



**LAND USE APPLICATION SUMMARY**

*Property Location:* 5912 Girard Avenue South  
*Project Name:* Variances for new home construction  
*Prepared By:* Andrew Liska, City Planner, 612.673.2264  
*Applicant:* Mike Lee  
*Project Contact:* Mike Lee  
*Request:* To develop within 40' of a steep slope in the Shoreland Overlay District and to develop in the Shoreland Overlay District within 50' of protected water.

*Required Applications:*

<b>Variance</b>	To develop within 40' of a steep slope in the Shoreland Overlay District
	To develop within 50' of a protected water in the Shoreland Overlay District

**SITE DATA**

<b>Existing Zoning</b>	RI, SH
<b>Lot Area</b>	6,365 square feet
<b>Ward(s)</b>	13
<b>Neighborhood(s)</b>	Kenny
<b>Designated Future Land Use</b>	Urban Neighborhood
<b>Land Use Features</b>	NA
<b>Small Area Plan(s)</b>	NA

<b>Date Application Deemed Complete</b>	July 25, 2016	<b>Date Extension Letter Sent</b>	NA
<b>End of 60-Day Decision Period</b>	September 23, 2016	<b>End of 120-Day Decision Period</b>	NA

## BACKGROUND

**SITE DESCRIPTION AND PRESENT USE.** The subject property is a five sided parcel that is 6,365 square feet, is vacant and densely vegetated. The topography on site is high on the eastern side near Girard Avenue South and drops down to the protected water towards the south. The northeast corner and the western side of the lot are relatively flat. The property is bound by Girard Avenue South to the east, Grass Lake to the south, and properties addressed off of Grass Lake Terrace to the north and west.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD.** The surrounding properties in the area are predominantly split level single-family dwellings with attached garages. The topography of the area is fairly hilly.

**PROJECT DESCRIPTION.** Given the proposed new construction in this area, the applicant was required to perform a wetland delineation to identify the exact boundary of said wetland. An engineering firm was hired and marked the proposed wetland boundary for delineation review. Minnehaha Creek Watershed District (MCWD) conducted a site visit to review the proposed wetland delineation boundary and verified that it was accurate. Following the 15 day comment period, the wetland boundary was finalized and formally recognized. The wetland delineation approval from MCWD is attached for reference.

Based on the official wetland boundary, the applicant worked extensively with the MCWD in to understand the regulations and to propose plans that comply, including meeting the buffer requirement based on the type of wetland present. Based on this type of wetland, MCWD requires a boundary buffer range from 12.5 feet to 37.5 feet where no impacts are permitted; this range allows for proposals to be evaluated based on the site and wetland present. For this proposal, the MCWD is requiring a 12.5 foot buffer from the wetland with a continuous 25 foot no-mow buffer along the entire southern property line. Impacts are permitted outside of the 12.5 foot buffer but inside of the 25 foot buffer. The MCWD and their regulations differ from those enforced by the City; however it is important to note that the proposal satisfies all MCWD requirements. The MCWD will not issue permits for this proposal until it is approved by the City. Their approvals will include the erosion control plan, grading, and the planting plans – plans that directly impact the wetland.

As for the structure, the applicant has proposed a new two story single-family dwelling with a flat roof and an attached garage. The roof will have an access point that leads to a deck on the northern side of the dwelling; the south side of the dwelling is proposed to have an extensive green roof. Technically, this roof access is classified as a second story although, given the setback from the front and sides of the structure and its minimal size, the home feels like a single story. The garage is accessed via a new curb cut off of Girard Avenue South over an elevated driveway. The elevated driveway allows for minimal grade changes to the existing site.

The footprint of the basement is significantly smaller than the main floor. The intent behind this design is to minimize soil disturbances on site and the amount of grading required while also locating the basement as far from the wetland as possible. The main floor cantilevers to the south towards Grass Lake approximately 20 feet. This design allows the structure to have usable square footage on the main floor while also not creating any physical impacts in the form of piers within the 12.5 foot buffer as required by the MCWD.

No point of the basement is exposed greater than 12 feet nor is more than 6 feet exposed for more than 50% of the perimeter and thus, the lower level is considered a basement and not a story. Code

requires that the basement is included in gross floor area calculations if it is exposed greater than 3.5 feet for more than 50% of the perimeter. The basement is exposed more than 3.5 feet for more than 50% of the perimeter and thus, is included in the floor area ratio calculations. The proposed FAR is  $(2,842 / 6,365) .447$ ; below the .5 maximum permitted by Code.

The applicant has proposed a retaining wall system on the eastern side of the lot along with a large raingarden system. These along with the extensive planting schedule proposed have been designed by a professional landscape architecture firm. Per MCWD requirements, a 25 foot no-mow zone has been proposed from the southern property line northward running east and west from front to rear lot line.

Due to the proximity to Grass Lake and the associated wetland along with the grade present on site, the proposed development requires two variances. One variance to allow development within 50 feet of any protected water (wetland) and one to allow development on or within 40 feet of the top of a steep slope. The SH Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

In 2005 and 2006, land-use applications were submitted for the construction of a new single-family dwelling on site. The staff reports and associated materials are attached. In short, the applications were denied by the Planning Commission and the Zoning & Planning Committee but approved with conditions by City Council. The applicant sought extensions which were granted but ultimately failed to comply with the conditions that Council included in the approval.

**PUBLIC COMMENTS.** As of writing this staff report, staff has not received any correspondence from the Kenny Neighborhood Association.

**ZONING ANALYSIS.** An analysis indicates that the proposed dwelling meets the Design Standard points for new 1-4 dwelling units. Seventeen points are the minimum point total needed for approval and this proposal received 20 out of 27 possible points for the following design standards:

- The exterior building materials are masonry, brick, stone, stucco, wood, cement-board siding, and/or glass (6 points);
- The height of the structure is within one-half story of the predominant height of residential buildings within one hundred (100) feet of the site (4 points);
- The total diameter of trees retained or planted equals not less than three (3) inches per one thousand square feet of total lot area, or fraction thereof. Tree diameter shall be measured at four and one-half (4.5) feet above grade (4 points);
- Not less than twenty (20) percent of the walls on each floor that face a public street, not including walls on half stories, are windows (3 points);
- The structure includes a basement as defined by the building code (3 points);

## ANALYSIS

### VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of Chapter 525, Article IX Variances, specifically Section 525.520(17) "to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff, based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

The circumstance upon which the variance is requested is unique to the parcel of land due to the existing steep slope and the proximity to Grass Lake. These conditions were not created by the applicant but rather are due to the existing topography and the platting of the area. This parcel is unbuildable without the requested variance.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The applicant is proposing to use the property in a reasonable matter. This is a residential area and the proposed use is a single-family dwelling; this use is consistent with the character of the area and the future land-use map demonstrated in the Comprehensive Plan.

The intent of the ordinance authorizing development in the SH Shoreland Overlay District is to protect natural features within the City of Minneapolis from potentially harmful development. The applicant has developed extensive plans that minimize the impact of development to the protected water. The small footprint of the basement allows for the site to be developed with minimal impact to the wetland and much of the existing grade on site near the wetland. The retaining walls and raingarden system will stabilize the area, encourage absorption on site, and greatly reduce the amount of steep slope on site. Finally, the planting plan along with no-mow zone will allow vegetation to cover the ground and both encourage absorption and also provide a root system that will stabilize the site closer to the wetland. The proposed development will not compromise Grass Lake and the surrounding wetland.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The proposed variance will not alter the character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The proposed structure will blend with the built environment and is designed in a manner to minimize impacts on the site. This development will protect and preserve the wetland.

Health, safety, and welfare of the general public will not be compromised if this variance is granted. If approved, this new single-family dwelling will provide this area with a quality structure that will not negatively impact the surrounding homes or Grass Lake.

## **FINDINGS REQUIRED BY THE MINNEAPOLIS CODE FOR DEVELOPMENT IN THE SHORELAND OVERLAY DISTRICT**

Chapter 551.470 Location of Development prohibits development except as authorized by variance. Development authorized by variance shall be subject to the following:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

Single-family dwellings currently exist within 500 feet of the proposed development location.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The soil, upon which the dwelling is proposed, is adequate in supporting a new dwelling. Similar soil supports dwellings in the area. In addition, Construction Code Services will work closely with the applicant in ensuring the foundation is compatible with the soil type and the slope and confirm that best management practices are followed. If necessary, Construction Code Services may require a soil boring report to demonstrate the existing conditions are able to support the proposed development.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

Based on the Building Code analysis of the soil and grade on site, Construction Code Services may require a shoring system in locations during excavation and construction. If the plans are approved and implemented in the manner required by the Building Code and in accordance with the plans, the development should present no danger of any falling rock, mud, uprooted trees or other material.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

Given the proximity to Grass Lake, it is nearly impossible to screen all views of the proposed development. The applicant is proposing a low profile structure with a flat roof that minimizes views of the development from the protected water.

The planting plan prepared by a licensed landscape architect also will add vegetation to the site that will thrive in the existing soil conditions that too, will resemble the natural appearance of the site. Two existing trees are shown to remain on the southern side of the lot, as well as one tree on the eastern side of the parcel. These trees along with one tree on the public right-of-way will all contribute to the preservation of natural appearance of the site. These trees will screen much of the proposed development and minimize the change in view of the developed slope. Given the importance of the proposed trees in these locations staff has conditioned that these trees remain as well as two additional trees located along the northern border of the parcel.

In addition, the Zoning Board of Adjustment shall consider, but not limited to the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The applicant has been active in working with Minnehaha Creek Watershed District in developing a proposal that would prevent erosion and pollutants from entering the protected water. The proposed retaining walls reduce the amount and velocity of water from moving across the surface by slowing it down and thus, encouraging absorption. A large rain garden is also proposed that the MCWD has reviewed and given preliminary approval to.

Aside from this, the applicant also has provided an extensive planting schedule that aims to provide on-site absorption as well as plantings that will be able to thrive being located in the conditions offered by this site. Once established, this thick ground cover will capture erosion and pollutants before they enter Grass Lake following construction.

Public Works has reviewed the plans and proposed a condition of approval regarding the installation of a double silt fence between development and the protected waters.

2. *Limiting the visibility of structures and other development from protected waters.*

Given the proximity to Grass Lake, it is nearly impossible to screen all views of the proposed development. The applicant is proposing a low profile structure with a flat roof. Two trees located between the protected water and the development will remain as will one tree located on the eastern side of the parcel near the steep slope.

The combination of the low profile building and the preservation of mature trees, the visibility of this development proposal will be limited.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

There is no watercraft associated with this development proposal.

The Department of Community Planning and Economic Development has analyzed the application for a variance of Chapter 525, Article IX Variances, specifically Section 525.520(18) “to permit development in the SH Shoreland Overlay District within fifty (50) feet of a protected water”, based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

The circumstance upon which the variance is requested is unique to the parcel of land due platting of the parcel and the required buffer of 50 feet from protected water makes this parcel undevelopable without this variance. The applicant did not create the platting or the proximity to the protected water. This parcel is unbuildable without the requested variance.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The applicant is proposing to use the property in a reasonable matter. This is a residential area and the proposed use is a single-family dwelling; this use is consistent with the character of the area and the future land-use map demonstrated in the Comprehensive Plan.

The intent of the ordinance authorizing development in the SH Shoreland Overlay District is to protect natural features within the City of Minneapolis from potentially harmful development. The applicant has developed extensive plans that minimize the impact of development to the protected water. The small footprint of the basement allows for the site to be developed with minimal impact to the wetland and much of the existing grade on site near the wetland. The north interior side yard setback is proposed at 8 feet; the minimum interior side yard setback for this parcel.

The retaining walls and raingarden system will stabilize the area, encourage absorption on site, and greatly reduce the amount of steep slope on site. Finally, the planting plan along with no-mow zone will allow vegetation to cover the ground and both encourage absorption and also provide a root system that will stabilize the site closer to the wetland. The proposed development will not compromise Grass Lake and the surrounding wetland.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The proposed variance will not alter the character of the locality or be injurious to the use or enjoyment of other property in the vicinity. This area is comprised of many split level dwellings and attached garages. The applicant is seeking a structure that will blend with the built environment while also protecting and preserving the wetland.

Health, safety, and welfare of the general public will not be compromised if this variance is granted. If approved, this new single-family dwelling will provide this area will a quality structure that will not negatively impact the surrounding homes or Grass Lake.

## FINDINGS REQUIRED BY THE MINNEAPOLIS CODE FOR DEVELOPMENT IN THE SHORELAND OVERLAY DISTRICT

Chapter 551.470 Location of Development prohibits development except as authorized by variance. Development authorized by variance shall be subject to the following:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

Single-family dwellings currently exist within 500 feet of the proposed development location.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The soil, upon which the dwelling is proposed, is adequate in supporting a new dwelling. Similar soil supports dwellings in the area. In addition, Construction Code Services will work closely with the applicant in ensuring the foundation is compatible with the soil type and the slope and confirm that best management practices are followed. If necessary, Construction Code Services may require a soil boring report to demonstrate the existing conditions are able to support the proposed development.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

Based on the Building Code analysis of the soil and grade on site, Construction Code Services may require a shoring system in locations during excavation and construction. If the plans are approved and implemented in the manner required by the Building Code and in accordance with the plans, the development should present no danger of any falling rock, mud, uprooted trees or other material.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

Given the proximity to Grass Lake, it is nearly impossible to screen all views of the proposed development. The applicant is proposing a single story structure with a flat roof.

The applicant is proposing to keep two trees located on the southern side of the lot as well as one tree on the slope on the eastern side of the lot. These three trees will screen much of the proposed development and minimize the change in view of the developed slope. Given the importance of the proposed trees in these locations staff has conditioned that these trees remain as well as two additional trees located along the northern border of the parcel.

The planting plan prepared by a licensed landscape architect also will add vegetation to the site that will thrive in the existing soil conditions.

In addition, the Zoning Board of Adjustment shall consider, but not limited to the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The applicant has been active in working with Minnehaha Creek Watershed District in developing a proposal that would prevent erosion and pollutants from entering the protected water. The structure itself features an extensive green roof that will manage some rain water. Water not captured by the green roof will be diverted off the front of the structure into splash rock and down into the rain garden. The proposed retaining walls reduce the amount and velocity of water from moving across the surface by slowing it down and thus, encouraging absorption. The MCWD has reviewed the proposed development in terms of erosion and water control and is in support of the design.

Aside from this, the applicant also has provided an extensive planting schedule that aims to provide on-site absorption as well as plantings that will be able to thrive being located in the conditions offered by this site. Once established, this thick ground cover will capture erosion and pollutants before they enter Grass Lake following construction.

Public Works has reviewed the plans and proposed a condition of approval regarding the installation of a double silt fence between development and the protected waters.

2. *Limiting the visibility of structures and other development from protected waters.*

Given the proximity to Grass Lake, it is nearly impossible to screen all views of the proposed development. The applicant is proposing a low profile structure with a flat roof. Two trees located between the protected water and the development will remain as will one tree located on the eastern side of the parcel near the steep slope.

The combination of the low profile building and the preservation of mature trees, the visibility of this development proposal will be limited.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

There is no watercraft associated with this development proposal.

## RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by Mike Lee for the property located at 5912 Girard Avenue South:

**A. Variance to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff for the construction of a new single-family dwelling. To develop within 50' of a protected water in the Shoreland Overlay District**

Recommended motion: **Approve** the application, subject to the following conditions:

1. Approval of the final site, elevation and floor plans by the Department of Community Planning and Economic Development.
2. The five remaining trees shown on the site plan shall be protected during construction and shall remain.
3. A double silt fence shall be placed and maintained in working order on the southern side of the dwelling for the entire duration of construction, including planting vegetation to protect the wetland.
4. All site improvements shall be completed by August 25, 2018, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**B. Variance to develop within 50' of a protected water in the Shoreland Overlay District**

Recommended motion: **Approve** the application, subject to the following conditions:

1. Approval of the final site, elevation and floor plans by the Department of Community Planning and Economic Development.

2. The five remaining trees shown on the site plan shall be protected during construction and shall remain.
3. A double silt fence shall be placed and maintained in working order on the southern side of the dwelling for the entire duration of construction, including planting vegetation to protect the wetland.
4. All site improvements shall be completed by August 25, 2018, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

## ATTACHMENTS

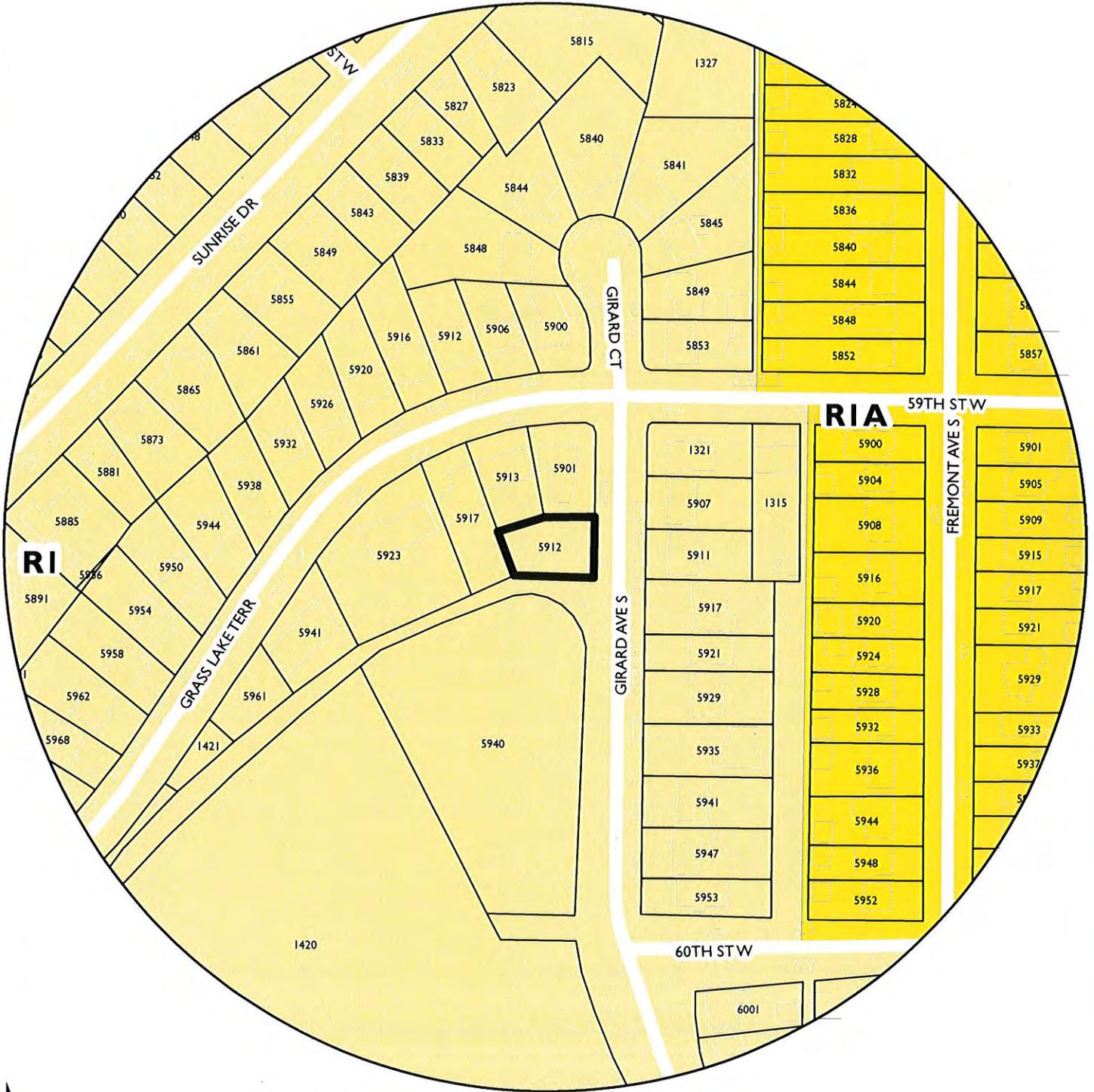
1. Zoning map
2. Written description and findings submitted by applicant
3. Survey
4. Site plan
5. Erosion control plan
6. Grading plan
7. Landscaping/Planting plan
8. Elevations
9. Floor Plans
10. Minnehaha Creek Watershed District – Wetland boundary approval
11. Previous land-use application report and actions – BZZ-2677
12. Photos
13. Correspondence

Mike Lee

13th

NAME OF APPLICANT

WARD



PROPERTY ADDRESS  
**5912 Girard Ave S**

FILE NUMBER  
**BZZ-7781**

**A. Variance to permit development within 50 feet of a protected water.**

- (1) Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

*The proposed development occurs within 50 feet of protected water because only 15 square feet of the site is currently buildable when the yard setbacks and buffer areas are enforced. As the site is zoned residential, we seek a variance to build within the 50-foot buffer adjacent the wetlands, while not touching the actual wetlands. The foundation and lower level is pushed as far from the delineated wetlands as possible – adjacent to the north property line. This portion of the house is 24 feet wide. Nine additional, small diameter piers support the main level of the house, which is near the grade of the street. As the Minnehaha Creek Watershed District (MCWD) does not allow any penetrations into a buffer area 12'-6" adjacent to a delineated wetland, the southernmost piers are angled to comply with the MCWD requirements.*

- (2) The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

*We intend to build a house that minimizes the construction on the delineated wetlands buffer. The house is a small, two-bedroom house with a single stall attached garage. The garage is located on the second level to reduce the amount of driveway and grading that would be required to construct a garage at grade level. The access to garage is via a partially elevated driveway further reducing the paved areas on the site.*

*The proposed design utilizes a pier system to support approximately half of the first floor, minimizing the amount of wetlands disturbed. This design also significantly reduces the amount of grading that is required – further minimizing the impact on existing grades and vegetation. The proposed pier foundation system is the current state of the art foundation for minimizing the disturbance of wetlands.*

*We have, and intend to continue to consult with professionals to design the best systems to capture and clean the runoff from the roof and driveway so that pollutants are not released into the wetlands or lake.*

- (3) The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

*We will minimize alteration of the essential character of the locality. The proposed design is one level at street level with a partial lower level walkout, much like other houses directly adjacent to Grass Lake, and lower than many of the adjacent houses in the neighborhood.*

*The existing plantings on site will be maintained as much as possible. Although some of the existing trees will be removed for the new structure, the existing grading and ground cover will be left as close to the existing as possible. Trees that are not designated to be removed but are damaged during construction will be replaced. The siting of the house attempts to minimize the impact on adjacent neighbors' views by keeping the main mass at the front of the site – it will however alter the views of some neighbors.*

*We further intend to use construction techniques that minimize impact on the neighbors. We intend to use helical piers to support the one story portion of the house. Helical piers are drilled, not pile driven, so the vibration impact and noise level is minimized for neighbors and the lakeshore. We will also work with the contractor to identify and utilize other construction techniques that are as low impact as possible. There will be an erosion control plan, a construction waste recycling plan and a noise control plan to limit the hours during which construction noise exceeds the decibel level of a car will be allowed.*

**SHORELAND OVERLAY DISTRICT OR MISSISSIPPI RIVER CRITICAL AREA OVERLAY DISTRICT VARIANCE:**

**(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

*We intend to have the contractor provide erosion control measures during construction, limiting the erosion of the site as well as reducing the soil accumulation onto the adjacent street. After construction is complete, we intend to plant the sloped portion of the site with appropriate plantings, which establish quickly and prevent erosion.*

*We intend to provide other plantings on site that are compatible with the wetlands nature of the site.*

*We will not use fertilizer and do not intend to provide turf on site. The goal is to keep the plantings natural.*

*We have consulted with landscape architects with working knowledge of urban wetland landscape. The design will manage runoff from the roof and driveway to filter and limit the pollutants that get into the wetlands and public waters*

**(2) Limiting the visibility of structures and other development from protected waters.**

*We will limit the visibility of structure from the protected waters by keeping the footprint of the house small and by limiting the height of the house - consistent with the surrounding lakeshore structures.*

*None of the trees within 20 feet of the Grass Lake (south) property line will be removed.*

**(3) The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

*The proposed structure will not have any impact on the suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

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**B. Variance to permit development within 40 feet of the top of a steep slope.**

**(1). Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

*The proposed design strives to minimize impact within 40' of a steep slope. The goal of the design is to allow the steep slope to exist and work within the constraints created. The vehicle access to the house and garage is via a bridge structure, which avoids having to infill within 40' of a steep slope. The main portion of the house is sited on the flat portion of the site – only the north-east portion of the structure will affect the current grading of the site. That said, the poor soils under this portion of the structure require removal and remediation to create a suitable building pad. The goal of the proposed design is to be sensitive to the steep slope and disrupt it as minimally as possible. We value the topography and want to create a house that coexists within the topographical constraints as much as possible.*

*In addition, we intend to require the contractor have an erosion control plan in place during the construction of the house. After the house is built, we intend to plant the steep sloped portion of the site with ground cover to prevent further erosion and stabilize the slope*

**(2) The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

*We intend to build a low impact residence that minimizes the impact on the views and access of existing homeowners. Our goal is to respect the site and work within its constraints as much as possible. We value the natural character of the site and it is important to us to strive to maintain that natural character, both for the people of the neighborhood and the wildlife that inhabits the lake and surrounding area.*

**(3) The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

*The proposed design will stabilize the slope and prevent future damage. The site shows signs of erosion at the center of the sloped portion adjacent to Girard Avenue due to dead and damaged trees. We intend to reestablish grades that will allow water to move into the soil instead of directly to the lake.*

**SHORELAND OVERLAY DISTRICT OR MISSISSIPPI RIVER CRITICAL AREA OVERLAY DISTRICT VARIANCE:**

**(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

*We intend to have the contractor provide erosion control measures during construction, limiting the erosion of the site as well as reducing the soil accumulation onto the adjacent street. After construction is complete, we intend to plant the sloped portion of the site with appropriate plantings, which establish quickly and prevent erosion.*

*We intend to provide other plantings on site that are compatible with the wetlands nature of the site. We will not use fertilizer and do not intend to provide turf on site. The goal is to keep the plantings natural.*

*We have consulted with landscape architects with working knowledge of urban wetland landscape. The design will manage runoff from the roof and driveway to filter and limit the pollutants that get into the wetlands and public waters*

**(2) Limiting the visibility of structures and other development from protected waters.**

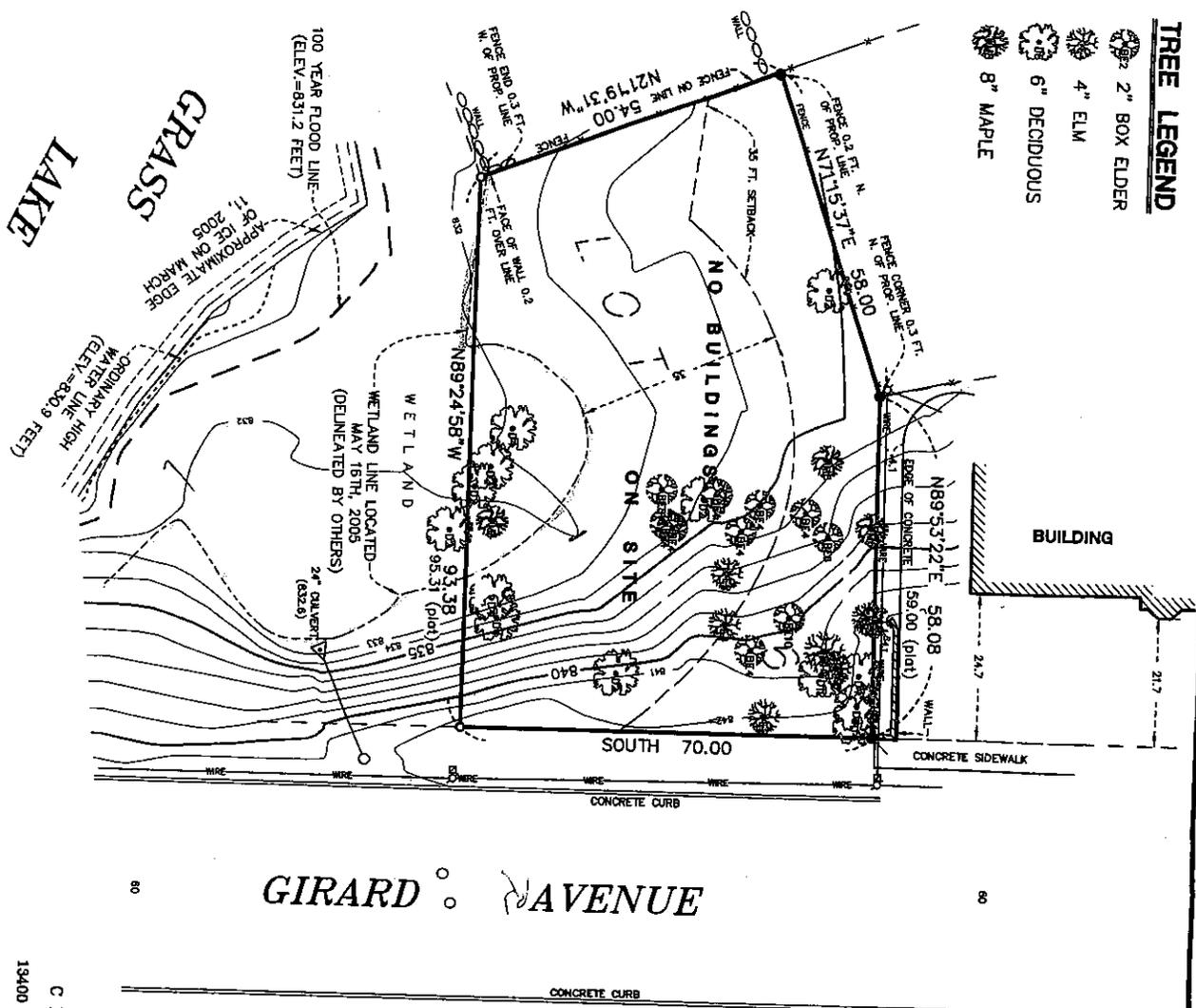
*We will limit the visibility of structure from the protected waters by keeping the footprint of the house small and by limiting the height of the house - consistent with the surrounding lakeshore structures. None of the trees within 20 feet of the Grass Lake (south) property line will be removed.*

**(3) The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

*The proposed structure will not have any impact on the suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

**TREE LEGEND**

- 2" BOX ELDER
- 4" ELM
- 6" DECIDUOUS
- 8" MAPLE



GIRARD AVENUE

1

SURVEY FOR: **DAN RADUNZ**

PROPERTY ADDRESS: 5912 Girard Avenue South, Minneapolis, Minnesota  
 LEGAL DESCRIPTION:  
 Lot 6, Block 3, GRASS LAKE TERRACE SECOND, Hennepin County, Minnesota

CERTIFICATION:  
 I hereby certify that this map was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
 Revised: October 18, 2005

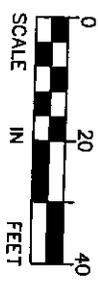
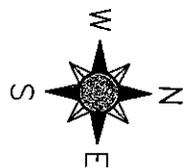
Anderson Engineering, by Minnesota, LLC  
 by   
 Jack Golka  
 Minnesota License No. 202281

- NOTES:
- The bearing system is based on the east line of Lot 6, Block 3, GRASS LAKE TERRACE SECOND, which is assumed to have a bearing of South.
  - The area of the property described hereon is 6,833 square feet or 0.1569 acres.
  - No title information was provided for the preparation of this survey to verify the legal description or the existence of any encumbrances or easements.
  - BENCHMARK: Center line of apron of large concrete inlet culvert with steel trapezoid, across the street from address 6042 Girard Ave. S. at east end of lake. Elevation = 829.73 feet (NGVD 29)

**LEGEND**

- MANHOLE
- POWER POLE
- TELEPHONE BOX
- FENCE
- OVERHEAD WIRES

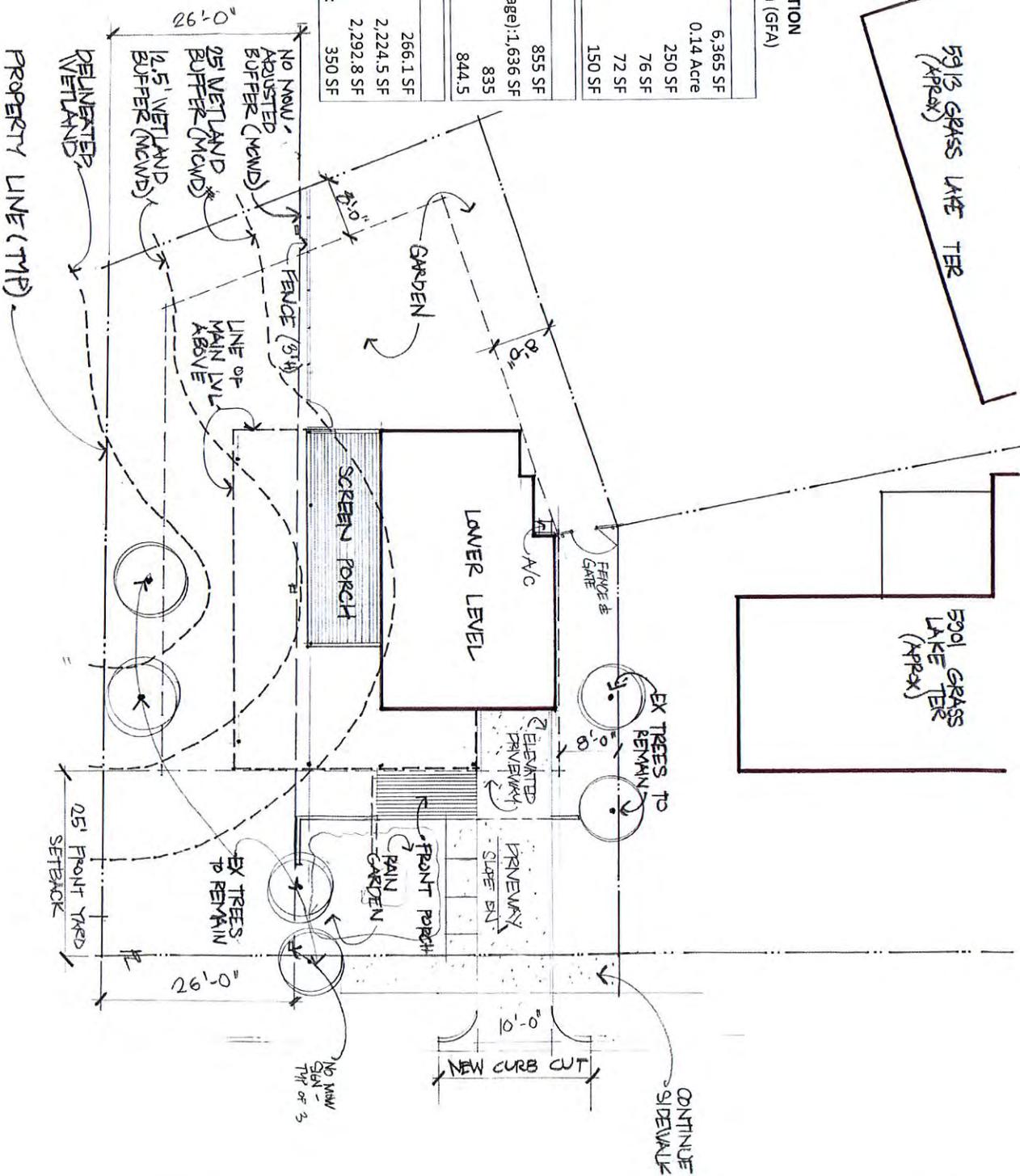
- DENOTES FOUND IRON MONUMENTATION
- DENOTES SET IRON PIPE MARKED WITH R.L.S. NO. 20281



Anderson Engineering of Minnesota, LLC  
 CIVIL ENGINEERING AND LAND SURVEYING  
 13400 15th AVENUE NORTH, SUITE B, PLYMOUTH, MN 55441 TEL (763) 389-1084 FAX (763) 383-1089

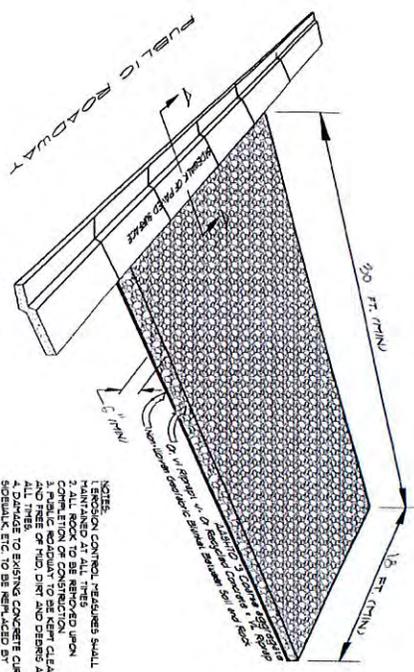
**SITE / BUILDING INFORMATION**  
All areas are Gross Floor Area (GFA)

<b>SITE:</b>	
Overall site:	6,365 SF
	0.14 Acre
Driveway:	250 SF
Sidewalk:	76 SF
Open Front Porch:	72 SF
Lower level wood deck:	150 SF
<b>BUILDING:</b>	
Lower level (foundation):	855 SF
Main Level (includes 285 SF garage):	1,636 SF
Lower Level elevation:	835
Main Level elevation:	844.5
<b>WETLAND:</b>	
Wetland area (see survey):	266.1 SF
25' Base Buffer area:	2,224.5 SF
Adjusted Buffer area:	2,292.8 SF
Disturbed Buffer area (approx.):	350 SF

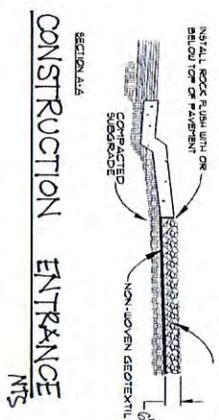


# 5912 GIRARD

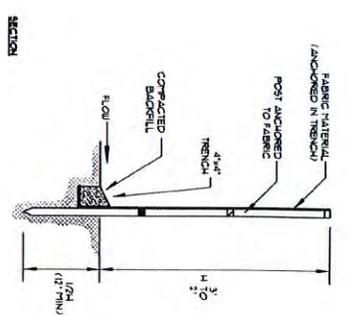
Project No: \_\_\_\_\_  
 Drawn By: *REV/A*  
 Date: *02/11/2016*  
 Sheet No: \_\_\_\_\_



NOTES:  
 1. EROSION CONTROL FEATURES SHALL BE PAINTED AT ALL TIMES.  
 2. ALL MATERIALS TO BE STORED ON CONSTRUCTION SHALL BE KEPT CLEAN AND FREE OF MUD, DIRT AND DEBRIS AT ALL TIMES.  
 3. ALL MATERIALS TO BE STORED ON CONSTRUCTION SHALL BE KEPT CLEAN AND FREE OF MUD, DIRT AND DEBRIS AT ALL TIMES.  
 4. DAMAGE TO EXISTING CONCRETE CURB, SIDEWALK, ETC. TO BE REPAIRED BY CONTRACTOR.

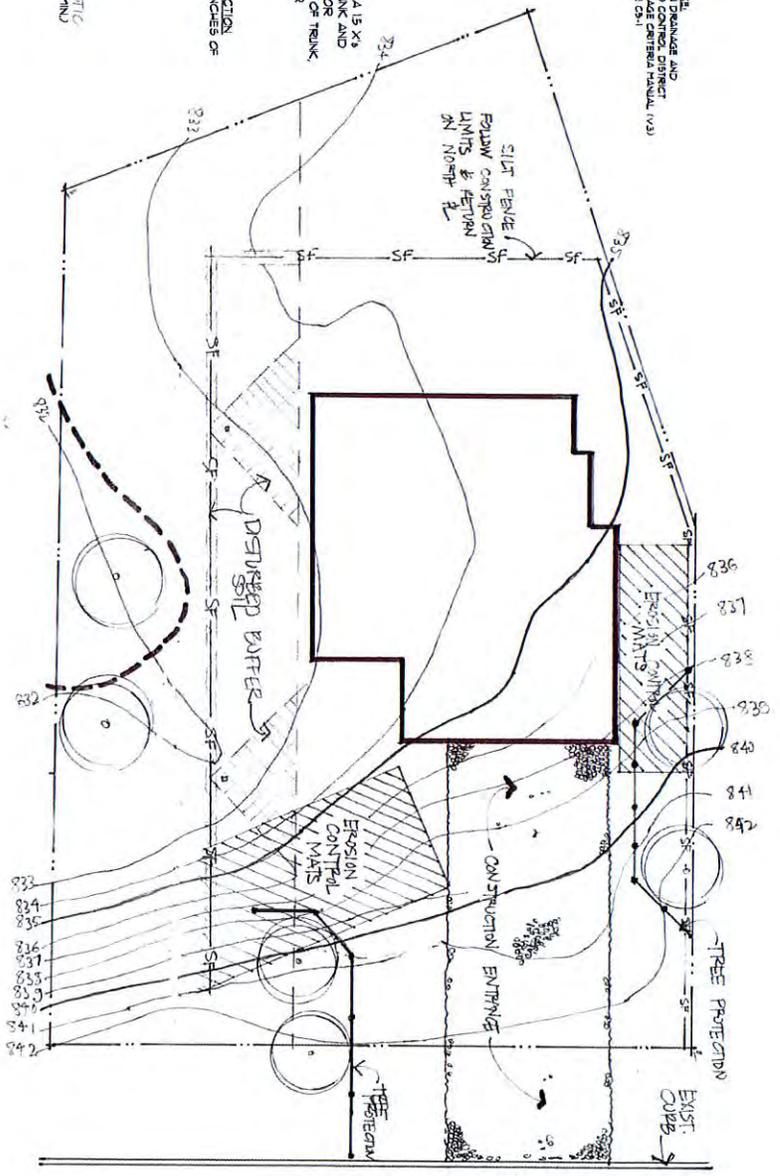


SECTION A-A  
 CONSTRUCTION ENTRANCE  
 MTS

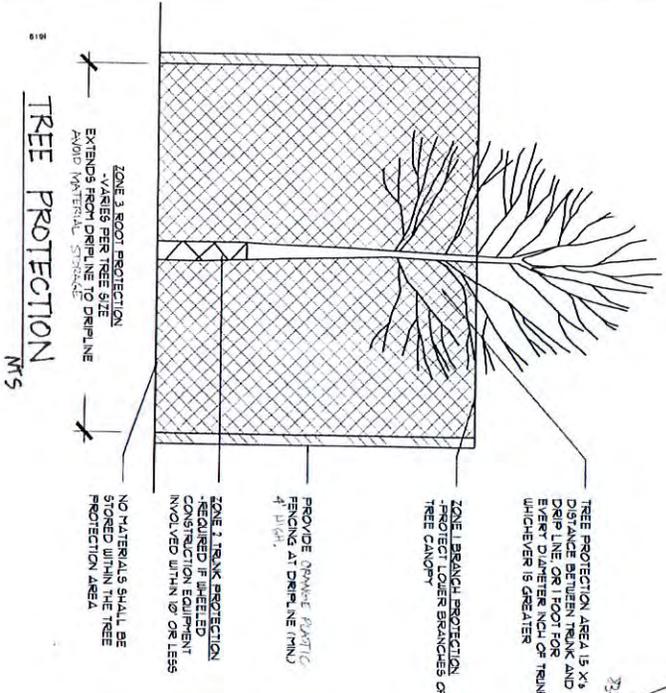


SECTION  
 SILT FENCE  
 MTS

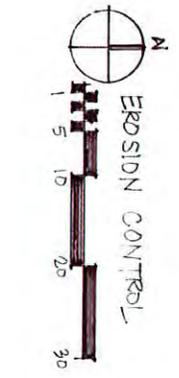
- EROSION CONTROL NOTES**
- Silt fence will be installed around site where indicated and in all locations where storm water runoff may leave the site, prior to any excavation/construction activities.
  - Rock construction entrance will be installed at all construction entrances.
  - The contractor shall use whatever means necessary to control the erosion and siltation including but not limited to catch basin inserts, rock construction entrances, erosion control blankets, and silt fence.
  - Control shall commence with grading and continue throughout the project until acceptance of the work by the owner. All temporary erosion control shall be removed by the contractor after the final ground cover is established.
  - Contractor shall install temporary inlet protection (WIMCO or equivalent) around all catch basin grate inlets, affected by this construction.
  - All disturbed areas shall have temporary protection or permanent cover over exposed soil areas if not being actively graded within seven (7) days.
  - For disturbed areas with slope of 3:1 or greater, a wood fiber blanket cover is required.
  - Public streets used for hauling shall be kept free of soil and debris.
  - Street sweeping shall be completed daily.



GIRARD AVENUE

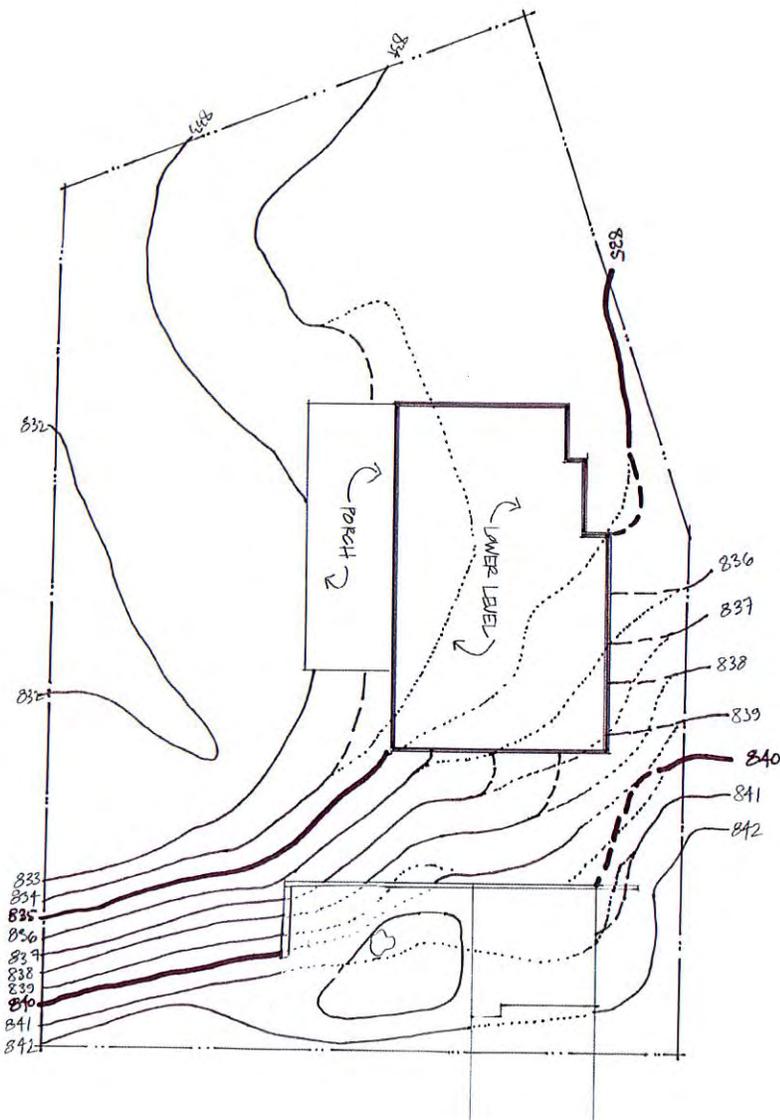


TREE PROTECTION  
 MTS



Project No. \_\_\_\_\_  
 Drawn By: AGUSTIN GONZALEZ  
 Date: \_\_\_\_\_  
 Sheet No. \_\_\_\_\_

# 5912 GIRARD



GRADING PLAN

Project No

Drawn By

Date

Sheet No

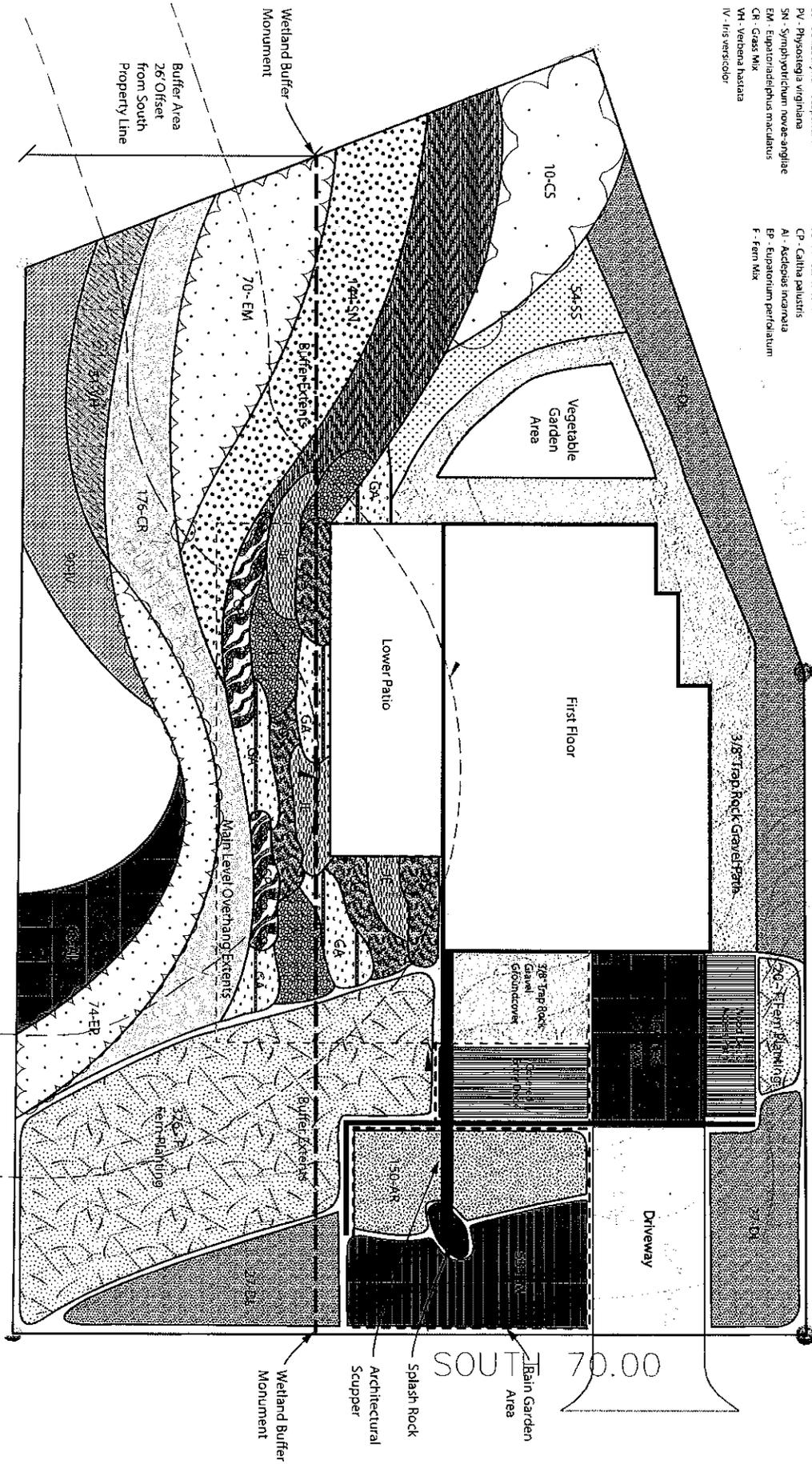
# 5912 GIRARD

**Plant Legend**

- CS - *Callitriche palustris*
- DL - *Diervilla lonicera*
- L5 - *Liatris spicata*
- SS - *Scirpus cyperinus scoparium*
- PV - *Physostegia virginiana*
- SN - *Symphoricarpos nove-angliae*
- EM - *Eupatorium maculatum*
- CR - *Cassia mix*
- VH - *Verbena hastata*
- IV - *Iris versicolor*

- GA - *Geranium andrewsii*
- OS - *Onoclea sensibilis*
- L - *Lobelia siphilitica*
- JE - *Juncus effusus*
- CP - *Callitriche palustris*
- AI - *Asterias maxima*
- EP - *Eupatorium perfoliatum*
- F - *Fern mix*

N89°53'22"E 58.00



1 Wetland Planting Plan  
1" = 4'-0"



5912 GIRARD AVE SOUTH  
MINNEAPOLIS, MN 55419

LEE WETLAND  
PLANTING PLAN

URBAN ECOSYSTEMS  
THE NATURE OF CITIES

DATE: 7/21/2016  
DRAWN: MKM  
CHECKED: SLG  
APPROVED: MKM  
PROJECT NO:  
146-52-1  
SHEET  
L100

**Plant Schedule**

KEY	Botanical Name	Common Name	AREA (sqft)	QTY	ROOT	SIZE	NOTES	TYPE
AI	<i>Asterias incarnata</i>	Swamp Milkweed	132 sqft	68	PLUG	2"	Spacing 18" OC	Perennial
CP	<i>Callitriche palustris</i>	Marsh Marigold	68 sqft	50	PLUG	2"	Spacing 12" OC	Perennial
CS	<i>Cornus sericea 'leanii'</i>	leanii Dogwood		10	CONT.	42"	Spacing 48" OC	Shrub
EM	<i>Eupatorium maculatum</i>	Spotted Joe-pye-weed		72	CONT.	41"	Spacing 24" OC	Perennial
EP	<i>Eupatorium perfoliatum</i>	Boneset		74	CONT.	41"	Spacing 24" OC	Perennial
GA	<i>Gentiana andrewsii</i>	Blue Bottle Gentian	138 sqft	113	PLUG	2"	Spacing 12" OC	Perennial
HM	<i>Hedera helix 'Macra'</i>	Japanese Forest Grass	182 sqft	53	CONT.	41"	Spacing 24" OC	Perennial
IV	<i>Iris versicolor</i>	Blue Flag Iris	176 sqft	90	PLUG	2"	Spacing 18" OC	Perennial
JE	<i>Juncus effusus</i>	Soft Rush	81 sqft	61	PLUG	2"	Spacing 12" OC	Perennial
L	<i>Lobelia spiliolica</i>	Blue Lobelia	96 sqft	75	PLUG	2"	Spacing 12" OC	Perennial
OS	<i>Oncoclea sensibilis</i>	Sensitive Fern	90 sqft	69	PLUG	2"	Spacing 12" OC	Perennial
PV	<i>Physostegia virginiana</i>	Obedient Plant	237 sqft	121	PLUG	2"	Spacing 18" OC	Perennial
SN	<i>Synphylocarpum novae-angliae</i>	New England Aster	280 sqft	144	PLUG	2"	Spacing 18" OC	Perennial
SS	<i>Scirpachyrium scoparium</i>	Little Bluestem	182 sqft	54	CONT.	41"	Spacing 18" OC	Perennial
VH	<i>Verbena hastata</i>	Blue vervain	101 sqft	51	PLUG	41"	Spacing 18" OC	Perennial

**Fern Planting**

F	<i>Adiantum filix-femina</i>	Lady Fern	112	PLUG	2"	Part of a mixture of ferns for the hillside. Plants should be alternated in rows and spaced 12" OC.
F	<i>Maleucella struthiopteris</i>	Ostrich Fern	112	PLUG	2"	
F	<i>Osmunda ceylaniana</i>	Interrupted Fern	112	PLUG	2"	

**Wetland Edge Grass Mix**

CR	<i>Calamagrostis canadensis</i>	Canada Bluejoint	44	PLUG	41"	Part of a mixture of grasses near the wetland setback boundary. Plants should be alternated in rows and spaced 18" OC.
CR	<i>Scirpus atrovirens</i>	Green Bulrush	44	PLUG	41"	
CR	<i>Scirpus operinus</i>	Wood Rush	44	PLUG	41"	
CR	<i>Spartina pectinata</i>	Prairie Cordgrass	44	PLUG	41"	

**Planting Notes**

**Site Preparation**

1. The site preparation for planting should begin in fall to secure the site against erosion over the winter and to initiate the invasive species control activities when they will have the greatest effect.
2. Install silt fencing to prevent soil loss and siltation to the lake during construction. Apply coir logs in areas of concentrated flow that are present onsite to prevent erosion. Cover disturbed soil areas with erosion control blanket in the areas which are not actively under construction.
3. Perform necessary soil decompaction to a depth of 18" using hand equipment and amendment around pier footings, concrete pads, or other areas that have been mechanically disturbed during home construction.
4. Spot apply an aquatic safe herbicide (Flodan, Aquatic Killzall, etc) to invasive species present onsite in the fall prior to establishment of new plantings. Allow 7-10 days for kill to occur; repeat application if necessary to ensure complete kill.
5. The following spring, allow invasive species to re-emerge in springtime and spot apply an aquatic safe herbicide to kill off new growth prior to planting.
6. Mechanically remove and dispose of above ground plant biomass offsite to allow for easier planting access and better seed contact. Avoid disturbing the soil profile where possible to prevent the reawakening of the seed bank.

**Planting Notes**

1. The planting of the site should not be initiated until after all exterior activities related to finishing the building are complete. The ideal time of year for planting will be in late spring or early fall. Coordinate with designer and contractor to determine the best time for planting.
2. Source the necessary plant materials and seed mixes and stage onsite for inspection by designer.
3. Use a non-toxic marking spray to delineate the planting zones onsite and layout the plants according to the plans for approval by the designer.
4. Install the plant materials as specified in the details associated with each plant in the schedule.
5. Water all plants three times a week or as needed based on precipitation and soil moisture conditions. Observe the plant material for signs of wilting and adaptively adjust watering regime accordingly.

**Maintenance Notes**

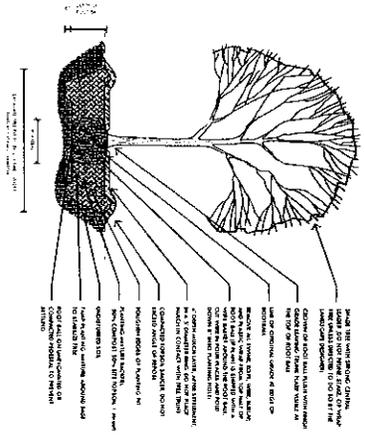
The following maintenance activities will be conducted as specified during the initial five year establishment period.

1. When removing biomass, cut back the dead growth from last year and let lay on the site where feasible. Areas of dense and excessive biomass should be cut and disposed of either offsite or mulched and composted onsite.
2. Minimize pedestrian traffic within buffer area to regular maintenance or site management activities at prescribed times.
3. Spot apply water-safe herbicide with a foam applicator to the leaves and central stems of invasive species at the times specified in the maintenance schedule.
4. Do not mechanically disturb the buffer zone by removing plants by their roots. All vegetative removal should occur by cutting above the soil horizon.

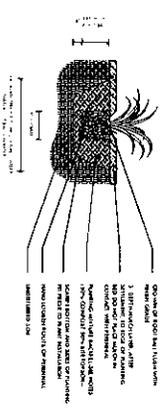
**Maintenance Schedule**

The maintenance schedule is spelled out in detail in the attached Excel spreadsheet which can be used as a checklist for tracking the necessary maintenance activities and to document this for monitoring purposes.

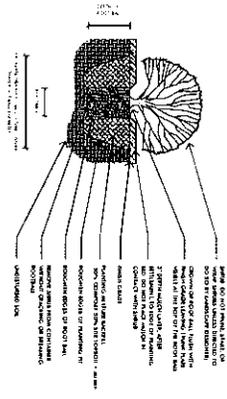
1. Spring Biomass Removal, Mid-April.
2. Spring Herbicide Spot Application, Mid-June
3. Summer Biomass Removal, Mid-July.
3. Late Summer Herbicide Spot Application, Early September.



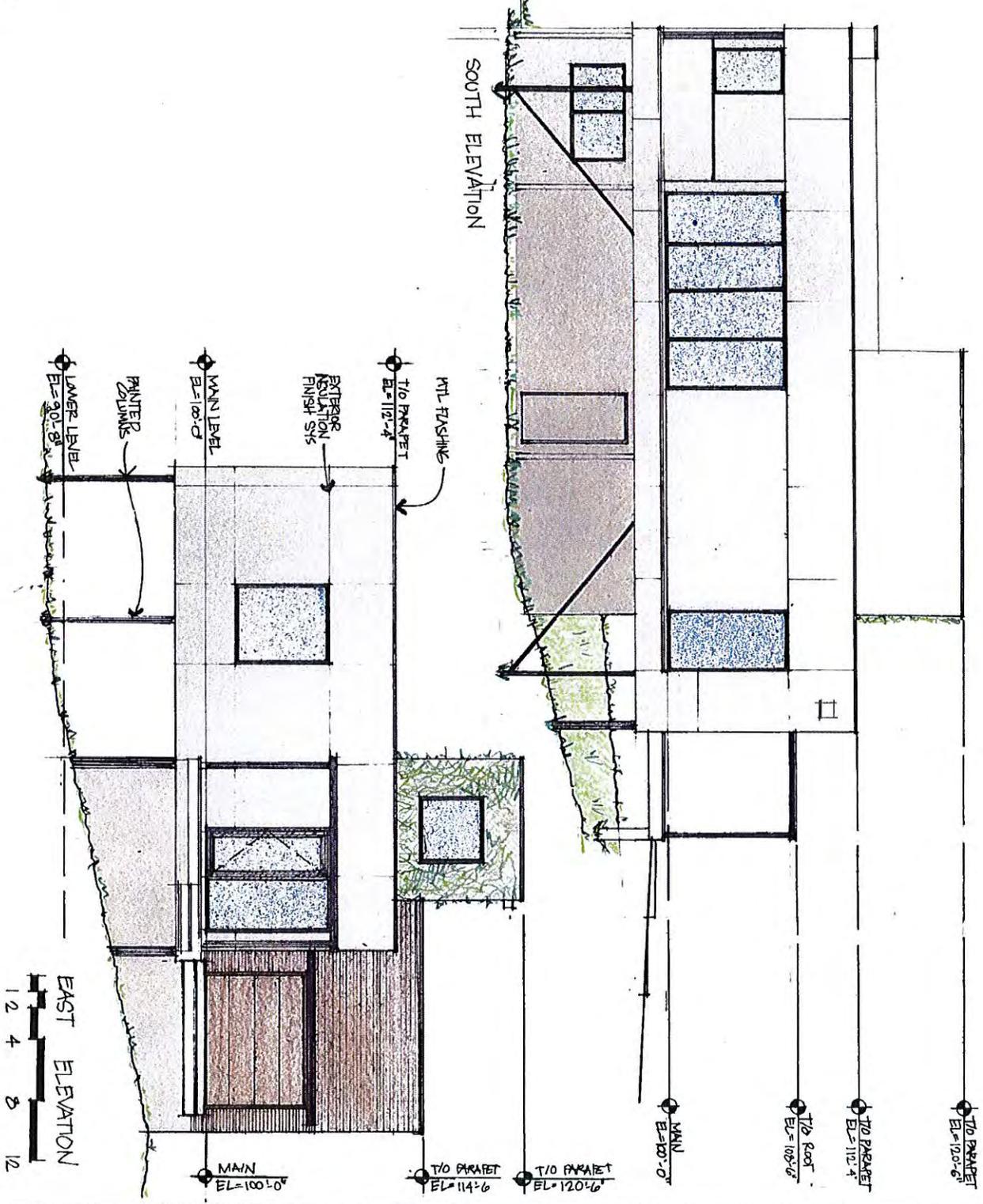
1 TYPICAL TREE PLANTING



2 TYPICAL PERENNIAL PLANTING

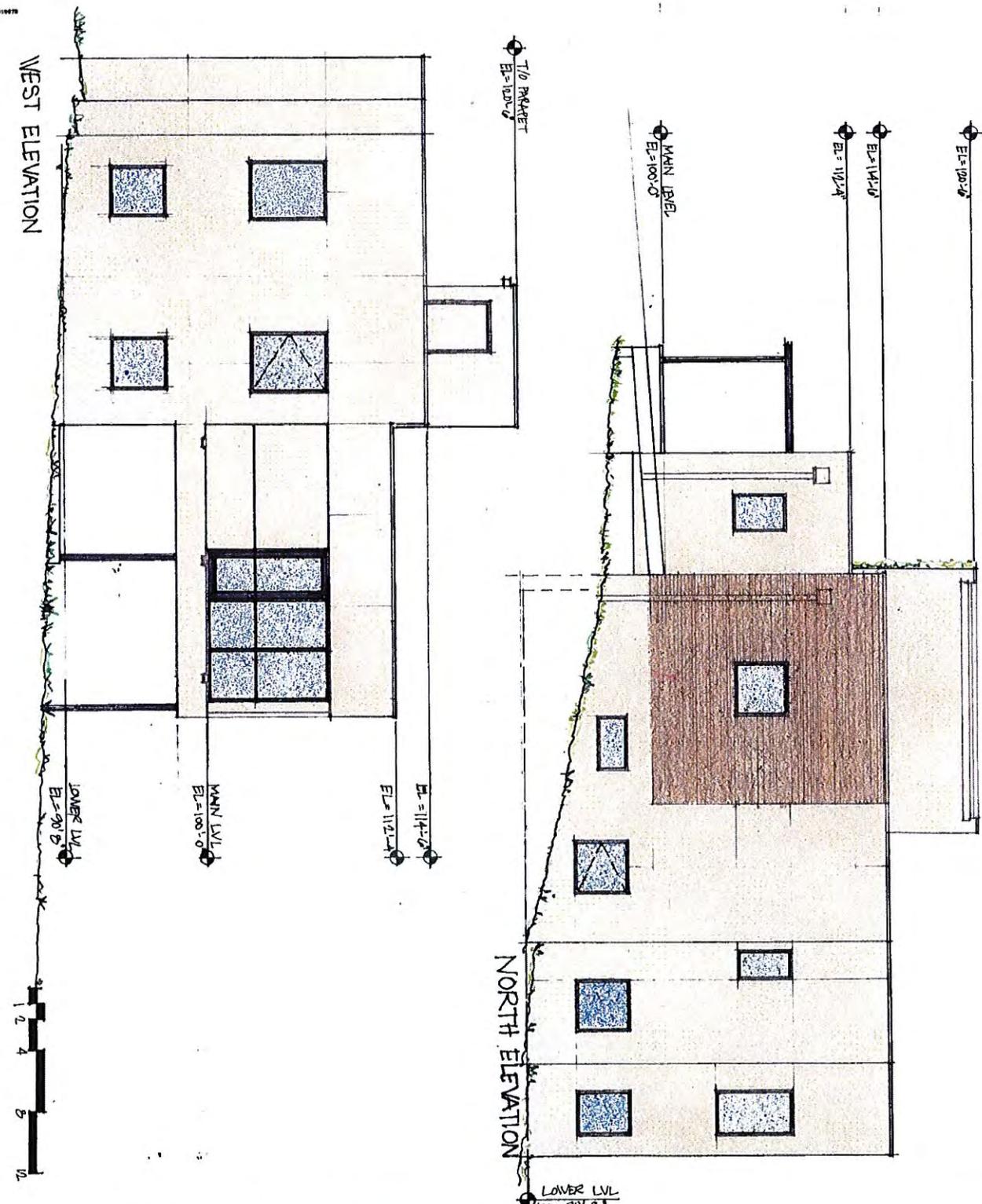


3 TYPICAL SHRUB PLANTING



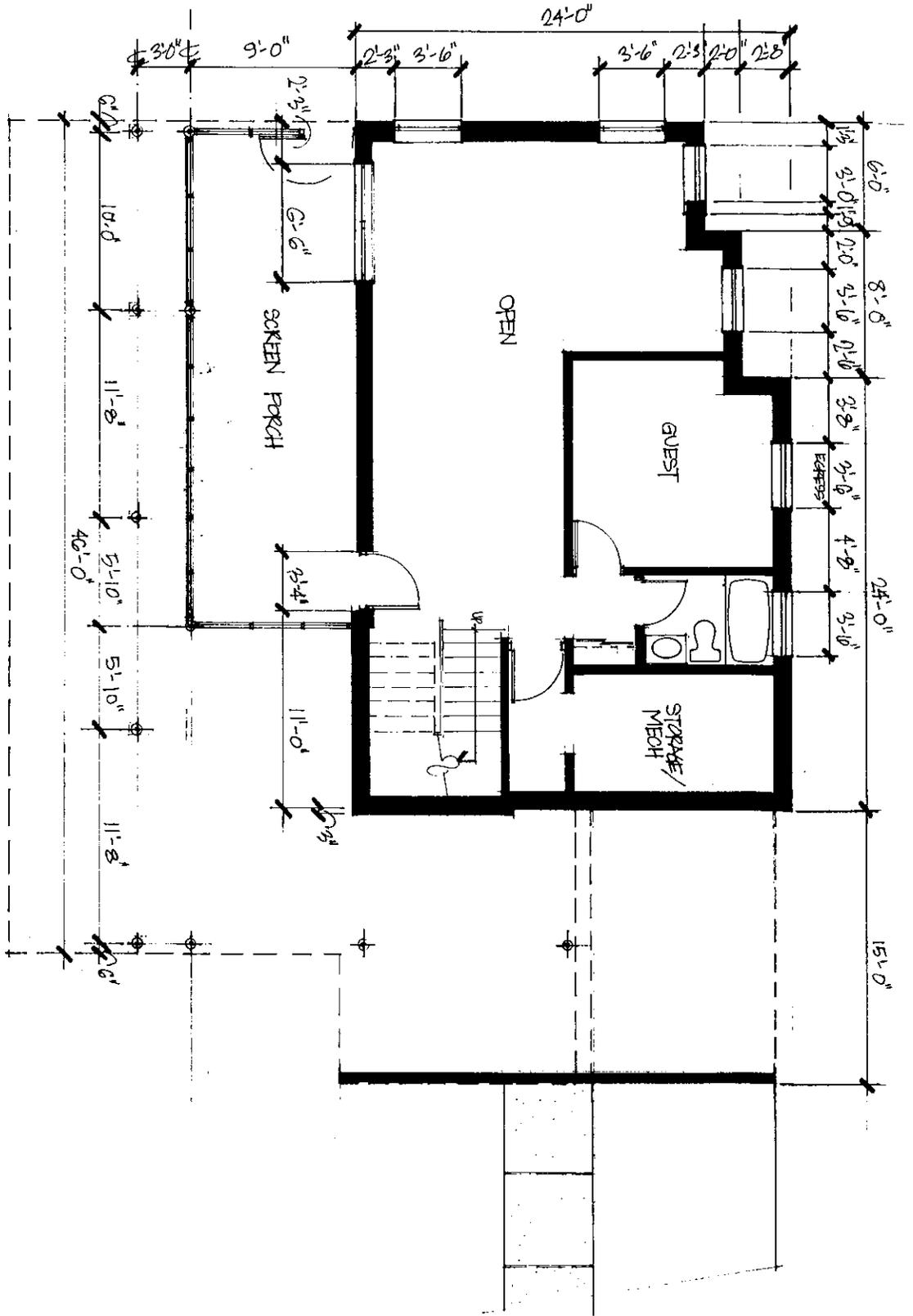
# 5912 GIRARD

Project No.	
Date	
Scale	
Author	
Check	



# 5912 GIRARD

Project No.	
Sheet No.	
Date	
Scale	
Author	
Check	

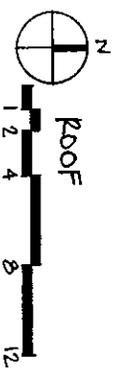
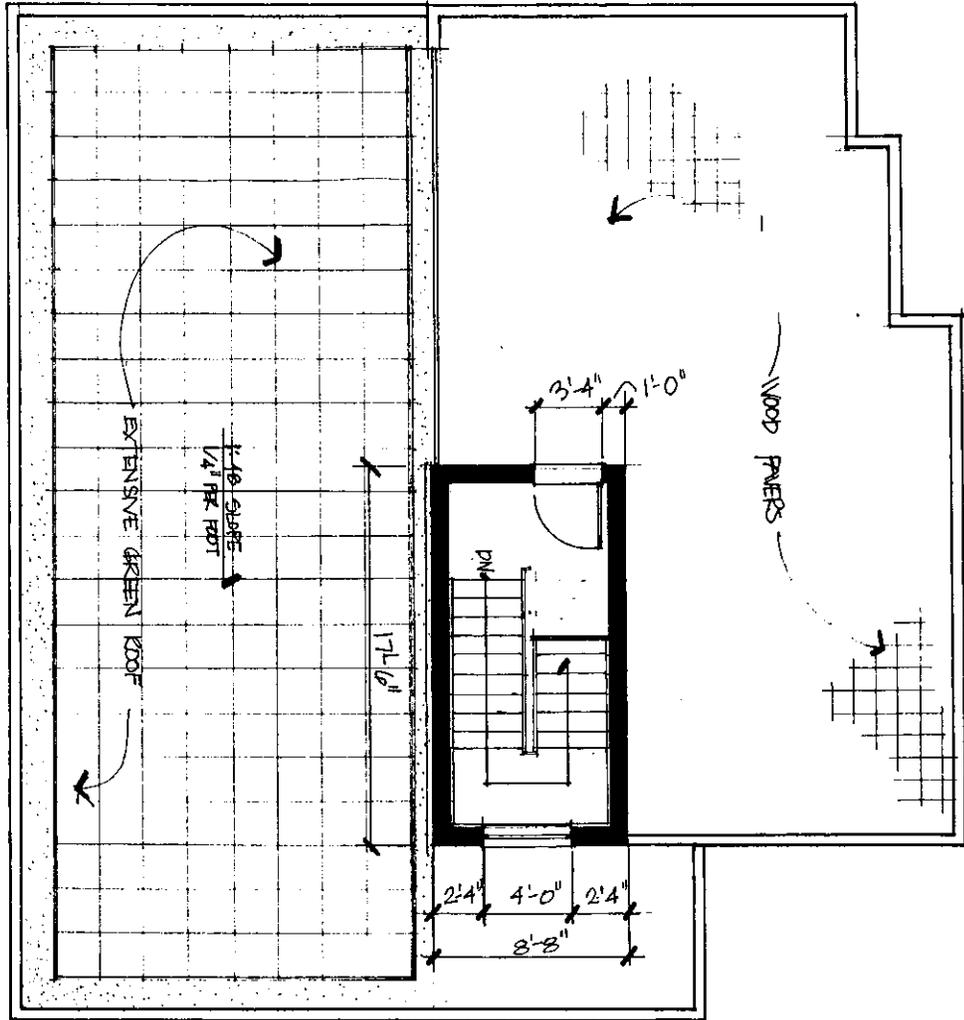


# 5912 GIRARD



Project No. \_\_\_\_\_  
 Drawn By \_\_\_\_\_  
 Date 10/11/2016  
 Sheet No. \_\_\_\_\_





Project No. \_\_\_\_\_  
 Drawn By \_\_\_\_\_  
 Date 19 MAY 2016  
 Scale 1/8" = 1'-0"

# 5912 GIRARD

# Minnesota Wetland Conservation Act

## Notice of Decision

Local Government Unit (LGU) <b>Minnehaha Creek Watershed District</b>	Address <b>15320 Minnetonka Blvd          Minnetonka, MN 55345</b>
--	---

### 1. PROJECT INFORMATION

Applicant Name <b>Mike Lee</b>	Project Name <b>5912 Girard Ave S</b>	Date of Application <b>6/17/2016          (Incomplete)          6/30/2016          (Complete)</b>	Application Number <b>W16-32</b>
<input checked="" type="checkbox"/> 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 type="checkbox"/> Approve	<input type="checkbox"/> Approve with conditions	<input type="checkbox"/> Deny
Summary (or attach):		

### 2. LOCAL GOVERNMENT UNIT DECISION

Date of Decision: <i>7/27/2016</i>		
<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):

Mike Lee applied for a wetland boundary & type confirmation for the wetlands located at 5912 Girard Ave S in the City of Minneapolis, Hennepin County, Minnesota. Legal description: Section 21, Township 28N, Range 24W. The boundary & type approval was requested June 17<sup>th</sup>, 2016.

A wetland delineation was conducted by Jacobson Environmental, PLLC on June 3<sup>rd</sup>, 2016. A complete delineation report and WCA application were submitted to MCWD on June 30<sup>th</sup>, 2016. One wetland was delineated on the property. Basin 1 was identified as a Type 7, wooded swamp wetland. DNR Public Water 681W (Grass Lake) is located south of the site.

Boundaries and types were reviewed in the field July 12<sup>th</sup>, 2016. MCWD was in agreement with the boundaries and types.

MCWD approves the wetland boundary and type as delineated in the field and documented in the delineation report and map.

This decision is valid for five years. A future project located on this property may require a permit from the MCWD.

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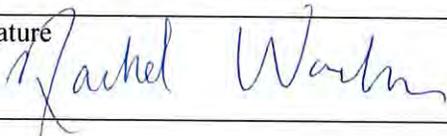
**Replacement Plan Approval Conditions.** In addition to any conditions specified by the LGU, the approval of a Wetland Replacement Plan is conditional upon the following:

- 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>Rachel Workin</b>	Title <b>Permitting Technician</b>	
Signature 	Date <b>7/27/2016</b>	Phone Number and E-mail <b>(952) 641-4518</b> <b>rworkin@minnehahacreek.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 \$0 fee (if applicable) to: <b>Minnehaha Creek Watershed District</b> <b>15320 Minnetonka Blvd</b> <b>Minnetonka, MN 55345</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>Stacey Lijewski – stacey.lijewski@hennepin.us</b> <input checked="" type="checkbox"/> BWSR TEP member: <b>Ben Meyer – ben.meyer@state.mn.us</b> <input type="checkbox"/> LGU TEP member (if different than LGU Contact): <input checked="" type="checkbox"/> DNR TEP <b>Becky Horton- becky.horton@state.mn.us</b> <input checked="" type="checkbox"/> DNR Regional Office (if different than DNR TEP member): <b>Leslie Parris - leslie.parris@state.mn.us</b> <input type="checkbox"/> WD or WMO (if applicable): <input checked="" type="checkbox"/> Applicant (notice only) and Landowner (if different): <b>mike.lee@rsparch.com</b> <input checked="" type="checkbox"/> Members of the public who requested notice (notice only): <b>jacobsonenv@msn.com; elizabeth.stout@minneapolismn.gov; andrew.liska@minneapolismn.gov</b> <input checked="" type="checkbox"/> Corps of Engineers Project Manager (notice only): <b>Melissa Jenny – melissa.m.jenny@usace.army.mil</b> <input type="checkbox"/> BWSR Wetland Bank Coordinator (wetland bank plan applications only)
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### 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:

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

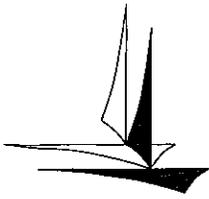
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### 6. ATTACHMENTS

In addition to the site locator map, list any other attachments:

**Approved wetland boundaries**





**Minneapolis**  
*City of Lakes*

**Community Planning &  
Economic Development**

**Planning Division**

350 South 5th Street – Room 210  
Minneapolis MN 55415-1385

Office 612 673-2597

Fax 612 673-2728

TTY 612 673-2157

June 27, 2006

Dan Radunz  
8951 Mariago Circle  
Bloomington, MN 55438

RE: 5912 Girard Avenue South  
Radunz Residence– BZZ-2677

Dear Mr. Radunz:

Enclosed are copies of the actions taken regarding your various land use application requests by the Minneapolis Planning Commission at its meeting of November 14, 2005, the Zoning and Planning Committee at its meeting of June 8, 2006, and the City Council at its meeting of June 16, 2006. If you have questions please contact me directly at 612-673-3594 or via email at [Rebecca.farrar@ci.minneapolis.mn.us](mailto:Rebecca.farrar@ci.minneapolis.mn.us).

Sincerely,

Becca Farrar  
Senior Planner

**Action by the City of Minneapolis  
City Planning Commission 11/14/05**

**Radunz Residence (BZZ-2677, Ward 13), 5912 Girard Avenue South (Becca Farrar).**

**A. Conditional Use Permit:** Application by Dan Radunz for a conditional use permit to locate development within 50 feet of any protected water (wetland) for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the application for a conditional use permit to allow development within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**B. Conditional Use Permit:** Application by Dan Radunz for a conditional use permit to allow development within 40 feet of the top of a steep slope for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the application for a conditional use permit to allow development within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**C. Variance:** Application by Dan Radunz for a variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**D. Variance:** Application by Dan Radunz for a variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**Action by the City of Minneapolis  
Zoning & Planning Committee 6/8/06**

Dan Radunz (Radunz Residence, 5912 Girard Ave S):

Appeal filed from decision of the Planning Commission denying applications for a) conditional use permit to locate development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope; & b) variance to permit development in the Shoreland Overlay District within 50 feet of a protected water and within 40 feet of the top of a steep slope (Ward 13) (Z&P Action 4/06/06: Postponed until 6/08/06-Public hearing continued).

Staff report: Dan Radunz-Revised Report; Radunz Appeal Correspondence

**Action Taken: Appeal granted with the amended drawings, as recommended for approval by staff in the 6/8/06 report, subject to the following conditions: a) Submittal of final plans for the single-family home that meets the 2 ½ story or 35 foot height limitation as defined by the Zoning Code as well as the design standards in Section 530.280 of the Zoning Code; b) Pervious pavers must be utilized for the driveway and for the turnaround; c) The turnaround adjacent to the south lot line shall be adjusted to provide a 5 foot buffer adjacent to the south lot line; d) Submittal of a grading and erosion control plan as required by Section 551.510 of the Zoning Code; e) Final plans must detail plantings on site, specifically adjacent to the wetland areas located on the south side of the site as required by Section 551.520 of the Zoning Code; f) Installation of a walkway connecting the principal entrance of the structure with the driveway or public sidewalk as applicable; g) The applicant shall designate a person who shall be responsible to ensure compliance with Section 551.510; and h) The principal structure shall be reduced to a width of 22 feet and the driveway, which shall be no more than 10 feet wide, shall be shifted to the north correspondingly.**

**Action by the City of Minneapolis  
City Council Action 6/16/06**

**Z&P** - Your Committee, having under consideration the appeal filed by Dan Radunz from the decision of the Planning Commission denying applications for a) conditional use permits to locate development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope; and b) variances to permit development in the Shoreland Overlay District within 50 feet of a protected water and within 40 feet of the top of a steep slope for a new single-family home at 5912 Girard Ave S, now recommends that said appeal be granted, with the amended drawings dated 6/8/06, subject to the following conditions: a) Submittal of final plans for the single-family home that meets the 2 ½ story or 35 foot height limitation as defined by the Zoning Code as well as the design standards in Section 530.280 of the Zoning Code; b) Pervious pavers must be utilized for the driveway and for the turnaround; c) The turnaround adjacent to the south lot line shall be adjusted to provide a 5 foot buffer adjacent to the south lot line; d) Submittal of a grading and erosion control plan as required by Section 551.510 of the Zoning Code; e) Final plans must detail plantings on site, specifically adjacent to the wetland areas located on the south side of the site as required by Section 551.520 of the Zoning Code; f) Installation of a walkway connecting the principal entrance of the structure with the driveway or public sidewalk as applicable; g) The applicant shall designate a person who shall be responsible to ensure compliance with Section 551.510; and h) The principal structure shall be reduced to a width of 22 feet and the driveway, which shall be no more than 10 feet wide, shall be shifted to the north correspondingly; and that the related findings prepared by the Community Planning & Economic Development staff be adopted.

Colvin Roy moved to amend condition 'g' of the report to read as follows: "g) The applicant shall designate a person who shall be responsible to ensure compliance with Section 551.510 and that impact to the wetland is minimized during construction by ensuring that no construction equipment drives into the area of wetland, no construction storage occurs in the wetland area, and that there are no failures of the required temporary erosion control measures during construction." Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted 6/16/06. Yeas, 10; Nays, 2 as follows:

Yeas - Benson, Goodman, Hodges, Samuels, Hofstede, Ostrow, Schiff, Colvin Roy, Glidden, Johnson.

Nays - Remington, Gordon.

Declining to vote - Lilligren.

**Department of Community Planning and Economic Development – Planning  
Division**  
Conditional Use Permits and Variances  
BZZ-2677

**Z&P Date:** June 8, 2006

**Applicant:** Dan Radunz, 8951 Mariago Circle, Bloomington, MN 55438, (952) 210-8582

**Addresses of Property:** 5912 Girard Avenue South

**Project Name:** Radunz Residence

**Contact Person and Phone:** Dan Radunz, 8951 Mariago Circle, Bloomington, MN 55438, (952) 210-8582

**Planning Staff and Phone:** Becca Farrar, (612)673-3594

**Date Application Deemed Complete:** October 4, 2005

**End of 60-Day Decision Period:** December 3, 2005

**End of 120-Day Decision Period:** On November 2, 2005, Staff sent the applicant a letter extending the decision period to no later than February 1, 2006. The applicant has signed various further extensions of time. The most recent extension signed by the applicant extended the decision period to no later than August 1, 2006.

**Ward:** 13      **Neighborhood Organization:** Kenny Neighborhood Association

**Existing Zoning:** R1 (Single-family) district, SH (Shoreland) Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 36

**Lot area:** 6,365 square feet or .14 acres

**Legal Description:** See attachment.

**Proposed Use:** A new single-family home in the R1 district.

**Concurrent Review:**

- Conditional Use Permit to locate development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope.

- Variance to permit development in the Shoreland Overlay District within 50 feet of a protected water and within 40 feet of the top of a steep slope.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances & Chapter 551, Article VI, SH Shoreland Overlay District.

**Background:** The applicant proposes to construct a new single family home northeast of Grass Lake on the property located at 5912 Girard Avenue South. The property is currently vacant but densely vegetated, zoned R1 and is located within the SH (Shoreland) Overlay District.

Due to the proximity of the property to Grass Lake and the surrounding wetland, the grades on site and the location within the SH Overlay District, the proposed development requires a conditional use permit to allow development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope. A variance is also required in the SH Overlay District in order to permit development within 50 feet of any protected water (wetland) and within 40 feet of the top of a steep slope. The SH Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

The initial proposal involving the conditional use permit and variance applications, heard at the November 14, 2006, City Planning Commission hearing was denied. The applicant appealed that decision to the Zoning and Planning Committee during the 10-day appeal period. Since the appeal was filed, the application was continued numerous times in order to allow the applicant to attempt to address the concerns outlined in the original staff report by the City. Among other recommendations, Staff recommended that the applicant consider an alternative design that significantly increased the distance between the dwelling and protected water. For background purposes, the initial proposal was to construct an approximately 45 foot wide single-family home. With the inclusion of the proposed covered porch which appeared to wrap around the side of the proposed home, the structure would have been 50 feet wide. The structure as proposed would have met the required setbacks per the R1 district from the property lines. The property would not have been subject to a front yard increase (546.160), as the adjacent residential property to the north is located 21 feet 7 inches from the east property line which is less than the 25 foot minimum district requirement. The home was proposed at 2 ½ stories and 35 feet tall with a walkout basement. There are wetlands located on the south side of the property. The home proposed originally would have wrapped around the northern edge of the delineated wetlands and at the closest point would have been constructed approximately 1 foot from the delineated boundary.

The new proposal before the Zoning and Planning Committee, is a single-family home that has been modified to allow greater separation between the proposed residence and the delineated wetlands on site. The structure has been modified to a width of 28 feet. Per Section 535.90, the minimum width of single-family residential structures is 22 feet.

The structure appears to meet all applicable setback requirements in the R1 district. The open porch on the front of the structure is a permitted obstruction in the front yard. As proposed, the home would be located approximately 15 feet at the closest point from the delineated wetlands located on the south side of the site. A driveway is located on the south side adjacent to the wetland area, and at the closest point is approximately 2 feet from the delineated boundary. The proposed structure as shown, is considered a 3-story structure, even though it does not exceed the maximum height allowance of 35 feet. Staff will require as a condition of approval that the structure be modified to meet the 2 ½ story or 35 foot height limitation within the Shoreland Overlay District. Should the Planning Commission approve the applications, the applicant would be required to attain a separate permit for the single-family dwelling which would be required to meet all applicable requirements, inclusive of Chapter 530 requirements as they pertain to single and two-family dwellings (530.280). The proposed structure would not meet the design standards (point system). Additionally, the applicant has indicated that approximately 95 cubic yards of fill would be needed to level out the driveway and further, will need to cut and grade approximately 55 cubic yards for the foundation. The applicant has stated that while doing so, they will comply with all requirements from section 551.510. Grading or filling involving more than ten (10) cubic yards where the slope of the land is toward a protected water requires the submittal of a grading and erosion control plan approved by the city engineer and the zoning administrator.

A wetland delineation report was prepared by a private consulting firm and has been attached for reference. The report states that the wetland boundary was delineated along a slight rise in topography due apparently to historic fill. The report further states the Hennepin County Soil Survey has not mapped the soils in this portion of the county because it is urban land. Additionally, the applicant has also provided a survey which identifies the trees currently located on site which has been attached for reference. Based on the applicant's proposal, it would appear that the majority of the trees on site would be removed in order to construct the proposed structure.

Staff has received correspondence from the Kenny Neighborhood Association stating a position on the applications. The Kenny Neighborhood Association and residents in attendance at the 12/13/05 meeting unanimously do not support the applications. Neighborhood letters have been attached for reference.

**CONDITIONAL USE PERMIT** – (1) to permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland) (2) to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Wetland protection at various levels of government is based on a consensus that there is a strong public interest in the preservation of the quality and quantity of wetlands. The design and configuration of the structure as proposed would be located approximately 15 feet at the closest point from the delineated on-site wetland. The driveway leading to the attached garage on the northwest side of the property would be located approximately 2 feet at the closest point from the delineated boundary. Staff would expect that the design of the proposed home would likely not have a detrimental impact on or endanger the public health, safety, comfort or general welfare. Staff will recommend as a condition of approval that the driveway be constructed of pervious pavers to further reduce the impacts on adjacent wetland area.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Staff does not generally believe that allowing the proposed development within 40 feet of the top of a steep slope would endanger the public health, safety, comfort or general welfare. The structure as proposed and designed would be generally located within the area categorized as a steep slope. It is important to note that any development on the site would interfere with the steep slope and it is Staff's position that the revised proposal has been designed to minimize the potential detrimental impacts.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Staff believes that the structure as proposed would likely not be injurious to the use and enjoyment of other property in the vicinity and would likely not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Staff believes that the proposed development located within 40 feet of the top of a steep slope and constructed within the steep slope will likely not be injurious to the use and enjoyment of surrounding property and would likely not impede the normal development of the surrounding area. The development as proposed would likely result in alteration to the property as it currently exists, both in regard to vegetation removal as well as grading and filling impacts. However, the modified design of the structure and configuration on site has been designed to minimize these impacts as much as possible.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicant would be required to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The parking requirement for the proposed development would be 1 off-street parking space. The applicant is proposing to provide 2 spaces in an attached garage located on the northwest side of the property. The garage would be accessed off of Girard Avenue South. Staff believes that adequate measures would be provided.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to the *Minneapolis Plan*, the site is located in a predominately low density residential area. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

***Policy 9.5 Support the development of residential dwellings of appropriate form and density.***

Staff would argue that the development as proposed is appropriate in regard to form should the proposal be modified to meet the 2 ½ story height allowance in the Shoreland Overlay District. It was Staff's position on the last application that a proposal inclusive of a home at or near the minimum width requirement of 22 feet instead of a 50 foot wide home would potentially be supportable as the home would be located substantially further from the on-site wetland area and would arguably impact the on site steep slopes less as well.

***Policy 7.4 Minneapolis will encourage the planting and preservation of trees and other vegetation.***

Staff would argue that allowing the development to move forward as proposed would not result in the preservation of trees and other vegetation currently on the site. Based on the submitted tree survey provided by the applicant, Staff would expect the majority of the trees to be removed to make way for the proposed home. In an attempt to mitigate the removal of on-site trees, Staff would recommend as a condition of approval that additional tree plantings, specifically adjacent to the wetland areas on site be provided upon submittal of final plans as required by Section 551.520 of the Zoning Code.

***Policy 7.5 Minneapolis will protect and sustain its water resources.***

**Implementation Steps:**

- **Preserve and restore wetlands for their irreplaceable contributions to water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purposes.**
- **Undertake community-based and citywide measures to protect lake water quality by managing storm runoff, employing erosion control measures and other best management practices.**

Staff would argue that the revised proposal which provides separation between the structure and the protected water, is in conformance with this policy and implementation steps.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

With the approval of the conditional use permits and variances, as well as compliance with the single-family home design requirements and the Shoreland Overlay District requirements, this development would appear to meet the applicable requirements of the R1 zoning district. The applicant must comply with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment. Additionally, removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

**ADDITIONAL FINDINGS FOR CONDITIONAL USES (551.490) –**

**A. Evaluation Criteria**

**1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

The applicant would be required to prevent soil erosion and possible pollution of public waters, both during and after construction. The applicant would be required to install a silt fence during construction and would be required to follow all applicable City requirements to prevent any type of pollution.

**2. Limiting the visibility of structures and other development from protected waters.**

It is difficult to predict the potential for visibility as the majority of the vegetation on site would likely be removed and the structure as proposed, even with modifications to meet the 2 ½ story height limitation, would likely be approximately 35 feet tall.

**3. The suitability of the protected water to safely accommodate the types,**

**uses and numbers of watercraft that the development may generate.**

Not applicable for the proposed development.

**B. Uses Allowed – development within 50 feet of a protected water (wetland) and within 40 feet of the top of a steep slope**

- 1. The foundation and underlying material shall be adequate for the slope condition and soil type.**

The applicant has verified that the underlying material would be adequate for the existing slope conditions and soil types as an engineering report was done and soil samples taken and the underlying material was deemed adequate for the slope condition and soil type for a single family residence. The existing slope would likely not remain intact as some filling and grading of the site would likely be necessary in order for it to be buildable. Further, the slope on site would likely be disturbed throughout the construction process.

- 2. The development shall present no danger of falling rock, mud, or uprooted trees or materials.**

The applicant has verified that the development would not present any danger of falling rock, mud or uprooted trees and other materials. Silt fencing would be required to be placed at both the top and bottom of the steep slopes subject to City requirements.

- 3. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.**

Staff believes that the view of the developed slope from the protected water would be relatively consistent with the natural appearance of the slope and with the surrounding architectural features, should the plans be revised to reflect a 2 ½ story home. The applicant contends that they will be maintaining the slope as close to its natural appearance as possible and that the view from the protected water will be consistent with the stipulations above. In attempt to further mitigate view of the structure from the protected water, Staff will require that additional trees be planted adjacent to the wetland area on the south of the site as required by Section 551.520 of the Zoning Code.

**VARIANCES** - (1) to permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland) (2) to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope.

**Findings as Required by the Minneapolis Zoning Code for the Variances:**

**1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): It would be unlikely that the property could be put to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. If required to develop at least 50 feet away from the delineated wetland boundary on site, only 15 square feet of buildable area would remain with adherence to the interior and rear yard setback requirements. Due to the site constraints, Staff believes that the house as proposed is a reasonable use of the property. It is Staff's position that the modified proposal incorporating a house near the minimum width requirements could be deemed reasonable.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: It would be difficult to put the property to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. The top of the steep slope on site is based on the existing contours of the site and is therefore, irregular. The buildable area would be substantially reduced and would require that the majority of any new construction be located adjacent to the rear lot line. It is likely that the home as proposed would require alterations to the existing property. Staff would argue that the revised proposal is reasonable and arguably impacts the steep slopes on site less than the original proposal.

**2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): The circumstances could be considered unique as there are wetlands that are delineated on the south side of the property. It is Staff's position that that the proposed development constitutes a hardship as the lot in question, is a lot of record. A house near the minimum width requirement of 22 feet would arguably have much less of an impact on the wetland area located on the property and could potentially be supported as opposed to the former proposal which incorporated a house, with a walkout basement within 1 foot of a delineated wetland and at a width of nearly 50 feet.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: The circumstances requiring a variance to allow development within 40 feet of the top of a steep slope are somewhat unique to the site. Staff would argue that the proposal does constitute a hardship.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Staff would conclude that granting the variance to construct a new 28 foot wide, single-family home within 15 feet of a delineated wetland on a lot of record is in keeping with the spirit and the intent of the ordinance. The Shoreland Overlay district was established to preserve and enhance the environmental qualities of surface waters and the natural and economic values of shoreland areas within the city. Further the district provides for the efficient and beneficial utilization of those waters and shoreland areas and protection of the public health, safety and welfare. Staff would argue that this modified proposal could be considered to be in keeping with the spirit and intent of the ordinance, and further will likely not alter the essential character of the locality as long as the structure complies with applicable height limitations, R1 district and Shoreland Overlay district standards.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Granting a variance to construct the proposed home would be in keeping with the spirit and intent of the ordinance and would likely not alter the essential character of the area. As previously noted, any development on site would likely have impacts on the property as the majority of the on site vegetation would likely need to be cleared to accommodate any home. Any development proposal would also likely require significant grading and filling.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Granting a variance to allow development within 15 feet of a wetland area would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Granting the setback variance to allow development within 40 feet of the top of a steep slope would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

**RECOMMENDATIONS:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow development within 50 feet of a protected water for property located at 5912 Girard Avenue South subject to the following conditions:

1. Submittal of final plans for the single-family home that meets the 2 ½ story or 35 foot height limitation as defined by the Zoning Code as well as the design standards in Section 530.280 of the Zoning Code.
2. Pervious pavers must be utilized for the driveway and for the turnaround.
3. The turnaround adjacent to the south lot line shall be adjusted to provide a 5 foot buffer adjacent to the south lot line.
4. Submittal of a grading and erosion control plan as required by Section 551.510 of the Zoning Code.
5. Final plans must detail plantings on site, specifically adjacent to the wetland areas located on the south side of the site as required by Section 551.520 of the Zoning Code.
6. Installation of a walkway connecting the principal entrance of the structure with the driveway or public sidewalk as applicable.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow development within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**Recommendation of the Department of Community Planning and Economic Development– Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**Recommendation of the Department of Community Planning and Economic Development– Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**Attachments:**

1. Statement of use and description of project
2. Findings
3. Correspondence
4. Letter from Minnehaha Creek Watershed District
5. Wetland Report
6. Zoning map
7. Plans – survey, site and proposed residence elevations
8. Neighborhood letters



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** December 15, 2005

**To:** Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

**Prepared by:** Becca Farrar, Senior City Planner, (612) 673-3594

**Approved by:** Barbara Sporlein, Director, Planning

**Subject:** Appeal of the decision of the City Planning Commission by Dan Radunz.

**Previous Directives:** At the November 14, 2005, City Planning Commission meeting, seven of the Planning Commission members were present. Planning Commissioners voted 7-0 to deny all land use applications associated with the development known as the Radunz Residence located at 5912 Girard Avenue South.

<b>Financial Impact:</b> Not applicable
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<p><b>Community Impact:</b> See staff report and attached neighborhood letters.</p>
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<p><b>Ward:</b> 13</p>
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<p><b>Neighborhood Notification:</b> The applicant notified the Kenny Neighborhood Association via email on September 27, 2005 informing them of the development project. Staff has not received any official correspondence from the neighborhood group. All neighborhood letters received have been attached to the staff report.</p>
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<p><b>City Goals:</b> See staff report</p>
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<p><b>Comprehensive Plan:</b> See staff report</p>
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<p><b>Zoning Code:</b> See staff report</p>
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<p><b>Living Wage/Job Linkage:</b> Not applicable</p>
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<p><b>End of 60/120 Day Decision Period:</b> On November 2, 2005, Staff sent the applicant a letter extending the decision period to no later than February 1, 2006.</p>
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<p><b>Other:</b> Not applicable</p>
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- **Background/Supporting Information:** Dan Radunz has filed an appeal of the decision of the City Planning Commission. The appeal is associated with the decision of the City Planning Commission to deny all land use applications associated with the development known as the Radunz Residence. The applications that are being appealed are as follows: (1) Conditional Use Permit to locate development within 50 feet of any protected water (wetland), (2) Conditional Use Permit to allow development within 40 feet of the top of a steep slope, (3) Variance to permit development in the Shoreland Overlay District within 50 feet of any protected water, and (4) Variance to permit development within 40 feet of

the top of a steep slope. The minutes from the November 14, 2005, City Planning Commission meeting are attached.

The appellant has stated that the decisions are being appealed for two reasons. First, the appellant states that by denying this application and not providing any guidance as to what would be an acceptable plan for this property and utilizing the property as stormwater runoff holding area, the city is indirectly exercising eminent domain without any compensation to the property owner. Second, the appellant believes that there are many inconsistencies within the city code that bring into question the findings that were presented by the City Staff. The appellant's complete statement of the actions being appealed and reasons for the appeal are attached.

**Department of Community Planning and Economic Development – Planning  
Division**

**Conditional Use Permit and Variance  
BZZ-2677**

**Date:** November 14, 2005

**Applicant:** Dan Radunz, 8951 Mariago Circle, Bloomington, MN 55438, (952) 210-8582

**Addresses of Property:** 5912 Girard Avenue South

**Project Name:** Radunz Residence

**Contact Person and Phone:** Dan Radunz, 8951 Mariago Circle, Bloomington, MN 55438, (952) 210-8582

**Planning Staff and Phone:** Becca Farrar, (612)673-3594

**Date Application Deemed Complete:** October 4, 2005

**End of 60-Day Decision Period:** December 3, 2005

**End of 120-Day Decision Period:** On November 2, 2005, Staff sent the applicant a letter extending the decision period to no later than February 1, 2006.

**Ward:** 13      **Neighborhood Organization:** Kenny Neighborhood Association

**Existing Zoning:** R1 (Single-family) district, SH (Shoreland) Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 36

**Lot area:** 6,365 square feet or .14 acres

**Legal Description:** See attachment.

**Proposed Use:** A new single-family home in the R1 district.

**Concurrent Review:**

- Conditional Use Permit to locate development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope.
- Variance to permit development in the Shoreland Overlay District within 50 feet of a protected water and within 40 feet of the top of a steep slope.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances & Chapter 551, Article VI, SH Shoreland Overlay District.

**Background:** The applicant proposes to construct a new single family home northeast of Grass Lake on the property located at 5912 Girard Avenue South. The property is currently vacant but densely vegetated, zoned R1 and is located within the SH (Shoreland) Overlay District.

Due to the proximity of the property to Grass Lake and the surrounding wetland, the grades on site and the location within the SH Overlay District, the proposed development requires a conditional use permit to allow development within 50 feet of any protected water (wetland) and to allow development within 40 feet of the top of a steep slope. A variance is also required in the SH Overlay District in order to permit development within 50 feet of any protected water (wetland) and within 40 feet of the top of a steep slope. The SH Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

The single-family home as proposed would be approximately 45 feet wide. With the inclusion of the proposed covered porch which appears to wrap around the side of the proposed home, the structure would be 50 feet wide. Per Section 535.90, the minimum width of single-family residential structures is 22 feet. The structure as proposed would meet the required setbacks per the R1 district from the property lines. The property would not be subject to a front yard increase (546.160), as the adjacent residential property to the north is located 21 feet 7 inches from the east property line which is less than the 25 foot minimum district requirement. The home is proposed at 2 ½ stories and 35 feet tall with a walkout basement. Without benefit of detailed architectural plans, Staff is unable to determine whether the home is meeting the height limitations within the Shoreland Overlay District. Should the Planning Commission approve the applications, the applicant would be required to attain a separate permit for the single-family dwelling which would be required to meet all applicable requirements.

There are wetlands located on the south side of the property. The proposed home would wrap around the northern edge of the delineated wetlands and at the closest point would be constructed approximately 1 foot from the delineated boundary. A wetland delineation report was prepared by a private consulting firm and has been attached for reference. The report states that the wetland boundary was delineated along a slight rise in topography due apparently to historic fill. The report further states the Hennepin County Soil Survey has not mapped the soils in this portion of the county because it is urban land. Additionally, the applicant has also provided a survey which identifies the trees currently located on site which has been attached for reference. Based on the applicant's proposal, it would appear that the majority of the trees on site would be removed in order to construct the proposed structure.

Staff is concerned and questions whether the site could be developed while adhering to the following applicable regulations: (1) compliance with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment; and (2) removal of vegetation on a steep slope

which is prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

Staff has not received correspondence from the Kenny Neighborhood Association stating a position on the applications prior to the printing of this report. Neighborhood letters have been attached for reference.

**CONDITIONAL USE PERMIT** – (1) to permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland) (2) to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Wetland protection at various levels of government is based on a consensus that there is a strong public interest in the preservation of the quality and quantity of wetlands. The design and configuration of the structure as proposed would be located within 1 foot of a delineated wetland. Staff would expect that the design of the proposed home could be deemed to have a detrimental impact on or endanger the public health, safety, comfort or general welfare. The majority of the dense vegetation on site would be removed and Staff would expect that construction of a new home within 1 foot of the wetland could be detrimental as it is unlikely that the wetlands wouldn't be disturbed.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Staff does not generally believe that allowing the proposed development within 40 feet of the top of a steep slope would endanger the public health, safety, comfort or general welfare. However, the structure as proposed and designed would be located directly within the area categorized as a steep slope which could have a detrimental impact. Staff would expect that the property could potentially be developed in such a manner that the above listed impacts are minimized.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Staff believes that the structure as proposed could potentially be injurious to the use and enjoyment of other property in the vicinity however, would likely not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district. The proposed structure would be located

within 1 foot of a delineated wetland area and would likely require that the majority of the vegetation on site be removed.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Staff believes that the proposed development located within 40 feet of the top of a steep slope and constructed within the steep slope could potentially be injurious to the use and enjoyment of surrounding property, however, would likely not impede the normal development of the surrounding area. The development as proposed would likely result in substantial alteration to the property as it currently exists, both in regard to vegetation removal as well as grading and filling impacts.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicant would be required to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The parking requirement for the proposed development would be 1 off-street parking space. The applicant is proposing to provide 2 spaces in an attached front-loaded garage off of Girard Avenue South. Staff believes that adequate measures would be provided.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to the *Minneapolis Plan*, the site is located in a predominately low density residential area. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

***Policy 9.5 Support the development of residential dwellings of appropriate form and density.***

Staff would argue that the development as proposed is not appropriate in regard to form based on the configuration and design of the proposed structure. A proposal inclusive of a home at or near the minimum width requirement of 22 feet instead of a 50 foot wide home would potentially be supportable as the home would be located substantially further from the on-site wetland area and would arguably impact the on site steep slopes less as well.

***Policy 7.4 Minneapolis will encourage the planting and preservation of trees and other vegetation.***

Staff would argue that allowing the development to move forward as proposed would not result in the preservation of trees and other vegetation currently on the site.

Based on the submitted tree survey provided by the applicant, Staff would expect the majority of the trees to be removed to make way for the proposed home.

***Policy 7.5 Minneapolis will protect and sustain its water resources.***

**Implementation Steps:**

- **Preserve and restore wetlands for their irreplaceable contributions to water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purposes.**
- **Undertake community-based and citywide measures to protect lake water quality by managing storm runoff, employing erosion control measures and other best management practices.**

The applicant proposes to construct a 50 foot wide single-family home with a walkout basement in the Shoreland Overlay district within 1 foot of a delineated wetland and within the steep slope located on the property. This specific proposal is not in conformance with the above noted principles and policies of the comprehensive plan.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

With the approval of the conditional use permits and variances, as well as compliance with the single-family home design requirements and the Shoreland Overlay District requirements, this development would appear to meet the applicable requirements of the R1 zoning district. The applicant must comply with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment. Additionally, removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

**ADDITIONAL FINDINGS FOR CONDITIONAL USES (551.490) –**

**A. Evaluation Criteria**

1. **The prevention of soil erosion or other possible pollution of public waters,  
both during and after construction.**

The applicant would be required to prevent soil erosion and possible pollution of public waters, both during and after construction. The applicant would be required to install a silt fence during construction and would be required to follow all applicable City requirements to prevent any type of pollution. Due to the constraints of the site and the proposed design of the residential structure within very close proximity of the wetland, Staff is concerned with the potential for erosion on site. Staff recommends that the applicant consider an alternative design that significantly increases the distance between the dwelling and protected water.

**2. Limiting the visibility of structures and other development from protected waters.**

It is difficult to predict the potential for visibility as the majority of the vegetation on site would likely be removed and the structure as proposed would be 35 feet tall. However, the adjacent site closest to Grass Lake is also densely vegetated.

**3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

Not applicable for the proposed development.

**B. Uses Allowed – development within 50 feet of a protected water (wetland) and within 40 feet of the top of a steep slope**

**1. The foundation and underlying material shall be adequate for the slope condition and soil type.**

The applicant has not verified that the underlying material would be adequate for the existing slope conditions and soil types. The existing slope would likely not remain intact as some filling and grading of the site would likely be necessary in order for it to be buildable. Further, the slope and wetland on site would likely be disturbed throughout the entire construction process.

**2. The development shall present no danger of falling rock, mud, or uprooted trees or materials.**

The applicant has not verified that the development would not present any danger of falling rock, mud or uprooted trees and other materials. Silt fencing would be required to be placed at both the top and bottom of the steep slopes subject to City requirements.

**3. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.**

Staff believes that the view of the developed slope from the protected water would not be consistent with the natural appearance of the slope and with the surrounding architectural features.

**VARIANCES** - (1) to permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland) (2) to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope.

Findings as Required by the Minneapolis Zoning Code for the Variances:

**1. The property cannot be put to a reasonable use under the conditions allowed and strict**

**adherence to the regulations of this zoning ordinance would cause undue hardship.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): It would be unlikely that the property could be put to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. If required to develop at least 50 feet away from the delineated wetland boundary on site, only 15 square feet of buildable area would remain with adherence to the interior and rear yard setback requirements. Due to the site constraints, Staff believes that the house as proposed is not a reasonable use of the property. It is Staff's position that a modified proposal incorporating a house at or near the minimum width requirements could be deemed reasonable; however, construction of a home with a walkout basement within 1 foot of a delineated wetland is not a reasonable use of the property.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: It would be difficult to put the property to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. The top of the steep slope on site is based on the existing contours of the site and is therefore, irregular. The buildable area would be substantially reduced and would require that the majority of any new construction be located adjacent to the rear lot line. It is likely that the home as proposed would require significant alterations to the existing property. Staff would argue that the proposal is not reasonable and that construction of a home designed sensitively to fit into the existing contours or with minimal grading and filling meeting the requirements of Section 551.510 would be reasonable and potentially supportable.

**2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): The circumstances could be considered unique as there are wetlands that are delineated on the south side of the property. However, it is Staff's position that that the proposed development does not constitute a hardship. A house at or near the minimum width requirement of 22 feet would arguably have much less of an impact on the wetland area located on the property and could potentially be supported. Designing and proposing to construct a house, with a walkout basement within 1 foot of a delineated wetland at a width of nearly 50 feet has been created by the applicant and does not constitute a hardship.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: The circumstances requiring a variance to allow development within 40 feet of the top of a steep slope are somewhat unique to the site, however, it is likely that the home as proposed would require significant alterations to the existing property and the on site slope. Staff would argue that the proposal does not constitute a hardship and that construction of a home designed sensitively to fit into the existing contours or with minimal grading and filling meeting the requirements of Section 551.510 could potentially be supportable.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Staff would conclude that granting the variance to construct a new 50 foot wide, single-family home with a walkout basement within 1 foot of a delineated wetland is not in keeping with the spirit and the intent of the ordinance. The Shoreland Overlay district was established to preserve and enhance the environmental qualities of surface waters and the natural and economic values of shoreland areas within the city. Further the district provides for the efficient and beneficial utilization of those waters and shoreland areas and protection of the public health, safety and welfare. Staff would argue that this proposal is not in keeping with the spirit and intent of the ordinance, and further could alter the essential character of the locality.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Granting a variance to construct the proposed home would likely not be in keeping with the spirit and intent of the ordinance and would likely alter the essential character of the area. The proposed development would have significant impacts on the property as the densely vegetated site would likely need to be cleared to accommodate such a large home. The proposed location would also likely require significant grading and filling.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

To permit development in the Shoreland Overlay District within 50 feet of any protected water (wetland): Granting a variance to allow development within 1 foot of a wetland area would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

To permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope: Granting the setback variance to allow development within 40 feet of the top of a steep slope would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

## **RECOMMENDATIONS:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a conditional use permit to allow development within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a conditional use permit to allow development within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**Recommendation of the Department of Community Planning and Economic Development– Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**Recommendation of the Department of Community Planning and Economic Development– Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**Attachments:**

1. Statement of use and description of project
2. Findings
3. Correspondence
4. Letter from Minnehaha Creek Watershed District
5. Wetland Report
6. Zoning map
7. Plans – survey, site and proposed residence elevations
8. Neighborhood letters

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES  
Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

350 South Fifth Street, Room 210  
Minneapolis, MN 55415-1385  
(612) 673-2597 Phone  
(612) 673-2728 Fax  
(612) 673-2157 TDD

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**MEMORANDUM**

DATE: November 29, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of November 28, 2005

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The following actions were taken by the Planning Commission on November 28, 2005. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners Present: President Martin, El-Hindi, Krause, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 8

Not present: Henry-Blythe and Krueger.

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**10. Radunz Residence (BZZ-2677, Ward 13), 5912 Girard Avenue South ([Becca Farrar](#)).**

**A. Conditional Use Permit:** Application by Dan Radunz for a conditional use permit to locate development within 50 feet of any protected water (wetland) for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the application for a conditional use permit to allow development within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**B. Conditional Use Permit:** Application by Dan Radunz for a conditional use permit to allow development within 40 feet of the top of a steep slope for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the application for a conditional use permit to allow development within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

**C. Variance:** Application by Dan Radunz for a variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance to permit development in the Shoreland Overlay District within 50 feet of a protected water for property located at 5912 Girard Avenue South.

**D. Variance:** Application by Dan Radunz for a variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for the property located at 5912 Girard Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance to permit development in the Shoreland Overlay District within 40 feet of the top of a steep slope for property located at 5912 Girard Avenue South.

Staff Becca Farrar presented the staff report. She displayed a survey provided by the applicant that showed the encroachment of the wetland on the property on a substantial amount of area. She noted the Grass Lake Management Plan which was referenced in several letters, and that the report was developed by the Grass Lake Committee of the Kenny Neighborhood Association, and for clarification that the plan is not a plan that has been adopted by the City Council and does not address land use. She also stated a clarification to the staff report regarding visibility because as she had looked at the site again without vegetation on the trees, it was clear that the application will impact the properties that are located across Girard as well as those located along Grass Lake Terrace. She also noted that she had not received official communication regarding the application from the Kenny neighborhood group.

Commissioner LaShomb: Is this house consistent with the character of the neighborhood.

Staff Farrar: I would actually say that it's probably not within the character of the neighborhood. I would say that a lot of the homes up there are not 2 ½ stories. Actually, I don't know if I saw a house that was 2 ½ stories while I was out there. So I would have to say no.

Commissioner LaShomb: Well, to me... I didn't drive out and look at this. I guess my question is I'm a little confused – are you saying that a house that was 22 feet wide could be built on this site?

Staff Farrar: Yes. Well, I'm saying that I don't know for sure whether... We would have to look at the proposal in the specific context of it being proposed. I can't say whether a 22 foot wide house is going to be appropriate for this site. I can't say whether any development is appropriate for this site. But because we had a specific proposal in front of us, we're saying that it might be possible perhaps a house that was at or near the minimum width requirements, we could consider that again as an application. But putting a 50 foot wide house within 1 foot of a delineated wetland is not an appropriate use of a property.

Commissioner LaShomb: Yeah, I guess you know, my ten second sermon. The sense I get is nothing can be built on this site, that what staff is saying is nothing can be built on this site, which makes me wonder what situation a property owner is when the city's position basically is nothing can be built on this site. I mean, we should be buying this site, making it public property if nothing can be built on the site because it's a real burden on a property owner to say: pay the property taxes, but oh, by the way you can't build on it. So that's not a question, that's just an observation.

Staff Farrar: Can I comment on that? I think that I tried to be careful in the way that I had written the staff report because I don't think we necessarily said as a planning staff that we'd absolutely not consider any other proposal. I think what it basically states is that we would consider a proposal and potentially that could be supportable and maybe that's a wordy way of saying it, but we didn't necessarily say that this is not a developable piece of property... This is a lot of record, it has many site constraints, but the proposal that we had to look at, not within the context of looking at it and any other proposal, but this specific proposal is inappropriate.

Commissioner Motzenbecker: I just was wondering if you gotten any information in the interim on the final, finished floor elevation and about kind of how much fill would be needed for this because it seems like quite a bit.

Staff Farrar: I would expect it would be quite a bit as well, although I was not given that information from the applicant.

President Martin: Thanks, Becca. OK, I'll open the public hearing for item number 10 and ask if there are folks who want to speak to this. And I will tell you in advance, we have a lot of correspondence, so if you've written us, you don't need to repeat what you wrote in here because that's already a matter of the record.

Donna Noukki (1317 West 59<sup>th</sup> St): I know how that site was filled in. It was with sand that was taken from the housing development across the street to the north of Grass Lake. It's pretty much sand and is extraordinarily eroded for those who have not gone to look at it, you would not possibly imagine how it is steep. And it has occurred to the neighbors that perhaps maybe the city should buy it – that it is not an area that would not flood a walk out basement when the water levels are high. The water levels vary a lot. There's stormwater runoff from the surrounding neighborhood which will make the water level rise and fall. Wink Associates in Maple Grove had done a water survey. It's about 10 years ago, I was chair of Grass Lake Committee at that time. And we did an awful lot of looking into exactly how to preserve the wetland and how best to go about it. And the varying levels of water would make it very difficult to keep any walkout from

flooding. And the erosion of the banks would make it very difficult to build anything there unless it's on stilts. Are there any questions or comments? Also it's a duck nesting habitat and that's mainly what the neighbors appreciate it for. We love the trees and the bushes that everyone wants cut down. [tape unclear]. And there will be many neighbors speaking to that and thank you.

President Martin: Thank you.

Tim Martin (5901 Grass Lake Terrace): We live in the home directly north of the property in question. My wife and I have been there for 6 years. We're one of 1,700 homes in the Kenny area. If I can just hold this up briefly. There's 1,700 homes here in Grass Lake and they all love the Grass Lake. Not for... we don't have a band shelter, we don't have any specific picnic grounds, but we've... It's called the jewel of Minneapolis because we have habitat and we're going to take half of that habitat away if you allow this construction. Please don't let it happen. Thank you.

President Martin: Can I just get a show of hands of how many of you want to speak against this? OK, you don't all need to, but...

Michael Fox (5913 Grass Lake Terrace): This is a view looking out from the back of our house. I'll be very quick. Other way around. That's the back view of our house to the lake and the box square is precisely the area that this construction would cover. Talk about shadowing and reduction of our property values. This is a photograph taken showing the lake side is on this side, this is the property line from the surveyor, and this is a flag put in showing the demarcation of the wetlands. So you can see the wetland is actually inside the property line. And it is correct that there is only 15 square feet of developable land. Around Grass Lake, which, as a previous speaker said is a jewel in the community, virtually all the houses are set back to protect the lake by this embankment. The biodiversity in this lake is seriously threatened. This is virtually the only low-lying area on the lake that is critical nesting area for 2 species of turtles, for wood duck and other species. And we all know that property that will roadwork on the other end on highway 62 and 35W very soon which will disturb the wildlife and send them to this other end of the lake. And with construction going on there, there will be even more stress and disturbance on the wildlife. Many of our urban ecosystems are stressed with loss of biodiversity and this would be a serious crush to this extremely vulnerable and exquisitely beautiful little lake. On the point of critical habitat, no net loss when wild lands or wetlands are destroyed, we need to bring even to this small, precious plot. Currently, the owner is paying property tax on this land. It is zoned and it has a street number. Clearly something needs to be done here. Possibly the land donated to the park department that does maintain the trees and other vegetation around the edge of this lake. The community concern is great. When this land was bought by a speculative real estate agent this last spring time and when canvassing the neighborhood, I collected over a hundred signatures of concern and over this past weekend, in anticipation of this hearing, I collected the necessary signatures as representative of a petition for an environmental assessment worksheet that was filed today with the environmental quality board – just to tie this up for good. Thank you.

President Martin: Thank you. Others?

Dan Radunz (8951 Mariable Circle, Bloomington): I'm the person applying for the conditional use permit here at 5912 Girard Avenue South to build a single family home. I'm applying on behalf of Mr. Knuth who is the owner of the property and has been the owner and is still the owner for over 50 years and has been paying property taxes on this lot for that 50 years. The staff report is recommending denial in four main areas: vegetation removal; the possible disturbance of the wetland; grading and filling; and conformance with the plan, and I'd like to address each of those areas separately. The vegetation removal: Most of the vegetation that is on the lot, as you see from the survey that was done, most of the trees that would be removed are actually small saplings and scrub brush in the 2 to 4 inch range. There are a few larger trees that are on the side of the property which we would actually maintain while we build the home. Also, I would say that there actually has been a lot of tree removal on this lot over the last few years. This is a shot of a aerial photo that is actually on the Hennepin County tax website. That you can see there's actually I've highlighted some circles there [tape end]. There's two more large stumps that you can see that I've highlighted in yellow that are on the lot. These are actually very large trees – they're 12 inches to 2 feet in diameter and they have been removed and cut up over the last two years. Here you can see a lot of the debris that is just left on the lot, remaining tree stumps and limbs that have been cut up and chopped. This is actually a tree here that I highlighted, that's about a 3 inch diameter tree that was cut down and that's actually in the wetland area. I think a lot of these trees are actually being removed, probably with the applicability of increasing the view of the adjoining water. Here's two more stumps. So I counted at least 6 to 8 stumps that are trees that have been removed in the last couple of years on this property. All of them in a very large diameter, anywhere from 10 to 24 inches. Here's another remaining – some extra trees that are still broken down and laying as debris on the property.

President Martin: OK, Mr. Radunz, I think we're getting the point there.

Dan Radunz: Thank you. As to possible wetland disturbance, I've actually worked with the staff and the Minnehaha Watershed district very closely in trying to come up with a plan that I think would work for everyone. I actually communicated to the staff when we drew up the plan, I was asking for guidance on what they would think would be supportable. But I was told was at the outset was designing the house to basically stay out of the wetland area which is what we are proposing to do. We are actually stipulating that we would stay two feet back from the wetland area within the lot. And it is actually only a 45-foot wide house and we would be gladly [sic] to remove the portion that's actually only a foot of a wrap-around porch to keep it at a 45 feet. I would also like to mention that we have approval from the Watershed District. They do not have any requirements for setback from the wetland. Their only requirements are that you do not build within the wetland and you do not build within the 100 year floodplain. As you'd see on the survey, we are not in the wetland area and we are not in the 100 year flood plain. And we also have a soil survey that was done by an engineering group that says the lot is buildable and will support a single family home without a lot of filling or excavation. I have a letter here from Rebecca Clark from the Watershed District who says they're only permitting requirements would be for us to work with them on erosion control measures which we would gladly work with them and the city because we agree the wetland and the water – that Grass Lake is a very beautiful area and we want to protect it as well. So we do everything in our power to make sure that the erosion is

maintained. As for grading and filling, we've come up with a plan actually that this would be minimal grading and filling. We're building the basement of the home as a walk out and basically would only have to dig a trench around for the footing of the home and then the basement walkout level would be actually at the existing contours. So we wouldn't have to do a lot of grading, we wouldn't have to do a lot of excavating to build the house here. We're also planning on utilizing Spancrete for the garage floor to minimize any grading or filling that would be needed to accommodate the garage. We're also building as close to the existing contours as possible. One of the things I'd like to point out is that the city code, because we have to apply for a conditional use permit and a variance, is actually because of something that's in the city code that is a misnomer. They actually say that you have to apply for a variance to get a 50 foot setback at one point in the code and then at another point in the code they say you have to apply for a conditional use permit. So that's why we were forced to actually pay two fees and apply for two different things, but it's actually just a mistake within the code is what my understanding is. And the actual classification of the steep slope for the lot – the code also says that anything that is under 10 feet is not considered a steep slope. Well we are exactly at 10 feet. So if it was one-millionth of an inch less than 10 feet, we wouldn't have to be applying for a steep slope variance. So the variance that we are applying for is very minimal here. As to conformance with plan, the plan that we provided does meet with all other zoning requirements except for the setback from the 50-foot high water mark or the wetland and the steep slope. As for form, I measured a lot of the houses in the neighborhood where the staff is saying they would now support maybe a house that was only 22 feet wide, that would have been nice to know what their guidance would have been – the get go – when we designed the house, but we never got that guidance in the beginning. But when I measure the homes that are adjacent to the property and straight across the street, at 5907 the house is approximately 40 feet wide. 5911 is 46 feet wide. 5901 Grass Lake Terrace is 58 feet wide. And 5913 is 54 feet wide. So when we're proposing a home that is only 45 feet wide, I think it is actually something that fits nicely within the neighborhood. We are actually not proposing a home that is 2 ½ stories. It is just a 1-story walkout. Because they classify it as 2-stories is because 90 percent of the walkout basement is exposed. The reason that is because we're trying to minimize how much fill and grading we have to do. So it's actually just a walk out rambler that's classified as a 2-story because of the large area of the walk out. I would also like to mention that there is precedence in the neighborhood. The house at 5941 Grass Lake Terrace is actually built on what would have been considered a steep slope and is even steeper than what we have. And there's only about 20 feet from the water's edge of Grass Lake Terrace, or the Grass Lake. And we are actually proposing that we're going to be much further back. We're probably going to be anywhere from 30 to 35 feet from the water's edge. In conclusion, I would just like to say that Mr. Knuth has basically owned this lot for 50 plus years. He worked for the City of Minneapolis for 30 plus years, loves the city and really would like to be able to see this lot put to its intended use when it was platted as a buildable lot. Also, a couple just side notes is we did offer the lot for sale. Mr. Knuth did send out a notice to everybody in the 350 foot radius within the neighborhood and sent a letter to the neighborhood association. No one actually came forward and said they'd like to purchase the lot to conserve it as a green space. My other contention would be that the culvert that is adjacent to the property – Grass Lake is actually a stormwater runoff pond and the culvert I think, is what created some of the wetland on this property. It is exactly adjacent to the property and a lot of the stormwater then runs on to the

property at 5912 Girard Avenue South. I also worked very closely with the neighborhood association. I met with the board and presented our plan to gather feedback. They actually directed me to a person whose name is Bob Engstrom and he's considered an expert in Grass Lake areas within the neighborhood. In talking to him recently, he was saying that they may be able to support a plan where we'd actually go to the watershed district and propose to fill in the portion of the wetland that is on this property and to build the home maybe not so far back on the property to alleviate any concerns with blocking some views of the neighboring properties. So I would basically ask that the Commission would approve this conditional use permit and variance or at a minimum, give us the opportunity to further work with the city and the neighborhood to come up with a plan that I think would work for everyone. Thank you.

President Martin: Thank you. Anyone else? New information now. I think we know a lot of people don't want this to be built and I think we know why.

Jim Ahrens (5844 Girard Court): In addition to the obvious case of this being an environmental and aesthetic disaster, I would just like to point out two things which were somewhat misleading in Mr. Radunz's presentation just now. The wood that was cut was done for two reasons – one, there was Dutch Elm disease on the property. As you probably know, that is automatically taken down by the city. Also, we recently had buckthorn removal around the entirety of Grass Lake which would also result in some of the... in the brush and lumber that's down in that area. Second, my neighbors have informed me that Mr. Radunz's statement that no one offered to buy the property from the existing owner is incorrect. There were offers made; however, they were turned down based on the price. It's obvious to most of us that this is not an appropriate plot of land for building and obviously we would probably all be in favor of the city condemning it and returning it to public ownership and using it as it stands as a green space. I thank you.

President Martin: Others? New information please.

Tom Johnson (5907 Girard Ave. S.): I've lived in the home directly across from this property for 22 years. I just wanted to say briefly in these pictures that we have... This particular picture here of these trees, which are rather large, there are two hawks that live in those trees and I observe them all summer long and it's a joy to watch them and to watch them hunt. And there's also snapping turtles that are down there. They bred [sic] last year, they were in my neighbors' yard, Tim's, my yard. There's all kinds of wildlife down there and one other thing if I could show you. This particular area here – you wouldn't want to go down there without boots on. The whole area is very wet throughout the spring. There's wild reeves that grow down there. And you can't go down there without boots on. It's wet all through June, part of July... the whole area – they keep saying that this wetland is on the south end – it's the whole area. And the trees that they're referring to as cut down, the city came and cleared those. I watched those guys out there with their big cutters. It wasn't anybody here that lives at the Girard area, it was the City of Minneapolis that cut them. They trimmed it all up. That's all I have. Thank you.

President Martin: Thank you. Anyone else.

Sheryl Carter (125 West Lake St., Wayzata, real estate agent representing the buyer and the seller): First of all, I'd like to go from the seller's prospective. He's had the property, like they said, for over 50 years. We don't need to go down that road again. Long, lifetime dream of building there. The lot was substantially larger at one point many years ago; he did subdivide that. And now, obviously is left with this particular piece to build on. Mr. Kurth, the seller, did take it a couple of times to address these homeowners. Both to individually let them know – they were called, their doors were knocked on recently this last fall, early spring to let them know that the seller wanted to account for them and their interest being homeowners there and living there for many, many years that he'd be happy to sell the property to them at a substantially very good price considering the market that we've had in Minneapolis the last couple of years. Nobody responded at that time. Mr. Radunz along with 97 other purchase agreements coming in on that property, was the only the only person the seller actually chose to work with on that parcel – mainly because of his concern about the people who currently live there, the current homeowners and their values, what would be built on that. There were several developers that wanted to go in and build extremely large homes there. We did have Braun Intertec come out and do the soil testings on that property and they did a substantial amount of testing all over that entire parcel and those were also submitted to wetland in previous meetings I understand with Dan. It wasn't until... Well, first of all, I'd like to let you know I'm working with Dan and his family – it's not like they're planning to build there and then sell it as an investment. They're planning to build there and live there and be part of that neighborhood and actually bring value to the other homeowners within that area. Then the only other thing I'd like to comment on is that through all this and once they found out that there was a purchase agreement and we were moving forward with soil testings, etc., not only to mention that the people who were doing the testing were continuously heckled and sworn at and all kinds of issues were made through neighbors while they were out there...

President Martin: OK, I'm going to ask you to talk about the proposal...

Sheryl Carter: Anyway, long story short, Mr. Kurth also received a letter from Tim Martin who I believe addressed you earlier this evening stating that he now if things failed would be very interested in purchasing that land. Once again, let me say that that would be... I mean, he was addressed early in with everybody else too so it was a fair opportunity for everybody to move on. We even looked at situations where maybe each one of the homeowners could contribute a fund even if they wanted to leave that as a lot or make it a park or do whatever they wanted to do with the city. There were several options that were put out for them to consider. I really highly recommend that you take a look at Mr. Radunz's plan for the property. Again, he's not an investor/developer out there – he's a single family homeowner that would like to take advantage as the rest of these people have done in the neighborhood and live and reside in a home that does conform with the existing properties.

President Martin: OK, I think we've heard enough.

Pam Blixt (4811 38<sup>th</sup> Ave. S., Vice Chair of the Minnehaha Creek Watershed District): You haven't heard from me.

President Martin: Something we haven't heard before?

Pam Blixt: I think so. I'm currently Vice Chair of the Minnehaha Creek Watershed District so I chose to speak to you after I heard Mr. Radunz talk about the Watershed District. I have been on the Watershed District since... for some time and was a part of the original implementation of the MOU between the Watershed District and the City of Minneapolis for the Grass Lake Plan and have worked closely with the neighbors in the past. And so I just want to clarify right now that what would happen – our permit process does not go into effect until after we have received a permit that's come through the City process. We don't start our review and we don't look at a permit until we have final plans in place. When that occurs, when there are final plans, that's when we will make a determination about the impact based on our rules. And we do have a buffer requirement in our rules that are triggered by wetlands, but they only occur when there is an impact to the wetland itself. And the minimum that [we] would require would be a 16 ½ foot buffer from the wetland delineated boundary. And based on the impact due to construction that is potentially go into effect for this particular proposal, but until we have the actual plans in place, we wouldn't be able to determine that. Other than that, there isn't any indication that we would also be a requirement for an erosion control for the project. So I just wanted to clarify that there is no permit that's been granted by the Watershed District at this time.

Commissioner LaShomb: Does the Watershed District have the ability to acquire property that if used some other way would have an adverse affect on the watershed?

Pam Blixt: Do we have the ability to acquire property?

Commissioner LaShomb: Yeah, do you buy property if...

Pam Blixt: We do. We currently have a very... actually a conservation acquisition in our budget.

Commissioner LaShomb: So I don't want to put you on the spot and have you write a check [laughter]...

Pam Blixt: I didn't bring the checkbook, no.

Commissioner LaShomb: Unless it's to me. I have water running in my condo... So, I guess the point I'm trying to make is that I'm still hung up on this basic notion that if people aren't going to issue permits and if we're not going to allow variances and do other things, then it comes pretty close in my mind to an illegal taking of property. So I'm just asking whether the Watershed District has the financial wherewithal if you do determine that building on this site would have an adverse effect on the watershed – which is very important – I'm a very strong supporter of the watershed.

Pam Blixt: We have a criteria for our purchases for our conservation purchases and there's a large number of criteria that would have to meet. And I can't off the top of the head tell you whether or not this particular piece would meet that criteria. It's possible.

President Martin: It would require further study.

Pam Blixt: Yes, exactly.

Commissioner LaShomb: And I understand there are only so many bucks in the pool. So, thank you very much. I just wanted to make sure we got that possibility in the record.

President Martin: OK, thank you. Now I am going to close the public hearing.

Michael Fox: Question please.

President Martin: One question only.

Michael Fox: I would like to hear from other people in my community for a show of hands whether they were contacted in writing or ...

President Martin: No. That has nothing to do with our process. You can ask your neighbors privately, but that's irrelevant to our decision tonight. Public hearing closed. Commissioners.

Commissioner Tucker: I will move the staff recommendation and findings on A, conditional use permit (Kummer).

President Martin: Any discussion?

Commissioner Tucker: Well, clearly this is too much house on this very difficult lot. Staff did suggest there's possibly some room for maneuver, but I notice in the plan not even the little triangle that is buildable was included in the plan. So this is way too much for this. So we can easily deny not being within the 50 foot.

Commissioner Motzenbecker: Yes, I would just speak to that staff recommendation. Some of the things that were mentioned about addressing steep slopes and specific reasons for setbacks from the wetlands – the slopes on this site in the front portion of this site are between 45 percent and 30 percent across the front of the site. Now that to me seems like a steep slope and I would know. But setbacks for wetlands are there for a reason. They're there to protect the ecosystems, they're there to protect runoff, to accept the stormwater bounce. The reasons are numerous, so I would just say that I don't feel that this is an appropriate use for this site and I would concur with the recommendation.

President Martin: OK, the motion is to approve the staff recommendation to deny the CUP in item A. All those in favor.

The motion carried 7 – 0.

Commissioner Tucker: I'll move staff recommendation on item B (Kummer seconded).

President Martin: Alright, we've had the discussion.

The motion carried 7 – 0.

Commissioner Tucker: I'll move staff recommendation on C and D – they're basically repeats of A and B (Kummer seconded).

The motion carried 7 – 0.

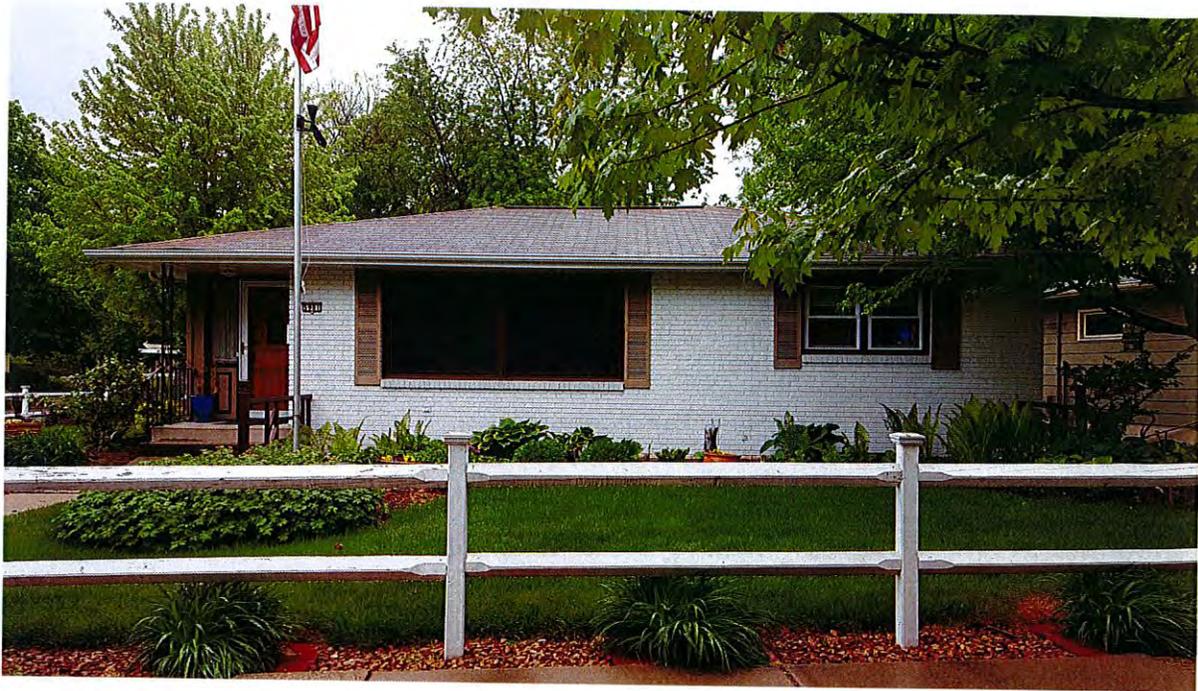


Front



Side facing Girard

1321 59<sup>th</sup> Street West



Side facing Grass Lake Terrace



Side facing Girard

5901 Grass Lake Terrace



5913 Grass Lake Terrace



5917 Grass Lake Terrace



5928 Grass Lake Terrace



5907 Girard Avenue South



5911 Girard Avenue South



5917 Girard Avenue South



5921 Girard Avenue South



5929 Girard Avenue South

# 5912 Girard Site Photos



Photo Key



1. View from Girard Avenue, looking west. North and south property lines are approximately at power poles.



2. View from rear, center of site looking east toward Girard Avenue.



3. View from rear, east side of site looking southeast toward Girard Avenue.



4. View from rear, east side of site looking south toward Grass Lake.



5. View from rear, east side of site looking southwest toward Grass Lake.



6. View from rear, east side of site looking west, southwest.



7. View from rear, center of site looking west.



8. View from rear, center of site looking northwest.



9. View from rear, center of site looking north.



10. Existing condition of rear portion of site, looking southwest.



11. Existing condition of groundcover, center of site.



12. View from center of site, looking east.