Minnetonka City Council

Regular Meeting, Monday, August 22, 2016

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Schneider
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Resolutions pertaining to levying the 2016 Special Assessments
   B. Resolution approving a conditional use permit, with building plans for a licensed day care facility at 6030 Clearwater Drive
   C. Twelve month extension of the SAVILLE WEST final plat at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses
   D. Twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat at 13929 Spring Lake Road
   E. Resolution requesting a MnDOT variance for Ridgehaven Lane/Ridgedale Drive)
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances: None

Minnetonka City Council meetings are broadcast live on channel 16.
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city’s website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit eminnetonka.com
13. Public Hearings:

A. Resolution vacating public right-of-way and drainage and utility easements at 11571 Robinwood Circle

Recommendation: Hold the public hearing and adopt the resolution

B. Items concerning Station Pizzeria LLC, 13008 Minnetonka Blvd:

1) Conditional use permit and site and building plan review
2) On-sale wine and on-sale 3.2% malt beverage licenses

Recommendation:

1) Resolution approving a conditional use permit and site and building plan review (4 votes)
2) Continue the public hearing and grant the on-sale liquor license (5 votes)

14. Other Business:

A. Items concerning construction of that portion of the Southwest Light Rail Transit line located in the City of Minnetonka:

1) Wetland rezoning;
2) Wetland and floodplain alteration permit;
3) Wetland replacement plan;
4) Wetland, wetland buffer, and floodplain variances;
5) Conditional use permit for impervious trails within wetland buffers; and
6) Approval of construction on a steep slope development and tree removal.

Recommendation: Introduce the ordinance and approve the resolutions for the various items (4 votes)

B. Ordinance regarding Temporary Family Health Care Dwellings

Recommendation: Adopt the ordinance “opting-out” of the state regulation (4 votes)

C. Concept Plan for Crest Ridge Senior Living at 10955 Wayzata Boulevard

Recommendation: Discuss the concept plan with the applicant. No formal action is required.
D. Appeal of planning commission denial of variances for a blade sign at 1700 Plymouth Road

Recommendation: Adopt the resolution overturning the planning commission decision and approving the variances (5 votes)
(Note – Resolution to affirm the planning commission decision requires 4 votes)

15. Appointments and Reappointments: None

16. Adjournment
Background

As part of the process of levying special assessments, Minnesota statutes require the city council to adopt resolutions that: 1) indicate the cost of the improvements; 2) order the preparation of special assessment rolls; and 3) set the date for the public hearing to consider the proposed special assessments. Attached are a series of resolutions regarding nuisance abatements, diseased tree removals, trip generation fees and city court fines that are proposed to be specially assessed in 2016. Each of these resolutions is associated with a separate category of improvements and each category is outlined below.

The assessments are structured on the basis of cost variances and market rates. The finance director has determined that the interest rates for the 2016 nuisance and tree special assessments will be as noted below. These interest rates are benchmarked to the current Aaa municipal bond rate. The term and interest rate for each assessment is as follows:

<table>
<thead>
<tr>
<th>Nuisance and Tree</th>
<th>Term</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment Amount</td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;$1,000</td>
<td>1 year</td>
<td>2.17%</td>
</tr>
<tr>
<td>$1,000-2,999</td>
<td>3 years</td>
<td>2.50%</td>
</tr>
<tr>
<td>$3,000-5,000</td>
<td>5 years</td>
<td>2.66%</td>
</tr>
<tr>
<td>&gt;$5,000</td>
<td>10 years</td>
<td>3.32%</td>
</tr>
</tbody>
</table>

The process for special assessment includes numerous communications with parcel owners and opportunities for prepayments of the assessments. Prior to determining the property must be assessed, division staff associated with the specific type of assessment have notified or worked with the property owners regarding the associated work financed by the city. After determination of assessment, staff sends a notice of hearing to each property owner and publishes the notice in the newspaper in late August. After the public hearing in September, property owners are given thirty (30) days to prepay assessments or partial assessments without an interest charge. After this first prepayment deadline, property owners are given up to forty-six (46) additional days to pay the full amount with interest until required certification to the county on November 30.
- **Privately Installed Sewer and Water Improvement Projects.** No projects to be assessed this year.

- **Nuisance Abatement Projects.** There are 54 nuisance abatement projects (including diseased tree removals) in which the city has incurred costs totaling $131,105.35. Two of projects were completed through the use of a Nuisance Abatement Agreement signed by the property owners for extensive work that was needed on the properties at 4813 Hamilton La and 5900 Camelot Cir. It is proposed that the projects be specially assessed for the full cost of the abatement. These projects are proposed to be specially assessed in accordance with Minnesota statutes and city council policies regarding the levying of these nuisance abatement projects. The amounts proposed to be specially assessed are as follows:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-473</td>
<td>6142</td>
<td>Creek View Tr</td>
<td>31-117-22-34-0053</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-474</td>
<td>11921</td>
<td>Bradford Rd</td>
<td>23-117-22-43-0064</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-482</td>
<td>3604</td>
<td>Shady Oak Rd</td>
<td>14-117-22-33-0010</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-483</td>
<td>5311</td>
<td>Tracy Lynn Ter</td>
<td>30-117-22-44-0044</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-486</td>
<td>17081</td>
<td>Creek Ridge Tr</td>
<td>32-117-22-33-0008</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-489</td>
<td>1911</td>
<td>Linner Rd</td>
<td>04-117-22-43-0002</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-490</td>
<td>1935</td>
<td>Linner Rd</td>
<td>04-117-22-43-0004</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-494</td>
<td>2701</td>
<td>Cherrywood Rd</td>
<td>10-117-22-42-0013</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-495</td>
<td>10101</td>
<td>Crestridge Dr</td>
<td>01-117-22-42-0052</td>
<td>$168.33</td>
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<tr>
<td>N-484</td>
<td>10710</td>
<td>Crestridge Dr</td>
<td>01-117-22-31-0045</td>
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<tr>
<td>N-485</td>
<td>3639</td>
<td>Shady Oak Rd</td>
<td>14-117-22-34-0001</td>
<td>$436.65</td>
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<tr>
<td>N-487</td>
<td>9705</td>
<td>St Johns Rd</td>
<td>13-117-22-41-0073</td>
<td>$436.65</td>
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<tr>
<td>N-488</td>
<td>5215</td>
<td>Rogers Dr</td>
<td>27-117-22-44-0005</td>
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<td>N-491</td>
<td>16211</td>
<td>Gleason Lake Rd</td>
<td>05-117-22-11-0017</td>
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<tr>
<td>N-492</td>
<td>2500</td>
<td>Sylvan Pl</td>
<td>11-117-22-31-0068</td>
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<tr>
<td>N-493</td>
<td>12720</td>
<td>Pioneer Rd</td>
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<tr>
<td>N-475</td>
<td>4407</td>
<td>Loretta La</td>
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<tr>
<td>N-481</td>
<td>2218</td>
<td>Vernon Dr S</td>
<td>12-117-22-22-0039</td>
<td>$936.65</td>
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Subtotal: $6,190.67
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<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
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<th>Assessment Amount</th>
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<tbody>
<tr>
<td>N-478</td>
<td>12916</td>
<td>Shady Dale Rd</td>
<td>22-117-22-44-0009</td>
<td>$1,204.98</td>
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<td>N-496</td>
<td>14010</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0035</td>
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<tr>
<td>N-468</td>
<td>16913</td>
<td>State Hwy No 7</td>
<td>29-117-22-24-0036</td>
<td>$1,597.74</td>
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<tr>
<td>N-472</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,936.65</td>
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<td><strong>Subtotal</strong></td>
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<tr>
<td>N-471</td>
<td>16108</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-41-0036</td>
<td>$3,309.95</td>
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<tr>
<td>N-469</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$3,985.53</td>
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<td><strong>Subtotal</strong></td>
</tr>
<tr>
<td>N-470</td>
<td>13015</td>
<td>Lake St Extension</td>
<td>22-117-22-41-0005</td>
<td>$5,078.28</td>
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<tr>
<td>N-460</td>
<td>3320</td>
<td>Chippewa Rd</td>
<td>13-117-22-13-0081</td>
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<tr>
<td>N-466</td>
<td>16906</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-24-0032</td>
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<tr>
<td>N-465</td>
<td>15101</td>
<td>Victor La</td>
<td>33-117-22-43-0036</td>
<td>$6,746.60</td>
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<tr>
<td>N-463</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
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<tr>
<td>N-464</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$12,059.49</td>
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<tr>
<td>N-479</td>
<td>5900</td>
<td>Camelot Cir</td>
<td>35-117-22-41-0039</td>
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<tr>
<td>N-497</td>
<td>4813</td>
<td>Hamilton La</td>
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<td><strong>Subtotal</strong></td>
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</tbody>
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### 2016 Diseased Tree Removal – Project No. 4902 (1-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
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</thead>
<tbody>
<tr>
<td>T-40</td>
<td>2912</td>
<td>Oak Lea Ter</td>
<td>16-117-22-11-0027</td>
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<td>T-41</td>
<td>5540</td>
<td>Mahoney Ave</td>
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<td>T-52</td>
<td>11622</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0015</td>
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<tr>
<td>T-72</td>
<td>4335</td>
<td>Briarwood Dr</td>
<td>23-117-22-32-0027</td>
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<td>T-12</td>
<td>16861</td>
<td>Sherwood Rd</td>
<td>29-117-22-34-009</td>
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<td>T-2</td>
<td>17909</td>
<td>Minnetonka Blvd</td>
<td>18-117-22-41-0017</td>
<td>$184.04</td>
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<td>T-77</td>
<td>13816</td>
<td>Spring Lake Rd</td>
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<td>T-85</td>
<td>14300</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0008</td>
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<tr>
<td>T-26</td>
<td>12015</td>
<td>Douglynn Dr</td>
<td>35-117-22-21-0012</td>
<td>$670.21</td>
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<tr>
<td>T-50</td>
<td>4209</td>
<td>Christy La</td>
<td>22-117-22-31-0013</td>
<td>$816.63</td>
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<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
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</tbody>
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### 2016 Diseased Tree Removal – Project No. 4902 (3-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
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</thead>
<tbody>
<tr>
<td>T-81</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$1,098.23</td>
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<tr>
<td>T-25</td>
<td>4900</td>
<td>Birchwood La</td>
<td>27-117-22-14-0042</td>
<td>$1,548.75</td>
</tr>
<tr>
<td>T-27</td>
<td>3825</td>
<td>Cottage La</td>
<td>23-117-22-12-0048</td>
<td>$1,789.73</td>
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<tr>
<td>T-20</td>
<td>3520</td>
<td>Meadow La</td>
<td>17-117-22-31-0018</td>
<td>$2,111.98</td>
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<td>T-21</td>
<td>13304</td>
<td>Excelsior Blvd</td>
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<td>T-24</td>
<td>4800</td>
<td>Sparrow Rd</td>
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<td><strong>Subtotal</strong></td>
</tr>
<tr>
<td>Project No.</td>
<td>Street No.</td>
<td>Street Name</td>
<td>PID</td>
<td>Assessment Amount</td>
</tr>
<tr>
<td>------------</td>
<td>------------</td>
<td>-------------------</td>
<td>----------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>T-55</td>
<td>12609</td>
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<td>T-35</td>
<td>4341</td>
<td>Blenheim Cir</td>
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</tr>
<tr>
<td>T-80</td>
<td>n/a</td>
<td>Baker Rd &amp; Brenwood Tr</td>
<td>22-117-22-43-0002</td>
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</tr>
<tr>
<td>T-13</td>
<td>14745</td>
<td>Minnetonka Blvd</td>
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<td>T-87</td>
<td>16709</td>
<td>Blenheim Way</td>
<td>20-117-22-42-0008</td>
<td>$4,730.83</td>
</tr>
</tbody>
</table>

**Subtotal**  $19,390.77

- **City Court Fines.** Listed below is the city court fine imposed in 2016 that is proposed to be specially assessed over a one-year term, bearing an interest rate of 10 percent. This assessment is categorized as city court fines. Hennepin County charges an additional administrative fee prior to the final certification. The following is the proposed parcel to be assessed:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1020</td>
<td>11714</td>
<td>Bradford Rd</td>
<td>23-117-22-43-0046</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

**Total**  $150.00

- **Trip Generation Fees.** On February 8, 2016, the city council approved a conditional use permit and site and building plans for Yellow Brick Road Early Childhood Center, Inc. at 10401 Bren Road East. The property is located within the Opus Overlay District. This district allocates a maximum number of trips generated from the parcel to the interchange. If a proposed use is anticipated to exceed the maximum allocation, a trip generation fee is required. The day care is anticipated to generate an additional three trips and therefore is required to pay a trip generation fee. In addition, the property owner has petitioned the city to assess the trip generation fee and has waived the right to a hearing and to contest the amount of the assessment.
### 2016 Trip Generation Fees – Project No. 1020 (10-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>15035.15a</td>
<td>10401</td>
<td>Bren Rd E</td>
<td>36-117-22-34-0013</td>
<td>$27,880.00</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td>Total $27,880.00</td>
</tr>
</tbody>
</table>

**Recommendation**

Adopt the following attached resolutions:

1) Resolution declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

2) Resolution declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

3) Resolution declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

4) Resolution declaring costs for Project No. 4894 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

5) Resolution declaring costs for diseased tree removal - Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

6) Resolution declaring costs for diseased tree removal - Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

7) Resolution declaring costs for diseased tree removal - Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

8) Resolution declaring costs for city court fines, Project No. 1020 (1-year), ordering the preparation of special assessment rolls, and scheduling a public hearing.
9) Resolution declaring costs for the trip generation fee for the property at 10401 Bren Road East, ordering the preparation of special assessment rolls.

Submitted through:
Geralyn Barone, City Manager
Perry Vetter, Assistant City Manager
Merrill King, Finance Director
Colin Schmidt, City Assessor
John Weinand, Environmental Health Supervisor
Jo Colleran, Natural Resource Manager
Ashley Cauley, Senior Planner

Originated by:
Denise Ostlund, Assessment Specialist
Resolution No. 2016-

Resolution declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a one-year time period bearing an interest rate of 2.17 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a one-year term bearing an interest rate of 2.17 percent:

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<td>17081</td>
<td>Creek Ridge Tr</td>
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<td>1911</td>
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<tr>
<td>N-490</td>
<td>1935</td>
<td>Linner Rd</td>
<td>04-117-22-43-0004</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-494</td>
<td>2701</td>
<td>Cherrywood Rd</td>
<td>10-117-22-42-0013</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-495</td>
<td>10101</td>
<td>Crestridge Dr</td>
<td>01-117-22-42-0052</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-484</td>
<td>10710</td>
<td>Crestridge Dr</td>
<td>01-117-22-31-0045</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-485</td>
<td>3639</td>
<td>Shady Oak Rd</td>
<td>14-117-22-34-0001</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-487</td>
<td>9705</td>
<td>St Johns Rd</td>
<td>13-117-22-41-0073</td>
<td>$436.65</td>
</tr>
</tbody>
</table>
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

______________________________
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 August 22, 2016.

_______________________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a three-year time period bearing an interest rate of 2.50 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a three-year term bearing an interest rate of 2.50 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-478</td>
<td>12916</td>
<td>Shady Dale Rd</td>
<td>22-117-22-44-0009</td>
<td>$1,204.98</td>
</tr>
<tr>
<td>N-496</td>
<td>14010</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0035</td>
<td>$1,519.57</td>
</tr>
<tr>
<td>N-468</td>
<td>16913</td>
<td>State Hwy No 7</td>
<td>29-117-22-24-0036</td>
<td>$1,597.74</td>
</tr>
<tr>
<td>N-472</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,936.65</td>
</tr>
</tbody>
</table>

Subtotal: $6,258.94

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a five-year time period bearing an interest rate of 2.66 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a five-year term bearing an interest rate of 2.66 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-471</td>
<td>16108</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-41-0036</td>
<td>$3,309.95</td>
</tr>
<tr>
<td>N-469</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$3,985.53</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$7,295.48</strong></td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

____________________________
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 August 22, 2016.

____________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for Project No. 4894 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a ten-year time period bearing an interest rate of 3.32 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a ten-year term bearing an interest rate of 3.32 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-470</td>
<td>13015</td>
<td>Lake St Extension</td>
<td>22-117-22-41-0005</td>
<td>$5,078.28</td>
</tr>
<tr>
<td>N-460</td>
<td>3320</td>
<td>Chippewa Rd</td>
<td>13-117-22-13-0081</td>
<td>$5,178.28</td>
</tr>
<tr>
<td>N-466</td>
<td>16906</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-24-0032</td>
<td>$5,809.95</td>
</tr>
<tr>
<td>N-465</td>
<td>15101</td>
<td>Victor La</td>
<td>33-117-22-43-0036</td>
<td>$6,746.60</td>
</tr>
<tr>
<td>N-463</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
<td>$6,778.28</td>
</tr>
<tr>
<td>N-464</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$12,059.49</td>
</tr>
<tr>
<td>N-479</td>
<td>5900</td>
<td>Camelot Cir</td>
<td>35-117-22-41-0039</td>
<td>$16,423.79</td>
</tr>
<tr>
<td>N-497</td>
<td>4813</td>
<td>Hamilton La</td>
<td>28-117-22-23-0042</td>
<td>$18,663.75</td>
</tr>
</tbody>
</table>

Subtotal $76,738.42
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

__________________________
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 August 22, 2016.

__________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for diseased tree removal – Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a one-year time period bearing an interest rate of 2.17 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a one-year term bearing an interest rate of 2.17 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-40</td>
<td>2912</td>
<td>Oak Lea Ter</td>
<td>16-117-22-11-0027</td>
<td>$29.28</td>
</tr>
<tr>
<td>T-41</td>
<td>5540</td>
<td>Mahoney Ave</td>
<td>31-117-22-11-0040</td>
<td>$29.28</td>
</tr>
<tr>
<td>T-52</td>
<td>11622</td>
<td>Live Oak Dr</td>
<td>11-117-22-12-0015</td>
<td>$29.28</td>
</tr>
<tr>
<td>T-72</td>
<td>4335</td>
<td>Briarwood Dr</td>
<td>23-117-22-32-0027</td>
<td>$36.60</td>
</tr>
<tr>
<td>T-12</td>
<td>16861</td>
<td>Sherwood Rd</td>
<td>29-117-22-34-0009</td>
<td>$151.49</td>
</tr>
<tr>
<td>T-2</td>
<td>17909</td>
<td>Minnetonka Blvd</td>
<td>18-117-22-41-0017</td>
<td>$184.04</td>
</tr>
<tr>
<td>T-77</td>
<td>13816</td>
<td>Spring Lake Rd</td>
<td>22-117-22-24-0042</td>
<td>$480.96</td>
</tr>
<tr>
<td>T-85</td>
<td>14300</td>
<td>Minnehaha Pl</td>
<td>15-117-22-22-0008</td>
<td>$487.50</td>
</tr>
<tr>
<td>T-26</td>
<td>12015</td>
<td>Douglynn Dr</td>
<td>35-117-22-21-0012</td>
<td>$670.21</td>
</tr>
<tr>
<td>T-50</td>
<td>4209</td>
<td>Christy La</td>
<td>22-117-22-31-0013</td>
<td>$816.63</td>
</tr>
</tbody>
</table>

Subtotal: $3,416.51
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk's office for public inspection.

2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

__________________________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for diseased tree removal – Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a three-year time period bearing an interest rate of 2.50 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a three-year term bearing an interest rate of 2.50 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-81</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$1,098.23</td>
</tr>
<tr>
<td>T-25</td>
<td>4900</td>
<td>Birchwood La</td>
<td>27-117-22-14-0042</td>
<td>$1,548.75</td>
</tr>
<tr>
<td>T-27</td>
<td>3825</td>
<td>Cottage La</td>
<td>23-117-22-12-0048</td>
<td>$1,789.73</td>
</tr>
<tr>
<td>T-20</td>
<td>3520</td>
<td>Meadow La</td>
<td>17-117-22-31-0018</td>
<td>$2,111.98</td>
</tr>
<tr>
<td>T-21</td>
<td>13304</td>
<td>Excelsior Blvd</td>
<td>27-117-22-13-0040</td>
<td>$2,562.54</td>
</tr>
<tr>
<td>T-24</td>
<td>4800</td>
<td>Sparrow Rd</td>
<td>30-117-22-24-0023</td>
<td>$2,703.33</td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td></td>
<td></td>
<td>$11,814.56</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

______________________________
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 August 22, 2016.

______________________________
David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for diseased tree removal – Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a five-year time period bearing an interest rate of 2.66 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a five-year term bearing an interest rate of 2.66 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-55</td>
<td>12609</td>
<td>James Rd</td>
<td>23-117-22-34-0036</td>
<td>$3,210.21</td>
</tr>
<tr>
<td>T-35</td>
<td>4341</td>
<td>Blenheim Cir</td>
<td>20-117-22-42-0019</td>
<td>$3,621.33</td>
</tr>
<tr>
<td>T-80</td>
<td>n/a</td>
<td>Baker Rd &amp; Brenwood Tr</td>
<td>22-117-22-43-0002</td>
<td>$3,773.40</td>
</tr>
<tr>
<td>T-13</td>
<td>14745</td>
<td>Minnetonka Blvd</td>
<td>16-117-22-44-0086</td>
<td>$4,055.00</td>
</tr>
<tr>
<td>T-87</td>
<td>16709</td>
<td>Blenheim Way</td>
<td>20-117-22-42-0008</td>
<td>$4,730.83</td>
</tr>
</tbody>
</table>

Subtotal: $19,390.77

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-
Resolution declaring costs for city court fines, Project No. 1020 (1-year), ordering the preparation of special assessment roll, and scheduling a public hearing

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

Section 1. Background.

1.01. The city charter section 8.03 and city code section 1310.050 allow the city to impose civil penalties for violations of city code and to assess those penalties against the properties that were the location of activities that resulted in the penalties.

1.02. City code section 1310.050 provides the method by which civil penalties may be collected in those cases where a penalty has been imposed and is not paid within the time specified.

1.03. Listed below are the city court fines imposed in 2016 that are proposed to be specially assessed over a one-year time period bearing an interest rate of 10 percent. These assessments are categorized as city court fines.

Section 2. Council Action.

2.01. The costs for the following city court fines are proposed to be specially assessed:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1020</td>
<td>11714</td>
<td>Bradford Rd</td>
<td>23-117-22-43-0046</td>
<td>$150.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At the public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.
2.04. The city clerk is directed to publish notice of the public hearing one time in
the official newspaper at least two weeks prior to the hearing and to mail
notice of the public hearing to the owner of each parcel described in the
assessment rolls, in accordance with applicable law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

___________________________
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 August 22,
2016.

___________________________
David E. Maeda, City Clerk
Resolution No. 2016-
Resolution declaring costs for the trip generation fee for the property at 10401 Bren Road East, ordering the preparation of special assessment rolls

BE IT RESOLVED by the city council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. On February 8, 2016, the city council approved Resolution No. 2016-015. This resolution approved a conditional use permit and final site and building plans for a licensed day care facility at 10401 Bren Road East. Per the approved resolution, the applicant is required to pay a trip generation fee in the amount of $27,880 prior to the release of a building permit.

1.02. On June 24, 2016, the city received a Petition of Waiver of Special Assessments from Yellow Brick Road Childcare, Inc. to special assess the trip generation fee.

1.03. On June 24, 2016, the city received a Development Contract from Yellow Brick Road Childcare, Inc. Through this agreement, Yellow Brick Road Childcare, Inc agrees to pay an additional trip generation fee in the amount of $48,790 in the event that the Southwest Light Rail Transit (SWLRT) and the reversal of Red Circle Drive does not occur by December 31, 2020.

1.04. The building permit for Yellow Brick Road Childcare, Inc was issued on June 27, 2016.

Section 2. Council Action.

2.01. The cost of this improvement to be specially assessed is as follows over a 10-year term bearing the interest rate of 3.32 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Project Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>15035.15a</td>
<td>Yellow Brick Road Childcare, Inc</td>
<td>$27,880</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment roll shall forthwith calculate the special assessment rolls. These rolls will show the proper amount to be specially assessed for such payment against the property, without regard to cash valuation as provided by law. The city clerk shall file a copy of such proposed special assessments in their office for public inspection.
2.03. The city clerk, upon completion of such proposed special assessments rolls, shall notify the council thereof.

Adopted by the city council of the City of Minnetonka, Minnesota, on August 22, 2016.

___________________________
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 August 22, 2016.

___________________________
David E. Maeda, City Clerk
Brief Description  Resolution approving a conditional use permit, with building plans for a licensed day care facility at 6030 Clearwater Drive

Recommendation  Adopt the resolutions approving the request

Background

In January 2016, the council approved plans for a five-story hotel on the west side of the property at 6030 Clearwater Drive. The plans also generally approved a day care facility on the east side of the site. However, specific conditional use permit and building plan approval would be required at the time a day care provider was identified.

Proposal

Since the council's review earlier this year, The Gardner School has been identified as the day care provider. The proposed day care facility would be 17,800 square feet in size and would have a licensed capacity of 206 children. Typical hours of operation would be from 6:30 a.m. to 6:30 p.m. Site features would include an outdoor play area and a nearly constructed parking lot.

Planning Commission Hearing

The planning commission considered the proposed day care on August 4, 2016. The staff report from that meeting is attached and various plans and documents describing the proposed project may be found on pages A1-A15. At that meeting, a public hearing was opened to take comment, but no one appeared to speak.

Following the public hearing, the commission generally asked questions about existing two-story day cares and licensing requirements.

Planning Commission Recommendation

On a 6-0 vote, the commission recommended that the city council approve the proposal. Meeting minutes may be found on page A42.

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 on pages A34–A41, approving the request.

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

Originator:  Ashley Cauley, Senior Planner
MINNETONKA PLANNING COMMISSION  
August 4, 2016

Brief Description  Items concerning a licensed day care facility at 6030 Clearwater Drive:

1) Conditional use permit; and
2) Building plan review.

Recommendation  Recommend the city council approve the request

Background

In January 2016, the council reviewed and approved plans to for a five-story hotel on the west side of the property at 6030 Clearwater Drive. At that time, the submitted plans indicated a 22,000 square foot day care facility would be constructed on the east half of the site at some point in the future. The city approved: (1) a major amendment to the existing Minnetonka Corporate Center master development plan to allow a day care and hotel; (2) preliminary and final plats to allow separate ownership of the day care and hotel; (3) conditional use permit for a hotel; (4) site plan review for the entire site and building plan review for the hotel; and a (5) sign plan amendment to allow hotel signs. It was anticipated at this time that the identified day care provider would submit for conditional use permit and site and building plan approval for the future day care. (See pages A17–A34.)

Proposal

Since the council’s review earlier this year, The Gardner School has been identified as the provider for the day care property. The Gardner School has opened 14 facilities throughout the county since its inception in 2003. The most recent was in Chicago, Illinois. As proposed, the Minnetonka facility would be 17,800 square feet in size and would have a licensed capacity of 206 children. Typical hours of operation would be from 6:30 a.m. to 6:30 p.m. Site features include an outdoor play area and a newly constructed parking area. (See narrative and plans on pages A1–A15.) Since the site plan was approved concurrent with the hotel proposal, the current proposal requires a conditional use permit and building plan review.

Primary Questions and Analysis

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the proposed day care center and staff’s finding.
• Is the proposed use generally reasonable?

Yes. The Minnetonka Corporate Center is a business park occupied by a variety of office and light manufacturing uses. Concurrent with the approval of the Home2 hotel earlier this year, the master development plan for the site was amended to allow the day care use. Further, the proposed day care use would meet all conditional use permit standards, which are outlined in the “Supporting Information” section of this report.

• Are the proposed site and building design reasonable?

Yes. Staff finds that the proposed building and site changes appropriate.

Site Design. Typically, site and building plans are reviewed concurrently. However to allow for site preparation, general site plans were reviewed and approved concurrent with the hotel to allow for overall site preparation. As such, staff reviewed the plans to ensure general conformance with the previously approved site plan. The following is intended to summarize staff’s findings:

1. Overall site design. The currently proposed building and footprint would be slightly ‘smaller’ than was previously approved. Staff is comfortable with this change as it would accommodate the outdoor play area. The fenced-in outdoor play area would be approximately 8,500 square feet in size and would be located such that it could be reasonably screened from adjoining properties.

2. Parking. As part of the hotel review, a parking study was completed to determine the parking demand of the site at full-build out. The study found that a total of 150 stalls would be required to accommodate the parking demand of the hotel and day care facility. A total of 197 stalls were proposed to be available on site via newly constructed surface stalls, proof-of-parking stalls and stalls available in an existing, reconfigured “overflow” lot.

The previously approved site plan allocated 44 stalls for the future day care use. The current proposal allocates 40 stalls for The Gardner’s School via a surface parking lot south of the proposed building.

Staff is comfortable with the four-stall reduction as it would not result in a parking stall deficit on the property.

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
<th>Required to Meet Demand</th>
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<tbody>
<tr>
<td>Hotel</td>
<td>76*</td>
<td>110</td>
</tr>
<tr>
<td>Day Care</td>
<td>44-40</td>
<td>40</td>
</tr>
<tr>
<td>TOTAL Stalls</td>
<td>120-116</td>
<td>150</td>
</tr>
</tbody>
</table>


**TOTAL Stalls AVAILABLE ON-SITE**

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<tbody>
<tr>
<td><strong>497</strong></td>
<td><strong>193</strong></td>
</tr>
</tbody>
</table>

*67 constructed stalls plus 9 proof-of-parking stalls
**120 constructed and proof-of-parking stalls plus 77 stalls available in reconfigured “overflow” lot

**Building Design.** Under the proposed plan, the two-story building would be similar in architectural style to The Gardner’s School existing location in Herndon, Virginia. The applicant has submitted photos of the existing location. (See pages A11–A15.) As a condition of approval, the applicant must submit a final material and color palate board.

**Staff recommendation**

Recommend that the city council adopt the resolution on pages A38–A45. This resolution approves a conditional use permit, with building plans, for a licensed day care facility at 6030 Clearwater Drive.

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

Project No. 15033.16a

Property 6030 Clearwater Drive

Applicant Jay Joiner, on behalf of Viking Development, LLC

Surrounding
Land Uses
Northerly: Office building, zoned PUD
Easterly: GE Osmonics; zoned I-1
Southerly: medical office building; zoned PUD
Westerly: Home2 Hotel and Interstate 494 beyond

Planning
Guide Plan designation: Mixed use
Zoning: PUD

Trees
As a result of the subdivision to allow separate ownership, the overall site is subject to the regulations of the city’s tree protection ordinance. The maximum amount of high priority tree removal for the site is limited to 35 percent. The previously approved plans for the hotel indicated the removal of or significant impact to 23-percent of the site’s high priority trees.

Staff reviewed the proposed site plan for the day care and found that there would be no anticipated additional impact than what was indicated on the initial plan.

CUP Standards
The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd.2:

1. The use is consistent with the intent of this ordinance;

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

3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

4. The use is consistent with the city’s water resources management plan;

5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
6. The use does not have an undue adverse impact on the public health, safety or welfare.

The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd. 3(j):

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

   **Finding:** The proposed facility would serve young children. Based on the narrative, the loading and drop-off points would be designed to avoid traffic and pedestrian movements. While the site plan generally appears to meet the standard, staff has included a condition of approval requiring the applicant to submit a circulation plan.

2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

   **Finding:** Play areas are proposed on the northeast side of the proposed building. A newly constructed fence, proposed landscaping, and existing pond would provide a buffer to the adjacent properties.

3. One parking space for each six children based on the licensed capacity of the center; and

   **Finding:** The licensed capacity of the day care center would be for 206 children. As proposed, the newly constructed parking lot would have 40 parking stalls, which is the minimum required by ordinance.

4. Shall obtain all applicable state, county and city licensing.

   **Finding:** This has been included as a condition of approval.

---

**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;

   **Finding:** Members of the city's community development, engineering, fire and public works staff have reviewed the
proposal and find that is generally consistent with the city’s development guides.

2. Consistency with this ordinance;

**Finding:** The proposal is consistent with the ordinance. Further, the proposal is consistent with the approved master development plan.

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;

**Finding:** The site impacts are in substantial conformance with the anticipated overall site impacts reviewed as part of the hotel development.

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;

**Finding:** The proposed site design would be in compliance with the site plan reviewed as part of the hotel development. The site design would be intuitive, and would result in appropriate location of buildings, parking areas, and open space relative to existing buildings, parking areas, and open spaces.

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.

**Finding:** The proposed site design would fit into the larger intuitively-designed development. The site would provide for appropriate circulation patterns for vehicular traffic. Reasonable consideration for the improvement of pedestrian circulation internal to the site has been shown on the revised site plan.

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

**Finding:** As new construction, the proposed building would meet all current building code standards including those pertaining to energy conservation.

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.

**Finding:** The proposal would not negatively impact adjacent or neighboring properties. In fact, staff anticipates that the proposal would provide a complementary service to existing 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.

**Motion Options**

The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the
requests. This motion must include a statement as to why denial is recommended.

3. Table the requests. 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.

**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)

**Neighborhood Comments**

The city sent notices to 29 area property owners and received no comments to date.

**Deadline for Decision**

October 28, 2016
Location Map

Project: The Gardner School
Applicant: Viking Development, LLC
Address: 6030 Clearwater Dr
Project No. 15033.16a
Dear City Staff and Planning Commission of Minnetonka:

The purpose of this letter is to apply for a Conditional Use Permit to open a daycare (preschool) facility at 6030 Clearwater Dr. in Minnetonka, MN. The Gardner School (TGS) offers educational preschool programs for children ranging in age from six weeks to five years. TGS’s program is academically focused with a research based curriculum and teaching methodology. The school’s concept was developed in 2003, and the Company opened its first school in Brentwood, TN in June of 2004. They will be opening its fourteenth facility in Chicago, IL in July of 2016. TGS would like to continue their efforts by bringing an additional daycare facility to the City of Minnetonka.

The proposed daycare facility will meet all applicable codes, rules and regulations determined by the City of Minnetonka, Hennepin County and the State of Minnesota. The licensed day care facility will have a capacity of 206 children, with the highest expected enrollment being 190 due to the fact that will always be turnover, graduation, relocation, etc. The facility will have fourteen classrooms and thirty teachers total. The total staff, including administration and kitchen staff, will be thirty-five.

The building will be 17,760 square feet and feature a large indoor play area for inclement weather, a computer lab, a dedicated enrichment studio, and a private nursing room. TGS also utilizes the PreciousStatus app, which provides “real time” communication and updates to parents regarding each child’s day. The exterior door and the door from the lobby to the classrooms both require keypad access. Hours of operation will be 6:30 am to 6:30 pm.

The facility will be designed with loading and drop-off points to avoid interfering traffic and pedestrian movements. Child drop-off and pick-up primarily occur daily between
7:00 am to 9:00 am and 4:00 pm to 6:00 pm. With this naturally staggered drop-off and pick-up window, there is never a surge in traffic as parents travel to and from work at various times.

The outdoor play area will be approximately 8,200 square feet and is inclusive to the site. On its southwest side, the outdoor play area is hidden from the proposed hotel’s view by the building’s structure. It is also screened from Clearwater Drive and the proposed parking lots by fencing, landscaping, and a modular block retaining wall. Outside storage and trash enclosures will also be screened from public views.

In regards to parking, the Conditional Use Permit Standards for a B-2 district state that one parking space is required for each six children based on the licensed capacity of the daycare center. Based off of a capacity of 206 children, the facility will require no more than 35 parking spaces. We are proposing a parking lot on the southeast side of the building. This lot will have 40 parking spaces including two handicap accessible stalls, which will be more than plenty for the daily demands of the facility.

In addition, The Gardner School’s architect will provide an aesthetically appealing building with excellent curb appeal. The proposed facility’s exterior elevations will comprise of a brick, limestone, and hardy backer board façade, which compliments the existing building vernacular of Minnetonka. Restricted building materials, such as asbestos-cement shingles and sheets, will not be included the design of the facility.

Thank you,

Nicholas Zager
Designer
NOTES:
1. SITE PLAN IS A SURVEY PREPARED BY TUFFY ENGINEERING & ASSOCIATES, INC.
2. ALL EXISTING UTILITY LOCATIONS AND ELEVATIONS SHOWN ARE APPROXIMATE. ALL CONTRACTORS SHALL VERIFY ALL LOCATIONS AND ELEVATIONS PRIOR TO CONSTRUCTION. CONTACT UTILITY COMPANIES VIA GOMER STATE ONE-CALL LINE OR BY CALLING ON 1-800-255-6686.
NOTES:
1. SITE PLAN LAYOUT IS A SURVEY PREPARED BY SMA ENGINEERING & ASSOCIATES, INC.

2. ALL EXISTING UTILITY LOCATIONS AND ELEVATIONS SHOWN ARE APPROXIMATE. ONLY CONTRACTOR SHALL CONFORM ALL LOCATIONS AND ELEVATIONS PRIOR TO CONSTRUCTION. CONTRACTOR SHALL CONTACT UTILITY COMPANIES VIA CITY OF STATE ONE-CALL OR BY CALLING 811 OR 1-800-222-1212.

The Gardner School
6030 Clearwater Dr
15033.16a
Herndon, VA location
REQUIRED PARKING STALLS:
- Hotel=105
- Daycare=14

PROPOSED PARKING STALLS:
- Hotel=67 (5 accessible)
- Daycare=14 (2 accessible)
- Proof of Parking

EXISTING PARKING STALLS=77
Ordinance No. 2016-02

An ordinance amending the existing master development plan of Minnetonka Corporate Center as it pertains to the property at 6030 Clearwater Drive

The City Of Minnetonka Ordains:

Section 1.

1.01 This ordinance hereby amends the Minnetonka Corporate Center master development plan as it pertains to the property at 6030 Clearwater Drive.

1.02 The property is legally described as: Lot 2, Block 1, Minnetonka Corporate Park.

1.03 The amendment approves hotel and daycare land uses on the site.

Section 2.

2.01 This ordinance is based on the following findings:

1. The proposal is consistent with the 2030 Comprehensive Guide Plan.

2. The amendment would not negatively impact the public health, safety, and welfare.

Section 3.

3.01 Approval is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:

- Site and Utility Plan, revised date December 4, 2015
Ordinance No. 2016-02

- Grading Plan, revised date December 4, 2015
- Landscape Plan, most recent date December 2, 2015
- Exterior Elevations, dated December 4, 2015
- Exterior Rendering, received December 4, 2015

The above plans are hereby adopted as the master development plan for the 6030 Clearwater Drive property.


Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on January 4, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: November 9, 2015
Date of adoption: January 4, 2016
Motion for adoption: Wagner
Seconded by: Wiersum
Voted in favor of: Wagner, Ellingson, Allendorf, Acomb, Wiersum, Bergstedt, Schneider
Voted against:
Abstained:
Absent:
Ordinance adopted.
Date of publication: January 12, 2016

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on January 4, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-004

Resolution approving final site and building plans for
6030 Clearwater Drive

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

Section 1. Background.

1.01 Buhl Investors Minnetonka I LLC has requested site and building plan approval for development of the property at 6030 Clearwater Drive. As proposed, a five-story, 102-unit hotel would be constructed on the west half of the site in the near term and a two-story day care facility would be constructed on the east half of the site at some point in the future.

1.02 The property is legally described as: Lot 2, Block 1, Minnetonka Corporate Park.

1.03 On December 17, 2015, 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 final site plan for the entirety of the site and final building plans for the hotel.

Section 2. Standards Findings.

2.01 City Code §300.27, Subd. 5, outlines that the following must be considered in the evaluation of site and building plans:

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 city has considered the items outlined in City Code §300.27, Subd. 5 and finds the following:
1. The proposal has been reviewed by city planning, engineering, natural resources, public works, fire, and legal staff and found to be generally consistent with the city's development guides.

2. The proposal would be generally consistent with the zoning ordinance, as well as the original master development plan for the site.

3. The proposal would result in significant grading. However, the level of grading and resulting tree impact would be anticipated with any development consistent with the previously approved master development plan for the site and with other existing development on adjacent and surrounding properties.

4. The proposed site design is intuitive, and would result in appropriate location of buildings, parking areas, and open spaces relative to existing buildings, parking areas, and open spaces.

5. The proposed site design is intuitive, with appropriate circulation patterns established for vehicular traffic. In addition, sidewalk connections are proposed from both the hotel and future day care to the sidewalk adjacent to Clearwater Drive. This existing sidewalk connects to the trail on Rowland Road, and ultimately to a regional trail.

6. The proposed building design would feature EIFS, with metal panel and stone accents. While this façade is unlike others in the Minnetonka Corporate Center, there is not one predominate design in the business park. Rather, the park contains buildings of almost entirely glass facades, almost entirely brick facades, facades of a combination of brick and EIFS, and others of entirely concrete panels. Given this variety, the proposed building would not detract from any existing design expression.

7. As new construction, the proposed hotel would meet all current building code standards including those pertaining to energy conservation.

8. The proposal would not negatively impact adjacent or neighboring properties. In fact, staff anticipates the proposal would complement the existing uses of these properties.
Section 3.  City Council Action.

3.01 The above-described site and building plans are hereby approved subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   - Site and Utility Plan, revised date December 4, 2015
   - Grading Plan, revised date December 4, 2015
   - Landscape Plan, most recent date December 2, 2015
   - Exterior Elevations, dated December 4, 2015
   - Exterior Rendering, received December 4, 2015

2. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

   a) The following must be submitted for the grading permit to be considered complete.

      1) An electronic PDF copy of all required plans and specifications.

      2) Three full size sets of construction drawings and project specifications.

      3) Confirmation that existing sanitary facilities are adequately sized to serve both the hotel and day care.

      4) Final site, grading, stormwater management, utility, landscape, tree mitigation; and natural resource protection plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

      a. Final site plan must:

         1. Illustrate minimum sidewalk clear width of five feet. This five foot clearance must take into consideration automobile overhang into the sidewalk area.

         2. Illustrate clear crosswalk delineation between sidewalks.
3. Include an exhibit illustrating truck turning movements/templates.

4. Consider design changes suggested on Figure 6 of the December 8, 2015 SRF Traffic and Parking Study.

b. Final grading plan must:

1. Minimize grading within the critical root zones of Tree #21 and Tree #30 as identified on Tree Inventory Plan.

c. Final stormwater management plan must meet Nine Mile Creek Watershed District Rules and the requirements of city's Water Resources Management Plan, Appendix A. Design. The plan must include a narrative indicating conformance with watershed and city rules, impervious surface information, soil boring data, and modeling demonstrating rate control and water quality treatment.

d. Final utility plan must:

1. Show all existing utilities.

2. Clearly label utilities and stormwater facilities as "private."

3. Include isolation valves on water services lines to both the hotel and future day care.

4. Include a valve at the watermain connection point.

5. Include invert elevation of the sanitary manhole to confirm ability to provide gravity service to the future day care.

6. Include additional storm sewer improvements in the day care parking lot. The southern point of the parking lot must
be connected to the proposed infiltration basin.

7. Include stormwater calculations. The existing pond must be surveyed and modeled to confirm that existing runoff flow rates will be maintained leaving the site. Otherwise, the infiltration basins must be modeled to show that the rate control component is met prior to discharge into the pond.

8. Include two additional hydrants around the hotel: one located off the northeast corner of the hotel in a parking lot island and one located on the west side of the site in the grass area north of the trash enclosure.

e. Final landscaping and tree mitigation plans must:

1. Meet minimum landscaping and mitigation requirements as outlined in city code. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

2. Include an itemized plant material list, including plantings in the infiltration basins.

3. Substitute five of the proposed Autumn Blaze maples with a different deciduous shade tree.

4. Substitute nine of the proposed Black Hills spruce with a different evergreen tree, such as Norway spruce or pine.

5. Include rain sensors on any irrigation systems.

5) The following documents for the review and approval of the city attorney:
a. Shared access agreements or easements over the properties at 6000 and 6050 Clearwater Drive. The agreements/easements must state the maintenance responsibilities of each owner.

b. Stormwater maintenance agreements/easements over all stormwater facilities.

c. Evidence that a parking lot may be constructed in the existing Electric Transmission easement.

d. If utility connections are to be made to private water and sewer lines, an easement or agreement allowing for such connection. The easement/agreement must state the maintenance responsibilities of each owner. Public utilities are available in Clearwater Drive.

6) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct parking lot and utility improvements, comply with grading permit, tree mitigation requirements, landscaping requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff.

a. The city will not fully release the letters of credit or cash escrow until:

   • A final as-built survey has been submitted;

   • An electronic CAD file or certified as-built drawings for public infrastructure in microstation or DXF and PDF format have been submitted;

   • Vegetated ground cover has been established; and

   • Required landscaping or vegetation has survived one full growing season.
7) 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 or grading problems.

8) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

9) All required administration and engineering fees.

b) Prior to issuance of the grading permit:

1) Obtain and submit a permit from the Minnesota Department of Health.

2) Obtain and submit a sanitary sewer extension permit from the Minnesota Pollution Control Agency.

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

4) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff as determined by city staff.

3. Prior to issuance of a building permit for construction of the hotel:

a) Submit the following documents:
1) Proof of subdivision registration and transfer of NPDES permit.

2) 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.

b) Submit revised building elevations.

1) The parapet walls surrounding the proposed signs must all be constructed to the same height.

2) The area under the proposed southeasterly wall sign must receive a façade treatment similar to the treatment under the southwesterly and northeasterly wall signs, visually incorporating the sign into the wall structure.

c) Submit 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.

d) Submit all required hook-up fees.

6. Retaining walls over four feet in height must be engineered by a licensed structural engineer and fall protection must be provided.
7. During construction the street must be kept free of debris and sediment.

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

9. This resolution approves the final site plan for the entirety of the site and final building plans for the hotel only. Future construction of the day care requires separate building plan review before the planning commission.

Adopted by the City Council of the City of Minnetonka, Minnesota, on January 4, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: Wagner
Seconded by: Wiersum
Voted in favor of: Wagner, Ellingson, Allendorf, Acomb, Wiersum, Bergstedt, Schneider
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 January 4, 2016.

David E. Maeda, City Clerk
14. Other Business:

A. Items concerning a hotel and day care on the property at 6030 Clearwater Drive:

1) Major amendment to the existing Minnetonka Corporate Center master development plan;
2) Preliminary and final plats;
3) Conditional use permit;
4) Site and building plan review; and
5) Sign plan amendment.

Acting City Planner Susan Thomas gave the staff report.

Allendorf said the building would be visible from I-494 as well as the corporate center. He asked if it was the typical home type extended stay building or if the design could be changed to be more interesting.

Peter Deanovic from Buhl Investors said the building had to remain within the Hilton brand requirements. The proposed design was consistent with the other 120 hotels being rolled out across the country. He said it would be extraordinarily difficult to get any changes either to the interior or exterior designs.

Schneider said it looked like there was an opportunity to have different coloring on the one side. Jesse Messner, the project architect, said the
rendition Schneider was referencing was to revise the wall to mimic the other sides to carry the façade down to grade. He said he would work with staff to get that incorporated. Schneider said he would like to see white rather than grey used because it would provide something a little more interesting to that side. Allendorf agreed.

Wagner said it would be good if staff would work with the applicant on the exterior look. Looking at pictures of other locations he said there were some variations on the coloring.

**Wagner moved, Wiersum seconded a motion to adopt:**
- Ordinance 2016-01 approving a major amendment to the existing Minnetonka Corporate Center master development plan;
- Resolution 2016-002 approving preliminary and final plats;
- Resolution 2016-003 approving a conditional use permit for the hotel;
- Resolution 2016-004 approving final site plan for the overall site and final building plans for the proposed hotel; and
- Resolution 2016-005 approving an amendment to the Minnetonka Corporate Center sign plan.

All voted “yes.” Motion carried.

Schneider asked the time frame for the project. Deanovic indicated the plan was to break ground sometime in the spring.
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Resolution No. 2016-

Resolution approving a conditional use permit, with final building plans, for a licensed day care facility at 6030 Clearwater Drive

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

Section 1. Background.

1.01 On January 4, 2016 the city approved: (1) a major amendment to the existing Minnetonka Corporate Center master development plan to allow a day care and hotel on the 6030 Clearwater Drive site; (2) preliminary and final plats to allow separate ownership of the day care and hotel; (3) conditional use permit for a hotel; (4) site plan review for the overall site and building plan review for the hotel; and (5) a sign plan amendment to allow hotel signs. At that time is was anticipated that the identified day care provider would submit for conditional use permit and site and building plan approval for the future day care.

1.02 Jay Joiner, on behalf of Viking Development, LLC, has submitted a new proposal to operate a licensed day care facility within a newly constructed building at 6030 Clearwater Drive. (Project No. 15033.16a)

1.03 The property is legally described as Lot 2, BUHL MINNETONKA ADDITION.

1.04 The proposal requires approval of a conditional use permit and final site and building plans.

1.05 On August 4, 2016, 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 §300.21 Subd. 2 lists the following general conditional use permit standards:

1. The use is consistent with the intent of the ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
4. The use is consistent with the city's water resources management plan;
5. The use is in compliance with the performance standards specified in §300.28 of the ordinance; and
6. The use does not have an undue adverse impact on the public health, safety or welfare.

2.02 City Code §300.21 Subd. 3(j) lists the following specific conditional use permit standards for licensed day care facilities:

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;
2. Outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;
3. One parking space for each six children based on the licensed capacity of the center; and
4. Shall obtain all applicable state, county and city licenses.

2.03 City Code §300.27, Subd. 5, states that in evaluating a site and building plan, the city will 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 the 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 would meet the general conditional use permit standards outlined in City Code §300.16 Subd.2.

3.02 The proposal would meet the specific conditional use permit standards outlined in City Code 300.21 Subd. 3(j) for licensed day care facilities.

1. The proposed facility would serve young children. Based on the narrative, the loading and drop-off points would be designed to avoid traffic and pedestrian movements. While the site plan generally appears to meet the standard, this resolution includes a condition of approval requiring the applicant to submit a circulation plan.

2. Play areas are proposed on northeast side of the proposed building. A newly constructed fence, proposed landscaping, and an existing pond would provide a buffer to adjacent properties.

3. The licensed capacity of the day care center would be for 206 children. As proposed, the newly constructed parking lot would have 40 parking stalls, which is the minimum required by ordinance.

4. As a condition of this resolution, the applicant must obtain all applicable state, county and city licensing.

3.03 The proposed day care facility would be consistent with the site and building plan standards as outlined in City Code §300.27

1. Members of the city's community development, engineering, fire and public works staff have reviewed the proposal and find that is generally consistent with the city's development guides.

2. The proposal is consistent with the ordinance. Further, the proposal is consistent with the approved master development plan.

3. The site impacts would be in substantial conformance with the anticipated overall site impacts reviewed as part of the hotel development.

4. The proposed site design would be in compliance with the site plan reviewed as part of the hotel development. The site design would be intuitive, and would result in appropriate location of buildings, parking areas, and open space relative to existing buildings, parking areas and open spaces.
5. The proposed site design would fit into the larger intuitively designed development. The site would provide for appropriate circulation patterns for vehicular traffic. Reasonable consideration for the improvement of pedestrian circulation internal to the site has been shown on the revised site plan.

6. As new construction, the proposed building would meet all current building code standards including those pertaining to energy conservation.

7. The proposal would not negatively impact adjacent or neighboring properties. In fact, staff anticipates that the proposal would provide a complementary service to existing uses.

Section 4. City Council Action.

4.01 Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans, unless modified below:

- Site and utility plan with revisions dated July 22, 2016
- Elevations dated July 15, 2016
- Floor plans dated July 15, 2016
- Grading and erosion control plan dated June 28, 2016
- Landscaping plan dated July 15, 2016

1. Prior to issuance of a building permit:

a) The final plat for Buhl Minnetonka Addition must be recorded with Hennepin County.

b) This resolution must be recorded with Hennepin County.

c) Submit the following items for staff review and approval:

1) Final materials and color palate board.

2) A revised site plan that:

a. Provides a sidewalk connection along the west side of the property to connect the sidewalk on the private driveway.

b. Identifies the floodplain elevation of 920.0-feet.
c. Identifies loading and drop-off areas.

3) A revised utility plan. This plan must:

a. Confirm service from the sanitary sewer which was stubbed at 925.76 for the hotel property. If service cannot be provided, grades must be adjusted.

b. Confirm the storm sewer elevation and location at the proposed retaining wall on the northeast corner of the parking lot.

c. Confirm the storm sewer and retaining wall design.

d. Relocate the storm sewer away from the playground area.

e. Identify the storm sewer structures under the playground as private.

4) A revised landscaping plan. This plan must:

a. Meet the minimum landscape requirements per city ordinance.

b. Comply with the required tree preservation per the master development plan adopted on January 4, 2016 as amended by city staff.

c. Provide the total project value and the landscaping value.

5) A revised grading plan. This plan must:

a. Clearly identify existing and proposed topography.

b. Quantify all disturbance below the 920.9-foot contour.

6) A stormwater management plan. This plan must:
a. Include rate, volume, and water quality requirements based on the amount of impervious surface proposed.

b. Provide soil borings to identify infiltration rates and demonstrate that any proposed pond has 3-feet of separation between the bottom of the basin and the seasonally high groundwater table.

7) A landscaping escrow in the amount determined by city staff.

8) A construction management plan. This plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

9) Install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

2. Prior to issuance of a certificate of occupancy, submit copies of all applicable state, county and city licenses.

3. Fences exceeding 7 feet in height require a building permit.

4. Retaining walls exceeding 4 feet in height must be engineered by a licensed structural engineer. Fall protection fencing must also be provided.

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

7. Maximum capacity of the facility is 206 students/children.

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

9. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.
Resolution No. 2016-

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:

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 August 22, 2016.

David E. Maeda, City Clerk
B. Items concerning a licensed daycare facility at 6030 Clearwater Drive.

Acting Chair Odland 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.

Acting Chair Odland asked if the example in Virginia is the same size as the proposed project. Cauley directed the question to the applicant.

Jay Joiner, with the Gardner School, applicant, stated that the school in Virginia has a larger footprint, but is similar in square footage to the proposal. The play area would be similar to the one at the Virginia site.

Knight asked if he had another facility with two stories. Mr. Joiner answered that there is one in Chicago that has 18,000 square feet. It would have the same capacity. That site utilizes a park across the street.

O’Connell asked when staff reviews the materials and colors. Cauley answered during the building permit process.

Knight asked if the state would license a daycare that would have two stories. Cauley responded that the facility would be required to meet all state licensing requirements. Wischnack noted that there is a daycare on Highway 7 and County Road 101 that has two stories. The building code addresses safety requirements.

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

O’Connell moved, second by Hanson, to recommend that the city council adopt the resolution on pages A38-A45 of the staff report. This resolution approves a conditional use permit with building plans for a licensed daycare facility at 6030 Clearwater Drive.

Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.
City Council Agenda Item #10C
Meeting of August 22, 2016

Brief Description
Twelve month extension of the SAVILLE WEST final plat at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses

Recommendation
Approve the time extension

Background
On September 14, 2015, the city council approved the SAVILLE WEST final plat. As approved, seven existing single-family residential properties would be divided into twelve, residential lots. (See pages A1–A6.)

Extensions
By city code, final plat approval is valid for one year. If the final plat is not recorded within one year of approval, or time extension is not approved, the final plat approval is rendered void.

The ordinance does not include any specific conditions under which final plat approval may be extended. Nevertheless, the city has generally considered: (1) whether there have been changes to city code or policy that would affect the previous approval; and (2) whether such extension would adversely affect the interests of neighboring property owners.

The property owner recently requested an extension of the SAVILLE WEST final plat. (See page A7.)

Other Related Items
Since the project was approved, there have been a number of complaints regarding potential nuisances on the subject properties. Staff investigated the properties after each complaint and has found no code violations to date.

Staff Analysis
• There have been no changes to city code or policy that would affect the previous approval.

• The extension would not adversely affect the interests of neighboring property owners.
Staff Recommendation

Approve the twelve-month time extension.
Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director
   Loren Gordon, AICP, City Planner

Originated by:
   Susan Thomas, AICP, Assistant City Planner
LOCATION MAP
SAVILLE SUBDIVISION
TRACY LYNN TERRACE/SPRING LANE
#14002.15a

This map is for illustrative purposes only.
Resolution No. 2015-079

Resolution approving the final plat of SAVILLE WEST
at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and an unassigned address

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

Section 1. Background.

1.01 Lake West Development Co. LLC has requested approval of the final plat of SAVILLE WEST.

1.02 The property to be included in the plat is located at 5290 and 5300 Spring Lane, 5325 County Road 101, 5301 and 5311 Tracy Lynn Terrace, and unassigned addresses. It is legally described on EXHIBIT A of this resolution.

1.03 On June 22, 2015, the city council approved the preliminary plat of SAVILLE WEST.

Section 2. Findings

2.01 The final plat meets the requirements and standards outlined in the Subdivision Ordinance, City Code §400.

2.02 The final plat is consistent with the previously approved preliminary plat.

Section 3. Council Action.

3.01 The city council approves the final plat of SAVILLE WEST. Approval is subject to the following conditions:

1. Prior to release of the final plat for recording, submit the following:
Resolution No. 2015-079

a) An updated final plat drawing including:

1) A 30-foot wide drainage and utility easement centered on the common property line between Lots 8 and 9.

2) Drainage and utility easements across the rear yard swales of Lots 4, 5, 8, and 9.

3) The existing sanitary sewer easement across Lots 11 and 12.

b) Two sets of mylars for city signatures.

c) An electronic CAD file of the plat in microstation or DXF.

d) Park dedication fee of $25,000.

2. Unless the city council approves a time extension, the final plat must be recorded by September 14, 2016.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 14, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: Bergstedt
Seconded by: Allendorf
Voted in favor of: Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, Acomb, Schneider
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 September 14, 2015.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1: Tract M, Registered Land Survey No. 556, County of Hennepin, Minnesota.

Parcel 2: Part 1: The West 175 feet of the following described tract:

That part of the Southeast Quarter of the Southeast Quarter of Section 30, Township 117, Range 22, lying between the East line of said Section 30 and the Chamhassen Road, now known as State Highway 101, said land being a 100 foot strip of land which was formerly the right of way of The Minneapolis & St. Paul Suburban Railroad Company and which is accordingly bounded by the Northerly and Southerly lines of said right of way, Hennepin County, Minnesota.

Part 2: That part of the Southeast Quarter of Section 30, Township 117, Range 22 as follows: Commencing at a point on East line of said Section 30, 714.43 feet North of Southeast corner of said Section, thence North along said line 72.89 feet to Southwesterly line of Excelsior Boulevard, thence North 53 degrees 29 minutes West along said Southwesterly line of Excelsior Boulevard 141.53, thence South, 57 degrees 29 minutes West along the Southeast line of Chamhassen Road 123.6 feet to North line of Minneapolis and St. Paul Suburban Railway Company's right of way, thence Southwesterly along the North line of said right of way 259.66 feet to place of beginning, Hennepin County, Minnesota.

Parcel 3: That part of the Southeast Quarter of Township 117, Range 22, lying between the East line of said Section 30 and the Chamhassen Road, now known as State Highway 101, said land being a 100 foot strip of land which was formerly the right of way of The Minneapolis & St. Paul Suburban Railroad Company and which is accordingly bounded by the Northerly and Southerly lines of said right of way, except the West 175 feet thereof, Hennepin County, Minnesota.

Parcel 4: Tract A, Registered Land Survey No. 747, Hennepin County, Minnesota.

Parcel 5: Tract B, Registered Land Survey No. 747, Hennepin County, Minnesota.

That part of Tract C, Registered Land Survey No. 747, lying North of a line drawn parallel with and distant 5 feet South measured at right angles from the North line thereof, Hennepin County, Minnesota.

Parcel 6: Lot 1, Block 2, Tonka Court, Hennepin County, Minnesota.

Parcel 7: Lot 2, Block 2, Tonka Court, Hennepin County, Minnesota.

Parcel 8: That part of Tracy Lynn Terrace, FKA Tonka Court Land, as dedicated in the plat of Tonka Court, lying north and east of the following described line: Beginning at the southwest corner of Lot 2, Block 1, said Tonka Court, thence westerly along the westerly extension of the south line of said Lot 2, having an assumed bearing of South 89 degrees 32 minutes 26 seconds West 43.56 feet; thence northerly 33.72 feet along a non-tangential curve, concave to the west, having a central angle of 08 degrees 35 minutes 06 seconds, a radius of 125.00 feet, and a chord bearing of North 01 degrees 42 minutes 47 seconds East; thence northerly 6.37 feet, along a curve curve concave to the east, having a central angle of 02 degrees 25 minutes 56 seconds, and a radius of 150.00 feet to the northerly right of way line of said Tracy Lynn Terrace and thence terminating.
Yes, please extend the final play for Saville West.

Curt

Sent from my iPhone

Curt Fretham

On Aug 9, 2016, at 11:44 AM, Susan Thomas <sthomas@eminnetonka.com> wrote:

Curt,

The Saville West final plat will expire in early September. Would you like to request an extension? If so, simply email me back. No plans, application, or fees are necessary. We can get the extension on the August 22 city council consent agenda.

Susan

Susan M. Thomas, AICP | Assistant City Planner | City of Minnetonka
14600 Minnetonka Blvd | Minnetonka, MN 55345 | 952-939-8292
Brief Description: Twelve month extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat at 13929 Spring Lake Road

Recommendation: Approve the time extension

Background

On July 13, 2015, the city council approved the OAKHAVEN ACRES 2nd ADDITION preliminary plat. As approved, an existing single-family residential property would be divided into two, single-family residential lots. (See pages A1–A10.)

Extensions

By city code, a preliminary plat approval is valid for one year. If the city does not approve a final plat within one year of preliminary approval, or receive a written application for a time extension, the preliminary approval is rendered void.

The ordinance does not include any specific conditions under which preliminary plat approval may be extended. Nevertheless, the city has generally considered: (1) whether there have been changes to city code or policy that would affect the previous approval; and (2) whether such extension would adversely affect the interests of neighboring property owners.

The property owner recently requested an extension of the OAKHAVEN ACRES 2nd ADDITION preliminary plat. (See page A11.)

Staff Analysis

- There have been no changes to city code or policy that would affect the previous approval.
- The extension would not adversely affect the interests of neighboring property owners.

Staff Recommendation

Approve the twelve-month time extension.

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

Originated by:
Susan Thomas, AICP, Assistant City Planner
Location Map

Project: Oakhaven Acres 2nd Addition
Applicant: Lakewest Development Co
Address: 13929 Spring Lake Rd
(15018.15a)
Preliminary plat of Oakhaven Acres 2nd Addition

- **New Homes**: Located near the top of the plat.
- **Sanitary Sewer Easement**: Shown as a red line along the right-of-way.
- **Woodland Preservation Area**: Highlighted in green.

The plat includes detailed property lines, elevation data, and other survey information pertinent to the development planning for Oakhaven Acres 2nd Addition.
Resolution No. 2015-052

Resolution approving the preliminary plat, with lot width variances, of OAKHAVEN ACRES 2\textsuperscript{nd} Addition at 13929 Spring Lake Road

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

Section 1. Background.

1.01 Tim Thompkins and Lakewest Development have requested preliminary plat approval for OAKHAVEN ACRES 2\textsuperscript{nd} ADDITION. The plat includes lot width at setback variances from 110 feet to 102 feet. (Project 15018.15a)

1.02 The property is located at 13929 Spring Lake Road. It is legally described as follows:

Lot 4, Oakhaven Acres, Hennepin County, Minnesota

1.03 On June 25, 2015, 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. Standards.

2.01 City Code §400.025 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 City Code §400.055 states that a variance may be granted, but is not mandated, when the applicant meets the burden of proving that:
1. the proposed variance is a reasonable use of the property, considering such things as:
   a) functional and aesthetic justifications for the variance; and
   b) improvement to the appearance and stability of the property and neighborhood.
2. the circumstances justifying the variance are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
3. the variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The proposed preliminary plat meets the design requirements as outlined in City Code §400.025.

3.02 The proposed preliminary plat meets the design requirements as outlined in City Code §400.055:

1. The effective width of the lots would meet the lot width requirements outlined in the ordinance. The lot width at the front yard setback is 102 feet as defined by the ordinance. However, the effective width, as measured along the setback requirement, is 114 feet. This would meet the lot width at setback requirement of 110 feet. The need for the variance is a result of an inconsistency in how lot width is measured by the ordinance. The variance is not a result of the lots actually having a reduced lot width.
2. While not necessarily unique to all residential properties in the community, the large size and width the existing lot is unique to the immediate Spring Lake Road area. In fact, the proposed lot division would result in lots more typical of the area.
3. The proposed variance would not adversely impact the character of the neighborhood. The effective width of the lots would meet the city's lot width requirement.

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 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 wetlands, floodplains, and 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 that current within thirty days before release of the final plat.
         b. Conservation easements over the 25-foot wetland buffer on both lots, and a drawing of the easements. The easement may allow removal of hazard, diseased, or invasive species.

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:
a) Submit the following:

1) Two sets of mylars for city signatures.

2) An electronic CAD file of the plat in microstation or DXF.

3) Park dedication fee of $5,000.00

b) The existing house must be demolished.

4. Subject to staff approval, OAKHAVEN ACRES 2nd ADDITION must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Preliminary plat dated April 17, 2015

5. 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) Final grading and tree preservation plan for the lot. The plan must:


b. The floodplain elevation of 958.6 must be indicated on the plans, and the house must meet all floodplain setback requirements. No grading is allowed below the floodplain elevation.

c. Comply with the city's tree preservation ordinance. Final house, driveway, utilities, and stormwater management must be located to maximize tree preservation on both lots. No more than five high priority trees may be removed from Lot 1, and no more than two high priority trees may be removed from Lot 2. City staff may administratively approve adjustment in the tree removal for each lot so long as the total tree removal does not exceed seven high priority trees.
d. Show sewer and water services to minimize impact to any significant or high priority trees. Utilities must be located within driveway areas where possible to minimize tree loss. No additional trees may be removed for installation of utility services.

e. No grading is permitted within the wetland buffer area, unless determined to be necessary by city staff.

2) Final utility plan must meet the following:

a. The existing services shall be removed to their respective mains, the sewer wye is to be cut out and sleeved and the water service pipe removed to the main and the corporation stop turned off.

b. The existing sewer main invert elevations must be confirmed, the proposed house to the east may not be able to be served via gravity sewer service.

c. The proposed sewer services need to connect to the main with a wye. A direct connection to the manhole will not be allowed.

3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in ordinance. However, at the sole discretion of staff, mitigation may be decreased.

4) Stormwater management plan that meets the requirements of the city's water resources management plan.

5) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

6) 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.
7) 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.

8) 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.

b) The driveway to Lot 2 must be roughed in with gravel prior to construction to avoid construction traffic over the sanitary sewer main.

c) 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.

d) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.

e) Submit all required hook-up fees.

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

a) Minimum floor elevation is 960.6.
b) 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.

c) Each of the homes must meet the requirements of the city's McMansion Policy. The floor area ratio (FAR) of each of the homes may not exceed the maximum FAR of properties within 400 feet, and 1,000 feet along Spring Lake Road, at the time the building permit is issued. The maximum FAR within the surrounding area is 0.24 as of the date of this resolution.

7. Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's or property owner's responsibility to obtain any necessary permits.

8. The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.

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

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

Adopted by the City Council of the City of Minnetonka, Minnesota, on July 13, 2015.

Terry Schneider, Mayor

Attest:

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

Motion for adoption: Acomb
Seconded by: Wagner
Voted in favor of: Wagner, Ellingson, Allendorf, Acomb, Bergstedt, Schneider
Voted against:
Abstained:
Absent: Wiersum
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 July 13, 2015.

____________________________
David E. Maeda, City Clerk
Hi Susan-

Good to speak with this morning. As per our conversation, I would like to request a one year extension to the preliminary plat approval currently in place for:

Timothy Tompkins  
13929 Spring Lake Road  
Minnetonka, MN 55345

Please let me know if any additional is needed from my end.

Thanks! 😊

Tim

---

From: Susan Thomas [mailto:stomas@eminnetonka.com]  
Sent: Tuesday, July 12, 2016 11:23 AM  
To: Tim Tompkins  
Subject: extension request

Tim,

Per our phone conversation, you need to submit a written request for a one-year extension of your preliminary plat approval. The request must be received by tomorrow – July 13, 2016 – which is the one year “anniversary” of approval. You may simply respond to this email.

Regards,

Susan

Susan M. Thomas, AICP | Assistant City Planner | City of Minnetonka  
14600 Minnetonka Blvd | Minnetonka, MN 55345 | 952-939-8292
City Council Agenda Item #10E
Meeting of August 22, 2016

Brief Description: Resolution requesting a MnDOT variance for Ridgehaven Lane/Ridgedale Drive

Recommended Action: Adopt the resolution

Background

On April 11, 2016, city council approved the preliminary layout for the Ridgehaven Lane/Ridgedale Drive and Plymouth Road improvements. The proposed layout provided a similar roadway curvature to the existing on Ridgehaven Lane from Plymouth Road to Ridgedale Drive and along Ridgedale Drive in this area, minimizing right of way impacts to the adjacent property owners.

Reconstructing the existing 20 mph curves of Ridgedale Drive and Ridgehaven Lane requires a variance to the Minnesota Department of Transportation (MnDOT) State Aid Minimum Design Standards, for this state aid designated roadway. The minimum speed limit under the standard is 30 mph. This variance provides a means to reduce impacts to adjacent properties by maintaining the existing curvature of the roadway.

Schedule

If the recommended action is approved by the city council, staff will formally request MnDOT to grant the variance at a hearing in September.

Final construction plans will continue to be developed and are currently scheduled to be brought back to council for approval in early 2017.

Recommendation

Adopt the attached resolution requesting a variance from standard for State Aid Operation for Project No. S.A.P. 142-175-001 (Ridgehaven Lane/Ridgedale Drive).

Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, P.E., Director of Engineering

Originated by:
   Jeremy Koenen, P.E., Assistant City Engineer
Resolution No. 2016-

Resolution requesting a variance from standard for State Aid Operation for Project No. S.A.P. 142-175-001 (Ridgehaven Lane/Ridgedale Drive)

Be It Resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1.  Background.

1.01.   Plans are being prepared for Ridgehaven Lane/Ridgedale Drive between Cartway Lane and 1200 feet east of Essex Road.

1.02.   Minnesota Rules for State Aid Operation 8820.9936 require the minimum design speed to be 30 mph.

1.03   The reasons for this variance request are the existing roadway does not currently meet the minimum design standards and is constrained by limited public right of way. In order to reconstruct this existing roadway with similar curvature that maximizes existing public right of way, minimizes right of way impacts to private properties, and improves access to the adjacent arterial roadways, the city hereby is requesting a variance.

Section 2.  Council Action.

2.01. The City of Minnetonka City Council requests a variance from the Minnesota Department of Transportation State Aid Operations Rules Chapter 8820.9936 Minimum Design Standards, Urban; New or Reconstruction Projects to allow a 20 mph design speed in lieu of the required 30 mph design speed, between Cartway Lane and 1200 feet east of Essex Road.

2.02. The City of Minnetonka City Council agrees to indemnify, save and hold harmless the State of Minnesota and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of the granting of the proposed variance and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim arising as a result of the granting of this variance.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

_________________________________________
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 August 22, 2016.

______________________________
David E. Maeda, City Clerk
City Council Agenda Item #13A  
Meeting of August 22, 2016

**Brief Description**  
Resolution vacating public right-of-way and drainage and utility easements at 11571 Robinwood Circle

**Recommendation**  
Hold the public hearing and adopt the resolution

**Background**

The property owner at 11571 Robinwood Circle, Daniel Ogden, has petitioned to vacate excess right-of-way adjacent to his property, as well as obsolete platted drainage and utility easements that are located along an old lot line. The primary reason for this request is due to the non-uniformity of the existing right-of-way around the Robinwood Circle cul-de-sac. The property owner is proposing to build a new home on the site and these vacations would allow him to build without any encroachments into the old side-yard easement as well as meet the front yard setback from the new proposed right-of-way line. The location of the proposed home is limited due to the slopes on the rear of the lot.

Robinwood Circle was dedicated on the plat of Robinwood Manor in 1963. It is unclear from the approvals of that plat why the right-of-way was shaped the way it was, and not a uniform distance around the cul-de-sac. Staff further reviewed the potential for use as access to the north, however at the time of the plat approval, it was noted that the land to the north (the westerly portion of 3614 Robinwood Terrace) was very low and wet, and unsuitable for building. Planning staff again concurs that it is highly unlikely that 3614 Robinwood Terrace could be divided due to wetland and floodplain, therefore this portion of right-of-way is not needed for future access.

The platted drainage and utility easements that are being proposed for vacation are along both sides of an old lot line between lots 1 and 2 of the plat. In 2006, an administrative lot division was done which divided vacant lot 2 and combined the respective halves of that lot with 11571 Robinwood Circle and 11511 Robinwood Circle to give them larger lot sizes. At that time, the easements were not vacated and continue to encumber the property. If the vacation is approved, the applicant will be required to dedicate a new easement along the southeasterly lot line before the vacations will be considered valid and building permit issued.

**Staff Comment**

All private utilities have reviewed the plan with no objections. Xcel Energy has requested that if vacated, the city reserve a public drainage and utility easement over the vacated right-of-way area. This will allow any future installation of utilities in that area.
Recommendation

Hold the public hearing and adopt the resolution approving the vacation of the right-of-way and drainage and utility easements.

Submitted through:
   Geralyn Barone, City Manager
   Will Manchester, PE, Director of Engineering

Originated by:
   Sarah Krake, Right of Way Agent
Resolution No. 2016-
Resolution vacating public right-of-way and drainage and utility easements at
11571 Robinwood Circle

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

Section 1. Background.

1.01 Daniel Ogden has petitioned the Minnetonka City Council to vacate a portion of platted right-of-way and drainage and utility easements located at 11571 Robinwood Circle.

1.02 The portion of easements to be vacated are legally described as follows: That part of Robinwood Circle adjacent to Lot 1, Block 1 and dedicated on the recorded plat of ROBINWOOD MANOR, Hennepin County, Minnesota and described as follows:

Beginning at the northeast corner of said Lot 1; thence on an assumed bearing of North 88 degrees 42 minutes 00 seconds East, along the North line of said Robinwood Circle, a distance of 65.00 feet; thence southwesterly along a tangential curve concave to the southeast, having a radius of 50.00, a length of 91.51 feet to the southeast corner of said Lot 1, thence northwesterly to the point of beginning and there terminating.

Also that part of drainage and utility easements dedicated on the plat of ROBINWOOD MANOR, described as follows:

The southeasterly 7 feet of Lot 1, Block 1, except the West 7 feet thereof, and the northwesterly 7 feet of Lot 2, Block 1, except the West 7 feet thereof.

1.03 As required by law, a hearing notice on said petition was published in the City of Minnetonka’s official newspaper and written notice was mailed to the owners of each abutting property and to all landowners in the plat.

1.04 On August 22, 2016, the city council held a hearing on the request, at which time all persons for and against the granting of said request were heard.

Section 2. Standards.
Section 2.01 Section 12.06 of the City Charter states that “No vacation shall be made unless it appears in the interest of the public to do so.”

Section 3. Findings.

3.01 The Minnetonka City Council makes the following findings:

1. The petitioner is the owner of the land containing the subject drainage and utility easements and abutting the subject right-of-way and is, therefore, a proper petitioner.

2. There is no anticipated public need for the excess public right-of-way or obsolete drainage and utility easements proposed to be vacated and the vacation is not counter to public interest.

3. According to the private utility companies, there are no utility conflicts in the areas proposed to be vacated. Xcel Energy has requested, however, a public drainage and utility easement be reserved over the vacated right-of-way area.


4.01 The city council vacates the easements as described in section 1.02, reserving a perpetual easement for drainage and utility purposes over the entire area of vacated right-of-way.

4.02 These vacations are only effective upon the filing of a replacement drainage and utility easement along the southeasterly lot line.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

_____________________________________
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 August 22, 2016.

________________________________
David E. Maeda, City Clerk
11571 Robinwood Cir.
LEGAL DESCRIPTION:
Lot 1 and that part of Lot 2, Block 1, Robinswood Manor, Hennepin County, Minnesota, lying northwesterly of the following described line: Commencing at the southeast corner of said Lot 2; thence North 06 degrees 37 minutes 00 seconds East on an as-built bearing along the south line of said Lot 2 a distance of 30.00 feet to the point of beginning of the line to be described; thence North 41 degrees 37 minutes 54 seconds East to the north line of said Lot 2 and there terminating.

SCOPE OF WORK & LIMITATIONS:
1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services do not include determining what you own, which is a legal matter. Please check the legal description with your records or contact with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements so as to locate for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Showing and tabulating impervious surface coverage of the lot for your reference and for the review of such governmental agencies that may have jurisdiction over those regulations that they verify are correctly shown before permitting such construction.
5. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided benchmarks for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
6. While we are not a professional surveyor for the home or addition, we do not regard our services to be an extension of your architect, or your builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to check this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
7. While we show the building setback lines per the City of Minnetonka web site, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you begin to design anything for this site.
8. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or structure of the building.

STANDARD SYMBOLS & CONVENTIONS:
- **Denotes item survey marker, set, unless otherwise noted.

PROPOSED VACATED ROBINWOOD CIRCLE:
That part of Robinswood Circle adjacent to Lot 1, Block 1, Robinswood Manor, Hennepin County, Minnesota, described as follows.
Beginning at the northeast corner of said Lot 1; thence on an as-built bearing of North 59 degrees 40 minutes 40 seconds West 100 feet from the north line of said Robinswood Circle, a distance of 50.00 feet to the southeast corner of said Lot 1; thence due south to the southeast corner of said Lot 1, thence due west to the point of beginning and there remaining.

PROPOSED DRAINAGE AND USEFUL EASEMENT TO BE VACATED:
The northwesterly 7 feet of Lot 2, Block 1, Robinswood Manor, Hennepin County, Minnesota, except the River West 7 feet for:
AND
The northwesterly 7 feet of Lot 2, Block 1, Robinswood Manor, Hennepin County, Minnesota, except the River West 7 feet for:

1. ** = Denotes item survey marker, set, unless otherwise noted.

**LEGAL DESCRIPTION:**

- Lot 1 and that part of Lot 2, Block 1, Robinswood Manor, Hennepin County, Minnesota, lying northwesterly of the following described line: Commencing at the southeast corner of said Lot 2; thence North 06 degrees 37 minutes 00 seconds East on an as-built bearing along the south line of said Lot 2 a distance of 30.00 feet to the point of beginning of the line to be described; thence North 41 degrees 37 minutes 54 seconds East to the north line of said Lot 2 and there terminating.

**SCOPE OF WORK & LIMITATIONS:**

1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services do not include determining what you own, which is a legal matter. Please check the legal description with your records or contact with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements so as to locate for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Showing and tabulating impervious surface coverage of the lot for your reference and for the review of such governmental agencies that may have jurisdiction over those regulations that they verify are correctly shown before permitting such construction.
5. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided benchmarks for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
6. While we are not a professional surveyor for the home or addition, we do not regard our services to be an extension of your architect, or your builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to check this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
7. While we show the building setback lines per the City of Minnetonka web site, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you begin to design anything for this site.
8. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or structure of the building.

**STANDARD SYMBOLS & CONVENTIONS:**

- **Denotes item survey marker, set, unless otherwise noted.

**LEGAL DESCRIPTION:**

- Lot 1 and that part of Lot 2, Block 1, Robinswood Manor, Hennepin County, Minnesota, lying northwesterly of the following described line: Commencing at the southeast corner of said Lot 2; thence North 06 degrees 37 minutes 00 seconds East on an as-built bearing along the south line of said Lot 2 a distance of 30.00 feet to the point of beginning of the line to be described; thence North 41 degrees 37 minutes 54 seconds East to the north line of said Lot 2 and there terminating.

**SCOPE OF WORK & LIMITATIONS:**

1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services do not include determining what you own, which is a legal matter. Please check the legal description with your records or contact with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements so as to locate for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Showing and tabulating impervious surface coverage of the lot for your reference and for the review of such governmental agencies that may have jurisdiction over those regulations that they verify are correctly shown before permitting such construction.
5. Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided benchmarks for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
6. While we are not a professional surveyor for the home or addition, we do not regard our services to be an extension of your architect, or your builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to check this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
7. While we show the building setback lines per the City of Minnetonka web site, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you begin to design anything for this site.
8. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or structure of the building.

**STANDARD SYMBOLS & CONVENTIONS:**

- **Denotes item survey marker, set, unless otherwise noted.
City Council Agenda Item #13B(1)
Meeting of August 22, 2016

Brief Description

Items concerning Station Pizzeria at 13008 Minnetonka Boulevard:

1) Conditional use permit for a restaurant and outdoor eating area, with setback variances; and

2) Site and building plan review, with setback and impervious surface variances.

Recommendation

Adopt the resolutions approving the requests

Proposal

Shea Design, on behalf of local restaurateur, Ryan Burnet, and local developer, Clark Gassen, is proposing to repurpose the existing Bennis Feed and Fuel building at 13008 Minnetonka Boulevard. The repurposed building would be occupied by Station Pizzeria, a dine-in/take-out restaurant. (See page A1.) The proposal has been considered by the planning commission on two separate occasions.

July Planning Commission Meeting

The planning commission first considered the proposal on July 7th, 2016. To accommodate the restaurant, the applicant proposed to completely remodel the interior of the building and to add a food storage addition to its northwest corner. An outdoor eating space was proposed to be created under the existing gas canopy and directly south of the building. A one-way drive aisle was proposed to direct vehicle traffic to enter the site from Minnetonka Boulevard and exit the site onto Bridge Street. Demarcation of the outdoor eating area and drive aisle would have allowed for installation of green space at several small areas on and adjacent to the site. But for a trash/recycling enclosure added east of the existing parking lot, all of the work to accommodate the restaurant would have occurred within the existing, developed footprint of the site.

At the July 7th meeting, area property owners – both residential and commercial – raised concerns about parking and potential nuisance issues. Commissioners generally concurred with these concerns. On a 6-0 vote, the commission tabled the item and requested that off-site parking options be explored more definitively and questions related to potential nuisance issues be addressed. The staff report from that meeting may be found at: http://tinyurl.com/station-pizza-july. The general plans and minutes are attached on pages A3–A12.
August Planning Commission Meeting

The planning commission next considered the proposal on August 4th. The applicant proposed no changes to the restaurant or outdoor eating area as presented in July. However, one site plan change was proposed. Small areas that had previously been planned for asphalt removal and planting would remain as asphalt. This would reduce both cost and site disturbance. The applicant also submitted those items requested by the planning commission: (1) the owner and St. David’s Center had reached a general agreement for 25 off-site stalls; (2) the owner provided answers to nuisance-related questions.

Again area property owners – both residential and commercial – raised concern about parking and potential nuisance issues. Some commissioners commented that the applicant had provided what had been requested, while others continued to express reservations about the restaurant’s possible impact on the surrounding area. The commission failed to make a recommendation; the vote to recommend approval was split 3-3. The staff report from that meeting may be found at: http://tinyurl.com/station-pizza-august. The general plans and minutes are attached on pages A14–A22.

Since the August Planning Commission Meeting

Based on the comments received at the previous planning commission meetings, the applicant has made several additional changes to the Station Pizzeria proposal. (See pages A24–A27.)

1) **Building.** The previous addition to the northwest corner of the building has been eliminated. As such, the current proposal does not expand the footprint of the existing building.

2) **Outdoor Seating.** The outdoor seating area has been significantly reduced in size.

3) **Parking.** In eliminating the building addition and reducing the outdoor seating area, additional parking has been added to the site through reconfiguration/restriping. As currently proposed, the following parking stalls would be available:

<table>
<thead>
<tr>
<th>Location</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-Site</td>
<td>35 stalls, including 6 compact stalls; OR 32 stalls, with no compact stalls</td>
</tr>
<tr>
<td>On-Street</td>
<td>8 stalls</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>43 stalls, including compact stalls; OR 40 stalls, with no compact stalls</td>
</tr>
</tbody>
</table>

4) **Liquor License.** The liquor license request has been changed from a full liquor license to a beer and wine license.
Summary Comments

Staff acknowledges that repurposing the existing feed store/gas station as a restaurant would impact the Minnetonka Mills area. The restaurant would bring more people – both drivers and pedestrians – into the area. These people would likely be more numerous than customers of the feed store/gas station and they would occupy the site at different times during the day. Parking demand in the area and noise levels may increase over current levels. However, staff does not believe that any of these impacts would be inherently bad. Rather, staff continues to find that the applicant’s proposal would further the goals of the comprehensive plan. It would contribute to the vitality and diversity of the Minnetonka Mills special use village center and would do so while maintaining one of the community’s most widely recognizable buildings.

Recommendation

1) Adopt the resolution approving a conditional use permit for a restaurant and outdoor eating area, with variances, at 13008 Minnetonka Boulevard. (See page A31–A36.)

2) Adopt the resolution approving final site and building plans, with variances, for site and building changes at 13008 Minnetonka Boulevard. (See pages A37–A45.)

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

Originator: Susan Thomas, AICP, Principal Planner
Supporting Information

Variances

The subject property contains a variety of existing, non-conformities. The building does not meet setback from property lines, the parking lot does not meet setback from property lines or Minnehaha Creek, and the entirety of the property exceeds the impervious surface standard. But for the addition of a trash/recycling enclosure, the proposed restaurant would not change this developed footprint of the subject property. In other words, all changes would be within the boundaries established by the existing, non-conforming setbacks. These non-conforming setbacks/imperviousness could continue without any special city approval. However, in staff’s opinion, it would be appropriate to grant variances to essentially acknowledge the non-conformities. In doing so, the non-conforming status of the setbacks/imperviousness would be eliminated. Any future change to the setbacks/imperviousness would require a variance, rather than an expansion permit; the legal standard for granting a variance is slightly higher than the standard for an expansion permit.

Under the current plan, the following variance would be required.

<table>
<thead>
<tr>
<th>Required</th>
<th>Existing Condition</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Setbacks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>50 ft</td>
<td>15.5 ft</td>
</tr>
<tr>
<td>East</td>
<td>35 ft</td>
<td>75 ft</td>
</tr>
<tr>
<td>West</td>
<td>50 ft</td>
<td>1.9 ft</td>
</tr>
<tr>
<td>Shoreland</td>
<td>50 ft</td>
<td>62 ft</td>
</tr>
<tr>
<td>Floodplain</td>
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<td>60 ft</td>
</tr>
<tr>
<td>Trash Enclosure Setbacks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>10 ft</td>
<td>N/A</td>
</tr>
<tr>
<td>East</td>
<td>10 ft</td>
<td>13 ft</td>
</tr>
<tr>
<td>West</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Shoreland</td>
<td>50 ft</td>
<td>35 ft*</td>
</tr>
<tr>
<td>Floodplain</td>
<td>20 ft</td>
<td>35 ft</td>
</tr>
<tr>
<td>Parking Lot Setbacks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>20 ft</td>
<td>0 ft</td>
</tr>
<tr>
<td>East</td>
<td>10 ft</td>
<td>0 ft</td>
</tr>
<tr>
<td>West</td>
<td>20 ft</td>
<td>10 ft</td>
</tr>
<tr>
<td>Shoreland</td>
<td>25 ft</td>
<td>15 ft</td>
</tr>
<tr>
<td>Floodplain</td>
<td>10 ft</td>
<td>12 ft</td>
</tr>
<tr>
<td>Outdoor eating area**</td>
<td>North</td>
<td>200 ft from residential</td>
</tr>
<tr>
<td>South</td>
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</tr>
<tr>
<td>West</td>
<td>50 ft</td>
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<tr>
<td>Impervious Surface</td>
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</tr>
<tr>
<td>Floor Area Ratio</td>
<td>0.8</td>
<td>0.12</td>
</tr>
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</table>

*variance required
** located over existing paved surface
Required and Available Parking

There has been significant discussion regarding parking associated with the applicant’s proposal. The following is intended to summarize city code, anticipated parking demand, and parking availability.

- By City Code §300.28 Subd.12(c)(2)(x)(1), a restaurant with liquor license must provide 1 parking stall per every 50 square feet of gross floor area or 1 parking stall per 2 seats, whichever is greater.

- By City Code §300.28 Subd.12(a)(3), the city may approve off-site parking if: (1) reasonable access is provided between the off-site parking and the building being served; (2) the off-site parking is within 400 feet of the building being served; (3) the off-site parking is under the same ownership as the building being served, under public ownership, or protected by a recorded document; and (4) the failure to provide on-site parking does not encourage parking on the public streets or private property.

- By City Code §300.28 Subd.12(b)(2), compact car parking may be provided if the following conditions are met: (1) the parking area must have a total size of at least 20 stalls; (2) the compact car stalls must be identified by appropriate signs; (3) compact car stalls must be distributed throughout the parking area so as to have reasonable proximity to the structure served but must not have generally preferential locations; (4) the design of compact car areas designed to the maximum feasible extent be such as to discourage their use by non-compact cars; and (5) compact parking stalls are not permitted for high turnover parking lots. The code suggests that “retail uses and other uses with similar traffic characteristics are considered high-turnover uses.”

By city code:

<table>
<thead>
<tr>
<th>Parking Calculation Option</th>
<th>Required Stalls</th>
<th>Available Stalls</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>On Site</td>
<td>On-Street</td>
</tr>
<tr>
<td>2,220 sq.ft. restaurant/liquor license</td>
<td>44 stalls</td>
<td>35 w/compact</td>
<td>8</td>
</tr>
<tr>
<td>Seats</td>
<td>30 stalls</td>
<td>32 w/o compact</td>
<td>40 w/o compact</td>
</tr>
</tbody>
</table>

The parking ordinance makes no provision for different modes of transportation. Rather, parking requirements are based on the assumption that all users of a building will be motorists. However, in the first traffic and parking study conducted for the proposal, the city’s traffic and parking consultant indicated that a 10% modal reduction could be applied to parking demand in this area. Given the site’s location relative to residences and regional trails, some customers may choose to walk or bike to the site.
By City Code §300.28 Subd.12(c)(4), the parking requirement for uses not listed in the ordinance may be established by the city based on the characteristics of the use and available information on parking demand for such use. Staff would suggest that the 10% modal reduction for this site could be allowed, without variance, under this code provision.

The modal reduction would result in the following:

<table>
<thead>
<tr>
<th>Parking Calculation Options</th>
<th>Required Stalls</th>
<th>Available Stalls</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,220 sq.ft. restaurant/lichor license seats</td>
<td>40 stalls</td>
<td>35 w/ compact 32 w/o compact 8</td>
</tr>
</tbody>
</table>

Parking Studies

Two parking studies were conducted in conjunction with the applicant’s proposal. The first study looked at parking demand associated with the proposed restaurant. The second study looked at parking occupancy in the existing, private parking lots of nearby Minnetonka Mills businesses and on Minnetonka Boulevard and Burwell Drive.

- **Study #1.** The first study concluded that the highest anticipated parking demand at Station Pizzeria would occur on Saturday evenings. At that time 45 parking stalls would be required for the then assumed 2,450 square foot restaurant. This number includes a 10% demand reduction, given the restaurant’s location relative to residences and regional trails. The size of the proposed restaurant has since been reduced to 2,220 square feet. Extrapolating the parking demand number, including the 10% demand reduction, 40 stalls would be required for that proposed restaurant. The first parking study is included in the July 7th planning commission report.

- **Study #2.** The second study was conducted in response to questions and concerns raised by area business owners. The study looked at the number of existing parking stalls on private properties and on public streets and the extent to which these parking stalls are occupied. The study found that maximum parking occupancy occurs on weekday afternoons, during which 96% of the stalls at the People’s Organic/Your Art’s Desire/DQ parking lot are occupied. (The city parking lot is also 100% occupied at this time. However, this is due to the fact that contractors currently working on the Applewood Pointe construction site are parking at the city lot.) At all other times, parking is available both on private property and the public streets in the Minnetonka Mills area. The available parking stalls may not be perceived as the most convenient stalls, but, nevertheless, they are available. This second parking study is included in the August 4th planning commission report.
Additional On-Street Parking

There may be an opportunity to add additional on-street parking stalls on Bridge Street and, in doing so, alleviate some of the on-going area parking concerns raised by business owners and residents. The city’s traffic and parking consultant identified three potential options to increase on-street parking. The options explore parallel and perpendicular parking designs. Staff has drafted a two-phase concept that incorporates pieces of each of the three options. Phase one suggests on-street parking added south of Minnehaha Creek. Phase two suggests on-street parking north of the creek and a small cul-de-sac at the intersection of Bridge Street and Burwell Drive. This cul-de-sac would distinguish the “end” of the commercial area and provide an opportunity for vehicles to turn around to deter vehicles from entering Burwell Drive. (See pages A28–A30.) The concept was presented at the August 4th planning commission meeting. While the idea of additional on-street parking was generally well received, some concerns were raised regarding the specific design and location of that parking. More study would be necessary to understand the feasibility, costs, and acceptability of the plans.

Parking Meeting

Over the past many years, staff has repeatedly received complaints from local business owners about parking in the Minnetonka Mills area. Generally, the complaints fall into two categories: (1) the owner of business X complains that patrons of business Y – and sometimes staff of business Y – are parking in business X’s parking lot; or (2) patrons of business X are parking on Minnetonka Boulevard directly in front of business Y, thereby excluding the patrons of business Y from parking in the on-street stall most convenient to business Y. Staff has noted to the complaining parties that these are not issues that the city can resolve. The city does not enforce “No Parking” regulations on private property and any member of the public can park in any on-street parking stall regardless of what business they are visiting.

Staff has suggested that the owners work together to establish some generally agreed upon rules of operation that they can all abide by and self-enforce. To further this suggestion, city staff recently facilitated a meeting between existing business and commercial property owners. All property and business owners from Glenn’s One Stop, Your Art’s Desire, People’s Organic, Dairy Queen, and Station Pizzeria attended, as did a representative from St. David’s Center. The meeting was quite productive with all attendees agreeing to the following:

- All 20-minute parking signs on Minnetonka Boulevard will be removed, except for those immediately in front of the Glenn’s One Stop building.
- One parking space immediately in front of Your Art’s Desire will be designated for “Loading/Unloading Only 10:00 a.m. to 6:00 p.m.”
- The city will help design a brochure for distribution that will offer various parking areas/ideas for employee parking and trail/creek user parking.
• A contact list will be shared between all business owners.

In addition, the business owner expressed support for additional on-street parking along Bridge Street, south of Minnehaha Creek. Staff would implement these changes with the city council’s concurrence.

**Deadline for Decision: September 26, 2016**
Project: Station Pizza
Applicant: Adam Meyerring
Address: 13008 Minnetonka Blvd
Project No. 86057.16a

Location Map

This map is for illustrative purposes only.
8. Public Hearings

A. Items concerning Station Pizzeria at 13008 Minnetonka Boulevard.

Acting Chair Odland introduced the proposal and called for the staff report.

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

Powers noted that the area currently has parking and traffic issues. He asked if the application should be looked at separately or if the existing parking and traffic issues should be part of the consideration. Thomas answered both. The specific site and the surrounding area must be looked at comprehensively. Whether the proposal would be approved or not would not change the current parking issue.

Acting Chair Odland asked how many parking stalls exist within a 5-minute walk. Thomas answered that a church is 800 feet away and its parking lot has 442 stalls.

Ryan Burnet, applicant, stated that he and his business partner recognized the parking issue when they first visited the site. He is asking to put in a family restaurant. He currently owns and operates 8 restaurants. After the neighborhood meeting and the completion of the traffic study, he discussed obtaining over-flow parking agreements with surrounding property owners. He plans to have a deal in writing within the next 2 weeks to provide overflow parking. He dealt with a similar parking issue for a restaurant he operated with 11,000 square feet. Parking was secured 3 blocks away and the restaurant has been operating successfully for 3 years. The neighbors are its best customers. This will be a neighborhood restaurant for families. He wants to make sure this works for the neighborhood. It will provide an exciting redevelopment for the area.

Powers asked what parking would be available during on-peak hours. Mr. Burnet said that the parking lot with over 400 stalls would accommodate peak-hour parking. The proposed restaurant's peak hours would be after 5 p.m. which is later than the peak hours of the surrounding uses.

Calvert asked how patrons would know the location of off-site parking. Mr. Burnet said that information would be provided on the website and on site. The servers and manager would inform patrons who call. He would be open to posting a sign outside of the restaurant. The proposed restaurant would not be large enough to
sustain valet parking. There would be low outdoor music, but it would not be loud and would be turned off after dinner.

In response to Acting Chair Odland’s question, Mr. Burnet stated that his restaurants have had no nuisance code violations.

Calvert was concerned that the restaurant would have a liquor license and its proximity to a Dairy Queen. Mr. Burnet stated that the liquor license would allow patrons to have a larger selection of alcohol. The restaurant would not be a bar. There would be no more than four bar seats. He is well versed on how to serve alcohol. Two of his other restaurants have more outdoor seating near residences.

In response to Powers’ question, Mr. Burnet stated that the patio would be fenced, but the parking lot would remain. There would be enough patio to walk around it. Patrons would have to enter the restaurant to be seated outdoors.

The public hearing was opened.

Dorothy Janssen, 12709 Burwell Drive, stated that:

- She is concerned with the traffic problems. Burwell Drive is narrow. If a vehicle is parked on the side, then a vehicle barely has room to pass it.
- The school is located close by. Parents drop off kids right after the turn to Burwell Drive. That lines up six to eight vehicles. The corner is sharp.
- She anticipates that the proposal would cause more traffic.

Stacey Avery, 12824 Burwell Drive, stated that:

- Her residence is located on a cul de sac behind the proposal.
- The area is residential. St. David’s School just closed access to its site from Burwell Drive.
- The street is 22-feet wide at its widest point. Most of it is 19-feet wide.
- Burwell Drive is part of Minnetonka’s park system. There are no sidewalks on Burwell Drive.
- Her main issue is parking on Burwell Drive.
- The entire width of a street could be used up by a vehicle parked more than 6 inches from a curb and a fire truck.
- It is not a good idea for drivers who have been drinking to drive down a narrow street.
• The traffic amount would be huge.
• Dairy Queen and People’s Organic already have parking deficits.
• The traffic study used the amount of internal seating only.
• She opposes the proposal until there is a new plan to accommodate all of the new parking safely.
• She requested the commission table action until a plan is prepared that would not include parking on Burwell Drive.

Glen Seutter, 12908 Minnetonka Boulevard, stated that:

• He can sympathize with the residents who live on Burwell Drive.
• Since the Bennis Feed and Fuel closed two weeks ago, his business has seen an increase in traffic of 25 percent. His concern is for his parking. Dairy Queen and People’s Organic patrons are using his spaces. Drivers will pick the closest parking space.
• There are vehicles parked on the boulevard all day long. There is one there now with a “for sale” sign. The signed 20-minute parking needs to be enforced.
• He has seen many close calls with vehicles.
• The construction down the road will also increase traffic.
• He did not see parking in the church lot as a reasonable fix. That is his concern. He cannot afford to lose business. He loved the idea of having a restaurant, but it has to be the right business to have the right amount of impact.

Tim Demars, 12925 Burwell Drive, stated that:

• He has had to replace six sprinkler heads from drivers parking on them.
• He opposed the site having 120 customers at one time and serving alcohol.
• He was concerned with patrons parking on his street and hearing the traffic and their conversations.
• The Dairy Queen closes at 9 p.m., so it is not much of an issue.
• People’s Organic serves beer and wine. He hears the bottles being poured into the dumpster each night.
• There would only be one handicap parking stall.
• Delivery trucks make noise early in the morning.
• The salt and oil from the commercial properties goes into Minnehaha Creek.
• He is concerned with the noise levels.
• The site is not viable for that much occupancy.
• People who smoke would be outside after 10:30 p.m. They tend to make a lot of noise.
• This use does not fit the neighborhood. Please take into consideration the concerns of long-term residents.

Peggy Klug, 12817 Burwell Drive, stated that:

• She agrees that parking is an issue.
• Her son has epilepsy. There have been situations where vehicles have been parked on both sides of the street and an emergency vehicle would not be able to get through. She has contacted St. David's about this many times.
• She liked the idea of a pizzeria, but the problem needs to be solved in a different way. She requested “no parking” signs be installed and enforced on Burwell Drive. Once a patron would receive a ticket, then one would not park there again. She has asked many times for “no parking” signs at the corners and fireplace, but the city has not cooperated.

Beverly Baker, 12900 St. David’s Road, stated that:

• St. David’s Road is narrow. Her neighborhood has similar issues when the food shelf went in, but the issues were resolved.
• Drivers run the lights at Plymouth Road and Shady Oak Road on Minnetonka Boulevard. That is a concern.

Claudia Gundlach, 12901 Burwell Drive, stated that:

• The surrounding businesses already have variances that already infringe on the creek. She requested that the city not allow businesses to infringe on the creek.
• Glen’s has a holding pond that filters oil from traveling to the creek. The delicate eco-system needs to be considered.

Karen Schoenrock, 12852 Burwell Drive, stated that:

• Mr. Burnet said that there would be no outdoor music on the outdoor patio at the neighborhood meeting.
• He said that vehicles would enter on Bridge Street and exit on Minnetonka Boulevard. That has changed now.
• She wants to be able to trust that what was said is what would happen.
• In the winter, she has to drive on the curb to get around the corner.
• She continually sees people using the path to connect the trails.
• She was concerned with increased traffic and motorists drinking alcohol.

No additional testimony was submitted and the hearing was closed.

In response to Calvert’s question, Thomas explained that the 50’ setback is for the trash enclosure. She pointed out the additional setbacks. Calvert thought reducing the 200-foot setback on the north to 100 feet would be a huge difference.

Powers confirmed with Thomas that the parking requirements are based on interior seating. During summer months, the number of patrons does not usually increase, but where the patrons sit shifts to the outside rather than inside.

O’Connell asked if permit-parking only would be possible. Thomas explained that “no parking” signs may be installed if the city receives a petition and the city council approves the request. The residents must apply as a group for their street.

Wischnack explained that resident-only parking permits are possible. The businesses and residents have to be cooperative to navigate the area. It is a popular and convenient location which makes it a challenge.

Powers asked if a vegetation buffer would be required. Thomas agreed that there is a buffer when the leaves are on. Replacing deciduous trees with evergreens could be considered, but that would require the removal of existing deciduous trees.

Calvert asked staff to provide parking solutions within a block of the site. Thomas explained that Mr. Burnet would work out a private parking agreement with a surrounding property owner. Thomas noted that St. David’s school, the city lot, the church, and park and ride facility are in the area. There are crosswalks at each intersection. Wischnack added that the city lot is full on a regular basis. People’s Organic uses it for their employee parking. Gordon noted that SRF did a great job in the traffic study providing real implementation strategies.

Calvert asked if signs could be posted listing the location of overflow parking. Thomas answered affirmatively.

Acting Chair Odland noted that the city issues “no parking” signs for one side of a street for special occasions.
Thomas recommended that residents call 911 immediately to report an unsafe situation.

Acting Chair Odland reviewed concerns expressed by residents. Gordon noted that snow could be removed from the site. He was not aware of a current problem. Wischnack added that the proposed site’s property continues to the creek. Residents can contact city hall to have a potential snow removal violation investigated.

Thomas and Wischnack provided the noise ordinance regulations and noted that garbage haulers are allowed to function at 6 a.m. in the city. A condition of approval of a liquor license could require the bottles be dumped during a designated time frame.

Thomas clarified that this variance request is independent of existing ones in the area and that the noise ordinance prohibits the sound of music from extending outside of a property line.

Thomas stated that staff will notify the police of the vehicle with the “for sale” sign being parked in the 20-minute parking spot for an extended stay on Minnetonka Boulevard.

Acting Chair Odland suggested SRF compare the current situation with one similar to it to gain ideas on how to deal with the issues.

In response to Acting Chair Odland’s questions, Mr. Burnet stated that he was fine with not having music outside. He misspoke earlier. He is having discussions with neighboring properties to reach a deal for overflow parking. He would consider valet parking during heavy time periods. He did not expect the passionate response. There would be no delivery. A pizza could be ordered in advance and delivered to the vehicle to make it happen quickly.

Clark Gassen, Mr. Burnet’s business partner, explained that he owns his own snow removal company. At a certain inch level, the snow would be moved off site. He has never had a snow violation.

Hanson was o.k. with the proposal if it is the right operator. The proposal is consistent with the city’s long-term plan. The site is zoned for a commercial use. The management team would do a good job enforcing the noise requirements and responsibly serving the patrons. A firm parking plan would be needed before moving forward. He assumed that Burwell Drive would become a “no parking” street.
Powers thought that the proposal is the seed of a good idea. He admires the developer and restaurant operator for their courage, but the plan is the wrong size and does not have enough detail. He did not think there would be a lot of the owner overseeing the site. The neighbors are correct that there would be pressure on the police for enforcement and on neighboring businesses. Most of the people he talked to like the idea of a restaurant at that location. The neighbors’ concerns are real. The restaurant may create a smell. He hoped to see progress.

Calvert concurred with Powers. She applauded the applicant’s desire to keep the original building. She understood the need to keep the building occupied to create vitality without burdening neighbors. It seems too big for the space. She liked the idea of the patio and preserving the building. She is aware of the narrowness of Burwell Drive. The issues are solvable, but the issues of noise, parking, light, environmental, and traffic need to be addressed.

O’Connell would be in favor of tabling the request to allow time for an off-street parking agreement to be reached. He asked the residents of Burwell Drive to request “no parking” signs be installed on the street. He suggested valet parking be offered during peak operating hours with a street-side curb cut for the valet.

Acting Chair Odland applauded a restaurant owner for looking at the site and utilizing the existing building. The Birch Island restaurant is on a tiny island and has no parking, but the owners have been a great partner in that area so she has no doubt that there is a solution to make this a viable property. The use would be an excellent fit. She would like to see it evolve into something. Tabling would be the best thing to do right now.

Powers thought that the footprint would be too large for the site.

Calvert agreed with tabling and that the proposal is the seed of something good.

O’Connell moved, second by Powers, to recommend that the city council table items on the following to allow staff more time to research solutions to issues related to noise, parking, light, protecting the environment, and traffic:

1. A resolution approving a conditional use permit for a restaurant and outdoor eating area, with variances, at 13008 Minnetonka Boulevard (see pages A35-A40).
2. A resolution approving final site and building plans, with variances, for site and building changes at 13008 Minnetonka Boulevard (see pages A41-A49).

O’Connell, Odland, Powers, Calvert, and Hanson voted yes. Knight and Kirk were absent. Motion carried.
AUGUST PLANS AND PC MINUTES
C. Items concerning Station Pizzeria at 13008 Minnetonka Boulevard.

Acting Chair Odland introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report. Thomas pointed out the late comment and additional condition provided in the change memo dated August 4, 2016.

Hanson asked when the parking phases would be implemented. Thomas said that Phase 1 could likely be constructed as early as this year. The area is flat and construction would be easy. Phase 2 would be constructed only after consultation with area residents. The city engineer felt these would be viable options.

In response to Powers’ question, Thomas explained that Phase 1 had been considered before. The parking spaces would be public and available for any motorist.

In response to Acting Chair Odland’s question, Wischnack explained a variety of options to create more parking stalls.

Ryan Burnet, applicant, stated that he listened to the feedback from staff and residents and addressed the nuisance issues and parking. There is a parking agreement with St. David’s. He feels like the project is ready to go.

Calvert asked how patrons of the restaurant would get there from the St. David’s parking lot. Mr. Burnet thought a patron would walk on the sidewalk around St. David’s.

The public hearing was opened.

Dee Kennedy was representing Carrie Bret Martinson, owner of the Dairy Queen, who was unable to attend. She asked if there would be alcohol served, for the number of indoor and outdoor seats, the hours, and if the St. David’s 25 parking stalls would be a required condition of approval. The two stalls with 20-minute limits are abused by motorists who leave vehicles there for 2 hours. One person told her that she could not park there to go to the Dairy Queen and that the stalls were only for People’s Organic patrons. She was concerned with the snow removal and salting because that is a problem now. She asked if all of the parking spaces would be public.
Dorothy Janssen, 12709 Burwell Drive, stated that:

- There would be a parking problem. There are temporary “no parking” signs on Burwell Drive and a vehicle parked there right now.
- Vehicles were parked on both sides of the bridge during construction. She supports prohibiting parking on the bridge and north of the bridge.
- The street is narrow.

Melissa Williamson Heron, 12928 Minnetonka Boulevard, owner of Your Art’s Desire, stated that:

- She appreciated commissioners and staff listening to the concerns.
- She is grateful that more parking solutions have been identified.
- She has great reservations that St. David’s is a viable solution. Patrons would not be aware of the available parking. If it would not be signed, then it would not be found.
- She is a voice of deep concern, not resistance.
- People’s Organic was given a parking variance which caused a shift in parking patterns. Her patrons complained that they could not find a parking space and she saw a significant decrease in her businesses revenue.
- Accessibility issues have a crippling impact on her business.
- She asked what recourse she could take if the proposal causes hardships for her business.
- She has donated time and energy to the city.
- She requested that a sign be outside of the building directing traffic to the parking spaces at St. David’s.
- She asked for the duration of the contract with St. David’s for parking.
- She asked if there would be valet parking.
- She asked if the parking stalls would be signed only for Station Pizzeria.

Claudia Gundlach, 12901 Burwell Drive, stated that:

- She was concerned with heavy traffic decreasing her property value.
- Increasing traffic between Plymouth Road and Shady Oak Road would increase the high-accident areas.
• She asked if the parking agreement would be honored if Station Pizzeria became a different restaurant.
• She asked if the proposal meets the parking requirement.
• She asked who enforces a noise ordinance.
• She asked if there is a smell ordinance.
• She asked if there is a light and sign plan.
• One of SRF’s parking plans looked o.k. She likes the turnaround at the end of Bridge Street.
• Parking on both sides of the street makes it look like a parking lot.
• She is concerned with the health of the creek. She favored making the paved area pervious.
• She suggested adding bicycle and canoe parking.

Tom Aasen, 12915 Burwell Drive, stated that:

• He was concerned with having enough parking. He did not like phase two of the parking because it would make the corner difficult to navigate.
• Turning from Bridge Street to Minnetonka Boulevard is really hard. It would be more difficult with vehicles backing out of phase one.
• He asked if the Minnehaha Creek Watershed District would have to issue a permit for the proposal.

Tim Demars, 12925 Burwell Drive, stated that:

• There should not be 90-degree parking on Bridge Street. Parallel parking would be the only option.
• Accidents happen very often. It is very difficult to take a left on Minnetonka Boulevard. The volume of traffic has increased.
• Parking at St. David’s school is ridiculous. In the winter, it would be difficult to navigate the walk.
• The patio is too big for the area and it would create too much noise. He was surprised the size was not reduced.
• The neighbors have to live with it every day.
• He did not want to see this happening.
• The applicant addressed some of the noise issues.
• He questioned where patrons would be allowed to smoke.
• He questioned if service would end at 10:30 p.m. or if patrons would move inside at 10:30 p.m. He prefers patrons move inside at 10:30 p.m.
• His major issue is noise.
He asked if more bar stools could be added.

Diane Alexander, owner of People’s Organic at 12934 Minnetonka Boulevard, stated that:

- She was hoping a restaurant would go there, but she has huge concerns about the parking. Hikers and bikers park in her lot and are gone for a couple hours. Adequate parking needs to happen.
- She questioned where other parking areas are located.

Peter Hill, 13212 McGinty Road, stated that:

- The proposal would probably never significantly impact him.
- He was disappointed in the quality of the application. The business plan refers to a location in Minneapolis.
- The largest issue is the parking. Two thirds of the parking listed in the report is located on Glenn’s property and Minnetonka Boulevard.

Dee Kennedy stated that one pint of oil makes a slick the size of a football field on a lake or water.

Tom Aasen clarified which streets were Bridge Street and Burwell Drive.

No additional testimony was submitted and the hearing was closed.

Calvert asked for the shoreland setback. Thomas answered that would remain the same. Thomas pointed out the paved surface that would not be removed in an effort to maintain as much existing surface as possible.

In response to the questions, Thomas explained that:

- An off-site parking agreement, such as the one with St. David’s, is required for this proposal. There is a condition in the resolution requiring a signed agreement before the building permit would be issued. It would be good to tie the parking agreement requirement to any restaurant use on the site.
- On-site directional signage to off-site parking areas is required as a condition of approval.
- A violation of the noise ordinance may be reported to the planning division during office hours and the police department after office hours.
• There is an odor ordinance based on the standards of the Minnesota Pollution Control Agency.
• A lighting plan would be submitted with the building permit application. There is a standard that must be followed.
• The hours of operation would be Sunday through Thursday from 11 a.m. to 10:45 p.m. and Friday and Saturday from 11 a.m. to 10:30 p.m. The outdoor area would be closed at 10:30 p.m. Some restaurants with patios have had police respond to enforce the patio time restriction when they were first opened.

Gordon provided that:

• Smoking is not allowed in city parks in areas of activity.
• The parking areas would be public and not signed for a specific business.

Thomas clarified that the second parking study’s intent was to identify areas lacking parking and the peak times of parking shortages in the Minnetonka Mills area.

Wischnack explained that the city council is the decision maker when it comes to liquor license regulations and businesses. That is not in the commission’s purview.

Thomas stated that:

• A condition of approval requires the installation of a bike rack.
• There is a canoe landing at the Burwell House.

Wischnack stated that staff will be meeting with the Minnetonka Mills business owners to review cooperative parking options and ways to identify amenities including bike racks and trails to patrons.

Gordon stated that Minnetonka does not generally see a reduction in property values when a commercial use is replaced by another commercial use.

Thomas stated that the parking options and comments from residents will be passed on to the city council. Traffic engineers created the options.

Dietrich explained that the proposal would not change the site’s amount of impervious surface, so there would be no storm water required, but the applicant would have to install one best management practice. The applicant would be
responsible for cleaning up oil from the site. Gordon noted that fuel tanks have been removed from the site. A gas station has a much greater potential for environmental impact than a restaurant.

Thomas reiterated that residents should call the police if noise is occurring in violation of the noise ordinance.

Wischnack explained that changing the type of seating would not trigger a review of the conditional use permit or liquor license, but an expansion would.

Thomas and Gordon clarified that the variance would be to allow the site to have 19 parking stalls.

Mr. Burnet stated that:

- There will be free valet parking Fridays and Saturdays.
- Patrons would move inside when the patio would close.
- The outdoor seating is the size the applicant wants.
- Curbing would be added in front of the restaurant and there would be eight more parking spots.
- There will be outdoor signs on site designating off-site parking areas. Those areas will be listed on the website and provided when patrons phone the restaurant.
- The turnover rate is approximately 45 minutes to an hour and a half.
- There would be a sign for valet parking.
- He hoped for a decent lunch business, but expected the most patrons for dinner.

Hanson noted that the restaurant operator wants things to run smoothly to have a successful business. Some issues would take care of themselves. There is a decent plan in place.

Calvert was concerned with the lack of parking stalls on and off site. The restaurant concept is very exciting. Something like this would bring vitality to the Minnetonka Mills area. That neighborhood has problems with access to Bridge Street.

Powers stated that the neighborhood meanders. Kids ride bikes to the area. The plan is different than the character of the area. It would change the overall feeling. Vitality is a healthy thing, but he is concerned with the proposal.
Calvert thought the outdoor area was too large, but she understood that a profit needs to be made. There is a lot of pedestrian and bicycle traffic in the area. She had safety concerns.

O’Connell supports the proposal. The applicant made changes in response to the requests of the planning commission. He was prepared to take action and encouraged commissioners who do not support the proposal to provide clear reasons.

Calvert thought that the parking situation still has to be resolved before approval is given. She agreed that the applicant came back with solutions.

Hanson said that he hopes that staff will be able to add more parking spaces. The increase in parking spaces may help the current parking shortage in the neighborhood. Residents may petition to prohibit parking on their street. If parking violations are occurring, residents should phone the police. Habits will change after enforcement of the parking laws.

Powers had a negative experience with permit parking in St. Paul. Wischnack noted that the city has not indicated that it would do permit parking and all residents of a street must petition the city to make it a “no parking” street.

**Hanson moved, second by Knight, to recommend that the city council adopt the following resolution approving a conditional use permit with the addition of a condition to require a parking agreement for off-site parking for any restaurant use; a condition to require off-site snow removal; and the changes made in the change memo dated August 4, 2016 for a restaurant and outdoor eating area with variances at 13008 Minnetonka Boulevard (see pages A35-A40 of the staff report) and a resolution approving final site and building plans with variances for site and building changes at 13008 Minnetonka Boulevard (see pages A41-A49 of the staff report).**

**Hanson, Knight, and O’Connell voted yes. Powers, Calvert, and Odland voted no. Kirk was absent. Motion failed.**
CURRENT PLANS
FLOOR PLAN

1/4" = 1'-0"

PLAN

NORTH

ELEC PNL

WATER

SEAT COUNT

COUNTER: 6
SOUTH DINING: 26
NORTH DINING: 31
INTERIOR TOTAL: 63

PATIO:

GRAND TOTAL: 93.

GROSS BUILDING AREA: 2,221 sf
DINING AREA: 1,348 sf
KITCHEN AREA: 873 sf
SITE PLAN COMPARISON

JULY PC MEETING

AUG PC MEETING

CURRENT PROPOSAL
Resolution No. 2016-

Resolution approving a conditional use permit for a restaurant and outdoor eating area, with setback variances, at 13008 Minnetonka Boulevard

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

Section 1. Background.

1.01 Shea Design, on behalf of Ryan Burnet and Clark Gassen, is requesting a conditional use permit for a restaurant and outdoor eating area. The request includes the following variances:

1. Setback variance from residential property from 200 feet to 145 feet for the outdoor eating area; and
2. Front yard setback variance from 50 feet to 0 feet for the outdoor eating area.

1.02 The property is located at 13008 Minnetonka Boulevard. It is legally described as follows:

Lots 21, 22, and Lot 24 except the Northeasterly 30 feet thereof, Auditor’s Subdivision No. 353, Hennepin County, Minnesota.

And

Lot 16, Block 1, Creekwood, Hennepin County, Minnesota

1.03 On August 4, 2016, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. On a split 3-3 vote, the commission failed to make a recommendation regarding the
request.

Section 2. Standards.

2.01 City Code § 300.21 Subd.2 lists the following general conditional use permit standards:

1. The use is consistent with the intent of this ordinance;

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

3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

4. The use is consistent with the city's water resources management plan;

5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and

6. The use does not have an undue adverse impact on the public health, safety or welfare.

2.02 City Code §300.21 Subd.4(i) lists the following specific conditional use permit standards for restaurants having on-sale intoxicating liquor or dance hall licenses:

1. Parking shall be in compliance with the requirements of section 300.28 of this ordinance;

2. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections; and

3. Shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

   a) landscaping and berming to shield the restaurant use;

   b) parking lots not located in proximity to residential uses; and
c) lighting plans which are unobtrusive to surrounding uses.

2.03 City Code §300.21 Subd.4(p) lists the following specific standards for accessory sidewalk cafes and outdoor eating areas:

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;

2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

4. Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

5. Shall be located adjacent to an entrance to the principal use;

6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up;

7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and

8. Shall be located in compliance with building setback requirements.

2.04 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.
Section 3. FINDINGS.

3.01 The proposed restaurant and outdoor eating area would meet the general conditional use permit standards as outlined in City Code § 300.21 Subd.2 and the staff report associated with the applicant’s request.

3.02 But for the requested variances, the proposed restaurant and outdoor eating area would meet the specific standards as outlined in City Codes §300.21 Subd.4(i) and §300.21 Subd.4(p) and the staff report associated with the applicant’s request.

3.03 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1:

1. Intent of the Ordinance. The intent of the ordinance as it pertains to outdoor eating area setbacks is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The proposed outdoor eating area setbacks would meet this intent. Generally reflecting the setbacks of the existing building, the outdoor eating area would be setback 145 feet from the closest residential lot and over 250 feet from the closest home. It would be separated from area homes by the existing building, existing vegetation, and Minnehaha Creek.

2. Consistent with Comprehensive Plan. The subject property is located in the Minnetonka Mills special purpose village center. One of overall themes outlined in the comprehensive plan is to provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability in village centers. The requested variances would result in redevelopment of an existing feed store/gas station into a new and unique gathering space, consistent with the goals of the comprehensive plan.

3. Practical Difficulties. There are practical difficulties in complying with the ordinance:

   a) Unique Circumstances and Reasonableness. The subject property is unique in several ways. The 0.5-acre lot is zoned and guided for commercial use, but has just 880 square feet of buildable area due to its location adjacent to two roadways and Minnehaha Creek. Both the building and the parking lot on the property are non-conforming. The requested variances are based on these unique circumstances and the applicant’s
reasonable request to repurpose the existing commercial site for a new commercial use

b) Character of the Neighborhood. The repurposing of the existing commercial site, from feed store/gas station to restaurant would likely alter the general atmosphere of the area. However, the requested variances themselves would not.

Section 4. City Council Action.

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
   - Site plan dated August 16, 2016
   - Floor plan dated August 15, 2016
   - Building rendering dated May 27, 2016

2. The outdoor patio must be controlled and cordoned off with an uninterrupted enclosure, with access only through the principal building.

3. The outdoor patio must be equipped with refuse contains and regularly patrolled for litter pick-up.

4. The outdoor eating area must be closed by 10:30 p.m. daily.

5. No outdoor sound system is allowed.

6. No dumping of glass or other recyclables is allowed between the hours of 10:00 p.m. and 6:00 a.m.

7. The restaurant and outdoor eating area must conform to all aspects of the City Code Chapter 8, Public Health and Public Nuisance Ordinances.

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

9. Any change to the approved use that results in a significant increase
in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

Terry Schneider, Mayor

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 August 22, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-

Resolution approving the final site and building plans, with setback and impervious surface variances, for site and building changes at 13008 Minnetonka Boulevard

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Shea Design, on behalf of Ryan Burnet and Clark Gassen, is requesting approval of final site and building plans for changes to the site and building at 13008 Minnetonka Boulevard. The changes are proposed to accommodate a new restaurant and outdoor eating area. The request includes the following variances:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Building Setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>50 ft</td>
<td>15.5 ft</td>
</tr>
<tr>
<td>West</td>
<td>50 ft</td>
<td>1.9 ft</td>
</tr>
<tr>
<td><strong>Trash Enclosure Setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>10 ft</td>
<td>2 ft</td>
</tr>
<tr>
<td>Shoreland</td>
<td>50 ft</td>
<td>35 ft</td>
</tr>
<tr>
<td><strong>Parking Lot Setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>0 ft</td>
<td>0 ft</td>
</tr>
<tr>
<td>East</td>
<td>10 ft</td>
<td>0 ft</td>
</tr>
<tr>
<td>West</td>
<td>20 ft</td>
<td>0 ft</td>
</tr>
<tr>
<td>Shoreland</td>
<td>25 ft</td>
<td>15 ft</td>
</tr>
<tr>
<td><strong>Impervious Surface</strong></td>
<td>30%</td>
<td>76%</td>
</tr>
</tbody>
</table>

1.02 The property is located at 13008 Minnetonka Boulevard. It is legally described as follows:
Lots 21, 22, and Lot 24 except the Northeasterly 30 feet thereof, Auditor’s Subdivision No. 353, Hennepin County, Minnesota.

And

Lot 16, Block 1, Creekwood, Hennepin County, Minnesota

1.03 On August 4, 2016, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. On a split 3-3 vote, the commission failed to make a recommendation regarding the request.

Section 2. Standards.

2.01 City Code §300.27, Subd. 5, outlines that the following must be considered in the evaluation of site and building plans:

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.

2.02 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings.

3.01 The city has considered the items outlined in City Code §300.27, Subd.5 and finds the following:

1. The proposal has been reviewed by city planning, engineering, natural resources, public works, fire, and legal staff and found to be generally consistent with the city’s development guides.

2. The subject property is a developed site. As such, the proposal would not impact natural topography or native-vegetation.
3. The proposal would utilize an existing building and parking lot. The relationship between buildings and open spaces would not change.

4. The proposed site design is intuitive and would establish appropriate circulation patterns for vehicular traffic.

5. The proposal would repurpose an existing building.

6. The repurposing of the existing commercial site, from feed store/gas station to restaurant, would likely alter the general atmosphere of the area. However, through provision of off-site parking and adherence to city nuisance ordinances, neighboring land uses should be adequately protected.

3.02 The proposal would meet the variance standard as outlined in City Code §300.07 Subd.1:

1. Intent of the Ordinance.

   a) The intent of the ordinance as it pertains to setbacks is to ensure appropriate separation between land uses for both safety and aesthetic reasons.

      1) Building and Parking Setbacks. The proposed building and parking lot setbacks would meet this intent. They reflect existing site conditions, which have been in place for decades without either safety or aesthetic complaint.

      2) Trash Enclosure Setbacks. The proposed trash enclosure setbacks would meet this intent. The variances are from a property line adjacent to an existing parking lot, and from Minnehaha Creek, which is significantly screened from the site at this location. The reduced setbacks would not negatively impact either safety or aesthetic.

   b) The intent of the ordinance as it pertains to impervious surface is to reduce the environmental and aesthetic impact of development on water resources. The requested variance would meet this intent. The existing property already has impervious surface significantly higher than the maximum impervious by code. The proposal would increase impervious surface by just 220 square feet or 1.1%.
2. Consistent with Comprehensive Plan. The subject property is located in the Minnetonka Mills special purpose village center. One of the overall themes outlined in the comprehensive plan is to provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability in village centers. The requested variances would result in redevelopment of an existing feed store/gas station into a new and unique gathering space, consistent with the goals of the comprehensive plan.

3. Practical Difficulties. There are practical difficulties in complying with the ordinance:

   a) Unique Circumstances and Reasonableness. The subject property is unique in several ways. The 0.5-acre lot is zoned and guided for commercial use, but has just 880 square feet of buildable area due to its location adjacent to two roadways and Minnehaha Creek. Both the building and the parking lot on the property are non-conforming. The requested variances are based on these unique circumstances and the applicant’s reasonable request to repurpose the existing commercial site for a new commercial use.

   b) Character of the Neighborhood. The repurposing of the existing commercial site, from feed store/gas station to restaurant would likely alter the general atmosphere of the area. However, the requested variances themselves would not.

Section 4. City Council Action.

4.01 The above-described site and building plans are hereby approved subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   - Site plan dated August 16, 2016
   - Floor plan dated August 15, 2016
   - Building rendering dated May 27, 2016

2. Prior to issuance of a building permit:

   a) This resolution must be recorded.

   b) Submit the following:
1) An electronic PDF copy of all required plans and specifications.

2) Three full size sets of construction drawings and project specifications.

3) Final site, landscape, and illumination plan, and stormwater pollution prevention plan (SWPPP) for staff approval.

   a. Final site plan must:

      1. Include a bike parking facility.
      2. Include one stormwater best management practice.
      3. Illustrate a sight triangle for Bridge Street to ensure adequate sight lines are maintained.
      4. Illustrate replacement of curbing at existing on-site pedestrian ramp that is not currently ADA compliant.
      5. Show the existing pedestrian ramp on the west side of Bridge Street to ensure the proposed pedestrian ramp on the east side of Bridge Street is in alignment with the existing.
      6. Confirm city standard curb B612 on Bridge Street and Hennepin County approved curb on Minnetonka Boulevard

   b. Final landscaping plan must:

      1. Meet minimum landscaping requirements as outlined in the ordinance. At its sole discretion, natural resources staff may reduce required landscaping based on site constraints.
2. Minimize use of sod and, rather, use ornamental trees, low growing shrubs, ornamental grasses or perennials. No plant material obtaining a mature height of over three feet may be planted within 25 feet of Bridge Street or Minnetonka Boulevard.

4) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct parking lot improvements and landscaping requirements. One itemized letter of credit is permissible, if approved by staff.

a. The city will not fully release the letters of credit or cash escrow until:

- A final as-built survey has been submitted;
- Vegetated ground cover has been established; and
- Required landscaping or vegetation has survived one full growing season.

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 or grading problems.

6) A construction management plan. The plan must be in a city approved format and must outline minimum site
management practices and penalties for non-compliance.

7) A snow removal and salting plan.

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

3. Right-of-way permits are required from the city and Hennepin County for work within the Bridge Street and Minnetonka Boulevard rights-of-way respectively.

4. If water or sewer services are upgraded, fire sprinkler systems must be installed per Minnesota State Building Code Chapter 1306.

5. Signage must be installed to: (1) note compact parking stalls; and (2) indicate “Exit Only” at the Bridge Street Drive and “Enter Only” at the Minnetonka Drive.

6. During construction the street must be kept free of debris and sediment.

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

8. The property owner is responsible for snow removal on sidewalks adjacent to the site.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

_______________________________________
Terry Schneider, Mayor

ATTEST:  

______________________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:
Resolution No. 2016-

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 August 22, 2016.

__________________________
David E. Maeda, City Clerk
City Council Agenda Item #13B(2)
Meeting of August 22, 2016

**Brief Description**
On-sale wine and on-sale 3.2% malt beverage liquor licenses for MTKA Pizza, LLC (Station Pizzeria), at 13008 Minnetonka Boulevard

**Recommendation**
Continue the public hearing from July 25 and grant the licenses

**Background**
The city has received an application from MTKA Pizzeria, LLC at 13008 Minnetonka Boulevard. The applicant has requested a change in their proposal following planning commission review and neighborhood feedback. The proposal includes modifying the liquor license request to an on-sale wine and on-sale 3.2% malt beverage license rather than full liquor license. The proposal also has a significant reduction in the outdoor seating area. The area is being modified to create additional on-site parking. (See revised plans on pages A3-A6).

**Business Ownership**
MTKA Pizzeria, LLC is owned by the following three individuals:

<table>
<thead>
<tr>
<th>Owner</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clark Gassen</td>
<td>45.5% Owner</td>
</tr>
<tr>
<td>Ryan Burnet</td>
<td>45.5% Owner</td>
</tr>
<tr>
<td>David Ellis</td>
<td>9% Owner</td>
</tr>
</tbody>
</table>

Clark Gassen is a real estate developer in the Twin Cities. His most recent developments include FloCo Fusion Landmark Apartments (outside downtown Minneapolis) and The Walkway (Uptown).

Ryan Burnet has extensive restaurant experience and owns and operates many restaurants in the Twin Cities area including Barrio, Bar La Grassa, Burch Steak and Pizza Bar, and Eastside Eat & Drink.

David Ellis is the Executive Chef for the proposed Station Pizzeria.

**Business Operations**
The restaurant will be open for lunch and dinner with the following hours:

<table>
<thead>
<tr>
<th>Dining Room Hours</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunday - Thursday</td>
<td>11 am – 11 pm</td>
</tr>
<tr>
<td>Friday and Saturday</td>
<td>11 am – 1 am</td>
</tr>
<tr>
<td>Patio Hours</td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Monday - Sunday</td>
<td>11 am – 10:30 pm</td>
</tr>
</tbody>
</table>

Staff will go through alcohol server training, annually, in addition to training upon initial hire. Training involves, but is not limited to, asking for ID for all patrons appearing to be age 35 and under, self-audit for sending underage individuals into the restaurant to order drinks, and incentives for employees passing audits/compliance checks.

Projected food to liquor ratio will be 75% food and 25% alcohol.

The general manager has not been hired, but will be required to complete the police background check as required by city ordinance.

**Applicant Information**

Application information and license fees have been submitted. The police department’s investigative report on this application is complete and will be forwarded to the council separately.

**Outdoor Seating Area**

The outdoor seating area will be approved only subject to the following:

a) Must be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access must be only through the principal building.

b) The outdoor patio must not have speakers or audio equipment.

A noise management plan has been submitted for the proposed Station Pizzeria. (See pages A9-A10).

**Criteria from City Council Policy 6.2**

City council policy 6.2 establishes the following criteria in its consideration of on-sale liquor licenses:

- **Land Use/Zoning**
  The proposed liquor license must be consistent with the Guide Plan and zoned appropriately. It is expected that liquor establishments will be located in existing and planned commercial areas of the city. The liquor license application will be considered in conjunction with the site plan review.
Finding: The property at 13008 Minnetonka Boulevard is located in the Minnetonka Mills Area village center. The property and area is guided and zoned for commercial uses.

- **Traffic**
  The proposed liquor license will be considered in terms of traffic generated by the establishment and the effect of such traffic on the surrounding street system. It is expected that liquor establishments will be located in areas able to accommodate the additional traffic generated by the liquor operation. The cost of an additional traffic analysis that might be required because of unusual circumstances with the location of the establishment will be paid by the applicant. This cost is not considered a part of the investigation or license fee.

Finding: A traffic study has been commissioned to evaluate existing and anticipated peak hour operations on Minnetonka Boulevard and at the key intersections of Minnetonka Boulevard/Plymouth Road, Minnetonka Boulevard/Burwell Drive and Minnetonka Boulevard/Shady Oak Road. The traffic study is included in the planning commission staff report which coincides with this report.

- **Parking**
  The proposed liquor license will be considered in terms of the amount of parking needed for the establishment. It is expected that adequate on-site parking will be provided to accommodate all customers and employees. To determine whether adequate parking exists, the council will use the zoning ordinance as a guideline, and may consider other factors such as: the nature of the establishment, the type of development in which it will occur, the amenities (dance floor, entertainment, etc.) which will be offered by the establishment, and any other matter which might affect the parking requirements.

Finding: A parking study has been commissioned to evaluate proposed parking relative to city code requirements, Institute of Transportation Engineers (ITE) parking demand data, and current on-street parking utilization. The parking study is included in the planning commission staff report which coincides with this report.

- **Proximity to Schools, Churches, Youth Oriented Facilities, etc.**
  The proposed liquor license should be considered in terms of proximity of the establishments to schools, churches, and youth related and other public facilities. It is expected that liquor establishments will be located in areas that minimize the impact on such facilities.

Finding: The proposed restaurant, with liquor, will be located across the street from both a church and a school. There are many on-sale and off-sale establishments throughout the community that are located within walking
distance (0.5 miles) of such facilities. (See page A10). The proposed restaurant
would be located within the Minnetonka Mills “special purpose” village center.
The comprehensive plan notes that special purpose centers are intended to have
a small scale concentration of goods and services, and are unusual in setting
and uses.

Recommendation

The public hearing was opened on June 27, 2016 and continued to July 25, 2016. The
hearing on July 25 was continued to August 22 to allow more time to resolve the parking
issues associated with the site. Staff is now recommending that the city council continue
the public hearing from July 25, 2016 and grant the on-sale wine and on-sale 3.2% malt
beverage liquor licenses for MTKA Pizza, LLC (Station Pizzeria), at 13008 Minnetonka
Boulevard. This review will coincide with review of the conditional use permit and site
and building plan for the proposal.

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

Originated by:
   Kathy Leervig, Community Development Coordinator
Project: Station Pizzaeria

Address: 13008 Minnetonka Blvd
Station Pizzeria

Station Pizzeria is a concept from Ryan Burnet that will serve as a local food destination for the city of Minnetonka. Ryan has been looking for western suburbs for years and finally found the site he thought would encompass what he is looking for. The concept is family friendly pizza restaurant that will serve well executed pizzas with the best ingredients. The menu will also highlight different unique sides as well as salads. Ryan has partnered with local chef David Ellis who will run the kitchen and the menu.

The ambiance and price point will be approachable. Burnet has engaged Shea Architects as well as Zeman construction to help with the architecture and buildout of the site.
GROSS BUILDING AREA: 2,221 sf
DINING AREA: 1,348 sf
KITCHEN AREA: 873 sf

SEAT COUNT
COUNTER: 6
SOUTH DINING: 26
NORTH DINING: 31
INTERIOR TOTAL: 63

PATIO: 30
GRAND TOTAL: 93.
SITE PLAN COMPARISON

JULY PC MEETING

AUG PC MEETING

CURRENT PROPOSAL
Station Pizzeria Business Plan

A. Alcohol Server Training Plan
B. Projected Food to Liquor Ratios
C. Staffing
D. Police Department Security Plan
E. Noise Management Plan
F. Maintaining Orderly Appearance and Operation
G. Entertainment
H. Hours of Operation
I. Food Service and Menu
J. Charitable Gambling Activities
K. Applicants Experience and Background with Liquor, Restaurant or Retail Sales
L. Menu
A. Alcohol Server Training Plan
   a. We will provide group training once a year using a training company (Gittleman).
   b. All new hires are trained through Gittleman throughout the year. The employee handbook also contains information on alcohol awareness.
   c. We will card anyone that looks 35 or under.
   d. We will do a self-audit where we will have underage people come into restaurant and try and order a drink.
   e. Reward is dinner for 2 at the restaurant. Discipline would come in form of termination.

B. Projected Food to Beverage Ratios
   a. 75/25 food to liquor ratio.

C. Staffing Levels
   a. The restaurant will have 2-6 hourly kitchen employees and 2-6 front of house employees staffed at all times.
   b. The restaurant will always have a front of house and back of house manager on duty during hours of operation.

D. Police Department Security Plan
   a. Security Staff
      1. Onsite Manager/Supervisor
   b. Scheduling
      1. Manager/Supervisor will be onsite during all hours of operation. Multiple managers will be onsite during peak business hours.
   c. Duties
      1. Manager will provide routine patrols of the interior every 15 minutes.
         a. This will include outdoor seating area during hours that outdoors seating is open for operation.
      2. Manager will provide routine patrols of exterior every 60 minutes.
      3. Manager will be responsible for clearing any loitering patrons from exterior of business 15 minutes after close.
   d. Admittance List
      1. Manager will not admit, serve or allow intoxicated persons on the premise.
      2. Management will keep records of a no admittance list for any persons that have been a nuisance for Station Pizzeria or neighboring businesses.
   e. Excessive Noise or Noise Complaints
      1. Will be handled on a case by case basis.
   f. Exit Strategies
      1. All emergency exits are clearly marked
a. Staff will be trained on emergency exit procedures during training.

2. Closing Time
   a. Lights will be turned up 15 minutes prior to closing time and music will be turned off.
   b. Management will direct patrons to main entrance to exit at closing time. Management will check bathrooms and do a walkthrough of restaurant to ensure all patrons have exited the restaurant.

g. Police, Fire, Emergency Medical Services
   1. EMS will be offered to any guest or staff member that is injured and may require medical attention.
   2. Management will be trained to automatically call EMS when an injury is severe or guest is unable to care for themselves.
   3. Management will call EMS and Minneapolis Police Department when the injury is due to a criminal act.
   4. Management will call the Minneapolis Police Department when a crime occurs. Staff will be trained to cooperate with responding officers.

h. Reporting Procedures
   1. Minor and major incidents will be reported in the nightly managers’ log which is sent to all management.
   2. Staff will be informed of incidents during daily pre shift meetings as well as messages, both email and text, sent by scheduling software.

E. Noise Management Plan
   a. Speakers are suspended and positioned point down to project sound at a lower height than ceiling height.
   b. We inform customers of last call ½ hour before closing. Management will monitor our customers leaving and remind any loud patrons of the neighboring residents. Generally we will not have a mass exit of patrons due to the style of restaurant and bar we are operating.
   c. All sound will be controlled by a bank of 4 volume controls that only management will be authorized to use. We will be playing music using an iPod as a source where all music has been imported at a continuous volume to eliminate sudden spikes in volume between recordings. Volume controls will be marked with appropriate playing levels for different periods of the day.
   d. Managers will be trained to keep volume of music at appropriate levels for each service period. Bartenders, servers and hosts will be instructed to bring any observances to management on any volume perceived to be louder than necessary. Management/Supervisors will be then only employees authorized to adjust volume. There will be a Manager/Supervisor on premise for all operational hours.
1. Outdoor Areas
   a. Speakers are minimally placed on patio with a separate zone control for lower volume sound. Speakers do not contain woofers so low frequency beats should be minimized. Outdoor music will be turned down at 9:45 pm and turned off at 10:00.
   b. Patio will be for seated guests only as tables become available. Management will be trained to not allow guests on the patio without a seat.
   c. We inform customers of last call ½ hour before closing the patio at 10:30. Music will be turned off at this time as well. The last seating on the patio will be prior to last call for the closing of the patio. Patrons will be asked to move inside at 10:30 for further service or exit through the inside of the restaurant. Host and management staff will inform guests when taking reservations of parking ramps in the area. Contact numbers for local cab companies will be available at the bar and host desk. Staff will be trained to offer to call guests a cab when appropriate.
   d. Management and staff will be trained to monitor guest noise on the patio. Guests that have noisy will be addressed by management and asked to be mindful of noise. If guest continues to be noisy management will ask the guest to move inside. Unruly customers will immediately have further service refused and be asked if the need help calling a cab. We refuse service to unruly guests.
   e. Management will make rounds every 15 minutes to supervise guests on patio.
   f. Noise complaints will be dealt with on a case by case basis. Any trends will be monitored and addressed by management. An email as well as phone number for our office will be available for residents to express concerns.
   g. Patio speakers will be small background speakers. The music played on them will be at a low volume background level. The patio speakers will have an independent zone control from the rest of the restaurant to adjust overall volume separately. Each speaker also has a volume control that can be set to restrict volume on each speaker. The audio processor in office will be set so that speakers are only allowed to be played at a certain volume as well.
F. Maintaining Orderly Appearance and Operation
   a. Litter and Refuse Control
      1. The opening manager will conduct a walkthrough of the entire property including exterior and parking lot. The walkthrough will be repeated prior to Dinner service.
      2. Staff will have scheduled side work throughout the day which will include sweeping of litter in parking lot as well as in trash and recycling areas.
      3. Outdoor seating areas will be maintained throughout hours of operation.

G. Entertainment
   a. There will be no entertainment other than pre-recorded music that is played through the restaurant's sound system.

H. Hours of Operation
   a. Sunday - Thursday 11:00 am - 11:00 pm, Friday & Saturday 11:00 am - 1 am.
   b. Outside Hours: Monday - Sunday 11:00 am - 10:30 pm
   c. Amplified music
      1. Amplified music will be played indoors from: 11:00 am to 10:45 pm Sunday through Thursday, 11:00 am to 12:45 am Friday and Saturday.
      2. Amplified Music will be played outdoors from: 11:00 am to 10:00 pm Monday - Sunday.

I. Food Service
   a. See attached menus. We will have full food service Monday-Saturday 11 am - 11 pm, Sunday 11 am - 10 pm. The kitchen will be staffed with 1 to 2 chefs and 2 to 6 hourly cooks for every service.

J. Charitable Gambling Activities
   a. There will be no gambling charitable or otherwise.

K. Ryan Burnet is the primary managing partner of Barrio Restaurant Group which includes five Barrio locations in Minneapolis (2008), St. Paul (2009), Edina (2010), MPLS International Airport (2013), Target Field (2015) as well as Eastside Eat & Drink (2015). He is also an investor in Bar La Grassa (2009) and managing partner in Burch Steak and Pizza Bar (2012).

L. Menu
   a. Menu attached
Station Pizzeria

Salads
House
Organic mixed greens, house vinaigrette, radish, cucumber & carrot
Chopped
Romaine, salami, purple cabbage, manchego, tomatoes & onion with champagne vinaigrette
Caesar
Romaine, parmesan, garlic croutons & black pepper
Greek
Romaine, feta, tomato, cucumber, pickled red onion & salt cured moroccan olives
Kale
Roasted seasonal squash, toasted almonds, golden raisins & shaved pecorino
Beet
Marinated beets, frisee, candied walnuts & gorgonzola

Not Pizza
Chicken Wings
Buffalo hot sauce, carrot, celery, ranch or bleu cheese
Meatballs
Pork & beef, parmesan, parsley & oregano
Fried Shells
Fried pasta shells, Meat sauce, parmesan and parsley
Cured Meats & Pickles
La querela meats...house pickles
Fried garlic knots
Parmesan, parsley, garlic oil
Cauliflower
Seasonal preparation...
Broccolini
Chili flake, garlic oil, parsley & lemon

Pizza
Basic
Mozzarella, parmesan, red sauce & basil
Standard
Ricotta, parmesan, red sauce & meatball
Foundation
Fontina, mozzarella, red sauce, sausage, mushroom & onion
Fundamental
Mascarpone, manchego, cremini mushrooms, oyster mushrooms, & chanterelle oil
Essential
Mozzarella, red sauce, spicy capocollo, peppers & basil

Baked Pasta
Cannelloni
Ricotta, tomato sauce, spinach, mushroom & kale
Lasagna
Ricotta, mozzarella, parmesan & sunday meat sauce

Toppings
Sausage
Onion
Fresh mozzarella
Parmesan
Pepperoni

Desserts
Pot de creme
Gelato
Existing Liquor Establishments

- 1000 ft from establishment
- church or school

Not an accurate survey. For illustration purposes only.
Brief Description

Items concerning construction of that portion of the Southwest Light Rail Transit line located in the City of Minnetonka:

1) Wetland rezoning;
2) Wetland and floodplain alteration permit;
3) Wetland replacement plan;
4) Wetland, wetland buffer, and floodplain variances;
5) Conditional use permit for impervious trails within wetland buffers; and
6) Approval of construction on a steep slope development and tree removal.

Recommendation

Introduce the ordinance and approve the resolutions for the various items

Proposal

MetroTransit submitted a variety of applications and requests associated with construction of the Southwest Light Rail Transit line in the City of Minnetonka. These include:

- **Wetland Rezoning:** By City Code §300.23 Subd.9, wetland area may be removed from wetland overlay zoning district – only by rezoning. Construction of the SWLRT line will require fill of 2.99 acres of wetland.

- **Alteration Permits:** By City Codes §300.23 Subd.10 and §300.24 Subd.9, alteration of wetland and floodplain areas is permitted only upon approval of a wetland and/or floodplain alteration permit. Construction of the SWLRT line will require temporary alteration of 1.24 acres of wetland. It will also result in fill of 1,180 cubic yards of 100-year floodplain and creation of 1,582 cubic yards of 100-year floodplain.

- **Variances:** By City Codes §300.23 Subd.8 and §300.24 Subd.8, transportation routes – driveways, roads, rails, trails – and retaining walls associated with these routes, must maintain certain setbacks from wetlands and floodplains. Similarly, such infrastructure must be located outside of required wetland buffers. The SWLRT line requires variances for the line itself, retaining walls, bridge abutments,
transit power substations and pedestrian trails.

- **Conditional Use Permit:** By City Code §300.23 Subd.7, impervious trails are allowed in wetland buffers only by conditional use permit. Small sections of relocated pedestrian trails throughout the corridor will be located with required wetland buffers.

- **Steep Slopes:** By City Code §300.28 Subd.20, development or construction activities may occur on steep slopes only if certain standards are met. Throughout the corridor there are areas of topography that are considered steep by city code definition. Appropriate best management practices and erosion control is specified in the design plans to minimize additional impacts to the site during construction.

- **Tree Removal:** By City Code §300.28 Subd.19, the city council may approve removal of trees within woodland preservation areas, as well as high-priority and significant trees, if the council finds that the removal is necessary to contribute toward a greater public good. The SWLRT project will result in tree removal within the transit corridor for construction of the rail line and within wetland and floodplain alteration areas.

**Planning Commission Hearing**

The planning commission considered the various requests on August 4, 2016. Due to the lengthy and dense plans associated with MetroTransit applications, the planning commission report and plans are not attached to this city council report. However, the commission report and plans may be viewed at: http://tinyurl.com/swlrt-mtka-nr.

While noting that the SWLRT line will impact natural resources within Minnetonka, staff recommended approval of the various requests. As with any major infrastructure project, impact to natural resources must be weighed against the public good provided. Regional and local policy makers have determined that the SWLRT line will ultimately provide the regional population with a transportation alternative and, as such, contribute toward the greater public good. Further, the project and its alignment have been approved at national, regional, and local levels.

At its meeting, the planning commission opened a public hearing to take public comment; no comments were received. A commissioner asked if there were state regulations requiring tree replacement similar to regulations requiring wetland replacement. Staff indicated that, while there are national and statewide regulations regarding wetland impact, there are no such regulations regarding trees.

**Planning Commission Recommendation**

On a 6-0 vote, the commission recommended that the city council approve the various requests. Meeting minutes may be found on page A50.
Since Planning Commission Hearing

There have been no changes to the MetroTransit request or other information received since the planning commission hearing.

Staff Recommendation

Staff recommends the city council:

1) Introduce the ordinance removing area from the wetland overlay zoning district. The ordinance will be brought back to the council on September 12, 2016 for its adoption. (See page A1–A6.)

Staff recommends the city council adopt the following:

1) A resolution approving a wetland and floodplain alteration permit. (See page A7–A24.)

2) A resolution approving a wetland replacement plan as regulated by the Wetland Conservation Act for the Southwest Light Rail Transit line. (See page A25–A32.)

3) A resolution approving wetland, wetland buffer, and floodplain variances. (See page A33–A39.)

4) A resolution approving a conditional use permit for impervious trails within wetland buffers. (See page A40–A46.)

5) A resolution approving construction on a steep slope development and tree removal. (See page A47–A49.)

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

Originator: Susan Thomas, AICP, Assistant City Planner
Ordinance No. 2016-

An ordinance removing area from the wetland overlay district to accommodate construction of the Southwest Light Rail Transit line

The City Of Minnetonka Ordains:

Section 1.

1.01 2.99 acres of wetland are hereby removed from the wetland overlay zoning district. This action is based on the following findings:

1. The removal of the area from the overlay district is required to accommodate construction of that part of the Southwest Light Rail Transit (SWLRT) line located within the City of Minnetonka.

2. The removal of the area would not compromise the public health, safety, and welfare.

3. The removal of area would be consistent with the intent of the code and the comprehensive plan.

   a) The SWLRT line will provide a transportation alternative to residents, employees, and visitors to the region and, as such, contribute toward the greater public good.

   b) The area removed from the overlay district will be mitigated through purchase of a compensatory amount and value of wetland banking credits.

Section 2.

2.01 The areas to be removed from the overlay district are depicted on Exhibit A of this resolution.
Section 3.

3.01 This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on September 12, 2016.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: August 22, 2016
Date of adoption: September 12, 2016
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on September 12, 2016.

David E. Maeda, City Clerk

Date:
EXHIBIT A
**Non-WCA Regulated Wetland**

- **DOT-EP-09:**
  - Type 3
  - 1,985 sf (Permanent)
  - 18,289 sf (Permanent Floodplain Storage)
  - 9,885 sf (Temporary)

- **NM-EP-10:**
  - Type 3
  - 6,832 sf (Permanent)
  - 0 sf (Temporary)

- **NM-EP-12:**
  - Type 6
  - 1,879 sf (Permanent)
  - 0 sf (Temporary)

- **NM-EP-11:**
  - Type 3
  - 5,603 sf (Permanent)
  - 0 sf (Temporary)

- **MTA-MTA-03:**
  - Type 1
  - 644 sf (Permanent)
  - 0 sf (Temporary)

- **MTA-MTA-07:**
  - Type 3
  - 2,886 sf (Permanent)
  - 5,595 sf (Temporary)

- **MTA-MTA-08:**
  - Type 3
  - 0 sf (Permanent)
  - 3,145 sf (Temporary)

- **MTA-MTA-02:**
  - Type 3
  - 2,086 sf (Permanent)
  - 5,595 sf (Temporary)

- **MTA-MTA-06:**
  - Type 1
  - 343 sf (Permanent)
  - 0 sf (Temporary)
Resolution No. 2016-
Resolution approving a wetland and floodplain alteration permit
to accommodate construction of the Southwest Light Rail Transit line

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

Section 1. Background.

1.01 To accommodate construction of that part of the Southwest Light Rail Transit (SWLRT) line located within the City of Minnetonka, the following alteration will occur:

- Temporary alteration of 1.24 acres of wetland;
- 1,180 cubic yards of 100-year floodplain fill; and
- 1,582 cubic yards of 100-year floodplain excavation/creation.

1.02 The areas to be altered are depicted on Exhibit A of this resolution.

1.03 On August 4, 2016, the planning commission held a hearing on the proposed alteration. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the permit and wetland replacement plan.

Section 2. General Standards.

2.01 By City Code §300.23 Subd.10(c), alteration of land within a wetland overlay district will only be allowed if the wetland and its buffer are provided in an amount compensatory to that being altered and that, unless otherwise approved by the city council, compensatory wetland area and its buffer is provided within the same subwatershed district as the wetland being altered.

2.02 City Code §300.23 Subd.10(d), states that in determining the appropriateness of wetland alteration, the city will consider certain factors
including but not limited to the size of the total watershed district, the magnitude of the area proposed for alteration, the impact on the overall function and value of the wetland and such other factors that provide the maximum feasible protection to wetlands. These factors are incorporated by reference into this resolution.

2.03 City Code §300.24 Subd. 9(c), states that in reviewing floodplain alteration permits, the city will consider whether certain general standards are met. These standards are incorporated by reference into this resolution.

2.04 City Code §300.24 Subd. 9(d), states that an alteration permit will not be granted unless certain specific standards are met. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed wetland alteration would meet the intent of City Code §300.23 Subd. 10. Approximately 1.24 acres of wetland will be altered, and per the Minnesota Interagency Water Resource Application dated May 6, 2016, a detailed restoration and monitoring plan for each temporary impact location will be submitted for review and approval of the city prior to construction. This restoration and monitoring plan will ensure that the functions and values of the wetlands will be restored to the pre-project conditions.

3.02 The proposed floodplain alteration would meet the general standards outlined in City Code §300.24 Subd. 9(c):

1. The alteration area would be relatively small given the large floodplain area within the transit corridor.
2. The alteration would not increase buildable area of properties.
3. The alteration would not negatively impact the hydrology of the floodplain, given the small area of fill relative to the larger area.
4. The floodplain mitigation area would not negatively impact adjacent properties.
5. The alteration would meet the intent of the city's water resources management plan and the zoning ordinances.
6. The alteration would not adversely impact governmental facilities, utilities, services or existing or proposed public improvements.
7. The alteration would not have an undue adverse impact on the public health, safety or welfare.

3.03 The proposed floodplain alteration would meet the specific standards outlined in City Code §300.24 Subd. 9(d):

1. Adequate water storage would be maintained and provided in an amount at least equal to that filled.

2. No floodplain would be filled for the purpose of creating buildable area.

3.04 A Technical Evaluation Panel (TEP) has evaluated the proposed wetland alterations and the TEP found the temporary impacts and proposed restoration to be acceptable.

3.05 The Federal Transit Authority has issued a Record of Decision finding that as designed the SWLRT line complies with all relevant federal environmental requirements.

Section 4. City Council Action.

4.01 The above described wetland and floodplain alteration permit is hereby approved based on the findings outlined in section 3 of this resolution.

4.02 Approval is subject to the following conditions:

1. Subject to staff approval, the alteration must occur in substantial conformance with Exhibit A of this resolution and as described in the Minnesota Interagency Water Resource Application dated May 6, 2016.

2. Metro Transit must provide wetland monitoring reports, annually, for a period of five years or until the city accepts the restored wetlands as complying with the functions and values of pre-project conditions.

3. A construction permit is required. The permit will encompass right-of-way work, utility work, grading and erosion control, and physical construction of the rail line and appurtenance. No site work is allowed prior to issuance of this permit.

4. Prior to issuance of a construction permit:

a) The SWLRT project must receive funding approval.
b) Negotiated application fees must be paid.

c) Acceptable ownership information and maintenance and operations agreements for all SWLRT property and infrastructure with Minnetonka must be submitted for staff review.

d) Formal documentation must be submitted to the city which notes that the Minnesota Department of Natural Resources waives its Wetland Conservation Act authority over wetlands MTA-MTA-07, MTA-MTA-08 and MTA-MTA-09.

5. This approval will expire on December 31, 2017 unless a construction permit has been issued or the city has received and approved a request for extension of this approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

_________________________________________
David E. Maeda, City Clerk
NOTES:
1. ALL STREETS IN AND ADJACENT TO THE PROJECT SHALL REMAIN CLEAN AND PASSABLE AT ALL TIMES. ANY SEDIMENT OR DEBRIS SHALL BE REMOVED WITHIN 24 HOURS, OR AS OFTEN AS NEEDED TO ENSURE PUBLIC SAFETY.
2. STABILIZATION OF DISTURBED AREAS SHALL BE DONE BY PERMANENT TURF ESTABLISHMENT WHENEVER POSSIBLE.
3. IN THE EVENT THAT PERMANENT STABILIZATION CANNOT BE IMPLEMENTED WITHIN 7 DAYS AFTER CONSTRUCTION ACTIVITY IN THE DISTURBED AREA HAS CEASED, TEMPORARY STABILIZATION BMP'S MUST BE SCHEDULED TO OCCUR WITHIN THAT 7 DAY TIME FRAME.
4. PERIMETER CONTROL MUST BE IN PLACE AND APPROVED BY THE ENGINEER.
5. FLOATING Silt CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE.
6. THE CONTRACTOR MUST PROVIDE A REDUNDANT SEDIMENT CONTROL BMP WHEN WORK IS WITHIN 50 FT OF A SURFACE WATER/WETLAND.

SOUTHWEST LIGHT RAIL
WETLAND IMPACTS
MTA-MTA-03 AND MTA-MTA-04
SHEET 16 OF 26

REV: 4
DATE: 01/22/2016
ID #: 23

DRAFT WORK IN PROCESS

A13

NR Items
Non-WCA Regulated Basin (Incidental)
NOTES:
1. ALL STREETS IN AND ADJACENT TO THE PROJECT SHALL REMAIN CLEAN AND PASSABLE AT ALL TIMES. ANY SEDIMENT OR DESIBRS SHALL BE REMOVED WITHIN 24 HOURS, OR AS OFTEN AS NEEDED TO ENSURE PUBLIC SAFETY.
2. STABILIZATION OF DISTURBED AREAS SHALL BE DONE BY PERMANENT TURF ESTABLISHMENT WHENEVER POSSIBLE.
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4. PERIMETER CONTROL MUST BE IN PLACE AND APPROVED BY THE ENGINEER.
5. FLOATING Silt CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE.
6. THE CONTRACTOR MUST PROVIDE A REDUNDANT SEDIMENT CONTROL BMP WHEN WORK IS WITHIN 50 FT OF A SURFACE WATER/WETLAND.

LEGEND:
- IMPACTS (PERMANENT)
- IMPACTS (TEMPORARY)
- CONSTRUCTION LIMITS
- DRAINAGE DITCH
- FLOATING Silt FENCE
- Silt FENCE
- FILTER LOG
- DELINEATED WETLAND
- TURF REINFORCEMENT MAT
- RPRAP

RESTORATION:
1. RESTORE TO EXISTING CONDITIONS
   - USE SEED MIX 34-191 B 6 LBS/ACRE
2. PLACE EROSION CONTROL BLANKET ON EXPOSED SLOPES
   - ADJACENT TO ALL WETLAND AREAS

DRAFT-WORK IN PROCESS

SOUTHWEST LIGHT RAIL
WETLAND IMPACT
MTA-MTA-06
SHEET 18 OF 26

REV: 4
DATE: 01/22/2016
ID #: 25

A15

SWLRT
NR Items
NOTES:
1. ALL STREETS IN AND ADJACENT TO THE PROJECT SHALL REMAIN CLEAN AND PASSABLE AT ALL TIMES. ANY SEDIMENT OR DEBRIS SHALL BE REMOVED WITHIN 24 HOURS, OR AS OFTEN AS NECESSARY TO ENSURE PUBLIC SAFETY.
2. STABILIZATION OF DISTURBED AREAS SHALL BE DONE BY PERMANENT TURF ESTABLISHMENT WHENEVER POSSIBLE.
3. IN THE EVENT THAT PERMANENT STABILIZATION CANNOT BE IMPLEMENTED WITHIN 7 DAYS AFTER CONSTRUCTION ACTIVITY IN THE DISTURBED AREA HAS CEASED, TEMPORARY STABILIZATION BMP'S MUST BE SCHEDULED TO OCCUR WITHIN THAT 7 DAY TIMEFRAME.
4. PERIMETER CONTROL MUST BE IN PLACE AND APPROVED BY THE ENGINEER.
5. FLOATING SILT CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE.
6. THE CONTRACTOR MUST PROVIDE A REDUNDANT SEDIMENT CONTROL BMP WHEN WORK IS WITHIN 50 FT OF A SURFACE WATER/WETLAND.

WETLAND IMPACTS:
- 63 SF (PERMANENT)
- 475 SF (TEMPORARY)

LEGEND:
- IMPACTS (PERMANENT)
- IMPACTS (TEMPORARY)
- CONSTRUCTION LIMITS
- RETAINING WALL
- FLOATING SILT FENCE
- SILT FENCE
- FILTER LOG
- DELINEATED WETLAND
- TURF REINFORCEMENT MAT
- RPRAP

RESTORATION:
1. RESTORE TO EXISTING CONDITIONS
2. USE SEED MIX 34-191 0.1 LB/ACRE
3. PLACE EROSION CONTROL BLANKET ON EXPOSED SLOPES ADJACENT TO ALL WETLAND AREAS

SOUTHWEST LIGHT RAIL
WETLAND IMPACT
MTA-MTA-09
SHEET 19 OF 26

REV: 4
DATE: 01/22/2016
ID #: 26
1. All streets in and adjacent to the project shall remain clean and passable at all times. Any sediment or debris shall be removed within 24 hours, or as often as needed to ensure public safety.

2. Stabilization of disturbed areas shall be done by permanent turf establishment whenever possible.

3. In the event that permanent stabilization cannot be implemented within 7 days after construction activity in the disturbed area has ceased, temporary stabilization BMPs must be scheduled to occur within that 7 day time frame.

4. Perimeter control must be in place and approved by the engineer.

5. Floating Silt Curtain shall be installed as close to the shoreline as possible.

6. The contractor must provide a redundant sediment control BMP when work is within 50 ft. of a surface water/wetland.
EFFECTS SITE IMPACTS:
16,433 SF (PERMANENT)
3,095 SF (TEMPORARY)

LEGEND:
- IMPACTS (PERMANENT)
- IMPACTS (TEMPORARY)
- CONSTRUCTION LIMITS
- RETAINING WALL
- FLOATING SILT FENCE
- SILT FENCE
- FILTER LOG
- DELINEATED WETLAND
- TURF REINFORCEMENT MAT
- RPRAP

RESTORATION:
1. RESTORE TO EXISTING CONDITIONS
2. USE SEED MIX X-191 (8 LB/ACRE)
3. PLACE EROSION CONTROL BLANKET ON EXPOSED SLOPES
4. ADJACENT TO ALL WETLAND AREAS

NOTES:
1. ALL STREETS IN AND ADJACENT TO THE PROJECT SHALL REMAIN CLEAN AND PASSABLE AT ALL TIMES. ANY SEDIMENT OR
   DEBRIS SHALL BE REMOVED WITHIN 24 HOURS, OR AS OFTEN AS NEEDED TO ENSURE PUBLIC SAFETY.
2. STABILIZATION OF DISTURBED AREAS SHALL BE DONE BY PERMANENT TURF ESTABLISHMENT WHENEVER POSSIBLE.
3. IF THE EVENT THAT PERMANENT STABILIZATION CANNOT BE IMPLEMENTED WITHIN 7 DAYS AFTER CONSTRUCTION
   ACTIVITY IN THE DISTURBED AREA HAS CEASED, TEMPORARY STABILIZATION BMPS MUST BE SCHEDULED TO OCCUR WITHIN
   THAT 7 DAY TIME FRAME.
4. PERIMETER CONTROL MUST BE IN PLACE AND APPROVED BY THE ENGINEER.
5. FLOATING SILT CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE.
6. THE CONTRACTOR MUST PROVIDE A REDUNDANT SEDIMENT CONTROL BMP WHEN WORK IS WITHIN 65 FT OF A SURFACE
   WATERWETLAND.

SOUTHWEST LIGHT RAIL
WETLAND IMPACT
NM-HOP-13
SHEET 22 OF 26

REV: 4
DATE: 01/22/2016
ID #: 30

DRAFT-WORK IN PROCESS
NOTES:
1. ALL STREETS IN AND ADJACENT TO THE PROJECT SHALL REMAIN CLEAN AND PASSABLE AT ALL TIMES. ANY SEDIMENT OR DEBRIS SHALL BE REMOVED WITHIN 24 HOURS, OR AS OFTEN AS NEEDED TO ENSURE PUBLIC SAFETY.
2. STABILIZATION OF DISTURBED AREAS SHALL BE DONE BY PERMANENT TURF ESTABLISHMENT WHENEVER POSSIBLE.
3. IN THE EVENT THAT PERMANENT STABILIZATION CANNOT BE IMPLEMENTED WITHIN 7 DAYS AFTER CONSTRUCTION ACTIVITY IN THE DISTURBED AREA HAS CEASED, TEMPORARY STABILIZATION BMPS MUST BE SCHEDULED TO OCCUR WITHIN THAT 7 DAY TIME FRAME.
4. PERIMETER CONTROL MUST BE IN PLACE AND APPROVED BY THE ENGINEER.
5. FLOATING SLT CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE.
6. THE CONTRACTOR MUST PROVIDE A REDUNDANT SEDIMENT CONTROL BMP WHEN WORK IS WITHIN 50 FT OF A SURFACE WATER/WETLAND.

WETLAND IMPACTS:
141 SF (PERMANENT)
13.2MPFS (TEMPORARY)

LEGEND:
IMPACTS (PERMANENT)
IMPACTS (TEMPORARY)
CONSTRUCTION LIMITS
SEEDING WALL
FLOATING SLT FENCE
SILT FENCE
FILTER LOG
Delineated Wetland
Turf Reinforcement Mat
RPRAP

RESTORATION:
1. RESTORE TO EXISTING CONDITIONS
2. PLACE EROSION CONTROL BLANKET ON EXPOSED SLOPES ADJACENT TO ALL WETLAND AREAS

SOUTHWEST LIGHT RAIL
WETLAND IMPACT
MTA-MTA-12
SHEET 23 OF 26

REV: 4   DATE: 01/22/2016   ID #: 29

A20
SWLRT
NR Items
SWLRT
NR Items
Resolution No. 2016-
Resolution approving a wetland replacement plan as regulated by the Wetland Conservation Act for the Southwest Light Rail Transit Line

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 To accommodate construction of that part of the Southwest Light Rail Transit (SWLRT) line located within the City of Minnetonka, 2.99 acres, or 130,076 square feet, of permanent wetland fill will occur in seven different wetland basins. These areas are generally illustrated on EXHIBIT A of this resolution.

1.02 On July 15, 2016, the Federal Transit Administration issued a formal “record of decision” that indicates that SWLRT line, as designed, complies with all relevant federal environmental requirements.

1.03 On August 4, 2016, the planning commission held a hearing on the proposed rail line construction. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve various applications and request to allow for construction of the line.

1.04 On August 22, 2016, the city council reviewed the wetland replacement plan for the Southwest Light Rail Transit line.

Section 2. General Standards.

2.01 By City Code §300.23, the purpose of the wetland ordinance is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's wetlands to the maximum extent possible while allowing a reasonable use of property.

2.02 By City Code §300.23 Subd.9(a), wetland rezoning, or wetland fill and
mitigation, must be consistent with the purpose of city code, the city's water resources management plan and the goals and policies of the comprehensive plan. In determining the appropriateness of a rezoning request, the city council will consider the size of the wetland overlay district, the magnitude of the area proposed for removal, the overall impact on the function and value of the wetland, the hydrological and ecological effects and the type and function of wetlands involved in order to provide the maximum feasible protection.

2.03 By City Code §300.23 Subd.9(b), wetlands within an overlay district may only be removed according to Wetland Conservation Act (WCA) rules and only if at least an equal area of new wetland is created to compensate for the wetland being filled. Unless otherwise approved by the city council, compensatory wetland area must be provided within the same subwatershed district as the wetland being altered, it must be located outside of any public easement and it must not result in the loss of regulated trees.

2.04 WCA requires the city to consider the overall wetland impact and the loss of function and value to determine if the wetland replacement plan meets its standards.

Section 3. Findings.

3.01 The Federal Transit Authority has issued a Record of Decision finding that as designed the SWLRT line complies with all relevant federal environmental requirements.

3.02 The city participated in monthly Technical Evaluation Panel (TEP) meetings beginning on July 2, 2013 to consider the wetland impacts of construction of the transit line and to review areas for possible wetland replacement. Staff of the Southwest Light Rail Project office considered over 500 potential mitigation sites within the city, county, and watershed district. Due to numerous issues relating to these sites, the TEP accepted that the purchase of wetland bank credits was the most satisfactory way to acquire and achieve the function and values of the wetlands to be lost while at the same time meeting WCA standards. The TEP recommended the approval of the wetland replacement plan using the purchase of wetland banking credits.

3.02 The wetland replacement plan outlines mitigation through the purchase of 5.97 acres or 260,152 square feet or wetland bank credits within major watershed 33/ Bank Service Area 9, Scott County. This plan would meet the intent of City Code §300.23 Subd.9.

Section 4. City Council Action.
4.01 The above-described wetland replacement plan is approved. Approval of the wetland replacement plan is subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
   - Southwest Light Rail Transit Line package submittal for the City of Minnetonka dated May 6, 2016.

2. A construction permit is required. The permit will encompass right-of-way work, utility work, grading and erosion control, and physical construction of the rail line and appurtenance. No site work is allow prior to issuance of this permit.

3. Prior to issuance of a construction permit:
   a) The SWLRT project must receive funding approval.
   b) Negotiated application fees must be paid.
   c) Acceptable ownership information and maintenance and operations agreements for all SWLRT property and infrastructure with Minnetonka must be submitted for staff review.
   d) The Metropolitan Council must submit a copy of the wetland bank purchase agreement. The agreement must indicate the mutually agreed upon closing date for the credit purchase. The purchase agreement will confirm the final quantity of wetland credits. This must be provided to the TEP prior to construction.
   e) The Board of Water and Soil Resources approved wetland bank withdrawal form must be submitted to the city.
   f) Formal documentation must be submitted to the city which notes that the Minnesota Department of Natural Resources waives its Wetland Conservation Act authority over wetlands MTA-MTA-07, MTA-MTA-08 and MTA-MTA-09.
4. Permits may be required from outside agencies including the Nine Mile Creek Watershed District and the Army Corps of Engineers. It is the Metropolitan Council’s responsibility to obtain any necessary permits prior to the start of work.


6. All regulations and minimum standards as outlined in the Wetland Conservation Act must be followed.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

__________________________
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: Wagner  
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 August 22, 2016.

__________________________
David E. Maeda, City Clerk
SOUTHWEST LRT

WCA Regulated Aquatic Resource Impacts
MapBook

DOT-EP-09
Type 3
1,985 sf (Permanent)
18,289 sf (Permanent Floodplain Storage)
9,885 sf (Temporary)

**Non-WCA Regulated Wetland**

NM-EP-10
Type 3
1,878 sf (Permanent)
0 sf (Temporary)

NM-EP-12
Type 6
5,603 sf (Permanent)
0 sf (Temporary)

NM-EP-11
Type 3
6,832 sf (Permanent)
0 sf (Temporary)

NM-EP-12
Type 6
1,985 sf (Permanent)
0 sf (Temporary)

NM-EP-13
Type 3
9,885 sf (Temporary)

NM-EP-14
Type 3
0 sf (Permanent)
0 sf (Temporary)

MTA-MTA-01
Type 1
644 sf (Permanent)
0 sf (Temporary)

MTA-MTA-02
Type 1
0 sf (Permanent)
0 sf (Temporary)

MTA-MTA-03
Type 1
644 sf (Permanent)
0 sf (Temporary)

MTA-MTA-04
Type 1
2,086 sf (Permanent)
0 sf (Temporary)

MTA-MTA-05
Type 1
2,086 sf (Permanent)
0 sf (Temporary)

MTA-MTA-06
Type 3
343 sf (Permanent)
0 sf (Temporary)

MTA-MTA-07
Type 3
5,595 sf (Temporary)
0 sf (Temporary)

MTA-MTA-08
Type 3
3,145 sf (Temporary)
0 sf (Temporary)

MTA-MTA-09
Type 3
0 sf (Permanent)
0 sf (Temporary)

**Non-WCA Regulated Wetland**

= Areas of Fill

DRAFT - WORK IN PROCESS
SEE INDEX FOR LEGEND

A30

SOUTHWEST LRT

LPA- 4
Rev 00.00
4/6/2016
Sheet 4 of 15

SWLRT
NR Items
NM-HOP-13
Type 1/3/5/6
Shady Oak Lake
Impacts:
9 sf (Permanent)
20,538 sf (Temporary)

NM-HOP-15
Type 1/3/5/6
Minnetonka I
mpacts:
116 sf (Permanent)
23,066 sf (Temporary)

NM-HOP-14
Type 1/3/5/6
CWD
Impacts:
9 sf (Permanent)
20,538 sf (Temporary)

**Non-WCA Regulated Channel**

NM-HOP-16
Type 90
0 sf (Permanent)
0 sf (Temporary)

**Areas of Fill**
Resolution No. 2016-

Resolution approving wetland, wetland buffer, and floodplain variances to accommodate construction of the Southwest Light Rail Transit line

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

Section 1. Background.

1.01 To accommodate construction of that part of the Southwest Light Rail Transit (SWLRT) line located within the City of Minnetonka, the following variances are required:

<table>
<thead>
<tr>
<th>Item Requiring a Variance</th>
<th>Required</th>
<th>Proposed**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rail Line</td>
<td>25 foot setback</td>
<td>1 foot</td>
</tr>
<tr>
<td>Bridge Abutments</td>
<td>35 foot setback</td>
<td>1 foot</td>
</tr>
<tr>
<td>Transit Power Substation</td>
<td>35 foot setback</td>
<td>15 feet</td>
</tr>
<tr>
<td>Trails</td>
<td>25 foot setback</td>
<td>2 feet</td>
</tr>
<tr>
<td>Wetland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rail Line</td>
<td>25 foot buffer</td>
<td>5 feet</td>
</tr>
<tr>
<td>Bridge Abutments</td>
<td>25 foot buffer</td>
<td>1 foot</td>
</tr>
<tr>
<td>Transit Power Substation</td>
<td>25 foot buffer</td>
<td>15 feet</td>
</tr>
<tr>
<td>Trails</td>
<td>25 foot buffer</td>
<td>11 feet</td>
</tr>
<tr>
<td>Wetland Buffer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rail Line</td>
<td>10 foot horizontal setback</td>
<td>0 feet</td>
</tr>
<tr>
<td>Bridge Abutments</td>
<td>10 foot setback</td>
<td>0 feet</td>
</tr>
</tbody>
</table>

** Varies within the corridor. Proposed numbers are minimums

1.02 The areas requiring variances are generally illustrated on EXHIBIT A of this resolution.
1.03 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the city to grant variances.

1.03 On August 4, 2016, the planning commission held a hearing on the proposal. 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 variances.

Section 2. Standards.

2.01 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings

3.01 The variances associated with construction of the SWLRT line would meet the variance standard as outlined in City Code §300.07 Subd. 1:

1. Purpose and Intent of the Ordinance. The intent of wetland, wetland buffer, and floodplain standards is to recognize, preserve and protect the city’s water resources to the maximum extent possible while allowing reasonable use of property. The proposed variances meet this intent. The area of variances would be relatively small given the large areas of water resources within the transit corridor and the variances would not negatively impact the hydrology of the resources.

2. Consistency with the Comprehensive Plan. One of the primary transportation goals of the comprehensive plans to provide and promote convenient and accessible transportation systems to residents and employees of Minnetonka business. The proposed variances are consistent with this goal, as they would allow for construction of a regional transit line.

3. Practical Difficulties: There are practical difficulties in complying with the ordinance:
a) Reasonableness and Unique Circumstances: The proposed variances are required to accommodate a regional transit line. Given the amount and location of wetlands and floodplain areas in Minnetonka, it is unlikely that a transit line could be constructed that both meets the community’s locational preferences and all wetland and floodplain standards. Given this unique circumstance, the requested variances are reasonable.

b) Character of Locality: While construction and operation of the SWLRT line will have some impact on areas surrounding the transit corridor, the requested variances themselves will not.

Section 4. City Council Action.

4.01 The above-described variances are hereby approved, subject to the following conditions:

1. A construction permit is required. The permit will encompass right-of-way work, utility work, grading and erosion control, and physical construction of the rail line and appurtenance. No site work is allowed prior to issuance of this permit.

2. Prior to issuance of a construction permit:
   a) The SWLRT project must receive funding approval.
   b) Negotiated application fees must be paid.
   c) Acceptable ownership information and maintenance and operations agreements for all SWLRT property and infrastructure with Minnetonka must be submitted for staff review.

3. This approval will expire on December 31, 2017 unless a construction permit has been issued or the city has received and approved a request for extension of this approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

______________________________
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 August 22, 2016.

_________________________________
David E. Maeda, City Clerk
**Non-WCA Regulated Wetland**

DOT-EP-09
Type 3
1,985 sf (Permanent)
18,289 sf (Permanent Floodplain Storage)
9,885 sf (Temporary)

NM-EP-10
Type 3
5,603 sf (Permanent)
0 sf (Temporary)

NM-EP-12
Type 6
1,878 sf (Permanent)
0 sf (Temporary)

MTA-MTA-02
Type 1
644 sf (Permanent)
0 sf (Temporary)

MTA-MTA-03
Type 1
644 sf (Permanent)
0 sf (Temporary)

MTA-MTA-04
Type 1
6,832 sf (Permanent)
0 sf (Temporary)

MTA-MTA-05
Type 2
343 sf (Permanent)
0 sf (Temporary)

MTA-MTA-06
Type 3
2,086 sf (Permanent)
5,595 sf (Temporary)

MTA-MTA-07
Type 3
2,086 sf (Permanent)
5,595 sf (Temporary)

MTA-MTA-08
Type 3
0 sf (Permanent)
3,145 sf (Temporary)

= General Area of Variances

SOUTHWEST LRT
WCA Regulated Aquatic Resource Impacts
MapBook

LPA- 4
Rev 00.00
4/6/2016
Sheet 4 of 15

SWLRT
NR Items
**Non-WCA Regulated Channel**

- **NM-HOP-16**
  - Type 90
  - 0 sf (Permanent)
  - 0 sf (Temporary)

**WCA Regulated Aquatic Resource Impacts**

- **NM-HOP-13**
  - Type 1/3/5/6
  - 116 sf (Permanent)
  - 20,538 sf (Temporary)

- **NM-HOP-15**
  - Type 1/3/5/6
  - 23,066 sf (Permanent)
  - 20,538 sf (Temporary)

- **NM-HOP-14**
  - Type 1/3/5/6
  - 9 sf (Permanent)
  - 0 sf (Temporary)

**MapBook**

SOUTHWEST LRT

- General Area of Variances

- Scale

LPA-6
Rev 00.00
4/6/2016
Sheet 6 of 15

A39

SWLRT
NR Items
Resolution No. 2016-
Resolution approving a conditional use permit for impervious trails within wetland buffers in and around the Southwest Light Rail Transit line

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

Section 1. BACKGROUND.

1.01 To accommodate construction of that portion of the Southwest Light Rail Transit (SWLRT) line located within the City of Minnetonka, several impervious trails would be relocated. Small sections of some of these relocated trails would be situated within wetland buffer areas. These areas are generally illustrated on EXHIBIT A of this resolution.

1.02 By City Code §300.23 Subd.7, impervious trails are allowed in wetland buffers only by conditional use permit.

1.03 On August 4, 2016, the planning commission held a hearing on the application. The commission considered all of the comments 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 §300.26 Subd.2 and Subd.3 outline general and specific standards that must be met for granting of conditional permits within the wetland overlay district. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed trails would meet all minimum conditional use permit standards outlined in City Code §300.26.

1. The impervious trails would:
a) Be consistent with the goals, policies and objectives of the comprehensive plan and city ordinances. The uses would allow for public enjoyment of the city’s natural resources.

b) Have a low flood damage potential and only minimal interference with wetland buffer vegetation.

2. The proposed trails would not:

a) Have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

b) Be inconsistent with the city’s water resources management plan.

c) Have an undue adverse impact on the public health, safety or welfare.

d) Adversely impact the water quality of bodies receiving runoff entering wetlands, floodplain or shoreland areas.

e) Adversely affect the minimum required water storage capacity as defined in the water resources management plan.

f) Be designed for human habitation or be serviced with public utilities.

g) Include any electrical or heating equipment or the storage of materials which are flammable, explosive or otherwise dangerous to human, animal or plant life;

Section 4. City Council Action.

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

1. A construction permit is required. The permit will encompass right-of-way work, utility work, grading and erosion control, and physical construction of the rail line and appurtenance. No site work is allowed prior to issuance of this permit.

2. Prior to issuance of a construction permit:
a) The SWLRT project must receive funding approval.
b) Negotiated application fees must be paid.
c) Acceptable ownership information and maintenance and operations agreements for all SWLRT property and infrastructure with Minnetonka must be submitted for staff review.

3. This approval will expire on December 31, 2017 unless a construction permit has been issued or the city has received and approved a request for extension of this approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

David E. Maeda, City Clerk
SEAL
Resolution No. 2016-

Resolution approving construction on a steep slope and tree removal required to accommodate construction of the Southwest Light Rail Transit Line

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

Section 1. Background.

1.01 Roughly two miles of the Southwest Light Rail Transit (SWLRT) line will be located within the City of Minnetonka.

1.02 Portions of the line will be constructed within steep slopes, as defined by city code, and will result in removal of trees located within woodland preservation areas, as well as high priority and significant trees.

Section 2. Standards.

2.01 By City Code §300.28 Subd.20(b)(3), the city will approve construction/development within a steep slope only if certain standards are met. Those standards are incorporated by reference into this resolution.

2.02 By City Code §300.28 Subd.19(e)(5), the city council may approve the removal of trees located within woodland preservation areas and high priority and significant trees if it determines there is a greater public good.

Section 3. Findings

3.01 Construction of the SWLRT line would meet the standards as outlined in City Code §300.28 Subd.20(b)(3):

1. The transit line has been appropriately designed and sited with reference to steep slopes.

2. Construction of the transit line would not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate
drainage control, or other problems.

3. Adequate measures to protect public safety would be employed during construction of the transit line.

3.02 While valuing trees as an important natural resource and component of the community, the city recognizes that trees must be removed to accommodate construction of the SWLRT line. The line will promote the public good by providing a transportation alternative to residents, employees, and visitors to the region.

Section 4. City Council Action.

4.01 Construction within steep slopes is hereby approved based on the findings outlined in section 3 of this resolution.

4.02 Removal of trees within woodland preservation areas and high priority and significant trees is hereby approved based on the findings outlined in section 3 of this resolution.

4.03 These approvals are subject to the following conditions:

1. A construction permit is required. The permit will encompass right-of-way work, utility work, grading and erosion control, and physical construction of the rail line and appurtenance. No site work is allowed prior to issuance of this permit.

2. Prior to issuance of a construction permit:
   a) The SWLRT project must receive funding approval.
   b) Negotiated application fees must be paid.
   c) Acceptable ownership information and maintenance and operations agreements for all SWLRT property and infrastructure within Minnetonka must be submitted for staff review.

3. This approval will expire on December 31, 2017 unless a construction permit has been issued or the city has received and approved a request for extension of this approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.
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 August 22, 2016.

___________________________________________________________________________

David E. Maeda, City Clerk
D. Items concerning construction of that portion of the SWLRT line located in the city of Minnetonka.

Acting Chair Odland introduced the proposal and called for the staff report.

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

Calvert asked if mitigation could be done. Colleran responded in the negative. There is nowhere in Minnetonka to recreate 2.99 acres of wetland, so wetland banking credits would be purchased. Unlike wetland rules, there is no state tree removal law. There would be no room to replant the trees that would be lost. Colleran explained the difference between permanent and temporary fill.

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

Powers moved, second by Calvert, to recommend that the city council adopt the following for construction of that part of the SWLRT project located within the city of Minnetonka:

1. An ordinance removing area from the wetland overlay zoning district (see pages A97–A101 of the staff report).

2. A resolution approving a wetland and floodplain alteration permit (see pages A102–A117 of the staff report).

3. A resolution approving wetland, wetland buffer, and floodplain variances (see pages A118–A121).

4. A resolution approving a conditional use permit for impervious trails within wetland buffers (see pages A122–A124 of the staff report).

5. A resolution approving construction on a steep slope development and tree removal (see pages A125–A127 of the staff report).

Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried.
Brief Description
Ordinance regarding Temporary Family Health Care Dwellings

Recommendation
Adopt the ordinance “opting-out” of the state regulation

Background

In June 2016, the state passed a law pertaining to Temporary Family Health Care Dwellings. The intent of the law is to provide a short term, temporary housing option for people with a mental or physical impairment. Under the law:

1. A temporary family health care dwelling unit may be located on a property where a person’s “relative” or “caregiver” – as defined by state statute – resides.

2. A temporary family health care dwelling unit is one that:
   - Is no greater than 300 square feet in size;
   - Is not attached to a permanent foundation;
   - Meets minimum construction and accessibility standards; and
   - Has access to water and other utilities.

3. Temporary family health care dwelling units are considered permitted uses and may be occupied for up to six months, with a one-time six month renewal option.

4. Permits for temporary family health care dwelling units must be approved or denied within 15 days of application submittal if reviewed administratively or 30 days of application submittal if reviewed by the city council. The law specifically prohibits extension of this timeline.

5. Cities may “opt out” of the requirements of the law.

6. By September 1, 2016, cities must either: (1) adopt an ordinance “opting-out” of the law; or (2) be ready to accept and approve permits for temporary family health care dwelling units.

Proposed Ordinance

The City of Minnetonka has historically supported the provision of a variety of housing types, serving a variety of people, at a variety of income levels and stages of life.
Advocacy for housing options can be found throughout the city’s comprehensive guide plan, zoning ordinance, and past approvals. In staff’s opinion, temporary dwelling units would expand the city’s housing options. However, staff finds that the recently adopted state law would not adequately reflect Minnetonka’s community values or expectations. The law would not necessarily increase housing options already available. Staff recommends the city adopt an ordinance “opting-out” of the specific state law and explore other options for temporary and/or accessory dwelling unit, including:

- **#1: Existing Ordinance Standards.**
  
  Under the reasonable accommodation provisions of existing city ordinance, the community development director – in consultation with the city attorney – may approve temporary family health care dwelling units. This essentially “status quo” option would allow any individual with a mental or physical impairment to occupy a temporary dwelling unit following administrative review and approval.

- **#2: Temporary Accessory Dwelling Units.**
  
  Temporary accessory dwellings, such as “tiny houses” or “drop houses” that are not on a permanent foundation, could be approved as interim uses. In concept, a temporary accessory dwelling unit could be occupied by any person regardless of mental or physical ability or impairment. As do other interim uses, a temporary accessory dwelling unit would be subject to a variety of standards. While such standards have not been drafted, staff anticipates they would include reference to lot size, dwelling unit size, setbacks, and construction type. This option would require an amendment to the existing ordinance. Staff anticipates it could present such amendment by the end of the year.

- **#3: Permanent Accessory Dwelling Units.**

  Under the existing zoning ordinance, accessory apartments that are located within a single-family home are allowed by conditional use permit. A permanent accessory dwelling unit can be occupied by any person regardless of mental or physical ability or impairment. The existing ordinance could be amended to allow permanent accessory dwelling units – such as “tiny houses” on permanent foundation – to be located on the same lot, but separate from, a single-family home. As do other conditional uses, a permanent accessory dwelling unit would be subject to a variety of standards. While such standards have not been drafted, staff anticipates they would include reference to lot size, dwelling unit size, height, design, and setbacks. This option would require an amendment to the existing ordinance. Staff anticipates it could present such amendment by the end of the year.
Planning Commission Hearing and Recommendation

The planning commission considered the ordinance on August 4, 2016. A public hearing was opened on the subject; no comments were received. The commission had no comments or questions. On a 6-0 vote, the commission recommended the city council adopt the ordinance. (See page A3.)

Staff Recommendation

Adopt the ordinance “opting-out” of the state regulation. (See page A1–A2.)

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

Originated by:
  Susan Thomas, AICP, Assistant City Planner
Ordinance No. 2016-

An ordinance opting-out of the requirements of Minnesota Statutes, Section 462.3593

The City Of Minnetonka Ordains:

Section 1. On May 12, 2016, legislation signed into law the creation and regulation of temporary family health care dwellings, codified at Minnesota Statutes §462.3593, which permit and regulate temporary family health care dwellings.

Section 2. Minnesota Statute §462.3593 Subd.9 allows cities to opt-out of the regulations.

Section 3. Pursuant to the authority granted by Minnesota Statutes §462.3593, the City of Minnetonka opts-out of the requirements of Minnesota Statutes §462.3593 for the following reasons:

1. By Minnetonka City Code §215.020, the community development director, in consultation with the city attorney, has the authority to consider and act on requests for reasonable accommodation, including the use of temporary family health care dwellings. As such, the statute does not necessarily increase housing options already available in the community.

2. State Statute §462.3593 does not adequately reflect community values and expectations. The city will evaluate other options for temporary or accessory dwelling units that are consistent with the community goal of providing of a variety of housing types, serving a variety of people, at a variety of income levels and stages of life.

Section 4. This ordinance is effective immediately.
Adopted by the city council of the City of Minnetonka, Minnesota, on August 22, 2016.

Terry Schneider, Mayor
Attest:

David E. Maeda, City Clerk

**Action on this ordinance:**

Date of introduction: July 25, 2016
Date of adoption: August 22, 2016
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on August 22, 2016.

David E. Maeda, City Clerk
E. Ordinance regarding Temporary Family Health Care Dwellings.

Acting Chair Odland introduced the proposal and called for the staff report.

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

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

_Hanson moved, second by Powers, to recommend that the city council adopt the ordinance opting out of the requirements of Minnesota Statutes, Section 462.3593 (see pages A1-A2)._  

_Powers, Calvert, Hanson, Knight, O’Connell, and Odland voted yes. Kirk was absent. Motion carried._
City Council Agenda Item #14C
Meeting of August 22, 2016

**Brief Description**

Concept Plan for Crest Ridge Senior Living at 10955 Wayzata Boulevard

**Action Requested**

Discuss the concept plan with the applicant. No formal action is required.

**Background**

The Opus Group has submitted a concept plan to develop the existing vacant property at 10955 Wayzata Boulevard. The 7-acre site is currently designated for office use in the 2030 Comprehensive Guide Plan. This designation reflects the existing master development plan which covers the subject property and the Syngenta site to the west.

The submitted plan contemplates construction of a four-story, senior rental building. The building would contain approximately 145 units; 75 independent units, 50 assisted living units, and 20 memory care units. The building would be served by both a surface parking lot and underground parking. (See pages A1–A19.)

**Review Process**

Staff has outlined the following review process for the proposal. At this time, a formal application has not been submitted.

- **Neighborhood Meeting.** The applicant held a neighborhood meeting on August 2, 2016. The meeting was attended by roughly 16 area property owners. While generally supportive, owners raised questions and concerns about: height of the building, noise related to generators, buffering and separation between the building and existing residential areas, and parking lot landscaping.

- **Planning Commission Concept Plan Review.** The planning commission conducted a review of the concept plan on August 4, 2016. Three members of the public addressed the commission. One resident expressed concern about traffic, construction times, and tree loss. Two residents indicated strong support for the concept, but requested additional evergreen planting along the site’s east property line. Commissioners also expressed general support for the concept. They suggested that the formal application give special consideration to building material colors, landscaping, and incorporation of some affordable housing. (See pages A20–A22.)

- **City Council Concept Plan Review.** The city council Concept Plan Review is intended as a follow-up to the planning commission meeting and would follow the same format as the planning commission Concept Plan Review. No staff recommendations are provided, the public is invited to offer comments, and council
members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

**Key Issues**

Construction of the submitted plan would likely require: (1) comprehensive guide plan amendment; (2) an amendment to the existing master development plan; and (3) site and building plan review. City staff has identified the following key issues to be evaluated as part of these applications:

- **Proposed Land Use:** The implications of a land use change from office to high-density residential must be considered.

- **Site Design:** Other considerations of development include grading, tree preservation, utility connections, and driveway access. Engineering and natural resources analysis of these details would be needed.

**Staff Recommendation**

Staff recommends the city council provide comment and feedback 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
- Loren Gordon, AICP, City Planner

Originated by:

- Susan Thomas, AICP, Assistant City Planner
SUPPORTING INFORMATION

Next Steps

- **Formal Application.** If the developer chooses to file a formal application, notification of the application would be mailed to area property owners. Property owners are encouraged to view plans and provide feedback via the city’s website. Through recent website updates: (1) staff can provide residents with ongoing project updates, (2) residents can “follow” projects they are particularly interested in by signing up for automatic notification of project updates; (3) residents may provide project feedback on project; and (4) and staff can review resident comments.

- **Neighborhood Meeting.** Prior to the planning commission meeting and official public hearing, an additional public meeting could be held with neighbors to discuss specific engineering, architectural and other details of the project, and to solicit feedback. This extends the timing that has historically been provided in advance of the planning commission review to allow more public consideration of the project specifics.

- **Council Introduction.** The proposal would be introduced at a city council meeting. At that time, the council would be provided another opportunity to review the issues identified during the initial Concept Plan Review meeting, and to provide direction about any refinements or additional issues they wish to be researched, and for which staff recommendations should be prepared.

- **Planning Commission Review.** The planning commission would hold an official public hearing for the development review and would subsequently recommend action to the city council.

- **City Council Action.** Based on input from the planning commission, professional staff and general public, the city council would take final action.

Roles and Responsibilities

- **Applicants.** Applicants are responsible for providing clear, complete and timely information throughout the review process. They are expected to be accessible to both the city and to the public, and to respect the integrity of the public process.

- **Public.** Neighbors and the general public will be encouraged and enabled to participate in the review process to the extent they are interested. However, effective public participation involves shared responsibilities. While the city has an obligation to provide information and feedback opportunities, interested residents are expected to accept the responsibility to educate themselves about the project.
and review process, to provide constructive, timely and germane feedback, and to stay informed and involved throughout the entire process.

- **Planning Commission.** The planning commission hosts the primary forum for public input and provides clear and definitive recommendations to the city council. To serve in that role, the commission identifies and attempts to resolve development issues and concerns prior to the council’s consideration by carefully balancing the interests of applicants, neighbors, and the general public.

- **City Council.** As the ultimate decision maker, the city council must be in a position to equitably and consistently weigh all input from their staff, the general public, planning commissioners, applicants and other advisors. Accordingly, council members traditionally keep an open mind until all the facts are received. The council ensures that residents have an opportunity to effectively participate in the process.

- **City Staff.** City staff is neither an advocate for the public nor the applicant. Rather, staff provides professional advice and recommendations to all interested parties, including the city council, planning commission, applicant and residents. Staff advocates for its professional position, not a project. Staff recommendations consider neighborhood concerns, but necessarily reflect professional standards, legal requirements and broader community interests.
Location Map

Project: OPUS Senior Housing
Address: 10955 Wayzata Blvd
Project No. 06071.16a

Crane Lake
Lake Windsor

This map is for illustrative purposes only.
Crest Ridge Senior Living
Southeast quadrant of Hopkins Crossroad and I-394, Minnetonka, Minnesota

Project Team:
Owner/Developer
The Opus Group
10350 Bren Road West
Minnetonka, MN 55343
Contact: Matt Rauenhorst
Phone: 952-656-4444
Email: Mathew.Rauenhorst@opus-group.com

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Minnetonka, MN 55343
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Phone: 763-843-0464
email: Ed.Gschneidner@opus-group.com

Design / Consulting Architect
Sperides Reiners Architects, Inc.
4200 West Old Shakopee Road
Bloomington, MN 55437
Contact: Eric A. Reiners, AIA
Phone: 952-996-9662
e-mail: eric@sra-mn.com

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Minnetonka, MN 55343
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e-mail: Ed.Gschneidner@opus-group.com

Design Builder
The Opus Group
10350 Bren Road West
Minnetonka, MN 55343
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Phone: 952-656-4444
Email: Tom.Becker@opus-group.com

Facility Operator
Ebenezer
2722 Park Ave. South
Minneapolis, MN 55407
Contact: Jill Nokelby Kaiser
Phone: 612-874-3460
Email: jkaiser7@fairview.org
PROJECT SITE DATA

Parcel Basics
The existing site is currently an undeveloped lot totaling 306,783 sq. ft., or 7.04 acres, identified as Crest Ridge Corporate Center, Block 1, Lot 1. The property is bounded by Wayzata Boulevard South Frontage Road to the west, multi-family housing to the north, single family housing to the east, and Crest Ridge Corporate Center Phase 1 and storm water pond to the south.

Project Land Use Data
The project site falls under the Planned I-394 District, and covers various underlying districts. The site would be proposed to be re-zoned [R-5 High Density Residential] to accommodate the proposed development.

Under the residential land use for the parcel, together with the I-394 planning district zoning requirements, the site would have a minimum 60% green space requirement and 1.0 FAR. Additionally, setback requirements would be 35 feet from the right-of-way at the front yard, 1-1/2 times the building height at the side and rear yards.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green Space</td>
<td>60.0%</td>
<td>64%</td>
</tr>
<tr>
<td>F.A.R.</td>
<td>1.0 maximum</td>
<td>.65</td>
</tr>
<tr>
<td>Building Setback - Front</td>
<td>35’</td>
<td>162’</td>
</tr>
<tr>
<td>Building Setback - Side</td>
<td>1-1/2 X building ht.</td>
<td>55’</td>
</tr>
<tr>
<td>Building Setback - Rear</td>
<td>1-1/2 X building ht.</td>
<td>70’</td>
</tr>
<tr>
<td>Parking Setback – Front</td>
<td>20’</td>
<td>50’</td>
</tr>
<tr>
<td>Parking Setback – Side</td>
<td>50’</td>
<td>50’</td>
</tr>
<tr>
<td>Building Height</td>
<td>65’</td>
<td>61’</td>
</tr>
</tbody>
</table>

City ordinance requires 1 parking space for each senior living unit, plus parking for visitors and staff. Refer to the matrix below for a parking summary illustrating required and provided parking.

<table>
<thead>
<tr>
<th>Parking</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Housing</td>
<td>1 per unit = 145</td>
<td>108</td>
</tr>
<tr>
<td>Staff</td>
<td>No requirement</td>
<td>10</td>
</tr>
<tr>
<td>Guests &amp; Visitors</td>
<td>As determined by city</td>
<td>28</td>
</tr>
</tbody>
</table>

**TOTAL PARKING**
145 + Staff and Visitors 146

The site will have a total of 51 surface parking spaces for staff, visitors and resident overflow parking. This is configured as a single parking field on the west side of the site spaces directly in front of the main building entrance. The structure will also have 94 underground parking spaces for resident use [64.8% of total parking is inside].
Opportunities for additional surface parking is ongoing in an effort to increase the total site capacity by as many as ten (10) spaces, and minor modifications in hardscape and green space may result. Additionally, site plan modifications in these studies may also result in additional variance requests as the structure would be positioned further east and closer to the easterly property boundary.

Twenty of the units in the building count are located within a memory care wing, and these residents will not contribute to the site’s parking and traffic load. Additionally, only one-third of the assisted living units are anticipated to house residents with vehicles. This further reduces the on-site parking demand by as many as seventeen additional cars, and this margin in parking ratios will be used to satisfy necessary staff and visitor parking needs.

**PROJECT DEVELOPMENT DATA**

**Program**
The site will be developed and finished to accommodate a 145-unit, senior housing structure whose primary focus will be to provide independent living [75 units], assisted living [50 units] and memory care [20 units] to senior citizens together with a full continuum of care allowing the residents to comfortably age in place, while supported by the full range of additional services provided by Ebenezer, the facility operator.

The site will also include a series of amenities for the residents as well. These amenities include patios, gardens, and walking paths. The walking paths will also connect to the existing site circulation as well as the public sidewalk along Wayzata Boulevard.

**Site**
The existing site is currently undeveloped, roughly graded for future development, and contains only volunteer vegetation with the exception of its north and east boundaries which are densely planted. All of the mature trees along the east and north boundaries of the site will be preserved as a part of the final development plan. Under this development plan, however, the site will be re-graded to accommodate the planned building and necessary infrastructure and construction.

As illustrated in the summary matrix below, the green space requirement is met.

<table>
<thead>
<tr>
<th>Developed property area:</th>
<th>306,783 SF</th>
<th>7.04 Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building footprints:</td>
<td>48,208 SF</td>
<td>1.1 Acres</td>
</tr>
<tr>
<td>Total impervious area:</td>
<td>62,480 SF</td>
<td>1.43 Acres</td>
</tr>
<tr>
<td>Total green surface area:</td>
<td>196,095 SF</td>
<td>4.5 Acres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>64.4% of Site</td>
</tr>
</tbody>
</table>

**Building Design**
The main building will be a four-story wood frame structure over a concrete and precast basement. The basement level will house utility, storage and inside parking for the structure.

The facility will welcome residents and visitors through a covered main entrance and into a grand two-story lobby. This first level will also encompass the commercial kitchen and dining rooms, and access to the rest of the development amenities including the primary health care functions, guest suite,
community rooms, activity spaces and chapel. A closed 20-suite memory care wing, and seventeen (17) of the 125 independent and assisted living apartment units will be on the first level.

Levels two, three and four will contain another one hundred and eight (108) resident apartments varying in size from 460 SF studios to 1,400 SF, two-bedroom, two-bath residences. Selected residences are provided with balconies and other unit amenities. Each floor also contains spaces for health care attendants, and common area functions such as storage and laundry (to supplement washer/dryers available in most units).

Exterior building materials will be masonry and pre-finished siding, and the structure will have sloped shingle roofs. Gutters and downspouts will discharge on grade and into catch basins that will flow through storm water treatment areas – on grade and/or below grade – prior to exiting the site.

Refer to attached precedent studies for sample images of projects similar to what is being proposed (images are for reference only and not all images are of projects designed by OPUS or SRA).

**Miscellaneous Building Components**
Mechanical screening as required by city ordinance is very limited as most of the mechanical systems are contained within the structure. Limited screening, where required, will be achieved by roof screens designed to coordinate with the building architecture.

Site trash enclosure is not illustrated in the development plan and will not be used. Interior trash rooms are utilized in the facility plan, dumpsters will be rolled out on collection days, and back inside to trash rooms following pick up.

Site deliveries, move-in/move-out, and building service are all achieved on the west inside corner of the building main level. Trash collection will be completed on the lower level adjacent to the garage access point. This service entry point and its access drive are the most remote from neighboring residents and away from all neighborhood traffic and views.

**Neighborhood Meeting**
An open neighborhood meeting will be held the evening of August 2, 1016 at the Minnetonka Public Library to introduce the project to area residents, summarize the development parameters, review preliminary designs and project images, and answer questions. The development team also wants to be able to address any concerns the neighboring residents had within the content of the final submittal to the City of Minnetonka.

**Traffic Study**
A traffic study update will be completed for the site. The main objectives of this study will be to review existing project parameters within the study area, evaluate the traffic impacts to the adjacent roadway network, and recommend any necessary improvements to accommodate the proposed development. Since residential uses typically generate lower traffic volumes when compared to
commercial properties, especially senior housing projects, it is anticipated that the updated study for this project and location will reinforce this standard.

**FACILITY OPERATIONS**

**Ebenezer- Proposed Operator**
The proposed operator for Crest Ridge Senior Living is Ebenezer, an affiliate of the M-Health/Fairview Health System. This affiliation provides substantial programmatic support and care options for Ebenezer community residents. We expect rapid change in senior care over the next 5 – 10 years as senior housing continues to evolve from a focus on simply housing and hospitality to a more integrated delivery of medical and social care. Ebenezer will provide Crest Ridge Housing with the highest quality care alternatives for our residents.

Ebenezer is the second largest provider of senior living in Minnesota, and had $72.7 million of total operating revenue in 2013. Ebenezer operates 60 communities and manages more than 5,000 units throughout its portfolio in Minnesota. The portfolio includes Independent Living Communities, Assisted Living Communities, Memory Care Communities, Skilled Nursing Facilities, Transitional Care Centers, Adult Day Programs, and Child Care Programs.

For more than 90 years, Ebenezer has helped older adults make their lives more independent, healthful, meaningful and secure by creating opportunities for residents to live vibrantly, and participate in the daily fabric of life.

**Public Benefits of Senior Housing**
The proposed senior community will benefit the public by providing senior housing for the area so that seniors who have spent their lives in Minnetonka and the surrounding communities may remain in the area. Many seniors are attracted by the health benefits of a senior housing community as an attractive alternative to the isolation of living alone and the burden of maintaining a home. The proposed facility will help to meet the current housing needs of seniors in the immediate area while also helping to meet the anticipated needs of unmet demand in the near future as projected by a recent independent market study.

Senior Housing is a great community partner – not only creating a place where people come to volunteer, but also housing people who are interested in contributing back to their surrounding community. Senior Housing residents participate in local churches, volunteer opportunities, and engage in the greater community. Senior Housing, and specifically the programs and activities promoted by Ebenezer, also support local economic development since seniors typically prefer to shop in their familiar community. In addition, Ebenezer brings stable, high quality jobs to the communities in which they operate.

There is also no better neighbor than a senior citizen. They are light on the land, streets and park systems, yet senior communities create significant tax base without burdening infrastructure and school systems.
Larger senior housing communities like this project proposed for Crest Ridge Senior Living provides operational efficiencies when compared to smaller ones. Some of the operating benefits of a larger building are listed below:

i. A larger facility can afford to offer a broader range of healthcare services, options, and amenities to Minnetonka seniors while limiting disruptive moves from one facility to another for additional care.

ii. Creating a larger pool of care staff helps to support stable services for the residents. More hours of care and therefore staffing can be offered to provide more consistent employment, rather than a lot of part-time positions that are more difficult to fill with qualified caregivers. This is expected to be increasingly important if the current shortage of qualified nurses continues, as we expect, as our population ages.

iii. A larger building allows for more competitive wages and benefits at all levels of staff which typically translates to better care for our residents.

iv. A larger facility offers more apartment options, which reduces the chance that families have to split up (i.e. one spouse needs Memory Care and the other can live in an Independent Unit, all under one roof)

On this specific site, the relatively low traffic and higher density offers the ideal transitional use between the corporate office to the south, and the existing lower density residential occupancies to the north and east.

Finally, in addition to construction jobs, Crest Ridge Senior Living is expected to employ many people on site as care is provided to the residents 24 hours a day. The building is projected to employ over 25 individuals (FTEs) in a combination of full and part time positions.
SITE SUMMARY

CREST RIDGE CORPORATE CENTER
LOT: 001
BLOCK: 001

306,783 SQ. FT. 7.04 AC.

ZONING DISTRICT: PLANNED I-394 DISTRICT
<table>
<thead>
<tr>
<th>SITE UTILIZATION SUMMARY</th>
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<tbody>
<tr>
<td>PROPOSED LAND USE:</td>
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<tr>
<td>TOTAL PROJECT SIZE:</td>
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<td>PROGRAM:</td>
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<td></td>
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<tr>
<td>PARKING PROVIDED:</td>
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</tr>
<tr>
<td>IMPERVIOUS SURFACES:</td>
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<tr>
<td>GREEN SPACE:</td>
</tr>
<tr>
<td>BUILDING SETBACKS:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>BUILDING HEIGHT:</td>
</tr>
</tbody>
</table>
SITE KEYNOTES

1. EXISTING CREST RIDGE PHASE ONE CORPORATE OFFICE BUILDING

2. EXISTING PARKING STRUCTURE

3. SITE ENTRANCE

4. NEW SURFACE PARKING LOT FOR CREST RIDGE SENIOR LIVING. 51 TOTAL SURFACE SPACES.

5. NEW 145-UNIT SENIOR HOUSING STRUCTURE
   - 4-STORY WOOD FRAME OVER LOWER LEVEL PARKING
   - 75 INDEPENDENT LIVING UNITS
   - 50 ASSISTED LIVING UNITS
   - 20 MEMORY CARE UNITS

6. UNDERGROUND PARKING ACCESS AND TRASH COLLECTION POINT

7. SITE WALKING PATH

8. RESIDENT PATIOS AND GARDENS

9. MEMORY CARE PATIO AND GARDENS

10. RETAINING WALL WITH SITE SIGNAGE

11. PEDESTRIAN CONNECTIONS TO PUBLIC WALKS
BUILDING IMAGE / PRECEDENT STUDY
9. Other Business

A. Concept plan for Crest Ridge Senior Living at 10955 Wayzata Boulevard.

Thomas reported. Staff recommends the planning commission provide comments and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Matt Rauenhorst, representing Opus at 10350 Bren Road West, applicant, stated that:

- A market study indicated a demand for this type of senior housing.
- Ebenezer, Inc. helped develop the product.
- There was a neighborhood meeting held on Tuesday.
- He looked forward to hearing the feedback.

Eric Reiners, applicant's architect, stated that:

- Many neighbors warmed up to the idea of the use by the end of the neighborhood meeting.
- The structure would be four stories. There would be independent senior living to secure memory care.
- The building design and site was carefully planned with a wide range of amenities for the residents. There would be shared areas, coffee shops, a theater, and a library. The site would be connected to the surrounding neighborhood. Patios and gardens would be available for residents.
- There is a berm on the east property line. There would be good screening of the building with new plantings.
- The building would extend 45 feet above grade. The top of the Syngenta building would be 5 feet higher than the proposed building.
- The goal is to preserve all of the trees and vegetation.

Susan Farr, vice president of business development at Ebenezer, working with the applicant, stated that:

- Ebenezer is the largest third-party operator of senior housing. Ebenezer has been named a Top Work Place by the *Star and Tribune* for 6 years in a row.
• Ebenezer is all about incorporating the community.
• There is an emphasis on life-long learning.

Acting Chair Odland invited those present to provide comments.

Hope Mooney, 10925 Wayzata Boulevard, stated that:
• She was unable to attend the neighborhood meeting.
• She was concerned with traffic because there is a lane designated for Syngenta. It is very congested and confusing.
• She questioned what time construction would be allowed.
• She was concerned with tree loss.

Bergit Carlson, 1412 Archwood Road, stated that:
• This is the best proposal she has seen by far.
• It looks big, but the HCMC proposal would have had a huge parking ramp. Removal of the parking ramp is a big difference.
• There would be an underground garage, plan for garbage pick-up, and fewer vehicles on the service road. Seniors would not drive as much as office-building users.
• The site would be improved.
• The building looks nice.
• The berm would somewhat protect her view. She would like as much screening as possible.
• Spruce trees should be added behind the building to improve the look of the area.

Barb DeMeuse, 1509 Archwood Road, stated that:
• She agrees with Ms. Carlson. The neighbors are very pleased with this plan.
• She requested spruce trees be added between the back of the houses and the new development.

O’Connell confirmed with Thomas that the site is currently guided for an office building.

Knight noted that a commercial building would have three additional feet per floor than the proposed building.
Hanson thought that the proposal looks really good. He likes the roof line matching pitched and flat roofs together. He suggested a bus stop be located in front of the building. He liked natural-looking colors rather than white. He requested a few affordable units if that could be worked into the proposal.

Powers liked the overall concept. The setbacks look good. He liked the feel of it. He agreed with Hanson.

Calvert concurred with Hanson. Natural colors and materials would be preferred for the area. She liked the concept. Meeting setback requirements and keeping the berm would be important. Rich landscaping, many programs, and adding a bus line would add to the quality of life for the residents. She supports affordable units.

Knight concurred. He liked the outdoor walking path. This would be really nice. He asked if the roof would really be flat. Mr. Reiners stated that seniors like the building to look residential, so just part of the building's roof would be flat. Balconies would be provided, but accessing and maintaining public spaces on the roof area would be too difficult for seniors. Memory care would be on the main level. There would be a dedicated outdoor area.

Powers and Calvert encouraged incorporating trees.

10. Adjournment

*Calvert moved, second by Powers, to adjourn the meeting at 10:21 p.m. Motion carried unanimously.*

By: __________________________

Lois T. Mason
Planning Secretary
City Council Agenda Item #14D
Meeting of August 22, 2016

Brief Description
Appeal of planning commission denial of variances for a blade sign at 1700 Plymouth Road

Recommendation
Adopt the resolution overturning the planning commission decision

Proposal
Caribou Coffee has submitted a sign package for a new Caribou Coffee/Einstein Bagel location in the Shops at 1700 building, previously known as the Highland Bank redevelopment site. All but one of the proposed signs would comply with sign ordinance standards. (See pages A1–A19.) A blade sign, proposed to be located at the southeast corner of the building, requires several variances:

- By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

- By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

- By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center.

- By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee/Einstein Bagel lease space.

Staff recommended approval of the variances finding:

- The proposed sign would provide aesthetically interesting, reasonable identification at an appropriate scale to the Shops at 1700 building.

- The projection from the façade of the building would not interfere with pedestrian circulation or impeded installation of other wall signs.

- Though vertically mounted, the 16 square foot sign would be smaller in total area than other horizontally-oriented signs that would be permitted by ordinance.
• The slow rotation of the sign, at roughly two rotations per minute, is not anticipated to negatively impact public safety. The dynamic/rotating portion of the sign would have a less frequent “change rate” than “time and temperature” signs, which are allowed by ordinance.

• The Caribou/Einstein tenant space is unique. Plymouth Road has the volume of daily traffic of over 23,000 vehicles. As currently designed, the Caribou/Einstein space would be the only commercial tenant in the Shops at 1700 building without direct visibility from this roadway and its traveling public. Further, the Caribou/Einstein location would be one of only two coffee shops in the city that would not have direct frontage on a county road. (This number does not take into account coffee shops located in grocery stores or Ridgedale Mall.) The only non-county road shop, Dunn Brothers, was granted a variance for a vertically-mounted blade sign located outside of its tenant space to allow for visibility from Highway 7. Lack of visibility from a major roadway is a circumstance unique among similar land uses. (See page A20.)

• There are a variety of freestanding and wall signs on sites and buildings in the Ridgedale Village Center. Given this variety, the proposed sign would not negatively impact the character of the surrounding area.

Planning Commission Hearing

The planning commission considered the request on July 21, 2016. At that meeting, a public hearing was opened to take comment. Two residents spoke against the variances. Following the public hearing, the commission asked questions and discussed the proposal. Commissioners opposed to the variance suggested that the sign would be a departure from “tasteful plans for the Ridgedale area” and would set a precedent for other dynamic/rotating signs in the area. Commissioners in favor of the variances noted that the sign would be minimally distracting and would not create a “Times Square” atmosphere.

Planning Commission Recommendation

On a 5-2 vote, the commission denied the variance request. Following the commission meeting, staff drafted a resolution denying the request based on the commission’s comments. (See the minutes on pages A23–A25 and resolution on pages A26–A30.)

Since Planning Commission Hearing

The applicant has appealed the planning commission decision. (See pages A31–A34.)

Staff Recommendation

Staff continues to support approval of the variance requests and recommends the city council adopt the resolution overturning the planning commission decision. (See pages
A36–A40.) However, if the council wishes to uphold the planning commission’s decision, staff has also provided a resolution to that effect. (See pages A41–A44.)

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

Originator: Susan Thomas, AICP, Assistant City Planner
MINNETONKA PLANNING COMMISSION  
July 21, 2016

Brief Description  Variances for a blade sign at 1700 Plymouth Road

Recommendation  Adopt the resolution approving the variances

Proposal

Caribou Coffee has submitted a sign package for a new Caribou Coffee/Einstein Bagel location in the Shops at 1700 building, previously known as the Highland Bank redevelopment site. All but one of the proposed signs would comply with sign ordinance standards. (See pages A1–A19.) A blade sign, proposed to be located at the southeast corner of the building, requires several variances:

- By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

- By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

- By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center. A video clip will be presented at the commission’s meeting.

- By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee/Einstein Bagel lease space.

Staff Analysis

Though several variances are required, staff finds that the proposed blade sign would meet the variance standard as outlined in state statute and city code and would be similar to other signs recently approved in the community.

- **Intent of the Ordinance.** The intent and primary goal of the city’s sign ordinance is to provide for effective identification, while promoting signs that are aesthetically compatible with their surroundings. The proposed sign would provide aesthetically interesting, reasonable identification at an appropriate scale to the Shops at 1700 building. (See page A16.)
• **Consistency with Comprehensive Plan.** The Shops at 1700 building is located within the Ridgedale regional village center. The comprehensive guide plan notes that “a critical land use strategy of the regional areas is to continue to support their vitality so that they remain desired destinations for employment, residential development and business.” The proposed blade sign would not detract from this goal. Rather, the proposed sign would provide reasonable identification and appropriate visibility to the traveling public, while adding visual interest to the building.

• **Reasonableness:** The proposed blade sign would be reasonable for a variety of reasons:
  
  ✓ The projection from the façade of the building would not interfere with pedestrian circulation or impeded installation of other wall signs.
  
  ✓ Though vertically mounted, the 16 square foot sign would be smaller in total area than other horizontally-oriented signs that would be permitted by ordinance.
  
  ✓ The slow rotation of the sign, at roughly two rotations per minute, is not anticipated to negatively impact public safety. The dynamic/rotating portion of the sign would have a less frequent “change rate” than “time and temperature” signs, which are allowed by ordinance.

• **Unique Circumstance:** The Caribou/Einstein tenant space is unique. Plymouth Road has the volume of daily traffic of over 23,000 vehicles. As currently designed, the Caribou/Einstein space would be the only commercial tenant in the Shops at 1700 building without direct visibility from this roadway and its traveling public. Further, the Caribou/Einstein location would be one of only two coffee shops in the city that would not have direct frontage on a county road. (This number does not take into account coffeeshops located in grocery stores or Ridgedale Mall.) The only non-county road shop, Dunn Brothers, was granted a variance for a vertically-mounted blade sign located outside of its tenant space to allow for visibility from Highway 7. Lack of visibility from a major roadway is a circumstance unique among similar land uses. (See page A20.)

• **Neighborhood Character:** There are a variety of freestanding and wall signs on sites and buildings in the Ridgedale Village Center. Given this variety, the proposed sign would not negatively impact the character of the surrounding area.

**Staff Recommendation**

Adopt the resolution approving variances for a blade sign at 1700 Plymouth Road. (See pages A22–A26.)

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

Surrounding
Land Uses
Northerly: commercial building
Easterly: Plymouth Road and Ridgedale beyond
Southerly: Commercial strip mall
Westerly: Commercial strip mall

Planning
Guide Plan designation: mixed use
Zoning: PID, planned I-394 district

Signs Approved
In recent years, staff has supported the use of blade signs when:
(1) a site has a unique visibility need; or (2) such signs would add visual interest to “flat” façades. Blade signs have been approved at: The Ridge (apartment building), Boulevard (restaurant), Bar Louie (restaurant), Mandarin Yang (restaurant), and Dunn Bros. (coffee shop).

Variance Standard
A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality.

Pyramid of Discretion

Motion Options
The planning commission has three options:
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Concur with the staff recommendation. In this case a motion should be made adopting the ordinance approving the variance requests.</td>
</tr>
<tr>
<td>2.</td>
<td>Disagree with staff’s recommendation. In this case, a motion should be made directing staff to prepare a resolution for denial to be presented at the next meeting the commission. This motion should include a statement a why the variance is denied.</td>
</tr>
<tr>
<td>3.</td>
<td>Table the requests. 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.</td>
</tr>
</tbody>
</table>

**Appeals**

Any person aggrieved by the planning commission’s decision about the requested variances may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

**Neighborhood Comments**

The city sent notices to 360 area property owners and received one response. (See page A21).

**Deadline for Decision**

**October 10, 2016**
Location Map

Project: Caribou Coffee & Einstein Bros Bagels
Address: 1700 Plymouth Rd
Project No. 87055.16a

This map is for illustrative purposes only.
Caribou Coffee & Einstein Bros Bagels

1700 Plymouth Rd.
Minnetonka, MN

APPLICATION FOR VARIANCE

BLADE SIGN

June 17, 2016
INTRODUCTION
On behalf of Caribou Coffee & Einstein Bros Bagels ("Caribou") Landform is pleased to submit this application for a Variance to permit a projecting “blade” sign with a rotating element for the new Caribou Coffee & Einstein Bros Bagels store at 1700 Plymouth Rd. We are excited to present this proposal which will allow a sign that will add visual interest and character to the development while meeting the practical need to identify the business to motorists and pedestrians.

PROJECT SUMMARY
The new Caribou Coffee & Einstein Bros Bagels is under construction as part of the redevelopment of the Highland Bank site at 1700 Plymouth Rd. The 2-acre site is bordered by Plymouth Rd on the east, Ridgedale Drive on the west and Cartway Lane on the north. The project is 6-story mixed-use structure about 154,000 sq. ft. in area, with 115 residential units over approximately 15,500 sq. ft. of retail space. First floor tenants include Highland Bank (on the northwest corner) and Caribou Coffee and Einstein Bros (on the southwest corner), both of which have drive-through facilities on the west side of the building. An outdoor seating area for Caribou will be located in front of the Caribou space on the south side of the building. The property is zoned PUD, Planned Unit Development.

The owner, 1700 Plymouth, LLC has submitted and received city staff approval of a signage plan for the development. Signs approved for Caribou are wall signs on the south and west sides of the building and a menu board and two small directional signs for the drive-through within the site. In addition, Caribou will have a sign panel (approx. 66 in. by 27 in.) indicating “Drive Thru” and the two logos on the shared pylon sign to be located on Plymouth Rd, near the Cartway Lane intersection. A smaller panel (approx. 26 in. by 12 in.”) with the copy “Drive Thru”, the two logos, and an arrow indicating the direction for drive-through traffic will be included on each of two monument signs to be located at the driveways to the site.

Included on the sign plan, but not approved by the city, is a projecting or "blade" sign proposed to be mounted at the southeast corner of the building. The outer ring of the 48 in. circular sign would include the words "COFFEE AND BAGELS" with a 24 in. circular inner element with the Caribou Coffee logo on one side, and the Einstein Bros logo on the other. The logo would rotate slowly, about 2 revolutions per minute, alternating the center circle from the Caribou Coffee logo to Einstein Bros Bagels logo. The rotation speed can be adjusted as needed. The sign would be internally lit and placed at a 120-degree angle to the building wall at a height equal to the building’s wall sign band. The blade sign is part of a new Caribou Coffee & Einstein Bros Bagels sign package is being rolled out across the country as part of a new co-branding effort. The standard rotating sign will allow both brand elements to be displayed in an interesting way, without requiring two separate signs and while reinforcing the two brands coming together as one.
The proposed blade sign on the southwest corner of the building is critically important for identifying Caribou Coffee and Einstein Bros Bagels to customers. The blade sign would be the only “COFFEE AND BAGELS” sign to be visible to motorists and pedestrians on Plymouth Rd, the main approach to the business. It will improve public way-finding and reduce confusion in locating the store, thus benefitting traffic circulation and turning movements around the site. Caribou's location within the project was dictated by the need for the drive-through which needed to be on the west side. The blade sign would not interfere with wall signs for the future tenants of the retail space at the southwest corner. The property owner is supportive of the design and location of the proposed sign.

A Variance is needed to allow the blade sign for the following reasons:

- Section 5 b) 1) f. of Chapter 300.30 of the Minnetonka Zoning Ordinance (Sign Ordinance) states that “each tenant sign shall not extend closer than two feet from the tenants lease line.” The proposed blade sign is on the opposite corner of the building from the space to be occupied by Caribou.
- Section 10 b) prohibits “signs with dynamic displays”—the definition of which includes signs with any rotating elements—except as regulated in Section 14. That section is directed primarily to electronic signs and outdoor advertising signs (billboards.) The proposed blade sign would comply with some but not all of the criteria in Section 14.
- Section 10 d) prohibits projecting signs. Wall signs are required to be mounted parallel to a building and may not project more than 18 inches from the face of the building. The proposed blade sign would project approximately 54” (48” sign plus 6” mount) from the building wall.
- Section 9 h) allows sign plans with differing requirements to be approved in PUD zoning districts. City staff has stated that, except for the blade sign, the sign plan for this development met the ordinance requirements and has therefore been administratively approved. Staff indicated that flexibility to allow the blade sign would require a variance.

VARIANCE CRITERIA

By state law, variances may be granted from the standards of the city’s zoning ordinance only if:

1. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;
2. The proposed variance is consistent with the comprehensive plan; and
3. An applicant established that there are practical difficulties in complying with the ordinance standard from which they are requesting a variance. Practical difficulties means:
   1) The proposed use is reasonable;
   2) The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and
   3) The proposed use would not alter the essential character of the surrounding area.
RESPONSE TO VARIANCE CRITERIA

1. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance. It is consistent with the purposes of the sign ordinance by providing for effective communication about the business, while maintaining the high standard of aesthetics established for the area. The sign will be in proportion to the scale of, and be architecturally compatible with, the building and its surroundings. The sign will not adversely impact public safety or unduly distract motorists. It will benefit traffic flow in and out of the site.

Minnetonka, like many cities, places significant restrictions on signs with “dynamic displays,” defined as signs that have, or appear to have, moving or changing elements. These include rotating, revolving, moving, flashing, blinking or animated displays. Newer technologies include LED or “digital ink” panels that allow the sign face to change images electronically. Many cities prohibit “dynamic” signs, based on concerns that actual or perceived movement would be a distraction to drivers, and therefore a public safety hazard. Many of the model codes often used by cities to update their ordinances contain outright prohibitions on such signs.

It is true that distracted driving is a leading cause of automobile crashes. Many studies have noted a correlation between outdoor advertising signs and crash rates, but have not established a causal relationship between signs and crash rates. Most studies have been focused on high-speed roads and interstate highways. The studies also pre-date the current widespread use of texting and internet-connected devices within cars, which may now be a greater concern than signage.

Rather than prohibiting all dynamic signs entirely, regulation can address the appropriate locations, type and speed of movement or changes in the sign, the number and distance between signs, what percentage of a sign face may be dynamic, and the brightness level of lighting. These regulations can allow dynamic signs while minimizing driver distractions.

Section 14 b) of Minnetonka’s Sign Ordinance provides seven standards for new dynamic signs. In summary, they are:

1) Dynamic displays may occupy no more than 35 percent of the actual copy and graphic area of the sign, and only one contiguous dynamic display area is allowed on a sign face.

2) A dynamic display may not change or move more often than once every 20 minutes, except for time and temperature signs.

3) The images and messages displayed must be static, and the transition must be instantaneous without any special effects.

4) The images displayed must be complete in themselves, without continuation in content to the next image or to any other sign.
5) Every line of copy and graphics must meet a minimum size requirement, depending on the speed limit of the adjacent road.

6) Dynamic displays must be designed to freeze the device in one position if it malfunctions, and must be stopped if the city finds it to not comply with the ordinance.

7) Dynamic displays must comply with the brightness standards elsewhere in the ordinance.

These standards are designed primarily for electronic signs and message boards, and some are difficult to apply to the more “low-tech” rotating element in the proposed blade sign. It should be noted that the rotating element of the blade sign comprises only about 15% of the sign face. The “COFFEE AND BAGELS” content of the outer ring of the sign would remain static, providing a constant message that will help the public identify the goods and services available on the site. The dynamic logo element in the center will rotate at a constant speed without any special effects to distract drivers. The only change is between the two different logos, unlike electronic messages which can be programmed to show a large variety of messages. The rotation of the logos will be slow (about 2 revolutions per minute) so sudden movements or changes in speed or colors or lights will not distract drivers. If it malfunctions, the rotation will simply stop. The sign will be internally lit at a constant level, without any changes in brightness. All signs on the site will meet the city’s brightness standards. It is our opinion that the proposed rotating sign element has no more potential for distracting drivers than a typical time-and-temperature sign, which is allowed by the ordinance.

2. The proposed variance is consistent with the comprehensive plan and the Ridgedale Village Center plan, which envisioned the mix of high density residential and commercial uses approved within the PUD for redevelopment of the site. The sign will enhance the visibility and viability of the commercial use of the site.

3. There are practical difficulties that necessitate the variance.
   a. The proposed use is reasonable. The total amount of signage approved for the Caribou location is not excessive, particularly give the scale of the building (6 stories) and the lack of visibility from the surrounding streets. The wall signs approved for the Caribou location are restricted to a designated sign band, with most of the letters being less than a foot tall. Most of the additional signage is related to the drive-through, which requires good directional signs due to the need for drivers to travel around the north side of the building and distinguish between the Caribou and Highland Bank drive-through lanes. Additional flexibility is allowed for PUD sign plans, particularly for developments that include a high-rise (greater than 3 story) structure and/or mixed uses. The use of the rotating blade element allows the two
products (coffee and bagels) and two brands (Caribou Coffee and Einstein Bagels) to be identified with a single sign, eliminating the need for two separate signs.

b. The need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations. The need for additional signage is driven by the lack of visibility of Caribou from the main approach on Plymouth Rd for drivers and pedestrians. The Caribou location within the development was dictated by the configuration of the drive-through lanes and windows for two separate businesses (Caribou and Highland Bank.) It was not possible for Caribou to locate in a more visible location within the site.

The blade sign would improve way-finding and reduce confusion in locating the store. Even though it would be located outside the Caribou lease space, the blade sign would not interfere with wall signs for the future tenants of the retail space at the southwest corner, nor would it cause confusion once customers enter the site. After turning into the site from southbound Plymouth Rd, drive-through customers will be directed to turn right to circle the north side of the building to the drive-through lane. Customers who park and access Caribou on foot will see the front of the store and the wall signage on the south face of the building once they are in the parking area. Customers who approach the site from northbound Plymouth Rd would see the sign in time to make the required left turn on Cartway Lane and then a left turn on Ridgedale Drive. They will then enter the site at the southwest corner where the Caribou location will be clearly visible.

The sign ordinance recognizes the need for revised sign requirements based on these unique circumstances of building configuration and visibility. The blade sign would be the only “COFFEE AND BAGELS” sign to be visible to motorists and pedestrians on Plymouth Rd, the main approach to the business. There are other businesses in the area (for example, tenants in the Bonaventure center, across Plymouth Rd) that have been given flexibility for signs outside of the tenant lease space when needed to improve visibility from key vehicle approaches and vantage points.

c. The proposed use would not alter the essential character of the surrounding area. The character of the area is commercial, and several blade signs have already been approved for similar uses in the immediate area (BLVD restaurant at West Ridge Market, Bar Louie at Ridgedale Center, and the Ridge Apartments, at 12708 Wayzata Blvd) and elsewhere in the community (Dunn Bros. at 14545 State Highway 7.) The blade signs were found to provide architectural interest and add vibrancy and energy to the area, and to provide needed visibility from multiple directions. The Dunn Bros. sign is similar to Caribou’s request, in that
the shop is located in a taller building, and the sign is outside of the coffee shop’s lease space. The size of the proposed Caribou blade sign is similar to those approved for the other businesses. It will be compatible with the character already established and encouraged by the city.

CONCLUSION
We respectfully request approval of the Variance to permit a projecting “blade” sign with a rotating element for the new Caribou Coffee & Einstein Bros Bagels store at 1700 Plymouth Rd. We look forward to discussing the request at the July 21, 2016 Planning Commission meeting.

CONTACT INFORMATION
This document was prepared by:
Anne Hurlburt
Landform
105 South Fifth Street, Suite 513
Minneapolis, MN 55401
ahurlburt@landform.net
612.202.8325

Any additional questions regarding this application can be directed to Kendra Lindahl at klindahl@landform.net or 612.638.0225.
*LETTERS ARE NON-ILLUMINATED. 1" THICK SIGN FOAM, STUD MOUNTED
LOGOS, COFFEE, BAGELS & AMPERSAND - DURANODIC TRIM CAP & RETURNS. LOGO DECORATED WITH VINYL.
AMPERSAND HAS DURANODIC VINYL ON FACE WITH 1/8" OUTLINE.

ELEVATION (SIDE) - SCALE: 1/4" = 1'-0"
WEST ELEVATION (DT SIDE) - SCALE: 1/8" = 1'-0"

* ALL ELECTRICAL WILL BE RUN BELOW THE ROOF. POWER SOURCES WILL BE LOCATED ON INSIDE WALL

LOGOS, COFFEE, BAGELS &ampersand - DURANDIC TRIM CAP &amp; RETURNS. LOGO DECORATED WITH VINYL. AMPIERAND HAS DURANDIC VINYL ON FACE WITH 1/4" OUTLINE.

ELEVATION (SIDE) - SCALE: 1/4" = 1'-0"
MENU BOARD:
5' 1-1/2" X 7'-0" ILLUMINATED MENU BOARD WITH LOGO ON TOP
OAK: 8'-0"
LOGO: 1'-3"
SHROUD HEIGHT: 1' 5-3/4"
DOUBLE POLE, ANCHOR BOLT FOUNDATION
8 PANELS WITH 4 DOORS
FLUORESCENT ILLUMINATION MINIBOARD
ALUMINUM CABINET AND POLE SHROUD
PAINTED DURANODIC BRONZE
DIVIDER BARS PAINTED DURANODIC BRONZE
INSERTS PROVIDED BY OTHERS
LOGO:
WHITE LED ILLUMINATION
DURANODIC TRIM CAP & RETURN
POLE FOR LOGO PAINTED DURANODIC BRONZE
G) BARREL LOCKS PER DOOR, ALL LOCKS KEYED TO MATCH
SPEAKER POST:
4'-0" X 10"
PAINTED DURANODIC BRONZE
ANCHOR BOLT FOUNDATION

EXHIBIT: DRIVE THRU MENU BOARD
SCALE: 1/2" = 1'-0"
SOUTH ELEVATION

46'-2'

EAST ELEVATION

2'-8 1/2'

TENANT SIGNS BY OTHERS

BLADE SIGN DETAIL ON PAGE FOUR
SIGN TYPE: CARIBOU / EINSTEIN ROTARY BLADE SIGN Routed PUSh-THRU  
OUTER RING - .080 ROUTED ALUMINUM FACE W/ ACRYLIC PUSH-THRU LETTERS  
CENTER CABINET - ACRYLIC FACE W/ APPLIED VINYL GRAPHICS  
3m 3630-69 "DURANODIC BROWN"  
3m 3630-69 "DURANODIC BROWN"  
BOTH CABINETS - L.E.D. LIGHTING  
CENTER CABINET MOUNTS TO (1) 3/4" ROTATING ROD. "COMPLETED" ROTATING BLADE SIGN MOUNTS FLUSH TO WALL W/ FASTENERS TO SUIT  
1" RETAINER PTM 3m3630-69 "DURANODIC BROWN"  
0.040 FABRICATED ALUMINUM SIGN CABINET PTM 3m3630-69 "DURANODIC BROWN"  
10" x 10" x 1/2" MOUNTING PLATE WELDED TO (1) 4" x 4" SUPPORT ARM  
MAIN POWER LEAD TO RUN THROUGH 4" x 4" SUPPORT ARM THROUGH WALL TO POWER SUPPLY  

CARIBOU COFFEE - EINSTEIN BROS. SHOPPES AT 1700  
1700 Plymouth Road  
MINNETONKA, MN  
763.639.7766  
SALES: SS  DESIGN: MW  
DATE: 12-21-15  REV: 02.16.16  REV: 02.23.16  REV: 03.23.16  REV: 01.04.16  REV: 02.17.16  REV: 01.06.16  REV: 02.23.16  REV: 02.15.16  REV: 03.22.16  
SUNFLOWER  
DURANOXIC  
3M 3630-25  
3M 3639-207  
CUSTOM BLUE  
3M 3639-69  
DURANODIC  

LANDMARK  
Architectural Signs  
1234-15756 HEMLOCK AVENUE LAKEVILLE, MN 55044  
763.639.7766  
87055.16a
Nicollet Mall, Minneapolis MN
Edina, MN

Caribou Coffee/Einstein Bagels
1700 Plymouth Road
87055.16a
To:  City of Minnetonka Planning Commission

Having read the details and proposal for the above signage, we would like to state our objection to variances from the city's sign ordinance in this particular situation. Our reasons are stated below.

Allowing a rotating sign on this busy street would significantly increase distractions for drivers and would put pedestrians at risk. This fact alone should be reason enough for the Commission to reject the proposal. Signs with movement are more likely to create distractions than those without. In fact, as much as we appreciate the TCF time and temperature sign, occasionally one of us has become mesmerized watching that, rather than the signal lights, and has been tempted to move when it changes from time to temperature, or vice versa. We suspect others may have had the same temptation.

The future density created by the 6-story building currently being constructed, along with the increase in traffic resulting from the addition of the coffee shop drive-through and the bank drive-through at this location, as well as additional traffic from any future proposed high density projects goes against the city plans of having a safe environment for bicyclers and pedestrians. We believe this sign will add to the confusion of this already over-commercialized area.

We are not against low key signage nor appropriate and tasteful advertising, but we would hope to avoid a circus-like atmosphere that is respectful especially to the residential areas to the south and west.

The signage should be kept to a minimum for this and future development (i.e., the TCF, Wells Fargo and US Bank plans). If you allow variances for such signage at this location, you would be hard-pressed to reject it for future developments. Do we really want to create an in-your-face atmosphere?

Having lived in this area for 30 years, we support local businesses, Caribou included. However, we know that in future, we will be avoiding this area as density and traffic increases, and we suspect others in the area will do the same.

We ask that this type of signage not be approved. Thank you.

Kamel & Patty Aossey
B.  Variances for a blade sign at 1700 Plymouth Road.

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.

Ann Hurlbert, Landform Professional Services, and Paul Guidera, director of real estate for Caribou Coffee, representing the applicant, introduced themselves. Ms. Hurlburt stated that:

- The proposed sign would allow Caribou Coffee and Einstein Bagels to advertise on the same sign.
- It would provide movement, liveliness, and character.
- It would be compatible with other signs in Minnetonka in commercial areas.
- The location is important because it is the only representation of the coffee and bagel sign that would be visible to motorists.
- The code did not anticipate this type of sign. She appreciated staffs’ open mindedness.
- There should be no distraction to motorists. There would be no flashing lights. It would move slowly. There would be no changing message. The inside 24 inch medallion part would move in two locations. It would be subtle, but allow both businesses to be advertised.
- She and Mr. Guidera were available for questions.
- The sign would be internally lit and not super bright. There would be no flashing.

In response to Chair Kirk’s question, Mr. Guidera provided examples of the same sign on 11th and Nicollet in Minneapolis and one at a similar location in Edina.

The public hearing was opened.

Jonathan Kurlander, 1816 Fairfield Road South, stated that he was concerned that it would distract drivers. He was concerned other businesses would also want animated signs and there would be no limit. It would be a problem for motorists.

Jim Olson, 13420 Larkin Drive, stated that:
• The applicant presented the case that the code violations are reasonable and necessary. Staff found that the proposal meets variance standards and would be similar to other signs recently approved in the city. Staff deals with this stuff every day. Commissioners are volunteers who are bombarded with full agendas at meetings. Approval of the application may not be the wisest decision. Approval or denial of this application would set the tone for future decisions.
• He questioned how many of this type of sign would be allowed in the area.
• The application needs to be denied.
• The businesses in Ridgedale have a monument stating the tenant names. This would be a deviation from that. It does not fit the sign ordinance and does not fit the established look. It would set a tacky precedent for the highly-valued regional center. He favored quality fixtures to make people proud. Caribou’s proposal would lower standards.
• Customers would find the new location. The traffic pattern is challenging.
• He believed that a variance did not stay with the building or future tenant.

No additional testimony was submitted and the hearing was closed.

Hanson asked how many of the proposed type of sign would be allowed in the area. Gordon explained that the code allows business identification on the face of a building or signs in yard space on the site. The variance would be given to the property for the particular condition assigned to it in the variance resolution. If the tenant would change, then the new tenant could use the new sign by refacing it. The city cannot dictate what the sign says. The code restricts the speed at which dynamic signs can change to address distracted driving.

Powers noted that any sign would distract a person. After viewing it, he found the proposed sign minimally distracting. He did not think that it would set a precedent for future signs.

Odland was concerned with visual pollution. It might take a step back from tasteful signs.

Calvert thought the proposal would be a departure from the tasteful plans for the Ridgedale area.
Chair Kirk noted the business’ difficulties with the site. He noted that a blade sign was approved for Bar Louie. Red Stone and Macy’s received sign variances. The proposal would set a precedent since it would rotate. It is a final decision by the commission.

Calvert understood the practical difficulties of the shared businesses, but she agreed with Chair Kirk’s comments. Calvert said that signs in the area are more for way finding than brand identification. She did not entirely support the variance. The signs are supposed to be located with the business.

Hanson was not against the proposal. He understood the argument for it. He did not think one set of code could cover hundreds of different retail tenants. It would be offensive to some, but not to others.

O’Connell did not think Time Square was being created. The sign would be tastefully done and rotates very slowly. He agreed that there is an issue of it being located on the opposite side of the building, but the city wants businesses to succeed.

Odland worried that the amount of signage in the area could grow to a point where it would not be tasteful.

Knight is not against the rotation, but is against the location of the sign so he supports denial of the application.

O’Connell moved, second by Powers, to adopt the resolution approving variances for a blade sign at 1700 Plymouth Road (see pages A22-A26 of the staff report). Powers and O’Connell voted yes. Odland, Calvert, Hanson, Knight, and Kirk voted no. Motion failed.

Odland moved, second by Calvert, to deny the resolution approving variances for a blade sign at 1700 Plymouth Road (see pages A22-A26 of the staff report). Odland, Calvert, Hanson, Knight, and Kirk voted yes. Powers and O’Connell voted no. Motion carried.

Chair Kirk stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.
Planning Commission Resolution No. 2016-13

Resolution denying variances for blade sign at 1700 Plymouth Road

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

Section 1. Background.

1.01 Caribou Coffee is proposing to install a blade sign at the southeast corner of the Shops at 1700 building.

1.02 The subject property is located at 1700 Plymouth Road and is legally described on EXHIBIT A of this resolution.

1.03 The proposed sign requires the following variances:

1. By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

2. By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

3. By City Code §325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center.

4. By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee lease space.

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the planning commission to grant variances.
Section 2. Standards.

2.01 By City Code §300.07 Subd.1(a), a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) the proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings.

3.01 The proposal would not meet the variance standard outlined in City Code §300.07 Subd.1(a):

1. There is no practical difficulty warranting the variance. While the applicant would prefer to have a sign visible from Plymouth Road, they chose to lease a tenant space that does not have frontage on the county road.

2. The rotating element of the blade sign could distract pedestrians, cyclists, and motorists traveling on Plymouth Road in a manner that could present a hazard to public safety.

3. The safety of motorists, cyclists, pedestrians, and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention. The applicant has the opportunity for ample business identification on a freestanding monument sign, freestanding drive-thru sign, and wall signage within the tenant lease space area.

Section 4. Planning Commission Action.

4.01 The planning commission denies the above-described variances based on the findings outlined in section 3 of this resolution.
Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on July 21, 2016.

Brian Kirk, Chairperson

Attest:

Kathy Leervig, Deputy City Clerk

Action on this resolution:

Motion for adoption: Odland
Seconded by: Calvert
Voted in favor of: Odland, Calvert, Hanson, Knight, Kirk
Voted against: Powers, O'Connell
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on July 21, 2016.

Kathy Leervig, Deputy City Clerk
EXHIBIT A

Parcel 1:

That part of Lot 1, Block 1, Ridgedale State Bank First Addition, lying Southerly of a line drawn parallel with and 90.00 feet South of the North Line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota.

Parcel 2:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota, described as follows: Beginning at the intersection of the Easterly line of Ridgedale Drive, as now laid out and utilized, according to the duly recorded plat of Ridge Square Second Addition on file in the office of the Hennepin County Recorder, and a line parallel with and 285 feet South from the North line of said Southeast Quarter of the Southeast Quarter; thence East along said parallel line to a point 704 feet East from the West line of said Southeast Quarter; thence South at right angles a distance of 50 feet; thence West at right angles to said Easterly right-of-way line of Ridgedale Drive.

Abstract Property.

and

Lot 1, Block 1, Ridgedale State Bank First Addition, Hennepin County, Minnesota, according to the recorded plat thereof. Together with:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the Fifth Principal Meridian, described as follows: Beginning at the intersection of the West line of County Road No. 72 and the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the 5th Principal Meridian; thence West on the North line a distance of 180 feet; thence South at right angles 85 feet; thence East and parallel to the North line 186 feet to the West line of County Road No. 72; thence North on West line 87.5 feet to the point of beginning, EXCEPT that part thereof lying Westerly of the following described line: Beginning at a point on the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, Range 22, a distance of 180 feet West of the West line of County Road No. 72, also known as Plymouth Road; thence along a line running Southeasterly at an angle of 78 degrees and 2 minutes from said North line a distance of 86.89 feet. Which lie Northerly of a line drawn parallel with and 90.00 feet South of said North line of the Southeast Quarter of the Southeast Quarter of Section 3.
July 28, 2016

Loren Gordon, AICP
City Planner
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN  55345

RE: Notice of Appeal to City Council
    Variances for Blade Sign at 1700 Plymouth Rd.
    Caribou Coffee & Einstein Bros. Bagels

Dear Mr. Gordon:

Please accept this letter as notice of appeal of the Minnetonka Planning Commission's July 21, 2016 denial of the variances needed for a Caribou Coffee Company, Inc.'s proposed blade sign for their new Coffee & Bagels location at 1700 Plymouth Road (also known as the Highland Bank redevelopment site). We believe that we did not provide the Planning Commission with enough information and thus believe that this resulted in the Commission denying this application. We hereby request a review by the Minnetonka City Council at their August 22, 2016 meeting.

The 5 – 2 motion to deny the variance application did not include specific findings or reasons for denial. Based on comments made by the Planning Commissioners, we offer the following comments and additions for the Council’s consideration:

**Coffee & Bagels Branding**—this location will be the 35th Coffee & Bagels location in the Caribou Coffee & Einstein Bros. Bagels chain. The significance of this is that it is different from other Caribou Coffee and Bagel Co-Brand stores in operation prior to 2015. Unlike the independent Caribou and Bruegger’s side by side currently operating on Plymouth Road, the new Coffee & Bagels concept is a fully integrated single operation of the two brands.

**Visibility and Location**—the need for the proposed blade sign is driven by the lack of visibility of Caribou Coffee & Einstein Bros. Bagels from the main approach to the store on Plymouth Road, for drivers and pedestrians. Commissioners questioned Caribou Coffee’s move from the current location at 1808 Plymouth Road (which fronts directly on Plymouth Road) to the new location at the southwest corner of the new building at 1700 Plymouth Road.
Although the Company strategy going forward is to open the integrated Coffee & Bagels concept, this relocation was prompted by the loss of our lease at 1808 Plymouth Road. Losing our Lease will result in Caribou Coffee closing our operations at 1808 Plymouth Road at location in the Fall of 2016. There will be three to four months of time between the closing of the Caribou Coffee store and the reopening of the Coffee & Bagel store (estimated based on completion of construction and issuance of the Certificate of Occupancy for the 17700 building) and it is critical that we make our customer aware of the new location which is most efficiently done by strong visibility of the new location.

The new Coffee & Bagels location allows the Company to add drive-through service. The 1700 building has two drive-through lanes, for Highland Bank and our store, located on the west side of the building. It was not possible for Coffee & Bagels to locate our premises at the more visible southeast corner of the building because of the location of the drive-through. This is a circumstance unique to the property and not desirable to Coffee & Bagels, but the best available option at this time. The blade sign would improve way-finding in the area, and would be the only “COFFEE & BAGELS” sign to be visible to motorists and pedestrians on Plymouth Road and aid in mitigating the lost transfer of business caused by the “down time” and relocation of our business.

**Precedent for Vertically-Oriented and Blade Signs**—Commissioners commented that they were concerned that signs of this type would be out of character for the area and set an undesirable precedent. As documented in the staff report and in Caribou Coffee’s application, the sign would be consistent with the character of the area and similar to other blade signs that have already been approved for similar uses (BLVD restaurant at West Ridge Market, Bar Louie at Ridgedale Center, and the Ridge Apartments, at 12708 Wayzata Blvd) and elsewhere in the community (Dunn Bros. at 14545 State Highway 7.) The blade signs were found to provide architectural interest and add vibrancy and energy to the area, and to provide needed visibility from multiple directions.

It is worth noting that the 1700 Plymouth Road mixed use project reflects the trend toward “new urbanism” and walkable communities. “New Urbanism” is a development style which harkens a retro style to times past. Prior to neon, electric signage and other more modern sign styles, blade signs were the common sign type in urban street front settings. Not only does the Coffee & Bagels blade sign reflect the architecture style of a time gone by, but the blade sign is an appropriate modern interpretation fitting the “New Urbanism” architectural style seen at lifestyle center projects like Arbor Lakes in Maple Grove and the West End in St. Louis Park.

**Amount of Signage**—Commissioners commented that additional signs would add visual clutter to the area and that the proposed blade sign would be “too much signage” for the site. The proposed round blade sign is only 48” in diameter, 12.5 square feet in area when measured as a rectangle. All other signs for the building (a 6-story mixed use development of 154,000 sq. ft.) comply with the ordinance requirements. As noted in Caribou Coffee’s application and in the staff report to the Planning Commission, the proposed sign provides reasonable identification at an appropriate scale to the Shops at 1700 building. The sign would be smaller in total area than the horizontally-oriented signs that would be permitted by the ordinance. The ordinance allows for flexibility for signs in PUDs, particularly for developments that include a high-rise structure and/or mixed uses.
It is worth noting that Ridgedale Mall, Bonaventure and Ridgehaven opened with signage that only identified their anchor tenants; Donaldson’s, Dayton’s, JCPenney, Sears, Byerly’s and Target were the sole signs on those properties. The addition of tenant signage on the front of Ridgehaven has not only made that project more interesting, but has also allowed the property to remain economically viable. The recent remodel and signage additions at Ridgedale further enhance and improve that property as well.

Signage Outside of Lease Space—Commissioners expressed concern that the proposed sign is outside of the Coffee & Bagels lease space. This is necessary in order to provide visibility from Plymouth Road. There are other businesses in the area (for example, tenants in the Bonaventure center, across Plymouth Road) that have been given flexibility for signs outside of the tenant lease space when needed to improve visibility from key vehicle approaches and vantage points. The blade sign permitted for the Dunn Brothers on Highway 7 is similar to Caribou Coffee’s request, in that the shop is located in a taller building and the sign is located outside of the coffee shop’s lease space.

It should also be noted that the requirement that the sign be within the lease space may be viewed as a restriction on the sign message or content, which Minnetonka’s recently amended ordinance seeks to avoid.

A resident speaking at the public hearing requested that if approved, removal of the sign should be required should Coffee & Bagels cease to occupy the site or that the Planning Commission should approve any copy changes. City staff responded that this would be a content restriction, and that another occupant of the building could reface and retain the sign. While this is accurate, Caribou Coffee points out that the proposed blade sign is unique to Caribou Coffee’s brand and is unlikely to remain on the building should Coffee & Bagels leave the site.

Potential Distraction to Motorists—Commissioners noted a concern that the rotation of the central element in the proposed blade sign would be a distraction to motorists and might create a precedent for additional moving signs. This issue was discussed thoroughly in Caribou Coffee’s application. It is acknowledged that distracted driving is a leading cause of automobile crashes, and that Minnetonka, like many cities, wisely places restrictions on signs with “dynamic displays.” These standards are designed primarily for electronic signs and message boards, and some are difficult to apply to the more “low-tech” rotating element in the proposed blade sign.

The rotating element of the blade sign comprises only about 15% of the sign face. The “COFFEE & BAGELS” content of the outer ring of the sign would remain static. The logo element in the center will rotate at a slow, constant speed (about 2 revolutions per minute) alternating the Caribou Coffee and Einstein Bros Bagels logos. The sign will have no special effects, sudden movements, or changes in speed or colors or lights that would distract drivers. Minnetonka planning staff concluded that the rotation is not anticipated to negatively impact public safety, and that the dynamic/rotation portion of the sign would have a less frequent “change rate” than “time and temperature” signs which are allowed by the ordinance.
Caribou Coffee Company, Inc. respectfully requests that the City Council approve the variance application, as recommended by City staff based on their findings that the proposal meets the purpose and intent of the Zoning Ordinance, that it is consistent with the Comprehensive Plan, and at that there are practical difficulties in complying with the ordinance. The request is reasonable, there are unique circumstances that necessitate the variance, and the sign is compatible with and will not negative impact the character of the surrounding area.

We look forward to discussion the proposed variance with the City Council at its August 22, 2016 meeting. If there are any questions, please do not hesitate to contact Matt Masica, Caribou Associate Design Manager (763-592-2421 or mmasica@cariboucoffee.com) or myself (952-592-2409 or pguidera@cariboucoffee.com)

CARIBOU COFFEE COMPANY, INC.
Sincerely,

[Signature]
Paul Guidera
Director of Real Estate

COPY: Matt Masica, Caribou Coffee
Peter Harding, Caribou Coffee
Mike Sturdivant, Paster Enterprises
Anne Hurlburt, Landform
Robb Bader, Bader Development
Susan Thomas, AICP, City of Minnetonka
Resolution No. 2016-

Resolution overturning the planning commission denial and approving variances for a proposed blade sign at 1700 Plymouth Road.

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

Section 1. Background.

1.01 Caribou Coffee is proposing to install a blade sign at the southeast corner of the Shops at 1700 building.

1.02 The subject property is located at 1700 Plymouth Road and is legally described on EXHIBIT A of this resolution.

1.03 The proposed sign requires the following variances:

1. By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

2. By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

3. By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center.

4. By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee lease space.

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the city to grant variances.
1.05 By City Code §300.07 Subd.1(a), a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) the proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

1.06 On July 21, 2016, the planning commission considered and denied the requested variances.

1.07 By City Code § 300.07 Subd.7, a planning commission decision may be appealed to the city council. The city council may reverse the decision of the planning commission by an affirmative vote of at least two-thirds of its full membership.

1.08 Caribou Coffee has appealed the planning commission’s decision.

Section 2. City Council Findings.

2.01 The proposal would meet the variance standard outlined in City Code §300.07 Subd.1(a):

1. Purpose and Intent of the Ordinance: The intent and primary goal of the city’s sign ordinance is to provide for effective identification, while promoting signs that are aesthetically compatible with their surroundings. The proposed sign would provide aesthetically interesting, reasonable identification at an appropriate scale to the Shops at 1700 building.

2. Consistent with the Comprehensive Plan: The Shops at 1700 building is located within the Ridgedale regional village center. The comprehensive guide plan notes that “a critical land use strategy of the regional areas is to continue to support their vitality so that they remain desired destinations for employment, residential development and business.” The proposed blade sign would not detract from this goal. Rather, the proposed sign would provide reasonable identification and appropriate visibility to the traveling public while adding visual interest to the building.
3. Practical Difficulties: There are practical difficulties in complying with the ordinance:

   a) Reasonableness: The proposed blade sign would be reasonable for a variety of reasons:

      1) The projection from the façade of the building would not interfere with pedestrian circulation or impeded installation of other wall signs.

      2) Though vertically mounted, the 16 square foot sign would be smaller in total area than other horizontally-oriented signs that would be permitted by ordinance.

      3) The slow rotation of the sign, at roughly two rotations per minute, is not anticipated to negatively impact public safety. The dynamic/rotating portion of the sign would have a less frequent “change rate” than “time and temperature” signs, which are allowed by ordinance.

   b) Unique Circumstances: The Caribou tenant space is unique. Plymouth Road has the volume of daily traffic of over 23,000 vehicles. As currently designed, the Caribou space would be the only commercial tenant in the Shops at 1700 building without direct visibility from this roadway and its traveling public. Further, the Caribou location would be one of only two coffee shops in the city that would not have direct frontage on a county road. (This number does not take into account coffee shops located in grocery stores or Ridgedale Mall.) The only non-county road shop, Dunn Brothers, was granted a variance for a vertically-mounted blade sign located outside of its tenant space to allow for visibility from Highway 7. Lack of visibility from a major roadway is a circumstance unique among similar land uses.

   c) Character of Locality: There are a variety of freestanding and wall signs on sites and buildings in the Ridgedale Village Center. Given this variety, the proposed sign would not negatively impact the character of the surrounding area.

Section 3. City Council Action.

3.01 The July 21, 2016 decision of the Minnetonka Planning Commission, as outlined in Planning Commission Resolution 2016-13, is hereby overturned and the requested variances approved. Approval is subject to the following
conditions.

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   • Site and signage plans included in the Planning Commission Staff Report dated July 21, 2016

2. Prior to issuance of a sign permit, a copy of this resolution must be recorded with Hennepin County.

3. This variance will expire on December 31, 2017, unless the city has issued a permit for the sign covered by this variance or has approved a time extension.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

______________________________________________________________________________

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 August 22, 2016.

______________________________________________________________________________

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
That part of Lot 1, Block 1, Ridgedale State Bank First Addition, lying Southerly of a line drawn parallel with and 90.00 feet South of the North Line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota.

Parcel 2:
That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota, described as follows: Beginning at the intersection of the Easterly line of Ridgedale Drive, as now laid out and utilized, according to the duly recorded plat of Ridge Square Second Addition on file in the office of the Hennepin County Recorder, and a line parallel with and 285 feet South from the North line of said Southeast Quarter of the Southeast Quarter; thence East along said parallel line to a point 704 feet East from the West line of said Southeast Quarter; thence South at right angles a distance of 50 feet; thence West at right angles to said Easterly right-of-way line of Ridgedale Drive.

Abstract Property.

and

Lot 1, Block 1, Ridgedale State Bank First Addition, Hennepin County, Minnesota, according to the recorded plat thereof. Together with:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the Fifth Principal Meridian, described as follows: Beginning at the intersection of the West line of County Road No. 72 and the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the 5th Principal Meridian; thence West on the North line a distance of 180 feet; thence South at right angles 85 feet; thence East and parallel to the North line 186 feet to the West line of County Road No. 72; thence North on West line 87.5 feet to the point of beginning, EXCEPT that part thereof lying Westerly of the following described line: Beginning at a point on the North line of the Southeast Quarter of the Southeast Quarter of of Section 3, Township 117, Range 22, a distance of 180 feet West of the West line of County Road No. 72, also known as Plymouth Road; thence along a line running Southeasterly at an angle of 78 degrees and 2 minutes from said North line a distance of 86.89 feet. Which lie Northerly of a line drawn parallel with and 90.00 feet South of said North line of the Southeast Quarter of the Southeast Quarter of Section 3.
Resolution No. 2016-

Resolution affirming planning commission denial of variances for a proposed blade sign at 1700 Plymouth Road.

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

Section 1. Background.

1.01 Caribou Coffee is proposing to install a blade sign at the southeast corner of the Shops at 1700 building.

1.02 The subject property is located at 1700 Plymouth Road and is legally described on EXHIBIT A of this resolution.

1.03 The proposed sign requires the following variances:

1. By City Code §325.06 Subd.3, signs must be installed within a 26-inch horizontal band on multi-tenant buildings. The proposed blade sign would be vertically-oriented.

2. By City Code §325.05 Subd.11(a)(5), wall signs must be mounted parallel to the building and must not project more than 18 inches from the face of the building. The proposed blade sign would be mounted perpendicular to the building.

3. By City Code 325.05 Subd.10(b), dynamic displays: (1) are allowed only on monument and pylon signs; and (2) may not change or move more than once every twenty minutes. The proposed wall-mounted blade sign would have a slowly rotating center.

4. By City Code §325.30 Subd.3(b)(1), tenant signs must not be located within two feet from lease lines. The proposed blade sign would be located outside of the Caribou Coffee lease space.

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the
city to grant variances.

1.05 By City Code §300.07 Subd.1(a), a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) the proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

1.06 On July 21, 2016, the planning commission denied the requested variances finding:

1. There is no practical difficulty warranting the variance. While the applicant would prefer to have a sign visible from Plymouth Road, they chose to lease a tenant space that does not have frontage on the county road.

2. The rotating element of the blade sign could distract pedestrians, cyclists, and motorists traveling on Plymouth Road in a manner that could present a hazard to public safety.

3. The safety of motorists, cyclists, pedestrians, and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention. The applicant has the opportunity for ample business identification on a freestanding monument sign, freestanding drive-thru sign, and wall signage within the tenant lease space area.

1.07 By City Code §300.07 Subd.7, a planning commission decision may be appealed to the city council. The city council may reverse the decision of the planning commission by an affirmative vote of at least two-thirds of its full membership.

1.08 Caribou Coffee has appealed the planning commission’s decision.

Section 2. City Council Findings.

2.01 The city council concurs with the findings of the planning commission as outlined in section 1.06 of this resolution.
Section 3. City Council Action.

3.01 Planning Commission Resolution 2016-13 is hereby affirmed.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

______________________________
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 August 22, 2016.

______________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:

That part of Lot 1, Block 1, Ridgedale State Bank First Addition, lying Southerly of a line drawn parallel with and 90.00 feet South of the North Line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota.

Parcel 2:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117 North, Range 22 West, Hennepin County, Minnesota, described as follows: Beginning at the intersection of the Easterly line of Ridgedale Drive, as now laid out and utilized, according to the duly recorded plat of Ridge Square Second Addition on file in the office of the Hennepin County Recorder, and a line parallel with and 285 feet South from the North line of said Southeast Quarter of the Southeast Quarter; thence East along said parallel line to a point 704 feet East from the West line of said Southeast Quarter; thence South at right angles a distance of 50 feet; thence West at right angles to said Easterly right-of-way line of Ridgedale Drive.

Abstract Property.

and

Lot 1, Block 1, Ridgedale State Bank First Addition, Hennepin County, Minnesota, according to the recorded plat thereof. Together with:

That part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the Fifth Principal Meridian, described as follows: Beginning at the intersection of the West line of County Road No. 72 and the North line of the Southeast Quarter of the Southeast Quarter of Section 3, Township 117, North Range 22, West of the 5th Principal Meridian; thence West on the North line a distance of 180 feet; thence South at right angles 85 feet; thence East and parallel to the North line 186 feet to the West line of County Road No. 72; thence North on West line 87.5 feet to the point of beginning, EXCEPT that part thereof lying Westerly of the following described line: Beginning at a point on the North line of the Southeast Quarter of the Southeast Quarter of of Section 3, Township 117, Range 22, a distance of 180 feet West of the West line of County Road No. 72, also known as Plymouth Road; thence along a line running Southeasterly at an angle of 78 degrees and 2 minutes from said North line a distance of 86.89 feet. Which lie Northerly of a line drawn parallel with and 90.00 feet South of said North line of the Southeast Quarter of the Southeast Quarter of Section 3.
Addenda
Minnetonka City Council
Meeting of August 22, 2016

10A. Resolutions pertaining to levying the 2016 Special Assessments

The city’s assessment specialist has provided an update for one property, where the diseased tree was removed prior to the city’s contractor doing the removal. Also, a correction has been made to the street name of another property. Amended resolutions have been included to reflect the changes.

13B. Items concerning Station Pizzeria LLC, 13008 Minnetonka Blvd

Attached is a letter received after the council packet was distributed.
Brief Description: Resolutions pertaining to levying the 2016 Special Assessments

Since publication of the council agenda packet, additional information has developed regarding two of the proposed special assessments, as indicated below:

The owner of 4900 Birchwood La removed the diseased tree prior to the city’s contractor doing the removal. This 3-year term diseased tree assessment, T-25, should be deleted from the packet. The attached resolution for this assessment has been revised to reflect the removal of this assessment, and should be substituted in place of the resolution contained within the packet.

The 5-year term diseased tree assessment, T-13, should be amended reflect a street name of Minnetonka Dr. The attached resolution for this assessment has been revised to reflect the address change, and should be substituted in place of the resolution contained within the packet.

Submitted through:
Geralyn Barone, City Manager
Merrill King, Finance Director
Jo Colleran, Natural Resources Manager

Originated by:
Denise Ostlund, Assessment Specialist
Resolution No. 2016-

Resolution declaring costs for diseased tree removal – Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a three-year time period bearing an interest rate of 2.50 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a three-year term bearing an interest rate of 2.50 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-81</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$1,098.23</td>
</tr>
<tr>
<td>T-27</td>
<td>3825</td>
<td>Cottage La</td>
<td>23-117-22-12-0048</td>
<td>$1,789.73</td>
</tr>
<tr>
<td>T-20</td>
<td>3520</td>
<td>Meadow La</td>
<td>17-117-22-31-0018</td>
<td>$2,111.98</td>
</tr>
<tr>
<td>T-21</td>
<td>13304</td>
<td>Excelsior Blvd</td>
<td>27-117-22-13-0040</td>
<td>$2,562.54</td>
</tr>
<tr>
<td>T-24</td>
<td>4800</td>
<td>Sparrow Rd</td>
<td>30-117-22-24-0023</td>
<td>$2,703.33</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

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 August 22, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-

Resolution declaring costs for diseased tree removal – Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

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

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2016 over a five-year time period bearing an interest rate of 2.66 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a five-year term bearing an interest rate of 2.66 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-55</td>
<td>12609</td>
<td>James Rd</td>
<td>23-117-22-34-0036</td>
<td>$3,210.21</td>
</tr>
<tr>
<td>T-35</td>
<td>4341</td>
<td>Blenheim Cir</td>
<td>20-117-22-42-0019</td>
<td>$3,621.33</td>
</tr>
<tr>
<td>T-80</td>
<td>n/a</td>
<td>Baker Rd &amp; Brenwood Tr</td>
<td>22-117-22-43-0002</td>
<td>$3,773.40</td>
</tr>
<tr>
<td>T-13</td>
<td>14745</td>
<td>Minnetonka Dr</td>
<td>16-117-22-44-0086</td>
<td>$4,055.00</td>
</tr>
<tr>
<td>T-87</td>
<td>16709</td>
<td>Blenheim Way</td>
<td>20-117-22-42-0008</td>
<td>$4,730.83</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong></td>
<td><strong>$19,390.77</strong></td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 12, 2016, in the council chambers of
the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments.
At this public hearing, all persons owning affected property will be given an
opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the
official newspaper at least two weeks prior to the hearing and to mail notice of the
public hearing to the owner of each parcel described in the assessment rolls, in
accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 22, 2016.

____________________________
Terry Schneider, Mayor

Attest:

____________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
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the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 22,
2016.

____________________________
David E. Maeda, City Clerk
Memorandum

To: City Council

From: Loren Gordon, AICP, City Planner

Date: August 22, 2016

Subject: Change Memo for August 22, 2016

13B – Station Pizzeria

The attached letter was received after the packet was distributed.
Our family has owned the property at 13009 Burwell since 1962. This is 54 years.

When we first heard about the proposed Pizza Station we thought this was going to be a small establishment where you could go or take out a pizza.

We later learned this was not the case and that the developer is proposing a seating capacity of 120 people and to stay open till 1:00 a.m.

We have 4 people living at 13009 Burwell who all work jobs and have to be up in the morning for work.
How many council members would like an establishment open till 1:00 a.m. with street parking less than 140 feet away.

If the city of Minnetonka wants to do a project of this magnitude this is not the place. This is not at all suitable for Minnetonka Mills. The Hurricane restaurant on Hwy 7 and 101 is much more appropriate.

We vehemently oppose this proposed establishment.

John & Pat Tomber
8/20/16

Home phone 952-472-1697