Agenda

Minnetonka City Council

Regular Meeting, Monday, September 12, 2016

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Schneider
4. Approval of Agenda
5. Approval of Minutes: July 11 and 25, 2016 regular council meetings
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:
   A. Bids for the Shady Oak Road landscape project
      Recommendation: Reject all bids (majority vote)
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolution approving a concurrent detachment from Hopkins and annexation to Minnetonka of properties located adjacent to the Minnetonka public works facility
    B. Resolution approving a conditional use permit and final site and building plans for a storage facility at Hopkins West Junior High School at 3830 Baker Road
    C. Ordinance approving a wetland rezoning to accommodate construction of that portion of the Southwest Light Rail Transit line located in the City of Minnetonka
11. Consent Agenda - Items Requiring Five Votes: None

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12. Introduction of Ordinances:

A. Items concerning LeCesse Apartments at 10101 Bren Road East:

1) Ordinance rezoning the property from I-1 to PUD;
2) Master development plan; and
3) Site and building plan review with parking variance.

Recommendation: Introduce the ordinance and refer to the planning commission (4 votes)

B. Items concerning Ridgedale Corner Shoppes at 1801 Plymouth Road:

1) Major amendment to an existing master development plan;
2) Site and building plan review, with variances;
3) Conditional use permit; and
4) Preliminary and final plats.

Recommendation: Introduce the ordinance approving a major amendment to the existing master development plan and refer it to the planning commission (4 votes)

C. Ordinance amending the city code regarding floodplain districts

Recommendation: Introduce the ordinance and refer it to the planning commission (4 votes)

13. Public Hearings:

A. Resolutions for special assessment of 2015-2016 projects

Recommendation: Hold the public hearing and adopt the resolutions (4 votes)

B. Resolution vacating sanitary sewer easements over 17300 County Road 101 and unaddressed parcel 08-117-22-33-0009

Recommendation: Hold the public hearing and adopt the resolution (majority vote)

C. Off-sale liquor license for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 1005 Plymouth Road

Recommendation: Continue the public hearing and grant the license (5 votes)
14. Other Business:

A. Items concerning ELDORADO VILLAS, located at 11901 Minnetonka Boulevard:

1) Major amendment to the Minnetonka Townhomes master development plan;
2) Final site and building plans; and
3) Preliminary and final plats.

Recommendation: Adopt the ordinance and resolutions approving the request (4 votes)

B. Items related to the 2017 preliminary tax levy:

1) Resolution setting a preliminary 2016 tax levy, collectible in 2017, and preliminary 2017 budget
2) Resolution setting a preliminary 2016 tax levy, collectible in 2017, for the Bassett Creek Watershed Management Tax District

Recommendation: Adopt the resolutions (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, July 11, 2016

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

2. Pledge of Allegiance
All joined in the Pledge of Allegiance.

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

4. Approval of Agenda
Wiersum moved, Acomb seconded a motion to accept the agenda, as presented. All voted “yes.” Motion carried.

5. Approval of Minutes: June 6 and 27, 2016 regular council meetings
Allendorf moved, Bergstedt seconded a motion to approve the June 6, 2016 minutes, as presented. Ellingson, Allendorf, Acomb, Wiersum, Bergstedt and Schneider voted “yes.” Wagner abstained. Motion carried.

Allendorf moved, Bergstedt seconded a motion to approve the June 27, 2016 minutes, as presented. Wagner, Ellingson, Allendorf, Acomb, Bergstedt, and Schneider voted “yes.” Wiersum abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members
City Manager Geralyn Barone reported on upcoming events and meetings.

Assistant City Manager Perry Vetter provided an update on Imagine Minnetonka, the community outreach effort.

Schneider reported that he attended the Regional Council of Mayors monthly meeting where there was a good presentation about recent police shootings and training and support available. The mayors of St. Anthony, Falcon Heights and St. Paul provided valuable information.
8. **Citizens Wishing to Discuss Matters not on the Agenda**

   Sue Shuff from the Lake Minnetonka Conservation District provided an update on the LMCD’s activities.

   Tim Litfin from the Minnetonka School District presented information about this year’s Tour de Tonka.

9. **Bids and Purchases:**

   A. **Bids for manhole rehabilitation Phase VII**

      Barone gave the staff report.

      Wiersum moved, Wagner seconded a motion to award contract to Hydro-Klean in the amount of $148,670. All voted “yes.” **Motion carried.**

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

    A. **Third Amendment to site lease with New Cingular Wireless PCS, LLC for Williston Water Tower**

       Allendorf moved, Acomb seconded a motion to approve the third amendment to site lease agreement. All voted “yes.” **Motion carried.**

    B. **Resolution appointing election judges and absentee ballot board for the State Primary on August 9, 2016**

       Allendorf moved, Acomb seconded a motion to adopt resolution 2016-052 appointing the election judges for the August 9, 2016 State Primary. All voted “yes.” **Motion carried.**

    C. **Resolution approving preliminary plat of FRETHAM 18th ADDITION, a three lot subdivision at 12689 and 12701 Lake Street Extension and an unaddressed parcel**

       Allendorf moved, Acomb seconded a motion to adopt resolution 2016-053 approving the preliminary plat of FRETHAM 18th ADDITION. All voted “yes.” **Motion carried.**

11. **Consent Agenda – Items requiring Five Votes:**

    A. **Agreement with Metropolitan Council for the 2016 Street Rehabilitation project for the Libb’s lake area**
Allendorf moved, Bergstedt seconded a motion to approve the construction cooperative agreement with the MCES and amend the Capital Improvements Program (CIP) to appropriately reflect the additional expenditures and offsetting revenues under the agreement. All voted “yes.” Motion carried.

12. Introduction of Ordinances: None

13. Public Hearings:
   A. Temporary on-sale liquor license for The Rotary Club of Excelsior, 5016 Co Rd 101

      Barone gave the staff report.

      Schneider opened the public hearing at 7:01 p.m.

      Molly Swenson from the Excelsior Rotary Club said the club was looking for a new fundraiser when the idea of partnering with Tour de Tonka on an after party came up.

      Schneider closed the public hearing at 7:03 p.m.

      Bergstedt moved, Acomb seconded a motion to hold the public hearing and grant the temporary liquor license in connection with a fundraising event. All voted “yes.” Motion carried.

14. Other Business:
   A. 2017-2021 Capital Improvements Program (CIP)

      Barone gave the staff report.

      Wagner noted earlier in the day he had a discussion with Barone about Robinwood Park and park dedication fees. She reminded him there was a nexus around park dedication fees and usually when a park is constructed it was done in conjunction with a development. He said there were a lot of young families moving into the neighborhood. With additional revenues coming in he suggested constructing the park sooner rather than later. He didn’t want the park to be built after the children who would use it have already grown up.

      Barone noted at the study sessions the council had good discussion about trails and the public safety component of trying to improve walkability to some of the commercial areas in the city.
Schneider said there was a significant shift in philosophy and approach from the county and state regarding safety issues. It used to be including a trail was not a high priority. Now trails are often a high priority in the planning. This might enhance the city’s ability to access grants.

Wiersum moved, Wagner seconded a motion to adopt resolution 2016-054 approving the 2017-2021 Capital Improvements Program. All voted “yes.” Motion carried.

B. Ordinance rezoning a portion of the property at 4301 Highview Place and an adjacent unaddressed parcel from R-1 to R-1A

City Planner Loren Gordon gave the staff report.

Wagner asked if there was a time limit for filing the plat. Gordon said for this particular project there was an application so the filing of the plat would occur fairly quickly. He said the timing of the platting had limitations for when it would expire. The ordinance does not include limitations. Schneider said the council could choose to change the zoning back to R-1 but there would have to be some rationale to do that.

Allendorf said he was confused by some of the wording in the staff report that read, “If the formal plat is substantially consistent with the conceptual plat and meets the lot standards of the R-1A district, the city would be obligated to approve the plat.” He asked if what was before the council was a conceptual plat and if approved, if the council would have any discretion in terms of the density. Gordon said if the council approved the rezoning and the conceptual plat, it would be accepting the level of density. If the final plat was largely consistent with the conceptual plat the council would pretty much be obligated to approve it. Allendorf said he recalled that the council was not comfortable with the density and the discussion included comments about having the applicant look at dropping at least one lot.

Schneider said some of the earlier versions were not looking to rezone to R-1A but included variances. That provided the council with different discretion than the rezoning to R-1A.

Wiersum said when the council sees an R-1 proposal with no variances, the city attorney has informed the council it essentially had to approve the proposal. Similarly, if the council approved this request to rezone to R-1A and the proposal met R-1A standards with no variances, the council would have to approve it.
Schneider said the council had significant discussions with the different iterations of the proposal. He recalled the discussion was going with more than eight lots with smaller lot widths was a reasonable compromise given the area had two major highways as boundaries and the area around this area had smaller lots. He was comfortable with having eight new, hopefully modestly priced, homes.

Bergstedt said the council had looked at multiple proposals. The first proposals were for R-1 zoning with many variances. Originally the developer was looking at 10 new lots and the council was unanimously opposed to that amount of density. The next proposal was for nine new lots and the council thought that too was too much density. Given the two highways it didn’t seem feasible to have normal sized lots. When he looked at the broader surrounding area he thought this was a great example where R-1A zoning should be used.

Wagner said he agreed with Bergstedt and Schneider. The project met the city’s criteria. If these were the only sub half-acre lots in the area he would have looked at the proposal differently. He was supportive of the rezoning.

Wiersum said the eight new lots fit into the R-1A zoning designation well. The homes would be somewhat smaller because of the floor area ratio.

Ellingson said the last time the developer was before the council several council members asked that he come back with an eight lot proposal. He noted that there was a lot of opposition from neighbors to the nine and ten lot proposals. There wasn’t that opposition at the planning commission hearing for this eight lot proposal.

Gordon clarified that the approval remains in place until the plat comes in. The ordinance becomes effective upon the approval of the plat.

**Wagner moved, Allendorf seconded a motion to adopt ordinance 2016-09 rezoning a portion of the property at 4301 Highview Place and an adjacent unaddressed property from R-1 to R-1A. All voted “yes.” Motion carried.**

**C. Resolution endorsing the Glen Lake Neighborhood Study**

Gordon and Community Development Director Julie Wischnack gave the staff report.

Mark Koegler, Hoisington Koegler Group Inc., presented the study.

Richard Urban, 5625 Eden Prairie Road, said he participated in a lot of the sessions and the report reflects much of what was discussed. The key
piece that was underplayed or missing in the report related to what he considered false choices. He said often the choice presented was between development plan “A” or development plan “B.” There never was a plan “C” that would preserve open space and preserve and maintain the quality of the lake. There would be a cost to this but he thought this was important information to include. He said the open water area of Glen Lake was probably half of what it was 20 years ago. The amount of development shown on the Hennepin County site would make Glen Lake just like Birch Island Lake which is a pond with a lot of cattails.

Jane Telleen, 5625 Eden Prairie Road, said the word “develop” was used 179 times in the study. The term “natural resources” was used eight times sometimes linked with amenities. She didn’t think the environment was just an amenity. She was concerned that the density around the lake would change the wildlife around the lake.

Anne Hossfeld, 14616 Glendale Street, said her family owned the two parcels that comprise the west site. Her mother’s father bought the parcels in 1924 and the family had lived there ever since. She said nowhere in the meeting notices was there any indication that specific properties would be identified and put before the public for discussion. She requested that the information about the west site be removed from the report. Her family does not support the development designs for the property. She intends to live on the property for the rest of her life. She said she has been harmed by the information in the report. Because her property has been targeted, she has to live with the fear for the rest of her life and be continually vigilant about what discussions were going on about her property. She had been in shock since June 20 at the end of the final neighborhood meeting when she began getting phone calls and emails from people surprised that she was planning on redeveloping her property. Her long term fear was if the information was included in the final report it will become the basis for discussions as the next comprehensive guide plan was developed.

Hossfeld said there was no harm to the city in removing the section out of the report. Because her family had no intention to develop, it was unlikely the information would be useful in the foreseeable future. She noted the resolution contained language stating, “The study represents a common vision for future change in the area.” She disagreed because her property was included. She said the study process had been a missed opportunity for the city because she wasn’t asked for her intent for the property. Her mother’s vision for the property, which she agreed with, was that she wanted the property to remain as undeveloped space. She requested the section be removed but suggested if it remained alternative language be included that read: “The west site is located southwest of Excelsior
Boulevard and Eden Prairie Road. It is a large contiguous piece of land with an old farmstead situated in the center of the site. The property owners recognize the historical and unique character of this wooded property and have expressed their intention not to develop their site. The city floated some higher density housing plans during the study but given the owners don’t plan to develop and wish for privacy, the city recognizes the value as well, of retaining some of the last open pockets of original green space in Glen Lake. They have historical value as well as social and community value and serve as refuge for many types of wildlife that enrich the lives of Glen Lake residents.”

Bill George, 13519 South Street, said the development plan didn’t include science behind the plan. The lake was very unique to the city. Nothing had been investigated or brought forward as far as the hydrology. He believed the amount of hard cover contributed to the springs that weed the lake. If the lake becomes lower because of development he questioned how this would impact the aquifer underneath as well as the wells. He recommended that some type of environmental impact statement be done to investigate the hydrology and the environmental aspect to the bird migration. He said the city should look to White Bear Lake as an example of all the costs involved because of the lowering of that lake.

Annette Bertelsen, 13513 Larkin Drive, asked that the information about the Hennepin County site be removed from this study and instead be looked at in a broader visioning process. The site is 146 acres. The same lens used for the Glen Lake study of how properties could be developed for residential housing was applied to the Hennepin County property as well. She said it seemed the city moved really fast to a high development, high density scenario in the study. There were a lot of great ideas for the property that were discussed during the process that were not included in the final vision. She questioned if 146 acres of community owned property should only have a small neighborhood perspective given to it or if the whole community should be looking at it.

Lee Kaphingst, 5109 Beacon Hill Road, said if one looked at the glacial geology of the Hennepin County property area, it would be a challenge in terms of putting in footing for homes. Several years back the city approved the building of several very nice houses at the north edge of Beacon Hill. There was a big drain that went into the pond. A heavy rain flooded the pond and some of the existing homes. There was now a pipe that went to the east. With all the homes' beautiful yards that are chemically maintained he said soon he would be able to walk across the pond. He questioned if a similar thing would happen with Glen Lake if there were a lot of homes added. He noted there were a number of retired residents living on a fixed income as well as young people crushed with college
debt. When looking at things like doing an entry feature for Williston Road such as a gateway or place-making element to announce arrival into the Glen Lake area, it was important to keep in mind it would be paid for with taxes. He said when he brings visitors around the city they do not notice things like parking lots and buildings but instead notice the big lots and beautiful trees.

Jane Stowers, 14319 Stewart Lane, said the traffic on Stewart Lane was already horrible. Zvago will add more traffic and bringing in townhomes or single family homes on the east site would only make the problem worse. Her other concern was there were a lot of beautiful mature trees on the east site. In order for it to be developed every single tree likely would have to come down.

Keith Weigel, 14209 Glen Lake Drive, said his spirit, his wallet, his happiness, his personality, and his faith in representative government had all paid a heavy price. He learned he can’t fight city hall. He asked if the council did nothing else, at least it should grant Hossfeld’s request because a person in the United States should not have to ask to get off a list that puts her property up for sale. At the planning commission hearing it was stated that Glen Lake was tired, some places obsolete, blighted, needed a face lift. There were comprehensive guide plan discussions, rezoning from R-1 to R-5 with variances still needed. Then there was eminent domain abuse. He asked how the people who will have to give up their homes would be fairly compensated. He agreed with Stowers that the trees should be preserved. He suggested adding a veteran’s memorial because there likely were several veterans living in the senior facilities. He hoped notices would be sent to Zvago, Glen Oaks, and St. Therese residents. He questioned if the council would approve variances for the Hennepin County site similar to the variances that were approved for Zvago. He questioned if the study process was merely an effort to make the neighbors feel good.

Joan Hiller, 5638 Glen Avenue, asked the rationale behind rushing the approval of the study. There had not been a stable containment area, a stable set of boundaries used during the five meetings. She said the council should take a step back and think things through. The original plan for Glen Lake was to have an apartment building and condos. The units were not restricted to any age. However what was approved was senior housing only. This didn’t allow the city to bring in young people. Because the area was redlined for seniors the focus should be on the other areas. When it came to the county’s site the only option she ever saw was for housing. She suggested exploring putting a college campus with a convention and training center on the site. Some of the natural features of the site could be incorporated into the design. She said the plan doesn’t
allow for that type of flexibility. She suggested the city look at building the
convention and training facility to generate revenue.

Hiller said she had experience with what happens when a person’s
property was identified by developers and told by the city that the property
was going to be subdivided. In 1999 she and her family moved in and
started receiving phone calls asking if she was interested in subdividing
the property. After a number of calls she inquired who informed the
developer that she might be interested in selling. She was told it was the
city planner. This put a target on her family’s back. Now she was watching
the city start put the same target on Hossfeld’s back. She suggested not
endorsing the study but instead officially saying the council would take the
study under advisement. This preserved the hard work that had been
done, and the work was recognized and valued, but would not start the
city down the path where people point to information in the study as being
the plan for the area.

Schneider said it was difficult for him to think the process as being rushed
since the work had been going on for eight years. There had been a very
patient evolution of dialogue, thought and public hearings. What was being
done was basically saying the study made sense. It was not being
adopted or made formal. It was an evolution of the process that
recognized change was inherent in all the city’s activities. He said the city
could just wait to see what happens or try to be proactive and look at what
the consequences might be. A good example was the Hennepin County
property and the path that the county was on in consolidating the home
schools. By statute, when the county has an excess piece of land used for
public purpose, the county was required to put it on the market for the
highest and best use. He said there would be many developers bidding for
the property. The county was obligated to sell it for the best price. His
preference was for the council to get ahead of that in order to establish
perimeters about what the expectations might be. The study was a
document that would help inform future councils as to what the dialogue
was and position of the council was at the time.

Hiller asked if what was being voted on was the housing only option and if
this meant that was the only option the council was willing to accept at this
time. Schneider said the city asked the consultant to come up with some
reasonable alternatives for the site that would give some indication what
the impacts would be under different scenarios. This would allow the
council to consider if something was way too dense or if something could
possibly be approved at some point. It was a study based on a
consultant’s best expectations of the highest and best use based on the
zoning ordinances. The council was not adopting what was in the study.
Hiller asked for clarification on what “endorsing” the study meant. Schneider said he had the same question and the council would discuss it.

Schneider called a recess at 9:16 p.m. He called the meeting back to order at 9:25 p.m.

Wagner noted a comment that was made raised the question if one section of the plan involving the Hennepin County site should be viewed in a broader study. In his time on the council the biggest property that was looked at was the Jondahl property that was one seventh of the Hennepin County property. As the city goes through its Imagine Minnetonka process the conversation could be adjusted to indicate what was in this study was the initial housing view but different views could now be looked at as part of that process.

Acomb said she thought the Hennepin County site should be included in this study and also should be looked at more in depth. Comments were made about keeping it in a natural state and what the cost of that might be. She thought this was worth having a discussion about.

Allendorf thought the property should be included in this study because it was part of the area being studied. He thought every parcel in the area being studied should be included because that’s part of the planning process. He said the sale of the Hennepin County property was so far in the future and the city had so little control over what happens, that to focus on it when what was being studied was the Glen Lake area as a whole, diverted attention from whether the council should endorse or accept the study. The options discussed for the Hennepin County property were so diverse that they recognized that the piece of property would require a concentrated study of its own over a period of time.

Wiersum said the Hennepin County property was a large part of the Glen Lake area and to take it out of the study would make the study incomplete. Nobody believed this would be the last study of what could be done with the property. There were many options for the property. One option was housing. Another might be a major corporate headquarters. The options that exist were extremely broad. What was being discussed in the study were concepts and not a prescriptive plan for what would happen to the property. He said the idea of a regional park was nice but it was doubtful someone would pay for that.

Wiersum said no study of the Glen Lake area was complete without consideration of the lake itself. It was the amenity that made the community. Some years ago the council discussed the health of the lakes in the city. The largest lake, Lake Minnetonka was getting healthier. All the
other lakes were not. He thought realistically understanding what the future of Glen Lake was, was an important part of what needed to be looked at. His fear was the lake was disappearing and he wanted to know if there was anything that could be done to prevent that. Understanding this might have a big impact on the types of things the city considers for the area. He thought the ecological aspect of Glen Lake, which was not included in the study, needed to be considered as the area was looked at in the future.

Schneider agreed that even though the hydrology was not part of the study, it was part of the evolution of the Glen Lake area. The city wanted to do whatever was feasible to protect or enhance the quality of the lake. This had to be based on science and not wishful thinking. It was not known if the issue was spring fed or surface water. He was guessing it was both. He had seen enough pictures of the lakes over time in the area that were not super deep that had a fairly broad watershed. The lakes eventually nitrify into wetlands. This happens naturally over time with the process accelerated by fertilizers and other things. If there were scientific ways to maintain or preserve a lake those would have to be at the top of the list of requirements included for any developments around the lake.

Allendorf said when Jim Miller was the city manager 22 years ago, he had the University of Minnesota do a study of Glen Lake. At that time the neighbors were accusing the city of allowing a lot of development to go on that was draining the lake. Allendorf said he was hoping that the formal study the city paid for was still available and that it might be beneficial to get the University to do an update of the study. Wischnack noted last summer the city’s water resources engineer researched the history and evolution of the lake.

Wagner said even though the council knew buying the Hennepin County property was not realistically feasible, he wasn’t sure residents knew that as well. He thought it would be beneficial to get cost information. He thought the conversation about the property should be a part of this study. The narrative could be changed to say these were some housing alternatives but the city believed there would be broader conversation over many years as more information about the property comes out.

Acomb agreed that if the city had cost information then it would be easy to justify why purchasing the property wasn’t the responsible thing to do.

Ellingson said he was glad the Hennepin County property was included in the study. One concern he had was the recommendation was inconsistent with the residents’ comments. Every comment indicated a wish for a park, open space or recreational use. He lived in the Glen Lake area for 22
years and he hasn’t met a single person who said they wanted high density housing on the property. He said comments had been made that since the county owned the property, the city had no say in what would happen. Yet for every other property, the city always thought it had some say. The property was currently guided for institutional use and would have to be re-guided. How it was guided and zoned was the city’s decision and not the county’s. The plan indicated 40 percent of the land would be open space. This was to let the county know that some of the land could not be built on.

Bergstedt agreed the Hennepin County site should be included in the neighborhood study. At the same time there was so much uncertainty about the site, and given the size of the parcel and all the potential uses, it would require a community process to figure out the best use and the city’s role. He didn’t want that piece to dominate the rest of the discussion. The city needed to focus on the Glen Lake neighborhood study.

Allendorf noted a couple of comments were about always having a no build alternative. The east property, for example, didn’t have to be built on as articulated in the study. Not every parcel had to be built on. It was fundamental that not every parcel had to be built out to its highest density.

Schneider asked staff to comment on the questions about if the resolution was legally binding on any of the properties. City Attorney Corrine Heine said the document was a planning study and guide but was not being proposed to be adopted as an official control. It does not determine the zoning of the property and was not an amendment to the comprehensive plan. The zoning code and comprehensive plan govern any development of the property.

Acomb said her preference was to remove the west parcel from the study. She said this was because Hossfeld had asked that it be removed. Acomb said she understood the study was a planning tool and was not intended to be anything concrete or binding but she thought it was disrespectful to include the property when Hossfeld had asked for it to be removed. She said if a resident was asking for something regarding their property from the city, the city should be respectful of the request.

Bergstedt said his initial concern with excluding the west side was if one property was allowed to be excluded, what would happen if other property owners requested their properties be excluded as well. All of sudden the neighborhood study would look like swiss cheese. He said listening to Hossfeld he thought there was a real desire for the family to stay on the property for the long term. If the property was not excluded there would be so many declarations on multiple pages indicating the property owner did
not want the property to be developed. He wasn’t sure what would be gained by leaving it in.

Allendorf said to not include the west parcel would mean having an incomplete study area. He said he could support including Hossfeld’s suggested amended language to the narrative if the parcel was to be left into the study. This would tell everybody who looked at the study that the area was looked at but provide information about its current state and the state it would remain in for the long term.

Wagner agreed with Allendorf. He further suggested language could be included indicating multiple housing options were looked at. He would leave the parcel in the study but highly outline the language Hossfeld suggested. He noted when there were projects in his district along County Road 73 and I394, the language in the previous studies of the Syngenta site informed the council’s discussion. For him, the language included in the studies matters and the council should respect Hossfeld’s request.

Wiersum said he truly believed Hossfeld did not want to sell the property. It was a part of her family and was a very personal and emotional issue for her and her family. He thought the language she proposed was good. He agreed removing the parcel would diminish the study but part of the study should include a fair disclaimer that this property owner intends to not develop or sell the site.

Ellingson said he thought the property should be removed from the study. The study was already public information. Nothing would be lost by not including it in the study. The issue was how the city treated residents. The city would learn from its mistake of not initially letting Hossfeld know her property was going to be included in the study.

Schneider said he thought there was some accommodation that needed to be made to keep the property in the study acknowledging it was a large property adjacent to the lake while coming up with some wording similar to what Hossfeld suggested. This would inform developers that the property was not available. His inclination was to remove the vignettes while keeping the narrative and including language similar to what Hossfeld suggested. Acomb said she would be OK with that approach. Allendorf said he also liked Hossfeld’s suggestion of removing the word “common” from the portion of the resolution that reads, “The outcome of the Glen Lake Neighborhood study is a document to guide future discussions for change in the neighborhood. The study represents a common vision for future change in the area.”
Wagner said he wasn’t even sure he would use the word “vision.” Saying this was a selection of resident feedback through a formal process was more accurate than it was to say it was a true vision of the area. A very large parcel was included even though it was being set to the side, but looking at the map he questioned what was truly left. The west side and Hennepin County’s site would not be commented on. The central area was an area that was no longer collective. This left one slice of property in the middle. Using the term vision was a pretty strong statement. This was a collection of feedback that was going to guide future development discussions. Using vision with such large pieces of property set aside sets a tone that he didn’t think the document represented.

Wiersum said he liked Wagner’s comments. In documents like this one, words were exceedingly important. The council wanted to be very clear this wasn’t a prescriptive plan. When he uses the word “vision” he thinks of consensus. When he works on vision for a strategic plan, the people involved coalesce around a consensus for the vision. While the council had heard from several Glen Lake residents, to use the word consensus would be misspeaking. He agreed “vision” was too strong.

Allendorf noted from 2003-2015 he attended a number of sessions, with 50-60 people in each session, and he bet that for half of the sessions things begin by stating it was a visioning session for what Glen Lake was going to become. He wondered why he and all those people attended those sessions if what was being done now was watering down the vision or feedback that was given.

Schneider said using the term “common vision” was overstating what was being achieved with the study. There was agreement to remove the word common but there was a question about whose vision it was. Saying it was just a list of feedback recalled the days when the facilitator captured a list of everybody’s comments. This wasn’t all that useful until the evolution of the process where certain desired levels of density in certain areas was identified from the comments. This document was more than a collection of comments but probably something less than a vision. He said what the study was really trying to do was establish a framework for further discussion. The study was a good framework that captured the feedback that was received layered by what things might look like based on the feedback. It was something the council could work with that wasn’t cast in stone.

Schneider asked if the term “endorsed” had been used with past studies. Wischnack indicated it had been used many times including for the Highway 7 and County Road 101 study and also for the Shady Oak Road station area study. Schneider said he thought there needed to be some
discussion about what the word “endorsed” meant. He said it probably meant something similar to “support” but was not the same thing as “accept” and was definitely not “adopt.” It meant the study had some substance to it and was valued for further discussion. Barone said Heine’s comments about the study not being legally binding were also helpful.

Ellingson said he would be more comfortable saying the council “received” the study. He said in 2003 the council received a report and then ignored it. Schneider said it was a different process in those days. There was no intent to formalize that as a common document. This study was part of a multi-year project. He said for him to say the council “received” this report was a slight and meant the study was meaningless.

Allendorf said he sensed where the council was going was to ask staff to take the council’s comments and put them into a form that could be brought back.

Wiersum said he liked Schneider’s suggestion of using the word “framework.” He thought endorsing a framework was a lot easier than endorsing a vision.

Schneider suggested including language in the study in the Hennepin County site section indicating what was in the study was a scenario that may be feasible and that future effort on the site would require community wide involvement. He would also include language about developing an analysis about what could be done to protect and enhance the lake.

Wagner moved, Acomb seconded refer the item back to staff. All voted “yes.” Motion carried.

15. **Appointments and Reappointments: None**

16. **Adjournment**

   Wiersum moved, Acomb seconded a motion to adjourn the meeting at 10:27 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Minutes
Minnetonka City Council
Monday, July 25, 2016

1. Call to Order

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

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Wiersum moved, Bergstedt seconded a motion to accept the agenda as presented with the removal of Item 10F in response to the applicant’s request. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and events.

Schneider stated that he attended a positive Southwest Light Rail meeting. All of the environmental work has been completed and accepted by the Federal Transit Authorities. Schneider clarified that Met Council Chair Adam Duininck was misquoted in the paper and that Duininck actually stated that it is critical that the state fund or find a mechanism to fund the section.

Schneider appreciated the efforts of city staff who thought to run a fire hose underground through storm water pipes instead of across the road to provide water to assist with the demolition of the Kraemer’s Hardware building.

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

Chris Wheelock, 3138 Lake Shore Boulevard, introduced himself, his wife Moni Tillmann, and their daughter. Tillmann stated that her lot has been incredibly negatively impacted by “stormwater management.” She is concerned that there is no long-term solution, large houses decrease the amount of porous surfaces, and the plan to reconstruct the road and add curbs would direct more stormwater onto her property. She provided photos of her property illustrating muddy and wet conditions.

Wheelock stated that engineering staff have no solution for water traveling to the bottom of the hill. Tillmann stated that it happens year round. Plow drivers push snow into their backyard at the bottom of the hill. That area has snow and standing water a month longer than other properties. There is a small holding pond 45 feet from their house that cannot hold all of the water.

Tillmann explained that engineering staff informed them that the floodplain reaches to their front door and asked if they would be interested in selling their property. The offer price was too low. The city wants the lot to create a long-term water storage solution to meet federal mandates and comply with the Minnehaha Creek Watershed District management plan. There are many times she and her neighbors cannot walk in the street due to flooding. The problem has been going on for years. She asked that a solution be found. She suggested putting in a lift station or other solution. She pointed out the area owned by the city. She requested a long-term solution that would be equitable for both parties.

Wheelock was upset that he may not be allowed to build an addition due to the floodplain restrictions. The lake never flooded his house, but the mismanaged stormwater being drained to a small pond 45 feet from a structure has caused problems. He is still open to negotiations for the city to purchase the property, but it would have to be a solution that would work for both parties. He appreciated all of the hard work and effort made by the project managers and crews on the street.

Schneider appreciated the presentation and encouraged Wheelock and Tillmann to continue working with staff.

9. **Bids and Purchases: None**
10. **Consent Agenda – Items Requiring a Majority Vote:**

   **A. Resolution approving use of Hennepin County Affordable Housing Incentive Funds by Homes Within Reach**

   Allendorf moved, Wiersum seconded a motion to adopt resolution 2016-055 for the 2015 and 2016 funds authorizing Hennepin County Affordable Housing Incentive Funds in Minnetonka by Homes Within Reach. All voted “yes.” Motion carried.

   **B. Southwest Corridor Housing Strategy**

   Allendorf moved, Wiersum seconded a motion to adopt resolution 2016-056 accepting the Southwest Corridor Housing Strategy and incorporating the strategy into housing planning for the city of Minnetonka. All voted “yes.” Motion carried.

   **C. Appointment of a hearing officer for administrative citation hearing program**

   Allendorf moved, Wiersum seconded a motion to approve the appointment of Paula Callies as a hearing officer for the administrative citation hearing program. All voted “yes.” Motion carried.

   **D. Sixth amendment to site lease agreement with New Cingular Wireless PCS, LLC for Ridgedale Water Tower**

   Allendorf moved, Wiersum seconded a motion to approve the sixth amendment to the site lease agreement. All voted “yes.” Motion carried.

   **E. Labor agreement between the city of Minnetonka and Teamsters #320 – Police Sergeants**

   Allendorf moved, Wiersum seconded a motion to approve the 2016-2017 labor agreement between the city of Minnetonka and the Teamsters Public and Law Enforcement Employees Union Local #320 – Police Sergeants. All voted “yes.” Motion carried.

   **F. Resolution repealing and replacing Resolution No. 2016-051 for a conditionally-permitted accessory apartment at 13800 Spring Lake Road**

   Removed from the agenda at the applicant’s request.

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

   A. **Ordinance regarding Temporary Family Health Care Dwellings**

   City Planner Loren Gordon gave the staff report.

   Wiersum noted that the current trend for similar cities is to opt out of the state law.

   Bergstedt encouraged staff to elaborate on the things the city already has in place to deal with these situations to better fit this specific community.

   Wagner moved, Bergstedt seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

13. **Public Hearings:**

   A. **On-sale liquor licenses for MTKA Pizza, LLC (Station Pizzeria), at 13008 Minnetonka Boulevard**

   Barone gave the staff report. She recommended continuing the hearing to August 22, 2016 to coincide with review of the conditional use permit and site and building plan.

   Schneider invited anyone present to speak on the item. No one responded.

   Wiersum moved, Wagner seconded a motion to continue the hearing to August 22, 2016. All voted “yes.” Motion carried.

   B. **Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14350 County Road 62**

   Barone gave the staff report. She recommended approval of staff’s recommendation.

   Schneider opened the public hearing.

   Chris Rosenlund, rotary club president, requested approval of the temporary on-sale liquor license for the fund raiser. The event includes a 9-hole golf tournament, beer and wine tasting, silent auction, and raffle. Everyone is invited. One percent of the proceeds goes to the foundation which supports ICA Foodshelf, scholarships for students, and clean-water efforts around the globe.
Schneider closed the public hearing.

Allendorf moved, Wagner seconded a motion to grant the temporary liquor license in connection with a fundraising event, including outdoor events. All voted "yes." Motion carried.

C. Off-sale liquor licenses for Minnesota Fine Wine and Spirits, LLC (DBA Total Wine), 1005 Plymouth Road

Community Development Director Julie Wischnack gave the staff report.

Wagner asked if the parking and traffic study would address doubling of the use if Office Depot would vacate its current building. Wischnack explained that the traffic consultants included the entire site and square footage of each use in addition to the adjacent property on the south. She requested that the traffic engineer provide an estimate of customer counts during peak-business hours. If the proposed use expanded in the future, then the liquor license would have to be reviewed and approved by the city council at that time.

Schneider agreed. He noted that the applicant has expressed interest in expanding the business into the Office Depot space when it would be available. Taking that into consideration would allow for improvements to be done now to mitigate the potential future impact.

Wiersum understood the benefits and challenges of the site. There is already a stacking situation when driving south and turning west on Wayzata Boulevard. There is also stacking and difficulty making turns on Plymouth Road when waiting to get on the onramp to Interstate 394. He would like the applicant’s data regarding the amount of traffic the existing stores generate. Wischnack stated that the traffic consultant does have a customer count provided by the applicant.

The public hearing was opened.

Edward Cooper, vice president of public affairs and community relations of Total Wine and More, stated that the company he represents is seen as a leader in the retail sector and fits into the city’s economic strategy for the Ridgedale area. Total Wine and More is a provider of a distinctive specialty service and has a desire to assist with further development of the Ridgedale Center area and work with the city to address issues of public safety. The store would host wine, beer, and spirits classes. The store would sell Minnesota products. Team members would be active in serving the community. The use would be interested in expanding into the neighboring space. The company is committed to its team members. The
company is family owned. A typical store employs 50 team members and 75 percent are full time employees who have benefits. There is an exemplary training program to protect against sales to minors and theft. He believes Total Wine and More has the best record in the industry to prevent sales to minors. The company has been around since 1991. A store has never been closed.

Ted Farrell, representing Haskell’s located at 12900 Wayzata Boulevard, stated that Haskell’s is also a family business. It has been at that location for 42 years. He wondered about the proximity of two large retailers that are very unique and specialize in all kinds of products and services. He was concerned with traffic causing safety issues. The traffic is brutal now.

Chris Erickson, representing The Wine Shop and Spasso located at 17523 Minnetonka Boulevard, stated that Big Top Liquors has not been a successful store because there is a limited amount of consumption. There are more breweries providing alcohol now. He believed the applicant is targeting Haskell’s stores. A Total Wine store was located near Haskell’s stores in Chanhassen and Burnsville. He did not approve of that. He is happy to compete on a level playing field. The proposed building sold a few years ago for $9.365 million. The tax value is $5.9 million. He questioned how the tax value is $4 million less than the sale price. The government is subsidizing Whole Foods and looking to subsidize Total Wine by giving them a discount on property taxes. That creates an uneven playing field. He suggested doubling the property taxes on the proposed site or cutting his property taxes in half to create a level playing field. The corporation is located in Maryland. He questioned why the city would want to subsidize an out of state business at the expense of local businesses.

Allendorf recalled that the proximity argument was used by a representative of the Tonka Bottle Shop when the public hearing for The Wine Shop liquor license was held. Erickson said that the difference is that over 50 percent of the wine sold at The Wine Shop is consumed in the restaurant. The Wine Shop sells very little beer or spirits. The business models are different which has allowed both businesses to be successful.

John Johannson, of Welsh Companies located at 4350 Baker Road and a principal owner of the proposed property, clarified that the Whole Foods property is a separate parcel and was purchased after a bankruptcy of the loan, redeveloped, and sold right away. That property was the $9 million sale price. He owns the adjacent Office Depot site and has no plans on selling. His property’s tax assessment by square footage is similar to The Wine Shop’s. He does not believe that the city subsidizes businesses’ property taxes. It is a fair playing field.
Larry Barenbaum, a partner at Big Top Liquors in Ridge Square, clarified that the business pays rent on over 8,500 square feet, not 5,000 as the previous speaker mentioned. Total Wine has changed the scope of the business for the better. The consumer benefits by the incredible operation that he has witnessed. There have been improvements over the years to address safety concerns caused by traffic. America provides a competitive retail world. Haskell’s is a good retailer in this city and knows how to compete to make it better for their customers. He has a high level of regard for everyone he has dealt with at Total Wine.

The public hearing was closed.

Wiersum moved, Bergstedt seconded a motion to continue the public hearing to September 12, 2016. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan review for The Enclave at Regal Oak, 3639 Shady Oak Road

City Planner Loren Gordon provided the staff report.

In response to Wagner’s question, Gordon answered that the surrounding lot sizes are generally the same as the standard for an R-1 single-family lot.

Roger Anderson, owner of Anderson Engineering representing the applicant, stated that he likes the site because it has a flow to it. The utilities are there, it is a nice street, and the drainage would work. The product is one that buyers want. Residents love to stay here. Housing to allow downsizing is needed for empty nesters and those who travel south for the winter. The basements would generally be lookouts with a bedroom for the grandchildren. There would be a snow and mow association. The grading and storm water on individual sites would be done to allow capture of roof drainage and minimize the size of the pond. There is an existing gully that could route runoff to a pond to control erosion.

Michael Halley, builder for the applicant, stated that the proposed houses would be from 1,400 square feet to 1,700 square feet on the main floor. The average buyer would be in their 70s and have lived in the city 30 years. Three of the five houses would be geothermal. Large trees would be planted to provide privacy. He has met with neighbors who live on Regal Oak. If the property would be divided into three lots, then the amount of square footage created would be equal to what would be created by the proposal of five smaller houses. There are not a lot of
options in the city to provide this product that would be affordably priced around $650,000.

Schneider disclosed that he previously worked with Anderson Engineering on projects.

Allendorf’s first reaction was that the proposal would not fit. Then he considered the need for diversity of housing types. The proposal would provide needed housing.

Bergstedt had a reaction similar to Allendorf’s reaction. Councilmembers and planning commissioners felt the original proposal’s 10 lots would be too dense. There is a need for this type of housing and diversification. He still has a problem with five lots. He would be more comfortable with four lots so that the subdivision would fit in better with the surrounding area and provide diversified housing.

Wagner acknowledged that the one-level housing type is needed. An 11,000-square-foot lot would make him pause. The concept is good. The conservation easement and storm water management would be great.

Ellingson thought that a floor-area ratio (FAR) requirement might be appropriate. Providing housing for young families is a priority. A house priced at $650,000 seemed high to be considered affordable. He did not see a real justification for a planned unit development. Five lots would not fit in the neighborhood.

Schneider sees a need for single-floor living for seniors. The conservation easement reduces the overall size of the lots. An 8,600-square-foot lot is probably pushing too hard to make the proposal work. He could see four lots. The lot to the northwest would be significantly larger than the rest. The fivelot proposal would be a hard sell.

Allendorf heard from seniors who want single-story living in Minnetonka. It is a needed housing type.

Cheryl Smith, 3624 Arbor Lane, stated that the size of the lots would be out of character with the neighborhood. She moved here because she loves the wildlife. There are currently a lot of water issues. There is a hill between Lots three and four. Her lot is downhill of the proposal and has a drainage pipe. The houses on her side of the street sell for $350,000. She requested councilmembers consider the proposal carefully.
B. Concept plan for a 75-unit apartment building at 2828 and 2800 Jordan Avenue

Gordon gave the staff report.

John Ferrier, with CSM Corporation, applicant, thanked staff for the opportunity to receive comments on the concept plan. The house on the site is currently vacant. There is a need in the market for the proposal. The new building would have studio apartments with an open floor plan. He agreed that there is a need to complete a traffic study. The slopes would be optimized. As many trees as possible would be saved. There would be tree replacement. Some of the scrub trees would be replaced with quality landscaping. The floor plan would be as compact as possible. That is one reason for the flat roof. Similar colored brick with a contemporary style would attract a different market. He has heard from residents requesting to be on a waiting list. He is excited about the site.

Wagner noted that the area has a lot of high-density housing, but there is no playground at any of the surrounding buildings. The proposal would match what is in the area, but would stick out of the view from Highway 169. He will wait until he sees the engineering plans before commenting on the number of units. He did not have a massive aversion to the proposal.

Schneider agreed with Gordon that one and a half parking stalls for each apartment may be appropriate considering the studio apartments. An apartment building would fit the site. The five-story height does not scare him, but the block nature of the front caused him to pause. He sees a benefit to underground parking, scaling back the number of units, and adding some variety to the appearance. A third of the outside parking may be able to be eliminated. Hopefully some trees and green space could be preserved with a reduction of the parking surface.

Bergstedt concurred with Schneider. He was very comfortable with an apartment building. There would be massive grading and tree loss, but everything possible should be done to minimize it. The building looks like an uninteresting block building. Designing the building to give it more architectural character would be beneficial.

Allendorf liked how the Applewood Pointe building ended up looking. He concurred with Schneider and Bergstedt.

15. Appointments and Reappointments: None
16. **Adjournment**

   Bergstedt moved, Wagner seconded a motion to adjourn the meeting at 8:50 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Lois T. Mason  
Deputy City Clerk
City Council Agenda Item #9A
Meeting of September 12, 2016

**Brief Description:** Bids for the Shady Oak Road landscape project

**Recommended Action:** Reject all bids

**Background**

On April 7, 2014 the city council adopted a resolution approving the final plans and cooperative agreement with Hennepin County and the city of Hopkins for the Shady Oak Road project from Excelsior Boulevard to north of TH 7. The cooperative agreement sets aside 1% of the road project cost for landscaping improvements, which in this case is approximately $120,000. The agreement allows the city of Minnetonka to work with their landscape architect and the city of Hopkins to bid and administer the landscaping construction contract for both cities following the road construction.

A public informational meeting was held for Minnetonka residents on March 6, 2016 to gather feedback from the neighborhood.

**Bid Opening**

Bids were opened for the project on September 1, 2016. Two bids were received in response to the call for bids, and the results are as follows:

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<tr>
<th>Contractor</th>
<th>Base Bid</th>
<th>Alternates (1 &amp; 2)</th>
<th>Total Bids</th>
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<tr>
<td>G Urban Companies</td>
<td>$256,708</td>
<td>$30,000</td>
<td>$286,708</td>
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<td>Hoffman &amp; McNamara Company</td>
<td>$279,659</td>
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**Estimated Project Cost and Funding**

The total estimated construction cost for the base bid, including engineering, administration, and contingency based on the bid received is $190,000.

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<th>Budget Amount</th>
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<td>Base Bid Construction Costs w/ Engineering, and Indirect costs</td>
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<tr>
<td>City of Hopkins</td>
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<td><strong>Total Budget</strong></td>
<td>$190,000</td>
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Based on the bids received significantly exceeding the engineers estimate, it is recommended that bids are rejected and the project be rebid for construction in the spring of 2017. Rebidding will allow for additional contractors, who may not have previously bid due to workload and scheduling, to consider bidding the project.

**Schedule**

If the recommended action is approved by council, rebidding would likely occur over the winter with construction planned for next spring.

**Recommendation**

It is recommended that the bids received be rejected and staff directed to re-advertise for bids for the Shady Oak Road landscape project.

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

Originated by:
- Phil Olson, Engineering Project Manager
City of Minnetonka
Shady Oak Rd Landscaping

Landscape Areas

This map is for illustrative purposes only.
Brief Description
Resolution approving a concurrent detachment from Hopkins and annexation to Minnetonka of properties located adjacent to the Minnetonka public works facility.

Recommendation
Adopt the resolution requesting concurrent detachment and annexation.

Background
The subject property is an unaddressed parcel owned by the city of Minnetonka located in the city of Hopkins. Although located in the city of Hopkins, the property is part of the Minnetonka public works site located at 11522 Minnetonka Blvd. The property includes 3.23 acres of land and is used for outdoor storage of equipment, drive aisles and also includes a sanitary sewer lift station. (See pages A1-A4).

Many of the use areas and improvements of the subject property are physically and functionally connected to the larger public works facility. With no distinguishing demarcation between city owned property on either side of the jurisdictional border, the site essentially acts as a single property.

The request for the detachment/annexation stemmed from Minnetonka’s desire to construct a storage building on the parcel. Although the city could do so through the city of Hopkins zoning process, the city staffs concluded it more appropriate for Minnetonka to have jurisdiction over the property. This would allow Minnetonka to take full responsibility for all property issues including zoning and building code regulations. Review of the storage building would occur at a future point in time and is not part of this action.

Because the city-owned property is public, it has no taxable value. A detachment/annexation would be tax base neutral to both communities.

Process
The concurrent detachment and annexation process is guided by state law and managed by the Minnesota Office for Administrative Hearings (OAH). The concurrent detachment and annexation is initiated by each city with the adoption of resolutions. Upon adoption of these resolutions and submission to the OAH, barring any unforeseen circumstances, the approval process with the state is essentially a straight forward administrative procedure.

The Hopkins city council approved the companion resolution at their September 6, 2016 regular meeting. (See pages A8-A12).
Storage Building

Assuming the OAH approves the concurrent detachment/annexation, staff will initiate a neighborhood meeting with neighbors in the immediate area to provide information about the proposed storage building project. Zoning review would commence shortly thereafter. Anticipated reviews include site and building plan and a conditional use permit.

Staff Analysis

Staff finds that the detachment/annexation proposal is reasonable as:

1. The detachment/annexation would allow Minnetonka to have jurisdiction over a city-owned parcel used for the public works facility.

2. The city of Minnetonka could continue to utilize its public works facility grounds in an organized manner.

3. The detachment/annexation would be tax base neutral.

Staff Recommendation

Adopt the joint resolution requesting concurrent detachment from Hopkins and annexation to Minnetonka. (See pages A5–A7).

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

Originator: Corrine Heine, City Attorney
            Loren Gordon, AICP, City Planner
LOCATION MAP

Unaddressed Property for Concurrent Detachment from Hopkins and Annexation to Minnetonka
Legal Description

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

Par 2: Commencing at the Southwest corner of Tract C, Registered land Survey No 291, Hennepin County, Minnesota, thence North along the West line of said Tract C on an assumed bearing of North 0 degrees 10 minutes East a distance of 510 feet; thence North 88 degrees 49 minutes East a distance of 60 feet; thence South 11 degrees 48 minutes 15 seconds East a distance of 480.29 feet to the South line of said Tract C; thence South 75 degrees 45 minutes West along South line of said Tract C a distance of 165.0 feet to the point of beginning.
Certificate of Title
Certificate Number: 642115

Transfer from: 211922

Originally registered December 28, 1921 Volume: 72, Certificate No: 23230, District Court No: 2109
State of Minnesota
County of Hennepin  

This is a non-certified copy

This is to certify that
City of Minnetonka, a Minnesota municipal corporation, whose address is Minnetonka, Minnesota

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

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

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Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials

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<td></td>
<td>12:00 PM</td>
<td>sewer purposes over pt of above land (See Inst) Parcel No. 47</td>
</tr>
<tr>
<td>T2370623</td>
<td>Easement</td>
<td>May 4, 1993</td>
<td>Minnegasco, a division of Arkla, Inc. Granting an easement for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11:00 AM</td>
<td>pipeline over pt of Par 2 (See Inst)</td>
</tr>
<tr>
<td>T2370624</td>
<td>Resolution</td>
<td>May 4, 1993</td>
<td>By the City Council of the City of Hopkins. Granting a Conditional</td>
</tr>
<tr>
<td></td>
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<td>11:00 AM</td>
<td>Use Permit (See Inst)</td>
</tr>
<tr>
<td>T3538749</td>
<td>Declaration</td>
<td>May 2, 2002</td>
<td>Creating wetland buffer areas, restrictions and maintenance agreements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2:00 PM</td>
<td>(See Inst)</td>
</tr>
</tbody>
</table>

Certificate Number: 642115

This is a non-certified copy

Page 1 of 2
In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 18th day of November, 1983.

R. Dan Carlson
Registrar of Titles,
In and for the County of Hennepin and State of Minnesota.
City of Minnetonka
Resolution No. 2016-___

Resolution requesting concurrent detachment from Hopkins and Annexation to Minnetonka of Certain Lands Pursuant to Minnesota Statutes Section 414.061

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

Section 1. Background.

1.01. The City of Minnetonka is the fee owner of certain real property, legally described on the attached Exhibit A (the “Annexation Property”), which is located in the City of Hopkins.

1.02. The Annexation Property is located immediately adjacent to other real property owned by the City of Minnetonka that is improved with the city’s public works facility (the “Public Works Property”), which is located in the City of Minnetonka.

1.03. The City of Minnetonka historically has owned, occupied and used the Annexation Property and Public Works Facility as a single parcel of land.

1.04. The City of Minnetonka and the City of Hopkins desire to modify their respective municipal boundaries by detaching the Annexation Property from the City of Hopkins and attaching the Annexation Property to the City of Minnetonka.

Section 2. Council Action.

2.01. The City of Minnetonka requests that the Office of Administrative Hearings – Municipal Boundary Adjustment Unit concurrently detach the Annexation Property from the City of Hopkins and annex the same to the City of Minnetonka at the earliest possible date.

2.02. The City Clerk is directed to submit this Resolution to the Office of Administrative Hearings – Municipal Boundary Adjustments for the purposes set forth herein.

2.03. The City of Minnetonka agrees that, within 30 days of receipt of both this Resolution and of a similar resolution adopted by the City of Hopkins city council, the Office of Administrative Hearings – Municipal Boundary Adjustments may review and comment but shall order the concurrent detachment and annexation consistent with the terms of this Resolution.

2.04. The City of Hopkins has designated the Annexation Property as wetland and open space in its Comprehensive Plan, and it is zoned for single family low density. These designations most closely resemble the City of
Minnetonka Comprehensive Plan Land Use Guiding of Low Density Residential and a zoning designation of R-1 Single Family Residential. These designations shall be in place until such time, if any, as they may be revised by the City of Minnetonka city council according to Minnesota Statutes Chapter 462.

Adopted by the City Council of the City of Minnetonka, Minnesota, on .

______________________________
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 .

______________________________
David E. Maeda, City Clerk
EXHIBIT A

Legal Description of Annexation Property

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

Par 2: Commencing at the Southwest corner of Tract C, Registered Land Survey No. 291, Hennepin County, Minnesota, thence North along the West line of said Tract C on an assumed bearing of North 0 degrees 10 minutes East a distance of 510 feet; thence North 88 degrees 49 minutes East a distance of 60 feet; thence South 11 degrees 48 minutes 15 seconds East a distance of 480.29 feet to the South line of said Tract C; thence South 75 degrees 45 minutes West along South line of said Tract C a Distance of 165.0 feet to the point of beginning.
August 26, 2016

Honorable Mayor and City Council Members
City of Hopkins
1010 1st Street South
Hopkins, MN 55343

RE: Detachment and Annexation of Minnetonka Property

Dear Mayor and City Council Members:

The City of Minnetonka and the City of Hopkins have expressed interest in exercising a concurrent detachment and annexation. This process is outlined in state law. The City Attorneys for the cities have worked collaboratively in drafting the necessary documents to carry out this process. The resolution drafted by the City of Minnetonka for the City of Hopkins is acceptable and can be approved by the City Council. The City of Minnetonka will further process the concurrent detachment and annexation. This letter further seeks to provide insight on the process generally.

Upon adoption of the companion resolutions by each City’s respective governing body, the resolutions will be sent to the Minnesota Municipal Boundary Adjustment Unit, which is an office within the Minnesota Office for Administrative Hearings (“OAH”). In cases where each respective city has approved resolutions authorizing the concurrent detachment and annexation, the chief administrative law judge is authorized to order such detachment and annexation upon finding that such resolutions are in order. The effective date of such detachment and annexation is the issuance of the chief administrative law judge’s order, or at a later date that is provided in the order. A copy of the order must also be filed with the county auditor, which is carried out by the chief administrative law judge.

Since the concurrent detachment and annexation is initiated by and pre-approved by the respective city councils, the process itself is relatively straightforward. Upon adoption of the resolutions by the respective cities and barring any unforeseen circumstances, the cities would essentially need to simply wait for the OAH to issue its opinion approving the concurrent detachment and annexation.

1 Minn. Stat. § 414.061.
Honorable Mayor and City Council Members
City of Hopkins
August 26, 2016
Page 2

Please let me know if you have any questions or if you would like to discuss this matter in more detail. Thank you.

Sincerely,

KENNEDY & GRAVEN, CHARTERED

[Signature]

Scott J. Riggs
Hopkins City Attorney

SJR:jms
cc: Mike Mormson, City Manager
    Kersten Elverum, Director of Planning and Economic Development
    Jason Lindahl, City Planner

Concurrent Detachment/Annexation
CITY OF HOPKINS
Hennepin County, Minnesota

RESOLUTION NO. 2016-061

RESOLUTION REQUESTING CONCURRENT DETACHMENT FROM HOPKINS AND ANNEXATION TO MINNETONKA OF CERTAIN LANDS PURSUANT TO MINNESOTA STATUTES SECTION 414.061

WHEREAS, the City of Minnetonka is the fee owner of certain real property, legally described on the attached Exhibit A (the "Annexation Property"), which is located in the City of Hopkins; and

WHEREAS, the Annexation Property is located immediately adjacent to other real property owned by the City of Minnetonka that is improved with the city’s public works facility (the “Public Works Property”), which is located in the City of Minnetonka; and

WHEREAS, the City of Minnetonka historically has owned, occupied and used the Annexation Property and Public Works Facility as a single parcel of land; and

WHEREAS, the City of Minnetonka and the City of Hopkins desire to modify their respective municipal boundaries by detaching the Annexation Property from the City of Hopkins and attaching the Annexation Property to the City of Minnetonka.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City of Hopkins requests that the Office of Administrative Hearings – Municipal Boundary Adjustment Unit concurrently detach the Annexation Property from the City of Hopkins and annex the same to the City of Minnetonka at the earliest possible date.

2. The City Clerk is directed to submit this Resolution to the Office of Administrative Hearings – Municipal Boundary Adjustments for the purposes set forth herein.

3. The City of Hopkins agrees that, within 30 days of receipt of both this Resolution and of a similar resolution adopted by the City of Minnetonka city council, the Office of Administrative Hearings – Municipal Boundary Adjustments may review and comment but shall order the concurrent detachment and annexation consistent with the terms of this Resolution.

4. The City of Hopkins has designated the Annexation Property as wetland and open space in its Comprehensive Plan, and it is zoned for single family low density. These designations most closely resemble the City of Minnetonka Comprehensive Plan Land Use Guiding of Low Density Residential and a zoning designation of R-1 Single Family Residential. These designations shall be in place until such time, if any, as they may be revised by the City of Minnetonka city council according to Minnesota Statutes Chapter 462.
Adopted this 6th day of September, 2016.

Molly Cummings

ATTEST:

Amy Domeier, City Clerk

Concurrent Detachment/Annexation
EXHIBIT A

Legal Description of Annexation Property

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

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City Council Agenda Item #10B  
Meeting of September 12, 2016

**Brief Description**  
Resolution approving a conditional use permit and final site and building plans for a storage facility at Hopkins West Junior High School at 3830 Baker Road

**Recommendation**  
Adopt the resolution approving the request

**Proposal**

The applicant, Patrick Poquette, is proposing to construct an unheated storage building. The storage building would be 24 feet by 83 feet – or approximately 2,000 square feet in area – and 13 feet in height. As proposed, the building would be located just north of the existing tennis courts at Hopkins West Junior High School.

**Planning Commission Hearing**

The planning commission considered the request on August 18, 2016. The staff report from that meeting may be found at: [http://tinyurl.com/PC081816](http://tinyurl.com/PC081816). Staff recommended approval of the proposal noting:

1. Construction of a storage building on school property is reasonable.
2. The proposed structure would comply with the required standards and ordinances for the conditional use permit and site and building plan review.
3. The proposal would not negatively impact surrounding land uses, as the nearest residential property is over 240 feet from the proposed building. The proposed building would be appropriately buffered by vegetation and distance.

The item was removed from the commission’s consent agenda and discussed.

**Planning Commission Recommendation**

On a 5-0 vote, the commission recommended that the city council approve the request. Meeting minutes may be found at: [http://tinyurl.com/pc0818](http://tinyurl.com/pc0818).

**Since Planning Commission Hearing**

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

Adopt the resolution approving a conditional use permit for a storage building at 3830 Baker Road. (See pages A2–A8.)

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

Originator: Drew Ingvalson, Planner
Project: Hopkins West Junior High
Address: 3830 Baker Rd
Project No. 95012.16a

This map is for illustrative purposes only.
Resolution No. 2016-

Resolution approving a conditional use permit and final site and building plans for a cold storage building at Hopkins West Junior High School at 3830 Baker Road

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

Section 1. Background.

1.01 Patrick Poquette has requested approval of a conditional use permit and final site and building plans for a cold storage building.

1.02 The property is located at 3830 Baker Road. The affected properties are located within an area described as unplatted 22 117 22, addition #79122 described as:

That part of the East 99 feet of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter lying South of the North 240 feet thereof; also that part of the West 336.78 feet of the East Half of the Northwest Quarter of the Northeast Quarter lying South of the North 240 feet thereof; also that part of the South 303 feet of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter lying East of the West 336.87 feet thereof and lying West of County Road No. 60 and lying Northerly of a line drawn from a point on the West line of said County Road distant223 feet North of the South line thereof to a point on the East line of said West 336.87 feet thereof distant 203 feet North of South line thereof.

1.03 On August 18, 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.
Section 2. General Standards.

2.01 City Code §300.16, Subd. 2, states no conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

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

2.02 City Code §300.16, Subd. 3, states that in addition to the general standards, no conditional use permit shall be granted unless the city council determines that all of the specific standards for a specific use will be met. For public buildings or facilities, except for recreational buildings that contain less than 1,000 square feet, and utility cabinets larger than 150 cubic feet:

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

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.

1. The use of a cold storage building is consistent with the intent of this ordinance.

2. The use of a cold storage building is consistent with the goals, policies and objectives of the comprehensive plan.

3. The proposed cold storage building would not have an adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

4. The proposed cold storage building will not have an undue adverse impact on the public health, safety or welfare.

3.02 The proposal would meet the general conditional use permit standards outlined in City Code §300.16, Subd. 3(l).

1. The proposed cold storage building would meet the site and building plan requirements, as outlined in section 3.03 of this resolution.

2. The subject property has access to Baker Road, an arterial roadway.

3. The proposed building would have setbacks to the exterior property lines of the Hopkins West Junior High School Campus that are greater than 50 feet.

4. The proposed building would not significantly impact parking on the site.

5. The proposed building would be located on an existing asphalt surface and would not increase hardcover on the property.

3.03 The proposal would meet the site and building plan standards outlined in the City Code §300.27, Subd. 5.
1. The proposal has been reviewed by planning, engineering, building, natural resources, fire and public works and found to be generally consistent with the city’s development standards.

2. The proposal would meet all minimum ordinance standards.

3. The proposed building would not increase the amount of impervious surface on the site. The building would be constructed on an existing asphalt surface north of an existing tennis court.

4. The proposed building would maintain a consistent relationship with the other storage buildings and elements of the property.

5. The proposed storage building would have minimal impact on the existing site. The proposed building would be located adjacent to the existing tennis court and parking lot, positioned on an existing asphalt surface, materials would be complimentary to the adjacent structures, and vehicular and pedestrian traffic would not be altered.

6. The shed is proposed for an area that would not reduce the amount of landscaping on site and would preserve existing site features.

7. Adequate screening would be provided through existing vegetation, parking lot, and distance.

Section 4. City Council Action.

4.01 The above-described conditional use permit and final site and building plan are hereby 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 plan date stamped July 18, 2016
   - Building elevations dated July 18, 2016
   - Floor plans July 18, 2016
2. Prior to issuance of a building permit:
   a) Submit the following items for staff review and approval:
      1) 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.

3. Construction must begin by December 31, 2017, unless the city council grants a time extension.

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 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 September 12, 2015.

________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #10C  
Meeting of September 12, 2016

**Brief Description**  
Ordinance approving a wetland rezoning to accommodate construction of that portion of the Southwest Light Rail Transit line located in the City of Minnetonka

**Recommendation**  
Adopt the ordinance

**Proposed Ordinance**

At its August 22, 2016 meeting, the city council approved a variety of resolutions associated with construction of the Southwest Light Rail Transit (SWLRT) line in the City of Minnetonka. At that meeting, the council also introduced an ordinance removing area from the wetland overlay zoning district. This wetland rezoning is required, as construction of the SWLRT line will require fill of 2.99 acres of wetland.

**Planning Commission Recommendation**

The planning commission considered various requests associated with construction of the SWLRT line, including the wetland rezoning, on August 4, 2016. A public hearing was conducted; no comments were received.

**Planning Commission Recommendation**

On a 6-0 vote, the commission recommended that the city council approve the various requests, including the rezoning. Meeting minutes may be found on page A7.

**Staff Recommendation**

Staff recommends the city council adopt the ordinance removing area from the wetland overlay zoning district. (See page A1–A6.)

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 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:
MTA-MTA-09
Type 3
63 sf (Permanent)
1,470 sf (Temporary)

MTA-MTA-11
Type 2/3/5/6/7
Minnetonka Impacts:
120,194 sf (Permanent)
0 sf (Temporary)

NM-HOP-13
Type 1/3/5/6
Minnetonka Impacts:
116 sf (Permanent)
20,356 sf (Temporary)

MTA-MTA-12
Type 5
141 sf (Permanent)
23,066 sf (Temporary)

NM-HOP-13
Type 1/3/5/6
NMCWD Impacts:
6,707 sf (Permanent)
0 sf (Temporary)

MTA-MTA-11
Type 2/3/5/6/7
NMCWD Impacts:
6,707 sf (Permanent)
0 sf (Temporary)

NM-HOP-13
Type 1/3/5/6
Minnetonka Impacts:
116 sf (Permanent)
20,356 sf (Temporary)

Minnetonka
Hopkins

SOUTHWEST LRT
WCA Regulated Aquatic Resource Impacts
MapBook

MTA-MTA-10
Type 2/3/5/6/7
Minnetonka Impacts:
120,194 sf (Permanent)
0 sf (Temporary)

NMCWD Impacts:
6,707 sf (Permanent)
0 sf (Temporary)

Minnetonka
Hopkins

LPA-5
Rev 00.00
4/6/2016
Sheet 5 of 15

A5

SWLRT
NR Items
**Non-WCA Regulated Channel**

**NM-HOP-13**
Type 3/6
0 sf (Permanent)
20,538 sf (Temporary)

**NM-HOP-14**
Type 1/3/5/6
CWD Impacts:
9 sf (Permanent)

**NM-HOP-15**
Type 3/5
0 sf (Permanent)
0 sf (Temporary)

**NM-HOP-16**
Type 90
0 sf (Permanent)
0 sf (Temporary)
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.
City Council Agenda Item #12A  
Meeting of September 12, 2016

**Brief Description**  
Items concerning LeCesse Apartments at 10101 Bren Road East:

1) Ordinance rezoning the property from I-1 to PUD;  
2) Master Development plan; and   
3) Site and building plan review, with parking variance.

**Recommendation**  
Introduce the ordinance and refer it to the planning commission

**Background**

In September 2015, the city council reviewed a concept plan presented by Roers Investment for the redevelopment of the existing Sicom Data Services building at 10101 Bren Road East. The plan contemplated the construction of a 274-unit, five-story apartment building. The council commented that the high-density residential use of the property was appropriate. However, the council members also commented that the building lacked “interest” and that they would like to see taller building(s) with more “pizzazz” and a more exciting “vibe.” (See concept plan and minutes on pages A3-A7.)

In February 2016, the city council reviewed a concept plan presented by LeCesse Development Corp. The plan contemplated a seven-story building with two levels of parking and five stories consisting of 350-units of luxury apartments. The council continued to support the high-density use of the site and generally expressed that the design of the building and the amenities aligned better with their vision for the Opus area and the upcoming SWLRT. The council asked a variety of questions related to the use of greenspace on the west side of the property. (See concept plan and minutes on pages A9-A13.)

**Proposal**

LeCesse has now submitted formal applications and plans for the redevelopment of the property. The plans are generally consistent with the concept presented to the council in February 2016. As submitted, the existing Sicom buildings would be removed and a new 332-unit apartment building would be constructed. The building would consist of underground parking, a structured first floor parking level, and five stories of apartments above. (See pages A15-A36.)
The proposal requires:

1) **Preliminary and final plat.**

2) **Rezoning.** The subject property is currently zoned I-1, Industrial. The applicant requests that the property be rezoned to planned unit development (PUD).

3) **Master Development Plan.** By city code, review and approval of a master development plan is required in conjunction with a rezoning to PUD.

4) **Site and Building Plan Approval.** By city code, site and building plan review is required for construction of any multi-family residential building.

5) **Vacation.** The property is encumbered by a number of easements. The proposal includes a request to vacate existing easements and re-dedicate easements over existing utilities to remain; relocated utilities and proposed utilities.

**Issue Identification**

The purpose of introducing an ordinance is to give the city council the opportunity to review a new application before sending it to the planning commission for a recommendation. Introducing an ordinance does not constitute an approval. The tentative planning commission date is September 22, 2016.

Based on preliminary review of the proposal, staff has identified the following issues for further analysis and discussion:

1) **Site and Building Design.** Site design and appearance relative to the OPUS area and the public trail will be evaluated. Additional consideration will be made to determine any negative impacts on adjacent properties.

2) **Traffic and Access.** A traffic study will be conducted to determine the proposal's anticipated traffic generation and impact on existing levels of service and to suggest/identify any necessary improvements. Additional review of the private access agreement between the site and the business condos to the east will also be conducted.

3) **Utility Connections.** A number of public and private utility lines bisect the property. The necessity of relocating some of these utilities will be evaluated.
4) **Public trail.** A study will be conducted to determine the average number of daily users of the trail and the times of the trail’s peak demand times. This study will be used to inform the trail’s relocation and reconstruction.

5) **Open Space.** During the concept plan review, the developer indicated that a hotel may be constructed on the western portion of the property at some point in the future. Since the initial review, the footprint of the building and utility and trail relocations have extended further west on the property to accommodate existing topography. As such, the 27,000 square foot area west of the trail would be used as outdoor recreational area. Further development of this area would be challenged by traffic and access concerns, setbacks, trail and utility locations and topography.

6) **Affordable housing.** At the concept plan stage, the developer expressed interest in providing affordable apartment units. Since the concept plan review, the developer has indicated that they are no longer interested in providing affordable units.

**Staff Recommendation**

1) Introduce the ordinance on pages A37-A39 and refer it to the planning commission.

2) Approve or modify the proposed notification area on page A40.

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

Originated by:
   Ashley Cauley, Senior Planner
Location Map

Project: Lecesse Apartments
Applicant: Lecesse Development Corp.
Address: 10101 Bren Road E
Project No. 88095.16b
November 2015 Concept Plan
D. Concept plan review for redevelopment of the property located at 10101 Bren Road E

Thomas gave the staff report.

Wagner said as the council had discussed the area, the discussion was that it was going to change to a higher density. He thought there was agreement it would be a combination of businesses and residential. It was more logical that the Merchandise Mart area might have more residential, and he had argued for residential on the Datacard site as well but the
council decided otherwise. He said he was fine with the concept but it lacked pizzazz at this point. As the council discussed other recent developments it was clear that one big, long, five story, and unattractive apartment building was not something the council would look favorably upon. Some character was important. He noted that for the second phase with the hotel site, the area starved for more higher end hotels. With the area being a jobs center and only the Marriott in the area, he guaranteed every business would starve for the competition.

Acomb said the plan didn’t have much of a neighborhood feel. She felt residential was appropriate but wanted it to feel at least a little welcoming. Earlier in the day she asked for information about where the parks and trails were within Opus. The map she was sent was helpful because it showed trails going right through this property.

Wagner said he thought about the multiple proposals that were looked for what now is Tonka on the Creek/Overlook. He said you can tell that development will have a good feel and vibe with the rooftop patio and green features. He encouraged the developers to be as creative with this development.

Schneider said a residential use within walking distance of the proposed light rail station made good sense. The challenge was the look was more what one would expect with a traditional sprawled out rental apartment building. If there was any place in the city that would allow a taller building this was the space. He would be a lot more excited with a plan for two six to eight story buildings with a lot of surrounding green space. He said it was a good use but wasn’t very imaginative.

Wiersum said the term “vibe” sounded right. There were two very interesting apartment buildings being built in the city right now – the Overlook and the island property being done by Carlson. He wanted to approve something in Opus that would bring some excitement and drive further development of the sort that would take advantage of the existing amenities as well as light rail. An apartment building that looks like it belongs along I494 was not it. He thought there was an opportunity for mixed use residential with other components. Schneider said the caveat to getting that type of development was it usually required greater density.

Allendorf noted he worked in the Opus area for three years and he was having a difficult time envisioning what type of apartment building this would be in terms of who it might attract. On one side of Opus was the Marriott and on the other side was the budget hotel. He didn’t know what type of hotel might fit on this property. It might be something in between a
budget hotel and an upper scale hotel, similar to a Hampton Inn. He was not adverse to residential but he wasn’t sure how it would fit in the area.

Schneider said a portion of the 6,000-8,000 United Health employees might be a built in audience for the apartments.

Wagner said there were a lot of non-full service types of hotels with a bar and limited food service all in the lobby area, which have a good vibe. This might fit in the area. Allendorf said the Garden Inn in Eden Prairie was that type of hotel and it had a good feel to it. He said perhaps that was the type of hotel that could go on the site.

Wiersum said the challenge was the desire to build a building that is not for what's there now but what will be there in the future. This required envisioning what the future of the Opus area was and what would be appropriate on this site. There was the potential for millennials who wanted to live in the suburbs and could take the light rail to downtown for a ballgame without having to use a car.

Schneider said although he didn't think Minnetonka would ever do it, Bloomington had many areas that have a minimum density requirement. He said the council could encourage this for developments in certain areas.
February 2016 concept plan review
B. Concept plan review for a 350-unit apartment building at 10101 Bren Road East

Gordon gave the staff report.

Tom Hayden from LeCesse Development Group, said his company had developed 1,600 to 1,700 luxury residential units in the metro area. He said the comments from the previous design were taken into account in developing this plan. The amount of parking was increased. There were two spaces per unit but more importantly there were 100 surface spaces. A buffer was created between this community and the community to the east. Density was added to match the long term plan for the Opus park. Green space was added particularly at the entrance.
Wiersum said it was an intriguing design that was much more attractive than the previous plan. He liked the layout and the new urbanism look was attractive. He said the size of the building fits the location. He generally viewed the plan positively. The green space was a nice addition.

Ellingson asked for information about why Hayden had described the design as urban. Hayden said the term related to the look of the building. The roof was flat as opposed to being pitched. This was more typical in an urban environment. The density was also a factor. The units on average were smaller than a typical suburban design. Care would be taken to use the space better with rooftop amenities being considered. Every square inch of the building would be used to live in, occupy, visit or use as an amenity.

Allendorf asked what the long term plan was for the green space on the west side. Hayden said there was not a long term plan yet. The initial thought was to place a hotel on the space but at this point he was not comfortable that would be successful. Allendorf said part of the appeal of the plan was the open space to the west. If the apartment building was built and then a hotel was immediately built afterward, he wouldn't feel as positive about this plan. Hayden said there was a transformation taking place in the area. With the transformation he wasn't sure if the end result would be more public parks or if more density was desired.

Acomb agreed she liked this concept better than the previous design. She liked the attention given to the connection with the trails. This was an important aspect for all the development in the Opus area. She appreciated all the amenities particularly using the roof space. She agreed with Allendorf's comments about maintaining the green space.

Bergstedt said the city's concept plan review process had not always worked perfectly but in this case it worked well. A different developer had presented the previous plan and it was kind of boring and very suburban. The council was looking for something more urban looking with more density to preserve more green space. The council was hoping for something that wouldn't necessarily fit in with the current area but rather would fit in with what was being envisioned with the LRT coming in. He said this plan was headed in the right direction.

Schneider said he liked the feel of the design. He noted the staff report indicated two levels of underground parking. He asked if it was truly underground parking or if there would be structured parking above ground or a combination of both. Hayden said due to the topography on one end of the property both levels would be above grade. Going to the east there would be one level below grade and one level above grade. Schneider
asked how Hayden thought the grade level area would be used. Hayden said it would be used for parking. It would be masked to make it feel like it wasn’t a parking area. Schneider said depending on how the area developed there could be some of the apartment amenities that could be used by the general public such as a coffee shop. He said he had mixed feelings about the two parking spaces per unit given the proximity to light rail. Hayden said the biggest complaint he hears from the residents in other buildings was the lack of parking. If there was not the proper amount of parking available the residents would not remain long term.

Allendorf said he still was a little hung up on the green space. For some residential properties where there was a forest or trees that the city wanted to save, a conservation easement was put on the property. He wasn’t aware this had ever been done on commercial or industrial properties in the city. He saw this as a project getting approved and then something else being developed on the green space. He didn’t know how this could be addressed. He was concerned about approving this because the council liked what it saw only to have something else developed in the near future that was totally different.

Schneider said he too considered what Allendorf was concerned about but for him another five story building would not kill this concept because the council was trying to get more density in the area. He was more concerned that there be some integration between the buildings. Hayden said with 350 apartments and a $70 million investment, he didn’t want to risk doing something that would impact the larger community. It was very important that what ever happened to the green space area was in concert with the main building.

Allendorf asked what controls the city had over what developed on the green space property. Gordon said there were number of options. The area was currently guided for mixed use with the site zoned for industrial. There were a number of tools that could be used to get the type of project the city wanted. It was a matter of articulating what the council wanted so the tools could be put in place to keep the space as is or allow for something else to happen in the future. Allendorf said he appreciated Hayden’s comments about not wanting to risk the investment but on the other hand he would hate to see something come forward that staff told the council there was no way to stop. Wischnack said one of the tools that could be used was the master development plan itself. The city could ask the developer to mock up a potential redevelopment of the area to give the council some understanding on how the two sites could connect.

Schneider said one option would be to guide and zone and do the PUD for the area of the building and leave the zoning as is for the outlot.
Wiersum said the discussion about what constituted an urban building was instructive. The staff report indicated there would be smaller units, studios and one bedroom apartments and not as many two bedroom apartments. He said it was interesting because this would be an urban building in a non-urban environment that would become more urban over time. Amenities like the open space could give the developer a leg up on a similar building in Minneapolis. He would like to retain the green space in a creative way that was a win/win for everybody.

Acomb asked for more information about how the park dedication fees might be intended for use as the process proceeds.
Current Application
Minnatonka Multi Family

WARNING:
The following soils were observed on the site:
- Clay
- Sand
- Silt
- Loam

LOUCKS R-U.
PROPOSED BUILDING
FFE- 932.00
LER- 22.00
(SUB-ARCH.)

Landscape Plan
**LECESSE DEVELOPMENT**

**UNIT TABULATION - 3 STORY**

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**UNIT AVERAGE NET SF:**

937

**NET AREA COMPUTED TO INCLUDE WALK-THRU FOOTPRINTS FROM EXTERIOR FACE OF ALL EXTERIOR FRAME WALLS THAT ENCLODE AIR SPACE. DOES NOT INCLUDE RAINBOW, BALCONIES, OUTDOOR STORAGE AREAS.**

**PROJECT DATA**

**UNIT AVERAGE NET SF:**

937

**AVERAGE:**

7.81 GROSS ACRES

**DENSITY:**

41 UNITS/ACRE

**PARKING:**

- 2 LEVEL GARAGE PARKING: 395 SPACES
- SURFACE PARKING: 402

**SPACES/UNIT:**

1.6
WEST ELEVATION

NORTH ELEVATION
FIRST FLOOR NET - 5,310 S.F.
TOTAL NET - 8,260 S.F.
FIRST FLOOR NET - 2,700 S.F.
TOTAL NET - 7,892 S.F.
Ordinance No. 2015-

An ordinance rezoning the property at 10101 Bren Road East from I-1, Industrial, to PUD, Planned Unit Development and adopting a master development plan

The City Of Minnetonka Ordains:

Section 1.

1.01 The subject property located at 10101 Bren Road East is hereby rezoned from I-1, industrial to PUD, Planned Unit Development

1.02 The property is legally described as follows:

Lots 2 and 6, Block 10, Opus II 1st Addition, Hennepin County, Minnesota.

Torrens Property
Certificate of Title No. 1030360.

Section 2.

2.01 This action is based on the following findings:

a. The rezoning to PUD would provide the following public benefits:

1. It would result in the development of a housing type that is desirable to the city. The proposed market-rate, high-end apartments would be a unique housing type for Minnetonka.

2. It would result in redevelopment of a currently vacant, under-utilized property.

b. The rezoning would be consistent with the comprehensive guide plan and the intent of the zoning ordinance.
Section 3.

Approval is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:
   - Alta/ACSM survey dated February 5, 2016
   - Alta Survey/ACSM survey (easements) dated February 5, 2016
   - Alta/ACSM survey (topography) dated February 5, 2016
   - Demolition plan dated August 4, 2016
   - Site plan dated August 4, 2016
   - Grading plan dated August 4, 2016
   - SWPPP plan and notes dated August 4, 2016
   - Utility plans and details dated August 4, 2016
   - Landscape plan and details dated August 4, 2016
   - Architectural site plan dated July 6, 2016
   - Floor plans dated July 5, 2016
   - Building elevations dated July 6, 2016

   The plans described above constitute the master development plan for LeCesse Apartments.

2. The development must further comply with all conditions outlined in City Council Resolution No. 2016-xx, adopted by the Minnetonka City Council on _____________, 2016.

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

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on ______________, 2015.

_____________________________________
Terry Schneider, Mayor
Attest:

David E. Maeda, City Clerk

**Action on this ordinance:**

Date of introduction:
Date of adoption:
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 _______________, 2015.

David E. Maeda, City Clerk
REQUIRED 400 FT NOTIFICATION

PROPOSED NOTIFICATION
Brief Description
Items concerning Ridgedale Corner Shoppes at 1801 Plymouth Road:

1) Major amendment to an existing master development plan;
2) Site and building plan review, with variances;
3) Conditional use permit; and
4) Preliminary and final plats.

Recommendation
Introduce the ordinance approving a major amendment to the existing master development plan and refer it to the planning commission.

Background
In November 2015, the city council reviewed a concept plan submitted by TCF National Bank and Solomon Real Estate Group for redevelopment of the TCF Bank property at 1801 Plymouth Road. The plan contemplated removal of the existing, two-story bank building and construction of two, one-story buildings. The westerly building would be occupied by TCF Bank and the easterly building by a variety of retail and service tenants. The city council indicated that it understood TCF’s desire to update its presence on Plymouth Road, while responding to the evolving banking industry. However, the council expressed significant concern regarding the concept’s development intensity and building design.

In January 2016, the city council reviewed a second concept plan. Primary changes from the November 2015 plan were building materials and colors and increased building height and mass in certain areas. The council again expressed concern regarding the concept’s development intensity and building design.

In March 2016, the city council reviewed a third concept plan. The plan contemplated removal of the existing, two-story bank building and construction of a three-story, mixed-use building, with two levels of underground parking. Solomon Real Estate Group indicated that, because this revised concept would have a significant cost gap – primarily based on the inclusion of underground parking – financial assistance would be needed. After the city’s financial consultant performed a preliminary tax increment financing evaluation using a revitalization district standard, the developer indicated that the funding gap was too large to further pursue a mixed-use project for the site.
In June 2016, the city council reviewed a fourth concept plan. The plan contemplated removal of the existing, two-story bank building and construction of a one-story building. The building would be occupied by a roughly 2,400 square foot TCF Bank branch and 7,800 square feet of retail tenants. The council generally commented that although they were disappointed the mixed-use building wasn’t feasible, the current retail concept was more invigorating than the previous proposals.

The concept plans can be reviewed on pages A2–A3.

Proposal

TCF National Bank and Solomon Real Estate Group have now submitted formal plans to redevelop the existing TCF Bank property. The plan reflects the concept reviewed by the council in July 2016. As proposed, the existing two-story bank building would be removed and a new one-story, 10,200 square-foot building would be constructed. TCF would occupy the westerly portion of the building and various retailers would occupy the easterly portion. (See pages A5–A26.)

The proposal requires approval of:

1) **Major Amendment to an Existing Master Development Plan.** By city code, any change to an approved master development plan that “substantially alters the location of buildings, parking areas or roads” is considered a “major” amendment and can only be approved by ordinance.

2) **Final Site and Building Plans, with Variances.** By city code, site and building plan review is required for construction of any new commercial building.

3) **Conditional Use Permit.** By city code, uses having a drive-up window are allowed only by conditional use permit.

4) **Preliminary and Final Plats:** Platting of the site will allow for separate ownership of the bank and retail portions of the building and associated parking lot.

Issue Identification

The purpose of introducing an ordinance is to give the city council the opportunity to review a new application before sending it to the planning commission for a recommendation. Introducing an ordinance does not constitute an approval. The tentative planning commission date is September 22, 2016.

Based on preliminary review of the proposal, staff has identified the following issues for further analysis and discussion:
1) **Site and Building Design.** Proposed site and building design will be considered with reference to previously reviewed concept plans, village center studies, and city code requirements.

2) **Traffic and Access.** A traffic study will be conducted. The study will evaluate anticipated traffic generation and impact on existing levels of service, as well as recommend any appropriate improvements.

3) **Utility Connections.** A number of private utility lines bisect the property. The necessity of relocating some of these utilities will be evaluated.

4) **Stormwater Management.** Full redevelopment of this site will require new implementation of new stormwater management techniques. The proposed techniques will be analyzed for conformance with the city’s water resources management plan.

**Staff Recommendation**

1) Introduce the ordinance on pages A27–A29 and refer it to the planning commission.

2) Approve or modify the proposed notification area on page A30. This is the same area used for the previous TCF redevelopment concept 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
LOCATION MAP

Project: Ridgedale Corner Shoppes
Applicant: Ridgedale Retail, LLC
Address: 1801 Plymouth Road
Project #16020.16a
CURRENT PROPOSAL
Project Narrative

Solomon Real Estate Group and TCF Bank have an agreement to jointly redevelop the current TCF Bank property located at 1801 Plymouth Road.

To begin, let us provide a little bit of history on our planning efforts to-date associated with this property. We first held a neighborhood meeting on October 29, 2015 to introduce a new 2,400 sq. ft. building concept for TCF, along with an approximate 5,400 sq. ft. free standing retail building. This plan, although passed by the Planning Commission, did not meet with the vision of the City Council, so we went back to the drawing board. We next presented a building that combined the retail building with the TCF building, but did little to change the look of the TCF building first presented and once again fell short of Council’s vision for the property. We came back with a 3-story building which included underground parking. While this plan appeared to be more aligned with the city’s vision, after extensive evaluation with many professional consultants, we came to the conclusion that the plan was not economically feasible to construct. We were then invited to attend a work session with the City Council to openly discuss the challenges and opportunities of developing this property. At this work session, it was stated that if we could come up with a single-story retail building with an integrated design focused on high quality aesthetic appeal, that this would be something the city would support.

Our current plan and application is presenting an integrated single-story building with strong aesthetics and curb appeal. The project will have two ownerships with TCF owning their 2,400 sq. ft. building on the west-end of the building. Solomon will own the retail portion consisting of 7,800 sq. ft. of retail/restaurant space on the east-end. The development will have a zero lot line plat with an OEA allowing for cross easement parking throughout the entire project. To the general public, the project will appear as one building only. TCF will continue to have a drive-thru as depicted on the plans with no plans for any additional drive-thru’s as part of the project. We will provide a sidewalk starting at the property line along Plymouth Road which will extend and wrap around the entire property. We will be matching the landscape concept plan for the hard corner as designed by Damon Farber and Associates and implemented as part of the mixed-use project located across the street from our property.

The project will be built in phases. We will first move the utilities to accommodate the new location of the building. Once the utilities are in place the new TCF building construction will commence. Once the TCF building is completed and they are open for business in the new facility, we will start demolition of their old building and finish the retail portion of the building. We anticipate starting construction this October, with a final completion date in either 4th quarter 2017, or 1st quarter 2018.
Preliminary Site Improvement Plans

for

Ridgedale Corner Shoppes
Minnetonka, Minnesota

Prepared for:
Ridgedale Retail, LLC
1508 Welland Avenue
Minnetonka, Minnesota 55305
Contact: Steve Johnson
Phone: (952)852-2339
Email: stevejohnson@solomonre.com

Prepared by:
Westwood

Sheet List Table

Prepared by: Westwood Professional Services, Inc.
Project number: 0004554
Contact David Parks
EXISTING LEGAL DESCRIPTION
Lot 2, Block 2, Ridgedale Center Fourth Addition,
Ramsey County, Minnesota.
Surveyor: Westwood Professional Services, Inc.

GENERAL NOTES
1)Subject property contains 58,680.54 sf or 1.35 acres.
2) Measurements based on TRIM 1995-030, 1995-031
   Minnesota County Coordinators in US Survey Feet.

LEGEND
- Elevation
- Survey Control
- Structure
- Water Main
- Storm Sewer
- Street
- Property Line
- Boundary
- Structure
- Fence
- Tree Line
- Adjacent Property
- Aliquot
- Acre
- RSU
- Surveyor's
- Monuments
- Monument
- Existing Conditions
- Survey

Prepared By:
Ridgedale Retail, LLC
490 Ridgedale Avenue
Mound, Minnesota 55364

Ridgedale Corner Shoppes
Existing Conditions
Survey
08/01/2016

Not For Construction
08/01/2016
Scale 1"=100'
Grading Notes
1. Locations and elevations of existing topography and utilities as shown on this plan are approximate. Contractor shall verify, at own expense, the locations and elevations of all utilities and topography as shown on this plan.
2. Contractors shall refer to topographic and utility plans for exact locations and elevations. Contractors shall verify all details, including the locations of existing utilities, before commencing any work.
3. All excavation shall be in accordance with the current edition of "Standard Specifications for Trench Excavation & Support" as prepared by the City Engineers Association of Minnesota.
4. All disturbed ungraveled areas are to be compacted in accordance with the requirements of the Minnesota Department of Transportation (MNDOT) and the requirements of the geotechnical engineer.
5. All disturbed unpaved areas are to receive four inches of topsoil and five hundred pounds of seed. These areas shall be watered until a healthy stand of grass is obtained. See landscape plan for planting and turf establishment.
6. The contractor shall be responsible for providing and maintaining traffic control devices such as barricades, warning signs, directional signs, flagmen, and lights to control the movement of traffic where necessary. Placement of these devices shall be approved by the engineer prior to placement. Traffic control devices shall conform to appropriate MNDOT standards.
7. All construction shall conform to local, state, and federal rules and regulations, including the National Pollutant Discharge Elimination System (NPDES) permit requirements.
8. Prior to placement of any structure or pavement, a proof roll at a minimum of two for each direction shall be made by the contractor. Proof rolling shall be accompanied by records maintained by the contractor. Proof rolling methodology shall be approved by the engineer. Areas of failure shall be excavated and recompacted as required.
9. All soil and materials testing shall be completed by an independent geotechnical engineer. Excavation for the purpose of removing unstable or unsuitable soils shall be completed as required by the geotechnical engineer.
10. The grading and drainage plan is subject to the requirements of the Ordinary Compaction Method as defined in MNDOT policy.}

Grading Legend
- Property Line
- Index Contour
- Normal Contour
- Cuts and Timber
- High Coastal Water Level
- Slope Finish
- Storm Tile
- Planted City Section (No Main)
- Water Main
- Sanitary Sewer
- Retaining Wall
- Rock Construction Entrance
- Erosion Control Blanket
- Turf Reinforcement Mat
- Spot Elevation
- Flow Direction
- Top and Bottom of Retaining Wall
- Emergency Overflow
- Soil Boring Location
- Inlet Protection
- Alt Protection

Not for Construction

Ridgedale Retail, LLC
Ridgedale Corner Shoppes
Grading, Drainage, & Erosion Control Plan

Prepared for:
Westwood Professional Services, Inc.

Ridgedale Retail, LLC
360 Ridgedale Avenue
Minnapolis, Minnesota 55436

Ridgedale Corner Shoppes
Minnapolis, Minnesota

CARTWAY LN
RETAIL
1,800 SF.
BANK
2,400 SF.
FFE-SM-S
Westwood
Cal 405 Howrt 6or9r dlQn
t811 or eoll611.com
Common CrounO Alllonc*
Gradine Notes Grading Legend
Locations and Elevations of Existing Topography and Utilities as Shown on this Plan are Approximate. Contractor shall verify, at own expense, the locations and elevations of all utilities and topography as shown on this plan. All excavation shall be in accordance with the current edition of "Standard Specifications for Trench Excavation & Support" as prepared by the City Engineers Association of Minnesota. All disturbed ungraveled areas are to be compacted in accordance with the requirements of the Minnesota Department of Transportation (MNDOT) and the requirements of the geotechnical engineer. All disturbed unpaved areas are to receive four inches of topsoil and five hundred pounds of seed. These areas shall be watered until a healthy stand of grass is obtained. See landscape plan for planting and turf establishment. The contractor shall be responsible for providing and maintaining traffic control devices such as barricades, warning signs, directional signs, flagmen, and lights to control the movement of traffic where necessary. Placement of these devices shall be approved by the engineer prior to placement. Traffic control devices shall conform to appropriate MNDOT standards. All construction shall conform to local, state, and federal rules and regulations, including the National Pollutant Discharge Elimination System (NPDES) permit requirements. Prior to placement of any structure or pavement, a proof roll at a minimum of two for each direction shall be made by the contractor. Proof rolling shall be accompanied by records maintained by the contractor. Proof rolling methodology shall be approved by the engineer. Areas of failure shall be excavated and recompacted as required.
Planting Notes

1. Construction shall proceed as scheduled in the approved Planting Schedule.
2. Final grading and landscape installation shall be completed prior to final plantings.
3. Planting shall commence as soon as possible after final grading and construction.
4. All plants shall be delivered to the site in accordance with the approved delivery schedule.
5. All plants shall be installed within 72 hours of delivery.
6. All plants shall be properly staked and tied to prevent damage.
7. All plants shall be properly watered and mulched.
8. All plants shall be inspected prior to installation.
9. All plants shall be approved by the landscape architect prior to installation.
10. All plants shall be approved by the owner prior to installation.

Landscape Requirements

1. Minimum landscape value: $1,000,001 - $2,000,000
2. Maximum landscape value: $2,000,000 - $4,000,000
3. Minimum landscape value: $4,000,000 - $6,000,000
4. Minimum landscape value: $6,000,000 - $8,000,000

Landscape Provisions

1. Total landscaping value: $1,000,001 - $2,000,000
2. Total landscaping value: $2,000,001 - $4,000,000
3. Total landscaping value: $4,000,001 - $6,000,000
4. Total landscaping value: $6,000,001 - $8,000,000

Existing Tree Inventory

1. Retail
2. Bank
3. Paintco Container
4. Soil
5. Bank Cartway Ln.
6. OAO to NFTSR Branch
7. Natural
8. Milkator
9. O
10. Prune plants as necessary.
11. Open top of burlap on back materials.
12. Ensure to match existing conditions.
13. Mulch and fabric to be approved by owner prior to installation.
14. Perennial and ornamental grass beds shall have 2" depth of shredded hardwood mulch.
15. Mulch to be free of deleterious materials and colored reo, or approved equal.
16. Mulch to be at all tree, shrub, and perennial areas.
17. Sidewalks for commercial where possible.
19. Shredded hardwood mulch to be used around all plants within turf areas.
20. Balled and burlap tree is planted, the root collar/root flair shall be even or slightly above finished grade.
21. In this case, soil shall be removed down to the root collar/root flair. Minimum in proposed trees.
22. Temporary only.
23. All plants shall be free from broken or dead branches.
24. All plants shall be free from noticeable caps, holes, or deformities.
25. All plants shall be free from disease, pests, wounds, scars, etc.
26. Trees as required; reposition, plumb and stake if not plumbed after rain.
27. ML snow-barked trees - fasten top and bottom. Remove by April 1st.
28. Separation between mulch and grass, individual tree and shrub beds to be spaced edge. Unless noted.
29. Poly edging shall be placed with smooth curves and staked with metal spikes no greater than a.
30. Mulch to be at all tree, shrub, and perennial areas.
31. Permanent edging to match existing conditions.
32. Edging to be obtained from the general contractor.
33. All plants to be spaced properly.
34. Minimum 4'-0" depth of topsoil for all lawn grass areas and 12'-0" depth of topsoil for existing topsoil from site free of roots, rocks larger than one inch, subsoil debris, and large weeds.
35. Bluegrass mix. Free of lawn weeds at topsoil areas to be raked to remove debris and ensure drainage.
36. Shredded hardwood mulch around all trees and shrub beds.
37. Mulch and fabric to be approved by owner prior to installation.
38. Permanent edging to match existing conditions (where applicable).
39. Separation between mulch and grass. Individual tree and shrub beds to be spaced edge. Unless noted.
40. Sidewalks for commercial where possible.
41. Spaced edge to provide V-shaped depth and width to create a transition to the landscape.
42. Poly edging shall be placed with smooth curves and staked with metal spikes no greater than a. Can be obtained from the general contractor.
43. All plants to be spaced properly. Minimum 4'-0" depth of topsoil for all lawn grass areas and 12'-0" depth of topsoil for existing topsoil from site free of roots, rocks larger than one inch, subsoil debris, and large weeds.
44. Bluegrass mix. Free of lawn weeds at topsoil areas to be raked to remove debris and ensure drainage.
45. Shredded hardwood mulch around all trees and shrub beds.
46. Permanent edging to match existing conditions (where applicable).
47. Separation between mulch and grass. Individual tree and shrub beds to be spaced edge. Unless noted.
48. Sidewalks for commercial where possible.
49. Spaced edge to provide V-shaped depth and width to create a transition to the landscape.
50. Poly edging shall be placed with smooth curves and staked with metal spikes no greater than a. Can be obtained from the general contractor.
51. All plants to be spaced properly. Minimum 4'-0" depth of topsoil for all lawn grass areas and 12'-0" depth of topsoil for existing topsoil from site free of roots, rocks larger than one inch, subsoil debris, and large weeds.
AERIAL PLAN

RIDGE DALE TCF/RETAIL SITE
Minnetonka MN
1693.004.00

8 SEPTEMBER 2016

Ridgedale Corner Shoppes
1801 Plymouth Road
#18021, 16a
WEST ELEVATION
Scale: 1/16" = 1'-0"
EAST ELEVATION
Scale 1/16" = 1'-0"
MATERIALS

FIELD BRICK-1
FIELD BRICK-2
ACCENT BRICK-3
ALUMINUM STOREFRONT BLACK
FIBER CEMENT PANEL TERRACOTTA
STONE BASE
FAUX WOOD PANEL-CEDAR

RIDGEDALE TCF/RETAIL SITE
Minnetonka MN
1693.004.00_A21

8 SEPTEMBER 2016
Ridgedale Corner Shoppes
1801 Plymouth Road
#16021.16a
Retail Perspective

Ridgedale TCF/Retail Site
Minnetonka, MN
1693.004.00

8 September 2016
MONUMENT SIGN
TCF BANK / RIDGEDALE SHOPPES
Ordinance No. 2016-

An ordinance repealing and replacing the existing master development plan for the property at 1801 Plymouth Road

The City Of Minnetonka Ordains:

Section 1.

1.01 The subject property is located at 1801 Plymouth Road. It is legally described as: Lot 5, Block 1, Ridgedale Center Fourth Addition.

1.02 In 1992, the city approved a master development plan for the property. The approved plan generally included a two-story bank building with drive-up windows.

1.03 TCF National Bank and Solomon Real Estate Group have presented a proposal to redevelop the existing site. As presented, the existing two-story bank building would be removed and a one-story, 10,200 square foot building would be constructed. The building would include a bank, with drive-up window, and retail tenants.

1.04 To facilitate redevelopment of the site, this ordinance hereby repeals and replaces the master development plan for the subject property.

Section 2.

2.01 This ordinance is based on the following findings:

1. The proposed redevelopment would be consistent with the property’s mixed-use comprehensive guide plan designation.

2. The proposed redevelopment would not negatively impact public health, safety, or welfare.
This ordinance is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:
   - Civil Site Plan, dated August 1, 2016
   - Grading, Drainage, and Erosion Control Plan, dated August 1, 2016
   - Utility Plan dated August 1, 2016
   - Landscape Plan, dated August 1, 2016
   - Building Elevations, dated September 8, 2016

2. The development must further comply with all conditions outlined in City Council Resolution No. 2016-xx, adopted by the Minnetonka City Council on _____________, 2016.

Section 3. This ordinance is effective immediately.

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

______________________________
Terry Schneider, Mayor

Attest:

______________________________
David E. Maeda, City Clerk

**Action on this ordinance:**

Date of introduction:
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance No. 2016-

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 _____________. 2016.

__________________________
David E. Maeda, City Clerk
PROPOSED NOTIFICATION AREA

Ridgedale Corner Shoppes
1801 Plymouth Road
#16021.16a

Not an accurate survey.
For illustration purposes only.
City Council Agenda Item #12C
Meeting of September 12, 2016

Brief Description
Ordinance amending the city code regarding floodplain districts

Recommendation
Introduce the ordinance and refer it to the planning commission

Background
The city’s first floodplain ordinance was adopted in 1974. The original ordinance prohibited subdivision of properties subject to flooding and prescribed permitted uses, conditionally permitted uses and minimum lot standards for properties within the floodplain district. The ordinance has been periodically amended to respond to changes in federal and state law, as well as to address local issues. Two recent amendments include:

- 2004. The floodplain ordinance was amended to ensure compliance with Federal Emergency Management Agency (FEMA) and state standards for floodplain districts and non-conforming uses within floodplain districts. It was in this ordinance amendment that non-FEMA, or city 100-year floodplain/stormwater ponds, were incorporated into the ordinance. Up to this time FEMA floodplain and 100-year floodplain had be regulated differently. This differentiation between areas that – to non-experts – looked and functioned similarly, had resulted in much confusion and frustration for property owners and city staff alike. The amendment removed much of this confusion and frustration.

- 2011. The floodplain ordinance was amended to ensure compliance with Minnehaha Creek Watershed District rules. Compliance with the rules was required in order to maintain the city’s Memorandum of Understanding (MOU) with the district. It is the MOU that allows the city to be a “one stop shop” for community residents who would otherwise need to seek approvals from both the city and the watershed district.

Introduction
The city is again required to amend the floodplain ordinance to address changes to other agency regulations. Federal Emergency Management Agency (FEMA) has updated the federal flood insurance rate (FIRM) maps. The updated maps are set to become effective on November 4, 2016 and will replace the maps adopted in 2004.

To prepare local governments and water management agencies for the map updates, the Minnesota Department of Natural Resources (DNR) distributed mandatory ordinance updates for local adoption. These updates are required in order to reflect the federally and state mandated changes and ensure continued participation in the National Flood Insurance Program.
Proposed amendments

The DNR provided a model ordinance to local governments and water management agencies earlier this year for local adoption. City staff found that the model ordinance did not adequately address the unique natural resources within the city. As such, rather than repeal the existing ordinance and adopt the model ordinance, staff elected to amend the existing ordinance language to meet all federal and state requirements. No major substantive changes are made to the existing ordinance.

The following is intended to summarize the new or amended language:

- Establishes a clear procedure for persons contesting the location of the floodplain boundary.

- Requires a flood warning system for facilities which are used by employees or the general public to allow for adequate evacuation times during times of high velocity floods.

- Prohibits the storage or processing of materials that are explosive, flammable or dangerous to human, animal or plant life during times of flooding.

To complement the proposed ordinance language changes, the city is also required to adopted new FEMA panel maps. These maps with the effective date November 4, 2016, replace the existing maps dated September 2, 2004.

The 2016 maps include two technical updates to the existing 2004 maps. These updates provide improved floodplain information. The first is a city-wide change that includes topographic, LIDAR (light detection and ranging), elevation data. The second is updated hydrologic modeling for Minnehaha Creek and Nine Mile Creek Watersheds. The modeling for these creek corridors in Minnetonka greatly assists flood boundary interpretation.

In addition to the technical data, any property that had a floodplain boundary revision/amendment would also be included in the updated maps, unless the modeling usurped these revisions.

Staff has reviewed the Minnehaha Creek and Nine Mile Creek corridors to compare the regulated flood areas and corresponding flood elevations. The following were noted:
Minnehaha Creek:

- The regulated 100-year flood elevation from Minnetonka Mills to Highway 169 is lower than currently regulated. This elevation ranges from 1 to 4 feet lower.
- The existing 100-year flood elevation in the Greenbrier Road area has been removed.

Nine Mile Creek:

- The 2004 maps did not include a 100-year flood elevation. The 2016 maps establish a 100-year flood elevation. This is a benefit to adjacent properties for flood protection purposes.

Staff is continuing to work with FEMA and the DNR to review the map changes from 2004 to 2016. For the planning commission public hearing, areas of change will be identified. Beginning October 12th, FEMA will have an on-line interactive tool to assist property owners in identifying applicable flood information for their property.

City staff sent a draft of the amended ordinance to the DNR for review and comments. The DNR responded with some minor clarifications but overall commended the city for its floodplain protection efforts.

**Staff Recommendation**

Introduce the ordinance on pages A1–A21 and refer it to the planning commission.

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

Originated by:
- Ashley Cauley, Senior Planner
- Tom Dietrich, Water Resources Engineering Coordinator
Ordinance No. 2016-__
An Ordinance amending city code section 300.24, regarding the Floodplain Overlay District

The City of Minnetonka ordains:

Section 1.  Section 300.24 of the Minnetonka City Code is amended to read as follows:

1.  Purpose, Authority.

   a) This ordinance regulates development in the flood hazard areas within the City. The purpose of the floodplain district is to recognize, preserve, and protect recreational and hydrological resources and functions of the city’s creeks and associated lakes and drainageways by regulating the use of the creeks, associated lakes and adjacent properties in order to minimize loss of life, property damage, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and the impairment of the tax base due to flooding, and thereby promote the public health, safety, and welfare. The intent is to apply the regulations and standards of this district as an overlay zone, further regulating the use of land as allowed by the other use districts of this ordinance and to maintain a no net loss of floodplain volume.

   b) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail.

   a)c) This ordinance does not imply that areas outside of the floodplain districts, as defined by this ordinance, or lands uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Minnetonka or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

   e)d) This section is adopted pursuant to Minn. Stat. chapters 103F and 462 as amended.

________________________________________
The stricken language is deleted; the underlined language is inserted.
d) e) This section is adopted to comply with the rules and regulations of the national flood insurance program codified as 44 code of federal regulations (CFR), parts 59 - 78, as amended, to maintain the community's eligibility in that program.

(Amended by Ord. 2011-28, adopted December 19, 2011)

2. Boundaries of Floodplain District.

a) Districts. The boundaries of the floodplain district are comprised of two areas categorized into two areas, those: (1) areas designated by FEMA as floodplain ("FEMA floodplain"); and (2) those areas in addition to located outside the FEMA floodplain ("additional floodplain").

   a)1) FEMA floodplain. The boundaries of the floodplain district designated by FEMA are those areas designated as lying within the 100-year flood boundary on the most recent flood insurance rate maps dated September 2, 2004 November 4, 2016, contained in the flood insurance study for the city of Minnetonka titled Hennepin County, MN, All Jurisdictions Volume 1 and Volume 2 dated September 2, 2004 November 4, 2016, and prepared by FEMA. These maps may also be amended by other studies adopted by ordinance accepted by the city and that are not less restrictive than the 100-year flood elevation and the floodways as published by FEMA. These maps constitute the official floodplain district map for the city. All notations, references, and data shown on the maps are incorporated by reference into this ordinance. The FEMA floodplain is comprised of the following three separate districts:

   4a. Floodway district: the FEMA floodway district includes these areas within Zone AE that have a floodway delineated as shown on the Flood Insurance Rate Map (FIRM) adopted in this subdivision 2(a). For lakes, wetlands and other basins within Zone AE that do not have a floodway delineated, the FEMA floodway district also includes those areas that are at or below the ordinary high water level (OWHL) as defined in the Minnesota Statutes, Section 103G.005, Subd. 14.

   2b. Flood fringe district: the FEMA flood fringe district includes areas within Zones AE that have a floodway delineated on the FIRM adopted in this subdivision 2(a), but are located outside of the floodway. For lakes, wetlands, and other basins within Zone AE that do not have a floodway delineated, the FEMA flood fringe district also includes those areas below the 1% annual chance (100-year) flood elevation but above the OWHL as defined in Minnesota Statutes, Section 103G.005, Subd. 14.

The stricken language is deleted; the underlined language is inserted.
3c. General floodplain district: the General Floodplain district includes those areas within Zones A or AE that do not have a delineated floodway as shown on the FIRM adopted in this subdivision 2(a).

b) 2) Additional Floodplain. The floodplain district also includes the following additional floodplain area consists of:

4a. those areas designated within the 100-year flood elevation in the city’s water resources management plan or a study conducted by a government agency or other organization and accepted by the city;

2b. the 931.5-foot elevation for the area surrounding Lake Minnetonka westward from the Gray’s Bay dam based on the hydrological study conducted by the Minnehaha Creek Watershed District until such time as this study is amended;

3c. the flood profiles and floodplain delineations in the Riley Purgatory - Bluff Creek Watershed District’s watershed management plan, adopted in 1996 as amended; and

4d. the flood profiles and floodplain delineations in the Nine Mile Creek Watershed District’s watershed management plan, adopted in 1996 as amended.

eb) Sub-districts. This ordinance establishes regulations and standards based on two floodplain sub-districts each of which contains portions of the FEMA floodplain and additional floodplain.

1) Floodway Sub-district. This sub-district consists of:

1a. The FEMA floodway district as described in Subdivision 2(a)(1)(a) above; and

2b. Those portions of the Additional floodplain as described in subdivision 2(a)(2) above that are within channels having definable beds and banks capable of conducting generally confined runoff from adjacent lands, but not including roadside ditches created by excavation or human construction activity.

2) Other Floodplain Sub-district. This sub-district consists of:

a. The FEMA flood fringe and FEMA general floodplain districts as described in subdivision 2(a)(1)(b) and (2)(a)(1)(c) above; and

The stricken language is deleted; the underlined language is inserted.
b. Those portions of the additional floodplain as described in Subdivision 2(a)(2) above that are outside of the Floodway sub-district.

ec) Protected wetland districts and "public waters" as classified by the Minnesota Department of Natural Resources are regulated by sections 300.23, 300.25, and 300.26 respectively, of this ordinance. The official floodplain may contain type 1, 2, 3, 4, 5, 6, 7 and 8 wetlands. In such instances, the more restrictive regulations apply.

(Amended by Ord. 2011-28, adopted December 19, 2011)

3. Interpretation of Floodplain Boundaries.

The boundaries of the floodplain district will be determined by scaling distances on the official floodplain district map and by the use of the water surface profile of the 100-year flood as shown in the flood insurance study, or by other approved studies. Where interpretation is needed regarding the exact location of the boundary of the district as shown on the official floodplain district map, or where there appears to be a conflict between the location of the boundary shown on the official floodplain district map and actual field conditions, all decisions will be based on the 100-year flood elevations shown on the flood insurance study and maps, if available. When evidence of fill exists the ground elevations that existed on the site as of September 2, 1974 must be submitted and will be used in this determination. If a 100-year flood elevation is not available on the flood insurance study maps, the city engineer may establish the boundary at the 100-year flood elevation as defined in the city’s water resources management plan. The city engineer may also require the submission of a registered survey of the property and such other information as is necessary or convenient to reach a determination. This may include items listed in subdivision 7 in this section.

Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(Amended by Ord. 2011-28, adopted December 19, 2011)

4. Permitted Uses.

a) Land may be used in the floodplain district FEMA floodplain and additional floodplain, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve placement of a structure in the floodway, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of
excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6 and subdivision 8:

1) agricultural uses such as general farming, pasture and grazing;
2) residential lawns, gardens, landscaped ponds, and play areas and swimming areas such as beaches, if any of the preceding uses is accessory to a low-density residential use on the same site;
3) wildlife and nature preserves;
4) public and private parks, playfields, and picnic grounds; or
5) non-structural pervious hiking, skiing, and horseback riding trails.

b) Land may be used in the FEMA and Additional Floodplain district but outside of the floodway, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6. If no delineated Floodway exists refer to subdivision 7(h):

1) fences and retaining walls;
2) detached decks and patios located 10 or more feet from the principal use;
3) tennis courts and sport courts;
4) recreational trails and boardwalks;
5) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;
6) residential boat docks and boat ramps;
7) public ponding and drainage facilities, associated appurtenances and approved flood control structures;
8) public utilities that are flood-proofed in accordance with the state building code or elevated to a minimum of two feet above the 100-year flood elevation;

The stricken language is deleted; the underlined language is inserted.
9) overhead utility poles that are less than two feet in diameter, underground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service; or

10) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)

5. **Conditional Uses.**

Land may be used within the FEMA and Additional floodplain district, but outside of the floodway, for the following by first obtaining a conditional use permit and conforming with the standards specified in subdivisions 6 and 8 of this section. If no delineated Floodway exists, refer to subdivision 7(h):

a) outdoor nurseries;

b) public or private, nonresidential or commercial boat docks and boat ramps, marinas, and boat slip rental;

c) recreational uses including private and public golf courses, game farms, shooting ranges, public and private swimming pools and spas, and swimming areas such as beaches that are not a permitted use;

d) a permitted use that involves excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards;

e) railroads, streets, bridges, utility transmission lines and pipelines;

f) commercial extraction and storage of sand, gravel, equipment, machinery and other materials;

g) construction of additions to non-conforming homes built before September 9, 1974, if the construction uses stilts, pilings, parallel walls, above-grade enclosed areas such as crawl spaces or tuck-under garages, or other approved methods that do not obstruct the flow of floodwater;
h) a use permitted by subdivision 4 that involves moving 1,000 cubic yards of material per acre or more if in compliance with section 300.28 subdivisions 15-18;

i) private ponding and drainage facilities, associated appurtenances, and approved flood control structures;

j) a structure placed on fill or flood proofed meeting the flood protection standards of this code; or

k) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)

6. Performance Standards.

All applicable permits must be obtained before any of the following takes place within the floodplain: erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any part of a building or structure; commencement of the use or change of use of a building, structure, or land; construction of a dam, fence, or on-site septic system; change or extension of a nonconforming use; repair of a structure that has been damaged by flood, fire, tornado, or any other source; or placement of fill, excavation of materials, or the storage of materials or equipment. The necessary permits may not be granted until the applicant has obtained all necessary state and federal permits. The activity allowed by the permit must comply with the provisions of this section 300.24, including the following:

a) the use must have a low damage potential and must not obstruct flood flows or increase flood elevations in the floodway, and must not result in net fill within the subject floodplain;

b) fill, dredge, spoil and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method;

c) if regulated trees, wetlands, existing wetland buffers, or public easements exist in the location of the proposed excavation or fill activity, administrative approval is not allowed;

d) moving of 1,000 cubic yards of material per acre or more requires a separate conditional use permit.
(Amended by Ord. 2011-28, adopted December 19, 2011)

7. **Information to be Submitted.**

An applicant for a permit under subdivisions 5 and 6 of this section may be required to furnish the following information as deemed necessary by the city:

a) a concept plan indicating ultimate utilization of the property;

b) a survey of existing conditions prepared by a registered land surveyor having, at a minimum, spot elevations or contours of the ground, any existing structures, the 100-year flood elevation and the boundary of the applicable FEMA flood zone (e.g. floodway, Zone A and Zone AE);

c) a grading plan consistent with 300.28 prepared by a licensed engineer or land surveyor showing existing and proposed spot elevations or contours of the ground, erosion control measures, existing and proposed structures on the site, fill or storage elevations, location and elevations of adjacent streets, photographs showing existing land uses upstream and downstream, and soil type;

d) supporting drainage calculations for fill, existing storage volumes, compensatory volumes, and flood elevations;

e) a landscaping or re-vegetation plan;

f) a legal document approved by the city attorney, filed against the subject property, and recorded with the county, acknowledging that construction in the floodplain or a deviation from the standards under subdivision 8 of this section will result in an increased risk of flooding to the subject property or structures on the property;

g) a review of the proposal by the Minnesota department of natural resources, if applicable, and the appropriate watershed district;

h) a hydrologic analysis and, if necessary, a hydraulic analysis, to determine the 100-year flood elevation, the floodway and or the floodplain boundary. The analysis must include existing channel cross sections, existing and proposed stream profiles, must estimate the peak 100-year flood discharge and designate the floodway without a flood stage increase of more than .1 foot if applicable, and;

1. The City Engineer, or their designee, will review the submitted information and assess the technical evaluation and the recommended Floodway and/or

The stricken language is deleted; the underlined language is inserted.
Flood Fringe district boundary. The assessment must include the cumulative effects of pervious floodway encroachments. The City Planner may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the City Planner may approve or deny the application.

2. Once the Floodway and Flood Fringe district boundaries have been determined, the City Planner must process the permit application consistent with the applicable provisions of subdivision 4 and 5 of this ordinance.

   i) other information that may be required by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)


The following standards apply to all land within the floodplain district and to neighboring lands:

a) except as modified or regulated by the standards of the floodplain district, all requirements of the underlying zoning district and section 300.29 will apply;

b) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of 4 upon occurrence of the regional (1%) flood;

c) The storage of materials or equipment must be elevated on fill to the Regulatory Floodplain Elevation;

d) The storage or processing of materials that are, in times of flooding, flammable, explosive, or potentially injurious to human, animal or plant life is prohibited;

b) no structure, fill, deposit, obstruction, storage of materials or equipment, or other use that will cause an increase in the stage of the 100-year flood in the floodway or decrease in existing storage volume in the floodplain is allowed;

e) parking or driveway areas, except those accessory to single-family dwellings, may not be located within 10 feet of the floodplain district and must be a minimum of one foot above the designated 100-year flood elevation;

The stricken language is deleted; the underlined language is inserted.
d) driveways accessory to a single family dwelling must be a minimum of one foot above the 100-year flood elevation;

e) new principal structures, attached garages, or additions to existing structures must be set back a minimum of 20 feet upland from the edge of the floodplain district and have a minimum lowest floor elevation not less than two feet above the designated 100-year flood elevation. Any addition above the first floor will be exempt from this setback requirement. For purposes of this section first floor will mean the portion of the principal structure that is above grade. This does not apply to any structure or additions for which a conditional use permit is required;

f) attached decks and patios, outside stairways, cantilevered building areas, porticos and similar architectural features, may extend a distance not to exceed 10 feet into the required setback and must be 1.5 feet above the 100-year flood elevation and made of flood resistant materials;

g) detached pools and their associated apron have no setback from floodplain. For purposes of this section a pool is considered detached if no part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the water's edge of the pool. Detached pools must be anchored and have all utilities designed or located to prevent water damage;

h) attached pools may extend a distance not to exceed 10 feet into the required setback as measured from the water's edge of the pool and must be 1.5 feet above the 100-year flood elevation as measured from the water's edge of the pool. For purposes of this section a pool is considered attached if any part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the pool;

i) other accessory structures must:

1. not be designed for human habitation and must not contain sanitary facilities;

2. must be setback a minimum of 10 feet upland from the edge of the floodplain district except as otherwise indicated in this subdivision;

3. must have a minimum lowest floor elevation of not less than 1.5 feet above the designated 100-year flood elevation;
4. **water-orientated accessory structures** less than 120 square feet must not be in or may have a 0-foot setback from the floodway, provided they are not located in the Floodway, must be designed for human habitation, must not contain sanitary facilities, must be constructed out of flood resistant materials and be anchored; and

5. for purposes of this ordinance accessory structures in subdivision 4(b) and 5(d) of this section have no setback from the floodplain district if they are located outside of the floodplain district.

**j)** principal structures must have areas within 15 feet of the structure at least ½ foot above the designated 100-year flood elevation or have an approved evacuation route from the structure directly to land above the designated 100-year flood elevation; and

**k)** in the floodplain above-grade fully enclosed non-basement areas such as crawl spaces or other uninhabitable spaces within a structure, that are used to elevate a structure’s lowest floor to two feet above the 100-year elevation, must be constructed to flood internally and must meet the following standards:

1. a minimum of two automatic openings must be included, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. openings must be on at least two sides of the structure;

3. when openings are placed in a structure’s wall to provide for entry of floodwater to equalize pressures, the bottom of all openings must be no higher than one-foot above grade;

4. openings may be equipped with screens, louvers, valves, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

5. the enclosed area must be constructed of flood-resistant materials in accordance with the state building code and be used solely for building access or storage. The enclosed space cannot be finished;

**l)** before issuance of the certificate of occupancy, the applicant will be required to submit as-built drawings and certification by a licensed professional engineer.
or registered land surveyor that the finished fill and lowest floor elevation of all structures were accomplished in compliance with the provisions of this ordinance;

m)p) hard surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district. Treatment may include site retention, skimmers, weirs, infiltration basins, or storm water ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner;

n)q) discharge into the floodplain must not occur at a rate greater than allowed by the city engineer in accordance with the city’s water resources management plan and appropriate watershed district requirements;

o)r) development proposals must be designed in compliance with the city’s water resources management plan and must incorporate the requirements of the appropriate watershed district, the Minnesota department of natural resources and other governmental agencies;

p)s) in areas with land-locked basins that have no outlet, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of two-feet above the flood elevation of two back-to-back 100-year storm events as calculated by a licensed professional engineer, or a minimum of two feet above the natural overflow elevation of the basin, as directed and approved by the city engineer;

q)t) the 100-year flood elevation will be based on the following criteria; in floodplain areas where the 100-year flood elevation is not readily available, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of three-feet above the Minnesota department of natural resources' ordinary high water level or two feet above the highest known water level, whichever is more restrictive and is acceptable to the city engineer;

r)u) no development may adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodplain or other encroachment limit has not been specified on the official zoning map;

s)v) all recreational vehicles that are not travel-ready must meet the same standards as any other single family dwelling unit. For purposes of this section “travel-ready” means that the unit must be ready to travel on a roadway, including that it:

1. have a current, valid license to operate on public roads;

The stricken language is deleted; the underlined language is inserted.
2. rest on inflated tires or an internal jacking system that can quickly return the unit to its inflated tires;

3. be attached to the site by no more than the quick-disconnect type of utilities commonly used in transitory campgrounds; and

4. have no permanent structures attached to it;

t)w) all manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, lateral movement, and they must meet the same standards as any other single family dwelling unit. Methods of anchoring may include use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces;

u)x) no land may be subdivided that is unsuitable because of flooding or inadequate drainage, water supply or sewage treatment facilities. Lots within the floodplain district must be able to contain a building site outside of the floodplain overlay district or above the 100-year flood elevation and comply with the requirements of this code. Subdivisions must have water and sewage treatment facilities that comply with city standards and have road access to the subject property that complies with the requirements of this code. For subdivisions in the floodplain district, all access roads must be clearly labeled on all subdivision drawings and platting documents. An applicant for a subdivision must provide the information required in section 300.24 (8) to determine the 100-year flood elevation and the floodplain district boundaries for the subdivision site;

v)y) public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the state building code or elevated to one foot above the 100-year flood elevation;

w)z) railroad tracks, roads, and bridges to be located within the floodplain must comply with section 300.24, subdivision 8. Elevation to a minimum of one foot above the 100-year flood elevation must be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety; and

x)aa) where public utilities are not provided:

The stricken language is deleted; the underlined language is inserted.
1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and they must not be subject to impairment or contamination during times of flooding. A sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is deemed to be in compliance with this provision.

(Amended by Ord. 2011-28, adopted December 19, 2011)

9. Alteration of the Floodplain.

a) Activities that constitute an alteration of the floodplain district include the physical alteration of the size, depth and contour of the floodplain. No alteration of the floodplain district is allowed without a floodplain alteration permit, except that only a grading permit approved by the city planner is required for permitted uses that do not involve excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards of land located outside of the floodway.

b) An alteration permit is subject to the recommendation of the planning commission and approval of the city council.

c) In reviewing alteration permits, the city will consider whether the following general standards are met:

1. The magnitude of the alteration is appropriate relative to the size of the floodplain district.

2. The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

3. The alteration will not negatively impact the hydrology of the floodplain.

4. Floodplain mitigation areas will not negatively impact adjacent properties.

5. The alteration will meet the intent of the city’s water resources management plan and the subdivision and zoning ordinances;

The stricken language is deleted; the underlined language is inserted.
6. The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

7. The alteration will not have an undue adverse impact on the public health, safety or welfare.

d) Notwithstanding the general standards, no alteration permit will be granted unless the following specific standards are met.

1. On all properties within the city:

   a. Water storage must be maintained and provided in an amount at least equal to that filled unless acceptable hydrologic engineering data has been presented and approved by the city engineer indicating that conditions have changed such that the floodplain characteristics will be maintained even with proposed floodplain fill.

   b. Floodplain fill area must be located no more than 20 feet from any existing or proposed structure, except where required by the city engineer to achieve a required evacuation route.

   c. Where floodplain alteration is required for construction of a driveway, the driveway must be no wider than 12 feet and must be located to minimize impact to the floodplain.

   d. Floodplain alteration, including the creation of compensatory water storage, must not result in removal of regulated trees, adversely impact wetlands or existing wetland buffers, or be located within public easements. The city council may waive this condition if the proposed alteration would improve existing site conditions.

   e) If the alteration will change the boundary of the floodplain district, a zoning map amendment is also required under subdivision 10 below.

(Amended by Ord. 2011-28, adopted December 19, 2011)

10. Removal of Lands from the Floodplain District.
This subsection applies to new principal structures or additions to existing principal structures constructed in accordance with section 300.24, subdivisions 5 and 8. It does not apply to accessory structures or other uses.

   a) The following applies to only the FEMA floodplain areas:

   The stricken language is deleted; the underlined language is inserted.
1. Changes in the official floodplain district map must meet FEMA technical conditions and criteria and must receive prior FEMA approval before adoption by the city. The applicant must obtain a conditional letter of map revision from FEMA before the city council considers the request, and a subsequent letter of map revision from FEMA within 90 days after issuance of the certificate of occupancy. The FEMA standards should be considered before initiation of site preparation if a change of special flood hazard area designation will be requested.

2. All amendments to this ordinance, including amendments to the official floodplain district map as defined in section 300.24, subdivision 2, must be submitted to and approved by the commissioner of the Minnesota department of natural resources before adoption by the city. The commissioner must be given 10-days written notice of the hearing to consider an amendment to this ordinance, and the notice must include a draft of the ordinance amendment or technical study under consideration.

b) The following applies to the FEMA floodplain and the additional floodplain areas:

1. Land may be removed from the floodplain district only by a zoning map amendment pursuant to the provisions of section 300.09 of this ordinance. The floodplain designation on the official floodplain district map will not be removed from a floodplain area unless it can be shown that the designation is in error or that the area has been filled to one foot above the elevation of the 100-year flood and stage increase, and is contiguous to land outside of the floodplain per state standards.

2. When land is removed from the floodplain district, water storage must be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented which indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation. Removal of land from the flood plain or creation of compensatory water storage cannot be located where there are any regulated trees, wetlands, existing wetland buffers, or public easements, unless approved by the city council. In addition to other application requirements, the city may require submission and approval of information listed under subdivision 8(b) in this section.

(Amended by Ord. 2011-28, adopted December 19, 2011)

11. Public Control of Floodplains.
The proponents of development on properties containing a floodplain district may be required to dedicate all or a part of the floodplain or to convey an easement over all or a part of the floodplain to the city if consistent with the intent and procedures of this ordinance.

(Amended by Ord. 2011-28, adopted December 19, 2011)

12. Administration.

a) A person who has obtained a permit pursuant to section 300.24, subdivision 7—must submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section 300.24. Flood-proofing measures must be certified by a registered professional engineer or registered architect.

b) The city planner must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The city planner must also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

c) The city planner must notify, in riverine situations, adjacent communities and the commissioner of the department of natural resources before the city authorizes an alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stat. chapter 103G, this will suffice as adequate notice to the commissioner of natural resources. The city planner must also send a copy of the notification to the Chicago regional office of FEMA.

d) As soon as is practicable, but no later than six months after the date the supporting information becomes available, the city planner must notify the Chicago regional office of FEMA of the physical changes that increase or decrease the 100-year flood elevation by submitting a copy of the technical or scientific data.

e) When granting variances to the provisions of section 300.24, the following additional variance criteria of FEMA must be satisfied:

1. Variances may not be issued within a designated regulatory floodplain if an increase in flood levels during the 100-year flood discharge would result.

2. Variances may only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a
variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the Regulatory Floodplain Elevation for the particular area, or permit standards lower than those required by law.

f) The city planner must notify the applicant for a variance that (1) the issuance of a variance to construct a structure below the 100-year flood elevation will result in significantly increased premium rates for flood insurance, (2) construction below the 100-year flood elevation increases risks to life and property. This notification must be maintained with a record of the variance action. The city planner must maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.

g) Before the hearing on a conditional use permit or variance for a use or activity in the floodplain, the city planner must mail a copy of the application to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing. The city planner must mail a copy of all decisions granting a conditional use permit or a variance to the commissioner within ten days after the action.

(Amended by Ord. 2011-28, adopted December 19, 2011)


a) This subdivision 13 applies to all legal non-conformities defined in section 300.29, subdivision 2. Those legal non-conformities that are in the floodplain are also subject to the provisions in section 300.29.

b) A legal non-conformity in the floodplain may not be expanded, changed, enlarged, or altered in a way that increases its non-conformity. A non-conforming use or structure in a floodplain may only be changed, repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program and would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway. No variance may be granted to this requirement.
c) A structural alteration or addition to a non-conforming structure or non-conforming use that would result in increasing the flood damage potential of that structure or use must be protected to the regulatory elevation in accordance with the flood protection standards as defined in subdivisions 6 and 8 of this code or flood-proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) must be implemented as allowable in the state building code, except as further restricted in (d) and (f) below.

d) The cost of all structural alterations or additions to a non-conforming structure over the life of the structure must not exceed 50 percent of the market value of the structure unless the conditions of this paragraph are satisfied. The cost of all structural alterations and additions constructed after the adoption of the city’s initial floodplain controls must be calculated into today’s current cost, including all costs such as construction materials and a reasonable amount for labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of this section 300.24 for new structures.

e) If a non-conforming use or structure is substantially damaged, as defined in section 300.02, it may be reconstructed only in conformity with the provisions of this section 300.24 for new structures.

f) If a substantial improvement occurs, as defined in section 300.02, from any combination of an addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing non-conforming building, then the building addition and the existing non-conforming building must meet the requirements of this section 300.24 for new structures.

(Amended by Ord. 2011-28, adopted December 19, 2011)


Activities undertaken by a government unit to eliminate or minimize the flooding of existing roadways that are located in the floodplain district are exempt from the provisions of section 300.24 as long as the work to eliminate or minimize flooding does not occur in the floodway, cause an increase in the flood stage by more than .1 foot, or cause flooding impacts on neighboring properties.


The stricken language is deleted; the underlined language is inserted.
Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective immediately.

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

__________________________________________
Terry Schneider, Mayor

Attest:

__________________________________________
David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: 
Date of adoption: 
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 meeting held on __________, 2016.

__________________________________________
David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
City Council Agenda Item #13A
Meeting of September 12, 2016

**Brief Description:** Resolutions for special assessment of 2015-2016 projects

**Recommended Action:** Hold the public hearing and adopt the resolutions

**Background**

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 public hearing to each property owner and publishes a notice in the newspaper in late August.

At its meeting of August 22, 2016, the city council adopted the necessary resolutions pertaining to the levying of 2016 special assessments and scheduled the public hearing for 6:30 p.m. on September 12, 2016. Staff has received payment to prepay two (2) assessments since the August 22, 2016 meeting date. After the public hearing this evening, 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-seven (47) additional days to pay the full amount with interest until required certification to the county on December 1st.

Attached are the resolutions necessary for adopting the special assessments for these projects. These resolutions are separated by type of project and length of time to spread the special assessments in each category.

- **Privately Installed Sewer and Water Improvement Projects.** No projects to be assessed this year.

- **Nuisance Abatement Projects.** There are 52 nuisance abatement projects (including diseased tree removals) in which the city has incurred costs totaling $129,069.13. Two of the 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. 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. These interest rates are benchmarked to the current Aaa municipal bond rate. The term and interest rate for each assessment is as follows:
### Nuisance and Tree Term and Interest Structure

<table>
<thead>
<tr>
<th>Assessment Amount</th>
<th>Term</th>
<th>Interest Rate</th>
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<td>&gt;$5,000</td>
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### 2016 Nuisance Abatements – Project No. 4894 (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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**Subtotal** $6,190.67
## 2016 Nuisance Abatements – Project No. 4894 (3-year term)

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<th>Street No.</th>
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**Subtotal**  **$6,258.94**

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## 2016 Nuisance Abatements – Project No. 4894 (5-year term)

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**Subtotal**  **$7,295.48**

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## 2016 Nuisance Abatements – Project No. 4894 (10-year term)

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<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**
There are 20 properties in the diseased tree removals project this year in which the city has incurred costs. Some property owners have paid part of the total cost. It is proposed that these projects be specially assessed for the remaining cost of the abatement in accordance with Minnesota statutes and city council policies regarding the levying of these nuisance abatement projects. The terms for the 2016 diseased tree assessments will be based on the assessment amount similar to the nuisance abatement assessments. The special assessment amount on each parcel is 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>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-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  $2,929.01

<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>
</tbody>
</table>

Subtotal  $10,265.81
2016 Diseased Tree Removal – Project No. 4902 (5-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>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>
</tbody>
</table>

Subtotal $19,390.77

- **City Court Fines.** Listed below are the city court fines imposed in 2016 that are proposed to be specially assessed over a one-year term, bearing an interest rate of 10 percent. These assessments are categorized as city court fines. The interest is calculated from October 14, 2016 to December 31, 2017. Hennepin County charges an additional administrative fee prior to the final certification. The following is the proposed parcel to be assessed:

2016 City Court Fines – Project No. 1020 (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>
</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

**Recommendation**

Hold the public hearing and adopt the following attached resolutions:

1. Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, one-year assessment term.

2. Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, three-year assessment term.


5. Resolution adopting special assessments for 2016 Diseased Trees Project No. 4902, one-year assessment term.


8. Resolution adopting special assessments for 2016 City Court Fines Project No. 1020, one-year assessment term.

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

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

Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<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>
</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>
<tr>
<td>N-488</td>
<td>5215</td>
<td>Rogers Dr</td>
<td>27-117-22-44-0005</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-491</td>
<td>16211</td>
<td>Gleason Lake Rd</td>
<td>05-117-22-11-0017</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-492</td>
<td>2500</td>
<td>Sylvan Pl</td>
<td>11-117-22-31-0068</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-493</td>
<td>12720</td>
<td>Pioneer Rd</td>
<td>26-117-22-22-0005</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-475</td>
<td>4407</td>
<td>Loretta La</td>
<td>22-117-22-33-0042</td>
<td>$682.50</td>
</tr>
<tr>
<td>N-481</td>
<td>2218</td>
<td>Vernon Dr S</td>
<td>12-117-22-22-0039</td>
<td>$936.65</td>
</tr>
</tbody>
</table>

Subtotal $6,190.67
Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.17 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, three-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<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

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 3 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.50 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, five-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<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>Ridgmount 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>Subtotal</td>
</tr>
</tbody>
</table>

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 5 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.66 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, ten-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<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>$16,423.75</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

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.
2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 10 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 3.32 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

__________________________________________

David E. Maeda, City Clerk
Resolution No. 2016-
Resolution adopting special assessments for 2016 Diseased Trees Project No. 4902, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<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-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: $2,929.01

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.
2.02. The special assessment may be paid within 30 days from the date of this
resolution, or may be paid in a single installment in the same time and
manner as the payment of real estate taxes with interest at the rate of 2.17
percent per annum. To the first installment of each assessment will be
added interest on the entire assessment from the date of this resolution to
December 31 of the year in which the first payment is payable.
Subsequently, one year's interest on the remaining balance will be added
to each subsequent installment. Any property owner may pay the entire
unpaid balance of the assessment against his/her property at any time
with interest accrued to December 31 of the year in which the payment is
made, provided the payment is made before November 30 in the first year
and before November 15 in subsequent years.

2.03. The owner of any property assessed may, at any time within 30 days
following the adoption of this resolution, pay all or part of the assessment
to the city, provided that partial payments are made in increments of not
less than $100 and provided that any balance remaining unpaid is not less
than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this
assessment to the county auditor to be extended on the property tax lists
and to be collected and paid over in the same manner as other municipal
taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 Diseased Trees Project No. 4902, three-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<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>Subtotal</td>
<td>$10,265.81</td>
</tr>
</tbody>
</table>

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 3 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.50 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year’s interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 Diseased Trees Project No. 4902, five-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<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>
</tbody>
</table>

Subtotal $19,390.77

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in 5 equal annual installments in the same time and manner as the payment of real estate taxes with interest at the rate of 2.66 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.
2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

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

Resolution adopting special assessments for 2016 City Court Fines
Project No. 1020, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by its charter and ordinances, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed assessments for civil penalties at the following properties lying within the City of Minnetonka:

<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>

Section 2. Council Action.

2.01. The proposed special assessment listed above is hereby adopted, and the tract of land is found to be benefited by the improvement in the amount of the assessment against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution or may be paid in one annual installment in the same time and manner as the payment of real estate taxes with interest at the rate of 10 percent per annum. To the first installment of the assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year’s interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against the property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

2.03. The owner of the property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments must be in increments of not less than $100 and any balance remaining unpaid must not be less than $100. No interest will be charged on any amount paid under this section.
2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

______________________________
David E. Maeda, City Clerk
City Council Agenda Item #13B  
Meeting of September 12, 2016

**Brief Description**  
Resolution vacating sanitary sewer easements over 17300 County Road 101 and unaddressed parcel 08-117-22-33-0009

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

**Background**

Homestead Partners, LLC, owner of 17300 County Road 101 (formerly addressed as 2838 County Road 101), and the unaddressed parcel to the west, represented by Rick Packer, has petitioned to vacate two public sanitary sewer easements on the above properties.

There is currently a private sanitary sewer service line located within the easement that serves the property at 17306 County Road 101. Due to topography, the property was serviced from the sewer main in County Road 101 to the east rather than from the sewer main directly south of the parcel. Since this is a private service line, it is unclear why there is a public easement over it. Homestead Partners is proposing to build a new home on the combined properties and in order to expand the buildable area potential, is requesting to relocate the sanitary service line and vacate the public easement. The 14’ wide easements were conveyed by documents 1203706 and 4228839 in 1976 when the sanitary main was installed.

**Staff Comment**

Since the easement document is strictly for sanitary sewer purposes and not a blanket utility easement, small utilities were not notified. City staff does however require that in order for the vacation to be valid, Homestead Partners must work with the property owners at 17306 to relocate the sanitary sewer service line and establish a new (private) easement over the new line if the petition is approved.

**Recommendation**

Hold the public hearing and adopt the resolution approving the vacation of the sanitary 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 sanitary sewer easements over 17300 County Road 101 and unaddressed parcel 08-117-22-33-0009

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

Section 1. Background.

1.01 Homestead Partners, LLC. has petitioned the Minnetonka City Council to vacate the sanitary sewer easements over the properties at 17300 County Road 101 and unaddressed parcel 08-117-22-33-0009.

1.02 The entire easements as dedicated in documents 1203706 and 4228839 will be vacated.

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 September 12, 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.

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 sanitary sewer easements and is, therefore, a proper petitioner.

2. The pipe located in the easement is a private service line which is proposed to be moved. Once moved, the new easement will be private between the affected property owners. The vacation is not counter to public interest.

4.01 The city council vacates the easements as described in section 1.02.

4.02 These vacations are only effective upon the relocation of the sanitary service line and proper filing of a private easement over said line.

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 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 September 12, 2016.

____________________________
David E. Maeda, City Clerk
17300 County Rd 101

This map is for illustrative purposes only.
Brief Description  Off-sale liquor license for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 1005 Plymouth Road

Recommendation  Continue the public hearing and grant the license

Background

The city has received an application from Minnesota Fine Wines & Spirits, LLC (DBA Total Wine) for an off-sale intoxicating liquor license, for use at 1005 Plymouth Road.

Total Wine is proposing to locate a new store in the shopping center with Whole Foods and Office Depot. Office Depot will move out of a portion of its space and the landlord will reconstruct the current Office Depot space into two spaces, leaving one space for Office Depot and another for Total Wine. Following construction of the two spaces, fixturing will take place. Once constructed, the Total Wine store is proposed to be 13,556 square feet. The lease is contingent upon city council approval of the liquor licenses. None of this work will begin unless the city council approves the application. (See pages A1-A5).

Upon learning that the owners of Big Top Liquor (an area liquor store) desired to sell their liquor store at 12937 Ridgedale Drive, Minnesota Fine Wine & Spirits, LLC met with those owners about a purchase of assets and have agreed to purchase terms with Big Top. (See pages A6-A8). A liquor license is not transferable or available for purchase, which would require Minnesota Fine Wine & Spirits, LLC to apply and obtain their own license.

Because of an extended construction period required for the new Total Wine store on Plymouth Rd., Big Top intends to continue operations at its store through January, 2017. Big Top would then surrender its license to the city upon closing. For this reason, the license approvals for Total Wine would be contingent upon the closure of Big Top next year. The existing space for Big Top will not be occupied by Total Wine. Total Wine anticipates opening the new store at 1005 Plymouth Road in August 2017. Should the council decide to grant the licenses, conditions of approval could be placed to provide assurances consistent with the proposal.

Business Ownership

Minnesota Fine Wines & Spirits, LLC ("Applicant") is a Minnesota limited liability company. It has two classes of members, which are Class A and Class B. The Class A members are David J. Trone and Robert L. Trone. Each of the Class A members owns a 5% membership interest, and each is a managing member of the applicant, and also an officer of the applicant, and works in the operation of the applicant's business.
The Class B members are five trusts, each of whose membership interest has a limited right to vote, all exercised by the trustees (who are over 21 years of age) and not the beneficiaries. The beneficiaries of the trusts are the children of David Trone and Robert Trone. The trusts are passive investors, are not involved in the operations of the applicant and have very limited voting rights, such as only on selling the business to third parties.

The beneficiaries have no control over the applicant, the trusts, the management or the operation of the applicant's business.

Officers are David J. Trone and Robert L. Trone, each a managing member. The ownership structure is listed below:

<table>
<thead>
<tr>
<th>Class A Members</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>David J. Trone</td>
<td>5%</td>
</tr>
<tr>
<td>Robert L. Trone</td>
<td>5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class B Members</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCT 2013 Trust</td>
<td>11.25%</td>
</tr>
<tr>
<td>JET 2013 Trust</td>
<td>11.25%</td>
</tr>
<tr>
<td>NRT 2013 Trust</td>
<td>11.25%</td>
</tr>
<tr>
<td>RTJ 2013 Trust</td>
<td>11.25%</td>
</tr>
<tr>
<td>SPT 2013 Trust</td>
<td>45.00%</td>
</tr>
</tbody>
</table>

Business Operations

Hours of operation are proposed from 9:00 a.m. to 10:00 p.m., Monday through Saturday. The store includes a retail floor area, a classroom for consumer and employee education, and a small stock room. Each store employs about 50 employees. At any given time during the day, 15-20 employees are in the store. A store manager or assistant manager is present in the store at all times during retail hours.

Total Wine & More employees undergo alcohol awareness training online through SureSellNow.com, both immediately after employment and annually thereafter.

City Council Policy 6.1

The city council has established a policy that will consider the following criteria prior to issuing liquor licenses:

*Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council*
Meeting of September 12, 2016

Subject: 1005 Plymouth Rd.

will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:

a. offers a distinctive specialty service, or
b. is a complementary part of a business that would add positively to the experience of living and working in the city; or
c. is part of a village center that is not currently served.

Currently, the council has approved 13 off-sale liquor licenses. Eleven of those licenses are stand-alone liquor stores, and the other two are for 3.2% malt beverage licenses (Target & Glenn’s 1-stop). If Big Top closed, the total number of stand-alone liquor stores is 10. The current list of off-sale stand-alone license holders include the following establishments (see page A9):

<table>
<thead>
<tr>
<th>#</th>
<th>Establishment – Full Service Liquor Stores</th>
<th>Address</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Big Top Liquors</td>
<td>12937 Ridgedale Dr</td>
<td>8,465</td>
</tr>
<tr>
<td>2</td>
<td>Byerlys Wines &amp; Spirits</td>
<td>13081 Ridgedale Dr</td>
<td>3,844</td>
</tr>
<tr>
<td>3</td>
<td>Glen Lake Wine &amp; Spirits</td>
<td>14704 Excelsior Blvd</td>
<td>3,200</td>
</tr>
<tr>
<td>4</td>
<td>Haskell’s</td>
<td>12900 Wayzata Blvd</td>
<td>8,100</td>
</tr>
<tr>
<td>5</td>
<td>MGM Wine &amp; Spirits</td>
<td>4795 Co Rd 101</td>
<td>10,400</td>
</tr>
<tr>
<td>6</td>
<td>Strong Liquor</td>
<td>11048 Cedar Lake Rd</td>
<td>2,305</td>
</tr>
<tr>
<td>7</td>
<td>Sundial Wine &amp; Spirits</td>
<td>5757 Sanibel Dr</td>
<td>3,480</td>
</tr>
<tr>
<td>8</td>
<td>The Wine Shop</td>
<td>17521 Minnetonka Blvd</td>
<td>4,500</td>
</tr>
<tr>
<td>9</td>
<td>Tonka Bottle Shop</td>
<td>17616 Minnetonka Blvd</td>
<td>3,244</td>
</tr>
<tr>
<td>10</td>
<td>Trader Joe’s</td>
<td>11220 Wayzata Blvd</td>
<td>2,200</td>
</tr>
<tr>
<td>11</td>
<td>US Liquor &amp; Wine</td>
<td>11333 State Highway 7</td>
<td>6,000</td>
</tr>
</tbody>
</table>

**Total Wine Metro Locations**

Total Wine has opened several locations in the metro area. The square footage of each location is listed below, noting that the proposed Minnetonka location will be the smallest of the locations in the Minneapolis area. If more space were to become available in the future and the licensee desired to expand its space at this location, city ordinances would require council review and approval of an amendment to the “licensed premise.”

<table>
<thead>
<tr>
<th>Location</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bloomington</td>
<td>17,310</td>
</tr>
<tr>
<td>Roseville</td>
<td>21,166</td>
</tr>
<tr>
<td>Burnsville</td>
<td>28,687</td>
</tr>
<tr>
<td>Woodbury</td>
<td>20,517</td>
</tr>
<tr>
<td>Maple Grove</td>
<td>29,981</td>
</tr>
<tr>
<td>Chanhassen</td>
<td>23,520</td>
</tr>
<tr>
<td><strong>Minnetonka (Proposed)</strong></td>
<td><strong>13,556</strong></td>
</tr>
</tbody>
</table>
Land Use/Zoning

The retail site does not require zoning or land use approvals such as conditional use permits or site and building plan review, as this is an allowed use in the zoning district. The interior and exterior work will require building and sign permits.

Traffic and Parking

A traffic and parking study was commissioned to evaluate impacts of the proposed 13,500 square-foot Total Wine store. The study objectives are to review historical and existing operations within the study area, evaluate traffic and parking impacts of the proposed development, and recommend any necessary improvements to accommodate the proposed 13,500 square-foot store. This is noted as scenario 1 in the traffic study. (see pages A10-A31). The study also evaluates the same were an expanded 23,000 square-foot store operational at the site. This expanded store is noted as scenario 2 in the traffic study. After reviewing the initial traffic study, staff requested the consultant review a third scenario which would project trips for a 33,000 square foot store.

The traffic study shows that Total Wine would generate additional trips over existing conditions. For comparative purposes, Total Wine generates about 2.5x more trips per square-foot than Office Depot, based on a trip generation that is a compilation of actual customer counts for the Total Wine, Institute of Transportation Engineers Trip Generation Manual, and existing site traffic observations. Traffic observations and projections are contained in the attached memorandum from SRF Consulting (see pages A32-A35). After build-out in scenario 1 intersections included in the analysis would continue to operate at existing levels of service (LOS). If expansion occurs (scenario 2 and 3), the levels of service continue to be the same, except the west site access with Plymouth Road which would cause the LOS to drop from a B to a C (for the South Ridge access). Scenario 3 also delays the southern access slightly.

The number of trips would not exceed the maximum site trip allocation under the I-394 Ordinance. The ordinance allocates 615 weekday p.m. peak hour trips to the Whole Foods/Office Depot shopping center. Under scenario 1, the site would generate 475 trips. Under scenario 2, the site would remain under ordinance maximums generating 488 trips. Under scenario 3, the trip generation is 534 trips.

The traffic study notes that traffic leaving the site at the south enter/exit access will back-up 4 to 6 vehicles during peak hours. This long queue is expected to create internal circulation issues. A mitigative improvement would be the widening of this access to accommodate two exit lanes and one entrance lane (Option A). This improvement would reduce the queue, adding to increased internal site circulation and reduced conflicts. A second option (Option B) is the addition of an east site access. The applicant has indicated they are willing to implement Option B, pending approval of the adjacent property owner.
A parking analysis was performed to determine if sufficient on-site parking is provided. The site has approximately 300 parking spaces which are “common” to and not dedicated to any particular tenant. The study found existing parking utilization ranged between 28 and 46 percent during the two observations on weekday and weekend. Under scenario 1, the utilization would increase to 59 percent on weekdays. This represents a 122 parking space surplus. Under scenario 2, the utilization would increase to 80 percent or a 61 space surplus. The parking utilization in scenario 3 is similar to scenario 2, as the rates for general retail and liquor stores are similar.

Proposal Feedback

Staff has provided a public notice to the surrounding property owners (194 notices), all current off sale liquor license holders, the Minnesota Licensed Beverage Association, posted information on the city’s web site and placed a notification sign on the property. Comments received are included on pages A36-A46.

Recommendation

Application information and license fees have been submitted. The police investigation is complete and will be provided to the council separately. Staff recommends the city council continue the public hearing from July 25 and grant the license contingent upon the following:

- Closure of Big Top Liquors at 12937 Ridgedale Drive
- Improvements noted in Option B (see page A29) are required by certificate of occupancy

Submitted through:
  Geralyn Barone, City Manager

Originated by:
  Julie Wischnack, AICP, Community Development Director
  Loren Gordon, AICP, City Planner
  Kathy Leervig, Community Development Coordinator
Additional Information

July 1, 2015 Study Session Report


July 13, 2015 Meeting Minutes – Page 11
LOCATION MAP

Minnesota Fine Wines & Spirits, LLC
DBA Total Wine
1005 Plymouth Road
Total Wine & More

PROVIDING CONSUMERS WITH WHAT THEY DESERVE: SELECTION, SERVICE AND PRICE

July 7, 2016

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345

Minnesota Fine Wines & Spirits LLC provides this narrative and timeline with its liquor license application for a new Total Wine Store to be located at 1005 Plymouth Road.

Our proposed new store is part of the current Office Depot space. We have negotiated a lease contingent upon the City Council’s approval of our application. In order for Total Wine to operate at the new store, Office Depot will move out of a portion of its space and the landlord will construct the current Office Depot space into 2 spaces - one for Office Depot and another for Total Wine. After that, we will perform additional construction and fixturing. None of this work will begin unless and until the City Council approves our application.

We understand that the City prefers to retain existing liquor licenses within the villages they currently serve. When we learned that the owners of Big Top Liquor desired to sell their liquor store operated at 12937 Ridgedale Drive, we met with those owners about a purchase of assets and have agreed to purchase terms with Big Top.

Because of the long construction period required for our new store, Big Top intends to continue operations at its store through January, 2017. After that, Big Top will surrender its license to the City. For this reason, we seek license approval, conditioned upon Big Top closing its store next year. Once Big Top stops operating, the actual license would be available to Total Wine, if the City Council has approved our application.

This means that if the City Council approves our application, we expect the following to occur:

1. Our landlord will commence construction of our new store on Plymouth Road.
2. Big Top will continue to operate at its store through at least January, 2017.
3. When Big Top stops operating, it will surrender its liquor license (likely by February, 2017).
4. At that time, an unconditional license will be granted to Total Wine.
5. When our landlord completes its construction, Total Wine will commence construction of the tenant improvements and fixturing at the new store.
6. Upon completion of fixturing and approval of AGED, Total Wine will stock the new store for operations.
7. Total Wine will open the new store for business, likely not to occur earlier than August, 2017 (but, could be a little earlier or later depending on construction).

Sincerely,

Minnesota Fine Wines & Spirits LLC

[Signature]

By Its Managing Member

6600 Rockledge Drive, Suite 150, Bethesda, MD 20817
Phone: (301) 795-1000 Fax: (301) 795-1083

Minnesota Fine Wine & Spirits, LLC (DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg
Phase 2

Phase 1

OFFICE DEPOT
APP. 16,344 SQ. FT.

MINNETONKA, MN - STORE #2096
BUILDING: 32,897 SQ.FT. (APP.)
OD SPACE: 18,334 SQ.FT. (APP.)
(SHARED SPACE: 860 SQ.FT., HOT RIC)
EXCESS SPACE: 14,320 SQ.FT. (APP.)
(SHARED SPACE: 860 SQ.FT., HOT RIC)
ACCESS CORRIDOR: 1,440 SQ.FT. (APP.)
SHARED DOCK: 561 SQ.FT. (APP.)
SHARED UTILITY: 233 SQ.FT. (APP.)

Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg
Total Wine & More
Minnetonka, MN

Future Store - Complete
32,897 s.f.

Feature Area - Brewery District
Beer Sampling
Digital Signage - Virtual Tastings
Digital iPad - TWM Guide to Beer

Feature Area - Wine Sampling
Wine Sampling
Digital Signage - Virtual Tastings
Digital iPad - Wine/Food Pairing App

Feature Area - Wine Education
Wine/Spirits & Beer - Consumer Education
Digital Signage - Virtual Tastings
Community Meeting Space
April 28, 2016

Kathy Leervig
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Re: Applebaum, LLC
City Notice Regarding Transaction with Minnesota Fine Wines & Spirits, LLC

Dear Kathy:

As we discussed in our meeting in your offices yesterday, I enclose the original letter from Applebaum, LLC with regard to the transaction with Minnesota Fine Wines & Spirits, LLC. I provided you with a photocopy of this letter in our meeting yesterday.

If you have further questions, please let me know.

Very truly yours,

[Signature]

Debra K. Page

DKP/rlt
Enclosure
EXHIBIT B  
Form of City Notice  

APPLEBAUM, LLC  
1574 University Avenue  
St. Paul, MN  55104  

April 20, 2016

City of Minnetonka  
Attention: Kathy Leervig  
Community Development Coordinator  
14600 Minnetonka Blvd.  
Minnetonka, MN  53545

Re: Off Sale Liquor License No. OFl-14

Dear Ms. Leervig:

As you know, Applebaum, LLC ("Applebaum") is the licensee pursuant to that certain Minnetonka, Minnesota Off Sale Liquor License No. OFl-14 ("Existing License"), for the operation of an off-sale retail liquor store operating under the name of "Big Top Liquor" ("Business") located at 12937 Ridgedale Drive in Minnetonka, Minnesota ("Premises").

Please be advised that effective as of April 20, 2016, Applebaum has entered into an Asset Purchase Agreement ("Purchase Agreement") with Minnesota Fine Wines & Spirits, LLC ("Buyer") to sell certain assets of Applebaum related to the Business. The Purchase Agreement is contingent upon Buyer obtaining a new liquor license for the off-sale/retail sale of alcoholic beverages from the City of Minnetonka ("New License").

Please also be advised that if the New License is obtained and the sale contemplated by the Purchase Agreement is consummated, Applebaum will relinquish the Existing License to the City, effective as of the closing of the sale pursuant to the Purchase Agreement ("Closing Date"). At this time, the parties anticipate that the Closing Date will occur no earlier than January 15, 2017.

Please also be advised that as of such Closing Date, Applebaum will have terminated the operation of business as Big Top Liquor at the Premises and will not operate for business within the City of Minnetonka under, pursuant to, or in connection with the Existing License, in any manner whatsoever and/or at any location.

If you have questions, please let me know.
Very truly yours,

APPLEBAUM, LLC

By: [Signature]

[Title]

Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg
Memorandum

To:    Loren Gordon, AICP, City Planner
       City of Minnetonka

From: Matt Pacyna, PE, Senior Associate
       Tom Sachi, EIT, Engineer

Date:  September 1, 2016

Subject: Total Wine Traffic and Parking Study

Introduction

SRF has completed a traffic and parking study for the proposed Total Wine development within the existing Whole Foods/Office Depot shopping center in the northeast quadrant of the Plymouth Road/Wayzata Boulevard intersection in Minnetonka (see Figure 1: Project Location). Two previous studies were completed for this site, which included the *Circuit City Plaza Traffic Study* (September 2010) and the *Whole Foods Site Development* (September 2011). Additionally, this site was reviewed as part of the I-394 Ordinance review process in 2014. Therefore the main objectives of this study are to review historical and existing operations within the study area, evaluate traffic and parking impacts of the proposed development, and recommend any necessary improvements to accommodate the proposed development. A review of existing access within the area was also completed. The following information provides the assumptions, analysis, and recommendations offered for consideration.

Existing Conditions

The existing conditions were reviewed to establish a baseline in order to identify any future impacts associated with the proposed development. The evaluation of existing conditions includes intersection turning movement counts, field observations, and an intersection capacity analysis.

Data Collection

Peak period intersection turning movement counts were collected at the following locations on July 7 and July 9, 2016, which represent the weekday p.m. (4:45 p.m. to 5:45 p.m.) and Saturday midday (1:00 p.m. to 2:00 p.m.) peak hours. The purpose of these counts was to identify existing site trip generation and general area travel patterns.

- Plymouth Road and West Site Access
- Wayzata Boulevard and South Site Access

Due to construction impacts within the region (I-494 in particular), historical intersection turning movement counts along Plymouth Road at Wayzata Boulevard and the I-394 North Ramps were leveraged. These counts, which were previously collected in 2012, were modified to reflect year 2016 non-construction conditions based on historical trends.
Observations were completed to identify roadway characteristics (i.e. roadway geometry, posted speed limits, and traffic controls) within the study area and the existing parking supply/demand at the site. Further discussion regarding the parking review is provided later in this memorandum. Average daily traffic volumes were provided by the Minnesota Department of Transportation.

Plymouth Road is primarily a four-lane divided roadway immediately adjacent to the proposed development, while Wayzata Boulevard is a two-lane roadway with select turn lanes. The posted speed limit along each study area roadway is 30 miles per hour (mph). The Plymouth Road intersections at Wayzata Boulevard and the I-394 North Ramps are signalized, while the two site access locations are side-street stop controlled. It should be noted that the West Site Access only allows right-in/right-out movements. Existing geometrics, traffic controls, and volumes are shown in Figure 2.

Intersection Capacity Analysis

An existing intersection capacity analysis was completed for the weekday p.m. and Saturday midday peak hours to establish a baseline condition to which future traffic operations can be compared. The a.m. peak hour was not evaluated since the proposed development is not expected to be open during that time. The study intersections were analyzed using Synchro/SimTraffic (Version 9).

Capacity analysis results identify a Level of Service (LOS), which indicates the quality of traffic flow through an intersection. Intersections are given a ranking from LOS A through LOS F. The LOS results are based on average delay per vehicle, which correspond to the delay threshold values shown in Table 1. LOS A indicates the best traffic operation, with vehicles experiencing minimal delays. LOS F indicates an intersection where demand exceeds capacity, or a breakdown of traffic flow. Overall intersection LOS A through LOS D is generally considered acceptable in the Twin Cities Metro Area.

<table>
<thead>
<tr>
<th>LOS Designation</th>
<th>Signalized Intersection Average Delay/Vehicle (seconds)</th>
<th>Unsignalized Intersection Average Delay/Vehicle (seconds)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>≤ 10</td>
<td>≤ 10</td>
</tr>
<tr>
<td>B</td>
<td>&gt; 10 - 20</td>
<td>&gt; 10 - 15</td>
</tr>
<tr>
<td>C</td>
<td>&gt; 20 - 35</td>
<td>&gt; 15 - 25</td>
</tr>
<tr>
<td>D</td>
<td>&gt; 35 - 55</td>
<td>&gt; 25 - 35</td>
</tr>
<tr>
<td>E</td>
<td>&gt; 55 - 80</td>
<td>&gt; 35 - 50</td>
</tr>
<tr>
<td>F</td>
<td>&gt; 80</td>
<td>&gt; 50</td>
</tr>
</tbody>
</table>

For side-street stop controlled intersections, special emphasis is given to providing an estimate for the level of service of the side-street approach. Traffic operations at an unsignalized intersection with side-street stop control can be described in two ways. First, consideration is given to the overall intersection level of service. This takes into account the total number of vehicles entering the intersection and the capability of the intersection to support these volumes.
Second, it is important to consider the delay on the minor approach. Since the mainline does not have to stop, the majority of delay is attributed to the side-street approaches. It is typical of intersections with higher mainline traffic volumes to experience high levels of delay (i.e. poor levels of service) on the side-street approaches, but an acceptable overall intersection level of service during peak hour conditions.

Results of the existing intersection capacity analysis shown in Table 2 indicate that the study intersections currently operate at an acceptable overall LOS C or better during the weekday p.m. and Saturday midday peak hours with the existing geometric layout and traffic controls. Westbound queues along Wayzata Boulevard reach approximately 230 feet during the weekday p.m. peak hour, which nearly extend to the adjacent office building access along the south side of Wayzata Boulevard. Relatively minor queuing occurs along Plymouth Road between Wayzata Boulevard and the I-394 North Ramps. These Plymouth Road queues are primarily due to the close intersection spacing, which results in limited vehicle storage. No other significant delay or queuing issues were identified.

Table 2 Existing Intersection Capacity Analysis

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Weekday P.M. Peak Hour</th>
<th>Saturday Midday Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plymouth Road and West Site Access (1) A/B</td>
<td>12 sec.</td>
<td>A/A 4 sec.</td>
</tr>
<tr>
<td>Plymouth Road and Wayzata Boulevard C</td>
<td>22 sec.</td>
<td>C 20 sec.</td>
</tr>
<tr>
<td>Plymouth Road and I-394 North Ramps B</td>
<td>16 sec.</td>
<td>B 14 sec.</td>
</tr>
<tr>
<td>Wayzata Boulevard and South Site Access (1) A/A</td>
<td>7 sec.</td>
<td>A/A 7 sec.</td>
</tr>
</tbody>
</table>

(1) Indicates an unsignalized intersection with side-street stop control, where the overall LOS is shown followed by the worst approach LOS. The delay shown represents the worst side-street approach delay.

Proposed Development

The proposed development, shown in Figure 3, would encompass a portion of the existing Whole Foods/Office Depot shopping center. The existing shopping center has a total of approximately 66,000 square feet, which is split relatively evenly between Whole Foods and Office Depot. If approved, Total Wine would initially consume 13,500 square feet of the Office Depot space, leaving a 19,500 square foot Office Depot. The proposed Total Wine store would be a smaller scale format relative to other Total Wine stores within the Twin Cities. Hours of operation are expected to be 9:00 a.m. to 10:00 p.m., Monday thru Saturday. For study purposes, a second scenario was reviewed to understand potential impacts if Total Wine were to expand further. Additional details regarding Scenario 2 are provided later in this document.

The proposed development was assumed to be fully operational by the year 2017. Access to the proposed development is not expected to change, with one access along both Plymouth Road (right-in/right-out) and Wayzata Boulevard (full access) remaining. The existing parking lot, which has approximately 300 spaces, is also not expected to change. Additional parking information is provided later in this memorandum.
Year 2018 Conditions

To identify potential impacts associated with the proposed development, traffic forecasts for year 2018 conditions (i.e. one-year after opening) were developed. The year 2018 conditions take into account general area background growth and traffic generated by the proposed development. The following sections provide details on the background traffic forecasts, estimated trip generation, and intersection capacity analysis for year 2018 conditions.

Background Traffic Growth

To account for general background growth in the area, an annual growth rate of one percent was applied to the existing peak hour traffic volumes to develop year 2018 background traffic forecasts. This growth rate is generally consistent with historical trends within the study area and future growth projections within the Twin Cities Regional Travel Demand Model.

Trip Generation

To account for traffic impacts associated with the proposed development, a trip generation estimate for the weekday p.m. and Saturday midday peak hours as well as on a weekday daily basis were developed. This trip generation estimate, shown in Table 3, was developed using a combination of existing traffic counts collected at the site access locations, customer data provided by Total Wine, and the Institute of Transportation Engineers (ITE) Trip Generation Manual, Ninth Edition. For Total Wine specifically, average customer data from three other Twin Cities Total Wine stores was utilized since ITE does not provide a specific trip generation rate for a liquor store. The supermarket trip generation rate is most comparable to a liquor store and provides a relatively accurate trip generation estimate. However, ITE recommends using local data when applicable. Therefore the data provided by Total Wine was utilized to estimate of the trip generations for the proposed development.

As previously mentioned, Office Depot occupies approximately 33,000 square feet of the existing shopping center. However based on discussion with City staff, Office Depot can reduce its building footprint while maintaining their current services and merchandise. Therefore, although the overall Office Depot square footage would be reduced to approximately 19,500 square feet with the addition of the Total Wine store, the existing Office Depot trip generation was not assumed to change.

Given that the proposed Total Wine development is expected to be a smaller scale format relative to other stores, the City requested an additional scenario be reviewed concurrently. This scenario assumes Office Depot would be vacated, with Total Wine encompassing 23,000 square feet of the former space. An additional 10,000 square feet of general retail space was also assumed, which along with the 23,000 square foot Total Wine, would comprise all of the former 33,000 square foot Office Depot space.
Results of the trip generation estimate for Scenario 1 indicates the proposed development is expected to generate an additional 102 weekday p.m. peak hour, 120 Saturday midday peak hour, and 850 weekday daily trips to/from the site compared to the existing land use. This includes a 15 percent weekday p.m. peak hour and 25 percent Saturday midday peak hour multi-use reduction, which accounts for motorists that complete a trip to one or more land use within the site. The total site trips under Scenario 1 is expected to be 475 weekday p.m. peak hour, 502 Saturday midday peak hour, and 5,050 weekday daily trips.

Table 3  Trip Generation Estimate

<table>
<thead>
<tr>
<th>Land Use Type (ITE Code)</th>
<th>Size</th>
<th>Weekday P.M. Peak Hour Trips</th>
<th>Saturday Midday Peak Hour Trips</th>
<th>Weekday Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td><strong>Existing Land Use</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whole Foods (1)</td>
<td>33,000 SF</td>
<td>134</td>
<td>145</td>
<td>125</td>
</tr>
<tr>
<td>Office Depot (1)</td>
<td>33,000 SF</td>
<td>45</td>
<td>49</td>
<td>42</td>
</tr>
<tr>
<td><strong>Total Existing Site Trips (2)</strong></td>
<td>66,000 SF</td>
<td>179</td>
<td>194</td>
<td>167</td>
</tr>
<tr>
<td><strong>Proposed Land Use</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Scenario 1 (13,500 SF Total Wine)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whole Foods/Office Depot</td>
<td>52,500 SF</td>
<td>179</td>
<td>194</td>
<td>167</td>
</tr>
<tr>
<td>Total Wine Liquor Store (4)</td>
<td>13,500 SF</td>
<td>60</td>
<td>60</td>
<td>80</td>
</tr>
<tr>
<td><strong>Scenario 1 Subtotal</strong></td>
<td>66,000 SF</td>
<td>239</td>
<td>254</td>
<td>247</td>
</tr>
<tr>
<td>Multi-Use Reduction (15% PM, 25% Saturday)</td>
<td>-9</td>
<td>-9</td>
<td>-20</td>
<td>-20</td>
</tr>
<tr>
<td><strong>Total Site Trips</strong></td>
<td>230</td>
<td>245</td>
<td>227</td>
<td>275</td>
</tr>
<tr>
<td>Pass-By Trip Reduction (5)</td>
<td>-18</td>
<td>-18</td>
<td>-22</td>
<td>-22</td>
</tr>
<tr>
<td><strong>Net New System Trips</strong></td>
<td>+33</td>
<td>+33</td>
<td>+38</td>
<td>+38</td>
</tr>
<tr>
<td><strong>Scenario 2 (23,000 SF Total Wine)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whole Foods (1)</td>
<td>33,000 SF</td>
<td>134</td>
<td>145</td>
<td>125</td>
</tr>
<tr>
<td>Total Wine Liquor Store (4)</td>
<td>23,000 SF</td>
<td>105</td>
<td>105</td>
<td>140</td>
</tr>
<tr>
<td>Shopping Center (820)</td>
<td>10,000 SF</td>
<td>18</td>
<td>19</td>
<td>25</td>
</tr>
<tr>
<td><strong>Scenario 2 Subtotal</strong></td>
<td>66,000 SF</td>
<td>257</td>
<td>269</td>
<td>290</td>
</tr>
<tr>
<td>Multi-Use Reduction (15% PM, 25% Saturday)</td>
<td>-19</td>
<td>-19</td>
<td>-41</td>
<td>-41</td>
</tr>
<tr>
<td><strong>Total Site Trips</strong></td>
<td>238</td>
<td>250</td>
<td>249</td>
<td>283</td>
</tr>
<tr>
<td>Pass-By Trip Reduction (5)</td>
<td>-38</td>
<td>-38</td>
<td>-44</td>
<td>-44</td>
</tr>
<tr>
<td><strong>Net New System Trips</strong></td>
<td>+21</td>
<td>+18</td>
<td>+38</td>
<td>+24</td>
</tr>
</tbody>
</table>

---

(1) Breakdown estimated by ITE Trip Generation Manual  
(2) Based on actual driveway counts collected July 7 and July 9, 2016.  
(3) Estimated based on the ITE Trip Generation Handbook, leveraging the existing peak hour data collected.  
(4) Based on data provided by Total Wine.  
(5) Applied to only the new land uses on site.
Results of the trip generation estimate for Scenario 2 indicates the proposed development is expected to generate an additional 115 weekday p.m. peak hour, 150 Saturday midday peak hour, and 800 weekday daily trips to/from the site compared to the existing land use. This includes a 15 percent weekday p.m. peak hour and 25 percent Saturday midday peak hour multi-use reduction, which accounts for motorists that complete a trip to one or more land use within the site. The total site trips under Scenario 2 is expected to be 488 weekday p.m. peak hour, 532 Saturday midday peak hour, and 5,000 weekday daily trips. Trips generated were distributed to the study area based on the directional distribution shown in Figure 4, which was developed based on existing travel patterns. The new site trips for Scenarios 1 and 2 are shown in Figures 5A and 5B, respectively.

It should be noted that a portion of the development trips are expected to be from vehicles already traveling along Plymouth Road or Wayzata Boulevard that will now divert their trip to the proposed development before continuing on to their destination (i.e. pass-by trips). Pass-by percentages for Total Wine were assumed to be similar to percentages for a Supermarket land use within the ITE Trip Generation Manual. Taking into account the pass-by trip reductions, as well as the existing site trips, the resultant net new traffic volume impact to the adjacent roadway network due to the proposed development is approximately 66 weekday p.m. peak hour, 76 Saturday midday peak hour, and 544 weekday daily trips for Scenario 1.

Under Scenario 2, the resultant net new traffic volume impact to the adjacent roadway network is approximately 39 weekday p.m. peak hour, 62 Saturday midday peak hour, and 135 weekday daily trips. The resultant year 2018 peak hour traffic forecasts, which include general background growth and traffic generated by the proposed development for Scenarios 1 and 2 are shown in Figures 6A and 6B, respectively.

I-394 Ordinance Compliance

The proposed land use change for the Whole Foods/Office Depot shopping center was compared to the PID parcel trip allocation based on the current I-394 Ordinance (TAD 5, Parcel 7). The parcel’s current trip allocation is 615 weekday p.m. peak hour trips. As noted, the expected p.m. peak hour trips under Scenarios 1 and 2 are approximately 475 and 488 trips, respectively. Comparing the I-394 Ordinance trip generation allocation for the site with the expected trip generation for Scenarios 1 and 2 indicates the proposed development is expected to generate approximately 127 and 140 fewer p.m. peak hour trips, respectively, than allotted. Therefore, the proposed development fits within the I-394 Ordinance guidance.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>I-394 Ordinance Allocation (TAD 5, Parcel 7)</th>
<th>Scenario 1 Land Use</th>
<th>Scenario 2 Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekday P.M. Peak Hour Trips</td>
<td>615</td>
<td>475</td>
<td>488</td>
</tr>
</tbody>
</table>
Figure 5A

Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg

Total Wine Site Trips (Scenario 1)

Total Wine Traffic and Parking Study
City of Minnetonka

LEGEND
XX  -  Weekday P.M. Peak Hour Site Trips
(XX)  -  Saturday Midday Peak Hour Site Trips
Figure 5B

Total Wine/Shopping Center Site Trips (Scenario 2)

Legend:

XX - Weekday P.M. Peak Hour Site Trips
(XX) - Saturday Midday Peak Hour Site Trips

Note: The trips shown represent an expanded Total Wine and 10,000 square foot general retail space. Office Depot is not included in this scenario.
Year 2018 Build Conditions (Scenario 1)

Total Wine Traffic and Parking Study
City of Minnetonka

Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg

LEGEND
XX - Weekday P.M. Peak Hour Volume
(XX) - Saturday Midday Peak Hour Volume
XXX - Existing Average Daily Traffic Volume
- Side-Street Stop Control
- Signal Control

Figure 6A

Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg
Year 2018 Intersection Capacity Analysis

To determine if the existing roadway network can accommodate the year 2018 traffic forecasts under Scenario 1 and 2 conditions, a detailed intersection capacity analysis was completed. Results of the year 2018 intersection capacity analysis shown in Table 5 indicate that all of the study intersections and proposed access locations are expected to operate at an acceptable overall LOS C or better during the weekday p.m. and Saturday midday peak hours with the existing roadway geometry and traffic controls under both Scenario 1 and 2 conditions. Westbound queues along Wayzata Boulevard are expected to increase slightly from approximately 230 feet up to approximately 260 feet during the peak period. These queues will continue to impact the access to the adjacent office building to the south, but will have minimal impact to the proposed development South Site Access.

Table 5 Year 2018 Build Intersection Capacity Analysis

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Level of Service (Delay)</th>
<th>Weekday P.M. Peak Hour</th>
<th>Saturday Midday Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Scenario 1</td>
<td>Scenario 2</td>
</tr>
<tr>
<td>Plymouth Road and West Site Access</td>
<td>A/B (11 sec.) A/C (21 sec.)</td>
<td>A/A (3 sec.) A/A (3 sec.)</td>
<td></td>
</tr>
<tr>
<td>Plymouth Road and Wayzata Boulevard</td>
<td>C (23 sec.) C (24 sec.)</td>
<td>C (22 sec.) C (23 sec.)</td>
<td></td>
</tr>
<tr>
<td>Plymouth Road and I-394 North Ramps</td>
<td>B (16 sec.) B (17 sec.)</td>
<td>B (16 sec.) B (16 sec.)</td>
<td></td>
</tr>
<tr>
<td>Wayzata Boulevard and South Site Access</td>
<td>A/A (8 sec.) A/A (9 sec.)</td>
<td>A/A (9 sec.) A/A (8 sec.)</td>
<td></td>
</tr>
</tbody>
</table>

(1) Indicates an unsignalized intersection with side-street stop control, where the overall LOS is shown followed by the worst approach LOS. The delay shown represents the worst side-street approach delay.

Minor increases in queues along Plymouth Road are also expected. These queues and overall operations should be monitored if/when the Total Wine store is open to determine if signal timing improvements (i.e. optimization) are needed. In addition, southbound queues at the South Site Access to Wayzata Boulevard are expected to extend between 90 and 110 feet during the peak periods (i.e. four to six vehicles). These queues will impact internal circulation as motorists enter/exit the South Site Access. Potential mitigation would be to widen the South Site Access to accommodate two exit lanes and one entering lane, which would reduce internal queues to between 50 and 70 feet. Alternative access options are provided later in this document in the Site Plan Review section.

Future Plymouth Road Improvements

The City has identified future improvements along Plymouth Road throughout the study area. One improvement includes an additional southbound left-turn lane from Plymouth Road to the I-394 Westbound On-Ramp, which would provide dual left-turn lanes and added vehicle storage. This improvement would be expected to reduce the westbound 95th percentile queues along Wayzata Boulevard at Plymouth Road by approximately 50 feet (i.e. down to 210 feet from 260 feet). The other planned improvement along Plymouth Road is at the I-394 South Ramp intersection, where additional capacity improvements are planned to reduce delays and queues from Cartway Lane. Improvements at the I-394 South Ramp intersection are not expected to impact the study area north of I-394.
Parking Review

Parking observations were completed to identify the current parking supply and demand (i.e. utilization) for the site to help determine if there will be sufficient parking on-site if/when the Total Wine store is open. Observations indicate that there are approximately 300 existing parking spaces on site, none of which are dedicated to a specific tenant. Therefore, the entire site was reviewed as one parking area for purposes of this study. Four time periods were reviewed to identify the peak parking demand for the site. These time periods included both weekday and Saturday peak periods. A summary of the parking observations for the entire site is provided in Table 6.

Table 6 Parking Observations

<table>
<thead>
<tr>
<th>Condition</th>
<th>Weekday (July 21, 2016)</th>
<th>Saturday (July 23, 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>12:00 p.m.</td>
<td>5:00 p.m.</td>
</tr>
<tr>
<td>Supply</td>
<td>300</td>
<td>300</td>
</tr>
<tr>
<td>Demand</td>
<td>138</td>
<td>85</td>
</tr>
<tr>
<td>Surplus/(Deficit)</td>
<td>162</td>
<td>215</td>
</tr>
<tr>
<td>Percent Occupied</td>
<td>46%</td>
<td>28%</td>
</tr>
</tbody>
</table>

As previously mentioned, the proposed development is not planning to provide any additional parking. To determine if the existing parking supply will meet the demand for the site, a detailed parking review was completed using both the Minnetonka City Code as well as the ITE Parking Generation Manual, 4th Edition. The following information summarizes the parking demand review.

1) The minimum parking requirement based on Minnetonka City Code (Chapter 3, Section 300.28) states that for a neighborhood retail development, the minimum number of parking spaces required is 4.5 spaces per 1,000 square feet of gross floor area. Given the proposed development under both Scenarios 1 and 2 is expected to remain as a 66,000 square foot building, a total of 297 spaces are required, which results in a three (3) space surplus.

2) For Scenario 1, the ITE 85th percentile demand for a 13,500 square foot liquor store is 40 spaces, which is expected to occur during the weekday p.m. peak period. Combining the expected 85th percentile demand (40 spaces) with the observed weekday peak parking utilization (138 spaces), the total 85th percentile parking demand for the entire site is expected to be 178 spaces. This represents a 122 space surplus.

3) For Scenario 2, the ITE 85th percentile demand for a 23,000 square foot liquor store and a 10,000 square foot retail space would be 101 spaces. Combining the expected 85th percentile demand (101 spaces) with the observed weekday peak parking utilization (138 spaces), the total 85th percentile parking demand for the entire site is expected to be 239 spaces. This represents a 61 space surplus, without any Office Depot reductions.

Results of the parking demand review indicate that no parking issues are expected for the proposed development site under either scenario.
Site Plan Review

A review of the proposed site plan was completed to identify any issues and recommend potential improvements with regard to site access, circulation, and parking. The following improvements are offered for consideration.

a) Remove taller shrubs/landscaping in the right-in/right-out island at the West Site Access to Plymouth Road to improve intersection sight distance. The current landscaping obstructs sight distance for exiting motorists looking south to identify approaching motorists (see picture).

b) Provide improved pedestrian access into the site from the existing sidewalk along Wayzata Boulevard.

c) Widen the South Site Access to accommodate two exiting lanes and one entering lane to reduce internal queuing and improve internal circulation. One or two parking spacing may be impacted/lost.

d) Consider alternative South Site Access options to Wayzata Boulevard to improve operations, access, and safety, as well as reduce potential queuing impacts from Plymouth Road and other access locations.

e) Install wayfinding signage along Wayzata Boulevard to encourage motorists exiting the site that are destined to eastbound I-394 to access via Ridgedale Drive rather than Plymouth Road. This would help reduce westbound queues along Wayzata Boulevard at Plymouth Road (see example).
**Preliminary Access/ Roadway Alternatives**

Based on City staff’s request, several alternative South Site Access options were developed to improve the long-term operations and safety within the study area. The intent of these preliminary access/roadway alternatives is to provide a range of options for consideration. The following information provides a general overview of the remaining options based on City staff feedback, which are illustrated in Figures 7A and 7B.

1) **Option A**
   
a. Expands/widens the South Site Access to accommodate two exiting and one entering lane to reduce internal queuing and improve circulation (reduced queues from 110 feet to 70 feet).

b. Results in a parking loss of approximately one to two spaces.

c. Relocates the Office Building South Access to the east (opposite of the South Site Access) to reduce queues along Wayzata Boulevard from impacting this access.

d. Restripes Wayzata Boulevard to better delineate movements at the South Site Access.

2) **Option B**
   
a. Relocates the South Site Access to the eastern edge of the property to improve sight distance and reduce the potential for queueing impacts from Plymouth Road. This intersection would be converted to all-way stop control to improve access. Southbound exiting queues would be approximately 100 feet.

b. Provides an optional right-out only driveway at the existing South Site Access to reduce internal queuing and circulation. Southbound exiting queues at both the relocated South Site Access and the right-out only would be 70 feet or less.

c. Results in a parking loss of approximately nine to 12 spaces, depending on the optional right-out driveway at the South Site Access.

d. Relocates/shifts the Office Building East Access to align with the Wendy’s/ Pier One access to eliminate the offset driveways and reduce intersection conflict points.
Option B
Total Wine Traffic and Parking Study
City of Minnetonka, Minnesota

Figure 7B
Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg
Summary and Conclusions

The following study conclusions and recommendations are offered for consideration:

1) Results of the existing intersection capacity analysis indicate that the study intersections currently operate at an acceptable overall LOS C or better during the weekday p.m. and Saturday midday peak hours with the existing geometric layout and traffic controls.
   a. Westbound queues along Wayzata Boulevard nearly extend to the adjacent office building access along the south side of Wayzata Boulevard.
   b. Relatively minor queuing occurs along Plymouth Road between Wayzata Boulevard and the I-394 North Ramps due to the close intersection spacing.

2) The existing shopping center has a total of approximately 66,000 square feet, which is split relatively evenly between Whole Foods and Office Depot. If approved, Total Wine would initially consume 13,500 square feet of the Office Depot space, leaving a 19,500 square foot Office Depot.
   a. A second scenario (Scenario 2) was evaluated which assumed Office Depot would be vacated, Total Wine would be expanded to 23,000 square feet, and the remaining 10,000 square feet would be allocated for a general retail tenant.

3) The proposed development is expected to generate an additional 102 weekday p.m. peak hour, 120 Saturday midday peak hour, and 850 weekday daily trips to/from the site under Scenario 1 when compared to the existing land use.
   a. Under Scenario 1, the resultant net new traffic volume impact to the adjacent roadway network is approximately 66 weekday p.m. peak hour, 76 Saturday midday peak hour, and 544 weekday daily trips.

4) The proposed development is expected to generate an additional 115 weekday p.m. peak hour, 150 Saturday midday peak hour, and 800 weekday daily trips to/from the site under Scenario 2 when compared to the existing land use.
   a. Under Scenario 2, the resultant net new traffic volume impact to the adjacent roadway network is approximately 39 weekday p.m. peak hour, 62 Saturday midday peak hour, and 135 weekday daily trips.

5) The proposed development fits within the I-394 Ordinance guidance from a trip generation/ allocation perspective.

6) Results of the year 2018 intersection capacity analysis indicate that all of the study intersections and proposed access locations are expected to operate at an acceptable overall LOS C or better during the weekday p.m. and Saturday midday peak hours with the existing roadway geometry and traffic controls under both Scenario 1 and 2 conditions.
   a. Queues and overall operations should be monitored if/ when the Total Wine store is open to determine if signal timing improvements (i.e. optimization) are needed.
   b. Widen the South Site Access to accommodate two exit lanes and one entering lane to reduce internal queuing and conflicts (if an alternative access is not provided).
7) The City has identified future improvements along Plymouth Road throughout the study area, one of which includes an additional southbound left-turn lane from Plymouth Road to the I-394 Westbound On-Ramp. This improvement would be expected to reduce westbound queues along Wayzata Boulevard by approximately 50 feet (i.e. down to 210 feet from 260 feet).
   a. The other planned improvement along Plymouth Road at the I-394 South Ramp is not expected to impact the study area north of I-394.

8) Results of the parking demand review indicates that no parking issues are expected for the proposed development site under either scenario.

9) The following site plan improvements should be considered:
   a. Remove taller shrubs/landscaping in the right-in/right-out island at the West Site Access to Plymouth Road to improve intersection sight distance.
   b. Provide improved pedestrian access into the site from the existing sidewalk along Wayzata Boulevard.
   c. Install wayfinding signage along Wayzata Boulevard to encourage motorists exiting the site that are destined to eastbound I-394 to access via Ridgedale Drive rather than Plymouth Road.
   d. Consider alternative South Site Access options to Wayzata Boulevard to improve operations, access, and safety, as well as reduce potential queuing impacts from Plymouth Road and other access locations.
To: Loren Gordon, AICP, City Planner  
City of Minnetonka  

From: Matt Pacyna, PE, Senior Associate  
Tom Sachi, EIT, Engineer  

Date: September 7, 2016  

Subject: Addendum to the Total Wine Traffic and Parking Study

Introduction

Based on discussions with project staff, a question was posed regarding a situation if Total Wine were to eventually occupy 33,000 square feet. In this situation, referred to as Scenario 3, Total Wine and Whole Foods would be the only tenants of the shopping center. Therefore to understand the trip generation and intersection capacity impacts associated with Scenario 3, this addendum to the Total Wine Traffic and Parking Study, dated September 1, 2016 was completed. The following information provides the addendum assumptions, analysis, and recommendations offered for consideration.

Trip Generation

To identify traffic impacts associated with Scenario 3, a trip generation estimate for the weekday p.m. and Saturday midday peak hours, as well as on a weekday daily basis was developed. This trip generation estimate for Scenario 3, shown in Table A1, was developed using a combination of existing traffic counts collected at the site access locations, customer data provided by Total Wine, and the Institute of Transportation Engineers (ITE) Trip Generation Manual, Ninth Edition. For Total Wine specifically, average customer data from three other Twin Cities Total Wine stores was utilized since ITE does not provide a specific trip generation rate for a liquor store. Based on the data provided, an average trip generation rate per square foot was developed, which was utilized in developing the trip generation for Total Wine.

It should be noted that the Total Wine data was taken from stores ranging between 20,500 and 30,000 square feet. At these stores, the weekday p.m. peak hour ranged from 205 to 230 trips. This indicates that once a Total Wine store reaches a certain size, the trips generated generally plateau. In other words, if the store were to expand from 23,000 square feet (as in Scenario 2) to 33,000 square feet (as in Scenario 3), the trip generation may not significantly change. However for purposes of this addendum, a conservative trip generation approach was utilized which assumed the expanded Total Wine would generate trips at the average trip per square foot rate.
Results of the trip generation estimate for Scenario 3 indicate the proposed development is expected to generate an additional 161 weekday p.m. peak hour, 196 Saturday midday peak hour, and 1,050 weekday daily trips to/from the site compared to the existing land use. This includes a 15 percent weekday p.m. peak hour and 25 percent Saturday midday peak hour multi-use reduction, which accounts for motorists that complete a trip to one or more land use within the site. The total site trips under Scenario 3 is expected to be 534 weekday p.m. peak hour, 578 Saturday midday peak hour, and 5,250 weekday daily trips. Taking into account pass-by trips, the resultant net new traffic volume impact to the adjacent roadway network is approximately 71 weekday p.m. peak hour, 94 Saturday midday peak hour, and 315 weekday daily trips for Scenario 3. The site trips for Scenario 3 is shown in Figure A1.

Table A1  Trip Generation Estimate (Scenario 3)

<table>
<thead>
<tr>
<th>Land Use Type (ITE Code)</th>
<th>Size</th>
<th>Weekday P.M. Peak Hour Trips</th>
<th>Saturday Midday Peak Hour Trips</th>
<th>Weekday Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td>Existing Land Use</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whole Foods (1)</td>
<td>33,000 SF</td>
<td>134</td>
<td>145</td>
<td>125</td>
</tr>
<tr>
<td>Office Depot (1)</td>
<td>33,000 SF</td>
<td>45</td>
<td>49</td>
<td>42</td>
</tr>
<tr>
<td>Total Existing Site Trips (2)</td>
<td>66,000 SF</td>
<td>179</td>
<td>194</td>
<td>167</td>
</tr>
</tbody>
</table>

Proposed Land Use

<table>
<thead>
<tr>
<th>Scenario 3 (33,000 SF Total Wine)</th>
<th>Size</th>
<th>Weekday P.M. Peak Hour Trips</th>
<th>Saturday Midday Peak Hour Trips</th>
<th>Weekday Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td>Whole Foods (1)</td>
<td>33,000 SF</td>
<td>134</td>
<td>145</td>
<td>125</td>
</tr>
<tr>
<td>Total Wine Liquor Store (4)</td>
<td>33,000 SF</td>
<td>150</td>
<td>150</td>
<td>195</td>
</tr>
<tr>
<td>Scenario 3 Subtotal</td>
<td>66,000 SF</td>
<td>285</td>
<td>295</td>
<td>320</td>
</tr>
<tr>
<td>Multi-Use Reduction (15% PM, 25% Saturday)</td>
<td>-23</td>
<td>-23</td>
<td>-49</td>
<td>-49</td>
</tr>
<tr>
<td>Total Site Trips</td>
<td>262</td>
<td>272</td>
<td>271</td>
<td>307</td>
</tr>
<tr>
<td>Pass-By Trip Reduction (5)</td>
<td>-45</td>
<td>-45</td>
<td>-51</td>
<td>-51</td>
</tr>
<tr>
<td>Net New System Trips</td>
<td>+38</td>
<td>+33</td>
<td>+53</td>
<td>+41</td>
</tr>
</tbody>
</table>

(1) Breakdown estimated by ITE Trip Generation Manual
(2) Based on actual driveway counts collected July 7 and July 9, 2016.
(3) Estimated based on the ITE Trip Generation Handbook, leveraging the existing peak hour data collected.
(4) Based on data provided by Total Wine.
(5) Applied to only the new land uses on site.

Year 2018 Intersection Capacity Analysis

To determine if the existing roadway network can accommodate the year 2018 traffic forecasts under Scenario 3 conditions, a detailed intersection capacity analysis was completed. Given the intersection capacity results from the Total Wine Traffic and Parking Study, only the weekday p.m. peak hour was reviewed as part of this addendum since it represents the worst-case condition. A year 2018 intersection capacity analysis comparison between Scenarios 1 through 3 is provided in Table A2.
Total Wine Site Trips (Scenario 3)

Total Wine Traffic and Parking Study
City of Minnetonka

Figure A1
Minnesota Fine Wine & Spirits, LLC
(DBA Total Wine)
1005 Plymouth Rd
Sept 12, 2016 CC Mtg

Legend:
XX - Weekday P.M. Peak Hour Site Trips
(XX) - Saturday Midday Peak Hour Site Trips
Note: The trips shown represent an expanded Total Wine and 10,000 square foot general retail space. Office Depot is not included in this scenario.
Table A2  Year 2018 Intersection Capacity Analysis Comparison

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Scenario 1</th>
<th>Scenario 2</th>
<th>Scenario 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plymouth Road and West Site Access (1)</td>
<td>A/B (11 sec.)</td>
<td>A/C (21 sec.)</td>
<td>A/B (13 sec.)</td>
</tr>
<tr>
<td>Plymouth Road and Wayzata Boulevard</td>
<td>C (23 sec.)</td>
<td>C (24 sec.)</td>
<td>C (24 sec.)</td>
</tr>
<tr>
<td>Plymouth Road and I-394 North Ramps</td>
<td>B (16 sec.)</td>
<td>B (17 sec.)</td>
<td>B (17 sec.)</td>
</tr>
<tr>
<td>Wayzata Boulevard and South Site Access (1)</td>
<td>A/A (8 sec.)</td>
<td>A/A (9 sec.)</td>
<td>A/B (11 sec.)</td>
</tr>
</tbody>
</table>

(1) Indicates an unsignalized intersection with side-street stop control, where the overall LOS is shown followed by the worst approach LOS. The delay shown represents the worst side-street approach delay.

Results of the year 2018 intersection capacity analysis comparison indicate that although Scenario 3 was assumed to generate more site trips as compared to Scenarios 1 and 2, the overall intersection operations are expected to be relatively similar. The primary difference between Scenario 3 and the other scenarios is that internal queues at the South Site Access would be expected to increase by approximately 30 feet (i.e. one to two vehicles) during the weekday p.m. peak hour. The internal queues under Scenario 3 at the South Site Access would be expected to extend between 120 and 140 feet on site, impacting internal circulation as motorists enter/exit the site. Potential mitigation would be to widen the South Site Access to accommodate two exit lanes and one entering lane as proposed as part of the *Total Wine Traffic and Parking Study*.

**Conclusion**

Based on review of Scenario 3 conditions as part of this addendum, which assumes Total Wine would occupy 33,000 square feet, the potential mitigation and alternatives identified as part of the *Total Wine Traffic and Parking Study*, dated September 1, 2016 remain valid for Scenario 3 conditions.
From: Hugh Strong
Sent: Wednesday, July 13, 2016 11:48 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: No to Total Wine

As a concerned citizen I am very opposed to Total Wine entering our Minnetonka market at the proposed location!! We are already surrounded by liquor stores in this area.
-----Original Message-----
From: nate strong
Sent: Wednesday, July 13, 2016 11:30 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject:

Strongly opposed to Total Wine coming to Minnetonka in the proposed location.

Nathan
Thank you for your email. This response is only to address the factual questions you raise in your email. The city has a policy regarding licenses in the community (see attached for information shared last summer). There is no official cap, in that there is no city ordinance, but rather a city policy. The city may not prevent someone from applying for a liquor license, but the city council has discretion as to whether they issue the license or not. There is no such thing as "selling a license". What this application is for, is for a new liquor license at the building adjacent to Whole Foods and Office Depot. The fact that they bought Big Top is not something the city would act upon unless they want to continue operating the Big Top store location.

Thank you for providing your information. I will copy this email for the packet where the Total Wine application will be heard. Please let me know if you have additional questions.

Julie

-----Original Message-----
From: Dan Keegan
Sent: Monday, July 11, 2016 1:01 PM
To: Julie Wischnack
Cc: tschneider@eminetonka.com; Dick Allendorf; Patty Acomb; Tony Wagner; Brad Wiersum; Tim Bergstedt
Subject: Total Wine

HI Julie,

I have been told, by my councilman, that Minnetonka had capped the number of liquor licenses, there by denying Target and LiquorBoy licensing in our City. Why is Total Wine even getting a hearing? I could understand if they want to operate in the Big Top current location but it appears
they can buy a license and move it. Will that set a precedent that any license holder, in the City, can sell their license with option of moving sites?

I am also concerned that the City may be inviting legal action by Target and LiquorBoy by allowing Total Wine in the City.

There will also be consequences to the existing, long standing liquor businesses, within blocks of this location.

Thanks for you help.

Dan Keegan
Glen Lake Wine and Spirits
I am against the additional development of an off sales liquor store in such close proximity to another long term existing one. It is literally around the corner and appears to be seeking to undercut the current business with its warehouse type sales model. I would question the need for two large identical businesses in this neighborhood.

Holly Godfrey
3509 Lilac Lane
Hello Mr. Wagner,

My comment on the proposed Total Wine liquor store license application for a location by 394 and Plymouth.

I am against adding more liquor/wine stores to this area, especially a large facility as Total Wine would be. What I consider to mainly be Minnetonka's "downtown" already has too many liquor stores. Total Wine would be directly behind Haskell's, which in my opinion is ridiculous. Currently, within the area:

Haskell's (Twin Cities company)
Lund's/Byerly's (Twin Cities company)
Big Top (Twin Cities company)
Trader Joe's

Does the area really need another large liquor store?!?!?

Best regards,

Bob Thaman
Golden Acre Drive
Thank you David, I will share with the city council.

On 8/10/16 6:56 PM, "David Dunn" wrote:

> Mr Mayor and city council members,
> I am writing to voice my support for Total Wines off sale liquor license.
> As a 36 year City resident of ward 2, I have watched and attended many
council meetings. I have a pretty good understanding of the city's
current criteria for allowing new liquor licenses. I believe Total
Wines current proposal allows the city to maintain the current number
of liquor licenses. For me, Total Wines offers me a unique shopping
experience which I now have to go their Bloomington store to enjoy.
> As a resident of the Ridgedale area, I am more concerned with the
> increasing "on sale" licenses for new restaurants in our area than
> adding to our "off sale" licenses. Few people are leaving our off sale
> sites after drinking, which is in direct contrast to the number who are
> driving after drinking at all those restaurants.
> The traffic in that area can be a concern at times. An example would be
> when I have attended any "sale" at Haskel's only to find the only
> parking available is on the frontage road, as all 30-35 of their on
> site parking places are in use. Not a very safe option. I encounter the same
> "parking" issues at The Wine Shop and Spasso when they're busy, as well
> as Lone Spur, to mention a few.
> So as this application moves forward, I'm confident the council will
> find ways to work with the applicant to over come any issues, such as
> traffic in the area. The traffic problems in that area have been
> contributed to by poor roadway planning at many levels over the years
> and we should not make that issue a determinat of future retail expansion to this area.
> Instead, that issue now must be part of our overall future vision for
> the Ridgedale area. We face this same roadway problem in the
> RidgeSquare area and have new retail and housing going up there but we
> will find solutions there also.
> I hope the council will approve the applicant's request and work with
> them to resolve any issues.
> Thank you all for your hard work and service to the city and it's
> residents.
> Sincerely
> David Dunn
> 2320 Rivendell Ln
> Minnetonka Mn 55305
> Sent from my iPhone
Thanks, Kathy. Here is my input:

I don't believe that the proposed site for Total Wine works for the community. There are several reasons:

1. The area already has enough (more than enough) liquor/wine retailers. In one mile, you can go to Trader Joe's, Haskell's, Byerly's, and Big Top Liquor. The new proposed Total Wine would be one block away from Haskell's. Why is this needed?

2. What would happen to Office Depot?

3. I live just down the street on Southridge Rd. from the proposed Total Wine. It is difficult already trying to exit onto Plymouth Rd., and I believe that Total Wine would just make the area even more congested with traffic, especially with the 1700 Apartments coming in soon.

Please don't allow Total Wine to move into the proposed site. It is not needed.

Thank you,
Sarah Clinite
Julie Wischnack
Minnetonka Director of Community Development
September 5 2016

Julie,

My name is Larry Barenbaum I am a 50% owner of Big Top Liquors (Applebaum LLC). I am writing you because I am going to be out of the country next Monday and will not be attending the hearing. My partners and I made the decision a year ago to sell the assets of our Minnetonka store due to several factors. The most significant was the illness and most recent death of Sid Applebaum the founder and the visionary of the Big Top Liquor concept. We contacted a few business brokers and vendors to let them know of our desire to sell the store. John Freeland, a local broker contacted us about a client he represented that had an interest and we began discussing the potential sale. While my partners (all siblings of Sid) primary focus was the care of their father I became the contact person for our entity in the negotiations. From the beginning the dealings with all the Total Wine staff have been respectful of our situation and our desires as well as extremely understanding of our needs.

The purchase agreement is contingent upon Total Wine obtaining a liquor license for its operations in the Office Depot location near Whole Foods. The agreement contemplates that Big Top will continue in operation through the upcoming holiday season. If the Total Wine license is granted Big Top and Total Wine will complete the purchase and sale in early 2017 and Big Top will cease operations at that time and surrender its license to the City.

My partners and I feel strongly that Total Wine will be a valuable addition to the Minnetonka business community and to the residents. They will bring a state of the art facility with a tremendous diversification of product offerings along with many employment opportunities which we at Big Top could never accomplish. Total Wine being an industry leader will give the Minnetonka residents great quality product, value and a long term commitment to the community.

With that said, Big Top and all of the owners supports the Total Wine license and requests the Council grant the license to them.
Julie will you please forward this to all the City Council members. Thank you very much.

Larry Barenbaum
Big Top Liquor/Applebaum LLC owner
Brief Description

Items concerning ELDORADO VILLAS, located at 11901 Minnetonka Boulevard:

1) Major amendment to the Minnetonka Townhomes master development plan;

2) Final site and building plans; and

3) Preliminary and final plats.

Recommendation

Adopt the ordinance and resolutions approving the request

Background

In 2004, the city considered Big Willow Townhomes, a four-unit townhome development at 11907 Minnetonka Boulevard. The adjacent property at 11901 Minnetonka Boulevard had not been included in the developer’s original plans, as the owner was not interested in development. However, the city determined that the 11901 property should be taken into consideration to promote orderly, future development. Ultimately, both the 11907 and 11901 Minnetonka Boulevard properties were rezoned to planned unit development (PUD) and a master development plan was approved covering both properties. After the approval, four townhomes and an access drive were constructed on the 11907 site, while a single family home remained on the 11901 property. (See pages A1 and A24–A28.)

Proposal

Gatehouse Properties, Ltd. is now proposing to construct a three-unit townhome development at 11901 Minnetonka Boulevard.

The proposal requires:

- Master Development plan amendment. By city code, a major amendment to an approved master development plan is required when the number of residential units would increase or decrease by more than five-percent. The existing master development plan calls for the construction of a four-unit townhome on the site. As proposed, a three-unit townhome would be constructed on the site.

- Site and building plan review. By city code, site and building plan review is required for construction within a PUD.

- Preliminary and final plats. Subdivision of the existing property would allow for future separate ownership of the individual townhomes.
Planning Commission Hearing

The planning commission considered the request on August 18, 2016. The staff report from that meeting and associated exhibits are attached. (See pages A1–A43.) At the meeting, a public hearing was opened to take comment. Several comments were received:

- **Big Willow Townhomes.** Representatives and owners of the Big Willow Townhomes, formally known as Cross Country Townhomes located directly to the west, expressed concern related to the following items:
  1. Relocation of the driveway to the 11901 property.
  2. Disruption during construction.
  3. Removal of existing landscaping buffer to Minnetonka Boulevard.
  4. Guest parking.
  5. Increase in impervious surface.

- **Windmill Ridge Townhomes.** A representative of the Windmill Ridge Townhome Association, located directly to the south, stated that the association is not willing to allow access for the proposed townhomes onto the private drive.

Following the public hearing, the commission asked questions and discussed the proposal:

- **Access.** The planning commission confirmed with staff that the city could not require Windmill Ridge to allow access for the new development onto their private drive.

- **Existing master development plan.** The planning commission confirmed with staff that the proposed development is generally consistent with the 2004 master development plan.

- **Townhomes.** The planning commission was comfortable with the proposed reduction in townhome units.

Planning Commission Recommendation

On a 4-1 vote, the commission recommended that the city council approve the proposal. Meeting minutes may be found on pages A64-A69.

Since Planning Commission Hearing

- Since the planning commission meeting, staff has received one neighborhood comment. The comment included an Amendment to the Windmill Ridge Declaration dated May 16, 2016. (See pages A71–A76.)
The city attorney submitted a memo to respond to the questions raised during the planning commission meeting related to the city’s ability to prescribe the proposed development’s access location. (See pages A77–A79.)

**Staff Recommendation**

Adopt the following pertaining to 11901 Minnetonka Boulevard:

1. Ordinance adopting a major amendment to the existing Minnetonka Townhomes master development plan. (See pages A45–A47)

2. Resolution approving final site and building plans for the proposed townhomes (See pages A48–A58.)

3. Resolution approving preliminary and final plats (See pages A59–A61.)

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 18, 2016

Brief Description
Items concerning ELDORADO VILLAS, located at 11901 Minnetonka Boulevard:
1) Major amendment to the Minnetonka Townhomes master development plan;
2) Final site and building plans; and
3) Preliminary and final plats.

Recommendation
Recommend the city council approve the proposal.

Background
In 2004, the city considered plans for Big Willow Townhomes, formally known as Cross Country Townhomes, a subdivision for a four-unit townhome at 11907 Minnetonka Boulevard. While the adjacent property at 11901 Minnetonka Boulevard had not been included in the developer’s original plans – at the time the owner of the property was not interested in redevelopment – the city determined that the 11901 property should be taken into consideration to promote orderly future development. Ultimately, both the 11907 and 11901 Minnetonka Boulevard properties were rezoned to planned unit development (PUD) and a master development plan was approved covering both properties. After the approval, four townhomes and an access drive were constructed on the 11907 site, while a single family home remained on the 11901 property. (See pages A25–A28.)

Proposal
Gatehouse Properties, Ltd.is now proposing to construct a three-unit townhome at 11901 Minnetonka Boulevard. (See pages A1–A9.)

The proposal requires:

- **Master Development Plan Amendment.** By city code, a major amendment to an approved master development plan is required when the number of residential dwelling units would increase or decrease by more than five-percent. The existing master development plan calls for the construction of a four-unit townhomes on the site. As proposed, a three-unit townhome would be constructed on the site.

- **Site and Building Plan Review.** By city code, site and building plan review is required for construction within a PUD.
Preliminary and Final Plats. A subdivision of the existing property would allow for future separate ownership of the individual townhomes.

Staff Analysis

A land use proposal is comprised of many details. In evaluating the proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines the primary questions associated with the applicant’s request and staff’s findings.

- **Is the amendment to the existing master development plan appropriate?**

  Yes. The requested amendment is reasonable, as it would allow for development generally consistent with the previously approved master development plan. The requested amendment would reduce the number of townhome units from four to three units. While this is more than a five-percent decrease in residential units, the proposed plan would still be consistent with the site’s medium-density comprehensive guide plan designation. (See existing master development plan on page A25.)

- **Is the proposal an appropriate use for the property?**

  Yes. The proposal is consistent with the city’s comprehensive guide plan. The property is guided for medium-density which is defined as 5-12 units per acre. While the proposed density for the subject property is 4.4 units per acre, when averaged with the Big Willow Townhomes property the proposed density increases to 5.8 units per acre for the entire development. Staff finds it is reasonable to average the densities for both properties as they are governed by the same master development plan.

  Further, the conceptual development of the property was reviewed in 2004 concurrent with the Big Willow Townhomes project. At that time it was anticipated that the subject property would develop with a townhome project in the future. But for the reduction of one unit, the proposal is consistent with the conceptual plan reviewed at that time.

- **Is the proposed site and building design appropriate?**

  Yes. The proposed site and building plans are reasonable and generally consistent with the previously contemplated plan for the site. Further, the plan would meet all site and building plan standards outlined in city ordinance. Proposed grading and tree impacts are generally reasonable and appropriate to accommodate the proposed townhome units. More information related to the proposed grading, tree impacts, and site and building plan standards is outlined in the “Supporting Information” section of this report.
Access. Several access locations were contemplated as part of the 2004 development review and again as part of the current proposal. In 2004, the developer of Big Willow Townhomes proposed a “temporary” drive access be constructed to serve the townhomes. This temporary access would serve the townhomes until such time that the 11901 Minnetonka Boulevard property were to develop. At the time of that development, the temporary access would be removed and a permanent access serving both townhome properties would be constructed. The developer’s intent was clearly illustrated in the master development plan and outlined in the Declaration of Covenants, Conditions and Restrictions, which were recorded against all of the Big Willow Townhome properties and the subject property. The current proposal is consistent with the access location included on the approved master development plan and recorded Declaration of Covenants, Conditions and Restrictions. Both Hennepin County and the city have found that the proposed access is reasonable.

Staff Comment

Staff finds that the applicant’s proposal is generally consistent with the previous master development plan. The current proposal would result in a one-unit reduction in the number of residential units, and would still be consistent with the previously approved medium-density land use designation.

Staff Recommendation

Recommend the city council adopt the following pertaining to 11901 Minnetonka Boulevard:

1. Ordinance approving a major amendment to the existing Minnetonka Townhomes master development plan (see page A45–A47);

2. Resolution approving final site and building plans for the proposed townhomes (See pages A48–A57);

3. Resolution approving preliminary and final plats (See pages A58–A60).

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

Project No. 16015.16a

Property 11901 Minnetonka Boulevard

Applicant Gatehouse Properties, Ltd., represented by David Carlson

Surrounding
Land Uses
Northerly: Big Willow Park
Easterly: Private drive for Windmill Ridge and single family homes on properties zoned R-1 beyond.
Southerly: Windmill Ridge Townhomes, zoned PUD
Westerly: Big Willow Townhomes, zoned PUD and Guilliam Field beyond

Planning
Guide Plan designation: Medium Density
Zoning: PUD, Planned Unit Development

Neighborhood
Meetings
The developer held a series of neighborhood meetings. The following is intended to summarize those meetings.

**January 14, 2016.** The developer held a neighborhood meeting to discuss the concept plan. Representatives from the Windmill Ridge and Big Willow Townhome Homeowner’s Associations were present. Ten people were in attendance.

**March 10, 2016.** The developer held another neighborhood meeting to discuss alternative access options. Five people attended the meeting. Representatives from 11811 Minnetonka Boulevard and Big Willow Townhome Homeowner’s Association were present.

**March 21, 2016.** The developer met with Windmill Ridge to discuss access onto the private drive. Seven people attended the meeting.

Existing Site
Features
The site is generally located south of Big Willow Park, east of Guilliam Field, and north of the Windmill Ridge Townhomes. The property is 31,000 square feet in size and is currently improved with a single family home.

Topography
The property generally slopes “upwards” from north to south with the highest part of the property is along the south property line. The overall grade change is approximately 20 feet.
Trees
The property is not encumbered by a woodland preservation area but has 22 high priority trees and 13 significant trees as classified by the city’s tree preservation ordinance.

Access
The plat and site plans for Windmill Ridge Townhomes was approved in 1986. Access to the townhomes was proposed to be – and continues to be – via a newly created private street. Per the Resolution No. 86-8218 approving Windmill Ridge, “the applicant was to provide appropriate easements for 11811 and 11901 [subject property] to allow access onto the private road and access easements be provided for the private road system to limit the number of curb cuts onto Minnetonka Boulevard.” (See pages A10–A16.)

In 2004, concurrent with review of the Big Willow Townhome project, several access opportunities were explored including access onto the private drive. At that time, the Windmill Ridge association expressed that they were not interested in allowing additional accesses onto their private street. As result, the developer of the Big Willow Townhomes project submitted plans illustrating that a temporary access drive would be constructed to serve the Big Willow Townhomes until the property at 11901 Minnetonka Boulevard were to develop. At the time of that development, the temporary access would be removed and a new permanent drive – to serve both the Big Willow Townhomes and townhomes on the 11901 property – would be constructed. This plan was found to be acceptable to both the city and Hennepin County and ultimately became the approved master development plan for the two adjacent sites. A Declaration of Covenants, Conditions, and Restrictions outlining the approved plan for development was recorded against all affected properties. Per the declaration, if the Paulson Property [the subject property] were to develop at any time in the future with a multi-family residential project, the CC Townhomes [now known as the Big Willow Townhomes] and the Paulson Property would be required to establish a shared, common access drive. At the time that the shared access is constructed, the existing drive previously used by the CC townhomes should be removed, and the owner of the Paulson property must grant an access easement. The declaration did establish some discretion for the city to approve alternative locations. (See pages A29–A37.)

After exploring several options, the developer has submitted the current plan. This plan is consistent with the previously approved master development plan and the recorded declaration.
As part of the review of the current project, staff researched the Windmill Ridge private drive. As part of the review, staff located two draft private access easements to allow the driveways serving 11811 and 11901 access onto the private drive. Staff believes that these drafts were attempts to satisfy the requirements of Resolution No. 86-8218. However, it appears neither of these drafts were ever recorded. (See pages A17–A18.)

A year after the Windmill Ridge development occurred, in 1987, a public easement document was recorded over the northerly 320 feet of the private drive. The easement document is for a public easement. However, the city attorney has advised the city cannot require that Windmill Ridge allow additional access onto their private drive even within the public easement because: (1) the public easement has not been previously “opened” for public travel; (2) the city is not interested in opening the easement for public travel; and (3) the city has not – nor is interested in – maintaining the easement. (See pages A19–A22.)

Recently, the Big Willow Townhome Association has submitted a letter indicating that they do not support the current plan to remove their existing drive in order to construct a new access. In their letter the association states that the preferred access location would be from the Windmill Ridge private drive. While staff would concur that this is the preferred access option, it is not a viable option unless the Windmill Ridge Homeowner’s Association were to agree to this access in writing. Consistent with their position in 2004, Windmill Ridge is not interested in allowing additional accesses onto their private drive.

**Stormwater**

Under city’s stormwater rule, stormwater management is required when a property is divided into three or more lots. The management mechanism must control for runoff rate, volume and quality.

**Utilities**

As currently proposed, the development would be served by a connection to the private water main under the Windmill Ridge private drive. Windmill Ridge has submitted a letter stating that they are not interested in allowing this connection. As such, staff has included a condition of approval requiring the development to connect into the watermain under Minnetonka Boulevard.

**Tree preservation**

The proposed development would remove 13 high priority trees for the construction of the permanent access drive, utilities,
townhomes, and associated grading. There are 22 high priority trees on the property.

Staff believes that by adjusting grading on the east and south sides of the property additional trees can be preserved. Staff anticipates that by doing so, an additional 4 high priority trees could be preserved. With the additional tree preservation the proposal would result in a 40-percent loss of the high priority trees. While this number is above the maximum removal allocation for traditional subdivisions, the tree removal would be in compliance with the tree removal standards for properties zoned PUD.

SBP Standards

By City Code §300.27 Subd.5, in evaluating a site and building plan, the planning commission and city council shall consider its compliance with certain standards. The proposed townhome project would meet these standards.

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

   **Finding:** 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. Consistency with this ordinance;

   **Finding:** The proposal would be generally consistent with the zoning ordinance. The proposal also includes an amendment to the existing master development plan to reduce the number of townhome units from four to three.

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 proposal would require some grading. However, the level of grading and resulting tree impact would be anticipated with any development of the property and would be generally consistent with the previously approved master development plan. The proposal does include some grading onto adjacent properties. Included as a condition of approval, the applicant must obtain permission from these property
owners and must submit maintenance agreements for proposed retaining walls.

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 is intuitive and is generally consistent with the approved master development plan. The proposal would result in appropriate location of 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 is intuitive, with appropriate circulation patterns established for vehicular traffic. The proposal includes the removal of the existing drive onto Minnetonka Boulevard for Big Willow Townhomes and the construction of a new drive on the subject property. A new connection would provide access to the western property. This provides for appropriate internal circulation patterns for both properties.

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;
Finding: As new construction, the proposed townhomes 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 proposed townhomes would be new construction and includes new landscaping and stormwater management practices.

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.

Approving Body

The planning commission makes a recommendation to the city council, which has final authority to approve or deny the request.

Motion Options

The planning commission has four options:

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

2. Disagree with staff’s recommendation. In this case a motion should be made recommending the city council deny the requested master development plan amendment, final site and building plans, and plat requests. This motion must include a statement as to why denial is recommended.

3. Concur with some of staff’s recommendations and disagree with the others. In this case a motion should be made recommending approval of the some and the denial of the others. The motion must include a statement as to why denial is recommended.

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

<table>
<thead>
<tr>
<th>Neighborhood Comments</th>
<th>The city sent notices to 34 area property owners and received two comments to date. (See pages A38–A43.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for Decision</td>
<td>November 2, 2016</td>
</tr>
</tbody>
</table>
Location Map

Project: Eldorado Villas
Applicant: Gatehouse Properties Ltd
Address: 11901 Minnetonka Blvd
Project No. 16015.16a

This map is for illustrative purposes only.
PROPOSED LEGAL DESCRIPTION

LOTS 1, 2, AND 3, BLOCK 1,
ELDORADO VILLAS,
HUNTERDON COUNTY, NEW JERSEY.
Windmill Ridge
RESOLUTION NO. 86 - 8218

RESOLUTION GRANTING FINAL APPROVAL OF PLAT NO. 1622A (86075.8), A REVISED PLAT OF WINDMILL RIDGE, LYING WITHIN SECTION 14, TOWNSHIP 117, RANGE 22 AND SUBMITTED BY HANS HAGEN HOMES

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

Section 1. Background.

1.01. Pursuant to the provisions of the applicable sections of Minnesota Statutes, the City of Minnetonka has adopted regulations for the platting and zoning of lands.

1.02. Plat No. 1622A (86075.8), revised WINDMILL RIDGE, has been presented to the City Council of the City of Minnetonka for approval and appears to conform to the comprehensive plans.

Section 2. Approval and Authorization.

2.01. Plat No. 1622A, WINDMILL RIDGE, be and hereby is approved, as stated in the final report prepared by the Engineering Department, dated October 20, 1986, subject to the following stipulations:

1. The preliminary plat be revised to assign an outlot status to the property to be dedicated to the City. This property is to be dedicated with no encumbrances or restrictions. The City may choose to use the property for open space, development or other public purposes including roadway.

2. Submission of Revised Landscape Plans to include the following:
   a. 13 additional deciduous trees of 2-1/2" minimum caliper.
   b. 19 additional coniferous trees in the 6'-10' height range.
   c. Species size schedule for plantings.
   d. All disturbed areas to be sodded and the required underground irrigation system indicated.
e. All trees to be preserved by explicitly marked for preservation with grading limits staked and inspected by staff prior to grading operations.

3. The applicant work with the Engineering Department in developing final drainage details which may involve parking lot catch basins. Also, storm sewer pipe connection across City property to the south and ponding area be located within an easement obtained from the City at the time of final plat approval.

4. Installation of erosion control methods during construction to be approved by the Engineering Department.

5. Project approval by the Minnehaha Creek Watershed District and the ponding area designed to watershed district standards including the following:
   a. The pond be sized to accommodate a one-year flood event.
   b. The pond be constructed to include a skimming device.
   c. The applicant be responsible for maintaining the pond on a regular basis.

6. The applicant provide appropriate easements for 11811 and 11901 Minnetonka Boulevard properties to access the private road and access easements be provided for the private road system.

7. The applicant submit a maintenance agreement for the private road including both snow removal and future repair.

8. The townhouses be constructed utilizing materials indicated on plans including paneled redwood garage doors.

9. The applicant work with the Director of Operations and Maintenance on utility connections to include the following:
   a. Posting of a bond to ensure against damages to public utility lines and construction activity be coordinated and supervised by the Director of Operations and Maintenance.
b. The looped watermain be valved as required.

c. All utilities will be a private system.

d. Each dwelling unit be equipped with 6" sanitary and 1" water service.

10. Submission of detailed exterior lighting and signage plans for staff review and approval.

11. The project comply with all requirements of the Uniform Building Code and the applicant work with the Fire Marshal in establishing appropriate emergency vehicle access.

12. The applicant receive a Hennepin County access permit and install a bypass lane on westbound Minnetonka Boulevard to Hennepin County specifications.

13. All driveway and parking areas be surrounded with concrete curb and gutter.

14. The Preliminary Plat be revised to delete 20' storm sewer easements on private property and provide standard 7' drainage and utility easements around the perimeter of the site.

15. The applicant work with staff in establishing grading limits at the southeast corner of the townhouses. Retaining wall to preserve mature trees may be required.

16. The applicant execute a revised and updated P.U.D. Agreement with the City.

Adopted by the City Council of the City of Minnetonka, Minnesota, on this 20th day of October, 1986.

LARRY A. DONLIN, MAYOR
Action on this resolution

Motion for adoption: ____________ Renneke ____________
Seconded by: ____________ Gordon ____________
Voted in favor of: Bergstedt, Anderson, DeGhetto, Renneke, Gordon, Hanus, Donlin
Voted against: ________________________________
Abstained: ________________________________
Absent: ________________________________
Resolution adopted.

I hereby certify that the foregoing is a certified copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on the 20th day of October, 1986.

D. L. Eggenberger, City Clerk
RESOLUTION NO. 86 - 8248

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

Section 1. Background.

1.01. On October 20, 1986, the City Council adopted Resolution No. 86-8218, approving Plat No. 86075.8 for Hans Hagen Homes, Inc., known as Windmill Ridge.

1.02. That resolution contained a number of conditions for approval.

1.03. The surveyor for the plat has raised concerns about one of these conditions.

1.04. The City Council has determined that this condition may be modified.

Section 2. Approval and Authorization.

2.01. Resolution No. 86-8218 is hereby amended as follows:

a. Paragraph 2.01 (14) is amended to read as follows:

14. The preliminary plat be revised to delete 20-foot storm sewer easements on private property and provide standard 7 foot drainage and utility easements around the perimeter of the site, excepting therefrom the East 7 feet of Lot 24, Block 1, Windmill Ridge.

Adopted by the City Council of the City of Minnetonka, Minnesota, on this 16th day of December, 1986.

LARRY A. DONLIN, MAYOR
ATTEST:

D. L. Eggenberger, City Clerk

Action on this resolution

Motion for adoption: Gordon
Seconded by: Anderson
Voted in favor of: Hanus, Bergstedt, Anderson, DeGhetto, Gordon, Donlin
Voted against: 
Abstained: 
Absent: Renneke
Resolution adopted.

I hereby certify that the foregoing is a certified copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on the 16th day of December, 1986.

D. L. Eggenberger, City Clerk
This Indenture, Made this 28th day of September, 1986,
between El Dorado Villas, Inc. 

a corporation under the laws of the State of Minnesota, party of the first part, and the public.

of the County of Hennepin and State of Minnesota, party of the second part.

Witnessesthat the said party of the first part, in consideration of the sum of One Dollar and other good and valuable consideration ($1.00) DOLLARS, to be in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Quitclaim, and Convey unto the said party of the second part, heirs and assigns, forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit:

A nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof.

To have and to hold the same together with all the hereditaments and appurtenances thereto belonging or in anywise appertaining, to the said party of the second part, heirs and assigns, forever.

In Testimony Whereof, the said first party has caused these presents to be executed in its corporate name by its Senior Vice President and its corporate seal to be hereunto affixed the day and year first above written.

El Dorado Villas, Inc.

By

Senior Vice President

Senior Vice President

11901 Minnetonka Blvd

#16015.16a
This Indenture, Made this 24th day of September, 1986, between Hans Hagen Homes, Inc.

a corporation under the laws of the State of Minnesota, party of the first part, and

Brice E. Anthony and Shirley M. Anthony, husband and wife

of the County of Hennepin and State of Minnesota

of the second part,

Whereas, That the said party of the first part, in consideration of the sum of One Hundred and Other Good and Valuable Consideration ($1.00) DOLLARS, received and paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Quitclaim, and Convey unto the said parties of the second part, forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to wit:

A nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof.

To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining, to the said parties of the second part, forever.

In Testimony Whereof, the said first party has hereunto

A18

El Dorado Villas
11901 Minnetonka Blvd
St Paul, MN 55123

#16015.16a
FIRST SUPPLEMENTAL DECLARATION

OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR WINDMILL RIDGE

This First Supplemental Declaration, dated this 4th day of June, 1987, is made by HANS HAGEN HOMES, INC., a Minnesota Corporation (hereinafter sometimes referred to as "Declarant").

WHEREAS, Declarant made and executed a "Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Ridge", which is dated March 11, 1987, and filed in the office of the Registrar of Titles in and for Hennepin County, Minnesota, on May 15, 1987, as Document No. 1830397, and is hereinafter referred to as the "Declaration"; and

WHEREAS, Declarant is the owner of the following described real estate as described in said Declaration and which Declarant now desires to add an easement to the Property described in said Declaration:

Lots 1 through 23, both inclusive, Block 1, Windmill Ridge, Hennepin County, Minnesota; and

WHEREAS, neither the time limitation (5 years from the date of recording of the Declaration) nor the limitation on aggregate number of additional Living Units (18) set forth in
the Declaration have been exceeded by this First Supplemental Declaration.

NOW, THEREFORE, Declarant hereby declares that the following real property shall include a nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320-feet thereof, to be conveyed to the public:

Lot 23, Block 1, Windmill Ridge

IN WITNESS WHEREOF, the above-named corporation has caused this First Supplemental Declaration to be executed the day and year first above written.

HANS HAGEN HOMES, INC.

BY: ____________________________
   Its: VICE PRESIDENT/TREASURER

STATE OF MINNESOTA )
COUNTY OF RAMSEY ) ss.

The foregoing instrument was acknowledge before me this 11th day of June, 1987, by ____________________________, the Senior Vice President of Hans Hagen Homes, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Hans Hagen Homes, Inc.
2353 N. Rice Street
St. Paul, MN 55113

LAURA J. RANUM
NOTARY PUBLIC – MINNESOTA
RAMSEY COUNTY
My commission expires 4-24-92

El Dorado Villas
11901 Minnetonka Blvd
#16015.16a
Big Willow Townhomes, formally known as Cross Country (CC) Townhomes
ORDINANCE NO. 2004-

AN ORDINANCE REZONING 11901 MINNETONKA BOULEVARD FROM R-1, DENSITY RESIDENTIAL TO PUD, PLANNED UNIT DEVELOPMENT, AND ADOPTING A MASTER DEVELOPMENT PLAN, WITH SIDE YARD SETBACK VARIANCES, FOR 11907 AND 11901 MINNETONKA BOULEVARD

THE CITY OF MINNETONKA ORDAINS:

Section 1.

1.01 The property at 11901 Minnetonka Boulevard is hereby rezoned from R-1, low density residential, to PUD, planned unit development. A master development plan is hereby approved for 11901 and 11907 Minnetonka Boulevard, with a side yard setback variances from 35 feet to 15 feet from the westerly and easterly property lines. Approval is based on the following findings:

1. The proposal would meet the required standards and ordinances for a site and building plan approval.

2. The proposal would meet the required standards for a variance because:
   a. There is a unique hardship to the property; and
   b. The variance would meet the intent of the ordinance

3. The rezoning would be consistent with the City's guide plan;

4. The rezoning would be consistent with the public health, safety, and welfare.

5. The rezoning would better reflect the development potential of both sites.

Approval is subject to the conditions of the site and building plan review and substantial conformance to the master plan, date-stamped February 4, 2004.
Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on __________, 2004.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction:
Date of adoption:
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 , 2004.

Kathleen A. Magrew, City Clerk

Date:

G:\WORD\Ord\2003 Ordinances\03087rez.doc
Certificate of Title

Certificate Number: 759267

Transfer from: 599794

Originally registered November 15, 1946 Volume: 358, Certificate No: 110442, District Court No: 7756

State of Minnesota
County of Hennepin s.s. Registration

This is to certify that

Vendella R Paulson, whose address is 11901 Minnetonka Boulevard, Minneapolis, Minnesota

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

East 150 feet of the West 300 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, West of the Fifth Principal Meridian, lying South of County Highway Number 5 and North of the South 190 feet thereof;

Subject to easement over the South 30 feet thereof for road purposes, as shown in deed Doc No. 316387;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials

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<th>Document Number</th>
<th>Document Type</th>
<th>Date of Filing Month Day, Year Time</th>
<th>Amount</th>
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<tr>
<td>T1707462</td>
<td>Highway Plat</td>
<td>Mar 4, 1986 9:00 AM</td>
<td></td>
<td>County of Hennepin. Hennepin County State Aid Highway Number 5, Plat 71. As directed by Resolution Doc. No. 975240.</td>
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<td>City-County Federal Credit Union City of Brooklyn Center, State of Minnesota</td>
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<td>Satisfies document no(s). 3257373.0</td>
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<td>T3974864</td>
<td>Declaration</td>
<td>Jun 11, 2004 9:00 AM</td>
<td></td>
<td>Creating covenants, conditions and restrictions. (See Inst)</td>
</tr>
<tr>
<td>T5210279</td>
<td>Affidavit of Attorney in Fact</td>
<td>Oct 28, 2014 10:00 AM</td>
<td></td>
<td>Shelly Paulson certifies that Power of Attorney document no(s) 5210278 is in full force and effect</td>
</tr>
<tr>
<td>T5210280</td>
<td>Transfer on Death Deed</td>
<td>Oct 28, 2014 10:00 AM</td>
<td></td>
<td>Made by Vendella R Paulson, an unmarried person</td>
</tr>
</tbody>
</table>
In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 21st day of March, 1991.

R. Dan Carlson
Registrar of Titles,
In and for the County of Hennepin and State of Minnesota.
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 8th day of June, 2004 by Cross Country Design Build, LLC, a Minnesota limited liability company ("Cross Country") and Vendella R. Paulson, a single person ("Paulson").

WHEREAS, Cross Country is the owner in fee of the land located in Hennepin County, Minnesota, legally described as set forth on Exhibit A attached hereto and incorporated herein by reference ("Cross Country Property"); and

WHEREAS, Paulson is the fee owner of the land adjacent to the Cross Country Property immediately to the east, also in Hennepin County, Minnesota, legally described as set forth on Exhibit B attached hereto and incorporated by reference ("Paulson Property")

WHEREAS, Cross Country intends to develop the Cross Country Property by constructing thereon a four-unit townhome community ("CC Townhomes"); and

WHEREAS, it is foreseeable that the Paulson Property may, at some time in the future, be developed as a planned unit development (townhome community); and

WHEREAS, access to the Paulson Property is currently achieved via a private access roadway, and access to the Cross Country Property is currently achieved via Minnetonka Boulevard; and

WHEREAS, the City of Minnetonka ("City") is concerned that two separate access points to Minnetonka Boulevard by two adjacent townhome communities would pose an undue safety risk to traffic on Minnetonka Boulevard; and
WHEREAS, the City has, therefore, requested that Cross Country’s development of the Cross Country Property (including construction of the CC Townhomes) and any future development of the Paulson Property share a common access drive; and

WHEREAS, Cross Country and Paulson therefore intend to encumber the Cross Country Property and Paulson Property by creating certain covenants, conditions and restrictions on the Cross Country Property and Paulson Property, as hereinafter set forth.

NOW, THEREFORE, in the interest of complying with the desires of the City with respect to the proposed development of the Cross Country Property (including construction of the CC Townhomes) and any potential development of the Paulson Property, Cross Country and Paulson hereby declare that the Cross Country Property and the Paulson Property shall be occupied, held, sold and conveyed subject to and together with the covenants, conditions and restrictions hereinafter created, which covenants, conditions and restrictions shall run with the Cross Country Property and with the Paulson Property as appurtenant thereto, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in the Cross Country Property and the Paulson Property, or any part thereof, their respective legal representatives, heirs, successors and assigns.

ARTICLE I
Definitions

1.1 Owner. One or more persons or entities holding a fee simple interest in any parcel of land subject to this Declaration, or holding a vendee’s interest therein, shall be referred to herein as “Owner.”

ARTICLE II
Covenants

2.1 Grant and Location of Covenants. Cross Country and Paulson hereby create the covenants, conditions and restrictions on, over, under, above and across the Cross Country Property and on, over, under, above and across the Paulson Property in accordance with the terms and conditions set forth herein.
2.2 **Creation of Common Access Drive.** In the event the Paulson Property is developed at any time in the future with a multi-family residential development, including, but not limited to, a townhome community ("Paulson PUD"), whether by Paulson or a successor in interest to Paulson, then the CC Townhomes and the Paulson PUD shall be required to establish a shared, common access drive by which both the CC Townhomes and the Paulson PUD will gain access to Minnetonka Boulevard. The City shall determine, in its sole reasonable discretion, the location of such common access drive. Once such common access drive is constructed, the existing drive previously used by the CC Townhomes ("Existing Drive") shall be removed, and the owner of the Paulson Property must grant an access easement to the owners of the Cross Country Property.

2.3 **Cost of Removing Existing Drive.** All costs relative to the removal of the Existing Drive shall be borne by the homeowners association for the CC Townhomes.

2.4 **Cost of Maintaining Common Access Drive.** The costs related to the maintenance, repair and replacement of the common access drive used by the CC Townhomes and the Paulson PUD up to the point that the common access drive begins to serve only the CC Townhomes shall be borne equally by each respective development’s homeowners association. The maintenance, repair and replacement of the remainder of the common access drive (i.e., that portion of the common access drive that serves only the CC Townhomes) will be the sole responsibility of the CC Townhomes homeowner’s association. Said associations shall cooperate in providing such maintenance, repair and replacement of the jointly used portion of common access drive. In the event said associations cannot agree on the maintenance, repair and replacement of the jointly used portion of the common access drive, the matter shall be submitted to arbitration with the American Arbitration Association, with the decision of the arbitrator final and binding upon the associations, and the cost of the arbitration shared equally between the associations unless the arbitrator determines otherwise.

2.5 **Non-Development of Paulson Property.** If the Paulson Property is not developed for use as a multi-family residential development or similar use, then no common access drive need be constructed, and the existing drive for the Paulson Property may continue to be used by the Owner of the Paulson Property.
ARTICLE III

Miscellaneous

3.1 Amendment. This Declaration may not be changed or modified in any way except by an amendment hereto signed by the Owner of the Cross Country Property, the Owner of the Paulson Property, and the City, and the same duly recorded in the Office of the Registrar of Titles, Hennepin County, Minnesota.

3.2 Effect. The covenants, conditions and restrictions herein contained shall be binding upon the parties, their families, guests, business invitees, contractors, and others claiming through or under the parties; and shall be enforceable by injunctive relief as well as any other appropriate remedy. The covenants, conditions and restrictions shall run with the land and shall be binding on the parties hereto, their respective successors and assigns, and all subsequent owners of all or any part of the real property described herein and improvements, together with their respective grantees, successors, heirs, executors, administrators, devisees or assigns.

IN WITNESS WHEREOF, the parties hereto executed this Declaration as of the day and year first above written.

CROSS COUNTRY DESIGN BUILD, LLC

By: [Signature]
Dean Gannon

Its: Chief Manager

[Signature]
Vendella R. Paulson

STATE OF MINNESOTA )
 ) ss:
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this 24th day of July, 2004, by Dean Gannon, the Chief Manager of Cross Country Design Build, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

[Signature]
Notary Public
STATE OF Minnesota )

) ss.

COUNTY OF Hennepin )

On the 4th day of June, 2004, before me appeared Vendella R. Paulson, a single person, to me personally known to be the person described in and who executed the same as her free act and deed.

[Signature]
Notary Public

THIS INSTRUMENT DRAFTED BY:
HELLMUTH & JOHNSON, PLLC (NTP)
10400 Viking Drive, Suite 500
Eden Prairie, MN 55344
Telephone: (952) 941-4005
Facsimile: (952) 941-2337

a\Cross Country Design Build\Mtnka. Blvd. TH\Restrictive Covenants
EXHIBIT A

LEGAL DESCRIPTION OF CROSS COUNTRY PROPERTY

The East 75 feet of the West 150 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Highway Number 5, and the North of South 190 feet thereof, Hennepin County, Minnesota.

AND

The West 75 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Highway Number 5 and North of the South 190 feet thereof, Hennepin County, Minnesota.

Torrens Certificate Number: 1009855
EXHIBIT B

LEGAL DESCRIPTION OF
PAULSON PROPERTY

The East 150 feet of the West 300 feet of that part of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, West of the Fifth Principal Meridian, lying South of Highway Number 5 and North of the South 190 feet thereof, Hennepin County, Minnesota.

(Torrens property)
Neighborhood Comments
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8–8–16

The Big Willow Association has the following questions, comments and concerns regarding the proposal for the development of Eldorado Villas at 11901 Minnetonka Blvd.

Big Willow Association has NOT agreed to any redesign of its current access to Minnetonka Blvd. or to alterations to any portion of its property or to sharing a common access drive with the proposed Eldorado Villas development.

Preferred option
In a meeting on 2/19/16 with Minnetonka City Planner Loren Gordon and Senior Planner Ashley Cauley at the Minnetonka City Hall, Loren told the members of our Association that Windmill Ridge Road is the preferred option for access to Minnetonka Blvd. for the Eldorado Villas development at 11901 Minnetonka Blvd.

However, Loren told us that it was a private road.

Designation of public portion of road
In a meeting on 3/10/16 with Loren, Ashley, and the developer, David Carlson of Gatehouse Properties, David presented a 1987 document discovered by city planning staff that designates a portion of Windmill Ridge Road as a public road.

Previously it was thought that the entire Windmill Ridge Road was a private road, but these documents state otherwise:

"Declarant hereby declares that the following real property shall include a nonexclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota, lying northerly of the South 320 feet thereof, to be conveyed to the public: Lot 23, Block 1, Windmill Ridge."

Since the city told us that their preferred option for access to Minnetonka Blvd. by Eldorado Villas is Windmill Ridge Road and since there is a portion of the road that is public, why isn't it being used in the proposal?

Note: the developer does not show that portion of public road on his proposal. His drawings give the impression that the entire road is a private drive.

Cul-de-sac option
In the meeting on 3/10/16 Loren said that in today's situation the public portion of the road would be a cul-de-sac so that snowplows could properly enter and exit. Why doesn't the city put in a cul-de-sac at this location so that its snowplows can properly enter and exit the drive?

Right to use public road
While the Windmill Ridge Association may prefer that Eldorado Villas not use the road, it's a public road and, as shown to us on 3/10/16, the intent of the easement
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8-8-16

was to allow the Paulson property and the property on the east side of Windmill Ridge Road, to access Minnetonka Blvd.

Proposed reconstruction of our retaining wall
The proposal includes a reconstruction of our existing retaining wall in the rear of our property, making it a continuous retaining wall between the two properties. We are very happy with the current design and would not agree to any reconstruction, redesign or grading of any kind to the rear of our property. We do not want to blur the property line and do not want the possibility of any additional water runoff onto our property.

Proposed parking and loss of trees/foliage
The proposal to provide 4 parking spaces on our Big Willow property would remove too many mature trees and other foliage that currently buffers the noise from Minnetonka Blvd. and provide privacy for our homeowners. Removing any of these trees/foliage would drastically change the views outside our front windows. These trees/foliage are not listed for removal, but with the proposal for 4 parking spaces, trees/foliage would be lost. At most, 2 spaces could be placed in the proposed area without losing trees/foliage. This means we will lose at least 1 parking space in an area that already has very limited parking.

Proposed widening of driveway
The proposal to widen the driveway from the Big Willow property to the Eldorado Villas property from its current width to the width of 20 feet brings the driveway too close (4-5 feet) to the largest and most significant pine tree on the Big Willow property, tree #51. The proposal would already require the lower branches of the tree to be removed. We feel that any excavating in this area will disturb the root system and cause this cherished tree to be lost.

Removal of trees
We are not pleased with the proposal to remove trees 56, 57, 58 and 59 from our property. Tree 55 is also very near these trees (2 feet away) and would almost certainly be lost. Tree 58 is a large beautiful pine tree and should not be removed.

Sufficient space for large vehicle
The proposal does not provide for sufficient turn-around space on our property for large vehicles (garbage truck, delivery trucks, snow plow truck, emergency vehicles, etc.). When cars are parked in the proposed 4 parking spaces and in front of our homes, these large trucks would not be able to turn around and would have to back out of our property. This is especially dangerous since there are children living within our association.
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8–8–16

1 Waste containers
2 If our garbage truck can’t properly enter/exit our property, will we be required to
3 place our trash containers at the curb on Minnetonka Blvd.? This will be a great
4 distance from our homes. Where will all these containers be placed, particularly
5 when there is snow on the shoulder? Under the current garbage schedule, between
6 the two associations this could amount to 14 containers on the recycling day. This
7 would be an extremely dangerous situation on windy days if containers and garbage
8 blow onto Minnetonka Blvd. It’s also dangerous with all the bikers who use the
9 shoulder. Who can provide us a written guarantee, not just words, that the garbage
10 truck will be able to drive up to our homes for pickup in perpetuity?

12 Parking inconvenience and hazard to guests
13 Overflow guests currently park in the softball field parking lot to the west of our
14 property. The proposal would cause our guests to have to walk further along
15 Minnetonka Blvd. before reaching our driveway entrance. Since it is a busy road that
16 has no sidewalks, walking on the shoulder is dangerous, particularly during the
17 winter months when the shoulder is snow packed and icy. We do not want to
18 subject our guests to additional inconvenience and hazard.

20 Guarantees
21 Since there is a proposal for modifications of our property, what guarantees would
22 be in place for completion of these modifications in the unlikely event the developer
23 becomes insolvent or otherwise unable to complete the project? Will an escrow be
24 established as a safeguard?

26 Establishment of an association
27 We have seen no documentation regarding the development of the Eldorado Villas
28 homeowners association (HOA). Have documents been filed for an association? Will
29 there be an association or will there simply be three separate owners without a
30 formal association?

31 The Covenant clearly envisions that the development of the Paulson property will be
32 an association (cf. 2.4 references to “association”). If Eldorado Villas isn’t an
33 association, what recourse do we have if an owner refuses to pay their portion for
34 road maintenance? (There is an arbitration provision for “associations” but nothing
35 if there is no association but only individual homeowners.)

37 Lack of provisions in the Covenant
38 There are no provisions in the Covenant to decide:
39 - Who is responsible for contracting vendors for services to the common
40 driveway?
41 - Who will oversee that any work to the common driveway is executed in a
42 timely manner and completed satisfactorily?
43 - Where are bills to be sent?
BIG WILLOW ASSOCIATION
Comments/Questions/Concerns regarding proposed Eldorado Villas
8-8-16

• Who is responsible for collecting funds from the 2 associations (or the 4 separate parties—3 at Eldorado Villas and 1 at Big Willow) to pay bills?
• When is snow removed? How many inches of snow are required before it's plowed? Who decides this? What happens if the parties don't agree?
• Are we supposed to have joint meetings to discuss these matters? Who attends? Who chairs the meetings? When are meetings held? How are decisions made?

Final thoughts
While the developer may feel his plan is the be-all and end-all to developing the Paulson property, since many details were not outlined in the Covenant, the two associations could potentially be heading to arbitration often because of disagreements. This will result in additional expenses for the parties and create ill feelings between neighbors. We desire good relations with our neighbors, but executing the common access driveway, as proposed, has the potential to create bitterness between neighbors even before the owners of Eldorado Villas are moved in. Unfortunately, the developer (Mr. Carlson) will be long gone by the time any of these situations arise.

In creating the Big Willow Association, Common Interest Community (CIC) #1334, the developer of Big Willow agreed to whatever the city required so that he could build the association. In 2004 when the covenant was drafted, the developer intended to purchase the Paulson property and merge it with the Big Willow association within the 7-year term as outlined in the Big Willow Declaration (Article 20, Sections 1–4 and Exhibit C). Having a common drive under these conditions made some sense; it would be one association. You will recall then that the housing bust occurred in 2008-09, the economy went into recession and there was little to no construction for several years. Thus the developer’s option to add units to the Big Willow Association expired.

The reality that we are faced with today is that in this proposal two separate associations are being forced to share a common drive. We are distressed because the proposed development by Mr. Carlson is significantly altering our property in a major way, which is affecting our lives, the esthetics of our property, and our ability to enjoy our homes in peace and tranquility.

We’ve had numerous conversations, emails and meetings with the developer, members of the Planning Commission, and our own association membership. All of our correspondences are documented in our 16-page chronology.

The Big Willow Association is not prepared to bare ANY costs associated with the development of Eldorado Villas.
Specific questions regarding the proposal design

How can we be expected to support this proposal and any modifications to our property when we haven’t seen samples of the materials that will be used for the proposed landscaping (driveway, retaining walls, etc.) on our property?

What is the “rock construction entrance” on the proposed new entrance?

Is the county okay with moving a Minnetonka Blvd. access closer to Windmill Ridge Road?

Are there other options for the location of the mailboxes? The proposed option is much further from our homes.

What is the amendment to the master development plan as stated on the City of Minnetonka website regarding this proposal?

What is the exact area considered to be the common access for shared expense?

What is the timeline for construction and completion?

Will the redesign of our property require a new title, lot description or any other legal document related to our property description? If so, who will bare this cost?

Submitted by the members of the Big Willow Association:

- Nancy Kazalunas and Mildred Kazalunas
  Owners of Big Willow #11907

- Jose (Ze) Zonis and Gary Feldhege
  Owners of Big Willow #11909

- Lucy Perman
  Owner of Big Willow #11911

- Dean Gannon
  Owner of Big Willow #11913
Hi Ashley,

I wanted to follow up after our conversation today. Please include this e-mail in the packet for the planning commission.

As you know, I am the President of the Windmill Ridge Homeowners Association. We have received notice and information about Mr. Carlson's development plans for the development entitled the "Eldorado Villas." It appears that the plans submitted by the developer show a proposed encroachment on the private property of our HOA for landscaping and/or utilities.

I think it might be helpful to be clear about our position as this development moves forward.

On behalf of the Board and Officers of our HOA, I want to state that we will not permit or agree to any encroachment or other access by Eldorado Villas onto our property for any reason. This would include encroachment for landscaping, driveway, utilities, etc.

Please feel free to give me a call if you have any questions or comments.

Best regards,

Karmen Nelson (as President of Windmill Ridge Homeowners Association).
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Ordinance No. 2016-
An ordinance amending the existing master development plan pertaining to the property at 11901 Minnetonka Boulevard

The City Of Minnetonka Ordains:

Section 1.

1.01 This ordinance hereby amends the existing master development plan pertaining to the property at 11901 Minnetonka Boulevard.

1.02 The property is legally described as:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota, lying South of County Road No. 5 and lying North of the South 190 feet thereof.

1.03 The amendment generally approves construction of three townhomes 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:

- Eldorado Villas site plan, dated July 5, 2016
- Eldorado Villas grading plan, dated July 5, 2016
- Eldorado Villas sanitary and water utility plan, dated July 5, 2016
- Eldorado Villas storm sewer utility plan, dated July 5, 2016

The above plans are hereby adopted as the master development plan for the 11901 Minnetonka Boulevard property.

2. Development must further comply with all conditions as outlined in City Council Resolution No. 2016-___, adopted by the Minnetonka City Council on September 12, 2016.

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 September 12, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: August 8, 2016
Date of adoption:
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
Resolution No. 2016-

Resolution approving final site and building plans for
11901 Minnetonka Boulevard

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

Section 1. Background.

1.01 Gatehouse Properties, Ltd. has requested site and building plan approval for development of the property at 11901 Minnetonka Boulevard. As proposed, the existing single-family home would be removed and a three townhome units would be constructed.

1.02 The property is legally described as follows:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota lying South of County Road No. 5 and lying North of the South 190 feet thereof,

Subject to easements and restrictions of record, if any.

1.03 On August 18, 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 final site and final building plans.

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. The proposal also includes an amendment to the existing master development plan to reduce the number of townhome units from four to three.

3. The proposal would require some grading. However, the grading and resulting tree impact would be anticipated with any development of the property and would be generally consistent with the previously approved master development plan. The proposal does include some grading onto adjacent properties. As a condition of this resolution, the applicant must obtain permission from these property owners for such work and must submit maintenance agreements for any retaining walls.

4. The proposed site design is intuitive and is generally consistent with the approved master development plan. The proposal would result in appropriate location of buildings, parking areas, and open spaces.

5. The proposed site design is intuitive, with appropriate circulation patterns established for vehicular traffic. The proposal includes the removal of the existing drive onto Minnetonka Boulevard from the Big Willow Townhome site and the construction of a new drive on the subject property. This would provide for appropriate internal circulation patterns for both properties.

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

7. The proposed townhomes would be new construction and would include new landscaping and stormwater management practices.
8. The proposal includes grading and a retaining wall on the Windmill Ridge. The impacts to the Big Willow Townhome property were vetted during the 2004 review of the master development plan.

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:
   - Development site plan dated July 5, 2016
   - Grading plan dated July 5, 2016
   - Utility plans dated July 5, 2016
   - Erosion control plan dated July 5, 2016
   - Tree preservation plan dated July 5, 2016

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) 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 grading plan must:

            1. Include the top and bottom elevations for the retaining walls.
            2. Adjust grading to reduce impact to the trees on the east and south sides of the property.
3. Adjust the grading limits on the north side of the proposed rain garden in order to protect the trees along Minnetonka Boulevard.

b. Final utility plan must:

1. Provide the elevations of upstream and downstream manholes.

2. Illustrate whether an alternative water main alignment is appropriate to avoid the water main being located under a rain garden.

3. Include an isolation valve south of the 6x6 connection tee to limit the number of homes that may be out of service if a break occurs.

4. Illustrate or note removal of the existing sewer service back to the main and removal of the wye and sleeve.

c. Final stormwater plan and stormwater management plan must:

1. Eliminate the stormwater outlet. If the stormwater outlet cannot be eliminated, the developer must work with staff to adjust the location to minimize tree loss.

2. Provide stormwater management over the entire site’s impervious surface.

3. Comply with the city’s water quality criteria, which requires either on-site detention/retention of 2.5-inches during a storm event or MIDS/P8 modeling showing 60-percent TP removal and 90-percent TSS removal.

4. Meet the volume control requirements.
d. Final landscaping and tree mitigation plans must 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.

5) The following documents for the review and approval of the city attorney:

a. Stormwater maintenance agreements and easements over all stormwater facilities.

b. Easement or agreement allowing for connections to private water and sewer lines. The easement/agreement must state the maintenance responsibilities of each owner. If no agreement is reached, the developer must submit a revised utility plan illustrating alternative connections.

c. Agreement from adjacent property owners that allows grading and retaining walls onto respective properties. If an agreement is not reached, a revised grading plan that does not illustrate encroachments onto adjacent properties must be submitted.

d. An easement and maintenance agreement for the fire hydrant.

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;
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 all necessary permits from the MPCA and MDH for the sanitary sewer extension permit and water main construction.

2) Confirm entrance grades and sight distances with Hennepin County. The existing grades exceed 15-percent.
3) Confirm with Hennepin County that the increase in impervious surface will not require additional improvements to avoid stormwater runoff onto the county roadway.

4) 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.

5) 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 townhomes:

   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.

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

   b) 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.

c) Submit all required hook-up fees.

d) Enter into an agreement with the city. This agreement must note that the city is not liable for perceived nuisance issues related to lighting or noise, resulting from the location adjacent to a city park. This agreement will be drafted by the city attorney and filed with the property’s chain of title.

4. The existing driveway for Big Willow Townhomes must be closed and the cross access must be constructed within 30-days of construction of the new driveway or prior to issuance of a building permit for the townhome units, whichever comes first.

5. The following is required prior to the release to the issuance of a certificate of occupancy for the first townhome:

a) The existing driveway for Big Willow Townhomes must be removed and the disturbed area must be established with vegetation.

b) The parking stalls on the Big Willow Townhomes property must be constructed.

6. Retaining walls over four feet in height must be engineered by a licensed structural engineer and fall protection must be provided.

7. Any work within the county right-of-way requires an approved Hennepin County permit. This includes, but is not limited to, driveway and street access, drainage and utility construction, trail development, and landscaping.

8. The property owner must work with Hennepin County to restore the area of the vacated driveway.

9. 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.

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

11. Provide an address sign near the Minnetonka Boulevard entrance indicating each address – or range of address – for the townhomes. Address numbers must be at least 4-inches high and must contrast with their background.

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

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

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 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 September 12, 2016.

__________________________________________

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

Resolution approving the preliminary plat and final plats of
ELDORADO VILLAS at 11901 Minnetonka Boulevard

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

Section 1. Background.

1.01 Gatehouse Properties, Ltd. has requested preliminary and final plat approval for ELDORADO VILLAS, a three-unit townhome project. (Project 16015.16a.)

1.02 The property is located at 11901 Minnetonka Boulevard. It is legally described as follows:

The East 150.00 feet of the West 300.00 feet of the Southwest Quarter of the Northeast Quarter of Section 14, Township 117, Range 22, Hennepin County, Minnesota lying South of County Road No. 5 and lying North of the South 190 feet thereof,

Subject to easements and restrictions of record, if any.

1.03 On August 18, 2016, 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 and final plat approval.

Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential
subdivisions. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed preliminary plat and final plats meet the design requirements as outlined in City Code §400.030.


4.01 The above-described preliminary and final plats are hereby approved, subject to the following conditions:

1. Prior to release of the final plat for recording:
   a) Revise the following on the plat “City Council of St. Louis Park Minnetonka.”
   b) Provide the following documents for the city attorney’s review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

      1) Title evidence that is current within 30-days before release of the final plat.

      2) Documents establishing a homeowners’ association. The association must be responsible for maintaining any common areas, common drives, required drainage ponding and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.

      3) Shared access agreements or easements for the Lots 1-6, Block 1 of BIG WILLOW TOWNHOMES and proposed Lots 1-3, Block 1, ELDORADO VILLAS. The agreements/easements must state the maintenance responsibilities of each owner.
2. This approval will be void if within one calendar year of this approval in the event that: (1) the final plat is not recorded within the county; and (2) the city has not received and approved a written application for a time extension.

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 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 September 12, 2016.

__________________________
David E. Maeda, City Clerk
Planning Commission Meeting
August 18, 2016
ITEM 8a – Eldorado Villas

1. Please include the following change on page 9 of the resolution:

4. The existing driveway for Big Willow Townhomes must be closed, and the access must be constructed removed within 30-days of construction of the new driveway or prior to issuance of a building permit for the townhome units, whichever comes first.

5. The following is required prior to the issuance of a certificate of occupancy for the first townhome:

   a) The existing driveway for Big Willow Townhomes must be removed and the disturbed area must be established with vegetation.

   b) The parking stalls on the Big Willow Townhome property must be constructed.
B. Items concerning a townhome development at 11901 Minnetonka Boulevard.

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

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

David Carlson, applicant, thanked commissioners and staff for their efforts. He stated that:

- A neighbor to the site told him that she got water in her basement quite often. He offered to have his excavator look at the grading around her property and provide a retaining wall to prevent her basement from flooding, but that was not received well so he would gladly remove that portion of the retaining wall. He is frustrated that he cannot satisfy everyone’s desires. He did his best.
- The project would meet the needs of the market. The townhomes would provide one-level living. There would be a loft option over the garage. The price point would be below most other one-level living townhomes in the area.
- The proposal would fit in the area well.

In response to Chair Kirk’s questions, Mr. Carlson stated that:

- During the first meeting he had with the Big Willow Group, he floated an idea which neighbors said would not work because the area would be too steep. He found a solution to decrease the slope and provide four parking spaces and an attractive boulder retaining wall. He did not like to remove trees, but the original concept plan would be met.
- He would be agreeable to removing some parking stalls to save trees if that would be agreeable to staff.

Chair Kirk confirmed with Cauley that tree removal would be reviewed by staff when the grading permit would be submitted.

Chair Kirk noticed that the proximity between the west unit and driveway would be tight. Cauley provided that fire code requires a street to be at least 20-feet wide.
Chair Kirk suggested creating a short cut. Mr. Carlson explained that there would be an easement to allow pedestrians to walk from this property to Big Willow. He explained the conditions of the declaration enforced by the homeowners’ association. Cauley stated that before the final plat is released, staff reviews the homeowners’ association requirements to make sure that the common areas including drive accesses and storm water areas would be maintained. Groveland is an example of a recent townhome development with a homeowners’ association.

Cauley reviewed the existing declarations for Big Willow Townhomes beginning on Page A30 of the staff report. Mr. Carlson stated that the declaration addresses the driveway concerns.

Mr. Carlson was open to locating the mailboxes wherever the neighbors preferred.

The public hearing was opened.

James Reichert, 4517 Saddlewood Drive, stated that:

- He reviewed what was in the staff report.
- The Windmill Ridge Road association declaration page includes a dedicated non-exclusive use easement to the public.
- The deed is signed giving an easement to the public.
- He questioned what the city attorney meant by “opened.”
- The easement has been used and maintained by the properties.
- He does not care if the city attorney is not interested in the easement. Law has to do with what the documents state.
- There was an access already provided for on Windmill Ridge Road.
- His clients would have no choice of the rules or who is on the association.
- There is no problem. The developer has all the access needed. He did not care if Windmill Ridge residents object.
- The documents speak for themselves.
- There is no need to put in a new driveway.

Karmen Nelson, 11895 Minnetonka Boulevard, stated that:

- She is the president of the Windmill Ridge Homeowners’ Association.
• Safety is a concern. The private drive is narrow with only room for two vehicles to pass.
• The private easements are not recorded and do not exist.
• The association requires the mortgagees to give permission to allow for any encumbrance on the property. That did not happen at the time. There is no common-law easements on Torrens property. Whatever was supposed to happen in the 1980s did not happen. Nothing is effective. This remains private.
• The association is not willing to grant access.
• The association has no overall objection to the proposal. It looks attractive.
• The city cannot allow the developer to use this.

Gary Feldhege, 11909 Minnetonka Boulevard, stated that:

• Adding four parking stalls would cause the removal of trees that buffer Minnetonka Boulevard.
• He wanted to maintain the parking in the area.
• Widening the drive would disturb the root system of a beautiful tree.
• He does not want to see Minnetonka Boulevard.
• He was concerned with space for large and emergency vehicles to turn around.
• He questioned where trash containers would be located for pick up.
• He questioned how the two associations would be responsible, make decisions, and get things done. He did not want to spend a lot of time in litigation. He wanted to keep good relations with the neighbors.
• He questioned what materials would be used in the retaining wall.
• He questioned if the low mow grass seed would attract rodents.

Jackie Regan, 11871 Minnetonka Drive, stated that:

• Windmill Ridge has maintained the drive for 30 years. The owners of the two single-family houses have not contributed to the cost of maintenance. Five more households would cause more traffic and impact.
• Mailboxes and garbage cans have been located at the access drives for 30 years. Relocation would cause more traffic and impact.

Nancy Kazalunas, 11907 Minnetonka Boulevard, stated that:
• She has lived there for 12 years. Some of the owners did not follow the bylaws. She was concerned additional owners may not agree with how often to mow and clear snow.
• The seller told her there would be four additional units built and the access would be on the side road.
• She was concerned with marrying two entirely separate communities.
• The proposal would have too much hardscape.
• Use the existing driveway. It is steep, but she is fine with it and wants to keep the trees.
• The proposal would have an impact on the resale value.
• The proposal was “shoved down her throat” at the first neighborhood meeting with the developer.
• She feels like she was bullied into this when the solution is to use the existing driveway.
• She does not want to be “legally bound” to new neighbors.

Mr. Reichert agreed that the property is Torrens property. The documents recorded count.

No additional testimony was submitted and the hearing was closed.

Calvert confirmed with Cauley that locating the access on Windmill Ridge Road would provide a better access option in terms of safety and sight preservation, but would cause loss of trees. Schwartz stated that, based on the proposed drive access, seven trees would be lost along Minnetonka Boulevard. The Big Willow property would lose five healthy trees initially and two or three that would be lost due to grading. There could be additional tree loss due to installation of sewer and water services.

Cauley explained that the storm water treatment of the site would impact tree loss. If the drive would be moved to the east, then the storm water pond may need to be relocated.

In response to Odland’s question, Cauley explained that the footprint of the buildings would still cause the loss of high-priority trees. The existing driveway would not meet city standards for providing access to three houses. In order to get the driveway to meet minimum standards, there would be significant tree loss and shifting of everything else.
In response to Chair Kirk’s question, Cauley clarified that the Big Willow Townhome development came in, the declaration was recorded, and then the townhomes were constructed. Cauley explained that staff located private access documents from 1986 which were never recorded with the county. In 1987, the public easement was drafted and recorded with Hennepin County.

Gordon noted that the application is consistent with the 2004 master development plan which shows the one driveway on the property as it is now. The declarations from 2004 contemplated this happening. All of the owners have the documentation as part of the bylaws and title records. The city has no ability to build a public road to public standards within the easement to provide access. The proposal is consistent with what was approved before.

Calvert saw no problem reducing the number of townhomes from four to three. She was concerned with the acrimony in the neighborhood. She was not happy with the tree loss.

As a commissioner, Powers considered the proposal’s best use of land. The city does not regulate how neighbors get along. Legal issues do matter. Calvert did not feel well enough informed to make a judgement on the legal issues without the city attorney.

Gordon reiterated that the city does not have the ability to require the applicant to connect to the driveway to the Windmill Ridge private drive. Staff has spent numerous meetings and hours with Big Willow and Windmill Ridge property owners and the applicant trying to resolve access issues. It is not the role of the commission to broker a deal between two private properties.

Chair Kirk did not think access for eight townhomes should be located within 10 feet of each other on Minnetonka Boulevard. The parcels were married in 2004. It is not necessary to resolve the location of mailboxes and where garage pick up would occur at this meeting. The proposed access point is the most logical location. He agrees with the site plan and amendment. Calvert agreed.

Powers moved, second by Knight, to recommend that the city council adopt the following items pertaining to 11901 Minnetonka Boulevard with modifications provided in the change memo dated August 18, 2016:

1. An ordinance approving a major amendment to the existing Minnetonka Townhomes master development plan (see pages A45-A47 of the staff report).
2. Resolution approving final site and building plans for the proposed townhomes (see pages A48-A57 of the staff report).

3. Resolution approving preliminary and final plats (see pages A58-A60 of the staff report).

Calvert, Knight, Powers, and Kirk voted yes. Odland voted no. Hanson and O'Connell were absent. Motion carried.

This item is tentatively scheduled to be reviewed by the city council September 12, 2016.
Since the Planning Commission Meeting
Hi Ashley,

As a follow up to the recent meeting of the Minnetonka planning commission, and in anticipation of the upcoming city council meeting addressing the Eldorado Villas project, please include a copy of this e-mail, along with the attached document, in the materials for the city council.

It is a recorded copy of an Amendment to Declaration, which verifies that to the extent an easement ever existed it has been terminated. (It relates to the so-called "public easement.")

Thanks for your consideration.

Karmen Nelson (as President of the Windmill Ridge Homeowners Association).
Doc No T05351772
Certified, filed and/or recorded on
May 25, 2016 10:00 AM
Office of the Registrar of Titles
Hennepin County, Minnesota
Martin McCormick, Registrar of Titles
Mark Chapin, County Auditor and Treasurer

Deputy 92
Pkg ID 1396526M
Attested Copy or Duplicate Original $2.00
Document Recording Fee $46.00

**Document Total** $48.00

This cover sheet is now a permanent part of the recorded document.
AMENDMENT TO DECLARATION
WINDMILL RIDGE
HENNEPIN COUNTY, MINNESOTA

This instrument was drafted by:
HELLMUTH & JOHNSON, PLLC
8050 West 78th Street
Edina, MN 55439
Telephone (952) 941-4005
AMENDMENT TO DECLARATION
WINDMILL RIDGE

This Amendment to Declaration ("Amendment") is made this 16th day of May, 2016, by Windmill Ridge Homeowners’ Association, Inc. ("Association"), and approved by the required number of Owners in Windmill Ridge, pursuant to the requirements of the Declaration.

RECITALS

WHEREAS, The Association was created to administer property that is subject to certain restrictive covenants, as identified in the Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Ridge, dated March 11, 1987, filed May 15, 1987, in the office of the Hennepin County Registrar of Titles as Document No. 1833097, as the same may have been amended or supplemented from time to time thereafter (collectively referred to as the "Declaration"); and

WHEREAS, This Amendment has been approved by not less than seventy-five percent (75%) of the Owners, as required by Article XIV of the Declaration; and

WHEREAS, on or about June 4, 1987, Hans Hagen Homes, Inc. (the "Declarant") executed a purported First Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Ridge, dated June 4, 1987, filed June 11, 1987, in the office of the Hennepin County Registrar of Titles as Document No. 1840341 ("First Amendment to Declaration"); and

WHEREAS, in executing the First Amendment to Declaration, the Declarant appears to have attempted to grant an easement over a portion of the Association's Common Area, by providing as follows:

"Declarant hereby declares that the following real property shall include a non-exclusive easement for ingress and egress over and across that part of Lot 23, Block 1, Windmill Ridge, Hennepin County, Minnesota lying northerly of the south 320 feet thereof to be conveyed to the public:

Lot 23, Block 1, Windmill Ridge."

WHEREAS, the Association has determined that in executing the First Amendment to Declaration, the Declarant did not follow the proper procedures required by Articles XI and XIV of the Declaration to amend the Declaration. Further, pursuant to Article IV of the Declaration, the Declarant did not have authority to grant an easement to the public over Association property. The Association has therefore determined that the purported First Amendment to Declaration is void and of no effect; and

WHEREAS, to avoid confusion that may be caused by the First Amendment to Declaration, and to eliminate the same from the title record, the Association desires to amend the...
Declaration to terminate any interests that may appear to have been created by the First Amendment to Declaration.

NOW THEREFORE, the Association hereby amends the Declaration, and the Declaration is hereby amended as follows:

1. The Association hereby declares the First Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Ridge, dated June 4, 1987, filed June 11, 1987, in the office of the Hennepin County Registrar of Titles as Document No. 1840341 ("First Amendment to Declaration") to be void and of no effect.

2. To the extent any easement or other interest purportedly granted by the Declarant in the First Amendment to Declaration continues to exist, the Association hereby terminates any such easement or other interest, and such easement or other interest is immediately terminated and of no further force and effect.

This Amendment to Declaration shall be effective upon filing in the office of the Registrar of Titles for Hennepin County, Minnesota (the "Effective Date"). This Amendment shall supersede and take precedence over any inconsistent terms contained in the Declaration or other existing Association governing documents. Except as expressly amended hereby, the Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, the Association has executed this Amendment to Declaration as of the date above first written.

WINDMILL RIDGE HOMEOWNERS' ASSOCIATION

By: Karmen Nelson

Its: President

STATE OF MINNESOTA )
COUNTY OF HENNEPIN ) ss.

The foregoing instrument was acknowledged before me this 16th day of May, 2016, by Karmen Nelson, the President of Windmill Ridge Homeowners' Association, a Minnesota non-profit corporation, on behalf of the corporation.

Brenda R. Hallman 5-16-16
Notary Public

BRENDA R. HALLMAN
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/20
AFFIDAVIT OF SECRETARY

STATE OF MINNESOTA )
COUNTY OF HENNEPIN ) ss.

The undersigned, Secretary of Windmill Ridge Homeowners’ Association, a Minnesota nonprofit corporation, being first duly sworn and upon oath, hereby swears and certifies, pursuant to the applicable provisions of Minnesota law and the Declaration, that the Amendment to the Declaration has been duly approved by a vote of the Board of Directors of the Association, and by the requisite number and percentage of Owners, in compliance with the requirements of Minnesota law and the Declaration.

WINDMILL RIDGE HOMEOWNERS’ ASSOCIATION

By: __________________________
    Its: Secretary

STATE OF MINNESOTA )
COUNTY OF HENNEPIN ) ss.

The foregoing instrument was acknowledged before me this 17th day of May, 2016, by _________________, the Secretary of Windmill Ridge Homeowners’ Association, a Minnesota non-profit corporation, on behalf of the corporation.

Notary Public

This instrument was drafted by:

HELLMUTH & JOHNSON, PLLC
8050 West 78th Street
Edina, MN 55439
(952) 941-4005
2646221 – 24750.0002
To: Ashley Cauley, Senior City Planner
From: Corrine Heine, City Attorney
Date: August 31, 2016
Subject: Eldorado Villas, 11901 Minnetonka Boulevared

This memo is provided in response to questions raised at the August 18, 2016 planning commission meeting, by attorney James Reichert. Mr. Reichert represents the Cross Country Townhome Association at 11907 Minnetonka Boulevard. Mr. Reichert argued that the city should require the Eldorado Villas development to obtain access to Minnetonka Boulevard via the Woodbridge condominiums’ driveway rather than via a shared driveway with Cross Country.

Summary

The city will not direct traffic from one property over land owned by someone else unless the land is a public street or, if there is no public street, the development property has an undisputed right of access over the other land. If the city has any right to direct traffic over the Woodbridge driveway, it is pursuant to an easement created by declaration in 1987 (the "Woodbridge easement"). The scope of that easement is ambiguous. In contrast, the city expressly has the right to require the 11901 and 11907 Minnetonka properties to share access to Minnetonka Boulevard under a declaration recorded in 2004 (the "2004 Declaration"). Because the Woodbridge easement is ambiguous, and the Woodbridge Homeowners Association disputes its scope, I have advised staff to require access as contemplated by the 2004 Declaration. The memo below provides further explanation of the basis for that recommendation.

Windmill Ridge condominiums driveway

The city approved the Windmill Ridge condominium development in 1986. As is the case now, the condominium property had frontage on Minnetonka Boulevard, which was used as a driveway. The driveway was also used by the properties at 11901 Minnetonka Boulevard and 11811 Minnetonka Boulevard – both improved with the single family houses that exist today.

As a condition of the approval, the city required the applicant to provide “appropriate easements for 11811 and 11901 Minnetonka Boulevard properties to access the private road and access easements be provided for the private road system.” The resolution also
required the applicant to submit a “maintenance agreement for the private road including both snow removal and future repair.” (Resolution No. 86-8218, emphasis added.) Staff reports and other file information also refer to a private road.

Although the city approvals for Windmill Ridge all refer to private easements, in 1987 the developer of Windmill Ridge amended the declaration to include the dedication of an easement to “the public” over the northerly portion of the driveway “for ingress and egress purposes.” The precise scope of this easement is ambiguous. Was it intended to create a public street? The phrase “ingress and egress” is commonly associated with driveways, not the dedication of a public street. Was it intended to allow access by abutting properties at the densities that existed in 1986, or could those properties develop at higher densities and funnel multiple times the number of cars over the easement? The language of the easement does not answer those questions. In addition, the Windmill Ridge Homeowners’ Association recently informed staff that the association has filed a document purporting to terminate the easement.

Public street alternative

If the Windmill Ridge easement created a public street easement, the city would be legally entitled to require 11901 Minnetonka to use that street for access. If the city requires public use of an easement – i.e., opens the public street -- then the city must also accept public maintenance of the easement. Here, the circumstances giving rise to the easement do not suggest that a public street was intended. All of the development proposals anticipated a private driveway rather than a public street. The city was not given the opportunity to accept a public street, and the area has been continuously used and maintained as a private driveway. More importantly, even if the Woodbridge easement does allow a public street use, the city has no desire to open a public street in that location. The existing easement and driveway do not meet city standards for a public street, and the city has no desire to acquire the additional land necessary to meet public street standards.

Access easement alternative

If the city does not open a public street over the Windmill Ridge easement, the city could allow Eldorado Villas to develop its property with access over Windmill Ridge’s property if the right of access is not reasonably disputed. As noted above, the scope of the Windmill Ridge easement is ambiguous. The Windmill Ridge homeowners association has consistently asserted that the properties at 11811 and 11901 Minnetonka Boulevard only have the right to use the driveway for access to single family properties – not the right to increase the scope of the easement to accommodate additional dwelling units. The association has even taken the step of recording an instrument to terminate the easement. If the city required the 11901 Minnetonka property to use the Windmill Ridge easement for access, the city could end up in the middle of a lawsuit between Windmill Ridge homeowners association and the developer.
2004 Declaration

In contrast to the Windmill Ridge easement, the 2004 Declaration expressly contemplates the development that is now occurring. The owners of both properties subjected their properties to the declaration, and all subsequent owners had notice of the declaration’s provisions. The 2004 Declaration unequivocally gives the city the right to determine the location of the shared driveway. For that reason, in the absence of Windmill Ridge’s consent to the use of its driveway, the shared driveway with Big Willow Townhome property, formally known as Cross Country Townhomes, is the recommended option for this development.
City Council Study Agenda Item #14B
Meeting of September 12, 2016

Brief Description: Items related to the 2017 preliminary tax levy

1) Resolution setting a preliminary 2016 tax levy, collectible in 2017, and preliminary 2017 budget

2) Resolution setting a preliminary 2016 tax levy, collectible in 2017, for the Bassett Creek Watershed Management Tax District

Recommended Action: Adopt the resolutions

Consistent with the community’s strategic goals and values, the proposed 2017 budget will enable the city to “Build Paths to Connect the Community,” which articulates the council’s direction and current high priority objectives relative to the city’s more intensive capital road, trail and utility infrastructure improvement plans. As discussed at our city council study session on August 15, the 2017 preliminary tax levy proposed herein is limited to an increase of 3.9 percent for current services, new initiatives and the capital program (CIP) budget with another one percent for new voter-approved referendum debt and self-funded tax abatement levy.

Staff currently estimates that the total proposed 4.9 percent levy increase will increase city taxes for a median value residence by less than 4.6 percent, which equates to $4.34 per month. This is slightly lower than initially noted at the time of the council’s August study session based on revised information received from Hennepin County subsequent to that meeting.

The city’s proposed levy increase is likely to place Minnetonka in the middle of our group of similar cities in the metro. While several of our comparable cities began to receive Local Government Aid in 2014, Minnetonka will continue to not receive this state financial support in 2017. In addition, it’s important to continue to note that the city’s levy and budget support a financial structure absent of any special assessments to property owners for road-related infrastructure.

OUR PUBLIC PROCESS

State law requires cities to certify preliminary budget and tax levies to the county by September 30, 2016.1 This is the maximum amount the city can levy for 2017. Counties then report these preliminary levies to all property owners in early November.

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1 The 2014 State Legislature extended the deadline for certifying city preliminary levies to the county from September 15 to September 30. However, HRA and EDA preliminary levies must continue to be certified by September 15. Although legislation has been introduced to correct this inconsistency during the last two sessions, it has not been enacted. Therefore, both the general levy and the HRA levy for Minnetonka are scheduled for adoption by the council on September 12, 2016.
Guided by council’s initial discussions in August, detailed budget requests will be developed and then reviewed in November and the final budget adopted in December. At the November 21 public study session, staff will have more complete information regarding revenues and expenses for the current year, along with more accurate information for predicting 2017 forecasts. The final 2017 levy may be less than the preliminary amount, but cannot be greater.

Minnetonka always encourages input on its budget from the public and will hold a public hearing when it adopts the final levy and budget on Monday, December 5, 2016, during the regular city council meeting beginning at 6:30 pm in the City Council Chambers.

In addition, residents and businesses will again have an opportunity to provide feedback via the city’s website: www.eminnetonka.com. All individual comments received in all formats will be shared with council as budget options are considered, and updated information will consistently be posted in the Minnetonka Memo and on the city’s website.

ENSURING MINNETONKA’S POSITION OF FISCAL RESPONSIBILITY

As detailed in the city’s adopted Strategic Profile, the city of Minnetonka takes a responsible, long-term perspective with financial planning and management. Decisions are made with the future in mind to ensure the city’s ongoing ability to provide quality services at a reasonable price.

Current Spending & Financial Projections

**Revenues.** 2016 revenues are currently estimated to exceed the original budget forecast by a very modest 0.7 percent. Continued low investment interest along with public safety fine revenue below projections this year is anticipated to be offset by proceeds from permits and licenses modestly greater than budgeted. More importantly, revenues are estimated to continue to cover projected obligations from 2017 through 2021. This forecast responsibly assumes that the currently higher proceeds from development will taper off in two years and return to the city’s ten-year average.

**Spending.** Operating budgeted costs in 2016 are estimated to be on track with last year, which likely portends some funds available to be transferred from the General Fund balance for one-time costs within the city’s capital program during council deliberation next year. As we approach the council’s second detailed budget study session in November, additional information may adjust these current 2016 spending estimates.

Overall inflation continues to be low this year, 1.5 percent for the first six months in the Midwest and 1.4 percent nationally for municipal government costs. The ongoing low price of fuel is forecasted to continue into 2017.
Between now and the second council study session on the 2017 budget in November, any new data either unanticipated or not currently available will allow staff to further analyze 2017 service cost projections and new revenues. Per regular procedures, the CIP budget may also be amended with levy and budget adoption in December to reflect more accurate capital project cost projections and/or altered plans and priorities relative to new information.

2017 BUDGET

At a cost of $33.3 million and financed with multiple sources of revenue, the 2017 proposed General Fund operating budget is 4.3 percent greater than the 2016 adopted budget. The majority of these additional funds (3.3 percent) simply maintain current service levels. The remainder of the new funds (one percent) will be strategically used to:

- ensure we continue to be responsive as we improve our transportation corridors, including safe trail systems, perform necessary water and sewer reconstruction projects, and plan for the Southwest Light Rail Transit project;
- further connect the community by utilizing new technology to improve efficiencies and keep customers better informed; and
- maintain our valuable and efficient suburban paid-on-call fire force in the changing employment and demographic environment.

Building Paths to Connect the Community

As the city has embarked upon more intense road, trail and utility infrastructure projects, the community, especially residents and businesses directly impacted by the work, need and deserve more acute professional staff attention and current, often up-to-the-minute, information. The proposed 2017 budget includes additional staffing and technology that will make providing these services possible.

First, the 2017 proposed budget includes new funding for one additional project engineer and increasing our right-of-way technician hours to full-time from three-quarters time. Experience with recent road reconstruction projects (e.g., Libb’s Lake area, the county projects on CR 101 and Oakland Road) that include various water and sewer infrastructure replacement, storm water system enhancements and curb and gutter improvements has proven such intense work is especially impactful to our residents, and thus requires equally intense levels of staffing.

The new professional engineering position and full-time hours for our right-of-way technician will make it possible to maintain our high customer service standards as the city embarks on newly focused fronts, namely to create a complete and safer trail system and city infrastructure improvements brought to bear by the Southwest Light Rail Transit project. These new pressures on customer services will be ongoing, in
addition to those imposed by the high intensity water and sewer replacement projects and increased and higher density private development activity that impact those same staff service areas.

Equally important for advancing connections with our community is improving the quality, frequency and method in which we communicate with residents – which is why the 2017 budget also includes funding for a new communications specialist position. Communications expectations have changed dramatically in the last 10 years. With the proliferation of smart phones, social media and the 24/7 news cycle, residents and staff expect accurate and easy-to-understand information in a timely manner, via a number of different mediums – and these expectations are only increasing as technology and society evolve.

Finally, technology has been an integral method of connecting with our residents and all city customers. Last year’s switch to the new email/text notification platform has connected approximately 6,000 new unique subscribers to city communications (total subscribers now exceed 15,000). Similarly, Recreation Services switched to a new program registration system, allowing a more streamlined approach to online sign-up, payment and facility management. For 2017, proposed technology will better connect users of city services by implementing e-plan review in the building inspections division and an online e-learning software in the environmental health division, both in the community development department.

**Minnetonka’s Fire Service**

Changing workforce demographics and requirements of the federal Affordable Care Act (ACA) continue to challenge the city and other metro cities to adapt fire service management structures in order to maintain the very high quality and clear efficiencies wrought by our paid-on-call (POC) fire force. The plan includes focusing more of the limited hours of POC firefighters upon fighting fires, responding to emergencies, duty crew staffing and all of the many related training requirements. Permanent positions in the fire department would be responsible for all other essential services and work, such as management, planning, inspection, investigations, and equipment maintenance. Concentrating the work of POC firefighters on their primary functions will assist greatly with recruitment and retention while ensuring compliance with the ACA.

Under this management plan, the 2017 budget includes one additional full-time fire technician position. The new operations and logistics technician will take on the work that up to now has been carried out by POC firefighters and several other specialized, full-time officers in order to free them to better accomplish their designated high priority assignments. The new operations and logistics technician will also respond to fires and other emergencies as do the fire department’s other seven permanent positions, but his/her primary duties will be to cover the other less specialized but mandatory workloads such as equipment and facility maintenance.
The 2017 budget also includes funding to restore the current part-time fire inspector position to full-time status, which had been full-time prior to the downsizing in 2009. The change will enable a regular schedule of inspections to be accomplished and ensure occupancies meet the requirements of the Minnesota State Fire Code and local requirements for fire and life safety. The primary emphasis for the position’s workload will be to keep businesses in business, residents in their homes and safeguarding hazards to firefighters.

**Current Level Services**

Because city government is primarily a service industry, three-quarters of the General Fund operating budget is the cost of its greatest assets, its workers. Similarly, most of the increase to maintain current level services for our community is to pay and manage our human resources. While our effective relationships with our bargaining units continue to reap both production and economic benefits for the community, the city faces market pressures to retain and recruit these high valued assets.

On top of our regular and modest, structured and bargained wage increases, the public works department has begun to experience significant difficulties in recruiting necessary seasonal workers. The department normally requires around three to four dozen workers during the summer to accomplish regular road, park and natural resource maintenance that cannot otherwise be accomplished by our permanent employees or the ICWC crews. In order to ensure the needed seasonal staffing levels, the 2017 budget includes funding to raise the hourly wages of these workers. Management analysis currently shows that the wages of the city’s other seasonal workers do not require augmentation at this time.

Similarly, the city has begun to lose candidates who have been offered positions to fill key vacancies because of the structure of our health insurance premium costs for employees who require family coverage. As health care premiums are slated to decrease slightly in 2017 (in only the first year of a multi-year contract option with a new health insurance carrier), next year presents a rare window of opportunity. The budget therefore includes funding to reexamine and restructure the city’s contribution to employee health insurance as discussed last November in order to improve and hopefully correct this critical benefit issue.

As reported previously, changing demographics, retirements and generational workplace transformations have continued to increase the challenges and demands upon human resource management. The city employs 241 full-time and regular part-time personnel, 80 POC firefighters, and approximately 400 seasonal employees. The current HR function is now supported by only three individuals. As of today, staff projects that nearly 14 percent of the city’s workforce is anticipated to turn over before the end of 2017, of which 16 full-time employees are expected to retire.

To ensure complete and continuous coverage during this high turnover period, the 2017 budget includes funding: (1) to pay transitional costs for early replacement of a retiring
human resources staff position, and (2) project contract costs for the significant task of updating all city job descriptions to ensure compliance with employment laws enacted over the last ten years.

Finally, 2017 requires a second year of staggered three-year funding to finance the city’s 30-year Comprehensive Plan. As in 2016, these costs are covered by the General Fund and are temporarily part of the planning division’s operating budget. In order to accumulate the total funds necessary over time, the 2016, 2017 and 2018 allotments will be transferred to the Development Fund to be spent as needed throughout the three-year period.

**HRA LEVY**

Although the city’s Housing Redevelopment Authority (HRA) tax levy is not a statutory levy of the city, the city council serves as the Economic Development Authority (EDA) under which those powers reside. As such, the specifics of the recommended HRA levy are provided within a separate agenda item of the EDA that will meet directly following tonight’s council meeting.

In brief, staff has recommended adopting recommendations of the Economic Development Advisory Commission (EDAC) and enacting a preliminary HRA levy of $175,000 (no levy increase). The budget would be for housing loans ($100,000) and for the Southwest Light Rail Transit ($75,000). The light rail funds are set aside for a ten-year payback to the city’s Special Assessment Construction Fund for a portion of the city’s commitment to the project.

**2017 PRELIMINARY LEVY**

The 2017 proposed operating and adopted capital budgets plus the HRA budget will require an overall increase in the city property tax of 4.9 percent. Of this, one percent is the required increases for the last of the city’s voter-approved bond debt issued this year and the self-funded tax abatement for Ridgedale Mall.

Of the residual 3.9 percent increase, two percent is to maintain current services and one percent is to fund the Capital Improvements Program (CIP) adopted in July. The remainder underwrites operations and staffing to meet strategic objectives in connecting the community through safe trails, adequate roads and effective communication, ensuring ongoing proficient and efficient fire services, and reaping the advantages of technology to improve city services.
Levy (thousands) | 2016 | 2017 | Change
--- | --- | --- | ---
City property taxes, current services | $34,114 | $34,789 | 2.0%
New initiatives | 329 | 0.9%
Capital program increase | 349 | 1.0%
**Subtotal** | | | **3.9%**
Voter-approved bond debt increase | 269 | 0.8%
Ridgedale tax abatement increase | 55 | 0.2%
**Total** | $34,114 | $35,791 | **4.9%**
HRA | $175 | $175 | -

As a result, the city’s proposed 2017 tax increase is in keeping with our recent history of increases *below historic averages*. Included in these projections are the payoff of all but the last portion of the city’s debt service for the open space referendum bonds in 2020 as well as the rising but self-funded tax abatement levy for Ridgedale Mall.

Staff currently anticipates a larger than average levy increase in 2018, and this rise is directly associated with levy requirements of the adopted 2017-2021 CIP. As previously discussed, it currently appears there will be some funds available at the end of 2016 from a positive ending structural balance in the General Fund. Therefore, there will likely be an opportunity to smooth out this aberration with deliberation of the next capital budget this spring.
Comparisons with Other Cities. The proposed 2017 city levy increase is likely to place Minnetonka in the middle of comparable cities. The levy variable changes amongst these communities is related to a diversity of reasons including new or retiring debt, additional staffing, reductions in liquor store revenues, and capital needs. Further, three of the comparable cities listed continue to receive an allocation of LGA, which began in 2014. As has been the case for over a decade, Minnetonka does not and will not receive LGA in 2017. Equally important, unlike many of these other cities, the city does not rely upon special assessments to fund street reconstruction and maintenance.

Homeowner Impacts. Staff currently estimates that the total proposed 4.9 percent levy increase will increase city taxes for a median value residence by less than 4.6 percent, which equates to $4.34 per month. This is slightly lower than initially forecasted at the time of the council’s August study session.

New development and redevelopment in the city increased the city’s property tax base last year as reported in March by the city assessor. Overall the city’s assessed market value increased by 3.6 percent, a proportion of which was the result of actual improved
real estate as opposed to market forces alone. Although there are some very significant real estate improvements currently in the pipe line, many of those will not impact the property tax base until after payable 2017.

Calculating the impact of changes in property taxes to homeowners in Minnesota requires a complicated mix of data and information that changes each year, some of which depends upon legislatively defined formulas, e.g. the state Fiscal Disparities program. These formulas require variables provided by different jurisdictions, and as such, any forecast is subject to minor changes until the county prepares proposed property tax notices in November. The exact impact on any specific property can vary extensively depending upon property types, markets and improvements, and the impact estimated here is only that of the city’s proposed levy, not other taxing jurisdictions. Nonetheless, the November county notice to each property will provide a truer estimate.

SUMMARY

Responsible long-term financial planning has continued to position the city of Minnetonka to provide highly rated services to city residents and businesses. The 2017 preliminary city tax levy will be limited to an increase of 3.9 percent for current services, new initiatives and the CIP with another one percent for the voter-approved referendum debt and self-funded tax abatement levy. This increase is around the middle of comparable cities. It ensures our position of fiscal responsibility, preserves our standards of excellence, and encourages innovative and creative thinking.

As always, the city of Minnetonka will continue to provide the excellent services our residents and businesses have come to expect, and at a reasonable price, both in 2017 and well into the future.

Originated by:
Geralyn Barone, City Manager
Merrill King, Finance Director
Resolution No. 2016-

Resolution setting a preliminary 2016 tax levy, collectible in 2017 and preliminary 2017 budget

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

Section 1. Background.

1.01. As required by state legislation under M.S. 275.065, municipalities are required to adopt a preliminary budget and tax levy by September 30, 2016.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03 The law further requires the final levy be adopted on or before December 28, 2016, and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. The City Manager’s preliminary 2017 budget of $62,482,161 appears reasonable and sufficient to fund the desired general fund municipal services, general fund debt service, and capital needs in 2017.

2.02. Preliminary general, capital and debt tax levies of $35,679,598 for levy in 2016, collectible in 2017, will fund the City Manager’s preliminary budget.

2.03 A preliminary tax abatement levy of $81,000 for levy in 2016, collectible in 2017, is estimated to equate to revenues associated with and will fund commitments under the Ridgedale Mall development agreement adopted by the city council on April 15, 2013.

Section 3. Authorization.

3.01. The preliminary budget and tax levy is hereby approved.

3.02. Pursuant to Minn. Stat. Section 469.033, subd. 6, the City Council consents to the Economic Development Authority in and for the City of Minnetonka (the “EDA”) levying a special benefit tax levy in the amount requested by the Board of Commissioners of the EDA by resolution adopted on the date hereof.

3.03. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.
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 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 September 12, 2016.

David E. Maeda, City Clerk
Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01. Minnesota state law requires special taxing districts to adopt a preliminary budget and tax levy by September 15 of this year.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03. The law requires a final levy be adopted after that public input and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. A preliminary tax levy of $30,004 for the Bassett Creek Watershed Management District for levy in 2016, collectible in 2017, will fund the City’s expenses for that tax district.

Section 3. Authorization.

3.01. The preliminary tax levy of $30,004 for the Bassett Creek Watershed Management District is hereby approved.

3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.

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

Terry Schneider, Mayor
Resolution No. 2016-

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 September 12, 2016.

_________________________________
David E. Maeda, City Clerk
Addenda
Minnetonka City Council
Meeting of September 12, 2016

13A. Resolutions for special assessment of 2015-2016 projects

The city’s assessment specialist has provided updated information on four of the proposed special assessments. Updated resolutions are also attached.

13C. Off-sale liquor license for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 1005 Plymouth Road

Attached is correspondence received after the council packet was distributed. The last page with traffic information was sent by Haskells.

Copies of the July 1, 2015 Council Study Session, July 13, 2015 Council Meeting, and August 17, 2015 Council Meeting minutes that were referenced in the staff report have also been provided.
ADDENDUM

City Council Agenda Item #13A
Meeting of September 12, 2016

**Brief Description:** Resolutions for special assessment of 2015-2016 projects

Since publication of the council agenda packet, additional information has developed regarding four of the proposed special assessments, as indicated below:

The owner of 2912 Oak Lea Ter has paid the assessment (1-year tree) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

The owner of 1911 Linner Rd has paid the assessment (1-year nuisance) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

The owner of 1935 Linner Rd has paid the assessment (1-year nuisance) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

The owner of 5311 Tracy Lynn Ter has paid the assessment (1-year nuisance) in full. The attached resolution for this assessment has been revised to reflect this payment, and should be adopted in place of the resolution contained within the packet.

Submitted through:

Geralyn Barone, City Manager
Merrill King, Finance Director
Jo Colleran, Natural Resource Manager
John Weinand, Environmental Health Supervisor

Originated by:

Denise Ostlund, Assessment Specialist
Resolution No. 2016-

Resolution adopting special assessments for 2016 Nuisance Abatement Project No. 4894, one-year assessment term

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

Section 1.  Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Nuisance Abatement Projects at the following properties lying within the City of Minnetonka:

<table>
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<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
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<td>N-473</td>
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Subtotal $5,685.68
Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.

2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.17 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

David E. Maeda, City Clerk
Resolution No. 2016-2

Resolution adopting special assessments for 2016 Diseased Trees Project No. 4902, one-year assessment term

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

Section 1. Background.

1.01. Pursuant to proper notice duly given as required by Minnesota statute, the Council has met on September 12, 2016 to hear and to pass upon all objections to the proposed special assessments for 2016 Diseased Tree Projects at the following properties lying within the City of Minnetonka:

<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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<td>Christy La</td>
<td>22-117-22-31-0013</td>
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Subtotal $2,899.73

Section 2. Council Action.

2.01. The proposed special assessments listed above are hereby adopted, and each tract of land is found to be benefited by the improvement in the amount of the assessment levied against it.
2.02. The special assessment may be paid within 30 days from the date of this resolution, or may be paid in a single installment in the same time and manner as the payment of real estate taxes with interest at the rate of 2.17 percent per annum. To the first installment of each assessment will be added interest on the entire assessment from the date of this resolution to December 31 of the year in which the first payment is payable. Subsequently, one year's interest on the remaining balance will be added to each subsequent installment. Any property owner may pay the entire unpaid balance of the assessment against his/her property at any time with interest accrued to December 31 of the year in which the payment is made, provided the payment is made before November 30 in the first year and before November 15 in subsequent years.

2.03. The owner of any property assessed may, at any time within 30 days following the adoption of this resolution, pay all or part of the assessment to the city, provided that partial payments are made in increments of not less than $100 and provided that any balance remaining unpaid is not less than $100 no interest will be charged on the amount paid.

2.04. The city clerk is directed to transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists and to be collected and paid over in the same manner as other municipal taxes.

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 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 September 12, 2016.

__________________________________________
David E. Maeda, City Clerk
Memorandum

To: City Council
From: Julie Wischnack, AICP, Community Development Director
Date: September 12, 2016
Subject: Change Memo for September 12, 2016

13C – Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine)

The attached comments were received after the packet was distributed.

Also attached are the meeting minutes from links in the council report.
From: Renee L Brown
Sent: Friday, September 09, 2016 8:25 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: Yes to Total Wine in Minnetonka!

Please add my vote to the yes pile for allowing Total Wine to open in Minnetonka. Life is so expensive everywhere you look, let's have affordable libations! Thank you,
Renee Brown
From: RSBJGB@aol.com
Sent: Friday, September 09, 2016 8:38 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: Comment of support granting Total Wine’s Mtka license

As a 25 year Minnetonka resident, I am writing to strongly support the granting of Total Wine’s license. The "pros" for granting the license are many:

1) the building, parking and infrastructure already exist.
2) with Big Top’s coming departure, it’s not adding the licensing number
3) Total Wine is a very successful, established business which means steady jobs for its new employees and consumer friendly pricing.
4) Total Wine is different retail sales experience from competitors such as Haskels and Byerlys. Both of those are more boutique like in their retail approach and both can co-exist.
5) Any added competition is ultimately good for the residents/consumers.
6) Finally, it is simply unfair/uncompetitive to block them to simply protect established retailers.

Robert Butwinick
3831 Huntingdon Drive
Minnetonka
Hello,

I am in huge support of a Minnetonka Total Wine Store. It is a terrible imposition to shop at the Bloomington store and navigate the Hgwy 62 or 494 traffic. We Minnetonkians (?) have to plan our trips there to miss the horrible rush hour traffic times. It would be so wonderfully convenient to have a Total Wines in our own neighborhood. Please consider!

Thank you,
Sincerely,

Nancy Carlson
From: Bonnie Rislund on behalf of Minnetonka Mike
To: Kathy Leervig
Subject: FW: Total Wine Liquor License Application
Date: Friday, September 09, 2016 1:53:11 PM

-----Original Message-----
From: Annedarnay
Sent: Friday, September 09, 2016 9:20 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: Total Wine Liquor License Application

I request the City Council approve Total Wine's liquor license application.

Currently I drive to Edina to purchase all of my wine at Total Wine. Not only do they have a great selection of wine and excellent customer service (the staff is very knowledgeable), the prices are the best in the Twin Cities.

I can understand why local liquor stores would prefer you don't grant Total Wine a license. However, it is in the best interest to grant the license for Minnetonka residents and the City of Minnetonka. Let's keep liquor store revenue in our city. Our economy is based upon completion - please continue the USA tradition.

Anne Darnay
15639 Tonkawood Drive

Sent from my iPhone
From: Bonnie Rislund on behalf of Minnetonka Mike
To: Kathy Leervig
Subject: FW: Total Wine
Date: Friday, September 09, 2016 1:54:10 PM

-----Original Message-----
From: David Dunn
Sent: Friday, September 09, 2016 8:16 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Cc: Cooper Edward <ecooper@totalwine.com>
Subject: Total Wine

Now that the "traffic study" has concluded that traffic "would support" a Total Wine at the Minnetonka Plymouth Rd location, I would like to voice my support once again.
As in my earlier letter, I feel this WILL offer the residents of Minnetonka a "unique" shopping experience while allowing the city to maintain it's current number of licenses.
I hope the council will vote in favor of this proposal on Monday nite.
Sincerely
David Dunn
36 year resident of ward 2

Sent from my iPhone
I am in favor of Total Wine opening their store in Minnetonka. It will give us a larger variety of wines and craft beers to choose from, and the site will not cause traffic problems, as it is already zoned appropriately.

Andrew Kalman  
13933 Oakland Pl  
Mtka
From: Sal Mondelli
Sent: Friday, September 09, 2016 1:52 PM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: Letter of Support

I am writing this letter of support to the City of Minnetonka Mayor and City Council members in support of Total Wine, and their efforts to obtain approval for a store in your community. Since opening their Burnsville location in 2014, I have found Total Wine to be a great corporate citizen, and an organization that supports the community. In addition to monetary contributions, and sponsorships, we are looking forward to increased volunteer participation from their employees at our food shelves, and battered women’s shelters when the Eagan location opens this Fall.

We are fortunate to have many wonderful corporate sponsors, including Total Wine, and they are all anxious to give back to help those less fortunate.
From: Michael Polad
Sent: Friday, September 09, 2016 9:17 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: Total Wines

I urge you to license Total Wines to sell wine in Minnetonka. They offer better prices and better selection than others I know of, and would benefit Minnetonka residents.

Mike Polad
Hi,

I AM IN TOTAL SUPPORT OF TOTAL WINE OPERATING A STORE IN MINNETONKA. My opinion is based upon my first-hand experience shopping at Total Wine, which bring a much larger selection at markedly lower prices than other liquor stores currently provide. In addition Total Wine’s customer service is outstanding. I am also hopeful that having a Total Wine store in Minnetonka will create a more competitive environment, resulting in a better selection and prices for all of citizens of Minnetonka, no matter where they chose to purchase their liquor.

Thank you.

Karl D. Speak
President
Brand Tool Box, Ltd.
510 1st Ave N Suite 605
Minneapolis, MN 55403

Personal Brand Promise: Insight. Wit. Attitude.
I support the approval of the Total Wine application. I support this because I value free enterprise. I also understand the plight of the small business owner, but competition is good for all business. Also, when it comes to off sale the pricing tactics are setup in Minnesota for all to be on the same competitive level. I am reminded of when Walmart came to my hometown in northern Mn. Everyone was opposed and thought it would shut down main street. Instead the small businesses changed their model and the downtown is more vibrant then ever. Maybe that is the jolt business needs......
Hi:

Enclosed is a letter commenting on Total Wine.

TT
September 9, 2016

Honorable Mayor & Members of the City Council
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

Dear Mayor & Council Members:

I am board chair of the Burnsville Fire Muster and a member of the Board of Directors of the Burnsville Chamber of Commerce. I am following up on a letter I sent last year because I read online that you are still formulating a decision whether to invite them into your community.

Like your city, there was a lot of debate by city officials, Chamber of Commerce, and others in our community. We all debated whether it would be beneficial or detrimental to allow Total Wine to move into our community.

Total Wine has now been here for two years. The impact has been positive and significant. They have helped stabilize our retail district by drawing shoppers from beyond our borders. Perhaps most important is that they continue to be model corporate citizens. This includes providing significant financial support to non-profit organizations throughout Burnsville. Each year the list of non-profit organizations they support has grown.

Today, I think it is suffice to say that our community has no regrets about allowing them to establish a location here.

I hope this information is helpful to you. Good Luck in making your decision.

Sincerely,

Tom Taylor
Board Chair
-----Original Message-----
From: [Redacted]  
Sent: Friday, September 09, 2016 2:42 PM  
To: Minnetonka Mike <mike@eminnetonka.com>  
Subject: Fw: Total Wine

-----Forwarded Message-----
>From: Mark [Redacted]  
>Sent: Sep 9, 2016 2:39 PM  
>To: comments@eminnetonka.com  
>Subject: Total Wine
>
>
> I absolutely agree that Total Wine should be allowed to open a store  
>in the Minnetonka location. Their pricing and availability of products  
>along with very good customer service will be an asset to the  
>community. This will only increase the competition for my dollars, lowering prices and providing more tax dollars.  
>Thank you for this opportunity.  
>Mark Wilkinson  
>13663 Minnetonka Drive  
>Minnetonka, MN 55305
I understand that Total Wine is trying to gain approval to open a store in Minnetonka. I see absolutely no reason why Total Wine should not be granted this request. Only the concerns of potential competitors, and unfounded concerns about Minnetonka getting too many locations to purchase alcohol, seem to be stopping this approval. Obviously current wine and liquor sellers don’t want another competitor, but the job of government is not to restrict the marketplace from legitimate competition. Nor is it the government’s place to restrict a legal product based on moral values that have been antiquated for decades. Please grant Total Wine’s request to open a store in Minnetonka.

Jeffrey Perkins
12000 Douglynn Drive
Minnetonka, MN
I'm in total support of a Total Wine & More license/location in Minnetonka due to Total Wine having a fabulous selection of wines and other spirits with prices that help competition stay in check with competitive pricing.

Total Wine & More brings in a clientele that will increase sales at other retailers in the area, such as Whole Foods and Office Depot and what retailer would turn down more sales?!

I shop the Total Wine & More in Edina during the holidays on my way home from work and the amazing swelter of people is incredible. How great it would be to stop at Whole Foods as well for groceries....such a convenience!

I wholly support Total Wine & More in the Minnetonka Whole Foods/Office Depot location; it's a classy liquor store fitting right into the Minnetonka community.

Susi Schramm
Minnetonka Resident
From: Bonnie Rislund on behalf of Minnetonka Mike
To: Kathy Leervig
Subject: FW: TOTAL WINE SUPPORT
Date: Monday, September 12, 2016 8:20:17 AM

-----Original Message-----
From: Jeanne Lukas  
Sent: Saturday, September 10, 2016 5:47 PM
To: Minnetonka Mike <mike@eminnetonka.com>
Subject: TOTAL WINE SUPPORT

I think this is a good addition to Minnetonka. I am concerned about the privately owned shops but I will still purchase special wine from those shops. I shop at the Roseville store now. I will be happy to keep my purchasing in Minnetonka.

Jeanne Lukas
Minnetonka City Council,

Please approve the new Minnetonka Total Wine location. Total Wine improves the competitive landscape and provides an enormous selection. I do not support the current tiered distribution in Minnesota. It is anti-competitive and out of date. Many states have Sunday liquor and wine as well as wine available in grocery stores. We should be working towards a more open and competitive marketplace.

Thank you,

John Bahnemann
6018 Clarion Circle
Minnetonka, MN 55343
City Council,

We live in Minnetonka and regularly shop our retail stores, including our local liquor stores. We have stopped in Total Wine in other areas and found them to be outstanding in selection and service. We are true believers in free market opportunity and strongly support allowing Total Wine to purchase a local store that wants to exit the business and bring even more selection to the community.

Please vote in favor of issuing Total Wine and More a liquor license so the customers in Minnetonka and surrounding area residents well have more choice when it comes to alcoholic beverage purchases.

Rick and Maggie Trenary
4711 Baycliffe Drive
Minnetonka, MN. 55331
From: Julie Woolfrey
Sent: Monday, September 12, 2016 11:19 AM
To: Minnetonka Mike <mike@eminnetonka.com>
Cc: Terry Schneider <tschneider@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>
Subject: Please support Total Wine's application for a liquor license

To the City Council:

I am writing today to ask you to support Total Wine’s efforts to open a new store in Minnetonka, off Plymouth Road near Whole Foods.

I consider this a livability issue for me - and for Minnetonka. I currently drive to one of Total Wine’s other stores to make the vast majority of my liquor purchases – most often the new store in Chanhassen, but also occasionally the ones in Bloomington or Maple Grove. I do this because, in my experience, the liquor stores currently in Minnetonka have lower selection, higher prices, and less helpful staff.

It is my understanding that there are already fewer liquor licenses in the city than the twelve allowed by ordinance. I also understand that Total Wine has purchased one of the existing licenses, so their new store would not increase the number of licenses.

The location they have chosen is already retail, and accustomed to traffic.

For these reasons, it seems to me that it should be an easy decision to approve Total Wine’s request. I hope you agree with me.

Thank you for your time and consideration.

Julie Woolfrey
4465 Ellerdale Road, Minnetonka
Minnetonka City Council,

We currently live in the neighboring community of Shorewood and frequent the Ridgedale Shopping Center Mall in Minnetonka, including the local liquor stores. We have stopped in Total Wine in other areas and found them to be outstanding in selection and service.

Please vote in favor of issuing Total Wine and More a liquor license so the customers in Minnetonka and surrounding area residents well have more choice when it comes to alcoholic beverage purchases.

Sincerely,
Norman and Pamela Schroeder
4660 Lakeway Terrace
Shorewood, MN  55331
Dear City Council,

As a Minnetonka resident, I ardently support Total Wine at the proposed location near the Whole Foods off of Plymouth Road.

A few years back, I wrote in support of the Whole Foods and today we shop there nearly twice per week. It has been a great addition to the community.

My wife and I have been frequenting Total Wine in Southern Florida for many years.

In our opinion, they offer fabulous service, great pricing, and a wonderful variety.

Please consider my letter of support when deciding your vote.

Thank you for your service to make Minnetonka a great city to live in!

Most Respectfully,

Ryan
Dear Minnetonka Council:

I am writing to urge you to support Total Wine to open a store off of 394 and Plymouth Rd. While I live in Plymouth, I frequently do a lot of shopping in that area and would be happy to have a business like Total Wine to support. Total Wine recently donated items to a local charity I support that helps kids in the West Metro.

Having good operators that are focused on community is good for our broader community. I urge you to grant them the license to operate.

Thanks

Noah Rouen
625 Jewel Ln N
Plymouth, MN  55447
September 12, 2016

Mayor Terry Schneider
Council Member Dick Allendorf; Council Member Patty Acomb
Council Member Bob Ellingson; Council Member Tony Wagner
Council Member Brad Wiersum; Council Member Tim Bergstedt
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Dear Mayor and Council Members,

The TwinWest Chamber of Commerce represents 700 businesses that employ 55,000 people in the west metro, including Minnetonka. As a business organization, it is our mission to support the growth of commerce in the region which is why we are writing to you today as you consider a liquor license approval.

We do not seek to favor one business over another, but rather to make sure the playing field is fair to business. Market conditions, supply and demand and an enterprising entrepreneur’s willingness to take a risk should be the defining indicators. Any business willing to locate and operate legally in the free market system should be allowed to compete.

Ridgedale Center has recently made a large investment in Minnetonka to improve their competitiveness and continue to meet market demands. As members of the city council, you understand that the Ridgedale Retail Center is regional and attracts consumers from neighboring communities. Minnesota Fine Wines & Spirits has a successful track record and a proven business model that benefits not only consumers, but the neighboring retail businesses as well. We encourage your support of a vital and robust regional retail marketplace in Minnetonka.

Thank you.

Sincerely,

[Signature]
Deb McMillan
Director of Government Affairs, TwinWest Chamber of Commerce

Cc: Geralyn Barone
To Whom It May Concern:

As a resident of Minnetonka Mills, I would like to offer my support in approving a liquor license to Total Wine & More owners/business. As a frequent shopper of Total Wine, I do so by driving to Edina or Maple Grove. The addition of the Total Wine Store in the shopping area by Whole Foods and Office Depot would be a welcome addition to the area. Not only do they offer the largest variety of local Minnesota brews, (along with national wines, liquors, beers), they offer these products at a fair price to the consumer.

I enjoy shopping at Total Wine for their large selection and the amazing customer service offered by their employees. I believe the addition of Total Wine to that shopping area will benefit our local economy through more job creation, as well as provide your community with much needed friendly competition.

Respectfully,

Joy Ritchie Peterson
3128 Atwood Dr

Joy Ritchie Peterson
From: Jill Carney Buck [redacted]
Sent: Monday, September 12, 2016 2:19 PM
To: Minnetonka Mike <mike@eminnetonka.com>
Cc: ecooper@totalwine.com
Subject: Total Wine & More to Minnetonka

Dear City Council Members,

I am hoping you will accept my 2 hour late email in support of Total Wine & More coming to Minnetonka.

Total Wine is an excellent destination wine, beer and liquor store. I can't think of another store that offers such a large selection of wines, beers, alcohol and classes with knowledgeable staff. I currently drive to Chanhassen or Maple Grove to shop for wines and attend wine classes. Total Wine & More offers an excellent selection of wines and beers at reasonable prices. The shopping experience is always great and the store is easy to navigate when searching for wines from a particular region.

Total Wine & More will only attract more consumers to already abundant Ridgedale shopping area. In addition, the amount of classes offered will also bring people to the area.

Thank you for your consideration. Please do not hesitate to contact me with any further questions or comments.

Thank you.

Best Regards,

Jill Buck
Dear Council-

I understand that at tonight's meeting it will be discussed whether to or not to grant a liquor license to Total Wine. I am supportive of that plan and believe it would be beneficial to the area to add a Total Wine location.

Regards,

Kelly Eull
From: Ted Farrell
To: David Maeda
Subject: Fwd: traffic
Date: Monday, September 12, 2016 3:26:40 PM
Attachments: Wayzata Blvd east of Plymouth Rd.pdf

---------- Forwarded message ----------
From: John Farrell III
Date: Mon, Sep 12, 2016 at 2:07 PM
Subject: traffic
To: Ted Farrell

John F. Farrell, III
Vice President; Sales and Merchandising

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Theodore N. Farrell
President
Haskell's Inc.
81 S. 9th Street Suite 150
Mpls. MN. 55402
612-333-2434 ext. 943

Haskell's
Locally owned & operated for 80 years.
# Weekly Volumes

**Unit ID:**

- **Location:** Wayzata Blvd east of Plymouth Rd
- **Comments:** West of Whole Foods Access

**Week of 08/24/2016**

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<th>08/25 Thursday</th>
<th>08/26 Friday</th>
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**Lane Total**

- EB 3761
- WB 4369
- Total 7430

**Day Total**

- EB 8130
- WB 8172
- Total 16282

**AM Peak**

- 10:59
- 11:00
- Total 21:59

**AM Count**

- 325
- 331
- Total 656

**PM Peak**

- 12:03
- 12:05
- Total 24:08

**PM Count**

- 370
- 503
- Total 873