



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
December 5, 2017
7:00 P.M.

CALL TO ORDER

APPROVE AGENDA

REGULAR AGENDA

- A. Review/Approve November 2, 2017 Meeting Minutes* (p. 2)
- B. Conditional Use Permit Ordinance 306* (p. 3)
 - 1. Recommendation to City Council to approve amendments.
- C. Draft Planning Commission Bylaws* (pp. 4-5)
 - 1. Recommendation to City Council to approve the bylaws.
- D. Set New Planning Commission Meeting Dates/Times* (p. 6)

ADJOURN

**CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
November 2, 2017**

MINUTES

COMMISSIONERS PRESENT: Chair Doug Danks, Vice Chair John Lund and Jozsef Hegedus. John Winters and Randy Felt were absent.

OTHERS PRESENT: City Administrator Tobin Lay and Alan Mitchell.

Chair Doug Danks called the meeting to order at 7:06 p.m.

REGULAR AGENDA

A. Review/Approve October 19, 2017 Meeting Minutes.

John Lund motioned to approve; Jozsef Hegedus seconded.
Motion passed.

B. Review City Project No. 2017-1 Feasibility Study: Sewer Improvement Project.

John Lund motioned to recommend approval of the Feasibility Study to the City Council.
Jozsef Hegedus seconded.
Motion carries.

C. Review Draft Right of Way Ordinance Language as Included in Packet, p. 19-44.

Landfall Village to be struck and replaced with Birchwood.
Doug Danks comments whereas it is recommended by the League of Minnesota Cities, the municipalities adopt Right of Way Ordinance and whereas the City of Birchwood Village finds that it's in its best interest to regulate the development of small cellular wireless in its right of ways. The Planning Commission moves to approve recommendation of the Right of Way Ordinance language as included in packet pages 20-41.
John Lund motioned to approve, Jozsef Hegedus seconded.
Amendment to motion:
Also include designating our Zoning Ordinance 309 for the Ordinance language.
Motion passed.

D. Review Draft Planning Commission Bylaws.

John Lund motioned to table.
Jozsef Hegedus seconded.
Motion passed.

ADJOURN

MOTION WAS MADE BY COMMISSIONER LUND AND SECONDED BY COMMISSIONER HEGEDUS TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 7:55 P.M.

MEMORANDUM

DATE: December 5, 2017

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Conditional Use Permits – Section 306



Birchwood Village

Dear Commissioners,

I recently discovered a problem with the existing Conditional Use Permit (CUP) language in City Code. As written now, City Code requires a CUP for something as ordinary as putting sand on someone's beachfront property.

Under Section 301.070.1.a., a CUP is required any time there is:

Any *land disturbance activity* where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement...

According to 300.020.24., a Land Disturbance Activity is defined as:

Any land change that may result in soil erosion from water or wind and the movement of sediments including, but not limited to, grading, excavating, and filling of land, and removal of vegetation.

There is an exception to this definition for "Gardening or the planting of trees or shrubs."

Although it may be understandable that the City maintain oversight over the color and type of sand a resident wishes to put in their yard, especially when placed near a public area, such as a public lake, I don't think it was the intention of the City to have Section 306 Conditional Use Permit govern something as common as sand.

A CUP requires a fixed application fee of \$400 and must be reviewed and approved by both the Planning Commission and the City Council before being granted. For certain uses, such as beach sand or even a small sand box, this seems onerous.

I presented this problem to the City Council in November and they unanimously requested that the Planning Commission take a look at Section 306 and any other related ordinances and provide a recommendation for appropriate amendments.

Recommendation/Request

The City Council recommends that the Planning Commission look into Section 306 to determine what unintended uses could be caught up in the ordinance because of the language of 301.070.1.a., 300.020.24., and 306.

Here are a few ways the Commission can rectify these unintended CUP uses:

- 1) Amending the definition of Land Disturbance Activities in 300.020.24. to release unintended CUP uses;
- 2) Include these unintended uses in the list of 300.020.24. exceptions;
- 3) Amend the Fee Schedule to create a tiered fee structure for CUP's depending on the type of use;
- 4) Make a policy to waive the CUP fees for certain inexpensive uses; OR
- 5) Amend City Code so that ordinary uses, such as sand, be governed under a different permitting process other than a CUP, such as a Zoning Permit, which only requires a \$30 fee.

MEMORANDUM

DATE: December 5, 2017

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Draft Planning Commission Bylaws



Birchwood Village

Dear Commissioners,

During the Oct 3, 2017 Planning Commission meeting, Commissioners discussed using sections of Alan Mitchell's 303 draft to create Planning Commission Bylaws. During the Oct 19, 2017 Planning Commission meeting, Commissioners reviewed the draft bylaws and decided to table the agenda item until tonight's meeting. Commissioners were asked to think about possible bylaws and come prepared to discuss at tonight's meeting. Enclosed is the most recent draft of the bylaws.

Staff recommends Commissioners consider reducing the number of notice days stipulated in Section I: Notice of Meetings from five days to three. The law requires three days notice and even the Birchwood City Council Rules of Procedure stipulates three days.

Request/Recommendation

Staff requests Commissioners:

- 1) Discuss possible bylaws; and
- 2) Make a recommendation for City Council to approve.

Thanks!

Regards,
Tobin Lay

**CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION BYLAWS**

I. NOTICE OF MEETINGS

The Planning Commission shall give at least five (5) days notice of all regular and special meetings. The notice must include a copy of the agenda for the meeting.

II. OPEN MEETINGS

All meetings of the Planning Commission shall be open to the public, unless closure is authorized by the City Council.

III. QUORUM

A quorum is required to hold a meeting and to take any action. A quorum is a majority of the members.

MEMORANDUM

DATE: December 5, 2017

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Commission Meeting Dates/Times



Birchwood Village

Dear Commissioners,

It is anticipated that the City Council will pass a final vote of your recommended Section 303 amendments during next week's City Council meeting. If passed, tonight's meeting will be the last mandated meeting for the first Tues of each month – you will be free to set your own routine meeting times.

Recommendation/Request

Accordingly, I request that you discuss and set your new routine meeting dates and times, to be effective January 2018. Please allow enough space between your meetings and the City Council meetings for variance applicants and staff to adjust and prepare for variance hearings. Also please be mindful of the set meeting times of the other City committees and of national holidays.

The other set City committee meeting times are as follows:

- Dog Park Committee – first Tues at 6pm
- Roads Committee – first Mon at 6:30pm
- Parks Committee – fourth Tues at 7pm

Once you have set your new meeting times, please advise me so I can post the new meeting schedule accordingly. Thanks!

Tobin Lay