

Reso. 7093



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CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 7093

**A RESOLUTION
APPROVING A CONDITIONAL USE PERMIT
PURSUANT TO MUNICIPAL ZONING CODE
SECTIONS 78-328(7) & 78-916**

FILE NO. LA20-000016

WHEREAS, on January 22, 2020, Paul Thomas Design Build o/b/o Eric and Elizabeth Vogstrom (hereinafter the "Applicants"), applied for a conditional use permit (hereinafter the "CUP") pursuant to City Code for the property addressed **2710 Pence Lane** and legally described as:

Lot 2, Block 1, Pence Lane Addition, Hennepin County, Minnesota (hereinafter the "Property");

WHEREAS, the Applicants have made application to the City of Orono for a CUP pursuant to Orono Municipal Zoning Code Section 78-328(7) to allow plumbing including a bathtub or shower within an accessory building; and

WHEREAS, on March 16, 2020, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

WHEREAS, on March 16, 2020 the Planning Commission recommended approval of the CUP to allow plumbing including a bathtub or shower within an accessory building; and

WHEREAS, on April 13, 2020, the City Council reviewed the application and the recommendations of the Planning Commission and City staff, ultimately tabling action for two weeks; and

WHEREAS, on April 27, 2020, the City Council reviewed the application; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Orono, Minnesota hereby approves the requested CUP for plumbing including a bathtub or shower within an accessory building as described above based on one or more of the following findings of fact concerning the Property:



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FINDINGS OF FACT:

1. This application was reviewed as Zoning File #LA20-000016. The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.
2. The Property is located in the LR-1B One Family Lakeshore Residential Zoning District.
3. The Property contains 1.47 acres in area.
4. The Property is within Tier 1 and hardcover is limited to 25% according to the Stormwater Quality Overlay District.
5. Applicant has applied for the following:
 - a. A conditional use permit for plumbing including a bathtub or shower within an accessory building.
6. In considering this application for CUP for plumbing including a bathtub or shower within an accessory building, the Council has considered the advice and recommendation of the Planning Commission and the effect of the proposed CUP upon the health, safety and welfare of the community, existing and anticipated traffic conditions, light and air, danger of fire, risk to the public safety, and the effect on values of property in the surrounding area.

CONDITIONAL USE PERMIT ANALYSIS:

The Council finds that the proposed use at the proposed location is or will be:

- 1) Consistent with the community management plan; The proposed use is residential in nature and residential use is consistent with the CMP guiding for this neighborhood.
- 2) Compliant with the zoning code, including any conditions imposed on specific uses as required by article V, division 3 of the City Code; The proposed accessory building improvement including the plumbing fixtures are compliant with the zoning ordinance.
- 3) Adequately served by police, fire, roads, and stormwater management; The proposed use will be adequately served by existing services and facilities.
- 4) Provided with an adequate water supply and sewage disposal system; The Property is served by City sewer and private well. This criterion is met.



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- 5) Not expected to generate excessive demand for public services at public cost; This criterion is met.
- 6) Compatible with the surrounding area as the area is used both presently and as it is planned to be used in the future; The proposed accessory building with a garage and entertaining space is residential in character and its use is expected to be compatible with the surrounding area.
- 7) Consistent with the character of the surrounding area, unless a change of character is called for in the community management plan; The accessory building including plumbing is residential in visual character and is expected to be compatible with the house on the Property and the surrounding area.
- 8) Compatible with the character of buildings and site improvements in the surrounding area, unless a change of character is called for in the community management plan; The architectural styling of the proposed accessory building is expected to be residential-looking in character and consistent with that of the principal structure on the Property.
- 9) Not expected to substantially impair the use and enjoyment of the property in the area or have a materially adverse impact on the property values in the area when compared to the impairment or impact of generally permitted uses; The use of the accessory building with entertaining space which includes plumbing is not expected to have any adverse impacts. The applicant has included a narrative in the exhibits to the Planning Commission noting the accessory building will be used by the occupants of the principle dwelling and nonpaying guests.
- 10) Provided with screening and buffering adequate to mitigate undesirable views and activities likely to disturb surrounding uses; The accessory building will be situated in a conforming location and will not be significantly visible when viewed from off the Property or Kelly Ave, and the views from the neighbors will be screened somewhat by existing vegetation and the physical separation.
- 11) Not create a nuisance which generates smoke, noise, glare, vibration, odors, fumes, dust, electrical interference, general unsightliness, or other means; The proposed accessory building with plumbing is not expected to cause any of these undesirable impacts.



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- 12) Not cause excessive non-residential traffic on residential streets, parking needs that cause a demonstrable inconvenience to adjoining properties, traffic congestion, or unsafe access; It is anticipated that the proposed building will not generate any of these undesirable issues.
- 13) Designed to take into account the natural, scenic, and historic features of the area and to minimize environmental impact; The proposed building has been visually designed to conform to the residence on the Property, and will not have a negative environmental impact.
- 14) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts; the Applicants are hereby advised of this requirement and have noted the narrative that all lighting will be downcast; and
- 15) Not detrimental to the public health, public safety, or general welfare. The council finds that the proposed use of the accessory structure with a bathtub or shower will not be detrimental to the residential character of the neighborhood.
- 16) The plumbing fixtures proposed are in keeping with the intended use of the accessory building.
- 17) The Owners agree to the filing of a covenant in the title of the Property providing that the accessory building will not be:
 - a. Used for a home occupation unless specifically approved by the city or if allowed by this Code.
 - b. Used as a dwelling unless a guest house conditional use permit is obtained.
 - c. Rented, leased or otherwise provided for use as a dwelling under any circumstances.
 - d. Regarding future subdivision of the Property:
 - i. No future subdivision will be approved that places the accessory building within a lot that has no principal building
 - ii. If the Property is subdivided, the accessory building and principal building will be located together within a lot that meets the minimum lot area requirement for the given size of the accessory building.
 - iii. In subdivision approval, the setback required for the accessory building shall remain.



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CONCLUSIONS, ORDER AND CONDITIONS:

Based upon one or more of the above findings, the Orono City Council hereby grants a conditional use permit to allow plumbing including a bathtub or shower in an accessory building pursuant to Orono Municipal Zoning Code Section 78-328(7) in conjunction with the construction of a new detached garage; subject to the following conditions:

1. Council approval is based on the entire record, above Findings.
2. Any amendments to the plans which are not in conformity with City codes may require further Planning Commission and City Council review.
3. The conditional use permit granted by this resolution runs with the Property not with the Applicants, but are permissive only and must be exercised by obtaining a building permit for the new construction and commencing construction of said project. A framing inspection must be completed within one year of the date of Council approval, or the conditional use permit will expire on that date (April 27, 2021).
4. The undersigned Owners hereby agree to the filing of a covenant in the title of the Property providing that the accessory building will not be:
 - e. Used for a home occupation unless specifically approved by the city or if allowed by this Code.
 - f. Used as a dwelling unless a guest house conditional use permit is obtained.
 - g. Rented, leased or otherwise provided for use as a dwelling under any circumstances.
 - h. Regarding future subdivision of the property:
 - i. No future subdivision will be approved that places the accessory building within a lot that has no principal building
 - ii. If the Property is subdivided, the accessory building and principal building will be located together within a lot that meets the minimum lot area requirement for the given size of the accessory building.
 - iii. In subdivision approval, the setback required for the accessory building shall remain.
5. Violation of or non-compliance with any of the terms and conditions of this resolution may result in the termination of any authority granted herein.

ADOPTED by the Orono City Council on this 27th day of April, 2020.



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ATTEST:

Anna Carlson, City Clerk

Eric Vogstrom, Property Owner

CITY OF ORONO:

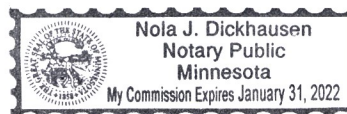
Dennis Walsh, Mayor

Elizabeth Vogstrom, Property Owner

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this 30 day of April, 2020, by Eric Vogstrom, spouse to Elizabeth Vogstrom.

Notary Public



STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this 30 day of April, 2020, by Elizabeth Vogstrom, spouse to Eric Vogstrom.

Notary Public

