Minnetonka City Council

Regular Meeting, Monday, February 6, 2017

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Ellingson-Allendorf-Acomb-Wiersum-Bergstedt-Wagner-Schneider
4. Approval of Agenda
5. Approval of Minutes: January 9 and 23, 2017 regular council meetings
6. Special Matters: None
7. Reports from City Manager & Council Members
   A. Reports from the city council
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Cooperative trail agreement with Three Rivers Park District and limited use permit with MnDOT for Opportunity Court/Smetana Drive and Bren Road
   B. Order for liquor license stipulation for Yum! Kitchen and Bakery, 6001 Shady Oak Road
   C. Resolution approving the preliminary plat of WILSON RIDGE 6TH ADDITION, a 3-lot subdivision of existing properties at 4316 and 4328 Wilson Street
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances: None
13. Public Hearings:
   A. On-sale wine and on-sale 3.2% malt beverage liquor licenses for Greenfield Natural Kitchen, LLC, at 1700 Plymouth Road
      Recommendation: Open the public hearing and continue to March 6, 2017 (4 votes)

14. Other Business:
   A. Resolution approving a conditional use permit for a storage building at 11522 Minnetonka Boulevard
      Recommendation: Adopt the resolution approving the request (4 votes)
   B. Concept plan review for Mesaba Capital Development
      Recommendation: Discuss concept plan with the applicant. No formal action required.

15. Appointments and Reappointments:
   A. Reappointments to Minnetonka boards and commissions
      Recommendation: Approve the recommended reappointments (majority vote)

16. Adjournment
1. **Call to Order**

   Mayor Terry Schneider called the meeting to order at 6:30 p.m.

2. **Pledge of Allegiance**

   All joined in the Pledge of Allegiance.

3. **Roll Call**

   Council Members Tim Bergstedt, Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, Brad Wiersum and Terry Schneider were present.

4. **Approval of Agenda**

   Acomb moved, Wagner seconded a motion to accept the agenda with addenda to items 13C, 14B, and 14D. All voted “yes.” Motion carried.

5. **Approval of Minutes: December 19, 2016 regular council meeting**

   Bergstedt moved, Wiersum seconded a motion to approve the December 19, 2016 regular council meeting minutes, as presented. All voted “yes.” Motion carried.

6. **Special Matters: None**

7. **Reports from City Manager & Council Members**

   City Manager Geralyn Barone reported on upcoming council meetings and city events.

   Schneider said there was a Southwest Light Rail Quarter Management Committee meeting the previous week. There has been authorization from the federal government to proceed with the project and a full engineering plan.

8. **Citizens Wishing to Discuss Matters not on the Agenda**

   Charles Dahlmeir, 14512 Moonlight Hill Road, said he wanted to find out how it was possible that somebody could own a property, turn it over to a renter, apply for a lodging permit, get the permit approved, and then have the renter run a halfway house/rehab location in a residential neighborhood. The property is on a cul-de-sac with one way in and one way out. There was a lot of transient foot
traffic, automobile traffic and a lot of automobile parking on the street. He said he was speaking on behalf of many of his neighbors who shared his frustration and disappointment. He showed the council pictures of garbage cans on the property.

Barone said the home falls into a category regulated by the state. The state allows these types of residential uses without city approval for residences with six or fewer residents. She said the city could address nuisance type issues such as the garbage cans that were left outside. She suggested Dahlmeir talk with city staff to address any nuisance issues on the property.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Agreements with Xcel Energy for the burial of power lines along Plymouth Road and Crosby Road

Allendorf moved, Acomb seconded a motion to authorize mayor and city manager to execute an agreement with Xcel Energy in the estimated amount of $110,480.07 to provide burial of overhead utility lines for Phase I of the Plymouth Road and Ridgehaven Lane Improvements Project; and to authorize mayor and city manager to execute an agreement with Xcel Energy in the estimated amount of $453,661.77 to provide burial of overhead utility lines as part of the 2017 Street Rehabilitation Project on Crosby Road; and to amend the CIP. All voted “yes.” Motion carried.

B. Resolution designating an Acting Mayor and Alternate Acting Mayor for 2017

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2017-001 designating Council Member Patty Acomb as Acting Mayor and Council Member Tony Wagner as Alternate Acting Mayor for the year 2017. All voted “yes.” Motion carried.

C. Resolution approving a conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive

Wiersum asked that the item be pulled from the consent agenda. He noted the church was in the Opus area and hoped to grow. He asked if there was a look back process so that in a few years the parking situation would be re-looked at to make sure there was still adequate parking. City Planner Loren Gordon said a conditional use permit allows staff to look at a particular issue that might come up. He said the church had provided a little bit of room for parking for future growth.
Wiersum moved, Bergstedt seconded a motion to adopt resolution 2017-002 approving a conditional use permit, with parking variance, for River Valley Church at 10801 Red Circle Drive. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance amending permit fees, land use application fee and mechanical contractor licenses

Barone gave the staff report.

Acomb moved, Allendorf seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.

13. Public Hearings:

A. Ordinance amending section 2.06 of the city charter, regarding vacancies in office

Barone gave the staff report.

Schneider opened the public hearing at 6:49 p.m. No one spoke. He closed the public hearing at 6:49 p.m.

Wagner moved, Wiersum seconded a motion to adopt ordinance 2017-01 amending section 2.06 of the city charter regarding vacancies in office. All voted “yes.” Motion carried.

B. On-sale 3.2 percent malt beverage liquor license for Bunker Indoor Golf, 14900 State Highway 7

Barone gave the staff report.

Schneider closed the continued public hearing at 6:51 p.m.

Acomb moved, Allendorf seconded a motion to grant the license. All voted “yes.” Motion carried.

C. Public hearing approving vacation of easements and preliminary and final plats for RIZE AT OPUS PARK at 10101 Bren Road East
Gordon gave the staff report.

Schneider opened the public hearing at 6:54 p.m. No one spoke. He closed the public hearing at 6:54 p.m.

Wagner moved, Acomb seconded a motion to adopt resolution 2017-003 approving preliminary and final plats; and to adopt resolution 2017-004 approving the vacation of existing easements. All voted “yes.” Motion carried.

14. Other Business:

A. Agreements related to the Green Line Extension (Southwest LRT)

Community Development Director Julie Wischnack and City Engineer Will Manchester gave the staff report.

Wagner said the one area that gave him pause was the amount being spent from franchise fees going forward. He looked at the capital improvement plan and the balance by 2021 would already be down to $300,000 without this plan and that doesn’t even take into consideration additional burial that might be done with other projects. He asked staff to further review this issue and that council discuss other potential sources during the CIP process.

Barone noted that for the project approved earlier in the meeting, item 10A, the city would see some savings, so the fund balance would increase some and would not go into the negative for the five year CIP period.

Schneider said as the area develops he thought there would be an opportunity to be creative on how the redevelopment is structured as far as development fees, tax abatement, TIF, etc. He thought there was a way to fully refund all the funds over the next four years. The funding obviously had to be done up front but it was being done because the council thought there was great future potential for the area.

Wiersum said nobody likes extra expenses. This was one of those classic incremental decisions. The council was on record as supporting the SWLRT. He said he challenged Barone earlier in the day about staff’s recommendation and she convinced him they worked hard to find a way to reduce the size of the additional costs. Part of him thought that the project could be built without some of the extra aesthetic things but then it would be un-Minnetonka like. A lot of money was spent improving the look of the 494 overpasses and some of the improvements made along Highway 101.
To go the cheaper route for this project would compromise the character of the city.

Schneider said in the bigger picture of the overall costs of building the light rail it was his understanding that the city only had to pay for what it spent and not give up the contingency to help another city. There was a possibility of getting some of the contingency money back. Wischnack noted that the subordinate funding agreements were for a fixed amount. If there was an agreement for the stormwater pond, this would be a change order, and that would be as bid. The city could see savings from that.

Wiersum moved, Wagner seconded a motion to approve Subordinate Funding Agreements 4 and 5 with the Metropolitan Council; and to amend page 8-6 and adopt new page 8-8 of the 2017-2021 CIP. All voted “yes.” Motion carried.

B. Resolution reaffirming previous site and building plan approval for the Music Barn Apartments at 5740 and 5750 Shady Oak Road

The item was pulled from the agenda.

C. Items concerning Crest Ridge Senior Living at 10955 Wayzata Boulevard:

1) Comprehensive guide plan amendment;
2) Major amendment to an existing mater development plan; and
3) Site and building plan review.

Gordon gave the staff report.

Wagner noted the staff report stated, “Staff would suggest, but not necessarily require, that the applicant consider the feasibility of adjusting the northerly portion of the existing stormwater pond to accommodate infiltration.” He asked how this related to Gordon’s discussions with the Bassett Creek Watershed District. Gordon displayed a picture of the existing stormwater pond. The infiltration area was moved to the northern area of the pond. He said unlike the city, the watershed district was not concerned about the aesthetics of the pond. The staff recommendation would provide for a functioning pond that met the watershed district’s rules while getting higher aesthetic quality as well.

Matt Rauenhorst, from the Opus Group, 10350 Bren Road West, said he appreciated the process.
Wagner thanked the Opus Group for addressing the neighbors' concerns during the process.

Wagner moved, Wiersum seconded a motion to adopt resolution 2017-006 amending the comprehensive guide plan designation from office to high-density residential; to adopt ordinance 2017-02 repealing and replacing the existing Crest Ridge Corporate Center master development plan as it pertains to the subject property; and to adopt resolution 2017-007 approving final site and building plans for Crest Ridge Senior Living. All voted “yes.” Motion carried.

D. Resolution approving the preliminary plat, with variances, for WOODLANDS AT LINNER at 1555 Linner Road

Gordon gave the staff report.

Tom Bakritges, of Homestead Partners and JMS Custom Homes, said the property was one of the only infill pieces along Linner Road and was five and a half acres. The existing home will be reconstructed and three new homes would be built on the three new lots. From a global standpoint the benefits of the plat include the water main looping from south to north as well as the stormwater ponding to address the runoff that had been an issue for a number of years. All the lots will be custom graded and the only area that would be impacted was where the looping will take place and where the cul de sac is being proposed. Additional trees would be planted in those areas. He said he worked with staff on several different options to minimize impacts. This plan was the one that worked best and would provide a cohesive neighborhood with the surrounding lots.

Kathy Ernst, 14731 Oak Lane, said she lived in her house for 32 years and understood that development happens. The thing that puzzled her husband and herself was the looping of the sewer and water. Most of the time sewer and water happens along roads. She said they were puzzled why someone felt the need to run the sewer and water between the houses and the wetland. They were very concerned about the wetland. She was also concerned about the precedent that would be set.

Schneider noted it was long standing city policy that anytime there was the ability to connect water systems that it be done because it provided safety and security for multiple residences. The overall system functions much better from a water pressure, water quality, and safety standpoint. If there was a break, there are other ways to get water to the other residences. Manchester concurred with Schneider's comments.
Allendorf moved, Wiersum seconded a motion to adopt resolution 2017-008 approving the preliminary plat of WOODLANDS AT LINNER, with variances. All voted “yes.” Motion carried.

E. Resolution amending Council Policy 2.2, regarding disposition of surplus personal property

City Attorney Corrine Heine gave the staff report.

Wiersum moved, Wagner seconded a motion to adopt resolution 2017-009 approving the amendment to Council Policy 2.2, regarding disposition of surplus personal property. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 7:50 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Minutes
Minnetonka City Council
Monday, January 23, 2017

1. Call to Order

Mayor Terry Schneider called the meeting to order at 6:33 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, and Terry Schneider were present.

4. Approval of Agenda

Bergstedt moved, Wiersum seconded a motion to accept the agenda, as presented. All voted "yes." Motion carried.

5. Approval of Minutes: None

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and city events.

Wagner noted this was the first day southbound Highway 169 was closed. This would impact many city residents. He asked what staff was doing to monitor the situation particularly at Hopkins Crossroad. City Engineer Will Manchester said the police department was out monitoring traffic to observe driver patterns. They would be doing this the entire week. Engineering staff would look at adjustments that needed to be made and had been working with the county and MnDOT ahead of time. Signal timing adjustments would be made accordingly.

Barone thanked the eight police personnel who worked security at the presidential inauguration in Washington DC.

8. Citizens Wishing to Discuss Matters not on the Agenda

Deanna Bruce, 3310 Hazelwood West, said she was speaking on behalf of her neighbors who are concerned about the trails and boardwalk project scheduled to begin this winter near Minnehaha Creek. The project was reviewed and
approved in 2003 and it was unfair that there has been no talk or public comment opportunity about the project for 14 years. She said she moved into the area in 2010 and first found out about the project last summer when a work crew cleared a path along the shoreline. The biggest concern was the eight foot wide asphalt trail that will come within 90 some feet of the shoreline. The negative effects of asphalt on waterways has been proven again and again. Oils, heavy metals, and other chemicals have adverse effects. Asphalt also heats up the planet. Natural vegetation was always best for the environment. She said another concern was the impact on the wildlife. She truly believes the harm will outweigh any benefit the trail might provide. The neighbors were asking the project be put on hold until there could be more review.

Barone noted the trail was part of the civic center campus master plan. Much of the plan was completed but there were some trails that were not completed partly due to the recession. The plan has been part of the CIP for the past five years. She said there were some approvals still needed before the trail would be built. The Minnehaha Creek Watershed District has to provide their approvals. The planning commission also would hold a public hearing due to the wetland crossings.

Rick Bruce, 3310 Hazelwood West, said it was his understanding that there wasn’t any more public comment period because it was decided in 2003. Schneider said the master plan was approved in 2003. The funding for the project was approved through the capital improvements program but it still needed approvals by the watershed district and to be reviewed by the planning commission. Bruce said he thought it was unconscionable that the approval occurred 14 years ago before many of the current residents lived in the area. Wiersum said that although the project was approved in 2003, there still would be a public process before the trail was constructed. Barone said the details related to the construction of the trail was what will be reviewed and discussed. The trail has already been approved.

9. **Bids and Purchases:** None

10. **Consent Agenda – Items Requiring a Majority Vote:**

   A. **Resolution approving preliminary and final plat of TONY’S ADDITION at 9597 Sandra Lane**

   Wagner noted there were residents present who wished to speak on the item so he asked that it be pulled from the consent agenda.

   City Planner Loren Gordon reviewed the planning commission discussion and the recommendation for an easement.
Karin Flynn, 9607 Ann Lane, said she was concerned about the easement because of the Sandra Lane and Ann Lane loop. She said the thought was this was going to be a walking trail but the truth was, as a planning commissioner stated, this was an easement to nowhere. She has never seen people walking back the other way with bags from Cub or Target. There was a recommendation that this might become a bus stop but it was much easier to go to the existing bus stop on Minnetonka Boulevard. She said there have been thefts from the two houses that sit along the walk where the easement is supposed to go. Cars have also been broken into. She asked the easement not be put in.

Amy Franklin, 9602 Sandra Lane, said she sees kids on bikes and walkers but you don’t see families and people taking strolls on the trail. She noted the planning commission discussed walkability, which she has no qualms about, but the question is who are the people using the trail and where they are going to. She noted cash and gaming were taken from the house that was broken into and not the diamond necklace and wallet sitting out in the open. This indicated kids might be involved. She didn’t consider cutting through two homes into a townhouse lot to be about walkability. The people are not coming back with shopping bags but rather it was about how one could get through and get through fast.

Bergstedt was excused for the rest of the meeting at 6:52 p.m.

Wagner said the planning commission discussed the easement which was asked for by Metro Transit so the assumption was the neighbors had asked for it. This was counter to what Flynn and Franklin said. He had heard no advocacy for the easement and the question was if an easement was done this far why not do the easement all the way or not do it at all. Even if an easement was done, there was little chance anything would be done given it being on the border with St. Louis Park and the private property involved.

Schneider said the fact the city could get the easement at no cost as part of a planning process was the reason it was being suggested.

Wiersum asked staff’s comments on phase two of the easement if Metro Transit decided to build a path for connectivity. What was the vision for the trail in the future if it ever got built? Gordon said staff discussed what the optimum alignment would be if the trail was desired. Ideally work would be done with the townhome property owner to do a better trail.

Wagner said the neighbors didn’t see the need for connectivity to the neighborhood. The city typically liked to see connectivity to transit stops but the reality was he gave this one a less than one percent chance of
being built and even there was an easement, the city had the right to
determine if it wanted a trail there. The city usually does not turn down the
opportunity for an easement. Given participation would be needed from St.
Louis Park and the landowners for a trail to be built, he wasn’t as
concerned about the easement.

Wiersum said even if an easement was not put in now, it would not mean
a trail could not be built sometime in the future. It would mean taxpayer
money would probably be needed to purchase the access as opposed to
going the easement now for free.

Schneider said there was a long standing philosophy that when there was
an opportunity to provide a legitimate connection and/or easement for
trails or in some cases right-of-way, without any significant negative
impact, that the city just did it. The planning process was about projecting
what might happen 50 years from now. While it might be unsettling for the
neighbors to think the trail would be built, it was unlikely to happen in the
near term. Even if Metro Transit decided to move ahead it would need city
approval.

Wagner said the action the council was taking was more of a paperwork
process than active planning to build a trail.

Allendorf moved, Wiersum seconded a motion to adopt resolution 2017-
010 approving the preliminary and final plat for TONY’S ADDITION at
9597 Sandra Lane. All voted “yes.” Motion carried.

B. Amended and restated subscription agreements with WGL Energy
Systems, Inc.

Allendorf moved, Acomb seconded a motion to approve the amended and
restated subscription agreement with WGL Energy Systems, Inc. for the
Lind solar garden, subject to final review and approval of the city attorney
and to authorize the mayor and city manager to approve and execute a
similar agreement with WGL Energy Systems, Inc. for the next solar
garden that becomes operational. All voted “yes.” Motion carried.

C. Ordinance amending permit fees, land use application fee and
mechanical contractor licenses

Allendorf moved, Acomb seconded a motion to adopt ordinance 2017-03.
All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None
12. **Introduction of Ordinances:** None

13. **Public Hearings:** None

14. **Other Business:**

   A. **Resolution reaffirming previous site and building plan approval for the Music Barn Apartments at 5740 and 5750 Shady Oak Road**

   Gordon gave the staff report.

   Allendorf asked what was included in the notice sent to neighbors because he heard there was a petition being circulated containing concerns that Gordon had effectively addressed in his staff report. Gordon said the notices that are sent out include a brief description about the project and point residents to the city’s website for more detailed information. Allendorf said Gordon had addressed the three areas of concern that were on the petition. He asked if the staff report could be sent to the 400 residents. Gordon said the staff report was on the website. He noted there was an unfortunate mistake where the link to the report erroneously redirected people to the Legacy Oaks website. This has been corrected.

   Matt Rubel, 5630 Sanibel Drive, said he was speaking against the proposal. Two years ago he appeared before the council to discuss concerns about property values and traffic in the neighborhood as well as historical and aesthetic issues. According to city code, the council can reaffirm a previous proposal if there have been no changes to the previously approved plan. He believed there were several changes that have occurred. First there was the elimination of low income housing language from the proposal. Originally the plan had been sold to the city as affordable housing. The current proposal indicates the rent of the units will be between $1,100 and $1,300 a month. This was more than the Beachside residents pay monthly for their mortgages. Previously the developer had indicated he would find funding for the project and now it appeared the project would be paid for through property taxes and other city levies with bonds issued by the city. Rubel said the layout, the number of units, and the parking had also changed. The Beachside community does not support this project. The Beachside residents would like to partner with the city to develop a proposal that both the community and city support.

   Jim Armstrong, 5634 Sanibel Drive, said he lived in Minnetonka for 28 years and questioned if the council would want the apartments across the
street from their homes. He said nobody in the neighborhood supports the proposal.

Brian Schack, from Shelter Corporation, 412 Clover Lane, Golden Valley, said from his perspective nothing had changed from the original submission. The project had been delayed due to the housing tax credit market had changed following the presidential election. The typical buyers of the tax credits are corporations and they have put their buying on hold. He believed within the next 100 days as policies are sorted out, the demand will return. He anticipated this would happen and the closing is planned for sometime this summer. He said Shelter Corporation manage a handful of properties across the city and is very proud of its work.

Wiersum asked what would happen if the market didn’t come back in the way Schack believed it would. Did he envision the project would not happen or if significant changes would need to be made to the project. Schack said he believed the market would come back. There still would be a tax rate for federal income for these companies. The reason the corporations buy these tax credits was to offset their income.

Allendorf asked what the income levels were to qualify for housing in this project. Wischnack clarified this housing was not for low income, but rather was for affordable housing. The rent can range from $800 to $1,300 depending on the number of bedrooms. For a typical house in the neighborhood, the value is $175,000 and that equates to an $856 monthly mortgage payment not including taxes and insurance. She said the typical income would be around $40,000. Allendorf said the potential renters of the units might be teachers, firefighters and police officers. Wischnack said she would add those who work in the retail industry as well.

Ellingson noted some of the neighbors had raised concerns about the design of the project. He asked if these people should contact city staff or the developer with concerns. Schack said at this point the company was locked in on the design. Gordon said the approved concept had to come in substantially in compliance with previous approvals.

Schneider said the council understood that affordable housing was challenging particularly with multiple funding resources. The applicant and city had to be diligent in making sure it all came together right.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-011 reaffirming the previous approval of final site and building plans, subject to previous conditions of approval. All voted “yes.” Motion carried.
B. **Southwest Corridor Investment Framework Cooperative Agreement**

Wischnack gave the staff report.

Wiersum moved, Wagner seconded a motion to approve the Cooperative Agreement with Hennepin County for future projects related to the goals of the Corridor Investment Framework and authorize the mayor and city manager to execute the agreement, including subsequent non-material changes as approved by the city manager and community development director in a form acceptable to the city attorney. All voted “yes.” Motion carried.

C. **Items concerning THE ENCLAVE AT REGAL OAK, at 3639 Shady Oak Road and 3627 Regal Oak Lane:**

1. Ordinance rezoning the properties from R-1 to PUD;
2. Master development plan; and
3. Preliminary and final plats

Gordon gave the staff report.

Roger Anderson, civil engineer and agent for the owner, 13605 1st Avenue North, Plymouth, said he and the owner looked at the property to determine what type of housing to bring forth. The smaller homes, single level living, rambler style with some walkouts was the market they wanted to focus in on. When they first started laying out the plan it looked like there could be five or six new lots. After discussing the concept plan with the council, it was determined to move forward with four lots. The plan being shown to the council was refined to reduce the impact areas. The layouts soften the impacts. The tree preservation ordinance could be met. Stormwater management could be managed. He said it really comes down to the public benefit requirement of the planned unit development (PUD). The use of a PUD was landed upon almost accidentally because the thinking would be to use R1-A zoning. However the requirements of R1-A necessitated using PUD instead. The feeling is there really is a strong market in the city for this type of housing. There are a lot of ramblers in the city but generally they are older housing stock. Renovating those likely would require tearing them down and rebuilding.

Vanessa Greene, 3632 Arbor Lane, said the planning commission and city council both had denied the request for rezoning and now the developer was returning with essentially the same proposal to rezone. The changes were not that significant. Only seven trees have been added. There would be significant grading that could kill more trees. The density was still too high and was out of character of the neighborhood. City staff had indicated
there was no significant public benefit. She was still concerned with stormwater issues. She was also concerned that the city ran a campaign last year called Imagine Minnetonka, to get input from residents about what they wanted for the city. She and a lot of others commented what they loved about the city were the large lots and wooded areas with mature trees. She questioned why the input was asked for if it wasn't going to be listened to.

Cheryl Smith, 3624 Arbor Lane, said her main concern was the requirement for public benefit. The neighbors all talk about the wildlife that live in the woods. Every house that is added reduces the number of trees and animals that live in the woods. She didn’t see how retaining walls could be built without destroying the trees. She asked the council to consider the public benefit for the entire neighborhood and not just these four proposed houses.

Ron Hanson, 12215 Mari Lane, said he was 68 years old and his family moved into the area when he was 10 years old. As far as he knew the woods had been there for a long time. The area had been untouched for at least 58 years. A lot of the aesthetic would be lost with this development.

Schneider asked Anderson if he would prefer the item be tabled to allow him to reevaluate the plan if the council indicated a preference for three lots. Anderson said that would be his preference, and it was likely three conforming lots could be created.

Wagner noted it was a long process and the council felt the concept plan was too intense. It was also thought at one point R-1A zoning was a possibility until the cul-de-sac was looked at. The idea behind the R1-A ordinance was the city wanted and understood the need to have a variety of housing stock but it needed to fit in with the neighborhood. He was more in favor of traditional R1 zoning in this area. He didn’t see a public benefit to the $600,000 price point.

Wiersum agreed with Wagner. He didn’t think this rose to the level of public benefit that would make a PUD make sense. The council in the past had talked a lot about the concern of small lot creep. He believed the city would be looking at greater density. He believed the developer when he said the market he is looking at exists. These would be great houses in the right spot. Requiring a PUD in this location makes it not the right spot. He supported R1 for this location.

Acomb said she really appreciated a lot of what the developer wanted to include in the development. She believed single level living was a need in
the community. She appreciated the geothermal and some of the other nontraditional aspects as well. However, she didn’t think they rose to the public benefit level. She would love to see them used in a three lot development.

Ellingson said he agreed with the other council members’ comments and thought the applicant should be allowed to come back with a revised plan rather than have the council reject the plan altogether. Schneider agreed.

Wagner moved, Acomb seconded a motion to table the item to a date to be determined. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

   A. Appointment of representatives to various advisory boards, commissions and committees

     Schneider moved, Acomb seconded a motion to approve the appointments to the various advisory boards, commissions and committees. All voted “yes.” Motion carried.

16. Adjournment

     Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:50 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #7A
Meeting of February 6, 2017

Brief Description: Reports from the city council

Recommended Action: Summarize the city manager’s performance evaluation

Summary

As part of the January 30, 2017 work session, the city council went into closed session to review the performance of city manager Geralyn Barone. The council evaluated the city manager’s performance based on the city’s shared values and management competencies. Shared values has six components: Adaptable Learning and Innovation; Authentic Communication; Contagious Enthusiasm; Healthy Human Relationships; Outcome Focused Teamwork; and Shared Success. On all of those components, the council determined the manager consistently meets or exceeds expectations.

In the area of management competency the council rated Leadership, Management, Mayor and Council Support, Fiscal Management, Community Relations and Strategic Planning, and the council determined that the manager consistently meets or exceeds expectations in all of those areas.

The council approved 2017 performance goals in the area of Leadership, Management, Mayor and Council Support, Fiscal Management, Community Relations, Strategic Planning, Shared Values and Personal Development for Geralyn.

Respectfully submitted,

Terry Schneider
Mayor
City Council Agenda Item #10A  
Meeting of February 6, 2017

Brief Description: Cooperative trail agreement with Three Rivers Park District and limited use permit with MnDOT for Opportunity Court/Smetana Drive and Bren Road

Recommended Action: Approve the agreement and adopt the resolution

Background

In 2012, council entered into a cooperative agreement with the Three Rivers Park District (TRPD) to use the portion of existing city sidewalk/trail located north of 5401 Opportunity Court for the Nine Mile Creek Regional Trail. The trail at that time was proposed to extend east under Highway 169 once the pedestrian underpass could be constructed in the future.

Currently, the Minnesota Department of Transportation (MnDOT) project is underway on Highway 169 which includes construction of this pedestrian underpass. Although the pedestrian underpass will be completed as a part of MnDOT’s project in late 2017, TRPD does not yet have funding or immediate plans to complete this connection. Therefore, they are requesting use of the city sidewalk located south of 5401 Opportunity Court along the east side of Smetana Drive, and east along the north side of Bren Road to Edina.

In Edina, TRPD is currently constructing a new segment of trail scheduled to be completed in the spring of 2018. The proposed use of the Minnetonka segment will complete the missing link between Hopkins and Edina. Once this Edina segment is complete, the trail will allow users to travel from Hopkins to the Minnesota River Valley in Bloomington and Lake Nokomis in Minneapolis.

In 2010, the city council executed a limited use permit with MnDOT which allowed the city to perform work within their right-of-way, including construction and ongoing maintenance of the sidewalk along the north and south sides of Bren Road, east of Smetana Drive. Due to the request of Three Rivers Park District to also use this sidewalk for the Nine Mile Creek Regional Trail, MnDOT has requested a revision to the city’s previous permit as a housekeeping item to allow TRPD maintenance access along the north side of Bren Road.

Recommendation

Approve the cooperative agreement with the TRPD and adopt the attached resolutionauthorizing execution of a limited use permit with MnDOT for Opportunity Court/Smetana Drive and Bren Road, including subsequent non-material changes as
approved by the city manager and director of engineering in a form acceptable to the city attorney.

Submitted through:
   Geralyn Barone, City Manager
   Corrine Heine, City Attorney

Originated by:
   Will Manchester, P.E., Director of Engineering
Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The city of Minnetonka has constructed a pedestrian trail in the right-of-way of Trunk Highway 169 to promote the orderly and safe crossing of the highway.

1.02. The Minnesota Department of Transportation requires a Limited Use Permit for maintenance and utilization of said pedestrian trail.

Section 2. Council Action.

2.01. The Mayor and City Manager are hereby authorized to execute the Limited Use Permit with the Minnesota Department of Transportation.

Adopted by the City Council of the City of Minnetonka, Minnesota, on February 6, 2017.

________________________________________
Terry Schneider, Mayor

ATTEST:

________________________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on February 6, 2017.

_________________________________________
David E. Maeda, City Clerk
This agreement (the “Agreement”) is made and entered into this ___ day of ____ 2017, by and between the Three Rivers Park District, a body corporate and politic and a political subdivision of the State of Minnesota (“Park District”), and the City of Minnetonka, a Minnesota municipal corporation (“City”).

WHEREAS, Park District is a political subdivision of the State of Minnesota authorized by statute to acquire, establish, operate, and maintain park facilities and regional trail systems; and

WHEREAS, Park District promulgates master plans for the development of park facilities and regional trail systems; and

WHEREAS, Park District has prepared a specific master plan for the Trail which was approved by the Metropolitan Council on December 11, 2013, and Park District Board of Commissioners on December 19, 2013; and

WHEREAS, Park District and City have previously entered into a Nine Mile Creek Regional Trail Cooperative Agreement in 2012 (‘2012 Agreement’) for those portions of the Trail located north of 5401 Opportunity Court in Minnetonka, MN; and

WHEREAS, the scope of this agreement is for those portions of the Trail located adjacent to and south of 5401 Opportunity Court in Minnetonka, MN; and

WHEREAS, this Agreement works in conjunction with the 2012 Agreement and does not supersede or otherwise amend the 2012 Agreement; and

WHEREAS, Park District and City further desire to cooperate to design, construct, operate and maintain the Trail located in the City, each employing its own powers; and

WHEREAS, City has rights to lands suitable for the Trail corridor development and will provide necessary property rights to Park District for purposes of the Trail.

NOW THEREFORE, in consideration of the mutual covenants herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, City and Park District agree as follows:

A. **Property Rights.** City shall convey to Park District a Limited Use Permit (hereinafter “LUP”), in the form attached hereto as Exhibit A, over those portions of the Trail route where the City has rights to do so, as illustrated in the attached Exhibit B. To the extent City has the rights to do so, the LUP shall provide a continuous and contiguous Trail corridor, and shall be conveyed upon execution of this Agreement.

February 1, 2017
Page 1
In the event City does not have rights to convey the LUP which provides a continuous and contiguous Trail corridor, Park District may acquire property rights as may be necessary. City shall approve and provide a resolution of support to Park District for acquisition of property rights through direct purchase or eminent domain as necessary to provide a continuous and contiguous trail corridor.

In the event City does not have the available right-of-way to convey a continuous and contiguous LUP of adequate width to achieve Typical Trail Section (Exhibit C), City shall reconfigure the road and amend the LUP to provide the additional width at a future date. City is obligated to fulfill this responsibility the next time the road is reconstructed or repaired.

If City cannot acquire and convey the LUP to Park District, where it has rights to do so, within twenty-four (24) months following execution of this Agreement, the Park District shall not be obligated to proceed with any obligation under this Agreement and further this Agreement may be terminated by Park District and neither City nor Park District shall have any obligation hereunder, except that Park District shall return this LUP to City.

In the event City’s right to so maintain Trail within the LUP are lost by vacation, condemnation, revocation of license or permit, or otherwise, City will acquire such additional rights, titles and interests as are needed to assure a continuous and contiguous Trail corridor of adequate width through the LUP. If the loss of such right to maintain a trail within right-of-way areas occurs, after construction of the Trail, the City shall acquire such additional right, title or interest and reconstruct the Trail, if necessary, at City expense. The City represents that it currently has the legal right and authority to construct and maintain Trail within such platted rights-of-way.

The parties recognize that certain Trail segments and road/railroad crossings may require agreements with third parties such as the Minnesota Department of Transportation ("MnDOT"). The parties to this Agreement shall cooperate to secure necessary permissions to use such crossings and bridges. In the event that necessary permissions cannot be secured, this Agreement may be terminated by either party to this Agreement.

B. Design and Construction.

1. Interim Design and Construction. Park District will coordinate and fund any necessary design/redesign of the existing sidewalk which will serve as the interim Trail surface and design. Park District may, in its sole discretion, contract with consultants to provide professional design services including, but not limited to design development, bidding documents, construction plans and specifications, contract document preparation, construction administration, and project close out. Park District shall submit all Trail plans to City for review and approval, provided however, that approval shall not be unreasonably withheld.

Park District will coordinate and fund bidding and construction/reconstruction of the Trail and Trail related structures in accordance with approved construction plans and specifications. City shall be required to relocate utilities.
as necessary to construct, operate, and maintain the Trail at no cost to the Park District.

Construction shall commence following (1) conveyance to Park District of LUP in accordance with Section A – Property Rights of this Agreement, (2) Park District and City approval of plans and specifications for the Trail, and (3) project funding approval by Park District Board of Commissioners or other external sources. Either party may terminate this agreement upon failure by either party to satisfy items B(1), B(2), or B(3).

2. Future Design and Construction. At which time the road(s) parallel to the Trail is reconstructed or similar to provide sufficient LUP width to meet regional trail standards, the interim Trail (sidewalk) shall be reconstructed by City in accordance with Typical Trail Sections (Exhibit C) specified in the Trail Master Plan standards and guidelines adopted by the Park District, and any grant requirements in the event Trail is wholly or partially financed through grants. The Park District will have final discretion over Trail and safe crossing design and interpretation and execution of engineering best practices.

City shall provide Park District a twelve (12) month notice of its intent to reconstruct the road and commence Trail construction. City may contract with consultants to provide professional services for Trail and trail related structures, including, but not limited to design development, bidding documents, construction plans and specifications, contract document preparation, construction administration, and project closeout. City may do no work on the Trail until it has submitted all Trail plans, including substantial changes, to Park District for review and has received approval from Park District. Park District will delegate authority to approve substantial changes to appropriate staff. Approvals shall not be unreasonably withheld or delayed.

City shall be responsible for bidding and construction of the Trail in accordance with the Park District approved construction plans and specifications. Bids shall segregate Trail and road redevelopment costs and shall utilize unit costs where possible. Park District may, at its sole discretion, withhold reimbursement for construction costs as provided by this Agreement for construction of the Trail completed prior to Park District issuance of Notice to Proceed to City. Park District will issue a Notice to Proceed following Park District approval of construction plans and specifications for Trail and project funding approval by Park District Board of Commissioners or other external sources.

If the Park District does not issue the Notice to Proceed within six (6) months of the City completing the construction plans and specifications to the satisfaction of the Park District, either party may terminate this agreement and the parties hereto shall have no obligation, except that the Park District shall return unrecorded LUP to City and take such measures as may be necessary to cancel the LUP.

Park District shall reimburse City for all direct costs of design services incurred by the City to design the Trail and construction paid or owed to the contractor engaged by City to build the Trail if amount is first approved by Park District.
Reimbursement shall not be due until 1) Park District approves the construction plans and specifications, 2) Trail is constructed in accordance with the Park District approved construction plans and specification, 3) City has conveyed required LUP to Park District in accordance with Paragraph 1 of this Agreement, and 4) project funding approval by Park District Board of Commissioners or other external sources. Park District will not reimburse City for indirect City costs incurred by City including, but not limited to, staff costs, costs of consultants and advisors, legal fees, filing fees, permit fees, or any other expense, which do not represent direct approved design or construction costs. City shall provide all records necessary for audit of costs. City shall not seek reimbursement from Park District for design and construction costs related to the non-regional trail items of the associated road reconstruction or similar work. Park District shall reimburse City within thirty (30) days following receipt of verified statement of direct design and construction expenses for all costs authorized by this Paragraph.

C. **Permits and Assessments.** City shall not unreasonably withhold City approvals, City permits, and other official City permissions necessary for the Park District to operate, maintain, and construct the Trail. In consideration of the Park District’s performance under this Agreement including its maintenance obligations, City hereby agrees that the Park District shall not be subject to assessment by the City pertaining to improvements made on the lands included in, or adjacent to, the LUP.

D. **Inconsistent Rights.** The City, for itself, its successors and assigns, hereby covenants that it will not construct nor grant others the right to construct any structures or improvements within the LUP area, which are inconsistent with the rights and interests herein granted to Park District, but the City shall otherwise have the right to use the LUP area and to grant to others such rights.

E. **Operation and Maintenance.** Park District and its agents and licensees shall have the sole and exclusive right and authority to operate and control the Trails and to establish rules and regulations governing its use to the extent not in conflict with ordinances of the City.

Park District will be responsible for the renovation, replacement, repair, maintenance, and upkeep of the Trail except bridges, tunnels and other structures owned by others, and as provided in Section G. Park District shall be solely responsible for establishing maintenance standards for the Trails, which will be consistent district wide.

Park District shall not be responsible for the routine maintenance adjacent to the Trail within the LUP area including, but not limited to, mowing grass or removing weeds as long as the City Code, or similar, which requires adjacent property owners to do so. In the event the City Code is amended to no longer require adjacent property owners to maintain the boulevard area, the Park District shall assume responsibilities associated with maintaining the boulevard within the LUP area.

Park District reserves the right to remove any vegetation or object that obstructs the use or safety of the Trail including adjacent safety zones in accordance with Exhibit C – Typical Trail Section.
F. **Trail Uses and Purposes.** Trail shall be open to the general public and be used exclusively for outdoor recreation and commuter activities, including but not limited to non-motorized uses such as walking, jogging, skating, and biking. The use of electric-assisted bicycles as defined in Minnesota State Law and Other Power Limited Mobility Devices as defined by the American with Disabilities Act and in accordance with Park District Policy are permitted. Equestrian uses are prohibited.

In addition, motor vehicles used by the City or Park District for maintenance, law enforcement or other public uses will be permitted on the Trails. Routine maintenance and patrol with motor vehicles will be conducted from adjacent roadways where reasonably feasible.

G. **Winter Use.** City shall be responsible to maintain the Trail in the winter during the interim phase. At which time the Trail is reconstructed to meet regional trail standards, the Park District in its sole discretion may elect to maintain the Trail for winter use. As of the date of this Agreement, Park District policy is to leave the Trail open to the public in winter, but perform no winter maintenance. The City may request a Park District Winter Use Permit to operate and maintain the Trail during winter months. Such permit will require City, among other things, to assume responsibility for trail maintenance, operation and liabilities associated with winter use.

H. **Signage.** The Park District shall be responsible to furnish, install, and maintain the trail information sign/kiosk program at Park District expense. Signage will indicate that the Trail is a regional trail of the Park District. City may provide additional signage within the regional trail corridor, provided however, that Park District shall approve additional signage, and that City shall be responsible for providing and maintaining respective signage.

The Park District shall provide all trail regulatory signs as prescribed by the Minnesota Manual on Uniform Traffic Control Devices (Mn MUTCD), as a part of the design and construction of the Trail. Park District shall be responsible for the maintenance of regulatory signs post-construction at Park District expense.

City shall be responsible for providing and maintaining roadway crossing treatments such as pedestrian striping, road signs and/or other treatments as prescribed by Mn MUTCD, or as appropriate when the Trails cross a City, County or State roadway where a City obligation otherwise exists.

I. **Utilities.** City shall at all times retain the right to maintain, repair or replace any utilities and related facilities in, on, or under said Trail and install such utilities and related facilities provided, that if any such activities by the City shall or may damage or limit the use of the Trail, the City will give the Park District thirty (30) days prior written notice of the same (except in cases of emergency), and in any event the City will upon completion of such activities so affecting the Trail or any portion thereof, restore the Trail as near as possible to its condition existing before such maintenance, repair, replacement or other activities of the City.
City and Park District recognize that prior notice is needed to develop temporary trail detour routes and temporary signage. City and Park District will cooperatively determine and implement a temporary detour route when feasible.

J. Law Enforcement. The City will patrol and police the Trail in such manner and by such persons as the City shall deem necessary, and may enforce all rules and ordinances of the City except as provided herein. Notwithstanding anything herein to the contrary, the Park District shall have the right to enforce its rules, regulations and ordinances with respect to the Trail. City shall not promulgate any ordinance, rule or regulation which contravenes any ordinance, rule or regulation of Park District with respect to the Trail or which contravenes this Agreement.

K. Indemnification. Each party is responsible for its own acts and omissions and the results thereof to the extent authorized by law. Minnesota Statutes Chapter 466 and other applicable law govern the parties’ liability. To the full extent permitted by law, this Agreement is intended to be and shall be construed as a “cooperative activity” and it is the intent of the parties that they shall be deemed a “single governmental unit” for the purposes of liability, all as set forth in Minnesota Statutes, Section 471.59, Subd. 1a (a); provided further that for purposes of that statute, each party to this Agreement expressly declines responsibility for the acts or omissions of the other party. In addition to the foregoing, nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either party, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.

L. Successor and Assigns. The Agreement shall be binding upon the parties hereto and their respective successors and assigns, provided, however, that neither City nor Park District shall have the right to assign its rights, obligations and interests in or under this Agreement to any other party without the prior written consent of the other party.

M. Amendment, Modification or Waiver. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing and signed by the party or parties to be bound, or its duly authorized representative. Any waiver by either party shall be effective only with respect to the subject matter thereof and the particular occurrence described therein, and shall not affect the rights of either party with respect to any similar or dissimilar occurrences in the future.

N. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and no right or remedy at law or in equity which either party hereto might otherwise have by virtue of a default under this Agreement nor the exercise of any such right or remedy by either party will impair such party’s standing to exercise any other right or remedy.

O. No Agency. Nothing contained herein and no action by either party hereto will be deemed or construed by such parties or by any third person to create the relationship of principal and agent or a partnership or a joint venture or any other association between or among the parties hereto.
P. **Saving Provision.** If any provision of the Agreement shall be found invalid or unenforceable with respect to any entity or in any jurisdiction, remaining provision of the Agreement shall not be affected thereby, and such provisions found to be unlawful or unenforceable shall not be affected as to their enforcement or lawfulness as to any other entity or in any other jurisdiction, and to such extent the terms and provisions of this Agreement are intended to be severable.

Q. **Termination.** This Agreement may be terminated by Park District or City by mutual agreement or as otherwise provided in this Agreement. This Agreement shall be terminable by either party upon a material breach by the other party.

The provisions of Section K survive termination with respect to claims that arise from actions or occurrences that occurred prior to termination.

R. **Governing Laws.** This Agreement will be construed in accordance with the laws of the State of Minnesota.

S. **Time is of the Essence.** Time is of the essence under this Agreement.

T. **Title.** City warrants that it owns good and marketable title to the LUP area and that the undersigned is authorized to execute this Agreement.

U. **Notices.** Any notice given under this Agreement shall be deemed given on the first business day following the date the same is deposited in the United States Mail (registered or certified) postage prepaid, addressed as follows:

If to the Park District: Superintendent
Three Rivers Park District
c/o Legal Counsel
3000 Xenium Lane North
Plymouth, MN  55441

If to City: City Manager
c/o Legal Counsel
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345
IN WITNESS WHEREOF, Park District and City have entered into this Agreement as of the date and year first above written.

Three Rivers Park District, a public corporation and political subdivision of the State of Minnesota

Dated: ____________    By: _____________________________
       Its Chair – Board of Commissioners

Dated: ____________    By: _____________________________
       Its Superintendent
       And Secretary to the Board

City of Minnetonka, a Minnesota municipal corporation

Dated: ____________    By: _____________________________
       Its Mayor

Dated: ____________    By: _____________________________
       Its City Manager
# Exhibit Table of Contents

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Exhibit C – Typical Trail Section ............................................................. 16
This Limited Use Permit ("Permit"), made this _____ day of ________, 20___, by and between the City of Minnetonka, a public corporation, ("Grantor"); and Three Rivers Park District, a political subdivision of the State of Minnesota, Hennepin County, Minnesota ("Grantee").

RECITALS

WHEREAS, Grantor and Grantee entered into the 2017 Nine Mile Creek Regional Trail Trailway Cooperative Agreement for Nine Mile Creek Regional Trail ("trail") dated as of ________, 2017, (the "Trailway Agreement"); and

WHEREAS, pursuant to the Trailway Agreement, Grantor agreed to convey to Grantee a Limited Use Permit as further described herein and Grantee agreed to accept Limited Use Permit according to the terms and conditions contained herein; and

NOW THEREFORE, in consideration of mutual covenants contained within the Agreement referenced above, and other good and valuable consideration, the sufficiency which is hereby acknowledged, the Grantor agrees as follows:

TERMS OF PERMIT

1.) Grant of Limited Use Permit. Grantor grants and conveys to the Grantee the Limited Use Permit described and depicted on the attached Exhibit A1. The Permit shall be non-exclusive; provided, however, this Permit shall be prior to and superior to any other permitted use of the area hereinafter granted. Any future permit shall be subject to and subordinate to, and shall not interfere with, the Permit without the consent, in writing, of Grantee.

2.) Scope of Limited Use Permit. The Permit granted herein includes the right of the Grantee, its contractors, agents, and employees to locate, install, construct, reconstruct, operate, maintain, inspect, alter and repair within the described Permit area any of the following facilities and amenities: public sidewalk or trail, trail signage, informational kiosks, benches, bike racks, trail bridges/tunnels, and any other trail related structure.

This Limited Use Permit shall be limited to the area between the back of curb and right-of-way boundary.

3.) Trail Use and Purposes. This Limited Use Permit is for public trailway purposes only. Trails shall be open to the general public, and be used exclusively for outdoor recreation and commuting including but not limited to walking, jogging, skating, biking, and uses allowed under State and Federal law including, but not limited to, other personal driven mobility devices (OPDMDs) and electric personal assistive devices. In addition, motor vehicles used for maintenance, law enforcement or other public uses will be permitted within the Limited Use Permit area.

4.) Loss of Property Rights. Grantor warrants that it will defend and indemnify Grantee against any loss, expense, or interruption to the contiguity of the Nine Mile Regional Trail, and, further shall, at its own expense, take all necessary action, including, but not limited to, the use of eminent domain to obtain property rights where City lost property rights for purposes of establishing a continuous and contiguous trail.

February 1, 2017
EXHIBIT A  
Limited Use Permit  
Nine Mile Creek Regional Trail

corridor. The parties agree these obligations of Grantor may be specifically enforced by Grantee and further agree that all costs of such enforcement, including reasonable attorney’s fees, shall be paid by Grantor.

5.) **Warranty of Title.** The Grantor warrants it is the owner of the Permit area and has the right, title, and capacity to convey the Limited Use Permit herein.

6.) **Environmental Matters.** Grantor shall provide Grantee written documentation of any and all previously and/or currently present hazardous materials, pollutants, or other contaminants within the Limited Use Permit area. Grantee shall not be responsible for any costs, expenses, damages, obligations, including penalties and reasonable attorney’s fees, or losses resulting from any claims, actions, suits or proceedings based upon the release or threat of release of any hazardous substances, pollutants, or contaminants which may have existed on, or which relate to, the Limited Use Permit area prior to the date of this instrument.

7.) **Binding Effect.** The terms and conditions of this instrument shall run with the land and be binding on the Grantor, its successors and assigns.
In witness whereof, the said parties have caused this instrument to be executed on the date and year first written above.

CITY OF MINNETONKA

__________________________
Its Mayor

__________________________
Its City Manager

State of Minnesota  )
) S.S.
County of Hennepin  )

The foregoing instrument was acknowledge before me this _____ day of ____________, 2017, by _____________ and ________________, the mayor of the City of Minnetonka, a Minnesota municipal corporation, Grantor, on behalf of the corporation.

____________________________
Notary Public

Notary Stamp or Seal

State of Minnesota  )
) S.S.
County of Hennepin  )

The foregoing instrument was acknowledge before me this _____ day of ____________, 2017, by _____________ and ________________, the city manager of the City of Minnetonka, a Minnesota municipal corporation, Grantor, on behalf of the corporation.

____________________________
Notary Public

Notary Stamp or Seal
This instrument drafted by:
Three Rivers Park District
3000 Xenium Lane North
Plymouth, MN  55441
EXHIBIT C
Typical Trail Section(s)
Nine Mile Creek Regional Trail

NOTES:
- 2' WIDTH AT MAX. 2% SLOPE ON SHOULDER.
- 3:1 MAXIMUM SLOPE (H:V) OUTSIDE OF 2' SHOULDER.
- PREFERRED 3' CLEARANCE, 2' MIN. FROM TREES OR OTHER OBSTRUCTION.
- SEE PLAN SHEETS FOR TRAIL STRIPING.
- BOULEVARD VARIES IN WIDTH, BUT SHOULD BE A MIN. OF 2'. SIGN INSTALLATION NOT APPLICABLE IN ALL AREAS.
- MAX. CROSS SLOPE 2%.
- SEE CROSS SECTIONS FOR SLOPE DIRECTION.
- MIN. 3' CLEARANCE BETWEEN EDGE OF TRAIL AND EDGE OF SIGN.

M A I N T A I N 1 0 ' V E R T I C A L C L E A R ZONE ABOVE TRAIL. TRIM TREE BRANCHES ACCORDINGLY.

SEE PLAN SHEETS AND SPECIFICATIONS FOR SEEDING AND RESTORATION NOTES.

3" TYPE SPWEA2408 BITUMINOUS PAVEMENT
6" CL. 5 AGGREGATE BASE
12" SCARIFY, DRY, AND RECOMPACT SUBGRADE MATERIAL AS DIRECTED BY OWNER.

NOTES:
1. BITUMINOUS SHALL BE PLACED IN ONE LIFT.
2. CLASS 5 AGGREGATE BASE SHALL CONFORM TO MnDOT SPEC 3138.
3. SUBGRADE SHALL BE TEST ROLLED PRIOR TO AGGREGATE BASE INSTALLATION AND CONFORM TO MnDOT SPEC 2111.
4. WHERE BOULEVARD IS 2' TO 3' (MIN.), BOULEVARD SHALL BE CONSTRUCTED FROM IMPERVIOUS MATERIAL (I.E., BITUMINOUS, CONCRETE, PAVERS, ETC). SPECIAL STRIPING LAYOUT MAY APPLY. (SEE PLAN SHEETS).

TYPICAL TRAIL SECTION 10' URBAN
NTS
In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, (“MnDOT”), hereby grants a Limited Use Permit (the “LUP”) to City of Minnetonka, (“Permittee”), to use the area within the right of way of Trunk Highway No. 169 as shown in red on Exhibit "A", (the “Area”) attached hereto and incorporated herein by reference. This Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto as Exhibit B.

**Non-Motorized Recreational Trail**

The Permittee's use of the Area is limited to maintaining and operating the existing nonmotorized recreational trail ("Facility") and the use thereof may be further limited by 23 C.F.R. 652 also published as the Federal-Aid Policy Guide.

The permittee agrees that this permit totally replaces and supersedes the previously issued permit affecting the Area, specifically: The permit, # 2772-0132, was issued on 12/30/2010 on CS 2772 (TH 169=005;383). Upon issuance of this permit the earlier issued permit is cancelled.

In addition, the following special provisions shall apply:

**SPECIAL PROVISIONS**

1. TERM. This LUP terminates at 11:59PM on 10/20/2026 (“Expiration Date”) subject to the right of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days written notice of such cancellation. This LUP will not be renewed except as provided below.

Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to
the Expiration Date, a written request to extend the term. Any extension of the LUP term will be under the same terms and conditions in this LUP, provided:

(a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and Area are compatible with the safe and efficient operation of the highway and the Facility and Area are in good condition and repair. If, in MnDOT’s sole determination, modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and

(b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee’s use of the Facility and Area for the additional term.

If Permittee’s written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

2. REMOVAL. Upon the Expiration Date or earlier termination, at the Permittee’s sole cost and expense Permittee will:

(a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and

(b) Surrender possession of the Area to MnDOT.

If, without MnDOT’s written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney’s fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.

3. CONSTRUCTION. The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT’s District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the Facility at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.
The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. MAINTENANCE. Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.

5. USE. Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge Facility that would become subject to Section 4 (f) of the Federal-Aid Highway Act of 1968, nor does this permit establish a Bikeway or Pedestrian way which would require replacement pursuant to Minnesota Statutes Section 160.264. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. APPLICABLE LAWS. This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

7. CIVIL RIGHTS. The Permittee, for itself, its successors, and assigns, agrees to abide by the provisions of Title VI Appendix C of the Civil Rights Act of 1964, which provides in part that no person in the United States, shall on the grounds of race, color, or national origin, be excluded from, or denied use of any Facility.

8. SAFETY. MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.

9. ASSIGNMENT. No assignment of this LUP is allowed.
10. **IN WRITING.** Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.

11. **ENVIRONMENTAL.** The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT's District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.

12. **MECHANIC'S LIENS.** The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.

13. **NOTICES.** All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at: and to MnDOT at:

   City of Minnetonka  
   14600 Minnetonka Blvd  
   Minnetonka, MN 55345  
   Attn: Mayor

   State of Minnesota  
   Department of Transportation  
   Metro District Right of Way  
   1500 W. County Road B2  
   Roseville, MN 55113

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. **INDEMNITY.** Permittee shall defend, indemnify, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from and against:
   
   (a) all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, regardless of whether such injury, death, loss or damage is caused in part by the negligence of State of Minnesota or is deemed to be the responsibility of State of Minnesota because of its failure to supervise, inspect or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person.

   (b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this LUP is granted;
(c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;
(d) any laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and
(e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility.

MINNESOTA DEPARTMENT OF TRANSPORTATION

RECOMMENDED FOR APPROVAL
By:__________________________
   District Engineer

Date________________________

CITY OF MINNETONKA

By__________________________
   Its Mayor

And________________________
   Its City Manager

APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By__________________________
   Acting Director, Office of Land Management

Date________________________

The Commissioner of Transportation by the execution of this permit certifies that this permit is necessary in the public interest and that the use intended is for public purposes.
City Council Agenda Item #10B
Meeting of February 6, 2017

Brief Description  Order for liquor license stipulation for Yum! Kitchen and Bakery, 6001 Shady Oak Road

Recommendation  Approve the order

Background

The city council has an adopted schedule of presumptive penalties to be applied when certain liquor violations occur. Under the presumptive penalties schedule, liquor licensees are subject to a fine, or a fine plus a license suspension, only after the conclusion of criminal proceedings brought by the legal department. A form stipulating the penalty is sent to the licensee, who may agree to the penalty or request an administrative hearing before the city council. When the licensee agrees to the penalty, it must be brought back and acknowledged through issuance of an order by the city council.

The following establishment is in violation of selling intoxicating liquor to a person who was under 21 years of age:

- Yum! Kitchen and Bakery

Presumptive penalties are defined in city council policy 6.2 and are based on the type of liquor license, number of violations over a three year period, and participation in the Best Practices Program. As the council is aware, the city offers the Best Practices Program. The program’s purpose is to encourage liquor license holders to voluntarily undertake practices and provide additional training that will help avoid sales to underage buyers. A stipulation form was sent to the licensee. The licensee has returned the stipulation form agreeing to the penalty listed below:

<table>
<thead>
<tr>
<th>Establishment &amp; Type of License</th>
<th>Licensee</th>
<th>Date of Violation</th>
<th>Offense</th>
<th>Fine</th>
<th>Participant in Best Practices Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yum Kitchen and Bakery</td>
<td>Yum! Kitchen and Bakery Two LLC</td>
<td>June 14, 2016</td>
<td>1st Violation</td>
<td>$350 &amp; 1 day suspension</td>
<td>Yes, but not at the time of the violation</td>
</tr>
</tbody>
</table>

Recommendation

Staff recommends the city council adopt a motion issuing the enclosed Findings of Fact, Conclusion, and Order for Yum Kitchen and Bakery.

Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director

Originated by:
  Kathy Leervig, Community Development Coordinator
Exhibit A

Presumptive Penalties

The following are the presumptive penalties for the offenses listed.

Revocation on the first violation for the following types of offenses:

- Commission of a felony related to the licensed activity
- Sale of alcoholic beverages while license is under suspension

The following chart applies to these violations, to be counted over a three-year period:

- Sale to underage person
- Sale after/before hours
- Consumption after hours
- Illegal gambling, prostitution, adult entertainment on premises
- Sale to obviously intoxicated person
- Sale of liquor that is not permitted by the license

<table>
<thead>
<tr>
<th>License Type</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; Violation</th>
<th>4&lt;sup&gt;th&lt;/sup&gt; Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery (growlers)</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
For establishments in the Best Practices Program:

<table>
<thead>
<tr>
<th>License Type</th>
<th>1st Violation</th>
<th>2nd Violation</th>
<th>3rd Violation</th>
<th>4th Violation</th>
<th>5th Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$350</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery (growlers)</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
BEFORE THE CITY COUNCIL
CITY OF MINNETONKA, MINNESOTA

In the Matter of:

The Liquor License of
Yum! Kitchen and Bakery Two LLC
(DBA Yum! Kitchen and Bakery)

Pursuant to a Stipulation executed by Julie Wischnack, Community Development Director for the city of Minnetonka, and Patti Soskin, owner of Yum! Kitchen and Bakery, the city council makes the following:

FINDINGS OF FACT

1. The licensee captioned above holds an On-sale Wine and On-Sale 3.2% Malt Beverage liquor license issued by the city council on December 5, 2016, and conducts its licensed activity at 6001 Shady Oak Road within the city.

2. Pursuant to Minn. Stat. § 340A.503, Subd. 2(1) and Minnetonka City Code §600.75(1), no person may sell liquor to a minor, who is under the age of 21.

3. On June 14, 2016, Emily Suzanne Shively, a person employed by the above-captioned licensee, sold intoxicating liquor to a person who was under 21 years old.
CONCLUSION

1. The liquor licensee sold an alcoholic beverage to an underage person on June 14, 2016, in violation of Minn. Stat. § 340A.503, Subd. 2(1) and Minnetonka City Code §600.75(1).

ORDER

IT IS HEREBY ORDERED, pursuant to Minn. Stat. §340A.415 and Minnetonka City Code §600.080 and Council Policy 6.2, that the licensee captioned above is subject to the following sanctions:

(1) a $350 civil penalty, and

(2) suspension of the license for one day, on a date to be selected by city staff.

By order of the city council of the City of Minnetonka, Minnesota, February 6, 2017.

________________________________
Terry Schneider, Mayor

ATTEST:

____________________________________
David E. Maeda, City Clerk

ACTION ON THIS ORDER:

Motion for issuance:
Seconded by:
Voted in favor of:
Voted against:
Absent:
Abstained:
Order issued.
I certify that the above is an accurate copy of the Findings of Fact, Conclusion, and Order issued by the City Council of the City of Minnetonka, Minnesota, at an authorized meeting held on February 6, 2017.

______________________________

David E. Maeda, City Clerk
City Council Agenda Item #10C
Meeting of February 6, 2017

Brief Description
Resolution approving the preliminary plat of WILSON RIDGE 6TH ADDITION, a 3-lot subdivision of existing properties at 4316 and 4328 Wilson Street

Recommendation
Adopt the resolution approving the request

Proposal
The property owners have submitted an application to subdivide the subject properties into three lots. The property at 4316 Wilson Street would be reconfigured, but the existing home and detached garage would remain. The existing home at 4328 Wilson Street would be removed and two new single-family homes would be constructed. The proposal requires approval of preliminary plat.

Planning Commission Hearing
The planning commission considered the request on January 19, 2017. The commission report and associated plans are attached.

Staff recommended approval of the preliminary plat, noting that the subdivision was reasonable as:

1. The proposed subdivision would result in three properties which meet or exceed minimum R-1 standards.

2. While grading and tree removal would be required to accommodate the development, the proposal would comply with the city’s tree protection ordinance and stormwater management requirements. Based on the general grading plan submitted by the applicant, the proposal would result in the removal of 13 – or 29.5% - of the site’s high priority trees. The grading plans also indicate that stormwater runoff would be directed towards three newly constructed infiltration basins.

At that meeting, a public hearing was opened to take comment; no one appeared to speak.

Planning Commission Recommendation
On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached.
Since Planning Commission Hearing

The applicant has submitted a letter that indicates their intent to reduce the amount of tree removal. This would effectively reduce the amount of required mitigation. No action is required as the resolution would allow staff to reduce mitigation based on final building and grading plans.

Staff Recommendation

Staff recommends the city council adopt the resolution approving the preliminary plat of WILSON RIDGE 6TH ADDITION.

Through: Geralyn Barone, City Manager
         Julie Wischnack, AICP, Community Development Director
         Loren Gordon, AICP, City Planner

Originator: Ashley Cauley, Senior Planner
MINNETONKA PLANNING COMMISSION
January 19, 2017

Brief Description
Preliminary plat for WILSON RIDGE 6TH ADDITION, a three-lot subdivision of existing properties at 4316 and 4328 Wilson Street.

Recommendation
Recommend the city council approve the proposal.

Proposal
The property owners have submitted an application to subdivide the subject properties into three lots. The property at 4316 Wilson Street would be reconfigured, but the existing home and detached garage would remain. The existing home at 4328 Wilson Street would be removed and two new single-family homes would be constructed. The proposal requires approval of a preliminary plat.

Proposal Summary
The following is intended to summarize the applicant’s proposal. Additional information can be found in the “Supporting Information” section of this report.

- **Existing site features.** Collectively the properties have a lot area of 2.5 acres. Each property is improved with a single family home. The property at 4316 Wilson Street is additionally improved with a large detached accessory structure. The site generally slopes “downwards” from the south property line to the north property line. There are 44 high priority trees onsite.

- **Proposal.** As proposed, the two properties would be subdivided into three single-family residential lots. The northern lot would contain the existing home and garage and two new homes would be constructed on the newly created lots. The proposed lots would meet all minimum R-1 lot standards as outlined in the table below:

<table>
<thead>
<tr>
<th>Lot</th>
<th>AREA Total</th>
<th>Buildable*</th>
<th>WIDTH ROW</th>
<th>Setback</th>
<th>Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>22,000 sf.</td>
<td>3,500 sf</td>
<td>80 ft</td>
<td>110 ft</td>
<td>125 ft</td>
</tr>
<tr>
<td>Lot 1</td>
<td>49,100 sf</td>
<td>30,135 sf</td>
<td>159 ft</td>
<td>159 ft</td>
<td>296 ft</td>
</tr>
<tr>
<td>Lot 2</td>
<td>30,486 sf</td>
<td>16,010 sf</td>
<td>110 ft</td>
<td>110 ft</td>
<td>296 ft</td>
</tr>
<tr>
<td>Lot 3</td>
<td>32,542 sf</td>
<td>17,660 sf</td>
<td>110 ft</td>
<td>110 ft</td>
<td>296 ft</td>
</tr>
</tbody>
</table>

* Rounded to the nearest 5 sf
Primary Questions and Analysis

- Are the proposed lots reasonable?

  Yes. The proposed subdivision would result in three properties which meet or exceed minimum R-1 standards.

- Are the proposed site impacts acceptable?

  Yes. Grading and tree removal would be required to accommodate the new driveways, homes, utilities and stormwater management facilities. The proposed plans have been evaluated for conformance with the city’s natural resources ordinances, including the tree protection ordinance. These natural resources ordinances attempt to balance the community benefit of preserving natural resources with private development rights.

  **Trees.** While a woodland area exists on the site it is not large enough to be regulated as a woodland preservation area. There are 44 high priority and 123 significant trees on site. Based on the general grading plan submitted by the applicant, 13 high priority trees – 29.5% of the site’s high priority trees - would be removed. This would meet the standards of the city’s tree protection ordinance.

  **Stormwater.** As required by the city’s stormwater rule, stormwater management is required for subdivision resulting in three or more lots. The stormwater plan submitted by the applicant has been reviewed by the city’s water resources engineering coordinator and found to be generally acceptable, as it meets the requirements of the city’s Water Resources Management Plan. Under proposed conditions, stormwater runoff would be directed towards three newly constructed infiltration basins along the front property lines.

**Staff Recommendation**

Recommend the city council adopt the resolution approving the preliminary plat of WILSON RIDGE 6TH ADDITION, a three-lot residential subdivision at 4316 and 4328 Wilson Street.

Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

Project No. 16035.16a

Property 4316 and 4328 Wilson Street

Applicant Shaun Hendrickson

Surrounding Land Uses All surrounding parcels are zoned R-1 and guided for low density residential.

Planning Guide Plan designation: Low density residential
Zoning: R-1, Low density residential

Accessory structure In 1984, the city approved a conditional use permit for a detached accessory structure exceeding 1,000 square feet and 12 feet in height to be approved on the 4316 Wilson Street site. The approved structure is 1,080 square feet in size and has a building height of 14.5 feet.

Grading As required by the subdivision application process, generalized home footprints, locations and grading plans have been submitted by the applicant. Specific plans would be submitted and reviewed by staff at the time of a building permit.

Woodland Preservation area There are two small, existing areas of Oak Woodland on site. However, the areas are not large enough to be considered a woodland preservation area under current city code.

Trees The city’s tree protection ordinance regulates removal and mitigation. The highest level of protection is provided to woodland preservation areas (WPA) and high-priority trees during subdivision of a property. During subdivision, just 25% of the WPA and 35% of the high-priority trees may be removed or impacted.

- **Woodland preservation area.** There are two small, existing areas of Oak Woodland on site. However, these areas are not large enough to be considered and regulated as a woodland preservation area under current city code.

- **Regulated trees.** There are 44 high-priority trees and 123 significant trees onsite. The proposal would result in the removal of, or substantial damage to, the critical root zones of, 29.5% of the site’s high priority trees. This would meet the standards of the tree protection ordinance.
<table>
<thead>
<tr>
<th>Trees</th>
<th>Existing</th>
<th>Impacted or Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-Priority</td>
<td>44</td>
<td>13 or 29.5%</td>
</tr>
<tr>
<td>Significant</td>
<td>123</td>
<td>21 or 17%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>167</td>
<td>34 or 20%</td>
</tr>
</tbody>
</table>

- **Required Mitigation.** The applicant must provide 90-feet of evergreen and 64-inches of deciduous trees of mitigation, as a condition of approval. This equates to 15, six-foot evergreen trees and 32, 2-inch deciduous trees.

**Steep Slope**

By code definition, a “steep” slope is one that: (1) rises at least 25 feet; (2) has an average grade change of at least 20-percent; and (3) has a width of at least 100 feet. While there are areas of sloping topography, the grade change is not significant enough to be regulated as a steep slope by ordinance.

**Natural Resources**

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.

**Neighborhood Comments**

The city sent notices to 43 area property owners and received no comments to date.

**Pyramid of Discretion**

![Pyramid Diagram](image)
Motion Option: The planning commission has three options in making recommendation to the city council:

1) Concur with staff’s recommendation. In this case, a motion should be made recommending approval of the preliminary plat.

2) Disagree with staff’s recommendation. In this case, a motion should be made recommending denial. The motion should include findings for denial.

3) Table the proposal. In this case, a motion should be made to table the item. The motion should include a statement as to why the proposal is being tabled with direction to staff, the applicant or both.

Voting Requirement The planning commission will make a recommendation to the city council. The city council’s final approval requires a majority vote.

Deadline for Decision April 1, 2017
Location Map

Project: Wilson Ridge 6th Addn
Applicant: Shawn & David Hendrickson
Address: 4316 & 4328 Wilson St
Project No.16035.16a

This map is for illustrative purposes only.
Preliminary Plat Approval Request Narrative

WILSON RIDGE 6TH ADDITION
Minnetonka, Minnesota
December 2, 2016
Update January 8, 2017

Development Team

Developer: Shaun Hendrickson
Civil Engineer: Alliant Engineering, Inc., Mark Rausch
Surveyor: Alliant Engineering, Inc., Dennis Olmstead

Site Information

Address: Parcel 1: 4316 Wilson Street, Minnetonka, MN. 55345
Parcel 2: 4328 Wilson Street, Minnetonka, MN. 55345

PID: Parcel 1: 2111722320007 (73,709 sf, 1.692 ac)
Parcel 2: 2111722320008 (38,419 sf, 0.882 ac)

Existing Legal Description: Parcel 1: Lot 4, Block 5, "Woodstock" (Torrens)
Parcel 2: The north 130 feet of Lot 5 as measured along the east and west lines thereof, in Block 5 in Woodstock. (Torrens)

Development Request

The proposed plan consists of subdividing two existing single family lots into 3 new single family lots meeting the City’s R-1 Low Density Residential District ordinance.

Existing Site Description

The development area is currently home to two single family lots with residences and driveways. The properties are zoned R-1 Low Density Residential with a Low Density Residential land use designation. The properties are partially wooded with drainage split in two ways; either to the east to Wilson Street right of way or to the west/northwest to an offsite wetland.

Proposed Subdivision Plan

It is the applicant’s intent to subdivide 2.574 acres into three single family lots. The existing buildings from the 4328 property and structures on the south half of the 4316 property will be demolished and removed completely. The residence, garage and driveway that exists on the 4316...
property will remain and be situated on Lot 1 of the proposed subdivision. The proposed subdivision plan does meet the City’s R-1 zoning requirements and will be consistent with the property’s land use designation.

The following is a brief summary of primary project elements currently proposed:

**Proposed Plat Data**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Acreage</td>
<td>2.574 acres</td>
</tr>
<tr>
<td>Approximate Net Acreage</td>
<td>2.574 acres</td>
</tr>
<tr>
<td>Lots Proposed</td>
<td>3</td>
</tr>
<tr>
<td>Net Density</td>
<td>1.17 units per acre</td>
</tr>
</tbody>
</table>

**Lot Summary**

<table>
<thead>
<tr>
<th>Minimum Width Required</th>
<th>110’ (at front setback)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Depth Required</td>
<td>125’</td>
</tr>
<tr>
<td>Minimum Lot Size Required</td>
<td>22,000 sf</td>
</tr>
<tr>
<td>Minimum Lot Size Proposed</td>
<td>30,486 sf (0.70 ac)</td>
</tr>
<tr>
<td>Lot Area Average</td>
<td>37,376 sf (0.86 ac)</td>
</tr>
<tr>
<td>Minimum Buildable Area</td>
<td>3,500 sf</td>
</tr>
<tr>
<td>Maximum Lot Impervious Coverage</td>
<td>25%</td>
</tr>
</tbody>
</table>

**Setback Requirements**

| Min. One-Side Setback | 10’  |
| Total Combined Side Setback | 30’ |
| Front Setback          | 35’  |
| Rear Setback           | 40’  |

**Site Access and Pedestrian Circulation**

The proposed plan will require the addition of one new private driveway connection to Wilson Street and the reconstruction of another. The existing driveway for the 4328 will remain undisturbed. No new public sidewalks or trails are proposed.

**Grading**

A sample grading plan has been provided to indicate how home grading would work for home styles that are possible on the two disturbed lots (lots 2 and 3). The grading plan shows the estimated grading limits needed to construct two new homes with driveways. The grading plan does show hypothetical rain garden locations, however, it will be up to the future home/lot designer as to which stormwater management practices will be used to meet the City stormwater management requirements.

**Stormwater Management**

Proposed subdivision requests within the City of Minnetonka including 3 lots or greater, require implementation of a stormwater management plan that provides rate control, water quality and volume control of stormwater runoff. The proposed subdivision plan has included a design that provides a stormwater retention/infiltration basin on each proposed lot (1-3). The infiltration basins
do provide the required stormwater management and will do so with flexibility for each independent of the others. The development proposes to subdivide 2 existing lots in 3 new lots, however, the existing Hendrickson home will remain and fit on the new lot 1. The proposed plan includes an earthwork modification on Lot 1 to create a basin to retain a stormwater volume equivalent to the existing impervious surface that is part of the Hendrickson homestead. The stormwater plan then proposes a basin on each of the two other lots sized on the assumption that the future lots can propose hard surface equivalent to the maximum allowable 25% under the of The City’s Code. The proposed plans include a sample style home and grading plan for both Lot 2 and 3 but it is the Applicant and Engineer’s understanding, that the future homebuilder and homeowner are allowed to modify as desired and create a code compliant design on each lot that may or may not be consistent with the provided sample plan. The future homebuilder and owner will work with the City during the City’s building permit process to indicate the proposed impervious surface and how the stormwater management will be provided.

Sanitary Sewer and Watermain
The existing properties currently have three sets of City water and sanitary sewer services (2 on the 4316 property and 1 on 4328). The services are spaced such that they are available for the existing home and for the two proposed lots and new homes. No additional public infrastructure is required to support the proposed subdivision.

Tree Preservation
A site tree inventory has been completed in accordance with City zoning requirements. The trees were categorized into significant and high priority trees. The City has reviewed the property and determined that there is no woodland preservation area within the plat boundary. The proposed project does propose some high priority tree removal, however, the removal is below the allowed 35% removal threshold.

Landscaping
The lots will be landscaped as desired by the future homeowner with no required tree reforestation mitigation. Any above ground stormwater management practices will be vegetated accordingly.

Timing/Phasing
If the City chooses to approve the plan submittal, it is the Applicant’s desire to proceed with application for Final Plat approval.
LEGAL DESCRIPTION

PARCEL 1: Lot 5, Block 5, "Woodstock" (Torrens)

PARCEL 2: The north 130 feet of Lot 4, as measured along the east and west lines thereof, in Block 5 in "Woodstock" (Torrens)

NOTES

1. The survey and the property description shown hereon are based in house and publicly on-line available records.

2. The locations of underground utilities are depicted based on available maps, records and field locations and may not be exact. Refer to available information's location on design.

3. The basis of bearings is assumed.

4. All distances are in feet.

5. The area of the above described property is 112,128 square feet or 2.574 acres.

6. Bench Marks (BM's) only exist east of TRW located approximately 100 feet north of the property on Fairlawn Road. Take note of any existing or new BM's west of the property.

7. Surveyor Certification:

8. This survey and the property description shown hereon are based in house and publicly on-line available records

9. The locations of underground utilities are depicted based on available maps, records and field locations and may not be exact. Verify all utilities critical to construction or design.

10. The basis of bearings is assumed.

11. All distances are in feet.

12. The area of the above described property is 112,128 square feet or 2.574 acres.

13. Bench Mark: MnDOT disk marked FAHIL 1990 located approximately 1500 feet south of the property on the south side of Trunk Highway 7, approximately 73 feet east of Fair Hills Road has an elevation of 1015.13 feet NGVD 29.
LEGEND:
- PROPERTY LINE
- UTILITY LINE
- DRAINAGE EASEMENT
- UTILITY EASEMENT
- ROAD EASEMENT
- PUBLIC UTILITY EASEMENT
- DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS: Being 7 feet in width and adjoining lot lines and 10 feet in width and adjoining right of way lines, unless otherwise indicated on the plat.

NOT TO SCALE
LEGEND:
- PROTECTED BOUNDARY
- PROTECTED TREE
- SERVICE LINE
- LIFT LINE
- TREE
dead
- TREE
extension
- EXTENDED SHADY LIMIT
- EXISTING TREE
- EXISTING TREE PROTECTED
- NEWLY PLANTED

TREE PRESERVATION NOTES:
- All trees within the protected boundary are to be preserved.
- All trees within the service line and lift line are to be preserved.
- All trees within the extended shading limits are to be preserved.
- All trees that are dead or likely to die are to be removed.

TREE INVENTORY & CALCULATIONS

WILSON RIDGE 6TH ADDITION
PRELIMINARY PLAT SUBMITTAL
TREE INVENTORY AND PRESERVATION PLAN

0 10 20 30 40
SCALE: IN FEET
Items received since the Planning Commission meeting
Memorandum

TO: Ashley Cauley and Jo Colleran

CC: Shaun Hendrickson

FROM: Mark Rausch, PE

DATE: January 25, 2017

SUBJECT: Wilson Ridge 6th Addition – Tree Preservation and Mitigation

The City’s Staff report for the Preliminary Plat review of the Wilson Ridge 6th Addition has included an adjusted tree preservation plan calculation. The report identifies that the plan as currently proposed, will require tree mitigation. Thanks to you both for taking the time to explain how the City of Minnetonka’s Tree Ordinance is to be interpreted in regards to tree mitigation.

The City Staff report indicates:
- 44 high priority trees onsite with 13 (29.5%) removed/impacted
- 123 significant trees, with 21 (17%) removed/impacted

Per City Ordinance, the proposed removal totals are acceptably under the City’s limit and thus the plan does not require a PUD review. There are, however, some proposed high priority tree removals that will require mitigation due to the location of the removal within the lots. Per Ordinance, any high priority tree removal proposed on lot at a location 20’ and greater from the home and 10’ or greater from the driveway, requires mitigation. The mitigation shall be in-kind to tree type (coniferous or deciduous) and is calculated on a foot-foot tree height basis for coniferous and per caliper inch for deciduous.

The City’s staff report identifies a mitigation requirement of 90 vertical feet of coniferous and 64 caliper inches of deciduous. The mitigation is calculated from the City Ordinance interpretation that the 5 inventoried trees; 720, 844, 842, 852 and 855 will be impacted due to proximity of the proposed grading limits. The plans do not indicate the removal of any of these 5 trees, however, the proposed grading limits would impact 30% or greater of the root zone as defined by the City’s Ordinance.

I would like to notify Staff that it is our intention to refine the grading plan to reduce the required tree mitigation. The refinement will increase the undisturbed distance where possible adjacent to the 5 identified trees. We will provide the modified grading plans to Staff for review at the appropriate time.
D. **Preliminary plat for Wilson Ridge 6th Addition, a three-lot subdivision of existing properties at 4316 and 4328 Wilson Street.**

Chair Kirk introduced the proposal and called for the staff report.

Cauley reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Shaun Hendrickson, owner of 4328 Wilson Street and applicant, stated that he was available for questions.

The public hearing was opened. No testimony was submitted and the hearing was closed.

*Odland moved, second by Calvert, to recommend that the city council adopt the resolution approving the preliminary plat of Wilson Ridge 6th Addition, a three-lot residential subdivision at 4316 and 4328 Wilson Street.*

*Powers, Calvert, Knight, O’Connell, Odland, and Kirk voted yes. Motion carried.*

This item is scheduled to be reviewed by the city council on February 6, 2017.
Resolution No. 2017-

Resolution approving the preliminary plat of WILSON RIDGE 6TH ADDITION at 4316 and 4328 Wilson Street

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Property owner, Shaun Hendrickson, has requested preliminary plat approval for WILSON RIDGE 6TH ADDITION, a three-lot residential subdivision.

1.02 The subject properties are located at 4316 and 4328 Wilson Street. They are legally described as follows:

4316 Wilson Street:
Lot 4, Block 5, “Woodstock”, Hennepin County, Minnesota.

4328 Wilson Street:
The north 130 feet of Lot 5 as measured along the east and west lines thereof, in Block 5 in Woodstock, Hennepin County, Minnesota.

1.03 On January 19, 2017, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary plat approval.

Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential
Section 3. Findings.

3.01 The proposed preliminary plat meets the design requirements as outlined in City Code §400.030.


4.01 The above-described preliminary plat is hereby approved, subject to the following conditions:

1. Final plat approval is required. A final plat will not be placed on a city council agenda until a complete final plat application is received.

   a) The following must be submitted for a final plat application to be considered complete:

      1) A final plat drawing that clearly illustrates the following:

         a. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.

         b. Utility easements over existing or proposed public utilities, as determined by the city engineer.

         c. Drainage and utility easements over stormwater management facilities, as determined by the city engineer.

      2) Documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

         a. Title evidence current within thirty days before release of the final plat.

         b. Stormwater maintenance agreement. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the
base of the infiltration areas and any adjacent drainage ditches, keeping a vegetative cover within the area, and removing any blockage that may impede the drainage of the site, as approved with the building permits.

c. Encroachment agreements for the retaining walls within the city’s drainage and utility easement if the retaining walls cannot be removed from the easements.

2. Prior to final plat approval:
   a) This resolution must be recorded with Hennepin County.
   b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.

3. Prior to release of the final plat for recording, the following must be submitted:
   a) Two sets of mylars for city signatures.
   b) An electronic CAD file of the plat in microstation or DXF.
   c) Park dedication fee of $5,000.

4. Subject to staff approval, WILSON RIDGE 6TH ADDITION must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Site plan, with revisions, dated January 9, 2017
   - Grading plan, with revisions, dated January 9, 2017
   - Utility plan, with revisions, dated January 9, 2017
   - Tree preservation plan, with revisions, dated January 9, 2017

5. Prior to issuance of a building permit for the first new house within the development:
   a) Submit the following:
      1) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.
2) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

3) A tree mitigation plan. The plan must:
   a. Provide 90-feet of evergreen tree mitigation. This is 15, six-foot trees.
   b. Provide 64-inches deciduous trees mitigation. This is 32, two-inch trees.

b) Construction of the infiltration basin on Lot 1 must be completed.

6. Prior to issuance of a building permit for any of the lots within the development:
   a) Submit the following items for staff review and approval:
      1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
      2) Final grading and tree preservation plan for the lot. The plan must:
         b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.
      3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased.
4) If required, proof of subdivision registration and transfer of NPDES permit.

5) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and

- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

If the builder is the same entity doing grading work on the site, the cash escrow submitted at the time of grading permit may fulfill this requirement.

6) Evidence of closure/capping of any existing wells, septic systems, and removal of existing fuel oil tanks.

b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

c) Submit all required hook-up fees.

7. All lots and structures within the development are subject to the all R-1 zoning standards. In addition:

a) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system. As shown, the new homes must be fire sprinkled per
the fire code as the driveways exceed 10% and are beyond 150 feet from the adjacent roadways.

b) Confirm that the 1-inch water services for Lots 2 and 3 are adequate for the proposed homes. If 1-1/2 inch services are needed for pressure, the existing 1-inch services must be removed back to the main and the corporation stop must be turned off. New water services must be tapped for the respective properties.

8. Retaining walls that exceed four feet in height must be engineered by a licensed structural engineer.

9. Coordinate with Centerpoint Energy prior to redevelopment for service line disconnections and distributions.

10. Permits may be required from other agencies including Hennepin County, Riley Purgatory Bluff Creek Watershed District, and the MPCA. It is the applicant’s or the property owner’s responsibility to obtain all necessary permits.

11. During construction, the streets must be kept free of debris and sediment.

12. The property owner is responsible for replacing any required landscaping that dies.

13. The city must approve the final plat within one year of preliminary plat approval or receive a written application for a time extension or the preliminary plat approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on February 6, 2017.

______________________________
Terry Schneider, Mayor

Attest:

______________________________
David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on February 6, 2017.

______________________________
David E. Maeda, City Clerk
Brief Description

On-sale wine and on-sale 3.2% malt beverage liquor licenses for Greenfield Natural Kitchen, LLC, at 1700 Plymouth Road

Recommendation

Open the public hearing and continue to March 6, 2017

Background

The city has received an application from Greenfield Natural Kitchen, LLC for On-Sale Wine and On-Sale 3.2% Malt Beverage liquor licenses for a new restaurant in the Highland Bank building at 1700 Plymouth Road.

Greenfield is a health food restaurant that is between fast food and casual dining. It combines the speed and convenience of counter service with the amenities and aesthetics of casual dining.

Business Ownership

Greenfield Natural Kitchen, LLC is owned by Doug Sams. Mr. Sams founded D Brian’s Deli Corp in 1987 and currently operates seven D Brian’s locations throughout the Twin Cities. In addition to D Brian’s Deli, he owns and operates two Greenfield Natural Kitchen locations in Minneapolis. He is proposing to open the third location in Minnetonka.

Business Operations

The restaurant will occupy approximately 2,600 square feet of the existing building and will allow seating for approximately 60 guests. The restaurant will be open for lunch and dinner, Sunday thru Saturday, 11am-9pm.

The applicant is proposing to install a computer controlled beer and wine system (ipourit) for registered users who would self-pour their beer and wine. The system operates in the following manner:

- The system is regulated by a beverage ambassador which is always on duty and is responsible for the safe and legal operation of the computer controlled self-pour system.
- The alcohol critical control point is the ambassador’s workstation that includes the computer controls, the point of sale system, the electronic age verification system, the clean glasses and the self-pour taps.
• By default, all taps are always locked by computer control—no employee or customer can ever open any tap without computer authorization.
• Computer authorization requires a valid ID and a credit card. The ambassador will examine the ID, check the photo against the patron, and then swipe the ID electronically to verify the patron's age. If everything is acceptable, the ambassador will assign a unique radio frequency identification wristband (RFID) bracelet to the Registered User.
• Only registered users can unlock taps, and only one tap at a time can be unlocked. This is accomplished by holding the RFID bracelet in close proximity to the chosen tap's computer tablet.
• The computer tablet knows who has unlocked the tap, when it was unlocked, what they are pouring, how much they are pouring, and how much to charge to the user's bill.
• The computer tablet has many safety controls and allows restaurant management to place a daily limit on how much alcohol a customer can pour before the customer's RFID bracelet is deactivated. The owner has determined that three pints (48 ounces) of beer or three servings of wine (17.8 ounces) will be the daily limit set for customers. If a customer decides to interchange beer and wine, the system will keep track of the allowed daily amount by using a "multiplier factor" that will record every ounce of wine as 2.7 ounces toward the daily limit.
• No customer is allowed to refill a used glass. All refills must go into a clean glass that is provided by the ambassador - this critical control point prevents authorized users from giving their RFID bracelet to someone who is underage or otherwise not authorized.
• When the authorized user wants to tab out, they return the RFID bracelet to the ambassador who presents the final bill to the customer.

Greenfield's computer controlled self-pour system is different than traditional bartender-pour arrangements because it has many controls that traditional arrangements lack. All ID'S are electronically verified, all users have to be registered before they can pour a drink, all users are limited to a pre-determined amount of alcohol and all refills need to go through the Ambassador.

Projected food to liquor ratio will be 87% food and 13% alcohol.

Mr. Sams will also serve as the general manager. He resides in Medina and meets the metro-area residency requirements of the city's liquor ordinance.

Staff will go through alcohol server training, using TIPS (Training for Intervention Procedures) to ensure responsible sale and consumption of alcohol.
Subject: Greenfield Natural Kitchen, LLC

Applicant Information

Application information and license fees have been submitted. The police department’s investigative report on this application is pending and will be forwarded to the council prior to the continued public hearing.

Recommendation

Staff recommends that the city council open the public hearing and continue the hearing to March 6, 2017.

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Kathy Leervig, Community Development Coordinator
LOCATION MAP

Applicant: Greenfield Natural Kitchen, LLC
Address: 1700 Plymouth Rd.
This business plan describes a new restaurant that proposes to provide craft beer and wine for on-sale consumption.

The restaurant is known for healthy food such as salads and stir-fry and hopes to attract educated and affluent adult patrons. It is projected that food will be 87% of sales and beer / wine will be 13%. Operating hours are Sunday through Saturday from 11am – 9pm. There is no dancing, no live entertainment, and no amplified music except for the ceiling speakers that emit ambiance level sound.

The restaurant is ‘limited service’ like Panera and will not have table service from waiters and waitresses. Customers will order from iPads or on their smartphone.

The menu is still in development but will be organized under these four categories:

- Salads using whole grains and greens including some organic and local ingredients.
- Stir-Fry dishes using home made ingredients
- Sandwiches and tacos using smoke turkey, pork, beef and chicken
- Indulgent desserts using organic ice cream, berries, honey and homemade whipped cream

The restaurant’s food will be served in china and customers will use flatware for their eating utensils. Food packaging for take-out items will be recyclable or compostable. We do not foresee any issues with maintaining an attractive appearance with respect to graffiti, litter or refuse. There will be a trash container on the sidewalk outside the entrance.

Restaurant sales are expected to be 70% dine-in and 30% take out.
City Council Agenda Item #14A  
Meeting of February 6, 2017

**Brief Description**  
Resolution approving a conditional use permit for a storage building at 11522 Minnetonka Boulevard.

**Recommendation**  
Adopt the resolution approving the request

**Proposal**

The city of Minnetonka is requesting a Conditional Use Permit to allow construction of a 10,000 square-foot storage building on the Minnetonka Public Works Facility property located at 11522 Minnetonka Boulevard. The building would provide storage of equipment and materials needed for public works operations that are organized in various buildings on site as well as areas outside of buildings in the rear yard. The proposal would also incorporate evergreen landscaping and a cedar fence to buffer the adjacent Cedar Crossing neighborhood to the north.

**Planning Commission Hearing**

The planning commission considered the proposed storage building on January 19, 2017. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on the following pages. At that meeting, a neighbor from the Cedar Crossing neighborhood spoke in support of the project during the public hearing.

**Planning Commission Recommendation**

On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes are attached.

**Since Planning Commission Hearing**

There have been no changes to the proposal or additional information received since the planning commission’s meeting on this item.

**Staff Recommendation**

Adopt the resolution approving the request.

Through:  
Geralyn Barone, City Manager  
Julie Wischnack, AICP, Community Development Director

Originator:  
Loren Gordon, AICP, City Planner
MINNETONKA PLANNING COMMISSION  
January 19, 2017

**Brief Description**  
A conditional use permit for a storage building at 11522 Minnetonka Boulevard.

**Recommendation**  
Recommend the city council approve the request.

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**Project No.**  
01056.16a

**Property**  
11522 Minnetonka Blvd.

**Applicant**  
City of Minnetonka

**Proposal**  
Conditional Use Permit to allow construction of a 10,000 square-foot storage building on the Minnetonka Public Works Facility property located at 11522 Minnetonka Boulevard. The building would provide storage of equipment and materials needed for public works operations that are organized in various buildings on site as well as areas outside of buildings in the rear yard.

**Proposal Requirements**  
The proposal requires:

- Conditional use permit for construction of a public building in the R-1 District.

- Site and building plan approval.

**Approving Body**  
The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request. (City Code §300.06 Subd. 4)

**Site Features**  
The Minnetonka Public Works Facility is the main operations center for the city’s public works functions. All street, utility, parks and natural resources operations are located in the facility.

- **Topography**  
The site is generally flat. There is a slight grade that rises to the west.
• **Trees**
  Except for the north and eastern edges of the property, there are no trees or existing vegetation.

• **Other Natural Features**
  A wetland area associated with the Minnehaha Creek corridor is located east of the site. The wetland boundary is just east of the property. The building would maintain a 71 feet setback from the wetland boundary.

  The 100-year floodplain for Minnehaha Creek is located on a small portion of the area just south of the proposed storage building. The floodplain elevation at this location along the creek is 912.5 feet.

**Building Use**
The building would be used to store equipment and vehicles.

**Building Architecture**
The proposed steel building is a simple single-gable roof design with a covered lean-to on the east side. Overhead doors are located on the south and west building elevations. Overall building height as measured to the roof peak is 24 feet. Building height as determined by the zoning code is 20 feet.

**Building Location**
The storage building would maintain a 59 feet setback from the east property line and 180 feet from the north property line.

**Landscaping and Screening**
The site is separated from the Cedar Crossing neighborhood to the north by the Burlington Northern Santa Fe Railroad. Existing evergreens were planted along a portion of the northern property line many years ago. The proposed project would incorporate additional white pine trees in an area between those evergreens and the salt storage building. A cedar fence would also be planted on top of concrete material storage dividers to better screen and buffer the neighborhood from activities occurring at the public works facility.

**Neighborhood Input**
City public works staff held a neighborhood meeting on October 26, 2016 to present the project. Approximately 8 neighbors from the adjacent Cedar Crossing neighborhood were in attendance. The neighbors voiced concerns about existing conditions, operations, noise, and screening at the public works site. The result of the meeting was to review conditions along the north property line and reconvene a second neighborhood meeting at a future date.
On December 21, 2016, a second neighborhood meeting was held. Approximately 10 people were in attendance. City public works staff presented a plan to better buffer and screen the site from the Cedar Crossing neighborhood. The plan incorporated white pine tree plantings and a cedar fence to better visually screen and reduce noise the neighborhood experiences. The neighbors were in general agreement with the plan.

**Staff Analysis**

Staff finds that the applicant's proposal is reasonable.

- The proposed storage building would provide a reasonably sized building in proportion to the size of the property for the enclosure and storage of vehicles and equipment.
- The proposed storage building would be screened from view of residential properties immediately to the north with existing and proposed landscaping and a proposed fence along the north edge of the public works yard.
- The building would meet all site and building plan review requirements.

**Staff Recommendation**

Recommend that the city council adopt the resolution to allow construction of a 10,000 square-foot storage building on the Minnetonka Public Works Facility property located at 11522 Minnetonka Boulevard.

Originator: Loren Gordon, AICP, City Planner
Supporting Information

**Surrounding Land Uses**
- Northerly: Railroad and Single family residential zoned R-1
- Easterly: City of Hopkins owned property (brush drop-off site)
- Southerly: Single family residential zoned R-1
- Westerly: Big Willow ballfields zoned R-1

**Planning**
- Guide Plan designation: Institutional
- Zoning: R-1

**CUP Standards**
The proposal would meet the specific conditional use permit standards as outlined in City Code §300.16 Subd. 3(l);

1. site and building plans subject to review pursuant to section 300.27 of this ordinance.
2. direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
3. buildings set back 50 feet from all property lines;
4. parking spaces and parking setbacks subject to section 300.28 of this ordinance; and
5. no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and
6. stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.

**SBP Standards**
The proposal would comply with all site and building standards as outlined in City Code 300.27 Subd.5

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
2. Consistency with this ordinance;
3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing
grade changes to be in keeping with the general appearance of neighboring developed or developing areas;

4. Creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:

   a) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;

   b) the amount and location of open space and landscaping;

   c) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and

   d) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

6. Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and

7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

**Natural Resources**

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.
Subject: Minnetonka Public Works Storage Building

Neighborhood Comments
The city sent notices to 47 area property owners and received no comments outside of neighborhood meeting input.

Pyramid of Discretion

Motion options
The planning commission has the following motion options:

1. Concur with staff’s recommendation. In this case, a motion should be made recommending the city council approve the proposal based on the findings outlined in the staff-drafted resolution.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the request. The motion should include findings for denial.

3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant or both.

Voting Requirement
The planning commission will make a recommendation to the city council on the applicant’s proposal. A recommendation for approval requires an affirmative vote of a simple majority.

The city council’s final approval requires affirmative votes of four members.

Deadline for Decision
Waived
Location Map

Project: Public Works Cold Storage Bldg
Applicant: City of Minnetonka
Address: 11522 Minnetonka Blvd
Project No. 01056.16a

This map is for illustrative purposes only.
Plant 6'-8' tall White Pine, spaced to provide screening when mature.

Install 6' Cedar Fence on concrete wall

Stormwater treatment improvement

Building Setback - 59 feet
Setback to Lean-to Eave - 40 feet
- 15 planting spots. Currently, there are Austrian and Ponderosa pines, as well as, White spruce planted to the east. The Spruce are in fair, poor, and dead conditions. While both species of Pine are in good condition.
- 9", 13", and 24" dbh Boxelder trees will need to be removed to provide room for the new trees; all are in poor condition. The under-story is Buckthorn and Boxedler saplings.
Proposed 6' cedar fence located on top of the concrete material dividers.
8. **Public Hearings**

A. **Conditional use permit to allow construction of a 10,000-square-foot storage building on the Minnetonka Public Works site located at 11522 Minnetonka Boulevard.**

Chair Kirk introduced the proposal and called for the staff report.

Gordon reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Knight asked if the project would implement technology to provide energy efficiency.

Minnetonka Streets and Parks Operations Manager Darin Ellingson, representing the applicant, stated that LED light bulbs would be used. The building would be pretty basic and used for storage of off-season equipment.

The public hearing was opened.

Todd Werner, 3012 Cedar Crossing, stated that he commended Gordon for listening to the neighbors and installing the fence and trees. The trees and fence would improve the view and help with noise mitigation from the site. He appreciated Gordon listening to him on that issue.

No testimony was submitted and the hearing was closed.

Calvert pointed out an incorrect date in the report.

*Odland moved, second by Powers, to recommend that the city council adopt the resolution to allow construction of a 10,000-square-foot storage building on the Minnetonka Public Works site located at 11522 Minnetonka Boulevard.*

*Powers, Calvert, Knight, O’Connell, Odland, and Kirk voted yes. Motion carried.*

This item is scheduled to be reviewed by the city council on February 6, 2017.
Resolution No. 2017-

Resolution approving a conditional use permit for a storage building at 11522 Minnetonka Boulevard

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 The city of Minnetonka has requested a conditional use permit for a 10,000 square-foot storage building at the Minnetonka Public Works Facility.

1.02 The property is located at 11522 Minnetonka Boulevard. It is legally described on EXHIBIT A of this resolution.

1.03 The proposed building would provide storage for equipment and materials needed for city public works operations.

1.04 On January 19, 2017, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards are incorporated into this resolution by reference.

2.02 City Code §300.16 Subd. 3(l) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:
1. public buildings or facilities, except for recreational buildings that contain less than 1,000 square feet, and utility cabinets larger than 150 cubic feet;

2. site and building plans subject to review pursuant to section 300.27 of this ordinance;

3. direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

4. buildings set back 50 feet from all property lines;

5. parking spaces and parking setbacks subject to section 300.28 of this ordinance;

6. no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

7. stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.

2.03 City Code §300.27 Subd. 5 outlines the general standards that must be met for granting of site and building plan review. In evaluating a site and building plan, the planning commission and city council shall consider its compliance with the following:

1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

2. consistency with this ordinance;

3. preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;

4. creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
5. creation of a functional and harmonious design for structures and site features, with special attention to the following:

   a. an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;

   b. the amount and location of open space and landscaping;

   c. materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and

   d. vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

6. promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and,

7. protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

Section 3. Findings.

3.01 The proposal meets the general conditional use permit standards outlined in City Code §300.16 Subd. 2 and Subd. 3(l).

1. A public building is a conditionally permitted use within the R-1 district.

2. The proposed use is consistent with the goals, policies, and objectives of the comprehensive plan.

3. The proposal has been reviewed by the city’s building, engineering,
planning, natural resource, and fire staff. The building will help the city deliver essential public services to the community.

4. The proposal is consistent with the city’s water resources management plan. Stormwater treatment would be provided with the project.

5. The proposal would provide additional landscaping and screening.

6. The building would be aesthetically consistent with other buildings on site. Additionally, some outside storage materials and equipment would be contained within the building.

7. The proposal is not anticipated to have an undue adverse impact on the public’s health, safety or welfare.

3.02 The proposal meet the specific conditional use permit standards outlined in City Code 300.16 Subd.3(a).

1. The site would be directly accessed by Minnetonka Boulevard. Minnetonka Boulevard is classified as an arterial roadway.

2. The proposed storage building exceeds the minimum setback requirements.

3. Under existing conditions, 49 percent of the site is considered impervious. The proposed storage building would not increase the amount of impervious surface as it would be constructed in an area of the site with existing hard surface.

4. This proposal would meet site and building plan standards as outlined in section 300.27 of the zoning ordinance.

Section 4. City Council Action.

4.01 The above-described conditional use permit is approved, subject to the following conditions:

1. This resolution must be recorded with Hennepin County.

2. The building must be comply with all requirements of the Minnesota state building code, fire code, and health code.

3. The city council may reasonably add or revise conditions to address
any future unforeseen problems.

4. Stormwater management must be provided in accordance with the city’s stormwater management plan.

Adopted by the City Council of the City of Minnetonka, Minnesota, on February 6, 2017.

______________________________
Terry Schneider, Mayor

Attest:

______________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on February 6, 2017.

__________________________________
David E. Maeda, City Clerk
EXHIBIT A

Par 1: Commencing on the West line of Tract C, Registered Land Survey No. 291, Hennepin County, Minnesota and on the South right of way line of the Burlington Northern Railroad right of way thence South 0 degrees 10 minutes West a distance of 517.5 feet; thence South 45 degrees 30 minutes 30 seconds East a distance of 42.92 feet; thence North 88 degrees 49 minutes East a distance of 120 feet; thence north parallel to the west line of said Tract C to the North line of Tract C thence westerly along the North line of Tract C to the point of beginning.

Par 2: Commencing at the Southwest corner of Tract C, Registered Land Survey No. 291, Hennepin County, Minnesota, thence North along the West line of said Tract C on an assumed bearing of North 0 degrees 10 minutes East a distance of 510 feet; thence North 88 degrees 49 minutes East a distance of 60 feet; thence South 11 degrees 48 minutes 15 seconds East a distance of 480.29 feet to the South line of said Tract C; thence South 75 degrees 45 minutes West along South line of said Tract C a Distance of 165.0 feet to the point of beginning.
City Council Agenda Item #14B
Meeting of February 6, 2017

Brief Description
Concept plan review for Mesaba Capital Development

Action Requested
Discuss concept plan with the applicant. No formal action required.

Background

On November 14, 2016, the city council provided feedback to Mesaba Capital Development on their proposed 4-story, 110-unit senior care facility located at 17710 and 17724 Old Excelsior Blvd. The council commented that the project:

- was a good use for the area,
- was an appropriate use of the site, and
- aligned with the Highway 7 / 101 Vision Plan.

In addition, council provided the following constructive critique of the building and site plan:

- provide a model/illustrations of the project with surrounding area,
- liked the use of balconies and outdoor space,
- evaluate building size and mass considering the low-density residential along Old Excelsior Boulevard, and
- evaluate and possibly scale back the building height and setbacks.

The council also commented that a high-quality appropriately scaled building was desirable in setting the tone for future redevelopment in the area. A higher-quality building at this location was also preferable over an affordable unit component if providing affordability would hinder the project. (See attachments).

Revised Concept Plan

Since the city council review of the project in November, staff has met with Mesaba Capital on a number of occasions to discuss revisions to the site and building plans. Mesaba wishes to present the revisions to the council for additional input prior to the submission of formal development applications this winter. (See attachments).
The revised plans include the following highlights and responses to the November council review:

- building height has been reduced from 4 to 3 stories,
- building size above ground has been reduced from 113,600 to 104,544 square feet,
- general unit count has been reduced from 110 to 100 units,
- a preliminary building design including an articulated building façade, balconies and covered entry,
- sidewalk and trail connections internal to the site as well as along Old Excelsior Boulevard.

A shared parking arrangement and pedestrian connections with South Lake Pediatrics continue to be integral to the plan.

**Staff Recommendation**

Staff recommends the city council provide comment and feedback on the revised concept plan. The discussion is intended to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director

Originated by:
- Loren Gordon, AICP, City Planner
LOCATION MAP

Mesaba Capital Development
17710 and 17724 Old Excelsior Blvd.

This map is for illustrative purposes only.
Mesaba Capital Development
Revised Concept Plans
Project Team:

Developer/Ownership
Mesaba Capital Development
10700 Normandale Boulevard  55437
Contact:   Della Kolpin
Phone:   612.840.9801
Email:  dkolpin@mesabacapital.com

Facility Operator/Ownership
to be determined

Design Builder
Welsh Construction, LLC
4350 Baker Road
Minnetonka, MN  55343-8695
Contact:   Bill Krake
Phone:  952.897.7850
Email:   wkrake@welshco.com
Project Narrative:

Mesaba Capital Development proposes to develop a 100 unit Senior Housing facility in Minnetonka, Minnesota. The proposed building will be on the site parcels of 17710 and 17724 Old Excelsior Boulevard, in the southwest quadrant of the intersection of Highway 7 and 101. The sites are currently zoned commercial with older one-story office buildings. The two parcels are planned to be rezoned and replatted during the entitlement process.

Mesaba Capital Development believes this is a strong development opportunity and aligns with the vision and goals of the City of Minnetonka. The development leverages land use with higher residential density, while having low vehicle ownership and usage. It also delivers a housing type that is needed within the marketplace, based on a market assessment dated July 2016.

Project Land Use Data:

The project site falls in the Hwy 7/101 Village Center. The sites would be re-zoned (R-5 High Density Residential) to accommodate the proposed development. This rezoning aligns the use within the 2011 Highway 7/101 Village Center study; High Density Residential.

The Highway 7/101 Village Center functions as the community village for southwest Minnetonka. The Commercial district contains larger commercial anchors in Super Target and Cub Food and a number of support retail and service uses including banks, medical and small office uses. The Vision Study outlines that Senior housing presents a strong potential for development in the Southwest quadrant of this area. This project can be a catalyst to begin redevelopment as outlined in the Vision Center study. It provides good visibility and access along with a broad range of uses for the residents. The attributes this site brings to Senior Housing:

- Centered near a major intersection
- Commercial district provides residents close proximity to living needs.
- North Memorial's Medical Center is 1.6 miles from proposed site.
- Hennepin County Library within walking distance.
- Minnetonka High School, .3 miles from site, would provide residents a variety of activities to attend or volunteer opportunities.
Parking:
City ordinance requires 1 parking space for each senior living unit. Below is a parking summary:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Parking</td>
<td></td>
<td>45</td>
</tr>
<tr>
<td>Underground Parking</td>
<td></td>
<td>60</td>
</tr>
<tr>
<td>North Parking lot</td>
<td></td>
<td>23</td>
</tr>
<tr>
<td>Total Parking</td>
<td>99</td>
<td>128</td>
</tr>
</tbody>
</table>

Twenty two of the units in the building are located within a Memory Care wing, and these residents will not contribute to the parking or traffic load. Additionally, we believe that one-half of the Assisted Living residents will have vehicles, further reducing the parking need. The projection of resident with vehicle ownership is 66+/-.

Site:
The two existing parcels:

<table>
<thead>
<tr>
<th>Address</th>
<th>Acres</th>
<th>Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>17710 Old Excelsior Boulevard</td>
<td>1.36</td>
<td>59,242 SF</td>
</tr>
<tr>
<td>17724 Old Excelsior Boulevard</td>
<td>1.18</td>
<td>51,400 SF</td>
</tr>
<tr>
<td></td>
<td>2.54</td>
<td>110,642 SF</td>
</tr>
</tbody>
</table>

The building will be a three-story wood frame structure over a concrete and precast basement, used for enclosed parking and support functions. The facility is being programmed and designed to accommodate a continuum of aging, including Independent Living, Assisted Living and Memory Care Units. The total square footage of the project is proposed to be 130,000 GSF, including the underground parking.

The new Senior Living Building has been oriented on the site for multiple reasons:

- Main visitor/resident entrance visible to approach from Highway 101 and Old Excelsior Boulevard.
- North wing shields the main entry and outdoor spaces from the prevailing northwesterly winds during winter months.
- Utilize the north basement structure as a retaining wall to accommodate the grade changes between proposed Senior Housing and new parking to the north.
- Placement takes advantage of the east to west sun movement throughout the day for resident units.
- Old Excelsior streetscape to be enhanced with new tree plantings to supplement existing, site furnishings, lights and sidewalks.
Senior Living with Services:
Private apartments with full kitchens and laundry. Support services for those who have more complex care requirements. Staff is on-site 24-hours-a-day.
- Independent Living is for seniors who wish to eliminate the burden of home ownership for an apartment and facility offering numerous conveniences and amenities.
- Assisted Living is for seniors who wish to live as independently as possible, yet may require assistance with some of the activities of daily living.
- The facility will create a dynamic environment that promotes activities throughout the day.

Memory Care:
The private memory care apartments will be secure and specially designed for those with mild to moderate memory loss from Alzheimer’s and other forms of dementia. The area is designed to bring comfort, peace and familiarity to the residents while providing exceptional care.

Proposed Building Features:
- Congregate dining w/ three meals a day.
- Private dining
- Coffee Shop
- Lounge areas on every floor
- Library & Computer Room
- Fitness Facility
Senior Housing Site Plan

Scale: 1"= 50'-0"

Mesaba Capital Development

Hutchins Drive

Southlake Pediatrics Building

64 surface parking stalls on Southlake Peds.

18 Parking Stalls Under Building

Retaining Wall below

Stairway Connection

40'-0"

Building Setback

Existing trees to remain

Main Building Entry

45 Surface Parking Stalls

One Story

Main Floor = 36,448 SF
Second Floor = 34,048 SF
Third Floor = 34,048 SF
TOTAL = 104,544 SF
*not including garage

Walking Paths

Building Setback

Covered Entry

Garage & Service Entry

Old Excelsior Boulevard

Main Entry Drive

Southlake Pediatrics Building

18 Parking Stalls Under Building

45 Surface Parking Stalls

Main Building Entry

40'-0"

Building Setback

Existing trees to remain

Retaining Wall below

Stairway Connection

40'-0"

Building Setback

Walking Paths

Parking

Surface

Enclosed

North parking

TOTAL

45 stalls

60 stalls

23 stalls

128 stalls

64 surface parking stalls on Southlake Peds.

Main Floor = 36,448 SF
Second Floor = 34,048 SF
Third Floor = 34,048 SF
TOTAL = 104,544 SF
*not including garage

Walking Paths

North parking

Stairway Connection

Building Setback

Existing Trees to remain along property line

Senior Housing

Old Excelsior Boulevard

Main Entry Drive
Conceptual Architectural Character

Old Excelsior Blvd Site
Minnetonka, MN
November 14, 2016 City Council Meeting Minutes

Concept Plan review
A. Concept plan review for Mesaba Capital Development.

Gordon gave the staff report.

Della Kolpin, of Mesaba Capital Development, applicant, stated that:

- She represents the project team. Welsh Construction would be the design builder.
- The proposal would include 110 units of rental housing with independent living, assisted living, and memory care. There would be studio, one-bedroom, and two-bedroom units and common residential areas. There would be a dining area, coffee shop, lounge, fitness center, and library.
- The applicant is looking for a $24 million capital investment for the project.
- A market-assessment study has been done. The numbers fully support the proposal.
- The site has many attributes including being located near a major intersection with commercial uses, medical clinic, and library. Residents could volunteer and attend activities at the high school.
- The main entrance would access Old Excelsior Boulevard.
- There would be 40 stalls of surface parking.
- The building would be four stories in the front and the back would be done to fit the topography. The main entrance would be visible from the main intersection and take into consideration the direction of the wind and angle of the sun.
- A flat roof, natural colors, balconies, and masonry would be looked at.
- Certain trees would be a priority for preservation.
- Making the site walkable is a goal.

Allendorf said that the use would fit with the council’s view for the property. He would like to see a model that would show how the building would fit with the surrounding buildings. It would be a good use for the area.

Acomb agreed. Rezoning the site to residential makes sense. The surrounding businesses, shopping, and library would complement a senior-living facility. She liked the idea of balconies and utilizing the outdoor space. She would appreciate seeing a rendering of the building in context with the surroundings. She confirmed with staff that a bus services the site.
Wiersum thought that the use makes a lot of sense for the proposed location. The size and mass may be a challenge with the low-density residential housing across the street, but the need for the use and appropriateness of the proposal with the village study makes the proposal make a lot of sense.

Wagner stated that the proposal is aligned with the visioning plan. He had no concerns with the use. The area is underserved for senior, high-density living. Height, setbacks, and parking would be challenges to address.

Ellingson liked the applicant making walkability a priority and encouraged making the site as walkable as possible. He appreciated the location of the entrance taking the wind direction and sun location into consideration.

Schneider thought that the use would be appropriate for the site. There are some current traffic concerns and senior housing would cause the least increase in traffic. The height of the building and setbacks need to be looked at and possibly the height scaled back. He did not have a problem with the proposal being out of context with the surrounding buildings because the goal is to change the area.

Schneider noted that having an owner and operator in place makes a big difference. Kolpin said that the final decision for an operator would be made in December before a final application would be submitted.

Kolpin asked if councilmembers felt that the proposed density of 47 units per acre would work for the site and within the quadrant. Schneider noted the relationship between height, mass, and units per acre. He thought the feel of the building would work well. A six-story building on a smaller footprint would provide larger setbacks, but would probably not be the better fit for senior housing. The top story might be problematic.

Gordon asked councilmembers to provide feedback on the importance of an affordability component to the project and the extent of the notification area for the project. Wagner expected the affordability policy to be followed and requested 10 percent to 20 percent of the units meet affordability guidelines. Wischnack provided that 10 percent of the units in Cherrywood and 20 percent of the units in Applewood meet affordability guidelines. Schneider would be a little more flexible with the affordability requirement because it would be a tough site to develop. He would prefer a high-quality, appropriately-scaled building if providing affordability would prevent that from happening.

Schneider suggested extending the standard notification area a little into Clear Springs.
Allendorf agreed with Schneider in regard to scale. His first priority would be getting the scale of the building right. The notification area used for the village-center study would be adequate.
Minnetonka Senior Housing

November 8, 2016
Project Team:

**Developer/Ownership**
Mesaba Capital Development  
10700 Normandale Boulevard  55437  
Contact:  Della Kolpin  
Phone:  612.840.9801  
Email:  dkolpin@mesabacapital.com

**Facility Operator/Ownership**  
In discussions with 3 management teams.  
Decision in December 2016.

**Design Builder**
Welsh Construction, LLC  
4350 Baker Road  
Minnetonka, MN  55343-8695  
Contact:  Bill Krake  
Phone:  952.897.7850  
Email:  wkrake@welshco.com
Project Narrative:

Mesaba Capital Development proposes to develop a 110 unit Senior Housing facility in Minnetonka, Minnesota. The proposed building will be on the site parcels of 17710 and 17724 Old Excelsior Boulevard, in the southwest quadrant of the intersection of Highway 7 and 101. The sites are currently zoned commercial with older one-story office buildings. The two parcels are planned to be rezoned and replotted during the entitlement process.

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The project site falls in the Hwy 7/101 Village Center. The sites would be re-zoned (R-5 High Density Residential) to accommodate the proposed development. This rezoning aligns the use within the 2011 Highway 7/101 Village Center study; High Density Residential.

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- Centered near a major intersection
- Commercial district provides residents close proximity to living needs.
- North Memorial's Medical Center is 1.6 miles from proposed site.
- Hennepin County Library within walking distance.
- Minnetonka High School, .3 miles from site, would provide residents a variety of activities to attend or volunteer opportunities.
Under the R-5 residential use for the site parcels, the project would have the following requirements:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Setback – Front</td>
<td>50'-0&quot;</td>
<td>50'-0&quot;</td>
</tr>
<tr>
<td>Building Setback – West</td>
<td>40'-0&quot;</td>
<td>45'-0&quot; &amp; 50'-0&quot;</td>
</tr>
<tr>
<td>Building Setback – East</td>
<td>40'-0&quot;</td>
<td>40'-0&quot;</td>
</tr>
<tr>
<td>Building Setback – Rear</td>
<td>30'-0&quot;</td>
<td>20'-0&quot;</td>
</tr>
<tr>
<td>Parking Setback – Front</td>
<td>30'-0&quot;</td>
<td>120'-0&quot;</td>
</tr>
<tr>
<td>Parking Setback – Side</td>
<td>10'-0&quot;</td>
<td>20'-0&quot;</td>
</tr>
<tr>
<td>Building Height</td>
<td>As determined by city</td>
<td>52'-0&quot;</td>
</tr>
<tr>
<td>F.A.R</td>
<td>1:1</td>
<td>1:1.16</td>
</tr>
</tbody>
</table>

**Parking:**
City ordinance requires 1 parking space for each senior living unit. Below is a parking summary:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Parking</td>
<td></td>
<td>40</td>
</tr>
<tr>
<td>Underground Parking</td>
<td></td>
<td>70</td>
</tr>
<tr>
<td>SLP Cross Easement</td>
<td></td>
<td>40</td>
</tr>
<tr>
<td>Total Parking</td>
<td></td>
<td>110</td>
</tr>
</tbody>
</table>

Twenty of the units in the building are located within a Memory Care wing, and these residents will not contribute to the parking or traffic load. Additionally, we believe that one-half of the Assisted Living residents will have vehicles, further reducing the parking need. The projection of residents with vehicle ownership is 66+/-.

**Site:**
The two existing parcels:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Acres</th>
<th>SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>17710 Old Excelsior Boulevard</td>
<td>1.36</td>
<td>59,242</td>
</tr>
<tr>
<td>17724 Old Excelsior Boulevard</td>
<td>1.18</td>
<td>51,400</td>
</tr>
<tr>
<td>Total</td>
<td>2.54</td>
<td>110,642</td>
</tr>
</tbody>
</table>

Currently, 17724 Old Excelsior Boulevard is partially used for parking for the Southlake Pediatrics office building at 17705 Hutchins Drive. Following the purchase of the two parcels above, Mesaba Capital Development will sell back a 53”-0” x 250’-0” (.3 acre) of land to Southlake Pediatrics and construct 40 new parking stalls. The new stalls will be located to the north of our proposed site,

<table>
<thead>
<tr>
<th>Component</th>
<th>Acres</th>
<th>SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total development site</td>
<td>2.54</td>
<td>110,642</td>
</tr>
<tr>
<td>Conveyance to SLP</td>
<td>.30</td>
<td>13,250</td>
</tr>
<tr>
<td>Sr. Housing property area</td>
<td>2.24</td>
<td>97,574</td>
</tr>
<tr>
<td>Building footprint</td>
<td>.65</td>
<td>28,400</td>
</tr>
<tr>
<td>Parking/Drives</td>
<td>.50</td>
<td>22,000</td>
</tr>
<tr>
<td>Total Impervious Surface Area</td>
<td>1.15</td>
<td>50,400</td>
</tr>
<tr>
<td>Total Green Surface Area</td>
<td>1.08</td>
<td>47,174</td>
</tr>
</tbody>
</table>

Mesaba Capital Development Senior Housing
The building will be a four-story wood frame structure over a concrete and precast basement, used for enclosed parking and support functions. The facility is being programmed and designed to accommodate a continuum of aging, including Independent Living, Assisted Living and Memory Care Units. The total square footage of the project is proposed to be 140,000 GSF, including the underground parking.

The new Senior Living Building as been oriented on the site for multiple reasons:

- Main visitor/resident entrance visible to approach from Highway 101 and Old Excelsior Boulevard.
- North wing shields the main entry and outdoor spaces from the prevailing northwesterly winds during winter months.
- Utilize the north basement structure as a retaining wall to accommodate the grade changes between proposed Senior Housing and Southlake Pediatrics new parking.
- Placement takes advantage of the east to west sun movement throughout the day for resident units.
- Old Excelsior street scape to be enhanced with new tree plantings to supplement existing, site furnishings, lights and sidewalks.

**Senior Living with Services:**
Private apartments with full kitchens and laundry. Support services for those who have more complex care requirements. Staff is on-site 24-hours-a-day.

- Independent Living is for seniors who wish to eliminate the burden of home ownership for an apartment and facility offering numerous conveniences and amenities.
- Assisted Living is for seniors who wish to live as independently as possible, yet may require assistance with some of the activities of daily living.
- The facility will create a dynamic environment that promotes activities throughout the day.

**Memory Care:**
The private memory care apartments will be secure and specially designed for those with mild to moderate memory loss from Alzheimer’s and other forms of dementia. The area is designed to bring comfort, peace and familiarity to the residents while providing exceptional care.

**Proposed Building Features:**
- Congregate dining w/ three meals a day.
- Private dining
- Coffee Shop
- Lounge areas on every floor
- Library & Computer Room
- Fitness Facility
Project Goals:

Sense of Quality & Dignity

Provide a warm & inviting home

Connect to Nature Indoor & outdoor

Activate the residents

Maximize the site qualities

Mesaba Capital Development Senior Housing
Site Context:
Building Typology

Mesaba Capital Development Senior Housing
Site Design Concepts:
Brief Description: Reappointments to Minnetonka boards and commissions

Recommended Action: Approve the recommended reappointments

Background
On January 31, 2017, the appointment terms will expire for some members of the EDAC, park board and planning commission. All of them are eligible to be reappointed and have been valuable and productive members. In addition, each member has indicated an interest in continuing to serve an additional term. I am recommending reappointment of the following eligible members.

The updated membership rosters showing the composition of the above boards and commissions following these reappointments are attached.

Recommendation
To approve the following reappointments to the Minnetonka Boards, Commissions and Committees:

- Ken Isaacson, to the EDAC, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.
- Jack Acomb, to the park board, to serve a one-year term, effective February 1, 2017 and expiring on January 31, 2018.
- Nelson Evenrud, to the park board, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.
- Chris Gabler, to the park board, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.
- Peggy Kvam, to the park board, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.
- Deborah Calvert, to the planning commission, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.
- Brian Kirk, to the planning commission, to serve another two-year term, effective February 1, 2017 and expiring on January 31, 2019.

Also I recommend Ken Isaacson as chair and Michael Happe as vice chair for the EDAC for 2017.

The city council interviewed a number of applicants for open positions on the EDAC, park board, and planning commission on January 9, 23, and 30, 2017. It is my intent to go through comments received from each council member and my notes to finalize a recommendation for those openings.

Respectfully submitted,

Terry Schneider
Mayor
The Economic Development Advisory Commission (EDAC) advises the city council regarding redevelopment, development/finance, housing and transportation. This board is comprised of seven members who reside in the city, work in the city or own a business in the city. Members serve a two-year terms. Meetings are held as needed.

<table>
<thead>
<tr>
<th>Name</th>
<th>Ward</th>
<th>Comments</th>
<th>Appointed</th>
<th>Reappointed</th>
<th>Reappointed</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Happe</td>
<td>3</td>
<td>Vice Chair</td>
<td>5/24/2010</td>
<td>1/9/2012</td>
<td>1/25/2016</td>
<td>1/31/2018</td>
</tr>
<tr>
<td>Ken Isaacson</td>
<td>1</td>
<td>Chair</td>
<td>5/24/2010</td>
<td>1/28/2013</td>
<td>1/26/2015</td>
<td>1/31/2019</td>
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<tr>
<td>Jacob Johnson</td>
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<td></td>
<td>1/27/2014</td>
<td>1/25/2016</td>
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<td>1/31/2018</td>
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<tr>
<td>Jerry Knickerbocker</td>
<td>4</td>
<td></td>
<td>2/13/2012</td>
<td>1/27/2014</td>
<td>1/25/2016</td>
<td>1/31/2018</td>
</tr>
<tr>
<td>Tony Wagner</td>
<td>2</td>
<td>Council Liaison</td>
<td>5/24/2010</td>
<td>1/9/2012</td>
<td>1/27/2014</td>
<td>1/31/2018</td>
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<td>Charlie Yunker</td>
<td>3</td>
<td></td>
<td>1/25/2016</td>
<td></td>
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<td>1/31/2018</td>
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</tbody>
</table>

Staff Liaisons:
Julie Wischnack, Community Development Director, Ph# 952-939-8282
This board is comprised of seven members plus one student representative. This board consults with the city council and
staff in matters relating to parkland, park facilities, programs, and finances. The board’s functions include long and short
range planning related to capital improvement projects, acquisition, development and use of parklands, park facilities,
recreational and leisure time facilities, and recreational programs. Park board members also represent the city on a joint
recreation board, directing primary attention to recreation programs and activities developed and offered through the joint
board; and making recommendations to the city council through the joint board concerning policies on recreational
programs and activities. This board meets the first Wednesday of each month at 7:00 p.m. Members serve two-year

<table>
<thead>
<tr>
<th>Name: Open Position</th>
<th>Ward:</th>
<th>Appointed:</th>
<th>Reappointed:</th>
<th>Reappointed:</th>
<th>Term Expires:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Open Position</td>
<td>Ward:</td>
<td>Appointed:</td>
<td>Reappointed:</td>
<td>Reappointed:</td>
<td>Term Expires:</td>
</tr>
<tr>
<td>Name: Nelson Evenrud</td>
<td>Ward: 3</td>
<td>Appointed: 1/26/2015</td>
<td>Reappointed: 2/6/2017</td>
<td>Term Expires: 1/31/2019</td>
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<tr>
<td>Name: Chris Gabler</td>
<td>Ward: 1</td>
<td>Appointed: 2/13/2012</td>
<td>Reappointed: 1/25/2016</td>
<td>Term Expires: 1/31/2018</td>
<td></td>
</tr>
</tbody>
</table>

Staff Liaisons:
Perry Vetter, Assistant City Manager Ph# 952-939-8216
Dave Johnson, Recreation Services Director, Ph# 952-939-8360
# Planning Commission

## Current Members

The planning commission assists and advises the city council in administration of the City Zoning Ordinance; conducts public hearings on matters as required by provisions of the zoning ordinance, subdivision ordinance, and any other matters referred by the council or by ordinance. Following the required public hearings, the planning commission makes its reports and recommendations to the city council and city manager. This commission is comprised of seven members who serve two-year terms. The meetings are generally held Thursday nights, twice a month at 6:30 p.m.

<table>
<thead>
<tr>
<th>Name</th>
<th>Open Position</th>
<th>Ward</th>
<th>Comments</th>
<th>Appointed:</th>
<th>Reappointed:</th>
<th>Reappointed:</th>
<th>Reappointed:</th>
<th>Term Expires:</th>
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</thead>
<tbody>
<tr>
<td>Deborah Calvert</td>
<td>Open Position</td>
<td>1</td>
<td></td>
<td></td>
<td>Reappointed:</td>
<td>Reappointed:</td>
<td>Reappointed:</td>
<td>1/31/2019</td>
</tr>
<tr>
<td>Brian Kirk</td>
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<td>1</td>
<td></td>
<td>Appointed:</td>
<td>Reappointed:</td>
<td>Reappointed:</td>
<td>1/31/2019</td>
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<td>1/26/2015</td>
<td>1/26/2015</td>
<td>2/6/2017</td>
<td>1/31/2019</td>
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<tr>
<td>David Knight</td>
<td></td>
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<td></td>
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<td>Reappointed:</td>
<td>1/25/2018</td>
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<td>1/27/2014</td>
<td>1/25/2016</td>
<td>1/25/2018</td>
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<tr>
<td>Sean O'Connell</td>
<td></td>
<td>3</td>
<td></td>
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<td>Reappointed:</td>
<td>1/31/2018</td>
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<td>1/27/2014</td>
<td>1/25/2016</td>
<td>1/31/2018</td>
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<tr>
<td>John Powers</td>
<td></td>
<td>3</td>
<td></td>
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<td>1/25/2016</td>
<td>1/31/2018</td>
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</tr>
</tbody>
</table>

**Other Commission Members:**

Loren Gordon - City of Minnetonka Staff Liaison Ph# 939-8296
15A - Appointments and reappointments to Minnetonka boards and commissions

Attached is a memo from Mayor Schneider with an updated list of recommended appointments.
Memorandum

To: City Council

From: Mayor Terry Schneider

Date: February 6, 2017

Subject: Change Memo for February 6, 2017

15A - Appointments and reappointments to Minnetonka boards and commissions

The city council interviewed a number of applicants for open positions on the economic development advisory commission (EDAC), park board, and planning commission on January 9, 23, and 30, 2017. I am recommending appointment of the following applicants to fill those openings.

Recommendation

To approve the following appointments to the Minnetonka Boards and Commissions:

- Josh Sewall (Ward 2), to the planning commission, to fill and serve a one-year term, effective February 7, 2017 and expiring on January 31, 2018.
- Rebecca Schack (Ward 2), to the planning commission, to serve a two-year term, effective February 7, 2017 and expiring on January 31, 2019.
- Melissa Johnston (Ward 2), to the EDAC, to serve a two-year term, effective February 7, 2017 and expiring on January 31, 2019.
- Chris Walich (Ward 3), to the Park Board, to fill and serve a one-year term, effective February 7, 2017 and expiring on January 31, 2018.

Respectfully submitted,

Terry Schneider
Mayor