



**Title:** Approval of City of Wayzata Granting of Variances from Two City Ordinances for the Construction of a Parking Structure at Barry Avenue and Lake Street East

**Resolution number:** 20-074

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**Reviewed by:** Name/Title: Tom Dietrich / Permitting Program Manager

**Recommended action:** Approval of the Wetland Protection and Stormwater Management variances as proposed, based on the site constraints and the proposed wetland improvements

**Past Board action:** Res # 09-060 Title: Approval of City of Wayzata Local Water Management Plan

**Summary:**

The City of Wayzata is proposing to construct a new parking structure as part of a multi-use development project at 235 - 239 Lake Street East, also referred to as the Lake and Barry Parking Structure. This project consists of two components: three private developments on the south end of the lots and the public parking structure on the north end of the lots. The latter is the subject of this Request for Board Approval.

This parking structure (Project) is subject to City ordinances concerning Wetland Protection and Stormwater Management Rules. By virtue of a 2009 memorandum of understanding (MOU) implementing District approval of the City's local water management plan, the City exercises sole regulatory authority in these realms and the District does not apply its rules within City boundaries. However, the MOU provides:

In accordance with Minnesota Statutes §103B.211, subdivision 1(a)(3)(ii), the MCWD must approve the granting of any variance under a Wayzata ordinance for which the MCWD has ceased to exercise regulatory authority.

The parking lot, as proposed, requires two variances- one for the wetland buffer width and the other for stormwater rate, volume, and phosphorous control. Because the City exercises sole regulatory authority, Wayzata is requesting that MCWD concur in the proposed variances for this project.

As such, the Request for Board Action before the Board of Managers is not a formal permit action, but rather a concurrence by the Managers that the variances proposed by the City of Wayzata from the City's own ordinances are acceptable. While there is not a stated standard for the Managers' decision, staff's expectation is that the Managers will consider the balancing that the City will engage in regarding the following factors; the extent of deviation from the City

ordinances, the difficulties faced by the Project to comply with those ordinances, the potential impact to water resources, and whether the City is taking all reasonable steps to limit those impacts.

The purpose of this Request for Board Action is to provide the Board of Managers with information on the Lake and Barry Parking Structure project (Project) to support its decision regarding the proposed variances. Specifically, this RBA will provide information on the Project background, regulatory review, hardships and difficulties faced by Wayzata, staff review, and staff analysis regarding variance approval and water resource impacts and risks.

Staff concludes that the proposed Project will provide restoration of a degraded wetland system, and establish buffers where none currently exist. Staff also concludes that there is a basis for a City finding that achieving a greater stormwater treatment outcome would not be feasible. Because this decision involves the judgment of the Board, however, staff does not offer a recommendation as to the ultimate Board decision.

### **Project Background**

Currently, the parcels at 235-239 Lake Street East exist as a mixture of paved and gravel parking areas, undeveloped land, and an existing commercial building. The northern end of these lots contains a delineated wetland classified as Manage 3, or the lowest management class. The site has demonstrated a high groundwater table and has a documented likelihood of petroleum contamination. It is Staff's understanding that the high groundwater is a result of the area's historical status as a wetland that was slowly filled over time and that the remaining portion was dredged for use as a stormwater pond in the 1970's. Currently, drainage from these parcels flows northward, overland, and enters the wetland untreated. The parcels drain through this wetland and into the City's storm sewer infrastructure via a ditch to the west of the site, and ultimately into Lake Minnetonka.

Overall, redevelopment on these parcels is a partnership between the City of Wayzata and three private developers. The proposed redevelopment consists of two main parts- the construction of the new parking facility by the City and the construction of an office building and two separate condominium buildings by the developers. The parking facility is the focus of this report and is the construction requiring a variance. The northern portion of each of the three parcels, totaling 2.18 acres, have been conveyed to the City in order to construct the parking facility. The remaining wetland and adjacent on-site upland area is part of the City property. This parking facility will consist of a new, paved surface lot, totaling 1.28 acres, to provide 154-215 parking stalls to serve the proposed buildings and provide public parking in an area of the City where parking is currently limited. There is the option of constructing a single parking deck above the lot in the future.

If the District were regulating this proposed redevelopment, permits would be required under its Wetland Protection and Stormwater Management rules. The redevelopment requires review under the Wetland Conservation Act (WCA), for which the City of Wayzata is the administrating LGU under WCA, and under City Code section 408.

The parking structure component does not meet the City's Wetland Protection or Stormwater Management Ordinances. This is a result of site constraints, further elaborated on in this report, which include the size and location of the wetland and a limited ability to implement stormwater BMPs based on soil characteristics.

### **Regulatory Review**

#### **Wetland Conservation Act**

The proposed parking lot has 0.23 acres of impact to the wetland present on the north end of the parcels. The 0.23 acres have been replaced at a 2:1 ratio within the Luce Line Wetland Bank, which is owned by the City of Wayzata. The WCA permit application was approved on December 18, 2019 by the City of Wayzata.

#### **Wetland Protection**

The on-site wetland is classified as a Manage 3 wetland per the City of Wayzata's approved, current Surface Water Management Plan (SWMP). The northern portion of the wetland was dredged for use as stormwater pond in the 1970s,

and is no longer hydrologically connected to the Manage 3 wetland that falls within the Lake Street East parcel boundaries, although the two areas were likely connected prior to the dredging. The Manage 3 wetland is considered to be a seasonally flooded basin and is also considered to be a degraded system as it is dominated by weedy, invasive vegetation. It is surrounded by commercial and residential property to the east and south, and is bordered on the north end by the surface stormwater pond. The west edge of the wetland is bordered by a vegetated area.

The City of Wayzata's SWMP requires that Manage 3 wetlands maintain a 16.5 foot buffer as both the average width and the minimum applied width. The proposed buffers range from 1' to 46' in width, with an average width of 7'. As a result, the City is seeking a variance for buffer width as the 16.5' minimum and average width is not being met. The reductions will result in a total of 0.09 acres of buffer being established on the site, as opposed to 0.12 acres of buffer under the full width.

This proposed buffer width shortfall is a result of the Project site's size and configuration in comparison to the location of the existing wetland. In order to achieve both an appropriately sized parking lot and to meet the full 16.5 foot buffer, the project would have to fill the wetland in an amount greater than the 0.23 acres of impact that were approved under the Wetland Conservation Act.

The rationale for this buffer width reduction is that under the current site conditions, no buffers are currently present resulting in drainage entering the wetland untreated. Development on the site will result in the addition of curb and gutter to route flows from the entirety of the parking lot to two separate stormwater best management practices (BMPs) to provide pre-treatment and sediment removal. Further information regarding the treatment scope of the proposed BMPs will be elaborated on in the Stormwater Management section. One of the turrets (BMP) will discharge on the far west side of the parking lot and the other will discharge on the north end of the lot, with energy dissipation in the form of rip rap at both. The turret on the north end of the lot will flow across a portion of the buffer area that is approximately 40' in width before entering the wetland to provide further pre-treatment. This flow pattern can be seen in Attachment 3.

In addition, with the northern portion of the lots being donated to the City, Wayzata will take ownership of a portion of the wetland in order to restore and manage its conditions, as seen in the Attachment 4. The biological diversity of the wetland and adjacent upland that is transferring to City ownership will be improved through the establishment of native vegetation in areas currently dominated by invasive species. Wayzata has provided a two year monitoring and maintenance plan that outlines vegetative maintenance. Staff have reviewed this document and conclude that the outlined plans will improve biological diversity.

Staff concludes that the size constraints found on the site make it infeasible to meet the buffer width required by City ordinance. Strict compliance with the buffer rule would result in a greater impact to the wetland, as further fill into the wetland would be needed to provide enough space for a 16.5' width around the entire perimeter. In addition, the establishment of any buffers on the site is considered by Staff to be an improvement. Further, the City's plan to establish native vegetation and monitor the wetland into the future will provide a water resource benefit. Staff conclude that the City of Wayzata has minimized wetland impacts to achieve the project goal.

## **Stormwater Management**

The proposed parking structure will result in an increase in impervious surface, which under the City of Wayzata's ordinance requires rate, volume, and phosphorous control for the entire site's impervious surface. Specifically, the re-development of the site must not result in an increased peak runoff rate when compared to current conditions, and the first 1-inch of runoff over the entire site must be abstracted, with phosphorous removal in an amount that is equivalent to that provided by 1-inch of abstraction.

The proposed stormwater management plan for the parking lot is not able to meet the City's rate, volume, or phosphorous requirements as infiltration, filtration, or surface pond features are not feasible on the site. Soil borings show that groundwater is 1' to 5' below grade and also indicate a likelihood of petroleum contamination. A Phase II Environmental Assessment to further confirm the extent of the petroleum contamination was not completed by the City. As a result, infiltration on the site would be infeasible based on the groundwater levels and likely prohibited per the

contamination standards outlined by the Minnesota Pollution Control Agency in the Minnesota Stormwater Manual. In addition, soil borings provided by the City show C and D soils which indicate low hydrologic function, further preventing infiltration based BMPs. Filtration practices and surface pond features are also infeasible as a result of the high groundwater table.

Given these constraints, the site will be providing stormwater treatment through the installation of Rain Guardian Turrets. These BMPs will be installed where the site's curb and gutter outlets to the wetland and provide sediment collection. As outlined in the Wetland Protection section, one of the turrets will have approximately 40' of buffer before flow reaches the wetland. The installation of these BMPs can be achieved with minimal excavation as to not disturb the groundwater table.

Providing surface treatment to the site's stormwater via the Rain Guardian Turrets was determined by the City of Wayzata to be the only feasible stormwater management technique. As a result, the City is seeking a variance from strict compliance with the stormwater management criteria for rate, volume, and phosphorous.

According to the City of Wayzata's engineering report;

- The Project cannot effectively provide for rate control and will result in approximately a 1 cfs increase in rate for the 1, 10, and 100 year storm conditions. As the site ultimately drains to Lake Minnetonka, this increase is not anticipated to have a measureable effect on the lake's hydrology due to the small size of the site relative to Lake Minnetonka. It is also anticipated that this rate increase will not have any local floodplain impacts.
- The Project cannot provide for the abstraction of either the first 1-inch due to the fact that no form of volume control (filtration, infiltration, or surface pond) is considered feasible for the site.
- The Project cannot provide for full phosphorous removal as volume abstraction is not being provided. The Rain Garden Turrets will result in a 44% reduction in total phosphorous leaving the site. The 44% reduction is based on published research data for the selected BMP. This is less than the calculated 90% reduction that would be achieved through one inch of abstraction.

The full rate, volume, and phosphorous tables can be seen in Attachment 2.

Additional information that pertains to the proposed stormwater variance that Staff feel is pertinent includes the information regarding the private developments and alternative site configurations explored by the City.

The three private developments associated with the condominiums and office building each will be less than an acre in size and slightly decrease existing hardcover. For this reason, the City ordinance requires for each only the implementation of a Best Management Practice with no specific treatment standard. The developments will install sumped manholes.

At the request of MCWD, the City of Wayzata provided two alternative configurations for the design of this site that were ultimately considered infeasible during the City's process. One alternative design include flipping the parking lot and buildings, which would have potentially allowed for the construction of an underground filtration basin near Lake Street East. This design was considered infeasible as the same constraints of high groundwater and likely contamination are present across the entirety of the site and also because Wayzata Zoning Codes require that parking be provided behind buildings to improve pedestrian accessibility.

A second alternative design included pitching the parking lot to drain to an area toward the south, where lower groundwater elevations may have allowed for the construction of a stormwater BMP. Staff and District Engineer believe that the likelihood of petroleum contamination would be an applicable constraint for this site configuration as well.

District Engineers have reviewed the stormwater plan and justification for the proposed variance. District engineers have reviewed the submitted soil borings and concur that the site constraints outlined by the City are valid constraints and that due to the high groundwater and the proposed layout of the site, it is not feasible to meet the volume, rate, and phosphorus control requirements of the City ordinance. Any below ground infiltration or filtration BMP would not have the required separation from groundwater needed to function. Any mechanical treatment device (MTD) or system would also not be feasible to construct in the groundwater.

In regards to phosphorous reduction, District Engineers concluded that the submitted 44% reduction is likely not realistic or achievable. The proposed curb and gutter, along with the two Rain Guardian Turrets, will provide a minimum level of nutrient removal (0-5%). Without constructing a stormwater treatment basin within the wetland or raising the proposed grade of the parking lot, however, the District engineer does not believe there are any feasible alternatives to meeting City rate, volume, and phosphorus control requirements.

Staff review of the proposed stormwater plan supports the findings of the District Engineer.

### **Conclusion**

The City of Wayzata is proposing to construct a public parking lot on as a component of a public-private partnership to renovate the parcels at 235 - 239 Lake Street East.

The site is adjacent to a currently degraded, Manage 3 wetland which extends onto the 235-239 Lake Street East parcels. The proposed parking lot will result in 0.23 acres of wetland impact and an increase in impervious surface, resulting in the need for review under the City of Wayzata's Stormwater Management and Wetland Protection ordinances.

The City is evaluating a variance from both the Stormwater Management and Wetland Protection ordinances based on site constraints that limit the ability to provide the full buffer width and full rate, volume, and phosphorous control. These site constraints include high groundwater and likely petroleum contamination, limiting the ability to utilize infiltration or filtration BMPs that can provide rate and volume control. The proposed buffer width shortfall is a result of the parking lot configuration.

The Project will result in the restoration of the currently degraded wetland through the removal of invasive species and the establishment of native wetland buffers where buffers currently do not exist. The City's proposed stormwater management plan to incorporate curb and gutter to direct flow toward Rain Guardian Turrets will provide phosphorous reduction prior to site runoff entering the wetland. Staff and the District Engineer concur that the site constraints are valid and alternative BMPs that would provide rate and volume control would not be viable on the site without considerable modification to the overall configuration. District Engineers concluded that the 44% phosphorous reduction submitted by the City is likely not viable.

Staff concludes that the proposed Project will provide restoration of a degraded wetland system and that there is a basis for a City finding that achieving a greater stormwater treatment outcome would not be feasible. Because this decision involves the judgment of the Board, however, staff does not offer a recommendation as to the ultimate Board decision.

### **Supporting documents (list attachments):**

1. 2009 Memorandum of Understanding (MOU) Between Wayzata and MCWD
2. City of Wayzata Request for Concurrence
3. Proposed Wetland Impacts and BMP Cross Section
4. Wetland Restoration and Maintenance Plan
5. Wetland Conservation Act NOD



**RESOLUTION**

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**Resolution number:** 20-074

**Title: Approval of City of Wayzata Granting Variances from Two City Ordinances for the Construction of a Parking Structure at Barry Avenue and Lake Street East**

WHEREAS, the Board of Managers ("Board") has reviewed the information submitted by the City of Wayzata as to a proposed parking facility it wishes to construct at Barry Avenue and Lake Street East, how it intends to limit wetland and stormwater management impacts, and why site conditions make it infeasible to meet the standards of City wetland vegetated buffer and stormwater management ordinances;

WHEREAS, District staff and the District engineer have reviewed the variances the City intends to consider, and conclude both that additional wetland vegetated buffer and additional stormwater treatment are infeasible, and that the water resource impact of not meeting the City ordinances is small; and

WHEREAS, the Board adopts the technical conclusions of the District staff and engineer;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers approves the City of Wayzata's grant of variances from its Wetland Protection and Stormwater Management ordinances on the terms proposed.

Resolution Number 20- **074** was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date:

\_\_\_\_\_  
Secretary Date: \_\_\_\_\_

**MEMORANDUM of UNDERSTANDING  
Local Water Planning and Regulation**

**Minnehaha Creek Watershed District and the City of Wayzata**

This Memorandum of Understanding (MOU) is made by and between the Minnehaha Creek Watershed District, a watershed district with purposes and powers as set forth at Minnesota Statutes Chapters 103B and 103D (MCWD), and the City of Wayzata, a body corporate and politic and a home charter city in the State of Minnesota.

**Recitals and Statement of Purpose**

WHEREAS in 2007 the MCWD revised its watershed management plan (WMP) under Minnesota Statutes §103B.231, which details the existing physical environment, land use and development in the watershed and establishes a plan to regulate water resource use and management to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;

WHEREAS the WMP incorporates the Rules adopted by the MCWD to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;

WHEREAS Wayzata has developed a local water management plan under Minnesota Statutes §103B.235 that describes the existing and proposed physical environment and land use within Wayzata and sets forth a regional subwatershed based capital improvement implementation plan for bringing local water management into conformance with the WMP;

WHEREAS on June 18, 2009, the MCWD Board of Managers approved Wayzata's local water management plan by adoption of Resolution 09-060, attached and incorporated herein and that requires, as a precondition of approval, that Wayzata and the MCWD enter into this MOU to memorialize their respective roles as to water resource protection and management within city boundaries;

WHEREAS Wayzata currently exercises sole regulatory authority within city boundaries with respect to matters now subject to regulation under MCWD Rules B

(erosion control), D (wetland protection), and N (stormwater management) and wishes to continue to exercise sole authority;

WHEREAS MCWD approval of a local plan requires a finding that municipal ordinances are at least as protective of water resources as the MCWD Rules;

WHEREAS the finding by the MCWD Board of Managers that Wayzata's municipal ordinances meet this criterion rests on Wayzata's commitment to adopt ordinances that are materially equivalent to MCWD Rules B (erosion control), D (wetland protection), and N (stormwater management);

NOW THEREFORE it is mutually agreed by and between the parties that they enter into this MOU in order to document the understanding of the parties as to the roles and responsibilities of each.

#### **1.0 Responsibilities of Wayzata**

1.1 Wayzata retains and may exercise all municipal authority to issue permits for and regulate activities within its boundaries that affect water resources.

1.2 Within 180 days of June 18, 2009, Wayzata will adopt an ordinance or ordinances meeting the terms of this MOU, with the written determination of MCWD staff that the ordinance(s) is or are materially equivalent to MCWD Rule B, D, or N. If this requirement is not met, the MCWD will reassert its regulatory authority under Rules B, D, and N for activities that have not received all required approvals under Wayzata's water resource ordinances as of that date.

1.3 In accordance with Minnesota Statutes §103B.211, subdivision 1(a)(3)(ii), the MCWD must approve the granting of any variance under a Wayzata ordinance for which the MCWD has ceased to exercise regulatory authority.

1.4 Within 180 days of written MCWD notice that it has revised a rule for which Wayzata exercises sole authority pursuant to paragraph 1.2, Wayzata must revise its ordinance(s) to maintain material equivalence and obtain MCWD concurrence in the revision. MCWD will provide the City of Wayzata with Rule language as part of this notification. Alternatively, Wayzata may ask the MCWD to reassert its own regulatory authority as to that rule.



1.5 Wayzata will designate a staff member as the official point of contact for regulatory matters under this MOU. Wayzata will:

- a. Maintain a log of permits issued or considered under its water resource ordinance(s), and include in the log the permit site location, the date the application was received and /or issued, and a brief description of the project. This log will be forwarded to the District annually and made available upon request.
- b. Notify the MCWD of work by Wayzata subject to the ordinances governed by this MOU prior to initiation of work.
- c. Include the MCWD as a recipient of any public notices as provided in the ordinances governed by this MOU for MCWD staff to review and forward comments on the project.
- c. Provide available project plans and specifications to the MCWD on request.

Wayzata and the MCWD will meet by March 1st annually to review Wayzata's regulatory activity under this MOU.

1.6 Annually, by the date specified for Wayzata's submittal of its annual report under its NPDES municipal stormwater permit, Wayzata will submit to the MCWD a concise but specific report describing:

- a. Progress on the local water management plan implementation program.
- b. Progress on meeting phosphorus load reduction requirements of the WMP.
- c. Any adjustments to the implementation and/or capital improvement program in the local water management plan.
- d. The permit log described in paragraph 1.5, above.
- e. A listing, with further specific available information as the MCWD may request, of grading and structural alterations approved or occurring within city boundaries since the last annual report (both private and public alterations) that could measurably affect hydraulic and hydrologic model outcomes.

Wayzata may incorporate its annual report into its NPDES MS4 annual report, provided it addresses the above items with specificity.

## **2.0 Responsibilities of the MCWD**

2.1 The MCWD will continue to apply and enforce its Rules, as they may be amended from time to time, to activity within Wayzata, except as provided under paragraph 1.2, above. Specifically, but not exclusively, the MCWD will continue to apply its rules: (a) other than those regarding erosion control, floodplain alteration, and stormwater management; and (b) to actions by parties to whom Wayzata's ordinances do not apply. The MCWD will continue to perform NPDES compliance monitoring pursuant to its joint powers agreement with the Minnesota Pollution Control Agency and may perform similar regulatory activities by agreement with other public bodies.

2.2 Wayzata and the MCWD will meet at least annually to review Wayzata's regulatory activity under this MOU.

2.3 The MCWD retains all authority that it may possess under Minnesota Statutes Chapters 103B and 103D and any other provision of law, except as explicitly withdrawn under this MOU, including but not limited to authority set forth at Minnesota Statutes §§103B.211, subdivision 1(a); 103D.335 and 103D.341. The MCWD may use its authority under Minnesota Statutes §103D.335, subdivision 14, to inspect work subject to Wayzata permits whether or not the work is subject to an MCWD permit.

## **3.0 General**

3.1 If the MCWD has reason to believe that Wayzata is not adequately implementing its regulatory program as approved, it may engage Wayzata in a review of its concerns. If the MCWD Board of Managers, after engagement with Wayzata and a public hearing, finds that Wayzata is not adequately implementing its regulatory program, it may by resolution reassert MCWD regulatory authority as to all actions that have not yet received all required approvals under Wayzata water resource ordinances. The Board may consider whether: (a) ordinances have been adopted and conform to standards approved by the MCWD; (b) ordinances have been applied as written and MCWD approval of variances has been sought per §103B.211; (c) technical expertise and program resources as described in the local plan have been maintained; and (d) compliance has been reasonably monitored and enforced.

3.2 The MOU is effective on the date that it has been executed by both parties, will remain in effect for five years, and will be extended automatically for five-year terms unless terminated by agreement of the parties. Notwithstanding, Wayzata will continue to be subject to applicable statutes and rules requiring that it revise its local water management plan in response to MCWD revisions of the WMP.

3.3 This MOU may be amended only by a writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding.

**CITY OF Wayzata**

By \_\_\_\_\_  
Mayor

Date:

By \_\_\_\_\_  
City Manager

Date:

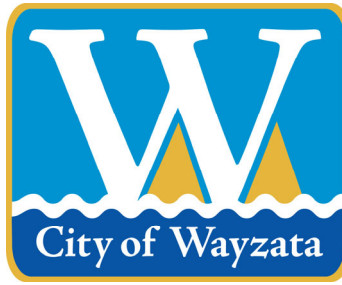
**MINNEHAHA CREEK WATERSHED DISTRICT**

By \_\_\_\_\_  
President, Board of Managers

Date:

**APPROVED AS TO FORM AND  
EXECUTION**

By \_\_\_\_\_  
Its Attorney



**City Council**  
Mayor Ken Willcox  
Jeff Buchanan  
Dan Koch  
Johanna McCarthy  
Alex Plechash

**City Manager**  
Jeffrey Dahl

August 19, 2020

Heidi Quinn  
Minnehaha Creek Watershed District  
15320 Minnetonka Blvd  
Minnetonka, MN 55345

Dear Ms. Quinn,

The City of Wayzata has been collaborating on a project with three (3) local developers for the last five years to create development sites and public parking. The project entails the redevelopment of three (3) blighted parcels on the northwest corner of the intersection of Lake St. and Barry Ave in Wayzata, MN. The sites are proposed to be developed into an office building, and two separate condominium buildings. The existing and proposed site plans are provided as Attachment B. As part of the project, the northern portion of each of the development sites has been donated to the City to construct a shared parking facility which will consist of the construction of a new, paved, surface parking lot, with the option of constructing a single deck above, in the future.

The purpose of this project is to provide parking to meet the demands of these parcels and provide additional public parking in this area. Public parking near the property is currently limited. Except for a public parking lot with 50 stalls across the street, most of the public parking is over three (3) blocks away from the area thus limiting its use for this portion of downtown Wayzata (see Figure 6 – permit application Attachment A). Street parking is available but does not have the capacity to provide adequate parking during peak demand.

This parking lot project is a combined public/private partnership to create 154-215 parking stalls to service the buildings at 235, 275, 253 Lake Street East and the Boat Works, LLC property across the street, as well as provide public parking for this area of the City.

The three parcels are donating 2.18 acres of property to the City. The existing impervious surface consists of a paved and gravel parking areas and amounts to 0.70 acres. The proposed parking lot will result in a finished impervious area of 1.28 acres. The remaining 0.9 acres will remain in City ownership and be upland buffer and wetland. The site, however, is constrained by a high groundwater table and documented likelihood of petroleum contamination.

The project must meet the standards of City Code section 408 which references the City's current Surface Water Management Plan. Additionally, the City administers the Wetland Protection and Stormwater Management Rules for the Minnehaha Creek Watershed District (MCWD) via a Memo of Understanding (MOU), approved in 2007.

Upon evaluation of the site, the project requires the use of a variance from the City's buffer standards for wetlands and from the stormwater management standards. As required by the MOU, the City is requesting that the MCWD concur with the City using a variance for this project. The background on the project and variance request is below.

### Wetland Protection

The City of Wayzata administers the Wetland Conservation Act (WCA) and Wetland Protection Rules. The proposed project has 0.23 acres of impact to jurisdictional wetland that has been replaced at a 2:1 ratio through the use of a city-owned wetland bank called the Luce Line Wetland Bank, which the City constructed in 2011. The WCA permit application was approved by the City of Wayzata on December 18, 2018. The WCA Notice of Decision, Permit Application, and Technical Evaluation Panel Finding of Fact can be found as Attachment A to this letter.

Per the City approved current Surface Water Management Plan, the wetland on-site is classified as a Manage 3 basin. A Manage 3 basin requires a 16.5-foot buffer as an average and minimum width. Because the project already proposes to fill wetland, areas adjacent to the parking lot have buffers as narrow as one foot (1') in width. Overall, the proposed buffer width ranges between one foot (1') and 46 feet in width, with an average width of seven feet (7') and, thus, does not meet the minimum and average requirement of 16.5 feet (Attachment C – Figure 3). The City is seeking a variance from the buffer width. Rationale for the variance has been found through the following mitigative measures being provided as a result of the loss of the required buffer width:

- The mitigation site includes wetland and buffer replacement at a 2:1 ratio, so no net loss of wetland or buffer will result from this project (Attachment A– Permit Application). The wetland at the mitigation site was previously filled, partially drained, and both the upland and wetland were dominated by the invasive species reed canary grass, buckthorn, ragweed, and thistle. As part of the mitigation plan the fill was removed and vegetation enhanced by removing the reed canary grass and replacing it with native vegetation (Attachment A – Permit Application).
- As previously mentioned, the existing site of the proposed parking facility consists of paved and gravel areas that allow runoff to flow, untreated, to the adjacent wetland. The treatment/filtering benefits of the buffer will be replaced on-site with the addition of curb that will allow flows to be routed to a treatment turret and then across a buffer area that is approximately 40 feet in width.
- The biological diversity of both the wetland and upland buffer on-site will be improved through a restoration plan. The remaining wetland and adjacent upland on-site is being donated to the City as part of this project. The remaining wetland is predominately a scrub shrub basin with pockets of semi-permanently flooded emergent deep marsh present in the remnant ditches and natural low spots through-out the basin. The shrub layer is dominated by common buckthorn, an invasive species, in the wetland and upland. The buckthorn high density shades out most other vegetation. A restoration plan has been developed to restore 0.80 acres of the wetland and upland buffer on-site. This project will result in an overall improvement to the biological diversity of the wetland and upland (Attachment C – Wetland Restoration Plan).

### Stormwater Management

The City of Wayzata administers the MCWD Stormwater Management Rules. This site is subject to rate control, volume control, and phosphorus control requirements for the entire site's impervious surface. The rate control rule requires no increase in peak runoff rate from the site in proposed conditions when compared to existing conditions. The volume control rule requires abstraction of 1-inch over the site impervious surface area. The phosphorus rule requires that, if the volume control rule cannot be achieved, that measures be taken to achieve phosphorus reduced equivalent to that which would be achieved through the abstraction of 1-inch over the site impervious surface area.

The stormwater management strategy for the site is limited due to multiple constraints. Soils borings indicate that groundwater is 1-5 ft below grade, with the high likelihood of petroleum contamination in the area. These two

factors prohibit the use of infiltration. The high groundwater also limits the ability to construct biofiltration/filtration features or surface ponds. Several options were considered for treatment including filtration, permeable pavers, and tree trenches. These were deemed as not feasible due to the depth of groundwater and potential for contamination. Due to these limitations, strict compliance of stormwater management rules is not feasible.

Currently, most of the existing parking area sheet flows into the wetland without any treatment, due to the lack of a curb to direct the water to a treatment area. To meet the intent of the stormwater rules, which is to protect downstream waterbodies, namely Lake Minnetonka, mitigation measures will be implemented to protect the downstream waterbodies.

- The project will add a curb to the parking area and direct the flow to turrets which will capture sediments prior to discharge into the wetland. These surface treatments, with little to no excavation, were determined to be the only feasible stormwater treatment strategy. Considering the parking lot layout, grading, and curb and gutter low-points, Rain Guardian Turrets were selected to provide treatment. Two turrets will be placed where the curb and gutter outlets to the wetland area. The purpose of the turrets will be to collect sediments prior to flowing into the wetland. As stated above, one of the turrets will have approximately 40 feet of buffer before flow reaches the wetland. The City will inspect\*\* the turrets on a regular basis and will clean them, as needed.
- Street sweeping\*\* of the parking lot to enhance the water quality benefits of the of the downstream waterbodies.

*\*\* Because the parking facility will be owned and managed by the City, the frequency of maintenance can be increased or decreased depending on storm frequency, etc.*

Site Stormwater Analysis

Stormwater analysis determined that the proposed stormwater management strategy does not meet the City’s rate control, volume control, or phosphorus control requirements.

- Rate control – The rate control requirement is not met, as rates are approximately 1 cfs higher in proposed conditions for each storm analyzed. The site drains to the wetland, then south into a ditch and eventually to Lake Minnetonka. Due to the small size of the site relative to the lake, this increase is not anticipated to have a measurable effect on the lake’s hydrology.

**Table 1 – Rate Control Summary (cfs)**

Site Condition	1-yr	10-yr	100-yr
Existing	3.7	8.4	13.5
Proposed	4.7	9.6	14.7

- Volume control – Due to the high groundwater and potential contamination, the volume control requirement cannot be met, even with biofiltration or filtration practices. The site is also not conducive to meeting the alternative volume control measure of abstraction of 0.5 inches over the site’s impervious area.
- Phosphorus control – If abstraction requirement cannot be met, then phosphorus control must be met. The requirement is to meet phosphorus reduction equivalent to that if abstraction were fully met on site. It was determined that a 90% TP reduction would be achieved if the abstraction requirement were feasible. The proposed strategy achieves approximately 44% TP reduction. This is based on published research data for the Rain Guardian Turrets.

Research was completed to determine if there are other proprietary products on the market that would meet the 90% TP removal and be feasible to install. The results indicated that there are no other low-profile products that will meet the site constraints and meet the 90% removal efficiency.

Consideration was also given to modifying the proposed layout to achieve the 1-inch volume abstraction. Reduction of the proposed layout would limit the much-needed public parking in the area that is only achieved through the current public private partnership. Additionally, based on site constraints, it does not appear feasible to modify the project to achieve the required abstraction.

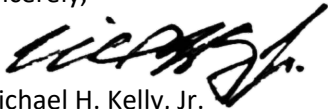
The City of Wayzata is, and always has been, dedicated to protecting water resources. The City has also worked hard to implement public-private partnerships, whenever possible. The proposed mitigation techniques provide natural resource protection via vegetative restoration and enhancement, minimized wetland degradation, and stormwater management that will be owned, managed, and maintained by City staff.

This project is the result of such a public-private partnership and, despite the challenging site constraints, the City of Wayzata feels the mitigation techniques proposed for both wetland and stormwater impacts justify the approval of a variance from their respective rules and will, ultimately, allow for a functionally-improved wetland.

Please feel free to contact me regarding this letter or any of the attachments.

We look forward to receiving MCWD concurrence in the very near future. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. Kelly, Jr.", written in a cursive style.

Michael H. Kelly, Jr.  
Director of Public Works/City Engineer  
City of Wayzata

c. Jeff Dahl, City Manager  
Ken Willcox, Mayor

**From:** [Mike Kelly](#)  
**To:** [Heidi Quinn](#)  
**Cc:** [john.smyth@stantec.com](mailto:john.smyth@stantec.com); [Anderson, Ken \(Ken.Anderson@stantec.com\)](mailto:Ken.Anderson@stantec.com); [Jeffrey Dahl](#); [Thomas Dietrich](#); [Erik R. Megow](#)  
**Subject:** RE: Wayzata request for Concurrence  
**Date:** Tuesday, September 8, 2020 4:10:48 PM  
**Attachments:** [image011.png](#)  
[image013.png](#)  
[image014.png](#)  
[image006.png](#)  
[image008.png](#)  
[Geo Report - Wayzata Parking Lot, Revision 1.pdf](#)

---

Heidi,

See responses below, in **RED**.



**Michael H. Kelly, Jr., P.E.**

City Engineer/Director of Public Works  
mike@wayzata.org | 952-404-5316  
299 Wayzata Blvd W | Wayzata, MN 55391  
www.wayzata.org



---

**From:** Heidi Quinn <hquinn@minnehahacreek.org>  
**Sent:** Thursday, September 3, 2020 5:09 PM  
**To:** Mike Kelly <mike@wayzata.org>  
**Cc:** john.smyth@stantec.com; Anderson, Ken (Ken.Anderson@stantec.com) <Ken.Anderson@stantec.com>; Jeffrey Dahl <jdahl@wayzata.org>; Ken Willcox <kenwillcox@wayzata.org>; Thomas Dietrich <TDietrich@minnehahacreek.org>; Erik R. Megow <emegow@wenck.com>  
**Subject:** RE: Wayzata request for Concurrence

Good Afternoon Mike,

Tom let me know that you spoke today to discuss the procedural process for the City's request that the MCWD Board of Managers consider a variance to the City's Wetland Protection and Stormwater Management Ordinances. While there is no MCWD permit or Variance, below are suggested items for the City to consider addressing to strengthen the request for the stormwater management shortfall.

- The narrative states that there is groundwater 1-5' below the surface and potential petroleum contamination;
  - Has a Soil boring report or Phase II report been completed?  
Yes, soil boring reports have been prepared several times over the last 30 years. The most recent report is attached. Groundwater, soil conditions (fill over peat), and likely petroleum contamination are all noted in the report.



- Is there a link or reference to published research data that Rain Guardians achieve a 44% TP reduction?

I have attached a link to the product website. They discuss 60-90% sediment removal. I will have Stantec provide how they came up with 44% TP removal.

<http://www.rainguardian.biz/>

- It would be helpful for MCWD staff to understand what stormwater BMPs were used at the adjacent new developments.

All three properties are less than one acre in size and are slightly decreasing hardcover.

MCWD requirement is to incorporate BMP's.

235 Lake Street – sump MH's pick up drainage from the drive aisle and roof.

253 Lake Street – sump MH's pick up drainage from roof, possible green roof-type treatments on rear patio.

275 Lake Street – underground storage/treatment structure picks up driveway and roof.

- Has the City reviewed any plans or concepts for how stormwater will be treated for the proposed private developments?

- Is there an opportunity to achieve a higher TP removal at these sites?

See above. No additional TP removal is possible due to groundwater, soil conditions (fill over peat), and likely petroleum contamination.

- Did the City consider any other site configurations for the buildings and parking lot?

- Can any of the proposed private developments be built on top of a parking garage?

All three of the buildings have underground parking built into their design.

- Did the public-private partnership consider flipping the parking lot and buildings to potentially put an underground filtration basin near E. Lake Street?

The partnership did not consider placing the parking lot in front for two reasons:

1. The same soil conditions exist beneath the buildings (high groundwater, poor soils, contamination).
2. The Wayzata Design Guidelines (part of the Zoning Code) requires that parking be behind buildings so buildings are more pedestrian accessible.

- Can the parking lot be pitched to drain to an area (toward the south) that has lower groundwater elevations and be suitable for a BMP?

The soil conditions on the south of the lots are also not suitable for BMP's. As mentioned above, we have asked developers to use sump MH's as BMP's along the north edge of Lake Street.

- Has the City explored if there is an opportunity to treat stormwater at the downstream prior to entering Lake Minnetonka?

We have looked at other opportunities, in fact in 1990, the city installed a sump MH (60" deep sump) along the south side of Lake Street, directly downstream and across from the 253 Lake Street property. This structure is inspected and cleaned twice a year (spring & fall). Anything further south of Lake street and the adjacency to Lake Minnetonka brings additional groundwater issues. The challenge with this area is, historically, these several blocks of Lake

Street, between Barry Ave and Ferndale Ave housed a lumber yard, a car repair shop, and several gas stations, which contributed to soil contamination issues, even within the roadway.

- Are there any past or future City stormwater management initiatives that exceed the City's Stormwater Management Ordinance?

Yes. We have implemented several projects that exceed our City's Stormwater Ordinance.

1. We are currently wrapping up the first phase of our Lake Effect (Panoway) project where we have converted a parking lot to a park (approx. 1 acre of hardcover removed), and implemented vegetated stormwater trenches (boxes) along the 600 Block of Lake Street.
2. In 1999, the city installed a structural sediment control device at the intersection of Lake Street and Minnetonka Avenue. This was several years before MPCA rules and MCWD phosphorus standards.
3. In 2010, the city installed a structural sediment control device at the intersection of Broadway Avenue and Mill Street. This was not a requirement of the project, but it was installed because it was the "right thing to do" in our downtown.
4. In 2011, we received a LID grant from MCWD for our Wayzata Blvd reconstruction project, where we narrowed the roadway, installed inverted medians to catch stormwater, and installed several sump MH's. LID grants were only distributed if city regulations were being exceeded.
5. In 2015, we received a LID grant from MCWD for our Ferndale Road reconstruction, where the roadway was slightly narrowed and three (3) structural treatment devices were installed where there previously had been direct drainage to Lake Minnetonka.
6. On an annual basis, we work with individual homeowners/builders to make stormwater improvements. This involves everything from rain barrels to pervious pavers, to underground infiltration. The MCWD does not regulate single family homes, yet the City of Wayzata does, whenever possible.

Staff feel that addressing the suggested items will help the MCWD Board of Managers make an informed decision at the September 24<sup>th</sup> meeting. I will be out of the office tomorrow, however, please feel free to give me or Tom a call with questions next week.

Thank you,

Heidi



**Heidi Quinn** | Permitting Technician | Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard | Minnetonka, MN 55345 | Office: 952-641-4504

---

**From:** Heidi Quinn

**Sent:** Friday, August 21, 2020 10:56 AM

**To:** 'Mike Kelly' <[mike@wayzata.org](mailto:mike@wayzata.org)>

**Cc:** [john.smyth@stantec.com](mailto:john.smyth@stantec.com); Anderson, Ken ([Ken.Anderson@stantec.com](mailto:Ken.Anderson@stantec.com))

<[Ken.Anderson@stantec.com](mailto:Ken.Anderson@stantec.com)>; Jeffrey Dahl <[jdahl@wayzata.org](mailto:jdahl@wayzata.org)>; Ken Willcox

<[kenwillcox@wayzata.org](mailto:kenwillcox@wayzata.org)>

**Subject:** RE: Wayzata request for Concurrence

Mike,

I am writing to confirm that I have received the materials and request for Board consideration.

Thank you,

Heidi



**Heidi Quinn** | Permitting Technician | Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard | Minnetonka, MN 55345 | Office: 952-641-4504

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**From:** Mike Kelly [<mailto:mike@wayzata.org>]

**Sent:** Thursday, August 20, 2020 7:44 AM

**To:** Heidi Quinn <[hquinn@minnehahacreek.org](mailto:hquinn@minnehahacreek.org)>

**Cc:** [john.smyth@stantec.com](mailto:john.smyth@stantec.com); Anderson, Ken ([Ken.Anderson@stantec.com](mailto:Ken.Anderson@stantec.com))  
<[Ken.Anderson@stantec.com](mailto:Ken.Anderson@stantec.com)>; Jeffrey Dahl <[jdahl@wayzata.org](mailto:jdahl@wayzata.org)>; Ken Willcox  
<[kenwillcox@wayzata.org](mailto:kenwillcox@wayzata.org)>

**Subject:** Wayzata request for Concurrence

Heidi,

Please find attached a letter requesting concurrence of variance from the City of Wayzata's wetland buffer standards and stormwater management standards for a parking project proposed at Lake Street and Barry Avenue in Wayzata.

I have also attached some background documentation to support the letter.

We would like to get this issue resolved, as soon as possible, and look forward to your assistance.

Please contact me with any questions or concerns. Thank you.



**Michael H. Kelly, Jr., P.E.**

City Engineer/Director of Public Works

[mike@wayzata.org](mailto:mike@wayzata.org) | 952-404-5316

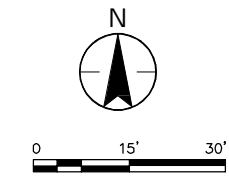
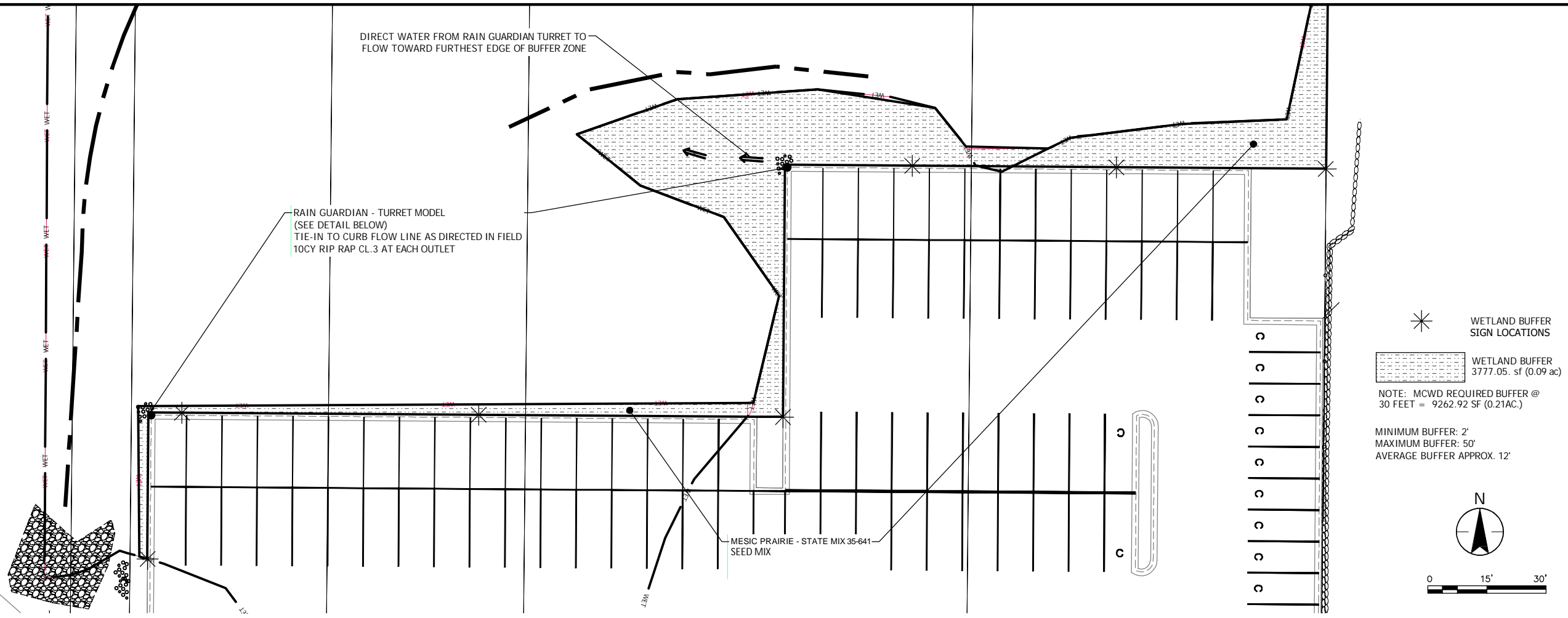
299 Wayzata Blvd W | Wayzata, MN 55391

[www.wayzata.org](http://www.wayzata.org)

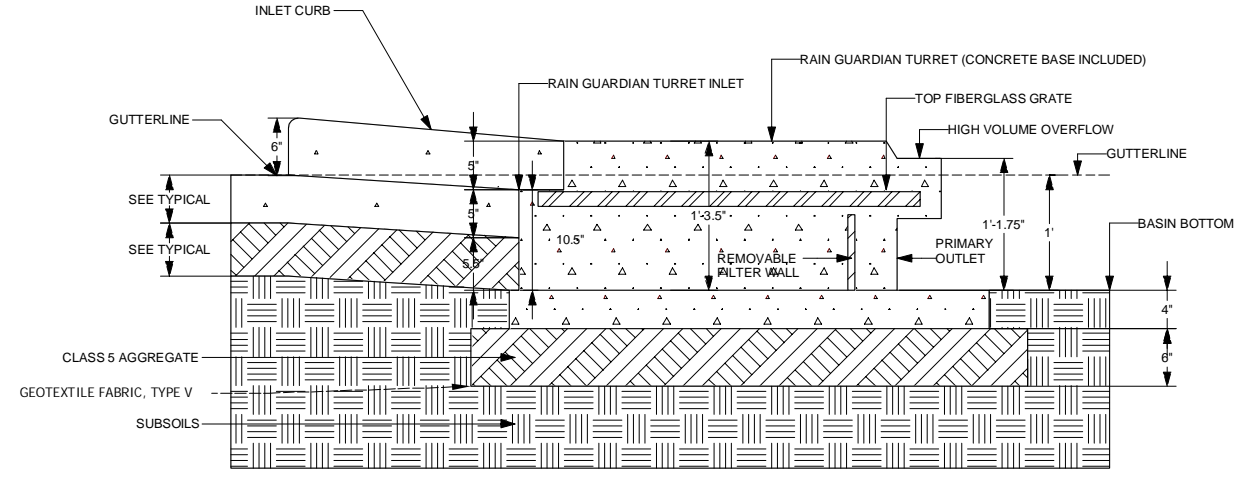


THE CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS. DO NOT SCALE THE DRAWING. ANY ERROR OR OMISSIONS SHALL BE REPORTED TO STANTEC WITHOUT DELAY. REPRODUCTION OR USE FOR ANY PURPOSE OTHER THAN THAT AUTHORIZED BY STANTEC IS FORBIDDEN.

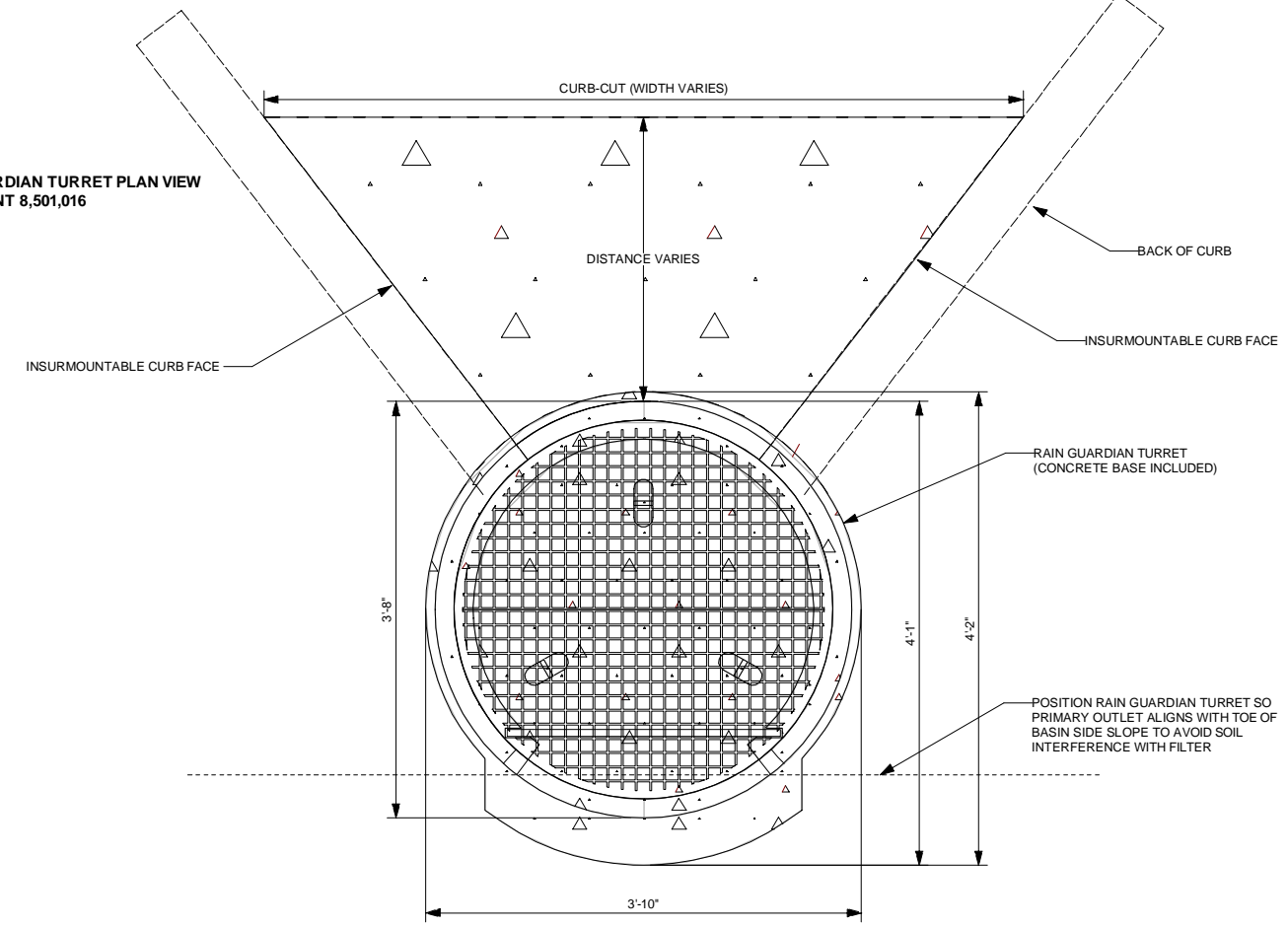
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A QUALIFIED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
PRINT NAME: ERIC S. LEMBKE  
SIGNATURE: \_\_\_\_\_  
DATE: 04/16/2020 LIC. NO. 47218



RAIN GUARDIAN TURRET CROSS-SECTION VIEW  
U.S. PATENT 8,501,016



RAIN GUARDIAN TURRET PLAN VIEW  
U.S. PATENT 8,501,016



Plot Date: 08/04/2020 - 10:27am  
Drawing Name: \1\193804692\CAD\Drawg\Sheets\193804692\_C500.dwg  
User: 193804692.XSL  
Date: 193804692.XSL

CITY OF WAYZATA, MINNESOTA  
LAKE ST. / BARRY AVE. PARKING LOT  
STORM SEWER  
PLAN AND PROFILE

NO	REVISION	DATE

SURVEY	PJE
DRAWN	PJW
DESIGNED	KPA
CHECKED	ESL
APPROVED	KPA
PROJ. NO.	193804692
SHEET NUMBER	C501

---

To:	Mike Kelly City of Wayzata	From:	John Smyth Stantec
File:	193804692	Date:	September 4, 2019

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**Reference: Barry Avenue and Lake Street Parking Improvements Vegetative Restoration**

One of the WCA TEP recommended conditions of approval for the Barry Avenue and Lake Street Parking permit was a vegetative restoration plan to remove invasive vegetation and potential seeding to improve the vegetation within the area that will remain north of the proposed parking areas on the three lots. This area is shown in green on the attached Figure 1. The existing wetland is predominately a scrub shrub basin with pockets of semi permanently flooded emergent deep marsh present in remnant ditches and natural low spots throughout the basin. The shrub layer is dominated by common buckthorn in the wetlands and upland with pockets of red osier dogwood as you get closer to the existing pond to the north. Trees are limited but included boxelder and black willow. In much of the area the dense buckthorn shades out the understory so ground cover is sparse. The ground cover observed in the portion of the wetland to be restored included jewelweed, marsh marigold, trillium, reed canary grass, stinging nettle, and giant goldenrod,

The attached Figure 1 provides the area of proposed vegetative restoration as well as a potential expansion area to the pond north of the site. Natural barriers for invasive species encroachment are proposed for the boundary of the project. As a result, the western boundary will be the existing channel and the eastern boundary will be an existing parking lot, the southern boundary is the proposed parking lot and the northern boundary is recommended to be the existing pond. The existing project area is 0.80 acres in size and an additional 0.17 acres would be added if the project area extended to pond located off the property to the north. The extension of the project to the pond is dependent on permission of the off-site property owner and the desire of the City to conduct work outside areas under its control.

The recommendations for tasks to be complete by year and season are below.

- **Winter Year 1:** Cut and treat stumps of European buckthorn. Pull material to an area for shredding with forestry mower or chipper. Do not leave more than 2-inches of shredded material on the ground. Recommended Herbicide: Garlon 4 with Bark Oil.
- **Summer (Following Winter Year 1) :** The expectation is that once the shade of European buckthorn is removed that some invasive species will develop within the area. A Foliar treatment with Krenite to remove invasive species should be conducted.
- **Winter Year 2:** Groundwater and poor soils will make access to the site more difficult during the growing season, so we recommend the seed is broadcast during the winter. The snow will also help to work the seed into the ground. We anticipate that the removal of European buckthorn will significantly reduce canopy cover and propose to seed the wetland with a combination of Wet Meadow Mix 34-271 and Riparian (Floodplain) mix 34-261. The small amount of upland will be seeded with Woodland Edge mix 36-211. The exact rate between the seed mixes will be determined after the buckthorn removal has occurred to get an idea of canopy cover remaining.
- **Vegetative Maintenance:** It is recommended that 3-years of vegetative maintenance occur after the seeding. The vegetative maintenance would include spot mowing and spot treatment of invasive species.

September 4, 2019

Mike Kelly  
Page 2 of 2

**Reference:** Barry Avenue and Lake Street Parking Improvements Vegetative Restoration

Some modifications to the plan may be necessary to account for weather or vegetative conditions encountered after buckthorn removal.

**Stantec**

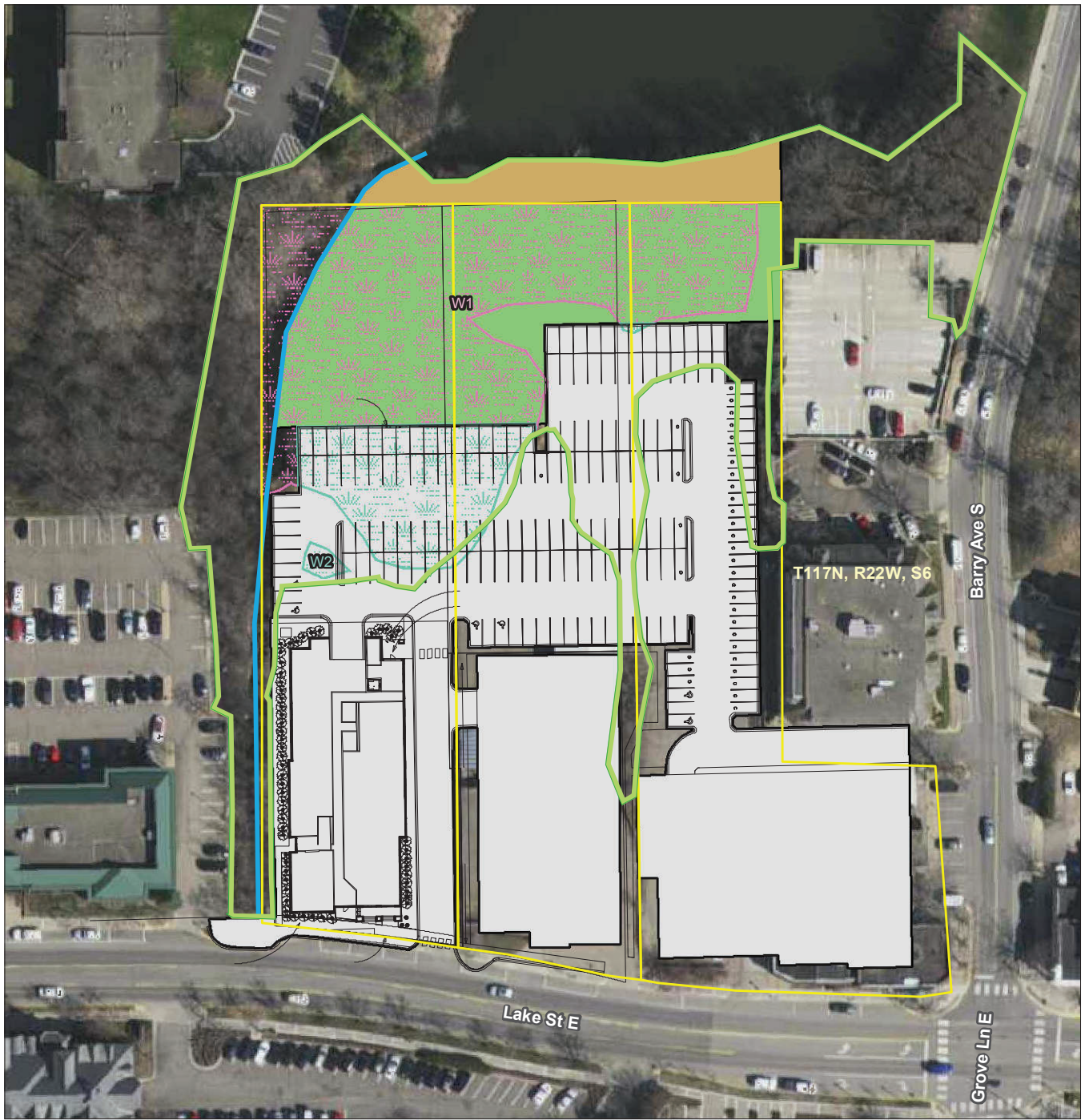
A handwritten signature in blue ink, appearing to read "John Smyth", is positioned above the printed name.

**John Smyth** WDC  
Water Resource Specialist

Phone: 651 775-5104  
Fax: N/A  
John.Smyth@stantec.com

Attachment: Figure 1.

c. C.C.



**Notes**  
 1. Coordinate System: NAD 1983 StatePlane Minnesota South FIPS 2203 Feet  
 2. Data Sources Include: Stantec, NADS, USGS  
 3. Orthophotography: 2016 Metropolitan Council/MnGeo

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

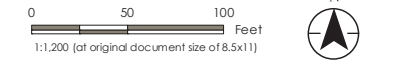
**Legend**

- Project Parcel
- Proposed Improvement Area
- Site Plan
- Existing Channel
- Forested Area
- Field Delineated Wetland by Others - Impacted (W1=0.233 Ac, W2=0.009 Ac)
- Field Delineated Wetland by Others - Not Impacted (0.824 Ac)
- Vegetative Restoration Boundary - Per WCA TEP Findings (0.80 Ac)
- Vegetative Restoration Boundary - Potential Expansion if Allowed by Off-Site Property Owner (0.17 Ac)

Figure No. **1** **DRAFT**  
 Title **Vegetative Restoration Location**

Client/Project  
 City of Wayzata  
 Barry Avenue and Lake Street Parking

Project Location T117N, R22W, S6  
 C. of Wayzata, Hennepin Co., MN  
 Prepared by MZ on 2019-08-07  
 Technical Review by CA on 2019-08-07  
 Independent Review by XX on 2019-XX-XX



# Minnesota Wetland Conservation Act

## Notice of Decision

Local Government Unit (LGU) <b>City of Wayzata</b>	Address <b>600 Rice Street East Wayzata, MN 55391</b>
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### 1. PROJECT INFORMATION

Applicant Name <b>McSharry Real Estate</b>	Project Name <b>235 Lake Street Eas</b>	Date of Application <b>07/16/2018</b>	Application Number <b>2018-02</b>
---	--	--	--------------------------------------

Attach site locator map.

Type of Decision:

<input checked="" type="checkbox"/> Wetland Boundary or Type	<input type="checkbox"/> No-Loss	<input type="checkbox"/> Exemption	<input type="checkbox"/> Sequencing
<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Banking Plan		

Technical Evaluation Panel Findings and Recommendation (if any):

<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Approve with conditions	<input type="checkbox"/> Deny
Summary (or attach):  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>		

### 2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision: <b>08-17-2018</b>		
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Approved with conditions (include below)	<input type="checkbox"/> Denied

LGU Findings and Conclusions (attach additional sheets as necessary):

The Wetland Delineation was reviewed for the above referenced property in the field on August 9, 2018. The wetland delineation report dated July 6, 2018, provided by Kjolhaug Environmental Services Company, Inc., was reviewed on August 9, 2018.

This Notice of Decision represents an approval of the wetland boundary as reviewed in the field on August 9, 2018 and as documented in the originally submitted delineation report, located in Section 6, Township 117 North, Range 22 West in Hennepin County, Minnesota.

This decision is valid for five years from the date of decision shown above.

You are hereby notified that the decision of the Local Government Unit on the above-referenced application was made on the date stated above.



For Replacement Plans using credits from the State Wetland Bank:


Bank Account #	Bank Service Area	County	Credits Approved for Withdrawal (sq. ft. or nearest .01 acre)
----------------	-------------------	--------	---

**Replacement Plan Approval Conditions.** In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- Financial Assurance:** For project-specific replacement that is not in-advance, a financial assurance specified by the LGU must be submitted to the LGU in accordance with MN Rule 8420.0522, Subp. 9 (List amount and type in LGU Findings).
- Deed Recording:** For project-specific replacement, evidence must be provided to the LGU that the BWSR “Declaration of Restrictions and Covenants” and “Consent to Replacement Wetland” forms have been filed with the county recorder’s office in which the replacement wetland is located.
- Credit Withdrawal:** For replacement consisting of wetland bank credits, confirmation that BWSR has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

**Wetlands may not be impacted until all applicable conditions have been met!**

LGU Authorized Signature:

Signing and mailing of this completed form to the appropriate recipients in accordance with 8420.0255, Subp. 5 provides notice that a decision was made by the LGU under the Wetland Conservation Act as specified above. If additional details on the decision exist, they have been provided to the landowner and are available from the LGU upon request.		
Name <b>Michael H. Kelly, Jr., P.E.</b>	Title <b>City Engineer/Director of Public Works</b>	
Signature 	Date <b>08-17-2018</b>	Phone Number and E-mail <b>952-404-5316</b> <b>mike@wayzata.org</b>

THIS DECISION ONLY APPLIES TO THE MINNESOTA WETLAND CONSERVATION ACT. Additional approvals or permits from local, state, and federal agencies may be required. Check with all appropriate authorities before commencing work in or near wetlands.

Applicants proceed at their own risk if work authorized by this decision is started before the time period for appeal (30 days) has expired. If this decision is reversed or revised under appeal, the applicant may be responsible for restoring or replacing all wetland impacts.

This decision is valid for three years from the date of decision unless a longer period is advised by the TEP and specified in this notice of decision.

### 3. APPEAL OF THIS DECISION

Pursuant to MN Rule 8420.0905, any appeal of this decision can only be commenced by mailing a petition for appeal, including applicable fee, within thirty (30) calendar days of the date of the mailing of this Notice to the following as indicated:

Check one:

<input checked="" type="checkbox"/> Appeal of an LGU staff decision. Send petition and <b>\$100.00</b> fee (if applicable) to: <b>Michael Kelly, P.E.</b> <b>City of Wayzata</b> <b>299 Wayzata Blvd W.</b> <b>Wayzata, MN 55391</b>	<input type="checkbox"/> Appeal of LGU governing body decision. Send petition and \$500 filing fee to: Executive Director Minnesota Board of Water and Soil Resources 520 Lafayette Road North St. Paul, MN 55155
--	---

#### 4. LIST OF ADDRESSEES

<input checked="" type="checkbox"/> SWCD TEP member: <b>Ms. Stacey Lijewski</b> <input checked="" type="checkbox"/> BWSR TEP member: <b>Mr. Ben Meyer</b> <input checked="" type="checkbox"/> LGU TEP member (if different than LGU Contact): <b>John Smyth, Stantec</b> <input checked="" type="checkbox"/> DNR TEP member: <b>Mr. Jason Spiegel</b> <input checked="" type="checkbox"/> DNR Regional Office (if different than DNR TEP member) <input checked="" type="checkbox"/> WD or WMO (if applicable): <b>Ms. Heidi Quinn</b> <input checked="" type="checkbox"/> Applicant and Landowner (if different) <input type="checkbox"/> Members of the public who requested notice:  <input checked="" type="checkbox"/> Corps of Engineers Project Manager <input checked="" type="checkbox"/> BWSR Wetland Bank Coordinator (wetland bank plan decisions only)
---

#### 5. MAILING INFORMATION

- For a list of BWSR TEP representatives: [www.bwsr.state.mn.us/aboutbwsr/workareas/WCA\\_areas.pdf](http://www.bwsr.state.mn.us/aboutbwsr/workareas/WCA_areas.pdf)
- For a list of DNR TEP representatives: [www.bwsr.state.mn.us/wetlands/wca/DNR\\_TEP\\_contacts.pdf](http://www.bwsr.state.mn.us/wetlands/wca/DNR_TEP_contacts.pdf)
- Department of Natural Resources Regional Offices:

NW Region:	NE Region:	Central Region:	Southern Region:
Reg. Env. Assess. Ecol. Div. Ecol. Resources 2115 Birchmont Beach Rd. NE Bemidji, MN 56601	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1201 E. Hwy. 2 Grand Rapids, MN 55744	Reg. Env. Assess. Ecol. Div. Ecol. Resources 1200 Warner Road St. Paul, MN 55106	Reg. Env. Assess. Ecol. Div. Ecol. Resources 261 Hwy. 15 South New Ulm, MN 56073

For a map of DNR Administrative Regions, see: [http://files.dnr.state.mn.us/aboutdnr/dnr\\_regions.pdf](http://files.dnr.state.mn.us/aboutdnr/dnr_regions.pdf)

- For a list of Corps of Project Managers: [www.mvp.usace.army.mil/regulatory/default.asp?pageid=687](http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=687)  
or send to:

US Army Corps of Engineers  
St. Paul District, ATTN: OP-R  
180 Fifth St. East, Suite 700  
St. Paul, MN 55101-1678

- For Wetland Bank Plan applications, also send a copy of the application to:  
Minnesota Board of Water and Soil Resources  
Wetland Bank Coordinator  
520 Lafayette Road North  
St. Paul, MN 55155

#### 6. ATTACHMENTS

In addition to the site locator map, list any other attachments: <input checked="" type="checkbox"/> <b>Delineation Report</b> <input checked="" type="checkbox"/> <b>Figure 2 - Revised Existing Conditions</b> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--