

CITY OF WORTHINGTON
PLANNING COMMISSION MEETING AGENDA

April 2, 2024; 7:00 p.m.

COUNCIL CHAMBERS, CITY HALL

A. CALL TO ORDER

B. AGENDA ADDITIONS/CHANGES AND CLOSURE

1. Additions/changes
2. Closure

C. APPROVAL OF MINUTES –

- **March 12, 2024; Regular Meeting**

D. PLANNING COMMISSION BUSINESS

1. ELECTION OF OFFICERS

2. PUBLIC HEARING AND BOARD OF ZONING APPEALS ACTION

Variance – 1941 Summit Avenue

E. OTHER BUSINESS

- Next Meeting, May 7, 2024
- Comprehensive Plan, Project Update

ADJOURNMENT

**CITY OF WORTHINGTON
PLANNING COMMISSION MEETING
Tuesday, March 12, 2024; 7:00 p.m.
COUNCIL CHAMBERS, CITY HALL**

Members Present: Andy Berg, Jason Gerdes, Lizbeth Lerma, Erin Schutte Wadzinski, Mark Vis

Members Absent: Michael Hoeft, Chris Kielblock

Staff: Matt Selof, Director of Community Development/Planning & Zoning

Others Present: Sam Martin, The Globe

CALL TO ORDER

Andy Berg called the meeting to order at 7:00 p.m.

AGENDA ADDITIONS/CHANGES AND CLOSURE

No changes to the Agenda. Jason Gerdes moved to approve the agenda; seconded by Mark Vis. Motion was approved unanimously.

APPROVAL OF MINUTES – February 6, 2024, Meeting

Gerdes moved to approve the Minutes; seconded by Lizbeth Lerma. Motion was approved unanimously.

PLANNING COMMISSION BUSINESS

**Public Hearing and Planning Commission Recommendation
Text Amendment – City Code Chapter 155, Section 42 and Chapter 155 Appendix
B: Table 2**

Matt Selof presented proposed changes to City Code Chapter 155, Section 42 and Chapter 155 Appendix B: Table 2

The City of Worthington is considering a text amendment to City Code Chapter 155, Section 42 and Chapter 155 Appendix B: Table 2. The proposed changes would require few parking stalls for “retail” and “other commercial” uses. It would also alter cooperative parking allowances and make other minor edits to City Code.

Staff recommended approval of the proposed text amendment.

Gerdes made a motion to open the public hearing; Vis seconded. The motion passed unanimously.

Gerdes made a motion to close the public hearing; Vis seconded. The motion passed unanimously.

Selof gave a summary of the proposed text amendment.

Erin Schutte Wadzinski moved to approve the text amendment, seconded by Lizbeth Lerma. The motion passed unanimously.

The text amendment proposal will be forwarded to the City Council for review at the March 25, 2024, Council Meeting.

Public Hearing and Planning Commission Recommendation Text Amendment – City Code Chapter 155, Appendix E: Table 5

Matt Selof presented proposed changes to City Code Chapter 155, Appendix E: Table 5

The Worthington Karen Baptist Church is seeking a text amendment to City Code Chapter 155 Appendix E: Table 5 to allow for a cemetery on a property zoned 'B-3' General Business District. The proposed change would permit cemeteries by conditional use only in the 'B-3' General Business District. If approved, the applicant would be able to request a conditional use permit for a cemetery on property they own.

Staff recommended approval of the proposed text amendment

Schutte Wadzinski asked of the upcoming Comprehensive Plan covers possible areas for cemeteries. Selof said there was nothing at the moment, and it is unusual to have a cemetery request. Giving the opportunity to request a cemetery is reasonable.

Vis asked Selof if he had looked at other cities' codes. Selof said that he had not, citing time constraints. Instead, staff looked at Minnesota State Statutes for reference.

Schutte Wadzinski said that the city should be open to the creation of cemeteries, under proper procedures allowed via city code.

Schutte Wadzinski made a motion to open the public hearing; seconded by Gerdes. The motion passed unanimously.

Discussion occurred about the text amendment itself and the limits it has in regards to the specific request that may come forth.

Gerdes made a motion to close public hearing; seconded by Vis. The motion passed unanimously.

Erin Schutte Wadzinski moved to approve the text amendment, seconded by Lizbeth Lerma. The motion passed unanimously.

The text amendment proposal will be forwarded to the City Council for review at the March 25, 2024, Council Meeting.

OTHER BUSINESS

There was no additional business.

ADJOURNMENT

Gerdes moved to Adjourn; seconded by Vis. The motion passed unanimously.

Next meeting: April 2, 2024; 7:00 p.m.

Andy Berg adjourned the meeting at 7:19 p.m.

Meredith Vaselaar, Secretary

**CITY OF WORTHINGTON
CITY PLANNING COMMISSION
NOTICE OF PUBLIC HEARING**

The City of Worthington City Planning Commission will hold one (1) public hearing on Tuesday, April 2, 2024 for the purpose of considering the following business:

Variance: New Dawn Incorporated has submitted an application for a variance to allow for the replacement of permeable pavers with concrete at 1941 Summit Ave. The pavers are required as a condition of a variance issued in 2008 which allowed for the paver system to be constructed and counted as 1/3 impervious. The applicant is seeking a variance to exceed the maximum 35% impervious coverage requirement on the property in order to replace the paver system with concrete. The legal description of the subject property is as follows:

Lot 8, Block 5, Lakeview Heights Addition, City of Worthington, Nobles County, Minnesota.

The public hearing will be held in the City Council Chambers at City Hall, 303 Ninth Street, Worthington, Minnesota, at 7:00 PM on Tuesday, April 2, 2024. At the hearing, the Planning Commission will hear staff's report and public testimony and may take action. Those unable to be heard at the time of the hearings are invited to send written comments that must be received by 5:00 PM the day of the hearings via e-mail to mselef@ci.worthington.mn.us; or mail to: Community Development, City of Worthington, P.O. Box 279, Worthington, Minnesota 56187. All materials related to these hearings will be available on the City's website at www.ci.worthington.mn.us by Friday, March 29, 2024. If unable to access the City's website, please contact (507) 372-8640 for alternative format arrangements.

1. ELECTION OF OFFICERS

Article IV, Section 1, of the Bylaws of the Worthington Planning Commission, requires that the Commission holds an annual meeting on the first Tuesday in May. Article VI, Section 1, of the Bylaws, requires that during the annual meeting, the Commission shall elect a Chairperson and a Vice-Chairperson from the voting membership. Article VI, Section 3, states that the Chairperson serves as the executive head of the Commission, and presides over all meetings. Article VI, Section 3, states that the Vice-Chairperson shall exercise the powers and duties of the Chairperson in their absence. Article VI, Section 2, requires that a member must serve for at least one year before they are eligible for an officer position and that no member may be elected to office for more than two consecutive years.

Despite the May date established by the Commission's Bylaws, the past practice has been to hold the Commission's annual meeting in April. In keeping with this past practice precedence, the April 4, 2024, regular meeting has been scheduled as the Commission's annual meeting. Therefore, the Commission must elect officers for the following twelve-month term, ending in March of 2025. Commissioner Kielblock, as the City Council representative, is ineligible for an officer position on the Commission. Pursuant to Article VI, Section 2, Commissioners Vis, Gerdes, Schutte Wadzinski, Lerma, and Hoeft, are eligible for officer positions. Commissioner Berg has served as an officer since May, 2022, and is ineligible to continue to serve as an officer.

Staff requests the Commission to elect the Commission's officer positions for 2024 pursuant to the Commission's Bylaws Article VI, Section 1.

2. PUBLIC HEARING AND BOARD OF ZONING APPEALS ACTION

Variance – 1941 Summit Avenue

1. Background

New Dawn Incorporated has submitted an application for a variance to allow for the replacement of permeable pavers with concrete at 1941 Summit Avenue. The pavers are required as a condition of a variance issued in 2008, which allowed for the paver system to be constructed and counted as 1/3 impervious. The applicant is seeking a variance to exceed the maximum 35% impervious coverage requirement on the property in order to replace the paver system with concrete. The legal description of the subject property is as follows:

Lot 8, Block 5, Lakeview Heights Addition, City of Worthington, Nobles County, Minnesota.

2. Considerations

1. In the 1980s, State legislation was passed that required the establishment of regulations to help protect public waters. This responsibility was delegated to the

Department of Natural Resources (DNR), while the responsibility to enforce the newly created regulations was placed on local government units. One of the primary regulations created was the maximum impervious surface coverage limit. This limits the total square footage of impervious surface allowed on a lot. Impervious surface is generally anything that does not allow water to drain through it (such as building structures, concrete, plastic landscaping, etc.).

The subject property, located at 1941 Summit Avenue, and shown in Exhibit 1A, is located completely within the shoreland overlay district. It is allowed a maximum 35% impervious surface coverage. The subject property is 70` x 115` with a total square footage of 8,050. The maximum impervious coverage allowed is 2,818 square feet.

2. On September 23, 2008, the City Planning Commission considered a variance request for this property. The request sought to allow the replacement of 661 square feet of impervious surfaces with permeable pavers to allow for the construction of 20` x 28` addition to the house. The Commission ultimately approved the variance with the following conditions:
 - The improvements are completed as shown in the site plan dated September 17, 2008.
 - The runoff factor shall be maintained at .4 or less during the life of the permeable paver system.
 - The infiltration rate shall be maintained at 3"/hr or more during the life of the permeable paver system.
 - The permeable paver system shall be considered 1/3 impervious.
 - The property complies with the 35% impervious coverage.
 - The applicant enters into a maintenance agreement with the City of Worthington.

The minutes from that meeting can be seen in Exhibit 1B and maintenance agreement can be seen in Exhibit 1C.

3. The pavers are now in poor condition and need to be replaced. The owner of the site, New Dawn Incorporated, is requesting a variance to allow the property to exceed to the 35% impervious coverage limit in order to replace the pavers with concrete. The requested variance, if approved, would nullify the prior variance and maintenance agreement. A letter from the applicant can be seen in Exhibit 1E.

Photos of the site can be seen in Exhibit 1D.

4. Should the area of the pavers be counted as fully impervious, it would put the property at 423 square feet over the limit (approximately 40% total). However, during a recent site visit, it was discovered that the landscaping around the house has plastic underneath the rock. This common landscaping plastic is calculated into the impervious surface total as it does not allow water through. While staff was unable to

get precise measurements of the landscaping due to snow coverage, the total landscaping is estimated to be around 380 square feet. This means that even with the 1/3 impervious pavers, the site is currently approximately 4% over the limit. Should the pavers be replaced with concrete, or counted as fully impervious, and the plastic remains, the site would be about 10% over the limit.

5. Pavers (or “permeable pavers”) are considered as impervious. Pavers are not a good replacement for true permeable surfaces. The definition of impervious surface, provided in a model shoreland ordinance from the DNR, includes permeable pavers. The DNR added some commentary to this, stating, “permeable pavers are also included to eliminate their use as a “work around” to meeting impervious coverage standards... Permeable pavement can reduce stormwater runoff, if maintained, but as a hard surface they remove habitat/vegetation and thus also impact shoreland aesthetics, both of are shoreland protection goals.”

In a few cases, similar to the subject property, the Board of Zoning Appeals has granted variances to allow for pavers to be counted as only 1/3 impervious. City Staff would no longer recommend this with any new requests. While paver systems may allow some water infiltration, they are often not up to the standard needed to reduce water runoff. Pavers installed in shoreland areas are almost always done as a work around to the ordinance, not because it is the best practice.

Nevertheless, 1941 Summit Avenue was allowed to install the paver system. The question now is, should the requirement remain as the applicant seek to replace the pavers and driveway?

6. Pursuant to Minnesota Statute § 462.357 Subd. 6, the applicant must satisfy the three-factor test for practical difficulties and the requested variance must be in harmony with the general purposes and intent of the Ordinance. The terms of the variance must also be consistent with the Comprehensive Plan. The three-factor test is as follows:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

The property owner wishes to replace the pavers with concrete. They are not proposing an expansion of the existing driveway/walkway/patio areas. Staff finds this to be a reasonable use.

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The subject property is a similar size and shape as surrounding properties. It contains is relatively flat, contains no unusual terrain or other features, and is

subject to the same regulations as all the properties in the same neighborhood. The only unique circumstance associated with this property is the approved variance form 2008.

3. The variance, if granted, will not alter the essential character of the locality.

The applicant is proposing to only replace the existing pavers, no expansion of parking, walkways, or patios is proposed. If granted, the variance would not alter the character of the locality.

Minnesota Statute §394.27 Subd. 7 states, “economic considerations alone do not constitute practical difficulties.”

7. The Shoreland Overlay District serves a clear purpose. It exists to protect the ecological, recreational, and economic values of waterways. One of the primary purposes is to protect water quality. Runoff is a major factor in this. As the Board considered the original variance request in 2008, City Staff stated in the accompanying report that “the applicant’s request to utilize permeable pavers would be within the spirit and intent of the Shoreland Ordinance...” Since that time, it has become clear that pavers do not meet the intent and spirit of the ordinance.

In accordance with the Shoreland Ordinance, staff provided the DNR notice of the variance request. Tom Kresko, DNR Area Hydrologist, indicated his agreement that any paver system, given enough time, becomes fully impervious. The DNR has not stated any support, nor opposition, to the request at this time. Mr. Kresko suggested exploring ways to manage run off in a manner that would meet the intent and purpose of the Shoreland Ordinance.

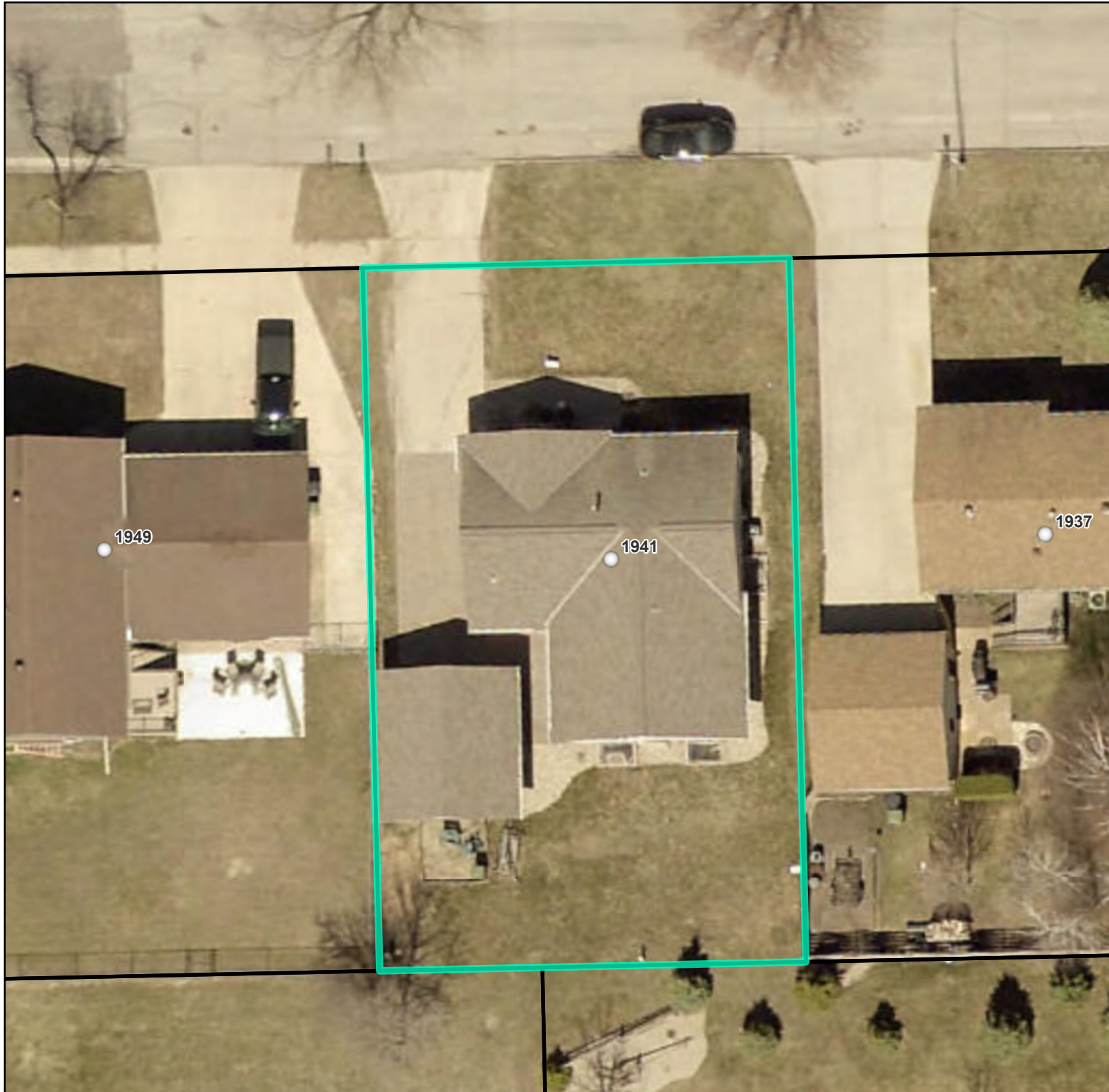
One such opportunity would be to alter how the northwest and southwest downspouts on the house outlet. Currently, they drain into a tile line which runs to the curb and into the street. There is a downspout diversion in case of freezing during the winter season. The garage downspout has already been moved to outlet directly onto the yard instead of a tile line. By cutting the tile line further back in the front yard and allowing it to outlet directly into the yard, it would let runoff from the house go through some filtration rather than draining directly onto the street and then into the lake.

3. Conclusion and Recommendation

The Board should carefully consider the intent of the original variance, the purpose and intent of the Shoreland Ordinance, and the criteria for granting variances. Staff no longer supports the use of pavers as a work around to the impervious coverage limits. However, the use of pavers was granted and does not mean that the Board should reverse the requirement without some other tradeoff. At a minimum, Staff recommends requiring

the removal of the plastic under the landscaping, and the diversion of the tile line draining the roof.

1941 Summit Avenue



Legend

- Address Points
- ▭ parcels



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**Planning Commission/Board of Appeals Minutes
September 23, 2008**

The meeting was called to order at 5:00 p.m. by Mark Nelson in the City Hall Council Chambers.

Members Present: Bob Demuth, Mike Kuhle, Jan Lowe, Mark Nelson, Chad Nixon, Dana Oberloh, Bruce Pass (5:05 p.m.)
Members Absent: None
Staff Present: Brad Chapulis, Director of Community/Economic Development; Julie Haack, Secretary
Others Present: Doris Palmer, Bob Malcolm, Dottie Trapp, Eunice Meyer, Betty Taarud, Gary Kellen, Lloyd Dreasher, Jeff Meinders

Planning Commission Business

Public Hearing and Zoning Appeals Action

Variance: Jeff Meinders, 1941 Summit Avenue

A variance application submitted by Jeff Meinders will, if approved, allow the applicant to replace 661 square feet of impervious surface with permeable pavers for the construction of a 20' x 28' addition to the existing single family home.

Brad Chapulis reviewed the original Shoreland Ordinance, which was required to be adopted in the early 1980's, and the revisions in 1995 that allowed the City to request "flexibility" in the adoption of the Ordinance. He also provided a summary of the types, uses, and installation of permeable pavers. It was noted that permeable pavers have typically been used in commercial settings, but have become more popular in residential applications over the last few years. He explained that the pavers are not pervious; rather the paver joints are the inlets to capture runoff. Ongoing maintenance is the key to maintaining the porosity of the system and preventing a pervious surface from inadvertently becoming impervious. No standard basis for design and installation has been found; therefore, the City should establish performance standard that the pavers would need to meet. Two performance standards, the infiltration rate and the runoff factor, should be considered. The infiltration measures the transfer of water to the storage system under the pavers and into the ground. It is a useful standard in measuring the performance of the porosity of the system. The runoff factor is a prediction of how the pavement will capture runoff for infiltration and varies from 1. to .7. A .4 runoff factor is roughly the same as an area of mixed residential use and about is 1/3 of the difference between the runoff rates of grassy areas and pavements which indicates that permeable pavement meeting these standards should be allowed as a rate of 1 to 1.5. The area of permeable pavers, therefore, would be considered 2/3 pervious and 1/3 impervious.

The variance process is a way to ensure that maintenance of the permeable pavers occurs. The variance should establish necessary performance and maintenance requirements and should be recorded as to the property.

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Brad Chapulis reviewed the project proposed by the applicant. The subject property currently has an impervious coverage of 39%. The applicant is proposing to remove existing concrete and install a 661 square foot permeable paver system as well as a 20' x 28' addition to the home. Once the project is complete, the property would have an impervious coverage of 35%. He also mentioned that Tom Kresko, DNR Area Hydrologist, received notice of the variance application and indicated that he did not object to the use of permeable pavers if they were designed, installed, and maintained to comply with the spirit of the Shoreland Ordinance. A copy of a sample maintenance agreement submitted by the applicant was distributed to the Planning Commission.

Mark Nelson asked for questions from members for staff. In response to questions from Mike Kuhle, Brad Chapulis explained that others cities are still in the exploration period. Suburban areas are looking at these projects on a case by case basis and are working with a 1 to 1, 2 to 1, or 3 to 1 ratio. Staff is recommending a ratio of 1 to 1.5 based on the information provided by one manufacturer and supportive information gathered from several websites. Mike Kuhle questioned the need for a maintenance agreement and how the pavers would be monitored. Brad Chapulis noted that maintenance requirements did not need a separate agreement as they could be conditions of variance approval. Also City staff would monitor the performance of the pavers during the fall which is the most likely time of year for the system to become clogged. As the popularity of the pavers increases, the monitoring may potentially be a strain on City staff. Dana Oberloh asked how the pavers would be tested. Brad Chapulis indicated that the amount of water in a three inch rainfall would be calculated for a specific area. City staff would simply pour that amount of water on the specific area and watch to see that the water infiltrated the joints at a rate of three inches per hour. Bob Demuth noted that it would be a tool for requiring the pavers to be maintained with the most current industry standards. Brad Chapulis noted that, at this point, the most maintenance effective tool is a leaf blower and the paver systems should last 20 years or more if properly maintained.

Mike Kuhle asked if the DNR is enthusiastic about permeable pavers. From his discussions with the DNR, Brad Chapulis is of the opinion that the DNR thinks the pavers can be good when used properly, but will be a problem if not maintained.

Chad Nixon asked how long other communities have been trying permeable pavers. Brad Chapulis estimates that most communities have only been working with the pavers for one or two years. Bruce Pass noted that a 1 to 1 ratio seemed to be the most workable, but Brad Chapulis indicated that ratio worked best for flat or contained areas.

Mark Nelson opened the public hearing.

Jeff Meinders explained the proposed project and gave a brief summary on the use of permeable pavers around the world. He noted that he is planning to sell the subject property and that the proposed buyer is willing to sign a maintenance contract similar to the sample provided at this meeting. It is also his opinion that the variance process is a good idea for permeable paver projects as each project should be reviewed individually. In response to Chad Nixon's questions, Jeff Meinders estimated that the cost of the permeable pavers is about six times higher than the cost of

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concrete.

Brad Chapulis noted that Steve Apel sent a letter in opposition to the use of pavers and approval of the variance application. He has developed many properties in that area, has had to work with the impervious coverage limits for many years, and does not want to see any changes.

Lloyd Dreasher, of 1949 Summit Avenue, is an abutting property owner. He questioned what sort of surface will be on the three feet between the pavers and his driveway. He is concerned that his driveway will become a parking lot for the subject property. He was assured by Brad Chapulis that the three foot strip would be grass and the residents of 1941 Summit Avenue would not be parking in his driveway.

Other members of the public, who did not identify themselves, questioned the use of the home. Jeff Meinders stated that the home was to be purchased by New Dawn and used as a group home. There would only be four residents and one staff person at the home. The zoning was questioned by members of the public. Brad Chapulis stated that State Statute considers group homes as single family dwellings and the City is not allowed to restrict the location of these homes. The members of the public also questioned the legal notice that stated that the addition would be to the garage. Brad Chapulis noted that was an unfortunate error, but the City Attorney determined that the notice did not need to be corrected and republished as the variance request concerned impervious coverage and not the addition to the home.

Chad Nixon motioned to close the public hearing. Jan Lowe seconded the motion and it passed unanimously.

Mark Nelson asked for other questions from the Commission. There were none. Bruce Pass motioned to approve the variance with the following conditions:

1. The improvements are completed as shown on the site plan dated September 17, 2008.
2. The runoff factor shall be maintained at .4 or less during the life of the permeable paver system.
3. The infiltration rate shall be maintained at a rate of 3 inches per hour or more during the life of the permeable paver system.
4. The permeable paver system shall be considered 1/3 impervious.
5. The property complies with the 35% impervious coverage limits.
6. The permeable paver system is maintained using the most recently recommended industry standards. (This condition was added after discussion by the Planning Commission - see page 4.)

An unidentified member of the public asked how many of those homes could be in a neighborhood. Brad Chapulis explained that the City could not regulate the number of group homes in a

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neighborhood. He also explained that the variance request was not for the use of the property.; it was for the amount of impervious coverage. Another member of the public commented that even though they were all against it, it would happen anyway. Mike Kuhle explained that the variance had nothing to do with the use of the property. He noted that the Planning Commission could only discuss the amount of impervious coverage, which would decrease from 39% to 35% with the use of permeable pavers.

Bob Demuth suggested adding a sixth condition related to using the most recently recommended industry maintenance standards to the motion. Chad Nixon seconded the motion with the addition of the sixth condition.

An unidentified member of the public questioned how the use of the home would affect their property value. Brad Chapulis again stated that the use of the property is established by State Statute and the City cannot regulate the location of group homes. Jeff Meinders stated that he maintains the nine New Dawn homes in Worthington. The two group homes currently in the area of the subject property are owned by the school district. Brad Chapulis mentioned that those two homes are currently for sale as single family residences.

The Planning Commission voted on the motion. It passed unanimously.

Brad Chapulis noted that the decision will be considered final following a seven day waiting period for appeal. He also explained that the only item that could be appealed is the amount of impervious coverage.

Other Business

The next regularly scheduled meeting is October 7, 2008. At this time there is one item for the agenda.

Adjournment

There being no further business to discuss, a motion was made by Bob Demuth, seconded by Dana Oberloh, and unanimously carried to adjourn the meeting at 5:47 p.m.

Julie Haack
Secretary

Permeable Interlocking Concrete Pavement Maintenance Agreement

This Maintenance Agreement made this 15th day of October, 2008, by and between New Dawn, Inc. (property owner/s), hereinafter referred to as the "Grantor," and the City of Worthington hereinafter referred to as the "City."

WITNESSETH

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

WHEREAS, the Grantor is the owner of a certain tract or parcel of land more particularly described as Lot 8, Block 5, Lakeview Heights Addition, City of Worthington, Nobles County, Minnesota; and

WHEREAS, the Grantor desires to construct certain improvements on the property which will alter existing storm and surface water conditions on the property and adjacent lands; and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Grantor, its heirs and assigns, desires to build and maintain, at its expense, a storm and surface water management facility and system more particularly described as permeable interlocking concrete pavement; and

WHEREAS, attached hereto as Exhibit 'A' are the specifications and design of the storm and surface water management facility which has been approved by the City subject to the execution of this agreement.

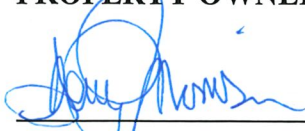
NOW THEREFORE, in consideration of the benefit received by the Grantor, its heirs and assigns, and as a result of the City approval of its plans, the Grantor, its heirs and assigns, with full authority to execute deeds, deeds of trust, other covenants and with all rights, title, and interest in the property described above hereby covenants with the City as follows:

1. The Grantor, its heirs and assigns, shall construct and perpetually maintain, at its sole expense, the above referenced permeable interlocking concrete pavement, hereafter referenced as the "storm and surface water management facility and system", in strict accordance with the plan as set forth on Exhibit 'A'.
2. The City may, in its discretion, determine that certain changes or modifications of Grantor's storm drainage facility and system be necessary to insure that the facility and system are properly maintained and continue to operate as designed and approved. In the event that such changes or modifications are required, Grantor shall, at its sole expense, make such changes or modifications.

3. The City, its agents, employees, and contractors shall have the perpetual right of ingress and egress over the property of the Grantor, its heirs and assigns, and the right to inspect at reasonable times and in a reasonable manner the storm and surface water facility and system. Inspection is in order to insure that the system is being properly maintained and is continuing to perform in an adequate manner.
4. The Grantor, its heirs and assigns, agrees that should it fail to correct any defects in the storm and surface water facility and system within thirty (30) days from issuance of written notice, or should fail to maintain the facility and system in accordance with the approved design standards and in accordance with the law and applicable regulations, or in the event of an emergency as determined by the City in its sole discretion, the City is authorized to enter the property to make all repairs and to perform all maintenance, construction, and reconstruction that the City deems necessary. The City shall assess the Grantor, its heirs and assigns, for the cost of the work, both direct and indirect, and applicable penalties. Said assessment shall be a lien against all properties described within this Maintenance Agreement and may be placed on the property tax bills of said properties and collected as ordinary taxes by the City.
5. The Covenants contained herein shall run with the land and the Grantor, its heirs and assigns, further agrees whenever the property shall be held, sold, and conveyed, it shall be subject to the covenants stipulations, agreements, and provisions of the Agreement, which shall apply to all present and subsequent owners of the property described herein.
6. The Grantor agrees not to transfer or assign responsibility to maintain the facility and system under this Agreement.
7. The provisions of this Maintenance Agreement shall be severable and if any phrase, clause, sentence, or provision is declared unconstitutional, or the applicability of the Grantor, its heirs and assigns, is held invalid, the remainder of this Covenant shall not be affected thereby.
8. The Maintenance Agreement shall be recorded at the office of the Nobles County Record at the Grantor's expense.
9. In the event that the City shall determine, at its sole discretion, at any future time, that the facility is no longer required, the City shall, at the request of the Grantor, its heirs and assigns, execute a release of this Maintenance Agreement, which the Grantor, its heirs and assigns, shall record in the Clerk's Office at its expense.

IN WITNESS THEREOF, the Grantor has executed this Maintenance Agreement on the 15TH day of OCTOBER, 2008.

PROPERTY OWNER

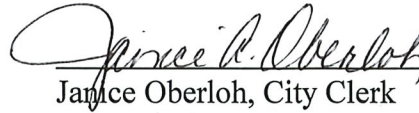


Terry Morrison, Administrator
New Dawn, Inc.

CITY OF WORTHINGTON

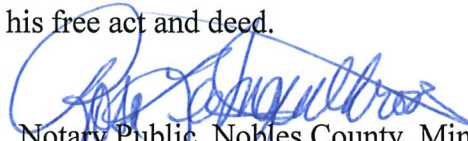


Alan Oberloh, Mayor


Janice Oberloh, City Clerk

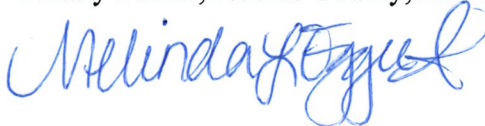
STATE OF MINNESOTA)
)ss.
COUNTY OF NOBLES)

On this 15th day of October, 2008, before me, a notary public within and said County and State, personally appeared, Terry Morrison, to me known as Administrator, and he executed the foregoing instrument on behalf of New Dawn, Inc., that he is authorized to do so, and acknowledged that he executed the same as his free act and deed.


Notary Public, Nobles County, Minnesota
My Commission Expires: 01/31/2008

STATE OF MINNESOTA)
)ss.
COUNTY OF NOBLES)

On this 31st day of October, 2008, before me, a notary public within and said County and State, personally appeared, Alan Oberloh and Janice Oberloh, to me known to be respectively the Mayor and City Clerk of the City of Worthington, and that they executed the foregoing instrument on behalf of the City of Worthington, that they are authorized to do so, and acknowledged that they executed the same as their free act and deed.

Notary Public, Nobles County, Minnesota


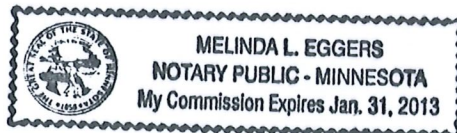




Exhibit 1D



Exhibit 1D



Exhibit 1D



Exhibit 1D



Exhibit 1D



Exhibit 1D



Exhibit 1D



Exhibit 1D



New Dawn
A Circle of Support

3/12/24

Community Development Department
City of Worthington
303 9th Street
Worthington, MN 56187

Dear Mr. Selof,

I am writing to request an amendment to the existing variance in place regarding the permeable surface requirement for the property located at 1941 Summit Avenue in Worthington. The current variance allows for 35% impervious surfaces on the mentioned property. I would like to have the requirement amended to a 40% minimum impervious surface requirement to allow for the existing paver driveway, patio, and sidewalk to be replaced with concrete.

The property in question currently serves as a group home for people with developmental and physical disabilities. The current requirement of maintaining a permeable paver system to meet the requirements of the variance in place imposes a hardship on the people currently residing at this property. Some of the people have physical disabilities that make mobility challenging and maintaining a driveway and sidewalk that is free from ice and snow is imperative for the safety of these people. The consistent use of ice melt to achieve this through the winter months has taken its toll on the existing permeable pavers and is causing further safety hazards for the people living at this location.

Maintaining these pavers also creates an economic hardship as the cost to maintain and replace concrete is far more affordable compared to a permeable paver system. I have attached quotes from contractors for the replacement of the permeable paver system with similar materials as to what exists and with concrete to show the difference in cost. While we are a business and have more reserves than a normal citizen, the cost of the permeable paver system exceeds what is reasonable.

The aforementioned reasons are why the inability to receive the requested variance would create a hardship. I hope the committee can see the hardship the existing variance creates to the people residing at 1941 Summit Ave.

Regards,



Patrick Musegades
New Dawn, Inc CEO

101 S Baltimore | PO Box 324 | Fulda, MN 56131 | 507.425.3278
fx 507.425.2222

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ADDITIONS
NEW HOMES
POLE SHEDS

Name New Dawn Date 3-12-24
Address 1941 Summit Ave. Phone _____
City Worthington State MN Zip 56187

| DATE | DESCRIPTION | BALANCE |
|------|-------------|---------|
|------|-------------|---------|

| | | |
|--|--|--|
| | Cement | |
| | 1. Take up the old cement / Brick Pavers | |
| | 2. Frame up for New 3 1/2" thick cement | |
| | 3. Rebar every 2 feet perpendicular laid | |
| | 4. 4000 lb. concrete mix | |
| | 5. Includes all materials, labor, Disposal | |

| | |
|-----------------------------|------------|
| 49 x 14 concrete Area - | \$ 8250.00 |
| 39 x 14 Brick Area - | \$ 6550.00 |
| Brick patio Area - | \$ 2500.00 |
| front Brick sidewalk area - | \$ 1300.00 |

Total for everything \$ 18,600.00



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507-425-2478
 507-425-2215
 507-920-8010
 sonland.net

Proposal & Acceptance

| Date | Estimate # |
|-----------|------------|
| 2/21/2024 | 644 |

TERMS: 50% down with Signed Proposal.
 Balance Due, Date of Completion.

Name / Address

New Dawn
 101 S Baltimore Ave
 Fulda Mn 56131

Project will be billed as time and materials. And according to quantity amounts actually used including waste.
 Project will be billed according to proposed pricing. Total quantities of specified products may vary. And will include waste.

All installed plant materials will be true to scientific name, healthy, disease free, inspected by the USDA. We will be responsible for initial watering & proper installation. Installed plant material will be guaranteed only if the supplier of the plants guarantees them. Installed plant materials will be replaced only once. Plant replacement labor will be an additional charge. A one year warranty will be provided on workmanship of hardscapes.
 All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders & will become an extra charge over & above the estimate. All agreements contingent upon accidents, acts of God, or delays beyond our control.

| Item | Description | Qty | Cost | Total |
|-----------------|---|-----|-----------|-----------|
| Landscaping ... | Landscaping installed Rough estimate, replace all permeable paver driveway and walk areas. Summit ave Worthington | 1 | 45,000.00 | 45,000.00 |

| | | |
|--|---------------------------|-------------|
| | Subtotal | \$45,000.00 |
| Acceptance of proposal. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work specified Date _____ Signature _____ (Please sign and return with amount specified in terms) | Sales Tax (6.875%) | \$0.00 |
| | Total | \$45,000.00 |