



AGENDA OF THE PLANNING  
COMMISSION  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
November 26, 2018  
7:00 P.M.

**CALL TO ORDER**

**APPROVE AGENDA**

**REGULAR AGENDA**

- A. Review/Approve October 25, 2018 Meeting Minutes\* (p. 3)
- B. Lakewood Lane Improvements\* (pp. 5-16)
- C. First Reading Ordinance 2018-11-01 Amending Conditional Uses (Sec 301)\* (pp. 17-18)
- D. Easement Usage Agreement\* (pp. 19-21)

**ADJOURN**

\* Denotes items that have supporting documentation provided



**CITY OF BIRCHWOOD VILLAGE  
PLANNING COMMISSION MEETING  
October 25, 2018**

**MINUTES**

**COMMISSIONERS PRESENT:** Vice Chair John Lund, Randy Felt, Jozsef Hegedus. **Absent:** Chair Doug Danks, John Winters.

**OTHERS PRESENT:** City Administrator Tobin Lay.

**Vice Chair John Lund** called the meeting to order at 7:04 p.m.

**APPROVE AGENDA:** Randy Felt motioned to approve the agenda. Jozsef Hegedus seconded. Motion passed.

**REGULAR AGENDA**

**A. Review/Approve September 27, 2018 Meeting Minutes**

Jozsef Hegedus motioned to approve. Randy Felt seconded. Motion passed.

**B. Review/Approve October 4, 2018 Meeting Minutes**

Randy Felt motioned to approve. Jozsef Hegedus seconded. Motion passed.

**C. Reschedule or Cancel Nov & Dec Commission Meetings**

Vice Chair John Lund recommended Commissioners cancel both the Nov & Dec Planning Commission meetings due to proximity to holidays. Jozsef Hegedus motioned to cancel both Nov & Dec meetings. Randy Felt seconded. Motion passed.

**D. Discuss Amending Permit Requirements (203.040)**

Vice Chair John Lund recommended this item be tabled until January and that each Commissioner bring a list of suggestions/examples for consideration. Randy Felt motioned to table. Jozsef Hegedus seconded. Motion passed.

**ADJOURN**

**MOTION WAS MADE BY COMMISSIONER JOZSEF HEGEDUS AND SECONDED BY COMMISSIONER RANDY FELT TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 7:12 P.M.**



**MEMORANDUM****Birchwood Village**

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**DATE:** November 21, 2018  
**TO:** Birchwood Planning Commission  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Lakewood Lane Improvements

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Dear Planning Commissioners,

Each winter the City receives calls of despair from the residents abutting Lakewood Ln. Lakewood Ln is a very steep hill that feeds off of Lake Ave and is the only access residents abutting this City road have to their homes. During the winter this hill become dangerous because it is too steep to properly maintain by the snow removal crews. Until now, the City has responded to the cries of help from the residents relying on this road by trying to improve snow removal methods but it has remained a problem despite these efforts.

Trying to improve snow removal techniques on this hill does not seem to be the appropriate solution to the problem. Staff believes that the best solution requires a broader approach. Just a few weeks ago, a resident complained that their vehicle was unable to ascend the hill and slid backwards down the hill on ice and narrowly missed colliding with a passing vehicle on Lake Ave.

Originally, Lakewood Ln connected to both Lake Ave on the southeast and the Cedar St/Wildwood Ave intersection on the northwest. At some point in Birchwood's past, the City vacated the majority of Lakewood Ln and sold the vacated right-of-way sections to the abutting properties of 339, 345 & 361 Wildwood Ave.

The City Council has requested the Planning Commission work with City Engineer Steve Thatcher and consultants from MnDOT (if available) to study Lakewood Ln and determine an appropriate solution(s). Mr. Thatcher has already been advised of this request and will be present at this Commission meeting to begin the discussion with Commissioners and determine next steps.

Enclosed are maps and pictures of Lakewood Ln and abutting properties. Commissioners are encouraged to visit the site prior to the Commission meeting to assess the situation prior to discussion.

**Request/Recommendation**

Council requests Commissioners:

- 1) Work with City Engineer Thatcher and MnDOT consultants to recommend an appropriate solution(s) to Lakewood Ln problems.

Thanks!

Regards,  
Tobin Lay



Birchwood 2000 Map showing Lakewood Ln before and after vacated



Washington County GIS Map (map shows Lakewood Ln vacated and sold to 339, 345, & 361 Wildwood Ave. Map shows Birchwood right-of-way exists through 367 Wildwood Ave and abutting 369 Wildwood Ave and 363 thru 365 Lakewood Ln)



Intersection of Lakewood Ln & Lake Ave - looking west



Looking northwest up Lakewood Ln from Lake Ave



Looking southeast down Lakewood Ln toward Lake Ave



Looking southeast down Lakewood Ln toward Lake Ave



Looking west from top of Lakewood Ln through 367 & 369 Wildwood Ave properties (pic 1 of 3 of set)



Looking northwest from top of Lakewood Ln. 367 Wildwood Ave properties on left and right (pic 2 of 3 of set).



Looking north from top of Lakewood Ln through 367 Wildwood property (pic 3 of 3 of set).



Looking northwest from top of Lakewood Ln (pic 1 of 2 of set).



Looking west from top of Lakewood Ln through 367 & 369 Wildwood Ave properties (pic 2 of 2 of set).

# MEMORANDUM



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**TO:** Birchwood Planning Commission  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Ordinance 2018-11-01 Amending Conditional Uses

**Birchwood Village**

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Dear Planning Commissioners,

The City Council is considering the enclosed Ordinance 2018-11-01 to amend City Code Section 301.070.1 in an effort to align Section 301 with Section 305 Interim Use Permits. They have asked that the Planning Commission review the proposed house-cleaning amendment and provide a recommendation or feedback for their consideration at the December City Council meeting.

When Section 305 was adopted on April 10, 2012, it moved home occupation provisions from Section 306 Conditional Use Permits to 305 Interim Use Permits. At that time, Section 306 was amended accordingly but Section 301, which also contains a home occupation provision, was overlooked.

The result of leaving Sections 301 and 305 as written is that home occupations require both a Conditional Use Permit and an Interim Use Permit. This was not the intention of the Council when Section 305 was adopted and Section 306 was amended to remove home occupation provisions.

### **Request/Recommendation**

In order to correct this oversight, staff requests Commissioners:

- 1) Review enclosed Ordinance 2018-11-01; and
- 2) Recommend City Council adopt Ordinance 2018-11-01.

Thanks!

Regards,  
Tobin Lay

**ORDINANCE 2018-11-01**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING CONDITIONAL USES IN CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that Section 301.070.1 of Chapter 301 (Zoning Code General Provisions) of the Municipal Code of the City of Birchwood Village is hereby amended as follows:

**SECTION 301: ZONING CODE: GENERAL PROVISIONS**

301.070.1 A Conditional Use Permit shall be required for the following projects:

- a. 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. See Note at end of Section 301.070.
- b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.
- c. Any swimming pool with a capacity over three thousand (3000) gallons or with a depth of over three and one-half (3 1/2) feet of water.
- d. Any tennis court.
- e. Any solar energy system for heating, cooling, electrical generation or other purposes.
- f. ~~Home occupation.~~

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 11<sup>th</sup> day of December, 2018

Attest:

\_\_\_\_\_  
Mary Wingfield  
Mayor

\_\_\_\_\_  
Tobin Lay  
City Administrator-Clerk

# MEMORANDUM

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**TO:** Birchwood Planning Commission  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Easement Usage Agreement



Dear Planning Commissioners,

During the October City Council meeting, the Council put a moratorium on access to Birchwood's lake easements. Until the moratorium is lifted, residents are not permitted to use the lake easements for any purpose other than pedestrian use and to remove boat lifts from the docks. The purpose of the moratorium is to allow time for the Council to consider and pass a solution that reduces or eliminates damage to the lake easements and creates accountability when using the easements.

When asked for feedback on this topic before, the Commission decided to wait for Council to finalize an agreement form before weighing in on the subject. Council would like to lift the moratorium on the easements soon as residents are asking for access for tree work, etc. The Council has asked that the Planning Commission address this topic again and provide suggestions or feedback on the subject that they can use to prepare an agreement form. This will help Council Members determine the appropriate scope and details of the agreement.

Accordingly, what do Commissioners think the Council should be sure to include or leave out of any agreement form?

Enclosed is a proposed agreement form created by Mayor Wingfield and recommendations from City Attorney Alan Kantrud.

### **Request/Recommendation**

Council requests Commissioners:

- 1) Review enclosed materials related to an easement usage agreement; and
- 2) Provide a recommendation for City Council to consider.

Thanks!

Regards,  
Tobin Lay

**Tobin Lay**

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**From:** H. Alan <hakantrud@coyotelawyer.com>  
**Sent:** Sunday, September 23, 2018 10:26 PM  
**To:** Tobin Lay  
**Subject:** Re: Escrow Fee Schedule & Easement Usage Agreement

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I think, based on the discussion of the Council, that the PC should consider the following language:

"When a resident adjacent to a public tract seeks to gain access to their lot from a public tract for the purposes of maintenance of their property they shall request a Limited License from the City for that purpose, describing the purpose for said access. The request for said License shall include the necessity for said access, description of the work contemplated and be limited to that purpose. The request shall state the dates and times that said activity shall occur, and include the contract for services (if applicable) and provide for insurance in the event of damage to the public tract in the process of the activity involved. In the case of a home-owner who seeks to conduct the activity accessing the public tract, the City shall require a reasonable escrow based on the activity contemplated in the License. Said escrow shall be based on the reasonable estimate of the building inspector for the activity contemplated, and possible liability, and shall be refunded if no damage is observed once the licensed activity is concluded. If, in the opinion of the administrator or the building inspector, there is no opportunity for damages to the public tract in excess of \$250.00, no escrow shall be required from the homeowner or their contractor."

This seems to cover the issue... I'm not sure if you want to place a modest cost on the license...I would, say, 150 dollars, just to cover the consideration of the issue by you?

Just my thoughts.

Alan

On Thu, 20 Sep 2018 at 16:52, Tobin Lay <[Tobin.Lay@cityofbirchwood.com](mailto:Tobin.Lay@cityofbirchwood.com)> wrote:

Hello Alan,

Have you started anything on our assignment regarding the escrow fee schedule and easement usage agreement that the Council assigned us at the last meeting? The plan was to have the PC review at their next meeting and I'm putting their packet together now.

To jog your memory, here is the link to the meeting; relevant portion begins at 1 hr 20 min 45 sec:  
<http://provod.rwcable.com/Cablecast/Public/Show.aspx?ChannelID=21&ShowID=13465> Thanks!

Tobin Lay  
City Administrator-Clerk  
City of Birchwood Village, MN  
office: (651) 426-3403  
fax: (651) 426-7747  
email: [tobin.lay@cityofbirchwood.com](mailto:tobin.lay@cityofbirchwood.com)  
website: <http://www.cityofbirchwood.com/>

**PROPOSED EASEMENT  
USAGE AGREEMENT**

CITY OF BIRCHWOOD VILLAGE EASEMENT AND PARK ACCESS RENTAL AGREEMENT

Renter:  
Address:  
Rental Fee Received: \$50.00/hour or \$500/day  
Damage Deposit Received: \$1000.00  
Deposit Returned:  
Daytime Phone:  
Date Key Issued:  
Key Issued To:  
Date Key Returned:

- Generally, no motorized vehicles are allowed on city easements and parks.
- Exceptions to the city ordinances will be considered for easement rental between October 15 and April 15.
- Easements are only rentable at the discretion of the City Administrator for the limited, special purpose of using mechanical equipment to gain access to owner’s real and/or personal property.
- Rental is limited to no more than five consecutive days and may not be renewed without permission from the city council.
- The Renter must sign this Rental Agreement in the space provided below. By doing so, the Renter agrees to adhere to the following requirements, unless special arrangements have been noted by staff on this Rental Agreement, and agrees to accept the consequences for their failure to do so.

- A. Park hours. Renters are permitted to use the rented easement between the hours of 8:00 a.m. to 8:00 p.m.
- B. Insurance. The Renter shall indemnify and hold the City harmless for any liability upon city property during the rental period.
- C. Keys. Keys to the park lock(s) must be returned to City Hall the next business day immediately following the rental date. Renters shall be responsible for the cost of replacing lost or damaged keys, or re-keying the facilities. If preferred, Renters may return the key by depositing it in the drop box located in the entrance of City Hall.
- D. Damage and deposit. There is a \$1000.00 deposit required in addition to the rental fee, which shall be returned only if City staff determines that all conditions of this Rental Agreement have been met. The Renter’s responsibility shall not be limited to the amount of the deposit. In the event of a violation of this Rental Agreement, the deposit may be retained to recover the administrative cost of recovering damages from the Renter, which shall be in addition to the deposit amount.
- E. Adult. Renters must be at least eighteen years of age
- F. Refunds. There are no refunds in part or in whole of rental fees, whether due to inclement weather or for any other reason.

Signature  
Print Name  
Date