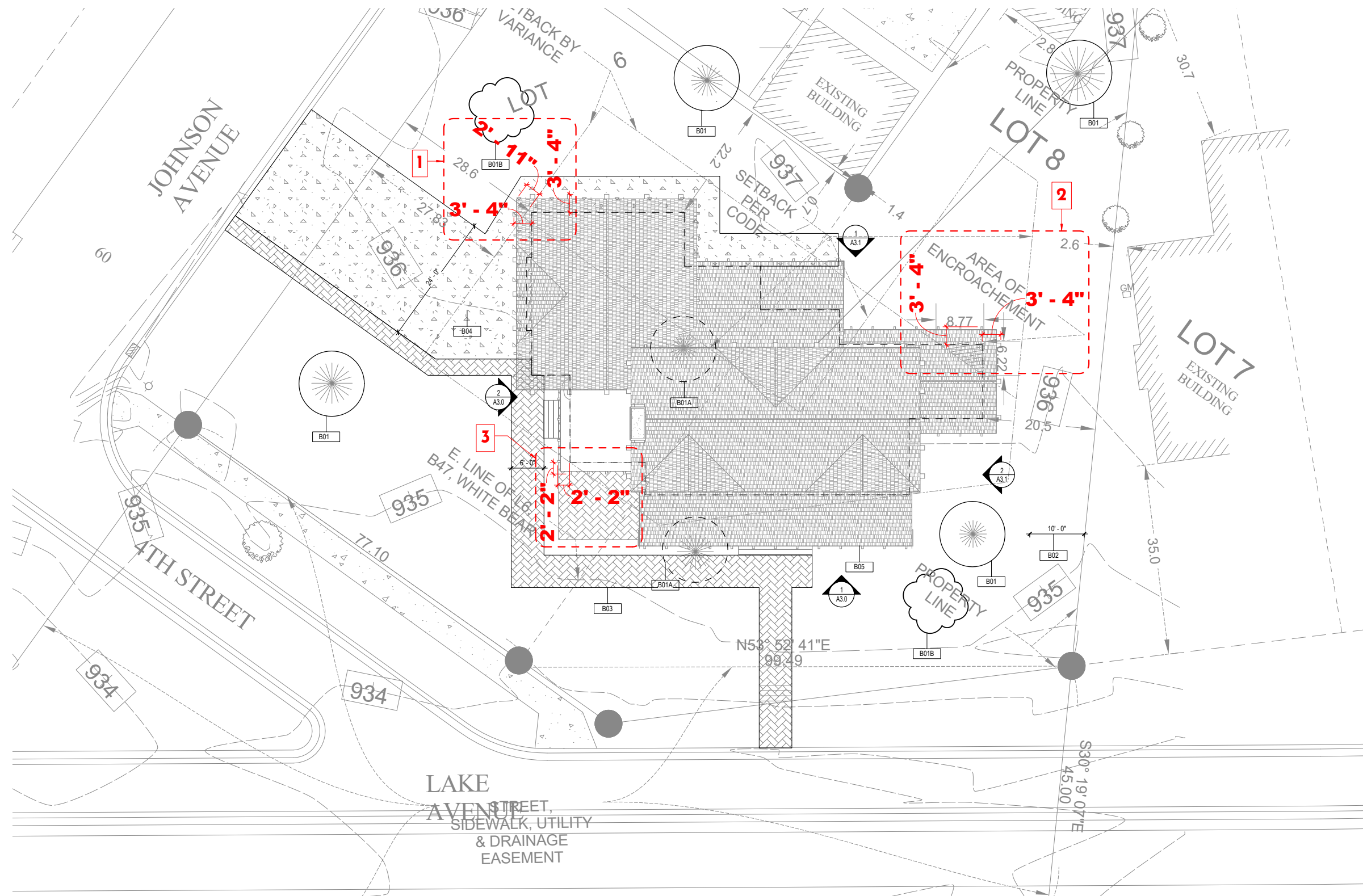
We believe this is a minor variance request, necessary for reasonable use of the structure, and that granting the variance will be in general harmony with the aesthetic of the neighborhood. More importantly, this detail does not impair unreasonably to adjacent properties nor does it endanger public safety.

Thank you for your consideration.

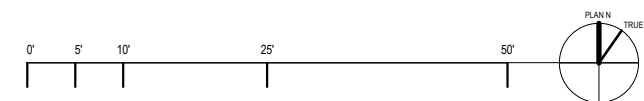


# FARRELL RESIDENCE 4763 LAKE AVE

## Site Plan



SITE PLAN  
1" = 10'-0"



# FARRELL RESIDENCE 4763 LAKE AVE

South Elevation 1/8" = 1'-0"



# FARRELL RESIDENCE 4763 LAKE AVE

West Elevation 1/8" = 1'-0"



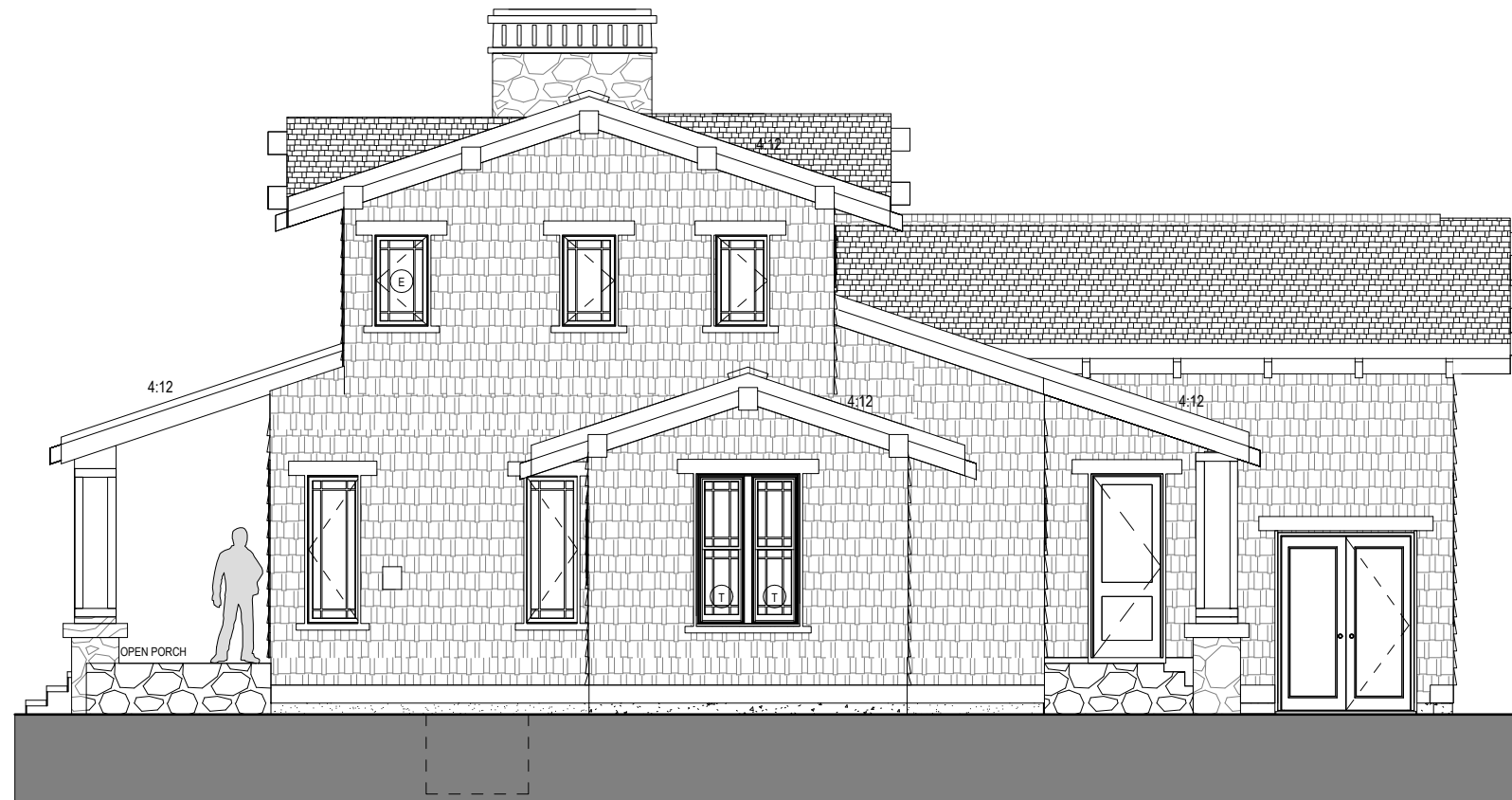
# FARRELL RESIDENCE 4763 LAKE AVE

North Elevation 1/8" = 1'-0"



# FARRELL RESIDENCE 4763 LAKE AVE

East Elevation 1/8" = 1'-0"





City of White Bear Lake  
COMMUNITY DEVELOPMENT  
DEPARTMENT

4.B

## MEMORANDUM

**TO:** The Planning Commission

**FROM:** Samantha Crosby, Planning & Zoning Coordinator

**DATE:** November 20, 2019 for the November 25, 2019 Planning Commission Meeting

**SUBJECT:** Case No. 19-9-Z – Shoreland Text Amendment, stairways

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### **REQUEST**

Planning Staff is initiating a text amendment to the Shoreland Overlay district to limit residential riparian properties to one stairway down to access a waterbody.

### **BACKGROUND**

Earlier this summer, a staff person from the City of Forest Lake called inquiring about our policies regarding easements on riparian parcels. They were experiencing problems with owners of lakefront properties selling private access easements to people who live elsewhere. The beneficiary of the easement then typically wants to construct a set of stairs in - and install a dock off of - the easement area. Only 4 feet of width is needed for stairs; such a scenario could generate multiple families accessing a relatively narrow area intended for the use of only one family. The practice has the potential to generate a lot of traffic into the neighborhood and increase on-street parking demand.

### **ANALYSIS**

Because each property is different and the circumstances surrounding lake front properties, especially, can be quite unique, staff does not consider it a good idea to try to limit the type or number of easements that might be needed or desired to occur between private parties. Rather, staff finds that limiting the number of stairways to a water body would alleviate any concerns about owners of properties profiting from the sale of easements to access the lake, eventually changing the character of the neighborhood.

The shoreland overlay district is the section that regulates the size, location and design of “stairways, lifts, and landings”. Nowhere in the code does it say that more than one stairway is allowed. Likewise, nowhere in the code does it say that ONLY one stairway is allowed. Staff would like to amend the code to clarify this omission at this time. To date we’ve only had one inquiry of this type, which did not pan out. Nonetheless, staff finds that a text amendment - to clarify that the intent of the code is to allow only one stairway per property - would be prudent.

4.B

**DISCRETION**

The City has a relatively high level of discretion in approving or denying a zoning ordinance text amendment because the zoning ordinance is one of the enforcement tools used to implement the goals and standards set forth in the Comprehensive Plan. Any changes to the text of the zoning ordinance should be consistent with both the intent of the zoning district and the intent of the Comprehensive Plan's policies and objectives.

It is not a stretch to contend that the amenities located on a lot zoned for single-family residential are intended for the use of the resident family and not intended for commercialization such as for sale or rent to others (outside of a designated approval such as a Home Accessory Apartment or Home Occupation Permit, etc.).

A significant tenet of the Comprehensive Plan is to maintain the character of individual neighborhoods. Staff finds that the proposed amendment does that by ensuring future compatibility of the use of riparian lands.

**RECOMMENDATION**

Staff recommends approval of the text amendment as proposed in the attached draft ordinance.

**Attachments:**

1. Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CITY OF WHITE BEAR LAKE ZONING CODE  
AT SECTION 1303.230, "SHORELAND OVERLAY DISTRICT"  
AS IT RELATES TO STAIRWAYS (CASE NO. 19-9-Z)**

THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, MINNESOTA DOES  
ORDAIN THE FOLLOWING:

SECTION 1. The Municipal Code of the City of White Bear Lake is hereby amended at  
Section 1303.230 as follows:

c) Stairways, Lifts, and Landings. Stairways lifts and landings must meet the following design  
requirements:

**1) Only one stairway is permitted per property.**

~~4)~~ **2)** Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider  
stairways may be used for commercial properties, public open space recreational  
properties, and planned unit developments, but shall require a conditional use permit  
as set forth in Subdivision 6 of this Section;

~~2)~~ **3)** Landings for stairways and lifts on residential lots must not exceed thirty-two (32)  
square feet in area. Landings larger than 32 square feet may be used for commercial  
properties, public open space recreational properties, and planned unit  
developments but shall require a conditional use permit as set forth in Subdivision 6  
of this Section;

~~3)~~ **4)** Canopies or roofs are not allowed on stairways, lifts, or landings;

~~4)~~ **5)** Stairways, lifts, and landings may be either constructed above the ground on posts  
or pilings, or placed into the ground, provided they are designed and built in a manner  
than ensures control of soil erosion;

~~5)~~ **6)** Stairways, lifts, and landings must be located in the most visually inconspicuous  
portions of lots, as viewed from the surface of the public water assuming summer,  
leaf-on conditions, whenever practical;

~~6)~~ **7)** Facilities such as ramps, lifts, or mobility paths for physically handicapped persons  
are also allowed for achieving access to shore areas, provided that the dimensional  
and performance standards of sub-items 1-5 above are complied with in addition to  
the requirements of Minnesota Regulations, Chapter 1340;

SECTION 2: This ordinance becomes effective after approval shall take effect and be in  
force following its passage and publication (or, on "date").

Passed by the City Council of the City of White Bear Lake, Minnesota.

First Reading: \_\_\_\_\_



Initial Publication: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Final Publication: \_\_\_\_\_

Codified: \_\_\_\_\_

Posted on web: \_\_\_\_\_

\_\_\_\_\_  
City Clerk Initials

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk



City of White Bear Lake  
COMMUNITY DEVELOPMENT  
DEPARTMENT

## MEMORANDUM

**TO:** The Planning Commission

**FROM:** Samantha Crosby, Planning & Zoning Coordinator

**DATE:** November 20, 2019 for the November 25, 2019 Planning Commission Meeting

**SUBJECT:** Case No. 19-10-Z - Shoreland Text Amendment, retaining walls & riprap

---

### REQUEST

Planning staff has initiated a two-part text amendment to shoreland overlay district. The first part is to establish some parameters for the use of riprap along a shoreline. The second part is to re-iterate and expand upon the four-foot height limit for retaining walls.

### ANALYSIS

#### Rip Rap

Shoreline vegetation is the preferred method for preventing or reducing bank erosion, as the deep-rooted systems bind and stabilize the soil much better than turf grass or rocks on the surface (riprap). Besides offering better protection from erosion, vegetation along the shore of a water body:

- Provides wildlife food and habitat for insects and birds;
- Improves fish habitat by providing hiding places;
- Reduces use of fertilizers, herbicides or other chemicals
- Acts as the “kidneys” for the lake, by naturally filtering out the pollution in the water that runs to it (stormwater management);
- Adds beauty and grace to views both of and from the shoreline;
- Reduces installation and maintenance costs; and
- Respects natural/environmental history of the area.

Shorelines are breeding grounds, nurseries, food sources and shelter. The complex interplay of plants, animals, land and water combine to make the shoreline the most important part of a lake’s ecosystem. Natural vegetation at the edge of a lake is integral to maintaining the water quality and ecological function that the lake provides. Walls and riprap create more of a barrier between the upland area and the shoreline and should only be used where necessary.

For these reasons, the proposed text amendment clarifies that riprap is allowed only as an option when vegetation alone is insufficient to curtail an erosion problem. The DNR allows riprap up to 30 inches in diameter and does not require vegetation. This can create a very un-natural area and a more sterile environment. Staff recommends smaller sized rock interspersed with native

vegetation. See photo examples. We have included language that allows larger sized rock in areas where steep slopes or other site conditions require it.

### Retaining Walls

The Zoning Code already limits retaining walls to not more than 4 feet above grade. However, the provision is located in the “fences” section of the code and as such, it is not very visible. Also, applicants are inclined to argue that a retaining wall is not a fence and therefore it should be allowed to exceed 4 feet. The intent of the code is to avoid extreme or un-natural grading of the land by limiting the severity of retaining walls and hence land terracing. The provision would remain in the fences section of the code, but repeating it in the Shoreland section strengthens it. Staff has not yet had a problem with the location of the language, but if an applicant were to object, as currently written, the result would be debatable.

The shore impact zone is defined as the land located between the Ordinary High Water Level (OHWL) of a public water and a line parallel to it at a setback of 50% of the structure setback. Staff has a long held that no structure or facility should be allowed within the shore impact zone, (except for lock boxes). The shore impact zone serves as a “buffer” to the lake and should be as free from grading and “improvements” as possible. Therefore, the proposed language states outright that retaining walls should not be constructed in the shore impact zone (unless determined structurally necessary) and that, as a structure, retaining walls within setback are limited only inasmuch as they facilitate the construction of permitted improvements such as stairs down to a lake or a water-oriented accessory structure. In reviewing what is allowed compared to what lake front property owners either already have or typically desire to build, Staff has included language to allow an additional 50 square feet of terracing for a passive seating area (plenty of room for a table and chairs and perhaps a fire pit). This space would be in addition to the 250 square feet allowed for a water-oriented accessory structure.

### **DISCRETION**

The City has a relatively high level of discretion in approving or denying a zoning ordinance text amendment because the zoning ordinance is one of the enforcement tools used to implement the goals and standards set forth in the Comprehensive Plan. Any changes to the text of the zoning ordinance should be consistent with both the intent of the zoning district and the Comprehensive Plan’s policies and objectives. A goal of the Natural Resources section of the 2030 Comprehensive Plan is to work to insure the long-term viability of our aquatic resources by improving water and shoreline quality. Staff finds that the proposed amendment complies.

### **SUMMARY**

The newspaper notice for this text amendment only mentioned retaining wall height. It did not mention retaining wall location or riprap parameters. The retaining wall locations are how the code has been applied by staff in the past, so no real change is proposed, however, the size limits to riprap are new and therefore a more detailed public notice would be prudent.

### **RECOMMENDATION**

Staff recommends discussion of the proposed text amendment and tabling of a formal public hearing until January when the ordinance can be published in greater detail for full transparency.

**Attachments:**

1. Draft Ordinance
2. Example Photos
3. DNR Handout "Shoreline Alterations: Riprap"

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CITY OF WHITE BEAR LAKE ZONING CODE  
AT SECTION 1303.230, SUBD.7, "SHORELAND ALTERATIONS"  
AS IT RELATES TO RIPRAP AND RETAINING WALLS (CASE NO. 19-10-Z)**

THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, MINNESOTA DOES  
ORDAIN THE FOLLOWING:

SECTION 1. The Municipal Code of the City of White Bear Lake is hereby amended at  
Section 1303 as follows:

**§1303.230 "S" SHORELAND OVERLAY DISTRICT**

Subd.7. Shoreland Alterations.

a) No changes.

b) Grading and Filling.

- 1) Grading and filling within Shoreland Districts, or any alteration of the natural topography where the slope of the land is toward a public water or water course leading to a public water must be approved by the ~~Building Official~~ **City Engineer** and a **grading** permit obtained prior to the commencement of any work thereon. The permit may be granted subject to the following conditions:

a) through h) No change

**i) If vegetation alone is not sufficient to control erosion along a shoreline, as demonstrated to and determined by the City Engineer, Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet, the size of the riprap does not exceed 12 inches, unless otherwise approved by the City Engineer, and native vegetation is planted within the riprapped area.**

**j) Retaining walls are prohibited in the shore impact zone unless determined structurally necessary by the City Engineer. Outside the shore impact zone, retaining walls, including rows of stacked boulders, shall not exceed four (4) feet above adjacent ground grades. Outside the shore impact zone, but within the required setback, such walls may only be used to hold grades for allowed uses such as a stairway, water-oriented accessory structure, or a passive seating area not more than 50 square feet in size.**

SECTION 2: This ordinance becomes effective after approval shall take effect and be in force following its passage and publication (or, on "date").

Passed by the City Council of the City of White Bear Lake, Minnesota.

First Reading: \_\_\_\_\_

Initial Publication: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Final Publication: \_\_\_\_\_

Codified: \_\_\_\_\_

Posted on web: \_\_\_\_\_

\_\_\_\_\_  
City Clerk Initials

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

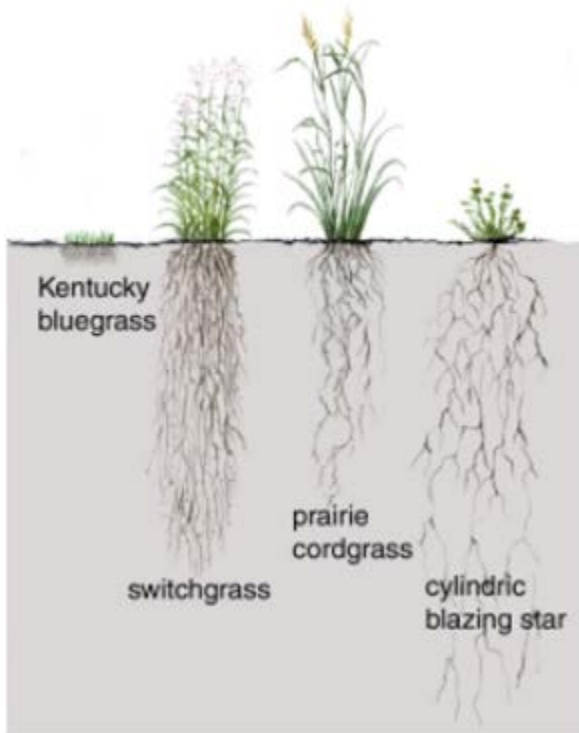
\_\_\_\_\_  
Kara Coustry, City Clerk



Too wall-like,  
no plants/roots



Preferred



Why native vegetation is important for stabilization – the roots

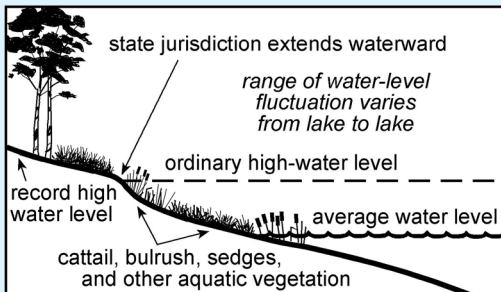
# Shoreline Alterations: Riprap



## Is an individual permit required?

For most projects constructed *below* the ordinary high-water level\* (OHWL) of public waters, an individual Public Waters Work Permit is required by the Minnesota Department of Natural Resources (DNR).

*Riprap exception:* An individual permit from the DNR is not required for riprap placement if the conditions outlined in this information sheet are followed.



Shoreline cross section.

If you have questions concerning the contents of this information sheet, contact your local DNR Area Hydrologist. See contact information on reverse side.

Please note that local units of government and other agencies may require a permit for this project.

\*For lakes and wetlands, the OHWL is the highest elevation that has been maintained as to leave evidence on the landscape. It is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the OHWL is the top of the bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.

## What can I do to keep my shoreline from washing away?

If your shoreline is eroding, any of the following events may be destabilizing your soil, resulting in erosion: fluctuating water levels, increased wave or wake action, ice pushes, loss of natural vegetation, and human activity. Protecting your shoreline from erosion may not require you to replace natural shoreline with a high-cost, highly engineered retaining wall or riprap.

There are affordable, low-impact methods to stabilize your shoreline and still protect property values, water quality, and habitat. The Minnesota Department of Natural Resources (DNR) encourages you to consider planting native vegetation to control shoreline erosion, enhance aesthetic values, and contribute to better water quality in your lake (see Lakescaping information sheet).

Both riprap and retaining walls can reduce erosion, but they can be expensive and negatively affect lakes by creating a barrier between upland areas and the shoreline environment. Riprap should only be used where necessary

and never to replace a stable, naturally vegetated shoreline. Additionally, installing riprap on a stream or river bank is a special condition that may require professional advice to ensure that the structure will stand up to the fluctuations in water levels and flowing conditions.

Natural rock riprap consists of coarse stones randomly and loosely placed along the shoreline. You should consult your DNR Area Hydrologist to determine whether your shoreline needs riprap to stop erosion. If there is a demonstrated need, such as on steep slopes, you may want to consider placing riprap or a combination of riprap and vegetation. In most cases, vegetation planted in the rocks will stabilize the riprap and improve the appearance of your shoreline. Naturalizing your shoreline is the most important contribution you can make to enhance water quality, maintain fishery resources, and provide wildlife habitat.



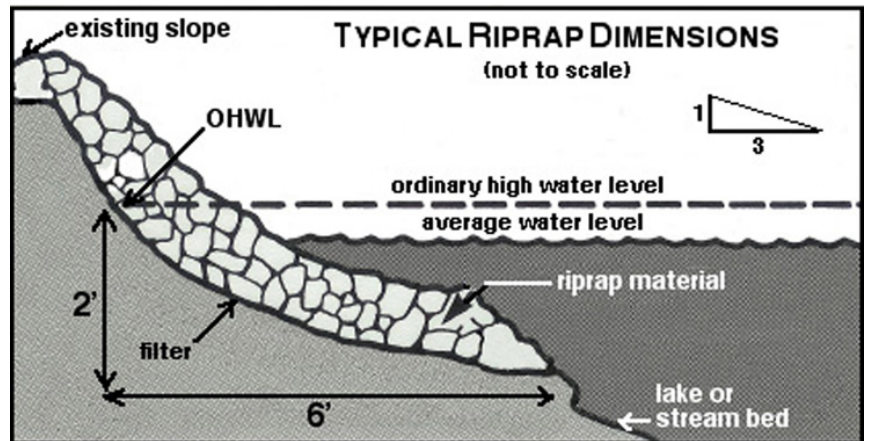
Shoreline stabilized with riprap and enhanced with a vegetative buffer.



# Shoreline Alterations: Riprap

Installation of riprap is allowed only where there is a demonstrated need to stop existing erosion or to restore an eroded shoreline. An individual DNR Public Waters Work Permit is *not* required if the installation meets all of the following conditions:

- The riprap must not cover emergent aquatic vegetation, unless authorized by an aquatic plant management permit from the DNR's Division of Fisheries.
- Only natural rock (cannot average less than 6 inches or more than 30 inches in diameter) may be used that is free of debris that may cause pollution or siltation. Concrete is not allowed.
- A filter of crushed rock, gravel, or filter fabric material must be placed underneath the rock.
- The riprap must be no more than 6 feet waterward of the ordinary high-water level (OHWL; see sidebar on page 1).
- The riprap must conform to the natural alignment of shore and must not obstruct navigation or the flow of water.
- The minimum finished slope waterward of the OHWL must be no steeper than 3 to 1 (horizontal to vertical).
- The riprapped area must be no more than 200 linear feet of shoreline along lakes and wetlands or, along shorelines of streams, must be less than five times the average width of the affected watercourse.
- The site must not be a posted fish spawning area, designated trout stream, or along the shore of Lake Superior.



## What are some other issues to consider?

A row of boulders at the water's edge is not considered natural rock riprap. Rows of stacked boulders function as a retaining wall, and installation would *require* an individual permit from the DNR. Retaining walls are very damaging to the near-shore environment. Retaining walls cause wave action that scours the lakebed, displacing bottom sediment and creating an extremely sterile environment. The cumulative effect of numerous wall structures on a lake reduces critical habitat for fish and wildlife resources and much of the food chain they depend on. Retaining walls require structural maintenance and are frequently damaged by ice action and undermined by wave action.

Riprap is not maintenance free and does not eliminate ice heaving, but it is easier to return the rocks to their original positions than to repair a wall. Consider planting within the riprap to add color, interest, and diversity. Live cuttings and plant plugs can be planted within riprap to provide additional slope stability and give your shoreline a more natural appearance.

©2003 State of Minnesota, Department of Natural Resources. Prepared by DNR Ecological and Water Resources. Based on Minnesota Statutes 103G, Public Waters Work Permit Program Rules Chapter 6115.

## DNR Contact Information



DNR Ecological and Water Resources  
website and a listing of Area Hydrologists:  
<http://mndnr.gov/waters>

DNR Ecological and Water Resources  
500 Lafayette Road, Box 32  
St. Paul, MN 55155  
(651) 259-5100

## DNR Information Center

Twin Cities: (651) 296-6157  
Minnesota toll free: 1-888-646-6367  
Telecommunication device for the deaf (TDD): (651) 296-5484  
TDD toll free: 1-800-657-3929

Equal opportunity to participate in and benefit from programs of the Minnesota Department of Natural Resources is available regardless of race, color, national origin, sex, sexual orientation, marital status, status with regard to public assistance, age, or disability. Discrimination inquiries should be sent to Minnesota DNR, 500 Lafayette Road, St. Paul, MN 55155-4049; or the Equal Opportunity Office, Department of the Interior, Washington, DC 20240.

*This information is available in an alternative format on request.*



**MINUTES**  
**REGULAR MEETING OF THE CITY COUNCIL**  
**OF THE CITY OF WHITE BEAR LAKE, MINNESOTA**  
**TUESDAY, NOVEMBER 12, 2019**  
**7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ROLL CALL**

Mayor Jo Emerson called the meeting to order at 7:03 p.m. Councilmembers Kevin Edberg, Steven Engstran, Dan Jones and Bill Walsh were present. Councilmember Doug Biehn was excused. Staff members present were City Manager Ellen Hiniker, Assistant City Manager Rick Juba, City Engineer Paul Kauppi, Community Development Director Anne Kane, Finance Director Kerri Kindsvater, City Clerk Kara Coustry and City Attorney Josh Devaney

PLEDGE OF ALLEGIANCE

**2. APPROVAL OF MINUTES**

A. Minutes of the Regular City Council Meeting on October 22, 2019

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran**, to approve the Minutes of the Regular City Council Meeting on October 22, 2019.

Motion carried unanimously.

**3. APPROVAL OF THE AGENDA**

City Manager Hiniker removed 9B regarding Rush line station area planning as Ramsey County voted earlier to provide the full local match, therefore a City match as originally requested was no longer necessary.

It was moved by Councilmember **Walsh** seconded by Councilmember **Engstran**, to approve the agenda as presented.

Motion carried unanimously.

**4. VISITORS AND PRESENTATIONS**

Nothing scheduled

**5. PUBLIC HEARINGS**

Nothing schedule

**6. LAND USE**

A. Consent

1. Consideration of a Planning Commission recommendation regarding a request by

Mike Belz for a Recombination Subdivision and 4 variances (Case. No. 19-1-LS & 19-10-V). **Resolution No. 12468**

2. Consideration of a Planning Commission recommendation regarding a request by the Lightfoot and Larrive families for a Recombination Subdivision (19-2-LS).  
**Resolution No. 12469**

It was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran**, to approve the agenda as presented.

Motion carried unanimously.

## B. Non-Consent

1. Consideration of a Planning Commission recommendation regarding a request by Bruggeman Builders for a variance to reduce the side yard setback (19-9-V)

Community Development Director Kane reported the subject site is 2687 County Road D. She said the applicant has requested a five foot variance from the fifteen foot side yard setback requirement in order to construct a triplex ten feet from the west property line. The full 15-foot setback would be provided along the east property line where the site abuts the Hidden Lake Pointe Townhomes. Ms. Kane stated that a number of neighbors expressed concern about the impact of this variance during the Planning Commission public hearing. One of the Commissioners noted that a neighboring association could have purchased the subject property if they wanted to maintain it as open space and preserve the trees. Ms. Kane forwarded a Planning Commission recommendation to approve the requested variance.

Gary Schulz, Chairman of the White Bear Township Townhouse Association, lives at 3151 Hidden Lake Point Drive. He stated the association did not have money to purchase this property and did not feel this was their responsibility. He stated this parcel is too small to build a triplex without a variance. He said this will hurt the association's property values more than the value added by this development, even more if they will be rental properties. Mr. Schulz asserted the loss of trees will affect the beauty of this property and hurt the City. He also stated this development looks like it belongs on the west side of the lake with the other higher density housing rather than on the east side by single and twin homes.

Paul Bruggeman, the applicant, clarified that he never made any claims about the money this development would bring to the City. He stated that he could put a duplex on this property without a variance, which would require only a 10 foot setback from the backside of the Hidden Point community. He noted the association would actually be gaining another five feet of setback with a triplex development. He also pointed out that the overall density of his site is less than the overall density of the association community, which required variances to build. Mr. Bruggeman said he did not believe his development would have any effect on their townhomes.

Councilmember Jones confirmed with Mr. Bruggeman these would be rental properties.

Councilmember Edberg expressed esteem for the quality of Bruggeman construction. He suggested the City Council revisit homeownership and rentals mix after the

Maxfield study is received later this year. He asked Mr. Bruggeman why he purchased the property for a development that would require a variance in order to construct. Mr. Bruggeman stated that when he originally looked at this parcel, he was looking at a ten foot setback and when the project turned into a triplex, the sideyard setbacks increased to 15 feet.

Councilmember Jones asked what Mr. Bruggeman could develop on this site if the variance is not approved. Ms. Kane stated he could explore a narrower unit, or entrances on both end units, keeping the middle unit width. She explained he could put a 70-foot wide triplex and meet the 15 foot setbacks on both sides.

In response to Councilmember Jones, Mr. Bruggeman said if he does not get this variance, he could build multi-family stacked units with higher density without a variance at this location. Mr. Bruggeman pointed to substantial variances awarded to the neighboring Hidden Point Association, which were far greater than his request for five feet.

Councilmember Walsh was not convinced that property values would decline as a result of a new triplex rental property and supported the variance.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Jones**, to adopt **Resolution No. 12470** approving a Planning Commission recommendation regarding a request by Bruggeman Builders for a variance (19-9-V)

Motion carried 3:1. Councilmember Engstran nay.

2. Consideration of a request by Lotus Recovery to amend the Municipal Code as it relates to group care facilities with seven or more individuals (19-6-Z)

Community Development Director Kane reported the subject site, 3561 White Bear Avenue, is located on the west side of White Bear Avenue, just south of County Road E. She said the request before Council is whether to amend the code to allow group homes to be increased from six residents per home in State Statute to up to 16 residents through a conditional use permit (CUP) process.

Ms. Kane stated this location was approved for nine developmentally challenged residents in 1992 as a conditional use permit. She reported that Lotus Recovery would like to renovate the home to accommodate 16 residents in a group home for recovery.

Based on input from neighbors and other concerns from Planning Commission members, Ms. Kane forwarded the Planning Commission's unanimous denial of the applicant's request for consideration of a text amendment to allow group homes to exceed six, but no more than 16, with a conditional use permit, and if the text amendment is approved, a conditional use permit for a 16-person home at the subject site.

In response to Councilmember Edberg, Ms. Kane explained that staff originally forwarded recommendation for approval of this request to the Planning Commission based on the applicant's submittal, the size of the home, the addition of housing opportunities, a lack of service calls to other similar group homes, and knowing there would be a public hearing process. She said a well-managed facility seems

appropriate at this location.

City Manager Hiniker added that land use applications are reviewed by various departments, which found the proposed use did not cause staff concern regarding service calls, parking impacts and the external environment. She said from that perspective, it was appropriate to move forward for consideration through the process.

Councilmember Edberg asked for the next largest approved use in the City. Ms. Kane confirmed that with the exception of Northeast's CUP for nine residents, six is the largest approved group home.

Councilmember Walsh inquired of any non-residential zones in the City that this type of development would work. Ms. Kane noted a location in a commercial zone, but questioned if that is where the City wants people residing. Councilmember Walsh stated, it needs to be zoned residential because people will live there, but that creates a conflict with other single-family residential homeowners. He wants White Bear Lake to be welcoming of these types of facilities and housing opportunities. He stated that based on his experience and understanding of the issues, he has absolutely no concerns about the types of people living in these facilities.

Councilmember Jones also did not have an issue with the program, but he felt that 16 plus 24-hour staff was way too many people to permit next door to a single-family home.

Mayor Emerson opened up a public hearing at 7:41 p.m.

Ryan Eckdahl from Lotus Recovery stated that in state statutes, this residential treatment center falls under the definition of a "group home". He said, as a treatment center there would be 24-hour, 7-day supervision at this facility with programming from 9:00 a.m. to 8:00 p.m. He said the request for 16 is a surge number and they had tried to reduce the request from 16 to 14 residents after hearing the Planning Commission's concerns, but that request was too late. Mr. Eckdahl explained they expect 10-12 on average with programs running 30-90 days depending on insurance. He also noted that clients attend voluntarily, not as a result of court order. If someone wants to leave, he said they are transported out and to other community partners for housing.

Mr. Eckdahl stated the net social impact is \$1.00 for \$1.00 - \$16.00 of benefit to providing this type service in White Bear Lake. He noted the property is not in the middle of a residential community as the parcels north and east are both commercial. To provide background on who he is, Mr. Eckdahl mentioned he founded the Experience of Neshama, the third largest housing provider in Ramsey County for people who have experienced long-term, or chronic homelessness.

In response to Mayor Emerson, Mr. Eckdahl stated there would be between 2-5 staff members on site at any given time. He explained this facility would be renovated to have ten bedrooms, four offices and two kitchens.

Carl Johnson, 3550 Jerry Street, lives behind this proposed facility. He expressed issue with the high number of people proposed and explained that a text amendment to this number would be applied city-wide. He suggested the Planning Commission

set guidelines for these types of facilities in White Bear Lake so that providers know what criteria they must meet. Mr. Johnson said he did not want an apartment of people behind his home and speculated they might all smoke at the same time when a session broke.

In response to Councilmember Edberg, Mrs. Johnson suggested 3-5 people would be more palatable.

Heidi Holtse, Executive Director of Northeast Residence, relayed the concerns expressed during the Planning Commission meeting were the same concerns expressed when Northeast Residence was issued their CUP in 1992. She noted there were many opinions about how people are best served, but she prefer to rely on the expertise of someone who has successfully delivered these services. Ms. Holste stated the property can easily accommodate 16 people given its size.

Ms. Holste stated that since starting at Northeast Residence five years ago, the property has been used as a day facility in which 12-15 people were being service on almost a daily basis. She stated that parking was sometimes an issue, but would not be an issue for Lotus Recovery since the clients do not drive while in recovery. She explained that they have reduced their price to facilitate sale of this large vacant building as they do not have the means to improve the property.

Carlton Johnson has been in recovery five years now and spoke to how the group home program changed his life. He stated that recovery works and the program is like a family in which people help one another stay clean and become productive members of society. Mr. Johnson stated that Ryan is trying to help people in a world where opioid addiction is taking over.

Mayor Emerson closed the public hearing at 8:02 p.m.

Councilmember Jones stated that although this house is large, he would support nine residents as was approved in its current use under Northeast Residence. He noted this is a business and he does not support 16 residence plus staff at this location.

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran**, to adopt **Resolution No. 12471** approving a Planning Commission recommendation to deny by Lotus Recovery to amend the Municipal Code as it relates to group care facilities with seven or more individuals (19-6-Z).

Motion carried 3:1. Councilmember Walsh nay.

Motion carried.

Mayor Emerson and the Council agreed that this issue should be further explored for the ability to place a facility like this in the City.

## 7. UNFINISHED BUSINESS

Nothing scheduled

## 8. ORDINANCES

- A Second reading of a request by Mike Belz to rezone the property at 2105 1st Street from B-4: General Business to R-4: Single Family – Two Family Residential (19-5-Z)

Community Development Director Kane reported, this commercially zoned property located at 2105 1<sup>st</sup> Street has served as a residence since being constructed in the late 1800's or early 1900's. She explained, the applicant is seeking a residential rezoning of the property in order to split the lot and build another single-family home. Ms. Kane noted this rezoning is consistent with the other properties next to it and forwarded a unanimous recommendation by the Planning Commission for Council's consideration.

Mayor Emerson opened the public hearing at 8:15 pm. There being no one, Mayor Emerson closed the public hearing.

It was moved by Councilmember **Jones**, seconded by Councilmember **Edberg**, to adopt **Ordinance 19-11-2037** a rezoning of the property at 2105 1st Street from B-4: General Business to R-4: Single Family – Two Family Residential (19-5-Z).

Motion carried unanimously.

- B First reading of a City-Initiated request to amend the Sign Code to allow Drive-Thru signs to utilize dynamic display style sign faces (19-7-Z)

Community Development Director Kane recalled a sign code revision allowing dynamic display signs in 2016 for monument signs or principal wall signs only. She relayed a local fast food operator's claim that the City of White Bear Lake is the last community in the metro area that does not allow dynamic display drive-thru and menu boards and gas station pricing.

Ms. Kane stated that a downtown business representative commented during the Planning Commission meeting a desire to get an electronic sign for the Main Street sign at 4<sup>th</sup> and Highway 61. Ms. Kane noted a menu board is different because it is designed to be viewed while on the site.

- C. First reading of an amendment to the Winter Parking Ordinance

City Manager Hiniker reported the current ordinance states that all towed vehicles shall be stored in White Bear Lake. She noted at times in the winter, more cars need to be towed than capacity to store them within city limits. Ms. Hiniker explained that a recent merger of Vadnais Towing with Twin Cities Towing in 2018, means there are more towing lots available outside the city, as close as Oakdale on Century Avenue.

Mayor Emerson and City Manager Hiniker noted recent issues with cars not moving off roads to facilitate plowing. Ms. Hiniker explained this text amendment would allow for increased capacity to tow vehicles in violation of the ordinance. She said that in advance of a snow storm, Twin Cities Towing agreed to do their best to clear the local storage lot to minimize people from driving too far to reclaim towed vehicles. However, this ordinance revision would allow towed cars to be stored in lots outside of the city in the event the internal lot reaches capacity.

After riding along with a snow plow operator last year, Councilmember Jones was supportive of the ordinance, however, he wanted to close down the local lot altogether so that all cars are equitably towed to the same location with sufficient capacity.

Councilmember Edberg inquired whether the city owns property that could be made available for towing for the ability to increase local capacity and acquire a fee split.

D. First reading of adoption of the 2020 annual fee and utility rate schedule

Without diving into each proposed rate change, City Manager Hiniker noted a work session with the City Council on November 19<sup>th</sup> in which staff will report on non-general fund balances in more detail. Ms. Hiniker said a subsequent rate discussion will be scheduled on the November 26, 2019 Council agenda with final consideration of adoption of a fee schedule at the December 10, 2019 Council meeting.

Ms. Hiniker stated, ambulance rate increases are not significant. She added, staff would like to provide a review of the new ambulance model and its financial impact. She noted expenditures in this fund are on target but as deductibles continue to increase for folks, there are more payment defaults industry-wide.

## 9. NEW BUSINESS

A. Resolution approving special event request by the Hockey Association for exclusive use of Podvin Park ice rink

City Manager Hiniker reported the Hockey Association requested exclusive use of the Podvin park pavilion and ice area on the weekend of January 10 – 12, 2020. The Hockey Association's Outdoor Jamboree is a fundraiser to support their Mites program in which players third grade or younger participate. Ms. Hiniker added that approval to serve beer at Podvin Park is also being requested, and if approved by Council would require a security plan approved by the Police Department.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran** to adopt **Resolution No. 12472**

Motion carried unanimously.

B. Resolution approving construction of a food scraps recycling (organics recycling) dumpster at Public Works

City Manager Hiniker reported on an opportunity through Ramsey County to place an organics collection dumpster in White Bear Lake that the County would service. She stated the chosen site at Public Works has 24-hour access.

In response to Councilmember Edberg, Ms. Hiniker said the County will pay a commercial provider to collect the organic waste once per week, although she was unsure if it would go to Rosemount's compost facility or another facility. She added that finding a suitable compost site in Ramsey County has been the largest challenge for Ramsey County to provide curbside organics collection.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones** to adopt **Resolution No. 12473**



Motion carried unanimously.

C. Resolution approving professional services contract for electrical inspections

City Manager Hiniker reported the City's current electrical inspections contractor announced his retirement. She noted that cities can chose to contract these services with the state, or hire an electrical inspector on staff. She reported that the state can sometimes get bogged down with inspections and a staff person was not be prudent. Ms. Hiniker noted that Tolke Inspections provides electrical inspections for surrounding communities and asks for 80% of the fees proposed in the fee schedule for this service. Councilmember Edberg asked whether a 20% margin covers liability and staff effort. Ms. Hiniker explained that the Building Department reviewed the proposed rates and did not have a recommendation for change.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Engstran** to adopt **Resolution No. 12474**

Motion carried unanimously.

D. Resolution canvassing election results

City Manager Hiniker explained it is the responsibility of the City Council to canvass the election results. She reported that Bill Walsh was elected as Ward 1 Councilmember, Dan Jones was elected as Ward 3 Councilmember, and Steven Engstran was elected to Ward 5.

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran** to adopt **Resolution No. 12475**

Motion carried unanimously.

**10. CONSENT**

A. Acceptance of minutes; September Environmental Advisory Commission; September Parks Advisory Commission; September White Bear Lake Conservation; October Planning Commission

B. Resolution authorizing Score Grant funding allocation and application. **Resolution No. 12476**

C. Resolution accepting donation of a pontoon. **Resolution No. 12477**

D. Resolution approving special assessment. **Resolution No. 12478**

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran**, to approve the consent agenda as presented.

Motion carried unanimously.

## 11. DISCUSSION

Nothing scheduled

## 12. COMMUNICATIONS FROM THE CITY MANAGER

- Work Session at 6:00 p.m. on November 19<sup>th</sup> in the Expansion Room
- Truth in Taxation Hearing on November 26<sup>th</sup> with final budget adoption on December 10<sup>th</sup>.
- City Engineer and Public Works Director Kauppi reminded folks to visit the website for the City's winter parking restrictions in the event there is snow.

## 13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Walsh**, seconded by Councilmember **Jones** to adjourn the regular meeting at 8:49 p.m.

Motion carried unanimously.

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Jo Emerson, Mayor

**ATTEST:**

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Kara Coustry, City Clerk

# Park Advisory Commission Meeting Minutes

SEPTEMBER 19, 2019

6:30 P.M.

STELLMACHER PARK

MEMBERS PRESENT	Bryan Belisle, Victoria Biehn, Mark Cermak, Ginny Mae Davis, Mike Shepard
MEMBERS ABSENT	Anastacia Davis, Bill Ganzlin,
STAFF PRESENT	Mark Meyer, Paul Kauppi and Andy Wietecki
VISITORS	
NOTE TAKER	Mark Meyer

## 1. CALL TO ORDER

The meeting was called to order at 6:30 pm at Bossard Park.

## 2. APPROVAL OF MINUTES

Approval of the minutes from August 18, 2019 was moved by Mark Cermak and seconded by Ginny Mae Davis.

## 3. APPROVAL OF AGENDA

Approval of the September 19, 2019 agenda was moved by Mike Shepard and seconded by Victoria Biehn. Motion carried.

## 4. UNFINISHED BUSINESS

The Lions made the donation for the split log fence at the Lions Park and just need to find the available time to start the project.

## 5. NEW BUSINESS

### a) Fustal Court

Joe from the White Bear Lake Soccer came to the commission meeting to reopen the discussion on a Futsal court that the soccer club would like to have at one of the parks. Futsal courts are hard surfaces like asphalt or concrete with lines painted on them. They use a heavier soccer ball and play five on five. The Futsal court is used for training and agility. We currently don't have any type of hard surface to allow for the court. It was suggested that the hockey rink at Podvin Park would be a good location. However, there a large cost involved with installing concrete or asphalt in the rink area. At this time there is no funding for this type of project. The soccer club would have to pay for the cost of the hard surface if this is something they would like to pursue. The Park Commission will have more discussion on this topic.

### b) Summer Park Tours – Bossard Park

The Park Advisory Commission walked through Bossard Park for their September park tour. The 15.95 acre large open space includes a pavilion, picnic tables, restrooms, play equipment, and baseball field. Unfortunately there is no parking lot

which limits the uses of the Park. Due to the secluded nature of the park, the bathrooms are vandalized continuously so they remain locked most of the time. The playground and the large mowed open space looked great. The Park Commission will have further talks about the future of what this park could bring to the City.

**c) Joint Meeting with the Environmental Advisory Commission**

The Environmental Advisory Commission would like to have a joint meeting at the November's meeting.

**6. OTHER STAFF REPORTS**

None.

**7. COMMISSION REPORTS**

None.

**8. OTHER BUSINESS**

None.

**9. ADJOURNMENT**

The next meeting will be held on October 17, 2019 at 6:30 p.m at City Hall.

There being no further business to come before the Park Commission, the meeting was adjourned. Moved by Ginny Mae Davis and seconded by Mark Cermak.